

II. LEGAL AND REGULATORY FRAMEWORK

In 2003, several experts in different areas of the Commission's activities continued the development of a legal and regulatory framework, which is to comply with the new trends in the development of telecommunications and harmonize with the EU legislation according to the commitments undertaken by the country with regard to its accession to the EU.

1. In the period 2002-2003 all efforts were mainly focused on the development of a new Telecommunications Act, which became effective on October 7, 2003. The reasons, which led to the necessity for the development of the new act, can be summarized as follows:

1. The state monopoly of BTC established on the grounds of Art. 18, para 4 of the Constitution of the Republic of Bulgaria regarding the provision of certain telecommunications services expired on December 31, 2002. This necessitated the arrangement of the social relations arising in this sector under the conditions of full liberalization of the provision of fixed voice service, leased lines and transborder voice transmission.
2. Fulfillment of the obligations undertaken by the Republic of Bulgaria under Chapter 19 of the negotiations for EU accession and the commitment for approximation of our legislation to the EU legal framework as part of the EU accession process.
3. The aim of this Telecommunications Act is to guarantee the following prerequisites:
 - Development of the telecommunications market
 - Establishment of non-discrimination environment for the operators and encouragement of the competition among them.
 - To guarantee the freedom and confidentiality of communications
 - To protect the interests of the users of telecommunications services
 - To provide an universal telecommunications service
 - Effective use of limited resources
 - To protect the public interest as well as to guarantee the national security and the defence
4. New principles regarding the public relations concerning the realization of telecommunications have also been developed:
 - Rule of law
 - Efficiency, transparency and non-discrimination
 - Predictability, proportionality and objectivity
 - Public debates
 - Reducing the regulatory impact to the required minimum
5. The Telecommunications Act regulates the following major issues:
 - Together with the regulatory policy for management of the radio-frequency spectrum, provided also in the abrogated Telecommunications Act, the new legislation envisages the establishment and implementation of a regulatory policy for the use of numbers, addresses and names in the realization of telecommunications, which is to be used by CRC; and provides detailed regulation on the scarce resources and the rules for their control aimed at their efficient use.
 - The act provides a definition of the concept "operator with significant market power" as well as the criteria and a mechanism for its determination by CRC. It regulates the possibility for the Commission to make decisions on the assigning of the envisaged by law specific obligations for operators with significant market power. The act provides that a public operator has a significant market power when his share is equal to or greater than 25 percent of the respective telecommunications market on the territory, defined in his license. CRC can also determine that an operator, with a share less than 25 percent of the respective market, has significant market power under the condition that certain prerequisites stipulated by the Act are available. Accordingly, CRC can define that an operator with a share equal to or greater than 25 percent has no significant power on the respective market if the prerequisites stipulated by the Act are not available.
 - Defines a universal telecommunications service and its scope as well as a mechanism for compensation of net losses – CRC shall prepare and adopt the rules for calculation of

net loses incurred by the provision of this universal telecommunications service. The resources for compensation of net loses shall be collected by a Fund, guaranteeing the provision of this service. The Act regulates the way in which the operator with the obligation to provide such a service shall be determined.

- The Act determines which operators will have the right and obligation to perform interconnection between their networks, what shall be the basic requirements for provision of interconnection, the relations among operators in cases of interconnection, requirements for preparation of a reference interconnection offer and its minimum required content. Regulates the service “leased lines”, provision of leased lines, access and the specific accesses to the operators’ networks and unbundled access to the local loop. Regulates the relations between operators when providing specific access to the operators’ networks and unbundled access to the local loop.
- Regulates the protection of the interests of the end users.
- Chapter Eleven focuses on the development and use of a telecommunications infrastructure. The following issues have been regulated:
 - Coordination on the execution of constructions
 - Right of way
 - Joint use of premises and facilities
- Regulates the establishment of conditions for interception of telecommunications related to the national security and public order;
- Regulates the confidentiality of communications and personal data protection when establishing telecommunications and using telecommunications services.
- CRC shall control the prices, determined by the operators with significant market power, on fixed voice services, provision of the service “leased lines” for fixed voice services, interconnection, “leased lines” minimum package, specific access, unbundled access to the local loop and joint use of premises and facilities.
- Defines the principles of fee determination. The principle on cost-oriented prices has been introduced. The Act makes such provisions that the license and registration fees cover the administrative costs of CRC on the license, registration and supervision activities set by the Act. The Act also envisages such fees for the scarce resource that they can ensure its efficient use, the competition development and the provision of new services.
- Envisages certain regulations on the financial independence of CRC. The resources from CRC budget shall be used to finance its activities, including projects related to market control and liberalization, capital expenditures, to guarantee an efficient and active control, to improve the basic equipment, training and qualifications. The Act regulates that CRC is to prepare annual forecasts of the revenues from fees and the respective expenditures necessary for its activities during the following year. The forecasts shall be published on CRC web-site by May 30th and shall be coordinated with the Minister of Finance.

6. The Act specifies the regimes of regulations under clear criteria objectively determined by the Act and resultant from the conducted policy of mitigating the license regimes. The Telecommunications Act clearly regulates the procedures, conditions and terms for issuance, amendment, supplementation, termination, suspension, withdrawal and renewal of licenses.

II. According to the proposal of the Minister of Transport and Telecommunications, at the end of 2003 CRC drafted a new Ordinance on the Specification of Telecommunications Activities Subject to Individual Licensing and Registration under General License. This regulation became necessary due to the new Telecommunications Act which provides new telecommunications activities based on individual licensing or registration under general license; the mechanism for control on the performance of certain telecommunications activities has also been changed – from individual licensing to registration under general license. The issue regarding telecommunications activities under free regime has been covered by the Telecommunications Act and excluded from the Regulation.

III. After the Telecommunications Act became effective, both CRC and its experts focused their efforts on the development of secondary legislation, which shall form the overall legal and

regulatory framework for the realization and development of telecommunications. The Act regulates that CRC shall prepare more than thirty regulations, rules, administrative and other acts, which shall be issued by the Minister of Transport and Telecommunications and adopted by the Council of Ministers or by CRC decision.

1. CRC developed and adopted two general licenses, which were promulgated in “State Gazette” at the end of December 2003:

- General License No 201 on the realization of telecommunications using public telecommunications cable network for radio and television programs and the provision of telecommunication services through it, and
- General License No 217 on the realization of telecommunications using public telecommunications network for data transmission without using scarce resources and the provision of telecommunication services through it.

The two licenses reflect the envisaged by the Telecommunications Act changes of the control regime on the above mentioned activities – from individual licensing to registration regime.

2. At the end of 2003, a new Tariff for the fees collectable by CRC under the Telecommunications Act was worked out. This change became necessary after the new Telecommunications Act came into force. The Act provides new telecommunications activities based on individual licensing or registration under general license and a change in the mechanism for supervision of the performance of certain new telecommunications activities. The project incorporates the principle of cost-oriented fees and its purpose is to establish competitive conditions on the telecommunications market.