

Act on the Post and Telecom Administration

No. 69, 24 March 2003

Entered into force 25 July 2003.

EEA legislation: Annex XI,

Directives 2002/19/EC, 2002/20/EC, 2002/21/EC, 2002/22/EC

Article 1

Ultimate administration, etc.

The Post and Telecom Administration (PTA) is responsible for administration of electronic communications and postal affairs in Iceland, as provided for in this Act and other legislation.

PTA is an independent institution under the ultimate administration of the Minister of Communications.

Article 2

Managing director and staff

The Minister of Communications shall appoint the Managing Director of PTA for a five-year term to direct its operations. The Managing Director of PTA shall engage the other staff of the Administration.

The staff of PTA may not serve on the Boards of or be employed by companies or other parties whom they are to supervise. They may not have interests at stake or financial connections with such parties or their organisations.

Article 3

Tasks

The Post and Telecom Administration shall be responsible for:

1. implementing the Electronic communications Act and the Postal Service Act and supervising electronic communications and postal services, as provided for in detail in the respective Acts. PTA is to enforce the Acts and support the achievement of their objectives;

2. encouraging competition in postal and electronic communications services and prevent unfair business practices, for instance, by:

- a. working to prevent distortion or limitation of competition on electronic communications and postal service markets,
- b. encouraging efficient investment in electronic communications infrastructure and promoting innovation,
- c. support the efficient use of frequencies and numbers and maintaining effective management of the use of these resources;

3. participating in developing the market for electronic communications and postal service and information technology (IT), for instance, by:

- a. working to remove obstacles to the provision of electronic communications networks, facilities and services connected with them, and electronic communications and postal services,
- b. encouraging the establishment and development of electronic communications networks and interoperability of services encompassing all EEA states ,
- c. contributing to ensuring non-discriminatory treatment of electronic communications undertakings and postal operators in similar circumstances,
- d. co-operating with other EEA regulatory authorities and the EFTA Surveillance Authority in order to establish harmonised surveillance practices and harmonised interpretation of legislation,
- e. contributing to the convergence of electronic communications and information technology,
- f. contributing to the development of the IT society through the focused introduction of new technology and working practices;

4. safeguarding the public interest, for instance, by:

- a. working to ensure that all Icelanders have access to universal service,
- b. contributing to protection of consumers in their dealings with electronic communications undertakings and postal operators,
- c. working on measures to protect personal data and privacy,

- d. contributing to the publication of clear and comprehensible information for users and demanding transparent prices and conditions for the use of general electronic communications and postal services,
- e. protecting the interests of users, including individual social groups, such as the disabled, to the greatest extent possible with regard to selection, price and quality,
- f. ensuring that the integrity and security of public communications networks are maintained;

5. serving as an advisor to the authorities and ministries in the area of electronic communications and postal affairs and ensuring that Iceland always fulfils the obligations set out in international agreements on electronic communications and postal affairs. If necessary, PTA shall make recommendations to the Minister of Communications for amendments to Acts and Regulations;

6. participating in co-operation resulting from international obligations in electronic communications and postal affairs;

7. other activities connected to the implementation of electronic communications and postal affairs.

PTA and the Competition and Fair Trade Authority shall jointly adopt guidelines¹⁾ on procedures concerning and resolution of cases covered both by Acts on postal and electronic communications affairs and the Competition Act. These rules shall be made public.

PTA's managing director may entrust other qualified parties with carrying out various aspects of an inspection performed by authorisation of this Act.

¹⁾[Reg. 265/2001.](#)

Article 4

Supervision of electronic communications undertakings and postal operators

PTA shall supervise the activities of electronic communications undertakings and postal operators, including their financial situation, and shall ensure that their activities comply with the laws, regulations, rules, conditions or decisions applicable to their activities and that these activities accord in other respects with sound and normal business practices.

Article 5

Surveillance and penalties which PTA may apply

PTA may demand from parties pursuing activities covered by the Acts on electronic communications and postal services all information considered necessary to investigate individual cases.

PTA may demand information from electronic communications undertakings concerning a general authorisation, rights or specific obligations, including:

- a. for systematic or case-by-case verification of compliance with requirements on contributions to an equalisation fund for universal services, on interoperability of services and interconnection of networks, and on usage fees for frequencies and numbers;
- b. for verification of compliance with conditions for general authorisations and rights where a complaint has been received or where PTA has other reasons to believe that a condition is not complied with or when PTA itself takes the initiative in an investigation;
- c. in connection with rules on procedures for granting rights to use frequencies and numbers and assessing applications to do so;
- d. for publication of comparative information on quality and prices of services for the benefit of consumers;
- e. for clearly defined statistical purposes;
- f. for market analysis.

With the exception of information provided for in sub-paragraph c, the information referred to in this Article may not be required prior to or as a condition for market access. When PTA requests this information from electronic communications undertakings, it must account for the purpose for which the information is to be used.

As part of its surveillance, PTA may require that it be provided with annual financial statements, interim financial statements, declarations of auditors or other similar information. The Administration may demand either oral or written information, within a reasonable time limit which it decides.

PTA may, upon the same conditions stated in the fourth paragraph, require this documentation be delivered to it for examination. It must be delivered within a reasonable time limit determined by PTA.

Should PTA be of the opinion that the financial position of an electronic communications undertaking or postal operator is such that there is danger of the party in question failing to fulfil its obligations as prescribed in the general authorisation, rights or operating licence, it may demand that the situation be rectified within a specified period of time.

PTA may, in investigating the case, make the necessary investigations at the place of business of an electronic communications undertaking which has been allocated rights, or of the holder of a postal operating license, and seize documentation if there are cogent reasons to suspect a violation of this Act, of the Electronic communications Act, the Postal Services Act or rules or decisions of the PTA. Such actions must comply with the provisions of the Criminal Proceedings Act concerning searches and seizure of objects.

Should an electronic communications undertaking or postal operator fail to fulfil its obligations or to satisfy demands for improvements made by PTA within a reasonable time limit, PTA may cancel its rights to use frequencies or numbers or its licence to operate postal services, or notify the electronic communications undertaking or postal operator that it no longer has a general authorisation, after previously issuing a written warning to this effect.

PTA shall take measures to suspend the operations of an electronic communications undertaking or postal operator which is proceeding without authorisation or which does not fulfil the requirements of laws or regulations concerning such operations. Daily fines may be applied to enforce this, cf. Article 12.

The Minister of Communication shall, in a Regulation, lay down more detailed provisions on the implementation of surveillance by PTA.

Article 6

Opinions of interested parties

Before taking a decision which will have a significant impact on the electronic communications market in question, PTA shall give interested parties the opportunity to comment on it. PTA shall adopt rules on treatment of information as referred to in this Article and publication of the same.

Article 7

Relations with EEA surveillance authorities

Prior to taking a decision which will affect trade between states on the definition of electronic communications markets and their analysis, on obligations imposed on electronic communications undertakings with a significant market power, or on access and interconnection and changes to obligations on a retail market, PTA must consult with the EFTA Surveillance Authority and regulatory authorities in individual EEA member states in accordance with obligations under the EEA Agreement.

Under exceptional circumstances a derogation may be made from the provisions of the first paragraph, in which case the EFTA Surveillance Authority and regulatory authorities in individual EEA member states must be notified of such decision without delay.

PTA shall provide the EFTA Surveillance Authority with the general information which must be provided under the obligations of the EEA Agreement, such as concerning electronic communications markets, universal service and obligations imposed on undertakings.

Article 8

Obligation of confidentiality and relations with regulatory authorities

PTA Personnel shall be bound by obligations of confidentiality. They may not, without consequence, divulge to unauthorised parties any confidential information which they acquire in the course of their employment on the business and operations of parties subject to their surveillance. The same shall apply to auditors and other specialists employed by the Administration. The obligation of confidentiality shall remain even after their employment ceases.

All data and other information, for example, concerning business interests, gathered by the Administration in its surveillance or for other reasons shall be treated as confidential.

PTA may publish statistical data on the quantity of electronic communications or mail; electronic communications undertakings and postal operators must provide PTA with such information.

Notwithstanding legal provisions on confidentiality, regulatory authorities in member states of the EEA and the WTO may be provided with information if this is either part of co-operation between states in supervision of the activities of parties subject to surveillance or for resolving individual cases and such information provision is necessary in order to enforce the surveillance prescribed by law. The provisions of this paragraph shall also apply to exchange of information with regulatory authorities in this country. PTA may thus only provide information to regulatory authorities as provided for in this paragraph if the party receiving the information is subject to similar obligations of confidentiality.

Confidentiality as provided for in this Act shall not prevent PTA from providing representatives of the EFTA Surveillance Authority dealing with postal and electronic communications issues with all information necessary for the implementation of the EEA Agreement.

PTA may exchange information with comparable authorities within the EEA and with contracting parties of the World Trade Organisation insofar as such information is not confidential.

PTA may, in its work, demand information and data from other public authorities, including the taxation authorities and the customs authorities, without regard to their obligations of confidentiality.

Article 9

Resolution of disputes between electronic communications undertakings and postal operators

Should disputes arise between undertakings operating public electronic communications networks or providing public electronic communications services, or between postal operators, concerning obligations under the Electronic communications Act or the Postal Services Act, a party to the dispute may refer the case to the PTA. PTA shall seek to reconcile the parties. Should they fail to reach an agreement, it may resolve the dispute with a decision as rapidly as possible and no later than within four months, except in exceptional circumstances.

PTA's decision shall be made available to the public, having regard to the requirements of business confidentiality.

If the parties to the dispute are from different states within the EEA, the electronic communications regulatory authorities of both countries shall co-operate to resolve the dispute.

PTA may in certain instances intervene in disputes between parties on its own initiative in order to achieve the objectives of the Electronic communications Act, the Postal Service Act or the Act on the Post and Telecom Administration.

PTA may adopt rules concerning procedures in cases referred to in this Article.

Article 10

Complaints

Should consumers of electronic communications or postal services, or other parties with interests at stake, be of the opinion that an electronic communications undertaking or postal operator has failed to observe the obligations provided for by the Electronic communications Act or the Postal Service Act, or the conditions prescribed in general authorisations, rights or an operating licence, the party in question may submit a complaint to PTA and request it to take action in the matter.

PTA shall seek the opinion of the electronic communications undertaking or postal operator concerned regarding the complaint while at the same time attempting to

resolve differences between the parties promptly. Should they fail to reach an agreement, the dispute shall be resolved with a decision.

PTA may adopt rules concerning the resolution of such disputes.

Article 11

Authorisation for a provisional decision

Should PTA be of the opinion that it is necessary to take a decision in individual cases without delay, where there is a danger that delaying a decision would cause a party to the case to lose its rights or suffer substantial financial damage, the Administration may take a provisional decision.

PTA shall initiate examination of the question as provided for in Articles 9 or 10 within seven days of issuing a provisional decision, otherwise the decision shall become invalid.

Article 12

Daily fines and collection

PTA may impose and collect fines from electronic communications undertakings and postal operators failing to fulfil the obligations prescribed for them or other commitments imposed upon them in accordance with the Electronic communications Act and the Postal Services Act. Fines may be from ISK 50,000 to ISK 500,000 per day. Such fines are enforceable by execution, cf. the fifth paragraph of Article 1 of Act No. 90/1989, on enforcement proceedings. Referral to the Rulings Committee for electronic communications and postal affairs shall postpone execution but the Committee's rulings are enforceable by execution.

Article 13

Rulings Committee for electronic communications and postal affairs

Rulings by PTA may be referred to a special committee, the Rulings Committee for electronic communications and postal affairs. The complaint must be received by the Rulings Committee within four weeks of the party learning of PTA's decision. The Rulings Committee for electronic communications and postal affairs shall be comprised of three persons appointed by the Minister of Transport and

Communication and an equal number of alternates, all of them following nominations by the Supreme Court of Iceland. The Chairman and alternate Chairman shall fulfil the conditions of eligibility for Supreme Court judges. The Committee shall be appointed for a four-year term. The Committee may call upon the assistance of experts.

Rulings by the Committee shall normally be issued within eight weeks of the time it received the complaint.

Rulings by the Committee shall be final administrative decisions. Should a party remain unsatisfied with a ruling by the Committee it may submit the ruling to a court, on the condition that such litigation is initiated within six months of the time the party concerned was informed of the Committee's ruling. Initiation of litigation shall not postpone the entry into force of the Committee's ruling.

A decision by PTA may not be brought before a court until the conclusion of the Rulings Committee for electronic communications and postal affairs is available.

Instructions on the practices of the Committee, its procedure, etc. shall be laid down in a Regulation.

Article 14

Fees, etc.

A charge shall be made for the issuing of an operating licence for postal services, to be paid to the National Treasury in accordance with Act No. 88/1991, concerning Miscellaneous State Revenues.

In allocating rights to use frequencies where the number of rightholders must be limited, e.g. due to a limited frequency range for the service concerned, and the allocation of frequencies is carried out following the publication of an advertisement on the proposed allocation or competitive procedure, or where frequencies are allocated on the basis of competitive procedures for usage other than electronic communications services, a special fee shall be collected for the frequencies. The fee shall be determined by the cost of allocation.

For allocation of telephone numbers to electronic communications undertakings an annual fee amounting to ISK 10 shall be collected for each telephone number allocated. In addition, an annual fee of ISK 200,000 shall be collected for four-digit numbers, including prefixes and international network codes, regardless of the number of digits in the code. An annual fee of ISK 1,000,000 shall be collected for three-digit numbers.

Each year, electronic communications undertakings shall pay PTA an operating fee amounting to 0.20% of their recorded turnover and postal operators shall similarly pay 0.25% of their annual turnover to the Administration. Recorded turnover shall mean the operating income which these parties receives from electronic communications and postal activities in this country. The operating fee shall be based on the calendar year preceding the year of the fee assessment. Income shall be included with the turnover of the year it originates.

Electronic communications undertakings and postal operators shall deliver to PTA information on their turnover subject to assessment no later than 30 April each year. Should PTA fail to receive the information within the prescribed time limit, it may estimate the turnover of the party in question.

Levying of the operating fee as provided for in the fourth paragraph shall take place no later than 15 May each year. PTA shall explain the assessment to parties subject to supervision in a letter.

The operating fee shall be paid in three equal instalments. The due date for the first third of the year shall be 1 June and final date for payment 15 June; due date for the second third shall be 1 September and final date for payment 15 September; and due date for the final third shall be 1 December and final date for payment 15 December.

If the operating fee is paid after the final date for each payment, penalty interest will be charged on the payment from the due date in accordance with the Act on Interest and Inflation Indexing.

If an electronic communications undertaking or postal operator fails to pay its operating fee, PTA may cancel the operating authorisation of the undertaking in question.

PTA may re-calculate the operating fee levied on a certain party should the basic amount used for assessment or other premises for the assessment prove to be incorrect.

PTA may require an electronic communications undertaking or postal operator to pay an invoice for expenses incurred, such as for expert services, for special examinations which PTA deems necessary for supervision of their activities and where special additional expenses can be attributed to events concerning the undertaking.

The Minister of Communications shall determine the tariff for other services assigned to PTA under this Act, the Electronic Communications Act or the Postal Services Act. A fee, based on cost incurred, may be charged for the following: registration of undertakings, issuing of licences and certificates, measurements, sealings, inspections and tasks concerning wireless transmitters.

All income provided for in this Article, with the exception of licence fees referred to in the first paragraph, shall go in full to the PTA, which shall handle the collection of fees provided for in this Article.

Article 15

Report

The PTA shall publish an annual report on its operations. The report shall include a list of electronic communications undertakings and postal operators and information on the cost of universal service, individual contributions to an equalisation fund and what benefits undertakings subjected to universal service obligations have obtained from this on the electronic communications market.

Article 16

Regulations

The Minister of Communications shall, in a Regulation¹⁾, lay down detailed instructions on the implementation of the Act.

¹⁾*Reg. 832/2000.*

Article 17

Entry into force

This Act shall enter into force on 25 July 2003.