

The Law of Georgia on Electronic Communications

Chapter 1. General Provisions

Article 1. Scope of application of the present law

The present law shall establish legal and economic grounds for the pursuit of activities by means of electronic communications networks and facilities in the territory of Georgia as well as principles for the development and regulation of competitive environment in this sector, define the functions of an independent national regulatory authority (the Georgian National Communications Commission), specify the rights and obligations of natural persons and legal entities owning, using or providing services by means of electronic communications networks and facilities.

Article 2. Definition of terms

For the purposes of the present law:

- a) **“Access”** shall mean the provision, under defined conditions (including tariffs), by an electronic communications network operator, of network elements and associated facilities, technical facilities, their free functional resources and capacities or types of electronic communications services rendered with their use, which involves: provision of an electronic communications operator's network with elements and facilities relevant to its physical infrastructure; PSTN elements and their free resources, including ducts, subscriber pairs, aerials and masts; co-location area; provision of fixed and mobile communications operators with elements relevant to their networks, with free operational resources and capacities (including the resources required for the provision of roaming), resources for subscribers' personal access systems and the electronic summary (guide) programs (services) resources; resources related to operational support software for electronic communications networks and those related to user data bases and number portability (translation); and provision of different types of services related to virtual networks.
- b) **“Access and/or interconnection applicant”** shall mean an authorised undertaking requesting the electronic communications network operator to provide access to relevant elements of the network, their functional resources and free capacities as well as electronic communications services.
- c) **“Access and/or interconnection provider”** shall mean an electronic communications network operator who is bound to provide an applicant operator with access and/or interconnection to its network, system, network elements, technical facilities and free functional resources and capacities, or to the types of electronic communications services provided by means of these networks or facilities.
- d) **“Access tariff”** shall be a fee to be paid for the provision of access to an electronic communications network operator's network elements and its resources and capacities.
- e) **“Acquisition of significant shares”** shall mean acquisition by one authorised undertaking of such number of shares in the shareholder capital of another authorised undertaking (control share), which will enable the former authorised undertaking to exercise significant control of activities pursued by the latter.

- f) **“Advance regulation of competition”** shall mean granting a status of an authorised undertaking with significant market power and imposition of specific obligations pre-defined pursuant to the present law.
- g) **“Application Program Interface”** (API) shall mean software interface between the services rendered by digital broadcasters or providers of electronic communications services, subscribers’ resources and the functional resources of the digital broadcasting equipment.
- h) **“Auction”** shall mean a way of obtaining the right of use of radio spectrum and/or numbering resources in cases defined by the law, whereby a licence is granted to the winner applicant.
- i) **“Authorisation”** shall mean registration in compliance with the rule specified in the present law, of activities pursued by natural persons or legal entities providing publicly available electronic communications networks and facilities and/or services, by the Georgian National Communications Commission.
- j) **“Authorised undertaking”** shall mean an entrepreneurial entity registered by the Georgian National Communications Commission as well as a non-entrepreneurial legal entity, which provides electronic communications networks (electronic communications network operator) and/or electronic communications services (electronic communications service provider).
- k) **“Billing information”** shall mean data on the volume of services provided to users or on loading the operator’s network with relevant network elements (traffic) as well as the use of their operational resources within a defined period of time, which are exchanged between operators or provided to end-users for the purposes of financial accounting.
- l) **“Capacity”** shall mean a quantitative feature characteristic of functional resources of electronic communications network element.
- m) **“Certificate”** shall mean a document certifying that appropriately identified equipment or service, conforms to the requirements.
- n) **“Closely linked segments of the services market”** shall mean relevant segments of the services market, in which, due to contractual relations between one or more authorised undertakings or structural links between their networks, authorised undertakings can, separately or in agreement with one another, exercise significant market power in one market segment with a view to obtaining or strengthening their significant market power in another segment.
- o) **“Co-location”** shall mean access as well as location of an applicant authorised undertaking’s facilities, their operational support and co-location area of a specific width allocated by an electronic communications network operator, with a view to rendering access and/or interconnection relevant to the electronic communications network elements.
- p) **“Commission”** shall mean the Georgian National Communications Commission.
- q) **“Demand-side substitution”** shall mean a possibility allowing users to select types of interchangeable services, which satisfy their needs by being of approximately the same price, quality and volume.
- r) **“Departmental electronic communications network”** shall mean a non-commercial network designed for internal needs of a department and connected to the publicly available electronic communications network.
- s) **“Digital broadcasting equipment”** shall mean the terminal equipment of an end-user connected to or integrated into a TV set and used to receive digital, interactive broadcasting service.

- t) **“Direct access”** shall mean direct access of an applicant authorised undertaking provided by a network operator to its network elements, functional resources or free capacities.
- u) **“Economic activity”** shall be any activity defined in paragraph 1 of Article 13 of the Tax Code of Georgia.
- v) **“Electronic communications network elements”** shall mean functionally separate technical and technological facilities, being an integral part of the electronic communications network, their operational resources and capacities which, due to their characteristics provide services, such as: transit, transmission and commutation calls and information signals; collection of billing information; management of the terms of services provided to end users and interoperability; portability of subscriber numbers; operator's operational directory, supplementary and special services synchronisation and signalling of networks; access to data bases related to call, multimedia; rendering digital broadcasting services conversion; coding, protection; paging; TV processing of digital data and their transmission by means of Internet or other protocol, etc.
- w) **“Electronic communications network operator”** shall mean an authorised undertaking which intends to provide or provides publicly available electronic communications networks or their relevant elements, and, for a defined fee, provides access of an applicant authorised undertaking to these network elements, their resources and capacities; provides electronic communications services to users by means of these above networks or their relevant elements.
- x) **“Electronic communications network provider”** shall mean an electronic communications service operator or an authorised undertaking having access to relevant elements or resources of the operator's network, which provides or intends to provide electronic communications services using these elements or resources.
- y) **“Electronic communications networks”** shall mean a technological system permitting electronic processing of calls and various information signals, their commutation, transfer and transmission by means of wire (including fibre-optic), satellite, radio-frequency or optic facilities, other technological facilities and operational support system, including fixed (circuit- and packet switched, including Internet) and mobile communications, digital broadcasting, air/channel broadcasting networks. Government authorities in charge of defence, security and public order with special electronic communications networks shall foresee the existence of such electronic communications networks.
- z) **“Electronic communications service”** shall mean a service provided by means of publicly available electronic communications networks and offered by an authorised undertaking to an applicant operator or user for a defined fee.
- aa) **“Elements relevant to electronic communications networks”** shall mean elements of network or technical facilities and resources directly linked to the provision of electronic communications networks or defined communications services, including resources of subscribers' individual access systems relating to the provision of digital broadcasting.
- bb) **“End-user”** shall mean a user who utilises or intends to utilise services provided by publicly available electronic communications networks and facilities for private purposes and does not intend to sell these services to another user.
- cc) **“Exhaustible resources”** shall mean a radio spectrum and/or numbering resources.
- dd) **“Fee for the use of exhaustible resources”** shall mean a fee for the use of radio spectrum and/or numbering resources to be paid by an undertaking applying for a

- license. The amount of the fee shall be defined by auction. The whole amount of the fee shall be transferred to the State Budget of Georgia. (28.12.2005 N 2564)
- ee) **“Free element of an electronic communications network”** shall mean communications network element, its functional resources or capacity which is not loaded and which may be used to provide electronic communications services given its technical and operational requirements are met.
 - ff) **“Geographical borders of the services market”** shall mean a geographical (territorial) segment of the services market, characterized by homogeneous conditions of competition.
 - gg) **“Harmful interference”** shall mean interference which endangers the functioning of radio equipment and/or subscribers' terminal equipment.
 - hh) **“Indirect access”** shall mean access of an interested authorised undertaking provided by an electronic communications network operator to its network elements, their functional resources and free capacities, or types of communications services by means of other transit (service) operators' networks.
 - ii) **“Interconnection”** shall mean a physical and logical link between electronic communications networks used by one or several electronic communications network operators with a view to enabling the users of one electronic communications network to connect to the users of the same or another electronic communications network, and/or use services of another electronic communications service operator. This link is maintained by means of unrestricted, obligatory and non-discriminatory mutual access provided by network operators to the relevant elements of their networks.
 - jj) **“Interdependence”** shall mean the existence of special relations between interdependent (affiliated) persons, which may have direct influence on the terms of deals between them and their economic outcomes. Relations shall be deemed special: where these persons are founders (partners) of the same company provided their joint share is not less than 20%; where one person is a direct or indirect partner of another person's company, provided its share is not less than 20%; where one person is subordinated to another or is under direct or indirect control of another; where persons represent subsidiaries or are directly or indirectly controlled by a third party; where persons jointly, directly or indirectly, control a third party; and where persons are relatives. (For the purposes of the present law a relative shall be: household members; direct ascending and descending relatives; adopted children; and siblings as well as adopted children of a parent or a child).
 - kk) **“Interface”** shall mean the physical or logical framework permitting interface between electronic communications network elements, facilities, operational software resources and systems, which is characterized by common functional, electrical, optical, structural and other compatible features as well as similar protocol requirements.
 - ll) **“Interoperability”** shall mean mutual compatibility and operability of electronic communications networks and system interfaces as well as technical, operational and functional characteristics.
 - mm) **“License”** shall mean a special permission giving an undertaking the right to use exhaustible resources for a defined period. (28.12.2005 N 2564)
 - nn) **“Local service area”** shall mean a geographical (territorial) segment of the services market, on which an authorised undertaking provides publicly available electronic communications services to the end user.

- oo) **“Market condition”** shall mean the situation that has developed in the market services as a result of interaction between the structural and dynamic factors of the services market and demand and supply of specific types of services.
- pp) **“Maximum tariff”** shall mean an access tariff ceiling established by the Georgian National Communications Commission pursuant to legislative provisions.
- qq) **“Merger”** shall, in conformity with the “Law of Georgia on Entrepreneurs,” mean uniting two authorised undertakings into one entrepreneurial entity, which is a legal successor of the initial authorised undertakings.
- rr) Withdrawn (28.12.2005 N 2564)
- ss) **“Numbering resources”** shall mean a combination of symbols established on the basis of the numbering system and used while assigning numbers.
- tt) **“Numbering system”** shall mean a defined combination of symbols used to identify electronic communications operator's network or user's terminal equipment in the course of provision of electronic communications services.
- uu) **“Point of interconnection”** shall be the point located on the co-location area at which the authority of one operator to provide access and/or interconnection, including billing information, ends and that of another operator begins.
- vv) **“Principle of technological neutrality”** shall mean the principle whereby in making regulatory decisions the main focus is placed on the type of electronic communications services provided to the end-user rather than on the technologies used while provision of these services.
- ww) **“Provision of electronic communications networks”** shall mean the establishment, operational management, use and pursuit of economic activities by means of networks, their technical facilities or relevant elements; also, provision of access of applicant authorised undertakings to the elements of these networks, their resources and capacities.
- xx) **“Public switched telephone network (PSTN)”** shall mean operator's wire (electric wire or cable-optic) ducting and cabling facilities or facilities for wireless (fixed radio-frequency or open optic) access located in the local service area and used for the provision of electronic communications services, also, to transmit calls or information signals as well as digital broadcasting signals between the end user's fixed network termination point and the commutation point or switchboard.
- yy) **“Publicly available communications network”** shall mean a common system of electronic communications networks, which is designed to provide users with publicly available and unrestricted communications services.
- zz) **“Regulation fee”** shall mean a fee established pursuant to the present law and the “Law of Georgia on Broadcasting.”
- aaa) **“Relevant segments of the services market”** shall mean types of services, including types of interchangeable services, which are identified by taking into account tariffs, conjuncture, competition and changes on the part of users and providers, established in the services market.
- bbb) **“Shared access”** shall mean access of two or more applicant authorised undertakings to separable functional resources or capacities of a specific element of the electronic communications network.
- ccc) **“Shared significant market power of authorised undertakings”** shall mean significant market power shared by two or more authorised undertakings in a particular segment of the market, i.e. the condition where the market analysis carried out by the Georgian National Communications Commission certifies that the conditions and competition established in this particular segment of the market, enable the undertakings to pursue concerted activities and to jointly obtain

non-competitive privileges in the market, even in the absence of structural, or other, including, contractual, relations between them.

- ddd) **“Significant market power”** shall mean significant market power exercised by an authorised undertaking in a particular segment of the market, i.e. the condition where the market analysis carried out by the Georgian National Communications Commission certifies that the authorised undertaking has no competitors, is protected from significant competition or that the authorised undertaking's competitive market position enables it to unilaterally make a significant influence restricting competition in this segment of the market.
- eee) **“Special electronic communications networks”** shall mean electronic communications networks being physically separate from the publicly available communications network, and designed for non-commercial use and pursuit of activities in the spheres of state defence, security and public order.
- fff) **“Specific obligation”** shall mean an obligation imposed by the Commission on a license holder executing significant market power with a view to ensuring competition in the relevant segment of the market.
- ggg) **“Structural division”** shall mean a functional division within a network operator's internal organisational structure, which pursues specific assignments and provides electronic communications services of a specific type in conformity with the scope of activities carried out by an authorised undertaking.
- hhh) **“Subscriber”** shall mean the end-user of publicly available electronic communications services when the services are provided on the basis of a prior written agreement with the provider.
- iii) **“Subscriber numbering”** shall mean a digital system established on the basis of the numbering system and used to identify subscriber's terminal equipment.
- jjj) **“Supply-side substitution”** shall mean a possibility allowing authorised undertakings operating in a competitive services market, to provide users with interchangeable services.
- kkk) **“System providing individual access to subscribers”** shall mean a technological system, technical facilities and associated software resources for operational management, enabling subscribers' access to individual, coded digital broadcasting services.
- lll) **“Technical facilities”** shall mean electronic communications network equipment and facilities used to originate, process, transfer, transmit or receive electronic communications calls and information signals.
- mmm) **“Terminal equipment of the user”** shall mean technical facilities required for the provision of electronic communications services to subscribers or end-users, which may be either mobile or located at a fixed address, and not part of an operator's network, although connected to it.
- nnn) **“Traffic”** shall mean the total loading of an operator's communications network elements and technical facilities in a defined period of time.
- ooo) **“Transfer”** shall mean partial or full transfer of rights and obligations of an authorised undertaking defined in the licence for the use of radio spectrum and/or numbering resources, to another authorised undertaking, pursuant to the provisions of the present law.
- ppp) **“Transit link (service) operator”** shall mean an undertaking pursuing activities by means of transfer or transmission network elements which it owns and which connects networks owned by different operators operating in one or several local service areas, or transfers and/or transmits information signals pertaining to various electronic communications services or digital broadcasting.

- qqq) **“Types of interchangeable services”** shall mean a combination of services that are so similar in their type, quality, price and other features, that users exchange or are ready to exchange one type of service for another.
- rrr) Withdrawn (28.12.2005 N 2564)
- sss) Withdrawn (28.12.2005 N 2564)
- ttt) **“User”** shall mean a natural person or a legal entity using or intending to use electronic communications service.
- uuu) **“Vertically integrated operator”** shall mean an electronic communications network operator, which owns and uses a full range of relevant network elements as well as their resources while carrying out activities in a specific segment of the market; controls the entire process of provision of a particular communication service.
- vvv) **“Widescreen digital TV broadcasting service”** shall mean TV broadcasting, the programs of which are produced, edited and provided to users in a wide-screen format (16/9).
- www) **“Revocation of a license”** shall mean declaring a decision on issuing a license as void pursuant to the General Administrative Code of Georgia (28.12.2005 N 2564)
- xxx) **“Undertaking”** shall mean any industrial as well as any non-industrial legal entity. (28.12.2005 N 2564)

Article 3. Legislation of Georgia in the field of electronic communications

1. The basis for organizing activities and regulating relations in the field of electronic communications is the Constitution of Georgia, international agreements which Georgia is signatory to, the present law and other normative acts.
2. Citizens and legal entities of foreign states, as well as persons who are not citizens of Georgia, shall enjoy the rights and obligations provided by the present law for Georgian entrepreneurial entities, given the Georgian legislation does not provide otherwise.

Article 4. Principles and objectives of pursuing activities in the field of electronic communications

1. The objective of pursuing activities in the field of electronic communications shall be to satisfy the demand of natural persons and legal entities for electronic communications networks and facilities and promote the development of an information-based society.
2. Activities in the field of electronic communications shall be pursued in conformity with the main principles of state policy in this field, namely to:
 - a) Ensure provision of equal rights to natural persons and legal entities while pursuing these activities and using their results;
 - b) Prohibit monopoly conditions while pursuing activities in the field of electronic communications and liberalization of the services market;
 - c) Develop competition and free entrepreneurship;
 - d) Prohibit the execution of exclusive contracts between authorised undertakings including granting exclusive rights to authorised undertakings pursuing activities in the field of electronic communications;
 - e) Encourage modern technologies and management experience as well attract financial and material resources and their effective use;
 - f) Broaden the range of services and ensure quality conforming to technical standards;
 - g) Protect the legitimate rights of consumers;

- h) Integrate electronic communications networks in international ones;
- i) Actively cooperate at the international level; and
- j) Ensure that regulatory decisions of the Commission are taken in an open, non-discriminatory, transparent and technologically neutral way.

Article 5. Regulatory authority in the field of electronic communications

Activities pursued in the field of electronic communications shall be regulated by the Commission.

Article 6. Definition and implementation of State policy in the field of electronic communications

1. Main directions of the State policy in the field of electronic communications shall be articulated by the Government of Georgia, taking account of proposals of the Ministry of Economic Development of Georgia, and shall be submitted to Parliament for approval.
2. The main directions of the State policy in the field of electronic communications shall be led by the President of Georgia. The main trends of the duly approved State policy in the field of electronic communications shall be implemented by the Government of Georgia within the competence determined by the Constitution, the present law and the law of Georgia “On structure, authority and operation of the Government of Georgia”.
3. While executing its authority, The Commission shall be guided by the main directions of the State policy in the field of electronic communications.

Article 7. Ownership and management of special electronic communications networks

The right to own or manage special electronic communications networks shall be enjoyed by the bodies authorised under legal act signed by the President of Georgia. Their structure and organizational activities shall be defined pursuant to the Georgian legislation.

Article 8. Protection of secret information in the field of electronic communications

1. Information transmitted by users by means of electronic communications networks shall be the property of users and shall be protected by the legislation of Georgia. This right shall be restricted upon court decision, or without it in cases directly provided for in the legislation.
2. Every person/entity working in the field of electronic communications shall protect privacy of transmitted information. Persons employed in the electronic communications sectors as well as other persons shall, pursuant to the legislation of Georgia, be liable for violating privacy of information.

Article 9. International cooperation

1. International cooperation in the field of electronic communications shall be undertaken pursuant to the legislation of Georgia, *inter alia*, international agreements, and treaties Georgia is signatory to.
2. In pursuing cooperation with international organizations working in the field of electronic communications as well as with electronic communications administrative bodies of foreign countries, Georgia shall be represented by the Government of Georgia, also the

- Commission within the competence delegated to it by the Government of Georgia.
3. In international bodies comprised of independent national regulatory authorities operating in the field of electronic communications, Georgia shall be represented by the Commission. The Commission shall retain the right to represent Georgia in those international organizations operating in the field of electronic communications where Georgia is already a member.
 4. In cooperating with communications administrative bodies in the electronic communications sectors of foreign countries and international organizations, the government of Georgia and the Commission shall represent interests of Georgia.

Chapter II Commission

Article 10. Status, structure and operation

The status, structure and operation of the Commission, as well as the rights and obligations of the Chairman, tenure of the Commission members, the members' independence and immunity, termination of duty and discharge from obligations, as well as legal acts of the Commission, conflict of interest of Commission members and staff shall be provided for in "The Law of Georgia on Broadcasting."

Article 11. Main objectives and functions pursued by the Commission in the electronic communications sector

1. The Commission shall independently regulate activities pursued by authorised undertakings in the electronic communications sector, *inter alia*, adopting normative and specific legal acts, monitoring and controlling their implementation and, within the competence provided for in the present law, impose sanctions pursuant to the same law and the Administrative Code of Georgia. (28.12.2005 N 2564)
2. The following objectives shall be deemed to be pursued by the Commission:
 - a) to provide services by means of electronic communications networks and facilities and to establish, maintain and develop a competitive environment in the electronic communications sector;
 - b) to ensure that authorised undertakings provide users (including disabled users) with good quality, a wide range of electronic communication services and affordable tariffs.; and
 - c) to encourage authorised undertakings having the ownership of electronic communications networks and facilities to efficiently invest in innovative technologies.
3. The following functions shall be deemed to be pursued by Commission:
 - a) to authorize the pursuit of activities in the field of electronic communications;
 - b) to manage exhaustible resources and ensure their efficient use. To ensure that in acquiring rights to use radio spectrum and/or numbering resources, transparent and non-discriminatory conditions and rules are used and relevant licenses are issued and revoked;
 - c) to carry our analysis on relevant segments on the electronic communications market, to define authorised undertakings with significant market power, to ensure competition by imposing, pursuant to the present law, specific obligations and to supervise and control their fulfillment;
 - d) to ensure the provision of certification, standardization and metrology services

pursuant to the statute on certifying radio facilities and telecommunications terminal equipment;

- e) to regulate access to the electronic communications network elements and/or technical, economic and legislative relations relevant to interconnection;
- f) to regulate, within its competence, disputes between authorised undertakings, as well as, between authorised undertakings and their customers;
- g) to supervise compliance with the conditions of licenses for authorisation and use of exhaustible resources in electrical communications sector, and in case of breaches, impose sanctions pursuant to the present law;
- h) to supervise authorisation of activities in the electronic communications sector and observe conditions for the use of radio spectrum and/or numbering resources as well as the execution of measures against their breach provided for in the present law;
- i) to ensure open and transparent relations with the public;
- j) to coordinate electromagnetic compatibility of radio-electronic facilities as well as measures for their protection pursuant to international legislation;
- k) to represent Georgia in international organizations actively engaged in the electronic communications sector and protect Georgia's interests within its competence and within the competence delegated by the Government of Georgia to the Commission;
- l) to define guidelines for the use of amateur radio communications and amateur radio stations; and
- m) to execute other functions defined in the present law and consistent with the objectives of the Commission.
- n) To solve disputes arisen between license holders using the radio frequency spectrum and/or numbering resource, within its competence, pursuant to rules determined in chapter VI of the present law (28.12.2005 N 2564)

Article 12. Budget of the Commission

1. The Commission shall, by December 1 of each year, draw up and publish a budget for the following year to include income as well as all the expenditures of the Commission, *inter alia*, remuneration of the Commission members and staff.
 - 1.1 The Commission is entitled to transfer the budget funds remained after covering the expenses defined by the Commission's budget, to the State Budget of Georgia. (28.12.2005 N 2564)
2. The source of the Commission's budget shall be regulation fees as well as other sources of financing provided for in The Law of Georgia on Broadcasting and The Law on Legal Entity of Public Law.
3. The regulation fee shall be the main source of the Commission's budget, is linked to the execution of the authority endowed upon the Commission pursuant to the legislation of Georgia, and shall not be deemed as income from economic activities. Annual regulation fees shall be used to cover the Commission's budgetary expenditures. In the electronic communications sector the regulation fee shall be paid by authorised undertakings; in the broadcasting sector - by the persons/entities defined in The Law of Georgia on Broadcasting.
4. The amount of the regulation fee shall amount to 1% of the difference between the total income (excluding VAT) received by an authorised undertaking, pursuant to the Tax Code of Georgia, and declared fees to be paid, within the same month, by other authorised undertakings, for the provision of access and/or interconnection services. An authorised undertaking shall, no later than the 20th of the following month, and in a form defined by the Commission, provide monthly information on the regulation fee and transfer it to the

Commission's account. (28.12.2005 N 2564)

Article 13. Report of the Commission

1. The Commission shall, pursuant to relevant rules, draft an annual report on its activities and undertake a financial audit of its income and expenses. The Parliament of Georgia shall be empowered to decide on undertaking, not more than once a year, a financial audit of the budget approved by the Commission. In such cases Parliament shall, by tender, select an internationally recognized auditor. The composition of the Tender Commission shall be approved by the Parliament of Georgia on the proposal of parliamentary committees for Branch Economy and Economic Policy. Funds for the payment of compensation to the auditor selected for studying financial activities defined in this Article shall be paid by the Commission.
2. No later than by June 1 of each year, the Commission shall submit to the President and the Parliament of Georgia a report on its activities during the previous year and the result of the financial audit.
3. The President, Government, and Parliament of Georgia, as well as its individual members may, pursuant to Georgian legislation, request and receive any information on the activities pursued by the Commission.

Chapter III

Authorisation of undertakings in the electronic communications sector General rights and obligations of authorised undertakings

Article 14. Grounds for pursuing activities in the electronic communications sector

1. The pursuit of activities in the electronic communications sector shall be subject to authorisation.
2. Authorisation of activities in the electronic communications sector shall be undertaken pursuant the principle of technological neutrality.
3. No authorisation of activities shall be required, where electronic communications networks and facilities are used to:
 - a) establish special electronic communications networks; and
 - b) establish a departmental electronic communications network, to be used for non-commercial purposes and provision of internal communications within the enterprise, institution or organization.

Article 15. Body in charge of authorizing activities in the electronic communications sector

1. The pursuit of activities in the electronic communications sector shall be authorised by the Commission which, in compliance with the provisions of the present law shall:
 - a) issue authorisations for undertakings pursuing activities in the electronic communications sector and maintain the registry of such undertakings; and
 - b) supervise the compliance of authorised undertakings pursuing activities in the electronic communications sector with the Georgian legislation, *inter alia*, in the electronic communications sector.

Article 16. Application for authorisation

1. An undertaking applying for authorisation for the provision of electronic communications networks and facilities and/or services by means of electronic communications networks and facilities, shall file an application to the Commission. The application form shall be approved by the Commission.
2. The application form shall contain the following data:
 - a) for private entrepreneurs - name, surname, place and date of birth, data from the business register, private and office address;
 - b) for legal entities - name, type of entity and its legal form, location (legal address), data from the business register, name and surname of an authorised representative;
 - c) a description of activities and/or services to be authorised, as requested by a private entrepreneur of legal entity; and
 - d) a brief description of the network and/or service applied for.
3. The data from the business register, the Statute and foundation documents of an applicant undertaking, as well as copy of the document certifying the identity of a person/entity shall be attached. (28.12.2005 N 2564)

Article 17. Departmental register of authorised undertakings

1. The Commission shall maintain a departmental register of authorised undertakings, where data from applications shall be recorded.
2. Any person shall be empowered to see the data contained in the departmental register of authorised undertakings.

Article 18. General authorisation procedure

1. The Commission shall ensure:
 - a) authorisation and provision of electronic communications networks and facilities; and
 - b) authorisation and provision of services by means of electronic communications networks and facilities.
2. Within 10 (ten) working days from the date of receiving an application, the Commission shall authorize the provision of electronic communications networks and facilities and/or services by means of electronic communications networks and facilities and shall register authorised undertakings in the departmental register;
3. Where an application and/or annexed documents are submitted in an incomplete form, the Commission shall, pursuant to its decision, set an additional term of 5 (five) days for the submission of full documentation. Where the applicant fails to submit documents during this term, authorisation shall not be granted. However, the undertaking is entitled to submit a second application for authorization to the Commission. Where within 5 (five) working days from the date of receiving an application, the Commission fails to set an additional term for the submission of full documentation, the undertaking shall be deemed authorised. (28.12.2005 N 2564)
4. Within 7 (seven) working days from the date of receiving an application, the Commission shall issue a certificate of authorisation.
5. Where an authorised undertaking ceases to provide electronic communications networks and facilities and/or services by means of electronic communications networks and facilities, or intends to modify activities, the undertaking shall notify The Commission of this intent within 7 (seven) working days. Information on the seizure of authorisation as well as data on the modification of authorised activities shall be introduced in the

- departmental register of authorised undertakings.
6. Authorisation of activities in the electronic communications sector shall be granted for an unlimited period.
 7. An undertaking shall be empowered to commence its activities from the date of its introduction to the register of authorised undertakings.

Article 19. General rights and obligations of authorised undertakings

1. An authorised undertaking shall be empowered to:
 - a) request a publicly available electronic communications network operator to provide access and/or interconnection to relevant elements of the network;
 - b) use exhaustible resources in compliance with the rules defined in the law and establish tariffs for access to and provision of an electronic communications network and services;
 - c) fully or partially transfer, pursuant to the present law, the rights and obligations defined by the license for the use of radio spectrum and/or numbering resources to another undertaking;
 - d) Withdrawn (28.12.2005 N 2564)
 - e) appeal in court against a legal act issued by the Commission.
2. An authorised undertaking shall:
 - a) provide the Commission with information related to the pursuit of its objectives and activities defined in the present law and in the normative acts issued by the Commission, including financial and economic documentation, irrespective of its confidentiality. Commission shall maintain confidentiality of that information, which, pursuant to the General Administrative Code of Georgia is regarded as commercial or private. General information on the services market as well as information on the number of subscribers, traffic, incomes and expenditure shall not be deemed confidential. Provision of wrong or incomplete information by an authorised undertaking shall be deemed as failure to provide information;
 - b) observe the provisions of Georgian legislation in the electronic communications field, including resolutions and decisions of the Commission;
 - c) within 7 (seven) working days, notify the Commission of any modification of activities and/or services as well as other changes indicated in the application to the Commission which, in turn, shall introduce these changes in the departmental register of authorised undertakings within the term and pursuant to the rules defined in the present law;
 - d) when requested, provide direct access of an authorised undertaking to relevant free elements of its network and facilities;
 - e) maintain integrity and security of the network;
 - f) prohibit unsanctioned use of electronic communications networks and facilities;
 - g) ensure the observance of quality standards provided for services defined in the legislation;
 - h) ensure, pursuant to the provisions of the present law, that allocated numbering resources are unrestricted and available to all end-users;
 - i) ensure that user-safety rules are observed during utilization of electronic communications networks and facilities;
 - j) ensure electromagnetic compatibility and protection from interference and hazardous impact on health while using radio spectrum;
 - k) pay regulation fees and, pursuant to the cases defined in the present law, the fee for use of exhaustible resources and license charge; and

- l) where the data provided in sub-paragraphs a) and b) of paragraph 2 of Article 16 of the present law is changed, notify the Commission in writing and submit relevant documents within 7 (seven) working days from the date of registration of the changes.
3. An electronic communications network operator providing services to end-users in the local service area by means of subscriber numbering resources, shall, by giving unrestricted and non-discriminatory access to relevant elements of its network, ensure the provision of direct or indirect interconnection to other interested operators and owners of departmental communications networks. Termination of on-going interconnection between the network operators shall be prohibited.

Chapter IV

Development of competitive environment in the electronic communications sector

Article 20. Regulation of competition and Commission objectives

1. Regulation of competition in the electronic communications sector shall pursue the following objectives:
 - a) ensure equal opportunities in the pursuit of activities by authorised undertakings and encourage efficient competition;
 - b) encourage investments in electronic communications networks and facilities as well as promote technological innovations;
 - c) avoid excessive concentration of significant market power in the hands of a few authorised undertakings;
 - d) ensure the provision of transparent structure of risk management related to regulatory decisions that concern activities pursued by authorised undertakings; and
 - e) establish a transparent, objective and efficient regulatory regime overseeing the pursuit of activities, mergers, and acquisition of shares by authorised undertakings exercising significant market power in a relevant market segment.
2. Objectives of the Commission shall be as follows:
 - a) Develop conditions ensuring efficient competition in the electronic communications sector;
 - b) Ensure equal rights and non-discrimination of authorised undertakings. Upon request of interested authorised undertakings, provide non-discriminatory access and/or interconnection by an electronic communications network operator to the elements of its network, their functional resources and free capacities;
 - c) In the course of providing an electronic communications service, prohibit discrimination of end-users, protect their rights, prohibit subsidizing services, and provide equal access to publicly available electronic communications networks and services;
 - d) Monitor and control the observance of those specific obligations of authorised undertakings with significant market power, which may be imposed on them to ensure efficient competition; and
 - e) Ensure the development of a transparent, proportionate and competitive environment in the use of exhaustible resources.

Article 21. Regulation of competition; Principles of market analysis

1. Competition in the electronic communications sector shall be regulated in accordance with the segments closely linked with and compatible to the services market defined by

- Commission as well as the geographical borders relevant to the market.
2. For the purposes of advance regulation, the Commission shall define relevant segments of the services market by using types of electronic communications services and geographic borders as criteria.
 3. Analysis of the services market carried out with a view to identifying authorised undertakings with significant market power on relevant electronic communications market segments shall be undertaken by the Commission in conformity with the methodology and procedures referring to market competitiveness and identification of authorised undertakings with significant market power, approved upon the Commission's decision.
 4. Regulatory activities in the electronic communications sector pursued in conformity with the criteria for identifying relevant segments of the services market and authorised undertakings with significant market power in these segments shall be undertaken by giving full regard to objectivity, technological neutrality, functional equivalence (homogeneous use of functional criteria), minimal regulation requirements, imposition of proportionately equal specific obligations, encouraging efficient competition, and observance of transparent and non-discriminatory principles.
 5. While deciding to carry out market analysis, grant significant market power status to authorised undertakings, or impose specific obligations on authorised undertakings with significant market power, the Commission shall give consideration to the conditions provided in international agreements and treaties, *inter alia*, World Trade Organization General Agreement on Trade and Services.

Article 22. Stages in market analysis: General provisions used to define authorised undertakings with significant market power

1. Market analysis shall be carried out in the following stages:
 - a) define closely linked segments relevant to the services market as well relevant geographic borders of the market;
 - b) carry out analysis of competitiveness of segments relevant to the services market; and
 - c) define authorised undertakings with significant market power in a relevant market segment.
2. The procedure for analyzing the services market as well as other procedures described in this, shall be carried out in compliance with public administrative procedures.
3. While defining relevant segments of the services market, the Commission shall give regard to those objective criteria which define closely linked segments relevant to the services market.
4. While carrying out analysis of competitiveness of segments relevant to the services market, the Commission shall give regard to the following analytical factors:
 - a) conjuncture established on closely linked and relevant segments of the services market, the level of concentration and proportionate market shares held by authorised undertakings;
 - b) characteristics (flexibility, increase of demand, etc.) of demand for and supply of services in the relevant segment of the services market as well as conditions for the execution of supply-side and demand-side substitutions;
 - c) the level of tariffs for potentially non-competitive and interchangeable services and their history;
 - d) financial and economic characteristics of authorised undertakings operating in the relevant segment of the services market, the level of their interdependence and opportunities for the commencement of activities in the relevant segment,

- infrastructure and dynamic factors obstructing their market access, and relevant investment risks;
- e) the quality and type of vertical integration of an electronic communications network operator pursuing activities in the relevant segment of the services market;
 - f) Withdrawn (28.12.2005 N 2564)
 - g) other related characteristics which are defined by the Commission's decision.
5. Commission shall undertake market analysis:
 - a) where an authorised undertaking initiates a request substantiating that the market is not competitive and requires analysis and this substantiation is adopted by the Commission;
 - b) where government authorities initiate a request substantiating the need to undertake analysis of the relevant segment of the services market and the substantiation is adopted by the Commission; and
 - c) on its initiative.
 6. The Commission shall be empowered to make a discretionary decision on undertaking analysis on the entire services market as well as its separate segments.
 7. Where an authorised undertaking with significant market power does not pursue activities in the relevant segment of the services market, competition in this segment shall be deemed sufficient. Where one or more authorised undertakings execute joint significant market power in the relevant segment of the services market, competition in this segment shall not be deemed sufficient. Where an authorised undertaking executes significant market power on the relevant segment of the services market; the same power shall be executed in a closely linked segment.
 8. While carrying out analysis of competitiveness in the relevant segment of the services market, the main criteria for establishing that an authorised undertaking executes significant market power shall be its proportionate market share in the relevant segment of the services market. Proportionate market share of an authorised undertaking acquired in the relevant segment of the services market shall be defined by taking account of its income, number of end-users and subscribers, or the volume of services (traffic) provided in a defined period, also loaded and free capacities of the relevant elements of the network or reserve of functional resources owned by the authorised undertaking. In each case, guided by the principle of objectivity, the Commission, taking into account characteristics of the relevant market segment, shall decide to measure the share held by an authorised undertaking in the relevant segment of the market and apply relevant basic criteria.
 9. Where as a result of the analysis of the relevant segment of the services market the Commission establishes that one or more authorised undertakings exercise joint significant market power, the Commission shall, depending on the nature of this market power, define specific obligations to be imposed on the undertakings, pursuant to Chapter V of the present law.
 10. Pursuant to the basic criteria for the definition of significant market power in the relevant segment of the services market, an authorised undertaking shall be deemed to be executing significant market power if it holds not less than 40% (forty per cent) of the relevant segment of the market.
 11. Several undertakings shall be deemed executing joint significant market power if on the relevant segment of the services market:
 - a) the joint market share of two authorised undertakings amounts to at least 60% (sixty per cent) while the market share of each undertaking is not less than 25% (twenty-five per cent); and
 - b) the joint market share of three authorised undertakings amounts to at least 80% (eighty per cent) while the market share of each undertaking is not less than 15%

(fifteen per cent).

12. While identifying an authorised undertaking in the relevant segment of the services market and imposing specific obligations, in addition to the basic criteria, secondary criteria shall be used to objectively define possibilities of restricting competition and pursuit of non-competitive activities by authorised undertakings with significant market power in the relevant segment of the services market. The secondary criteria shall be defined by the Commission on the basis of analytical factors.

Article 23. Abuse of significant market power

1. An authorised undertaking shall not abuse its significant market power in the relevant segment of the services market.
2. Abuse of significant market power shall be deemed as a failure by an authorised undertaking to meet the provisions of Chapter V of the present law and specific obligations imposed by the Commission's decision.

Article 24. Publicising information on the services market analysis

1. The Commission's decisions taken pursuant to the provisions of this Chapter concerning competition and analysis of the services market, except for the parts containing information on State and commercial secret or personal data, shall be published on the Internet, on the web-page of the Commission. The following information shall also be made public:
 - a) a list of relevant segments of the services market with an indication of criteria defining geographic borders and economic indicators;
 - b) a list of authorised undertakings with significant market power in the relevant segments of the services market;
 - c) specific obligations imposed on authorised undertakings with significant market power; and
 - d) a description of criteria for granting an undertaking the status of an authorised undertaking with significant market power.

Article 25. Regulation of mergers and share acquisitions

1. Standards regulating mergers and acquisitions of shares defined in Articles 26 and 27 of the present law shall be applicable to:
 - a) authorised undertakings; and
 - b) two or more persons/entities ready to merge, if one of them is an authorised undertaking.

Article 26. Obligation of notification and request for information

1. An intention to merge or acquire shares shall be submitted to the Commission prior to the merger or acquisition.
2. An obligation of notification shall be imposed on the authorised undertaking taking part in a merger or acquisition.
3. The notification shall contain information on the form of merger or acquisition. The notification shall also contain data on each authorised undertaking participating in the merger, such as:

- a) company names, types of activities pursued, and registration data;
 - b) data on incomes from services provided to Georgian and foreign operators ;
 - c) proportionate shares of the relevant segments of the services market, grounds for their calculation and assessment, if the total share of all the authorised undertakings participating in the merger or acquisition in a relevant market segment defined by the Commission is over 25% (twenty-five per cent);
 - d) where one authorised undertaking acquires shares of another one, the number of acquired shares and the total number of the owned ones in relevant market segments, where one undertaking acquires shares of another one; and
 - e) information on the participants of a merger or acquisition and affiliated persons/entities. Information on relations between an authorised undertaking and an affiliated person shall be submitted to the Commission, referring to the possibility of executing mutual control and shareholding. Notification shall not contain wrong or insufficient information.
4. To assess possible restriction of competition during mergers of authorised undertakings or acquisition of their shares, the Commission shall be empowered to request additional information from authorised undertakings on their activities carried out in relevant segments of the market and on their future plans.
 5. The Commission shall be empowered to request a change of conditions from the parties involved in the proposed merger or acquisition, where it considers that merger or acquisition may or will cause significant distortion of competition in relevant segments of the market.
 6. The Commission shall be empowered to request an authorised undertaking having merged or acquired a share, to pursue activities that will ensure competition in the relevant segment of the services market in the future.
 7. Where competition in the relevant segment of the services market is significantly distorted as a result of merger or acquisition, the Commission shall be empowered to request suspension of a type or part of activities pursued by an established authorised undertaking by imposing an obligation to sell operational assets or relevant shares. (28.12.2005 N 2564)
 8. To avoid significant distortion of competition on the relevant segments of the services market, participants of merger or acquisition are encouraged to submit their proposals to the Commission, at any stage of merger or acquisition.

Article 27. Inspection of merger or acquisition

1. The Commission shall verify data defined in paragraph 3 of Article 26 of the present law and provided in the notification of an authorised undertaking on merger or acquisition. Where the notification of an authorised undertaking does not contain information defined in paragraph 3 of Article 26 of the present law, the Commission shall allocate additional period for submitting missing document or information, which shall not exceed 15 (fifteen) working days.
2. The Commission is empowered to exercise its authority granted by Article 26 of the present law within 1 (one) month of the receipt from an authorised undertaking a notification on merger or acquisition.
3. Confidentiality of merger- or acquisition-related information shall be fully protected.

Article 28. Authority of the Commission to safeguard competition

1. If the Commission establishes that activities pursued by an authorised undertaking do not

conform with the provisions of competition in the field of communications defined in the present legislation, or that an authorised undertaking with significant market power fails to meet one or more obligations in a relevant segment of the services market, or one or more obligations imposed on an authorised undertaking during a merger or share acquiring, the Commission shall be empowered to apply sanctions defined in Chapter 7 of the present law.

2. The Commission shall be empowered to permit or preclude the pursuit of certain activities by authorised undertakings abusing significant market power; sanctions determined in Chapter 7 of the present law shall be applied where the authorised undertaking fails to comply with the Commission's relevant decisions.
3. Where an authorised undertaking with significant market power fails to comply with the obligations imposed and thus creates a direct threat to public security and jeopardizes public health, or may possibly create significant problems of economic and operational nature for other providers or users of electronic communications services, the Commission shall ensure the fulfilment of the authorised undertaking's obligations by means of compulsion, pursuant to the General Administrative Code of Georgia.
4. The burden of evidence to objectively provide reasons for failure by an authorised undertaking to fulfill the specific obligations imposed by Commission shall be placed on the authorised undertaking. Where objectively substantiated evidence is submitted to Commission, the latter shall be empowered to amend the conditions for the specific obligations, taking account of the reasons of the failure.
5. Amendment of the specific obligations imposed by the Commission pursuant to paragraph 4 of this article shall not discharge an authorised undertaking from its liability to meet its specific obligations.
6. The Commission shall select only those objective measures which ensure speedy and cost-effective removal of breaches and will not inflict damages on the society or relevant authorised undertaking.

Chapter V

Specific obligations applicable to authorised undertakings with significant market power

Article 29. Specific obligations applicable to authorised undertakings with significant market power

1. The Commission shall be empowered to issue a decision imposing one or more specific obligations on an authorised undertaking with significant market power in a relevant segment of the market, such as:
 - a) an obligation of transparency in relation to information;
 - b) an obligation of non-discrimination;
 - c) an obligation of registration of income and expenditures separately, in compliance with the guidelines approved by Commission;
 - d) an obligation to provide access to the elements relevant to the electronic communications network; and
 - e) an obligation of tariff regulation and cost accounting.
2. The fulfillment of obligations defined in paragraph 1 of this Article does not preclude an authorised undertaking from the fulfillment of other obligations provided for in Georgian legislation.

Article 30. Imposition of specific obligations

1. Specific obligations shall be imposed only on authorised undertakings with significant market power pursuing activities in relevant segments of the market.
2. The date of enforcement of specific obligations shall be specified in the decision issued by the Commission. Where the Commission fails to specify the date, an authorised undertaking shall begin the fulfillment of obligations from the date the Commission issues the decision.
3. The Commission shall be empowered to provide details of specific obligations defined in the present law and conditions thereof, as well as to introduce changes and additional provisions to specific obligations, pursuant to the results of the analysis.
4. Specific obligations imposed on an authorised undertaking by the Commission shall be objectively substantiated, and shall be proportionate and comparable to its significant market power in the relevant market segment as well as with the type of abuse. .
5. Where the results of market analysis show the absence of an authorised undertaking with significant market power in the relevant segment of the market, specific obligations shall be annulled and the relevant segment of the market shall be deemed competitive.

Article 31. Obligation of transparency of information

1. An authorised undertaking with significant market power shall ensure transparency of information in relation to access and interconnection to the relevant elements of its network as well as publicise information on:
 - a) financial accounts describing its activities;
 - b) a description of elements relevant to the network, its facilities, functional resources and interfaces, as well as information on free capacities;
 - c) technical specifications of the network, including inter-location areas and interconnection (access) points;.
 - d) conditions for the provision of interconnection and access to the relevant elements of the network, their functional resources and free capacities, taking into account the requirements of interested authorised undertakings; and
 - e) access and interconnection tariffs and terms of payment.
2. An authorised undertaking shall publish information on the access and interconnection to the relevant elements of its network to include detailed information on: tariffs for the use of operator's network elements; their functional resources and free capacities; and their access and interconnection so that an interested authorised undertaking is not required to pay an additional fee for those network elements, technical facilities or functional resources that were not included.
3. To ensure transparency of information, the Commission shall be empowered to define what basic details are to be included in the information provided for in paragraph 1 of this Article as well as in the information on access and interconnection of an authorised undertaking with significant market power, and to request that an operator introduces amendments or additions to already published information in order to ensure compliance with the Commissions definitions.
4. Where the Commission imposes an obligation of unhindered access of an authorised undertaking to PSTN, a local service operator shall ensure the publication of the offer on access and interconnection to include conditions of access to the PSTN, including other basic conditions for shared access and other conditions established by the Commission.
5. Information that essentially concerns the development of a competitive environment in

the relevant segment of the market, provision of non-discriminatory and free choice to an access-seeker, and assists the latter in choosing electronic communications services shall not be deemed commercial secret of an operator providing access.

Article 32. Obligation of non-discrimination

1. While offering access to relevant elements of the network, technical facilities, free functional resources and capacities, an electronic communications network operator with significant market power shall, in essentially the same circumstances and under the same conditions, ensure non-discriminatory (unrestricted) provision of requested electronic communications services and related information to an applicant authorised undertaking, in the same time frame and under the same conditions.
2. The establishment of non-discriminatory conditions by an electronic communications network operator shall mean ensuring the provision of similar conditions for services, such as availability, quality, tariffs, terms, transparency or other necessary information as well as interoperability.
3. An applicant authorised undertaking shall be empowered to request non-discriminatory (unrestricted) access to relevant elements of the network under conditions that are not less favourable than those provided to structural divisions of the operator providing access, affiliated persons/entities and other authorised undertakings .
4. An electronic communications network operator shall be empowered to offer an applicant authorised undertaking access and interconnection under better conditions than is offered in other offers of access or interconnection. To avoid discrimination, the operator, while proposing better conditions, shall introduce changes in the relevant conditions of its offer within 30 (thirty) days from the date of signing the contract.
5. Where an authorised undertaking is provided with successful access or interconnection under the terms which differ from those stipulated in the access or interconnection offer, the operator of an electronic communications network shall have an obligation to introduce relevant amendments and additions to its offer, as well as to publish the above conditions of access to the relevant network elements, their functional resources and capacities.
6. Withdrawn (28.12.2005 N 2564)

Article 33. Obligation of separate registration of income and expenditures

1. An authorised undertaking with significant market power shall not permit the pursuit of activities restricting competition including subsidizing tariffs of one group of users at the expense of other users or authorised undertakings.
2. An electronic communications network operator shall, in compliance with the rules, keep objective, transparent and separate record of income and expenditures and their distribution according to network elements, operational activities and types of electronic communications services.
3. To ensure that the specific obligations to separate registration and distribution of cost accounts and expenditures, transparency and prohibition of discrimination are fulfilled, the Commission shall be empowered to request an authorised undertaking submit registration and financial information, including information on cost distribution as well as income received from other authorised undertakings. Pursuant to Paragraph 5 Article 31 of the present law and the General Administrative Code of Georgia on the protection of commercial secret or personal data, the Commission, upon its decision, shall be empowered to fully or partially publicise the part of information provided by an

authorised undertaking, which efficiently promotes competition in the relevant segment of the market.

4. To prohibit discrimination, an operator of a vertically integrated electronic communications network or operators of electronic communications networks with shared significant market power, shall, while providing electronic communications service to authorised undertakings, ensure transparency of access tariffs to free elements of the electronic communications network as well as wholesale and inter-departmental tariffs offered by authorised undertakings at the services market.

Article 34. Obligation of access to relevant elements of an electronic communications network

1. An authorised undertaking with significant market power owning an electronic communications network shall ensure unrestricted, transparent and non-discriminatory access of another authorised undertaking to relevant elements of its network, technical facilities, and electronic communications services.
2. To duly meet the obligation of ensuring access to relevant elements of a network, an electronic communications network operator with significant market power shall provide technical and functional specifications of elements relevant to its network, in compliance with the technical standards defined by the legislation.
3. To duly meet the obligation of ensuring access to relevant elements of a network, an electronic communications network operator which provides services to end-users in the local service area by means of the subscriber numbering resources shall provide technical and functional specifications of its relevant network elements, sufficient co-location areas and supply of operational resources to the interconnection points located in these areas
4. In its application, an applicant authorised undertaking shall clearly indicate its unconditional acceptance of the conditions specified in the offer inviting authorised undertakings with significant market power to provide access and interconnection and, in case of a request for interconnection, access to the relevant elements of its network and basic conditions for the provision of interconnection.
5. Parties shall take just and reasonable measures to agree and execute contracts on access and/or interconnection and submit their copies to the Commission within 3 (three) working days from the date of signature of the contracts by both parties.
6. Where a contract fails to comply with the legislation of Georgia, or basic conditions of an offer submitted by an operator providing access and interconnection, or where legislative changes were adopted during the lifetime of the contract, the Commission shall be empowered to request the review, amendment or annulment of its terms.
7. To promote the future development of electronic communications networks and expand the types of services provided to users and promote the development of new communications technologies, the Commission shall, pursuant to its relevant decisions, be empowered to request an electronic communications network operator to provide access to the relevant elements of that operator's network or their functional resources and capacities to an applicant authorised undertaking, taking into account the requirements of the applicant authorised undertaking. While making decisions, the Commission shall give consideration to the following factors:
 - a) the level of development of the relevant segment in the services market;
 - b) the technical and economic capacities of the operator providing access;
 - c) the presence of required free functional resources and capacities in network elements of the operator providing access;
 - d) the volume of investments to be made by an electronic communications network

- operator and relevant investment risks;
 - e) the necessity to ensure long-term competition in the relevant segment of the market; and
 - f) ensuring the protection of intellectual property rights.
8. On the Commission's decision, an electronic communications network operator shall be bound to ensure separation of functional resources relevant to its network, the use of which is reasonably requested by an applicant authorised undertaking, including cases where the resources were never separated by the operator before.
 9. An electronic communications network operator shall be empowered to refuse separation of functional resources of relevant network elements of his network, where separation:
 - a) is not feasible technically or technologically or violates the integrity of the operator's network;
 - b) restricts the provision of access and/or interconnection or electronic communications services to end users pursuant to contracts with other operators due the lack of sufficient capacities required for network elements; and
 - c) is not related to the provision of required access or interconnection.

Article 35. Obligation of tariff regulation and cost accounting

1. An electronic communications network operator with significant market power shall provide access, and/or interconnection and electronic communication services of an applicant authorised undertaking to the relevant elements of his network, their functional resources and free capacities for cost-oriented and non-discriminatory tariffs.
2. The tariff established by an electronic communications network operator shall incorporate expenses incurred in relation to relevant network elements, resources and capacities used for the provision of services, the right of receiving reasonable returns from investments made by the electronic communications network operator, and a long-term tendency to further develop and expand the operator's communications networks.
3. While imposing an obligation of tariff regulation and cost accounting, the Commission shall issue a decision to require:
 - a) Justification of cost-oriented and non-discriminatory nature of tariffs established by an authorised undertaking as well as their compliance with the methodology guidelines set by the Commission;
 - b) Submission by an authorised undertaking to the Commission of the data approved by an independent auditor;
 - c) Change those tariffs that restrict competition which are established by authorised undertakings; and
 - d) Ceilings of tariffs for the provision of access to relevant network elements, their resources and free capacities as well as electronic communication services.
4. Tariffs established by the provider of electronic communications access and services or tariff ceilings set by the Commission pursuant to the provisions of the present law shall promote long-term and efficient competition in the field of electronic communications, provide economically affordable and high quality services to end-users, and avoid the establishment of unreasonably high tariffs or tariff burdens in a relevant segment of the market.
5. The Commission shall establish methodological guidelines for cost separation by authorised undertakings. To duly meet the obligations of tariff regulation and accounting, compliance of authorised undertakings with these guidelines shall be obligatory.
6. Where the obligations of tariff regulation and accounting are imposed, the authorised

undertaking, pursuant to the conditions established by the Commission, shall establish a system of registration of expenses, publish their description, submit it to the Commission, and register expenses in conformity with this system.

Chapter VI

Consideration and resolution of disputes between authorised undertakings

Article 36. Commencement of dispute consideration

1. The Commission shall regulate disputes between authorised undertakings within the scope of competence provided by the legislation of Georgia; as regards the disputes having arisen before the enforcement of the present law, they shall be regulated in compliance with the normative acts made void upon the entry into force of the present law, unless the parties wish to settle a dispute pursuant to the present law.
2. Authorised undertaking shall be entitled to apply to the Commission for consideration and resolution of disputes.
3. Parties shall initiate the commencement of proceeding by submitting relevant application to the Commission to include:
 - a) name, surname, office or home address and telephone number (if any) of an applicant; if an applicant is a legal entity - data from business register or foundation documents, telephone number (if any);
 - b) if an application is filed by an authorised representative, the name, surname, office or home address and telephone number (if any) of the representative;
 - c) name of the person against whom the application is filed;
 - d) request of an applicant;
 - e) factual circumstances used as the grounds for the request of the applicant; and
 - f) evidence proving the circumstances.
4. A document certifying authority of a representative shall be attached to the application.
5. Application shall be accepted where the request does not go beyond the scope of the Commission's competence.

Article 37. Principles of dispute consideration

1. Disputes shall be considered at the Commission sessions by means of trial. Parties shall enjoy equal rights and opportunities for justifying, rejecting or overruling their requests, views or evidence of the other party. Parties shall define which of the factual circumstances should serve as the grounds for their requests and which evidence should prove these circumstances.
2. The trial defined pursuant to the preceding paragraph, shall not restrict the Commission to collect factual circumstances and request for evidence on its own initiative in order to familiarize itself with the case.
3. The Commission shall hold a public hearing of a dispute except for cases having regard to the provisions of the Law of Georgia on State Secret and the General Administrative Code of Georgia.
4. Disputes shall be considered in Georgian being the official language.

Article 38. Preliminary session

1. Within 10 (ten) working days from the date of registering an application, the Commission shall schedule a preliminary session. The Commission shall be empowered to issue a

decision to terminate an administrative proceeding or dispute settlement, where it establishes that the subject of dispute is outside the scope of the regulatory functions incumbent upon the Commission by legislation, or to refuse consideration of an application where the applicant fails to submit additional information or document within a defined period.

2. The Commission shall notify parties of the date, time and venue of a preliminary session.
3. Parties shall present to the Commission their views and evidence regarding the dispute before or at the preliminary session.
4. In addition to the main application, parties shall be entitled to submit cross applications to be considered by the Commission at the preliminary session. Cross applications shall be submitted pursuant to the rules of the present Article.
5. An applicant shall be entitled to familiarize himself/herself with the submitted cross application.
6. At a preliminary session the Commission shall make a decision on scheduling the date of dispute consideration.

Article 39. Notification and summons

1. Parties or their representatives shall be notified of the date, time and place of dispute consideration.
2. The Commission, when required, shall summon witnesses, experts, specialists and interpreters to attend the session.
3. Notification shall be delivered by post or courier, or may be handed over to the parties upon conclusion of the preliminary session. Notification shall contain the following data:
 - a) the date, time and place of Commission session;
 - c) the title of the case for which summons is sent;
 - d) the identity of a person to whom summons is sent and reason(s) for the summons;
 - e) request to the parties to present all the evidence; and
 - f) notification that the person receiving summons in the absence of a person to whom summons is sent shall be liable for delivery of the summons to the addressee at the earliest convenience.
4. In addition to notification, the Commission shall post or deliver to the parties copies of applications on dispute consideration and all the attached documents. The Commission shall post or deliver a copy of a cross application of one party to the other, where it is submitted to the Commission by the time of sending a notification. Copies of all documents submitted to the Commission may also be sent to the parties after the notifications are have been posted or delivered.
5. When required, parties may be summoned to the Commission session by e-mail or fax.

Article 40. Collection and weighing evidence

1. Parties shall be bound to prove the circumstances on which they ground their requests.
2. To confirm evidence, parties shall provide explanations, where required, testimony by witnesses, and reports by experts and specialists submitted in writing.
3. Documents containing data on important circumstances in respect of the case shall be deemed as written evidence. As a rule, written evidence shall be submitted in the original.
4. A person knowing circumstances of the case shall be interrogated as a witness.
5. Explanations or conclusions of a specific issue may provided by an expert.
6. The Commission shall weigh evidence on the basis of detailed, complete and objective consideration.

Article 41. Consideration of disputes

1. Where a party fails to attend the session, consideration of a dispute shall be postponed to the following session of Commission. Continuous failure of a party to attend the session with no reasonable grounds shall not prevent the Commission from considering the dispute.
2. Consideration of a case at Commission's session shall commence with presenting the circumstances of the dispute, naming the parties, the subject and grounds of the dispute.
3. The process of identifying important circumstances shall commence with the provision of explanations by the parties.
4. Refusal of one party to provide explanations at the session shall not preclude the hearing of explanations from the other party.
5. The chairman and members of the session shall pose questions to parties in order to obtain complete and detailed description of significant circumstances in respect of the case. Parties shall be entitled to pose those questions to each other which are important for dispute resolution process.
6. Minutes of the Commission session shall be drafted. The minutes shall contain all the main data, namely: the date, month, year and place of the session; the time of commencement and conclusion of the session; its composition and secretary; title of the case; data on the attendance of authorised representatives, witnesses, experts and interpreters; explanations provided by the parties and their representatives; testimony, explanation of conclusions provided by experts ;and information on the content of the decision.

Article 42. Resolution of disputes

1. Disputes are resolved on the decision of the Commission.
2. The parties shall be entitled to request amicable settlement at any stage of dispute consideration.
3. The Commission shall be empowered to approve amicable settlement. by decision.
4. The Commission shall be empowered to refuse amicable settlement and take a different decision, where the proposed settlement breaches provisions defined in the Georgian legislation.
5. An applicant party shall be entitled to withdraw an application whereas the other applicant party shall be required to accept the withdrawal. In such cases the Commission shall be entitled to issue a decision on the termination of proceedings.
6. The terms for disputes in respect of interconnection shall be 1 (one) month. Where no settlement between parties is reached while considering disputes regarding interconnection, terms of interconnection shall be defined by the Commission.
7. The Commission decision may be appealed in court. (28.12.2005 N 2564)

Chapter VII

Control of activities and liabilities in the electronic communications sector

Article 43. Grounds for control of activities and liabilities in the electronic communications sector

1. The Commission shall control activities pursued by authorised undertakings in the electronic communications sector, also, compliance of these activities with the requirements

and obligations provided for in the legislation on electronic communications as well as the decisions and resolutions of Commission and the compliance of activity of authorized undertakings carrying out transit broadcasting with the requirements and obligations provided for in the Georgian law “on copyright”. (28.12.2005 N 2564)

1.1 The Commission shall control the compliance of activities pursued by undertakings with the usage of departmental and special electronic communications networks with the requirements and obligations provided for in the Georgian legislation on electronic communications as well as the decisions and resolutions of the Commission. (28.12.2005 N 2564)

1.2 The Commission shall control the fulfillment of license conditions by the license holders using radio frequency spectrum and/or numbering resource. (28.12.2005 N 2564)

2. Liability for the breach of requirements and obligations specified in Paragraph 1, 1.1 and 1.2 of this Article shall be incurred by natural persons and legal entities pursuant to Georgian legislation. (28.12.2005 N 2564)

3. Pursuit of activities in the electronic communications sector without authorisation, also, the use of radio spectrum and/or numbering resources without a license for the use of resources shall be deemed an illegal economic activity, prohibited and punishable pursuant to the Criminal Law.

3.1 The use of radio spectrum and/or numbering resources without a license or assignment is prohibited and punishable pursuant to the Administrative Code of Georgia. (28.12.2005 N 2564)

4. Where required, the Commission shall use the administrative authority it enjoys pursuant to the administrative legislation but not envisaged by the present law.

Article 44. Monitoring and inspection

1. To examine observance of the requirements and obligations provided for in the legislation of Georgia, as well as the decisions and resolutions of Commission, the latter undertakes permanent and regular monitoring of activities pursued in the field of electronic communications (28.12.2005 N 2564)

2. On the basis of breaches discovered by the Commission in the field of electronic communications, as well as appeals, newspaper articles or other data submitted to the Commission, the latter shall be empowered to undertake inspection. (28.12.2005 N 2564)

3. When carrying out monitoring and inspection of the fulfilment of license conditions and the requirements and obligations provided for in the Georgian legislation in the field of electronic communications, as well as the decisions and resolutions of the Commission, the latter is not empowered to inspect or request the submission of those facts, which are not directly related to the fulfilment of requirements and obligations provided for in the legislation, the Commission’s decisions and resolutions, as well as license conditions by license holder. (28.12.2005 N 2564)

4. Decision to undertake inspection shall be made by the Commission with reference to the person(s) responsible for the inspection.

5. The person in charge of an inspection shall, prior to commencing the inspection, submit to the authorised representative of an undertaking their identity card and a document certifying their authority. This person shall undertake an on-site inspection of documentation relevant to the activities pursued by an authorised undertaking, make copies of the documents, check technical equipment by special means, request officials and other staff to provide information and written and verbal explanations on the issues subject to the inspection. (28.12.2005 N 2564)

6. The person in charge of an inspection shall draft an inspection report pursuant to the

special form approved by the Commission. The report shall specify: the date, time and place of inspection; the grounds for inspection; the name of the person attending inspection on the part of the inspected; a list of inspected documents in case of on-site inspection, in case of copies of inspected documents, they should be attached to the report; a list of inspected equipment and their technical parameters; a record of written explanations; if they are provided in writing, copies will be attached to the report; comments (if any) of the person undertaking inspection; other explanations (if any) provided by the person subject to inspection (or their official representative); and signatures of the person undertaking inspection and of the person subject to inspection (or his/her official representative) or if the person subject to inspection refuses to sign, signatures of at least 2 (two) attending witnesses. (28.12.2005 N 2564)

7. Where there is sufficient evidence on the breaches even without inspection, Commission, pursuant to Sub-paragraph b of Paragraph 1 of Article 76 of the General Administrative Code, shall initiate administrative proceeding with a view to making a decision on the imposition of liabilities on the person(s) having committed the breach.
8. Where as a result of inspection it is established that the breach of the Georgian electronic communications legislation also contains a criminal offence as defined by the Criminal Law of Georgia, the person in charge of an inspection shall immediately submit their files to the Commission for subsequent action.

Article 45. Liabilities

1. Where an authorised undertaking breaches the Georgian electronic communications legislation as well as the Commission's decisions and resolutions, the Commission shall be empowered to notify the undertaking in writing. In case of failure to repair continuous breaches within the period prescribed by the Commission or occurrence of new breaches, the Commission shall impose a fine amounting to 0.5 % (half of one per cent) of the undertaking's revenue (total income excluding VAT as defined by the Georgian Tax Code) generated during the last 12 (twelve) calendar months, but not less than 1000 GEL (one thousand Georgian lari).
2. Where an authorised undertaking commits continuous breaches after being fined, and/or commits a single breach during one year from the date of the fine, the Commission shall be empowered to impose a fine amounting to 1 % (one per cent) of the authorised undertaking's revenue gathered during the last 12 (twelve) calendar months, but not less than 2000 GEL (two thousand Georgian lari).
3. Where an authorised undertaking commits continuous breaches after being fined for the second time, and/or commits a single breach during one year from the date of the fine, The Commission shall be empowered to impose a fine amounting to 3% (three per cent) of the authorised undertaking's revenue gathered during the last 12 (twelve) calendar months, but not less than 25000 GEL (twenty-five thousand Georgian lari).
4. Withdrawn (28.12.2005 N 2564)
5. Withdrawn (28.12.2005 N 2564)
6. Withdrawn (28.12.2005 N 2564)
7. Withdrawn (28.12.2005 N 2564)
8. Withdrawn (28.12.2005 N 2564)
9. Withdrawn (28.12.2005 N 2564) .

Article 46. Administrative proceedings in regard to sanctions

1. The Commission decisions in regard to notices and fines shall be adopted by simple administrative proceeding. Notification of Commission decisions shall be provided in writing within 7 (seven) days from the date of adoption of the decision by Commission. (28.12. 2005 N 2564)
2. The fine shall be paid within 30 (thirty) working days from the date of submitting the decision imposing a fine on the undertaking responsible for the breach. The fine shall be transferred to the state budget of Georgia.
3. Where the undertaking responsible for a breach fails to meet the provision of the decision imposing a fine, execution of the decision shall be ensured by the Execution Department of the Ministry of Justice, pursuant to the Execution Act issued by the Commission.
4. In the absence of grounds for notices or fines, an administrative proceeding shall be terminated at once.

Chapter VIII

Scarce resources, their use and regulation

Article 47. Radio frequency spectrum (28.12.2005 N 2564)

1. The position allocated for Georgia on the geostationary orbit shall be the property of Georgia. The position allocated for Georgia as well as the radio spectrum that is to be used by Georgia in the field of electronic communications networks and facilities is not subject to private property, transfer for permanent use, or privatization, and is the property of Georgia. The radio spectrum and the position of the communications satellite of Georgia on the geostationary orbit shall be protected by the State.
2. Pursuant to international provisions and requirements, the use of Georgia's position on the geostationary orbit shall be provided by the Government of Georgia. The Government shall divide the radio spectrum into public and private sectors. The public spectrum shall be used to ensure execution of public functions, such as defence, state security and public order.
3. Radio frequency bands for air moving and air radio navigation service are allocated pursuant to the charter of International Organization of Civil Aviation and Radio Regulation of International Telecommunications Union.
4. The allocation of radio spectrum and assignment of bands, as well regulation of the use of radio frequencies shall be carried out by Commission.
5. The National Plan of allocation of radio spectrum shall be approved by the Commission in accordance with the Radio Regulation of the International Telecommunications Union. The National Plan of allocation of radio spectrum shall be drawn up in compliance with the statute on International Regulations of Radio Communications and on the basis of separating radio spectrum into private and public sectors by the Government of Georgia.
6. The authorization for the use of radio frequency spectrum shall be obtained on the basis of a license, by means of auction.

Article 47.1 Assignment of radio signals and decrypting codes (28.12.2005 N 2564)

1. The radio frequency bands for amateur radio communications are allocated pursuant to the Radio Regulation of the International Telecommunications Union. The Commission shall

assign radio signals to radio amateurs to establish radio amateur connection in these radio frequency bands.

2. The radio frequency bands for sea moving and sea radio navigation service are allocated pursuant to the Radio Regulation of the international Telecommunications Union. The Commission shall assign radio signals and decrypting codes to vessels.

Article 48. Numbering resources

1. The national system of numbering shall be defined by the Government of Georgia in agreement with Commission.

2. The Commission regulates issues related to the use of the numbering resources. The Commission shall issue licenses for the use of the numbering resources by means of auction.

Article 49. Licenses and term of their validity

1. The Commission shall issue licenses for the use of radio spectrum and/or numbering resources.

2. Licenses for the use of radio spectrum and/or numbering resources shall be issued on the basis of an auction. The Commission shall issue licenses for the use of radio frequency spectrum and/or numbering resource pursuant to the present law, the Georgian law “on licenses and permissions” and the “Regulation on carrying out an auction for the use of radio frequency spectrum and/or numbering resource” approved by the Commission’s Resolution. The Regulation also determines types of auctions to be carried out for obtaining license for the use of radio frequency spectrum and/or numbering resource, procedures for carrying out auctions and rules for calculating the initial amount of the fee to be paid for the use of scarce resources. (28.12.2005 N 2564)

3. Licenses shall be issued for a period of 10 (ten) years.

4. Where radio spectrum and/or numbering resources are used in compliance with the provisions of the present law, the license shall be extended for a period of 10 (ten) years on the Commission’s decision. (28.12.2005 N 2564)

5. Where the term of a license is extended, a license holder shall pay the price established on auctions held during the last 1 year for granting the right of use of a frequency band allocated in compliance with the National Plan for allocation of radio spectrum and/or numbering resources. If during this years, no more than 2 auctions have been held, the license holder shall pay the price established on auctions held during the last 3 years for granting the right of use of a frequency band of radio frequency spectrum and/or numbering resource. Where the term of a license is extended, a license holder shall also pay the license levy. (28.12.2005 N 2564)

Article 50. Grounds for the issue of license (28.12.2005 N 2564)

1. Licenses for the use of radio spectrum and/or numbering resources shall be issued on the grounds of the existence of free resources, application of an authorised undertaking, and/or winning an auction.

2. If the Commission shall decide to hold an auction, the following shall be required:

- a) the existence of free frequency spectrum allocated in compliance with the National Plan for allocation of radio spectrum and/or of a free numbering resources allocated in compliance with the National Numbering Plan. The Commission’s decision on

- holding an auction shall define the initial price of exhaustible resources to be auctioned, pursuant to the regulations on holding an auction by the Commission for granting the right of use of radio spectrum and/or numbering resources; and
- b) the existence of an application of a license holder for the right of use of radio spectrum and/or numbering resources for full or partial transfer to any other undertaking of its right for the use of radio spectrum and/or numbering resources. In such cases, the Commission shall hold an auction pursuant to the general rule defined by the present law.
3. On the Commission's decision, the right of use of radio spectrum and/or numbering resources may be restricted for those undertakings who become owners of half or more of the specific frequency band allocated by the Commission from the radio spectrum, by winning the auction and/or by means of direct transfer.

Article 51. Handing over of the right of use of exhaustible resources to another undertaking and direct transmission

1. A license holder with the license for the use of radio spectrum and/or numbering resources shall be empowered to hand over the right of use of radio spectrum and/or numbering resources in full or in part, by means of direct transfer and without auction, by submitting the relevant contract to the Commission within 7 (seven) days from the date of signing the contract. The Commission shall put the relevant changes in the departmental license register within 3 (three) days and issue a certificate of license. (28.12.2005 N 2564)
2. The license holder is entitled to begin activity with the use of radio frequency spectrum and/or numbering resource without prejudice to the provisions of the present law as well as the license conditions, after submitting the relevant information on direct handing over of license and passing authorization pursuant to the rules defined by the present law. (28.12.2005 N 2564)
3. The authorised undertaking having obtained the right of use of frequency spectrum and/or numbering resources by auction shall be empowered to apply to the Commission with a request to hold auction with a view to handing over, in full or in part, the right of use of radio spectrum and/or numbering resources to another authorised undertaking.

Article 52. Issuing licenses by means of auction

1. The Commission shall make a decision to hold an auction for granting licenses for the use of radio spectrum and/or numbering resources at least 2 (two) months in advance and disseminate it:
 - a) by mass media; and
 - b) via Internet.
2. The Commission's decision on holding an auction shall indicate:
 - a) the relevant geographic borders of the services market;
 - b) technical and operational conditions which ensure the avoidance of harmful interference and hazardous impact on human health while using exhaustible resources;
 - c) initial or proposed price; and
 - d) opening and closing dates for submitting application, and the dates for holding an auction.
- e) Other data defined in paragraph 10, article 18 of the Georgian law "on licenses and permissions". (28.12.2005 N 2564)
3. Withdrawn (28.12.2005 N 2564)

4. While holding an auction, the Commission shall be guided by the principles of objectivity, transparency and non-discrimination.
5. The Commission shall decide on identifying the winner of the auction. The criterion for identifying the winner shall be the minimum prices offered for the use of exhaustible resources, 30% (thirty per cent) of which shall be paid within 1 (one) day from the date the winner of the auction is identified. The Commission's decision on identifying the winner of the auction shall be disseminated by mass media and Internet.
6. A license shall be issued within 7 (seven) working days from the date of payment of 30% (thirty per cent) of the price for the use of exhaustible resources. The remaining price shall be paid within 1 (one) year from the date of issuing the license, pursuant to the rules defined by the Commission.
7. The winning authorised undertaking which requires permissions from other bodies for the pursuit of its activities, shall, pursuant to "one-stop-shop" principle, submit to the Commission relevant documentation required by Georgian legislation. The Commission, in turn, shall ensure the issue of relevant permission from relevant body. In such cases, within 5 (five) working days from the date of receipt of relevant documentation, the Commission shall apply to relevant bodies and send them the documentation submitted by the winner of the auction. Where within 20 (twenty) working days the relevant body provides the Commission with a refusal to issue a license, the document shall contain irregularities and the ways to repair them. The winner of the auction shall be given additional time to repair the irregularities. (28.12.2005 N 2564)

Article 53. Modification of licenses

1. The grounds for the modification of licenses shall be:
 - a) changes introduced to the legislation of Georgia in the field of electronic communications; and
 - b) reasonable request of the Commission or a license holder.
2. The Commission shall issue decisions on the modification of licenses.

Article 54. Revocation of licenses (28.12.2005 N 2564)

1. The grounds for revoking a license shall be (except the grounds defined in article 61 of the General Administrative Code of Georgia):
 - a) request of the license-holder;
 - b) breach of the terms of license;

Article 55. Use of state-owned territory, land use and protection of electronic communications networks

1. To ensure the protection of electronic communications networks, secure areas shall be established by the Government of Georgia. Any groundwork in the secure area shall be undertaken solely in agreement with the network owner.
2. To ensure protection of electronic communications networks, the local governance and self-governance bodies, in coordination with the Commission, shall define transparent and non-discriminatory procedures for granting to authorised undertakings the right of

installation of electronic communications networks, their elements, technical equipment, facilities and additional resources on the territories and land-plots owned by the local governance.

3. The electronic communications network operators, pursuant to agreements with the owners of land plots and sites, shall install electronic communications network systems on any part of the land, bridges, tunnels, streets, engineering facilities, collectors and secure areas.
4. Natural persons and legal entities engaged in planning, construction and reconstruction of social infrastructure, shall, in cases defined by the present law, take into account the installation of electronic communications networks and facilities while planning, constructing and reconstructing social infrastructure.
5. The cost of planning, construction and installation of electronic communications networks and facilities shall be born by the client who has ordered construction and shall be undertaken pursuant to the technical standards established for the construction of electronic communications networks and facilities.

Chapter IX

Digital broadcasting and individual access systems

Article 56. Wide-screen digital broadcasting service

1. Operators of public electronic communications networks providing digital TV broadcasting services to end-users by means of local access network facilities shall ensure that technical specifications of their networks and facilities permit distribution of programs and transmission of widescreen digital TV broadcasting signals.
2. Transit operators providing digital broadcasting (services) distributing widescreen digital TV broadcasting signals from other operators and other carriers of transit distribution programs to the end users shall ensure that technical specifications of its networks and facilities permit distribution of programs and transmission of widescreen digital TV broadcasting signals to end-users by maintaining the same format.

Article 57. Provision of digital interactive TV broadcasting services and interoperability

1. While providing digital interactive TV broadcasting services, an operator shall ensure use of open applied program interface, including unlimited access of an applicant authorised undertaking to the relevant elements of the digital interactive TV broadcasting network, subscriber's individual access system, and resources of the electronic directory (guide) of programs (services).
2. Authorised operators providing digital TV broadcasting networks and facilities shall ensure interoperability and compliance of open applied program interfaces with technical standards defined in the present law. The operators shall also submit to the Commission information on specifications of a selected applied program interface.
3. Operators authorised to provide digital TV broadcasting networks and facilities shall ensure that digital interactive TV broadcasting services providers are provided all the information, in a fair, reasonable and non-discriminatory manner, that is necessary for ensuring unbounded access of applicant authorised undertakings to the networks, their facilities, functional resources and operational capacities.
4. Operators providing digital interactive TV broadcasting services and digital broadcasting equipment for subscribers shall ensure interoperability of their technical facilities and

systems, as well as availability of all information that ensures uninterrupted provision of digital TV broadcasting services in a non-discriminatory and transparent manner.

5. Subscriber equipment for digital broadcasting intended for the receipt of digital interactive TV broadcasting signals shall ensure:
 - a) deciphering of coded signals received by means of coding algorithm defined pursuant to the present law;
 - b) clear and high-quality appearance of transmitted digital signals on a TV screen;
 - c) uninterrupted provision of interactive digital broadcasting services to end-users; and
 - d) interoperability of technical facilities and services

Chapter X

Standardization, certification and metrology norms in the electronic communications sector

Article 58. Standards applicable in the electronic communications sector

1. A list of European harmonized standards applicable in the electronic communications sector shall be approved by the Government of Georgia.
2. Radio equipment and telecommunications terminal equipment shall be compliant with the basic requirements of the regulations on the certification of radio equipment and telecommunications terminal equipment.

Article 59. Certification of radio equipment and telecommunications terminal equipment

1. Radio equipment and telecommunications terminal equipment shall be certified pursuant to the Regulations on certification of radio equipment and telecommunications terminal equipment approved by the Commission.
2. Radio equipment and telecommunications terminal equipment shall be tested at the testing centers and laboratories which, on the Commission's proposal, are accredited by the National Agency for Standardization, Metrology and Certification of Georgia. Where a testing center breaches relevant normative acts, the license of the center (laboratory) shall be revoked.
3. Certification of radio equipment and telecommunications terminal equipment shall be carried out pursuant to relevant technical norms.

Article 60. Observance of metrology norms of electronic communications facilities

1. Testing centers and laboratories shall observe metrology norms of electronic communications facilities.
2. The Commission, within its competence, shall regulate and control the observance of metrology norms in the field of electronic communications.

Chapter XI

Universal service, service quality and protection of users' rights (28.12.2005 N 2564)

Article 61. Withdrawn (28.12.2005 N 2564)

Article 62. Protection of users' rights and general rules for services

1. Users shall have the right of free choice of publicly available electronic communications networks and services.
2. The rights of users and their legitimate interests in the field of electronic communications shall be protected by the Commission.
3. Users shall have the right of obtaining information on the tariffs for provided or selected electronic communications services, terms of provision of services and cost accounting, and detailed billing during the period of reporting.
4. Providers of electronic communications services shall provide services to subscribers in compliance with set standards and pursuant to a relevant contract to comprise:
 - a) the name and address of the electronic communications service provider;
 - b) terms indicating types, quality and time of first connection;
 - c) terms for the suspension and termination of services;
 - d) terms for repairing damages;
 - e) detailed information on tariffs, and, in case of changes, updated information;
 - f) validity, termination and extension of terms of the contract;
 - g) the compensation mechanism provided to ensure quality of services as well as failure to maintain quality; and
 - h) the procedure of appeals and regulation of disputes related to services.
5. The Commission shall establish quality standards for services and shall supervise compliance of electronic service providers with these standards.
6. Electronic communications service providers shall make available telephone numbers of directory services to their subscribers free of charge, including billing information, information on arrears and relevant bills.
7. Electronic communications service providers shall make available telephone numbers of special services to their subscribers free of charge.
8. Rules for the provision of electronic communications services and Regulations for the protection of rights shall be defined by normative act of the Commission.

Article 63. Rule of dispute consideration between providers and end-users

1. Disputes between providers and end users of electronic communications services shall be regulated pursuant to the present law, other legislative acts, and by-laws of Georgia.
2. Providers of electronic communications services shall establish an efficient internal mechanism for consideration of and reacting to complaints. Where providers of electronic communications services breach legislative provisions on the protection of rights of users, an interested party shall be entitled to apply to the provider of electronic communications services, and /or the Commission, or directly to court.
3. Electronic communications service providers shall consider a complaint within 10 (ten) working days.
4. Withdrawn (28.12.2005 N 2564)
5. The Commission shall consider applications and complaints at a hearing, by means of administrative procedure, save for cases defined by the General Administrative Code of Georgia and cases where consideration of disputes does not require the pursuit of organized procedures. Applications and complaints regarding the interests of a wide range of users and also related to the issues provided for in Paragraph 1 of Article 115 of the General Administrative Code shall be considered by the Commission by public administrative procedure.
6. In the course of a hearing the Commission Chairman shall ensure the establishment of circumstances relevant to the case, request relevant documentation, and ensure the protection of the right of free expression of opinions by persons attending the hearing.

7. While considering disputes between the providers and end-users of electronic communications, the Commission shall apply the provisions defined in Article 5 of the present law, without prejudice to the provisions of the present Chapter.
8. Minutes of a hearing shall be drafted. The minutes shall comprise: the name of the administrative procedure on which the hearing was held; the name of an administrative body; the date, time and place of the hearing; the names and identities of the Chairman, interested bodies taking part in the hearing, expert and lay witnesses; subject of the hearing; application summary; summaries of testimonies of witnesses and experts; and description of the result relevant to the application.
9. The minutes of the hearing shall be signed by the Commission Chairman and secretary. An interested party shall be entitled to read the report and submit comments within 3 (three) working days, indicating wrong or incomplete information contained in the minutes. Where the Commission agrees with the comments, they shall be approved; where there is no agreement, the Commission shall issue an administrative act refuting the comments.
10. The main objective of a hearing shall be the resolution of disputes by amicable settlement.
11. Within 10 (ten) working days from the date of hearing, the Commission shall make a binding decision pursuant to Georgian legislation. Only those Commission members who have taken part in the hearing shall have the right of voting on the decision.
12. Where a breach is confirmed, the Commission shall make a decision to impose relevant sanctions against the person/entity having committed the breach and to award restitution of the rights breached.

Chapter XII

Transitional and final provisions

Article 64. Transitional provisions

1. Within 1 (one) year from the date of the enactment of the present and pursuant to the present law, the Commission shall automatically issue authorisations and relevant certificates to all license-holders pursuing activities in the field of electronic communications; the Commission shall make modifications defined in the present law regarding licenses of undertakings using exhaustible resources.
2. All undertakings which use exhaustible resources internally, for industrial or technological as well as non-commercial purposes, shall, within 6 (six) months from the date of entry of the present law into force, ensure their pursued activities comply with the provisions of the present law.
3. A new numbering system shall be adopted within 2 (two) years from the date of entry of the present law into force and pursuant to the rule defined by the Government of Georgia. Electronic communications network operators and electronic communications service providers shall, within the terms set by the Commission, ensure conformity of numbering systems of the network with the new national numbering system at their own expense.
4. Withdrawn (28.12.2005 N 2564)
5. Within 6 (six) months from the date of entry into force of the present law, the Parliament of Georgia shall adopt:
 - a) the law of Georgia on Post; and
 - b) amendments to the Law on License and Permission Charges.
6. Upon enactment of the present law, the Law of Georgia Communications and Post shall be declared void. (28.12.2005 N 2564)

7. In one (1) year from the date of enactment of the present law, Commission shall issue the following normative acts:
 - a) “On universal service in the electronic communications sector;”
 - b) On the approval of “On the National Plan of allocation of radio frequency spectrum;”
 - c) On the approval of the “Rules on the provision of services in the electronic communications sector and of Regulations on the protection of users’ rights;”
 - d) On the approval of the “Regulations on the definition of relevant segments of the services market and competition analysis;” and
 - e) On the approval of the “Regulations on the separate submission of cost accounting and expenditures by authorised undertakings.”
8. Until the system of authorisation is fully adopted and the normative act of the Commission “On the National Plan of allocation of radio frequency spectrum” is approved, all license-holders who, in pursuit of their activities defined in Paragraph 2 of Article 36 of the Law of Georgia on Communications and Post, are using radio frequency spectrum (except for broadcasting license-holders and those to whom radio-frequencies were assigned for internal and technological purposes, non-commercial activities, or for the establishment of special communications networks for the purposes of defence, state security, public order and environmental monitoring), shall use the radio frequency spectrum solely for the activities defined in their licenses.
9. The European harmonized standards applied the electronic communications sector and recognized by Georgia before the enactment of the present law shall be defined in the “Regulations on the certification of radio facilities and TV terminal equipment.”
10. The authorized undertakings, to which radio frequencies have been assigned for internal technologic and/or assisting technological aim, and own numbering resource on the basis of the Commission’s permission, maintain these radio frequencies or numbering resource for the relevant period. Before the expiration of this period, on the basis of an application submitted by the relevant undertaking to the Commission, the Commission is entitled to take a decision on issuing a license for the use of this radio frequency spectrum and/or numbering resource for a period of 10 years without holding an auction. In such cases, the undertaking shall pay the license levy. (28.12.2005 N 2564)
11. The Commission assigns radio frequencies for assisting technological purposes for a period of 1 year to the non-authorized undertakings, activity of which is not related to the provision of electronic communications networks and means of general use and/or provision of services with these networks and means, but need radio frequencies for assisting technological purposes in their activity. (28.12.2005 N 2564)
12. The Georgian National Communications Commission shall declare void the 10th Resolution of the Georgian National Communications Commission “on universal service in the field of electronic communications”. (28.12.2005 N 2564)
13. Change of radio frequency assigned on the basis of a license and/or the Commission’s decision, within the period of license and/or the period defined by the Commission’s decision is possible solely in agreement with the license holder. In case if, the undertaking was damaged as a result of changing the radio frequency, the amount of compensation of the damage received shall be defined on the basis of an independent audit’s report. The payment conditions and payment form shall be agreed. (28.12.2005 N 2564)
14. The funds existing on the special account of the Georgian National Communications Commission opened for the provision of universal service shall be transferred to the State Budget of Georgia. (28.12.2005 N 2564)
15. In case of extending terms of licenses issued before the enforcement of the present law, an authorized undertaking shall pay the middle price of prices established on the auctions held after the enforcement of this law for obtaining the right of use of relevant band of radio

frequency spectrum allocated pursuant to the National Plan of radio frequency spectrum allocation for the provision of the same electronic communications networks and means by the undertaking and the license levy. (28.12.2005 N 2564)

Article 64.1 The enforcement of this law (28.12.2005 N 2564)

If the present law establishes rules of issuing licenses in the field of electronic communications as well as inspecting the implementation of license conditions which are different from rules defined by the Georgian law “on licenses and permissions”, as well as different form and/or size of responsibility, the present law shall be used.

Article 65. Normative acts made void

1. Upon enactment of the present law, the following normative acts of the Commission shall be made void:
 - a) Decree of the Commission of 1 September 2000 “On the terms and conditions for the renewal of registration of license-holders pursuing activities in the communications sector;”
 - b) Decree of 10 July 2001 “On the approval of the Statute on interconnection of communications networks;” and
 - c) Decree of 20 December 2002 “On the rule of calculation and payment of initial amount of license fees for international telephone communications using codes and activities using frequency spectrum.”
2. Pursuant to the present law, all other relevant normative acts regulating relations in compliance with the Commission’s normative acts shall be deemed void.

Article 66. Entry into force

1. The present law shall be in force upon its publication.
2. Article 45 shall be in force on the 15th day from the date of publication of the present law.

President of Georgia

Mikheil Saakashvili

Tbilisi 2 June 2005