

Pursuant to Article 47, paragraph 1 and in reference to Article 3, item 6) and Article 9, paragraph 1, item 3) of the Telecommunications Law (*Official Gazette of RoS* no. 44/03 and 36/06) and pursuant to Article 18, item 11) of the Statutes of the Republic Telecommunication Agency (*Official Gazette of RoS* no. 78/05),

the Managing Board of the Republic Telecommunication Agency, in its session held on 13 May 2008, adopted

RULES

ON GENERAL TERMS AND CONDITIONS FOR INTERCONNECTION OF PUBLIC TELECOMMUNICATIONS NETWORKS

1. GENERAL PROVISIONS

1.1. Contents of the Rules

Article 1

These Rules set out general terms and conditions for interconnection of telecommunications networks of public telecommunications operators, technical and financial interconnection requirements, procedures of ensuring interconnection, special interconnection requirements, obligations of the operators with significant market power, standard interconnection offer and terms for drawing up thereof, and adoption of decision superseding the interconnection agreement and/or some parts of the agreement.

1.2 Definitions

Article 2

Terms used in these Rules shall have the following meaning:

Interconnection agreement is an agreement closed between public telecommunications operators, defining terms and conditions for interconnection of their public telecommunication networks and interconnection service provision pursuant to the agreement.

Interconnection request is a written request by means of which a public telecommunications operator is requesting another public telecommunications operator to provide interconnection.

Standard interconnection offer (SIO) is a document available to public, published by an operator with significant market power, defining a standard set of technical and commercial terms and conditions under which the operator offers interconnection service to other public telecommunication operators. This document is a basis for negotiating and closing an interconnection agreement between an operator with significant market power and other public telecommunication operators under equal, transparent and non-discriminatory conditions.

Operator with significant market power is a public telecommunication operator designated as such by a decision of the Republic Telecommunication Agency, pursuant to the Telecommunications Law (*Official Gazette of RoS* no. 44/03 and 36/06).

Relevant costs reflect really incurred (historic costs) and/or projected future costs to be incurred by interconnection service provision.

Interoperability means compatibility between different telecommunication networks so that their user may freely communicate, and/or access telecommunication services provided by another or via another telecommunication network.

Interconnection service is a telecommunication service provided by one telecommunication operator to another, according to the interconnection agreement.

2. GENERAL TERMS AND CONDITIONS FOR INTERCONNECTION

Article 3

Interconnection of public telecommunications operators' networks shall be based on the following principles:

- Contractually regulated interconnection of telecommunication networks
- Transparency of interconnection offer,
- Non-discriminatory interconnection conditions,
- Fees and other payments set according to relevant costs, plus a reasonable profit
- Availability of interconnection at all points of the telecommunication network where technically feasible and economically justified.

Interconnection conditions offered to a third party cannot be less favourable than those offered to their related separate legal entities or subsidiaries formed pursuant to the law regulating the legal status of the undertakings.

3. PROCEDURES FOR ENABLING INTERCONNECTION

3.1. Enabling interconnection

Article 4

Any public telecommunications operator has the right to connect its telecommunications network to other public telecommunications networks in order to provide telecommunication services through both networks, and based upon an interconnection request submitted by one operator to another, under terms and conditions and in the manner stipulated under the legislation regulating telecommunications.

Article 5

In order to enable interconnection, public telecommunications operators shall provide:

- Availability of data on their public telecommunication network;

- Safety of their telecommunication network operation;
- Interoperability, including satisfactory quality of telecommunication services;
- Security and confidentiality of exchanged data.

3.2. Interconnection request and response to request

Article 6

An interconnection request may be submitted by a public telecommunications operator to another telecommunications operator.

The public telecommunication operator from which the interconnection is requested shall enable interconnection, pursuant to legislation regulating telecommunications, with the aim of public telecommunications service provision, except in cases stipulated in these Rules.

Article 7

The request referred to in Article 6 of these Rules shall include the following:

- Basic data on the public telecommunications operator requesting interconnection, referring to name, head office, personal ID number, fiscal ID number, responsible person, etc.
- Basic data on their public telecommunication network and public telecommunication services provided through it (suggested locations and technical characteristics of telecommunication devices and equipment to be used for interconnection, as well as the types of public telecommunication services, etc.),
- Data on the license issued by the Republic Telecommunication Agency (hereinafter: Agency),
- Requested interconnection services,
- Proposed locations of interconnection points,
- Certificate on compliance of telecommunication devices and equipment with relevant technical standards defined by the Telecommunication Law (*Official Gazette of RS* nos. 44/03 and 36/06, hereinafter: Law), general bylaws of the Agency, ETSI standards and normative provisions, ITU-T Recommendations, and standards and normative provisions applied in the European Union,
- Traffic requirements for a minimum period of 6 months in advance, requested interconnection links capacities and data on contact person (name, surname, telephone, fax, e-mail).

A public telecommunication operator who receives an incomplete interconnection request shall, no later than 15 days following the day the request is received, invite the public telecommunication operator requesting interconnection to complete the request, pursuant to paragraph 1 of this Article.

Article 8

Interconnection request referred to in Article 7 of these Rules may be rejected on the following grounds:

- In case the public telecommunication operator requesting interconnection fails to complete the request within 30 days following the day they receive the request to complete it from the public telecommunication operator who requested to grant interconnection
- In case the interconnection is not technically and/or economically feasible, in which case the public telecommunication operator who requested to grant interconnection shall provide a detailed rationale for rejection and provide an alternative proposal if technically feasible.

Public telecommunications operators should agree and conclude a contract on interconnections within three (3) months as of the date of filing the complete interconnection request.

A public telecommunications operator whose interconnection request has been rejected, and/or agreement has not been concluded within the deadline referred to in paragraph 2 hereof, can address the Agency requesting the re-examining of reasons for rejection and/or non-conclusion of the agreement, and/or for the Agency to bring a corresponding decision pursuant to the Law and these Rules.

3.3. Interconnection agreement

Article 9

Public telecommunications operators shall regulate terms and conditions of the interconnection between the respective telecommunications networks by means of an interconnection agreement.

3.4. Contents of the interconnection agreement

Article 10

The interconnection agreement shall include the following, in particular:

- Parties to agreement
- Scope of the agreement with a list of interconnection services
- Agreed prices for interconnection services
- Calculation base and mode of payment
- Outline of the technical solution and interconnection points position
- Technical standards and methods to be applied by the parties to agreement
- Interoperability tests
- Duties and responsibilities of the parties to agreement (concerning the installation, maintenance, monitoring, operation, traffic routing, provision of telecommunication services and the quality thereof, possible damage, force majeure, etc.)
- Confidentiality clauses referring to data and particular parts of the agreement,

- Protection of intellectual property rights
- Procedures for implementation of additional infrastructure and/or new interconnection services
- Procedures for cancellation of agreement and dispute resolution
- Procedures for modifying terms and conditions of the agreement
- Duration of agreement and procedures for renegotiation
- Dynamics for implementation of the concluded agreement
- Contact person for legal, financial, technical and other matters
- Persons for resolution of urgent matters and matters unforeseen in the agreement.

3.5. Agreement registration

Article 11

Pursuant to the Law, the Agency shall keep a register of concluded interconnection agreements.

The agreements referred to in paragraph 1 of this Article shall be submitted to the Agency for registration no later than eight days from the day they have been concluded. The Agency shall reserve the right to review any interconnection agreement submitted for registration and to request that it be modified in case it finds that the agreement or provisions thereof do not comply with the Law or these Rules.

In case the parties to agreement fail to bring the agreement into compliance within the timeframe set out by the Agency, the Agency shall adopt a decision on bringing the agreement into compliance.

The agreement referred to in the paragraph 1 of this Article shall be considered to be registered the day it is entered in the register of concluded interconnection agreements kept by the Agency.

The register of concluded interconnection agreements and data contained therein shall be publicly available, except for data marked as business confidential by the parties to agreement.

4. SPECIAL INTERCONNECTION CONDITIONS

4.1. Interconnection costs and fees

Article 12

An operator with significant market power providing interconnection services shall submit an itemized list of relevant costs and revenues earned from interconnection.

Itemized list referred to in paragraph 1 of this Article shall include the following costs:

- Provision of any kind interconnection service
- Employment of additional technical equipment and infrastructure
- Installation, putting into operation, maintenance, monitoring, operation, etc.

- Relevant joint costs
- Engagement of new and/or retraining of the existing staff
- Other necessary investments.

The Agency may, in accordance with the Law and these Rules, establish a price-cap for the fees and other payments for interconnection, in cases where the stated costs and revenues referred to in paragraph 1 of these Rules are not based on the predetermined criteria.

Article 13

The Agency may impose on obligation to account for costs of interconnection service provision, including the obligation of cost-based pricing and the obligations concerning the cost allocation system for special types of interconnection.

An operator with significant market power shall have the obligation to account for costs referred to in paragraph 1 of this Article, in case the market analysis shows that the absence of competition in the market means that the operator with significant market power can keep excessively high or excessively low prices, at the expense of end-users.

Article 14

An operator with significant market power offering interconnection services to other public telecommunication operators shall submit to the Agency proof that the applied prices are cost-based, which includes a reasonable rate of return on the investments made.

A public telecommunications operator which performs the activity through related separate legal entity or subsidiaries, formed pursuant to the law regulating legal status of undertakings, shall make all its selling prices for internal transfers public so as to guarantee that the requirements of non-discrimination are fulfilled, pursuant to Article 3 of these Rules, and so as to prevent cross-subsidies.

A public telecommunication operator to which these Rules apply shall, *inter alia*, submit to the Agency audited annual reports on calculated costs and revenues deriving from the interconnection services provided, in accordance with the Law and these Rules.

The reports referred to in paragraph 3 of this Article must be made and reviewed in accordance with special regulations on financial business and auditing and with general regulations of the Agency regulating the application of cost-based principle to the operators with significant market power.

4.2. Accounting separation

Article 15

An operator with significant market power shall conclude interconnection agreements with other public telecommunication operators under equal conditions on a non-discriminatory basis, and keep separate accounts for revenues from the activities of each

operator so as to prevent preferential payment terms for interconnection to certain public telecommunication operators.

4.3. Standard Interconnection Offer

Article 16

A public telecommunication operator with significant market power is required to conclude interconnection agreements with all other public telecommunications operator under equal and non-discriminatory conditions, and, furthermore, to make public information on circumstances determining the possibilities and terms and conditions of interconnection, including technical specifications, network characteristics and costs.

Information referred to in paragraph 1 of this Article shall be published by the operator with significant market power in form of a Standard Interconnection Offer, no later than 90 days following the day it is designated as an operator with significant market power by Agency decision.

4.4. Contents of the Standard Interconnection Offer

Article 17

A Standard Interconnection Offer shall include, *inter alia*:

- List of necessary documents to be submitted together with the interconnection request
- Outline of the interconnection points
- Outline and description of the interconnection services
- Interconnection services fees
- Description of negotiation procedure and interconnection realization
- Interconnection capacities management procedures
- Interconnection service calculation and payment method
- Technical standards
- Dispute resolution procedures, etc.

Article 18

In order to prevent monopoly and anticompetitive behaviour and stimulate competition, introduce new interconnection service, guarantee non-discriminatory principle, protection of end-users' interests, guarantee interoperability, etc. the Agency may, if it finds necessary, require from the operator with significant market power to amend the published Standard Interconnection Offer.

5. AGENCY POWERS

Agency decision superseding the agreement

Article 19

If a public telecommunications operator requested to grant interconnection, refuses an interconnection request on the grounds stated in Article 8 of these Rules, or fails to a request in due time, the operator which has submitted the request can appeal to the Agency.

The Agency shall reach a decision no later than 60 days following the day the request is submitted, in the manner and according to the procedure defined by the Law and a general regulation of the Agency.

Prior to adopting the decision referred to in paragraph 2 of this Article, the Agency shall allow for the public telecommunication operators to present facts relevant for decision making and to submit all documents and other evidence they consider to be relevant for decision making.

5.2. Decision on individual parts of agreement

Article 20

At the request of an operator, the Agency may reach a decision which can supersede only some elements of the interconnection agreement on which the parties to agreement cannot agree.

The Agency may reach a decision superseding some elements of the concluded interconnection agreement in the event it determines that according to these elements of the agreement the non-discriminatory principle is not observed in the realization thereof and/or that certain provisions of the agreement are not in compliance with the Law and these Rules.

Article 21

When adopting a decision superseding the interconnection agreement or some provisions of the interconnection agreement, the Agency will consider the following in particular:

- Legitimacy of the reasons for appealing to the Agency
- Interest of the end-users
- Observance of general terms and conditions and compliance of interconnection request
- Providing equal interconnection conditions
- Maintaining integrity of the public telecommunication network
- Interoperability of networks and services
- Public interest
- Environment and human health protection
- Promotion of competition
- Technical elements of the interconnection request

- Initial investments relative to interconnection realization, having regard to potential risks thereof
- Feasibility of interconnection service provision according to the submitted interconnection request.

6. TRANSITIONAL AND FINAL PROVISIONS

Article 22

Fees of the operators with significant market power providing interconnection services shall be in accordance with the of principle transparency and be cost oriented and have to be based on a cost model determined by the Agency in a separate regulation.

At the Agency request, operators with significant market power shall be required to provide proof that their interconnection fees are based on the cost model.

In case an operator with significant market power fails to apply a cost model, the Agency shall determine the fees according to the Law, general regulations of the Agency and the practice applied in the European Union, based on reference values.

Article 23

A public telecommunication operator designated as having significant market power prior to the day these Rules enter into force, shall be required to produce and publish a Standard Interconnection Offer, no later than 90 days following the day these Rules enter into force.

Article 24

Public telecommunication operators, who have concluded interconnection agreements prior to the day these Rules enter into force and have submitted them to the Agency pursuant to the Law, shall not be required to harmonize them pursuant to the provisions of these Rules, except in cases provided under the Law.

Article 25

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

Chairman of the Managing Board

Prof. Dr. Jovan Radunović

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In Belgrade, 13 May 2008