

DK

Act No. 418 of 31 May 2000

## Act on Competitive Conditions and Consumer Interests in the Telecommunications Market<sup>1</sup>

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<sup>1</sup> This Act contains provisions implementing parts of Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision (ONP) (Official Journal of the EC 1990 no. L192, p. 1); Council Directive 92/44/EEC of 5 June 1992 on the application of open network provision to leased lines (Official Journal of the EC 1992 no. L165, p. 27); Commission Directive 96/2/EC of 16 January 1996 amending Directive 90/388/EEC with regard to mobile and personal communications (Official Journal of the EC 1996 no. L20, p. 59); Commission Directive 96/19/EC of 13 March 1996 amending Directive 90/388/EEC with regard to the implementation of full competition in telecommunications markets (Official Journal of the EC 1996 no. L74, p. 13); Directive 97/51/EC of the European Parliament and of the Council of 6 October 1997 amending Council Directives 90/387/EEC and 92/44/EEC for the purpose of adaptation to a competitive environment in telecommunications (Official Journal of the EC 1997 no. L295, p. 23); Directive 97/33/EC of the European Parliament and of the Council on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of open network provision (ONP) (Official Journal of the EC 1997 no. L199, p. 32); Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector (Official Journal of the EC 1998 no. L24, p. 1); Directive 98/10/EC of the European Parliament and of the Council of 26 February 1998 on the application of open network provision (ONP) to voice telephony and on universal service for telecommunications in a competitive environment (Official Journal of the EC 1998 no. L101, p. 24); Directive 98/61/EC of the European Parliament and of the Council of 24 September 1998 amending Directive 97/33/EC with regard to operator number portability and carrier pre-selection (Official Journal of the EC 1998 no. L268, p. 37); Directive 98/84/EC of the European Parliament and of the Council of 20 November 1998 on the legal protection of services based on, or consisting of, conditional access (Official Journal of the EC 1998 no. L320, p. 54); and Commission Directive 1999/64/EC of 23 June 1999 amending Directive 90/388/EEC in order to ensure that telecommunications networks and cable TV networks owned by a single operator are separate legal entities (Official Journal of the EC 1999 no. L175, p. 39).

all information deemed necessary for administration of the provisions of this Chapter as well as rules laid down in pursuance thereof.

(5) The National Telecom Agency and NALLA may issue orders to providers of telecommunications networks or telecommunications services to comply with rules laid down pursuant to sections 85 and 86. The National Telecom Agency and NALLA may impose fines for the enforcement thereof. Distraint may be levied to recover the amounts.

(6) The National Telecom Agency's and NALLA's decisions on the basis of rules laid down pursuant to section 86 may be appealed to the Minister of Research and Information Technology.

## PART 22

### International aspects

**88.**-(1) The National Telecom Agency may lay down rules specifying minimum requirements for providers of telecommunications networks or telecommunications services who wish to obtain special rights in relation to conventions, agreements, decisions etc. joined by Denmark within international collaborative forums in the field of telecommunications.

(2) In laying down rules under subsection (1), the National Telecom Agency may specify rules for the withdrawal of special rights and on the Agency's right to order that a provider of telecommunications networks or telecommunications services should cease using the special rights referred to in subsection (1).

## PART 23

### Providers of information and content services

**89.**-(1) The Minister of Research and Information Technology may lay down rules for the content of information and content services, cf. section 3(4), to the extent that the services in question are comparable to radio or TV programmes in terms of content. In this connection, the Minister of Research and Information Technology may decide that advertising and sponsoring rules and rules to ensure that consideration is shown for children and young people, as provided in the Radio and Television Broadcasting Act, shall be applied in full or in part to such information and content services.

(2) In rules laid down pursuant to subsection (1) the Minister of Research and Information Technology may include regulations requiring the introduction of notification schemes.

**90.**-(1) The Radio and Television Advertising Board shall make the final administrative decision in matters concerning failure to comply with advertising rules issued in accordance with section 89(1). In this connection, the Board may:

- 1) point out any violation of the rules, and may order providers of information and content services to publish Board decisions, and the Board may also determine the manner and form in which this should be done;
- 2) make decisions concerning the right of reply in connection with information of a factual nature transmitted in advertisements, and may order providers of information and content services to publish such replies, and the Board may also determine the manner and form in which this should be done.

(2) The Satellite and Cable Board shall make the final administrative decision in matters concerning failure to comply with sponsoring rules and rules to ensure that consideration is shown for children and young people, issued in accordance with section 89(1). In this connection, the Board may order providers of information and content services to publish decisions, and the Board may also determine the manner and form in which this should be done.

**91.** It shall not be permitted as a commercial activity to manufacture, import, sell, own or change decoders or other decoding equipment the purpose of which is to give unauthorized access to information and content services that are normally subject to payment. Advertisements or other promotion of such equipment is not permitted.

## PART 24

### Providers of cable TV

**92.**-(1) Providers of public telecommunications networks or telecommunications services may not operate their cable TV networks and other public telecommunications networks within the same legal entity if the provider:

- 1) has special rights in the telecommunications sector,
- 2) holds a dominating position in a significant part of the total market for public telecommunications networks and public telephony services, and
- 3) operates a cable TV network established on the basis of special or exclusive rights within the same geographical area.

(2) The National Telecom Agency shall decide, not later than 1 October 2000, which providers of public telecommunications networks or telecommunications services fall within subsection (1) and shall order division as mentioned in subsection (3).

(3) Providers of public telecommunications networks or telecommunications services falling within subsection (1) shall arrange, not later than six months after the National Telecom Agency's decision under subsection (2), for their existing operation of cable TV networks and public telecommunications networks to be divided into separate legal entities for the purpose of complying with subsection (1).

(4) Notwithstanding subsections (1)-(3), the chairman of the Telecommunications Complaints Board may determine that complaints about the imposition of enforcement fines in specific cases should have the effect that payment of such fines be suspended until the decision of the Board has been made.

(5) The Minister of Research and Information Technology shall lay down more specific rules on the ability of the National Telecom Agency, the Telecommunications Consumer Board, the Telecommunications Complaints Board and the Code 900 Board to give a complaint suspensive effect in areas other than those mentioned in subsection (1) and on the effect thereof.

## **Chapter VIII**

### **Sanctions and penalty provisions**

**111.-** (1) In case providers of telecommunications networks or telecommunications services, owners of telecommunications networks, providers of information or content services, providers of number information databases and registers, third parties as mentioned in section 56(6) and section 58(5), or providers of payphones fail to give the information that the National Telecom Agency, the Telecommunications Consumer Board, the Telecommunications Complaints Board, the Code 900 Board, the Radio and Television Advertising Board and the Satellite and Cable Board may demand under this Act, or to comply with an order issued by the authorities in question under this Act or rules laid down in pursuance thereof, the authorities in question may impose fines on the party to whom an order is directed for the purpose of enforcing compliance therewith.

(2) Distraint may be levied to recover amounts as referred to in subsection (1).

(3) The right to impose enforcement fines, cf. subsection (1), shall not apply in relation to providers of public telecommunications networks or telecommunications services located in another EU country or EEA country, cf. section 83.

(4) If a USO provider fails to comply with an order issued by the National Telecom Agency under this Act or rules laid down in pursuance thereof, or if a USO provider fails to pay enforcement fines imposed under subsection (1), the National Telecom Agency may also withdraw the appointment as USO provider.

(5) If a USO provider fails to comply with an order issued by the Telecommunications Consumer Board or the Telecommunications Complaints Board under this Act or rules laid down in pursuance thereof, or if a USO provider fails to pay enforcement fines imposed by the Telecommunications Consumer Board or the Telecommunications Complaints Board, the Boards may order the National Telecom Agency to withdraw the appointment as USO provider.

**112.-**(1) A fine shall be imposed on:

- 1) any person who violates section 13(1), section 34(3)-(6), section 63(1)-(2) or section 64,
  - 2) any provider of telecommunications networks or telecommunications services who gives incorrect or misleading information to the National Telecom Agency, the Telecommunications Consumer Board, the Telecommunications Complaints Board, the Code 900 Board, the Radio and Television Advertising Board or the Satellite and Cable Board, or fails to disclose matters of importance to the case in question, or
  - 3) any person who wilfully or grossly negligently violates section 91.
- (2) Rules issued pursuant to sections 9, 14, 85 and 86 may prescribe penalties in the form of fines for violating the rules.
- (3) Criminal liability may be imposed on companies etc. (legal persons) under the rules of Part 5 of the Civil Penal Code.

**Chapter IX****Commencement and transitional provisions**

**113.-** (1) This Act shall come into force on 1 July 2000.

(2) When this Act comes into force, the following Acts shall be repealed:

- 1) Act on Universal Service Obligation and Certain Consumer Interests within the Telecommunications Sector, cf. Act No. 466 of 12 June 1996, as amended most recently by Act No. 470 of 1 July 1998.
- 2) Act on Assignment and Use of Numbering Resources etc., cf. Act No. 392 of 10 June 1997, as amended by Act No. 470 of 1 July 1998.
- 3) Act on Competitive Conditions and Interconnection in the Telecommunications Sector, cf. Consolidated Act No. 860 of 4 December 1998, as amended by Act No. 327 of 31 May 1999.

(3) At the same time, the following rules shall be repealed:

- 1) Section 3(1)-(4) and (6), section 3a, section 3e, sections 3h-3j, section 7, section 9a, and section 10 of Act on Certain Conditions in the Telecommunications Field, cf. Consolidated Act No. 501 of 22 June 1995, as amended most recently by Act No. 470 of 1 July 1998.
- 2) Sections 8, 17 and 18 of Act on Telegraphs and Telephones, cf. Act No. 84 of 11 May 1897, as amended most recently by Act No. 213 of 4 June 1965.