CROATIAN POST AND ELECTRONIC COMMUNICATIONS AGENCY

4203

Pursuant to Article 12, paragraph 1, item 1 and Article 30, paragraph 12 of the Electronic Communications Act (Official Gazette 73/08), the Council of the Croatian Post and Electronic Communications Agency hereby passes

ORDINANCE

ON MANNER AND CONDITIONS OF ACCESS AND SHARED USE OF ELECTRONIC COMMUNICATIONS INFRASTRUCTURE AND ASSOCIATED FACILITIES

I GENERAL PROVISIONS

Content and purpose

Article 1

(1) The Ordinance on manner and conditions of access and shared use of electronic communications infrastructure and associated facilities shall prescribe the manner and conditions of access and shared use of electronic communications infrastructure and associated facilities, level of availability of free space in such infrastructure, selection criteria, the procedure, conditions and deadlines for public tender, complaints resolution proceedings and basic components of the agreement on access and shared use of electronic communications infrastructure and associated facilities.

(2) Electronic communications infrastructure, maintenance, development and use of electronic communications infrastructure and associated facilities are of great importance for the Republic of Croatia.

(3) Within the meaning of paragraph 1 of this Article, this Ordinance shall prescribe the manner and conditions of access and shared use of constructed electronic communications infrastructure and associated facilities including:

- Ducts
- Masts
- Buildings and other associated structures and facilities.

(4) The provisions of this Ordinance shall be applied as basic requirements for electronic communications network and electronic communications infrastructure and associated facilities in planning, designing, manufacturing, constructing, maintaining and usage.

Competence of the Croatian Post and Electronic Communications Agency

Article 2

(1) In the achievement of regulatory principles and objectives referred to in the Act on Electronic Communications (hereinafter: the Act), Croatian Post and Electronic Communications Agency (hereinafter: the Agency) shall encourage sharing of electronic communications infrastructure and associated facilities, in particular with the aim of protecting human health, environment, space, and protecting and preserving cultural goods and national security.

(2) The Agency shall promote competition in the provision of electronic communications infrastructure and associated facilities, primarily by ensuring the highest benefits for service users in terms of choice, price and the quality of services, promoting innovation and encouraging efficient investment into electronic communications infrastructure and associated facilities.

Terms and Meanings

Article 3

Within this Ordinance, individual terms shall have the following meanings:

1. *Small diameter duct:* polyethylene high density duct of external diameter of 20 mm to 50 mm, with an inner wall ensuring low coefficient of friction.
2. *Large diameter ducts:* a polyvinyl-chloride, polyethylene or concrete duct of external diameter of 63 mm to 110 mm.
3. *Ducting system:* a part of electronic communications infrastructure consisting of underground network of ducts of appropriate material, manholes and cable vaults, used for laying down and protecting electronic communications cables.
4. *Manholes:* underground multi-purpose chambers set up at the place of joints, intersections or redirection of ducts, as well as before distribution frames and exchanges.
5. *Microduct:* duct of external diameter of 3 mm to 16 mm, with an inner wall ensuring low friction coefficient.
6. *Duct's route:* planned or already existing route of the duct within electronic communications infrastructure corridor.

II CONDITIONS FOR USING EXISTING DUCTS

Free space and efficient use of free space in the existing cable ducts

Article 4

(1) The usage of ducts at all levels of electronic communications network is provided by using technologies that enable maximum rational use of the existing free space on the basis of equality and sharing.

(2) Free space in ducts means the space not used by any cable or the space that is occupied by a cable which has not been in use for more than 120 days (hereinafter: unused cable), on a condition that the specified space has not been foreseen for the maintenance of the existing capacities, and into which the electronic communications cables (optic or copper cables) can be pulled into, pursuant to this Ordinance.

In case the beneficiary operator did not use (have in operation) a cable longer than 120 days, the infrastructure operator shall cancel the lease agreement for the subject route (cable) and the cable shall be designated as "unused cable". The beneficiary operator is not entitled to a compensation for damage.

(3) Necessary service area for the maintenance of the existing facilities means the space sufficient for pulling in the cable of the largest diameter used at the part of the duct in subject.

(4) Free space within manholes means space sufficient to place cable connectors with necessary additions (for optic fibre cables up to 20 m) in such a way that it does not disturb access to cable extensions at the existing cables.

(5) In case that there is free space in a duct but it is not possible to place the planned cable extension in the manhole, pursuant to paragraph 4 of this Article, the cable extension shall be provided at the self supporting cabinet to be placed next to the manhole.

(6) In case the self supporting cabinet cannot be placed for any reason, reconstruction of the existing or building of the new manhole is allowed.

(7) Other technologies that meet the conditions referred to in paragraph 1 of this Article, and are not contrary to the Act, are acceptable.

(8) The infrastructure operator must allow the beneficiary operator, for a fee and on the basis of a concluded contract referred to in Article 9 of this Ordinance, access and sharing of its existing ducts, provided that the relevant conditions for access and sharing laid down in this Ordinance have been met.

(9) If the infrastructure operator refuses to conclude the contract, or does not allow access and sharing of its ducts to the beneficiary operator pursuant to the Act and this Ordinance, the Agency shall, upon request of the beneficiary operator, establish the existence of the relevant

conditions for access and sharing of ducts, and where such conditions exist, adopt a decision in accordance with the Act.

(10) In order to establish relevant conditions referred to in paragraph 9 of this Article, the Agency can order and issue detailed plans, main and detailed designs for certain works to be performed within ducts, aiming at providing access and shared use of ducts.

(11) Basic principles to provide free space are:

a) pulling out the unused cables,

b) re-directing the existing end users to the nearest access nodes, resulting in the shortening of the local loop and widening of the scope of broadband services to be offered to users,

c) extending and amending the existing capacities of electronic communications infrastructure and associated facilities,

e) regulaing the existing situation.

(12) Direct pulling in of fiber optics cable into large diameter duct is not allowed, but a protective small-diameter duct or a microduct must be installed first. Each cable shall be placed in its own duct or a microduct. This provides maximum flexibility of the system regarding maintenance and protection of installed cables. Exception to this rule can be cables that were already pulled- in without a preliminary contract on access and sharing of cable ducts that will subject to later regularisation, pursuant to Article 11 of this Ordinance.

(13) Existing free space in large diameter ducts shall be filled with small diameter ducts, either of the same or different diameters. The use of the following small-diameter ducts is allowed: PE 20, PE 25, PE 32 and PE 40.

Table 1 prescribes acceptable combinations of small diameter ducts to fill in the free space in large diameter ducts.

Table 1

No.	Combinations of small diameter pipes	Free space required
1	1xPE40+2xPE32+2xPE25	Φ > 95 mm
2	2xPE40+2xPE32	Φ > 95 mm
3	4xPE32	Φ > 90 mm
4	1xPE40+2xPE32	Φ > 85 mm
5	3xPE32	Φ > 80 mm
6	3xPE40	Φ > 95 mm
7	2xPE40	Φ > 90 mm
8	do 14xPE20	Φ > 95 mm

(14) A combination of 4xPE32 or 1xPE40+2xPE32 or any other combination with PE20 ducts shall be used in ducts with concrete blocks. The appropriate duct combination in accordance with Table 1 can be manufactured as a single structure or it can be formed with several separate small diameter ducts immediately before pulling in.

(15) On condition that a large diameter duct is occupied only by one cable, Table 2 specifies the efficient way of using free space by possible combinations of small diameter ducts or microducts:

Table 2

No	The existing cable diameter (mm)	Duct combinations to occupy free space
1	$\Phi \leq 40$	PE40+2xPE32
2	$40<\Phi\leq 50$	PE32+2xPE25
3	$40<\Phi\leq 50$	PE25+2xPE20
4	$50<\Phi\leq 60$	PE20 +2xPE16/12
5	$50<\Phi\leq 60$	MC16/12 +2xMC14/10
6	$60<\Phi\leq 70$	MC14/10+2xMC12/8
7	$70<\Phi\leq 80$	MC12/8+2MC7/4
8	$70<\Phi\leq 80$	2MC 7/4
9	$\Phi>80$	-

(16) In case where two or more cables occupy a large diameter duct, and more suitable free space does not exist in the ducting system, then the available free space shall be used by pulling in one or maximum two small diameter ducts or a larger number of microducts enabling maximum usage of free space.

(17) All duct combinations, in accordance with the detailed plan shall be pulled into the free space simultaneously. All pulled in ducts become the property of the infrastructure operator. The operator for whom such detailed plan has been produced is liable to pay the expenses of the installation works according to the detailed plan (pulling out of unused cable, pulling in ducts to fully occupy the free space, maintenance or widening of ducts and similar). The final cost accounting and price for shared use shall be defined by a contract between the infrastructure operator and the beneficiary operator, pursuant to Article 9, paragraphs 3, 5 and 6 of this Ordinance.

(18) In order to efficiently use the free space in manholes and allow easy access to the existing cables, the small diameter ducts shall be cut in each manhole. The ducts shall be cut in such a way to enable connection at a later stage, if necessary. Microducts of 2 mm wall thickness shall be uncut and placed along the manhole wall.

(19) The installed ducts shall be appropriately fixed so that the additional pulling in of cables can be performed in a simple and easy manner. The created gap must be adequately sealed to prevent mud and impurity penetration. The ends of empty ducts shall be appropriately shut.

(20) Available space within small diameter ducts can be filled with one or more microducts of appropriate diameter. Table 3 specifies possible types of microducts that can be installed within small diameter ducts (combination of various microducts types is permitted):

Table 3

Outer diameter of the duct(mm)	Maximum number of microducts that can be installed		
	12/10	10/8	7/5.5
50	7	8	15
40	4	5	10
32	2	3	7
25	1	1	3

(21) In small diameter duct, occupied by only one fibre optic cable, the available space is utilised by using microduct, as shown in Table 4:

Table 4

Outer diameter of PE duct (mm)	Outer diameter of the existing cable (mm)	Maximum number of microducts to be installed		
		12/10	10/8	7/5.5
PE50	12.0	5	6	-
	15.0	3	4	-
	16.5	2	4	-
	18.0	2	4	-
PE40	12.0	3	4	7
	15.0	2	3	7
	16.5	2	2	5
	18.0	2	2	5
PE32	12.0	-	-	3
	15.0	-	-	3
	16.5	-	-	2
	18.0	-	-	2

(22) The space between the fiber optics cable and small diameter duct or microduct shall be appropriately sealed by reusable seal. Pressure welding machine should be used with the adaptable seal for sealing gaps between cables and microducts.

(23) If there is only one 50 mm duct (PE50) on the existing ducts' route, and a cable is already placed in it, it shall be considered that there is no available space at that part, so cable ducting system must be enlarged for any further installation of cables required by the beneficiary operator.

Use of small-diameter ducts

Article 5

(1) Small diameter ducts are made of high density polyethylene (PEHD) stabilized by appropriate antioxidants and by adding soot in the quantity of 2.5±0.5% per duct mass. Polymer density with additional components must be above 0.936 g/cm^3. Table 5 specifies the basic physical properties for small diameter ducts at the temperature of 20^{0}C:

Table 5

Physical properties at the temperature of 20 ^{o}C	PEHD
Average density	0.950 gr/cm³
Breaking strength	3.500 N/cm²
Elongation strength	2.400 N/cm²
Elongation at break	800 %
Linear coefficient at thermal expansion	2x10-4 ° C
Permissible stress	500 N

(2) In the sense of Article 4 of this Ordinance, to ensure multiple usage of the existing large diameter ducts, the standardised small diameter ducts made of high density polyethylene, with operating pressure of 600 kPas (6 bar) type PE 20, PE 25, PE32 and PE40 must be used, as specified in Table 6 (if PE type ducts are to be laid down directly into the ground, the operating pressure must be 10 bar):

Table 6

Outer diameter	Permissible deviation	Wall thickness	Permissible deviation	Duct mass
D (mm)	Δ D (mm)	Δ s (mm)	Δ s (mm)	(kg/m)
20	+0.3	2.0	+/-0.4	0.11
25	+0.3	2.0	+/-0.4	0.14
32	+0.3	2.0	+/-0.4	0.18
40	+0.4	2.4	+/-0.5	0.28

Use of microducts

Article 6

(1) In the sense of Article 4 of this Ordinance, in order to achieve more efficient usage of small-diameter ducts and to minimize the number of cable joints (extensions), the technology of microducts and microducts systems (bundles of microducts) shall be introduced in fibre optic access electronic communications network.

(2) Table 7 specifies standard microducts dimensions, nominal values for outer and inner diameter, minimal outer and inner diameter, and minimal wall thickness:

Table 7

Nominal outer and inner diameter (mm)	Outer diameter (mm)	Minimal inner diameter (mm)	Minimal wall thickness (mm)	Duct mass (kg/km)
3/2.1	3+0.1/-0.05	2.0	0.45	3.5
5/3.5	5+0.1/-0.05	3.4	0.75	10
7/4	7+0.1/-0.05	3.9	1.5	25
7/5.5	7+0.1/-0.05	5.4	0.75	15
8/6	8+0.1/-0.05	5.9	1.0	22
10/6	10+0.1/-0.05	5.9	2.0	48
10/8	10+0.1/-0.05	7.9	1.0	28
12/8	12+0.1/-0.05	7.9	2.0	60
12/10	12+0.1/-0.05	9.9	1.0	35
14/12	14+0.1/-0.05	11.9	1.0	40
14/10	14+0.1/-0.05	9.9	2.0	72
16/12	16+0.1/-0.05	11.9	2.0	84

(3) The microducts specified in Table 7 are of different wall thickness, depending on the manner of usage. Microducts of greater wall thickness (1.5 – 2.0 mm) can be pulled into ducts separately and laid directly into the ground when exiting ducting system. Thinner wall microducts must always be placed in small diameter ducts or protected (in manholes) by other means of protection (HDPE lining).

(4) Microducts are made of high density polyethylene with the inside sliding surface manufactured in such a way that it ensures low friction coefficient during cable jetting.

(5) To ensure multiple usage of space within occupied and free small diameter ducts, 7/5.5, 10/8 and 12/10 microducts should be used, while the 12/8, 14/10 and 16/12 microducts should be used in combination with PE20 and PE25 ducts to efficiently use free space in large diameter ducts.

(6) External polyethylene duct shell can be used to protect a group of microducts of the same or different diameters. Depending on the type of the duct shell, this structure can be pulled into the existing ducts of large diameter, laid directly into ground, laid above the ground or used during the construction of electronic communications network in buildings. Table 8 specifies the basic properties (outer diameter and mass per length unit) for two standard types of the microducts structures:

Table 8

Duct no.	Microduct 5/3.5 mm		Microduct 10/8 mm	
	Outer D (mm)	Mass (kg/km)	Outer D (mm)	Mass (kg/km)
2	13.5x8.5	80	13.7x23.7	180
4	15.7	123	27.9	248
7	18.6	168	33.8	334
12	23.9	248	-	-
19	28.6	340	-	-
24	33.6	450	-	-

(7) Structures specified in Table 8 can be used to occupy free space in large diameter ducts, together with combinations as specified in Tables 1 and 2.

Use of fiber optics cables

Article 7

(1) In the construction of access electronic communications infrastructure in the Republic of Croatia, single mode optical fibers whose characteristics are in compliance with the relevant ITU Recommendations shall be used.
(2) The use of multimode optical fibers within the external part of fiber optics access network is not allowed. Multimode optical fiber can be used only as an exception in the construction of indoor installations of structured cabling systems, most often, of business subjects, when already at the beginning the active infrastructure is envisaged through which the interface with the external part of the optical fiber network will be enabled by using single mode optics fiber.
(3) When choosing the type and structure of fiber optics cable, the non-metal cable structure of small outer diameter shall be used. These can be installed either in the usual way (by pulling in) or by cable jetting into a small diameter duct or a microduct.
(4) While installing the cable into ducts, special attention should be given that the pulling force and the bending radius do not exceed maximum limits specified in the manufacturer’s technical specification.

(5) The gap between the installed cable and the small diameter duct must be appropriately sealed, to be, if necessary, used for pulling in or cable jetting of microducts at a later stage.
(6) Fiber optics cables must be properly formed, labelled and conducted along the manhole wall and placed on the consoles if any. Fiber optics cables do not need additional mechanical protection in manholes. If fiber optics microcables are used, proper mechanical protection is required (they must be placed within a separate microduct with thicker wall or within microduct with thiner wall that are a part of a system, group of microducts shared outer shell). For storing surplus microcables at joints, storage boxes are used. These can be installed on the wall of the manhole.
(7) When using small diameter ducts for pulling in fiber optics cables of an appropriate outer diameter, the diameters prescribed in Table 9 shall be used:

Table 9

Cable capacity	Outer diameter of the cable (mm)	Duct type (max. outer diameter in mm)
to 24 fibers	≤8.0	MC 16/12* (16)
from 24 to 48 fibers	≤11.5	PE 20 (20)
from 48 to 96 fibers	≤13.5	PE 25 (25)
from 96 to 192 fibers	≤18	PE 32 (32)

*MC= microduct

(8) Microducts for pulling in microcables of an appropriate outer diameter, the ducts of maximum outer diameter shall be used as prescribed in Table 10:

Table 10

Cable capacity	Outer diameter of the cable (mm)	Duct type (max. outer diameter in mm)
to 24 fibers	≤4.0	MC 7/5.5* (7)
from 36 to 72 fibers	≤6.0	MC 10/8 (10)
96 fibers	≤7.5	MC 12/10 (12)
144 fibers	≤9.5	MC 14/12 (14)

*MC=microduct

Labelling cables and ducts

Article 8

(1) Every cable in every manhole must be labelled.

(2) The label must indicate the type, owner and the name of the cable given by the owner, under which all data on the specific cable are held in the technical documentation.
(3) The label referred to in paragraph 2 must be permanent and their accidental removal must be prevented (fixed or glued).
(4) Small diameter ducts must be labelled in every manhole, as they get intertwined when pulled into a large diameter duct, so that the arrangement at the exit of one manhole does not match the arrangement at the entry of the next one.
(5) Microducts are laid down in groups, with every microduct in the group being of a different colour to enable distinguishing. Additional label for every microduct is not necessary.

Contracting shared access to the existing duct system

Article 9

(1) Beneficiary operator shall submit a request to the infrastructure operator for shared access to a part of the duct system that he has interest in.
(2) The infrastructure operator shall, within 15 days from the receipt of the beneficiary operator's request pursuant to paragraph 1 of this Article, inform the beneficiary operator in writing on the feasibility or unfeasibility of the shared access to the ducting system.
(3) If established by the infrastructure operator that the shared access to existing duct system is feasible over the entire length of the requested part in accordance with the beneficiary operator's request as referred to in paragraph 1 of this Article, the infrastructure operator and the beneficiary operator shall conclude a contract on access and shared usage of ducts within 30 days from the receipt of the request as referred to in paragraph 1 of this Article. The detailed plan in .dwg format makes a constituent part of the Contract.
(4) Detailed technical plan as referred to in paragraph 3 of this Article shall be in accordance with this Ordinance and consist of:

a) Technical specification of the technical plan in subject
b) Current situation of the duct system in subject
c) Location of each manhole
d) Distance between individual manholes as well as between the nearest manhole and the facility
e) Number and type of ducts between manholes
f) Defined manner and the position of pulling in the beneficiary operator's cables with regard to the layout of the manholes along the duct route in subject
g) The list of the material and works needed, specifying the type and amount
h) The list of the material and works needed according to the type and the amount for cases as referred to in Article 4 paragraph 17 of this Ordinance.

(5) The beneficiary operator shall bear the costs of the material and works as referred to in Article 4 paragraph 17 of this Ordinance while the infrastructure operator shall specify the manner and the time limit for mutual cost calculation (reimbursement) in the Contract as referred to in paragraph 3 of this Article. Time limit for the reimbursement should be as short

as possible, and for example the reimbursement can be performed on the account of other contracts on lease or on other parts of ducts.
(6) The reimbursement of the costs as specified in paragraph 5 of this Article do not include the costs of the produced technical specifications, material, works, supervision or other needed for the installation of beneficiary operator's cables, as referred to in Article 9, paragraph 4, Item g, but these costs are a liability of the beneficiary operator.
(7) The infrastructure operator and the beneficiary operator shall agree on the basis of the agreement which of the parties is responsible for the production of the technical specifications. If agreed that the beneficiary operator should draw up the technical specifications, the infrastructure operator shall ensure access to the existing ducts, and submit to the beneficiary operator all available technical documentation.
(8) The beneficiary operator shall submit to the infrastructure operator the list of expenses for the material and works as referred to in paragraph 4, Items g. and h. of this Article, on a turn-key basis with market-oriented prices (by item and in total).
(9) The infrastructure operator shall accept the presented prices or offer the works as referred to in paragraph 4 Items g. and h. of this Article to be performed under his prices and on the turnkey basis.
(10) The detailed technical specifications accepted by both the beneficiary operator and the infrastructure operator shall be drawn up in accordance with the offers as referred to in paragraphs 8 and 9 of this Article, depending on which of the two contain the lower total price.
(11) The works as specified in the detailed technical specifications can be performed by the beneficiary operator or contracted with a third party, under expert supervision of the infrastructure operator or an independent expert designated by the infrastructure operator.
(12) The inspections of the works done shall be performed by the experts of both infrastructure operator and beneficiary operator.
(13) If there are parts of the duct system where, according to the infrastructure operator's assessment, shared access to the existing ducts is not possible without the extension of the system or it is not at all possible, the beneficiary operator can, if he deems otherwise, initiate a procedure before the Agency to determine whether the conditions for shared usage exist, in accordance with this Ordinance.
(14) Should the Agency determine that the conditions for shared access exist , the Agency's Council shall adopt a decision ordering the infrastructure operator to produce new technical specifications of access and shared usage of ducts or to enable beneficiary operator to do it, all at the expense of the infrastructure operator.
(15) Should the Agency determine that the proceeding of assessment as referred to in paragraph 13 of this Article was unjustified, all costs shall have to be borne by the beneficiary operator that initiated the procedure.
(16) All unauthorized pulling in of cables into ducts shall be considered endangerment to the safety of electronic communications network usage, network integrity and interoperability of electronic communications services and will be penalised in accordance with the Act.
(17) If the infrastructure operator refuses to conclude the contract on shared access and shared use of ducts, or does not allow access and sharing of its electronic communications infrastructure and associated facilities to the beneficiary operator under the conditions referred

to in the Act, the Agency shall, upon request of the beneficiary operator, within 30 days from the submission of the request, establish whether there are suitable conditions, and where such conditions exist, it shall adopt a decision fully replacing this contract.
(18) If the infrastructure operator does not reply to the application of the beneficiary operator within 30 days from the submission of the application, it shall be regarded that it refused to conclude the contract on shared access and shared use of ducts.

Regulation of the existing situation

Article 10

(1) The Agency shall encourage shared usage of electronic communications infrastructure and associated facilities and prevention of the endangerment of safety of electronic communications network use, network integrity and interoperability of electronic communications services. This article thus defines the procedure of regulating the existing situation of cables that were pulled in without prior conclusion of the contract on access and shared usage of ducts.

(2) The infrastructure operator can initiate the procedure of regulation of the existing cables within ducts before the Agency.

(3) The request for initiating the procedure referred to in paragraph 2 of this Article shall also contain the following documents in .dwg format:

a) document proving that the claimant is the infrastructure operator of the part of the ducting system in subject (for example right of way certificate),

b) location of every manhole,

c) current situation of the duct system in subject,

d) distance between individual manholes as well as between the nearest manhole and the object,

e) number and type of ducts between manholes,

f) availability of the space within the duct, layout of the duct and layout of cables within the duct (with indicated cable types and diameters),

g) cable labels.

(4) Items f. and g. in paragraph 3 of this Article apply to the cables of the infrastructure operator and the beneficiary operator (or any other legal or natural entity) who concluded the contract on access and shared usage of ducts with the infrastructure operator.

(5) On the basis of the request referred to in paragraph 2 of this Article, the Agency shall require from the beneficiary operator or any other legal or natural entity who owns cables in the part of the ducting system in subject, to submit, within 15 days after receiving the Agency's request, the relevant documentation pursuant to paragraph 3, items b), c) and d) of this Article, as well as:

a. the layout of manholes, type, diameter and position of cables notified

b. labels of each cable being notified

(6) The Agency shall document every notified cable referred to in paragraph 5 of this Article within the documentation as referred to in paragraph 3 of this Article, as well as update the current technical specifications within120 days from the receipt of the request referred to in paragraph 2 of this Article.

(7) The Agency shall deliver the technical specifications as referred to in paragraph 6 of this Article to the infrastructure operator, the beneficiary operator and any other legal or natural entity for comments, and complete the procedure pursuant to the provisions of the Act and the General Administrative Procedure Act.

(8) Upon finishing the procedure referred to in paragraphs 1 through 7 of this Article, and on the basis of the its results, the Agency's Council shall reach a decision on imposing obligations on the infrastructure operator, the beneficiary operator and any legal or natural entity with the scope to fully regulate the situation in the existing ducts.

(9) Upon finishing the procedure referred to in this Article, if there are still cables for which the owner and function have not been established, the infrastructure operator can request from the Agency to perform an expert supervision in order to identify the cable owner and function. The cables for which the owner and function cannot be identified, shall be regarded as unused cables.

(10) If the owner and function have been identified, and the owner of the cable refuses to conclude a contract with the infrastructure operator, the Agency shall inform the end users connected to that cable of the necessity to change operators after which the cable will be pulled out from the ducts.

(11) The costs of the procedure referred to in this Article shall be defined in accordance with provisions of the General Administrative Procedure Act.

(12) The beneficiary operator or any legal or natural entity that has a cable pulled into ducts prior to the conclusion of a contract on access and shared use of ducts for the relevant cable or cables, can also initiate the procedure to regulate the existing situation or may submit a request to the infrastructure operator for the conclusion of the contract on access and shared use of ducts.

III. CONDITIONS FOR USE OF BUILT MASTS

Article 11

(1) Beneficiary operator submits to the infrastructure operator an application for access and shared use of built masts for installing its own antenna system, radio equipment and telecommunications terminal equipment.

(2) Beneficiary operator's application referred to in paragraph 1 of this Article must contain:

a) The height to which antenna system is to be installed, and directions

b) Exact number and type of antennas per direction

c) Space necessary for placing the equipment

d) Conceptual design consisting of:
- Technical specifications on dimensions and weight of antenna, antenna systems and other equipment subject to the application for shared use.
- Special requirements and technical proposals for transmission capacity
- Special requirement for accessibility to existing ducts
- Special requirements for electric power, if collocations for telecommunications terminal equipment are possible (otherwise electric power connection should be required from the distribution system operator)

(e) time-schedule of commencement and duration of shared use.

(3) The infrastructure operator shall inform the beneficiary operator, within 15 days from the date of receiving the application referred to in paragraph 1 of this Article, on the possibilities of shared use of masts.
(4) If the infrastructure operator accepts the beneficiary operator's application referred to in paragraph 1, he shall submit to the beneficiary operator the proposal of the contract on shared use of the existing antenna mast and available technical specifications.
(5) In the case referred to in paragraph 4, the beneficiary operator shall draw up new design, agree on it with the infrastructure operator, acquire all required permits in accordance with laws and regulations of the Republic of Croatia. The beneficiary operator shall procure the material and equipment and contract construction works to be performed under the supervision of the infrastructure operator or independent authorised expert, approved by the infrastructure operator and at the cost of the beneficiary operator.
(6) If the infrastructure operator does not accept the beneficiary operator's application, the infrastructure operator shall submit a written explanation along with the notification on the refusal.
(7) If the beneficiary operator does not accept the infrastructure operator's explanation for refusing shared use of built antenna mast, he may submit to the Agency a request for a process to establish whether there are relevant conditions for access and shared use of built masts, in accordance with this Ordinance.
(8) The Agency shall provide expert supervision to establish the existence of relevant conditions. If such conditions exist, the Agency shall adopt a decision fully substituting the contract.

(9) The costs of the proceedings referred to in paragraphs 7 and 8 of this Article shall be determined in accordance with the General Administrative Procedure Act.

(10) All installed electronic communications equipment shall be properly marked containing data on the type and the owner of the equipment. The contractor is liable to put markings on the equipment.

IV. **CONDITIONS FOR USE OF BUILDINGS AND OTHER ASSOCIATED FACILITIES AND EQUIPMENT**

Article 12

(1) The infrastructure operator must allow to the beneficiary operator, for a fee and on the basis of a concluded contract, access and sharing of its buildings and other associated facilities and equipment that are a part of its electronic communications infrastructure and associated facilities, in accordance with the Act.
(2) The beneficiary operator must submit to the infrastructure operator an application for shared access to buildings and other associated facilities and equipment with a detailed technical specification and a list of other infrastructure needed (electricity, water etc.), as well as time schedule of the beginning and duration of shared use.
(3) Provisions referred to in Article 11 of this Ordinance shall apply to the proceedings related to the application referred to in paragraph 2 of this Article.

V. SELECTION CRITERIA, PROCEDURE, CONDITIONS AND DEADLINES FOR THE IMPLEMENTATION OF PUBLIC TENDER

Article 13

(1) The infrastructure operator shall process applications of beneficiary operators concerning access and sharing of electronic communications infrastructure and associated facilities in the order of receipt if the availability of free space in its infrastructure does not exceed the level defined in Article 4 of this Ordinance. The free space in ducts is defined in Article 4 of this Ordinance, whereas free space for masts, buildings and other associated facilities and equipment shall be determined for each case separately.
(2) In case of receipt of applications referred to in paragraph 1 of this Article when the availability of free space is below the level referred to in paragraph 1 of this Article, the infrastructure operator must adopt a decision on the invitation for public tender for access and sharing of electronic communications infrastructure and associated facilities within 30 days from the receipt of application.
(3) One authorised representative of the infrastructure operator's commission inviting a public tender must be a member of the Agency.
(4) The decision on the invitation for public tender referred to in paragraph 2 of this Article must contain the following:

a) Tender subject
b) Note on rights to enter the tender
c) Terms of award
d) Selection criteria, in accordance with this Ordinance

e) Conditions to be fulfilled by the bid
f) Deadline for submitting requests for the delivery of tender documentation and their delivery, not longer than 8 days from the day of the invitation publication for public tender
g) The participants in the tender procedure can submit written requests to the infrastructure operator to clarify tender documentation, within 8 days from the date of the receipt of the documentation, in accordance with item f of this Article
h) Deadline for submitting bids to the infrastructure operator not longer than 25 days from the day of the invitation publication for public tender (hereinafter: the deadline)
i) Notice determining that bids which do not meet the conditions or are not drafted in accordance with the delivered tender documentation shall be rejected
j) Notice determining that bids are to be delivered to the infrastructure operator in a certain number of copies, in sealed envelopes. The full name and address of the bidder and the number of public tender that the bid refers to must be written on the bid (on the envelope).
k) Notice that the submitted bid shall not be returned
l) Date, time and place of the public opening of bids submitted within the deadline
m) Deadline for the infrastructure operator to reach a decision on the selection of the beneficiary operator, not longer than 60 days from the invitation publication for public tender referred to in this Article
n) The amount of fee to be paid for tender documentation

(5) The infrastructure operator shall publish its decision on the invitation for public tender referred to in paragraph 4 of this Article in the Official Gazette and on its web site, and notify the Agency on the decision to be published also on the Agency's web site. The infrastructure operator may publish the decision in subject in any other adequate manner. Publishing the decision on the invitation for public tender, as well as submitting the decision to the Agency shall be done within time limit specified in paragraph 2 of this Article.
(6) The infrastructure operator shall produce tender documentation in accordance with this Article. The tender documentation must be clear, understandable and written in Croatian. The data in the tender documentation must correspond to the data in the decision on the invitation for public tender referred to in paragraph 4 of this Article.
(7) Tender documentation referred to in paragraph 6 of this Article must contain the following:

a) decision on the invitation for public tender,
b) deadline and place for submitting bids,
c) contacts of infrastructure operator's employees authorized to provide information to bidders
d) date, time and place of the public bid opening,

e) deadline and manner of the delivery of the decision on selection of the beneficiary operator,
f) instructions on drafting and the content of the bid,
g) draft contract on access and shared usage of electronic communications infrastructure and associated facilities, containing main elements prescribed by this Ordinance,
h) other relevant documents.

(8) The beneficiary operator shall collect the tender documentation referred to in paragraphs 6 and 7 of this Article within 5 days from the date of the publication of the decision referred to in paragraphs 4 and 5 of this Article. The beneficiary operator can take over the tender documentation only upon providing evidence of the payment of the tender documentation fee.
(9) Bidders in the tender procedure may submit written requests to the infrastructure operator for clarification of the tender documentation within 8 days from the collection date the tender documentation. The infrastructure operator shall reply in writing within a maximum of 5 days from the date of the receipt of the requests for clarification. The infrastructure operator shall deliver the clarifications to the tender documentation to all participants in the public tender, without providing data on the entity that had submitted the request for clarification.
(10) The infrastructure operator may, according to its judgement or on the basis of a written request for clarification referred to in this Article, amend the tender documentation in the form of an appendix.
(11) Should the infrastructure operator change or amend the tender conditions or the decision to invite for public tender, those amendments must be published in the same manner as the original decision.
(12) The amendments referred to in paragraph 11 of this Article shall be delivered without the fee to all participants in the public tender who had collected the tender documents, within a maximum of 15 days before the expiration of the public tender deadline.
(13) After the expiration of the public tender deadline the tender documentation shall not be amended.
(14) The bidder can be any legal or natural entity that can meet all the conditions from the decision to invite for public tender referred to in paragraph 4 of this Article.
(15) The bid must be submitted in Croatian and is considered binding for the bidder.
(16) The name, address and other data of the bidders are confidential until the moment of public bid opening.
(17) The bid must contain the following:

a) Full name and address of the legal or natural entity submitting the bid,
b) Certificate from the relevant register of legal or natural entities,
c) Statement of the establishment of the company, social contract, statute, trade licence or any other relevant document
d) Statement on the solvency of the bidder
e) Copies of the permits for providing electronic communications services
f) Conceptual design for the installation into free space of electronic communications infrastructure that is the subject of the public tender
g) A detailed list of services to be provided and the number of end users

h) Anticipated deadline for the installation or extension of the electronic communications infrastructure
i) Price of the lease and the envisaged lease period
j) Certificate from the criminal record or a certificate from the competent judicial or administrative body for the responsible person
k) Certificate from the competent pension and health insurance institutions, and certificate from the competent tax authority or other relevant documents
l) Certificate of the full technical equipment
m) Other data as required in the tender documentation.

(18) The infrastructure operator shall receive and keep all bids received within the tender period. On the envelope of every bid the date and time of the receipt of the bid will be indicated.
(19) The infrastructure operator shall have public opening of bids submitted within the tender period at the time and place as stated in the decision referred to in paragraph 4 of this Article.
(20) Bids received after the expiration of the tender period shall not be considered and shall be returned to the bidder unopened.
(21) The infrastructure operator shall keep record of the public bid opening.
(22) Bids submitted within the bidding period, along with all the documentation and data, shall not be returned to bidder.
(23) The infrastructure operator shall not consider bids in the following cases:

a) If bankruptcy proceedings have been initiated against such bidder unless there is a decision with final force and effect confirming the bankruptcy plan,
b) If the bidder is undergoing liquidation proceedings or has terminated its operations,
c) If a valid verdict has been passed in the criminal proceedings against the responsible person over the period of the past five years, provided that it is connected with business activities
d) If the bidder has failed to fulfil any of his tax liabilities or obligations related to pension or health insurance,
e) If the bidder has provided any false information or made any false statement or concealed any information in connection with the statements from the bidding documents,
f) In the case tender documentation delivery after the expiration of the tender period,
g) If the bidder failed to meet any due financial liabilities to the infrastructure operator.

(24) The infrastructure operator must state, in the tender documentation, the manner and conditions for providing evidence of qualification by the bidder.
(25) All evidence referred to in paragraph 24 of this Article shall be attached as originals or certified copies in at least one copy of the bid.

(26) The evidence demonstrating fulfilment of tax liabilities and payment of pension and health insurance contributions shall not be older than 30 days from the date of the invitation for public tender, whereas other evidence shall not be older than six months.
(27) The infrastructure operator shall review, compare and assess all publicly open bids and reach a decision on the selection of one or more most favourable bids, in accordance with the selection criteria referred to in paragraph 28 of this Article, within 60 days from the date of the adoption of the decision referred to in paragraph 4 of this Article.
(28) The selection criteria in the process of assessing the most favourable bid or bids are the following:

a) The quality of the conceptual design for the installation that is the subject of the tender,
b) A detailed list of services intended to be provided and the number of end users
c) Anticipated deadline for finishing installation or expansion works of the electronic communications infrastructure,
d) Price of the lease and the envisaged lease period.

(29) On the basis of the decision referred to in paragraph 27 of this Article, the infrastructure operator shall conclude the contract on access and shared use of its electronic communications infrastructure and associated equipment with the selected beneficiary operator.
(30) The contract specified in paragraph 29 of this Article shall be concluded within eight days from the receipt of the infrastructure operator's decision referred to in paragraph 27 of this Article.
(31) The bid referred to in paragraphs 15 and 17 of this Article is a constituent part of the Contract referred to in paragraph 29 of this Article.
(32) The infrastructure operator shall publish the decision referred to in paragraph 27 of this Article on its web site and in the Official Gazette, as well as deliver it to the Agency for publishing on the web site of the Agency. The infrastructure operator may publish the decision referred to in paragraph 1 of this Article in another adequate manner.
(33) The decision referred to in paragraph 27 of this Article shall be delivered by the infrastructure operator to all beneficiary operators who participated in the public tender.
(34) The beneficiary operator may file a complaint to the infrastructure operator's decision referred to in paragraph 27 of this Article to the Agency within eight days from the receipt of the decision.
(35) The complaint referred to in paragraph 1 of this Article shall postpone the conclusion of the contract referred to in paragraph 29 of this Article.
(36) The Agency may reach a decision to invalidate the public tender should it determine, ex officio or on the basis of the beneficiary operator's complaint, that the provisions of the Act, this Ordinance or other regulations passed in accordance with the Act were not followed during the public tender procedure.

VI. BASIC ELEMETS OF THE CONTRACT ON ACCESS AND SHARED USE OF ELECTRONIC COMMUNICATIONS INFRASTRUCTURE AND ASSOCIATED FACILITIES

Article 14

(1) The infrastructure operator and the beneficiary operator, as parties to the contract, shall conclude the contract on access and shared use of electronic communications infrastructure and associated facilities under the conditions and within the deadline defined by this Ordinance.

(2) The scope of the contract referred to in paragraph 1 of this Article is access and shared use of electronic communications infrastructure and associated facilities in accordance with the application/bid by the beneficiary operator, as defined by this Ordinance.

(3) The contract referred to in paragraph 1 of this Article refers to a part of electronic communications infrastructure and associated facilities designated by the beneficiary operator's application/bid.

(4) The detailed plan drafted in accordance with the provisions of this Ordinance represents a constituent part of the Contract referred to in paragraph 1 of this Article.

(5) The beneficiary operator's request referred to in Articles 9, 11 and 12 of this Ordinance and the operator's bid, referred to in Article 14, paragraph 27 of this Ordinance represent constituent parts of the contract referred to in paragraph 1 of this Article.

(6) The Contract referred to in paragraph 1 shall contain the following:

a) Scope of the contract

b) Provisions on period of validity of the contract

c) Date of the delivery of the contracted part of electronic communications infrastructure and associated facilities

d) Provisions on the price and manner of fee payment for access and shared use of electronic communications infrastructure and associated facilities, with fee payment period starting with the date of the delivery referred to in item c) of this paragraph.

e) Provisions defining obligations on the infrastructure operator with reference to the safety of the equipment installed within electronic communications infrastructure and associated facilities of the infrastructure operator.

f) Provisions on manner and procedures referring to the maintenance of the installed equipment.

g) Provisions on reporting problems with installed equipment as well as the manner and deadlines of problem solving.

h) Provisions on contract termination.

i) Provisions on settlement of disputes between contract parties.

VII. FINAL PROVISIONS

Article 15

(1) This Ordinance shall enter into force on the eight day following its publication in the Official Gazette.

(2) On the date of entry into force of this Ordinance, paragraph 11 of the Ordinance on technical requirements for construction and use of telecommunications infrastructure (Official Gazette No. 88/01) shall cease to be valid.

(3) On the date of entry into force of this Ordinance, Conditions of shared use of constructed telecommunications ducts, dated February 15th, 2008, published on the official site of the Agency and on the bulletin board at the Agency's headquarters, shall cease to be valid.

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Zagreb, 5 December 2008

President of Agency's Council
Gašper Gaćina, m.p.