

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE ABELA  
President

14 ta' Ġunju, 2011

### ATT Nru. IX tal-2011

*ATT biex jemenda diversi liġijiet li għandhom x'jaqsmu mal-komunikazzjonijiet u biex jipprovdi dwar affarijiet ancillari għal dawn jew konnessi magħhom.*

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

**1.** (1) It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2011 li Jemenda l-Liġijiet dwar il-Komunikazzjonijiet.

Titolu fil-qosor u bidu fis-sehħ.

(2) Dan l-Att għandu jidhol fis-sehħ f'dik id-data li l-Ministru responsabbli għall-komunikazzjonijiet jista' jstabilixxi b'avviż fil-Gazzetta, u jistgħu jiġu hekk stabbiliti dati differenti għal dispozizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

### TAQSIMA I

#### EMENDA TA' L-ATT BIEX JIRREGOLA KOMUNIKAZZJONIJIET ELETTRONICI

**2.** (1) Din it-Taqsima temenda l-Att biex Jirregola l-Komunikazzjonijiet Elettronici, u għandha tinqara u tiftiehem haġa waħda ma' l-Att biex Jirregola l-Komunikazzjonijiet Elettronici, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda ta' l-Att biex Jirregola l-Komunikazzjonijiet Elettronici. Kap. 399.

(2) Din it-Taqsima għandha tidhol fis-seħħ f'dik id-data li l-Ministru responsabbli għall-komunikazzjonijiet jista' jstabbilixxi b'avviż fil-Gazzetta u jistgħu jigu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti u għal għanijiet differenti tagħha.

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

**3.** Is-subartikolu (2) ta' l-artikolu 2 ta' l-Att prinċipali għandu jigi emendat kif ġej:

(a) minnufih wara t-tifsira “abbonat”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “allokazzjoni ta' spektrum” tfisser l-allokazzjoni ta' onda ta' frekwenza speċifika biex tintuża minn xi wiehed jew aktar tipi ta' servizzi ta' komunikazzjonijiet bir-radju, meta jkun adatt, taht kondizzjonijiet speċifikati;”;

(b) fit-tifsira “apparat”, minflok il-kelma “jinkludi” għandha tidhol il-kelma “tfisser”;

(c) minflok it-tifsira “l-Att”, għandha tidhol din it-tifsira ġdida li ġejja:

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

u minflok il-kliem “l-Att” kull fejn dawn jinsabu fl-Att prinċipali għandhom jidhlu l-kliem “dan l-Att”;

(d) fit-tifsira “ “l-Awtorità u “l-awtorità kompetenti” ”, il-kliem “ “u “l-awtorità kompetenti” ” għandhom jithassru;

(e) fit-tifsira “awtorità regolatorja nazzjonali”, minflok il-kliem “tal-ligi tal-Komunità” għandhom jidhlu l-kliem “tal-ligi ta' l-Unjoni Ewropea”;

(f) minnufih wara t-tifsira “awtorizzazzjoni ġenerali”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “BEREC” tfisser Body of European Regulators for Electronic Communications (Korp ta' Regolaturi Ewropej għal Komunikazzjonijiet Elettroniċi);”;

(g) fit-tifsira “deċiżjoni ”, minflok il-kliem “tinkludi kull sentenza, mizura, ordni, htiega jew speċifikazzjoni”

għandhom jidhlu l-kliem “tinkludi kull sentenza, direttiva, mizura, hteġa jew speċifikazzjoni”;

(h) minflok it-tifsira “dħul”, għandha tidhol din it-tifsira li ġejja:

“ “dħul” tfisser faċilitajiet u, jew servizzi li jintgħamli disponibbli lil impriża oħra, taht kondizzjonijiet speċifiċi, sew fuq bażi esklużiva sew mhux, bil-għan li jiġu provduti servizzi ta’ komunikazzjonijiet elettronici inkluzi meta dawn jintużaw biex iwasslu servizzi ta’ soċjetà ta’ informazzjoni jew biex ixandru servizzi ta’ kontenut. Dan fost l-oħrajn ikopri dħul f’elementi ta’ *network* u faċilitajiet assoċjati, li jistgħu jinvolvu l-konnessjoni ta’ tagħmir, b’mezzi fissi jew mhux fissi (partikolarment dan jinkludi dħul fil-*loop* lokali u go faċilitajiet u servizzi meħtieġa biex jipprovdu servizzi permezz tal-*loop* lokali); dħul fl-infrastruttura fiżika inkluz il-bini, tubi u arbli; dħul f’sistemi ta’ *software* rilevanti inkluzi sistemi ta’ appoġġ operattiv; dħul f’sistemi ta’ informazzjoni jew *databases* għal ordnar bil-quddiem, provdiment, talbiet ta’ ordnar, manutenzjoni u tiswija, u kontijiet; dħul fit-traduzzjoni ta’ numri jew sistemi li joffru funzjonalità ekwivalenti; dħul f’*networks* fissi u mobbli, partikolarment għal dak li hu *roaming*; dħul f’sistemi ta’ dħul kondizzjonali għal servizzi ta’ televiżjoni digitali u dħul f’servizzi ta’ *network* virtwali;”;

(i) it-tifsira “direttiva” għandha tithassar;

(j) minnufih wara t-tifsira “dħul”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “Direttiva dwar Awtorizzazzjoni” tfisser Direttiva Numru 2002/20/KE tal-Parlament Ewropew u tal-Kunsill tas-7 ta’ Marzu, 2002 dwar l-awtorizzazzjoni ta’ *networks* tal-komunikazzjonijiet elettronici u servizzi, kif emendata minn żmien għal żmien;”;

(k) minnufih wara t-tifsira ġdida “Direttiva dwar Awtorizzazzjoni”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “Direttiva dwar id-Dħul” tfisser Direttiva Numru 2002/19/KE tal-Parlament Ewropew u tal-Kunsill tas-7 ta’ Marzu, 2002 fuq id-dħul fi, u l-interkonnessjoni ta’

*networks* tal-komunikazzjonijiet elettronici u faċilitajiet assoċjati, kif emendata minn żmien għal żmien;”;

(l) minnufih wara t-tifsira ġdida “ Direttiva dwar id-Dhul”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “Direttiva Kwadru” tfisser Direttiva Numru 2002/21/KE tal-Parlament Ewropew u tal-Kunsill tas-7 ta’ Marzu, 2002 dwar qafas regolatorju komuni għal *networks* tal-komunikazzjonijiet elettronici u servizzi, kif emendata minn żmien għal żmien;”;

(m) minnufih wara t-tifsira “Direttiva Kwadru”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “Direttiva dwar il-Privatezza u l-Komunikazzjonijiet Elettronici” tfisser Direttiva Numru 2002/58/KE tal-Parlament Ewropew u tal-Kunsill tat-12 ta’ Lulju, 2002 dwar l-ipproċessar ta’ data personali u l-ħarsien tal-privatezza fis-settur tal-komunikazzjonijiet elettronici, kif emendata minn żmien għal żmien;”;

(n) minnufih wara t-tifsira ġdida “Direttiva dwar il-Privatezza u l-Komunikazzjonijiet Elettronici”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “Direttiva dwar Servizz Universali” tfisser Direttiva Numru 2002/22/KE tal-Parlament Ewropew u tal-Kunsill tas-7 ta’ Marzu, 2002 dwar servizz universali u d-drittijiet tal-utenti li għandhom x’jaqsmu ma’ *networks* tal-komunikazzjonijiet elettronici u servizzi kif emendata minn żmien għal żmien;”;

(o) minnufih wara t-tifsira ġdida “Direttiva dwar Servizz Universali”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “Direttivi dwar il-Komunikazzjonijiet Elettronici Ewropej” tfisser id-Direttiva 2002/21/KE tal-Parlament Ewropew u tal-Kunsill tas-7 ta’ Marzu 2002 dwar qafas regolatorju komuni għal *networks* tal-komunikazzjonijiet elettronici u servizzi (Direttiva Kwadru); Direttiva 2002/20/KE dwar l-awtorizzazzjoni ta’ *networks* tal-komunikazzjonijiet elettronici u servizzi (Direttiva dwar Awtorizzazzjoni), Direttiva 2002/19/KE fuq id-dhul fi, u l-interkonnnessjoni ta’ *networks* tal-komunikazzjonijiet elettronici u faċilitajiet assoċjati (Direttiva dwar id-

Dħul), Direttiva 2002/22/KE fuq servizz universali u drittijiet ta' l-utenti li għandhom x'jaqsmu ma' networks tal-komunikazzjonijiet elettronici u servizzi (Direttiva dwar Servizz Universali) u Direttiva 2002/58/KE tal-Parlament Ewropew u tal-Kunsill tat-12 ta' Lulju 2002 dwar l-ipproċessar ta' data personali u l-ħarsien tal-privatezza fis-settur tal-komunikazzjonijiet elettronici (Direttiva dwar il-Privatezza Elettronika) kif emendata minn żmien għal żmien;”;

(p) minflok it-tifsira “facilitajiet assoċjati”, għandha tidhol din it-tifsira li ġejja:

“ “facilitajiet assoċjati” tfisser dawk is-servizzi assoċjati, infrastrutturi fiżiċi u facilitajiet jew elementi oħra li huma assoċjati ma' *network* ta' komunikazzjonijiet elettronici u, jew servizz ta' komunikazzjonijiet elettronici li jippotenzjaw u, jew jappoġġaw il-provdiment ta' servizzi permezz ta' network u, jew servizz bħal dawk jew li għandhom il-potenzjal li jagħmlu dan, u jinkludu fost l-oħrajn bini jew entraturi f'bini, ħadid li jkun mal-bini, antenni, torrijiet u kostruzzjonijiet oħra ta' appoġġ, kanali, *conduits*, arbli, toqob tal-ispezzjon, u kmajjar;”;

(q) minnufih wara t-tifsira “impriza”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “impriza awtorizzata” tfisser impriza li titqies li tkun awtorizzata skond dan l-Att;”;

(r) minnufih wara t-tifsira ġdida “impriza awtorizzata”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “interferenza dannuża” tfisser interferenza li tipperikola l-funzjonament ta' servizz ta' navigazzjoni bir-radju jew ta' servizzi oħra ta' sigurtà jew li xort'oħra gravement ibaxxu, jostruwixxu jew ripetutament jinterrompu servizz ta' komunikazzjonijiet bir-radju li jkun qed jopera skond ir-regolamenti internazzjonali, tal-Unjoni Ewropea jew nazzjonali li jkunu japplikaw;”;

(s) it-tifsira “Komunità” għandha tithassar;

(t) minflok it-tifsira “konsumatur”, għandu jidhol dan li ġej:

“ “konsumatur” tfisser persuna naturali li tuża jew titlob servizz ta’ komunikazzjonijiet elettronici disponibbli pubblikament, għal għanijiet li ma jkollhomx x’jaqsmu mas-sengħa, negozju jew professjoni tiegħu;”;

(u) it-tifsira “Kummissjoni Ewropea” għandha tithassar;

(v) minflok it-tifsira “*loop* lokali”, għandha tidhol din it-tifsira li ġejja:

“ “*loop* lokali” tfisser circuit fiżiku li jgħaqqad il-punt ta’ terminazzjoni ta’ *network* ma’ nisġa ta’ distribuzzjoni jew ma’ faċilità ekwivalenti fin-*network* fiss ta’ komunikazzjonijiet elettronici;”;

(w) fit-tifsira “*network* ta’ komunikazzjonijiet elettronici”, minflok il-kliem “tfisser sistemi ta’ trasmissjoni u, fejn dan japplika, tagħmir ta’ *switching* jew *routing* u riżorsi oħra li jippermettu l-garr ta’ sinjali bil-fil” għandhom jidhlu l-kliem “tfisser sistemi ta’ trasmissjoni u, fejn dan japplika, tagħmir ta’ *switching* jew *routing* u riżorsi oħra, inklużi elementi ta’ *network* li m’humix attivi, li jippermettu l-garr ta’ sinjali bil-fil”;

(x) minflok it-tifsira “*network* ta’ komunikazzjonijiet pubbliċi”, għandha tidhol din it-tifsira li ġejja:

“ “*network* ta’ komunikazzjonijiet pubbliċi” tfisser *network* ta’ komunikazzjonijiet elettronici użati għal kollox jew prinċipalment għall-provdiment ta’ servizz ta’ komunikazzjonijiet elettronici disponibbli pubblikament li jkunu b’sostenn tat-trasferiment ta’ informazzjoni bejn punti ta’ terminazzjoni ta’ *network*;”;

(y) it-tifsira “*network* ta’ telefon pubbliku” għandha tithassar;

(z) it-tifsira “persuna” għandha tithassar;

(aa) minnufih wara t-tifsira “punt ta’ terminazzjoni ta’ *network*”, għandha tiżdied din it-tifsira għida li ġejja:

“ “Regolamenti tar-Radju ITU” tfisser ir-Regolamenti tar-Radju annessi ma’, jew li jitqiesu li jkunu annessi mal-Konvenzjoni Internazzjonali dwar it-Telekomunikazzjonijiet l-aktar reċenti ta’ l-Għaqda tat-

Telekomunikazzjonijiet Internazzjonali (ITU) kif fis-sehh f'dak iż-żmien;”;

(bb) minflok it-tifsira “servizz tat-telefon disponibbli pubblikament”, għandha tidhol din it-tifsira li ġejja:

“ “servizz tat-telefon disponibbli pubblikament” tfisser servizz disponibbli għall-pubbliku li bih jiġu oriġinati u riċevuti, direttament u indirettament, telefonati nazzjonali jew nazzjonali u internazzjonali permezz ta' numru jew numri fi pjan ta' numri tat-telefon nazzjonali jew internazzjonali;”;

(cc) minnufih qabel it-tifsira “servizzi universali”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “servizzi assoċjati” tfisser dawk is-servizzi li jkunu assoċjati ma' *network* ta' komunikazzjonijiet elettronici u, jew ma' servizz ta' komunikazzjonijiet elettronici li jippotenzjaw u, jew isostnu l-provdiment ta' servizzi permezz ta' dak in-*network* u, jew servizz jew li jkollhom il-potenzjal li jagħmlu dan u tinkludi fost l-oħrajn t-traduzzjoni tan-numri jew sistemi li jkunu joffru funzjonalità ekwivalenti, sistemi ta' dħul kondizzjonali u gwidi ta' programmi elettronici, kif ukoll servizzi oħra bħal identità, lokalizzazzjoni u servizz ta' preżenza;”;

(dd) fit-tifsira “servizzi universali”, minflok il-kliem “skond ma jista' jiġi definit taht regolamenti magħmulin taht dan l-Att” għandhom jidhlu l-kliem “skond ma jista' jifisser b'dan l-Att jew tahtu”;

(ee) fit-tifsira “Stat Membru”, minflok il-kliem “tal-Komunità” għandhom jidhlu l-kliem “ta' l-Unjoni Ewropea”;

(ff) fit-tifsira “suq intern”, minflok il-kliem “tal-Komunità” għandhom jidhlu l-kliem “ta' l-Unjoni Ewropea”;

(gg) minnufih wara t-tifsira “telefon pubbliku bi hlas”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “telefonata” tfisser konnessjoni li ssir permezz ta' servizz ta' komunikazzjonijiet elettronici li tkun disponibbli pubblikament u li tkun tippermetti komunikazzjoni bil-vuċi bejn żewġ naħat;”;

(hh) it-tifsira “transkonfini” għandha tithassar; u

(ii) minnufih wara t-tifsira “utent”, għandha tizdied din it-tifsira ġdida li ġejja:

Kap. 413. “ “utenti finali b’disabilità” tfisser persuna li jkollha disabilita kif imfisser fl-Att dwar Opportunitajiet Indaqg għal Persuni b’Disabilita, li l-bżonnijiet speċjali tagħhom bhala utent finali ikunu jew minhabba f’disabilita jew minhabba fl-età tagħhom;”.

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

**4.** L-artikolu 3 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) l-artikolu sħiħ għandu jiġi enumerat mill-ġdid bhala s-subartikolu (1) tiegħu;

(b) minnufih wara s-subartikolu (1) tiegħu, għandhom jiżdiedu dawn is-subartikoli godda li ġejjin:

“(2) L-Awtorità għandha tingħata rizorsi finanzjarji u umani adegwati biex tkun tista’ twettaq il-funzjonijiet tagħha taht dan l-Att u taht kull ligi oħra li tkun applika u li għandhom x’jaqsmu mal-komunikazzjonijiet elettronici li l-Awtorità jkollha jedd tinforza, inkluzi dawk il-funzjonijiet li jkollhom x’jaqsmu mal-kooperazzjoni internazzjonali.

(3) Meta tkun qiegħda twettaq il-funzjonijiet u d-dmirijiet tagħha taht dan l-Att u taht kull ligi oħra li għandha x’taqsam mal-komunikazzjonijiet elettronici li l-Awtorità jkollha jedd tinforza, l-Awtorità għandha tappoġġa attivament il-miri ta’ BEREC li jinġiebu ’l quddiem aktar koordinazzjoni u koerenza fl-applikazzjoni tad-Direttivi dwar il-Komunikazzjonijiet Elettronici Ewropej, u għandha wkoll tqis mill-aħjar li tista’ l-fehmiet u l-pożizzjonijiet komuni adottati minn BEREC.

(4) Meta tkun qiegħda taqdi l-funzjonijiet u d-dmirijiet tagħha taht dan l-Att u taht kull ligi oħra li għandha x’taqsam mal-komunikazzjonijiet elettronici li l-Awtorità jkollha jedd tinforza, l-Awtorità għandha tqis mill-aħjar li tista’ r-rakkomandazzjonijiet rilevanti tal-Kummissjoni Ewropea. B’riferenza għar-rakkomandazzjonijiet mahruġin skond l-Artikolu 19 tad-

Direttiva Kwadru, l-Awtorità għandha, jekk tagħzel li ma timxix ma' rakkomandazzjoni, tgħarraf lill-Kummissjoni Ewropea, filwaqt li tagħti r-raġunijiet għall-pożizzjoni li tkun qegħda tiegħu.

(5) L-Awtorità għandha taħdem mal-Kummissjoni Ewropea u ma' BEREC biex tidentifika l-għamliet ta' strumenti u rimedji l-aktar adatti biex jindirizzaw tipi ta' sitwazzjonijiet partikulari fis-suq.”.

5. L-artikolu 4 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 4 ta' l-Att prinċipali.

(a) l-artikolu shih għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu;

(b) minflok il-paragrafu (a) tas-subartikolu (1) tiegħu kif enumerat mill-ġdid, għandu jidhol dan li ġej:

“(a) li ġgib 'il quddiem il-kompetizzjoni skond dan l-Att billi –

(i) tiżgura li l-utenti, inkluż utenti finali b'diżabilità, utenti finali anzjani, u utenti finali li jkollhom bżonnijiet soċjali speċjali, jiksbu l-aqwa benefiċċju skond l-għażla, prezz u kwalità;

(ii) tiżgura li ma jkun hemm ebda distorsjoni jew restrizzjoni ta' kompetizzjoni fis-settur tal-komunikazzjonijiet elettronici inkluża r-trażmissjoni ta' kontenut; u

(iii) tinkoraġġixxi użu effiċjenti u tiżgura t-tmexxija effettiva ta' frekwenzi tar-radju u riżorsi ta' enumerazzjoni;”;

(ċ) minflok il-paragrafu (b) tas-subartikolu (1) tiegħu kif enumerat mill-ġdid, għandu jidhol dan li ġej:

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

(i) tneħhi l-ostakoli li jifdal għall-provdiment ta' *networks* ta' komunikazzjoni elettronika, faċilitajiet u servizzi assoċjati u servizzi ta' komunikazzjonijiet elettronici fuq il-livell ta' l-Unjoni Ewropea;

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

(iii) taħdem ma' awtoritajiet regolatorji nazzjonali għall-komunikazzjonijiet elettronici fi Stati Membri, ma' BEREC u mal-Kummissjoni Ewropea b'mod trasparenti li jiżgura l-iżvilupp ta' prattika regolatorja konsistenti u l-applikazzjoni konsistenti tal-liġi ta' l-Unjoni Ewropea f'dan il-qasam.”;

(d) minflok il-paragrafu (ċ) tas-subartikolu (1) tiegħu kif enumerat mill-ġdid, għandu jidhol dan li ġej:

“(ċ) li ġġib 'il quddiem l-interessi u d-drittijiet ta' l-utenti fl-Unjoni Ewropea billi -

(i) tiżgura li l-utenti kollha jkollhom dħul għal servizz universali;

(ii) tiżgura livell għoli ta' protezzjoni għall-utenti meta dawn ikollhom x'jaqsmu ma' l-imprizi, partikolarment billi tiżgura li jkun hemm proċeduri ta' risolviment ta' tilwim sempliċi u mhux kostużi li jsiru minn korp li jkun indipendenti mill-partijiet involuti;

(iii) tikkontribwixxi sabiex jiġi żgurat livell għoli ta' protezzjoni ta' data u privatezza personali;

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

(v) tindirizza l-htigiet ta' gruppi soċjali speċifiċi, partikolarment utenti finali b'diżabilità, utenti finali anzjani u utenti finali li jkollhom bżonnijiet soċjali speċjali;

(vi) tiżgura li tinzamm l-integrità u s-sigurezza ta' *networks* ta' komunikazzjonijiet pubbliċi; u

(vii) iġġib 'il quddiem il-kapaċità ta' utenti finali li jkollhom dħul għal, u li jiddistribwixxu, informazzjoni jew iħaddmu applikazzjonijiet u servizzi li jagħzlu huma.”; u

(e) minnufih wara s-subartikolu (1) tiegħu kif enumerat mill-ġdid, għandu jiżded dan is-subartikolu ġdid li ġej:

“(2) L-Awtorità għandha, bil-għan li takkwista l-għanijiet ta' *policy* msemmija f'dan l-artikolu, tapplika prinċipji regolatorji oġġettivi, trasparenti, mhux diskriminatorji u proporzjonati billi, fost l-oħrajn:

(a) iġġib 'il quddiem previzjoni regolatorja billi tiżgura approċ regolatorju konsistenti għal perjodi ta' revizjoni adatti;

(b) tiżgura li, f'ċirkostanzi simili, ma jkun hemm ebda diskriminazzjoni fil-mod kif jiġu trattati impriżi li jipprovdu networks tal-komunikazzjonijiet elettronici u servizzi;

(ċ) thares il-kompetizzjoni għall-benefiċċju ta' l-utenti u iġġib 'il quddiem, meta jkun adatt, kompetizzjoni bażata fuq l-infrastruttura;

(d) iġġib 'il quddiem investment u innovazzjoni effiċjenti f'infrastrutturi ġodda u mtejbja, inkluż billi tiżgura li kull obligazzjoni ta' dħul tqis kif imiss ir-riskju li jkunu qegħdin jieħdu l-impriżi investituri u billi tippermetti diversi arrangamenti kooperattivi bejn investituri u partijiet li jkunu qegħdin ifittxu dħul biex jiddiversifikaw ir-riskju ta' investment, filwaqt li tiżgura li jinżammu l-kompetizzjoni fis-suq u l-prinċipju ta' ebda diskriminazzjoni;

(e) tiegħu kont kif imiss tad-diversità ta' kondizzjonijiet li għandhom x'jaqsmu mal-kompetizzjoni u l-utenti li jista' jkun hemm f'Malta;

(f) timponi obligazzjonijiet regolatorji *ex-ante* biss fejn ma jkun hemm ebda kompetizzjoni effettiva u sostenibbli u tirrilaxxa jew tneħħi dawk l-obbligazzjonijiet malli titwettaq dik il-kundizzjoni; u

(g) tiegħu l-aktar kont possibbli ta' kemm ikun mixtieq li jsiru regolamenti teknologikament newtrali, partikolarment dawk maħsubin biex jiżguraw kompetizzjoni effettiva.”.

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

**6.** Fis-subartikolu (1) ta' l-artikolu 5 ta' l-Att prinċipali, minflok il-kliem “għas-swieq diversi ta' komunikazzjonijiet” għandhom jidhlu l-kliem “għad-diversi swieq ta' komunikazzjonijiet elettronici”.

Emenda ta' l-artikolu 7 ta' l-Att prinċipali.

**7.** L-artikolu 7 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (b) tiegħu, minflok il-kliem “tispeċifika; u” għandhom jidhlu l-kliem “tispeċifika;”;

(b) fil-paragrafu (c) tiegħu, minflok il-kliem “kull estensjoni relattiva.” għandhom jidhlu l-kliem “kull estensjoni relattiva; u”; u

(c) minnufih wara l-paragrafu (c) tiegħu, għandu jżidied dan il-paragrafu ġdid li ġej:

“(d) li ebda persuna m'għandha tagħmel ebda xogħol jew twettaq kull att ieħor, jew tkun fdata biex tkun tista' twettaq dawk ix-xogħlijiet jew twettaq dawk l-attijiet, ta' kostruzzjoni, tiswija, manutenzjoni, tibdil jew kontroll ta' *networks* tal-komunikazzjonijiet elettronici u, jew ta' tagħmir kemm-il darba ma tkunx debitament kwalifikata u ma jkollhiex dawk il-kwalifiki biex tkun tista' twettaq dawk ix-xogħlijiet jew twettaq dawk l-attijiet li jistgħu jiġu ordnati skond id-dispożizzjonijiet ta' l-artikolu 47.”.

Emenda ta' l-artikolu 8 ta' l-Att prinċipali.

**8.** Paragrafu (d) ta' l-artikolu 8 ta' l-Att prinċipali għandu jithassar.

Sostituzzjoni ta' l-artikolu 9 ta' l-Att prinċipali.

**9.** Minflok l-artikolu 9 ta' l-Att prinċipali, għandu jidhlo dan l-artikolu ġdid li ġej:

“Definizzjoni ta' suq u analisi.

**9.** L-Awtorità għandha, bla ħsara għal kull procedura li tista' tkun ordnata taħt dan l-Att u skond il-prinċipji tal-liġi dwar il-kompetizzjoni, tiddefinixxi s-swieq rilevanti adatti għaċ-ċirkostanzi nazzjonali, partikolarment swieq ġeografici rilevanti u għandha tagħmel analisi ta' dawk is-swieq rilevanti:

Iżda meta tkun qegħda tagħmel dan l-Awtorità:

(a) għandha tqis mill-aħjar li tista' kull rakkomandazzjoni u linja direttiva rilevanti li l-Kummissjoni Ewropea tista' tohrog minn żmien għal żmien skond l-Artikolu 15 tad-Direttiva Kwadru; u

(b) għandha timxi mal-proċeduri msemmija fl-artikolu 4A ta' l-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni, qabel ma tiddefinixxi swieq li huma differenti minn dawk imfissra f'xi rakkomandazzjoni rilevanti li l-Kummissjoni Ewropea tista' tippubblika.”.

Kap. 418.

**10.** L-artikoli 11 u 12 ta' l-Att prinċipali għandhom jiġu enumerati mill-ġdid bħala l-artikoli 10 u 11 tiegħu rispettivament.

Enumerazzjoni mill-ġdid ta' l-artikoli 11 u 12 ta' l-Att prinċipali.

**11.** L-artikolu 10 kif enumerat mill-ġdid ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 10 kif enumerat mill-ġdid ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “l-pjan ta' enumerazzjoni nazzjonali għal servizzi ta' komunikazzjoni elettronici, u għandha tikkontrolla l-assenjament tar-riżorsi ta' enumerazzjoni nazzjonali kollha”, għandhom jidhlu l-kliem “l-pjan ta' enumerazzjoni telefonika nazzjonali għal servizzi ta' komunikazzjoni elettronici, u għandha tikkontrolla l-allokazzjoni u l-assenjament tar-riżorsi ta' enumerazzjoni nazzjonali kollha”;

(b) fis-subartikolu (2) tiegħu, minflok il-kliem “t-tmexxija kif imiss tal-pjan ta' enumerazzjoni nazzjonali” għandhom jidhlu l-kliem “t-tmexxija kif imiss tal-pjan ta' enumerazzjoni telefonika nazzjonali”;

(c) fis-subartikolu (3) tiegħu, minflok il-kliem “l-elementi prinċipali tal-pjan ta' enumerazzjoni nazzjonali” għandhom jidhlu l-kliem “l-elementi prinċipali tal-pjan ta' enumerazzjoni telefonika nazzjonali”;

(d) minflok is-subartikolu (4) tiegħu, għandu jidhol dan li ġej:

“(4) L-Awtorità għandha, sakemm dan ikun prattikabbli, meta jitqiesu l-obiettivi u l-funzjonijiet tagħha kif dikjarati taht dan l-Att, issostni l-armonizzazzjoni ta' numri speċifiċi jew ta'

parametri ta' enumerazzjoni fl-Unjoni Ewropea meta dik l-armonizzazzjoni tkun iġġib 'il quddiem kemm il-funzjonament tas-suq intern u l-iżvilupp ta' servizzi pan-Ewropej.”;

(e) fis-subartikolu (6) tiegħu, minflok il-kliem “numri li ma jkunux ġew speċifikament allokat” għandhom jidhlu l-kliem “id-dritt li jintużaw numri li ma jkunux ġew speċifikament allokat”; u

(f) fis-subartikolu (7) tiegħu, minflok il-kliem “Meta impriza tiġi allokata parametri ta' numri, din ma għandhiex tiddiskrimina kontra provdituri oħra” għandhom jidhlu l-kliem “Impriza li tkun ingħatat id-dritt li jintużaw parametri ta' numri m'għandhiex tiddiskrimina kontra xi provdituri oħra”.

Sostituzzjoni ta' l-artikolu 11 kif enumerat mill-ġdid ta' l-Att prinċipali.

**12.** Minflok l-artikolu 11 kif enumerat mill-ġdid ta' l-Att prinċipali għandu jidhlo dan l-artikolu ġdid li ġej:

“Projbizzjoni ta' restrizzjonijiet.

11. (1) Mingħajr preġudizzju għad-Direttivi dwar il-Komunikazzjonijiet Elettronici Ewropej, m'għandha tiġi imposta jew tinzamm ebda restrizzjoni fuq il-provdiment ta' servizzi ta' komunikazzjonijiet elettronici permezz ta' *networks* ta' komunikazzjonijiet elettronici mwaqqfa minn xi impriza li ttipprovi servizzi ta' komunikazzjonijiet elettronici, permezz ta' infrastrutturi provduti minn terzi, jew permezz ta' parteċipazzjoni f'*networks*, faċilitajiet jew siti oħra.

(2) M'għandu jingħata jew jinzamm fis-seħh ebda dritt esklużiv jew speċjali għat-twaqqif u, jew il-provdiment ta' *networks* ta' komunikazzjonijiet elettronici, jew għall-provdiment ta' servizzi ta' komunikazzjonijiet elettronici li jkunu disponibbli pubblikament.”.

Żjeda ta' l-artikolu 12 ġdid ma' l-Att prinċipali.

**13.** Minnufih wara l-artikolu 11 kif enumerat mill-ġdid ta' l-Att prinċipali, għandu jiddied dan l-artikolu ġdid li ġej:

“Ko-lokazzjoni, parteċipazzjoni f'elementi ta' network u faċilitajiet assoċjati.

12. (1) Meta impriza li ttipprovi *networks* tal-komunikazzjonijiet elettronici jkollha dritt bil-liġi tinstalla faċilitajiet fuq, permezz ta', jew taht proprjetà pubblika jew privata, jew tkun tista' tiegħu vantaġġ minn xi proċedura għall-esproprijazzjoni jew

l-użu ta' proprjetà, l-Awtorità għandha tkun tista', billi tiegħu kont tal-prinċipju ta' proporzjonalità, timponi l-partecipazzjoni ta' dawk il-faċilitajiet jew proprjetà, inkluż kull bini, dħul f'bini, fili mal-bini, arbli, antenni, torrijiet u kostruzzjonijiet oħra ta' appoġġ ikunu kif ikunu imfissra, xaftijiet, kanali, toqob ta' spezzjoni u kmajjar.

(2) L-Awtorità għandha, hekk kif ikun meħtieġ, timponi obligazzjonijiet dwar il-partecipazzjoni fit-tqegħid ta' fili fil-bini jew sa l-ewwel punt ta' konċentrament jew distribuzzjoni meta dan ikun lokalizzat 'il barra mill-bini, fuq impriża li tipprovdi *networks* ta' komunikazzjonijiet elettronici li jkollha jedd tinstalla faċilitajiet fuq, permezz ta', jew taħt proprjetà pubblika jew privata u, jew fuq is-sid ta' dak it-tqegħid ta' fili, meta dan ikun ġustifikat abbażi li d-duplikazzjoni ta' infrastruttura bħal dik tkun waħda ekonomikament mhux effiċjenti jew fiżikament mhux prattikabbli. Dik il-partecipazzjoni jew arrangamenti ta' koordinazzjoni għandhom ikunu jinkludu regoli għall-apporzjonament tal-ispejjeż ta' partecipazzjoni f'xi faċilità jew proprjetà aġġustati għar-riskju meta jkun adatt.

(3) L-Awtorità tista' titlob lill-impriži jipprovdu l-informazzjoni meħtieġa, hekk kif hija tista' titlob, biex tkun tista' tistabilixxi inventarju dettaljat tax-xorta, disponibilità u lokazzjoni ġeografika tal-faċilitajiet imsemmija fis-subartikolu (1) u jagħmilha disponibbli għall-partijiet li jkollhom interess.

(4) Il-miżuri li jittieħdu mill-Awtorità skond dan l-artikolu għandhom ikunu oġġettivi, trasparenti, mhux diskriminatorji, u proporzjonati, u meta jkun rilevanti, dawn il-miżuri għandhom jitwettqu f'koordinazzjoni ma' awtoritajiet pubbliċi oħra.”.

**14.** L-artikolu 13 ta' l-Att prinċipali għandu jigi emendat kif ġej:

Emenda ta' l-artikolu 13 ta' l-Att prinċipali.

(a) minflok il-kliem “l-oġġettivi tagħha kif dikjarati fl-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni” għandhom jidhlu l-kliem “l-oġġettivi tagħha kif dikjarati f'dan l-Att u fl-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni”; u

(b) fil-paragrafu (b) tiegħu, minflok il-kliem “sostenibbli; u” għandhom jidhlu l-kliem “sostenibbli;”; u

(c) paragrafu (c) tiegħu għandu jiġi enumerat mill-ġdid bħala l-paragrafu (d), u minnufih qabel il-paragrafu (d) tiegħu kif enumerat mill-ġdid għandu jizzied dan il-paragrafu ġdid li ġej:

“(c) jinġiebu ’l quddiem investiment u innovazzjoni effiċjenti; u”.

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

**15.** L-artikolu 14 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (b) tas-subartikolu (1) tiegħu, minflok il-kliem “fi Stati Membri” għandhom jidhlu l-kliem “fi Stati Membri oħra”;

(b) fis-subartikolu (1) tiegħu, minflok il-kliem “il-liġi tal-Komunità” għandhom jidhlu l-kliem “il-liġi ta’ l-Unjoni Ewropea”;

(c) fil-paragrafu (b) tas-subartikolu (3) tiegħu, minflok il-kliem “tipprovdi *networks* ta’ komunikazzjoni pubbliċi” għandhom jidhlu l-kliem “tipprovdi *networks* ta’ komunikazzjonijiet pubbliċi skond dan l-Att”;

(d) fis-subartikolu (3) tiegħu, minflok il-kliem “kollha tal-Komunità.” għandhom jidhlu l-kliem “kollha ta’ l-Unjoni Ewropea”;

(e) fis-subartikolu (4) tiegħu, minflok il-kliem “konsistenti ma’ l-obbligi li jkollhom x’jaqsmu mal-dhul u l-interkonnessjoni imposti mill-Awtorità” għandhom jidhlu l-kliem “konsistenti ma’ l-obbligi imposti mill-Awtorità”;

(f) fis-subartikolu (5) tiegħu, minflok il-kliem “Mingħajr preġudizzju għall-informazzjoni li impriza tkun meħtieġa, taħt jew b’dan l-Att, li tipprovdi taħt awtorizzazzjoni ġenerali għal drittijiet ta’ l-użu jew għal obbligi speċifiċi”, għandhom jidhlu l-kliem “Mingħajr preġudizzju għall-informazzjoni li impriza tkun meħtieġa li tipprovdi taħt jew b’dan l-Att”; u

(g) minflok is-subartikolu (6) tiegħu, għandu jidhlo dan li ġej:

“(6) Impriża m’għandha tagħmel ebda informazzjoni li tkun kisbet kif imsemmi fis-subartikolu (5) disponibbli lil xi parti oħra, inklużi sussidjarji jew shab oħra ta’ l-istess impriża, ikunu kif ikunu deskritti, partikolarment meta dik l-informazzjoni tista’ tkun taġti vantaġġ kompetittiv.”.

**16.** Fit-test Inġliż ta’ l-artikolu 15 ta’ l-Att prinċipali, minflok il-kliem “twenty fifty million euro” għandhom jidhlu l-kliem “fifty million euro”. Emenda ta’ l-artikolu 15 ta’ l-Att prinċipali.

**17.** Fl-artikolu 16 ta’ l-Att prinċipali, minflok il-kliem “tal-liġi tal-Komunità” għandhom jidhlu l-kliem “tal-liġi ta’ l-Unjoni Ewropea”. Emenda ta’ l-artikolu 16 ta’ l-Att prinċipali.

**18.** Fit-Taqsima II ta’ l-Att prinċipali, minnufih qabel l-artikolu 17 tiegħu, minflok is-subintestatura “5. Awtorizzazzjonijiet” għandhom jidhlu l-kliem “5. Awtorizzazzjonijiet u Drittijiet ta’ Użu”. Sostituzzjoni tas-subintestatura 5 fit-Taqsima II ta’ l-Att prinċipali.

**19.** L-artikolu 17 ta’ l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 17 ta’ l-Att prinċipali.

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

“(1) Impriża jkollha jedd tipprovdi servizzi ta’ komunikazzjonijiet elettronici jew tistabilixxi, testendi jew tipprovdi *networks* ta’ komunikazzjonijiet elettronici skond dan l-Att.”; u

(b) is-subartikolu (2) tiegħu għandu jithassar u s-subartikoli (3) u (4) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikoli (2) u (3) rispettivament.

**20.** Fil-paragrafu (a) tas-subartikolu (1) ta’ l-artikolu 18 ta’ l-Att prinċipali, minflok il-kliem “ta’ direttivi u, jew deċiżjonijiet” għandhom jidhlu l-kliem “ta’ deċiżjonijiet”. Emenda ta’ l-artikolu 18 ta’ l-Att prinċipali.

**21.** L-artikolu 19 ta’ l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta’ l-artikolu 19 ta’ l-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem “tkun f’dik l-għamla skond ma l-Awtorità tista’ minn żmien għal żmien tistabilixxi” għandhom jidhlu l-kliem “tkun f’dik l-għamla u jkollha dik l-informazzjoni li l-Awtorità tista’ minn żmien għal żmien tistabilixxi”;

(b) is-subartikolu (5) għandu jiġi enumerat mill-ġdid bħala s-subartikolu (6) tiegħu; u

(ċ) minnufih wara s-subartikolu (4) tiegħu, għandu jiżdied dan is-subartikolu ġdid li ġej:

“(5) Impriżi li jipprovdu servizzi ta’ komunikazzjonijiet elettronici transkonfini lil impriżi lokalizzati f’diversi Stati Membri ma jinhtieġux jipprezentaw iżjed minn notifika waħda għal kull Stat Membru involut.”.

Enumerazzjoni mill-ġdid ta’ l-artikoli 20 sa 27 ta’ l-Att prinċipali.

**22.** L-artikoli 20 to 23 ta’ l-Att prinċipali għandhom jiġu enumerati mill-ġdid bħala l-artikoli 21 sa 24 tiegħu rispettivament, is-subintestatura “8. Riżolviment ta’ tilwim” għandha titfassar u l-artikolu 27 għandu jiġi enumerat mill-ġdid bħala l-artikolu 25.

Żjieda ta’ l-artikolu 20 ġdid ma’ l-Att prinċipali.

**23.** Minnufih wara l-artikolu 19 ta’ l-Att prinċipali għandu jiżdied dan l-artikolu ġdid li ġej:

“Emendi ta’ l-awtorizzazzjoni generali u ta’ jeddijiet ta’ użu.

20. L-Awtorità tista’, bl-approvazzjoni tal-Ministru, b’ordni fil-Gazzetta, jemenda d-drittijiet, il-kondizzjonijiet u l-proċeduri li jirrigwardaw awtorizzazzjonijiet generali u jeddijiet ta’ użu ta’ numri, iżda emendi bħal dawk jistgħu jsiru biss f’każijiet oġġettivament ġustifikati u b’mod proporzjonat filwaqt li jittiehed kont, meta jkun adatt, tal-kondizzjonijiet speċifiċi li jkunu japplikaw għal jeddijiet ta’ użu trasferibbli għal frekwenzi tar-radju:

Izda qabel ma tagħmel xi emenda bħal dik, l-Awtorità għandha, hlief għal każijiet fejn l-emendi proposti jkunu ta’ ftit importanza u jkunu ġew miftiehma mad-detentur tad-drittijiet jew ta’ l-awtorizzazzjoni generali, tavża dwar l-intenzjoni li jkollha b’dak il-mod li tqis l-aktar adatt, filwaqt li tistieden lill-partijiet li jkollhom interess, inklużi l-utenti u l-konsumaturi, iressqu l-ilmenti tagħhom fuq l-emendi proposti fi żmien mhux inqas minn tletin ġurnata, hekk kif jista’ jiġi speċifikat fl-avviż. L-Awtorità tista’ meta ċ-ċirkostanzi jidhru li jkunu eċċezzjonali, tqassar dak iż-żmien.”.

Emenda ta’ l-artikolu 21 kif enumerat mill-ġdid ta’ l-Att prinċipali.

**24.** Fl-artikolu 21 kif enumerat mill-ġdid ta’ l-Att prinċipali, minflok il-kliem “minn kull htieġa skond il-ligi li tapplika għal kull awtorizzazzjoni, licenza jew permessi oħra, ikunu kif ikunu deskritti, jew minn kull obbligu li jorigina minn kull ligi oħra”,

għandhom jidhlu l-kliem “minn kull hteġa skond il-liġi li tapplika għal, u tikseb xi awtorizzazzjoni, liċenza jew permessi oħra, ikunu kif ikunu deskritti, jew minn kull obligazzjoni li toriġina minn kull liġi, liċenza, awtorizzazzjoni jew permessi oħra, ikunu kif ikunu deskritti.”.

**25.** Minflok l-artikolu 23 kif enumerat mill-ġdid ta' l-Att prinċipali, għandu jidhol dan l-artikolu ġdid li ġej:

Sostituzzjoni ta' l-artikolu 23 kif enumerat mill-ġdid ta' l-Att prinċipali.

“Jeddijiet ta' l-utenti finali u l-informazzjoni li għandha tiġi inkluża.

23. (1) Impriża għandha tipprovdi kuntratt lill-abbonati kollha f'*network* ta' komunikazzjonijiet pubbliċi u, jew lil servizzi ta' komunikazzjonijiet elettronici li jkunu disponibbli pubblikament, u għandha tipprovdi dawk is-servizzi skond dak il-kuntratt.

(2) Il-kuntratt imsemmi fis-subartikolu (1) għandu jkun espressament jinkludi dik l-informazzjoni li tista' tiġi speċifikata b'regolamenti mill-Ministru wara li jikkonsulta ma' l-Awtorità, sabiex iħares l-interessi ta' l-abbonati u ta' l-utenti.

(3) Impriża msemija fis-subartikolu (1) għandha, mhux inqas minn tletin gurnata qabel ma jibda jseħh xi tibdil propost fil-pattijiet u l-kondizzjonijiet tal-kuntratt ta' servizz, tavża bil-miktub lill-abbonati kollha f'dak is-servizz mill-inqas:

(a) bit-tibdil propost fil-pattijiet u l-kondizzjonijiet tal-kuntratt ta' servizz;

(b) bil-jedd ta' rtirar bla ebda piena minn dak il-kuntratt jekk ma jiġux aċċettati t-tibdiliet; u

(c) b'kull hlas lura li jista' jingħata ma' l-irtirar mill-kuntratt minhabba f'dawk it-tibdiliet, inkluż kull mod li bih l-abbonat għandu, bla ma jgarrab ebda spejjeż żejda, jiħallas lura kull pagament li jkun għamel bil-quddiem u li ma jkunx ġie utilizzat.

(4) Impriża msemija fis-subartikolu (3) għandha tavża lill-Awtorità bil-miktub, qabel ma tinnotifika lill-abbonati, u tagħtihom żmien sew hekk kif jista' jiġi speċifikat mill-Awtorità, b'kull tibdil propost fil-pattijiet u l-kondizzjonijiet tal-kuntratt ta' servizz.

(5) L-Awtorità tista', fuq talba bil-miktub lil impriza, magħmula skond xi rekwizit li jista' jiġi stabbilit mill-Awtorità, f'kazijiet fejn it-tibdil propost fil-pattijiet u l-kundizzjonijiet tal-kuntratt tas-servizz ikun manifestament ta' benefiċċju għall-utenti kollha ta' dak is-servizz, teżenta lill-impriza milli tapplika d-dritt imsemmi fil-paragrafu (b) tas-subartikolu (3).”.

Sostituzzjoni ta' l-artikolu 24 kif enumerat mill-ġdid ta' l-Att prinċipali.

**26.** Minflok l-artikolu 24 kif enumerat mill-ġdid ta' l-Att prinċipali, għandu jidhol dan l-artikolu ġdid li ġej:

“Nullità tal-kuntratt u ta' ċertu pattijiet u l-kundizzjonijiet.

24. Kuntratt, patt jew kundizzjoni għall-provdiment ta' servizz ta' komunikazzjonijiet elettronici, ukoll jekk miftiehma mill-abbonat jew mill-utent, ikunu nulli u bla ebda effett safejn dawn ikunu inkonsistenti ma' dispożizzjonijiet magħmulin b'dan l-Att jew tahtu jew mal-pattijiet u l-kundizzjonijiet ta' l-awtorizzazzjoni li tahtom jiġi provdut is-servizz.”.

Enumerazzjoni mill-ġdid ta' l-artikoli 28 sa 41 ta' l-Att prinċipali.

**27.** L-artikoli 28 sa 41 ta' l-Att prinċipali għandhom jiġu enumerati mill-ġdid bħala l-artikoli 26 sa 39 tiegħu rispettivament.

Emenda ta' l-artikolu 33 kif enumerat mill-ġdid ta' l-Att prinċipali.

**28.** Fl-artikolu 33 kif enumerat mill-ġdid ta' l-Att prinċipali u fin-nota marginali li hemm miegħu, minflok il-kliem “ta' l-artikolu 32” kull fejn dawn jinsabu għandhom jidhlu l-kliem “ta' l-artikolu 30”.

Sostituzzjoni ta' l-artikolu 36 kif enumerat mill-ġdid ta' l-Att prinċipali.

**29.** Minflok l-artikolu 36 kif enumerat mill-ġdid ta' l-Att prinċipali, għandu jidhol dan l-artikolu ġdid li ġej:

“Użu ta' frekwenzi tar-radju.

36. (1) F'din it-Taqsima, kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'ohra:

“pjan ta' frekwenzi” tfisser il-“pjan nazzjonali ta' frekwenzi tar-radju” kif adottat mill-Ministru u publikat skond id-dispożizzjonijiet ta' din it-Taqsima; u

“awtorizzazzjoni generali” tfisser qasam imwaqqaf b'din it-Taqsima jew tahtha li jistipula d-drittijiet u l-obbligazzjonijiet għall-użu ta' spektrum tar-radju, meta l-użu ta' l-ispektrum tar-radju ma jkunx jeħtieġ licenza individwali.

(2) Din it-Taqsima tirregola kull spektrum tar-radju, hliet għal xi spektrum tar-radju li jkun

espressament regolat taht xi ligi oħra, u li jkun identifikat bhala tali fil-pjan ta' frekwenzi tar-radju.”.

**30.** Minflok l-artikolu 37 kif enumerat mill-gdid ta' l-Att prinċipali, ghandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 37 kif enumerat mill-gdid ta' l-Att prinċipali.

“Tifsir.

37. Il-frekwenzi tar-radju għandhom jintużaw biss skond awtorizzazzjoni ġenerali mahruġa taht dan l-Att jew wara li tingħata awtorizzazzjoni esplicita mill-Awtorità skond dan l-Att, jew wara li tingħata awtorizzazzjoni esplicita skond xi ligi oħra:

Izda l-Ministru jista' jawtorizza bil-miktub lil kull korp imwaqqaf bil-ligi u li debitament ikollu s-setgħa bil-ligi li jassenja l-frekwenzi taht il-pjan ta' frekwenzi, li jmur 'l hinn mill-pjan ta' frekwenzi. Meta jkun qed jagħmel dan il-Ministru għandu jfisser għaliex ikun qieghed jagħmel dan u għandu jingħata avviz pubbliku dwar dik l-awtorizzazzjoni.”.

**31.** Minflok l-artikolu 38 kif enumerat mill-gdid ta' l-Att prinċipali, ghandu jidhol dan li ġej:

Sostituzzjoni ta' l-artikolu 38 kif enumerat mill-gdid ta' l-Att prinċipali.

“Thaddim ta' frekwenzi tar-radju.

38. (1) L-Awtorità għandha, skond l-għanijiet tagħha taht dan l-Att, tkun responsabbli għat-tmexxija effettiva tal-frekwenzi tar-radju assenjati lilha taht il-pjan ta' frekwenzi tar-radju nazzjonali msemmija.

(2) Mingħajr preġudizzju għal kriterji u proceduri speċifiċi li jiġu adottati biex jagħtu jeddijiet ta' użu frekwenzi tar-radju lil provduri ta' servizzi ta' kontenut ta' xandir bir-radju jew bit-telewiżjoni bil-għan li jiksbu għanijiet ta' interess ġenerali konformement mal-ligi ta' l-Unjoni Ewropea:

(a) m'għandu jingħata ebda dritt ta' użu esklużiv jew speċjali ta' frekwenzi tar-radju fl-għoti ta' servizzi ta' komunikazzjonijiet elettronici; u

(b) l-Awtorità u l-Ministru għandhom meta jkunu qegħdin jaqdu l-funzjonijiet rispettivi tagħhom dwar l-allokazzjoni ta' spektrum tar-radju użat għal servizzi ta' komunikazzjonijiet elettronici u l-hruġ ta' awtorizzazzjonijiet ġenerali jew jeddijiet individwali ta' użu ta' dawk il-frekwenzi

tar-radju, jaġixxu skond kriterji oġġettivi, trasparenti, mhux diskriminatorji u proporzjonati:

Iżda kull proċedura relattiva użata għall-finijiet ta' dan il-paragrafu għandha tkun waħda trasparenti.

(3) Meta jkunu qegħdin japplikaw id-dispożizzjonijiet ta' dan l-artikolu, il-Ministru u l-Awtorità għandhom jirrispettaw kull ftehim internazzjonali rilevanti, inkluż ir-Regolamenti tar-Radju ITU, u jistgħu jqisu dak kollu li jsir fir-rigward tal-pubbliku.

(4) L-Awtorità għandha tippubblika mill-inqas darba fis-sena, u jaġmlu disponibbli meta hekk jintalab, l-assenjament ta' frekwenzi tar-radju, assenjati lilha taht il-pjan ta' frekwenzi.”.

Emenda ta' l-artikolu 39 kif enumerat mill-ġdid ta' l-Att prinċipali.

**32.** L-artikolu 39 kif enumerat mill-ġdid ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fin-nota marginali li hemm miegħu, minflok il-kliem “ta' pjan” għandhom jidhlu l-kliem “ta' pjan ta' frekwenzi”;

(b) fis-subartikolu (1) tiegħu, minflok il-kelma “pjan” kull fejn tidher għandhom jidhlu l-kliem “pjan ta' frekwenzi”;

(c) fis-subartikolu (2) tiegħu, minflok il-kliem “Il-Ministru għandu fl-abbozzar tal-pjan jistabbilixxi liema frekwenzi” għandhom jidhlu l-kliem “Il-Ministru għandu fl-abbozzar tal-pjan ta' frekwenzi jistabbilixxi liema frekwenzi”; u

(d) is-subartikolu (3) tiegħu għandu jithassar.

Thassir ta' l-artikolu 42 ta' l-Att prinċipali.

**33.** L-artikolu 42 ta' l-Att prinċipali għandu jithassar.

Enumerazzjoni mill-ġdid ta' l-artikoli 43 sa 49 ta' l-Att prinċipali.

**34.** L-artikoli 43 sa 49 ta' l-Att prinċipali għandhom jiġu enumerati mill-ġdid bhala l-artikoli 46 sa 52 tiegħu.

Zjieda ta' l-artikoli 40 sa 45 godda ma' l-Att prinċipali.

**35.** Minnufih wara l-artikolu 39 kif enumerat mill-ġdid ta' l-Att prinċipali, għandhom jiżdiedu dawn l-artikoli godda li ġejjin:

“Newtralità teknoloġika.

40. (1) Kemm-il darba mhux provdut xort'oħra fis-subartikolu (2), kull tip ta' teknoloġija użata għal

servizzi ta' komunikazzjonijiet elettronici tista' tintuza fil-frekwenza ta' bandi tar-radju, li jkunu dikjarati disponibbli għal servizzi ta' komunikazzjonijiet elettronici fil-pjan ta' frekwenzi skond il-liġi ta' l-Unjoni Ewropea.

(2) Il-Ministru, jew l-Awtorità bl-approvazzjoni tal-Ministru, jistgħu, madankollu, jipprovdu dwar restrizzjonijiet proporzjonati u mhux diskriminatorji għat-tipi ta' *network* tar-radju jew teknologija ta' dhul mingħajr firi użati għal servizzi ta' komunikazzjonijiet elettronici meta dan ikun meħtieġ biex:

- (a) tiġi evitata kull interferenza dannuża;
- (b) tiġi protetta s-saħħa pubblika mill-kampi elettromanjetiċi;
- (ċ) tiġi żgurata l-kwalità teknika ta' servizz;
- (d) tiġi żgurata l-parteciġipazzjoni fl-akbar qjies possibbli ta' frekwenza tar-radju;
- (e) jiġi mħares l-użu effiċjenti ta' l-ispektrum, jew
- (f) jiġi żgurat it-twertiq ta' xi għan ta' interess ġenerali skond l-artikolu 41.

Newtralità tas-servizz.

41. (1) Kemm-il darba mhux provdut xort'oħra fis-subartikoli (2) u (3), kull tip ta' servizz ta' komunikazzjonijiet elettronici jista' jiġi provdut fil-bandi ta' frekwenza tar-radju, li jkunu dikjarati disponibbli għal servizzi ta' komunikazzjonijiet elettronici fil-pjan ta' frekwenzi skond il-liġi ta' l-Unjoni Ewropea.

(2) Il-Ministru, jew l-Awtorità bl-approvazzjoni tal-Ministru, jistgħu jipprovdu dwar restrizzjonijiet proporzjonati u mhux diskriminatorji għat-tipi ta' servizzi ta' komunikazzjonijiet elettronici li għandhom jiġu provduti, inkluż, meta jkun meħtieġ, it-twertiq ta' xi hteġa taħt ir-Regolamenti tar-Radju ITU.

(3) Dawk il-miżuri li jkunu jeħtieġu li jiġi provdut servizz ta' komunikazzjonijiet elettronici f'banda speċifika li tkun disponibbli għal servizzi ta'

komunikazzjonijiet elettronici, ikunu ġustifikati biex jiżguraw it-twettiq ta' għanijiet ta' interess ġenerali kif imfissra mill-Ministru konformement mal-liġi ta' l-Unjoni Ewropea, bħal ma huma, u mhux limitati:

(a) għas-sigurtà tal-ħajja,

(b) għall-promozzjoni ta' koeżjoni soċjali, reġjonali jew territorjali,

(c) biex jiġi evitat l-użu inefficjenti ta' frekwenzi tar-radju, jew

(d) għall-promozzjoni ta' diversità kulturali u lingwistika u pluraliżmu fil-mezzi tax-xandir, kif bħala eżempju huma l-provdiment ta' servizzi ta' xandir bir-radju u televiżjoni.

(4) Jista' biss jiġi provdut dwar miżura li tkun tipprojbixxi l-provdiment ta' xi servizz ieħor ta' komunikazzjonijiet elettronici f'banda speċifika meta dan ikun ġustifikat bil-ħtieġa li tiġi mħarsa s-sigurtà ta' servizzi tal-ħajja:

Izda l-Ministru jew l-Awtorità kif ikun il-każ, jistgħu eċċezzjonalment ukoll jestendu dik il-miżura biex iwettqu għanijiet oħra ta' interess ġenerali kif imfissra mill-Ministru skond il-liġi ta' l-Unjoni Ewropea.

Applikazzjoni ta' teknoloġija u servizz ta' newtralità.

42. (1) Il-Ministru jew l-Awtorità kif ikun il-każ, għandhom regolarment jirrevedu l-ħtieġa tar-restrizzjonijiet imsemmija fl-artikoli 40 u 41, u għandhom jagħmlu pubbliċi r-risultati ta' dawn ir-reviżjonijiet.

(2) L-artikoli 40 u 41 għandhom ikunu japplikaw għal spektrum allokat biex jintuża għal servizzi ta' komunikazzjonijiet elettronici, awtorizzazzjonijiet ġenerali maħruġin u drittijiet individwali ta' użu frekwenzi tar-radju mogħtijin wara l-25 ta' Mejju 2011.

(3) Allokazzjoni ta' spektra, awtorizzazzjoni ġeneralijiet u drittijiet individwali ta' użu li kienu jeżistu qabel il-25 ta' Mejju 2011 għandhom ikunu bla ħsara għad-dispożizzjonijiet tal-artikolu 43.

Reviżjoni ta' restrizzjonijiet fuq drittijiet eżistenti.

43. (1) Għal żmien hames snin li jibdeu għaddejin mill-25 ta' Mejju 2011, id-detenturi ta' drittijiet biex jintużaw frekwenzi tar-radju li ngħataw qabel din id-data u li jibqgħu validi mill-inqas sal-25 ta' Mejju 2016, jistgħu jipprezentaw applikazzjoni għand l-Awtorità għal rivalutazzjoni tar-restrizzjonijiet fuq id-drittijiet tagħhom skond l-artikoli 40 u 41.

(2) Qabel ma tadotta d-deċiżjoni tagħha, l-Awtorità għandha tavża lid-detentur tad-dritt birivalutazzjoni tagħha tar-restrizzjonijiet, billi tindika x'ikun sewwasew id-dritt wara r-rivalutazzjoni.

(3) L-Awtorità għandha tippermetti terminu raġonevoli għad-detentur tad-drittijiet biex, jekk irid, jirtira l-applikazzjoni. Jekk id-detentur tad-drittijiet jirtira l-applikazzjoni, id-dritt jibqa' ma jinbidilx sakemm dan jiskadi jew sal-25 ta' Mejju 2016, skond liema data taħbat l-ewwel.

(4) Wara l-25 ta' Mejju 2016 l-Awtorità għandha tadotta kull miżura adatta biex tiżgura li l-artikoli 40 u 41 japplikaw għal kull awtorizzazzjoni generali, dritt individwali ta' użu, u allokkazzjoni ta' spektra użati fis-servizzi ta' komunikazzjonijiet elettronici li jifdal u li kienu jeżistu fil-25 ta' Mejju 2011.

(5) Meta tkun qegħda tapplika dan l-artikolu, l-Awtorità għandha tadotta miżuri adatti biex iġġib 'il quddiem il-kompetizzjoni ġusta.

(6) Il-miżuri adottati meta jkun qed jiġi applikat dan l-artikolu ma jikkostitwux l-ghoti ta' jeddijiet ta' użu godda u għaldaqstant m'humiex bla ħsara għad-dispożizzjonijiet rilevanti ta' l-Artikolu 5 (2) tad-Direttiva dwar Awtorizzazzjoni.

Regoli li jipprevjenu t-tgħeddis ta' spektra.

44. Mingħajr preġudizzju għad-dispożizzjonijiet ta' dan l-Att u wara li jittiehed kont taċ-ċirkostanzi nazzjonali rilevanti, l-Awtorità tista' tagħmel regoli biex tipprevjeni t-tgħeddis ta' spektra, partikolarment billi tistabbilixxi termini stretti għall-esplojtazzjoni effettiva tad-drittijiet ta' użu mid-detentur tad-drittijiet. Dawn ir-regoli għandhom jiġu stabbiliti u applikati b'mod proporzjonat, mhux diskriminatorji u trasparenti.

Negozju fl-  
ispektra.

45. (1) Impriża tista' tittrasferixxi jew tikri d-drittijiet individwali biex jintużaw frekwenzi tar-radju fil-bandi identifikati fil-pjan ta' frekwenzi li jistgħu jiġu trasferiti jew mikrija, lil impriži oħra skond il-kondizzjonijiet marbutin ma' dawk il-jeddijiet ta' użu ta' frekwenzi tar-radju u skond kull liġi li tkun tapplika:

Iżda l-kondizzjonijiet marbutin ma' drittijiet individwali biex jintużaw frekwenzi tar-radju għandhom jibqgħu japplikaw wara t-trasferiment jew il-kirja, kemm-il darba ma jiġix speċifikat xort'oħra mill-Awtorità.

(2) Mingħajr preġudizzju għal kull liġi li tapplika, jew għal kull proċedura li l-Awtorità tista' tispeċifika, impriża għandha tavża l-intenzjoni li jkollha li tittrasferixxi drittijiet biex jintużaw frekwenzi tar-radju, kif ukoll it-trasferiment tagħhom effettiv lill-Awtorità u għandha tagħmel dik l-intenzjoni tagħha pubblika.

(3) Meta l-użu ta' frekwenza tar-radju jkun ġie armonizzat bl-applikazzjoni tad-Deciżjoni Nru. 676/2002/KE (Deciżjoni dwar Spektrum tar-Radju) jew b'miżuri oħra ta' l-Unjoni Ewropea, kull trasferiment bhal dak għandu jkun konformi ma' dak l-użu armonizzat.”.

Emenda ta' l-artikolu  
47 kif enumerat  
mill-ġdid ta' l-Att  
prinċipali.

**36.** L-artikolu 47 kif enumerat mill-ġdid ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu -

(i) minflok il-paragrafu (a) tiegħu, għandu jidhol dan li ġej:

“(a) jirregolaw servizzi ta' komunikazzjonijiet elettronici u, jew *networks* inklużi l-interkonnessjoni ta' dawk in-*networks*, it-tqegħid fl-istess post ta' facilitajiet, is-selezzjoni minn qabel tat-trasportatur, għad-dhul f'*networks*, id-drittijiet ta' passagg, it-trażmissjoni jew reċezzjoni ta' sinjali tas-satellita, il-manutenzjoni u l-pubblikazzjoni ta', u l-aċċessibilità għal kull informazzjoni li tkun kif tkun deskritta, jistipulaw obbligi ta' servizz universali, kull haġa li jkollha x'taqsam man-numri inkluża l-portabilità, pjanijiet u allokkazzjoni, kull

ħaġa li għandha x'taqsam ma' e-mails li jintbagħtu jew ma' servizzi oħra bħal dawk biex tiġi żgurata kompetizzjoni ġusta jew għal finijiet tal-ħarsien ta' l-utent finali, l-obbligi ta' impriża li jkollha setgħa fis-suq sinifikanti, regoli ta' kompetizzjoni u ta' ħarsien tal-utent finali inklużi iżda mhux limitati għal regoli li għandhom x'jaqsmu mas-suspensjoni, terminazzjoni u tiġdid ta' servizzi ta' komunikazzjonijiet elettronici lil utenti finali, arrangamenti dwar kumpens u rifiżjoni, proċeduri ta' kontijiet u eżattezza fil-kontijiet, servizzi ta' emerġenza, servizzi armonizzati b'valur soċjali, u servizzi ta' direttorju;”;

(ii) fil-paragrafu (j), minflok il-kelma “konsumaturi” għandha tidhol il-kelma “utenti finali”;

(iii) fil-paragrafu (l), minflok il-kelma “Komunità” għandhom jidhlu l-kliem “Unjoni Ewropea”;

(iv) fil-paragrafu (n), minflok il-kelma “Komunità” għandhom jidhlu l-kliem “Unjoni Ewropea”;

(v) minflok paragrafi (o) u (p), għandu jidhol dan li ġej:

“(o) jirregolaw l-allokkazzjoni, assenjament u użu ta' frekwenzi tar-radju għal *networks* tal-komunikazzjonijiet elettronici u, jew servizzi, inkluż it-trasferiment jew il-kiri ta' drittijiet biex jintużaw frekwenzi tar-radju lil impriži oħra u l-proċedura li għandha tiġi segwita;

(p) jirregolaw kull ħaġa li għandha x'taqsam mar-regolament, amministrazzjoni, manigġar u awtorizzazzjoni ta' spektrum tar-radju, inkluż kull aspekt dwar il-ħruġ ta' awtorizzazzjonijiet, kummerċ ta' spektra, il-mod kif frekwenzi tar-radju u, jew apparat ikun kif ikun imsemmi, jista' jintuza mingħajr il-ħtieġa ta' awtorizzazzjoni, u d-drittijiet u l-kondizzjonijiet li jistgħu jiġu imposti dwarhom;”;

(vi) il-paragrafu (s) għandu jiġi enumerat mill-ġdid bħala paragrafu (u) u minnufih wara l-paragrafu (r) għandhom jiżdiedu dawn il-paragrafi godda li ġejjin:

“(s) jipprovdu dwar kull haġa li għandha x’taqsam mal-kwalifiki li persuna tista’ tkun teħtieġ biex tkun tista’ twettaq xi hidma jew twettaq xi ieħor li jkollu x’jaqsmu mal-kostruzzjoni, tiswiġa, manutenzjoni, tibdil jew kontroll ta’ xi servizz ta’ komunikazzjonijiet elettronici u, jew *network*, inklużi testijiet li għandhom isiru biex jiġi aċċertat jekk persuna jkollhiex dawn il-kwalifiki;

(t) tistabbilixxi pieni għal reati kriminali kontra regolamenti magħmulin taħt dan l-Att, inklużi multi differenti għal reati differenti u, jew multi kalkulati skond kemm idum għaddej ir-reat:

Izda r-regolamenti li jistgħu jsiru m’għandhomx ikunu jipprovdu għal multa ta’ iżjed minn hamsa u għoxrin elf euro (25,000) jew hames mitt euro (500) għal kull ġurnata li matulha jdum għaddej ir-reat;” u

(b) fis-subartikolu (2) tiegħu, il-kliem “jagħti setgħa lil kull awtorità pubblika oħra mwaqqfa bil-liġi” għandhom jidhlu il-kliem “jagħti setgħa lil kull korp jew korpi mwaqqfa bil-liġi”.

Emenda ta’ l-artikolu 51 kif enumerat mill-ġdid ta’ l-Att prinċipali.

**37.** Fis-subartikolu (1) ta’ l-artikolu 51 kif enumerat mill-ġdid ta’ l-Att prinċipali, minflok il-kliem “l-artikolu 35(1)(d) jew taħt l-artikolu 35A” għandhom jidhlu l-kliem “l-artikolu 48(1)(d) jew taħt l-artikolu 49”.

Thassir ta’ l-artikoli 50 u 51 ta’ l-Att prinċipali.

**38.** L-artikoli 50 u 51 ta’ l-Att prinċipali għandhom jithassru.

Enumerazzjoni mill-ġdid ta’ l-artikoli 52 sa 54 ta’ l-Att prinċipali.

**39.** L-artikoli 52 sa 54 ta’ l-Att prinċipali għandhom jiġu enumerati mill-ġdid bhala l-artikoli 53 sa 55 tiegħu rispettivament.

Sostituzzjoni ta’ l-artikolu 53 kif enumerat mill-ġdid ta’ l-Att prinċipali.

**40.** Minflok l-artikolu 53 kif enumerat mill-ġdid ta’ l-Att prinċipali, għandu jidhol dan li ġej:

“Awtorizzazzjonijiet eżistenti.

53. (1) Mingħajr preġudizzju għall-artikolu 43, l-Awtorità għandha ġgib awtorizzazzjonijiet ġenerali u drittijiet individwali ta’ użu li kienu diġà jeżistu fil-31 ta’ Diċembru 2009 f’konformità mad-dispożizzjonijiet ta’, jew li saru taħt dan l-Att u li għandhom x’jaqsmu ma’ l-awtorizzazzjonijiet sad-19 ta’ Diċembru 2011 l-aktar tard.

(2) Minkejja s-subartikolu (1) meta l-Awtorità tqis li l-applikazzjoni tal-imsemmi subartikolu tkun tirrizulta fi tnaqqis tad-drittijiet jew f'estensjoni ta' l-obbligazzjonijiet fuq persuna li jkollha awtorizzazzjoni bhal dik jew id-dritt ta' użu li kien digà jeżisti, l-Awtorità tista' testendi l-validità ta' dawk l-awtorizzazzjonijiet jew il-jeddiġiet ta' użu sat-30 ta' Settembru 2012, sakemm tikkunsidra li d-drittijiet ta' persuni oħra ma jiġux affettwati b'mod kuntrarju b'dan kollu. L-Awtorità għandha tavża dwar estensjoni bhal dik lill-Kummissjoni Ewropea u tiddikjara x'ikunu r-raġunijiet għal dan.”.

**41.** Fis-subartikolu (2) ta' l-artikolu 55 kif enumerat mill-ġdid ta' l-Att prinċipali, il-kliem “u mid-dispożizzjonijiet tar-regolamenti kollha magħmulin tahtu” għandhom jiġihassru.”.

Emenda ta' l-artikolu 55 kif enumerat mill-ġdid ta' l-Att prinċipali.

## TAQSIMA II

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

**42.** (1) Din it-Taqsima temenda l-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni, u għandha tinqara u tiftiehem haġa waħda ma' l-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni, hawn iżjed 'il quddiem f'din it-Taqsima msejjah “l-Att prinċipali”.

Emenda ta' l-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni. Kap.418.

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

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

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

(a) minflok it-tifsira “l-Att”, għandha tidhol din it-tifsira ġdida li ġejja:

“ “dan l-Att” tfisser l-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni, u tinkludi kull regolamenti magħmulin tahtu kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'oħra;”,

u minflok il-kliem “l-Att” kull fejn dawn jinsabu fl-Att prinċipali għandhom jidhlu l-kliem “dan l-Att”;

(b) minnufih wara t-tifsira “awtorizzazzjoni”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “BEREC” tfisser Body of European Regulators for Electronic Communications (Korp ta’ Regolaturi Ewropej għal Komunikazzjonijiet Elettronici);”;

(ċ) fit-tifsira “deċiżjoni ”, minflok il-kliem “tinkludi kull sentenza,” għandhom jidhlu l-kliem “tinkludi kull direttiva, sentenza,”;

(d) minnufih wara t-tifsira “direttiva”, għandha tiżdied din it-tifsira ġdida li ġejja:

“ “Direttivi dwar il-Komunikazzjonijiet Elettronici Ewropej” tfisser Direttiva 2002/21/KE tal-Parlament Ewropew u tal-Kunsill tas-7 ta’ Marzu 2002 dwar qafas regolatorju komuni għal *networks* tal-komunikazzjonijiet elettronici u servizzi (Direttiva Kwadru); Direttiva 2002/20/KE dwar l-awtorizzazzjoni ta’ *networks* tal-komunikazzjonijiet elettronici u servizzi (Direttiva dwar Awtorizzazzjoni), Direttiva 2002/19/KE fuq id-dhul fi, u l-interkonnnessjoni ta’, *networks* tal-komunikazzjonijiet elettronici u faċilitajiet assoċjati (Direttiva dwar id-Dhul), Direttiva 2002/22/KE fuq servizz universali u drittijiet ta’ l-utenti li għandhom x’jaqsmu ma’ *networks* ta’ komunikazzjonijiet elettronici u servizzi (Direttiva dwar Servizz Universali) u Direttiva 2002/58/KE tal-Parlament Ewropew u tal-Kunsill tat-12 ta’ Lulju 2002 dwar l-ipproċessar ta’ data personali u l-harsien tal-privatezza fis-settur tal-komunikazzjonijiet elettronici (Direttiva dwar il-Privatezza Elettronika) kif emendata minn żmien għal żmien;”;

(e) minnufih wara t-tifsira “impriza” għandha tiżdied din it-tifsira ġdida li ġejja:

“ “interferenza dannuża” tfisser interferenza li tipperikola l-funzjonament ta’ servizz ta’ navigazzjoni bir-radju jew ta’ servizzi ta’ sigurtà oħrajn jew li inkella xort’oħra jiddegradaw gravement, jostruwixxu jew jinterrompu ripetutament servizz ta’ komunikazzjonijiet bir-radju li jkunu qegħdin joperaw skond regolamenti applikabbli internazzjonali, tal-Unjoni Ewropea jew nazzjonali;”;

- (f) it-tifsira “Komunità” għandha tithassar;
- (g) it-tifsira “persuna” għandha tithassar;

(h) minnufih wara t-tifsira “sena finanzjarja” għandha tizzied din it-tifsira għada li ġejja:

“ “Stat Membru” tfisser Stat Membru tal-Unjoni Ewropea;”.

**44.** Minflok is-subartikolu (6) ta’ l-artikolu 3 ta’ l-Att prinċipali, għandu jidhol dan li ġej: Emenda ta’ l-artikolu 3 ta’ l-Att prinċipali.

“(6) Membru ta’ l-Awtorità jista’ jitneħħa mill-kariga mill-Ministru jekk, fil-fehma tal-Ministru, dak il-membru ma jkun idoneu biex ikompli f’dik il-kariga jew ikun sar inkapaċi milli jwettaq kif imiss dmirijietu bħala membru:

Izda jekk il-Ministru jneħħi lill-president mill-kariga, dik it-tneħħija ssir waħda pubblika sa mhux aktar tard mid-data effettiva tat-tneħħija mill-kariga. Fl-istess waqt, il-Ministru għandu jipprovdi lill-President b’dikjarazzjoni dwar ir-raġunijiet għat-tneħħija tiegħu:

Izda wkoll President li jitneħħa mill-kariga jkollu jedd jitlob il-pubblikazzjoni tad-dikjarazzjoni dwar ir-raġunijiet għat-tneħħija tiegħu, u f’dak il-każ il-Ministru għandu jipubblika dik id-dikjarazzjoni.”.

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

(a) fis-subartikolu (3) tiegħu -

(i) minflok il-kliem “L-Awtorità għandha wkoll –” għandhom jidhru l-kliem “ L-Awtorità għandha wkoll, skond il-liġijiet li għandha jedd tinforza –”;

(ii) minflok il-paragrafu (r) għandu jidhol dan li ġej:

“(r) iġġib ’il quddiem l-interessi u d-drittijiet ta’ l-utenti kollha f’Malta, inklużi utenti finali b’dizabilità, utenti finali anzjani, u utenti finali li jkollhom bżonnijiet soċjali speċjali, speċjalment dwar il-prezzijiet li jiġihallu għal, u l-kwalità u l-varjetà ta’ dawg is-servizzi;”; u

(iii) minflok il-paragrafu (s) ghandu jidhol dan li ġej:

“(s) twettaq dawk il-funzjonijiet l-oħra, inkluzi funzjonijiet li jkollhom l-għan li jġibu ’l quddiem soċjetà ta’ informazzjoni, hekk kif jistgħu jiġu assenjati lilha minn żmien għal żmien mill-Ministru.”; u

(b) minflok is-subartikolu (4) tiegħu, ghandu jidhol dan li ġej:

“(4) L-Awtorità jkollha d-dmir, biex tkun tista’ twettaq il-funzjonijiet tagħha kif stabbiliti b’dan l-Att jew tahtu jew b’kull liġi oħra b’mod imparzjali u trasparenti u tempestiv u li tiżgura konformità relattiva, u mingħajr preġudizzju għall-ġeneralità ta’ dak hawn qabel imsemmi, li tiżgura li persuni li jipprovdu servizzi, prodotti, operazzjonijiet u attivitajiet f’Malta jew minn Malta li jkollhom x’jaqsmu ma’ xi haġa regolata mill-Awtorità, ikunu jikkonformaw ma’ dan l-Att u ma’ kull liġi oħra li l-Awtorità jkollha jedd tinforza, u ma’ kull deċiżjoni mahruġa b’dan l-Att jew tahtu jew b’kull liġi oħra bħalu.”.

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

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

(a) fis-subartikolu (1) tiegħu -

(i) fil-paragrafu (ċ), minflok il-kliem “fil-liġijiet Komunitarji” għandhom jidhlu l-kliem “fil-liġijiet tal-Unjoni Ewropea”; u

(ii) minflok il-kliem “f’suq għal *networks* jew servizzi ta’ komunikazzjonijiet,” għandhom jidhlu l-kliem “f’suq għal kull *network* jew servizz ta’ komunikazzjonijiet,”;

(b) is-subartikoli (2) u (3) tiegħu għandhom jiġu enumerati mill-ġdid bħala s-subartikolu (3) u (4) tiegħu rispettivament; u

(ċ) minnufih qabel is-subartikolu (3) kif enumerat mill-ġdid, għandu jiżdied dan is-subartikolu ġdid li ġej:

“(2) Meta l-Awtorità tkun bi hsiebha tieġu deċiżjoni dwar affarijiet li jkollhom x’jaqsmu mad-drittijiet ta’ xi utent finali u konsumatur, partikolarment meta dik id-deċiżjoni jkollha impatt sinifikanti fis-suq għal xi *networks* ta’ komunikazzjonijiet u, jew servizzi, l-Awtorità għandha tiżgura li fil-ġestjoni tal-mekkaniżmu ta’ konsultazzjoni msemmi fis-subartikolu (1), daqstant kemm dan ikun adatt għall-finijiet tal-funzjonijiet tagħha taħt dan l-Att jew taħt kull liġi oħra li l-Awtorità jkollha jedd tinforza, hija għandha tieġu kont tal-veduti ta’ utenti finali u ta’ konsumaturi partikolarment utenti finali b’diżabilità, manufatturi u impriżi li jipprovdu *networks* ta’ komunikazzjonijiet u, jew servizzi.”.

**47.** Fis-subartikolu (10) ta’ l-artikolu 5 ta’ l-Att prinċipali, minflok il-kliem “ta’ xi deċiżjoni jew direttiva magħmula mill-Awtorità” għandhom jidhlu l-kliem “ta’ xi deċiżjoni magħmula mill-Awtorità”.

Emenda ta’ l-artikolu 5 ta’ l-Att prinċipali.

**48.** Minflok is-subartikolu (1) ta’ l-artikolu 6 ta’ l-Att prinċipali, għandu jidhlo dan li ġej:

Emenda ta’ l-artikolu 6 ta’ l-Att prinċipali.

“(1) Il-Ministru jista’, fir-rigward ta’ dawk l-affarijiet li jkun jidhrulu li jolqtu l-interess pubbliku, minn żmien għal żmien jagħti lill-Awtorità direttivi bil-miktub ta’ xorta ġenerali, li ma jkunux inkonsistenti mad-dispożizzjonijiet 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, iġġib fis-seħh dawk id-direttivi kollha:

Izda l-Awtorità għandha tagixxi independentement u m’għandha titlob jew tieġu ebda struzzjonijiet minn xi korp ieħor fuq affarijiet li jkollhom x’jaqsmu mar-regolament tas-suq *ex-ante* u mar-rizolviment ta’ tilwimiet bejn l-impriżi skond l-artikoli 43 u 44A.”.

**49.** It-test Inġliż ta’ l-artikolu 8 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 8 ta’ l-Att prinċipali.

(a) fis-subartikolu (4) tiegħu, minflok il-kliem “be reason of the existence” għandhom jidhlu l-kliem “by reason of the existence”; u

(b) fis-subartikolu (5) tiegħu, minflok il-kliem “the provisions of subarticle of article 3(8)” għandhom jidhlu l-kliem “the provisions of article 3(8)”.

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

**50.** Minflok is-subartikolu (3) ta' l-artikolu 14 ta' l-Att prinċipali għandu jidhol dan li ġej:

“(3) L-Awtorità għandha wkoll titallas mill-Gvern mill-Fond Konsolidat daww 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'ohra jsiru mill-Awtorità:

Iżda kull sovvenzjoni li tiġi riċevuta mill-Gvern għandha tkun eżenti minn kull responsabbiltà għall-ħlas ta' taxxa fuq l-income u taxxa fuq id-dokumenti taht kull liġi li tkun teżisti f'dak il-waqt.”.

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

**51.** L-artikolu 31 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

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

“(1) Mingħajr preġudizzju għal kull dispożizzjoni oħra taht dan l-Att jew kull liġi oħra li l-Awtorità għandha l-jedd tinforza, l-Awtorità tista' tieħu dawn il-miżuri li ġejjin għar-rigward ta' kull persuna li tikser xi dispożizzjoni ta' dan l-Att jew ta' kull liġi oħra li l-Awtorità għandha l-jedd li tinforza, jew li tonqos milli thares xi deċiżjoni mogħtija mill-Awtorità jew xi kundizzjoni ta' awtorizzazzjoni:

(a) l-impożizzjoni ta' multa amministrattiva skond id-dispożizzjonijiet ta' dan l-artikolu u ta' l-artikoli 32 u 33;

(b) tordna t-terminazzjoni ta' xi att jew ommissjoni li jsiru bi ksur;

(ċ) tordna d-dewmien ta' xi servizz jew ġabra ta' servizzi li jekk dawn jitkomplew, jistgħu jirriżultaw f'dannu sinifikanti għall-kompetizzjoni, sakemm ikun hemm konformità ma' obligazzjonijiet ta' dħul imposti wara li ssir analiżi tas-suq skond l-Att biex Jirregola l-Komunikazzjonijiet Elettroniċi.”;

(b) is-subartikolu (2) għandu jiġi enumerat mill-ġdid bħala s-subartikolu (3) tiegħu; u

(ċ) minnufih wara s-subartikolu (1) tiegħu, għandu jizdied dan is-subartikolu ġdid li ġej:

“(2) F’dawk il-każijiet li fihom l-Awtorità tikkunsidra li persuna tkun gravament u ripetutament kisret id-dispożizzjonijiet ta’ dan l-Att jew ta’ kull liġi oħra li l-Awtorità jkollha jedd tinforza, jew ta’ xi deċiżjoni ta’ l-Awtorità jew ta’ xi kundizzjoni ta’ awtorizzazzjoni, l-Awtorità tista’ tirtira jew tissospendi kull awtorizzazzjoni li jkollha x’taqsam mogħtija b’dan l-Att jew tahtu jew taht kull liġi oħra li l-Awtorità jkollha jedd tinforza.”.

**52.** L-artikolu 32 ta’ l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 32 ta’ l-Att prinċipali.

(a) minflok is-subartikoli (1) sa (4) tiegħu, għandhom jidhlu dawn is-subartikoli li ġejjin:

“(1) L-Awtorità għandha qabel ma tgħaddi biex tiegħu xi waħda mill-miżuri taht l-artikolu 31 tikteb lill-persuna involuta, fejn tgħarrafha bil-miżura li tista’ tittiehed u r-raġuni speċifika għaliex din tista’ tittiehed, fejn hija tenhtieg twaqqaf jew issewwi l-attijiet jew l-sommissjonijiet tagħha u, jew li tagħmel is-sottomissjonijiet tagħha lill-Awtorità fi żmien mhux inqas minn hmistax-il ġurnata li, mingħajr preġudizzju għad-dispożizzjonijiet tas-subartikolu (4), jista’ jitqassar jekk l-Awtorità tikkunsidra li t-tkomplija tal-ksur ikollha impatt negattiv fuq il-qadi effettiv mill-Awtorità tal-funzjonijiet regolatorji tagħha u, jew li din tkun tehtieg l-intervent immedjat ta’ l-Awtorità:

Iżda meta l-miżura tkun multa amministrattiva, il-persuna involuta għandha wkoll tigi mgharrfa bl-ammont tal-multa:

Iżda wkoll meta tkun qegħda toħroġ avviz taht dan is-subartikolu, l-Awtorità tista’ timponi dawk il-kondizzjonijiet li hija tista’ tqis li jkunu raġonevoli fiċ-ċirkostanzi.

(2) Jekk il-persuna involuta tirrimedja l-ksur fiż-żmien stabbilit mill-Awtorità skond is-subartikolu (1), u taqbel bil-miktub li timxi mal-kundizzjonijiet li l-Awtorità tista’ timponi, l-Awtorità għandha fid-

diskrezzjoni tagħha tqis jekk tieqaf milli tkompli tmexxi aktar kontriha, u dan mingħajr preġudizzju għal kull miżura regolatorja li tista' tkun diġà giet imposta.

(3) Jekk wara li jgħaddi ż-żmien imsemmi fis-subartikolu (1), l-Awtorità tqis li l-persuna involuta ma tkun tat ebda raġuni valida biex turi għaliex m'għandha tittiehed ebda miżura kontriha, l-Awtorità għandha tagħti avviz ta' notifikazzjoni bil-miktub lill-persuna involuta, li fiha tispeċifika x-xorta tal-ksur, tiddikjara xi tkun il-miżura li tkun qegħda tittiehed, u jekk il-miżura tkun multa amministrattiva tiddikjara l-ammont tal-multa li tkun qegħda tigi imposta.

(4) Minkejja d-dispożizzjonijiet tas-subartikolu (1), meta l-Awtorità jkollha prova *prima facie* li l-ksur –

(a) jirrappreżenta theddida immedjata u gravi għas-sigurtà pubblika, is-sikurezza pubblika jew is-saħħa pubblika; jew

(b) ikun joħloq jew jista' joħloq problemi ekonomiċi jew operattivi gravi għal provdituri oħra jew utenti ta' servizzi ta' komunikazzjonijiet jew *networks*, jew għall-utenti ta' spektrum tar-radju; jew

(ċ) ikun jirriżulta f'danni sinifikanti għall-kompetizzjoni fis-suq tal-komunikazzjonijiet elettronici, sakemm ikun hemm konformità mal-obbligazzjonijiet tad-dħul imposti wara analisi tas-suq li ssir skond regolamenti magħmulin taħt l-Att biex Jirregola l-Komunikazzjonijiet Elettronici, l-Awtorità tista' tiegħu miżuri temporanji urgenti biex tirrormedja s-sitwazzjoni qabel ma tasal għal deċiżjoni finali, inkluż li tordna t-terminazzjoni immedjata ta' l-att jew ta' l-ommissjoni li jkunu qegħdin jikkagunaw il-ksur, li teħtiegħ it-terminazzjoni jew dewmien ta' provdiment ta' xi servizz jew gabra ta' servizzi, u li jiġu imposti multi amministrattivi:

Iżda l-persuna li kontriha jkunu kontemplati dawk il-miżuri, għandha, wara dan, tingħata opportunità raġonevoli biex tiddikjara xi tkun il-fehma tagħha u biex tipproponi kull rimedju:

Iżda wkoll il-miżuri temporanji għandhom jibqgħu jkunu validi għal mhux iżjed minn tliet xhur, bla ħsara għal li jistgħu jiġu estiżi għal żmien ieħor ta' tliet xhur, meta jiġri li l-proċeduri ta' infurzar ma jkunux ġew mitmuma.”; u

(b) fis-subartikolu (5) tiegħu, minflok il-kliem “L-avviż” għandhom jidhlu l-kliem “L-avviż ta' notifikazzjoni”.

**53.** Fis-subartikolu (1) ta' l-artikolu 33 ta' l-Att prinċipali, minnufih wara l-ewwel proviso li hemm miegħu għandu jiżded dan il-proviso ġdid li ġej:

Emenda ta' l-artikolu 33 ta' l-Att prinċipali.

“Iżda wkoll kull multa għal kull ġurnata li tiġi imposta tkun tista' tmur lura għad-data meta jsir l-għemil jew jinbeda l-ksur.”.

**54.** Fil-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 34A ta' l-Att prinċipali, minflok il-kliem “Stat Membru ta' l-Unjoni Ewropea” kull fejn dawn jinsabu għandhom jidhlu l-kliem “Stat Membru”.

Emenda ta' l-artikolu 34A ta' l-Att prinċipali.

**55.** L-artikolu 37 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 37 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “minn deċiżjoni jew direttiva” għandhom jidhlu l-kliem “minn deċiżjoni”;

(b) fil-proviso mas-subartikolu (2) tiegħu, minflok il-kliem “d-deċiżjoni jew direttiva” għandhom jidhlu l-kliem “d-deċiżjoni”; u

(ċ) fil-paragrafu (a) tas-subartikolu (3) tiegħu, minflok il-kliem “minn deċiżjoni jew direttiva” għandhom jidhlu l-kliem “minn deċiżjoni”.

**56.** Fl-artikolu 42 ta' l-Att prinċipali, il-kliem “jew id-direttiva” u “jew direttiva” kull fejn dawn jinsabu għandhom jiħassru.

Zjieda ta' ġdid l-artikolu 42A ma' l-Att prinċipali.

**57.** Minnufih wara l-artikolu 42 ta' l-Att prinċipali għandu jiżded dan l-artikolu ġdid li ġej:

Emenda ta' l-artikolu 42 ta' l-Att prinċipali.

“Ġbir ta' informazzjoni fuq l-appelli.

42A. L-Awtorità għandha tiġbor informazzjoni fuq il-materja ġenerali ta' l-appelli, l-għadd ta' talbiet li jsiru b'appell, kemm idumu għaddejin il-proċeduri

tal-appell u l-ġhadd ta' deċiżjonijiet biex jingħataw miżuri temporanji. L-Awtorità għandha tipprovdi dik l-informazzjoni lill-Kummissjoni Ewropea u lil BEREC wara talba motivata minn xi waħda minnhom.”.

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

**58.** L-artikolu 43 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

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

“(1) Kemm-il darba ma jiġix provdut xort'oħra f'xi liġi oħra, jekk tqum tilwima bejn impriżi fil-kuntest tal-istess settur tal-komunikazzjonijiet f'dak li għandu x'jaqsam ma' xi obligazzjonijiet li joriginaw taħt xi liġi, deċiżjoni jew kundizzjoni ta' awtorizzazzjoni li l-Awtorità jkollha jedd tinforza, l-Awtorità għandha, fuq talba ta' xi parti fit-tilwima, tinvestiga l-kwistjoni u tagħti deċiżjoni li torbot biex tirrisolvi t-tilwima fl-iqsar żmien possibbli, u f'kull każ fi żmien erba' xhur mid-data meta t-tilwima tkun ġiet notifikata lilha:

Izda dak iż-żmien ta' erba' xhur jista' jiġi estiż f'ċirkostanzi li l-Awtorità tqis li jkunu eċċezzjonali.”;

(b) is-subartikolu (2) għandu jiġi enumerat mill-ġdid bħala s-subartikolu (2A) tiegħu;

(ċ) minnufih qabel is-subartikolu (2A) tiegħu kif enumerat mill-ġdid għandu jżied dan is-subartikolu ġdid li ġej:

“(2) L-Awtorità tista' b'inizjattiva tagħha, tinvestiga kull ksur sospett ta' xi obligazzjoni li toriġina taħt xi liġi, deċiżjoni jew kundizzjoni ta' awtorizzazzjoni li hija jkollha jedd tinforza.”;

(d) minflok is-subartikolu (2A) tiegħu kif enumerat mill-ġdid, għandu jidhol dan li ġej:

“(2A) L-Awtorità tista' tiddeċiedi li ma tibdiex investigazzjoni msemmija fis-subartikolu (1) u, jew fis-subartikolu (2) meta tkun sodisfatta li jkunu disponibbli għall-partijiet mezz oħra ta' riżolviment tat-tilwima b'mod tempestiv jew inkella jekk ikunu inbdew proċeduri legali dwar it-tilwima minn xi parti fit-tilwima:

Iżda meta l-Awtorità tiddeċiedi li ma tibdiex xi investigazzjoni hija għandha tgħarraf lill-partijiet b'dik id-deċiżjoni kemm jista' jkun malajr wara dan.”; u

(e) fil-proviso mas-subartikolu (6) tiegħu, minflok il-kliem “tkun kisret id-dispożizzjonijiet ta' dan l-Att jew ta' xi liġi oħra li l-Awtorità għandha l-jedd li tinforza” għandhom jidhlu l-kliem “tkun kisret dan l-Att, xi liġi, deċiżjoni jew kundizzjoni oħra ta' awtorizzazzjoni li l-Awtorità jkollha l-jedd tinforza”.

**59.** L-artikolu 44 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 44 ta' l-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem “tkun trasparenti, sempliċi, mhux kostuża u li twassal għal risolviment mgħaġġel u ġust tat-tilwima,” għandhom jidhlu l-kliem “tkun trasparenti, mhux diskriminatorja, sempliċi, mhux kostuża u li twassal għal risolviment mgħaġġel u ġust tat-tilwima,”; u

(b) is-subartikolu (8) tiegħu għandu jithassar.

**60.** Minnufih wara l-artikolu 44 ta' l-Att prinċipali, għandu jżied dan l-artikolu ġdid li ġej:

Zjieda ta' l-artikolu 44A ġdid ma' l-Att prinċipali.

“Risolviment ta' tilwim transkonfini.

44A. (1) Meta jkun hemm tilwima li toriġina taht xi liġi jew deċiżjoni li l-Awtorità jkollha jedd tinforza, li tkun tinvolvi persuni li jgawdu awtorizzazzjonijiet f'izjed minn Stat Membru wieħed, persuna tista' titlob lill-Awtorità tikkordina l-isforzi tagħha ma' kull Awtorità regolatorja rilevanti fi Stat Membru ieħor bil-għan li jintlaħaq risolviment tat-tilwima.

Kap. 399.

(2) B'zjieda mas-subartikolu (1), tilwima li toriġina taht l-Att biex Jirregola l-Komunikazzjonijiet Elettronici, jew id-Direttivi dwar il-Komunikazzjonijiet Elettronici Ewropej, bejn partijiet fi Stati Membri differenti, meta t-tilwima tkun tinwadra fil-kompetenza ta' l-Awtorità u ta' awtoritajiet nazzjonali regolatorji minn Stati Membri oħra, dik it-tilwima għandha tkun soġġetta għal din il-proċedura li ġejja:

(a) kull parti tista' tirreferi dik it-tilwima lill-Awtorità jew lill-awtoritajiet nazzjonali regolatorji l-oħra involuti. L-Awtorità għandha

tikkoordina mal-awtoritajiet nazzjonali regolatorji l-oħra, u tista' tikkonsulta lil BEREC biex jinkiseb risolviment konsistenti tat-tilwima skond l-għanijiet stabbiliti fl-artikolu 4 ta' l-Att biex jirregola l-Komunikazzjonijiet Elettroniċi:

Izda meta l-Awtorità tiddeċiedi għall-finijiet li tirisolvi tilwima taht dan l-artikolu, għandhom japplikaw id-dispożizzjonijiet ta' l-artikolu 43. Meta tkun qegħda tagħmel dan l-Awtorità tista' titlob lil BEREC tagħti l-fehma tagħha dwar l-azzjoni li għandha tittiehed skond id-dispożizzjonijiet tad-Direttivi dwar il-Komunikazzjonijiet Elettroniċi Ewropej għar-risolviment tat-tilwima. Meta tkun saret talba bħal dik lil BEREC, l-Awtorità għandha tistenna l-fehma ta' BEREC qabel ma tieħu xi azzjoni biex tirisolvi t-tilwima. Dan ma jipprekludix lill-Awtorità milli tieħu miżuri urgenti hekk kif ikun meħtiegħ:

Izda wkoll kull obligazzjoni imposta fuq impriża mill-Awtorità meta tkun qegħda tirisolvi xi tilwima għandha tkun tħares id-dispożizzjonijiet tad-Direttivi dwar il-Komunikazzjonijiet Elettroniċi Ewropej, u għandha tqis mill-aħjar li tista' l-fehma adottata minn BEREC.

(b) L-Awtorità tista' tagħmel arrangamenti ma' awtoritajiet nazzjonali regolatorji oħra li bihom dawn jistgħu solidament jirrifjutaw milli jirrisolvu tilwima meta jkun hemm mekkaniżmi oħra, inkluża l-medjazzjoni, u dawn ikunu jagħtu kontribut aħjar għar-risolviment tat-tilwima b'mod tempestiv skond id-dispożizzjonijiet ta' l-Artikolu 8 tad-Direttiva Kwadru. Dawk l-arrangamenti għandhom ikunu jipprovdu wkoll li l-Awtorità jew awtoritajiet nazzjonali regolatorji oħra jgħarrfu lill-partijiet mingħajr dewmien meta huma qablu li solidament jirrifjutaw milli jirrisolvu tilwima:

Izda jekk sa erba' xhur wara ma jkunx hemm risolviment tat-tilwima, meta t-tilwima ma tkunx ingiebet quddiem il-qorti mill-parti li tkun qegħda tfittex rimedju, u jekk xi parti jew oħra titlob dan, l-Awtorità għandha tikkoordina mal-awtoritajiet nazzjonali regolatorji l-oħra biex jintlaħaq risolviment tat-tilwima skond l-Artikolu 8 tad-

Direttiva Kwadru, u tiegħu l-aktar kont possibbli ta' kull fehma adottata minn BEREC f'dak li għandu x'jaqsam mat-tilwima involuta.

(3) Il-proċedura msemmija fil-paragrafu (a) tas-subartikolu (2) ma tipprekludi lil ebda parti milli tibda xi azzjoni quddiem il-qrati.”.

### TAQSIMA III

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

**61.** (1) Din it-Taqsima temenda l-Att dwar ir-Regolament ta' Ċerti Xogħlijiet f'Utilitajiet u Servizzi, u għandha tinqara u tiftiehem haġa waħda ma' l-Att dwar ir-Regolament ta' Ċerti Xogħlijiet f'Utilitajiet u Servizzi, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ “l-Att prinċipali”.

Emenda ta' l-Att  
dwar ir-Regolament  
ta' Ċerti Xogħlijiet  
f'Utilitajiet u Servizzi.  
Kap. 81.

(2) Din it-Taqsima għandha tidhol fis-seħħ f'dik id-data li l-Ministru responsabbli għall-komunikazzjonijiet jista' b'avviż fil-Gazzetta jistabbilixxi u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti ta' l-Att.

**62.** Minflok il-paragrafu (a) tas-subartikolu (10) ta' l-artikolu 4 ta' l-Att prinċipali għandu jidhol dan li ġej:

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

“(a) taġixxi abbażi ta' proċeduri sempliċi, effiċjenti, trasparenti u pubblikament disponibbli, li jiġu applikati mingħajr ebda diskriminazzjoni u dewmien, u għandha f'kull każ tiddeċiedi fi żmien sitt xhur mid-data ta' l-applikazzjoni;”.

### TAQSIMA IV

#### EMENDA TA' L-ATT DWAR L-AFFARIJIET TAL-KONSUMATUR

**63.** (1) Din it-Taqsima temenda l-Att dwar l-Affarijiet tal-Konsumatur, u għandha tinqara u tiftiehem haġa waħda ma' l-Att dwar l-Affarijiet tal-Konsumatur, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ “l-Att prinċipali”.

Emenda ta' l-Att  
dwar l-Affarijiet tal-  
Konsumatur.  
Kap. 378.

(2) Din it-Taqsima għandha tidhol fis-seħħ f'dik id-data li l-Ministru responsabbli għall-affarijiet tal-konsumatur jista' b'avviż fil-Gazzetta jistabbilixxi u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti ta' l-Att.

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

**64.** L-artikolu 23 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikoli (5) u (6) tiegħu għandhom jiġu enumerati mill-ġdid bhala s-subartikoli (6) u (7);

(b) minnufih wara s-subartikolu (4) tiegħu għandu jiżdied dan is-subartikolu ġdid li ġej:

“(5) Meta d-Direttur Ġenerali jirċievi talba riferita lil mill-Awtorità ta' Malta dwar il-Komunikazzjoni meta dik it-talba tkun ġiet ipprezentata lil dik l-Awtorità minn utent finali aggravat fir-rigward ta' xi servizz ta' komunikazzjoni jkun kif ikun ġie deskritt, li jaqa' fil-ġurisdizzjoni ta' l-Awtorità, id-Direttur Ġenerali għandu għaldaqstant jaġixxi abbazi tat-talba li tkun ġiet riferita lil mill-Awtorità mingħajr ma l-utent finali in kwistjoni jkun meħtieġ jerga' jipprezenta t-talba lid-Direttur Ġenerali:

Izda għall-finijiet ta' dan is-subartikolu “servizz ta' komunikazzjoni” tfisser kull servizz ta' komunikazzjoni kif inhu regolat skond id-dispożizzjonijiet ta' l-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni.”.

Kap. 418.

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Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 360 tat-8 ta' Ġunju, 2011.

MICHAEL FRENDO  
*Speaker*

PAULINE ABELA  
*Skrivan tal-Kamra tad-Deputati*

I assent.

(L.S.)

GEORGE ABELA  
President

14th June, 2011

### ACT No. IX of 2011

*AN ACT to amend various laws relating to communications and to make provision with respect to matters ancillary thereto or connected therewith.*

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

**1.** (1) The short title of this Act is the Communications Laws (Amendment) Act, 2011.

Short title and commencement

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

### Part I

#### AMENDMENT OF THE ELECTRONIC COMMUNICATIONS (REGULATION) ACT

**2.** (1) This Part amends the Electronic Communications (Regulation) Act, and it shall be read and construed as one with the Electronic Communications (Regulation) Act, hereinafter in this Part referred to as “the principal Act”.

Amendment of the Electronic Communications (Regulation) Act. Cap. 399.

(2) This Part shall come into force on such date as

the Minister responsible for communications may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes thereof.

Amendment of article  
2 of the principal Act.

**3.** Subarticle (2) of article 2 of the principal Act shall be amended as follows:

(a) for the definition “access”, there shall be substituted the following definition:

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

(b) immediately before the definition “the Act”, there shall be inserted the following new definition:

“ “Access Directive” means Directive Number 2002/19/EC of the European Parliament and of the Council of the 7th March, 2002 on access to, and interconnection of, electronic communications networks and associated facilities, as may be amended from time to time;”;

(c) for the definition “the Act”, there shall be substituted the following new definition:

“ “this Act” means the Electronic Communications (Regulation) Act, and includes any regulations made thereunder unless the context otherwise requires;”,

and for the words “the Act” wherever they occur in the principal Act there shall be substituted the words “this Act”;

(d) in the definition “apparatus”, for the word “includes” there shall be substituted the word “means”;

(e) for the definition “associated facilities”, there shall be substituted the following definition:

“ “associated facilities” means those associated services, physical infrastructures and other facilities or elements associated with an electronic communications network and, or an electronic communications service which enable and, or support the provision of services through that network and, or service or have the potential to do so, and include *inter alia* buildings or entries to buildings, building wiring, antennae, towers and other supporting constructions, ducts, conduits, masts, manholes, and cabinets;”;

(f) immediately after the definition “associated facilities”, there shall be inserted the following new definition:

“ “associated services” means those services associated with an electronic communications network and, or an electronic communications service which enable and, or support the provision of services through that network and, or service or have the potential to do so and include *inter alia* number translation or systems offering equivalent functionality, conditional access systems and electronic programme guides, as well as other services such as identity, location and presence service;”;

(g) immediately after the new definition “associated services”, there shall be inserted the following new definition:

“ “Authorisation Directive” means Directive Number 2002/20/EC of the European Parliament and of the Council of the 7th March, 2002 on the authorisation of electronic communications networks and services, as may be amended from time to time;”;

(h) immediately after the new definition “Authorisation Directive”, there shall be inserted the following new definition:

“ “authorised undertaking” means an undertaking deemed to be authorised in accordance with this Act;”;

(i) in the definition “ “the Authority and “the competent authority” ”, the words “ “and “the competent authority” ” shall be deleted;

(j) immediately before the definition “cable television networks”, there shall be inserted the following new definition:

“ “BEREC” means the Body of European Regulators for Electronic Communications;”;

(k) immediately after the definition “cable television networks”, there shall be inserted the following new definition:

“ “call” means a connection established by means of a publicly available electronic communications service allowing two-way voice communication;”;

(l) the definition “Community” shall be deleted;

(m) for the definition “consumer”, there shall be substituted the following:

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

(n) the definition “cross-border” shall be deleted;

(o) in the definition “decision”, for the words “includes any determination, measure, order, requirement or specification” there shall be substituted the words “includes any determination, directive, measure, requirement or specification”;

(p) the definition “directive” shall be deleted;

(q) immediately before the definition “electronic communications network”, there shall be inserted the following new definition:

“ “Directive on Privacy and Electronic Communications” means Directive Number 2002/58/EC of the European Parliament and of the Council of the 12th July, 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector, as may be amended from time to time;”;

(r) immediately after the new definition “Directive on Privacy and Electronic Communications”, there shall be inserted the following new definition:

“ “disabled end-users” means a person with a disability as defined in the Equal Opportunities (Persons with Disability) Act, whose special needs as an end-user are either due to disability or related to ageing;”;

Cap. 413.

(s) in the definition “electronic communications network”, for the words “means transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals by wire” there shall be substituted the words “means transmission systems and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the conveyance of signals by wire”;

(t) the definition “European Commission” shall be deleted;

(u) immediately before the definition “exclusive rights”, there shall be inserted the following new definition:

“ “European Electronic Communications Directives” means Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive); Directive 2002/20/EC on the authorisation of electronic communications networks and services (Authorisation Directive), Directive 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive), Directive 2002/22/EC on universal service and user’s rights relating to electronic communications networks and services (Universal Service Directive) and Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (ePrivacy Directive) as may be amended from time to time;”;

(v) immediately after the definition “ exclusive rights”, there shall be inserted the following new definition:

“ “Framework Directive” means Directive Number 2002/21/EC of the European Parliament and of the Council of the 7th March, 2002 on a common regulatory framework for electronic communications networks and services, as may be amended from time to time;”;

(w) immediately after the definition “general authorisation”, there shall be inserted the following new definition:

“ “harmful interference” means interference which endangers the functioning of a radio navigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radio communications service operating in accordance with the applicable international, European Union or national regulations;”;

(x) in the definition “internal market”, for the words “of the Community” there shall be substituted the words “of the European Union”;

(y) immediately after the definition “internal market”, there shall be inserted the following new definition:

“ “ITU Radio Regulations” means the Radio Regulations annexed to, or regarded as being annexed to the most recent International Telecommunications Convention of the International Telecommunications Union (ITU) which is in force at that time;”;

(z) for the definition “local loop”, there shall be substituted the following definition:

“ “local loop” means the physical circuit connecting the network termination point to a distribution frame or equivalent facility in the fixed electronic communications network;”;

(aa) in the definition “Member State”, for the words “the Community” there shall be substituted the words “the European Union”;

(bb) in the definition “national regulatory authority”, for the words “of Community law” there shall be substituted the words “of European Union law”;

(cc) the definition “person” shall be deleted;

(dd) for the definition “public communications network”, there shall be substituted the following definition:

“ “public communications network” means an electronic communications network used wholly or mainly for the provision of electronic communications services available to the public which support the transfer of information between network termination points;”;

(ee) the definition “public telephone network” shall be deleted;

(ff) for the definition “publicly available telephone service”, there shall be substituted the following definition:

“ “publicly available telephone service” means a service made available to the public for originating and receiving, directly and indirectly, national or national and international calls through a number or numbers in a national or international telephone numbering plan;”;

(gg) immediately before the definition “subscriber”, there shall be inserted the following:

“ “spectrum allocation” means the designation of a given frequency band for use by one or more types of radio communications services, where appropriate, under specified conditions;”;

(hh) in the definition “universal services”, for the words “as may be defined under regulations made under this Act” there shall be substituted the words “as may be defined by or under this Act”; and

(ii) immediately after the definition “universal services”, there shall be inserted the following new definition:

“ “Universal Service Directive” means Directive Number 2002/22/ EC of the European Parliament and of the Council of the 7th March, 2002 on universal service and users’ rights relating to electronic communications networks and services as may be amended from time to time;”.

Amendment of article  
3 of the principal Act.

**4.** Article 3 of the principal Act shall be amended as follows:

(a) the whole article shall be renumbered as subarticle (1) thereof;

(b) immediately after subarticle (1) thereof, there shall be added the following new subarticles:

“(2) The Authority shall be afforded adequate financial and human resources to carry out its functions under this Act and under any other applicable laws

relating to electronic communications which the Authority is entitled to enforce, including any functions related to international cooperation.

(3) In fulfilling its functions and duties under this Act and under any other laws relating to electronic communications which the Authority is entitled to enforce, the Authority shall actively support the goals of the BEREC of promoting greater coordination and coherence in the application of the European Electronic Communications Directives, and shall also take the utmost account of the opinions and common positions adopted by BEREC.

(4) In the exercise of its functions and duties under this Act and under any other laws relating to electronic communications which the Authority is entitled to enforce, the Authority shall take utmost account of the relevant European Commission recommendations. With reference to recommendations issued in accordance with Article 19 of the Framework Directive, the Authority shall, if it chooses not to follow a recommendation, inform the European Commission, giving the reasons for its position.

(5) The Authority shall work with the European Commission and BEREC to identify the types of instruments and remedies best suited to address particular types of situations in the marketplace.”.

**5.** Article 4 of the principal Act shall be amended as follows: Amendment of article 4 of the principal Act.

(a) the whole article shall be renumbered as subarticle (1) thereof;

(b) for paragraph (a) of subarticle (1) thereof as renumbered, there shall be substituted the following:

“(a) to promote competition in accordance with this Act by –

(i) ensuring that users, including disabled end-users, elderly end-users, and end-users with special social needs, derive maximum benefit in terms of choice, price and quality;

(ii) ensuring that there is no distortion or restriction of competition in the electronic communications sector including the transmission of content; and

(iii) encouraging efficient use and ensuring the effective management of radio frequencies and numbering resources;”;

(c) for paragraph (b) of subarticle (1) thereof as renumbered, there shall be substituted the following:

“(b) to contribute to the development of the internal market by -

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

(ii) encouraging the establishment and development of trans-European networks and the interoperability of transnational services and end-to-end connectivity; and

(iii) working with electronic communications national regulatory authorities in Member States, BEREC and with the European Commission in a transparent manner so as to ensure the development of consistent regulatory practice and the consistent application of European Union law in this field.”;

(d) for paragraph (c) of subarticle (1) thereof as renumbered, there shall be substituted the following:

“(c) to promote the interests and rights of users within the European Union by -

(i) ensuring that all users have access to a universal service;

(ii) ensuring a high level of protection for users in their dealings with undertakings, in

particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved;

(iii) contributing towards ensuring a high level protection of personal data and privacy;

(iv) promoting the provision of clear, comprehensive and up-to-date information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services;

(v) addressing the needs of specific social groups, in particular disabled end-users, elderly end-users and end-users with special social needs;

(vi) ensuring that the integrity and security of public communications networks are maintained; and

(vii) promoting the ability of end-users to access and distribute information or run applications and services of their choice.”; and

(e) immediately after subarticle (1) thereof as renumbered, there shall be added the following new subarticle:

“(2) The Authority shall, in pursuit of the policy objectives referred to in this article, apply objective, transparent, non-discriminatory and proportionate regulatory principles by, *inter alia*:

(a) promoting regulatory predictability by ensuring a consistent regulatory approach over appropriate review periods;

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

(c) safeguarding competition to the benefit of users and promoting, where appropriate, infrastructure-based competition;

(d) promoting efficient investment and innovation in new and enhanced infrastructures, including by ensuring that any access obligation takes appropriate account of the risk incurred by the investing undertakings and by permitting various cooperative arrangements between investors and parties seeking access to diversify the risk of investment, whilst ensuring that competition in the market and the principle of non-discrimination are preserved;

(e) taking due account of the variety of conditions relating to competition and users that may exist in Malta;

(f) imposing ex-ante regulatory obligations only where there is no effective and sustainable competition and relaxing or lifting such obligations as soon as that condition is fulfilled; and

(g) taking the utmost account of the desirability of making regulations technologically neutral, in particular with regards to those designed to ensure effective competition.”.

Amendment of article 5 of the principal Act.

**6.** In sub-article (1) of article 5 of the principal Act, for the words “various communications markets” there shall be substituted the words “various electronic communications markets”.

Amendment of article 7 of the principal Act.

**7.** Article 7 of the principal Act shall be amended as follows:

(a) in paragraph (b) thereof, for the words “specify; and” there shall be substituted words “specify;”;

(b) in paragraph (c) thereof, for the words “any extension thereof.” there shall be substituted the words “any extension thereof; and”;

(c) immediately after paragraph (c) thereof, there shall be added the following new paragraph:

“(d) that no person shall carry out any works or perform any other act, or be entrusted to carry out such works or perform such act, for the construction, repair, maintenance, alteration or control of any electronic communications networks and, or equipment unless he is duly qualified and possesses such qualifications to carry out such works or perform such act as may be prescribed in accordance with the provisions of article 47.”.

**8.** Paragraph (d) of article 8 of the principal Act shall be deleted. Amendment of article 8 of the principal Act.

**9.** For article 9 of the principal Act, there shall be substituted the following new article: Substitution of article 9 of the principal Act.

“Market definition and analysis. **9.** The Authority shall, subject to any procedures as may be prescribed under this Act and in accordance with the principles of competition law, define relevant markets appropriate to national circumstances, in particular relevant geographic markets and it shall carry out an analysis of such relevant markets:

Provided that in so doing the Authority:

(a) shall take the utmost account of any relevant recommendations and guidelines that the European Commission may issue from time to time in accordance with Article 15 of the Framework Directive; and

(b) shall follow the procedures referred to in Article 4A of the Malta Communications Authority Act before defining markets that differ from those defined in any relevant recommendation that the European Commission may publish.”. Cap. 418.

**10.** Articles 11 and 12 of the principal Act shall be renumbered as articles 10 and 11 thereof respectively. Renumbering of articles 11 and 12 of the principal Act.

**11.** Article 10 as renumbered of the principal Act shall be amended as follows: Amendment of article 10 as renumbered of the principal Act.

(a) in subarticle (1) thereof, for the words “the national numbering plan for electronic communications services, and shall control the assignment of all national numbering resources”, there shall be substituted the words “the national telephone numbering plan for electronic communication services, and shall control the allocation and assignment of all national numbering resources”;

(b) in subarticle (2) thereof, for the words “the proper management of the national numbering plan” there shall be substituted the words “the proper management of the national telephone numbering plan”;

(c) in subarticle (3) thereof, for the words “the main elements of the national numbering plan” there shall be substituted the words “the main elements of the national telephone numbering plan”;

(d) for subarticle (4) thereof, there shall be substituted the following:

“(4) The Authority shall, in so far as is practicable, having regard to its objectives and functions as stated under this Act, support the harmonisation of specific numbers or numbering ranges within the European Union where such harmonisation promotes both the functioning of the internal market and the development of pan-European services.”;

(e) in subarticle (6) thereof, for the words “numbers that have not specifically been allocated” there shall be substituted the words “right of use of numbers that have not specifically been allocated”; and

(f) in subarticle (7) thereof, for the words “An undertaking allocated a range of numbers shall not discriminate against any other providers” there shall be substituted the words “An undertaking to which the right of use of a range of numbers has been granted shall not discriminate against any other providers”.

Substitution of article  
11 as renumbered of  
the principal Act.

**12.** For article 11 as renumbered of the principal Act there shall be substituted the following new article:

“Prohibition of restrictions.

11. (1) Without prejudice to the European Electronic Communications Directives, no restrictions shall be imposed or maintained on the provision of electronic communications services over electronic communications networks established by an undertaking providing electronic communications services, over infrastructures provided by third parties, or by means of sharing networks, other facilities or sites.

(2) No exclusive or special rights for the establishment and, or the provision of electronic communications networks, or for the provision of publicly available electronic communications services shall be granted or maintained in force.”.

**13.** Immediately after article 11 as renumbered of the principal Act, there shall be inserted the following new article:

Addition of new article 12 to the principal Act.

“Co-location, sharing of network elements and associated facilities.

12. (1) Where an undertaking providing electronic communications networks has the right at law to install facilities on, over or under public or private property, or may take advantage of a procedure for the expropriation or use of property, the Authority shall, taking full account of the principle of proportionality, be able to impose the sharing of such facilities or property, including buildings, entries to buildings, building wiring, masts, antennae, towers and other supporting constructions however so described, ducts, conduits, manholes and cabinets.

(2) The Authority shall, as necessary, impose obligations in relation to the sharing of wiring inside buildings or up to the first concentration or distribution point where this is located outside the building, on an undertaking providing electronic communications networks which has the right to install facilities on, over or under public or private property and, or on the owner of such wiring, where this is justified on the grounds that duplication of such infrastructure would be economically inefficient or physically impracticable. Such sharing or coordination arrangements shall include rules for apportioning the costs of facility or property sharing adjusted for risk where appropriate.

(3) The Authority may require undertakings to provide the necessary information, as requested by it, to be able to establish a detailed inventory of the nature, availability and geographical location of the facilities referred to in subarticle (1) and to make it available to interested parties.

(4) Measures taken by the Authority in accordance with this article shall be objective, transparent, non-discriminatory, and proportionate, and where relevant, these measures shall be carried out in coordination with other public authorities.”.

Amendment of article 13 of the principal Act.

**14.** Article 13 of the principal Act shall be amended as follows:

(a) for the words “its objectives as stated in the Malta Communications Authority Act” there shall be substituted the words “its objectives as stated in this Act and in the Malta Communications Authority Act”; and

(b) in paragraph (b) thereof, for the words “competition; and” there shall be substituted the words “competition;”; and

(c) paragraph (c) thereof shall be renumbered as paragraph (d), and immediately before paragraph (d) thereof as renumbered there shall be inserted the following new paragraph:

“(c) promote efficient investment and innovation; and”.

Amendment of article 14 of the principal Act.

**15.** Article 14 of the principal Act shall be amended as follows:

(a) in paragraph (b) of subarticle (1) thereof, for the words “in Member States” there shall be substituted the words “in other Member States”;

(b) in subarticle (1) thereof, for the words “Community law” there shall be substituted the words “European Union law”;

(c) in paragraph (b) of subarticle (3) thereof, for the words “to provide public communications networks” there shall be substituted the words “to provide public communications networks in accordance with this Act”;

(d) in subarticle (3) thereof, for the words “throughout the Community.” there shall be substituted the words “throughout the European Union.”;

(e) in subarticle (4) thereof, for the words “consistent with obligations relating to access and interconnection imposed by the Authority” there shall be substituted the words “consistent with obligations imposed by the Authority”;

(f) in subarticle (5) thereof, for the words “Without prejudice to information that an undertaking under or by this Act is required to provide under a general authorisation for rights of use or for specific obligations”, there shall be substituted the words “Without prejudice to information that an undertaking is required to provide under or by this Act”; and

(g) for subarticle (6) thereof, there shall be substituted the following:

“(6) An undertaking shall not make any information acquired as referred to in subarticle (5) available to any other party, including other subsidiaries or partners of the same undertaking, howsoever described, in particular where such information could provide a competitive advantage.”.

**16.** In the English text of article 15 of the principal Act, for the words “twenty fifty million euro” there shall be substituted the words “fifty million euro”. Amendment of article 15 of the principal Act.

**17.** In article 16 of the principal Act, for the words “Community law” there shall be substituted the words “European Union law”. Amendment of article 16 of the principal Act.

**18.** In Part II of the principal Act, immediately before article 17 thereof, for the sub-heading “5. Authorisations” there shall be substituted the words “5. Authorisations and Rights of Use”. Substitution of sub-heading 5 in Part II of the principal Act.

Amendment of article 17 of the principal Act.

**19.** Article 17 of the principal Act shall be amended as follows:

(a) for subarticle (1) thereof, there shall be substituted the following:

“(1) An undertaking shall be entitled to provide electronic communications services or to establish, extend or provide electronic communications networks in accordance with this Act.”; and

(b) subarticle (2) thereof shall be deleted and subarticles (3) and (4) thereof shall be renumbered as subarticles (2) and (3) respectively.

Amendment of article 18 of the principal Act.

**20.** In paragraph (a) of subarticle (1) of article 18 of the principal Act, for the words “of any directives and, or decisions” there shall be substituted the words “of any decisions”.

Amendment of article 19 of the principal Act.

**21.** Article 19 of the principal Act shall be amended as follows:

(a) in subarticle (2) thereof, for the words “shall be in such form as the Authority may from time to time determine” there shall be substituted the words “shall be in such form and shall contain such information as the Authority may from time to time determine”;

(b) subarticle (5) shall be renumbered as subarticle (6) thereof; and

(c) immediately after subarticle (4) thereof, there shall be added the following new subarticle:

“(5) Undertakings providing cross-border electronic communications services to undertakings located in several Member States shall not be required to submit more than one notification per Member State concerned.”.

Renumbering of articles 20 to 27 of the principal Act.

**22.** Articles 20 to 23 of the principal Act shall be renumbered as articles 21 to 24 thereof respectively, the sub-heading “8. Dispute resolution” shall be deleted and article 27 shall be renumbered as article 25.

**23.** Immediately after article 19 of the principal Act there shall be added the following new article:

Addition of new article 20 to the principal Act.

“Amendments of general authorisation and of rights of use.

20. The Authority may, with the approval of the Minister, by order in the Gazette, amend the rights, conditions and procedures concerning general authorisations and rights of use of numbers, provided that any such amendments may only be made in objectively justified cases and in a proportionate manner taking into consideration, where appropriate, the specific conditions applicable to transferable rights of use for radio frequencies:

Provided that before making any such amendment, the Authority shall, with the exception of cases where the proposed amendments are minor and have been agreed with the holder of the rights or general authorisation, give notice in such manner as it considers appropriate of its intention, inviting interested parties, including users and consumers, to make representations on the proposed amendments within a period of not less than thirty days, as may be specified in the notice. The Authority may in circumstances which it considers to be exceptional, shorten such period.”.

**24** In article 21 as renumbered of the principal Act, for the words “from any requirement at law to apply for any other authorisation, licence or permit however so described, or from any obligation arising from any other law”, there shall be substituted the words “from any requirement at law to apply for and obtain any other authorisation, licence or permit however so described or from any obligation arising from any other law, licence, authorisation or permit however so described.”.

Amendment of article 21 as renumbered of the principal Act.

**25.** For article 23 as renumbered of the principal Act, there shall be substituted the following new article:

Substitution of article 23 as renumbered of the principal Act.

“End-user rights and the information to be included.

23. (1) An undertaking shall provide all subscribers to a public communications network and, or to publicly available electronic communications services, with a contract, and shall provide such services in accordance with such a contract.

(2) The contract referred to in subarticle (1) shall expressly include such information as may by regulation be specified by the Minister after consultation with the Authority, in order to protect the interests of subscribers and users.

(3) An undertaking referred to in subarticle (1) shall, not less than thirty days prior to the taking of effect of any proposed modification to the contractual terms and conditions of the service, notify in writing all subscribers to that service with at least:

(a) the proposed modification to the contractual terms and conditions of the service;

(b) the right to withdraw without penalty from such contract if they do not accept the modifications; and

(c) any refunds applicable upon withdrawal from the contract due to such modifications, including the means by which the subscriber shall, at no extra cost to him, be refunded any unutilized advanced payment made.

(4) An undertaking referred to in subarticle (3) shall notify the Authority in writing, prior to notification to subscribers, in a timely manner as may be specified by the Authority, of any proposed modifications to the contractual terms and conditions of service.

(5) The Authority may, following a written request to an undertaking, made in accordance with any requirements that may be laid down by the Authority, in cases where the proposed modification to the contractual terms and conditions of the service is manifestly of benefit to all subscribers to that service, exempt the undertaking from applying the right referred to in paragraph (b) of subarticle (3).”.

Substitution of article 24 as renumbered of the principal Act.

**26.** For article 24 as renumbered of the principal Act, there shall be substituted the following new article:

“Nullity of the contract and of certain terms and conditions.

24. A contract, term or condition for the provision of an electronic communications service, even if agreed to by the subscriber or user, shall be null and without effect to the extent that it is inconsistent with any provisions made by or under this Act or the terms and conditions of the authorisation under which the service is provided.”.

27. Articles 28 to 41 of the principal Act shall be renumbered as articles 26 to 39 thereof respectively.

Renumbering of articles 28 to 41 of the principal Act.

28. In article 33 as renumbered of the principal Act and in the marginal note thereto, for the words “of article 32” wherever they occur there shall be substituted the words “of article 30”.

Amendment of article 33 as renumbered of the principal Act.

29. For article 36 as renumbered of the principal Act, there shall be substituted the following new article:

Substitution of article 36 as renumbered of the principal Act.

“Interpretation.

36. (1) In this Part, unless the context otherwise requires:

“frequency plan” means the “national radio frequency plan” as adopted by the Minister and published in accordance with the provisions of this Part; and

“general authorisation” means a framework established by or under this Part laying down the rights and obligations for the use of radio spectrum, when the use of the radio spectrum is not subject to an individual licence.

(2) This Part regulates all radio spectrum, with the exception of any radio spectrum expressly regulated under any other law, and identified as such in the radio frequency plan.”.

30. For article 37 as renumbered of the principal Act, there shall be substituted the following:

Substitution of article 37 as renumbered of the principal Act.

“Use of radio frequencies.

37. Radio frequencies shall only be used in accordance with a general authorisation issued under this Act or following explicit authorisation by the Authority in accordance with this Act, or following explicit authorisation in accordance with any other law:

Provided that the Minister may in writing authorise any body established by law duly empowered at law to assign frequencies under the frequency plan, to depart from the frequency plan. In doing so the Minister shall give his reasons and notice of such authorisation shall be made public.”.

Substitution of article 38 as renumbered of the principal Act.

**31.** For article 38 as renumbered of the principal Act, there shall be substituted the following:

“Manage-  
ment of radio  
frequencies.

38. (1) The Authority shall, in accordance with its objectives under this Act, be responsible for the effective management of the radio frequencies assigned to it under the said national radio frequency plan.

(2) Without prejudice to specific criteria and procedures adopted to grant rights of use of radio frequencies to providers of radio or television broadcast content services with a view to pursuing general interest objectives in conformity with European Union law:

(a) no exclusive or special rights of use of radio frequencies shall be granted for the provision of electronic communications services; and

(b) the Authority and the Minister shall in the exercise of their respective functions with regard to the allocation of radio spectrum used for electronic communications services and the issue of general authorisations or individual rights of use of such radio frequencies, act in accordance with objective, transparent, non-discriminatory and proportionate criteria:

Provided that any related procedures used for the purposes of this paragraph shall be transparent.

(3) In applying the provisions of this article, the Minister and the Authority shall respect relevant international agreements, including the ITU Radio Regulations, and may take public policy considerations into account.

(4) The Authority shall publish at least once a year, and make available on request, the assignment of radio frequencies, assigned to it under the frequency plan.”.

**32.** Article 39 as renumbered of the principal Act shall be amended as follows:

Amendment of article 39 as renumbered of the principal Act.

(a) in the marginal note thereto, for the words “of a plan” there shall be substituted the words “of a frequency plan”;

(b) in subarticle (1) thereof, for the word “plan” wherever it occurs there shall be substituted the words “frequency plan”;

(c) in subarticle (2) thereof, for the words “The Minister shall in drawing up the plan establish the frequencies” there shall be substituted the words “The Minister shall in drawing up the frequency plan establish which frequencies are”; and

(d) subarticle (3) thereof shall be deleted.

**33.** Article 42 of the principal Act shall be deleted.

Deletion of article 42 of the principal Act.

**34.** Articles 43 to 49 of the principal Act shall be renumbered as articles 46 to 52 thereof.

Renumbering of articles 43 to 49 of the principal Act.

**35.** Immediately after article 39 as renumbered of the principal Act, there shall be added the following new articles:

Addition of new articles 40 to 45 to the principal Act.

“Techno-  
logy neutral-  
ity.

40. (1) Unless otherwise provided in subarticle (2), all types of technology used for electronic communications services may be used in the radio frequency bands, declared available for electronic communications services in the frequency plan in accordance with European Union law.

(2) The Minister, or the Authority with the approval of the Minister, may, however, provide for proportionate and non-discriminatory restrictions to the types of radio network or wireless access technology used for electronic communications services where this is necessary to:

- (a) avoid harmful interference;
- (b) protect public health against electromagnetic fields;
- (c) ensure technical quality of service;
- (d) ensure maximisation of radio frequency sharing;
- (e) safeguard efficient use of spectrum, or
- (f) ensure the fulfilment of a general interest objective in accordance with article 41.

Service  
neutrality.

41. (1) Unless otherwise provided in subarticles (2) and (3), all types of electronic communications services may be provided in the radio frequency bands, declared available for electronic communications services in the frequency plan in accordance with European Union law.

(2) The Minister, or the Authority with the approval of the Minister, may provide for proportionate and non-discriminatory restrictions to the types of electronic communications services to be provided, including, where necessary, to fulfill a requirement under the ITU Radio Regulations.

(3) Measures that require an electronic communications service to be provided in a specific band available for electronic communications services shall be justified in order to ensure the fulfilment of a general interest objective as defined by the Minister in conformity with European Union law, such as, and not limited to:

- (a) safety of life,
- (b) the promotion of social, regional or territorial cohesion,
- (c) the avoidance of inefficient use of radio frequencies, or

(d) the promotion of cultural and linguistic diversity and media pluralism, for example by the provision of radio and television broadcasting services.

(4) A measure which prohibits the provision of any other electronic communications service in a specific band, may only be provided for where justified by the need to protect safety of life services:

Provided that the Minister or the Authority as the case may be, may exceptionally also extend such a measure in order to fulfill other general interest objectives as defined by the Minister in accordance with European Union law.

Application of technology and service neutrality.

42. (1) The Minister or the Authority as the case may be, shall regularly review the necessity of the restrictions referred to in articles 40 and 41, and shall make the results of these reviews public.

(2) Articles 40 and 41 shall apply to spectrum allocated to be used for electronic communications services, general authorisations issued and individual rights of use of radio frequencies granted after the 25<sup>th</sup> May 2011.

(3) Spectrum allocations, general authorisations and individual rights of use which existed before the 25<sup>th</sup> May 2011 shall be subject to article 43.

Review of restrictions on existing rights.

43. (1) For a period of five years starting from the 25<sup>th</sup> May 2011, holders of rights to use radio frequencies which were granted before this date and which will remain valid at least until the 25<sup>th</sup> May 2016, may submit an application to the Authority for a reassessment of the restrictions on their rights in accordance with articles 40 and 41.

(2) Before adopting its decision, the Authority shall notify the rights holder of its reassessment of the restrictions, indicating the extent of the right after reassessment.

(3) The Authority shall allow a reasonable time limit for the rights holder to withdraw the application, if desired. If the rights holder withdraws the application, the rights shall remain unchanged until its expiry or until the 25<sup>th</sup> May 2016, whichever is the earlier date.

(4) After the 25<sup>th</sup> May 2016 the Authority shall take all appropriate measures to ensure that articles 40 and 41 apply to all remaining general authorisations, individual rights of use, and spectrum allocations used for electronic communications services which existed on the 25<sup>th</sup> May 2011.

(5) In applying this article, the Authority shall take appropriate measures to promote fair competition.

(6) Measures adopted in applying this article do not constitute the granting of new rights of use and therefore are not subject to the relevant provisions of Article 5 (2) of the Authorisation Directive.

Rules  
preventing  
spectrum  
hoarding.

44. Without prejudice to the provisions of this Act and taking into account the relevant national circumstances, the Authority may lay down rules in order to prevent spectrum hoarding, in particular by setting out strict deadlines for the effective exploitation of the rights of use by the holder of the rights. These rules shall be established and applied in a proportionate, non-discriminatory and transparent manner.

Spectrum  
Trading.

45. (1) An undertaking may transfer or lease the individual rights to use radio frequencies in the bands identified in the frequency plan that may be transferred or leased to other undertakings in accordance with the conditions attached to such rights of use of radio frequencies and in accordance with any applicable legislation:

Provided that conditions attached to individual rights to use radio frequencies shall continue to apply after the transfer or lease, unless otherwise specified by the Authority.

(2) Without prejudice to any applicable legislation, or any procedures that the Authority may specify, an undertaking shall notify its intention to transfer rights to use radio frequencies, as well as the effective transfer thereof to the Authority and shall make such intention public.

(3) Where radio frequency use has been harmonised through the application of the Decision No 676/2002/EC (Radio Spectrum Decision) or other European Union measures, any such transfer shall comply with such harmonised use.”.

**36.** Article 47 as renumbered of the principal Act shall be amended as follows:

Amendment of article 47 as renumbered of the principal Act.

(a) in subarticle (1) thereof -

(i) for paragraph (a) thereof, there shall be substituted the following:

“(a) regulate electronic communications services and, or networks including interconnection of networks, collocation of facilities, carrier pre-selection, access to networks, rights of way, the transmission or reception of satellite signals, the maintenance of and publication, and access to any information however so described, stipulate universal service obligations, any matter concerning numbers including portability, plans and allocation, any matter concerning e-mail forwarding or other similar services to ensure fair competition or for end-user protection purposes, the obligations of an undertaking having significant market power, competition and end-user protection rules including but not limited to rules relating to the suspension, termination and renewal of electronic communications services to end-users, compensation and refund arrangements, billing procedures and billing accuracy, emergency services, harmonised services for social value, and directory services;”;

(ii) in paragraph (j), for the word “consumers” there shall be substituted the word “end-users”;

(iii) in paragraph (l), for the word “Community” there shall be substituted the words “European Union”;

(iv) in paragraph (n), for the word “Community” there shall be substituted the words “European Union”;

(v) for paragraphs (o) and (p), there shall be substituted the following:

“(o) regulate the allocation, assignment and use of radio frequencies for electronic communications networks and, or services, including the transfer or lease of rights to use radio frequencies to other undertakings and the procedure to be followed;

(p) regulate any matter relating to the regulation, administration, management and authorisation of radio spectrum, including any aspect concerning the issue of authorisations, spectrum trading, the manner in which radio frequencies and, or apparatus as may be designated, may be used without the need of an authorisation, and the fees and conditions that may be imposed in relation thereto;”;

(vi) paragraph (s) shall be renumbered as paragraph (u) and immediately after paragraph (r) there shall be added the following new paragraphs:

“(s) provide for any matter relating to the qualifications that a person may require in order to carry out any works or perform any other act relating to construction, repair, maintenance, alteration or control of any electronic communications service and, or network, including the tests to be employed for ascertaining whether a person possesses these qualifications;

(t) prescribe penalties for criminal offences against any regulations made under this Act, including different fines (*multa*) for different

offences and, or fines (*multa*) calculated in accordance with the duration of the commission of the offence:

Provided that any such regulations as may be made shall not provide for a fine (*multa*) of more than twenty five thousand euro (25,000) or five hundred euro (500) for each day during which the offence persists;” and

(b) in subarticle (2) thereof, the words “empower any other public authority established by law” shall be substituted with the words “empower any body or bodies established by law”.

**37.** In subarticle (1) of article 51 as renumbered of the principal Act, for the words “article 35(1)(d) or under article 35A” there shall be substituted the words “article 48(1)(d) or under article 49”.

Amendment of article 51 as renumbered of the principal Act.

**38.** Articles 50 and 51 of the principal Act shall be deleted.

Deletion of articles 50 and 51 of the principal Act.

**39.** Articles 52 to 54 of the principal Act shall be renumbered as articles 53 to 55 thereof respectively.

Renumbering of articles 52 to 54 of the principal Act.

**40.** For article 53 as renumbered of the principal Act, there shall be substituted the following:

Substitution of article 53 as renumbered of the principal Act.

“Existing authorisations.

53. (1) Without prejudice to article 43, the Authority shall bring general authorisations and individual rights of use already in existence on 31 December 2009 into conformity with any provisions of, or made under this Act relating to authorisations by 19 December 2011 at the latest.

(2) Notwithstanding subarticle (1) where the Authority considers that the application of the said subarticle would result in a reduction of rights or extension of obligations on a person holding such an authorisation or right of use already in existence, the Authority may extend the validity of those authorisations or rights of use until 30 September 2012, provided that it considers that the rights of other persons are not adversely affected thereby. The Authority shall notify such extension to the European Commission and state the reasons therefor.”.

Amendment of article 55 as renumbered of the principal Act.

**41.** In subarticle (2) of article 55 as renumbered of the principal Act, the words “and from the provisions of any regulations made thereunder” shall be deleted.”.

## Part II

### AMENDMENT OF THE MALTA COMMUNICATIONS AUTHORITY ACT

Amendment of the Malta Communications Authority Act. Cap.418.

**42.** (1) This Part amends the Malta Communications Authority Act, and it shall be read and construed as one with the Malta Communications Authority Act, hereinafter in this Part referred to as “the principal Act”.

(2) This Part shall come into force on such date as the Minister responsible for communications may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes thereof.

Amendment of article 2 of the principal Act.

**43.** Article 2 of the principal Act shall be amended as follows:

(a) for the definition “the Act”, there shall be substituted the following new definition:

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

and for the words “the Act” wherever they occur in the principal Act there shall be substituted the words “this Act”;

(b) immediately after the definition “Authority”, there shall be inserted the following new definition:

“ “BEREC” means the Body of European Regulators for Electronic Communications;”;

(c) the definition “Community” shall be deleted;

(d) in the definition “decision”, the words “includes any determination,” shall be substituted with the words “includes any directive, determination.”;

(e) immediately after the definition “end-user”, there shall be added the following new definition:

“ “European Electronic Communications Directives” means Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive); Directive 2002/20/EC on the authorisation of electronic communications networks and services (Authorisation Directive), Directive 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive), Directive 2002/22/EC on universal service and user’s rights relating to electronic communications networks and services (Universal Service Directive) and Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (ePrivacy Directive) as may be amended from time to time;”;

(f) immediately after the definition “financial year” there shall be added the following new definition:

“ “harmful interference” means interference which endangers the functioning of a radio navigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radio communications service operating in accordance with the applicable international, European Union or national regulations;”;

(g) immediately after the new definition “harmful interference” there shall be inserted the following new definition:

“ “Member State” means a Member State of the European Union;”;

(h) the definition “person” shall be deleted.

**44.** For subarticle (6) of article 3 of the principal Act, there shall be substituted the following:

Amendment of article 3 of the principal Act.

“(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:

Provided that in the event that the Minister removes the Chairman from office, such removal shall be made public by no later than the effective date of removal from office. At the same time, the Minister shall provide the Chairman with a statement of reasons for his removal:

Provided further that a Chairman who is removed from office shall have the right to request the publication of the statement of reasons for his removal, in which case the Minister shall publish the statement.”.

Amendment of article  
4 of the principal Act.

**45.** Article 4 of the principal Act shall be amended as follows:

(a) in subarticle (3) thereof -

(i) for the words “The Authority shall also –” there shall be substituted the words “ The Authority shall also, in accordance with the laws it is entitled to enforce –”;

(ii) for paragraph (r) there shall be substituted the following:

“(r) promote the interests and rights of all users in Malta, including disabled end-users, elderly end-users, and end-users with special social needs, especially in respect of the prices charged for, and the quality and variety of the said services;”; and

(iii) for paragraph (s) there shall be substituted the following:

“(s) perform such other functions, including functions aimed at promoting the information society, as may from time to time be assigned to it by the Minister.”; and

(b) for subarticle (4) thereof, there shall be substituted the following:

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

**46.** Article 4A of the principal Act shall be amended as follows:

Amendment of article 4A of the principal Act.

(a) in subarticle (1) thereof -

(i) in paragraph (c), for the words “Community law” there shall be substituted the words “European Union law”; and

(ii) for the words “in a market for communications networks or services,” there shall be substituted the words “in a market for any communications networks or services,”;

(b) subarticles (2) and (3) thereof shall be renumbered as subarticle (3) and (4) thereof respectively; and

(c) immediately before subarticle (3) as renumbered, there shall be inserted the following new subarticle:

“(2) Where the Authority intends to take a decision on issues related to end-user and, or consumer rights, in particular where such decision has a significant impact on the market for any communications networks and, or services, the Authority shall ensure that in carrying out the consultation mechanism referred to in subarticle (1), as far as is appropriate for the purposes of its functions under this Act or any other legislation the Authority is entitled to enforce, it shall take into account

the views of end-users and of consumers in particular disabled end-users, manufacturers and undertakings that provide communications networks and, or services.”.

Amendment of article 5 of the principal Act.

**47.** In subarticle (10) of article 5 of the principal Act, for the words “of any decision or directive made by the Authority” there shall be substituted the words “of any decision made by the Authority”.

Amendment of article 6 of the principal Act.

**48.** For subarticle (1) of article 6 of the principal Act, there shall be substituted the following:

“(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 in writing 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:

Provided that the Authority shall act independently and shall not seek or take instructions from any other body on matters related to ex-ante market regulation and the resolution of disputes between undertakings in accordance with articles 43 and 44A.”.

Amendment of article 8 of the principal Act.

**49.** In the English text of article 8 of the principal Act shall be amended as follows:

(a) in subarticle (4) thereof, for the words “be reason of the existence” shall be substituted with words “by reason of the existence”; and

(b) in subarticle (5) thereof, for the words “the provisions of subarticle of article 3(8)” there shall be substituted the words “the provisions of article 3(8)”.

Amendment of article 14 of the principal Act.

**50.** For subarticle (3) of article 14 of the principal Act there shall be substituted the following:

“(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:

Provided that any subvention received from Government shall be exempted from any liability for the payment of income tax and duty on documents under any law for the time being.”.

**51.** Article 31 of the principal Act shall be amended as follows:

Amendment of article  
31 of the principal  
Act.

(a) for subarticle (1) thereof, there shall be substituted the following:

“(1) Without prejudice to any other provisions under this Act or any other law which the Authority is entitled to enforce, the Authority may take the following measures in respect of any person who infringes any provision of this Act or of any other law which the Authority is entitled to enforce, or who fails to comply with any decision given by the Authority or with any authorisation condition:

(a) the imposition of an administrative fine in accordance with the provisions of this article and of articles 32 and 33;

(b) order the cessation of any act or omission which is in breach;

(c) order the delay of a service or bundle of services which if continued, may result in significant harm to competition, pending compliance with access obligations imposed following a market analysis carried out in accordance with the Electronic Communications (Regulation) Act.”;

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(b) subarticle (2) shall be renumbered as subarticle (3) thereof; and

(c) immediately after subarticle (1) thereof, there shall be added the following new subarticle:

“(2) In cases where the Authority considers that a person has seriously and repeatedly infringed the provisions of this Act or of any other law which the Authority is entitled to enforce, or of any decision of the Authority or of any authorisation condition,

the Authority may withdraw or suspend any related authorisation granted by or under this Act or any other law which the Authority is entitled to enforce.”.

Amendment of article  
32 of the principal  
Act.

**52.** Article 32 of the principal Act shall be amended as follows:

(a) for subarticles (1) to (4) thereof, there shall be substituted the following subarticles:

“(1) The Authority shall before proceeding to take any of the measures under article 31 write to the person concerned, warning him of the measure that may be taken and the specific reason why it may be taken, requiring him to cease or rectify his acts or omissions and, or to make his submissions thereto within such period not being less than fifteen days which period, without prejudice to the provisions of subarticle (4), may be abridged if the Authority considers that the continuance of the infringement impacts negatively the effective exercise by the Authority of its regulatory functions and, or warrants the immediate intervention of the Authority:

Provided that where the measure is an administrative fine the person concerned shall also be informed of the amount of the fine:

Provided further that when issuing a warning under this subarticle, the Authority may impose such conditions as it may consider reasonable in the circumstances.

(2) If the person concerned remedies the infringement with the period established by the Authority in accordance with subarticle (1), and agrees in writing to abide with any condition that the Authority may impose, the Authority may at its discretion desist from proceeding any further, this without prejudice to any regulatory measures that may have already been imposed.

(3) If after the lapse of the period mentioned in subarticle (1), the Authority considers that the person concerned has not given any valid reasons to demonstrate why no measure should be taken against him, the Authority shall notify the person concerned

in writing, specifying the nature of the infringement, stating the measure being taken, and if the measure is an administrative fine, stating the amount of the fine being imposed.

(4) Notwithstanding the provisions of subarticle (1), where the Authority has *prima facie* evidence that the infringement –

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

(b) creates or may create serious economic or operational problems for other providers or users of communications services or networks, or other users of radio spectrum; or

(c) would result in significant harm to competition in the electronic communications market, pending compliance with access obligations imposed following a market analysis carried out in accordance with the Electronic Communications (Regulation) Act or any regulations made thereunder, Cap. 399.

the Authority may take urgent interim measures to remedy the situation in advance of reaching a final decision, including ordering the immediate cessation of the act or omission giving cause to the infringement, requiring the cessation or delay of provision of a service or bundle of services, and the imposition of administrative fines:

Provided that the person against whom such measures are contemplated, shall, thereafter, be given a reasonable opportunity to state his view and propose any remedies:

Provided further that the interim measures shall be valid for a maximum of three months, subject to extension for a further period of three months, in circumstances where enforcement procedures have not been completed.”; and

(d) in subarticle (5) thereof, for the words “The notice” there shall be substituted the words “The notification”.

Amendment of article 33 of the principal Act.

**53.** In subarticle (1) of article 33 of the principal Act, immediately after the first proviso thereto there shall be added the following new proviso:

“Provided further that any daily fine imposed may be back dated to the date of the commission or commencement of the infringement.”.

Amendment of article 34A of the principal Act.

**54.** In paragraph (b) of subarticle (1) of article 34A of the principal Act, for the words “a Member State of the European Union” wherever they occur there shall be substituted the words “a Member State”.

Amendment of article 37 of the principal Act.

**55.** Article 37 of the principal Act shall be amended as follows:

(a) in subarticle (1) thereof, for the words “from a decision or a directive” there shall be substituted the words “from a decision”;

(b) in the proviso to subarticle (2) thereof, for the words “the decision or directive” there shall be substituted the words “the decision”; and

(c) in paragraph (a) in subarticle (3) thereof, for the words “from a decision or directive” there shall be substituted the words “from a decision”.

Amendment of article 42 of the principal Act.

**56.** In article 42 of the principal Act, the words “or the directive” wherever they occur shall be deleted.

Addition of new article 42A to the principal Act.

**57.** Immediately after article 42 of the principal Act there shall be added the following new article:

Collection of information regarding appeals.

“42A. The Authority shall collect information on the general subject matter of appeals, the number of requests for appeal, the duration of the appeal proceedings and the number of decisions to grant interim measures. The Authority shall provide such information to the European Commission and to BEREC after a reasoned request from either.”.

58. Article 43 of the principal Act shall be amended as follows:

Amendment of article 43 of the principal Act.

(a) for subarticle (1) thereof, there shall be substituted the following:

“(1) Unless otherwise provided in any other law, in the event of a dispute occurring between undertakings within the same communications sector in connection with any obligations arising under any law, decision or authorisation condition which the Authority is entitled to enforce, the Authority shall, at the request of any party to the dispute, investigate the matter and shall issue a binding decision to resolve the dispute in the shortest possible timeframe, and in any case within four months from the date on which the dispute was notified to it:

Provided that such period of four months may be extended in circumstances which the Authority considers exceptional.”;

(b) subarticle (2) shall be renumbered as subarticle (2A) thereof;

(c) immediately before subarticle (2A) thereof as renumbered there shall be inserted the following new subarticle:

“(2) The Authority may of its own initiative, investigate any suspected breach of any obligations arising under any law, decision or authorisation condition which it is entitled to enforce.”;

(d) for subarticle (2A) thereof as renumbered, there shall be substituted the following:

“(2A) The Authority may decide not to initiate an investigation referred to in subarticle (1) and, or in subarticle (2) where it is satisfied that other means of resolving the dispute in a timely manner are available to the parties or if legal proceedings in relation to the dispute have been initiated by any party to the dispute:

Provided that where the Authority decides not to initiate an investigation it shall inform the parties of such a decision as soon as possible thereafter.”; and

(e) in the proviso to subarticle (6) thereof, for the words “a breach of this Act or any other law which the Authority is entitled to enforce” there shall be substituted the words “a breach of this Act, any other law, decision or authorisation condition which the Authority is entitled to enforce”.

Amendment of article 44 of the principal Act.

**59.** Article 44 of the principal Act shall be amended as follows:

(a) in subarticle (2) thereof, for the words “be transparent, simple, inexpensive and conducive to a prompt and fair settlement of the dispute,” there shall be substituted with the words “be transparent, non-discriminatory, simple, inexpensive and conducive to a prompt and fair settlement of the dispute.”; and

(b) subarticle (8) thereof shall be deleted.

Addition of new article 44A to the principal Act.

**60.** Immediately after article 44 of the principal Act, there shall be added the following new article:

“Resolution of cross-border disputes.

44A. (1) In the event of a dispute arising under any law or decision which the Authority is entitled to enforce, involving persons enjoying authorisations in more than one Member State, a person may request the Authority to co-ordinate its efforts with any relevant regulatory authority in another Member State with a view to bringing about a resolution of the dispute.

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(2) In addition to subarticle (1), a dispute arising under the Electronic Communications (Regulation) Act or the European Electronic Communications Directives between parties in different Member States, where the dispute lies within the competence of the Authority and national regulatory authorities from other Member States, that dispute shall be subject to the following procedure:

(a) any party may refer such a dispute to the Authority or to the other national regulatory authorities concerned. The Authority shall coordinate with the other national regulatory authorities, and may consult with BEREC in order to bring about a consistent resolution of this dispute in accordance with the objectives set out in Article 4 of the Electronic Communications (Regulations) Act:

Provided that where the Authority makes a determination for the purposes of resolving a dispute under this article, the provisions of article 43 shall apply. In doing so the Authority may request BEREC to give an opinion as to the action to be taken in accordance with the provisions of the European Electronic Communications Directives to resolve the dispute. Where such a request has been made to BEREC, the Authority shall wait for the opinion of BEREC before taking action to resolve the dispute. This shall not preclude the Authority from taking urgent measures as necessary:

Provided further that any obligations imposed on an undertaking by the Authority in resolving a dispute shall respect the provisions of the European Electronic Communications Directives and shall take the utmost account of the opinion adopted by BEREC.

(b) the Authority may enter into arrangements with other national regulatory authorities whereby they may jointly decline to resolve a dispute where other mechanisms, including mediation, exist and would better contribute to resolution of the dispute in a timely manner in accordance with the provisions of Article 8 of the Framework Directive. Such arrangements shall include provision for the Authority or the other national regulatory authorities to inform the parties without delay where they agree to jointly decline to resolve the dispute:

Provided that if after four months the dispute is not resolved, where the dispute has not been

brought before the courts by the party seeking redress, and if either party requests it, the Authority shall coordinate with the other national regulatory authorities in order to bring about a resolution of the dispute in accordance with Article 8 of the Framework Directive, and taking the utmost account of any opinion adopted by BEREC in relation to the dispute in question.

(3) The procedure referred to in paragraph (a) of subarticle (2) does not preclude a party from bringing an action before the courts.”.

### PART III

#### AMENDMENT OF THE UTILITIES AND SERVICES (REGULATION OF CERTAIN WORKS) ACT

Amendment of the  
Utilities and Services  
(Regulation of Certain  
Works) Act  
Cap. 81.

**61.** (1) This Part amends the Utilities and Services (Regulation of Certain Works) Act, and it shall be read and construed as one with the Utilities and Services (Regulation of Certain Works) Act, hereinafter in this Part referred to as “the principal Act”.

(2) This Part shall come into force on such date as the Minister responsible for communications may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes thereof.

Amendment of article  
4 of the principal Act.

**62.** For paragraph (a) of subarticle (10) of article 4 of the principal Act there shall be substituted the following:

“(a) act on the basis of simple, efficient, transparent and publicly available procedures, applied without discrimination and without delay, and shall in any case make a decision within six months from the application date;”.

### PART IV

#### AMENDMENT OF THE CONSUMER AFFAIRS ACT

Amendment of the  
Consumer Affairs Act  
Cap. 378.

**63.** (1) This Part amends the Consumer Affairs, and it shall be read and construed as one with the Consumer Affairs Act, hereinafter in this Part referred to as “the principal Act”.

(2) This Part shall come into force on such date as the Minister responsible for Consumer Affairs may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes thereof.

**64.** Article 23 of the principal Act shall be amended as follows:

Amendment of article  
23 of the principal  
Act.

(a) subarticles (5) and (6) thereof shall be renumbered as subarticles (6) and (7); and

(b) immediately after subarticle (4) thereof there shall be added the following new subarticle:

“(5) Where the Director General is in receipt of a claim referred to him by the Malta Communications Authority where such a claim was submitted to that Authority by an aggrieved end-user in relation to a communications service however so described falling within the remit of the Authority, then the Director General shall act on the basis of the claim forwarded to him by the Authority without the need of requiring the end-user concerned to submit the claim again to the Director General:

Provided that for the purposes of this subarticle, “communications service” means any communications service as is regulated in accordance with the provisions of the Malta Communications Authority Act.”.

Cap. 418.

Passed by the House of Representatives at Sitting No. 360 of 8th June, 2011.

MICHAEL FRENDU  
*Speaker*

PAULINE ABELA  
*Clerk to the House of Representatives*

