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DECISION OF THE FINNISH COMMUNICATIONS REGULATORY AUTHORITY ON COMPLIANCE WITH LAW OF THE SONERA PUHEKAISTA SERVICE

The Finnish Communications Regulatory Authority (FICORA) has paid attention to TeliaSonera Finland Oyj's (Sonera) advertisements for the so called Puhekaista service ('Sonera Voice Band'), enabling a user to make and receive calls over a broadband access at an affordable price. According to the service description on Sonera's website, this service enables calls to ordinary fixed network telephones and mobile phones and calls to other users of the Puhekaista service. The customer gets one telephone number beginning with digits 020.

According to the service description, the service is principally not implemented by means of a public fixed telephone network or mobile network which is why the quality and characteristics of the service may be different from those of the voice and data transmission services implemented in the above mentioned networks. Adoption of the service requires that the customer has Sonera ADSL and the related Internet access and a computer complying with the equipment requirements of the service. The service may be used through a computer user interface or by means of a phone with tone dialling, which then requires acquisition of an IP voice adapter.

Chapter 5 of the service description includes defaults and restrictions of the service. The restrictions are as follows:

- international calls made from the service are routed to Sonera's international network, international calls can be made using the carrier access codes 990 and 99590
- it is not possible to make calls using a long-distance carrier access code or to make a specific pre-selection agreement on the service
- services that require tone dialling can not be used
- publication of a telephone number and other information in an electronic telephone directory can not be prohibited
- the customer is not entitled to get itemisation of calls
- the customer is not entitled to get an itemised telephone bill
- the service does not include call barring categories

- it is not possible to make calls using the calling line identification restriction.

Provisions

Communications Market Act (393/2003)

The new Communications Market Act entered into force on July 25, 2003. According to section 3, the Act applies to communications markets unless otherwise provided below. Communications markets mean markets of network services, communications services and related services.

According to section 119(2), the Finnish Communications Regulatory Authority supervises compliance with this Act and provisions issued under it. If a telecommunications operator or a person whose right and benefit is affected by the matter considers that someone is acting in violation of this Act and the provisions issued under it, the telecommunications operator or person may refer the matter for examination by the Finnish Communications Regulatory Authority by virtue of section 126. The Finnish Communications Regulatory Authority may also, on its own initiative, take up the matter for examination.

According to section 2 paragraph 5, a telephone network means a mobile network or a fixed telephone network. A fixed telephone network means, according to paragraph 4, a communications network primarily used for targeted communications in which the terminal equipment is connected to the communications network by a cable or other leased line.

According to section 54, a telecommunications operator in a telephone network shall, for its part, ensure that users are able to make international calls using the universal international access code 00.

According to section 55(1), a telecommunications operator in a telephone network shall, for its part, ensure that users are able to access the universal emergency call number 112 free of charge and other special emergency numbers assigned to the police and rescue authorities by the Finnish Communications Regulatory Authority's decision referred to in section 48. The Finnish Communications Regulatory Authority has, under section 55(2), issued a Regulation on routing and ensuring emergency traffic (FICORA 33 A/2003 M), which gives more detailed provisions on the technical measures necessary to meet this obligation.

According to section 57(1), a telecommunications operator with which a user has made an agreement on the use of a subscriber connection for a fixed telephone network or a mobile network shall ensure that the contact information on the user's name, address and telephone number is collected and published in a generally available, comprehensive and reasonably priced telephone directory that is updated at least once a year. The telephone directory may be in printed or electronic form. According to subsection 3, separate provisions shall be issued on the right of a user to forbid the publication of his or her contact information in a telephone directory.

According to section 62, a telecommunications operator in a fixed telephone network which the Finnish Communications Regulatory Authority has defined as an operator with significant market power has an obliga-

tion to offer the user the possibility to access the services of a telephone service provider available in the telecommunications area via both an access code per call and pre-selection that may be bypassed with an access code, if necessary.

According to section 64, a telecommunications operator in a telephone network has an obligation to provide a user with tone dialling and a service with which the call recipient can see the calling number before answering the call.

According to section 67(4), the provisions of chapter 7 of the Act shall not be derogated from to the detriment of the consumer. In the case of users who are not consumers, sections 71-75 and 78-80 shall only apply if not agreed otherwise.

According to section 79, on the request of the user, the telecommunications operator shall, without compensation, bar the use of a subscriber connection for purposes other than a communications service and any outgoing traffic of a specific type from the subscriber connection if the barring is technically easy to implement. If the barring is later removed on the request of the user, the telecommunications operator may charge a fee for doing so. The Finnish Communications Regulatory Authority has, under section 79(2), issued a regulation on barring categories in telecommunications (35 H/2003 M), which gives more detailed provisions on the minimum call-barring categories for outgoing traffic from the subscriber connection that shall be provided to the user.

According to section 80, a telecommunications operator shall, without charge, provide itemized bills on the use of the telephone network subscriber connection and, provided that the bill is more than 50 euros, without separately requested to do so. The bill shall without difficulty indicate at least the following billing items: 1) local calls and network charges collected for calls referred to in paragraphs 2-4; 2) long-distance calls; 3) international calls; 4) mobile network calls; 5) subscriber connection rates; 6) text messages, picture messages and other messages; 7) data transfer services. Irrespective of the amount of the bill, the telecommunications operator shall itemize the fees for services other than communications services without being requested to do so and without charge. Calls to freephone numbers shall not be indicated in an itemized bill. The user has the right to obtain a non-itemized bill on request.

According to section 90, by means of contingency planning and preparations for exceptional circumstances, a telecommunications operator shall ensure that its activities will continue with the minimum disruption even in the exceptional circumstances referred to in the Emergency Powers Act (1080/1991) and in disruptive situations under normal circumstances. Provision of section 91 on priority function and provision of section 92 on emergency switching are also related to exceptional circumstances and disruptive situations under normal circumstances.

Obligation of a telecommunications operator to equip its systems for telecommunications interception and monitoring is provided in section 95. According to this section, a telecommunications operator shall equip its communications network and communications service with technical instruments and features that allow the interception of electronic com-

munications referred to in the Coercive Criminal Investigation Means Act (450/1987) and the Police Act (493/1995).

Quality requirements for communications networks and communications services are provided in section 128. According to this section, public communications networks and communications services and the communications networks and communications services connected to them shall be planned, built and maintained in such a manner that the requirements of section 128 are complied with. The Finnish Communications Regulatory Authority has, under section 129, issued more detailed regulations on the quality requirements and interoperability of communications networks and communications services.

In addition to the above-mentioned provisions, a fixed telephone network telecommunications operator is obliged to follow the other provisions issued in and under the Communications Market Act and the Act on the Protection of Privacy and Data Security in Telecommunications including obligations for all telecommunications operators, telecommunications operators of the telephone network and telecommunications operators of the fixed telephone network. The most important obligations are imposed in chapter 6 concerning numbering, chapter 7 concerning rights of the user, chapter 9 concerning obligations of a telecommunications operator to assist a public authority and chapter 13 concerning general provisions on communications networks and communications services.

According to section 139(2) of the Communications Market Act, the rights and obligations of telecommunications operators based on the repealed Communications Market Act remain in force, however, until the Finnish Communications Regulatory Authority has made its first market analysis under section 17 of the new Act and consequently imposed on telecommunications operators the rights and obligations under the new Act.

Communications Market Act (396/1997)

FICORA has not made any decisions on significant market power as referred to in section 17 of the new Communications Market Act (393/2003). This means that obligations concerning significant market power are subject to the old Communications Market Act (396/1997), which was repealed on July 25, 2003.

According to section 3(2)(5) of the repealed Act, the Act does not apply to telecommunications of minor importance with regard to a separate Decree of the Ministry of Transport and Communications. According to subsection 3, without prejudice to the provisions of subsection 2, the provisions of chapters 3 (interconnection) and 9 (supervision and control) shall apply to operations referred to in subsection 2 to an extent separately decided by the Ministry.

According to section 3(2) of the Decision of the Ministry of Transport and Communications on the Scope of Application of the Telecommunications Market Act and the Duty to Notify on Telecommunications (475/1997), telecommunications of minor importance referred to in section 3(2)(5) of the Communications Market Act is voice transmission in a data transmis-

sion network where this is not a remarkable portion of the telecommunications operated in the network.

According to section 2 of the Decision, provisions of chapters 3 and 9 of the Communications Market Act shall be complied with in telecommunications not within the scope of application of the Act. A telecommunications network within which telecommunications not within the scope of application of the Telecommunications Market Act are operated may be connected to public telecommunications networks and other telecommunications networks not within the scope of application of the Act. The telecommunications operator shall, taking into consideration the technical specifications referred to in subsection 1, determine the conditions and manner of interconnecting.

According to section 10(3) of chapter 3 of the Communications Market Act, the telecommunications operator shall be liable to negotiate on the interconnection of the telecommunications networks and services of another telecommunications operator to its telecommunications networks and services. A telecommunications operator with significant market power shall accept all reasonable interconnection requests unless otherwise provided for by regulations issued under section 11. According to subsection 4, a telecommunications operator shall not be liable to offer its telecommunications services in the telecommunications networks of all telecommunications operators. The Ministry shall provide the extent to which this section shall otherwise be applied in the interconnection of telecommunications services.

The Ministry of Transport and Communications has issued a Decision on the Interconnection of Telecommunications Networks and Services of Telecommunications Operators (1393/1997, amended through 112/2001, interconnection decision). According to section 1(2) of the interconnection decision, it also applies to networks and services used in a public telecommunications network or connected to it, even if the telecommunications operated in these networks does not require a notification referred to in section 6 or a license referred to in section 7 of the Communications Market Act.

According to section 21 of the interconnection decision, a telecommunications operator with a significant market power shall provide a household with a permanent possibility to select the local, long-distance or international telecommunications service or a mobile service on a call-by-call basis. When the user has selected a local, long-distance or an international telecommunications service, or a local mobile service, the telecommunications operator may not route the telecommunications through another telecommunications service unless otherwise mutually agreed upon by the telecommunications operators. The costs for the mutual agreement may not increase the price to be collected from the user for the facility.

According to section 22 of the interconnection decision, a telecommunications operator with significant market power shall, upon the order of a telecommunications operator providing local, long-distance or international telecommunications services and holding an itemized power of attorney of the user, against a reasonable lump payment, arrange the selection of the local, long-distance or international telecommunications service or the local mobile service by the user so that a call dialled with-

out a carrier access code or with the 00 prefix shall be routed to a local, long-distance or international telecommunications service indicated by the user.

Act on the Protection of Privacy and Data Security in Telecommunications (565/1999)

The Act on the Protection of Privacy and Data Security in Telecommunications (565/1999, below Data Security Act) contains provisions on the protection of the privacy and the legitimate interests of subscribers and users in telecommunications. According to section 2(1), the Act applies to public telecommunications and to telecommunications operated by means of public telecommunications services as well as to the provision of subscriber directories.

According to section 20, only information necessary to identify a subscriber or a user may be published in a subscriber directory unless the particular party has given his unambiguous consent to the publication of additional information. The subscriber and the user shall, free of charge, be entitled to: 1) demand that his personal data in a subscriber directory be omitted or corrected; 2) forbid the use of his personal data in a subscriber directory for direct marketing; as well as to 3) demand that his street or postal address be omitted in part or that the personal data published do not indicate his or her sex.

According to section 13, a telecommunications operator may not submit an itemisation of the numbers or other identification information on calls established from a subscription unless otherwise provided for below in this section. According to subsection 2, if a subscriber requests an itemisation of the calls covered by a telecommunications bill, the telecommunications operator shall submit the itemisation without disclosing the last three digits of the identification information of the calls unless otherwise provided for in subsection 3. According to subsection 3, upon the request of the subscriber, the telecommunications operator shall submit a complete written itemisation of the numbers of calls if: 1) the calls have been established to another subscription which results in fees charged in connection with a telecommunications bill but which are not telecommunications fees; or 2) the telecommunications bill is more than double compared to the previous corresponding billing period. The telecommunications operator may give the subscriber an itemisation only for the period that the subscription has been in the possession of the subscriber. According to subsection 4, if the identification information does not consist of digits only, further provisions on the itemisation of the identification information of calls shall be issued by Decree.

According to section 3 paragraph 9, a telecommunications bill means a bill containing fees charged by a telecommunications operator for services belonging to telecommunications.

According to section 14, a telecommunications operator offering calling line identification in a fixed or mobile telephone network shall ensure that the calling user has the possibility free of charge to eliminate the calling line identification in voice telephony services on a per-call basis. The subscriber shall also have the possibility to eliminate the calling-line

identification from calls made from his subscription also on a per-line basis.

Sonera's report

FICORA asked Sonera to report how Sonera's Puhekaista service complies with the provisions of the Communications Market Act, which entered into force on July 25, 2003 and with the provisions of the above-mentioned Data Security Act.

Sonera submitted the report on September 8, 2003. Sonera is of the opinion that provisions of the Communications Market Act should not apply to service like Puhekaista with voice transmission on the Internet. Sonera motivates their view by stating that Puhekaista is not a subscription referred to in the Communications Market Act but a supplementary feature of the Sonera ADSL service. Puhekaista or any other corresponding communications services should not be automatically comparable with a fixed telephone network subscription. Puhekaista and other corresponding communications services are rather comparable with other communications services such as international calls, long-distance calls or other corresponding communications services implemented by means of a telephone network subscription.

According to Sonera, Puhekaista service is not marketed as a substitute to the traditional fixed telephone network subscription referred to in section 59 of the Communications Market Act. The service description emphasizes the difference of the Puhekaista service compared to the fixed telephone network subscription. Attention shall be paid to the fact that voice transmission in the Puhekaista service is IP-based. A considerable portion of such data is transmitted through the public Internet. So far, IP traffic uses, freely competing, the same capacity as other data traffic. There is no common network management on the Internet which would guarantee priority of voice data packets to other data traffic. For this reason, the user's own activity may cause disturbance in the Puhekaista service for instance when the user via his or her own access downloads files from the Internet to his or her own computer.

Sonera also refers to the 1998 information and 2000 communication from the Commission of the European Union, which state that voice over Internet can not be regarded as voice telephony, because the four elements of voice telephony included in the Telecommunications Services Directive are not fulfilled simultaneously. Sonera regards that these opinions of the Commission have not been repealed.

Sonera also refers to equal treatment of competitors. According to Sonera, several companies provide voice transmission services on the public Internet. Using the service only requires access to the Internet. It is not important, which company provides the access as access enables access to Internet telephone services of global service providers. Provision of global Internet telephone services is according to Sonera possible in all cases of Internet telephone services. Focusing regulation only on domestic operators would, according to Sonera, not be equal in particular in the future as Internet telephone services become more common and unbalanced regulation of the parties would distort the markets.

Sonera has also submitted to FICORA a detailed report on the defaults and restrictions of the Puhekaista service given in the service description.

Decision and motivation

Communications of the Commission

Sonera has in its report referred to the Information and Communication from the Commission (OJ 98/C 6/04 and 2000/C 369/03 respectively, below the 1998 Notice and 2000 Communication). Sonera's opinion is that these papers state that Internet voice services could not be considered as voice telephony, because they failed to meet simultaneously each of the four elements of the definition of voice telephony pursuant to the Telecommunications Services Directive.

First, FICORA states that the EU Commission has given the Notice and Communication at a time when the old directive 90/388/EEA on the competition in the markets for telecommunications services was still in force. The 2000 Communication states specifically that the new electronic communication directives will put an end to the distinction between voice telephony and other telecommunications service and that all electronic communications services, irrespective of technology, will be submitted to the same legal regime.

In the 2000 Communication, the Commission considers that Internet telephony in general continues to fall outside the definition of voice telephony, except where Internet telephony meets each of the conditions established in the old Telecommunications Services Directive. Because of their formulation, it has not been regarded necessary to repeal the Notice and Communication from the Commission, although voice transmission over the Internet has developed further and become more common since the 1998 and 2000 documents were issued.

Sonera's Puhekaista service shall primarily be assessed on the basis of the Communications Market Act (393/2003) and the new electronic communication directives. However, FICORA considers that Sonera's Puhekaista service complies with the requirements set for telephony also in the old Telecommunications Services Directive.

The first condition set for telephony in the old directives was that voice telephony is offered commercially as such. In the 2000 Communication the Commission considers that this condition is satisfied at least for the following cases: the voice element is marketed as voice telephony, the voice element is billed separately, or similar bundled services are marketed by the same company without this voice element. When operators market a combination of a voice service and a data service which, however, are distinct and clearly separable, the Commission would consider that voice telephony is commercially offered. FICORA regards that these conditions are satisfied in Sonera's Puhekaista service. Although Puhekaista is currently functional only when combined with Sonera's ADSL service, it is marketed as independent service where the bill includes not only telephone fees but also a separate monthly fee.

The second condition for voice telephony in the old directives was that it is provided for the public. Already the 1998 Notice states that this condition is satisfied on the Internet for computer-to-phone voice services

where conversion of the signal is taken care of by the organisation providing the service. The Commission regards that service is available to all provided that the user has made the necessary commercial arrangements with the service provider. Also this condition is satisfied in Puhekaista.

The third condition for voice telephony in the old directives was that it is provided to and from public switched network termination points. According to the Commission Notice, this means that the voice communication service has to connect two network termination points on the PSTN at the same time. These termination points are those defined by subscriber numbers from the national telephone numbering plan. According to the 1998 Notice, in the cases of computer-to-phone Internet voice, this element would be satisfied. This condition can be regarded satisfied also in the Puhekaista service, because it enables calls to ordinary fixed network telephones and mobile phones and to other users of the Puhekaista service. It also enables receipt of calls from these accesses.

The fourth condition for voice telephony in the old directives was that it involves direct transport and switching of speech in real time. According to the 1998 Notice, Internet telephony could not originally be considered to take place in real time. However, the Notice stated that in cases where organisations offering phone-to-phone Internet voice are guaranteeing quality of speech by bandwidth reservation and claim themselves that the quality of the service is the same as circuit-switched PSTN voice, this element of the voice telephony definition will obviously already be met. According to the 2000 Communication, the condition could be satisfied also when a voice service is generally regarded and used by consumer as a substitute for voice services over a circuit-switched PSTN, by virtue of its characteristics, in particular its level of quality and reliability.

FICORA considers that also the fourth condition is satisfied in the Puhekaista service. Sonera informs on their website that this service has sound reproduction of high quality. Under frequently asked questions, it is stated that high-quality telephone traffic requires own band (about 70 kbit/s), otherwise the sound begins to break. If you talk, you should switch off the net radio for a while. Alternatively, you can order a faster ADSL access from the customer service. Puhekaista advertising also indicates that Sonera markets the service as a substitute to the traditional fixed network telephone in areas where it is possible to make an agreement on Sonera's ADSL-service.¹

Application of the Communications Market Act and Act on the Protection of Privacy and Data Security in Telecommunications

The Communications Market Act applies to communications markets and it is primarily technologically neutral so that all communications networks and services are legally treated in the same way.

Definition of the fixed telephone network in the Communications Market Act is written from a technologically neutral viewpoint according to the aims of the Act. FICORA's opinion is that the data network used by Sonera for the Puhekaista service is primarily intended for use in targeted

¹ For instance, ad in Helsingin Sanomat on 25 September 2003, p. B3

communication and it has been implemented according to the conditions of section 2, paragraph 4 of the Act. FICORA sees that data network is included in the definition when it is used for targeted communication and thus it complies with the requirements for the telephone network and/or fixed telephone network set in the Communications Market Act and provisions issued thereunder.

A telephone service or fixed telephone network access are not defined in the Communications Market Act, although chapter 7, which deals with rights of the user, imposes obligations on telecommunications operators providing accesses to the telephone network and fixed telephone network. Definitions of the electronic communication directives forming the basis for the Communications Market Act can be used for defining the concepts.

As in the Communications Market Act, the public telephone network is defined in a technologically neutral way also in the Universal Service Directive (2002/22/EC). According to article 2(b) of the Directive, public telephone network means an electronic communications network which is used to provide publicly available telephone services.

According to article 2(c), *publicly available telephone service* means a service available to the public for originating and receiving national and international calls and access to emergency services through a number or numbers in a national or international telephone numbering plan, and in addition may, where relevant, include one or more of the following services: the provision of operator assistance, directory enquiry services, directories, provision of public pay phones, provision of service under special terms, provision of special facilities for customers with disabilities or with special social needs and/or the provision of non-geographic services. This definition has been the basis for the definition of the telephone service also in FICORA's regulations.

Network termination point is defined in article 2(e) of the Universal Service Directive. It means the physical point at which a subscriber is provided with access to a public communications network; in the case of networks involving switching or routing, the network termination point is identified by means of a specific network address, which may be linked to a subscriber number or name. The network termination point is logically defined so that it is a technical interface related to network numbering. FICORA's opinion is that fulfilling the requirements does not mean that access requires a physical fixed location.

In the Universal Service Directive, the concepts of telephone network, telephone service and termination point are not restricted to concern merely a communications network implemented with a certain technology and telephone service provided in such network. FICORA's opinion is that the conditions set in the Directive for publicly available telephone service are satisfied in Sonera's Puhekaista service. Puhekaista service is publicly available, the users of the service have at their disposal a number from the Finnish numbering plan and it is possible to make and receive national and international calls and to use emergency services. As it is the Puhekaista service which enables phone calls to public telephone network accesses and receipt of such calls, FICORA considers that Sonera's Puhekaista service also complies with the definition of the network termination point given in the Universal Service Directive.

On the above mentioned grounds FICORA considers that all communications services, as well as provisions of the Communications Market Act on telecommunications operators operating in the telephone network/fixed telephone network and provisions on telephone network/fixed telephone network access apply to Sonera's Puhekaista service. Furthermore, provisions on all communications services as well as provisions on telephone services included in FICORA's regulations apply to Sonera's Puhekaista service.

In the provision of the Puhekaista service, an IP network is used. Provisions of the Communications Market Act and provisions issued thereunder on a communications network, telephone network and fixed telephone network apply to the IP network. The scope of application of the provisions is separately restricted in those FICORA's regulations where requirements for IP network are different from those for the PSTN/ISDN.

Requirements of the law for a telephone service

According to the service description of Sonera's Puhekaista service, international calls made from the service are routed to Sonera's international network and international calls can be made using the codes 990 or 99590. According to section 54 of the Communications Market Act, a telecommunications operator in a telephone network shall ensure that users are able to make international calls using the universal international access code 00. It shall be possible to make international calls also from Sonera's Puhekaista service using the international access code 00.

According to the service description, it is not possible to make calls using a carrier access code or to make a separate pre-selection agreement for the Puhekaista service. The obligation of section 62 of the Communications Market Act regarding the possibility of the user to access services via an access code per call and pre-selection is imposed on fixed telephone network operators with significant market power. As FICORA has not yet made any decisions on significant market power referred to in section 17 of the Communications Market Act, provisions of the old Communications Market Act (396/1997), repealed on July 25, 2003, apply to the Puhekaista service for this part.

According to the Decision of the Ministry of Transport and Communications on the Scope of Application of the Telecommunications Market Act (475/1997), issued by virtue of the old Communications Market act, voice on data networks is regarded as minor telecommunications not subject to law, except for chapters 3 and 9. The Decision on interconnection issued by virtue of chapter 3 applies also to telecommunications not within the scope of the Act. However, FICORA considers that obligations imposed merely on operators with significant market power may not be applied to telecommunications of minor importance. This means that provisions issued by virtue of the old Communications Market Act on access to services via access code per call and pre-selection are not applicable for voice on data network. FICORA regards that, for this part, as the obligations of the old Act are still in force, it is not necessary to provide an access code by call or pre-selection in the Puhekaista service. User's right to select a telephone service provider will be assessed again

after FICORA has issued decisions on significant market power referred to in section 17 of the new Communications Market Act.

Tone dialling in the Puhekaista service works, according to Sonera, when a voice adapter installed in the computer is used. In the network tone dialling is transmitted as usual. FICORA regards that Puhekaista service for this part complies with the requirements of section 64 of the Communications Market Act.

Regarding users' contact information, FICORA considers that Sonera is obliged to provide a telephone directory service to users with subscription agreement as referred to in section 57 of the Communications Market Act, and that the user has right to forbid the publication of his or her contact information in a subscriber directory as referred to in the Data Security Act.

It is not possible for a user of the Puhekaista service to get itemized telephone bill or itemization of calls. According to section 80 of the Communications Market Act, an itemized bill on the use of the telephone network subscriber connection shall be provided without charge and, provided that the bill is more than 50 euros, without separate request. FICORA considers that the itemization obligation applies also to Puhekaista service for those billing posts referred to in section 80.

Provisions on itemization of the numbers or other identification information on calls are included in section 13 of the Data Security Act. According to section 3, paragraph 9 of the Act, a telecommunications bill means a bill containing fees charged by a telecommunications operator for services belonging to telecommunications. Regarding itemization of calls, Sonera refers to FICORA's position according to which itemization of calls could not be submitted for Puhekaista like data services. The position relates to services that are not regarded as telephone services and where identification information of connections is not solely formed of digits (e.g. WAP service). As Puhekaista is regarded as telephone service and as the identification information, according to FICORA's view, is composed of digits and numbers dialled from the subscriber connection, submitting an itemization of calls is not a problem in this respect.

FICORA considers that Sonera shall for the Puhekaista service provide barring categories referred to in section 79 of the Communications Market Act and in FICORA's Regulation 35 H/2003 M. In the motivation for this Regulation, it is expressly stated that the Regulation applies also to data networks when these are used for targeted communications. Barrings are based on telecommunications routed according to E.164 numbers and short message numbers assigned in FICORA's numbering regulation. Sonera states in the report that it reserves the possibility to charge a fee for the barring services or to refuse the implementation if this is seen technically difficult. FICORA considers that the minimum selection of barring categories in the regulation takes into account the technical implementation so that at least all the barrings required in the regulation are barrings that comply with the law, are provided without charge and are technically easy to implement.

Sonera shall also see to that the calling user may restrict the calling line identification per call and without charge in the Puhekaista service. Calling line identification restriction shall function both for outgoing and in-

coming calls. It must be possible also to restrict calling line identification permanently. Sonera states that according to the new draft electronic communication security act, calling line identification concerns only telephone services and not data transmission, which is Sonera's opinion of the Puhekaista service. FICORA regards that Puhekaista is a telephone service and not data transmission, although voice is transmitted by means of a packet switched data network.

When providing Puhekaista service, Sonera must also for other parts comply with the provisions of the Communications Market Act and the Act on the Protection of Privacy and Data Security in Telecommunications and other provisions issued under them. FICORA wants to pay special attention to telecommunications operator's obligations regarding routing of emergency traffic, contingency preparations, assisting a public authority, quality requirements for communications networks and services and other rights of the user not mentioned above.

FICORA urges Sonera to alter the Puhekaista service to comply with the requirements of the Communications Market Act and Data Security Act by July 31, 2004, excluding calling line identification restriction, which shall comply with the requirements by December 31, 2004.

Placing the Puhekaista service and other similar services among the number range for corporate numbers and special services numbers will be negotiated in FICORA's working group on numbering.

Appeal

Any person who is dissatisfied with this decision or to whom this decision is addressed or whose right, obligation or interest is directly affected by the decision may appeal against this decision to Helsinki Administrative Court as provided in the Administrative Judicial Procedure Act (586/1996). Direction of appeal is annexed to this decision.

Director-General Rauni Hagman

Director Tapani Rantanen

ANNEX

Direction of appeal