

## II. LEGAL AND REGULATORY FRAMEWORK

In 2002 Communications Regulation Commission continued the creation of a regulatory framework, which is to comply with the new trends in the development of telecommunications and harmonize with the EU legislation in view of the obligations the country had undertaken with regard to its accession to the EU.

1. The major efforts are directed towards drafting new Telecommunications Act, which is to substitute the presently effective one. **The reasons, which led to the necessity for preparation of a new act of parliament, can be summarized as follows:**

- The state monopoly of BTC established on the grounds of art. 18, par. 4 of the Constitution of the Republic of Bulgaria and concerning the provision of some telecommunications services expires on 31 December 2002 which 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 trans-border voice transmission.
- Fulfillment of the obligations undertaken by the Republic of Bulgaria under Chapter 19 of the negotiations for the EU accession and the commitment for approximation of our legislation to the EU legal framework as part of the EU accession process. The draft of the new Telecommunications Act aims at regulating the following major issues:
  - Defines the scope and the basic requirements for provision of a universal service as well as a mechanism for compensation of the net expenditure on such a provision. The draft act regulates the way in which the operator with the obligation to provide such a service will be determined.
  - Provides a definition of the concept “operator with significant market power” as well as a mechanism for its determination by CRC. The draft act specifies the markets for which CRC can determine SMP operators and the obligations, which can be assigned to them by CRC. The draft act provides that a public operator, which has a share greater than 25% of the respective telecommunications market, has significant market power (SMP). The draft act allows CRC to determine that an operator with a share less than 25% has significant market power under the condition that certain prerequisites stipulated by the Act are available. Accordingly, CRC can determine that an operator with a share greater than 25% has no significant market power, if the prerequisites stipulated by the Act are not available.
  - Provides detailed regulation of the scarce resources and rules for their control aimed at their efficient use.
  - Introduces regulations establishing a right of way through any real estates, whether public or state-owned or municipal property, as well as real estates owned by individuals or legal entities.
  - Regulates the personal data protection when establishing telecommunications and using telecommunications services.
  - Regulates the relations among the operators in the cases of interconnection, provision of leased lines, access and specific access to the operators’ networks and unbundled access to the local loop.
  - Regulates the fundamental rights of the users of telecommunications services, whether individuals or legal entities.
  - Defines the principles of rate determinations. The draft act introduces the principles underlying Directive 97/13/EC on cost-oriented rates determined by the operator. The draft act makes such provisions that the license and registration fees cover the administrative costs of CRC on the activities set by this Act. The draft act envisages such fees for the scarce resource that they can ensure its efficient use.
  - Introduces regulation by CRC of the prices determined by SMP operators, the services provided on the respective market and the prices of the services, which are determined to be provided by abuse of the significant power on the market.
  - Envisages certain regulations on the financial independence of CRC introducing yearly forecasts for the revenues from fees, which the Commission is to prepare up to 30 June and send to the Minister of Finance.

- The new Act specifies the regimes of regulation under clear criteria objectively established in the Act and resultant from the conducted policy of mitigating the licensing regimes. The Telecommunications Act clearly regulates the procedures, conditions and terms for issuance, amendment, supplementation, termination, suspension, withdrawal and renewal of licenses.

2. Of great importance in the CRC activities were the preparation and adoption of Ordinance No 13 / 2 July 2002 on Specification of Telecommunications Activities Subject to Individual Licensing, Registration under General Licence and Free Regime (promulgated in State Gazette No 67/12 July 2002). The adoption of the new ordinance was demanded by the market necessity of greater clarity and mitigation of certain licensing regimes.

3. A new Tariff was worked out for the fees collectable by the Communications Regulation Commission (promulgated in State Gazette No 67 / 12 July 2002 and coming into effect on 12 July 2002). In the course of its preparation the experts studied the practices of the European Union in the area of tariff policy, and particularly the cost-orientation, in order to create competitive conditions on the telecommunications market.

4. Some changes were made in the field of communications by the Act for Amendment and Supplement to the Telecommunications Act (promulgated in State Gazette No 112 / 29 December 2001 and coming into force on 5 February 2002). These amendments within the authority of Communications Regulation Commission included the regulation and control over the provision of postal services and certification services related to electronic signature. The exact regulation of these relations is laid down in the Postal Services Act and the Electronic Document and Electronic Signature Act.

5. The work on the secondary legislation envisaged in the Electronic Document and Electronic Signature Act was over in 2002. By Decree of the Council of Ministers, dated 31 January 2002 (promulgated in State Gazette No 15 / 8 February 2002 and coming into force on 8 February 2002), the following ordinances were adopted and came into force:

- Ordinance on the requirements to the algorithms of advanced electronic signature;
- Ordinance on the activities of the Certification-Service-Providers, the terms and procedures of termination thereof, and the requirements for provision of certification services;
- Ordinance on the procedure for registration of Certification-Service-Providers.

6. A draft of Ordinance on postal security was prepared with respect to the authority of Communications Regulation Commission under the Postal Services Act.