

The Second Chamber of the States General hereby sends the Bill adopted by it to the First Chamber.

The Chairman,

7 April 1998

Rules pertaining to telecommunications (Telecommunications Act)

BILL

We, Beatrix, by the grace of God Queen of the Netherlands, Princess of Oranje-Nassau, etc. etc. etc.

A salute to all who will see this or hear it read! We hereby make known:

That we have taken into consideration that, in connection with the complete liberalization of the telecommunications infrastructure and the telecommunications services, it is desirable to establish rules in order to guarantee a cohesive infrastructure and to promote real competition;

Therefore, having heard the Council of State, and in consultation with the States General, We hereby approve and enact the following:

CHAPTER 1. GENERAL PROVISIONS

Article 1.1

In this Act and the provisions pursuant thereto, the terms below have the following meanings:

a. Our Minister: Our Minister of Transport, Public Works and Water Management;
b. Board: Board, as referred to in Article 2 of the Independent Post and Telecommunications Authority Act (*Wet onafhankelijke Post- en Telecommunicatie Autoriteit*);

c. telecommunications: any transmission, emission or reception of signals in any form, by means of cables, radio waves, optical means or other electromagnetic means;

d. telecommunications network: the transmission equipment and, where applicable, the routing equipment and other technical means which enable the transmission of signals between network termination points via cables, radio waves, optical means or other electromagnetic means;

- e. telecommunications service: service that consists wholly or partially in the transmission or routing of signals on a telecommunications network;
- f. public telecommunications service: telecommunications service that is available to the public;
- g. public telecommunications network: a telecommunications network that is used *inter alia* for the provision of public telecommunications services, or a telecommunications network that makes available to the public the possibility of transmitting signals between network termination points;
- h. network termination point: where a public telecommunications network is concerned, the aggregate of the connections, with their technical access specifications, which are part of this public telecommunications network and which are necessary in order to obtain access to this network and to communicate efficiently by way of this network;
- i. leased line: the provision to the public of transparent transmission capacity between two network termination points of a telecommunications network, without routing functions being available to the users as part of the leased line provided;
- j. special access: access to a telecommunications network at points other than the network termination points offered to the majority of users;
- k. fixed public telephone service: public telecommunications service consisting of the direct transmission and routing of speech from and to network termination points at fixed locations of a telecommunications network, which can be used by every user of equipment connected to such a network termination point in order to communicate with another network termination point;
- l. fixed public telephone network: the elements of a public telecommunication network that are used wholly or partially to provide fixed public telephone services;
- m. mobile public telephone service: public telecommunications service consisting in the direct transmission and routing of speech, thereby establishing radio communications with a mobile user, and making use of network termination points of a telecommunications network that are not at fixed locations;
- n. mobile public telephone network: the elements of a public telecommunications network that are used wholly or partially to provide mobile public telephone service;
- o. broadcasting network: technical installations, or parts thereof, that are used to broadcast programmes by means of cables or radio connections between points, to one or more pieces of land, dwellings or non-residential buildings;
- p. broadcasting transmission network: radio equipment, including satellites, used wholly or partially to broadcast programmes;
- q. programme: programme within the meaning of Article 1, paragraph 1, under f, of the Media Act (*Mediawet*);
- r. cables: cables and the supporting works, protection works and signalling systems pertaining to the cables, as well as installations intended to establish connections therein between cables in, on or over public land on the one hand, and cables in buildings and land forming part thereof on the other hand, or between cables of the latter category mutually;
- s. public land:
- 1°. public highways, including the pavement, banks, shoulders, ditches, bridges, viaducts, tunnels, culverts, embankments and other works pertaining thereto;
- 2°. waters with bridges, public gardens, squares and other places pertaining thereto to which everyone has access;

t. number: digits, letters or other symbols, whether or not in combination, serving to obtain access to or identification of users, network operators, services, network termination points or other network elements;

u. number identification:

1°. facility for providing the called network termination point with the number of the calling network termination point or a number by which an individual user can be identified, before the connection is established;

2°. facility for providing the calling network termination point with the number of the called network termination point or a number by which an individual user can be identified, before the connection is established;

v. putting on the market: delivering for the first time after manufacture in the European Economic Area, importation into the European Economic Area from a country outside that area, as well as utilization after manufacture or importation from a country outside the European Economic Area into the European Economic Area;

w. equipment: all electrical and electronic equipment as well as equipment and installations that contain electrical or electronic components;

x. terminal equipment;

1°. equipment intended for connection to a public telecommunications network in such a way that it:

a. can be connected directly to network termination points, or

b. can be used for interaction with a public telecommunications network via direct or indirect connection to network termination points for the purpose of the transmission, processing or reception of data;

2°. radio transmission equipment which is suitable for connection to a public telecommunications network;

3°. equipment for satellite earth stations unless otherwise provided by or pursuant to Chapter 10, but with the exclusion of specially constructed equipment that is meant for use as part of a public telecommunications network;

y. radio transmission equipment: equipment which by nature is intended for broadcasting or broadcasting and receiving radio communications signals;

z. electromagnetic compatibility: the ability of equipment to function satisfactorily in its electromagnetic environment without causing electromagnetic interference which is intolerable to anything in that environment;

aa. conditional access system: a system by means of which access can be obtained to scrambled programmes or other services that can only be received unscrambled by means of equipment intended for that purpose by those who have concluded an agreement for that purpose with the provider of the system;

bb. International Telecommunications Convention: the Charter and Convention of the International Telecommunications Union established in Geneva on 22 December 1992 with corresponding appendices and regulations (Bulletin of Treaties - *Tractatenblad* - 1993, 138) and the Instruments of Amendment to the Charter and the Convention of the International Telecommunications Union established in Kyoto on 14 October 1992 (Bulletin of Treaties 1995, 201).

Article 1.2

1. The provisions laid down by or pursuant to this Act shall also cover and apply to installations at sea within the meaning of the North Sea Installations Act.

2. The provisions of paragraph 1 shall not apply to the use of electromagnetic waves for the purpose of the exploration or mining of minerals as referred to in the Continental Shelf Mining Act.

CHAPTER 2. REGISTRATION

Article 2.1

1. Registration by the Board shall be required for the installation or provision of a public telecommunications network, leased lines or a broadcasting network, or for the provision of a public telecommunications service or a conditional access system. The Board is authorized to determine what information must be submitted with the application for registration, which will in any case include information of importance to the security of the State, the maintenance of the legal order under criminal law and the preparation for exceptional circumstances, which the Board must make available to Our Minister.

2. No registration will be required for installations or services:

- a. for which a licence is required by or pursuant to this Act;
- b. that belong to a category of services or installations designated by a governmental decree as being small in size or importance.

Article 2.2

1. The Board shall refuse registration if the registration applied for does not relate to a public telecommunications network, leased lines, a broadcasting network, a public telecommunications service or a provisional access system.

2. The Board may refuse registration if the required information has not been provided or is incomplete or incorrect.

3. A registration shall be altered or terminated:

- a. at the request of the registered party;
- b. if it appears that the information is incorrect or no longer correct;
- c. if the grounds of the registration have ceased to exist;
- d. due to the performance of activities or services in contravention of the provisions given by or pursuant to this Act, or
- e. upon the instruction of Our Minister in the interest of the security of the State.

4. The Board shall keep a register of the registrations. The register will be open to inspection by everyone free of charge at a place to be determined by the Board.

Article 2.3

The registered party shall notify the Board immediately of any changes that affect the registration.

CHAPTER 3 FREQUENCY POLICY AND FREQUENCY MANAGEMENT

§ 3.1 *Frequency plan and frequency register*

Article 3.1

1. In accordance with the opinion of the Council of Ministers, Our Minister shall establish a frequency plan which in any case will contain the distribution of sets of frequencies among designated uses yet to be distinguished as well as among categories of use. More detailed rules may be laid down by governmental decree with respect to the organization of the frequency plan.

2. The procedure regulated in Section 3.4 of the General Administrative Law Act (*Algemene wet bestuursrecht*) shall apply to the preparation of the frequency plan.

3. Our Minister will announce the establishment of the plan by publication in the Netherlands Official Gazette (*Staatscourant*). The notice will also indicate how knowledge may be obtained of the contents of the plan.

Article 3.2

1. Our Minister shall keep a frequency register containing a survey of sets of frequencies for which licences have been granted pursuant to this Chapter, as well as of the duration of the validity of these licences.

2. The register will be open to inspection by everyone free of charge at a place to be determined by Our Minister.

§ 3.2 *Granting of licences for the use of sets of frequencies*

Article 3.3

1. For the use of sets of frequencies, a licence from Our Minister shall be required, which may be granted upon application.

2. Licences for the use of sets of frequencies for the performance of essential government tasks, for carrying out tasks in the area of public broadcasting within the meaning of Article 1, under t., of the Media Act, or for the implementation of a statutory rule shall be granted with priority.

3. In granting licences for the use of sets of frequencies in the area of public broadcasting, the following will be taken into consideration:

a. for each programme network within the meaning of Article 40 and 40f of the Media Act, at least one licence shall be granted in such a way that nationwide reception of the programme is possible and account is taken of Article 16 of the Media Act;

b. for each province at least one licence for the use of a set of frequencies shall be granted for the broadcasting of the radio programme referred to in Article 1, under j., of the Media Act, of the institution which has obtained broadcasting time for the province's regional broadcasting station, in such a way that reception is possible throughout the province;

c. if two or more broadcasting institutions in a province have been granted broadcasting time pursuant to the Media Act, without prejudice to Article 3.6, each of the broadcasting institutions shall be granted a licence for the use of a set of frequencies for a range which is at least equal to the various areas of coverage, in so far as this is technically possible;

d. for the purpose of broadcasting its radio programme, every institution which has obtained local broadcasting time under the Media Act shall, without prejudice to Article 3.6, be granted a licence for the use of a set of frequencies which is at least equal in range to the programme's area of coverage, in so far as this is technically possible and does not hinder the efficient use of the frequency spectrum.

4. The granting of licences in cases other than those referred to in the second paragraph shall take place:

- a. in the order of receipt of the applications;
- b. by means of a competitive test, or
- c. by means of an auction.

5. In the granting of licences for the use of sets of frequencies by or for the benefit of commercial broadcasting institutions within the meaning of Article 1, under dd., of the Media Act, the choice for application of one of the procedures referred to in paragraph 4 shall be made by Our Minister in agreement with Our Minister of Education, Culture and Science.

6. In the granting of licences for the use of sets of frequencies by or for the benefit of commercial broadcasting institutions, the procedure referred to in paragraph 4, under b., shall be implemented by Our Minister of Education, Culture and Science in agreement with Our Minister.

7. By or pursuant to a governmental decree, with due observance of Directive no. 97/13/EEC of the European Parliament and the Council of the European Union of 10 April 1997 on a common framework for general authorization and individual licences for telecommunications services, rules shall be laid down with respect to granting, altering and extending licences. These rules will in any case concern:

- a. the requirements which, prior to one of the procedures referred to in paragraph 4, must be met by an applicant in order to be eligible for a licence,
- b. the application and implementation of the procedure, referred to in paragraph 4 and
- c. the criteria that will apply to a competitive test as referred to in paragraph 4, under b.

8. The licence shall be granted for a period of time to be stipulated in the licence. The licence may be extended by a period of time to be determined by Our Minister.

Article 3.4

1. Notwithstanding Article 3.3, no licence shall be required for sets of frequencies designated in the frequency plan that:

- a. may be used by anyone, whether or not together with categories of radio transmission equipment to be designated by ministerial regulation for a use stipulated by the frequency plan;
- b. are used by government bodies to be designated by Our Minister which are charged with the security of the State, defence and maintenance of the legal order by criminal law.

2. By or pursuant to a governmental decree, rules shall be laid down pertaining to the designation referred to in paragraph 1, under a., as well as to the use of the sets of frequencies in question.

Article 3.5

1. In the interests of a proper distribution of sets of frequencies, as well as in the interests of an orderly and efficient use of the sets of frequencies, a licence may be granted under restrictions. In those interests, regulations may be attached to a licence. In the event that the sets of frequencies must be used to provide public telecommunications networks or public telecommunications services, Our Minister will afford the Board the opportunity to give advice with respect to the scope of the licence as well as the restrictions under which the licence is granted and the regulations attached to the licence.

2. Without prejudice to the first paragraph, when a licence is granted it may be prescribed thereby that the set of frequencies to which the licence applies must be used to provide the services designated in the licence to the public. In that case, the restrictions and regulations referred to in the first paragraph may also serve the interests of the proper provision of service.

3. By or pursuant to a governmental decree, rules may be laid down in respect of the restrictions under which a licence may be granted and the regulations that may be attached to a licence by virtue of the first paragraph.

4. In the event that sets of frequencies must be used for the provision of services to the public as referred to in the second paragraph, by or pursuant to a governmental decree, rules may be laid down for the providers of those services in the interest of a proper provision of services.

Article 3.6

1. Our Minister shall deny a licence if:

- a. the granting thereof is in violation of the frequency plan;
- b. this is required for an efficient use of the radio-frequency spectrum;
- c. a licence has already been granted for use of the set of frequencies requested in the application, unless shared use of sets of frequencies is possible;
- d. it has been requested for the broadcasting of programmes for which no broadcasting time has been obtained under the Media Act, or, in so far as permission is required pursuant to the Media Act, such permission has not been granted;
- e. in the opinion of Our Minister, facts or circumstances indicate that the security of the State or public order could be jeopardized by granting the licence, or
- f. its granting would be in violation of the rules laid down by or pursuant to this Act, or by or pursuant to Article 82e or 82f of the Media Act.

2. Our Minister may deny a licence if:

- a. a licence granted earlier has been revoked due to violation of rules laid down by or pursuant to this Act or of the regulations attached to the licence;
- b. the applicant has not fulfilled the obligations resting upon it, arising from a previously granted licence;
- c. the application or the applicant does not comply with the rules laid down by or pursuant to this Act, or
- d. granting of the licence to the applicant would significantly restrict real competition on the relevant market, on the understanding that reasonable consideration will be given to legitimate interests with respect to the use of new technology, or

e. there is a justified fear that by granting a licence, unacceptable interference would be caused by the desired signal of radio transmission equipment in other radio transmission equipment, receiver systems or electric or electronic systems.

Article 3.7

1. Our Minister shall revoke a licence if:
 - a. the holder of the licence so requests;
 - b. this is required for compliance with a binding decision of an institution of the European Union, or for compliance with conventions and decisions of international organizations which are binding on the Netherlands.
2. Furthermore, Our Minister may only revoke a licence if:
 - a. the holder of the licence no longer fulfils the requirements set for it with respect to its eligibility for a licence;
 - b. the holder of the licence does not comply with rules laid down by or pursuant to this Act, or by or pursuant to Article 82e or 82f of the Media Act, or with regulations attached to the licence;
 - c. this is required for the efficient use of the radio-frequency spectrum;
 - d. there is a justifiable fear that keeping the licence in effect would seriously jeopardize the security of the State or the public order;
 - e. the grounds on which the licence was granted have ceased to exist, or
 - f. maintaining the licence would significantly restrict real competition on the relevant market.
3. On the grounds referred to in paragraph 2, Our Minister may alter a licence instead of revoking it.

Article 3.8

1. A licence may be transferred to another upon application by the holder of that licence with the permission of Our Minister.
2. Permission may be granted under restrictions. Regulations may be attached to such permission. These restrictions and regulations may be altered.
3. Article 3.6 shall apply *mutatis mutandis* to the granting of permission.

§ 3.3 Special use of sets of frequencies

Article 3.9

1. In those instances in which cooperation between holders of licences for sets of frequencies is necessary in order to be able to make use of the sets of frequencies assigned to them, within a period of not more than six weeks after the licence has been granted, the licensees in question shall conclude an agreement concerning the conditions for joint use of that part of the sets of frequencies.
2. If the licensees cannot reach agreement on the conditions under which the sets of frequencies will be used, upon application by one or more of the licensees, Our Minister may lay down the rules that shall apply between them.

3. Within two weeks of the date of the application, each licensee shall make the information available to Our Minister which the latter needs in order to prepare the decision.
4. Our Minister shall decide within twelve weeks from the date of the application.
5. Upon application by the joint licensees, Our Minister may revoke a decision as referred to in paragraph 2.

Article 3.10

1. Our Minister may, in agreement with Our Minister of Justice, grant permission for a use of the sets of frequencies that deviates from what is provided by or pursuant to this Chapter if this is necessary to put an end to criminal behaviour towards a person.

2. Our Minister may, in agreement with Our Minister of the Interior, grant permission for a use of the sets of frequencies which deviates from what is provided by or pursuant to this Chapter if this is necessary in the interest of the security of the State.

3. In agreement with Our Minister of Justice or Our Minister of the Interior, by ministerial regulation an exemption may be granted from the requirement of permission within the meaning of the first or second paragraph, under the rules to be laid down in that ministerial regulation.

4. Contrary to paragraph 1, a use of sets of frequencies that deviates from the provisions laid down by or pursuant to this Chapter will also be possible if this is necessary for the exercise of authority under criminal law to investigate telecommunications, providing:

- a. such use takes place with the aid of equipment that satisfies the requirements to be set by governmental decree and by officials to be appointed by governmental decree;
- b. an order for this purpose has been given by an authority with the competence to investigate telecommunications, and
- c. this takes place for the purpose of obtaining information within the meaning of Article 13.4, paragraph 1, or Article 13.4, paragraph 2, and unabridged application of Article 13.4 does not adequately serve the interest of the criminal prosecution.

§ 3.4 Parts of aerial installation points

Article 3.11

1. The holders of a licence for the use of sets of frequencies which are intended for the provision of public telecommunications networks, public telecommunications services or broadcasting transmission networks shall be reciprocally obliged to fulfil reasonable requests to share the use of aerial installation points. The technical possibilities are, in any event, to be given due consideration.

2. Should the permission of a third party be required for the granting of shared use, that party shall only be obliged to grant it if the request is reasonable and that party:

- a. has a relevant economic interest, directly or indirectly, in the holder referred to in paragraph 1 to which the request is addressed;
- b. is part of a group of companies within the meaning of Article 24b of Book 2 of the Netherlands Civil Code to which group another company within the meaning of this article belongs that has a relevant economic interest, directly or indirectly, in the holder of a licence.

3. The holder referred to in paragraph 1 and the third party that is obliged to grant permission under paragraph 2 shall make the shared use available at a reasonable price.

4. If the holders referred to in paragraph 1 or the third party who is obliged to grant permission under paragraph 2 cannot reach any mutual agreement on the shared use, upon application by one of the parties the Board may lay down the rules which shall apply between them.

CHAPTER 4. NUMBER POLICY AND NUMBER MANAGEMENT

Article 4.1

1. Our Minister, after consultation with the Board, shall establish a number plan indicating in any case the designated use of the numbers included therein.

2. Section 3.4 of the General Administrative Law Act shall apply to the preparation of a number plan.

3. Establishment of the plan shall be announced by publication in the Official Gazette. The announcement will also indicate how knowledge may be obtained of the contents of the plan.

4. For a designated use appearing in a number plan, it is prohibited to use numbers that are different from the numbers specified in the plan for that use.

Article 4.2

1. Numbers that are included in a number plan or in a designation established pursuant to paragraph 5 may be assigned by the Board upon application to:

- a. a provider of a public telecommunications network for the provision of public telecommunications services by way of its telecommunications network,
- b. a provider of a public telecommunications service, or
- c. a natural person or legal person who uses a public telecommunications service.

2. A decision on an application for the assignment of numbers shall be taken within six weeks.

3. In the interest of an efficient assignment of numbers, it may be provided by ministerial regulation that numbers for a designated use or category of cases determined by that regulation may only be assigned to either one or two of the categories of applicants referred to in paragraph 1, under a. up to and including c.

4. In the interest of an efficient assignment, an assignment of numbers may be granted with restrictions. In the aforementioned interest, regulations may be attached to such an assignment.

5. During the preparation of a number plan, in accordance with the uses to be designated by Our Minister and their corresponding numbers, the Board may assign numbers during a period to be determined by that decision. The prohibition under Article 4.1, paragraph 4, shall apply *mutatis mutandis* to the numbers designated by our Minister.

6. In the event that several applicants for the assignment of numbers for the same designated use have been submitted to the Board, and an equal preference is expressed for the assignment of a certain number or certain numbers, the board may decide to handle the

applications further by way of an auction, or to decide on them by drawing lots. In the event of an auction, the proceeds will go to the State.

7. By or pursuant to a governmental decree, rules shall be laid down for the procedures referred to in paragraph 6. Hereby, with due observance of Directive no. 97/13/EC of the European Parliament and the Council of the European Union of 10 April 1997 on a common framework for general authorization and individual licences for telecommunications services, the period of six weeks referred to in the second paragraph may be deviated from in respect of the auction procedure.

8. It is prohibited to use numbers designated by Our Minister pursuant to paragraph 5 or numbers appearing in a number plan for the use designated or included in a number plan without or contrary to an assignment.

Article 4.3

1. An assignment shall be denied if:

a. the applicant does not belong to one of the categories referred to in Article 4.2, paragraph 1;

b. the assignment is in conflict with the relevant number plan or the designation established under Article 4.2, paragraph 5;

c. it can reasonably be expected that the applicant will not or cannot comply with what is provided by or pursuant to this Act with respect to numbers;

d. the applicant is applying for a number, belonging to the categories of numbers referred to in Article 4.11, paragraph 1, and is not prepared to state that he will abide by the code of conduct within the meaning of that article;

e. the assignment would be in conflict with the rules laid down by or pursuant to this Act.

2. An assignment may be denied wholly or partially if:

a. on the basis of the application, it cannot reasonably be expected that the intended use will be realized within a year, or within a shorter period to be determined by ministerial regulation for number categories designated by that regulation;

b. the intended use described in the application does not justify assignment of the requested amount of numbers;

c. a prior assignment has been revoked on the grounds of Article 4.7, paragraph 3 or 4.

d. it is obvious from the application that it was made with the intention of trading in the numbers requested in that application.

Article 4.4

1. Upon request, the Board may reserve numbers for an applicant for a period not to exceed three years. For the duration of the reservation, the reserved numbers shall only be available for assignment to the relevant holder of that reservation

2. The possibility of reservation referred to in paragraph 1 shall not exist for the numbers assigned by ministerial regulation by virtue of Article 4.3, paragraph 2 under a.

3. Articles 4.2 and 4.3, paragraphs 1 and 2, under b. and c., shall apply *mutatis mutandis* to a reservation.

4. A reservation may also be denied wholly or partially if, on the basis of the application it cannot reasonably be expected that the intended use will be realized within three years, or if

reservation is requested for a shorter period than three years, within the period requested by the applicant.

5. It is prohibited to act in contravention of the regulations attached to a reservation.

Article 4.5

1. An assignment or reservation may be altered or revoked upon application by the holder of a number or a reservation.

2. The alteration or revocation of a reservation containing an application for either assignment of part of the numbers reserved for the applicant or assignment of all the numbers reserved for the applicant shall only be denied if:

- a. the reservation does not concern the intended use, or
- b. in the opinion of the Board it is unlikely that the development of the activity on which the reservation is based necessitates the requested assignment.

3. With respect to other applications for alteration, Article 4.3 shall apply or, if an application for alteration of a reservation is concerned, Article 4.4 shall apply.

Article 4.6

For a joint application by the relevant holder of a number or reservation and a third party, the Board may allow the assignment or reservation to be transferred to that third party. Article 4.2, paragraph 4, and Article 4.3 shall apply *mutatis mutandis*.

Article 4.7

1. An assignment or reservation shall be altered or revoked by the Board if:
 - a. an alteration of the number plan makes this necessary, in so far as the holder of a number or the holder of a reservation maintains its claim to assignment or reservation of the same amount of numbers;
 - b. the grounds upon which the assignment or reservation was based have ceased to exist;
 - c. this is required for the efficient use of numbers in the general social and economic interest.

2. An assignment or reservation shall also be altered by the Board if this is necessary in order to remove simple misstatements of fact.

3. An assignment or reservation may also be withdrawn by the Board on the instructions of Our Minister in the interest of the security of the State.

4. An assignment or reservation may be revoked by the Board if:
 - a. the holder of the number or the holder of the reservation does not comply with the rules laid down by or pursuant to this Act or with the regulations attached to the decision in question;

b. after the assignment or reservation, it becomes obvious that it was made in order to trade in the numbers assigned or reserved.

5. An assignment or reservation may also be altered or revoked if the recognized institution within the meaning of Article 4.11, paragraph 1 requests revocation because it finds that the holder of a number belonging to the category of numbers referred to in that article has acted in contravention of the code of conduct referred to therein.

Article 4.8

1. The Board shall keep a number register containing a survey of assignments and reservations. The register will contain entries of the names of those to whom numbers have been assigned. The duration of the reservations will also be entered.

2. Subject to paragraph 3, the register will be open to inspection by everyone free of charge at a place to be determined by the Board.

3. At the request of the holder of a number, if the latter is a natural person and the number is not used exclusively for business purposes, his name, address and place of residence will not be included in the part of the register which is open to inspection.

Article 4.9

1. If the holder of a number allows the numbers assigned to it to be used by another, it shall do this in a non-discriminatory and transparent manner, using objective criteria.

2. The holder of a number shall ensure that the numbers assigned to it are used in accordance with the provisions laid down by or pursuant to this Chapter.

Article 4.10

1. It may be determined by governmental decree that a provider of a category of public telecommunications services to be designated by that decree shall be obliged with respect to anyone purchasing such a telecommunications service on the basis of a contract concluded with it:

a. to offer the possibility to continue using the number used by him in the framework of the purchased telecommunications service if upon termination of the contract he chooses to purchase the relevant telecommunications service from another provider;

b. to offer the possibility to continue using the number used by him in the framework of the purchased telecommunications service if he changes his address within a certain area, or

c. to offer the possibility to continue using the number used by him in the framework of the purchased telecommunications service if he chooses to purchase a different telecommunications service to be designated by that decree.

2. Without prejudice to Article 6.9, a provider of telecommunications services designated by virtue of paragraph 1 which is subject to an obligation within the meaning of that paragraph, under a., shall also be obliged to offer the party with which it has concluded a contract to provide the relevant telecommunications service the possibility to continue using the number previously used by that party in the framework of that service.

3. In the event of an obligation imposed by virtue of paragraph 1:

a. if the number has been assigned to a provider of a public telecommunications network, and the public telecommunications network of another provider will be used henceforth for the public telecommunications service in question, that number will be transferred to the other provider of that network;

b. if the number has been assigned to the provider of the public telecommunications service in question, the assignment of that number will be transferred to the party from which that telecommunications service will henceforth be purchased.

4. The Board may designate categories of numbers for which it applies that, if a number in such a category is no longer used after a transfer by virtue of paragraph 3, the assignment of the number will revert to the provider to which the number was assigned on the basis of an application.

5. A provider to which a number belonging to a category designated by the Board by virtue of paragraph 4 has not been assigned on the basis of an application shall notify the Board if it is no longer using the number. After receipt of the notification referred to in the preceding sentence, the Board will communicate this to the provider to which the number reverts by virtue of paragraph 4.

6. The providers referred to in paragraph 3 must inform the Board within a term and in a manner to be determined by the Board of the assignment of numbers that have been transferred to other providers on the basis of paragraph 3 within a period to be determined by the Board, as well as of the assignment of numbers that have been transferred by other providers to them on the basis of paragraph 3. The Board will publish the term, manner and period referred to in the first sentence in the Official Gazette.

7. A provider of a public telecommunications network over which a public telecommunications service designated under paragraph 1 is provided shall ensure, in so far as such an obligation does not already ensue from Article 6.1 or Article 6.9, that its network is equipped in such a manner that a provider of that service will be able to comply with any obligation imposed under paragraph 1.

8. By or pursuant to a governmental decree, rules may be laid down in respect of passing on the costs of an obligation imposed under paragraph 1.

9. More detailed rules in respect of an obligation imposed under paragraph 1 may be provided by ministerial regulation.

Article 4.11

1. Our Minister may recognize an institution having a code of conduct with respect to the recognizability and reliability of categories of numbers to be designated by Our Minister and with the use of the services offered by way of those numbers. Recognition may be granted with restrictions. Regulations may be attached to recognition. Such recognition will be announced by publication in the Official Gazette.

2. Our Minister shall only recognize an institution that fulfils requirements to be set by or pursuant to a governmental decree which in any case will concern the independence of the institution, the objectivity of its code of conduct and the proportionality of the sanctions to be applied by the institution.

3. By or pursuant to a governmental decree, it may be determined which of the categories of natural and legal persons to be designated by that decree will be obliged to join the institution.

4. Recognition shall be revoked by Our Minister if the rules referred to in paragraphs 1 and 2 are no longer complied with. A decision to revoke recognition will be published in the Official Gazette.

CHAPTER 5 THE OBLIGATION TO TOLERATE THE INSTALLATION, MAINTENANCE AND CLEARANCE OF CABLES

Article 5.1

1. Subject to Article 5.2 and without prejudice to the right to compensation regulated in this Chapter, any party shall be obliged to tolerate the installation and maintenance, as well as the clearance, of cables for a public telecommunications network or for a broadcasting network in and on public land.

2. Where regional and international cables are concerned, the obligation referred to in paragraph 1 shall extend, subject to Article 5.3 and without prejudice to the right to compensation regulated in this Chapter, to all other land, with the exception of closed gardens and grounds forming part of occupied residential premises.

3. The installation, maintenance and clearance of cables shall not cause any alteration to the intended use and shall interfere as little as possible with the use of the land.

Article 5.2

1. The municipality shall be charged with the coordination of the work to be performed within its territory by providers of public telecommunications networks or of broadcasting networks in connection with the installation and maintenance of cables, as referred to in Article 5.1, paragraph 1.

2. This coordination shall also extend to other work and other interests than those which are provided for in this Act. The coordination may not result in such a delay of the intended work that the obligation to tolerate within the meaning of Article 5.1, paragraph 1 cannot reasonably apply.

3. A provider of a public telecommunications network or of a broadcasting network shall only begin to perform work as referred to in paragraph 1 if:

a. it has notified the municipal executive of the municipality concerned of its intention to do so, and

b. it has received permission from the municipal executive with regard to the time, place and method of carrying out the work.

4. The municipal council shall in any case enact bye-laws containing rules with respect to:

a. the final date for giving notification prior to starting the work;
b. the information which must be provided with the notification, including the work plan;
c. the method of installation, maintenance, relocation and clearance and the shared use of facilities.

5. In its decision to grant permission, deviating, if necessary, from the notification, the municipal executive may determine the date on which the work must be started or completed and the manner in which the work is to be carried out.

Article 5.3

1. If the provider of a public telecommunications network or of a broadcasting network has the intention of carrying out work in connection with the installation and maintenance of cables, as referred to in Article 5.1, paragraph 2, it shall try to reach agreement with the party subject to the obligation to tolerate with respect to the time, place and method of carrying out the work.

2. In the absence of agreement, the provider of the network shall immediately give the party under the obligation to tolerate as referred to in Article 5.1, paragraph 2, written notification in which the intended place and the method of carrying out the work is described. If the party under the obligation to tolerate has reservations about the notification, after receipt thereof it may request the Board to render a decision.

3. The Board shall render the decision within eight weeks after the request is received.

4. The request shall suspend performance of the intended work.

Article 5.4

For owners and administrators of public land, the right to compensation in connection with the obligation to tolerate referred to in Article 5.1 shall be restricted to compensation of the costs of the facilities and of the additional maintenance costs incurred.

Article 5.5

1. Without prejudice to Article 5.1 and the right to compensation regulated in this Chapter, for the benefit of a public telecommunications network or a broadcasting network any party shall be obliged to tolerate that:

a. cables are installed and maintained over land, buildings and waters, provided that this is done without attachment or contact;

b. cables and network termination points are installed and maintained in and on buildings, as well as in and on land which forms an integral part thereof, for the purpose of connections in those buildings and in neighbouring buildings;

c. the cables and network termination points referred to under a. and b. are cleared.

2. The installation, maintenance and clearance of cables shall not cause any alteration in the intended use of anything in, at, on or over which the cables have been or will be installed and shall interfere as little as possible with the use thereof.

3. The provisions given by or pursuant to Articles 5.2 and 5.3 shall not apply to the installation of cables by virtue of this Article.

Article 5.6

1. The installation of cables and network termination points by the provider of a public telecommunications network or of a broadcasting network in and on land, as well as in and on buildings of others shall not cause any change in the ownership of anything that has been installed.

2. This Article shall also apply to cables and network termination points installed before this Article enters into force.

Article 5.7

1. The provider of a public telecommunications network or of a broadcasting network shall be obliged to relocate cables for the network at its own expense if such relocation is necessary for the construction of buildings or the carrying out of works by or on behalf of a party under an obligation to tolerate.

2. In cases other than those referred to in paragraph 1, the provider referred to in paragraph 1 shall only proceed with the relocation referred to therein if the party requesting this compensates it for the costs.

3. In the absence of agreement on the costs referred to in paragraphs 1 or 2, Article 5.3, paragraphs 2 and 3, shall apply *mutatis mutandis*.

Article 5.8

1. Subject to the right to compensation, those with rights in respect of trees or plants are obliged to trim them, or shorten their roots or branches, within two weeks of a written request from the provider of a public telecommunications network or public telecommunications service or from a broadcasting network, to the extent that they reasonably form or will form an obstacle to the installation, maintenance and operation of the networks referred to in this paragraph.

2. The Board shall be authorized to apply administrative coercion to enforce the obligation referred to in paragraph 1.

3. In the event of serious hindrance or disturbance of telecommunications, a provider within the meaning of this article may proceed forthwith to trim or shorten roots or branches, following which it will give written notification to those with rights in this respect as soon as possible.

Article 5.9

1. Irrespective of what is claimed, the claim for compensation referred to in Articles 5.1, 5.5 and 5.8 shall be brought before the subdistrict court in whose jurisdiction the real property which has been damaged is located.

2. If the real property is located in more than one subdistrict, the claim will be brought before one of the subdistrict courts, at the discretion of the plaintiff.

3. The decision of the subdistrict court shall be open to appeal.

4. The provisions of the law of civil procedure shall apply to all disputes referred to in paragraph 1, unless the preceding paragraphs of this article provide otherwise.

5. The activities referred to in Articles 5.1, 5.5 and 5.8 may be started even before agreement has been reached on the compensation or judgment has been given.

Article 5.10

1. Providers of public telecommunications networks and broadcasting networks shall be reciprocally obliged to comply with reasonable requests for the shared use of facilities with respect to the installation and maintenance of cables. In any case, the technical possibilities must be given due consideration.

2. In the event that the permission of a third party is necessary for shared use, that party will only be bound to give such permission if the request is reasonable.

3. The provider referred to in paragraph 1 and the third party which is bound to give permission under paragraph 2 shall provide the shared use at a reasonable cost.

CHAPTER 6 INTERCONNECTION AND SPECIAL ACCESS

§ 6.1 General obligations pertaining to interconnection

Article 6.1

1. Providers of public telecommunications networks and public telecommunications services in the Netherlands, who thereby control the access of end-users to network termination points, shall provide for the interconnection of the telecommunication networks concerned in order to ensure that the users connected to them can communicate with one another reciprocally.

2. At the request of those who provide public telecommunications networks and public telecommunications services outside the Netherlands, and thereby control the access of end-users to network termination points, the providers referred to in paragraph 1 shall also provide for the interconnection of their telecommunications networks with the relevant foreign telecommunications networks in order to ensure that the users connected to those networks can communicate with one another reciprocally.

3. The Board may grant an exemption from the obligation to provide interconnection under paragraphs 1 and 2 if other technically and commercially feasible possibilities exist for the interconnection concerned, or if such interconnection cannot reasonably be expected in the light of the means available.

4. Subject to the provisions of paragraph 3, and subject to any obligations under treaties or decisions of international organizations which are binding on the Netherlands, Our Minister may grant an exemption from the obligation under paragraph 2 to provide interconnection if compliance therewith would result in a disturbance of competition.

5. The provisions of the paragraphs 1, 2, 3 and 4 shall apply *mutatis mutandis* to providers of leased lines.

6. Subject to paragraphs 3 and 4, in order to implement paragraphs 1, 2 and 5, every provider as referred to therein must negotiate with other providers as referred to therein, for the purpose of concluding agreements on the basis of which the interconnection will be effected. In the event that the obligation referred to in the preceding sentence serves to implement paragraph 1, if no agreement has been concluded the Board may stipulate a period for the providers within which it must be concluded. After the expiry of this period, the providers concerned will be in default, unless one or more of them have invoked Article 6.

7. By or pursuant to a governmental decree, more detailed rules may be laid down in respect of the interconnection to be effected. These rules may differ with regard to the categories of public telecommunications networks or public telecommunications services to be distinguished by these rules.

Article 6.2

1. Copies of the agreements within the meaning of Article 6.1, paragraph 6, and any alterations thereto must be filed with the Board as soon as possible, but no later than within a week after the agreements concerned have been concluded or the alterations in question have been agreed.

2. If the Board finds that an agreement is in conflict with the provisions laid down by or pursuant to this Act, it will notify the parties to the agreement of this, specifying the parts that it considers to be in need of alteration. As long as this request for alteration has not been complied with, the providers concerned will not have complied with the provisions of Article 6.1.

3. The Board may make the agreements filed with it available to interested third parties upon request, with the exception of company data which the Board deems to be confidential.

Article 6.3

1. If the providers are unable to conclude an agreement as referred to in Article 6.1, paragraph 6, at the request of one or more of them the Board may lay down the rules which will be applicable between them. A decision of the Board shall not affect the possibility of a foreign provider within the meaning of 6.1, paragraph 2, to decide against interconnection.

2. Disputes between the providers involved in interconnection within the meaning of Article 6.1 over whether or not the obligations existing between them with respect to interconnection, or the manner in which they are performed, are in conflict with the provisions laid down by or pursuant to this Act, shall be settled by the Board at the request of one or more of the providers involved. If the Board is of the opinion that there is a conflict with the provisions laid down by or pursuant to this Act, it may lay down rules to put an end to this situation which will apply between the providers. In cases that arise, these rules will take the place of the obligations existing up to then.

3. With regard to a request as referred to in paragraphs 1 and 2, the Board:

- a. will render a decision on the request within six months of the request;
- b. will render a provisional decision in urgent cases which will apply between the providers concerned until the final decision.

4. The Board will not render any decision on a request as referred to in paragraph 1, if in accordance with Article 6, paragraph 1, the providers concerned have filed the copy of an agreement concluded between them with the Board which satisfies the provisions given by or pursuant to this Act before the decision is due to be rendered, or if a foreign provider is concerned, the latter makes it known before the decision is due to be rendered that it has decided against interconnection.

§ 6.2 Provisions relating to providers with significant market power

Article 6.4

1. Providers of fixed public telephone networks and fixed public telephone services, the providers of mobile public telephone networks and mobile public telephone services, and the providers of leased lines having significant power in the area of the Netherlands within which they are active on the market for fixed public telephone networks or fixed public telephone

service, or on the market for mobile public telephone networks or mobile public service, or on the market for leased lines, shall be designated as such by the Board.

2. The Board shall also designate providers of mobile public telephone networks and mobile public telephone services which have significant power on the national market for both fixed and mobile public telephone service.

3. The Board shall designate as providers with significant market power within the meaning of paragraphs 1 and 2 providers having a share of more than twenty-five percent on the relevant market.

4. Contrary to the provisions of paragraph 3, the Board may designate providers having a share of less than twenty-five percent on the different markets as providers with significant market power, or not designate providers having a share of more than twenty-five percent on the particular market as providers with significant power on the relevant market. In doing so, in both cases the Board will assess the capacity of the provider in question to influence market conditions, its turnover relative to the size of the market, its control of the means of access to the end-users, its access to financial resources, and its experience with supplying products and services on the market.

Article 6.5

Providers designated by the Board pursuant to Article 6.4, paragraph 1:

a. shall offer interconnection to other providers who request interconnection pursuant to Article 6.1 under the same conditions under the same circumstances;

b. shall supply interconnection to other providers who request interconnection pursuant to Article 6.1 under the same conditions as those which apply to themselves or their subsidiaries in the same circumstances;

c. shall supply providers as referred to in Article 6.1 upon request with all necessary information as well as with the intended alterations that will be introduced in the next six months;

d. shall use the information supplied to them exclusively for the purpose for which it was supplied.

Article 6.6

1. Providers of fixed public telephone networks, fixed public telephone services and of leased lines, designated by the Board pursuant to Article 6.4, paragraph 1, as well as providers of mobile public telephone networks and mobile public telephone services designated pursuant to Article 6.4, paragraph 2, shall ensure that the tariffs for interconnection are determined in a transparent manner and are cost-based.

2. Providers of fixed public telephone networks, fixed public telephone services and of leased lines, designated by the Board pursuant to Article 6.4, paragraph 1, shall also ensure that the tariffs for interconnection are sufficiently unbundled.

3. In order to implement paragraph 1, the various providers shall set up a cost allocation system for interconnection. The system must be approved by the Board.

4. The Board, or a competent third party designated by the Board, will examine annually whether the system referred to in the third paragraph has been adhered to properly. The results of the examination will be published in the Official Gazette.

5. More detailed rules may be laid down by ministerial regulation in respect of the obligations referred to in paragraphs 1 and 2. These rules may also assign further tasks and grant further powers to the Board.

Article 6.7

1. Providers of fixed public telephone networks, fixed public telephone services and leased lines designated by the Board pursuant to Article 6.4, paragraph 1, shall publish a reference interconnection offer.

2. A reference interconnection offer will contain a description of what is offered in the area of interconnection, itemized by components, tariffs and other terms and conditions which are part of it.

3. If the Board should find that a reference interconnection offer is in conflict with the provisions given by or pursuant to this Act, the Board will make this known to the provider in question, stating the parts which in its opinion need to be altered.

Article 6.8

1. Providers of fixed public telephone networks, fixed public telephone services and leased lines, designated by the Board pursuant to Article 6.4, paragraph 1, who supply interconnection to other providers shall keep separate accounts for their activities relating to interconnection and for the rest of their activities.

2. A ministerial regulation may provide that the first paragraph does not apply to providers whose annual turnover from telecommunications activities in the European Union does not exceed an amount to be determined by that regulation.

§ 6.3 Special access

Article 6.9

1. Providers designated by the Board pursuant to Article 6.4, paragraph 1, shall comply with all reasonable requests for special access.

2. Articles 6.2, 6.3 and 6.5 shall apply *mutatis mutandis*, on the understanding that the requirement of non-discrimination laid down in Article 6.5 under a. and b., subject to the provisions of paragraph 3, will also apply to the special access provided for the purpose of effecting interconnection within the meaning of Article 6.1.

3. Subject to paragraphs 1 and 2, Article 6.6 shall apply *mutatis mutandis* to the providers of fixed public telephone networks or fixed public telephone services designated under Article 6.4, paragraph 1, with respect to requests for special access made by the providers of fixed public telecommunications services in or outside the Netherlands.

4. Subject to any obligations arising from treaties or decisions of international organizations which are binding on the Netherlands, Our Minister may grant an exemption from the obligations laid down in the first, second and third paragraphs if the special access concerns the provision of public telecommunications services to and from another country and compliance with the obligation would result in a disturbance of competition.

5. By or pursuant to a governmental decree, more detailed rules may be given with respect to effecting special access. These rules may be distinguished according to the different forms of special access.

CHAPTER 7 OPEN NETWORK PROVISION, LEASED LINES AND TELEPHONE SERVICE

§ 7.1 General provisions

Article 7.1

1. By or pursuant to a governmental decree, rules shall be laid down for the implementation of Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of Open Network Provision (ONP) (OJ 1990 L 192) and the directives related to it. These rules may differ according to the public telecommunications networks, public telecommunications services and leased lines to be determined by those rules.

2. By the rules referred to in the first paragraph, tasks may be assigned and powers granted to the Board.

Article 7.2

1. The Board shall designate the providers of leased lines to which the rules referred to in Article 7.1, paragraph 1, for implementation of Council Directive no. 92/44/EEC of 5 June 1992 on the application of Open Network Provision (ONP) to leased lines (OJ 1992 L 165) are applicable.

2. The Board shall designate a provider of leased lines within the meaning of the first paragraph, to the extent that this provider has significant power on the relevant market.

3. If there are no providers within the meaning of the first paragraph, the Board shall in any case designate a provider of leased lines.

§ 7.2 Obligations with respect to leased lines

Article 7.3

1. Rules within the meaning of Article 7.1, paragraph 1, will only be made for providers of leased lines in so far as they have been designated pursuant to Article 7.2. The rules will in any case apply to:

- a. the supply and usage conditions;
- b. the capacity, quality and characteristics of the provision;
- c. the tariffs, on the understanding that for the leased lines of a provider of leased lines within the meaning of Article 7.2, paragraph 2, the same forms of tariff pricing shall be used nationwide;
- d. the provision of information on the supply for the benefit of users, and

e. keeping separate accounts for the activities related to the provision of leased lines and for the other activities.

2. Subject to the provisions given by or pursuant Chapter 6, with respect to the providers of leased lines designated pursuant to Article 6.4, paragraph 1, the rules referred to in Article 7.1, paragraph 1, may pertain to access to the network of those providers.

§ 7.3 Obligations with respect to telephone services

Article 7.4

1. Subject to the provisions given by or pursuant to Chapter 9, with respect to the providers of a fixed public telephone service or a fixed public telephone network the rules referred to in Article 7.1, paragraph 1, shall in any case relate to:

- a. the supply and usage conditions;
- b. the capacity, quality and characteristics of the supply;
- c. the provision of information on the supply for the benefit of users.

2. The rules referred to in Article 7.1, paragraph 1, pertaining to the providers of a fixed public telephone network or a fixed public telephone service designated under Article 6.4, paragraph 1, may also relate to:

- a. the tariffs, on the understanding that the for the fixed public telecommunication service, the same forms of tariff pricing must be used nationwide. The Board may grant an exemption from this obligation if there is a sufficient degree of competition on the relevant market;
- b. the keeping of separate accounts for the activities related to the provision of a fixed public telephone network or a fixed public telephone service and for other activities, and
- c. the supply of additional facilities.

3. Subject to the provisions given by or pursuant to Chapter 6, with respect to providers of a fixed public telephone network, a fixed public telephone service, a mobile public telephone network and a mobile public telephone service designated pursuant to Article 6.4, paragraph 1, the rules referred to in Article 7.1, paragraph 1, may also pertain to access to the fixed public telephone network or mobile public telephone network of those providers.

Article 7.5

With due observance of the provisions laid down by or pursuant to Chapter 11, the rules referred to in Article 7.1, paragraph 1 shall also concern making number categories designated by those rules available to third parties, together with corresponding information for the benefit of telephone directories and a subscriber information service.

Article 7.6

A provider of a fixed public telephone service as well as a provider of a public pay telephone and a provider of a mobile public telephone network and of a mobile public telephone service shall make the numbers of assistance services available free of charge and without any obstacles to access to all users of its service.

§ 7.4 Settlement of disputes

Article 7.7

By or pursuant to a governmental decree, rules shall be laid down with respect to those cases in which and the procedure according to which the natural person or legal person whose interests are directly affected may request a decision from the Board on a measure taken by the provider of leased lines, designated by the Board pursuant to Article 7.2, or by a provider of a fixed public telephone network or a fixed public telephone service, taken in the framework of the harmonized terms and conditions in respect of open and efficient access to and use of public telecommunication networks and public telecommunications services in accordance with Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of Open Network Provision (ONP) (OJ 1990 L 192).

Article 7.8

If in a decision given pursuant to Article 7.7, the Board determines that a measure taken by a provider within the meaning of that article is unreasonable, the Board may lay down rules that will apply between that provider and the party requesting judgment.

CHAPTER 8 BROADCASTING NETWORKS, BROADCASTING TRANSMISSION NETWORKS AND CONDITIONAL ACCESS SYSTEMS

§ 8.1 Obligations with respect to the broadcasting of programmes

Article 8.1

1. The provider of a broadcasting network shall duly observe Article 82i of the Media Act with respect to the programmes to be broadcast by means of the broadcasting network.
2. The provider of a broadcasting network shall duly observe the provisions given by or pursuant to Article 82j of the Media Act with respect to the fees it charges the subscribers of the broadcasting network.

Article 8.2

The Board may grant the provider of a broadcasting network that does not have significant market power in its area of coverage, at its request, a total or partial exemption from the obligation referred to in Article 8.1. Article 6.4, paragraphs 3 and 4, shall apply to this *mutatis mutandis*.

Article 8.3

Our Minister, in agreement with Our Minister of Education, Culture and Science, shall appoint at least one provider of a broadcast transmission network that, by means of radio

transmission equipment operated by it, will broadcast the programmes which are offered to it in accordance with the Media Act by institutions that have obtained broadcasting time within the meaning of Article 1, under ii., of the Media Act, and by Radio Netherlands International (*Stichting Radio Nederland Wereldomroep*).

§ 8.2 Other obligations

Article 8.4

The provider of a broadcasting network, if it also provides its broadcasting network as a public telecommunications network, shall keep separate accounts for these separate activities.

§ 8.3 Conditional access systems

Article 8.5

1. The provider of a conditional access system that is suitable and intended for the broadcasting of services which can be received with the aid of television systems, shall make available to the providers of those services under fair, reasonable and non-discriminatory conditions the technical facilities that enable the services concerned to be received by those who have concluded an agreement for that purpose with the provider of the conditional access system.

2. The provider of a conditional access system, if it also conducts other activities, shall keep separate accounts for these separate activities.

3. The provider of a conditional access system shall only supply a system that is provided with the necessary technical possibilities for a cheap transfer of control. These possibilities will be set up in such a way that the provider of a broadcasting network can have complete control over the services which are broadcast by means of the conditional access system.

4. By or pursuant to a governmental decree, in the interest of fair, reasonable and non-discriminatory access to conditional access systems, more detailed rules may be laid down with respect to the provision of these systems. These rules may only relate to the manner in which the provider of a conditional access system divides its transmission capacity and determines tariffs and other supply conditions.

§ 8.4 Authority to give instructions

Article 8.6

1. In implementing the rules referred to in Article 8.5, paragraph 4, the Board shall have the authority to give instructions to the provider of a conditional access system if it finds that the manner in which the provider divides transmission capacity, or determines tariffs and other supply conditions, is not in accordance with those rules.

2. The provider of a conditional access system shall be obliged to follow instructions within the meaning of paragraph 1.

Article 8.7

If the provider of a broadcasting network and the provider of a programme within the meaning of Article 1 under f. of the Media wet cannot reach agreement on the access of the programme offered to the broadcasting network concerned, at the request of the provider of the programme, the Board may give binding instructions to this effect. Article 8.6, paragraph 2, shall apply *mutatis mutandis*.

CHAPTER 9 UNIVERSAL SERVICE

Article 9.1

1. In the general interest of society, by governmental decree, public telecommunications services or related facilities shall be designated which must be available to everyone at an affordable price and a certain quality.

2. In the general interest of society, by or pursuant to a governmental decree rules shall be laid down pertaining to the level of the price referred to in paragraph 1 and to the required quality level. In the rules referred to in the first sentence on the level of the price, distinctions can be made between groups of users.

Article 9.2

1. If, in the opinion of Our Minister, the availability, affordability or the quality of one or more of the public telecommunications services or facilities designated pursuant to paragraph 1 is not or may not be guaranteed by the normal functioning of the market, Our Minister may issue a decree assigning the provision of the services or facilities concerned in an area of coverage to be determined by that decree for no longer than five years to the provider which according to the procedure laid down in this Article is designated as expecting the lowest total net costs.

2. Our Minister shall announce the plan to give an assignment to the provider which has significant power on the relevant market within the area of coverage. The plan will include the telecommunications services or facilities to be provided, the area of coverage and the time period for which the assignment will be given. Article 6.4, paragraphs 3 and 4, shall apply *mutatis mutandis*.

3. Notification of the plan will be given by publication in the Official Gazette. Reference will be made to the possibility regulated in paragraph 5 to submit an application for an assignment.

4. Within eight weeks of the date of the announcement referred to in the first sentence of paragraph 2, the provider having significant power on the relevant market within the area of coverage shall inform Our Minister if it expects to be eligible for compensation under Article 9.3 if it were to be given an assignment. If the provider mentioned in the previous sentence expects to be eligible for compensation, it will then also inform Our Minister as to what it expects the amount of the net costs referred to in Article 9.3, paragraph 1, to be per calendar year.

5. Within eight weeks of the date of the notification referred to in paragraph 3, providers other than those with significant power on the relevant market within the area of coverage may submit an application to Our Minister for an assignment.

6. The application must in any case include a statement from the applicant regarding whether it expects to be eligible for compensation under Article 9.3, if it were to be given an assignment. If the provider expects to be eligible for compensation, it will then also inform Our Minister as to what it expects the amount of the net costs referred to in Article 9.3, paragraph 1, to be per calendar year.

7. An assignment shall be denied if the applicant is not expected to be able to carry out the assignment properly.

8. After a comparison of the amount of the total net costs expected by the providers who have not been denied an assignment under paragraph 7, and the total net costs expected by providers with significant power on the relevant market within the area of coverage, the assignment will be given to the one expecting the lowest total net costs.

9. If several assignments can be given on the basis of the comparison referred to in paragraph 8, lots will be drawn to decide who will receive the assignment.

Article 9.3

1. Within six months of the end of the calendar year in which it has provided those services or facilities, the party that provides public telecommunication services or facilities on the basis of an assignment as referred to in Article 9.2, paragraph 1, may submit an application to the Board for compensation of the net costs incurred in such provision.

2. By ministerial regulation, rules shall be laid down pertaining to the calculation of the net costs referred to in the first paragraph, which calculation must be submitted along with the application for compensation.

3. Compensation shall only be granted to the extent that in the Board's opinion the existence and the amount of the net costs have been proved sufficiently by the information furnished. Compensation will not be higher than the net costs expected by the applicant pursuant to Article 9.2, paragraph 4 or 6, for the calendar year to which the application relates.

4. If compensation is granted, this will be published in the Official Gazette, stating the amount to be compensated.

5. Compensation will be paid within a week after the period referred to in Article 9.4, paragraph 5, has expired.

Article 9.4

1. If compensation is granted under Article 9.3 to a provider which provides public telecommunications services or facilities on the basis of an assignment, any provider of a public telecommunications service belonging to a category of public telecommunications services designated under Article 9.1, paragraph 1, which has a higher turnover for the service in the Netherlands than the amount stipulated by ministerial regulation in the calendar year to which the compensation to be paid relates, shall owe the Board a contribution.

2. The amount of the contribution shall be determined by the Board within six months after compensation has been granted, and communicated to the provider from which the contribution is due.

3. The contribution will be calculated by multiplying the compensation to be paid by the fraction referred to in paragraph 4.

4. The numerator of the fraction consists of the annual turnover in the Netherlands in the year to which the compensation to be paid relates of the provider in the categories of public telecommunications services designated pursuant to Article 9.1, paragraph 1, from whom the contribution is due. The denominator of the fraction consists of the sum of the annual turnover in the Netherlands in the year to which the compensation to be paid relates of the providers of the services concerned from whom contributions are due.

5. The contribution must be paid within four weeks of receipt of the decision in which the contribution has been determined.

6. At the request of a provider which has been granted compensation under Article 9.3, the contribution it has to pay will be offset against the compensation it is to receive.

CHAPTER 10. TERMINAL EQUIPMENT, RADIO TRANSMISSION EQUIPMENT AND OTHER EQUIPMENT

Title 10.1 GENERAL PROVISIONS FOR EQUIPMENT

§ 10.1.1 Requirements and certification

Article 10.1

By or pursuant to a governmental decree, rules shall be laid down pertaining to the regulations with which equipment must comply. These regulations will be distinguished into regulations concerning:

- a. electromagnetic compatibility;
- b. safety;
- c. interaction with public telecommunications networks;
- d. interaction via public telecommunications networks;
- e. the special facilities to be installed, and
- f. efficient use of the radio-frequency spectrum.

Article 10.2

By or pursuant to a governmental decree, rules shall be laid down pertaining to the certification of equipment, which may be different for each designated category of equipment. These rules may be distinguished into rules concerning:

- a. the inquiry into the conformity with the regulations referred to in Article 10.1;
- b. the issuance, availability and revocation of documents with respect to equipment, as well as the placement of markings.

Article 10.3

1. Our Minister may designate agencies which are authorized to carry out the certification referred to in Article 10.2.
2. By or pursuant to a governmental decree, rules shall be laid down pertaining to:
 - a. the criteria to be fulfilled by agencies in order to be eligible for designation;
 - b. the regulations which may be attached to such a designation.
3. Our Minister may revoke a designation if the criteria or regulations referred to in paragraph 2 are no longer fulfilled.
4. Our Minister shall send a report to the States General within five years after this Act comes into effect, and subsequently every four years, on the efficiency and effectiveness of the application of the certification referred to in Article 10.2.

Article 10.4

- By or pursuant to a governmental decree, rules may be laid down pertaining to:
- a. the means that Our Minister may use to stop or restrict equipment or categories of equipment from being put on the market and sold if the equipment concerned does not comply with the regulations referred to in Article 10;
 - b. the handling of complaints about electromagnetic interference encountered in the use of equipment, or about hindrances encountered in the use of radio transmission equipment or terminal equipment.

Article 10.5

1. It is prohibited to put equipment on the market that does not comply with the regulations pursuant to Article 10.1 or Article 10.2 pertaining to the equipment in question.
2. It is prohibited to sell equipment that does not comply with the rules referred to in Article 10.2, under b., concerning the availability of documents and the placement of marks.

Article 10.6

By or pursuant to a governmental decree, rules may be laid down pertaining to the advertising of equipment which is prohibited under Article 10.5 from being put on the market or sold.

§ 10.1.2 Exceptions

Article 10.7

1. The provisions given by or pursuant to this Chapter shall not apply to putting equipment on the market if the interested party proves that this is done in order to:
 - a. export the equipment to a country outside the European Economic Area;
 - b. make the equipment comply with the rules laid down in this Chapter with respect to that equipment;
 - c. display the equipment at shows or similar exhibitions;

- d. use the equipment for experiments.
2. More detailed rules may be laid down by a ministerial regulation on the use of equipment for activities as referred to in paragraph 1, under c. and d.
3. Furthermore, the provisions given by or pursuant to this Title with respect to electromagnetic compatibility shall not apply to transmission installations used by radio transmission amateurs in so far as such equipment is not available on the market.

TITLE 10.2 SPECIAL PROVISIONS

§ 10.2.1 Electromagnetic compatibility

Article 10.8

1. Rules may be laid down by ministerial regulation relating to the installation of equipment to prevent electromagnetic interference in the operation of a public telecommunications network or in equipment used for security purposes which by nature is intended for sending or receiving radio communication signals.
2. If the introduction or use of any equipment referred to in this Chapter causes or is expected to cause problems at a certain location in connection with electromagnetic compatibility, Our Minister may:
 - a. give the holder of the equipment instructions with respect to the introduction or use of that equipment;
 - b. attach regulations to a licence for the use of sets of frequencies pursuant to Chapter 3 with respect to the introduction or use of that equipment;
 - c. prohibit the holders of such equipment from introducing or using that equipment without first obtaining a licence from Our Minister.

Article 10.9

1. By the regulation referred to in Article 10.8, paragraph 1, categories of equipment may be excepted from the application of the provisions given by or pursuant to this Chapter with respect to electromagnetic compatibility if:
 - a. they cannot cause electromagnetic interference or their operation cannot be adversely affected by it, or
 - b. rules have already been laid down with respect to the electromagnetic compatibility of such equipment in order to implement a binding decision of a body of the European Union.

§ 10.2.2 Terminal equipment

Article 10.10

Anyone who puts terminal equipment within the meaning of Article 1.1, under x, 1° and 3°, on the market, shall indicate whether or not such terminal equipment is intended for connection to a public telecommunications network.

Article 10.11

By or pursuant to a governmental decree, rules may be laid down pertaining to the standards of professional skill which must be met for the professional or commercial installation and maintenance of terminal equipment.

Article 10.12

It is prohibited to connect or maintain the connection of terminal equipment to a public telecommunications network which does not comply with the rules laid down by virtue of Article 10.2 with respect to the placement of markings.

Article 10.13

By or pursuant to a governmental decree, rules shall be laid down pertaining to equipment which can be connected to a public telecommunications network, but is not intended for that purpose, with respect to:

- a. drawing up, keeping available or issuing documents relating to this equipment and the placement of markings;
- b. sending documents and providing more detailed information in order to prove the intended use of this equipment at the request of agencies that perform activities for the purpose of the inquiry referred to in Article 10.2, under a., or of similar agencies in other states of the European Economic Area.

Article 10.14

1. It is prohibited to put equipment within the meaning of Article 10.13 on the market, if it does not comply with the rules laid down pursuant to that Article.
2. It is prohibited to sell equipment within the meaning of Article 10.13 for which the documents or markings referred to in that Article are missing.
3. It is prohibited to connect or maintain the connection of equipment within the meaning of Article 10.13 to a public telecommunications network.

§ 10.2.3 Radio transmission equipment

Article 10.15

For the application of this Paragraph of the Act, radio transmission equipment shall be equated with:

- a. any combination of parts that can be used to form radio transmission equipment or equipment that can be equated with it pursuant to the provision under b.;
- b. the electric or electronic equipment to be described by governmental decree that, when used together with radio transmission equipment, can be used to form radio transmission equipment with different technical characteristics.

Article 10.16

1. The installation and use of radio transmission equipment shall only be permitted if, in order to use it, the holder of that radio transmission equipment has been granted a licence under Chapter 3 for the use of a set of frequencies.

2. Notwithstanding paragraph 1, the installation and use of radio transmission equipment without the holder having been granted a licence for the use of a set of frequencies will be permitted if:

- a. pursuant to Chapter 3, no licence is required for the use of a set of frequencies;
- b. the holder of the radio transmission equipment has concluded a contract with the holder of a licence for a set of frequencies for the installation and maintenance of radio transmission equipment for the purpose of providing services for the client whereby use is made of the set of frequencies assigned to the client;
- c. this equipment is used on board ships or aircraft other than Dutch ships and aircraft and licences has been granted for this under the International Telecommunication Convention, or
- d. this equipment is used by non-residents of the Netherlands who are staying in the country temporarily and binding agreements have been made with the Netherlands for this purpose.

Article 10.17

1. Contrary to Article 10.16, paragraph 1, Our Minister may grant a licence for the installation of radio transmission equipment without the holder having been granted a licence for a set of frequencies. A licence may be granted with restrictions. Rules may be attached to a licence.

2. The licence may be denied if:

- a. there are serious suspicions that the licence will be misused;
- b. a previously granted licence has been revoked because of violation of the rules laid down by or pursuant to this Act, or of the regulations attached to the licence;
- c. the application does not comply with the rules laid down by or pursuant to this Act for such applications, or
- d. Our Minister is of the opinion that the applicant has no justifiable interest in the granting of the licence.

3. The licence may be revoked if:

- a. the holder of the licence does not comply with the rules laid down by or pursuant to this Act, or with the regulations and restrictions attached to the licence, or
- b. the grounds on which the licence was granted have ceased to exist.

Article 10.18

Article 10.11 shall apply *mutatis mutandis* to radio transmission equipment.

Article 10.19

1. It is prohibited:

- a. to use radio transmission equipment in order to broadcast programmes on board a ship or aircraft outside any national territory;

- b. to operate radio transmission equipment intended for a use as referred to under a.;
- c. to make radio transmission equipment available or to install it while knowing that the latter is intended for a use as referred to under a.;
- d. to make a ship or aircraft available while knowing that it is intended for broadcasts on board as referred to under a.

2. It is prohibited to cooperate wilfully in a violation of one of the prohibitions referred to in paragraph 1 by aiding in its commission or providing the opportunity, means or information for it. The following in any case will be deemed to be acts of cooperation:

- a. making materials available for the ship or aircraft, or for the radio transmission equipment;
- b. maintaining or repairing the ship or aircraft, or the radio transmission equipment;
- c. supplying the ship or aircraft;
- d. transporting persons or goods to or from the ship or aircraft or making means of transport available;
- e. making programmes or parts thereof, intended for broadcast;
- f. giving assignments for programmes or parts thereof to be broadcast, or acting as an intermediary in the acquisition of such assignments.

3. Paragraph 2 shall not apply if the acts referred to therein are performed to assist the ship or aircraft in an emergency situation or to protect human lives.

4. In this article, ship and aircraft are also deemed to include any other floating or airborne object.

CHAPTER 11. PROTECTION OF PERSONAL DATA AND PRIVACY

§ 11.1 General provisions

Article 11.1

In this Chapter and the provisions deriving from it, the following shall be understood to mean:

- a. subscriber: a natural person or legal person who is a party to an agreement with a provider of public telecommunications services for the supply of such services;
- b. user: any natural person who makes use of a public telecommunications service for private or business purposes without necessarily being a subscriber to that service.

Article 11.2

Without prejudice to the Data Protection Act (*Wet persoonsregistraties*) and the other provisions by or pursuant to this Act, the provider of a public telecommunications network and the provider of a public telecommunications service shall ensure the protection of the personal data and the protection of the privacy of subscribers to and users of its network or service.

Article 11.3

1. In the interest of the protection of the personal data and the protection of the privacy of subscribers and users, the providers referred to in Article 11.2 shall take appropriate technical and organizational measures to ensure the safety and protection of the networks and services they provide. Taking account of the state of the technology and the costs, the measures must guarantee a level of security and protection which is proportionate to the risks involved.

2. The providers referred to in Article 11.2 shall ensure that the subscribers are informed about:

- a. special risks of breach of the security or protection of the network or service provided;
- b. the means available to eliminate or reduce the risks referred to under a. and the costs this will involve.

Article 11.4

1. At the request of a subscriber, the provider of a public telecommunications service is obliged:

- a. to charge for the telecommunications services provided by way of completely or partially non-itemized bills;
- b. to offer the possibility free of charge and in a simple manner to undo the switching of calls from third parties to the network termination point being used by the subscriber.

2. By governmental decree, in the interest of the protection of personal data and the protection of privacy, rules may be laid down pertaining to the itemization of bills for telecommunications services supplied and the options for the manner in which to pay for these services.

Article 11.5

1. In the interest of the protection of personal data and the protection of privacy, the provider of a public telecommunications network and the provider of a public telecommunications service shall ensure that at the termination of every call, processed communications data on subscribers and users, to be designated by a governmental decree, are removed or made anonymous.

2. Deviation from paragraph 1 shall only be possible if:

- a. this is necessary for the purpose of drawing up a bill for a subscriber or anyone who has legally undertaken with respect to the provider to pay that bill, or for the purpose of a payment relating to interconnection or special access;
- b. this is necessary for the purpose of market research and sales activities in relation to the provider's own telecommunication services, and the subscriber has consented to this;
- c. this is necessary for settling any dispute, deciding a dispute within the meaning of Article 12.1, or establishing rules as referred to in Article 6.3;
- d. this is necessary for the purpose of managing traffic;
- e. this is necessary to provide information to customers, in so far as such information concerns the communications data relating to the customers themselves;
- f. this is necessary in order to investigate fraud;
- g. this is otherwise permitted by or pursuant to the law.

3. Further rules may be laid down by a governmental decree for the implementation of this Article. These rules may only pertain to the manner in which the communications data are

processed by the providers referred to in paragraph 1, which data may be added to them and under what circumstances, the permissible processing time and the persons responsible for the processing of the data in question.

Article 11.6

Anyone who publishes a generally available telephone directory or provides a generally available subscriber information service shall ensure that:

a. in the telephone directory and in the subscriber file used by the subscriber information service, only those personal data are included which are necessary to be able to identify a subscriber, unless the subscriber has unequivocally consented to the inclusion of additional personal data;

b. at the request of the subscriber:

1°. free of charge, his personal data are not or are no longer included in the telephone directory and the file of subscribers used by the subscriber information service;

2°. free of charge, his personal data are not or are no longer supplied for commercial, idealistic or charitable purposes;

3°. the listing of his personal data in the telephone directory and the subscriber file used by the subscriber information service does not contain his complete address;

4°. the listing of the subscribers personal data in the telephone directory and in the subscriber file used by the subscriber information service does not contain any reference to gender, unless this is unavoidable from a linguistic point of view.

2. The publisher of a generally available telephone directory or the provider of a generally available subscriber information service will be entitled to charge the subscriber a reasonable fee in the cases referred to in paragraph 1, part b. under 3° and 4°. More detailed rules will be laid down by ministerial regulation regarding the amount of this fee.

Article 11.7

1. The use of an automatic calling system and faxes for making unrequested calls to subscribers for commercial, idealistic or charitable purposes will only be permitted if the subscriber concerned has given prior written permission for this.

2. The use of systems other than those mentioned in paragraph 1 for making unrequested calls for commercial, idealistic or charitable purposes will be permitted, unless the subscriber in question gives notification that he does not wish to receive calls for which use is made of these systems. In that case the subscriber will not be charged for facilities that prevent unrequested calls being made to him.

3. The party making unrequested calls for commercial, idealistic or charitable purposes shall take appropriate measures to make it possible at least once a year for those involved to give notification within the meaning of the second paragraph. Such notification may take place via one or more dailies, newspapers or free local papers, or in another suitable manner.

4. In the interest of the protection of personal data and the protection of privacy, rules shall be laid down by governmental decree to implement paragraphs 1 and 2. These rules will pertain to the manner in which the permission referred to in paragraph 1 and the notification referred to in paragraph 2 are to be given.

Article 11.8

The application of Articles 11.6 and 11.7 shall be limited to subscribers who are natural persons.

§ 11.2 Number identification

Article 11.9

1. The provisions given by or pursuant to this Paragraph of the Act shall apply to the provider of a public telecommunications network and the provider of a public telecommunications service which by way of that network or as part of that service provides number identification for:

- a. the fixed public telephone service;
- b. digital mobile public telephone services;
- c. digital integrated telecommunication services, or
- d. other public telecommunications services to be designated by ministerial regulation.

2. The providers referred to in paragraph 1 shall:

a. offer possibilities free of charge to every calling subscriber or user to block the provision of the number of the calling network termination point;

b. offer every called subscriber the possibilities:

1°. to prevent the provision of the number of the calling network termination point;

2°. to refuse calls for which the provision of the number of the calling network termination point is blocked;

3°. if number identification within the meaning of Article 1.1, part u., under 2° is provided, to block the provision of the number of the called network termination point to the calling network termination point free of charge.

3. With respect to the public telecommunications services referred to in paragraph 1, more detailed rules shall be laid down by ministerial regulation concerning:

a. the possibilities for blocking or refusal;

b. the conditions under which the provider referred to in paragraph 1 can prevent identification of the number of the calling network termination points to the subscriber;

c. the manner in which number identification can be implemented in international telecommunications traffic, and

d. the manner in which the providers referred to in paragraph 1 can inform users and subscribers on the use of number identification.

Article 11.10

1. If telecommunication with an alarm number is being effected, any provider of number identification shall be obliged with respect to the managers of an alarm number for public services designated by Our Minister of the Interior, in agreement with Our Minister, simultaneously:

a. to provide the number of the calling network termination point, even if use is made of a blocking possibility within the meaning of Article 11.9, paragraph 2, under a., at that network termination point;

b. to give the name, the available address, postcode and city/town of the subscriber, or the location of the public pay telephone connected under the number in question.

2. The numbers given, as well as the data referred to in paragraph 1, under b., shall be included in a personal data register within the meaning of the Data Protection Act. The managers referred to in the first paragraph shall keep the personal data registers.

3. The provision of numbers and data from the personal data register shall only take place with a view to:

- a. assistance in emergency situations, or
- b. combating the misuse of an alarm number for public services.

4. The numbers and data from the personal data register in the cases referred to in paragraph 3, under a., shall only be given to those public services charged with lending assistance which have been designated by Our Minister of the Interior in agreement with Our Minister.

5. In the cases referred to in paragraph 3, under b., numbers and data from the personal data register shall only be given to those who are charged with the investigation of penal offences under Article 141 or 142 of the Code of Criminal Procedure.

6. The period during which the numbers and data in the personal data register are kept will not be longer than:

- a. one month if the numbers and data relate to cases obviously involving a request for assistance in an emergency situation;
- b. six months if the numbers and data relate to cases obviously involving misuse of an alarm number for public services;
- c. 24 hours in all other cases.

7. The manager designated by virtue of paragraph 1 shall compensate the costs involved in providing the data referred to in paragraph 1, under a. and b.

8. The decision to designate the managers referred to in paragraph 1, and the public services referred to in paragraph 4, shall be published by Our Minister of the Interior in the Official Gazette.

9. For the sake of monitoring the effectiveness of the assistance in emergency situations, the managers referred to in paragraph 1 shall be authorized to record calls that have come in via the alarm number for public services and to keep them for no longer than one month. The date and time of the call must also be registered.

CHAPTER 12. DISPUTES COMMITTEE

Article 12.1

Providers of a fixed public telephone service, a mobile public telephone service or other public telecommunications services to be designated by governmental decree shall join a government-recognized disputes committee which handles disputes over contracts for the delivery of a telecommunications service between a provider as mentioned above and a natural person acting exclusively or mainly in a capacity other than the exercise of a profession or the running of a business.

CHAPTER 13. AUTHORIZED WIRETAPPING

Article 13.1

1. Providers of public telecommunications networks and public telecommunications services shall only make their telecommunications networks and telecommunications services available to users if they can be wiretapped.

2. By or pursuant to a governmental decree, rules may be laid down with respect to the technical ability to wiretap public telecommunications networks and public telecommunications services.

Article 13.2

1. Providers of public telecommunications networks shall be obliged to lend proper cooperation in the execution of a special order lawfully given for wiretapping or recording telecommunications which are effected via their telecommunications networks.

2. Providers of public telecommunications services shall be obliged to lend proper cooperation in the execution of a special order lawfully given for wiretapping or recording the telecommunications provided by them.

3. By or pursuant to a governmental decree, rules may be laid down pertaining to the personnel and organizational measures to be taken and the facilities to be provided with respect to wiretapping.

Article 13.3

By governmental decree, rules may be laid down pertaining to the settlement of disputes between providers and the competent authorities over the facilities by means of which the telecommunication to be acquired by wiretapping is passed on by providers.

Article 13.4

1. Providers of public telecommunications networks and public telecommunications services shall be obliged to provide the authorities with the information necessary to enable those authorities to exercise the powers regulated by law in the interest of criminal prosecution or in the interest of state security to wiretap or record telecommunications, or to demand relevant information with respect to all traffic that takes place over a public telecommunications network or by making use of public telecommunications services. This obligation will in any case include, upon request, informing the authorities of the number granted to a user and the public telecommunication service used and, upon request, informing the authorities of the name, address, postcode and city or town belonging to a number.

2. If the information referred to in the first paragraph is not known to the providers of public telecommunications networks and public telecommunications services, they will be obliged to obtain that information and to furnish it in a manner to be determined by governmental decree. To enable fulfilment of this obligation, the providers must keep the information necessary for this purpose, to be determined by governmental decree, for a period of three months after the information has been processed for the first time.

3. By governmental decree, rules may be laid down concerning the manner in which information referred to in paragraph 1 is provided and the manner in which this information is kept available.

Article 13.5

1. Providers of public telecommunications networks and public telecommunications services shall be obliged to protect information relating to a special order as referred to in Article 13.2 and the provision of information as referred to in Article 13.4 so that it cannot come to the knowledge of unauthorized persons, as well as to maintain confidentiality with respect to such information.

2. By governmental decree, rules may be laid down concerning the measures to be taken in connection with the protection referred to in paragraph 1.

Article 13.6

1. The investment, operating and maintenance costs of the technical facilities which have been or will be incurred by the providers of public telecommunications networks and public telecommunications services in order to comply with Articles 13.1, 13.4 and 13.5 shall be borne by the aforementioned providers.

2. Providers of public telecommunications networks and public telecommunications services shall be entitled to claim compensation from the national treasury for the administrative and personnel costs incurred by them directly through compliance with a special order within the meaning of Article 13, paragraphs 1 and 2, or from the provision of information within the meaning of Article 13.4.

3. By ministerial regulation, rules shall be laid down pertaining to the determination and compensation of the costs referred to in paragraph 2.

Article 13.7

1. In the interest of the security of the State or the maintenance of the legal order under criminal law, Our Minister may stipulate in an order that one or more articles of this Chapter, with the exception of Article 13.6, shall apply equally to providers of a non-public telecommunications network, a non-public telecommunications service or to providers of leased lines if the network, service or leased line is in fact open to third parties.

2. In the event that the provisions of paragraph 1 are applied, the providers concerned shall be entitled to claim compensation from the national treasury for the investment, operating and maintenance costs referred to in Article 13.6, paragraph 1, that have been or will be incurred for technical facilities as a result of application of paragraph 1. Article 13.6, paragraphs 2 and 3 shall apply *mutatis mutandis*.

Article 13.8

In special cases, Our Minister in agreement with Our Minister of the Interior and Our Minister of Justice may grant an exemption from the obligations arising from this Chapter. An

exemption may be granted under restrictions. Regulations may be attached to such an exemption.

CHAPTER 14. EXCEPTIONAL CIRCUMSTANCES

Article 14.1

In exceptional circumstances with regard to the maintenance of the international legal order or to international relations, Our Minister shall be authorized in agreement with Our Minister of Foreign Affairs to give the providers of public telecommunications networks, public telecommunications services, radio transmission equipment and leased lines instructions with respect to the provision of telecommunications to and from foreign countries.

Article 14.2

1. Without prejudice to Articles 7, paragraph 1, and 8, paragraph 1, of the Coordination in National Emergencies Act (*Coördinatiewet uitzonderingstoestanden*), in the event that exceptional circumstances make this necessary, by special governmental decree upon the recommendation of Our Prime Minister, Article 14.4, paragraphs 1 up to and including 3, shall come into force in the entire country or a part thereof.

2. If the decree referred to in the first paragraph is issued, a Bill shall be sent immediately to the Lower House of the States General concerning the continuation of the force of the provisions put into force by that decree.

3. If the Bill is rejected by the States General, then, by special governmental decree, upon the recommendation of Our Prime Minister, the provisions put into force pursuant to the first paragraph shall immediately cease to have effect.

4. By special governmental decree, upon the recommendation of Our Prime Minister, the provisions put into force pursuant to the first paragraph shall cease to have effect as soon as, in Our opinion, circumstances permit this.

5. The decree referred to in paragraphs 1, 3 and 4 shall be announced in a manner to be stipulated therein. It shall take effect immediately after such announcement.

6. The decree referred to in paragraphs 1, 3 and 4 shall, in any case, be published in the Statute Book.

Article 14.3

In the event that in the Netherlands or a part thereof, under Articles 7, paragraph 1 and 8, paragraph 1, of the Coordination in National Emergencies Act, provisions of the War Act for the Netherlands (*Oorlogswet voor Nederland*) have been put into force, Our Minister shall exercise the powers referred to in Article 14.5, paragraph 1, in agreement with Our Minister of Defence.

Article 14.4

1. Our Minister shall have the authority to give instructions to the providers of public telecommunications networks, public telecommunications services, leased lines and the users of sets of frequencies, with respect to:

- a. the maintenance and operation of their public telecommunications networks;
- b. the provision and the use of their public telecommunications services;
- c. the maintenance and operation or the restriction or termination of the use of their radio transmission equipment, and
- d. the making available of leased lines and the use thereof, to, from or in the area where a decree as referred to in Article 14.2, paragraph 1, is in force.

2. In applying the first paragraph, Our Minister may deviate from the obligations imposed on the providers of public telecommunications networks, public telecommunications services, leased lines, and the users of sets of frequencies pursuant to this Act.

3. The instructions given pursuant to paragraph 1 to the providers of public telecommunications networks, public telecommunications services, leased lines, and the users of sets of frequencies, shall be binding on them.

4. If providers of public telecommunications networks, public telecommunications services, leased lines, and the users of sets of frequencies suffer disproportionate financial damage as a result of instructions given under paragraph 1, Our Minister shall grant them compensation which shall be determined in all fairness.

Article 14.5

1. Where Article 14 of the Exceptional Civil Authority Powers Act (*Wet buitengewone bevoegdheden burgerlijk gezag*) is applied, providers of public telecommunications networks, public telecommunications services, leased lines, and the users of sets of frequencies, shall be obliged to lend proper cooperation to the authorities designated pursuant to paragraph 1 of the aforementioned Article, including carrying out all orders given by these authorities.

2. Where Article 31 of the War Act for the Netherlands is applied, providers of public telecommunications networks, public telecommunications services, leased lines, and users of sets of frequencies, shall be obliged to lend proper cooperation to the military authorities, including carrying out all orders given by these authorities.

Article 14.6

1. Our Minister, after consultation with Our Minister of the Interior and Our Minister of Defence, may lay down rules for providers of public telecommunications services, leased lines and for users of sets of frequencies concerning the personnel and organizational measures to be taken by them and special provisions to be made by them with respect to the preparation of the electronic transmission of information in exceptional circumstances within the meaning of Article 14.2, and the relevant information to be given to Our Minister. These rules will stipulate which costs of the implementation may reasonably be charged to the providers of public telecommunications networks, public telecommunications services, leased lines and to the users of sets of frequencies.

2. The special provisions referred to in paragraph 1 will relate to:

- a. the availability of public telecommunications networks or parts thereof, public telecommunications services, radio transmission equipment and leased lines;

- b. the security of certain parts of a public telecommunications network or of radio transmission equipment;
- c. the effecting of electronic data transmission over a public telecommunications network, and
- d. supplementary infrastructural provisions for electronic data transmission and the security thereof.

CHAPTER 15. ENFORCEMENT

§ 15.1 General

Article 15.1

1. The civil servants appointed by a decree of Our Minister shall be charged with the supervision of compliance with the provisions given by or pursuant to this Act, in so far as this concerns the provisions pertaining to:

- a. the use of sets of frequencies, with the exception of those provisions that pertain to the provision of public telecommunications networks or public telecommunications services and not to the technical aspects of that use;
- b. broadcasting transmission networks, namely Article 8.3;
- c. the giving of an assignment to provide services or facilities falling under universal service, namely Article 9.2, paragraph 4;
- d. the requirements to be set for equipment, namely Chapter 10;
- e. authorized wiretapping, namely Chapter 13;
- f. exceptional circumstances, namely Chapter 14;
- g. other subjects, namely Articles 18.1 concerning the powers of Our Minister, 18.2 concerning the powers of Our Minister, 18.4, paragraph 2, 18.7 concerning the powers of Our Minister, 18.9, 18.12 concerning the powers of Our Minister and 20.14.

2. The Public Broadcasting Commission, referred to in Article 9 of the Media Act, shall be charged with the supervision of compliance with Article 8.1.

3. Civil servants to be appointed by a decision of the Board shall be charged with the supervision of compliance with the provisions given by or pursuant to this Act other than those referred to in paragraphs 1 and 2.

4. A decree or a decision as referred to in paragraphs 1 and 3 shall be published in the Official Gazette.

Article 15.2

1. Our Minister shall be authorized to apply administrative coercion to enforce the obligations laid down by or pursuant to the provisions referred to in Article 15.1, paragraph 1.

2. The Board shall be authorized to apply administrative coercion to enforce the obligations laid down by or pursuant to the provisions referred to in Article 15.1, paragraph 3.

Article 15.3

If the rules laid down by or pursuant to this Act with respect to the installation, the presence or the use of radio transmission equipment are not complied with, Our Minister shall be authorized to impose a complete or partial transmission ban on the holder of such radio transmission equipment.

§ 15.2 Fines

Article 15.4

1. In the event of violation of the regulations provided by or pursuant to Article 15.1, paragraph 1, as well as of Article 5:20 of the General Administrative Law Act, Our Minister may impose a fine on the offender not exceeding one million guilders.

2. In the event of violation of the regulations provided by or pursuant to Article 15.1, paragraph 3, as well as of Article 5:20 of the General Administrative Law Act, the Board may impose a fine on the offender not exceeding one million guilders.

3. The amount of the fine will in any case be geared to the gravity and the duration of the violation, as well as to the extent to which the offender can be deemed to be at fault.

4. The authority to impose a fine shall cease to exist if, with respect to the violation on the basis of which the fine may be imposed, criminal prosecution has been instituted against the offender and the trial has commenced, or the right to prosecute has ceased to exist under Article 37 of the Economic Offences Act (*Wet op de economische delicten*).

5. The right to institute criminal prosecution shall cease to exist if either Our Minister or the Board has already imposed a fine on the party involved in respect of the same offence.

Article 15.5

1. The civil servants referred to in Article 15.1, paragraph 1 or paragraph 3, shall be charged with the investigation.

2. For the purpose of the investigation, they shall have the powers conferred upon them under this Paragraph of the Act, as well as the powers granted to them to exercise the supervision referred to in Article 15.1, paragraph 1 or paragraph 3, with due observance of the restrictions set on them under this Paragraph of the Act,

Article 15.6

If the civil servants referred to in Article 15.1, paragraph 1 or paragraph 3, have a reasonable suspicion that a certain natural person or legal person has committed a violation, the natural person or legal person will not be obliged to make a statement in this regard. Those concerned will be notified of the matter before being asked verbally for information about it.

Article 15.7

1. The civil servants referred to in Article 15.1, paragraph 1 or paragraph 3, shall be authorized to seal off business premises and objects during the period between 6 p.m. and 8 a.m., in so far as this is reasonably necessary for the exercise of the powers referred to in Article 5:17 of the General Administrative Law Act.

2. If necessary, the civil servants referred to in Article 15.1, paragraph 1 or paragraph 3, shall exercise the powers granted to them under Article 5:17 of the General Administrative Law Act with the aid of the strong arm of the law.

Article 15.8

1. If a civil servant within the meaning of Article 15.1, paragraph 1 or paragraph 3, establishes that a violation has been committed, he shall draw up a report of it.
2. The report will in any case state:
 - a. the facts and circumstances on the basis of which it was established that a violation had been committed;
 - b. where and when the acts referred to under a. took place;
 - c. the statutory regulation that was violated.
3. A copy of the report will be sent to the offender.
4. At the request of the interested party who does not fully understand the report because of inadequate knowledge of the Dutch language, either Our Minister or the Board will make every possible effort to ensure that the report is communicated to the person concerned in a language he understands.

Article 15.9

1. Notwithstanding Section 4.1.2 of the General Administrative Law Act, interested parties will be called up in writing to present their written or verbal views regarding the report mentioned in Article 15.8, paragraph 1.
2. If the interested party presents his views verbally, at the request of the interested party who has inadequate knowledge of the Dutch language, either Our Minister or the Board will ensure that an interpreter is appointed who can assist the interested party at the hearing, unless it can reasonably be expected that this will not be necessary.

Article 15.10

1. A fine shall be imposed by a decision of either Our Minister or the Board.
2. The decision will in any case state:
 - a. the sum due, as well as an explanation of its amount;
 - b. the violation for which it has been imposed, as well as the rule that was violated.
3. At the request of the offender who does not understand the decision because of his inadequate knowledge of the Dutch language, either Our Minister or the Board will make every possible effort to ensure that the information stated in the decision is communicated to the offender in a language he understands.
4. The decision must be given within twelve weeks after the report referred to in Article 15.8, paragraph 1, has been drawn up, unless the report has been sent to the Public Prosecutions Department within this period. In that case, a fine may be imposed within 12 weeks after the Public Prosecutions Department has informed either Our Minister or the Board that no prosecution will be instituted.

Article 15.11

The activities connected with the implementation of Articles 15.9 and 15.10 shall be carried out by persons who were not involved in drawing up the report referred to in Article 15.8 and the preceding investigation.

Article 15.12

The effect of a decision as referred to in Article 15.10, paragraph 1, will be suspended until the period for lodging an appeal has expired or, if appeal has been lodged, until a decision has been given on the appeal.

Article 15.13

1. A fine shall be paid within six weeks after the decision by which the fine has been imposed takes effect.
2. The fine shall be increased by statutory interest, to be calculated six weeks from the date on which the decision referred to in the first paragraph was announced.
3. If payment is not made within the period mentioned in the first paragraph, the party owing the fine shall be ordered in writing to pay the fine within two weeks, as well as the interest owed under paragraph 2 and the costs of the warning.

Article 15.14

1. If payment is not made within the two-week period referred to in Article 15.13, paragraph 3, either Our Minister or the Board may collect the fine to be paid, increased by the interest due under Article 15.13, paragraph 2, and the costs of the warning, from the offender by way of an enforcement order.
2. The enforcement order shall be served at the expense of the offender by means of a bailiff's notification and shall enable the creditor to proceed with enforcement under the rules of Book Two of the Code of Civil Procedure (*Tweede Boek van het Wetboek van Burgerlijke Rechtsvordering*).
3. During the six weeks following the date of service, opposition may be brought against the enforcement order by summoning either the State or the Board.
4. Opposition shall suspend enforcement. At the request of either the State or the Board, the court may revoke the stay of enforcement.
5. The amounts referred to in paragraph 1 shall be payable to the State.

Article 15.15

Contrary to Article 5:33, first paragraph, first sentence, of the General Administrative Law Act, forfeited penalties shall be payable to the State.

Article 15.16

The authority to impose a fine shall cease to exist five years after the violation was committed.

CHAPTER 16. COMPENSATION

Article 16.1

1. By or pursuant to a governmental decree, rules shall be laid down concerning the compensation owed by those for the benefit of whom work or services have been performed under the provisions given by or pursuant to this Act, in so far as such compensation is related to such work or services.

2. In determining the amount to be compensated, costs may be included in connection with the supervision of compliance with the provisions given by or pursuant to this Act in respect of the work or services concerned.

3. In so far as the rules referred to in the first paragraph concern determination of the amount of compensation of the costs of work or services to be performed by the Board, Our Minister shall involve the Board in such determination. The compensation concerned shall be imposed by and payable to the Board.

4. By or pursuant to a governmental decree, rules shall be laid down pertaining to the annual contribution that is due from users of radio transmission equipment to cover the costs arising for the government from the application of the provisions given by or pursuant to this Act in respect of electromagnetic compatibility.

5. By or pursuant to a governmental decree, rules shall be laid down pertaining to the annual contribution that is due from a provider of a public telecommunications network to cover the costs arising for the government from the application of the provisions given by or pursuant to this Act in respect of terminal equipment.

CHAPTER 17. APPEAL

Article 17.1

1. Notwithstanding Article 8:7 of the General Administrative Law Act, the District Court of Rotterdam shall be competent to take cognizance of appeals against decisions pursuant to this Act.

CHAPTER 18. ADDITIONAL PROVISIONS

Article 18.1

1. By or pursuant to a governmental decree, rules may be laid down to enable inquiry into developments that might contribute significantly to the achievement of the objectives of this Act. These rules may deviate from the provisions given by or pursuant to this Act.

2. The persons or agencies most concerned with the subjects to be dealt with in the rules will be involved in the preparation of the rules.

3. The draft of a rule pursuant to the first paragraph will be published in the Official Gazette. Within a period of at least four weeks, to be stipulated in the publication, everyone will be offered the opportunity to bring written comments on the subject to the attention of Our Minister.

4. These rules will cease to apply no later than two years after their effective date. A governmental decree as referred to in paragraph 1 may be repealed by special governmental decree at a time to be stipulated by that decree, which will lie within the term referred to in the first sentence.

5. If Our Minister is of the opinion that a definite provision is desirable, Our Minister will see to it that the rules are replaced. If an Act is necessary for such replacement, within two years after the rules have come into force, a Bill shall be introduced in the States General. If a governmental decree is necessary for such replacement, the recommendation shall be made to Us within two years after the rules have come into force.

6. Tasks may be assigned and powers granted to the Board by the rules referred to in the first paragraph.

Article 18.2

1. Without prejudice to what is provided elsewhere in this Act or by a governmental decree pursuant to this Act, rules may be laid down by ministerial regulation pertaining to subjects governed by this Act, provided that such rules serve exclusively to implement a treaty or a decision of an international organization that is binding on the Netherlands.

2. By the regulation referred to in the first paragraph, the force of the provisions of this Act or those of a governmental decree pursuant to this Act may be suspended, if this is essential for the correct and prompt implementation of a treaty or decision as referred to in the first paragraph.

3. To the extent that the provisions of this Act or of a governmental decree pursuant to this Act are suspended by the regulation, Our Minister shall see to the replacement of the regulation. If an Act is necessary for such replacement, within two years after the regulation has come into force, a Bill shall be introduced in the States General. If a governmental decree is necessary for such replacement, the recommendation shall be made to Us within a year after the regulation has come into force.

4. Tasks may be assigned and powers granted to the Board by the rules referred to in the first paragraph.

Article 18.3

1. Our Minister shall give the Director-General of the Dutch Competition Authority, referred to in Article 2 of the Competition Act (*Mededingingswet*), the opportunity to give advice on the draft of a decision to deny or revoke a licence in so far as this relates to the considerable restriction of real competition on the relevant market, within the meaning of Articles 3.6, paragraph 2, under d., and 3.7, paragraph 2, under f.

2. Before proceeding with a written announcement as referred to in Article 9.2, paragraph 2, Our Minister shall give the Board and the Director-General of Dutch Competition Authority the opportunity to give advice on the draft of the announcement.

3. To the extent that in the exercise of the Board's authority, concepts are interpreted which are used in the application of Article 24 of the Competition Act, the exercise of this authority shall take place in accordance with guidelines set by the Board in agreement with the Director-General of the Dutch Competition Authority. The Director-General will publish the guidelines in the Official Gazette.

4. The Board and the Director-General of the Dutch Competition Authority shall make agreements in the interest of effective and efficient decision-making on the way in which matters of mutual interest will be handled.

Article 18.4

1. The provider of a public telecommunications network over whose network international public telecommunications traffic is provided shall comply with the obligations arising from the International Telecommunications Convention and other conventions or decisions of international organizations which bind the Netherlands with respect to the provision of this traffic.

2. Those to whom Our Minister has granted a licence for the use of sets of frequencies, which use can cause harmful interference in the radio services of other countries, shall comply with the obligations arising from the International Telecommunications Convention and other conventions or decisions of international organizations which bind the Netherlands with respect to this use.

Article 18.5

Subject to other provisions given by or pursuant to the International Telecommunications Convention, recognized undertakings within the meaning of this Convention shall be:

- a. the provider of a public telecommunications network by way of whose telecommunications network international public telecommunications are provided, and
- b. the provider of a public telecommunications network that makes use of radio transmission equipment in the framework of its supply of services, or the provider of a broadcasting transmission network whose transmissions may cause harmful interference in the radio services of other countries.

Article 18.6

1. Providers of public telecommunications networks or public telecommunications services having special or exclusive rights in the Netherlands or in another Member State of the European Union for the performance of services in sectors other than telecommunications shall keep separate accounts for separate activities, in the same manner as would be required if the activities were being performed by legally independent undertakings.

2. A ministerial regulation may provide that paragraph 1 does not apply to the providers designated by that regulation whose annual turnover from telecommunications activities within the European Union does not exceed an amount to be stated in that regulation.

Article 18.7

1. For the proper implementation of the provisions given by or pursuant to this Act, Our Minister or the Board shall be authorized to demand information from anyone at any time in so far as this is reasonably necessary for the fulfilment of their tasks.

2. Anyone from whom information is demanded under paragraph 1 shall be obliged to provide it.

Article 18.8

Our Minister may lay down rules with respect to the security and protection of public telecommunications networks and public telecommunications services. These rules will contain technical and organizational requirements which can be set for providers of public telecommunications networks and public telecommunications services.

Article 18.9

1. Our Minister shall be authorized, in agreement with Our Minister of Justice, to give providers of public telecommunications networks and public telecommunications services instructions with respect to:

- a. the maintenance and operation of their public telecommunications networks, or
- b. the provision and use of their public telecommunications services, if this is necessary to put an end to punishable behaviour towards a person.

2. Our Minister shall be authorized, in agreement with Our Minister of the Interior, to give providers of public telecommunications networks and public telecommunications services instructions with respect to:

- a. the maintenance and operation of their public telecommunications networks, or
- b. the provision and use of their public telecommunications services, whenever this is necessary in the interest of the security of the State.

3. In applying the first and second paragraphs, Our Minister may deviate from the obligations imposed under this Act on providers of public telecommunications networks and public telecommunications services.

4. A provider of a public telecommunications network or a public telecommunications service shall be obliged to follow an instruction as referred to in the first or second paragraph.

5. If providers of public telecommunications networks and public telecommunications services incur a disproportionate financial loss as a result of instructions given under paragraphs 1 and 2, Our Minister shall grant them compensation which shall be determined in all fairness.

Article 18.10

Anyone who publishes a telephone directory shall, at the request of a natural or legal person who is listed in that directory, include the electronic post address of the requesting party in that directory under reasonable and non-discriminatory conditions.

Article 18.11

1. By or pursuant to a governmental decree, rules may be laid down pertaining to the provision of electronic post addresses with corresponding data to third parties for the purpose of compiling books with electronic post addresses.

2. The rules referred to in paragraph 1 may pertain to matters including the protection of personal data and privacy.

Article 18.12

1. If further regulation of the subjects governed by this Act is necessary in the interest of the proper implementation of this Act, this may be provided by or pursuant to a governmental decree.

2. Tasks may be assigned and powers granted to the Board by the rules referred to in the first paragraph.

Article 18.13

1. Without prejudice to other provisions given by or pursuant to this Act, measures shall be taken and rules laid down by or pursuant to this Act with due observance of the interests of the protection of personal data and the protection of privacy, as well as the protection of the confidentiality of letters, telephone calls and telegraph messages and the confidentiality of similar communications techniques.

2. Without prejudice to other provisions given by or pursuant to this Act, the first paragraph shall apply *mutatis mutandis* to the conduct of business by providers of public telecommunications networks and public telecommunications services.

Article 18.14

1. The recommendation for a governmental decree pursuant to Articles 9.1, paragraphs 1 and 2, 20.1, paragraph 4, and 20.3 paragraph 4, with the exception of the first time that such a governmental decree is laid down, shall not be made unless the draft has been submitted to both Chambers of the States General. Within four weeks of such submission, the wish may be expressed by or on behalf of one of the Chambers or by at least one-fifth of the constitutionally determined number of members of one of the Chambers, for the subject regulated in the draft to be regulated by law. In that case, a Bill to this effect shall be submitted as quickly as possible.

2. A governmental decree laid down under Articles 3.1, paragraph 1, 4.11, paragraph 2, 4.11, paragraph 3, 6.1, paragraph 7, and 6.9, paragraph 5, shall not take effect earlier than four weeks from the date of publication of the Statute Book in which it has been published. Both Chambers of the States General shall be notified immediately of the publication. The first and second sentences shall not apply the first time that the decree is laid down.

CHAPTER 19. AMENDMENTS TO OTHER STATUTES

Article 19.1

In the appendix to the General Administrative Law Act, Article D.2 will be replaced by a Section that reads:

D.2. Articles 3.4, paragraph 1, under b., in so far as an instruction is concerned, 3.10 and 18.9, paragraphs 1 and 2, of the Telecommunications Act.

Article 19.2

In the Copyright Act 1912, Articles 12, paragraph 1, 17a, paragraph 3, and 26a, paragraph 1, "cable broadcasting installation within the meaning of Article 1, under g, of the Telecommunications Act 1988 (*Wet op de telecommunicatievoorzieningen*)" will be replaced in each instance by: broadcasting network within the meaning of Article 1.1, under o., of the Telecommunications Act (*Telecommunicatiewet*).

Article 19.3

If the Act Implementing the Coordination in National Emergencies Act (*Coördinatiewet uitzonderingstoestanden*) should come into force, Article 2, under g, of the Agricultural Production (Emergencies) Act 1939 (*Bodemproductiewet 1939*) will be replaced by:

g. the Telecommunications Act.

Article 19.4

The following amendments are to be made to the Coordination in National Emergencies Act:

1. In list A, referred to in Article 7, paragraph 1, the passage relating to the Telecommunications Act 1988 will be replaced by the following phrase: the Telecommunications Act, Article 14.4, paragraphs 1 and 2.

2. In list B, referred to in Article 8, paragraph 1, the phrase relating to the Telecommunications Act 1988 will be replaced by the following phrase: the Telecommunications Act, Article 14.4, paragraphs 1 and 2.

Article 19.5

1. In the Rationing Act 1939, Article 2, under h., will be replaced by the following:
h. the Telecommunications Act.

2. If the Act Implementing the Coordination in National Emergencies Act comes into force, Article 2, under g., will be replaced by:

g. the Telecommunications Act;.

Article 19.6

In the PTT Nederland N.V. Enabling Act (*Machtigingswet Koninklijke PTT Nederland N.V.*), Article 5 will be replaced by an article that reads:

Article 5

Koninklijke PTT Nederland N.V. shall be designated as a legal person, as referred to in Article 2, paragraph 1, of the Postal Act (*Postwet*).

Article 19.7

The Media Act, as it will read after the Bill submitted by Royal Message on 3 February 1997 for amendment to the provisions of the Media Act in connection with the revision of the organizational structure of national public broadcasting (Parliamentary Documents 25 216) has become law, will be amended as follows:

A

The heading of Chapter 1 will be replaced by:

CHAPTER I DEFINITION OF TERMS

B

The heading of Chapter I, Paragraph 1, will be deleted.

C

Article 1 will be replaced by:

Article 1

In this Act and the provisions pursuant to it, the following shall be understood to mean:

- a. Our Minister: Our Minister of Education, Culture and Science;
- b. media: all printed and electronic forms of mass communication;
- c. broadcasting: an electronic media service concerned with the provision and broadcasting of programmes;
- d. television broadcasting: an electronic media service concerned with the provision and broadcasting of television programmes;
- e. radio broadcasting: an electronic media service concerned with the provision and broadcasting of radio programmes;
- f. programme: an electronic product consisting of images or sound, which is intended for broadcasting and meant to be received by the general public or a part thereof, with the exception of data services, services that are exclusively available upon individual request, and other interactive services;
- g. programme segment: a clearly delineated segment of a programme which is recognizable as such;
- h. television programme: a programme consisting of images, with or without sound content;
- i. teletext programme: a television programme consisting only of stationary images which can be consulted by the viewer in the order and at the time determined by him, and which is transmitted on the same set of frequencies or the same channel that is also used to broadcast another television programme or test pattern;

- j. radio programme: a programme consisting of sound;
- k. programme for general broadcasting: a programme which is intended for reception by the general public;
- l. programme for special broadcasting: a programme which is broadcast in a scrambled form and is intended for reception by part of the general public, comprising those who have concluded contracts for reception of the programme with the broadcasting institution that supplies the programme;
- m. provision of a programme: a broadcasting service consisting of the preparation, putting together and presentation of a programme;
- n. broadcasting of a programme: a broadcasting service consisting of the dissemination of a programme, scrambled or not, to the general public or a part thereof by means of a broadcasting transmitter or a broadcasting network;
- o. broadcasting transmitter: radio transmission equipment as referred to in Article 1.1, under y., of the Telecommunications Act, which is used or also used to broadcast programmes;
- p. provider of a broadcasting transmitter: the natural person or legal person who makes broadcasting capacity available by means of a broadcasting transmitter;
- q. broadcasting network: a broadcasting network as referred to in Article 1.1, under o., of the Telecommunications Act;
- r. provider of a broadcasting network: the natural person or legal person who makes broadcasting capacity available by means of a broadcasting network;
- s. national broadcasting: public broadcasting and commercial broadcasting;
- t. public broadcasting: broadcasting by institutions which have been granted broadcasting time;
- u. nationwide broadcasting: public broadcasting intended for the general public throughout the country;
- v. regional broadcasting: public broadcasting intended for the general public in a province;
- w. local broadcasting: public broadcasting intended for the general public in a municipality;
- x. commercial broadcasting: broadcasting by commercial broadcasting institutions;
- y. Programming Board: the Netherlands Programming Board, referred to in Article 15;
- z. Corporation: the Netherlands Broadcasting Corporation, referred to in Article 16;
- aa. board of managing directors: the board of managing directors of the Corporation;
- bb. network board of managing directors: the board of managing directors of a television programme network, as referred to in Article 40a, paragraph 1;
- cc. network coordinator: the coordinator for a television or radio programme network, as referred to in Article 40c, paragraph 1, or in Article 40g, paragraph 1;
- dd. commercial broadcasting institution: a natural or legal person who supplies a programme, with the exception of the institutions which have been granted broadcasting time, and for the application of this Act falls under the authority of the Netherlands;
- ee. World Service: Radio Netherlands International, referred to in Article 76;
- ff. Company: Netherlands Broadcasting Services Company (*Nederlands Omroepproductie Bedrijf N.V.*), referred to in Article 83;
- gg. Management Corporation: the Corporation managing the shares of the Netherlands Broadcasting Services Company, referred to in Article 95;

hh. test pattern: a stationary pattern for the purpose of testing the reception of television programmes which is broadcast during the time that no television programmes are being broadcast;

ii. broadcasting time: the time during which an institution, under Articles 39 up to and including 39i or under Article 42, has been given the opportunity to have programmes broadcast for nationwide, regional or local broadcasting by means of a broadcasting transmitter;

jj. channel: transmission capacity present as a unit on a broadcasting network;

kk. advertisement: commercial message or other statement which has the unmistakable intention to persuade the public to buy a certain product or make use of a certain service, or to have a favourable attitude towards a certain company, branch of trade or a certain institution in order to promote the sale of products or the use of services;

ll. commercial message: message with the unmistakable purpose of persuading the public to buy a certain product or make use of a certain service, or to have a favourable attitude towards a certain company, branch of trade or a certain institution in order to promote the sale of products or the use of services;

mm. sponsoring of a programme segment: the provision of financial or other contributions by a public enterprise or private undertaking that is not usually involved in broadcasting activities or with the making of audiovisual productions, for the benefit of the creation or purchase of a programme segment in order to promote or enable its broadcast as a programme segment;

nn. sponsor: the public enterprise or private undertaking that sponsors a programme segment;

oo. sponsor's contribution: the contribution provided by a sponsor;

pp. facilities: the aggregate of personnel and material means for the purpose of realizing programmes;

qq. receiver: a television set or radio set;

rr. television set: any technical apparatus by means of which television programmes can be viewed;

ss. radio: any technical apparatus by means of which radio programmes can be heard;

tt. publisher of a newspaper or periodical: a legal person that publishes a newspaper or periodical;

uu. daily newspaper market: the average paid edition in one calendar year, as determined by the Press Fund, of newspapers that are intended for the public in the Netherlands and appear at least six times a week;

vv. newspaper market: the average paid edition in one calendar year, as determined by the Press Fund, of newspapers that are intended for the public in the Netherlands and appear at least once and at most five times a week.

ww group: a group as referred to in Article 24b of Book 2 of the Netherlands Civil Code;

xx. European Directive: Council Directive no. 89/552/EEC of 3 October 1989 concerning the coordination of certain statutory and administrative provisions in the Member States with respect to television network activities (OJ L 298).

D

Article 2 will be deleted.

E

In Article 3, "commercial messages and other advertisements as referred to in Article 1, under r and s" will be replaced by: advertisement as referred to in Article 1, under kk.

F

In Article 4, paragraph 1, in the opening words, "Article 1, under hh and ii," will be replaced by "Article 1, under dd," and under b. "one or more transmitters" will be replaced by: a broadcasting transmitter.

G

The heading of Chapter I, Paragraph 2, will be deleted.

H

Article 5 will be deleted.

I

In Article 10, paragraph 3, under c., "a provider of a subscriber programme," will be deleted.

J

The heading of Chapter III will be replaced by:
CHAPTER III. PUBLIC BROADCASTING

K

In Article 14, paragraph 1, under b, "programme for broadcasting" will be replaced by: programme for general broadcasting.

L

In Article 26, paragraph 1, "programme for broadcasting" will be replaced by: programme for general broadcasting.

M

In Article 28, section h will be deleted, with re-lettering of i up to and including n as h up to and including m.

N

In Article 30, under b, "programme for broadcasting" will be replaced by: programme for general broadcasting.

O

In Article 39a1, paragraph 3, "transmitters" will be replaced by: broadcasting transmitters.

P

Article 42 will be amended as follows:

1. In the fifth sentence of paragraph 2 "transmitter" will be replaced by: broadcasting transmitter.

2. Paragraph 9 will be replaced by:

9. If broadcasting time is granted to a local or regional broadcasting institution for a television programme, that institution will also be allowed to broadcast a test pattern or to have it broadcast, and will also have broadcasting time for a teletext programme that is broadcast on the same set of frequencies simultaneously with the television programme or the test pattern.

Q

In Article 52b, paragraph 2, in the last sentence "Article 1, under r." will be replaced by: Article 1, under ll.

R

In Article 55a, paragraph 1, the phrases ", with providers of a subscriber programme" and "or providers" are to be deleted.

S

In Article 57d, "57d" will be replaced by: 57c.

T

In Article 58, paragraph 1, "programmes for broadcasting" will be replaced by: programmes.

U

In Article 59, "programmes for broadcasting" will be replaced by: programmes.

V

In Article 64, paragraph 1 under d., “programmes for broadcasting” will become: programmes.

W

In Article 64a, paragraph 3, "cable broadcasting installations" will be replaced by "broadcasting networks" and "cable broadcasting installation" by: broadcasting network.

X

The heading of Chapter III, Title 5, will be replaced by:

TITLE 5. BROADCASTING BY MEANS OF BROADCASTING NETWORKS

Y

In Article 65, in the first sentence "programme for broadcasting" will be replaced by "programme for general broadcasting" and "cable broadcasting installation" by "broadcasting network", and in the second sentence "manager of the cable broadcasting installation" will be replaced by: provider of the broadcasting network.

Z

Article 66 will be amended as follows:

1. In paragraph 1, "local broadcasting programme" will be replaced by "programme for local broadcasting" and "cable broadcasting installation" will be replaced by: broadcasting network.

2. In paragraph 2, in the second sentence "manager of the cable broadcasting installation" will be replaced by: provider of the broadcasting network.

AA

Article 67 will be amended as follows:

1. In paragraph 1, "regional broadcasting programme" will be replaced by "programme for regional broadcasting" and "cable broadcasting installations" will be replaced by: broadcasting networks.

2. In paragraph 2, in the second sentence "manager of the cable broadcasting installation" will be replaced by: provider of the broadcasting network.

BB

Article 68 will be amended as follows:

EEE

1. In paragraph 1, "cable broadcasting installation" will be replaced by: broadcasting network.

2. In paragraph 2, under a., "of the cable broadcasting installation" will be deleted.

CC

The heading of Chapter IV will be replaced by:

CHAPTER IV. COMMERCIAL BROADCASTING

DD

The heading of Chapter IV, Section 1, will be deleted.

EE

Article 71a will be amended as follows:

1. Paragraph 1 will be replaced by:

1. Without prejudice to the provisions given by or pursuant to the Telecommunications Act, a commercial broadcasting institution will only be permitted to broadcast a programme provided by it, or have it broadcast, if it has received permission from the Public Broadcasting Commission. Such permission is required for each programme individually. The permission will include an indication as to whether a program for general broadcasting or a programme for special broadcasting is concerned.

2. Paragraph 3 will be replaced by:

3. If permission has been granted to broadcast a television programme or have it broadcast, the commercial broadcasting institution will also be permitted:

a. to broadcast a test pattern, or have it broadcast;

b. to broadcast a teletext programme, or have it broadcast, if it is broadcast over the same set of frequencies or the same channel simultaneously with the television programme referred to at the beginning of this paragraph or with the test pattern.

FF

Article 71d, paragraph 1, will be replaced by:

1. The grounds for denial referred to in Article 71b, under c., d. and e., or the grounds for revocation referred to in Article 71c, paragraph 1, under c. and d., shall not apply if the application or the permission concerns a programme for special broadcasting or a television programme which, as far as the image content is concerned, consists exclusively or almost exclusively of stationary images.

GG

The following amendments will be made to Article 71g, paragraph 2:

a. The first sentence will be replaced by a sentence reading: By governmental decree, rules may be laid down for commercial broadcasting institutions to implement the European Directive.

b. The third sentence will be replaced by a sentence reading: By governmental decree, similar rules may be laid down with respect to radio programmes.

HH

In Article 71j, in the opening lines "to have broadcast" will be replaced by: to broadcast or have broadcast.

II

The heading of Chapter IV, Section 2, will be deleted.

JJ

Articles 72 up to and including 73a will be deleted.

KK

The heading of Chapter VI will be replaced by:

CHAPTER VI. BROADCASTING OF PROGRAMMES

LL

The heading of Chapter VI, Paragraph 1, will be replaced by:

§ 1 The use of broadcasting transmitters

MM

Article 82a will be amended as follows:

1. In paragraph 1, the opening lines are to be replaced by:

1. The provider of a broadcasting transmitter shall be allowed:

2. The first paragraph, under b., will be replaced by:

b. programmes for broadcasting which have been made by the provider itself, if the latter is an institution which has been granted broadcasting time, or has been granted permission under Article 71a, paragraph 1, to broadcast a programme or have it broadcast;

3. In paragraph 1, under d., "the transmitter" will be replaced by: the broadcasting transmitter.

4. In paragraph 2, "transmitter" will be replaced by: broadcasting transmitter.

NN

Article 82b will be deleted.

OO

In Article 82c, paragraph 2, "transmitter" will be replaced by: broadcasting transmitter.

PP

The heading of Chapter VI, Paragraph 2, will be replaced by:

§ 2 *The use of sets of frequencies*

QQ

Article 82d will be deleted.

RR

Article 82e, paragraph 1, will be amended as follows.

1. In the first paragraph, the phrase "At least one FM frequency or frequency band to be designated by Our Minister, acting in accordance with the opinion of the Council of Ministers" will be replaced by: Our Minister, acting in accordance with the opinion of the Council of Ministers, shall designate the sets of frequencies in the FM band that.

2. In the second paragraph, the phrase "a different FM frequency or FM frequency band" will be replaced by: other sets of frequencies in the FM band.

3. In the third paragraph, the phrase "the number of FM frequencies that" will be replaced by "the set of frequencies in the FM band that" and in the second sentence "FM frequencies and FM frequency bands" will be replaced by: sets of frequencies in the FM band.

SS

Article 82f, paragraph 1, will be amended as follows.

1. In paragraph 1 following "more", "sets of frequencies used" will be added, and the word "used" will be deleted.

HHH

2. In paragraph 3, first sentence, "frequencies" will be replaced by "sets of frequencies" and in the second sentence "FM frequencies and FM frequency bands" will be replaced by: set of frequencies consisting of FM frequencies and FM frequency bands.

TT

In Article 82g, under a., "the frequencies and frequency bands that will be" will be replaced by "the sets of frequencies that will be", and under b. "frequencies that will be" will be replaced by: sets of frequencies that will be.

UU

The heading of Chapter VI, Paragraph 3, will be replaced by:

§ 3 The use of broadcasting networks

VV

Article 82h will be amended as follows:

1. The opening lines will be replaced by: The provider of a broadcasting network shall be allowed:

2. The text of b. will be replaced by:

b. programmes for broadcasting which have been made by the provider itself, if the latter has obtained permission under Article 71a, paragraph 1, to broadcast a programme or have it broadcast;

3. In d., "the cable broadcasting installation" will be replaced by: the broadcasting network.

WW

Article 82i will be amended as follows:

1. In front of the text the number "1." will be placed.

2. The opening lines will be replaced by: The provider of a broadcasting network shall broadcast at least fifteen television programmes for general broadcasting and at least twenty-five radio programmes for general broadcasting unabridged, unchanged and simultaneously with the original broadcast to all those connected to the broadcasting network. These will in any case include:

3. In b. and c., "the cable broadcasting installation" will be replaced in each instance by: the broadcasting network.

4. Three new paragraphs will be added, reading:

2. If different programmes for general broadcasting are not broadcast simultaneously over the same channel of a broadcasting network, these programmes will be considered as one programme for the application of the first paragraph.

3. At the request of a party connected to its network, the provider of a broadcasting network shall be allowed to broadcast fewer than fifteen television programmes for general broadcasting and fewer than twenty-five radio programmes for general broadcasting to that party, providing at least the programmes referred to in the first paragraph, under a. up to and including e., are broadcast, and providing the party concerned is charged a tariff which is proportionally lower than the tariff charged for the reception of the number of programmes broadcast in compliance with the first paragraph. The second paragraph shall apply *mutatis mutandis*.

4. At the request of a provider, the Public Broadcasting Commission may grant that provider full or partial exemption from the obligation referred to in the first paragraph, to the extent that this concerns the programmes referred to in the first paragraph, under d. and e., if compliance with these obligations would cause the provider to incur disproportionately high costs.

XX

Article 82j will be amended as follows:

1. Paragraph 1 will be replaced by:

1. It may be determined by a governmental decree that the provider of a broadcasting network may only charge those who are connected to the broadcasting network a tariff not exceeding the tariff to be established by this governmental decree for the reception of the number of programmes to be determined by the provider, with due observance of Article 82i. Different tariffs may be established for the different categories of broadcasting networks.

2. In paragraph 2, "the manager of a cable broadcasting installation" will be replaced by "the provider of a broadcasting network", and "Article 22e of the Telecommunications Act 1988" will be replaced by: Article 82i.

YY

Article 82k will be amended as follows:

1. Paragraph 1 will be replaced by:

1. In the municipalities where a broadcasting network is present, the municipal council shall establish a programming board which will advise the provider of the broadcasting network as to which programmes for general broadcasting it must at least broadcast to all those connected to the broadcasting network under Article 82i.

2. In paragraph 2, "The manager of a cable broadcasting installation" will be replaced by: The provider of a broadcasting network.

3. Paragraph 3 will be replaced by:

3. The provider of a broadcasting network may also ask the programming board for advice on the other programmes for general broadcasting which it broadcasts to all those connected to the broadcasting network.

4. In paragraph 4, "programmes for broadcasting" will be replaced by: programmes for general broadcasting.

5. In paragraph 5, in the first sentence, "the cable broadcasting installation" will be replaced by: the broadcasting network.

6. In paragraph 6, "cable broadcasting installations" will be replaced in each instance by "broadcasting networks", and "cable broadcasting installation" by: broadcasting network.

7. Paragraph 7 will be replaced by:

7. Paragraphs 1 up to and including 6 shall not apply to the provider of a broadcasting network to which the Independent Post and Telecommunications Authority, within the meaning of Article 2 of the Independent Post and Telecommunications Authority Act, with application of Article 8.2 of the Telecommunications Act, has granted a total or partial exemption from the obligation referred to in Article 8.1, paragraph 1, of the Telecommunications Act.

ZZ

Article 82l will be amended as follows.

1. In paragraph 1 "the manager of a cable broadcasting installation" will be replaced by "the provider of a broadcasting network" and "the cable broadcasting installation" will be replaced by: the broadcasting network.

2. In paragraphs 2 and 3 "The manager of a cable broadcasting installation" will be replaced in each instance by: The manager of a broadcasting network.

AAA

A new Paragraph will be inserted after Article 82l:

§ 4 Final provision

Article 82m

The provisions given by or pursuant to this Chapter shall not prejudice the provisions laid down by or pursuant to the Telecommunications Act.

BBB

In Article 94, "programmes for broadcast" will be replaced by: programmes.

KKK

CCC

Article 117a will be amended as follows:

1. In paragraph 3, "cable broadcasting installation" will be replaced by: broadcasting network.

2. In paragraph 4, "cable broadcasting installation" will be replaced by: broadcasting network.

DDD

In Article 128, paragraph 1, "the local and regional broadcasting institutions, the commercial broadcasting institutions and the providers of a subscriber programme" will be replaced by: the local and regional broadcasting institutions which have been granted broadcasting time, and the commercial broadcasting institutions.

EEE

In Article 134, paragraph 1, "40 up to and including 41c, and 82i" will be replaced by: and 40 up to and including 41c.

FFF

In Article 135, paragraph 1, "a transmitter or a cable broadcasting installation" will be replaced by "a broadcasting transmitter or a broadcasting network", "the manager of a transmitter or the manager of a cable broadcasting installation" will be replaced by "the provider of a broadcasting transmitter or a broadcasting network", and "Article 71g, paragraph 2, Article 71j or Article 73, paragraphs 4 and 7" will be replaced by: Article 71g or Article 71j,.

GGG

In Article 138 "and of providers of a subscriber programme" will be deleted.

HHH

In Article 138a, paragraph 1, "and of providers of a subscriber programme" will be deleted.

III

In Article 138b, paragraph 1, "and by providers of a subscriber programme" will be deleted.

JJJ

In Article 138c, "and every provider of a subscriber programme" will be deleted.

LLL

KKK

In Article 138d, "and providers of a subscriber programme" will be deleted.

LLL

In Article 161, paragraphs 1 and 2, "programme for radio broadcasting" will be replaced in each instance by: radio programme for general broadcasting.

MMM

In Article 167c, paragraph 2, "transmitters" will be replaced by: broadcasting transmitters.

NNN

Article 170a will be amended as follows:

1. In the first sentence of paragraph 1, "Article 28, under l and m," will be replaced by: Article 28, under k and l,.

2. In paragraph 4, "Article 28, under l and m," will be replaced by: Article 28, under k and l,.

OOO

In Article 173, "cable broadcasting installations" will be replaced by: broadcasting networks.

PPP

In Article 175, "71g, paragraphs 2 and 3, and 73, paragraph 4," will be replaced by: 71g,.

Article 19.8

In the War Act for the Netherlands, in Articles 19, paragraph 3, 31, paragraph 2, and 33, paragraph 2, "the telecommunications infrastructure" will be replaced in each instance by: telecommunications networks.

Article 19.9

In the Radio Broadcasting Transmitter Act 1935, Article 2 will be replaced by an article reading as follows:

Article 2

1. If the NOZEMA (Netherlands Broadcasting Transmitter Company) is designated as a broadcasting transmission network within the meaning of Article 8.3 of the Telecommunications Act, Articles 5.1 up to and including 5.9 of that Act shall apply *mutatis mutandis* to cables that are installed by NOZEMA.

2. The NOZEMA will wholly or partially terminate the use of the installations as soon as this is pronounced necessary in the general interest by special governmental decree.

3. Our Minister of Transport, Public Works and Water Management shall be authorized to use administrative coercion to enforce the decree referred to in paragraph 2.

Article 19.10

In the appendix to the Administrative Justice for Trade and Industrial Bodies Act (*Wet bestuursrechtspraak bedrijfsorganisatie*), Parts 3 and 4 will be replaced by a part that reads:

3. Telecommunications Act.

Article 19.11

The following amendments will be made to the Criminal Code (*Wetboek van Strafrecht*).

1. In Articles 138a, paragraph 3, and 350a, paragraph 2, in each instance "the telecommunications infrastructure or of a telecommunications system that is used for the provision of services to the public" will be replaced by: a public telecommunications network.

2. In Articles 139a, paragraph 3, and 139c, paragraph 1 and paragraph 2, under 3°, in each instance "the telecommunications infrastructure or via a telecommunications system that is used for the provision of services to the public" will be replaced by: a public telecommunications network.

3. In Article 139c, paragraph 2, under 1°, "radio-electric receiver" will be replaced by: radio receiver.

4. In Article 161sexies, under 1°, "the telecommunications infrastructure or in a telecommunications system that is used for provision of services to the public" will be replaced by: a public telecommunications network or in the operation of a public telecommunications service.

5. In Article 161septies, under 1°, "the telecommunications infrastructure" will be replaced by: a public telecommunications network or in the operation of a public telecommunications service.

6. In Article 374bis, "the telecommunications infrastructure or of a telecommunications system that is used for the provision of services to the public" will be replaced by: a public telecommunications network or a public telecommunications service.

7. In Article 441, "used radio-electric receiver" will be replaced by: used radio receiver.

Article 19.12

The following amendments will be made to the Code of Criminal Procedure (*Wetboek van Strafvordering*):

1. In Articles 125f, paragraph 1, 125g, 552, paragraph 1 under d., and 552o, paragraph 1 under a., “the telecommunications infrastructure or telecommunications system that is used for the provision of service to the public” will be replaced in each instance by: a public telecommunications network, or making use of public telecommunications services.

2. Article 125f, paragraph 2, will be replaced by a paragraph reading:

2. The demand referred to in the first paragraph may be addressed to anyone employed with a provider of a public telecommunications network or with a provider of public telecommunications services.

Article 19.13

The following amendments will be made to Article 1 of the Economic Offences Act.

a. Under 1^o, the following will be inserted into the alphabetical order: the Telecommunications Act, Articles 3.3, first paragraph, 3.10, 10.5, 10.16, first paragraph, 10.19, first paragraph, 18.8 and 18.9;

b. under 2^o the following will be inserted into the alphabetical order: the Telecommunications Act, Articles 2.1, first paragraph, 3.8, 4.1, fourth paragraph, 4.2, fifth and eighth paragraphs, 4.4, fifth paragraph, 10.8, 10.13, 10.17, 10.18, 13.1, 13.2, 13.5 and 13.8;

c. under 4^o the following will be inserted into the alphabetical order: the Telecommunications Act, Articles 2.3, 3.4, second paragraph, 4.11, third paragraph, 5.2, third and fifth paragraphs, 7.6, 10.4, 10.6, 10.7, second paragraph, 10.10, 10.11, 10.12, 10.14, 10.18, 13.4, first, second and third paragraphs, 18.1, 18.2, 18.7 and 18.12;.

Article 19.14

The following amendments are to be made to the Neighbouring Rights Act (*Wet op de naburige rechten*):

1. In Article 1, under g., "cable broadcasting installation as referred to in Article 1, paragraph 1, under g. of the Telecommunications Act 1988 (Statute Book 1988, 520)" will be replaced by: broadcasting network as referred to in Article 1.1, under o., of the Telecommunications Act.

2. In Articles 14a, paragraph 1, and 14d, "cable broadcasting installation within the meaning of Article 1, paragraph 1, under g, of the Telecommunications Act 1988" will be

replaced in each instance by: broadcasting network within the meaning of Article 1.1, under o., of the Telecommunications Act.

Article 19.15

In the Independent Post and Telecommunications Authority Act, Article 15 will be replaced by an article that reads:

Article 15

The task of the Board shall be:

a. to supervise compliance with the provisions of:

1°. the Postal Act in so far as this task has been assigned to the Board under Article 14b of that Act;

2°. The Telecommunications Act, in so far as this task has been assigned to the Board under Article 15.1, paragraph 3, of the Telecommunications Act;

b. to perform the following tasks:

1°. the management of numbers, referred to in Articles 4.2 up to and including 4.7 of the Telecommunications Act;

2°. to give decisions concerning registration, instructions, approval, setting time limits, exemptions, contracts, disputes, imposition of compensation, as well as to attach regulations and restrictions to these under:

- Article 12, paragraph 2, under a., sub. 3°, of the Postal Act;

- Articles 2.1, 5.3, 5.7, 6.1, 6.2, 6.3, 6.4, 6.6, 6.7, 6.9, 7.1, 7.2, 8.2, 8.6 and 9.4 of the Telecommunications Act;

3°. the activities concerning the registers, copies and lists under

- Article 12, paragraph 2, under a., sub. 3°, of the Postal Act;

- Articles 2.2 and 4.8 of the Telecommunications Act.

Article 19.16

In the Act of 28 March 1996, Statute Book 320, containing amendments to the Telecommunications Act 1988, the Media Act, the Radio Broadcasting Transmitter Act 1935 and the Code of Criminal Procedure in connection with the liberalization of fixed telecommunications systems (fixed telecommunications), Article V, Part L will be deleted.

Article 19.17

If the Bill submitted by the royal message of 18 April 1997 for amendment of the provisions of the Media Act in connection with the privatization of the Netherlands Broadcasting Services Company (*Nederlands Omroepproductiebedrijf N.V.*) (Parliamentary Documents 25 312) becomes an Act before this Act comes into force, this Act shall be amended as follows.

A

In Article 8.3, “Article 1, under ii.” will be replaced by: Article 1, under hh.

B

The following amendments will be made to Article 19.7:

1. In part C, Article 1 under gg. will be deleted, and parts hh. up to and including xx. will be lettered gg. up to and including ww.

2. In part E, “Article 1, under kk.” will be replaced by: Article 1, under jj.

3. In part Q, “Article 1, under ll.” will be replaced by: Article 1, under kk.

C

In Article 20.14, in the first paragraph “article 1, under ii.” will be replaced by: Article 1, under hh.

Article 19.18

If the Bill submitted by the Royal Message of 18 April 1997 for amendment of the provisions of the Media Act in connection with the privatization of the Netherlands Broadcasting Services Company (*Nederlands Omroepproductiebedrijf N.V.*) (Parliamentary Documents 25 312) becomes an Act at the same time as or at a later date than Article 19.7, part C, of this Act, that Act shall be amended as follows.

A

Article I will be amended as follows:

1. Part A, as amended pursuant to the other articles of the Act, will be replaced by:

A

In Article 1, part gg. will be deleted and parts hh. up to and including xx. will be lettered gg. up to and including ww.

2. After part A, a new part Aa will be inserted, reading:

Aa

In Article 3, “Article 1, under kk.” will be replaced by: Article 1, under jj.

3. After part E, a new part Ea will be inserted, reading:

Ea

In Article 52b, paragraph 2, in the last sentence “ Article 1, under ll.” will be replaced by: Article 1, under kk.

B

After Article I, a new Article Ia will be inserted, reading:

ARTICLE Ia

The Telecommunications Act shall be amended as follows:

A

In Article 813, “ Article 1, under ii.” will be replaced by: Article 1, under hh.

B

In Article 20.14, in the first paragraph “ Article 1, under ii.” will be replaced by: article 1, under hh.

Article 19.19

If the Bill submitted by the Royal Message of 17 June 1997 for amendment of the Code of Criminal Procedure in connection with the regulation of several special investigation powers and amendment of several other provisions becomes an Act, the Code of Criminal Procedure shall be amended as follows:

A

In Articles 126m, second paragraph, 126n, first paragraph, 126t, second paragraph, and 126u, first paragraph, “the telecommunications infrastructure or via a telecommunications system that is used for the provision of service to the public” will be replaced in each instance by: a public telecommunications network, or making use of public telecommunications services.

B

In Articles 126n and 126u, the second paragraph will be replaced in each instance by:
2. The demand, referred to in the first paragraph, may be directed to anyone who is employed with a provider of a public telecommunications network or with a provider of public telecommunications services.

CHAPTER 20. TRANSITIONAL AND FINAL PROVISIONS

Article 20.1

1. PTT Telecom B.V. and its group of companies as referred to in Article 24b of Book 2 of the Netherlands Civil Code, in so far as they are a provider of a fixed public telephone network, a fixed public telephone service and leased lines in the Netherlands, shall be designated for two years as a provider of a fixed public telephone network, a fixed public telephone service and leased lines throughout the Netherlands having significant market power within the meaning of Article 6.4, paragraph 1, and Article 7.2, paragraph 1.

2. Contrary to Articles 9.2 up to and including 9.4, PTT Telecom B.V., up to a year after it has notified Our Minister in writing that it will no longer do so, shall offer everyone the services designated under Article 9.1 paragraph 1, and the facilities in connection with them, which comply with the rules laid down in Article 9.1, paragraph 2 with respect to quality and price.

3. Koninklijke PTT Nederland N.V. which pursuant to Article 4 of the Telecommunications Act 1988 is obliged to provide the telex service referred to in Article 4 of the Mandatory Telecommunications Services Decree (*Besluit opgrdragen telecommunicatiediensten*) and the telegraph service referred to in Article 7 of the Mandatory Telecommunications Services Decree, shall continue to ensure that these services, with the exception of the telex service over radio and the radiotelegraphy service, are provided by it or by a legal person to be designated by it to everyone in the territory of the Netherlands. Within two years of the effective date of this Act, on the basis of information provided by Koninklijke PTT Nederland N.V. regarding the scope of the use of these services, Our Minister shall determine the extent to which the mandatory continuation of these services is socially desirable.

4. Criteria shall be established by governmental decree on the basis of which Our Minister can determine the amount of the tariffs of the mandatory services referred to in the third paragraph.

Article 20.2

1. A licence which was granted under Article 13a, paragraph 1, of the Telecommunications Act 1988 shall be equated with a licence granted under Article 3.3, paragraph 1.

2. For the holder of a licence as referred to in the first paragraph, the provisions given by or pursuant to Articles 13c and 13g, on the understanding that in paragraph 1 under a. “including the technical ability to wiretap” will be deleted, 13j, 13k, with the exception of paragraph 7, 13l, 13n, 13t concerning the reference to Article 11, paragraphs 1 up to and including 3, and paragraphs 5 up to and including 7, 13u, 13v, 13x and 13y of the Telecommunications Act 1988 shall remain applicable.

Article 20.3

1. A permit granted under Article 17, paragraph 1, of the Telecommunications Act 1988 shall be equated with a licence granted under Article 3.3, paragraph 1.

2. The assignment of radio frequencies under Article 3, paragraph 2 of the Telecommunications Act 1988 to the holder of the concession shall be equated with a licence for the use of sets of frequencies within the meaning of Article 3.3, paragraph 1.

3. To the extent that radio frequencies have been assigned by a permit granted under Article 21 of the Telecommunications Act 1988, this assignment of radio frequencies shall be equated with a licence for the use of sets of frequencies within the meaning of Article 3.3, paragraph 1.

4. A licence as referred to in the first, second and third paragraphs shall be valid for a period to be determined by governmental decree, whereby a distinction may be made according to the use for which the licence has been granted.

Article 20.4

1. Rules laid down pursuant to Chapters IV, V and VII of the Telecommunications Act 1988, as well as by or pursuant to the Radio-electric Installations Decree (*Besluit radio-elektrische inrichtingen*), shall be equated with rules laid down pursuant to Chapters 3, 10 and 16.

2. Equipment being used on the date on which this Act comes into force by the holder of the concession referred to in Article 3, paragraph 1 of the Telecommunications Act 1988 for the purpose of carrying out tasks assigned to the holder of the concession, to the extent that it does not satisfy the provisions laid down by or pursuant to Chapter 10 of this Act, shall be deemed to satisfy the provisions laid down by or pursuant to Chapter 10.

Article 20.5

1. Chapter 5 of this Act shall apply with respect to the maintenance, relocation and clearing of cables and cable works, to the extent that the cables and cable works have been installed with application of Chapter VI of the Telecommunications Act 1988, on the understanding that cables and cable works installed in and on public land within the meaning of Article 1, part g., under 3°, of the Telecommunications Act 1988 shall be equated with cables, installed in and on public land within the meaning of Article 1.1, under s., of this Act.

2. The following applies with respect to cables and cable works within the meaning of paragraph 1, which are part of a telecommunications network for the use of the Ministry of Defence:

a. for a period of five years from the effective date of this Act, the installation of cables and cable works for the expansion of that telecommunications network shall be governed by Chapter 5 of this Act, and

b. during the period referred to under a., as well as after this period has ended, the provisions of Chapter 5 of this Act shall remain applicable to the cables and cable works installed for the expansion of that telecommunications network with respect to maintenance, relocation and clearing.

Article 20.6

1. A number plan established under Article 40d of the Telecommunications Act 1988 shall be equated with a number plan within the meaning of this Act.

2. The assignment or reservation of numbers, as referred to in Article 17, paragraph 11, of the Telecommunications Act 1988, the assignment or reservation of numbers as well as the alteration thereof, referred to in Article 40d of the Telecommunications Act 1988, the

assignment of numbers referred to in Article 40e of the Telecommunications Act 1988, as well as the assignment of numbers referred to in Article 2, paragraph 3, of the Fixed Telecommunications Infrastructure Licences Act (*Vergunningenwet kabelgebonden telecommunicatie-infrastructuur*) shall be equated with the reservation, assignment or alteration referred to in Chapter 4 of this Act.

Article 20.7

1. A licence without territorial limitation granted under Article 2, paragraph 1, of the Fixed Telecommunications Infrastructure Licences Act shall be equated with a registration as provider of a public telecommunications network as referred to in Article 2.3.

2. For a registered party within the meaning of paragraph 1, Articles 4b of the Telecommunications Act 1988 and 21 of the Fixed Telecommunications Infrastructure Licences Act shall still apply for five years after the effective date of this Act.

Article 20.8

1. With respect to those subject to the registration requirement under Article 2.1, Article 2.1 shall not apply for six months after effective date of this Act, and also subsequently, if an application for registration is filed during this period, until six weeks after the date of the decision by which the application is decided upon.

2. A registration within the meaning of Article 4c of the Telecommunications Act 1988 shall be equated with a registration within the meaning of Article 2.1 of this Act.

Article 20.9

1. The frequency plan shall be established for the first time within six months of the date on which this Act comes into force.

2. Until the time when the frequency plan is established for the first time, licences for sets of frequencies within the meaning of Article 3.3, paragraph 1, shall be granted by means of the procedure in order of receipt.

3. Notwithstanding paragraph 2, if an application for a licence concerns sets of frequencies which in the opinion of Our Minister belong to a category of use for which licences will be granted by means of an auction or a comparative test, Our Minister may decide to use one of the aforementioned procedures.

Article 20.10

The register of frequencies shall be available within six months after the date on which this Act comes into force.

Article 20.11

1. Without prejudice to paragraph 2 of this Article, the consent referred to in Article 11.5, paragraph 2, under b., shall not be required for the data already being used in relation to the purpose referred to in Article 11.5, paragraph 2, under b, on the effective date of Article 11.5.

2. With respect to the data referred to in the first paragraph, the providers mentioned in Article 11.5, paragraph 1, shall notify the subscriber within a year of the effective date of Article 11.5 of the use which is being made of these data. The subscriber will be deemed to have consented to such use unless the subscriber informs the provider concerned in writing within two months after the date on which the notification was sent that no consent will be given for such use.

Article 20.12

Article 11.6 shall not apply to generally available telephone directories and the files of generally available subscriber information services which have been published before the date on which that Article comes into force.

Article 20.13

With respect to those to whom the rule under Article 13.1 applies, that article shall remain inapplicable for nine months after the date on which this Act comes into force, if the public telecommunications networks or public telecommunications services offered by it cannot yet be wiretapped.

Article 20.14

1. With respect to institutions that have been granted broadcasting time within the meaning of Article 1, under ii., of the Media Act and for which a licence is required under Article 3.3 for the use of sets of frequencies for public broadcasting, that Article shall not apply for six months after the date on which this Act comes into force, and also subsequently, if an application for a licence has been filed during this period, for six weeks after the date of the decision by which the application has been decided upon.

2. For as long as, and to the extent that Article 3.3 does not apply with respect to the use of sets of frequencies for public broadcasting, the Netherlands Broadcasting Transmitter Company "NOZEMA", within the meaning of Article 1 of the Radio Broadcasting Transmitter Act 1935, shall be authorized to make use of the sets of frequencies for public broadcasting, in so far as those sets of frequencies have been assigned to it by Our Minister under Article 2 of the Radio Broadcasting Transmitter Act 1935.

3. For as long as, and to the extent that Article 3.3 does not apply with respect to the use of a set of frequencies for public broadcasting, the NOZEMA shall, contrary to Article 10.15, remain authorized to install and use radio transmission equipment for the purpose of providing services for which use is made of the sets of frequencies for public broadcasting.

4. For as long as, and to the extent that Article 3.3 remains inapplicable with respect to the use of sets of frequencies for public broadcasting, the rules pertaining to the use of sets of frequencies for public broadcasting laid down under Article 3.3 shall not apply either with respect to the NOZEMA.

5. The sets of frequencies for public broadcasting assigned by Our Minister to the NOZEMA in accordance with Article 2 of the Radio Broadcasting Transmitter Act 1935 at the time this Act comes into force shall be put at the disposal of Our Minister no later than six months after the date on which this Act comes into force.

Article 20.15

1. With respect to the possibility of lodging an objection or an appeal against a decision pursuant to the Telecommunications Act 1988 which was announced prior to the effective date of this Act, the right shall apply as it did before that date.

2. With respect to the handling of an objection or appeal that was lodged prior to the effective date of this Act, the right shall apply as it did before that date.

3. With respect to the handling of an objection or appeal that was lodged on or after the effective date of this Act comes into force, and is aimed at a decision against which objection or appeal had been lodged before that date as well, the right shall apply as it did before that date.

Article 20.16

The text of the Media Act shall be published in the Statute Book.

Article 20.17

1. The Telecommunications Act 1988 shall be repealed at a time to be determined by a special governmental decree, which time may be determined differently for the different Articles or parts thereof.

2. The Fixed Telecommunications Infrastructure Licences Act shall be repealed at a time to be determined by a special governmental decree, which time may be determined differently for the different Articles or parts thereof.

Article 20.18

In cases not provided for by this Act, until two years after this Act comes into effect, rules with respect to the implementation of Articles of this Act or parts thereof may be established by governmental decree.

Article 20.19

The Articles of this Act shall come into force at a time to be determined by a special governmental decree, which time may be determined differently for the different Articles or parts thereof.

Article 20.20

This Act shall be cited as: Telecommunications Act.

We hereby order and command that this shall be published in the Statute Book and that all Ministries, Authorities, Bodies and civil servants to whom this shall be of concern shall ensure its careful enforcement.

Given,

The Minister of Transport, Public Works and Water Management