

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 6<sup>th</sup> June 2006, adopted

## **RULES**

### **ON TERMS AND CONDITIONS FOR INTERNET SERVICE PROVISION AND ON CONTENTS OF AUTHORIZATION**

#### **I GENERAL PROVISIONS**

##### **Article 1**

These Rules determine the basic technical requirements necessary for the provision of Internet services, mode of issuance and contents of the authorization issued to Internet service providers.

##### **1.1. Definitions of terms**

##### **Article 2**

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

*Internet* is a global electronic communications system of interconnected computer networks and devices, intended for exchange of all types of information in accordance with the Internet standards.

*Internet standards* are documents referring to concepts, networking procedures, protocols, interfaces and identification methods within the Internet. Internet standards, Request For Comments (RFC), are adopted by the international organization of Internet Engineering Task Force (IETF).

*Internet protocol (IP)* is a set of protocols for communication and data transfer between the devices on the Internet.

*Internet services* are, for the purposes of these Rules, public telecommunications services performed in compliance with the Internet standards (the recommended and STD series of RFCs documents), except for the commercial Internet services of telephony, radio and television.

*Internet telephony* is a set of technologies enabling the provision of voice services of any form by using the Internet protocol.

*Subscriber* is a legal or natural person using the services of a holder of the Internet services provision authorization and with whom the authorization holder has closed a contract on service usage.

*Authorization holder* is a person who has been granted the right of Internet service provision under the conditions laid down by these Rules.

*Domain name* is a globally unique textual designation connecting a set of computers, devices and services on the Internet into a single administration-technical entirety.

*IP address* is a numerical identifier unambiguously identifying a network or an access point within the Internet.

## II CONDITIONS FOR INTERNET SERVICE PROVISION

### Article 3

The applicant has to comply with the Internet standards - STD series, for Internet service provision (hereinafter: the Service).

For IP version 6 (IPv6) RFCs documents – the recommended version shall apply, until they are adopted and moved to STD series.

### Article 4

For service provision, the Republic Telecommunication Agency (hereinafter: the Agency) issues an authorization to the person with registered telecommunications activity, which has submitted a complete application for registration and which complies with or accepts to comply with the conditions laid down by these Rules.

## III CONTENTS OF APPLICATION

### Article 5

The application for Internet service provision shall be submitted using the INT1 Form, which is attached to these Rules and an integral part thereof.

Together with the application the following shall be submitted:

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 technical solution of the actual system condition. Within the technical solution the type of Internet connection and user access shall be defined;
4. Proof of payment of the fee and costs in accordance with the relevant general act of the Agency.

#### IV ISSUANCE OF AUTHORIZATION FOR INTERNET SERVICE PROVISION

##### 4.1. Issuance of authorization

###### Article 6

The authorization for Internet service provision is 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.

The decision referred to in the previous paragraph of these Rules shall be made no later than 30 days after the application is submitted 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 revoked or cancelled by the authorization holder, the Agency shall not issue a new authorization to this person during the period of one year, starting with the day of the revocation or cancellation 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 the minimum equipment required for service provision and authorization issuance aiming at user protection of subscribers, operators and third parties.

The authorization does not prevent the introduction of new services, except in case such services are not explicitly forbidden or placed under a special regime by the

telecommunications sector policy or regulations governing the area of telecommunications.

The authorization holder has a right to access telecommunications resources, 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 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.

#### 4.3. Contents of the authorization

##### Article 9

The authorization shall contain the following data and conditions:

- Agency's name and logo;
- Date of issuance and number from the register of authorizations;
- Name and address of the person to whom the authorization is issued;
- Domain name and Internet address;
- Type of service;
- Information on the website containing information about the tariff, pricelist and standard subscriber contract;
- Text of Articles 3, 4, 8, 10 to 29 of these Rules;
- The amount and mode of payment of the authorization issuance fee;
- Validity period of the authorization;

Authorization INT 2 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. Modification of the authorization

##### Article 11

The terms and conditions of the authorization may be modified only by means of the agreement between the authorization holder and the Agency.

As an exception to paragraph 1 of this Article, the terms and conditions of the authorization may be modified against the will of the authorization holder only in the following cases:

1. If required by the public interest, such as needs of state defence or state and public security and alike;
2. With the purpose of harmonization with the regulations, guidelines, directives and decisions of international organizations or based upon the decisions of the authorized responsible authorities.

In order to modify the authorization for the reasons referred to in item 2, paragraph 2 of this Article, the Agency is required to previously invite all relevant authorization holders to express their opinion on the proposed modifications.

The decision of the Agency regarding the modification of the authorization shall be made publicly, allowing an authorization holder to express views on the reason and extent or contents of modification.

The Agency is required to limit the rights of an authorization holder only to the minimum extent necessary and solely for reasons cited in items 1 and 2 of paragraph 2 of this Article.

The modifications shall apply equally to all issued authorizations, i.e. to all authorization holders, unless there are particular reasons for different treatment, pursuant to law.

#### 4.6. Revocation of the authorization

##### Article 12

The authorization may be revoked for the following reasons:

1. Repeated or serious violations of terms and conditions under the authorization;
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; and
4. Failure of the authorization holder to observe the final decision of the responsible authority regarding the business operations and service provision.

The procedure of authorization revocation shall be initiated on the basis of a justified and confirmed subscriber's complaint or on the basis of a report on control by the Agency.

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 negligence, allowing a reasonable time for the violations 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.

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

#### 4.7. Suspension of rights and obligations from the authorization

### Article 13

Following the decision of the Agency, the rights and obligations stated in the authorization may be suspended in the following cases:

1. war or state of emergency;
2. events of Force Majeure which seriously affect the ability of a license holder to fulfil its obligations under the authorization or law.

The suspension of rights and obligations shall not be longer than the duration of the circumstances that caused the decision referred to in paragraph 1 of this Article.

During the suspension, the authorization holder cannot use the rights from the authorization, nor has any financial liabilities during this period and the validity period of the authorization will be extended for the suspension period.

The Managing Board of the Agency may also adopt the decision on suspension of rights and obligations from the authorization in the cases for which revocation of the license is stipulated, if an authorization holder furnishes satisfactory evidence that during the period in which the rights and obligations from the authorization are suspended the violations that are the reason for the revocation of authorization shall be remedied.

The suspension referred to in paragraph 4 of this Article is terminated when the Agency establishes that the authorization holder has remedied the violations that caused the suspension.

If the authorization holder has not remedied the violations within the suspension period, the Agency institutes proceedings for revocation of the license.

During the suspension period determined for reasons referred to in paragraph 4 of this Article, the license holder cannot exercise only the rights stipulated under the license.

#### 4.8. Cancellation of authorization by the holder

#### Article 14

If an authorization holder wishes to renounce 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 shall not be entitled to the refund of the amount paid for the authorization fee.

### V OBLIGATIONS OF AUTHORIZATION HOLDER

#### Article 15

An authorization holder is required to obtain own IP address and domain name from the responsible authorities.

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

An authorization holder is required to provide services, in accordance with the technical feasibility, to all interested parties, without any discrimination.

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.

An authorization holder is required to provide at their own expense the equipment, devices and installations, which will enable the maintenance of relevant data in the

minimum period of six months, access to this data by the responsible authority and electronic surveillance in cases stipulated by the law. In manner and to extent stipulated under the relevant regulation.

#### Article 16

An authorization holder is required to close a contract on service provision with a subscriber, clearly stating the rights and obligations of the subscriber, in particular specification of the services to be provided, as well as the terms and conditions under which they will be provided. The provisions on terms and conditions of service provision shall include 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.

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. 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.

An authorization holder is required to make available their standard pricelist and standard text of contract on service provision on their website. A closed contract may not have less favourable terms and conditions compared with the conditions stipulated by an authorization holder, in terms of price and quality of services.

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

An authorization holder is required to ensure confidentiality and safety of their services and they are forbidden to use or provide information to third parties regarding the contents, facts and conditions of message conveyance, except for the minimum necessary for service provision or in case of virus or abusive messages sending.

#### 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 services providers or with parties engaged in trade of equipment for service provision. The Agency shall revoke the authorization in case an authorization holder attempts to establish any kind of monopoly in the market and shall inform the responsible authority thereof.



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 terms and conditions of the authorization.

#### Article 18

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

An authorization holder is required to inform the Agency about a change in the share of ownership capital no later than eight days in case the change exceeds 10% of the total ownership capital.

An authorization holder is required to obtain an approval from the Agency for a change in share of capital, which provides a majority share of over 50%.

### VI LEVEL OF QUALITY OF SERVICE

#### Article 19

An authorization holder is required to make available data with indicators for the quality of service on their website.

The Agency may specify some of the indicators for the quality of service as obligatory by a separate decision.

An authorization holder is responsible for remedy of malfunctions and removal of all faults of their equipment, which are within their competence.

During the suspension of service provision for reasons referred to in paragraph 3 of this Article lasting longer than stipulated under conditions published by the authorization holder on their website, the subscriber shall not be charged for the usage of contracted services.

An authorization holder is required to provide devices, equipment and installations which will guarantee to a reasonable extent the protection of subscribers' data and prevent their abuse by third parties.

#### Article 20

In case of repeated 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 the user is complaining.

### VII CONTROL OF PROHIBITED CONTENT

## Article 21

If the responsible authority orders an authorization holder, by a final decision, to remove from their server content found to be prohibited, offensive, harmful or violating a copyright, the authorization holder is required to act according to such decision without delay.

An authorization holder has to define their policy towards subscribers, the acceptance thereof being a condition for establishing a subscription relation. Breach of accepted conditions by a subscriber may be a reason for breaking a contract.

The policy of service provision of an authorization holder may not be such a to result in any restrictions in regard to access to services, based upon national, racial, religious, political, territorial or any other criteria which could lead to breach of human rights and basic liberties.

## VIII LIMITATIONS IN THE AUTHORIZATION

### Article 22

Commercial provision of Internet telephony service shall be regulated by a separate general act of the Agency.

The Agency reserves the right to regulate the provision of certain services by a separate act, if necessary.

## IX FACILITY LEASE

### Article 23

An authorization holder may lease facilities from any public telecommunications operator (leased lines, access ports, transmission facilities, etc.) in accordance with the general act of the Agency.

An authorization holder may install their own transmission and access facilities, which are subject to a separate permit from the Agency.

## X TARIFFS FOR SERVICE PROVISION

### Article 24

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 website.

An authorization holder shall inform the Agency about the services price list for their subscribers and about the changes thereof, if there is an increase in service tariffs, no later than 30 days before the price list comes into effect.

An authorization holder is required to post the information on the increase in tariffs for their services on their website no later than 14 days before it comes into effect.

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.

## XI REPORTS AND INFORMATION

### Article 25

For the purposes of monitoring the compliance with the terms and conditions under the authorization and the development of telecommunications service market, 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, which will enable the monitoring of the quality of service and development of an authorization holder.

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

## XII DISCONNECTION OF SUBSCRIBERS

### Article 26

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

## XIII LIMITATION OF LIABILITY OF THE AGENCY

### Article 27

The Agency shall not be responsible for any consequences of changes in the terms and conditions under the authorization, arising from a change in the telecommunications sector policy, laws governing the telecommunications sector, generally accepted international standards or other legal provisions, falling outside the competence of the Agency.

The Agency shall not be responsible for any material or other kind of harm that a subscriber may bare, caused by using the Services of an authorization holder (e.g. spam, virus, phishing).

#### XIV AUTHORITY OF TELECOMMUNICATIONS INSPECTORS

##### Article 28

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

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

#### XV RESTRICTIONS ON TRANSFER OF THE AUTHORIZATION

##### Article 29

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

#### XVI FINAL PROVISIONS

##### Article 30

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”.

INT1 Form

**APPLICATION FORM FOR OBTAINING THE AUTHORIZATION FOR  
INTERNET SERVICE PROVISION**

1.	<b>Name, address and head office of the applicant</b>	
2.	<b>Personal ID number</b>	
3.	<b>Fiscal ID number</b>	
4.	<b>Name and surname of the responsible person, telephone, fax, e-mail, website, domain name</b>	
5.	<b>Data on number of the employees and structure in terms of qualifications, and planned changes</b>	
6.	<b>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.</b> (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.	<b>List of Services provided:</b> (Internet access, electronic mail, users' web presentations, users' service support, games...)	
8.	<b>Area in which the Services relative to a specific territory are provided</b>	
9.	<b>Equipment for Service provision:</b> (Type and manufacturer of the equipment, servers, routers...)	
	<b>Data keeping (Back-up):</b> (How often are the data stored, in which media and how long are they kept)	
	<b>Software support:</b> (Programs which are a support to provided services, billing, records on user, software services)	
	<b>Constant feed:</b>	

	(Is there a backup feed, in what locations and for what period of time)	
	<b>Links:</b> <b>Location of connection point and superprovider</b> (e.g. Belgrade, Telekom Srbija) <b>Type of link</b> (optical, radio...) <b>capacity</b> (2,...34,...155Mb/s,... 100Mb/sEthernet) <b>class</b> (GUP - General Upstream Providing SUP - Selective Upstream Providing PUP – Peering Upstream Providing Peering) <b>If there are more links indicate data for each of them</b>	
	<b>Interfaces and protocols on links</b>	
10.	<b>Data transfer security:</b> (Is there a protection for data transfer and what kind)	
11.	<b>Data protection:</b> (Firewall, ...)	
12.	<b>User protection:</b> (24/7 support, contact, point of sale, monitoring of bills and time)	
13.	<b>Possibilities of users' accesses:</b> (circuit-switched, ADSL, WLL, cable, leased lines...):	
14.	<b>User capacity of each of the indicated types of access</b>	
15.	<b>Interfaces and protocols towards users</b> (PRI ISDN, SMIN, V35, ...)	
16.	<b>Data on tariffs and pricelist and standard subscription contract are available on the website:</b>	
17.	<b>Framework plan for the development of provided services and introduction of new Services:</b> (expected investments, timeframes, planned capacity, planned number of users, planned Services)	
18.	<b>Manner of protection of personal data and privacy:</b> (Crypting, restricted access to data, statements on data protection...)	

19.	<b>Network monitoring:</b> (software, duty officers...)	
-----	--	--

SEAL

Signature of an authorized person

INT2 Form



Number:  
Belgrade, \_\_\_\_\_

### **AUTHORIZATION FOR INTERNET SERVICE PROVISION**

<b>Name, address and head office, Fiscal Id number and Personal ID number of the person to whom the authorization is issued</b>	
<b>Type of service</b>	
<b>Website containing data on tariffs, pricelist and standard subscription contract</b>	
<b>Amount and method of payment of the authorization issuance fee</b>	
<b>Valid until:</b>	

Text of Articles 3, 4, 8, 10 to 29 of these Rules;

SEAL

Signature of an authorized person