

MALTA

ATT Nru. XXXIII ta' l-1997

ATT mahruġ b'ligi mill-Parlament ta' Malta.

ATT biex jirregola t-Telekomunikazzjoni.

ACT No. XXXIII of 1997

AN ACT enacted by the Parliament of Malta.

AN ACT to regulate Telecommunications.

Naghti l-kunsens tieghi.

(L.S.)

UGO MIFSUD BONNICI
President

30 ta' Dicembru, 1997

ATT Nru. XXXIII ta' l-1997
ATT biex jirregola t-Telekomunikazzjoni.

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:-

TAQSIMA I
PRELIMINARI

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1997 biex jirregola t-Telekomunikazzjoni. Titolu fil-qosor u bidu fis-sehh.

(2) Dan l-Att għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għat-telekomunikazzjonijiet jista' b'avviż fil-Gazzetta jistabbilixxi, u jistghu jigu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tkunx tehtieg xort'ohra – Tifsir.

“apparat” tfisser kull tagħmir, strument jew apparat iehor li jintuza fil-provdiment, jew fir-riċezzjoni, ta' servizzi ta' telekomunikazzjoni, u tinkludi kull oġġett imwahħal mieghu jew aċċessorji mieghu;

“awtorizzazzjoni” tinkludi kull liċenza jew permess mahruġ taht dan l-Att sabiex tiġi installata jew imhaddma infrastruttura tat-telekomunikazzjonijiet jew sabiex jiġi pprovdut servizz ta' telekomunikazzjonijiet kif ukoll ir-registrazzjoni ta' persuna li tkun tawtorizza lil dik il-persuna li taġixxi kif imsemmi qabel taht l-artikolu 12 ta' dan l-Att;

“provditur awtorizzat” tfisser kull persuna li jkollha liċenza jew permess validi sabiex iħaddmu infrastruttura ta’ telekomunikazzjonijiet jew jipprovdu servizz ta’ telekomunikazzjonijiet taht dan l-Att, jew li jkun registrat taht dan l-Att bħala persuna li tkun awtorizzata kif imsemmi qabel;

“Bord” tfisser il-Bord ta’ l-Appelli dwar Telekomunikazzjonijiet imwaqqaf bl-artikolu 29 ta’ dan l-Att;

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“Korporazzjoni” tfisser il-Korporazzjoni Telemalta mwaqqfa bl-Att dwar il-Korporazzjoni Telemalta;

“kumpannija msemmija” għandha t-tifsir lilha mogħti bl-artikolu 38 ta’ dan l-Att;

“sistema elettro-manjetika” tfisser kull sistema li biha jistgħu jiġu trasmessi messaġġi jew hsejjes jew xbihat bid-dawl jew viżwali permezz ta’ fil li jkun attivat bl-elettriku jew b’*radio waves* jew b’kull enerġija oħra elettro-manjetika jew b’enerġija optika jew b’kombinazzjoni ta’ żewġ sistemi jew iżjed bħal dawk;

“frekwenza” tfisser l-għadd ta’ ċikli shaħ fis-sekonda ta’ mewġa ta’ spektrum radjuattiv;

“mogħtija” jew “maħruġa”, dwar awtorizzazzjoni, tinkludi li titqies li din tingħata jew tinħareġ;

“messaġġ” tinkludi komunikazzjoni;

“Ministru” tfisser il-Ministru responsabbli għat-telekomunikazzjonijiet, u tinkludi kull Ministru ieħor minnu delegat għal dak l-ghan;

“data operattiva” għandha t-tifsira lilha mogħtija bl-artikolu 36 ta’ dan l-Att;

“servizz ieħor” tfisser servizz ta’ telekomunikazzjoni li ma jkunx servizz ta’ telekomunikazzjoni pubbliku;

“persuna” tinkludi kull korp ġuridiku u kull għaqda ta’ persuni sew jekk din ikollha personalità legali distinta minn dik tal-membri tagħha;

“preskritta” tfisser preskritta b’regolamenti magħmulin taht dan l-Att;

“infrastruttura ta’ telekomunikazzjonijiet privati” tfisser infrastruttura ta’ telekomunikazzjonijiet utilizzata minn provditur awtorizzat sabiex jipprovdi servizzi ta’ telekomunikazzjonijiet privati biss;

“servizz ta’ telekomunikazzjonijiet privati” tfisser servizz ta’ telekomunikazzjoni provdut minn provditur awtorizzat għall-użu tiegħu nnifsu fuq infrastruttura ta’ telekomunikazzjonijiet;

“art pubblika” tinkludi kull art li tintuża jew li tkun mahsuba li tintuża mill-pub’bliku kollu, kif ukoll l-ibhra territorjali ta’ Malta;

“infrastruttura ta’ telekomunikazzjonijiet pubbliċi” tfisser infrastruttura ta’ telekomunikazzjonijiet li ma tkunx infrastruttura ta’ telekomunikazzjonijiet privata;

“servizz ta’ telekomunikazzjonijiet pubbliċi” tfisser servizz ta’ telekomunikazzjonijiet li ma jkunx servizz ta’ telekomunikazzjoni privat provdut minn provditur awtorizzat fuq infrastruttura ta’ telekomunikazzjonijiet;

“Regolatur” tfisser ir-Regolatur tat-Telekomunikazzjonijiet hekk imsemmi taht l-artikolu 3 ta’ dan l-Att u, fil-limitu ta’ l-awtorità mogħtija, tinkludi lil kull persuna minnu awtorizzata għal kull għan;

“kummerċ relevanti” għandha t-tifsira lilha mogħtija bl-artikolu 40 ta’ dan l-Att;

“telekomunikazzjonijiet” tfisser li tibghat, tittrasmetti, tghaddi minn kanali u tircievi sinjali, messagġi, hsejjes jew xbihat bidawl jew viżwali, permezz ta’ sistema elettro-manjetika, inkluż *cable television* u *pay-per-view television*, iżda eskluż xandir kif imfisser fl-Att ta’ l-1991 dwar ix-Xandir;

Att XII ta’ l-1991.

“infrastruttura ta’ telekomunikazzjoni” tfisser il-komponenti fiżiċi sottostanti li jkunu jikkostitwixxu sistema elettro-manjetika mahsuba għal servizzi ta’ telekomunikazzjonijiet u kapaċità trasmissiva, liema sistema tkun limitata bil-punti konnettivi meħtieġa;

“servizz ta’ telekomunikazzjonijiet” tfisser xi wiehed jew iktar minn dan li ġej:-

(a) servizz li jkun jikkonsisti fit-trasmissjoni, permezz ta’ infrastruttura ta’ telekomunikazzjonijiet ta’ kull għamla ta’ telekomunikazzjonijiet, mingħajr ma jitqies x’ikun il-kontenut tal-messagġi trasmessi;

(b) servizz ta' informazzjoni ta' direttorju li jkun jikkonsisti fil-provdiment b'kull mezz li jkun ta' informazzjoni ta' direttorju bil-ghan li jiġi faċilitat l-użu ta' servizz li jkun fit-termini tal-paragrafu (a) ta' din it-tifsira u jiġi provdut permezz ta' dik is-sistema;

(ċ) servizz li jkun jikkonsisti fl-istallazzjoni, manutenzjoni, thaddim, irrangar, tiswija, tibdil, ċaqliq, tnehhija jew sostituzzjoni ta' infrastruttura ta' telekomunikazzjonijiet;

“telegrafija” tfisser it-trasmissjoni ta' messaġġi minn post għall-iehor permezz ta' sistema elettro-manjetika, iżda ma tinkludix messaġġi mitkellma;

“telefonija” tfisser it-trasmissjoni ta' messaġġi mitkellma permezz ta' sistema elettro-manjetika;

“telex” tfisser sistema ta' telegrafija li biha l-messaġġ jiġi trasmess direttament bejn it-trasmittent u r-riċevitur;

“trasmissjoni” tinkludi li tibghat, *switching* u riċezzjoni;

“obbligu ta' servizz universali” tfisser obbligu biex tipprovdi servizzi ta' telekomunikazzjonijiet li jissemmew mir-Regolatur bħala servizzi bażiċi għal għanijiet soċjali bi prezz baxx jew għal kollox b'xejn.

TAQSIMA II

REGOLAMENT TA' TELEKOMUNIKAZZJONIJIET

1. Regolatur tat-Telekomunikazzjonijiet

Hatra ta' Regolatur.

3. (1) Ikun hemm Regolatur tat-Telekomunikazzjonijiet, li jkun uffiċjal pubbliku li hekk jinhatar mill-Prim Ministru.

(2) Fit-twettiq tal-funzjonijiet tiegħu taht dan l-Att, jew taht kull liġi oħra, ir-Regolatur ikun mghejjun minn dak il-*personnel* fis-servizz pubbliku, jew li jkun xort'oħra impjegat għal dak l-ghan, hekk kif jista' jitqies li jkun xieraq mill-awtoritajiet kompetenti u hekk kif jista' jinhatar jew jiġi impjegat jew imqabbad jagħmel xogħol skond ir-regoli u l-proċeduri li japplikaw għal dan.

Funzjonijiet tar-Regolatur.

4. (1) Tkun il-funzjoni tar-Regolatur li jirregola, jissorvelja u josserva t-telekomunikazzjonijiet u li jiżgura li l-infrastruttura tat-

telekomunikazzjonijiet tiġi installata u mhaddma u li jiġu provduti servizzi ta' telekomunikazzjonijiet għall-benefiċċju tal-utenti tat-telekomunikazzjonijiet wara li tiġi ikkunsidrata sew il-vijabilità kummerċjali ta' provdituri awtorizzati, u skond id-dispożizzjonijiet ta' dan l-Att.

(2) Tkun ir-responsabbiltà tar-Regolatur li jiżgura t-tħaris tad-dispożizzjonijiet ta' dan l-Att u ta' kull liġi relevanti oħra, u huwa jista' jgħid id-direttivi li jista' jkoll mehtieġa għal dak l-ghan.

(3) Ir-Regolatur għandu jkollu wkoll dawk il-funzjonijiet, responsabbiltajiet u setgħat oħra hekk kif inhuma stabbiliti f'dan l-Att jew hekk kif jistgħu jiġu lilu mogħtija b'xi liġi oħra jew taħtha.

2. Awtorizzazzjoni għal infrastrutturi jew servizzi ta' telekomunikazzjonijiet

5. (1) Hadd ma jista' jinstalla jew ihaddem infrastruttura ta' telekomunikazzjonijiet jew jipprovdi servizz ta' telekomunikazzjonijiet f'Malta kemm-il darba ma jkunx provditur awtorizzat.

Htieġa ta' awtorizzazzjoni.

(2) M'għandhiex awtorizzazzjoni mogħtija lil xi hadd taħt dan l-Att, teħles lil dik il-persuna mill-htieġa ta' xi liċenza oħra, permess ieħor jew awtorizzazzjoni oħra, jew minn kull obbligu li jgħid minn kull liġi oħra:

Izda, sal-limitu li tkun mehtieġa bil-ghan ta' xi installazzjoni, tħaddim jew provdiment kif imsemmi qabel minn provditur awtorizzat, awtorizzazzjoni mogħtija taħt dan l-Att għandha titqies bħal li tinkludi liċenza mahruġa taħt l-artikolu 3 ta' l-Ordinanza dwar it-Telegrafija mingħajr Fili, u dik il-liċenza għandha titqies bħala li tkun inharget taħt dan l-Att u għandha tiġi regolata skond hekk.

Kap. 49.

6. (1) Ebda liċenza, awtorizzazzjoni jew awtorizzazzjoni oħra ma jistgħu jiġu trasferiti jew mogħtija mill-provditur awtorizzat lil persuna oħra mingħajr il-kunsens li jingħata bil-quddiem u bil-miktub mir-Regolatur.

Kif tingħadda l-awtorizzazzjoni minn persuna għall-oħra

(2) Ir-Regolatur jista' jkoll id-direttivi taħt dan l-artikolu għal raġuni tajba biss, liema ċaħda tal-kunsens għandha tingħata bil-miktub.

(3) Meta l-provditur awtorizzat ikun korp ġuridiku jew għaqda ta' persuni oħra, bidla fil-kontroll tal-proprjetà jew fit-tmexxija ta' dak il-korp tkun ekwivalenti għat-trasferiment ta' l-awtorizzazzjoni, u tkun sugġetta għall-kunsens bil-quddiem tar-Regolatur kif imsemmi qabel.

7. (1) Kull min ikun irid li tinhariġlu awtorizzazzjoni permezz ta' liċenza jew permess, għandu japplika lir-Regolatur fuq dik il-formola u b'dak il-mod hekk kif jista' jiġi preskritt, jew hekk kif jista' jiġi provdut jew mehtieġ mir-Regolatur, u għandu jipprovi lir-Regolatur dak it-tagħrif kollu li jista' jiġi hekk preskritt u hekk kif ir-Regolatur jista' raġonevolment jehtieġ sabiex ikun jista' jikkunsidra dik l-applikazzjoni.

(2) L-applikazzjoni għandha b'mod partikolari tispeċifika l-infrastruttura tat-telekomunikazzjonijiet jew is-servizz jew servizzi li dwarhom issir l-applikazzjoni.

(3) Malli r-Regolatur tasallu applikazzjoni hekk kif imsemmija qabel, huwa għandu jara li tiġi pubblikata fil-Gazzetta t-tagħrif li tkun saret applikazzjoni, billi jagħti dawk id-dettalji li jistgħu jkun xierqa sabiex kull min ikun irid jikkontestaha jkun jista' joġġezzjona dwarha jew inkella jagħmel xi sottomissjoni ohra.

(4) Ir-Regolatur għandu jikkunsidra l-applikazzjoni wara li jkun għamel kull investigazzjoni mehtieġa u qies kull kontestazzjoni jew sottomissjoni li setgħet saret dwarha, u jista' għal dak il-ghan jehtieġ minn kull persuna kull informazzjoni ulterjuri li jista' jqis li tkun mehtieġa.

(5) Kull m'għandu jsir taħt dan l-artikolu għandu jsir b'dik l-ghamla u b'dak il-mod u f'dak iż-żmien li jista' jiġi hekk preskritt.

8. (1) Ir-Regolatur għandu jtemm l-investigazzjonijiet fi żmien raġonevoli u għandu malli jsir dan jagħmel rapport u jipprezentah quddiem il-Ministru, u fih għandu jkun hemm ukoll rakkommandazzjoni dwar jekk ikollhiex tinghata jew le l-awtorizzazzjoni li dwarha tkun saret applikazzjoni.

(2) Jekk jiġi rakkomandat li l-awtorizzazzjoni għandha tinghata, u l-Ministru jkun jaqbel mar-rakkommandazzjoni, ir-Regolatur għandu japprova l-applikazzjoni u jagħti l-liċenza jew il-permess bil-firma tiegħu.

(3) Jekk ir-Regolatur ikun tal-fehma li l-applikazzjoni għandha tiġi miċhuda għal xi wahda mir-raġunijiet stabbiliti fl-artikolu 9 ta' dan l-Att, huwa għandu jgħarraf lill-Ministru b'dan u jiċhad l-awtorizzazzjoni.

(4) Jekk ir-Regolatur jirrikmanda li l-applikazzjoni għandha tkun approvata iżda l-Ministru ma jkunx jaqbel ma' dik ir-rakkommandazzjoni għal xi wahda mir-raġunijiet imsemmija fl-artikolu 9 ta' dan l-Att, l-applikazzjoni għandha tiġi miċhuda iżda l-Ministru għandu jgħarraf bil-miftuh ir-raġunijiet għaliex ikun ha dik id-deċiżjoni.

9. (1) Ir-Regolatur jista' jiċhad li jawtorizza lil xi persuna tinstalla jew thaddem infrastruttura ta' telekomunikazzjonijiet jew li tipprovdi servizz ta' telekomunikazzjonijiet jekk ikun tal-fehma li l-ghoti ta' l-awtorizzazzjoni tkun waħda li –

Raġunijiet
għar-rifjut.

(a) tmur kontra l-interess pubbliku, jew li ma tkunx konsistenti mal-*policy* tal-Gvern, u l-Ministru jkun jaqbel ma' dan;

(b) tkun inkonsistenti mad-dispożizzjonijiet ta' dan l-Att jew ta' kull liġi oħra, jew ma' kull obbligu internazzjonali sottoskritt jew li jkun se jiġi sottoskritt minn Malta;

(ċ) tipperikola jew iddejjaq lill-pubbliku jew li tagħmel hsara lil xi proprjetà, jew li tostruwixxi jew tinterferixxi ma' xi sistema jew *network* tat-telekomunikazzjonijiet li jkunu qed jithaddmu skond il-liġi.

(2) Ir-Regolatur jista' wkoll jiċhad l-ghoti ta' awtorizzazzjoni li tkun saret applikazzjoni dwarha jekk ikollu għaliex jaħseb li l-applikant ma jkunx persuna sewwa u idonea sabiex ikollha dik l-awtorizzazzjoni li tkun applikat għaliha, jew li ma tkunx f'pożizzjoni, minhabba fiċ-ċirkostanzi finanzjarji, u dawk oħra speċifiċi ta' l-applikant, li thares id-dispożizzjonijiet ta' dan l-Att jew ta' kull regolament magħmul tahtu jew il-kondizzjonijiet tal-liċenza jew tal-permess jekk dan jinghata.

(3) Ir-Regolatur għandu jgħarraf bil-miktub lill-applikant bid-deċiżjoni li jiċhad l-applikazzjoni u huwa għandu fil-qosor ifisser bil-miktub ir-raġunijiet għal din id-deċiżjoni.

10. (1) Hemm id-dritt ta' appell fil-Bord ta' l-Appelli dwar Telekomunikazzjonijiet, kif provdut fl-artikolu 29 ta' dan l-Att, minn kull deċiżjoni dwar l-ghoti jew iċ-ċaħda ta' awtorizzazzjoni skond id-dispożizzjonijiet ta' qabel ta' dan l-Att.

Appelli dwar
l-ghoti jew
iċ-ċaħda.

(2) Meta tkun giet rifjutata awtorizzazzjoni bħal dik imsemmija, min japplika jkollu l-jedd ta' appell; u meta l-awtorizzazzjoni tkun inghatat, ikollu l-jedd ta' appell kull min ikun ressaq xi kontestazzjoni bil-miktub quddiem ir-Regolatur kif provdut fl-artikolu 7 ta' dan l-Att.

11. (1) Awtorizzazzjoni għall-installazzjoni jew it-thaddim ta' infrastruttura ta' telekomunikazzjonijiet jew għall-provdiment ta' servizz ta' telekomunikazzjonijiet mogħti taht l-artikolu 8 ta' dan l-Att jista' jinghata għal żmien indefinit jew għal dak iż-żmien, li jista' jiġġedded, hekk kif jista' jiġi speċifikat fil-liċenza jew fil-permess li jkun fihom l-awtorizzazzjoni, u tista' tiġi sugġetta għal dawk il-patti, kondizzjonijiet u limitazzjonijiet jew restrizzjonijiet li jistghu hekk jiġu speċifikati.

Kondizzjonijiet
tal-liċenza u
esklusività.

(2) Awtorizzazzjoni li tinghata kif imsemmi qabel tista' tinghata b'dawk il-jeddijiet eskusivi hekk kif ir-Regolatur jista', bi ftehim mal-Ministru, jispeċifika fl-awtorizzazzjoni:

Iżda ebda jedd eskusiv ma jista' jinghata, jew ikollu sehh, wara s-sena 2010.

Registrazzjoni ta' servizzi.

12. (1) Min ikun jixtieq jipprovdi xi servizz iehor ghandu jirreġistra din it-talba ghand ir-Regolatur.

(2) Ir-registrazzjoni ssir fl-ghamla ta' avviż moghti bil-miktub lir-Regolatur li jkun fih dik l-informazzjoni li tkun tippermetti lir-Regolatur jistabbilixxi x-xorta tas-servizz, jiġi identifikat il-provditur tas-servizz, fejn fil-pajjiż ikun se jiġi provdut is-servizz, it-tagħmir li jkun qed jiġi propost ghas-servizz, u kull tagħrif iehor li jista' jiġi preskritt jew hekk kif jista' jenhtieg mir-Regolatur.

Ghanijiet speċjali ta' provdituri awtorizzati ta' l-infrastruttura tat-telekomunikazzjonijiet pubbliċi.

13. Min ikun awtorizzat bis-saħħa ta' l-artikolu 8 ta' dan l-Att li jhaddem infrastruttura ta' telekomunikazzjonijiet pubblika ghandu jhars, flimkien mad-dispożizzjonijiet ta' dan l-Att u ta' kull regolament magħmul bis-saħħa tiegħu, kif ukoll mal-patti u l-kondizzjonijiet tal-liċenza, kull direttiva li tinhareġ mir-Regolatur bil-ghan illi:-

(a) jiġi żgurat li l-kapaċità, kwantità u fattizzi tal-infrastruttura tkun biż-żejjed biex jipprovdu u jimmantjenu infrastruttura ta' telekomunikazzjonijiet effiċjenti;

(b) jiġi żgurat li l-infrastruttura tkun biż-żejjed għal u kompatibbli ma' dawk is-servizzi ta' telekomunikazzjonijiet internazzjonali hekk kif jista' jiġi speċifikat mir-Regolatur;

(ċ) jsir provvediment dwar is-sigurtà ta' l-infrastruttura u ta' kull estensjoni tagħha.

Ghanijiet speċjali ta' provdituri awtorizzati tas-servizz tat-telekomunikazzjonijiet pubbliċi.

14. Min ikun awtorizzat bis-saħħa ta' l-artikolu 8 ta' dan l-Att li jipprovdi servizz ta' telekomunikazzjonijiet pubbliċi ghandu-

(a) jagħmel disponibbli lil dawk is-servizzi kollha hekk kif jistgħu jiġu raġonevolment provduti lil kull min ikun jixtieq jabbona f'dawk is-servizzi;

(b) jiżgura li kull rata, hlas, Prattika u klassifika jkun għusti u raġonevoli;

(ċ) jipprovdi dawk is-servizzi b'mod effiċjenti, billi jitharsu l-livelli tal-kwalità ġeneralment adottati fl-industrija;

(d) javża lir-Regolatur u jippubblika permezz ta' avviż fil-*media* meta s-servizzi jkunu ser jiġu mwaqqfin temporanjament minhabba fl-installazzjoni jew it-tiswija jew il-tibdil ta' xi tagħmir;

(e) jistabbilixxi mekkaniżmu effiċjenti sabiex jidhlu l-ilmenti u jiġu msewwija l-hsarat fin-*network* tiegħu u fis-servizzi provduti;

(f) ihares id-dispożizzjonijiet ta' dan l-Att u ta' kull regolament li jsir bis-sahha tiegħu kif ukoll il-patti u l-kondizzjonijiet ta' l-awtorizzazzjoni; u jimxi skond kull direttiva tar-Regolatur hekk kif jista' jkun awtorizzat li johroġ b'dan l-Att jew bis-sahha tiegħu.

15. (1) Ikun hemm mekkaniżmi għal rati dwar dawk il-hlasijiet li jkollhom isiru għal servizzi ta' telekomunikazzjonijiet u dawk il-mekkanizmi għal rati għandhom ikunu tali hekk kif jistgħu jiġu stabbiliti mir-Regolatur u ppubblikati fil-Gazzetta.

Mekkanizmi
għal rati.

(2) Provditur awtorizzat għandu jissottometti r-rati li jkun qed jipproponi li jitlob dwar kull servizz li jkun awtorizzat jipprovdi, lir-Regolatur għall-approvazzjoni tiegħu.

(3) Jekk ir-Regolatur japprova dawk ir-rati proposti, huwa għandu jikkomunika dik l-approvazzjoni lill-provditur awtorizzat, u dawk ir-rati jkunu r-rati li l-provditur awtorizzat ikun jista' jitlob.

(4) Jekk ir-Regolatur ma japprovax ir-rati proposti huwa għandu javża b'dan lill-provditur awtorizzat billi jelenka r-raġunijiet għal dik iċ-*cahda*; u l-provditur awtorizzat jista' jew jappella minn dik id-deċiżjoni lill-Bord ta' l-Appelli dwar Telekomunikazzjonijiet, taht l-artikolu 29 ta' dan l-Att jew inkella jipproponi rati ohra li jkunu aċċettabbli għar-Regolatur:

Izda jekk avviż ta' *cahda* ma jkunx ġie notifikat fi żmien tletin jum wara s-sottomissjoni tagħhom, ir-rati sottomessi għandhom jitqiesu li jkunu ġew approvati.

(5) Provditur awtorizzat ta' servizzi ta' telekomunikazzjonijiet għandu jibgħat lir-Regolatur, u r-Regolatur għandu jirreġistra, kemm-il darba ma jirrifjutax xi wahda minnhom, il-patti u l-kondizzjonijiet, inklużi tariffi approvati, għall-provdiment ta' dawk is-servizzi; u malli ssir ir-registrazzjoni, dawk il-patti u kondizzjonijiet li jkunu ġew hekk registrati għandhom ikunu vinkolanti fuq il-provditur awtorizzat u fuq kull min jaċċetta l-provdiment ta' dak is-servizz:

Iżda dawk il-patti u kondizzjonijiet, inklużi tariffi approvati, jistgħu jinbidlu minn żmien għal żmien, bla hsara għal kull approvazzjoni li ssir mir-Regolatur u li tkun mehtieġa b'dan l-artikolu u għar-registrazzjoni tagħhom mir-Regolatur:

Iżda wkoll, kull rifjut ta' patt jew kondizzjoni mir-Regolatur kif provdut f'dan is-subartikolu tkun suġġetta wkoll għal appell u d-dispożizzjonijiet tas-subartikolu (4) ta' dan l-artikolu għandhom ikunu japplikaw *mutatis mutandis*.

(6) Il-patti u l-kondizzjonijiet registrati mir-Regolatur skond dan l-artikolu għandhom ikunu aċċessibbli għal spezzjon pubbliku waqt il-hinijiet tax-xogħol normali.

(7) Min ikun awtorizzat li jipprovdi servizz ta' telekomunikazzjonijiet ma jistax jiehu sehem f'xi sussidjar reċiproku dwar dawk is-servizzi li jkun qed jipprovdi b'kompetizzjoni ma' provdituri awtorizzati oħra, jew lil aġendi sussidjarji jew affiljati.

Att XXXI ta' l-1994.

(8) Meta tinkiser xi wahda mid-dispożizzjonijiet tas-subartikolu (7) ta' dan l-artikolu, dik il-kontravvenzjoni għandha tigi eskklusivament trattata mir-Regolatur irrispettivament jekk tikkostitwixxi kompetizzjoni ingusta għall-għanijiet ta' l-Att ta' l-1994 dwar il-Kompetizzjoni. Ir-Regolatur jista' jikkonsulta ruħu mal-Kummissjoni għall-Kummerċ Ġust dwar il-miżuri li jkollhom jiġu adottati fiċ-ċirkostanzi; u l-provditur awtorizzat għandu jikkonforma ruħu ma' kull direttiva li r-Regolatur jista' johroġ dwar dan.

(9) L-obbligi u d-dmirijiet tal-provdituri awtorizzati kif stipulati f'dan l-Att ikunu bla ebda preġudizju għal kull patt jew kondizzjoni li tinsab fl-awtorizzazzjoni li żżid xi obbligu jew dmir fuq il-provditur awtorizzat, u kull obbligu jew dmir addizzjonali bħal dawk għandhom ikunu jsehħu bħallikieku dawn ikun ġew imqegħda b'dan l-Att.

Tmiem ta' l-awtorizzazzjoni.

16. Awtorizzazzjoni mogħtija taht dan l-Att għandha ttemm, u tieqaf milli tibqa' valida, kollha kemm hi jew f'parti minnha skond il-htieġa tal-każ, meta—

(a) jintemm iż-żmien speċifikat fl-awtorizzazzjoni;

(b) jiġri avveniment jew ċirkostanza li skond l-awtorizzazzjoni jkunu kaġun tat-tmiem tagħha;

(c) issir rinunzja għaliha mid-detentur ta' l-awtorizzazzjoni;

(d) issir ir-revoka taghha mir-Regolatur;

(e) jkun hemm insolvenza, likwidazzjoni jew falliment tal-provditur awtorizzat, jew kompożizzjoni mal-kredituri ta' dak il-provditur.

17. (1) Awtorizzazzjoni moghtija taht dan l-Att tista' tigi Revoka ta' awtorizzazzjoni. revokata mir-Regolatur bl-approvazzjoni tal-Ministru, sew kollha kemm hi jew f'parti minnha, ghal xi wahda minn dawn ir-raġunijiet:

(a) jekk l-awtorizzazzjoni tkun inghatat minhabba f'taghrif li ma kienx shih jew li kien mhux korrett f'xi dettal partikolari;

(b) jekk il-provditur awtorizzat jonqos milli jaġix xi dwar l-awtorizzazzjoni ghal żmien ta' iżjed minn 180 jum mid-data tal-hruġ ta' l-awtorizzazzjoni, jew inkella jissospendi dik l-attività ghal perijodu ta' iżjed minn 180 jum:

Iżda r-Regolatur jista' jtawwal iż-żmien imsemmi qabel ghal raġuni tajba u valida;

(c) jekk il-provditur awtorizzat jikser xi obbligu impost minn jew taht dan l-Att jew li jkun jinsab fl-awtorizzazzjoni li fil-fehma tar-Regolatur tkun daqstant importanti li tkun tiġġustifika r-revoka ta' l-awtorizzazzjoni, u, meta l-ksur ikun jista' jitranga, il-provditur awtorizzat ikun naqas milli jirrange l-ksur f'dak iż-żmien raġonevoli li r-Regolatur seta' kien taħ ghal dak il-ghan;

(d) il-grajja ta' xi avveniment jew ċirkostanza li, skond l-awtorizzazzjoni, tkun tawtorizza lir-Regolatur li jirrevokaha;

u mar-revoka, shiha jew parzjali, l-awtorizzazzjoni ttemm milli tibqa' awtorizzazzjoni valida.

(2) Kull meta r-Regolatur iqis li jkun hemm raġuni biż-żejjed għar-revoka ta' awtorizzazzjoni, huwa jista' jissospendi dik l-awtorizzazzjoni iżda, qabel kull revoka, huwa għandu jgħarraf lill-provditur awtorizzat bl-intenzjonijiet tiegħu u bir-raġunijiet relattivi, b'avviż bil-miktub, u jagħtih opportunità li jagħmel il-kontestazzjonijiet tiegħu b'dak il-mod u f'dak iż-żmien raġonevoli hekk kif jista' jiġi speċifikat fl-avviż. Ir-Regolatur jista' wkoll jitlob lill-provditur awtorizzat biex jirrange kull ksur jew haġ'ohra fi żmien moghti kif hawn aktar qabel imsemmi; u jekk il-ksur jiġi rrange fiż-żmien imsemmi, u b'sodisfazzjon tar-Regolatur, l-awtorizzazzjoni m'għandhiex tigi revokata.

(3) Ir-revoka ta' awtorizzazzjoni m'għandhiex teħles lill-provditur awtorizzat minn kull responsabbiltà li jkun daħal fiha qabel ir-revoka u li titnissel minn xi avveniment li jkun ġara qabel ir-revoka.

3. Dispożizzjonijiet Ġenerali li Japplikaw għal Provdituri Awtorizzati

Frekwenzi.

18. (1) Kull provditur awtorizzat li jkun jeħtieġ l-allokkazzjoni ta' xi frekwenza għandu japplika għal dik il-liċenza jew awtorizzazzjoni oħra hekk kif jista' jkun meħtieġ għal dak l-għan taħt l-Ordinanza dwar it-Telegrafija mingħajr Fili.

(2) Kull obbligu, kondizzjoni jew limitazzjoni mposti minn jew taħt l-Ordinanza msemmija f'dak li għandu x'jaqsam ma' l-allokkazzjoni jew mat-tmexxija ta' xi frekwenza għall-provdiment ta' servizz ta' telekomunikazzjonijiet skond dan l-Att għandha titqies, bla preġudizzju għal xi haġa li tinsab f'dik l-Ordinanza, bhala obbligu, kondizzjoni u limitazzjoni mposti b'dan l-Att.

Pjan numeriku.

19. (1) Ir-Regolatur għandu jistabbilixxi pjan numeriku għal servizzi ta' telekomunikazzjoni kif ukoll jalloka numri lil provdituri awtorizzati skond hekk.

(2) Il-pjan numeriku jista' jinbidel jew jiġi modifikat mir-Regolatur hekk kif huwa jista' minn żmien għal żmien iqs li jkun meħtieġ jew xieraq u n-numri hekk allokat i jstgħu jiġu rtrati u allokat i mill-ġdid sabiex iwettqu kull bidla jew modifika bħal dik:

Iżda m'għandu jiġi kaġunat ebda preġudizzju mhux dovut b'dan kollu għal provdituri awtorizzati.

(3) Ebda provditur mhux awtorizzat m'għandu juża xi sistema numerika għall-provdiment ta' servizzi ta' telekomunikazzjonijiet b'xi xort'oħra li ma tkunx skond l-allokkazzjoni magħmula taħt dan l-artikolu.

Interkumnikazzjoni.

20. (1) Provditur awtorizzat għandu jhalli lil provditur awtorizzat iehor li jagħmel interkumnikazzjoni ma' l-infrastruttura tiegħu nnifsu.

(2) Il-patti u l-kondizzjonijiet li taħthom tiġi permessa interkumnikazzjoni bħal dik għandhom ikunu xi haġa li dwarha jiftehmu l-partijiet; iżda fin-nuqqas ta' ftehim bħal dak fi żmien disġhin jum mid-data meta ssir talba għal interkumnikazzjoni, il-provditur li jkun qed jeħtieġ l-interkumnikazzjoni jista' jirreferi l-kwistjoni lir-Regolatur taħt l-artikolu 22 ta' dan l-Att.

(3) Sabiex jiddeċiedi dwar xi tilwima bhal dik ir-Regolatur ghandu jimxi skond dawn il-linji ta' direzzjoni:-

(a) Il-provditur awtorizzat li jkun qed jipprovdi l-interkumunikazzjoni ghandu jiġi permess illi-

(i) jiġbor lura kull nefqa allokata shiha ghal dak il-provdiment fuq bażi ta' storja kif ukoll hlas lura addizzjonali fuq il-kapital imhaddem;

(ii) jiġbor lura kull nefqa li tkun saret ghal darba wahda biss u magħmula fil-provdiment ta' l-interkumunikazzjoni meħtieġa;

(iii) jagħmel dawk il-hlasijiet għall-użu li jkollhom x'jaqsmu ma' l-utilizzazzjoni ta' l-infrastruttura u l-elementi u riżorsi *tan-network* li jkunu meħtieġa, u dawk il-hlasijiet ikunu jinkludu hlasijiet bażati fuq il-kapaċità u/jew hlasijiet relatati mat-traffiku.

(b) Provdituri awtorizzati jistgħu ma jenhtiegux li jibnu xi infrastruttura ta' interkumunikazzjonijiet eskusivament bil-għan li jagħmlu l-interkumunikazzjoni meħtieġa, iżda jistgħu jinhtieġu jagħmlu dawk l-estensjonijiet limitati għall-infrastrutturi tagħhom hekk kif jista' jkun raġonevolment meħtieġ għal dak l-għan.

21. (1) Kull provditur awtorizzat ghandu jippermetti lir-Regolatur, u lil kull persuna minnu awtorizzata għal dak l-għan, dak id-dhul ġewwa xi fond, installazzjoni, inkartamenti, *records* tal-kontijiet u kull tagħrif iehor li jkun taht il-kontroll tal-provditur hekk kif jista' jkun raġonevolment meħtieġ mir-Regolatur, li jkun meħtieġ li jsir matul il-hinijiet tax-xogħol normali bil-għan li tiġi investigata kull haġa li jkollha x'taqsam mat-tharis ta' dan l-Att, ta' kull regolament li jsir bis-saħħa tiegħu u ta' kull patt u kondizzjoni tal-liċenza jew ta' kull direttiva mahruġa jew mogħtija mir-Regolatur jew sabiex tiġi żgurata dik il-konformità.

Spezzjon u sorveljar.

(2) Ir-Regolatur ghandu jagħti avviż ta' hmistax-il jum lill-provditur awtorizzat dwar kull intenzjoni li jaġixxi skond is-subartikolu (1) ta' dan l-artikolu, billi jagħti r-raġunijiet tiegħu għal dik it-talba:

Iżda dan is-subartikolu ma jkunx japplika meta d-dhul għal go installazzjoni jkun meħtieġ b'mod urġenti sabiex ma tithallix li ssir jew titneħħa xi interferenza ma' servizz ta' telekomunikazzjonijiet jew xi hsara lil persuni jew lill-proprjetà.

(3) Meta provditur awtorizzat ikun jixtieq li xi taghrif mgħoddi minnu għandu jiġi trattat b'mod kunfidenzjali mir-Regolatur, huwa għandu jissottometti dik l-informazzjoni magħluqa u ssiġillata u jitlob lir-Regolatur li jittrattaha bħala tali. Ir-Regolatur għandu jhars din it-talba kemm-il darba huwa ma jqisx li l-kunfidenzjalità mehtieġa ma tkunx waħda prattika fil-qies tal-htigiet ta' dan l-Att jew ta' kull regolament magħmul bis-saħħa tiegħu jew ta' kull liġi oħra.

Risolwiment ta' tilwim mir-Regolatur.

22. (1) Meta tqum tilwima bejn provditur awtorizzat u provditur iehor awtorizzat jew kull persuna oħra dwar xi infrastruttura jew servizz ta' telekomunikazzjonijiet, dik il-kwistjoni tista' tiġi riferita lir-Regolatur minn min ikun minn dawk il-persuni.

(2) Malli tiġi riċevuta xi referenza bhal dik imsemmija, jew malli xort'oħra isir jaf b'xi tilwima bhal dik li huwa jhoss li għandha tiġi investigata, ir-Regolatur għandu javża lill-partijiet involuti li l-kwistjoni tkun qegħda tiġi investigata u jippermettilhom żmien raġonevoli li fih huma jipprovdu t-taghrif rilevanti u jagħmlu s-sottomissjonijiet tagħhom.

(3) Wara li jkun debitament eżamina u qies il-fatti miġjuba quddiemu u kull taghrif iehor hekk kif huwa jista' jehtieġ, ir-Regolatur jista' johroġ dawk id-direttivi li jista' jkollu s-setgħa li jagħmel u hekk kif jista' jidhirlu li jkun xieraq.

4. Interessi ta' l-Abbonati

Referenza ta' ilmenti lir-Regolatur.

23. (1) Ikun dmir ir-Regolatur li jhars l-interessi ta' l-abbonati f'servizz tat-telekomunikazzjonijiet.

(2) Kull min jabbona, jew ikun jixtieq jabbona f'servizz ta' telekomunikazzjonijiet provdut minn provditur awtorizzat jista' jitlob, permezz ta' applikazzjoni bil-miktub, lir-Regolatur sabiex jinvestiga kull ilment li jsir minn u li jkun jinsab f'dik l-applikazzjoni, dwar il-kwalità tas-servizz li jabbona jew ikun jixtieq jabbona fih, jew dwar il-patti u l-kondizzjonijiet li taħthom dak is-servizz ikun provdut jew dwar kull apparat lili provdut jew akkwistat minnu f'dak li għandu x'jaqsam mas-servizz imsemmi.

(3) L-ilment għandu jiġi indirizzat lir-Regolatur u jkun fih dikjarazzjoni qasira li tkun tiġbor il-fatti kollha rilevanti.

(4) L-ilment għandu jitwassal lill-provditur awtorizzat li jkun sar l-ilment dwaru, li jingħata opportunità li jagħmel il-kontestazzjonijiet tiegħu fi żmien raġonevoli hekk kif jista' jkun xieraq fiċ-ċirkostanzi.

(5) Ir-Regolatur mbagħad jeżamina l-ilment, u dawk il-fatti l-oħra li jista' jqis meħtieġa bil-ghan li jasal għal konklużjoni u jista' jiehu dawk il-passi u johroġ dawk id-direttivi li jkunu jaqgħu taht is-setgħat tiegħu hekk kif iqis xieraq.

24. (1) Hlief kif provdut bi jew taht dan l-Att, abbonat jew utent ieħor ta' servizz ta' telekomunikazzjonijiet ma jistax jiċċahhad minn servizz provdut minn provditur awtorizzat, jew ikollu xi servizz bħal dak imwaqqaf.

Sospensjoni
tas-servizz
lill-abbonati.

(2) Dak is-servizz kif imsemmi jista' jiġi miċħud jew imwaqqaf għal xi raġuni permessa skond regolamenti magħmulin taht dan l-Att jew li jkunu jinsabu fil-patti u l-kondizzjonijiet ta' servizz sottomessi u approvati mir-Regolatur.

25. Patt jew kondizzjoni għall-provdiment ta' servizz ta' telekomunikazzjonijiet, ukoll jekk abbonat ikun jaqbel magħhom, ikunu nulli u bla ebda effett jekk dawn ikunu inkonsistenti ma' xi dispożizzjoni ta' dan l-Att jew ta' xi regolamenti magħmulin tahtu jew mal-patti u kondizzjonijiet ta' l-awtorizzazzjoni li permezz tagħha ikun qed jiġi provdut is-servizz.

Nullità ta' ċerti
kundizzjonijiet.

5. Aktar Funzjonijiet tar-Regolatur

26. (1) Ma jista' jiġi offrut għall-bejgħ, iprovdut, installat jew użat ebda apparat minn xi persuna kemm-il darba dan ma jkunx konformi ma' xi standardi u speċifikazzjonijiet tekniċi hekk kif jistgħu jiġu preskritti u kemm-il darba ma jkunx ġie approvat individwalment jew skond approvazzjoni ta' tip mir-Regolatur jew minn xi enti rikonoxxuta bħala esperta f'din il-ħaġa li tkun ġiet awtorizzata mir-Regolatur sabiex tagħti dik l-approvazzjoni jew toħroġ approvazzjonijiet ta' tip.

Standardi u
ttestjar ta'
apparat.

(2) F'dan l-artikolu "approvazzjoni ta' tip" tfisser deskrizzjoni għal tip ta' apparat li jiġi approvat għall-ghanijiet hemm speċifikati, u li jkun fih dawk id-dettalji li jistgħu jidentifikaw l-apparat hekk approvat.

(3) Ir-Regolatur jista' f'kull waqt jeħtieġ li apparat jiġi ttestjat f'dak il-lok u hin u b'dak il-mod hekk kif huwa jista' jordna.

27. (1) Hadd ma jista' jagħmel xogħlijiet jew iwettaq xi att ieħor, jew jiġi fdat li jagħmel dawk ix-xogħlijiet jew iwettaq dak l-att, għall-kostruzzjoni, tiswija, manutenzjoni, tibdil jew kontroll ta' xi infrastruttura ta' telekomunikazzjonijiet jew apparat simili kemm-il darba ma jkollux dawk il-kwalifiki biex iwettaq dawk ix-xogħlijiet jew jagħmel dak l-att li jista' jiġi preskritti.

Kwalifiki.

(2) Regolamenti li jkunu jippreskrivu l-kwalifiki msemmija qabel jistghu wkoll jispeċifikaw it-testijiet li għandhom isiru sabiex jiġi żgurat jekk persuna ikollhiex il-kwalifiki mehtieġa.

Sorveljar ta' żviluppi fit-telekomunikazzjonijiet.

28. (1) Ir-Regolatur jagħmel kull riċerka, studju u konsultazzjoni mehtieġa dwar xi għan wiehed jew iktar minn dawn li ġejjin:—

(a) is-sorveljar ta' żviluppi lokali u internazzjonali fil-qasam tat-telekomunikazzjonijiet;

(b) l-identifikar ta' mezzi sabiex titjeb l-effiċjenza u *standards* fit-telekomunikazzjonijiet;

(ċ) il-ko-operazzjoni ma' awtoritajiet ta' telekomunikazzjonijiet barranin;

(d) li jagħti pariri lill-Ministru fil-għemil ta' *policies* fil-qasam tat-telekomunikazzjonijiet.

(2) Bi ftehim mal-Ministru, ir-Regolatur jista' jagħmel dak kollu li jista' jqis li jkun mehtieġ jew xieraq biex jiżgura servizzi ta' telekomunikazzjonijiet adegwati u effiċjenti f'Malta.

6. Appelli

Bord ta' l-Appelli dwar Telekomunikazzjonijiet.

29. (1) Għandu jkun hemm Bord ta' l-Appelli dwar Telekomunikazzjonijiet, li jkun magħmul minn tliet membri, li minnhom wiehed, li jkun *chairperson*, ikun persuna li eżerċitat il-professjoni ta' avukat għal mhux inqas minn seba' snin.

(2) Il-membri tal-Bord jinhatru mill-Ministru għal perijodu li jiġi indikat fl-ittra tal-hatra tagħhom, u jistghu jiġu hekk mahturin għal perijodi oħra hekk kif il-Ministru jista' jqis li jkun xieraq.

(3) Membru tal-Bord jista' jiġi rikuzat jew jastjeni għal xi waħda mir-raġunijiet li għalihom imhallet jista' jiġi rikuzat jew jastjeni skond l-artikolu 734 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. F'kull każ bhal dak il-Ministru għandu jahtar persuna, li jkollha l-kwalifiki ta' dak il-membru rikuzat jew li jkun qed jastjeni, biex joqgħod bħala membru sostitut fuq il-Bord minflok dak il-membru.

Kap. 12.

(4) Membru tal-Kamra tad-Deputati jew ta' Kunsill Lokali jiġi skwalifikat milli jinhatar jew ikompli jkun membru tal-Bord għal daqstant żmien daqskemm huwa jdum f'dik il-kariga.

(5) Il-Ministru għandu jsemmi wkoll uffiċjal pubbliku sabiex dan iservi bħala Segretarju tal-Bord.

30. (1) Appell jista' jsir quddiem il-Bord ta' l-Appelli dwar Telekomunikazzjonijiet –

(a) skond l-artikolu 10 ta' dan l-Att;

(b) kontra kull nuqqas ta' approvazzjoni jew każda taht l-artikolu 15 ta' dan l-Att;

(c) kontra kull deċiżjoni li tirrevoka awtorizzazzjoni taht l-artikolu 18 ta' dan l-Att;

(d) kontra kull deċiżjoni mogħtija mir-Regolatur f'xi tilwima bejn provduri awtorizzati taht l-artikolu 20 ta' dan l-Att;

(e) kontra deċiżjoni mogħtija mir-Regolatur minhabba f'tilwima ta' abbonat taht l-artikolu 23 ta' dan l-Att;

(f) f'dawk il-każijiet li jistghu jiġu hekk preskritti.

(2) Kull min ikun aggravat bid-deċiżjoni, jew skond ma hemm fl-artikolu 10 ta' dan l-Att, ikollu l-jedd ta' appell.

(3) Il-Bord għandu jagħti r-raġunijiet għad-deċiżjoni tiegħu u għandu jara li dawk id-deċiżjonijiet ikunu magħrufin fil-pubbliku u jista' jhalli barra, jekk jidherli li jkun hekk xieraq għal raġunijiet ta' konfidenzjalità kummerċjali, l-ismijiet tal-persuni involuti.

31. (1) Il-Bord ikun kompetenti li jisma' u jiddeċiedi kull appell li jsir quddiemu skond id-dispożizzjonijiet ta' dan l-Att u ta' kull regolament magħmul tahtu; u bla hsara għall-artikolu 32 ta' dan l-Att, id-deċiżjonijiet tal-Bord ikunu konklusivi u vinkolanti.

Setgħat u
proċedura
tal-Bord.

(2) Sabiex iwettaq il-funzjonijiet tiegħu, il-Bord jista' jharrek lil kull persuna sabiex din tidher u tixhed quddiemu kif ukoll iġġib magħha dokumenti; iċ-*chairperson* ikollu dritt li jagħti l-ġurament. Il-Bord jista' wkoll jahtar esperti biex jagħtu parir lill-Bord dwar kull punt tekniku li jista' jkollu rilevanza fid-deċiżjoni li jkun irid jagħmel.

(3) Għall-ghanijiet imsemmija qabel, il-Bord għandu jkollu l-istess setgħat bħalma jappartjenu lill-Prim'Awla tal-Qorti Ċivili skond il-liġi.

(4) Il-proċedura li għandha tiġi segwita quddiem il-Bord, iż-żmien li fih u l-mod kif appell quddiem il-Bord għandu jsir, għandhom ikunu dawk hekk kif jistgħu jiġu preskritti; u bla hsara għal dak imsemmi, u għal kull dispożizzjoni applikabbli ohra ta' dan l-Att, il-Bord jista' jistabbilixxi l-proċedura tiegħu nnifsu.

Appell quddiem
il-Qorti ta' l-Appell.

32. Parti f'appell quddiem il-Bord li thoss ruhha aggravata b'deċiżjoni tal-Bord, jew ir-Regolatur jekk dan iħoss ruhu mhux sodisfatt b'xi deċiżjoni bħal dik, jista' dwar kull punt ta' liġi jagħmel appell quddiem il-Qorti ta' l-Appell permezz ta' rikors li jiġi preżentat fir-reġistru ta' dik il-Qorti, fil-każ ta' appell mir-Regolatur fi żmien tletin jum mid-data tad-deċiżjoni tal-Bord, u fil-każ ta' xi persuna ohra fi żmien tletin jum mid-data meta dik id-deċiżjoni tkun giet lilu notifikata.

7. Regolamenti

Setgħa ta' għemil
ta' regolamenti.

33. (1) Il-Ministru jista', sew bir-rakkomandazzjoni tar-Regolatur jew b'inizjattiva tiegħu nnifsu, jagħmel regolamenti sabiex jagħti seħħ aħjar lid-dispożizzjonijiet ta' dan l-Att u b'mod partikolari, iżda bla ebda preġudizzju għall-ġeneralità ta' dak imsemmi qabel, sabiex jipprovdi dwar —

(a) il-mod kif infrastruttura jew apparat tat-telekommunikazzjonijiet għandu jiġi installat, imhaddem, mantnut, protett jew kontrollat;

(b) l-istandardi tekniċi jew speċifikazzjonijiet li jkollhom jiġu osservati dwar l-infrastruttura jew apparat ta' telekommunikazzjonijiet;

(ċ) il-miżuri li jkollhom jittiehdu sabiex tiġi żgurata konformità ma' standardi jew tagħmir internazzjonali jew ta' xort'ohra wżati fl-industrija tat-telekommunikazzjonijiet, b'mod partikolari dawk stabbiliti bl-*International Telecommunications Union* (ITU);

(d) il-mezzi li għandhom jintużaw u l-miżuri li jiġu adottati, sew bi projbizzjoni jew xort'ohra, sabiex tiġi żgurata s-sigurezza pubblika u privata u sabiex jiġi evitat kull periklu, hsara jew ingombri;

(e) il-kwalità u standard ta' servizzi tat-telekommunikazzjonijiet li għandhom jiġu provduti minn provdutor awtorizzati;

(f) it-twaqqif u manutenzjoni ta' servizz ta' ghajjnuna effiċjenti għall-abbonati;

(g) il-proċedura ta' ipproċessar ta' ilmenti li għandha tiġi adottata u mwettqa minn provduri awtorizzati ta' servizz ta' telekomunikazzjonijiet;

(h) kull haġa li jkollha x'taqsam ma' l-interkumunikazzjoni ta' *networks* jew mal-infrastruttura tat-telekomunikazzjonijiet;

(i) kull haġa li jkollha x'taqsam mar-risolviment ta' tilwimiet kif provdut fl-artikolu 22 ta' dan l-Att.

(2) Regolamenti magħmulin taht dan l-artikolu jistgħu wkoll —

(a) jehtieġu lil provduri awtorizzati li jzommu dawk ir-*records* operattivi, ta' ikkontjar, finanzjarji, statistiċi u tekniċi hekk kif jistgħu jiġu speċifikati fir-regolamenti, u li jibgħatu lir-Regolatur dawk id-dikjarazzjonijiet, prospetti u tagħrif iehor hekk kif ir-Regolatur jista' jehtieġ għat-twettieq tal-funzjonijiet tiegħu taht dan l-Att jew hekk kif jista' jiġi speċifikat fir-regolamenti;

(b) jippreskrivi miżuri li jkollhom jittiehdu minn provduri awtorizzati bil-ghan li tiġi żgurata l-integrità invjolabbli tat-telekomunikazzjonijiet trasmessi u l-konfidenzjalità tagħhom u l-protezzjoni tal-privatezza dwar kull servizz ta' telekomunikazzjonijiet;

(ċ) jippreskrivi dawk il-miżuri li għandhom jittiehdu minn provduri awtorizzati hekk kif jista' jkun mehtieġ li jittiehdu b'xi obligazzjoni internazzjonali li jkollu l-Gvern;

(d) jippreskrivi d-drittijiet li għandhom jithallsu minn provduri awtorizzati għal jew dwar xi awtorizzazzjoni taht dan l-Att, inkluża r-reġistrazzjoni taht l-artikolu 12 ta' dan l-Att kif ukoll id-drittijiet li għandhom jithallsu lir-Regolatur għal servizzi mogħtijin minnu;

(e) jehtieġu provduri awtorizzati jippubblika jew jikkaguna li jiġi pubblikat direttorju u jipprovdi dwar kull haġa li jkollha x'taqsam ma' dawk id-direttorji;

(f) jipprovdi dwar kull haġa li għandha jew li tista' tiġi preskritta, jew li dwarha għandhom jew jistgħu jsiru regolamenti, taht xi dispożizzjoni ta' dan l-Att.

(3) Regolamenti maghmulin taht dan l-artikolu jistghu wkoll —

(a) jehtiegu lil provditur awtorizzat jipprovdi servizzi ta' telekomunikazzjonijiet msemmija mir-Regolatur bhala obligazzjonijiet ta' servizz universali b'dawk il-patti u kondizzjonijiet li jistghu jigu hekk speċifikati, inkluzi patti u kondizzjonijiet li tahtom is-servizzi ghandhom jigu provduti bla profitt jew b'telf ragonevoli lill-provditur awtorizzat;

(b) meta l-obbligazzjoni li jigu provduti obligazzjonijiet ta' servizz universali tkun giet imposta fuq iktar minn provditur awtorizzat wiehed u l-ispejjeż addizzjonali ghall-provdiment ta' dak is-servizz, minn xi provditur wiehed jew iktar, tkun oghla mid-dhul addizzjonali li jinkiseb minnhom, ir-Regolatur jista' jaghmel provdiment ghal dak il-proċess ta' finanzjament hekk kif jista' jidhirlu mehtieg u xieraq sabiex jiżgura li r-responsabbiltajiet li jitnisslu minn dawk l-obbligazzjonijiet jinqasmo b'mod gust mill-provdituri awtorizzati kollha li jkunu mehtiega sabiex jipprovdu dak is-servizz.

8. Reati u Pieni

Reati u peni.

34. (1) Kull min —

(a) jipprovdi servizz ta' telekomunikazzjonijiet jew jinstalla jew ihaddem infrastruttura ta' installazzjoni jew apparat tat-telekomunikazzjonijiet minghajr awtorizzazzjoni taht u skond xi dispozizzjoni ta' dan l-Att jew bi vjolazzjoni jew ksur ta' xi patt, kondizzjoni, restrizzjoni jew limitazzjoni imposti minn jew taht dan l-Att jew fl-istrument li jkun fih l-awtorizzazzjoni; jew

(b) ibiegh jew joffri ghall-bejgh jew jipprovdi jew jinstalla jew juza xi installazzjoni jew apparat li ma jkunx konformi ma' dawk l-istandards tekniċi jew speċifikazzjonijiet hekk mehtiega jew stabbiliti minn jew taht dan l-Att, jew li jkun jaf, jew ikollu raguni valida ghaliex jobsor, li jkunu difettużi jew inkompatibbli mas-servizzi li jkunu inbieghu, gew provduti, installati jew uzati ghalihom; jew

(c) jikkostitwixxi, iservi, jimmantjeni, jibdel jew jikkontrolla xi apparat jew installazzjoni minghajr ma jkollu l-kwalifiki mehtiega ghal dak l-ghan minn jew taht dan l-Att; jew

(d) juza xi infrastruttura jew apparat ta' telekomunikazzjonijiet provduti minn provditur awtorizzat ghal

xi ghan li ma jkunx dak li ghalih ikun gie provdut, jew jonqos milli josserva dawk l-istruzzjonijiet li jinħargu minn provditur awtorizzat għall-użu sew ta' l-infrastruttura tat-telekomunikazzjonijiet jew tagħmir jew jagħmel użu minnu mhux sew,

ikun hati ta' reat taht dan l-Att u jista' jehel multa ta' mhux iżjed minn hamest elef lira u fil-każ ta' reat kontinwat multa ulterjuri ta' mhux iżjed minn hames mitt lira għal kull jum li matulu jkompli r-reat.

(2) Kull min jagħti informazzjoni lir-Regolatur li huwa jkun jaf, jew ikollu raġuni valida li jobsor, li tkun falza, jew iwaqqaf jew jostruwixxi lir-Regolatur, fit-twettiq ta' xi funzjoni taht dan l-Att, ikun hati ta' reat taht dan l-Att, u jista' jehel, meta jinsab hati, multa ta' mhux iżjed minn għaxart elef lira jew prigunerija għal żmien mhux iżjed minn sitt xhur, jew dik il-multa u prigunerija flimkien.

(3) Kull min, għax ikun impjegat jew assenjat dmirijiet ma', jew imqabbad minn, xi provditur awtorizzat —

(a) jagħti xi informazzjoni dwar xi messaġġ li huwa jsir midhla tiegħu minhabba fil-kariga tiegħu lil xi persuna li ma jkollhiex jedd li tircievi dik l-informazzjoni; jew

(b) xjentement jibdel jew iżomm xi messaġġ jew it-tismija tal-persuna li lilha jiġi trasmess jew indirizzat, mingħajr ebda raġuni valida; jew

(c) xjentement ihalli barra, idewwem jew jostruwixxi t-trasmissjoni jew il-kunsinna ta' xi messaġġ jew ihassar jew jeqred xi messaġġ jew applikazzjoni għat-trasmissjoni ta' xi messaġġ mingħajr raġuni valida; jew

(d) xjentement juri messaġġ bhallikieku intbagħat minn persuna li ma tkunx dik li baġtitu jew bhallikieku jkun indirizzat lil persuna li ma tkunx dik indirizzata, jew applikazzjoni għat-trasmissjoni ta' messaġġ bhallikieku dik tkun saret minn persuna li ma tkunx il-persuna li tkun applikat, mingħajr raġuni valida; jew

(e) xjentement ihassar jew jeqred xi messaġġ li ma jkunx lilu indirizzat jew applikazzjoni għat-trasmissjoni ta' xi messaġġ, mingħajr raġuni valida; jew

(f) kontra l-liġi jirtira mill-kontroll ta' provditur awtorizzat, jew ta' individwu impjegat jew assenjat dmirijiet ma', jew

imqabbad minn, provditur awtorizzat, messaġġ li jkun indirizzat lil xi persuna ohra,

ikun hati ta' reat taht dan l-Att u jista' jehel, meta jinsab hati, multa ta' mhux iżjed minn għaxart elef lira jew prigunerija għal żmien mhux iżjed minn sitt xhur, jew dik il-multa u prigunerija flimkien.

(4) Kull minn jaggedixxi jew jostruwixxi jew jimpedixxi lil xi uffiċjal, impjegat jew aġent ta' provditur awtorizzat fit-twettiq ta' dmirijietu ma' dak il-provditur awtorizzat ikun hati ta' reat taht dan l-Att u jista' jehel, meta jinsab hati, multa ta' mhux iżjed minn elf lira jew prigunerija għal żmien ta' mhux iżjed minn xahar, jew dik il-multa u prigunerija flimkien.

(5) Minghajr ebda preġudizzju għad-dispożizzjonijiet ta' qabel ta' dan l-artikolu, kull min jikser jew jonqos milli jhares xi dispożizzjoni ta' dan l-Att jew ta' xi regolamenti magħmulin jew ordni mogħtija permezz tagħhom, ikun hati ta' reat kontra dan l-Att, u jehel, meta jinsab hati, multa ta' mhux iżjed minn mitt lira u fil-każ ta' reat kontinwat multa ulterjuri ta' mhux iżjed minn għoxrin lira għal kull jum li matulu jkompli r-reat.

Proċedimenti
dwar reat.

35. (1) Ma għandu jinbeda ebda proċediment għal reat taht dan l-Att minghajr il-kunsens bil-miktub tar-Regolatur jew fuq talba tiegħu.

Kap. 9.

(2) Minkejja kull haġa li jista' jkun hemm fil-Kodiċi Kriminali, il-prosekuzzjoni tista' tagħmel appell quddiem Qorti ta' ġurisdizzjoni kompetenti kontra kull sentenza mogħtija fi proċedimenti dwar reat taht dan l-Att.

TAQSIMA III

Thassir, Riservi u Dispożizzjonijiet Transitorji

Thassir ta' l-Att
dwar il-
Korporazzjoni
Telemalta.
Kap. 250.

36. (1) B'seħħ minn dik id-data li l-Ministru jista' b'avviż fil-Gazzetta jistabilixxi li tkun data li tiġi wara d-data li fiha dan l-Att jibda jseħħ, u bla hsara għad-dispożizzjonijiet li ġejjin ta' dan l-Att, l-Att dwar il-Korporazzjoni Telemalta qiegħed b'dan jithassar.

(2) Id-data stabbilita mill-Ministru għal dak it-thassir hi f'dan l-Att imsejha wkoll "id-data operattiva".

(3) Minkejja kull dispożizzjoni ohra ta' dan l-Att il-Korporazzjoni Telemalta għandha, sad-data operattiva, tkompli tiffunzjona u topera kif provdut fl-Att imhassar b'dan l-artikolu u

għandha wara ma tkomplex teżisti, bla ħsara għad-dispożizzjonijiet li għejjin ta' dan l-Att.

(4) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, ir-regolamenti kollha u kull leġislazzjoni sussidjarja oħra magħmula taht l-Att imħassar b'dak is-subartikolu għandhom jibqgħu fis-seħh daqs li kieku kienu magħmula taht dan l-Att u għandhom għal finijiet u għanijiet kollha jitqiesu bħala tali.

37. (1) Kull liċenza jew awtorizzazzjoni legalment maħruġa jew mogħtija qabel id-data operattiva taht l-Att dwar il-Korporazzjoni Telemalta u fis-seħh f'dik id-data, għandha sa dik id-data tkompli fis-seħh kif provdut bi jew taht dak l-Att u, wara, għandhom ikomplu fis-seħh u jkollhom effett dwar kull haġa li tenhtieg awtorizzazzjoni taht dan l-Att, bħallikieku dawn kienu inhargu jew ingħataw taht dan l-Att, b'dawk il-modifiki, addattamenti u limitazzjonijiet kif jista' jkun meħtieġ jew xieraq għal dak il-għan, u għandhom ikunu bla ħsara għad-dispożizzjonijiet ta' dan l-Att daqslikieku kienu hekk maħruġa jew mogħtija.

Liċenzi maħruġa taht l-Att imħassar bl-artikolu 36.

(2) Mingħajr ebda preġudizzju għad-dispożizzjonijiet ta' qabel ta' dan l-artikolu b'effett mid-data operattiva—

(a) ir-Regolatur, bħala suċċessur tal-Korporazzjoni Telemalta, għandu jkollu l-jeddijiet kollha, inklużi jeddijiet ta' azzjoni, u jassumi l-obbligi u d-djun kollha tal-imsemmija Korporazzjoni naxxenti minn jew relatati ma' xi liċenza jew awtorizzazzjoni u kull ftehim relatat, miżmuma fis-seħh taht dan l-artikolu; u

(b) id-drittijiet kollha dovuti taht jew dwar xi liċenza jew awtorizzazzjoni bħal dik, u li tkun dovuta fi jew wara d-data operattiva, għandhom ikunu dovuti u pagabbli lir-Regolatur f'isem il-Gvern.

38. (1) Minkejja kull dispożizzjoni oħra ta' dan l-Att, ir-Regolatur jista' johroġ favur kumpannija msemmija, awtorizzazzjoni taht it-Taqsima II ta' dan l-Att taht dawk il-patti u kondizzjonijiet, u li jagħti dawk is-setgħat u drittijiet ta' esklużività kif hu jista', bil-ftehim tal-Ministru, jiftiehem ma' dik il-kumpannija, u jipprovdi dwar dawk il-hwejjeġ kollha kif hu jista', bil-ftehim tal-Ministru, iqis xierqa; u kull strument li jkun fih dik l-awtorizzazzjoni u dawk il-hwejjeġ l-oħra fuq imsemmija, għandu jkollhom seħh, effett u validità shah:

Awtorizzazzjoni lill-kumpannija msemmija.

Izda ebda esklużività ma tista' tingħata taht dan is-subartikolu hlief kif provdut fl-artikolu 11 ta' dan l-Att.

(2) F'dan l-Att, "kumpanija msemmija" tfisser kumpanija msemmija bhala tali mill-Ministru għall-finijiet ta' dan l-artikolu b'avviż pubblikat fil-Gazzetta.

Effett ta' l-artikoli 40, 41 u 42 ta' dan l-Att.

39. (1) B'seħħ mid-data operattiva id-dispożizzjonijiet ta' l-artikoli 40, 41 u 42 għandu jkollhom effett:

Iżda dawk l-artikoli ma għandhomx japplikaw għal xi liċenza jew awtorizzazzjoni miżmuma fis-seħħ wara d-data operattiva bl-artikolu 37 ta' dan l-Att.

(2) Minkejja kull haġa oħra f'kull liġi oħra, jew f'xi att, kuntratt, strument jew dokument iehor ikun li jkun, id-dispożizzjonijiet ta' dan l-Att għandu jkollhom effett, u f'każ ta' konflitt bejn xi dispożizzjonijiet ta' l-artikoli 40, 41 u 42 ta' dan l-Att u d-dispożizzjonijiet ta' xi liġi oħra, jew kull haġa f'xi att, kuntratt, strument jew dokument iehor, ikun li jkun, id-dispożizzjonijiet ta' dawk l-artikoli għandhom jipprevalu.

Trasferiment tal-kummerċ relevanti.

40. (1) B'effett mid-data operattiva, il-kummerċ relevanti kollu ikun trasferit lil u jvesti fil-kumpanija msemmija bis-saħħa ta' dan l-Att.

(2) Il-"kummerċ relevanti" tfisser il-kummerċ tal-Korporazzjoni Telemalta, inkluż kull attiv u passiv tagħha (bla hsara għal proviso tas-subartikolu (1) ta' l-artikolu 39 ta' dan l-Att), ukoll kif aktar deskritt fid-dispożizzjonijiet li ġejjin ta' dan l-Att.

(3) Il-kummerċ relevanti għandu, mingħajr ebda preġudizzju għall-ġeneralità ta' dak imsemmi qabel, jikkompriji l-proprjetà kollha ta' kull xorta, mobbli jew immobbli, u kull dejn jew obligazzjoni tal-korporazzjoni msemmija qabel relatati għall-kummerċ tagħha kif ikun fid-data operattiva, kif ukoll kull dritt aċċessorju jew anċillari għall-istess, inklużi kull ipoteka, privileġġ, sehem, pleggerija jew dritt iehor li jggarantixxi xi dritt jew obligazzjoni oħra:

Iżda l-pagament dovut lill-Gvern taht l-artikolu 24 ta' l-Att dwar il-Korporazzjoni Telemalta ma għandux ikun aktar dovut fi jew wara d-data operattiva.

(4) Dwar kull proprjetà immobbli jew haġa oħra immobbli u kull dritt fi jew fuq proprjetà bhal dik, inklużi kull ipoteka jew privileġġ kompriji fil-kummerċ relevanti, it-trasferiment u l-fatt li jkun ġie vestit fil-kumpanija msemmija għandu jkollu effett mar-registrazzjoni fir-Registru Pubbliku ta' nota li jkun fiha l-isem tal-kumpanija msemmija u d-data operattiva u l-fatt li l-kummerċ relativ jkun ġie trasferit mill-

Korporazzjoni Telemalta lill-kumpanija msemmija bis-sahha ta' dan l-artikolu, minghajr il-htieġa li wiehed jimxi skond xi rekwiżit tal-ligi dwar il-partikolaritajiet u indikazzjonijiet ohra dwar il-haġa, proprjetà jew dritt kompriż fil-kummerċ relevanti jew skond kull formalità ohra jew rekwiżit ieħor; u l-proprjetà tkun imbagħad tista' tiġi registrata fir-Registru ta' l-Artijiet f'isem il-kumpanija imsemmija a bażi ta' dik innota.

(5) It-trasferiment ta' kull dritt, passività jew obligazzjoni ohra jew ta' xi proprjetà jew haġa ohra kif imsemmi qabel –

(a) ma għandux jitqies bhala novazzjoni f'xi dritt bhal dak, f'xi passività bhal dik jew f'xi obligazzjoni bhal dik, u kull dritt bhal dak, kull passività bhal dik u kull obligazzjoni bhal dik għandhom ikompli jkollhom sehh daqsliekieku ma kienx hemm bdil fid-detentur, kreditur jew debitur tagħhom, u daqsliekieku kienu dejjem drittijiet, passivitajiet jew obligazzjonijiet tal-kumpanija msemmija;

(b) ma għandhomx jitqiesu bhala ksur ta' xi patt jew kondizzjoni, kemm statutorja jew kontrattwali jew jagħti lok għal xi teħid;

(c) ma għandux iġib l-invalidità, il-helsien minn, jew ix-xoljiment ta' xi kuntratt jew pleggerija;

(d) ma għandux jagħti lok għal pagament ta' xi lawdemju, rigal, penali jew hlas ieħor li jkun.

(6) Xejn f'dan l-artikolu ma għandu jipprekludi lill-kumpanija msemmija milli titlob illi ssir nota f'xi registru relevanti fir-Registru Pubbliku jew fir-Registru ta' l-Artijiet, jew f'xi nota irregistrata jew insinwata f'dawk ir-Registri, ta' dik ir-referenza jew annotazzjoni ohra hekk kif jista' jkun xieraq fiċ-ċirkostanzi.

41. (1) Bla hsara għall-generalità tad-dispożizzjonijiet ta' l-artikolu 40 ta' dan l-Att, mat-trasferiment tal-kummerċ relevanti kif provdut f'dak l-artikolu–

Effetti addizzjonali għat-trasferiment tal-kummerċ relevanti.

(a) kull kuntratt relattiv għall-kummerċ relevanti fis-sehh fid-data operattiva u li fih il-Korporazzjoni Telemalta tkun parti

ghandu, fi u wara dik id-data, ikompli jkollu effett u jiftihem daqs li kieku-

(i) il-kumpanija msemmija kienet parti fih minflok il-Korporazzjoni;

(ii) minflok kull riferenza (f'kull mod espressa u kemm jekk espressa jew implicita) għall-Korporazzjoni kollha tiġi sostitwita, għal dak relattiv għal kull haġa li għandha ssir fi jew wara d-data operattiva, referenza għall-kumpanija msemmija;

(iii) minflok kull riferenza (f'kull mod espressa u kemm jekk espressa jew implicita) għall-Bord, jew membru tal-Bord, tal-Korporazzjoni jew għal xi uffiċjal jew impjegat tagħha, kien hemm sostitwit dwar kull haġa li għandha ssir fi jew wara d-data operattiva, riferenza għall-bord, diretturi, direttur, uffiċjal jew impjegat tal-kumpanija msemmija kif il-każ jista' jehtieg;

u d-dispożizzjonijiet tas-subparagrafi (ii) u (iii) ta' dan il-paragrafu għandhom japplikaw dwar kull kuntratt ieħor jew dokument ieħor dwar il-kummerċ rilevanti u fis-seħh fid-data operattiva kif japplikaw dwar kuntratti li fih il-Korporazzjoni Telemalta hi parti.

(b) kull pleggerija li qabel id-data operattiva kienet teżisti favur il-Korporazzjoni bhala garanzija tal-pagament jew twettieq ta' xi debitu, passiv, jew obligazzjoni għandha, fi jew wara d-data operattiva, tkompli teżisti a favur ta', u utiżżabbli mill-kumpanija bhala garanzija tal-pagament jew twettieq ta' dak id-debitu, passiv jew obligazzjoni;

(ċ) kull sentenza jew lode mogħtija a favur jew kontra l-Korporazzjoni dwar il-kummerċ rilevanti qabel id-data operattiva u li ma tkunx kompletament sodisfatta f'dik id-data għandha fi jew wara dik id-data, tkun esegwibbli minn jew kontra il-kumpanija msemmija.

(2) Meta bis-sahha tat-twertieq tad-dispożizzjonijiet ta' dan l-Att, kull dritt, responsabbiltà jew obligazzjoni isir dritt, responsabbiltà jew obligazzjoni tal-kumpanija msemmija, dik il-kumpanija u kull persuna oħra għandha, fi jew wara d-data operattiva, ikollha l-istess drittijiet, poteri u rimedji biex tiżgura jew tinforza dak id-dritt, responsabbiltà jew obligazzjoni daqslikieku kien f'kull żmien dritt, responsabbiltà jew obligazzjoni tal-kumpanija msemmija, u kull proċeduri ġudizzjarji jew proċedura f'xi arbitraġġ jew rikors lil xi awtorità, pendenti minnufih qabel id-data operattiva minn jew kontra l-Korporazzjoni, għandhom, fi jew wara dik id-data, jitkomplew minn jew kontra l-kumpanija msemmija.

42 (1) Meta l-kummerċ relevanti jiġi trasferit kif provdut fl-artikolu 40 ta' dan l-Att, il-Ministru jista', b'ordni fil-Gazzetta, jestendi għall-kumpanija msemmija kull dispożizzjoni ta' liġi li qabel dak it-trasferiment kienet tapplika dwar il-Korporazzjoni Telemalta, sugġetta għal dawk il-kondizzjonijiet u dawk il-modifiki u riżervi u f'dak il-mod u għal dak iż-żmien kif hu jista' jidhirlu xieraq, u l-Ministru jista' wkoll b'ordni sussegwenti fil-Gazzetta jżid ma', jibdel jew jirrevoka kull ordni preċedenti, bla hsara għal għemil ta' ordni ġdid taht dan is-subartikolu.

Setgħat tal-Ministru u eżenzjoni minn taxxa fuq dokumenti.

(2) It-trasferiment tal-kummerċ relevanti lill-kumpanija msemmija għandu jkun eżenti mill-hlas ta' taxxa fuq *l-income* u t-taxxa fuq dokumenti.

43. (1) L-Ordinanza dwar it-Telegrafija mingħajr Fili (hawn aktar 'il quddiem msejha "il-liġi prinċipali") għandu jkollha effett sugġetta għal dawk l-emendi kif murija fid-dispożizzjonijiet ta' dan l-artikolu.

Emenda tal-Kap. 49.

(2) Fit-tifsira ta' "Ministru" fl-artikolu 2 tal-liġi prinċipali minflok il-kliem "uffiċjal pubbliku" għandhom jidhlu l-kliem "uffiċjal pubbliku jew xi uffiċjal ta' korp ġuridiku mwaqqaf bil-liġi".

(3) L-artikolu 3 tal-liġi prinċipali għandu jiġi emendat kif ġej:-

(a) fis-subartikolu (1) tiegħu-

(i) minflok il-kliem “tal-Ministru, fil-każ ta’ apparat tat-telegrafija minghajr fili li ma jkunx apparat ghar-riċezzjoni tax-xandir jew tal-Kummissarju tal-Pulizija fil-każ ta’ apparat ghar-riċezzjoni tax-xandir” ghandhom jidhlu l-kliem “tal-Ministru”; u

(ii) il-kliem “jew tal-Kummissarju tal-Pulizija, skond il-każ” ghandhom jithassru;

(b) fis-subartikolu (2) tieghu, minflok il-kliem “l-awtorità li tohroġ din il-liċenza” ghandhom jidhlu l-kliem “il-Ministru”;

(ċ) fis-subartikoli (4) u (5) tieghu minflok il-kliem “mill-awtorità li tkun harġet il-liċenza” u “tal-awtorità li tkun harġet il-liċenza” ghandhom jidhlu l-kliem “mill-Ministru” u “tal-Ministru” rispettivament; u

(d) minnufih wara s-subartikolu (5) tieghu ghandu jżied is-subartikolu li ġej:-

“(6) Il-Ministru jkollu l-jedd li jitlob minn kull persuna li tikkummerċja jew li kienet tikkummerċja f’ apparat tat-telegrafija minghajr fili, taghrif dwar il-magazzinar, xiri u bejgħ ta’ dak l-apparat u tal-persuna jew persuni li lilhom dak l-apparat ikun ġie mibjugħ minn dik il-persuna; u jekk il-persuna li minn ghandha t-taghrif ikun ġie mitlub, jonqos li jagħti t-taghrif mitlub, jew jagħti taghrif falz jew mhux korrett, u jiġi muri li l-apparat tat-telegrafija minghajr fili li kellu jkun fil-pussess tieghu ma jinghatax rendikont xieraq minn dik il-persuna, jiġi preżunt li dak l-apparat ikun ġie mibjugħ minnu in kontravvenzjoni tad-dispożizzjonijiet ta’ dan l-artikolu; u r-responsabbiltà li tingieb prova mod iehor, f’kull proċediment ċivili jew kriminali, taqa’ fuq dik il-persuna.”.

(4) Minflok l-artikolu 6 tal-liġi prinċipali ghandu jidhol dan li ġej:-

“6 (1) Persuna li tkun hatja ta’ reat kontra din il-parti ta’ din l-Ordinanza jehel, meta jinsab hati, multa ta’ mhux inqas minn

mitt lira u mhux iżjed minn elf lira dwar kull apparat, u meta jinsab hati t-tieni darba jew wara, multa ta' mhux inqas minn mitt lira u mhux iżjed minn elfejn lira jew prigunerija ghal żmien ta' mhux iżjed minn tnax-il xahar, jew dik il-multa u dik il-prigunerija flimkien; u fuq talba tal-prosekuzzjoni l-Qorti tista' tordna li l-apparat jiġi kkonfiskat u kkunsinnat lill Ministru:

Iżda minkejja d-dispożizzjonijiet ta' qabel, il-Ministru jista' dwar reat li jsir għall-ewwel darba, jagħmel ftehim bil-miktub mal-hati li permezz tiegħu dak il-hati jhallas is-somma ta' mitt lira, u malli dak il-ftehim jiġi ffirmat mill-Ministru u mill-hati u jsir il-hlas ta' dik is-somma, kull responsabbiltà kriminali tal-hati dwar dak ir-reat għandha tintemm; iżda wkoll li l-Ministru jista' jagħmel kull ftehim bhal dak sugġett għal li l-hati jċedi favur il-Gvern l-apparat li dwaru jkun sar ir-reat.

(2) Minkejja d-dispożizzjonijiet ta' dan l-artikolu, ebda azzjoni ma għandha tittiehed kontra xi persuna illi, għax ikollha liċenza tat-telegrafija minghajr fili u tonqos li thallas id-dritt stabbilit għat-tiġdid tagħha, thallas, fi żmien tletin jum, jew dak il-perjodu itwal li l-Ministru jista' jippermetti, mit-talba bil-miktub biex thallas, f'uffiċċju indikat f'dik it-talba, penali li tkun daqs darbejn id-dritt tal-liċenza fil-każ ta' drittijiet tal-liċenza sa tnax-il lira, u hamsa u għoxrin lira fil-każ ta' drittijiet ta' iżjed minn tnax-il lira, b'żieda mad-dritt dovut għat-tiġdid tal-liċenza.

(3) Meta tkun dovuta penali taht is-subartikolu (2) ta' dan l-artikolu jew tkun dovuta multa imposta taht is-subartikolu (1) ta' dan l-artikolu, liċenza mahruġa taht din l-Ordinanza lill-persuna li minnha tkun dovuta ma għandhiex tkun dovuta sakemm, flimkien mad-dritt stabbilit, ma thallasx ukoll il-penali jew il-multa dovuta kif imsemmi.”.

(5) Fl-artikolu 8 tal-liġi prinċipali:

(a) minflok il-kliem “taht din it-Taqsima ta' din l-Ordinanza,” għandhom jidhlu l-kliem “taht din it-Taqsima ta' din l-Ordinanza u mad-dispożizzjonijiet ta' l-Att dwar il-Bastimenti Merkantili jew ma' xi regolamenti li jkunu saru tahtu,” u minflok il-kliem “skond dawn ir-regolamenti:” għandhom jidhlu l-kliem “skond dawn ir-regoli u regolamenti:”; u

(b) fil-proviso tiegħu minflok il-kliem “Iżda l-Ministru jista' jehles mill-obbligu mehtieġ f'din it-Taqsima ta' din l-Ordinanza” għandhom jidhlu l-kliem “Iżda l-Ministru jista' jehles mill-obbligi kollha mehtieġa f'din it-Taqsima ta' din l-Ordinanza jew minn

parti minnhom” u minflok il-kliem “l-użu ta’ apparat ta’ telegrafija minghajr fili mhux mehtieġ jew ma jkunx skond ir-raġuni.” ghandhom jidhlu l-kliem “ikun xieraq li jagħmel hekk.”

(6) Fl-artikolu 9 tal-liġi prinċipali minflok il-kliem “li ghandhom jithallsu għal dan l-eżami:” ghandhom jidhlu l-kliem “li ghandhom jithallsu għal dan l-eżami, il-kondizzjonijiet għall-hruġ jew għarfien ta’ ċertifikati għal operaturi u għassiesa u l-kondizzjonijiet għas-sostituzzjoni, sospensjoni, thassir u alterazzjoni ta’ ċertifikati ta’ operaturi u għassiesa:”.

(7) Fl-artikolu 12 tal-liġi prinċipali, minnufih wara s-subartikolu (2) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

“(3) Dan l-artikolu m’għandux japplika dwar bastiment Malti b’reġistrazzjoni ta’ *bareboat charter* f’reġistru barrani sakemm ikun hekk registrat.”.

Emenda
tal-Kap. 81.

44. Minflok il-paragrafu (b) ta’ l-artikolu (2) ta’ l-Ordinanza dwar l-Impjanti tas-Sistema ta’ Komunikazzjoni ta’ l-Elettriku u tat-Telegrafu għandu jidhol li ġej:—

“(b) fil-każ ta’ xogħlijiet li ghandhom x’jaqsmu ma’ xi servizz ta’ telefon jew telegrafija, ir-Regolatur hekk imsejjaħ taht l-Att ta’ l-1997 biex jirregola t-Telekomunikazzjoni, u kull persuna awtorizzata mill-istess Regolatur biex jinstalla jew jopera infrastruttura ta’ telekomunikazzjonijiet jew biex jipprovdi servizz ta’ telekomunikazzjonijiet taht dak l-Att;”.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 168 tas-16 ta’ Diċembru, 1997.

MYRIAM SPITERI DEBONO
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

UGO MIFSUD BONNICI
President

30th December, 1997

ACT No. XXXIII of 1997

AN ACT to regulate Telecommunications

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:

PART I

PRELIMINARY

1. (1) This Act may be cited as the Telecommunications (Regulation) Act, 1997 Short title and commencement.

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

2. In this Act, unless the context otherwise requires - Interpretation.

“apparatus” means any equipment, instrument or other apparatus for use in the provision, or in the reception, of telecommunication services, and includes any fittings thereto or accessories thereof;

“authorisation” includes any licence or permit issued under this Act to install or operate a telecommunications infrastructure or to provide a telecommunications service as well as the registration of a person authorising such person to act as aforesaid under section 12 of this Act;

“authorised provider” means any person who holds a valid licence or permit to operate a telecommunications infrastructure or provide a telecommunications service under this Act, or is registered under this Act as a person authorised as aforesaid;

“Board” means the Telecommunications Appeals Board established by section 29 of this Act;

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“Corporation” means the Telemalta Corporation established by the Telemalta Corporation Act;

“designated company” has the meaning assigned to it by section 38 of this Act;

“electro magnetic system” means any system whereby messages or sound or light or visual images may be transmitted by wire activated by electricity or by radio waves or by any other electro magnetic energy or by optical energy or by a combination of any two or more of such systems;

“frequency” means the number of complete cycles per second of a wave of radioactive spectrum;

“granted” or “issued”, in respect of an authorisation, includes deemed to be granted or issued;

“message” includes communication;

“Minister” means the Minister responsible for telecommunications, and includes any other Minister delegated by him for that purpose;

“operative date” has the meaning assigned to it by section 36 of this Act;

“other service” means a telecommunication service which is not a public telecommunication service;

“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;

“private telecommunications infrastructure” means a telecommunications infrastructure utilised by an authorised provider to provide private telecommunications services only;

“private telecommunications service” means a telecommunication service provided by an authorised provider for its own use over a telecommunications infrastructure;

“public land” includes any land which is used or intended for use by the general public, as well as the territorial waters of Malta;

“public telecommunications infrastructure” means a telecommunications infrastructure other than a private telecommunications infrastructure;

“public telecommunications service” means a telecommunications service other than a private telecommunication service provided by an authorised provider over a telecommunications infrastructure;

“Regulator” means the Telecommunications Regulator designated as such under section 3 of this Act and, to the extent of the authority given, includes any person authorised by him for any purpose;

“relevant business” has the meaning assigned to it by section 40 of this Act;

“telecommunications” means the emission, transmission, routing and reception of signals, messages, sound or light or of visual images, by an electro-magnetic system, including cable television, and pay-per-view but excluding broadcasting as defined in the Broadcasting Act, 1991;

Act XII of 1991.

“telecommunication infrastructure” means the underlying physical components constituting an electro-magnetic system intended for telecommunications services and transmission

capacity, such system being limited by the appurtenant connecting points;

“telecommunications service” means any one or more of the following:-

(a) a service consisting in the transmission, by means of a telecommunications infrastructure, of any form of telecommunications, without regard to the content of the messages transmitted;

(b) a directory information service consisting in the provision by any means whatsoever of directory information for the purpose of facilitating the use of a service falling within paragraph (a) of this definition and provided by means of that system;

(c) a service consisting in the installation, maintenance, operation, adjustment, repair, alteration, moving, removal or replacement of a telecommunications infrastructure;

“telegraphy” means the transmission of messages from one place to another by means of an electro-magnetic system, but does not include spoken messages;

“telephony” means the transmission of spoken messages by an electro-magnetic system;

“telex” means a system of telegraphy where the message is transmitted directly between the sender and recipient;

“transmission” includes emission, switching and reception;

“universal service obligation” means an obligation to provide telecommunications services that are designated by the Regulator as basic services for social reasons at an affordable price or free of charge.

PART II

REGULATION OF TELECOMMUNICATIONS

1. Telecommunications Regulator

3. (1) There shall be a Telecommunications Regulator, who shall be a public officer designated as such by the Prime Minister.

(2) In the performance of his functions under this Act, or under any other law, the Regulator shall be assisted by such personnel in the public service, or otherwise engaged for that purpose, as may be deemed appropriate by the competent authorities and as may be appointed or engaged or detailed for duty in accordance with the rules and procedures applicable thereto.

4. (1) It shall be the function of the Regulator to regulate, supervise and monitor telecommunications and to ensure that telecommunications infrastructure are installed and operated and telecommunications services are provided for the benefit of the users of telecommunications due consideration being given to the commercial viability of authorised providers, and in accordance with the provisions of this Act. Functions of the Regulator.

(2) It shall be the responsibility of the Regulator to ensure compliance with the provisions of this Act and with any other relevant law; and may issue such directives as he may deem necessary for that purpose.

(3) The Regulator shall also have such other functions responsibilities and powers as are set out in this Act or as may be prescribed or as may be assigned to him by or under any other law.

2. Authorisation for telecommunications infrastructures or services

5. (1) No person shall install or operate a telecommunications infrastructure or provide a telecommunications service in Malta unless he is an authorised provider. Requirement of authorisation.

(2) An authorisation granted to a person under this Act shall not relieve such person from the requirement of any other licence, permit or other authorisation, of from any obligation arising from any other law:

Provided that, to the extent that it is necessary for the purpose of any installation, operation or provision as aforesaid by an authorised provider, an authorisation granted under this Act shall be deemed to include a licence issued under section 3 of the Wireless Telegraphy Ordinance, and such licence shall be deemed to have been issued under this Act and be regulated accordingly. Cap 49.

Transferability of
authorisation.

6. (1) No licence, permit or other authorisation may be transferred or assigned by the authorised provider to another person without the prior consent in writing of the Regulator.

(2) The Regulator may refuse his consent under this section for a good reason only and such refusal shall be communicated in writing.

(3) Where the authorised provider is a body corporate or another body of persons, a change in the control of the ownership or management of that body shall be equivalent to the transfer of the authorisation, and shall be subject to the prior consent of the Regulator as aforesaid.

Application for
Authorisation.

7. (1) Any person seeking an authorisation by means of a licence or permit shall apply to the Regulator on such form and in such manner as may be prescribed, or as may be provided or required by the Regulator, and shall provide to the Regulator all such information as may be prescribed and as the Regulator may reasonably require to enable him to assess the application.

(2) The application shall in particular specify the telecommunications infrastructure or service or services for which the application is made.

(3) Upon receipt of an application as aforesaid the Regulator shall cause the fact that an application has been made to be published in the Gazette, giving such details as he may deem appropriate to enable any person wishing to make representations to object to the application or make any other submission.

(4) The Regulator shall consider the application after conducting the necessary investigations and considering any representations or submissions made in respect thereof, and may for this purpose require from any person any further information he may deem necessary.

(5) Anything to be done under this section shall be done in such form and manner and within such time as may be prescribed.

Grant or refusal
of authorisation

8. (1) The Regulator shall complete his investigations within a reasonable time and shall thereupon make and forward a report to the Minister which shall include a recommendation whether the authorisation applied for is to be granted or not.

(2) If the recommendation is that an authorisation is to be granted, and the Minister agrees with the recommendation, the Regulator shall approve the application and grant the licence or permit under his signature.

(3) If the Regulator is of the opinion that the application should be refused for any of the reasons set out in section 9 of this Act he shall inform the Minister accordingly and refuse the authorisation.

(4) If the Regulator recommends that the application should be approved but the Minister disagrees with such recommendation on any of the grounds indicated in section 9 of this Act, the application shall be refused but the Minister shall make public the reasons for his decision.

9. (1) The Regulator may refuse to authorise a person to install or operate a telecommunications infrastructure or to provide a telecommunications service, if he is of the opinion that the grant of the authorisation would:- Grounds for refusal.

(a) be against the public interest, or is inconsistent with Government policy, and the Minister agrees;

(b) be inconsistent with the provisions of this Act or of any other law, or with any international commitment undertaken or in the process of being undertaken by Malta;

(c) pose a danger or nuisance to the public or damage to any property, or obstruct or interfere with any lawfully operated telecommunications system or network.

(2) The Regulator may also refuse to grant the authorisation applied for if he has grounds to believe that the applicant is not a fit and proper person to hold the authorisation applied for, or is not in a position, because of the financial and other specific circumstances of the applicant, to comply with the provisions of this Act or of any regulations made thereunder or with the conditions of the licence or permit if granted.

(3) The Regulator shall communicate in writing to the applicant the decision to refuse an application and he shall set out briefly in writing the reasons for such a decision.

10. (1) There shall be an appeal to the Telecommunications Appeals Board, as provided in section 29 of this Act, from any decision to grant or refuse an authorisation under the foregoing provisions of this Act. Appeals for grant or refusal.

(2) Where an authorisation as aforesaid is refused, the right of appeal shall be competent to the applicant; where an authorisation is granted the appeal shall be competent to any person who has made representations in writing to the Regulator as provided in section 7 of this Act.

11. (1) An authorisation to install or operate a telecommunications infrastructure or to provide a telecommunications service granted under section 8 of this Act may be granted for an Conditions of licence and exclusivity.

indefinite period or for such time, which may be made renewable, as may be specified in the licence or permit containing the authorisation, and may be made subject to such terms, conditions and limitations or restrictions as may be so specified.

(2) An authorisation granted as aforesaid may be granted with such exclusive rights as the Regulator may, with the concurrence of the Minister, specify in the authorisation:

Provided that no exclusive rights may be granted, or shall have effect, beyond the year 2010.

Registration of the services.

12. (1) A person wishing to provide some other service shall register with the Regulator.

(2) Registration shall be made in the form of notification given in writing to the Regulator and containing such information as will permit the Regulator to establish the nature of the service, the identification of the provider of the service, the part of the country where the service will be provided, the equipment proposed to be used for the service, and such other information as may be prescribed or as the Regulator may require.

Special obligations of authorised providers of public telecommunications infrastructure.

13. A person authorised pursuant to section 8 of this Act to operate a public telecommunications infrastructure shall, in addition to complying with the provisions of this Act and of any regulations made thereunder, as well as with the terms and conditions of the licence, abide by any directive issued by the Regulator for the purpose of:-

(a) ensuring that the capacity, quantity and features of the infrastructure are sufficient for providing and maintaining an efficient telecommunications infrastructure;

(b) ensuring that the infrastructure is sufficient for and compatible with such international telecommunications services as the Regulator may specify;

(c) making provision for the security of the infrastructure and of any extension thereof.

Special obligations of authorised providers of public telecommunications service.

14. A person authorised pursuant to section 8 of this Act to provide a public telecommunications service shall -

(a) make available all such services as may reasonably be provided to any person wishing to subscribe to such services;

(b) ensure that all rates, charges, practices and classifications are just and reasonable;

(c) provide such services efficiently, complying with the standards for quality generally accepted in the industry;

(d) notify the Regulator and publish by notice in the media when the services are to be interrupted for the installation or repair or the changing of equipment;

(e) establish an efficient mechanism for receiving complaints and repairing failures in its network and in the services provided.

(f) comply with the provisions of this Act and of any regulations made thereunder as well as with the terms and conditions of the authorisation; and shall abide by any directives of the Regulator as he may be authorised to issue by or under this Act.

15. (1) There shall be rate mechanisms for the charges to be made in respect of telecommunications services and such rate mechanisms shall be such as may be established by the Regulator and published in the Gazette. Rate mechanisms.

(2) An authorised provider shall submit the rates it proposes to charge in respect of any service it is authorised to provide to the Regulator for his approval.

(3) If the Regulator approves the proposed rates, he shall communicate such approval to the authorised provider, and those rates shall be the rates the authorised provider may charge.

(4) If the Regulator does not approve the proposed rates he shall so notify the authorised provider setting out the reasons for such rejection; and the authorised provider may either appeal from such decision to the Telecommunications Appeals Board, under section 29 of this Act or propose other rates acceptable to the Regulator:

Provided that if a notice of rejection is not served within thirty days after their submission, the rates submitted shall be deemed to have been approved.

(5) An authorised provider of telecommunications services shall forward to the Regulator, and the Regulator shall, unless he rejects any of them, register the terms and conditions, including approved tariffs, for the provision of such services; and upon registration, the

terms and conditions so registered shall be binding on the authorised provider and on any person accepting the provision of such service:

Provided that such terms and conditions, including approved tariffs, may be changed from time to time, subject to any approval by the Regulator required by this section and to their registration by the Regulator:

Provided further that any rejection of a term or condition by the Regulator as provided in this subsection shall also be subject to appeal and the provisions of subsection (4) of this section shall, *mutatis mutandis*, apply.

(6) The terms and conditions registered by the Regulator under this section shall be open to inspection by the public during normal office hours.

(7) A person authorised to provide a telecommunications service may not engage in any cross-subsidisation with respect to such services as such person provides in competition with other authorised providers, or to subsidiaries or affiliated businesses.

Act XXXI of 1994.

(8) Where any of the provisions of subsection (7) of this section is contravened, such contravention shall be dealt with exclusively by the Regulator irrespective of whether it constitutes unfair trading for the purposes of the Competition Act, 1994. The Regulator may consult the Commission for Fair Trading as to the measures to be taken in the circumstances; and the authorised provider shall comply with any directives the Regulator may issue on the matter.

(9) The obligations and duties of authorised providers as set out in this Act shall be without prejudice to any term or condition contained in the authorisation adding any obligation or duty on the authorised provider, and any such additional obligation or duty shall have effect as if it were imposed by this Act.

Termination of
authorisation

16. Any authorisation granted under this Act shall terminate, and cease to be valid, in whole or in part as the case may require, upon -

- (a) the expiration of the term specified in the authorisation;
- (b) the happening of an event or circumstance which according to the authorisation causes the termination thereof;
- (c) a renunciation thereto by the holder of the authorisation;
- (d) the revocation thereof by the Regulator;

(e) the insolvency, liquidation or bankruptcy of the authorised provider, or a composition with the creditors of such provider.

17. (1) An authorisation granted under this Act may be revoked by the Regulator with the approval of the Minister, either in whole or in part, for any of the following reasons: Revocations of authorisation.

(a) if the authorisation has been granted on the basis of information which was incomplete or incorrect in any material respect;

(b) if the authorised provider fails to act on the authorisation for a period exceeding 180 days from the date of issue of the authorisation, or suspends such activity for a period exceeding 180 days:

Provided that the Regulator may extend the period aforesaid for a good and valid reason;

(c) if the authorised provider is in breach of an obligation imposed by or under this Act or contained in the authorisation which in the opinion of the Regulator is important enough to justify the revocation of the authorisation, and, where the breach is capable of remedy, the authorised provider has failed to remedy the breach within such reasonable time as the Regulator may have given him for that purpose;

(d) the happening of any event or circumstance which, in accordance with the authorisation, authorises the Regulator to revoke it;

and upon revocation, in whole or in part, the authorisation shall cease to be a valid authorisation.

(2) Whenever the Regulator considers that there is sufficient reason for the revocation of an authorisation he may suspend such authorisation but, before any revocation, he shall inform the authorised provider of his intentions and of the reasons therefor, by notice in writing, and shall give him an opportunity of making representations in such manner and within such reasonable time as may be specified in the notice. The Regulator may also request the authorised provider to remedy any breach or matter within a time given as aforesaid; and if the breach is remedied within the said time, and to the satisfaction of the Regulator, the authorisation shall not be revoked.

(3) The revocation of an authorisation shall not relieve the authorised provider of any liability arising from anything done prior to the revocation.

3. General Provisions Applicable to Authorised Providers

Frequencies.

18. (1) Every authorised provider requiring the allocation of a frequency shall apply for such licence or other authorisation as may be required for that purpose under the Wireless Telegraphy Ordinance.

(2) Any obligation condition or limitation imposed by or under the said Ordinance in connection with the allocation or the management of a frequency for the provision of a telecommunications service in accordance with this Act shall, without prejudice to anything contained in the said Ordinance, be deemed to be obligations, conditions and limitations imposed by this Act.

Numbering plan.

19. (1) The Regulator shall establish a numbering plan for telecommunications services and allocate numbers to authorised providers accordingly.

(2) The numbering plan may be changed or modified by the Regulator as he may from time to time deem necessary or appropriate and the numbers allocated may be withdrawn and re-allocated to give effect to any such change or modification:

Provided that no undue prejudice shall be caused thereby to authorised providers.

(3) No authorised provider shall use any numbering system for the provision of telecommunications services otherwise than in accordance with an allocation made under this section.

Interconnection.

20. (1) An authorised provider shall allow another authorised provider to interconnect with its own infrastructure.

(2) The terms and conditions under which such interconnection will be allowed shall be a matter for agreement between the parties; but in the absence of such an agreement within ninety days from the date on which a request for interconnection is made, the provider requesting interconnection may refer the matter to the Regulator under section 22 of this Act.

(3) In determining any such dispute the Regulator shall follow the following guidelines:-

(a) The authorised provider providing the interconnection shall be allowed to-

(i) recover the full allocated costs for such provision on a historical basis plus an additional return on capital employed;

(ii) recover the one-time costs incurred in providing the required interconnection;

(iii) make the usage charges related to the utilisation of the infrastructure and the network elements and resources requested, such charges to include capacity based charges and/or traffic related charges.

(b) Authorised providers may not be required to construct any telecommunications infrastructure exclusively for the purpose of making the requested interconnection, but may be required to make such limited extensions to their infrastructures as may reasonably be required for such purpose.

21. (1) Every authorised provider shall allow the Regulator, and every person authorised by him for the purpose, such access to any premises, installation, files, accounting records and any information under the control of the provider as may be reasonably required by the Regulator, requested to take place during normal business hours for the purpose of investigating any matter relevant to compliance with this Act, any regulations made thereunder any terms and conditions of the licence or any directive issued or given by the Regulator or in order to ensure such compliance. Inspection and supervision

(2) The Regulator shall give fifteen days notice to the authorised provider of any intention to act under subsection (1) of this section, giving reasons for the request:

Provided that this subsection shall not apply where the access to an installation is urgently necessary to prevent or remove an interference with a telecommunications service or damage to persons or property.

(3) Where an authorised provider wishes to have any information provided by him to be treated as confidential by the Regulator, he shall submit such information under seal and request the Regulator to treat it as such. The Regulator shall comply with such a request unless he considers the confidentiality requested to be impracticable in the light of the requirements of this Act or of any regulations made thereunder or of any other law.

Resolution of
disputes by
Regulator.

22. (1) Where a dispute arises between an authorised provider and another authorised provider or any other person relating to a telecommunications infrastructure or service, the matter may be referred to the Regulator by any of such persons.

(2) Upon receipt of any reference as aforesaid, or upon otherwise becoming aware of any such dispute which he believes ought to be investigated, the Regulator shall notify the parties concerned that the matter is under investigation allowing them a reasonable time within which to produce the relevant information and make their representations.

(3) Having duly examined and considered the facts placed before him and such other information as he may require, the Regulator may issue such directives as are within his powers and as he may deem appropriate.

4. Subscribers' Interests

Reference of
complaints to
Regulator.

23. (1) It shall be the duty of the Regulator to protect the interests of the subscribers to a telecommunications service.

(2) Every person who subscribes, or wishes to subscribe to a telecommunications service provided by an authorised provider may, by application in writing, request the Regulator to investigate any complaint made by him and contained in the said application, concerning the quality of the service to which he subscribes or wishes to subscribe, or the terms and conditions under which such service is provided or with respect to any apparatus provided to him or acquired by him in connection with the said service.

(3) The complaint shall be addressed to the Regulator and shall contain a brief statement containing all the relevant facts.

(4) The complaint shall be communicated to the authorised provider complained against, who shall be given an opportunity to make representations within a reasonable time as may be appropriate in the circumstances.

(5) The Regulator shall then examine the complaint, and such other facts as he may deem necessary for reaching a conclusion and may take such measures and issue such directives as are within his powers as he may deem appropriate.

Suspension of
service to
subscribers.

24. (1) Except as provided by or under this Act, a subscriber or other user of a telecommunications service may not be denied a service provided by an authorised provider, or have any such service discontinued.

(2) A service as aforesaid may be denied or discontinued for a reason allowed by regulations made under this Act or contained in the terms and conditions of service submitted to and approved by the Regulator.

25. A term or condition for the provision of a telecommunications service, even if agreed to by a subscriber, shall be null and without effect to the extent that it is inconsistent with any provision of this Act or of any regulations made thereunder or with the terms and conditions of the authorisation on the strength of which the service is provided.

Nullity of certain conditions.

5. Further Functions of the Regulator

26. (1) No apparatus may be offered for sale, provided, installed or used by any person unless it conforms to such technical standards and specifications as may be prescribed and unless it has been approved individually or pursuant to a type acceptance by the Regulator or by an entity recognised as an expert in the matter which has been authorised by the Regulator to give such approval or issue type acceptances.

Standards and testing of apparatus.

(2) In this section "type acceptance" means a description for a type of apparatus which is approved for the purposes specified therein, and containing such details as may identify the apparatus so approved.

(3) The Regulator may at any time require an apparatus to be tested at such place and time and in such manner as he may direct.

27. (1) No person shall carry out any works or perform any other act, or be entrusted to carry out such works or perform such act, for the construction, repair, maintenance, alteration or control of any telecommunications infrastructure or apparatus unless he possesses such qualifications to carry out such works or perform such act as may be prescribed.

Qualifications.

(2) Regulations prescribing the qualifications aforesaid may also specify the tests to be employed for ascertaining whether a person possesses the necessary qualifications.

28. (1) The Regulator shall carry out such research, studies and consultations as may be necessary for any one or more of the following purposes:-

Monitoring of telecommunications development.

(a) monitoring local and international developments in the field of telecommunications;

(b) identifying means of improving efficiency and standards in telecommunications;

(c) co-operating with foreign telecommunications authorities;

(d) advising the Minister in the formulation of policies in the field of telecommunications.

(2) With the concurrence of the Minister, the Regulator may do all such things as he may deem necessary or appropriate to ensure adequate and efficient telecommunications services in Malta.

6. Appeals

Tele-communications Appeals Board.

29. (1) There shall be a Telecommunications Appeals Board, consisting of three members, of whom one, who shall be the chairperson, shall be a person who has practised as an advocate for not less than seven years.

(2) The members of the Board shall be appointed by the Minister for a period indicated in their letter of appointment, and may be so appointed for further periods as the Minister may deem appropriate.

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(3) A member of the Board may be challenged or abstain for any of the reasons for which a judge may be challenged or abstain in accordance with section 734 of the Code of Organization and Civil Procedure. In any such case the Minister shall appoint a person, having the qualifications of the member challenged or abstaining, to sit as a member of the Board in substitution of the said member.

(4) A member of the House of Representatives or of a Local Council shall be disqualified from being appointed or continuing to be a member of the Board for so long as he holds that office.

(5) The Minister shall also designate a public officer to serve as Secretary to the Board.

Appeals

30. (1) An appeal shall lie to the Telecommunications Appeals Board -

(a) in accordance with section 10 of this Act;

(b) against any rejection or refusal under section 15 of this Act;

(c) against any decision revoking an authorisation under section 18 of this Act;

(d) against any decision given by the Regulator in any dispute between authorised providers under section 20 of this Act;

(e) against any decision given by the Regulator on the complaint of a subscriber under section 23 of this Act;

(f) in such cases as may be prescribed.

(2) The right to appeal shall be competent to any person aggrieved by the decision, or as provided in section 10 of this Act.

(3) The Board shall give reasons for its decision and shall cause such decisions to be made public omitting, if it deems it appropriate for reasons of commercial confidentiality, the names of the persons involved.

31. (1) The Board shall be competent to hear and decide any appeal made to it in accordance with the provisions of this Act and any regulations made thereunder; and subject to section 32 of this Act, the decisions of the Board shall be final and binding.

Powers and
procedure of the
Board

(2) For the exercise of its functions, the Board may summon any person to appear before it and give evidence and produce documents; and the chairperson shall have the power to administer the oath. The Board may also appoint experts to advise the Board on any technical issue that may be relevant to its decision.

(3) For the purposes aforesaid the Board shall have the same powers as are competent to the First Hall, Civil Court according to law.

(4) The procedure to be followed before the Board, the time within which and the manner in which an appeal to the Board is to be made shall be such as may be prescribed; and subject thereto, and to any other applicable provision of this Act, the Board may establish its own procedure.

32. Any party to an appeal to the Board who feels aggrieved by a decision of the Board, or the Regulator if he feels dissatisfied with any such decision, may on a question of law appeal to the Court of Appeal by means of an application filed in the registry of that Court, in the case of an appeal by the Regulator within thirty days from the

Appeal to the
Court of Appeal

date of the Board's decision, and in the case of any other person within thirty days from the date on which that decision has been notified to him.

7. Regulations

Power to make regulations

33. (1) The Minister may, either on the recommendation of the Regulator or on his own initiative, make regulations to give better effect to any of the provisions of this Act and in particular, but without prejudice to the generality of the above, to provide for -

(a) the manner in which a telecommunications infrastructure or apparatus is to be installed, operated, maintained, protected or controlled;

(b) the technical standards or specifications to be observed with respect to telecommunications infrastructure or apparatus;

(c) the measures to be taken to ensure compliance with international and other standards or equipment used in the telecommunications industry, in particular those established by the International Telecommunications Union (ITU);

(d) the means to be used and the measures to be adopted, whether by prohibition or otherwise, in order to ensure public and private safety and to prevent danger, damage or nuisance;

(e) the quality and standard of telecommunications services to be provided by an authorised provider;

(f) the establishment and maintenance of an efficient assistance service for subscribers;

(g) the complaint processing procedure to be adopted and implemented by authorised providers of a telecommunications service;

(h) any matter related to the interconnection of networks or telecommunications infrastructure;

(i) any matter related to disputes resolution provided for in section 22 of this Act.

(2) Regulations made under this section may also -

(a) require authorised providers to keep such operational, accounting, financial, statistical and technical records as may be specified in the regulations, and to furnish to the Regulator such statements, returns and other information as the Regulator may require for the carrying out of his functions under this Act or as may be specified in the regulations;

(b) prescribe measures to be taken by authorised providers for the purpose of ensuring the inviolability of the telecommunications transmitted and their confidentiality and the protection of privacy in relation to any telecommunications services;

(c) prescribe the measures to be taken by authorised providers as may be required to be taken by any international commitment taken by the Government;

(d) prescribe the fees to be paid by an authorised provider for or in respect of any authorisation under this Act, including registration under section 12 of this Act as well as the fees to be paid to the Regulator for services rendered by him;

(e) require an authorised provider to publish or cause to be published a directory of subscribers and provide for any matter relating to such directories;

(f) provide for any matter that is to be or may be prescribed, or in respect of which regulations are to be or may be made, under any of the provisions of this Act.

(3) Regulations made under this section may also -

(a) require an authorised provider to provide telecommunications services designated by the Regulator as universal service obligations at such terms and conditions as may be therein specified, including terms and conditions under which services are to be provided at no profit or at a reasonable loss to the authorised provider;

(b) where the obligation to provide universal service obligations is imposed on more than one authorised provider and the additional costs for the provision of such service, by any one or more of such providers, is higher than the additional revenue derived therefrom, the Regulator may make provision for such funding mechanisms as he may deem necessary and appropriate to ensure that the burdens resulting from such obligations are

shared fairly by all authorised providers required to provide such service.

8. Offences and Penalties

Offences and penalties.

34. (1) Any person who -

(a) provides any telecommunications service or installs or operates any telecommunications infrastructure installation or apparatus without authorisation under and in accordance with any of the provisions of this Act or in violation or breach of any condition, restriction or limitation imposed by or under this Act or in the instrument containing the authorisation; or

(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; or

(c) constructs, repairs, maintains, alters or controls any apparatus or installation without having the qualifications required for that purpose by or under this Act; or

(d) uses any telecommunications infrastructure or apparatus supplied by an authorised provider for a purpose other than that for which it was supplied, or neglects to observe instructions which are issued by an authorised provider for the proper use of it telecommunications infrastructure or apparatus or makes any improper use thereof,

shall be guilty of an offence under this Act and shall be liable to a fine (*multa*) not exceeding five thousand liri and in the case of a continuing offence to a further fine (*multa*) not exceeding five hundred liri for each day during which the offence continues.

(2) Any person who furnishes information to the Regulator which he knows, or has reasonable cause to believe, to be false, or impedes or obstruct the Regulator, in the performance of any function 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 any authorised provider -

(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; or

(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; or

(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; or

(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; or

(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 authorised provider, or of an individual employed or detailed for duty with, or attached to, an authorised provider, 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 authorised provider in the exercise of his duties with such authorised provider shall be guilty of an offence under this Act, and shall, on conviction be liable to a fine (*multa*) not exceeding one thousand liri or to imprisonment for a period not exceeding one month, or to both such fine and imprisonment.

(5) Without prejudice to the foregoing provisions of this section, any person who contravenes or fails to comply with any provision of this Act or of any regulations made or direction given thereunder shall be guilty of an offence against this Act, and shall, on

conviction, be liable to a fine (*multa*) not exceeding one hundred liri and in case of a continuing offence to a further fine (*multa*) not exceeding twenty liri for every day during which the offence continues.

Proceedings for an offence.

35. (1) No proceedings for any offence under this Act shall be instituted without the consent in writing of the Regulator or at his request.

Cap. 9.

(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.

PART III

Repeal, Savings and Transitory Provisions

Repeal of Telemalta Corporation Act.

Cap. 250.

36. (1) With effect from such date as the Minister may by notice in the Gazette appoint, being a date later than the date on which this Act shall come into force, and subject to the following provisions of this Act, the Telemalta Corporation Act is hereby repealed.

(2) The date appointed by the Minister for such repeal is in this Act also referred to as the "operative date"

(3) Notwithstanding any other provision of this Act, Telemalta Corporation shall, until the operative date continue to function and operate as is provided in the Act repealed by this section and shall thereafter cease to exist, subject to the following provisions of this Act.

(4) Notwithstanding the provisions of subsection (1) of this section, all regulations and other subsidiary legislation made under the Act repealed by that subsection shall remain in force and shall have effect as if made under this Act and shall for all effects and purposes be treated accordingly

Licences issued under Act repealed by section 36.

37. (1) Any licence or authorisation lawfully issued or granted before the operative date under the Telemalta Corporation Act and in force on the said date, shall, until such date continue to have effect as is provided by or under the said Act and, thereafter, shall continue to remain in force and to have effect in respect of anything that requires authorisation under this Act, as if they had been issued or granted under this Act, with such modification, adaptations and limitations as may be necessary or appropriate for that purpose, and shall be subject to the provisions of this Act as if they had been so issued or granted.

(2) Without prejudice to the foregoing provisions of this section, with effect from the operative date -

(a) the Regulator, as successor to Telemalta Corporation, shall acquire all rights, including rights of action, and assume all obligations and liabilities of the said Corporation arising from or related to any licence or authorisation, and relative agreements, kept in force under this section; and

(b) all fees due under or in respect of any such licence or authorisation, and falling due on or after the operative date, shall become due and be payable to the Regulator on account of the Government.

38. (1) Notwithstanding any other provision of this Act, the Regulator may issue to a designated company an authorisation under Part II of this Act under such terms and conditions, and granting such powers and exclusivity as he may, with the concurrence of the Minister, agree with such company, and provide for all such matters as he may, with the concurrence of the Minister, deem appropriate and any instrument containing such authorisation and other matters referred to above, shall have full force, effect and validity:

Authorisation to designated company.

Provided that no exclusivity may be granted under this subsection except as provided in section 11 of this Act.

(2) In this Act “designated company” means a company designated as such by the Minister for the purposes of this section by notice published in the Gazette.

39. (1) With effect from the operative date, the provisions of section 40, 41 and 42 of this Act shall have effect:

Effect of sections 40, 41 and 42 of this Act.

Provided that the said sections shall not apply to any licence or authorisation kept in force after the operative date by section 37 of this Act.

(2) Notwithstanding anything contained in any other law, or in any deed, contract, instrument or other document whatsoever, the provisions of this Act shall have effect, and in the event of any conflict between any provision of sections 40, 41 or 42 of this Act and the provisions of any other law, or anything contained in any deed, contract, instrument or other document, whatsoever, the provisions of the said sections shall prevail.

40. (1) With effect from the operative date, the whole of the relevant business shall be transferred to and vest in the designated company by virtue of this Act.

(2) The "relevant business" means the business of Telemalta Corporation, including all the assets and liabilities thereof (subject to the proviso to subsection (1) of section 39 of this Act), also as further described in the following provisions of this Act.

(3) The relevant business shall, without prejudice to the generality of the foregoing, comprise all property of any description, movable and immovable, and all liabilities and obligations of the Corporation aforesaid relating to its business as on the operative date, as well as any accessory or ancillary right, including hypothecs, privileges, pledges, suretyships or other rights securing any other right or obligation:

Provided that the payment due to the Government under section 24 of the Telemalta Corporation Act shall cease to be due on and after the operative date.

(4) In respect of any immovable property or other immovable thing and of any rights in or over such property, including any privilege or hypothec comprised in the relevant business, the transfer to and vesting thereof in the designated company shall take effect in regard to third parties upon the registration in the Public Registry of a note containing the name of the designated company and the operative date and the fact that the relevant business has been transferred from Telemalta Corporation to the designated company by virtue of this section, without any further compliance with the requirements of the law as to the particulars and other indication of the thing, property or right comprised in the relevant business or with any other formality or requirement; and the property may thereupon be registered in the Land Registry in the name of the designated company on the strength of the said note.

(5) The transfer of any right, liability or other obligation or any property or other thing as aforesaid -

(a) shall not operate as a novation in any such right, liability or obligation, and any such right liability or obligation shall continue to have effect as if there were no change in the holder, creditor or debtor thereof, and as if they had always been rights, liabilities or obligations of the designated company;

(b) shall not operate a breach of covenant or condition, whether statutory or contractual or give rise to any forfeiture;

(c) shall not invalidate, release from or discharge any contract or security;

(d) shall not give rise to the payment of any laudemium, premium, penalty or other payment whatsoever.

(6) Nothing in this section shall preclude the designated company from causing the entry in any appropriate register at the Public Registry or the Land Registry, or in any note registered or enrolled in those registries, such reference or other annotation as may be appropriate in the circumstances.

41. (1) Without prejudice to the generality of the provisions of section 40 of this Act, upon the transfer of the relevant business as provided in that section -

Additional effects
of transfer of
relevant business.

(a) every contract relating to the relevant business in force on the operative date and to which Telemalta Corporation is a party shall, on and after that date, continue to have effect and to be construed as if -

(i) the designated company had been a party thereto instead of the Corporation;

(ii) for any reference (however worded and whether express or implied) to the Corporation there were substituted, as respects anything falling to be done on or after the operative date, a reference to the designated company;

(iii) for any reference (however worded and whether express or implied) to the Board, or a member of the Board, of the Corporation or any officer or servant thereof, there were substituted, as respects anything to be done on or after the operative date, a reference to the board, directors, director, officer or servant of the designated company, as the case may require;

and the provisions of sub-paragraphs (ii) and (iii) of this paragraph shall apply to any other contract or document relating to the relevant business and in force on the operative date as they apply in relation to a contract to which Telemalta Corporation is a party;

(b) any security which before the operative date was held by the Corporation as security for the payment or discharge of any debt, liability or obligation shall, on and after the operative date, be held by and be available to the designated company as

security for the payment or discharge of such debit, liability or obligation;

(c) any judgement or award obtained by or against the Corporation in relation to the relevant business before the operative date and not fully satisfied on that date shall, on or after that date, be enforceable by or against the designated company.

(2) Where by the operation of the provisions of this Act any right, liability or obligation becomes a right, liability or obligation of the designated company, that company and any other person shall, on and after the operative date, have the same rights, powers and remedies for ascertaining or enforcing that right, liability or obligation as if it had at all times been a right, liability or obligation of the designate company, and any legal proceedings, or arbitration proceedings, or applications to any authority, pending immediately before the operative date by or against the Corporation, shall, on and after that date, be continued by or against the designated company.

Powers of the
Minister and
exemption of
duty on documents.

42. (1) When the relevant business is transferred as provided in section 40 of this Act, the Minister may, by order in the Gazette, extend to the designated company any provision of law which prior to such transfer applied to Telemalta Corporation, subject to such conditions and such modifications and reservations and in such manner and for such time as he may deem appropriate, and the Minister may also by a subsequent order in the Gazette add to, alter, vary or revoke any previous order, without prejudice to the making of a new order under this subsection.

(2) The transfer of the relevant business to the designated company shall be exempt from the payment of income tax and of duty on documents.

Amendment of
Cap. 49.

43. (1) The Wireless Telegraphy Ordinance (hereinafter referred to as "the principal law") shall have effect subject to the amendments set out in the following provisions of this section.

(2) In the definition of "Minister", in section 2 of the principal law for the words "public officer", there shall be substituted the words "public officer or any officer of a body corporate established by law".

(3) Section 3 of the principal law shall be amended as follows:-

(a) in subsection (1) thereof -

(i) for the words "of the Minister, in the case of a wireless telegraphy apparatus other than a broadcast receiving apparatus or of the Commissioner of Police in the case of a broadcast receiving apparatus" there shall be substituted the words "of the Minister"; and

(ii) the words "or of the Commissioner of Police, as the case may be" shall be deleted;

(b) in subsection (2) thereof, for the words "authority issuing the licence" there shall be substituted the word "Minister";

(c) in subsections (4) and (5) thereof for the words "authority which issued the licence" there shall, in both cases, be substituted the word "Minister"; and

(d) immediately after subsection (5) thereof there shall be added the following new subsection:-

"(6) The Minister shall have the right to demand from any person who deals or has dealt in the sale of wireless telegraphy apparatus information relating to the storing, purchase and sale of such apparatus and to the person or persons to whom such apparatus may have been sold by such dealer; and if the person from whom such information has been demanded fails to give the information requested, or gives false or incorrect information, and it is shown that wireless telegraphy apparatus which should have been in his possession has not been sufficiently accounted for by such person, it shall be presumed that such apparatus was sold by him in contravention of the provisions of this section; and the burden to prove otherwise, in all civil or criminal proceedings, shall lie on such person."

(4) For section 6 of the principal law there shall be substituted the following:-

"6. (1) A person committing an offence against this part of this Ordinance shall be liable, on conviction, to a fine (*multa*) of not less than one hundred liri and not exceeding one thousand liri in respect of each apparatus, and on a second or subsequent conviction to a fine (*multa*) of not less than one hundred liri and not exceeding two thousand liri or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment; and upon the demand of the prosecution the Court may order the apparatus to be forfeited and delivered to the Minister:

Provided that notwithstanding the above provisions, the Minister, with regard to a first offence, may enter into an agreement in writing with the offender whereby the said offender pays a sum of one hundred liri, and upon the signing of that agreement by the Minister and the offender and the payment of the said sum is effected, all criminal liability of the offender with respect to that offence shall be extinguished; provided further that the Minister may make any such agreement subject to the surrender, by the offender in favour of the Government, of the apparatus to which the offence refers.

(2) Notwithstanding the foregoing provisions of this section, no action shall be taken against any person who, having been in possession of a wireless telegraphy licence and having failed to pay the prescribed fee for the renewal thereof, shall pay, within thirty days, or such longer period as the Minister may allow, from an intimation in writing so to pay, into an office indicated in the intimation, a penalty equal to twice the licence fee in the case of licence fees up to twelve liri, and twenty-five liri in the case of fees over twelve liri, in addition to the fee due for the renewal of the licence.

(3) In the event that a penalty is due under subsection (2) of this section or a fine has been imposed under subsection (1) of this section, a licence issued under this Ordinance to the person so liable shall not be renewed unless, together with the prescribed fee, there shall also be paid any penalty or fee due as aforesaid.”.

(5) In section 8 of the principal law:

(a) for the words “under this Part of this Ordinance,” there shall be substituted the words “under this Part of this Ordinance and with the provisions of the Merchant Shipping Act or with any regulations made thereunder,” and for the words “with such rules:” there shall be substituted the words “with such rules and regulations:”; and

(b) in the proviso thereof for the words “Provided that the Minister may exempt from the obligations imposed by this Part of this Ordinance” there shall be substituted the words “Provided that the Minister may exempt, in whole or in part, from the obligations imposed by this Part of this Ordinance” and for the words “the provision of a wireless telegraphy apparatus is unnecessary or unreasonable.” there shall be substituted the words “it is appropriate so to do.”.

(6) In section 9 of the principal law for the words “payable in respect of such examination:” there shall be substituted the words “payable in respect of such examination, the conditions for the issue or

recognition of certificates for operators and watchers and the conditions for the replacement, suspension, cancellation, and alteration of certificates for operators and watchers:”.

(7) In section 12 of the principal law immediately after subsection (2) thereof, there shall be added the following new subsection:

“(3) This section shall not apply to a Maltese ship bareboat charter registered in a foreign registry, while it is so registered.”.

44. For paragraph (b) of section 2 of the Fixed Electrical Power and Telegraph Communications Systems Ordinance there shall be substituted the following:— Amendment of Cap. 81.

“(b) in the case of works in connection with any telephone or telegraph service, the Regulator designated as such under the Telecommunications (Regulation) Act, 1997, and any person authorised by the said Regulator to install or operate a telecommunications infrastructure or provide a telecommunications service under the said Act;”.

Passed by the House of Representatives at Sitting No. 168 of the 16th December, 1997.

MYRIAM SPITERI DEBONO
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives