

Pursuant to paragraphs 5 and 6 of Article 38 of the Telecommunications Law (*Official Gazette of the Republic of Serbia* number 44/03 and 36/06) and pursuant to item 11 of Article 18 of the Statutes of the Republic Telecommunication Agency (*Official Gazette of the Republic of Serbia* number 78/05), the Managing Board of the Republic Telecommunication Agency, in its session held on 28th July 2006, adopted

RULES

ON TERMS AND CONDITIONS FOR RADIO AND TELEVISION PROGRAM DISTRIBUTION SERVICE PROVISION VIA CABLE NETWORK AND ON THE FORM AND CONTENTS OF THE AUTHORIZATION

I GENERAL PROVISIONS

Article 1

These Rules determine terms and conditions necessary for radio and television program distribution service provision via cable network, stipulate the application form, manner of issuance and contents of the authorization.

Article 2

The following meanings shall apply to the terms used in these Rules:

Telecommunication facilities are equipment and devices for receiving, processing and distribution of signals, and relevant software used for distribution of radio and television programs (antenna system, main station, distribution stations and network devices).

Cable distribution network is a mainly cable telecommunications network enabling the distribution of radio and television programs.

Radio and television program distribution service via cable distribution network is a public telecommunications service provided by a public telecommunications operator.

Authorization holder is a person to whom the authorization for radio and television programs service provision has been issued, under terms and conditions stipulated under these Rules and the law governing the telecommunications sector.

Subscriber is a natural or legal person receiving radio and television programs via cable distribution network on the basis of a contract closed with an authorization holder.

II TERMS AND CONDITIONS FOR RADIO AND TELEVISION PROGRAMS DISTRIBUTION SERVICE PROVISION

Article 3

For radio and television program distribution service provision (hereinafter: the Service) basic technical requirements need to be met, concerning cable distribution network (hereinafter: the Network) and telecommunications facilities, and they are defined in the recommendations of the International Telecommunication Union (ITU), International Electrotechnical Commission (IEC), standards applied in the countries of the European Union (ETSI, CENELEC), national standards (JUS¹) and relevant acts of the Republic Telecommunication Agency (hereinafter: the Agency).

For Service provision, in addition to terms and conditions referred to in paragraph 1 of this Article, appropriate authorization issued by the Agency needs to be obtained.

Article 4

The Agency issues an authorization to a person performing a telecommunication activity, who has submitted a complete application for registration and who complies or accepts to comply with the terms and conditions stipulated under the Telecommunications Law ("Official Gazette of RoS", no. 44/03 and 36/06, hereinafter: the Law), these Rules, Rules on compliance control of telecommunications networks, systems and facilities with prescribed standards and regulations ("Official Gazette of RoS", no. 29/06) and Rules on technical permits – certificate issuance ("Official Gazette of RoS ", no. 34/06).

If the person referred to in paragraph 1 of this Article provides several types of telecommunications services which require a separate permit, they are required to establish a subsidiary for the provision of this service, in accordance with the law governing the legal status of companies.

III CONTENTS OF APPLICATION

Article 5

The application for obtaining an authorization for radio and television programs distribution service provision shall be submitted using the KDS1 Form, which is attached to these Rules and is an integral part thereof.

Together with the application the following shall be submitted:

¹ Yugoslav standards.

1. Excerpt from the register of business entities with a certified copy of all pages from the register, Fiscal ID Number, Personal ID Number and relevant data on locations of the structures and equipment for service provision;
2. Short description of applicant's business;
3. Technical solution of the system for service provision, along with the proof of financial solvency required to deliver it, or a technical solution of the actual system condition.
4. List of contracts on protection of copyrights and related rights along with the periods of validity;
5. Proof of payment of the application processing fee for the authorization issuance in accordance with the relevant general act of the Agency regulating the amount of fees and costs for licence and authorization issuance;
6. Standard subscription contract.

IV ISSUANCE OF AUTHORIZATION FOR SERVICE PROVISION

4.1. Authorization issuance

Article 6

The authorization for service provision shall be issued by the Agency, based upon the decision of the Managing Board, to a person who complies with or accepts to comply with the conditions stated in Articles 3, 4 and 5 of these Rules and who submits a proof of payment of the fee for entering the Register of Permits, in accordance with the relevant general act of the Agency, regulating the amount of fees and costs for license and authorization issuance.

The authorization referred to in paragraph 1 of this Article shall be issued no later than 30 days after the application is received and shall be enforced by entry in the appropriate register kept by the Agency.

The day when the entry in the Register referred to in paragraph 2 of this Article is made shall be considered the day of authorization issuance.

Article 7

In case the authorization is cancelled by the authorization holder or revoked, the Agency shall not issue a new authorization to this person during the period of one year, starting with the day of the cancellation or revocation of the authorization.

Also, during the same period, the Agency shall not issue an authorization to the legal successor of the person referred to in paragraph 1 of this Article.

4.2. Obligations of the Agency

Article 8

The Agency sets minimum equipment required for Service provision and the conditions for authorization issuance aiming at user protection of subscribers, operators and third parties.

The Agency is required to take appropriate measures so as to provide an authorization holder with access to telecommunications resources necessary for Service provision, under equal conditions which apply to all other entities in the market.

In case of a dispute between an authorization holder and other telecommunications operators or subscribers, regarding a right or obligation under the authorization, the Agency is authorized to take all necessary measures in accordance with the provisions of the law regulating the telecommunications sector, these Rules and issued authorization.

The Agency has the authority to prevent any anticompetitive or monopolistic activities, pursuant to Article 10 of the Law.

4.3. Structure and contents of the authorization

Article 9

The authorization shall contain the following data and conditions:

- Date of issuance and number from the register of authorizations;
- Name and address of the person to whom the authorization is issued;
- Area of Service provision;
- Technical requirements and standards defining the required quality of service;
- Requirement to enhance and expend the provided services;
- Rules on protection of personal data and privacy;
- Data on info channel where information on tariffs and pricelist is available;
- Texts of provisions under Articles 3, 4, 7, 8, 10 to 27 of these Rules;
- Amount and mode of payment of the annual fee for the issued authorization;
- Financial liabilities for universal service funding;

- Validity period of the authorization.

Authorization KDS2 Form is attached to these Rules and is an integral part thereof.

4.4. Validity of the authorization

Article 10

The authorization is issued for a period of five years.

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 four years after the issuance of the authorization.

The authorization referred to in paragraph 2 of this Article shall be issued in accordance with the effective regulations.

4.5. Revocation of the authorization

Article 11

The Agency is required to send a written notice to the authorization holder of the violations of the obligations stipulated under the authorization or other violations of the obligations stipulated under the Law or these Rules or other negligence, allowing a reasonable time for these to be remedied.

The authorization holder is required to respond to the Agency's notice in written form no later than eight days.

If the authorization holder fails to comply fully with the Agency order within the set time, the authorization shall be revoked under a decision of the Managing Board submitted to the authorization holder.

The procedure of the revocation of the authorization shall be initiated on the grounds of a justified and verified complaint from a user or other authorization holder based upon a record made by a telecommunications inspector.

The authorization may be revoked for the following reasons:

1. Repeated violation of terms and conditions stipulated under the authorization or obligations stipulated under the Law;
2. Failure to pay the set fee within 30 days from the payment due date;
3. Bankruptcy, involuntary liquidation or long periods of insolvency of an authorization holder;

4. Failure of the authorization holder to observe the final decision of the responsible authority regarding the business operations and Service provision;

5. Serious violation of terms and conditions stipulated under the authorization or obligations stipulated under the Law, in particular:

- Obstruction or impediment of telecommunications inspectors to perform their legal authorization;

- An authorization holder was sentenced by a final court decision for the criminal offence of fraud.

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

4.6. Cancellation of authorization by the holder

Article 12

If an authorization holder wishes to cancel the authorization, they are required to inform the Agency and their own subscribers thereof no later than 30 days before the day of service provision cessation.

In case of the cancellation of authorization, the authorization holder is required to refund all subscribers who have paid the fee for establishing a subscription relation within the previous 18 months.

In case of the cancellation of authorization, the authorization holder shall not be entitled to the refund of the amount paid for the authorization fee.

V OBLIGATIONS OF THE AUTHORIZATION HOLDER

Article 13

The authorization holder is required to provide necessary infrastructure, in accordance with the plan and volume of service provision.

If using own network for service provision, an authorization holder is required to submit a copy of the certificate on technical compliance of the network to the Agency. If leasing telecommunications network and other facilities for user access, an authorization holder is required to submit a certified copy of contract or other proof of right of usage to the Agency, no later than 30 days before the beginning of service provision.

An authorization holder is required to ensure the availability of services to all interested subscribers, if technically feasible, without any discrimination, in the area where they are providing or planning to provide service.

An authorization holder shall have sole responsibility for installation, networking and handling all necessary equipment and systems, which are their property or responsibility, related to management, monitoring and maintenance.

Article 14

An authorization holder is required to close a contract on service provision with a subscriber, clearly stating the rights and obligations of the contractual parties, including the issue of a temporary or permanent disconnection of subscribers and other restrictions, which may be applied to a subscriber, as well as the exact circumstances in which these restrictions may occur and the reasons for change in price of service.

The contract shall define the manner in which a subscriber will be informed about a change in terms and conditions of service provision and the place where they can get information about these changes (through the info channel or the bill prior to the change). An authorization holder shall inform subscribers no later than 14 days in advance about the forthcoming change in the terms and conditions of service provision.

The contract shall specify the possibility of reduction in the subscription fee in case the quality of program is not compliant with the defined standards or in case of impossibility to watch or listen to one or more programs.

An authorization holder is required to provide own info channel on each location where they provide service, providing service information (such as: pricelist, programs and the number of channel where these are available to subscribers, schedule of transmission broadcasting, information on planned interruptions, telephones for complaints, etc.). In case an authorization holder has not provided own info channel, they shall provide the subscribers with the information defined under this provision through a notification accompanying the bill.

An authorization holder shall also be responsible for billing subscribers and consideration and resolution of complaints from subscribers.

Article 15

An authorization holder may disconnect a subscriber only in accordance with law and the contract between the authorization holder and the subscriber.

Article 16

An authorization holder is required to pay an annual fee for service provision, for a period for which the authorization has been issued to them, in accordance with the general act of the Agency regulating the amount of fees and costs for license and authorization issuance.

Article 17

Any business linkages between authorization holders, excluding usual commercial relations and business based on obligation relations, require an approval from the Agency. The Agency shall respond to any such written request no later than 30 days.

An authorization holder may not establish any kind of monopoly by closing agreements with other telecommunications service providers or with parties engaged in trade of equipment for service provision. Mutual orchestration between authorization holders in regard to establishing common prices or similar monopolistic actions are not allowed and shall be considered a violation of authorization terms and conditions.

The actions referred to in paragraph 2 of this Article shall be considered a serious violation of conditions under the authorization.

Article 18

An authorization holder is required to keep fully separate analytic accounting records for provision of service under this authorization, according to received instructions from the Agency.

An authorization holder is required to inform the Agency about any in status-related changes, structure of capital, main activity and alike.

Article 19

An authorization holder is required to fund the universal service, in accordance with the Law and relevant general act of the Agency.

VI QUALITY OF SERVICE

Article 20

An authorization holder is responsible for remedy of malfunctions and removal of all faults of their telecommunications facilities used for service provision, which fall within their competence. Malfunction which occurs on part of the system shall be remedied within 48 hours since the malfunction is reported, and the malfunction of the whole system within 24 hours.

If an authorization holder does not remedy the malfunction within the period defined by the standard referred to in paragraph 1 of this Article, they shall immediately inform the Agency thereof.

During the suspension of service provision for reasons referred to in paragraph 1 of this Article lasting longer than stipulated under the contract on service provision closed between the authorization holder and subscriber, the subscriber shall not be charged for the usage of contracted services for that period. The Agency shall be informed in written form of any major malfunctions.

Article 21

An authorization holder is required to ensure that the following parameters: signal level, signal levels difference between channels, signal-to-noise ratio, signal-to-interference ratio, signal-to-intermodulation ratio, mutual isolation between end users' access points, be compliant with CENELEC EN 50083-7 standard (including Annex EN 50083-7/A1 pertinent to digital signal transmission).

Subjective grade of quality of picture or sound may not be inferior to grade 4, according to grading scale under JUS N.N6 134 and JUS N.N6 135.

Article 22

In case of substantiated users' complaints regarding the quality of service provision, the Agency has the right to publish on its website the users' complaints and replies from the authorization holder of whose services a user is complaining.

In case of repeated complaints from subscribers, lacking appropriate response from the authorization holder, the Agency may issue a warning or take other measures stipulated under these Rules or the Law.

VII TARIFFS FOR SERVICE PROVISION

Article 23

An authorization holder may freely establish the tariffs for their services.

An authorization holder is required to inform the subscribers about the tariffs for the services by publishing the services price list on the info channel or by sending it together with the bill.

In case of an increase in service tariffs, the authorization holder shall inform the Agency about the price list for their services and about the changes thereof no later than 30 days before the new price list comes into effect.

An authorization holder is required to publish the information on the increase in tariffs for their services on their info channel no later than 14 days before it comes into effect, and to send this information to the subscribers along with the last monthly bill prior to the increase in prices.

If an authorization holder is declared a telecommunications operator with significant market power, by a separate decision of the Agency, then tariff regulation is defined under this decision.

VIII REPORTS AND INFORMATION

Article 24

For the purposes of monitoring the compliance with the conditions under the authorization and the development of telecommunications service market, in accordance with the instructions from the Agency, an authorization holder is required to file reports to the Agency every six months on the area of their business directly related to provision of services under the authorization (earned income, expenditure for leased facilities, expenditure for copyright and related rights, number of users, coverage area, results of measuring regarding the quality of signal, data on number of malfunctions and time of remedy, total number of complaints on quality of service, etc.).

The Agency may require from an authorization holder to file additional reports necessary for regulation of telecommunications area.

IX AUTHORITY OF TELECOMMUNICATIONS INSPECTORS

Article 25

According to the Law, a telecommunications inspector is required to undertake necessary measures so as to prevent breaches of the Law and rights and obligations under these Rules.

When performing control, a telecommunications inspector has the authority under Article 26 of the Telecommunications Law.

X RESTRICTIONS ON TRANSFER OF THE AUTHORIZATION

Article 26

An authorization holder may not transfer the authorization or the rights acquired through the authorization without the prior approval from the Agency.

XI TRANSITIONAL AND FINAL PROVISIONS

Article 27

Persons who have been providing the radio and television program distribution service via cable network by the day these Rules come into effect are required to submit an application referred to in Article 5 of these Rules, no later than 30 days after these Rules come into effect. Person providing the service using own network shall also enclose copies of the existing certificates and permits for the network.

Persons who fail to submit an application within the period referred to in the previous paragraph, shall be considered to be providing service without an authorization.

The deadline for harmonization of service provision with these Rules for persons referred to in paragraph 1 of this Article is one year from the day these Rules come into effect.

Article 28

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

**APPLICATION FORM FOR OBTAINING THE AUTHORIZATION FOR RADIO AND
TELEVISION PROGRAMS DISTRIBUTION SERVICE PROVISION VIA CABLE
DISTRIBUTION NETWORK**

1.	Name, address and head office of the applicant	
2.	Personal ID number	
3.	Fiscal ID number	
4.	Name and surname of the responsible person, telephone, fax, e-mail, website, domain name	
5.	Data on number of the employees and structure in terms of qualifications, and planned changes	
6.	Data on each owner and the percentage of capital ownership, whose share in total (ownership) capital of the operator is 10 and more per cent. (when the owner is a foreign legal or natural person, a statement indicating entire ownership structure along with the percentage of ownership and correct owners' addresses is also required)	
7.	Number of offered radio and television channels per location (basic package and special packages and number of channels with require additional payment)	
8.	Area in which the services provided/planned to be provided with current/planned number of users: (Municipality/s, City/s, Region/s, Territory of the Republic of Serbia)	
9.	Equipment for Service provision per location (Type and manufacturer of the equipment for receiving, processing and distribution of signal to end users, if the technical inspection has been performed): Network infrastructure (own network or leased facilities along with the copies of contracts, type of network, mode of transmission.)	
10.	Network monitoring: (software – type of software, duty officers...)	
11.	Customer service (Assistance service, complaints...)	
12.	Data on tariffs and pricelist are available on the info channel number (indicate per location for the entire coverage area):	
13.	Framework plan and timeframes for the development of provided services: (planned volume of investments, timeframes, planned capacity, number of users, number of cannels...)	

Date

SEAL

Signature of an authorized person

KDS 2 Form



Date:

Number:

**AUTHORIZATION FOR RADIO AND TELEVISION PROGRAMS
DISTRIBUTION SERVICE PROVISION VIA CABLE DISTRIBUTION
NETWORK**

Name, address and head office, Fiscal ID number and Personal ID number of the person to whom the authorization is issued	
Area of service provision	
Authorization validity	
Data on tariffs and pricelist available on info channel number:	
Obligations regarding the development or expansion of offered services	
Financial liabilities for universal service funding	
Rules on personal data protection and privacy	

Amount and method of payment of the authorization fee is stipulated under Articles 1 and 6 of the Rules on fees and costs for license and approval issuance (“Official Gazette of RoS”, no. 58/06)

Text of Articles 3, 4, 7, 8, 10 to 27 of these Rules;

SEAL

Signature of an authorized person