

Pursuant to Article 38, para. 4, 5 and 9 of the Telecommunications Law (*Official Gazette of RS*, nos. 44/03 and 36/06), Article 18, item (11) of the Statutes of the Republic Telecommunication Agency (*Official Gazette of RS*, no. 78/05),

The Managing Board of the Republic Telecommunication Agency, on its session held on 28.05.2008, adopted the following

## **RULES**

### **on terms and conditions for the issuance of public telecommunications networks authorization and contents of the authorization**

## **I GENERAL PROVISIONS**

### **Article 1**

These Rules set out the terms and conditions for the issuance of the public telecommunications networks authorization (hereinafter: Authorization), the Authorization issuance procedure, contents and form of the Authorization, as well as the rights and obligations of the Authorization Holder.

### **Article 2**

The terms used herein shall have the following meaning:

**Public Telecommunications Network Exploitation** means network usage by the Authorization Holder, transport services provision, and leasing the network resources. The network usage by the Authorization Holder means they are providing public telecommunication services for which they need to hold appropriate licenses issued by the Republic Telecommunication Agency;

**Authorization Holder** means entity providing resources of a public telecommunication network, to whom the Authorisation has been issued;

**Network User** means entity using transport services and/or leasing public telecommunication network resources from the Authorization Holder, on the grounds of an agreement closed between them, in order to provide public telecommunication services provided the former holds required license issued by the Agency, or for proper needs;

**End User** means a user not providing public telecommunications network resources nor public telecommunications services;

**Access Network** means a network providing transmission of telecommunications signals between set locations from which telecommunications services are provided to end users and network termination points at end user premises;

**Transport Network** means a network providing transmission of telecommunications signals between set locations from which telecommunications services are provided to end users;

**Network at end user premises** means network connecting end user devices with the Access Network;

**Network User Register** means the register of contracts closed between the Authorization Holder and Network User, kept by the Authorization Holder;

**Public Telecommunications Network Resources** means all integral parts thereof (telecommunications facilities, infrastructure elements, etc.) and functions (telecommunications signal transmission, multiplexing, transitioning, cross-connecting, switching, routing, signalization information exchange, synchronization information distribution, etc.).

### **Article 3**

The Republic Telecommunication Agency (hereinafter: Agency) shall issue Authorization to any legal or natural entity intending to operate a public telecommunications network (hereinafter: Network) provided that such entity fulfils and/or accepts to fulfil the terms and conditions set out for the particular Network.

The Authorization issuance shall apply to an unlicensed regime Network whose operation:

- does not involve scarce resources;
- uses unlicensed scarce resources;
- uses scarce resources, yet not directly, but leasing from other public telecommunications operators with relevant licenses issued by the Agency.

### **Article 4**

The Authorization Holder shall acquire rights stipulated under Article 32 of the Telecommunications Law (*Official Gazette of RS*, nos. 44/03 and 36/06, hereinafter: Law).

The rights acquired under para. 1 of the relevant Article may be exercised only once the licenses and/or approvals from the relevant authorities have been obtained.

### **Article 5**

When deciding on the type of Network, regardless of the telecommunications services to be provided thereover, the following classification shall be applied:

- Fixed Transport Network;
- Fixed Access Network and
- other types of Transport and/or Access Networks.

## **II BASIC TECHNICAL SPECIFICATIONS AND STANDARDS**

### **Article 6**

Technical specifications which need to be met by any type of Network, and which are necessary for being granted the Authorization, shall be pursuant to:

- national regulations, standards and normative provisions;
- standards applied in the countries of the European Union (ETSI and CEN);
- international recommendations and standards (ITU-T, ITU-R, IEC, IEEE, etc.).

Technical specifications referred to in para. 1 herein shall concern the characteristics and parameters stipulating, in the technical sense, elements of significance for the following:

- needs of the Network user;
- Network quality specification, bearing in mind the principle of technical neutrality;
- specification of interfaces and protocols, access and interconnection points;
- environment protection;
- integrity protection of the conveyed information;
- prevention of any Network misuse;
- safety and health protection of the Network Users and the employees in charge of Network functioning.

## **III AUTHORIZATION ISSUANCE**

### **Article 7**

The Authorization issuance procedure shall be initiated by submitting the application (hereinafter: Application) to the Agency on the filled out MP1 Application Form.

Along with the Application referred to in para. 1 herein, the following shall also be submitted:

- original copy of the excerpt from the Business Register, not older than 30 days;
- short description of the applicants business activities;
- information on forms of organization;

- general project of the Network;
- evidence of financial capacity for project implementation;
- evidence of payment of the application processing fee and the Authorization issuance fee pursuant to the applicable enactment of the Agency regulating the amount of fees and costs for license or authorization issuance.

MP1 Application Form which is printed herein and is an integral part hereof.

### **Article 8**

The applicant shall be required to comply with all technical specifications and requirements relative to the appropriate type of Network, including the terms and conditions stipulated hereunder.

### **Article 9**

The Agency shall issue the Authorization on the grounds of the decision by the Managing Board, to an entity complying with or accepting to comply with the terms and conditions specified under Articles 5, 6 and 7 herein and provide evidence of payment of the register entry fee, pursuant to the general enactment of the Agency stipulating the amount of costs and fees for license and authorization issuance.

The Authorization referred to in the previous paragraph herein shall be issued no later than 30 days following the day the complete application has been submitted together with the required documentation, by an entry made in the appropriate registry kept by the Agency.

The day the entry in the registry referred to in paragraph 2 herein is made shall be considered the day the Authorization is issued.

### **Article 10**

The Agency shall reject the Application in case it is submitted by an entity which:

- is under bankruptcy or reorganization proceedings;
- has suspended business activities;
- has submitted the Application containing inadequate or incorrect data or statements.

### **Article 11**

The Authorization shall be issued on the MP2 Form which is printed herein and is an integral part hereof.

## **IV GENERAL RIGHTS AND OBLIGATIONS OF THE AUTHORIZATION HOLDER**

### **Article 12**

The Authorization Holder shall have the obligation to commence the Network operation by the deadline specified in the Authorization.

The deadline referred to in paragraph 1 herein may be extended by the Agency if the Authorization Holder, out of objective reasons, cannot begin with the Network operation before the set out deadline. The Authorization Holder shall be required to submit a request at least two months prior to the deadline stipulated under the Authorization.

### **Article 13**

When building and expending the Network, the Authorization Holder shall have all rights pursuant to Article 87 of the Law.

### **Article 14**

The Authorization Holder shall be required to provide the quality of Network compliant with the set out standards and normative provisions regulating the telecommunications sector.

### **Article 15**

The Authorization Holder shall be responsible for the maintenance of their Network and telecommunications facilities in their property, within competence or under contractual status on maintenance or administering, as well as for the leased resources of their Network.

The Authorization Holder shall be required to maintain the Network compliant with the set out standards, normative provisions and recommendations.

In the event of disagreement regarding which standard, normative provision or recommendation should be applied, the relevant decision shall be made by the Agency.

### **Article 16**

The Authorization Holder shall be required to submit to the Agency, on a regular basis, annual Network development plans.

The Authorization Holder shall have the right and obligation to expand the Network and implement new technologies according to the development plans, as well as the obligation to submit relevant reports to the Agency, on a regular basis and no later than 30 days after the end of each calendar year.

The introduction of new technologies shall need to be harmonized with the sector specific regulations, as well as standards, normative provisions and recommendations of the European Union.

### **Article 17**

The Authorization Holder shall have the obligation of territorial coverage of all areas in accordance with the development plan submitted to the Agency.

In case the implementation of new technologies means of deployment of another type of Network, the Authorization Holder shall be required to submit an application to the Agency for the issuance of relevant license for such Network.

In case referred to in para. 2 herein, the Authorization Holder shall be required to act according to the provision under Article 34, para. 4 of the Law.

### **Article 18**

The Authorization Holder shall have the right to provide public telecommunications services over their own Network only upon being granted relevant licenses pursuant with the Law, where they shall be required to provide each of these services through a separate related entity or a subsidiary founded in accordance with the law regulating the legal status of business companies.

### **Article 19**

The Authorization Holder shall have the right to exploit their own Network by closing contracts with the Network users.

The contracts shall be closed on a non-discriminatory basis and shall clearly indicate, inter alia, the following:

- terms and conditions of Network usage;
- circumstances under which a Network User may be temporary or permanently disconnected;
- prices of transport services and prices of leased Network resources;
- possible reasons for price modification, calculation methodology and procedure for modification of prices for leased Network resources.

The Authorization Holder shall be required to inform their Network Users 30 days in advance on any modifications in prices for leased Network resources or on terms and conditions for Network resources usage.

The Authorization holder shall be required to consider the complaints from the Network Users and respond to them.

## **Article 20**

The Authorization Holder shall be required to keep a written and/or electronic record on the contracts closed with Network Users and to submit relevant data to the Agency on a regular basis.

All contracts referred to in para. 1 herein shall be recorded in the Network Users Register kept by the Authorization Holder.

## **Article 21**

The Authorization Holder shall be required to enable interconnection and access to their network pursuant to the Law and general enactments of the Agency.

## **Article 22**

The Authorization Holder shall be required to provide interoperability conditions to Network Users in accordance with the applicable standards and recommendations.

In the event of dispute as to which standard or recommendation should be applied, the decision shall be made by the Agency.

## **Article 23**

The Authorization Holder may not establish any kind of monopoly by closing contrasts with public telecommunication operators. Concerted practices between Authorization Holders as to common pricing in order to establish a monopoly or similar anti-competitive actions shall not be allowed and shall be deemed a serious violation of conditions stipulated in the Authorization.

The Authorization Holder shall not be allowed any anti-competitive activities or behaviour. The Agency shall be authorized to prevent any such activity and/or behaviour, unless they are a matter of procedure conducted by the responsible government authority.

## **Article 24**

The Authorization Holder shall be required to keep orderly documentation on their network and make the documentation available to telecommunication controllers or other authorized officer from the Agency and/or provide them with the required information at any moment.

## **Article 25**

The Authorization Holder shall be required to keep separate analytic-accounting records on their own usage of the Network and on each Network User, separately.

#### **Article 26**

The Authorization Holder shall be required to take appropriate technical and organizational measures in order to ensure security and protection of the user data contents.

#### **Article 27**

The Authorization Holder shall be forbidden any activity and/or device usage such as to jeopardize or violate the privacy and confidentiality of messages transmitted over the network, except if such activities are carried out according to law or court order issued pursuant to law.

#### **Article 28**

The obligations of the Authorization Holder as regards the Universal Service shall be determined pursuant to law regulating telecommunications sector and applicable enactments of the Agency.

#### **Article 29**

The Authorization Holder shall be required to ensure all necessary equipment, devices, subsystems and installations for lawful electronic surveillance pursuant to regulations, in collaboration with entities they are leasing their Network resources to.

#### **Article 30**

Network Users may not be charged any fee during a suspension of Network operation exceeding the maximum duration of suspension stipulated within the contract.

In the event of the suspension of Network operation the Network User shall be entitled to a reimbursement from the Authorization Holder if so regulated by the contract closed between the counterparties.

#### **Article 31**

The Authorization Holder shall be required to pay an annual fee during the validity period of the issued Authorization, pursuant to the general enactment of the Agency regulating the amount of fees and costs of license and authorization issuance.

#### **Article 32**

The authorization holder may freely set the prices for their Services.



The Authorization Holder shall freely set the prices and make them publically available. The authorization holder shall inform the Agency about the any changes in prices, at least 30 days before an increase in the price, and at least 30 days after a price cut.

### **Article 33**

If the Authorization Holder has been designated a telecommunications operator with significant market power, by a separate decision of the Agency, then the tariffs shall be set according to such decision in the way stipulated under the law regulating the telecommunications sector.

### **Article 34**

The Authorization Holder may disconnect a subscriber only in cases stipulated under the law regulating the telecommunications sector or the contract closed between the Authorization Holder and Network User.

Any suspension in the Network operation lasting for more than 24 hours shall be reported to the Agency by the Authorization Holder, along with the reasons therefor.

The User shall be notified in advance of any planned suspension of the Network operation. The notification period may not be shorter than 14 days prior to the planned suspension of operation.

### **Article 35**

For the purposes of monitoring the compliance with the terms and conditions under the Authorization and monitoring the development of telecommunications service market, the Authorization Holder shall be required to file to the Agency reports concerning the line of their business directly related to transport services provision and their Network resources leasing, with frequency to be set out by the Agency.

The Authorization Holder shall be required to provide the Agency with financial reports and accounts at least once a year, pursuant to the Law and general enactments of the Agency.

The Agency may require from an Authorization Holder to file additional reports.

The Authorization Holder shall be required to inform the Agency about any changes in the status, form of organization, share of ownership capital, principal business activity and alike, which could result in the creation of a monopoly or a company with significant market power, and/or inability to fulfil the obligations from the Authorization.

### **Article 36**

The Authorization Holder shall be required to provide the Agency, no later than 60 days after the end of calendar year, with the report for the previous year pertaining to:

- the implementation of the Network development plan
- installed Network resources, with the capacities and locations thereof;
- utilization of Network capacity in all its functional parts;
- telecommunications services provided to the Network Users;
- Network Users and their presence in Network resources exploitation.

### **Article 37**

The Authorization Holder shall be required to provide all information they do not consider as confidential to be publically available (e.g. information on Network capacity availability, Network quality, time of putting Network into operation, on Network interventions, on price for Network capacity leasing, etc.).

### **Article 38**

The Authorization Holder may not transfer the rights acquired under the Authorization without a prior approval of the Agency.

### **Article 39**

When building, installing and/or operation of the telecommunications network, system and/or facilities, the Authorization Holder shall be required to take appropriate measures for human health and environment protection.

## **V AUTHORIZATION VALIDITY**

### **Article 40**

The Authorization shall be issued for a period of 10 years with the possibility of renewal.

Request for renewal of the Authorization shall be submitted no later than six months before the validity period of the authorization expires and no earlier than 12 months before the validity period of the authorization expires. If the request is not submitted within the specified timeframe, the Authorization shall cease to be valid upon the expiry of the validity period thereof.

The decision to deny the renewal of the Authorization may be adopted on the following grounds:

- Repeated or serious breach of terms and conditions from the Authorisation or terms and conditions and obligations stipulated under the regulations regulating telecommunications sector;
- Failure to pay the Authorization fee on a regular basis;
- In case of bankruptcy, reorganization stipulated by the law regulating the bankruptcy procedure or a longer period of insolvency of the Authorization Holder.

Prior to adopting the decision to deny the renewal of the Authorization, the Agency shall be required to notify the Authorization Holder in writing about the breaches and failures made and, if appropriate considering the nature thereof, set out a period for the Authorization Holder to remedy. Should the Authorization Holder fail to act fully in line with the instruction of the Agency, the Agency shall adopt the decision to deny the renewal of the Authorization.

In the event the renewal of the Authorization is denied, the Authorization Holder shall have to stop with Network operation within three months after the validity period expires.

## **VI REVOCATION AND RENOUNCEMENT OF THE AUTHORIZATION**

### **Article 41**

The Agency shall send a written notice to the Authorization Holder referring to the violations of the obligations stipulated under the Authorization and the Law, and other failures made, allowing a reasonable time for the violations to be remedied.

The Authorization Holder shall be required to respond to the Agency's notice in writing, no later than 15 days after the day the notice is delivered.

If the authorization holder fails to comply fully with the Agency order within the set time, the Authorization shall be revoked by decision of the Managing Board of the Agency, which shall be delivered to the Authorization Holder.

The Authorization revocation procedure shall be initiated on the in following events:

- in case the Authorization Holder fails to provide conditions for Network operation by the deadline stipulated in the Authorization or by an extended deadline provide the extension has been approved by the Agency;
- in case the Authorization Holder does not exploit operate the Network for an unjustified reason, for a period of time exceeding six months;
- in case the Authorization Holder fails to fulfil the obligations from the development plan and territorial coverage in the areas the Authorisation is granted for to;

- in case the Authorization Holder fails to fulfil any obligation from the Authorization, including Failure to pay the Authorization fees within 30 days from the payment due date;
- in case of bankruptcy, reorganization stipulated by the law regulating the bankruptcy procedure or providing false information as regards the ownership of the Authorization Holder;
- in case of serious violation of terms and conditions stated in the authorization and obligations under the Law, in particular obstruction and prevention of the telecommunications controller to perform their legal authority.

In case of the Authorization revocation, the Authorization Holder shall not be entitled to the refund of the amount paid for the Authorization fee.

#### **Article 42**

If an Authorization Holder wishes to renounce the Authorization, they shall be required to submit a written/electronic notification thereon to the Agency and Network Users at least 4 months before the date they stop with the Network operation.

In case of the renouncement of Authorization, the Authorization Holder shall not be entitled to the refund of the amount paid for the Authorization fee.

### **VII POWERS OF THE AGENCY**

#### **Article 43**

The Agency shall be authorized to prevent any anticompetitive and/or monopolistic activities and behaviour of the Authorization Holder, pursuant with the Law.

The Agency shall not resolve disputes or disagreements as to mutual receivables, existence or nonexistence of debts and other similar disputes between the Authorization Holder and Network User. Any such dispute shall be solved in accordance with the provisions of the contract and the law.

### **VIII TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 44**

Entities performing Network operation prior to the adoption hereof shall be required to submit the Application referred to in Article 7 herein, no later than 60 days after these Rules enter into force.

Entities who fail to submit the Application for the Authorization Issuance within the timeframe referred to in the previous paragraph herein shall not be allowed to continue with the Network operation.

The Authorization issued to entities referred to in paragraph 1 herein shall be revoked in case they fail to have the technical inspection performed for the telecommunications network the Authorization has been granted for, within one year after these Rules enter into force.

#### **Article 45**

These Rules shall enter into force on the eighth day following the day they are published in the *Official Gazette of the Republic of Serbia*.

**Ref. no: 1-01-110-13/08**

**Chairman of the Managing Board**

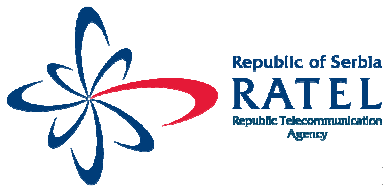
**Done in Belgrade, 28.05.2008**

**Prof. Dr. Jovan Radunovic**

## APPLICATION FOR NETWORK AUTHORIZATION

1.	Name, headquarters and address of the applicant	
2.	Fiscal ID Number and Personal ID Number	
3.	Name and Surname of the authorized person, telephone, fax, e-mail, website	
4.	Information on ownership for each owner with share of 10 and more per cent ( <i>when the owner is a foreign entity, a statement indicating entire ownership structure along with the percentage of ownership and owners' addresses shall also be required</i> )	
5.	Deadline for putting Network into operation	
6.	Type of Network	a) Fixed Transport Network <input type="checkbox"/> б) Fixed Access Network <input type="checkbox"/> в) Other types of Access and/or Transport Networks <input type="checkbox"/>

7.	Basic technical data on Network	
8.	Documents demonstrating that the applicant is not under bankruptcy procedure or reorganization procedure and that they have financial capacity to build a Network	
9.	Number and structure of applicant's staff	
9.	<p>Information on contracts closed with Network Users, if any:</p> <ul style="list-style-type: none"> <li>- Signing date</li> <li>- Name, headquarters, address, Fiscal Id Number and Personal ID Number of the Network User</li> <li>- validity period</li> <li>- other information</li> </ul>	



Form MP2

Ref. No.:

In Belgrade \_\_\_\_\_ 2008

## NETWORK AUTHORIZATION

### 1. Authorization Holder

*To be specified:*

- *name,*
- *headquarters and address,*
- *Fiscal ID Number*
- *Personal ID Number*

### 2. Subject

*To be specified:*

- *Rights under the Authorization*
- *Network type*
- *Territorial areas determining the Network*
- *Network outline, in accordance with application*
- *Basic characteristics and parameters specifying the Network in further detail*

### 3. Basic technical requirements for Network and standards defining the quality of Network

*To be specified:*

- *National regulations, standards and normative provisions, if published;*



- *List of standards applied in the EU (ETSI and CEN);*
- *International recommendations and standards (ITU-T, ITU-R, IEC, IEEE etc.).*

#### **4. Frequencies**

*To be specified:*

- *Unlicensed frequency band, if assigned;*
- *Frequencies designed for microwave transmission systems.*

#### **5. Numbering**

*To be specified:*

- *National destination code and*
- *addresses,*

*if assigned.*

#### **6. Deadline for putting Network into operation:**

*To be specified:*

- *Deadline for the Authorization Holder to put Network into operation.*

#### **7. Authorization validity period**

*To be specified:*

- *Authorization validity period.*

#### **8. Fee amount and method of payment**

*To be specified:*

- *Application processing fee;*
- *Registry entry fee;*
- *Network operation annual fee (per business year);*
- *Numbering fee;*
- *Universal service fee.*

#### **9. General rights and obligation of the Authorization Holder**

*Text of Articles 13 to 39 of the Rules.*

**10. Authorization renouncement and withdrawal**

*Text of Articles 41 and 42 of the Rules.*

**11. Powers of the Agency**

*Text of Article 43 of the Rules.*

**12. Transitional provisions**

*Text of Articles 44 and 45 of the Rules.*

**13. Definitions and abbreviations**

*To be specified:*

- *Definitions given in the Rules*
- *Abbreviations given in this Authorization*