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Telecommunications Act

(Text applying on 7 June 2012)

Act of 19 October 1998, containing rules regarding telecommunication

Chapter 1. General Provisions

Article 1.1

For the purposes of this Act and the provisions based upon it, the following terms shall be understood to have the meanings assigned to them below:

- a. Our Minister: Our Minister of Economic Affairs, Agriculture and Innovation;
- b. Board: the Board [*college*] within the meaning of Article 2 of the Independent Post and Telecommunications Authority Act [*Wet Onafhankelijke post- en telecommunicatieautoriteit*];
- c. Board of the Competition Authority: the Board of the Netherlands Competition Authority [*Nederlandse Mededingingsautoriteit*], within the meaning of Article 2 of the Competition Act [*Mededingingswet*];
- d. national regulatory body: a body in a different Member State of the European Union that, pursuant to the law of that Member State, is charged with one or more regulatory or associated executive tasks as specified in Directives Nos. 2002/19/EC, 2002/20/EC, 2002/21/EC, 2002/22/EC, or 2002/58/EC;
- e. electronic communications network: transmission systems, also including the switching or routing equipment, network elements which are not active and other resources that permit the conveyance of signals via cables, radio waves, optical or other electromagnetic means, including satellite networks, fixed and mobile terrestrial networks, electricity grids, to the extent that they are used for the purpose of transmitting signals, and networks used for radio and television broadcasting and cable television networks, irrespective of the type of information conveyed;
- f. electronic communications service: a service normally provided for remuneration which consists wholly or mainly in the conveyance of signals via electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting, but excluding services providing, or exercising editorial control over, content transmitted using electronic communications networks and services. It does not include information society services, as defined in Article 1 of the Notification Directive, which do not consist wholly or mainly in the conveyance of signals via electronic communications networks;
- g. publicly available electronic communications service: an electronic communications service that is available to the public;
- h. public electronic communications network: an electronic communications network used wholly or mainly for the provision of publicly available electronic communications services, including a network for broadcasting programmes, in so far as this is done for the public;
- i. provision of an electronic communications network: the construction, operating, managing or making available of an electronic communications network;
- j. associated facilities: the services, physical infrastructures, and other facilities or elements belonging to an electronic communications network or an electronic communications service that make it possible or support the provision of services via that network or service or have the potential to do so;
- k. network termination point: physical point at which a subscriber is offered access to a public electronic communications network; in the case of networks with switching or routing functions,

- the network termination point is determined by means of a specific network address, which may be linked to a subscriber number or name;
- l. access: the making available to another undertaking of network components, associated facilities, or services under defined conditions, whether on an exclusive basis, for the provision of electronic communications services, the provision of information society services, or the broadcasting of programmes to the public by that undertaking;
 - m. interconnection: a specific type of access implemented between public network operators, comprising the physical and logical linking of public communications networks used by the same or another undertaking to enable users of an undertaking to communicate with those of the same or another undertaking or to have access to services that are offered by another undertaking;
 - n. user: a natural person or legal entity using or requesting a publicly available electronic communications service;
 - o. end-user: a natural person or legal entity who or which uses or intends to use a publicly available electronic communications service and that does not also provide public electronic communications networks or publicly available electronic communications services;
 - p. subscriber: a natural person or legal entity who or which is party to a contract with the provider of publicly available electronic communications services for the supply of such services;
 - q. consumer: a natural person who uses or requests a publicly available electronic communications service for purposes which are outside his or her trade, business or profession;
 - r. undertaking: an undertaking within the meaning of Article 81(1) of the Treaty Establishing the European Community;
 - s. undertaking with significant market power: an undertaking which, either individually or jointly with others undertakings, enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers;
 - t. transnational market: a market identified in accordance with Article 15(4) of Directive No. 2002/21/EC covering the European Union or a substantial part thereof, extending over more than a single Member State, and designated as such by a Decision;
 - u. [cancelled;]
 - v. [cancelled;]
 - w. [cancelled;]
 - x. public telephone service: a service that is available to the public for directly or indirectly outgoing or incoming national or international calls via a number or numbers in a national or international telephone numbering plan;
 - y. programme: a programme within the meaning of Article 1.1 of the Media Act 2008 [*Mediawet 2008*];
 - z. cables: physical conducting wires intended for the direct transfer of signals between points and the associated underground support structures, protection structures, and signal devices for such conducting wires, as well as devices intended to create a connection therein between physical conducting wires in, on, or over public land on the one hand, and physical conducting wires in buildings and land forming a unity therewith on the other, or between said physical conducting wires themselves;
 - aa. public land:
 - 1^o. public roads including the associated pavements, slopes, roadsides, ditches, bridges, viaducts, tunnels, culverts, facings, and other works;
 - 2^o. waters with the associated bridges, parks, squares and other places that are accessible to all;
 - bb. number: numbers, letters or other symbols, whether or not in combination, intended for access to or identification of users, network operators, services, network termination points, or other network elements;
 - cc. number identification:
 - 1^o. facility for providing the number of the network termination point that is calling or a number with which an individual user can be identified to the network termination point that is being called before the connection is established;
 - 2^o. facility for providing the number of the network termination point that is being called or a number with which an individual user can be identified to the network termination point that is calling before the connection is established;
 - dd. bringing on the market: for the first time after manufacture, delivering in the European

- Economic Area, taking into use after manufacture in the European Economic Area, introduction into the European Economic Area from a country outside the European Economic Area, or taking into use within the European Economic Area after importation from a country outside the European Economic Area;
- ee. public telecommunications network: an electronic communications network used wholly or mainly for the provision of publicly available electronic communications services, in so far as the network is not used to broadcast programmes;
 - ff. publicly available telecommunications service: a service available to the public which consists wholly or partly in the transmission of signals via an electronic communications network, in so far as this service does not consist of broadcasting programmes;
 - gg. equipment: any device or fixed installation;
 - hh. devices: electrical and electronic devices;
 - ii. fixed installation: a specific combination of different types of devices and perhaps other devices that are assembled, installed, and intended for permanent use at a predetermined location;
 - jj. terminal equipment:
 - 1° equipment that is intended to be connected to a public telecommunications network in such a way that it can be connected directly to network termination points or can be used for interaction with a public telecommunications network through direct or indirect connection to network termination points for the transmission, processing, or receiving of information;
 - 2° radio transmission equipment that is suitable for connection to a public telecommunications network;
 - 3° equipment for satellite ground stations except as provided otherwise by or pursuant to Chapter 10, but excluding specially constructed equipment intended for use as part of a public telecommunications network;
 - kk. radio transmission equipment: equipment that is of its nature intended for the transmission or for the transmission and receiving of radio communication signals;
 - ll. conditional access system: any technical measure or arrangement whereby access to a protected radio or television broadcasting service in intelligible form is made conditional upon subscription or another form of prior individual authorisation;
 - mm. application programme interface: a software interface between external applications, made available by broadcasters or service providers, and the resources in the terminal equipment;
 - nn. International Telecommunication Convention: the Constitution and Convention of the International Telecommunication Union concluded in Geneva on 22 December 1992, with its annexes and regulations (Treaty Series of the Kingdom of the Netherlands [*Tractatenblad*], 1993, 138); the Instruments amending the Constitution and Convention of the International Telecommunication Union drawn up in Kyoto on 14 October 1994 (Treaty Series of the Kingdom of the Netherlands, 1995, 201); and the Instruments amending the Constitution and Convention of the International Telecommunication Union drawn up in Minneapolis on 6 November 1998 (Treaty Series of the Kingdom of the Netherlands, 2001, 90);
 - oo. Directive No. 2002/19/EC: Directive No. 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) (*OJEC L 108*);
 - pp. Directive No. 2002/20/EC: Directive No. 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (*OJEC L 108*);
 - qq. Directive No. 2002/21/EC: Directive No. 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (*OJEC L 108*);
 - rr. Directive No. 2002/22/EC: Directive No. 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (*OJEC L 108*);
 - ss. certificate: electronic confirmation that connects data for verifying an electronic signature with a particular person and that confirms the identity of that person;
 - tt. qualified certificate: a certificate that meets the requirements stipulated pursuant to Article 18.15(2), and that has been issued by a certification service provider that meets the requirements stipulated pursuant to Article 18.15(1);
 - uu. certification service provider: a natural person or legal entity who or which issues certificates or provides other services related to electronic signatures;
 - vv. means for creating electronic signatures: configured software or hardware used to implement the data to create electronic signatures;

- ww. secure means for creating electronic signatures: a means for creating electronic signatures that meets the requirements stipulated pursuant to Article 18.17(1);
- xx. electronic signature: an electronic signature within the meaning of Article 15a(4) of Title 1, Part 1A of Book 3 of the Civil Code [*Burgerlijk Wetboek*];
- yy. signatory: for the application of the present Act, the definition shall apply given in Article 15a(5) of Title 1, Part 1A of Book 3 of the Civil Code;
- zz. public pay telephone: a telephone available to the public with which outgoing calls can be made and for which payment for use may be made by means of coins, credit or debit cards, or prepaid phone cards;
- aaa. Notification Directive: Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations regarding services of the information society (*OJEC L 204*);
- bbb. programme service: a service that consists wholly or mainly of offering programmes to the general public or any part thereof;
- ccc. Conformity Directive: a directive of the European Parliament and of the Council that is based wholly or partly on Article 95 of the EC Treaty and that sets rules regarding the marketing or use of devices;
- ddd. number holder: a party to whom the Board has assigned a number on request;
- eee. number user: a party who uses a number;
- fff. Roaming Directive: Directive (EC) No. 717/2007 of the European Parliament and of the Council of 27 June 2007 on roaming on public mobile telephone networks within the Community and amending Directive No. 2002/21/EC on a common regulatory framework for electronic communications networks and services (*OJEU L 171*);
- ggg. associated services: the services belonging to an electronic communications network or an electronic communications service that make it possible or support the provision of services via that network or service or have the potential to do so;
- hhh. harmful interference: interference which endangers the functioning of a radio navigation service or of other safety services, or which otherwise seriously degrades, obstructs, or repeatedly interrupts a radio communications service operating in accordance with the applicable international, Community, or national regulations;
- iii. BEREC: the Body of European Regulators for Electronic Communications set up pursuant to Directive (EC) No. 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office;
- jjj. the Office the Office within the meaning of Article 6 of Directive (EC) No. 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office;
- kkk. ITU: the International Telecommunication Union.

Article 1.2

The provisions established by or pursuant to this Act shall also apply to and in respect of installations at sea within the meaning of the North Sea Installations Act [*Wet installaties Noordzee*].

Article 1.3

1. The Board shall ensure that its decisions contribute to achieving the objectives set out in Article 8(2) to (5) of Directive No. 2002/21/EC, in any case by:
 - a. promoting competition in the provision of electronic communications networks, electronic communications services, or associated facilities, including by encouraging efficient investment in the field of infrastructure and supporting innovation;
 - b. the development of the internal market;
 - c. promoting the interests of end-users as regards choice, price, and quality.
2. In carrying out its tasks and exercising its powers, the Board shall take account as far as possible of recommendations by the European Commission within the meaning of Article 19(1) of Directive No. 2002/21/EC, and with opinions and common positions issued by BEREC in so far as such recommendations, opinions, and positions relate to the tasks or powers assigned to the Board pursuant to the present Act.

3. If the Board does not apply a recommendation by the European Commission within the meaning of paragraph 2, it shall inform the Commission of the European Communities and Our Minister, stating its reasons for not doing so.

Chapter 2. Notification and Registration

Article 2.1

1. A party that provides a public electronic communications network or a publicly available electronic communications service or constructs or offers associated facilities, with the exception of a party that provides an electronic programme guide, shall notify the Board to that effect.
2. The Board shall decide what information must be submitted to the Board in such notification and the manner in which notification must be made. The information shall in any case comprise the name, address, place of registration or residence, and a description of the networks, services or facilities within the meaning of paragraph 1. The Board shall give notice of this in the Government Gazette [*Staatscourant*].
3. The information within the meaning of paragraph 2 shall only be collected for the purpose of proper implementation of this Act and shall be restricted to what is strictly necessary in order to determine the identity and nature of the party within the meaning of paragraph 1.
4. The Board shall register the party within the meaning of paragraph 1 after receiving the notification and associated information within the meaning of that paragraph.
5. For the provision or issuing of qualified certificates to the public, registration is required by the Board of the certification service provider that has an establishment in the Netherlands. In requesting registration, the certification service provider shall submit:
 - a. documents showing compliance with the requirements of and pursuant to Article 18.15(1) and (2); and
 - b. the information that must be provided to the Board as designated by a ministerial order pursuant to Article 2.4(4).
6. In order to comply with the provisions pursuant to the second sentence of paragraph 5(a), a certification service provider which has been determined by an organisation within the meaning of Article 18.16(1) to comply with the requirements set by or pursuant to Article 18.15(1) and (2) may confine itself to submitting valid evidence that such has been so determined.
7. The Board shall be empowered to determine what other information must be submitted when applying for registration.

Article 2.2

1. The Board shall not carry out registration within the meaning of Article 2.1(4) if
 - a. the notification does not relate to a public electronic communications network, a publicly available electronic communications service, or associated facilities; or
 - b. the information to be submitted pursuant to Article 2.1(2) has not been provided or has not been provided correctly or in full.
2. The Board shall refuse registration within the meaning of Article 2.1(5) if the requested registration does not relate to the provision or issuing of qualified certificates to the public.
3. The Board may refuse to register a certification service provider if the information that it is required to submit pursuant to Article 2.1(5), (6) or (7) has not been provided or has not been provided correctly or in full.
4. The Board shall terminate or alter the registration

- a. if the ground for registration has ceased to apply;
 - b. if a certification service provider performs activities or services that are contrary to the provisions of or pursuant to the present Act;
 - c. if the Board has determined that the certification service provider does not comply or does not comply in full with the requirements within the meaning of Article 18.15(1) and (2) and the certification service provider fails to demonstrate that it complies with said requirements within the period set by the Board. The Board may extend that period if the certification service provider demonstrates that it cannot reasonably comply with the requirements within the period set; or
 - d. if the Board has determined that the certification service provider has not submitted the information within the meaning of Article 2.1(5)(b) or amendments therein or has provided said information incompletely or incorrectly and the service provider fails to submit the complete or correct information within the period set by the Board.
5. The Board may extend said period if the certification service provider demonstrates that it cannot reasonably comply within the period within the meaning of paragraph 4(c) with the requirements within the meaning of that subparagraph or that it cannot submit the correct information within the meaning of paragraph 4(d) within the period within the meaning of that subparagraph.

Article 2.3

1. In the interest of proper implementation of this Act, the Board shall maintain a register of registrations. Said register shall in any case indicate the name, address, and place of establishment or residence of the registered party.
2. Said register shall be available for inspection by any person, free of charge, at a location to be determined by the Board. It shall be possible to consult the information in the register electronically, free of charge.
3. Specific rules may be set by ministerial order regarding
 - a. the information to be stated in the register other than that within the meaning of paragraph 1;
 - b. the organisation, structure, and electronic method of consulting the register.
4. If the ministerial order within the meaning of paragraph 3 sets specific rules regarding the information to be stated in the register, said order may also determine what part of that information must be submitted to the Board by a certification service provider for inclusion in the register.
5. The registered party shall notify the Board without delay of any changes that effect the registration or the information included in the register that has been submitted pursuant to paragraph 4.
6. The Board shall make the necessary alterations to the register in accordance with the changes arising from Article 2.2(4) or the changes that the Board has received pursuant to paragraph 5.
7. Without prejudice to the provisions of paragraph 6, the Board may alter the information regarding registration if such is necessary in order to rectify simple factual inaccuracies.

Article 2.4

1. As soon as possible after the registration within the meaning of Article 2.1(4), the Board shall issue the registered party concerned with a written statement showing that the notification within the meaning of Article 2.1(1) has been made to the Board. Said statement shall also indicate the applicable legal provisions regarding the joint use of antenna sites, antenna systems, or antennas, the obligation to tolerate the installation, maintenance and removal of cables, end-to-end connections, and access regarding providers with significant market power.
2. In deviation from paragraph 1, the Board shall issue the statement within the meaning of that paragraph within one week of receiving a written request to that effect from a registered party within the meaning of paragraph 1.

Article 2.5

The Board shall be responsible within the meaning of Article 1(d) of the Personal Data Protection Act [*Wet bescherming persoonsgegevens*] for the collection of data within the meaning of Article 2.1 and for the register within the meaning of Article 2.3.

Chapter 3. Frequency Policy and Frequency Management

Section 3.1. Frequency plan and frequency register

Article 3.1

1. After consulting Our Minister whom it also concerns, Our Minister shall establish a frequency plan and amendments thereto.
2. Said frequency plan shall in any case comprise:
 - a. the designated use of different frequency bands;
 - b. the designation of frequency bands within which, subject to the responsibility of Our Minister whom it also concerns, designated by order of Our Minister, public tasks are carried out in the area of defence, State security, enforcement of law, science, traffic safety and assistance;
 - c. the designation of frequency bands within which the licences for the use of frequency space to perform tasks in the area of the public media service within the meaning of Article 1.1 of the Media Act 2008 are issued without application of one of the procedures within the meaning of Article 3.3(4);
 - d. the designation of frequency bands within which frequency space may be utilised for certain purposes without a licence, whether or not together with categories of radio transmission equipment within the meaning of Article 3.4 and whether or not subject to a notification obligation;
 - e. the designation of frequency bands within which frequency space may not be utilised for certain purposes without a licence, and the designation as to whether licences will be issued subject to the application of the procedure within the meaning of Article 3.3(4);
 - f. the designation of frequency bands within which, in geographical areas designated by an order of Our Minister, frequency space may be used only for receiving signals; and
 - g. the designation of frequency bands within which joint use can be imposed for certain purposes, on the understanding that the designation within the meaning of subparagraph e will only be issued in so far as such is necessary:
 - 1°. to comply with a binding international agreement regarding the use of frequency space;
 - 2°. – to prevent harmful interference;
 - to ensure the technical quality of electronic communications networks and services;
 - to guarantee the efficient use of frequency space; or
 - to fulfil other objectives in the general interestwithin those frequency bands.
3. In determining and designating frequency bands within the meaning of paragraph 2(a) and (e), proportional and non-discriminatory restrictions may be imposed in the frequency plan regarding the technology to be used for the purpose of electronic communications networks and services if such is necessary in order:
 - a. to prevent harmful interference;
 - b. to protect public health against electromagnetic fields;
 - c. to guarantee the technical quality of the service;
 - d. to ensure as much shared use as possible of the radio frequencies;
 - e. to guarantee the efficient use of frequency space;
 - f. to achieve an objective in the general interest;
 - g. to comply with a binding international agreement regarding the use of frequency space.
4. In determining and designating frequency bands within the meaning of paragraph 2(a) and (e), proportional and non-discriminatory restrictions may be imposed in the frequency plan regarding the types of electronic communications services that are offered if such is necessary in order to

comply with a binding international agreement regarding the use of frequency space or to achieve an objective in the general interest.

5. The following shall in any case be considered to be objectives in the general interest within the meaning of paragraph 3(f) and paragraph 4:
 - a. the safety of human life;
 - b. the promotion of social, regional, or territorial cohesion;
 - c. the efficient use of frequency space;
 - d. the promotion of cultural and linguistic diversity and media pluralism.
6. If a restriction within the meaning of paragraphs 4 and 5 is imposed, Our Minister shall investigate, no more than five years after the imposition of such restriction and then every five years, whether said restriction can be lifted. If a restriction is no longer necessary to achieve one of the objectives specified in paragraphs 4 and 5, the frequency plan shall be amended accordingly.
7. Preparation of the frequency plan and amendments to it shall be subject to Part 3.4 of the General Administrative Law Act [*Algemene wet bestuursrecht*], on the understanding that, in addition to Article 3:15(1) of the General Administrative Law Act, a user or a consumer may also present his or her views regarding the draft.
8. Our Minister may set detailed rules, by a ministerial order, regarding the structure of the frequency plan.

Article 3.2

1. Our Minister shall maintain a register of frequencies comprising an overview of frequency spaces for which licences have been issued pursuant to the present chapter, together with the duration during which said licences apply.
2. Said register shall be available for inspection by any person, free of charge, at a location to be determined by Our Minister.

Section 3.2. Issuing of licences for the use of frequency space

Article 3.3

1. Use of frequency space requires a licence from Our Minister which is issued on application.
2. Licences for the use of frequency space for the performance of vital government functions, for the performance of duties to implement the public media task within the meaning of Article 2.1 of the Media Act 2008, or to implement a statutory provision shall be given priority when licences are issued. In so far as a licence need not be issued pursuant to paragraph 3, Our Minister shall determine, in accordance with the views of the Cabinet, the extent to which priority will be given to licences for the use of frequency space in order to implement the public media task within the meaning of Article 2.1 of the Media Act 2008. By order of Our Minister, in agreement with Our Minister of Education, Culture and Science, when determining the size of the frequency space allocated to the public media institutions by means of a priority licence, it shall be determined what technical features the broadcasts of the programmes of the public media institutions must have.
3. Account shall be taken of the following when licences are issued for the use of frequency space in the area of the public media task:
 - a. for the general programme channels of the national public media service within the meaning of Article 2.50 of the Media Act 2008, at least one licence shall be issued in such a manner that national coverage is possible;
 - b. for each province, the media institution designated for the province concerned, pursuant to Chapter 2, Title 2.3 of the Media Act 2008, to provide the regional public media service for at least one radio broadcasting network, a licence shall be issued in such a manner that provincial coverage is possible;

- c. if two or more regional public media institutions have been designated in a province pursuant to Chapter 2, Title 2.3 of the Media Act 2008, without prejudice to the provisions of Article 3.6, each of those media institutions shall be issued with a licence for an area that is at least equal to the separate areas covered;
 - d. for each local public media institution designated pursuant to Chapter 2, Title 2.3 of the Media Act 2008, without prejudice to the provisions of Article 3.6, a licence shall be issued for at least one radio broadcasting network for an area that is at least equal to the area covered, in so far as such is technically possible, and the efficient use of the frequency spectrum does not preclude this.
4. In cases other than those within the meaning of paragraph 2, licences shall be issued:
 - a. in the order in which the applications are received;
 - b. by means of a comparative test, whether or not including a financial bid; or
 - c. by means of an auction.
5. The choice as regards applying one of the procedures within the meaning of paragraph 4 shall be made by Our Minister, on the understanding that in so far as the issuing of licences for the use of frequency space by or on behalf of commercial broadcasting organisations within the meaning of Article 1.1 of the Media Act 2008 is concerned, the choice shall be made by Our Minister in agreement with Our Minister of Education, Culture and Science. In that context, and with account being taken of the frequency plan, the designated use of the frequency space may be determined to which the choice relates.
6. In so far as the choice within the meaning of paragraph 5 relates to whether or not a financial bid will form part of the application of the comparative test, said choice shall also be made in agreement with Our Minister of Finance.
7. Once a licence for a particular designated use has been issued on the basis of a choice made in accordance with paragraphs 5 and 6, as long as there are still holders of licences in that designated use for the use of frequency space, a comparable procedure shall be applied for each following allocation of frequency space, unless this no longer leads to the optimum use of frequency space due to changed circumstances regarding the use of that frequency space.
8. Where the issuing of licences for the use of frequency space by or on behalf of commercial broadcasting organisations is concerned, implementation of the procedure within the meaning of paragraph 4(b) shall be effectuated by Our Minister of Education, Culture and Science, in agreement with Our Minister.
9. Rules may be set regarding the issuing, amendment, and renewal of licences by or pursuant to a general administrative order [*algemene maatregel van bestuur*] and with observance of Directive No. 2002/20/EC (*OJEC L 117*).

Said rules shall in any case concern:

 - a. the requirements that an applicant must comply with, prior to one of the procedures within the meaning of paragraph 4, in order to qualify for a licence;
 - b. the application and implementation of the procedures within the meaning of paragraph 4; and
 - c. the criteria applying to a comparative test within the meaning of paragraph 4(b).
10. Our Minister may order that one or more providers of public electronic communications networks or publicly available electronic communications services be excluded from obtaining a licence for the use of frequency space as specified in his order if said licence is issued according to a procedure within the meaning of paragraph 4(b) or (c), on the understanding that this may only be done if it is necessary in order to establish or maintain effective competition.
11. Licences shall be issued for a period determined when they are issued that is related to the service delivery concerned, and the objective of the licensing, and that takes account of an appropriate period necessary for the writing off of investments. The licence may be renewed for a period determined by Our Minister.

Article 3.3a

1. In order to guarantee optimal use of frequency space, it may be determined by a ministerial order – in agreement with Our Minister of Finance, and where the use of frequency space by commercial broadcasting organisations is concerned also in agreement with Our Minister of Education, Culture and Science – with observance of Directive No. 2002/20/EC that the acquirer or holder of a licence – including the holder of a licence whose licence is or has been renewed – other than a licence within the meaning of Article 3.3(2) must pay a once-only or periodic amount for the use of frequency space for a designated use pursuant to Article 3.3(5).
2. The amount to be paid shall be:
 - a. in the case of a once-only amount, equal to an amount, determined in the ministerial order within the meaning of paragraph 1, related to the cash value determined in the year when the licence is issued of the expected benefits during the licensing period from utilisation of the licence, or during the licensing period from the turnover expected from utilisation of the licence;
 - b. a periodic amount equal to a percentage, determined in the ministerial order within the meaning of paragraph 1, of the benefits enjoyed in a financial year that, however such may be termed, are derived from utilisation of the licence, or a percentage, to be determined by ministerial order, of the turnover to be assigned to utilisation of the licence during a financial year.
3. The ministerial order within the meaning of paragraph 1 may contain specific rules regarding the manner in which the benefits within the meaning of paragraph 2(a) and (b) from utilisation of the licence or the turnover to the expected from utilisation of the licence will be determined.
4. The obligation to pay a once-only or periodic amount shall apply only if the ministerial order within the meaning of paragraph 1 entered into effect prior to the point determined in the application procedure as the point when the application for the licence may be submitted or, if a licence is concerned that is issued in the manner specified in Article 3.3(4)(a), has entered into force at the point when the application is submitted.
5. When a licence for the use of frequency space is renewed, in deviation from paragraph 4, if the application for a renewal is submitted at a point when Our Minister intends issuing licences within the same designated use by means of an auction or a comparative test with a financial bid, the obligation to make a once-only or periodic payment may also apply if the ministerial order within the meaning of paragraph 1 has entered into force at a point later than the point when the application for renewal was submitted if:
 - a. the applicant, before the decision to renew the licence is taken, is notified of the existence of said intention to issue licences;
 - b. the point when said ministerial order enters into force is within four weeks after the day when licences were issued as a result of the auction or the comparative test; and
 - c. the issuing of licences as a result of the auction or the comparative test took place within a year of the licence being renewed.
6. In the case within the meaning of paragraph 5, a distinction may be made in the ministerial order within the meaning of paragraph 1 between the holders of a licence for the use of frequency space whose licence has already been renewed one or more times and holders of a licence for whom that is not the case. Such distinction may only be made if this is necessary to place both categories of licence holders in a comparable position as regards the financial obligations to which they are subject by or pursuant to the present Act for the use of the frequency space.
7. An obligation to pay a once-only or periodic amount arising from a ministerial order that, with application of paragraph 5, enters into force after the licence has been renewed shall not exist if the renewed licence is withdrawn on request, on condition that the request is made within four weeks after said ministerial order enters into force.
8. If

- a. it is determined by a ministerial order pursuant to paragraph 1 that for use of frequency space with a designated use pursuant to Article 3.3(5) a once-only or periodic payment must be made, as long as there are still holders of licences in that designated use for the use of frequency space, with the exception of holders of licences that have been renewed, for each following allocation of frequency space with that designated use in a comparable manner for use of the frequency space an amount shall be payable, unless changed circumstances regarding the use of that frequency space mean that this no longer leads to optimum use of frequency space;
 - b. for the use of frequency space with a designated use pursuant to Article 3.3(5), no use is made of the opportunity offered in paragraph 1 to request a once-only or periodic amount for the use of that frequency space, as long as there are still holders of licences in that designated use for the use of frequency space, with the exception of holders of licences that have been renewed, no use will be made of that possibility for each following allocation of frequency space with that designated use, unless changed circumstances regarding the use of that frequency space no longer lead to optimum use of frequency space.
9. The ministerial order within the meaning of paragraph 1 may provide that the amount owed due to an auction or a comparative test with the possibility of a financial bid, plus a once-only or periodic amount owed pursuant to said order, shall not exceed a given amount.
10. If the provision of paragraph 9 is applied and a licence is issued by means of an auction, if more than a single valid bid is made that if the licence were issued would lead to financial obligations equal to or greater than the amount determined by a ministerial order pursuant to paragraph 9, the bid from among such bids leading to the issuing of a licence shall be determined by drawing lots.

Article 3.4

1. In deviation from Article 3.3, no licence shall be required for use of frequency space designated in the frequency plan that:
 - a. may be used by any party, whether or not together with categories of radio transmission equipment designated by a ministerial order for a designated use indicated in the frequency plan;
 - b. is for use by government bodies designated by Our Minister that are charged with the care of State security, defence, and enforcement of law;
 - c. may be used without a licence being necessary for a designated use designated in the frequency plan.
2. Rules may be set by or pursuant to a general administrative order regarding:
 - a. the use of designated frequency space within the meaning of paragraph 1;
 - b. the designation within the meaning of paragraph 1(a);
 - c. requirements for users of frequency space;
 - d. a notification and registration obligation for the use of frequency space within the meaning of paragraph 1(c).

Article 3.4a

1. If licences within the meaning of Article 3.3(1) are issued according to the procedure within the meaning of Article 3.3(4)(b) or (c), in the interest of the balanced allocation of scarce frequency space, the maximum amount of frequency space for services designated by a ministerial order that an applicant can receive may be determined in such ministerial order when said licences are issued.
2. If an applicant is an undertaking that can exercise a dominating influence, either directly or indirectly, on another applicant, they shall be designated as constituting a single applicant.
3. If the other applicant within the meaning of paragraph 2 has the legal structure of a legal entity under private law, dominating influence within the meaning of paragraph 2 shall be assumed to be able to be exercised if the undertaking, directly or indirectly,

- a. holds the majority of the voting rights associated with the shares issued by the legal entity; or
- b. appoints more than half the members of the management of the supervisory body.

4. This article shall not apply if Article 6.24 of the Media Act 2008 applies.

Article 3.5

1. In the interest of the proper distribution of frequency space or in the interest of the orderly and efficient use of frequency space, a licence may be issued subject to restrictions. In said interest, a licence may be made subject to rules.
2. Without prejudice to the provisions of paragraph 1, a licence may be made subject to the rule that the frequency space to which the licence relates must be used to provide services specified when the licence is issued in so far as such is necessary to achieve an objective in the general interest. In that case, the restrictions and rules within the meaning of paragraph 1 may also relate to the interest of proper service delivery.
3. The following shall in any case be considered to be reasons in the general interest within the meaning of paragraph 2:
 - a. the safety of human life;
 - b. the promotion of social, regional, or territorial cohesion;
 - c. the efficient use of frequency space;
 - d. the promotion of cultural and linguistic diversity and media pluralism.
4. Without prejudice to the provisions of paragraph 1, a licence may be made subject to the rule that the frequency space to which the licence relates must be used for the application of technologies specified when the licence is issued if such is necessary to
 - a. to prevent harmful interference;
 - b. to protect public health against electromagnetic fields;
 - c. to guarantee the technical quality of the service;
 - d. to ensure as much shared use as possible of the radio frequencies;
 - e. to guarantee the efficient use of frequency space;
 - f. to achieve an objective in the general interest within the meaning of paragraph 3.
5. If a rule within the meaning of paragraphs 2 and 4 is imposed, Our Minister shall investigate, no more than five years after the issuing of the licence has been made subject to such rule and then every five years, whether said rule can be withdrawn. If a rule is no longer necessary to achieve one of the objectives specified in paragraphs 2 and 4, the licence shall be amended accordingly.
6. Rules may be set by or pursuant to a general administrative order regarding the restrictions under which a licence can be issued and the rules that may be attached to a licence pursuant to paragraph 1 or paragraph 2.
7. If frequency space must be used to provide services for the public within the meaning of paragraph 2, rules may be set in the interest of proper service delivery, by or pursuant to a general administrative order, for providers of such services.
8. If a licence is issued with one of the procedures within the meaning of Article 3.3(4)(b) or (c) being applied, an intention to issue a licence subject to restrictions and an intention to attach rules to a licence shall be announced in an appropriate manner. Interested parties, users, and consumers may present their views regarding such intention up to four weeks after it has been announced.

Article 3.6

1. Our Minister shall refuse to issue a licence if:
 - a. issuing the licence is contrary to the frequency plan;
 - b. efficient use of the frequency spectrum requires such refusal;

- c. a licence for the use of the frequency space requested in the application has already been issued, unless shared use of frequency space is possible;
- d. the licence has been requested for the broadcasting of programme content other than to implement the public media task within the meaning of Article 2.1 of the Media Act 2008 and the licence is issued otherwise than with priority;
- e. in the view of Our Minister, facts and circumstances indicate that the security of the State or public order may be endangered if the licence is issued; or
- f. issuing the licence would be contrary to the rules set by or pursuant to the present Act or by or pursuant to Articles 6.23 or 6.24 of the Media Act 2008.

2. Our Minister may refuse to issue a licence if:

- a. a previously issued licence has been withdrawn due to contravention of rules set by or pursuant to the present Act or of the rules attached to the licence;
- b. the applicant has failed to comply with the obligations to which he/it is subject arising from a licence previously issued to him/it;
- c. the applicant's application does not comply with the application rules set by or pursuant to the present Act; or
- d. issuing the licence to the applicant would significantly restrict effective competition on the relevant market, on the understanding that reasonable account be taken of the justifiable interests regarding the use of new technology; or
- e. there is a justifiable fear that issuing a licence would create inadmissible impediments due to the desired signal from radio transmission equipment in other radio transmission equipment, receiving equipment, or electrical or electronic equipment.

Article 3.7

1. Our Minister shall withdraw a licence if:

- a. the holder of the licence so requests;
- b. such is required in order to comply with a binding decision by an institution of the European Union or to comply with treaties or decisions of international organisations that are binding for the Netherlands.

2. Our Minister may, furthermore, only withdraw a licence if:

- a. the holder of the licence no longer complies with the requirements to which he/it is subject in order to qualify for a licence;
- b. the holder of the licence fails to comply with the rules set by or pursuant to the present Act or by or pursuant to Articles 6.10, 6.23, or 6.24 of the Media Act 2008, or the rules attached to the licence;
- c. efficient use of the frequency spectrum requires such withdrawal;
- d. there is a justifiable fear that continuation of the licence will create a serious danger to the security of the State or to public order;
- e. the grounds on which the licence was issued have ceased to apply; or
- f. continuation of the licence would significantly restrict effective competition on the relevant market;
- g. the licence was issued with Article 3.4a applying and control of the use of the licence has been transferred to a different licence holder to which a licence has also been issued, with that article applying, for frequency space with the same designated use, and the maximum amount of frequency space to be acquired is thereby exceeded, and, taking account of the then applicable circumstances, the balanced allocation of scarce frequency space no longer justifies continuation of the licence.

3. On the grounds specified in paragraph 2, Our Minister may amend the licence instead of withdrawing it.

Article 3.7a

1. If one of the grounds within the meaning of Article 3.7(2) applies, Our Minister, instead of

withdrawing or amending a licence, may oblige the holder of a licence to transfer the licence, in accordance with the procedure within the meaning of paragraph 7(a), wholly or partly, within a period set by ministerial order, to a natural person or legal entity that has obtained the consent of Our Minister. The holder of the licence shall inform Our Minister, within seven days of the end of the period within the meaning of the first sentence, of the party to whom the licence has been transferred.

2. If transfer of the licence is not effectuated within the period within the meaning of paragraph 1, Our Minister shall implement the procedure within the meaning of paragraph 7(a) and shall transfer the licence, wholly or partly, to the natural person or legal entity that has bid the highest price or the minimum price for that licence in accordance with said procedure. If a number of natural persons or legal entities have bid the highest price or the minimum price, the natural person or legal entity to whom/which the licence will be transferred shall be determined by drawing lots.
3. Natural persons or legal entities may only participate in the procedure within the meaning of paragraph 7(a) that have received consent within the meaning of paragraph 1 pursuant to the provisions of paragraph 7(b).
4. Article 3.8(2) and (4) shall apply *mutatis mutandis*.
5. The holder of a licence whom Our Minister has notified that he intends imposing the obligation within the meaning of paragraph 1 may request, within a period, set by ministerial order, after the date of notification of the draft decision:
 - a. withdrawal of the licence pursuant to Article 3.7(1)(a);
 - b. amendment of the licence pursuant to Article 3.7(3); or
 - c. consent for transfer pursuant to Article 3.8(1).

Our Minister shall refuse any request submitted after the end of that period.

6. During the procedure within the meaning of paragraph 7(a) and for eight weeks after the point when the procedure has been concluded, Article 3:7(1)(opening words) and (a)(2) and (3), and Article 3.8(1)(first sentence) shall not apply to the licence to which the draft decision within the meaning of paragraph 1 relates.
7. Rules may be set by or pursuant to a general administrative order regarding:
 - a. the procedure to be followed by the holder of the licence within the meaning of paragraph 1 or by Our Minister in order to determine the natural person or legal entity within the meaning of paragraph 3 to whom/which the licence will be transferred;
 - b. the requirements that will apply to natural persons or legal entities, the application, and the procedure to acquire consent within the meaning of paragraph 1;
 - c. the manner for determining which natural person or legal entity that has received consent will acquire the licence;
 - d. the manner of determining and paying the price for the licence.

Article 3.8

1. Without prejudice to the provisions of paragraph 3, a licence may, upon the request of the holder of that licence and with the consent of Our Minister, be transferred, wholly or partly, to another party.
2. With a view to guaranteeing existing interests, the rules and restrictions applying to a licence that is to be transferred wholly or partly may be supplemented by new rules and restrictions.
3. Articles 3.3(10) and 3.6 shall apply *mutatis mutandis*.
4. If the consent applies to the transfer of a licence for the use of frequency space that is intended for the provision of public electronic communications networks or publicly available electronic communications services, Our Minister shall publish notification in the Government Gazette of the decision to grant such consent, of whether the rules applying to the licence will or will not be

amended, and of the decision to apply new rules to the licence.

Section 3.3. Special use of frequency space

Article 3.9

In cases in which it is necessary for holders of licences for frequency space to collaborate in order to use the frequency space that has been allocated to them, the licence holders concerned shall conclude an agreement, within a period of no more than six weeks after the licence has been issued, regarding the conditions for shared use of that part of the frequency space.

Article 3.10

1. Our Minister, in agreement with Our Minister of Justice, may grant consent for use of the frequency space that differs from what is provided by or pursuant to the present chapter if such is necessary
 - a. to prevent, terminate, or investigate a crime within the meaning of Article 67(1) of the Code of Criminal Procedure [*Wetboek van Strafvordering*], which, given its nature or association with other criminal offences, constitutes a serious violation of the legal order;
 - b. to determine the location of a person who is to be apprehended pursuant to the provisions of Article 565(2) of the Code of Criminal Procedure;
 - c. to determine the location of a person who is thought to be in acute mortal danger or to terminate such acute mortal danger;
 - d. for practice purposes.
2. In agreement with Our Minister of the Interior and Kingdom Relations or Our Minister of Defence, Our Minister may grant consent for use of the frequency space that differs from what is provided by or pursuant to the present chapter if such is necessary to perform the duties assigned in the Intelligence and Security Services Act 2002 [*Wet op de inlichtingen- en veiligheidsdiensten 2002*] to the General Intelligence and Security Service [*Algemene Inlichtingen- en Veiligheidsdienst*] or the Military Intelligence and Security Service [*Militaire Inlichtingen- en Veiligheidsdienst*].
3. In agreement with Our Minister of Justice or Our Minister of the Interior and Kingdom Relations or Our Minister of Defence, an exemption may be made to the consent requirement within the meaning of paragraph 1 or paragraph 2 by ministerial order, subject to rules set in such ministerial order.
4. In deviation from paragraph 1, use of frequency space that differs from the provisions by or pursuant to the present chapter shall also be possible if such is necessary in order for it to be possible to apply the powers of criminal prosecution regarding the investigation of telecommunication if:
 - a. that use takes place with the aid of equipment that complies with requirements set in a general administrative order and by officials designated in a general administrative order;
 - b. an order to that effect is issued by an authority empowered to investigate telecommunication; and
 - c. this takes place with the object of acquiring the information within the meaning of Article 13.4(1) or Article 13.4(2) and compliance by the provider with the demand for said information does not sufficiently serve the interest of prosecution.
5. The General Administrative Law Act shall not apply to the preparation, creation, and enforcement of a decision taken by or pursuant to the provisions of paragraphs 1 to 3.

Section 3.4. Antenna sites, antenna systems, and antennas

Article 3.11

1. Holders of a licence for the use of frequency space that is intended for providing public telecommunications networks or publicly available telecommunications services shall be required to comply with reasonable requests from one another for the shared use of antenna sites. Account

shall in any case be taken of the technical possibilities.

2. Should shared use be subject to the consent of a third party, such third party shall only be required to grant consent if a reasonable request is concerned and said third party:
 - a. has a relevant economic interest, directly or indirectly, in the holder within the meaning of paragraph 1 to whom/which the request is directed;
 - b. forms part of a group within the meaning of Article 24b of Book 2 of the Civil Code to which another group company within the meaning of that article belongs that has a relevant economic interest, directly or indirectly, in the holder of a licence.
3. The holder within the meaning of paragraph 1 and the third party that is required to grant consent pursuant to paragraph 2 shall make shared use possible in return for reasonable payment.
4. Providers of electronic communications networks that consist of radio transmission equipment suitable for broadcasting programmes and providers of antenna sites intended to support such networks shall comply with reasonable requests for the shared use of antenna sites, antenna systems, and antennas. Paragraphs 2 and 3 shall apply *mutatis mutandis*.

Article 3.12

1. Specific rules may be set by or pursuant to a general administrative order regarding the provisions of Article 3.11. In that context, tasks and powers may be assigned to the Board.
2. The rules within the meaning of paragraph 1 may in any case relate to:
 - a. the information to be provided by parties within the meaning of Article 3.11(1) or (4) regarding their antenna sites;
 - b. the reserving of space at antenna sites for own use or shared use;
 - c. the periods within which a decision on the shared use of an antenna site must be adopted in response to a request within the meaning of Article 3.11(1);
 - d. the payment within the meaning of Article 3.11(3).

Article 3.13

Without prejudice to the provisions of Article 3.12, the Board shall be empowered in specific cases to take measures at its own initiative that are intended to achieve the objectives set forth in Article 8(2), (3), or (4) of Directive No. 2002/21/EC. The preparation of a decision by the Board and a decision by the Board shall be subject to the General Administrative Law Act. In making use of its power within the meaning of the first sentence, the Board shall act with due observance of rules set by ministerial order.

Article 3.14

1. Our Minister shall maintain a public antenna register containing information regarding antenna sites, antenna systems, and antennas.
2. Rules shall be set by or pursuant to a general administrative order regarding the types of information to be included in said register and the parties that will be required to provide information for the purpose of said register.
3. Rules shall be laid down by or pursuant to a general administrative order regarding the structure of said register, the point in time at which and the manner in which the information for inclusion in the register must be submitted, and the manner in which the information can be taken inspected.

Chapter 4. Number Policy and Number Management

Article 4.1

1. After consulting the Board, Our Minister shall establish number plans which shall in any case indicate the designated use of the numbers that they contain. A number plan may also

- a. provide that the same number may be allocated to more than one applicant;
 - b. in order to protect the consumer, set a maximum charge for a number included in the number plan.
2. Preparation of a number plan shall be subject to Part 3.4 of the General Administrative Law Act.
 3. Paragraph 2 shall not apply if the number plan that is to be established relates solely to:
 - a. the expansion of number capacity that is the result of an allocation of numbers to the Netherlands by an international organisation;
 - b. the implementation of a decision by the European Parliament and the Council of the European Union, of the Council of the European Union, or of the Commission of the European Communities; or
 - c. other changes of a subordinate nature and regarding which the number plan states that Article 4.1(2) does not apply to such change.
 4. It shall be prohibited to utilise numbers for a designated use that occurs in a number plan other than those included in that plan for that designated use and to utilise a number that occurs in a number plan for a different designated use than that for which that number is included in that plan.

Article 4.1a

Rules may be set by ministerial order regarding implementation of the technical implementing measures as set forth in Article 19(1) and (3)(b) of Directive No. 2002/21/EC regarding the harmonisation of available numbers within the European Union in order to support the development of pan-European services.

Article 4.2

1. On application, numbers included in a number plan or in a designation pursuant to paragraph 5 may be allocated by the Board to:
 - a. a provider of an electronic communications network for the purpose of providing electronic communications services via its electronic communications network;
 - b. a provider of an electronic communications service for the purpose of providing its electronic communications service; or
 - c. a natural person or legal entity for the purpose of the use of an electronic communications service.
2. A decision regarding an application for allocation of numbers shall be taken and announced within three weeks after it has been received. If the application relates to a number for which it has been determined in a number plan that it will be allocated by means of an auction procedure,
 - a. that period shall be extended by three weeks; and
 - b. Article 4:14(1) of the General Administrative Law Act shall not apply.
3. In the interest of efficient allocation of numbers, it may be provided by a ministerial order that numbers for a designated use or category of cases designated in such order may only be allocated to one or two of the categories of applicants within the meaning of paragraph 1(a) to (c).
4. In the interest of the efficient use of numbers, the allocation of numbers may be made subject to restrictions. In that interest, allocation may be made subject to rules.
5. During preparation of a number plan, the Board, in accordance with designated uses and the associated numbers designated by Our Minister, may allocate numbers during a period to be determined in that decision. The prohibition set forth in the Article 4.1(4) shall apply *mutatis mutandis* to the numbers designated by Our Minister.
6. Should a number of applications displaying the same preference for allocation of a particular number or particular numbers be submitted to the Board on the same day, the Board shall decide

on those applications by drawing lots. Numbers within the meaning of paragraph 7 and numbers within the meaning of Article 4.2b shall not be subject to this procedure.

7. Numbers that are of exceptional economic value shall be allocated by means of an auction procedure if such has been established regarding those numbers in a number plan. The proceeds of such auction shall accrue to the State.
8. In deviation from the provisions of paragraph 6 and paragraph 7, the Board
 - a. may decide to allocate a number, not being a number that is of exceptional economic value, on the day of application if the applicant has not requested a specific number; and
 - b. in exceptional circumstances may decide to allocate a number that is of exceptional economic value on the day of application for a period determined by the Board; such period shall not be longer than three months.
9. Should only a single applicant qualify, in accordance with the rules set forth in the present Act, for allocation of a number within the meaning of paragraph 7, the number shall be allocated to that applicant without an auction procedure applying.
10. Rules may be set by or pursuant to a general administrative order regarding the application procedures for numbers within the meaning of paragraphs 7 and 8, regarding the auction procedure, and regarding the procedure for allocation by lot.
11. It shall be prohibited to utilise numbers designated by Our Minister in accordance with paragraph 5 and numbers that occur in a number plan for the designated use included in the designation or in a number plan without or in deviation from an allocation.

Article 4.2a

1. Numbers allocated by means of an auction procedure shall be allocated for an indefinite period of time unless Our Minister has laid down a maximum period for allocation in the number plan concerned.
2. A number for which a maximum period has been included in a number plan shall not be utilised any earlier than one year after the maximum period of the allocation has terminated or the allocation has been withdrawn if the number holder changes due to the subsequent allocation.

Article 4.2b

In cases in which cooperation between number holders is necessary in order to use a number that has been allocated to two or more number holders, the number holders shall conclude an agreement, within a period of no more than six weeks after the number has been allocated to them, regarding the conditions for shared use of that number.

Article 4.3

1. Allocation shall be refused if
 - a. it is contrary to the number plan concerned or to a designation determined pursuant to Article 4.2(5);
 - b. it can reasonably be expected that the applicant will not or cannot comply with the provisions by or pursuant to the present Act regarding numbers;
 - c. it would be contrary to the rules set by or pursuant to the present Act.
2. An allocation can be refused, wholly or partly, if
 - a. it cannot reasonably be expected on the basis of the application that the proposed use will be effectuated within a year, or within a shorter period designated by a ministerial order for categories of numbers specified in such order;
 - b. the proposed use described in the application does not justify the allocation of the number of

- numbers requested;
 - c. the Board has previously refused an application or has suspended or withdrawn a previous allocation pursuant to Article 4.7(3), (4), or (5);
 - d. it appears from the application that it has been made with the obvious intention of trading in the numbers requested in the application;
 - e. the proposed use described in the application does not make necessary the allocation of the number of numbers requested.
3. Where categories of numbers designated by a ministerial order are concerned, allocation may be refused, wholly or partly, if
 - a. the applicant is based outside the European Economic Area;
 - b. the conditions set forth in Article 3 of the Public Administration (Probity Screening) Act [*Wet bevordering integriteitsbeoordelingen door het openbaar bestuur*] are met.
 4. Before paragraph 3(b) is applied, the Board may request the Public Administration Probity Screening Agency [*Bureau bevordering integriteitsbeoordelingen door het openbaar bestuur*] within the meaning of Article 8 of the Public Administration (Probity Screening) Act to provide an opinion within the meaning of Article 9 of said act.

Article 4.4

1. It shall be provided by a general administrative order what actions on the part of a number user may provide a reason for the Board
 - a. to refuse to allocate a number, or to suspend or withdraw allocation of a number;
 - b. to instruct the provider of a publicly available electronic communications service to suspend the payment that relates to the number concerned in accordance with Article 7.3a; or
 - c. to instruct the provider of a publicly available electronic communications service to suspend the accessibility of the number concerned in accordance with Article 7.3b(1).
2. The actions relate to the obvious misuse of the charging structure for a number.

Article 4.5

1. The Board may alter or withdraw an allocation at the request of the number holder.
2. The provisions of Article 4.3 shall apply *mutatis mutandis* to an application for alteration.

Article 4.6

At the joint request of the number holder concerned and a third party, the Board may permit the allocation to be transferred to such third party. Article 4.2(4) and Article 4.3 shall apply *mutatis mutandis*.

Article 4.7

1. The Board shall alter or withdraw an allocation if
 - a. an alteration of the number plan concerned so requires, if the number holder continues to be entitled to allocation of the same number of numbers;
 - b. efficient use of numbers in the general social and economic interest requires such alteration or withdrawal.
2. The Board may also alter an allocation if such is necessary in order to rectify simple factual inaccuracies.
3. The Board may also withdraw an allocation on the instructions of Our Minister in the interest of the security of the State.

4. The Board may suspend an allocation for a period determined by the Board, or may withdraw an allocation, if
 - a. the number holder or the number user fails to comply with the rules regarding numbers set by or pursuant to the present Act or the rules associated with the allocation decision;
 - b. it becomes apparent after allocation that the application was made with the obvious intention of trading in the numbers allocated;
 - c. the number holder no longer complies with the conditions for allocation of that number.
5. Where categories of numbers designated by a ministerial order are concerned, an allocation by the Board may be suspended for a period determined by the Board, but for no more than two weeks, if the Board becomes aware that the number user is failing to comply with the rules regarding numbers set by or pursuant to the present Act or the rules associated with the allocation decision, or performs an action within the meaning of Article 4.4. The Board may extend the period within the meaning of the previous sentence once by a maximum of two weeks.

Article 4.8

1. In the interest of the proper performance of the tasks and powers assigned to the Board by or pursuant to law, the Board shall maintain a register of numbers that comprises a list of allocations. Said register shall indicate the name, address, and place of establishment or residence of the party to whom/which numbers have been allocated. The period of allocation shall also be stated. The Board shall be responsible for the register within the meaning of Article 1(d) of the Personal Data Protection Act.
2. Without prejudice to the provision of paragraph 3, said register shall be available for inspection by any person, free of charge, at a location to be determined by the Board.
3. At the request of the number holder, if this is a natural person and the number is not used exclusively for business purposes, his/her name and address shall not be included in that part of the register that is available for inspection.

Article 4.9

1. If the number holder allows another party to utilise the numbers allocated to it, it shall do this in a non-discriminatory and transparent manner, applying objective criteria.
2. The number holder shall ensure that the use made of the numbers allocated to it is in accordance with the provisions by or pursuant to the present Act.
3. With respect to categories of numbers designated by a ministerial order:
 - a. the number user shall not allow another party to utilise a number allocated to it;
 - b. the number holder shall register the information specified by a ministerial order regarding the number user and the use of the number.

Article 4.10

1. It may be provided by means of a general administrative order that a provider of a category of publicly available electronic communications services designated in such general administrative order is required in respect of a party that acquires an electronic communications service from it on the basis of an agreement concluded with it:
 - a. to offer the possibility to continue to use the number used in the context of such electronic communications service after termination of delivery of the service in the event that termination of such delivery takes place as a result of the legally valid termination of the agreement;
 - b. to offer the possibility to continue to use the number used in the context of such electronic communications service if he changes his address within a given area; or
 - c. to offer the possibility to continue to use the number used in the context of such electronic communications service if he decides to acquire a different electronic communications service

designated in such general administrative order.

2. A provider of a category of publicly available electronic communications services designated pursuant to paragraph 1 that is subject to an obligation within the meaning of paragraph 1(a) shall also be required
 - a. to offer a party with whom it agrees to deliver the publicly available electronic communications service concerned the option of continuing to use the number that he was previously using in the context of that service; and
 - b. if the subscriber agrees in good time with the provider as regards delivery of the publicly available electronic communications service concerned and in doing so indicates that he wishes to make use of the option within the meaning of paragraph 1(a), to commence delivery of the service via the number used by the subscriber as soon as possible, but no later than the working day following the day on which delivery of the service by the previous provider is terminated.
3. In the case of an obligation imposed pursuant to paragraph 1(a),
 - a. if the number concerned has been allocated to a provider of a public electronic communications network and the public electronic communications network of a different provider will in future be used for the publicly available electronic communications service concerned, allocation of the number concerned shall be transferred to that other provider of that network;
 - b. if the number concerned has been allocated to the provider of the publicly available electronic communications service concerned, allocation of the number concerned shall be transferred to the party from which the electronic communications service concerned will in future be acquired.
4. The Board may designate categories of numbers for which, if a number from that category is no longer in use after a transfer pursuant to paragraph 3, allocation of the number shall revert to the provider to which the number was allocated on the basis of an application.
5. A provider that has not been allocated a number belonging to a category designated by the Board pursuant to paragraph 4 on the basis of an application shall notify the Board if it no longer uses the number concerned. After receiving notification within the meaning of the previous sentence, the Board shall notify the provider to which the allocation of the number has reverted pursuant to paragraph 4.
6. Providers within the meaning of paragraph 3 shall notify the Board within a period determined by the Board and in a manner determined by the Board of the allocation of numbers that have been transferred from them to other providers pursuant to paragraph 3 within a period determined by the Board and of the allocation of numbers that have been transferred to them from other providers pursuant to paragraph 3. The Board shall announce the periods and manner within the meaning of the first sentence in the Government Gazette.
7. A provider of a public electronic communications network via which a category of publicly available electronic communications services designated pursuant to paragraph 1 is provided
 - a. shall ensure that its network is constructed in such a way that the provider of said service is able to comply with an obligation imposed pursuant to paragraph 1; and
 - b. shall determine a costs-oriented rate for interconnection related to the obligation imposed pursuant to paragraph 1.
8. Rules may be set by or pursuant to a general administrative order regarding the charging on to end-users of costs for an obligation imposed pursuant to paragraph 1 or 2.
9. Specific rules may be set by ministerial order regarding an obligation imposed pursuant to paragraph 1.

Article 4.11 [Cancelled as of 1 July 2008]

Chapter 5. Installation, Maintenance, and Removal of Cables

Section 5.1. Obligation to tolerate

Section 5.1.1. General Provisions

Article 5.1

In this chapter and the provisions based upon it, a provider of a public electronic communications network shall also be taken to mean a party that, in its own name and at its own expense, installs, maintains, and removes cables serving such network.

Article 5.2

1. The titleholder or manager of public land shall be obliged to tolerate that cables are installed, maintained, or removed in and on said land.
2. In so far as the installation, maintenance, or removal of cables other than local cables is concerned, said obligation to tolerate shall also apply to land that is not public, with the exception of gardens and grounds that form a single whole with inhabited properties.
3. In so far as is necessary for the connection of users to a public electronic communications network, said obligation to tolerate where local cables are concerned shall also apply to land that is not public, including gardens and grounds that form a single whole with inhabited properties.
4. In so far as is necessary for the connection of users to a public electronic communications network, the titleholder of a building shall also be obliged to permit the installation, maintenance, or removal of network termination points and cables in and on such building.
5. If, for an application other than electronic communication, above-ground support structures have been or are installed for which above-ground physical wires have been or are installed, the titleholder or manager of public or non-public land above which said wires have been or are installed shall be obliged to tolerate that, with the exclusive use of said above-ground support structures, cables are also installed, maintained, or removed above the land concerned for the purpose of a public electronic communications network. The titleholder or manager of said above-ground support structures shall not be subject to any obligation to tolerate as regards use being made of said structures.
6. Through the installation, maintenance, and removal of cables,
 - a. no changes shall be brought about in the designated use of that within which, upon which, above which, or on which said cables have been or are installed; and
 - b. as little alteration as possible shall be made in the external appearance and as little hindrance as possible shall be caused to the use thereof.
7. At the request of the party that is subject to the obligation to tolerate, the provider of a public electronic communications network, in order to implement paragraph 6(b), shall make use of underground facilities that shall be made available by the party that is subject to the obligation to tolerate or a third party at a price in line with the market unless the provider, if Article 5.15 applies, can plausibly demonstrate that for technical or economic reasons shared use within the meaning of Article 5.12 is not feasible. Additional conditions may be set by means of a general administrative order regarding the installation and form of networks that are to be installed in the case of the use of facilities within the meaning of the first sentence.
8. The obligation to tolerate the maintenance of cables serving a public electronic communications network as set forth in paragraphs 1 to 5 shall terminate when the cables concerned have ceased to form part of a public electronic communications network for a continuous period of ten years. In such case, the provider of a public electronic communications network shall be obliged, upon being so requested by the party that is subject to the obligation to tolerate, to remove said cables.

9. The provider of a public electronic communications network shall notify the party that is subject to the obligation to tolerate, in writing, of the taking into use or cessation of use of cables serving such network. The burden of proof regarding the taking into use shall lie with the provider.
10. Without prejudice to the provisions of the present article, the provisions of or pursuant to other legislation regarding the use of this land, buildings, or waters shall apply.

Article 5.3

1. The provider of a public electronic communications network that intends carrying out work in connection with the installation, maintenance, or removal of cables shall notify the party that is subject to the obligation to tolerate, in writing, of such intention and shall then attempt to achieve agreement regarding the location, time, and manner for carrying out the work concerned.
2. If no agreement has been reached within four weeks of the date when said written notification was sent, the provider shall notify the party that is subject to the obligation to tolerate a second time, in writing, giving a specification of the location and time – which may not be any earlier than three weeks after the second notification is sent – and manner for carrying out the work.
3. Should the party that is subject to the obligation to tolerate have objections to said second notification, it may, within two weeks of receipt thereof, request the Board to issue a decision regarding the location, time, and manner for carrying out the work.
4. The Board shall issue said decision within eight weeks of receiving said request.
5. Submission of the request shall suspend the right to carry out the work.
6. Rules may be set by ministerial order regarding the manner in which said written notification must be effectuated.

Section 5.1.2. Public land

Article 5.4

1. The provider of a public electronic communications network that intends carrying out work in or on public land in connection with the installation, maintenance, or removal of cables shall only carry out such work if
 - a. it has notified the municipal executive [*burgemeester en wethouders*] of the municipality within whose territory the work is to be carried out, in writing, of said intervention; and
 - b. it has received the consent of the municipal executive regarding the location, time, and manner for carrying out the work concerned.
2. For reasons of public order, safety, prevention or limitation of nuisance, accessibility of land or buildings, or underground planning, the municipal executive may include rules in its consent decision.
3. Said rules may apply solely to
 - a. the location of the work;
 - b. the time when the work will be carried out, on the understanding that the permitted time of commencement – except if there are weighty reasons of public interest within the meaning of paragraph 2 – may be no later than 12 months after the date when the consent decision is issued;
 - c. the manner of implementation of the work;
 - d. the promotion of shared use of facilities;
 - e. the coordination of the proposed work with managers of other structures present in the ground.
4. The municipal council [*gemeenteraad*] shall determine rules, in the form of bylaws [*bij verordening*], for the carrying out of the work; said rules shall in any case concern:

- a. the latest time prior to the work being carried out when the notification must have been given;
 - b. the information that must be provided in the notification, including the implementation plan;
 - c. the manner for carrying out the work in the case of installation, maintenance, and removal;
 - d. the promotion of shared use of facilities;
 - e. the coordination of the proposed work with managers of other structures present in the ground;
 - f. the manner of giving notice and performing urgent work in connection with a serious disruption of or interference with communication.
5. Said bylaws shall distinguish between work that is or is not of a radical nature.
 6. Specific rules may be set by ministerial order regarding said bylaws.
 7. If a municipality is subject to an obligation to tolerate, Article 5.3 shall not apply if the interests of the municipality can be represented in the consent decision to be issued by the municipal executive.

Article 5.5

1. The applicant shall notify the municipal executive if, for the installation, maintenance, or removal of cables serving a public electronic communications network, an application for a decision within the meaning of Article 5.4(1)(b) has been submitted to the municipal executive of the municipality within whose territory the proposed work will take place and an application has also been submitted for a permit, whether or not to a different administrative authority, pursuant to a different piece of legislation.
2. At the request of the applicant, the municipal executive of the municipality concerned shall ensure that assessment of said applications is coordinated. The other administrative authorities concerned shall cooperate as required.
3. Article 5.4(7) shall apply *mutatis mutandis* in the case of the issuing of a permit within the meaning of paragraph 1.

Section 5.1.3. Serious disruptions and malfunctions

Article 5.6

1. In the event of urgent work being required as a result of a serious disruption or malfunction of communication, the provisions of and pursuant to Articles 5.3 and 5.4(1) to (4)(e) shall not apply to the maintenance of cables serving a public electronic communications network and the provider of such public electronic communications network may confine itself to notifying the party that is subject to the obligation to tolerate, prior to the work that is to be carried out.
2. If the work of maintaining cables is to be carried out in or on public land, the provider shall also notify the mayor of the municipality within whose territory the work will take place, or an official designated for that purpose by said mayor, prior to the work being carried out. If notification has been made to such designated official, said official shall inform the mayor as soon as possible.
3. If public order or danger, or fear of danger arising, preclude performance of the proposed work, the mayor may decide that the work should take place at a different time to that intended.
4. The relevant decision shall be taken as soon as possible after receipt of the notification.
5. In the bylaws within the meaning of Article 5.4(4), the municipal council may, for reasons of safety, designate parts of an area of land where the present article shall not apply.

Section 5.2. Compensation in connection with obligation to tolerate

Article 5.7

1. The provider of a public electronic communications network shall compensate the party that is subject to the obligation to tolerate for loss/damage resulting from the installation, maintenance, or removal of cables.
2. The right of titleholders and managers of public land to compensation shall be limited to payment of the costs, in line with the market, of the facilities and of the additional costs, in line with the market, of maintenance.
3. After termination of the work in connection with the installation, maintenance, or removal of cables, the provider of a public electronic communications network shall return the land to its previous condition unless the party that is subject to the obligation to tolerate has indicated that it will do so itself. The provider shall bear the costs, in line with the market, involved in returning the land to its previous condition.
4. Costs in line with the market shall in this context be taken to mean costs incurred by an undertaking under normal circumstances within the relevant market in a market economy.

Section 5.3. Other Provisions

Article 5.8

1. The provider of a public electronic communications network shall be obliged, at the request of the party that is subject to the obligation to tolerate, to take measures, at its own cost, regarding cables serving its network, including relocating cables, if such is necessary for the construction of buildings or the performance of work by or on behalf of the party that is subject to the obligation to tolerate.
2. Paragraph 1 shall apply *mutatis mutandis* if the party that is subject to the obligation to tolerate is required vis-à-vis a third party to deliver land that is intended by said party for the construction of one or more buildings in such a way that, after acquiring said land, said third party is not impeded in constructing one or more buildings, or having such constructed, by cables serving a public electronic communications network that are present in the ground. At the point when a request is made, the construction of one or more buildings shall be sufficiently determinable.
3. The provider shall be entitled to compensation for the costs that it has incurred if the provider has relocated cables pursuant to paragraphs 1 and 2 and it later becomes apparent that the work announced by the party that is subject to the obligation to tolerate which required such relocation did not in fact take place.
4. If a new request is made by the party that is subject to the obligation to tolerate within five years after a request for measures to be taken pursuant to paragraphs 1 or 2, the associated costs shall be borne by the party that is subject to the obligation to tolerate.
5. In cases other than those within the meaning of paragraphs 1 or 2, the provider shall only be obliged to take measures, including relocation of the cables concerned, if the party that is subject to the obligation to tolerate compensates the provider for the cost of doing so.
6. If a request has been made for measures to be taken, the provider shall take the measures concerned as soon as possible, but no later than sixteen weeks after the date when it receives the request. If a request has been made for cables to be relocated, the provider shall do so as soon as possible, but no later than twelve weeks after a location to which the cables can be relocated has become available. The request shall comprise a description of the buildings that are to be constructed or of the work to be carried out and – in the case of a request for the relocation of cables – a proposal for the location where said cables can be installed.
7. In the event of the parties concerned failing to agree on who will bear the cost of the measures that are to be taken, the party that is subject to the obligation to tolerate or the provider may request the Board to issue a ruling.
8. The Board shall issue said ruling within seventeen weeks of receiving said request.

Article 5.9 [Cancelled as of 1 July 2008]**Article 5.10**

The installation, maintenance, and removal of cables serving a public electronic communications network shall take place in such a way that trees and plants are as far as possible protected and not prevented from growing.

Article 5.11

1. Titleholders in respect of trees or plants or the managers of the land where trees or plants are located shall be obliged, on written request by the provider of a public electronic communications network, to shorten the roots thereof within two weeks if such roots reasonably hamper or will hamper the maintenance of cables serving the network such that operation of the network is endangered.
2. In the event of a serious malfunction or disruption of communication, a provider of a public electronic communications network may proceed to shorten roots immediately, after which it shall inform the titleholder or manager, in writing, as soon as possible, but no later than the day after the work was carried out.
3. The provider of a public electronic communications network shall compensate the titleholder or manager for the damage resulting from the shortening of roots.

Article 5.12

1. Providers of public electronic communications networks shall be obliged vis-à-vis one another to comply with reasonable requests for the shared use of the facilities to which the obligation to tolerate applies. Account shall in any case be taken of the technical possibilities.
2. Should shared use be subject to the consent of a third party, such third party shall only be required to grant consent if a reasonable request is concerned and said third party:
 - a. has a relevant economic interest, directly or indirectly, in the provider within the meaning of paragraph 1 to whom/which the request is directed;
 - b. forms part of a group within the meaning of Article 24b of Book 2 of the Civil Code to which another group company within the meaning of that article belongs that has a relevant economic interest, directly or indirectly, in the provider.
3. The provider within the meaning of paragraph 1 and the third party that is required to grant consent pursuant to paragraph 2 shall make shared use possible in return for reasonable payment.
4. Specific rules may be set by or pursuant to a general administrative order regarding the shared use of facilities within the meaning of paragraph 1 and the compensation within the meaning of paragraph 3.

Article 5.13

1. The Sub-District Court in the judicial district within which the real estate within which, upon which, or above which the cables serving a public electronic communications network are installed, maintained, or removed is wholly or mainly located shall have jurisdiction, regardless of the amount of the claim, to adjudicate disputes concerning a claim for compensation pursuant to the present chapter and also disputes concerning the amount of the costs for the measures within the meaning of Articles 5.8 and 5.9.
2. The ruling rendered by the Sub-District Court shall be open to appeal.
3. The provisions of the Code of Civil Procedure [*Wetboek van Burgerlijke Rechtsvordering*] shall apply to disputes within the meaning of paragraph 1 in so far as the previous paragraphs of the present article do not deviate therefrom.

4. Work within the meaning of Articles 5.2, 5.8, or 5.11 may commence even before agreement has been reached or a ruling rendered regarding the compensation or the amount of the costs.

Article 5.14

1. If a municipality provides public electronic communications networks or publicly available electronic communications services or has an interest in or control of an undertaking that does so, the persons who prepare decisions within the meaning of Article 5.4(1)(b) shall not be involved therein.
2. The intention to be involved, directly or indirectly, in the provision of public electronic communications networks or publicly available electronic communications services shall be announced. Article 3:42 of the General Administrative Law Act shall apply. In announcing the intention, the reasons shall be stated. It shall also be announced where and when further information can be acquired regarding the proposed decision.
3. When Article 5.4(2) is applied, the municipal executive shall not assess undertakings offering public electronic communications networks in which the municipality is directly or indirectly involved.
4. A municipality that is directly or indirectly involved in the provision of a public electronic communications network shall promote open and non-discriminatory access to that network.

Article 5.15

The present chapter shall apply *mutatis mutandis* to the installation, maintenance, or removal of underground support structures and protection structures within which or upon which no physical conducting wires intended for the direct transfer of signals between points have been installed and that are or have been installed with a view to their forming part of a public electronic communications network belonging to the party in whose name they are installed or a third party.

Article 5.16

For the application of the present chapter, with the exception of Article 5.12, an electronic communications network designated by Our Minister that is used wholly or mainly for vital government functions shall be deemed to be equivalent to a public electronic communications network.

Article 5.17

Articles 17(1)(k) of Book 3 of the Civil Code, 20(2) of Book 5 of the Civil Code, 36(4) of the Land Registry Act [*Kadasterwet*], and 78(3) and (4), and 155 of the New Civil Code (Transitional) Act [*Overgangswet nieuw Burgerlijk Wetboek*] shall apply *mutatis mutandis* to underground support structures and protection structures within the meaning of Article 5.15.

Chapter 6. Interoperability of Services and Confidentiality of Information

Article 6.1

1. A provider of public electronic communications networks or publicly available electronic communications services that monitors access to end-users, at the request of a provider of public electronic communications networks or publicly available electronic communications services, shall enter into negotiation with that provider with a view to concluding an agreement on the basis of which the necessary measures will be taken, including when necessary by means of interconnection of the networks concerned, so that end-to-end connections are created.
2. Providers of electronic communications networks or providers of electronic communications services may utilise information provided to them before or during negotiations regarding interoperability agreements and information that is or can be acquired during performance of the agreement solely for the purpose for which that information has been provided or solely for performance of the agreement. Acquired or stored information shall be treated confidentially and shall not be passed on to any other party, in particular to other departments, subsidiaries, or

partners, that might enjoy a competitive advantage through that information.

3. Upon application by a provider of public electronic communications networks or publicly available electronic communications services that considers that another provider has failed to comply with its obligation to negotiate with it, the Board may issue rules regarding the manner in which negotiations must be conducted, without prejudice to the right of providers to jointly terminate the negotiations. During their negotiations, the providers concerned shall observe the rules issued by the Board.

Article 6.2

1. If the negotiations within the meaning of Article 6.1 fail to result in an agreement between the providers within the meaning of that article, the Board, at the request of one of them and if the Board considers that further negotiations will not reasonably lead to an agreement, may oblige the other provider concerned, in so far as that provider controls access to end-users, to create and guarantee the end-to-end connections desired by the applicant, subject to conditions determined by the Board, if the Board considers that the interests of the other provider that have led to no agreement being created do not reasonably outweigh the interests of the party submitting the request.
2. The Board may also, ex officio and whether or not in the context of an application within the meaning of paragraph 1, impose obligations on providers of public electronic communications networks or publicly available electronic communications services that control access to end-users regarding the creation and guaranteeing of end-to-end connections if such is justified in the case concerned in the light of the objectives within the meaning of Article 1.3.
3. A decision within the meaning of paragraphs 1 or 2 shall be published in the Government Gazette. Information within the meaning of Article 10(1)(c) of the Government Information (Public Access) Act [*Wet openbaarheid van bestuur*] shall not be announced.

Article 6.3 [Cancelled as of 5 June 2012]

Article 6.4

Rules within the meaning of Article 6.1(3) or obligations within the meaning of Article 6.2(1) or (2) shall be objective, transparent, proportionate, and non-discriminatory.

Article 6.5

1. Providers of public electronic communications networks or publicly available electronic communications services that control access to end-users shall ensure that end-users located within the European Union have access to all

- a. numbers within the European Union that are allocated in a national number plan;
- b. numbers of the European telephone number area; and
- c. numbers allocated by the ITU;

and make use of services utilising the numbers listed in subparagraphs a to c, unless such is not technically or economically feasible or a subscriber who is called has decided to restrict access by callers located in specific geographical areas.

2. Specific rules to guarantee the obligation within the meaning of paragraph 1 may be set by or pursuant to a general administrative order. Said rules may, amongst other things, concern payments for access to the numbers within the meaning of paragraph 1.
3. The rules within the meaning of paragraph 2 may differ for certain categories of providers within the meaning of paragraph 1, as specified in said rules. Said rules may assign tasks and powers to the Board.

Article 6.6

Article 6.1(2) shall apply *mutatis mutandis* to negotiations for the acquisition of access to the network of a provider of electronic communications networks.

Chapter 6a. Obligations of Undertakings with Significant Market Power

Section 6a.1. Determination of significant market power

Article 6a.1

1. The Board shall determine, in accordance with the principles of general European competition law, the relevant markets within the electronic communications sector in which the product or service market corresponds with a product or service market recommendation within the meaning of Article 15(1) of Directive No. 2002/21/EC. The Board shall in any case determine the relevant markets within the meaning of the first sentence as soon as possible after a recommendation within the meaning of the first sentence has taken effect.
2. Should it consider that there is reason to do so, or if such arises from Article 6a.4, the Board shall determine, in accordance with the principles of general European competition law, other relevant markets in the electronic communications sector than those within the meaning of paragraph 1.
3. The Board shall investigate the relevant specified markets in accordance with paragraphs 1 and 2 as soon as possible, but for markets for which no previous notification has been given to the European Commission within no more than two years after a recommendation within the meaning of Article 15(1) of Directive No. 2002/21/EC has taken effect. The Board may extend said period of two years by six months if the Board investigates the relevant markets with the assistance of BEREC.
4. The Board shall investigate a transnational market as soon as possible after a Decision by the Commission of the European Communities on which this is based has taken effect and then at regular intervals.
5. The investigation within the meaning of paragraphs 3 and 4 shall in any case be intended to determine:
 - a. whether or not the market concerned is effectively competitive and whether undertakings that offer public electronic communications networks, associated facilities, or publicly available electronic communications services have significant market power; and
 - b. what obligations within the meaning of Articles 6a.6 to 6a.10 and 6a.12 to 6a.15 are appropriate for undertakings within the meaning of subparagraph a that have significant market power.
6. After the investigation within the meaning of paragraphs 3 and 4 has been completed, the Board shall as soon as possible implement the provisions of Articles 6a.2(1) or 6a.3, but for relevant markets for which no previous notification has been given to the European Commission within no more than the period of two years within the meaning of paragraph 3. The Board may extend said period of two years by six months if the Board investigates the relevant markets with the assistance of BEREC.
7. In exercising its tasks and powers pursuant to the present chapter, the Board shall take account of the guidelines determined by the Commission of the European Communities pursuant to Article 15(2) of Directive No. 2002/21/EC.
8. In determining whether two or more undertakings jointly have economic power within the meaning of Article 1.1(s), the Board shall in any case apply the criteria within the meaning of Annex II of Directive No. 2002/21/EC.
9. In exercising its tasks and powers pursuant to the present chapter in respect of transnational markets, the Board shall do so in agreement with the national regulatory bodies concerned.

Article 6a.2

1. If it becomes apparent from an investigation within the meaning of Article 6a.1(3) or (4) that a relevant market or a transnational market is not effectively competitive, the Board shall determine which undertakings that offer public electronic communications networks, associated facilities, or publicly available electronic communications services have significant market power; and
 - a. shall impose obligations on each of them, in so far as appropriate, within the meaning of Articles 6a.6 to 6a.10 or 6a.12 to 6a.15;
 - b. shall maintain obligations previously imposed or maintained, in so far as they relate to this market, if they are still appropriate; or
 - b. shall withdraw obligations previously imposed or maintained, in so far as they relate to this market, if they are no longer appropriate.
2. Pursuant to paragraph 1(a), the Board shall
 - a. impose obligations within the meaning of Articles 6a.6 to 6a.10 solely on undertakings that provide public electronic communications networks or associated facilities;
 - b. impose obligations within the meaning of 6a.12 to 6a.15 solely if the relevant market or transnational market is an end-user market and the obligations within the meaning of Articles 6a.6 to 6a.11 are insufficient to ensure effective competition or to protect the interests of end-users.
3. An obligation within the meaning of paragraph 1 shall be appropriate if it is based on the nature of the problem identified on the market concerned and is proportionate and justified in the light of the objectives of Article 1.3.
4. In assessing whether the imposition of an obligation to comply with reasonable requests for access within the meaning of Article 6a.6 is appropriate, the Board shall take specific account of the factors within the meaning of Article 12(2) of Directive No. 2002/19/EC.

Article 6a.3

1. If it becomes apparent from an investigation within the meaning of Article 6a.1(3) or (4) that a relevant market or a transnational market is effectively competitive, the Board shall determine this and shall withdraw obligations previously imposed or maintained pursuant to Article 6a.2(1) in so far as they relate to that market.
2. If it becomes apparent from an investigation within the meaning of Article 6a.1(3) or (4) that an undertaking on a relevant market or transnational market that is not effectively competitive must comply with obligations previously imposed or maintained pursuant to Article 6a.2(1) the Board shall withdraw said obligations in so far as they relate to that market if the undertaking does not have significant market power on the relevant market or transnational market.
3. If it becomes apparent from an investigation within the meaning of Article 6a.1(3) or (4) that a relevant market or a transnational market is not effectively competitive and the obligations within the meaning of Articles 6a.6 to 6a.11 are sufficient to ensure effective competition or to protect the interests of end-users, the Board shall withdraw obligations previously imposed or maintained within the meaning of Articles 6a.12 to 6a.15, in so far as they pertain to that market.

Article 6a.4

1. No later than three years after a decision within the meaning of Article 6a.2(1) regarding the imposition or maintenance of obligations regarding an undertaking that has significant power on a relevant market has taken effect, the Board shall decide pursuant to:
 - a. Article 6a.2(1)(b) to maintain said obligations; or
 - b. Articles 6a.2(1)(c) or 6a.3 to withdraw said obligations.
2. In exceptional cases, the Board may extend the period of three years within the meaning of paragraph 1 by a maximum of three years if the Board has submitted a request to do so to the European Commission, stating reasons, and the European Commission has not objected to such

extension within one month after receiving said request. Said period may also be extended by six months if the Board investigates the relevant markets and the obligations within the meaning of paragraph 1 with the assistance of BEREC.

Article 6a.4a

1. If it has become apparent, after an obligation within the meaning of Articles 6a.6 to 6a.10, in so far as these apply, has been imposed, that those obligations are insufficient to ensure effective and sustainable infrastructure-based competition on the relevant market or a transnational market, the Board may impose an obligation on that undertaking to locate the activities relating to the provision of types of access, as determined by the Board, within an independently operating business unit and to provide said activities to all undertakings on the same conditions and at the same prices and by means of the same systems and processes.
2. In a decision within the meaning of paragraph 1, the Board shall in any case deal with the following elements:
 - a. the exact nature and level of the separation, with, specifically, the legal status of the independently operating business unit being indicated;
 - b. identification of the assets of the independently operating business unit and the products or services delivered by said business unit;
 - c. administrative regulations to ensure the independence of the personnel employed by said separate business unit, with the corresponding incentive structure;
 - d. the rules to ensure compliance with the legislation;
 - e. the rules to ensure transparency of the operational procedures;
 - f. an instrument to determine annually the extent of compliance with the decision within the meaning of paragraph 1; and
 - g. publication in the annual report of the results of the measurement within the meaning of subparagraph f.
3. In its decision within the meaning of paragraph 1, the Board may impose obligations within the meaning of paragraph 2 if such is necessary to guarantee that the independent business unit delivers the activities relating to the provision of types of access, as determined by the Board, to all undertakings on the same conditions and at the same prices.
4. The Board shall submit the draft of its decision within the meaning of paragraph 1, to the European Commission, together with the grounds for that draft decision, also submitting:
 - a. evidence that the draft decision is justified;
 - b. an evaluation, with reasons, showing that there is little or no likelihood of effective and sustainable infrastructure-based competition within a reasonable period;
 - c. an analysis of the expected impact of the draft decision on the Board, the undertaking, the employees of the undertaking, the electronic communications sector as a whole and the incentives to invest in that sector as a whole, social and territorial cohesion, and other interested parties, as well as the expected impact on competition in the area of infrastructure and consequences for the consumer; and
 - d. an analysis of the reasons why this obligation is the most efficient means of solving the competition problems or market shortcomings that have been identified.
5. The Board may only impose the obligation to effectuate functional separation after the European Commission has adopted a decision regarding the draft decision within the meaning of paragraph 1 permitting the Board to impose an obligation to effectuate functional separation. In said decision, the Board shall also determine whether, as a result of the obligation within the meaning of paragraph 1, obligations within the meaning of Articles 6a.6 to 6a.10
 - a. will be imposed on the relevant market pursuant to Article 6a.2(1)(a);
 - b. will be maintained with respect to the relevant market pursuant to Article 6a.2(1)(b); or
 - c. will be withdrawn with respect to the relevant market pursuant to Articles 6a.2(1)(c).
6. The Board shall also determine whether, as a result of the decision within the meaning of

paragraph 1, obligations within the meaning of Articles 6a.6 to 6a.10 and 6a.12 to 6a.15

- a. will be imposed on markets connected to the access network pursuant to Article 6a.2(1)(a);
- b. will be maintained with respect to markets connected to the access network pursuant to Article 6a.2(1)(b); or
- c. will be withdrawn with respect to markets connected to the access network pursuant to Articles 6a.2(1)(c) or 6a.3.

Article 6a.4b

1. If the Board has determined pursuant to Article 6a.2(1) that an undertaking has significant market power, said undertaking shall inform the Board of the decision adopted by the undertaking's management to
 - a. transfer activities related to the provision of types of access at wholesale level, wholly or partly, to an independent legal entity with a different owner; or
 - b. position activities related to the provision of types of access at wholesale level to a significant extent within an independently operating business unit in order to offer all undertakings equivalent types of access on the same conditions and at the same prices.

In doing so, the undertaking shall submit the decision adopted by the management, together with all information that the Board requires for the decision within the meaning of paragraph 2.

2. As soon as possible, but no later than within two years after receiving a decision adopted by the management within the meaning of paragraph 1, the Board shall determine in a draft decision whether the obligations within the meaning of Articles 6a.6 to 6a.10 or 6a.12 to 6a.15
 - a. will be imposed on the relevant market and on the markets connected to the access network pursuant to Article 6a.2(1)(a);
 - b. will be maintained with respect to the relevant market and the markets connected to the access network pursuant to Article 6a.2(1)(b); or
 - c. will be withdrawn with respect to the relevant market and the markets connected to the access network pursuant to Articles 6a.2(1)(c) or 6a.3.
3. An undertaking that has notified the Board regarding a decision within the meaning of paragraph 1 shall also notify the Board as soon as possible of changes to that decision and of the point in time when the decision will be implemented. The undertaking, on request, shall also submit all information that the Board requires for the decision within the meaning of paragraph 2.
4. As soon as possible, but no later than within four weeks after adopting the draft decision within the meaning of paragraph 2, the Board shall decide whether the obligations within the meaning of Articles 6a.6 to 6a.10 or 6a.12 to 6a.15:
 - a. will be imposed on the relevant market and on the markets connected to the access network pursuant to Article 6a.2(1)(a);
 - b. will be maintained with respect to the relevant market and the markets connected to the access network pursuant to Article 6a.2(1)(b); or
 - c. will be withdrawn with respect to the relevant market and the markets connected to the access network pursuant to Articles 6a.2(1)(c) or 6a.3.
5. If the undertaking fails to implement the decision adopted by the management within the meaning of paragraph 1 before the end of the period within the meaning of paragraph 4, the Board shall only adopt the decision within the meaning of paragraph 4 no later than four weeks after the undertaking has implemented the decision adopted by its management.

Article 6a.5

The Board shall announce a decision within the meaning of Articles 6a.2(1) 6a.3, 6a.4a(1) and 6a.4b(4) in the Government Gazette. Information within the meaning of Article 10(1)(c) of the Government Information (Public Access) Act [*Wet openbaarheid van bestuur*] shall not be announced.

Section 6a.2. Obligations relating to access

Article 6a.6

1. Pursuant to Article 6a.2(1) the Board may impose an obligation to comply with reasonable requests for types of access, as determined by the Board, including if the Board considers that refusing access or setting unreasonable conditions with the same effect would impede the development of an end-user market featuring sustainable competition or would not be in the interest of the end-user.
2. The obligation within the meaning of paragraph 1 may mean, amongst other things, that the undertaking concerned
 - a. gives providers of electronic communications services access to certain network elements of facilities, including unbundled access to the local loop;
 - b. deals in good faith with providers of electronic communications services that request access;
 - c. does not withdraw facilities already provided;
 - d. offers certain wholesale-based services for resale by providers of electronic communications services;
 - e. provides open access to technical interfaces, protocols, or other core technologies that are indispensable for the interoperability of publicly available electronic communications services or virtual network services;
 - f. offers co-location and other types of shared use of associated facilities;
 - g. offers certain services that are necessary for the interoperability of the end-to-end services delivered to users, including facilities for intelligent network services or roaming within mobile electronic communications networks;
 - h. provides access to operational support systems or comparable software systems that are necessary in order to guarantee fair competition in the provision of electronic communications services;
 - i. ensures interconnection of public electronic communications networks or network facilities;
 - j. provides access to associated services.
3. The Board may make the obligation within the meaning of paragraph 1 subject to rules regarding fairness, reasonableness, and expediency.
4. If such is necessary in order to guarantee normal operation of the public electronic communications networks concerned, the Board may determine technical or operational rules
 - a. that must be observed by an undertaking that is subject to an obligation within the meaning of paragraph 1 when providing access; or
 - b. that must be observed by an undertaking that has been given access on the basis of a request within the meaning of paragraph 1.
5. Article 6.4 lid shall apply *mutatis mutandis* to rules within the meaning of paragraph 4.
6. In so far as such is necessary on the basis of the Notification Directive, the Board shall not establish said rules until a draft of the rules has been submitted to the Commission of the European Communities and the periods within the meaning of Article 9 of the Notification Directive have elapsed.
7. In so far as the rules comprise technical standards or specifications, these shall be in accordance with the standards within the meaning of Article 17(1) or (2) of Directive No. 2002/21/EC.

Article 6a.7

1. Pursuant to Article 6a.2(1), the Board may impose an obligation in respect of types of access, as determined by the Board, regarding control of the charges or cost allocation for these if a market analysis indicates that, due to the absence of effective competition, the operator concerned can maintain prices at an excessively high level or can erode the margins, in both cases to the detriment of end-users. The Board may make said obligation subject to rules that are necessary for

proper implementation of the obligation.

2. An obligation within the meaning of paragraph 1 may require that a costs-oriented rate must be charged for access or that a cost allocation system determined or approved by the Board must be applied.
3. If the Board has required an undertaking to charge a costs-oriented rate for access, the undertaking shall demonstrate that its rates are in fact costs-oriented.
4. Without prejudice to the provision of the second sentence of paragraph 1, the Board may make an obligation to set up a cost allocation system subject to rules regarding the submission of the results of applying the system by the undertaking that is subject to said obligation.
5. If an obligation to set up a cost allocation system is imposed:
 - a. the undertaking concerned, observing the rules set by the Board, shall provide, in an adequate manner, a description of the system that comprises at least the main categories into which the costs are divided and the rules applying to allocation of the costs;
 - b. the Board, or an independent expert third party designated by the Board, shall investigate annually whether the system has been complied with.
6. The results of the investigation within the meaning of paragraph 5(b) shall be announced in the Government Gazette.

Article 6a.8

Pursuant to Article 6a.2(1), the Board may impose an obligation in respect of types of access determined by the Board requiring that such access be provided on equal conditions under similar circumstances. This obligation shall also mean that the undertaking applies equal conditions to those that apply under similar circumstances to itself, its subsidiaries, or its partner undertakings.

Article 6a.9

1. Pursuant to Article 6a.2(1) the Board may impose an obligation that information as determined by the Board must be provided regarding types of access determined by the Board. Said information may relate, amongst other things, to:
 - a. rates and other conditions that apply to the provision of access;
 - b. technical features and other properties of the network.
2. Pursuant to Article 6a.2(1) the Board may impose an obligation to announce a reference offer including a description of certain types of access determined by the Board. Said reference offer shall be divided into the various different types of access and the rates and other conditions applying.
3. If an undertaking that is subject to an obligation within the meaning of paragraph 2 is also made subject to an obligation within the meaning of Article 6a.6 that relates to unbundled access to the local loop, the undertaking's reference offer shall in any case comply with Annex II of Directive No. 2002/19/EC.
4. If the Board considers that the reference offer is not in accordance with the obligations imposed pursuant to the present chapter, it shall give the undertaking concerned instructions regarding alterations that must be made.
5. The Board may make an obligation within the meaning of paragraphs 1 and 2 subject to rules regarding the degree of detail and manner of notification.

Article 6a.10

1. Pursuant to Article 6a.2(1) the Board may impose an obligation to maintain records in which the

proceeds accruing to and costs incurred by the undertaking itself or other undertakings for types of access determined by the Board are kept separate from those for the other activities of the undertakings.

2. The Board may make the obligation to keep separate records subject to rules regarding the method of constructing said records and regarding the provision to the Board of bookkeeping documents, including information regarding income received from third parties.

Article 6a.11

1. In exceptional circumstances, the Board may impose other obligations concerning access, designated by means of a ministerial order, on an undertaking for which the Board has determined pursuant to Article 6a.2(1) that said undertaking has significant market power in the provision of public electronic communications networks or associated facilities, in so far as such obligations are appropriate.
2. The ministerial order within the meaning of paragraph 1 may set rules regarding the imposition by the Board of the obligations designated in said order. Said rules shall in any case concern:
 - a. the circumstances that must prevail before said obligations may be imposed; and
 - b. the nature of the obligations.
3. The Board shall withdraw a decision within the meaning of paragraph 1 if
 - a. it determines pursuant to Article 6a.3(1) that the relevant or transnational market concerned is effectively competitive;
 - b. it has become apparent pursuant to Article 6a.3(2) that the undertaking within the meaning of paragraph 1 no longer has significant market power.
4. The Board shall also withdraw a decision within the meaning of paragraph 1 if
 - a. there is no longer any question of exceptional circumstances; or
 - b. the obligation that has been imposed or maintained is no longer appropriate.
5. No later than eighteen months after a decision within the meaning of paragraph 1 has taken effect, the Board shall investigate whether exceptional circumstances still prevail and whether the imposed or maintained obligation is still appropriate; the Board shall then determine pursuant to
 - a. paragraph 1: to maintain the decision; or
 - b. paragraph 4: to withdraw the decision.
6. Article 6a.2(3) shall apply *mutatis mutandis*.

Section 6a.3. Obligations at the level of the end-user

Article 6a.12

Pursuant to Article 6a.2(1) the Board may impose an obligation

- a. to treat end-users of services equally in similar cases when delivering end-user services as determined by the Board;
- b. to unbundle end-user services as determined by the Board from other services; and
- c. make certain information determined by the Board known to certain categories of end-users as determined by the Board.

Article 6a.13

1. Pursuant to Article 6a.2(1) the Board may impose an obligation regarding the level of end-user rates.

2. If the Board imposes an obligation within the meaning of paragraph 1, the Board shall also, pursuant to Article 6a.2, impose an obligation to utilise a cost allocation system determined or approved by the Board. Pursuant to 6a.2(1) the Board may also impose the obligation within the meaning of the previous sentence separately from an obligation within the meaning of paragraph 1.
3. An undertaking that has been made subject to an obligation within the meaning of paragraph 2 shall submit the result of the application during the preceding calendar year of the cost allocation system concerned to the Board in May of each year, commencing on a date determined by the Board.
4. If an obligation within the meaning of paragraph 2 has been imposed, the Board, or an independent expert third party designated by the Board, shall investigate annually, after the result within the meaning of paragraph 3 has been submitted, whether the cost allocation system concerned has been complied with. The result of said investigation shall be announced in the Government Gazette.
5. The Board may make the obligations within the meaning of paragraphs 1 and 2 subject to rules that are necessary for proper implementation of said obligations.

Article 6a.14

1. If the Board, pursuant to Article 6a.2(1) imposes or maintains an obligation within the meaning of Article 6a.13(1) the Board may also, pursuant to Article 6a.2(1) impose an obligation to refrain from introducing new or altered end-user rates until the Board has approved said rates.
2. The Board shall determine, within three weeks of receiving a request for approval, whether the new or altered end-user rate is in accordance with the imposed or maintained obligation within the meaning of Article 6a.13(1). If information within the meaning of paragraph 7 is lacking, the undertaking that has submitted the request shall be notified to that effect within three days of the request being received.
3. The Board may extend the period within the meaning of the first sentence of paragraph 1 by three weeks. The Board shall notify the undertaking that has submitted the request of this in writing.
4. The Board shall approve the introduction of the new or altered end-user rate if it considers that said rate is in accordance with the imposed or maintained obligation within the meaning of Article 6a.13(1).
5. If the Board considers that the new or altered end-user rate is not in accordance with the imposed or maintained obligation within the meaning of Article 6a.13(1), the Board shall notify the undertaking that has submitted the request. Within four weeks of said notification, the Board shall notify the undertaking within the meaning of the first sentence of the points where it has failed to comply with the obligation within the meaning of the first sentence.
6. The Board shall assess a request for approval following a written notification within the meaning of the second sentence of paragraph 5 within two weeks of receiving said request.
7. By no later than the point in time when a decision within the meaning of Article 6a.2(1) providing for the imposition or maintenance of the obligation not to allow introduction of new or altered end-user rates to take place before the Board has approved them takes effect, the Board shall determine what information the undertaking concerned must submit with a request within the meaning of paragraph 2 and in what form that information should be submitted. The Board shall notify the undertaking concerned of this.

Article 6a.15

In order to implement Article 17 of Directive No. 2002/22/EC, other obligations than those within the meaning of Articles 6a.12 to 6a.14 may be designated by a general administrative order that the Board may impose pursuant to Article 6a.2(1) on undertakings that have significant market power on a

relevant end-user market or a transnational end-user market.

Section 6a.4 [Cancelled as of 5 June 2012]

Article 6a.16 [Cancelled as of 5 June 2012]

Article 6a.17 [Cancelled as of 5 June 2012]

Section 6a.5 [Cancelled as of 5 June 2012]

Article 6a.18 [Cancelled as of 5 June 2012]

Article 6a.19 [Cancelled as of 5 June 2012]

Section 6a.6. Vertically integrated public undertakings that have a dominant economic position within the meaning of Article 82 of the EC Treaty

Article 6a.20

1. In the present article, a public undertaking shall be taken to mean an undertaking over which a legal entity set up under public law can exercise a dominating influence, either directly or indirectly.
2. If an undertaking has the legal structure of a legal entity under private law, dominating influence within the meaning of paragraph 1 shall be assumed to be exercised if a legal entity set up under public law, directly or indirectly,
 - a. holds the majority of the voting rights associated with the shares issued by the legal entity; or
 - b. appoints more than half the members of the management of the supervisory body.
3. A vertically integrated public undertaking that provides electronic communications networks and that has a dominant economic position on the common market or a substantial part thereof within the meaning of Article 82 of the EC Treaty shall, at their request, give other undertakings access on equal conditions as those that apply to itself or its subsidiaries under similar circumstances.
4. The obligation within the meaning of paragraph 3 shall not apply to a vertically integrated public undertaking in so far as that obligation arises from an obligation imposed or maintained by the Board pursuant to Article 6a.2(1) in conjunction with Article 6a.8.

Section 6a.7. Obligations for providers of programme services that have significant market power

Article 6a.21

1. The Board shall determine, in accordance with the principles of general European competition law, the relevant markets for the provision of programme services of which the features are such that imposing the obligations within the meaning of Articles 6a.12, 6a.13(1) and (2), 6a.14(1) and 6a.22 may be appropriate.
2. The Board shall investigate the markets within the meaning of paragraph 1 as soon as possible. Said investigation shall in any case be intended to determine:
 - a. whether or not the market concerned is effectively competitive and whether undertakings that offer programme services on that market have significant market power; and
 - b. what obligations within the meaning of Articles 6a.12, 6a.13(1) and (2), 6a.14(1), and 6a.22 are appropriate for undertakings within the meaning of subparagraph a.
3. If it becomes apparent from an investigation within the meaning of paragraph 2 that a relevant market is not effectively competitive, the Board shall determine which undertakings that offer programme services have significant market power; and

- a. shall impose obligations on each of them, in so far as appropriate, within the meaning of Articles 6a.12, 6a.13(1) and (2), 6a.14(1), and 6a.22;
 - b. shall maintain previously imposed obligations, in so far as they relate to this market, if they are still appropriate; or
 - c. shall withdraw previously imposed obligations, in so far as they relate to this market, if they are no longer appropriate.
4. For the application of the present article, “end-user” within the meaning of Articles 6a.12 to 6a.14 shall be taken to mean a natural person or legal entity who or which makes use of or requests a programme service.
 5. Articles 6a.1(6), (7), and (8), 6a.2(3), 6a.3(1) and (2), 6a.4, 6a.5, 6a.13, (3), (4) and (5), 6a.14(2) to (7), 6b.1, 6b.3, and 6b.6 shall apply *mutatis mutandis*.

Article 6a.21a [Enters into force on 1 January 2013]

1. Pursuant to Article 6a.21(3), the Board may also impose obligations within the meaning of Articles 6a.6 to 6a.10 on an undertaking that has significant market power as regards the provision of programme services.
2. The Board shall impose, pursuant to Article 6a.21(3), the obligation on an undertaking that has significant market power as regards the provision of programme services to provide programme services and associated facilities at wholesale level for resale to end-users at a rate determined by the Board, unless the limited extent of the broadcasting network or the limited potential demand for resale does not justify such being done.

Article 6a.22

Other obligations than those within the meaning of Articles 6a.12 to 6a.14 may be designated, by a general administrative order, that the Board may impose pursuant to Article 6a.21(3) on undertakings that have significant market power as regards the provision of programme services.

Chapter 6b. Consultation

Article 6b.1

1. The preparation of a decision by the Board within the meaning of Articles 6.2, 6a.2, 6a.3, 6a.4a, and 6b.2(5)(a) shall be subject to Part 3.4 of the General Administrative Law Act.
2. In deviation from paragraph 1, the Board may decide not to apply the procedure within the meaning of paragraph 1 if the decision will have no significant consequences for the market concerned.
3. If a decision on request is concerned, Article 3:18 of the General Administrative Law Act shall not apply.

Article 6b.2

1. If a decision within the meaning of Article 6b.1(1) affects trade between the Member States, the Board shall submit a draft of the relevant decision, together with the grounds for such draft decision, to
 - a. the European Commission;
 - b. the national regulatory bodies within the meaning of Article 7 of Directive No. 2002/21/EC; and
 - c. BEREC;

and shall enable them to comment on said draft decision within one month.

2. The Board shall not adopt the decision until the period of one month within the meaning of paragraph 1 has elapsed.

3. In taking said decision, the Board shall take account as far as possible of the comments on the draft that it has received from the European Commission, the national regulatory bodies, and BEREC.
4. If the European Commission has notified the Board, within the period within the meaning of paragraph 2, that it considers that the determination of a relevant market pursuant to Article 6a.1(2) or the designation of an undertaking with significant market power within the meaning of Article 6a.2(1)(opening words) constitutes an impediment to the internal European market or that it has serious doubts regarding the compatibility of the draft decision with Community law, the Board shall wait to adopt the decision for at least two months from the date of said notification.
5. No later than six months after the day when the European Commission has issued a decision within the meaning of Article 7(5)(a) of Directive No. 2002/21/EC regarding a draft decision within the meaning of paragraph 4,
 - a. the Board shall cause the draft to conform with Community law as regards the proposals made by the European Commission in its decision; or
 - b. the Board shall decide not to adopt the draft decision concerned.
6. The Board shall announce the decision within the meaning of paragraph 5(b) in the Government Gazette.
7. If the European Commission has notified the Board, within the period within the meaning of paragraph 2, that it considers that an obligation within the meaning of Articles 6.2, 6a.2(1)(a) to (c), or 6a.4a(5) or (6) proposed in the draft decision constitutes an impediment to the internal European market or that it has serious doubts regarding the compatibility thereof with Community law, the Board shall not adopt the decision until a period of four months has elapsed from the date of said notification. In deviation from said period, the Board may adopt the decision as soon as the recommendation has been made or the proviso has been withdrawn.
8. If the Board aligns an obligation within the meaning of paragraph 7 with the opinion provided by BEREC within the meaning of Article 7bis(3) of Directive No. 2002/21/EC or with a recommendation by the European Commission within the meaning of Article 7bis(5)(a) regarding said obligation, Article 6b.1 shall apply *mutatis mutandis*.
9. If the Board does not align an obligation within the meaning of paragraph 7 with
 - a. an opinion of BEREC within the meaning of Article 7bis(3) of Directive No. 2002/21/EC; or
 - b. a recommendation by the European Commission within the meaning of Article 7bis(5)(a), regarding the obligation,

the Board shall give reasons why it does not amend or withdraw the obligation set forth in the draft decision.
10. The Board shall forward a copy of a decision prepared in accordance with the present article to the European Commission and to BEREC. In the event of a recommendation or a proviso within the meaning of paragraph 7, the Board shall send the copy within one month of the recommendation being made or the proviso being withdrawn. The Board may extend said period of one month if the Board prepares the amendment to the draft decision in accordance with Article 6b.1(1).

Article 6b.3

1. In exceptional circumstances when the required urgency precludes application of the procedures within the meaning of Articles 6b.1(1) or 6b.2, the Board may refrain from applying said procedure when adopting a decision within the meaning of Articles 6.2 and 6a.2(1)(a) so as to guarantee competition or to protect the interests of users.
2. A decision within the meaning of paragraph 1 shall apply for a maximum period of 26 weeks.

3. The Board shall forward a copy of a decision within the meaning of paragraph 1 to the European Commission, to the national regulatory bodies within the meaning of Article 7 of Directive No. 2002/21/EC, and to BEREC.

Article 6b.4

If, pursuant to Article 7(3) of Directive No. 2002/21/EC, a national regulatory body within the meaning of Article 6b.2(1) submits a draft of a decision to the Board, the Board shall submit its comments to said national regulatory body within the period set by said body.

Article 6b.5

1. Preparation of a decision by the Board to impose, maintain, or withdraw an obligation within the meaning of a ministerial order drawn up on the basis of Article 6a.11 shall be subject to the procedure within the meaning of Article 6b.1.
2. The Board shall submit a draft of a decision within the meaning of paragraph 1 to the Commission of the European Communities and the national regulatory bodies of which notification has been given pursuant to Article 3(6) of Directive No. 2002/21/EC.
3. The Board shall not adopt a decision within the meaning of paragraph 1 until the Commission of the European Communities has given consent pursuant to Article 14(2) of Directive No. 2002/19/EC. In adopting a decision, the Board shall take account of the comments made by the national regulatory bodies.

Article 6b.6

As regards the option of appeal pursuant to Chapter 8 of the General Administrative Law Act, the following shall be deemed to constitute a single decision:

- a. a decision within the meaning of Article 6a.2(1) and the determination of the relevant market within the meaning of Article 6a.1(1) or (2) forming the basis for such decision and the investigation of that market within the meaning of Article 6a.1(3) or the investigation of a transnational market within the meaning of Article 6a.1(4);
- b. a decision within the meaning of Article 6a.3(1), (2), or (3) and the determination of the relevant market within the meaning of Article 6a.1(1) or (2) forming the basis for such decision and the investigation of that market within the meaning of Article 6a.1(3) or the investigation of a transnational market within the meaning of Article 6a.1(4).

Chapter 7. Interests of End-users

Article 7.1

1. Prior to or during the conclusion of an agreement with a consumer or another end-user requesting such, a provider of a publicly available electronic communications service or a public electronic communications network shall provide said consumer or other end-user with the following information in clear and comprehensible form, in writing or on another sustainable data medium available to and easily accessible to said consumer or other end-user:
 - a. the name and registration address of the provider;
 - b. the services to be provided;
 - c. the applicable rate structure, the main rates, the manner in which information can be acquired regarding the applicable rates and maintenance costs, the manner in which payment can be made, and the costs associated with these manners of payment;
 - d. the term of the agreement and the conditions under which the agreement or parts thereof can be extended or terminated;
 - e. the compensation or repayment arrangement that applies if the agreement is not complied with in so far as the quality of the service is concerned; and
 - f. the manner in which use can be made of the disputes board within the meaning of Article 12.1 or of the procedure within the meaning of Article 12.9;

- g. the options open to the subscriber within the meaning of Article 11.6(2) as regards the matter of whether the subscriber's personal data will or will not be included in a list of subscribers and in subscriber files used for subscriber information services, as well as the information to be included;
 - h. the measures that the undertaking takes or can take in response to incidents concerning security or integrity or threats and vulnerabilities.
2. A provider of a publicly available electronic communications service shall ensure that the information that it provides prior to or during the conclusion of the agreement is included in the agreement to be concluded between the provider and the consumer concerned.
3. Paragraphs 1 and 2 shall apply *mutatis mutandis* to providers of programme services.
4. Categories of publicly available electronic communications services or programme services may be designated by a ministerial order for which the obligation within the meaning of paragraphs 1 and 2 shall not apply, either wholly or partly, to the provider concerned.
5. Specific rules may be set by or pursuant to a general administrative order regarding the information within the meaning of paragraph 1.

Article 7.2

1. At least one month prior to a proposed amendment to a provision in an agreement enters into force,
 - a. the provider of a publicly available electronic communications service or a public electronic communications network shall offer the subscriber the option of terminating the agreement at no cost; and
 - b. the provider shall inform the subscriber, in an adequate manner, of the content of the proposed amendment and of the option of terminating the agreement at no cost.
2. Paragraph 1 shall apply *mutatis mutandis* to providers of programme services. Categories of programme services may be designated by a ministerial order for which the obligation within the meaning of the previous sentence shall not apply, either wholly or partly, to the provider concerned.
3. Specific rules may be set pursuant to a general administrative order regarding the format of the notification whereby the subscriber is informed of a proposed amendment within the meaning of paragraph 1.

Article 7.2a

1. The consumer may at any time terminate, at no cost, the agreement between said consumer and a provider for the delivery of an electronic communications service or programme service that has been entered into for an indefinite period of time.
2. A provider shall offer an end-user the option of entering into an agreement for a specific period of time, with the term of such agreement being a maximum of twelve months. The agreement between a provider and a consumer for the delivery of a publicly available electronic communications service or programme service may be entered into for a specific period of time, with the term of such agreement being a maximum of twenty-four months. The agreement between a provider and a consumer for the delivery of an electronic communications service or programme service that has been entered into for a specific period of time may be tacitly extended or renewed at the end of said period, on condition that the consumer can then terminate the agreement at no cost at any time.
3. The notice period to be observed by the consumer when terminating said agreement shall in all cases be no longer than one month.

Article 7.3

1. It may be provided by a ministerial order that providers of public electronic communications networks or publicly available electronic communications services must provide transparent, comparable, up-to-date, clear, and full information regarding
 - a. the applicable rates;
 - b. any costs charged for terminating an agreement;
 - c. the general conditions regarding access to and use of the services within the meaning of Annex II of Directive No. 2002/22/EC that said providers offer to end-users; or
 - d. any restrictions on access to or use of services and applications.
2. The information within the meaning of paragraph 1 shall be announced in an easily accessible form. Rules may be set by ministerial order regarding the form in which said information must be announced.
3. Any person may utilise the information within the meaning of paragraph 1, at no charge, to provide interactive guides or similar techniques enabling the end-user to arrive at an independent judgment regarding the costs of an alternative usage pattern.
4. Rules may be set by ministerial order regarding the information to be provided by the provider of public electronic communications networks or publicly available electronic communications services to end-users and to Our Minister regarding:
 - a. changes regarding access to emergency services or the accuracy of the information to be provided pursuant to Article 11.10;
 - b. changes in the conditions for restriction of access to or use of services and applications;
 - c. the measures taken by the provider in the case of congestion and the consequences thereof for the quality of service delivery;
 - d. the options open to the subscriber within the meaning of Article 11.6(2) as regards the matter of whether the subscriber's personal data will or will not be included in a list of subscribers and the information concerned; and
 - e. products and services for end-users with a physical disability.

Article 7.3a

1. The Board may instruct providers of publicly available electronic communications services to suspend the payment relating to the use of categories of numbers designated by a ministerial order for a period determined by the Board if the Board has been informed that the number user does not comply with the provisions of or pursuant to the present Act or performs an action within the meaning of Article 4.4.
2. The provider of a publicly available electronic communications service that has received instructions from the Board within the meaning of paragraph 1 shall immediately suspend the payment.
3. The period within the meaning of paragraph 1 shall be a maximum of four weeks and may be extended by the Board on one occasion by a maximum of four weeks.
4. The Board shall notify the number user, in so far as the latter is known to the Board, of said instructions.

Article 7.3b

1. The Board may instruct providers of publicly available electronic communications services to suspend the accessibility of a number in categories of numbers designated by a ministerial order for a period determined by the Board if the Board has been informed that the number user does not comply with the provisions of or pursuant to the present Act or performs an action within the meaning of Article 4.4.
2. The provider of a publicly available electronic communications service that has received instructions from the Board within the meaning of paragraph 1 shall immediately suspend

accessibility.

3. The period within the meaning of paragraph 1 shall be a maximum of four weeks and may be extended by the Board on one occasion by a maximum of four weeks.
4. The Board shall notify the number user, in so far as the latter is known to the Board, of said instructions.

Article 7.3c

1. If the Board has determined that during a particular period the number user has failed to comply with the provisions of or pursuant to the present Act or has performed an action within the meaning of Article 4.4 with respect to a number, the Board may announce such in the Government Gazette.
2. The provider of a publicly available electronic communications service shall not require consumers to pay for calls to numbers if:
 - a. the numbers concerned are specified in an announcement within the meaning of paragraph 1; and
 - b. the calls were made during the period to which said announcement related.
3. If the consumer has already paid for calls to numbers within the meaning of paragraph 2, the provider shall refund the amounts concerned within two months of publication of the announcement within the meaning of paragraph 1.

Article 7.3d

1. In addition to Articles 7.3a to 7.3c, rules may be set by or pursuant to a general administrative order for providers of public electronic communications networks or publicly available electronic communications services regarding the blocking of access to a number or service or the suspension of the payment relating to that number or service if the provisions of or pursuant to the present Act have not been complied with or an action has been performed within the meaning of Article 4.4.
2. The rules within the meaning of paragraph 1 may assign tasks and powers to the Board.

Article 7.4

1. Providers of public telephone services at a fixed location or of public pay telephones that have been designated pursuant to Article 9.2 and providers of fixed public telephone services that provide such services for more than 52 weeks shall publish an annual overview on 1 April of each year for the previous calendar year, in an adequate manner, regarding the quality of the services they provide on the basis of the parameters, definitions, and measurement methods specified in Annex III of Directive No. 2002/22/EC. The overview within the meaning of the first sentence shall include a description of the measures taken by the provider to guarantee equal access for end-users with a physical disability. The overview within the meaning of the first sentence shall be made available to the Board for publication.
2. Specific rules may be set by ministerial order regarding the obligations within the meaning of paragraph 1.
3. In so far as not provided pursuant to paragraph 1, specific rules may be set by or pursuant to a general administrative order regarding
 - a. the drawing up by providers of publicly available electronic communications services, providers of public electronic communications networks, or programme services of a periodic overview of the quality of the services they provide on the basis of parameters, definitions, and measurement methods determined by means of a general administrative order;
 - b. the investigation by the Board, or by an independent expert third party designated by the Board, of whether said overview is in accordance with the rules concerned; and

- c. the publication of said overview and its provision to the Board.
4. The rules within the meaning of paragraph 3 may differ for certain categories of publicly available electronic communications services or programme services, as specified in said rules.
5. The rules within the meaning of paragraphs 2 and 3 may assign tasks and powers to the Board.

Article 7.4a [Enters into force on 1 January 2013]

1. Providers of public electronic communications networks via which Internet access services are delivered and providers of Internet access services shall not hinder or slow down applications or services on the Internet, unless and to the extent that the measure in question with which applications or services are being hindered or slowed down is necessary:
 - a. to minimise the effects of congestion, whereby equal types of traffic must be treated equally;
 - b. to preserve the integrity and security of the network and service of the provider in question or the end-user's terminal;
 - c. to restrict the transmission to an end-user of unsolicited communication within the meaning of Article 11.7(1), provided that the end-user has given its prior consent for this to be done, or
 - d. to implement a legislative provision or court order.
2. If an infraction of the integrity or security of the network or the service or a terminal of an end-user, as referred to in (b) of the first paragraph, is being caused by traffic coming from the terminal of an end-user, the provider, prior to taking the measure which hinders or slows down the traffic, must notify the end-user in question, in order to allow the end-user to terminate the infraction. Where the required urgency means that this is not possible prior to the measure being taken, the provider must give notice of the measure as soon as possible. The first sentence shall not apply where this concerns an end-user of a different provider.
3. Providers of Internet access services shall not make their charges for Internet access services dependent on the services and applications which are offered or used via said services.
4. Specific rules with regard to the provisions in paragraphs 1 to 3 may be provided by way of a general administrative order. The proposal for a general administrative order as provided for under this paragraph shall not be made earlier than four weeks after the draft has been submitted to both Houses of the States General.
5. In order to prevent the degradation of service delivery and the hindering or slowing down of traffic via public electronic communications networks, minimum requirements regarding the quality of service of publicly available electronic communications services may be imposed by or pursuant to a general administrative order on providers of public electronic communications networks.

Article 7.5

Rules may be set by a general administrative order regarding the provision to third parties, with due observance of the provisions of or pursuant to Chapter 11, of categories of numbers, as specified in said rules, with associated information regarding the availability of telephone directories and of a subscriber information service.

Article 7.6

1. Providers of public telephone services or public electronic communications networks, in so far as such are used to provide public telephone services, shall ensure that the end-users of that network and of those services have access to the services of a telephonist and to a subscriber information service.
2. Rules may be set by a general administrative order with which the subscriber information service within the meaning of paragraph 1 must comply.

Article 7.6a [Enters into force on 1 January 2013]

1. The provider of an Internet access service to an end-user may only terminate or suspend delivery of that service
 - a. at the request of the subscriber;
 - b. in the event of the subscriber failing to comply with its payment obligation or of the subscriber becoming bankrupt;
 - c. in a case of deception within the meaning of Article 3:44 of the Civil Code on the part of the subscriber;
 - d. when the term of the agreement for a specific period of time for delivery of the Internet access service elapses and the agreement, with the consent of the subscriber, is not extended or renewed;
 - e. to implement a legislative provision or court order; or
 - f. in the event of *force majeure* or unforeseen circumstances within the meaning of Article 6:258 of the Civil Code.
2. The provider shall not implement a measure within the meaning of paragraph 1 (opening words and (c) until it has notified the subscriber, in writing, of its intention to do so, giving written reasons regarding the alleged deception, and allowing the subscriber a reasonable period of time to respond to the proposed measure and the alleged deception.

Article 7.7

1. Providers of public electronic communications networks that are used to provide outgoing calls to a number in the number plan, public pay telephones, and public telephone services shall make the use of alarm numbers available to all users of their service free of charge and without access restrictions.
2. An alarm number within the meaning of paragraph 1 shall be taken to mean a number that is designated as an alarm number in the number plan within the meaning of Article 4.1(1).
3. Providers of public electronic communications networks that are used to provide outgoing calls to a number in the number plan, public pay telephones, and public telephone services shall make the necessary arrangements to ensure uninterrupted access to alarm numbers.
4. Our Minister may grant an exemption from the provision of paragraph 3 if it is not technically feasible or economically possible to make the arrangements within the meaning of that paragraph. An exemption may be granted subject to restrictions. Our Minister may attach rules to an exemption.

Article 7.7a

1. Without prejudice to the provisions of Article 11.9, rules may be set by ministerial order to implement Annex I of Directive No. 2002/22/EC. Said rules shall relate to the provision of facilities to end-users within the meaning of said Annex I by providers of public electronic communications networks or public telephone services.
2. An obligation imposed pursuant to paragraph 1 that serves to implement Annex I(B) of Directive No. 2002/22/EC shall not apply if it is not technically feasible or economically possible.

Article 7.8

1. In so far as the other articles of the present chapter do not provide, rules may be set by or pursuant to a general administrative order for providers of public electronic communications networks, publicly available electronic communications services, number users, or programme services regarding the protection of natural persons who make use of or request publicly available electronic communications services, number users, or programme services for purposes other than trade or professional purposes. Said rules may relate, amongst other things, to
 - a. the provision of information regarding the applicable rates;
 - b. the charging structure for categories of numbers designated by a ministerial order;

- c. the circumstances under which a provider may suspend or terminate delivery of a publicly available electronic communications service.
2. The rules within the meaning of paragraph 1 may differ for certain categories of public electronic communications networks, publicly available electronic communications services, number users, or programme services, as specified in said rules. Said rules may assign tasks and powers to the Board.
3. Rules may be set by or pursuant to a general administrative order for providers of publicly available electronic communications services and networks whereby end-users with a physical disability
 - a. have access to publicly available electronic communications services that is equal to that of the majority of end-users; and
 - b. benefit from the choice between undertakings and services that are available to the majority of end-users.

Chapter 8. Rules regarding the broadcasting of programmes, systems for conditional access, application program interfaces, and electronic programme guides

Section 8.1. Obligations in connection with the broadcasting of programmes

Article 8.1 [Cancelled as of 19 May 2004]

Article 8.2 [Cancelled as of 19 May 2004]

Article 8.3

In agreement with Our Minister of Education, Culture and Science, Our Minister may oblige providers of public electronic communications networks that consist of radio transmission equipment that is suitable for broadcasting programme content to broadcast programme content that is provided to him for dissemination, in accordance with the Media Act, by institutions charged with the provision of the public media services within the meaning of Chapter 2 of the Media Act 2008.

Article 8.4a

1. In order to implement a binding decision of the Council of the European Union, the European Parliament and the Council jointly, or of the Commission of the European Communities, technical requirements may be set by ministerial order for the broadcasting of a television programme within the meaning of Article 1.1 of the Media Act 2008 that is intended to be broadcast in an aspect ratio of greater than 4:3, or which is intended to be broadcast entirely digitally by means of a public electronic communications network.
2. To implement a binding decision within the meaning of paragraph 1, technical requirements may also be set for public electronic communications networks with the aid of which the broadcasting of television programmes takes place entirely digitally.

Section 8.2. Systems for conditional access, application program interfaces, electronic programme guides, and access to programme content

Article 8.5

1. In order to implement a binding decision of the Council of the European Union, of the European Parliament and the Council of the European Union jointly, or of the Commission of the European Communities, rules shall be set by or pursuant to a general administrative order regarding the provision of access by providers to systems for conditional access that are suitable and intended for the broadcasting of services that can be received with the aid of digital television or radio systems.
2. The rules within the meaning of paragraph 1 shall in any case relate to

- a. the technical possibilities of the systems for conditional access for the purpose of the transfer of monitoring;
 - b. the provision of access to systems for conditional access and the conditions under which it will be provided; and
 - c. the keeping of separate records regarding the activities relating to the range of systems for conditional access and regarding other activities.
3. In order to implement a binding decision within the meaning of paragraph 1, rules may be set by a general administrative order regarding the granting of licences by holders of industrial property rights to manufacturers of consumer devices within which use is made of conditional access systems.
4. The rules within the meaning of paragraph 1 may assign tasks and powers to the Board.

Article 8.6

1. With a view to guaranteeing access by end-users and end-users with a physical disability to services, designated by a general administrative order, that are broadcast digitally and that can be received with the aid of television or radio systems, rules may be set in a general administrative order regarding the provision by providers of access to application program interfaces or electronic programme guides.
2. As regards providers of application program interfaces or electronic programme guides, the rules within the meaning of paragraph 1 shall in any case relate to
 - a. the provision of access to application program interfaces or electronic programme guides and the conditions under which it will be provided;
 - b. the provision of information regarding access and the manner of use of the information provided; and
 - c. the keeping of separate records regarding the activities relating to the range of application program interfaces or electronic programme guides and regarding other activities.
3. The rules within the meaning of paragraph 1 may assign tasks and powers to the Board.

Article 8.7

If the Board imposes the obligation within the meaning of Article 6a.6 on an undertaking that provides public electronic communications networks that are used for the broadcasting of programmes, said undertaking shall also be obliged to provide access to the programme content that it compiles in so far as that programme content is not distributed encrypted to all connected parties on the networks concerned, on the understanding that the requested access need only be provided

- a. if a provider of a programme wishes those to whom the programme is broadcast to contribute to the cost of the programme, including the cost of broadcasting it, and the method of broadcasting means that said provider in fact depends on the undertaking that provides the publicly available electronic communications service; and
- b. the undertaking that provides the public electronic communications network has no transparent or objective grounds for refusing access.

Section 8.3 [Cancelled as of 19 May 2004]

Section 8.4 [Cancelled as of 19 May 2004]

Chapter 9. Universal Service

Article 9.1

1. The following services and facilities shall be available to every end-user, regardless of his geographical location, at an affordable price and of specified quality:

- a. connection, in response to a reasonable request, to a public electronic communications network at a fixed location;
 - b. the provision of a public telephone service via the network connection within the meaning of subparagraph a;
 - c. public pay telephones;
 - d. printed and electronic telephone directories;
 - e. a subscriber information service; and
 - f. services or facilities whereby end-users with a physical disability have access to the services and facilities within the meaning of subparagraphs b, d, and e at a level equal to that of other end-users.
2. Rules may be set by or pursuant to a general administrative order regarding the quality and nature of the services and facilities within the meaning of paragraph 1.
 3. In order to implement Chapter II of Directive No. 2002/22/EC, publicly available electronic communications services or associated facilities other than those within the meaning of paragraph 1 may be designated by a general administrative order that must be available to categories of end-users, designated in said order, regardless of their geographical location, at an affordable price and of a quality as specified in said order.
 4. Rules may be set by or pursuant to a general administrative order regarding the price within the meaning of paragraph 1 or 3. The rules regarding the price within the meaning of the first sentence may make distinctions between groups of end-users.

Article 9.2

1. If Our Minister considers that the availability, affordability, or quality of one or more of the publicly available electronic communications services or facilities within the meaning of Article 9.1(1) or (3) is not or will not be guaranteed by the normal functioning of the market, Our Minister may decide, in accordance with the procedure set forth in Article 9.3, to designate an undertaking that will provide the universal service within a particular area served, as designated in Our Minister's decision, for a period of no more than ten years. Our Minister may designate a number of undertakings that will provide different services or facilities within the meaning of Article 9.1(1) or (3) or that cover different areas.
2. In order to implement Chapter II of Directive No. 2002/22/EC, specific rules may be set by or pursuant to a general administrative order that apply in the event of a designation for the provision of one or more services or facilities belonging to the universal service. In order to implement the chapter within the meaning of the first sentence, said rules may assign tasks and powers to the Board.

Article 9.3

1. If Our Minister intends carrying out a designation within the meaning of Article 9.2(1) he shall determine whether such designation may constitute an unfair burden within the meaning of Article 12(1) of Directive No. 2002/22/EC for a party designated to provide the universal service. Our Minister may request the opinion of the Board prior to such determination.
2. If Our Minister determines that designating a party to provide the universal service does not constitute an unfair burden on the party so designated, the provider within the meaning of paragraph 4 shall be so designated. Paragraphs 3 to 9 and Articles 9.4 and 9.5 shall not apply.
3. If Our Minister determines that such designation may constitute an unfair burden on the party designated to provide the universal service, Our Minister shall announce the intention to designate in the Government Gazette. Said announcement shall indicate the service or facility to be provided, the area to be served, and a period for which the designation shall apply; it shall also refer to the option of submitting a bid for the designation as provided in paragraph 5.
4. On the date of the announcement within the meaning of paragraph 3, Our Minister shall also announce said intention to:

- a. in the case of a service to be provided within the meaning of Article 9.1(1)(a): the provider of the public electronic communications network to which most of the end-users in the area served are connected;
- b. in the case of a service to be provided within the meaning of Article 9.1(1)(b) to (f): the provider of the public electronic communications network, or should there be no such network, an associated service of which most of the end-users in the area served make use; or
- c. in the case of a facility to be provided: the provider of the publicly available electronic communications service associated with the facility to be provided of which most of the end-users in the area served make use.

Said announcement shall also refer to the obligation within the meaning of paragraph 5 for such provider to submit a bid for the designation.

5. Within eight weeks after the date of the announcement within the meaning of paragraph 3, a bid may be submitted to Our Minister for the designation, with the provider within the meaning of paragraph 4 in any case submitting its bid.
6. It shall be determined by a ministerial order whether a bid shall be submitted by
 - a. stating an annual amount; or
 - b. stating an amount for each unit of usage, as designated in the ministerial order, or for the facility to be utilised.

It may be determined by a ministerial order that, in addition to the bid, an amount independent of usage must be paid, and what that amount will be.

7. A bid shall be refused if the bidder cannot be expected to provide the universal service in the proper manner.
8. The party submitting the lowest bid, not having been refused pursuant to paragraph 7, shall be designated to provide the universal service.
9. If it is apparent from the comparison within the meaning of paragraph 8 that more than one bidder has submitted the lowest bid, lots will be drawn to decide which of them will be designated to provide the universal service.

Article 9.4

1. If the bid has been submitted in the manner within the meaning of Article 9.3(6)(a), the payment shall consist of the bid submitted by the party designated pursuant to Article 9.3(8) or (9).
2. If the bid has been submitted in the manner within the meaning of Article 9.3(6)(b), the payment shall consist of the bid submitted by the party designated to provide the universal service pursuant to Article 9.3(8) or (9), multiplied by the number of units actually used during the calendar year concerned, plus the amount independent of usage that may be determined in the ministerial order pursuant to Article 9.3(6).
3. In deviation from the provisions of paragraphs 1 and 2, Our Minister may reduce the amount specified in the bid if the bid consists of unreasonably more actual costs that the bidder incurs as a result of the designation than expected by Our Minister and for which, as a result of the rules regarding affordability set by or pursuant to Article 9.1(4), no payment is made by end-users, including a reasonable profit mark-up.
4. The amount of the payment shall be announced in the Government Gazette.
5. If the bid has been submitted in the manner within the meaning of Article 9.3(6)(b), the party designated to provide the universal service pursuant to Article 9.3(8) or (9) shall submit to Our Minister the number of units actually used during the calendar year concerned within four weeks after the end of the calendar year. Rules may be set by ministerial order regarding the manner in which said data must be submitted. Our Minister shall publish the payment for the calendar year

concerned in the Government Gazette.

6. Our Minister shall pay the payment for the calendar year concerned within three months after the end of the calendar year. Said period may be extended by the number of days whereby the period within the meaning of paragraph 5 is exceeded.

Article 9.5

1. If a payment is allocated pursuant to Article 9.4 to the party designated to provide the universal service, any person that provides publicly available electronic communications services, public electronic communications networks, or associated facilities and that realised higher turnover from these in the Netherlands than an amount determined by or pursuant to a general administrative order in the calendar year prior to the calendar year to which the payment that is to be paid relates, shall owe a contribution to the Board.
2. How the amount within the meaning of paragraph 1 is to be calculated and when it is owed shall be specified in a general administrative order.

Article 9.6

A party that provides publicly available electronic communications services or facilities pursuant to a designation within the meaning of Article 9.2(1) shall not transfer, during the term of such designation, a significant part or all of its local loop to a separate legal entity with a different owner without having received the consent of Our Minister. Our Minister shall grant said consent unless he expects that such transfer will have a negative effect on the delivery of the services within the meaning of Article 9.1(1)(a) and (b). Our Minister may impose conditions pursuant to Article 6(2) of the Authorisation Directive.

Chapter 10. Equipment

Section 10.1. European provisions regarding equipment

Section 10.1.1. Conformity requirements and mutual recognition of conformity

Article 10.1

1. Equipment that does not comply with the rules pursuant to Article 10.3(a), (b), (c), and (e) shall not be marketed or traded.
2. Specific rules may be set by or pursuant to a general administrative order regarding exceptions to the prohibition within the meaning of paragraph 1.

Article 10.2

1. Rules may be set by or pursuant to a general administrative order regarding special measures concerning the taking into use or use of equipment that complies with the rules set by or pursuant to the present chapter. Said rules shall concern
 - a. measures to resolve and existing or expected problem in connection with the requirements with which equipment must comply at a given location;
 - b. measures that must be taken for reasons of security in order to protect public electronic communications networks or devices that are intended by their nature to transmit or receive radio communication signals if such are used for security purposes in clearly defined spectrum situations.
2. Rules may be set by or pursuant to a general administrative order regarding the means that Our Minister may utilise in order to terminate or restrict the marketing or trading of radio transmission equipment if there is a justifiable fear that said radio transmission equipment will cause inadmissible impediments in the airwaves, in other radio transmission equipment, or in receivers.

Article 10.3

Rules may be set by or pursuant to a general administrative order to implement conformity directives and Annex II of the Agreement on the European Economic Area regarding:

- a. requirements with which equipment must comply;
- b. the conformity assessment of equipment;
- c. the application of markings;
- d. the designation, accreditation, and powers of bodies that may be involved in the conformity assessment, and the withdrawal of such designation;
- e. information obligations regarding equipment;
- f. the connection of equipment to public electronic communications networks and the disconnection or decommissioning of said equipment;
- g. the information to be provided by a provider of public electronic communications networks regarding the technical specifications of network termination points.

Article 10.4

Rules may be set by or pursuant to a general administrative order to implement agreements concluded between the European Community and third countries regarding reciprocal recognition of conformity assessments of equipment, including regarding the designation of bodies that may be involved in conformity assessment and the withdrawal of such designation.

Section 10.1.2. Digital television**Article 10.5**

1. In order to implement a binding decision of the Council of the European Union, of the European Parliament and the Council of the European Union jointly, or of the Commission of the European Communities, rules shall be set by ministerial order regarding equipment intended for receiving and reproduction of television programmes within the meaning of Article 1.1 of the Media Act 2008 and of equipment intended to unscramble scrambled digital television signals.
2. Equipment within the meaning of paragraph 1 shall not be sold, rented out, or otherwise made available if it does not comply with the rules set pursuant to paragraph 1.

Section 10.2. Provisions of national origin**Article 10.6**

Rules may be set by or pursuant to a general administrative order regarding advertising for equipment the marketing or trading of which is prohibited pursuant to Article 10.1 or Article 10.5.

Article 10.7

Rules may be set pursuant by or pursuant to a general administrative order regarding dealing with complaints concerning electromagnetic interference caused by the use of equipment or concerning impediments to the use of radio transmission equipment or terminals.

Article 10.8

For the application of Articles 10.9 to 10.11, the following shall be deemed to be equivalent to radio transmission equipment:

- a. any combination of components intended to form a radio transmission device or a device deemed to be equivalent to such pursuant to subparagraph b;
- b. electrical or electronic devices specified by or pursuant to a general administrative order that are suitable, through use together with a radio transmission device, to form a radio transmission device with other technical features.

Article 10.9

1. The assembly of radio transmission equipment, having such equipment present wholly or partly assembled, or the use of such equipment shall be permitted solely if for the use thereof a licence for the use of frequency space has been issued to the holder of the radio transmission equipment pursuant to Chapter 3.
2. In deviation from paragraph 1, the assembly of radio transmission equipment, having such equipment present wholly or partly assembled, or the use of such equipment shall be permitted without the holder having been issued with a licence for the use of frequency space if
 - a. no licence is required pursuant to Chapter 3 for the use of frequency space and, if use is subject to notification and registration within the meaning of Article 3.4(2)(d), such notification and registration have been effectuated;
 - b. the holder of the radio transmission equipment has concluded an agreement with the holder of a licence for the use of frequency space for the assembly and maintenance of a radio transmission device for the provision of services of the client that makes use of frequency space allocated to the client;
 - c. the equipment is used on board of ships or aircraft other than Dutch ships or aircraft and a licence has been issued for use of said equipment in accordance with the International Telecommunication Convention; or
 - d. the equipment is used by non-residents of the Netherlands who are present in the Netherlands temporarily and for such use agreements have been made that are binding for the Netherlands.

Article 10.10

1. In deviation from Article 10.9(1), Our Minister may issue a licence for the assembly of radio transmission equipment without the holder having been issued with a licence for the use of frequency space. A licence may be issued subject to restrictions. A licence may be made subject to rules.
2. The licence may be refused if
 - a. there is a strong suspicion that the licence will be misused;
 - b. a previously issued licence has been withdrawn due to contravention of the rules set by or pursuant to the present Act or of the rules attached to the licence;
 - c. the application does not comply with the rules set by or pursuant to the present Act; or
 - d. Our Minister considers that the applicant has no justifiable interest in a licence being issued.
3. The licence may be withdrawn if
 - a. the holder of the licence fails to comply with the rules set by or pursuant to the present Act or the rules or restrictions associated with the licence; or
 - b. the grounds on which the licence was issued have ceased to apply.

Article 10.11

1. It shall be prohibited
 - a. to utilise a radio transmission device on board a ship or aircraft to transmit programmes outside any national territory;
 - b. to operate a radio transmission device intended for a use within the meaning of subparagraph a;
 - c. to make a radio transmission device available in the knowledge that it is intended for a use within the meaning of subparagraph a;
 - d. to make a ship or aircraft available in the knowledge that it is intended for a use within the meaning of subparagraph a.
2. It shall be prohibited to deliberately cooperate with a contravention of one of the prohibitions within the meaning of paragraph 1 by assisting with such contravention or providing the opportunity,

means, or information for such contravention. The following actions shall in any case be deemed to constitute co-operation:

- a. making available material for the ship or aircraft or for the radio transmission device;
 - b. maintaining or repairing the ship or aircraft or the radio transmission device;
 - c. provisioning the ship or aircraft;
 - d. transporting persons or goods to or from the ship or aircraft or making means available for such transport;
 - e. creating programmes or components of programmes intended to be transmitted;
 - f. issuing assignments for the transmission of programmes or components of programmes or acting as an intermediary in the acquisition of such assignments.
3. Paragraph 2 shall not apply if the actions within the meaning of said paragraph are taken in the event of an emergency in order to provide assistance to the ship or aircraft or to protect human lives.
4. For the purpose of the present article, a ship or aircraft shall include any other floating object or object supported by the air.

Chapter 11. Protection of Personal Data and Personal Privacy

Section 11.1. General provisions

Article 11.1

In this chapter and the provisions based upon it, the following terms shall be understood to have the meanings assigned to them below:

- a. user: any natural person using a publicly available electronic communications service for private or business purposes, without necessarily having subscribed to said service;
- b. traffic data: any data processed for the purpose of the conveyance of a communication on an electronic communications network or for the billing thereof;
- c. processing of traffic data: processing within the meaning of Article 1(b) of the Personal Data Protection Act, on the understanding that the actions concerned also relate to the traffic data of subscribers that are not natural persons;
- d. location data: any data processed in a public electronic communications network or a publicly available electronic communications service indicating the geographic position of the terminal equipment of a user of a publicly available electronic communications service;
- e. communication: any information exchanged or conveyed between a finite number of parties by means of a publicly available electronic communications service. This does not include any information conveyed as part of a broadcasting service to the public over an electronic communications network except to the extent that the information can be related to the identifiable subscriber or user receiving the information;
- f. call: a connection established by means of a publicly available telephone service allowing two-way voice communication between users or subscribers;
- g. consent by a user or subscriber: consent of a party concerned within the meaning of Article 1(i) of the Personal Data Protection Act, on the understanding that the consent may also relate to the data of subscribers that are not natural persons;
- h. value-added service: any service which requires the processing of traffic data or location data other than traffic data beyond what is necessary for the conveyance of a communication or the billing thereof;
- i. electronic mail: any text, voice, sound or image message sent over a public communications network which can be stored in the network or in the recipient's terminal equipment until it is collected by the recipient;
- j. breach in connection with personal data: a security breach resulting in an accidental or unlawful destruction, loss or alteration of, or unauthorised access to personal data transmitted, stored or otherwise processed in connection with the provision of a publicly available electronic communications service within the European Union.

Article 11.2

Without prejudice to the provisions of the Personal Data Protection Act and the other provisions by or pursuant to this Act, the provider of a public electronic communications network and the provider of a publicly available electronic communications service shall ensure protection of personal data and of the personal privacy of subscribers and users of its network or service.

Article 11.2a [Enters into force on 1 January 2013]

1. Without prejudice to the provisions of the Criminal Code and the other provisions by or pursuant to this Act, the provider of a public electronic communications network and the provider of a publicly available electronic communications service shall ensure the confidentiality of communications and the associated data via their networks or services.
2. The provider of a public electronic communications network and the provider of a publicly available electronic communications service shall refrain from tapping, listening in, or other kinds of interception or surveillance of communications and the related data, unless and in so far as
 - a. the subscriber concerned has given explicit consent for these actions;
 - b. these actions are necessary to preserve the integrity and security of the networks and services of the provider in question;
 - c. these actions are necessary for the transmission of information via the networks and services of the provider in question; or
 - d. these actions are necessary to implement a legislative provision or court order.
3. Prior to the acquisition of consent within the meaning of paragraph 2(a), the provider shall provide the following information to the subscriber:
 - a. the type of information that will be tapped, listened in to, intercepted, or made the subject of surveillance;
 - b. the purposes for which the information will be tapped, listened in to, intercepted, or made the subject of surveillance; and
 - c. the duration of the tapping, listening in, interception, or surveillance.
4. A subscriber may withdrawal the consent within the meaning of paragraph 2(a) at any time.

Article 11.3

1. In the interest of the protection of personal data and the protection of the personal privacy of subscribers and users, providers within the meaning of Article 11.2 shall take appropriate technical and organisational measures for the safety and security of the networks and services that they provide. Taking account of the state of technology and the cost of implementing them, said measures shall provide an appropriate level of security in proportion to the risk concerned.
2. The measures within the meaning of paragraph 1 shall in any case comprise:
 - a. guarantees that only authorised personnel have access, for legally permitted purposes, to the personal data,
 - b. the protection of stored or transmitted personal data against accidental or prohibited storage, processing, access, provision, alteration, loss, or destruction; and
 - c. the introduction of a security policy regarding the processing of personal data.
3. Providers within the meaning of Article 11.2 shall ensure that subscribers are informed regarding:
 - a. special risks concerning the breaching of the safety or security of the network or service provided;
 - b. the possible means for countering the risks within the meaning of subparagraph a in so far as these are measures other than those that the provider is required to take pursuant to paragraph 1, and an indication of the expected costs.
4. In the interest of the protection of personal data and the protection of the personal privacy of subscribers and users, specific rules may be imposed by or pursuant to a general administrative

order on providers within the meaning of Article 11.2 for the safety and security of the networks and services that they offer.

Article 11.3a

1. The provider of a publicly available electronic communications service shall notify the Board immediately of any breach of security within the meaning of Article 11.3 that has negative consequences for the protection of personal data processed in connection with the provision of a publicly available electronic communications service within the European Union.
2. The provider within the meaning of paragraph 1 shall immediately notify the party whose personal data are concerned of a breach in connection with personal data if said breach is likely to have unfavourable consequences for said party's personal privacy.
3. The notification to the Board and to the person whose personal data are concerned shall comprise in any case the nature of the breach in connection with personal data, the bodies from which more information can be acquired regarding the breach, and the recommended measures to limit the negative consequences of the breach.

The notification to the Board shall also comprise the consequences of the breach for the personal data and the measures that the provider proposes or has taken in order to deal with the breach.

4. If the provider of a publicly available electronic communications service fails to provide notification within the meaning of paragraph 2, the Board, if it considers that the breach in connection with personal data is likely to have unfavourable consequences for the personal privacy of the person whose personal data are concerned, may require of the provider that it notify said person after all.
5. The notification within the meaning of paragraph 2 shall not be required if the Board considers that the provider has taken appropriate technical protection measures whereby the personal data concerned are encrypted or otherwise incomprehensible for any party that is not entitled to access said data.
6. The provider of a publicly available electronic communications service shall keep an overview of all breaches in connection with personal data. Said overview shall in any case comprise the facts and the data within the meaning of paragraph 3.
7. Specific rules may be set by or pursuant to a general administrative order regarding the requirements within the meaning of the present article for the provision of information and the notification.

Article 11.4

1. The provider of a publicly available electronic communications service shall be obliged, at a subscriber's request,
 - a. to invoice the subscriber for the electronic communications services provided by means of wholly or partly non-itemised invoices;
 - b. to enable the subscriber to cancel, simply and free of charge, the forwarding of calls from third parties to the network termination point that the subscriber uses.
2. In the interest of the protection of personal data and the protection of the personal privacy of callers and subscribers who are called, specific rules may be set by a general administrative order regarding the itemisation of invoices for electronic communications services that are supplied. Said rules may, amongst other things, concern the allocation of rights to subscribers, the handling of complaints, the provision of information, and the payment of costs. Said general administrative order may assign tasks and powers to the Board.
3. Rules may be set by a general administrative order regarding the options for the manner of paying for electronic communications services that have been provided.

Article 11.5

1. The provider of a public electronic communications network and the provider of a publicly available electronic communications service shall remove or anonymize the traffic data regarding subscribers or users that it has processed and stored as soon as said traffic data is no longer necessary for the purpose of transmitting communication, with this being without prejudice to paragraphs 2, 3, and 5.
2. The provider may process traffic data that is necessary for billing, including drawing up a bill for a subscriber or for the party that has bound itself in law vis-à-vis the provider to pay the bill, or for the purpose of paying for access that has been provided. The traffic data may be processed until the end of the legal period within which the bill may be disputed at law or payment can be enforced at law.
3. The provider of electronic communications services may also process traffic data within the meaning of paragraph 1 if and for as long as such is necessary for
 - a. market research or sales activities regarding electronic communications services; or
 - b. the provision of added-value services,if the subscriber or user to whom the traffic data relates has given prior consent for such processing. The subscriber or user may withdraw said consent for the processing of traffic data at any time.
4. The provider shall notify the subscriber or user of the types of traffic data that are processed for the purposes within the meaning of paragraphs 2 and 3 and of the duration of said processing. In so far as the processing of traffic data for the purposes within the meaning of paragraph 3 is concerned, the information concerned shall be provided prior to the acquisition of the consent by the subscriber or user within the meaning of that paragraph.
5. The processing of traffic data in accordance with paragraphs 1 to 4 may only be carried out by persons working subject to the authority of the provider for billing, traffic management, dealing with requests from customers for information, investigating fraud, market research, or sales activities concerning electronic communications services or the delivery of added-value services, and must be restricted to what is necessary in order to be able to carry out said activities.
6. The provider may provide said traffic data to persons and bodies charged with adjudicating any dispute or deciding on a dispute within the meaning of Articles 12.1, 12.2 (in so far as applicable), or 12.9.

Article 11.5a

1. The processing of location data, not being traffic data, concerning subscribers or users of public electronic communications networks or publicly available electronic communications services shall only be permitted if
 - a. said data is anonymized; or
 - b. the subscriber or user concerned has given consent for the processing of said data for the purpose of the delivery of an added-value service.
2. Prior to the acquisition of consent within the meaning of paragraph 1(b), the provider of the added-value service shall provide the following information to the subscriber or user:
 - a. the type of location data that will be processed;
 - b. the purposes for which the location data will be processed;
 - c. the duration of processing; and
 - d. whether the data will be provided to a third party for the purpose of delivering the added-value service.
3. Processing of the data for the purpose of delivering an added-value service within the meaning of

paragraph 1(b) shall only be permitted if and for as long as such is necessary for delivery of the service concerned. In deviation from the first sentence, the provider of the added-value service may process those data that are necessary in order to draw up a bill. Article 11.5(2)(final sentence) shall apply *mutatis mutandis*.

4. A subscriber or user may withdraw consent for the processing of data relating to him at any time.
5. The provider of an added-value service shall enable the subscriber or user whose data are processed to temporarily prevent, simply and free of charge, the processing of his data for any transmission of communication or any connection with the publicly available electronic communications service that is used for delivery of the service concerned.
6. The processing of the data may only be carried out by persons working subject to the authority of the provider or of a third party within the meaning of paragraph 2(d) and shall be restricted to those data that are necessary in order to deliver the added-value service.

Article 11.5b

1. Certification service providers that issue certificates to the public shall only process personal data that have been acquired from the person concerned himself, or with his express consent, and if the processing of said personal data is required for the certificates concerned to be issued and managed.
2. The personal data within the meaning of paragraph 1 shall not be collected or processed for other purposes unless the person concerned has given his express consent for such to be done.
3. In deviation from paragraph 2, the explicit consent of the person concerned shall not be required if processing of the personal data within the meaning of paragraph 1 is necessary in order to investigate fraud, or if said processing is otherwise required by or pursuant to law.

Article 11.6

1. Any party that publishes a generally available directory of subscribers or provides a generally available subscriber information service shall notify the subscriber, free of charge, prior to including personal data concerning the subscriber in the subscriber database of
 - a. the purposes of said directory of subscribers and said subscriber information service and, if an electronic version of the directory of subscribers is concerned, of the options for use on the basis of the search functions included; and
 - b. the types of personal data that, given the purposes of said directory of subscribers and said subscriber information service that have been established, may be included in said directory or information service.
2. A generally available directory of subscribers and a subscriber database used for a subscriber information service may only include a subscriber's personal data if the subscriber has given consent for such and these data remain restricted to the personal data that he provided in that connection. No charge may be made for a subscriber not to be included in a directory of subscribers or a subscriber database used for a subscriber information service.
3. If the processing of personal data in a generally available directory of subscribers and in the subscriber database used for a subscriber information service relates to purposes other than the provision of the option of searching for numbers on the basis of data concerning the name in combination with data concerning the subscriber's address, postcode, and town/city, the separate consent of the subscriber shall be required for each of such other purposes.
4. The subscriber shall be entitled to verify, free of charge, the personal data concerning him in a generally available directory of subscribers and in the subscriber database used for a subscriber information service and to cause such to be corrected or removed.

Article 11.7

1. The use of automated calling and communication systems without human intervention, facsimile machines, or electronic mail for the transmission of unsolicited communications for commercial, idealistic, or charitable purposes to subscribers or users shall be submitted solely if the sender can demonstrate that the subscriber or user concerned has given prior consent for such to be done, without prejudice to the provisions of paragraphs 2 and 3.
2. If the user within the meaning of paragraph 1 is a legal entity or a natural person acting in the exercise of its/his profession or business, no prior consent shall be required for the transmission by means of electronic mail of unsolicited communications for commercial, idealistic, or charitable purposes:
 - a. if the sender when transmitting the communication makes use of electronic contact details intended and provided by the user and said contact details have been used in accordance with the purposes attached to said contact details by the user; or
 - b. if the user is based outside the European Economic Area and the rules regarding the sending of unsolicited communications in the country concerned have been complied with.
3. A party that has acquired electronic contact details for electronic messages in the context of the sale of its product or service may use said data to transmit communications for commercial, idealistic, or charitable purposes with regard to its own similar products or services if, when the contact details were acquired, the customer was clearly and explicitly given the opportunity to object, free of charge and in a simple manner, to the use of said electronic contact details and, if the customer did not avail himself of said opportunity, he is offered the opportunity during every instance of communication, to object, on the same conditions, to the further use of his electronic contact data. The provisions of Article 41(2) of the Personal Data Registration Act [*Wet bescherming persoonsgegevens*] shall apply *mutatis mutandis*.
4. The use of electronic messages for the purposes within the meaning of paragraph 1 shall be subject *mutatis mutandis* to the requirements of Article 15(e)(1)(a) to (c) of Book 3 of the Civil Code and said use shall not contain any encouragement to consult information on the Internet that is contrary to said article. The following data shall at all times be provided during said use:
 - a. the true identity of the party on whose behalf the communication is made; and
 - b. a valid correspondence address or number to which the recipient can direct a request for such communication to cease.
5. The use of means other than those within the meaning of paragraph 1 for the transmission of unsolicited communications for commercial, idealistic, or charitable purposes shall be permitted, with due observance of the provisions of paragraphs 6 to 12, unless the subscriber has indicated in the manner within the meaning of paragraph 6 or in some other manner that he does not wish to receive unsolicited communications.
6. There shall be a register of the contact details of any subscriber who has thereby indicated that he does not wish to receive unsolicited communications within the meaning of paragraph 5. Inclusion in said register shall be for an indefinite period of time until the subscriber has indicated that his contact details can be removed from said register. Said register shall be kept by an administrator designated by Our Minister. Said administrator shall be responsible within the meaning of Article 1(d) of the Personal Data Protection Act.
7. The purpose of said register shall be to protect the subscriber from unsolicited communications which he has indicated he does not wish to receive. The subscriber's contact details included in said register shall not be used for any other purpose.
8. At the request of a party that wishes to transfer communications within the meaning of paragraph 5, the administrator shall block or remove contact details of subscribers who are included in the register from files of subscriber contact details that are offered to it, or shall make the contact details of subscribers available from the register, on request, for that purpose to a party that wishes to transfer unsolicited communications within the meaning of paragraph 5.
9. Communications within the meaning of paragraph 5 shall not be transmitted to a subscriber who

has indicated by inclusion of his contact details in the register that he does not wish to receive such unsolicited communications.

10. A party that transmits communications within the meaning of paragraph 5 shall only use files for the transmission of unsolicited communications from which the contact details that are included in the register have been blocked or removed.
11. Paragraphs 9 and 10 shall not apply to the transmission of communications within the meaning of paragraph 5 if said contact details have been acquired in the context of the sale of a product or service or in the context of a donation to an idealistic or charitable organisation and said contact details are used for the transmission of communications within the meaning of paragraph 5 regarding similar products or services of the organisation concerned or donations to the idealistic or charitable organisation concerned.
12. Reference shall be made to the register in every communication transmitted and to the option for a subscriber to object to the further use of his electronic contact details; the subscriber shall also be offered the option for immediate inclusion in the register within the meaning of paragraph 6. In such case, the subscriber shall not be charged for facilities to prevent unsolicited communications being transmitted to him. The provisions of Article 41(2) of the Personal Data Registration Act [*Wet bescherming persoonsgegevens*] shall apply *mutatis mutandis*.
13. Specific rules may be set by or pursuant to a general administrative order regarding:
 - a. the blocking or removal of subscribers' contact details from files used to transmit communications within the meaning of paragraph 5, the provision of subscribers' contact details from the register, and the period during which the files can be retained and used;
 - b. the tasks, organisation, and responsibility of the administrator of the register;
 - c. the access to the register and the organisation and use of the register;
 - d. the option of objection within the meaning of paragraph 12;
 - e. the option of immediate inclusion in the register within the meaning of paragraph 12.

Article 11.7a

1. Without prejudice to the provisions of the Personal Data Protection Act, any party that wishes to acquire access by means of an electronic communications network to data stored in a user's terminal equipment or that wishes to store data in the user's terminal equipment
 - a. must provide the user with clear and complete information in accordance with the Personal Data Protection Act and in any case regarding the purposes for which such party wishes to acquire access to the data concerned or wishes to store data; and
 - b. must have acquired the user's consent for the action concerned.
2. The requirements within the meaning of paragraph 1(a) and (b) shall also apply if it is effectuated in a manner other than by means of an electronic communications network that data are stored via an electronic communications network or access is provided to data stored on the terminal equipment.
3. The provisions of paragraphs 1 and 2 shall not apply if technical storage or access to data are concerned that have the sole purpose of
 - a. implementing the communication via an electronic communications network; or
 - b. delivering the information society service requested by the subscriber or user and said storage or access to data is strictly necessary for that purpose.
4. In agreement with Our Minister of Security and Justice, rules may be set by a general administrative order regarding the requirements within the meaning of paragraph 1(a) and (b). The opinion of the Dutch Data Protection Authority [*College bescherming persoonsgegevens*] shall be secured regarding a draft of such general administrative order.

Article 11.8

Application of Articles 11.6 and 11.7(5) to (12) shall be restricted to subscribers that are natural persons.

Article 11.8a

1. If the Board agrees with competent national bodies in other Member States on measures regarding cross-border cooperation in the enforcement of Chapter 11 where cross-border data flows are concerned, the Board shall provide the European Commission, well before said measures are established, with a summary of the reasons for action, the planned arrangements, and the proposed approach.
2. In establishing the measures, the Board shall take account as far as possible of comments and recommendations made by the European Commission.

Section 11.2. Number identification

Article 11.9

1. The provider of a public electronic communications network and the provider of a publicly available electronic communications service that offers number identification by means of such network or as part of such service
 - a. shall offer each caller or subscriber options to block, free of charge, for each separate subscriber line the provision of the number of the network termination point that is calling or the number with which an individual user can be identified or the provision of numbers of network termination points that are calling with which individual users can be identified;
 - b. shall offer each subscriber that is called options for:
 - 1°. preventing the provision of the number of the network termination point that is calling or a number with which an individual user can be identified;
 - 2°. refusing calls whereby the provision of the number of the network termination point that is calling or a number with which an individual user can be identified has been blocked;
 - 3°. if number identification within the meaning of Article 1.1(cc)(2°) is provided, blocking, free of charge, the provision to the network termination point that is calling of the number of the network termination point that is called or a number with which an individual user can be identified.
2. Specific rules shall be set by ministerial order regarding:
 - a. options for blocking and refusing;
 - b. the conditions under which the subscriber can cause identification of the number of network termination points that are calling or a number with which an individual user can be identified to be prevented;
 - c. the manner in which number identification can be implemented in international electronic communication traffic; and
 - d. the manner in which providers inform users and subscribers about the use of number identification.

Article 11.10

1. The provider of a public electronic communications network and the provider of a publicly available electronic communications service that offers number identification shall be obliged to provide to managers of an alarm number for public services designated by Our Minister of the Interior and Kingdom Relations, in agreement with Our Minister, if electronic communication takes place with an alarm number, simultaneously:
 - a. the number of the network termination point that is calling, even if the blocking option within the meaning of Article 11.9(2)(a) is being used for that network termination point;
 - b. the name and available address, postcode and town/city for the subscriber or the location of the public pay telephone that is connected under the number concerned.

2. The provider of a public electronic communications network and the provider of a publicly available electronic communications service that can process location data regarding subscribers or users shall be obliged to simultaneously provide to the designated managers of an alarm number for public services within the meaning of paragraph 1, if communication takes place via such alarm number, the relevant location data, including if the subscriber or user, in so far as location data are concerned within the meaning of Article 11.5a has made use, pursuant to paragraph 5 of that article, of the option to temporarily prevent the processing of location data concerning him.
3. The numbers provided and the data within the meaning of paragraph 1(b) and in paragraph 2 shall be recorded by the managers within the meaning of paragraph 1 with a view to providing assistance in emergencies or combating abuse of an alarm number for public services. Said managers shall be responsible for the register within the meaning of Article 1(d) of the Personal Data Protection Act for such recording.
4. Numbers and data shall only be provided by the manager with a view to providing assistance in emergencies and combating abuse of an alarm number for public services. The manager shall be responsible for such provision within the meaning of Article 1(d) of the Personal Data Protection Act for such provision.
5. Provision of numbers with a view to providing assistance in emergencies shall be solely to the public services charged with assistance tasks designated by Our Minister of the Interior and Kingdom Relations in agreement with Our Minister.
6. Provision of numbers and data with a view to combating abuse of an alarm number for public services shall take place only to the party charged pursuant to Article 141 or 142 of the Code of Criminal Procedure [*Wetboek van Strafvordering*] with the investigation of criminal offences.
7. The period during which the numbers and data are retained by the manager shall be a maximum of:
 - a. two months if the numbers and data relate to cases in which there is clearly a request for assistance in an emergency;
 - b. six months if the numbers and data relate to cases in which there is clearly abuse of an alarm number for public services;
 - c. 24 hours in all other cases.
8. The manager designated pursuant to paragraph 1 shall reimburse the costs involved in providing the data within the meaning of paragraph 1(a) and (b) and paragraph 2.
9. The decision to designate the managers within the meaning of paragraph 1 and the public services within the meaning of paragraph 4 shall be announced by their being placed in the Government Gazette by Our Minister of the Interior and Kingdom Relations.
10. The managers within the meaning of paragraph 1 shall be empowered, for the purpose of monitoring the effectiveness of the provision of assistance in emergencies, to record calls to the alarm number for public services and to retain said calls for a maximum of two months. When recording said calls, the date and time shall also be recorded.
11. Specific rules may be set by or pursuant to a general administrative order regarding the accuracy and reliability of the data provided within the meaning of paragraphs 1 and 2.

Article 11.11

1. A subscriber who suffers from malicious or nuisance calls, when provision of the number of the calling connection termination point is blocked, shall be able to request the provider of a public electronic communications network or a publicly available electronic communications service requests to provide the number of the calling subscriber and the available relevant name, address, postcode and town/city.

2. A request within the meaning of paragraph 1 shall comply with the following requirements:
 - a. the request shall be in writing and shall include the name, address, postcode and town/city of the applicant and the number to which the calls relate; and
 - b. the request shall indicate the dates and times when the calls concerned were made.
3. The applicant shall inform the provider immediately of malicious or nuisance calls that have been made after the request within the meaning of paragraph 1 was submitted.
4. The provider shall conduct an investigation in the light of the request in order to determine whether the information within the meaning of paragraph 1 should be provided.
5. If said investigation shows that the number that is calling belongs to a subscriber of a different provider, the provider concerned, when requested to do so by the provider charged with the investigation shall cooperate with the investigation and shall provide, if the investigation gives reason for such to be done, the available name, address, postcode and town/city relating to the number that is calling to the provider that is charged with the investigation.
6. The provider shall notify the subscriber whose data are concerned of the provision of the data to an applicant.
7. Specific rules may be set by a general administrative order regarding:
 - a. the investigation within the meaning of paragraph 4;
 - b. the provision of data within the meaning of paragraph 4;
 - c. the obligation to cooperate within the meaning of paragraph 5;
 - d. the notification of the provision of the data within the meaning of paragraph 6.

Section 11.3. Exemption

Article 11.12

1. A provider of a public electronic communications network and a provider of a publicly available electronic communications service may be granted an exception by the Board from the obligations arising from Articles 11.4(1)(b), and 11.9 to 11.11.
2. An exemption within the meaning of paragraph 1 may only be granted if:
 - a. it relates to subscriber lines connected to analogue exchanges; and
 - b. compliance with the obligations concerned is not technically feasible or would involve the provider incurring a disproportionately large financial burden.
3. An exemption may be granted subject to restrictions. An exemption may be made subject to rules.

Section 11.4. Exceptions

Article 11.13

1. Providers of public electronic communications networks and publicly available electronic communications services may refrain from applying the provisions of Articles 11.5, 11.5a and 11.9(1) if such is necessary in the interest of:
 - a. national security;
 - b. the prevention, investigation, and prosecution of criminal offences.
2. The traffic and location data retained by providers of public electronic communications networks or publicly available electronic communications services pursuant to Article 13.2a(2) shall not be processed by said providers for other purposes unless the data concerned may be processed pursuant to Articles 11.5 and 11.5a and processing takes place with due observance of the provisions of said articles.

3. In deviation from the Article 11.5(1), providers of public electronic communications networks and publicly available electronic communications services may process traffic data if and for as long as such is necessary for an investigation within the meaning of Article 11.11(4) and (5). Said traffic data may be retained by the providers concerned for a maximum period of three months after termination of an investigation within the meaning of Article 11.11(4). After the end of said period, said traffic data shall be deleted.

Chapter 11a. Continuity

Article 11a.1

1. Providers of public electronic communications networks and publicly available electronic communications services shall take appropriate technical and organisational measures to control the risks to security and the integrity of their networks and services.
2. Without prejudice to the provisions of paragraph 1, providers of public telephone services and providers of public electronic communications networks via which public telephone services are provided shall take all necessary measures to guarantee the fullest possible availability of said public telephone services via the public electronic communications networks in the event of a technical malfunction or failure of the electricity network.
3. Rules may be set by ministerial order regarding implementation of the technical implementation measures within the meaning of Article 13bis(4) of the Framework Directive.
4. Specific rules may be set by or pursuant to a general administrative order regarding the technical and organisational measures within the meaning of the present article and technical and organisational requirements may be set for providers of public electronic communications networks and publicly available electronic communications services.
5. Our Minister may impose an obligation on a provider of public electronic communications networks and of publicly available electronic communications services to take technical or organisational measures within a given period regarding the security and integrity of public electronic communications networks and publicly available electronic communications services.
6. Our Minister may impose an obligation on a provider of public electronic communications networks and of publicly available electronic communications services to have a security check carried out by an independent expert within a given period. The provider of public electronic communications networks and publicly available electronic communications services shall bear the cost of said check.

Article 11a.2

1. Providers of public electronic communications networks and publicly available electronic communications services shall notify Our Minister immediately of
 - a. any breach of security;
 - b. any loss of integrity,whereby the continuity of public electronic communications networks and publicly available electronic communications services is disrupted to a significant extent.
2. Providers of public electronic communications networks and publicly available electronic communications services shall provide Our Minister, on request, with all information necessary to assess the security and integrity of their networks and services.
3. If publication is in the general interest, Our Minister may publish information regarding the security breach or loss of integrity within the meaning of paragraph 1 or oblige the provider to publish such information.
4. Specific rules may be set by or pursuant to a general administrative order regarding the notification

within the meaning of paragraph 1, the provision of the information within the meaning of paragraph 2, and the publication within the meaning of paragraph 3; with breaches or losses within the meaning of paragraph 1(a) and (b) also being designated whereof Our Minister must in any case receive notification.

Chapter 12. Disputes

Section 12.1. Dispute resolution by disputes board

Article 12.1

1. Providers of a public telephone service, other publicly available electronic communications services designated by a general administrative order or programme services designated by a general administrative order shall register with a disputes board recognised by Our Minister of Security and Justice that deals with disputes regarding an agreement relating to the delivery of a publicly available electronic communications service or programme service between a provider as referred to above and a natural person acting for purposes other than trade or professional purposes.
2. Users of categories of numbers designated by a general administrative order or programme services designated by a general administrative order shall register, for a period determined by a general administrative order, with a disputes board recognised by Our Minister of Security and Justice that deals with disputes regarding the delivery of a service by a number user as referred to above to a consumer in so far as the dispute concerns obligations imposed by or pursuant to the present Act.

Section 12.2. Dispute resolution by the Board

Section 12.2.1. Disputes between market parties

Article 12.2

1. If the dispute has arisen between holders of a licence, between providers, between providers and undertakings, or between undertakings regarding compliance by a holder of a licence, a provider or an undertaking that provides public electronic communications networks, associated facilities, publicly available electronic communications services, or programme services on the basis of an obligation imposed by or pursuant to the present Act or the Roaming Directive, the Board, in response to a request by a party concerned in such dispute, may adjudicate the dispute, unless resolution of the dispute has been assigned to another body pursuant to the present Act.
2. A dispute within the meaning of paragraph 1 shall be taken to include a dispute regarding the issue of whether – if the holders of a licence, providers, providers and undertakings, or undertakings within the meaning of said paragraph that have concluded an agreement on the basis of one or more obligations to which they are subject pursuant to the present Act – the commitments between them in that regard, or the manner in which said commitments are complied with, are/is contrary to the provisions of or pursuant to the present Act.
3. Paragraphs 1 and 2 shall apply *mutatis mutandis* if a dispute has arisen between the parties within the meaning of Article 3.11(4) or between a provider and a third party within the meaning of Article 5.12(2).
4. With the exception of disputes on the basis of Article 5.12, paragraph 1 shall not apply to disputes arising from Chapter 5 of the present Act.
5. If number holders within the meaning of Article 4.2(b) are unable to reach agreement regarding the conditions under which the numbers allocated to them for use will be jointly taken into use, the Board, in response to a request by one or more of them, may set rules regarding the creation of an agreement within the meaning of Article 4.2(b).
6. The Board may withdraw a request within the meaning of paragraph 4 in response to a request by

the joint number holders.

Article 12.3

The Board shall not be competent to resolve a dispute submitted to it pursuant to Article 12.2 if the parties to the dispute request the Board to discontinue resolving the dispute.

Article 12.4

1. Upon the Board so requiring, the parties to a dispute shall provide the Board, within two weeks or another reasonable period to be determined by the Board, with all information relevant for the Board's consideration of the dispute.
2. The parties to the dispute shall be obliged to furnish, without delay but in any case within a reasonable period specified by the Board, all cooperation that the Board may reasonably require for the purpose of considering the dispute.

Article 12.5

1. The Board shall rule on a request within the meaning of Article 12.2 within seventeen weeks of receiving said request.
2. Without prejudice to the provisions of paragraph 1, the Board may in urgent cases render a provisional ruling; such provisional ruling shall then apply between the providers concerned until the Board has rendered a final ruling.
3. In exceptional cases, the Board may extend the period within the meaning of paragraph 1. The Board shall notify the providers concerned of such extension and shall indicate the period within which it will resolve the dispute, on the understanding that said period shall be no longer than eight weeks from the end of the period within the meaning of paragraph 1.

Article 12.6

A party to a dispute shall comply with the decision adopted by the Board pursuant to Article 12.2. The Board may determine periods within which this must be done.

Article 12.7

A decision within the meaning of Article 12.2 shall be published in the Government Gazette. Information within the meaning of Article 10(1)(c) of the Government Information (Public Access) Act [*Wet openbaarheid van bestuur*] shall not be announced.

Article 12.8

1. The Board shall consult with the relevant national regulatory body to which power to resolve disputes has been assigned regarding any dispute that has aspects that go beyond national borders and that has been submitted to the Board in accordance with the present paragraph or has been submitted to the national regulatory body concerned and has been submitted to the Board by that body.
2. In deviation from Article 12.5(1) the Board shall rule on a request within the meaning of paragraph 1 within twenty-four weeks of receiving said request.
3. If the Board or the relevant national regulatory body within the meaning of paragraph 1 has requested the opinion of BEREC regarding resolution of the dispute within the meaning of paragraph 1, the Board shall not adopt the decision until BEREC has provided said advice. The Board shall suspend the period of twenty-four weeks within the meaning of paragraph 2 pending the provision of BEREC's opinion.

Section 12.2.2. Disputes between consumers and providers or undertakings

Article 12.9

1. If a dispute has arisen between a consumer and a provider or an undertaking that provides public electronic communications networks or publicly available electronic communications services regarding the breaching by said provider or undertaking of rules set by or pursuant to the present Act to implement Directive No. 2002/22/EC, not being a dispute within the meaning of Article 12.1, or regarding the breaching by said provider or undertaking of the Roaming Directive, the Board, in response to a request by the consumer concerned, may resolve the dispute.
2. If the Board rules in favour of a consumer and such consumer is required by or pursuant to the provisions of Article 16.1 to make a payment to the Board for resolving the dispute, the Board may determine that such payment shall be made by a provider or undertaking within the meaning of paragraph 1.
3. A provider or undertaking that is a party to a dispute shall comply with the instructions of the Board pursuant to paragraph 1. The Board may determine periods within which this must be done.
4. Articles 12.3 to 12.5 and Articles 12.5, 12.7, and 12.8 shall apply *mutatis mutandis*.

Section 12.3. Dispute resolution by Minister**Article 12.10**

1. If holders of a licence within the meaning of Article 3.9(1) are unable to reach agreement regarding the conditions under which the frequency space allocated to them will be jointly taken into use, Our Minister, in response to a request by one or more of them, may set rules regarding the creation of an agreement within the meaning of Article 3.9(1).
2. Our Minister may withdraw a request within the meaning of paragraph 1 in response to a request by the joint licence holders.
3. Articles 12.4, 12.5(1) 12.6, and 12.7 shall apply *mutatis mutandis*.

Chapter 13. Authorized tapping and application of other powers pursuant to the Code of Criminal Procedure and the Intelligence and Security Services Act 2002 in connection with telecommunications**Article 13.1**

1. Providers of public telecommunications networks and publicly available telecommunications services shall only make their telecommunications networks and telecommunications services available to users if these can be tapped.
2. Rules may be set by or pursuant to a general administrative order regarding the technical susceptibility to tapping of public telecommunications networks and publicly available telecommunications services.

Article 13.2

1. Providers of public telecommunications networks shall be obliged to cooperate with the enforcement of an order pursuant to the Code of Criminal Procedure or consent pursuant to the Intelligence and Security Services Act 2002 for the tapping or recording of telecommunication that takes place via their telecommunications networks.
2. Providers of public telecommunications networks shall be obliged to cooperate with the enforcement of an order pursuant to the Code of Criminal Procedure or consent pursuant to the Intelligence and Security Services Act 2002 for the tapping or recording of telecommunication handled by them.
3. Rules may be set by or pursuant to a general administrative order regarding the organisational or

personnel measures to be taken and arrangements to be made regarding tapping.

Article 13.2a

1. In the present article, the following terms shall be understood to have the meanings assigned to them below:
 - a. *data*: the traffic and location data within the meaning of Article 11.1(b) or (d) and the associated data necessary to identify the subscriber or user;
 - b. *unsuccessful call attempt*: a communication whereby a telephone call has led to a connection but has not been answered or has been answered via the network management.
2. Providers of public telecommunications networks or publicly available telecommunications services shall retain the data designated in the annex to the present Act in so far as said data are generated or processed in the context of the networks or services provided for the purpose of the investigation, tracing, and prosecution of serious offences.
3. The data within the meaning of paragraph 2 shall be retained by the providers for a period of
 - a. twelve months in the case of data relating to telephony via a fixed or mobile network within the meaning of Section A of the Annex to the present Act; or
 - b. six months in the case of data relating to Internet access, e-mail via the Internet, and Internet telephony network within the meaning of Section B of the Annex to the present Act, calculated from the date of the communication.
4. The obligation within the meaning of paragraph 2 shall relate to data regarding unsuccessful call attempts in so far as such data are generated, processed and stored, or logged by the providers in providing public telecommunications networks or publicly available telecommunications services.

Article 13.2b

Providers of public telecommunications networks and publicly available telecommunications services shall comply with a demand pursuant to Articles 126hh, 126ii, 126nc to 126ni and 126uc to 126ui of the Code of Criminal Procedure.

Article 13.3

Rules may be set by a general administrative order regarding the resolution of disputes between providers and the competent authorities regarding the arrangements by means of which the telecommunication acquired by means of a tap will be passed on by providers.

Article 13.4

1. Providers of public telecommunications networks and publicly available telecommunications services shall comply without delay with a demand pursuant to Article 126n, Article 126na, Article 126u, or Article 126ua of the Code of Criminal Procedure or with a request pursuant to Article 28 of the Intelligence and Security Services Act 2002 for the provision of data regarding a user of a public telecommunications network or publicly available telecommunications service and the telecommunication traffic relating to said user.
2. Providers of public telecommunications networks and publicly available telecommunications services shall comply with a demand pursuant to Articles 126na(1), 126ua(1), or 126zi of the Code of Criminal Procedure or with a request pursuant to Article 29 of the Intelligence and Security Services Act 2002 for the provision of data regarding the name, address, postcode, town/city, number and type of service of a user of a public telecommunications network or a publicly available telecommunications service.
3. Providers of public telecommunications networks and publicly available telecommunications services shall comply with a demand pursuant to Articles 126na(2), 126ua(2), or 126zi of the Code of Criminal Procedure or with a request pursuant to Article 29 of the Intelligence and Security

Services Act 2002 regarding the manner, as determined by a general administrative order, of tracing and providing the data within the meaning of paragraph 1. In order to be able to comply with these obligations, providers shall retain the data designated by a general administrative order for a period of twelve months from the point when said data were processed for the first time.

4. Rules may be set by a general administrative order, as proposed by Our Minister of Security and Justice, Our Minister, Our Minister of the Interior and Kingdom Relations, and Our Minister of Defence, regarding the manner in which providers must comply with a demand or request within the meaning of paragraphs 1, 2, and 3, the registration of statistical data, and the periods during which said data must be made available, and the manner in which the data within the meaning of paragraphs 1 and 2 must be kept available. A proposal for a general administrative order as provided for pursuant to the first sentence shall not be made earlier than four (4) weeks after the draft has been submitted to both Houses of the States General.

Article 13.5

1. Providers of public telecommunications networks and publicly available telecommunications services shall be obliged to protect data regarding a special order or consent pursuant to the Intelligence and Security Services Act 2002 within the meaning of Article 13.2 or a demand or request within the meaning of Article 13.2b or Article 13.4(1), (2), or (3) against inspection by unauthorised persons and to observe confidentiality regarding such data.
2. Providers of public telecommunications networks and publicly available telecommunications services shall take appropriate technical and organisational measures regarding data held pursuant to Article 13.2a(2) in order:
 - a. to protect said data against destruction, loss, or alteration and against unauthorised storage, processing, access or publication;
 - b. to guarantee that only specially authorised personnel have access to data within the meaning of subparagraph a;
 - c. to delete the data after a period within the meaning of Article 13.2a(3).
3. Providers of public telecommunications networks and publicly available telecommunications services shall ensure that data that are retained pursuant to Article 13.2a(2):
 - a. are of the same quality and are subject to the same security and protection measures as the data in the network;
 - b. are deleted without delay after the period within the meaning of Article 13.2a(3).
4. Rules may be set by a general administrative order, as proposed by Our Minister of Security and Justice, Our Minister, Our Minister of the Interior and Kingdom Relations, and Our Minister of Defence, regarding measures to be taken in connection with the security and guarantee within the meaning of paragraphs 1, 2, and 3. A proposal for a general administrative order as provided pursuant to the first sentence shall not be made earlier than four (4) weeks after the draft has been submitted to both Houses of the States General.

Article 13.6

1. The investment, operation, and maintenance costs for the technical arrangements that have been or are made by providers of public telecommunications networks and publicly available telecommunications services in order to comply with the provisions of Articles 13.1, 13.2a, 13.4, and 13.5 shall be at their own expense.
2. Providers of public telecommunications networks and publicly available telecommunications services shall be entitled to a payment from the State treasury for the administration costs and personnel costs that they incur arising directly from their complying with a special order or consent pursuant to the Intelligence and Security Services Act 2002 within the meaning of Article 13.2(1) and (2) or Article 13.2a, or a demand or request within the meaning of Article 13.2a, Article 13.2b, or Article 13.4(1), (2), or (3).

3. Rules may be set by ministerial order regarding how the costs within the meaning of paragraph 2 are to be determined and paid.

Article 13.7 [Enters into force at a point yet to be determined]

1. In the interest of the security of the State or the enforcement of the rule of law via the criminal law, Our Minister may order that one or more articles of the present chapter, with the exception of Article 13.6, shall apply *mutatis mutandis* to providers of a non-public telecommunications network or a non-publicly available telecommunications service, or to providers of leased lines if such network, service, or leased line is in fact open to third parties.
2. If the provisions of paragraph 1 are applied, the providers concerned shall be entitled to a payment from the State treasury for the investment, operation, and maintenance costs for technical arrangements within the meaning of Article 13.6(1) that are or have been made as a consequence of the application of paragraph 1. Article 13.6(2) and (3) shall apply *mutatis mutandis*.

Article 13.8

In agreement with Our Minister of the Interior and Kingdom Relations, Our Minister of Defence, and Our Minister of Security and Justice, Our Minister may, in exceptional cases, grant exemption from the obligations arising from the present chapter. An exemption may be granted subject to restrictions. An exemption may be made subject to rules.

Article 13.9

Within three years of this Act entering into force, and subsequently every three years, Our Minister, in agreement with Our Minister of Security and Justice, shall send a report to the States General regarding the effectiveness and effects in practice of the amendments to Articles 13.2a, 13.4, and 13.5, in so far as said amendments relate to the implementation of Directive No. 2006/24/EC of the European Parliament and the Council of the European Union.

Article 13.10

Upon this Act being signed, the annex associated with Article 13.2a of the Telecommunications Act shall be included.

Chapter 14. Exceptional Circumstances

Article 14.1

1. In exceptional circumstances connected with the enforcement of international rules of law or international relations, Our Minister shall be empowered to issue instructions, in agreement with Our Minister of Foreign Affairs, to providers of public telecommunications networks and publicly available telecommunications services regarding the provision of telecommunication from and to other countries.
2. Our Minister, in agreement with Our Minister of Security and Justice, shall be empowered to issue instructions to providers of public telecommunications networks and publicly available telecommunications services regarding:
 - a. the use of messages from government bodies to warn the public of impending disasters or emergencies and to reduce the impact of such disasters or emergencies;
 - b. guaranteeing communication between and with emergency services and government bodies during disasters or emergencies.

Article 14.2

1. Without prejudice to Articles 7(1) and 8(1) of the Coordination (Exceptional Emergencies) Act [*Coördinatiewet uitzonderingstoestanden*], Article 14.4(1) to (3) may in exceptional circumstances and on the recommendation of Our Prime Minister be made applicable by Royal Decree to the

whole country or a part thereof.

2. If the decree within the meaning of the first paragraph of this article has been issued, a legislative proposal shall immediately be submitted to the House of Representatives regarding the continuation of the effect of the provisions that enter into force by virtue of said decree.
3. If said legislative proposal is rejected by the States General, the provisions that have entered into force pursuant to paragraph 1 of this article shall, on the recommendation of Our Prime Minister, be immediately rendered inoperative by Royal Decree.
4. The provisions that have entered into force pursuant to paragraph 1 shall, on the recommendation of Our Prime Minister, be rendered inoperative by Royal Decree as soon as We consider that the circumstances so allow.
5. The decree within the meaning of the first, third, and fourth paragraphs of this article shall be announced in the manner announced in said decree. Said decree shall enter into force immediately upon its being announced.
6. The decree within the meaning of the first, third, and fourth paragraphs of this article shall in any case be published in the Bulletin of Acts, Orders, and Decrees [*Staatsblad*].

Article 14.3

Should provisions of the War Act for the Netherlands [*Oorlogswet voor Nederland*] have been made applicable to the Netherlands or a part thereof pursuant to Articles 7(1) and 8(1) of the Coordination (Exceptional Emergencies) Act, Our Minister shall exercise the powers within the meaning of Article 14.4(1) in agreement with Our Minister of Defence.

Article 14.4

1. [Ed.: This paragraph has not yet entered into force; in the event of exceptional circumstances that make this necessary, this paragraph may enter into force by Royal Decree, on the recommendation of Our Prime Minister.]

Our Minister shall be empowered to issue instructions to providers of public telecommunications networks, publicly available telecommunications services, and users of frequency space regarding:

- a. the maintenance and operation of their public telecommunications networks;
 - b. the provision and use of their public telecommunications networks;
 - c. the maintenance and operation or restriction or termination of the use of their radio transmission equipment.
2. In applying paragraph 1, Our Minister may deviate from the obligations imposed by the present Act on providers of public telecommunications networks and publicly available telecommunications services, and on users of frequency space.
 3. The instructions issued to providers of public telecommunications networks, publicly available telecommunications services, and users of frequency space pursuant to paragraph 1 shall be binding for said providers and users.
 4. If, as a result of instructions issued pursuant to paragraph 1, providers of public telecommunications networks or publicly available telecommunications services or users of frequency space incur a disproportionate financial disadvantage, Our Minister shall allocate equitable remuneration to them.

Article 14.5

1. If Article 14 of the Civil Authority Special Powers Act [*Wet buitengewone bevoegdheden burgerlijk gezag*] applies, providers of public telecommunications networks, publicly available telecommunications services, and users of frequency space shall be obliged to collaborate fully

with the authorities designated pursuant to paragraph 1 of said article, including compliance with instructions issued by said authorities.

2. If Article 31 of the War Act for the Netherlands applies, providers of public telecommunications networks, publicly available telecommunications services, and users of frequency space shall be obliged to collaborate fully with the military authorities, including by complying with instructions issued by said authorities.

Article 14.6

1. After consulting Our Ministers of the Interior and Kingdom Relations and of Defence, Our Minister may set rules regarding the organisational and personnel measures to be taken and special arrangements to be made to prepare for ensuring the electronic transport of data in exceptional circumstances within the meaning of Article 14.2 and the information that must be provided to Our Minister in that regard.
2. The rules within the meaning of paragraph 1 shall only apply to providers of public telecommunications networks and publicly available telecommunications services and users of frequency space that have been designated by Our Minister in agreement with Our Ministers of the Interior and Kingdom Relations and of Defence.
3. The rules within the meaning of paragraph 1 shall specify the costs to be charged to the designated providers of public telecommunications networks, publicly available telecommunications services, and users of frequency space.
4. The special arrangements within the meaning of paragraph 1 shall relate to:
 - a. the availability of public telecommunications networks or parts thereof, publicly available telecommunications services, and radio transmission equipment;
 - b. the security of certain parts of a public telecommunications network or of radio transmission equipment;
 - c. the handling of the electronic transport of data via a public telecommunications network; and
 - d. supplementary infrastructural facilities for the electronic transport of data and the security of such data.

Chapter 15. Enforcement

Section 15.1. General

Article 15.1

1. Supervision of compliance with the provisions of or pursuant to the present Act shall be by officials designated by order of Our Minister, in so far as said provisions relate to:
 - a. the use of frequency space;
 - b. the provision of information for the antenna register within the meaning of Article 3.14;
 - c. the prioritising of emergency numbers within the meaning of Article 7.7(3) or (4);
 - d. technical arrangements within the meaning of Article 8.4a;
 - e. public electronic communications networks within the meaning of Article 8.3;
 - f. [cancelled;]
 - g. instructions regarding equipment as provided for in Chapter 10 and Chapter 20;
 - h. the use of traffic data and location data as provided for in Article 11.5, Article 11.5a, or Article 11.13;
 - i. authorised tapping and retention of data within the meaning of Chapter 13;
 - j. exceptional circumstances as provided for in Chapter 14;
 - k. other matters within the meaning of Articles 11a.1, 11a.2, and 12.4, in so far as powers of Our Minister are concerned; 18.1, in so far as powers of Our Minister are concerned; 18.2, in so far as powers of Our Minister are concerned; 18.4(2), 18.7, in so far as powers of Our Minister are concerned; 18.9, 18.12, in so far as powers of Our Minister are concerned; 18.16, 18.17, 18.17a, 20.2, in so far as powers of Our Minister are concerned; and 20.14.

2. Supervision of compliance with the provisions of Article 6a.20(3) shall be by officials designated by order of the Board of the Competition Authority.
3. Supervision of compliance with the provisions of or pursuant to other provisions of the present Act than those within the meaning of paragraphs 1 and 2 and supervision of compliance with the provisions of the Roaming Directive shall be by officials designated by the Board. The previous sentence shall not apply to the provisions of or pursuant to Articles 5.1, 5.4, 5.5, 5.6(2), (3), (4) and (5), 5.7, 5.13, and 5.14 of the present Act and in so far as Our Minister is the party concerned.
4. An order within the meaning of paragraphs 1, 2, and 3 shall be announced by its being published in the Government Gazette.

Article 15.2

1. Our Minister shall be empowered to impose administrative coercion to enforce the obligations imposed by or pursuant to the provisions within the meaning of Article 15.1(1).
2. The Board shall be empowered to impose administrative coercion to enforce the obligations imposed by or pursuant to the provisions within the meaning of Article 15.1(3).
3. The Board of the Competition Authority shall be empowered to impose an order subject to the forfeiture of a penalty in respect of a contravention of Article 6a.20(3). Article 58 of the Competition Act [*Mededingingswet*] shall apply *mutatis mutandis*.
4. For the application of paragraph 1, an urgent case within the meaning of Article 5:31(1) of the General Administrative Law Act shall in any case be deemed to exist if non-compliance with the provisions within the meaning of paragraph 1 forms a serious and direct threat to public order, public safety, or public health.
5. For the application of paragraph 2, an urgent case within the meaning of Article 5:31(1) of the General Administrative Law Act shall in any case be deemed to exist if non-compliance with the provisions within the meaning of paragraph 2 will result in serious economic or operational problems for other providers of a public electronic communications network, a publicly available electronic communications service or associated facilities, or for users of a public electronic communications network or a publicly available electronic communications service.

Article 15.2a

1. In the event of serious and repeated failure to comply with the obligations imposed by or pursuant to the provisions within the meaning of Article 15.1(1) and if the measures imposed pursuant to Articles 15.2 or 15.4 have failed to lead to compliance with said obligations, Our Minister shall be empowered to prohibit a provider of public electronic communications networks or services to continue to provide electronic communications networks or services for a reasonable period as determined by Our Minister.
2. In the event of serious and repeated failure to comply with the obligations imposed by or pursuant to the provisions within the meaning of Article 15.1(3) and if the measures imposed pursuant to Articles 15.2 or 15.4 have failed to lead to compliance with said obligations, the Board shall be empowered to prohibit a provider of public electronic communications networks or services to continue to provide electronic communications networks or services for a reasonable period as determined by the Board.
3. An order within the meaning of paragraph 1 or paragraph 2, comprising a prohibition on providing electronic communications networks or services, shall in any case comply with the following requirements:
 - a. the prohibition shall not be contrary to one or more objectives within the meaning of Article 1.3;
 - b. the prohibition shall not lead to the undertaking being unable to comply with a delivery obligation imposed by or pursuant to law;

- c. the prohibition shall relate solely to the network or service in respect of which the obligations within the meaning of paragraph 1 or 2 have not been complied with;
 - d. the prohibition shall not result in any serious economic or social problems for other providers of a public electronic communications network, a publicly available electronic communications service or associated facilities, or for users of a public electronic communications network or a publicly available electronic communications service.
4. An order within the meaning of paragraphs 1 or 2 shall be announced by its being published by Our Minister or by the Board in the Government Gazette. Said order shall not enter into force until two weeks after said publication.

Article 15.3

Should rules set by or pursuant to the present Act regarding the assembly or use of radio transmission equipment not be complied with, Our Minister shall be empowered to impose a complete or partial broadcasting ban on the holder of the radio transmission equipment concerned.

Section 15.2. Administrative fine and order subject to forfeiture of penalty

Article 15.4

1. Our Minister may impose an administrative fine amounting to a maximum of EUR 450,000 in respect of a contravention of the rules provided by or pursuant to Article 15.1(1) and of Article 5:20 of the General Administrative Law Act.
2. The Board may impose an administrative fine on an undertaking amounting to a maximum of EUR 450,000 or, if such is greater, 10% of the relevant net turnover of the undertaking in the Netherlands in respect of
 - a. contravention of the rules set by or pursuant to Chapter 6a, with the exception of Article 6a.20, or of the rules set by the Roaming Directive;
 - b. contravention of an order pursuant to Article 12.2, in so far as such contravention is perpetrated by an undertaking that has significant market power and concerns a rule set by or pursuant to Chapter 6a, with the exception of Article 6a.20.
3. The Board of the Competition Authority may impose an administrative fine on an undertaking amounting to a maximum of EUR 450,000 or, if such is greater, 10% of the relevant net turnover of the undertaking in the Netherlands in respect of a contravention of Article 6a.20.
4. The Board may impose an administrative fine amounting to a maximum of EUR 450,000 in respect of a contravention of the rules provided by or pursuant to Article 15.1(3), not being rules within the meaning of paragraph 2, and of Article 5:20 of the General Administrative Law Act.
5. If, pursuant to Article 5:1(3) of the General Administrative Law Act, Article 51(2)(2°) of the Criminal Code has been applied, the administrative fine for the offender as referred to there shall be a maximum of EUR 450,000.
6. Relevant turnover within the meaning of paragraphs 2 or 3 shall be taken to be the turnover of the undertaking
 - a. in the financial year prior to the order whereby the administrative fine is imposed;
 - b. calculated on the basis of Article 337(6) of Book 2 of the Civil Code for the net turnover; and
 - c. in so far as relating to the turnover that the undertaking concerned had in providing public electronic communications networks, publicly available electronic communications services, and associated facilities.

Article 15.5

1. Investigation shall be by the officials within the meaning of Article 15.1(1), (2), or (3).

2. For the purpose of investigation, said officials shall have all the powers allocated to them in the present paragraph and, with due observance of the restrictions set in the present paragraph, the powers allocated to them to exercise supervision within the meaning of Article 15.1(1) or (3).1(1) or (3).

Article 15.6 [Cancelled as of 1 July 2009]

Article 15.7

1. The officials within the meaning of Article 15.1(1), (2), or (3) shall be empowered to seal business premises and items in so far as such is reasonably necessary for the exercise of the powers within the meaning of Article 5:17 of the General Administrative Law Act.
2. The officials within the meaning of Article 15.1(1), (2), or (3) shall if necessary exercise the powers allocated to them in Article 5:17 of the General Administrative Law Act with the assistance of the police.

Article 15.8 [Cancelled as of 1 July 2009]

Article 15.9 [Cancelled as of 1 July 2009]

Article 15.10 [Cancelled as of 1 July 2009]

Article 15.11 [Cancelled as of 1 July 2009]

Article 15.12

The effect of an order whereby an administrative fine is imposed shall be deferred until the period for lodging an appeal has lapsed or, if an appeal has been lodged, until a ruling has been rendered on that appeal.

Article 15.13 [Cancelled as of 1 July 2009]

Article 15.14

Submission of an objection shall defer the enforcement of a writ of execution for collection of the administrative fine.

Article 15.15

The amount of the administrative fine imposed, the penalties forfeited, and the statutory interest shall accrue to the State.

Article 15.16 [Cancelled as of 1 July 2009]

Section 15.3. Removal of equipment from the market

Article 15.17

In deviation from Articles 4:7 and 4:8 of the General Administrative Law Act, interested parties shall be given the opportunity to present their views prior to a decision to apply administrative coercion whereby equipment is removed from the market that fails to comply with the requirements set by or pursuant to subsections a, b, c, or e of Article 10.3.

Chapter 16. Payments

Article 16.1

1. Rules may be set by or pursuant to a general administrative order regarding the payment of the costs owed by a party for which work or services have been performed pursuant to the provisions

of or pursuant to the present Act or of the Roaming Directive in so far as such payment relates to said work or services.

2. In determining said payment, costs may also be taken into account relating to the supervision of compliance with the provisions of or pursuant to the present Act or of the Roaming Directive in respect of the work or services concerned.
3. In so far as the rules within the meaning of paragraph 1 relate to determination of the amount of the payment of the costs of work performed by the Board, Our Minister shall involve the Board in said determination. The payment concerned shall be imposed by the Board and paid to the Board.
4. Rules may be set by or pursuant to a general administrative order regarding the annual contribution to be paid by users of radio transmission equipment to cover the costs incurred by the authorities for applying the provisions by or pursuant to the present Act regarding electromagnetic compatibility.
5. Rules may be set by or pursuant to a general administrative order regarding the annual contribution to be paid by a provider of a public telecommunications network to cover the costs incurred by the authorities for applying the provisions by or pursuant to the present Act regarding terminal equipment.
6. Rules may be set by or pursuant to a general administrative order regarding the contribution for financing the register within the meaning of Article 11.7(6) to be paid by a party that transmits communications within the meaning of Article 11.7(5).

Chapter 17. Appeal

Article 17.1

1. An interested party may lodge an appeal against decisions arrived at pursuant to Chapters 6, 6A, 6B, 12 or 15, with the exception of decisions within the meaning of Articles 15.2a and 15.4, with the Trade and Industry Appeals Tribunal [*College van Beroep voor het bedrijfsleven*].
2. In deviation from Article 8(7) of the General Administrative Law Act, the Rotterdam District Court shall be competent to adjudicate appeals against decisions other than decisions within the meaning of paragraph 1.
3. Article 7(1) of the General Administrative Law Act shall not apply to decisions adopted by the Board pursuant to Chapters 5, 6, 6A, 6B, or 12.

Chapter 18. Other Provisions

Article 18.1

1. Rules may be set by or pursuant to a general administrative order in order to investigate whether certain developments can contribute significantly to achieving the objectives of the present Act. Said rules may deviate from what is provided by or pursuant to the present Act.
2. The persons or parties most concerned as regards the matters dealt with in said rules shall be involved in preparation of said rules.
3. The draft of rules set pursuant to the provisions of paragraph 1 shall be announced by its being published in the Government Gazette. Any person shall be given the opportunity to submit comments on said draft to Our Minister, in writing, within a period of at least four weeks set in such announcement.
4. Said rules shall cease to apply no more than two years after the point when they entered into force. A general administrative order within the meaning of paragraph 1 may be withdrawn by Royal Decree at a point set in such decree that lies within the period within the meaning of the first sentence.

5. Our Minister shall ensure replacement of said rules should he consider that a definitive provision is desirable. If said replacement requires an act to be passed, a legislative proposal shall be submitted to the States General within two years of the rules entering into force. If said replacement requires a general administrative order, a proposal for such order shall be submitted to Us within two years of the rules entering into force.
6. The rules within the meaning of paragraph 1 may assign tasks and powers to the Board.

Article 18.2

Rules may be set by a general administrative order that are necessary to implement:

- a. Directive No. 2002/21/EC or associated directives of the Council of the European Union or of the European Parliament and the Council of the European Union jointly;
- b. directives of the Commission of the European Communities based on Article 86(3) of the Treaty Establishing the European Community and that relate to the electronic communications sector.

Article 18.2a

The Board shall be the national regulatory body within the meaning of the Roaming Directive.

Article 18.3

1. Our Minister shall enable the Board to advise him on the proposal pursuant to Article 3.3(10) to exclude one or more providers from acquiring a licence or on the draft of an order to refuse or withdraw a licence in so far as such is related to significant restriction of effective competition on the relevant market within the meaning of Articles 3.6(2)(d) and 3.7(2)(f).
2. With a view to effective and efficient decision-making, the Board and the Board of the Competition Authority shall make mutual agreements regarding the manner of dealing with matters of mutual interest. To that end, they shall draw up a cooperation protocol. Said cooperation protocol shall be published in the Government Gazette.
3. Said cooperation protocol shall comprise arrangements regarding the interpretation of terms that are utilised in applying Articles 24 and 88 of the Competition Act if the Board applies those terms in exercising its powers.
4. With a view to effective and efficient decision-making, the Board and the Dutch Media Authority [*Commissariaat voor de Media*] within the meaning of Article 7.1 of the Media Act 2008 shall make agreements regarding the manner of dealing with matters of mutual interest.
5. With a view to effective and efficient supervision of the processing of personal data in accordance with Chapters 11 and 13 of the present Act, Our Minister and the Dutch Data Protection Authority within the meaning of Article 51 of the Personal Data Protection Act, or the Board and the Dutch Data Protection Authority, shall make agreements regarding the manner of dealing with matters of mutual interest. To that end, they shall draw up a cooperation protocol. Said cooperation protocol shall be published in the Government Gazette.

Article 18.3a

1. Our Minister or the Board shall provide one another and other administrative bodies with the information regarding providers of electronic communications services and the personal data that said providers process that they require to perform their duties.
2. Other administrative bodies shall be empowered of their own accord and, if so requested, obliged to provide Our Minister or the Board with the information necessary for the implementation of the present Act and for supervision of compliance with the present Act.
3. Information shall not be provided within the meaning of paragraphs 1 and 2 if the personal privacy

of the party concerned will be disproportionately impaired thereby.

Article 18.4

1. The provider of a public electronic communications network via whose network international public electronic communication traffic is handled shall comply with the obligations arising from the International Telecommunication Convention and from other conventions or decisions of international organisations regarding the handling of such traffic that are binding for the Netherlands.
2. A party to whom Our Minister has issued a licence for the use of frequency space or a party that makes use of frequency space without a licence being necessary pursuant to Article 3.4(1)(c) shall comply with the obligations arising from the International Telecommunication Convention and from other conventions or decisions of international organisations regarding such use that are binding for the Netherlands.

Article 18.5

Without prejudice to what is otherwise provided by or pursuant to the International Telecommunication Convention, recognised undertakings within the meaning of said Convention are:

- a. the provider of a public electronic communications network via whose network international public electronic communication traffic is handled; and
- b. the provider of a public electronic communications network that utilises radio transmission equipment in the context of what it provides or the provider of a public electronic communications network that consists of radio transmission equipment suitable for broadcasting programmes whose broadcasts may cause harmful interference to the radio services of other countries.

Article 18.6

1. Providers of public electronic communications networks or publicly available electronic communications services that have special or exclusive rights in the Netherlands or in another Member State of the European Union for the provision of services in sectors other than electronic communication shall keep separate records of their different activities in the same way as would be required if said activities were conducted by legally independent undertakings.
2. It may be provided by a ministerial order that paragraph 1 shall not apply to providers, as designated in such order, whose annual turnover from electronic communication activities within the European Union does not exceed an amount specified in such order.

Article 18.7

1. With a view to the proper implementation of the provisions by or pursuant to the present Act or the Roaming Directive, Our Minister or the Board shall be empowered at any time to demand information from any person in so far as such is reasonably necessary for the performance of his/it duties.
2. Where traffic and location data within the meaning of Article 13.2a(1) are concerned, the power within the meaning of paragraph 1 shall not extend any further than to the data that the provider of public electronic communications networks or the provider of publicly available electronic communications services is permitted to process pursuant to Articles 11.5 and 11.5a.
3. A party from which information has been demanded pursuant to paragraph 1 shall be obliged to provide said information without delay, but in any case within the period set by Our Minister or by the Board.
4. A demand pursuant to paragraph 1 may be restricted as regards information to be provided to:
 - a. a specification of the matter regarding which information must be provided; and

- b. the amount of detail to be observed in providing said information.
5. A person who has been required to provide information shall be obliged, within the reasonable period specified by Our Minister or by the Board, to provide all cooperation that the Board or Our Minister may reasonably require in the performance of his/its duties. Article 5:20(2) of the General Administrative Law Act shall apply.
6. With a view to promoting an open and competitive market in the electronic communications sector, the Board shall publish information regarding providers of electronic communications networks, associated facilities, or publicly available electronic communications services in a manner determined by the Board in so far as such information concerns obligations imposed by or pursuant to Chapters 4 to 9 and 11 of the present Act. Information within the meaning of Article 10(1)(c) of the Government Information (Public Access) Act [*Wet openbaarheid van bestuur*] shall not be announced.

Article 18.8 [Cancelled as of 5 June 2012]

Article 18.9

1. Our Minister, in agreement with Our Minister of Security and Justice, shall be empowered to issue providers of public electronic communications networks or publicly available electronic communications services with instructions regarding:
 - a. the maintenance and operation of their public electronic telecommunications networks; or
 - b. the provision and use of their publicly available electronic communications services if such is necessary to terminate criminal behaviour vis-à-vis a person.
2. Our Minister, in agreement with Our Minister of the Interior and Kingdom Relations, shall be empowered to issue providers of public electronic communications networks or publicly available electronic communications services with instructions regarding:
 - a. the maintenance and operation of their public electronic telecommunications networks; or
 - b. the provision and use of their publicly available electronic communications services if such is necessary in the interest of the security of the State.
3. In applying paragraphs 1 and 2, Our Minister may deviate from the obligations imposed pursuant to the present Act on providers of public telecommunications networks or publicly available telecommunications services.
4. A provider of a public telecommunications network or publicly available telecommunications service shall be obliged to comply with instructions within the meaning of paragraphs 1 or 2.
5. If, as a result of instructions issued pursuant to paragraphs 1 or 2, providers of public electronic telecommunications networks or public electronic telecommunications services incur a disproportionate financial disadvantage, Our Minister shall allocate equitable remuneration to them.

Article 18.10

A party that publishes a telephone directory, on request by a natural person or legal entity listed with a telephone number in said directory, shall include the electronic postal address of the natural person or legal entity so requesting in said directory on reasonable and non-discriminatory conditions.

Article 18.11

1. Rules may be set by or pursuant to a general administrative order regarding the provision to third parties of addresses for electronic mail with associated data for the purpose of compiling books of electronic postal addresses.
2. The rules within the meaning of paragraph 1 may concern, amongst other things, the protection of

personal data and personal privacy.

Article 18.12

1. If matters regulated in the present Act should require further regulation in the interest of proper implementation of this Act, this may be done by or pursuant to a general administrative order.
2. The rules within the meaning of paragraph 1 may assign tasks and powers to the Board.

Article 18.13

1. Without prejudice to the other provisions by or pursuant to the present Act, the measures and rules by or pursuant to this Act shall be taken with due observance of the interest of protecting personal data and personal privacy and the protection of the privacy of communication by letter, telephone, and telegraph, and the confidentiality of comparable techniques of communication.
2. Without prejudice to the other provisions by or pursuant to the present Act, paragraph 1 shall apply *mutatis mutandis* to the operations of providers of public electronic communications networks or public electronic telecommunications services.

Article 18.14

1. A general administrative order issued pursuant to Article 9.1(2), (3), or (4) shall be submitted to both Houses of the States General. It shall enter into force, at a point determined by Royal Decree, after four weeks have elapsed since said submission unless within that period one of said Houses or at least one fifth of the constitutional number of members of one of said Houses has/have indicated the wish that the matter be regulated by law. In such case, a legislative proposal to that effect shall be submitted as soon as possible. If said legislative proposal is withdrawn or if one of the two Houses of the States General should decide not to adopt said proposal, the general administrative order shall be withdrawn.
2. A general administrative order laid down pursuant to Article 3.1(1) shall not enter into force until four weeks after the date of publication of the Bulletin of Acts, Orders and Decrees [*Staatsblad*] in which it is announced. Both Houses of the States General shall be notified of such announcement without delay.

Article 18.15

1. A certification service provider that offers or issues certificates to the public as qualified certificates and that has an establishment in the Netherlands shall comply with the requirements set by or pursuant to a general administrative order.
2. Certificates that are offered or issued to the public as qualified certificates shall comply with the requirements set by or pursuant to a general administrative order.
3. Before issuing a qualified certificate, a certification service provider shall determine the identity of the person designated as signatory in said qualified certificate on the basis of the valid documents designated in Article 1 of the Compulsory Identification Act [*Wet op de identificatieplicht*].

Article 18.16

1. Our Minister may designate one or more organisations as being authorised to verify whether certification service providers comply with the requirements set by or pursuant to the present Act and to issue evidence of such verification.
2. Rules shall be set by or pursuant to a general administrative order regarding
 - a. the submission of a request for designation;
 - b. the requirements with which organisations and the regulations of organisations must comply in order to qualify for designation;

c. rules that will apply to designation, including the period for which designation will apply.

3. Our Minister may withdraw a designation if

- a. the designated organisation no longer complies with the requirements to which it is subject in order to qualify for designation;
- b. the designated organisation fails to comply with the rules set by or pursuant to the present Act or the rules or restrictions associated with the designation.

Article 18.16a

1. A certification service provider that holds a valid evidence of verification by a designated organisation within the meaning of Article 18.16(1) shall be assumed to comply with the provisions of Article 18.15(1).
2. The certificates offered or issued to the public as qualified certificates by a certification service provider within the meaning of paragraph 1 shall be assumed to comply with the provisions of Article 18.15(2).

Article 18.17

A party that brings a secure means for creating electronic signatures onto the market shall ensure that said secure means complies with the requirements to be set by or pursuant to a general administrative order and, as evidence thereof, that said secure means has been provided with a statement by an institution designated by Our Minister within the meaning of Article 18.17a or with a statement by an institution designated by the competent authorities of a different Member State of the European Community or of one of the other states that are parties to the Agreement on the European Economic Area to the effect that said secure means complies with the requirements.

Article 18.17a

1. Our Minister may designate one or more institutions as being charged with assessing the compliance by a secure means for creating electronic signatures with the requirements within the meaning of Article 18.17 and with issuing statements to that effect.
2. Rules shall be set by or pursuant to a general administrative order regarding
 - a. the submission of a request for designation;
 - b. the requirements with which institutions must comply in order to qualify for designation;
 - c. rules that will apply to designation, including the period for which designation will apply.
3. Our Minister shall withdraw a designation if the designated institution no longer complies with the requirements to which it is subject in order to qualify for designation and said institution fails to demonstrate within a period set by Our Minister that it complies with said requirements.
4. If the designated institution demonstrates that it is not reasonably able to comply with the set requirements within the set period, Our Minister, at the request of the designated institution, may extend the period within the meaning of paragraph 3 within which said institution must comply with the criteria or rules.
5. Our Minister may withdraw a designation if the designated organisation fails to comply with the rules set by or pursuant to the present Act or the rules or restrictions associated with the designation.

Article 18.18

A certification service provider whose registration has been terminated pursuant to Article 2.2(4)(b), (c), or (d) shall be prohibited from offering or issuing qualified certificates to the public as long as it has not been reregistered.

Article 18.19

In deviation from Article 24 of the Independent Post and Telecommunications Authority Act and from Article 91 of the Competition Act, the Board and the Board of the Competition Authority shall provide one another, on request, with the data or information that is or may be relevant for the exercise of the duties and powers assigned to the Board by or pursuant to the Telecommunications Act if:

- a. the confidentiality of said data or information is sufficiently guaranteed; and
- b. it has been sufficiently guaranteed that said data or information will not be used for any purpose other than that for which it has been provided.

Article 18.20

1. In response to a request to that effect from the European Commission, from BEREC, or from a national regulatory body, the Board shall provide the data or information that the European Commission or BEREC and the Office, or the national regulatory body requires to exercise its duties pursuant to the law of the European Union if:
 - a. in so far as the Board considers that confidential commercial data or information is concerned, the confidentiality of said data or information has been sufficiently guaranteed;
 - b. it has been sufficiently guaranteed that said data or information will not be used for any purpose other than that for which it is provided; and
 - c. the request concerns data or information that the Board has acquired pursuant to its duties and powers pursuant to the present Act.
2. If the Board considers that confidential commercial data or information is concerned, the Board, when providing said data or information, shall notify the Commission of the European Communities, BEREC and the Office, or the national regulatory body, explicitly and with reasons, that said information may not be made available to third parties.
3. If the Board provides the Commission of the European Communities with data or information that the Board has acquired from a provider of a public electronic communications network, a publicly available electronic communications service, or associated facilities, the Board shall notify the provider concerned to that effect.

Article 18.21

1. Rules may be set pursuant by a ministerial order regarding the application of standards or specifications that have been made obligatory in accordance with Article 17(4) of Directive No. 2002/21/EC and that have been published in the Official Journal of the European Communities.
2. An amendment to the standards or specifications within the meaning of paragraph 1 shall apply with effect from the day when said amendment was published in the Official Journal of the European Communities.
3. Rules may be set pursuant by a ministerial order regarding the application of standards or specifications, published in the Official Journal of the European Communities, within the meaning of Article 17(4) of Directive No. 2002/21/EC, regarding
 - a. categories, as designated in said order, of electronic communications networks, electronic communications services, associated facilities, or services if the application of said standards or specifications is necessary to guarantee end-to-end connections and to improve users' freedom of choice; or
 - b. the use of application program interfaces if the application of said standards or specifications is necessary to promote the application of open application program interfaces in the delivery or provision of digital interactive television services.

Article 18.22

Where application of the Telecommunications Act is concerned, an amendment to Directive No. 2002/19/EC, Directive No. 2002/20/EC, Directive No. 2002/21/EC, or Directive No. 2002/22/EC shall apply from the day when the amendment concerned must be implemented, unless another time is determined by a ministerial order published in the Government Gazette.

Chapter 19. Transitional law in connection with implementation of the European harmonised regulatory framework for the electronic communications sector 2002

Article 19.1 [Cancelled as of 1 July 2008]

Article 19.2

1. The notification within the meaning of Article 2.1(1) need not be made by
 - a. a party that was registered by the Board prior to the entry into force of the Electronic Communications Sector (Implementation of European Regulatory Framework 2002) Act [*Wet implementatie Europees regelgevingskader voor de elektronische communicatiesector 2002*];
 - b. the holder of a licence for the use of frequency space for which registration was not required pursuant to Article 2.1(2)(a) as that provision read prior to the entry into force of the Electronic Communications Sector (Implementation of European Regulatory Framework 2002) Act.
2. Registration pursuant to Article 2.1(1) as that provision read prior to the entry into force of the Electronic Communications Sector (Implementation of European Regulatory Framework 2002) Act shall be deemed to constitute notification within the meaning of Article 2.1(1).
3. A licence for the use of frequency space that is intended for the provision of a public electronic communications network or a publicly available electronic communications service shall be deemed to constitute a notification within the meaning of Article 2.1(1). Our Minister shall provide the Board with the necessary information.
4. A legal entity registered pursuant to paragraph 2 or paragraph 3 may request the Board to issue a statement within the meaning of Article 2.4(1) until no later than six months after the entry into force of the Electronic Communications Sector (Implementation of European Regulatory Framework 2002) Act.

Article 19.3

The relevant markets within the meaning of Article 6a.1(2) that are necessary for the market analyses within the meaning of Articles 27 of Directive No. 2002/21/EC, 7(3) of Directive No. 2002/19/EC, or 16(3) of Directive No. 2002/22/EC shall be determined by the Board as soon as possible after the entry into force of the Electronic Communications Sector (Implementation of European Regulatory Framework 2002) Act.

Article 19.4 [Cancelled as of 1 July 2008]

Article 19.5 [Cancelled as of 1 July 2008]

Article 19.6 [Cancelled as of 1 July 2008]

Article 19.7

An application within the meaning of Articles 3.11(4) or 6.3(1) or (2), as said provisions read prior to the entry into force of the Electronic Communications Sector (Implementation of European Regulatory Framework 2002) Act, shall from that point on be deemed to constitute notification within the meaning of Article 12.2.

Article 19.8

An application for a ruling within the meaning of Article 7.7 as that provision read prior to the entry into force of the Electronic Communications Sector (Implementation of European Regulatory Framework

2002) Act, shall continue to be subject to the provisions of the Telecommunications Act and the provisions based upon it as they read prior to that point.

Article 19.9

After the entry into force of the Electronic Communications Sector (Implementation of European Regulatory Framework 2002) Act, the following shall apply:

- a. with respect to the processing of traffic data within the meaning of Article 11.5(2), that the provider must provide the subscriber with the data within the meaning of Article 11.5(4) within six months;
- b. that the consent within the meaning of Article 11.5(3) shall not be required for traffic data that are already in use for the purpose within the meaning of Article 11.5(3)(a);
- c. with respect to the traffic data within the meaning of subsection b, that the provider must notify the subscriber of the data within the meaning of Article 11.5(4) within six months. The subscriber shall be deemed to have agreed to this use unless he notifies the provider concerned, in writing and within a period of two months after the notification has been sent, that he does not give consent for the use concerned.

Article 19.10

After the entry into force of the Electronic Communications Sector (Implementation of European Regulatory Framework 2002) Act, the following shall apply:

- a. Article 11.6 shall not apply to editions of generally available printed directories of subscribers or to generally available directories of subscribers that are published in electronic form otherwise than with the use of an electronic communications network or an electronic communications service, if said editions were published or prepared for publication prior to the date when said article entered into force;
- b. that, within six months of the entry into force of Article 11.6, any party that publishes a generally available directory of subscribers or provides a generally available subscriber information service shall notify the subscriber to a public telephone service whose personal data are included, at the point when said article enters into force, in the directory of subscribers or in the subscriber database used for the subscriber information service, of the information within the meaning of Article 11.6(1). The subscriber shall be given the opportunity to object to the inclusion of his personal data in the directory of subscribers or in the subscriber database utilised for the subscriber information service. If the subscriber so objects, the provisions of Article 41(2) of the Personal Data Registration Act shall apply *mutatis mutandis*.

Article 19.11

In deviation from Article 17.1(1) the Rotterdam District Court shall have jurisdiction in respect of decisions adopted by the Board pursuant to Chapter 6 to which an objection was raised or an appeal lodged prior to the entry into force of the Electronic Communications Sector (Implementation of European Regulatory Framework 2002) Act, and Article 17.1(3) shall not apply.

Chapter 20. General Transitional Provisions and Final Provisions

Article 20.1

1. In deviation from the procedure set forth in Article 9.3, for the application of the provisions by or pursuant to the present Act, for each of the publicly available electronic communications services or facilities within the meaning of Article 9.1(1)(a) to (e), KPN Telecom B.V. shall be deemed to be a provider designated pursuant to Article 9.2.
2. The obligation arising for KPN Telecom B.V. pursuant to the previous paragraph to provide the publicly available electronic communications services and facilities within the meaning of Article 9.1(1)(a) to (e) shall cease to apply one year after the point when:
 - a. KPN Telecom B.V. notifies Our Minister in writing that it no longer wishes to comply with an

- obligation to provide a certain service or facility; or
- b. Our Minister notifies KPN Telecom B.V. in writing that an obligation to provide a certain service or facility no longer applies.

Article 20.2

1. A licence issued pursuant to Article 13a(1) of the Telecommunication Facilities Act [*Wet op de telecommunicatievoorzieningen*] shall be deemed to be equivalent to a licence issued pursuant to Article 3.3(1).
2. For the holder of a licence within the meaning of paragraph 1, the provisions by or pursuant to Articles 13c, 13g (on the understanding that the phrase “including technical susceptibility to tapping” in paragraph 1(a) shall be cancelled), 13j, 13k (with the exception of paragraph 7 and on the understanding that the second sentence of paragraph 6 shall read “The decisions by Our Minister within the meaning of the first sentence shall be equivalent as regards all licences issued for the same technical system at the same time.”), 13l, 13n, 13t (in so far as the reference to Article 11(1) to (3) and (5) to (7) is concerned), 13v, 13x, and 13y of said Telecommunications Facilities Act shall apply.

Article 20.3

1. An authorisation issued pursuant to Article 17(1) of the Telecommunication Facilities Act shall be deemed to be equivalent to a licence issued pursuant to Article 3.3(1).
2. The allocation of radio frequencies pursuant to Article 3(2) of the Telecommunication Facilities Act to the holder of the concession shall be deemed to be equivalent to a licence for the use of frequency space within the meaning of Article 3.3(1).
3. If radio frequencies have been allocated pursuant to an authorisation issued pursuant to Article 21 of the Telecommunication Facilities Act, said allocation of radio frequencies shall be deemed to be equivalent to a licence for the use of frequency space within the meaning of Article 3.3(1).
4. A licence within the meaning of paragraphs 1, 2, and 3 shall apply for a period specified by a general administrative order, whereby a distinction may be made according to the application for which said licence has been issued.
5. The provisions of Article 3.3(7) and of Article 3.3a(8) shall only apply to the issuing of licences issued later than those issued after 27 July 2001.

Article 20.4

Devices used at the point when the present Act enters into force by the holder of the concession within the meaning of Article 3(1) of the Telecommunication Facilities Act in order to exercise the tasks assigned to the holder of the concession shall, if they fail to comply with the provisions of or pursuant to Chapter 10 of the present Act, be deemed to comply with the provisions of or pursuant to Chapter 10.

Article 20.4a

1. Equipment that complies with the rules set by or pursuant to the Telecommunications Act regarding electromagnetic compatibility that were in force on 19 July 2007 may, in deviation from Article 10.1 of said Telecommunications Act, continue to be marketed or traded until 20 July 2009.
2. The provisions of paragraph 1 shall only apply if the equipment concerned complies with the rules set by or pursuant to the Telecommunications Act that do not concern electromagnetic compatibility.

Article 20.5

1. As regards the maintenance, relocation, and removal of cables and cable constructions, in so far

as said cables and cable constructions were installed with Chapter VI of the Telecommunication Facilities Act applying, Chapter 5 of the present Act shall apply, on the understanding that cables and cable constructions installed in and on public land within the meaning of Article 1(g)(3) of the Telecommunication Facilities Act shall be deemed to be equivalent to cables installed in or on public land within the meaning of Article 1.1(aa) of the present Act.

2. In deviation from Articles 5.2(8) and 5.15, an obligation to tolerate shall apply until 1 January 2018 to cables, underground support structures, or protection structures in or on public land in which or on which no physical conducting wires intended for the direct transfer of signals between points have been installed and that have been installed with a view to their forming part of a public electronic communications network but that – at the point of entry into force of the act to amend the Telecommunications Act in connection with a revision of national policy regarding the installation of cables for public electronic communications networks (Bulletin of Acts, Orders and Decrees 2007, 16) – are not in use for such public electronic communications network, unless the maintenance of said facilities endangers or seriously hinders the maintenance of other structures already present in said land. The provider shall notify the party that is subject to the obligation to tolerate, in writing, of the network facility to which the obligation to tolerate applies. The provider shall also notify the municipal executive within whose area the network facility is located.

Article 20.6

1. A number plan drawn up pursuant to Article 40d of the Telecommunication Facilities Act, shall be deemed to be equivalent to a number plan within the meaning of the present Act.
2. The allocation or reservation of numbers within the meaning of Article 17(11) of the Telecommunication Facilities Act, the allocation or reservation of numbers and the alteration thereof within the meaning of Article 40d of the Telecommunication Facilities Act, the allocation of numbers within the meaning of Article 40e of the Telecommunication Facilities Act, and the allocation of numbers within the meaning of Article 2(3) of the Fixed Telecommunications Infrastructure Licences Act [*Vergunningenwet kabelgebonden telecommunicatie-infrastructuur*] shall be deemed to be equivalent to a reservation, allocation, or amendment within the meaning of Chapter 4 of the present Act.

Article 20.7 [Cancelled as of 13 December 2006]

Article 20.8 [Cancelled as of 13 December 2006]

Article 20.9 [Cancelled as of 13 December 2006]

Article 20.10 [Cancelled as of 13 December 2006]

Article 20.11

1. The titleholder or manager of land shall be obliged to tolerate that, for the purpose of public electronic communications network, cables that were installed above that land prior to the point of entry into force of the act to amend the Telecommunications Act in connection with a revision of national policy regarding the installation of cables for public electronic communications networks (Bulletin of Acts, Orders and Decrees 2007, 16) are maintained or removed. The first sentence shall also apply to the above-ground support structures for said cables.
2. Articles 5.3 to 5.8, 5.10, 5.13, and 5.14 of the present Act shall apply *mutatis mutandis* to the cables and support structures within the meaning of paragraph 1.
3. Article 5.8 of the Telecommunications Act, as it read prior to the entry into force of the act to amend the Telecommunications Act in connection with a revision of national policy regarding the installation of cables for public electronic communications networks, shall apply to the maintenance of the cables and support structures within the meaning of paragraph 1.

Article 20.12 [Cancelled as of 31 March 2010]

Article 20.13 [Cancelled as of 13 December 2006]**Article 20.14 [Cancelled as of 13 December 2006]****Article 20.15**

1. As regards the possibility of submitting an objection or lodging an appeal against a decision pursuant to the Telecommunication Facilities Act that was announced prior to the entry into force of the present Act, the law shall continue to apply as it did prior to that point.
2. As regards the processing of an objection submitted or an appeal lodged prior to the point when the present Act entered into force, the law shall continue to apply as it did prior to that point.
3. As regards the processing of an objection submitted or an appeal lodged at or later than the point when the present Act entered into force and that is directed against a decision against which an objection was also submitted or an appeal lodged prior to that point, the law shall continue to apply as it did prior to that point.

Article 20.16

1. If a certification service provider was already registered prior to the point when the ministerial order within the meaning of Article 2.3(3) entered into force, provision to the Board of the data to be provided pursuant to Article 2.3(4) shall take place within a reasonable period determined by the Board as soon as possible after said order has entered into force.
2. If the certification service provider demonstrates that it cannot reasonably provide the Board with the data within the meaning of paragraph 1 within the set period within the meaning of paragraph 1, the Board may extend said period.
3. If a certification service provider to which paragraph 1 applies fails to provide the data pursuant to Article 2.3(4), or fails to do so completely, within the set period within the meaning of paragraph 1 or paragraph 2, registration of said service provider shall be terminated.
4. If an application for registration was submitted by a certification service provider prior to the point when the ministerial order within the meaning of Article 2.3(3) entered into force, and the application leads to registration on or after the point when said ministerial order enters into force, provision to the Board of the data to be provided pursuant to Article 2.3(4) shall take place within a reasonable period determined by the Board commencing as soon as possible after said registration. Paragraphs 2 and 3 shall apply *mutatis mutandis*.
5. If an application for registration was submitted by a certification service provider after Article 2.1(5)(b) entered into force but prior to the entry into force of the ministerial order within the meaning of Article 2.3(3), Article 2.1(5)(b) shall not apply to said application, without prejudice to the provisions of paragraph 4.
6. The ministerial order within the meaning of Article 2.3(3) shall not have any effect vis-à-vis the Board as regards the obligation for the Board to include information in the register that a certification service provider is required to provide pursuant to Article 2.3(4) within a period within the meaning of paragraphs 1, 2, or 5 until said period has lapsed.

Article 20.15a

1. As regards numbers that were reserved at the point of entry into force of the Amendment to the Telecommunications Act in connection with the establishment of further provisions regarding the use of numbers to protect the consumer, Articles 4.4, 4.5, 4.6, 4.7, and 4.8(1) of the Telecommunications Act as they read prior to the entry into force of said act shall continue to apply until said reservation has terminated.
2. Number holders shall register the number users within six months of Article 4.9(3)(b) entering into force. The number user shall receive the number from the number holder for use on the day of

registration by the number holder by operation of law.

3. Complaints submitted to a recognised body within the meaning of Article 4.11 of the Telecommunications Act prior to the point of entry into force of the Amendment to the Telecommunications Act in connection with the establishment of further provisions regarding the use of numbers to protect the consumer shall continue to be subject to the rules that applied at the point when the complaint was submitted.

Article 20.17 [Cancelled as of 13 December 2006]

Article 20.18

For cases not provided for in the present Act, rules regarding the introduction of articles of the present Act or parts thereof may be set by a general administrative order until two years after this Act enters into force.

Article 20.19

The articles of this Act shall enter into force at a point determined by Royal Decree; such point may differ for the various articles or components thereof.

Article 20.20

This Act may be cited as the "Telecommunications Act".

Annex to Article 13.2a of the Telecommunications Act

In this Annex, the following terms shall be understood to have the meanings assigned to them below:

- a. telephone service: calls (including voice, voicemail, conference call, or call data), supplementary services (including call forwarding and call transfer), messaging and multi-media services (including short message service (SMS), enhanced media service (EMS) and multimedia service (MMS));
- b. user identification: a unique identifier that is assigned to a person when such person subscribes to or registers with an Internet access service or Internet communications service;
- c. cell identity (cell ID): the unique identifier of a cell from which a mobile phone call was started or terminated.

In this Annex, the following data shall be designated as data within the meaning of Article 13.2a of the Act:

- A. In the case of telephony via a mobile or fixed network:
 - a. the telephone number of the caller and the telephone number (the telephone numbers) that were called, and, in the case of supplementary services such as call forwarding or call transfer, the number (the numbers) to which the connection is routed;
 - b. the names and addresses of the subscribers or registered users concerned;
 - c. the date and time of the commencement and end of the connection;
 - d. the telephone service utilised;
 - e. in the case of mobile telephony:
 - the International Mobile Subscriber Identity (IMSI) of the caller and the party called;
 - the International Mobile Equipment Identity (IMEI) of the caller and the party called;
 - in the case of pre-paid anonymous services, the date and time of the initial activation of the service and the location label (Cell ID) from which the service is activated;
 - the location label at the beginning of the connection;
 - data for identifying the geographical location of cells by reference to their location labels during the period that communications data will be preserved.
- B. In the case of Internet access, Internet e-mail, and Internet telephony:
 - a. the assigned user identification(s) and the user identification or telephone number of the intended recipient(s) of an Internet phone call;
 - b. the user identification and telephone number allocated to any communication entering the public telephone network;
 - c. the name and address of the subscriber or registered user to whom the IP address, user identification, or telephone number was allocated at the time of the communication and the name(s) and address(es) of the subscriber(s) or registered user(s) and the user identification of the intended recipient of communication;
 - d. the date and time of the log-in and log-off of an Internet session based on a certain time zone, together with the IP address, either static or dynamic, that the provider of an Internet access service has assigned to a communication, and the user identification of the subscriber or registered user;
 - e. the date and time of the log-in and log-off of an e-mail service over the Internet or Internet telephony service based on a certain time zone;
 - f. the Internet service utilised;
 - g. the calling telephone number for a dial-up connection;
 - h. the digital subscriber line (DSL) or other terminal point of the originator of the communication.

Although the Dutch Ministry of Economic Affairs, Agriculture and Innovation assembles the information with the greatest care, it cannot provide an absolute guarantee that all of the information is entirely accurate. Only the authentic Dutch text of this Act (Telecommunicatiewet), as published in the Dutch 'Staatsblad', is legally binding