

APPENDIX ONE

OF THE OFFICIAL GAZETTE OF THE REPUBLIC

No. 3850 of 30 April 2004

LEGISLATION

PART I

**THE REGULATION OF ELECTRONIC COMMUNICATIONS AND POSTAL SERVICES LAW
OF 2004 - 2016**

- In case of conflict the Greek version of the Law shall prevail.

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92 of 51(I) of 2012. First Annex [Section 152(4)]

32 of 160(I) of 2013. Second Annex [Section 123(1)]

The Regulation of Electronic Communications and Postal Services Law of 2004 is issued by publication in the Official Gazette of the Republic of Cyprus under Section 52 of the Constitution:

Number 112(I) of 2004

**THE REGULATION OF ELECTRONIC COMMUNICATIONS
AND POSTAL SERVICES LAW OF 2004**

For purposes of harmonisation with the acts of the European Union referred to as:

(a) “Commission Directive 88/301/EEC of 16 May 1988 on competition in the markets in telecommunications terminal equipment” (OJ L 131 of 27.5.1988, p. 73), as amended by Commission Directive 94/46/EC of 13 October 1994 (OJ L 268 of 19.10.1994, p. 15),

(b) “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” (OJ L 204 of 21.07.1998, p. 37),

(c) “Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1990 on radio equipment and electronic communications terminal equipment and the mutual recognition of their conformity” (OJ L 091 of 7.4.1999, p. 10),

(d) “Directive 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” (OJ L 108 of 24.4.2002, p. 7),

(e) “Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services” (OJ L 108 of 24.4.2002, p.21),

(f) “Directive 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” (OJ L 108 of 24.4.2002, p.33),

(g) “Directive 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” (OJ L 108 of 24.4.2002, p.51),

(h) “Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector” (Directive on privacy and electronic communications) (OJ L 201 of 31.07.2002, p.37),

(i) “Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services” (OJ L 249, 17.09.2002, p.21-26),

(j) “Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of

Community postal services and the improvement of quality of service” (OJ L 015 of 21.01.1998, p. 14),

(k) “Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services” (OJ L 176, 05.07.2002, p. 21).

(l) Regulation (EC) 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body for Electronic Communications (BEREC) and the Office OJ, L 337, 18/12/2009

(m) Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and user’s rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws, OJ L 337/11, 18/12/2009,

(n) Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorization of electronic communications networks and services, OJ L337/37, 18/12/2009,

(o) Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services, OJ L

52/3, 27/02/2008

For purposes of implementation of the European Community Regulation:

“(EC) No. 2887/2002 of the European Parliament and of the Council of 18 December 2002 on unbundled access to the local loop (OJ L 336 of 30.12.2000, p. 4),

The House of Representatives votes as follows:

PART 1

GENERAL PROVISIONS

Short title. 1. This Law shall be referred to as the Regulation of Electronic Communications and Postal Services Laws of 2004 to 2016.

Scope of application. 2.(1) This Law establishes the terms of regulation in relation to:

(a) electronic communications networks and services and related services and facilities required for the implementation of a harmonised regulatory framework within the European Community designed to facilitate the convergence of the telecommunications, information technology and electronic media sectors,

(b) postal services required for the implementation of a harmonised regulatory framework established within the European Community.

(2) Without affecting the generality of the above provision, this Law, *inter alia*:

- (a) creates a transparent regulatory and procedural framework which encourages innovative technologies and facilitates the transition of the market to full competition;
- (b) ensures and promotes the provision of a broad range of national and cross-border Electronic Communications services;
- (c) promotes effective competition and ensures that positions of market power are not abused;
- (d) describes the structure, role, funding and procedures of the Office of the Commissioner for the Regulation of Electronic Communications and Postal Services;
- (e) determines the scope of universal service and the conditions for its provision and funding;
- (f) implements specific data protection, consumer protection and users' rights rules;
- (g) ensures the safety and interoperability of networks and services;
- (h) works towards the effective and efficient use of scarce resources;
- (i) introduces an institutional framework that conforms with obligations under Community law;
- (j) protects public security interests; and
- (k) ensures and promotes the development of postal services and the improvement of their quality.
- (l) lays down the conditions governing the provision of postal services,

(m) regulates the provision of the universal postal service within the Republic of Cyprus

(n) regulates the financing of universal services under conditions that guarantee the permanent provision of such services,

(o) establishes rules concerning tariff principles and the principle transparency of accounts for universal service provision,

(p) sets quality standards for the provision of universal service and to establish a system that ensures its compliance,

(q) harmonizes the technical specifications.

(r) ensures and promotes competition in the telecommunications terminal equipment markets,

(s) enacts the regulatory framework on the availability of radio equipment on the market and its operation in the European Union, pursuant to this Law,

(t) ensures compliance with essential requirements in certain categories or classes of radio equipment, for the purpose of its interoperability via networks with other radio equipment, ensures its connection with interfaces of the appropriate type throughout the European Union, ensures that it does not harm the network or its functioning resulting in the misuse of network resources, thereby causing an unacceptable degradation of service, ensures the protection of personal data and

privacy of users and subscribers, ensures protection from fraud, ensures access to emergency services, facilitates its use by users with a disability, and ensures that software can only be loaded into the radio equipment where the compliance of the combination of the radio equipment and software has been demonstrated.

General Principles. 3.(1) The provisions of this Law constitute the framework for the regulation of electronic communications networks and services and postal services that are provided by persons within the territory of the Republic of Cyprus.

(2) The provision of electronic communications networks and services is unrestricted, and shall be exercised under the provisions of this Law. Any restrictions on the provision of electronic communications networks and services may only be imposed on the grounds of safeguarding public order, public security and public health.

(3) The provisions of this Law apply without prejudice to the provisions of the legislation in force regarding the regulation of content in the audiovisual sector.

(4) The general principles governing the postal services are:

(a) The freedom to pursue business activities in the of field postal services, which is under the supervision of the state and exercised under the terms of this Law and if a general or special licence has been granted in accordance with the provisions of Sections 127 and 128 of this Law. The development of activity in Cyprus in the postal sector services by undertakings established in states that do not belong to European Union shall be exercised in accordance with the international commitments of Cyprus on the basis of reciprocity.

(b) The freedom to access and use postal services, where postal items meet the specifications required by the provisions of this Law. Restrictions on access and use of postal services are only permitted for the following reasons:

(i) security of the operation of the postal network, employed persons of postal service and users, and

(ii) protection of the confidentiality of correspondence

(c) The principles of equal treatment and non-discrimination of users, access to the postal network under transparent, proportionality and non discrimination, as well as the protection of healthy competition.

(d) Ensuring the principles of confidentiality of correspondence, the confidentiality of postal communication, personal data protection, the respect of privacy and the safeguarding of copyright. The staff of postal service providers is subject to the obligations of this subsection.

(e) Environmental protection and regional planning.

(f) Compliance with the terms and conditions of employment and social security regimes, as defined by law and / or collective agreements as a result of negotiations by the social partners in accordance with European Union law and the Law.

(g) Promoting the interests of users, which are ensured particularly:

(i) By developing activity in the postal service sector providing users the right to universal service, as this service is determined in this Law;

(ii) with the high level of protection for consumers notably through provision of simple and inexpensive procedures for settlement of disputes with postal service providers;

(iii) with the protection of personal data and privacy; and

(iv) by meeting the needs of specific social groups, in particular disadvantaged users.

(5) In case of war or recruitment or to address an urgent social need that may endanger public security or health, the requisition of postal service providers is allowed by decision of the Minister. The decision shall also regulate the duration of such requisition.

Interpretation. 4.(1) In this Law, unless the context suggests otherwise-

3(k) of 51(I) of
2012.

“**access**” means the making available of facilities and/or services, to another person, under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing electronic communications services, including when they are used for the delivery of information society services or broadcast content services. It covers *inter alia*: access to network elements and associated facilities, which may involve the connection of equipment, by fixed or non-fixed means (this includes in particular access to the local loop and to facilities and services necessary to provide services over the local loop), access to physical infrastructure including buildings, ducts and masts; access to relevant software systems including operational support systems, access to information systems or databases for pre-ordering, provisioning, ordering, maintaining and repair requests, and billing, access to number translation or systems offering equivalent functionality, access to fixed and mobile networks, in particular for roaming, access to conditional access

systems for digital television services and access to virtual network services;

2(a) of 104(I) of 2016. “**access point**” means a specific point, inside or outside the building, accessible to undertakings duly licenced in accordance with the provisions of this Law or that have the right to provide public communications networks pursuant to any relevant Law, through which connection to the in-building high-speed physical infrastructure is ensured.

4(k) of 160(I) of 2013. “**access points**” means the physical facilities, including, inter alia, letter boxes provided for the public either on the public highway or at the premises of the postal service providers, where postal items may be deposited with the postal network by senders

3(a) of 112(I) of 2016. “**accreditation**” means an attestation by a national accreditation body that a conformity assessment body meets the requirements set by harmonised standards and, where applicable any additional requirements including those set out in relevant sectoral schemes to carry out a specific conformity assessment activity;

2 of 134(I) of 2007. “**Advisory Committee**” means the Advisory Committee of Electronic Communications and Posts, established under paragraph (a) of subsection (1) of Section 32 of this Law.

“**apparatus**” means any equipment that is either radio equipment or electronic communications terminal equipment, or both;

3(a) of 51(I) of 2012. “**Application Programme Interface**” or “**API**” means the software interfaces between applications made available by broadcasters or service providers, and the resources in the enhanced digital television equipment for digital television and radio services;

"associated facilities" means those facilities associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of services via that network and/or service. It includes conditional access systems and electronic programme guides.

3(b) of 51(I) of 2012. **"associated installations"** means the associated facilities, associated services, physical infrastructures and others installations or elements associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of services via that network and/or service or have the potential to do so and include inter alia buildings or entries to buildings, building wiring, antennae, towers and others supporting constructions, ducts, conduits, masts, manholes and cabinets.

3(a) of 51(I) of 2012. **"associated services"** means those services and facilities associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of services via that network and/or service or have the potential to do so and include, inter alia, number translation or systems offering equivalent functionality, conditional access systems and electronic programme guides, as well as other services such as identity, location and presence service.

"authorisation" means an authorisation under the general authorisation framework that may also include individual rights of use;

3(a) of 112(I) of 2016. **"authorised representative"** means any natural or legal person established in the European Union who has received a written mandate from the manufacturer to act on his behalf in relation to specified tasks;

“**beneficiary**” means a third party which has duly obtained a licence according to the provisions of this Law or has the right to provide electronic communications services by law, and is eligible for unbundled access to the local loop.

3(a) of 51(I) of 2012. “**BEREC**” means the Body of European Regulators for Electronic Communications (BEREC) which was established the Regulation (EC) 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.

2(a) of 104(I) of 2016. “**body governed by public law**” means any body that has all the following characteristics:

(a) it has been established for the specific purpose of meeting needs in the general interest not having an industrial or commercial character;

(b) it has a legal personality;

(c) it is financed, in full or for the most part, by the state or regional or local authorities or other bodies governed by public law or is subject to management supervision by those authorities or has a an administrative, managerial or supervisory board whose more than half of those members are appointed by the State, regional or local authorities or by other bodies governed by public law.

“**broadcasting**” means the transmission of a radio or television signal in any manner intended for reception by the public by wire, or over the air directly or via satellite, in unencoded or coded form.

3(b) of 51(I) of 2012. "**call**" means a connection established by means of a publicly available electronic communications service allowing two-way voice communications.

"**call forwarding**" means the facility by which incoming calls can be sent to another destination in Cyprus or elsewhere;

"**calling-line identification**" means any technical means by which the identity of the calling network termination point may be presented;

3(a) of 112(I) of 2016. "**CE marking**" means a marking by which the manufacturer indicates that the radio equipment is in conformity with the applicable requirements set out in Union harmonisation legislation providing for its affixing;

2(a) of 104(I) of 2016. "**civil works**" means every outcome of building or civil engineering works which is sufficient of itself to fulfil an economic or technical function and entails one or more elements of physical infrastructure;

4(j) of 160(I) of 2013. "**clearance**" means the operation of collecting postal items by a postal service provider;

"**closed user group**" means persons not necessarily bound by economic links but who can be identified as members of a group on the basis of a lasting commercial and/or professional relationship among themselves or with another person of the group, and whose internal telecommunication needs result from the common interest underlying this lasting relationship;

"**co-location**" means the provision of the physical space and the technical installations which are necessary for the placing and connection, in a reasonable manner, of the relevant equipment of a beneficiary;

207/89 “**Commission for the Protection of Competition**” means the Commission for the Protection of Competition established under Section 8 of the Protection of Competition Law;

“**Commissioner**” means the Commissioner of Electronic Communications and Postal Regulation, who is appointed according to paragraph (1) of Section 5 of this Law;

138(I)/2001 “**Commissioner for Personal Data Protection**” means the Commissioner
37(I)/2003 appointed under Section 18 of the Processing of Personal Data (Protection of the Individual) Laws of 2001 and 2003;

“**communication**” means 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;

“**conditional access system**” means any technical measure and/or arrangement whereby access to a protected radio or television broadcasting service in intelligible form is made conditional upon subscription or other form of prior individual licence/authorisation;

3(a) of 112(I) “**conformity assessment**” means the process demonstrating whether the
of 2016. essential requirements of the provisions of this Law relating to radio equipment have been fulfilled;

3(a) of 112(I) “**conformity assessment body**” means the body that performs conformity
of 2016. assessment activities;

3(a) of 51(I) of 2012. “**consent**” means consent of the data subject, i.e. any freely given, express and specific indication of his wishes, clearly expressed and informed, by which the data subject, having been previously informed, consents to the processing of personal data concerning him;

“**consumer**” means any natural person who uses or requests publicly available electronic communications services and postal services for purposes which are outside his trade, business or profession;

“**cross-border mail**” means mail from or to another country;

“**Cost sharing services**” means switching services where caller pays only part of the cost of the call to the selected number;

“**Court**” means a court of competent jurisdiction;

“**Cyprus**” means the Republic of Cyprus;

“**Cyprus Post**” ~~deleted with 4(i) of 160(I) of 2013.~~

“**day**” means a calendar day, unless otherwise specified in the Law or unless the context otherwise requires;

“**Decision**” means a decision issued by the Commissioner under this Law;

“**Deputy Commissioner**” means the Deputy Commissioner of Electronic Communications and Postal Regulation, who is appointed under paragraph (2) of Section 5 of this Law;

“direct dialling in” means the facility through which users on a private branch exchange or similar private system can be called directly from a fixed telephone network without the intervention of an exchange attendant;

4(e) of 160(I) of 2013. **“direct mail”** means a communication of material exclusively in advertising, marketing or advertising and comprising an identical message, except for the name, address and identifying number of the consignee and any other changes that do not alter the substance of the message, which is sent to a significant number of addressees, to be transported and delivered at the address indicated by the sender on the item itself or its packaging. Bills, invoices, financial statements and other non-identical messages shall not be regarded as direct mail. Direct mail items are regarded as items of correspondence;

“Director” means the Director of the Department of Electronic Communications of the Ministry of Communications and Works;

“distribution” means the complete process from sorting at the distribution centre to delivery of postal items to their addressees;

3(a) of 112(I) of 2016. **“distributor”** means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes radio equipment available on the market;

“document exchange” deleted with 4(b) of 160(I) of 2013;

3(a) of 112(I) of 2016. **“earth station equipment”** means equipment which is capable of being used for the transmission only (‘transmit-only’), or for the transmission and reception (‘transmit/receive’), or for the reception only (‘receive-only’) of radio communication signals by means of satellites or other earth-based

systems;

3(a) of 112(I) of 2016. **“economic operators”** means the manufacturer, the authorised representative, the importer and the distributor;

3(a) of 112(I) of 2016. **“electromagnetic disturbance”** means any electromagnetic phenomenon which may downgrade the performance of equipment; it may be electromagnetic noise, an unwanted signal or a change in the propagation medium itself;

3(h) of 51(I) of 2012. **“electronic communications network”** means transmission systems and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the conveyance of signals by wire, by radio, by optical or by other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including Internet) and mobile terrestrial networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed;

3(p) of 51(I) of 2012. **“electronic communications services”** means the services normally provided for remuneration and whose provision consists, wholly or mainly, in the conveyance of signals on electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting, but exclude services providing, or exercising editorial control over, content transmitted using electronic communications networks and services; it does not include information society services, as defined in Annex 1 of the Law Laying Down a Procedure for the Provision of Information in the Field of Technical Standards and

Regulations, which do not consist wholly or mainly in the conveyance of signals on electronic communications networks;

3(b) of 112(I) of 2016. “**electronic mail**” means any text, voice, sound or image message sent over a public communications network, which can be stored in the network or in the terminal equipment until it is collected by the recipient;

“**electronic programme guide**” means any electronic means of providing information to the public in relation to the schedule of programme material which is the subject of any broadcasting service and which is an integral part of the distribution and reception system by which the broadcasting service is provided;

“**end user**” means a user not providing public communications networks or publicly available electronic communications services;

3(b) of 112(I) of 2016. “**enhanced digital television equipment**” regional terminal equipment which is intended for connection to a television set or advanced digital video device, and is able to support digital interactive television services,

“**equipment class**” means a class identifying particular types of apparatus which are considered similar and those interfaces for which the apparatus is designed and which may, in any case, belong to more than one equipment class;

4(o) of 160(I) of 2013. “**Essential requirements**” means general non-economic reasons that must be fulfilled by suppliers of postal services. These reasons are the confidentiality of correspondence, security of the networks as regards the transport of dangerous goods, the respect for the terms and conditions of employment and social security schemes, laid down by the Law and/or by collective agreement negotiated by the social partners, in accordance with

the law of the European Union and the Law and, where justified, data protection, environmental protection and regional planning. Data protection may include personal data protection, the confidentiality of information transmitted or stored and the protection of privacy;

3(a) of 51(I) of 2012. “**E.T.N.S.**” means the European Telephony Numbering Space;

3(b) of 51(I) of 2012. “**European Commission**” means the Commission of the European Communities;

3(b) of 51(I) of 2012. “**European Courts**” means the European Court of Justice and the General Court;

“**European Standards Organisation**” means the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (CENELEC) and the European Electronic Communications (Telecommunications) Standards Institute (ETSI);

4(n) of 160(I) of 2013. “**express mail service**” means a service featuring, in addition to greater speed and reliability in the collection, distribution, and delivery of items, all or some of the following supplementary facilities: guarantee of delivery by a fixed date; collection from point of origin; personal delivery to addressee; possibility of changing the destination and address in transit; confirmation to sender of receipt of the item dispatched; monitoring and tracking of items dispatched; personalised service for customers and provision of an à la carte service, as and when required. The said service may be provided at a higher price;

4(o) of 160(I) of 2013. “**fictitious stamp**” means any copy or imitation or representation, whether on paper or otherwise, of any stamp, impression of a franking machine of postal charges or any other method of payment of postal charges, for denoting any rate of postage in Cyprus or in any other country;

3(j) of 51(I) of 2012. **“full unbundled access to the local loop”** means the provision to a beneficiary of access to the local loop or local sub-loop of the notified operator allowing the use of the full capacity of the network infrastructure;

“general authorisation” means:

3(c) of 51(I) of 2012. (i) the legal framework that permits a person to provide electronic communications services and/or networks including individual rights of use under this Law, subject to compliance with its terms and conditions, and subject to specific obligations per sector, service or type of access, that may apply to all or specific types of electronic communications services and/or networks;

4(c) of 160(I) of 2013. (ii) an authorisation subject to registration provided, either under the Law by the Commissioner or by Law, concerning persons which may exercise the rights deriving therefrom, without obtaining a specific Decision for that purpose by the Commissioner on the provision of postal services and/or the establishment and operation of a postal network;

3(d) of 51(I) of 2012. **“geographic number”** means a number from the Numbering Scheme of the Republic of Cyprus where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point;

3(b) of 112(I) of 2016. **“harmful interference”** has the meaning attributed to this term in the Radio Communications Law of 2002;

146(I) of 2002

15(I) of 2003

16(I) of 2004

180(I) of 2004

74(I) of 2006

50(I) of 2012

52(I) of 2013

113(I) of 2016.

“harmful interference” means 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 legislation in force from time to time relating to radio communications;

3(b) of 112(I) of 2016. **“harmonised standard”** means the European standard adopted on the basis of request made by the European Commission for the application of Union harmonisation legislation;

2(a) of 104(I) of 2016. **“high-speed electronic communications network”** means an electronic communications network capable of delivering broadband access services at speeds of at least 30Mbsp;

2(a) of 104(I) of 2016. **“high-speed-ready in-building physical infrastructure”** means in-building physical infrastructure intended to host elements or enable delivery of high-speed electronic communications networks.

2 of 103(I) of 2009. **“home mobile telephony network provider”** means the provider which operates a mobile telephony network with recorded customers in the home tracking file, to whom mobile telephony services are offered;

2 of 103(I) of 2009. **“host mobile telephony network provider”** means the provider which operates a mobile telephony network allowing the temporary recording of customers to whom mobile telephony services are offered in the guest tracking file;

3(a) of 112(I) of 2016. **“importer”** means any natural or legal person, established within the Union, who places on the Union market, radio equipment from a third country;

2(a) of 104(I)
of 2016.

“in-building physical infrastructure” means physical infrastructure or installations at the end user's location, including elements under joint ownership, intended to host wired and/or wireless access networks, where such access networks are capable of delivering electronic communications services and connecting the building access point with the network termination point;

“individual right of use” means the individual right of use of numbers or the individual right of use of radio frequencies;

“individual right of use of numbers” means the individual right granted by the Commissioner which gives the person to which it is granted rights to use the numbers;

“individual right of use of radio frequencies” means the individual right granted by the Director which gives the person or the operator to which it is granted rights to use radio frequencies;

“installation” means any wire, cable and/or other means for conveying signals, any tube, pipe, casing, coating, any construction, pole or any other thing used to establish electronic communications networks;

“insured item” means a service insuring postal items up to the value declared by the sender in the event of loss, theft or damage;

“interconnection” means the physical and logical linking of public communications networks used by the same or a different person in order to allow the users of one person to communicate with users of the same or another person, or to access services provided by another person. Services may be provided by the parties involved or other parties who have access to

the network. Interconnection is a specific type of access implemented between public network operators;

“**interconnection agreement**” means the technical and commercial arrangements entered into between two providers in relation to the provision of interconnection;

3(a) of 51(I) of 2012. “**interface**” means a termination point of a network which is a physical connection point at which a user is provided with access to a public electronic communications network, and/or a radio interface specifying the radio communications route between radio equipment and its technical specifications;

“**item of correspondence**” means a communication in written form on any kind of physical medium to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping; books, catalogues, newspapers and periodicals are not regarded as items of correspondence;

“**ITU**” means the International Telecommunication Union;

“**leased lines**” means electronic communications facilities which provide for transparent transmission capacity between network termination points and which do not include on-demand switching (switching functions which the user can control as part of the leased line provision);

“**licence**” means

(i) authorisation, in the form of general authorisation or individual right of use, prescribing rights and obligations, to persons regarding the provision of electronic communications services and/or the establishment or operation of

networks for the provision of electronic communications services.

4(a) of 160(I) of 2013. (ii) authorization, in the form of general authorisation or special licence which establish rights and obligations for persons, allowing the provision of postal services and/or the creation and/or the establishment of postal networks, and where appropriate, the establishment and/or operation of their networks for the provision of postal services.

3(n) of 51(I) of 2012. “**local loop**” means the physical twisted metallic pair circuit cables connecting the network termination point at facilities of the subscriber to the main distribution frame or equivalent facility in fixed public electronic communications network;

3(o) of 51(I) of 2016. “**local sub-loop**” means a partial local loop connecting the point termination network to a concentration point or a specified intermediate access point in the fixed public electronic communications network;

3(b) of 112(I) of 2016. “**location data**” means any data processed in an electronic communications network, indicating the geographic position of the terminal equipment of a user of a publicly available electronic communications service;

2(a) of 104(I) of 2016. “**major renovation works**” means building or civil engineering works at the end user’s location encompassing structural modifications of the entire in-building physical infrastructure or a significant part thereof, and requiring a town planning and/or building permit, as the case may be;

3(a) of 112(I) of 2016. “**making available on the market**” means the supply of radio equipment for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;

3(a) of 112(I) “**manufacturer**” means a natural or legal person who manufactures radio

- of 2016. equipment or has radio equipment designed or manufactured by others and markets that equipment under his name or trade mark;
- 2(b) of 104(I) of 2016. **“Minister”** means the Minister of Transport, Communications and Works;
- “month”** means thirty calendar days unless otherwise prescribed in the Law or unless the context otherwise requires;
- 3(a) of 112(I) of 2016. 156(I) of 2012. 10(I) of 2010. 57(I) of 2011. 69(I) of 2012. 120(I) of 2012. **“national accreditation body”** means the Cyprus Organisation for the Promotion of Quality (CYSAB), established under Section 3 of the Standardisation, Accreditation and Technical Notification Law of 2002;
- “National Regulatory Authority”** means the Office of the Commissioner for Electronic Communications and Postal Regulation or the Department of Electronic Communications of the Ministry of Transport, Communications and Works, as specifically defined in this Law and in the Radio Communications Law;
- 2 of 103(I) of 2009. **“national roaming”** means the access service in a public mobile telecommunications network, which is supplied by the provider of the host mobile telephony network provider in the relevant mobile telephony network within the territorial limits of the Republic, and allowing subscribers of the latter to use the mobile telephony services of the former.
- 2(a) of 104(I) of 2016. **“network operator”** means and undertaking duly licenced under the provisions of this Law or that has the right to provide public communications networks pursuant to any relevant legislation, as well as an undertaking providing physical infrastructure intended to provide:
- (a) a service of production, transport or distribution:

- (i) of natural gas,
- (ii) of electricity, including public lighting
- (iii) of heating,
- (iv) of water, including disposal or treatment of waste water and sewage, and drainage systems;

(b) transport services, including railways, roads, ports and airports;

3(a) of 51(I) of 2012. “**network termination point**” means the natural or wireless point at which a subscriber is provided with access to a public communications network. In the case of networks involving switching or routing, the network termination point is identified by means of a specific network address, which may be linked to a subscriber number or name;

3(b) of 51(I) of 2012. “**non-geographic number**” means a number from the Numbering Scheme of the Republic of Cyprus that is not a geographic number and includes, *inter alia*, mobile, free phone and premium rate numbers;

2 of 113(I) of 2007. “**notified body**” means a body authorised to perform, for the purposes of this Law, the conformity assessment procedure of terminal equipment with the essential requirements;

“**Notified SMP operator**” means an operator of a fixed public telephone network that has been designated by the Commissioner as holding Significant Market Power in a relevant market, and is thereby susceptible to regulation for its activities in that relevant market;

“**number portability**” means the facility whereby a subscriber may retain his number on a public electronic communications network independently of the public service provider providing service, in the case of geographic

numbers at a specific location and in the case of non-geographic numbers at any location;

3(m) of 51(I) of 2012. “**Numbering Scheme of the Republic of Cyprus**” means the scheme prepared, updated, published and administered by the Office and which sets out the sequence of numbers which must be used to route communications to specific locations, terminals, persons or functions on public electronic communications networks, as well as the terms, conditions and fees for the allocation, reservation and use of the series of numbers;

“**Office**” means the Office of the Commissioner of Electronic Communications and Postal Regulation, which is established under Section 10(1) of this Law;

2 of 113(I) of 2007. “**operator**” means a person providing or allowed to provide a public communications network or a related facility;

“**Order**” means an order issued by the Commissioner under this Law;

“**Organisation**” means a public electronic communications network provider and/or a public electronic communications service provider;

2(a) of 104(I) of 2016. “**permit and/or rights**” means an explicit or implicit decision of a competent authority following a procedure under which an undertaking is required to take steps in order to legally carry out building or works of civil engineering;

“**person**” means a natural or legal person, and includes a company, partnership, society, foundation or any other union or association of persons with or without a legal personality;

3(e) of 51(I) of 2012. **“personal data”** means any information relating to a living data subject, in accordance with the Processing of Personal Data (Protection of Individuals). Consolidated data of a statistical nature, from which the data subject can no longer be identified, are not deemed to be personal data;

3(a) of 51(I) of 2012. **“personal data breach”** means a breach of security leading to the accidental or unlawful destruction, loss, alteration or unauthorised disclosure of or access to personal data transmitted, stored or otherwise processed in connection to the provision of publicly available electronic communications service,

2(a) of 104(I) of 2016. **“physical infrastructure”** means every element of a network which is indented to host other elements of the network without becoming itself active element of the network, such as pipes, masts, ducts, inspection chambers, manholes, cabinets, building or entries to buildings, antenna installations, towers and poles pursuant to Sections 62A and 62B:

87(I) of 2001
275(I) of 2004
Provided that, for the purposes of Sections 62A and 62B, cables, including dark fibre, as well as elements of networks used for the supply of drinking water as defined in subsection (1) of Section 2 of the Law on the Quality of Water for Human Consumption (Monitoring and Control), as amended or replaced from time to time, do not fall within this definition;

3(a) of 112(I) of 2016. **“placing on the market”** means the first making available of radio equipment on the Union Market;

4(o) of 160(I) of 2016. **“postal services user”** means every natural or legal person to whom a postal service is provider, either as a sender or a recipient;

“post office” means any house, building, room or generally any place used for the purposes of the universal postal service provider;

4(l) of 160(I) of 2013. “**postal item**” means an item addressed in the final form in which it is to be carried by a postal service provider. In addition to items of correspondence, such items also include books, catalogues, newspapers, periodicals and postal parcels containing merchandise with or without commercial value;

4(m) of 160(I) of 2013. “**postal services**” means the services that comprise the clearance, sorting, transport and delivery of postal items;

“**postal services operator**” means a person providing one or more postal services;

“**President**” means the President of the Republic of Cyprus;

“**provider**” means a person providing or authorised to provide an electronic communications network and/or services or postal services or associated facilities to the public;

“**provision of an electronic communications network**” means the establishment, operation, control or making available of such a network;

3(a) of 51(I) of 2012. “**public communications network**” means an electronic communications, network used wholly or mainly for the provision of electronic communications services available to the public, which support the transfer of information between network termination points;

“**public pay telephone**” means a telephone available to the general public for the use of which the means of payment may include coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes;

4(f) of 160(I) of 2013. **“public postal services network”** means a Public postal network: the system of organisation and resources of all kinds used by the universal service provider for the purposes in particular of:

* the clearance of postal items covered by a universal service obligation from access points throughout the territory,

* the routing and handling of those items from the access point to the distribution centre,

* the delivery of the items to their addressee.

2(a) of 104(I) of 2016. **“public sector operator”** means a state, regional or local authority, body governed by public law, or an association formed by one or several such authorities or one or several such bodies governed by public law;

“public telephone network” means an electronic communications network which is used to provide publicly available telephone services. It supports the transfer between network termination points of speech communications, and also other forms for communication, such as facsimile and data;

3(a) of 51(I) of 2012. **“publicly available telephone service”** means a service available to the public for originating and receiving national and/or international calls, in a direct or indirect manner (i.e. that includes, inter alia, carrier selection / pre-selection, use of reseller services,), through a number or numbers included in the Telephone Numbering Scheme of the Republic of Cyprus or in an international phone numbering scheme;

3(a) of 112(I) of 2013. **“putting into service”** means the first use of the radio equipment in the European Union by the end user;

3(a) of 112(I) of 2016. **“radio communication”** means communication by means of radio waves;

3(a) of 112(I) of 2016. “**radio determination**” means the determination of the position, velocity and/or other characteristics of an object, or the obtaining of information relating to those parameters, by means of the propagation properties of radio waves;

3(b) of 112(I) of 2016. “**radio equipment**” means an electric or electronic product which intentionally emits and/or receives radio waves for the purpose of radio communication and/or radio determination, or an electric or electronic product which must be completed with an accessory, such as antenna, so as to intentionally emit and/or receive radio waves for the purpose of radio communication and/or radio determination;

3(a) of 112(I) of 2016. “**radio equipment class**” means a class identifying particular categories of radio equipment which, under the provisions of this Law, are considered similar and those radio interfaces for which the radio equipment is designed;

3(a) of 112(I) of 2016. “**radio interface**” means the specification of the regulated use of radio spectrum

3(b) of 112(I) of 2016. “**radio spectrum**” means radio waves in frequencies under 3000 GHz, propagated in space without artificial guide;

3(b) of 112(I) of 2016. “**radio waves**” or “**radio frequencies**” means electromagnetic waves in frequencies under 3000 GHz (three million megacycles per second), propagated in space without artificial guide;

“**registered item**” means a service providing a flat-rate guarantee against risks of loss, theft or damage of a postal item and supplying the sender, where appropriate upon request, with proof of receiving a postal item and/or of its delivery to the addressee;

“relevant market” means the product/service market as defined by the Commissioner in accordance with the relevant provisions of this Law. The relevant product/service market comprises all those products or services that are sufficiently interchangeable or substitutable, not only in terms of their objective characteristics, by virtue of which they are particularly suitable for satisfying the constant needs of consumers, their prices or their intended use, but also in terms of the conditions of competition and/or the structure of supply and demand on the market in question. Products or services which are only to a small or relative degree interchangeable with each other do not form part of the same market;

“retail market” means the market for services or products provided to end users;

“right of use” means the right to use numbers or the right to use radio frequencies;

“right of use of numbers” means the right granted by the Commissioner which gives the person to which it is granted rights to use the numbers;

3(g) of 51(I) of 2012. **“right of use of radio frequencies”** means the right granted by the Director which gives the person or the operator to which it is granted rights to use radio frequencies;

“selective incoming call barring” means a facility whereby a subscriber may request an electronic communications provider to bar incoming calls, using a simple means, where the presentation of the calling line identification has been prevented by the calling user or subscriber;

3(a) of 51(I) of **“selective outgoing call barring”** means a facility whereby a subscriber

2012. may request an electronic communications provider to bar outgoing calls of prescribed types or prescribed types of numbers, free of charge;

“**sender**” means the natural or legal person from which postal items originate;

4(o) of 160(I) of 2013. “**services provided at single piece tariff**” means postal services for which the tariff is set in the general terms and conditions of the universal service provider for individual postal items;

3(b) of 51(I) of 2012. “**shared access to the local loop**” means the provision to a beneficiary of access to the local loop or local sub-loop of the operator with significant market power, allowing the use of a specified part of the capacity of the network infrastructure, such as part of the frequency or an equivalent;

“**shared cost services**” means dial-up services where the caller pays only part of the cost of the call to the selected number;

3(a) of 112(I) of 2016. “**special rights**” means the rights granted by the Commissioner to a limited number of undertakings, through the provisions of this Law or any other relevant law or any regulatory or administrative mechanisms provided under the provisions of this Law or Regulations, Orders or Decision issued under the provisions of this Law or any other relevant law, which, within a given geographical area:

(a) limit to two (2) or more the number of such undertakings otherwise than according to objective, proportional and non-discriminatory criteria; or

(b) designate, otherwise than according to the criteria referred to in the provisions of paragraph (a), several competing undertakings; or

(c) confer on any undertaking or undertakings, otherwise than according to the aforesaid criteria, any legal or regulatory advantages which substantially affect the ability of any other undertaking to import, trade in, connect, put in operate and/or maintain telecommunications equipment in the same geographical area under substantially equivalent conditions;

4(g) of 160(I) of 2013. “**special licence**” means every licence which is granted by the Commissioner and which gives a postal service provider specific rights, or which subjects the said operator’s activities to specific obligations supplementing the general authorisation, where applicable;

“**specific obligations**” means obligations that may be imposed by the Commissioner on a person under the provisions of this Law;

3(l) of 51(I) of 2012. “**subscriber**” means a person who is party to a contract with a provider of publicly available electronic communications services or postal services for the supply of such services, as the case may be;

“**technical construction file**” means the file describing an apparatus and providing information and explanations as to how the applicable essential requirements have been implemented;

3(a) of 112(I) of 2016. “**technical specification**” means a document that prescribes technical requirements to be fulfilled by radio equipment;

“**telecommunications terminal equipment**” ~~deleted with 3(c) of 112(I) of 2016;~~

“**terminal dues**” means the remuneration of the universal postal service provider for the distribution of incoming cross-border mail comprising postal items from another country;

3(a) of 112(I) of 2016. “**terminal equipment**” means:

(a) equipment directly or indirectly connected to the electronic interface of a public telecommunications network to send, process or receive information; in either case (direct or indirect), the connection may be made by wire, optical fibre or electromagnetically; a connection is indirect if equipment is placed between the terminal and the electronic interface of the public network;

(b) satellite earth station equipment;

“**tone dialling**” means the capacity of the fixed public telephone network to support the use of dial tone multi frequency telephones for signalling to the exchange using tones as prescribed in the European Telecommunications Standards Institute (ETSI) ETR 207 and support the same tones for end-to-end signalling throughout the network, both within the Republic of Cyprus and in other countries;

4(d) of 160(I) of 2013. “**traffic data**” means any data processed for the purpose of the conveyance of a communication on an electronic communications network or for the billing thereof;

“**transmission**” means transmission which is wireline or wireless, direct or by satellite, with or without a code, and generally the transmission in any way of a radio or television signal destined for reception from the public;

3(f) of 51(I) of 2012. “**transnational markets**” means markets identified in accordance with the provisions of this Law, covering the European Community or a substantial part thereof, located in one (1) or more Member States;

“unbundled access to the local loop” means full unbundled access to the local loop and shared access to the local loop; it does not entail a change in ownership of the local loop;

3(a) of 112(I) of 2016. **“undertakings”**, for purposes of competition on the terminal equipment market, means public or private operators to whom the State confers special or exclusive rights to import, market, connect, put in operation or maintain telecommunications terminal equipment;

3(a) of 112(I) of 2016. **“Union harmonisation legislation”** means any Union legislation harmonising the conditions for the marketing of products;

4(h) of 160(I) of 2013. **“universal postal service”** means the minimum set of postal services specified in Section 119B of this Law, as that depends upon any differentiation, which may lead to the Commissioner from time to time in the light of technological developments or new conditions in accordance with the in force binding acquit of the European Union by decree issued pursuant to Section 20 (s) of this Law.

“universal service” means a minimum set of services, whether electronic communications services or postal services, as defined in this Law, of specified quality, which is available to all users regardless of their geographic location and, in the light of specific national circumstances in Cyprus, at an affordable price;

4(o) of 160(I) of 2013. **“universal service provider”** means every public or private postal service provider designated to provide the universal postal service or part thereof in the Republic, and whose identity has been notified to the European Commission pursuant to subsection (1) of Section 119A of this Law;

“universal telecommunications service provider” means the public provider or providers of electronic communications networks, which are designated by way of a law or under a law as providers of a universal electronic communications service or part thereof in the Republic;

3(b) of 51(I) of 2012. **“user”** means any natural or legal person that uses or requests a publicly available electronic communications service, for private or professional purposes, without necessarily being a subscriber to that service;

“value added service” means any service which requires the processing of traffic data or location data beyond what is necessary for the transmission of a communication or the billing thereof;

“voice telephony service” means a service to which the public has access for the commercial provision and direct transport of real time speech via the public switched network or network such that any user can use equipment connected to a network termination point at a fixed location to communicate with another user of the equipment connected to another termination point;

“week” means seven calendar days unless otherwise specified in the Law or unless the context otherwise requires;

“wide-screen television service” means a television service that consists wholly or partially of programmes produced and edited to be displayed in a full height wide-screen format. The 16:9 format is the reference format for wide-screen television services;

3(a) of 112(I) of 2016. **“withdrawal”** means any measure aimed at preventing radio equipment in the supply chain from being made available on the market;

(2) Words or expressions which are used in this Law and are also used in the binding Community Law have, save where the context otherwise requires, the same meaning in this Law as in the binding Community Law.

(3) Any reference in this Law to a Community Act means such Community act as from time to time amended or replaced.

(4) In this Law, save where the context otherwise requires –

(a) the terms “**dominant position**”, “**abuse of a dominant position**” and “**collusion**”, have the meaning assigned to them by the Protection of Competition Law;

(b) the term “public service” has the meaning assigned to it by the Public Service Law, Sections 90 to 96.

(5) Unless otherwise specified, terms used in Part 14 of this Law have the meaning assigned to them by the Processing of Personal Data (Protection of the Individual) Law.

PART 2
APPOINTMENT OF COMMISSIONER AND DEPUTY
COMMISSIONER OF ELECTRONIC COMMUNICATIONS
AND POSTAL REGULATION

Appointment
of
Commissioner
and Deputy
Commissioner
of Electronic

5.(1) Upon consultation with the Parliamentary Committee on European Affairs, the Council of Ministers shall appoint as Commissioner of Electronic Communications and Postal Regulation, for a period not exceeding six years, a person of the highest moral and professional

standards, having experience and demonstrated capacity in matters related to one or more of the following: industry, politics, public finances and economics in general, finance, engineering, accountancy, commerce or law.

(2) Upon consultation with the Parliamentary Committee on European Affairs, the Council of Ministers shall appoint as Deputy Commissioner of Electronic Communications and Postal Regulation, for a period not exceeding six years, a person of the highest moral and professional standards, having experience and demonstrated capacity in matters related to one or more of the subjects mentioned in subsection (1), in order to advise and assist the Commissioner in the performance of his competences, powers and duties, in such manner as the Commissioner may from time to time decide, and to carry out any other duties entrusted to him under this Law.

(3) The Council of Ministers shall not appoint as Commissioner or Deputy Commissioner, a person who-

(a) with regard to the intended appointment of Commissioner, has already been previously appointed twice as Commissioner or Deputy Commissioner, or once as Commissioner and once as Deputy Commissioner; or

(b) with regard to the intended appointment of Deputy Commissioner, has already been previously appointed twice as Commissioner or Deputy Commissioner or once as Commissioner and once as Deputy Commissioner; or

(c) for any length of time within a period of six months immediately preceding his appointment and without prejudice to the impediments to

appointment prescribed in paragraph d(i) of the present subsection, with regard to his employment as an officer or employee or in any other capacity in any provider mentioned in the subsection in question, held or holds any office whose remuneration is under the control of the Republic, other than that of the Commissioner or Deputy Commissioner or temporary officer acting as Deputy Commissioner, according to the provisions of subsection (3) of Section 5, or

(d) for any length of time during the five years immediately preceding the intended appointment-

(i) has worked or works, either as chairperson or member of the board of directors, or as employee or in any other capacity, or for any public or non-public provider of an electronic communications network or of postal services, including the Cyprus Post, and whether as a member of its board of directors or as an employee or in any other capacity; or

(ii) has worked or works for any provider, company, organisation or authority, which had or has an interest or was or is involved in the electronic communications or postal sector or undertakings; or

(iii) had or has any direct or indirect interest in any provider, company, organisation or authority referred to in subparagraphs (i) or (ii) above, or was or is receiving a pension or remuneration or other payments from any such provider, company, organisation or authority, or held or holds, or had or has an interest in any shares, bonds, debentures or other form of security of any such provider, company, organisation or authority; or

(iv) held or holds an office in a political party or is known, or it is widely

believed, that he had or has political connections or is involved in the activities of a political party.

(4) In the absence of any fact which, according to the provisions of any of the subparagraphs of (i), (ii), (iii) and (iv) of paragraph (d) of subsection (3) of this Section, constitutes an impediment to the appointment of a person as Commissioner or Deputy Commissioner, the mere fact that a person holds or held at any time within a period of six months immediately preceding the intended appointment, any position as public servant in the public service or as an employee in a legal entity or a body governed by public law within the meaning of paragraph (c) of subsection (3) of Section (5) of this Law or serves or has served as a member of the Judicial Service of the Republic or as an independent officer thereof from amongst those mentioned in Part VI of the Constitution of the Republic, does not constitute in itself an impediment to appointment under paragraph (c) of subsection (3) of this Section.

(5) Before undertaking their respective duties, the Commissioner and the Deputy Commissioner shall give their assurances to the President that they shall faithfully perform their duties.

Removal
of
Commissioner
and Deputy
Commissioner.

6.(1) The Commissioner and Deputy Commissioner may only be removed from office before the expiry of the respective period for which they were appointed by the Council of Ministers and only on the basis of any of the following specific grounds:

(a) owing to mental or physical incapacity or disability, or any other disease without exception, which would render the Commissioner or the Deputy Commissioner, as the case may be, incapable of adequately performing his duties for the remainder of his term of office; or

(b) owing to improper behaviour or systematic absence or negligence in the performance of his duties; or

(c) owing to behaviour inconsistent with the office of Commissioner or Deputy Commissioner, according to subsection (3) of this Section; or

(d) owing to the discovery of an event that would impede his appointment pursuant to subsection (3) of Section 5 of this Law or owing to the occurrence of an event which, pursuant to the said Section, had it preceded the appointment, would constitute an impediment to such appointment.

(2) The Commissioner and the Deputy Commissioner, as the case may be, shall cease to hold office if they submit their resignation in writing to the Council of Ministers.

The resignation may not be revoked and shall take effect immediately without requiring its prior acceptance by the Council of Ministers.

(3) In any event, the following are considered as behaviour inconsistent with maintaining the office of Commissioner or Deputy Commissioner-

(a) the acceptance of an office whose remuneration is dependent upon the supervision of the Republic, or the acceptance or maintenance of any position or capacity in the public service, or in a municipality, or in any legal person or body governed by public law, which is referred to or falls within the provisions of paragraph (c) of subsection (3) of Section 5 of this Law; or

(b) the employment, or acceptance of employment at any provider, company, authority or organisation referred to in subparagraphs (i) and (ii) of paragraph (c) of subsection (3) of Section 5 of this Law or the receipt of pension or

remuneration or other payment by any such provider, company, authority or organisation, or the acquisition of any direct or indirect interest or any shares, bonds, debentures or other form of security therefrom; or

(c) the acceptance of any political office or connection with or involvement in political parties or party affairs according to the prevailing impression amongst the public in general, or

(d) the acceptance or maintenance of employment at any work, office or position, anywhere in the private sector, for remuneration of any kind, or under circumstances in the light of which remuneration is reasonably expected, irrespective of whether or not it is paid.

Performance of
duties in the
case of
permanent or
temporary
incapacity of
the
Commissioner
or Deputy
Commissioner.

7.(1) In the case of removal or resignation of the Commissioner in accordance with Section 6, death, permanent absence or other permanent impediment in the exercise of his competences, powers and duties under this Law, the competences, powers and duties of the Commissioner shall be temporarily exercised by the Deputy Commissioner, until the Council of Ministers proceeds to the appointment of another Commissioner for the remainder of his term of office, in accordance with the provisions of subsections (1) and (3) of Section 5 of this Law.

(2) In the case of temporary absence, illness, mental or physical incapacity or disability or other temporary impediment rendering the Commissioner incapable, for a short period of time, of exercising his competences, powers and duties under this Law, the said competences, powers and duties shall be temporarily exercised by the Deputy Commissioner.

(3) In the case of removal or resignation of the Deputy Commissioner in accordance with Section 6 of this Law, death, permanent absence or other permanent impediment in the exercise of his competences, powers and duties

under this Law, the Council of Ministers shall, in accordance with subsections (2) and (3) of Section 5, appoint another Deputy Commissioner for the remainder of his term of office.

(4) If, on the one hand, the appointment of the Commissioner or Deputy Commissioner pursuant to this Section takes place before the completion of one half of the term of office of the replaced Commissioner or Deputy Commissioner, it shall be considered for the purposes of paragraphs (a) or (b) of subsection (3) of Section 5 to be an appointment of a Commissioner or Deputy Commissioner, whereas on the other hand, if it takes place after the completion of one half of the term of office of the replaced Commissioner or Deputy Commissioner, it shall not be taken into account for the purposes of the said provisions.

Emoluments etc. of the Commissioner and Deputy Commissioner and their retirement bonus.	8.(1) The emoluments of the Commissioner, including any other benefits and allowances, shall be determined by decision of the Council of Ministers.
4(a) of 51(I) of 2012. 2(a) of 77(I) of 2014.	(2) When he shall cease to hold office, the Commissioner shall be entitled to a pension and a bonus, to be determined by decision of the Council of Ministers. The end of a term of office shall not be considered as removal if the holder of the office is appointed again for the immediately following period as Commissioner or Deputy Commissioner.
2(b) of 77(I) of 2014. 4(b) of 51(I) of 2012. 2(c) of 77(I) of 2014.	(3) The emoluments of the Deputy Commissioner, including any other benefits and allowances, shall be determined by decision of the Council of Ministers.
2(d) of 77(I) of 2014.	(4) When he shall cease to hold office, the Deputy Commissioner shall be

entitled to a pension and a bonus, to be determined by decision of the Council of Ministers. The end of a term of office shall not be considered as removal if the holder of the office is appointed again for the immediately following period as Commissioner or Deputy Commissioner.

2 of 84(I) of 2005. (4A) During their term of office and after the end thereof, the Commissioner and the Deputy Commissioner, as well as their dependent persons, shall be entitled to be covered by the Healthcare Fund referred to in Section 16(3)(c)(i) of this Law, according to the provisions of Regulations issued thereunder.

(5) The service of the Commissioner and Deputy Commissioner does not fall within the public service.

Obligations of the Commissioner and Deputy Commissioner when they cease to hold office. 9.(1) During their term of office and for a period of three years after the loss of office for whatever reason or following the end of their term of office, the Commissioner and the Deputy Commissioner are not permitted to be employed, to acquire or hold any share, bond, debenture or generally any interest, in any public or non-public electronic communications network/services or postal services provider or, in any event, to accept during their term of office or give orders or directions to the Office to accept any grant by any such provider or a grant not provided by the Government of the Republic of Cyprus or the European Union or an international organisation, in accordance with the provisions of Section 11(b) of this Law.

5 of 51(I) of 2012. (2) A person who contravenes the provisions of subsection (1) or any of them shall be guilty of a criminal offence and shall be liable to imprisonment not exceeding three years or to a fine not exceeding eight thousand five hundred euros (€8,500) or to both such penalties.

PART 3

ESTABLISHMENT AND OPERATION OF THE OFFICE OF THE COMMISSIONER

Establishment and independence of the Office 10.(1) The Office of the Commissioner of Electronic Communications and Postal Regulation (hereinafter the "Office"), which shall have its own separate legal personality, is hereby established.

(2) The Office does not come under any Ministry.

(3) The Commissioner shall head the Office.

(4) The Office shall be staffed, managed and shall operate in accordance with this Law and any regulations issued thereunder.

6(a) of 51(I) of 2012. (5) The Office shall, in any event, provide to the Commissioner and Deputy Commissioner every possible facilitation, as may be considered from time to time necessary by the Commissioner in view of the exercise of his competences and powers and the performance of his duties, and shall collect and, subject to the provisions of Sections 11 and 12, manage all amounts paid in pursuance of this Law or its regulations.

(6) The staff of the Office shall act in accordance with the instructions or directions of the Commissioner.

(7) In any event, and without prejudice to other subsections of this Section, the Commissioner shall exercise supervision and control over the Office and its staff.

6(b) of 51(I) of (8) The Commissioner shall take all appropriate measures and all necessary

2012. actions to ensure the sufficiency of the financial and human resources at his disposal in view of the performance of the duties assigned to him.

Powers of the Office of the Commissioner in relation to the acquisition, disposal and investment of property.

11. In order to fulfil any instruction of the Commissioner and in accordance with any terms and conditions that the Commissioner may think expedient to set out, the Office may-

(a) acquire by purchase, exchange, donation or in any other manner, movable and/or immovable property-

- (i) for the housing and operational needs of the Commissioner,
- (ii) for the housing and operational needs of the Office;

7(a) of 51(I) of 2012.

(b) accept the provision of grants to the Office and the Commissioner, from the European Union or from an international organisation, provided the latter is not a public or other electronic communications network or electronic communications services or postal services provider, and in any event, has no involvement or any direct or indirect interest in any such provider or in undertakings of electronic communications or posts;

(c) sell, exchange, lease, assign or in any other way dispose of any movable or immovable property of the Office and to mortgage or charge the said property for the needs of the Office or the Commissioner;

(d) to take on lease and/or obtain a licence for the use of any movable or immovable property for the housing and operational needs of the Office and the Commissioner;

7(b) of 51(I) of 2012.

(e) with the consent of the Commissioner, to enter into loans as are necessary for the realisation of anything which is contained in paragraphs (a), (c) and (d) above;

7(c) of 51(I) of 2012. (f) enter into contracts and do all such other things as are necessary for the fulfilment of paragraphs (a) to (e) above or that shall contribute to their fulfilment.

Fund of the Office of the Commissioner. 12. The Office shall have a separate Fund, in which it shall be mandatory to deposit-

(a) all amounts payable and receivable by the Office pursuant to this Law and/or regulations or orders issued thereunder;

(b) all grants provided to the Commissioner or to the Office under paragraph (b) of Section 11 of this Law and all other income received under this Law;

(c) all revenues deriving from property assets of the Office according to Section 11,

(d) **Deleted with 8 of 51(I) of 2012.**

Payment by the Government to the Office of salaries etc. of the staff of the Office. 13. **Repealed with 9 of 51(I)/2012.**

Payments from the Fund of the Office. 14. The following shall be paid out of the Fund of the Office-

(a) **Deleted with 10 of 51(I)/2012**

(b) all running expenses for the operation of the Office;

(c) all amounts of salaries, emoluments, benefits and pensions payable to the members of staff of the Office and all amounts of benefits and pensions payable, according to Section 16(3)(b), to the dependent persons and families of such members, and all the amounts of fees payable under contracts for the provision of services which have been entered into by the Commissioner under Section 15 of this Law, as well as all contributions, which are payable to the funds referred to in Section 16(3)(c) of this Law, in accordance with the provisions of Regulations issued thereunder.

(d) all expenses incurred for each appointment by the Commissioner of an Advisory Body under Section 32(2) of this Law, or generally any Advisory Body or Committee under the provisions of this Law as well as all expenses incurred in the establishment of the Advisory Committee under subsection (1) of this Section;

(e) the amortisation for any loan raised by the Office under Section 11(e) of this Law;

(f) any amount legally due or payable, under any contract entered into by the Commissioner or by the Office, pursuant to this Law and/or regulations or orders issued thereunder;

(g) any legal expenses or fees which are legally due or payable in connection with the representation of the Office and the Commissioner before the courts or before any administrative or other authority, or in connection with the provision of legal advice to the Office and the Commissioner;

(h) any amount which shall become legally payable as a result of the exercise of any competence or power or the performance of any duty of the Commissioner or the Office, under and pursuant to this Law or regulations or orders issued thereunder;

3 of 113(I) of 2007. (i) all sums collected as an administrative fine under this Law shall be paid by the Commissioner's Office to the Treasury of the Republic;

3 of 113(I) of 2007. (j) all the funds which the Commissioner's Office has an obligation in the exercise of his powers under this Law to pay damages under any judicial decisions or out-of-court settlements, payable by the Treasury of the Republic.

Obtaining of services by the Commissioner.

15. Notwithstanding the provisions of any other Law, Regulations, Orders and Decisions in force at the time, the Commissioner may-

(a) himself secure direct services in matters related to the exercise of his competences and powers and the performance of his duties under this Law or the training of the staff of the Office; and

(b) for the above purposes, enter into contracts for the provision of services.

Staff of the Office of the Commissioner.

16. (1) Regarding matters of appointments, promotions and disciplinary control of the staff of the Office, a three-member Council is hereby established. It shall be called "Selection and Promotions Council" and shall comprise-

(a) the Commissioner, as chairman;

(b) the Deputy Commissioner; and

(c) the Chairman of the Advisory Committee, who is appointed under Section 32(1)(b) and who, in case of impediment, is substituted by one of the two members of the Advisory Committee who is appointed by the

Commissioner.

(2) The members of staff of the Office shall be appointed by the Selection and Promotions Council, either permanently or under a contract, for a specified period of time, according to the provisions and procedures specified in regulations issued under this Law.

(3) (a) Regulations issued under this Law may specify, regulate and provide for procedures and other matters concerning the permanence of staff, promotions, terms of service, categories of positions and the retirement of the members of staff of the Office, as well as for the disciplinary code and the exercise of disciplinary authority.

(b) The retirement bonuses of the members of staff of the Office who hold a permanent position, and the bonuses and pensions of the dependent persons and the families of such members are governed, *mutatis mutandis*, by the provisions of the Pensions Law in force at the time.

6 of 84(I) of 2005.

(c) Without prejudice to paragraph (b), Regulations issued under this Law may determine, regulate and provide for the establishment of:

(i) a Healthcare Fund to cover the members of staff of the Office, during and after their service at the Office, as well as the dependent persons of such members;

(ii) a Provident Fund for Hourly Paid Staff to cover the hourly paid staff of the Office, during their service at the Office.

(4) The duties, responsibilities and qualifications of the members of staff of the Office shall be prescribed by the service schemes, drawn up by the Commissioner with regulations, issued by the Commissioner with the

approval of the Council of Ministers and the House of Representatives.

(5) The organisational structure of the Office shall be prescribed in the annual budget of the Commissioner in force at the time.

Representation of
the Office and the
Commissioner.

17. (1) The Office may sue or be sued and be a party in any civil proceedings.

(2) In any proceedings before the courts or any administrative or other authority, the Office and the Commissioner, as the case may be, shall be represented by a practising lawyer and/or by a member of staff of the Office. It shall fall within the Commissioner's competence to choose a lawyer or a member of staff.

(3) The Office shall have its own seal.

(4) Every contract entered into by the Office under this Law, shall be signed by the member of staff of the Office designated for this purpose by the Commissioner, and shall bear the seal of the Office, certified by the signature of the Commissioner or Deputy Commissioner.

5 of 160(I) of 2013.
Competences of the
Minister.

17A. (1) The Minister shall exercise the following powers to the postal services sector:

(a) establish the general policy framework for the provision of postal services;

(b) entrust the provision of universal service in accordance with the procedure laid down in Section 119A of this law, to the universal service provider;

(c) determine by decree the selection criteria and the procedure for the

designation of the postal service provider who shall provide the universal service, after having informed the Communications and Works Parliamentary Committee.

(2) The provisions of this Law and the authorities vested with the powers resulting from the application of this Law, shall be communicated to the European Commission through the Commissioner.

PART 4

GENERAL DUTIES OF THE COMMISSIONER

Obligation of the Commissioner to promote certain objectives.

18. (1) In the exercise of his competences and powers and the performance of his duties under this Law, the Commissioner shall act in such manner as to promote:

11(a) of 51(I) of 2012.

(a) the provision in Cyprus of electronic communications services and networks, associated facilities and postal services for the public as a whole;

(b) the interests of consumers, with particular reference to the price and quality of electronic communications and postal services provided in Cyprus;

(c) the introduction of effective competition in the provision of electronic communications networks and services and postal services;

(d) the capability to provide or dispose of a wide range of electronic communications equipment and services.

(2) To this end, the Commissioner shall take the utmost account of the criteria listed in Section 49 of this Law in determining the scope and nature of the regulatory obligations that must be adopted to address the lack of

effective competition in the relevant markets.

11(b)(i) of 51(I) of 2012. (3) Beyond the exercise of his powers in the context of market review under Part 9 of this Law, the Commissioner shall also promote the interests of the citizens of Cyprus and of the European Union by, *inter alia*:

(a) ensuring that all citizens have access to a universal service in Cyprus, in accordance with the provisions of this Law;

(b) ensuring a high standard of protection for consumers in their dealings with providers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures undertaken by a committee that is independent of the parties involved;

(c) contributing to ensuring a high standard of protection of personal data and privacy;

(d) promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services;

11(b)(ii) of 51(I) of 2012. (e) addressing the needs of specific social groups, in particular disadvantaged users with special needs; and

11(b)(iii) of 51(I) of 2012. (f) ensuring that the integrity and security of electronic communications networks and information security including the protection of critical infrastructures information are maintained;

11(b)(iv) of 51(I) of 2012. (g) promoting the ability of end users to have and to notify information or run applications and services of their choice;

- 11(b)(iv) of 51(I) of 2012. (h) ensuring that there is no distortion or restriction of competition in the electronic communications sector, including the transmission of content;
- 11(b)(iv) of 51(I) of 2012. (i) by actively supporting the goals of BEREC for the promotion of greater regulatory coordination and coherence;
- 11(b)(iv) of 51(I) of 2012. (j) taking the utmost account of opinions and common positions adopted by BEREC when adopting its decisions in relation to the markets of the Republic of Cyprus;
- 11(b)(iv) of 51(I) of 2012. (k) encouraging the efficient and effective use of numbering resources;
- 11(b)(iv) of 51(I) of 2012. (l) encouraging the creation and development of pan-European networks and services.
- 4 of 112(I) of 2016. (m) encouraging the harmonisation of the technical standards of a specific type of radio equipment of certain categories and classes set out in the provisions of subsection (1) of Section 76, which falls within the competence of the Commissioner;
- 4 of 112(I) of 2016. (n) ensuring and promoting competition in the terminal equipment markets;
- 4 of 112(I) of 2016. (o) establishing the regulatory framework for the availability of the radio equipment on the market and its operation in the European Union;
- 4 of 112(I) of 2016. (p) ensuring compliance with essential requirements in certain categories or classes of radio equipment set out in the provisions of Section 81.
- 11(c) of 51(I) of 2012. (4) The Commissioner shall implement, in pursuit of the policy objectives referred in this Law, objective, transparent, non-discriminatory and

proportionate arrangements, designed, among others:

- (a) to promote regulatory certainty, ensuring a consistent and uniform regulatory approach;
- (b) non-discrimination in the treatment of providers of electronic communications networks and services;
- (c) to ensure competition to the benefit of consumers and promoting, where applicable, infrastructure-based competition;
- (d) to promote efficient investment and innovation in new and enhanced infrastructure, taking account, where the access obligation is imposed, the risks taken by the investing undertakings and by permitting various cooperative arrangements between investors and operators seeking access to share the investment risk while safeguarding competition in the market and the principle of non-discrimination,
- (e) at the inclusion of conditions relating to competition and consumers in the various geographic areas of the same Member State,
- (f) to impose ex-ante regulatory obligations only where there is no effective and sustainable competition and removing these obligations when that condition is fulfilled.

Manner of exercise
of competences and
powers and of
performance of
duties of the
Commissioner.

19. (1) In the exercise of his competences and powers and the performance of his duties, the Commissioner must act impartially and independently, applying the framework of general policy in force from time to time and which may be communicated to him by the Minister, and shall be subject only to the competence of the Council of Ministers in connection with issues of defence and security of Cyprus.

(2) In those cases where the Minister, following meetings and deliberations with the Commissioner, determines or revises the framework of general

policy in relation to electronic communications and posts, the Minister must publish the revised or modified framework in the Official Gazette of the Republic.

3 of 134(I) of 2007.

(3) (a) Without prejudice to paragraph (b) of this subsection and subsection (2) of Section 28 and subsection (11) of Section 41, the Commissioner must request and take into account the opinion of the Advisory Committee before exercising any of the competences and powers referred to in Section 20, except —

3 of 104(I) of 2016.

(i) the competences and powers referred to in paragraphs (c), (e), (g), (j), (n), (s), (t)(ii) and (bb) of Section 20;

(ii) the competences and powers provided for in paragraph (f) of Section 20, except for the preparation, modernisation and publication of the numbering scheme and relevant publication procedures;

(iii) the competences and powers specified in paragraph (z) of Section 20 relating to the administrative functioning of the Office:

Provided that the duty of the Commissioner to request and take into account the opinion of the Advisory Committee before exercising any of his competences and powers provided for in paragraph (y) of Section 20 shall embody an obligation to request and to take into account the opinion of the Advisory Committee on policy issues contained in the agenda of meetings of international organisations.

(b) The Commissioner shall have the power to exercise any of his competences and powers referred to in Section 20 without taking into consideration the opinion of the Advisory Committee, in the event that the Advisory Committee does not communicate its opinion within the timeframe prescribed by the Commissioner according to Section 32(1)(i).

PART 5
COMPETENCES, POWERS AND DUTIES
OF THE COMMISSIONER AND EXERCISE THEREOF

- Provision of 20. It is the competence and power of the Commissioner, *inter alia*, to –
competences,
powers and (a) advise the Minister on matters concerning electronic communications and
duties to the posts in Cyprus;
Commissioner.
- (b) apply to electronic communications and posts the general policy framework
which is to be followed from time to time and which may be communicated to
him by the Minister, within the framework of the meetings and consultations
between them provided for in Section 19(2);
- 5 of 112(I) of (c) ensure that:
2016.
- (i) the radio equipment within certain categories or classes as provided in Section
81 shall be so constructed that it complies with the essential requirements
thereof and for this purpose the Commissioner may cooperate with all
competent authorities for its supervision and surveillance; and
- (ii) the terminal equipment fulfils the national and international standards;
- (d) prescribe and publish by Order or Decision quality standards for any
provider of electronic communications networks and/or services and postal
services, as the case may be, and supervise and ensure that such provider
complies with the aforesaid standards, and order the adoption of corrective
measures;
- 12(a) of 51(I) of (e) register a person that notifies him of its activity in the sector of electronic
2012. communications networks and/or services and grant a licence, where the Law
sets out the obligation to obtain a licence from the Commissioner, for the

creation and/or establishment and/or provision of electronic communications networks and/or the provision of electronic communications and/or postal services and networks, and perform all necessary acts in view of the efficient management of such a licensing regime;

(f) prepare, update and publish the Numbering Scheme of the Republic of Cyprus and determine the procedure for the assignment and use of numbers, on the basis of objective, transparent and non-discriminatory criteria, as well as any other matter concerning the assignment of numbers and the publication of relevant procedures;

12(b) of 51(I) of 2012. (g) regulate by Order or Decision matters related to internet domain names ending in «.cy» and any other names administered by or concerning the Republic of Cyprus.

(h) designate operators with Significant Power in a specific electronic communications market and impose regulatory obligations for the enhancement of competition, in cases where it is deemed that competition in that relevant market is not effective. For this purpose, the Commissioner shall issue an Order specifying the procedure to be followed by the Commissioner for the designation of operators with Significant Market Power and the subsequent imposition of regulatory measures;

12(c) of 51(I) of 2012. (i) exercise his competences with respect to the requirements of universal service, according to this Law, by issuing any Order or Decision required for this purpose;

(j) maintain a website, updated on a regular basis, which includes regulatory texts, Decisions, reports, consultations and information that contribute to the establishment of an open and competitive market, as well as maintain a registry of electronic communications networks and services providers and of postal services providers authorised to provide such networks and/or services in the territory of Cyprus. In this regard, the Commissioner shall also maintain a

Registry that contains all necessary information that reflects the current status of the electronic communications and postal markets in Cyprus;

(k) regulate by Order or Decision access and interconnection, in accordance with the principle of proportionality, ensuring that appropriate levels of access and interconnection are available and that interoperability of services is achieved, in a manner that is in line with the aims of economic efficiency and functional competition and provides maximum benefit to end users. To this end, the Commissioner may prescribe the terms for the interconnection and access of electronic communications networks;

12(d) of 51(I) of 2012. (l) regulate by Order or Decision all consumer protection issues related to the electronic communications sector. To this end, the Commissioner may cooperate and consult with competent consumer organisations, users and services providers;

(m) provide his services for the resolution of disputes that arise, *inter alia*, between providers of electronic communications networks and/or services and between postal services providers;

(n) require, when acting in the context of a specific competence, that providers of electronic communications networks or services supply any relevant technical, financial and legal information, while respecting the principle of proportionality;

(o) issue any Decision and Order, including interim measures, with respect to matters falling within his competence;

(p) designate by Decision one or more electronic communications networks providers as the universal service providers;

(q) prescribe and regulate by Decision the framework of charges, including the minimum and/or maximum price levels required to ensure legitimate and

healthy competition, and the principles of transparency and cost-orientation of any electronic communications networks provider and/or public electronic communications services provider, which has been designated by the Commissioner as universal service provider, including providers of fixed voice telephony services, or those designated by him as holding a position of Significant Market Power in the relevant market, in the exercise of his competence as set forth in Part 9 of this Law;

12(e) of 51(I) of 2012. (r) prescribe and regulate by Decision, the appropriate framework of fees, including the minimum and/or maximum price levels required to ensure legitimate and healthy competition for each provider of universal postal service in Cyprus;

6(a) of 160(I) of 2013.

(s) broaden or modify, from time to time, in the light of technological developments and/or new circumstances and/or the binding law of the European Union in force at the time, the minimum bundle of electronic communications and/or postal services in force at the time prescribed under this Law, which consists in the universal service for electronic communications and postal services respectively;

- 6(b) of 160(I) of 2013. (t) impose administrative fines or other penalties, in the cases prescribed in this Law and/or in Orders and/or Decisions and/or Regulations of the European Union in relation to non-compliance with the provisions of this Law and/or the Orders and/or Decisions and/or Regulations of the European Union and/or Decisions of the European Union, within the meaning attributed to these terms in the Law on the Implementation of Community Regulations and Community Decisions of 2007 and prescribe by Order the level of such fines and penalties and the procedures by which they are imposed;
- 78(I) of 2007.
- 4 of 134(I) of 2007. (t)(i) establish the general policy framework for providing information to consumers on matters of electronic communications and posts;
- (ii) keep the general public informed on all matters relating to electronic communications and posts;
- 12(f) of 51(I) of 2012. (u) invite, where required, the submission of applications for the grant of individual rights of use of numbers;
- (v) prescribe by Orders procedures and criteria in connection with the granting of licences for the provision of postal services;
- (x) issue whichever Order and/or Decision he has competence to issue under this Law;
- 12(g) of 51(I) of 2012. (y) cooperate with National Regulatory Authorities of the other Member States, as well as international organisations and represent Cyprus in international organisations, participate in BEREC and in meetings concerning matters within his competence, unless otherwise provided for in international agreements;
- (z) exercise any other competences, powers and duties conferred upon him under the provisions of this Law or the Regulations and Orders issued thereunder;

12(h) of 51(I) of 2012. (aa) contribute to the development of the internal market working jointly with the European Commission and BEREC, in a transparent manner, in order to identify appropriate regulatory means and measures to address specific situations on the market, with the aim of ensuring a harmonised approach in the implementation of regulation in the electronic communications sector;

4 of 104(I) of 2016. (bb) manage the single information point referred to in Sections 62B, 96D and 96E.

5 of 104(I) of 2016. Measures to reduce the cost of deploying high-speed electronic communications networks. 20A. (1) With the aim of facilitating and incentivising the roll-out of high-speed electronic communications networks, the Commissioner shall promote the joint use of existing physical infrastructure and enable a more efficient deployment of new physical infrastructure so that such networks can be rolled out at lower cost.

(2) Sections 62A, 62B, 62C, 62D, 96C, 96D and 96E establish minimum requirements relating to technical projects and physical infrastructure.

(3) Sections 62A, 62B, 62C, 62D, 96C, 96D and 96E apply subject to the regulatory framework on electronic communications defined in this Law, including the asymmetric regulatory measures imposed on persons with Significant Power, in accordance with the procedure specified in Part 9 and subject to the symmetric regulatory measures imposed under the provisions of subsection (2) of Section 55.

(4) Notwithstanding any other relevant law, Sections 62A, 62B, 62C, 62D, 96C, 96D and 96E apply to network operators.

(5)(a) The Commissioner shall have competence to perform the duties of the single information point referred to in Sections 62B, 96D and 96E.

(b) In order to cover the cost of performing such duties, the Commissioner may allow the imposition of charges for the use of the single information points.

General obligation. 13 of 51(I) of 2012. 21. In the exercise of all of his competences under this Law, the Commissioner has a duty to ensure that the aforesaid exercise respects the principles of transparency, equal treatment, objectivity and proportionality.

Association between the Commissioner's competences and competition rules. 14 of 51(I) of 2012. 22. (1) In exercising his competences under this Law with respect to the providers of electronic communications networks and services and postal services, the Commissioner has the authority and the right, as provided for in the Protection of Competition Law in force at the time, to exercise competition law powers of fact-finding following consultation with the Commission for the Protection of Competition. To this end, he may audit books, information and other documents of electronic communications and postal services undertakings, as well as order research in the offices and other establishments of the latter. The relevant provisions and penalties of the law on the protection of competition in force at the time shall apply *mutatis mutandis* and in parallel with the relevant provisions of this Law in those cases where a person or an undertaking refuses to provide evidence or obstructs the work of the Commissioner, subject to the provisions on the imposition of penalties provided for in this Law. The Commissioner may, for the effective implementation of this provision, hire independent experts with specialised financial and/or technical and/or legal knowledge.

(2) The Commissioner shall issue decisions under this Section and under Part 9 of this Law, only following consultations with the Commission for the Protection of Competition.

Special considerations in calculating costs. 23. (a) For the purpose of exercising his competence and powers to examine and decide, under Section 20(k) in relation to interconnection agreements to be concluded, whether the amounts of fees foreseen in the agreements are justified, and define and regulate by Orders under Section 20 (q) and (r), the framework

- 15(a)(i)(ii)(iii) of 51(I) of 2012. of charges and fees including the minimum and/or maximum price levels of electronic communications services and/or networks providers, and of the universal postal service provider, as the case may be, the Commissioner may examine and take into consideration the level of efficiency in the offer of services and/or networks.
- 15(b) of 51(I) of 2012. (b) For the purposes of exercising his power under paragraph (a), the Commissioner may examine the relevant accounts of the electronic communications networks and/or services providers and of the universal postal service provider, as the case may be, including, *inter alia*, their capital and operating expenses, as well as any cost related, directly or indirectly, to the provided services and/or networks.
- 15(c) of 51(I) of 2012. (c) The Commissioner may, in any case, decide, upon considering the evidence referred to in paragraph (b) in relation to service provision agreements to be concluded, that the foreseen amounts of fees are not justified, and not adopt the recommendations or opinions of electronic communications services and/or networks providers and of the universal postal service provider, in relation to the issue of Orders prescribing and regulating the framework of their charges and fees, including their minimum and maximum price levels.
- Circumstances in which public hearings are required. 24. (a) The Commissioner must, prior to the exercise of the following competences and powers, conduct public hearings in which all providers directly affected from such exercise have the right to participate:
- 7(a) of 160(I) of 2013. (i) in relation to the issue of Orders aimed to determine and regulate the framework of charges and fees, including the minimum and maximum price levels of the providers of electronic communications services and/or networks and/or the universal postal service provider, as the case may be, under Section 20(q) and (r);
- 7(b) of 160(I) of 2013. (ii) in relation to the decision as to whether the fees foreseen in agreements for interconnection, use of facilities and access to the electronic communications

networks or to the postal services network regarding the use of facilities and access are justified under Section 23(a);

(iii) in relation to the issue of an Order on the broadening or other modification of the minimum bundle of electronic communications and/or postal services in force at the time, under Section 20(s).

(b) Orders may prescribe the manner in which public hearings are conducted according to paragraph (a) and the procedure of notification and invitation of persons thereto.

PART 6

16 of 51(I) of 2012

OBTAINING INFORMATION, OTHER POWERS, ORDERS, ENQUIRIES, ADVISORY COMMITTEE AND BODIES

Obtaining information. 25. (1) To ensure the better exercise of his competences and powers set forth in Part 5 of this Law, the Commissioner may-
17(a)(i) of 51(I) of 2012. (a) require that electronic communications networks and/or electronic communications and postal services providers supply such information and submit statements and reports in relation to their operations at such intervals and in such form as the Commissioner may from time to time prescribe, including a specific timeframe for the submission of the required information and the extent of detail of such information. The required information, including information of legal, technical, financial and commercial nature, shall be used by the Commissioner to ensure compliance of the provider with their obligations as they derive from the provisions of this Law and the provisions of the Commissioner's Orders and Decisions issued in application of this Law;

17(a)(iii) of 51(I) of 2012. (b) order any person providing electronic communications networks and/or services to submit information regarding their future plans for the development of networks and services that could affect wholesale services offered to other providers. The Commissioner may require persons designated as operators with Significant Power in the relevant wholesale market, to submit financial information regarding retail markets related to the corresponding wholesale markets in which they have been designated as providers with Significant Power.

17(a)(iv) of 51(I) of 2012. (c) order any person providing postal service networks and/or services to submit information regarding their future plans for the development of networks and services that could affect wholesale services offered to other providers. The Commissioner may also require the universal postal service provider to submit financial information regarding retail services related to wholesale services.

17(b)(i) of 51(I) of 2012. (2) (a) Persons required to submit information under the previous subsection must respond in time and to the extent of detail requested by the Commissioner.

17(b)(ii) of 51(I) of 2012. (b) Every provider of electronic communications networks or services and postal services shall provide to the Commissioner all information under subsection (1) of this Section, following his reasoned request, and according to the timeframe and extent of detail specified in such request.

(c) In case of non-compliance of a person with the relevant request of the Commissioner to provide information under this Section, the provisions of the Protection of Competition Law on the refusal to provide information/evidence shall also apply in addition to the provisions of this Law.

17(b)(iii) of 51(I) of 2012. (d) Following a reasoned request of the European Commission, the Commissioner shall provide to it the required information relating to the performance of his duties. The requested information shall be proportionate to the purpose of executing the said duties. Where the information provided relates to information previously submitted by a person at the request of the national

regulatory authority, such persons shall be notified accordingly. The Commissioner may make a reasoned request to the European Commission not to make the information provided available to the Regulatory Authority of another Member State, especially where this is required for reasons of business confidentiality.

(e) The Commissioner may provide the above information to another Regulatory Authority in Cyprus or in another Member State, following a reasoned request, and where this is required in view of the compliance of the other Regulatory Authority of Cyprus or another Member State with their obligations under Community law. Where the information is considered by the Commissioner to be confidential, according to Community law and national provisions on business confidentiality, he may submit a reasoned request to the European Commission or to the interested regulatory authorities to ensure the confidentiality of the information, particularly in connection with business confidentiality.

(f) The Commissioner shall publish information that contributes to the establishment of an open and competitive market, in accordance with the provisions of the legislation in force regarding the access of the public to information, subject to Community law and national rules on business confidentiality. The terms of access of the public to the information referred to in the above paragraph, including the procedures for the provision of such access, are determined by Decision of the Commissioner, published in the Official Gazette of the Republic.

(3) (a) The Commissioner shall maintain and accept as confidential any information provided by a person and classified by such person as confidential, except where the Commissioner has good reason to consider otherwise.

(b) The Commissioner shall not disclose information covered by the obligation of professional secrecy, in particular information about licenced or notified operators, their business relations or their costing information. This prohibition

shall be without prejudice to the right of the Commissioner to disclose information where such disclosure is essential for the purposes of fulfilling his duties. In such case, any disclosure shall be proportionate and shall have regard to the legitimate interests of the persons in the protection of their business secrets and affected entities shall be notified prior to such disclosure.

(c) In the case of information declared by the persons that have provided it as confidential, the Commissioner shall delay the provision of the information to the European Commission to enable the person that provided the information concerned to make written representations to the Commissioner within seven (7) days of the notification by the Commissioner referred to in this paragraph.

(d) The Commissioner may, taking into consideration the views and arguments put before him, at his discretion, make an explicit and reasoned request to the European Commission not to make any information under paragraph (e) available to any regulatory authority in another Member State.

17(c) of 51(I) of 2012. (e) Where the Commissioner receives information classified as confidential from the European Commission or from the National Regulatory Authority of another Member State and the Commissioner is satisfied that such information is so classified in accordance with the rules of business confidentiality of Community law or the rules of the Member State from which the information originated, as the case may be, he shall ensure the confidentiality of such information.

17(c) of 51(I) of 2012. (f) The Commissioner shall, subject to the protection of the confidentiality of any information deemed confidential, publish from time to time such information as would, in the opinion of the Commissioner, contribute to an open and competitive market.

Consultations. 26. The Commissioner may conduct consultations with commercial and consumer organisations, in particular organisations of consumers with special problems, with representatives of the Government, and any other

18 of 51(I) of 2012.

persons/organisations as the Commissioner thinks fit. The consultation procedure shall be regulated by a relevant Order of the Commissioner.

Other powers. 27. For the purposes of this Law, the Commissioner may -

(a) supervise compliance with the terms and conditions set out in licences which he grants under this Law;

(b) demand from any provider of electronic communications networks and/or electronic communications services and postal services, any information which he may deem to be reasonably necessary for the purposes of exercising his competences and powers and performing his duties;

(c) impose financial penalties in the form of administrative fines on providers of electronic communications networks and/or services and/or postal services, for breaching this Law and/or Orders;

(d) summon and enforce, in the manner prescribed in an Order, the attendance of witnesses at enquiries;

(e) issue any decisions as are necessary to ensure compliance with the provisions of this Law and Orders issued thereunder;

(f) undertake the conduct of a case, either on his own initiative or following a request further to a complaint, and decide whether the imposition of administrative fines or penalties provided for in this Law or the Orders and/or Decisions issued thereunder are justified in every case of non-compliance with the provisions of this Law and the Orders and Decisions of the Commissioner, by which rights and obligations are prescribed.

4(a) of 113(I) of 2007. (g) enter at any reasonable time, without the obligation to give advance notice, for the purpose of inspection, or on the basis of any other reasonable cause, personally or through employees of the Office or duly authorised

representatives, any location, premises or any means of transport across land, sea and air, excluding private dwellings, used for the provision of any electronic communications and/or postal services and verify the compliance of the terminal equipment or the radio equipment of the category or categories falling within the competence of the Commissioner in accordance with the provisions of Section 81 as well as collect information which could be used as evidence in any judicial proceedings with respect to any violation or non-conformity with this Law or the Orders or Decisions issued thereunder.

(h) Competent officers of the Department of Merchant Shipping and Civil Aviation, acting within the scope of the powers of the Commissioner as stated above, may intercept, enter, inspect, investigate and examine any means of transport across sea and air respectively and proceed to those actions listed above in paragraph (g).

(i)(i) When considered necessary in view of facilitating the exercise by the Commissioner or the employees of the Office or his representatives of their powers under this Section and Part 12 of the Law, the Director of the Customs Department may authorise the disclosure to the Commissioner of information received by the Director of the Customs Department for the purposes of exercise of his powers with respect to merchandise imported from third countries and/or transported between the Republic and another Member State.

(ii) The disclosure of information shall be made in accordance with the directions of the Director of the Customs Department.

19 of 51(I) of 2012. 6(b) of 112(I) of 2016. (iii) If deemed necessary, the Director of the Customs Department may authorise, when and if permitted under the pertinent legislation, the referral of terminal equipment or radio equipment of certain categories or classes within the competence of the Commissioner in accordance with the provisions of Section 81, to the Commissioner for verification purposes.

(j) The owner of, and the person responsible for, any premises or other location

or means of transport across land, sea or air and any person employed in such premises or other location or means of transport entered by the Commissioner or an employee of the Office or a representative of the Office acting under paragraph (g) or a competent officer of the Department of Merchant Shipping or Civil Aviation acting under paragraph (h), are each under the obligation to facilitate and provide any information they possess, which is reasonably requested by the Commissioner or the employee or representative of the Office or the competent officers stated above in paragraph (h), and these persons shall have the authority to receive any such information and assistance.

4(b) of 113(I) of 2007. (k) If, in exercise of the powers provided for under paragraphs (g) and (h), the entry of the Commissioner, employee or representatives of the Office or of competent officers of the Department of Merchant Shipping Affairs or Civil Cap. 155. Aviation in any premises is prevented, in relation to the exercise of the right of 93 of 1972 entry in any premises or other areas, subject to the provisions of the Civil 2 of 1975 Procedure Law relating to the issue and enforcement of court search warrant, a 12 of 1975 District Judge may, further to a sworn complaint-
41 of 1978
162 of 1989
142 of 1991
9 of 1992
10(I) of 1996
89(I) of 1997
54(I) of 1998
96(I) of 1998
14(I) of 2001
185(I) of 2003
219(I) of 2004
57(I) of 2007.

(i) upon being satisfied that-

(A) Any station or device or information in relation to anything that an officer authorised by the Commissioner has power, under this Law, to inspect, is

located in any premises or means of transport across land, sea or air and that such inspection may possibly reveal evidence in connection with any breach of this Law; or

(B) such violation has taken place or shall take place in any premises or any means of transport across land, sea or air, and

(ii) upon being also satisfied that-

(A) the entry into the premises or means of transport across land, sea or air has been prevented or may possibly be prevented and that the owner thereof has been notified of the intention to apply for obtaining such order; or

(B) the application for permission of entry or the provision of such notice would defeat the purpose of the entry; or

(C) the premises or buildings or the vehicle, vessel or aircraft are unoccupied;

issue a court order, valid for two months, granting power to an officer authorised by the Commissioner to enter the buildings or premises or means of transport across land, sea or air for the purposes of implementation of this Law.

(l) Provided that, irrespective of the above, the Commissioner may himself proceed to take the actions mentioned above in paragraph (h) instead of but also in parallel with the officers of the Departments stated in the relevant paragraphs, depending on the procedure that the Commissioner decides that he wishes to be followed.

Issuing of Decisions. 28. (1)(a) Before issuing a Decision and/or Order under Section 27(e), at the discretion of the Commissioner, any person who is or is likely to be, in the opinion of the Commissioner, affected by the Decision and/or Order, shall be notified, and such person shall be given the opportunity to be heard within fifteen (15) days of such notice regarding the issuance of a Decision and/or

Order.

Provided that the Commissioner shall not be bound to give notice prior to the issuance of a Decision, where the Commissioner determines, at his sole discretion, that it is of an urgent nature, but in such case the Commissioner shall request any affected persons to express their views within fifteen (15) days from the issuance of the Decision and/or Order, as to why the Decision and/or Order should be revoked or amended.

(b) Following a hearing, in accordance with paragraph (a), the Commissioner shall publish and notify as soon as possible all interested persons of his final Decision and/or Order.

(2) The Commissioner shall not request the opinion of the Advisory Committee in cases of issuance of Decisions and/or Orders for the ordering of compliance, interim Decisions and/or Orders for urgent matters and/or the imposition of administrative fines and/or other administrative penalties.

Breach of Order or Decision. 29. A person who, without reasonable cause, fails to comply with the terms of an Order or Decision issued by the Commissioner under this Law, is guilty of a criminal offence and shall be liable, on conviction, to imprisonment not exceeding six months or to a pecuniary fine not exceeding eight hundred and fifty euro (€850) or to both such penalties.

Enquiries. 30. (1) The Commissioner may, on his own initiative, hold an enquiry into particular activities and the particular method of operation of any provider of an electronic communications network and/or services and/or postal services, considered to raise competitive or consumer concerns and, subsequently, make recommendations and issue Orders, as are appropriate in his opinion.

(2) For the purpose of holding an enquiry under subsection (1), the Commissioner may-

(a) summon and enforce, in the manner prescribed by relevant Order, the attendance of witnesses and interested parties and the production, presentation and lodging of documents, books, plans and records;

(b) examine, personally or through a lawyer, the witnesses and interested parties.

(3) A person is guilty of a criminal offence if-

(a) without reasonable cause, fails or refuses to comply with the summons to appear before the Commissioner or produce, present or lodge any document, book, plan or record;

(b) while being a witness, refuses without reasonable cause to answer any question put to him -

22(b) of 51(I) of 2012. Provided that in any case no person shall be bound to answer if the answer may incriminate him in connection with a criminal offence, or if it shall constitute a breach of the lawyer-client privilege and/or obstructs the proceedings before the Commissioner.

22(c) of 51(I) of 2012. (4) A person convicted of a criminal offence in consequence of a breach of subsections (3)(a) and/or (b), shall be liable to imprisonment not exceeding six months or to a pecuniary fine not exceeding eight hundred and fifty euro (€850) or to both such penalties.

(5) Any interested person may be represented before the Commissioner by a lawyer and may call any witnesses in the manner prescribed by Order.

(6) The Commissioner shall conduct any proceedings before him and shall have power to limit or curtail the abuse of such proceedings before him.

Complaints concerning providers - Summary dispute resolution procedure. 31.(1) Without prejudice to the powers vested in him under Section 30(1) and (2), the Commissioner may hold an enquiry into the activities and operations of any provider of electronic communications networks and/or services and/or postal services, with regard to whom a complaint has been lodged by any person.

(2) The Commissioner shall have power to reject the complaint if, in his opinion, it is clearly unfounded. In all other cases, the Commissioner shall communicate a copy of the complaint to the provider concerned. Such complaint may constitute the object of an enquiry by the Commissioner if he is not satisfied with the response of the provider or if the complainant gives notice in writing that the complaint has not been dealt with satisfactorily.

(3) After the lodging of complaints under subsection (1) to the Commissioner, he may issue a Decision which is binding on the said provider.

Establishment of Advisory Committee and appointment of Advisory Bodies. 32.(1)(a) An Advisory Committee is hereby established, comprising three (3) members appointed by the Council of Ministers for a period not exceeding six (6) years.

(b) The Council of Ministers shall appoint one of the three members of the Advisory Committee as its Chairperson.

(c) The Chairperson and the Members of the Advisory Committee shall be paid by the Committee their representation expenses, compensation for every meeting of the Advisory Committee, travelling expenses and any other benefits as the Council of Ministers may decide from time to time for the chairpersons and members of semi-governmental organisations.

(d) The Council of Ministers may terminate the appointment of the Chairperson and any member of the Advisory Committee before the expiry of the time period for which they have been appointed, only for any of the following specific reasons:

(i) owing to mental or physical incapacity or disability, or any other disease without exception, which would render the chairperson or the member, as the case may be, incapable of adequately performing his duties for the remainder of his term of office;

(ii) owing to improper behaviour or systematic absence or negligence in the performance of his duties.

(e) Every member of the Advisory Committee may resign from his position by submitting a written resignation to the Council of Ministers. The resignation may not be revoked and shall take effect immediately without requiring its prior acceptance by the Council of Ministers.

5(a) of 134(I) of 2007. (f) The Advisory Committee shall convene at a time and place prescribed by its Chairperson. All three (3) members of the Advisory Committee shall form a quorum. If a member is prevented from attending a meeting, two (2) members including the Chairman shall form a quorum; in such case the decision must be unanimous.

5(b) of 134(I) of 2007. (g) Subject to paragraph (f), the decisions of the Advisory Committee are taken by majority vote of its members.

5(c) of 134(I) of 2007. **(h) Repealed.**

5(d)(i) of 134(I) of 2007. (i) Subject to paragraph (j), the Advisory Committee shall meet at regular intervals in the presence of the Commissioner and/or Deputy Commissioner and 5(d)(ii) of shall study matters concerning this Law, referred to it by the Commissioner for

134(I) of 2007. advice. The Advisory Committee is obliged to advise the Commissioner within a timeframe prescribed by the Commissioner and which, in any case, shall not be less than ten (10) working days.

5(e) of 134(I) of 2007. (j) The Advisory Committee may, in the exercise of its competences, hold meetings convened by its Chairman also without the presence of the Commissioner and/or Deputy Commissioner, to discuss matters referred to it by the Commissioner for opinion and regulate its operating procedure. The Committee shall give its opinion at a regular meeting in the presence of the Commissioner and/or Deputy Commissioner.

5(e) of 134(I) of 2007. (k) The Advisory Committee may request to be informed by the Commissioner on relevant matters in the context of its regular meetings.

(2) The Commissioner may establish *ad hoc* Advisory Bodies to advise him on such matters as he thinks fit, appoint their members and pay the relevant costs out of the Fund of the Office.

PART 7 DISPUTE RESOLUTION

General Powers of the Commissioner concerning dispute resolution – summary dispute resolution procedure. 54 of 51(I) of 2012. 33. (1)(a) The Commissioner shall undertake the resolution of a dispute or case of management either on his own initiative or following the submission of a complaint. In the case of submission of a complaint, the Commissioner shall have the power to reject the complaint if, in his opinion, it is clearly unfounded. In all other cases, the Commissioner shall communicate a copy of the complaint to the person concerned. Such a complaint may constitute the object of an enquiry and/or investigation by the Commissioner if he is not satisfied with the response of the provider or if the complainant gives notice in writing that the complaint has not been dealt with satisfactorily.

(b) Under paragraph (a) of this Section, the Commissioner may issue a decision

which is binding on the said person.

(2)(a) The Commissioner shall have the power to issue an interim Decision and/or Order, in cases of urgent nature, in order to safeguard competition and protect the interests of users.

(b) In such cases, the Commissioner shall ask any of the affected parties to express their views within fifteen (15) days from the issuance of the Decision and/or Order, as to the whether the interim Decision and/or Order should be revoked or amended.

(c) Following a hearing, under the provisions of paragraph (b), the Commissioner shall issue and notify to every affected party his final Decision and/or Order, as soon as possible.

(3) The Commissioner shall have power to impose administrative fines or other penalties, as they may be prescribed by Decision according to Section 20(t), in relation to non-compliance with the provisions of this Law and/or Orders and/or Decisions.

(4)(a) The Commissioner shall have power to intervene and resolve a dispute, either *ex officio* or at the request of either party, through a binding Decision within four months from the date on which the dispute was notified to him, in order to ensure compliance with the requirements of this Law and Orders and/or Decisions.

(b) The Commissioner shall issue an Order prescribing the procedures relating to the hearing of the parties, the imposition of fines and/or other administrative penalties and the amount thereof in connection with dispute resolution, and shall ensure that all investigations, determinations and/or decisions are in line with these procedures.

(5) The Commissioner may decline to resolve a dispute through a binding decision where other mechanisms, including mediation, exist and would better

contribute to the resolution of the dispute in a timely manner. If within three (3) months the dispute is not resolved and has not been brought before a Court by the party seeking redress, the Commissioner shall issue, at the request of either party, a binding decision to resolve the dispute the soonest possible and, in any case, within three (3) months. The Commissioner may intervene within this period of three (3) months if one of the parties involved in the dispute can convince the Commissioner that the differences between the positions of the parties are at such extremes that the resolution of the dispute within the timeframe of three months is not possible.

(6) The jurisdiction of the Commissioner cannot be overridden by contract or agreement. Any attempt to exclude the jurisdiction of the Commissioner in this manner shall be deemed to be null and void and hence unenforceable against either party. The nullity of such a provision shall not, in itself, affect the validity of the remainder of the contract or agreement in question.

(7) The Commissioner shall decide, at his discretion, under which of the Sections of this Part the dispute shall be resolved. The categories of disputes, as they are prescribed by the following Sections of this Part, are only indicative.

(8) The Commissioner may issue an Order determining the procedure and the manner in which the Office shall collect the total of the amounts owed thereto, including, *inter alia*, the administrative fines under this Law and/or Orders and/or Decisions.

8 of 104(I) of 2016. (8A) (a) The Commissioner may impose charges to cover the cost of performing the dispute resolution duties assigned to him in the cases prescribed in the provisions of Sections 62A, 62B, 96C, 96D and 62D.

(b) In the context of dispute resolution, all parties shall cooperate fully with the recommendations of the Commissioner.

Dispute 34. (1) In the event of a dispute arising between organisations, the

Resolution between Organisations. Commissioner may, subject to the provisions of this Section, initiate an investigation with a view to resolving the dispute.

8 of 104(I) of 2016.

(2) (a) Upon being notified of the request of an organisation to have the Commissioner resolve its dispute, the Commissioner shall reach a decision within four (4) months from the date on which the dispute was notified to him by either party, subject to any other deadline specifically prescribed in the Law, and it shall only be possible to exceed the aforesaid period in exceptional cases.

(b) In resolving the dispute, the Commissioner's Decision shall be aimed at ensuring compliance with the requirements of this Law and the Orders issued thereunder.

(3) The Commissioner may decide not to initiate the investigation referred to in this Section where he is satisfied that other means of resolving the dispute in a timely manner are available to the parties or if legal proceedings in relation to the dispute have been initiated by either party.

(4) Where the Commissioner decides not to initiate an investigation under this Section, he shall inform the parties of such decision as soon as possible thereafter, including the reasons for such a decision.

(5) In reaching a decision under this Section, the Commissioner shall have regard to the aims mentioned in Section 2 of this Law.

(6) A person that fails to co-operate in an investigation undertaken under this Section or that fails to comply with a decision issued under this Section is guilty of a criminal offence and shall be liable to imprisonment not exceeding six (6) months or to a pecuniary fine not exceeding one thousand seven hundred euro (€1,700) or to both such penalties.

25(b) of 51(I) of 2012.

(7) (8) (9) were repealed with 25(c) of 51(I) of 2012.

Resolution of cross-border Disputes.

35. (1) In the event of a cross-border dispute arising in relation to rights or obligations stemming from this Law or the Community Law, which cumulatively:

(a) has a cross-border character, insofar as it involves parties (whether providers

of electronic communications networks or services and/or users – including end users, or providers of postal services) in different Member States of the European Union; and

(b) falls simultaneously within the competence of the Commissioner and the competence of one or more other Regulatory Authorities in the Member States; the exact procedure set forth in Section 34 shall apply.

(2) For the purposes of this Section:

26(a) of 51(I) of
2012.

(a) A dispute is deemed to fall simultaneously within the competence of one or more Regulatory Authorities in Member States if it is directly related to the carrying out of electronic communications or postal services activities by one or both of the parties concerned with the dispute in more than one Member State, or with electronic communications or postal services activities which take place in different Member States by different parties to the dispute.

(b) An electronic communications activity is deemed to take place in one Member State where it is connected to an electronic communications network installed in that Member State.

(c) A postal activity is deemed to take place in a Member State where it is connected to postal services provided in that Member State.

26(b) of 51(I) of
2012.

(3) The Commissioner shall have competence to adjudicate a dispute following the application of a party, whether a provider or user or subscriber, that establishes a legitimate interest in the resolution of the dispute. For the resolution of the dispute, the dispute resolution procedure of Section 34 is to be followed, as foreseen in detail in the relevant Order regarding the procedures during hearings and the imposition of administrative fines/other penalties in connection with dispute resolution, subject to the limitations imposed by subsections (4) to (6) below.

(4) Prior to the Commissioner adopting any measure for the resolution of the dispute, he must inform the co-competent Regulatory Authorities of the other Member States involved in the dispute before the Commissioner and cooperate

with them for the joint resolution of the dispute, in accordance with the aims of Section 2, and subject to the requirements of Part 8 and Section 25 of this Law.

26(c) of 51(I) of 2012. The Commissioner may consult BEREC in order to bring about a consistent resolution of the dispute in accordance with the purposes of Section 18 and may request it to adopt an opinion as to the action to be taken. Where such a request has been made, the Commissioner shall await BEREC's opinion before taking action to resolve the dispute. This shall not preclude the Commissioner from taking urgent measures where necessary.

(5) The measures that shall be adopted by the Commissioner and/or the other co-competent Regulatory Authorities from other Member States shall be taken, to the greatest extent possible, on the basis of the cooperation agreement between the different National Regulatory Authorities and shall take the utmost account of the opinion adopted by BEREC.

26(d) of 51(I) of 2012. (6) The Commissioner may, following the joint decision of the co-competent Regulatory Authorities of the other Member States, decline to resolve a dispute where other mechanisms, including mediation and/or arbitration, exist and would better contribute to the resolution of the dispute in a timely manner, in accordance with the provisions of Section 33 of this Law. The Commissioner's Decision, which shall be adopted in agreement with the co-competent Regulatory Authorities, shall be notified to the parties and to BEREC.

26(e) of 51(I) of 2012. (7) The Commissioner shall proceed to a joint resolution of the dispute in accordance with subsections (3) to (6), upon request of one of the parties if, four (4) months after the submission of the dispute to the Commissioner, the dispute has not been resolved and if, in the meantime, the dispute has not been brought before a Court by any of the parties to the dispute.

26(f) of 51(I) of 2012. (8) The procedure described in subsections (3) to (7) does not preclude either party to a dispute from bringing an action before a competent Court.

Disputes involving consumers. 36. (1) Hearings before the Commissioner may be conducted in accordance with the terms and conditions of the relevant Order on fines/other penalties concerning dispute resolution, where a consumer, in writing or through an

27(a)(b)(c) of 51(I) of 2012. electronic registration mechanism designed for this purpose on the website of the Office of the Commissioner of Electronic Communications and Postal Regulation, requests the adjudication of a dispute.

(2) Where warranted, the Commissioner may order that a consumer be compensated or reimbursed, as is proportionate to the nature of the alleged infringement and the harm found to have occurred.

(3) Where disputes under this Section involve parties in different Member States, the Commissioner shall coordinate with the other competent authorities responsible for dispute resolution involving consumers in the other Member States with a view to achieving resolution of the dispute.

(4). The procedure described in this Section does not preclude a consumer from bringing an action before a Court.

PART 8

28 of 51(I) of 2012

LICENCING, NUMBERING AND ADDRESSING

General principles. 29(a)(i)(ii)(iii) of 51(I) of 2012. 37. (1) The provision of electronic communications networks and services is not restricted, subject to the terms set forth in the provisions of this Law. Any person may provide electronic communications networks or services in Cyprus under a general authorisation regime and/or, on conditions, under an individual right of use of radio frequencies or numbers, irrespective of whether or not they are of a commercial or non-commercial nature and irrespective of whether or not they are profit making.

29(b) of 51(I) of 2012. (2) The Commissioner shall be responsible for the grant of all general authorisations, including the grant of individual rights of use relating to the use of

numbers, other than the authorisations relating to the use of radio frequencies.

29(c) of 51(I)
of 2012. (3) A person wishing to provide electronic communications networks and/or services pursuant to this Law under a general authorisation regime may commence operations immediately following the filing of a formal notification with the Commissioner. The provision of a network and/or service under a general authorisation regime does not release the provider from the obligation to obtain the necessary individual rights of use of radio frequencies, local permits and other rights to install facilities from competent bodies.

146(I) 2002
15(I) 2003
16(I) 2004
.... (2004) (4) The grant of individual rights of use shall be required where an applicant needs to use scarce resources, such as radio frequencies or numbers, including short codes, from the Numbering Scheme of the Republic of Cyprus. Where the restriction of the number of individual rights of use of scarce resources is necessary, such restrictions shall be managed so as to ensure that the assignment of such resources is made in an objective, transparent, non-discriminatory and proportionate manner. The grant of individual rights of use of radio frequencies falls within the exclusive competence of the Director, acting under the powers vested in him in the Radio Communications Laws of 2002 to 2004. The assignment of numbering resources falls within the exclusive competence of the Commissioner.

(5) Exclusively for reasons of public order, public security and public health, the Commissioner may, subject to the adoption of a fully and objectively justified decision, intervene at any time following the submission of the applicant's registration statement and prohibit or limit the ability of a specific person to provide electronic communications networks or services.

29(d) of 51(I) of 2012. (6) In case competitive procedures are applied, for the purposes of exercising the competence to licence electronic communications networks and/or services, as set out in Section (20)(e), and inviting applications for the grant of an individual right of use of numbers, as set out in Section (20)(v), the Commissioner shall notify by publication in the Official Gazette of the Republic:

(a) all the relevant information including, in any case, information as to the type and number of the individual rights of use being offered and the geographical area which they cover;

(b) the criteria prescribed by him based on which the applications for the grant of individual rights of use shall be evaluated; and

(c) the criteria and requirements prescribed by him which the applicants must fulfil in view of the grant of the individual rights of use.

29(d) of 51(I) of 2012. (7) Persons providing cross-border electronic communications services to undertakings established in several Member States shall not be required to submit more than one notification for the licencing of their activity per Member State concerned.

29(d) of 51(I) of 2012. (8) The Commissioner must respond to a relevant request of the Director, in all cases where the Director is considering the restriction of the number of rights of use of radio frequencies to be granted, and communicates to him in writing his opinion as to whether a possible restriction of the number of rights of use of radio frequencies to be granted is expected to maximise benefits for users and facilitate the development of competition.

Notification process for General Authorisations.
30 of 51(I) of 2012.

38. (1) Other than those cases requiring an individual right of use of numbers, no administrative act is required on the part of the Commissioner as a precondition for the provision of electronic communications networks or services in Cyprus. Subject to the provisions of this Section, any person who intends to provide an electronic communications network or service shall notify the Commissioner of their intention to provide same in advance of doing so.

(2) The notification under subsection (1) shall be in such form as prescribed by Order issued by the Commissioner and shall contain the following information:

(a) the name of the notifying person including, in the case of a legal entity, its registration number;

(b) the names, addresses and contact numbers of relevant contact persons;

(c) the business address of the person concerned and, in the case of a legal entity, its registered office and/or the address of its seat;

(d) a short description of the network or service that is the subject matter of the notification, including a statement as to whether the relevant network or service shall be publicly available; and

(e) the estimated date of commencement of the relevant activity.

(3) The notification referred to in paragraph (2) shall be registered in a special

Register of bodies providing electronic communications networks and services, kept for this purpose by the Commissioner. The Commissioner shall keep the Register in the manner he deems most appropriate, without disclosing information considered by the notifying person as confidential. The Commissioner may, as the case may be, amend or delete an entry in the Register.

(4) The person shall notify the Commissioner of any changes to the information supplied under subsection (2) within thirty (30) days of such change.

(5) In the event that it decides to cease its business activities that are the subject matter of the general authorisation, the notifying person shall notify the Commissioner within thirty (30) days of ceasing to do business in Cyprus.

(6) In the event that the issue of whether a person is operating pursuant to a general authorisation is raised in proceedings before a court, a certificate bearing the seal of the Commissioner and stating that the name of the person identified in the certificate has not been entered in the Register, is admissible as evidence of the fact that the person identified in the certificate did not notify the Commissioner of its intention to provide an electronic communications network or service immediately prior to that date or during that period. A document purporting to be a certificate under this Section is deemed to be such a certificate, unless the contrary is established.

Operating
conditions Under
General
Authorisations.

39. (1) (a) The Commissioner shall specify the obligations which must be respected by a provider of an electronic communications network or services operating pursuant to a general authorisation. Where justified, the Commissioner may specify that certain conditions may not apply to operators of particular classes or type operating under a general authorisation.

31(a) of 51(I) of 2012. (b) The Commissioner may amend the terms and procedures concerning general authorisations and rights of use or rights to install facilities only in objectively justified cases and in a proportionate manner. Except where proposed amendments are minor and have been agreed with the holder of the individual rights or the general authorisation, notice shall be given in an appropriate manner of the intention to make such amendments and interested parties, including users and consumers, shall be allowed a sufficient period of time to express their views on the proposed amendments, which shall be no less than four weeks except in exceptional circumstances.

(2) The Commissioner may impose by Decision one or more of the following obligations on any person operating under a general authorisation regime:

(a) financial contributions for the funding of the universal service in accordance with Part 15 of this Law;

(b) administrative charges in accordance with Section 45 of this Law;

(c) interoperability of services and interconnection of networks in conformity with Part 10 of this Law;

31(b)(i) of 51(I) of 2012. (d) accessibility by end users of numbers from the Phone Numbering Scheme of the Republic of Cyprus, numbers from the European Telephone Numbering Space, the Universal International Freephone Numbers and, where technically and economically feasible, from numbering schemes of other Member States, and conditions in conformity with the provisions of Part 15 of this Law on universal service;

(e) environmental and town and country planning requirements, as well as requirements and conditions linked to the granting of access to or use of public or private land and conditions linked to co-location and facility sharing in accordance

with Section 62 and Part 13 of this Law and the Orders issued thereunder and including, where applicable, any financial or technical guarantees necessary to ensure the proper execution of the infrastructure works;

31(b)(ii) (f) “must carry” obligations in accordance with the provisions of Section 72A of
of 51(I) of 2012. this Law.

(g) personal data and privacy protection, regarding in particular the electronic communications sector in accordance with Part 14 of this Law;

31(b)(iii) (h) consumer protection rules, regarding in particular the electronic
of 51(I) of 2012. communications sector, including conditions in accordance with this Law, as the case may be, as well as conditions of accessibility for users with disabilities;

31(b)(iv) of (i) obligations for compliance with the conditions set by competent authorities of
51(I) of 2012. the Republic in relation to the transmission of illegal content, in accordance with the Certain Aspects of Information Society Services, in particular Electronic Commerce and Related Matters Laws of 2004 to 2007, and in particular electronic commerce in the internal market and obligations for compliance with the conditions set by competent authorities of the Republic in relation to the transmission of harmful content in accordance with the Radio and Television Stations Laws of 1998 to 2011.

7 of 1998
88(I) of 1998
13(I) of 1999
159(I) of 1999
23(I) of 2000
55(I) of 2000
134(I) of 2000
18(I) of 2001
53(I) of 2001
65 (I) of 2001
78(I) of 2001
126(I) of 2001
102(I) 2002
186(I) of 2002
24(I) of 2003
97(I) of 2004
84(I) of 2006
85(I) of 2006
170(I) of 2006

117(I) of 2008
17(I) of 2009
136(I) of 2009
118(I) of 2010
73(I) of 2011

(j) information to be provided under a notification procedure in accordance with Section 38 of this Law;

(k) enabling of legal interception in accordance with Part 14 of this Law and the relevant legislation on the protection of individuals with regard to the processing of personal data and the free movement of such data;

31(b)(v) of 51(I) of 2012 (l) terms of use during major disasters or national emergencies to ensure communications between emergency services and State authorities;

146(I) 2002 (m) obligations to comply with the terms and conditions and restrictions relating to the use of radio frequencies set forth in the Radio Communications Laws of 2002 to (No.2) of 2004, and any Regulations, Orders, Decisions or other documents issued under these Laws;

15(I) 2003

16(I) 2004

.... (2004)

(n) access obligations other than those explicitly provided for in Parts 10 and 11 of this Law for the persons providing electronic communications networks or services or the persons that have been designated as providers of Universal Service under the provisions of Part 15 of this Law, according to the principles set forth in Part 10 of this Law ;

31(b)(vi) of 51(I) of 2012. (o) maintenance of the security and integrity of public communications networks in accordance with the requirements of Parts 10 and 11 and 14 of his Law and this Part, including, *inter alia*, obligations to prevent electromagnetic interference between electronic communications networks and/or services in accordance with the provisions of the Radio Communications Law;

31(b)(vii) of 51(I) of 2012. (p) security of public networks against unauthorised access in accordance with the provisions of Part 14 of this Law;

- 146(I) 2002 (q) terms for the compliance of terminal equipment, in accordance with Part 12 of
 15(I) 2003 this Law; and
 16(I) 2004
 (2004)
- 31(b)(viii) of (r) measures designed to ensure compliance with the standards and/or
 51(I) of 2012. specifications referred to in Section 53 of this Law.
- 5(b) of 113(I) (s) any commitments which the person obtaining the rights of use of radio
 of 2012. frequencies has undertaken in the course of a competitive or comparative selection
 procedure;
- 31(b)(ix) of (t) terms of use for communications from the public authorities to the general
 51(I) of 2012. public for warning the public of imminent threats and for mitigating the
 consequences of major disasters.
- 31(b)(ix) of (u) obligations of transparency for the providers of public communications
 51(I) of 2012. networks that provide publicly available electronic communications services, in
 order to ensure end-to-end connectivity, including unlimited access to the content,
 the applications and the distribution of services, obligation to make public any
 restrictions to access and/or the use of services and applications, provided such
 restrictions are permitted under the national legislation and provided this is
 necessary and proportionate, obligation to grant the Commissioner access to the
 relevant information in order to verify the accuracy of the published information
 relating to the restrictions of access and the use of services and/or applications.
- (3) Any attachment of conditions to the general authorisation or non-application of
 conditions to such class or description as may be specified by the Commissioner
 shall be objectively justified in relation to the electronic communications network
 or service concerned and shall be non-discriminatory, proportionate and
 transparent.
- (4) The licenced person shall comply with the conditions attached to the general
 authorisation applicable thereto.

(5) The Commissioner shall not attach as a condition to the general authorisation any specific obligations that would otherwise be imposed on persons by virtue of any other Cypriot legislation.

(6) In addition, general authorisations may set out criteria and procedures for the imposition of specific obligations under Parts 10, 11 and Part 15 of this Law, where applicable, on persons operating pursuant to such general authorisations. Where the Commissioner, acting under the provisions of this subsection, imposes on authorised persons providing electronic communications networks and/or services specific quality obligations, he shall do so by issuing a relevant Order and/or through the publication of instructions regarding the obligation to maintain certain quality standards and/or with respect to the need to publish certain information regarding quality, and shall do so by reference to the content, form and manner of such publication, as the case may be.

Rights of persons
under General
Authorisations.

40. (1) A person operating pursuant to a general authorisation in accordance with Section 38 may:

(a) provide electronic communications networks or services, as described in its notification; and

(b) apply, where required, for the necessary rights to be granted by the competent authorities, including the Commissioner, to install facilities on, over or under public or private property for the purposes of providing public electronic communications networks or electronic communications networks other than those supplied to the public.

(2) Where a person provides publicly available electronic communications networks or services, the general authorisation also grants them the right to:

(a) negotiate interconnection with and possibly obtain access to or interconnection with another licenced person in Cyprus or in another Member State to provide a publicly available network or service; and

(b) be given an opportunity by the Commissioner to be designated under the provisions of Part 15 of this Law to carry out obligations referred to in such relevant provisions.

(3) The acquisition of immovable property and right of entry by any duly licenced electronic communications networks and/or services providers shall be subject to the licencing of any competent authority including local authorities under the provisions of Part 13 of this Law.

(4) The Commissioner shall, within one week of receiving a request from a licenced person, issue to that person, in such form as the Commissioner may from time to time determine, a standardised declaration:

(a) confirming, where applicable, that the person has submitted a notification according to Section 38; and

(b) detailing the terms and conditions under which any person that provides electronic communications networks and services under a general authorisation is

entitled to-

(i) submit an application for the provision of a right to establish facilities;

(ii) negotiate access; and/or

(iii) obtain access or interconnection;

(iv) facilitate the exercise of those rights.

(5) Where deemed proper, the Commissioner may issue such a declaration in response to the receipt of the notification pursuant to Section 38.

Individual rights
of use of numbers
– Naming,
Addressing.
32 (a) of 51(I) of
2012.

41. (1) Where it is deemed by the Commissioner to be necessary to grant individual rights of use of numbers from the Phone Numbering Scheme of the Republic of Cyprus, these rights shall be provided by Decision of the Commissioner following a written request according to the procedures described in a relevant Order issued by the Commissioner under the provisions of subsection (2) of this Section by the interested party providing or using electronic communications networks or services, which claims that it requires the numbers in question for the provision of such networks or services. The Commissioner shall grant rights of use for numbers and/or series of numbers to providers of electronic communications networks and/or services for their own use and for further allocation to their subscribers. Where the provision of the service in question requires the assignment of an individual right of use of radio frequencies, the written

32(b) of 51(I) of
2012.

request for an individual right of use of numbers shall be made after the
146(I) 2002 Director has granted such individual right under the Radio Communications
5(1) 2003 Laws of 2002 to 2004.
16(I) 2004
...(2004)

(2) (a) When adopting a Decision under this Part, the Commissioner shall take into consideration international Numbering Regulations and shall ensure the adequate capacity and flexibility in the Numbering Scheme of the Republic of Cyprus such that it may facilitate the introduction of new electronic services, the permanency of numbering arrangements and the provision of rights of use of numbers in a non-discriminatory and transparent manner. The Commissioner shall see to the publication of open, transparent and non- discriminatory procedures for the provision of rights of use with the issuance of the relevant Order referred to in subsection (1) and of the relevant Order referred to in Section 38(2).

32(c) of 51(I) (b) The Commissioner shall support the harmonisation of the use of specific
of 2012. numbers or series of numbers of the Phone Numbering Scheme of the Republic of Cyprus within the Community, where that promotes the functioning of the single market and the development of pan-European services.

(3) The Commissioner may impose one or more of the following obligations on any person operating under an individual right of use of numbers:

32(d) of 51(I) (a) Designation of the service for which the number shall be used, including
of 2012. any requirements linked to the provision of that service, as well as tariff principles and maximum prices that can apply in the specific number range for the purposes of ensuring consumer protection;

(b) effective and efficient use of the numbers in accordance with the Order referred to in subsection (1);

32(e) of
51(I) of 2012. (c) number portability requirements in accordance with Section 75 of this Law;

(d) obligation to provide public directory subscriber information for the purposes of Part 15 of this Law;

(e) maximum duration in accordance with the Order referred to in subsection (1);

(f) transfer of these rights on the initiative of the rights holder and conditions for such transfer in accordance with the Order referred to in subsection (1);

(g) usage fees in accordance with the provisions of the Order referred to in subsection (1);

(h) any commitments which the person obtaining the rights of use has undertaken in the course of a competitive or comparative selection procedure; and

(i) obligations under relevant international agreements relating to the use of numbers, as described in the Order referred to in subsection (1).

(4) (a) The Decisions of the Commissioner which concern the grant of rights of use of numbers must be notified to the applicant, with the relevant information being made available at the Office and published on the website of the Office within three (3) weeks of the date of submission of the complete application in the case of numbers allocated for specific purposes under the Numbering Scheme of the Republic of Cyprus. In the case of numbers previously characterised by the holder himself or by Decision of the Commissioner as numbers with exceptional commercial value, should the Office decide, upon consultation with the interested parties, to grant rights to use these numbers with competitive or comparative selection procedures, the period of three weeks may be extended by another three (3) weeks.

32(f) of 51(I) of 2012. (b) Where it has been decided after consultation with interested parties that the rights for use of number of exceptional economic value are to be granted through competitive or comparative selection procedures, the maximum period of three weeks may be extended by another three (3) weeks.

32(g) of 51(I) of 2012. (5) A person to which a series of numbers is assigned must not discriminate against other persons providing electronic communications services with regard to the numbers used for access to their services.

(6) Numbers which are not used within one (1) year of the date provided for by the relevant right of use may be reassigned by the Commissioner, in line with the provisions of the Order referred to in subsection (1).

(7) Where competitive or comparative selection procedures are to be used, as specified in a relevant Order of the Commissioner under Section 38(2), the Commissioner may extend the maximum period of six (6) weeks referred to in subsection (4) for as long as is necessary to ensure that such procedures are fair,

reasonable, open and transparent to all interested parties, but by no longer than three (3) months.

(8) The Commissioner may, by Order, impose fees for the right to use numbers, which reflect the need to ensure the optimal use of these resources and which must be non-discriminatory.

(9) At reasonable intervals or at the reasonable request of affected persons, the Commissioner may review the restriction on the number of rights of use by lifting any restriction or increasing or decreasing the rights included in the relevant list. If it is established that it is possible to expand the scope of the relevant rights of use to include additional numbers, the Commissioner shall amend his Decision and determine the type of procedure to be followed for such amendment.

32(h) of 51(I) of
2012.

(10) In the exercise of his powers relating to naming and addressing, the Commissioner may, by Orders or Decisions, regulate the rules on naming and, more specifically, supervise the administration and allocation of domain names and shall represent Cyprus at international level regarding matters related to addressing. In doing so, the Commissioner shall take into consideration the decisions and guidelines set out by international organisations which act in these fields and shall ensure the transparency of the procedures for the allocation of domain names, such as domain names ending in “.cy”. and any other names administered by or concerning the Republic of Cyprus.

32(i) of 51(I) of
2012.

(11) In determining the terms and conditions referred to in subsection (10) above regarding the administration of domain names administered by the Republic of Cyprus, including domain names ending in “.cy” and “.κπ”, the Commissioner may provide for the further devolution of the powers in question to designated persons, with or without legal personality, according to the practice followed at

international level. For the purposes of implementing this subsection, the Commissioner may appoint and authorise competent bodies for the control and administration of domain names ending in “.cy”.

Provided that, in any case, where the said specialised bodies adopt a decision, they shall not be required to obtain the opinion of the Advisory Committee.

6 of 113(I) of 2012. (12) For the purpose of implementing Regulation 733/2002/EC of the European Parliament and of the Council, of 22 April 2002 on the implementation of the .eu Top Level Domain and Regulation 874/2004/EC of the Commission, of 28 April 2004, laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration, the Commissioner shall exercise the competences of a validation agent in accordance with the provisions of Articles 9, 10 and 13 of Regulation 874/2002/EC concerning .eu Top Level Domain names for public bodies.

33 of 51(I) of 2012. Compliance with the conditions of a general authorisation or individual rights or use of numbers with specific obligations. 42. (1) The Commissioner shall monitor and supervise compliance with the conditions of the general authorisation or the individual rights of use of number and any specific obligations imposed on a person providing networks and/or services under a general authorisation regime. To this end, the Commissioner may require persons providing electronic communications networks or services operating under a general authorisation regime and, where applicable, enjoying rights of use of radio frequencies or numbers, to supply all information required to verify compliance with the aforesaid conditions and specific obligations.

(2) Where the Commissioner finds that the person operating under the general authorisation regime and/or individual right of use of numbers does not comply with one or more of the conditions of the general authorisation, of the rights of use of numbers or the specific obligations referred to in the provisions of this Law, he

shall notify the person of such findings and provide it with a reasonable opportunity to state its views and/or to remedy such non-compliance within a reasonable time limit to be specified by the Commissioner, on a case by case basis.

(3) The Commissioner may require the cessation of the breach referred to in subsection (2), either immediately or within a reasonable time limit and take appropriate and proportionate measures aimed at ensuring compliance. In this regard, the Commissioner may:

(a) impose, where appropriate, dissuasive financial penalties, which may include periodic penalties having retroactive effect;

(b) issue a Decision ordering the cessation or suspension of the provision of a service or bundle of services which, if continued, would result in a significant distortion of competition, pending compliance with access obligations imposed following a market review.

The decision shall be notified to the person concerned within one week from its issue and provides for a reasonable time period for compliance of the person with its content and conditions.

(4) Notwithstanding the provisions of subsections (2) and (3), the Commissioner may impose financial penalties, as appropriate, to persons that do not supply information in accordance with the obligations imposed under Sections 39, 41 and Part 10 of this Law, in relation to access and interconnection, within a reasonable time limit prescribed by the Commissioner.

(5) In cases of serious and repeated breaches by a person of the conditions of the general authorisation or of the rights of use, and where the measures taken to ensure compliance have failed to impose such compliance, the Commissioner may prevent the said person from continuing to provide electronic communications networks or services pursuant to a general authorisation or may suspend or withdraw the rights of use. In addition, he may impose efficient, proportionate and dissuasive penalties to cover the period of any breach, even if where the breach has been subsequently rectified.

(6) Notwithstanding subsections (2), (3) and (5), where the Commissioner has evidence of a breach of the conditions of the general authorisation or the rights of use that represents an immediate and serious threat to public security, public order or public health or creates serious economic or operational problems for other providers or users of electronic communications networks or services, he may order urgent interim measures under Sections 28 and 33(2) to remedy the situation, in advance of reaching a final decision. The provider concerned shall be given the opportunity to make representations within a reasonable time limit. If necessary, the Commissioner may confirm the interim measures, which have a maximum duration of three (3) months, but may, in cases where the enforcement procedures have not been completed, extend the same for an additional time period of up to three (3) months.

Information
required under the
General
Authorisation and
the Individual
Rights of Use.
34(a) of 51(I)
of 2012.

43. (1) The Commissioner may require the persons that provide electronic communications networks or services pursuant to a general authorisation regime or enjoy rights of use of numbers, to provide, according to the timeframe and the extent of detail determined by the Commissioner, the information required to verify their compliance with the conditions of the general authorisation or the rights of use respectively.

- (2) The required information should be proportionately and objectively justified and, without prejudice to the information or reporting obligations under the provisions of the legislation in force in addition to the legislation relating to general authorisations, may:
- 34(b) of 51(I) of 2012.
- 34(c) of 51(I) of 2012. (a) allow the systematic or case-by-case verification of compliance with the obligations as specified in the Order referred to in Section 41;
- 34(d) of 51(I) of 2012. (b) allow the case-by-case verification of compliance with the obligations, as specified in the Order referred to in Section 41, where a complaint has been received or where the Commissioner has other reasons to believe that a condition is not being complied with or, in case of an investigation by the Commissioner, on his own initiative;
- 34(e) of 51(I) of 2012. (c) concern the procedures for and the assessment of applications for the grant of rights of use, according to the requirements specified in the Order referred to in Section 41(1) and (2);
- 34(f) of 51(I) of 2012. (d) concern the publication of comparative reviews of the quality and price of services for the benefit of consumers;
- 34(g) of 52(I) of 2012. (e) concern clearly defined statistical purposes;
- 34(h) of 51(I) of 2012. (f) include information allowing the conduct of the market review process for the purposes of Part 9 of this Law; and
- 34(i) of 51(I) of 2012. (g) allow the evaluation of network or service developments that could have an impact on wholesale services made available to competitors.

(3) The information referred to in paragraphs (a), (b), (d), (e) and (f) of subsection (2) above may not be requested in advance or as a condition for entry into the market.

(4) Where the Commissioner requires persons to provide information as referred to in subsection (1) of this Section, he must inform them of the specific purpose for which such information is to be used.

Publication of
information.

44. (1) All relevant information on rights, conditions, procedures, charges, fees and decisions concerning general authorisations and rights of use must be published on the Office website – subject to the protection of the confidentiality of any information which the Office considers confidential.

(2) Where information referred to in subsection (1), in particular information regarding the procedures and conditions on rights to install facilities, is held by other competent public authorities, the Office shall make all reasonable efforts, bearing in mind the costs involved, to create a user-friendly overview of all such information, including information on the relevant levels of government and the competent authorities, in order to facilitate the submission of applications for rights to install facilities.

Administrative
charges.

45. (1) Any administrative charges imposed on the persons providing a service or a network under a general authorisation, or to whom a right of use has been granted, shall:

(a) as a whole, cover only the administrative costs incurred in the management, control and enforcement of the system of general authorisations and the rights of use and the specific obligations referred to in Parts 10 and 11 of this Law and in Part 15 of this Law, where applicable; and

(b) be imposed on the individual persons in an objective, transparent and proportionate manner, with a view to minimising additional administrative and related costs.

35(a) of 51(I) of 2002 (2) Administrative costs may include costs for: international cooperation, harmonisation and standardisation, market review, ensuring compliance and other market controls, as well as regulatory work involving the preparation and enforcement of derivative (secondary) legislation and Decisions of the Commissioner.

(3) The Commissioner shall publish an annual overview of the administrative costs of the Office with a view to determining the differences between total administrative costs and the total sum of charges imposed on the providers.

35(b) of 51(I) of 2012. (4) The Commissioner shall issue an Order regulating the method of calculation of administrative charges imposed on persons providing services and/or networks under the general authorisation regime, or to whom an individual right of use has been granted, pursuant to the provisions of this Law. The Commissioner may impose charges, *inter alia*, either based on turnover-related criteria or combining a flat rate basis with a turnover-related element or solely on the basis of a flat rate.

PART 9

THE IMPOSITION OF REGULATORY OBLIGATIONS

36 of 51(I) of 2012. Principles of regulatory intervention following a market review process. 46. (1) Except as otherwise expressly provided for in this Law, regulatory obligations may only be imposed on persons designated by the Commissioner as having significant market power in a relevant market. The designation of a person or persons as having significant market power in a relevant market presupposes a finding by the Commissioner that there is lack of effective competition in the relevant market, as defined by the

Commissioner. The relevant markets, as well as the process of defining further relevant markets and of analysis of the competition regime in a relevant market shall be prescribed by the Commissioner in relevant Orders.

(2) Where the Commissioner decides that there is effective competition in a defined market, he shall not impose regulatory obligations and where regulatory measures apply, he shall withdraw the same after a reasonable period of warning given to affected parties.

(3) Where the Commissioner decides that there is no effective competition in the defined market, he shall proceed to designate one or more persons as having significant market power and shall impose on such persons at least a proportionate regulatory obligation.

(4) On completion of the review process of a relevant market in accordance with subsections (1), (2) and (3) of this Section, the Commissioner shall consult with the interested parties and the Commission for the Protection of Competition regarding the draft notification, on the entire process, both prior to consultation with the European Commission, BEREC and the Regulatory Authorities of the other Member States in accordance with Section 50 and after the issuance of a relevant Decision concerning the entire review process of the relevant market.

(5) The consultation process, pursuant to the previous subsection, shall provide all parties the opportunity to comment on the draft notification and the decision within a prescribed time period, which shall, in no case, be less than fifteen (15) days. The Commissioner shall ensure the existence of a central information point, through which access to all consultations shall be possible, and that the results of such consultation process are published on his website subject to the right of the interested parties to protect their confidential information pursuant to the specific protection provided by

Section 25 of this Law.

(6) In carrying out his functions under this Part, the Commissioner shall have power to request from all persons providing electronic communications networks and services in Cyprus all the information considered necessary to allow him to fulfill his obligations when adopting a Decision under this Law.

(7) The market review process, which includes the definition of relevant markets, the conduct of market analyses regarding the level of competition on each market and the identification of appropriate and proportionate remedies, shall be performed by the Commissioner for every relevant market:

(a) Within three (3) months from the adoption of a previous measure with the issuance of a relevant decision by the Commissioner. This above time limit may be extended up to three (3) years in those cases where the Commissioner submits a reasoned request to the European Commission and the European Commission does not object within one (1) month from the submission of such reasoned request by the Commissioner.

(b) within two (2) years from the adoption of a new recommendation for relevant markets, in respect of those markets which shall be reviewed and notified to the European Commission for the first time.

(8) In exceptional cases, where the Commissioner considers this to be necessary in order to ensure healthy competition and safeguard the rights of end users, he may issue an interim Decision by which he may take proportionate and interim measures without conducting a public consultation, or without consulting with the National Regulatory Authorities in the other Member States or the European Commission or BEREC. Where emergency measures are taken pursuant to this Section, the Commissioner

shall inform the European Commission, BEREC and the Regulatory Authorities in the other Member States regarding the measures taken, by relevant notification. Such notifications shall be fully justified by the Commissioner and notified without delay. The Commissioner shall have the right to make such measures permanent or extend their effect in accordance with the procedure described in Sections 47 to 50B.

(9) In the case of transnational markets defined by decision of the European Commission, affected Regulatory Authorities shall conduct a joint market review, taking the utmost account of the European Commission guidelines, and shall jointly decide whether to impose, maintain, amend or withdraw regulatory obligations, where such obligations apply.

(10) In case the review of the relevant market defined in the recommendation of the European Commission has not been completed within the deadlines prescribed in Section (7), BEREC shall assist the Commissioner, upon relevant request, in view of completing the review of the specific relevant market and notifying the results thereof to the European Commission within six (6) months, in accordance with the procedure set out in Sections 50A and 50B of this Law.

36 of 51(I) of 2012.

Definition of
relevant markets.

47. (1) The Commissioner shall, taking the utmost account of European Union Law, define by Order the relevant markets as well as the procedure for defining additional relevant markets, in accordance with the principles of competition law, as appropriate to the circumstances of Cyprus.

(2) In the event that the Commissioner intends to define markets that differ from those listed in the Recommendation published from time to time by the European Commission, he shall follow the procedures set out in Section 46 of this Law, as further prescribed in a relevant Order by the Commissioner.

(3) Markets defined for the purposes of imposing regulatory obligations under this Law shall be without prejudice to markets defined under the Protection of Competition Law of 2008.

Market analysis procedure.
37(a) of 51(I) of 2012.

48. (1) Having completed the definition of the relevant markets in accordance with the procedure prescribed in Sections 46 and 47, the Commissioner shall conduct an analysis of the competition regime.

37(b) of 51(I) of 2012.

(2) Where, as a result of the analysis of competition in a specific market, the Commissioner finds that market not to be effectively competitive, he shall designate a person or persons as possessing significant power in that market.

37(c) of 51(I) of 2012.

(3) A person shall be deemed to have significant market power if, either individually or jointly with others, it enjoys a position equivalent to dominance, which is understood to be a position of economic strength affording a person or persons the power to behave, to an appreciable extent, independently of competitors, customers and, ultimately, consumers.

37(d) of 51(I) of 2012.

(4) Where a person has Significant Market Power on a specific market (first market), it may also be deemed to have Significant Market Power on a closely related market (second market), where the links between the two markets in question are such as to allow the market power held in the first market to be leveraged into the second market, thereby strengthening the market power of the person in question. Consequently, remedies aimed at preventing such leverage may be applied in the second market in accordance with Sections 56, 57, 58 and 60 of this Law. Where such remedies prove to be insufficient, remedies pursuant to Section 65 of this Law may be imposed.

(5) Where, as a result of the analysis of the level of competition in a specific market, the Commissioner concludes that the market is effectively competitive, he must not

37(e) of 51(I) of 2012. impose or maintain any of the regulatory obligations referred to in Section 49 and shall withdraw existing obligations imposed by prior relevant Decision, ensuring that an appropriate period of notice is given to parties affected by any such withdrawal.

37(f) of 51(I) of 2012. (6) The market review performed by the Commissioner shall be forward-looking, with a view to the Commissioner taking into account expected or foreseeable technological or economic developments over the period until the next review of the relevant market.

Remedy selection.
38(a) of 51(I) of 2012. 49. (1) The identification of a person or persons as having Significant Market Power in a relevant market shall, individually or collectively, result in the selection by the Commissioner of a reasonable remedial measure or measures which shall be proportionate to the following objectives:

38(b) of 51(I) of 2012. (a) promoting competition in the provision of electronic communications networks and services and associated facilities and services by:

(i) ensuring that users, including disadvantaged users, derive maximum benefit in terms of choice, price and quality;

38(c) of 51(I) of 2012. (ii) ensuring that there is no distortion or restriction of competition in the electronic communications sector;

(iii) encouraging efficient investment in infrastructure and promoting innovation; and

(iv) encouraging efficient use and ensuring the effective management of the numbering resources; and

(b) contributing to the development of the internal market, *inter alia*, by:

(i) removing remaining obstacles to the provision of electronic communications networks and services, associated facilities and services and electronic communications services at European level;

38(d) of 51(I) of

2012. (ii) encouraging the establishment and development of trans-European networks and the interoperability of pan-European services, and end-to-end connectivity;

(iii) ensuring that, in similar circumstances, there is no discrimination in the treatment of persons providing electronic communications networks and services; and

38(e) of 51(I) of

2012. (iv) cooperating with each other and with the European Commission and BEREC in a transparent manner, such as to ensure the development of consistent regulatory practice and the consistent application of legal obligations under European Union Law.

(2) In selecting an appropriate regulatory measure or measures to address the maintenance of effective competition, the Commissioner shall take the utmost account of the desirability of such measures being technologically neutral in their effect.

38(f) of 51(I) of

2012. (3) Where a finding of lack of effective competition relates to a market failure concerning access or interconnection obligations falling within the scope of Sections 56-61 of this Law, the Commissioner shall impose one or more of the measures listed in those provisions and prescribed in Part 10, subject to the provisions of subsection (3) of Section 53 of this Law.

38(g) of 51(I) of 2012. (4) Where a finding of lack of effective competition relates to issues falling within the scope of Part 11 of this Law, the Commissioner shall impose one or more of the measures listed in those provisions.

(5) (6) and (7) are repealed by Section 38(h) of 51(I) of 2012.

39(a)(b) of 51(I) of 2012. Consultation procedure with interested parties and the Commission for the Protection of Competition. 50. (1) In the performance of his obligations under this Part, the Commissioner shall consult with all interested parties in the context of a Public Consultation, as well as with the Commission for the Protection of Competition.

39(b) of 51(I) of 2012. (2) In the performance of his obligations under this Part, the Commissioner shall consult with interested parties, at an appropriate stage of the review of each relevant market and at an appropriate time period, prior to finalising the document of notification of the market review results to the European Commission, BEREC and the Regulatory Authorities of the other Member States. The terms and procedures to be followed by the Commissioner shall be prescribed by relevant Order.

(3) In the performance of his obligations under this Part, the Commissioner shall cooperate and consult with the European Commission with a view to providing the European Commission with sufficient information so that it can effectively perform the supervisory role required of it under Community law in relation to the functions to be performed under this Part by the Commissioner, including:

(a) the communication of regulatory measures to the European Commission, allowing it sufficient time in which to make its views on the draft measures known to the Commissioner;

(b) the communication of information to the European Commission in the event that the European Commission has serious doubts as to the compatibility of the draft measure with Community Law;

(c) the communication of information to the European Commission in the event that the European Commission requests clarifications on the market data or the analyses conducted by the Commissioner in the performance of his functions under this Part;

(d) the notification to the European Commission of a final decision taken in connection with any of the functions performed by the Commissioner under this Part, including the names of the persons designated as having Significant Market Power and the obligations imposed on them, in accordance with the requirements relating to notifications and publications of Article 36(2) of Directive 2002/22/EC. The manner and form of cooperation and consultation under this Section shall be prescribed by relevant Order.

(4) In the performance of his obligations under this Part, the Commissioner shall follow the notification mechanism prescribed by Order wherever he seeks to exercise his right to adopt interim measures under subsection (7) of Section 49 of this Law.

(5) In the performance of his obligations under this Part, the Commissioner shall be obliged to consult with interested parties at an appropriate stage during the review and for an appropriate period of time prior to adopting measures in connection with market definition, market analysis or the selection of regulatory obligations. The terms and procedures to be followed by the Commissioner shall be set out in a relevant Order, as described in Section 26 of this Law.

40 of 51(I) of 2012. Integration of the internal market of 50A. –(1) In the performance of his obligations under this Part, the Commissioner shall cooperate and consult with the European Commission, BEREC and the

electronic Regulatory Authorities of the other Member States.
communications.

(2) In the framework of this cooperation, upon completing the Public Consultation with the interested parties as set out in Section 50 of this Law, and provided he intends to impose, withdraw or not introduce regulatory measures which fall within the scope of Sections 47, 48, 49, 53 and 55 of this Law and affect commerce between the Member States, the Commissioner shall notify the results of the market review and the justification of his choice regarding the imposition, withdrawal or non-introduction of regulatory measures, simultaneously, to the European Commission, BEREC and the Regulatory Authorities of the other Member States.

(3) In the performance of his obligations under this Part, the Commissioner shall follow a notification mechanism, as adopted by the European Union from time to time.

(4) The European Commission, BEREC and the Regulatory Authorities of the other Member States may notify comments on the Commissioner's notification document within a period of one (1) month from the date such notification document was sent to them.

(5) In case the European Commission publishes recommendations aimed at eliminating obstacles to the Internal Market, the Commissioner shall take the utmost account of such recommendations and inform the European Commission of any divergence therefrom.

40 of 50(I) of 2012.
Process of uniform
regulatory practice.

50B. (1) Whenever a planned measure aims to impose, amend or withdraw an obligation of an operator, in application of the Sections referred to above, the Commission may, within the period of one month provided in Section 50A of this Law, notify to the Commissioner and BEREC the reasons for which it either considers that the draft measure creates barriers to the single market or has serious doubts as to its compatibility with European Union law.

(2) In the event that the objection of the European Commission concerns the definition of the relevant market where such market does not coincide with the relevant markets included in the relevant recommendation of the European Commission, or the analysis of the competition regime in the relevant market, the Commissioner shall take no action on the basis of the relevant market review results for a period of two (2) months, within which the European Commission shall inform the Commissioner, justifying its position, whether it desires the withdrawal of the Commissioner's proposal as expressed in the notification document or whether it has decided to withdraw its objections regarding the content of the notification document. In case the European Commission asks for the withdrawal of the notification document, the Commissioner must withdraw or amend the notification document within six (6) months from the date of the Decision of the European Commission. In case of amendment, the Commissioner must follow the consultation process with the interested parties before submitting a new notification to the European Commission.

(3) In case the objection of the European Commission concerns the regulatory obligations that the Commissioner proposes to impose or withdraw in the notification document, the Commissioner shall take no action on the basis of the relevant market review results for a period of three (3) months, within which the European Commission shall inform the Commissioner of its objections, setting out its justified position.

(4) During the period of three (3) months provided in Section (3), the European Commission, BEREC and the Commissioner shall cooperate closely in order to identify the most suitable and effective measure, in the light of the objectives of this Law, taking at the same time into consideration the views of market stakeholders and the need to ensure the application of a uniform regulatory practice in the single market.

(5) Within six (6) weeks from the commencement of the aforesaid three-month period, BEREC shall issue an opinion, taken by majority vote, regarding the objection of the European Commission referred to in subsection (3), on whether the draft measure must be amended or withdrawn and, if required, shall submit specific proposals to this end. This opinion shall be justified and made public.

(6) If, in the said opinion, BEREC shares the serious doubts of the European Commission, it shall cooperate closely with the Commissioner to identify the most suitable and effective measure. Prior to the expiry of the three-month period, the Commissioner may:

(a) amend or withdraw the regulatory measure, having considered in particular the objection of the European Commission and the opinion and recommendations of BEREC;

(b) maintain the regulatory measure.

(7) In case BEREC does not share the serious doubts of the European Commission or does not issue an opinion or in case the Commissioner amends or maintains the draft measure, the European Commission may, within one (1) month from the expiry of the three-month period, and having considered in particular the opinion of BEREC, if any:

(a) issue a recommendation requiring the Commissioner to amend or withdraw the draft measure, including specific proposals to this end, and setting out the reasons on the basis of which such recommendation is justified, in particular in case BEREC does not share the serious doubts of the European Commission; or

(b) take a decision by which it withdraws its reservations.

(8) Within one (1) month from the publication of the recommendation or the withdrawal of the reservations of the European Commission, the Commissioner shall notify to the European Commission and BEREC the adopted measure. The said time period may be extended to allow the Commissioner to organise a public consultation, if deemed necessary as per the provisions of Section 50 of this Law.

(9) In case the Commissioner decides not to amend or withdraw the draft measure, he shall provide a reasoned justification for doing so.

(10) The Commissioner may withdraw the draft measure at any stage of the procedure.

(11) If, on the expiry of the period of one (1) month referred to in Section 50A of this Law, no comments are notified by the European Commission, the Commissioner may approve the measure, taking into consideration any comments made by the European Commission, BEREC or a Regulatory Authority of a Member State.

PART 10

PROVISION OF ACCESS AND INTERCONNECTION

General principles. 51. (1) The Commissioner may confer rights and impose obligations on persons in relation to access to, and/or interconnection of, electronic communications networks and services and associated facilities, in order to achieve the interoperability of electronic communications services and produce sustainable competition between such persons.

41(a)(b) of 51(I) of 2012. (2) The Commissioner may ensure adequate access and interconnection and interoperability of services in the interest of end users, by imposing on persons with significant power in a relevant market, one or more of a range of obligations related to transparency, non-discrimination, accounting separation, access and price control, including cost orientation.

(3) The Commissioner may also, as appropriate, seek to impose one or more of the measures listed in Section 49 of this Law.

Rights and obligations of persons. 42(a) of 51(I) of 2012. 52. (1) Persons that have been licensed to provide electronic communications networks and/or services are free to negotiate between them technical and commercial agreements regarding access and/or interconnection. A person requesting access or interconnection within Cyprus is not required to have a licence to operate, if it does not provide services and does not operate a network in Cyprus.

42(b) of 52(I) of 2012. (2) Operators of public communications networks shall have the right, and when requested by persons having a general authorisation under this Law, the obligation to negotiate interconnection with each other for the purpose of providing publicly available electronic communications services, in order to ensure provision and interoperability of services throughout the entire European Union.

42(c) of 51(I) of 2012. 42(d) of 51(I) of 2012. (3) Providers of electronic communications networks shall offer access and interconnection to other persons on terms and conditions consistent with the obligations imposed by the Commissioner under this Law.

(4) Persons shall not offer equivalent access or interconnection services on different terms and conditions to different persons, nor shall they offer such services on the basis of charges and terms that are not related to the actual

access and interconnection services provided.

(5) Persons that acquire information from other persons before, during or after the process of negotiating access or interconnection arrangements, are required to consider such information as confidential, at all times, and use it solely for the purpose for which it was supplied. The received information shall not be passed on to any third party, particularly other departments, subsidiaries and associates of the party receiving the information, for whom such information could provide a competitive advantage.

42(e) of 51(I) of
2012.

(6) Public communications networks which are established for the distribution of digital television programmes must have the possibility to distribute wide-screen television services and programmes. Operators of public communications networks which receive and re-distribute wide-screen television services and/or programmes must maintain that wide-screen format.

Powers and duties
of the
Commissioner.

53. (1) Consistent with the powers vested in the Commissioner under Section 20, the Commissioner shall encourage and, where appropriate, ensure adequate access and interconnection, and interoperability of services, taking into account the objectives set forth in this Part. In so doing, he shall exercise his competence in a manner that promotes economic and technical efficiency, sustainable competition, efficient investment, innovation and provides maximum benefit to end users.

43(a) of 51(I) of
2012.

(2) In particular, and subject to the obligations that he may impose on persons with Significant Market Power, in accordance with the process specified in Part 9, the Commissioner may impose:

43(b) of 51(I) of

(a) obligations on persons that control access to end users including, in justified cases, the obligation to interconnect their networks where these are not already

2012. interconnected;

(b) to the extent that it is necessary to ensure access for end users to digital radio and television broadcasting services in Cyprus, obligations on operators to provide access on fair, reasonable and non-discriminatory terms to:

(i) Application Program Interfaces (APIs),

(ii) Electronic Programme Guides (EPGs).

43(c) of 51(I) of 2012. (c) in justified cases and to the extent that it is necessary, obligations on persons that control access to end users to make their services interoperable.

(3) (a) When imposing obligations on an operator to provide access in accordance with Section 56 of this Law, the Commissioner may prescribe technical or operational conditions which must be satisfied by the provider and/or beneficiary of such access, in accordance with Community law, where this would be necessary to ensure the smooth operation of the network. Conditions that refer to the implementation of specific technical rules or specifications shall refer to those standards developed by European standards organisations such as CEN, CENELEC or ETSI in accordance with the requirements set forth in Part 12 of this Law.

43(d) of 51(I) of 2012. (b) The Commissioner shall promote the use of non mandatory standards and/or specifications published either by the European Commission in the Official Journal of the European Union or by European standards organisations (CEN, CENELEC and ETSI) and which aim at the harmonised provision of electronic communications networks, electronic communications services and related facilities and services, for the provision of services of technical interfaces and/or network functions, to the extent that they are absolutely necessary, in order to ensure the interoperability of the services and promote freedom of choice of users. Where no

European standards apply, such as those set forth above, the Commissioner may refer to relevant standards created by international bodies such as the International Telecommunications Union (ITU), the European Conference of Postal and Telecommunications Administrations (CEPT), the International Organisation for Standardisation (ISO) or the International Electrotechnical Commission (IEC).

43(e) of 51(I) of 2012. (4) The obligations and conditions imposed in accordance with this Section shall be objective, transparent, proportionate and non-discriminatory.

43(e) of 51(I) of 2012. (5) With regard to access and interconnection, the Commissioner may intervene on his own initiative, where justified, in order to secure the policy objectives of this Law.

Review of former obligations. **54. Repealed by 44 of 51(I) of 2012.**

Imposition, amendment or withdrawal of obligations. 45(a) of 51(I) of 2012. 55. (1) Without prejudice to the provisions of the terms of subsection (2) of this Section, the Commissioner may impose one or more obligations from the list set forth in Sections 56-65 on operators designated as having Significant Market Power in a relevant market, in the manner prescribed under the requirements set forth in Part 9 of this Law.

45(b) of 51(I) of 2012. (2) The Commissioner may impose the obligations specified in Sections 56-65 on operators that have not been designated as having Significant Market Power in a relevant market only where the following provisions apply:

(a) Sections 39, 41, 53 (1) and (2), 61, 62, 64, 73, 74 and 75;

(b) Part 14 of the Law concerning the processing of personal data and the protection of privacy, safety and secrecy in the electronic communications sector; or

(c) where they are required to fulfil obligations deriving from international agreements.

In these cases, the Commissioner shall notify to the European Commission, under the procedure prescribed by Order, the manner and form of the proposed imposition, amendment or withdrawal of obligations.

45(c) of 51(I) of 2012. (3) Where exceptional circumstances are shown to exist, the Commissioner may seek to impose on operators with Significant Market Power obligations on access or interconnection other than those set out in Sections 56 to 65. He shall apply to the European Commission for authorisation to impose same, under the procedure described in an Order. While a Decision of the European Commission authorising or preventing the imposition of such measures is pending, the Commissioner shall abstain from the imposition of any such obligations, without prejudice to the powers of the Commissioner to adopt urgent measures pursuant to Part 9.

(4) The obligations imposed in accordance with this Section shall be based on the nature of the problem identified, be proportionate and justified and serve the objectives laid down in Section 49 of this Law. Such obligations shall only be imposed following consultation with the parties concerned, as prescribed in a specific Order, which shall regulate these matters, and in the manner described in Section 50 with respect to consultation with other regulatory bodies.

7 of 113(I) of 2007. Obligation of transparency. 56. (1) The Commissioner may, in accordance with the provisions of Sections 49 and 55 of this Law, impose on operators obligations for transparency in relation to interconnection and/or access, requiring them to make public specified information, such as accounting information, technical specifications, network characteristics, terms and conditions for supply and use, including any terms for the restriction of access or use of services and/or applications, where this is permitted by the national

46(a) of 51(I) of

2012. and/or European legislation, and prices.

(2) In particular, where an operator has an obligation of non-discrimination, the Commissioner may require that operator to publish a reference service offer, which must be sufficiently detailed to ensure that persons are not required to pay for facilities which are not necessary for the service requested, giving a description of the relevant offerings broken down into components and the terms of access including prices.

46(b) of 51(I) of 2012. (3) Where an operator has the obligation to provide wholesale network infrastructure access and the associated facilities, the Commissioner shall ensure the publication of a reference access service offer, containing at least those elements set out in the Decision in force at the time on the relevant market definition, the market analysis and the imposition of regulatory obligations on the person with significant market power in the relevant Wholesale Broadband Access Market.

(5) The Commissioner may by Decision:

(a) specify further and in detail the information to be made available and the necessary details to be included in the reference service offer of subsections (2) and (3), and the manner of its publication by the operator;

(b) impose amendments to the contents of the reference service offer of subsections (2) and (3), aiming at the fulfilment of the obligations imposed under this Law.

(5) The Commissioner shall issue an Order specifying the procedure of imposing amendments to the reference service offer.

Obligation of non- 57. (1) The Commissioner may, in accordance with the provisions of

discrimination.
8 of 113(I) of 2007.

Sections 49 and 55, impose on operators, obligations of non-discrimination in relation to the provision of interconnection and/or access.

(2) Such obligations shall ensure that the operator that is the subject of the obligation:

(a) provides access or interconnection by applying equivalent conditions in equivalent circumstances to persons providing equivalent services; and

(b) provides services and information to third parties under the same conditions and of the same quality as it provides for its own services, or those of its subsidiaries or partners.

Obligation of
accounting
separation.

58. (1) The Commissioner may, in accordance with the provisions of this Part and the details prescribed in a specific Order, impose on operators obligations for accounting separation in relation to specified activities regarding interconnection and/or access.

(2) In particular, the Commissioner may require a vertically integrated person to make transparent its wholesale prices and its internal transfer prices, *inter alia*, to ensure compliance where there is a requirement for non-discrimination and to prevent unfair cross-subsidies. Additionally, the Commissioner may specify the format and accounting methodology to be used, as is reflected in a specific Order.

(3) In order to establish compliance with the obligations of subsections (1) and (2) of this Section and with the obligations of transparency and non-discrimination, the Commissioner may require the submission of accounting records, including data on revenues received from third parties, and audit such records, as analysed in a specific Order and without prejudice to the obligation to respect the principle of

confidentiality that is included in subsection (3) of Section 25 of this Law.

Obligations of
access to, and use
of specific network
facilities.

47(a) of 51(I) of
2012.

59. (1) The Commissioner may, in accordance with the provisions of this Section, impose obligations on operators to meet reasonable requests for access to, and use of, specific network elements and associated facilities, *inter alia* in cases where the Commissioner considers that denial of access, or unreasonable terms and conditions which are equivalent to denial of access, would hinder the emergence of a sustainable competitive market at the retail level, or would not be in the interest of end users.

To this end, the Commissioner may, *inter alia*, require that operators:

47(b) of 51(I) of
2012.

(a) grant to third parties access to specified network elements and/or facilities, including access to elements of the network which are not active or unbundled access to the local loop to, *inter alia*, allow carrier selection and/or pre-selection and/or subscriber line resale offer;

(b) negotiate in good faith with persons requesting access;

(c) not withdraw access to facilities already granted;

(d) provide specified services on a wholesale basis for resale by third parties;

(e) grant open access to technical interfaces, protocols or other key technologies that are indispensable for the interoperability of the services or the virtual network services;

47(c) of 51(I) of 2012. (f) provide co-location or other forms of facility sharing;

(g) provide specified services needed to ensure interoperability of end-to-end services to users, including facilities for intelligent network services or roaming on mobile networks;

(h) provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services; and

(i) interconnect networks or network facilities.

47(d) of 51(I) of 2012. (j) provide access to associated services, such as identity, location and presence service:

47(e) of 51(I) of 2012. Provided that the Commissioner may attach conditions to the enforcement of the above obligations, in order to ensure these are fair, reasonable and up to date.

The conditions attached to the above obligations are fair and reasonable.

47(f) of 51(I) of 2012. (2) In assessing whether to impose the obligations referred to in subsection (1) of this Section, and in particular the proportionate imposition of these obligations in accordance with the objectives of the legislation, as provided in Section 2 of this Law, the Commissioner shall take into account the following main factors:

47(g) of 51(I) of 2012. (a) the technical and economic viability of using or installing competing facilities, in light of the rate of market development, taking into account the nature and type of interconnection and access involved, including the viability of other access products, such as access to ducts;

- 47(h) of 51(I) of 2012 (b) the feasibility of providing the access proposed, in relation to the capacity available;
- 47(h) of 51(I) of 2012 (c) the initial investment by the facility owner, bearing in mind any public investments already made and the risks involved in making the investment;
- 47(i) of 51(I) of 2012 (d) the need to safeguard competition in the long term, with special emphasis on economically effective competition based on owned infrastructure;
- (e) where appropriate, any relevant intellectual property rights; and
- (f) the provision of pan-European services.
- 47(j) of 51(I) of 2012. (3) When imposing obligations on an operator to provide access in accordance with the provisions of this Section, the Commissioner may lay down technical or operational conditions to be met by the provider and/or beneficiaries of such access, where necessary to ensure normal operation of the network. The obligations to comply with specific standards or specifications are consistent with the standards and specifications defined in Section 53 of this Law.
- Price control and cost accounting obligations. 60.(1) The Commissioner may, in accordance with the provisions of this Part and the provisions of Orders issued by him, impose obligations relating to cost recovery and price controls, including an obligation for the cost orientation of prices and an obligation concerning cost accounting systems, for the provision of specific types of interconnection and/or access, in situations where a market analysis indicates that lack of effective competition means that the operator concerned might sustain prices at an excessively high level, or apply a price squeeze, to the detriment of end users.

48(1) of 51(I) of
2012.

To encourage investments by the operator, in particular in next generation networks, the Commissioner shall take into account the investment made by the operator and allow him a reasonable rate of return on adequate capital employed, taking into account any risks specific to a particular investment network project.

(2) The Commissioner shall ensure that any cost recovery mechanism or pricing methodology that is mandated serves to promote economic efficiency and sustainable competition and maximise consumer benefits. In this regard, the Commissioner may also take account of prices available in comparable competitive markets.

(3) Where an operator has an obligation regarding the cost orientation of its prices, the burden of proof that charges are derived from costs including a reasonable rate of return on investment shall lie with the operator concerned. For the purpose of calculating the cost of the efficient provision of services, the Commissioner may use cost accounting methods independent of those used by the person concerned. The Commissioner may require an operator to provide full justification for its prices and may, where appropriate, require prices to be adjusted retrospectively from the time when the operator was under the cost orientation obligation.

(4) The Commissioner shall ensure that, where implementation of a cost accounting system is mandated in order to support price controls, a description of the cost accounting system is made publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs. The Commissioner may entrust the inspections for the purpose of verifying an operator's compliance with the cost accounting system to another qualified independent body. The Commissioner shall publish annually in the Official Gazette of the Republic a statement concerning compliance under this Section.

49 of 51(I) of 2012.
Functional

60A. –(1) Where the Commissioner establishes that the obligations imposed in accordance with Sections 56 to 61 of this Law have failed to secure effective

separation competition and that important long-standing problems of competition or market weaknesses remain in the wholesale provision of certain access products, he may, as an exceptional measure, in accordance with the provisions of Section 55 subsection (3), impose an obligation on vertically integrated undertakings to place activities related to the wholesale provision of related access products in an independently operating business unit. The said business unit shall supply access products and services to all undertaking, including other business units within the parent company, on the same timescales, terms and conditions, including with regard to price and service levels, and by means of the same systems and processes.

(2) When the Commissioner intends to impose an obligation for functional separation, he shall submit to the European Commission, an application that includes:

(a) evidence to justify the conclusion reached by the Commissioner under subsection (1);

(b) a reasoned assessment from which it derives that there is little or no prospect of effective and viable infrastructure-based competition within a reasonable time frame;

(c) an analysis of the expected impact on the Regulatory Authority, the affected provider, in particular the workforce of the provider under separation and the overall sector of electronic communications, and on investment incentives in the sector in general, regarding in particular the need to ensure social and territorial cohesion, and on other interested parties, including the expected impact on competition and potential effects on consumers;

(d) an analysis of the reasons for which this obligation would be the most efficient means to enforce remedies aimed at addressing the competition problems or cases

of market dysfunction identified.

(3) The regulatory measure may include the following elements:

(a) the precise nature and level of separation, identifying in particular the legal status of the separate legal entity;

(b) identification of the assets of the separate business entity and the products or services to be supplied by this entity;

(c) the governance arrangements to ensure the independence of the staff employed by the separate legal entity and the corresponding incentive structure;

(d) rules for ensuring compliance with the obligations;

(e) rules for ensuring transparency of operational procedures, in particular towards other stakeholders;

(f) a monitoring programme to ensure compliance, including the publication of an annual report.

(4) Following the decision of the European Commission on the draft measure taken, the Commissioner shall conduct a coordinated review of the various markets related to the access network. Based on his assessment, the Commissioner shall impose, maintain, amend or withdraw the obligations, in accordance with Part 9 of this Law.

(5) An undertaking on which functional separation has been imposed may be subject to any of the obligations identified in Sections 56 to 61 of this Law in any

specific market where it has been designated as having significant market power or any other obligation authorised by the European Commission.

49 of 51(I) of 2012.

Voluntary
separation by a
vertically
integrated
undertaking

60B. –(1) Where providers that have been designated as having significant market power in one or more relevant markets intend to transfer assets of their local access network or a significant part thereof to a separate legal entity under a different ownership or establish a separate business entity to ensure the provision of fully equivalent access products to all retail providers, including their own retail divisions, shall inform the Commissioner in advance and in due time in order to allow him to assess the impact of the intended transfer. The undertakings shall also inform the Commissioner of any change in the intended purpose, as well as the final outcome of the separation procedure.

(2) The Commissioner shall assess the effect of the intended transfer on existing regulatory obligations. To this end, the Commissioner shall conduct a coordinated review of the various markets which are related to the access network. Based on that assessment, the Commissioner shall impose, maintain, amend or withdraw obligations, in accordance with Sections 50, 50A and 50B of this Law.

(3) The legally and/or functionally separate business entity may be subject to any of the obligations of Sections 56 to 61 of this Law in any specific market where it has been designated as having significant market power or any other obligation authorised by the European Commission according to the procedure of Section 55, subsection (3).

Accounting and
structural
separation and
financial reports.

61.(1) The Commissioner shall ensure that operators providing electronic communications networks or publicly available electronic communications services with special or exclusive rights for the provision of services in other sectors in Cyprus are required to:

(a) keep separate accounts for the activities associated with the provision of electronic communications networks or services, to the extent that they would be required if these entities were carried out by legally independent companies so as to identify all elements of costs and revenue;

(b) have structural separation for the activities associated with the provision of electronic communications networks or services.

(2) In keeping the separate accounts referred to in subsection (1) of paragraph (b) above, the basis of the calculation of costs must be described, as must the detailed attribution methods used. The accounts must relate to the activities associated with the provision of electronic communications networks and services, including an itemised breakdown of fixed assets and structural costs.

(3) The Commissioner may, by Decision, at his discretion, choose not to apply the requirements referred to in this Section to operators whose annual turnover associated with electronic communications networks and services is less than EUR 50 million.

(4) Unless they are subject to company law or benefits from the small and medium size enterprise criteria of Community accounting rules, the operators subject to the obligations imposed under this Section should have their reports, including those referred to in paragraph (a) of subsection (1), drawn up and submitted to an independent audit and published. This audit shall be carried out in accordance with European Union Law and this Law.

50 of 51(I) of 2012.

Co-location and
facility sharing.
51 of 51(I) of 2012.

62. (1) When a person providing electronic communications networks has the right, under national legislation, to install facilities on, over or under public or private property, or may take advantage of a procedure for the expropriation or use of property, the Commissioner shall have power to impose, taking into consideration

the principle of proportionality, the sharing of such facilities or property including, *inter alia*, buildings or entrances to buildings, building wiring, masts, antennae, towers and others supporting constructions, ducts, conduits, manholes and street cabinets.

(2) The Commissioner shall have power to impose on the holders of the rights referred to in subsection (1), the sharing of facilities or property (including physical co-location) or the adoption of measures to facilitate the coordination of public works because of the need to protect the environment or public health or public security or to meet town and country planning objectives, following a public consultation during which all interested parties must be given an opportunity to express their views. Such sharing or coordination arrangements may include rules for apportioning the costs of facility or property sharing.

(3) Following public consultation, the Commissioner shall have power to impose on the holders of the rights referred to in subsection (1) and/or on the owners of the wiring, obligations regarding the sharing of the wiring within the buildings or up to the first point of concentration or distribution, when located within a building, in case the avoidance of re-installing an identical facility is justified, as it proves to be economically ineffective or is not supported by the installation that supports the current wiring. These arrangements for sharing or coordination may include rules for the apportionment of the relevant costs, which shall take into account investment and or financial risks, as applicable.

(4) (a) The Commissioner shall have power to impose on persons the obligation to supply the necessary information, on the request of competent authorities, so that the said authorities may, jointly with the Commissioner, draw up a detailed list of the nature, availability and geographic position of the facilities referred to in subsection (1) and make such list available to interested parties.

(b) The Commissioner may, on the request of any party, take measures to resolve an issue or dispute relating to co-location or facility sharing agreements, pursuant to Part 7 of this Law and the aforesaid agreement shall be deemed to be an interconnection agreement for this purpose.

(5) The measures taken by the Commissioner in accordance with this Section are objective, transparent, non-discriminatory and proportionate and may be further regulated by Order of the Commissioner. Where relevant, the said measures are applied in coordination with the local authorities.

52(a) of 51(I) of 2012.
Interoperability of interactive digital television broadcasts.
52(b) of 51(I) of 2012.

63. (1) In interactive digital television services which are broadcast on digital interactive television “platforms” and distributed outside the European Union, irrespective of the broadcasting mode, an open API is to be used.

52(c) of 51(I) of 2012.

(2) The enhanced digital television equipment deployed for the reception of interactive digital television services broadcast on interactive digital television “platforms” shall comply with an open API, in accordance with the minimum requirements of the relevant standards or specifications, as provided in Part 12.

52(d) of 51(I) of 2012.

(3) The providers of digital television and equipment services must cooperate to provide interoperable television services to end users with special needs.

(4) Without prejudice to Section 25 of this Law, proprietors of APIs shall make available on fair, reasonable and non-discriminatory terms, and against

52(e)(f) of 51(I) of 2012. appropriate remuneration, all such information as is necessary to enable operators of interactive digital television services to provide all services supported by the API in a fully functional form.

Conditional access systems and other facilities. 53(a) of 51(I) of 2012. 64. (1) The Commissioner shall ensure that, in relation to conditional access to digital television and radio services broadcast to viewers and listeners in Cyprus, irrespective of the means of transmission, the conditions laid down in an Order shall apply.

53(b) of 51(I) of 2012. (2) Notwithstanding subsection (1) of this Section, the Commissioner may, as soon as possible after the entry into force of this Law and periodically thereafter, review the conditions applied in accordance with this Section, by undertaking a market review in accordance with the provisions of Part 9, in order to determine whether to maintain, amend or withdraw the conditions applied. Where, as a result of this market review, the Commissioner finds that one or more operators do not have Significant Market Power on the relevant market, he may amend or withdraw the conditions with respect to those operators, in accordance with the procedure set forth in an Order, but only to the extent that such amendment or withdrawal would not cumulatively adversely affect:

(a) accessibility of end users to the specific radio and television broadcasts and broadcasting channels and services specified in accordance with this Section; nor

(b) the prospects for effective competition in the markets for:

(i) the retail sale of digital television and radio broadcasting services; and

(ii) conditional access systems and other associated facilities.

The Commissioner shall, in each of these cases, provide for an appropriate period of notice to be given to parties affected by such amendment or withdrawal of conditions, as elaborated in a relevant Order.

53(c) of 51(I) of 2012. (3) The Commissioner may issue an Order imposing obligations in relation to the presentational aspect of electronic programme guides and similar listing and navigation facilities.

Regulatory controls on retail services. 54(a) of 51(I) of 2012. 65.(1) The Commissioner shall impose appropriate regulatory obligations on persons identified as having significant market power on a given retail market in accordance with the provisions of Part 9, if the following conditions apply cumulatively:

(a) as a result of a market analysis carried out in accordance with Part 9, a given retail market, identified in accordance with Part 9, is not effectively competitive; and

54(b) of 51(I) of 2012. (b) obligations imposed under Part 15 would not result, according to the Commissioner's assessment, in the achievement of the objectives set out in this Law.

54(c) of 51(I) of 2012. (2) The obligations imposed by the Commissioner under subsection (1) of this Section are based on the nature of the problem identified, are proportionate and justified in the light of the objectives laid down in this Law and, *inter alia*, may include the obligation that the identified persons:

54(d) of 51(I) of 2012. (a) charge regulated services with cost-oriented prices;

(b) do not inhibit market entry;

54(e) of 51(I) of 2012. (c) do not cause distortion to competition by setting predatory prices to attract customers;

54(f) of 51(I) of 2012. (d) do not discriminate in relation to the provision of regulated services;

54(g) of 51(I) of 2012. (e) do not unreasonably bundle services, excluding the possibility of choosing the services offered separately.

(3) The measures that may be applied by the Commissioner to such operators include appropriate retail price cap measures, measures to control individual tariffs, or measures to orient tariffs towards costs or prices on comparable markets, in order to protect end user interests whilst promoting effective competition.

54(h) of 51(I) of 2012. (4) The Commissioner shall ensure that, where an operator is subject to tariff regulation, the necessary and appropriate cost accounting systems are implemented. The Commissioner may specify the format and accounting methodology to be used. Compliance with the cost accounting system shall be verified by a qualified independent body. The Commissioner shall ensure that a statement concerning compliance is published annually.

(5) Without prejudice to Sections 114 and 115, the Commissioner shall not impose the retail control mechanisms under subsection (1) of this Section to geographical or user markets where he is satisfied that there is effective competition in those markets.

Regulatory controls on the minimum 66. **Repealed by 55 of 51(I) of 2012.**

set of leased lines.

Carrier selection and carrier pre-selection. **67. Repealed by 55 of 51(1) of 2012.**

PART 11

END USERS' RIGHTS

56 of (51) of 2012. Extension of the rights of basic users. **68.(1)** The rights afforded to household and non-household end users and subscribers, under this Part, do not depend on the designation of a person or persons as having significant market power, under the terms of Part 9 of this Law.

(2) The rights afforded to end users and subscribers under this Part are in addition to those deriving from the implementation of the provisions of Part 15 of this Law on universal service.

56 of 51(I) of 2012. Contracts and content thereof. **69.(1)** The Commissioner shall ensure that when consumers and other end users wish to subscribe to services providing connection to a public communications network and/or publicly available electronic communications services, they shall have, upon request, a right to a contract with an undertaking or undertakings providing such connection and/or services.

(2) The contract referred to in subsection (1) shall contain, in a clear and understandable manner and in easily accessible form, at least the following:

(a) the identity and address of the operator providing a public communications network and/or publicly available electronic communications;

(b) The services provided which include in particular information regarding the following:

(i) whether access is provided to emergency services and to caller location information and any restrictions relating to the use of emergency services;

(ii) any other terms that restrict access to services and applications and/or their use where, under national law and in accordance with the Community legislation, such terms are permitted;

(iii) the minimum quality levels of offered services, in particular the time for the initial connection and, on a case-by-case basis, other parameters of service quality;

(iv) any methods put in place by the undertaking to measure and shape traffic so as to avoid filling or overfilling a network link, and on how those procedures could impact on service quality;

(v) the types of maintenance and client support services offered, as well as the possibilities to contact such services;

(vi) any restrictions imposed by the provider regarding the use of the terminal equipment provided;

(c) where there is an obligation to provide directory enquiry services, the subscriber's options regarding whether their personal data shall be included in a

subscriber directory and the type of such data;

(d) particulars of prices and tariffs and the means by which current information on all applicable tariffs and maintenance charges may be obtained, the offered payment methods and any difference in cost due to the method of payment;

(e) the duration of the contract, conditions for renewal and termination of services and of the contract including:

(i) any minimum limit of use necessary to benefit from offer terms;

(ii) any charge on number portability and other identifiers;

(iii) any charge due to the end of the contract, including the cost of recovery of terminal equipment;

(f) any compensation and refund arrangements which apply if contract service quality levels are not satisfied;

(g) the method of initiating procedures for dispute resolution in accordance with the relevant provisions of Part 7 of this Law;

(h) the form of the measures that the undertaking may take in response to incidents concerning security or integrity, or threats and vulnerabilities.

(3) The Commissioner may also require the provider to include in the contract information from competent government authorities concerning the use of electronic communications services and networks for illegal actions or for the distribution of

dangerous content, as well as in relation to precautionary measures against risks threatening the personal safety of the user, his private life and personal data, as provided in Section 70(4) of this Law.

(4) A person providing connection services to a public communications network and/or publicly available electronic communications services shall, not less than one month prior to the date of implementation of any proposed modification to its contractual terms, notify the subscribers of that service –

(a) of the proposed modification in the terms of the contract for that service, and

(b) of their right to withdraw without penalty from such a contract if they do not accept the modification.

(5) The Commissioner may prescribe by Order the form of the document, the manner of notification and any other detail regarding the compliance of providers with the obligations referred to in subsection (4).

(6) The provisions of this Section shall apply without prejudice to consumer protection measures available under the relevant Cypriot Consumer Protection Legislation, in force from time to time.

(7) The Commissioner may, on his own initiative or upon the request of other persons and especially of any group representing end users and/or consumers, review the terms and conditions of service provision contracts and the conditions of payment of any compensation and/or any settlement for refund and may, by Decision or Order, impose on organisations the amendment of such terms and/or

provisions.

(8) Prior to the imposition of such amendments under subsection (7), the Commissioner shall notify in writing the interested Organisation of his intention to review the abovementioned contracts, their terms and conditions and of any concerns he may have, requesting the Organisation to submit its representations within a specified deadline not exceeding in any case a period of 15 days from the date of the written communication.

56 of 51(I) of
2012. Obligation
to provide
information to
users, consumers

70. (1) The Commissioner shall have power to require persons providing access to a public communications network and/or publicly available electronic communications services to publish transparent, comparable, adequate and up-to-date information on applicable prices and tariffs, any charges due to withdrawal from a contract, as well as information on the standardised terms and conditions regarding access to the services provided to the end users and consumers and the use of such services. The said information shall be published in a clear and understandable manner and in an easily accessible form. The Commissioner may specify additional requirements in relation to the form in which such information is published. As an indication, the following information must be published:

(a) name and address of provider: The names and head office addresses of the persons providing public communications networks and/or publicly available telephone services;

(b) description of services offered, which includes:

(i) scope of the services offered;

(ii) standard tariffs with an indication of the services offered and what is included in each tariff element (e.g. charges for access, all types of usage charges, maintenance charges), including details of standard discounts applied and special and targeted tariff schemes as well as any additional charges and costs concerning the terminal equipment;

(iii) Compensation/refund policy, including specific details of any compensation/refund schemes offered;

(iv) types of maintenance services offered;

(v) Standard contract conditions, including any minimum contractual period, termination of the contract, procedures and direct charges related to the portability of numbers and other identifiers, if relevant;

(c) Dispute settlement mechanisms, including procedures developed by the undertaking;

(d) Information about rights as regards universal service including, where appropriate, the facilities and services mentioned in Section 115 of this Law.

(2) The Commissioner shall encourage the provision of comparable information to enable end users and consumers to make an independent evaluation of the cost of alternative ways of usage of the electronic communications services offered on the market, by means of interactive guides or similar techniques. Where these are not available on the market without charge or at a reasonable price, the Commissioner must enable access to such means either himself or through third parties. Third parties shall have a right to use without charge the information published by

undertakings providing access to public communications networks and/or publicly available electronic communications, for the purposes of selling or making available such interactive guides or similar facilities.

(3) The Commissioner may oblige the persons providing a public electronic communications network and/or publicly available electronic communications services, *inter alia*:

(a) to provide applicable tariff information to subscribers regarding any number or service subject to particular pricing conditions; with respect to individual categories of services, the Commissioner may require such information to be provided immediately prior to connecting the call;

(b) to inform subscribers of any change to access to emergency services or caller location information in the service to which they have subscribed;

(c) to inform subscribers of any change to conditions limiting access to and/or use of services and applications, where such conditions are permitted under national law, and in accordance with Community law;

(d) to provide information on any procedures put in place by the undertaking to measure and shape traffic so as to avoid filling or overfilling a network link, and on how those procedures could impact on service quality;

(e) to inform subscribers of their right to determine whether or not to include their personal data in a public subscriber directory, and of the types of data concerned, in accordance with Section 105 of the Law; and

(f) to regularly inform disabled subscribers of details of products and services designed for them.

(4) The Commissioner may promote self-regulation or co-regulation measures prior to imposing any obligation under subsection (3).

(5) The Commissioner may require that the persons referred to in subsection (3) distribute public interest information to existing and new subscribers, where appropriate, by the same means as those ordinarily used by them in their communications with subscribers. In such a case, that information shall be provided by the competent public authorities in a standardised format and shall, *inter alia*, cover the following topics:

(a) the most common uses of electronic communications services to engage in unlawful activities or to disseminate harmful content, particularly where it may prejudice respect for the rights and freedoms of others, including infringements of copyright and related rights, and their legal consequences; and

(b) the means of protection against risks to personal security, privacy and personal data when using electronic communications services.

57 of 51(I) of
2012. Quality of
services.

70A.-(1) The Commissioner, after taking account of the views of interested parties, may require persons that provide publicly available access to electronic communications networks or publicly available electronic communications services to publish comparable, adequate and up-to-date information on the quality of their services and on measures taken to ensure equivalence in access for disabled end users. That information shall, on request, be supplied to the Commissioner in advance of its publication.

(2) The Commissioner may specify by Order, *inter alia*, the quality of service parameters to be measured and the content, form and manner of publication of the information, including possible quality certification mechanisms, in order to ensure that end users, including disabled end users, have access to comprehensive, comparable, reliable and user-friendly information.

(3) In order to prevent the degradation of service and the hindering or slowing down of traffic over networks, the Commissioner may set minimum quality of service requirements on any person or persons providing public communications networks.

(4) The Commissioner shall provide the European Commission, in good time before setting any requirements under the previous paragraph, with a summary of the grounds for action, the envisaged requirements and the proposed course of action. This information shall also be made available to BEREC. The European Commission may, having examined such information, make comments or recommendations thereupon, in particular to ensure that the envisaged requirements do not adversely affect the functioning of the internal market. The Commissioner shall take the utmost account of the Commission's comments or recommendations prior to imposing the relevant obligations.

58 of 51(1) of
2012. Availability
of services.

71. The Commissioner shall take all necessary measures to ensure the fullest possible availability of telephone services provided over public communications networks in the event of catastrophic network breakdown or in cases of force majeure. The Commissioner shall ensure that undertakings providing publicly available telephone services take all necessary measures to ensure uninterrupted access to emergency services.

59 of 51(I) of
2012.
Arrangements for
users with
disabilities.

71A. -(1) The Commissioner may specify, where appropriate, the requirements to be met by persons providing publicly available electronic communication services to ensure that disabled end users:

(a) have access to electronic communications services equivalent to those enjoyed by the majority of end users; and

(b) benefit from the choice of undertakings and services available to the majority of end users.

(2) In order to be able to adopt and implement specific arrangements for disabled end users, the Commissioner shall encourage the availability of terminal equipment offering the necessary services and functions.

60 of 51(I) of
2012. Digital
consumer
equipment.

72. (1) The Commissioner shall specify by Order the technical characteristics of the digital consumer equipment in order to ensure its interoperability. The Commissioner may proceed to any purchase or sampling for the purposes of carrying out tests and checks.

(2) Whoever intends digital consumer equipment for sale or rent or otherwise made available and capable of descrambling digital television signals, is to possess the capability to:

(a) allow the descrambling of such signals according to a common European scrambling algorithm as administered by a recognised European standards organisation; and

(b) display signals that have been transmitted in the clear provided that, in the event that such equipment is rented, the renter is in compliance with the relevant rental agreement.

(3) The Commissioner shall ensure that any analogue television set with an integral screen of visible diagonal greater than forty-two (42) cm which is put on the market for sale or rent is to be fitted with at least one open interface socket, as standardised by a recognised European standards organisation, permitting simple connection of peripherals, especially additional decoders and digital receivers.

(4) Subsections (2) and (3) shall not apply to television sets put on the market in the European Union for sale or rent before the 23rd of August 1996.

(5) The Commissioner shall ensure that any digital television set with an integral screen of visible diagonal greater than thirty (30) cm which is put on the market for sale or rent is to be fitted with at least one open interface socket (either standardised by, or conforming to a standard adopted by a recognised European standards organisation, or conforming to an industry-wide specification), permitting simple connection of peripherals, and able to pass all the elements of a digital television signal, including information relating to interactive and conditionally accessed services.

(6) Subsection (5) shall not apply to television sets put on the market in the European Union for sale or rent before the 25th of April 2002.

61 of 51(I) of
2012. Must-carry
obligation.

72.A. – (1) The Commissioner may impose a reasonable must-carry obligation for the transmission of specified radio and television broadcast channels, as well as

supplementary services, in particular accessibility services for disabled end users, on providers of electronic communications services, used for the distribution of radio or television broadcasts to the broader public, where a significant number of end users uses such networks as the principal means to receive radio and television broadcasts:

Provided that the above obligation may only be imposed where it is necessary to meet general interest objectives as defined by the Commissioner.

(2) The Commissioner shall regularly review the necessity to impose a must-carry obligation.

European
telephone access
codes. 62(a) of
51(I) of 2012.

73. (1) The Commissioner shall ensure, in cooperation with other competent authorities in the Republic, that the “00” is the standard international access code.

62(b) of 51(I) of
2012.

(2) In addition to the provisions of subsection (1) of this Section, the Commissioner, in cooperation with other competent authorities in the Republic, may establish special arrangements to be complied with by persons, in order to ensure that special agreements for making calls between the Republic of Cyprus and adjacent locations, if they exist, may be established or continued and that end users of publicly available telephone services in the Republic of Cyprus are fully informed of such arrangements.

62(c) of 51(I) of
2012.

(3) The Commissioner, in cooperation with other competent authorities in the Republic, shall ensure that providers of publicly available telephone services allowing international calls handle all calls to and from the ETNS, that shall be managed, including numbering, by a person established in the European Union and designated as manager by the European Commission of the ETNS, at rates similar to those applied for calls to and from other Member States.

(4) Deleted with 62(d) of 51(I) of 2012.

63 of 51(I) of
2012. “116”
numbering range

73A.-(1) The Commissioner, in cooperation with other competent authorities in the Republic, shall promote the specific numbers in the numbering range beginning with “116” identified by Commission Decision 2007/116/EC of 15 February 2007 on reserving the national numbering range beginning with “116” for harmonised numbers for harmonised services of social value and shall encourage the provision within the territory of the Republic of Cyprus of the services for which such numbers are reserved.

(2) The Commissioner, in cooperation with other competent authorities in the Republic, shall ensure that disabled end users are able to access services provided under the “116” numbering range to the greatest extent possible. Measures taken to facilitate disabled end users' access to such services whilst travelling in other Member States shall be based on compliance with relevant standards or specifications published from time to time.

(3) The Commissioner, in cooperation with other competent authorities in the Republic, shall ensure that citizens are adequately informed of the existence and use of services provided under the “116” numbering range, in particular through initiatives specifically targeting persons travelling between Member States.

(4) In addition to measures of general applicability to all numbers in the “116” numbering range taken pursuant to subsections (1), (2), and (3), the Commissioner, in cooperation with other competent authorities in the Republic, shall make every effort to ensure that citizens have access to a service operating a hotline to report cases of missing children. The hotline shall be available on the number “116000”.

64 of 51(I) of
2012. Access to
numbers and
services.

74.-(1) Where technically and economically feasible, and except where a called subscriber has chosen, for commercial reasons, to limit access by calling parties located in specific geographical areas, the Commissioner shall impose obligations so that all necessary measures are taken to ensure that end users are able to:

(a) access and use services using non-geographic numbers within the Community;
and

(b) access all numbers provided in the Community, regardless of the technology and devices used by the provider of the service, including those in the national numbering schemes of Member States, those from the ETNS and Universal International Freephone Numbers.

(2) Subscribers in the territory of the Republic of Cyprus have the right to choose, for commercial reasons, to limit access by calling parties located in specific geographical areas.

(3) The Commissioner shall ensure that the competent authorities are able to require undertakings providing public communications networks and/or publicly available electronic communications services to block, on a case-by-case basis, access to numbers or services where this is justified by reasons of fraud or misuse and to require that in such cases providers of electronic communications services withhold relevant interconnection or other service revenues.

64 of 51(I) of
2012. Facilitating
change of provider

75.-(1) The Commissioner shall ensure that all subscribers with numbers from the Numbering Scheme of the Republic of Cyprus who so request can retain their number(s) independently of the undertaking providing the service in the case of:

(a) geographic numbers, at a specific location; and

(b) non-geographic numbers, at any location.

This subsection does not apply to the porting of numbers between networks providing services at a fixed location and mobile networks.

(2) The Commissioner shall ensure that pricing between operators and/or service providers related to the provision of number portability is cost-oriented, and that direct charges to subscribers, if any, do not act as a disincentive for subscribers against changing service provider.

(3) The Commissioner shall not impose retail tariffs for the porting of numbers in a manner that would distort competition, such as by setting specific or common retail tariffs.

(4)(a) The Commissioner shall ensure that porting of numbers and their subsequent activation shall be carried out within the shortest possible time. In any case, subscribers who have concluded an agreement to port a number to a new undertaking shall have that number activated within one working day.

(b) Without prejudice to the previous subsection, the Commissioner shall establish the global process of porting of numbers, taking into account national provisions on contracts, technical feasibility and the need to maintain continuity of service to the subscriber. In any event, loss of service during the process of porting shall not exceed one (1) working day. The Commissioner may also take into account, where necessary, measures ensuring that subscribers are protected throughout the switching

process and are not switched to another provider against their will.

(c) The Commissioner may ensure that appropriate sanctions on service providers are imposed, including an obligation to compensate subscribers in case of delay in porting or abuse of porting by them or on their behalf.

(5) The Commissioner shall ensure that contracts concluded between consumers and undertakings providing electronic communications services do not mandate an initial commitment period that exceeds twenty-four (24) months and that providers offer users the possibility to subscribe to a contract with a maximum duration of twelve (12) months.

(6) Without prejudice to any minimum contractual period, the Commissioner shall ensure that conditions and procedures for contract termination do not act as a disincentive against changing service provider.

PART 12

TELECOMMUNICATIONS TERMINAL EQUIPMENT AND RADIO EQUIPMENT OF CERTAIN CATEGORIES OR CLASSES

8 of 112(I) of 2016.
Terminal
equipment and
radio equipment.

76.(1) Subject to the provisions of subsections (3) and (4) of this Section, the provisions of this Part shall apply to the terminal equipment and to radio equipment of certain categories or classes, constructed so as to meet the essential requirements set out in the provisions of Section 81.

(2) Radio equipment of certain categories or classes which is subject to the categories set out in the provisions of Section 81 and which uses radio interface, and to which the provisions of this Part apply, shall also be subject

to the provisions of any law on radio communications in force at the time.

(3) The provisions of this Part shall not apply to radio equipment exclusively used for activities concerning public security, defence, State security, including the economic well-being of the State in the case of activities pertaining to State security matters, and the activities of the State in the area of criminal law.

(4) The Commissioner may, by Order, exclude radio equipment of certain categories or classes or types used under specific circumstances from the provisions of this Part.

(5) The provisions of this Part shall not apply to radio equipment constructed in view of ensuring:

(a) the protection of the health and safety of persons, domestic animals and property, including the objectives set out in the provisions of this Law with respect to safety requirements, but with no voltage limit applying;

(b) an adequate level of electromagnetic compatibility, as defined in the provisions of the Regulations on the Essential Requirements (Low Voltage Electrical Equipment) of 2016;

(c) that it both effectively uses and supports the efficient use of radio spectrum in order to avoid harmful interference for which the Director has competence.

8 of 112(I) of 2016.
Powers of the
Commissioner.

77.(1) During or for the purpose of exercising his competences under the provisions of paragraph (c) of Section 20, the Commissioner may, by Order, designate other Member States or third countries and terminal equipment and/or radio equipment certified therein, and in such case, the said terminal

equipment shall be deemed to have been approved in the Republic.

(2) Any person that sells, leases or offers for lease or in any manner provides or offers for provision or places on the Cypriot market radio equipment that does not fall within the provisions of Sections 78, 79 and 81 or terminal equipment that does not fall within the provisions of this Law, shall be guilty of a criminal offence.

(3) Any person convicted of a criminal offence in violation of the provisions of subsection (2) may be sentenced to imprisonment for a period not exceeding six (6) months or to a pecuniary fine not exceeding five thousand euros (€5,000) or to both such penalties.

8 of 112(I) of 2016. 78. The compliance requirements shall be:
Compliance.

(a) the fulfilment of the requirements specified in the provisions of Sections 79 and 81 and in any relevant Orders issued by the Commissioner pursuant to and in application of this Part of the Law;

(b) the drawing up of the declaration of conformity in respect of the radio equipment by the manufacturer in accordance with an Order issued by the Commissioner;

(c) the carrying out of the appropriate procedures for assessing the conformity of the radio equipment that falls within the provisions of Section 81 with the essential requirements, and also in accordance with an Order issued by the Commissioner;

(d) the affixing of the required “conformity marking” on the radio equipment, in accordance with the provisions of Section 81, by the

manufacturer or his authorised representative or by the importer and/or the distributor, as the case may be, in accordance with the provisions of subsection (1) of Section 81A;

(e) the affixing of the CE conformity marking and the drawing up of the EU Declaration of Conformity in accordance with the provisions of Section 84A;

Official Journal of the EU: L.218, 20.8.2008, p.30 (f) compliance with Section 30 of Regulation (EC) No. 765/2008 of the European Parliament and of the Council, of 9 July 2008, setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93, as amended or replaced.

8 of 112(I) of 2016. Obligation of radio equipment to comply with the essential requirements. 79. The radio equipment set out in the provisions of Section 81 placed on the market must comply with the essential requirements specified in the provisions of Section 81 and the provisions of Section 78, and also with the remaining provisions of this Law, when installed, maintained and used for the purpose for which it is intended.

8 of 112(I) of 2016. Essential requirements and competences of other authorities. 80. (1) Radio equipment shall be constructed so as to ensure:

30(I) of 2002
29(I) of 2003
258(I) of 2004
89(I) of 2005
71(I) of 2009
7(I) of 2011
90(I) of 2011
54(I) of 2013. (a) the protection of health and safety of persons and of domestic animals and the protection of property, including the objectives set out in the provisions of this Law, adopted and applied together with the Regulations in force at the time, issued under the provisions of the Essential Requirements to be fulfilled by Specific Product Categories Law of 2002, with respect to safety requirements, but with no voltage limit applying;

(b) an adequate level of electromagnetic compatibility, as defined in the provisions of the Regulations on the Essential Requirements (Low Voltage Electrical Equipment) of 2016, as set out in the provisions of paragraph (a).

(2) Radio equipment shall be so constructed that it both effectively uses and supports the efficient use of radio spectrum in order to avoid harmful interference.

9 of 112(I) of 2016.
Distinction of
competences of the
Director of the
DEMS in
connection with
radio equipment.

80A. (1) Compliance with the requirements set out in the provisions of subsection (1) of Section 80 and the relevant competences deriving from Regulation (EC) No 765/2008 shall fall within the competence of the Director of the Department of Electromechanical Services, who shall act pursuant to the powers conferred on him by the Regulations issued under the provisions of the Essential Requirements to be fulfilled by Specific Product Categories Law of 2002.

(2) Market surveillance in relation to the requirements stated in the provisions of subsection (1) of Section 80 shall be carried out by the Director of Electromechanical Services in accordance with the Regulations issued under the provisions of the Essential Requirements to be fulfilled by Specific Product Categories Law of 2002.

(3) Until 1 July 2017, compliance with the requirements stated in the provisions of paragraphs (a) and (b) of subsection (1) of Section 80 and the relevant competences deriving from Regulation (EC) No 765/2008 shall fall within the competence of the Director of the Department of Electronic Communications, who shall act pursuant to the powers conferred on him by the provisions of this Law and the relevant Regulations.

9 of 112(I) of 2016.

80B. (1) Compliance with the requirements stated in the provisions of

Distinction of competences of the Director of the Department of Electronic Communications in connection with radio equipment.

subsection (2) of Section 80 and the relevant competences deriving from Regulation (EC) No 765/2008 shall fall within the competence of the Department of Electronic Communications, who shall act pursuant to the powers conferred on him under the provisions of the Regulations issued under the provisions of the Radio Communications Law of 2002.

(2) Market surveillance in relation to the requirements stated in the provisions of subsection (2) of Section 80 shall be carried out by the Director of Electronic Communications, in accordance with the provisions of the Radio Communications Law of 2002.

10 of 112(I) of 2016. Competence of the Commissioner in certain categories of radio equipment.

81. The Commissioner shall have competence in respect of radio equipment of certain categories or classes constructed so as to ensure the following essential requirements:

- (a) it interworks with accessories, in particular with common charges;
- (b) it interworks via networks with other radio equipment;
- (c) it can be connected to interfaces of the appropriate type throughout the Union;
- (d) it does not harm the network or its functioning nor misuse network resources, thereby causing an unacceptable degradation of service;
- (e) it incorporates safeguards to ensure that the personal data and privacy of the user and of the subscriber are protected;
- (f) it supports certain features ensuring protection from fraud;

(g) it supports certain features ensuring access to emergency services;

(h) it supports certain features in order to facilitate its use by users with a disability;

(i) it supports certain features in order to ensure that software can only be loaded into the radio equipment where the compliance of the combination of the radio equipment and software has been demonstrated.

Right to connect;
refusal to connect
or disconnection.

82. Repealed with 11 of 112(I) of 2016.

12 of 112(I) of
2016. Notifying
authorities and
related
requirements.

83. (1) The Commissioner shall act as a notifying authority and shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, including compliance and, to this end, shall approve one or more bodies that satisfy the criteria set out in an Order issued by him, as bodies that may carry out the conformity assessment procedure for radio equipment set out in the provisions of Section 81, in accordance with the essential requirements specified in the provisions of this Law.

(2) The Commissioner shall notify to the Commission of the European Union and to the other Member States of the European Union, the bodies foreseen in the provisions of subsection (1), that have been approved to carry out the duties of conformity assessment as third parties under the provisions of this Law and the Order issued thereunder.

(3) The carrying out of the conformity assessment procedure of radio equipment with the essential requirements set out in the provisions of this

Law shall, for the purposes of this Law, be valid only if carried out:

(a) by a body approved by the Commissioner for the purpose of application of radio equipment that falls within the provisions of Section 81;

(b) by a body selected by another Member State of the European Union as a body that may carry out the conformity assessment procedure of radio equipment with essential requirements and whose selection is notified by the said Member State to the competent authorities of the Republic and to the European Commission.

12 of 112(I) of
2016. Approval of
Cypriot notified
bodies.

83A. (1) In the performance of his duties, the Commissioner shall, in accordance with the provisions of Section 83, act in such a way that:

(a) no conflict of interest with conformity assessment bodies occurs;

(b) objectivity and impartiality are safeguarded;

(c) confidentiality of information is ensured;

(d) each decision relating to notification of a conformity assessment body is taken by competent persons different from those who carried out the assessment;

(e) the notifying authority does not offer or provide any activities that conformity assessment bodies perform, or consultancy services on a commercial or competitive basis;

(f) a sufficient number of competent personnel is available for the proper performance of its tasks.

(2) The Commissioner shall inform the Commission of the procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, and of any changes thereto, as prescribed by Order.

(3) The Commissioner shall prescribe by Order matters relating to the requirements and compliance of the notified bodies, the subsidiaries and subcontractors of the notified bodies as well as related matters.

(4)(a) The Commissioner shall submit to the Commission regular reports on the application of the provisions of this Law by 12 June 2017 and at least every two years thereafter.

(b) The reports shall contain a presentation of the market surveillance activities performed by the Commissioner and provide information on whether and to what extent compliance with the requirements of the provisions of this Law has been attained, including in particular requirements on the identification of economic operators.

12 of 112(I) of
2016. CE
conformity marking
and declaration.

84. (1) The CE conformity marking indicates compliance of radio equipment with the provisions of Section 81 in respect of the essential requirements stated therein.

(2) After the conformity assessment procedure and prior to the placement of radio equipment on the market, the manufacturer or his authorised representative or the importer or the distributor, as the case may be, shall affix on the radio equipment the CE conformity marking, according to the type and form prescribed by Order of the Commissioner.

(3) The Commissioner shall prescribe by Order the procedures, the type, the form and all other matters relating to the CE conformity marking.

(4) The EU declaration of conformity shall state that the fulfilment of the requirements set out in the provisions of Sections 78, 80 and 83 has been demonstrated.

(5) The structure and the elements to be contained in both the EU declaration of conformity and the simplified declaration of conformity shall be prescribed by Order of the Commissioner.

13 of 112(I) of 2016. Procedures for conformity assessment and placing of radio equipment on the market.

84A. The appropriate procedures for conformity assessment and the placing on the market of radio equipment set out in the provisions of Section 81, and which must be fulfilled by the manufacturer, shall be prescribed by Order of the Commissioner.

Publication of and access to information.

85. (1) The Commissioner shall ensure that electronic communications network providers:

(a) publish, have readily available and keep up-to-date, accurate and adequate technical specifications of all interfaces offered by them before services provided through those interfaces are made publicly available; and

(b) provide and publish such additional information as the Commissioner may require by Order.

(2) The specifications stated in subsection (1) above shall be published in sufficient detail to permit:

14(a) of 112(I) of 2016.

(a) the design of radio equipment and terminal equipment capable of utilising all services provided through the corresponding interface; and

14(b) of 112(I) of 2016. (b) manufacturers of radio equipment and terminal equipment to carry out, at their choice, the relevant tests for the essential requirements applicable to radio equipment, set out in the provisions of Section 81 and terminal equipment set out in the provisions of this Law.

67 of 51(I) of 2012. (3) The Commissioner may impose on network providers who, in his reasonable opinion, do not comply with the provisions of subsections (1) and (2) of this Section, a daily fine of five hundred euros (€500) for each day during which the provider fails to comply with the aforesaid provisions.

15 of 112(I) of 2016. Presumption of conformity of radio equipment. 85A. Radio equipment which is in conformity with harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union, shall be presumed to be in conformity with the essential requirements set out in Sections 78, 79, 81, 84 and 84A covered by those standards or parts thereof.

15 of 112(I) of 2016. Obligations of economic operators. 85B. The Commissioner shall prescribe by Order the obligations of the manufacturers, authorised representatives, importers and distributors of radio equipment, as well as the structure, the contents of the technical documentation and the information to be contained in the EU declaration of conformity and the simplified declaration of conformity, in view of the fulfilment of the obligations of the aforesaid economic operators and their compliance with the provisions of this Law, the relevant Order and the implementation of Sections 10 to 15 of Regulation (EC) No 765/2008.

15 of 112(I) of 2016. Notifications of the Commissioner. 85C. The Commissioner shall notify to the Commission any action relating to radio equipment set out in the provisions of Section 81 according to the procedure set out in the provisions of the Essential Requirements to be fulfilled by Specific Product Categories Law of 2002, and the radio interfaces that he intends to regulate, except:

(a) the radio interfaces which fully and without any deviation comply with the decisions of the European Commission on the harmonised use of radio spectrum enacted pursuant to the provisions of the Radio Communications Law of 2002 and any Regulations or orders issued thereunder; and

(b) the radio interfaces which correspond to radio equipment which can be put into service and used without restrictions within the European Union.

15 of 112(I) of 2016. Putting into service and use of radio equipment.

85D. (1) The Commissioner shall allow, subject to his competences, the putting into service and use of radio equipment if it complies with this Part, when it is properly installed, maintained and used for its intended purpose.

(2) Subject to his obligations under the provisions of the Radio Communications Law of 2002 and the terms set out in the licences for the use of frequencies in accordance with the provisions of this Law and the provisions of the Radio Communications Law of 2002 and any Regulations or orders issued thereunder, the Commissioner may introduce additional requirements for the putting into service and/or use of radio equipment for reasons related to the effective and efficient use of radio spectrum, the avoidance of harmful interference, the avoidance of electromagnetic disturbances or public health.

15 of 112(I) of 2016. Making available on the market.

85E. (1) The Commissioner shall not impede, for reasons relating to aspects covered by the provisions of this Law, the making available on the Cypriot market of radio equipment which complies with the requirements set out in the provisions of this Law.

(2)(a) At trade fairs, other exhibitions and similar events, the Commissioner shall not create any obstacles to the display of radio equipment which does not comply with this Part, provided that a visible sign clearly indicates that

such radio equipment may not be made available on the market and/or put into service until it has been brought into conformity with the provisions of this Part.

(b) Demonstration of radio equipment may only take place provided that adequate measures, as prescribed by the competent authorities of the Republic, have been taken to avoid harmful interference, electromagnetic disturbances and risk to the health or safety of persons or of domestic animals or to property.

12 of 113(I) of
2007. Setting of
charges to examine
applications for
approval of notified
bodies

86. The Commissioner shall prescribe by Order the charges for the submission and examination of applications for approval of Cypriot notified bodies, as well as the charges for the assessment of the annual report of the Cypriot notified bodies and their surveillance.

16 of 112(I) of
2016. Surveillance
of the radio
equipment market
by the
Commissioner and
notification of the
Commission.

87. (1) The Commissioner shall monitor the market, with the aim of ensuring the making available on such market of radio equipment that complies with the provisions of this Law and the relevant Order, in application of the provisions of paragraph 3 of Section 15 and the provisions of Sections 16 to 29 of Regulation (EC) No 765/2008.

(2) The Commissioner shall monitor the market for radio equipment foreseen in the provisions of Section 81 and where he ascertains that it does not comply with the requirements set out in the provisions of this Part, he shall take all appropriate measures including, if necessary, the issuing of Orders for the withdrawal of the radio equipment from the market and/or from service, or the prohibition of its placing on the market or putting into service and shall prescribe by Order the appropriate measures to be taken in case of non-conformity of radio equipment with the provisions of this Law.

(3) In the case of non-conformity of the radio equipment foreseen in the provisions of Section 81 with the essential requirements and with the provisions of Section 78 to 84 or in case of violation of the provisions of Section 30 of Regulation (EC) No 765/2008, the Commissioner may impose an administrative fine to a person that sells, assigns or offers for assignment or possesses or uses or otherwise disposes of or offers or circulates on the market radio equipment of such type, in accordance with the provisions of paragraph (k) of Section 20, irrespective of the existence of criminal liability subject to any other provision of this Law or any other relevant legislation or European Regulation.

(4) The CE marking must be visible and legible.

(5) The Commissioner may, depending on the severity of the violation and the dangerousness of the product, make an announcement in the daily press and urge the holders, distributors or users of radio equipment that does not comply with the provisions of this Law and consumers, to contribute to the implementation of the measures taken under the provisions of subsection (1) of this Section.

(6) The Commissioner shall notify the Commission with respect to radio equipment foreseen in the provisions of Section 81 that has been withdrawn from the market, indicating the reason or reasons for his decision as well as the reason or reasons of non-conformity of the radio equipment with the provisions of this Law.

14 of 113(I) of
2007. Powers of the
Commissioner to
seize
telecommunications

87A. (1) Where an officer authorised by the Commissioner, in the exercise of his powers under the provisions of Section 27, ascertains that during the verification of any radio equipment in accordance with the provisions of Section 81, such equipment does not satisfy the terms, conditions and

terminal equipment and confiscation procedures.

specifications set out in the provisions of Sections 78, 79, 81, 84 and 84A, he may seize any such radio equipment.

17(a) of 112(I) of 2016.

17(a) of 112(I) of 2016. (2) Subject to the provisions of this Law, the procedure, the conditions of keeping, maintaining or performance of radio equipment set out in the provisions of Section 81 which is seized in accordance with the provisions of this Section, may be prescribed by Order.

17(b) of 112(I) of 2016. (3) An officer authorised by the Commissioner must inform by notification of seizure the person from whom the radio equipment has been seized, informing him at the same time of his right to file an objection against the seizure, in accordance with the provisions of subsection (4) as well as the deadline within which he may exercise such right and which shall be no less than thirty days.

(4) Any person with a legal interest may file an objection against the seizure performed by the Commissioner under this Section, and in such case the Commissioner shall:

(a) examine without undue delay and may, at his discretion, hear the interested party or give such party the opportunity to support the reasons on which his objection is based; and

(b) by reasoned decision, ratify, amend, or revoke the decision to seize a product, within a reasonable period of time.

(5) The Commissioner shall take all appropriate measures so that, if the seizure is revoked or is no longer justified, the seized products are returned to the interested party.

(6) In case of ratification of the Commissioner's decision, any person with a legal interest in the seized products may apply to the Court for the issuance of an order for the return of the said products either to him or to another person.

(7) The Court shall issue the order referred to in subsection (6) only if satisfied that:

(a) no criminal proceedings for an offence committed in violation of this Law in connection with the product or a confiscation procedure have been initiated or, if initiated, these have been completed without the confiscation of the product or without the conviction of any person;

(b) in case such proceedings have not been initiated, more than three months from the seizure of the product have elapsed.

(8) Irrespective of whether criminal charges have been filed for an offence committed in violation of the provisions of Section 77, the Commissioner may, in the case of seizure made pursuant to this Section, and subject to the Civil Procedure rules in force at the time, apply to the Court by summons, seeking the issuance of an order for the confiscation of the seized products for the reasons stated in subsection (1).

(9) The Court shall issue the order for the confiscation of any seized product, sought under the above subsection, only if satisfied that:

(a) the seized products do not comply with the provisions of this Law or the Regulations issued thereunder; or

(b) no reasonable means is available, under the circumstances, for the

compliance of the person concerned with the provisions of Section 77 of this Law.

17(c) of 112(I) of 2016. (10) Subject to the provisions of subsection (6), radio equipment which is confiscated by Court order, may be destroyed in accordance with the instructions of the Court:

Provided that if the Court deems fit, it may order that the said equipment, instead of being destroyed, be handed over by the Commissioner to a person chosen by him, based on objective criteria and procedures, on condition that the said person:

(a) shall not place it on the market or put it into service, except for the purpose of disposing of it as waste material; and

(b) shall comply with any order for payment of costs or expenses issued against him, in the context of the issuance of the order for confiscation of the equipment.

14 of 113(I) of 2007. Powers of the Commissioner concerning sampling. 87B. (1) In order to establish whether any violation of Section 77 of this Law has been committed, the Commissioner shall have power to proceed to any sampling or purchase of radio equipment or terminal equipment for the purpose of carrying out tests and checks.

18(a) of 112(I) of 2016.

18(b) of 112(I) of 2016. (2) Radio equipment or terminal equipment taken as a sample or purchased pursuant to this Section shall be subject, in accordance with procedures prescribed by Order of the Commissioner, to a test which, depending on the result and without prejudice to the provisions of Section 87 of this Law, may lead to:

- 18(c) of 112(I) of 2016. (a) the filing of criminal charges for a criminal offence in accordance with the provisions of Sections 77 and 88A to 88F; and/or
- 18(d) of 112(I) of 2016. (b)A procedure of seizure or confiscation of the relevant product regarding exclusively radio equipment referred to in the provisions of Section 81 under the provisions of Section 87A.
- 18(e) of 112(I) of 2016. (3) The Commissioner shall allow the person from whom a sample has been taken or radio equipment or terminal equipment has been purchased or a person having an interest in any such equipment, to also submit the product under investigation to competent bodies for testing, in accordance with the procedure followed for assessing the conformity of radio equipment or terminal equipment under the relevant Orders that may be issued by the Commissioner in application of this Law.
- 14 of 113(I) of 2007. Refund of the Commissioner's expenses. 87C. (1) In case a Court convicts a person for any of the offences of Section 77 or the Commissioner imposes an administrative fine pursuant to the provisions of Section 87 in connection with any radio equipment or in connection with the violation of the provisions of Sections 88A, 88B, 88C, 88D, 88E and 88F concerning terminal equipment, the Court or the Commissioner, as the case may be, shall have power, in addition to any other order for costs or expenses, to order the aforesaid person or, as the case may be, any person having an interest in the equipment, to compensate the Commissioner for any cost incurred or which may be incurred:
- 19(a) of 112(I) of 2016. (a) regarding radio equipment, the possibility of seizure or retaining of the products by or on behalf of the Commissioner;
- (b) regarding any expenses incurred by the Commissioner in the exercise of his powers under this Law.

20 of 112(I) of
2016.
Notification of the
Commissioner's
actions to the
Commission.

88. The Commissioner shall notify the Commission of any action referred to in the provisions of Section 87 concerning radio equipment, indicating the reasons that led to his decision and the reasons for the non-conformity of the equipment.

21(I) of 112(I) of
2016.
Abolition of
granted special or
exclusive rights.

88A. (1) In case he has granted special or exclusive rights to undertakings, the Commissioner shall see to the abolition of all exclusive as well as special rights which:

(a) limit the undertakings to two (2) or more, based on criteria which are not objective, proportional and non-discriminatory;

(b) indicate, based on criteria other than those referred to in paragraph (a), more competing undertakings.

(2) The Commissioner shall notify to the Commission the measures taken and the plans submitted for this purpose.

21(I) of 112(I) of
2016.
Powers of the
Commissioner
with respect to
competition in the
markets in
telecommunications
terminal equipment.

88B. (1) The Commissioner shall ensure that economic operators have the right of importation, marketing, connection, bringing into service and maintenance of the terminal equipment as set out in the provisions of Section 88C.

(2) The Commissioner may

(a) in the case of satellite earth station equipment, refuse to allow such equipment to be connected to the public telecommunications network or to

be brought into service where it does not satisfy the common technical regulations adopted in accordance with the provisions of this Law and in accordance with the provisions of the Radio Communications Law of 2012 or, in the absence thereof, the essential requirements laid down in the provisions of Article 3 of Directive 1999/5/EC; in the absence of common technical rules or harmonised regulatory conditions, national rules shall be proportionate to those essential requirements and shall be notified to the European Commission in accordance with the provisions of the Essential Requirements to be fulfilled by Specific Product Categories Law of 2002, where the provisions of Directive 9834/EC so require;

(b) in the case of other terminal equipment, refuse to allow such equipment to be connected to the public telecommunications network where it does not satisfy the common technical regulations adopted in accordance with the provisions of this Law and in accordance with the provisions of the Radio Communications Law of 2002, or in the absence thereof, the essential requirements laid down in Article 3 of Directive 1999/5/EC;

(c) require economic operators to possess the technical qualifications needed to connect, bring into service and maintain terminal equipment:

Provided that such qualifications shall be assessed on the basis of objective, non-discriminatory and publicly available criteria.

21(I) of 112(I) of
2016.
Access to new
electronic
interconnections
and obligation of
publication.

88C. The Commissioner shall ensure that users have access to the new public network electronic interconnections and that their physical characteristics are published by the investors of public telecommunications networks.

21(I) of 112(I) of 2016.
Formalisation and publication of terminal equipment specifications.

88D. (1) The Commissioner shall ensure that all specifications for terminal equipment to be connected, directly or indirectly, to the public network, shall be formalised and published.

(2) The Commissioner shall notify those technical specifications in draft form to the European Commission in accordance with the Essential Requirements to be fulfilled by Specific Product Categories Law of 2002.

21(I) of 112(I) of 2016.
Monitoring of the application of the specifications.

88E. The Commissioner shall ensure that in monitoring the specifications referred to in the provisions of Section 88D, the application is entrusted to a body independent of public or private undertakings offering goods or services in the telecommunications sector.

21(I) of 112(I) of 2016.
Report submitted by the Commissioner.

88F. The Commissioner shall provide the European Commission at the end of each year with a report allowing it to monitor compliance with the provisions of Sections 88A to 88F.

PART 13

ACQUISITION OF IMMOVABLE PROPERTY AND POWERS OF ENTRY

Acquisition of immovable property and incidental matters.

89. (1) Duly authorised electronic communications network providers may acquire immovable property for the purposes of any of their activities under this Law, and in case of property which cannot be acquired by agreement, this may be acquired under the provisions of the law on the compulsory expropriation of property, in force from time to time.

(2) Providers referred to in subsection (1) above or a person duly authorised by them in writing in that behalf, may, at all reasonable times, enter upon any land and, subject to twenty-four hours prior notice in writing to their occupier, enter upon any premises, and do such acts or things as may be reasonably necessary for the purpose of inspection, examination or investigation, preliminary or incidental to the exercise of any of the functions of a licenced electronic communications network provider under this Law.

(3) The providers shall pay compensation, in accordance with the provisions of subsection (11) of this Section, for any personal injury or damage caused by the entry or by doing the aforesaid acts or works pursuant to subsection (2).

(4) For the purpose of carrying out any work in connection with any electronic communications network, an electronic communications network provider or a person duly authorised by the provider in writing in that behalf, may, with the consent of the occupier of immovable property, or by agreement and the payment of an agreed sum of money, after giving twenty-four hours prior notice to the occupier of the immovable property, enter therein and carry out all necessary works and installations and may, in the course thereof, cut and/or lop trees, remove vegetation, hedges, drywalls or other things, as may be necessary for the purpose.

(5) In relation to any destruction or damage to any property during the carrying out of the works and installations referred to in subsection (4), compensation shall be paid to the owner of the property according to the provisions of subsection (11) of this Section.

(6) In the event that no consent is granted or no agreement is concluded between a provider and an occupier concerning entry or the amount to be

paid, as provided in subsection (4), the provider shall have the right to file an application with the Court, which, having considered and weighed the prejudice, on the one hand, and the benefit accruing to the parties involved on the other, in case that entry is allowed or is not allowed on to immovable property, as the case may be, shall decide whether or not to allow the said entry, setting the amount of compensation in case it allows entry.

(7) In making a judgment on the extent of the prejudice and benefit which shall arise, the Court shall take into consideration all the circumstances and the principle that no person may be unreasonably denied access to an electronic communications network and/or services.

15(a) of 113(I) of
2007.

(8) For the purposes of carrying out works and installations in connection with any electronic communications network, an electronic communications network provider or any person duly authorised by him in writing in that behalf may, subject to a written approval or authorisation by a competent authority under this or any other relevant law, open and/or dig any street and lay out any electronic communications network installation and may alter the position of any pipe, excluding a main pipe for the supply of water, subject to twenty-four hours prior notice to any occupier of a house who shall be affected.

15(b) of 113(I) of
2007.

(9) A street opened or dug up according to the provisions of subsection (8), shall be immediately reinstated temporarily by the provider and restored by the competent authority and/or the provider to its previous position, in accordance with the terms and obligations set out in the licences required under Section 96, at the cost and expense of the provider, who shall also be bound to immediately remove all debris which may have been occasioned by the breaking up and opening of the street.

(10) An electronic communications network installation placed or

constructed on, over, along, across or under any street, shall be so placed and constructed as not to interrupt, obstruct and/or interfere with the passage along the street.

(11) If the amount of compensation which is payable according to the provisions of subsections (3) and (5) is not agreed upon, it shall be determined by two arbitrators, one of whom is appointed by the provider and the other by the other interested party and in case there is no agreement between the said arbitrators, the amount of compensation to be paid shall be determined by the competent District Court in accordance with the Courts Laws in force at the time.

Power to inspect. 90. For the purposes of inspection or repair of any electronic communications network or installations and machinery or for any other proper cause, the provider or any person duly authorised by him in writing in that behalf, may at all reasonable times enter upon any land, houses or buildings in which such installations or machinery have been, are or shall be installed.

Liability of network providers. 91. A provider shall not be liable for personal injury or damage to property as a result of the cessation of any electronic communications service, which may be due to unavoidable accident, natural wear and tear or to the reasonable requirements of the system itself or to defective installation which has not been carried out by the provider. The provider, however, shall be liable for such injury or damage in case the relevant cessation is proven to have been caused from negligence or infringement of a legal duty on the part of a person employed by the said provider or from faulty construction of the installation.

Precautions in the execution of work. 92. The execution of all work in connection with any electronic communications network, which may affect any street, railway, river or other

waterway or any system of irrigation, sewage or water supply or any electrical installations, telegraphs, radio communications, harbour works or other public or private works, and the erection or instalment of any line or installations and machinery, whether overhead, on the ground or underground, shall be carried out in a lawful manner and so as not to prejudice public or private safety.

Obtaining
a licence for
actions interfering
with an electronic
communications
network.
69 of 51(I) of 2012.

93. No person shall lay and/or carry any mains, pipes, conduits or cables in, along, through, across, over or under any street or place, in a manner which is likely to interfere with or cause damage to any electronic communications network or installations or machinery, without first obtaining permission from the Commissioner. The granting or refusal of such a licence shall be subject to the discretion of the Commissioner and may be granted upon such terms and conditions as the Commissioner may think fit to reasonably impose.

Exemption from
seizure.

94. The electronic communications networks or installations and machinery of providers shall not be subject to seizure nor are they liable to be taken in execution under any Court proceedings or in any bankruptcy or insolvency proceedings against any person.

Criminal and civil
liability.

95.(1) A person who moves, destroys or causes damage, whether wilfully or otherwise, to any electronic communications network or installations and machinery, shall be guilty of a criminal offence and shall be liable to pay full compensation for the damage he has caused and such compensation shall be recoverable by civil action before the competent Court.

(2) Without prejudice to the provisions of subsection (1), the Court before which a person is charged with a criminal offence pursuant to the said subsection, may assess the compensation payable under subsection (1) and may issue an order for the payment of the same. Any such order shall be

enforced as if it were a judgement in a civil action.

Obtaining a licence before the execution of work on immovable property.
70 of 51(I) of 2012.

96. Prior to executing any work on, under, over or above any immovable property, providers shall make sure that all necessary rights and permissions have been obtained from every competent public authority.

71 of 51(I) of 2012.
Procedures to install facilities and acquire rights of way.

96A. (1) The Commissioner may amend the terms and procedures concerning the installation of facilities and the acquisition of rights of way only in objectively justified cases and in a proportionate manner, prescribed in the secondary legislation in force at the time. Except where proposed amendments are minor and have been agreed with the holder of the rights or general licence, notice shall be given in an appropriate manner of the intention to make such amendments and interested parties, including users and consumers, shall be allowed a sufficient period of time to express their views on the proposed amendments, which shall be no less than four (4) weeks except in exceptional circumstances.

(2) The competent authorities shall not restrict or abolish rights to install facilities and rights of way except where justified and, where applicable, in accordance with the relevant national provisions regarding compensation for withdrawal of rights.

71 of 51(I) of 2012.
Rights of way

96B. (1) The Commissioner shall ensure that when a competent authority considers:

(a) an application for the granting of rights to install facilities on, over or under public or private property, to a person authorised to provide public communications networks; or

(b) an application for the granting of rights to install infrastructure on, over or under public property, to a person authorised to provide electronic communications networks, other than to the public;

the competent authority shall act on the basis of simple, efficient, transparent and publicly available procedures, prescribed by Order of the Commissioner and applied without discrimination and without delay. In any event, the Commissioner shall ensure that the competent authority makes its decision within six (6) months from the application, except in cases of appropriation, following the principles of transparency and non-discrimination in attaching conditions to the rights granted to the applicants. Procedures may differ depending on whether the applicant is providing public communications networks or not.

(2) The Commissioner shall ensure that where public or local authorities retain ownership or control of the persons operating public networks and/or publicly available electronic communications services, there is an effective structural separation of the function responsible for granting the rights referred to in subsection (1) from the activities associated with ownership or control.

7 of 104(I) of 2016.
Coordination of
technical works.

96C. (1) Every network operator shall have the right to negotiate agreements for the coordination of technical works with undertakings that have been duly licenced under the provisions of this Law or shall have the right to provide electronic communications networks under any relevant legislation, with a view to deploying elements of high-speed electronic communications networks.

(2) Every economic operator performing, directly or indirectly, technical works fully or partially financed by public means shall meet any reasonable

request to coordinate technical works, on transparent and non-discriminatory terms, made by undertakings licenced under the provisions of this Law or entitled to provide public communications networks under any relevant law, with a view to deploying elements of high-speed electronic communications networks.

(3) Such request shall be met provided that:

(a) this shall not entail any additional costs, including because of additional delays, for the initially envisaged technical works;

(b) this shall not impede control over the coordination of the works; and

(c) the request to coordinate is filed as soon as possible and in any case at least one month before the submission of the final project to the competent authorities for the granting of permits and/or rights.

(4) The Commissioner may issue an Order providing rules on apportioning the costs associated with the coordination of the technical works.

(5) Where an agreement on the coordination of technical works pursuant to subsection (2) is not achieved within one month from the date of receipt of the formal request to negotiate, the parties shall be entitled to refer the issue to the Commissioner.

(6) The Commissioner shall, taking full account of the principle of proportionality, issue a decision to resolve the dispute initiated in accordance with the provisions of subsection (3) including, where appropriate, the determination of fare and non-discriminatory terms and charges.

(7) The Commissioner shall resolve the dispute within the shortest possible

time frame, and in any case within two (2) months from the date of the receipt of the complete request, except in exceptional circumstances, without prejudice to the possibility for any party to refer the case to the Court.

(8)(a) The Minister may provide for exemptions from the obligations provided for in this Section for technical works of insignificant importance, such as in terms of value, size or duration, or in the case of critical national infrastructure.

(b) Such exemptions shall be duly reasoned and interested parties shall be given the opportunity to comment on the draft exemptions within a reasonable period.

(c) Any such exemption shall be notified to the Commission.

(9) Where the Commissioner establishes a violation of the provisions of this Section, he shall inform the licensee accordingly and may impose an administrative fine and/or other penalties in accordance with the Order on the Collection of Information and the Imposition of Administrative Fines.

7 of 104(I) of 2016.
Transparency
concerning planned
technical works.

96D. (1) In order to negotiate agreements on the coordination of technical works in accordance with the provisions of Section 96C, network operators shall make available, upon the specific written request of an undertaking duly licenced in accordance with the provisions of this Law or entitled to provide public communications networks under any relevant law, the following minimum information concerning on-going or planned technical works related to its physical infrastructure for which a permit and/or rights have been granted or a permit granting procedure is pending or first submission to the competent authorities for granting of a permit and/or rights is envisaged in the following six months:

- (a) the location and the type of the works;
- (b) the network elements involved;
- (c) the estimated date for starting the works and their duration;
- (d) a contact point.

(2) The undertaking which has been duly licenced in accordance with the provisions of this Law or is entitled to provide public communications networks under any relevant law, shall specify in its application the area in which it envisages deploying elements of high-speed electronic communications networks.

(3) Within two (2) weeks from the date of the receipt of the written request, network operators shall provide the requested information under proportionate, non-discriminatory and transparent terms.

(4) Access to the minimum information may only be limited when considered necessary in view of the security of the networks and their integrity, national security, public health or safety, confidentiality or operating and business secrets.

(5) The network operator may refuse the request referred to in subsection (1) if:

(a) it has made the requested information publicly available in electronic format; or

(b) access to such information is ensured via the single information point.

(6) The network operator shall make the requested minimum information referred to in subsection (1) available via the single information point.

(7) In the event of a dispute arising in connection with the rights and obligations provided for in this Section, either party is entitled to refer it to the Commissioner who, taking full account of the principle of proportionality, shall issue a binding decision to resolve the dispute within the shortest possible timeframe and in any case within two (2) months, except in exceptional circumstances, without prejudice to the possibility of any party to refer the case to the Court.

(8)(a) The Commissioner may issue an Order providing for exemptions from the obligations provided for in this Section for technical works of insignificant value or in the case of critical national infrastructure.

(b) Such exemptions shall be duly reasoned and interested parties shall be given the opportunity to comment on the draft exemptions within a reasonable period.

(c) Any such exemptions shall be notified to the Commission.

(9) Where the Commissioner establishes a violation of the provisions of this Section, he shall inform the licensee accordingly and may impose an administrative fine and/or other penalties in accordance with the Order on the Collection of Information and the Imposition of Administrative Fines.

7 of 104(I) of 2016.
Procedure for the
granting of permit
and/or rights.

96E. (1) All relevant information concerning the conditions and procedures applicable for granting permits for technical works needed with a view to deploying elements of high-speed electronic communications networks, including any information concerning exemptions applicable to such elements as regards some or all permits required under national law, shall be

available via the single information point.

(2) Every undertaking duly licenced in accordance with the provisions of this Law or entitled to provide public communications networks under any relevant law, shall have the right to submit, by electronic means, via the single information point, applications for permits required for technical works which are needed with a view to deploying elements of high-speed electronic communications networks.

(3)(a) Competent authorities may grant or refuse permit requests within four (4) months from the date of the receipt of a complete permit request, without prejudice to other specific deadlines or obligations laid down for the proper conduct of the procedure which are applicable to the permit granting procedure in accordance with the relevant legislation or appeal proceedings provided for in the relevant legislation.

(b) The said deadline may be extended, exceptionally, in duly justified cases, and any extension shall be the shortest possible in order to grant or refuse the permit.

(c) The refusal of the permit shall be duly justified on the basis of objective, transparent, non-discriminatory and proportionate criteria.

(4) Undertakings authorised to provide public communications networks that have suffered damage as a result of non-compliance with the deadlines set out in the provisions of subsection (3) may resort to Court.

(5) Where the Commissioner establishes a violation of the provisions of this Section, he shall inform the licensee accordingly and may impose an administrative fine and/or other penalties in accordance with the Order on the Collection of Information and the Imposition of Administrative Fines.

PART 14

75 of 51(I) of 2012.

SECURITY AND INTEGRITY OF NETWORKS AND SERVICES & SAFETY, CONFIDENTIALITY AND PROTECTION OF DATA

73 of 51(I) of 2012. 97. (1) The Purpose of this Part is:

Purpose and scope
of application.

(a) to protect the fundamental rights and freedoms, and in particular the right to privacy and confidentiality, regarding the processing of personal data in connection with the provision of publicly available communications services in electronic communications networks, including public networks supporting data collection and identification devices; and

(b) to ensure the security and integrity of networks and services.

(2) This Part applies:

(a) to the processing of personal data in the provision of publicly available communications services in electronic communications networks, including public networks supporting data collection and identification devices; and

(b) to providers of publicly available communications networks and/or electronic communications services to ensure the security and integrity of their networks and continuity in the provision of the services offered and the information transmitted through these networks.

98. (1) The providers of publicly available electronic communications networks and/or services must take all necessary technical and organisational measures for the appropriate management of the risk concerning the security of the networks and services. Having regard to the state of the art, these measures must ensure a level of security appropriate to the risk presented. In particular, measures shall be taken to prevent or minimise the impact of security incidents on users and on interconnected networks.

(2) The Commissioner shall ensure that the providers of public communications networks take all appropriate measures to safeguard the integrity of their networks, so as to ensure the continuity of supply of services provided over these networks.

(3) The Commissioner shall ensure that the providers of public communications networks or publicly available electronic communications networks notify him of any breach of security or integrity that had a significant impact on the operation of their networks or services. Where appropriate, the Commissioner shall inform competent national authorities in the other Member States as well as the European Network and Information Security Agency (ENISA). Where disclosure of the breach is in the public interest, the Commissioner may inform the public or require that such information be given by the providers granting access to public communications networks or publicly available electronic communications services. Every year, the Commissioner shall submit a summary report to the European Commission and to the European Network and Information Security Agency (ENISA) on the notifications received and the action taken in accordance with this paragraph. The procedures and the content of the notification, as well as any relevant information, shall be regulated by Order issued by the Commissioner.

(4) In view of the enforcement of subsections (1), (2) and (3), the

Commissioner may impose supplementary requirements, in addition to any technical implementing measures taken by the European Commission, in order to achieve the objectives of this Section. These shall be notified to the European Commission.

(5) In order to ensure the enforcement of subsections (1), (2), (3) and (4) the Commissioner shall have power to issue to persons providing public communications networks or publicly available electronic communications services, binding instructions, *inter alia* with regard to implementation deadlines.

(6) The Commissioner shall have power to require persons providing public communications networks or publicly available electronic communications services:

(a) to provide information needed to assess the security or integrity of their services and networks, including documented security policies; and

(b) to be subject to a security audit carried out either by the Commissioner or a qualified independent body authorised by him and make the results thereof available to the Commissioner. The cost of the audit shall be borne by the persons providing public communications networks or publicly available electronic communications services concerned by such audit.

(7) The Commissioner shall have power to investigate cases of non-compliance and their impact on the security and integrity of the networks, in accordance with a procedure to be prescribed by Order.

75 of 51(I) of 2012.
Security of
processing and
notification of

98A. (1) Subject to the provisions of subsection (1) of Section 98, the provider of publicly available electronic communications must take, if necessary jointly with the provider of the public communications network,

personal data with regard to the security of the network, the appropriate technical and
breach. organisational measures, in order to protect the security of its services.
Having regard to the state of the art and the cost of implementation, these
measures must ensure a level of security appropriate to the risk presented.

138(I) of 2001 (2) Subject to the provisions of the Processing of Personal Data (Protection
37(I) of 2003. of the Individual) Laws of 2001 to 2003, the measures referred to in
subsection (1) of this Section must, as a minimum:

(a) ensure that personal data can be accessed only by authorised personnel
for legally authorised purposes;

(b) protect the personal data stored or transmitted from accidental or
unlawful destruction, loss or alteration and from unauthorised or unlawful
storage, processing, access or disclosure; and

(c) ensure the implementation of a security policy in connection with the
processing of personal data:

Provided that the Commissioner and the Commissioner for the Protection of
Personal Data shall have power to monitor the measures taken by providers
of publicly available electronic communications services and issue
recommendations on best practices concerning the level of security that must
be achieved with these measures. The Commissioner may vary the terms of
the General Authorisations accordingly.

(3) In the event of a risk of breach of security of the network, providers of
publicly available electronic communications services shall inform their
subscribers of such risk and all possibilities to prevent such risk, including
the relevant cost.

(4) (a) In the case of personal data breach, the provider of publicly available electronic communications services shall notify the Commissioner of the breach without delay. The notification shall include the following:

(i) the circumstances under which the incident occurred and the nature of the breach;

(ii) the contact point of the provider;

(iii) proposed measures to mitigate the adverse effects of the breach;

(iv) the consequences of the breach;

(v) the corrective measures taken by the provider to address the breach.

(b) In case the breach referred to in subsection (4a) may adversely affect the personal data or privacy of a subscriber or an individual, the provider must, without delay, notify the affected subscriber or individual of at least the nature of the breach and the contact points where they may apply for additional information. It must also propose measures to mitigate any adverse effects of the breach. If the provider fails to notify the subscriber or the affected individual, the Commissioner, with the consent of the Commissioner for the Protection of Personal Data, upon considering the possible effects of the breach, may request the relevant notification to be made. The notification of the affected subscriber or individual shall not be required in case the provider proves, to the satisfaction of the Commissioner, that it has taken appropriate technological protection measures and that these measures have been applied to the data concerned by the breach. These technological protection measures shall render the data unintelligible to any person who is not authorised to access it.

(c) The procedures, the content and the form of the notifications provided for in paragraphs (a) and (b) of this subsection, as well as the cases in which notifications by the provider are required, and any other relevant information shall be regulated by Order issued by the Commissioner upon consultation

with the Commissioner for the Protection of Personal Data. The specific regulation of the cases in which the provider is required to make notifications shall be made subject to any instructions issued under subsection (5) of this Section.

(5) Subject to any technical implementing measures enacted by the European Commission, the Commissioner, jointly with the Commissioner for the Protection of Personal Data, may determine guidelines and, where necessary, issue instructions in connection with the cases in which the provider is required to notify personal data breaches, as well as the manner in which such notifications shall be made. In case of ascertaining a violation of the obligation of notification under this Section, the Commissioner, pursuant to this Law, and the Commissioner for the Protection of Personal Data pursuant to the Processing of Personal Data Law, may impose proportionate and appropriate penalties.

(6) Providers shall keep a record of personal data breaches which includes a description of the relevant incidents, their effects and the corrective measures that have been taken, such as to allow the Commissioner and the Commissioner for the Protection of Personal Data to establish, pursuant to their competence, compliance with the provisions of subsection (4). The record shall only include information required for this purpose.

(7) Concerning the actions taken under subsections (3) to (6), the Commissioner shall request and obtain the opinion of the Commissioner for the Protection of Personal Data, in case he is examining the event of a personal data breach pursuant to a procedure that may be prescribed by Order.

Confidentiality of
communications.

99. (1) Both the providers referred to in Section 98(1) and the employees thereof shall take all necessary technical and organisational measures to

safeguard the confidentiality of any communication made over an electronic communications network and publicly available electronic communications services and related traffic data.

(2) No person other than the users communicating between them is allowed to listen to, intercept, store, intervene and/or proceed to any other form of monitoring of communications and related traffic data without the consent of the relevant users, unless otherwise provided in subsection (3).

(3) Interceptions in communications shall be possible only in the cases provided for in the Law and with the authorisation of the Court.

76(a) of 51(I) of 2012. (4) The provisions of subsection (2) shall not affect any recording of legally authorised conversations and the relevant traffic data in the course of lawful business practice, for the purpose of providing evidence of a commercial transaction and/or any other business communication.

76(b) of 51(I) of 2012. (5) The storage of information or the acquisition of access to already stored information in the terminal equipment of a subscriber or user shall only be allowed if the subscriber or user concerned has given his consent, based on clear and comprehensive information, provided in accordance with the provisions of the Processing of Personal Data (Protection of the Individual) Laws of 2001 and 2003, *inter alia* for processing purposes.

Provided that this shall not prevent any technical storage or access for the sole purpose of carrying out the transmission of a communication over an electronic communications network or as strictly necessary in order to provide an information society service explicitly requested by the subscriber or user.

Traffic and billing 100.(1) Traffic data concerning subscribers and users, which is submitted to

data. processing so as to carry out calls and which is stored by persons, shall be erased or made anonymous at the end of a call, when it is no longer necessary for transmission purposes, except in the circumstances referred to in paragraph (a) below:

77(a) of 51(I) of 2012.

(a) for the purpose of subscriber billing and interconnection payments, where the following data is allowed to be submitted to processing:

- (i) number of identification of the subscriber device;
- (ii) address of the subscriber and type of device;
- (iii) total number of units to be charged for the accounting period;
- (iv) called subscriber number;
- (v) type, starting time and duration of the calls made and/or the data volume transmitted;
- (vi) date of the call/service;
- (vii) other such information as advance payments, payments made by instalments, disconnection and reminders.

The processing of the above data shall only be permitted up to the end of the period in which a bill may be lawfully challenged and/or payment pursued;

(b) provided that the subscriber or user consent that the data mentioned in paragraph (a) may be processed by a person for the purpose of commercial promotion of the electronic communications services of the latter or for the provision of value added services. The subscriber or user shall have, at any time, the right to withdraw his consent for the processing of traffic data.

(2) (a) Any processing of traffic and billing data shall be restricted to persons who act under the supervision of the persons which either handle billing and/or traffic, fraud detection and/or the marketing of electronic communications services or the provision of value added services.

77(b) of 51(I) of
2012.

(b) For the purpose of marketing its own electronic communications services or for the provision of value added services, the provider of publicly available electronic communications services may process the data referred to in paragraph (a) to the extent and for the duration necessary for such services if the subscriber or the user has given his consent. Users or subscribers must be allowed to withdraw their consent for the processing of traffic data at any time.

(c) Notwithstanding the provisions of paragraph (b), the Commissioner and the Commissioner for the Protection of Personal Data may require persons to provide any relevant information on traffic data, which they have or shall have, for the purpose of exercising their regulatory duties and competences for the verification of compliance of the said organisations with paragraphs (a) and (b) of subsection (1) respectively.

(3) Subscribers shall have the right to receive non-itemised bills. The Commissioner, upon consultation with the Commissioner for the Protection of Personal Data, shall by Order prescribe the alternative modalities of communication among called users and called subscribers, in order to reconcile their respective rights to the protection of privacy.

Location data other
than traffic data.

101. (1) Where location data other than traffic data can be processed, such data may only be processed when they are made anonymous, or with the explicit consent of the users or subscribers to the extent and for the duration necessary for the provision of a value added service. The service provider must inform the users or subscribers, prior to obtaining their consent, of the

type of location data which shall be processed, of the purposes and duration of the processing and whether the data shall be transmitted to a third party for the purpose of providing the value added service. Users or subscribers shall be given the possibility to withdraw their consent for the processing of location data other than traffic data at any time.

(2) Where the consent of users or subscribers has been obtained for the processing of location data other than traffic data, the user or subscriber must continue to have the possibility, using simple means and free of charge, of temporarily refusing the processing of such data for each connection to the network or for each transmission of a communication.

17 of 113(I) of
2007.

(3) Processing of location data other than traffic data in accordance with subsections (1) and (2) of this Section must be restricted to persons acting under the supervision of the provider of the electronic communications network or publicly available electronic communications services or of the third party providing the value added service, and must be restricted to what is necessary for the purposes of providing the value added service.

78 of 51(I) of 2012.
Emergency
Services and the
single European
emergency call
number.

101A. (1) The Commissioner shall ensure that all end users, including users of public pay telephones that provide a publicly available telephone service, shall be able to call the emergency services free of charge and without having to use any means of payment, by using the single European emergency call number “112” in addition to any other national emergency call number that may be specified.

(2) Upon consultation with the Minister, emergency services operators and providers of publicly available electronic communications services, the Commissioner shall ensure that providers of electronic communications services providing services that include outgoing national calls to numbers of the Telephone Numbering Scheme of the Republic of Cyprus have access

to emergency services.

(3) The Commissioner shall ensure that providers of electronic communications services providing services that include the making of calls to numbers of the Telephone Numbering Scheme of the Republic of Cyprus, make caller location available to the competent authorities handling emergency calls, as soon as the call is received by the competent authority.

(4) Where deemed necessary, the Commissioner shall establish and review by relevant Order criteria regarding the level of accuracy and reliability of the information in connection with the location of the caller, upon consultation consultations with the parties concerned.

Presentation and
restriction of
calling and
collected line
identification.

102.(1) Where the presentation of calling line identification is offered, the calling user shall be able by simple means and free of charge, to eliminate this function on a per-call basis. The calling subscriber shall have this possibility per calling line.

(2) Where the presentation of calling line identification is offered, the called subscriber shall be able, by simple means and free of charge for the reasonable use of this function, to prevent the presentation of the calling line identification of incoming calls.

(3) Where the presentation of calling line identification is offered and where the calling line identification is presented prior to the call being established, the called subscriber shall be able by simple means to reject incoming the call where the presentation of the calling line identification has been eliminated by the calling user or subscriber.

(4) Where the presentation of connected line identification is offered, the called subscriber shall be able, by simple means and free of charge, to

eliminate the presentation of the connected line identification to the calling user.

(5) The provisions of subsection (1) apply also with respect to calls from Cyprus to other countries outside the Member States of the European Union and the provisions of paragraphs (2), (3) and (4) apply also with respect to incoming calls originating from other countries outside the European Union.

(6) Where presentation of calling and/or connected line identification is offered, the persons shall inform the public thereof, as well as of the possibilities set out in subsections (1), (2), (3), (4) and (5).

Exceptions.
19(a) of 113(I) of
2007. 103. The Commissioner shall ensure that there are transparent procedures governing the way in which a provider of a fixed and mobile network and/or of electronic communications services may override:

(a) the elimination of the presentation of calling line identification on a temporary basis, upon application of a subscriber requesting the tracing of malicious or nuisance calls, in which case the data containing the identification of the calling subscriber shall be stored and be made available by the Person to such persons as the Commissioner shall nominate; and

19(b) of 113(I) of
2007. (b) the elimination of the presentation of calling line identification and the temporary denial or absence of consent of a subscriber or user for the processing of location data, on a per-line basis, for designated persons dealing with emergency calls, such as law enforcement agencies, ambulance services and fire brigades, for the purpose of responding to such calls.

Automatic call
forwarding. 104. Subscribers shall be provided, free of charge and via simple means, with the possibility of stopping automatic call forwarding by a third party to the subscriber's terminal equipment.

Subscriber
telephone
directories.

105. (1) Personal data contained in printed or electronic directories of subscribers, available to the public and/or obtainable through directory enquiry services, shall be limited to what is necessary to identify a particular subscriber, unless the subscriber has given his unambiguous consent to the publication of additional personal data.

20(a) of 113(I) of
2007.

(1A). The providers of directory enquiry services must inform subscribers, free of charge and before they are included in the directory, about the purposes of a printed or electronic directory of subscribers available to the public or obtainable through directory enquiry services, in which their personal data may be included, and of any further possibilities based on search functions embedded in electronic versions of the directory.

(2) The providers of directory enquiry services shall provide to their subscribers the possibility of specifying themselves, free of charge, if and which aspects of their personal data shall be included in publicly available directories, provided that in each case such directories shall include at least the necessary data for the determination of their identity and to the degree that such data relates to the purposes of the directory, as defined by the providers of directory services. Subscribers may ask and secure free of charge the verification, correction or withdrawal of their personal data from said directories.

(3) The providers of directory enquiry services must receive the additional consent of subscribers:

(a) prior to each addition of their personal data in the directories, and

(b) prior to the availability or use of directories for reverse or multiple criteria search functions.

20(b) of 113(I) of 2007. (3A). Without prejudice to the rights of subscribers with respect to subsequent editions of telephone directories, the provisions of subsections (1), (1A), (2) and (3) shall not apply to editions of directories already produced or placed on the market in printed or electronic form prior to the entry into force of this Law.

20(b) of 113(I) of 2007. (3B). Where the personal data of subscribers to fixed or mobile telephony services has been included in a subscriber telephone directory, including forms offering/allowing reverse or multiple criteria search functions in accordance with the provisions of the Processing of Personal Data (Protection of the Individual) Law, and Section 110 of the Regulation of Telecommunications and Postal Services Law, which has been repealed, the personal data of such subscribers may remain included in the said directory provided the subscriber:

19(I) of 2002.
105(I) of 2002.

(a) has been informed fully and in accordance with the provisions of subsection (1) of this Section; and

(b) has not requested the withdrawal of his personal data from the said directory.

(4) The provisions of paragraphs (1) and (2) shall apply to subscribers who are natural persons.

(5) The Commissioner, upon consultation with the Commissioner for the Protection of Personal Data, shall ensure by Order that the legitimate interests of subscribers other than natural persons, with regard to the entry of their data in public directories, are sufficiently protected.

79 of 51(I) of 2012. 106.(1) The use of automated calling and communications systems without

Unsolicited calls. human intervention (automatic calling machines), facsimile machines (fax) or electronic mail, for the purposes of direct marketing, may only be allowed with respect to subscribers who have given their prior consent.

138(I) of 201
37(I) of 2003.

(2) Notwithstanding the provisions of subsection (1), where a natural or legal person obtains contact details for electronic mail directly from its customers, in the context of the sale of a product or service, in accordance with the provisions of the Processing of Personal Data (Protection of the Individual) Law, such person may use the said details for direct marketing of its own similar products or services, provided that customers are given the opportunity to object clearly and distinctly, free of charge and in an easy manner, to such use of electronic contact details when they are collected and on the occasion of each message where the customer has not initially refused such use.

(3) The Commissioner, upon consultation with the Commissioner for the Protection of Personal Data, shall take all appropriate measures to ensure that unsolicited calls for the purpose of direct marketing, save in the cases provided for in subsections (1) and (2), are not allowed without the consent of interested subscribers or users.

156(I) of 2004
97(I) of 2007.

(4) In any event, the practice of sending electronic mail for the purposes of direct marketing disguising or concealing the identity of the sender or the person on whose behalf and/or for whose benefit the communication is made, in violation of Section 9 of the Certain Aspects of Information Society Services and in particular Electronic Commerce and Related Matters Law, or without a valid address to which the recipient may send a request that such communications cease, or encouraging recipients to visit websites that violate this Section, shall be prohibited.

(5) Subsections (1) and (3) shall apply to subscribers who are natural

persons. The Commissioner shall also ensure, in the framework of European Union law and the applicable national legislation, that the legitimate interests of subscribers other than natural persons with regard to unsolicited calls are sufficiently protected. To this end, the provisions of the Order on the Legal Persons (Safeguarding of Legitimate Interests concerning Unsolicited Communications) of 2005 shall apply.

(6) Every natural or legal person adversely affected by violations of this Section and therefore having a legitimate interest in such violations being terminated or prohibited, including the providers of electronic communications services that protect their legitimate business interests, may apply to the competent courts. The Commissioner, upon consultation with the Commissioner for the Protection of Personal Data, may also establish special rules on the penalties that apply to providers of electronic communications services that contribute, by negligence, to violations of the national provisions enacted under this Section.

Powers of the
Commissioner.
80(a) of 51(I) of
2012.

107. (1) Subject to subsection (2), the Commissioner may order the cessation of the infringement of any provisions of this Part and impose any of the penalties provided for in this Law.

80(b) of 51(I) of
2012.

(2) Unless otherwise provided in this Part, the Commissioner for the Protection of Personal Data, in the exercise of his competences under Section 23(e), (f), (g), (h) and (j) of the Processing of Personal Data (Protection of the Individual) Laws of 2001 and 2003, shall have power to examine cases or complaints involving potential infringement of Sections 99, 100, 101, 105 and 106. For the purposes of application of Section 98A, the Commissioner and the Commissioner for the Protection of Personal Data shall cooperate in accordance with the provisions of this Section.

(3) During the exercise of their competences under this Part, the

Commissioner and the Commissioner for the Protection of Personal Data shall consult each other and cooperate when deemed necessary.

80(c) of 51(I) of 2012. (4) The Commissioner and, as the case may be, the Commissioner for the Protection of Personal Data, may take measures aimed at ensuring effective cross-border cooperation and creating harmonised conditions for the provision of services including cross-border flows of data. The Commissioner shall provide the European Commission in time, prior to the adoption of such measures, a summary of the reasons imposing such action, the planned measures and the proposed course of action. When taking decisions concerning the imposition of measures, the Commissioner shall take utmost account of the remarks or recommendations of the European Commission.

PART 15

UNIVERSAL SERVICE

Scope and availability of universal service. 108. (1) The Commissioner shall ensure that the minimum set of services specified in subsection (2) of this Section is made available at the level of quality specified to all end users in the territory of Cyprus, independent of their geographic location and, in the light of specific national conditions, at an affordable price. Such services shall collectively constitute the concept of Universal Service for Cyprus, as that concept is specified by Decision of the Commissioner.

81(a) of 51(I) of 2012.

81(b) of 51(I) of 2012. (2) The scope of Universal Service, which is to be determined by Decision of the Commissioner, shall include at least the following services:

(a) Connection at a fixed location to the public electronic communications

- 81(c) of 51(I) of 2012. network and access to publicly available telephone services at a fixed location, provided that the relevant request is considered to be reasonable.
- (b) Directory enquiry services, and directories in a printed and/or in electronic form.
- 81(d) of 51(I) of 2012. (c) Public pay phones and/or other types of points of access to public pay telephone service.
- 81(e) of 51(I) of 2012. (d) Operator assistance services.
- 81(e) of 51(I) of 2012. (e) Free access to emergency services, using the number “112” or other emergency numbers.

The particular elements of the services listed in (a) to (d) are prescribed in Sections 110-113 of this Law.

(3) The Commissioner shall determine the most efficient and appropriate approach by which the provision of Universal Service shall occur, having regard to the principles of objectivity, transparency, non-discrimination and proportionality. The aim of the Commissioner shall be to minimise the degree of market distortion, in particular with regard to the provision of services at prices or subject to other terms and conditions which depart from normal commercial conditions, while at the same time safeguarding public interest.

(4) Further to the adoption of a reasoned Decision by the Commissioner, and upon consultation of the Commissioner with the Minister of Communications and Works, the Commissioner may require, by way of a reasoned Decision, that additional services be made available to the public, beyond those listed in subsection (2) of this Section. In such circumstances,

no compensation mechanism involving specific persons shall be imposed.

(5) In considering whether a review of the scope of universal service obligations should be undertaken, the Commissioner shall take into consideration, *inter alia*, the following elements:

(a) social and market developments, measured in terms of the services used by consumers;

(b) social and market developments, measured in terms of the availability and choice of services to consumers;

(c) technological developments, measured in terms of the transit provided to consumers.

(6) In considering whether the scope of universal service obligations should be modified or redefined, the Commissioner shall take into consideration, *inter alia*, whether:

(a) specific services are available to, and used by, a majority of consumers, and whether the lack of availability or non-use by a minority of consumers, is likely to result in social exclusion; and

(b) the availability and use of specific services would confer such a general net benefit to all consumers of such importance that public intervention is warranted in the circumstances where the specific services are not being provided to the public under competitive commercial conditions.

(7) In determining the scope of universal service, from time to time, the Commissioner shall take utmost account of the fact that the concept of Universal Service should evolve to reflect advances in technology, market

developments and changes in user demand.

Designated persons providing universal service.
82(a) of 51(I) of 2012.

109. (1) The Commissioner shall designate, by Decision, one or more persons which will be under an obligation to provide Universal Service for such period as may be specified by the Commissioner, in compliance with the conditions set forth in this Part of this Law, so that such Universal Service may be made available across the entire geographic territory of Cyprus.

(2) The Commissioner may designate different persons or groups of persons to comply with one or more of the obligations referred to in subsection (1) of this Section, or to cover different parts of the geographic territory of Cyprus.

82(b) of 51(I) of 2012.

(3) The Commissioner shall determine, by Decision, the criteria for selecting the person or persons that are to provide Universal Service pursuant to the requirements of this Law.

82(c) of 51(I) of 2012.

(4) In designating a person or persons under subsection (1), the Commissioner shall adopt a designation mechanism which is efficient, objective, transparent and non-discriminatory, according to which no given person is *a priori* excluded from being designated as a provider of universal service. The designation mechanism adopted shall ensure that the obligations referred to in Section 108 of this Law are provided in a cost effective manner, and may be used in such a way as to provide the Commissioner with the means of determining the net cost of the universal service obligation.

82(c) of 51(I) of 2012.

(5) The Commissioner shall notify the European Commission of the universal service obligations imposed on the designated persons under subsection (2). Any change affecting these obligations or the undertakings concerned by this Part shall be notified to the European Commission.

82(d) of 51(I) of 2012. (6) In case a person designated under subsection (1) intends to make available all the elements of the local access network or a significant part thereof to a distinct legal entity under different ownership, it shall first notify the Commissioner in time, so that he may assess the consequences of the planned transaction on the provision of access at a fixed location and the provision of telephone services. As a result, the Commissioner may impose, amend or lift specific obligations in the general authorisation of the licenced provider.

83 of 51(I) of 2012. Provision of access at fixed locations. 110. (1) A person or persons designated to provide universal service in accordance with Section 109 of this Law shall satisfy any reasonable request to provide, at a fixed location, connection to a public communications network.

(2) The connection provided must support voice (making and receiving national and international calls) and facsimile communication, as well as data transmission at adequate speeds of functional access to the internet. The minimum speed of data transmission shall be determined in a Decision taken by the Commissioner, having regard to prevailing market conditions, include the speed of access used by the majority of subscribers and available technologies. The Commissioner's Decision shall aim to minimise the risk of market distortion.

83 of 51(I) of 2012. Directory enquiry services. 111. (1) The Commissioner shall ensure that subscribers of publicly available telephone services have the right to include their contact details in the publicly available record referred to in Section 108(2)(b) of this Law and described in subsection (2) of this Section, which shall be notified to the providers of the directory enquiry service.

(2) The Commissioner shall ensure that the person or persons designated as universal service provider(s) in accordance with Section 109 of this Law:

(a) make available to end users, at least one comprehensive directory of subscribers, in a form approved by the Commissioner, either in printed or electronic or in both forms, which shall be updated on a regular basis, and not less than once a year; and

(b) make available to all end users, including the users of points of access to public pay telephone service, a comprehensive directory enquiry telephone service.

(3) (a) A person or persons designated as universal service providers in accordance with Section 109 of this Law shall, subject to the relevant Data Protection and Privacy obligations set forth in Part 14 of this Law and supplementary obligations adopted thereunder, shall keep a record (to be known as the Cyprus Directory Database) of all subscribers of publicly available telephone services in Cyprus, including those with fixed, personal and mobile numbers, who have not refused to be included in that record, and shall permit access to any information contained in such record to any other person offering directory enquiry services in accordance with such terms and conditions as may be specified by it and approved from time to time by the Commissioner. Persons that assign telephone numbers to subscribers are under the obligation to notify to the universal service provider who is responsible for the provision of the directory enquiry services, all the contact details of their subscribers who have not refused to be included in the “Cyprus Directory Database”, and which are necessary for the publication of directories and the provision of directory enquiry services based on fair, objective, cost-oriented and non-discriminatory conditions.

(b) The directories referred to in subsection (2) shall include all subscribers of publicly available telephone services, subject to the requirements for the protection of personal data and privacy.

(4) (a) The Commissioner shall ensure that all end users to whom a publicly available telephone service is provided shall have access to directory enquiry services.

(b) In addition, the Commissioner may impose obligations and conditions on persons controlling the access of end users to directory enquiry services such as to enable access of end users to offered services. These conditions and obligations shall be objective, equitable, transparent and non-discriminatory.

(c) The Commissioner shall not impose regulatory restrictions which prevent end users in one Member State from accessing directly the directory enquiry service in another Member State by voice call or SMS and shall take measures to ensure such access pursuant to the provisions of Section 74 of this Law.

(5) Subsections (1) and (4) apply subject to the legislation that protects personal data and privacy and in particular Section 105 of this Law.

84(a)(b) of 51(I) of 2012.
Public pay telephones and other points of access to public pay telephone service.

112. (1) The Commissioner may, by Decision, impose obligations on a person or persons designated as universal service providers in accordance with Section 109 of this Law, in order to ensure access to public pay telephones or other publicly available telephone service to meet the reasonable needs of end users, including users with disabilities, in terms of the geographical coverage, the number of points of access, their accessibility and service quality.

84(c) of 51(I) of 2012.

(2) The Commissioner may specify the terms and conditions applicable to the provision of points of access to public pay telephone service, for the purpose of ensuring that the requirements set forth in subsection (1) of this Section are satisfied.

(3) The Commissioner may decide not to impose obligations under subsection (1) of this Section, to all or part of his territory if, pursuant to a consultation with interested parties and having regard to the views expressed to him, he considers that the said facilities or compatible services are available to satisfy the reasonable needs for such services in that geographic area, taking into account, *inter alia*, the population density in such geographic area and the relative state of development of the communications market in that area.

(4) The Commissioner may review any Decision adopted under subsection (3) of this Section as and when he considers such a review to be appropriate.

84(d) of 51(I) of 2012. (5) If the Commissioner decides that the number of common points of access is no longer sufficient to serve the reasonable needs for such services in the particular geographic area in question, he may designate a person or persons as having an obligation under subsection (1) of this Section with respect to the provision of common points of access to a telephone service in that geographic area.

84(e) of 51(I) of 2012. (6) A person or persons designated in accordance with Section 109 of this Law to provide common points of access to a telephone service shall ensure that it is possible to make emergency calls from such common points of access to a telephone service using the single European emergency call number “112” and any Cyprus emergency call number that may be specified by the Commissioner. Such calls shall, in each case, be free of charge to the end user and capable of being made without the need to use any means of payment, whether in the form of coins, cards or otherwise.

85(a)(b) of 51(I) of 2012. Measures for 113. (1) The Commissioner may, upon consultation with the Minister, take specific measures to ensure that disabled end users can enjoy access to, and affordability of,

end users with disabilities. the services referred to in Section 108 of the Law, equivalent to those enjoyed by other end users.

85(c) of 51(I) of 2012. (2) The Commissioner may by Decision or Order specify the terms and conditions to be complied with by the designated person or persons under this Section for the purpose of ensuring that disabled end users can also choose between the persons and service operators that are available to the majority of end users.

85(d) of 51(I) of 2012. (3) In taking the measures referred to in subsections (1) and (2), the Commissioner shall aim at ensuring compliance with the relevant standards and specifications referred to in Sections 53, 72 and 81 of this Law.

Affordability of tariffs. 86(a) of 51(I) of 2012. 114. (1) The Commissioner shall monitor the evolution and level of retail tariffs for the services that are available to the public and which fall within the scope of the defined Universal Service, as provided under Sections 108-113 of this Law, by a person or persons designated in accordance with Section 109 of this Law, particularly in relation to national consumer prices and average income.

86(b) of 51(I) of 2012. (2) Taking into account national conditions, the Commissioner may, by Order, upon consultation with the Minister of Communications and Works, specify the requirements which must be complied with by a person or persons designated in accordance with Section 109 of this Law, for the purpose of ensuring that such person or persons provide tariff options or packages to consumers which depart from those provided under normal commercial conditions. Such tariff options shall be designed to ensure that individuals on low income or on special social needs are not prevented from accessing or using the publicly available telephone service.

(3) The Commissioner may, upon consultation with the Minister Communications and Works, require a person or persons designated in accordance with Section 109

of this Law, to apply special tariff options or common tariffs throughout the geographic territory of Cyprus, or to comply with price caps or the requirement of geographical averaging, in the light of prevailing national conditions.

86(c) of 51(I) of 2012. (4) The criteria and conditions to be satisfied in respect of the provision of special tariff options and/or common tariffs, including geographical averaging, shall be fully transparent and applicable in conformity with the principle of non-discrimination. It shall be the responsibility of the person or persons designated in accordance with Section 109 of this Law to publish these conditions in at least two newspapers of broad coverage, within thirty (30) days before their entry into force, as well as on the relevant website of the designated person or persons. The Commissioner may, where he considers that a system does not comply with this paragraph, require that the said system be modified or withdrawn.

(5) The Commissioner may propose to the Minister of Communications and Works that, beyond those tariff options listed in subsection (3) of this Section, alternative or additional support be provided to consumers identified as having low income or special social needs.

Control of expenditure and provision of additional facilities. 87(a)(b)(c) of 51(I) of 2012. 115. (1) The Commissioner shall ensure that a person or persons designated in accordance with Section 109 of this Law, where they provide facilities and services in addition to those referred to in Sections 110–113 and 114(3) of this Law, shall establish terms and conditions for the provision of such additional facilities and services in such manner that the subscriber is not obliged to pay for facilities or services which are neither necessary nor required for the service requested.

87(d) of 51(I) of 2012. (2) The Commissioner shall ensure that, for the purpose of ensuring that subscribers can monitor and control their expenditure, and to avoid any unwarranted disconnection of service, the persons designated in accordance with Section 109 of

this Law shall provide the following specific facilities and services:

- (a) Itemised billing;
- (b) Selective call barring for outgoing calls, free of charge;
- (c) Pre-payment systems;
- (d) Phased payment of connection fees;
- (e) Non-payment of bills.

The Commissioner shall issue a relevant Decision or Orders by which he shall designate the elements of the aforementioned services.

87(e) of 51(I) of
2012.

(3) The Commissioner may waive any requirement imposed under subsection (2) of this Section in relation to all or any part of the territory of the Republic of Cyprus, if he is satisfied, following a public consultation with the interested parties, that the aforementioned facilities or services are broadly available in the territory or part of the territory of the Republic of Cyprus.

87(f) of 51(I) of
2012.

(4) The Commissioner may require all persons that operate public communications networks to make available to end users all or part of the facilities and services set out in subsection (2) of this Section, as well as additional facilities as follows:

- (a) tone dialling or DTMF (dual-tone multi-frequency operation);
- (b) calling-line identification, in accordance with the provisions on the protection of

personal data and privacy referred to in Part 14 of this Law;

(c) selective call barring free of charge for short text messages (SMS) or multimedia messages (MMS);

(d) advice regarding billing;

(e) control of costs;

subject to technical feasibility and commercial viability, following a public consultation with all interested parties. The elements of the above additional facilities shall be set forth in a relevant Order.

(5) (6) (7) and (8) were repealed with 87(g) of 51(I) of 2012.

8 of 160(I) of 2013. Performance objectives. 116. The Commissioner may determine performance objectives for the person or persons with universal service obligations, in accordance with the provisions of Section 70A of this Law.

Cost of universal service obligations. 117. (1) Where a person or persons designated in accordance with Section 109 of this Law seek to receive funding for the net cost of meeting the obligations concerned, they may submit to the Commissioner a written request for such funding.

(2) A request made under subsection (1) of this Section shall be accompanied by

such supporting information as may be reasonably required by the Commissioner for the purposes of subsection (3) of this Section. The data may cover such period as may be specified by the Commissioner.

(3) The Commissioner shall, on the basis of the information supplied pursuant to subsection (2) of this Section, where such information is considered to be sufficient to enable a determination under this subsection to be made, determine whether an obligation referred to in subsection (1) of this Section represents an unfair burden on the person concerned.

(4) Where the Commissioner determines that the obligation referred to in subsection (1) of this Section may represent an unfair burden on the person designated to provide such obligation, the Commissioner shall calculate the net cost of its provision, based on:

(a) the net cost of its provision, taking into account any market benefit which accrues to the undertaking concerned, calculated in accordance with a relevant Order, or

(b) where applicable, the net cost identified under an efficient, objective, transparent and non-discriminatory designation mechanism, according to which no undertaking is *a priori* excluded from being designated, and whose key elements are set forth in a relevant Order.

(5) The persons designated in accordance with Section 109 of this Law shall provide such information as may be reasonably required by the Commissioner for the purposes of satisfying the requirements of subsection (4) of this Section.

(6) Where the Commissioner determines that an obligation referred to in subsection (1) of this Section does not represent an unfair burden, it shall notify the person concerned of that determination, together with the relevant reasons, as soon as is reasonably practicable thereafter.

(7) The accuracy of the accounts and/or other information which serves as the basis for the calculation of the net cost of obligations under this Part shall be audited or verified, as is considered to be appropriate, by the Commissioner or approved by the Commissioner where that approval body is independent of the person concerned.

(8) The results of the cost calculations and the conclusions of any audit or verification undertaken pursuant to this Section shall be published in two daily newspapers and on the Commissioner's website within thirty (30) days of being notified to the Commissioner.

Financing of
universal service
obligations.

118.(1) Where the Commissioner, on the basis of the net cost calculation referred to in Section 117 of this Law, concludes that the net cost of meeting obligations under Sections 110-115 of this Law represents an unfair burden on the persons concerned, he shall, upon receiving a request from a person or persons designated in accordance with Section 109 of this Law:

(a) introduce a mechanism to compensate that person for the determined net cost under transparent conditions from public funds, and/or

(b) apportion the net cost of universal service obligations between the providers of

electronic communications networks and services.

(2) Where the Commissioner decides to apportion the net cost in accordance with subsection 1(b) of this Section, he shall establish by Order an apportionment mechanism to be administered by him or by a body under his supervision, which shall be independent from the persons designated in accordance with Section 109 of this Law. Only the net cost, as calculated in accordance with Section 117 of this Law, of those obligations provided for in Sections 110-115 of this Law, may be financed.

(3) The apportionment mechanism established under subsection (2) of this Section shall respect the principles of transparency, non-discrimination and proportionality, and shall also be designed as to cause minimum distortion on the market and the patterns of user demand. The apportionment mechanism shall rely upon a transparent and neutral means of collecting contributions in order to avoid the risk of double imposition of contributions falling within both the expenses and revenues of the person concerned. The Commissioner may choose not to require contributions from persons whose audited national turnover is less than a specified amount as may, from time to time, be determined by the Commissioner. The national turnover level justifying exemption from the requirements of this Section shall be published by the Commissioner.

(4) Any charges related to the apportionment of the cost of universal service in accordance with subsection (1) of this Section shall be unbundled and identified separately for each person.

(5) The Commissioner shall not impose any charges, pursuant to this Part, on persons not providing services within the geographic territory of the Republic of Cyprus.

(6) The Commissioner shall notify in writing each person required to share the cost of universal service of its obligation to contribute to such cost, including the amount, the manner and the timing of payments to be made.

(7) A person which has been notified of its obligation to contribute an amount specified by the Commissioner shall pay that amount in the time and manner specified by the Commissioner.

(8) The Commissioner shall publish and make publicly available all information in relation to the principles used for cost apportionment, including the details of the apportionment mechanism used. The Commissioner shall maintain and accept as confidential all information supplied by the persons providing electronic communications networks or services expressed by them to be confidential or containing business secrets, except where he has good reason to consider such requests to be unfounded.

(9) The Commissioner shall, subject to the exclusion of any information considered to be confidential or to contain business secrets, publish an annual report setting out the calculated net cost of universal service obligations. This annual report shall identify the contributions made by all persons concerned, and shall identify any market benefit that may have accrued to any designated persons.

PART 16
POSTAL SERVICES
CHAPTER I
UNIVERSAL SERVICE AND SERVICE RESERVED TO POSTS

Universal postal service.
9(a) of 160(I) of 2013.

119. (1) The Commissioner shall ensure the provision of universal postal service, which shall consist of the minimum bundle of postal services of a defined quality, in accordance with the provisions of 119B of this Law, and shall ensure that such service is available to all users in Cyprus, at affordable prices, irrespective of their geographic location, and in light of the specific conditions prevailing in Cyprus.

(2) The Commissioner shall ensure that the density of post offices and access points corresponds to the needs of users.

9(b) of 160(I) of 2013.

(3) The minimum and maximum dimensions of postal items which, in accordance with the provisions of Section 119B of this Law, constitute the universal postal service, shall be specified from time to time by the Universal Postal Union.

10 of 160(I) of 2013.
Definition of universal service provider.

119A. The public or private operator that shall provide the universal service throughout the Republic, selected either by direct award or through a competition process, in accordance with the provisions of the Law on the Coordination of Procedures for the Award of Public Works, Public Supply and Public Service Contracts in the Sectors of Water, Energy, Transport and Postal Services and Related Matters, shall be designated by order of the Minister after informing the Parliamentary Committee of Communications and Works. The award of the universal service shall be made in accordance with the principles of transparency, non-discrimination and proportionality.

11(I) of 2006
39(I) of 2011
175(I) of 2011
112(I) of 2012.

10 of 160(I) of 2013.
Universal postal service.

119B. (1) The minimum bundle of postal services that constitutes the universal postal service includes:

(a) Minimum access points based on the needs of users, geographic

specificities and social conditions;

(b) at least one delivery, save in exceptional cases or specific geographic conditions, every working day, for at least five days a week, of postal items, including packages weighing up to two and twenty kg respectively, to the residence or premises of every person, or at such identified points or otherwise as the Commissioner may approve from time to time;

(c) At least one clearance, save in exceptional cases or specific geographic conditions, every working day for at least five days a week, from each access point, of postal items and packages described in paragraph (a):

Provided that any exceptional circumstances or deviations recognised by the Commissioner shall be notified to the European Commission and to all regulatory authorities by the Commissioner;

(d) Provision of postal services, consisting in the clearance, sorting, conveyance and distribution of postal items and packages referred to in paragraphs (b) and (c), at affordable and uniform prices throughout the Republic, subject to the provisions of Section 124 of this Law, with the possibility to establish special arrangements by decision of the Commissioner for home delivery of packages;

(e) Provision of postal service of registered and insured postal items, at uniform prices throughout the Republic:

Provided that universal service, as defined in this Section, shall include both national and cross-border services.

(2) Postal services to blind or partially-sighted persons shall be provided free of charge in accordance with the provisions of the Universal Postal Union.

Universal
postal service
provider.
11 of 160(I) of
2013.

120. (1) The Commissioner shall inform the public of the identity of the universal postal service provider and shall require the latter to provide him with information in connection with the services which comprise the universal postal service.

(2) In addition, the Commissioner shall ensure that the universal service provider provides the public with information on the above services, which include *inter alia* the general conditions of access to those services, the prices of the relevant services as well as the quality standards and the relevant performance of the provider in relation to the said services. The Commissioner shall publish in the Official Gazette of the Republic and on the internet the information mentioned above and which concerns the public.

Licence of
universal postal
service provider.

121.(1) The Commissioner shall specify in the licence of the universal postal service provider the terms required to be fulfilled by the universal service and which shall include, *inter alia*, the following:

- (a) compliance of the service with the essential requirements;
- (b) provision of the same services to all the users under comparable conditions;
- (c) availability of the service without any form of discrimination whatsoever, in particular without discrimination on political, religious and/or ideological grounds;
- (d) uninterrupted and continuous service during each working day and for no less than five days a week, except in cases of force majeure.

(2) The Commissioner shall ensure that the universal service provision develops in

accordance with the technical, economic and social changes and the needs of users.

Services reserved
to the universal
postal service
provider.

122. **Repealed with 12 of 160(I) of 2013.**

13 of 160(I) of
2013.
Calculation of the
net cost of the
universal service.
Second Annex.

123. (1) The Commissioner shall specify by Order the method of calculation of the net cost of the universal service, in accordance with the guidance set out in the Second Annex to this Law and, upon being informed by the universal service provider on the net cost arising from his obligation to provide universal service, he shall proceed to the control and verification thereof.

(2) The net cost of universal service provision shall be borne by the universal service provider concerning the part of the postal service provision within the scope of the universal service, and the postal service operators under special licence concerning the part of the postal service provision within the universal service. In case a postal service provider is not active within the scope of the universal service, then the net cost of universal service provision shall be covered by the State budget and deposited directly in the compensation fund established under subsection (5).

(3) The apportionment of the cost shall be made by the Commissioner, in a transparent, objective and neutral manner, taking into consideration, *mutatis mutandis*, the gross income of each operator who is active within the scope of the universal service.

(4) The Commissioner shall have competence to calculate and individualise the contributions under this Section for each postal service provider.

(5) For the purposes of application of this Section, the Commissioner shall establish a compensation fund within one year from the entry into force of this Law, which shall be administered by an independent body, whose members shall be appointed by the Commissioner and shall act in compliance with the provisions of a relevant Order issued by the Commissioner.

(6) The Fund shall have competence to collect and allocate to the beneficiary universal service provider the attributable amounts save the contributions to be borne by the beneficiary in accordance with subsection (2) of this Section, which the beneficiary may set off.

(7) The Commissioner shall ensure that the principles of transparency, non-discrimination and proportionality are respected during the operation of the compensation fund and especially with regard to the calculation and determination of the amount of financial contributions to it. Decisions taken shall be based on objective and verifiable criteria and shall be made public.

(8) The compensation fund shall be independently audited.

(9) The Commissioner shall publish, on an annual basis, all contributions made to the compensation fund in the Official Gazette of the Republic.

Postal prices and fees.

124.(1) Subject to Sections 20 (r), (23) and (24), the Commissioner shall ensure that the prices and fees referred to in the said provisions:

14(a) of 160(I) of 2013.

(a) are affordable and such that all users, independent of their geographic location, have access to the services provided, in light of specific conditions,

if any;

14(a) of 160(I) of 2013. (b) are cost oriented and give incentives for an efficient universal service provision;

14(a) of 160(I) of 2013. (c) are transparent and non-discriminatory; and

14(a) of 160(I) of 2013. (d) are uniform throughout Cyprus and also in respect of cross-border services, when provided at single piece tariff.

14(b) of 160(I) of 2014. (2) The application of uniform fees and prices as per the provisions of subsection (1)(d) shall not exclude the right of the universal postal service provider to conclude individual agreements on prices with customers.

14(c) of 160(I) of 2013. (3) The universal service provider may apply special tariffs, in accordance with the principle of cost-orientation, for certain services, including for example services for businesses, bulk mailers or consolidators of mail from different users. In such case, the tariffs and terms of service provision must comply with the principles of transparency and non-discrimination. Also, they shall apply equally, for equivalent services, both as between different third parties and as between third parties and the universal service provider. Any such tariffs shall also be available to users, in particular individual users and small and medium-sized enterprises using the postal services under similar conditions.

Conclusion of agreements for terminal dues. 125. In order to ensure the provision of cross-border universal service, the Commissioner shall encourage the universal postal service provider to conclude agreements on terminal dues for posts from and to Member States

of the European Union, in compliance with the following principles:

(a) cost orientation of terminal dues for the processing and distribution of incoming cross-border mail;

(b) fees to be related to the quality of service provided;

(c) transparency and non-discrimination on terminal dues.

Accounting
arrangements.
15(a) of 160(I) of
2013.

126.(1) The Commissioner shall ensure that the accounting arrangements for universal postal service provision are such as to clearly distinguish between each of the services and products which are part of the universal service and those which are not. This accounting separation shall be used as an input when calculating the net cost of the universal service. The internal accounting systems shall operate on the basis of consistently applied and objectively justifiable cost accounting principles.

15(b) of 160(I) of
2013.

(2) The Commissioner shall prescribe by Order the accounting systems and the way by which costs shall be allocated.

15(c) of 160(I) of
2013.

(3) The Commissioner shall maintain, to an adequate level of detail, information on the cost accounting systems applied by the universal postal service provider, which shall be made available in confidence to the European Commission upon request of the latter.

(4) The financial accounts of the universal postal service provider shall be drawn up and submitted to audit by an independent auditor and published in accordance with the relevant European Community and Cyprus legislation on

commercial undertakings.

16 of 160(I) of
2013.
Access to the postal
network

126A. (1) If, based on a relevant study, it is deemed necessary in order to protect the interests of users and/or to promote effective competition and where universal service provision is not affected nor the right of contract is limited, the Commissioner shall issue an Order ensuring that transparent, non-discriminatory access conditions are available to elements of postal infrastructure or the network or services provided within the scope of universal service, such as postcode system, address database, post office boxes, delivery boxes, information on change of address, re-direction service and return to sender service.

(2) The universal postal service provider shall have the obligation, upon request by a licenced postal service provider, to begin negotiations with such provider concerning the possibility of providing thereto access to a postal services network. The universal service provider may refuse access, if the operational capacity of the facilities or its operational reliability is put at risk or if there is no staff available to provide the requested service.

(3) In case negotiations fail or a reasonable time period has elapsed and an outcome has not been reached, the Commissioner may intervene either *ex officio* or upon written request of either of the parties, for the purpose of issuing a decision to resolve the dispute.

(4) Upon their conclusion, all access agreements shall be submitted to the Commissioner.

CHAPTER II

GRANTING OF LICENCES

Obligation to obtain a licence.
17(a) of 160(I) of 2013.

127. (1) No person shall establish and/or operate a postal network and/or provide postal services unless authorised to do so by a licence, in the form of either a General Authorisation and/or Special Licence granted by the Commissioner subject, in the case of the special licence of the universal service provider, to the provisions of Section 119A.

(2) Notwithstanding the provisions of subsection (1), the following postal services are not subject to licensing:

(a) the conveyance and delivery of postal items personally by the sender, a friend or acquaintance of the sender or a messenger without any reward or remuneration, who is not engaged in any commercial activity or by any similar means whatsoever;

(b) the conveyance and delivery of official court documents;

(c) Repealed with 17(b) of 160(I) of 2013.

(3) The Commissioner may specify by Order other services whose provision does not require a licence, provided they are not included within the scope of universal service.

Granting of special licences.
18(a) of 160(I) of 2013.

128. (1) The Commissioner shall grant special licences required for the provision of part or all of the services which fall within the scope of universal postal service, as provided in Section 119B of this Law, as well as the provision of services which display inter-changeability to a sufficient degree with the universal postal service, without necessarily covering all the features

of the universal service, such as daily delivery or complete coverage of the Republic.

18(b)(c) of 160(I) of 2013. (2) The Commissioner shall ensure that persons offering postal services under a general authorisation regime comply with the registration requirements set out in this Law and the relevant conditions specified in an Order of the Commissioner.

Principles underlying licencing. 129. (1) The Commissioner shall ensure that the procedures for the granting of licences are transparent, non-discriminatory, proportionate and based on objective criteria.

(2) In case of non-approval of a request for the grant of a licence, the Commissioner must:

(a) inform the interested party of the reasons of its rejection;

(b) provide the applicant with the opportunity to demonstrate the reasons for which the licence ought to have been granted thereto;

(c) be able, after taking into account the reasons mentioned in paragraph (b), to grant the licence under such terms and conditions as considered necessary;

(d) be able, following an examination of the reasons mentioned in paragraph (b), to confirm his Decision, in which case the party having submitted the request shall have the right to appeal to the Supreme Court.

(3) The Commissioner shall not impose conditions on any licence other than those prescribed in an Order.

(4) The Commissioner may refuse the grant of a licence, every time that a)

this is in the public interest, b) this is in the interest of national security, or c) the application for the grant of the licence does not satisfy the terms and conditions set out in the procedures for the grant of licences.

19 of 160(I) of
2013. Obligations
of postal service
operators.

130. (1) Natural and legal persons providing postal services must:

- (a) respect the confidentiality of correspondence;
- (b) comply with the rules of the Universal Postal Union (U.P.E.) concerning the transport of dangerous postal items;
- (c) ensure equal treatment for all users;
- (d) take measures aiming at non endangering national defence and security;
- (e) secure the protection of users' personal data and privacy;
- (f) ensure compliance with the working conditions provided by the Law and the relevant collective agreements;
- (g) comply with provisions on environmental protection and spatial planning;
- (h) ensure continuous provision of their postal services throughout the period of validity of their licence;
- (i) ensure that their tariffs satisfy the healthy competition and transparency rules and are properly published;
- (j) supply to the Commissioner, at intervals and to the extent of detail required by him, confidentially and upon request of the Commissioner, all

necessary information and evidence of compliance with the provisions of this Law, the enforcement of his Decisions under this Law and for clearly defined statistical purposes, including financial information and information relating to universal postal service provision; and

(k) pay the Commissioner the annual administrative charges, as prescribed from time to time as well as the funding fees of the compensation fund to cover the cost of universal service provision.

(2) In particular, postal service providers that provide postal services under a special licence regime must, in addition:

(a) keep separate accounts and apply accounting separation, in order to clearly distinguish between services and products that are part of the special licence and those which are not, and communicate their tariffs to the Commissioner; and

(b) provide universal service, if so designated, in accordance with Section 119A.

(3) Postal service providers that must contribute to the financing of the universal postal service and/or the administrative and operating expenses of the Commissioner shall be obligated to apply proper accounting separation for ease of identification of the financial information of the services which are subject to the obligation to contribute to the financing of the universal postal service and the administrative and operating expenses of the Commissioner.

for determining where responsibility lies, in cases where more than one operator is involved) without prejudice to relevant national provisions and Cypriot legislation on compensation schemes.

(2) The Commissioner shall adopt measures to ensure that the procedures referred to in subsection (1) enable disputes to be settled fairly and promptly with provision, where warranted, for a system of reimbursement and/or compensation. The Commissioner shall also encourage the development of independent out-of-court procedures for the resolution of disputes between providers and users.

(3) Without prejudice to possibilities of dispute resolution using court proceedings, users may, acting individually or collectively, bring before the Commissioner complaints concerning postal service providers and which fall within the scope of their licencing terms by the Commissioner.

(4) The universal postal service provider as well as postal service providers within the scope of universal service shall publish, together with the annual report on the monitoring of their performance, information on the number of complaints of the users of their services and the manner in which they have been dealt with.

Declaration of
registration.

131. The Commissioner shall prescribe by Order the procedures by which persons may be licenced to provide postal services in the form of a general authorisation. A person seeking registration shall make a declaration providing the following information:

(a) full personal and/or corporate identification information;

(b) the names of persons who shall manage the proposed postal activities;

(c) the service to be provided, the geographical area and the characteristics of the service to be covered;

(e) the procedure for settling disputes with customers.

Licence fees.
21 of 160(I) of
2013.

132. (1) The Commissioner shall prescribe by Order the method of calculating annual administrative fees for both general authorisations and special licences.

(2) Licence fees shall cover the administrative costs incurred in the issue, management, supervision and enforcement of the relevant licence.

Supervising and
ensuring
compliance.

133. (1) The Commissioner shall have the duty and responsibility to supervise and ensure compliance with the terms and conditions of the licences.

22 of 160(I) of
2013.

Official Gazette of
the Republic,
Annex Three (I):
25.7.2008

(2) In those cases where the Commissioner ascertains that there may be an infringement of a term of a licence, he shall inform the person holding the licence accordingly and apply the Order on the Collection of Information and the Imposition of Administrative Fines.

(3) In case the Commissioner and the licence holder fail to agree, within a time frame defined by Order of the Commissioner, on the procedures of hearings and the

imposition of administrative fines and other penalties, or the licence holder does not remedy the infringement, the Commissioner may adopt a Decision that the licence holder must not take advantage of the licence and/or impose a fine on him, and/or revoke the licence.

Revocation and
assignment of
licences.
23(a) of 160(I) of

134. (1) The Commissioner may revoke licences in cases of:

2013. (a) serious or systematic infringement of any licence or its terms;

(b) omission to pay the prescribed licence fees within three months of the grant of the licence,

(c) omission to pay the prescribed annual licence fees within three months of the date when these are due,

(b) insolvency of the licence holder.

23(b) of 160(I) of
2013.

(2) Licences are individual in nature, and cannot be subject to assignment or transfer of their rights of use, wholly or partially, without the prior written consent of the Commissioner, who may refuse such consent, at his absolute discretion.

(3) The Commissioner shall maintain a register of licences for the provision of postal services, which shall be available for public inspection.

CHAPTER III
CONFIDENTIALITY AND QUALITY OF POSTAL SERVICES

Confidentiality. 135. (1) Data and/or information concerning the postal traffic of natural and legal persons, as well as the contents of postal items, shall be confidential.

(2) Any person providing postal services or assisting in the provision of such services shall keep confidential any data and/or information in his possession concerning such postal services. This obligation shall survive a termination or expiry of any postal service employment.

(3) The prohibitions set out in subsections (1) and (2) of this Section shall not apply in circumstances where:

(a) a Court shall so order;

(b) the Commissioner shall require information in due exercise of his regulatory duties, powers and competences;

(c) the identification of the addressee or sender of an undeliverable postal item cannot be achieved by any other means;

(d) it is imperative to avert any physical danger to persons and/or property.

Quality of services. 136.(1) In order to exercise his competences under Section 20(d) of this Law, 24 of 160(I) of 2013. the Commissioner shall prescribe by Orders quality of service standards applicable to the universal postal service provider..

(2) The universal postal service provider shall be obliged to provide services and operate in accordance with the quality standards prescribed in the Orders mentioned in subsection (1).

(3) For the purposes of subsection (2), the Commissioner-

(a) shall supervise the operation and services of the universal postal service provider to determine its compliance with the quality of service standards mentioned in subsection (1);

(b) shall ensure that an independent performance monitoring is carried out at least once a year by external bodies having no links with the universal service providers in order to determine the compliance of the universal postal service provider with the quality of service standards mentioned in subsection (1); and

(c) shall ensure the preparation and publication, at least once a year, of reports for everything performed in accordance with paragraphs (a) and (b), the conclusions derived therefrom and the adoption of the necessary corrective measures by the universal postal service provider.

(4) As regards any postal service provider other than the universal postal service provider, the Commissioner shall supervise its operation and services and may undertake independent investigations to determine its compliance with the quality standards referred to in this Section, as well as prepare and publish relevant reports for everything performed, which shall contain his

conclusions and any proposed corrective measures to be taken by the said provider.

(5) The quality standards mentioned in subsection (1) and relating to domestic postal service provision shall be prescribed by Order of the Commissioner. Where exceptional situations relating to infrastructure or geography so require, the Commissioner may determine exceptions from the quality standards of cross-border mail.

(6) The Commissioner shall notify the quality standards mentioned in subsection (1) and the exceptions of subsection (5) to the European Commission.

CHAPTER IV
TECHNICAL STANDARDS, ACCESS TO IMMOVABLE
PROPERTY, POSTAL SERVICES ADVISORY COMMITTEE,
LIABILITY, POSTAGE STAMPS AND SUPPLEMENTARY
PROVISIONS

Technical standards. 137. The universal postal service provider shall, in the interest of users and for the purpose of supplying the information referred to in Section 120(3), refer where necessary to technical standards drawn up by the European Community for standardisation and published in the Official Journal of the European Communities.

Access to immovable property. 138.(1) The universal postal service provider may acquire any immovable property for the purposes of any of its functions under this Law and, if any such property cannot be acquired contractually, it may be acquired under the

provisions of any law on the compulsory expropriation of property in force from time to time.

(2) The universal postal service provider and/or any person duly authorised by the provider in writing may, at all reasonable times, enter upon any land and, subject to twenty four hours prior notice in writing to its occupier, enter upon any premises, and perform such acts and/or things as may be reasonably necessary for the purpose of inspection, examination or investigation, whether preliminary or incidental to the exercise of any of the functions of the universal postal service provider under this Law.

(3) The universal postal service provider shall pay compensation in accordance with the provisions of Section 89(11) for any personal injury or damage caused by such entry or by doing the aforesaid acts or things in accordance with the provisions of subsection (2).

(4) For the purpose of carrying out any work in connection with any postal network, the universal postal service provider and/or any person duly authorised by him in writing in that behalf may, subject to reasonable notice having been given to competent local or other authorities, open and dig up any street and place any letter box on any street, subject to meeting the requirements of any density plan for any access points which has been agreed with the Commissioner.

(5) Any street opened and/or dug up in accordance with subsection (4) shall, with all reasonable speed and at the cost and expense of the provider, be reinstated to its previous condition and all debris occasioned by such breaking and/or opening of the street shall be removed.

(6) Any letter box placed or constructed on any street shall be so placed or constructed as not to stop, obstruct and/or interfere with the passage along the street.

Prohibitions on persons.
25 of 160(I) of 2013.

139. (1) Only postal service providers shall have the right to place or construct letter boxes.

(2) No person shall place and/or carry any mains, pipes, conduits and/or wires in, along, through, across, over and/or under any street and/or place in a manner which is likely to interfere with or cause damage to any public letter box.

(3) Any person who removes, destroys and/or damages, whether wilfully or otherwise, any letter box, commits a criminal offence and shall be liable to pay full compensation for the damage he has caused and such compensation shall be recoverable by civil action before the competent Court.

(4) Without prejudice to the provisions of subsection (3), the Court before which a person is charged with a criminal offence according to subsection (3), may assess the compensation payable thereunder and issue an order for the payment of same. Any such order shall be enforced as if it were a judgment in a civil action.

Postal Services Advisory Committee.
26 of 160(I) of 2013.

140.(1) The Commissioner shall appoint a five-member Advisory Committee which shall-

(a) provide him with information and general advice on postal service matters;

(b) act as a representative of postal users and transmit their views; and

(c) make recommendations to the Minister and/or the Commissioner.

(2) The Advisory Committee shall meet at least once every three months and shall, to the extent possible, inform itself about postal service matters and the views of users of postal services.

(3) The Commissioner shall ensure that the members of the Advisory Committee represent a broad cross-section of Cyprus society. The Commissioner shall appoint from amongst the members a Chairman of the Advisory Committee.

(4) The Commissioner shall see that a member of the Office staff provides secretarial services to the aforesaid Committee.

(5) The members of the Committee shall be compensated for their reasonable expenses.

Liability of postal network / service providers.
27(a) of 160(I) of 2013.

141.(1) No judicial proceedings in tort or contract may be initiated against a postal service provider, arising out of the clearance, sorting, conveyance and/or delivery of postal items, except as set out in subsection (2).

27(b) of 160(I) of 2013.

(2) Where an authorised postal service provider offers a registered and/or insured postal service, legal liability shall arise in accordance with the contractual terms and conditions between the provider and the user, and the postal provider shall use his best endeavours to inform users of such terms

and conditions.

- 27(c) of 160(I) of 2013. (3) The extent of liability of the postal service provider for matters arising under subsection (2) above shall be limited to direct loss occasioned by any contractual breach and/or wrongful act. The user shall not have the right to raise the issue of consequential loss in any Court in Cyprus.
- Issue of postage stamps. 142. (1) The Minister shall approve the issue of postage stamps by the universal postal service provider and declare void any other stamps which have the inscription or mention the word “Cyprus”.
- 28(a) of 160(I) of 2013. (2) The Minister shall approve the use of postage stamps for payment of the postal services of the universal postal service provider.
- 28(b) of 160(I) of 2013. (3) The Minister shall assign the philatelic activity related to the issue of postage stamps exclusively to the universal postal service provider.

CHAPTER V

SUPPLEMENTARY PROVISIONS

- Fictitious stamps, unpaid postal items, newspapers and parcels. 143. (1) Whenever a postal item sent to Cyprus from abroad bears a fictitious stamp, and/or purports to be prepaid by means of a stamp which has been used before, any employee of a postal service provider may open it, in the presence of the addressee, for the purpose of disclosing the name and address of the sender, and may either retain it or hand it over to the sender, or deal or dispose of it in such other manner as may be authorised by the Commissioner.
- (2) A postal service provider may open all postal items posted in Cyprus and remaining unclaimed or undelivered for a period of three months, or which have been returned to Cyprus from any other country as unclaimed, for the

purpose of being returned to their senders, and in the event that the sender is unknown or is deceased or his signature is illegible or he has left Cyprus or has not claimed the postal item within twelve months, the opened postal item may be destroyed.

29 of 160(I) of 2013. (3) In case a postal item is addressed to a foreign country where prepayment is necessary and is posted insufficiently stamped, the postal service provider may open it and return it to the sender.

(4) (a) Any postage fee which has not been prepaid, for a postal item which is returned as unclaimed from any other country or which is refused as it is addressed to a deceased person or to a person who could not be traced or who has left Cyprus, shall be paid by the writer of the letter or the sender of the item, as the case may be, and the postal service provider may open such postal items at any time for the purpose of establishing the identity of the writer of the letter or the sender of the item, as the case may be.

(b) Postal items subject to postage fees, which are unpaid or insufficiently prepaid and, for any reason, remain unclaimed or undelivered for a period of twelve months, may be auctioned and the proceeds of the sale thereof shall be deposited to the Consolidated Fund of Cyprus.

Examination
of postal parcels
and declaration of
content.

144. Any postal item, excluding items of correspondence, which is accompanied by a customs declaration and is sent from abroad to Cyprus, may be opened by employees of postal service providers in the presence of a Customs Officer, who shall assess the amount of customs duties to be charged thereon.

Confiscation.

145. Postal items found to contain any article which cannot under this Law and/or any other law and/or Orders, in force from time to time, be sent by post and postal items the contents of which have been intentionally falsely declared by the sender,

shall be liable to confiscation with all their contents, under and in accordance with the customs legislation in force from time to time.

Customs duties and taxes. 146. (1) In the case of a postal item sent to Cyprus from abroad containing goods, the duties and/or taxes on which are charged at *ad valorem* rates, the competent Customs Officer may, if he has reason to believe that the declared value is insufficient, assess the value for purposes of customs duties and/or taxes at such an amount as he considers to be appropriate. In such case, the importer shall, within ten days of notice of such assessment being delivered or posted to him at his address, present himself to the competent Customs Officer and pay the customs duties and/or taxes on the value assessed by the Customs Officer.

(2) Where an importer or his duly authorised representative does not pay to the competent Customs Officer, within the prescribed period of ten days, the customs duties and/or taxes on the value assessed by the Customs Officer in accordance with the provisions of subsection (1), the relevant postal item shall be treated as undelivered.

Holding of postal items. 147.(1) Where a postal service provider has reason to believe that a postal item which is not accompanied by a customs declaration, excluding items of correspondence, contains any goods:

(a) in connection with which a criminal offence has been committed or is being committed or is attempted to be committed;

(b) which are subject to payment of any customs duties and/or taxes; and/or

(c) in connection with which there is, under any law and/or Orders, in force from time to time, and/or any international treaty, convention or agreement

binding on Cyprus, any prohibition or restriction, either on their import and/or conveyance by post and/or otherwise,

then the said provider is obliged to retain the postal item at the post office nearest to the address of the addressee and demand in writing from the addressee or any duly authorised representative of the latter to present himself at the post office, at a specified time, for the opening of the said postal item in his presence.

(2) A postal item referred to in subsection (1) of this Section shall be opened in the aforementioned place and time, in the presence of an officer of the postal service provider and a Customs Officer, by the addressee or his duly authorised representative or, in case the addressee or his representative do not present themselves or refuse to open the postal item, it shall be opened by the above officers and also a police officer in the cases listed in subsection (1)(a) and (c).

(3) In case a postal item is found to contain any goods:

(a) the importation of which is forbidden and/or restricted and/or the conveyance of which by post is forbidden in accordance with any law and/or Orders in force from time to time, and/or any international treaty, convention or agreement binding on Cyprus, then the postal item shall be confiscated in accordance with the customs legislation in force from time to time;

(b) which are subject to payment of any customs duties and/or taxes, the postal item shall be retained at the post office until such duties are paid;

(c) in connection with which a criminal offence has been committed, is being

committed or is attempted to be committed and/or there is any prohibition and/or restriction, other than those mentioned in paragraph (a) above, then the postal item shall be retained for the purpose of any further proceedings in accordance with this Law and/or any other law and/or Orders in force from time to time.

Customs
declaration for the
description of a
postal parcel.

148.(1) The sender of any postal item, excluding items of correspondence, for conveyance by post from Cyprus shall complete, before its posting, a customs declaration giving full description of its contents, its value and the address of the addressee.

(2) Where a postal service provider has reason to suspect that any declaration mentioned in subsection (1) of this Section is inaccurate, whether in relation to the contents and/or the value of any postal item, the said provider may open the item and, in case the declaration is found to be inaccurate, the parcel and its contents shall be liable to confiscation in accordance with the customs legislation in force from time to time.

(3) Where a postal parcel is found to contain any other postal item which is intended for delivery to a person other than the addressee of the parcel, the postal item may be sent by post to the person to whom it is addressed who shall be charged with postage equal to the unpaid postage and which would normally be payable if the item were duly posted at the place the parcel was posted.

(4) Where a postal item is offensive or injurious to any employee of a postal service provider and/or to any other person and/or may cause destruction or damage to other postal items, it may be destroyed, if this is reasonable to be done, or be held in a safe place. In the latter case, the addressee shall be informed, if possible, and asked to collect the item. If the addressee does not present himself, the item shall be opened and the sender, if identified, shall be asked to collect the item. If neither the

addressee nor the sender present themselves, the postal item shall be destroyed.

PART 17
OFFENCES CONCERNING ELECTRONIC COMMUNICATIONS
AND POSTAL SERVICES
CHAPTER I
ELECTRONIC COMMUNICATIONS

Provision of
network and/or
services without a
licence and other
offences.

88(a) of 51(I) of
2012.

149.(1) Any person who creates, establishes and/or provides an electronic communications network and/or service without a general authorisation in accordance with Part 8 of this Law and/or creates, establishes and/or provides such network and/or service otherwise than under and in accordance with this Law or any other law in force from time to time, or a general authorisation under such law, or under and in accordance with an individual right of use granted by the Commissioner pursuant to this Law and/or regulations and/or Orders issued by the Commissioner under this Law, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding five thousand euros (€5,000) or to both such penalties.

88(b) of 51(I) of
2012.

(2) Any person who is ordered by the Commissioner under Section 27(1)(b), to provide any information and fails to do so within fifteen days such order, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding three thousand four hundred euros (€3,400) or to both such penalties.

(3) Any person who fraudulently obtains a service provided by a licenced electronic communications network with the intention of avoiding payment

88(c) of 51(I) of 2012. of any fee and/or charge applicable to the provision of the said service, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding three thousand four hundred euros (€3,400) or to both such penalties.

88(d) of 51(I) of 2012. (4) Any person who has reason to believe or knows that any electronic communications network and/or electronic communications service has been established, exists and/or operates in violation of this Law and/or regulations and transmits and/or receives any message using that network and/or service, and/or performs any service incidental to the establishment, existence, operation and/or provision of that electronic communications network and/or service, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700) or to both such penalties.

88(e) of 51(I) of 2012. (5) Any person who acts in any of the following ways in relation to an electronic communications network, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding eight hundred and fifty euros (€850) or to both such penalties:

(a) participates in the management, financing, operation and/or day-to-day running of an electronic communications network, knowing or having cause to believe that the said network and/or the electronic communications services provided through its use are not, although they ought to have been, licenced in accordance with Part 8 of this Law;

(b) supplies, installs, repairs and/or maintains any electronic communications network and/or electronic communications equipment and/or any other object, knowing or having cause to believe that the electronic

communications network and/or electronic communications equipment and/or other object, as the case may be, is used or is going to be used for the purposes of facilitating the operation and/or day-to-day running of a non-licenced electronic communications network and/or electronic communications services, which ought to have been licenced in accordance with Part 8 of this Law;

(c) renders any service to any person, knowing or having cause to believe that the rendering of that service to that person facilitates the operation and/or day-to-day running of a non-licenced electronic communications network and/or electronic communications services, which ought to have been licenced in accordance with Part 8 of this Law.

(6) Any person who:

(a) sends by means of a public communications network, a message or anything else that is grossly offensive and/or of an indecent, obscene and/or menacing character; or

(b) sends by means of a public communications network, for the purpose of causing annoyance, inconvenience and/or needless anxiety to another person, a message that he knows to be false and/or persistently makes use of a public communications network for that purpose;

88(f) of 51(I) of 2012. shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700).

88(g) of 51(I) of 2012. (7) Any person who uses any apparatus, whether or not the apparatus in question is radio communications apparatus, for the purpose of interfering with any other apparatus, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding three months or to a

pecuniary fine not exceeding eight hundred and fifty euros (€850) or to both such penalties.

88(h) of 51(I) of
2012.

(8) Any person who is a licenced undertaking or is employed by a licenced undertaking or who is engaged in any capacity by any licenced undertaking, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding 6 months or to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700) or to both such penalties if, in contravention of his duty:

(a) prevents and/or obstructs the sending, conveying and/or delivery of any message in accordance with Section 98 of this Law;

(b) intentionally amends and/or interferes with the content of any message in accordance with Section 99 of this Law; and/or

(c) intentionally intercepts any message and/or intentionally discloses and/or uses the content of any message or any information and/or document that relates to the content of any message, and/or to public affairs and/or personal particulars of any person in accordance with Section 99 of this Law.

(9) (a) Any person who installs or places on the Cyprus market any telecommunications terminal equipment for the purpose for which it has been designed shall, unless the terminal equipment complies with the terms, conditions and specifications set out in Section 78 according to article 77, be guilty of a criminal offence.

88(i) of 51(I) of 2012. (b) Any person convicted of committing a criminal offence as per subsection (2), shall be liable to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding five thousand euros (€5,000) or to both such penalties.

(10) Any person who removes, destroys and/or causes damage, whether fraudulently or otherwise, to any communications network and/or installations and/or equipment, shall be guilty of a criminal offence according to Section 95 of this Law.

88(j) of 51(I) of 2012. (11) Any person who, without reasonable cause, fails to comply with the terms of an Order or Decision issued by the Commissioner under this Law, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding eight hundred and fifty euros (€850) or to both such penalties under Section 29 of this Law.

CHAPTER II

POSTAL SERVICES

Provision of network and/or services without licence and other offences. 150.(1) Any person who establishes, operates and/or provides a postal network and/or postal services without a special licence granted by the Commissioner or without a general authorisation according to Section 127, except by virtue and in accordance with this Law and/or any other law and/or a licence issued under any other law and/or regulations and/or orders, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding five thousand euros (€5,000) or to both such penalties.

89(a) of 51(I) of 2012.

30(a) of 160(I) of 2013.

(2) Any person who conveys, without a licence, a postal item which does not fall within the exemptions of subsections (2) and (3) of Section 127 of this Law, shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding eight hundred and fifty euros (€850) for every

postal item conveyed.

30(a) of 160(I) of 2013. (3) Any person who systematically conveys without a licence a postal item not exempted as specified in subsection (2) shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine of one thousand seven hundred euros (€1,700) for every week or part thereof during which the conveyance continues.

30(a) of 160(I) of 2013. (4) Any person who performs, otherwise than by postal services, any services incidental to conveying postal items from place to place, whether by receiving or accepting or collecting or clearance or ordering or dispatching or conveying, re-conveying or delivering such an item, which is not exempted as referred to in subsection (2), shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding eight hundred and fifty euros (€850) for every such item so conveyed.

30(b) of 160(I) of 2013. (5) Any person who systematically offers services as described in subsection (4) shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700).
89(e) of 51(I) of 2012.

30(c) of 160(I) of 2013. (6) Any person who sends a postal item not exempted as referred to in subsection (2), otherwise than by postal services, or procures such an item to be sent and/or conveyed otherwise than by postal services and/or tenders and/or delivers such an item in order to be sent otherwise than by postal services, shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding eight hundred and fifty euros (€850) for every such item.
89(f) of 51(I) of 2012.

(7) Any person who systematically performs any of the acts mentioned in subsection (6) shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding one thousand seven hundred euros

89(g) of 51(I) of (€1,700).
2012.

30(d) of 160(I) of (8) Any person who collects postal items which do not fall within the
2013. exemptions of subsections (2) and (3) of Section 127 of this Law, for
conveyance and/or dispatching otherwise than by postal services, shall be
89(h) of 51(I) of guilty of a criminal offence and liable, on conviction, to a pecuniary fine not
2012. exceeding eight hundred and fifty euros (€850) for every such item.

89(i) of 51(I) of (9) Any person who systematically performs any of the acts mentioned in
2012. subsection (8) shall be guilty of a criminal offence and liable, on conviction,
to a pecuniary fine not exceeding one thousand seven hundred euros
(€1,700).

30(e) of 160(I) of (10) Any person shall be guilty of an offence as set out in subsection (4) of
2013. this Section and liable, on conviction, to the penalty prescribed therein,
whether the relevant item is sent individually or with anything else, or
whether the said service is performed in connection with the item being sent
or to be sent individually or with any other item or thing, and in any
prosecution the onus shall lie upon the person being prosecuted to prove that
the act in respect of which the criminal offence is alleged to have been
committed was done in conformity with this Law.

89(j) of 51(I) of (11) Any person who fraudulently or knowingly uses, joins, affixes and/or
2012. places with or upon any postal item or cover or on any paper or other
substance any postage stamp which has already been used, shall be guilty of
a criminal offence and liable, on conviction, to a pecuniary fine not
exceeding one thousand seven hundred euros (€1,700).

(12) (a) Any person shall be guilty of a criminal offence in any of the
following cases:

(i) if he knowingly encloses, causes and/or contributes to be enclosed in any newspaper to be sent by postal services or under cover thereof any item, paper and/or thing; or

(ii) if he knowingly either sends or causes to be sent by postal services any newspaper in which any item of correspondence or thing or paper or object is enclosed, except where such conduct is expressly permitted.

89 (k) of 51(I) of 2012. (b) Any person who is guilty of a criminal offence as per subsection (a) shall be liable, on conviction, to a fine not exceeding eight hundred and fifty euros (€850) for each newspaper.

(c) In any of the cases mentioned in paragraph (a), the newspaper together with any of its enclosures which are not prohibited to be sent by postal services, shall be delivered as an ordinary paid item of correspondence, while any prohibited enclosures shall be confiscated.

(13) (a) Any person employed, cooperating with or engaged by a postal service provider shall be guilty of a criminal offence when, without legitimate reason he:

(i) opens or procures or suffers to be opened a postal item; and/or

(ii) wilfully detains or delays or procures or suffers a postal item to be detained and/or delayed.

89(l) of 51(I) of 2012. (b) Any person who is guilty of a criminal offence as per paragraph (a) shall be liable, on conviction, to a term of imprisonment not exceeding two years or to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700) or to both such penalties.

The provisions of paragraph (a) shall not apply as regards:

(i) the opening or detaining or delaying of a postal item in accordance with the provisions of this Law or any other law in force from time to time in connection with the operation of a postal business in Cyprus; and

(ii) the opening or detaining or delaying of a postal item in compliance with an express order by the Commissioner.

(14) Any person who solicits or procures or attempts to procure any other person to commit a criminal offence in breach of the provisions of subsections (1) to (13), shall be guilty of a criminal offence and liable, on conviction, to the same penalties as the person having committed the offence.

(15) For the recovery of the pecuniary fines imposed on any person convicted of a criminal offence under any provision of subsections (1) to (14), a civil action may be filed against the said person within one year from the imposition of the fine.

89(m) of 51(I) of 2012. (16) Any person who fraudulently retains or wilfully keeps or procures or retains or fails or refuses, after being required by the postal service provider, to hand over a postal item which has been delivered to him by mistake and which ought to have been delivered to any other person and/or post and/or a postal item which has been found by him or by any other person, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding one year or to a pecuniary fine not exceeding eight hundred and fifty euros (€850) or to both such penalties.

(17) Any person who posts or procures to be posted, and/or sends and/or causes to be sent, and/or tenders or delivers in order to be sent by the post

any postal item containing any explosive and/or other dangerous material or substance, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding twelve months or to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700), while the said item may be destroyed or detained or otherwise dealt with.

89(n) of 51(I) of 2012.

(18) (a) Any person who is employed to convey and/or deliver any postal item which is in his custody, care or possession, during his employment shall be guilty of a criminal offence, in any of the following cases:

(i) if he abandons the item;

(ii) if he is guilty of any act of drunkenness, carelessness, negligence and/or other misconduct where the safety of the postal item is endangered;

(iii) if he collects, receives, conveys and/or delivers the postal item otherwise than in the ordinary course of the post;

30(f) of 160(I) of 2013.

(iv) if he wilfully misspends his time so as to retard and/or delay the progress and/or arrival of a postal item;

(v) if he does not use proper care and diligence for the safe conveyance of a postal item.

(b) Any person who is guilty of a criminal offence as per paragraph (a) shall be liable, on conviction, to a pecuniary fine not exceeding one thousand euros (€1,000).

89 (o) of 51(I) of 2012.

(19) (a) Any person employed by a postal service provider shall be guilty of a criminal offence if, contrary to his duties, he:

(i) opens, causes or suffers to be opened a postal item; or

(ii) wilfully detains, delays, causes or suffers the detaining and/or delaying of a postal item.

89(p) of 51(I) of 2012. (b) Any person who is guilty of a criminal offence as per paragraph (a) shall be liable, on conviction, to a term of imprisonment not exceeding two years or to a pecuniary fine not exceeding one thousand euros (€1,000) or to both such penalties.

(c) The provisions of paragraph (a) above shall not apply to:

(i) the opening, detaining and delaying of a postal item in accordance with the provisions of this Law or of any other law in force from time to time relating to the operation of postal business in Cyprus;

(ii) the opening, detaining and delaying of a postal item in compliance with express instructions of the Commissioner.

89(q) of 51(I) of 2012. (20) Any person, who places or attempts to place in or against any letter box any fire, light, matches or any explosive and/or dangerous substance or any filth or any noxious or poisonous substance or any fluid or does or attempts to do anything likely to injure the box or its attachments or contents, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding twelve months or to a pecuniary fine not exceeding one thousand euros (€1,000) or to both such penalties.

(21) (a) No person shall send or attempt to send a postal item which:

(i) encloses any explosive or dangerous substance or any filth or noxious or

poisonous substance, or any sharp instrument not properly protected, or any living creature which is either noxious or is likely to injure other postal items;
or

(ii) encloses any article and/or thing which is likely to injure either other postal items in the course of conveyance or any officer of the postal service provider; or

(iii) has thereon or encloses therein any words, marks, designs or pictures of a seditious, scurrilous, threatening, indecent, obscene, or grossly offensive character.

89(r) of 51(I) of
2012.

(b) Any person who acts in contravention of paragraph (a), shall be guilty of a criminal offence and liable, on conviction, as regards subparagraph (i), to a term of imprisonment not exceeding twelve months or to a pecuniary fine not exceeding seven hundred pounds or to both such penalties, and as regards subparagraphs (ii) and (iii) to a pecuniary fine not exceeding one thousand euros (€1,000).

(c) Any postal item sent in contravention of paragraph (a) may be detained in the office of the postal service provider.

89(s) of 51(I) of
2012.

(22) Any person who, without due authority, has fixed or attempts to fix any placard, advertisement, notice, list, document, board and/or thing upon any office of a postal service provider or post or letter box, or who paints, tars or in any way disfigures any such office, post or letter box shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding three hundred and forty two thousand euros (€342,000).

(23) (a) A person shall be guilty of a criminal offence in those cases where, without due authority:

(i) he makes, issues, sends by post or otherwise, any envelope, wrapper, card, form or paper, in imitation of one issued by or under the authority of the universal postal service provider or any foreign postal authority or having thereon any words, letters or marks which signify or imply or may reasonably lead the recipient to believe that a postal letter bearing same is sent on behalf of the Government of Cyprus; or

(ii) he makes on any envelope, wrapper, card, form or paper for the purpose of being issued or sent by post or otherwise, or otherwise used, any mark in imitation of or similar to or purporting to be in imitation of or similar to or purporting to be any stamp or mark of the universal postal service provider or any foreign postal authority, or makes any words, letters or marks which signify or imply or may reasonably lead the recipient to believe that a postal letter bearing same is sent on behalf of the Government of Cyprus; or

(iii) he issues and/or sends by post or otherwise, any envelope, wrapper, card, form or paper marked as mentioned in the preceding paragraphs.

89(t) of 51(I) of 2012. (b) Any person who is guilty of a criminal offence under paragraph (a) shall be liable to a fine not exceeding eight hundred and fifty euros (€850).

(24) Any person who acts as follows, with intent to defraud, shall be guilty of a criminal offence:

(a) makes or knowingly alters or sells or deals in or distributes:

(i) any fictitious stamp, whether impressed or adhesive;

(ii) any counterfeit international reply coupon;

(iii) any counterfeit impression of a stamping machine; and/or

(iv) any impression already used, provided that such impression is forged or imitated in such manner as it may be mistaken for an impressed or adhesive stamp issued by the universal postal service provider or any foreign postal authority;

(b) makes and/or circulates any fictitious postal identity card; and/or

(c) makes and/or unless he shows a lawful excuse, has in his possession any die, plate, instrument and/or materials for making:

(i) any fictitious stamp;

(ii) any counterfeit international reply coupon;

(iii) any counterfeit impression of a stamping machine; and/or

(iv) any fictitious postal identity card.

89(u) of 51(I) of 2012. (25) Subject to subsection (26), any person who is guilty of a criminal offence as per subsection (24) shall be liable to a term of imprisonment not exceeding twelve months or to a pecuniary fine not exceeding five thousand euros (€5,000) or to both such penalties.

89(v) of 51(I) of 2012. (26) Any person who acts in contravention of subsection (24) without intent to defraud shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700). Provided that the onus of proving the absence of intent to defraud lies upon the person being prosecuted.

(27) Any stamp, reply coupon, impression, postal identity, die, plate, instrument or materials found in the possession of any person in contravention of subsection (24) may be seized and confiscated.

(28) Any person shall be guilty of a criminal offence, in cases where he:

(a) knowingly uses, for any postal purpose:

(i) any fictitious stamp;

(ii) any counterfeit international reply coupon;

(iii) any counterfeit impression of a stamping machine; and/or

(iv) any counterfeit impression already used; and/or

(b) has in his possession, unless he shows a lawful excuse,

(i) any fictitious stamp,

(ii) any counterfeit international reply coupon; and/or

(iii) any counterfeit impression of a stamping machine.

(29) Any person who is guilty of a criminal offence under subsection (28) shall be liable, on conviction, to a term of imprisonment not exceeding twelve months or to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700) or to both such penalties.

89(x) of 51(I) of
2012.

(30) No person shall, without due authority, place or maintain on any house, wall, door, window, box, post pillar or other place belonging to him or under his control, any of the following words, letters or marks in accordance with Section 139 of this Law:

(a) the words "post office",

(b) the words "letter box" accompanied with words, letters or marks which signify or imply or may reasonably lead the public to believe that it is a post office letter box; or

(c) any words, letters and/or marks which signify or imply or may reasonably lead the public to believe that any house or place is a post office and/or that any box is a post office letter box.

(31) Any person, when required by notice given by a postal service provider to remove or efface any words, letters and/or marks mentioned in subsection (30), and/or to remove or effectively close up any letter box belonging to him or under his control and which had been a post office letter box, shall comply with this request within fifteen days.

89(y) of 51(I) of 2012. (32) Any person who acts in contravention of subsection (31) shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding one thousand euros and, if the criminal offence continues after a prior conviction, to a pecuniary fine not exceeding two hundred euros (€200) for every day during which the criminal offence so continues.

30(g) of 160(I) of 2013. (33) Any person who knowingly makes a false declaration with respect to the contents or value of any postal item sent by him for conveyance by post from Cyprus shall be guilty of a criminal offence and liable, on first conviction for the offence, to a pecuniary fine not exceeding eight hundred and fifty euros

89(z) of 51(I) of 2012. (€850) and, on a second or any subsequent conviction, to a pecuniary fine not exceeding one thousand euros (€1,000).

(34) Any person who wilfully obstructs and/or incites any other person to obstruct an officer of any postal service provider in the execution of his duty, and/or who whilst in any post office obstructs the course of business of the office shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding one thousand euros (€1,000).

(35) Any person who issues, reproduces and/or copies stamps without express authority or approval by the Minister and/or who procures others to do so, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding two years or to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700) or to both such penalties.

PART 18

ORDERS, PUBLIC FINANCE PROVISIONS, REPORTS, AND MISCELLANEOUS MATTERS

2 of 37(I) of 2006.
7 of 84(I) of 2005.
Issue of Regulations by the Commissioner.

151. (1) Subject to the provisions of subsection (3), in view of the better application of the provisions of this Law, the Commissioner may issue Regulations, which are published in the Official Gazette of the Republic, upon being approved by the Council of Ministers and pertaining to matters concerning the staff of his Office.

(2) The Commissioner may issue Regulations pertaining to the establishment of a Healthcare Fund, under subparagraph (i) of paragraph (c) of subsection

99 of 1989
227 of 1990
27(I) of 1992.

(3) of Section 16 of this Law. Following their approval by the Council of Ministers, such Regulations shall be submitted to the House of Representatives for approval under the provisions of the Law on Submitting to the House of Representatives Regulations issued by Authorisation of Law.

(3) The Regulations issued under this Law shall enter into force on the date of their publication in the Official Gazette of the Republic, unless otherwise provided therein.

Issue of Orders
by the
Commissioner.

152. (1) For the better implementation of the provisions of this Law, the Commissioner may undertake the responsibility of drafting and issuing Orders:

(a) For the purpose of the better implementation of the provisions of this Law, the Commissioner may issue Orders which primarily aim at the clarification of the procedures, methods, time frames and the level of rates referred to in this Law.

(b) The powers of the Commissioner under subsection (3) of this Section shall be based on the exercise by the Commissioner of the powers conferred on him by this Law and any other laws;

(c) The Commissioner may issue Orders in relation to any other matter that this Law provides for, or which essentially relates to the powers exercised by the Commissioner on the basis of this Law or any other laws, in particular with regard to the application of the best practices or the guidance issued by the European Commission on the application of Community law.

(2) The Commissioner's Orders which are issued under this Law shall be published in the Official Gazette of the Republic and enter into force as of the

date expressly specified in each Order or, in those cases where no such date is specified, as of the date of publication of the relevant Order.

(3) The Commissioner shall have power to apply by Order, Regulations of the European Community concerning matters of electronic communications and postal services, and to define and/or establish by Orders penalties and criminal offences for punishment, administrative fines and/or other administrative penalties, as these are defined in the First Annex of the Law. Provided that penalties for criminal offences must in no case exceed the maximum pecuniary fine and the maximum term of imprisonment provided for in this Law.

(4) The Commissioner may amend by Order the content of the First Annex of this Law, without prejudice to the provisions of the Law and the Regulations of the European Community.

Budget.
6 of 134(I) of
2007.

153. (1) (a) The Commissioner shall have an annual budget of income and expenditure for the Office, including the operating costs of the Advisory Committee as provided in paragraph (d) of Section 14 and in paragraph (c) of subsection (1) of Section 32 of this Law.

(b) The provisions of the budget pertaining to the operating costs of the Advisory Committee shall be prepared by the Office, according to the Commissioner's directions as set out in subsection (6) of Section 10 of this Law, after he has taken into consideration the views of the Chairman of the Advisory Committee.

(2) The said budget shall be submitted by the Commissioner to the Council of Ministers by the 1st of July of each year and shall be subject to the approval of the Council of Ministers and the House of Representatives.

The budget, as it may have been amended by the Council of Ministers, shall be submitted to the House of Representatives before the 30th of September of each year.

(3) The budget shall cover the financial plan of the Office of the Commissioner for each financial year, which commences on the 1st of January and ends on the 31st of December.

(4) The manner in which the budget shall be drawn up and in which the budget breakdown appears in the income and expenditure table shall be similar to the manner in which the State budget is drawn up.

(5) The Office shall see to the drawing up of the budget mentioned in subsection (2) and of the financial plan mentioned in subsection (3), under the Commissioner's directions as set out in Section 10(6) of this Law.

(6) In case the budget is not voted in time, the Office shall operate by applying, *mutatis mutandis*, the relevant provisions of the Constitution on the State budget pertaining to the twelfths, but without the two-month time limit.

Accounts. 154. (1) The Commissioner shall keep appropriate books and accounts of the activities of the Office, as shall be determined, from time to time, by the Auditor General of the Republic.

(2) With regard to the financial management of each financial year, the Commissioner shall see to the drawing up of a report as shall be determined, from time to time, by the Auditor General of the Republic.

(3) The accounts of the Office shall be audited by the Auditor General of the Republic.

(4) Within one month from the audit of the accounts, the Commissioner shall submit the financial management report to the Council of Ministers and to the House of Representatives for their information.

(5) The Office of the Commissioner shall see to the keeping of books and accounts as mentioned in subsections (1), (2), and (4), and the drawing up of a report, under the Commissioner's directions, according to the provisions of Section 9(6).

Report. 155. (1) The Commissioner shall submit to the President annually, within five months following the end of each financial year, a Report on his activities and those of his Office.

(2) The Commissioner shall release the above Report to the Council of Ministers and the House of Representatives and shall thereafter publish it.

Employment of staff in case the Office of the Commissioner ceases to exist. 156. (1) In case, for any reason, the Office ceases to exist, its staff shall be appointed at an appropriate Ministry, Department or Service of the Government and in case the competences, powers and duties of the Office under this Law are, for any reason, delegated to any other legal person, authority or organisation, the staff of the Office shall provide services to the said legal person, authority or organisation without any change in their status or terms of service.

Assets of the Office in case the Commissioner ceases to exist. 157. In case, for any reason, the Office of the Commissioner of Electronic Communications and Postal Regulation ceases to exist, all the assets of the Office shall devolve to the State.

Appeal to the Supreme Court against actions 158. Any act or Decision or Order of the Commissioner shall be subject to judicial review upon appeal to the Supreme Court pursuant to Section 146 of

of the the Constitution.
Commissioner.

90 of 51(I) of (2) The Commissioner shall keep a record on the general subject of the
2012. appeals, the duration of the appeal proceedings and the number of decisions on
the adoption of provisional measures and, upon reasoned request, shall supply
such information to the European Commission and/or BEREC.

Liability of the 159. Subject to the provisions of this Law and/or of the Decisions and/or
Commissioner, Orders issued thereunder, the Commissioner, the Deputy Commissioner and
Deputy the members of staff of the Office shall not be held liable for anything that has
Commissioner occurred, been omitted or said, or for any opinion they have expressed, or any
and staff of the report or other document they have prepared, in the exercise of their duties
Office. done in good faith and pursuant to their competences and powers under this
Law and/or the Orders issued thereunder.

Liability of 160. (1) In case any of the criminal offences referred to in this Law and/or in
legal persons. Orders is committed by a legal person, liability for the offence shall lie, apart
from the legal person itself, with:

(a) all members of the administrative or managerial board or the committee
which handles the affairs of the legal person; and

(b) the general manager or the director or the managing director of the legal
person.

Criminal charges may be filed against the legal person and/or against the
natural persons.

(2) In case the Commissioner imposes an administrative fine or other
pecuniary fine under this Law and/or Orders issued thereunder, as a result of

an act or omission of a legal person, liability for the act or omission and for the payment of the administrative fine shall lie, apart from the legal persons themselves, with the persons referred to in paragraph (1).

91 of 51(I) of
2012.
Transitional
provisions.

161. (1) All obligations imposed on persons providing public electronic communications networks and/or services concerning access and interconnection that were in force before the 31st of December of 2009, shall be maintained until such time as these obligations are reviewed by the Commissioner under this Law.

(2) The Commissioner shall maintain all obligations imposed before the 31st of December 2009 relating to:

(a) retail tariffs for the provision of access to and use of the public telephone network;

(b) carrier selection or pre-selection; and

(c) leased lines.

(3) The Commissioner shall take all necessary measures in view of the compliance of all general authorisations and individual rights of use that existed before the 31st of December 2009, on a case by case basis, in accordance with the terms of Part 8 of this Law.

(4) Where the application of subsection (5) leads to a limitation of the rights or an extension of the obligations on the basis of existing general authorisations and individual rights of use, the Commissioner may extend the validity of these rights and obligations until the 30th of September 2012 at the latest, provided the rights of other persons under Community law are not affected. The Commissioner shall notify the

European Commission of such extensions and state the relevant reasons.

(5) Where the Commissioner establishes that the abolition of a term of a licence regarding access to electronic communications networks, which was valid before the entry into force of this Law, creates great difficulties to undertakings which had an access licence to another network, and where these undertakings cannot negotiate new agreements on reasonable commercial terms before the date of entry into force of this Law, the Commissioner may request from the European Commission the temporary prolongation of the relevant terms. The relevant application must specify the terms and the period for which the temporary prolongation is requested.

(6) A person which has paid, before the entry into force of the present Law, any administrative charge or fee to an authority responsible for the regulation of electronic communications or postal services on the basis of an authorisation regime that was in force before the entry into force of this Law, shall have no obligation to pay any administrative charge or fee for the rest of the period for which the previous payment was made.

31 of 160(I) of 2013. (7) The Cyprus Post shall remain the universal service provider until the 31st of December 2027. Prior to the expiry of this period, the Minister shall designate the universal postal service provider for the period following the 31st of December 2027, in accordance with Section 119A of this Law.

92 of 51(I) of 2012

First Annex

(Article 152(4))

Criminal offences which apply to those cases where the Commissioner has power to apply Regulations of the European Community:

A person ordered by the Commissioner to provide any information and who fails to do so within a set date, which shall be no later than fifteen (15) days from the day of such order, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six (6) months, or to a pecuniary fine not exceeding three thousand four hundred euros (€3,400) or to both such penalties.

Without prejudice to the other penalties that may be provided for in the Law and the Orders issued thereunder, the Commissioner may impose administrative fines and/or other administrative penalties in relation to any case provided for in this Law and/or in Orders and/or Decisions and/or Regulations of the European Community in relation to non-compliance with the provisions of this Law and/or Orders and/or Decisions, and to define by Order the amount of such fines and penalties and the procedure for their imposition for the purpose of applying Regulations of the European Community.

Administrative fines may be up to three hundred thousand four hundred euros (€300,400) and, in the case of repeated offences, up to 200,000 for every person found to have violated any of his obligations.

32 of 160(I) of 2013.

Second Annex

[Section 123(I)]

Guidance on calculating the net cost, if any, of the universal postal service

Part A: Definition of the Universal Postal Service

The universal postal service prescribed in Section 119B shall include uniform prices throughout the Republic. It may also include, *inter alia*, the following:

- (i) a number of days of delivery superior to those set in Section 119B;
- (ii) a minimum number of accessible points of access, in order to satisfy the universal service obligations;
- (iii) affordable prices for the universal postal service in the Republic of Cyprus;
- (iv) uniform prices for the universal service throughout the Republic of Cyprus, subject to the provisions of Section 124;
- (v) provision of certain free services for blind or partially-sighted persons.

Part B: Calculation of net cost

The Commissioner shall consider all means to ensure appropriate incentives for postal service providers (designated or not) to provide universal service obligations cost efficiently.

The net cost of universal postal service obligations is any cost related to and necessary for the operation of the universal postal service provision. The net cost of universal postal service obligations is to be calculated as the difference between the net cost of the universal postal service provider of operating with the universal postal service obligations and the same postal service provider operating without the

universal postal service obligations.

The calculation shall take into account all other relevant elements, including any intangible and market benefits which accrue to a postal service provider designated to provide universal postal service, the entitlement to a reasonable profit and incentives for cost efficiency.

Due attention is to be given to correctly assessing the costs that any designated universal postal service provider would have chosen to avoid, had there been no universal postal service obligation. The net cost calculation should assess the intangible benefits to the universal postal service operator.

The calculation shall be based upon the costs attributable to:

(i) elements of the identified services which can only be provided at a loss or under cost conditions falling outside normal commercial standards. This category may include elements such as the services defined in Part A;

(ii) specific users or groups of users who, taking into account the cost of providing the specified service, the revenue generated and any uniform prices imposed by the Commissioner, can only be served at a loss or under cost conditions falling outside normal commercial standards.

This category includes those users or groups of users that would not be served by a commercial operator that did not have an obligation to provide universal service.

The calculation of the net cost of specific aspects of universal postal service obligations is to be made separately and so as to avoid the double counting of any

direct or indirect benefits and costs. The overall net cost of universal postal service obligations to any designated universal postal service provider is to be calculated as the sum of the net costs arising from the specific components of universal postal service obligations, taking account of any intangible benefits. The responsibility for verifying the net cost lies with the Commissioner. The universal postal service provider shall cooperate to enable the verification of the net cost.

Part C: Recovery of the net cost of the universal postal service obligations

The recovery or financing of any net costs of universal postal service obligations may require the designated universal postal service provider to be compensated for the services offered under non commercial conditions.

As such compensation involves financial transfers, the Commissioner has to ensure that they are undertaken in an objective, transparent, non-discriminatory and proportionate manner. This means that the transfers result as far as possible in the least distortion to competition and to user demand.

Pursuant to Section 123 of this Law, a sharing mechanism based through the compensation fund should use transparent and neutral means for collecting contributions, in order to avoid a double imposition of contributions falling on both outputs and inputs of undertakings.

The compensation fund shall be responsible for collecting contributions from the providers which are assessed as liable to contribute to the net cost of the universal service obligations and shall oversee the transfer of sums due to the universal postal service provider entitled to receive payments from the fund.

PART 16
POSTAL SERVICES
CHAPTER I
UNIVERSAL SERVICE AND SERVICE RESERVED TO POSTS

Universal postal service. 9(a) of 160(I) of 2013. 119. (1) The Commissioner shall ensure the provision of universal postal service, which shall consist of the minimum bundle of postal services of a defined quality, in accordance with the provisions of 119B of this Law, and shall ensure that such service is available to all users in Cyprus, at affordable prices, irrespective of their geographic location, and in light of the specific conditions prevailing in Cyprus.

(2) The Commissioner shall ensure that the density of post offices and access points corresponds to the needs of users.

9(b) of 160(I) of 2013. (3) The minimum and maximum dimensions of postal items which, in accordance with the provisions of Section 119B of this Law, constitute the universal postal service, shall be specified from time to time by the Universal Postal Union.

10 of 160(I) of 2013. Definition of universal service provider. 119A. The public or private operator that shall provide the universal service throughout the Republic, selected either by direct award or through a competition process, in accordance with the provisions of the Law on the Coordination of Procedures for the Award of Public Works, Public Supply and Public Service Contracts in the Sectors of Water, Energy, Transport and Postal Services and Related Matters, shall be designated by order of the Minister after informing the Parliamentary Committee of Communications and Works. The award of the universal service shall be made in accordance with the principles of transparency, non-discrimination and proportionality.

11(I) of 2006
39(I) of 2011
175(I) of 2011
112(I) of 2012.

10 of 160(I) of 119B. (1) The minimum bundle of postal services that constitutes the universal

2013. postal service includes:
Universal
postal service.

(a) Minimum access points based on the needs of users, geographic specificities and social conditions;

(b) at least one delivery, save in exceptional cases or specific geographic conditions, every working day, for at least five days a week, of postal items, including packages weighing up to two and twenty kg respectively, to the residence or premises of every person, or at such identified points or otherwise as the Commissioner may approve from time to time;

(c) At least one clearance, save in exceptional cases or specific geographic conditions, every working day for at least five days a week, from each access point, of postal items and packages described in paragraph (a):

Provided that any exceptional circumstances or deviations recognised by the Commissioner shall be notified to the European Commission and to all regulatory authorities by the Commissioner;

(d) Provision of postal services, consisting in the clearance, sorting, conveyance and distribution of postal items and packages referred to in paragraphs (b) and (c), at affordable and uniform prices throughout the Republic, subject to the provisions of Section 124 of this Law, with the possibility to establish special arrangements by decision of the Commissioner for home delivery of packages;

(e) Provision of postal service of registered and insured postal items, at uniform prices throughout the Republic:

Provided that universal service, as defined in this Section, shall include both national and cross-border services.

(2) Postal services to blind or partially-sighted persons shall be provided free of charge in accordance with the provisions of the Universal Postal Union.

Universal
postal service
provider.
11 of 160(I) of
2013.

120. (1) The Commissioner shall inform the public of the identity of the universal postal service provider and shall require the latter to provide him with information in connection with the services which comprise the universal postal service.

(2) In addition, the Commissioner shall ensure that the universal service provider provides the public with information on the above services, which include *inter alia* the general conditions of access to those services, the prices of the relevant services as well as the quality standards and the relevant performance of the provider in relation to the said services. The Commissioner shall publish in the Official Gazette of the Republic and on the internet the information mentioned above and which concerns the public.

Licence of
universal postal
service
provider.

121.(1) The Commissioner shall specify in the licence of the universal postal service provider the terms required to be fulfilled by the universal service and which shall include, *inter alia*, the following:

(a) compliance of the service with the essential requirements;

(b) provision of the same services to all the users under comparable conditions;

(c) availability of the service without any form of discrimination whatsoever, in particular without discrimination on political, religious and/or ideological grounds;

(d) uninterrupted and continuous service during each working day and for no less than five days a week, except in cases of force majeure.

(2) The Commissioner shall ensure that the universal service provision develops in accordance with the technical, economic and social changes and the needs of users.

Services reserved to the universal postal service provider.

122. Repealed with 12 of 160(I) of 2013.

13 of 160(I) of 2013. Calculation of the net cost of the universal service. Second Annex.

123. (1) The Commissioner shall specify by Order the method of calculation of the net cost of the universal service, in accordance with the guidance set out in the Second Annex to this Law and, upon being informed by the universal service provider on the net cost arising from his obligation to provide universal service, he shall proceed to the control and verification thereof.

(2) The net cost of universal service provision shall be borne by the universal service provider concerning the part of the postal service provision within the scope of the universal service, and the postal service operators under special licence concerning the part of the postal service provision within the universal service. In case a postal service provider is not active within the scope of the universal service, then the net cost of universal service provision shall be covered by the State budget and deposited directly in the compensation fund established under subsection (5).

(3) The apportionment of the cost shall be made by the Commissioner, in a transparent, objective and neutral manner, taking into consideration, *mutatis mutandis*, the gross income of each operator who is active within the scope of

the universal service.

(4) The Commissioner shall have competence to calculate and individualise the contributions under this Section for each postal service provider.

(5) For the purposes of application of this Section, the Commissioner shall establish a compensation fund within one year from the entry into force of this Law, which shall be administered by an independent body, whose members shall be appointed by the Commissioner and shall act in compliance with the provisions of a relevant Order issued by the Commissioner.

(6) The Fund shall have competence to collect and allocate to the beneficiary universal service provider the attributable amounts save the contributions to be borne by the beneficiary in accordance with subsection (2) of this Section, which the beneficiary may set off.

(7) The Commissioner shall ensure that the principles of transparency, non-discrimination and proportionality are respected during the operation of the compensation fund and especially with regard to the calculation and determination of the amount of financial contributions to it. Decisions taken shall be based on objective and verifiable criteria and shall be made public.

(8) The compensation fund shall be independently audited.

(9) The Commissioner shall publish, on an annual basis, all contributions made to the compensation fund in the Official Gazette of the Republic.

- Postal prices and fees. 124.(1) Subject to Sections 20 (r), (23) and (24), the Commissioner shall ensure that the prices and fees referred to in the said provisions:
- 14(a) of 160(I) of 2013. (a) are affordable and such that all users, independent of their geographic location, have access to the services provided, in light of specific conditions, if any;
- 14(a) of 160(I) of 2013. (b) are cost oriented and give incentives for an efficient universal service provision;
- 14(a) of 160(I) of 2013. (c) are transparent and non-discriminatory; and
- 14(a) of 160(I) of 2013. (d) are uniform throughout Cyprus and also in respect of cross-border services, when provided at single piece tariff.
- 14(b) of 160(I) of 2014. (2) The application of uniform fees and prices as per the provisions of subsection (1)(d) shall not exclude the right of the universal postal service provider to conclude individual agreements on prices with customers.
- 14(c) of 160(I) of 2013. (3) The universal service provider may apply special tariffs, in accordance with the principle of cost-orientation, for certain services, including for example services for businesses, bulk mailers or consolidators of mail from different users. In such case, the tariffs and terms of service provision must comply with the principles of transparency and non-discrimination. Also, they shall apply equally, for equivalent services, both as between different third parties and as between third parties and the universal service provider. Any such tariffs shall also be available to users, in particular individual users and small and medium-sized enterprises using the postal services under similar conditions.

Conclusion of agreements for terminal dues. 125. In order to ensure the provision of cross-border universal service, the Commissioner shall encourage the universal postal service provider to conclude agreements on terminal dues for posts from and to Member States of the European Union, in compliance with the following principles:

(a) cost orientation of terminal dues for the processing and distribution of incoming cross-border mail;

(b) fees to be related to the quality of service provided;

(c) transparency and non-discrimination on terminal dues.

Accounting arrangements. 126.(1) The Commissioner shall ensure that the accounting arrangements for universal postal service provision are such as to clearly distinguish between each of the services and products which are part of the universal service and those which are not. This accounting separation shall be used as an input when calculating the net cost of the universal service. The internal accounting systems shall operate on the basis of consistently applied and objectively justifiable cost accounting principles.

15(a) of 160(I) of 2013. (2) The Commissioner shall prescribe by Order the accounting systems and the way by which costs shall be allocated.

15(b) of 160(I) of 2013. (3) The Commissioner shall maintain, to an adequate level of detail, information on the cost accounting systems applied by the universal postal service provider, which shall be made available in confidence to the European Commission upon request of the latter.

(4) The financial accounts of the universal postal service provider shall be drawn up and submitted to audit by an independent auditor and published in accordance with the relevant European Community and Cyprus legislation on commercial undertakings.

16 of 160(I) of
2013.
Access to the
postal network

126A. (1) If, based on a relevant study, it is deemed necessary in order to protect the interests of users and/or to promote effective competition and where universal service provision is not affected nor the right of contract is limited, the Commissioner shall issue an Order ensuring that transparent, non-discriminatory access conditions are available to elements of postal infrastructure or the network or services provided within the scope of universal service, such as postcode system, address database, post office boxes, delivery boxes, information on change of address, re-direction service and return to sender service.

(2) The universal postal service provider shall have the obligation, upon request by a licenced postal service provider, to begin negotiations with such provider concerning the possibility of providing thereto access to a postal services network. The universal service provider may refuse access, if the operational capacity of the facilities or its operational reliability is put at risk or if there is no staff available to provide the requested service.

(3) In case negotiations fail or a reasonable time period has elapsed and an outcome has not been reached, the Commissioner may intervene either *ex officio* or upon written request of either of the parties, for the purpose of issuing a decision to resolve the dispute.

(4) Upon their conclusion, all access agreements shall be submitted to the Commissioner.

CHAPTER II GRANTING OF LICENCES

Obligation to obtain a licence.
17(a) of 160(I) of 2013.

127. (1) No person shall establish and/or operate a postal network and/or provide postal services unless authorised to do so by a licence, in the form of either a General Authorisation and/or Special Licence granted by the Commissioner subject, in the case of the special licence of the universal service provider, to the provisions of Section 119A.

(2) Notwithstanding the provisions of subsection (1), the following postal services are not subject to licensing:

(a) the conveyance and delivery of postal items personally by the sender, a friend or acquaintance of the sender or a messenger without any reward or remuneration, who is not engaged in any commercial activity or by any similar means whatsoever;

(b) the conveyance and delivery of official court documents;

(c) **Repealed with 17(b) of 160(I) of 2013.**

(3) The Commissioner may specify by Order other services whose provision does not require a licence, provided they are not included within the scope of universal service.

Granting of special

128. (1) The Commissioner shall grant special licences required for the

licences.
18(a) of 160(I)
of 2013.

provision of part or all of the services which fall within the scope of universal postal service, as provided in Section 119B of this Law, as well as the provision of services which display inter-changeability to a sufficient degree with the universal postal service, without necessarily covering all the features of the universal service, such as daily delivery or complete coverage of the Republic.

18(b)(c) of
160(I) of 2013.

(2) The Commissioner shall ensure that persons offering postal services under a general authorisation regime comply with the registration requirements set out in this Law and the relevant conditions specified in an Order of the Commissioner.

Principles
underlying
licencing.

129. (1) The Commissioner shall ensure that the procedures for the granting of licences are transparent, non-discriminatory, proportionate and based on objective criteria.

(2) In case of non-approval of a request for the grant of a licence, the Commissioner must:

(a) inform the interested party of the reasons of its rejection;

(b) provide the applicant with the opportunity to demonstrate the reasons for which the licence ought to have been granted thereto;

(c) be able, after taking into account the reasons mentioned in paragraph (b), to grant the licence under such terms and conditions as considered necessary;

(d) be able, following an examination of the reasons mentioned in paragraph (b), to confirm his Decision, in which case the party having submitted the request shall have the right to appeal to the Supreme Court.

(3) The Commissioner shall not impose conditions on any licence other than those prescribed in an Order.

(4) The Commissioner may refuse the grant of a licence, every time that a) this is in the public interest, b) this is in the interest of national security, or c) the application for the grant of the licence does not satisfy the terms and conditions set out in the procedures for the grant of licences.

19 of 160(I) of
2013.
Obligations of
postal service
operators.

130. (1) Natural and legal persons providing postal services must:

- (a) respect the confidentiality of correspondence;
- (b) comply with the rules of the Universal Postal Union (U.P.E.) concerning the transport of dangerous postal items;
- (c) ensure equal treatment for all users;
- (d) take measures aiming at non endangering national defence and security;
- (e) secure the protection of users' personal data and privacy;
- (f) ensure compliance with the working conditions provided by the Law and the relevant collective agreements;
- (g) comply with provisions on environmental protection and spatial planning;
- (h) ensure continuous provision of their postal services throughout the period of validity of their licence;

(i) ensure that their tariffs satisfy the healthy competition and transparency rules and are properly published;

(j) supply to the Commissioner, at intervals and to the extent of detail required by him, confidentially and upon request of the Commissioner, all necessary information and evidence of compliance with the provisions of this Law, the enforcement of his Decisions under this Law and for clearly defined statistical purposes, including financial information and information relating to universal postal service provision; and

(k) pay the Commissioner the annual administrative charges, as prescribed from time to time as well as the funding fees of the compensation fund to cover the cost of universal service provision.

(2) In particular, postal service providers that provide postal services under a special licence regime must, in addition:

(a) keep separate accounts and apply accounting separation, in order to clearly distinguish between services and products that are part of the special licence and those which are not, and communicate their tariffs to the Commissioner; and

(b) provide universal service, if so designated, in accordance with Section 119A.

(3) Postal service providers that must contribute to the financing of the universal postal service and/or the administrative and operating expenses of the Commissioner shall be obligated to apply proper accounting separation for ease of identification of the financial information of the services which are subject to the obligation to contribute to the financing of the universal postal service and the administrative and operating expenses of the Commissioner.

20 of 160(I) of
2013.
Protection of
users of postal
services.

130A. (1) Postal service providers must make available transparent, simple and inexpensive procedures for dealing with users' complaints particularly in cases involving loss, theft or damage to postal items (including procedures for determining where responsibility lies, in cases where more than one operator is involved) without prejudice to relevant national provisions and Cypriot legislation on compensation schemes.

(2) The Commissioner shall adopt measures to ensure that the procedures referred to in subsection (1) enable disputes to be settled fairly and promptly with provision, where warranted, for a system of reimbursement and/or compensation. The Commissioner shall also encourage the development of independent out-of-court procedures for the resolution of disputes between providers and users.

(3) Without prejudice to possibilities of dispute resolution using court proceedings, users may, acting individually or collectively, bring before the Commissioner complaints concerning postal service providers and which fall within the scope of their licencing terms by the Commissioner.

(4) The universal postal service provider as well as postal service providers within the scope of universal service shall publish, together with the annual report on the monitoring of their performance, information on the number of complaints of the users of their services and the manner in which they have been dealt with.

Declaration of
registration.

131. The Commissioner shall prescribe by Order the procedures by which persons may be licenced to provide postal services in the form of a general authorisation. A person seeking registration shall make a declaration providing the following information:

- (a) full personal and/or corporate identification information;
- (b) the names of persons who shall manage the proposed postal activities;
- (c) the service to be provided, the geographical area and the characteristics of the service to be covered;
- (e) the procedure for settling disputes with customers.

Licence fees. 21 of 160(I) of 2013. 132. (1) The Commissioner shall prescribe by Order the method of calculating annual administrative fees for both general authorisations and special licences.

(2) Licence fees shall cover the administrative costs incurred in the issue, management, supervision and enforcement of the relevant licence.

Supervising and ensuring compliance. 22 of 160(I) of 2013. 133. (1) The Commissioner shall have the duty and responsibility to supervise and ensure compliance with the terms and conditions of the licences.

Official Gazette of the Republic, Annex Three (I): 25.7.2008 (2) In those cases where the Commissioner ascertains that there may be an infringement of a term of a licence, he shall inform the person holding the licence accordingly and apply the Order on the Collection of Information and the Imposition of Administrative Fines.

(3) In case the Commissioner and the licence holder fail to agree, within a time frame defined by Order of the Commissioner, on the procedures of hearings and the

imposition of administrative fines and other penalties, or the licence holder does not remedy the infringement, the Commissioner may adopt a Decision that the licence holder must not take advantage of the licence and/or impose a fine on him, and/or revoke the licence.

Revocation and
assignment of
licences.
23(a) of 160(I)
of 2013.

134. (1) The Commissioner may revoke licences in cases of:

(c) serious or systematic infringement of any licence or its terms;

(b) omission to pay the prescribed licence fees within three months of the grant of the licence,

(c) omission to pay the prescribed annual licence fees within three months of the date when these are due,

(d) insolvency of the licence holder.

23(b) of 160(I)
of 2013.

(2) Licences are individual in nature, and cannot be subject to assignment or transfer of their rights of use, wholly or partially, without the prior written consent of the Commissioner, who may refuse such consent, at his absolute discretion.

(3) The Commissioner shall maintain a register of licences for the provision of postal services, which shall be available for public inspection.

CHAPTER III
CONFIDENTIALITY AND QUALITY OF POSTAL SERVICES

Confidentiality. 135. (1) Data and/or information concerning the postal traffic of natural and legal persons, as well as the contents of postal items, shall be confidential.

(2) Any person providing postal services or assisting in the provision of such services shall keep confidential any data and/or information in his possession concerning such postal services. This obligation shall survive a termination or expiry of any postal service employment.

(3) The prohibitions set out in subsections (1) and (2) of this Section shall not apply in circumstances where:

(a) a Court shall so order;

(b) the Commissioner shall require information in due exercise of his regulatory duties, powers and competences;

(c) the identification of the addressee or sender of an undeliverable postal item cannot be achieved by any other means;

(d) it is imperative to avert any physical danger to persons and/or property.

Quality of services. 24 of 160(I) of 2013. 136.(1) In order to exercise his competences under Section 20(d) of this Law, the Commissioner shall prescribe by Orders quality of service standards

applicable to the universal postal service provider..

(2) The universal postal service provider shall be obliged to provide services and operate in accordance with the quality standards prescribed in the Orders mentioned in subsection (1).

(3) For the purposes of subsection (2), the Commissioner-

(a) shall supervise the operation and services of the universal postal service provider to determine its compliance with the quality of service standards mentioned in subsection (1);

(b) shall ensure that an independent performance monitoring is carried out at least once a year by external bodies having no links with the universal service providers in order to determine the compliance of the universal postal service provider with the quality of service standards mentioned in subsection (1); and

(c) shall ensure the preparation and publication, at least once a year, of reports for everything performed in accordance with paragraphs (a) and (b), the conclusions derived therefrom and the adoption of the necessary corrective measures by the universal postal service provider.

(4) As regards any postal service provider other than the universal postal service provider, the Commissioner shall supervise its operation and services and may undertake independent investigations to determine its compliance with the quality standards referred to in this Section, as well as prepare and publish relevant reports for everything performed, which shall contain his

conclusions and any proposed corrective measures to be taken by the said provider.

(5) The quality standards mentioned in subsection (1) and relating to domestic postal service provision shall be prescribed by Order of the Commissioner. Where exceptional situations relating to infrastructure or geography so require, the Commissioner may determine exceptions from the quality standards of cross-border mail.

(6) The Commissioner shall notify the quality standards mentioned in subsection (1) and the exceptions of subsection (5) to the European Commission.

CHAPTER IV

TECHNICAL STANDARDS, ACCESS TO IMMOVABLE PROPERTY, POSTAL SERVICES ADVISORY COMMITTEE, LIABILITY, POSTAGE STAMPS AND SUPPLEMENTARY PROVISIONS

Technical standards. 137. The universal postal service provider shall, in the interest of users and for the purpose of supplying the information referred to in Section 120(3), refer where necessary to technical standards drawn up by the European Community for standardisation and published in the Official Journal of the European Communities.

Access to immovable property. 138.(1) The universal postal service provider may acquire any immovable property for the purposes of any of its functions under this Law and, if any such property cannot be acquired contractually, it may be acquired under the provisions of any law on the compulsory expropriation of property in force from time to time.

(2) The universal postal service provider and/or any person duly authorised by the provider in writing may, at all reasonable times, enter upon any land and, subject to twenty four hours prior notice in writing to its occupier, enter upon any premises, and perform such acts and/or things as may be reasonably necessary for the purpose of inspection, examination or investigation, whether preliminary or incidental to the exercise of any of the functions of the universal postal service provider under this Law.

(3) The universal postal service provider shall pay compensation in accordance with the provisions of Section 89(11) for any personal injury or damage caused by such entry or by doing the aforesaid acts or things in accordance with the provisions of subsection (2).

(4) For the purpose of carrying out any work in connection with any postal network, the universal postal service provider and/or any person duly authorised by him in writing in that behalf may, subject to reasonable notice having been given to competent local or other authorities, open and dig up any street and place any letter box on any street, subject to meeting the requirements of any density plan for any access points which has been agreed with the Commissioner.

(5) Any street opened and/or dug up in accordance with subsection (4) shall, with all reasonable speed and at the cost and expense of the provider, be reinstated to its previous condition and all debris occasioned by such breaking and/or opening of the street shall be removed.

(6) Any letter box placed or constructed on any street shall be so placed or constructed as not to stop, obstruct and/or interfere with the passage along the street.

Prohibitions on persons.
25 of 160(I)
of 2013.

139. (1) Only postal service providers shall have the right to place or construct letter boxes.

(2) No person shall place and/or carry any mains, pipes, conduits and/or wires in, along, through, across, over and/or under any street and/or place in a manner which is likely to interfere with or cause damage to any public letter box.

(3) Any person who removes, destroys and/or damages, whether wilfully or otherwise, any letter box, commits a criminal offence and shall be liable to pay full compensation for the damage he has caused and such compensation shall be recoverable by civil action before the competent Court.

(4) Without prejudice to the provisions of subsection (3), the Court before which a person is charged with a criminal offence according to subsection (3), may assess the compensation payable thereunder and issue an order for the payment of same. Any such order shall be enforced as if it were a judgment in a civil action.

Postal Services
Advisory
Committee.
26 of 160(I) of
2013.

140.(1) The Commissioner shall appoint a five-member Advisory Committee which shall-

(a) provide him with information and general advice on postal service matters;

(b) act as a representative of postal users and transmit their views; and

(c) make recommendations to the Minister and/or the Commissioner.

(2) The Advisory Committee shall meet at least once every three months and shall, to the extent possible, inform itself about postal service matters and the views of users of postal services.

(3) The Commissioner shall ensure that the members of the Advisory Committee represent a broad cross-section of Cyprus society. The Commissioner shall appoint from amongst the members a Chairman of the Advisory Committee.

(4) The Commissioner shall see that a member of the Office staff provides secretarial services to the aforesaid Committee.

(5) The members of the Committee shall be compensated for their reasonable expenses.

Liability of postal network / service providers.
27(a) of 160(I) of 2013.

141.(1) No judicial proceedings in tort or contract may be initiated against a postal service provider, arising out of the clearance, sorting, conveyance and/or delivery of postal items, except as set out in subsection (2).

27(b) of 160(I) of 2013.

(2) Where an authorised postal service provider offers a registered and/or insured postal service, legal liability shall arise in accordance with the contractual terms and conditions between the provider and the user, and the postal provider shall use his best endeavours to inform users of such terms and conditions.

27(c) of 160(I)

(3) The extent of liability of the postal service provider for matters arising

of 2013. under subsection (2) above shall be limited to direct loss occasioned by any contractual breach and/or wrongful act. The user shall not have the right to raise the issue of consequential loss in any Court in Cyprus.

Issue of postage stamps. 142. (1) The Minister shall approve the issue of postage stamps by the universal postal service provider and declare void any other stamps which have the inscription or mention the word “Cyprus”.

28(a) of 160(I) of 2013. (2) The Minister shall approve the use of postage stamps for payment of the postal services of the universal postal service provider.

28(b) of 160(I) of 2013. (3) The Minister shall assign the philatelic activity related to the issue of postage stamps exclusively to the universal postal service provider.

CHAPTER V

SUPPLEMENTARY PROVISIONS

Fictitious stamps, unpaid postal items, newspapers and parcels. 143. (1) Whenever a postal item sent to Cyprus from abroad bears a fictitious stamp, and/or purports to be prepaid by means of a stamp which has been used before, any employee of a postal service provider may open it, in the presence of the addressee, for the purpose of disclosing the name and address of the sender, and may either retain it or hand it over to the sender, or deal or dispose of it in such other manner as may be authorised by the Commissioner.

(2) A postal service provider may open all postal items posted in Cyprus and remaining unclaimed or undelivered for a period of three months, or which have been returned to Cyprus from any other country as unclaimed, for the purpose of being returned to their senders, and in the event that the sender is unknown or is deceased or his signature is illegible or he has left Cyprus or has not claimed the postal item within twelve months, the opened postal item

may be destroyed.

29 of 160(I) of
2013.

(3) In case a postal item is addressed to a foreign country where prepayment is necessary and is posted insufficiently stamped, the postal service provider may open it and return it to the sender.

(4) (a) Any postage fee which has not been prepaid, for a postal item which is returned as unclaimed from any other country or which is refused as it is addressed to a deceased person or to a person who could not be traced or who has left Cyprus, shall be paid by the writer of the letter or the sender of the item, as the case may be, and the postal service provider may open such postal items at any time for the purpose of establishing the identity of the writer of the letter or the sender of the item, as the case may be.

(b) Postal items subject to postage fees, which are unpaid or insufficiently prepaid and, for any reason, remain unclaimed or undelivered for a period of twelve months, may be auctioned and the proceeds of the sale thereof shall be deposited to the Consolidated Fund of Cyprus.

Examination
of postal
parcels and
declaration of
content.

144. Any postal item, excluding items of correspondence, which is accompanied by a customs declaration and is sent from abroad to Cyprus, may be opened by employees of postal service providers in the presence of a Customs Officer, who shall assess the amount of customs duties to be charged thereon.

Confiscation.

145. Postal items found to contain any article which cannot under this Law and/or any other law and/or Orders, in force from time to time, be sent by post and postal items the contents of which have been intentionally falsely declared by the sender, shall be liable to confiscation with all their contents, under and in accordance with the customs legislation in force from time to time.

Customs duties and taxes. 146. (1) In the case of a postal item sent to Cyprus from abroad containing goods, the duties and/or taxes on which are charged at *ad valorem* rates, the competent Customs Officer may, if he has reason to believe that the declared value is insufficient, assess the value for purposes of customs duties and/or taxes at such an amount as he considers to be appropriate. In such case, the importer shall, within ten days of notice of such assessment being delivered or posted to him at his address, present himself to the competent Customs Officer and pay the customs duties and/or taxes on the value assessed by the Customs Officer.

(2) Where an importer or his duly authorised representative does not pay to the competent Customs Officer, within the prescribed period of ten days, the customs duties and/or taxes on the value assessed by the Customs Officer in accordance with the provisions of subsection (1), the relevant postal item shall be treated as undelivered.

Holding of postal items. 147.(1) Where a postal service provider has reason to believe that a postal item which is not accompanied by a customs declaration, excluding items of correspondence, contains any goods:

(a) in connection with which a criminal offence has been committed or is being committed or is attempted to be committed;

(b) which are subject to payment of any customs duties and/or taxes; and/or

(c) in connection with which there is, under any law and/or Orders, in force from time to time, and/or any international treaty, convention or agreement binding on Cyprus, any prohibition or restriction, either on their import and/or conveyance by post and/or otherwise,

then the said provider is obliged to retain the postal item at the post office nearest to the address of the addressee and demand in writing from the addressee or any duly authorised representative of the latter to present himself at the post office, at a specified time, for the opening of the said postal item in his presence.

(2) A postal item referred to in subsection (1) of this Section shall be opened in the aforementioned place and time, in the presence of an officer of the postal service provider and a Customs Officer, by the addressee or his duly authorised representative or, in case the addressee or his representative do not present themselves or refuse to open the postal item, it shall be opened by the above officers and also a police officer in the cases listed in subsection (1)(a) and (c).

(3) In case a postal item is found to contain any goods:

(a) the importation of which is forbidden and/or restricted and/or the conveyance of which by post is forbidden in accordance with any law and/or Orders in force from time to time, and/or any international treaty, convention or agreement binding on Cyprus, then the postal item shall be confiscated in accordance with the customs legislation in force from time to time;

(b) which are subject to payment of any customs duties and/or taxes, the postal item shall be retained at the post office until such duties are paid;

(c) in connection with which a criminal offence has been committed, is being committed or is attempted to be committed and/or there is any prohibition and/or restriction, other than those mentioned in paragraph (a) above, then the postal item shall be retained for the purpose of any further proceedings in accordance with this

Law and/or any other law and/or Orders in force from time to time.

Customs
declaration for
the description
of a postal
parcel.

148.(1) The sender of any postal item, excluding items of correspondence, for conveyance by post from Cyprus shall complete, before its posting, a customs declaration giving full description of its contents, its value and the address of the addressee.

(2) Where a postal service provider has reason to suspect that any declaration mentioned in subsection (1) of this Section is inaccurate, whether in relation to the contents and/or the value of any postal item, the said provider may open the item and, in case the declaration is found to be inaccurate, the parcel and its contents shall be liable to confiscation in accordance with the customs legislation in force from time to time.

(3) Where a postal parcel is found to contain any other postal item which is intended for delivery to a person other than the addressee of the parcel, the postal item may be sent by post to the person to whom it is addressed who shall be charged with postage equal to the unpaid postage and which would normally be payable if the item were duly posted at the place the parcel was posted.

(4) Where a postal item is offensive or injurious to any employee of a postal service provider and/or to any other person and/or may cause destruction or damage to other postal items, it may be destroyed, if this is reasonable to be done, or be held in a safe place. In the latter case, the addressee shall be informed, if possible, and asked to collect the item. If the addressee does not present himself, the item shall be opened and the sender, if identified, shall be asked to collect the item. If neither the addressee nor the sender present themselves, the postal item shall be destroyed.

PART 17
OFFENCES CONCERNING ELECTRONIC COMMUNICATIONS
AND POSTAL SERVICES
CHAPTER I
ELECTRONIC COMMUNICATIONS

- Provision of network and/or services without a licence and other offences.
- 149.(1) Any person who creates, establishes and/or provides an electronic communications network and/or service without a general authorisation in accordance with Part 8 of this Law and/or creates, establishes and/or provides such network and/or service otherwise than under and in accordance with this Law or any other law in force from time to time, or a general authorisation under such law, or under and in accordance with an individual right of use granted by the Commissioner pursuant to this Law and/or regulations and/or Orders issued by the Commissioner under this Law, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding five thousand euros (€5,000) or to both such penalties.
- 88(a) of 51(I) of 2012.
- (2) Any person who is ordered by the Commissioner under Section 27(1)(b), to provide any information and fails to do so within fifteen days such order, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding three thousand four hundred euros (€3,400) or to both such penalties.
- 88(b) of 51(I) of 2012.
- (3) Any person who fraudulently obtains a service provided by a licenced electronic communications network with the intention of avoiding payment of any fee and/or charge applicable to the provision of the said service, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding three thousand four hundred euros (€3,400) or to both such penalties.
- 88(c) of 51(I) of 2012.

88(d) of 51(I) of 2012. (4) Any person who has reason to believe or knows that any electronic communications network and/or electronic communications service has been established, exists and/or operates in violation of this Law and/or regulations and transmits and/or receives any message using that network and/or service, and/or performs any service incidental to the establishment, existence, operation and/or provision of that electronic communications network and/or service, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700) or to both such penalties.

88(e) of 51(I) of 2012. (5) Any person who acts in any of the following ways in relation to an electronic communications network, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding eight hundred and fifty euros (€850) or to both such penalties:

(a) participates in the management, financing, operation and/or day-to-day running of an electronic communications network, knowing or having cause to believe that the said network and/or the electronic communications services provided through its use are not, although they ought to have been, licenced in accordance with Part 8 of this Law;

(b) supplies, installs, repairs and/or maintains any electronic communications network and/or electronic communications equipment and/or any other object, knowing or having cause to believe that the electronic communications network and/or electronic communications equipment and/or other object, as the case may be, is used or is going to be used for the purposes of facilitating the operation and/or day-to-day running of a non-licenced electronic communications network and/or electronic

communications services, which ought to have been licenced in accordance with Part 8 of this Law;

(c) renders any service to any person, knowing or having cause to believe that the rendering of that service to that person facilitates the operation and/or day-to-day running of a non-licenced electronic communications network and/or electronic communications services, which ought to have been licenced in accordance with Part 8 of this Law.

(6) Any person who:

(a) sends by means of a public communications network, a message or anything else that is grossly offensive and/or of an indecent, obscene and/or menacing character; or

(b) sends by means of a public communications network, for the purpose of causing annoyance, inconvenience and/or needless anxiety to another person, a message that he knows to be false and/or persistently makes use of a public communications network for that purpose;

88(f) of 51(I) of 2012. shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700).

88(g) of 51(I) of 2012. (7) Any person who uses any apparatus, whether or not the apparatus in question is radio communications apparatus, for the purpose of interfering with any other apparatus, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding three months or to a pecuniary fine not exceeding eight hundred and fifty euros (€850) or to both such penalties.

(8) Any person who is a licenced undertaking or is employed by a licenced

88(h) of 51(I) of
2012.

undertaking or who is engaged in any capacity by any licenced undertaking, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding 6 months or to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700) or to both such penalties if, in contravention of his duty:

(a) prevents and/or obstructs the sending, conveying and/or delivery of any message in accordance with Section 98 of this Law;

(b) intentionally amends and/or interferes with the content of any message in accordance with Section 99 of this Law; and/or

(c) intentionally intercepts any message and/or intentionally discloses and/or uses the content of any message or any information and/or document that relates to the content of any message, and/or to public affairs and/or personal particulars of any person in accordance with Section 99 of this Law.

(9) (a) Any person who installs or places on the Cyprus market any telecommunications terminal equipment for the purpose for which it has been designed shall, unless the terminal equipment complies with the terms, conditions and specifications set out in Section 78 according to article 77, be guilty of a criminal offence.

88(i) of 51(I) of
2012.

(b) Any person convicted of committing a criminal offence as per subsection (2), shall be liable to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding five thousand euros (€5,000) or to both such penalties.

(10) Any person who removes, destroys and/or causes damage, whether fraudulently or otherwise, to any communications network and/or installations and/or equipment, shall be guilty of a criminal offence according

to Section 95 of this Law.

88(j) of 51(I) of 2012. (11) Any person who, without reasonable cause, fails to comply with the terms of an Order or Decision issued by the Commissioner under this Law, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding eight hundred and fifty euros (€850) or to both such penalties under Section 29 of this Law.

CHAPTER II

POSTAL SERVICES

Provision of network and/or services without licence and other offences. 150.(1) Any person who establishes, operates and/or provides a postal network and/or postal services without a special licence granted by the Commissioner or without a general authorisation according to Section 127, except by virtue and in accordance with this Law and/or any other law and/or a licence issued under any other law and/or regulations and/or orders, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six months or to a pecuniary fine not exceeding five thousand euros (€5,000) or to both such penalties.

89(a) of 51(I) of 2012.

30(a) of 160(I) of 2013. (2) Any person who conveys, without a licence, a postal item which does not fall within the exemptions of subsections (2) and (3) of Section 127 of this Law, shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding eight hundred and fifty euros (€850) for every postal item conveyed.

30(a) of 160(I) of 2013. (3) Any person who systematically conveys without a licence a postal item not exempted as specified in subsection (2) shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine of one thousand seven hundred euros (€1,700) for every week or part thereof during which the

conveyance continues.

- 30(a) of 160(I) of 2013. (4) Any person who performs, otherwise than by postal services, any services incidental to conveying postal items from place to place, whether by receiving or accepting or collecting or clearance or ordering or dispatching or conveying, re-conveying or delivering such an item, which is not exempted as referred to in subsection (2), shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding eight hundred and fifty euros (€850) for every such item so conveyed.
- 30(b) of 160(I) of 2013. 89(e) of 51(I) of 2012. (5) Any person who systematically offers services as described in subsection (4) shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700).
- 30(c) of 160(I) of 2013. 89(f) of 51(I) of 2012. (6) Any person who sends a postal item not exempted as referred to in subsection (2), otherwise than by postal services, or procures such an item to be sent and/or conveyed otherwise than by postal services and/or tenders and/or delivers such an item in order to be sent otherwise than by postal services, shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding eight hundred and fifty euros (€850) for every such item.
- 89(g) of 51(I) of 2012. (7) Any person who systematically performs any of the acts mentioned in subsection (6) shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700).
- 30(d) of 160(I) of 2013. 89(h) of 51(I) of (8) Any person who collects postal items which do not fall within the exemptions of subsections (2) and (3) of Section 127 of this Law, for conveyance and/or dispatching otherwise than by postal services, shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not

2012. exceeding eight hundred and fifty euros (€850) for every such item.

89(i) of 51(I) of 2012. (9) Any person who systematically performs any of the acts mentioned in subsection (8) shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700).

30(e) of 160(I) of 2013. (10) Any person shall be guilty of an offence as set out in subsection (4) of this Section and liable, on conviction, to the penalty prescribed therein, whether the relevant item is sent individually or with anything else, or whether the said service is performed in connection with the item being sent or to be sent individually or with any other item or thing, and in any prosecution the onus shall lie upon the person being prosecuted to prove that the act in respect of which the criminal offence is alleged to have been committed was done in conformity with this Law.

89(j) of 51(I) of 2012. (11) Any person who fraudulently or knowingly uses, joins, affixes and/or places with or upon any postal item or cover or on any paper or other substance any postage stamp which has already been used, shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700).

(12) (a) Any person shall be guilty of a criminal offence in any of the following cases:

(i) if he knowingly encloses, causes and/or contributes to be enclosed in any newspaper to be sent by postal services or under cover thereof any item, paper and/or thing; or

(ii) if he knowingly either sends or causes to be sent by postal services any newspaper in which any item of correspondence or thing or paper or object is

enclosed, except where such conduct is expressly permitted.

89 (k) of 51(I) of 2012. (b) Any person who is guilty of a criminal offence as per subsection (a) shall be liable, on conviction, to a fine not exceeding eight hundred and fifty euros (€850) for each newspaper.

(c) In any of the cases mentioned in paragraph (a), the newspaper together with any of its enclosures which are not prohibited to be sent by postal services, shall be delivered as an ordinary paid item of correspondence, while any prohibited enclosures shall be confiscated.

(13) (a) Any person employed, cooperating with or engaged by a postal service provider shall be guilty of a criminal offence when, without legitimate reason he:

(i) opens or procures or suffers to be opened a postal item; and/or

(ii) wilfully detains or delays or procures or suffers a postal item to be detained and/or delayed.

89(l) of 51(I) of 2012. (b) Any person who is guilty of a criminal offence as per paragraph (a) shall be liable, on conviction, to a term of imprisonment not exceeding two years or to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700) or to both such penalties.

The provisions of paragraph (a) shall not apply as regards:

(i) the opening or detaining or delaying of a postal item in accordance with the provisions of this Law or any other law in force from time to time in connection with the operation of a postal business in Cyprus; and

(ii) the opening or detaining or delaying of a postal item in compliance with an express order by the Commissioner.

(14) Any person who solicits or procures or attempts to procure any other person to commit a criminal offence in breach of the provisions of subsections (1) to (13), shall be guilty of a criminal offence and liable, on conviction, to the same penalties as the person having committed the offence.

(15) For the recovery of the pecuniary fines imposed on any person convicted of a criminal offence under any provision of subsections (1) to (14), a civil action may be filed against the said person within one year from the imposition of the fine.

89(m) of 51(I) of 2012. (16) Any person who fraudulently retains or wilfully keeps or procures or retains or fails or refuses, after being required by the postal service provider, to hand over a postal item which has been delivered to him by mistake and which ought to have been delivered to any other person and/or post and/or a postal item which has been found by him or by any other person, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding one year or to a pecuniary fine not exceeding eight hundred and fifty euros (€850) or to both such penalties.

89(n) of 51(I) of 2012. (17) Any person who posts or procures to be posted, and/or sends and/or causes to be sent, and/or tenders or delivers in order to be sent by the post any postal item containing any explosive and/or other dangerous material or substance, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding twelve months or to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700), while the said item may be destroyed or detained or otherwise dealt with.

(18) (a) Any person who is employed to convey and/or deliver any postal

item which is in his custody, care or possession, during his employment shall be guilty of a criminal offence, in any of the following cases:

(i) if he abandons the item;

(ii) if he is guilty of any act of drunkenness, carelessness, negligence and/or other misconduct where the safety of the postal item is endangered;

30(f) of 160(I) of 2013. (iii) if he collects, receives, conveys and/or delivers the postal item otherwise than in the ordinary course of the post;

(iv) if he wilfully misspends his time so as to retard and/or delay the progress and/or arrival of a postal item;

(v) if he does not use proper care and diligence for the safe conveyance of a postal item.

89 (o) of 51(I) of 2012. (b) Any person who is guilty of a criminal offence as per paragraph (a) shall be liable, on conviction, to a pecuniary fine not exceeding one thousand euros (€1,000).

(19) (a) Any person employed by a postal service provider shall be guilty of a criminal offence if, contrary to his duties, he:

(i) opens, causes or suffers to be opened a postal item; or

(ii) wilfully detains, delays, causes or suffers the detaining and/or delaying of a postal item.

(b) Any person who is guilty of a criminal offence as per paragraph (a) shall be liable, on conviction, to a term of imprisonment not exceeding two years

89(p) of 51(I) of
2012.

or to a pecuniary fine not exceeding one thousand euros (€1,000) or to both such penalties.

(c) The provisions of paragraph (a) above shall not apply to:

(i) the opening, detaining and delaying of a postal item in accordance with the provisions of this Law or of any other law in force from time to time relating to the operation of postal business in Cyprus;

(ii) the opening, detaining and delaying of a postal item in compliance with express instructions of the Commissioner.

89(q) of 51(I) of
2012.

(20) Any person, who places or attempts to place in or against any letter box any fire, light, matches or any explosive and/or dangerous substance or any filth or any noxious or poisonous substance or any fluid or does or attempts to do anything likely to injure the box or its attachments or contents, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding twelve months or to a pecuniary fine not exceeding one thousand euros (€1,000) or to both such penalties.

(21) (a) No person shall send or attempt to send a postal item which:

(i) encloses any explosive or dangerous substance or any filth or noxious or poisonous substance, or any sharp instrument not properly protected, or any living creature which is either noxious or is likely to injure other postal items;
or

(ii) encloses any article and/or thing which is likely to injure either other postal items in the course of conveyance or any officer of the postal service provider; or

(iii) has thereon or encloses therein any words, marks, designs or pictures of a seditious, scurrilous, threatening, indecent, obscene, or grossly offensive character.

89(r) of 51(I) of
2012.

(b) Any person who acts in contravention of paragraph (a), shall be guilty of a criminal offence and liable, on conviction, as regards subparagraph (i), to a term of imprisonment not exceeding twelve months or to a pecuniary fine not exceeding seven hundred pounds or to both such penalties, and as regards subparagraphs (ii) and (iii) to a pecuniary fine not exceeding one thousand euros (€1,000).

(c) Any postal item sent in contravention of paragraph (a) may be detained in the office of the postal service provider.

89(s) of 51(I) of
2012.

(22) Any person who, without due authority, has fixed or attempts to fix any placard, advertisement, notice, list, document, board and/or thing upon any office of a postal service provider or post or letter box, or who paints, tars or in any way disfigures any such office, post or letter box shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding three hundred and forty two thousand euros (€342,000).

(23) (a) A person shall be guilty of a criminal offence in those cases where, without due authority:

(i) he makes, issues, sends by post or otherwise, any envelope, wrapper, card, form or paper, in imitation of one issued by or under the authority of the universal postal service provider or any foreign postal authority or having thereon any words, letters or marks which signify or imply or may reasonably lead the recipient to believe that a postal letter bearing same is sent on behalf of the Government of Cyprus; or

(ii) he makes on any envelope, wrapper, card, form or paper for the purpose of being issued or sent by post or otherwise, or otherwise used, any mark in imitation of or similar to or purporting to be in imitation of or similar to or purporting to be any stamp or mark of the universal postal service provider or any foreign postal authority, or makes any words, letters or marks which signify or imply or may reasonably lead the recipient to believe that a postal letter bearing same is sent on behalf of the Government of Cyprus; or

(iii) he issues and/or sends by post or otherwise, any envelope, wrapper, card, form or paper marked as mentioned in the preceding paragraphs.

89(t) of 51(I) of 2012. (b) Any person who is guilty of a criminal offence under paragraph (a) shall be liable to a fine not exceeding eight hundred and fifty euros (€850).

(24) Any person who acts as follows, with intent to defraud, shall be guilty of a criminal offence:

(a) makes or knowingly alters or sells or deals in or distributes:

(i) any fictitious stamp, whether impressed or adhesive;

(ii) any counterfeit international reply coupon;

(iii) any counterfeit impression of a stamping machine; and/or

(iv) any impression already used, provided that such impression is forged or imitated in such manner as it may be mistaken for an impressed or adhesive stamp issued by the universal postal service provider or any foreign postal authority;

(b) makes and/or circulates any fictitious postal identity card; and/or

(c) makes and/or unless he shows a lawful excuse, has in his possession any die, plate, instrument and/or materials for making:

(i) any fictitious stamp;

(ii) any counterfeit international reply coupon;

(iii) any counterfeit impression of a stamping machine; and/or

(iv) any fictitious postal identity card.

89(u) of 51(I) of 2012. (25) Subject to subsection (26), any person who is guilty of a criminal offence as per subsection (24) shall be liable to a term of imprisonment not exceeding twelve months or to a pecuniary fine not exceeding five thousand euros (€5,000) or to both such penalties.

89(v) of 51(I) of 2012. (26) Any person who acts in contravention of subsection (24) without intent to defraud shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700). Provided that the onus of proving the absence of intent to defraud lies upon the person being prosecuted.

(27) Any stamp, reply coupon, impression, postal identity, die, plate, instrument or materials found in the possession of any person in contravention of subsection (24) may be seized and confiscated.

(28) Any person shall be guilty of a criminal offence, in cases where he:

(a) knowingly uses, for any postal purpose:

(i) any fictitious stamp;

(ii) any counterfeit international reply coupon;

(iii) any counterfeit impression of a stamping machine; and/or

(iv) any counterfeit impression already used; and/or

(b) has in his possession, unless he shows a lawful excuse,

(i) any fictitious stamp,

(ii) any counterfeit international reply coupon; and/or

(iii) any counterfeit impression of a stamping machine.

89(x) of 51(I) of 2012. (29) Any person who is guilty of a criminal offence under subsection (28) shall be liable, on conviction, to a term of imprisonment not exceeding twelve months or to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700) or to both such penalties.

(30) No person shall, without due authority, place or maintain on any house, wall, door, window, box, post pillar or other place belonging to him or under his control, any of the following words, letters or marks in accordance with Section 139 of this Law:

(a) the words "post office",

(b) the words "letter box" accompanied with words, letters or marks which signify or imply or may reasonably lead the public to believe that it is a post

office letter box; or

(c) any words, letters and/or marks which signify or imply or may reasonably lead the public to believe that any house or place is a post office and/or that any box is a post office letter box.

(31) Any person, when required by notice given by a postal service provider to remove or efface any words, letters and/or marks mentioned in subsection (30), and/or to remove or effectively close up any letter box belonging to him or under his control and which had been a post office letter box, shall comply with this request within fifteen days.

89(y) of 51(I) of 2012. (32) Any person who acts in contravention of subsection (31) shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding one thousand euros and, if the criminal offence continues after a prior conviction, to a pecuniary fine not exceeding two hundred euros (€200) for every day during which the criminal offence so continues.

30(g) of 160(I) of 2013. 89(z) of 51(I) of 2012. (33) Any person who knowingly makes a false declaration with respect to the contents or value of any postal item sent by him for conveyance by post from Cyprus shall be guilty of a criminal offence and liable, on first conviction for the offence, to a pecuniary fine not exceeding eight hundred and fifty euros (€850) and, on a second or any subsequent conviction, to a pecuniary fine not exceeding one thousand euros (€1,000).

89(za) of 51(I) of 2012. (34) Any person who wilfully obstructs and/or incites any other person to obstruct an officer of any postal service provider in the execution of his duty, and/or who whilst in any post office obstructs the course of business of the office shall be guilty of a criminal offence and liable, on conviction, to a pecuniary fine not exceeding one thousand euros (€1,000).

89(zb) of 51(I) of 2012. (35) Any person who issues, reproduces and/or copies stamps without express authority or approval by the Minister and/or who procures others to do so, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding two years or to a pecuniary fine not exceeding one thousand seven hundred euros (€1,700) or to both such penalties.

PART 18

ORDERS, PUBLIC FINANCE PROVISIONS, REPORTS, AND MISCELLANEOUS MATTERS

2 of 37(I) of 2006.
7 of 84(I) of 2005.
Issue of Regulations by the Commissioner. 151. (1) Subject to the provisions of subsection (3), in view of the better application of the provisions of this Law, the Commissioner may issue Regulations, which are published in the Official Gazette of the Republic, upon being approved by the Council of Ministers and pertaining to matters concerning the staff of his Office.

99 of 1989
227 of 1990
27(I) of 1992. (2) The Commissioner may issue Regulations pertaining to the establishment of a Healthcare Fund, under subparagraph (i) of paragraph (c) of subsection (3) of Section 16 of this Law. Following their approval by the Council of Ministers, such Regulations shall be submitted to the House of Representatives for approval under the provisions of the Law on Submitting to the House of Representatives Regulations issued by Authorisation of Law.

(3) The Regulations issued under this Law shall enter into force on the date of their publication in the Official Gazette of the Republic, unless otherwise provided therein.

Issue of Orders
by the
Commissioner.

152. (1) For the better implementation of the provisions of this Law, the Commissioner may undertake the responsibility of drafting and issuing Orders:

(a) For the purpose of the better implementation of the provisions of this Law, the Commissioner may issue Orders which primarily aim at the clarification of the procedures, methods, time frames and the level of rates referred to in this Law.

(b) The powers of the Commissioner under subsection (3) of this Section shall be based on the exercise by the Commissioner of the powers conferred on him by this Law and any other laws;

(c) The Commissioner may issue Orders in relation to any other matter that this Law provides for, or which essentially relates to the powers exercised by the Commissioner on the basis of this Law or any other laws, in particular with regard to the application of the best practices or the guidance issued by the European Commission on the application of Community law.

(2) The Commissioner's Orders which are issued under this Law shall be published in the Official Gazette of the Republic and enter into force as of the date expressly specified in each Order or, in those cases where no such date is specified, as of the date of publication of the relevant Order.

(3) The Commissioner shall have power to apply by Order, Regulations of the European Community concerning matters of electronic communications and postal services, and to define and/or establish by Orders penalties and criminal offences for punishment, administrative fines and/or other administrative penalties, as these are defined in the First Annex of the Law. Provided that penalties for criminal offences must in no case exceed the maximum

pecuniary fine and the maximum term of imprisonment provided for in this Law.

(4) The Commissioner may amend by Order the content of the First Annex of this Law, without prejudice to the provisions of the Law and the Regulations of the European Community.

Budget.
6 of 134(I) of
2007.

153. (1) (a) The Commissioner shall have an annual budget of income and expenditure for the Office, including the operating costs of the Advisory Committee as provided in paragraph (d) of Section 14 and in paragraph (c) of subsection (1) of Section 32 of this Law.

(b) The provisions of the budget pertaining to the operating costs of the Advisory Committee shall be prepared by the Office, according to the Commissioner's directions as set out in subsection (6) of Section 10 of this Law, after he has taken into consideration the views of the Chairman of the Advisory Committee.

(2) The said budget shall be submitted by the Commissioner to the Council of Ministers by the 1st of July of each year and shall be subject to the approval of the Council of Ministers and the House of Representatives.

The budget, as it may have been amended by the Council of Ministers, shall be submitted to the House of Representatives before the 30th of September of each year.

(3) The budget shall cover the financial plan of the Office of the Commissioner for each financial year, which commences on the 1st of January and ends on the 31st of December.

(4) The manner in which the budget shall be drawn up and in which the budget

breakdown appears in the income and expenditure table shall be similar to the manner in which the State budget is drawn up.

(5) The Office shall see to the drawing up of the budget mentioned in subsection (2) and of the financial plan mentioned in subsection (3), under the Commissioner's directions as set out in Section 10(6) of this Law.

(6) In case the budget is not voted in time, the Office shall operate by applying, *mutatis mutandis*, the relevant provisions of the Constitution on the State budget pertaining to the twelfths, but without the two-month time limit.

Accounts. 154. (1) The Commissioner shall keep appropriate books and accounts of the activities of the Office, as shall be determined, from time to time, by the Auditor General of the Republic.

(2) With regard to the financial management of each financial year, the Commissioner shall see to the drawing up of a report as shall be determined, from time to time, by the Auditor General of the Republic.

(3) The accounts of the Office shall be audited by the Auditor General of the Republic.

(4) Within one month from the audit of the accounts, the Commissioner shall submit the financial management report to the Council of Ministers and to the House of Representatives for their information.

(5) The Office of the Commissioner shall see to the keeping of books and accounts as mentioned in subsections (1), (2), and (4), and the drawing up of a report, under the Commissioner's directions, according to the provisions of Section 9(6).

Report. 155. (1) The Commissioner shall submit to the President annually, within five months following the end of each financial year, a Report on his activities and those of his Office.

(2) The Commissioner shall release the above Report to the Council of Ministers and the House of Representatives and shall thereafter publish it.

Employment of staff in case the Office of the Commissioner ceases to exist. 156. (1) In case, for any reason, the Office ceases to exist, its staff shall be appointed at an appropriate Ministry, Department or Service of the Government and in case the competences, powers and duties of the Office under this Law are, for any reason, delegated to any other legal person, authority or organisation, the staff of the Office shall provide services to the said legal person, authority or organisation without any change in their status or terms of service.

Assets of the Office in case the Commissioner ceases to exist. 157. In case, for any reason, the Office of the Commissioner of Electronic Communications and Postal Regulation ceases to exist, all the assets of the Office shall devolve to the State.

Appeal to the Supreme Court against actions of the Commissioner. 158. Any act or Decision or Order of the Commissioner shall be subject to judicial review upon appeal to the Supreme Court pursuant to Section 146 of the Constitution.

90 of 51(I) of 2012. (2) The Commissioner shall keep a record on the general subject of the appeals, the duration of the appeal proceedings and the number of decisions on the adoption of provisional measures and, upon reasoned request, shall supply such information to the European Commission and/or BEREC.

Liability of the Commissioner, 159. Subject to the provisions of this Law and/or of the Decisions and/or

Deputy
Commissioner
and staff of the
Office. Orders issued thereunder, the Commissioner, the Deputy Commissioner and the members of staff of the Office shall not be held liable for anything that has occurred, been omitted or said, or for any opinion they have expressed, or any report or other document they have prepared, in the exercise of their duties done in good faith and pursuant to their competences and powers under this Law and/or the Orders issued thereunder.

Liability of
legal persons. 160. (1) In case any of the criminal offences referred to in this Law and/or in Orders is committed by a legal person, liability for the offence shall lie, apart from the legal person itself, with:

(a) all members of the administrative or managerial board or the committee which handles the affairs of the legal person; and

(b) the general manager or the director or the managing director of the legal person.

Criminal charges may be filed against the legal person and/or against the natural persons.

(2) In case the Commissioner imposes an administrative fine or other pecuniary fine under this Law and/or Orders issued thereunder, as a result of an act or omission of a legal person, liability for the act or omission and for the payment of the administrative fine shall lie, apart from the legal persons themselves, with the persons referred to in paragraph (1).

91 of 51(I) of
2012.
Transitional
provisions. 161. (1) All obligations imposed on persons providing public electronic communications networks and/or services concerning access and interconnection that were in force before the 31st of December of 2009, shall be maintained until such time as these obligations are reviewed by the Commissioner under this Law.

(2) The Commissioner shall maintain all obligations imposed before the 31st of December 2009 relating to:

(a) retail tariffs for the provision of access to and use of the public telephone network;

(b) carrier selection or pre-selection; and

(c) leased lines.

(3) The Commissioner shall take all necessary measures in view of the compliance of all general authorisations and individual rights of use that existed before the 31st of December 2009, on a case by case basis, in accordance with the terms of Part 8 of this Law.

(4) Where the application of subsection (5) leads to a limitation of the rights or an extension of the obligations on the basis of existing general authorisations and individual rights of use, the Commissioner may extend the validity of these rights and obligations until the 30th of September 2012 at the latest, provided the rights of other persons under Community law are not affected. The Commissioner shall notify the European Commission of such extensions and state the relevant reasons.

(5) Where the Commissioner establishes that the abolition of a term of a licence regarding access to electronic communications networks, which was valid before the entry into force of this Law, creates great difficulties to undertakings which had an access licence to another network, and where these undertakings cannot negotiate new agreements on reasonable commercial terms before the date of entry into force of this Law, the Commissioner may request from the European Commission the temporary prolongation of the relevant terms. The relevant application must specify the terms

and the period for which the temporary prolongation is requested.

(6) A person which has paid, before the entry into force of the present Law, any administrative charge or fee to an authority responsible for the regulation of electronic communications or postal services on the basis of an authorisation regime that was in force before the entry into force of this Law, shall have no obligation to pay any administrative charge or fee for the rest of the period for which the previous payment was made.

31 of 160(I) of 2013. (7) The Cyprus Post shall remain the universal service provider until the 31st of December 2027. Prior to the expiry of this period, the Minister shall designate the universal postal service provider for the period following the 31st of December 2027, in accordance with Section 119A of this Law.

92 of 51(I) of 2012

First Annex

(Article 152(4))

Criminal offences which apply to those cases where the Commissioner has power to apply Regulations of the European Community:

A person ordered by the Commissioner to provide any information and who fails to do so within a set date, which shall be no later than fifteen (15) days from the day of such order, shall be guilty of a criminal offence and liable, on conviction, to a term of imprisonment not exceeding six (6) months, or to a pecuniary fine not exceeding three thousand four hundred euros (€3,400) or to both such penalties.

Without prejudice to the other penalties that may be provided for in the Law and the

Orders issued thereunder, the Commissioner may impose administrative fines and/or other administrative penalties in relation to any case provided for in this Law and/or in Orders and/or Decisions and/or Regulations of the European Community in relation to non-compliance with the provisions of this Law and/or Orders and/or Decisions, and to define by Order the amount of such fines and penalties and the procedure for their imposition for the purpose of applying Regulations of the European Community.

Administrative fines may be up to three hundred thousand four hundred euros (€300,400) and, in the case of repeated offences, up to 200,000 for every person found to have violated any of his obligations.

32 of 160(I) of 2013.

Second Annex

[Section 123(I)]

Guidance on calculating the net cost, if any, of the universal postal service

Part A: Definition of the Universal Postal Service

The universal postal service prescribed in Section 119B shall include uniform prices throughout the Republic. It may also include, *inter alia*, the following:

- (i) a number of days of delivery superior to those set in Section 119B;

- (ii) a minimum number of accessible points of access, in order to satisfy the universal service obligations;

(iii) affordable prices for the universal postal service in the Republic of Cyprus;

(iv) uniform prices for the universal service throughout the Republic of Cyprus, subject to the provisions of Section 124;

(v) provision of certain free services for blind or partially-sighted persons.

Part B: Calculation of net cost

The Commissioner shall consider all means to ensure appropriate incentives for postal service providers (designated or not) to provide universal service obligations cost efficiently.

The net cost of universal postal service obligations is any cost related to and necessary for the operation of the universal postal service provision. The net cost of universal postal service obligations is to be calculated as the difference between the net cost of the universal postal service provider of operating with the universal postal service obligations and the same postal service provider operating without the universal postal service obligations.

The calculation shall take into account all other relevant elements, including any intangible and market benefits which accrue to a postal service provider designated to provide universal postal service, the entitlement to a reasonable profit and incentives for cost efficiency.

Due attention is to be given to correctly assessing the costs that any designated universal postal service provider would have chosen to avoid, had there been no universal postal service obligation. The net cost calculation should assess the intangible benefits to the universal postal service operator.

The calculation shall be based upon the costs attributable to:

(i) elements of the identified services which can only be provided at a loss or under cost conditions falling outside normal commercial standards. This category may include elements such as the services defined in Part A;

(ii) specific users or groups of users who, taking into account the cost of providing the specified service, the revenue generated and any uniform prices imposed by the Commissioner, can only be served at a loss or under cost conditions falling outside normal commercial standards.

This category includes those users or groups of users that would not be served by a commercial operator that did not have an obligation to provide universal service.

The calculation of the net cost of specific aspects of universal postal service obligations is to be made separately and so as to avoid the double counting of any direct or indirect benefits and costs. The overall net cost of universal postal service obligations to any designated universal postal service provider is to be calculated as the sum of the net costs arising from the specific components of universal postal service obligations, taking account of any intangible benefits. The responsibility for verifying the net cost lies with the Commissioner. The universal postal service provider shall cooperate to enable the verification of the net cost.

Part C: Recovery of the net cost of the universal postal service obligations

The recovery or financing of any net costs of universal postal service obligations may require the designated universal postal service provider to be compensated for the services offered under non commercial conditions.

As such compensation involves financial transfers, the Commissioner has to ensure that they are undertaken in an objective, transparent, non-discriminatory and proportionate manner. This means that the transfers result as far as possible in the least distortion to competition and to user demand.

Pursuant to Section 123 of this Law, a sharing mechanism based through the compensation fund should use transparent and neutral means for collecting contributions, in order to avoid a double imposition of contributions falling on both outputs and inputs of undertakings.

The compensation fund shall be responsible for collecting contributions from the providers which are assessed as liable to contribute to the net cost of the universal service obligations and shall oversee the transfer of sums due to the universal postal service provider entitled to receive payments from the fund.