

# Electronic Communications Act (Ekom Act) – Unofficial Translation

This document contains an unofficial English translation of the Norwegian Electronic Communications Act (Ekomloven – LOV-2024-12-13-76). This translation is provided for informational purposes only and does not constitute a legal document.

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## Chapter 1: Introductory provisions

### Section 1-1. Purpose

The purpose of this Act is to secure that users throughout the country have access to good, affordable, and future-oriented electronic communications services with appropriate security, to facilitate sustainable competition and efficient use of society's resources, and to foster industrial development and innovation. The Act shall also ensure appropriate security in data centres.

### Section 1-2. Substantive scope

The Act applies to activities connected to electronic communications and associated equipment, and data centres. Management and use of the electromagnetic spectrum and numbers, names, domain names, and addresses are included. The same applies to all emission of electromagnetic waves from electronic communications and all inadvertent emission of electromagnetic waves that may interfere with electronic communications. Content services that are invoiced together with electronic communications services are included.

The King may by individual decision or regulations determine what shall be considered to fall within the scope of the Act.

### Section 1-3. Geographical scope

The Act applies in Norway, to Norwegian ships and aircraft, installations and facilities of whatever nature connected to petroleum activities, mineral activities and CO<sub>2</sub> storage on the continental shelf, installations and facilities of whatever nature for the utilisation

of renewable energy resources at sea within the scope of the Norwegian Offshore Energy Act, and offshore aquaculture facilities under the Aquaculture Act.

The King may issue regulations on the application of the Act to Jan Mayen, Bouvet Island, Peter I Island, and Queen Maud Land. The King may also establish exceptions and special rules by regulation in accordance with international agreements to which Norway is party, or as necessitated by local conditions.

The King may limit the Act's geographical scope and lay down provisions on the Act's application to foreign-registered ships in Norwegian territorial waters and foreign-registered aircraft in Norwegian airspace.

#### **Section 1-4. Authority under the Act**

The Ministry may issue regulations stipulating that the Norwegian Communications Authority, other public entities, or private entities shall have authority under the Act.

#### **Section 1-5. Definitions**

In this Act, the following terms shall mean:

1. electronic communications: communication using an electronic communications network.
2. electronic communications network: system for signal transmission, whether or not based on permanent infrastructure or centralised administration capacity, enabling the transfer of sound, text, images, or other data using electromagnetic signals in free space or cable, where radio equipment, switches, other connection and routing equipment, associated equipment or functions are included, such as network components that are not active.
3. very high-capacity network: electronic communications network consisting wholly of optical fibre elements up to the distribution point at the serving location, or which under usual peak-time conditions can deliver similar performance.
4. electronic communications service: a service normally provided for a fee in an electronic communications network, and which is an:
  - a. internet access service,
  - b. interpersonal communications service, or

c. service that entirely or mainly consists of the conveyance of signals, such as transmission services used for the provision of machine-to-machine communications and for broadcasting.

Services that offer content or exercise editorial responsibility over such content, and which are transmitted via an electronic communications network or service, are not included.

5. interpersonal communications service: a service normally provided for a fee, enabling direct and interactive exchange of information between a limited number of persons via an electronic communications network, whereby the persons initiating or participating in the communication determine its recipients, except services where such interaction is only a minor ancillary feature of another service.
6. number-based interpersonal communications service: an interpersonal communications service that connects to one or more numbers in national or international numbering plans or enables communication with such numbers.
7. number-independent interpersonal communications service: an interpersonal communications service which does not connect to one or more numbers in national or international numbering plans or enables communication with such numbers.
8. internet access service: a public electronic communications service that provides access to the internet, regardless of the network technology or terminal equipment used.
9. public electronic communications service: an electronic communications service that is accessible to the public or intended for use by the public.
10. public electronic communications network: an electronic communications network used wholly or mainly to provide public electronic communications service which support the transfer of information between network termination points.
11. provider: natural or legal person that offers others access to an electronic communications network or service.
12. network termination point: physical connection point where an end-user is provided with access to a public electronic communications network.
13. associated facility: physical infrastructure or other devices or elements associated with an electronic communications network or service which enable, support, or could support the provision of electronic communications services via this type of network or service.

14. associated service: a service associated with an electronic communications network or service that enables or supports the provision of services via such network or service or has the potential to do so.
15. radio equipment: an electrical or electronic product which either alone or with extra equipment, for example an antenna, intentionally radiates or receives radio waves for radio communication or radio determination.
16. terminal equipment: a product or part of a product usable for electronic communication, intended to be connected directly or indirectly to the network termination point of an electronic communications network.
17. harmful interference: interference that puts a radio navigation service or another emergency or safety service in danger or which significantly reduces the quality of, obstructs or repeatedly interrupts radio communication operating in accordance with specified requirements.
18. co-location: shared use of infrastructure or associated facilities that are used or can be used to locate equipment for electronic communications.
19. interconnection: function that facilitates conveyance of traffic between providers so that end-users may communicate with each other and have access to public electronic communications services regardless of their provider affiliation.
20. voice communications service: public electronic communications service which directly or indirectly originate and receive national or international calls using one or more numbers from a national or international numbering plan.
21. security incident: any event that has caused or may cause a breach of security in an electronic communications network or electronic communications service.
22. security breach: an event that results in unauthorised access to or loss of data, applications, networks, or devices.
23. traffic data: data necessary to transmit communications in an electronic communications network or for billing of such transmission.
24. location data: data from an electronic communications network indicating the geographic location of terminal equipment of an end-user of an electronic communications service.
25. user: natural or legal person using or requesting access to a public electronic communications network or service for own use or as a factor input for the production of other services.

26. end-user: user concluding an agreement for, but not offering others access to, public electronic communications networks or public electronic communications services.
27. consumer: any natural person using or requesting access to a public electronic communications service not primarily acting within a commercial capacity.
28. small enterprise: an enterprise with fewer than 50 employees and annual turnover or balance not exceeding NOK 100 million.
29. microenterprise: an enterprise with fewer than 10 employees and annual turnover or balance not exceeding NOK 20 million.
30. jointly billed service: prepaid or post-paid purchases of goods and services billed together with an electronic communications service.
31. identity capture: receiving and sending of radio signals in a public electronic communications network used for mobile communication with the intent of detecting the electronic identity of terminal equipment.
32. small-area wireless access point: compact wireless access points with low output power and limited coverage, possibly equipped with one or more antennas with low visual impact, using radio frequencies to provide users access to electronic communications networks, regardless of whether the underlying network topology is mobile or fixed.
33. domain name: name enabling identification of services and resources on the internet, forming part of the global Domain Name System (DNS). The DNS is a hierarchical naming system linking domain names to IP addresses and conveying technical information needed for addressing websites, email, and other internet services.
34. top-level domain: domain name registered at the highest level of the global DNS, including both country code and generic top-level domains.
35. registry unit: enterprise with delegated responsibility for managing and operating a top-level domain, including allocation and registration of rights to domain names, operation of name services, database maintenance, zone file distribution, etc.
36. data centre: a facility, part of a facility, or group of facilities used for housing, connecting, and operating IT and network equipment for data storage, data processing, or data transmission, and related activities.
37. data centre service: service facilitating the housing, connection, and operation of IT and network equipment for data storage, data processing, and data

transmission, including physical security, power supply, and cooling, and can include other related services.

38. data centre operator: a natural or legal person who:

- a. provides others access to data centre services for a fee, or
- b. operates a data centre with subscribed electrical capacity above a threshold set by the Ministry in regulations. This includes internal enterprise data centres, excluding the defence sector, the police, and the Police Security Service.

## Chapter 2 – Obligations for providers of electronic communications networks and services

### § 2-1 Obligation to register as a provider

Providers of public electronic communications networks and public electronic communications services shall register with the Ministry before commencing activities. Operations may begin once the registration has been submitted. The obligation to register does not apply to providers of number-independent interpersonal communications services.

The registration shall include information on:

- a. the provider's name
- b. Norwegian organisation number or the provider's legal status, form and registration number if the provider is registered in a trade- or similar public register within the EEA
- c. Norwegian address or the address of the provider's head office in the EEA, and any secondary branch
- d. the provider's website address
- e. contact person and their contact information
- f. any cooperation partners for the development and delivery of electronic communications services
- g. description of the networks or services, including whether access to fixed or mobile networks is offered, and the network's geographic coverage and location, including connections abroad and specifications for the technical interfaces to electronic communications networks, and
- h. expected commencement of operations.

The Ministry may stipulate a standard form to be used for the registration under the second paragraph.

Changes to registered information shall be reported to the Ministry as soon as possible and no later than within two weeks.

The information received pursuant to the second paragraph will be shared with BEREC.

The Ministry may issue regulations concerning the registration obligation under this provision.

## **§ 2-2. Requirements for registration of maritime accounting authorities**

Maritime accounting authorities intending to offer billing and payment intermediation for the use of electronic communications services on board Norwegian ships shall register with the Ministry.

To secure the availability of billing and payment intermediation services under the first paragraph, the Ministry may enter into an agreement with or designate an entity to provide maritime accounting authorities services.

The Ministry may issue regulations regarding which information shall be provided upon registration under the first paragraph, conditions for registration, requirements for the business operations, financial security for liabilities the maritime accounting authority may incur, duration and termination of operations, and restrictions on the number of entities that may be registered or approved to conduct maritime accounting authorities services.

## **§ 2-3. All-to-all communication and interoperability between services**

Providers of electronic communications networks and services have the right and the obligation to negotiate interconnection agreements with other providers for the purpose of delivering public electronic communications services.

When necessary to secure all-to-all communication, the Ministry may impose access obligations on any provider, except providers of number-independent interpersonal communications services. The access obligation may include a duty to enter into interconnection agreements. Such obligations shall follow the procedures set out in §§ 14-2 and 14-3.

The Ministry may impose obligations on providers of number-independent interpersonal communications services with significant coverage and a substantial number of users to secure interoperability with other electronic communications services for the purpose of securing all-to-all communication. Such obligations may only be imposed where there is an implementing act that is binding under the EEA Agreement.

The Ministry may adopt individual decisions and issue regulations to secure that users are able to reach each other, including setting requirements for the use of specific standards, publication and use of information from authorities and other providers.

**Section 2-4. Requirements for networks, services, associated equipment and facilities**

The Ministry may impose requirements on electronic communications networks and services, associated equipment and facilities, and the use of standards in order to secure interoperability between networks and services, quality, efficient use of capacity in networks shared by multiple providers, and to safeguard life and health or prevent harmful interference.

The Ministry may adopt individual decisions and issue regulations supplementing the first paragraph, including by imposing requirements to prevent and limit the volume of mass-distributed electronic messages, malicious software and similar, and to determine the location of network termination points.

**Section 2-5. Duty of confidentiality in access and interconnection**

A provider is obliged to maintain the confidentiality of information received from another provider before, during or after negotiations on access or interconnection agreements. The duty of confidentiality also applies to information the provider receives during the contractual relationship. Such information shall not be used internally within the provider's own organisation for any purpose other than that for which it was intended at the time it was provided.

**Section 2-6. Measurement and information on quality**

The Ministry may require providers of internet access services and public interpersonal communication services to measure and publish exhaustive, comparable, reliable, user-friendly, and up-to-date information on the quality of their services. The duty to publish such information applies insofar as the provider exercises control over all or parts of the network, either directly or pursuant to a service level agreement.

The Ministry may require providers referred to in the first paragraph to provide information on the measures taken to ensure that end-users with disabilities enjoy access equivalent to that of other end-users.

The Ministry may require providers referred to in the first paragraph to measure and report on the environmental and climate impact of their operations.

The Ministry may require providers of public interpersonal communication services to disclose whether the quality of the service depends on external factors.



If required by the Ministry, information that providers are obliged to publish pursuant to the first, second, third and fourth paragraphs shall be submitted to the Ministry prior to publication.

The Ministry may adopt individual decisions and issue regulations concerning which parameters of service quality shall be measured, the applicable measurement methods, and the content, format and manner of publication of such information, including possible arrangements for quality certification.

### **Section 2-7. Design, installation, maintenance and interconnection of electronic communications networks**

Undertakings responsible for the design, installation, maintenance or interconnection of electronic communications networks shall hold an authorisation issued by the Ministry. The undertaking shall ensure and document that the electronic communications network is constructed in a professionally sound manner and meets satisfactory quality standards.

The owner of an electronic communications network shall engage an undertaking holding an authorisation pursuant to the first paragraph for the design, installation, maintenance and interconnection of electronic communications networks, and shall be able to document that the network has been constructed in a professionally sound manner and with satisfactory quality.

The Ministry may issue regulations on the requirements for undertakings responsible for the design, installation, maintenance or interconnection of electronic communications networks, as well as exemptions from the requirements. The Ministry may issue regulations concerning requirements for execution, personnel qualifications, quality, and documentation in electronic communications networks, and exemptions from such requirements.

### **Section 2-8. Unique identification of end-users**

A provider of a public number-based interpersonal communications service shall ensure that the end user is uniquely identified when entering into, amending, or terminating the agreement. The provider shall be able to document the identity verification.

The ministry may issue regulations laying down the requirements for unique identification of end user, including identity verification.

**Section 2-9. Register of end-users**

A provider of public number-based interpersonal communications services shall maintain a record of the end-user's name, address and service number. The record shall include information sufficient to identify the registered end-user, as well as information enabling the geographical location of the end-user in connection with emergency communications, cf. Section 2-10.

The Ministry may issue regulations concerning the registration of end-users.

**Section 2-10. Emergency calls and geographical location of emergency communications**

Providers of publicly available number-based interpersonal communications services that allow end-users to make calls to numbers in a national or international numbering plan, shall ensure that the end-users have access to emergency services through emergency communications. Emergency communications shall be routed to the best suited emergency response centre.

Communication with emergency services shall be possible free of charge and without the use of coins, cards, codes or any other means of access. The numbers for emergency services shall be posted and clearly visible at all publicly accessible terminals for voice communications services.

Providers referred to in the first paragraph and any provider of electronic communication networks used for the provision of the service referred to in the first paragraph shall, at their own expense, ensure that the telephone number, the name of the end-user, and the information necessary to determine the geographical location of emergency calls are transmitted for all calls to the emergency response centre. This applies even where the end-user has a secret number or has opted out of displaying their number for outgoing calls.

The provider shall ensure that end-users with disabilities have access to emergency services through emergency communications. The service shall be equivalent to those available to other end-users. This shall also apply to end-users with disabilities who are roaming on Norwegian networks.

The Ministry may issue regulations regarding communications to emergency services, including the obligation to forward communications using SMS and MMS, the geographical location of emergency calls, and emergency communications originating from private networks. The Ministry may also issue regulations on routing to emergency response centres other than as set out in the first paragraph.

## **Section 2-11. eCall**

A provider of public electronic communications services must route eCall communications and ensure the transmission of the data set to the designated emergency communications response centre.

eCall refers to a system for the automatic or manual notification of traffic accidents or other emergencies from a vehicle to a response centre.

The Ministry may issue regulations and adopt individual decisions concerning eCall, the further development of eCall based on international standards, and the allocation of costs associated with eCall.

The Ministry may, by regulation or individual decision, grant exemptions from the obligation to route eCall in specific cases.

## **Section 2-12. Ensuring continued provision in the event of provider bankruptcy, etc.**

A provider of public electronic communications networks and services, with the exception of providers of number-independent interpersonal communications services, shall prepare plans to ensure continued service provision to their own customers for a minimum period of two weeks in the event of bankruptcy, the opening of debt negotiation proceedings, or suspension of payments. Such plans may include insurance arrangements, cooperation agreements between providers, private fund schemes or similar measures.

If a provider as referred to in the first paragraph files a petition for debt negotiations or bankruptcy with the district court, the provider shall notify the Ministry thereof. The district court shall immediately inform the Ministry of any debt negotiations or bankruptcy proceedings initiated against the provider.

When the initiation of bankruptcy proceedings against a provider creates a risk of operational shutdown, the Ministry may, in special cases and to the extent it is necessary to safeguard users' communications, order continued operation for up to two weeks, including ordering the estate of bankruptcy to take over all or parts of the debtor's current agreements. In consideration of whether such an order should be given, account shall be taken to whether important societal interests will suffer as a consequence of a cessation of operations. The financial position of the estate shall also be taken into account. The same applies where the opening of debt negotiation proceedings pursuant to the Bankruptcy Act would otherwise lead to operational shutdown.

Upon expiry of such an order, the obligation to continue operations pursuant to the third paragraph shall have no effect on the estate's right to choose whether it will assume the debtor's agreements pursuant to Section 7-3 of the Creditors Recovery Act, or on the

estate's liability under Section 7-4 of the same Act. Contractual notice periods and time limits for notice under Section 7-6(1) of the Creditors Recovery Act are not an obstacle to an order being given to assume current agreements for a period as stated in the fourth paragraph of this section.

The Ministry may adopt individual decisions concerning the content of the plans required under the first paragraph, including by ordering the provider to prepare a new plan, and may, in exceptional cases, exempt a provider from the obligation to prepare such plans. The Ministry may issue regulations on the plans required under the first paragraph, including their content, exemptions from the planning obligation, and measures to safeguard continued provision in the situations referred to in the third paragraph.

## Chapter 3. Security and communications protection

### Section 3-1. Security in electronic communications networks and services

The provider shall:

- a. offer electronic communications networks and services with appropriate security for the users in peacetime, crisis, and war
- b. maintain appropriate preparedness in electronic communications networks and services and prioritise entities important to the community when necessary; and
- c. ensure appropriate protection of communications and data in electronic communications networks and services.

When assessing whether the security is appropriate, emphasis shall be accorded to the ability to resist any incident that cause or may cause breaches in availability, authenticity, integrity, or confidentiality in electronic communications networks or services, of stored, transmitted or processed data, or of the related services offered by, or accessible via, such electronic communications networks or services. Due consideration shall be given to, among other things, the best available technical solution, the cost and benefit of the measures, the significance of the network or service, and common standards.

The provider shall prevent and minimise the impact of security incidents and ensure rapid recovery.

The provider shall systematically monitor security and preparedness in electronic communications networks and services and shall document an appropriate level of security.

The Ministry may make individual decisions to ensure that the provider implements measures that give appropriate security, preparedness and protection of communications and data. The provider shall cover the costs of such measures.

The Ministry may make individual decisions or enter into agreements for the implementation of measures to ensure the fulfilment of national needs for security, preparedness and functionality in electronic communications networks and services beyond the requirements specified in the first paragraph. Such decisions may be made regarding, or agreements entered into with, undertakings that:

- a. offer electronic communications networks or services, or
- b. offer associated facilities and associated services, including undertakings responsible for passive infrastructure.

The additional costs that arise in association with such measures will be compensated by the State based on satisfactory documentation provided by the undertaking. If the undertaking has not chosen a solution that is economically beneficial for the State, the Ministry may make individual decisions requiring the undertaking to reimburse documented unnecessary expenses.

The Ministry may issue regulations regarding the fulfilment of security and preparedness measures, protection of communications and data, and other obligations under this provision, including matters of national autonomy. The Ministry may issue regulations concerning security audits, deadlines, reporting obligations, use of multiple transmission routes nationally and internationally, redundancy, including logical redundancy and equipment redundancy, and financing. The Ministry may also issue regulations or make individual decisions extending the application of this provision to entities other than providers, and may grant exemptions from the provision for providers, undertakings, or services.

The Ministry may issue regulations regarding the fulfilment of obligations regarding security in electronic communications networks and services in accordance with the EEA Agreement and other international agreements.

### **Section 3-2. Notification to subscribers or users in the event of security incidents**

The provider shall, without undue delay, notify the subscriber or user in the case of a particular risk of a security incident in public electronic communications networks or services, and shall inform of any protective measures or remedies which can be taken

by the subscriber or user. Where appropriate, the provider shall also inform of the threat itself.

The provider shall, without undue delay, notify the subscriber or user of security breach that has had or may have a negative impact on the protection of communications privacy or personal data and privacy of the subscriber or user. The obligation to notify does not apply if the provider has demonstrated to the Norwegian Communications Authority that appropriate technical protective measures have been implemented for the data affected by the security breach.

The Ministry may issue regulations and make individual decisions concerning the notification of security breaches and security incidents, including criteria for notification, deadlines, notification procedures, content requirements for the notice, financing of the notification obligation, and exemptions from the notification obligation.

### **Section 3-3. Notification of security incidents**

The provider shall immediately notify the Ministry of security incident that has had a significant breach of availability in electronic communications networks or services. The provider shall, without undue delay, notify the Ministry of security incidents that have resulted in a significant breach of authenticity, integrity, or confidentiality in electronic communications networks or services.

In assessing whether a security incident under the first paragraph is significant, consideration shall be given to:

- a. the number of users affected
- b. the duration
- c. geographic scope
- d. functions in electronic communications networks and services affected, and
- e. economic and societal impact.

The Ministry may require the provider to inform the public of security incidents under the first paragraph when it is in the public interest.

The Ministry's authority may be delegated, cf. Section 1-4. The Ministry may issue regulations and make individual decisions regarding the notification of security incidents, including the significance requirement in the first paragraph, criteria for notification, procedures for notification, specific notification deadlines, content requirements for the notice, incident reporting, and financing of the notification obligation.

### **Section 3-4. Duty to secure critical societal functions and international cooperation**

If a commercial solution cannot be reached within a reasonable time, the Ministry may, in special cases and where necessary, require a provider to offer electronic communications services to undertakings, organisations, and public entities that maintain particularly important or critical societal functions of national significance. The Ministry may impose pricing obligations on the provider, including setting the price, if necessary to ensure implementation of the measure.

The Ministry may require the provider to enter into cooperation with another national or international entity when this is necessary due to important national security interests or pursuant to an international agreement.

### **Section 3-5. Restrictions on market access**

Where necessary for reasons of national security or other important societal consideration, the Ministry may, in special cases, make a decision to deny the provider access to the market.

Before making a decision, advisory opinions should be obtained from relevant authorities.

The Ministry may issue regulations on restrictions to market access.

### **Section 3-6. Transmission of important messages (public warning system)**

Providers of electronic communications networks and services, except providers of number-independent interpersonal communications services, shall transmit important messages from the State Authority. The Ministry may require the provider to cover part of the costs of the warning system.

The Ministry may issue regulations or make individual decisions regarding the transmission of important messages, including that the provider under the first paragraph shall implement immediate notification, facilitate notification, and activate the notification function in the terminal equipment on the user side. The Ministry may issue regulations or make individual decisions on technology choices and technical solutions.

The Ministry may issue regulations imposing equivalent obligations on providers other than those referred to in the first paragraph, and that messages from authorities other than the State Authority are included.

The Ministry may issue regulations or make individual decisions regarding the coverage of part of the costs of the warning system for providers under the first and third paragraphs.

### **Section 3-7. Data centres**

A data centre operator is required to register with the Ministry before commencing operations. The operation may begin once the registration has been completed.

The data centre operator shall provide and maintain data centre services with appropriate security for the users in peacetime, crisis, and war. The operator shall maintain appropriate preparedness, and entities important to the community shall be prioritised, when necessary. The Ministry may make individual decisions to ensure that the data centre operator implements measures that ensure appropriate security and preparedness. The data centre operator shall cover the costs of fulfilling this obligation.

The data centre operator shall systematically monitor security and preparedness in the data centre service and shall document an appropriate level of security. When assessing whether the security is appropriate, emphasis shall be accorded to the ability to resist any incident that causes or may cause breaches in availability, authenticity, integrity, or confidentiality in data centre services. Due consideration shall be given, among other things, to the best available technical solution, common standards, the cost and benefit of the measures, and the significance of the data centre service.

The Ministry may make individual decisions or enter into agreements for the implementation of measures to ensure the fulfilment of national needs for security, preparedness, and functionality in data centres beyond the requirements specified in the second paragraph. The additional costs that arise in association with such measures will be compensated by the State based on satisfactory documentation provided by the undertaking. If the undertaking has not chosen a solution that is economically beneficial for the State, the Ministry may make an individual decision requiring the undertaking to reimburse documented unnecessary expenses.

The Ministry may issue regulations regarding the fulfilment of appropriate security and preparedness, financing, national autonomy, security audits, and registration requirements, including the method of registration, the information to be registered, and the threshold value for the registration requirement. The Ministry may, by regulation or individual decision, grant exemptions from the registration requirement, or require data



centre operator operating below the threshold to register. The Ministry may issue regulations on national security and crime prevention in data centres, including requirements that the operator shall have an available representative with sufficient knowledge of the facility; requirements for separation of customers or customer groups; requirements that the data centre operator shall maintain updated lists of its customers and their locations within the data centre; and requirements that the police and EOS services shall be granted prompt access to information under specified conditions.

### **Section 3-8. Permitted restrictions on use**

The Ministry may, for reasons of national security or other important societal interests, require a provider or data centre operator to implement restrictions on use of electronic communications networks and services or in data centre services. The Ministry shall notify the EFTA Surveillance Authority of any restrictions of use in electronic communications networks and services.

Providers and data centre operators shall implement necessary restrictions on use in emergency situations that involve serious threats to life or health, national security, or public order, or danger of sabotage against a data centre, network, or service.

Where necessary in the interest of communications security or network integrity, a provider may immediately disconnect radio and terminal equipment, provided that an alternative solution is offered without delay. The cost of providing an alternative solution shall be borne by the provider.

The Ministry may grant a provider permission to deny connection or to disconnect radio and terminal equipment that does not satisfy requirements in accordance with section 13-1, or that causes harmful interference or serious damage to the network.

Restrictions on use of electronic communications networks and services between providers as a result of default of payment shall be proportionate and non-discriminatory and shall be notified as per the seventh paragraph.

In situations other than those mentioned in the second, third and fifth paragraphs, implementation of restrictions of use requires permission from the Ministry.

The ministry shall be notified immediately in the event of disconnections and other restrictions of use. The Ministry may refuse a provider from implementing restrictions of use under the fifth paragraph if they are disproportionate or discriminatory. The provider at whom the restrictions of use under the fifth paragraph are directed shall be notified at least one month prior to disconnection. Such provider shall immediately notify affected

providers and end-users. In special cases, the Ministry may inform the affected providers and end-users of the notified restrictions of use in an appropriate manner.

Restrictions on use pursuant to the second paragraph shall be terminated as soon as the emergency situation is over, and in accordance with the third and fourth paragraphs as soon as the end-user establishes that the necessary permission has been obtained or illegal radio and terminal equipment is disconnected from the network.

The Ministry may issue regulations on restrictions of use and on exemptions from the requirement for permission for restrictions of use.

### **Section 3-9. Requirement for police certificate**

Providers of electronic communications networks and services, and data centre operators, may require individuals to present an exhaustive and expanded police certificate, cf. Police Register Act section 41. A police certificate may be required from an individual who has been offered or is nominated for a position, and who will have access to electronic communications networks, associated facilities, data centres, equipment, systems, or information that is of significant importance to the security of the networks or services, is confidential, or is otherwise of particularly sensitive nature. Such police certificate may also be required for employees of suppliers. The police certificate shall not be older than 90 days upon presentation.

A police certificate is not required for individuals who hold valid security clearance or access clearance pursuant to the Security Act.

The Ministry may issue regulations on the requirement to submit a police certificate, including specifying which offences the certificate shall disclose.

### **Section 3-10. Duty of confidentiality**

Providers and installers are obligated to maintain confidentiality regarding the content of electronic communications and the use of electronic communications by others, including information about technical systems and procedures. Providers and installers are required to implement measures to prevent anyone other than those to whom the information applies from obtaining knowledge of such information. Beyond the lawful processing purposes, the information shall not be utilised within their own activities or in service or work for others, with the exception of statistical information on network traffic is rendered anonymous and does not disclose information on systems or technical solutions.

The duty of confidentiality in the first paragraph also applies to anyone performing work or services for providers of electronic communications networks or services, installers, technical control bodies, the Authority, or others who lawfully access such information. The duty of confidentiality also applies after the person has ceased the work or service.

The duty of confidentiality is not an obstacle to information being given to the police or the prosecuting authority regarding unlisted telephone numbers under an agreement or other subscription information, or electronic communications addresses. The same applies to testimony in court concerning such information disclosed to the prosecution authority or police under the first paragraph. The duty of confidentiality shall not be an obstacle for information as mentioned in the first paragraph being given to another authority pursuant to the law. This does not apply to electronic communications addresses stored under section 3-13.

A request from the police or prosecution authority for information as described in the third paragraph shall be complied with.

The Ministry may issue regulations on the duty of confidentiality, extending the confidentiality obligation to include anyone involved with electronic communications networks or services, exceptions from the confidentiality obligation for the efficient routing of traffic, the scope of the exception under the third paragraph, and the duty to provide information under the fourth paragraph. The Ministry may issue regulations on the disclosure of data under this provision. The Ministry may issue regulations on exceptions from confidentiality obligation for the processing of personal data and other data in the provision of number-independent interpersonal communications services where necessary to combat child sexual abuse and establish rules for the processing of such personal data.

### **Section 3-11. Deletion of data**

Traffic data, location data, and data necessary to identify the subscriber or user shall be deleted or anonymised as soon as they are no longer necessary for:

- a. communication or invoicing purposes, or
- b. to comply with other requirements set out in section 3-13, or with other demands laid down in accordance with law, cf. section 3-12.

Any other processing of this type of data requires the consent of the user. The consent shall meet the requirements for consent under the General Data Protection Regulation.

The Ministry may issue regulations on the duty to delete data and on limited exceptions to the obligation to delete data. The Ministry may issue regulations on exceptions to the obligation to delete data for the processing of personal data and other data in the

provision of number-independent interpersonal communications services to combat child sexual abuse.

### **Section 3-12. Facilitating statutory access to information**

Providers of electronic communications networks that are used for public electronic communications services, and providers of such services, shall operate networks and services to ensure that statutory access to information about end-users and electronic communications are secured.

The provider's operational expenses connected to fulfilling the duty to facilitate access to information under the first paragraph will be met by the State in regard to those additional costs resulting from providing these services.

The Ministry may issue regulations on the duty to facilitate access to information under the first paragraph and on exceptions to this, and on the allocation of costs under the second paragraph. The Ministry may issue regulations in relation to the provider's requirement for coverage of costs as a result of support to foreign states that fulfils obligations in relation to the agreements to which Norway is a party.

Provisions on facilitation for the collection of electronic communications transmitted across the Norwegian border are regulated in Chapter 7 of the Intelligence Services Act.

### **Section 3-13. Duty to retain public IP addresses**

Providers of electronic communications networks used for public electronic communications services, and providers of such services, shall retain, for the purposes of investigating serious crime, information necessary to identify subscribers based on:

- a. public IP address and a time of communication, or
- b. public IP address, a time of communication, and port number used during the communication, if the same public IP address is assigned to multiple subscribers simultaneously.

Destination information shall not be retained.

The information shall be retained for twelve months from the day the communication ends.

The provider shall cover the investment and operational costs incurred to fulfil the duty to retain information. The State will cover the costs when providing information under section 3-14, first paragraph.

The Ministry may issue regulations on the duty to retain information, a detailed system for cost allocation, and the use of accountants for costs covered by the State. The Ministry may, by regulation or individual decision, grant exemptions from the retention duty.

### **Section 3-14. Disclosure of IP addresses**

Information retained pursuant to section 3-13 shall, notwithstanding the duty of confidentiality under section 3-10, be disclosed to the police or prosecution authority when necessary to investigate an act that, under the law, may result in a prison sentence of three years or more, or is covered by the Penal Code sections 125, 168, 184, 201, 202, 204, 205, 251, 263, 266, 267 a first paragraph, 267 b, 297, 298, 305, 306 or 309, or the Copyright Act section 104, cf. section 79.

A request for disclosure under the first paragraph shall be made in writing and, where possible, specify the subject matter, purpose of the request, and what it encompasses. The request shall indicate that the necessity requirement under the first paragraph has been assessed.

The police and prosecution authority shall submit an annual report to the Ministry on the retrieval of IP addresses.

Information retained solely under section 3-13 may not be disclosed pursuant to the Civil Procedure Act section 22-3 second and third paragraphs or the Copyright Act section 87, or under other laws or in cases other than those specified in the first paragraph.

The Ministry may issue regulations on the disclosure of data under this provision and on the reporting by the police and prosecution authority on the retrieval of information.

### **Section 3-15. Use of cookies**

It is not permitted to retain or gain access to information on the end-user's or user's communication equipment unless the end-user or the user has been informed, including what information is being processed, the purpose of the processing, and who will process the information, and without obtaining the end user's or user's consent. The consent shall meet the requirements of the General Data Protection Regulation.

The first paragraph does not apply to the technical storage of or access to information:

a. exclusively for the purpose of transmitting communication in an electronic communications network, or

b. which is strictly necessary to supply an information societal service in accordance with the end-user or user's explicit request.

The Ministry may issue regulations on the obligation under the first paragraph, including the use of cookies. The Ministry may issue regulations on the exceptions under the second paragraph.

## Chapter 4. End-user rights

### Section 4-1. Non-discrimination

Provider of electronic communications networks or services shall not apply conditions or general contractual terms for access to or use of networks or services which discriminate end-users based on nationality, place of residence, or place of establishment, unless such differential treatment is objectively justified.

### Section 4-2. Regulation on net neutrality

The Ministry may issue regulations concerning net neutrality, including obligations for providers to ensure net neutrality.

For the purposes of this Act, net neutrality means that all internet traffic shall be treated equally, regardless of sender, recipient, equipment, application, service, or content.

### Section 4-3. Terms of delivery and publication

Provider of internet access services or publicly available interpersonal communications services shall prepare and publish terms of delivery for the services offered to end-users.

Where required by the Ministry, the information that the provider is obligated to publish pursuant to the first paragraph shall be submitted to the Ministry prior to publication.

The Ministry may issue regulations on terms of delivery and publication.

### Section 4-4. Pre-contractual information obligations

Before a consumer is bound by a contract or any corresponding offer, provider of public electronic communications services shall provide the information necessary to enable the consumer to make an informed choice of service. This obligation does not apply to providers of transmission services used for the provision of machine-to-machine communication services.

The obligation under the first paragraph also applies to microenterprises, small enterprises, and non-profit organisations, unless they have explicitly agreed to waive the rights under this provision.

The Ministry may issue regulations on which information shall be provided.

#### **Section 4-5. Contract summary**

Provider of public electronic communications services shall provide the consumer with a concise and easily readable summary of the concluded contract. This requirement does not apply to providers of transmission services used for the provision of machine-to-machine communication services.

The requirement under the first paragraph also applies to microenterprises, small enterprises, and non-profit organisations, unless they have explicitly agreed to waive the rights under this provision.

The information provided prior to the conclusion of the contract pursuant to Section 4-4, and the information in the contract summary pursuant to the first paragraph, shall form an integral part of the contract and may not be altered unless both parties explicitly agree to the change.

The Ministry may issue regulations concerning conditions and content of the contract summary, including providing a template for the contract summary.

#### **Section 4-6. Contract duration, notification obligation, and termination**

A contract between a provider of internet access services or number-based interpersonal communications services and a consumer shall not be binding for more than 12 months. In special cases, a longer commitment period may be agreed but not exceeding 24 months. Conditions on commitment periods imply that the provider gives the end-user a financial advantage provider shall, free of charge, provide the consumer with an operator locking code when the commitment period expires.

Provider of internet access services or number-based interpersonal communications services and the consumer may enter into a separate instalment agreement exceeding the time limits in the first paragraph, for the purpose of establishing and connecting to a very high-capacity network, cf. Section 4-9, second paragraph.

The first and second paragraphs apply correspondingly to associations not primarily engaged in commercial activity, provided the contract serves the members' personal purposes. The first and second paragraphs also apply to microenterprises, small

enterprises, and non-profit organisations, unless these explicitly agree to waive the rights under this provision.

An end-user who does not accept new contractual terms during a commitment period may terminate the contract without additional charges. The right of termination does not apply if the proposed changes are exclusively to the benefit of the end-user, are of a purely administrative nature, and have no negative impact on the end-user, or if the changes are required by law. The provider may demand payment for the remaining portion of the agreed price for subsidised terminal equipment retained by the end-user. For consumers, this also applies to machine-to-machine communication services.

Provider of internet access services or number-based interpersonal communications services shall notify the end-user at least one month in advance of any changes to the contract terms or of contract termination and shall inform the end-user of the right to terminate the contract without charge if the new terms are not accepted. The deadline for exercising the right of termination is three months from the time the end-user is informed. In consumer relations, this obligation also applies to providers of transmission services used for the provision of machine-to-machine communication services.

The second sentence of the fifth paragraph may be waived in non-consumer relations. This does not apply to associations as referred to in the first sentence of the third paragraph.

#### **Section 4-7. Regulation on international roaming on mobile networks**

The Ministry may issue regulations on the provider's obligation to offer international roaming on mobile networks, including imposing price obligations.

#### **Section 4-8. Monitoring of usage**

Providers of internet access services or publicly available interpersonal communications services shall enable consumers to monitor and control the use of the services when they are billed based on usage in time or data volume. The same applies to microenterprises, small enterprises, and non-profit organisations, unless they have explicitly agreed to waive the rights under this provision.

Monitoring of usage shall provide an overview of the actual use of services included in the price plan. The provider shall notify the consumer before reaching a predetermined usage threshold and when the service is depleted.

The Ministry may issue regulations on usage monitoring and the usage threshold under the second paragraph.



#### **Section 4-9. Cost control**

Providers of internet access services and number-based interpersonal communications services shall offer services that enable end-users to control their costs. This includes:

- a. itemised billing
- b. call and number blocking
- c. blocking of value-added services billed jointly with communications services, except directory enquiry services.

Providers of internet access services and publicly available number-based interpersonal communications services shall offer consumers the option of paying connection fees in instalments.

The first and second paragraphs also apply to microenterprises, small enterprises, and non-profit organisations, unless they have explicitly agreed to waive the rights under this provision.

The Ministry may issue regulations on cost control pursuant to the first and second paragraphs, on prepayment of services for consumers, and on other forms of cost control.

#### **Section 4-10. Price comparison tools**

The Ministry shall ensure that end-users have free access to approved price comparison tools for internet access services and public number-based interpersonal communications services.

The Ministry may issue regulations concerning price comparison tools, including requirements for the tool, conditions and procedures for approval, and access to the necessary information. The Ministry may also issue regulations to ensure access to price comparison tools for public number-independent interpersonal communications services.

#### **Section 4-11. Measures in case of non-payment**

Measures directed at end-users due to non-payment for electronic communications services shall be proportionate and non-discriminatory.

Providers of internet access services and publicly available number-based interpersonal communications services shall issue at least one payment reminder to the end-user

before terminating the contract or initiating any usage restrictions. Termination or other restrictions on use may not be implemented earlier than one month after the payment reminder has been issued and prior notice of the measure has been given to the end-user.

End-users whose subscription is suspended due to payment default shall not be charged for subscription fees during the suspension period.

To the extent technically feasible, only the affected service shall be suspended. End-users shall be able to contact emergency services even if the provider of publicly available number-based interpersonal communications services has restricted outgoing calls.

The Ministry may issue regulations concerning measures in case of non-payment, including necessary limitations on the provider's right to terminate contracts with end-users.

#### **Section 4-12. Bundled offers**

Anyone offering internet access services or publicly available interpersonal communications services bundled with one or more services or terminal equipment to consumers shall ensure that Sections 4-3, 4-5, and 4-14 apply to all elements of the bundled offer.

If the consumer is entitled to terminate the contract before the end of a commitment period, the right of termination shall apply to all elements of the bundle.

The duration of a contract for internet access services or publicly available interpersonal communications services shall not be extended due to the addition of other services or radio and terminal equipment, unless the consumer explicitly consents.

The first and third paragraphs apply to microenterprises, small enterprises, and non-profit organisations unless they have explicitly agreed to waive the rights under this provision.

The Ministry may issue regulations on bundled offers, including the imposition of limitations on such offers.

#### **Section 4-13. Access to email after contract termination**

Upon request from the end-user, a provider of internet access services shall forward email or grant access to the email service following the termination of a contract for email services. Email forwarding or access shall be free of charge and may be limited to a period of three months from the date the customer relationship ended.

#### **Section 4-14. Switching internet access service**

End-users have the right to switch providers of internet access services. Providers shall complete the switching process as quickly as possible and in accordance with the timeline agreed with the end-user.

The transferring and receiving provider shall ensure, to the extent technically feasible, that the end-user can switch provider without interruption in the internet access service. Any service disruption during the switching process shall not exceed one working day.

The receiving provider is responsible for managing the switching process. The transferring provider shall cooperate with the receiving provider to ensure an efficient switch. The transferring provider shall continue to deliver its internet access service on the same terms until the receiving provider activates its service.

The transferring and receiving providers shall provide the end-user with sufficient information before and during the switching process to enable the switch. The information from the transferring provider shall be neutral.

The transferring provider shall not use information obtained during the switching process for its own marketing purposes directed at the end-user. The marketing prohibition applies during the switching period and for 14 days after the switch has been completed. The switching period is the time from when the switching request is submitted until the switch is completed and the service is activated by the receiving provider.

The Ministry may issue regulations concerning the switching of internet access services.

#### **Section 4-15. Regulation of jointly billed services**

The Ministry may issue detailed rules in regulations concerning goods and services that are billed together with electronic communications services, including rules on marketing, pricing, time limitations, service content, complaint and supervisory mechanisms, and the financing of such mechanisms.

#### **Section 4-16. Regulation on equivalent electronic communications services for end-users with disabilities**

The Ministry may issue regulations requiring providers of public electronic communications services to offer end-users with disabilities equivalent access to, and selection of, electronic communications services as those available to the majority of end-users and specifying which services and equipment must be offered. The Ministry

may also issue regulations requiring providers to adapt ancillary services, including information for end-users with disabilities, and on providers' obligations to fund such services and ancillary services.

#### **Section 4-17. Number portability**

End-user who has the right to use a number from the national numbering plan is entitled, upon request, to retain their number(s) when switching provider of electronic communications services.

Number portability shall be carried out in a manner that is effective and simple for the end-user.

The porting process shall be managed by the receiving provider. The transferring provider shall cooperate with the receiving provider to ensure efficient porting.

Transferring providers shall, upon request, refund any remaining prepaid amounts to consumers. The provider may charge a fee for the costs associated with the refund if specified in the contract with the consumer.

The Ministry may issue regulations on number portability between providers, including requirements for market conduct, time limits, cost sharing, compensation from provider to end-user, routines and methods. The Ministry may also issue regulations on the obligation to offer geographic portability and service portability.

#### **Section 4-18. Secret numbers**

Providers shall, upon request from the end-user, offer the service of an unlisted number.

The Ministry may issue regulations concerning the unlisted number service. The Ministry may grant exemptions from this obligation by individual decision.

#### **Section 4-19. Exemption for microenterprises acting as providers**

Sections 4-3 to 4-18 do not apply to microenterprises that solely provide number-independent interpersonal communications services. Microenterprises covered by this exemption shall inform the end-user before entering into a contract that the provisions do not apply.

## Chapter 5. Universal Service Obligations

### Section 5-1. Universal service obligations

The Ministry may enter into an agreement with, or designate by order, one or more providers of electronic communications networks and electronic communications services as universal service providers, in order to ensure that consumers and microenterprises, small-, and medium-sized enterprises have access to voice communication services and functional internet access service at an affordable price.

The universal service obligation applies to any location with permanent year-round residence or permanent or seasonal commercial activity.

The Ministry may, in special cases, grant exemptions from the universal service obligation under the first paragraph. In assessing whether an exemption should be granted, the Ministry shall, among other things, consider whether the cost of establishing the universal service is proportionate to the benefit.

Designation of a universal service provider shall be carried out through an open, objective, and non-discriminatory selection process. The universal service obligation shall be defined for a limited period.

The Ministry may, by individual decision or in regulations, establish further requirements regarding the content and design of the universal service obligation pursuant to the first and second paragraphs, including quality of service, speed for functional internet access service, subscription prices, and the area covered by the obligation. The Ministry may issue regulations on exemptions from the universal service obligation, designation of universal service providers, agreements on the universal service obligation, and user contributions for consumers and microenterprises, small-, and medium-sized enterprises.

## **Section 5-2. Financing of universal services**

When a provider designated pursuant to Section 5-1 incurs an unreasonable financial burden in providing universal services, the Ministry shall, upon request from the provider, cover the net costs of the obligation through public funds or a financing fund. The Ministry shall publish the method for calculating net costs. The provider shall submit, along with the request for compensation, a calculation of the net costs related to the universal service and a justification for why the burden is considered unreasonable.

The Ministry may require providers of electronic communications networks and - services to contribute to the financing fund pursuant to the first paragraph. If the Ministry imposes such a requirement on providers of electronic communications networks and services, the principles for calculating providers' contributions shall be publicly available, proportionate, non-discriminatory, and minimise market distortion.

The Ministry may issue regulations concerning the financing of universal services, including on the calculation of the costs of providing universal services and on the obligation of providers of electronic communications networks and services to contribute to a financing fund or otherwise share the costs. The Ministry may issue regulations exempting low-revenue providers from the obligation to contribute to the financing fund or otherwise share the costs of universal services.

## **Section 5-3. Special societal obligations**

The Ministry may enter into an agreement with, or designate by order, one or more providers of electronic communications networks and services to ensure that the following special societal obligations are met:

- a. provision of the emergency and safety services (coastal radio) to meet the obligations within the coastal radio's area of coverage that Norway has undertaken through international agreements
- b. services in connection with Svalbard.

Additional costs of agreements or orders pursuant to the first paragraph shall be met by the State.

The Ministry may issue regulations on special societal obligations pursuant to the first paragraph.

## **Section 5-4. Transfer of the access network**

Providers with a universal service obligation pursuant to Section 5-1 shall inform the Ministry if the provider plans to transfer control over all or significant parts of its access network to another owner. Providers shall also inform the Ministry of changes to such plans and of the final outcome of the process.

Notification of planned transfer in accordance with the first paragraph shall be provided in sufficient time to allow the Ministry to assess the effect of the planned sale of the services in accordance with Section 5-1, including the need for restrictions on market access under Section 3-5.

## Chapter 6. Significant Market Power

### **Section 6-1. Significant market power**

The Norwegian Communications Authority may designate a provider as having significant market power. A provider has significant market power when it, either individually or jointly with others, holds economic strength in a relevant market that enables it to act largely independently of competitors, customers, and consumers.

Significant market power in one market may result in the provider having significant market power in a closely related market, where market power can be transferred from one market to the other.

In assessing whether a provider has significant market power, the Norwegian Communications Authority shall take into account the guidelines on market analysis and the assessment of significant market power as laid down in the EEA Agreement.

The Ministry may issue regulations concerning significant market power.

### **Section 6-2. Relevant markets**

The Norwegian Communications Authority shall identify product and service markets for electronic communications that meet the conditions for ex ante regulation, cf. Section 6-3. The geographic scope of the market shall also be defined.

In identifying relevant markets pursuant to the first paragraph, the Norwegian Communications Authority shall give particular consideration to the recommendation on relevant product and service markets and the guidelines on market analysis and assessment of significant market power as laid down in the EEA Agreement.

When delimiting the relevant geographic market, consideration shall be given, inter alia, to the degree of infrastructure competition in the area. Relevant results from the geographic survey of broadband coverage pursuant to Section 10-6 shall also be taken into account.

The Norwegian Communications Authority may define markets that deviate from the recommendation in the second paragraph, cf. Section 6-3, second paragraph. When defining such markets, the procedures set out in Sections 14-2 and 14-3 shall be followed.

### **Section 6-3. Market analysis**

The Norwegian Communications Authority shall carry out market analyses forming the basis for designating, maintaining, or withdrawing the designation of a provider with significant market power. The analyses shall be carried out in accordance with the guidelines on market analysis under the EEA Agreement.

Where a market is not included in the recommendation on relevant product and service markets under the EEA Agreement, the market analysis shall assess whether the following three criteria are met:

- a. There are high and non-transitory structural, legal, or regulatory barriers to entry.
- b. The market structure does not tend towards effective competition.
- c. Competition law alone is insufficient to address the identified competition problems.

The three-criteria test shall also be applied before the Norwegian Communications Authority decides not to regulate a market listed in the recommendation on relevant product and service markets pursuant to Section 6-1, cf. Section 6-4.

In market analyses under the first or second paragraph, the Norwegian Communications Authority shall assess whether a provider, alone or jointly with others, holds significant market power in one or more relevant markets, cf. Section 6-1.

The Norwegian Communications Authority shall take into account obligations made partially or wholly binding under the procedures in Section 9-3 when conducting market analyses.

### **Section 6-4. Obligations for providers with significant market power**



The Norwegian Communications Authority shall impose on a provider with significant market power pursuant to Section 6-1, first paragraph, one or more specific obligations pursuant to Section 7-1, Section 7-2, Sections 7-4 to 7-7, Sections 7-10 to 7-13, Section 9-1, second to fourth paragraphs, Section 9-3, sixth paragraph, and Section 7-14, fourth and fifth paragraphs.

A provider with significant market power pursuant to Section 6-1, second paragraph, may be subject to one or more specific obligations under Section 7-2 and Sections 7-4 to 7-7 in the adjacent market.

In exceptional cases, and with the approval of the EFTA Surveillance Authority, the Norwegian Communications Authority may impose obligations beyond those mentioned in the first paragraph.

Obligations imposed under this provision shall in each case be suitable to promote sustainable competition and end-user interests and shall be objective, non-discriminatory, publicly available, and proportionate. Imposed obligations shall also, as far as possible, facilitate national and international market development.

The Norwegian Communications Authority shall assess whether market developments that affect the competitive situation indicate that obligations imposed under this provision should be amended. In such cases, the Authority may amend, repeal, or impose new obligations without conducting a new market analysis, provided the changes are not substantial enough to warrant one.

If a market analysis under Section 6-3, first paragraph, shows that the market no longer meets the conditions for regulation, the Norwegian Communications Authority shall repeal the specific obligations imposed under this provision. The Authority shall ensure sufficient prior notice and may stipulate that the obligations remain in effect for a transitional period. The Authority may establish new conditions and deadlines for existing access agreements.

When imposing obligations, the Norwegian Communications Authority shall follow the procedures in Sections 14-2 and 14-3.

#### **Section 6-5. Deadlines for market analysis and notification to the EFTA Surveillance Authority**

The Norwegian Communications Authority shall conduct a new market analysis and notify a reasoned draft decision to the EFTA Surveillance Authority within five years from the date of the current market decision. In exceptional cases, the deadline may be extended by up to one year.

For markets not previously notified to the EFTA Surveillance Authority, the Norwegian Communications Authority shall conduct a market analysis and notify a reasoned draft decision within three years from the adoption of a new recommendation on relevant markets under the EEA Agreement.

### **Section 6-6. Transnational markets**

The Norwegian Communications Authority may conduct market analyses and impose, amend, maintain, or withdraw obligations in transnational markets jointly with other authorities within the EEA.

The Ministry may issue regulations on transnational markets, including on market analysis.

## **Chapter 7. Obligations That May Be Imposed on Providers with Significant Market Power**

### **Section 7-1. Access to civil infrastructure**

The Norwegian Communications Authority may require a provider with significant market power to meet any reasonable request to enter into or amend an agreement concerning access to and use of civil infrastructure in electronic communications networks. Such access may include, inter alia, buildings and building entries, in-building wiring, antennas, towers and supporting structures, poles, masts, ducts, manholes, and cabinets.

The obligation to meet requests for access may also apply to civil infrastructure outside the relevant market for which access is imposed, if such obligation is proportionate.

The Ministry may issue regulations concerning access to civil infrastructure.

## **Section 7-2. Access to electronic communications networks and services**

The Norwegian Communications Authority may require a provider with significant market power to meet any reasonable request to enter into an agreement on access to electronic communications networks and services and associated facilities where access under Section 7-1 is not sufficient to promote sustainable competition.

Such obligations may include access to:

- a. specified physical network elements and associated resources, including full or shared access to the access network
- b. specified active or virtual network elements and services
- c. specified resale services
- d. technical interfaces, protocols, or other key technologies necessary for interoperability
- e. services required to ensure interconnection up to end-users or to ensure roaming on mobile networks
- f. interconnection between networks and associated facilities
- g. co-location
- h. necessary operational support systems and software systems
- i. services identifying identity, location, and presence

The Norwegian Communications Authority may also require the amendment of existing access agreements or the offered access terms to comply with this section or Section 15-5.

The provider shall negotiate in good faith and ensure balanced terms. The Authority may require terms to be fair and reasonable and impose deadlines for access.

The Authority may also prohibit withdrawal of granted access.

The Ministry may issue regulations on access, including preselection and prefix-based selection, and may establish technical and administrative conditions for access.

## **Section 7-3. Requirements for reasonable request**

In assessing whether a request is reasonable, the provider's interest in controlling its infrastructure shall be weighed against the need to grant access to support competition. Considerations include technical and economic feasibility of alternative infrastructure. The Authority shall also consider:

- a. available capacity
- b. investment and investment risk, especially for high-speed networks and new infrastructure, and any public support schemes
- c. necessity to ensure sustainable retail-level competition and user interest
- d. network integrity

- e. intellectual property rights
- f. establishment of pan-European services
- g. technological advancement

The provider with significant market power shall justify and document any refusal to grant access.

#### **Section 7-4. Transparency and reference offers**

The Norwegian Communications Authority may require a provider with significant market power to publish specific information or prepare and publish reference offers for access to electronic communication network and services. This may include:

- a. accounting information
- b. technical specifications, including interfaces at termination points and standards used
- c. network characteristics, including expected evolution
- d. prices
- e. other terms and conditions, including those affecting access to or use of services or applications, particularly in cases of infrastructure migration under Section 7-12

The Norwegian Communications Authority may require that offers under the first paragraph to be disaggregated to individual elements with associated conditions based on market needs.

The Norwegian Communications Authority may impose requirements on how, where and what terms the information is made available.

The Norwegian Communications Authority may require changes to reference offers to ensure compliance with imposed obligations under this chapter, cf. Section 15-5.

The Norwegian Communications Authority may impose advance financial sanctions for violations that will be effective in the event of a breach of the provision.

The Ministry may issue regulations on transparency and reference offers.

#### **Section 7-5. Non-discrimination**

The Norwegian Communications Authority may require a provider with significant market power to offer access on non-discriminatory terms.

The requirement on non-discrimination under the first paragraph may include that access shall be offered:

- a. to external providers on the same or equivalent terms and with the same quality as for the provider's own services, subsidiaries, or partner companies,

and

b. on the same or equivalent terms to external providers in the same or similar circumstances

The Norwegian Communications Authority may require that a provider with significant market power shall offer access products and services to all providers, including the provider's own business units, within the same time and deadlines, on equal terms, conditions, prices, and service levels, using the same or equivalent systems and processes.

The provider with significant market power may be required to report on compliance to the Norwegian Communications Authority, cf. section 15-2, including documentation of conformity with the obligations imposed pursuant to the second and third paragraph.

The Ministry may issue regulations on non-discrimination.

#### **Section 7-6. Accounting separation**

The Norwegian Communications Authority may require a provider with significant market power to establish accounting separation between business areas or specified access-related activities.

The Norwegian Communications Authority may require a provider with significant market power that is vertically integrated to publish wholesale prices, as well as internal prices, to ensure non-discrimination and prevent cross-subsidization.

The Authority may impose requirements on accounting methods and formats, and in what for the information should be provided.

A provider with significant market power shall make accounting information available upon request from the Norwegian Communications Authority, cf. Section 15-2.

The Ministry may issue regulations on principles for accounting separation.

#### **Section 7-7. Price and accounting regulation**

The Norwegian Communications Authority may impose a provider with significant market power pricing obligations where the provider's market power could harm end users by enabling excessive prices or establishing margin squeezes for competing providers.

When assessing whether price regulation should be imposed, the Norwegian Communications Authority shall take into account:

- a. the need to promote competition
- b. end users' long-term interest in the deployment and use of very high-capacity networks

Price obligations under the first paragraph shall allow a reasonable return on capital.

The Norwegian Communications Authority may require providers with significant market power to use specific methods for setting prices and may impose requirements on the price structure for products subject to access obligations.

The Norwegian Communications Authority may require providers with significant market power to use specific systems for cost accounting. The provider shall publish a description of the imposed systems for cost accounting, including an overview of the main categories of costs and the allocation keys used. The provider shall present and publish an annual confirmation that the cost accounting is in accordance with the established system for cost accounting, prepared by an external auditor.

When a provider with significant market power is required to offer access at cost-oriented prices, the Norwegian Communications Authority can require the provider to prove that the prices are based on actual costs, and if necessary, require the provider to adjust the prices. In other cases, the Norwegian Communications Authority can require the provider with significant market power to document that the prices comply with the obligations.

The Ministry may issue regulations on pricing and accounting.

#### **Section 7-8. Price regulation of voice termination**

The Norwegian Communications Authority shall not impose price obligations under Section 7-7 for voice termination in mobile or fixed networks if common maximum termination rates are set under the second paragraph.

The Ministry may issue regulations to implement decisions on common maximum prices for the termination of voice calls in mobile and fixed networks within the EEA.

#### **Section 7-9. Structural and accounting separation for exclusive/special rights**

Providers of electronic communication networks or services with exclusive or special rights in other sectors in Norway or other states within the EEA, shall:

- a. have an accounting separation for the part of the business related to the provision of electronic communications networks or services, and
- b. separate the part of the business related to the provision of electronic communications networks or services into a separate business unit or a separate legal entity.

The first paragraph does not apply to providers with under NOK 100 million in revenue from electronic networks and services communications in Norway.

The Ministry may issue regulations and exemptions.

### **Section 7-10. Providers active only at the wholesale level**

A provider with significant market power in one or more wholesale markets, and who is not active in any end-user market or has ownership interests or other special interests in businesses that are active in the end-user market, may be required to provide access under Section 7-2, non-discrimination obligations under Section 7-5, and obligations for reasonable and fair pricing.

In assessing whether the provider falls under the first paragraph, the Norwegian Communications Authority shall determine whether the provider meets the following conditions:

- a. All companies and business units in the provider's business, all companies controlled but not necessarily wholly owned by the same ultimate owner, and any shareholder able to exercise control over the business, exclusively operate or plan to operate in wholesale markets for electronic communications services.
- b. The provider has not committed through an exclusivity agreement, or an agreement that in practice would be an exclusivity agreement, to trade with another independent provider operating in later stages of the value chain, or who is active in an end-user market for electronic communications services.

A provider under the first paragraph may be subject to additional obligations under Sections 7-1, 7-4, 7-6, and 7-7 if the conditions used by the provider have nevertheless led to, or will lead to, competition problems to the detriment of end-users.

A provider under the first paragraph shall without undue delay inform the Norwegian Communications Authority of any changed circumstances that are significant for the Norwegian Communications Authority's assessment under the first paragraph.

### **Section 7-11. Price regulation of retail services**

Where obligations under Sections 7-1 to 7-7 are insufficient to ensure sustainable competition, the Norwegian Communications Authority may impose providers with significant market power obligations on retail offers. These may include transparency, reference offers, non-discrimination, price regulation, and restrictions on unfair bundling.

**Section 7-12. Transition from legacy infrastructure**

A provider with significant market power shall notify the Norwegian Communications Authority of plans to decommission or replace all or parts of the infrastructure subject to specific obligations under this chapter. Such notice shall be given in advance and well before the planned decommissioning or replacement is to begin.

When necessary to ensure competition and end-users' rights, the Norwegian Communications Authority may impose the following obligations on the provider under the first paragraph:

- a. The obligation to prepare a detailed plan for the decommissioning or replacement. The plan shall include appropriate conditions for the transition, including a timetable for implementation, requirements for sufficient advance notice, transition conditions, and an overview of necessary alternative access products that are at least of comparable quality to the existing access product.
- b. The obligation to ensure that access to alternative access products of at least comparable quality to the existing infrastructure is provided, enabling access seekers to reach the same end-users.

The Norwegian Communications Authority may lift the access obligation to infrastructure that is to be decommissioned or replaced with new infrastructure when appropriate migration conditions under the second paragraph are implemented.

If appropriate conditions under the second paragraph are not implemented, the Norwegian Communications Authority may impose specific conditions for the replacement or decommissioning of infrastructure, including requirements for transition time, to ensure competition and end-users' rights. The Norwegian Communications Authority may order that infrastructure already subject to access obligations is not withdrawn.

The Norwegian Communications Authority may require the decommissioning or replacement to be halted if the notice period under the first paragraph or orders under the second paragraph are not complied with.

The Ministry may issue regulations on the transition from older infrastructure.



### **Section 7-13. Functional separation**

In special cases and with the approval of the EFTA Surveillance Authority, the Norwegian Communications Authority may require a vertically integrated provider with significant market power to implement functional separation when:

- a. there are significant and persistent competition problems or market failures in wholesale markets for access products.
- b. obligations imposed under Sections 7-1, 7-2, or 7-4 to 7-7 have not led to sustainable competition.
- c. there is little, or no prospect of sustainable infrastructure-based competition being achieved within a reasonable timeframe.
- d. functional separation would be the most effective means to remedy the identified competition problems or market failures.

In this act, functional separation means that activities related to relevant access products and services are separated into an operationally independent business unit distinct from the provider's other business areas. The separated business unit shall offer access products and services to all providers, including the vertically integrated provider's other business units, on the same terms, within the same timeframes, and using the same systems and processes.

In addition to imposing functional separation under the first paragraph, the Norwegian Communications Authority may impose one or more specific obligations as per Sections 7-1, 7-2, 7-4, 7-5, and 7-7.

Orders under the first paragraph shall follow the procedures in Sections 14-2 and 14-3.

The Ministry may issue regulations on functional separation.

### **Section 7-14. Voluntary separation of the access network**

A provider with significant market power shall inform the Norwegian Communications Authority at least three months before the provider plans to transfer control of all or significant parts of the access network to another ownership or to a separate business unit. The provider shall inform the Norwegian Communications Authority as early as possible about changes in such plans and the final outcome of the process.

A provider under the first paragraph may, pursuant to Section 9-3, offer to undertake obligations related to access to the provider's network during an implementation period after the voluntary separation of the access network has been completed, to ensure effective and non-discriminatory access for third parties. The offer shall be sufficiently

detailed, including with respect to the timetable and framework for the implementation and duration of the offer.

To assess the effect of the planned separation and any offers under the second paragraph, the Norwegian Communications Authority shall conduct a market analysis of the various markets related to the access network.

Based on the market analysis, the Norwegian Communications Authority shall impose, maintain, amend, or withdraw obligations following the procedures in Sections 14-2 and 14-3, and may simultaneously determine that the offer under the second paragraph shall be made wholly or partially binding.

The Norwegian Communications Authority may determine how long obligations under the second paragraph shall be binding. The duration may be longer than specified in Section 6-5. The Norwegian Communications Authority may determine that obligations made binding for a specific period shall be extended when the original period expires.

## Chapter 8. Access to conditional access services for radio and television

### **Section 8-1. Access to Conditional Access Services for Radio and Television**

A provider of conditional access services for digital radio and television shall accommodate any reasonable request for access from content providers. Access terms shall be objective, reasonable, fair, and non-discriminatory, based on relevant criteria, and publicly available. The provider shall document and justify any refusal of access. The Norwegian Communications Authority may impose the same requirements on providers of other functions that may restrict access to digital radio and television.

The Norwegian Communications at Authority may make exceptions from the obligation in the first paragraph if a market analysis shows that a provider does not have significant market power in the relevant market and that access to digital radio and television services is not diminished.

A provider granting access to conditional access systems for digital radio and television shall maintain accounting separation between such activity and other business activities. If the Norwegian Communications Authority, following a market analysis pursuant to Section 6-3, finds that such an obligation is disproportionate, the obligation for accounting separation shall be lifted.

The Ministry may issue regulations on conditional access services and other functions that may restrict access to radio and television, including setting requirements for the transmission and reception of digital television services and television programmes. The Ministry may also issue regulations regarding holders of intellectual property rights to products and conditional access services.

## Chapter 9. Measures to promote deployment of very high-capacity networks

### **Section 9-1. Co-investment in new very high-capacity networks**

A provider with significant market power may offer to the Norwegian Communications Authority to undertake commitments concerning co-investment in connection with the deployment of new very high-capacity networks consisting of optical fibre elements up to the end-user's premises or base station.

If the co-investment offer meets the requirements of Section 9-2, and at least one provider has entered into a co-investment agreement, the Norwegian Communications Authority shall by decision determine that the offer under the first paragraph shall be binding for a period of at least seven years. During this period, the authority shall not impose obligations under Section 6-4 for the part of the network subject to co-investment. The Authority may decide that the co-investment offer shall be binding even if no agreement has yet been entered into, provided that such an agreement is concluded before the decision to abstain from regulation under Section 6-4 takes effect. The procedures in Section 9-3 shall apply.

In exceptional cases, in order to remedy significant competition problems in specific markets that cannot be addressed otherwise, the Norwegian Communications Authority may deviate from the second paragraph, second sentence, and impose, maintain, or amend obligations pursuant to Section 6-4.

The Authority may require the provider with significant market power to submit an annual compliance declaration concerning the co-investment commitments under the second paragraph.

### **Section 9-2. Requirements for co-investment offers**

The co-investment offer under Section 9-1 shall meet the following conditions:

- a. The offer shall be open to all providers for the lifetime of the network.
- b. The offer shall enable co-investors to compete effectively over the long term in downstream retail markets in which the provider with significant market power is present.
- c. Co-investors shall be granted access to the full capacity of the network subject to the co-investment, on reasonable, fair and non-discriminatory terms.
- d. Co-investors shall have flexibility in terms of the timing and extent of their co-investment participation.

e. Co-investors shall have reciprocal access rights to the network on reasonable, fair and transparent terms after the network has been put into operation.

f. Rights and obligations under the co-investment agreement shall be transferable to other co-investors or third parties.

g. Providers not participating in the co-investment shall be granted access to networks of equivalent quality, speed and end-user reach as before the deployment. The offer shall, over time, provide access to very high-capacity networks suited to the evolution of end-user demand, on terms that preserve incentives to co-invest. The authority shall be notified of such subsequent adjustments to access and may impose conditions on the adaptation.

The provider with significant market power may include reasonable requirements for the co-investors' financial capability to participate.

The co-investment offer shall be made public in due time and at least six months prior to the start of the network deployment. The Norwegian Communications Authority may decide to extend the notice period to meet national needs. For providers active solely in wholesale markets pursuant to Section 7-10, the period may be shorter.

The Authority may issue individual decisions, and the Ministry may issue regulations on co-investment in very high-capacity networks, including on publication, design, and content of the co-investment offer and requirements for co-investors.

### **Section 9-3. Procedure for making access or co-investment commitments binding**

A provider with significant market power may offer to undertake commitments to the Norwegian Communications Authority concerning:

- a. entry into cooperation agreements rendering specific obligations under Section 6-4 unnecessary,
- b. entry into co-investment agreements concerning very high-capacity networks under Sections 9-1 and 9-2, or
- c. voluntary separation of the access network under Section 7-14.

The offer shall be sufficiently detailed and include a timetable, implementation framework, and duration of the commitments.

The Norwegian Communications Authority shall, in assessing the offer under the first paragraph, conduct a market test including a public consultation pursuant to Section 14-2. The market test is not required if the commitments are clearly insufficient. In assessing the offer, the Authority shall, in addition to the factors in Section 6-4, fourth paragraph, give particular weight to:

- a. documentation demonstrating that the commitments are fair and reasonable,
- b. whether the offer is open to all market participants,

- c. whether the offer ensures timely access on fair, reasonable, and non-discriminatory terms prior to the launch of corresponding retail services,
- d. whether the offer facilitates sustainable competition in retail markets, and
- e. whether it promotes cooperation in the deployment of very high capacity networks pursuant to Sections 9-1 and 9-2.

The Norwegian Communications Authority shall inform the provider with significant market power of its preliminary conclusions and whether the offer fulfils the objectives, criteria, and procedures set out in this section and in Sections 6-4, 7-14, 9-1, and 9-2 as applicable. It shall also state the conditions under which the Authority may consider making the commitments binding.

The provider may revise its offer in response to the Authority's preliminary conclusions.

The Norwegian Communications Authority may decide that the commitments are fully or partially binding and determine the period for which they shall apply. The Norwegian Communications Authority may extend the commitments beyond the original period upon expiry.

## Chapter 10. Facilitation of infrastructure deployment

### Section 10-1. Expropriation

The Ministry may adopt or consent to decisions on the expropriation of ownership or usage rights to real property for the installation of electronic communications networks and equipment for electronic communications.

To ensure the efficient use of resources used or usable for electronic communications, the Ministry may adopt or consent to expropriation of a provider's or another party's ownership or usage rights to electronic communications networks and equipment. In this context, the Ministry may also adopt or consent to expropriation of ownership or usage rights to real property used in the operation of electronic communications networks and equipment.

Compensation shall be provided for the burden the expropriation is expected to impose on the owner or the holder of usage rights. This does not apply where the purpose is to connect the property to an electronic communications network. The compensation is determined by judicial assessment unless the parties agree otherwise. The assessment is conducted by the Land Consolidation Court unless the Ministry decides that it shall be handled by the District Court. The assessment does not suspend the implementation of the expropriation decision.

An owner or holder of usage rights who is not a public authority may demand the relocation or removal of electronic communications networks or equipment if necessary to ensure the appropriate use of the property or rights. In case of dispute, the demand shall be resolved by judicial assessment. The same applies to claims for repayment of compensation received in connection with such demands.

The provisions on deferred implementation in Section 5, second paragraph of the Expropriation Act apply. Otherwise, the Expropriation Act applies as appropriate.

A separate permit is required under the Public Roads Act to install electronic communications networks or equipment over, under, along or near public roads.

The Ministry may issue regulations on when expropriation under this section may occur and the scope of the intervention.

### **Section 10-2. Co-location obligations**

The Norwegian Communications Authority may require a provider of electronic communications networks or related facilities that benefits from expropriation under Section 10-1 or similar statutory rights, to provide co-location or shared use of network elements and related facilities to another provider without such rights, for the purpose of protecting the environment, public health, public safety or to achieve urban and land use planning objectives.

Co-location, shared use of network elements, related facilities or property may only be imposed in specific areas where necessary to meet the objectives stated in the first paragraph. The co-location obligation may include access to real property, buildings, in-building cabling, including wiring systems, antennas, towers and supporting structures, poles, masts, ducts, manholes, and cabinets.

Obligations under the first paragraph shall be objective, transparent, proportionate, and non-discriminatory.

Decisions shall follow the procedure set out in Section 14-2.

The Ministry may issue regulations on co-location obligations for providers, including designating a central information service authority, cf. Section 1-4. The Ministry may also issue regulations on cost sharing for joint use of resources or property and the coordination of public works.

### **Section 10-3. Access to networks and related facilities inside and outside buildings**

Where duplication of infrastructure is physically unfeasible or economically inefficient, the Norwegian Communications Authority may impose obligations on providers or owners of electronic communications networks, or those with control over such networks, to meet reasonable requests to enter or amend agreements for access to cabling and related facilities within buildings or up to the first distribution point located outside the building.

In exceptional cases, the Norwegian Communications Authority may extend the access obligation to a point beyond the first distribution point that ensures the requester access to a sufficient number of end-user connections to make service provision economically viable. In assessing whether such an exceptional case exists, the authority shall consider, among other things:



- a. whether the economic or physical barriers to infrastructure duplication are substantial and persistent, and
- b. whether such barriers hinder sustainable competition, resulting in significantly inferior services or offerings, or substantially higher prices for end-users.

The Authority may establish conditions for access under the first and second paragraphs, including:

- a. physical and virtual access to network elements and related facilities
- b. publication and reference offers
- c. non-discrimination, and
- d. pricing and cost-sharing, including reasonable profit margins that reflect risk.

The Norwegian Communications Authority shall not impose obligations under the second paragraph if at least one of the following applies:

- a. The provider is active only in the wholesale market and offers other providers an equivalent alternative to reach end-users via very high-capacity networks on fair, reasonable, and non-discriminatory terms. This does not apply if the network is publicly subsidized.
- b. Extending the access obligation may hinder the deployment of new networks, particularly in the context of small, local projects.

The Norwegian Communications Authority may extend the exemption in the fourth paragraph letter a to providers who offer access to very high-capacity networks on fair, reasonable, and non-discriminatory terms.

The Ministry may issue regulations concerning access obligations for owners or providers of electronic communications networks, or others with control over such networks, including pricing for such access.

#### **Section 10-4. Deployment of small-area wireless access point**

State, regional, and municipal authorities shall accommodate requests from providers of electronic communications networks to access buildings, structures, and other physical assets suitable for hosting small-area wireless access points or for connecting such access points to the transport network.

Requests shall be in writing and include the planned timeline for deployment or connection. Responses shall be given in writing within two months of receiving a complete request. Any refusal shall be reasoned and based on objective, transparent, and proportionate criteria, such as:

- a. national security
- b. public safety

- c. network security and integrity
- d. risk of significant interference with other services using the same physical infrastructure
- e. space constraints, or
- f. preservation of protected buildings, cultural monuments or environments, including facades and roofs of churches and other significant cultural buildings.

Access under the first paragraph shall be provided on non-discriminatory, transparent, fair, and reasonable terms, including pricing.

The Ministry may issue regulations on access to physical infrastructure for small-area wireless access points deployment and the conditions for such access, including pricing, and exemptions from the access obligation. The Ministry may also issue regulations on the use and technical characteristics of such wireless access points.

### **Section 10-5. Access to infrastructure for services using frequencies**

When necessary to ensure the local provision of services using radio frequencies, the Ministry may impose obligations on providers of electronic communications networks to share passive infrastructure or to enter into agreements for local roaming services.

Such obligations may only be imposed where:

- a. no sustainable alternative access options are available on fair and reasonable terms
- b. the frequency licence explicitly states that such obligations may be imposed, and
- c. there are insurmountable economic or physical barriers to market-based deployment of radio-based infrastructure, resulting in severely limited or non-existent access for end-users.

If obligations under the first paragraph are insufficient to address substantial end-user access limitations, and the conditions under the second paragraph are met, the Ministry may impose obligations to share active infrastructure.

Such decisions shall follow the procedures in Sections 14-2 and 14-3 and be reviewed within five years.

The Ministry may issue regulations on access to infrastructure for services using frequencies.

### **Section 10-6. Mapping of broadband coverage**

The Ministry shall map the coverage of electronic communications networks capable of

delivering broadband. Mapping shall be conducted at least every three years and may include forecasts of future coverage.

Based on the mapping, the Ministry may identify geographical areas where no deployment of very high-capacity networks is forecasted, or where existing networks are unlikely to be upgraded to provide at least 100 Mbit/s download speeds.

In such areas, the Ministry may invite companies and public authorities to disclose their intentions regarding the deployment of very high-capacity networks. If such intentions are expressed, the Ministry may require other actors to declare whether they intend to deploy or substantially upgrade networks in the same area.

The Ministry shall ensure that data collected through the broadband coverage mapping is made publicly available, unless the data is commercially sensitive, endangers national security, or is otherwise exempt from disclosure under the Freedom of Information Act.

The Ministry shall ensure that end-users have access to search tools that provide an overview of broadband availability at their premises.

The Ministry may issue regulations on the mapping of broadband coverage.

## Chapter 11. Frequencies and satellite systems

### **Section 11-1. National frequency plan**

The Ministry shall establish a national plan for the use of the electromagnetic frequency spectrum. The national frequency plan shall promote efficient use of society's resources and prevent harmful interference. The plan shall be adopted within the framework of international agreements to which Norway is a party.

The national frequency plan shall be publicly available. The Ministry may decide that parts of the plan shall not be made public due to national security considerations.

### **Section 11-2. Authorisation to use frequencies**

Frequencies may not be used without a permit from the Ministry.

Frequency assignments shall be made based on objective, transparent, non-discriminatory, and proportionate criteria.

In assigning frequencies, account shall be taken of the efficient use of resources through sustainable competition, free movement of services, technology and service neutrality, harmonised frequency use, and facilitation of shared use.

The Ministry may allow use of frequencies for purposes other than those harmonised under the EEA Agreement if a public consultation pursuant to Section 14-2 shows no demand for using the frequencies under harmonised conditions and such use does not interfere with harmonised use in other EEA states.

The Ministry may reject an application for a permit to use frequencies for the following reasons:

- a. If required to meet the considerations set out in the third paragraph.
- b. To safeguard national security interests.
- c. If it is likely that the applicant will not comply with the conditions applicable to the authorisation.
- d. Due to non-payment of fees or charges under Sections 17-1 and 17-2, or non-payment of administrative fines under Section 15-12 or coercive fines under Section 15-11.
- e. If a relevant broadcasting licence is not granted under the Broadcasting Act.

The Ministry may issue regulations on the assignment and use of frequencies.

### **Section 11-3. Assignment where the number of frequency licences is limited**

The Ministry may decide to limit the number of frequency licences to be assigned if necessary to protect user interests and promote sustainable competition.

To promote competition, coverage, efficient use of resources, innovation, and business development, or to ensure adequate service quality, the assignment of limited frequency licences shall follow selection procedures based on the criteria in Section 11-2(2).

The Ministry shall publish and justify the decision to limit the number of licences, the selection procedures, selection criteria, and the licence conditions, and submit them for public consultation under Section 14-2.

Once the selection procedure has been established, interested parties shall be given an opportunity to apply for a licence to use frequencies.

The Ministry may issue regulations on the procedure for assignment where the number of licences is limited.

#### **Section 11-4. Direct assignment of frequency licences for specific public interest purposes**

Where necessary to safeguard specific public interest purposes—such as emergency and preparedness services, defence and research purposes, or public broadcasting—the Ministry may directly assign frequency licences without applying Section 11-3(2) to (4).

The Ministry may issue regulations on the assignment of frequency licences for specific public interest purposes.

#### **Section 11-5. Conditions for frequency licences**

When assigning frequency licences, the Ministry may impose conditions relating to:

- a. the services and technologies to be used
- b. security and functionality for national security
- c. effective and efficient use of frequencies, including shared use and environmental measures
- d. coverage and service quality
- e. technical and operational parameters to avoid harmful interference and limit electromagnetic radiation risks
- f. licence duration
- g. rights to sell, lease or otherwise transfer frequency resources covered by the licence
- h. payment
- i. individual commitments according to the offer
- j. international obligations, and
- k. obligations concerning trial operation, research or other experimental use of frequencies.

Conditions under the first paragraph, particularly to ensure effective use or promote coverage, may include:

- a. shared use of passive or active infrastructure dependent on frequencies or shared frequency use
- b. commercial agreements for network roaming access
- c. joint infrastructure deployment for networks or services dependent on frequency use.

#### **Section 11-6. Technology and service requirements**

The Ministry may impose proportionate and non-discriminatory technology requirements for electronic communications services to prevent harmful interference,

protect life and health, ensure service quality, and promote efficient and shared frequency use, or to pursue public interest objectives as described in the third paragraph.

The Ministry may impose proportionate and non-discriminatory requirements regarding the type of electronic communications services to be offered using the available frequency resources.

When proportionate, the Ministry may require that a particular electronic communications service be offered in designated frequency bands, particularly to ensure:

- a. protection of life and health
- b. socially important broadcasting purposes
- c. efficient frequency use, or
- d. social cohesion.

The Ministry may prohibit any service other than a specific electronic communications service in a particular frequency band to protect emergency and safety services or to ensure other public interest objectives.

The Ministry may amend technology- or service-specific restrictions.

The Ministry may issue regulations on technology and service requirements.

### **Section 11-7. Duration of frequency licences**

When determining the duration of a frequency licence under Section 11-5(f), the Ministry shall give particular consideration to:

- a. effective and efficient use
- b. innovation, business development and effective investment
- c. improved coverage
- d. ensuring adequate service quality, and
- e. ensuring sustainable competition.

The Ministry may also consider aligning expiry dates for licences in one or more frequency bands.

The Ministry may issue regulations on the duration of frequency licences.

### **Section 11-8. Duration of licences for wireless broadband services**

Licences for use of frequencies harmonised within the EEA for wireless broadband services shall have a minimum duration of 15 years. If the licence duration is less than

20 years, the Ministry shall assess renewal no later than two years before expiry and may extend the licence so that its total duration is at least 20 years.

In assessing renewal, particular consideration shall be given to the criteria in Section 11-7 and to general interest objectives, including protection of life and health, public order, public safety, or defence purposes. The Ministry may refuse renewal if the licensee has failed to comply with statutory or licence conditions.

The Ministry may exempt from the first paragraph where:

- a. harmonisation obligations cover limited geographic areas with poor or no high-speed network access
- b. the project is of very short duration
- c. the licence is for trials, research or experimental use
- d. the licence is for co-existing use with wireless broadband services, or
- e. the licence is for other purposes not within the harmonised use under the EEA.

Regardless of the first paragraph, the Ministry may set a common expiry date for licences in one or more bands.

### **Section 11-9. Renewal of frequency licences**

The Ministry shall, in good time before expiry, assess whether to renew individual frequency licences harmonised within the EEA. This does not apply where the licence explicitly excludes renewal.

The assessment shall be open, transparent and non-discriminatory, with particular emphasis on:

- a. fulfilling the objectives of this Act
- b. achieving adopted political goals, both national and European
- c. harmonisation obligations at the European level
- d. compliance with existing licence terms
- e. the need to promote competition or prevent distortion of competition
- f. the need for more efficient frequency use due to technological or market developments, and
- g. the need to avoid serious operational disruptions.

If the Ministry considers renewing licences granted under Section 11-3, this shall follow open, transparent, and non-discriminatory procedures and be subject to public consultation under Section 14-2.

### **Section 11-10. Sale, lease, and other transfers of frequency permits**

The holder of a frequency permit has the right to sell, lease, or otherwise transfer the

permit. This right does not apply to licences directly assigned under Section 11-4 or where the right to sell, lease, or otherwise transfer is restricted in the permit.

In exceptional cases, the Ministry may permit the sale, lease, or other transfer of licences directly assigned under Section 11-4 if the conditions for direct assignment remain fulfilled. The Ministry may also, upon application, permit sale, lease, or other transfer where such right is restricted in the authorisation.

Before any sale or permanent transfer of a frequency licence, the holder shall inform the Ministry of the planned transfer.

The holder shall inform the Ministry before leasing or temporarily transferring a frequency licence if it may have anticompetitive effects or implications for national security.

The holder shall inform the Ministry of changes in ownership structure or composition that may have anticompetitive effects.

The Ministry may require that sales, leases, or other transfers of frequency licences be carried out according to specified procedures and in a manner that helps safeguard competition and harmonised frequency use in accordance with the national frequency plan. The Ministry may refuse such transactions to prevent anticompetitive effects or to safeguard concerns referred to in Section 11-2(5).

The Ministry shall publish information on sales and other permanent transfers of frequency licences.

The Ministry may issue regulations on the conditions for and access to sale, lease, or other transfer of frequency licences.

### **Section 11-11. Measures to promote competition**

Holders of frequency licences shall use the assigned spectrum efficiently and in a way that does not harm competition.

The Ministry may order the sale or lease of frequency licences when necessary to promote sustainable competition or prevent anticompetitive effects.

To promote sustainable competition or prevent anticompetitive effects, the Ministry may, when assigning, amending, or renewing frequency licences, decide to:

- a. limit the amount of spectrum that one or more undertakings may be assigned
- b. reserve frequencies for one or more operators, or
- c. impose obligations related to access to electronic communications networks and services.



Measures under the second and third paragraphs shall be subject to public consultation in accordance with Section 14-2.

The Ministry may issue regulations on measures relating to the assignment, amendment, or renewal of frequency licences to promote competition.

### **Section 11-12. Revocation and amendment of frequency licences**

The Ministry may revoke or amend a frequency licence if necessary:

- a. to ensure effective and efficient use of spectrum
- b. to fulfil harmonisation obligations under the EEA Agreement or other international commitments
- c. to safeguard national security or other significant public interests
- d. to promote sustainable competition
- e. to prevent anticompetitive effects resulting from sale, lease, or transfer of the licence, or changes in ownership structure, or
- f. due to changes in national legislation.

Decisions under the first paragraph shall be subject to public consultation under Section 14-2 and be made by the Ministry.

The Ministry may revoke a frequency licence if required to address concerns under Section 11-11(1) or if the conditions for direct assignment under Section 11-4(1) no longer apply.

### **Section 11-13. Use of frequencies assigned to others**

The police may, without authorisation under Section 11-2, use:

- a. frequencies assigned to others, and
- b. radio and other equipment designed to disrupt or prevent lawful electronic communication and which does not meet requirements under regulations issued pursuant to Section 13-1(5), where the conditions for identifying communications facilities under the Criminal Procedure Act Sections 216a(3)(2), 216b(2)(c), or 222d, or for preventive measures under the Police Act Section 17d, are met.

The police and the Armed Forces may, without authorisation under Section 11-2, use frequencies under (a) and equipment under (b) to neutralise drones and other devices if there is a threat to life, health, or security.

The Intelligence Service may, in special cases and for short periods, use frequencies under (a) and equipment under (b) for identity capture when strictly necessary to obtain information about persons covered by Section 4-2(1) of the Intelligence Service Act.

The National Security Authority may, in special cases and for short periods, use such frequencies and equipment to safeguard premises or objects under the Security Act Section 5-5 and to prevent unauthorised access to classified information.

The rescue services may use such frequencies and equipment for identity capture when necessary for search and rescue operations.

Use of frequencies shall be carried out so as to minimally interfere with the rights of authorised frequency holders.

The Armed Forces, the Intelligence Service, the rescue services, the National Security Authority, and the police shall notify the Ministry without undue delay when using frequencies assigned to others. Notification shall include frequency range, duration, and location. The Ministry shall determine whether and when licence holders are to be informed. In urgent cases, the Ministry may order termination of such use without prior notice under Section 16 of the Public Administration Act.

The Ministry may issue regulations on such use of frequencies assigned to others by the Armed Forces, Intelligence Service, Defence Research Establishment, rescue services, National Security Authority, and police.

#### **Section 11-14. Special authorisation to use frequencies for training purposes**

The Ministry may authorise the Armed Forces, the Intelligence Service, the Defence Research Establishment, and the police to use frequencies under Section 11-13(1)(a) or satellite downlink frequencies and the equipment under Section 11-13(1)(b) for training purposes in suitable areas.

Exceptionally, the Ministry may authorise others to use such frequencies and equipment for specific public interest purposes. Authorisations shall be limited to training and suitable areas.

Such authorisation shall be limited in time and geography. For the Defence Research Establishment and the Armed Forces (excluding the Intelligence Service), use of public mobile communication spectrum shall generally be limited to permanent military training areas. In special cases, the Ministry may authorise use outside such areas when necessary to conduct exercises.

The Ministry shall notify affected parties and rightsholders well in advance before authorised use of frequencies begins. In urgent cases, the Ministry may order termination of frequency use without prior notice.

Use of spectrum shall be carried out in a way that minimises interference with rights arising from existing licences.

The Ministry may issue regulations on special authorisations to use frequencies for training purposes.

#### **Section 11-15. Special authorisation for use of frequencies by the correctional services**

The Ministry may authorise the Correctional Services to use frequencies under Section 11-13(1)(a) or satellite downlink frequencies and the equipment under Section 11-13(1)(b). Such authorisation may only be granted for use in or near high-security prisons. The Ministry shall consult rightsholders before granting such authorisation.

Use of spectrum shall be carried out in a way that minimally interferes with existing frequency rights.

In urgent cases, the Ministry may order termination of such frequency use without prior notice.

The Ministry may issue regulations on special authorisations for frequency use by the Correctional Services.

#### **Section 11-16. Satellite Systems**

Upon application, the Ministry may submit satellite systems for international registration.

The Ministry may issue regulations on such registration, requirements for applicants and applications, payment of fees, and charges to the International Telecommunication Union.

#### **Section 11-17. Right of Recourse for Damage Caused by Space Objects**

To the extent Norway pays compensation under an international agreement for damage caused by a space object, the Ministry may claim recourse from the responsible operator.

The Ministry may require anyone requesting a space object launch to provide security through insurance or guarantees for liabilities that the Norwegian state may incur under an international agreement to which Norway is a party.

## Chapter 12. Numbers, names, domain names, and addresses

### **Section 12-1. Plans for numbers, names and addresses**

The Ministry shall establish numbering plans and plans for names and addresses, for electronic communications networks and services. The Ministry may amend the numbering plans when necessary to ensure efficient and sustainable resource management, including by reserving numbering resources for other purposes.

National numbering plans shall be made publicly available. The Ministry may decide that certain parts of the national numbering plans shall not be publicly available on grounds of national security.

The Ministry may designate other public bodies or private entities to administer number ranges, numbers, names, and addresses for specific purposes, including for the administration of addressing databases.

The Ministry may issue regulations on the establishment, use, and amendment of plans for numbers, names, and addresses and on international calls, including those made in border areas. The Ministry may also issue regulations specifying the conditions applicable to public bodies or private entities designated to manage numbers, names, or addresses pursuant to the third paragraph.

The competency pursuant to the first to the fourth paragraphs also includes private number ranges and number, name, and address resources.

### **Section 12-2. Authorisation for use of numbers, names and addresses**

Numbers, number ranges, names, and addresses may not be used without an authorisation from the Ministry. This requirement does not apply to private resources.

The Ministry may grant authorisation for the use of numbers, number ranges, names, and addresses in accordance with the established numbering plans. This includes authorisations granted to providers of electronic communications networks and services and to other undertakings.

The allocation of numbering resources shall be carried out through objective, transparent, non-discriminatory, and proportionate procedures. The Ministry shall not limit the number of number allocations unless necessary for effective numbering management. The Ministry may set conditions for the authorisation.

The Ministry may issue regulations on the authorisation for the use of numbers, names, and addresses. The Ministry may issue regulations on pricing principles and maximum prices for calls to specific number ranges, at both the retail and wholesale level.

In allocation decisions or through regulations, the Ministry may impose obligations regarding the cross-border use of numbers within the EEA, including for machine-to-machine (M2M) communications and the Internet of Things (IoT), in order to ensure compliance with consumer protection requirements and other numbering-related rules in the state where the numbering resources are used. The Ministry may issue regulations on international coordination and enforcement of number allocations, including the withdrawal of resources.

### **Section 12-3. Order to use numbers, names and addresses**

The Ministry may order the use and transfer of numbers, number ranges, names, and addresses, as well as the implementation of plans concerning numbers, names, and addresses.

The Ministry may issue regulations regarding orders referred to in the first paragraph.

### **Section 12-4. Obligation to convey calls to numbers and prefixes**

Providers of public electronic communications networks and providers of public number-based interpersonal communications services shall ensure that end-users are able to connect to all numbers in:

- a. the national numbering plan
- b. numbering plans of other EEA states
- c. the number range +800 (Universal International Freephone Number (UIFN)),  
and
- d. foreign networks and services with country codes assigned by the ITU using the international prefix 00.

This obligation does not apply where the B-subscriber has chosen to restrict access from A-subscribers located in specific geographic areas.

The obligation referred to in subparagraphs b and c of the first paragraph does not apply if it is technically or economically unfeasible for the provider to comply with it.

The Ministry may require providers of public electronic communications networks or public number-based interpersonal communications services to block access to numbers or services in cases of fraud or misuse. The Ministry may also require such providers to withhold relevant interconnection or other related revenues.

The Ministry may issue regulations on call conveyance as referred to in the first paragraph and on blocking and sanctions as referred to in the third paragraph, and on conveyance of calls to and from international geographic areas other than those referred to in the second paragraph.

### **Section 12-5. Information to directory enquiry services**

Providers of number-based interpersonal communications services shall, upon reasonable request and notwithstanding the duty of confidentiality in Section 3-10, provide information on numbers, names, addresses, and associated end-users to directory enquiry service providers offering publicly available number directory services, in order to facilitate the provision of number-based interpersonal communications services. This obligation does not apply to information concerning end-users with unlisted numbers under Section 4-18 or have opted out of inclusion in public directory services.

Information referred to in the first paragraph shall be made available to directory enquiry providers in an objective and non-discriminatory manner and at cost-oriented prices, and prices and shall be kept up to date. Directory enquiry services do not include value-added services used for promotional or marketing purposes, whether for own or third-party benefit, unless such services are directly related to publicly available number directory services.

The Ministry may issue regulations on the obligations of providers of number-based interpersonal communications services and of directory enquiry service providers, as well as on the rights and obligations of end-users in relation to directory enquiry services.

### **Section 12-6. Databases**

The Ministry may issue orders regarding the use of databases utilised in connection with electronic communication, which contain information about or are connected to numbers, names, or addresses.

The Ministry may designate an organisation to administer such databases.

The Ministry may issue regulations on the designation and use of databases under this provision.

### **Section 12-7. Domain names**

Norid AS is the registry unit for the Norwegian country code top-level domains and shall, among other things, operate and administer the name service and registration service for **.no**.

A registry unit may, upon the Ministry's recommendation, be delegated the responsibility to administer other top-level domains of national significance by the international domain administrator. Each Norwegian country code top-level domain or top-level domain of national significance may only be administered by one registry unit.

The registry unit shall establish allocation criteria within the framework of laws and regulations. The allocation rules for domain names under Norwegian country code top-level domains and top-level domains of national significance shall be publicly available. The Public Administration Act does not apply to the allocation of domain names.

The registry unit for Norwegian country code top-level domains or top-level domains of national significance shall use domain registrars for parts of the registration process and shall provide registrars with access to the registration service on non-discriminatory terms.

The registering of a domain name grants the domain name subscriber a right to use to the domain name. The domain name subscriber is responsible for the use of the domain name.

Norid AS shall ensure the establishment of a complaint mechanism for handling disputes regarding the registration of Norwegian domain names. If there are multiple registry units for domain names, they will also be included in the complaint mechanism. The registry units shall implement the decisions of the complaint body.

The Ministry may issue regulations or make individual decisions on the conditions for the administration of Norwegian country code top-level domains and other top-level domains of national significance, including the administration of such domains by a registry unit, the provision of name services, or infrastructure services as part of these. The Ministry may issue regulations on the requirements for domain name registrars and what shall be registered.

The Ministry may make individual decisions and issue regulations on the complaint mechanism, including who the complaint mechanism covers, which complaints the

complaint body shall handle, procedural rules, and the financing of the complaint mechanism.

The Ministry may make individual decisions and issue regulations with security requirements, including the unambiguous identification of domain name subscribers.

#### **Section 12-8. Regulation on the implementation of top-level domains**

The Ministry may issue regulations on top-level domains, including the top-level domain .eu.

## **Chapter 13. Permitted equipment**

#### **Section 13-1. Importation, marketing and use of equipment**

Radio equipment, terminal equipment and other equipment subject to international agreements to which Norway is a party, and which is to be placed on the market, made available or put into operation, shall comply with requirements laid down in or pursuant to this Act. Such requirements include, among other things, safety, electromagnetic compatibility, efficient use of the electromagnetic frequency spectrum, accessibility, and requirements for procedures and marking.

Radio equipment, terminal equipment and other equipment intended for the purposes and authorisations pursuant to Sections 11-13, 11-14 first paragraph, and 11-15, and which does not meet specific requirements laid down in or pursuant to this Act, may be imported and delivered. The importer shall have a written agreement with the Armed Forces, the Intelligence Service, the Norwegian Defence Research Establishment, the Correctional Service, the National Security Authority, the police, or the rescue services to whom the equipment is to be delivered.



Importation and delivery of radio equipment not covered by the first or second paragraph requires authorisation from the Ministry. The Ministry may set conditions for the authorisation and make exceptions from the requirement for authorisation.

The Ministry may order the suspension of importation, marketing and use of equipment under the second paragraph when it poses threats to national security or a risk to life and health, or if the equipment is not used in accordance with its intended purpose.

The Ministry may issue regulations concerning the requirements and conditions for placing radio equipment, terminal equipment and other equipment on the market, making it available, and putting it into operation. The Ministry may issue regulations on the registration of dealers of radio equipment, terminal equipment and other equipment.

### **Section 13-2. Equipment intended to interfere with electronic communication**

Radio equipment and other equipment intended to interfere with or obstruct lawful electronic communications may not be imported, possessed, marketed, made available on the market, put into operation, or used. This prohibition does not apply to importation and delivery pursuant to Section 13-1, second and third paragraphs, and to use under Sections 11-13, 11-14, and 11-15.

### **Section 13-3. Regulation on notified bodies**

The Ministry may issue regulations on requirements for notified bodies.

## **Chapter 14. Procedural rules**

### **Section 14-1. Regarding the Public Administration Act**

Unless otherwise determined by law or pursuant to law, the Public Administration Act applies to procedures pursuant to this Act.

### **Section 14-2. Consultation on individual decisions**

All interested parties shall be given the opportunity to express their views within a reasonable period of time before an individual decision is made that may have significant effect on the relevant market. The same applies before decisions are made under sections 2-3, 9-3, 10-2, 10-5, 11-2, 11-3, 11-9, 11-11 and 11-12. The requirement for consultation does not apply to individual decisions issued pursuant to Section 12-7, 14-3 fifth paragraph, 16-2 and 16-3.

Drafts for individual decisions and comments under the first paragraph will be published on the Norwegian Communications Authority's website, but nevertheless, information that is under duty of confidentiality shall be exempted from public disclosure. Section 12 of the Freedom of Information Act applies accordingly.

The first and second paragraphs do not limit the notification obligation under Section 16 of the Public Administration Act.

### **Section 14-3. Consultation procedure**

When the Norwegian Communications Authority make decisions pursuant to Section 6-2 fourth paragraph, Section 6-4 first, second, third and sixth paragraphs, Sections 6-5, 6-6, 9-1 second and third paragraphs, 10-3 and 10-5 first and third paragraphs, which may affect trade between EEA countries, a reasoned draft decision shall be published and sent to the EFTA Surveillance Authority, the competent authorities in the EEA and BEREC for consultation, with a view to European harmonisation. The EFTA Surveillance Authority, BEREC, and competent authorities in the EEA may submit comments on the draft within a period of one month after the start of the consultation procedure. When decisions under Section 9-1 affects the obligations under Section 6-4, the draft decision to make an offer binding shall be included in the notification. The Norwegian Communications Authority shall duly consider any comments when making decisions.

When the draft decision defines new markets under Section 6-2 fourth paragraph or determines that an undertaking alone or jointly with others holds significant market power under Section 6-1, the comment period for the EFTA Surveillance Authority's is extended to three months from the start of the consultation period if the EFTA Surveillance Authority considers that the draft constitutes a trade barrier contrary to the EEA Agreement or has serious doubts as to its compliance with EEA law.

The EFTA Surveillance Authority may, within the deadline in the second paragraph, require the draft decision to be withdrawn or amended, or lift the reservation under the second paragraph.

When the EFTA Surveillance Authority has serious doubts that the draft under the first paragraph constitutes a trade barrier contrary to the EEA Agreement or that the proposal complies with EEA law, the period before a decision can be made is extended by an additional three months from the time the EFTA Surveillance Authority informs the Norwegian Communications Authority and BEREC of this. During the three-month period, the EFTA Surveillance Authority, BEREC, and the Norwegian Communications Authority shall cooperate to identify appropriate and effective measures. The Norwegian Communications Authority shall take the utmost account of the EFTA Surveillance Authority's and BEREC's statements and may, within the three-month period, either amend, withdraw, or maintain its draft decision.

The Norwegian Communications Authority shall withdraw the draft decision within six months after the EFTA Surveillance Authority has required it under the third and fourth paragraphs.

The EFTA Surveillance Authority may, within one month after the deadline in the fourth paragraph, issue a recommendation that the Norwegian Communications Authority should amend or withdraw the draft decision or make a decision to lift its reservations under the fourth paragraph. The Norwegian Communications Authority shall, within one month after the recommendation is issued or the reservation is withdrawn, submit the final decision to the EFTA Surveillance Authority and BEREC. The deadline may be extended if necessary to conduct a public hearing, cf. Section 14-2.

When BEREC agrees with the EFTA Surveillance Authority that there are serious doubts about the draft decision under section 9-1 and 10-3 complying with EEA law, the EFTA Surveillance Authority may, within four months from the start of the consultation procedure, require the Norwegian Communications Authority to withdraw the draft. The EFTA Surveillance Authority's decision shall contain a detailed and objective analysis of the reasons why the Norwegian Communications Authority's draft decision should not be adopted and specific proposals for amending the decision.

The Norwegian Communications Authority may withdraw a draft decision at any time and shall duly consider comments from the EFTA Surveillance Authority before making a decision.

When it is urgent to ensure competition or protect users' interests, the National Communications Authority may, in exceptional cases, make interim decisions without prior consultation. If the National Communications Authority wishes to extend or continue the temporary decision, the procedures in the first and second paragraphs shall be followed.

The Ministry may issue regulations on the consultation procedure and implementation of BEREC regulations.

#### **Section 14-4. Instruction authority**

The Ministry may instruct the Norwegian Communications Authority to handle cases within the scope of the Act.

The Norwegian Communications Authority may not be instructed in individual cases involving decisions under Chapters 6 to 9 and Sections 10-2, 10-3, 16-1 and 16-2.

#### **Section 14-5. Processing time for applications for spectrum licences**

An application for a spectrum license shall be decided without undue delay and no later

than six weeks from the application being received. The processing time may be extended to eight months for allocation of frequency resources under Section 11-3, cf. Section 11-2.

For applications of frequencies that are covered by international legal obligations to coordinate spectrum use with other countries' use of the spectrum, the time limit runs from the time a response to the coordination enquiry is received.

The processing time in the first paragraph do not apply when other time limits follow from international agreements on the use of radio frequencies or satellite orbital positions to which Norway has acceded.

#### **Section 14-6. Processing time for applications for the use of numbers**

Applications for permission to use numbers that are reserved for specific purposes shall be decided without undue delay and no later than three weeks from a correct and complete application is being received. The processing time for the allocation of numbers may, in exceptional cases, be extended by up to three weeks.

#### **Section 14-7. Exchange of information between national Authorities**

Notwithstanding the duty of confidentiality, the Norwegian Communications Authority and the Norwegian Competition Authority shall mutually and on request exchange necessary information. The Ministry and the Norwegian Communications Authority may exchange confidential information with other national authorities when necessary to fulfill the requirements of this Act and the Security Act.

The authority receiving information under the first paragraph shall not, without the written consent of the sending authority, submit information that was exempt from public access by the sending authority at the time of exchange pursuant to the Public Access to Information Act section 12, 14, 15, or 20 to 26. The Norwegian Communications Authority shall not, without the consent of the Competition Authority, disclose information covered by the Competition Act section 26 and 27.

#### **Section 14-8. Submission of information to fulfil the EEA Agreement or other international agreements**

Notwithstanding the duty of confidentiality, the Ministry and the Norwegian Communications Authority shall submit information to the EFTA Surveillance Authority when a reasoned request has been made, and the information is necessary and proportionate for the performance of tasks imposed by the EEA Agreement. The Ministry and the National Communications Authority may disclose information to BEREC, ENISA, and other EEA state authorities to the extent necessary to perform tasks under this Act.

The party to whom the information pertains shall be informed of the onward submission of confidential information if that information was originally obtained from that party.

To fulfil Norway's other contractual obligations to other states or international organisations the Ministry and Norwegian Communications Authority may, notwithstanding the statutory duty of confidentiality, provide authorities in other states or corresponding bodies in international organisations with information that is necessary to facilitate the enforcement of Norwegian or the other state's or organisation's regulation of the field of electronic communications.

When providing information pursuant to the first and the second paragraphs the Ministry and the Norwegian Communications Authority shall stipulate conditions that the information may be passed on only with the consent of the Ministry or the Norwegian Communications Authority, and only for the purpose that the agreement encompasses.

The Authority may issue regulations on the provision of information.

#### **Section 14-9. Exceptions to the duty of confidentiality**

The Ministry may, notwithstanding the duty of confidentiality under section 13 first paragraph no. 2 of the Public Administration Act, or any contractual duty of confidentiality, make available information on contractual terms to providers of electronic communications networks or services to the extent necessary to ensure that the requirements for access to electronic communications networks and services are met.

Correspondingly, information obtained in accordance with section 15-2 may be made public if this could contribute to promoting sustainable competition.

In the event of publication pursuant to the first and the second paragraph, advance written notice shall be given, and account shall be taken of the commercial organisation's justifiable interests in protecting trade secrets.

Confidential information on technical devices or solutions shall not be made public.

## **Chapter 15. Supervision and sanctions**

### **Section 15-1. Supervision**

The Ministry shall monitor compliance with the requirements laid down in or pursuant to this Act. The Ministry, or any entity designated by the Ministry, may use assistance from

others in carrying out supervisory tasks and may, without prior notice, conduct spot checks, measurements, and other inspections.

The Ministry may issue regulations and adopt individual decisions concerning supervision and supervisory authority, including the processing of personal data obtained in the course of supervisory activities.

### **Section 15-2. Duty to provide and disclose information**

The Ministry may demand information from any party, including personal data, when necessary for the implementation of this Act, decisions adopted pursuant to this act, or obligations arising from international agreements to which Norway is a party.

The Ministry may set deadlines and specify the format in which the information shall be provided and shall inform the provider of the intended use of the information. The Ministry may require that the information be submitted in a standardised format where necessary and proportionate.

Under the same condition, as in paragraph 1, the Ministry may also require the submission of existing documents and other information within specified deadlines.

The duty to provide information or submit documents or other information to the ministry shall do so notwithstanding any statutory or contractual confidentiality obligations. The duty to provide and disclose information also includes classified information regarding electronic communications networks and services, associated facilities, and infrastructure linked to operational and management systems, including information on future changes to electronic communications networks and services.

The Ministry may issue regulations concerning the duty to provide and disclose information, including on the processing of personal data. Decisions ordering the provision of information or submission of documentation may be appealed pursuant to Section 14 of the Public Administration Act.

### **Section 15-3. Cooperation during supervision**

The party subject to supervision has an obligation to ensure that the Ministry has unimpeded access to electronic communications networks, associated facilities, premises, and areas. The necessary documentation and information shall be made available to the Ministry. The supervised party may be required to be present with relevant personnel during the inspection.

The party subject to supervision shall procure and provide radio equipment, terminal equipment, or other devices requested by the Ministry for further inspection, even if

such equipment is not currently in stock. Such equipment shall be provided over to the Ministry free of charge.

#### **Section 15-4. Internal control**

The Ministry may issue orders on the establishment or amendment of internal control systems to ensure compliance with the requirements laid down in or pursuant to this Act are fulfilled. Documentation demonstrating compliance with internal control requirements shall be prepared and submitted to the Ministry upon request.

The Ministry may issue regulations on internal control and associated documentation.

#### **Section 15-5. Orders to take corrective action and make changes**

The Ministry may issue orders to rectify or cease unlawful conduct and lay down conditions to ensure compliance with the requirements laid down in or pursuant to this Act. As part of such orders, the Ministry may, among other things, require a provider to enter into agreements with other providers or end-users, and to include new contractual terms or amend the structure of such agreements.

The Ministry may take specific measures in the event of a breach of the terms of licences, the obligations imposed on providers with significant market power, or obligations applicable to providers of universal service and other special public service obligations.

The Ministry may issue orders to prevent radiation from radio or terminal equipment, or from any other device, object, or installation that causes or may cause interference with electronic communications. The actions ordered shall be proportionate and based on an overall assessment of the parties' interests and the interests of society.

Orders to take corrective action and make changes may be required to be implemented immediately or within a set deadline.

#### **Section 15-6. Revocation**

Where there are serious or repeated breaches of licence or authorisations granted under or pursuant to this Act, and the Ministry has issued an order under Section 15-5 or imposed a coercive fine under Section 15-11 without the infringement ceasing, the Ministry may revoke the relevant licence or authorisation. Revocation may also take place without a new rectification order if the holder commits further similar or comparable breaches.

The Ministry may revoke licences or authorisations under this Act in the event of non-payment of fees, sector charges, or remuneration pursuant to Sections 17-1 and 17-2, or in the event of non-payment of administrative fines under Section 15-12.

The Ministry may revoke an amateur radio licence if the licensee has acted in breach of the regulations governing such licences.

The Ministry may revoke the right to use number resources across borders in the event of violations of the licence terms, cf. Section 12-2 fifth paragraph.

Licences under this Act may be revoked without prior notice or warning if a breach of licence conditions poses a serious and immediate threat to life, health, or safety.

### **Section 15-7. Closure**

The Ministry may close down electronic communications networks and services and stop the use of radio, terminal, or other equipment when the necessary licence pursuant to this Act has not been granted, when orders under Sections 15-5 or 15-11 have not been complied with, or where continued operation or use poses a serious risk to life, health, or safety or causes harmful interference. The Ministry may also close down other installations that interfere with electronic communications where continued operation or use poses such risks. Non-payment of an administrative fine under Section 15-12 may also result in closure.

Where continued operation or use poses a serious and immediate risk to life, health, or safety, closure may be carried out without prior notice.

The Ministry may request assistance from providers granting access to electronic communications networks and services and may require such providers to implement the closure. The Ministry may request assistance from the police where necessary to enforce the close down.

### **Section 15-8. Orders to stop sale and recall of radio and terminal equipment.**

The Ministry may order a stop in the sale of radio, terminal, or other equipment and require the implementation of recall measures for distributed equipment where its use may pose a risk to life, health, or property, threaten safety or electromagnetic compatibility, result in inefficient use of the electromagnetic spectrum, cause unavailability, or violate other requirements laid down in regulations issued pursuant to Section 13-1 fifth paragraph.

The Ministry may prohibit sale of equipment that does not comply with the requirements set by regulation under Section 13-1 fifth paragraph or of equipment under Section 13-2 that is intended to interfere with electronic communications.



**Section 15-9. Confiscation and destruction of equipment**

The Ministry may confiscate equipment in cases of serious or repeated violations of decisions made under Sections 15-5, 15-7, or 15-8.

Confiscation may take place immediately and without prior notice if the use of the equipment poses a serious and immediate risk to life, health, or safety, and it is unlikely that other sanctions under Chapter 15 will prevent unlawful use or market availability. The Ministry may request assistance from the police when necessary to carry out confiscation.

Confiscation may only be executed if the severity and duration of the unlawful conduct make the measure proportionate.

The Ministry may destroy confiscated equipment. Destruction may take place no earlier than six months after the appeal period for the final confiscation decision has expired, and the decision has not been reversed or subjected to judicial review. In cases where confiscation and destruction are carried out to prevent market availability, the rules in Regulation (EC) No 765/2008 Article 19, cf. the EEA Goods Act Section 2, shall apply.

**Section 15-10. Reimbursement between providers**

A provider who has paid a price exceeding what is set under this Act may claim reimbursement of the overcharged amount. This also applies to overcharges resulting from breaches of the non-discrimination obligation.

Upon request from the entitled party, the Ministry may issue an individual decision ordering reimbursement of overcharges between providers. In assessing whether to issue such a decision, consideration shall be given, among other things, to the amount of the overcharge and whether prices for the same service were previously set too low. The Ministry's decision not to order reimbursement cannot be appealed.

Interest shall be calculated on the claim for reimbursement in accordance with the Act relating to interest on overdue payments. Until the interest on overdue payments begins to accrue, four hundred basis points over Norges Bank's money market rate shall be used as the interest rate.

**Section 15-11. Coercive fines**

The Ministry may impose coercive fines to ensure compliance with requirements set out in or pursuant to this Act.

A coercive fine may be imposed as a recurring daily fine or as a fixed amount payable for each violation. A coercive fine shall not accrue if compliance is impossible due to circumstances not attributable to the responsible party.

In special cases, the Ministry may reduce or waive the accrued coercive fine.

The Ministry may issue regulations concerning coercive fines.

### **Section 15-12. Infringement fines**

The Ministry may impose an infringement fine on natural or persons if the person, the undertaking, or someone acting on behalf of the undertaking has, intentionally or negligently:

- a. Infringes § 2-1 first to third paragraphs (duty to register), § 2-2 first paragraph (duty to register for maritime accounting authorities), § 2-3 first paragraph (All-to-all communication and interoperability between services), § 2-5 (Duty of confidentiality in access and interconnection), § 2-7 first or second paragraph (design, installation, maintenance, and interconnection of electronic communications networks), § 2-8 first paragraph (Unique identification of end-users), § 2-9 first paragraph (Register of end-users), § 2-10 first to fourth paragraph (Emergency calls and geographical location of emergency communications), § 2-11 first paragraph (eCall), § 3-1 first, third or fourth paragraph (Security in electronic communications networks and services), § 3-2 first or second paragraph (Notification to subscribers or users in the event of security incidents), § 3-3 first paragraph (Notification of security incidents), § 3-6 first paragraph (Transmission of important messages), § 3-7 first to third paragraph (Data centres), § 3-8 second, third or fifth to eighth paragraph (Permitted restrictions on use), § 3-10 first, second or fourth paragraph (Duty of confidentiality), § 3-11 first paragraph (Deletion of data), § 3-12 first paragraph (Facilitating statutory access to information), § 3-13 first or second paragraph (Duty to retain public IP addresses), § 3-14 first or fourth paragraph (Disclosure of IP addresses), § 3-15 first paragraph (Use of cookies), § 4-1 (Non-discrimination), § 4-3 first paragraph (Terms of delivery and publication), § 4-4 first or second paragraph (Pre-contractual information obligations), § 4-5 first or second paragraph (Contract summary), § 4-6 first, fourth or fifth paragraph (Contract duration, notification obligation, and termination), § 4-8 first or second paragraph (Monitoring of usage), § 4-9 first or second paragraph (Cost control), § 4-11 first to fourth paragraph (Measures in case of non-payment), § 4-12 (Bundled offers), § 4-13 (Access to email after contract termination), § 4-14 first to fifth paragraph (Switching internet access service), § 4-17 first to fourth paragraph (Number portability), § 4-18 first paragraph (Secret numbers), § 4-19 (Exemption for microenterprises acting as providers), § 5-4 (Transfer of the access network), § 7-

3 second paragraph (Requirements for Reasonable Request), § 7-6 fourth paragraph (Accounting separation), § 7-9 first paragraph (Structural and accounting separation for exclusive/special rights), § 7-10 fourth paragraph (Providers active only at the wholesale level), § 7-13 second paragraph (Functional separation), § 7-14 first paragraph (Voluntary separation of the access network), § 8-1 first or third paragraph (Access to conditional access services for radio and television), § 9-2 first or third paragraph (Requirements for co-investment offers), § 11-2 first paragraph (Authorisation to use frequencies), § 11-10 first or third to fifth paragraph (Sale, lease, and other transfers of frequency permits), § 11-11 first paragraph (Measures to promote competition), § 12-2 first paragraph (Authorisation for use of numbers, names and addresses), § 12-4 first paragraph (Obligation to convey calls to numbers and prefixes), § 12-5 first or second paragraph (Information to directory enquiry services), § 13-1 first to third paragraph (Importation, marketing and use of equipment), § 13-2 (Equipment intended to interfere with electronic communications) or § 15-3 (Cooperation during supervision).

b. Infringes any regulation adopted pursuant to this act, if the regulation stipulates that such infringement may result in the imposition of an infringement fine, or

c. Infringes an individual decision laid down pursuant to § 2-3 second or third paragraph (All-to-all communication and interoperability between services), § 2-4 second paragraph (Requirements for networks, services, associated equipment and facilities), § 2-6 first to third paragraph (Measurement and information on quality), § 2-11 second paragraph (eCall), § 2-12 fourth paragraph (Ensuring continued provision in the event of provider bankruptcy, etc.), § 3-1 fifth to seventh paragraph (Security in electronic communications networks and services), § 3-5 first paragraph (Restrictions on market access), § 3-6 second paragraph (Transmission of important messages), § 3-7 second, fourth or fifth paragraph (Data centres), § 3-8 first paragraph (Permitted restrictions on use), § 4-3 second paragraph (Terms of delivery and publication), § 5-1 first or fifth paragraph (Universal service obligations), § 5-2 second paragraph (Financing of universal services), § 5-3 first paragraph (Special societal obligations), § 6-4 third, fifth or sixth paragraph (Obligations for providers with significant market power), § 6-6 first paragraph (Transnational markets), § 7-1 first or second paragraph (Access to civil infrastructure), § 7-2 first to fifth paragraph (Access to electronic communications networks and services), § 7-4 first to fourth paragraph (Transparency and reference offers), § 7-5 first, third or fourth paragraph (Non-discrimination), § 7-6 first or fourth paragraph (Accounting separation), § 7-7 first or fourth to sixth paragraph (Price and accounting regulation), § 7-10 first or third paragraph (Providers active only at the wholesale level), § 7-11 first paragraph

(Price regulation of retail services), § 7-12 second, fourth or fifth paragraph (Transition from legacy infrastructure), § 7-13 first or third paragraph (Functional separation), § 7-14 fourth or fifth paragraph (Voluntary separation of the access network), § 8-1 first paragraph (Access to conditional access services for radio and television), § 9-1 second to fourth paragraph (Co-investment in new very high-capacity networks), § 9-2 fourth paragraph (Requirements for co-investment offers), § 9-3 sixth paragraph (Procedure for making access or co-investment commitments binding), § 10-2 first paragraph (Co-location obligations), § 10-3 first to third paragraph (Access to networks and related facilities inside and outside buildings), § 10-5 first or third paragraph (Access to infrastructure for services using frequencies), § 10-6 third paragraph (Mapping of broadband coverage), § 11-10 sixth paragraph (Sale, lease, and other transfers of frequency permits), § 11-11 second or third paragraph (Measures to promote competition), § 12-2 fifth paragraph (Authorisation for use of numbers, names and addresses), § 12-3 first paragraph (Order to use Numbers, names and addresses), § 12-4 third paragraph (Obligation to convey calls to numbers and prefixes), § 12-6 first or second paragraph (Database), § 13-1 fourth paragraph (Importation, marketing and use of equipment), § 15-4 first paragraph (Internal control), § 15-5 (Orders to take corrective action and make changes) or § 15-8 (Orders to stop sale and recall of radio and terminal equipment).

d. Violated an order issued pursuant to Section 15-2 (duty to provide and disclose information), or

e. Provides incorrect or incomplete information to the Ministry or the Norwegian Communications Authority or contributes to violations listed under letters (a) to (d).

The Ministry may issue regulations specifying which regulatory provisions may result in administrative fines, pursuant to first paragraph letter b.

### **Section 15-13. Determination of infringement fines, etc.**

In determining the amount of an infringement fine, particular emphasis shall be accorded to the seriousness of the infringement, the duration, manifest culpability, and the undertaking's revenue.

Infringement fines are due for payment four weeks after the decision to impose it. A longer deadline may be specified in the decision or subsequently. A decision imposing an infringement fine constitutes an enforceable instrument. Where legal proceedings are brought against the State to challenge the decision, enforcement shall be suspended. The court may review all aspects of the case.

The right to impose infringement fines shall be time-barred after five years. The limitation period shall be interrupted when the Ministry notifies a person or company that they are suspected of an infringement of the law or of a decision adopted pursuant to this act.

The Ministry may issue regulations on the determination and enforcement of infringement fines, including rules on their calculation and recovery.

### **Section 15-14. Penalties**

Punishment by fine or imprisonment for up to one year applies for any party that wilfully or negligently:

- a. Infringes § 2-10 first to fourth paragraph (Emergency calls and geographical location of emergency communications), § 2-11 first paragraph (eCall), § 3-3 first paragraph (Notification of security incidents), § 3-6 first paragraph (Transmission of important messages), § 3-8 second paragraph (Permitted restrictions on use), § 3-10 first or second paragraph (Duty of confidentiality), § 11-2 first paragraph (Authorisation to use frequencies), § 12-2 first paragraph (Authorisation for use of numbers, names and addresses), § 13-1 first to third paragraph (Importation, marketing and use of Equipment) or § 13-2 (Equipment intended to interfere with electronic communications).
- b. Infringes regulations issued pursuant to this Act, where the regulation provides that such infringement constitutes a criminal offence, or
- c. Infringes an individual decisions pursuant to § 2-4 second paragraph (Requirements for networks, services, associated equipment and facilities), § 3-1 fifth, sixth or seventh paragraph (Security in electronic communications networks and services), § 3-7 second paragraph (Data centres), § 3-8 first paragraph (Permitted restrictions on use), § 11-2 first paragraph (Authorisation to use frequencies), § 12-2 first or fifth paragraph (Authorisation for use of numbers, names and addresses), § 12-3 first paragraph (Order to use numbers, names and addresses), § 13-1 second, third or fourth paragraph (Importation, marketing and use of equipment) or § 15-7 first, second or third paragraph (Closure).

A gross violation of § 3-10 (duty of confidentiality) shall be punishable by imprisonment for a term not exceeding three years. In assessing whether the violation is gross, particular weight shall be given to whether the offender acted with intent to achieve unlawful gain and whether the act caused or posed a risk of loss to any party.

The Ministry may issue regulations designating which regulatory provisions may be subject to penalties pursuant to item b of the first paragraph.

## Chapter 16. Dispute resolution and complaints

### **Section 16-1. Mediation in disputes between providers**

In disputes between providers concerning obligations arising from or pursuant to this Act, the Norwegian Communications Authority may, upon request from a party, mediate to reach agreement between the parties. The Authority may, after consulting the parties, set deadlines and other conditions related to the mediation. The Authority may terminate the mediation at any time. The mediation period shall not exceed four months.

Mediation under the first paragraph does not preclude proceedings before the ordinary courts. Section 27 b of the Public Administration Act does not apply.

The Ministry may issue regulations concerning mediation between providers.

### **Section 16-2. Dispute resolution in disputes between providers**

Disputes concerning rights and obligations arising from individual decisions made under or pursuant to this Act between providers of electronic communications networks and services, associated facilities, or others entitled under Section 7-2, may be brought before the Norwegian Communications Authority for decision by a party to the dispute. The parties shall cooperate with the Authority to resolve the dispute.

The Norwegian Communications Authority shall decide the dispute as soon as possible and no later than four months after the matter is brought before it. In special cases, the deadline may be extended.

The Norwegian Communications Authority may refrain from issuing a decision if the dispute can be resolved by other means, cf. Section 16-1, and shall notify the parties without undue delay. If mediation has lasted for four months or has been terminated without result and the matter has not been brought before the courts, the Authority shall, upon a renewed request from a party, issue a decision within the deadline specified in the second paragraph.

The Norwegian Communications Authority shall publish its decisions with the limitations that follow from Section 13 of the Public Administration Act.

Bringing a case before the Norwegian Communications Authority under the first paragraph does not preclude proceedings before the ordinary courts. Section 27 b of the Public Administration Act does not apply.

The Ministry may issue regulations on procedures for dispute resolution.

### **Section 16-3. Cross-border disputes**

Disputes concerning electronic communications networks or services that involve more than one EEA state may be brought before the Norwegian Communications Authority by a party to the dispute. Disputes under Chapter 11 and disputes on spectrum coordination between EEA states are not covered by this provision.

When the dispute may affect trade between EEA states, the Norwegian Communications Authority shall consult BEREC with a view to reaching a mutually agreed solution. BEREC may recommend that the Authority intervene in a specific manner or refrain from intervening. The Norwegian Communications Authority shall await BEREC's recommendation before making a decision and shall duly consider the recommendation. A decision shall be made within one month after the recommendation from BEREC is received by the Norwegian Communications Authority.

In urgent cases to safeguard competition or protect end-users' interests, the Norwegian Communications Authority may exceptionally make temporary decisions without prior consultation.

If mediation has lasted four months or has been terminated without result and the case has not been brought before a court, the authorities in the involved states shall, upon a renewed request from a party, cooperate to help resolve the conflict.

Bringing a case before the Norwegian Communications Authority under the first paragraph does not preclude proceedings before the ordinary courts. Section 27 b of the Public Administration Act does not apply.

#### **Section 16-4. Arbitration**

An agreement to resolve disputes concerning access to electronic communications networks and services through arbitration is only binding if the arbitration agreement is entered into after the dispute has arisen.

An arbitral award does not prevent the Ministry from imposing obligations or making other decisions under this Act.

#### **Section 16-5. The Consumer Complaints Board for Electronic Communications (Brukerklagenemnda)**

The Consumer Complaints Board shall handle complaints from consumers or micro-enterprises concerning the provision of publicly available number-based interpersonal communication services, internet access services, TV services, universal service obligations, and disputes under Section 4-16. The Board shall handle such complaints both for individual services and bundled sales. Disputes may concern contract formation and performance, quality, billing, and compensation. The Board shall not handle disputes concerning the scope of universal service, complaints about broadcast content, the composition of channel packages, or delivery of subscription packages over the internet.

End-users as described in the first paragraph may request review by the Board of any dispute within the Board's jurisdiction, provided they have a legal interest in obtaining the Board's opinion. Providers of electronic communications services covered by the complaints scheme are obliged to allow the Board to handle disputes with end-users. The Ministry may exempt providers or groups of providers from the scheme. While a dispute is being considered by the Board, it may not be brought before the ordinary courts.

The Consumer Complaints Board shall ensure that disputes are handled in a reasonable, fair, and expeditious manner. The organisation and composition of the Board shall ensure a balance between business and consumer interests.

The Board's activities shall be funded by the providers of the services covered by the complaints scheme. Outstanding contributions constitute grounds for enforcement.



The Ministry may issue regulations or individual decisions concerning the Consumer Complaints Board, including financing and which services are covered by the scheme, and may specify and limit the Board's jurisdiction in regulations.

### **Section 16-6. The Appeals Board for Electronic Communications (Klagenemnda)**

The Appeals Board shall decide appeals against individual decisions made by the Norwegian Communications Authority pursuant to this Act, except for appeals decided under Section 16-7 and those excluded by regulation from the Board's jurisdiction.

The Board's decisions shall not conflict with decisions of the EFTA Surveillance Authority under Section 14-3 third paragraph and shall give due consideration to the opinions of the EFTA Surveillance Authority and BEREC under Section 14-3 fourth paragraph.

Only the Appeals Board may grant suspension of implementation under Section 42 of the Public Administration Act in cases within its jurisdiction.

The Board may not instruct the Norwegian Communications Authority in specific cases under its supervision. The Board may amend its own decisions under Section 35 of the Public Administration Act but may not amend decisions of the Authority under the second paragraph of that provision.

The Board is an independent administrative body under the Ministry. Neither the King nor the Ministry may instruct the Board in the handling or decisions of individual cases. The King or the Ministry also may not, on their own initiative, overturn individual decisions made by the Norwegian Communications Authority or the Board.

The Board shall consist of up to ten members. Members are appointed by the King for four years, with the possibility of reappointment for another four years. The King designates the chair and deputy chair. The chair must hold a law degree (cand.jur. or Master of Laws). The Board shall submit an annual report to the Ministry on its case handling.

The Ministry may issue regulations on the Board's composition, organisation, financing, case processing, deadlines, and reporting. The Ministry may by regulation or individual decision determine whether a case that falls within both the Board's and the Ministry's jurisdiction shall be decided by the Board or the Ministry. The Ministry may exempt types of cases from review by the Board.

### **Section 16-7. Appeals decided by the Ministry**

The Ministry shall decide appeals against individual decisions made by the Norwegian

Communications Authority pursuant to Sections 3-1 to 3-14 and appeals against decisions excluded from review by the Appeals Board under Section 16-6 seventh paragraph.

### **Section 16-8. Invalidity**

Any agreement contrary to this Act or decisions made under this Act shall be invalid between the parties.

The invalidity only extends as far as the obligations under this Act have been breached, unless it would be unreasonable under Section 36 of the Contracts Act to enforce the remainder of the agreement.

### **Section 16-9. Deadlines for legal action, etc.**

Legal actions concerning individual decisions made under this Act must be brought within six months of the decision date.

The deadline is suspended if the decision is appealed to the appellate body. The deadline does not run during the appeals process. The complainant may bring the underlying decision before the courts during the appeals process. A new deadline starts from the date the appellate decision is made.

Reinstatement for missed deadlines may be granted under Sections 16-12 to 16-14 of the Dispute Act.

When the deadline has expired without legal action being initiated, the decision has the same effect as a final judgment and is enforceable according to the rules for judgments. The legal effect is binding on all parties.

## **Chapter 17. Sector fee, charges, and remuneration**

### **Section 17-1. Sector fee and charges**

The Norwegian Communications Authority or other competent authority under this Act, cf. Section 1-4, may impose a sector fee and charges to cover the costs associated with administrative tasks under this Act, and to cover the costs related to duties as sector authority for electronic communications and data centres pursuant to the Security Act.

Sector fees and charges may be imposed on providers of electronic communications networks and services and on actors offering electronic communications equipment. The same applies to those granted access to frequency, number, name, and address resources, data centre operators, and others regulated by or under this Act or the Security Act, cf. the first paragraph.

The imposition of sector fees and charges shall cover relevant costs for the Norwegian Communications Authority and any other competent authority under the Act, cf. Section 1-4. The expenditure and revenue side of the Norwegian Communications Authority's budget shall be published annually.

An order to pay sector fees and charges constitutes grounds for enforcement.

The authority to collect or impose sector fees and charges may be delegated to private entities, cf. Section 1-4.

The Ministry may issue regulations concerning sector fees and charges, including exemptions from the obligation to pay.

### **Section 17-2. Remuneration**

To promote efficient use of resources, remuneration may be charged for access to frequency, number, name, and address resources. The remuneration may be determined by decision or through auction or other competitive procedures.

Claims for remuneration for access to frequency resources may be determined upon the granting, extension, or renewal of frequency licences, cf. Sections 11-2 to 11-4, 11-8, and 11-9. When determining remuneration, consideration shall be given to the value of the resources, costs related to usage conditions, and the principle that remuneration for frequency resources should generally only be collected when the frequencies can be utilised.

Claims for remuneration constitute grounds for enforcement.

The Ministry may issue regulations concerning remuneration, including collection and procedures for collection.

## **Chapter 18. Entry into force, transitional provisions, and amendments to other Acts**

### **Section 18-1. Entry into force**

The Act shall enter into force on the date decided by the King. The King may bring individual provisions into force at different times.

As of the date the Act enters into force, Act of 4 July 2003 No. 83 relating to electronic communications shall be repealed.

*(Effective from 1 January 2025 pursuant to Royal Decree of 13 December 2024 No. 3095.)*

## **Section 18-2. Transitional Provisions**

Individual decisions and regulations adopted pursuant to the Act of 4 July 2003 No. 83 relating to electronic communications or earlier laws in the field of electronic communications that are in force at the time of entry into force of this Act shall remain in effect. This includes obligations imposed on providers with significant market power under or pursuant to law, until new individual decisions under this Act are implemented.

National frequency plans and national numbering plans adopted under the Act of 4 July 2003 No. 83 or earlier legislation and in force at the time of this Act's entry into force shall continue to apply.

## **Section 18-3. Transitional arrangement for appeals against individual decisions**

Until Section 16-6 concerning the Appeals Board for Electronic Communications enters into force, the Ministry shall decide appeals against individual decisions made by the National Communications Authority under or pursuant to this Act. The Ministry may transfer appeals received before entry into force to the Appeals Board if deemed appropriate.

The appeal shall be submitted to the Norwegian Communications Authority, cf. Section 32 of the Public Administration Act. The Authority shall carry out any necessary investigations, cf. Section 33 of the Public Administration Act. If the conditions for processing the appeal are not met, the appeal shall be dismissed. If there are no grounds for altering the decision, the appeal shall be forwarded without undue delay to the Ministry.

The Ministry shall decide the appeal case as soon as proper administrative procedure allows cf. Section 33 of the Public Administration Act.

Section 34 third paragraph second sentence of the Public Administration Act does not apply to appeals against decisions made pursuant to Chapters 6, 7, and 15. Notice of a change to the detriment of the appellant must be sent within six months after the subordinate authority received the appeal.

Only the Ministry may grant postponement of enforcement under Section 42 of the Public Administration Act.

Decisions made by the Ministry as the appeals body cannot be appealed to the King unless otherwise provided by Section 28 third paragraph of the Public Administration Act.

#### **Section 18-4. Amendments to other Acts**

From the date this Act enters into force, the following amendments shall be made to other Acts.