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MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli Censu Galea, M.P., Ministru ghat-Trasport u Komunikazzjoni, u moqri ghall-Ewwel darba fis-Seduta ta' l-10 ta' April, 2000.

A **BILL** introduced by the Honourable Censu Galea, M.P., Minister for Transport and Communications, and read the First time at the Sitting of the 10th April, 2000.

ATT biex jipprovdi ghat-twaqqif ta' Awtorità li tkun maghrufa bhala l-Awtorità ta' Malta dwar il-Komunikazzjoni, u ghall-eżercizzju minn jew f'isem dik l-Awtorità ta' funzjonijiet regolatorji li jirrigwardaw it-telekomunikazzjonijiet, il-protezzjoni ta' *data*, il-kummerċ elettroniku u oqsma simili fil-kamp tat-telekomunikazzjonijiet u sabiex jaghmel provvedimenti dwar affarijiet anċillari ghal dan jew konnessi ma' dan.

AN ACT to provide for the establishment of an Authority to be known as the Malta Communications Authority and for the exercise by or on behalf of that Authority of regulatory functions regarding of telecommunications, data protection, electronic commerce and similar areas in the field of communications and to make provision with respect to matters ancillary thereto or connected therewith.

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

RICHARD J. CAUCHI
Clerk of the House of Representatives

**ATT TA' L-2000 GHAT-TWAQQIF TA' AWTORITÀ TA' MALTA
DWAR IL-KOMUNIKAZZJONI**

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ATT biex jipprovdi ghat-twaqqif ta' Awtorità li tkun magħrufa bhala l-Awtorità ta' Malta dwar il-Komunikazzjoni, u għall-eżercizzju minn jew f'isem dik l-Awtorità ta' funzjonijiet regolatorji li jirrigwardaw it-telekomunikazzjonijiet, il-protezzjoni ta' "data", il-kummerc elettroniku u oqsma simili fil-kamp tat-telekomunikazzjonijiet u sabiex jagħmel provvedimenti dwar affarijiet ancillari għal dan jew konnessi ma' dan.

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

Taqsimi I - Preliminari

1. It-titolu ta' dan l-Att hu l-Att ta' l-2000 ghat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni, u għandu jibda jsehh f'dik id-data jew dawk id-dati li l-Ministru jista' b'avviz fil-Gazzetta jistabbilixxi, u dati differenti jistghu jigu hekk stabbiliti għal għanijiet differenti u għal provvedimenti differenti ta' dan l-Att. Titolu fil-qosor u bidu fis-sehh.

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

“Awtorità” tfisser l-Awtorità ta' Malta dwar il-Komunikazzjoni mwaqqfa bl-artikolu 3 ta' dan l-Att;

“Direttur” tfisser Direttur mahtur taht l-artikolu 5 ta' dan l-Att;

“Eżekuttiv Prinċipali” tfisser l-Eżekuttiv Prinċipali mahtur taht l-artikolu 5 ta’ dan l-Att;

“impjegat” tfisser persuna impjegata mill-Awtorità;

“komunikazzjoni” tinkludi telekomunikazzjonijiet, servizzi postali, protezzjoni ta’ data, kummerċ elettroniku, servizzi ta’ l-internet, u dawk l-affarijiet l-oħra kollha li l-Ministru jista’ permezz ta’ Ordni minn żmien għal żmien jippreskrivi;

“kumitat konsultorju” jew “kumitat” tfisser kumitat ta’ konsultazzjoni stabbilit skond ma hemm fl-artikolu 29 ta’ dan l-Att;

“kuntrattur” tfisser persuna li taġixxi skond fehim magħmul ma’ l-Awtorità jew skond is-subartikolu (5) ta’ l-artikolu 5 ta’ dan l-Att;

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

“President” tfisser il-President ta’ l-Awtorità u tinkludi, fiċ-ċirkostanzi msemmija fis-subartikolu (3) ta’ l-artikolu 3 ta’ dan l-Att, lill-Viċi-President jew persuna oħra hekk mahtura biex tagħmilha ta’ President:

Iżda, għar-rigward ta’ l-artikolu 29 ta’ dan l-Att, “President” tfisser il-President ta’ kumitat konsultorju;

“sena finanzjarja” tfisser perjodu ta’ tnaħ il-xahar li jtemm fit-30 ta’ Settembru;

Iżda l-ewwel sena finanzjarja ta’ l-Awtorità għandha tibda mad-dhul fis-sehh ta’ dan l-Att u għandha ttemm fit-30 ta’ Settembru tas-sena li tiġi minnufih wara;

“uffiċjal pubbliku” għar-rigward ta’ l-artikolu 11 ta’ dan l-Att, għandha l-istess tifsira lilha mogħtija bl-artikolu 124 tal-Kostituzzjoni iżda ma tinkludix imhallet tal-Qrati Superjuri jew maġistrat tal-Qrati Inferjuri.

Taqsimha II - Twaqqif, Funzjonijiet u Tmexxija ta’ l-Affarijiet ta’ l-Awtorità

3. (1) Għandu jkun hemm korp, li jkun magħruf bħala l-Awtorità ta’ Malta dwar il-Komunikazzjoni, li jkun magħmul minn President u mhux inqas minn erba’ u mhux iktar minn sitt membri oħra.

(2) Il-membri ta' l-Awtorità ghandhom jinhatru mill-Ministru ghal żmien sena jew ghal dak il-perjodu itwal li jista' jiġi speċifikat fl-istrument tal-hatra sugġett ghal massimu ta' tliet snin iżda l-membri li jiġu hekk mahtura jistgħu jiġu mahtura mill-ġdid malli jiskadi ż-żmien tal-hatra tagħhom.

(3) Il-Ministru jista' jinnomina lil wiehed mill-membri l-oħra ta' l-Awtorità bhala Viċi President u l-membri li jiġi hekk nominat ikollu s-setgħat kollha u jwettaq il-funzjonijiet kollha tal-President matul l-assenza jew l-inkapaċità tiegħu li jagħmilha ta' President jew filwaqt li l-President ikun vaganza jew matul kull btala fil-kariga ta' president; u l-Ministru jista' wkoll, f'kull waħda miċ-ċirkostanzi hawn aktar qabel imsemmija, jahtar lil xi persuna oħra biex tagħmilha ta' president u f'każ bhal dak il-provvedimenti ta' qabel ghandhom japplikaw għar-rigward ta' dik il-persuna.

(4) Persuna ma tkunx kwalifikata li jkollha l-kariga ta' membru ta' l-Awtorità jekk -

(a) tkun Ministru, Segretarju Parlamentari jew membru tal-Kamra tar-Rappreżentanti, jew

(b) ikollha xi interess finanzjarju jew iehor f'xi impriża jew attività li x'aktarx tolqot it-tweqqiq tal-funzjonijiet tagħha bhala membru ta' l-Awtorità:

Izda l-Ministru jista' jwarrab l-iskwalifika ta' persuna taht dan il-paragrafu jekk dik il-persuna tiddikjara dak l-interess u dik id-dikjarazzjoni u twarrib ta' l-iskwalifika jiġu pubblikati fil-Gazzetta.

(5) Bla hsara għad-dispożizzjonijiet ta' dan l-artikolu, il-kariga ta' membru ta' l-Awtorità ssir vakanti -

(a) meta jiskadilu ż-żmien tal-kariga, jew

(b) jekk ikun hemm ċirkostanzi li jikkagunaw, li kieku ma kienx membru ta' l-Awtorità, li jkun skwalifikat milli jinhatar bhala tali.

(6) Membru ta' l-Awtorità jista' jitnehha mill-kariga mill-Ministru jekk, fil-fehma tal-Ministru, dak il-membri ma jkunx idoneu biex ikompli f'dik il-kariga jew ikun sar inkapaċi milli jwettaq sew dmirijietu bhala membru.

(7) Jekk membru jirriżenja jew jekk il-kariga ta' membru ta' l-Awtorità tkun xort'oħra vakanti jew jekk membru ma jkunx jista'

ghal liema raġuni tkun iwettaq il-funzjonijiet tal-kariga tiegħu, il-Ministru jista' jahtar persuna li tkun kwalifikata li tinhatar bhala membru biex tkun membru temporanju ta' l-Awtorità; u kull min jinhatar b'dan il-mod għandu, bla hsara għad-dispożizzjonijiet tas-subartikoli (5) u (6) ta' dan l-artikolu, jtemm milli jkun tali membru meta tinhatar persuna biex timla l-vakanza jew, skond il-każ, meta l-membri li ma setax iwettaq il-funzjonijiet tal-kariga tiegħu jerga' jibda jwettaq dawk il-funzjonijiet.

(8) Membru ta' l-Awtorità li jkollu xi interess dirett jew indirett f'xi kuntratt magħmul jew propost li jsir mill-Awtorità, li ma jkunx interess li jiskwalifika lil dak il-membri milli jibqa' membru, għandu jiżvela x-xorta ta' dak l-interess fl-ewwel laqgħa ta' l-Awtorità wara li huwa jkun sar jaf bil-fatti rilevanti, u dak l-iżvelar għandu mbagħad jitnizzel fil-minuti ta' l-Awtorità, u l-membri li jkollu interess kif hawn aktar qabel imsemmi għandu jirtira minn kull laqgħa li fiha jkun qed jiġi diskuss dak il-kuntratt. Kull iżvelar bħal dak għandu jiġi mgharraf lill-Ministru mingħajr dewmien. Meta l-interess tal-membri jkun tali li jiskwalifikah milli jibqa' membru, huwa għandu jirrapporta l-fatt minnufih lill-Ministru u jissottometti r-riżenja tiegħu.

Funzjonijiet ta' l-Awtorità.

4. (1) Mingħajr preġudizzju għal kull funzjoni oħra assenjata jew trasferita lill-Awtorità minn jew taht dan jew kull Att ieħor, ikun id-dmir ta' l-Awtorità li -

(a) tiżgura l-libertà ta' komunikazzjoni u li l-komunikazzjonijiet ma għandhomx ikunu limitati hlief meta dan ikun meħtieġ għal xi waħda minn dawn ir-raġunijiet li ġejjin:

- (i) il-protezzjoni tad-dritt għall-privatezza;
- (ii) id-difiża tas-sigurtà nazzjonali, integrità territorjali jew sigurezza pubblika;
- (iii) il-prevenzjoni ta' dizordni jew attijiet kriminali;
- (iv) il-protezzjoni tas-saħha pubblika;
- (v) il-protezzjoni tal-morali u r-rispett għad-dinjità tal-persuna umana;
- (vi) il-protezzjoni tad-drittijiet u l-libertajiet ta' l-oħrajn;
- (vii) il-prevenzjoni ta' l-iżvelar ta' informazzjoni li tkun inghatat konfidenzjalment;

(viii) iż-żamma ta' l-awtorità u l-imparzjalità tal-gudizzjarju;

(ix) ir-rabtiet teknoloġiċi li jeżistu minnhom infushom fil-mezzi ta' komunikazzjoni;

(b) tiżgura li ma jkun hemm ebda diskriminazzjoni u li jkun hemm ugwaljanza ta' trattament f' affarijiet li ghandhokm x'jaqsmu mal-komunikazzjonijiet.

(2) Ikun b'mod partikolari dmir ta' l-Awtorità li teżerċita dawk il-funzjonijiet regolatorji fil-kamp tal-komunikazzjonijiet, li jistgħu minn żmien għal żmien ikunu assenjati lill-Awtorità minn jew taht xi Att tal-Parlament.

(3) L-Awtorità ghandha wkoll -

(a) tirregola, tissorvelja u żżomm fil-konjizzjoni tagħha kull pratika, operazzjoni u attività li tirrigwarda kull haġa regolata minn jew taht dan l-Att;

(b) tagħti liċenza, permess jew awtorizzazzjoni ohra, għall-ghemil ta' kull operazzjoni jew attività li tirrigwarda kull haġa regolata minn jew taht dan l-Att;

(ċ) tirregola u tiżgura li jkun hemm interkonnessjoni fil-produzzjoni, trasmissjoni u distribuzzjoni tas-servizzi, prodotti, operazzjonijiet jew attivitajiet li jirrigwardaw kull haġa regolata minn jew taht dan l-Att;

(d) tiżgura kompetizzjoni ġusta f'kull pratika, operazzjoni u attività bhal dawk;

(e) tistabilixxi standards ta' kwalità u sigurezza minimi għal kull wahda mill-imsemmija servizzi, prodotti, operazzjonijiet u attivitajiet u biex tirregola dawk il-miżuri li jistgħu jkunu mehtieġa biex jiżguraw is-sigurezza pubblika u dik privata;

(f) tiżgura u tirregola l-iżvilupp u l-manutenzjoni ta' sistemi effiċjenti sabiex tiġi sodisfatta, daqskemm ikun ekonomikament possibbli, kull domanda raġonevoli għall-provdiment tas-servizzi, prodotti, operazzjonijiet jew attivitajiet li jirrigwardaw kull haġa regolata minn jew taht dan l-Att;

(g) tagħmel kull studju, riċerka jew investigazzjoni dwar kull haġa regolata minn jew taht dan l-Att;

(h) tipprovdi informazzjoni u tohroġ linji direttivi lill-pubbliku u lil enitjiet kummerċjali dwar kull haġa regolata minn jew taht dan l-Att;

(i) tirregola l-istruttura tal-prezzijiet għal kull attività regolata b'dan jew taht l-Att u meta jkun adattat li tistabbilixxi l-mekkanizmi li bihom jiġi stabbilit il-prezz li jkollu jithallas għas-servizzi, prodotti, operazzjonijiet jew attivitajiet;

(j) jirregola l-kwalifiki li persuna għandu jkollha meta hija tiġi mqabba taħdem jew tiġi impjegata f'xi attività regolata minn jew taht dan l-Att;

(k) tistabbilixxi miżuri għall-protezzjoni ta' l-ambjent fil-provdiment tas-servizzi, prodotti, operazzjonijiet jew attivitajiet li jirrigwardaw kull haġa regolata minn jew taht dan l-Att;

(l) tiżgura li l-obbligi internazzjonali magħmula minn Malta relattivi għall-hwejjeġ regolati minn jew taht dan l-Att jiġu mharsa;

(m) tagħti parir lill-Ministru dwar il-formulazzjoni ta' *policy* għar-rigward ta' hwejjeġ regolati b'dan jew taht dan l-Att, u b' mod partikolari għar-rigward ta' dawk l-obbligi internazzjonali;

(n) xort'ohra tagħti parir lill-Ministru dwar kull haġa konnessa mal-funzjonijiet tagħha taht dan l-Att jew kull Att ieħor;

(o) tifformula u timplementa *l-policies* u l-istrategiji b'għanijiet *short-term* u *long-term*, għar-rigward ta' dak kollu konness mal-funzjonijiet tagħha taht dan l-Att jew kull Att ieħor;

(p) tinkoraġġixxi l-provdiment ta' servizzi ta' komunikazzjonijiet f'Malta u tagħti opportunità lil persuni li jipprovdu servizzi ta' komunikazzjonijiet f'Malta li jikkompetu b'mod effettiv fil-provdiment ta' dawk is-servizzi barra minn Malta;

(q) tinkoraġġixxi lill-utenti ta' servizzi ta' komunikazzjonijiet li jistabbilixxu postijiet ta' kummerċ f'Malta;

(r) twettaq dawk il-funzjonijiet l-oħra li jistgħu minn żmien għal żmien jiġu lilha assenjati mill-Ministru.

5. (1) Bla hsara għall-provvedimenti l-oħra ta' dan l-Att l-affarijiet u x-xogħol ta' l-Awtorità għandhom ikunu r-responsabbiltà ta' l-Awtorità nnifisha iżda salv kif hawn aktar qabel imsemmi, it-

tmexxija eżekuttiva ta' l-Awtorità, l-amministrazzjoni u l-organizzazzjoni taghha u l-kontroll amministrattiv ta' l-uffiċjali u l-impjegati taghha, jkunu r-responsabbiltà ta' l-Eżekuttiv Prinċipali ta' l-Awtorità, li jkollu wkoll dawk il-poteri l-oħra li jistghu minn żmien għal żmien jiġu lilu delegati mill-Awtorità.

(2) Għandhom jitwaqqfu d-Direttorati hekk kif inhuma elenkati fl-Ewwel Skeda li tinsab ma' dan l-Att, li jkollhom ir-responsabbiltajiet kif inhuma hemm deskritti. Il-Ministru jista', wara li jikkonsulta lill-Awtorità, b'Ordni fil-Gazzetta, jabolixxi xi wiehed jew iktar minn dawk id-Direttorati, jibdel ir-responsabbiltajiet tagħhom u jistabilixxi dawk id-Direttorati l-oħra li jista' minn żmien għal żmien iqis bħala li jkunu meħtieġa.

(3) L-Awtorità għandha teżercita l-funzjonijiet taghha permezz tad-Direttorati hekk stabbiliti u għal dak l-ghan hija għandha tvesti f'kull wiehed mid-Direttorati hekk stabbiliti u sugġett għas-sorveljanza u l-kontroll totali ta' l-Eżekuttiv Prinċipali, dawk il-funzjonijiet taghha li jirrelataw jew huma anċillari għal dawk l-affarijiet li hija responsabbli għalihom sabiex dak id-Direttorat ikun jista' jagħti sehh lill-*policies* ta' l-Awtorità u biex xort' oħra jkun jista' jwettaq b' mod effettiv u effiċjenti l-funzjonijiet ta' l-Awtorità fl-isfera rispettiva tal-operat taghha.

(4) Kull wiehed mid-Direttorati hekk stabbiliti għandu jitmexxa minn individwu li jista' jkun sew uffiċjal pubbliku assenjat biex iwettaq dmirijietu ma' l-Awtorità jew impjegat ta' l-Awtorità, li f'kull każ ikollu esperjenza jew konoxxenza adegwati fl-isfera rispettiva ta' l-operat hekk kif il-Ministru jista' jistabilixxi.

(5) Sew l-Awtorità sew kull wiehed mid-Direttorati jistghu jeżercitaw xi wiehed jew iktar mill-funzjonijiet tagħhom kemm direttament kemm permezz ta' l-uffiċjali jew impjegati tagħhom jew permezz ta' aġenzija li tkun awtorizzata għal dak l-ghan, jew permezz ta' kuntrattur jew persuna oħra li magħhom isir ftehim għat-twettiq ta' xi waħda jew iktar minn dawk il-funzjonijiet.

(6) Meta f'dan l-Att xi haġa jkollha ssir minn jew kontra jew għar-rigward ta' l-Awtorità, jew xi avviż ikollu jinghata jew jista' jinghata lill-Awtorità, kull haġa jew avviż simili jistghu wkoll jintgħamlu minn jew kontra jew għar-rigward ta' jew jinghataw lid-Direttorat li l-haġa tkun tinkwadra taħt il-gurisdizzjoni tiegħu minhabba f'xi delega ta' funzjoni lil dak id-Direttorat; u għall-ghanijiet hawn aktar qabel imsemmija kull riferenza f'dan l-Att għall-Awtorità tinkludi riferenza għad-Direttorat idoneu.

(7) L-Eżekuttiv Prinċipali u d-Diretturi ghandhom jinhatru mill-Ministru għal żmien tliet snin u dak iż-żmien jista' jiġi mtawwal għal perjodi oħra ta' tliet snin kull wiehed.

(8) L-Eżekuttiv Prinċipali għandu jattendi għal-laqgħat kollha ta' Bord iżda ma jkollux vot waqt dawk il-laqgħat:

Iżda l-Awtorità tista' jekk tqis li jkun hekk sew tehtieg lill-Eżekuttiv Prinċipali biex ma jattendix għal xi wahda mil-laqgħat jew għal xi parti minn laqgħa.

(9) L-Eżekuttiv Prinċipali jkun responsabbli għall-implimentazzjoni ta' l-għanijiet ta' l-Awtorità fl-eżercizzju tal-funzjonijiet tagħha u minghajr preġudizzju għall-ġeneralità ta' dak hawn aktar qabel imsemmi huwa għandu -

(a) jassumi kull responsabbiltà għas-sorveljanza u l-kontroll totali tad-Direttorati;

(b) jassenja lil kull Direttorat dawk id-dmirijiet li huma bil-provvedimenti ta' dan l-Att, jew skondhom, vestiti f'dak id-Direttorat;

(ċ) jikkoordina l-operat tad-Direttorati;

(d) jiżviluppa l-istrateġiji mehtieġa għall-implimentazzjoni ta' l-għanijiet ta' l-Awtorità;

(e) jagħti parir lill-Awtorità dwar kull haġa li din tista' tirriferilu jew dwar kull haġa li huwa jqis li tkun mehtieġa jew spedjenti; u

(f) jwettaq dawk id-dmirijiet l-oħra li l-Awtorità tista' tassenjalu minn żmien għal żmien.

Relazzjonijiet bejn il-Ministru u l-Awtorità.

6. (1) Il-Ministru jista', għar-rigward ta' dawk l-affarijiet li jkun jidhrulu li joqtu l-interess pubbliku, minn żmien għal żmien jagħti lill-Awtorità direttivi ta' xorta ġenerali, li ma jkunux inkonsistenti mal-provvedimenti ta' dan l-Att, dwar il-*policy* li għandha tiġi segwita fit-tweqqiq tal-funzjonijiet vestiti fl-Awtorità minn jew taħt dan l-Att, u l-Awtorità għandha, kemm jista' jkun malajr, ġġib fis-seħh dawk id-direttivi kollha.

(2) L-Awtorità għandha tagħti lill-Ministru faċilitajiet għall-ksib ta' informazzjoni dwar il-proprjetà li jkollha u l-attivitajiet tagħha u tibgħatlu prospetti, kontijiet u kull informazzjoni oħra li jkollha

x'taqsam ma' dan, u taghtih il-facilitajiet kollha biex ikun jista' jivverifika l-informazzjoni moghtija, b'dak il-mod u f'kull waqt li huwa jista' hekk ragonevolment jehtieg.

(3) Jekk l-Awtorità tonqos milli thares xi ordni mahruġa taht dan l-artikolu, il-Prim Ministru jista' jagħmel ordni li biha jittrasferixxi lill-Ministru ghalkollox jew biss f'parti xi funzjoni jew funzjonijiet ta' l-Awtorità.

7. (1) L-Awtorità għandha tkun korp ġuridiku li jkollu personalità ġuridika distinta u għandha tkun kapaċi, bla ħsara għad-dispożizzjonijiet ta' dan l-Att, li tagħmel kull kuntratt, li takkwista, iżzomm u tiddisponi minn kull xorta ta' proprjetà għall-għanijiet tal-funzjonijiet tagħha, jew li tharrek u li tiġi mharrka, u li tagħmel dawk l-affarijiet kollha u li tidhol f'dawk it-transazzjonijiet kollha li jkunu incidentali jew li jwasslu għall-eżerċizzju jew it-twettiq tal-funzjonijiet tagħha taht dan l-Att, inkluż is-self jew it-tisliet ta' flus.

Personalità ġuridika u rappreżentanza ta' l-Awtorità.

(2) Ir-rappreżentanza ġuridika ta' l-Awtorità għandha tkun vestita solidalment fil-President u fl-Eżekuttiv Prinċipali:

Iżda l-Awtorità tista' tahtar lil xi wieħed jew aktar mill-membri tagħha jew mill-membri jew l-impjegati ta' l-Awtorità biex jidhru f'isem u flok l-Awtorità fi proċedimenti ġudizzjarji kif ukoll f'kull att, kuntratt, istrument jew dokument iehor ikun liema jkun:

Iżda wkoll, dwar kull haġa li tinkwadra fil-funzjonijiet vestiti f'Direttorat, ir-rappreżentanza legali u ġuridika ta' l-Awtorità għandha tkun tvesti wkoll fid-Direttur jew f'dak il-membru, uffiċjal jew impjegat iehor ta' l-Awtorità, hekk kif l-Awtorità tista' tahtar jew tawtorizza għal dak l-għan.

(3) Kull dokument li huwa intiż bħala istrument magħmul jew mahruġ mill-Awtorità u li jiġi ffirmat mill-President jew mill-Eżekuttiv Prinċipali jew minn Direttur għar-rigward ta' xi haġa vestita fid-Direttur relattiv mill-Awtorità għandu jiġi riċevut b'xiehda u għandu, sakemm ma jiġix ippruvat il-kuntrarju, jitqies li jkun istrument magħmul jew mahruġ mill-Awtorità.

8. (1) Il-laqgħat ta' Awtorità għandhom jissejhu mill-President daqstant daqskemm ikun mehtieg iżda mill-anqas darba fix-xahar jew b'inizjattiva tiegħu jew fuq talba ta' xi tnejn mill-membri l-oħra.

Provvedimenti rigward il-proċedimenti ta' l-Awtorità.

(2) Nofs l-għadd tal-membri li f'dak iż-żmien ikunu jikkostitwixxu l-Awtorità għandhom jagħmlu quorum. Id-deċiżjonijiet għandhom jiġu adottati minn maġġoranza sempliċi tal-voti tal-membri preżenti u votanti. Il-President, jew fl-assenza tiegħu il-Viċi President

jew persuna ohra li tkun mahtura biex taghmilha ta' president, ghandu jkollhom vot inizjali u fil-każ li jkun hemm voti ndaq, *casting vote*. Minghajr preġudizzju għall-htigiet l-oħra ta' dan l-Att, ebda deċiżjoni ma tkun valida jekk din ma jkollhiex l-appoġġ ta' mill-anqas żewġ membri ta' l-Awtorità.

(3) Bla hsara għad-dispożizzjonijiet ta' dan l-Att l-Awtorità tista' tirregola l-proċedura tagħha nnifisha.

(4) Bla hsara għall-provvedimenti ta' qabel ta' dan l-artikolu, ebda att jew proċediment ta' l-Awtorità ma għandu jiġi invalidat unikament minhabba f'li jkun hemm xi vakanza fost il-membri.

(5) Kull att magħmul minn xi persuna li jkun qed jaġixxi bonafidi, bhala membru ta' l-Awtorità għandu jkun validu bħallikieku huwa kien membru minkejja li wara jiġi skopert li kien hemm xi difett fil-hatra jew il-kwalifiki tiegħu. Ebda att jew proċediment ta' l-Awtorità ma għandu jiġi kontestat minn xi membru minhabba fil-ksur tad-dispożizzjonijiet tas-subartikolu (8) ta' l-artikolu 3 ta' dan l-Att.

Taqsimu III - Uffiċjali u Impjegati ta' l-Awtorità

Hatriet ta' personal.

9. Bla hsara għall-provvedimenti tal-Kostituzzjoni u ta' kull liġi ohra li tapplika għaliha, u minghajr preġudizzju għall-provvedimenti l-oħra ta' dan l-Att, il-hatra ta' uffiċjali u ta' impjegati ohra ta' l-Awtorità għandha ssir mill-Awtorità. Il-pattijiet u l-kondizzjonijiet ta' l-impieg għandhom jiġu stabbiliti mill-Awtorità bi ftehim mal-Ministru.

Hatra u funzjonijiet ta' l-uffiċjali u l-impjegati ta' l-Awtorità.

10. L-Awtorità għandha tahtar u timpjega, b'dik ir-rimunerazzjoni u b'dawk il-pattijiet u kondizzjonijiet ta' żmien hekk kif tista', skond l-artikolu 9 ta' dan l-Att, tistabbilixxi, lil dawk l-uffiċjali u l-impjegati ta' l-Awtorità bħalma jistgħu minn żmien għal żmien ikunu mehtieġa għat-twettiq dovut u effiċjenti tal-funzjonijiet ta' l-Awtorità.

Assenjament ta' uffiċjali pubbliċi biex jaqdu dmirijiet ma' l-Awtorità.

11. (1) Il-Prim Ministru jista', fuq talba ta' l-Awtorità, minn żmien għal żmien jordna li uffiċjal pubbliku għandu jiġi assenjat biex jaqdi dmirijietu ma' l-Awtorità f'dik il-kapaċità u b'seħh minn dik id-data li tista' tiġi speċifikata fl-ordni tal-Prim Ministru.

(2) Il-perjodu li matulu ordni bħal dik hawn aktar qabel imsemmija għandha tapplika għal xi uffiċjal li jkun speċifikat fiha, għandu, kemm-il darba l-uffiċjal ma jkunx irtira mis-servizz pubbliku, jew xort'ohra temm milli jibqa' fil-kariga f'data li tiġi qabel, jew kemm-il darba ma tiġix speċifikata data differenti f'dik l-ordni, jtemm milli jibqa' jseħh wara sena mid-data effettiva ta' dik l-ordni kemm-il darba l-ordni ma tiġix aktar kmieni revokata mill-Prim Ministru.

12. (1) Meta uffiċjal jiġi assenjat għal dmirijiet ma' l-Awtorità taht xi wiehed mill-provvedimenti ta' l-artikolu 11 ta' dan l-Att, dak l-uffiċjal għandu, matul iż-żmien li fih dik l-ordni jkollha effett dwaru, jkun taht l-awtorità u l-kontroll amministrattivi ta' l-Awtorità iżda huwa għandu għal kull għan u raġuni oħra jibqa' u jitqies u jiġi trattat bħala uffiċjal pubbliku.

Status ta' uffiċjali
pubbliċi assenjati
biex jaqdu dmirijiet
ma' l-Awtorità.

(2) Mingħajr preġudizzju għall-generalità ta' dak hawn aktar qabel imsemmi, uffiċjal li jkun assenjat għal dmirijiet kif hawn aktar qabel imsemmi -

(a) ma għandux waqt iż-żmien li matulu huwa jkun hekk assenjat -

(i) ikun prekluz mill-japplika għal trasferiment f'xi dipartiment tal-Gvern skond il-pattijiet u l-kondizzjonijiet tas-servizz konnessi mal-hatra tiegħu mal-Gvern li jkollu fid-data meta huwa jiġi hekk assenjat għal dmirijietu; jew

(ii) ikun hekk impjegat li r-rimunerazzjoni u l-kondizzjonijiet tas-servizz tiegħu jkunu inqas favorevoli minn dawk li jkunu konnessi mal-hatra tiegħu mal-Gvern li jkollu fid-data hawn aktar qabel imsemmija jew li kienu jkunu konnessi ma' dik il-hatra, matul dak iż-żmien, li kieku dak l-uffiċjal ma jkunx ġie assenjat biex jaqdi dmirijietu ma' l-Awtorità; u

(b) ikollu jedd li s-servizz tiegħu ma' l-Awtorità jiġi kkunsidrat bħala servizz mal-Gvern għall-ghanijiet ta' pensjoni, gratwità, jew benefiċċju taht l-Ordinanza dwar il-Pensjonijiet u l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema u ta' kull dritt jew privileġġ ieħor li huwa jkollu jedd għalih, u responsabbli għal kull responsabbiltà li dwarha huwa jkun responsabbli, hlief għall-fatt li huwa jkun ġie assenjat biex iwettaq dmiru ma' l-Awtorità.

Kap. 93.
Kap. 58.

(3) Meta ssir applikazzjoni kif provdut fis-subparagrafu (i) tal-paragrafu (a) tas-subartikolu (2) ta' dan l-artikolu għandha tingħatalha l-istess konsiderazzjoni daqslikieku l-applikant ma jkunx ġie assenjat għal servizz ma' l-Awtorità.

(4) L-Awtorità għandha thallas lill-Gvern dawk il-kontribuzzjonijiet li jistgħu minn żmien għal żmien jiġu stabbiliti mill-Ministru responsabbli għall-finanzi dwar l-ispiza ta' pensjonijiet u gratwitàjiet li jinqalghu minn uffiċjal li jkun assenjat għal dmirijiet ma' l-Awtorità kif hawn aktar qabel imsemmi matul il-perjodu li fih huwa jkun hekk assenjat.

Offerta ta' impieg permanenti ma' l-Awtorità lil uffiċjali pubbliċi assenjati biex jaqdu dmirijiet ma' l-Awtorità.

13. (1) L-Awtorità tista', bl-approvazzjoni tal-Prim Ministru, toffri lil uffiċjal assenjat għal dmirijiet ma' l-Awtorità taht xi wahda mid-dispożizzjonijiet ta' l-artikolu 11 ta' dan l-Att impieg permanenti ma' l-Awtorità b'dik ir-rimunerazzjoni u b'dawk il-pattijiet u l-kondizzjonijiet li ma jkunux inqas favorevoli minn dawk li jgawdi dak l-uffiċjal fid-data ta' dik l-offerta.

(2) Il-pattijiet u l-kondizzjonijiet f'xi offerta magħmula kif hawn aktar qabel imsemmi ma għandhiex titqies bhala inqas favorevoli biss għaliex ma jkunux għalkollox identiċi jew superjuri għal dawk li l-uffiċjal involut ikun qed igawdi fid-data ta' dik l-offerta, jekk dawk il-pattijiet u l-kondizzjonijiet ikkunsidrati flimkien, fil-fehma tal-Prim Ministru jkunu joffru benefiċċji sostanzjalment ekwivalenti jew akbar.

(3) Kull uffiċjal li jaċċetta impieg permanenti ma' l-Awtorità li jiġi offert lilu, taht id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, għandu għall-ghanijiet kollha minbarra dawk ta' l-Ordinanza dwar il-Pensjonijiet u l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema, u b'riserva għad-dispożizzjonijiet ta' l-artikolu 33 ta' dan l-Att, jitqies bhala li temm ikun fis-servizz tal-Gvern u li jkun dahal fis-servizz ma' l-Awtorità fid-data meta huwa jaċċetta, u għall-finijiet ta' l-imsemmija Ordinanza u ta' l-imsemmi Att, sakemm applikabbli għalih, servizz ma' l-Awtorità għandu jitqies bhala servizz mal-Gvern fi hdan it-tifsiriet tagħhom rispettivament.

(4) Kull uffiċjal bhal dak hawn aktar qabel imsemmi li, minnufih qabel ma jaċċetta impieg permanenti ma' l-Awtorità kellu jedd jikseb benefiċċju taht l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema, għandu jibqa' jkollu dak il-jedd li jibbenefika tahtu għal kull skop bhallikieku s-servizz tiegħu ma' l-Awtorità kien servizz mal-Gvern.

(5) L-Awtorità għandha thallas lill-Gvern dawk il-kontribuzzjonijiet li jistgħu minn żmien għal żmien jiġu stabbiliti mill-Ministru responsabbli għall-finanzi għar-rigward ta' l-ispiza ta' pensjonijiet u gratwitajiet li jinqalghu minn uffiċjal li jkun aċċetta li jwettaq impieg ma' l-Awtorità kif hawn aktar qabel imsemmi matul il-perjodu li jibda fid-data meta dak l-uffiċjal hekk jaċċetta.

(6) (a) Għall-ghanijiet ta' dan l-artikolu il-karigi u l-gradji salarjali ma' l-Awtorità għandhom jiġu klassifikati fi gradi u livelli inkrementali li jkunu l-iktar jikkorrispondu mill-qrib fis-servizz taht il-Gvern ta' Malta b'riferenza għal *job description*, sengha, responsabbiltajiet u fatturi oħra analogi.

(b) Il-klassifikazzjoni msemija fil-paragrafu (a) ta' dan is-subartikolu ghandha ssir minn bord magħmul minn president li jiġi mahtur mill-Ministeru responsabbli għall-finanzi u minn żewġ membri oħra, wiehed mahtur mill-Ministeru centralment responsabbli għal *policies* dwar il-persunal fis-servizz pubbliku u wiehed li jiġi mahtur mill-Awtorità. Il-klassifikazzjoni ghandha ssir u tkun sugġetta għall-approvazzjoni finali tal-Ministru responsabbli għall-finanzi.

(c) Dik il-klassifikazzjoni ghandha ssehh fi żmien tliet xhur minn kull aġġustament tas-salarji ta' impjegati fis-servizz tal-Gvern u, jew, ta' impjegati ta' l-Awtorità.

(d) Ebda kariga ma ghandha tiġi klassifikata fi grad oghla minn dak ta' Grad 3 fis-servizz tal-Gvern jew dak il-grad iehor li l-Ministru responsabbli għall-finanzi jista' minn żmien għal żmien jistabbilixxi b'avviż fil-Gazzetta.

(e) Minghajr preġudizzju għall-artikolu 113 tal-Kostituzzjoni, hadd ma jista', wara klassifikazzjoni kif hawn aktar qabel imsemmi, jkollu jedd għal drittijiet taht l-imsemmija Ordinanza dwar il-Pensjonijiet li jkunu inqas favorevoli minn dawk li kien ikollu jedd għalihom qabel dik il-klassifikazzjoni.

Taqsimha IV - Provvedimenti Finanzjarji

14. (1) Minghajr preġudizzju għall-provvedimenti li ġejjin ta' dan l-artikolu, l-Awtorità ghandha hekk tmexxi l-affarijiet tagħha li l-ispiza meħtieġa għat-tweqqif sew tal-funzjonijiet tagħha ghandha, daqskemm dan ikun prattiku, tinhareġ mid-dhul tagħha.

L-infieq ta' l-Awtorità isir mid-dhul tagħha.

(2) Għal dak l-ghan l-Awtorità ghandha tiġbor kull dritt, rata u hlas iehor preskritti jew meqjusa bħala preskritti b'dan l-Att jew tahtu jew kull liġi oħra li jkollha x'taqsam mas-setgħat u l-funzjonijiet ta' l-Awtorità.

(3) L-Awtorità ghandha wkoll tithallas mill-Gvern mill-Fond Konsolidat dawk l-ammonti li l-Parlament jista' minn żmien għal żmien jawtorizza li jiġu approprijati sabiex minnhom isiru l-ispejjeż ta' xogħlijiet speċifikati biex dawn jitkomplew jew xort'oħra jsiru mill-Awtorità, li jkunu xogħlijiet ta' infrastruttura jew ta' xorta kapitali simili.

(4) Kull eċċess ta' dhul fuq l-infieq għandu, bla hsara għal dawk l-ordnijiet li l-Ministru, wara konsultazzjoni mal-Ministru responsabbli għall-finanzi, jista' minn żmien għal żmien jagħmel, jiġi applikat mill-Awtorità għall-formazzjoni ta' fondi ta' riserva sabiex

dawn jintużaw għall-ghanijiet ta' l-Awtorità; u minghajr preġudizzju għall-ġeneralità tas-setgħat mogħtijin lill-Ministru b'dan is-subartikolu, kull ordni li ssir mill-Ministru kif hawn aktar qabel imsemmi tista' tkun tordna t-trasferiment lill-Gvern, jew l-applikazzjoni b'dak il-mod li jista' jiġi speċifikat fl-ordni, ta' xi parti mid-drittijiet, rati u hlasijiet ohra miġbura skond is-subartikolu (2) ta' dan l-artikolu jew ta' kull eċċess bħal dak kif hawn aktar qabel imsemmi.

(5) Il-flus kollha ta' l-Awtorità li ma jkunux meħtieġa minnufih biex minnhom issir l-ispiza jistgħu jiġu investiti b'dak il-mod li jista' minn żmien għal żmien jiġi approvat mill-Ministru.

Setgħa li tissellef
jew toriġina kapital.

15. (1) Bil-ghan li tkun tista' taqdi kull funzjoni tagħha taħt dan l-Att, l-Awtorità tista', bl-approvazzjoni bil-miktub tal-Ministru li tingħata wara konsultazzjoni mal-Ministru responsabbli għall-finanzi, tissellef jew tiġbor flus b'dak il-mod, minn dik il-persuna, dak il-korp jew dik l-awtorità, u taħt dawk il-pattijiet u l-kondizzjonijiet li l-Ministru jista', wara konsultazzjoni kif hawn aktar qabel imsemmija, japprova bil-miktub.

(2) L-Awtorità tista' wkoll, minn żmien għal żmien, tissellef, b'*overdraft* jew xort'ohra, dawk l-ammonti li tista' tenħtieġ sabiex twetaq il-funzjonijiet tagħha taħt dan l-Att:

Izda għal kull ammont li jkun jeċċedi l-hamsin elf lira, għandu jingħata l-approvazzjoni tal-Ministru bil-miktub.

Avvanzi mill-
Gvern.

16. Il-Ministru responsabbli għall-finanzi jista', wara konsultazzjoni mal-Ministru, jagħmel avvanzi lill-Awtorità ta' dawk l-ammonti li huwa jista' jaqbel li jkunu meħtieġa mill-Awtorità biex din twettaq kull funzjoni tagħha taħt dan l-Att, u jista' jagħmel dawk l-avvanzi b'dawk il-pattijiet u l-kondizzjonijiet li huwa jista', wara dik il-konsultazzjoni hawn aktar qabel imsemmija, iqis li tkun xierqa. Avvanz bħal dak jista' jsir mill-Ministru responsabbli għall-finanzi mill-Fond Konsolidat, u minghajr ebda approprjazzjoni ohra minbarra dan l-Att, b'kitba minnu magħmula li tkun tawtorizza lill-*Accountant General* li jagħmel dak l-avvanz.

Self mingħand il-
Gvern.

17. (1) Il-Ministru responsabbli għall-finanzi jista', għal kull htieġa ta' l-Awtorità ta' xorta kapitali, jikkuntratta jew jiġbor kull self, jew jidhol f'passiv, għal dawk il-perjodi u b'dawk il-pattijiet u kondizzjonijiet hekk kif huwa jista' jqis li jkun xieraq; u kull ammont dovut għar-rigward ta' jew f'konnessjoni ma' xi self jew passiv bħal dak għandu jkun piż fuq il-Fond Konsolidat.

(2) Għandu jinghata avviz dwar kull self, passiv jew avvanz magħmul jew li jsir taht il-provvedimenti ta' qabel ta' dan l-artikolu lill-Kamra tar-Rappreżentanti kemm jista' jkun prattikament malajr.

(3) Sakemm jibda jsir il-gbir ta' xi self bhal dak imsemmi fis-subartikolu (1) ta' dan l-artikolu, jew bil-ghan li l-Awtorità tiġi pprovdata b'kapital funzjonali, il-Ministru responsabbli għall-finanzi jista', b'kitba magħmula minnu nnifsu, u minghajr ebda approprjazzjoni oħra hlief dan l-Att, jawtorizza lill-*Accountant General* li jagħmel avvanzi lill-Awtorità mit-*Treasury Clearance Fund* taht dawk il-pattijiet li jistgħu jiġu speċifikati mill-Ministru meta dawn isiru.

(4) Ir-rikavat minn kull self li jingabar bil-ghan li jsiru avvanzi lill-Awtorità, u kull flus oħra li għandhom jiġu avvanzati lill-Awtorità taht dan l-artikolu, għandhom jitqegħdu ġewwa fond speċifikament stabbilit għal dak l-ghan u li jkun magħruf bhala "Fond għal Self lill-Awtorità ta' Malta dwar il-Komunikazzjoni".

(5) Ammonti li jirċievi l-*Accountant General* mill-Awtorità għar-rigward ta' avvanzi magħmulin lill-Awtorità taht is-subartikolu (3) ta' dan l-artikolu għandhom jithallsu, f'dawk li huma ammonti riċevuti bhala hlas lura billi jitqegħdu fit-*Treasury Clearance Fund* u, f'dawk li huma ammonti riċevuti bhala mgħax billi jitqegħdu fil-Fond Konsolidat.

18. (1) L-Awtorità għandha tara li jithejjew f'kull sena finanzjarja, u għandha mhux iktar tard minn sitt ġimghat wara tmiem kull sena bhal dik tadotta, estimi tad-dhul u l-infieq ta' l-Awtorità għas-sena finanzjarja li tiġi minnufih wara:

Estimi ta' l-Awtorità.

Izda l-estimi għall-ewwel sena finanzjarja ta' l-Awtorità għandhom jiġu mhejjija u adottati f'dak iż-żmien li l-Ministru jista' jispeċifika b'avviz bil-miktub lill-Awtorità.

(2) Fit-thejjija ta' dawk l-estimi l-Awtorità għandha tqis kull fond u flus oħra li jistgħu jkun dovuti li jithallsu lilha mill-Fond Konsolidat matul is-sena finanzjarja rilevanti, sew bis-sahha ta' dan l-Att jew ta' Att ta' approprjazzjoni jew ta' kull liġi oħra; u l-Awtorità għandha hekk thejji l-estimi imsemmija b'mod li tiżgura li d-dhul totali ta' l-Awtorità huma mill-inqas suffiċjenti biex minnhom jithallas kull ammont li sewwasew għandu jintefaq mill-kont tad-dhul tagħha inkluz, iżda minghajr preġudizzju għall-generalità ta' dik il-frazi, d-deprezzament.

(3) L-estimi għandhom isiru f'dik l-ghamla u għandu jkun fihom dik l-informazzjoni u dak it-tqabbil ma' snin ta' qabel hekk kif il-Ministru responsabbli għall-finanzi jista' jordna.

(4) Kopja ta' l-estimi ghandha, meta dawn jigu adottati mill-Awtorità, tintbaghat minnufih mill-Awtorità lill-Ministru u lill-Ministru responsabbli għall-finanzi.

(5) Il-Ministru ghandu, ma' l-ewwel opportunità u mhux iktar tard minn sitt gimgħat wara li jkun irċieva kopja ta' l-estimi minghand l-Awtorità, japprova dawk l-estimi li jistgħu jkunu b'emendi jew mingħajrhom wara konsultazzjoni mal-Ministru responsabbli għall-finanzi.

L-infieq għandu jkun skond l-estimi approvati.

19. (1) Ma ghandha ssir jew tiġġarrab ebda nefqa mill-Awtorità kemm-il darba din ma tkunx giet approvata mill-Ministru kif provdut fl-artikolu 18 ta' dan l-Att.

(2) Minkejja l-provvedimenti tas-subartikolu (1) ta' dan l-artikolu -

(a) sa l-iskadenza ta' sitt xhur mill-bidu ta' sena finanzjarja, jew sa l-approvazzjoni ta' l-estimi għal dik is-sena mill-Ministru, skond liem data tiġi l-ewwel, l-Awtorità tista' tagħmel jew iġġarrab spiża għat-twettiq tal-funzjonijiet tagħha taht dan l-Att li ma tkunx globalment teċċedi nofs l-ammont approvat mill-Ministru għas-sena finanzjarja preċedenti;

(b) in-nefqa approvata għar-rigward ta' intestatura jew sotto-intestatura ta' l-estimi tista', bl-approvazzjoni tal-Ministru li tingħata wara konsultazzjoni mal-Ministru responsabbli għall-finanzi, issir jew tiġġarrab għar-rigward ta' xi intestatura jew sotto-intestatura ohra ta' l-estimi;

(ċ) għar-rigward ta' l-ewwel sena finanzjarja, l-Awtorità tista' tagħmel jew iġġarrab nefqa li ma tkunx globalment teċċedi dawk l-ammonti li l-Ministru responsabbli għall-finanzi jista, wara konsultazzjoni mal-Ministru, jippermetti;

(d) jekk għar-rigward ta' xi sena finanzjarja jinstab li l-ammont approvat mill-Ministru ma jkunx suffiċjenti jew inkella tkun inqalghet htieġa għal nefqa għal għan li ma jkunx hemm provdut dwaru fl-estimi, l-Awtorità tista' tadotta estimi supplimentari għall-approvazzjoni tal-Ministru u f'kull każ bhal dak il-provvedimenti ta' dan l-Att applikabbli għall-estimi għandhom kemm jistgħu ikunu japplikaw għall-estimi supplimentari.

Pubblikazzjoni ta' l-estimi approvati.

20. L-estimi u l-estimi supplimentari kollha ta' l-Awtorità approvati mill-Ministru għandhom, kemm jista' jkun prattikament malajr, jitqegħdu fuq il-Mejda tal-Kamra tar-Rappreżentanti.

21. (1) L-Awtorità ghandha tara li jinżammu kontijiet u records ohra sew ghar-rigward ta' l-operazzjonijiet taghha, u ghandha tara li jithejja prospett ta' kontijiet ghar-rigward ta' kull sena finanzjarja.

Kontijiet u verifika.

(2) Il-kontijiet ta' l-Awtorità ghandhom jigu verifikati minn awditur jew awdituri li jinhatru mill-Awtorità u jigu approvati mill-Ministru:

Iżda l-Ministru responsabbli għall-finanzi jista', wara konsultazzjoni mal-Ministru, jehtieg li l-kotba u l-kontijiet ta' l-Awtorità jigu verifikati jew eżaminati mill-Awditur Ġenerali li għandu għal dak l-għan ikollu s-setgħa li jikkontrolla fizikament u jagħmel dawk l-aċċertamenti li huwa jista' jqis li jkunu mehtieġa.

(3) Wara tmiem kull sena finanzjarja, u mhux aktar tard mid-data meta l-estimi ta' l-Awtorità jintbagħtu lill-Ministru taht l-artikolu 18 ta' dan l-Att, l-Awtorità ghandha tara li kopja tal-prospett tal-kontijiet debitament verifikat ghandha tintbagħat lill-Ministru u lill-Ministru responsabbli għall-finanzi flimkien ma' kopja ta' kull rapport magħmul mill-awdituri dwar dak il-prospett jew fuq il-kontijiet ta' l-Awtorità.

(4) Il-Ministru għandu, kemm jista' jkun malajr, jara li kopja ta' kull prospett u rapport bhal dak titqiegħed fuq il-Mejda tal-Kamra tar-Rappreżentanti.

22. (1) Il-flus kollha li jingabru mill-Awtorità għandhom jitqiegħdu f'bank jew banek li jinhatru bhala bankiera ta' l-Awtorità b'riżoluzzjoni ta' l-Awtorità. Dawk il-flus għandhom, skond kemm ikun prattiku, jitqiegħdu f'dawk il-banek minn jum għall-iehor, hlief għal dak l-ammont li l-Awtorità tista' tawtorizza li għandu jinżamm sabiex isiru nefqiet żgħar minnu u hlasijiet ta' flus likwidi ta' minnufih.

Depożitu tad-dhul u hlasijiet li jsiru mill-Awtorità.

(2) Kull hlas mill-fondi ta' l-Awtorità, minbarra nefqiet żgħar li ma jkunux jeċċedu ammont stabbilit mill-Awtorità, għandhom isiru minn dak l-uffiċjal jew dawk l-uffiċjali ta' l-Awtorità li l-Awtorità tahtar jew tinnomina għal dak l-għan.

(3) Ċekkijiet li jinħarġu fuq, u żbanki li jsiru minn, xi kont tal-bank ta' l-Awtorità għandhom ikunu ffirmati minn dak l-uffiċjal ta' l-Awtorità hekk kif jista' jiġi mahtur jew nominat mill-Awtorità għal dak l-għan u għandhom ikunu kontrosenjati mill-President, jew minn dak il-membri jew uffiċjal ieħor ta' l-Awtorità li jista' jiġi awtorizzat mill-Awtorità għal dak l-għan.

(4) L-Awtorità għandha wkoll tagħmel provvedimenti ghar-rigward ta' -

(a) il-mod kif il-hlasijiet ghandhom jigu awtorizzati jew approvati u l-ufficjal jew ufficjali li ghandhom jawtorizzawhom jew japprovawhom;

(b) it-titolu ta' kull kont mizmum f'bank jew banek fejn jigu depożitati l-flus ta' l-Awtorità, u t-trasferiment ta' fondi minn kont ghall-iehor;

(c) il-metodu li ghandu jigi adottat meta jkun qed jithallsu flus mill-fondi ta' l-Awtorità;

u ġeneralment ghar-rigward ta' kull haġa li hi rilevanti ghat-tizmim u kontroll sew tal-kontijiet u l-kotba, u l-kontroll tal-finanzi, ta' l-Awtorità.

Kuntratti ta' provvista ta' xoghlijiet.

23. Minghajr preġudizzju ghal kull ordni komunikata mill-Ministru taht is-subartikolu (1) ta' l-artikolu 6 ta' dan l-Att, l-Awtorità ma ghandhiex, hliet bl-approvazzjoni tal-Ministru mogħtija ghal raġunijiet speċjali u wara konsultazzjoni mal-Ministru responsabbli ghall-finanzi, tagħti jew tidhol f'xi kuntratt ghall-provvista ta' oġġetti jew materjal jew ghall-eżekuzzjoni ta' xoghlijiet, jew ghall-ghoti ta' servizzi, lil jew ghall-benefiċċju ta' l-Awtorità, li jkun stmat mill-Awtorità li jeċċedi tliet elef lira fil-valur, jew dak l-ammont l-iehor li l-Ministru responsabbli ghall-finanzi jista' b'regolamenti jippreskrivi, hliet wara li jkun ġie ppubblikat avviż dwar l-intenzjoni ta' l-Awtorità li tidhol fil-kuntratt u jkunu nharġu s-sejhiet ghal offerti kompetittivi.

Rapport Annwali.

24. L-Awtorità ghandha, mhux aktar tard minn sitt ġimghat wara tmiem kull sena finanzjarja, tagħmel u tibghat lill-Ministru u lill-Ministru responsabbli ghall-finanzi rapport li jkun ġeneralment jittratta dwar l-attivitajiet ta' l-Awtorità matul dik is-sena finanzjarja u li jkun fih dik l-informazzjoni relattiva ghall-proċedimenti u l-*policy* ta' l-Awtorità b'dak il-mod li xi wiehed mill-Ministri msemmija jista' minn żmien għal żmien ikun jehtieg. Il-Ministru ghandu jara li kopja ta' kull rapport bhal dak titqiegħed fuq il-Mejda tal-Kamra kemm jista' jkun malajr.

Eżenzjoni mill-intaxxar.

25. L-Awtorità ghandha tkun eżenti minn kull responsabbiltà għall-hlas ta' taxxa fuq l-*income* u taxxa fuq id-dokumenti taht xi liġi li f'dak il-waqt tkun fis-sehh.

Taqsim V - Trasferiment ta' Ċerti Assi lill-Awtorità

26. (1) L-assi u l-impriżi li l-Gvern ikollu bi proprjetà u li huwa juża, minnufih qabel id-data tal-bidu fis-seħħ ta' din it-Taqsim ta' dan l-Att, u li huwa juża għat-thaddim ta' xi wahda mill-funzjonijiet li b'dan l-Att qeghdin jiġu trasferiti lil jew vestiti fl-Awtorità għandhom, fid-data hawn aktar qabel imsemmija bis-sahha ta' dan l-Att u mingħajr ebda sigurtà oħra, jiġu hekk trasferiti lil u vestiti fl-Awtorità taht l-istess titolu li bih huma kienu nżammu mill-Gvern minnufih qabel id-data imsemmija.

Trasferiment ta' assi
lill-Awtorità.

(2) It-trasferiment u l-vestizzjoni hawn aktar qabel imsemmija għandhom jistendu għal dik il-proprjetà u dawk l-impriżi kollha u, mingħajr preġudizzju għall-ġeneralità hawn aktar qabel imsemmija, għandhom jinkludu kull impjant, tagħmir, apparat, strumenti, vetturi, ingeni, bini, strutturi, stallazzjonijiet, art, toroq, xogħlijiet, hażniet u proprjetà oħra, sew mobbli sew immobbli, assi, setgħat, jeddijiet u privileġġi u kull haġa meħtieġa jew anċillari għalihom jew li lilhom tappartjeni, kif ukoll kull obligazzjoni li tolqot jew ikollha x'taqsam ma' xi proprjetà jew impriża minn dawk hawn aktar qabel imsemmija jew haġa oħra hemm inkluża kif imsemmi hawn aktar qabel.

27. Bla hsara għad-dispożizzjonijiet ta' dan l-Att, kull liġi, regola, regolament, ordni, sentenza, digriet, deċiżjoni, kuntratt, *bonds*, kuntratt, ftehim, strument, dokument, *warrant* u kull arrangament iehor li kienu jeżistu minnufih qabel id-dhul fis-seħħ ta' din it-Taqsim ta' dan l-Att u li kienu jolqtu jew jirrelataw għal xi proprjetà jew impriża trasferita lill-Awtorità b'dan l-Att jew tahtu għandu jkollhom saħħa u effett shiħ kontra jew favur l-Awtorità, u għandhom jiġu esegwiti għalkollox liberament u effettivament bħallikieku, minflok il-Gvern jew awtorità tal-gvern, l-Awtorità kienet imsemmija fihom jew kienet parti fihom, u xort'oħra b'sostituzzjoni tal-Gvern jew awtorità tal-gvern.

Kif jiftehmu l-
liġijiet, eċċ.

28. (1) Meta xi haġa tkun inbdiet minn jew taht l-awtorità tal-Gvern qabel id-data tad-dhul fis-seħħ ta' din it-Taqsim ta' dan l-Att u dik il-haġa tkun relatata ma' xi proprjetà jew impriża jew xi dritt jew obligazzjoni trasferiti lill-Awtorità b'dan l-Att jew tahtu, dik il-haġa tista' titkompla u tintemm mill-Awtorità jew kif jiġi awtorizzat minnha.

Dispożizzjonijiet
transitorji.

(2) Meta minnufih qabel id-dhul fis-seħħ ta' din it-Taqsim ta' dan l-Att, ikun hemm pendenti xi proċedimenti legali li fihom il-Gvern ikun, jew ikollu jedd ikun, parti, u dawk il-proċedimenti jkun relatati ma' xi proprjetà jew impriża, jew xi dritt jew obligazzjoni trasferiti b'dan l-Att jew tahtu, l-Awtorità għandha, mid-data hawn aktar qabel imsemmija, tidhol f'dawk il-proċediment minflok il-Gvern, jew

issir parti fihom bl-istess mod li kieku kien il-Gvern isir parti, u dawk il-proċedimenti ma ghandhomx jiġu effettwati minhabba f'sostituzzjoni bhal dik.

(3) Il-Ministru jista' b'ordni jagħmel dawk il-provvedimenti incidentali, konsegwenzjali u supplementali kif jista' jqis li jkunu xierqa jew spedjenti bil-ghan li jiġi stabbilit, kif ikun sew, x'ikunu l-assi trasferiti lill-Awtorità b'dan l-Att u jiżgura u jagħti effett shih lit-trasferiment ta' kull proprjetà jew impriża jew kull dritt jew obbligazzjoni lill-Awtorità b'dan l-Att u jagħmel dawk l-ordnijiet li jistghu jkunu mehtieġa biex jagħmel kull setgħa u dmir eżerċitabbli mill-Gvern għar-rigward ta' xi proprjetà jew impriża trasferita eżerċitabbli mill-Awtorità jew f'isimha.

Taqsim VI - Kumitati Konsultorji

Hatra u funzjonijiet ta' kumitati konsultorji.

29. (1) B'seħħ minn dik id-data jew dawk id-dati li l-Ministru jista' b'ordni jistabilixxi, għandhom jinhatru għar-rigward ta' dak is-settur li l-Ministru jista' f'ordni bhal dak jispeċifika, kumitat konsultorju.

(2) Kumitat konsultorju għandu, għall-aħjar twettiq tal-provvedimenti ta' dan l-Att, jagħti parir lill-Awtorità dwar dawk l-affarijiet u jwettaq dawk il-funzjonijiet l-oħra li l-Ministru jista' jispeċifika fl-Ordni.

(3) Il-membri tal-kumitat għandhom jinhatru mill-Ministru u għandhom jibqgħu f'dik il-kariga għal dak il-perjodu u b'dawk il-pattijiet u kondizzjonijiet li l-Ministru jista' jqis li jkunu xierqa.

(4) Kull kumitat ikun jikkonsisti f'membri wiehed li jirrappreżenta lill-Awtorità bhala President u dawk il-membri l-oħra li l-Ministru jista' jqis li jkun xieraq li jahtar.

(5) Il-provvedimenti tal-paragrafu (a) tas-subartikolu (4), u s-subartikoli (5) u (8) ta' l-artikolu 8 ta' dan l-Att għandhom *mutatis mutandis* ikunu japplikaw għall-membri tal-kumitati konsultorji.

(6) Kull kumitat konsultorju għandu jzomm il-minuti tal-laqgħat kollha li jagħmel u għandu jibgħat kopji ta' dawk il-minuti lill-Awtorità. Id-dispożizzjonijiet ta' l-artikolu 8 ta' dan l-Att għandhom ikun *mutatis mutandis* japplikaw għall-kumitat u l-attijiet jew proċedimenti tiegħu.

Taqsim VIII - Mixellanji

30. Il-membri ta' l-Awtorità, il-membri tal-kumitati konsultorji u l-uffiċjali u l-impjegati kollha ta' l-Awtorità għandhom jitqiesu li huma uffiċjali pubbliċi għall-iskop tat-tifsira tal-Kodiċi Kriminali.

Persuni li jitqiesu bħala uffiċjali pubbliċi.
Kap. 9.

31. Il-Ministru jista', wara konsultazzjoni ma' l-Awtorità, jagħmel regolamenti għar-rigward ta' kull waħda mill-funzjonijiet ta' l-Awtorità.

Setgħa ta' għemil ta' regolamenti.

32. (1) B'effett mill-bidu fis-sehħ ta' dan l-artikolu il-liġijiet murija fl-Ewwel Kolonna tat-Tieni Skeda li tinsab ma' dan l-Att għandu jkollhom effett bla ħsara għall-emendi murija fit-Tieni Kolonna ta' l-imsemmija Skeda.

Revoka u riservi.

(2) Kull leġislazzjoni sussidjarja preskritta taht xi wiehed mill-provvedimenti ta' l-Att li qed jiġi emendat għandha, sakemm ma jsirx provvediment ieħor taht jew bis-saħħa ta' dan l-Att jew ta' xi Att ieħor, tkompli ssehħ u jkollha effett.

L-EWWEL SKEDA

(Artikolu 5 (2))

Direttorati

Bla hsara ghas-setghat li ghandu l-Ministru taht is-subartikolu (2) ta' l-artikolu 5 ta' dan l-Att, ghandu jkun hemm dawn id-Direttorati li ġejjin -

1. Direttorat ghat-Telekomunikazzjonijiet b'responsabbiltà ghar-regolament ta' kull pratika li tirrigwarda t-telekomunikazzjonijiet kif tista' minn żmien ghal żmien tkun assenjata lill-Awtorità minn jew taht Att tal-Parlament.

2. Direttorat ghall-Protezzjoni ta' Data b'responsabbiltà ghar-regolament ta' kull pratika li tirrigwarda l-protezzjoni ta' data li tista' minn żmien ghal żmien tkun assenjata lill-Awtorità minn jew taht Att tal-Parlament.

3. Direttorat ghal Sistemi ta' Informazzjoni u Sistemi Ohra b'responsabbiltà ghar-regolament ta' kull pratika li tirrigwarda l-kummerċ elettroniku kif ukoll informazzjoni u sistemi ohra li jistgħu minn żmien ghal żmien ikunu assenjati lill-Awtorità minn jew taht Att tal-Parlament.

IT-TIENI SKEDA

(Artikolu 32)

L-Ewwel Kolonna
Ligi

It-Tieni Kolonna
Emendi Relattivi

Att ta' l-1997 biex jirregola t-Telekomunikazzjoni, Att XXXIII ta' l-1997.

1. (1) Il-kelma "Awtorità" ghandha tidhol minflok il-kelma "Regolatur" kif ġej: fit-tifsira ta' "obbligu ta' servizz universali" fl-artikolu 2 minflok il-kliem "mir-Regolatur" ghandhom jidhlu l-kliem "mill-Awtorità";

fin-nota marginali ghall-artikolu 3 minflok il-kliem "ta' Regolatur" ghandhom jidhlu l-kliem "ta' Awtorità";

fin-nota marginali ghall-artikolu 4 minflok il-kliem "tar-Regolatur" ghandhom jidhlu l-kliem "ta' l-Awtorità";

fis-subartikolu (1), ta' l-artikolu 6 minflok il-kliem "mir-Regolatur" ghandhom jidhlu l-kliem "mill-Awtorità";

fis-subartikolu (2) ta' l-artikolu 6 minflok il-kliem "Ir-Regolatur jista' jichad" ghandhom jidhlu l-kliem "L-Awtorità tista' tichad";

fis-subartikolu (3) ta' l-artikolu 6 minflok il-kliem "tar-Regolatur" ghandhom jidhlu l-kliem "ta' l-Awtorità";

fis-subartikolu (1) ta' l-artikolu 7 minflok il-kliem "lir-Regolatur" kull fejn jinsabu u "mir-Regolatur" ghandhom rispettivament jidhlu l-kliem "lill-Awtorità" u "mill-Awtorità", u minflok il-kliem "ir-Regolatur jista' ragonevolment jehtieg sabiex ikun jista' jikkunsidra" ghandhom jidhlu l-kliem "l-Awtorità tista' ragonevolment tehtieg sabiex tkun tista' tikkunsidra";

fis-subartikolu (3) ta' l-artikolu 7 minflok il-kliem "r-Regolatur tasallu", "huwa ghandu jara" u "billi jaghti" ghandhom rispettivament jidhlu l-kliem "l-Awtorità taslilha", "hija ghandha tara" u "billi taghti";

fis-subartikolu (4) ta' l-artikolu 7 minflok il-kliem "Ir-Regolatur ghandu jikkunsidra", "jkun ghamel", "qies", "u jista'", "jehtieg" u "jista' jqis" ghandhom rispettivament jidhlu l-kliem "L-Awtorità ghandha tikkunsidra", "tkun ghamlet", "qieset", "u tista'", "tehtieg" u "tista' tqis";

fis-subartikolu (1) ta' l-artikolu 8 minflok il-kliem "Ir-Regolatur ghandu jtemm", "u ghandu", "jagħmel" u "jipprezentah" ghandhom rispettivament jidhlu l-kliem "L-Awtorità ghandha ttemm", "u ghandha", "tagħmel" u "tipprezentah";

fis-subartikolu (2) ta' l-artikolu 8 minflok il-kliem "ir-Regolatur ghandu japprova" u "u jagħti" ghandhom rispettivament jidhlu l-kliem "l-Awtorità ghandha tapprova" u "u tagħti";

fis-subartikolu (3) ta' l-artikolu 8 minflok il-kliem "ir-Regolatur ikun", "huwa ghandu jgharraf" u "jiċhad" ghandhom rispettivament jidhlu l-kliem "l-Awtorità tkun", "hija ghandha tgharraf" u "tiċhad";

fis-subartikolu (4) ta' l-artikolu 8 minflok il-kliem "ir-Regolatur jirrikmanda" ghandhom jidhlu l-kliem "l-Awtorità tirrikmanda";

fis-subartikolu (1) ta' l-artikolu 9 minflok il-kliem "Ir-Regolatur jista' jiċhad li jawtorizza" u "jekk ikun" ghandhom rispettivament jidhlu l-kliem "L-Awtorità tista' tiċhad li tawtorizza" u "jekk tkun";

fis-subartikolu (2) ta' l-artikolu 9 minflok il-kliem "Ir-Regolatur jista' wkoll jiċhad" u "ikollu għaliex jahseb" ghandhom rispettivament jidhlu l-kliem "L-Awtorità tista' wkoll tiċhad" u "ikollha għaliex tahseb";

fis-subartikolu (3) ta' l-artikolu 9 minflok il-kliem "Ir-Regolatur ghandu jgharraf", "jiċhad" u "huwa ghandu fil-qosor ifisser" ghandhom rispettivament jidhlu l-kliem "L-Awtorità ghandha tgharraf", "tiċhad" u "hija ghandha fil-qosor tfisser";

fis-subartikolu (2) ta' l-artikolu 10 minflok il-kliem "ir-Regolatur" ghandhom jidhlu l-kliem "l-Awtorità";

fil-paragrafu introduttorju u fil-paragrafu (b) ta' l-artikolu 13 minflok il-kliem "mir-Regolatur" kulfejn jinsabu ghandhom jidhlu l-kliem "mill-Awtorità";

fil-paragrafu (d) ta' l-artikolu 14 minflok il-kliem "lir-Regolatur" ghandhom jidhlu l-kliem "lill-Awtorità";

fil-paragrafu (f) ta' l-artikolu 14 minflok il-kliem "tar-Regolatur hekk kif jista' jkun awtorizzat li johroġ" ghandhom rispettivament jidhlu l-kliem "ta' l-Awtorità hekk kif tista' tkun awtorizzata li tohroġ";

fis-subartikolu (1) ta' l-artikolu 15 minflok il-kliem "mir-Regolatur" kulfejn jinsabu ghandhom jidhlu l-kliem "mill-Awtorità";

fis-subartikolu (2) ta' l-artikolu 15 minflok il-kliem "lir-Regolatur" ghandhom jidhlu l-kliem "lill-Awtorità";

fis-subartikolu (3) ta' l-artikolu 15 minflok il-kliem "ir-Regolatur japprova" u "huwa ghandu jikkomunika" ghandhom rispettivament jidhlu l-kliem "l-Awtorità tapprova" u "hija ghandha tikkomunika";

fis-subartikolu (4) ta' l-artikolu 15 minflok il-kliem "ir-Regolatur ma japprovax", "huwa ghandu javża", "jelenka" u "ghar-Regolatur" ghandhom rispettivament jidhlu l-kliem "l-Awtorità ma tapprovax", "hija ghandha tavża", "telenka" u "ghall-Awtorità";

fis-subartikolu (5) ta' l-artikolu 15 minflok il-kliem "lir-Regolatur", "r-Regolatur ghandu jirreġistra", "ma jirrifjutax" u "mir-Regolatur" kulfejn dawn jinsabu fiż-żewġ provisos li hemm mieghu, ghandhom rispettivament jidhlu l-kliem "lill-Awtorità", "l-Awtorità ghandha tirreġistra", "ma tirrifjutax" u "mill-Awtorità";

fis-subartikolu (6) ta' l-artikolu 15 minflok il-kliem "mir-Regolatur" ghandhom jidhlu l-kliem "mioll-Awtorità";

fis-subartikolu (8) ta' l-artikolu 15 minflok il-kliem "mir-Regolatur", "Ir-Regolatur jista' jikkonsulta ruhu" u "r-Regolatur jista' johroġ" ghandhom rispettivament jidhlu l-kliem "mill-Awtorità", "L-Awtorità tista' tikkonsulta ruhha" u "l-Awtorità tista' tohroġ";

fil-paragrafu (d) ta' l-artikolu 16 minflok il-kliem "mir-Regolatur" ghandhom jidhlu l-kliem "mill-Awtorità";

fis-subartikolu (1) ta' l-artikolu 17, u l-paragrafi (b) u (d) tiegħu, minflok il-kliem "mir-Regolatur", "r-Regolatur jista' jtawwal", u "lir-Regolatur li jirrevokaha" ghandhom rispettivament jidhlu l-kliem "mill-Awtorità", "l-Awtorità tista' ttawwal", u "lill-Awtorità li tirrevokaha";

fis-subartikolu (1) ta' l-artikolu 19 minflok il-kliem "Ir-Regolatur ghandu jistabbilixxi" u "jalloka" ghandhom rispettivament jidhlu l-kliem "L-Awtorità ghandha tistabbilixxi" u "talloka";

fis-subartikolu (2) ta' l-artikolu 19 minflok il-kliem "mir-Regolatur" u "huwa jista'" u "iqis" ghandhom rispettivament jidhlu l-kliem "mill-Awtorità" u "hija tista'" u "tqis";

fis-subartikolu (1) ta' l-artikolu 21 minflok il-kliem "lir-Regolatur" u "mir-Regolatur" kulfejn jinsabu ghandhom rispettivament jidhlu l-kliem "lill-Awtorità" u "mill-Awtorità";

fis-subartikolu (2) ta' l-artikolu 21 minflok il-kliem "Ir-Regolatur ghandu jaghti", "li jagixxi" u "jaghti r-ragunijiet tieghu" ghandhom rispettivament jidhlu l-kliem "L-Awtorità ghandha taghti", "li tagixxi" u "taghti r-ragunijiet taghha";

fis-subartikolu (3) ta' l-artikolu 21 minflok il-kliem "mir-Regolatur", "lir-Regolatur li jittrattaha", "Ir-Regolatur ghandu jhares" u "huwa ma jqisx" ghandhom rispettivament jidhlu l-kliem "mill-Awtorità", "lill-Awtorità li tittrattaha", "L-Awtorità ghandha thares" u "hija ma tqisx";

fin-nota marginali u fis-subartikolu (1) ta' l-artikolu 22 minflok il-kliem "mir-Regolatur" u "lir-Regolatur" ghandhom rispettivament jidhlu l-kliem "mill-Awtorità" u "lill-Awtorità";

fis-subartikolu (2) ta' l-artikolu 22 minflok il-kliem "isir jaf", "huwa jhoss", "ir-Regolatur ghandu javża" u "jippermettilhom" ghandhom rispettivament jidhlu l-kliem "ssir taf", "hija thoss", "l-Awtorità ghandha tavża" u "tippermettilhom";

minflok is-subartikolu (3) ta' l-artikolu 22 ghandu jidhol il-kliem "(3) Wara li tkun debitament ezaminat u qieset il-fatti migjuba quddiemha u kull taghrif iehor hekk kif hija tista' tehtieg, l-Awtorità tista' tohrog dawk id-direttivi li jista' jkollha s-setgha li taghmel u hekk kif jista' jidhrilha li jkun xieraq.";

fin-nota marginali u fis-subartikolu (1) ta' l-artikolu 23 minflok il-kliem "lir-Regolatur" u "ir-Regolatur" ghandhom rispettivament jidhlu l-kliem "lill-Awtorità" u "l-Awtorità";

fis-subartikolu (2) ta' l-artikolu 23 minflok il-kliem "lir-Regolatur sabiex jinvestiga" ghandhom jidhlu l-kliem "lill-Awtorità sabiex tinvestiga";

fis-subartikolu (3) ta' l-artikolu 23 minflok il-kliem "lir-Regolatur" ghandhom jidhlu l-kliem "lill-Awtorità";

minflok is-subartikolu (5) ta' l-artikolu 23 ghandu jidhol il-kliem "(5) L-Awtorità mbagħad teżamina l-ilment, u dawk il-fatti l-oħra li tista' tqis meħtieġa bil-ghan li tasal għal konkluzjoni u tista' tieħu dawk il-passi u toħroġ dawk id-direttivi li jkunu jaqgħu taħt is-setgħat tagħha hekk kif tqis xieraq.";

fis-subartikolu (2) ta' l-artikolu 24 minflok il-kliem "mir-Regolatur" ghandhom jidhlu l-kliem "mill-Awtorità";

fl-intestatura numru 5 tat-Taqsima II minflok il-kliem "tar-Regolatur" ghandhom jidhlu l-kliem "ta' l-Awtorità";

minflok is-subartikolu (3) ta' l-artikolu 26 ghandu jidhol il-kliem "(3) L-Awtorità tistaq' f'kull waqt teħtieġ li apparat jiġi ttestjat f'dak il-lok u hin u b'dak il-mod hekk kif hija tista' tordna.";

fis-subartikolu (1) ta' l-artikolu 28, u fil-paragrafu (d) tiegħu, minflok il-kliem "Ir-Regolatur jagħmel" u "li jagħti pariri" ghandhom rispettivament jidhlu l-kliem "L-Awtorità tagħmel" u "li tagħti pariri";

fis-subartikolu (2) ta' l-artikolu 28 minflok il-kliem "ir-Regolatur jista' jagħmel", "li jista' jqis" "jiżgura" ghandhom rispettivament jidhlu l-kliem "l-Awtorità tista' tagħmel", "li tista' tqis" "tiżgura";

fil-paragrafi (d) u (e) tas-subartikolu (1) ta' l-artikolu 30 minflok il-kliem "mir-Regolatur" kulfejn jinsabu ghandhom jidhlu l-kliem "mill-Awtorità";

fl-artikolu 32 minflok il-kliem minn "ir-Regolatur" sa "jagħmel appell" ghandhom jidhlu l-kliem "l-Awtorità jekk

din thoss ruhha mhux sodisfatta b'xi decizjoni bhal dik, tista' dwar kull punt ligi taghmel appell”;

fis-subartikolu (1) ta' l-artikolu 33 minflok il-kliem “tar-Regolatur jew” ghandhom jidhlu l-kliem “ta' l-Awtorità sew”;

fis-subartikolu (2) ta' l-artikolu 33, fil-paragrafu (a), minflok il-kliem “lir-Regolatur”, “ir-Regolatur jista' jehtieg” u “tieghu taht” ghandhom rispettivament jidhlu l-kliem “lill-Awtorità”, “l-Awtorità tista' tehtieg” u “taghha taht”; u fil-paragrafu (d) minflok il-kliem “lir-Regolatur” u “minnu” ghandhom rispettivament jidhlu l-kliem “lill-Awtorità” u “minnha”;

fis-subartikolu (3) ta' l-artikolu 33 minflok il-kliem “lir-Regolatur” ghandhom jidhlu l-kliem “lill-Awtorità”;

fis-subartikolu (4) ta' l-artikolu 33 minflok il-kliem “ir-Regolatur ikollu s-setgha li johrog” ghandhom jidhlu l-kliem “l-Awtorità ikollha s-setgha li tohrog”;

fis-subartikolu (5) ta' l-artikolu 33 minflok il-kliem “r-Regolatur johrog”, “jipprovdi”, “jista' jqis” u “jizgura” ghandhom rispettivament jidhlu l-kliem “l-Awtorità tohrog”, “tipprovdi”, “tista' tqis” u “tizgura”;

fis-subartikolu (2) ta' l-artikolu 34 minflok il-kliem “lir-Regolatur” ghandhom jidhlu l-kliem “lill-Awtorità”;

fis-subartikolu (1) ta' l-artikolu 35 minflok il-kliem “tar-Regolatur” ghandhom jidhlu l-kliem “ta' l-Awtorità”;

fil-paragrafu (a) tas-subartikolu (2) ta' l-artikolu 37 minflok il-kliem “ir-Regolatur”, “sucçessur”, “ghandu jkollu” u “jassumi” ghandhom rispettivament jidhlu l-kliem “l-Awtorità”, “sucçessura”, “ghandu jkollha” u “tassumi”; u

fil-paragrafu (b) tas-subartikolu (2) ta' l-artikolu 37 minflok il-kliem “lir-Regolatur” ghandhom jidhlu l-kliem “lill-Awtorità”.

(2) Minflok il-kliem “infrastruttura”, “l-infrastruttura” u “ ta' l-infrastruttura” kulfejn jinsabu fil-provvedimenti li gejjin ghandhom rispettivament jidhlu l-

kliem “sistema”, “is-sistema” u “tas-sistema” kif ġej: fl-artikolu 2, fit-tifsiriet “awtorizzazzjoni”, “provditur awtorizzat”, “infrastruttura ta’ telekomunikazzjonijiet privati”, “servizz ta’ telekomunikazzjonijiet privati” u “servizz ta’ telekomunikazzjonijiet”, fl-intestatura numru 2 tat-Taqsima II, fis-subartikolu (1) ta’ l-artikolu 5, fis-subartikolu (2) ta’ l-artikolu 7, fis-subartikolu (1) ta’ l-artikolu 9, fl-artikolu 13 u fin-nota marginali u l-paragrafi (a), (b) u (ċ) tiegħu, fis-subartikoli (1) u (2) ta’ l-artikolu 14A, fis-subartikolu (1) ta’ l-artikolu 22 u fis-subartikolu (1) ta’ l-artikolu 27 u fil-paragrafi (a) u (d) tas-subartikolu (1) ta’ l-artikolu 34.

(3) Fit-test Inġliż, minflok il-kelma “he” ghandha tidhol il-kelma “it” kif ġej: fis-subartikoli (3) u (4) ta’ l-artikolu 7, fis-subartikolu (3) ta’ l-artikolu 8, fis-subartikolu (1) ta’ l-artikolu 9, fil-paragrafu (f) ta’ l-artikolu 14, fis-subartikoli (3), (4) u (5) ta’ l-artikolu 15, fis-subartikolu (2) ta’ l-artikolu 19, fil-hames linja tas-subartikolu (3) ta’ l-artikolu 21, fis-subartikoli (2) u (3) ta’ l-artikolu 22, fis-subartikolu (5) ta’ l-artikolu 23, fis-subartikolu (3) ta’ l-artikolu 26 u fis-subartikolu (5) ta’ l-artikolu 33.

2. (1) Fl-artikolu 2, wara l-kliem “F’dan l-Att,” ghandhom jidhlu l-kliem “u f’regolamenti magħmulin tahtu,”.

(2) Dawn it-tifsiriet li ġejjin ghandhom jithassru: “awtorizzazzjoni”, “kumpannija msemija”, “data operattiva”, “servizz ieħor”, “infrastruttura ta’ telekomunikazzjonijiet pubbliċi”, “servizz ta’ telekomunikazzjonijiet pubbliċi”, “kummerċ rilevanti”, “telekomunikazzjonijiet”, “infrastruttura ta’ telekomunikazzjoni” u “telefonija”.

(3) Fl-artikolu 2, ghandhom jizdiedu dawn it-tifsiriet godda li ġejjin:

(a) Wara t-tifsira ta’ “apparat”:

“ “awtorizzazzjoni” tinkludi kull liċenza jew permess mahruġ taht dan l-Att sabiex tiġi installata jew imhaddma ta’ telekomunikazzjonijiet jew sabiex jiġi pprovdut servizz ta’

telekomunikazzjonijiet u tinkludi awtorizzazzjonijiet ġenerali u liċenzi individwali kif imfissra fl-artikolu 6 ta' dan l-Att;”.

(b) Wara t-tifsira ta' “Bord”:

“ “attivitajiet kummerċjali konnessi mat-telekomunikazzjonijiet” tfisser il-provdiment ta' servizzi ta' telekomunikazzjonijiet jew il-forniment jew esportazzjoni ta' apparat tat-telekomunikazzjonijiet jew il-produzzjoni jew il-ksib ta' dak l-apparat biex jiġi provdut jew esportat;

“awtorità kompetenti” jew “Awtorità” tfisser il-persuna jew il-korp imsemmi bhala l-awtorità kompetenti fl-artikolu 3 ta' dan l-Att u sal-limitu ta' l-awtorità mogħtija tinkludi lil kull persuna minnha awtorizzata għal kull għan li jkun;

“iġġorr” tinkludi titrasmetti, tiswiċċja u tircievi u “garr” għandha tiftiehem skond hekk;”.

(ċ) Wara t-tifsira ta' “sistema elettro-manjetika”:

“ “privileġġ esklużiv” tfisser id-drittijiet mogħtija lil persuna waħda jew iktar permezz ta' xi istrument legali, kontrattwali, regolatorju jew amministrattiv li jirriserva lil dik il-persuna jew dawk il-persuni id-dritt li jipprovdu servizz, li jhaddmu sistema jew li jmexxu xi attività b'esklużjoni ta' haddiehor;”.

(d) Wara t-tifsira ta' “mogħtija”:

“ “interkonnessjoni” tfisser it-tqabbid fiżiku u loġiku ta' sistemi ta' telekomunikazzjonijiet użati mill-istess organizzazzjoni jew minn waħda differenti sabiex tippermetti lill-utenti ta' xi organizzazzjoni waħda li jikkomunikaw ma' l-utenti ta' l-istess organizzazzjoni jew ta' organizzazzjoni oħra jew li jkollhom aċċess għal servizzi provduti minn organizzazzjoni oħra. Dawk is-servizzi jistgħu jiġu pprovduti mill-partijiet involuti jew minn partijiet oħra li jkollhom aċċess għas-sistema;”.

(e) Wara t-tifsira ta' "Ministru":

“punt ta' terminazzjoni ta' network” tfisser il-konnessjonijiet fiżiċi kollha u l-ispeċifikazzjonijiet ta' aċċess tekniku tagħhom li jagħmlu parti mis-sistema ta' telekomunikazzjonijiet pubbliċi u li huma mehtieġa għall-aċċess f' dik is-sistema pubblika u l-komunikazzjoni effiċjenti permezz tagħha;

“portabilità ta' numru” tfisser faċilità li biha l-abbonati li jagħmlu talba għaldaqshekk jkunu jistgħu jzommu n-numru tagħhom fuq sistema ta' telefonija li tkun indipendenti mill-organizzazzjoni li tipprovdi s-servizz fil-punt ta' terminazzjoni ta' *network* ta' l-abbonat;

“provdimenti ta' open network” tfisser il-kondizzjonijiet armonizzati li jikkonċernaw l-aċċess miftuh u effiċjenti għal sistemi ta' telekomunikazzjonijiet pubbliċi u servizzi ta' telekomunikazzjonijiet pubbliċi u l-użu effiċjenti ta' dawk is-sistemi u servizzi. Mingħajr preġudizzju għall-applikazzjoni tagħhom fuq bażi ta' każ b'każ, provdimenti ta' open network jistgħu jinkludu kondizzjonijiet għar-rigward ta' -

(i) *interfaces* tekniċi inkluża d-definizzjoni u l-implementazzjoni ta' punti ta' terminazzjoni ta' *network*;

(ii) kondizzjonijiet ta' l-użu inkluż, l-aċċess għall-frekwenzi;

(iii) principji tariffarji;”.

(f) Wara t-tifsira ta' “art pubblika”:

“sistema ta' telekomunikazzjonijiet pubbliċi” tfisser infrastruttura ta' telekomunikazzjonijiet pubbliċi li tippermetti l-garr ta' sinjali bejn punti ta' terminazzjoni ta' *network* definiti bil-fil, bil-*microwave*, b'mezzi ottiċi jew b'mezzi elettromanjetiċi oħra;

“servizz ta' telekomunikazzjonijiet pubbliċi” tfisser servizz li l-provdiment tiegħu jkun għe fdat

lil xi organizzazzjoni wahda jew iktar ta' telekomunikazzjonijiet;

“forza fis-suq sinjifikanti” ghandu jkollha l-istess tifsira li tista' tigi preskritta b'regolamenti li jsiru taht dan l-Att;

“abbonat” tfisser persuna li tkun parti f'kuntratt ma' provditur ta' servizzi ta' telekomunikazzjonijiet li jkunu pubblikament disponibbli ghall-provdiment ta' servizzi bhal dawk;

“provditur ta' servizz ta' bla sistema” tfisser persuna li tipprovdi servizzi ta' telekomunikazzjonijiet li jkunu pubblikament disponibbli izda li ma tkunx thaddem is-sistema ta' telekomunikazzjonijiet li permezz taghhom dawk is-servizzi jkunu pprovduiti;

“telekomunikazzjonijiet” tfisser l-emissjoni, it-trasmissjoni, l-inkanalar jew ir-riċezzjoni permezz ta' energija elettrika, manjetika, elettromanjetika, elettrokimika jew elettromekkanika, ta':

(i) diskors, muzika u hsejjes ohra,

(ii) xbiehat vizivi;

(iii) sinjali li jservu biex tintbaghat (sew bejn persuni u persuni, oġġetti u oġġetti, u persuni u oġġetti) kull haġa li tkun minbarra fl-ghamla ta' hsejjes jew xbiehat vizivi; jew

(iv) sinjali li jservu ghall-attwazzjoni jew il-kontroll ta' xi makkinarju jew apparat;

“apparat ta' telekomunikazzjonijiet” jew “apparat” tfisser apparat mibni jew adattat ghall-użu fit-trasmissjoni jew ir-riċezzjoni ta' xi haġa li jkollha tingarr jew li tkun ingarret fuq sistema ta' telekomunikazzjonijiet;”.

(g) Wara t-tifsira ta' “servizz ta' telekomunikazzjonijiet”:

“sistema ta’ telekomunikazzjonijiet” tfisser sistema għall-ġarr permezz ta’ l-aġenzija ta’ enerġija elettrika, manjetika, elettro-manjetika, elettro-kimika jew elettro-mekkanika, ta’ -

(i) diskors, mużika u hsejjes ohra,

(ii) xbiehat viżivi;

(iii) sinjali li jservu biex tintbagħat (sew bejn persuni u persuni, oġġetti u oġġetti, u persuni u oġġetti) kull haġa li tkun minbarra fl-ghamla ta’ hsejjes jew xbiehat viżivi; jew

(iv) sinjali li jservu għall-attwazzjoni jew il-kontroll ta’ xi makkinarju jew apparat;

“provditur ta’ trasport ta’ telekomunikazzjonijiet” tfisser persuna li tipprovdi servizz li jikkonsisti fil-ġarr permezz ta’ sistema ta’ telekomunikazzjonijiet ta’ servizzi ta’ telekomunikazzjonijiet li jkunu pubblikament disponibbli;”.

(h) Wara t-tifsira ta’ “telegrafija”:

“telefonija” tfisser il-provdiment kummerċjali għat-trasport sew pubbliku sew dirett ta’ diskors li jkun qed isir f’dak il-waqt stess permezz ta’ *network* wiehed jew iktar ta’ *switches* pubbliċi b’dak il-mod li kull utent jista’ juża tagħmir konness ma’ punt ta’ terminazzjoni ta’ *network* sabiex jikkomunika ma’ xi utent ta’ tagħmir iehor konness ma’ xi punt ta’ terminazzjoni iehor;”.

(i) Wara t-tifsira ta’ “obbligu ta’ servizz universali”:

“utent” tfisser persuni li jużaw jew jehtieġu servizzi ta’ telekomunikazzjonijiet li jkunu pubblikament disponibbli.”.

(5) Fl-artikolu 2, fit-tifsira ta' "awtorizzazzjoni" minflok il-kliem "l-artikolu 12" ghandhom jidhlu l-kliem "l-artikolu 8".

(6) Fl-artikolu 2, fit-tifsira ta' "Bord" minflok il-kliem "bl-artikolu 29" ghandhom jidhlu l-kliem "bl-artikolu 34".

(7) Fl-artikolu 2, it-tifsira ta' "servizz ta' telekomunikazzjonijiet" ghandha tigi emendata kif ġej:

(a) Fil-paragrafu (a) minflok il-kliem "fit-trasmissjoni, permezz ta' infrastruttura ta' telekomunikazzjonijiet" ghandhom jidhlu l-kliem "garr permezz ta' sistema ta' telekomunikazzjonijiet";

(b) Fil-paragrafu (b) minflok il-kliem "b'kull mezz li jkun" ghandhom jidhlu l-kliem "b'mezz ta' sistema ta' telekomunikazzjonijiet";

(c) Fi tmiem it-tifsira ghandhom jidhlu l-kliem "inkluż il-cable television, video kif jintalab u servizzi interattivi, iżda eskluż ix-xandir kif imfisser fl-Att dwar ix-Xandir (Kap. 350);".

(8) Fl-artikolu 2, fit-tifsira ta' "obbligu ta' servizz universali" minflok il-kliem "kollox b'xejn." ghandhom jidhlu l-kliem "kollox b'xejn";.

3. (1) Titolu numru 1 tat-Taqsima II ghandu jkun sostitwit bil-kliem "Awtorità Kompetenti li tirregola t-Telekomunikazzjonijiet".

(2) Hlief ghan-nota marginali tieghu, l-artikolu 3 ghandu jiġi sostitwit b'dan li ġej:

"3. (1) Il-Ministru ghandu b'ordni fil-Gazzetta jinnomina persuna li tkun l-awtorità kompetenti għall-ghanijiet ta' dan l-Att biex twettaq il-funzjonijiet ta' l-awtorità kompetenti taht dan l-Att u biex twettaq dawk il-funzjonijiet l-oħra li l-Ministru jista' jqis li jkunu adattati għar-rigward tat-thaddim ta' dan l-Att. Dik il-persuna jew dak il-korp ghandhom jiġu nominati għal dak il-perjodu li l-Ministru jista' jistabbilixxi u l-Ministru jkollu s-sertgħa f'kull żmien li jtawwal, iġedded jew itemm dik in-nomina b'ordni fil-Gazzetta.

(2) Is-setgħa tal-Ministru li jtawwal, iġedded jew itemm nomina magħmula skond is-subartikolu (1) ta' dan l-artikolu għandha ttejjem milli tibqa' teżisti minn dak iż-żmien li jista' jiġi speċifikat mill-Ministru b'ordni fil-Gazzetta li bih l-Awtorità ta' Malta dwar il-Komunikazzjoni tiġi nominata biex taġixxi bħala l-awtorità kompetenti taht dan l-Att fuq bażi permanenti.”.

(3) Hlief għan-nota marginali tiegħu, l-artikolu 4 għandu jiġi sostitwit b'dan li ġej:

“4. (1) Ikun id-dmir ta' l-Awtorità li teżercita l-funzjonijiet lilha assenjati taht dan l-Att b'mod li hija tikkunsidra li jwassal -

(a) biex jiżgura li jkunu pprovduti f'Malta, hlief sal-limitu li l-provdiment tagħhom ma jkunx prattiku, dawk is-servizzi ta' telekomunikazzjonijiet li jkunu jissodisfaw kull domanda raġonevoli għalihom inklużi b'mod partikolari servizzi ta' emerġenza, servizzi ta' sejhat pubbliċi, servizzi ta' informazzjoni ta' direttorju, u s-servizzi marittimi; u

(b) mingħajr preġudizzju għall-ġeneralità tal-paragrafu (a) hawn aktar qabel, biex jiżgura li kull persuna li permezz tagħha għandhom jiġu pprovduti dawk is-servizzi jkun jista' jiffinanzja l-provdiment ta' dawk is-servizzi.

(2) Bla hsara għas-subartikolu (1) ta' dan l-artikolu, l-Awtorità jkollha dmir li teżercita l-funzjonijiet lilha assenjati jew trasferiti taht dan l-Att b'mod li hija tqis li l-aħjar iwassal -

(a) biex iġib 'il quddiem l-interessi tal-konsumaturi, xerrejja u utenti oħra f'Malta (inklużi b'mod partikolari dawk li huma disabilitati jew ta' età pensjonabbli) għar-rigward tal-prezzijiet mitluba għal, u l-kwalità u l-varjetà ta' servizzi ta' telekomunikazzjonijiet ipprovduti u servizzi ta' telekomunikazzjonijiet forniti;

(b) biex iġib 'il quddiem *open networks* u kompetizzjoni effettiva bejn persuni involuti f'xogħol ta' attivitajiet kummerċjali konnessi mat-telekomunikazzjonijiet f'Malta;

(ċ) biex iġib 'il quddiem effiċjenza u ekonomija minn dawk il-persuni;

(d) biex iġib 'il quddiem ir-riċerka dwar, u l-iżvilupp u l-użu ta' teknikalitajiet godda minn dawk il-persuni;

(e) biex jinkoraġġixxi utenti kbar tas-servizzi ta' telekomunikazzjonijiet li jkollhom il-postijiet tan-negozju tagħhom barra minn Malta biex jistabbilixxu postijiet tan-negozju f'Malta;

(f) biex iġib 'il quddiem il-provdiment ta' servizzi ta' transitu internazzjonali minn persuni li jkunu jipprovdu servizzi ta' telekomunikazzjonijiet f'Malta;

(g) biex jagħmilha possibbli għal persuni li jkunu qed jipprovdu servizzi ta' telekomunikazzjonijiet f'Malta li jikkompetu effettivament fil-provdiment ta' dawk is-servizzi barra minn Malta;

(h) biex jinkoraġġixxi persuni li jipproduċu apparat tat-telekomunikazzjonijiet li jistabbilixxu faċilitajiet ta' produzzjoni f'Malta u lbix jagħmilha possibbli għal dawk il-persuni li jikkompetu effettivament fil-forniment ta' dak l-apparat sew f'Malta sew barra minn Malta.

(3) Ikun id-dmir ta' l-Awtorità li twettaq il-funzjonijiet preskritti f'dan l-Att u li tiżgura konformità mad-dispożizzjonijiet ta' dan l-Att, u, minghajr preġudizzju għall-generalità ta' dak hawn aktar qabel imsemmi, biex jiżgura li persuni li jhaddmu sistemi ta' telekomunikazzjonijiet jew li jipprovdu servizzi ta' telekomunikazzjonijiet f'Malta jikkonformaw ruhhom ma' dan l-Att, mar-regolamenti u d-direttivi li jinharġu taht dan l-Att u mal-kondizzjonijiet tal-liċenza tagħhom.

(4) L-Awtorità tista' tagħmel dawk id-direttivi li jistgħu jkunu meħtieġa għat-twettiq ta' xi wiehed mill-provvedimenti ta' dan l-Att u tista' wkoll temenda jew tirrevoka dawk id-direttivi.

(5) Direttivi li jinharġu mill-Awtorità skond dan l-artikolu u kull emenda jew revoka tagħhom għandhom jiġu komunikati mill-Awtorità lill-persuni li jkunu qed ihaddmu

(2) Liċenża mogħtija taħt dan l-artikolu għandha tkun bil-miktub u, sakemm din ma tkunx għet qabel revokata skond kull patt kontenut fiha, din għandha tibqa' ssehh għal dak il-perjodu li jista' jiġi speċifikat fi, jew stabbilit minn jew taħt il-liċenża.

(3) Liċenża mogħtija taħt dan l-Att tista' tingħata sew fil-forma ta' awtorizzazzjoni ġenerali lil kulhadd jew lil persuni ta' xi klassi jew fil-forma ta' liċenża individwali lil xi persuna partikolari.

(4) Liċenża mogħtija taħt dan l-artikolu tista' tawtorizza -

(a) il-konnessjoni ma' xi sistema ta' telekomunikazzjonijiet li dwarha tkun il-liċenża -

(i) ta' xi sistema ta' telekomunikazzjonijiet oħra speċifikata fil-liċenża jew ta' deskrizzjoni hekk speċifikata; u

(ii) ta' xi apparat hekk speċifikat jew ta' deskrizzjoni hekk speċifikata; u

(b) il-provdiment permezz ta' xi sistema ta' telekomunikazzjonijiet li dwarha tkun il-liċenża ta' xi servizzi ta' telekomunikazzjonijiet speċifikati fil-liċenża jew ta' deskrizzjoni hekk speċifikata.

(5) Liċenża mogħtija taħt dan l-Att tista' tinkludi

(a) dawk il-kondizzjonijiet (sew jekk jirrigwardaw is-sistema ta' telekomunikazzjonijiet li dwarha tkun il-liċenża sew xort'oħra) bħalma jidhru lill-Awtorità li jkunu meħtieġa jew speċjenti fil-qies tad-dmirijiet ta' l-Awtorità u ta' l-obbligazzjonijiet internazzjonali ta' Malta;

(b) kondizzjonijiet li jkunu jeħtieġ l-hlas lill-Awtorità ta' dritt ma' l-ghoti tal-liċenża jew ta' hlasijiet matul il-validità tal-liċenża jew it-tnejn flimkien, liema dritt jew hlasijiet għandhom ikunu f'dak l-ammont jew ammonti (li jistgħu wkoll ikunu stabbiliti b'riferenza għad-dhul, bejgħ jew profitti tad-detentur tal-liċenża) kif jista' jiġi stabbilit fil-liċenża;

(ċ) fil-każ ta' liċenza mogħtija lil kulhadd jew lil persuni ta' xi klassi, il-kondizzjonijiet li jkunu jeħtieġu lil xi persuna jew lil xi persuna li tinkwadra fil-klassi ta' persuni li dwarhom tkun il-liċenza, li tavża lill-Awtorità bil-hsieb tagħha li tiġġestixxi sistema ta' telekomunikazzjonijiet taht dik il-liċenza;

(d) kondizzjonijiet li jkunu jeħtieġu lid-detentur tal-liċenza li jħares kull ordni mogħtija mill-Awtorità dwar affarijiet li jissemmew fil-liċenza;

(e) kondizzjonijiet li jkunu jeħtieġu lid-detentur tal-liċenza li jagħmel jew ma jagħmilx dawk l-affarijiet li jkun hemm speċifikati fil-liċenza;

(f) kondizzjonijiet li jobbligaw lid-detentur tal-liċenza li jirriferrixxi għad-deċiżjoni ta' l-Awtorità dawk il-kwistjonijiet naxxenti taht il-liċenza li jkun hemm speċifikati fil-liċenza;

(g) dawk il-kondizzjonijiet l-oħra li jistghu jiġu preskritti.

7. (1) Meta l-Awtorità tirċievi applikazzjoni għal liċenza biex tħaddem sistema ta' telekomunikazzjonijiet li ma tistax tithaddem taht il-pattijiet ta' liċenza korrenti li tkun inghatat lil persuni ta' xi klassi din għandha, bla ħsara għal kull terminu speċifikat għall-ġħoti ta' liċenzi taht l-artikolu 14 -

(a) jew tagħti liċenza temporanja li jkun fiha dawk il-kondizzjonijiet li l-Awtorità tqis li jkunu adattati biex tagħmilha possibbli għall-applikant biex jibda jħaddem dik is-sistema; jew

(b) ma tilqax l-applikazzjoni.

(2) Meta l-Awtorità tagħti liċenza temporanja taht is-subartikolu (1) ta' dan l-artikolu, din għandha kemm jista' jkun malajr jew tissostitwixxi dik il-liċenza b'liċenza oħra mogħtija taht dan l-artikolu li jkun fiha dawk il-kondizzjonijiet li tkun tqis bħala adattati jew tirrevokaha.

8. (1) Persuna li tħares il-kondizzjonijiet applikabbli taht awtorizzazzjoni ġenerali tista' tħaddem is-sistemi ta' telekomunikazzjonijiet u tipprovdi s-servizzi ta' telekomunikazzjonijiet koperti bl-awtorizzazzjoni ġenerali.

(2) Qabel ma tipprovdi s-servizz ta' telekomunikazzjonijiet jew tħaddem is-sistema ta' telekomunikazzjonijiet koperta b'awtorizzazzjoni ġenerali, persuna li tkun tgawdi awtorizzazzjoni ġenerali għandha tavża lill-Awtorità bl-intenzjoni tagħha li tagħmel dan u għandha tikkomunika lill-Awtorità l-informazzjoni preskritta

dwar is-sistema jew is-servizz involuti li tkun mehtieġa għall-ghan li tiġi żgurata konformità mal-kondizzjonijiet ta' l-awtorizzazzjoni ġenerali.

(3) L-Awtorità tista' tehtieġ persuna bħalma hi msemmija fis-subartikolu (1) ta' dan l-artikolu li tistenna sa erba' ġimgħat wara li l-Awtorità formalment tirċievi l-informazzjoni preskritta kollha li tkun mehtieġa qabel ma tibda ttipprovi s-servizzi jew thaddem is-sistemi koperti bl-awtorizzazzjoni ġenerali.

(4) Drittijiet imposti fuq persuni bħala parti mill-proċeduri ta' awtorizzazzjoni taht awtorizzazzjoni ġenerali għandhom ifittxu biss li jkopru l-ispejjeż amministrattivi li jsiru fil-hruġ, il-manieġġ, il-kontroll u l-infurzar ta' l-iskema ta' awtorizzazzjoni ġenerali li tkun tapplika:

Iżda ebda haġa f'dan is-subartikolu ma għandha titqies bħala li teżonera lil xi persuna li jkollha awtorizzazzjoni ġenerali milli tagħmel kontribuzzjonijiet finanzjarji għall-provdiment ta' servizzi universali skond mekkaniżmi ta' finanzjament għal servizzi universali hekk kif jistgħu jiġu preskritti.

9. (1) Jistgħu jinħarġu liċenzi individwali għal dawn l-iskopijiet biss:

(a) sabiex id-detentur tal-liċenza ikollu permess jidhol fi frekwenzi tar-radju u numri;

(b) sabiex id-detentur tal-liċenza jingħata drittijiet partikolari dwar xi art pubblika jew privata;

(ċ) sabiex jiġu imposti obligazzjonijiet u htigiet fuq id-detentur tal-liċenza dwar il-provdiment mandatorju ta' servizzi ta' telekomunikazzjonijiet jew sistemi ta' telekomunikazzjonijiet pubblikament disponibbli, inklużi obligazzjonijiet li jkunu jehtieġu lid-detentur tal-liċenza li jipprovi servizzi universali u obligazzjonijiet ohra li jirriżultaw minn provvedimenti ta' *open network* preskritti f'xi ligi jew regolament;

(d) sabiex jiġu imposti obligazzjonijiet speċifiċi skond ir-regoli ta' kompetizzjoni jew obligazzjonijiet internazzjonali meta d-detentur tal-liċenza jkollu forza fis-suq sinjifikanti għar-rigward tal-provdiment ta'

sistemi ta' telekomunikazzjonijiet jew ta' servizzi ta' telekomunikazzjonijiet pubblikament disponibbli.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, il-provdiment ta' servizzi tat-telefonija bil-vuċi pubblikament disponibbli, it-twaqqif u l-provdiment ta' sistemi ta' telekomunikazzjonijiet pubbliċi kif ukoll ta' sistemi ohra li jinvolvu l-użu ta' frekwenzi tar-radju, jistgħu jsiru bla ħsara għal liċenzi individwali li jistgħu jiġu preskritti.

(3) Il-Ministru jista' b'regolamenti li jsiru wara konsultazzjoni ma' l-Awtorità jillimita l-ghadd ta' liċenzi individwali għal xi kategorija ta' servizzi jew sistemi ta' telekomunikazzjonijiet sal-limitu li huwa jista' jqis li jkun mehtieg sabiex jiżgura l-użu effiċjenti ta' frekwenzi tar-radju jew għal dak iż-żmien li huwa jista' jqis li jkun mehtieg sabiex jagħmel disponibbli numri suffiċjenti.

10. (1) Meta persuna li tkun tgawdi awtorizzazzjoni ġenerali ma tkunx konformi ma' xi kondizzjoni marbuta ma' awtorizzazzjoni ġenerali, l-Awtorità tista' tgharraf lil dik il-persuna li ma tkunx intitolata li tivvantaġġa ruhha mill-awtorizzazzjoni ġenerali u tista' timponi b'mod proporzjonat fuq dik il-persuna miżuri speċifiċi maħsubin biex jiżguraw li hija thares il-kondizzjonijiet ta' l-awtorizzazzjoni ġenerali.

(2) L-Awtorità għandha fl-istess hin tagħti lil persuna bħal dik imsemmija fis-subartikolu (1) ta' dan l-artikolu opportunità raġonevoli biex tagħti l-veduti tagħha dwar l-applikazzjoni tal-kondizzjonijiet u biex tirrimedja kull ksur fi żmien xahar li jibda għaddej mid-data ta' l-intervent ta' l-Awtorità.

(3) Jekk il-persuna bħal dik imsemmija fis-subartikolu (1) ta' dan l-artikolu tirrimedja dak il-ksur, l-Awtorità għandha, fi żmien xahrejn mill-intervent inizjali tagħha, tirrevoka jew timmodifika d-deċiżjoni tagħha hekk kif tista' tqis li jkun adattat u hija għandha tagħti r-raġunijiet għad-deċiżjoni tagħha.

(4) Jekk il-persuna bħal dik imsemmija fis-subartikolu (1) ta' dan l-artikolu ma tirrimedjax dak il-ksur, l-Awtorità għandha, fi żmien xahrejn mill-intervent inizjali tagħha, tikkonferma d-deċiżjoni tagħha u tagħti r-raġunijiet

ghad-deċiżjoni taghha. Id-deċiżjoni ta' l-Awtorità ghandha tiġi komunikata fi żmien ġimgha minn meta tiġi adottata lill-persuna involuta.

(5) Jista' jsir appell mid-deċiżjonijiet ta' l-Awtorità li jittiehdu skond is-subartikoli (3) jew (4) ta' dan l-artikolu quddiem il-Bord ta' l-Appelli dwar Telekomunikazzjonijiet.

11. (1) Meta l-benefiċjarju ta' liċenza individwali ma jikkonformax ruhu ma' xi kondizzjoni li tkun tinsab fil-liċenza, l-Awtorità tista' tirtira, temenda jew tissospendi l-liċenza individwali jew timponi b' mod proporzjonat, miżuri speċifiċi maħsubin biex jiżguraw konformità.

(2) L-Awtorità ghandha fl-istess hin taghti lill-benefiċjarju involut opportunità raġonevoli li jaghti l-veduti tiegħu dwar l-applikazzjoni tal-kondizzjoni u, hliet fil-każ ta' ksur ripetut minn dak il-benefiċjarju (f'liema każ l-Awtorità tista' minnufih tiegħu l-miżuri xierqa), li jirrimedja kull ksur fi żmien xahar li jibda għaddej mid-data ta' l-intervent ta' l-Awtorità.

(3) Jekk il-benefiċjarju involut jirrimedja dak il-ksur l-Awtorità ghandha, fi żmien xahrejn mill-intervent inizjali taghha, tirrevoka jew timmodifika d-deċiżjoni taghha hekk kif tqis li jkun xieraq u ghandha taghti r-raġunijiet taghha għad-deċiżjoni taghha.

(4) Jekk il-benefiċjarju involut ma jirrimedjax dak il-ksur l-Awtorità ghandha, fi żmien xahrejn mill-intervent inizjali taghha, tikkonferma d-deċiżjoni taghha u taghti r-raġunijiet għad-deċiżjoni taghha. Id-deċiżjoni ghandha tiġi kkomunikata fi żmien ġimgha mill-adozzjoni taghha lill-benefiċjarju involut.

(5) Jekk jiġri li jkun hemm interferenza li taghmel il-hsara bejn sistema ta' telekomunikazzjonijiet li tuża frekwenzi ta' radju u sistemi tekniċi oħra, l-Awtorità tista' tiegħu azzjoni immedjata, inkluż iżda mhux limitat għall-ghoti ta' direttivi, sabiex tiġi rimedjata l-problema. F'dak il-każ id-detentur tal-liċenza involut ghandu wara dan jinghata opportunità raġonevoli jaghti l-veduti tiegħu u jipproponi rimedji għal dik l-interferenza li taghmel il-hsara.

(6) Jista' jsir appell mid-deċiżjonijiet ta' l-Awtorità li jittiehdu skond is-subartikoli (3) jew (4) ta' dan l-artikolu quddiem il-Bord ta' l-Appelli dwar Telekomunikazzjonijiet.”.

(3) In-noti marginali għall-artikoli ġodda minn 6 sa u inkluż 11 għandhom ikunu kif ġejjin:

(a) Artikolu 6: “Liċenzi u Awtorizzazzjonijiet Ġenerali”;

(b) Artikolu 7: “Liċenzi Temporanji”;

(ċ) Artikolu 8: “Proċeduri għal Awtorizzazzjonijiet Ġenerali”;

(d) Artikolu 9: “Liċenzi Individwali”;

(e) Artikolu 10: “Meta ma jitharsux il-Kondizzjonijiet ta’ Awtorizzazzjonijiet Ġenerali”;

(f) Artikolu 11: “Meta ma jitharsux il-Kondizzjonijiet ta’ Liċenzi Individwali”.

(4) L-artikolu 12 kif enumerat mill-ġdid għandu jiġi emendat kif ġej:

(a) Fis-subartikolu (1) tiegħu wara l-kliem “jew awtorizzazzjoni oħra” għandhom jidhlu l-kliem “sew jekk tkun liċenza individwali sew jedd li wiehed jaġixxi taht awtorizzazzjoni ġenerali”;

(b) Fis-subartikolu (2) tiegħu minflok il-kliem “il-kunsens tiegħu” għandhom jidhlu l-kliem “il-kunsens tagħha”.

5. (1) L-artikoli 7, 8, 9 u 10 għandhom jiġu enumerati mill-ġdid bħala l-artikoli 13, 14, 15 u 16 rispettivament.

(2) L-artikolu 13 kif enumerat mill-ġdid għandu jiġi emendat kif ġej:

(a) Fis-subartikolu (1) minflok il-kliem “liċenza jew permiss” għandhom jidhlu l-kliem “awtorizzazzjoni ġenerali”;

(b) Fis-subartikolu (2) wara l-kliem “li dwarhom issir l-applikazzjoni” għandhom jidhlu l-kliem “u għandha tinkludi dik l-informazzjoni li tista’ tiġi preskritta jew, fin-nuqqas ta’ tali preskrizzjoni, dik l-informazzjoni li tklun suffiċjenti biex turi li l-applikant

jkun qed iwettaq il-kondizzjonijiet għall-ghoti ta' l-awtorizzazzjoni".

(3) L-artikolu 14 kif enumerat mill-ġdid għandu jiġi emendat kif ġej:

(a) Fis-subartikolu (1) minflok il-kliem "l-investigazzjonijiet fi żmien raġonevoli" għandhom jidhlu l-kliem "l-investigazzjonijiet fi żmien raġonevoli jew f'dak iż-żmien li jista' jiġi preskritt";

(b) Fis-subartikoli (3) u (4) minflok il-kliem "fl-artikolu 9" għandhom jidhlu l-kliem "fl-artikolu 15";

(c) Fis-subartikolu (4) l-kliem "iżda l-Ministru għandu jgħarraf bil-miftuh ir-raġunijiet għaliex ikun ha dik id-deċiżjoni" għandhom jithassru;

(d) Wara s-subartikolu (4) għandu jidhol dan li ġej:

"(5) Id-deċiżjonijiet ta' l-Awtorità u tal-Ministru li jsiru skond dan l-artikolu għandhom jinkludu r-raġunijiet għad-deċiżjoni u għandhom jiġu ppubblikati b'dak il-mod li l-Awtorità jew il-Ministru, skond il-każ, iqisu li jkun adattat.

(6) L-Awtorità għandha tgharraf lill-applikant bid-deċiżjoni tagħha li tagħti jew tiċhad awtorizzazzjoni fi żmien sitt ġimgħat mid-data meta tirċievi l-applikazzjoni fi stat komploet u formulata b'mod li jkun konformi mal-provvedimenti ta' dan l-Att:

Iżda dak il-perjodu jista' jittawwal sa massimu ta' erba' xhur f'dawn il-każijiet li ġejjin:

(i) meta ma jkunx hemm qbil bejn id-deċiżjoni ta' l-Awtorità u dik tal-Ministru dwar jekk ikollhiex tinhareġ awtorizzazzjoni; jew

(ii) meta applikazzjoni tkun tehtieg konsultazzjoni bejn l-Awtorità u xi dipartiment tal-Gvern jew awtorità oħra għar-rigward ta' l-użu ta' frekwenzi jew tal-

possibilità ta' interferenza ma' servizzi ta' telekomunikazzjonijiet ohra;

(7) Meta l-ghoti ta' l-awtorizzazzjoni tkun sugġetta ghal proċedura ta' offerti komparattivi, l-perjodu imsemmi fis-subartikolu (6) ta' dan l-artikolu jista' jittawwal sa massimu ta' erba' xhur.

(8) It-termini li hemm provdut dwarhom f'dan l-artikolu ghandhom ikunu minghajr preġudizzju ghal kull ftehim internazzjonali li jkun japplika dwar frekwenzi internazzjonali u ko-ordinazzjoni satellitarja.”.

(4) Fis-subartikolu (1) ta' l-artikolu 15 kif enumerat mill-ġdid, wara l-paragrafu (ċ), ghandu jiżdied dan li ġej:

“(d) fejn ikun hemm applikant li jkun qed japplika ghal liċenza individwali, dan ma jurix lill-Awtorità li huwa jkun qed iwettaq il-kondizzjonijiet ghall-ghoti ta' dik il-liċenza.”.

(5) L-artikolu 16 kif enumerat mill-ġdid ghandu jiġi emendat kif ġej:

(a) Fis-subartikolu (1) minflok il-kliem “fl-artikolu 29” ghandhom jidhlu l-kliem “fl-artikolu 34”;

(b) Fis-subartikolu (2) minflok il-kliem “fl-artikolu 7” ghandhom jidhlu l-kliem “fl-artikolu 13”;

(ċ) Wara s-subartikolu (2) ghandu jiżdied dan li ġej:

“(3) Id-deċiżjoni li tiġi inkluża xi nkondizzjoni f'liċenza ghandha tkun ukoll sugġetta ghal appell quddiem il-Bord.”.

(6) L-artikoli 11 u 12 ghandhom jithassru.

6. (1) L-artikoli 13, 14 u 15 ghandhom jiġu enumerati mill-ġdid bhala l-artikoli 17, 18 u 19 rispettivament.

(2) L-artikolu 14A ghandu jiġi enumerat mill-ġdid bhala l-artikolu 42.

(3) Fl-ewwel paragrafu ta' l-artikoli 17 u 18 kif enumerati mill-ġdid minflok il-kliem "l-artikolu 8" ghandhom jidhlu l-kliem "l-artikolu 6".

(4) L-artikolu 17 kif enumerat mill-ġdid ghandu jiġi emendat kif ġej:

(a) Fil-paragrafu (ċ) minflok il-kliem "estensjoni taghha." ghandhom jidhlu l-kliem "estensjoni taghha;"

(b) Wara l-paragrafu (ċ) ghandu jizdied dan li ġej:

"(d) tiġi żgurata l-implementazzjoni ta' provvedimenti ta' *open network*."

(5) Wara s-subartikolu (3) ta' l-artikolu 42 kif enumerat mill-ġdid ghandu jizdied dan li ġej:

"(4) Il-provvedimenti ta' dan l-artikolu ghandhom itemmu milli jibqa' jkollhom effett kollha kemm huma jew f'parti minnhom jew għar-rigward ta' xi tip speċifikat ta' servizz ta' *callback* minn dik il-ġurnata li l-Ministru jistqas jistabbilixxi b'ordni fil-Gazzetta."

(6) L-artikolu 19 kif enumerat mill-ġdid ghandu jiġi emendat kif ġej:

(a) Fis-subartikolu (2) minflok il-kliem "għall-approvazzjoni tiegħu." ghandhom jidhlu l-kliem "għall-approvazzjoni taghha;"

(b) Fis-subartikolu (4) minflok il-kliem "l-artikolu 29" ghandhom jidhlu l-kliem "l-artikolu 34";

(ċ) Fit-tieni proviso għas-subartikolu (5) minflok il-kliem "suġġetta wkoll għal appell" ghandhom jidhlu l-kliem "suġġetta wkoll għal appell." u l-bqija tal-proviso ghandha tithassar.

(7) Wara l-artikolu 19 kif enumerat mill-ġdid ghandu jizdied dan li ġej:

"20. (1) Il-kondizzjonijiet marbutin ma' xi awtorizzazzjoni mogħtija taht dan l-Att jistgħu jiġu modifikati mill-awtorità kompetenti kif ġej:

(a) meta l-awtorità kompetenti tkun tixtieq taghmel xi modifika fil-kondizzjonijiet ta' awtorizzazzjoni ġenerali, din ghandha tippubblika avviż fil-Gazzetta li fih tindika l-modifiki li jkunu qeghdin jiġu proposti u fejn jinghata żmien raġonevoli lill-partijiet interessati li fih ikunu jistgħu jagħmlu l-oġġezzjonijiet tagħhom għall-bidliet proposti;

(b) meta ssir xi oġġezzjoni għal xi modifiki skond il-paragrafu (a) ta' dan is-subartikolu, l-awtorità kompetenti ghandha tiddeċiedi jekk ghandhiex taghmel il-modifiki proposti wara li tkun debitament ikkunsidrat dawk l-oġġezzjonijiet u ghandha taghti raġunijiet għad-deċiżjoni tagħha;

(ċ) meta l-awtorità kompetenti tkun tixtieq taghmel xi modifika fil-kondizzjonijiet ta' xi liċenza individwali din ghandha:

(i) jew taghti avviż lid-detentur tal-liċenza individwali fejn tghid xi jkunu l-modifiki li tkun qed tipproponi li taghmel, billi tistipula l-effetti tagħhom, tghid xi jkunu r-raġunijiet għaliex tkun qeghda tipproponi li taghmel dawk il-modifiki u tispeċifika iż-żmien, li ma jkunx ta' inqas minn 28 jum mid-data tal-pubblikazzjoni ta' l-avviż li fih jistgħu jsiru ilmenti jew oġġezzjonijiet mid-detentur tal-liċenza, u tfittex li tikseb il-kunsens tad-detentur tal-liċenza; u, jew

(ii) taghmel referenza lill-Kummissjoni għall-Kummerċ Ġust fejn tehtiegħa tinvestiga u tirrapporta dwar jekk xi affarijiet speċifikati fir-referenza joperawx jew le, jew jekk dawn ghandhomx ikun mistennija li joperaw kontra l-interess pubbliku jew le, u, jekk dan ikun il-każ, jekk l-effetti li jmorru kuntrarju għall-interess pubbliku jkunux jistgħu jiġu prevenuti bil-modifika tal-kondizzjonijiet tal-liċenza;

(d) meta d-detentur tal-liċenza individwali ma jaghtix il-kunsens tiegħu mehtieg skond is-subparagrafu (i) tal-paragrafu (ċ) ta' dan is-

subartikolu l-awtorità ma tkun tista' taghmel ebda modifika fil-liċenza individwali hlief wara li tkun saret referenza lill-Kummissjoni għall-Kummerċ Ġust skond is-subparagrafu (ii) tal-paragrafu (ċ) ta' dan is-subartikolu;

(e) meta l-Kummissjoni għall-Kummerċ Ġust tirrapporta dwar xi haġa lilha riferita taht is-subparagrafu (ii) tal-paragrafu (ċ) ta' dan is-subartikolu l-konklużjonijiet tagħha għandhom ikunu definittivi u vinkolanti u meta l-Kummissjoni taqtagħha li jkollha ssir modifika f'liċenza individwali, dik il-modifika għandha tigi implementata minn dik id-data li tista' tigi stabbilita mill-Awtorità.

(2) Il-Ministru għandu jkun mgharraf dwar kull modifika li tkun qed tigi proposta li ssir skond dan l-artikolu u huwa jista', jekk ikun jidhirlu li jkun mehtieg jew spedjenti li hekk jagħmel fl-interessi tas-sigurtà nazzjonali jew tal-affarijiet barranin ta' Malta, jordna li dawk il-modifiki ma jsirux.”.

(8) L-artikoli 16 u 17 għandhom jiġu enumerati mill-ġdid bhala l-artikoli 21 u 22 rispettivament.

(9) L-artikolu 22 kif enumerat mill-ġdid għandu jiġi emendat kif ġej:

(a) Fil-paragrafu (a) tas-subartikolu (1) minflok il-kliem “li ma kienx shih jew li kien mhux korrett” għandhom jidhlu l-kliem “mhux komplet, li jqarraq jew mhux korrett”;

(b) Fil-paragrafu (b) tas-subartikolu (1) minflok il-kliem “l-awtorizzazzjoni għal żmien” għandhom jidhlu l-kliem “l-awtorizzazzjoni billi jonqos milli jipprovdi servizz ta' telekomunikazzjonijiet awtorizzat għal żmien”;

(ċ) Fil-paragrafu (ċ) tas-subartikolu (1) minflok il-kliem “li fil-fehma tar-Regolatur” għandhom jidhlu l-kliem “li fil-fehma ta' l-Awtorità li għandha tinghata bil-miktub u tkun tinkludi raġunijiet u tkun tirrispetta l-prinċipju ta' proporzjonalità.”;

(d) Fil-paragrafu (d) tas-subartikolu (1) wara l-kliem “skond l-awtorizzazzjoni” ghandhom jidhlu l-kliem “jew skond regolamenti maghmulin taht dan l-Att”;

(e) Is-subartikolu (2) ghandu jithassar u s-subartikolu (3) ghandu jiġi enumerat mill-ġdid bhala s-subartikolu (2).

7. (1) L-artikoli 18, 19, 20, 21 u 22 ghandhom jiġu enumerati mill-ġdid bhala l-artikoli 23, 24, 25, 26 u 27 rispettivament.

(2) L-artikolu 24 kif enumerat mill-ġdid ghandu jiġi emendat kif ġej:

(a) Fis-subartikolu (1) minflok il-kliem “jalloka numri lil provdituri awtorizzati skond hekk.” ghandhom jidhlu l-kliem “jalloka numri u kull serje ta’ enumerazzjoni lil provdituri awtorizzati skond proċeduri li jkunu trasparenti, ġusti, mhux diskriminatorji u f’waqthom.”;

(b) Fil-proviso li hemm mas-subartikolu (2) minflok il-kliem “Izda m’ghandu” ghandhom jidhlu l-kliem “Izda l-Awtorità ghandha tiżgurali kemm jista’ jkun m’ghandu”;

(ċ) Is-subartikolu (3) ghandu jiġi enumerat mill-ġdid bhala s-subartikolu (4) u ghandu jizdied dan is-subartikolu (3) ġdid li ġej:

“(3) L-elementi prinċipali tal-pjan ta’ enumerazzjoni nazzjonali u ta’ kull emenda sussegwenti ghandhom, bla hsara biss ghal-limitazzjonijiet minhabba fis-sigurtà nazzjonali, jiġu ppubblikati mill-Awtorità.”.

(3) Minflok l-artikolu 25 kif enumerat mill-ġdid, hlief ghan-nota marginali tiegħu, ghandu jidhol dan li ġej:

“25. (1) L-awtorità kompetenti ghandha tinkoraggixxi u tassigura interkonnessjoni adegwata f’kull interess ta’ l-utenti kollha u ghandha teżercita r-responsabbiltà tagħha b’mod li jkun jipprovi effiċjenza ekonomika massima u li jagħti benefiċċju massimu lill-utenti. B’mod partikolari, l-awtorità kompetenti ghandha tqis -

(i) il-htieġa li tiġi żgurata komunikazzjoni sodisfaċenti minn tarf sa tarf għall-utenti;

(ii) il-htieġa li jiġi stimolat suq kompetittiv;

(iii) il-htieġa li tingieb 'il quddiem il-koperazzjoni ma' kontropartijiet fi Stati oħra;

(iv) il-prinċipji ta' ebda diskriminazzjoni (inkluż id-dhul b'aċċess indaqs) u l-proporzjonalità;

(v) il-htieġa li jinżamm u jiġi żviluppat servizz universali.

Għal dan l-ghan l-awtorità kompetenti għandha tohrog regolamenti li jkunu jipprovdu dwar:

(a) iċ-ċirkostanzi li fihom id-dritt għall-interkonnessjoni jista' jiġi eżerċitat u l-ghan, il-kondizzjonijiet u limitazzjonijiet trasparenti u non-diskriminatorji meta jiġi eżerċitat dak id-dritt;

(b) il-kondizzjonijiet tekniċi u finanzjarji ta' l-interkonnessjoni u x-xorta legali ta' kull ftehim ta' interkonnessjoni;

(ċ) l-obbligazzjoni li jiġi avżat kull ftehim ta' interkonnessjoni lill-awtorità u l-kondizzjonijiet li taħthom dik in-notifikazzjoni għandha ssir, inkluża kull haġa li jkollha x'taqsam mal-pubbliċità jew mal-konfidenzjalità ta' kull ftehim bħal dak jew ta' partijiet relattivi;

(d) l-eżerċizzju ta' setgha mill-awtorità biex tibdel kull ftehim ta' interkonnessjoni fl-interess pubbliku;

(e) il-prinċipji li fuqhom għandhom ikunu msejsa l-hlasijiet għall-interkonnessjoni u l-metodu ta' kontijiet li għandu jintuża;

(f) l-obbligazzjoni ta' provdituri awtorizzati jew ta' klassijiet partikolari tagħhom li jippubblikaw offerta ta' interkonnessjoni u l-prinċipji li fuqhom għandhom ikunu msejsa l-kondizzjonijiet ta' dik l-offerta;

(g) Il-mod li bih ghandhom jigu solvuti tilwimiet relatati ma' l-interkonnessjoni.”.

(4) L-artikolu 26 kif enumerat mill-gdid ghandu jigi emendat kif gejj:

(a) Wara l-kliem “mehtieg mill-Awtorita`” ghandhom jizdiedu l-kliem “u kif jista' jkun”;

(b) Fis-subartikolu (3) wara l-kliem “b`mod kunfidenzjali mill-Awtorita`,” ghandhom jidhlu l-kliem “minhabba f`li jkun fih informazzjoni li tkun tizvela l-istrategija kummerċjali tal-provditur awtorizzat jew informazzjoni ohra li l-izvelar taghha jkun debitament jinterferixxi mad-dritt ghall-privatezza ta' terzi,”;

(c) Fis-subartikolu (3) wara l-kliem “fil-qies tal-htigiet” ghandhom jidhlu l-kliem “u tal-principji fundamentali”.

(5) Fit-test Ingliz tas-subartikolu (3) ta' l-artikolu 27 kif emendat mill-gdid, minflok il-kelma “his” ghandha tidhol il-kelma “its”.

8. (1) L-artikoli 23, 24 u 25 ghandhom jigu enumerati mill-gdid bhala l-artikoli 28, 29 u 30 rispettivament.

(2) Fl-intestatura numru 4 tat-Taqsima II minflok il-kliem “ta' l-Abbonati” ghandhom jidhlu l-kliem “ta' l-Utenti u l-Abbonati”.

(3) L-artikolu 28 kif enumerat mill-gdid ghandu jigi emendat kif gejj:

(a) Fis-subartikolu (1) minflok il-kliem “l-abbonati f`servizz” ghandhom jidhlu l-kliem “l-abbonati u l-utenti ta' servizz”;

(b) Fis-subartikolu (2) minflok il-kliem “jew ikun jixtieq jabbona f`servizz” ghandhom jidhlu l-kliem “jew ikun jixtieq jabbona jew ikun utent ta' servizz”;

(c) Fis-subartikolu (2) wara l-kliem “dwar il-kwalita` tas-servizz” ghandhom jidhlu l-kliem “provdut mill-provditur awtorizzat” u l-kliem “li jabbona jew ikun jixtieq jabbona fih” ghandhom jithassru;

(d) Fis-subartikolu (2) wara l-kliem “apparat lili provdut” ghandhom jidhlu l-kliem “jew imqieghed ghad-disponibbilta` tieghu”;

(e) Fit-test Ingliz tas-subartikolu (5) minflok il-kliem “within his” ghandhom jidhlu l-kliem “within its”.

(4) Fis-subartikolu (2) ta’ l-artikolu 29 kif enumerat mill-gdid minflok il-kliem “u approvati mill-Awtorita`.” ghandhom jidhlu l-kliem “u approvati mill-Awtorita` u d-dritt ta’ provditur awtorizzat li ma jkomplix is-servizz ghandu f’kull kaz ikun ezerċitat b’mod proprzjonat.”.

(5) Fl-artikolu 30 kif enumerat mill-gdid wara l-kelma “abbonat” ghandhom jidhlu l-kliem “jew utent”.

9. (1) L-artikoli 26, 27 u 28 ghandhom jigu enumerati mill-gdid bhala l-artikoli 31, 32 u 33 rispettivament.

(2) L-artikolu 31 kif enumerat mill-gdid ghandu jigi emendat kif gejj:

(a) Fis-subartikolu (1) il-kliem “speċifikazzjonijiet tekniċi hekk kif jistgħu jigu preskritt” ghandhom jidhlu l-kliem “speċifikazzjonijiet tekniċi hekk kif jistgħu jigu preskritt.” u l-bqija tas-subartikolu ghandu jithassar;

(b) Is-subartikolu (2) ghandu jithassar u s-subartikolu (3) ghandu jigi enumerat mill-gdid bhala s-subartikolu (2).

(3) Fil-paragrafu (b) tas-subartikolu (1) ta’ l-artikolu 33 kif enumerat mill-gdid minflok il-kliem “l-effiċjenza u *standards*” ghandhom jidhlu l-kliem “l-effiċjenza, l-*standards* u l-kompetizzjoni”.

10. (1) L-artikoli 29, 30, 31, 32, 33, 34 u 35 ghandhom jigu enumerati mill-gdid bhala l-artikoli 34, 35, 36, 37, 38 39 u 40 rispettivament.

(2) Fis-subartikolu (5) ta’ l-artikolu 34 kif enumerat mill-gdid minflok il-kliem “uffiċjal pubbliku” ghandha tidhol il-kelma “persuna”.

(3) Is-subartikolu (1) ta' l-artikolu 35 kif enumerat mill-ġdid ghandu jiġi emendat kif ġej:

(a) Fil-paragrafu (a) minflok il-kliem "l-artikolu 10" ghandhom jidhlu l-kliem "l-artikolu 16", fil-paragrafu (ċ) minflok il-kliem "l-artikolu 17" ghandhom jidhlu l-kliem "l-artikolu 22", fil-paragrafu (d) minflok il-kliem "l-artikolu 20" ghandhom jidhlu l-kliem "l-artikolu 25", u fil-paragrafu (e) minflok il-kliem "l-artikolu 23" ghandhom jidhlu l-kliem "l-artikolu 28";

(b) Minflok il-paragrafu (b) ghandu jidhold dan li ġej:

"(b) kontra kull twarrib jew tiċhid ta' applikazzjoni ghal awtorizzazzjoni;"

(4) Fis-subartikolu (2) ta' l-artikolu 35 kif enumerat mill-ġdid minflok il-kliem "fl-artikolu 10" ghandhom jidhlu l-kliem "fl-artikolu 16".

(5) Is-subartikolu (3) ta' l-artikolu 35 kif enumerat mill-ġdid ghandu jiġi enumerat mill-ġdid bhala s-subartikolu (4) u ghandu jżdid dan is-subartikolu (3) ġdid li ġej:

"(3) Jista' jiġi pprezentat appell quddiem il-Bord ghal kull waħda minn dawn ir-raġunijiet li ġejjin:

(a) li jkun sar żball materjali dwar il-fatti;

(b) li kien hemm żball proċedurali materjali;

(ċ) li jkun sar żball fil-liġi;

(d) li kien hemm xi illegalità materjali, inkluża nuqqas ta' raġonevolezza jew ta' proporzjonalità."

(6) Wara s-subartikolu (4) ta' l-artikolu 35 kif enumerat mill-ġdid ghand jidhol dan li ġej:

"(5) Meta jkun qed jiddeċiedi xi appell taht dan l-artikolu l-Bord jista':

(a) jichad l-appell;

(b) jannulla d-deċiżjoni,

u meta l-Bord jannulla d-deċiżjoni dan jista' jirreferixxi l-kwistjoni lill-Awtorità jew lill-Ministru (skond il-każ) flimkien ma' ordni biex din tiġi kkunsidrata mill-ġdid u tinghata deċiżjoni skond ir-rizultanzi tal-Bord.

(6) L-effett ta' deċiżjoni li jkun hemm appell dwarha ma ghandux, hlief meta l-Bord jew il-Qorti ta' l-Appell, skond il-każ, hekk jordnaw, ikun sospiż minhabba f'li jkun sar l-appell.”.

(7) L-artikolu 36 kif enumerat mill-ġdid ghandu jiġi emendat kif ġej:

(a) Fis-subartikolu (1) minflok il-kliem “ghall-artikolu 32” ghandhom jidhlu l-kliem “ghall-artikolu 37”;

(b) Fit-test Inġliż tas-subartikolu (2) minflok il-kelma “advice” ghandha tidhol il-kelma “advise”.

(8) Fl-artikolu 37 kif enumerat mill-ġdid minnufih wara l-kliem “Qorti ta' l-Appell” ghandhom jidhlu l-kliem “kif maghmula skond is-subartikolu (6) ta' l-artikolu 41 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili” (Kap. 12).

(9) L-artikolu 38 kif enumerat mill-ġdid ghandu jiġi emendat kif ġej:

(a) Fis-subartikolu (1) minflok il-kliem “lid-dispożizzjonijiet ta' dan l-Att u b'mod partikolari” ghandhom jidhlu l-kliem “lid-dispożizzjonijiet ta' dan l-Att jew ghall-implementazzjoni adattata tal-prinċipji tal-kompetizzjoni ġusta u ta' provvedimenti ta' *open network* fil-kamp tat-telekomunikazzjonijiet u b'mod partikolari”;

(b) Fil-paragrafu (ċ) tas-subartikolu (1) minflok il-kliem “bl-*International Telecommunications Union* (ITU)” ghandhom jidholu l-kliem “minn korpi ta' ghemil ta' *standards* Ewropej inkluż l-Istitut Ewropew ghal *Standards* Tekniċi (ETSI), il-Kumitat Ewropew

ghall-Ghemil ta' *Standards*, Kumitat Ewropew għall-Ghemil ta' *Standards* fl-Elettroteknika (CEN, CENELEC) u bi *standards* u rakkomandazzjonijiet internazzjonali adottati mill-Union Internazzjonali għat-Telekomunikazzjonijiet (ITU), mill-Organizzazzjoni Internazzjonali għall-Ghemil ta' *Standards* (ISO) jew mill-Kumitat Internazzjonali Elettrotekniku (IEC)";

(ċ) Fil-paragrafu (e) tas-subartikolu (1) wara l-kliem "minn provdatur awtorizzat" għandhom jidhlu l-kliem "u *targets* ta' kwalita` fis-servizz";

(d) Fil-paragrafu (f) tas-subartikolu (1) wara l-kliem "għall-abbonati" għandhom jidhlu l-kliem "u l-utenti";

(e) Minflok il-paragrafi (h) u (i) tas-subartikolu (1) għandu jidhol dan li ġej:

"(h) kull haġa li jkollha x'taqsam ma' l-interkonnessjoni ta' sistemi ta' telekomunikazzjonijiet, jew mal-kollokament ta' faċilitajiet bejn u qsim fis-sehem ta' faċilitajiet bejn provduri awtorizzati, għal preselezzjoni ta' trasportatur, għal dhul b' aċċess ta' *networks* minn utenti, abbonati jew minn operaturi ta' *networks* oħra, għal linji mikrija, għal dhul b' aċċess għal *data networks* internazzjonali, u għal drittijiet ta' passagġ u kull haġa li jkollha x'taqsam mal-kumpens li jkollu jithallas għar-rigward ta' dan;

(i) kull haġa li tirrigwarda jew ikollha x'taqsam mal-portabilità tan-numri, pjanijiet dwar in-numri, allokkazzjoni ta' numri, regoli ta' kompetizzjoni fil-kamp tat-telekomunikazzjonijiet, proċeduri ta' hruġ ta' kontijiet u l-eżattezza tagħhom, servizzi ta' emerġenza, servizzi ta' direttorju, kontrolli ta' tariffi, użu ta' spektrum ta' frekwenzi, proprjetà ta' provduri awtorizzati, obligazzjonijiet ta' servizz universali, drittijiet għal-liċenza li jithallsu lill-awtorità kompetenti, it-trasferiment, it-tiġdid u t-terminazzjoni ta' liċenzi, il-kondizzjonijiet li taħthom għandhom jinħarġu l-liċenzi, u l-prospetti u r-rapporti li għandhom isiru lill-awtorità kompetenti;

(j) ir-regolament ta' sistemi ta' telekomunikazzjonijiet ghat-trasmissjoni jew ir-reċezzjoni ta' sinjali satellitari;

(k) l-obbligazzjonijiet ta' provditur awtorizzat li jkollu forza fis-suq sinjifikanti;

(l) l-obbligazzjonijiet ta' provdituri ta' servizz ta' bla sistema;

(m) ir-regolament tal-*cable television* u ta' servizzi bil-*cable* inkluża l-introduzzjoni ta' regoli dwar x'ghandu jiġi trasportat, l-obbligazzjoni li tintgħamel disponibbli kapacià ta' kanali għall-użu tal-pubbliku, tal-Gvern jew skopijiet edukattivi, l-ghemil ta' rati għal aċċess mikri għal *cable networks*, regolamentazzjoni ta' rati, il-proprjetà trasversali ta' *cable networks* u ta' *networks* jew servizzi oħra u l-implementazzjoni ta' kompetizzjoni effettiva fil-kamp ta' servizzi bil-*cable*;

(n) kull haġa li tista' tenhtieg bil-ghan li jitharsu l-obbligazzjonijiet internazzjonali ta' Malta;

(o) kull haġa li jkollha x'taqsam mar-risolviment ta' tilwimiet li jitnisslu f'dak li għandu x'jaqsam mat-thaddim ta' sistemi ta' telekomunikazzjonijiet jew il-provdiment ta' servizzi ta' telekomunikazzjonijiet inklużi appelli minn deċiżjonijiet.”;

(f) Fil-paragrafu (a) tas-subartikolu (2) minflok il-kliem “provdituri awtorizzati li jzommu” għandhom jidhlu l-kliem “provdituri awtorizzati li jadottaw sistemi ta' kontijiet ta' spejjeż hekk kif jista' jiġi preskritt u li jzommu”;

(g) Fil-paragrafu (b) tas-subartikolu (2) wara l-kliem “kull servizz ta' telekomunikazzjonijiet” għandhom jidhlu l-kliem “inklużi miżuri ta' protezzjoni ta' data u hwejjeġ relatati ma' l-użu ta' informazzjoni li tinkiseb mis-settur tat-telekomunikazzjonijiet għall-iskop ta' suq dirett”;

(h) Fil-paragrafu (ċ) tas-subartikolu (2) minflok il-kliem “li jittiehdu b’xi obligazzjoni” ghandhom jidhlu l-kliem “li jittiehdu, jew ikunu mahsuba li jittiehdu, b’xi obligazzjoni”;

(i) Fil-paragrafu (d) tas-subartikolu (2) minflok il-kliem “Att, inkluża r-registrazzjoni taht l-artikolu 12 ta’ dan l-Att kif ukoll id-drittijiet” ghandhom jidhlu l-kliem “Att u d-drittijiet”;

(j) Wara l-paragrafu (f) tas-subartikolu (2) ghandu jizdied dan il-paragrafu ġdid li ġej:

“(ġ) jawtorizzaw lill-Awtorita` li timponi penalitajiet jew sanzjonijiet amministrattivi fuq kull provditur awtorizzat li jkun qieghed jaġixxi bi ksur ta’ kull provvediment ta’ dan l-Att jew ta’ kull regolament magħmul tahtu:

Izda l-penalitajiet amministrattivi li jiġi pprovdut dwarhom b’regolamenti magħmulin taht dan l-artikolu ma ghandhomx ikunu jeċċedu l-ammont ta’ għaxart elef lira (Lm 10,000) għal kull reat u ta’ elf lira (Lm 1,000) għal kull ġurnata li matulha jibqa’ jkun hemm in-nuqqas ta’ osservanza tal-provvedimenti ta’ dan l-Att jew tar-regolamenti magħmulin tahtu jew ta’ kull awtorizzazzjoni:

Izda wkoll, il-penalitajiet amministrattivi stipulati f’dan il-paragrafu jistgħu permezz ta’ regolamenti jizdiedu sa massimu ta’ hamsin elf lira (Lm 50,000) u ta’ hamest elef lira (Lm 5,000) għal kull ġurnata li matulha jibqa’ jsehh il-ksur, rispettivament.”;

(k) Fis-subartikolu (5) minflok il-kliem “dan l-artikolu, huwa ghandu” ghandhom jidhlu l-kliem “dan l-artikolu, hija ghandha fid-diskrezzjoni tagħha” u minflok il-kelma “kontributorji” ghandha tidhol il-kelma “kontributori”;

(l) Wara s-subartikolu (5) ghandu jizdied dan is-subartikolu ġdid li ġej:

“(6) Regolamenti magħmulin taht dan l-artikolu jistgħu ukoll jagħtu lill-Awtorita` s-setgħa li toħroġ regolamenti dwar dawk il-hwejjeġ li dwarhom jistgħu jintagħmlu regolamenti taht dan l-artikolu.”;

(10) Fis-subartikolu (2) ta’ l-artikolu 39 kif enumerat mill-ġdid minflok il-kliem “li tkun falza, jew iwaqqaf” għandhom jidhlu l-kliem li tkun falza jew qarrieqa, jew iwaqqaf”.

(11) Fis-subartikolu (1) ta’ l-artikolu 40 minflok il-kliem “fuq talba tiegħu” għandhom jidhlu l-kliem “fuq talba tagħha”.

11. (1) L-artikoli 36 u 37 għandhom jiġu enumerati mill-ġdid bhala l-artikoli 41 u 43.

(2) Fis-subartikolu (4) ta’ l-artikolu 41 kif enumerat mill-ġdid minflok il-kliem “għandhom jibqgħu fis-seħħ” għandhom jidhlu l-kliem “għandhom, sakemm dawn ikunu kompatibbli ma’ l-Att, jibqgħu fis-seħħ”.

(3) L-artikolu 43 kif enumerat mill-ġdid għandu jiġi emendat kif ġej:

(a) Fis-subartikolu (1) minflok il-kliem “id-data operattiva” għandhom jidhlu l-kliem “it-thassir ta’ l-Att dwar il-Korporazzjoni Telemalta,” u minflok il-kliem “f’ dik id-data, għandha sa dik id-data” għandhom jidhlu l-kliem “f’ dik id-data, għandha biss sakemm din tkun kompatibbli ma’ dan l-Att, sa dik id-data”;

(b) Fis-subartikolu (2) minflok il-kliem “mid-data operattiva” għandhom jidhlu l-kliem “mit-thassir ta’ l-Att dwar il-Korporazzjoni Telemalta”;

(c) Fil-paragrafu (b) tas-subartikolu (2) minflok il-kliem “d-data operattiva,” għandhom jidhlu l-kliem “t-thassir ta’ l-Att dwar il-Korporazzjoni Telemalta,” u l-kliem “f’ isem il-Gvern” għandhom jithassru.

12. (1) L-artikoli 38, 39, 40, 41 u 42 għandhom jithassru.

(2) Wara l-artikolu 43 kif enumerat mill-ġdid għandu jiżdied dan li ġej:

“44. (1) Awtorizzazzjoni għall-istallazzjoni jew it-thaddim ta' sistema ta' telekomunikazzjonijiet jew sabiex jiġi pprovdut servizz ta' telekomunikazzjonijiet jista', biss sal-31 ta' Diċembru, 2002 u bla hsara għal dawn id-dispożizzjonijiet li ġejjin ta' dan l-artikolu, jinghataw bi privileġġ esklużiv.

(2) Ma jista' jinghata jew ikollu effett ebda privileġġ esklużiv wara l-31 ta' Diċembru tas-sena 2002.

(3) Mill-ġurnata li l-Ministru jista' b'ordni jistabbilixxi, il-privileġġ esklużiv dwar it-thaddim ta' xi sistema ta' telekomunikazzjonijiet jew il-provdiment ta' xi servizzi ta' telekomunikazzjonijiet bħal ma seta' kien mogħti fi jew taħt xi liġi, liċenza, awtorizzazzjoni, kuntratt jew istrument iehor sew qabel sew wara l-bidu fis-seħħ ta' dan l-artikolu ma għandux jibqa' jseħħ u jistgħu jiġu stabbiliti dati differenti għar-rigward ta' kategoriji differenti ta' servizzi jew sistemi ta' telekomunikazzjonijiet.

(4) Il-provvedimenti ta' dan l-artikolu għandu jkollhom effett minkejja l-provvedimenti ta' xi liġi, liċenza, awtorizzazzjoni, kuntratt, ftehim jew istrument iehor u fil-każ ta' konflitt bejn id-dispożizzjonijiet ta' dan l-artikolu u xi liġi oħra, jew ta' kull haġa li ssir taħta, għandhom jipprevalixxu d-dispożizzjonijiet ta' dan l-artikolu.

(5) Il-bidu fis-seħħ tal-provvedimenti tas-subartikolu (3) ta' dan l-artikolu jew ta' kull haġa li ssir skond dak is-subartikolu taħt dan l-artikolu u l-varjazzjoni ta' xi liċenza jew kuntratt skond l-artikolu 38 ta' dan l-Att -

(i) ma għandux jiftiehem bħala li jikkostitwixxi it-tehid ta', jew il-privazzjoni minn, proprjetà jew beni jew indhil fil-paċifiku pussess ta' beni għall-finijiet ta' kull liġi mgħoddija qabel dan l-Att;

(ii) ma għandux jiftiehem bħala li jikkostitwixxi t-terminazzjoni ta' liċenza;

(iii) ma għandux jiġi interpretat bħala li jikkostitwixxi delitt, ksur ta' kuntratt jew li jagħti

lok ghal xi azzjoni ghal danni jew hlas ieħor lill-persuna li ttemm milli jkollha privileġġ esklużiv:

Iżda ebda haġa f'dan is-subartikolu ma ghandha tiftiehem bhala li timplika illi li kieku ma kienx ghad-dispożizzjonijiet ta' dan is-subartikolu kull persuna kien ikollha jedd ghal azzjoni imsejsa fuq it-tehid ta', jew il-privazzjoni minn, proprjetà jew beni jew fuq l-interferenza mal-paċifiku pussess tal-beni, jew fuq delitt jew ksur ta' kuntratt jew kien ikollha jedd ghal azzjoni ghal kull hlas dwar it-terminazzjoni ta' xi privileġġ esklużiv jew li dik it-terminazzjoni kienet tkun tammonta għat-terminazzjoni ta' liċenza.

(6) F'kull każ, kull min jitlef xi privileġġ esklużiv skond dan l-artikolu għandu jitqies, ukoll għall-ghanijiet tal-proviso li hemm mas-subartikolu (1) ta' l-artikolu 37 tal-Kostituzzjoni jekk l-imsemmi artikolu 37 ikun japplika, bhala li jkun ġie kompensat adegwatament ghal kull telf bhal dak bl-akkwist ta' l-opportunità li jipprovdi servizzi ta' telekomunikazzjonijiet u li jhaddem sistemi ta' telekomunikazzjonijiet taht il-kondizzjonijiet bhalma huma dawk li hemm ipprovdut dwarhom f'dan l-Att u kif jinsabu deskritti fl-Ewwel Skeda li tinsab ma' dan l-Att u li l-Parlament ikun qies dan bhala każ speċjali fejn ikun xieraq fl-interess nazzjonali li jiġu stabbiliti l-kriterji hawn aktar qabel imsemmija fid-deċiżjoni dwar il-kumpens, jekk ikun il-każ, li jkollu jithallas li kieku l-imsemmi artikolu 37 tal-Kostituzzjoni kien applikabbli għall-każ.

45. (1) Minkejja l-provvedimenti ta' kull liġi oħra, ikun id-dmir ta' l-awtorità kompetenti li tagħmel b'mod proporzjonat u, wara li tikkonsulta lill-provditur jew provduri awtorizzati involuti dawk it-tibdiliet ta' kull liċenza lil provditur awtorizzat mahruġa qabel l-1 ta' Marzu 2000 u f'kull kuntratt bejnha u provditur awtorizzat jew bejn provduri awtorizzati li jkun sar qabel l-1 ta' Marzu 2000 hekk kif ikun jidher lill-awtorità kompetenti li jkun mehtieg u adattat bil-ghan li jiġu implementati l-prinċipji ta' kompetizzjoni u l-provvedimenti ta' open network fit-telekomunikazzjonijiet u bil-ghan li tiġi żgurata konformità ma' l-iskopijiet ta' dan l-Att u ta' kull regolament li jsir tahtu.

(2) Meta l-awtorità kompetenti tagħmel bidliet ghal xi kuntratt jew liċenza skond is-subartikolu (1) ta' dan l-artikolu, din tista' wkoll tagħmel dawk il-bidliet l-oħra f'dak il-kuntratt jew f'dik il-liċenza ta' xorta supplementali,

inċidentalment, konsegwenzjalment jew transitorjalment hekk kif tqis li jkun adattat.

(3) Kull tibdila f'xi liċenza jew kuntratt li ssir taht is-subartikolu (1) ta' dan l-artikolu tista' ssir b'effett retrospettiv sa mid-data tal-bidu fis-sehh ta' dan l-artikolu.

(4) Kull tibdila f'xi liċenza jew kuntratt li ssir taht dan l-artikolu għandha ssir permezz ta' avviż li jiġi notifikat lill-provditur jew provduri awtorizzati involuti u għandu jiġi ppubblikat b'dak il-mod li l-awtorità kompetenti tista' tqis li jkun adattat.

(5) Id-deċiżjoni ta' l-awtorità kompetenti li tagħmel tibdila f'xi liċenza jew kuntratt skond dan l-artikolu għandu jkun fiha r-raġunijiet li fuqhom tkun imsejja l-istess deċiżjoni.

46. (1) Mal-bidu fis-sehh ta' dan l-artikolu u sal 31 ta' Diċembru, 2000 il-Ministru jkollu s-setgħa li jeżerċita l-funzjonijiet u s-setgħat kollha mogħtija b'dan l-Att lill-Awtorità.

(2) Meta jkun qed jeżerċita s-setgħa tiegħu taht dan l-artikolu biex johroġ liċenzi għat-thaddim ta' sistemi ta' telekomunikazzjonijiet u l-provdiment ta' servizzi ta' telekomunikazzjonijiet il-Ministru jkollu wkoll is-setgħa li johroġ liċenzi li jkollhom sehh jew li għandhom jibdeu isehhu wara l-31 ta' Diċembru, 2000.

(3) Ebda haġa f'dan l-artikolu ma għandha tiftiehem bħala li ċċaħhad lill-Awtorità milli teżerċita s-setgħat u l-funzjonijiet lilha mogħtijin b'dan l-Att matul il-perjodu meta l-istess setgħat u funzjonijiet jistgħu wkoll jiġu eżerċitati mill-Ministru.

47. It-thassir ta' l-artikoli 39, 40, 41 u 42 għandu jkun mingħajr preġudizzju għall-validità u l-infurzar ta' xi trasferiment ta' drittijiet, dmirijiet, obligazzjonijiet, attiv, proprjetà ta' kull deskrizzjoni kif ukoll kull dritt ancillari, inkluża kull ipoteka, privileġġ, rahan, titolu assikurativ u dritt ieħor li jassigura kull dritt ieħor jew obligazzjoni oħra li ġew trasferiti jew akkwistati qabel il-bidu fis-sehh ta' dan l-artikolu.”.

(3) In-noti marginali għall-artikoli godda 44 sa u inkluż 46 għandhom ikunu kif ġej:

(a) Artikolu 44: "Privileġġ esklużiv ma ghandux jibqa' permissibbli";

(b) Artikolu 45: "Dmir ta' l-awtorità kompetenti li taghmel tibdiliet fil-liċenzi u l-kuntratti";

(ċ) Artikolu 46: "Setgħa temporanja tal-Ministru li jeżerċita funzjonijiet ta' l-Awtorità";

(d) Artikolu 47: "Dispożizzjonijiet transitorji".

13. Minnufih fi tmiem l-Att għandha tiżdied din l-Ewwel Skeda li ġejja:

"L-EWWEL SKEDA

(Artikolu 44(6))

Pjan Nazzjonali għal Riforma fis-Settur tat-Telekomunikazzjonijiet

I. Sfond

Fl-ewwel parti tas-sena 2000 il-Gvern kellu diskussjonijiet u skambji ta' korrispondenza mat-tliet operaturi ewlenin fis-settur tat-telekomunikazzjonijiet dwar il-liberalizzazzjoni tas-suq tat-telekomunikazzjonijiet f'Malta.

Il-Gvern bi hsiebu jiehu l-miżuri neċessarji biex jiżgura li jitnehhew monopolji eżistenti tul medda żmien realistika. Huwa konsapevoli tal-fatt li f'ċerti istanzi kienu intużaw il-monopolji sabiex jinholqu ostakoli għal dawk l-investituri li riedu jiżviluppaw servizzi godda. Il-Gvern iqis li dan kien ta' detriment kbir għall-ekonomija ta' Malta u taffa r-rata ta' żvilupp f'qasam li f'pajjiżi oħra ra tkabbir esponenzjali fi snin reċenti.

F'istanzi oħra irriżultaw monopolji fit-trattament ingust ta' l-utent mhux biss bil-limitazzjoni ta' servizzi u l-provdiment ta' servizzi ta' kwalità inferjuri, iżda wkoll permezz ta' reġim ta' prezzijiet li ġġenera profitti għoljin hafna b'detriment tal-konsumatur u ta' l-iżvilupp ta' l-ekonomija in ġenerali.

Profitti bhal dawk u n-nuqqas ta' kompetizzjoni fis-suq tat-telekomunikazzjonijiet iżidu l-ispejjeż tal-produzzjoni f' Malta, jikkagunaw telf ta' opportunità u jnaqqsu l-kompetittività fis-suq internazzjonali.

Il-Gvern bi hsiebu johloq ambjent li mhux biss jirrimedja dan kollu iżda li jkun ukoll iwassal ghall-investment. L-Amministrazzjoni thoss li dan huwa mehtieġ sabiex jibni l-istruttura ta' komunikazzjonijiet li illum hija element vitali ghat-tkabbir ekonomiku.

Wara li qies sew dan kollu, il-Gvern ghaldaqshekk iddeċieda li jipproċedi b'miżuri legislattivi intiżi biex jirrifirmaw is-suq tat-telekomunikazzjonijiet b'mod imsejjes fuq bilanċ bejn il-liberalizzazzjoni, l-effiċjenza u s-servizz lill-pubbliku.

Il-Gvern iqis li l-pakkett ta' riforma huwa vantaġġuż sew ghall-pubbliku u ghat-tliet operaturi korrenti li se jgawdu diversi opportunitajiet li jidhlu fi swieq ġodda b'riżultat tal-liberalizzazzjoni.

II. Il-Pakkett ta' Riforma

Il-Gvern bi hsiebu jghaddi mill-Parlament qafas legislattiv sabiex jagħmel ir-riforma proposta possibbli u biex jagħti lok għal reġim regolatorju effettiv li jkollu l-kapaċità u s-saħħa li jiżgura ż-żamma ta' ambjent san u kompetittiv fis-suq tat-telekomunikazzjonijiet.

Il-Gvern ikkonsidra kif dovut il-proposti kollha lilu komunikati mit-tliet operaturi ta' *networks* u servizzi fis-settur u issa jinsab fil-pożizzjoni li jistabbilixxi din il-medda żmien ta' liberalizzazzjoni kif ġej:

1. Is-servizzi kollha tat-telekomunikazzjonijiet, minbarra t-telefonija fissa, it-telefonija mobbli, *gateway* internazzjonali u *cable television*, għandhom jiġu liberalizzati mill-1 ta' Ġunju, 2000.

2. Il-monopolju preżenti fit-telefonija mobbli għandu jintemm immedjatament meta Maltacom tingħata liċenza biex tidhol fis-suq tat-telefonija mobbli. Ebda liċenza mobbli addizzjonali ma għandha tinhareġ matul il-perjodu li jtemm 31 ta' Dicembru, 2002. Il-Gvern jikkonsidra l-hruġ ta' tielet operatur fl-2003 u t-

tielet detentur ta' licenza ghalhekk ma jkunx mistenni li jiġi kollokat qabel l-1 ta' Jannar, 2005.

3. Is-suq tal-*cable television* jiġi liberalizzat fl-1 ta' Ġunju, 2001.

4. Servizzi ta' *gateway* internazzjonali, inklużi dawk ghal servizzi ta' *data*, jiġu liberalizzati fl-1 ta' Jannar, 2003.

5. Servizzi ta' telefonija fissa jiġu liberalizzati fl-1 ta' Jannar, 2003.

III. Miżuri li jirrigwardaw Maltacom p.l.c.

Kif previst meta l-Att dwar il-Kompetizzjoni sar liġi xi ftit tas-snin ilu, il-Gvern bi hsiebu jnehhi l-miżuri transitorji temporanji li bihom Maltacom kienet eżenti mill-provvedimenti ta' l-Att dwar il-Kompetizzjoni.

Bejn l-1 ta' Ġunju, 2000 u l-31 ta' Dicembru, 2002, u bla hsara għall-medda żmien dwar il-liberalizzazzjoni hawn aktar qabel imsemmija, Maltacom jew kull wahda mis-sussidjarji tagħha jkollha licenza biex tipprovdi, fuq bażi mhux-esklużiva, is-servizzi ta' telekomunikazzjonijiet kollha li Maltacom korrentement tipprovdi u li jinsabu koperti bil-licenza li Maltacom għandha bhalissa, sakemm dawn ma jkunux limitati b'xi licenza jew ftehim oħra korrenti.

Maltacom jew is-sussidjarji tagħha għandhom minnufih jiġu garantiti licenza biex jipprovdu dawn is-servizzi ta' telekomunikazzjonijiet li ġejjin:

- Sistemi u servizzi ta' telekomunikazzjonijiet fissi pubbliċi;
- Sistemi u servizzi ta' telekomunikazzjonijiet fissi bla fili;
- Sistemi u servizzi ta' telekomunikazzjonijiet mobbli pubbliċi;
- Sistemi u servizzi ta' *radio paging*.

Minhabba fil-bidla fix-xenarju ta' operazzjonijiet mobbli pubbliċi, Maltacom se tenhtieg li tiddisponi mill-ishma taghha fil-kumpanija Vodafone Malta Limited fi żmien sitt xhur mid-data meta s-sussidjarja taghha tipprovdi ghall-ewwel darba servizzi ta' telefonija mobbli.

Meta wiehed jikkonsidra li f'dan ix-xenarju kompetittiv, Maltacom se tenhtieg li topera bil-mod l-iktar effiċjenti, il-Gvern se jiddiskuti ma' Maltacom bil-ghan li jipprovdi ghalha u jghinha fit-twettiq, tharrig mill-ġdid, impieg mill-ġdid jew irtir kmieni ta' kull zieda mehtieġa fil-persunal iktar minn dik prevista fid-dokument IPO tat-8 ta' Ġunju, 1998.

Il-Gvern jikkonsidra li ghalkemm xi aspetti mill-introduzzjoni ta' xenarju ta' telekomunikazzjonijiet liberalizzat ma jkunux jibbenefikaw lil Maltacom, f'oqsma ohra l-kumpanija ghandha tkun benefiċjarju evidenti filwaqt li s-sitwazzjoni ma ghandhiex tinbidel b'mod sinjifikanti f'xi oqsma ohra. Il-Gvern huwa konvint li Maltacom se tkun benefiċjarju finali mil-liberalizzazzjoni.

L-oqsma li fihom il-Gvern jikkonsidra li Maltacom se titef huma dawn li ġejjin:

a. Il-monopolju fuq is-servizzi ta' telefonija fissa li s'issa jwassal sal-2010 se jidhol minfloku wiehed li jwassal sal-31 ta' Diċembru, 2002;

b. Is-servizzi ta' *gateway* internazzjonali, fejn jerga monopolju sal-2010 jidhol minfloku wiehed li jwassal sal-31 ta' Diċembru, 2002;

ċ. L-introduzzjoni tal-possibilità li jkun hemm iktar mit-tliet kumpaniji preżenti li jkunu jipprovdu servizzi ta' *data*.

F'dan ir-rigward ghandu wkoll jitqies li kieku Malta komplet bix-xenarju preżenti, il-Gvern kien ikollu jiżgura li ma jintużawx pożizzjonijiet monopolistiċi biex jinżammu livelli ta' prezzijiet ghal servizzi li m'humiex komparabbli internazzjonalment.

Il-Gvern jikkonsidra li Maltacom ghandha ghaliex tmur tajjeb mir-reġim il-ġdid b'dawn il-modi li ġejjin:

a. L-akkwist immedjat ta' liċenza ta' telefonija mobbli effettiva minflok dik mhux effettiva li tgawdi bhalissa, b'mod li jniedi l-kumpannija f'dan is-settur ta' telekomunikazzjonijiet, li jipprovdi wisq iktar opportunitajiet ta' tkabbir, wisq qabel it-terminazzjoni tal-monopolju eżistenti ta' Vodafone fl-2009;

b. Il-possibilità li tipprovdi servizzi ta' *cable television* qabel it-terminazzjoni tal-monopolju eżistenti ta' Melita Cable fl-2006;

ċ. Suq imkabbar bhala reġim liberalizzat jiġġenera servizzi godda u utenti godda;

d. Is-sostituzzjoni ta' reġim regolatorju xejn ċar b'qafas regolatorju msahha.

Jitqies li minn dan kollu, id-dhul immedjat fis-suq tat-telefonija mobbli u l-possibilità ta' dhul fis-suq tal-*cable television* fil-ġejjieni qarib sew huma vantaġġi kbar hafna li se jkunu ta' benefiċċju kemm fi żmien viċin kemm fi żmien iktar fit-tul u Maltacom se jkollha l-kapaċità li ssir ghalkollox kumpannija tat-telekomunikazzjonijiet minflok ma tkun ristretta ghal teknoloġija ta' telefonija fissa li t-tkabbir taghha hu mistenni li jkun limitat.

F'kull każ ma ghandux ukoll jintesa l-fatt li l-bidliet fir-reġim ta' liċenzjar tat-telekomunikazzjonijiet f'Malta kienu previsti fid-dokument ta' *Initial Public Offering* (IPO) mahruġ biex iniedi l-privatizzazzjoni parzjali ta' Maltacom fl-1998. B'mod partikolari, kien ġie ddikjarat f'dak id-dokument li:

"Ir-Regolatur u Maltacom ghamlu ftehim ta' liċenza fit-2 ta' Jannar, 1998 ("il-Liċenza") li jaghti lil Maltacom id-dritt esklużiv li tipprovdi, fost affarijiet ohra, telefonija bil-vuċi b'linja fissa sew nazzjonali sew internazzjonali sal-31 ta' Diċembru 2010" (p 49 para 1, IPO)

"Taht il-Liċenza, Maltacom ghandha d-dritt esklużiv sal-31 ta' Diċembru, 2010 li tipprovdi telefonija bil-vuċi nazzjonali u

internazzjonali u servizzi b'valur miżjud relatati; servizzi mhux bil-vuċi nazzjonali u internazzjonali; bejgh mill-ġdid ta' servizzi ta' telekomunikazzjonijiet; servizzi bil-*phone card* pubbliċi u privati; ISDN; servizzi ta' telekomunikazzjonijiet fuq firxa wiesgħa fuq *network* pubbliku; u servizzi mogħtijin permezz ta' kull tip ta' teknoloġija ta' mobbiltà terminali *cordless* pubblika u teknoloġija *local loop* bla fili inkluż DECT. Dawk is-servizzi jistgħu jiġu provduti fuq linji fissi jew b'kull mezz iehor mhux mobbli" (p 51 para 4, IPO)

"Organizzazzjoni Dinjija għall-Kummerċ

Fil-15 ta' Frar, 1997, 69 pajjiz membru tal-*World Trade Organisation* ("il-firmatarji") qablu li jifthu s-swieq tagħhom għar-rigward ta' kull firmatarju. Minn dak iż-żmien 'l hawn l-għadd totali ta' firmatarji żdied sat-total preżenti ta' 72. Il-ftehim li l-firmatarji kienu meħtieġa li jirratifikaw sat-30 ta' Novembru, 1997 u li beda jsehħ fil-5 ta' Frar, 1998 jeħtieġ li l-firmatarji jippermettu lil provdituri ta' servizz ta' telekomunikazzjonijiet barranin li joffru s-servizzi tagħhom fil-pajjiżi tal-firmatarji, kif ukoll li jixtru ishma f'kumpanniji tat-telekomunikazzjonijiet li jkunu qed joperaw f'dak il-pajjiż, skond rabtiet speċifiċi li jiġu implementati fil-medda żmien miftehma. Ghalkemm Malta mhix firmatarja għal dan il-ftehim, bhala membru tal-WTO għandha dritt li tipparteċipa f'laqgħat ta' negozjati li jsiru fil-gejjieni dwar il-liberalizzazzjoni tal-kummerċ f'dan is-settur, liema negozjati huma stipulati fil-Ftehim tal-WTO li jibdedw sa l-1 ta' Jannar, 2000" (p 52 para 7, IPO)

"Unjoni Ewropea

Fil-1 ta' Jannar, 1998 is-suq tat-telekomunikazzjonijiet Ewropew infetaħ fil-wisa' għall-kompetizzjoni b'riżultat ta' l-adozzjoni suċċessiva mill-Unjoni Ewropea ("UE") ta' miżuri legali li jeħtieġu lill-15 il-pajjiż membru Ewropew li progressivament jifthu s-swieq tagħhom nazzjonali tat-telekomunikazzjonijiet għall-kompetizzjoni. Il-kompetizzjoni tkopri s-setturi kollha tas-suq tat-telekomunikazzjonijiet, b'miżuri speċifiċi li jiġu adottati għal servizzi b'valur miżjud,

servizzi satellitarji, servizzi mobbli u servizzi ta' *cable television*, li jilhq l-quċcata tagħhom bil-htieġa li l-pajjizi membri Ewropej inehhu kull dritt esklużiv mogħti għal servizzi ta' telefonija bil-vuċi sa l-1 ta' Jannar, 1998. B'żieda ma' dan, ġew adottati wkoll regoli li jirregolaw oqsma bħalma huma l-interkonnessjoni, il-licenzar u affarijiet konsumistiċi bħal kuntratti u hrug ta' kontijiet. Ċerti pajjizi thallew japplikaw lill-Kummissjoni Ewropeja għal deroga għal żmien speċifikat għal x'uhud mill-htigiet dwar il-ftuh tas-suq.

Id-dhul formali fl-UE jehtieġ lil pajjizi applikanti li jadottaw ir-regoli kollha ta' l-UE, inklużi dawk dwar it-telekomunikazzjonijiet, qabel jew fi żmien speċifikat mill-inkorporazzjoni legali fl-UE. B'żieda ma' dan, jistghu jinkisbu relazzjonijiet eqreb li ma jkunux jikkostitwixxu dhul formali. Malta tista' tagħzel li tinnegozja dhul formali jew ftehim bilaterali iehor ma' l-UE li tahtu tista' tkun meħtieġa li tadotta ċerti regoli ta' l-UE bħalma huma dawk għar-rigward tat-telekomunikazzjonijiet. F'kull każ iż-żamma ta' l-esklużività ta' Maltacom tista' tiġi dubitata. Ara *Business-Competition*" (p 53 para 2 u 3, IPO)

"B'żieda ma' dan, kull htieġa imposta fuq Malta biex tneħhi l-perjodu ta' esklużività mogħti lill-Kumpannija b'riżultat ta' l-adozzjoni minn Malta ta' provvedimenti speċifiċi tal-liġi ta' l-Unjoni Ewropea dwar telekomunikazzjonijiet skond kull ftehim ta' dhul formali jew ftehim iehor bilaterali qabel l-2010 jista' jolqot hażin il-pożizzjoni kompetittiva tal-Kumpannija. Ara "*Regulation - International Regulation - European Union*" u l-Anness A - "Ir-Repubblika ta' Malta". Ghalkemm il-Kumpannija thoss li kull tqassir simili tal-perjodu ta' esklużività tiegħu ikun jehtieġ kumpens mill-Gvern l-effett ta' kull azzjoni simili jista' jolqot hażin ir-riżultati ta' operazzjonijiet u prospetti ulterjuri tal-Kumpannija" (p 33 para 5, IPO)

IV. Mizuri li jirrigwardaw Melita Cable p.l.c.

Melita jew xi waħda mis-sussidjarji tagħha għandha minnufih tkun garantita liċenza biex tipprovdi dawn is-servizzi ta' telekomunikazzjonijiet li ġejjin:

- Servizzi ta' *cable television*;
- Trasport fit-telekomunikazzjonijiet għar-rigward ta' servizzi ta' *data*;
- Servizzi ta' *data* b'linja mikrija;
- Servizzi ta' *data* fuq sistema ta' *cable television*.

Iktar minn hekk, Melita jew wahda mis-sussidjarji tagħha se tkun ukoll minnufih awtorizzata li tipprovdi sistemi u servizzi ta' telekomunikazzjonijiet fissi pubbliċi (inklużi servizzi ta' *gateway* internazzjonali) mill-1 ta' Jannar, 2003.

Ir-Regolamenti ta' l-1999 dwar Provdituri ta' Servizzi għal *Internet* u *Data Networks* oħra, għandhom jiġu modifikati sabiex ikunu jipprovdu li l-obbligazzjonijiet ta' aċċess miftuħ ikunu japplikaw biss għal kumpanniji li jkollhom forza sinjifikanti fis-suq fil-provdiment ta' trasport ta' telekomunikazzjonijiet relatat ma' servizzi ta' aċċess għall-Internet.

Il-Gvern jikkonsidra li għalkemm Melita Cable p.l.c. se titlef il-privileġġ ta' esklużività fis-servizzi tal-*cable television* fl-1 ta' Gunju, 2001, hija se tkun benefiċ jarja mil-liberalizzazzjoni għal dawn ir-raġunijiet li ġejjin:

- a. Il-liċenza preżenti ta' Melita tiskadi fit-2 ta' Lulju, 2006 filwaqt li taht il-qafas regolatorju ġdid Melita se tiġi garantita liċenza ta' 10 snin li tista' tiġġedded;
- b. Il-liċenza tal-kumpannija bħalissa speċifikament tipprojbixxi l-użu tas-sistema bil-fil għall-provdiment ta' servizzi ta' telefonija. Taht ix-xenarju ġdid il-kumpannija se tinghata liċenza biex tipprovdi servizzi ta' telekomunikazzjonijiet fissi pubbliċi fuq l-infrastruttura tagħha mill-1 ta' Jannar, 2003;
- ċ. Id-dritt tal-kumpannija li tipprovdi servizzi ta' *data*, kif distinti mit-trasmissjoni ta'

sinjali ta' *data*, fuq *in-network* taghha qieghed bhalissa jiġi kkontestat. Fix-xenarju l-ġdid din il-kwistjoni se tkun riżolta;

d. Id-dritt tal-kumpannija li tuża tubi li jghaddu taht toroq pubbliċi huwa wkoll suġġett ghal deċiżjoni ġudizzjarja. Taht reġim ġdid liberalizzat din il-kwistjoni se tkun ukoll riżolta;

e. Taht l-arrangamenti transitorji ghall-introduzzjoni tar-reġim legali ġdid il-kumpannija tkun permessa li żżomm il-monopolju taghha fil-qasam tal-*cable television* sa l-1 ta' Ġunju, 2001;

f. Melita ma tistax fil-preżent topera *gateway* internazzjonali. Melita madankollu se tinghata liċenza biex tipprovdi dawn is-servizzi mill-1 ta' Jannar, 2003;

g. Ix-xenarju monopolistiku preżenti fis-settur tat-telekomunikazzjonijiet jirrestringi l-libertà kummerċjali ta' nies fis-suq li jaghżlu l-kampi ta' operazzjoni taghhom. Ir-reġim liberalizzat jiftaħ opportunitajiet biex jiġu pprovduti servizzi ta' telekomunikazzjonijiet godda;

h. Taht liċenzi korrenti ma jistghux jiġu introdotti servizzi godda kemm-il darba ma jkunx ġie speċifikament provdut dwarhom fil-liċenza filwaqt li l-liċenzi proposti jkunu biżżejjed newtri mill-aspett teknoloġiku li d-detenturi tal-liċenzi jkunu jistgħu jimplementaw servizzi kompatibbli ma' livelli tal-ġenerazzjoni li jmiss;

i. Ir-reġim regolatorju xejn ċar korrenti ghandu jiġi sostitwit bi struttura regolatorja msahha li jkollha riżorsi adegwati biex tiżgura kompetizzjoni ġusta f'kamp ekwu ta' negozjar bejn in-nies kollha fis-suq;

j. Taht ir-regolamenti korrenti fuq l-aċċess għall-Internet il-Provdituri kollha tas-Servizz tal-Internet qeghdin jinghataw dritt ta' aċċess miftuh għan-*network* ta' Melita. Ir-regolament ġdid tas-suq ghandu jipprovdi li drittijiet ta' aċċess miftuh

se jsiru operattivi biss meta kumpanija tikseb forza sinjifikanti fis-suq fil-kamp tat-trasport tat-telekomunikazzjonijiet relatat għall-aċċess għall-Internet;

k. Maltacom hija preżentement eżenti mill-Att dwar il-Kompetizzjoni. Din l-eżenzjoni għandha tiegħa fl-1 ta' Ġunju, 2000 u n-nies kollha fis-suq isiru suġġetti għar-regoli tal-liġi dwar il-kompetizzjoni;

l. Taht ir-regim regolatorju korrenti l-liċenzi x'aktarx jitqiesu bhala dokumenti kummerċjali sensittivi li ohrajn ma jistax ikollhom aċċess għalihom. Il-mudell propost jintroduci trasparenza regolatorja u tagħmel il-liċenzi kollha pubbliċi fl-interess ta' ċertezza regolatorja u xejn diskriminazzjoni.

V. Miżuri li jirrigwardaw Vodafone (Malta) Limited

Vodafone jew xi waħda mis-sussidjarji tagħha għandha minnufih tkun garantita liċenza biex tipprovdi dawn is-servizzi ta' telekomunikazzjonijiet li ġejjin:

- Sistemi u servizzi ta' telekomunikazzjonijiet mobbli pubbliċi;

- Servizzi ta' *data fuq network* ta' telefonija mobbli.

Vodafone jew xi waħda mis-sussidjarji tagħha għandha wkoll minnufih tkun awtorizzata li tipprovdi servizzi ta' *gateway* internazzjonali mill-1 ta' Jannar, 2003.

Minhabba fil-bidla fix-xenarju ta' operazzjonijiet mobbli pubbliċi, Maltacom se tkun meħtieġa li tiddisponi mill-ishma tagħha f'Vodafone Malta Limited fi żmien sitt xhur mid-data meta s-sussidjarja tagħha tipprovdi għall-ewwel darba servizzi ta' telefonija mobbli.

Il-Gvern jikkonsidra li l-introduzzjoni ta' xenarju ta' telekomunikazzjonijiet liberalizzat se jirrizulta f'li

Vodafone (Malta) Limited se titef il-monopolju li hija tgawdi fil-provdiment ta' servizzi mobbli TACS u ETACS. Il-monopolju f'oqsma ohra ta' servizzi ta' telefonija ċellulari qeghda korrentement tigi kontestata minn Maltacom quddiem il-Bord ta' l-Appelli dwar Telekomunikazzjonijiet u ghalkemm ir-Regolatur tat-Telekomunikazzjonijiet irritjena li l-liċenza ta' Vodafone taghtiha d-dritt li teskludi lil ohrajn mis-sug tat-telefonija mobbli ċellulari, din hi xi haġa li fl-ahhar mill-ahhar se jiddeċiedi dwarha l-Bord ta' l-Appelli.

Il-Gvern jikkonsidra wkoll li Vodafone (Malta) Limited ghandha taghmel akkwist bir-regim regulatorju ġdid b'dawn il-modi li ġejjin:

a. Maltacom tkun mehtieġa li tbiegh l-ishma taghha fil-Vodafone fi żmien sitt xhur mid-data meta s-sussidjarja taghha tipprovdi ghall-ewwel darba servizzi ta' telefonija mobbli. Dan ghandu jtemm id-dritt tassew importanti li Maltacom tgawdi bhalissa li takkwista l-maġġoranza ta' l-azzjonijiet fil-kumpannija. Dan itemm ukoll id-drittijiet estensivi li Maltacom bhala azzjonista minoritarja ghandha ghar-rigward tal-*policies* ta' Vodafone dwar il-prezzijiet u dwar it-treġija ta' aspetti importanti tal-kummerċ tal-kumpannija;

b. Filwaqt li l-liċenza korrenti ta' Vodafone tiskadi fl-10 ta' Awissu, 2009 u l-kumpannija ma tistax tipprovdi servizzi wara dik id-data, taht il-qafas il-ġdid il-kumpannija se tinghata liċenza ġdida ghal ghaxar snin li tkun tista' tiggedded ghal perjodi ohra ta' 10 snin;

ċ. Preżentement Vodafone ghandha l-obbligu li tuża l-infrastruttura ta' Maltacom ghal servizzi ta' *gateway* internazzjonali. Il-kumpannija se jkollha liċenza biex tipprovdi servizzi ta' *gateway* internazzjonali mill-1 ta' Jannar, 2003;

d. Vodafone Malta Limited xorta tibqa' tibbenefika minn sitwazzjoni ta' duopolju fis-sug tat-telefonija mobbli sal 31 ta' Diċembru, 2002 b'possibilita' ta' estensjoni ta' din is-sitwazzjoni wara dik id-data;

e. Il-liċenza preżenti ta' Vodafone Malta Limited tawtorizza biss l-użu ta' *standards* TACS, ETACS u GSM filwaqt li l-liċenza l-ġdida tkun

tapplika ghal kull *standard* Ewropew. Dan ikun jaghti permess lil Vodafone li timplementa servizzi kompatibbli ma' *standards* tal-ġenerazzjoni li jmiss, inklużi UMTS;

f. Ix-xenarju monopolistiku preżenti fis-settur tat-telekomunikazzjonijiet jirrestringi l-libertà kummerċjali ta' nies fis-suq li jagħzlu l-oqsma ta' operazzjoni tagħhom. Ir-regim liberalizzat jiftah opportunitajiet għall-provdiment ta' servizzi tat-telekomunikazzjonijiet ġodda;

g. Ir-regim regolatorju xejn ċar preżenti se jiġi sostitwit bi struttura regolatorja msahha li jkollha riżorsi adegwati li jkunu jiżguraw kompetizzjoni ġusta f'kamp ekwu ta' negozjar bejn in-nies kollha fis-suq;

h. Maltacom tinsab bhalissa eżenti mill-Att dwar il-Kompetizzjoni. Din l-eżenzjoni ttejjem fl-1 ta' Ġunju, 2000 u n-nies kollha fis-suq isiru sugġetti għar-regoli tal-ligi dwar il-kompetizzjoni;

i. Taht ir-regim regolatorju korrenti l-liċenzi x'aktarx jitqiesu bhala dokumenti kummerċjali sensittivi li oħrajn ma jistax ikollhom aċċess għalihom. Il-mudell propost jintroduċi trasparenza regolatorja u tagħmel il-liċenzi kollha pubbliċi fl-interess ta' ċertezza regolatorja u xejn diskriminazzjoni.

VI. Iż-żmien li ġej

Il-Gvern jafda li l-operaturi kollha jharsu lejn il-programm ta' bidla hawn aktar qabel delineat bhala wiehed pożittiv. Huwa żgur li f'dan ix-xenarju l-operaturi kollha se jirrikonoxxu opportunitajiet ġodda biex jespandu l-operazzjonijiet tagħhom u jkomplu jagħmluha ta' nies ewlenin fis-suq f'dan is-settur ekonomiku.”.

Għanijiet u Raġunijiet

L-għanijiet u raġunijiet ta' dan l-Abbozz huma t-twaqqif ta' l-Awtorità ta' Malta dwar il-Komunikazzjoni biex tissorvelja u tirregola l-iżvilupp ta' servizzi u teknoloġiji ta' komunikazzjoni f'Malta u t-tqeghid ta' qafas legiſlattiv għar-riforma fil-qasam tat-telekomunikazzjonijiet. L-Abbozz jipprovdi iktar biex sa mid-data msemmija fl-Att ma jibqax iktar legali għal persuna li jkollha liċenza esklużiva li tforni, tipprovdi jew thaddem xi sistemi jew servizzi ta' telekomunikazzjonijiet u jaghti l-opportunità lil kull persuna involuta fl-industrija tat-telekomunikazzjonijiet li tikkompeti fuq bażi ekwa f'kull kategorija ta' sistemi jew servizzi ta' telekomunikazzjonijiet.

MALTA COMMUNICATIONS AUTHORITY ACT, 2000

Arrangement of Sections

Section

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FIRST SCHEDULE

Directorates

SECOND SCHEDULE

Consequential amendments

**A Bill
entitled**

AN ACT to provide for the establishment of an Authority to be known as the Malta Communications Authority and for the exercise by or on behalf of that Authority of regulatory functions regarding telecommunications, data protection, electronic commerce and similar areas in the field of communications and to make provision with respect to matters ancillary thereto or connected therewith.

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

Part I - Preliminary

Short title and
commencement.

1. This Act may be cited as the Malta Communications Authority Act, 2000 and shall come into force on such date or dates as the Minister may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and different provisions of this Act.

Interpretation.

2. In this Act, unless the context otherwise requires–

“advisory committee” or “committee” means an advisory committee established in accordance with section 29 of this Act;

“Authority” means the Malta Communications Authority established by section 3 of this Act;

“Chairman” means Chairman of the Authority and includes, in the circumstances mentioned in subsection (3) of section 3 of

this Act, the Deputy Chairman or other person appointed to act as Chairman:

Provided that, in relation to section 29 of this Act, “Chairman” means the Chairman of an advisory committee;

“Chief Executive” means the Chief Executive appointed under section 5 of this Act;

“communications” includes telecommunications, postal services, data protection, electronic commerce, internet services, and such other matters as the Minister may by Order from time to time prescribe;

“contractor” means a person acting in pursuance of an agreement entered into with the Authority or in accordance with subsection (5) of section 5 of this Act;

“Director” means a Director appointed under section 5 of this Act;

“employee” means a person employed by the Authority;

“financial year” means any period of twelve ending on the 30th September;

Provided that the first financial year of the Authority shall begin on the coming into force of this Act and shall end on the 30th September of the next following year;

“Minister” means the Minister responsible for communications;

“public officer” in relation to section 11 of this Act, has the same meaning assigned to it by section 124 of the Constitution but does not include a judge of the Superior Courts or a magistrate of the Inferior Courts.

Part II - Establishment, Functions and Conduct of Affairs of the Authority

3. (1) There shall be a body, to be known as the Malta Communications Authority, which shall consist of a Chairman and not less than four and not more than six other members.

Establishment and composition of the Malta Communications Authority.

(2) The members of the Authority shall be appointed by the Minister for a term of one year or for such longer period as may be

specified in the instrument of appointment subject to a maximum of three years but the members so appointed may be re-appointed on the expiration of their term of office.

(3) The Minister may designate one of the other members of the Authority as Deputy Chairman and the member so designated shall have all the powers and perform all the functions of the Chairman during his absence or inability to act as Chairman or while the Chairman is on vacation or during any vacancy in the office of chairman, and the Minister may also, in any of the circumstances aforesaid, appoint another person to act as chairman and in such case the foregoing provisions shall apply in respect of such person.

(4) A person shall not be qualified to hold office as a member of the Authority if he—

(a) is a Minister, Parliamentary Secretary or a member of the House of Representatives, or

(b) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of his functions as a member of the Authority:

Provided that the Minister may waive the disqualification of a person under this paragraph if such person declares the interest and such declaration and waiver are published in the Gazette.

(5) Subject to the provisions of this section, the office of a member of the Authority shall become vacant—

(a) at the expiration of his term of office, or

(b) if any circumstances arise that, if he were not a member of the Authority, would cause him to be disqualified for appointment as such.

(6) A member of the Authority may be removed from office by the Minister if, in the opinion of the Minister, such member is unfit to continue in office or has become incapable of properly performing his duties as a member.

(7) If a member resigns or if the office of a member of the Authority is otherwise vacant or if a member is for any reason unable to perform the functions of his office, the Minister may appoint a person who is qualified to be appointed to be a member to be a temporary member of the Authority; and any person so appointed shall, subject to

the provisions of subsection (5) and (6) of this section, cease to be such a member when a person has been appointed to fill the vacancy or, as the case may be, when the member who was unable to perform the functions of his office resumes those functions.

(8) Any member of the Authority who has any direct or indirect interest in any contract made or proposed to be made by the Authority, not being an interest which disqualifies such member from remaining a member, shall disclose the nature of his interest at the first meeting of the Authority after the relevant facts have come to his knowledge, such disclosure shall then be recorded in the minutes of the Authority, and the member having an interest as aforesaid shall withdraw from any meetings at which such contract is discussed. Any such disclosure shall be communicated to the Minister without delay. Where the interest of the member is such as to disqualify him from remaining a member, he shall report the fact immediately to the Minister and tender his resignation.

4. (1) Without prejudice to any other functions assigned or transferred to the Authority by or under this or any other Act, it shall be the duty of the Authority to— Functions of the Authority.

(a) ensure freedom of communication and that communications shall not be limited except when this is necessary for any of the following reasons:

- (i) the protection of the right to privacy;
- (ii) the defence of national security, territorial integrity or public safety;
- (iii) the prevention of disorder or crime;
- (iv) the protection of public health;
- (v) the protection of morals and respect for the dignity of the human person;
- (vi) the protection of the rights and freedoms of others;
- (vii) the prevention of the disclosure of information received in confidence;
- (viii) the maintenance of the authority and impartiality of the judiciary;

(ix) the technical constraints inherent in the means of communication;

(b) ensure non-discrimination and equality of treatment in matters related to communications.

(2) It shall in particular be the duty of the Authority to exercise such regulatory functions in the field of communications, as may from time to time be assigned to the Authority by or under an Act of Parliament.

(3) The Authority shall also—

(a) regulate, monitor and keep under review all practices, operations and activities relating to any matter regulated by or under this Act;

(b) grant any licence, permit or other authorisation, for the carrying out of any operation or activity relating to any matter regulated by or under this Act;

(c) regulate and secure interconnectivity for the production, transmission and distribution of the services, products, operations or activities relating to any matter regulated by or under this Act;

(d) ensure fair competition in all such services, products, operations and activities;

(e) establish minimum quality and security standards for any of the said services, products, operations and activities and to regulate such measures as may be necessary to ensure public and private safety;

(f) secure and regulate the development and maintenance of efficient systems in order to satisfy, as economically as possible, all reasonable demands for the provision of the services, products, operations or activities relating to any matter regulated by or under this Act;

(g) carry out studies, research or investigation relating to any matter regulated by or under this Act;

(h) provide information and issue guidelines to the public and to commercial entities relating to any matter regulated by or under this Act;

(i) regulate the price structure for any activity regulated by or under this Act and where appropriate to establish the mechanisms whereby the price to be charged for the services, products, operations or activities is determined;

(j) regulate the qualifications to be possessed by any person who is engaged or employed in any activity regulated by or under this Act;

(k) establish measures for the protection of the environment in the provision of the services, products, operations or activities relating to any matter regulated by or under this Act;

(l) ensure that international obligations entered into by Malta relative to matters regulated by or under this Act are complied with;

(m) advise the Minister on the formulation of policy in relation to matters regulated by or under this Act, and in particular in relation to such international obligations;

(n) otherwise to advise the Minister on any matter connected with its functions under this or any other Act;

(o) formulate and implement the policies and strategies with short-term and long-term objectives in relation to the matters connected with its functions under this or any other Act;

(p) encourage the provision of communications services in Malta and enable persons providing communications services in Malta to compete effectively in the provision of such services outside Malta;

(q) encourage users of communications services to establish places of business in Malta;

(r) perform such other functions as may from time to time be assigned to it by the Minister.

5. (1) Subject to the other provisions of this Act the affairs and business of the Authority shall be the responsibility of the Authority itself but save as aforesaid, the executive conduct of the Authority, its administration and organisation and the administrative control of its officers and employees, shall be the responsibility of the Chief Executive of the Authority, who shall also have such other powers as may from time to time be delegated to him by the Authority.

Conduct of the affairs of the Authority.

(2) There shall be established the Directorates as listed in the First Schedule to this Act, which shall have the responsibilities as described therein. The Minister may, after consulting the Authority, by Order in the Gazette, abolish any one or more of the said Directorates vary their responsibilities and establish such other Directorate as he may from time to time deem appropriate.

(3) The Authority shall exercise its functions through the Directorates so established and for such purpose it shall vest in each of the Directorates so established and subject to the overall supervision and control of the Chief Executive, such of its functions as relate or are ancillary to the matters for which it is responsible so as to enable the said Directorate to give effect to the policies of the Authority and to otherwise discharge effectively and efficiently the functions of the Authority in its respective area of operation.

(4) Each of the Directorates so established shall be headed by an individual who shall either be a public officer detailed for duty with the Authority or an employee of the Authority, in either case having adequate experience or knowledge in the respective area of operation as the Minister may determine.

(5) The Authority and each of the Directorates may exercise any one or more of their functions either directly or through any of their officers or employees or through an agency authorised for the purpose, or through a contractor or other person with whom an agreement for the performance of any one or more of such functions has been entered into.

(6) Where in this Act anything is to be done by or against or with respect to the Authority, or any notice is to be or may be given to the Authority, any such thing or notice may also be done by or against or with respect to or be given to the Directorate under whose jurisdiction the matter falls by reason of a delegation of function to such Directorate; and for the purposes aforesaid any reference in this Act to the Authority includes a reference to the appropriate Directorate.

(7) The Chief Executive and the Directors shall be appointed by the Minister for a period of three years and such period may be extended for further periods of three years each.

(8) The Chief Executive shall attend all the meetings of the Board but shall not vote at such meetings:

Provided that the Authority may if it so deems fit require the Chief Executive not to attend any of the meetings or any part of a meeting.

(9) The Chief Executive shall be responsible for the implementation of the objectives of the Authority in the exercise of its functions and without prejudice to the generality of the foregoing he shall—

(a) assume full responsibility for the overall supervision and control of the Directorates;

(b) assign to each Directorate such duties which are by, or in accordance with, the provisions of this Act vested in such Directorate;

(c) co-ordinate the workings of the Directorates;

(d) develop the necessary strategies for the implementation of the objectives of the Authority;

(e) advise the Authority on any matter it may refer to him or on any matter which he considers necessary or expedient; and

(f) perform such other duties as the Authority may assign to him from time to time.

6. (1) The Minister may in relation to matters that appear to him to affect the public interest, from time to time give to the Authority directions of a general character, not inconsistent with the provisions of this Act, on the policy to be followed in the carrying out of the functions vested in the Authority by or under this Act, and the Authority shall, as soon as may be, give effect to all such directions.

Relations between the Minister and the Authority.

(2) The Authority shall afford to the Minister facilities for obtaining information with respect to its property and activities and furnish him with returns, accounts and other information with respect thereto, and afford to him facilities for the verification of information furnished, in such manner and at such times as he may reasonably require.

(3) If the Authority fails to comply with any directions issued under this section, the Prime Minister may make an order transferring to the Minister in whole or in part any of the functions of the Authority

7. (1) The Authority shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any kind of property for the purposes of its functions, or suing and

Legal personality and representation of the Authority.

being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act, including the lending or borrowing of money.

(2) The legal representation of the Authority shall jointly vest in the Chairman and the Chief Executive:

Provided that the Authority may appoint any one or more of its members or of the officers or employees of the Authority to appear in the name and on behalf of the Authority in any judicial proceedings and in any act, contract, instrument or other document whatsoever:

Provided further that in respect of any matter falling within the functions vested in a Directorate, the legal and judicial representation of the Authority shall also vest in the Director or in such other member, officer or employee of the Authority, as the Authority may appoint or authorise for the purpose.

(3) Any document purporting to be an instrument made or issued by the Authority and signed by the Chairman or by the Chief Executive or by a Director in relation to any matter vested in the relative Directorate by the Authority shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Authority.

Provisions with respect to proceedings of the Authority.

8. (1) The meetings of the Authority shall be called by the Chairman as often as may be necessary but at least once a month either on his own initiative or at the request of any two of the other members.

(2) Half the number of members for the time being constituting the Authority shall form a quorum. Decisions shall be adopted by a simple majority of the votes of the members present and voting. The Chairman, or in his absence the Deputy Chairman or other person appointed to act as chairman, shall have an initial vote and in the event of an equality of votes, a casting vote. Without prejudice to the other requirements of this Act, no decision shall be valid which is not supported by at least two members of the Authority.

(3) Subject to the provisions of this Act the Authority may regulate its own procedure.

(4) Subject to the foregoing provisions of this section, no act or proceeding of the Authority shall be invalidated merely by reason of the existence of any vacancy among the members.

(5) All acts done by any person acting in good faith, as a member of the Authority shall be valid as if he were a member notwithstanding that some defect in his appointment or qualification be afterwards discovered. No act or proceeding of the Authority shall be questioned on the ground of the contravention, by a member, of the provisions of subsection (8) of section 3 of this Act.

Part III - Officers and Employees of the Authority

9. Subject to the provisions of the Constitution and of any other enactment applicable thereto, and without prejudice to the other provisions of this Act, the appointment of officers and other employees of the Authority shall be made by the Authority. The terms and conditions of employment shall be established by the Authority with the concurrence of the Minister.

Staff appointments.

10. The Authority shall appoint and employ, at such remuneration and upon such time terms and conditions as it may, in accordance with section 9 of this Act, determine, such officers and employees of the Authority as may from time to time be necessary for the due and efficient discharge of the functions of the Authority.

Appointment and functions of officer and employees of the Authority.

11. (1) The Prime Minister may, at the request of the Authority, from time to time direct that any public officer shall be detailed for duty with the Authority in such capacity and with effect from such date as may be specified in the Prime Minister's direction.

Detailing of public officers for duty with the Authority.

(2) The period during which a direction as aforesaid shall apply to any officer specified therein, shall, unless the officer retires from the public service, or otherwise ceases to hold office at an earlier date, or unless a different date is specified in such direction, cease to have effect after one year from the effective date of such direction unless the direction is revoked earlier by the Prime Minister.

12. (1) Where any officer is detailed for duty with the Authority under any of the provisions of section 11 of this Act, such officer shall, during the time in which such direction has effect in relation to him, be under the administrative authority and control of the Authority but he shall for other intents and purposes remain and be considered and treated as a public officer.

Status of public officers detailed for duty with the Authority.

(2) Without prejudice to the generality of the foregoing, an officer detailed for duty as aforesaid—

(a) shall not during the time in respect of which he is so detailed—

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by him at a date on which he is so detailed for duty; or

(ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by him at the date aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Authority; and

(b) shall be entitled to have his service with the authority considered as service with the Government for the purposes of any pension, gratuity, or benefit under the Pensions Ordinance and the Widows and Orphans' Pensions Act and of any other right or privilege to which he would be entitled, and liable to any liability to which he would be liable, but for the fact of his being detailed for duty with the Authority.

Cap. 93.
Cap. 58.

(3) Where an application is made as provided in subparagraph (i) of paragraph (a) of subsection (2) of this section the same consideration shall be given thereto as if the applicant had not been detailed for service with the Authority.

(4) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the Authority as aforesaid during the period in which he is so detailed.

Offer of permanent employment with the Authority to public officers detailed for duty with the Authority.

13. (1) The Authority may, with the approval of the Prime Minister, offer to any officer detailed for duty with the Authority under any of the provisions of section 11 of this Act permanent employment with the Authority at a remuneration and on terms and conditions not less favourable than those enjoyed by such officer at the date of such offer.

(2) The terms and conditions comprised in any offer made as aforesaid shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the officer concerned at the date of such offer, if such terms and conditions, taken as a whole, in the opinion of the Prime Minister offer substantially equivalent or greater benefits.

(3) Every officer who accepts permanent employment with the Authority offered to him, under the provisions of subsection (1) of this section shall for all purposes other than those of the Pensions Ordinance and of the Widows' and Orphans' Pensions Act, and saving the provisions of section 33 of this Act, be deemed to have ceased to be in service with the Government and to have entered into service with the Authority on the date of his acceptance, and for the purposes of the said Ordinance and of the said Act, so far as applicable to him, service with the Authority shall be deemed to be service with the Government within the meanings thereof respectively.

(4) Every such officer as aforesaid who, immediately before accepting permanent employment with the Authority was entitled to benefit under the Widows' and Orphans' Pensions Act, shall continue to be so entitled to benefit thereunder to all intents as if his service with the Authority were service with the Government.

(5) The Authority shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer who has accepted performance of employment with the Authority as aforesaid during the period commencing on the date of such officer's acceptance.

(6) (a) For the purposes of this section posts and salary grades with the Authority shall be classified in the most nearly corresponding grades and incremental levels in the service under the Government of Malta by reference to job description, skills, responsibilities and other analogous factors.

(b) The classification referred to in paragraph (a) of this subsection shall be carried out by a board composed of a chairman appointed by the Ministry responsible for finance and two other members, one appointed by the Ministry responsible centrally for personnel policies in the public service and one appointed by the Authority. The classification shall be subject to the final approval of the Minister responsible for finance.

(c) Such classification shall take place within three months of any adjustment of salaries of employees in Government service and, or, of employees of the Authority.

(d) No post shall be classified in a grade higher than that of a Grade 3 in the service of the Government or such other grade that the Minister responsible for finance may from time to time by notice in the Gazette determine.

(e) Without prejudice to section 113 of the Constitution, no person may, following a classification as aforesaid, be entitled to rights under the said Pensions Ordinance less favourable than those to which he would have been entitled prior to such classification.

Part IV - Financial Provisions

Authority to meet expenditure out of revenue.

14. (1) Without prejudice to the following provisions of this section, the Authority shall so conduct its affairs that the expenditure required for the proper performance of its functions shall, as far as practicable, be met out of its revenue.

(2) For such purpose the Authority shall levy all fees, rates and other payments prescribed or deemed to be prescribed by or under this Act or any other law related to the powers and functions of the Authority.

(3) The Authority shall also be paid by Government out of the Consolidated Fund such sums as Parliament may from time to time authorise to be appropriated to meet the costs of specified works to be continued or otherwise carried out by the Authority, being works of infrastructure or a similar capital nature.

(4) Any excess of revenue over expenditure shall, subject to such directives as the Minister, after consultation with the Minister responsible for finance, may from time to time give, be applied by the Authority to the formation of reserve funds to be used for the purposes of the Authority; and without prejudice to the generality of the powers given to the Minister by this subsection, any direction given by the Minister as aforesaid may order the transfer to the Government, or the application in such manner as may be specified in the direction, of any part of the fees, rates and other payments levied in accordance with subsection (2) of this section or any such excess as aforesaid.

(5) Any funds of the Authority not immediately required to meet expenditure may be invested in such manner as may from time to time be approved by the Minister.

Power to borrow or raise capital.

15. (1) For the purpose of carrying out any of its functions under this Act, the Authority may, with the approval in writing of the Minister given after consultation with the Minister responsible for finance, borrow or raise money in such manner, from such person, body or authority, and under such terms and conditions as the Minister, after consultation as aforesaid, may in writing approve.

(2) The Authority may also, from time to time, borrow, by way of overdraft or otherwise, such sums as it may require for carrying out its functions under this Act:

Provided that for any amount in excess of fifty thousand liri, there shall be required the approval of the Minister in writing.

16. The Minister responsible for finance may, after consultation with the Minister, make advances to the Authority of such sums as he may agree to be required by the Authority for carrying out any of its functions under this Act, and may make such advances on such terms and conditions as he may, after consultation as aforesaid, deem appropriate. Any such advance may be made by the Minister responsible for finance out of the Consolidated Fund, and without further appropriation other than this Act, by warrant under his hand authorising the Accountant General to make such advance.

Advances from
Government.

17. (1) The Minister responsible for finance may, for any requirements of the Authority of a capital nature, contract or raise loans, or incur liabilities, for such periods and on such terms and conditions as he may deem appropriate; and any sums due in respect of or in connection with any such loan or liability shall be a charge on the Consolidated Fund.

Borrowing from
Government.

(2) Notice of any loans, liabilities or advances made or incurred under the foregoing provisions of this section shall be given to the House of Representatives as soon as practicable.

(3) Pending the raising of any such loan as is mentioned in subsection (1) of this section, or for the purpose of providing the Authority with working capital, the Minister responsible for finance may, by warrant under his hand, and without further appropriation other than this Act, authorise the Accountant General to make advances to the Authority out of the Treasury Clearance Fund under such terms as may be specified by the Minister upon the making thereof.

(4) The proceeds of any loan raised for the purposes of making advances to the Authority, and any other moneys to be advanced to the Authority under this section, shall be paid into a fund specially established for the purpose and which shall be known as the "Malta Communications Authority Loan Fund".

(5) Sums received by the Accountant General from the Authority in respect of advances made to the Authority under subsection (3) of this section shall be paid, as respects of amounts received by way of repayment into the Treasury Clearance Fund and, as respects of amount received by way of interest into the Consolidated Fund.

18. (1) The Authority shall cause to be prepared in every financial year, and shall not later than six weeks after the end of each such year adopt, estimates of the income and expenditure of the Authority for the next following financial year:

Provided that the estimates for the first financial year of the Authority shall be prepared and adopted within such time as the Minister may by notice in writing to the Authority specify.

(2) In the preparation of such estimates the Authority shall take account of any funds and other monies that may be due to be paid to it out of the Consolidated Fund during the relevant financial year, whether by virtue of this Act or an appropriation Act or of any other law; and the Authority shall so prepare the said estimates as to ensure that the total revenues of the Authority are at least sufficient to meet all sums properly chargeable to its revenue account including, but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall be made out in such form and shall contain such information and such comparison with previous years as the Minister responsible for finance may direct.

(4) A copy of the estimates shall, upon their adoption by the Authority, be sent forthwith by the Authority to the Minister and to the Minister responsible for finance.

(5) The Minister shall, at the earliest opportunity and not later than six weeks after he has received a copy of the estimates from the Authority, approve the same with or without amendment after consultation with the Minister responsible for finance.

19. (1) No expenditure shall be made or incurred by the Authority unless it has been approved by the Minister as provided in section 18 of this Act.

(2) Notwithstanding the provisions of subsection (1) of this section—

(a) until the expiration of six months from the beginning of a financial year, or until the approval of the estimates for that year by the Minister, whichever is the earlier date, the Authority may make or incur expenditure for carrying on its functions under this Act not exceeding in the aggregate one-half of the amount approved by the Minister for the preceding financial year;

(b) expenditure approved in respect of a head or sub-head of the estimates may, with the approval of the Minister given after consultation with the Minister responsible for finance, be made or incurred in respect of another head or sub-head of the estimates;

(c) in respect of the first financial year, the Authority may make or incur expenditure not exceeding in the aggregate such amounts as the Minister responsible for finance may, after consultation with the Minister, allow;

(d) if in respect of any financial year it is found that the amount approved by the Minister is not sufficient or a need has arisen for expenditure for a purpose not provided for in the estimates, the Authority may adopt supplementary estimates for approval by the Minister and in any such case the provisions of this Act applicable to the estimates shall as near as practicable apply to the supplementary estimates.

20. All estimates and supplementary estimates of the Authority approved by the Minister shall, as soon as practicable, be laid on the Table of the House of Representatives. Publication of approved estimates.

21. (1) The Authority shall cause to be kept proper accounts and other records in respect of its operations, and shall cause to be prepared a statement of accounts in respect of each financial year. Accounts and audit.

(2) The accounts of the Authority shall be audited by an auditor or auditors to be appointed by the Authority and approved by the Minister:

Provided that the Minister responsible for finance may, after consultation with the Minister, require the books and accounts of the Authority to be audited or examined by the Auditor General who shall for the purpose have the power to carry out such physical checking and other certifications as he may deem necessary.

(3) After the end of each financial year, and not later than the date on which the estimates of the Authority are forwarded to the Minister under section 18 of this Act, the Authority shall cause a copy of the statement of account duly audited to be transmitted to the Minister and to the Minister responsible for finance together with a copy of any report made by the auditors on that statement or on the accounts of the Authority.

(4) The Minister shall, as soon as practicable, cause a copy of every such statement and report to be laid on the Table of the House of Representatives.

Deposit of revenues and payment by the Authority.

22. (1) All monies accruing to the Authority shall be paid into a bank or banks appointed as bankers of the Authority by a resolution of the Authority. Such monies shall, as far as practicable, be paid into any such banks from day to day, except such sum as the Authority may authorise to be retained to meet petty disbursements and immediate cash payments.

(2) All payments out of the funds of the Authority, other than petty disbursements not exceeding a sum fixed by the Authority, shall be made by such officer or officers of the authority as the Authority shall appoint or designate for that purpose.

(3) Cheques against and withdrawals from any bank account of the Authority shall be signed by such officer of the Authority as may be appointed or designated by the Authority for that purpose and shall be countersigned by the Chairman, or such other member or officer of the Authority as may be authorised by the Authority for that purpose.

(4) The Authority shall also make provision with respect to –

(a) the manner in which and the officer or officers by whom payments are to be authorised or approved;

(b) the title of any account held with the bank or banks into which the monies of the Authority are to be paid, and the transfer of funds from one account to the other;

(c) the method to be adopted in making payments out of funds of the Authority;

and generally with respect to any matter which is relevant to the proper keeping and control of the accounts and books, and the control of the finance, of the Authority.

Contracts of supply of works.

23. Without prejudice to any directions communicated by the Minister under subsection (1) of section 6 of this Act, the Authority shall not, except with the approval of the Minister granted for special reasons and after consultation with the Minister responsible for finance, award or enter into any contract for the supply of goods or materials or for the execution of works, or for the rendering of services, to or for the

benefit of the Authority, which is estimated by the Authority to exceed three thousand liri in value, or such other amount as the Minister responsible for finance may by regulations prescribe, except after notice of the intention of the Authority to enter into the contract has been published and competitive tenders have been issued.

24. The Authority shall, not later than six weeks after the end of each financial year, make and transmit to the Minister and to the Minister responsible for finance a report dealing generally with the activities of the Authority during that financial year and containing such information relating to the proceedings and policy of Authority as either of the said Ministers may from time to time require. The Minister shall cause a copy of every such report to be laid on the Table of the House as soon as practicable. Annual Report.

25. The Authority shall be exempt from any liability for the payment of income tax and stamp duty under any law for the time being in force. Exemption from taxation.

Part V - Transfer of Certain Assets to the Authority

26. (1) The property and undertakings owned by the Government and used by it, immediately before the date of the coming into force of this Part of this Act, and used by it for the operation of any of the functions which by this Act are being transferred to or vested in the Authority shall, on the date aforesaid, by virtue of this Act and without further assurance, be transferred to and vested in the Authority under the same title by which they were held by the Government immediately before the said date. Transfer of assets to the Authority.

(2) The transfer and vesting aforesaid shall extend to the whole of such property and undertakings and, without prejudice to the generality aforesaid, shall include all plant, equipment, apparatus, instruments, vehicles, craft, buildings, structures, installations, land, roads, works, stocks and other property, movable or immovable, assets, powers, rights and privileges and all things necessary or ancillary thereto which are held or enjoyed in connection therewith or appertaining thereto, as well as all obligations affecting or relating to any of the aforesaid property or undertakings or other thing included therein as aforesaid.

27. Subject to the provision of this Act, all laws, rules, regulations, orders, judgements, decrees, awards, deeds, bonds, contracts, agreements, instruments, documents, warrants and other arrangements, subsisting immediately before the date of the coming into force of this Part of this Act affecting or relating to any of the properties or Construction of laws, etc.

undertakings transferred to the Authority by or under this Act shall have full force and effect against or in favour of the Authority, and shall be enforceable freely and effectually, as if instead of the Government or governmental authority the Authority had been named therein or had been a party thereto, and otherwise in substitution of the Government or governmental authority.

Transitory provisions.

28. (1) When anything has been commenced by or under the authority of the Government prior to the date of the coming into force of this Part of this Act and such thing relates to any of the properties or undertakings or any right or liability transferred to the Authority by or under this Act, such thing may be carried on and completed by or as authorised by the Authority.

(2) Where immediately before the coming into force of this Part of this Act, any legal proceedings are pending to which the Government is or is entitled to be a party, and such proceedings are related to any of the properties or undertakings, or any right or liability transferred by or under this Act, the Authority shall, as from the date aforesaid, be substituted in such proceedings for the Government, or shall be made a part thereto in like manner as the Government could have become, and such proceedings shall not abate by reason of the substitution.

(3) The Minister may by order make such incidental, consequential and supplemental provisions as he may deem necessary or expedient for the purpose of determining, as appropriate, the assets transferred to the Authority by this Act and securing and giving full effect to the transfer of any property or undertaking or any right or liability to the Authority by this Act and make such orders as may be necessary to make any powers and duties exercisable by the Government in relation to any of the transferred property or undertakings exercisable by or on behalf of the Authority.

Part VI - Advisory Committees

Appointment and functions of advisory committees.

29. (1) With effect from such day or days as the Minister may by order determine, there shall be appointed in respect of such sector as the Minister may in any such order specify, an advisory committee.

(2) An advisory committee shall, for the better carrying out of the provisions of this Act, advise the Authority on such matters and perform such other functions as the Minister may specify in the Order.

(3) The members of the committee shall be appointed by the Minister and shall hold office for such period and on such terms and conditions as the Minister may deem appropriate.

(4) Each committee shall consist of one member representing the Authority as Chairman and such other members as the Minister may deem fit to appoint.

(5) The provisions of paragraph (a) of subsection (4), and subsections (5) and (8) of section 3 of this Act shall *mutatis mutandis* apply to the members of the advisory committees.

(6) Each advisory committee shall keep minutes of all its meetings and shall forward copies of such minutes to the Authority. The provisions of section 8 of this Act shall *mutatis mutandis* apply to the committee and its acts or proceedings.

Part VIII - Miscellaneous

30. The members of the Authority, the members of the advisory committees and all officers and employees of the Authority shall be deemed to be public officers within the meaning of the Criminal Code.

Persons deemed public officers.

31. The Minister may, after consultation with the Authority, make regulations in respect of any of the functions of the Authority.

Power to make regulations.

Cap. 9.

32. (1) With effect from the coming into force of this section the enactments shown in the First Column of the Second Schedule to this Act shall have effect subject to the amendments shown in the Second column of the said Schedule.

Revocation and savings.

(2) Any subsidiary legislation prescribed under any of the provisions of the Act being amended shall, until other provision is made under or by virtue of this or any other Act, continue in force and have effect.

FIRST SCHEDULE

(Section 5(2))

Directorates

Subject to the Minister's powers under subsection (2) of section 5 of this Act, there shall be the following Directorates -

1. Directorate for Telecommunications with responsibility for the regulation of all matters relating to telecommunications as may from time to time be assigned to the Authority by or under an Act of Parliament.

2. Directorate for Data Protection with responsibility for the regulation of all matters relating to data protection as may from time to time be assigned to the Authority by or under an Act of Parliament.

3. Directorate for Information and Other Systems with responsibility for the regulation of all matters relating to electronic commerce as well as information and other systems as may from time to time be assigned to the Authority by or under an Act of Parliament.

SECOND SCHEDULE

(Section 32)

First Column
Enactment

Second Column
Extent of Amendments

Telecommunications
(Regulation) Act,
Act XXXIII of 1997.

1. (1) The word "Authority" shall substitute the word "Regulator" as follows: in the definition of "universal service obligation" in section 2, in the marginal note to section 3, in the marginal note to section 4, in subsections (1), (2) and (3) of section 6, in subsections (1), (3) and (4) of section 7, in subsections (1), (2), (3) and (4) of section 8, in subsections (1), (2) and (3) of section 9, in subsection (2) of section 10, in the sixth line and paragraph (b) of section 13, in paragraphs (d) and (f) of section 14, in subsections (1), (2), (3), (4) and (5), the first and second provisos to subsection (5), and subsections (6) and (8) of section 15, in paragraph (d) of section 16, in the first paragraph of subsection (1), the proviso to paragraph (b) of subsection (1), paragraph (d) of subsection (1) of section 17, in subsections (1) and (2) of section 19, in subsections (1), (2) and (3) of section 21, in the marginal note and subsections (1), (2) and (3) of section 22, in the marginal note and subsections (1), (2), (3) and (5) of section 23, in subsection (2) of section 24, in title number 5 of Part II, in subsection (3) of section 26, in subsections (1) and (2) of section 28, in paragraphs (d) and (e) of subsection (1) of section 30, in section 32, in subsection (1), paragraphs (a) and (d) of subsection (2), subsections (3), (4) and (5) of section 33, in subsection (2) of section 34, in subsection (1) of section 35, and in paragraphs (a) and (b) of subsection (2) of section 37.

(2) The word "system" shall substitute the word "infrastructure" as follows: in the definitions of "authorisation", "authorised provider", "private telecommunications infrastructure", "private telecommunications service", and "telecommunications service" in section 2, in title number 2 of Part II, in subsection (1) of section 5, in subsection (2) of section 7, in subsection (1) of section 9, in the marginal note, the second line, paragraphs (a), (b) and (c) of section 13, in subsections (1) and (2) of section 14A, in subsection (1) of section 22 and in subsection (1) of section 27 and in paragraphs (a) and (d) of subsection (1) of section 34.

(3) The word "it" shall replace the word "he" as follows: in subsections (3) and (4) of section 7, in subsection

(3) of section 8, in subsection (1) of section 9, in paragraph (f) of section 14, in subsections (3), (4) and (5) of section 15, in subsection (2) of section 19, and in the fifth line of subsection (3) of section 21, in subsections (2) and (3) of section 22, in subsection (5) of section 23, in subsection (3) of section 26 and in subsection (5) of section 33.

2. (1) In section 2, after the words "this Act," there shall be added the words "and in regulations made thereunder,".

(2) The following definitions shall be deleted: "authorisation", "designated company", "operative date", "other service", "public telecommunications infrastructure", "public telecommunications service", "relevant business", "telecommunications", "infrastructure", and "telephony".

(3) In section 2, there shall be added the following new definitions:

(a) After the definition of "apparatus":

" "authorisation" includes any licence or permit issued under this Act to install or operate a telecommunications system or to provide a telecommunications service and includes general authorisations and individual licences as defined in section 6 of this Act;".

(b) After the definition of "Board":

" "commercial activities connected with telecommunications" means the provision of telecommunications services or the supply or export of telecommunications apparatus or the production or acquisition of such apparatus for supply or export;

"competent authority" or "Authority" means the person or body designated as the competent authority in section 3 of this Act and to the extent of the authority given includes any person authorised by it for any purpose;

"convey" includes transmit, switch and receive and "conveyance" shall be construed accordingly;".

(c) After the definition of "electro-magnetic system":

" "exclusive privilege" means the rights granted to one or more persons through any legal, contractual, regulatory or administrative instrument reserving to such person or persons the right to provide a service, to operate a system or to undertake an activity to the exclusion of others; "

(d) After the definition of "granted":

" "interconnection" means the physical and logical linking of telecommunications systems used by the same or a different organisation in order to allow users of one organisation to communicate with users of the same or another organisation or to access services provided by another organisation. Such services may be provided by the parties involved or by other parties who have access to the system; "

(e) After the definition of "Minister":

" "network termination point" means all physical connections and their technical access specifications which form part of the public telecommunications system and are necessary for access to and efficient communication through that public system;

"number portability" means a facility whereby subscribers who so request can retain their number on a telephony system independent of the organisation providing the service at the network termination point of the subscriber;

"open network provisions" means the harmonised conditions which concern the open and efficient access to public telecommunications systems and public telecommunications services and the efficient use of those systems and services. Without prejudice to their application on a case by case basis, open network provisions may include conditions with regard to –

(i) technical interfaces including the definition and implementation of network termination points;

(ii) usage conditions including access to frequencies;

(iii) tariff principles;"

(f) After the definition of "public land":

"public telecommunications system" means a public telecommunications infrastructure which permits the conveyance of signals between defined network termination points by wire, by microwave, by optical means or by other electromagnetic means;

"public telecommunications service" means a service the supply of which has been entrusted to one or more telecommunications organisations;

"significant market power" shall have the same meaning as may be prescribed by regulations made under this Act;

"subscriber" means a person who is a party to a contract with a provider of publicly available telecommunications services for the supply of such services;

"systemless service provider" means a person who provides publicly available telecommunications services but who does not operate the telecommunications system by means of which such services are provided;

"telecommunications" means the emission, transmission, routing or reception through electric, magnetic, electromagnetic, electro-chemical or electro-mechanical energy of:

(i) speech, music and other sounds,

(ii) visual images;

(iii) signals serving for the importation (whether as between persons and persons,

things and things, or persons and things) of any matter otherwise than in the form of sounds or visual images; or

(iv) signals serving for the actuation or control of machinery or apparatus;

"telecommunications apparatus" or "apparatus" means apparatus construed or adapted for use in transmitting or receiving anything which is to be or has been conveyed over a telecommunications system; "

(g) After the definition of "telecommunications service":

" "telecommunications system" means a system for the conveyance through the agency of electric, magnetic, electromagnetic, electro-chemical or electro-mechanical energy, of

(i) speech, music and other sounds;

(ii) visual images;

(iii) signals serving for the importation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images; or

(iv) signals serving for the actuation or control of machinery or apparatus;

"telecommunications transport provider" means a person who provides a service consisting in the conveyance by means of a telecommunications system of publicly available telecommunications services; "

(h) After the definition of "telegraphy":

" "telephony" means the commercial provision for the public or direct transport of real-time speech through the public switches network or networks

such that any user can use equipment connected to a network termination point to communicate with another user of equipment connected to another termination point; " .

(i) After the definition of "universal service obligation":

" "user" means persons using or requesting publicly available telecommunications services. " .

(5) In section 2, in the definition of "authorisation" for the words "sector 12" there shall be substituted the words "section 8".

(6) In section 2, in the definition of "Board" for the words "section 29" there shall be substituted the words "section 34".

(7) In section 2, the definition of "telecommunications service" shall be amended as follows:

(a) In paragraph (a) for the words "transmission, by means of a telecommunications infrastructure" there shall be substituted the words "conveyance by means of a telecommunications system";

(b) In paragraph (b) for the words "any means whatsoever" there shall be substituted the words "means of a telecommunications system";

(c) At the end of the definition there shall be inserted the following "including cable television, video on demand and interactive services, but excluding broadcasting as defined in the Broadcasting Act (Cap. 350);".

(8) In section 2, in the definition of "universal service obligation" for the words "charge." There shall be substituted the word "charge;".

3. (1) Title number 1 of Part II shall be substituted by the following "Competent Authority to regulate Telecommunications".

(2) Other than the marginal note thereof, section 3 shall be substituted by the following:

"3. (1) The Minister shall by order in the Gazette nominate a person or body to be the competent authority for the purposes of this Act to carry out the functions of the competent authority under this Act and to perform such other functions as the Minister may consider appropriate in relation to the operation of this Act. Such person or body shall be nominated for such period as the Minister may determine and the Minister shall have the power at any time to prolong, renew or terminate such nomination by order in the Gazette.

(2) The power of the Minister to prolong, renew or terminate a nomination made in pursuance of subsection (1) of this section shall cease to exist from such time as may be specified by the Minister in an order in the Gazette wherein the Malta Communications Authority is nominated to act as the competent authority under this Act on a permanent basis."

(3) Other than the marginal note thereof, section 4 shall substituted by the following:

"4. (1) It shall be the duty of the Authority to exercise the functions assigned to it under this Act in a manner which it considers to be conducive –

(a) to secure that there are provided in Malta, save in so far as the provision thereof is impracticable, such telecommunications services as satisfy all reasonable demands for them including in particular emergency services, public call services, directory information services, and maritime services; and

(b) without prejudice to the generality of paragraph above, to secure that any person by whom any such services are to be provided is able to finance the provision of those services.

(2) Subject to subsection (1) above, the Authority shall have a duty to exercise the functions assigned or transferred to it under this Act in a manner which it considers to be best conducive –

(a) to promote the interests of consumers, purchasers and other users in Malta (including in particular those who are disabled or of pensionable age) in respect of the prices charged for, and the quality and variety of, telecommunications services provided and telecommunications apparatus supplied;

(b) to promote open networks and effective competition between persons engaged in commercial activities connected with telecommunications in Malta;

(c) to promote efficiency and economy on the part of such persons;

(d) to promote research into and the development and use of new techniques by such persons;

(e) to encourage major users of telecommunications services whose places of business are outside Malta to establish places of business in Malta;

(f) to promote the provision of international transit services by persons providing telecommunications services in Malta;

(g) to enable persons providing telecommunications services in Malta to compete effectively in the provision of such services outside Malta;

(h) to encourage persons producing telecommunications apparatus to set up production facilities in Malta and to enable such persons to compete effectively in the supply of such apparatus both inside and outside Malta.

(3) It shall be the duty of the Authority to carry out the functions prescribed in this Act and to

ensure compliance with the provisions of this Act, and, without prejudice to the generality of the foregoing, to ensure that persons operating telecommunications systems or providing telecommunications services in Malta comply with this Act, with regulations and directives issued under this Act and with the conditions of their licences.

(4) The Authority may make directives as may be required for the carrying into effect of any of the provisions of this Act and it may also amend or revoke such directives.

(5) Directives issued by the Authority in pursuance of this section and any amendment or revocation thereof shall be communicated by the Authority to persons operating telecommunications systems or providing telecommunications services in Malta and shall also be made public in such manner as the authority deems appropriate.

(6) The Authority shall also have such other functions, responsibilities and powers as are set out in this Act or as the Minister responsible for telecommunications may by order prescribe or as may be assigned to it by or under any other law."

(4) Section 5 shall amended as follows:

(a) In the proviso to subsection (2) thereof for the words "shall be deemed to" there shall be substituted the word "may include".

(b) After the proviso to subsection (2) there shall be added the following new subsection:

"(3) The provisions of this section shall not be contravened by the running of any telecommunications system listed as being exempt from the said provisions in regulations which the Minister may from time to time prescribe."

4. (1) Section 6 shall be renumbered as section 12.

(2) After section 5 there shall be added the following:

"6 (1) A licence to operate a telecommunications system or to provide a telecommunications service may be granted –

(i) by the Authority; or

(ii) with the consent of the Authority or in accordance with a general authorisation issued by the Authority,

for the operation of any telecommunications system as is specified in the licence or is of a description so specified.

(2) A licence granted under this section shall be in writing and, unless previously revoked in accordance with any term therein contained, shall continue in force for such period as may be specified in or determined by or under the licence.

(3) A licence granted under this Act may be granted either in the form of a general authorisation to all persons or to persons of a class or in the form of an individual licence to a particular person.

(4) A licence granted under this section may authorise –

(a) the connection to any telecommunications system to which the licence relates of –

(i) any other telecommunications system specified in the licence or of a description so specified; and

(ii) any apparatus so specified or of a description so specified; and

(b) the provision by means of any telecommunications system to which the licence relates of any telecommunications services specified in the licence or of a description so specified.

(5) A licence granted under this Act may include

(a) such conditions (whether relating to the telecommunications system to which the licence relates or otherwise) as appear to the Authority to be requisite or expedient having regard to the duties of the Authority and to the international obligations of Malta;

(b) conditions requiring the payment to the Authority of a fee on the grant of the licence or of payments during the currency of the licence or both, which fee or payments shall be of such amount or amounts (which may also be determined by reference to the licensee's income, sales or turnover) as may be determined in the licence;

(c) in the case of a licence granted to all persons or to persons of a class, conditions requiring any person or any person who falls within the class of persons to which the licence relates to notify the Authority of his intention to run a telecommunications system under that licence;

(d) conditions requiring the licensee to comply with any directions given by the Authority as to matters stated in the licence;

(e) conditions requiring the licensee to do or not to do such things as are specified in the licence;

(f) conditions obliging the licensee to refer for determination by the Authority such questions arising under the licence as are specified in the licence;

(g) such other conditions as may be prescribed.

7. (1) Where the Authority receives an application for a licence to operate a telecommunications system which cannot be operated under the terms of a current licence which has been granted to persons of a class it shall, subject to any time limits specified for the grant of licences under section 14 –

(a) either grant a temporary licence containing such conditions as the Authority considers appropriate to enable the applicant to commence operating such a system; or

(b) reject the application.

(2) Where the Authority grants a temporary licence under subsection (1) of this section it shall as soon as possible either replace such a licence with another licence granted under this section containing such conditions as it considers appropriate or revoke it.

8. (1) A person who complies with the applicable conditions under a general authorisation may operate the telecommunications systems and provide the telecommunications services covered by the general authorisation.

(2) Before providing the telecommunications service or operating the telecommunications system covered by a general authorisation a person enjoying a general authorisation shall notify the Authority of his intention to do so and shall communicate to the Authority the prescribed information relating to the system or service concerned which is necessary for the purpose of ensuring compliance with the conditions of the general authorisation.

(3) The Authority may require a person as referred to in subsection (1) of this section to wait up to four weeks after formal receipt by the Authority of all the prescribed information required before starting to provide the services or to operate the systems covered by the general authorisation.

(4) Fees imposed on persons as part of the authorisation procedures under a general authorisation shall only seek to cover the administrative costs incurred in the issue, management, control and enforcement of the applicable general authorisation scheme:

Provided that nothing in this subsection shall be deemed to exonerate any person availing himself of a general authorisation from making financial contributions to the provision of universal services in accordance with any funding mechanism for universal services as may be prescribed.

9. (1) Individual licences may be issued for the following purposes only:

(a) to allow the licensee access to radio frequencies and numbers;

(b) to give the licensee particular rights with regard to public or private land;

(c) to impose obligations and requirements on the licensee relating to the mandatory provision of publicly available telecommunications services or public telecommunications systems, including obligations which require the licensee to provide universal services and other obligations resulting from open network provisions prescribed in any law or regulation;

(d) To impose specific obligations in accordance with competition rules or international obligations where the licensee has significant market power in relation to the provision of telecommunications systems or publicly available telecommunications services.

(2) Notwithstanding the provisions of subsection (1) above the provision of publicly available voice telephony services, the establishment and provision of public telecommunications systems as well as other systems involving the use of radio frequencies may be made subject to individual licences as may be prescribed.

(3) The Minister may by regulations made after consultation with the Authority limit the number of individual licences for any category of telecommunications services or systems to the extent that he may deem necessary to ensure the efficient use of radio frequencies or for the time that he may deem necessary to make available sufficient numbers.

10. (1) Where a person enjoying a general authorisation does not comply with a condition attached to a general authorisation the Authority may inform that person that he is not entitled to avail himself of the general authorisation and it may impose on that person in a proportionate manner specific measures aimed at ensuring compliance by him with the conditions of the general authorisation.

(2) The Authority shall at the same time give such person as referred to in subsection (1) of this section a reasonable opportunity to state his views on the application of the conditions and to remedy any breaches within one month starting from the intervention of the Authority.

(3) If the person as referred to in subsection (1) above remedies the breaches, the Authority shall, within two months of its initial intervention, revoke or modify its decision as it may consider appropriate and it shall give the reasons for its decision.

(4) If the person as referred to in subsection (1) above does not remedy the breaches the Authority shall, within two months of its initial intervention, confirm its decision and give the reasons for its decision. The decision of the Authority shall be communicated within one week of its adoption to the person concerned.

(5) Decisions of the Authority taken in pursuance of subsections (3) or (4) of this section shall be appealable to the Telecommunications Appeals Board.

11. (1) Where the beneficiary of an individual licence does not comply with a condition attached to the licence, the Authority may withdraw, amend or suspend the individual licence or impose in a proportionate manner, specific measures aimed at ensuring compliance.

(2) The Authority shall at the same time give the beneficiary concerned a reasonable opportunity to state his views on the application of the condition and, except in the case of repeated breaches by the said beneficiary (in which case the Authority can immediately take the appropriate measures), to remedy any breaches within one month commencing from the date of the intention of the Authority.

(3) If the beneficiary concerned remedies the breaches the Authority shall within two months from its initial intention revoke or modify its decision as it deems appropriate and it shall give its reasons for its decision.

(4) If the beneficiary concerned does not remedy the breaches the Authority shall, within two months from its initial intention, confirm its decision and give the reasons for its decision. The decision shall be communicated within one week from its adoption to the beneficiary concerned.

(5) In the event of harmful interference between a telecommunications system using radio frequencies and other technical systems the Authority may take immediate action, including but not limited to the giving of directives, to remedy the problem. In such a case the licensee concerned shall thereafter be given a reasonable opportunity to state its views and to propose remedies to the harmful interference.

(6) Decisions of the Authority taken in pursuance of subsections (3) or (4) of this section shall be appealable to the Telecommunications Appeals Board."

(3) The marginal notes to the new sections 6 to and including 11 shall be as follows:

(a) Section 6: "Licences and General Authorisations";

(b) Section 7: "Temporary Licences";

(c) Section 8: "Procedures for General Authorisations";

(d) Section 9: "Individual Licences";

(e) Section 10: "Noncompliance with Conditions of General Authorisations";

(f) Section 11: "Noncompliance with Conditions of Individual Licences".

(4) Section 12 as renumbered shall be amended as follows:

(a) In subsection (1) thereof after the words "or other authorisation" there shall be added the words "whether it is an individual licence or an entitlement to act under a general authorisation";

(b) In subsection (2) thereof for the word "his" there shall be substituted the word "its".

5. (1) Sections 7, 8, 9 and 10, shall be renumbered as sections 13, 14, 15 and 16 respectively.

(2) Section 13 as renumbered shall be amended as follows:

(a) In subsection (1) for the words “a licence or permit” there shall be substituted the words “an individual authorisation”;

(b) In subsection (2) after the words “the application is made” there shall be added the words “and shall include such information as may be prescribed or, in the absence of such prescription, such information as is sufficient to demonstrate that the applicant fulfils the conditions for the grant of the authorisation”.

(3) Section 14 as renumbered shall be amended as follows:

(a) In subsection (1) for the words “his investigations within a reasonable time” there shall be substituted the words “his investigations within a reasonable time or within such time as may be prescribed”;

(b) In subsection (3) and (4) for the words “section 9” there shall be substituted the words “section 15”;

(c) In subsection (4) the words “but the Minister shall make public the reasons for his decision” shall be deleted;

(d) After subsection (4) there shall be added the following:

“(5) Decisions of the Authority and of the Minister made in pursuance of this section shall include reasons for the decision and shall be published in such a manner as the Authority or the Minister, as the case may be, deem appropriate.

(6) The Authority shall inform the applicant of its decision to grant or refuse an authorisation within six weeks from the date when it receives the application in a complete state and drawn up in a manner that complies with the provisions of this Act:

Provided that such period may be extended to up to four months in the following cases:

(i) where there is disagreement between the decision of the Authority and that of the Minister as to whether an authorisation should be issued; or

(ii) where an application requires consultation between the Authority and any Government department or other authority relating to the use of frequencies or to the possibility of interference with other telecommunications services.

(7) Where the grant of the authorisation is subject to a comparative bidding procedure the period referred to in subsection (6) above may be extended by up to four months.

(8) The time limits provided for in this section shall be without prejudice to any applicable international agreements relating to international frequency and satellite coordination.”.

(4) In subsection (1) of section 15 as renumbered after paragraph (c) there shall be added the following:

“(d) Where an applicant is applying for an individual licence he does not demonstrate to the Authority that he fulfils the conditions for the grant of such a licence.”.

(5) The new section 16 shall be amended as follows:

(a) In subsection (1) words “section 29” shall be substituted by the words “section 34”;

(b) In subsection (2) the words “section 7” shall be substituted by the words “section 13”;

(c) After subsection (2) there shall be added the following:

“(3) The decision to include a condition in a licence shall also be subject to appeal to the Board.”.

(6) Sections 11 and 12 shall be deleted.

6. (1) Sections 13, 14 and 15 shall be renumbered as sections 17, 18 and 19 respectively.

(2) Section 14A shall be renumbered as section 42.

(3) In line 1 of the first paragraph of the new sections 17 and 18 as renumbered for the words "section 8" there shall be substituted the words "section 6".

(4) Section 17 as renumbered shall be amended as follows:

(a) In paragraph (c) the words "extension thereof." shall be substituted by the words "extension thereof;"

(b) After paragraph (c) there shall be added the following:

"(d) ensuring the implementation of open network provisions."

(5) After subsection (3) of section 42 as renumbered there shall be added the following:

"(4) The provisions of this section shall cease to have effect in whole or in part or in respect of any specified type of call-back service as from such day as the Minister may establish by order in the Gazette."

(6) Section 19 as renumbered shall be amended as follows:

(a) In subsection (2) for the word "his" there shall be substituted the word "its";

(b) In subsection (4) for the words "section 29" there shall be substituted the words "section 34";

(c) In the second proviso to subsection (5) the words "subject to appeal" shall be substituted by the words "subject to appeal." and the rest of the proviso shall be deleted.

(7) After section 19 as renumbered there shall be added the following:

“20. (1) The conditions attached to an authorisation granted under this Act may be modified by the competent authority as follows:

(a) where the competent authority wishes to make a modification in the conditions of a general authorisation, it shall publish a notice in the Gazette indicating the modifications being proposed and granting a reasonable time to interested parties to make an objection to the proposed changes;

(b) where objection is made to any modifications pursuant to paragraph (a) above the competent authority shall decide whether to make the proposed modifications after it has duly considered the said objections and it shall give reasons for its decision;

(c) where the competent authority wishes to make modification in the conditions of an individual licence it shall:

(i) either give notice to the holder of the individual licence stating the modifications which it proposes to make, setting out their effect, stating the reasons why it proposes to make such modifications and specifying the time, not being less than 28 days from the date of publication of the notice within which representations or objections may be made by the holder of the licence, and seeking the consent of the holder of the licence; and/or

(ii) make a reference to the Commission for Fair Trading requiring it to investigate and report on whether or not any matters specified in the reference operate or may be expected to operate against the public interest and, if so, whether the effects adverse to the public interest could be prevented by the modification of the conditions of the licence;

(d) where the holder of the individual licence does not give his consent requested in terms of subparagraph (i) of paragraph (c) above it shall not be permissible for the authority to effect a modification in the individual licence other than after a reference to the Commission for Fair Trading in terms of subparagraph (ii) of paragraph (c) above;

(e) where the Commission of Fair Trading reports on any matter referred to it under subparagraph (ii) of paragraph (c) above its conclusions shall be definite and binding and where the Commission concludes that a modification should be effected in an individual licence such modification shall be implemented as from the date as may be fixed by the Authority.

(2) The Minister shall be informed of any modifications proposed to be made in pursuance of this section and he may, if it appears requisite or expedient for him to do so in the interests of national security or of the foreign affairs of Malta, direct that the modifications not be made.” .

(8) Sections 16 and 17 shall be renumbered as sections 21 and 22 respectively.

(9) Section 22 as renumbered shall be amended as follows:

(a) In paragraph (a) of subsection (1) the words “incomplete or incorrect” shall be substituted by the words “incomplete, misleading or incorrect”;

(b) In paragraph (b) of subsection (1) the words “authorisation for” shall be substituted by the words “authorisation by failing to provide an authorised telecommunications service for”;

(c) In paragraph (c) subsection (1) the words “which in the opinion of the Regulator” shall be substituted by the words “which in the opinion of the Authority which shall be stated in writing, which shall include reasons and which shall respect the principle of proportionality”;

(d) In paragraph (d) of subsection (1) after the words “with the authorisation” there shall be added the words “or with any regulations made under this Act”;

(e) Subsection (2) shall be deleted and subsection (3) shall be renumbered as subsection (2).

7. (1) Sections 18, 19, 20, 21 and 22 shall be renumbered as sections 23, 24, 25, 26 and 27 respectively.

(2) Section 24 as renumbered shall be amended as follows:

(a) In subsection (1) the words “and allocate numbers to authorised providers accordingly.” shall be substituted by the words “and allocate numbers and numbering ranges to authorised providers according to procedures that are transparent, equitable, non-discriminatory and timely.”;

(b) In the proviso to subsection (2) the words “that no undue prejudice” shall be substituted by the words “that the Authority shall ensure that as much as possible no undue prejudice”;

(c) Subsection (3) shall be renumbered as subsection (4) and the following new subsection (3) shall be added:

“(3) The main elements of the national numbering plan and of all subsequent amendments shall, subject only to limitations on grounds of national security, be published by the Authority.” .

(3) Section 25 as renumbered, other than the marginal note thereto, shall be substituted by the following:

“25 (1) The competent authority shall encourage and secure adequate interconnection in the interests of all users and shall exercise its responsibility in a way that provides maximum economic efficiency and gives maximum benefit to users. In particular, the competent authority shall take into account—

(i) the need to ensure satisfactory end-to-end communication for users;

(ii) the need to stimulate a competitive market;

(iii) the need to promote co-operation with counterparts in other States;

(iv) the principles of non-discrimination (including equal access) and proportionality;

(v) the need to maintain and develop universal service.

For this purpose the competent authority shall issue regulations which shall provide for:

(a) the circumstances in which the right to interconnection may be exercised and the objective, transparent and non-discriminatory conditions and limitations upon the exercise of such right;

(b) the technical and financial conditions of interconnection and the legal nature of interconnection agreements;

(c) the obligation to notify interconnection agreements to the authority and the conditions under which such notification is to be made, including any matter related to the publicity or confidentiality of such agreements or of parts thereof;

(d) the exercise of power by the authority to modify interconnection agreements in the public interest;

(e) the principles upon which charges for interconnection should be based and the method of accounting to be used;

(f) the obligation of authorised providers or of particular classes thereof to publish an interconnection offer and the principles upon which the conditions of such offer shall be based;

(g) the way in which disputes related to interconnection shall be resolved.”.

(4) Section 26 as renumbered shall be amended as follows:

(a) After the words “required by the Authority” there shall be added the words “and as may be”;

(b) In subsection (3) after the words “to be treated as confidential by the Authority,” there shall be added the words “on the grounds that it contains information revealing the commercial strategy of the authorised provider or other information the disclosure of which would unduly interfere with the right to privacy of third parties,”;

(c) In subsection (3) after the words “in the light of the requirements” there shall be added the words “and the fundamental principles”.

(5) In subsection (3) of section 27 as renumbered the word “his” shall be substituted by the word “its”.

8. (1) Sections 23, 24 and 25 shall be renumbered as sections 28, 29 and 30 respectively.

(2) In title number 4 of Part II the word “Subscribers” shall be substituted by the words “Users and Subscribers”.

(3) Section 28 as renumbered shall be amended as follows: .

(a) In subsection (1) after the word “subscribers” there shall be added the words “and users of” and the words “to a” shall be replaced by the word “a”;

(b) In subsection (2) after the words “or wishes to subscribe to” there shall be added the words “or is a user of,”;

(c) In subsection (2) after the words “the quality of the service” there shall be added the words “provided by the authorised provider” and the words “to which he subscribes or wishes to subscribe” shall be deleted;

(d) In subsection (2) after the words “apparatus provided” there shall be added the words “or made available”;

(e) In subsection (5) the words "within his" shall be substituted by the words "within its".

(4) In subsection (2) of section 29 as renumbered for the words "and approved by the Authority." there shall be substituted the words "and approved by the Authority and the right of an authorised provider to discontinue a service shall in all cases be exercised in a proportionate manner."

(5) In section 30 as renumbered after the word "subscriber" there shall be added the words "or user".

9. (1) Sections 26, 27 and 28 shall be renumbered as sections 31, 32 and 33 respectively.

(2) Section 31 as renumbered shall be amended as follows:

(a) In subsection (1) the words "specifications as may be prescribed" shall be substituted by the words "specifications as may be prescribed." and the rest of the subsection shall be deleted;

(b) Subsection (2) shall be deleted and subsection (3) shall be renumbered as subsection (2).

(3) In paragraph (b) of subsection (1) of section 33 as renumbered the words "efficiency and standards" shall be substituted by the words "efficiency, standards and competition".

10. (1) Sections 29, 30, 31, 32, 33, 34 and 35 shall be renumbered as sections 34, 35, 36, 37, 38, 39 and 40 respectively.

(2) In subsection (5) of section 34 as renumbered the words "public officer" shall be substituted by the word "person".

(3) Subsection (1) of section 35 as renumbered shall be amended as follows:

(a) The words "section 10" there shall be substituted by the words "section 16" in paragraph (a), the words "section 17" shall be substituted by the words "section 22" in paragraph (c), the words "section 20"

shall be substituted by the words "section 25" in paragraph (d), and the words "section 23" shall be substituted by the words "section 28" in paragraph (e);

(b) Paragraph (b) shall be substituted by the following:

"(b) against any rejection or refusal of an application for an authorisation;" .

(4) In subsection (2) of section 35 as renumbered for the words "section 10" there shall be substituted the words "section 16".

(5) Subsection (3) of section 35 as renumbered shall be renumbered as subsection (4) and the following new subsection (3) shall be added:

"(3) An appeal to the Board may be filed on any of the following grounds –

(a) that a material error as to the facts has been made;

(b) that there was a material procedural error;

(c) that an error of law has been made;

(d) that there was some material illegality, including unreasonableness or lack of proportionality."

(6) After subsection (4) of section 35 as renumbered there shall be added the following:

"(5) In determining an appeal under this section the Board may:

(i) dismiss the appeal;

(ii) annul the decision,

and where the Board annuls the decision it may refer the matter to the Authority or the Minister (as the case may be) with a direction to reconsider it and reach a decision in accordance with the findings of the Board.

(6) The effect of a decision to which an appeal relates shall not except where the Board or the Court of Appeal, as the case may be, so orders, be suspended in consequence of the bringing of the appeal.” .

(7) Section 36 as renumbered shall be amended as follows:

(a) In subsection (1) the words “section 32” shall be substituted by the words “section 37”;

(b) In subsection (2) the word “advice” shall be substituted by the word “advise”.

(8) In section 37 as renumbered immediately after the words “Court of Appeal” there shall be inserted the words “as constituted in accordance with subsection (6) of section 41 of the Code of Organization and Civil Procedure” (Cap. 12.).

(9) Section 38 as renumbered shall be amended as follows:

(a) In subsection (1) the words “provisions of this Act and in particular” shall be substituted by the words “provisions of this Act or to the proper implementation of the principles of fair competition and open network provisions in the field of telecommunications and in particular”;

(b) In paragraph (c) of subsection (1) the words “International Telecommunications Union (ITU)” shall be substituted by the words “European standardisation bodies including the European Technical Standards Institute (ETSI) and the European Committee for Standardisation / European Committee for Electrotechnical Standardisation (CEN / Cenelec) and with international standards and recommendations adopted by the International Telecommunications Union (ITU), the International Organisation for Standardisation (ISO) or the International Electrotechnical Committee (IEC)”;

(c) In paragraph (e) of subsection (1) after the words “by an authorised provider” there shall be added the words “and quality of service targets”;

(d) In paragraph (f) of subsection (1) after the word “subscribers” there shall be added the words “and users”;

(e) Paragraphs (h) and (i) of subsection (1) shall be substituted by the following:

“(h) any matter related to the interconnection of telecommunications systems, or to collocation of facilities between and facility sharing between authorised providers, to carrier pre-selection, to access to networks by users, subscribers or by operators of other networks, to leased lines, to access to international data networks, and to rights of way and any matter related to compensation payable in respect thereof;

(i) any matter concerning or related to number portability, numbering plans, allocation of numbers, competition rules in the field of telecommunications, billing procedures and billing accuracy, emergency services, directory services, tariff controls, use of frequency spectrum, ownership of authorised providers, universal service obligations, licence fees payable to the competent authority, transfer, renewal and termination of licences, the conditions under which licences shall be issued, and returns and reports to be made to the competent authority;

(j) the regulation of telecommunications systems for the transmission or reception of satellite signals;

(k) the obligations of an authorised provider having significant market power;

(l) the obligations of systemless service providers;

(m) the regulation of cable television and cable services including the introduction of must carry rules, the obligation to make available channel capacity for public, Governmental or educational use, the setting of rates for leased access to cable networks, rate regulation, cross-ownership of cable networks and of other networks or services and the implementation of effective competition in the field of cable services;

(n) any matters that may be required for the purpose of complying with any international obligation of Malta;

(o) any matter related to the resolution of disputes arising in connection with the operation of telecommunications systems or the provision of telecommunications services including appeals from any decision.”;

(f) In paragraph (a) of subsection (2) the words “providers to keep” shall be substituted by the words “providers to adopt cost accounting systems as may be prescribed and to keep” and the words “of his functions” shall be substituted by the words “of its functions”;

(g) In paragraph (b) of subsection (2) after the words “any telecommunications service” there shall be added the words “including data protection measures and matters related to the use of information obtainable in the telecommunications sector for the purpose of direct marketing”;

(h) In paragraph (c) of subsection (2) the words “commitment taken by the” shall be substituted by the words “commitment taken, or intended to be taken, by the”;

(i) In paragraph (d) of subsection (2) the words “Act, including registration under section 12 of this Act as well as” shall be substituted by the words “Act and” and the word “him” shall be substituted by the word “it”;

(j) After paragraph (f) of subsection (2) the following new paragraph shall be added:

“(g) authorise the Authority to impose administrative fines or sanctions upon any authorised provider acting in contravention of any provisions of this Act or of any regulations made thereunder:

Provided that any administrative fines provided for by regulations made under this section shall not exceed the sum of ten thousand liri (Lm10,000) for each offence and one thousand liri (Lm1,000) for each day during which failure to observe the provisions of this Act or of any regulations made thereunder or of any authorisation persists:

Provided further that the administrative fines stipulated in this paragraph may be increased by regulation up to a maximum of fifty thousand liri (Lm50,000) and five thousand liri (Lm5,000) for each day during which any contravention persists, respectively.”;

(k) In subsection (5) the words “section, he shall” shall be substituted by the words “section, it may at its discretion” and the word “contributories” shall be substituted by the word “contributors”;

(l) After subsection (5) there shall be added the following new subsection:

“(6) Regulations made under this section may also grant the Authority the power to issue regulations in respect of matters about which regulations may be made under this section.”.

(10) In subsection (2) of section 39 as renumbered the words “to be false, or impedes or obstruct the” shall be substituted by the words “to be false or misleading, or impedes or obstructs the”.

(11) In subsection (1) of section 40 as renumbered the words “or at his request” shall be substituted by the words “or at its request”.

11. (1) Sections 36 and 37 shall be renumbered as sections 41 and 43 respectively.

(2) In subsection (4) of section 41 as renumbered the words "shall remain in force" shall be substituted by the words "shall, in so far as it is compatible with this Act, remain in force".

(3) Section 43 as renumbered shall be amended as follows:

(a) In subsection (1) the words "operative date" shall be substituted by the words "repeal of the Telemalta Corporation Act," and the words "on the said date, shall, until such date" shall be substituted by the words "on the said date, shall only in so far as it is compatible with this Act, until such date";

(b) In subsection (2) the words "operative date" shall be substituted by the words "repeal of the Telemalta Corporation Act";

(c) In paragraph (b) of subsection (2) the words "operative date" shall be substituted by the words "repeal of the Telemalta Corporation Act" and the words "on account of the Government" shall be deleted.

12. (1) Sections 38, 39, 40, 41 and 42 shall be deleted.

(2) After section 43 as renumbered there shall be added the following:

"44. (1) An authorisation to install or operate a telecommunications system or to provide a telecommunications service may, only until the 31st December, 2002 and subject to the following provisions of this section, be granted with exclusive privilege.

(2) No exclusive privilege may be granted or shall have effect beyond the 31st December of the year 2002.

(3) As from the day when the Minister may by order appoint the exclusive privilege of operating any telecommunications system or of

providing any telecommunications services as may have been granted in or under any law, licence, authorisation, contract or other instrument whether before or after the coming into force of this section shall cease to exist and different dates may be appointed in respect of different categories of telecommunications services or systems.

(4) The provisions of this section shall have effect notwithstanding the provisions of any law, licence, authorisation, contract, agreement or other instrument and in the case of conflict between the provisions of this section and any other law or anything done thereunder the provisions of this section shall prevail.

(5) The coming into effect of the provisions of subsection (3) of this section or of anything done in pursuance thereof under this section and the variation of any licence or contract in pursuance of section 38 of this Act –

(i) shall not be construed as constituting the taking or deprivation of property or of possessions or an interference with the peaceful enjoyment of possessions for the purposes of any law passed prior to this Act;

(ii) shall not be construed as constituting the termination of a licence;

(iii) shall not be interpreted as constituting a tort, a breach of contract or as giving rise to any action for damages or other payment to the person who ceases to hold an exclusive privilege:

Provided that nothing in this subsection shall be construed as implying that had it not been for the provisions of this subsection any person would have had a right of action based on the taking or deprivation of property or possessions or on an interference with the peaceful enjoyment of possessions, or on tort or breach of contract or

would have had a right of action for any payment in respect of the termination of any exclusive privilege or that such termination would have amounted to the termination of a licence.

(6) In any event, any person who loses any exclusive privilege in pursuance of this section shall be deemed, even for the purposes of the proviso to subsection (1) of section 37 of the Constitution if the said section 37 were applicable, to have been adequately compensated for any such loss by the acquisition of the opportunity to provide telecommunications services and operate telecommunications systems under the conditions as are provided for in this Act and as described in the First Schedule to this Act and that Parliament has deemed this to be a special case where it is appropriate in the national interest to determine the above criteria in the determination of the compensation, if any, that is payable were the said section 37 of the Constitution applicable to the case.

45. (1) Notwithstanding the provisions of any other law, it shall be the duty of the competent authority to make in a proportionate manner and, after consulting the authorised provider or providers concerned such variations of each licence to an authorised provider issued before the 1st March, 2000 and to each contract between it and an authorised provider or between authorised providers entered into before the 1st March, 2000 as appears to the competent authority to be necessary and appropriate for the purpose of implementing the principles of competition and open network provisions in telecommunications and for the purpose of ensuring compliance with the purposes of this Act and any regulations made thereunder.

(2) When the competent authority makes variations to a contract or licence in pursuance of subsection (1) of this section it may also make such other variations to that contract or licence of a supplemental, incidental, consequential or transitional nature as it considers appropriate.

(3) Any variation to a licence or contract made in pursuance of subsection (1) of this section may be made with retrospective effect as from the date of the coming into force of this section.

(4) Any variation to a licence or contract made under this section shall be made by means of notice served on the authorised provider or providers concerned and shall be published in such a manner as the competent authority may deem appropriate.

(5) The decision of the competent authority to make a variation to a licence or contract in pursuance of this section shall state the reasons upon which the decision is based.

46. (1) Upon the coming into force of this section and until the 31st December, 2000 the Minister shall be empowered to exercise all functions and powers granted by this Act to the Authority.

(2) In exercising his power under this section to issue licences for the operation of telecommunications systems and the provision of telecommunications services the Minister shall also be empowered to issue licences which shall have effect or which shall come into effect after the 31st December, 2000.

(3) Nothing in this section shall be construed as preventing the Authority from exercising the powers and functions granted to it by this Act during the period when the same powers and functions may also be exercised by the Minister.

47. The repeal of sections 39, 40, 41 and 42 shall be without prejudice to the validity and enforcement of any transfer of any rights, duties, obligations, assets, property of any description as well as any ancillary right, including hypothecs, privileges, pledges, suretyships and other rights securing any other right or obligation that have been transferred or acquired before the coming into force of this section.”.

(3) The marginal notes to the new sections 44 to and including 46 shall be as follows:

(a) Section 44: "Exclusive privilege not to remain permissible";

(b) Section 45: "Duty of competent authority to make variations to licences and contracts";

(c) Section 46: "Temporary power of the Minister to exercise functions of the Authority";

(d) Section 47: "Transitory provisions".

13. Immediately at the end of the Act there shall be added the following First Schedule:

FIRST SCHEDULE

(Section 44)

National Plan for the Reform of the Telecommunications Sector

I. Background

In the first part of the year 2000 Government held discussions and had exchanges of correspondence with the three main operators in the telecommunications sector on the liberalisation of the telecommunications market in Malta.

Government intends to take the necessary measures to ensure that existing monopolies are removed within a realistic timeframe. It is aware of the fact that in certain instances monopolies were used to create hurdles for investors who wanted to develop new services. It considers that this was greatly detrimental to Malta's economy and has dampened the rate of development in this area which in other countries has experienced exponential growth in recent years.

In other instances monopolies resulted in an unfair treatment of the user not only through the limiting of services and the provision of lower quality services, but also through a pricing regime which generated very high

profits to the detriment of the consumer and of the development of the economy in general.

Such profits and the absence of competition in the telecommunications market increase the costs of production in Malta, cause loss of opportunity and decrease competitiveness in the international market.

Government intends to create an environment which not only redresses the above but which will also be conducive to investment. The Administration feels that this is required to build the communications structure which is today a vital element for economic growth.

After due consideration, Government has therefore decided to proceed with legislative measures intended to reform the telecommunications market in a manner based on a balance between liberalisation, efficiency and service to the public.

Government considers that the reform package is advantageous both to the public and to the three current operators who will enjoy many opportunities to enter new markets as a result of liberalisation.

II. The Reform Package

Government is intent to enact a legislative framework to make the proposed reform possible and to put in place an effective regulatory regime that would have the capability and clout to ensure the maintenance of a healthy and competitive environment in the telecommunications market.

Government has given due consideration to all proposals communicated to it by the three operators of networks and services in the sector and it is now in a position to determine the following liberalisation time frame:

1. All telecommunications services, other than fixed telephony, mobile telephony, international gateway and cable television, will be liberalised from 1 June 2000.
2. The present monopoly in mobile telephony will end immediately when Maltacom

will be licensed to enter the mobile telephony market. No additional mobile licences will be issued during the period ending 31 December 2002. The government will consider the issue of a third operator in 2003 and a third licensee would therefore not be expected to be in place before 1 January 2005.

3. The cable television market is to be liberalised on 1 June 2001.

4. International gateway services, including those for data services, will be liberalised on 1 January 2003.

5. Fixed telephony services will be liberalised on 1 January 2003.

III. Measures concerning Maltacom p.l.c.

As envisaged when the Competition Act was enacted some years ago, Government intends to lift the temporary transitional measures by which Maltacom was exempted from the provisions of the Competition Act.

Between the 1 June 2000 and 31 December 2002, and subject to the liberalisation time scale provided for above, Maltacom or any of its subsidiaries will be licensed to provide, on a non-exclusive basis, all telecommunications services which Maltacom currently provides and which are covered by Maltacom's existing licence, provided these are not limited by any other current licence or agreement.

Maltacom or its subsidiaries will immediately be guaranteed a licence to provide the following telecommunications service:

- Public fixed telecommunications systems and services;
- Fixed wireless telecommunications systems and services;
- Public mobile telecommunications systems and services;
- Radio paging systems and services.

of its shares in Vodafone Malta Limited within six months from the date when its subsidiary first provides mobile telephony services.

Given that in this competitive scenario, Maltacom will need to operate in the most efficient manner, Government will enter into discussions with Maltacom with a view to providing for and assisting it in the carrying, retraining, redeployment or early retirement of any staff complement surplus beyond that envisaged in the IPO document of the 8 June 1998.

Government considers that although some aspects of the introduction of a liberalised telecommunications scenario will not benefit Maltacom, in other areas the company will be a clear beneficiary whilst the situation will not change significantly in some other areas. The Government is convinced that Maltacom will be a net beneficiary from liberalisation.

The areas in which the Government considers that Maltacom will lose are the following:

- a. The monopoly on fixed telephony services which at present runs until 2010 will be replaced by one lasting until the 31 December, 2002;
- b. International gateway services, where again a monopoly until 2010 will be substituted by one lasting until the 31 December 2002;
- c. The introduction of the possibility of having more than the present three companies providing data services.

In this regard one should also bear in mind that had Malta continued with the present scenario, Government would have had to ensure that monopolistic positions will not be used to retain price levels for any services that are not internationally comparable.

Government considers that Maltacom stands to gain from the new regime in the following ways:

- a. The immediate acquisition of an effective mobile telephony licence in replacement of the non-effective one enjoyed at present, thus launching the company into this telecommunications sector, that

provides far greater opportunities for growth, well before the termination of the existing Vodafone monopoly in 2009;

b. The possibility to provide cable television services before the termination of the existing Melita Cable monopoly in 2006;

c. An expanded market as a liberalised regime generates new services and new users;

d. The substitution of an unclear regulatory regime with a strengthened regulatory framework.

It is considered that of the above, the immediate entry into the mobile telephony market and the possibility of entry into the cable television market in the very near future are huge advantages which will be beneficial both in the short and in the long term and which will enable Maltacom to become a total telecommunications company instead of being restricted to the fixed telephony technology whose growth is expected to be limited.

In any case one should also not overlook the fact that changes in the telecommunications licensing regime in Malta were envisaged in the Initial Public Offering (IPO) document issued to launch the partial privatisation of Maltacom in 1998. In particular, it was stated in that document that:

“The Regulator and Maltacom have entered into a licence agreement on the 2nd January 1998 (the “Licence”) which grants Maltacom the exclusive right to provide, inter alia, fixed line national and international voice telephony until 31st December 2010” (p 49 para 1, IPO).

“Under the Licence, Maltacom has the exclusive right until 31st December, 2010 to provide national and international voice telephony and related value added services; national and international non-voice services; resale of telecommunications services; public and private phone card services; ISDN; broadband telecommunications services over a public network; and services rendered through all types of public cordless terminal mobility technology and wireless local loop

technology including DECT. Such services can be provided over fixed lines or by any other non-mobile means" (p 51 para 4, IPO)

“World Trade Organisation

On the 15th February 1997, 69 WTO member countries (the “signatories”) agreed to open their markets to competition in basic telecommunications services from dates specified with respect to each signatory. Since then the total number of signatories has increased to a present total of 72. The agreement which the signatories were required to ratify by the 30th November 1997 and which has come into effect on 5th February 1998 requires that the signatories allow foreign telecommunications service providers to offer their services in the signatories’ countries, as well as to purchase shares in telecommunications companies operating in that country, in accordance with specific commitments to be implemented within the agreed timetable. Although Malta is not a signatory to this agreement, as a WTO member it has the right to participate in future rounds of negotiations regarding trade liberalisation in this sector, which negotiations are stipulated in the WTO Agreement to start by 1st January 2000” (p 52 para 7, IPO)

“European Union

On the 1st January 1998 the European telecommunications market was largely opened to competition as a result of the successive adoption by the European Union (“EU”) of legal measures requiring the 15 European member countries progressively to open up their national telecommunications markets to competition. Competition covers all telecommunications market sectors, with specific measures being adopted for value-added services, satellite services, mobile services and cable television services, culminating with the requirement on the European member countries to remove any exclusive rights granted for voice telephony services by 1st January 1998. In addition, regulatory rules on areas such as interconnection, licensing and customer related issues such as contracts and billing have also been adopted. Certain countries were permitted to apply to the European Commission for a derogation for specified time for certain of the market-opening requirements.

Accession to the EU would require applicant countries to adopt all EU rules, including those on telecommunications, prior to or within a specified time from legal accession to the EU. In addition, closer relations can be sought which do not constitute accession. Malta may choose to negotiate an accession or other bilateral agreement with the EU under which it may be required to adopt certain EU rules such as those in relation to telecommunications. In either case the maintenance of Maltacom's exclusivity may be called into question. See Business-Competition" (p 53 paras 2 and 3, IPO)

"In addition, any requirement imposed on Malta to lift the exclusivity period granted to the Company as a result of the adoption by Malta of specific provisions of European Union law on telecommunications in accordance with any accession or other bilateral agreement prior to 2010 may adversely affect the Company's competitive position. See "Regulation - International Regulation -European Union" and Annex A - "The Republic of Malta". Although the Company believes that any such shortening of its exclusivity period will require Government compensation the effect of any such action could adversely affect the Company's results of operations and further prospects" (p33 para 5, IPO)

IV. Measures concerning Melita Cable p.l.c.

Melita or one of its subsidiaries will immediately be guaranteed a licence to provide the following telecommunications services:

- Cable television services;
- Telecommunications transport in respect of data services;
- Leased line data services;
- Data services over a cable television system;

Furthermore Melita or one of its subsidiaries will also be immediately authorised to provide public fixed telecommunications systems and services (including international gateway services) as from 1 January 2003.

The Internet and Other Data Networks (Service Providers) Regulations, 1999 will be modified in order

to provide that the open access obligations will only apply to companies having significant market power in the provision of telecommunications transport related to Internet access services.

Government considers that although Melita Cable p.l.c. will lose the privilege of exclusivity in cable television services on the 1 June 2001 it will be a beneficiary from liberalisation for the following reasons:

a. Melita's present licence expires on the 2 July 2006 whilst under the new regulatory framework Melita will be guaranteed a renewable 10 year licence;

b. The company's licence at present specifically prohibits the use of the cable system for the provision of telephony services. Under the new scenario the company will be given a licence to provide public fixed telecommunications services over its infrastructure as from the 1 January 2003;

c. The company's right to provide data services, as distinct from the transmission of data signals, over its network is currently being contested. Under the new scenario this issue will be resolved;

d. The company's right to use ducts passing under public ways is also subject to judicial determination. Under a new liberalised regime this issue will also be resolved;

e. Under the transitional arrangements for the introduction of the new legal regime the company will be allowed to retain its monopoly in the cable television field until the 1 June 2001;

f. Melita may not at present operate an international gateway. Melita will however be given a licence to provide these services as from 1 January 2003;

g. The present monopolistic scenario in the telecommunications sector restricts the commercial freedom of market players to choose their fields of operation. The liberalised regime opens opportunities to provide new telecommunications services;

h. Under current licences new services may not be introduced unless they are specifically provided for in the licence whilst the proposed licences will be sufficiently technology neutral to enable licensees to implement services compatible with next generation standards;

i. The current unclear regulatory regime will be replaced by a strengthened regulatory structure which will have adequate resources to ensure fair competition on a level playing field between all market players;

j. Under the current regulations on Internet access all Internet Service Providers are granted a right of open access to Melita's network. The new market regulation will provide that open access rights will become operative only when a company achieves significant market power in the field of telecommunications transport related to Internet access;

k. Maltacom is at present exempt from the Competition Act. This exemption will cease on 1st June 2000 and all market players will be made subject to the rules of competition law;

l. Under the current regulatory regime licences tend to be viewed as sensitive commercial documents to which others may not have access. The proposed model would introduce regulatory transparency and make all licences public in the interests of regulatory certainty and non-discrimination.

V. Measures concerning Vodafone (Malta) Limited

Vodafone or one of its subsidiaries will be immediately guaranteed a licence to provide the following telecommunications services:

- Public mobile telecommunications systems and services;
- Data services over a mobile telephony network.

Vodafone or one of its subsidiaries will also be immediately authorised to provide international gateway services from 1 January 2003.

Because of the change in the public mobile operating scenario, Maltacom will be required to dispose of its shares in Vodafone Malta Limited within six months from the date its subsidiary first provides mobile telephony services.

Government considers that the introduction of a liberalised telecommunications scenario will result in Vodafone (Malta) Limited losing the monopoly which it enjoys in the provision of TACS and ETACS mobile services. The monopoly in other fields of cellular telephony services is currently being contested by Maltacom before the Telecommunications Appeals Board and although the Telecommunications Regulator has held that Vodafone's licence grants it the right to exclude others from the cellular mobile telephony market this question is ultimately for the Appeals Board to decide.

Government also considers that Vodafone (Malta) Limited stands to gain from the new regulatory regime in the following ways:

- a. Maltacom will be required to sell its Vodafone shares within six months from the date its subsidiary first provides mobile telephony services. This will bring to an end the very important right which Maltacom enjoys at present to acquire the majority shareholding of the company. It will also terminate the extensive rights which Maltacom as a minority shareholder has with regard to Vodafone's pricing policies and with regard to the running of key aspects of the company's business;
- b. Whilst Vodafone's present licence expires on the 10 August 2009 and the company cannot provide services beyond that date, under the new framework the company will be granted a new 10 year licence which will be renewable for other 10 year periods;
- c. At present Vodafone is obliged to use the Maltacom infrastructure for international gateway services. The company will be licensed to provide international gateway services as from 1 January 2003;
- d. Vodafone Malta Limited will still benefit from a duopoly situation in the mobile telephony market until the 31 December 2002 with a possibility of an extension of this situation beyond that date;
- e. Vodafone Malta Limited's present licence only authorises the use of TACS, ETACS and GSM standards

whilst the new licence will apply to any European standard. This will grant Vodafone permission to implement services compatible with next generation standards, including UMTS;

f. The present monopolistic scenario in the telecommunications sector restricts the commercial freedom of market players to choose their fields of operation. The liberalised regime opens opportunities to provide new telecommunications services;

g. The current unclear regulatory regime will be replaced by a strengthened regulatory structure which will have adequate resources to ensure fair competition on a level playing field between all market players;

h. Maltacom is at present exempt from the Competition Act. This exemption will cease on 1st June 2000 and all market players will be made subject to the rules of competition law;

i. Under the current regulatory regime licences tend to be viewed as sensitive commercial documents to which others may not have access. The proposed model would introduce regulatory transparency and make all licences public in the interests of regulatory certainty and non-discrimination.

VI. The way forward

Government trusts that all operators would view the programme of change outlined above as positive. It is certain that in this new scenario all operators will recognise new opportunities to expand their operations and to continue as major players in this economic sector.”

Objects and Reasons

The objects and reasons of this Bill are the establishment of the Malta Communications Authority to oversee and regulate development of communication services and technologies in Malta and the putting into place of the legislative framework for the reform of the telecommunications sector. The Bill further provides that as from the date stated in the Act it shall no longer be lawful for any person to hold an exclusive licence to supply, provide or operate any telecommunications systems or services and gives the opportunity to all persons involved in the telecommunications industry to compete on an equal footing in any category of telecommunications systems or services.