The Electronic Communications Act (2003:389)

Chapter 1, General provisions (Entered into force 25 July 2003)

Introductory provisions

Section 1 The provisions of this Act aim at ensuring that private individuals, legal entities and public authorities shall have access to secure and efficient electronic communications and the greatest possible benefit regarding the range of electronic communications services and their price and quality.

This objective shall mainly be achieved through the promotion of competition and the international harmonisation of the sector. However, universal services shall always be available for everybody on equivalent terms throughout Sweden at affordable prices.

When applying the Act, particular regard shall be taken to the importance of electronic communications for the freedom of expression and freedom of information.

Section 2 Measures that are implemented in accordance with this Act may not be more extensive than appears to be reasonable, and should be proportional having regard to the objectives of the Act and the other interests referred to in Section 1.

Section 3 The public authority appointed by the Government shall receive reports, consider applications, decide on obligations and otherwise consider issues and deal with matters and also exercise supervision under this Act or under regulations issued in accordance with the Act.

Scope of the Act

Section 4 This Act applies to electronic communications networks and communications services with associated facilities and services together with other radio use.

The Act is not applicable to content that is transferred in electronic communications networks with the aid of electronic communications services.

Section 5 The provisions of this Act do not replace the regulations for consideration under other acts.

Section 6 Besides the provisions of this Act, the Radio and Television Act (1996:844) contains provisions concerning broadcasting of sound radio and television programmes that are intended for the public and intended to be received with technical aids.

The Radio and Telecommunications Terminal Equipment Act (2000:121) contains provisions concerning equipment.

Definitions

Section 7 In this Act the following words have the meanings ascribed

subscriber: a person who has concluded a contract with a provider of public electronic communications services concerning the provision of such services,

subscriber directory services: commercial operations for providing information about subscriber data to the public or for communicating subscriber data for such purposes,

public communications network: an electronic communications network that is entirely or mainly used for the provision of public electronic communications services,

public telephone network: an electronic communications network that is used to provide public telephony services and which facilitates the transfer of speech, telefax messages, data communication and other forms of communication between network termination points,

user: a person who uses or demands the provision of a public electronic communications service,

electronic communications service: a service that is normally provided for payment, and which completely or mainly comprises the transmission of signals within electronic communications networks,

electronic communications network: a system for transfer and, in appropriate cases, equipment for connection or routing and also other resources that allow the transmission of signals, via wire or radio waves, by optical means or via other electromagnetic transmission media irrespective of what kind of information is transferred,

location data: data that is processed in an electronic communications network and indicating the geographic position of the terminal equipment of a user,

network interconnection point: a physical point at which a subscriber is connected to a public communications network,

emergency call: a call to a public emergency service via a number within the approved numbering plan for telephony,

operator: a party that possesses or in another way controls a public communications network or associated installation,

radio installation: arrangement that facilitates radio communication or determination of a position, speed or other characteristics of an object by transmissions of radio waves (radio transmitter) or the receipt of radio waves (radio receiver),

radio communication: transmission, broadcasting, or reception of signs, signals, writings, images, sound or messages of all kinds with the aid of radio waves,

radio waves: electromagnetic waves with frequencies from 9 kilohertz to 3 000 gigahertz propagated without artificial guide,

call: connection for transmission of speech, which allows two-way communication in what is perceived by the user to be real time,

interconnection: physical and logical connection of public communications networks to make it possible for users to communicate with each other or to gain access to services that are provided in the networks,

harmful interference: interference that endangers the functioning of a radio navigation service or any other safety service, or which in another way seriously impedes, prevents or repeatedly interrupts a radio communications service that functions in accordance with the applicable provisions, including interference of existing or planned services for nationally allocated frequencies,

end-user: a user who does not provide public communications networks or public electronic communications services,

telephony service: electronic communications service that involves the possibility to call up or receive a call via one or several numbers within a national or international numbering plan, including emergency calls,

associated facility: arrangement, function or something else that does not constitute but is related to an electronic communications service or an electronic communications network, and which facilitates or supports that service or provision of services via that network.

Communications operations in war, etc.

Section 8 If Sweden is at war or in danger of war or if such extraordinary circumstances prevail as are caused by there being war outside Sweden's borders or by Sweden having been at war or in danger of war, the Government may issue the regulations on electronic communications networks and communications services with associated facilities and services and also other radio use as necessary having regard to the defence and general security of Sweden.

The Government or the public authority appointed by the Government may issue regulations about peacetime planning for the needs of the Total Defence for electronic communications under such circumstances as referred to in the first paragraph.

Section 9 A party that provides electronic communications networks or electronic communications services of particular importance from the public perspective may be ordered to

take into account in a particular way the needs of Total Defence for electronic communications during times of alert.

Chapter 2 Notification

Section 1 Public communications networks of such a kind as are normally provided for payment or public electronic communications services may only be provided following notification to the public authority appointed by the Government (supervisory authority).

Section 2 Notification in accordance with Section 1 need not be given for an operation that only comprises transmission of signals via wire for broadcasting of sound radio programmes to the public or other activities as referred to in Chapter 1, Article 1, third paragraph of the Fundamental Law on Freedom of Expression.

The Government or, following authorisation by the Government, the supervisory authority may issue regulations regarding further exemptions from the notification obligation under Section 1.

Section 3 A party that conducts operations that are subject to a notification obligation in accordance with Section 1 shall apply such standards as the Commission of the European Communities has prescribed as mandatory in a list published in the Official Journal of the European Communities.

Section 4 A party that has been notified in accordance with Section 1 is liable to give notice without delay if the operation ceases.

Section 5 The Government or the public authority appointed by the Government may issue regulations on the recognition of operators in accordance with provisions adopted by the International Telecommunications Union.

Section 6 The Government or the public authority appointed by the Government may decide on matters of registration of Maritime Accounting Authorities in accordance with the provisions adopted by the International Telecommunications Union and also issue the regulations that are required for registration.

Chapter 3 Right to use radio frequencies and numbers

Radio transmitters

Licence to use radio transmitters

Section 1 In order to use a radio transmitter in Sweden or on a Swedish vessel or aircraft abroad, a licence is required in accordance with the provisions in this Chapter.

Section 2 If the use of frequencies and the conditions and procedure for the grant of a licence to use a radio transmitter have been harmonised in accordance with international agreements to which Sweden has acceded or provisions adopted in accordance with the Treaty establishing the European Community, the party that has been granted such a licence shall be deemed to have a licence in accordance with Section 1.

Section 3 Requirements for a licence in accordance with Section 1 do not apply to the Police, the Swedish Armed Forces, the National Defence Radio Establishment and the Defence Matériel Administration in connection with operations that the Administration conducts on the assignment of the Swedish Armed Forces or the National Defence Radio Establishment.

Following consultation with the Swedish Armed Forces, the public authority appointed by the Government shall decide on the assignment of radio frequencies for the Swedish Armed Forces, the National Defence Radio Establishment and the Defence Matériel Administration and also on the further conditions that are necessary. As regards the Police, the public authority appointed by the Government decides on such matters following consultation with the National Police Board.

Section 4 The Government or the public authority appointed by the Government may issue regulations on exemptions from the licence obligation under Section 1. In this connection, conditions may be prescribed that the radio installation where the transmitter is included should meet specific technical requirements and otherwise such conditions as referred to in Chapter 11, Sections 1 to 5, 7 to 10 and 12.

Exemptions in accordance with the first paragraph may be limited in time, in which connection Section 12, second paragraph, shall apply correspondingly.

Section 5 A party that, in accordance with Section 3 or according to regulations issued under Section 4, is exempted from the licence obligation shall when applying this Act be deemed to have a licence under Section 1.

Section 6 A licence to use a radio transmitter shall be granted, if

1. it may be assumed that the radio transmitter will be used in such a way that the risk for prohibited harmful interference does not arise,
2. the radio transmitter, together with the intended radio receiver, is of such a nature in technical respects that it satisfies reasonable requirements on efficient frequency use and on the possibility to operate in an environment for which it is intended,
3. the radio use constitutes an efficient use of radio frequencies,
4. it may be assumed that the radio use will not impede such radio communications as are particularly important having regard to the free moulding of opinion,
5. the radio use does not utilise radio frequencies that are required to maintain a reasonable preparedness for the development of existing and new radio uses or frequencies for which the radio use has been harmonised in accordance with international agreements to which Sweden has acceded or provisions adopted in accordance with the Treaty establishing the European Community,
6. it may be assumed that the radio use will not infringe on radio frequencies that are required for operations referred to in Section 3, and
7. having regard to the fact that the applicant has previously had a licence revoked or some other similar circumstance, there is no reasonable cause to assume that the radio transmitter will be used in violation of the licence conditions.

A licence to use a radio transmitter for broadcasts that require licences according to another Act or according to provisions issued under another Act, may only be issued if such a licence exists.

Section 7 The number of licences that are granted within one part of the radio spectrum may be limited, providing this is necessary to safeguard the efficient use of radio frequencies. A decision to limit the number of licences shall be reconsidered as soon as there is cause to do so.

Section 8 Should a question arise about granting a licence to use a radio transmitter for new or fundamentally altered radio uses and it may be assumed that the frequencies that can be assigned to the operation is not sufficient to grant a licence to everyone who wishes and who would be able to conduct such operations, consideration shall take place following an open invitation to apply, provided special reasons do not give cause to do otherwise. This also applies when the radio spectrum that is assigned to a certain radio use is extended or in some other way allows further licences to be granted.

The first paragraph does not apply to such radio use as

1. primarily relates to the broadcasting of sound radio programmes to the public or other activities as referred to in Chapter 1, Article 1, third paragraph of the Fundamental Law on Freedom of Expression,
2. is intended for private use, or
3. exclusively relates to operations that are conducted with the purpose of ensuring public order and security.

Consideration under the first paragraph shall be conducted according to a comparative selection procedure, following a tender procedure where the price that the applicant is willing to pay for the licence shall be decisive or following a combination of these proceedings.

The Government or the public authority appointed by the Government may issue regulations concerning the content of an open invitation in accordance with the first paragraph and on procedures in accordance with the third paragraph.

Section 9 A licence to use a radio transmitter shall relate to a particular radio use. A licence to use a radio transmitter for a particular radio use and a licence to use individual radio transmitters within this use may be granted on separate occasions.

Section 10 A licence that relates to the digital broadcasting of sound radio programmes to the public or other activities as referred to Chapter 1, Article 1, third paragraph of the Fundamental Law on Freedom of Expression may be combined with the right to use the radio transmitter for other use, corresponding to at most twenty per cent of the digital capacity of that part of the radio spectrum. However, this only applies if conditions according to Chapter 3, Section 2, item 8 of the Radio and Television Act (1996:844) have not been imposed for the corresponding broadcasting licence and this does not otherwise adversely affect competition.

Section 11 A licence to use a radio transmitter may be combined with conditions concerning

1. the frequencies to which the licence relates,
2. which electronic communications services or kind of electronic communications networks or techniques the licence relates to,
3. coverage and roll-out within Sweden,
4. the nature of the antenna and the radio transmitter generally,
5. the geographical area in which a mobile radio transmitter may be used,
6. where the antenna for a fixed radio transmitter shall be located,
7. competence requirements for those who will manage the radio installation,
8. an obligation for the applicant to share frequency space with another,
9. such matter as in accordance with a decision on the harmonised use of radio frequencies should be imposed as conditions when the party to be allocated a radio frequency has been nominated in accordance with international agreements or provisions adopted in accordance with the Treaty establishing the European Community,
10. obligations in accordance with applicable international agreements as regards the use of frequencies,
11. undertakings that have been made in conjunction with the grant of a licence in accordance with Section 8, and
12. otherwise as required to ensure the actual and efficient use of radio spectrum.

Section 12 A licence shall be granted for a fixed term. The term of validity for the licence conditions may be shorter than the term of the licence.

When the term of validity for the licence and the licence conditions is decided, particular regard shall be taken to

1. future changes in radio use,
2. the period that the transmitter is intended to be used,
3. the technical development that may be expected,
4. the period that is required to achieve reasonable financial return on the equipment, and,
5. such licence as according to Section 6, second paragraph, constitutes a precondition for a licence to use a radio transmitter.

Measures against interference

Section 13 If harmful interference occurs, the licence holder shall immediately ensure that the interference ceases or is reduced to the greatest possible extent, unless the interference is permitted. The same applies to a party using a radio receiver that interferes with the use of another radio receiver.

Section 14 Electrical or other electronic installations that, without being radio installations, are intended to generate radio frequency energy for communications purposes in lines or for

industrial, scientific, medical or any other similar purpose, may only be used in accordance with the regulations issued by the Government or the public authority appointed by the Government.

The Government or the public authority appointed by the Government may issue regulations for a prohibition against possessing electrical or electronic installations that are not subject to the first paragraph and which, without being radio installations, are intended to transmit radio waves.

Numbers

Numbering plans

Section 15 The Government or the public authority appointed by the Government may determine national numbering plans for electronic communications and issue regulations concerning the plans and their use. The plans shall be designed so that electronic communications networks and electronic communications services can be reached in an equivalent way.

Section 16 A party that conducts operations that are subject to a notification obligation in accordance with Chapter 2, Section 1, or provides electronic communications services in interconnection with the party that conducts such operations, is liable to comply with the approved numbering plans.

Section 17 A party that provides a public telephony service shall be capable of dealing with all calls to the European Telephony Numbering Space 3883.

Section 18 A party that determines national numbering plans shall keep these publicly available, except as regards information to which secrecy applies in accordance with Chapter 2, Section 2 of the Secrecy Act (1980:100).

Licence to use numbers

Section 19 Numbers from a national numbering plan may only be used with a licence. A licence shall refer to a series of numbers or individual numbers.

The Government or the public authority appointed by the Government may issue regulations concerning the principles for allocation of numbers.

Section 20 A party that has been allocated a number series may not discriminate against others who provide electronic communications services as regards which numbers allow access to services in the networks.

Section 21 A licence to use numbers may be combined with conditions concerning

1. the kind of service for which the number shall be used,
2. the actual and efficient use of the number,
3. a reasonable term of validity with reservations for possible changes in the national numbering plan,
4. undertakings that have been made in conjunction with licences being granted in accordance with Section 22, and,
5. obligations in accordance with applicable international agreements regarding the use of numbers.

Numbers of substantial financial value

Section 22 Licences to use numbers of substantial financial value may be granted following an open invitation to apply. Such a licence may be granted following

1. a comparative selection procedure,
2. a tender procedure where the price that the applicant is willing to pay for the licence shall be decisive,
3. a procedure with random allocation, or
4. a combination of the procedures under items 1 to 3.

The Government or the public authority appointed by the Government may issue regulations concerning the content of an open invitation and concerning procedures according to the first paragraph.

Assignment of licences

Section 23 A licence or part of a licence to use a radio transmitter or numbers may be assigned following consent from the authority that granted the licence. Such consent shall be granted, provided

1. the assignee satisfies the requirements imposed on the applicant in conjunction with the licence being granted,
2. there is no cause to assume that the assignment will have an adverse impact on competition,
3. the assignment will not result in changed use of the radio frequencies, if these are harmonised according to provisions adopted in accordance with the Treaty establishing the European Community, and
4. there are no other special reasons against doing so.

The assignee takes over the rights and obligations of the assignor under this Act for the period following the consent. In the case of an assignment of part of a licence, the assigned part shall be deemed to be a new licence.

Upon granting consent, the authority may issue new or amended conditions resulting from the assignment.

An assignment in violation of this Section is invalid.

Chapter 4 Interconnection and other forms of access

Obligation to negotiate on interconnection, etc.

Section 1 An operator of a public communications network is under a duty to negotiate on interconnection with a party that provides or intends to provide public electronic communications services.

Section 2 A party that in conjunction with a negotiation as referred to in Section 1 receives information concerning another undertaking's business or operating circumstances may not improperly forward or utilise what he has become cognisant of or gained access to. The Secrecy Act (1980:100) applies to public operations.

Special obligations

Section 3 A party that controls access to end-users may be ordered to, in return for fair market reward, conduct interconnection or implement other measures that are required to ensure that end-users can reach each other.

Section 4 An operator that, according to Chapter 8, Section 7, has significant power in a particular market, shall in accordance with Chapter 8, Section 6 have one or more of the obligations referred to in Sections 5 to 12 imposed on it. Such an obligation shall aim to establish efficient competition.

An obligation for access may also be imposed on such an operator in other cases than those referred to in this Chapter, provided there are extraordinary reasons to do so and the measure is approved by the Commission of the European Communities.

Section 5 An operator referred to in Section 4 may be ordered to, in a reference offer or in another way, publicise specified details concerning

1. accounting,
2. technical specifications,
3. network characteristics,
4. conditions for provision and use,

5. pricing, or
6. other circumstances that are needed for openness on matters relating to interconnection and other forms of access.

A decision on an obligation in accordance with the first paragraph shall include a notice concerning what information is to be provided, how detailed this should be and in which way it should be publicised.

The operator may be ordered to change an item of information, provided this is necessary for it to correspond with the obligation that has been decided under this Chapter.

A decision in accordance with the first or third paragraph may be combined with a default fine.

Section 6 An operator referred to in Section 4 may be ordered to apply non-discriminatory conditions in its operations. Such an obligation shall in particular ensure that

1. the operator in similar circumstances applies equivalent terms in relation to others who provide equivalent services, and
2. the services and the information that the operator offers to others are provided on the same conditions and are of the same quality as apply for the operator's own services or for the services of a subsidiary or collaborating partner.

Section 7 An operator referred to in Section 4 may be ordered to account separately and report specified operations with links to interconnection and other forms of access. Such an obligation may refer to an operator applying open pricing for other operators and for internal transfer or to provide an authority with its accounts, including details of revenues from others.

Section 8 An operator referred to in Section 4 may be ordered to satisfy reasonable requirements on access to and the use of the network and associated facilities with the aim of providing electronic communications services. Such an obligation may relate to the operator

1. providing another with access to specified parts of the network and associated facilities,
2. extending access already granted to associated facilities,
3. offering other operators specified services for resale,
4. granting access to technical interfaces, protocol and other key technology that is necessary for interoperability between the services,
5. offering co-location or other opportunities for joint use of associated facilities,
6. offering specified services that are required to ensure interoperability between services, right up to the end-user,
7. offering access to operational support systems or similar programme systems that are required to guarantee sound competition as regards the provision of services, or
8. conducting interconnection or otherwise implementing measures so that networks or associated facilities can be connected.

Section 9 An obligation in accordance with Section 8 relating to access to a public telephone network between a main distribution frame or a similar interconnection point and a subscriber's fixed network termination point shall, if the network there comprises a twin cable of metal, be combined with an obligation to publicise such a reference offer as referred to in Section 5. The offer shall contain the information referred to in Article 9.4 of Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive). A decision on an obligation to publicise a reference offer may be combined with a default fine.

Section 10 When applying Section 8, the following shall be taken into account in particular:

1. the technical and financial strength for the use and installation of alternative network parts or associated facilities, taking into account market developments and the nature and kind of interconnection and other forms or access,
2. the available capacity,
3. the risks that a new investment involves for the owner of the network or associated facilities,
4. the need to protect competition in the long term,

5. the intellectual property rights involved,
6. the interest in the cross-border services within the European Economic Area, and
7. the function and technical security of the network.

Section 11 An operator referred to in Section 4 may be ordered to observe cost coverage or apply cost-orientated or other pricing for specified types of interconnection and other forms of access. This may be done if a market analysis in accordance with Chapter 8, Section 5 shows that an inadequacy in efficient competition means that the operator can charge excessive prices or use price pressure in a way that disadvantages the end-users.

An obligation under the first paragraph may also relate to an obligation for the operator to apply a particular cost accounting method. Such an obligation shall be combined with an obligation to make a description of the method available to the public. The main categories of the costs and the rules for the distribution of costs should be stated in the description.

A party that has been ordered to orientate its pricing to costs shall demonstrate that the prices are fair and reasonable having regard to the costs and an obligation to adjust its prices may be imposed by order.

The Government or the public authority appointed by the Government shall issue regulations on the method to be applied for computation of cost-orientated prices, concerning what factors will form the basis for the computation and in which way this will be done.

Section 12 When applying Section 11, regard shall be taken to the investments that have been made by the operator. Such an obligation as referred to in Section 11 shall be structured so that the operator obtains a reasonable yield on the capital investment.

Other provisions

Section 13 An operator may not be ordered to apply different conditions for equivalent services.

An obligation that relates to access shall be linked to the services that are actually provided, unless otherwise prescribed by conditions determined in accordance with Chapter 3, Section 11.

Section 14 An operator may also in other cases than those according to Section 8, item 5, be ordered to provide, in return for commercial reward, co-location or other opportunities for shared use of property or other resources, if this is required to protect the environment, public health or public security or in order to achieve the objectives of physical planning.

Chapter 5 Services to end-users, etc.

Universal services

Section 1 If it is necessary for the universal services shown below to be available at affordable prices, the party that is considered appropriate for this may be ordered to, at an affordable price,

1. satisfy reasonable requirements for connection to the public telephone network to a fixed network termination point at a permanent place of residence or a regular business location, for everyone who requests it,
2. satisfy reasonable requirements for access to public telephony services to a fixed network termination point at a permanent place of residence or a regular business location, for everyone who demands this service,
3. in a subscriber directory, which shall be updated annually, make information about all telephone subscriptions available to the extent they are not subject to secrecy or a duty of confidentiality according to law,
4. provide a complete directory inquiry service, regarding telephone subscriptions to the extent that the information that is provided is not subject to secrecy or a duty of confidentiality according to law,
5. provide public payphones to the extent that, as regards quality, number and geographical distribution, satisfies the needs of the public, or

6. provide access for people with disability to services according to items 2 to 5 to the same extent and on equivalent terms as for other end-users and satisfy the needs of people with disability for such special services.

Access to universal services shall be safeguarded through procurement by the State if this is called for especially having regard to the costs for the provision of the service or the network.

Section 2 A party that shall provide a service according to Section 1 may have an obligation imposed on it to within a particular time achieve particular performance objectives. This time may not be less than three months.

A connection according to Section 1, first paragraph, item 1, shall be designed so that the end-user can conduct and receive local, national and international calls, telefax and data communication with a particular specified minimum data rate that allows functional access to the Internet.

The Government may issue regulations concerning data rate according to the second paragraph.

Section 3 A party that shall provide access to public telephony services in accordance with Section 1, first paragraph, item 2 shall at the request of a subscriber bar without charge certain kinds of outgoing calls or numbers.

A party that shall provide subscriber directories and directory inquiry services according to Section 1, first paragraph, item 3 or 4 shall treat the information received in a non-discriminatory way.

Section 4 A party that shall provide a service in accordance with Section 1 may, in appropriate cases, have an obligation imposed on it to

1. without charge discontinue a public telephony service to a fixed network termination point, if the claim against the subscriber exceeds an amount that is stated by the subscriber in advance and the subscriber does not request that the service should be provided nonetheless,
2. apply common tariffs throughout Sweden or apply a specified maximum price,
3. make it possible for the consumer to pay in advance for connection to the public telephone network and for the use of public telephony services, and
4. allow the consumer to pay for a connection to the public telephone network through payments that are spread over time.

Tariffs as referred to in the first paragraph, item 2, shall be made available to the public.

A subscriber shall, in conjunction with a contract being concluded for the provision of public telephony services, be informed of his or her rights according to the first paragraph, item 1 and shall, during an ongoing contract period, be entitled to change the specified amount without charge. The discontinuation of the service shall not impede a subscriber from making emergency calls or other calls that are free of charge.

Section 5 A service according to Section 1 may not be provided on conditions whereby a subscriber is compelled to pay for something that is not necessary for the service.

Section 6 A party that shall provide a particular service according to Section 1 shall keep information about the performance that has been achieved upon the provision of the service available to the public, unless otherwise provided by provisions regarding secrecy or other protection of privacy.

The Government or the public authority appointed by the Government may issue regulations regarding information in accordance with the first paragraph.

General obligations

Section 7 A party that provides a public telephony service shall

1. ensure that the service and the public telephone network to a fixed network termination point satisfy reasonable demands for good function and technical security and also for sustainability and accessibility in the case of extraordinary events during peacetime,

2. assist in emergency calls being conveyed without interruption and free of charge for the user,
3. to the extent that it is technically feasible, provide those who receive emergency calls with location data,
4. on terms that are fair, cost-orientated and non-discriminatory, satisfy every reasonable request to release subscriber data that are not subject to secrecy or a duty of confidentiality according to law to those who conduct or intend to conduct subscriber directory services,
5. provide without charge a subscriber with specified telephone bills relating to the use of a public telephone network to a fixed network termination point or public telephony services belonging thereto, provided the subscriber has not requested that the bills should be unspecified,
6. ensure that that end-users from other States within the European Economic Area can reach Swedish numbers, whose numerical structure does not have any geographical significance, provided this is technically and economically feasible and the subscriber called has not chosen to limit access for incoming calls from certain geographical areas for commercial reasons, and
7. have regard in operations to the needs of people with disability for special services.

Calls that are free of charge for the subscriber dialled up may not be specified on his or her telephone bill.

The Government or the public authority appointed by the Government may issue regulations concerning the way in which these obligations shall be satisfied and concerning exemptions from the obligations.

Section 8 A party that provides public payphones that are available to the public shall ensure that emergency calls from the payphones are forwarded free of charge and without a demand for means of payment.

Section 9 A party that provides public telephony services shall ensure that the telephone network allows a subscriber to retain his or her telephone number when changing service provider. If the subscriber so requests, the telephone number that is used for such a service shall be transferred to another to enable it to provide the service. A number whose figure structure has geographical significance need only be transferred for the provision of telephony services within the same geographical area (area code district).

The first paragraph does not apply for the transfer of telephone numbers between networks that provide services to a fixed and mobile network termination point respectively.

The Government or, if authorised by the Government, the supervisory authority may issue regulations concerning the way in which the obligations shall be satisfied and concerning exemptions from the obligations and also may, in individual cases, grant exemptions from the obligations, if there are special reasons.

Section 10 Payment for transferring telephone numbers in accordance with Section 9 may only be based on the operational cost for the transfer.

A party that has transferred a telephone number is only entitled to payment for the operational costs that comprise increased traffic costs for a message to the telephone number. Such a payment may only be charged to the person with whom the calling subscriber has concluded a contract concerning communication of the message.

A party that transfers a telephone number is not entitled to payment from the subscriber for the transfer.

Section 11 A party that transfers a telephone number in accordance with Section 9 shall immediately provide, to the party nominated by the supervisory authority, such information as is necessary for routing messages to the telephone number. Other information that may be directly or indirectly referable to a natural person, except information about the telephone number and about the party that provides the persons involved with public telephony services, may not be released without the consent of such a person.

The authority may appoint someone to compile in a database such information as is referred to in the first paragraph and provide this to the provider of public telephony services, to the extent the party needs the information for routing calls, and others decided by the authority. The database operator appointed shall, in relation to the party providing public telephony services,

apply conditions that are neutral as regards competition and may impose the charge that is reasonable having regard to the costs.

The provisions of this Act apply in relevant parts to the database operation referred to in the second paragraph.

Special obligations for undertakings with significant power in a market

Section 12 A party that in accordance with Chapter 8, Section 7 has significant power in the market for the provision of connection to and use of public telephone networks to a fixed network interconnection point shall provide its subscribers with access to services that are offered by others who provide public telephony services and with whom the operator conducts interconnection, through

1. a prefix for selection of operator for individual calls, and
2. a pre-selection with the possibility for the subscriber to drop pre-selection for individual calls.

Payment for a change of pre-selection may only be based on the operational costs and may not be charged to the subscriber.

The Government or the public authority appointed by the Government may issue regulations concerning the way in which these obligations shall be satisfied and concerning exemptions from the obligations.

Section 13 A party that in accordance with Chapter 8, Section 7 has significant power in a particular end-user market may, if the obligation under Section 12 or obligations that may be imposed under Chapter 4, Sections 3 and 4 are insufficient, in accordance with Chapter 8, Section 6 be ordered to implement an appropriate measure. Such an obligation may relate to

1. application of a particular maximum or minimum price,
2. not implementing measures that impede competition, or
3. not performing a service that can be provided independently as a result of another service also being provided.

Section 14 If a market analysis in accordance with Chapter 8, Section 6 shows that efficient competition does not prevail in the market for the provision of entire or parts of the minimum range of leased lines as determined in a list of standards in the Official Journal of the European Communities, a party that according to Chapter 8, Section 7 has significant power in the market throughout or in parts of Sweden shall be ordered to

1. under similar circumstances apply equivalent conditions in relation to others who provide equivalent services,
2. provide leased lines to others on the same conditions and of the same quality as applies to the operator's own services or for the services of a subsidiary or collaborating partner,
3. structure and use an appropriate cost accounting method,
4. publicise technical characteristics,
5. publicise tariffs, periodical rental charges and other costs and state whether these are differentiated, or
6. publicise terms and conditions of supply.

Tariffs and terms and conditions of supply that are publicised in accordance with the first paragraph, item 5 or 6 may not be amended without the permission of the public authority appointed by the Government.

Special rights for subscribers, etc.

Contracts, etc.

Section 15 A contract between an end-user and a party that provides electronic communications services or a connection to a public telephone network shall contain information about

1. the provider's name and address,
2. the services to be provided,

3. the level of quality that is offered,
4. the period of supply,
5. the maintenance services that are offered,
6. detailed prices and tariffs,
7. how information on applicable tariffs and maintenance charges can be obtained,
8. the term of the contract,
9. conditions for extension and termination of the service,
10. conditions for extension and termination of the contract,
11. conditions for compensation if services are not provided according to the contract, and
12. how dispute resolution proceedings for consumers out of court can be commenced.

Section 16 If a party that provides subscribers with electronic communications services wishes to amend the contract, the subscriber shall be notified of the amendment at least one month before it enters into force. A subscriber who does not accept the new conditions may give notice terminating the contract without therefore being adversely affected by any cost, charge or other obligation. The notification to the subscriber shall advise him or her about his or her right to give notice terminating the contract.

Access to and publicising information

Section 17 A party that provides a public telephony service shall keep information about applicable prices, tariffs and general terms for access to and the use of the telephony service available to the public.

The Government or the public authority appointed by the Government may issue regulations concerning such information.

Section 18 A party that provides public electronic communications services may be ordered to publicise for end-users comparable, adequate and up-to-date information about the quality of the services.

Measures in the event of default in payment

Section 19 If a subscriber does not pay for a telephony service to a fixed network termination point, the provision of the service may be discontinued only after the subscriber has been directed to pay within a specified reasonable time, including information that the provision of the service may otherwise be discontinued. If the service is paid for within the specified time, the provision of the service may not be discontinued.

If a subscriber on repeated occasions has paid too late, the provision of the service may be discontinued immediately. The party that provides the service shall in such a case immediately notify the subscriber of the discontinuance and during a period of at least ten days from the discontinuance afford the subscriber an opportunity to make emergency calls and other freephone calls.

If the unpaid or repetitive late payment relates to a particular service, the discontinuance may be limited to that service, provided it is technically possible and the subscriber has not previously received a demand for payment or misled the service supplier.

Chapter 6 Protection of privacy

Special definitions

Section 1 In this Chapter

electronic message: means all information that is exchanged or transferred between a limited number of parties by a public electronic communications service, except information that is transferred as part of broadcasting sound radio and television programmes that are targeted at the public via an electronic communications network, provided this information cannot be connected with the individual subscriber or user of the information,

traffic data: means data that is processed with a purpose of forwarding an electronic message via an electronic communications network or to invoice this message.

The terms ‘processing’, ‘personal data controller’ and ‘consent’ have the same meanings in this Chapter as in the Personal Data Act (1998:204).

Relationship to other Acts

Section 2 As regards the processing of personal data in connection with the provision of electronic communications networks and electronic communications services and in connection with subscriber directory services, the Personal Data Act (1998:204) applies, unless otherwise prescribed by this Act.

The provisions of the Personal Data Act concerning rectification and damages also apply to the processing of personal data under this Act.

The Secrecy Act (1980:100) applies for governmental operations instead of Sections 20 to 23.

Security

Section 3 A party that provides a public electronic communications service shall implement appropriate measures to ensure that the data processed is protected. A party that provides a public communications network shall implement those measures that are necessary to maintain the protection within the network. These measures shall be intended to ensure a level of security that, taking into account the available technology and costs for implementation of the measures, is adapted to the risk to infringement of privacy.

Section 4 If, upon the provision of a public electronic communications service, there is a particular risk for inadequate protection of data processed, the party providing the service shall inform the subscriber about the risk. If the party that provides the service is not liable under Section 3 to remedy the risk, the subscriber shall be informed about how and at what approximate cost the risk can be remedied.

Processing of traffic data

Section 5 Traffic data that relates to users who are natural persons or relates to subscribers and which is stored or processed in another way by the party that conducts operations that are subject to a notification obligation in accordance with Chapter 2, Section 1, shall be eradicated or prevented from being identifiable when it is no longer necessary to transfer an electronic message, provided it cannot be traced for such processing as referred to in Section 6 or 13.

Section 6 Traffic data that is required for subscriber invoicing and payment of charges for interconnection may be processed until the claim is paid or a time limit has expired and it is no longer possible to make objections to the invoicing or the charge.

If the person to which the data relates has consented to it, the party providing a public electronic communications service may process the data as referred to in Section 5 for marketing electronic communications services or to provide other services where the data is needed, to the extent and during the time that is necessary for the service or marketing. Consent can be revoked at any time whatsoever.

A party that provides a public electronic communications service shall inform the person affected by the data of what type of traffic data is processed and how long the data is processed for such purposes as referred to in the first and second paragraphs. The data shall be submitted before consent is obtained.

Section 7 Processing of traffic data in accordance with Sections 5 and 6 may only be conducted by those who have been given the assignment by the party that conducts operations that are subject to a notification obligation, to attend to invoicing, traffic control, customer inquiries, marketing of electronic communications services or the provision of other services where the data is needed. The processing shall be limited to that which is necessary for the operation.

Section 8 The provisions of Sections 5 to 7 do not apply

1. when an authority or a court needs access to such data as referred to in Section 5 to resolve disputes,
2. for electronic messages that are conveyed or have been dispatched or ordered to or from a particular address in an electronic communications network that is subject to a decision on secret wire-tapping or secret tele-surveillance, or
3. to the extent data as referred to in Section 5 is necessary to prevent and expose unauthorised use of an electronic communications network or an electronic communications service.

Location data that are not traffic data

Section 9 Positioning data that is not traffic data and which relates to users who are natural persons or subscribers may only be processed after it has been prevented from being identifiable or the user or subscriber has given his or her consent to the processing. The processing may only take place to the extent and during the time that is required for the provision of a service where the data is needed.

Before consent is granted, the party providing the service shall provide information about
1. what kind of data will be processed,
2. the purpose and duration of the processing, and
3. whether the data will be forwarded.

The user or subscriber is entitled to revoke his or her consent at any time whatsoever.

A user or a subscriber shall, although consent has been given, in a way that is simple and free of charge, be able in an individual case to oppose the processing of data with logging on or transmission of an electronic message.

Section 10 Only a party that acts on the assignment of the party that provides a public communications network or a public electronic communications service, or a party that provides the service where the data is needed, may process data in accordance with Section 9.

Unspecified bills

Section 11 A party that provides a public electronic communications service is liable to provide a subscriber with an unspecified bill if so requested.

Presentation of calling line identification

Section 12 A party that provides presentation of calling line identification shall offer
1. the calling subscriber or user the opportunity to simply and free of charge prevent presentation of calling line identification for each call,
2. the subscriber called the opportunity to, in a simple way and free of charge, upon reasonable use of the function prevent presentation of calling line identification for incoming calls, and
3. if the number is shown before the call is established, the subscriber called the opportunity to reject in a simple way the incoming call, provided protection against presentation of calling line identification is used by the calling user or subscriber.

If the display relates to the connected number, the called subscriber shall be offered the opportunity to prevent, in a simple way and without charge, presentation of the connected number for the user calling.

That prescribed in the first paragraph, item 1, shall also apply to calls to another country. That prescribed in the first paragraph, items 2 and 3, and also the second paragraph shall also apply to incoming calls from another country.

If presentation of calling line identification or connected line identification is offered, the party that provides public electronic communications services shall inform the public about this and of the possibilities referred to in the first and second paragraphs.

Exemptions applicable to presentation of calling line identification and location data

Section 13 A party that provides a public communications network or a public electronic communications service may

1. at the request of a subscriber temporarily disregard protection against presentation of calling line identification in order to be able to identify disturbing calls and also store such data as identifies the calling subscriber and keep it available for the subscriber upon request, and
2. for the Police or a regional alarm centre as referred to in the Operations at Certain Regional Alarm Centres Act (1981:1104) disregard protection against presentation of calling line identification and provide such an organisation with location data in the case of emergency calls, without consent or despite a refusal by the subscriber or user.

Automatic call diversion

Section 14 A party that provides a public telephony service is liable, upon the request of a subscriber, to in a simple way and without charge provide an opportunity to stop automatic call forwarding that is made by a third party to the subscriber.

Subscriber directory

Section 15 A subscriber who is a natural person shall free of charge obtain information about the purposes of a public subscriber directory or a directory from which data can be obtained through subscriber directory services, before personal data about the subscriber are included in it. If the directory is to be found in electronic form, the subscriber shall be informed about the search functions that such a service facilitates.

Section 16 In order to process personal data about a subscriber who is a natural person in a directory as referred to in Section 15, his or her consent is required. The subscriber shall be given the opportunity to check this data free of charge and to have incorrect data rectified and to have data removed from the directory as soon as this is possible.

Prohibition against wire-tapping, etc.

Section 17 Besides that prescribed by Sections 5 to 7 and 20, no one other than the users affected may gain access to or in any other way process data in an electronic message that is transmitted in a public communications network or with a public electronic communications service, or traffic data that are associated with this message, unless the user has consented to the processing.

The first paragraph does not constitute an impediment to

1. such storage that is automatic, intermediate and temporary, provided this is necessary for transmission of an electronic message, or to the extent that it is necessary for the operation of an electronic communications network or an electronic communications service,
2. others gaining access to the content in an electronic message, provided the content nevertheless is available to the public, provided this takes place only to improve the efficiency of the continued transmission to other recipients and also if the data about who has requested the receipt of the information is eradicated, or
3. in a radio receiver wire-tap or in another way with the use of such a receiver gain access to an electronic message conveyed by radio that is not intended for the party that wire-taps or for the public.

Section 18 Electronic communications networks may be used to store or gain access to information that is stored in a subscriber's or user's terminal equipment only if the subscriber or user receives information from the personal data controller about the purpose of the processing and is given an opportunity to prevent such processing. This does not prevent such storage or access that is necessary to perform or facilitate the transmission of an electronic message via an

electronic communications network or which is necessary to provide a service that the user or subscriber has expressly requested.

Secret wire-tapping, etc.

Section 19 An operation shall be conducted so a decision on secret wire-tapping and secret tele-surveillance can be implemented and so that the implementation is not disclosed, provided the operation relates to the provision of

1. a public electronic communications network that is not only intended for broadcasting sound radio programmes to the public or other activities as referred to in Chapter 1, Article 1, third paragraph of the Fundamental Law on Freedom of Expression, or
2. services within a public communications network which comprise

a) a public telephony service to a fixed network termination point that allows the transmission of local, national and international calls, telefax and data communication with a particular specified minimum data rate, which allows functional access to the Internet, or

b) a public electronic communications service to a mobile network termination point.

The content of and information about telecommunications messages that are wire-tapped or under surveillance shall be made available so that the information can be handled simply.

Telecommunications message refers to sound, text, images, data or other information conveyed by aid of radio transmission or light emission or electromagnetic oscillations utilising a specially devised conductor.

The Government or the public authority appointed by the Government shall issue regulations concerning matters referred to in the first and second paragraphs and may also in individual cases allow exemptions from the requirement in the first paragraph.

Duty of confidentiality

Section 20 A party that in conjunction with the provision of an electronic communications network or an electronic communications service has become cognisant of or gained access to

1. information about a subscription,
2. the content of an electronic message, or
3. other information relating to a particular electronic message,

may not without authorisation forward or utilise what he has become cognisant of or gained access to.

Such duty of confidentiality does not apply in relation to a party that has become cognisant of the exchange of an electronic message or who in another way has dispatched or received such a message.

Nor does the duty of confidentiality on matters concerning information referred to in the first paragraph, items 1 and 3, apply in relation to a holder of a subscription that is used for an electronic message.

Section 21 A duty of confidentiality according to Section 20, first paragraph, also applies to information referable to

1. the measure to hold dispatches in accordance with Chapter 27, Section 9 of the Code of Judicial Procedure, and
2. a matter relating to the use of secret wire-tapping or secret tele-surveillance according to Chapter 27, Section 18 or 19 of the Code of Judicial Procedure.

Section 22 A party that provides an electronic communications network or an electronic communications service and has thereby become cognisant of or obtained access to information referred to in Section 20, first paragraph, shall upon request render

1. information as referred to in Section 20, first paragraph, item 1, to a public authority which in a particular case is in need of such information for service pursuant to the Service of Documents Act (1970:428), if the said authority considers that it may be assumed that the party sought in order to be served is keeping him or herself unavailable or that there are otherwise extraordinary reasons,

2. information as referred to in Section 20, first paragraph, item 1, which concerns suspicion of an offence, to the public prosecution authority, police authority or any other public authority whose task it is to intervene against such an offence, if the penalty prescribed for the offence is imprisonment and if it may, in the view of the authority, entail a sanction other than fines,

3. information as referred to in Section 20, first paragraph, item 3, which concerns suspicion of an offence, to the public prosecution authority, police authority or any other public authority whose task it is to intervene against such offence, unless a less severe sanction than two years imprisonment is prescribed for the offence,

4. information as referred to in Section 20, first paragraph, item 1, to an enforcement service in need of the information in enforcement operations, if the authority considers that the information is of considerable importance for dealing with a matter,

5. information as referred to in Section 20, first paragraph, item 1, to a tax authority in need of the information for operations relating to the checking of tax or charges or in investigations concerning the correct population registration district under the Population Registration Act (1991:481), if the authority considers that the information is of considerable importance for dealing with the matter,

6. information as referred to in Section 20, first paragraph, item 1, to a police authority, if the authority considers that the information is required in connection with notification, tracing or identification in the event of accident or fatality or in order for the authority to perform a duty referred to in Section 12 of the Police Act (1984:387),

7. information as referred to in Section 20, first paragraph, item 1, to a police authority or public prosecution authority, if the authority considers that the information is needed in a particular case to enable the authority to satisfy obligations to provide information in accordance with Section 33 of the Act with Special Provisions concerning Young Offenders (1964:167), and

8. information as referred to in Section 20, first paragraph, items 1 and 3, to a regional alarm centre as is referred to in the Operations at certain Regional Alarm Centres Act (1981:1104).

Compensation for releasing information in accordance with the first paragraph, item 8, shall be reasonable having regard to the costs for the release.

Section 23 A party that, in a case other than as referred to in Section 20, first paragraph and Section 21, has by a radio receiver wire-tapped or in another way with the use of such a receiver gained access to a telecommunications message conveyed by radio that was not intended for him or her personally or for the public may not without authorisation forward it.

Detailed regulations

Section 24 The Government or the public authority appointed by the Government may on matters concerning processing of information for electronic communications issue more detailed regulations concerning

1. what information may be processed in accordance with Section 6, first and second paragraphs, and

2. the requirements that shall be imposed on a public telephony service that allows identification of the calling or connected telephone number or call forwarding.

Chapter 7 Supervision, etc.

General provisions

Section 1 The supervisory authority shall supervise compliance with this Act and the decisions and obligations or conditions and the regulations that have been made under the Act.

Section 2 The supervisory authority is entitled, for the purpose of supervision, to gain access to areas, premises and other space, though not dwellings, where operations that are subject to this Act are conducted.

The supervisory authority is entitled to seek enforcement at the Enforcement Service of decisions that relate to measures under this Act. In this connection, the provisions of the

Enforcement Code apply to such enforcement as referred to in Chapter 16, Section 10 of the Code.

Information that is held available according to Chapter 5, Section 6, may be verified at the cost of the operator.

Orders and prohibitions, etc.

Section 3 The supervisory authority may order a party conducting operations subject to this Act to provide the authority with information and documents that are necessary to control

1. payment of a charge,
2. compliance with public obligations applicable according to this Act,
3. compliance with conditions issued under the Act, and
4. compliance with the obligations that have been imposed in accordance with Chapters 4 and 5.

An order in accordance with the first paragraph may be combined with a default fine.

Information that is to be held available to the public according to this Act, or according to the obligations or conditions or the regulations that have been made under the Act, shall without being requested be provided to the supervisory authority.

Section 4 If the supervisory authority considers that there is reason to suspect that a party conducting operations under this Act does not comply with the Act or the decisions concerning obligations or conditions or the regulations that have been issued under the Act, or does not use a radio transmitter to the extent that the conditions allow, the authority shall notify the party conducting the operations about this circumstance and give it an opportunity to state its views. In the notification, the authority shall state that it may issue an order or a prohibition in accordance with Section 5, unless rectification takes place within a reasonable time. Reasonable time may not be less than one month, except in the case of repeated cases of violation, unless the party that is notified consents to a shorter time limit.

Section 5 If a notification in accordance with Section 4 does not result in a rectification, the supervisory authority may issue such orders and prohibitions as are necessary for a rectification to take place.

If the order is not complied with, the supervisory authority may

1. revoke a licence, alter licence conditions or decide that the party that neglected the obligation should completely or partially cease with the operation, unless the violation is of minor importance, or
2. issue such additional orders or prohibitions as are necessary for compliance with the Act or the decisions on obligations or conditions or the regulations that have been made under the Act.

However, if a radio transmitter is used to a lesser extent than allowed by the licence conditions, such a licence may not be revoked if there are special reasons for not doing so or the purpose of the order can equally well be satisfied by an amendment of the licence conditions.

An order or a prohibition in accordance with the first and second paragraphs may be combined with a default fine.

Section 6 A licence may be revoked and licence conditions amended immediately, if

1. such a licence as referred to in Chapter 3, Section 6, second paragraph, has ceased to apply, unless there are special reasons against a revocation,
2. the party that has applied for the licence has provided incorrect information or not provided information of significance for the licence,
3. changes in radio technology or changes in radio use owing to international agreements to which Sweden has acceded or provisions adopted pursuant to the Treaty establishing the European Community have had the effect that a new licence on the same conditions could not be granted,
4. the licence holder, despite reminders, has not paid a charge under Chapter 8, Section 17 or 18, or

5. the licence holder requests that the licence should be revoked.

Licence conditions may also be amended immediately in cases as referred to in Chapter 3, Section 23.

A licence may be revoked in accordance with the first paragraph, items 1 to 3, only if the purpose of the revocation cannot equally well be satisfied by the licence conditions being amended.

Section 7 A decision may be made on the amendment of frequency assignment for broadcasting, if it is necessary to allow new users the opportunity of conducting such operations.

A revocation of a licence or an amendment of licence conditions owing to changes within radio technology may only be decided if there are extraordinary reasons having regard to the interest of efficient use of radio frequencies. In this connection, it should be specially taken into account the extent to which reasonable financial return on equipment is achieved and what the effects of a revocation or amendment of the licence conditions will be on the licence holder's operations.

Section 8 If a violation of this Act or of the decisions concerning obligations or conditions or the regulations made under the Act constitutes a serious threat to public order, public security or public health or it may be feared that they will cause serious financial or operational problems for providers or users of electronic communications networks or electronic communications services, the supervisory authority, pending final determination in the matter, may immediately

1. issue an order to immediately comply with the Act or the decisions concerning obligations or conditions or the regulations that have been made under the Act,
2. revoke a licence or amend the licence conditions, or
3. decide that an operation should completely or partially cease.

The decision of the supervisory authority in accordance with the first paragraph may be combined with a default fine.

Section 9 A revocation of a licence or amendment of the licence conditions shall not affect the obligation to pay compensation for a licence that has been issued in accordance with Chapter 3, Section 8 or 22, unless otherwise decided in conjunction with the revocation or amendment of conditions.

Consideration of disputes

Section 10 If a dispute arises between those who provide electronic communications networks or electronic communications services or associated services as regards obligations ensuing from this Act or from regulations, licence conditions or decisions concerning obligations that have been issued under the Act, a party may refer the dispute for determination by the supervisory authority.

The authority shall as soon as possible decide on the issues to which the dispute applies. The decision shall be issued no later than four months from when the request was received by the authority, if a longer time is not necessary having regard to the scope of the dispute or other special circumstances.

Section 11 If, having regard to the nature of the dispute, it is more suitable, the supervisory authority may instead of entertaining a dispute for consideration refer it for mediation. The parties shall in such a case be afforded an opportunity to submit proposals to the authority concerning an appropriate party to act as mediator.

If mediation has proceeded for four months or been discontinued before that without the parties reaching agreement, the authority shall, upon a new application by any of the parties, consider the dispute in accordance with that prescribed in Section 10.

Section 12 The parties shall be jointly liable to pay reasonable compensation to a mediator for work and disbursements.

Section 13 If a dispute that has been referred to the supervisory authority in accordance with Section 10 has also been referred to an authority in another State within the European Economic Area, the supervisory authority shall, when processing the matter, consult the foreign authority.

Penalties, etc.

Section 14 A sentence of fines or imprisonment for at most six months shall be imposed for a person who intentionally or by negligence

1. uses a radio transmitter without a licence when such licence is required according to this Act or uses a radio transmitter in violation of a licence condition, or
2. breaches a regulation that has been issued in accordance with Chapter 3, Section 14, second paragraph.

Section 15 A person who intentionally or by negligence breaches a duty of confidentiality that has been prescribed by Chapter 6, Section 23, shall be sentenced to fines. Liability shall not be imposed in minor cases.

A person who intentionally or by negligence breaches a prohibition under Chapter 6, Section 17 or 18 shall be sentenced to fines, provided liability for the offence is not prescribed by the Penal Code. Liability shall not be imposed in minor cases.

Provisions concerning liability for those who breach the duty of confidentiality prescribed in Chapter 4, Section 2 or Chapter 6, Section 20 or 21 are contained in the Penal Code.

Section 16 A radio transmitter or electrical or electronic installations that have been the subject of an offence under Section 14 may be declared forfeited. The provisions contained in Chapter 36 of the Penal Code shall be applied in that connection.

Section 17 If anyone has been ordered to pay a competition impairment penalty in accordance with Section 26 of the Competition Act (1993:20) or been sentenced to pay a default fine in accordance with Section 59 of the same Act, a default fine under this Act may not be imposed for the same act.

Chapter 8 Consideration of matters, etc.

General provisions

Section 1 A party that conducts operations subject to the Act is liable to provide upon request an authority with information and documents that are needed for

1. proceedings for or assessment of presentations for the grant of licences or consent in accordance with Chapter 3, Sections 1, 19 and 23,
2. publicising comparative quality and price reviews of services to benefit the consumer in accordance with Chapter 5,
3. clearly defined statistical purposes,
4. market analysis in accordance with Sections 5 and 6, or
5. decisions on obligations in accordance with Chapters 4 and 5.

Information referred to in the first paragraph, items 2 to 5 may not be requested before entry into the market or as conditions for this.

Section 2 The information that has been received by an authority in accordance with the provisions contained in this Act may, upon a justified request, be provided to the Commission of the European Communities or other competent authorities within the European Economic Area, provided this is necessary for these authorities or the Swedish authority to be able to perform their functions.

Special processing times

Section 3 In a matter concerning a licence to use a radio transmitter, a decision shall be made within six weeks after when a complete application has been received by the authority. In connection with proceedings for open invitations to apply, the processing time, if it is necessary, may be extended by at most eight months.

These processing times do not apply if otherwise prescribed by provisions in international agreements to which Sweden has acceded concerning the use of radio frequencies and satellite coordination.

Section 4 In a matter concerning a licence to use numbers for electronic communications, a decision shall be made within three weeks from when a complete application has been received by the authority. In connection with proceedings for open invitations to apply, the processing time, if it is necessary, may be extended by at most three weeks.

Consideration of what undertakings have significant power in a market

Section 5 The public authority appointed by the Government shall continuously determine which product and service markets have such characteristic features that it may be justified to introduce obligations under this Act. The territorial scope of the markets shall be defined in that connection. When determining this, the Commission of the European Communities Recommendation on relevant product and service markets and guidelines on market analysis and the assessment of an undertaking's significant market power shall be taken into account.

Section 6 The public authority appointed by the Government shall continuously analyse the relevant markets that have been determined in accordance with Section 5. In this connection, the Commission of the European Communities guidelines on market analysis and the assessment of an undertaking's significant market power shall be taken into account. For each market, it shall be determined whether efficient competition prevails.

If, when making an assessment in accordance with the first paragraph, it is concluded that efficient competition does not prevail in a market determined, the undertakings with significant power in this market shall be identified and decisions issued concerning obligations in accordance with Chapter 4, Section 4 and Chapter 5, Sections 13 and 14.

If, upon an assessment in accordance with the first paragraph, it is concluded that efficient competition prevails in a market determined, the obligations that have been decided in accordance with Chapter 4, Section 4 and Chapter 5, Sections 13 and 14 will be revoked. The time of revocation of an obligation shall be decided having regard to the interests of the parties affected.

As regards cross-border markets determined in accordance with a decision of the Commission of the European Communities, measures in accordance with the first to third paragraphs shall be decided following consultation with the competent authorities in the States affected.

Section 7 An undertaking shall be deemed to have significant power in a market determined if it, either individually or together with others, has a position of such financial strength that it can to a significant extent act independently of its competitors, its customers and ultimately the consumer.

The Government or the public authority appointed by the Government shall issue regulations concerning guidelines and documentation for making an assessment in accordance with the first paragraph.

Procedures for consultation

Section 8 In a matter concerning an obligation in accordance with Chapter 4, Section 14 or concerning amendment of a licence or conditions to use a radio transmitter or a number for electronic communications, the parties affected and others who may have an interest in the matter shall be given a reasonable time to express their views before a decision is made, though at most four weeks unless there are special reasons against so doing.

Section 9 In a matter concerning end-user rights that relates to public electronic communications services, the interest organisations affected shall be given an opportunity to express their views, if this can be done without inconvenience.

Section 10 When a public authority intends to determine, in accordance with Section 5, a market that distinguishes itself from those shown in the Commission of the European Communities Recommendation, or makes a decision in accordance with Section 6, second or third paragraph or

Chapter 3, Section 7, or implements other measures that have significant impact on the market determined in accordance with Section 5, it shall prepare a proposal for measures and give the parties affected an opportunity to express their views on the proposal within a reasonable time.

The first paragraph does not apply to disputes that have been referred for consideration in accordance with Chapter 7, Section 10.

Section 11 If a decision in accordance with Sections 5, 6, second or third paragraph, Chapter 4, Section 3 or 4, or Chapter 5, Section 13 or 14, could possibly influence trade between States in the European Economic Area, a reasoned proposal for a decision shall be presented to the competent authorities in the other States and the Commission of the European Communities.

Notification to the Commission in accordance with the first paragraph shall also be submitted if an authority intends, in accordance with an international agreement, to introduce, amend or revoke an obligation that has been decided according to this Act.

Section 12 Decisions in cases referred to in Section 11 may be made at the most one month after when notification has been given. If the date determined according to Section 10 falls later, the decision may be issued then at the earliest.

However, a decision may be made before two months following the expiry of the time limit referred to in the first paragraph, provided that the Commission of the European Communities, within that time, notified to the authority that it is deliberating on not accepting a proposal to a decision which

1. means that a market that is to be determined in accordance with Section 5 deviates from the Commission's recommendation, or
2. relates to identification of undertakings in accordance with Section 6, second paragraph.

If the Commission, within the time referred to in the second paragraph, decides not to implement such a proposal as referred to there, the decision may not be made.

Section 13 If it is necessary to safeguard competition in a market that has been determined in accordance with Section 5 or in order to protect the interest of users, and a decision on a measure cannot be postponed, a decision may, notwithstanding the duty to consult according to Sections 10 to 12, be issued to apply for at most six months. In such case, the competent authorities and the Commission of the European Communities shall without delay be notified of the decision and the reasons for this.

A decision on a measure in accordance with the first paragraph may not be extended without observing the consultation obligation in Sections 10 to 12.

Section 14 The result of the consultation procedure according to Sections 8 to 12 shall be made publicly available, except when it relates to information to which secrecy or a duty of confidentiality applies according to law.

Amendment of decisions in certain cases

Section 15 Obligations and conditions that have been decided according this Act or according to regulations that have been issued under the Act shall be amended or revoked if the purpose of the measure no longer remains. A decision on an order in accordance with Chapter 4 may be amended or revoked if the party that according to the decision was afforded access does not fulfil its commitments.

The time for an amendment or a revocation of an obligation or a condition shall be determined having regard to the interests of the parties affected.

Special reporting in certain cases

Section 16 The Government or the public authority appointed by the Government may prescribe an obligation to report specially on operations that are connected with the provision of electronic communications networks or communications services for a party that

1. conducts operations that are subject to a notification obligation in accordance with Chapter 2, Section 1, and
2. has a special or exclusive right to provide other services than according to this Act.

Charges

Section 17 A processing charge may be imposed on a party that
1. notifies operations in accordance with Chapter 2, Section 1, or
2. applies for a licence or consent in accordance with Chapter 3, Section 1, 19 or 23.

An annual charge shall be paid by a party that
1. conducts operations that are notified in accordance with Chapter 2, Section 1, or
2. holds a licence in accordance with Chapter 3, Section 1 or 19.

The processing charge shall correspond to the authority's costs for processing the matter. The annual charges shall in aggregate correspond to the costs that an authority otherwise has for its operations according to this Act. The charges shall be allocated with a reasonable proportion to those who conduct notified operations or hold licences.

Section 18 A party that conducts operations that are notified in accordance with Chapter 2, Section 1 shall pay a charge for the financing of measures against serious peacetime threats and stresses that relate to electronic communications. The charges that are imposed shall be allocated in reasonable proportions among those who conduct notified operations.

Appeals, etc.

Section 19 A decision of a public authority in accordance with this Act or in accordance with regulations issued under the Act may be appealed against to a general administrative court. Leave to appeal is required for appeal to the Administrative Court of Appeal.

Section 20 A decision in accordance with Section 6, second paragraph, that refers to the identification of undertakings with significant power in markets other than those referred to in Chapter 5, Section 12, may only be appealed against in conjunction with an appeal against a decision to introduce, revoke or amend an obligation referred to in Section 6.

A decision in accordance with Chapter 3, Section 7, to limit the number of licences may only be appealed against in conjunction with an appeal against a decision as regards a licence to use a radio transmitter.

Section 21 A decision concerning notifications in accordance with Chapter 7, Section 4, may not be appealed against.

Section 22 A decision in accordance with this Act or in accordance with regulations under the Act shall apply immediately, unless otherwise decided.