

Pursuant to Arts. 8, para. 1, item 1), 23, para. 1, and 108 of the Law on Electronic Communications (*Official Gazette of RS*, no. 44/10), Arts. 12, para. 1, item 1) and 16, item 4 of the Statutes of the Republic Agency for Electronic Communications (*Official Gazette of RS*, no. 59/10),

the Managing Board of the Republic Agency for Electronic Communications, in its session of 15 September 2011, adopted the

RULES on obligations of value added services providers

I. General Provisions

Article 1

These Rules shall stipulate in detail the obligations of the operators providing value added services, in regard to publishing a detailed description and price of overall service and/or all its components, service advertising, service accounting and billing, personal data processing, traffic and location data processing, forbidden content control, complaint resolution and user interest protection.

Article 2

The terms used herein shall have the following meaning:

Value Added Service Provider is an entity providing a Value Added Service to a service user;

Public Communication Network Operator is a legal entity operating a public communication network, which provides the Operator of Value Added Service with technical support and/or billing services pertaining to service provision;

Value Added Service User is an entity accessing a value added service that involves the usage of relevant numbers from the Numbering Plan.

II. Obligations of the Value Added Service Provider

2.1. Operator Procedure Principles

Article 3

When providing a Value Added Service, a Value Added Service Provider (hereinafter referred to as VAS Provider) shall comply with the provisions of the laws and bylaws in effect in the Republic of Serbia, so as to protect the user from any abuse or harm.

VAS Provider shall be responsible for Value Added Service (hereinafter referred to as VAS) provision pursuant to the Law on Electronic Communications (*Official Gazette of RS*, no. 44/10, hereinafter referred to as Law) and these Rules.

In case VAS Provider is providing VAS in cooperation with an entity with which they close a contract containing obligations pertinent to VAS provision and/or promotion, they shall be required to ensure that VAS is provided pursuant to the Laws and these Rules, regardless of the demarcation of obligations agreed upon by the contracting parties.

VAS Provider and the entity referred to in para. 3 herein shall be required to ensure protection of VAS user by:

- 1) providing clear and unequivocal information on the type and content of VAS provided, VAS price and charging method;
- 2) providing clear and transparent information on VAS Provider when advertising VAS;
- 3) ensuring that promotion activities are in no way deceiving or misleading for potential VAS users;
- 4) ensuring that VAS content is compliant with the regulations of the Republic of Serbia;
- 5) ensuring special protection for children.

2.2. Technical Requirements for VAS Provision

Article 4

In order to comply with the technical requirements for VAS provision, depending on the type of VAS, VAS Provider shall be required to ensure the following:

- 1) equipment for call handling and registration, call forwarding, VAS quality parameter monitoring, call data retention according to legal timeframes, and the equipment for lawful interception of VAS;
- 2) equipment for SMS and MMS handling and processing solely for the purpose of VAS provision, VAS quality parameters monitoring and data retention according to legal timeframes.

The equipment referred to in para. 1 herein shall be accompanied by appropriate certificates.

The VAS Provider shall provide VAS independently or in cooperation with the entity referred to in Art. 3, para. 3 herein, through terminal equipment connected to electronic communication network of VAS Provider.

2.3. VAS Provision Principles

Article 5

VAS may not be provided nor promoted in a way such as to insult or take advantage of the situation and/or characteristics of a person or a group of persons, such as persons with disabilities, persons with special needs or children.

2.4. VAS Record Keeping

Article 6

VAS Provider shall keep record on VAS for each provided VAS, which shall include traffic data, call success rate and call failure rate, and also, at the request of the Republic Agency for Electronic Communications (hereinafter referred to as Agency), other data relevant for determining the quality of VAS.

The data referred to in par. 1 herein shall be kept for at least 12 months following the date of VAS provision.

2.5. Equipment Provision

Article 7

VAS Provider shall be required to provide the equipment, devices and installations such as to enable the keeping and protection of the relevant data on traffic and person for a required period of time, independently or in cooperation with a public communication network Operator and/or entity referred to in Art. 3, para. 3 herein.

VAS Provider and public communication network Operator and/or the entity referred to in Art. 3, para. 3 herein shall close a contract setting out technical and financial details, including the obligations arising herefrom to the end of VAS provision to users.

VAS Provider shall be responsible for accurate advertising of VAS price and tariffing method.

Public communication network Operator shall be responsible for an accurate VAS calculation, pursuant to tariffing method, and also for billing if stipulated under the contract with the VAS Operator.

At the request of the Agency, VAS Provider and public communication network Operator shall be required to provide technical and operational data on the manner of VAS provision required for verification of data on the provided VAS, to the end of VAS user protection.

III. Service Description

3.1. Types of VAS

Article 8

VAS shall herein refer to the following:

- 1) access to and/or delivery of contents of informative, educational or entertaining character;
- 2) provision of information to VAS user on the status of their services;
- 3) service ordering or booking;
- 4) access authorization;

- 5) advanced communication services;
- 6) access to prize contests, quizzes and games of fortune;
- 7) electronic and printed media and Internet related service;
- 8) access to and/or delivery of adult contents;
- 9) donation raised for a charity or humanitarian cause;
- 10) other service that may be regarded as a service referred to in items 1) – 9) herein according to its nature and/or manner of provision.

The payment of goods and services (ticket purchase, parking payment, banking and similar services pursuant to the provisions regulating the subject-area and/or obligations) through telephone bill shall not be regarded as VAS referred to in para. 1 herein if the payment can be made in another way.

3.2. VAS content and QoS

Article 9

The content of VAS shall be in accordance with the advertised contents of the VAS.

If the content of VAS involves information provision, the information shall be accurate and timely, and the VAS user shall be clearly notified on the time of last update.

The content of VAS shall be in line with the laws and bylaws of the Republic of Serbia and shall not be such as to encourage or facilitate the VAS user to act contrary to law.

VAS shall not be such as to violate the privacy of a VAS user, nor cause unnecessary fear, concern or distress to VAS user.

VAS shall not be such as to encourage VAS user to commit fraud, make unauthorized use of the service or repeat calls unduly.

VAS requiring the calling party to provide certain personal data shall be in accordance with the Law and separate regulations regulating personal data protection.

Article 10

If a VAS Provider provides VAS through infrastructure of a public communication network operator and wishes to make VAS available from other public communication networks, the public communication network operator to whose network the VAS Provider is connected shall be required to enable VAS availability, to the extent technically feasible and in line with the provisions of the Law, general bylaws of the Agency, international-operator interconnection agreements with other networks and the contract closed with the VAS Provider, based on the previously closed contract pursuant to Art. 7 herein.

In the contract closed with VAS Provider the public communication network operator shall observe the principles of non-discrimination and transparency.

3.3. Numbers Format

Article 11

VAS shall be provided by using the numbers form the Numbering Plan allocated exclusively to this particular purpose.

The numbers for VAS usage shall be promoted in the format stipulated under the Numbering Plan, so as not to be misleading for the users (e. g. if the Agency should underline the meaning of code 900, then code 900 shall be indicated as a distinct entity, separately from other numbers and not for instance as 90 0xxx xxx or in another form that may be misleading for VAS user).

IV. Service price

4.1. Information on the Price of VAS

Article 12

When advertising VAS, VAS Provider shall be required to provide the information on the price of VAS in an appropriate and easy to understand manner.

When advertising VAS, VAS Provider shall make a clear distinction between the information on price of VAS per call duration or traffic quantity and on price of VAS per call and shall clearly indicate the price of telecommunication service and price of VAS when they are given separately.

When providing VAS, VAS Provider shall ensure that:

- 1) price of VAS published in the media is clearly indicated;
- 2) price is written using a font of the same size, type, colour and background as that used for the VAS telephone number (if published in television or in printed media);
- 3) the price is mentioned each time the VAS number is mentioned (if published in television or in radio programme);
- 4) if VAS is received by dialling a telephone number, VAS user is informed on the price of VAS after the call set-up and before the VAS tariffing starts;
- 5) if VAS involves any elements of games of fortune, this is clearly indicated in the commercials and the information provided before the tariffing starts.

4.2. Call Price Announcement, Charge Start and VAS Charge

Article 13

VAS Provider shall ensure that at the beginning of each call and before the provision of VAS starts, the call price and the call charging start is announced.

Each announcement referred to in the previous paragraph needs to be followed by a possibility to terminate the call available at least two seconds, and before the call charging starts, so as to enable VAS user to withdraw from using VAS in a timely manner.

The provisions of paragraphs 1 and 2 herein shall not apply to televoting services.

Call set-up to a value added number may not be unduly postponed, i. e. the calling party may not be put on hold unless the time on hold is free of charge or the VAS user has been informed that they would be charged even if VAS is not fully provided.

The price of VAS shall remain the same from the beginning until the termination of the service provision unless the user explicitly agrees to accept price modification.

VAS Provider shall inform the user, without charging for the information, on each amount of over 2000 (two thousand) dinars charged for a call made to a VAS number or to terminate the call once it reaches 15 minutes or 100 sent/received SMSs, whichever occurs first. After the call termination, the calling party may repeat the call if they wish to.

The calls may not be unduly extended or stalled. The following shall be in particular considered as unduly extended or stalled:

- 1) providing misleading information to VAS user that they will communicate with a specific person if they continue with the call;
- 2) providing misleading information to VAS user that they will obtain intangible or real benefit if they continue with the call long enough;
- 3) informing about the occurrence of interference or difficulties in VAS content provision followed by the invitation to the VAS user to continue with the call as the interference is expected to be removed.

The service charged by the minute may not be provided by keeping the calling party deliberately on line. The calling party on hold shall be informed on being on hold. Each minute they shall be informed on their position in line.

VAS Provider shall have the following obligations:

- 1) For VAS provided by sending/receiving SMSs the way in which the use of VAS can be terminated shall be clearly indicated. VAS user shall be acquainted with the way the use of VAS can be terminated in addition to number and price of service, so that VAS user can stop using VAS at any time by sending a "STOP" message.
- 2) For VAS provided by sending/receiving SMSs VAS user shall be acquainted with the price and the way in which the use of VAS can be terminated before the requested VAS is activated, and they shall also be acquainted with the information that the costs of data transmission shall be charged in addition to VAS price, if applicable.

Charging for the calls to VAS at times when the purpose of the call cannot be fulfilled (e. g. interactive quizzes with live participation of the calling party at times when the quiz is not broadcast) shall be forbidden.

4.3. VAS Special Payment Methods

Article 14

The conditions that apply to VAS special payment methods shall be fully clear to VAS user before the request for VAS activation is made to VAS Provider or the entity referred to in Art. 3, para. 3 herein.

VAS Provider shall enable VAS user paying for VAS referred to in para. 1 herein to terminate the use of VAS at any time in such a way that the provision of VAS is immediately terminated.

V. Service Advertising

5.1. General Rules of Service Advertising

Article 15

All promotional activities shall involve a detail description of VAS, including the price, in such a way that VAS description is clear, legible and easy to understand for a VAS user of average education.

It shall be forbidden to deceive VAS user by providing incorrect, incomplete or other deceiving information that may be misleading to a user of average education, and it shall also be forbidden to conceal the information required by a user of average education to make a decision on using VAS.

If, in order to achieve a greater promotional benefit, an additional payment is required on top of price of VAS, such payment shall be indicated in the promotional activities referred to in para. 1 herein, in a clear, easy to understand and legible manner.

VAS may not be marked as “free of charge” unless thus defined under the Numbering Plan. The benefits gained by using VAS may not be marked as “free of charge” but as a gift received for using VAS.

The promotional activities shall include publishing contact name and details of VAS Provider or the entity referred to in Art. 3, para. 3 herein, including the telephone number which may not a number belonging to the value added service number category, and also the information on a simple and free of charge way of obtaining such data.

Price of VAS shall also include the value added tax applied. If the price of access to VAS from mobile and fixed electronic communication network may differ, both prices shall to be indicated separately.

Visual promotional material shall include information on prices which is easily identified and easily read, and which is clear, easy to understand and legible to a VAS user of average education.

Promotional material which is only audible without a visual support (e. g. radio commercial) shall include information on price, read out clearly and slowly.

Promotional activities broadcast via television or other audio-visual media shall present the information on price either visually or in audio, in the same way VAS number is presented, and it shall be repeated each time the service number is repeated. The size and speed of the visual presentation shall be such as to be legible and understandable from a usual distance from the screen. Audio presentations shall be pronounced slowly and clearly.

VAS providing content intended for adults only shall, in addition to the information on the call price and charging start, include a message of warning before the beginning of VAS provision of the following content: e. g. “If you are younger than 18 and do not have a permission from a parent/guardian terminate the call immediately”.

If VAS is used to raise donations, the portion of price of VAS that goes to the particular donation and the portion covering the costs of VAS Provider shall be clearly indicated every time the service is advertised.

5.2. Content of VAS Advertisement

Article 16

Each VAS advertisement shall include a detailed description of VAS.

VAS shall be described in such a way that VAS content description is clear, easy to understand and legible to a user of average education. It shall be forbidden to deceive or mislead the user by providing incorrect, incomplete or other deceiving information, and/or to hide the information required by a VAS user of average education in order to make a decision on using VAS.

Each VAS advertisement published in the media shall include the name, full address of the seat and company ID number of the VAS Provider and a contact telephone number which may not belong to a category of value added numbers.

The advertisement indicating a telephone number to which a special tariff applies it shall specify the amount of such tariff visible throughout the entire duration of the advertisement.

VI. Service Accounting and Billing

Article 17

VAS Provider shall account and bill the services to subscriber and/or user the VAS was provided to, in their own name and for their account.

In the procedure of collecting an outstanding debt for VAS services provided, a warning procedure shall be carried out and/or a procedure of forced collection of payments shall be initiated before the court.

VAS provider shall be required to provide an itemized bill for VAS usage, in accordance with the user protection regulations.

VAS Provider and/or the entity referred to in Art. 3, para. 3 herein shall be responsible for user complaint resolution pursuant with the Law and general bylaws of the Agency, regulations on user protection and general principles of the law regulating obligations.

VII. Data Processing

7.1. Personal data processing

Article 18

To the end of privacy and personal data protection, VAS Provider and the entity referred to in Art. 3, para. 3 herein shall act in accordance with the relevant regulations regulating the matter of personal data protection.

Personal data obtained through VAS provision may be used only in accordance with the legal provisions on personal data protection, solely for the purpose of service billing and may not be used for any other purposes, marketing purposes in particular.

VAS Provider and the entity referred to in Art. 3, para. 3 herein shall ensure that all technical, organizational and personnel measures of personal data protection are implemented.

Data obtained through provision of VAS shall be encrypted and may be accessed by authorized persons only for the purpose of billing and complaint resolution. VAS Provider shall keep records on who, when and why accessed the data. The content of messages and recorded conversations, except those for which a complaint has been received, shall be deleted upon the deadline for complaint expires, whereas other data shall be treated pursuant to the Law.

The entity referred to in para. 1 herein shall not be authorized to reveal personal data of VAS users to third parties, except as stipulated under the Law.

7.2. Traffic Data Processing

Article 19

VAS Provider and the entity referred to in Art. 3, para. 3 herein processing and keeping the traffic data on VAS subscribers and users shall delete the data or make them make them unidentifiable as soon as the traffic data cease to be necessary for communication transmission, with the following exceptions:

- 1) data used by VAS Provider and/ or the entity referred to in Art. 3, para. 3 herein to advertise or sell VAS with a prior consent of the person the data referrers to, or for VAS provision, to the extent and within timeframe necessary for that purpose;
- 2) data kept pursuant to provisions of the Law.

The entities referred to in para 1. herein shall observe the provisions of Art. 122 of the Law.

7.3. Location Data Processing

Article 20

VAS Provider and/or the entity referred to in Art. 3, para. 3 herein may process VAS user location data other than traffic data only if the persons such data refers to are made unidentifiable or with their prior consent, to the extent and within timeframe necessary for that purpose.

The entities referred to in para 1. herein shall observe the provisions of Art. 123 of the Law.

VIII. Unauthorized Content Control

8.1. Unauthorized Content

Article 21

If the relevant authority orders VAS Provider or the entity referred to in Art. 3, para. 3 herein, by a final decision, to remove the contents found to be forbidden, insulting, harmful or violating protected author's and related rights, they shall act according to the decision without delay.

8.2. Child Protection

Article 22

VAS Provider and the entity referred to in Art. 3, para. 3 herein shall take all, technically feasible, reasonable measures so as to prevent the children from using a VAS that could jeopardize physical, mental or moral development of a child.

Reasonable measures shall include, *inter alia*, the following:

- 1) limited promotion of the above VAS;
- 2) a message of warning before the provision of VAS begins, stating that the content is intended for adults (e. g. "If you are younger than 18, and do not have a permission from a parent/guardian, terminate the call immediately");
- 3) determining the user's age before the provision of VAS begins (e. g. confirmation of user's age status – child, person of legal age).

VAS intended for children and the promotion thereof shall not encourage children to repeatedly dial the same number nor to use another VAS.

VAS intended for children shall be such that a parent/guardian can be regarded as suitable for the age of a child likely to use the VAS.

8.3. VAS Misuse

Article 23

VAS misuse shall refer to quizzes and similar games promising prizes that are never awarded or that are won by a person connected with the quiz organizer.

VAS misuse shall also refer to quizzes and similar games charged on a time basis, where the call is connected yet the communication with a voice machine, announcer, TV or radio presenter never occurs, and/or where the call setup is followed by the information on being on hold to be on the air, which however does not occur.

IX. User Complaints

9.1. User Complaints to VAS Provider

Article 24

VAS Provider shall provide VAS user support service via telephone, e-mail or postal service.

The telephone number of the VAS user support service shall be either a free number (800) or a number charged as a publicly available telephone service in the national network. The number may not be a value added number (900 or similar) nor a number abroad.

VAS user complaints concerning the bill or QoS shall be submitted to VAS Provider in writing.

The VAS Provider shall carry out administrative and technical verification of the complaint claims.

VAS Provider shall observe the provisions of Art. 113 of the Law.

9.2. Complaints to the Agency and User Protection

Article 25

In cases when VAS Provider receives a complaint from VAS User they can contact the Agency to serve as a mediator in an out-of-court settlement no later than 15 days after the receipt of reply from VAS Provider, and/or no later than 15 days following the deadline for VAS Provider to provide a reply to the received complaint.

The Agency shall keep records and follow all complaints concerning VAS provision.

The Agency shall inform VAS Provider on the complaints referred to in para. 2 herein and request them to provide a statement on the irregularities encountered within 15 days, or as soon as possible if required by the circumstances, and/or to remove the regularities and inform the Agency thereof.

VAS Provider shall provide a statement on the circumstances reported in the request form the Agency referred to in para. 3 herein.

Any legal dispute concerning VAS provision shall be in the jurisdiction of a court in the territory of the Republic of Serbia.

X. Final Provisions

Article 26

The day these Rules enter into force, the Decision 1-Kab-345-257/06 of the Managing Board of the Agency, of 29 November 2006, shall cease to be valid.

VAS Provider providing VAS at the time these Rules enter into force shall align their business practice herewith and provide the Agency with the contracts closed with the entities referred to in Art. 3, para. 3 herein, no later than 45 days following the entry into force hereof.

Article 27

These Rules shall enter into force on the eighth day following the publication in the *Official Gazette of the Republic of Serbia*".

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Belgrade, 15 September 2011.

**Chairman of the
Managing Board**

Prof. Dr Jovan Radunovic