

Naghti l-kunsens tieghi.

(L.S.)

EDWARD FENECH ADAMI
President

It-3 ta' Awissu, 2004

ATT Nru. VII ta' l-2004

ATT biex jemenda diversi ligijiet li għandhom x'jaqsmu mal-komunikazzjonijiet u biex jagħmel provvedimenti dwar affarijiet anċillari 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-2004 biex Jemenda 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 għal komunikazzjonijiet jista' b'avviż fil-Gazzetta jstabbilixxi, u jistgħu jiġu stabbiliti dati differenti għal disposizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

TAQSIMA I

EMENDA TA' L-ATT GHAT-TWAQQIF TA' AWTORITÀ DWAR IL-KOMUNIKAZZJONI

Emenda ta' l-Att ghat-Twaqqif ta' Awtorità dwar il-Komunikazzjoni, Kap. 418.

2. (1) Din it-Taqsima temenda l-Att ghat-Twaqqif ta' Awtorità dwar il-Komunikazzjoni, u ghandha tingara u tiftiehem bhala haġa waħda ma' l-Att ghat-Twaqqif ta' Awtorità dwar il-Komunikazzjoni, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

(2) Din it-Taqsima ghandha tidhol fis-sehh f'dik id-data li l-Ministru responsabbli ghal komunikazzjonijiet jista' b'avviz fil-Gazzetta jistabbilixxi u jistgħu jiġu stabbiliti dati differenti ghal disposizzjonijiet differenti u ghal għanijiet differenti tagħha.

Emenda tat-titolu twil u dak qasir ta' l-Att prinċipali.

3. Fit-titolu twil ta' l-Att prinċipali, l-kliem "it-telekomunikazzjonijiet, il-protezzjoni ta' data," ghandhom jiġu sostitwiti bil-kliem "komunikazzjonijiet elettronici, ċertu aspetti ta' protezzjoni ta' data fil-komunikazzjonijiet elettronici, servizzi postali".

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

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

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

“ “l-Att” tfisser dan l-Att u tinkludi regolamenti magħmulin tahtu kemm-il darba r-rabta tal-kliem ma tkunx tehtieg xort'ohra;”;

(b) fit-tifsira "Awtorità" minnufih wara l-kliem "bl-artikolu 3 ta' dan l-Att" ghandhom jiżdiedu l-kliem "u kull referenza f'dan l-Att jew f'kull liġi ohra għall-Awtorità ghandha, kemm-il darba r-rabta tal-kliem ma tkunx tehtieg xort'ohra, tiftiehem bhala li tinkludi referenza ghal persuna awtorizzata mill-Awtorità biex taġixxi għaliha jew f'isimha”;

(ċ) minnufih wara t-tifsira "Awtorità" ghandhom jidhlu dawn it-tifsiriet li ġejjin:

“ “Bord ta' l-Appelli” tfisser Bord ta' l-Appelli dwar il-Komunikazzjonijiet mwaqqaf bl-artikolu 36 ta' dan l-Att;

“deċiżjoni” tinkludi kull sentenza, direzzjoni, miżura, htieġa jew speċifikazzjoni ikunu kif ikunu deskritti, magħmulin mill-Awtorità u l-kelma “deċiżjoni” għandha tiftiehem skond hekk;

“direttiva” tfisser direttiva maħruġa mill-Awtorità skond l-artikolu 4 ta’ l-Att prinċipali;”;

(d) it-tifsira “Eżekuttiv Prinċipali” għandha tithassar u minflokha għandha tidhol it-tifsira li ġejja:-

““Direttur Ġenerali” tfisser id-Direttur Ġenerali mahtur taht l-artikolu 5 ta’ l-Att prinċipali;”;

(e) wara t-tifsira

“impjegat” għandha tidhol it-tifsira ġdida li ġejja:

““impriza” tfisser persuna li tipprovdi jew tkun awtorizzata tipprovdi *networks* ta’ komunikazzjoni u, jew servizzi u, jew faċilitajiet assoċjati.”;

(f) fit-tifsira “komunikazzjoni”:

(i) minflok il-kliem “tinkludi telekomunikazzjonijiet” għandhom jiġu sostitwiti l-kliem “tinkludi komunikazzjonijiet elettronici”;

(ii) minnufih wara l-kliem “protezzjoni ta’ data” għandhom jiżdiedu l-kliem “fil-komunikazzjonijiet elettronici”;

(iii) il-kliem “, servizzi ta’ l-internet,” għandhom jithassru;

(g) wara t-tifsira “Ministru” għandha tidhol din it-tifsira ġdida li ġejja:

“ “persuna” tinkludi kull korp magħqud u kull korp ta’ persuni sew jekk dan ikollu personalità ġuridika distinta minn dik tal-membri tiegħu sew jekk ma jkollux;” u

(h) minflok it-tifsira “sena finanzjarja” għandu jiġi sostitwit dan li ġej:

“ “sena finanzjarja” tfisser perjodu ta’ tnax-il xahar li jtemm fil-31 ta’ Diċembru, hekk li l-Ministru jista’, wara konsultazzjoni ma’ l-Awtorità, jibdel dik id-data;”.

Sostituzzjoni
ġenerali fl-Att
prinċipali.

5. Il-kliem “Eżekuttiv Prinċipali” kull fejn dawn jinsabu fl-Att prinċipali għandhom jiġu sostitwiti bil-kliem “Direttur Ġenerali”.

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

6. L-artikolu 4 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:-

(a) minflok in-nota marginali ma’ l-artikolu 4 għandha tiġi sostitwita din in-nota li ġejja:

“Għan, funzjonijiet u setgħat ta’ l-Awtorità.”;

(b) paragrafu (r) tas-subartikolu (3) għandu jiġi enumerat mill-ġdid bħala paragrafu (s);

(ċ) minnufih qabel paragrafu (s) tas-subartikolu (3) kif enumerat mill-ġdid għandu jiżdied dan il-paragrafu ġdid li ġej:

“(r) iġġib ’il quddiem kull interess tal-konsumaturi u ta’ utenti ohra f’Malta, partikolarment dawk li għandhom diżabilità jew li huma ta’ età pensjonabbli, speċjalment għar-rigward tal-prezzijiet mitlubin għal, u l-kwalità u l-varjetà ta’ dawk is-servizzi;”;

(d) minnufih wara subartikolu (3), għandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin:

“(4) Ikun id-dmir ta’ l-Awtorità li twettaq il-funzjonijiet tagħha kif stabbilit b’dan l-Att jew tahtu jew kull liġi ohra b’mod imparzjali u trasparenti u li tiżgura konformità miegħu, u mingħajr preġudizzju għall-ġeneralità ta’ dak hawn qabel imsemmi, li tiżgura li persuni li jipprovdu servizzi, prodotti, operazzjonijiet u attivitajiet f’Malta jew minn Malta li jkollhom x’jaqsmu ma’ xi haġa regolata mill-Awtorità, ikunu jikkonformaw ma’ dan l-Att u ma’ kull liġi ohra li l-Awtorità ikollha jedd tinforza, u ma’ kull direttiva jew deċiżjoni mahruġa b’dan l-Att jew tahtu jew xi liġi ohra bħalu.

(5) L-Awtorità jkollha wkoll dawk il-funzjonijiet, responsabbiltajiet u setgħat ohra kif inhuma stipulati b’dan l-Att jew tahtu jew skond ma jistgħu jiġu assenjati lilha bi

jew taht xi liġi oħra inklużi dawk is-setgħat kollha li huma meħtieġa għal jew incidentali għall-eżekuzzjoni tal-funzjonijiet tagħha b'dan l-Att jew tahtu jew kull liġi oħra. L-Awtorità għandha, fit-twettiq tal-funzjonijiet tagħha tfittex li tiżgura li l-miżuri mittieħda ikunu proporzjonati meta jitqiesu wkoll x'ikunu l-oġġettivi ta' l-Awtorità.

hruġ ta' direttivi mill-Awtorità.

(6) L-Awtorità tista' toħroġ dawk id-direttivi li tista' tqis bħala meħtieġa sabiex jibdew isehhu jew ikun hemm konformità ma' kull disposizzjoni ta' dan l-Att, jew ta' kull liġi oħra li l-Awtorità ikollha jedd tinforza, jew deċiżjonijiet li l-Awtorità tista' tagħmel skond il-funzjonijiet tagħha taht dan l-Att jew kull liġi oħra u l-Awtorità tista' temenda jew tirrevoka dawk id-direttivi.

(7) Direttiva mahruġa mill-Awtorità skond dan l-artikolu u kull emenda jew revoka tagħha għandha tkun bil-miktub, ikun fiha r-raġunijiet li tkun msejsa fuqhom u tiġi notifikata lill-persuna involuta. L-Awtorità tista' wkoll tippubblika kull tali direttiva b'dak il-mod li tista' tqis adatt fiċ-ċirkostanzi wara li titqies sew l-importanza tad-direttiva u l-impatt tagħha fuq is-suq.

Koperazzjoni ma' l-awtoritajiet kompetenti responsabbli għal kwistjonijiet ta' kompetizzjoni u affarijiet tal-konsumatur eċċ.

(8) L-Awtorità għandha, fejn tqis li jkun adatt, tikkonsulta ma' diversi awtoritajiet kompetenti responsabbli għal kwistjonijiet ta' kompetizzjoni u affarijiet tal-konsumatur u għal dawk is-setturi kollha li jista' jkollhom impatt fuq is-setturi regolati mill-Awtorità dwar hwejjeġ ta' interess komuni li għandhom x'jaqsmu ma' l-applikazzjoni ta' dan l-Att u ta' kull liġi oħra li l-Awtorità ikollha jedd tinforza.

(9) L-Awtorità min-naħa waħda u l-awtoritajiet kompetenti responsabbli għal materji ta' kompetizzjoni u affarijiet tal-konsumatur min-naħa l-oħra, għandhom jipprovdu lil xulxin dik l-informazzjoni meħtieġa għall-applikazzjoni tad-disposizzjonijiet ta' dan l-Att u liema informazzjoni għandha tiġi pprovduta fil-parametri ta' regolament ta' żmien adatt filwaqt li jitqiesu ċ-ċirkostanzi partikolari tal-kwistjonijiet involuti. Għar-rigward ta' l-informazzjoni skambjata, l-awtorità li tirċeviha għandha tiżgura l-istess livell ta' konfidenzjalità bħalma jkollha l-awtorità li toriġinaha.

Ghoti ta' informazzjoni.

(10) Minghajr preġudizzju għas-setgħat ta' infurzar li l-Awtorità għandha skond il-liġi, l-Awtorità tista' titlob lil persuna biex tippovdilha kull informazzjoni, inkluża informazzjoni finanzjarja, li l-Awtorità tqis li tkun mehtieġa bil-ghan li tiġi żgurata konformità mad-disposizzjonijiet ta' dan l-Att, jew deċiżjonijiet jew direttivi magħmulin skond dan l-Att jew kull liġi oħra li l-Awtorità ikollha jedd tinforza.

(11) Kull informazzjoni mehtieġa mill-Awtorità taht is-subartikolu (10) ta' dan l-artikolu għandha tkun proporzjonata ma' l-eżekuzzjoni tal-funzjonijiet u l-obbligazzjonijiet tagħha taht dan l-Att u meta tkun qed titlob xi informazzjoni bħal dik hawn qabel imsemmija, l-Awtorità għandha tiddikjara għaliex tkun qed tehtieġ dik l-informazzjoni mitluba.

(12) Persuna li tkun avżata bi htieġa taht is-subartikolu (10) ta' dan l-artikolu għandha tikkonforma ruhha minnufih mal-htieġa fil-parametri tar-regolament ta' żmien u skond kull livell ta' detall li jista' jkun mehtieġ mill-Awtorità:

Iżda kull persuna bħal dik għandha, meta tkun qed tikkonforma ruhha mad-disposizzjonijiet ta' dan is-subartikolu, tiddikjara b'mod ċar lill-Awtorità jekk xi informazzjoni minnha provduta għandha titqies bħala wahda konfidenzjali għal raġunijiet kummerċjali. Meta jagħmel hekk għandu jagħti r-raġunijiet tiegħu lill-Awtorità. Tkun l-Awtorità li tiddeċiedi jekk l-informazzjoni li tiġi lilha indikata bħala wahda konfidenzjali għandhiex titqies bħala tali:

Iżda wkoll id-disposizzjonijiet ta' dan is-subartikolu li jirrigwardjaw il-konfidenzjalità għandhom ikunu japplikaw għal kull informazzjoni provduta lill-Awtorità għal kull raġuni li tkun sew taht dan l-Att jew taht kull liġi oħra li l-Awtorità għandha s-setgħa li tinforza.

(13) Persuna li tonqos jew li tirrifjuta milli tikkonforma ruhha ma' xi htieġa taht is-subartikolu (10) ta' dan l-artikolu tikkommetti ksur ta' dan l-Att u tista' tiġi imposta fuqha mill-Awtorità penali amministrattiva li ma tkunx teċċedi l-ammont ta' hamest elef lira u, jew mitt lira għal kull jum li matulu jibqa' jkun hemm nuqqas ta' konformità.

Pubblikazzjoni ta' informazzjoni. (14) L-Awtorità għandha, bla hsara għall-harsien ta' kull informazzjoni li tqis konfidenzjali, tippubblika minn żmien għal żmien dik l-informazzjoni li kieku tista', fil-fehma ta' l-Awtorità, tikkontribwixxi għal suq miftuh u kompetittiv.”.

7. Fl-artikolu 30 ta' l-Att prinċipali minnufih wara l-kliem “mill-funzjonijiet ta' l-Awtorità” għandhom jiżdiedu l-kliem “u l-Ministru jista', b'konformità ma' kull obligazzjoni internazzjonali ta' Malta, jagħmel regolamenti li jkollhom x'jaqsmu ma' l-impożizzjoni ta' drittijiet, rati jew hlasijiet ohra ikunu kif ikunu deskritti li l-Awtorità tista' tiġbor u partikolarment jista' jippreskrivi l-mod u l-ghan għaliex dawn għandhom jiġu imposti.”.

Emenda ta' l-artikolu 30 ta' l-Att prinċipali .

8. Taqsima VII ta' l-Att prinċipali għandha tiġi enumerata mill-ġdid bhala Taqsima IX u l-artikoli 29 u 30 għandhom jiġu enumerati mill-ġdid bhala l-artikoli 43 u 44 rispettivament, l-artikolu 31 għandu jithassar u minnufih wara Taqsima VI ta' l-Att prinċipali għandhom jiżdiedu t-Taqsima VII u t-Taqsima VIII godda li ġejjin:-

Enumerazzjoni mill-ġdid tat-Taqsima VII u žieda tal-Partijiet VIII u IX godda ma' l-Att prinċipali.

“TAQSIMA VII – INFURZAR U SANZJONIJIET

Setgħat ta' infurzar ta' l-Awtorità.

29. (1) Għall-finijiet ta' l-eżerċizzju mill-Awtorità ta' xi wahda mill-funzjonijiet tagħha taht l-Att jew ta' kull liġi ohra li l-Awtorità għandha jedd tinforza, l-Awtorità tista':

(a) tidhol, f'kull hin raġonevoli, go fond li ma jkunx post ta' residenza, jew f'xi post jew vettura jew bastiment fejn tkun qed issir xi attività regolata b'dan l-Att jew tahtu jew kull liġi ohra li l-Awtorità ikollha jedd tinforza, jew fil-fehma ta' l-Awtorità tokkorri, u tffitex u tispezzjona l-fond, post, vettura jew bastiment u l-kotba, dokumenti jew *records* kollha li jkunu jinsabu hemm ġew,

(b) tehtieg lil xi persuna li ġġib għall-ispezzjon u tiehu estratti minn kotba, dokumenti jew *records* li jkollhom x'jaqsmu ma' attivitajiet regolati b'dan l-Att jew tahtu jew kull liġi ohra li l-Awtorità jkollha jedd tinforza, li jkunu taht il-kontroll ta' dik il-persuna u, fil-każ ta' informazzjoni f'għamla mhux legibbli li tirriproduċiha f'għamla legibbli, u li tagħti lill-Awtorità dik l-informazzjoni skond ma l-Awtorità tista' tkun raġonevolment tehtieg dwar kull haġa li

jista' jkun hemm miktuba f'dawk il-kotba, dokumenti jew *records*,

(c) tehtieg lil xi persuna li zzomm dawk il-kotba, dokumenti jew *records* ghal dak il-perjodu li jista' jkun ragonevoli skond ma l-Awtorità tordna,

(d) tehtieg lil xi persuna taghti lill-Awtorità dik l-informazzjoni li tista' tkun mehtiega dwar attivitajiet regolati b'dan l-Att jew tahtu jew kull ligi ohra li l-Awtorità jkollha jedd tinforza,

(e) taghmel dawk l-ispezzjonijiet, testijiet u qjisien ta' kull makkinarju, apparat, mezz u taghmir iehor f'kull post skond ma l-Awtorità tista' tqis li jkun mehtieg.

(2) Kull ufficjal ta' l-Awtorità jew persuna ohra awtorizzata kif imiss mill-Awtorità biex tagixxi f'isimha meta tkun qed tezercita setgha moghtija b'dan l-artikolu ghandu, jekk hekk jigi mitlub jaghmel mill-persuna milquta b'dan, juri lil dik il-persuna li tkun se ssirilha spezzjoni certifikat mahrug mill-Awtorità fejn jigi ddikjarat li huwa jkun awtorizat kif imiss biex jagixxi ghall-Awtorità u f'isimha.

(3) Filwaqt li jkun qed isir l-ezerçizzju ta' xi wahda mis-setghat taht dan l-artikolu, l-Awtorità tista' titlob l-assistenza tal-pulizija.

(4) Id-Diretturi u *l-managers*, jissejhu kif jissejhu, jew persuni ohra li huma jew li kienu inkarigati mill-operazzjonijiet jew attivitajiet li jaqghu taht il-funzjonijiet supervizorji jew regolatorji ta' l-Awtorità, ghandhom jassistu u jikkollaboraw ma' l-Awtorità sabiex din tkun tista' twettaq il-funzjonijiet taghha, u ghandha tigbor u tittrasmetti minghajr ebda dewmien mhux dovut dik l-informazzjoni u dokumentazzjoni li l-Awtorità tista' ragonevolment titlob minn zmien ghal zmien.

(5) Persuna li -

(a) tostruwixxi, timpedixxi jew tattakka ufficjal ta' l-Awtorità jew lil xi persuna ohra awtorizzata kif imiss mill-Awtorità biex tagixxi f'isimha fl-ezerçizzju ta' xi setgha taht dan l-artikolu,

(b) tonqos jew tirrifjuta milli tikkonforma ma' xi htiega taht dan l-artikolu,

(c) tibdel, tahbi jew teqred xi kotba, dokumenti jew *records* li l-persuna involuta tkun mehtiega li tipproduci, jew tista' ragonevolment tistenna li tkun mehtiega li tipproduci, jew

(d) b'qerq tirrapprezenta lilha nnifisha li tkun ufficjal ta' l-Awtorita jew persuna awtorizzata mill-Awtorita biex tagixxi f'isimha,

Tkun hatja ta' reat kontra dan l-Att, u meta jinsab hati jista' jehel multa li ma tkunx teccedi hamest elef lira jew prigunerija ghal perjodu li ma tkunx teccedi tliet xhur, jew ghal dik il-multa u prigunerija flimkien.

Kxif ta' informazzjoni konfidenzjali.

30. (1) Hlief meta jigi xort'ohra provdut mil-ligi, persuna ma ghandhiex xjentement tikxef informazzjoni konfidenzjali li hija tikseb fil-qadi tad-dmirijiet ta' membru, ufficjal jew impjegat ta' l-Awtorita jew ta' min jaghti parir jew konsulent ta' l-Awtorita, kemm-il darba ma jkunx awtorizzat mill-Awtorita kif imiss biex jaghmel dan.

(2) F'dan l-artikolu "informazzjoni konfidenzjali" tfisser kull taghrif ikun kif ikun deskritt li jitqies mill-Awtorita li jkun konfidenzjali u li dwaru l-Awtorita tkun avzat lill-persuni involuti bid-dmir li jkollhom li ma jikxfuhx.

(3) Min jikser dan l-artikolu jkun hati ta' reat kontra dan l-Att u jista', meta jinsab hati, jehel multa li ma tkunx teccedi elf lira.

(4) Ebda haqa f'dan l-artikolu ma ghandha tipprevjeni l-kxif ta' xi informazzjoni lill-Awtorita, jew mill-Awtorita jew f'isimha lill-Ministru, jew skond ma jista' jkun mehtieg bil-ligi.

Sanzjonijiet ohra li l-Awtorita tista' timponi.

31. (1) Minghajr pregradizzju ghad-disposizzjonijiet ta' l-artikoli 32 u 33 ta' dan l-Att u kemm-il darba ma jkunx gie xort'ohra espressament provdut taht dan l-Att jew kull ligi ohra li l-Awtorita ikollha jedd tinforza, l-Awtorita tista', jekk tqis li jkun adatt, tehtieg lil xi persuna li tikkommetti xi ksur ta' xi disposizzjonijiet

ta' l-Att jew kull liġi oħra li l-Awtorità ikollha jedd tinforza, li ssewwi l-attijiet jew l-ommissjonijiet tagħha u li tressaq is-sottomissjonijiet tagħha lill-Awtorità f'dak il-perjodu li ma jkunx inqas minn tletin ġurnata u bla hsara għal dawk il-kondizzjonijiet li l-Awtorità tista' tqis raġonevoli fiċ-ċ irkostenzi.

(2) Meta l-persuna involuta tirrimedja l-ksur fiż-żmien stabbilit mill-Awtorità skond subartikolu (1) ta' dan l-artikolu u bil-miktub taqbel li tikkonforma ma' kull kondizzjoni li l-Awtorità tista' timponi skond subartikolu (1) ta' dan l-artikolu, l-Awtorità għandha tieqaf milli tkompli tmexxi aktar.

(3) Meta persuna li tagħmel xi ksur ta' xi disposizzjoni ta' dan l-Att jew ta' xi liġi li l-Awtorità jkollha jedd tinforza, tonqos milli ssewwi l-attijiet jew l-ommissjonijiet tagħha skond subartikoli (1) u (2) ta' dan l-artikolu, l-Awtorità tista':

(a) timponi penali amministrattiva skond id-disposizzjonijiet ta' l-artikoli 32 u 33 ta' dan l-Att, u

(b) f'każijiet li l-Awtorità tqis li jikkostitwixxu ksur ripetut u gravi, 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 ikollha jedd tinforza.

(4) Minkejja id-disposizzjonijiet tas-subartikoli (1) u (3) ta' dan l-artikolu u ta' l-artikolu 33, meta l-Awtorità ikollha prova *prima facie* li l-ksur-

(i) jirrappreżenta theddida immedjata u serja għas-sigurtà pubblika, għas-sigurezza pubblika jew għas-saħha pubblika, jew

(ii) johloq jew jista' johloq problemi ekonomiċi jew operattivi gravi għal provdituri oħra ta' servizzi jew *networks* ta' komunikazzjoni, jew għall-konsumaturi,

l-Awtorità tista' fil-frattemp tiehu miżuri urgenti biex tirrimedja s-sitwazzjoni qabel ma tintlaħaq deċiżjoni finali inklużi penali amministrattivi li jiġu imposti:

Iżda l-persuna li kontriha huma kontemplati dawk il-mizuri, għandha tinghata opportunità raġonevoli biex tfisser fehemtha u tipproponi kull rimedju.

(5) L-Awtorità għandha tagħti r-raġunijiet tagħha għal kull deċiżjoni mittieħda taħt dan l-artikolu.

Ksur
amministrattiv.

32. (1) L-Awtorità tista' timponi penali amministrattiva fuq persuna li:

(a) tikser xi disposizzjoni ta' dan l-Att jew ta' kull liġi oħra li l-Awtorità ikollha jedd tinforza; jew

(b) tonqos milli tikkonforma ma' xi direttiva jew deċiżjoni mogħtija mill-Awtorità sew jekk taħt dan l-Att sew jekk taħt kull liġi oħra li l-Awtorità jkollha jedd tinforza:

Iżda fil-każijiet kollha fejn l-Awtorità timponi penali amministrattiva għar-rigward ta' xi haġa magħmula jew ommessa milli ssir mill-persuna u dak l-att jew ommissjoni jkun ukoll jikkostitwixxi reat kriminali, ma jista' jkun mittieħed jew imkompli ebda proċediment kontra dik il-persuna dwar dak ir-reat kriminali.

(2) Penali amministrattiva imposta taħt subartikolu (1) ta' dan l-artikolu ma għandhiex, kemm-il darba ma jkunx provdut xort'oħra b'dan l-Att jew tahtu, tkun ta' iżjed minn mitt elf lira għal kull ksur jew nuqqas li persuna tikkonforma ruhha u, jew elfejn lira għal kull jum ta' ksur jew nuqqas ta' konformità skond ma jista' jkun il-każ:

Iżda jekk l-att jew l-ommissjoni li jikkostitwixxu ksur isiru minn impriża u jkollhom effetti speċjalment sinifikattivi fuq is-suq għad-detriment tal-kompetituri u, jew konsumaturi, l-ammont imsemmi li jista' jkun impost bħala penali amministrattiva jista' jkun akbar minn dak imsemmi sakemm dan ma jkunx b'izjed minn hamsa fil-mija tat-*turnover* ta' l-impriża fis-sena kalendarja li tiġi minnufih qabel is-sena meta jkun sar dak il-ksur.

(3) Biex jiġi stabbilit x'ikun l-ammont ta' penali amministrattiva, għandha partikolarment titqies xi tkun ix-xorta u l-estent tal-ksur, għal kemm żmien isir dan u l-impatt li jkollu fuq is-suq u fuq il-konsumaturi.

(4) Il-Ministru jista' b'regolamenti magħmulin taht dan l-Att jistabbilixxi l-penali amministrattivi li tista' tkun imposta mill-Awtorità għal kull ksur ta' dawk regolamenti:

Iżda l-ammonti tal-penali li jistgħu jiġu hekk preskritti ma għandhomx jeċċedu l-oghla ammonti msemmija taht is-subartikolu (2) ta' dan l-artikolu.

(5) Minkejja id-disposizzjonijiet ta' kull liġi, ebda mandat kawtelatorju jew ordni ma għandhom jiġu mahruġa minn xi qorti li jkunu jzommu lill-Awtorità milli teżerċita xi wahda mis-setgħat mogħtija lilha b'dan l-artikolu jew tahtu.

Proċedura
meta tkun
qed tiġi
imposta
penali
amministrattiva.

33. (1) Qabel ma tkun se timponi penali amministrattiva l-Awtorità għandha tikteb lill-persuna involuta fejn tawżah li tista' tkun imposta fuqu penali amministrattiva u fejn tgharrfu bl-ammont tal-penali li tista' tkun imposta u r-raġunijiet speċifiċi li dwarhom din tista' tkun imposta u hemm tagħti lill-persuna involuta perjodu ta' mhux inqas minn tletin ġurnata skond ma l-Awtorità tista' tistabbilixxi li tkun adatta fiċ-ċirkostanzi, u matul dak il-perjodu l-persuna involuta tkun tista' tagħmel is-sottomissjonijiet tagħha lill-Awtorità:

Iżda meta l-Awtorità tkun użat il-proċedura li hemm provdut dwarha fl-artikolu 31 ta' dan l-Att, l-avviż li hemm provdut dwaru fl-imsemmi artikolu u f'dan is-subartikolu jista' jingħata fl-istess hin u l-Awtorità tista' tistabbilixxi li l-perjodu ta' tletin ġurnata hawn qabel imsemmija għandu jibda malli jiskadi l-perjodu mogħti għar-rimedju ta' xi ksur taht l-artikolu 31 ta' dan l-Att:

Iżda wkoll il-perjodu ta' tletin ġurnata msemmija fis-subartikolu (1) ta' l-artikolu 33 jista' jitqassar fiċ-ċirkostanzi msemmija fis-subartikolu (4) ta' l-artikolu 31.

(2) Qabel ma tiddeċiedi jekk għandhiex timponi penali amministrattiva, l-Awtorità għandha tqis is-sottomissjonijiet, jekk ikun hemm, li jsirulha taht subartikolu (1) ta' dan l-artikolu.

(3) Jekk wara li jiskadi l-perjodu li matulu jistgħu jsiru sottomissjonijiet skond is-subartikolu (1) ta' dan l-artikolu l-Awtorità tqis li l-persuna involuta ma tkunx tat prova jew raġunijiet validi biex turi li l-penali

amministrattiva msemija fis-subartikolu (1) ta' dan l-artikolu ma ghandhiex tkun imposta, l-Awtorità ghandha timponi penali amministrattiva skond dan l-Att u ghandha taghti avviż bil-miktub lill-persuna involuta fejn tiġi speċifikata ix-xorta tal-ksur u l-ammont dovut tal-penali amministrattiva.

Kap.12.

(4) L-avviż imsemmi fis-subartikolu (3) ta' dan l-artikolu ghandu, minghajr preġudizzju ghad-dritt ta' appell taht l-artikolu 38 ta' dan l-Att, malli tiġi notifikata kopja tiegħu permezz ta' att ġudizzjarju lill-persuna indikata fl-avviż, jikkostitwixxi titolu eżekuttiv għall-effetti u l-għanijiet kollha tat-Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

(5) Minkejja id-disposizzjonijiet tas-subartikolu (2) ta' l-artikolu 256 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, it-titolu eżekuttiv imsemmi fis-subartikolu (4) ta' dan l-artikolu ma jkunx jista' jiġi inforzat qabel ma jiskadu tletin ġurnata min-notifika ta' l-att ġudizzjarju hemmhekk imsemmi:

Iżda meta jkun ġie pprezentat appell kontu penali amministrattiva skond l-artikolu 38 ta' dan l-Att, għandhom japplikaw id-disposizzjonijiet ta' l-artikolu 38 ta' dan l-Att.

Ksur
amministrattiv
li jsir minn
korpjiet
magħquda.

34. Meta jsir ksur amministrattiv ta' xi disposizzjoni ta' dan l-Att jew ta' kull liġi oħra li l-Awtorità jkollha jedd tinforza, minn korp magħqud u jiġi ppruvat li dan ikun sar bil-kunsens jew involviment jew ikun attribwibbli għal xi negliġenza kbira daparti ta' xi persuna li tkun direttur, *manager*, segretarju jew uffiċjal iehor, ikunu kif ikunu deskritti, tal-korp magħqud jew persuna li kienet qed tagħti x'jifhem li kienet qed taġixxi f'xi kariga bħal dik, jistgħu jinbdeu proċeduri kemm kontra dik il-persuna kemm kontra l-korp magħqud, u dawn jiġu penalizzati bhallikieku kienu responsabbli għal dak il-ksur .

Preskrizzjoni
għal reati u
ksur
amministrattiv.

35. Il-prosekuzzjoni tar-reat kriminali jew il-bidu ta' proċedimenti li jimponu penali amministrattiva taht dan l-Att jew taht xi liġi oħra li l-Awtorità jkollha jedd tinforza tkun preskritta meta jiskadu sentejn minn meta jiġi allegat li jkun sar ir-reat jew il-ksur amministrattiv.

TAQSIMA VIII
BORD TA' L-APPELLI DWAR
IL-KOMUNIKAZZJONIJIET

Bord ta' l-
Appelli
dwar il-
Komunikaz-
zjonijiet.

36. (1) Jitwaqqaf Bord ta' l-Appelli, li jkun maghruf bhala l-Bord ta' l-Appelli dwar il-Komunikazzjonijiet, li jkollu ġurisdizzjoni jisma' u jistabbilixxi appelli minn deċiżjonijiet ta' l-Awtorità skond ma hemm provdut f'dan l-Att jew f'kull liġi oħra jew regolament ieħor.

(2) Il-Bord ta' l-Appelli dwar il-Komunikazzjonijiet għandu jiġi mwaqqaf mill-Prim Ministru, u jkun magħmul minn:

(a) *chairman* li jkun avukat li jkun eżerċita mill-inqas għal seba' snin, u

(b) żewġ membri oħra li jintgħażlu mi-*Chairman* tal-Bord ta' l-Appelli minn fost listi ta' persuni stabbiliti mill-Prim Ministru u li jkollhom dik l-esperjenza kummerċjali, teknika jew finanzjarja fl-oqsma tal-komunikazzjonijiet elettronici, servizzi postali u f'dawk l-oqsma l-oħra li jkollhom x'jaqsmu mal-komunikazzjonijiet u li għar-rigward tagħhom il-Bord ta' l-Appelli ikollu ġurisdizzjoni.

(3) Iċ-*Chairman* u l-membri tal-listi tal-Bord ta' l-Appelli għandhom jinhatru għal żmien tliet snin u jkunu eliġibbli biex jinhatru mill-ġdid.

(4) Il-Bord ta' l-Appelli jkun indipendenti fl-eżekuzzjoni tal-funzjonijiet tiegħu.

(5) Iċ-*Chairman* u l-membri tal-Bord ta' l-Appelli jistgħu jkunu rikuzati jew huma jastjenu għal kull waħda mir-raġunijiet li għalihom mhallef jista' jkun rikuzat jew jastjeni skond il-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. F'każ bhal dak il-Prim Ministru għandu jahtar persuna, li jkollha l-kwalifiki li jkollhom iċ-*chairman* jew il-membri li jkun ġie rikuzat jew li jkun astjena, biex joqogħdu minflok.

(6) Membru tal-Kamra tar-Rappreżentanti jew tal-Parlament Ewropew jew ta' kunsill lokali ikun skwalifikat milli jiġi mahtur jew milli jibqa' jkun iċ-*Chairman* jew

membru tal-Bord ta' l-Appelli tul dak iż-żmien li jibqa' f'dik il-kariga.

(7) *Iċ-Chairman* jew membru tal-Bord ta' l-Appelli jista' biss jitnehha mill-kariga mill-Prim Ministru minhabba f'negligenza gravi, konflitt ta' interess, inkompetenza, jew attijiet jew ommissjonijiet li ma jixirqux lil membru tal-Bord ta' l-Appelli. Meta jkun qed jagħmel dan, il-Prim Ministru għandu jqiegħed fuq il-Mejda tal-Kamra tar-Rappreżentanti dikjarazzjoni fejn jingħataw ir-raġunijiet għat-tneħħija ta' dak il-membru.

(8) *Iċ-Chairman* jew membru tal-Bord ta' l-Appelli ma għandux, għal perjodu ta' sena wara t-terminazzjoni għal liema raġuni tkun tal-hatra tiegħu, jiehu parti f'xi attività li minhabba fil-konflitt ta' interess kienet tkun inkompatibbli ma' l-eżerċizzju tal-funzjonijiet tiegħu. Persuna li taġixxi bi ksur ta' dan is-subartikolu tkun hatja ta' reat kontra dan l-Att u meta tinsab hatja tista' tehel multa ta' mhux iżjed minn elf lira u tiġi impedita milli tiġi mahtura f'karigi bħal dawk għal perjodu ta' mhux inqas minn għaxar snin.

(9) Il-Prim Ministru għandu jinnomina persuna biex tkun segretarju tal-Bord ta' l-Appelli u dik il-persuna għandha sservi f'dik il-kariga skond il-livelli etiċi adatti għall-kariga li jkun qed jokkupa.

Appelli
pendenti
quddiem il-
Bord ta' l-
Appelli dwar
Telekomuni-
kazzjonijiet
u Bord ta' l-
Appelli dwar
Servizzi
Postali.

(10) Minkejja d-dhul fis-seħh tat-Taqsima VIII ta' dan l-Att u t-twaqqif tal-Bord ta' l-Appelli dwar il-Komunikazzjonijiet, kwalunkwe appelli li jistgħu jkunu pendenti quddiem il-Bord ta' l-Appelli dwar il-Komunikazzjonijiet u, jew il-Bord ta' l-Appelli dwar Servizzi Postali fid-data tad-dhul fis-seħh tat-Taqsima VIII ta' dan l-Att, għandhom jitkomplew jinstemgħu u jiġu deċiżi skond il-liġi kif fis-seħh immedjatement qabel id-dhul fis-seħh tat-Taqsima VIII ta' dan l-Att mill-Bord ta' l-Appelli dwar il-Komunikazzjonijiet u, jew il-Bord ta' l-Appelli dwar Servizzi Postali skond in-natura tal-każ.

Appelli minn
deċiżjonijiet
li ma jkunux
dwar l-
impożizzjoni
ta' penali
amministrati-
vi ta' l-
Awtorità.

37. (1) Kemm-il darba mhux provdut xort'ohra mill-liġi, jista' jsir appell quddiem il-Bord ta' l-Appelli minn deċiżjoni jew direttiva ta' l-Awtorità kemm taht dan l-Att, u kemm taht l-Att biex jirregola Kommunikazzjonijiet

Kap. 81. Elettronici, l-Att dwar ir-Regolament ta' ċerti Xoghlijiet
Kap. 254 f'Utilitajiet u Servizzi, l-Att dwar ix-Xandir jew l-Att dwar
Kap. 350 is-Servizzi Postali:
Kap. 399

Izda l-Prim Ministru jista' b'ordni fil-Gazzetta jestendi l-ġurisdizzjoni tal-Bord ta' l-Appelli ghal:

(a) kull decizjoni ohra li l-Awtorità tista' tiehu taht kull ligi ohra li l-Awtorità ikollha jedd tinforza, u

(b) kull decizjoni mittiehda minn jew f'isem il-Gvern jew minn xi awtorità pubblika fil-qasam tal-komunikazzjonijiet jew li jkollha influwenza sostanzjali fuqhom.

(2) Id-dritt ta' appell quddiem il-Bord ta' l-Appelli ikun jista' jsir mill-persuna aggravata mid-decizjoni:

Izda f'kull każ, persuna li taghmel appell quddiem il-Bord ta' l-Appelli ghandha wkoll tispjega l-interess ġuridiku li jkollha meta tkun qed tattakka d-decizjoni jew direttiva appellata.

(3) Minghajr preġudizzju ghad-disposizzjonijiet ta' l-artikolu 38 ta' dan l-Att:

(a) Appell minn decizjoni jew direttiva ta' l-Awtorità ghandha ssir b'rikors u tiġi pprezentata ghand is-segretarju tal-Bord ta' l-Appelli fi żmien tletin ġurnata mid-data meta dik id-decizjoni tkun ġiet notifikata lill-parti li tkun qed tappella; u

(b) Ir-rikors ta' l-appell ghandu jiġi notifikat lill-Awtorità, li ma ghandhiex aktar tard minn ghoxrin ġurnata minn dik in-notifika tippreżenta r-risposta tagħha ghal dak ir-rikors ghand is-segretarju tal-Bord ta' l-Appelli.

Appelli
kontra penali
amministrattiva
imposta mill-
Awtorità.

38. (1) Minghajr preġudizzju ghad-disposizzjonijiet ta' din it-Taqsima, il-proċedura li ghandha tiġi segwita dwar appelli kontra penali amministrattivi imposti mill-Awtorità ghandha tkun regolata mid-disposizzjonijiet ta' dan l-artikolu.

(2) Persuna li tiġi notifikata b'att ġudizzjarju skond ma hemm fis-subartikolu (4) ta' l-artikolu 33 ta' dan l-Att tista' fi żmien tletin ġurnata mid-data ta' dik in-notifika tippreżenta appell quddiem il-Bord ta' l-Appelli fejn hija toġġezzjona għall-penali amministrattiva li tkun ġiet hekk imwählha.

(3) Il-Bord ta' l-Appelli ma għandux jannulla penali amministrattiva bħal dik hawn qabel imsemmija kemm-il darba dik il-piena ma tistax skond il-liġi tkun imposta fiċ-ċirkostanzi tal-każ, jew ma tistax skond il-liġi tiġi mwählha fl-ammont stabbilit mill-Awtorità, fil-qjies li jkun qed jiġi adottat il-prinċipju tal-proporzjonalità.

(4) Il-Bord ta' l-Appelli għandu, mingħajr dewmien, jiffissa għas-smiġh l-appell kemm jista' jkun kmieni għal data li f'ebda każ ma tkun aktar tard minn erbghin ġurnata mid-data tan-notifika ta' l-appell lill-Awtorità.

(5) L-appell, u n-notifika tad-data ffissata għas-smiġh, għandhom jiġu notifikati lill-Awtorità mingħajr dewmien, u l-Awtorità għandha tippreżenta r-risposta tagħha fi żmien għoxrin ġurnata mid-data tan-notifika ta' l-appell.

(6) Il-deċiżjoni tal-Bord ta' l-Appelli dwar appell msemmi fis-subartikolu (2) ta' dan l-artikolu, fejn tiġi kkonfermata l-impożizzjoni ta' piena mogħtija mill-Awtorità jew fejn tiġi mnaqqsa kull piena bħal dik, għandha, hekk kif issir *res judicata*, titqies bħala deċiżjoni tal-Bord ta' l-Appelli ekwivalenti għal deċiżjoni tal-Prim' Awla tal-Qorti Ċivili li tordna il-hlas mill-appellant tal-penali amministrattiva kif konfermata jew mnaqqsa.

(7) Ikollhom dritt ta' appell quddiem il-Qorti ta' l-Appell il-partijiet kollha fil-proċedimenti quddiem il-Bord ta' l-Appelli skond l-artikolu 41 ta' dan l-Att.

Deċiżjonijiet
tal-Bord ta'
l-Appelli.

39. (1) Fid-determinazzjoni ta' appell il-Bord ta' l-Appelli għandu jqis il-merti ta' l-appell, u jista' għal kollox jew f'parti, jikkonferma jew jannulla d-deċiżjoni appellata, fejn jagħti bil-miktub ir-raġunijiet għad-deċiżjoni tiegħu u għandu jara li dik id-deċiżjoni tkun wahda pubblika u li tiġi komunikata lill-partijiet fl-appell.

(2) Bla hsara għall-disposizzjonijiet ta' l-artikolu 41 id-deċiżjonijiet tal-Bord ta' l-Appelli jkunu finali u konklużivi.

(3) Meta l-Bord ta' l-Appelli iqis li, fil-qjies tas-sentenza tagħha fl-appell u kull haġa oħra rilevanti, ikun hemm raġunijiet biżżejjed li jirrendu l-Bord ekwitabbli biex jagħmel dan, il-Bord jista', sew minn jeddu sew wara li jsirli rikors minn konsumatur li jkun parti fl-appell, jordna li l-ispejjeż kollha jew parti minnhom ta' kull tali parti li tkun deheret quddiem il-Bord ta' l-Appelli u li jkollhom x'jaqsmu ma' l-ingaġġ ta' avukat u, jew ta' konsulent tekniku, għandhom jithallsu lill-konsumatur involut minn kull parti oħra fl-appell li tissemma' fl-ordni.

Proċedura
tal-Bord ta'
l-Appelli.

40. (1) Fl-eżerċizzju tal-funzjonijiet tiegħu, il-Bord ta' l-Appelli jista' jharrek persuna biex tidher quddiemu u tixhed u ġġib dokumenti, u *ċ-Chairman* tal-Bord ta' l-Appelli jkollu s-setgħa jamministra il-ġurament.

(2) Il-Bord ta' l-Appelli għandu jagħmel mill-aħjar biex jiddeċiedi appell fi żmien mija u ghoxrin ġurnata minn meta jiskadi l-perjodu sa meta l-Awtorità tista' tippreżenta r-risposta tagħha għal dak l-appell u f'kull każ għandu jagħti d-deċiżjoni finali tiegħu sa mhux aktar tard minn sittin jum minn meta l-partijiet jiddikjaraw li jkunu kkonkludew il-provi tagħhom u għamlu s-sottomissjonijiet finali tagħhom.

(3) Il-Bord ta' l-Appelli jista' jahtar esperti indipendenti u imparzjali sabiex jassistuh fl-eżerċizzju tal-funzjonijiet tiegħu u biex jagħtuh pariri dwar kull haġa li tista' tkun rilevanti għal xi appell li tkun qed tittratta. F'dawk il-każijiet il-Bord ta' l-Appelli jkollu jedd jagħmel kemm ordnijiet proviżorji kemm finali għar-rigward tal-hlas ta' kull nefqa u tad-drittijiet ta' dawk l-esperti minn kull parti fl-appell.

(4) Il-Bord ta' l-Appelli fl-eżerċizzju tal-funzjonijiet tiegħu ikollu l-istess setgħat bħalma għandha il-Prim' Awla, Qorti Ċivili skond il-liġi.

(5) Il-Ministru jista' bla hsara għall-disposizzjonijiet ta' dan l-Att, b'regolamenti

jippreskrivi l-proċedura li għandha tiġi segwita quddiem il-Bord ta' l-Appelli, u bla ħsara għal dak u ta' kull disposizzjoni oħra ta' dan l-Att, il-Bord ta' l-Appelli jista' jirregola l-proċedura tiegħu nnifsu.

(6) Il-Ministru jista', bi ftehim mal-Ministru responsabbli għal finanzi b'regolamenti jistabbilixxi dawk id-drittijiet kollha li jitqiesu meħtieġa għal proċedimenti quddiem il-Bord ta' l-Appelli.

(7) Il-Ministru jista' b'regolamenti jemenda kull perjodu msemmi fis-subartikolu (2) ta' dan l-artikolu.

Appell lill-Qorti ta' l-Appell.

41. (1) Kull parti f'appell quddiem il-Bord ta' l-Appelli, inkluża l-Awtorità, li thoss ruhha aggravata minn deċiżjoni tal-Bord ta' l-Appelli, tista' tappella fuq punt ta' liġi lill-Qorti ta' l-Appell (Ġurisdizzjoni Inferjuri) kif magħmul skond l-artikolu 41(6) tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili permezz ta' rikors li jiġi pprezentat fir-reġistru ta' dik il-qorti fi żmien tletin ġurnata mid-data tal-deċiżjoni tal-Bord ta' l-Appelli.

(2) Il-Ministru responsabbli għall-ġustizzja jista' b'regolamenti taħt dan is-subartikolu jistabbilixxi d-drittijiet li għandhom jithallsu fir-reġistru tal-qorti dwar il-prezentata ta' attijiet ġudizzjarji li għandhom x'jaqsmu ma' appelli taħt dan l-artikolu:

Izda sakemm jiġu stabbiliti dawk id-drittijiet, għandhom japplikaw id-drittijiet fi Skeda A tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.

(3) Il-Bord imwaqqaf taħt l-artikolu 29 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili jista' jagħmel Regoli tal-Qorti li jirregolaw appelli quddiem il-Qorti ta' l-Appell taħt dan l-artikolu.

Status ta' deċiżjonijiet jew direttivi pendenti appell quddiem il-Bord ta' l-Appell jew il-Qorti ta' l-Appell.

42. (1) Id-deċiżjoni jew id-direttiva ta' l-Awtorità sakemm jinstama' l-appell sew jekk quddiem il-Bord ta' l-Appelli sew jekk quddiem il-Qorti ta' l-Appell, għandha tinzamm u tiġi segwita mill-partijiet kollha li għalihom tkun tapplika dik id-deċiżjoni jew direttiva.

(2) Il-Bord ta' l-Appelli jew il-Qorti ta' l-Appell skond il-każ, fejn iqisu li jkun hekk adatt, jistgħu fuq rikors ta' xi parti fl-appell, jissospendu d-deċiżjoni jew

direttiva ta' l-Awtorità sakemm tinghata s-sentenza finali ta' l-appell. Meta l-Bord ta' l-Appelli jew il-Qorti ta' l-Appell jkunu qeghdin jiddeċiedu li jissospendu d-deċiżjoni jew direttiva, dawn ghandhom jaghtu r-raġunijiet tagħhom għaliex ikunu qeghdin jagħmlu dan.”.

żieda ta' l-artikoli
45 u 46 ġdoda ma'
l-Att prinċipali.

9. Minnufih wara l-artikolu 44 ta' l-Att prinċipali ghandhom jiżdidu dawn l-artikoli ġodda li ġejjin:

“Eżenzjoni
minn
responsabbiltà.

45. Il-membri, uffiċjali u impjegati ta' l-Awtorità fl-eżekuzzjoni tal-funzjonijiet tagħhom taht dan l-Att jew kull liġi oħra amministrata mill-Awtorità, ma jkunux responsabbli għal kull telf jew hsara mgarrba minn xi persuna minhabba f'x'haġa magħmula jew ommessa milli ssir bonafidi filwaqt ta' l-amministrazzjoni ta' dan l-Att jew ta' kull liġi oħra.

Notifika ta'
avviż.

46. Meta xi avviż, ikun kif ikun deskritt, ikun mehtieg li jinghata mill-Awtorità lil xi persuna sew jekk taht dan l-Att sew taht xi liġi oħra amministrata mill-Awtorità, l-avviż għandu jiġi indirizzat lil persuna u għandu jinghata lill-persuna b'xi wiehed mill-modi li ġejjin:

(a) billi jitwassal għand il-persuna,

(b) billi jithalla fl-indirizz fejn il-persuna tkun soltu toqghod jew ikollha n-negozju tagħha,

(c) billi jintbagħat bil-posta reġistrata lill-persuna fl-indirizz fejn il-persuna tkun soltu toqghod jew ikollha n-negozju tagħha,

(d) jekk ikun ġie provdut indirizz għas-servizz ta' avviżi mill-persuna, billi dan jithalla, jew jintbagħat bil-posta reġistrata indirizzat lill-persuna f'dak l-indirizz,

(e) f'kull każ fejn l-Awtorità tqis li l-ghoti immedjat ta' l-avviż ikun mehtieg, billi jintbagħat, permezz ta' makna *facsimile* jew bil-posta elettronika, f'apparat jew faċilità għar-reċezzjoni ta' *facsimiles* jew posta elettronika li tkun tinsab fl-indirizz fejn il-persuna tkun soltu toqghod jew ikollha n-negozju tagħha jew, jekk ikun inghata indirizz għas-servizz ta' avviżi mill-persuna, f'dak l-indirizz, sakemm il-makna *facsimile* tal-mittent tiġġenera messaġġ li jkun

jikkonferma li t-trasmissjoni tkun għaddiet b'suċċess għal dak li hu l-għadd totali ta' paġni ta' l-avviż jew inkella l-faċilità tal-mittent għar-reċezzjoni ta' posta elettronika tiġġenera messaġġ li jkun jikkonferma li l-posta elettronika tkun giet riċevuta:

Iżda l-disposizzjonijiet ta' paragrafu (e) ta' dan l-artikolu ma għandhomx japplikaw għan-notifika ta' dokumenti ppreżentati quddiem il-Bord ta' l-Appelli jew xi Qorti.

Proċedimenti
dwar djun
dovuti lill-
Awtorità.

47. (1) Meta l-Awtorità tkun trid tharrek biex tirkupra dejn dovut lill-Awtorità taht xi liġi li hija jkollha jedd tinforza dwar xi hlas ta' xi liċenza jew awtorizzazzjoni jew xi hlas iehor jew dritt bhal dak hekk kif ikun imsejjah u li jista' jkun dovut. Iċ-*Chairman*, id-direttur ġenerali jew kull ufficjal iehor ta' l-Awtorità awtorizzat kif imiss mill-Awtorità biex jaġixxi f'isimha jista' jagħmel dikjarazzjoni bil-ġurament quddiem ir-reġistratur, imhallett jew maġistrat fejn huwa jiddikjara xi tkun ix-xorta tad-dejn u l-isem tad-debitur u jikkonferma li dan ikun dovut.

(2) Id-dikjarazzjoni msemmija fis-subartikolu (1) għandha tiġi notifikata lid-debitur permezz ta' att ġudizzjarju u għandu jkollha l-istess effett bhal sentenza finali tal-qorti kompetenti kemm il-darba d-debitur, fi żmien għoxrin ġurnata minn meta ssirlu n-notifika ta' dik id-dikjarazzjoni, ma jopponix dik it-talba billi jippreżenta rikors fejn jitlob li l-qorti tiddikjara l-pretensjoni bhala wahda infondata.

(3) Ir-rikors ippreżentat skond ma hemm fis-subartikolu (2) għandu jiġi notifikat lill-Awtorità, li jkollha jedd tippreżenta risposta fi żmien għoxrin ġurnata. Il-qorti mbagħad tiffissa r-rikors għas-smigh f'data li tiġi wara li jiskadi dak il-perijodu.”.

TAQSIMA II

EMENDI TA' L-ATT BIEX JIRREGOLA T-TELEKOMUNIKAZZJONI

10. (1) Din it-Taqsima temenda l-Att biex jirregola t-Telekomunikazzjoni, u għandha tinqara u tiftiehem bhala haġa wahda

Emendi fl-Att
biex jirregola
t-Telekomunikaz-
zjoni, Kap. 399.

ma' l-Att biex jirregola t-Telekomunikazzjoni, hawn iżjed 'il quddiem f' din it-Taqsima msejjah "l-Att prinċipali".

(2) Din it-Taqsima ghandha tidhol fis-sehh f' dik id-data li l-Ministru responsabbli għal komunikazzjonijiet jista' b'avviż fil-Gazzetta jistabbilixxi u jistgħu jiġu stabbiliti dati differenti għal disposizzjonijiet differenti u għal għanijiet differenti tagħha.

Emenda tat-titolu twil u dak qasir ta' l-Att prinċipali.

11. (1) Minflok it-titolu twil ta' l-Att prinċipali għandu jidhol dan li ġejj:

“Att biex jirregola Komunikazzjonijiet Elettronici.”.

(2) Fl-artikolu 1 ta' l-Att prinċipali minflok il-kliem “Att biex jirregola t-Telekomunikazzjoni” għandhom jiġu sostitwiti l-kliem “Att biex jirregola Komunikazzjonijiet Elettronici”.

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

12. Minflok it-it-tifsiriet kollha fl-artikolu 2 ta' l-Att prinċipali għandhom jiġu sostitwiti dawn it-tifsiriet li ġejjin:

““abbonat” tfisser persuna li tkun parti f' kuntratt mal-provditur ta' servizzi ta' komunikazzjonijiet elettronici disponibbli pubblikament għall-provvista ta' dawk is-servizzi;

“apparat” jinkludi kull tagħmir jew makkinarju, ikunu kif ikunu deskritti;

“l-Att” tfisser dan l-Att u jinkludi regolamenti magħmulin tahtu kemm-il darba r-rabta tal-kliem ma tkunx tehtieg xort'ohra;

“l-Awtorità u “l-awtorità kompetenti” ifissru l-Awtorità ta' Malta dwar il-Komunikazzjoni mwaqqfa taht l-Att għat-Twaqqif ta' Awtorità dwar il-Komunikazzjoni;

“awtorità regolatorja nazzjonali” tfisser dak il-korp jew korpjiet avżati għall-finijiet tal-liġi tal-Komunità lill-Kummissjoni Ewropea minn Stat Membru, bhala li jkunu ġew assenjati impenji fir-regolament ta' servizzi ta' komunikazzjonijiet elettronici, *networks* ta' komunikazzjonijiet elettronici, faċilitajiet assoċjati u servizzi assoċjati;

“awtorizzazzjoni ġenerali” tfisser il-qafas legali mwaqqaf b’dan l-Att jew tahtu li jiżgura drittijiet għall-provdiment ta’ *networks* jew servizzi ta’ komunikazzjonijiet elettronici u li jistipula obligazzjonijiet speċifiċi għas-settur li jistgħu japplikaw għal kull tip jew għal xi tip speċifiku ta’ *networks* u servizzi ta’ komunikazzjonijiet elettronici skond dan l-Att;

Kap. 418. “Bord ta’ l-Appelli” tfisser Bord ta’ l-Appelli dwar il-Komunikazzjonijiet mwaqqaf taht l-Att għat-Twaqqif ta’ Awtorità dwar il-Komunikazzjoni;

“deċiżjoni” tinkludi kull sentenza, miżura, ordni, htieġa jew speċifikazzjoni ikunu kif ikunu deskritti magħmulin mill-Awtorità u l-kelma “deċiżjoni” għandha tiftiehem skond hekk;

“dhul” tfisser faċilitajiet u, jew servizzi li jintgħamlu disponibbli lil impriża oħra, taht kondizzjonijiet speċifiċi, sew fuq bażi esklużiva sew mhux, bil-għan li jiġu provduti servizzi ta’ komunikazzjonijiet elettronici. Dan fost l-oħrajn ikopri dhul f’elementi ta’ *network* u faċilitajiet assoċjati, li jistgħu jinvolvu l-konnessjoni ta’ tagħmir, b’mezzi fissi jew mhux fissi (partikolarment dan jinkludi dhul fil-*loop* lokali u ġo faċilitajiet u servizzi meħtieġa biex jipprovdu servizzi permezz tal-*loop* lokali), dhul fl-infrastruttura fiżika inkluż il-bini, tubi u arbli; dhul f’sistemi ta’ *software* rilevanti inklużi sistemi ta’ appoġġ operattiv, dhul fit-traduzzjoni ta’ numri jew li toffri funzjonalità ekwivalenti, dhul f’*networks* fissi u mobbli, partikolarment għal dak li hu *roaming*, dhul f’sistemi ta’ dhul kondizzjonali għal servizzi ta’ televiżjoni diġitali; dhul f’servizzi ta’ *network* virtwali;

Kap. 418. “direttiva” tfisser direttiva maħruġa mill-Awtorità skond l-artikolu 4 ta’ l-Att għat-Twaqqif ta’ Awtorità dwar il-Komunikazzjoni;

“drittijiet esklużivi” tfisser dritt mogħti lil xi impriża fejn jiġi riservat għaliha d-dritt li tipprovdi servizz ta’ komunikazzjonijiet elettronici jew li tidhol għal xi attività ta’ komunikazzjonijiet elettronici fil-parametri ta’ xi area ġeografika mogħtija b’esklużjoni ta’ impriži oħra;

“drittijiet speċjali” tfisser id-drittijiet li jinghataw lil xi għadd limitat ta’ impriži li, fil-parametri ta’ xi area ġeografika mogħtija:

(i) jaħtru jew jillimitaw għal tnejn jew aktar l-għadd ta’ dawk l-impriži awtorizzati li jipprovdu servizz ta’ komunikazzjonijiet elettronici jew li jidhlu għal xi attività ta’ komunikazzjonijiet elettronici, xort’ohra milli skond kriterji oġġettivi, proporzjonali u mhux diskriminatorji, jew

(ii) jikkonferixxu fuq l-impriži, xort’ohra milli skond dawk il-kriterji, vantaġġi legali jew regolatorji li sostanzjalment jolqtu l-kapaċità ta’ kull impriża oħra li tipprovdi l-istess attività ta’ komunikazzjonijiet elettronici fl-istess area ġeografika taht kondizzjonijiet li jkunu sostanzjalment ekwivalenti;

“faċilitajiet assoċjati” tfisser dawk il-faċilitajiet li huma assoċjati ma’ *network* ta’ komunikazzjonijiet elettronici u, jew servizz ta’ komunikazzjonijiet elettronici li jippotenzjaw u, jew jappoġġaw il-provdiment ta’ servizzi permezz ta’ *network* u, jew servizz bħal dawk. Tinkludi wkoll dhul f’sistemi kondizzjonali u gwidi ta’ programm elettroniku;

“impriża” tfisser persuna li tipprovdi jew tkun awtorizzata tipprovdi *networks* ta’ komunikazzjonijiet elettronici u, jew servizzi jew faċilitajiet assoċjati;

“interkonnessjoni” tfisser it-tagħqid fiżiku u loġiku ta’ *networks* ta’ komunikazzjoni pubblici użati mill-istess impriża jew minn impriża differenti sabiex l-utenti ta’ impriża waħda jkunu jistgħu jikkomunikaw ma’ l-utenti ta’ l-istess impriża jew ta’ xi impriża oħra, jew biex jidhlu f’servizzi provduti minn xi impriża oħra. Is-servizzi jistgħu jiġu provduti mill-partijiet involuti jew minn partijiet oħra li jkollhom dhul fin-*network*. L-interkonnessjoni hija tip speċifiku ta’ dhul implimentat bejn operaturi ta’ *network* pubbliku;

“Komunità” tfisser il-Komunitajiet Ewropej;

“konsumatur” tfisser persuna naturali li tuża jew titlob servizz ta’ komunikazzjonijiet elettronici disponibbli pubblikament, jew dawk is-servizzi ta’ komunikazzjonijiet

l-oħra li l-Ministru jista', taht konsultazzjoni ma' l-Awtorità, b'ordni fil-Gazzetta jistabilixxi, għal għanijiet li ma jkollhomx x'jaqsmu mas-sengħa, negozju jew professjoni tiegħu;

“Kummissjoni Ewropea” tfisser il-Kummissjoni tal-Komunitajiet Ewropej;

“*loop* lokali” tfisser *circuit* fiżiku li jgħaqqad il-punt ta' terminazzjoni ta' *network* fil-fond ta' l-abbonat manniġġa ta' distribuzzjoni prinċipali jew faċilità ekwivalenti fin-*network* ta' telefon pubbliku fiss;

“il-Ministru” tfisser il-Ministru responsabbli għal komunikazzjoni;

“*network* ta' komunikazzjonijiet elettronici” tfisser sistemi ta' trasmissjoni u, fejn dan japplika, tagħmir ta' *switching* jew *routing* u riżorsi oħra li jippermettu il-għarr ta' sinjali bil-fil, bir-radju, b'mezzi ottici jew b'mezzi elettromanjetiċi oħra, inklużi *networks* satellitari, fissi (*circuit-switched* u *packet-switched*, inkluż l-Internet) u *networks* terrestri mobbli, sistemi ta' elettriku bil-*cable*, sal-limitu li dawn jiġu użati bil-għan li jittrasmettu sinjali, *networks* użati għal xandir bir-radju u televiżjoni, u *networks* ta' televiżjoni bil-*cable*, irrISPettivament mit-tip ta' informazzjoni mwassla;

“*network* ta' komunikazzjonijiet pubblici” tfisser *network* ta' komunikazzjonijiet elettronici użati għal kollox jew prinċipalment għall-provdiment ta' servizzi ta' komunikazzjonijiet elettronici disponibbli pubblikament;

“*network* ta' stazzjon satellitari terrestjali” tfisser konfigurazzjoni ta' żewġ stazzjonijiet terrestri jew iktar li jaqdbu flimkien permezz ta' satellita;

“*network* ta' telefon pubbliku” tfisser *network* ta' komunikazzjonijiet elettronici li tiġi użata biex tipprova servizzi ta' telefon disponibbli pubblikament; din issostni it-trasferiment bejn punti ta' terminazzjoni ta' *network* ta' komunikazzjonijiet bil-vuċi, kif ukoll

forom oħra ta' komunikazzjoni, bħalma huma *facsimile* u data;

“operatur” tfisser impriża li tipprovdi jew li hi awtorizzata li tipprovdi *network* ta' komunikazzjonijiet pubbliċi jew faċilità assoċjata;

“persuna” tinkludi kull korp magħqud u kull korp ta' persuni sew jekk ikollha personalità ġuridika distinta minn dik tal-membri tagħha sew jekk ma jkollhiex;

“preskritt” tfisser preskritt b'regolamenti magħmulin taht dan l-Att;

“provdiment ta' *network* ta' komunikazzjonijiet elettronici” tfisser it-twaqqif, it-thaddim jew il-kontroll ta' tali *network* jew li dan isir disponibbli;

“punt ta' terminazzjoni ta' *network*” tfisser il-punt fiżiku fejn abbonat jiġi provdut bi dhul f'*network* ta' komunikazzjonijiet pubbliċi; fil-każ ta' *networks* li jinvolvu li jsir *switching* jew *routing*, il-punt ta' terminazzjoni ta' *network* huwa identifikat permezz ta' indirizz ta' *network* speċifiku, li jista' jkun mgħaqqad man-numru jew l-isem ta' abbonat;

“setgha fis-suq sinifikanti” tfisser pożizzjoni ewkivalenti għad-dominanza li l-impriża tgawdi sew individwalment sew solidament flimkien ma' oħrajn jiġifieri pożizzjoni ta' sahha ekonomika li tagħtiha l-qawwa li ġġib ruhha b'mod sinifikanti indipendentament minn kull kompetitur, klijent u fl-aħhar ukoll konsumatur;

“servizz ta' komunikazzjonijiet elettronici” tfisser servizz normalment provdut b'rimunerazzjoni li jkun jikkonsisti għal kollox jew prinċipalment fil-garr ta' sinjali fuq *networks* ta' komunikazzjonijiet elettronici, inklużi servizzi ta' telekomunikazzjoni u servizzi ta' trasmissjoni f'*networks* użati għax-xandir, imma esklużi servizzi li jipprovdu, jew li jeżerċitaw kontroll editorjali fuq, kontenut li jiġi trasmess billi jintużaw *networks* u servizzi ta' komunikazzjonijiet elettronici; ma tinkludix servizzi ta' soċjetà ta' informazzjoni, kif imfissra fl-Att dwar il-Komunikazzjonijiet u Transazzjonijiet Elettronici, li ma

jkunux jikkonsistu għal kollox jew prinċipalment fil-ġarr ta' sinjali fuq *networks* ta' komunikazzjonijiet elettronici;

“servizz ta' komunikazzjonijiet elettronici disponibbli pubblikament” tfisser servizz ta' komunikazzjonijiet elettronici disponibbli għall-pubbliku;

“servizz ta' telefon disponibbli pubblikament” tfisser servizz disponibbli għall-pubbliku li bih jiġu originati u riċevuti telefonati nazzjonali u internazzjonali u dhul f'servizzi ta' emerġenza permezz ta' numru jew numri fi pjan ta' numri tat-telefon nazzjonali jew internazzjonali, u jista' iktar minn hekk, meta jkun rilevanti, jinkludi xi servizz wiehed jew iktar minn dawn li ġejjin:

- (i) il-provdiment ta' assistenza mill-operatur,
- (ii) is-servizzi ta' tfittxija mid-direttorju,
- (iii) id-direttorji,
- (iv) il-provdiment ta' telefoni pubblici bi hlas,
- (v) il-provdiment ta' servizz b'pattijiet speċjali, u
- (vi) il-provdiment ta' faċilitajiet speċjali għal persuni b'diżabilitajiet jew bi htigijiet soċjali speċjali u, jew il-provdiment ta' servizzi mhux fuq bażi ġeografika;

“servizz tat-televiżjoni bi skrin wiesgħa” tfisser servizz ta' televiżjoni li jikkonsisti għal kollox jew f'parti minnu fi programmi prodotti u editjati biex jintwerew f'format ta' skrin wiesgħa b'għoli shih. Il-format 16:9 hu l-format ta' riferenza għal servizzi tat-televiżjoni bi skrin wiesgħa;

“servizzi universali” tfisser l-inqas grupp ta' servizzi ta' kwalità speċifikata li jkunu disponibbli lill-utenti kollha minkejja l-lokazzjoni ġeografika tagħhom u, fid-dawl ta' kondizzjonijiet nazzjonali speċifiċi, bi prezz irhis li jista' jintlaħaq skond ma jista' jiġi definit taht regolamenti magħmulin taht dan l-Att;

“sistema ta' dhul kondizzjonali” tfisser kull miżura teknika u, jew arrangament li bih id-dhul f'servizz ta'

xandir protett bir-radju jew bit-televiżjoni f'ghamla intelligibbli jkun magħmul b'mod kondizzjonali ma' l-abbonament jew xi ghamla ohra ta' awtorizzazzjoni individwali prijuri;

“Stat Membru” tfisser Stat Membru tal-Komunità;

“suq intern” tfisser is-suq intern tal-Komunità;

“telefon pubbliku bi hlas” tfisser telefon disponibbli għall-pubbliku ġenerali, li biex jintuza il-mezz ta' hlas jista' jinkludi muniti u, jew karti ta' kreditu jew debitu u, jew karti ta' hlas bil-quddiem, inklużi karti li jintużaw flimkien ma' *dialling codes*;

“transkonfini” tfisser lejn u minn Stat Membru iehor, kemm-il darba ma jiġix dikjarat xort'ohra;

“utent” tfisser persuna li tuza jew titlob servizz ta' komunikazzjonijiet elettronici disponibbli pubblikament;

“utent finali” tfisser utent li ma jkunx qed jipprovdi *networks* ta' komunikazzjoni pubblici jew servizzi ta' komunikazzjonijiet elettronici disponibbli pubblikament.”.

Emenda ta' titoli f'Taqsimi II ta' l-Att prinċipali.

13. Fit-titolu għat-Taqsima II ta' l-Att prinċipali, u fis-subtitolu 1 tiegħu, minflok il-kelma “Telekomunikazzjonijiet” għandhom jiġu sostitwiti l-kliem “Komunikazzjonijiet elettronici”.

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

14. Minflok l-artikolu 3 ta' l-Att prinċipali għandu jiġi sostitwit dan li ġej:

“Awtorità ta' Malta dwar il-Komunikazzjoni.
Kap. 418.

3. L-Awtorità ta' Malta dwar il-Komunikazzjoni mwaqqfa taht l-Att għat-Twaqqif ta' Awtorità dwar il-Komunikazzjoni, għandha tkun l-awtorità kompetenti biex tirregola komunikazzjonijiet elettronici taht dan l-Att u, daqskemm jiġi provdut f'dan l-Att, tinforza d-disposizzjonijiet ta' dan l-Att.”.

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

15. Minflok l-artikolu 4 ta' l-Att prinċipali għandu jiġi sostitwit dan li ġej:

“Objettivi ta' l-Awtorità.

4. L-objettivi ta' l-Awtorità fl-eżerċizzju tal-funzjonijiet tagħha taht l-Att jinkludu:

(a) li ġġib' il quddiem il-kompetizzjoni billi -

(i) tiżgura li l-utenti, inklużi utenti b'diżabilità, jiksbu l-aqwa benefiċċju skond l-ghażla, prezz u kwalità;

(ii) tiżgura li ma jkun hemm ebda distorzjoni jew restrizzjoni ta' kompetizzjoni fis-settur tal-komunikazzjonijiet elettronici;

(iii) tinkoraġġixxi investment effiċjenti fl-infrastruttura, u ġġib 'il quddiem innovazzjoni; u

(iv) tinkoraġġixxi l-użu effiċjenti u tiżgura t-tmexxija effettiva ta' frekwenzi tar-radju u rizorsi ta' enumerazzjoni,

(b) li tikkontribwixxi għall-iżvilupp tas-suq intern billi -

(i) tnehhi l-ostakli li jifdal għall-provdiment ta' *networks* ta' komunikazzjoni elettronika, faċilitajiet assoċjati u servizzi u servizzi ta' komunikazzjonijiet elettronici fuq livell ta' Komunità;

(ii) tinkoraġġixxi t-twaqqif u l-iżvilupp ta' *networks* trans-Ewropej u il-interoperabilità ta' servizzi transnazzjonali u konnettività minn tarf sa tarf,

(iii) tiżgura li, f'ċirkostanzi simili, ma jkun hemm ebda diskriminazzjoni fit-trattament ta' imprizi li jipprovdu *networks* ta' komunikazzjonijiet elettronici u servizzi u faċilitajiet assoċjati, u

(iv) tikkopera ma' l-awtoritajiet regolatorji nazzjonali għall-komunikazzjonijiet elettronici fi Stati Membri tal-Komunità u mal-Kummissjoni Ewropea b'mod trasparenti li jiżgura l-iżvilupp ta' prattika regolatorja konsistenti u l-applikazzjoni konsistenti tal-liġi tal-Komunità f'dan il-qasam,

(c) li ġġib 'il quddiem kull interess ta' l-utenti fil-Komunità billi -

(i) tiżgura li l-utenti kollha ikollhom dhul f'servizz universali,

(ii) tiżgura livell gholi ta' protezzjoni għall-konsumaturi meta dawn ikollhom x'jaqsmu mal-provdituri, partikolarment billi tiżgura li jkun hemm proċeduri ta' risolviment ta' tilwim sempliċi u li ma jiswewx daqstant li jsiru minn korp li jkun indipendenti mill-partijiet involuti;

(iii) tikkontribwixxi sabiex jiġi żgurat livell gholi ta' protezzjoni ta' *data* u privatezza personali,

(iv) iġġib 'il quddiem il-provdiment ta' informazzjoni ċara, partikolarment fejn tkun tenhtieg it-trasparenza fit-tariffi u kondizzjonijiet biex jintużaw servizzi ta' komunikazzjonijiet elettronici li jkunu disponibbli pubblikament,

(v) tindirizza l-htigiet ta' gruppi soċjali speċifiċi, partikolarment utenti b'dizabilità, u

(vi) tiżgura li tinżamm l-integrita' u s-sigurezza ta' *networks* ta' komunikazzjoni pubbliċi;

(d) li tiżgura li safejn ikun prattikabbli jkun hemm provduti f'Malta dawk is-servizzi ta' komunikazzjonijiet elettronici skond ma dawn ikunu jissodisfaw kull talba raġonevoli għal dawk is-servizzi, inklużi servizzi ta' emergenza, servizzi ta' sejhiet pubbliċi u servizzi ta' direttorju ta' informazzjoni.”.

Thassir tal-kliem fl-intestatura tas-subtitolu 2 ta' Taqsima II ta' l-Att prinċipali.

16. Fl-intestatura tas-subtitolu 2 ta' Taqsima II ta' l-Att prinċipali, il-kliem bejn l-artikoli 4 u 5, “2. Awtorizzazzjoni għal sistemi jew servizzi ta' telekomunikazzjonijiet” għandhom jithassru, u l-artikolu 5 għandu jinqara u jiftiehem bhala parti minn subtitolu 1.

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

17. Minflok l-artikolu 5 ta' l-Att prinċipali għandu jiġi sostitwit dan li ġej:

“Applikabilità ta’ l-Att.

5. (1) Dan l-Att ghandu japplika ghas-swieg diversi ta’ komunikazzjonijiet kemm-il darba ma jìgix xort’ohra dikjarat fl-Att.

(2) Dan l-Att ma ghandux japplika għall-kontenut ta’ messaġġi trasmessi permess ta’ *network* ta’ komunikazzjonijiet elettronici.

(3) Id-disposizzjonijiet ta’ dan l-Att ghandhom ikunu minghajr preġudizzju għat-thaddim ta’ kull liġi oħra:

(a) dwar servizzi provduti li jużaw *networks* u servizzi ta’ komunikazzjonijiet elettronici, jew

(b) dwar ir-regolament tal-kontenut u tax-xandir jew politka awdjoviziva, jew

(c) li jkollha x’taqsam ma’ tagħmir tat-*terminal* tar-radju u telekomunikazzjonijiet.”.

18. Minnufih wara l-artikolu 5 ta’ l-Att prinċipali, għandha tiżdied is-subtestatura ġdida li ġejja mas-subtitolu 2 tat-Taqsima II:

Żieda ta’ subintestatura ġdida mas-subtitolu 2 tat-Taqsima II ta’ l-Att prinċipali.

“2. Disposizzjonijiet ġenerali li għandhom x’jaqsmu mar-rwol ta’ l-Awtorità u d-drittijiet u l-obbligazzjonijiet ta’ l-impriżi”.

19. Minflok l-artikoli 6 sa 26 ta’ l-Att prinċipali għandu jidhol dan li ġej:-

Sostituzzjoni ta’ l-artikoli 6 sa 26 ta’ l-Att prinċipali.

“Konformità meta jkun qed jithaddem xi *network* jew jiġi pprovdut servizz.

6. (1) Persuna għandha tistalla jew thaddem *network* ta’ komunikazzjonijiet elettronici jew tipprovi servizz ta’ komunikazzjonijiet elettronici f’Malta konformement ma’ dan l-Att.

(2) Meta persuna tonqos milli tikkonforma ma’ subartikolu (1) ta’ dan l-artikolu, dan ikun jikkonsisti fi ksur ta’ dan l-Att.

Obbligazzjonijiet speċjali ta’ provdituri ta’ *networks* ta’ komunikazzjonijiet pubbliċi.

7. (1) Impriża awtorizzata b’dan l-Att jew tahtu biex thaddem *network* ta’ komunikazzjonijiet pubbliċi għandha, iktar milli biss tikkonforma ruhha mad-disposizzjonijiet ta’ dan l-Att u ma’ l-obbligazzjonijiet skond l-awtorizzazzjoni li jkollha, tiżgura:

(a) li l-kapaċità, kwantità u fattizzi tan-*network* ikunu biżżejjed biex jiġi provdut u mantenut *network* ta' komunikazzjonijiet effiċjenti,

(b) li n-*network* ikun biżżejjed u kompatibbli ma' dawk is-servizzi ta' komunikazzjonijiet elettronici internazzjonali skond ma l-Awtorità tista' tispeċifika, u

(ċ) s-sigurezza tan-*network* u ta' kull estensjoni relattiva.

(2) Impriża li tonqos milli tikkonforma ruħha mas-subartikolu (1) ta' dan l-artikolu tkun qeghda tikser id-disposizzjonijiet ta' dan l-Att.

Obbligazzjonijiet speċjali ta' provdituri ta' servizzi ta' komunikazzjonijiet elettronici li jkunu pubblikament disponibbli.

8. (1) Meta impriża tkun awtorizzata b'dan l-Att jew tahtu li tipprovdni servizz ta' komunikazzjonijiet elettronici li jkun pubblikament disponibbli, din għandha:

(a) tipprovdni dawk is-servizzi effiċjement, filwaqt li tikkonforma ruħha ma' kull *standard* ta' kwalità ġeneralment aċċettat fl-industrija jew skond ma jista' minn żmien għal żmien ikun speċifikat mill-Awtorità,

(b) tavża lill-Awtorità u tippubblika b'avviz fl-*media* meta dawk is-servizzi għandhom ikunu interrotti minhabba fl-istallazzjoni jew it-tiswija jew it-tibdil ta' apparat,

(ċ) tistabbilixxi mekkanizmu effiċjenti sabiex jiġu riċevuti ilmenti u jissewwew hsarat fin-*networks* tagħha u fis-servizzi provduti,

(d) tkun tikkonforma mad-disposizzjonijiet ta' l-Att kif ukoll ma' kull patt u kondizzjoni ta' l-awtorizzazzjoni, u tkun toqghod għal kull direttiva jew deċiżjoni ta' l-Awtorità skond ma l-Awtorità jista' jkollha setgha li tagħti b'dan l-Att jew tahtu.

(2) Impriża li tonqos milli tikkonforma ruħha mas-subartikolu (1) ta' dan l-artikolu tkun qeghda tikser id-disposizzjonijiet ta' dan l-Att.

Definizzjoni ta' suq u analisi.

9. (1) L-Awtorità ghandha, bla hsara ghal kull procedura li tista' tkun preskritta taht dan l-Att u skond il-principji tal-liġi dwar il-kompetizzjoni, tiddefinixxi is-swieq rilevanti adatti għaċ-ċirkostanzi nazzjonali, partikolarment swieq ġeografici rilevanti, u ghandha tagħmel analisi ta' dawk is-swieq rilevanti. Meta tkun qed tagħmel dan, l-Awtorità ghandha tqis sew kull rakkomandazzjoni u linja direttiva rilevanti li l-Kummissjoni Ewropea tista' tohroġ minn żmien għal żmien.

(2) Meta l-Awtorità tikkonkludi li suq ikun wiehed effettivament kompetittiv, din ma ghandhiex allura timponi jew tibqa' żżomm dawk l-obbligazzjonijiet u kontrolli regolatorji li jistgħu jiġu speċifikati f'regolamenti magħmulin taht dan l-Att.

(3) Meta l-Awtorità tistabbilixxi li suq rilevanti ma jkunx wiehed effettivament kompetittiv, hija ghandha tidentifika u tahtar imprizi li jkollhom setgħa fis-suq sinifikattiva f'dak is-suq u ghandha timponi fuq dawk l-imprizi obbligazzjonijiet regolatorji adatti u kontrolli identifikati fis-subartikolu (2) ta' dan l-artikolu skond regolamenti magħmulin taht dan l-Att.

Mekkaniżmu ta' konsultazzjoni u trasparenza.

10. (1) Hlief dwar:

(a) xi tilwima li jkun qed isir minnha skond dan l-Att, jew,

(b) l-eżerċizzju ta' xi setgħat ta' infurzar ta' l-Awtorità taht it-Taqsima VII ta' l-Att għat-Twaqqif ta' Awtorità dwar il-Komunikazzjoni, jew

(c) każijiet fejn l-Awtorità tqis li jkun hemm hteieġa urgenti li taġixxi biex tissalvagwardja l-kompetizzjoni u tipproteġi kull interess ta' l-utenti skond il-liġi tal-Komunità,

Kap. 418.

meta l-Awtorità tkun bi hsiebha tiehu deċiżjoni skond l-Att li jkollha impatt sinifikattiv fuq suq ta' *networks* jew servizzi għal komunikazzjonijiet elettronici, din ghandha tagħmel disponibbli għal partijiet li jkollhom interess, dikjarazzjoni dwar id-deċiżjoni proposta u tagħti lil dawk il-partijiet li jkollhom interess l-oppportunita' li jikkummentaw fuq id-deċiżjoni proposta f'dak il-perijodu li l-Awtorità tista' tqis raġonevoli.

(2) L-Awtorità ghandha tippubblika l-proċeduri ta' konsultazzjoni tagħha u ghandha tistabbilixxi sors ta' informazzjoni wiehed minn fejn jista' jkun hemm dħul għal kull konsultazzjoni li tkun ghaddejja f'dak il-waqt.

(3) Ir-riżultati ta' kull konsultazzjoni taħt dan l-artikolu ghandhom jintgħamlu disponibbli pubblikament mill-Awtorità b'dawk il-mezzi li l-Awtorità tqis adatti fiċ-ċirkostanzi, hlief fil-każ ta' informazzjoni li l-Awtorità tqis li tkun konfidenzjali.

Numri.

11. (1) L-Awtorità ghandha tistabbilixxi u tmexxi l-pjan ta' enumerazzjoni nazzjonali għal servizzi ta' komunikazzjoni elettronici, u ghandha tikkontrolla l-assenjament tar-riżorsi ta' enumerazzjoni nazzjonali kollha. Meta tkun qed tagħmel dan l-Awtorità ghandha tiżgura li jiġu provduti numri adegwati u parametri ta' enumerazzjoni għas-servizzi ta' komunikazzjonijiet elettronici kollha li jkunu pubblikament disponibbli.

(2) L-Awtorità ghandha skond ma jkun meħtieġ, bla ħsara li tiżgura t-tmexxija kif imiss tal-pjan ta' enumerazzjoni nazzjonali, tagħti drittijiet ta' l-użu għal numri u parametri ta' numri għal kull servizz ta' komunikazzjonijiet elettronici disponibbli pubblikament skond proċeduri li huma oġġettivi, trasparenti u mhux diskriminatorji.

(3) L-Awtorità ghandha, bla ħsara biss għal kull limitazzjoni li tista' tkun speċifikata mill-Ministru minhabba fis-sigurezza nazzjonali, minn żmien għal żmien, tippubblika l-elementi prinċipali tal-pjan ta' enumerazzjoni nazzjonali u kull zieda sussegwenti jew emendi li jistgħu jsirulha.

(4) L-Awtorità ghandha, sakemm dan ikun prattikabbli, meta jitqiesu l-oġġettivi u l-funzjonijiet tagħha kif dikjarati taħt dan l-Att, issostni l-l-armonizzazzjoni ta' riżorsi ta' enumerazzjoni fil-Komunità fejn dan ikun meħtieġ bil-għan li jingħata sostenn lill-iżvilupp ta' servizzi pan-Ewropej.

(5) L-Awtorità tista', mingħajr preġudizzju għall-ġeneralità ta' kull disposizzjoni b'dan l-Att jew tahtu li jkollhom x'jaqsmu ma' awtorizzazzjonijiet, tagħmel kondizzjonijiet għad-drittijiet ta' l-użu għan-numri hekk

li tiżgura tmexxija effiċjenti u effettiva tar-riżorsi kollha ta' enumerazzjoni.

(6) Ebda impriza ma ghandha tassenja lil postijiet, terminali, persuni jew funzjonijiet f'*networks* ta' komunikazzjonijiet elettronici pubblici, numri li ma jkunux ġew speċifikament allokat li lil dik il-persuna mill-Awtorità bil-ghan li din tiġi provduta b'servizzi ta' komunikazzjonijiet elettronici disponibbli pubblikament.

(7) Meta impriza tiġi allokata parametri ta' numri, din ma ghandhiex tiddiskrimina kontra provdituri ohra ta' servizzi ta' komunikazzjonijiet elettronici dwar is-sekwenzi tan-numri użati biex jinghata dhul ghas-servizzi taghhom.

(8) Impriza li tikser xi disposizzjoni ta' dan l-artikolu tista' tehel penali amministrattiva mill-Awtorità li ma tkunx teċċedi l-ammont ta' ghaxart elf lira u, jew mitejn lira ghal kull jum li matulu jibqa' jkun hemm dak in-nuqqas ta' konformità.

Projbizzjoni ta' restrizzjonijiet.

12. Ma ghandha tiġi imposta jew tinzamm ebda restrizzjoni fuq il-provdiment ta' servizzi ta' komunikazzjonijiet elettronici permezz ta' *networks* ta' komunikazzjonijiet elettronici mwaqqfa minn xi impriza li tipprovd i servizzi ta' komunikazzjonijiet elettronici, permezz ta' infrastrutturi provduti minn terzi, jew permezz ta' partecipazzjoni f'*networks*, faċilitajiet jew siti ohra.

3. Dhul u Interkonnessioni

Funzjonijiet ta' l-Awtorità dwar dhul u interkonnessioni.

13. L-Awtorità ghandha, filwaqt li taġixxi skond l-obiettivi taghha kif dikjarati fl-Att ghat-Twaqqif ta' Awtorità dwar il-Komunikazzjoni, tinkoraġġixxi u fejn adatt, tiżgura, skond id-disposizzjonijiet maghmulin b'dan l-Att jew tahtu, dhul u interkonnessioni adegwati u l-interoperabilita' ta' servizzi b'tali mod li:

(a) tingieb 'il quddiem l-effiċjenza,

(b) tingieb 'il quddiem il-kompetizzjoni sostenibbli, u

(c) jinghata l-aqwa beneficiċju lill-utenti finali.

Projbizzjoni
ta'
restrizzjonijiet.

14. (1) Ma jistghu jiġu imposti jew jithallew ebda restrizzjonijiet li jipprevjenu:

- (a) impriži f'Malta, jew
- (b) impriži f'Malta u fi Stati Membri,

milli jinnegozjaw bejnithom kull ftehim fuq arrangamenti tekniċi u kummerċjali ghad-dhul u, jew l-interkonnessioni, skond il-liġi tal-Komunità.

(2) Impriża li tkun qed titlob id-dhul jew l-interkonnessioni f'Malta ma tehtieġx li tkun awtorizzata taħdem f'Malta jekk din ma tkunx qed tipprovdi servizzi u ma tkunx qed thaddem *network* f'Malta.

(3) Operatur ta' *networks* ta' komunikazzjonijiet pubbliċi -

- (a) ikollu jedd, u
- (b) meta hekk jiġi mitlub minn xi impriża ohra li tkun awtorizzata tipprovdi *networks* ta' komunikazzjoni pubbliċi, ikollu obligazzjoni,

jinnegozja interkonnessioni bil-ghan li jiġu provduti servizzi ta' komunikazzjonijiet elettroniki li jkunu disponibbli pubblikament, sabiex jiġu żgurati d-disponibilita' u interoperabilita' ta' servizzi f'Malta u mal-firxa kollha tal-Komunità.

(4) Operatur ta' *networks* ta' komunikazzjoni pubbliċi ghandhom joffru dhul u interkonnessioni lil impriži ohra b'dawk il-pattijiet u kondizzjonijiet konsistenti ma' l-obbligazzjonijiet li jkollhom x'jaqsmu mad-dhul u l-interkonnessioni imposti mill-Awtorità skond dan l-Att.

(5) Minghajr preġudizzju għall-informazzjoni li impriża tkun mehtieġa, taht jew b'dan l-Att, li tipprovdi taht awtorizzazzjoni ġenerali għal drittijiet ta' l-użu jew għal obligazzjonijiet speċifiċi, impriża li tikseb informazzjoni minn impriża ohra qabel, matul jew wara l-proċess ta' negozjar dwar id-dhul jew arrangamenti ta' interkonnessioni, ghandha tuża dik l-informazzjoni unikament għal dak l-ghan li dwaru dik l-informazzjoni

tkun inghatat u ghandha tirrispetta f'kull waqt il-konfidenzjalità ta' informazzjoni mgħoddija jew mahżuna.

(6) Impriża ma ghandha tghaddi ebda informazzjoni li hija tikseb kif msemmija fis-subartikolu (5) ta' dan l-artikolu lil ebda parti ohra, partikolarment sussidjarji jew shab ohra, ikunu kif ikunu deskritti, ta' l-impriża meta dik l-informazzjoni tista' tkun ta' vantaġġ kompetittiv.

(7) Tista' tiġi imposta mill-Awtorità fuq impriża li tikser dan l-artikolu, penali amministrattiva li ma tkunx teççedi l-ammont ta' għaxart elef lira u, jew mitejn lira għal kull jum li matulu jibqa' jkun hemm nuqqas ta' konformità.

4. Rappurtar ta' separazzjoni tal-kontijiet u separazzjoni finanzjarja

Obbligazzjoni ta' impriża dwar separazzjoni tal-kontijiet.

15. (1) Impriża li tipprovdi *network* ta' komunikazzjonijiet pubbliċi jew servizz ta' komunikazzjonijiet elettronici li jkunu disponibbli pubblikament, li tkun qiegħda wkoll tagħmel xi attivita' li ma tkunx il-provdiment ta' *network* jew servizz bħal dawk abbażi ta' drittijiet speċjali jew esklużivi għall-provdiment ta' dik l-attività sew f'Malta sew fi Stat Membru iehor:

(a) ghandha żżomm kontijiet verifikati separati skond kull Prattika ta' verifika ġeneralment aċċettata għal attivitajiet assoċjati mal-provdiment ta' *network* jew servizz bħal dawk, sal-limitu li jkun mehtieġ kieku dawk l-attivitajiet ikunu saru minn kumpanniji li jkunu legalment indipendenti, sabiex jiġu identifikati l-elementi kollha tan-nefqa u d-dhul, bil-baži għall-kalkolazzjoni tagħhom u metodi ta' attribuzzjoni dettaljati użati, li jkollhom x'jaqsmu ma' l-attivitajiet assoċjati mal-provdiment ta' *networks* jew servizzi ta' komunikazzjonijiet elettronici inkluż rendikont dettaljat għal kull oġġett għan-nefqa ta' attiv fiss u għan-nefqa strutturali, jew

(b) ghandu jkollha separazzjoni strutturali għall-attivitajiet assoċjati mal-provdiment ta' *networks* jew servizzi ta' komunikazzjonijiet elettronici:

Iżda l-Ministru jista', wara konsultazzjoni ma' l-Awtorità, b'ordni fil-Gazzetta jistabbilixxi li l-htigijiet imsemmija fil-paragrafu (a) tas-subartikolu (1) ta' dan l-artikolu ma japplikawx għal impriži li jkollhom *turnover* annwali għal attivitajiet assoċjati ma' *networks* jew servizzi ta' komunikazzjonijiet elettronici fi Stati Membri ta' inqas minn wiehed u għoxrin miljun lira Maltija jew kull ammont iehor bħal dak skond ma l-Ministru jista', wara konsultazzjoni ma' l-Awtorità, jistabbilixxi b'ordni fil-Gazzetta.

(2) Tista' tiġi imposta mill-Awtorità, penali amministrattiva fuq impriża li tonqos milli tikkonforma ruħha ma' xi hteġa taht dan l-artikolu li ma tkunx teċċedi l-ammont ta' għaxart elef lira u, jew mitejn lira għal kull jum li matulu jibqa' jsehh dak in-nuqqas ta' konformita' ma' dan l-artikolu.

Rappurtar
finanzjarju.
Kap. 386.

16. (1) Meta impriża li tipprovdi *networks* ta' komunikazzjoni pubbliċi jew servizzi ta' komunikazzjonijiet elettronici disponibbli pubblikament ma tkunx soġġetta għall-htigijiet ta' l-Att dwar il-Kumpanniji u ma tkunx tissodisfa il-kriterji ta' impriża ta' daqs żgħir u ta' daqs medju tar-regoli dwar kontijiet tal-liġi tal-Komunità, din għandha tiżgura li:

(a) għandhom isiru kontijiet ta' kull sena u dawn jiġu pprezentati biex issirilhom verifika indipendenti u jiġu ppubblikati, u

(b) dik il-verifika għandha ssir skond ir-regoli rilevanti applikabbli f'Malta u fil-Komunità:

Iżda ebda haġa f'dan is-subartikolu ma għandha tiftiehem bħala li qed timponi obbligazzjonijiet li huma ta' piż akbar minn dawk imposti fuq kumpanniji bl-Att dwar il-Kumpanniji.

(2) Tista' tiġi imposta mill-Awtorità penali amministrattiva fuq impriża li tonqos milli tikkonforma ruħha ma' xi hteġa taht dan l-artikolu li ma tkunx teċċedi l-ammont ta' għaxart elef lira u, jew mitejn lira għal kull jum li matulu jibqa' jsehh dak in-nuqqas ta' konformita' ma' dan l-artikolu.

5. Awtorizzazzjonijiet

Awtorizzazzjonijiet generali.

17. (1) Bla hsara ghad-disposizzjonijiet ta' dan l-Att, impriza jkollha jedd tipprovdi servizzi ta' komunikazzjonijiet elettronici jew tistabilixxi, testendi jew tipprovdi *networks* ta' komunikazzjonijiet elettronici.

(2) Ebda dritt esklużiv jew speċjali ghat-twaqqif u, jew il-provdiment ta' *networks* ta' komunikazzjonijiet elettronici, jew għall-provdiment ta' servizzi ta' komunikazzjonijiet elettronici li jkunu disponibbli pubblikament ma għandu jkun mogħti jew jibqa' jinżamm fis-seħh.

(3) Il-provdiment ta' *networks* jew servizzi ta' komunikazzjonijiet elettronici jista', mingħajr preġudizzju għall-obbligazzjonijiet speċifiċi li jistgħu jkunu imposti fuq il-provdituri ta' dawg in-*networks* u servizzi b'dan l-Att jew tahtu, ikunu biss soġġetti għal awtorizzazzjoni ġenerali.

(4) Awtorizzazzjoni ġenerali mogħtija b'dan l-Att jew tahtu lil xi impriza li tipprovdi servizzi ta' komunikazzjonijiet elettronici u, jew biex tistabilixxi u, jew tipprovdi *networks* ta' komunikazzjonijiet elettronici, kif ukoll kull kondizzjoni mehmuża magħha għandha tkun ibbażata fuq kriterji oġġettivi, mhux diskriminatorji, proporzjonati u trasparenti.

Hlasijiet amministrattivi.

18. (1) Il-hlasijiet amministrattivi mposti mill-Awtorità fuq imprizi taht l-awtorizzazzjoni ġenerali jew li tkun ingħatatilhom konċessjoni ta' dritt ta' użu għandhom:

(a) b'kollox, ikopru biss in-nefġiet amministrattivi li jkunu se jsiru fil-manigġar, kontroll u infurzar ta' l-iskema ta' awtorizzazzjoni ġenerali u ta' drittijiet ta' użu, u obligazzjonijiet speċifiċi, u jistgħu jinkludu spejjeż għal koperazzjoni internazzjonali, armonizzazzjoni u standardaz-zazzjoni, analisi tas-suq, sorveljanza biex tigi assicurata konformita' u kontroll ieħor tas-suq, kif ukoll kull xogħol regolatorju li jinvolvi konformita' ma' dan l-Att u t-thejjija u l-infurzar ta' direttivi u, jew deċiżjonijiet mahruġa minn jew taht dan l-Att; u

(b) ikunu imposti fuq l-imprizi individwali b'mod oġġettiv, trasparenti u proporzjonat li jnaqqas l-ispejjeż amministrattivi u addizzjonali u l-hlasijiet relattivi.

(2) L-Awtorità ghandha, ghar-rigward tat-talba ta' dawk il-hlasijiet amministrattivi, tippublika prospett annwali ta' l-ispejjeż amministrattivi li taghmel u ta' l-ammont totali ta' hlasijiet miġbura.

(3) L-Awtorità ghandha, fil-każ ta' hlasijiet imposti ta' kull sena, taghmel hlasijiet lura kif imiss jew hekk tagħti kumpens fil-każ ta' hlas żejjed u iktar mill jmiss, jew timponi hlasijiet addizzjonali fil-każ ta' hlas inqas milli jmissu jsir ta' persuna li fuqha jiġi impost hlas fil qjies ta' kull differenza bejn l-ammont totali ta' hlasijiet amministrattivi miġbura u l-ispejjeż amministrattivi li jsiru.

(4) Drittijiet li jistgħu jiġu imposti għal drittijiet ta' użu għal frekwenzi tar-radju u, jew numri għandhom jirriflettu l-htieġa li jiġi żgurat l-aħjar użu ta' l-ispettru ta' frekwenza tar-radju u l-iskema ta' enumerazzjoni nazzjonali.

(5) Dawk id-drittijiet imsemmija fis-subartikolu (4) ta' dan l-artikolu ikunu oġġettivament ġustifikati, trasparenti u mhux diskriminatorji u proporzjonali għar-rigward ta' l-għan maħsub għalihom u għandhom iqisu l-obiettivi stipulati fl-artikolu 4 ta' l-Att.

Awtorizzazzjoni ta' *networks* ta' komunikazzjonijiet elettronici u servizzi.

19. (1) Bla ħsara għas-subartikolu (4) ta' dan l-artikolu, persuna li jkollha ħsieb tipprovdi *network* ta' komunikazzjonijiet elettronici u, jew servizz ta' komunikazzjonijiet elettronici għandha, qabel ma tagħmel dan, tohroġ notifika lill-Awtorità bl-intenzjoni li jkollha li tipprovdi tali *network* u, jew servizz.

(2) Notifika taht subartikolu (1) ta' dan l-artikolu tkun f'dik l-għamla skond ma l-Awtorità tista' minn żmien għal żmien tistabbilixxi u għandu jkun fiha informazzjoni li tkun meħtieġa biex l-Awtorità iżzomm lista ta' provdituri ta' *networks* u, jew servizzi ta' komunikazzjonijiet elettronici.

(3) Malli l-Awtorità tirċievi n-notifika skond subartikolu (1) ta' dan l-artikolu, il-persuna involuta għandha titqies li tkun awtorizzata li tipprovdi *network* ta' komunikazzjonijiet elettronici u, jew servizz ta' komunikazzjonijiet elettronici, bla ħsara għal dawk il-kondizzjonijiet li jistgħu jkunu imposti skond dan l-Att.

(4) L-Awtorità tista' tistabilixxi li persuna li tipprovdi *network* ta' komunikazzjonijiet elettronici u, jew servizz ta' komunikazzjonijiet elettronici ta' klassi jew deskrizzjoni partikolari li tiġi speċifikata f'dik id-deċiżjoni, ma tkunx soġġetta għall-htiegiet tas-subartikolu (1) ta' dan l-artikolu.

(5) Tista' tiġi imposta mill-Awtorità penali amministrattiva fuq impriża li tonqos milli tikkonforma ruħha ma' xi htieġa taht dan l-artikolu li ma tkunx teċċedi l-ammont ta' hamest elef lira u, jew mitt lira għal kull jum li matulu jibqa' jsehħ dak in-nuqqas ta' konformita' ma' dan l-artikolu.

(6) L-Awtorità tista', bl-approvazzjoni tal-Ministru, b'Ordni fil-Gazzetta temenda d-drittijiet, il-kondizzjonijiet u l-proċeduri li jirrigwardjaw awtorizzazzjonijiet u drittijiet ġenerali ta' użu għal numri, iżda emendi bħal dawk jistghu biss isiru f'każijiet oġġettivament ġustifikati u b'mod proporzjonali:

Iżda l-Awtorità, qabel ma tagħmel xi emenda bħal dik, għandha tagħti avviż b'dak il-mod li tqis adatt tal-hsieb li jkollha, billi tistieden partijiet interessati inklużi utenti u konsumaturi, biex jagħmlu s-sottomissjonijiet tagħhom fuq l-emendi proposti f'dak iż-żmien ta' mhux inqas minn tletin jum skond ma jista' jiġi speċifikat fl-avviż. L-Awtorità tista' f'ċirkostanzi li hi tqis li jkunu eċċezzjonali, tqassar dak il-perijodu.

Htieġa li jinkisbu awtorizzazzjonijiet ohra eċċ. mehtieġa skond il-liġi.

20. Il-fatt li persuna tkun konformi ma' kull awtorizzazzjoni b'dan l-Att jew tahtu li biha persuna tkun tista' tinstalla jew thaddem *network* ta' komunikazzjonijiet elettronici jew tipprovdi xi servizz ta' komunikazzjonijiet elettronici, ma għandux jehles lil dik il-persuna minn kull htieġa skond il-liġi li tapplika għal kull awtorizzazzjoni, liċenza jew permessi ohra, ikunu kif ikunu deskritti, jew minn kull obligazzjoni li toriġina minn kull liġi ohra.

6. Obligazzjonijiet ta' impriži pubbliċi li jkunu vertikament integrati

Projbizzjoni ta' diskriminazzjoni favur wiehed innifsu.

21. (1) Impriża li tkun vertikament integrata, li fuqha l-Gvern ta' Malta jew ta' Stat Membru ikollu il-kontroll effettiv u li tipprovdi *networks* ta' komunikazzjonijiet elettronici u li tkun f'pożizzjoni dominanti, ma għandhiex tiddiskrimina favur l-attivitajiet tagħha nnifisha.

(2) Tista' tiġi imposta mill-Awtorità penali amministrattiva fuq impriża li tonqos milli tikkonforma ruħha ma' xi hteġa taht dan l-artikolu li ma tkunx teċċedi l-ammont ta' għaxart elef lira u, jew mitejn lira għal kull jum li matulu jibqa' jsehh dak in-nuqqas ta' konformita' ma' dan l-artikolu.

7. Interessi u drittijiet ta' l-utent finali

Drittijiet ta' l-utent finali u l-informazzjoni li għandha tiġi inkluzi.

22. (1) Impriża għandha tipprovdi lil persuna abbonata f'servizzi li jipprovdu konnessjoni u, jew dhul f'*network* ta' telefon pubbliku, b'kuntratt bil-miktub u l-impriża għandha tipprovdi dawk is-servizzi lill-utenti finali skond kuntratt bħal dak bil-miktub.

(2) Kuntratt imsemmi fis-subartikolu (1) ta' dan l-artikolu għandu espressament jinkludi dik l-informazzjoni li tista' b'regolamenti tiġi speċifikata mill-Ministru wara konsultazzjoni ma' l-Awtorità, li l-Ministru jqis li tkun mehtieġa biex jiġi protett kull interess ta' l-abbonati u ta' l-utenti finali.

(3) Fejn isir kuntratt bil-miktub bejn utent finali u impriża li tipprovdi servizzi ta' komunikazzjonijiet elettronici, li ma jkunx kuntratt li jipprovdi konnessjoni u, jew dhul f'*network* ta' telefon pubbliku, dak il-kuntratt għandu jinkludi kull informazzjoni li tista' tiġi speċifikata skond is-subartikolu (2) ta' dan l-artikolu.

(4) Impriża msemmija fis-subartikoli (1) jew (3) ta' dan l-artikolu għandha, mhux inqas minn 30 ġurnata qabel ma tibda ssehh il-bidla proposta, tavża lil kull abbonat f'dak is-servizz:

(a) bil-bidla proposta fil-kondizzjonijiet tal-kuntratt tiegħu għal dak is-servizz, u

(b) bid-dritt li jkollu li johroġ minn dak il-kuntratt minghajr ma jhallas ebda penali jekk l-abbonat ma jaċċettax dik il-bidla.

(5) Abbonat imsemmi fis-subartikolu (3) ta' dan l-artikolu jista' johroġ mill-kuntratt tiegħu ma' dik l-impriża minghajr ma jhallas ebda penali jekk ma jaċċettax il-bidla proposta msemmija fis-subartikolu (4) ta' dan l-artikolu.

Nullità ta' ċerti pattijiet u kondizzjonijiet.

23. Patt jew kondizzjoni għall-provdiment ta' xi servizz ta' komunikazzjonijiet elettronici, wkoll jekk miftiehma mill-abbonat jew mill-utent, ikunu nulli u minghajr effett safejn dawn ikunu inkonsistenti ma' kull disposizzjoni magħmula b'dan l-Att jew tahtu jew mal-pattijiet jew kondizzjonijiet ta' l-awtorizzazzjoni bis-saħha ta' dak is-servizz provdut.

8. Riżolviment ta' tilwim

Riżolviment ta' tilwim bejn impriżi.

24. (1) Fil-każ ta' tilwima li tqum bejn impriżi stabbiliti f'Malta li għandhom x'jaqsmu ma' obligazzjonijiet taht l-Att, l-Awtorità għandha, bla ħsara għas-subartikolu (2) ta' dan l-artikolu, fuq talba ta' xi parti fit-tilwima, tibda investigazzjoni fuq it-tilwima u kemm jista' jkun malajr u f'kull każ, hlief f'dawk iċ-ċirkostanzi li l-Awtorità tqis eċċezzjonali, fi żmien erba' xhur mid-data meta tkun giet lilha avżata t-tilwima minn xi parti fit-tilwima tagħti provvediment biex tirrisolvi t-tilwima u tiżgura li jkun hemm konformità ma' dan l-Att:

Iżda ebda haġa f'dan l-artikolu ma għandha tiftiehem bhala li tirrestringi jew tipprojbixxi lill-Awtorità milli tibda minn jeddha, kull investigazzjoni dwar xi tilwima li tista' ssir taf biha u li l-Awtorità tkun taħseb li għandha tinvestiga.

(2) L-Awtorità tista' tiddeċiedi li ma tibda ebda investigazzjoni kif imsemmija fis-subartikolu (1) ta' dan l-artikolu meta din tkun sodisfatta li jkunu disponibbli mezzi oħra kif it-tilwima tista' tiġi solvuta fi żmien xieraq għall-partijiet jew jekk ikunu nbdew proċedimenti legali dwar it-tilwima minn xi parti fit-tilwima.

(3) Meta l-Awtorità tiddeċiedi li ma tibdiex investigazzjoni taht subartikolu (2) ta' dan l-artikolu, din għandha tgharraf lill-partijiet b'dik id-deċiżjoni kemm jista' jkun malajr wara dan.

(4) Jekk sa erba' xhur mid-data tad-deċiżjoni msemmija fis-subartikolu (3) ta' dan l-artikolu, it-tilwima tkun għadha ma gietx solvuta u l-parti li tkun qed tfittex li tikseb rimedju ma tkunx bdiet proċedimenti legali quddiem il-qrati ordinarji jew quddiem xi forum aġġudikanti kompetenti iehor ikun kif ikun imsejjah, l-Awtorità għandha, fuq talba ta' xi wahda mill-partijiet fit-tilwima,

tibda investigazzjoni u taghti deċiżjoni skond id-disposizzjonijiet ta' dan l-artikolu.

(5) Meta tkun qed taghti deċiżjoni taht dan l-artikolu l-Awtorità għandha tqis l-objettivi taht l-artikolu 4 ta' l-Att.

(6) Impriza li tkun tapplika għaliha deċiżjoni taht dan l-artikolu għandha, salvi d-disposizzjonijiet ta' l-artikolu 42 ta' l-Att għat-Twaqqif ta' Awtorità dwar il-Komunikazzjoni, minnufih tikkonforma ma' dik id-deċiżjoni. Jekk il-impriza tonqos milli tagħmel dan, din għandha titqies bhala li tkun għamlet ksur ta' dan l-artikolu u l-Awtorità tista' timponi penali amministrattiva ta' mhux iżjed minn elfejn lira għal kull gurnata ta' nuqqas ta' konformità skond id-disposizzjonijiet ta' dan l-Att. Il-perijodu ta' nuqqas ta' konformità għandu jitqies li beda jsehħ mid-data tan-notifika tad-deċiżjoni ta' l-Awtorità jew minn kull tali data oħra li tista' tiġi komunikata fid-deċiżjoni u liema data għandha f'kull każ tkun dik li taħbat fi, jew wara d-data tan-notifika.

(7) Fil-hruġ ta' deċiżjoni taht dan l-artikolu l-Awtorità għandha tiddikjara r-raġunijiet li din tkun imsejsa fuqhom, u għandha, bla hsara għal dawk il-htigijiet ta' konfidenzjalità kummerċjali skond ma tista' tqis xierqa, tinnotifika lill-partijiet fit-tilwima b'kopja tad-deċiżjoni.

(8) 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 dwarha.

(9) Il-proċedura msemmija f'dan l-artikolu ma għandha tipprekludi lil ebda parti fit-tilwima milli tibda azzjoni f'xi qorti jew f'xi forum aġġudikanti kompetenti iehor.

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

Tilwimiet li jnvolvu konsumaturi.

25. (1) Fejn tilwima, tkun kif tkun deskritta, tqum bejn impriza u konsumatur wara li jkun sar ilment minn konsumatur li jallega ksur ta' l-Att, kull parti f'dik it-tilwima tista' tirreferi t-tilwima lill-Awtorità:

Iżda meta l-konsumatur ikun qed jagħmel l-ilment huwa għandu *prima facie* juri li huwa jkun intlaqat mill-Att jew mill-ommissjoni ta' l-impriza li jagħti lok għall-ilment.

(2) Meta l-Awtorità tirċievi xi referenza bħal dik hawn qabel imsemmija, jew meta xort'ohra ssir taf b'kull tilwima bħal dik li l-Awtorità tkun tal-fehma li għandha tkun investigata, l-Awtorità għandha tinnotifika lill-partijiet kollha fit-tilwima li l-kwistjoni tkun qed tiġi investigata. Meta tkun qed tagħmel dan l-Awtorità għandha tirregola l-proċedura tagħha nnifisha, liema proċedura għandha, sakemm din tkun raġonevolment possibbli, tkun trasparenti, sempliċi, ma tiswiex hafna u li twassal għal riżolviment ta' malajr u ġusta tat-tilwima, u għandha tagħti lil kull parti fit-tilwima opportunita' raġonevoli li tagħmel is-sottomissjonijiet tagħha u li tipproduċi kull informazzjoni rilevanti:

Iżda l-Awtorità tista' tiddeċiedi li ma tibdiex investigazzjoni skond dan l-artikolu meta tkun sodisfatta li jkun hemm mezzi oħra ta' riżolviment ta' tilwima b'mod tempestiv għall-partijiet jew jekk ikunu inbdew proċedimenti legali dwar it-tilwima minn xi parti fit-tilwima.

(3) Meta l-Awtorità tkun qed tirisolvi t-tilwimiet li jiġu lilha riferiti taħt dan l-artikolu, din tista' tohroġ direttivi lil impriza fejn teħtieġ lil dik l-impriza li tikkonforma ruħha ma' kull miżura li l-Awtorità tista' tipeċifika għar-riżolviment tat-tilwima. Dawk id-direttivi jistgħu, fil-qjies tad-deċiżjoni tagħha tat-tilwima u ta' kull haġa oħra rilevanti, tinkludi ordni biex isir l-iżbors ta' hlasijiet riċevuti jew biex isiru hlasijiet b'kumpens. Dawk il-hlasijiet jistgħu ukoll jinkludu l-ispejjeż kollha jew parti minnhom ta' xi parti li tqabbad avukat u, jew ta' konsulent tekniku li jagħmel sottomissjonijiet li jkollhom x'jaqsmu mat-tilwima.

(4) L-Awtorità għandha tagħmel pubblikament disponibbli proċedura amministrattiva li hija tista' minn żmien għal żmien tistabilixxi dwar kif tittratta tilwimiet li jiġu lilha riferiti taħt dan l-artikolu.

(5) Id-disposizzjonijiet ta' dan l-artikolu għandhom ikunu mingħajr preġudizzju għad-dritt li

konsumatur ghandu li jirrikorri lejn xi korp iehor biex jirrisolvi kull tilwima bhal dik.

(6) Meta l-Awtorità tkun qeghda tohroġ deċiżjoni taht dan l-artikolu, hija ghandha tiddikjara r-raġunijiet li fuqhom din tkun motivata, u ghandha, bla hsara għal dawk il-htigiet ta' konfidenzjalita' kummerċjali skond ma tqis li jkun adatt, tinnotifika lill-partijiet fit-tilwima b'kopja tad-deċiżjoni.

(7) L-Awtorità ghandha tippubblika avviż dwar deċiżjoni moghtija taht dan l-artikolu u ghandha tindika minn fejn jistgħu jinkisbu kopji jew informazzjoni dwar dik id-deċiżjoni.

(8) Fejn tilwima tkun tinvolvi impriži f'izjed minn Stat Membru wiehed persuna tista' titlob lill-Awtorità tikkordina l-isforzi tagħha ma' kull awtorità regolatorja rilevanti fi Stat Membru iehor bil-ghan li t-tilwima tiġi rizzolta.

Estensjoni ta' applikabilità għal-liġijiet oħra. 26 .Il-Ministru jista' b'ordni fil-Gazzetta jestendi l-applikabilità tal-proċeduri stabbiliti taht l-artikolu 24 u, jew l-artikolu 25 ta' dan l-Att għal kull liġi oħra li l-Awtorità jkollha jedd tinforza.”.

Thassir ta' l-artikoli 27 sa 32 ta' l-Att prinċipali.

20. L-artikoli 27 sa 32 ta' l-Att prinċipali ghandhom jithassru.

Enumerazzjoni mill-ġdid ta' l-artikolu 32A ta' l-Att prinċipali.

21. L-artikolu 32A ta' l-Att prinċipali ghandu jiġi enumerat mill-ġdid bhala l-artikolu 27 tiegħu u minnufih qablu ghandha tidhol din it-testatura għat-Taqsima III li ġejja:

“Taqsima III - Harsien Legali ta' Servizzi bażati fuq jew li jikkonsistu fi Dhul Kondizzjonali”.

Thassir ta' l-artikoli 33 sa 40 ta' l-Att prinċipali.

22. L-artikoli 33 sa 40 ta' l-Att prinċipali ghandhom jithassru.

Żieda ta' Taqsimiet IV sa VI godda u artikoli 28 sa 37 ma' l-Att prinċipali.

23. Minnufih wara l-artikolu 27 kif enumerat mill-ġdid ta' l-Att prinċipali ghandhom jiziedu dawn it-Taqsimiet godda li ġejjin:-

“Taqsimha IV

Thaddim ta' Frekwenzi tar-Radju

Tifsir. 28. F'din it-Taqsimha kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'ohra “pjan” tfisser il-“pjan nazzjonali ta' frekwenzi tar-radju” kif adottat mill-Ministru u pubblikat skond id-disposizzjonijiet ta' din it-Taqsimha.

Htieġa ta' awtorizzazzjoni espliċita. 29. Kemm-il darba ma jkunx xort'ohra espliċitament awtorizzat bi jew taħt xi liġi, hadd ma għandu juża xi frekwenza ta' radju li ma tkunx għet speċifikament allokata lill-persuna mill-Awtorità skond il-pjan nazzjonali ta' frekwenzi tar-radju:

Iżda il-Ministru jista' jawtorizza bil-miktub lill-Awtorità biex ma timxix skond il-pjan. Biex jagħmel dan, il-Ministru għandu jagħti r-raġunijiet tiegħu u jipubblika avviz dwar dik l-awtorizzazzjoni.

Thaddim ta' frekwenzi tar-radju. 30. (1) L-Awtorità għandha, skond l-oġettivi tagħha taħt l-Att u bla hsara għall-pjan nazzjonali ta' frekwenzi tar-radju, tkun responsabbli għat-thaddim effettiv tal-frekwenzi tar-radju assenjati lilha taħt dak il-pjan nazzjonali ta' frekwenzi tar-radju.

(2) Mingħajr preġudizzju għas-subartikolu (3) ta' dan l-artikolu, ma għandhom jingħataw ebda drittijiet esklużivi jew speċjali għall-użu ta' frekwenzi tar-radju għall-provdiment ta' servizzi ta' komunikazzjonijiet elettronici.

(3) L-Awtorità u l-Ministru għandhom fl-eżerċizzju tal-funzjonijiet rispettivi tagħhom dwar l-allokazzjoni u l-assenjament ta' dawg il-frekwenzi tar-radju, jaġixxu skond kriterji oġġettivi, trasparenti, mhux diskriminatorji u proporzjonati.

Adozzjoni u pubblikazzjoni ta' pjan. 31. (1) Il-Ministru għandu jabbozza, jadotta u jipubblika pjan, liema pjan għandu minn żmien għal żmien ikun rivedut u pubblikat mill-ġdid mill-Ministru skond ma jista' jitqies li jkun meħtieġ:

Iżda qabel ma l-pjan jiġi adottat jew rivedut skond il-każ, il-Ministru għandu f'kull każ jikkonsulta lill-Awtorità.

(2) Il-Ministru ghandu fl-abbozzar tal-pjan jistabbilixxi l-frekwenzi li ghandhom jiġu użati u l-ghanijiet li ghalihom dawn jistgħu jkunu użati.

(3) Il-pjan ghandu jinkludi sett ta' tabelli li jkunu jindikaw l-allokkazzjonijiet ta' frekwenzi fl-ispettru tar-radju fid-data tal-pubblikazzjoni tal-pjan.

Awtorizzazzjonijiet għall-użu ta' frekwenzi tar-radju. 32. (1) L-użu ta' frekwenzi tar-radju u apparat, li ma jkunux frekwenzi u apparat li ghandhom jintużaw għall-provdiment ta' xandir bis-servizzi u frekwenzi mhux assenjati lill-Awtorità taht il-pjan nazzjonali ta' frekwenzi tar-radju, ghandhom ikunu soġġetti għal awtorizzazzjoni mill-Awtorità mogħtija skond regolamenti magħmulin taht din it-Taqsima.

(2) Il-Ministru jista' wara li jikkonsulta lill-Awtorità jagħmel regolamenti:

(a) dwar kull aspekt li jirrigwarda l-hruġ ta' awtorizzazzjonijiet taht din it-Taqsima,

(b) dwar kif il-frekwenzi tar-radju u, jew apparat li jista' jiġi msemmi, jistgħu jkunu użati mingħajr il-htieġa ta' awtorizzazzjoni mitluba taht din it-Taqsima.

Setgħat ta' l-Awtorità speċifiċi għal frekwenzi tar-radju. 33. Il-Ministru jew l-Awtorità bl-approvazzjoni tal-Ministru, jistgħu bil-ghan li jiżguraw l-użu ta' frekwenzi tar-radju l-aktar effiċjenti u effettiv skond id-disposizzjonijiet ta' dan l-Att, jimponu dawk il-htieġiet jew jieħdu dawk il-miżuri skond ma jistgħu iqisu adatti, inklużi imma mhux limitati għar-ridistribuzzjoni jew qsim ta' frekwenzi.

Taqsim V

Regolamenti

Regolamenti. 34. (1) Il-Ministru jista', jew bir-rakkomandazzjoni ta' l-Awtorità jew b'inizjattiva tiegħu nnifsu wara konsultazzjoni ma' l-Awtorità, jagħmel regolamenti li jagħtu seħħ ahjar lid-disposizzjonijiet ta' dan l-Att u b' mod partikolari sabiex:

(a) jirregolaw servizzi ta' komunikazzjonijiet elettronici u, jew *networks* inkluzi l-interkonnessioni ta' dawk in-*networks*, it-tqeghid fl-istess post ta' faċilitajiet is- selezzjoni minn qabel tat-trasportatur, ghad-dhul f'*networks*, id-drittijiet ta' passagg, it-trasmissjoni jew reċezzjoni ta' sinjali tas-satellita, il-manutenzjoni u l-pubblikazzjoni ta', u l-aċċessibilita' ghal kull informazzjoni li tkun kif tkun deskritta, jistipula obligazzjonijiet ta' servizz universali, kull haġa li jkollha x'taqsam man-numri inkluza l-portabilita', pjanijiet u allokkazzjoni, l-obligazzjonijiet ta' impriża li jkollha setgha fis-suq sinifikanti, regoli ta' kompetizzjoni u ta' harsien tal-konsumatur, proċeduri ta' kontijiet u l-eżattezza fil-kontijiet, servizzi ta' emergenza u servizzi ta' direttorju;

(b) jipprovdu ghal kull hteġa li tista' tiġi imposta fuq impriži biex jadottaw sistemi ta' kontijiet skond ma jistghu jiġu ordnati u biex iżommu dawk ir-*records* operattivi, ta' kontijiet, finanzjarji, statistiċi u tekniċi skond ma jistghu jiġu speċifikati fir-regolamenti, inkluż l-ghoti lill-Awtorità ta' dawk id-dikjarazzjonijiet, prospetti w informazzjoni oħra dwar kumpanija fejn impriża jkollha nteress ta' kontroll skond ma l-Awtorità tista' tehtieġ ghat-twettiq tal-funzjonijiet tagħha taht l-Att;

(ċ) jipprovdu dwar il-kondizzjonijiet applikabbli ghal awtorizzazzjonijiet u, jew liċenzi jissejhu kif jissejhu u l-prospetti u r-rapporti li ghandhom isiru lill-Awtorità;

(d) jirregolaw il-mod kif infrastruttura jew apparat ta' komunikazzjonijiet elettronici u, jew radjukomunikazzjonijiet ghandu jkun installat, imhaddem, miżmum, protett jew kontrollat u *standards* jew speċifikazzjonijiet tekniċi li ghandhom ikunu osservati dwar dik l-infrastruttura jew dak l-apparat;

(e) jipprovdu dwar il-miżuri li ghandhom jittiehdu sabiex tiġi żgurata konformità ma' *standards* internazzjonali u oħrajn użati fl-industriji tal-komunikazzjonijiet elettronici u dwar il-mezzi li ghandhom jintużaw u l-miżuri li ghandhom jiġu adottati, biex tiġi żgurata s-sigurtà u jithares li ma jkun

hemm ebda periklu, hsara jew disturb dwar xi aspett ta' komunikazzjonijiet elettronici;

(f) jirregolaw il-kwalità u *standard* ta' servizzi ta' komunikazzjonijiet elettronici li ghandhom ikunu provduti u miri fil-kwalità ta' servizzi u t-twaqqif u ż-żamma ta' servizz ta' assistenza effiċjenti mill-impriži għall-utenti;

(g) jipprovdu dwar il-proċeduri ta' pproċessar ta' ilmenti li ghandha tkun implementata minn impriża;

(h) jirregolaw servizzi ta' distribuzzjoni bit-televiżjoni u bir-radju inklużi regoli dwar affarijiet li ghandhom ta' bilfors jiġu mxandra, u l-obbligazzjoni li tiġi provduta kapacià ta' kanal għal użu pubbliku, tal-gvern jew edukattiv;

(i) jipprovdu dwar kull haġa li jkollha x'taqsam mar-rizolviment ta' kull tilwima u jew ilment, ikunu kif ikunu deskritti, li jkollhom x'jaqsmu ma' *networks* jew servizzi ta' komunikazzjonijiet elettronici, inklużi appelli minn kull deċiżjoni, u il-proċedura li ghandha tiġi segwita fir-rizolviment ta' tilwimiet transkonfini;

(j) jirregolaw il-proċedura għar-rizolviment ta' tilwimiet li jinvolvu *networks* ta' komunikazzjonijiet elettronici u, jew servizzi u konsumaturi u r-relazzjoni bejn l-Awtorità u awtoritajiet pubblici oħra responsabbli għar-rizolviment ta' tilwimiet;

(k) jordnaw x'miżuri ghandhom ikunu mittieħda minn xi persuna bil-għan li tiġi żgurata l-invijolabilità ta' komunikazzjonijiet elettronici trasmessi u l-konfidenzjalità tagħhom u l-harsien tal-privatezza dwar kull servizz ta' komunikazzjonijiet elettronici inklużi miżuri ta' protezzjoni ta' *data* fis-settur ta' komunikazzjonijiet elettronici u miżuri ta' protezzjoni ta' *data* li jkollhom x'jaqsmu ma' l-użu ta' informazzjoni u li jinkisbu mis-settur ta' komunikazzjonijiet elettronici bil-għan li jkun hemm tqegħid fis-suq dirett;

(l) jirregolaw il-provdiment ta' informazzjoni bejn Malta u l-Komunità u, jew Stati Membri;

(m) jirregolaw u jipprovdu dwar kull dritt u, jew hlas jissejhu kif jissejhu li jista' jkollhom jithallsu lill-Awtorità;

(n) jipprovdu dwar kull haġa li tista' tkun meħtieġa bil-għan li jkun hemm konformità ma' kull obligazzjoni nternazzjonali ta' Malta li jkollha x'taqsam ma' komunikazzjonijiet elettronici partikolarment bil-għan li jkun hemm konformità ma' kull hteġa, tkun kif tkun deskritta, tal-Komunità;

(o) jirregolaw l-allokkazzjoni jew l-użu ta' frekwenzi tar-radju għal *networks* u, jew servizzi ta' komunikazzjonijiet elettronici, inkluż it-trasferiment ta' drittijiet dwar l-użu ta' frekwenzi tar-radju u l-proċedura li għandha tiġi segwita;

(p) jirregolaw kull haġa li jkollha x'taqsam mar-regolament, l-amministrazzjoni, it-tmexxija u l-awtorizzazzjoni ta' spettru tar-radju nkluzi l-hlasijiet u l-kondizzjonijiet li jistgħu jkunu mposti dwarhom;

(q) jagħtu s-setgħa lill-Awtorità timponi penali amministrattivi li ma jeċċedux l-ammont ta' mitt elf lira Maltija għal kull reat u elfejn lira għal kull ġurnata li matulha jkompli n-nuqqas ta' harsien ta' l-Att, fuq kull persuna li tikser regolamenti magħmulin taht dan l-Att u li tipprovdi sabiex jiġu imposti u enforzati dawk il-penali skond id-disposizzjonijiet ta' dan l-Att u ta' l-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni;

(r) jirregolaw l-obbligazzjonijiet, inklużi obligazzjonijiet finanzjarji, ta' impriżi għar-rigward ta' interċettazzjoni legali;

(s) jordnaw kull haġa li tista' tiġi ordnata taht dan l-Att:

Iżda l-Ministru jista', meta jagħmel xi regolamenti taht dan is-subartikolu li għandhom x'jaqsmu ma' *standards* jew hwejjeġ ta' natura strettament teknika, jagħmel dawn ir-regolamenti bil-lingwa Ingliża biss.

(2) Il-Ministru jista' wara konsultazzjoni ma' l-Awtorità b'ordni fil-Gazzetta jagħti setgħa lil kull awtorità

pubblika ohra mwaqqfa bil-liġi teżerċita xi funzjoni speċifika taht dan l-Att jew taht regolamenti magħmulin tahtu fejn, fil-fehma tal-Ministru, jitqies adatt fiċ-ċirkostanzi partikolari li daww il-funzjonijiet ikunu eżerċitati minn xi awtorità pubblika ohra:

Iżda fil-hruġ ta' xi ordni taht dan is-subartikolu, il-Ministru għandu jagħti r-raġunijiet tiegħu għaldaqstant.

Taqsim VI

Reati Kriminali

Reati ta' xorta kriminali speċifiċi għal komunikazzjonijiet elettronici.

35. (1) Persuna li:

(a) tibni, issewwi, iżzomm f'kundizzjoni tajba, tibdel jew tikkontrolla xi apparat jew installazzjoni minghajr ma jkollha l-kwalifiki mehtieġa għal dak l-iskop b'dan l-Att jew tahtu;

(b) tbiegħ jew toffri għal bejgħ jew tipprovdi jew tistalla jew tuża xi stallazzjoni jew apparat li ma jkunx jikkonforma ma' tali *standards* jew speċifikazzjonijiet tekniċi skond ma huma mehtieġa jew stabbiliti b'dan l-Att jew tahtu, jew li hu jkun jaf, jew ikollu tassew raġonevolment għaliex jahseb, li jkunu difettużi jew inkompatibbli mas-servizzi li dwarhom ikunu nbiegħu, ġew provduti, installati jew użati;

(ċ) tipprovdi xi servizz ta' komunikazzjonijiet elettronici jew tistalla jew thaddem xi *network* jew apparat ta' komunikazzjonijiet elettronici bi ksur ta' xi disposizzjoni ta' dan l-Att jew bi ksur ta' xi kondizzjoni, restrizzjoni jew limitazzjoni imposti b'dan l-Att jew tahtu;

(d) tuża xi *network* jew apparat ta' komunikazzjonijiet elettronici fornut minn impriża għal għan li ma jkunx dak li jkun ġie fornut għalih, jew tittraskura milli tosserva l-istruzzjonijiet li jkunu mahruġa minn impriża għall-użu kif imiss tan-*network* jew apparat ta' komunikazzjonijiet elettronici jew inkella tużah b'mod mhux kif imiss;

tkun hatja ta' reat taht dan l-Att u tista', meta tinsab hatja, tehel multa ta' mhux iżjed minn għaxart elef lira u fil-każ ta' reat permanenti għal multa ohra ta' mhux iżjed minn mitejn lira għal kull jum li matulu jkompli r-reat.

(2) Persuna li taghti informazzjoni lill-Awtorità jew lill-Ministru li tkun taf, jew ikollha tassew għaliex raġonevolment taħseb li tkun falza jew qarrieqa, jew li timpedixxi jew tostruwixxi lill-Awtorità jew lill-Ministru, fl-eżekuzzjoni tal-funzjonijiet tagħhom b'dan l-Att jew tahtu, tkun hatja ta' reat taht dan l-Att, u meta tinsab hatja, tista' tehel multa ta' mhux iżjed minn għaxart elef lira jew priġunerija għal perjodu ta' mhux iżjed minn sitt xhur, jew dik il-multa u priġunerija flimkien.

(3) Persuna li tkun persuna impjegata jew imqabbdha tagħmel dmir ma' xi impriza jew li tiġi mibgħuta magħha:

(a) taghti informazzjoni dwar xi messaġġ li ssir taf bih minhabba fil-kariga li jkollu lil xi persuna li ma jkollhiex jedd tirċievi informazzjoni bħal dik;

(b) xjentement tibdel jew taħbi xi messaġġ jew it-tismija tal-persuna li lilha jintbagħat jew jiġi indirizzat, mingħajr ebda kawża ġusta;

(c) xjentement tommetti, iddewwem jew tostruwixxi milli twassal jew tikkunsinna xi messaġġ jew thassar jew teqred xi messaġġ jew applikazzjoni għat-twassil ta' xi messaġġ mingħajr ebda kawża ġusta;

(d) xjentement tirrappreżenta messaġġ bħala li jkun intbagħat minn persuna li ma tkunx il-mittent jew bħala li jkun indirizzat lil persuna li ma tkunx dik indirizzata, jew applikazzjoni biex jintbagħat messaġġ bħala li jkun sar minn persuna li ma tkunx l-applikant, mingħajr ebda kawża ġusta;

(e) xjentement thassar jew teqred xi messaġġ li ma jkunx indirizzat lilha jew applikazzjoni dwar it-trasmissjoni ta' messaġġ, mingħajr ebda kawża ġusta; jew

(f) kontra l-liġi tirtira mill-kontroll ta' impriża, jew ta' xi hadd impjegat jew imqabbaq jaqdi dmirijiet ma' xi impriża, jew filwaqt li jkun qiegħed jahdem fiha, messaġġ indirizzat lil xi persuna oħra,

tkun hatja ta' reat taħt dan l-Att u tista' tehel, meta tinsab hatja, multa ta' mhux iżjed minn għaxart elef lira jew prigunerija għal perjodu ta' mhux iżjed minn sitt xhur, jew dik il-multa u prigunerija flimkien.

(4) Min jattakka jew jostruwixxi jew jimpedixxi xi uffiċjal, impjegat jew aġent ta' impriża fl-eżerċizzju ta' dmirijietu ma' dik l-impriża ikun hati ta' reat taħt dan l-Att, u meta jinsab hati jista' jehel multa ta' mhux iżjed minn hamest elef lira jew prigunerija għal perjodu ta' mhux iżjed minn tliet xhur, jew dik il-multa u prigunerija flimkien.

Setgħa tal-Ministru li jagħmel regolamenti dwar reati kriminali.

36. Mingħajr preġudizzju għal kull disposizzjoni oħra ta' dan l-Att il-Ministru jista', wara konsultazzjoni ma' l-Awtorità, jagħmel regolamenti li bihom jordna penali għal reati kriminali kontra regolamenti magħmulin taħt dan l-Att, u dawk ir-regolamenti jistgħu:

(a) jistipulaw multi differenti għal reati differenti;

(b) jistipulaw multi kalkolati skond kemm idum l-għemil tar-reat:

Iżda kull regolament bħal dawk li jista' jkun magħmul ma għandux jipprovdi għal multa ta' iżjed minn għaxart elef lira, jew mitejn lira għal kull jum li matulu jibqa' għaddej ir-reat.

Proċedimenti dwar reat kriminali.

37. (1) Ma għandu jinbeda ebda proċediment għal reat kriminali taħt dan l-Att li ma jkunx reat taħt l-artikolu 27 jew taħt paragrafu (d) tas-subartikolu (1) ta' l-artikolu 35, mingħajr il-kunsens ta' l-Awtorità jew fuq talba tagħha.

(2) Minkejja kull haġa li tinsab fil-Kodiċi Kriminali, il-prosekuzzjoni tista' tagħmel appell quddiem il-qorti ta' ġurisdizzjoni kompetenti kontra kull sentenza mogħtija fi proċedimenti dwar reat taħt dan l-Att.”.

- 24.** L-intestatura “Taqsimha III – Riservi u Disposizzjonijiet Transitorji” minnufih qabel l-artikolu 41 ta’ l-Att prinċipali għandha tiġi mhassra. Thassir ta’ testatura qabel l-artikolu 41 ta’ l-Att prinċipali.
- 25.** Subartikolu (1) ta’ l-artikolu 41 ta’ l-Att prinċipali għandu jithassar. Emenda ta’ l-artikolu 41 ta’ l-Att prinċipali.
- 26.** (1) L-artikoli 42 sa 44 (inkluża l-Iskeda) u 45 sa 47 ta’ l-Att prinċipali għandhom jithassru. Thassir ta’ l-artikoli 42 sa 47 ta’ l-Att prinċipali u żieda ta’ l-artikolu 42 ġdid.
- (2) Is-subartikolu (2) ta’ l-artikolu 41 għandu jiġi enumerat mill-ġdid bħala d-disposizzjoni shiha ta’ l-artikolu 42 ġdid.
- 27.** Minnufih wara l-artikolu 37 ta’ l-Att prinċipali għandu jidhol dan li ġej:- Żieda ta’ l-artikoli 38 sa 41 godda ma’ l-Att prinċipali.

“TAQSIMA VII

Riservi, Disposizzjonijiet Transitorji u Eżenzjonijiet”.

- Riservi. **38.** (1) It-thassir ta’ l-artikoli 43, 44 (inkluża l-Iskeda), 45, 46 u 47 ta’ dan l-Att kif fis-sehh fl-1 ta’ Mejju, 2004 għandu jkun minghajr preġudizzju għal kull haġa magħmula jew li għad trid issir’taht dawk l-artikoli.
- (2) Regolamenti magħmulin jew miżmuma fis-sehh bi jew taht xi wahda mid-disposizzjonijiet ta’ dan l-Att kif fis-sehh fl-1 ta’ Mejju, 2004 u kif ikun għadu fis-sehh f’dik id-data, għandhom, sakemm ma jsirux disposizzjonijiet ohra taht dan l-Att jew bis-sahha ta’ dan l-Att, jibqgħu fis-sehh u jkollhom effett.
- (3) Direttivi, deċiżjonijiet jew nomini, ikunu kif ikunu deskritti, magħmulin mill-Awtorità taht dan l-Att kif ikunu fis-sehh fl-1 ta’ Mejju, 2004 u għandhom fis-sehh f’dik id-data għandhom jibqgħu fis-sehh sakemm jiġu revokati jew emendati mill-Awtorità.
- (4) Id-disposizzjonijiet ta’ l-artikolu 44 ta’ dan l-Att kif fis-sehh fl-1 ta’ Mejju, 2004 għandhom jibqgħu japplikaw:
- (i) għar-rigward ta’ xi haġa magħmula fil-waqt meta dawn kienu fis-sehh u għar-rigward ta’ kull haġa konsegwenzjali magħmula, li toriġina minn jew li għandha x’taqsam ma’ dan,

kull meta hekk maghmula; u

(ii) *mutatis mutandis* ghar-rigward ta' l-implimentazzjoni ta' dan l-Att jew ta' kull ligi jew artikolu bil-għan ta' liberalizzazzjoni tas-suq jew konformità ma' l-obbligazzjonijiet internazzjonali ta' Malta dwar servizzi ta' komunikazzjonijiet elettronici jew *networks* ta' komunikazzjonijiet elettronici.

Rivista ta' obbligazzjonijiet precedenti għal dhul u interkonnessioni.

A.L. 151 ta' l-2000.

A.L. 243 ta' l-2000.

A.L. 167 ta' l-2001.

A.L. 45 ta' l-2003

A.L. 61 ta' l-2003.

39. (1) Minkejja kull haġa f'dan l-Att jew f'regolamenti magħmulin tahtu, impriza għandha tibqa' tikkonforma ma' kull obbligazzjoni li tirtigwarda d-dhul u l-interkonnessioni taht dan l-Att kif kien qabel magħruf l-Att biex jirregola t-Telekomunikazzjoni, u regolamenti magħmulin tahtu, inklużi ir-Regolamenti ta' l-1999 dwar Provdituri ta' Servizzi għal *Internet* u *Data Networks* ohra, ir-Regolamenti ta' l-2000 dwar Servizzi ta' Telekomunikazzjonijiet (ġenerali), ir-Regolamenti ta' l-2000 dwar l-Obbligi u r-Rati dwar l-Interkonnessioni, Regolamenti ta' l-2001 dwar Sistemi ta' *Cable* (ġenerali), Regolamenti ta' l-2003 dwar it-Telekomunikazzjonijiet (*Access Unbundled* għal-*Loop* Lokali), Regolamenti ta' l-2003 dwar il-Linji Mikrijin fit-Telekomunikazzjonijiet, li japplikaw għaliha minnufih qabel id-dhul fis-seħh ta' dan l-Att sa dak iż-żmien meta dawk ir-regolamenti jkunu emendati jew meta jiġu imposti obbligazzjonijiet speċifiċi konformement ma' analiżi tas-suq li ssir mill-Awtorità skond id-disposizzjonijiet ta' dan l-Att fuq xi impriza msemmija taht l-artikolu 9 ta' dan l-Att.

(2) L-Awtorità għandha tagħti avviz bħal dak skond ma tqis li jkun raġonevoli lil xi parti milquta bl-emenda jew irtirar ta' obbligazzjonijiet imsemmija fis-subartikolu (1) ta' dan l-artikolu.

Tkomplija ta' ċerti obbligazzjonijiet li jeżistu.

A.L. 151 ta' l-2000.

A.L.61 ta' l-2003 .

40. Impriza għandha tkompli tkun tikkonforma ma' kull obbligazzjoni li tapplika għaliha taht dan l-Att jew regolamenti magħmulin tahtu kif fis-seħh fl-1 ta' Mejju, 2004 u li jkunu għadhom fis-seħh f'dik id-data u li jkollhom x'jaqsmu ma':

(a) it-tariffi għall-provdiment ta' dhul fi u l-użu tad-dhul għal telefon pubbliku taht ir-Regolamenti ta' l-2000 dwar Servizzi ta' Telekomunikazzjonijiet (ġenerali),

(b) selezzjoni tat-trasportatur jew pre-selezzjoni taht ir-Regolamenti ta' l-2000 dwar Servizzi ta' Telekomunikazzjonijiet (ġenerali),

(ċ) linji mikrijin imposti taht ir-Regolamenti ta' l-2003 dwar il-Linji Mikrijin fit-Telekomunikazzjonijiet,

sa dak iż-żmien meta l-obbligazzjonijiet jkunu emendati jew irtirati konformement ma' analiżi tas-suq li jsiru mill-Awtorità skond id-disposizzjonijiet ta' dan l-Att.

Awtorizzazzjonijiet eżistenti.

Kap. 399.

41. (1) Kull awtorizzazzjoni mahruġa taht dan l-Att kif kien qabel maghruf bhala l-Att biex jirregola t-Telekomunikazzjoni, jew regolamenti magħmulin tahtu kif fis-sehħ fl-1 ta' Mejju, 2004 u li jkunu għadhom fis-sehħ f'dik id-data, għandhom, mad-dhul fis-sehħ ta' dan l-artikolu, itemmu milli jibqa' jkollhom effett. Persuna li jkollha awtorizzazzjoni bhal dik għandha ma' dak id-dhul fis-sehħ titqies li tkun awtorizzata tipprovdi servizzi ta' komunikazzjonijiet elettronici jew tistabilixxi, testendi jew tipprovdi *networks* ta' komunikazzjonijiet elettronici taht is-subtitolu 5 tat-Taqsima II ta' dan l-Att u taht regolamenti magħmulin taht dan l-Att li jkollhom x'jaqsmu ma' awtorizzazzjonijiet:

Iżda dik il-persuna ma għandhiex aktar tard minn disghin ġurnata wara d-dhul fis-sehħ ta' dan l-artikolu tavża lill-Awtorità skond id-disposizzjonijiet tat-Titolu 5 ta' Taqsima II ta' dan l-Att u ta' regolamenti magħmulin taht dan l-Att li jkollhom x'jaqsmu ma' awtorizzazzjonijiet fil-komunikazzjonijiet elettronici.

(2) Minkejja subartikolu (1) ta' dan l-artikolu fejn l-Awtorità tqis li l-applikazzjoni ta' dak is-subartikolu tkun se tirriżulta fi tnaqqis ta' drittijiet jew estensjoni ta' obbligazzjonijiet fuq persuna li jkollha awtorizzazzjoni bhal dik, l-Awtorità tista' testendi l-validita' ta' awtorizzazzjoni mahruġa taht dan l-Att għal perjodu ta' mhux iżjed minn disa' xhur mid-dhul fis-sehħ ta' dan l-artikolu, sakemm l-Awtorità tqis li d-drittijiet ta' persuni ohra ma jintlaqtux bihom b'mod kuntrarju.”.

28. L-artikolu 48 ta' l-Att principali għandu jiġi enumerat mill-ġdid bhala l-artikolu 42 u għandu jiġi emendat kif ġej:-

Enumerazzjoni mill-ġdid u emenda ta' l-artikolu 48 ta' l-Att principali.

(a) fis-subartikolu (1) tieghu minflok il-kliem “l-installazzjonijiet u s-sistemi ta’ telekomunikazzjonijiet” ghandhom jidhlu l-kliem “*networks* u, jew servizzi ta’ komunikazzjonijiet elettronici”;

(b) fis-subartikolu (2) tieghu

(i) minflok il-kliem “kull installazzjoni jew sistema ta’ telekomunikazzjonijiet” ghandhom jidhlu l-kliem “*networks* u, jew servizz ta’ telekomunikazzjonijiet elettronici”; u

(ii) wara l-kliem “korp imwaqqaf b’ligi” ghandhom jizdiedu l-kliem “jew ta’ kumpanija li fiha l-Gvern ta’ Malta jkollu mill-inqas disghin fil-mija ta’ kull kapital azzjonarju mhallas” u wara l-kliem “ghall-iskopijiet tieghu” ghandhom jidhlu l-kliem “jew esklużivament ghall-finijiet tal-Gvern”.

TAQSIMA III

EMENDA TA’ L-ATT DWAR IS-SERVIZZI POSTALI

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

29. (1) Din it-Taqsima temenda l-Att dwar is-Servizzi Postali, u ghandha tinqara u tiftiehem bhala haġa wahda ma’ l-Att dwar is-Servizzi Postali, hawn iżjed ‘il quddiem f’ din it-Taqsima msejjah “l-Att prinċipali”.

(2) Din it-Taqsima ghandha tidhol fis-sehh f’ dik id-data li l-Ministru responsabbli ghal komunikazzjonijiet jista’ b’avviż fil-Gazzetta jistabbilixxi u jistgħu jiġu stabbiliti dati differenti ghal disposizzjonijiet differenti u għal għanijiet differenti tagħha.

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

30. L-artikolu 2 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:-

(a) minnufih wara t-tifsira “bolla falza” ghandha tizdied din it-tifsira ġdida li ġejja:

“Kap. 418 Bord ta’ l-Appelli” tfisser Bord ta’ l-Appelli dwar il-Komunikazzjonijiet mwaqqaf taht l-Att għat-Twaqqif ta’ Awtorità dwar il-Komunikazzjoni;”;

(b) it-tifsira “Bord ta’ l-Appelli dwar Servizzi Postali” u “Bord ta’ l-Appelli” ghandha tithassar.

- 31.** Il-kliem “Bord ta’ l-Appelli dwar Servizzi Postali” kull fejn dawn jinsabu fl-Att prinċipali għandhom jiġu sostitwiti bil-kliem “Bord ta’ l-Appelli”. Sostituzzjoni ġenerali fl-Att prinċipali.
- 32.** Minflok l-artikolu 4 ta’ l-Att prinċipali għandu jidhol dan li ġej:-
 “Appelli. Kap. 418. 4. Kemm-il darba ma jiġix provdut xort’ohra f’dan l-Att jew f’xi liġi ohra, jista’ jsir appell quddiem il-Bord ta’ l-Appelli minn deċiżjoni ta’ l-Awtorità magħmula taht dan l-Att jew taht regolamenti magħmulin taht dan l-Att, u dak l-appell għandu jkun regolat skond id-disposizzjonijiet tat-Taqsima VIII ta’ l-Att dwar Awtorità ta’ Malta dwar il-Komunikazzjoni.”. Emenda ta’ l-artikolu 4 ta’ l-Att prinċipali.
- 33.** L-artikoli 5 u 6 ta’ l-Att prinċipali għandhom jithassru. Thassir ta’ l-artikoli 5 u 6 ta’ l-Att prinċipali.
- 34.** Subartikolu (5) ta’ l-artikolu 12 ta’ l-Att prinċipali għandu jithassar. Emenda ta’ l-artikolu 12 ta’ l-Att prinċipali.
- 35.** Fil-paragrafu (b) tas-subartikolu (5) ta’ l-artikolu 17 ta’ l-Att prinċipali il-kliem “sa għaxar kilogrammi;” għandhom jiġu sostitwiti bil-kliem “għoxrin kilogramma;”. Emenda ta’ l-artikolu 17 ta’ l-Att prinċipali.
- 36.** Minflok l-artikolu 20 ta’ l-Att prinċipali għandu jidhol dan li ġej:-
 “20. Is-servizzi riservati għall-provditur ta’ servizzi universali msemmija skond dan l-Att, għandhom ikunu daww mwaqqfa skond ir-Raba’ Skeda. Il-Ministru jista’, wara li jikkonsulta lill-Awtorità, jemenda b’avviż legali fil-Gazzetta, r-Raba’ Skeda sabiex din tkun tikkonforma ma’ l-obbligazzjonijiet internazzjonali ta’ Malta.”. Sostituzzjoni ta’ l-artikolu 20 ta’ l-Att prinċipali.
- 37.** Fl-artikolu 23 ta’ l-Att prinċipali minflok il-kliem “b’avviż fil-Gazzetta” għandhom jiġu sostitwiti l-kliem “b’avviż legali”. Emenda ta’ l-artikolu 23 ta’ l-Att prinċipali.
- 38.** It-Tielet Skeda għall-Att prinċipali għandha tiġi emendata kif ġej:
 (a) fil-paragrafu 4 tat-Tielet Skeda ta’ l-Att prinċipali l-kliem “li jkunu verifikati minn awdituri mqabba mill-provditur u l-provditur għandu jippubblika dikjarazzjoni li tkun tirrigwarda l-konformità f’żewġ gazzetti ta’ kuljum mill-inqas Emenda tat-Tielet Skeda għall-Att prinċipali.

darba fis-sena kalendarja.” ghandhom jiġu sostitwiti bil-kliem “li jkunu verifikati minn awdituri indipendenti mill-provditur u l-ispiza ta’ dawn l-awdituri tkun a karigu tal-provditur. Il-provditur ghandu jippubblika dikjarazzjoni li tkun tirrigwarda l-konformità f’żewġ gazzetti ta’ kuljum mill-inqas darba fis-sena kalendarja.”; u

(b) wara l-paragrafu 6 tiegħu ghandu jiġi miżjud il-paragrafu l-ġdid li ġej:

“7. Il-kontijiet finanzjarji tal-provditur ta’ servizz universali ghandhom jiġu ppreparati, sottomessi għall-awditjar minn awditur indipendenti u ppubblikati mill-provditur skond il-liġijiet rilevanti tal-Komunità u ta’ Malta dwar l-imprizi kummerċjali.”.

Żieda tar-Raba’
Skeda
ġdida ma’ l-Att
prinċipali.

39. Minnufih wara it-Tielet Skeda li tinsab ma’ l-Att prinċipali ghandha tiżdied din l-iskeda ġdida li ġejja:

“IR-RABA’ SKEDA

(Artikolu 20)

Servizzi Riservati

1. Is-servizzi li jkunu riservati għal provditur ta’ servizzi universali imsemmija skond dan l-Att huma dawk ta’ ksib u tmexxija ta’ permessi, sortjar, trasport u kunsinna ta’ oġġetti ta’ korrispondenza lokali, posta transkonfini u diretta, sew jekk b’kunsinna aċċelerata sew jekk le, fil-parametri taż-żewġ limiti ta’ piż u prezz li ġejjin –

(a) il-limitu ta’ piż ikun -

(i) mill-1 ta’ Mejju, 2004, 100 gramma, u

(ii) mill-1 ta’ Jannar, 2006, 50 gramma;

(b) dawn il-limiti ta’ piżijiet ma japplikawx –

(i) mill-1 ta’ Mejju, 2004, jekk il-prezz ikun daqs jew iżjed minn, tliet darbiet, u

(ii) mill-1 ta’ Jannar, 2006, jekk il-prezz ikun daqs jew iżjed minn darbtejn u nofs,

it-tariffa pubblika għal oġġett ta' korrispondenza fl-ewwel livell ta' piż tal-kategorija l-iktar mgħaġġla.

2. Ir-restrizzjonijiet ta' piż jew prezz msemmija f'din l-Iskeda ma għandhomx japplikaw dwar xi servizz postali bla hlas għall-ghomja jew għal persuni b'vista batuta li jista' jkun provdut mill-provditur universali.

3. L-iskambju ta' dokumenti ma għandux ikun riservat.”.

TAQSIMA IV

EMENDA TA' L-ATT DWAR IR-REGOLAMENT TA' ĊERTI XOGHLIJET F'UTILITAJIET U SERVIZZI

40. (1) Din it-Taqsima temenda l-Att dwar ir-Regolament ta' ċerti Xoghlijiet f'Utilitajiet u Servizzi, u għandha tinqara u tiftiehem bhala haġa waħda ma' l-Att dwar ir-Regolament ta' ċerti Xoghlijiet f'Utilitajiet u Servizzi, hawn iżjed 'il quddiem f'din it-Taqsima msejjah “l-Att prinċipali”.

Emenda ta' l-Att
dwar ir-
Regolament ta'
ċerti
Xoghlijiet
f'Utilitajiet u
Servizzi, Kap. 81.

(2) Din it-Taqsima għandha tidhol fis-sehh f'dik id-data li l-Ministru responsabbli għal komunikazzjonijiet jista' b'avviż fil-Gazzetta jistabbilixxi u jistgħu jiġu stabbiliti dati differenti għal disposizzjonijiet differenti u għal għanijiet differenti tagħha.

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

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

(a) it-tifsira “sistemi ta' enerġija elettrika u telekomunikazzjonijiet” għandha tithassar u minnufih wara t-tifsira “Ministru” għandha tidhol din it-tifsira li ġejja:

“ “*networks* ta' enerġija elettrika u komunikazzjonijiet elettronici” tinkludi kull enerġija elettrika jew linja ta' komunikazzjoni jew strument, ikunu kif ikunu deskritti, użati għall-provvista ta' l-enerġija jew għal komunikazzjonijiet elettronici;”;

(b) wara t-tifsira “*networks* ta' enerġija elettrika u komunikazzjonijiet elettronici” għandha tidhol din it-tifsira ġdida li ġejja -

“ “*networks* ta' komunikazzjonijiet elettronici” u “servizz ta' komunikazzjonijiet elettronici” għandu rispettivament ikollhom l-istess tifsiriet bħalma għandhom taht l-Att biex jirregola Komunikazzjonijiet Elettronici;”;

(ċ) minflok il-paragrafu (b) fit-tifsira “Regolatur” ghandu jiġi sostitwit dan il-paragrafu ġdid li ġej:

(b) fil-każ ta’ xoghlijiet li ghandhom x’jaqsmu ma’ xi servizz ta’ komunikazzjonijiet elettronici u, jew *networks* ta’ komunikazzjonijiet elettronici, l-Awtorità ta’ Malta “Kap. 418. dwar il-Komunikazzjoni kif mwaqqfa taht l-Att ghat-Twaqqif ta’ Awtorità dwar il-Komunikazzjoni;”;

(d) it-tifsiriet “telekomunikazzjonijiet” u “servizz ta’ telekomunikazzjoni” ghandhom jithassru.

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

42. Fl-artikolu 3 ta’ l-Att prinċipali minflok il-kliem “tas-sistemi ta’ komunikazzjoni” ghandhom jiġu sostitwiti l-kliem “*networks* ta’ komunikazzjonijiet elettronici”.

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

43. L-artikolu 4 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej –

(a) l-kliem “servizz ta’ telekomunikazzjoni” kull fejn dawn jinsabu fl-artikolu ghandhom jiġu sostitwiti mal-kliem “servizz ta’ komunikazzjonijiet elettronici”;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “tista’ tordna wkoll” ghandhom jiġu sostitwiti l-kliem “tista’, wara konsultazzjoni ma’ l-Awtorità ta’ Malta dwar il-Komunikazzjoni, wkoll tordna”;

(ċ) minnufih fi tmien is-subartikolu (2) tiegħu ghandha tiżdied il-proviso li ġejja:

“Izda l-Awtorità dwar it-Trasport ta’ Malta ghandha qabel ma tohroġ ordni taht dan is-subartikolu, tagħti opportunità raġonevoli lill-partijiet kollha interessati jesprimu l-veduti tagħhom.”;

(d) fis-subartikolu (3), l-ewwel proviso tiegħu ghandu jithassar, u fit-tieni proviso tiegħu minflok il-kliem “Izda wkoll” ghandhom jiġu sostitwiti l-kliem “Izda”;

(e) fis-subartikolu (6) tiegħu, minflok il-kliem minn “Ir-Regolatur ghandu, wara li jeżamina” sal-kliem “l-hlasijiet dovuti lil min jirċievi dak l-ordni.” ghandhom jiġu sostitwiti l-kliem “Ir-Regolatur ghandu, wara li jeżamina l-fatti u s-sottomissjonijiet li jinġiebu quddiemu u kull informazzjoni ohra bhal dik li huwa jista’ jitlob, jistabbilixxi l-hlasijiet dovuti

lil min jirċievi dik l-ordni maghmula taht is-subartikolu (2) ta' dan l-artikolu:

Iżda fejn issir riferenza minn provditur ta' servizz ta' komunikazzjonijiet elettronici, għal xoghlijiet li jirrigwardaw dak is-servizz, il-Regolatur għandu japplika d-disposizzjonijiet ta' l-Att biex jirregola Komunikazzjonijiet Elettronici fuq ir-rizolviment tat-tilwim.”;

(f) wara s-subartikolu (9) tiegħu, għandhom jizdiedu dawn is-subartikoli godda li ġejjin:

“(10) L-Awtorità dwar it-Trasport ta' Malta fl-eżerċizzju tal-funzjonijiet tagħha taht dan l-artikolu, skond ma dawn ikunu jirrelataw ma' xoghlijiet li jkollhom x'jaqsmu ma' komunikazzjonijiet elettronici, għandha:

(a) taġixxi abbażi ta' proċeduri trasparenti u pubblikament disponibbli, li jiġu applikati mingħajr diskriminazzjoni u mingħajr dewmien;

(b) issegwi l-prinċipji ta' trasparenza u li ma jkun hemm ebda diskriminazzjoni meta żżid kondizzjonijiet ma' xi drittijiet li tista' tkun qed tagħti lil xi provditur ta' servizz ta' komunikazzjonijiet elettronici; u

(ċ) tagħti r-raġunijiet għad-deċiżjonijiet tagħha:

Iżda l-Awtorità dwar it-Trasport ta' Malta għandha, dwar kull dritt li tista' tkun awtorizzata timponi b'dan l-Att jew tahtu dwar ix-xoghlijiet, tiżgura li dawk id-drittijiet ikunu oġġettivament ġustifikati, trasparenti, mhux diskriminatorji u proporzjonati dwar l-għan intiż tagħhom:

Iżda wkoll l-Awtorità dwar it-Trasport ta' Malta għandha, dwar emendi li tista' tqis li tagħmel għal xi dritt, kondizzjoni u proċedura li jkollha x'taqsam ma dawk ix-xoghlijiet, tiżgura li kull emenda bħal dik issir biss f'każijiet oġġettivament ġustifikati u b'mod proporzjonat. Qabel tagħmel xi emenda bħal dik l-Awtorità dwar it-Trasport ta' Malta għandha tagħti avviż b'dak il-mod li tqis li jkun adatt għall-ħsieb li jkollha, fejn tistieden lill-partijiet li jkollhom interess inklużi utenti u konsumaturi, jagħmlu sottomissjonijiet fuq l-emendi proposti f'dak iż-

żmien ta' mhux inqas minn tletin ġurnata skond ma jista' jiġi speċifikat fl-avviż. L-Awtorità dwar it-Trasport ta' Malta tista' fiċ-ċirkostanzi li hija tqis li jkun eċċezzjonali, tqassar dak il-perjodu.

(11) Persuna li tipprovi *networks* ta' komunikazzjonijiet elettronici u, jew servizzi jew faċilitajiet assoċjati u li thoss ruhha aggravata b'xi deċiżjoni mittiehda taht dan l-artikolu mill-Awtorità dwar it-Trasport ta' Malta jew mir-Regolatur dwar xogħlijiet li jkollhom x'jaqsmu ma' komunikazzjonijiet elettronici, tista', wara li tkun eżawriet ir-rimedju li hemm provdut dwarha fis-subartikoli (5) u (6) ta' dan l-artikolu fejn dan japplika, tappella quddiem il-Bord ta' l-Appelli dwar il-Komunikazzjonijiet mwaqqaf taht l-Att ghat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni:

Iżda meta dik il-persuna tkun qed tagħmel l-appell tagħha hija għandha wkoll tispjega x'interess ġuridiku jkollha filli tikkontesta d-deċiżjoni li jkun qed isir appell minnha:

Iżda wkoll l-Awtorità ta' Malta dwar il-Komunikazzjoni għandha wkoll tiġi notifikata b'kull appell ippreżentat taht dan is-subartikolu u jkollha jedd tagħmel is-sottomissjonijiet tagħha dwar dan.

Kap. 418.

Id-disposizzjonijiet ta' Taqsima VIII ta' l-Att ghat-Twaqqif ta' Awtorità dwar il-Komunikazzjoni, li jkollhom x'jaqsmu mas-smiġh ta' appelli mill-Bord ta' l-Appelli dwar il-Komunikazzjonijiet minn deċiżjonijiet ta' l-Awtorità ta' Malta dwar il-Komunikazzjoni, għandhom japplikaw *mutatis mutandis* għal appelli ppreżentati taht dan l-artikolu.”.

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

44. Fl-artikolu 11 ta' l-Att prinċipali, il-kliem “li jistabbilixxu l-mod li bih” għandhom jiġu sostitwiti bil-kliem “li jipprovdu għal kull haġa li għandha x'taqsam mad-drittijiet ta' passagg' inklużi l-hlasijiet li jistgħu jiġu mitluba għal xi drittijiet bhal dawn, u li jistabbilixxu l-mod li bih”.

TAQSIMA V

EMENDA TA' L-ATT DWAR L-AWTORITÀ MARITTIMA TA' MALTA

45. (1) Din it-Taqsima temenda l-Att dwar l-Awtorità Marittima ta' Malta, u ghandha tinqara u tiftiehem bhala haġa wahda ma' l-Att dwar l-Awtorità Marittima ta' Malta, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

Emenda ta' l-Att
dwar l-Awtorità
Marittima ta'
Malta, Kap. 352.

(2) Din it-Taqsima ghandha tidhol fis-sehh f'dik id-data li l-Ministru responsabbli ghal komunikazzjonijiet jista' b'avviż fil-Gazzetta jstabbilixxi u jistgħu jiġu stabbiliti dati differenti ghal disposizzjonijiet differenti u għal għanijiet differenti tagħha.

46. L-artikolu 28 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

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

(a) is-subartikolu (2) tiegħu ghandu jiġi enumerat mill-ġdid bhala s-subartikolu (3);

(b) minnufih wara s-subartikolu (1) tiegħu ghandu jiżdied is-subartikolu ġdid li ġej:

“(2) Il-Ministru, wara konsultazzjoni ma' l-Awtorità u l-Awtorità ta' Malta dwar il-Komunikazzjoni, jista' jagħmel regolamenti dwar kull aspett li jkollu x'jaqsmu ma' l-użu ta' radjukomunikazzjonijiet minn bastimenti merkantili.”.

TAQSIMA VI

EMENDA TA' L-ATT DWAR IL-KOMUNIKAZZJONIJIET U TRASAZZJONIJIET ELETTRONIĊI

47. (1) Din it-Taqsima temenda l-Att dwar il-Komunikazzjonijiet u Trasazzjonijiet Elettronici, u ghandha tinqara u tiftiehem bhala haġa wahda ma' l-Att dwar il-Komunikazzjonijiet u Trasazzjonijiet Elettronici, hawn iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

Emenda ta' l-Att
dwar il-
Komunikazzjonijiet
u Trasazzjonijiet
Elettronici, Kap.
426.

(2) Din it-Taqsima ghandha tidhol fis-sehh f'dik id-data li l-Ministru responsabbli għal komunikazzjonijiet jista' b'avviż fil-Gazzetta jstabbilixxi u jistgħu jiġu stabbiliti dati differenti għal disposizzjonijiet differenti u għal għanijiet differenti tagħha.

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

48. L-artikolu 4 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:-

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

“(1) Kemm-il darba ma jiġix ordnat xort'ohra, id-disposizzjonijiet ta' l-artikoli 5 sa 15 ma ghandhomx japplikaw għal dawk l-attivitajiet jew oqsma elenkati fil-Hames Skeda.”; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “wara konsultazzjoni ma dak il-Ministru li fil-fehma tal-Ministru” ghandhom jidhlu l-kliem “wara konsultazzjoni ma dak il-Ministru li fil-fehma tiegħu”.

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

49. Wara l-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 10 ta' l-Att prinċipali ghandu jiġi miżjud dan li ġej:

“Izda meta ordni tkun saret, l-orġinatur ghandu jgħarraf li rċieva l-ordni ta' l-indirizzat mingħajr dewmien żejjed u b'mezzi elettronici;”.

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

50. L-artikolu 11 ta' l-Att prinċipali ghandu jiġi sostitwit b'li ġej:

“Rekwiziti
ta'
informazzjoni
dwar
kuntratti
elettronici.

11. (1) Kemm-il darba ma jinqabilx xort'ohra minn partijiet li ma jkunux konsumaturi, u mingħajr preġudizzju għal kull dritt tal-konsumatur taht id-disposizzjonijiet ta' kwalunkwe liġi ohra, l-orġinatur ghandu jipprova informazzjoni li tiġi espressa b'mod ċar, komprensiv u mhux ambigwu dwar dak li hemm stipulat fl-Ewwel Skeda, liema Skeda tista' b'avviż fil-Gazzetta, tiġi emendata mill-Ministru wara li jikkonsulta ma' l-awtorità kompetenti:

Izda kwalunkwe informazzjoni ta' din ix-xorta ghandha tiġi mogħtija lill-indirizzat qabel ma jsir l-ordni minnu.

(2) Sakemm il-partijiet li m'humiex konsumaturi, ikunu ftiehem mod iehor, l-orġinatur ghandu jindika b'liema kodiċijiet ta' kondotta hu marbut u jagħti informazzjoni ta' kif wiehed jista' jikkonsulta dawn il-kodiċijiet b'mod elettroniku.

(3) Fejn l-originatur jipprovdi kondizzjonijiet u klawsoli kuntrattwali li japplikaw għall-indirizzat, l-originatur għandu jagħmilhom aċċessibbli għall-indirizzat b'mod li l-indirizzat jista' jzommhom u jirriproduċihom.

(4) Id-disposizzjonijiet tas-subartikoli (1) u (2) ta' dan l-artikolu ma għandhomx japplikaw għal kuntratti konklużi esklussivament permezz ta' posta elettronika jew b'komunikazzjoni individwali ekwivalenti.”.

51. Wara paragrafu (g) tas-subartikolu (1) ta' l-artikolu 25 ta' l-Att prinċipali għandu jiżdied dan il-paragrafu ġdid li ġej:-

Emenda ta' l-artikolu 25 ta' l-Att prinċipali.

“(h) il-konformità ma' kull obligazzjoni internazzjonali li l-Gvern jagħmel dwar kull aspett ta' kummerċ elettroniku regolat b'dan l-Att jew tahtu.”.

52. L-Ewwel Skeda għall-Att prinċipali għandha tiġi emendata kif ġej:

Emenda għall-Ewwel Skeda għall-Att prinċipali.

(a) il-paragrafu (g) tiegħu għandu jiġi enumerat mill-ġdid bhala paragrafu (i);

(b) wara l-paragrafu (f) tiegħu għandhom jiġu miżjuda ż-żewġ paragrafi li ġejjin:

“(g) il-mezzi tekniċi biex jiġu identifikati u kkoreġuti *input errors* qabel ma jsir l-ordni;

(h) il-lingwa jew lingwi li bih il-kuntratt jista' jiġi konkluż;”.

53. Wara r-Raba' Skeda li tinsab ma' l-Att prinċipali għandu jiżdied dan li ġej:

Żieda tal-hames Skeda ma' l-Att prinċipali.

“IL-HAMES SKEDA (Artikolu 4)

Attivitajiet jew oqsma elenkati skond l-artikolu 4

(a) il-qasam tat-tassazzjoni;

Kap. 440
A.L. 16 ta'
l-2003
A.L. 19 ta'
l-2003

(b) affarijiet li jirrigwardaw servizzi ta' soċjetà ta' informazzjoni li jaqgħu taht liġijiet li għandhom x'jaqsmu ma' protezzjoni ta' data inkluż l-Att dwar il-Protezzjoni u l-Privatezza tad-Data, Regolamenti ta' l-2003 dwar l-

Ipproċessar ta' *Data Personali* fis-Settur tat-Telekomunikazzjoni, u Regolamenti ta' l-2003 dwar *Data Personali* u Protezzjoni tal-Privatezza;

(c) affarijiet li ghandhom x'jaqsmu ma' kull ftehim jew prattika regolati mil-liġijiet dwar il-kompetizzjoni;

(d) l-attivitajiet ta' servizz ta' soċjetajiet ta' informazzjoni li ġejjin:

i) l-attivitajiet ta' nutara jew professjonijiet ekwivalenti sal-limitu li dawn jinvolve konnessjoni diretta u speċifika ma' l-eżerċizzju ta' l-awtorità pubblika,

ii) meta wiehed jidher ghal klijent u d-difiża li jagħmel għall-interessi tiegħu quddiem il-qrati,

iii) attivitajiet ta' loġhob ta' l-azzard li jinvolve it-tqegħid ta' mhatri b'valur monetarju f'loġhob ta' l-azzard, inklużi lotteriji u transazzjonijiet ta' mhatri;

(e) kuntratti li johlqu jew jittrasferixxu drittijiet fuq proprjetà immobbli minbarra drittijiet ta' kiri;

(f) kuntratti ta' pleggerija mogħtija u fuq assikurazzjoni kollaterali mogħtija minn persuni li jkunu qegħdin jaġixxu għal finijiet li ma jkollhomx x'jaqsmu man-negożju, il-kummerċ jew il-professjoni tagħhom;

(g) il-liġi li tirregola l-holqien, l-eżekuzzjoni, l-emenda, il-varjazzjoni jew ir-revoka ta':

i) testment jew kull istrument testamentarju ieħor;

ii) *trust*; jew

iii) prokura;

(h) kull liġi li tirregola l-għemil ta' affidavit jew dikjarazzjoni solenni, jew li teħtieġ jew tippermitti l-użu ta' xi wiehed minn dawn għal liema raġuni tkun;

(i) ir-regoli, prattiċi jew proċeduri f'qorti jew tribunal ikunu kif ikunu deskritti;

(j) kull liġi li għandha x'taqsam ma' l-ghoti ta' xiehda fi proċeduri kriminali;

(m) kull liġi li għandha x'taqsam mal-protezzjoni tas-saħħa pubblika jew ta' l-interessi tal-konsumatur sakemm din il-protezzjoni ma tirrestringix il-libertà li jiġi provdut servizz ta' soċjetajiet ta' informazzjoni.”

TAQSIMA VII

EMENDA TA' L-ORDINANZA DWAR IT-TELEGRAFIJA MINGHAJR FILI

54. (1) Din it-Taqsima temenda l-Ordinanza dwar it-Telegrafija minghajr Fili, u għandha tinqara u tiftiehem bhala haġa wahda ma' l-Ordinanza dwar it-Telegrafija minghajr Fili, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejha “il-liġi prinċipali”.

Emenda ta' l-Ordinanza dwar it-Telegrafija minghajr Fili. Kap.49.

(2) Din it-Taqsima għandha tidhol fis-seħh f'dik id-data li l-Ministru responsabbli għal komunikazzjonijiet jista' b'avviż fil-Gazzetta jistabbilixxi u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet differenti u għal għanijiet differenti tagħha.

55. (1) It-titolu l-qasir tal-liġi prinċipali għandu jithassar u minfloku jidhlu l-kliem “Att dwar ir-Radjokomunikazzjoni” ;

Emenda tat-titolu twil u t-titolu qasir tal-liġi prinċipali.

(2) It-titolu t-twil tal-liġi prinċipali għandu jithassar u minfloku jidhlu l-kliem li ġejjin:

“Att biex jikkontrolla r-radjokomunikazzjoni.”.

(3) Fl-artikolu 1 tal-liġi prinċipali minflok il-kliem “l-Ordinanza dwar it-Telegrafija minghajr Fili” għandhom jidhlu l-kliem “Att dwar ir-Radjokomunikazzjoni”.

56. Kemm-il darba ma jiġux xort'ohra provdut f'din it-Taqsima dawn il-kliem li ġejjin kull fejn dawn jinsabu fil-liġi prinċipali għandhom jiġu sostitwiti kif ġej:

Sostituzzjoni ta' certu kliem fil-liġi prinċipali

(a) il-kelma “Ordinanza” bil-kelma “Att”;

(b) l-kliem “telegrafija minghajr fili” bil-kelma “radjokomunikazzjoni”.

Emenda ta' l-
artikolu 2 tal-liġi
prinċipali.

57. Fl-artikolu 2 tal-liġi prinċipali it-tifsira “Ministru” ghandha tiġi sostitwita din li ġejja:

“ “Ministru” tfisser il-Ministru responsabbli għall-komunikazzjoni u sakemm ikun hemm xi delega magħmula skond l-artikolu 2A tinkludi l-Awtorità ta' Malta dwar il-Komunikazzjoni jew kull korp mwaqqaf b'liġi hekk delegat skond dak l-artikolu.” .

Żieda ta' l-artikolu
2A ġdid mal-liġi
prinċipali .

58. L-artikolu 2A ġdid li ġej ghandu jżidded wara l-artikolu 2 tal-liġi prinċipali:

“Delega ta'
poteri mill-
Ministru.

2A. (1) Il-Ministru jista' b'ordni fil-Gazzetta jiddelega kull poter jew funzjoni li ghandu taht dan l-Att, minbarra l-poter li jagħmel regolamenti, lill-Awtorità ta' Malta dwar il-Komunikazzjoni jew lil kull korp iehor mwaqqaf b'liġi jew lil aġenzija tal-Gvern u meta jkun qiegħed jagħmel xi delega bħal dik il-Ministru jista' jiddelega poteri u, jew funzjonijiet differenti lil korpi differenti kif hawn qabel imsemmi:

Izda meta jkun qiegħed jiddelega xi poteri u, jew funzjonijiet bħal dawk il-Ministru jista' jispeċifika l-ghan u l-limiti, jekk ikun hemm, ta' dik id-delega.

(2) Il-Ministru jkollu d-dritt jirrevoka jew jibdel kull delega li huwa jagħmel skond is-subartikolu (1) b'ordni fil-Gazzetta.” .

Emenda ta' l-
artikolu 3 tal-liġi
prinċipali.

59. Fl-artikolu 3 (1) tal-liġi prinċipali minflok il-kliem “Izda ma tkun tinhtieg ebda liċenza għar-riċezzjoni ta' xandir bis-smigh biss.” ghandhom jidhlu l-kliem li ġejjin:

“Izda ma tkun tinhtieg ebda liċenza ghar-riċezzjoni ta’ xandir bis-smiġh biss:

Izda wkoll il-Ministru jista’, wara konsultazzjoni ma’ l-Awtorità ta’ Malta dwar il-Komunikazzjoni, b’ordni fil-Gazzetta jeżenta lil ċertu kategoriji ta’ apparat mill-htigijiet ta’ dan l-artikolu.”.

60. L-artikolu 6 tal-liġi prinċipali ghandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 6 tal-liġi prinċipali

(a) is-subartikolu (1) tiegħu ghandu jiġi emendat kif ġej:

(i) in-numerali (1) ghandu jithassar;

(ii) il-kliem “elf lira” ghandhom jiġu sostitwiti bil-kliem “elfejn lira”;

(iii) il-kliem “elfejn lira” ghandhom jiġu sostitwiti bil-kliem “erbat elef lira”;

(iv) minflok il-proviso li hemm miegħu ghandu jidhol dan il-proviso ġdid li ġej:

“Izda minkejja d-disposizzjonijiet ta’ hawn qabel, il-Ministru jista’ jagħmel regolamenti li jirrigwardaw proċeduri li jistgħu jiġu adottati dwar il-finalizzazzjoni ta’ tilwimiet barra mill-qorti, inkluż kull ftehim bil-miktub li jista’ jsir ma’ persuna akkużata b’reat taħt dan l-artikolu, u kull ftehim għall-hlas ta’ penali minflok ma jitmexxa kontriha għal reat taħt dan l-Att.” ; u

(b) is-subartikoli (2) u (3) tiegħu ghandhom jithassru.

61. Fl-artikolu 7 tal-liġi prinċipali minflok it-tifsira “spettur tat-telegrafija mingħajr fili” ghandha tidhol din it-tifsira ġdida li ġejja: Emenda ta’ l-artikolu 7 tal-liġi prinċipali .

“ “spettur tar-radjokomunikazzjoni marittima” tfisser ufficjal mahtur mill-Ministru għall-finijiet ta’ din it-Taqsima

ta' l-Att, u kull riferenza ghal spettur f' din it-Taqsima ghandha tiftiehem bhala li tirreferi ghal spettur bhal dak.”.

Emenda ta' l-
artikolu 8 tal-liġi
prinċipali .

62. Fl-artikolu 8 tal-liġi prinċipali minflok il-kliem “ghandu jkollu impjant ta’ telegrafija minghajr fili u liċenza biex iżomm u juża dan l-impjant, u ghandu jzomm servizz ta’ telegrafija minghajr fili” ghandhom jidhlu l-kliem “ghandu jkollu impjant ta’ radjokomunikazzjoni li jkun *Global Maritime Distress Safety System* (GMDSS) jew kull impjant ta’ radjokomunikazzjoni iehor li l-Ministru jista’ jordna dwar kull kategorija ta’ bastimenti u liċenza biex iżomm u juża dak l-impjant, u ghandu jzomm servizz ta’ radjokomunikazzjoni”.

Emenda ta' l-
artikolu 10 tal-liġi
prinċipali.

63. Fis-subartikolu (1) ta’ l-artikolu 10 tal-liġi prinċipali minflok il-kliem “impjant regolari ta’ telegrafija minghajr fili” ghandhom jidhlu l-kliem “impjant regolari ta’ radjokomunikazzjoni”.

Żieda ta' Taqsima
IV ġdida mal-liġi
prinċipali.

64. Wara l-artikolu 18 tal-liġi prinċipali ghandha tizzied din it-Taqsima ġdida li ġejja:

“TAQSIMA IV

Mixxellanji

Setgħa li
jagħmel
regolamenti

19. Il-Ministru jista’ jagħmel regolamenti biex jittwettqu sew id-disposizzjonijiet ta’ dan l-Att u minghajr preġudizzju għall-ġeneralità tas-setgħa hawn qabel imsemmija, dawk ir-regolamenti jistgħu partikolarment jipprovdu dwar:

(a) il-mod kif l-apparat ta’ radjokomunikazzjoni ghandu jiġi installat, operat, miżmum, protett jew kontrollat;

(b) *standards* jew speċifikazzjonijiet tekniċi li ghandhom jitharsu dwar l-apparat ta’ radjokomunikazzjoni;

(ċ) kull haġa li tagħti l-poter lill-Ministru biex jirregola u jipprovdi għal awtorizzazzjonijiet ġenerali fir-rigward ta’ apparat ta’ radjokomunikazzjoni; u

(d) kull haġa li tista' tinhtieg bil-ghan li jkun hemm konformità ma' kull obbligazzjoni internazzjonali ta' Malta li għandhom x'jaqsmu mar-radjokomunikazzjoni inklużi dawk li għandhom x'jaqsmu ma' *standards* f'Malta.

Eżenzjoni
mid-
disposizzjo-
nijiet ta'
dan l-Att.

20. Il-Prim Ministru jista' b'ordni fil-Gazzetta jeżenta mid-disposizzjonijiet ta' dan l-Att kull apparat ta' radjokomunikazzjoni li jintuża mill-Istat biex jissodisfa l-esiġenzi ta' difiża, sigurtà pubblika jew htigijiet ta' protezzjoni ċivili.” .

65. L-Iskeda li tinsab mal-liġi prinċipali għandha tiġi emendata kif ġej:

Emenda ta' l-
Iskeda li tinsab
mal-liġi prinċipali.

(a) il-kliem “Regolamenti ta' l-1962 dwar it-Telegrafija mingħajr fili (Hlasijiet ta' Liċenza dwar Xandir)” kull fejn dawn jinsabu għandhom jiġu sostitwiti bil-kliem “Regolamenti ta' l-1962 dwar ir-Radjokomunikazzjoni (hlasijiet ta' Liċenza dwar Xandir)”;

(b) il-kliem “mill-Bord dwar il-Lukandi u l-Istabilimenti li jipprovdu l-Ikel” kull fejn dawn jinsabu fl-Ewwel Skeda li tinsab ma' l-Iskeda għandhom jiġu sostitwiti bil-kliem “mill-Awtorità tat-Turiżmu ta' Malta”.

TAQSIMA VIII

EMENDA TA' L-ATT DWAR IX-XANDIR

66. Fil-paragrafu 3 tat-Taqsima D tar-Raba' Skeda għall-Att dwar ix-Xandir, il-kliem “Twenty per cent of the above fees shall be automatically paid by the Authority to the Minister responsible for Wireless Telegraphy” għandhom ikunu sostitwiti bil-kliem “The Broadcasting Authority shall pay to the Malta Communications Authority such reasonable fees as may be due for those services which the Authority may require”.

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

A 480

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 162 tas-26 ta' Lulju, 2004.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

EDWARD FENECH ADAMI
President

3rd August, 2004

ACT No. VII of 2004

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:

1. (1) The short title of this Act is Communication Laws (Amendment) Act, 2004. Title and commencement.

(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 MALTA COMMUNICATIONS AUTHORITY ACT

2. (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.

Amendment of long and short titles of the principal Act.

3. In the long title of the principal Act, the words “telecommunications, data protection,” shall be substituted by the words “electronic communications, certain aspects of data protection in electronic communications, postal services”.

Amendment of article 2 of the principal Act.

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

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

“ “the Act” means this Act and includes any regulations made thereunder unless the context otherwise requires;

“Appeals Board” means the Communications Appeals Board established by article 36 of this Act;”;

(b) in the definition of “Authority” immediately after the words “article 3 of this Act” there shall be added the words “and any references in this Act or any other law to the Authority shall, unless the context otherwise requires, be construed as including a reference to any person authorised by the Authority to act for or on its behalf;”;

(c) the definition of “Chief Executive” shall be deleted;

(d) in the definition of “communications”:

(i) for the words “includes telecommunications” there shall be substituted the words “includes electronic communications”;

(ii) immediately after the words “data protection” there shall be added the words “in electronic communications”;

(iii) the words “, internet services,” shall be deleted;

(e) immediately after the definition of “contractor” there shall be inserted the following new definitions:

“ “decision” includes any determination, direction, measure, requirement or specification however so described

made by the Authority and the word “decision” shall be construed accordingly;

“directive” means a directive issued by the Authority in terms of article 4 of the principal Act;

“Director General” means the Director General appointed under article 5 of the principal Act;”;

(f) for the definition of “financial year” there shall be substituted the following:

“ “financial year” means any period of twelve months ending on the 31st December, so however that the Minister may, after consultation with the Authority, vary such date;”;

(g) after the definition of “Minister” there shall be inserted the following new definition:

“ “person” includes any body corporate and any body of persons whether or not it has a legal personality distinct from that of its members;”; and

(h) after the definition of “Public Officer” there shall be inserted the following new definition:

“ “undertaking” means a person providing or authorised to provide communications networks and, or services and, or associated facilities.”.

5. The words “Chief Executive” wherever they occur in the principal Act shall be substituted by the words “Director General”. General substitution in the principal Act.

6. Article 4 of the principal Act shall be amended as follows:- Amendment of article 4 of the principal Act.

(a) for the marginal note to article 4 there shall be substituted the following:

“Purpose, functions and powers of the Authority”;

(b) paragraph (r) of subarticle (3) thereof shall be renumbered as paragraph (s);

(c) immediately before paragraph (s) of subarticle (3) thereof as renumbered there shall be added the following new paragraph:

“(r) promote the interests of consumers and other users in Malta, particularly those who are disabled or of a pensionable age, especially in respect of the prices charged for, and the quality and variety of the said services;”;

(d) immediately after subarticle (3) thereof, there shall be added the following new subarticles:

“(4) It shall be the duty of the Authority to carry out its functions as established by or under this Act or any other law in an impartial and transparent manner and to ensure compliance therewith, and without prejudice to the generality of the foregoing, to ensure that persons providing any services, products, operations and activities in or from Malta relating to any matter regulated by the Authority, comply with this Act and with any other law which the Authority is entitled to enforce, and with any directives or decisions issued by or under this Act or any such other law.

(5) The Authority shall also have such other functions, responsibilities and powers as are set out by or under this Act or as may be assigned to it by or under any other law including all such powers as are necessary for or incidental to the performance of its functions by or under this Act or any other law. The Authority shall in the carrying out of its functions seek to ensure that the measures taken are proportionate having regard also to the objectives of the Authority.

Issue of directives
by the Authority.

(6) The Authority may issue such directives as it may consider to be necessary for the carrying into effect of or compliance with any of the provisions of this Act, or of any other law which the Authority is entitled to enforce, or any decisions that the Authority may make in accordance with its functions under this Act or any other law and it may amend or revoke such directives.

(7) Any directive issued by the Authority in accordance with this article and any amendment or revocation thereof shall be in writing, state the reasons on which it is based and shall be notified to the person concerned. The Authority may also publish any such directive in such manner as it may consider appropriate in the circumstances due account being taken of the importance of the directive and its impact on the market.

Co-operation with the competent authorities responsible for competition issues and consumer affairs etc.

(8) The Authority shall, where it considers appropriate, consult with the various competent authorities responsible for competition issues and consumer affairs and for such other areas as may impact on the sectors regulated by the Authority on matters of common interest in connection with the application of this Act and of any other law which the Authority is entitled to enforce.

(9) The Authority on the one hand and the competent authorities responsible for competition issues and consumer affairs on the other shall provide each other with the information necessary for the application of the provisions of this Act which information shall be provided within an appropriate timeframe taking into consideration the particular circumstances of the issues involved. In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as the originating authority.

Provision of information.

(10) Without prejudice to the enforcement powers that it has at law, the Authority may require any person to provide it with any information, including financial information, that the Authority considers necessary for the purpose of ensuring compliance with the provisions of, or decisions or directives made in accordance with this Act or any other law which the Authority is entitled to enforce.

(11) Any information required by the Authority under subarticle (10) of this article shall be proportionate to the performance of its functions and obligations under this Act and in requiring any information as aforesaid, the Authority shall state why it requires the information requested.

(12) A person who is notified with a requirement under subarticle (10) of this article shall comply promptly with the requirement within the timescales and according to any level of detail as may be required by the Authority:

Provided that any such person shall, in complying with the provisions of this subarticle, state clearly to the Authority if any information provided by him is to be considered as confidential for commercial reasons. In doing so he shall give his reasons to the Authority. It shall be the Authority which shall decide whether the information indicated to it as being confidential should be so treated:

Provided further that the provisions of this subarticle relating to confidentiality shall apply to any information provided to the Authority for whatever reason whether under this Act or any other law the Authority is entitled to enforce.

(13) Any person who fails or refuses to comply with a requirement under subarticle (10) of this article shall commit an infringement of this Act and shall be liable to the imposition of an administrative fine by the Authority not exceeding the sum of five thousand liri and, or one hundred liri for each day during which failure to comply persists.

Publication of information. (14) The Authority shall, subject to the protection of any information which it considers confidential, publish from time to time such information as would, in the opinion of the Authority, contribute to an open and competitive market.”.

Amendment of article 30 of the principal Act .

7. In article 30 of the principal Act immediately after the words “functions of the Authority” there shall be added the words “and the Minister may, in compliance with any international obligations of Malta, make any regulations relating to the imposition of any fees, rates or other payments however so described that the Authority may levy and in particular may prescribe the manner and the purpose for their imposition.”.

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

8. Part VII of the principal Act shall be renumbered as Part IX and articles 29 and 30 shall be renumbered as articles 43 and 44 respectively, article 31 shall be deleted and immediately after Part VI of the principal Act there shall be added the following new Part VII and Part VIII:-

“PART VII – ENFORCEMENT AND SANCTIONS

Enforcement powers of the Authority. 29. (1) For the purposes of the exercise by the Authority of any of its functions under the Act or any other law the Authority is entitled to enforce, the Authority may:

(a) enter, at any reasonable time, any premises other than a place of residence, or any other place or any vehicle or vessel where any activity regulated by or under this Act or any other law which the Authority is entitled to enforce, takes place, or in the opinion of the Authority takes place, and search and inspect the premises, place, vehicle or vessel and any books, documents or records found therein,

(b) require any person to produce for inspection and take extracts from any books, documents or records relating to any activities regulated by or under this Act or any other law which the Authority is entitled to enforce, which are under the control of that person and, in the case of information in a non-legible form to reproduce it in a legible form, and to give to the Authority such information as the Authority may reasonably require in relation to any entries in such books, documents or records,

(c) require any person to maintain such books, documents or records for such period as may be reasonable as the Authority directs,

(d) require any person to give to the Authority any information that may be required with regard to any activities regulated by or under this Act or any other law the Authority is entitled to enforce,

(e) make such inspections, tests and measurements of any machinery, apparatus, appliances and other equipment at any place as the Authority may consider necessary.

(2) Any officer of the Authority or any other person duly authorised by the Authority to act on its behalf when exercising a power conferred by this article, shall if requested by any person thereby affected, produce to that person for inspection a certificate issued by the Authority stating that he is duly authorised to act for and on behalf of the Authority.

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

(4) 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 Authority shall assist and shall collaborate with the Authority in order to enable it to discharge its functions, and shall collate and transmit without any undue delay such information and documentation as the Authority may reasonably request from time to time.

(5) Any person who -

(a) obstructs, impedes or assaults an officer of the Authority or any other person duly authorised by the Authority to act on its behalf in the exercise of a power under this article,

(b) fails or refuses to comply with a requirement under this article,

(c) alters, suppresses or destroys any books, documents or records which the person concerned has been required to produce, or may reasonably expect to be required to produce, or

(d) falsely represents himself to be an officer of the Authority or a person authorised by the Authority to act on its behalf,

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.

Disclosure of confidential information.

30. (1) Except where otherwise provided by law, a person shall not knowingly disclose confidential information obtained by him while performing the duties of a member, officer or employee of the Authority or of an adviser or consultant to the Authority, unless he is duly authorised by the Authority to do so.

(2) In this article “confidential information” means any information however so described which is considered by the Authority to be confidential and in relation to which the Authority has notified the persons concerned of their duty of non-disclosure.

(3) A person who contravenes this article shall be guilty of an offence against this Act and shall on conviction be liable to a fine (*multa*) not exceeding one thousand Maltese liri.

(4) Nothing in this article shall prevent the disclosure of any information to the Authority or, by or on behalf of the Authority to the Minister or as may be required at law.

Other sanctions the Authority may impose.

31. (1) Without prejudice to the provisions of articles 32 and 33 of this Act and unless otherwise expressly provided under this Act or any other law which the Authority is entitled

to enforce, the Authority may, if it deems appropriate, require any person who commits an infringement of any provisions of the Act or any other law which the Authority is entitled to enforce, to rectify his acts or omissions and to make his submissions thereto within such period not being less than thirty days and subject to such conditions as the Authority 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) of this article and in writing agrees to abide with any conditions that the Authority may impose in accordance with subarticle (1) of this article, the Authority shall desist from proceeding any further.

(3) If a person who commits an infringement of any provisions of this Act or any law that the Authority is entitled to enforce, fails to rectify his acts or omissions in accordance with subarticles (1) and (2) of this article, the Authority may:

(a) impose an administrative fine in accordance with the provisions of articles 32 and 33 of this Act, and

(b) in cases which the Authority considers to constitute a repeated and serious infringement, 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.

(4) Notwithstanding the provisions of subarticles (1) and (3) of this article and of article 33, where the Authority has prima facie evidence that the infringement -

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

(ii) 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:

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 Authority shall give its reasons for any decision taken under this article.

Administrative
infringements.

32. (1) The Authority may impose an administrative fine upon any person who:

(a) infringes any provision of this Act or of any other law which the Authority is entitled to enforce; or

(b) fails to comply with any directive or decision given by the Authority whether under this Act or any other law which the Authority is entitled to enforce:

Provided that in all cases where the Authority 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.

(2) An administrative fine imposed under subarticle (1) of this article shall not, unless provided otherwise by or under this Act, exceed one hundred thousand liri for each infringement or failure to comply and, or two 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 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 exceeded provided that this 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.

(3) 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.

(4) 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 (2) of this article.

(5) 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 by or under this article.

Procedure
when
imposing an
administrative
fine.

33. (1) Before imposing an administrative fine the Authority shall write to the person concerned warning him that an administrative fine may be imposed and informing him of the amount of the fine that may be imposed and the specific reasons for which it may be imposed and granting the person concerned a period of not less than thirty days as the Authority may determine to be appropriate in the circumstances during which period the person concerned may make his submissions to the Authority:

Provided that where the Authority has used the procedure provided for in article 31 of this Act, the notice provided for in the said article and in this subarticle may be given concurrently and the Authority may determine that the period of thirty days referred to above shall commence upon the lapse of any period granted for the remedy of any infringement under article 31 of this Act:

Provided further that the period of thirty days referred to in subarticle (1) of article 33 may be shortened in the circumstances referred to in subarticle (4) of article 31.

(2) Before deciding whether to impose an administrative fine the Authority shall consider the submissions, if any, made to it under subarticle (1) of this article.

(3) If after the lapse of the period during which submissions may be made in accordance with subarticle (1) of this article the Authority considers that the person concerned has not given any valid proof or reasons to demonstrate that the administrative fine referred to in subarticle (1) of this article should not be imposed, the

Authority shall impose an administrative fine in accordance with this Act and shall give notice in writing to the person concerned specifying the nature of the infringement and the amount of the administrative fine due.

Cap. 12. (4) The notice as referred to in subarticle (3) of this article shall, without prejudice to the right of appeal under article 38 of this Act, 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.

Cap. 12. (5) Notwithstanding the provisions of subarticle (2) of article 256 of the Code of Organization and Civil Procedure, the executive title referred to in subarticle (4) of this article shall not be enforceable before the lapse of thirty days from the service of the judicial act therein referred to:

Provided that where an appeal against an administrative fine in accordance with article 38 of this Act has been filed, the provisions of article 38 of this Act shall apply.

Administrative infringements by bodies corporate. 34. Where an administrative infringement of any provision of this Act or any other law which the Authority is entitled to enforce is committed by a body corporate and is proved to have been committed with the consent or involvement of or to be attributable to any gross negligence on the part of a person being a director, manager, secretary or other officer however so described of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be liable to be proceeded against and punished as if he was responsible for the said infringement .

Prescription for offences and administrative infringements. 35. The prosecution of a criminal offence or the initiation of proceedings to impose an administrative fine under this Act or under any other law which the Authority is entitled to enforce shall be prescribed by the lapse of two years from the date on which the offence or administrative infringement is alleged to have been committed.

PART VIII

COMMUNICATIONS APPEALS BOARD

Communi-
cations
Appeals
Board.

36. (1) There shall be an Appeals Board, to be known as the Communications Appeals Board which shall have jurisdiction to hear and determine appeals from decisions of the Authority as provided in this Act or in any law or regulations.

(2) The Communications Appeals Board shall be appointed by the Prime Minister, and shall be composed of:

(a) a chairman who shall be an advocate with at least seven years practice, and

(b) two other members who shall be selected by the Chairman of the Appeals Board from amongst panels of persons appointed by the Prime Minister and having such commercial, technical, or financial experience in the fields of electronic communications, postal services and such other areas relating to communications in respect of which the Appeals Board has jurisdiction.

(3) The Chairman and members of the panels of the Appeals Board shall be appointed for a term of three years and shall be eligible for re-appointment.

(4) The Appeals Board shall be independent in the performance of its functions.

(5) The Chairman and members of the Appeals Board may be challenged or abstain for any of the reasons for which a judge may be challenged or abstain in accordance with the Code of Organization and Civil Procedure. In such a case the Prime Minister shall appoint a person, having the qualifications of the chairman or member challenged or abstaining, to sit in substitution.

(6) A member of the House of Representatives or of the European Parliament or of a local council shall be disqualified from being appointed or continuing to be the Chairman or a member of the Appeals Board for as long as he holds that office.

(7) The Chairman or member of the Appeals Board may only be removed from office by the Prime Minister on grounds of gross negligence, conflict of interest, incompetence, or acts or omissions unbecoming a member of the Appeals Board. In doing so the Prime Minister shall lay before the House of Representatives a statement giving the reasons for the removal of the said member.

(8) The Chairman or a member of the Appeals Board shall for a period of one year following the termination for whatever reason of his appointment not engage in any activity which because of conflict of interest would have been incompatible with the exercise of his functions. Any person who acts in breach of this subarticle shall be guilty of an offence against this Act and shall on conviction be liable to a fine (multa) of not more than one thousand liri and shall be barred from being appointed to any similar posts for a period of not less than ten years.

(9) The Prime Minister shall designate a person to serve as secretary to the Appeals Board and who shall serve in such a capacity in accordance with the ethical standards appropriate to his position.

Appeals pending before the Telecommunications Appeals Board and the Postal Services Appeals Board.

(10) Notwithstanding the coming into force of Part VIII of this Act and the establishment of the Communications Appeals Board, any appeals that may be pending before the Telecommunications Appeals Board and, or the Postal Services Appeals Board on the date of the coming into force of Part VIII of this Act, shall continue to be heard and determined according to the law as in force immediately prior to the coming into force of Part VIII of this Act, by the Telecommunications Appeals Board and, or the Postal Services Appeals Board according to the merits of the case.

Appeals from decisions other than the imposition of administrative fines of the Authority.
Cap. 81.
Cap. 254.
Cap. 350.
Cap 399.

37. (1) Unless otherwise provided by law an appeal shall lie to the Appeals Board from a decision or a directive of the Authority made under this Act, the Electronic Communications (Regulation) Act, the Utilities and Services (Regulation of Certain Works) Act or the Postal Services Act:

Provided that the Prime Minister may by order in the Gazette extend the jurisdiction of the Appeals Board to:

(a) any other decisions that the Authority may take under any other law which the Authority is entitled to enforce, and

(b) any decision taken by or on behalf of Government or by any public authority in relation to or having a substantial bearing on communications.

(2) The right of appeal to the Appeals Board shall be competent to any person aggrieved by the decision:

Provided that in any case, a person making an appeal to the Appeals Board shall also explain his juridical interest in impugning the decision or directive appealed from.

(3) Without prejudice to the provisions of article 38 of this Act:

(a) An appeal from a decision or directive of the Authority shall be made by application and shall be filed with the secretary of the Appeals Board within thirty days from the date on which the said decision has been notified to the party appealing; and

(b) The application of appeal shall be notified to the Authority, which shall not later than twenty days from such notification file its reply thereto with the secretary of the Appeals Board.

Appeals
against an
administrative
fine imposed
by the
Authority.

38. (1) Without prejudice to the provisions of this Part, the procedure to be followed in relation to appeals against administrative fines imposed by the Authority shall be regulated by the provisions of this article.

(2) A person who is notified with a judicial act referred to in subarticle (4) of article 33 of this Act may within thirty days from the date of such notification lodge an appeal before the Appeals Board objecting to the administrative fine so fixed.

(3) The Appeals Board shall not annul an administrative fine as aforesaid 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 due account being given to the principle of proportionality.

(4) The Appeals Board shall, without delay, set down the appeal for hearing at an early date, which date shall in no case be later than forty days from the date of the service of the appeal on the Authority.

(5) The appeal, and the notification of the date fixed for hearing, shall be notified to the Authority without delay, and the Authority shall file its reply thereto within twenty days from the date of the notification of the appeal.

(6) The decision of the Appeals Board upon an appeal referred to in subarticle (2) of this article, confirming the imposition of a fine established by the Authority or reducing any such fine, shall upon becoming *res judicata* be deemed to be a decision of the Appeals Board equivalent to a decision of the First Hall of the Civil Court ordering payment by the appellant of the administrative fine as confirmed or reduced.

(7) There shall be a right of appeal to the Court of Appeal to any of the parties to the proceedings before the Appeals Board in accordance with article 41 of this Act.

Decisions of
the Appeals
Board.

39. (1) In determining an appeal the Appeals Board shall take into account the merits of the appeal, and may in whole or in part, confirm or annul the decision appealed from, giving in writing the reasons for its decision and shall cause such decision to be made public and communicated to the parties to the appeal.

(2) Subject to the provisions of article 41 the decisions of the Appeals Board shall be final and binding.

(3) Where the Appeals Board considers that, having regard to its determination of the appeal and all other relevant matters, there are sufficient reasons rendering it equitable to do so, it may, either of its own motion or on application by a consumer being a party to the appeal, order that the whole or part of the costs of any such party appearing before the Appeals Board relating to the engagement of a lawyer and, or of a technical adviser shall be paid to the consumer concerned by any other party to the appeal named in the order.

Procedure of
the Appeals
Board.

40. (1) In the exercise of its functions the Appeals Board may summon any person to appear before it and give evidence and produce documents, and the Chairman of the Appeals Board shall have the power to administer the oath.

(2) The Appeals Board shall endeavour to determine an appeal within one hundred and twenty days from the lapse of the period by when the Authority may file its reply to the aforesaid appeal and in any case shall deliver its final decision

not later than sixty days from when the parties declare that they have concluded with their evidence and made their final submissions.

(3) The Appeals Board in order to assist it in the exercise of its functions may appoint independent and impartial experts to advise it on any issue that may be relevant to any appeal lodged before it. In such cases the Appeals Board shall be entitled to make both provisional and final orders in respect of the payment of the costs and fees of such experts by any of the parties to the appeal.

(4) The Appeals Board in the exercise of its functions shall have the same powers as are competent to the First Hall, Civil Court according to law.

(5) The Minister may subject to the provisions of this Act, by regulations prescribe the procedure to be followed before the Appeals Board, and subject thereto and to any other provisions of this Act, the Appeals Board may regulate its own procedure.

(6) The Minister may, with the concurrence of the Minister responsible for finance by regulation, establish any such fees as are considered to be necessary in relation to any proceedings before the Appeals Board.

(7) The Minister may by regulation amend any of the periods stated in subarticle (2) of this article.

Appeal to the
Court of
Appeal.

41. (1) Any party to an appeal to the Appeals Board, including the Authority, who feels aggrieved by a decision of the Appeals Board, may on a question of law appeal to the Court of Appeal (Inferior Jurisdiction) as constituted in accordance with article 41(6) of the Code of Organization and Civil Procedure by means of an application filed in the registry of that court within thirty days from the date of the decision of the Appeals Board.

(2) The Minister responsible for justice may by regulation under this subarticle establish the fees payable in the registry of the court in relation to the filing of judicial acts in connection with appeals under this article:

Provided that until such fees are so established, the fees in Schedule A to the Code of Organization and Civil Procedure shall apply.

(3) The Board established under article 29 of the Code of Organization and Civil Procedure may make Rules of Court governing appeals to the Court of Appeal under this article.

Status of decision or directive pending an appeal before the Appeals Board or the Court of Appeal.

42. (1) The decision or the directive of the Authority pending an appeal whether before the Appeals Board or the Court of Appeal, shall stand and shall be adhered to by all the parties to whom the decision or the directive applies.

(2) The Appeals Board or the Court of Appeal as the case may be, where it considers it to be appropriate, may on the application of a party to the appeal, suspend the decision or the directive of the Authority pending the final determination of the appeal. The Appeals Board or the Court of Appeal in deciding to suspend the decision or the directive shall state their reasons for doing so.”.

Addition of new articles 45 and 46 to the principal Act.

9. Immediately after article 44 of the principal Act there shall be added the following new articles:

“Exemption from liability.

45. The members, officers and employees of the Authority in the performance of their functions under this Act or any other law administered by the Authority, shall not be liable for any loss or damage suffered by any person by reason of anything done or omitted to be done in good faith in the course of the administration of this Act or any other law.

Service of Notice.

46. (1) Where a notice however so described is required to be given by the Authority to any person whether under this Act or under any other law administered by the Authority, the notice shall be addressed to that person and shall be given to the person in any of the following ways:

(a) by delivering it to the person,

(b) by leaving it at the address at which the person ordinarily resides or carries on business,

(c) by sending it by registered post to the person at the address at which the person ordinarily resides or carries on business,

(d) if an address for the service of notices has been provided by the person, by leaving it at, or sending it by registered post addressed to the person to that address,

(e) in any case where the Authority considers that the immediate giving of the notice is required, by sending it, by means of a facsimile machine or by electronic mail, to a device or facility for the reception of facsimiles or electronic mail located at the address at which the person ordinarily resides or carries on business or, if an address for the service of notices has been furnished by the person, that address, provided that the facsimile machine of the sender generates a message confirming successful transmission of the total number of pages of the notice or the facility of the sender for the reception of electronic mail generates a message confirming receipt of the electronic mail:

Provided that the provisions of paragraph (e) of this article shall not apply to the notification of documents filed before the Appeals Board or any Court.

Proceedings
for debts due
to the
Authority.

47. (1) Where the Authority desires to sue for the recovery of a debt due to the Authority under any law which it is entitled to enforce for any licence or authorisation fee or other similar fee or charge however so described that may be due, the Chairman, Director General or an officer of the Authority duly authorised by the Authority to act on its behalf may make a declaration on oath before the registrar, a judge or a magistrate wherein he states the nature of the debt and the name of the debtor and confirm that it is due.

(2) The declaration referred to in sub-article (1) shall be served upon the debtor by means of a judicial act and it shall have the same effect as a final judgement of the competent court unless the debtor shall, within a period of twenty days from service upon him of the said declaration, oppose the claim by filing an application demanding that the court declare the claim unfounded.

(3) The application filed in terms of sub-article (2) shall be served upon the Authority, which shall be entitled to file a reply within a period of twenty days. The court shall appoint the application for hearing on a date after the lapse of that period.”.

PART II

**AMENDMENTS OF THE TELECOMMUNICATIONS
(REGULATION) ACT**

Amendments to the
Telecommunications
(Regulation) Act,
Cap. 399.

10. (1) This Part amends the Telecommunications (Regulation) Act, and it shall be read and construed as one with the Telecommunications (Regulation) 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 long
and short titles of
the principal Act.

11. (1) For the long title of the principal Act there shall be substituted the following:

“An Act to regulate Electronic Communications.”.

(2) In article 1 of the principal Act for the words “Telecommunications (Regulation) Act” there shall be substituted the words “Electronic Communications (Regulation) Act”.

Amendment of
article 2 of the
principal Act.

12. For all the definitions in article 2 of the principal Act there shall be substituted the following:

“ “access” means the making available of facilities and, or services, to another undertaking, under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing electronic communications services. It covers inter alia access to network elements and associated facilities, which may involve the connection of equipment, by fixed or non-fixed means (in particular this includes access to the local loop and to facilities and services necessary to provide services over the local loop), access to physical infrastructure including buildings, ducts and masts; access to relevant software systems including operational support systems, access to number translation or systems offering equivalent functionality, access to fixed and mobile networks, in particular for roaming, access to conditional access systems for digital television services; access to virtual network services;

“the Act” means this Act and includes any regulations made thereunder unless the context otherwise requires;

“apparatus” includes any equipment or machinery however so described;

“Appeals Board” means the Communications Appeals Board established under the Malta Communications Authority Act; Cap. 418.

“associated facilities” means those facilities associated with an electronic communications network and, or an electronic communications service which enable and, or support the provision of services through that network and, or service. It includes conditional access systems and electronic programme guides;

“the Authority and “the competent authority” mean the Malta Communications Authority established under the Malta Communications Authority Act;

“cable television networks” means any mainly wire-based infrastructure established primarily for the delivery or distribution of radio or television broadcast to the public;

“Community” means the European Communities;

“conditional access system” means any technical measure and, or arrangement whereby access to a protected radio or television broadcasting service in intelligible form is made conditional upon subscription or other form of prior individual authorisation;

“consumer” means any natural person who uses or requests a publicly available electronic communications service, or any such other communications services as the Minister may, after consultation with the Authority, by order in the Gazette establish, for purposes which are outside his trade, business or profession;

“cross-border” means to and from another Member State, unless stated otherwise;

“decision” includes any determination, measure, order, requirement or specification however so described made by the Authority and the word “decision” shall be construed accordingly;

“directive” means a directive issued by the Authority in terms of article 4 of the Malta Communications Authority Act; Cap. 418

“electronic communications network” means transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals by

wire, by radio, by optical or by other electromagnetic means, including satellite networks, fixed (circuit-switched and packet-switched, including Internet) and mobile terrestrial networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed;

“electronic communications service” means a service normally provided for remuneration which consists wholly or mainly in the conveyance of signals on electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting, but exclude services providing, or exercising editorial control over, content transmitted using electronic communications networks and services; it does not include information society services, as defined in the Electronic Commerce Act, which do not consist wholly or mainly in the conveyance of signals on electronic communications networks;

“end-user” means a user not providing public communications networks or publicly available electronic communications services;

“European Commission” means the Commission of the European Communities;

“exclusive rights” means a right granted to an undertaking reserving to it the right to provide an electronic communications service or to undertake an electronic communications activity within a given geographical area to the exclusion of other undertakings;

“general authorisation” means the legal framework established by or under this Act ensuring rights for the provision of electronic communications networks or services and laying down sector specific obligations that may apply to all or to specific types of electronic communications networks and services in accordance with this Act;

“interconnection” means the physical and logical linking of public communications networks used by the same or a different undertaking in order to allow the users of one undertaking to communicate with users of the same or another undertaking, or to access services provided by another undertaking. Services may be provided by the parties involved or other parties who have access to the network. Interconnection is a specific type of access implemented between public network operators;

“internal market” means the internal market of the Community;

“local loop” means the physical circuit connecting the network termination point at the subscriber’s premises to the main distribution frame or equivalent facility in the fixed public telephone network;

“Member State” means a Member State of the Community;

“the Minister” means the Minister responsible for communications;

“national regulatory authority” means the body or bodies notified for the purposes of Community law to the European Commission by a Member State as having been assigned tasks in the regulation of electronic communications services, electronic communications networks, associated facilities and associated services;

“network termination point” means the physical point at which a subscriber is provided with access to a public communications network; in the case of networks involving switching or routing, the network termination point is identified by means of a specific network address, which may be linked to a subscriber number or name;

“operator” means an undertaking providing or authorised to provide a public communications network or an associated facility;

“person” includes any body corporate and any body of persons whether or not it has a legal personality distinct from that of its members;

“prescribed” means prescribed by regulations made under this Act;

“provision of an electronic communications network” means the establishment, operation, control or making available of such a network;

“public communications network” means an electronic communications network used wholly or mainly for the provision of publicly available electronic communications services;

“public pay telephone” means a telephone available to the general public, for the use of which the means of payment may include coins and, or credit and, or debit cards and, or pre-payment cards, including cards for use with dialling codes;

“public telephone network” means an electronic communications network which is used to provide publicly available telephone services; it supports the transfer between network termination points of speech communications, and also other forms of communication, such as facsimile and data;

“publicly available electronic communications service” means an electronic communications service available to the public;

“publicly available telephone service” means a service available to the public for originating and receiving national and international calls and access to emergency services through a number or numbers in a national or international telephone numbering plan, and in addition may, where relevant, include one or more of the following services:

(i) the provision of operator assistance,

(ii) directory enquiry services,

(iii) directories,

(iv) provision of public pay phones,

(v) provision of service under special terms, and

(vi) provision of special facilities for persons with disabilities or with special social needs and, or the provision of non-geographic services;

“satellite earth station network” mean a configuration of two or more earth stations which inter-work by means of a satellite;

“significant market power” means a position equivalent to dominance enjoyed by an undertaking either individually or jointly with others that is to say a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers;

“special rights” means the rights that are granted to a limited number of undertakings which, within a given geographical area:

(i) designates or limits to two or more the number of such undertakings authorised to provide an electronic communications service or undertake an electronic communications activity, otherwise than according to objective, proportional and non-discriminatory criteria, or

(ii) confers on undertakings, otherwise than according to such criteria, legal or regulatory advantages which substantially affect the ability of any other undertaking to provide the same electronic communications activity in the same geographical area under substantially equivalent conditions;

“subscriber” means any person who or which is party to a contract with the provider of publicly available electronic communications services for the supply of such services;

“undertaking” means a person providing or authorised to provide electronic communications networks and, or services or associated facilities;

“universal services” means the minimum set of services of specified quality which is available to all users regardless of their geographical location and, in the light of specific national conditions, at an affordable price as may be defined under regulations made under this Act;

“user” means any person using or requesting a publicly available electronic communications service;

“wide-screen television service” means a television service that consists wholly or partially of programmes produced and edited to be displayed in a full height wide-screen format. The 16:9 format is the reference format for wide-screen television services.”.

13. In the title to Part II of the principal Act, and in sub-title 1 thereof, for the word “Telecommunications” there shall be substituted the words “Electronic Communications”.

Amendment of titles of Part II of the principal Act.

14. For article 3 of the principal Act there shall be substituted the following:

Substitution of article 3 of the principal Act.

“Malta
Communica-
tions
Authority.
Cap. 418.

3. The Malta Communications Authority established under the Malta Communications Authority Act shall be the competent authority to regulate electronic communications

under this Act and, insofar as is provided in this Act, to enforce the provisions of this Act.”.

Substitution of article 4 of the principal Act.

15. For article 4 of the principal Act there shall be substituted the following:

“Objectives of the Authority.

4. The objectives of the Authority in the exercise of its functions under the Act shall include:

(a) to promote competition by -

(i) ensuring that users, including disabled users, derive maximum benefit in terms of choice, price and quality;

(ii) ensuring that there is no distortion or restriction of competition in the electronic communications sector;

(iii) encouraging efficient investment in infrastructure, and promoting innovation; and

(iv) encouraging efficient use and ensuring the effective management of radio frequencies and numbering resources.

(b) to contribute to the development of the internal market by -

(i) removing remaining obstacles to the provision of electronic communication networks, associated facilities and services and electronic communications services at Community level;

(ii) encouraging the establishment and development of trans-European networks and the interoperability of transnational services and end-to-end connectivity,

(iii) ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing electronic communications networks and services and associated facilities, and

(iv) co-operating with electronic communications national regulatory authorities in

Member States of the Community and with the European Commission in a transparent manner to ensure the development of consistent regulatory practice and the consistent application of Community law in this field,

(c) to promote the interests of users within the Community by -

(i) ensuring that all users have access to a universal service,

(ii) ensuring a high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved;

(iii) contributing to ensuring a high level protection of personal data and privacy,

(iv) promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services,

(v) addressing the needs of specific social groups, in particular disabled users, and

(vi) ensuring that the integrity and security of public communications networks are maintained.

(d) ensuring that in so far as is practicable that there are provided in Malta such electronic communications services as satisfy all reasonable demands for such services including emergency services, public call services and directory information services.”.

16. In the heading to subtitle 2 of Part II of the principal Act the words between articles 4 and 5, “2. Authorisation for telecommunications systems or services” shall be deleted, and article 5 shall be read and construed as part of subtitle 1.

Deletion of the words of heading of subtitle 2 of Part II of the principal Act.

17. For article 5 of the principal Act there shall be substituted the following:

Substitution of article 5 of the principal Act.

“Applicability of the Act.

5. (1) This Act shall apply to the various communications markets unless otherwise stated in the Act.

(2) This Act shall not apply to the content of messages transmitted through any electronic communications network.

(3) The provisions of this Act shall be without prejudice to the operation of any other law:

(a) in respect of services provided using electronic communications networks and services, or

(b) in respect of content and broadcasting regulation or audiovisual policy, or

(c) relating to radio and telecommunications terminal equipment.”.

Addition of new subheading to subtitle 2 of Part II of the principal Act.

18. Immediately after article 5 of the principal Act, there shall be added the following new subheading to subtitle 2 of Part II:

“2. General provisions relating to the role of the Authority and the rights and obligations of undertakings”.

Substitution of articles 6 to 26 of the principal Act.

19. For articles 6 to 26 of the principal Act there shall be substituted the following:-

“Compliance when operating a network or providing a service.

6. (1) Any person shall install or operate any electronic communications network or provide any electronic communications service in Malta in compliance with this Act.

(2) Failure to comply with subarticle (1) of this article shall constitute an infringement of this Act.

Special obligations of providers of public communications networks.

7. (1) An undertaking authorised by or under this Act to operate a public communications network shall, in addition to complying with the provisions of this Act and with obligations in accordance with its authorisation, ensure:

(a) that the capacity, quantity and features of the network are sufficient for providing and maintaining an efficient communications network,

(b) that the network is sufficient for and compatible with such international electronic communications services as the Authority may specify, and

(c) the security of the network and any extension thereof.

(2) Failure to comply with subarticle (1) of this article shall constitute an infringement of this Act.

Special obligations of providers of publicly available electronic communications services.

8. (1) An undertaking authorised by or under this Act to provide a publicly available electronic communications service shall:

(a) provide such services efficiently, complying with the standards for quality generally accepted in the industry or as may from time to time be specified by the Authority,

(b) notify the Authority and publish by notice in the media when the services are to be interrupted for the installation or repair or the changing of apparatus,

(c) establish an efficient mechanism for receiving complaints and repairing failures in its networks and in the services provided,

(d) comply with the provisions of the Act as well as with the terms and conditions of the authorisation, and abide by any directives or decisions of the Authority as the Authority may be empowered to issue by or under this Act.

(2) Failure to comply with subarticle (1) of this article shall constitute an infringement of this Act.

Market definition and analysis.

9. (1) The Authority shall, subject to any procedures as may be prescribed under this Act and in accordance with the principles of competition law, define relevant markets appropriate to national circumstances, in particular relevant geographic markets and it shall carry out an analysis of such relevant markets. In doing so the Authority shall take the utmost account of any relevant recommendations and guidelines that the European Commission may issue from time to time.

(2) Where the Authority concludes that a market is effectively competitive, it shall then not impose or maintain such regulatory obligations and controls as may be specified in regulations made under this Act.

(3) Where the Authority determines that a relevant market is not effectively competitive, it shall identify and designate undertakings with significant market power in that market and it shall impose upon such undertakings appropriate regulatory obligations and controls identified in subarticle (2) of this article in accordance with any regulations made under this Act.

Consultation
and
transparency
mechanism.

10. (1) Except in relation to:

(a) any dispute being dealt with in accordance with this Act, or,

(b) the exercise of any enforcement powers of the Authority under Part VII of the Malta Communications Authority Act, or

Cap. 418.

(c) cases where the Authority considers that there is an urgent need to act in order to safeguard competition and protect the interests of users in accordance with Community law,

where the Authority intends to take a decision in accordance with the Act which has a significant impact on a market for electronic communications networks or services, it shall make available to interested parties, a statement of the proposed decision and give such interested parties the opportunity to comment on the proposed decision within a period which the Authority considers reasonable.

(2) The Authority shall publish its consultation procedures and shall establish a single information point through which all current consultations can be accessed.

(3) The results of any consultations under this article shall be made publicly available by the Authority through such means as the Authority considers appropriate in the circumstances, except in the case of information which the Authority considers to be confidential.

Numbers.

11. (1) The Authority shall establish and manage the national numbering plan for electronic communication services, and shall control the assignment of all national numbering resources. In doing so it shall ensure that adequate numbers and numbering ranges are provided for all publicly available electronic communications services.

(2) The Authority shall as necessary, subject to ensuring the proper management of the national numbering plan, grant rights of use for numbers and number ranges for all publicly available electronic communications services according to procedures that are objective, transparent and non-discriminatory.

(3) The Authority shall, subject only to any limitation that may be specified by the Minister on grounds of national security, from time to time publish the main elements of the national numbering plan and subsequent additions or amendments thereto.

(4) The Authority shall, in so far as is practicable, having regard to its objectives and functions as stated under this Act, support the harmonisation of numbering resources within the Community where necessary to support the development of pan-European services.

(5) The Authority may, without prejudice to the generality of any provisions by or under this Act relating to authorisations, attach conditions to rights of use for numbers to ensure efficient and effective management of all numbering resources.

(6) No undertaking shall assign to locations, terminals, persons or functions on public electronic communications networks, numbers that have not specifically been allocated to that person by the Authority for the purpose of providing publicly available electronic communications services.

(7) An undertaking allocated a range of numbers shall not discriminate against any other providers of electronic communications services as regards the number sequences used to give access to their services.

(8) Any undertaking which commits an infringement of any provisions of this article shall be liable to the imposition of an administrative fine by the Authority not exceeding the sum of ten thousand liri and, or two hundred liri for each day during which failure to comply persists.

Prohibition
of
restrictions.

12. No restrictions shall be imposed or maintained on the provision of electronic communications services over electronic communications networks established by an undertaking providing electronic communications services,

over infrastructures provided by third parties, or by means of sharing networks, other facilities or sites.

3. Access and Interconnection

Functions of the Authority with regard to access and interconnection.

13. The Authority shall, acting in accordance with its objectives as stated in the Malta Communications Authority Act, encourage and where appropriate, ensure, in accordance with the provisions made by or under this Act, adequate access and interconnection and interoperability of services in such a way as to:

- (a) promote efficiency,
- (b) promote sustainable competition, and
- (c) give the maximum benefit to end-users.

Prohibition of restrictions.

14. (1) No restrictions may be imposed or maintained that prevent:

- (a) undertakings in Malta, or
- (b) undertakings in Malta and in Member States,

from negotiating between themselves agreements on technical and commercial arrangements for access and, or interconnection, in accordance with Community law.

(2) An undertaking requesting access or interconnection in Malta does not need to be authorised to operate in Malta if it is not providing services and does not operate a network in Malta.

(3) An operator of public communications networks:

- (a) shall be entitled, and
- (b) when requested by another undertaking authorised to provide public communications networks, shall have an obligation,

to negotiate interconnection for the purpose of providing publicly available electronic communications services in order to ensure provision and interoperability of services in Malta and throughout the Community.

(4) An operator of public communications networks shall offer access and interconnection to other undertakings on terms and conditions consistent with obligations relating to access and interconnection imposed by the Authority in accordance with this Act.

(5) Without prejudice to information that an undertaking under or by this Act is required to provide under a general authorisation for rights of use or for specific obligations, an undertaking that acquires information from another undertaking before, during or after the process of negotiating access or interconnection arrangements shall use that information solely for the purpose for which the information was supplied and shall respect at all times the confidentiality of information transmitted or stored.

(6) An undertaking shall not pass on any information acquired referred to in subarticle (5) of this article to any other party, in particular other subsidiaries or partners however so described of the undertaking where such information could provide a competitive advantage.

(7) Any undertaking which commits an infringement of this article shall be liable to the imposition of an administrative fine by the Authority not exceeding the sum of ten thousand liri and, or two hundred liri for each day during which failure to comply persists.

4. Accounting separation and financial reporting

Obligation of undertakings in relation to accounting separation.

15. (1) Any undertaking providing a public communications network or a publicly available electronic communications service, that is also engaged in an activity other than the provision of such network or services on the basis of special or exclusive rights for the provision of that activity whether in Malta or in a Member State shall:

(a) keep separate accounts audited in accordance with generally accepted auditing practices for the activities associated with the provision of that network or service, to the extent that would be required if those activities were carried out by legally independent companies, so as to identify all elements of cost and revenue, with the basis of their calculation and the detailed attribution methods used, related to their

activities associated with the provision of electronic communications networks or services including an itemised breakdown of fixed asset and structural costs, or

(b) have structural separation for the activities associated with the provision of electronic communications networks or services:

Provided that the Minister may, after consultation with the Authority, by order in the Gazette establish that the requirements referred to in paragraph (a) of subarticle (1) of this article do not apply to undertakings the annual turnover of which in activities associated with electronic communications networks or services in the Members States is less than twenty one million Maltese Liri or any other such other amount as the Minister may, after consultation with the Authority, by order in the Gazette establish.

(2) Any undertaking which fails to comply with a requirement under this article shall be liable to the imposition of an administrative fine by the Authority not exceeding the sum of ten thousand liri and, or two hundred liri for each day during which failure to observe this article persists.

Financial reporting. Cap. 386.

16. (1) Where an undertaking providing public communications networks or publicly available electronic communications services is not subject to the requirements of the Companies Act and does not satisfy the small and medium-sized enterprise criteria of Community law accounting rules, it shall ensure that:

(a) annual accounts shall be drawn up and submitted to independent audit and published, and

(b) such audit shall be carried out in accordance with the relevant rules applicable in Malta and in the Community:

Provided that nothing in this sub-article shall be construed as imposing obligations that are more onerous than those imposed on companies in the Companies Act.

(2) Any undertaking which fails to comply with a requirement under this article shall be liable to the imposition of an administrative fine by the Authority not exceeding the

sum of ten thousand liri and, or two hundred liri for each day during which failure to observe this article persists.

5. Authorisations

General
authorisations.

17. (1) An undertaking subject to the provisions of this Act, shall be entitled to provide electronic communications services or to establish, extend or provide electronic communications networks.

(2) No exclusive or special rights for the establishment and, or the provision of electronic communications networks, or for the provision of publicly available electronic communications services shall be granted or maintained in force.

(3) The provision of electronic communications networks or services may, without prejudice to the specific obligations that may be imposed on providers of such networks and services by or under this Act, only be subject to a general authorisation.

(4) A general authorisation granted by or under this Act to an undertaking to provide electronic communications services and, or to establish and, or provide electronic communications networks, as well as any conditions attached thereto shall be based on objective, non-discriminatory, proportionate and transparent criteria.

Administrative
charges

18. (1) Any administrative charges imposed by the Authority on undertakings under general authorisation or to whom a right of use has been granted shall:

(a) in total, cover only the administrative costs which will be incurred in the management, control and enforcement of the general authorisation scheme and of rights of use, and specific obligations, and may include costs for international cooperation, harmonisation and standardisation, market analysis, monitoring compliance and other market control, as well as any regulatory work involving compliance with this Act and the preparation and enforcement of any directives and, or decisions issued by or under this Act; and

(b) be imposed upon the individual undertakings in an objective, transparent and proportionate manner which

minimises additional administrative costs and attendant charges.

(2) The Authority shall, in relation to the imposition of such administrative charges, publish an annual overview of its administrative costs and of the total sum of charges collected.

(3) The Authority shall, in the case of charges imposed on an annual basis, make appropriate repayments or compensation in the case of overcharging, or impose additional charges in the case of undercharging of a person to whom a charge is imposed in the light of any difference between the total sum of administrative charges collected and the administrative costs incurred.

(4) Any fees that may be imposed for rights of use for radio frequencies and, or numbers shall reflect the need to ensure the optimal use of the radio frequency spectrum and the national numbering scheme.

(5) Any such fees referred to in subarticle (4) of this article shall be objectively justified, transparent, non-discriminatory and proportionate in relation to their intended purpose and shall take into account the objectives as set out in article 4 of the Act.

Authorisation
of electronic
communi-
cations
networks and
services.

19. (1) Subject to subarticle (4) of this article any person who intends to provide an electronic communications network and, or electronic communications service shall, before doing so, notify the Authority of his intention to provide such a network and, or service.

(2) A notification under subarticle (1) of this article shall be in such form as the Authority may from time to time determine and shall contain the information that is required to enable the Authority to maintain a list of providers of electronic communications networks and, or services.

(3) Upon receipt by the Authority of a notification in accordance with subarticle (1) of this article, the person concerned shall be deemed to be authorised to provide an electronic communications network and, or electronic communications service, subject to such conditions as may be imposed in accordance with this Act.

(4) The Authority may determine that any person providing an electronic communications network and, or electronic communications service of a particular class or description specified in such a decision, shall not be subject to the requirements of subarticle (1) of this article.

(5) Any person who fails or refuses to comply with a requirement under this article shall be liable to the imposition of an administrative fine by the Authority not exceeding the sum of five thousand liri and, or one hundred liri for each day during which failure to observe this article persists.

(6) The Authority may, with the approval of the Minister, by order in the Gazette amend the rights, conditions and procedures concerning general authorisations and rights of use for numbers provided that any such amendments may only be made in objectively justified cases and in a proportionate manner:

Provided that the Authority before making any such amendment shall give notice in such manner as it considers appropriate of its intention, inviting interested parties including users and consumers, to make representations on the proposed amendments within such period of not less than thirty days as may be specified in the notice. The Authority may in circumstances which it considers to be exceptional, shorten such period.

Requirement to obtain other authorisations etc. required at law.

20. Compliance with any authorisation by or under this Act enabling a person to install or operate any electronic communications network or provide any electronic communications service shall not relieve such a person from any requirement at law to apply for any other authorisation, licence or permit however so described, or from any obligation arising from any other law.

6. Obligations of vertically integrated public undertakings

Prohibition of discrimination in one's own favour.

21. (1) A vertically integrated undertaking, over which the Government of Malta or of a Member State has effective control, which provides electronic communications networks and which is in a dominant position shall not discriminate in favour of its own activities.

(2) An undertaking which commits an infringement of subarticle (1) of this article shall be liable to the imposition of an administrative fine by the Authority not exceeding the sum of ten thousand liri and, or two hundred liri for each day during which failure to comply persists.

7. End-user interests and rights

22. (1) An undertaking shall provide a person subscribing to services providing connection and, or access to the public telephone network, with a written contract and it shall provide such services to end-users in accordance with such a written contract.

End-user rights and the information to be included.

(2) A contract referred to in subarticle (1) of this article shall expressly include such information as may be specified by the Minister after consultation with the Authority, as the Minister considers to be necessary to protect the interests of subscribers and of end-users.

(3) Where a written contract is agreed to between an end-user and an undertaking which provides electronic communications services, other than one providing connection and, or access to the public telephone network, such contract shall include such information as may be specified in accordance with subarticle (2) of this article.

(4) An undertaking referred to in subarticles (1) or (3) of this article shall, not less than 30 days prior to the taking of effect of any proposed modification, notify every subscriber to that service:

(a) of the proposed modification in the conditions of his contract for that service, and

(b) of his right to withdraw without penalty from such contract if he does not accept the modification.

(5) A subscriber referred to in subarticle (3) of this article may withdraw from his contract with the undertaking, without penalty if he does not accept a proposed modification referred to in subarticle (4) of this article.

Nullity of certain terms and conditions.

23. A term or condition for the provision of an electronic communications service, even if agreed to by the subscriber or user, shall be null and without effect to the extent

that it is inconsistent with any provisions made by or under this Act or the terms or conditions of the authorisation on the strength of which the service is provided.

8. Dispute resolution

Dispute
resolution
between
undertakings.

24. (1) In the event of a dispute arising between undertakings established in Malta in connection with obligations under the Act, 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 this Act:

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) of 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) Where the Authority decides not to initiate an investigation under subarticle (2) of this article, it shall inform the parties of such decision as soon as possible thereafter.

(4) If four months from the date of a decision referred to in subarticle (3) of this article the dispute is not resolved and the party seeking redress has not initiated legal proceedings before the ordinary courts or any other competent adjudicative fora 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 have regard to the its objectives under article 4 of the Act stated in the Malta Communications Authority Act.

(6) An undertaking to which a decision under this article applies shall, saving the provisions of article 42 of the Malta Communications Authority Act, forthwith comply with that decision. If the undertaking fails to do so, it shall be deemed to have committed an infringement of this article and the Authority may impose an administrative fine of not more than two thousand liri for each day of non-compliance in accordance with the provisions of this Act. 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.

(7) 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.

(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 fora.

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

Disputes
involving
consumers.

25. (1) Where a dispute however so described arises between an undertaking and a consumer further to a complaint by a consumer alleging an infringement of the principal Act, any party to such a dispute may refer the dispute to the Authority:

Provided that in making a complaint the consumer must prima facie show that he has been affected by the act or omission of the undertaking giving rise to 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 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 an undertaking requiring that undertaking to comply with any measure the Authority may specify for the resolution of the dispute. Such directives may, having regard to its 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 administrative procedures 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 consumer 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 undertakings 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.

Extension of applicability to other laws. 26. The Minister may by order in the Gazette extend the applicability of the procedures established under article 24 and, or article 25 of this Act to any other law which the Authority is entitled to enforce.”.

Deletion of articles 27 to 32 of the principal Act.

20. Articles 27 to 32 of the principal Act shall be deleted.

Renumbering of article 32A of the principal Act.

21. Article 32A of the principal Act shall be renumbered as article 27 thereof and the following heading of Part III shall be inserted immediately before it:

“Part III - Legal Protection of services based on or consisting of conditional access”.

Deletion of articles 33 to 40 of the principal Act.

22. Articles 33 to 40 of the principal Act shall be deleted.

Addition of new Parts IV to VI and articles regulations 28 to 37 in the principal Act.

23. Immediately after article regulation 27 as renumbered of the principal Act there shall be added the following new Parts:-

“Part IV

Radio Frequencies Management

Interpretation. 28. In this Part unless the context otherwise requires “plan” means the “national radio frequency plan” as adopted by the Minister and published in accordance with the provisions of this Part.

Need of explicit authorisation. 29. Unless otherwise explicitly authorised by or under any law no person shall use any radio frequency that has not specifically been allocated to that person by the Authority in accordance with the national radio frequency plan:

Provided that the Minister may in writing authorise the Authority to depart from the plan. In doing so the Minister

shall give his reasons and notice of such authorisation shall be made public.

Management
of radio
frequencies.

30. (1) The Authority shall, in accordance with its objectives under the Act and subject to the national radio frequency plan, be responsible for the effective management of the radio frequencies assigned to it under the said national radio frequency plan.

(2) Without prejudice to subarticle (3) of this article, no exclusive or special rights of use of radio frequencies shall be granted for the provision of electronic communications services.

(3) The Authority and the Minister shall in the exercise of their respective functions with regard to the allocation and assignment of such radio frequencies act in accordance with objective, transparent, non-discriminatory and proportionate criteria.

Adoption and
publication of
a plan.

31. (1) The Minister shall draw up, adopt and publish a plan, which plan shall from time to time be revised and republished by the Minister as may be deemed necessary:

Provided that before adopting or revising the plan as the case may be, the Minister shall in all instances consult the Authority.

(2) The Minister shall in drawing up the plan establish the frequencies to be used and the purposes for which they may be used.

(3) The plan shall include a set of tables indicating frequency allocations in the radio spectrum at the date of publication of the plan.

Authorisations
for use of
radio
frequencies.

32. (1) The use of radio frequencies and apparatus, other than frequencies and apparatus to be used for the provision of broadcasting services and frequencies not assigned to the Authority under the national radio frequency plan, shall be subject to an authorisation by the Authority given in accordance with any regulations made under this Part.

(2) The Minister may after consulting the Authority make regulations:

(a) on any aspect concerning the issue of authorisations under this Part,

(b) as to the manner how radio frequencies and, or apparatus as may be designated, may be used without the need of an authorisation required under this Part.

Powers of the Authority specific to radio frequencies.

33. The Minister, or the Authority with the approval of the Minister, may for the purpose of ensuring the most efficient and effective use of radio frequencies in accordance with the provisions of this Act, impose such requirements or take such measures as they may consider appropriate including but not limited to the redistribution or sharing of frequencies.

Part V

Regulations

Regulations.

34. (1) The Minister may, either on the recommendation of the Authority or on his own initiative after consultation with the Authority, make regulations to give better effect to any of the provisions of this Act and in particular to:

(a) regulate electronic communications services and, or networks including interconnection of networks, collocation of facilities, carrier pre-selection, access to networks, rights of way, the transmission or reception of satellite signals, the maintenance of and publication, and access to any information however so described, stipulate universal service obligations, any matter concerning numbers including portability, plans and allocation, the obligations of an undertaking having significant market power, competition and consumer protection rules, billing procedures and billing accuracy, emergency services and directory services;

(b) provide for any requirements that may be imposed on undertakings to adopt accounting systems as may be prescribed and to keep such operational, accounting, financial, statistical and technical records as may be specified in the regulations, including the provision to the Authority of such statement, returns and other information about any company in which an

undertaking has a controlling interest as the Authority may require for the carrying out of its functions under the Act;

(c) provide for the conditions applicable to any authorisations and, or licences however so described, and returns and reports to be made to the Authority;

(d) regulate the manner in which an electronic communications and, or radiocommunications infrastructure or apparatus is to be installed, operated, maintained, protected or controlled and the technical standards or specifications to be observed with respect to such infrastructure or apparatus;

(e) provide for the measures to be taken to ensure compliance with international and other standards used in the electronic communications and for the means to be used and the measures to be adopted to ensure safety and prevent danger, damage or nuisance in relation to any aspect of electronic communications;

(f) regulate the quality and standard of electronic communications services to be provided, and quality of service targets and the establishment and maintenance of an efficient assistance service by undertakings for users;

(g) provide for the complaint processing procedures to be implemented by an undertaking;

(h) regulate television and radio distribution services including must carry rules, and the obligation to make channel capacity for public, governmental or educational use;

(i) provide for any matter relating to the resolution of any disputes and, or complaints however so described relating to electronic communications networks or services including appeals from any decision, and the procedure to be followed in the resolution of cross-border disputes;

(j) regulate the procedure for the resolution of disputes involving electronic communications networks and, or services and consumers and the relationship

between the Authority and other public authorities responsible for the resolution of disputes;

(k) prescribe measures to be taken by any person for the purpose of ensuring the inviolability of electronic communications transmitted and their confidentiality and the protection of privacy in relation to any electronic communications service including data protection measures in the electronic communications sector and data protection measures related to the use of information obtainable in the electronic communications sector for the purpose of direct marketing;

(l) regulate the provision of information between Malta and the Community and, or Members States;

(m) regulate and provide for any fees and, or charges however so described that may be payable to the Authority;

(n) provide for any matters that may be required for the purpose of complying with any international obligations of Malta related to electronic communications in particular for the purpose of complying with any requirements however so described of the Community;

(o) regulate the allocation or use of radio frequencies for electronic communications networks and/or services, including the transfer of rights to use radio frequencies and the procedure to be followed;

(p) regulate any matter relating to the regulation, administration, management and authorisation of radio spectrum, including the fees and conditions that may be imposed in relation thereto;

(q) empower the Authority to impose administrative fines not exceeding the sum of one hundred thousand Maltese liri for each offence and two thousand Maltese liri for each day during which failure to comply with the Act persists, upon any person acting in contravention of any regulations made under this Act and to provide for the imposition and enforcement of such fines in accordance with the provisions of this Act and the Malta Communications Authority Act;

(r) regulate the obligations including financial obligations of undertakings with regard to legal interception;

(s) prescribe anything that may be prescribed under this Act:

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

(2) The Minister may, after consultation with the Authority, by order in the Gazette empower any other public authority established by law to exercise any specific functions under this Act or under any regulations made thereunder where in the opinion of the Minister it is deemed appropriate in the particular circumstances for the said functions to be exercised by another public authority:

Provided that in issuing an order under this sub-article the Minister shall give his reasons therefor.

Part VI

Criminal Offences

Offences of criminal nature specific to electronic communications.

35. (1) Any person who:

(a) constructs, repairs, maintains, alters or controls any apparatus or installation without having the qualifications required for that purpose by or under this Act;

(b) sells or offers for sale or provides or installs or uses any installation or apparatus which does not conform with such technical standards or specifications as are required or established by or under this Act, or which he knows, or has reasonable cause to believe, to be defective or incompatible with the services for which it was sold, provided, installed or used;

(c) provides any electronic communications service or installs or operates any electronic communications network or apparatus in breach of any provision of this Act or in breach of any condition, restriction or limitation imposed by or under this Act;

(d) uses any electronic communications network or apparatus supplied by an undertaking for a purpose other than that for which it was supplied, or neglects to observe instructions which are issued by an undertaking for the proper use of the electronic communications network or apparatus or makes 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 for a further fine (*multa*) not exceeding two hundred liri for each day during which the offence continues.

(2) Any person who furnishes information to the Authority or the Minister which he knows, or has reasonable cause to believe to be false or misleading, or impedes or obstructs the Authority or the Minister, in the performance of any functions by or under this Act, shall be guilty of an offence under this Act, and shall on conviction, be liable to a fine (*multa*) not exceeding ten thousand liri or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

(3) Any person who being a person employed or detailed for duty with or attached to an undertaking:

(a) gives any information with regard to any message with which he becomes acquainted by reason of his office to any person not entitled to receive such information;

(b) wilfully alters or suppresses any message or the designation of the person to whom it is transmitted or to whom it is addressed, without a good cause;

(c) wilfully omits, delays or obstructs the transmission or delivery of any message or cancels or destroys any message or an application for the transmission of any message without a good cause;

(d) wilfully represents a message as having been sent by a person other than the sender or as being addressed to a person other than the addressee, or an application for the transmission of a message as having been made by a person other than the applicant, without good cause;

(e) wilfully cancels or destroys any message not addressed to him or an application for the transmission of a message, without good cause; or

(f) unlawfully withdraws from the control of an undertaking, or of an individual employed or detailed for duty with, or attached to, an undertaking, a message addressed to another person,

shall be guilty of an offence under this Act and shall be liable, on conviction, to a fine (*multa*) not exceeding ten thousand liri or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

(4) Any person who assaults or obstructs or impedes any officer, employee or agent of an undertaking in the exercise of his duties with such undertaking shall be guilty of an offence under 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.

Power of
Minister to
make
regulations
in relation to
criminal
offences.

36. Without prejudice to any other provision of this Act the Minister may, after consultation with the Authority, make regulations prescribing penalties for criminal offences against any regulations made under this Act, and such regulations may:

(a) prescribe different fines (*multi*) for different offences;

(b) prescribe fines (*multi*) calculated in accordance with the duration of the commission of the offence:

Provided that any such regulations as may be made shall not provide for a fine (*multa*) of more than ten thousand liri or two hundred Maltese liri for each day during which the offence persists.

Proceedings
for a criminal
offence.

37. (1) No proceedings for any criminal offence under this Act other than offences under article 27 or under paragraph (d) of subarticle (1) of article 35 shall be instituted without the consent of the Authority or at its request.

(2) Notwithstanding anything contained in the Criminal Code, an appeal to the court of competent jurisdiction shall lie to the prosecution against any judgement delivered in any proceedings with respect to an offence under this Act.”.

Deletion of heading
preceding article 41
of the principal Act.

24. The heading “Part III – Savings and Transitory Provisions” immediately preceding article 41 of the principal Act shall be deleted.

Amendment of
article 41 of the
principal Act.

25. Subarticle (1) of article 41 of the principal Act shall be deleted.

Deletion of articles
42 to 47 of the
principal Act and
addition of new
article 42.

26. (1) Articles 42 to 44 (including the Schedule) and 45 to 47 of the principal Act shall be deleted.

(2) Subarticle (2) of article 41 shall be renumbered as the whole provision of the new article 42.

Addition of new
articles 38
to 41 of the
principal Act.

27. Immediately after article 37 of the principal Act there shall be substituted the following:-

“PART VII

Saving, Transitory and Exemptions

Saving.

38. (1) The repeal of articles 43, 44 (including the Schedule), 45, 46 and 47 of this Act as in force on the 1st May, 2004 shall be without prejudice to anything done or still to be done under the said articles.

(2) Any regulations made or kept in force by or under any of the provisions of this Act as in force on the 1st May, 2004 and still in force on the said date shall, until other provision is made under or by virtue of this Act, continue to be in force and have effect.

(3) Any directives, decisions or designations however so described made by the Authority under this Act as in force on the 1st May, 2004 and still in force on the said date shall continue to be in force until revoked or amended by the Authority.

(4) The provisions of article 44 of this Act as in force on the 1st May, 2004 shall continue to apply:

(i) in respect of anything done at the time when they were in force and in respect of anything consequential, arising out of or related thereto whenever so done; and

(ii) *mutatis mutandis* in respect of the implementation of this Act or any law or regulation with the purpose of market liberalisation or compliance with the international obligations of Malta with regard to electronic communications services or electronic communications networks.

Review of former obligations for access and interconnection. L.N. 151 of 2000. L.N. 243 of 2000. L.N. 167 of 2001. L.N. 45 of 2003. L.N. 61 of 2003

39. (1) Notwithstanding anything in this Act or in any regulations made thereunder, an undertaking shall continue to comply with any obligations concerning access and interconnection under this Act as previously entitled as the Telecommunications (Regulation) Act and any regulations made thereunder including under the Internet and Other Data Networks (Service Providers) Regulations, 1999, the Telecommunications Services (General) Regulations 2000, the Interconnection (Obligations and Rates) Regulations, 2000, the Cable Systems (General) Regulations 2001, the Telecommunications (Unbundled Access to the Local Loop) Regulations, 2003, the Telecommunications (Leased Lines) Regulations 2003, applicable to it immediately before the coming into force of this Act until such time as the said regulations are amended or as specific obligations pursuant to a market analysis undertaken by the Authority in accordance with the provisions of this Act, are imposed on any undertaking designated under article 9 of this Act.

(2) The Authority shall give such notice as it considers reasonable to any party affected by the amendment or withdrawal of obligations referred to in subarticle (1) of this article.

Continuation of certain existing obligations. L.N. 151 of 2000. L.N. 61 of 2003

40. An undertaking shall continue to comply with any obligations applicable to it under this Act or any regulations made thereunder as in force on the 1 May 2004 and still in force on the said date relating to:

(a) tariffs for the provision of access to and use of the public telephone access under the Telecommunications Services (General) Regulations, 2000,

(b) carrier selection or pre-selection under the Telecommunications Services (General) Regulations, 2000,

(c) leased lines imposed under the Telecommunications (Leased Lines) Regulations, 2003,

until such time as such obligations are amended or withdrawn pursuant to a market analysis undertaken by the Authority in accordance with the provisions of this Act.

Existing
authorisations.
Cap. 399.

41. (1) Any authorisation issued under this Act as previously entitled the Telecommunications (Regulation) Act or any regulations made thereunder as in force on the 1 May 2004 and still in force on the said date shall upon the coming into force of this article cease to have effect. The person holding such an authorisation shall upon such coming into force be deemed to be authorised to provide electronic communications services or to establish, extend or provide electronic communications networks under subtitle 5 to Part II of this Act and under any regulations made under this Act relating to authorisations:

Provided that such a person shall not later than ninety days, after the coming into force of this article notify the Authority in accordance with the provisions of subtitle 5 of Part II of this Act and of any regulations made under this Act relating to authorisations in electronic communications.

(2) Notwithstanding subarticle (1) of this article where the Authority considers that the application of the said subarticle would result in a reduction of rights or extension of obligations on a person holding such an authorisation, the Authority may extend the validity of an authorisation issued under this Act for a period of not more than nine months from the coming into force of this article, provided that it considers that the rights of other persons are not adversely affected thereby.”.

Renumbering and
amendment
of article 48 of the
principal Act.

28. Article 48 of the principal Act shall be renumbered as article 42 and shall be amended as follows:-

(a) in subarticle (1) thereof the words “Telecommunications systems and installations” shall be substituted with the words “Electronic communications networks and, or services”;

(b) in subarticle (2) thereof –

(i) the words “any installation or telecommunications system” shall be substituted with the words “any electronic communications network and, or service” ,; and

(ii) after the words “body established by law” there shall be added the words “or to a company in which the Government of Malta holds at least ninety per cent of all paid-up share capital” and after the words “for its own purposes” there shall be added the words “or exclusively for the purposes of Government”.

PART III

AMENDMENT OF THE POSTAL SERVICES ACT

29. (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”.

Amendment of the Postal Services Act, Cap. 254.

(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.

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

Amendment of article 2 of the principal Act.

(a) immediately after the definition of “access points” there shall be added the following new definition:

“Appeals Board” means the Communications Appeals Board established under the Malta Communications Authority Act;”;

(b) the definition of “Postal Services Appeals Board” and of “Appeals Board” shall be deleted.

31. The words “Postal Services Appeals Board” wherever they occur in the principal Act shall be substituted by the words “Appeals Board”;

General substitution in the principal Act.

Amendment of article 4 of the principal Act.

32. For article 4 of the principal Act there shall be substituted the following:-

“Appeals. Cap. 418.

4. Unless provided otherwise in this Act or in any other law, an appeal shall lie to the Appeals Board from a decision of the Authority made under this Act or under any regulations made under this Act, and such appeal shall be regulated by the provisions of the Part VIII of the Malta Communications Authority Act.”.

Deletion of articles 5 and 6 of the principal Act.

33. Articles 5 and 6 of the principal Act shall be deleted.

Amendment of article 12 of the principal Act.

34. Subarticle (5) of article 12 of the principal Act shall be deleted.

Amendment of article 17 of the principal Act.

35. In paragraph (b) of subarticle (5) of article 17 of the principal Act the words “ten kilogrammes;” shall be substituted with the words “twenty kilogrammes;”.

Substitution of article 20 of the principal Act.

36. For article 20 of the principal Act there shall be substituted the following:-

“20. The services reserved for the universal services provider designated in accordance with this Act, shall be those established in accordance with the Fourth Schedule. The Minister may, after consulting the Authority, amend by legal notice in the Gazette the Fourth Schedule in order to comply with the international obligations of Malta.”.

Amendment of article 23 of the principal Act.

37. In article 23 of the principal Act for the words “by notice in the Gazette ” there shall be substituted the words “by legal notice”.

Amendment of the Third Schedule to the principal Act.

38. The Third Schedule to the principal Act shall be amended as follows:

(a) in paragraph 4 thereof the words “which shall be verified by auditors engaged by the provider and the provider shall publish a statement concerning compliance in two daily newspapers at least once every calendar year.” shall be substituted with the words “which shall be verified by auditors independent of the provider and the expense of such auditors shall be paid by the provider. The provider shall publish a statement concerning compliance in two daily newspapers at least once every calendar year.”; and

(b) after paragraph 6 thereof there shall be added the following new paragraph:

“7. The financial accounts of the universal service provider shall be drawn up, submitted to audit by an independent auditor and published by the provider in accordance with the relevant Community and Maltese law relating to commercial undertakings.”.

39. Immediately after the Third Schedule to the principal Act there shall be added the following new schedule:

Addition of new Fourth Schedule to the principal Act.

“FOURTH SCHEDULE

(Article 20)

Reserved Services

1. The services which shall be reserved for the universal services provider designated in accordance with this Act are the clearance, sorting, transport and delivery of items of inland correspondence, cross-border and direct mail, whether by accelerated delivery or not, within both of the following weight and price limits –

(a) the weight limit shall be -

(i) from the 1st May, 2004, 100 grams, and

(ii) from the 1st January, 2006, 50 grams;

(b) these weights limits do not apply –

(i) from the 1st May, 2004, if the price is equal to or more than, three times, and

(ii) from the 1st January, 2006, if the price is equal to or more than two and a half times,

the public tariff for an item of correspondence in the first weight step of the fastest category.

2. The weight or price restrictions referred to in this Schedule shall not apply with regard to a free postal service for the blind or partially sighted persons that may be provided by the universal provider.

3. Document exchange shall not be reserved.”.

PART IV

**AMENDMENT OF THE UTILITIES AND SERVICES
(REGULATION OF CERTAIN WORKS) ACT**

Amendment of the
Utilities and
Services
(Regulation of
Certain
Works) Act, Cap.
81.

40. (1) This Part amends the Utilities and Services (Regulation of Certain Works) Act, and it shall be read and construed as one with the Utilities and Services (Regulation of Certain Works) 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.

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

(a) for the definition of “electrical power and telecommunications systems” there shall be substituted the following:

“ “electrical power and electronic communications networks” includes any electrical power or communication line or instrument however so described used for the supply of power or for electronic communications;”;

(b) after the definition of “electrical power and electronic communications networks” there shall be inserted the following new definitions -

“ “electronic communications networks” and “electronic communications service” shall respectively have the same meanings as under the Electronic Communications (Regulation) Act;”;

(c) paragraph (b) in the definition of the word “Regulator” shall be substituted with the following new paragraph –

“Cap. 418. (b) in the case of works in connection with any electronic communications service and, or electronic communications networks, the Malta Communications Authority as established under the Malta Communications Authority Act;”;

(d) the definitions of “telecommunications” and “telecommunication service” shall be deleted.

42. In article 3 of the principal Act for the words “telecommunications systems” there shall be substituted the words “electronic communications networks”.

Amendment of article 3 of the principal Act.

43. Article 4 of the principal Act shall be amended as follows:

Amendment of article 4 of the principal Act.

(a) the words “telecommunication service” wherever they occur in the article shall be substituted with the words “electronic communications service”;

(b) in subarticle (2) thereof, for the words “may also order” there shall be substituted the words “may, after consultation with the Malta Communications Authority, also order”;

(c) immediately at the end of subarticle (2) thereof, there shall be added the following proviso:

“Provided that the Malta Transport Authority shall before issuing an order under this subarticle, afford a reasonable opportunity to all interested parties to express their views.”;

(d) in subarticle (3), the first proviso thereto shall be deleted and in the second proviso thereto for the words “provided further that” there shall be substituted the words “provided that”;

(e) in sub-article (6) thereof, for the words from “The Regulator shall, after examining” to the words “the charges due to the said recipient.” there shall be substituted the words “The Regulator shall, after examining the facts and representations placed before him and such other information as he may require, determine the charges due to the recipient of an order made under subarticle (2) of this article:

Provided that where the reference is made by a provider of an electronic communications service, in relation to any works concerning such service, the Regulator shall apply the provisions of the Electronic Communications (Regulation) Act on dispute resolution.”;

(f) after subarticle (9) thereof, there shall be added the following new subarticles:

“(10) The Malta Transport Authority in the exercise of its functions under this article in so far as these relate to any works related to electronic communications, shall:

(a) act on the basis of transparent and publicly available procedures, applied without discrimination and without delay;

(b) follow the principles of transparency and non-discrimination in attaching conditions to any rights it may grant to a provider of an electronic communications service; and

(c) give reasons for its decisions:

Provided that the Malta Transport Authority shall, in relation to any fees it may be authorised to impose by or under this Act relating to such works, ensure that such fees are objectively justified, transparent, non-discriminatory and proportionate in relation to their intended purpose:

Provided further that the Malta Transport Authority shall, in relation to amendments that it may consider making to any rights, conditions and procedures relating to such works, ensure that any such amendment is only made in objectively justified cases and in a proportionate manner. Before making any such amendment the Malta Transport Authority shall give notice in such manner as it considers appropriate of its intention, inviting interested parties including users and consumers, to make representations on the proposed amendments within such period of not less than thirty days as may be specified in the notice. The Malta Transport Authority may in circumstances which it considers to be exceptional, shorten such period.

(11) A person providing electronic communications networks and, or services or associated facilities who is aggrieved by any decision taken under this article by the Malta Transport Authority or by the Regulator concerning any works relating to electronic communications, may, after having exhausted the remedy provided for in subarticles (5) and (6) of this article where applicable, appeal to the Communications Appeals Board established under the Malta Communications Authority Act:

Provided that such a person in appealing shall also explain his juridical interest in impugning the decision appealed from:

Provided further that the Malta Communications Authority shall also be notified with any appeal filed under this subarticle and shall be entitled to make submissions thereon.

The provisions of Part VIII of the Malta Communications Authority Act, relating to the hearing of appeals by the Communications Appeals Board from decisions of the Malta Communications Authority shall apply *mutatis mutandis* to appeals filed under this article.”. Cap. 418.

44. In article 11 of the principal Act the words “providing for the manner in which” shall be substituted with the words “providing for any matter relating to rights of way including the fees that may be charged for such rights and for the manner in which”. Amendment of article 11 of the principal Act.

PART V

AMENDMENT OF THE MALTA MARITIME AUTHORITY ACT

45. (1) This Part amends the Malta Maritime Authority Act, and it shall be read and construed as one with the Malta Maritime Authority Act, hereinafter in this Part referred to as “the principal Act”. Amendment of the Malta Maritime Authority Act, Cap. 352.

(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.

46. Article 28 of the principal Act shall be amended as follows: Amendment of article 28 of the principal Act

(a) subarticle (2) thereof shall be renumbered as subarticle (3);

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

“(2) The Minister, after consultation with the Authority and the Malta Communications Authority, may make regulations on any aspect relating to the use of radiocommunications by merchant ships.”.

PART VI

AMENDMENT OF THE ELECTRONIC COMMERCE ACT

Amendment of the Electronic Commerce Act, Cap. 426.

47. (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.

Amendment of article 4 of the principal Act.

48. Article 4 of the principal Act shall be amended as follows:

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

“(1) Unless otherwise prescribed, the provisions of articles 5 to 15 shall not apply to those activities or areas as are listed in the Fifth Schedule. The Minister may after consultation with the competent authority, by notice in the Gazette amend the Fifth Schedule.”; and

(b) in subarticle (2) thereof the words “after consultation with the Minister as in the Minister’s opinion” shall be substituted with the words “after consultation with that Minister as in his opinion”.

Amendment of article 10 of the principal Act.

49. After paragraph (a) of subarticle (1) of article 10 of the principal Act there shall be added the following:

“Provided that when the order is placed, the originator has to acknowledge the receipt of the addressee’s order without undue delay and by electronic means;”.

Amendment of article 11 of the principal Act.

50. Article 11 of the principal Act shall be substituted with the following:

“Information requirements relating to electronic contracts.

11. (1) Unless otherwise agreed by parties who are not consumers, and without prejudice to any consumer rights under the provisions of any other law, the originator shall provide information in clear, comprehensive and unambiguous terms regarding the matters set out in the First Schedule, which Schedule may by notice in the Gazette, be

amended by the Minister after consultation with the competent authority:

Provided that any such information shall be provided to the addressee prior to the placement of the order by him.

(2) Unless parties who are not consumers have agreed otherwise, an originator shall indicate which relevant codes of conduct he subscribes to and provide information as to how those codes can be consulted electronically.

(3) Where the originator provides terms and conditions applicable to the contract to the addressee, the originator shall make them available to the addressee in a way that allows the addressee to store and reproduce them.

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

51. After paragraph (g) of subarticle (1) of article 25 of the principal Act there shall be added the following new paragraph:- Amendment of article 25 of the principal Act.

“(h) the compliance with any international obligation entered into by Government in relation to any aspect of electronic commerce regulated by or under this Act.”.

52. The First Schedule to the principal Act shall be amended as follows: Amendment of the First Schedule to the principal Act.

(a) paragraph (g) thereof shall be renumbered as paragraph (i);

(b) after paragraph (f) thereof there shall be added the following two new paragraphs:

“(g) the technical means for identifying and correcting input errors prior to the placing of the order;

(h) the language or languages in which the contract may be concluded;”.

53. After the Fourth Schedule to the principal Act there shall be added the following: Addition of Fifth Schedule to the principal Act.

“FIFTH SCHEDULE

(Article 4)

Activities or areas listed in accordance with article 4

(a) the field of taxation;

Cap. 440.

L.N. 16 of 2003.

L.N.19 of 2003.

(b) matters in relation to information society services covered by any laws relating to data protection including the Data Protection Act, the Processing of Personal Data (Telecommunications) Regulations, 2003 and the Telecommunications (Personal Data and Protection of Privacy) Regulations, 2003;

(c) questions in relation to agreements or practices governed by competition law;

(d) the following activities of information society services:

i) the activities of notaries or equivalent professions to the extent that they involve a direct and specific connection with the exercise of public authority,

ii) the representation of a client and defence of his interests before the courts,

iii) gambling activities which involve wagering a stake with monetary value in games of chance, including lotteries and betting transactions;

(e) contracts that create or transfer rights over immovable property other than leasing rights;

(f) contracts of suretyship granted and on collateral security furnished by persons acting for purposes outside their trade, business or profession;

(g) the law governing the creation, execution, amendment, variation or revocation of:

i) a will or any other testamentary instrument;

ii) a trust; or

iii) a power of attorney;

(h) any law governing the making of an affidavit or a solemn declaration, or requiring or permitting the use of one for any purpose;

(i) the rules, practices or procedures of a court or tribunal however so described;

(j) any law relating to the giving of evidence in criminal proceedings;

(m) any law relating to the protection of public health or consumer interests in so far as this protection does not restrict the freedom to provide information society services.”

PART VII

AMENDMENT OF THE WIRELESS TELEGRAPHY ORDINANCE

54. (1) This Part amends the Wireless Telegraphy Ordinance, and it shall be read and construed as one with the Wireless Telegraphy Ordinance, hereinafter in this Part referred to as “the principal law”. Amendment of the Wireless Telegraphy Ordinance, Cap. 49.

(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.

55. (1) The short title of the principal Law shall be deleted and substituted by the words the “Radiocommunications Act”. Amendment of long and short titles of the principal law.

(2) The long title of the principal Law shall be deleted and substituted with the following:

“An Act to regulate radiocommunications.”.

(3) In article 1 of the principal Law for the words “Wireless Telegraphy Ordinance” there shall be substituted the words “Radiocommunications Act”.

56. Unless otherwise provided in this Part the following words wherever they occur in the principal Law shall be substituted as follows: Substitution of certain words in the principal law.

(a) the word “Ordinance” with the word “Act”;

(b) the words “wireless telegraphy” or “wireless telegraph” with the word “radiocommunications”.

Amendment of article 2 of the principal Law.

57. In article 2 of the principal Law the definition of “Minister” shall be substituted with the following:

“ “Minister” means the Minister responsible for communications and to the extent of any delegation made in terms of article 2A includes the Malta Communications Authority or any body established by law so delegated in terms of the said article.”.

Addition of new article 2A to the principal Law.

58. The following new article 2A shall be added after article 2 of the principal Law:

“Delegation of powers by Minister.

2A. (1) The Minister may by order in the Gazette delegate any of his powers or functions under this Act, other than the power to make regulations, to the Malta Communications Authority or to any other body established by law or to a Government agency and in making any such delegation the Minister may delegate different powers and functions to different bodies as stated above:

Provided that in delegating any such powers and, or functions the Minister may specify the purpose and limits, if any, of such delegation.

(2) The Minister shall be entitled to revoke or vary any delegation made in terms of subarticle (1) by order in the Gazette.”.

Amendment of article 3 of the principal Law.

59. In article 3(1) of the principal law the words “Provided that no licence shall be required for sound only broadcast receivers.” shall be substituted with the following:

“Provided that no licence shall be required for sound only broadcast receivers:

Provided further that 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.”.

Amendment of article 6 of the principal Law.

60. Article 6 of the principal Law shall be amended as follows:

(a) subarticle (1) thereof shall be amended as follows:

(i) the numeral (1) shall be deleted;

(ii) the words “one thousand liri” shall be substituted with the words “two thousand liri”;

(iii) the words “two thousand liri” shall be substituted with the words “four thousand liri”;

(iv) the proviso thereto shall be substituted with the following new proviso:

“Provided that notwithstanding the above provisions, the Minister may make regulations in relation to any procedures for the out-of-court settlement of disputes that may be adopted, including any agreement in writing that may be entered into with a person accused of an offence under this article, and any agreement for the payment of a fine in lieu of prosecution for an offence under this Act.”; and

(b) subarticles (2) and (3) thereof shall be deleted.

61. In article 7 of the principal law the definition of “wireless telegraphy inspector” shall be substituted with the following new definition: Amendment of article 7 of the principal Law

““maritime radiocommunications inspector” means an officer appointed by the Minister for the purposes of this Part of the Act, and any references to inspector in this Part shall be construed as referring to any such inspector.”.

62. In article 8 of the principal Law the words “shall be provided with a wireless telegraph installation and a licence to keep and use the same, and shall maintain a wireless telegraph service” shall be substituted with the words “shall be provided with a radiocommunications installation being a Global Maritime Distress Safety System (GMDSS) or such other radiocommunications installation as the Minister may prescribe in respect of any category of ships and a licence to keep and use the same, and shall maintain a radiocommunications service”. Amendment of article 8 of the principal Law

63. In subarticle (1) of article 10 of the principal Law the words “a wireless telegraph installation” shall be substituted with the words “a radiocommunications installation”. Amendment of article 10 of the principal Law

64. After article 18 of the principal Law there shall be added the following new Part: Addition of new Part IV to the principal law

“PART IV

Miscellaneous

Power to
make
regulations

19. The Minister may make regulations for the better carrying out of any of the provisions of this Act and without prejudice to the generality of the aforesaid power such regulations may in particular provide for:

(a) the manner in which radiocommunications apparatus is to be installed, operated, maintained, protected or controlled;

(b) the technical standards or specifications to be observed with respect to radiocommunications apparatus;

(c) any matter enabling the Minister to regulate and provide for general authorisations relating to radiocommunications apparatus; and

(d) any matter that may be required for the purpose of complying with any international obligations of Malta relating to radiocommunications including those relating to standards in Malta.

Exemption
from the
provisions of
this Act.

20. The Prime Minister may by order in the Gazette exempt from the provisions of this Act any radiocommunications apparatus used by the State to satisfy the exigencies of defence, public security or civil protection requirements.”.

Amendment of the
Schedule to the
principal Law

65. The Schedule to the principal Law shall be amended as follows:

(a) the words “Wireless Telegraphy (Broadcast Licence Charges) Regulations, 1962” wherever they occur shall be substituted with the words “Radiocommunications (Broadcast Licence Charges) Regulations, 1962”;

(b) the words “by the Hotels and Catering Establishments Board” wherever they occur in the First Schedule thereto shall be substituted with the words “Malta Tourism Authority”.

PART VIII

**AMENDMENT OF THE BROADCASTING
AUTHORITY ACT**

66. In paragraph 3 of Part D of the Fourth Schedule to the Broadcasting Authority Act, the words “Twenty per cent of the above fees shall be automatically paid by the Authority to the Minister responsible for Wireless Telegraphy” shall be substituted by the words “The Broadcasting Authority shall pay to the Malta Communications Authority such reasonable fees as may be due for those services which the Authority may require”.

Amendment of the
Broadcasting
Authority Act,
Cap. 350.

Passed by the House of Representatives at Sitting No. 162 of the 26th July, 2004.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives