

Naghti l-kunsens tieghi.

(L.S.)

UGO MIFSUD BONNICI
President

21 ta' Lulju, 1998

ATT Nru. XIX ta' l-1998

ATT biex jemenda diversi ligijiet dwar it-telegrafija minghajr fili u t-telekomunikazzjoni.

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

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1998 biex Jemenda Diversi Ligijiet dwar it-Telekomunikazzjoni. Titolu fil-qosor u bidu fis-sehh.

(2) Dan l-Att għandu jitqies li beda jsehh fil-31 ta' Diċembru, 1997.

2. Minflok is-subartikolu (2) ta' l-artikolu 6 ta' l-Ordinanza dwar it-Telegrafija minghajr Fili, għandu jidhol dan li ġej: Emenda ta' l-artikolu 6 ta' l-Ordinanza dwar it-Telegrafija minghajr Fili, Kap. 49.

“(2) Minkejja d-dispożizzjonijiet ta' qabel ta' dan l-artikolu, ebda azzjoni ma għandha tittiehed kontra xi persuna illi, għax kellha liċenza tat-telegrafija minghajr fili u tkun naqset li thallas id-dritt stabbilit għat-tigdid tagħha, thallas, fi żmien tletin jum mill-gheluq ta' dik il-liċenza, jew f'dak il-perjodu itwal li l-Ministru jista' jippermetti, id-dritt tal-liċenza dovut għat-tigdid tal-liċenza, lanqas ma għandha tittiehed xi azzjoni jekk, wara li jiskadi l-imsemmi perjodu ta' tletin jum jew dak il-perjodu itwal li l-Ministru jista' jippermetti, persuna kif hawn aktar qabel imsemmija thallas fi żmien sebat ijiem minn meta

ssirilha talba bil-miktub biex hekk thallas, f'dak l-uffiċċju li jiġi hekk indikat fit-talba, penali li tkun daqs darbtejn id-dritt tal-liċenza fil-każ ta' drittijiet tal-liċenza sa tnaħ-il lira u hamsa u għoxrin lira fil-każ ta' drittijiet tal-liċenza ta' iżjed minn tnaħ-il lira, b'żieda mad-dritt dovut għat-tiġdid tal-liċenza.”.

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

3. L-Att ta' l-1997 biex jirregola t-Telekomunikazzjoni, għandu jiġi emendat kif ġej:

(a) minflok it-tifsira ta' “frekwenza” fl-artikolu 2 tiegħu, għandha tidhol it-tifsira li ġejja:

““frekwenza” tfisser l-għadd ta' ċikli shah fis-sekonda ta' mewġa ta' enerġija elettromanjetika;”;

(b) fit-test Inġliż tas-subartikolu (2) ta' l-artikolu 5 tiegħu, minflok il-kliem “of from any obligation” għandhom jidhlu l-kliem “or from any obligation”;

(ċ) minnufih wara l-artikolu 14 tiegħu għandu jidhol dan l-artikolu gdid li ġej:

“Projbizzjoni ta' servizz ta' *call-back*.

14A. (1) Hadd ma għandu juża jew ihalli lil min juża jew jippermetti li tintuża xi infrastruttura ta' telekomunikazzjoni pubblika jew xi apparat li jkunu jagħtu servizz ta' *call-back* jew li jagħmlu xi haġa sabiex tiffacilita jew iġġib 'il quddiem l-użu ta' xi infrastruttura ta' telekomunikazzjoni pubblika jew xi apparat li jkollhom x'jaqsmu ma' l-ghoti, it-thaddim jew l-użu ta' xi servizz ta' *call-back*.

(2) Għall-fini ta' dan l-artikolu, “servizz ta' *call-back*” tfisser servizz offrut minn xi hadd li ma jkunx provditur awtorizzat u li jkun jiżgura għal persuna f'Malta dhul f'dak is-servizz permezz ta' mogħdija minn go infrastruttura ta' telekomunikazzjoni pubblika, lejn infrastruttura ta' telekomunikazzjoni pubblika jew servizz ta' telekomunikazzjoni pubbliku li jkunu ekwivalenti f'xi pajjiż jew territorju iehor, b'kull mezz tekniku li jkun, u li jkun jirrendi possibbli għal dik il-persuna li tkun tista' tuża dik l-infrastruttura jew dak is-servizz bhallikieku dak is-servizz kien stabbilit f'dak il-pajjiż jew territorju, u tinkludi kull servizz sew jekk awtomatizzat sew jekk le, li bih jinkiseb id-dhul imsemmi hawn aktar qabel.

(3) Is-subartikolu (1) ta' dan l-artikolu m'ghandux ikun japplika ghal kull haġa li tista' tintghamel minn provdatur awtorizzat għax din tkun permessa minn, jew skond awtorizzazzjoni jew regolament taht dan l-Att.”;

(d) l-artikolu 15 għandu jiġi emendat kif ġej:-

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

“(1) Ikun hemm mekkaniżmi għal rati li jkunu jippermettu għal bidliet fil-hlasijiet li jkollhom isiru għal servizzi ta' telekomunikazzjoni u dawk il-mekkanizmi għal rati għandhom ikunu tali hekk kif jistgħu jiġu stabbiliti mir-Regolatur u pubblikati fil-Gazzetta. Il-mekkanizmi għal rati jistgħu jiġu stabbiliti għal dak iż-żmien li jista' jiġi hekk deċiż mir-Regolatur.”;

(ii) minflok il-kliem “Provdatur awtorizzat” fis-subartikolu (2) tiegħu, għandhom jidhlu l-kliem “Meta ma tkunx għadha għiet stabbilita rata, jew meta provdatur awtorizzat ikun jixtieq jagħmel bidla f'rata eżistenti li ma jkunx hemm provdut dwarha f'mekkanizmu għal rati eżistenti, provdatur awtorizzat”; u

(iii) minflok il-kliem “tletin jum” fil-proviso tas-subartikolu (4) tiegħu, għandhom jidhlu l-kliem “sittin jum”;

(e) fl-artikolu 20 tiegħu, minnufih wara s-subartikolu (3) tiegħu għandu jidhol dan is-subartikolu ġdid li ġej:-

“(4) Il-linji direttivi stabbiliti bis-subartikolu (3) ta' dan l-artikolu għandhom, bla ħsara għal kull dispożizzjoni li tkun tinsab fi ftehim bħal dak, ikunu wkoll japplikaw għal kull ftehim magħmul qabel id-dhul fis-seħħ ta' dan l-Att li jkun jipprovdi għal interkomunikazzjoni kull darba li dak il-ftehim ikollu jiġi rivedut skond id-dispożizzjonijiet tiegħu u kull tilwima li jista' jkun hemm dwar ir-reviżjoni ta' dak il-ftehim għar-rigward tal-patti u l-kondizzjonijiet tiegħu: u jekk dik it-tilwima ma tiġix riżoluta permezz ta' ftehim bejn il-partijiet fi żmien disghin jum minn meta tqum it-tilwima, kull parti tista' tirreferi l-kwistjoni lir-Regolatur taht l-artikolu 22 ta' dan l-Att, u r-Regolatur, meta jiġi biex jiddeċiedi dwar xi tilwima bħal dik, għandu jimxi skond il-linji direttivi msemmija qabel.”;

(f) fil-paragrafu (ċ) tas-subartikolu (1) ta' l-artikolu 30 tiegħu, minflok il-kliem "l-artikolu 18" għandhom jidhlu l-kliem "l-artikolu 17";

(g) fl-artikolu 33 tiegħu, minflok is-subartikolu (3) tiegħu għandhom jidhlu dawn is-subartikoli li ġejjin:—

“(3) Regolamenti magħmulin taht dan l-artikolu jistgħu jawtorizzaw lir-Regolatur li jsemmi dawk is-servizzi li għandhom jiġu provduti bhala obligazzjonijiet ta' servizz universali, u jehtieġu lil xi provditur awtorizzat wiehed jew iktar li jipprovdi dawk is-servizzi.

(4) Meta jsiru regolamenti taht is-subartikolu (3) ta' dan l-artikolu, ir-Regolatur ikollu s-setgħa li johroġ direttivi li jkunu jsemmu l-obbligazzjonijiet ta' servizz universali u jehtieġu lil xi provditur awtorizzat wiehed jew aktar li jipprovdi dawk is-servizzi, jew xi wiehed jew iktar minnhom, skond dawk il-patti u kondizzjonijiet li jistgħu jiġu hekk speċifikati fihom, inklużi patti u kundizzjonijiet li tahtom xi wiehed jew iktar minn dawk is-servizzi għandhom jiġu provduti mingħajr profitt jew b'telf raġonevoli lill-provditur awtorizzat.

(5) Meta r-Regolatur johroġ direttiva taht is-subartikolu (4) ta' dan l-artikolu, huwa għandu jew fl-istess direttiva jew permezz ta' direttiva ulterjuri, jipprovdi dwar dak il-mekkanizmu għal rati hekk kif jista' jqis li jkun mehtieġ u xieraq sabiex jiżgura li, meta n-nefqa addizzjonali għall-provdiment ta' obligazzjonijiet ta' servizz universali minn xi provditur awtorizzat wiehed jew iktar tkun oghla mid-dhul addizzjonali li jinkiseb minnhom minn dak il-provditur jew provdituri, il-piżijiet li jirrizultaw mill-obbligazzjonijiet hawn aktar qabel imsemmija għandhom jinqas b'mod ġust bejn il-provdituri awtorizzati kollha li jiġu speċifikati bhala kontributorji fir-regolamenti.”; u

(h) fl-artikolu 36 tiegħu, minnufih wara s-subartikolu (4) għandu jiżdied dan is-subartikolu ġdid li ġejj:

“(5) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, id-dispożizzjonijiet ta' l-artikoli 29 sa 34 (iż-żewġ artikoli inklużi) ta' l-Att imħassar b'dak is-subartikolu għandhom jibqgħu isehħu u jkomplu jkollhom effett, u għandhom jitqiesu bhala li dejjem baqgħu fis-sehh

u komplew ikollhom effett, ghar-rigward ta' l-ufficjali pubbliċi msemmija f'dawk l-artikoli; u mid-data tat-thassir ta' dak l-Att, id-dispożizzjonijiet imsemmija qabel ghandhom isehhu bhallikieku kull referenza li hemm fihom għal Telemalta huma referenza għall-kumpannija msemmija.”.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 242 tal-15 ta' Lulju, 1998.

MYRIAM SPITERI DEBONO
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

UGO MIFSUD BONNICI
President

21st July, 1998

ACT No. XIX of 1998

AN ACT to amend various laws relating to wireless telegraphy and telecommunications.

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

Short title
and
commencement.

1. (1) This Act may be cited as the Various Laws (Telecommunications) (Amendment) Act, 1998.

(2) This Act shall be deemed to have come into force on the 31st December, 1997.

Amendment of
section 6 of the
Wireless
Telegraphy
Ordinance,
Cap. 49.

2. For subsection (2) of section 6 of the Wireless Telegraphy Ordinance, there shall be substituted the following:

“(2) Notwithstanding the foregoing provisions of this section, no action shall be taken against any person who, having been in possession of a wireless telegraphy licence and having failed to pay the prescribed fee for the renewal thereof, shall pay, within thirty days from the expiration of the licence, or such longer period as the Minister may allow, the licence fee due for the renewal of the licence, nor shall any action be taken if, after the expiration of the said period of thirty days or such longer period as the Minister may allow, any person as aforesaid shall pay within seven days from an intimation in writing so to pay, into an office indicated in the intimation, a penalty equal to twice the licence fee in the case

of licence fees up to twelve liri, and twenty-five liri in the case of licence fees over twelve liri, in addition to the fee due for the renewal of the licence.”.

3. The Telecommunications (Regulation) Act, 1997, shall be amended as follows:

Amendment of the Telecommunications (Regulation) Act, 1997, Act XXXIII of 1997.

(a) for the definition of “frequency” in section 2 thereof there shall be substituted the following:

““frequency” means the number of complete cycles per second of a wave of electromagnetic energy;”;

(b) in the English text of subsection (2) of section 5 thereof, for the words “of from any obligation” there shall be substituted the words “or from any obligation”;

(c) immediately after section 14 thereof there shall be inserted the following new section:–

“Prohibition of call-back service.

14A. (1) No person shall use or permit the use or suffer to be used any public telecommunications infrastructure or apparatus in connection with the provision of a call-back service or do anything so as to facilitate or promote the use of any public telecommunications infrastructure or apparatus in connection with the provision, operation or use of a call-back service.

(2) For the purpose of this section, “call-back service” means a service offered by any person who is not an authorised provider which secures for any person in Malta access to that service, by means of conveyance over a public telecommunications infrastructure, to the equivalent of the public telecommunications infrastructure or a public telecommunications service in another country or territory, by whatever technical means, and which enables that person to make use of that infrastructure or service as if established in that country or territory; and includes any service, whether automated or not, by which the access aforesaid is obtained.

(3) Subsection (1) of this section shall not apply to anything done by an authorised provider permitted by or

in accordance with an authorisation or regulation under this Act.”;

(d) section 15 thereof shall be amended as follows:

(i) for subsection (1) thereof there shall be substituted the following:

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

(ii) for the words “An authorised provider” in subsection (2) thereof, there shall be substituted the words “Where a rate has not yet been established, or where an authorised provider wishes to make a change in an existing rate not provided for in an existing rate mechanism, an authorised provider”; and

(iii) for the words “thirty days” in the proviso to subsection (4) of section 15 thereof, there shall be substituted the words “sixty days”;

(e) in section 20 thereof, immediately after subsection (3) thereof, there shall be added the following new subsection:—

“(4) The guidelines established by subsection (3) of this section shall subject to any provision contained in any such agreement apply also to any agreement entered into before the coming into force of this Act providing for interconnection whenever such agreement is due to be reviewed in accordance with the provision thereof and to any dispute arising with respect to the review of such an agreement concerning the terms and conditions thereof: and if any such dispute is not resolved by agreement between the parties within ninety days from which the dispute arises, either party may refer the matter to the Regulator under section 22 of this Act, and the Regulator, in determining any such dispute, shall follow the guidelines aforesaid.”;

(f) in paragraph (c) of subsection (1) of section 30 thereof, for the words “section 18” there shall be substituted the words “section 17”;

(g) in section 33 thereof, for subsection (3) thereof there shall be substituted the following subsections:—

“(3) Regulations made under this section may authorise the Regulator to designate the services which are to be provided as universal service obligations, and to require any one or more authorised providers to provide such services.

(4) Where regulations are made under subsection (3) of this section, the Regulator shall have power to issue directives designating the universal service obligations and requiring any one or more authorised providers to provide such services, or any one or more of them, in accordance with such terms and conditions as may be therein specified, including terms and conditions under which any one or more of such services are to be provided at no profit or at a reasonable loss to the authorised provider.

(5) Where the Regulator issues a directive under subsection (4) of this section, he shall either in the same directive or by a further directive, make provision for such funding mechanism as he may deem necessary and appropriate to ensure that, where the additional cost for the provision of universal service obligations by any one or more authorised providers is higher than the additional revenue derived therefrom by such provider or providers, the burdens resulting from the obligations aforesaid are shared fairly by all authorised providers specified as contributories in the regulations.”; and

(h) in section 36 thereof, immediately after subsection (4) there shall be added the following new subsection:—

“(5) Notwithstanding the provisions of subsection (1) of this section, the provisions of sections 29 to 34 (both inclusive) of the Act repealed by that subsection shall remain in force and continue to have effect, and shall be deemed always to have remained in force and continued to have effect, with respect to the public officers therein mentioned; and as

from the date of the repeal of the said Act, the provisions aforesaid shall have effect as if references in them to Telemalta were references to the designated company.”.

Passed by the House of Representatives at Sitting No. 242 of the 15th July, 1998.

MYRIAM SPITERI DEBONO
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives