Decision No. 1/35 of the Board of the Public Utilities Commission

Adopted 20 December 2018

**General Authorisation Regulations in the Field of Electronic Communications**

*Issued pursuant to*

*Section 33, Paragraph one and Section 34, Paragraph one of*

*the Electronic Communications Law*

**I. General Provision**

1. The general authorisation regulations in the field of electronic communications (hereinafter – the Regulations) prescribe the conditions of the general authorisation which are binding on an electronic communications merchant, as well as the procedures by which the Public Utilities Commission (hereinafter – the Regulator) shall implement the prevention of violations of the general authorisation regulations by an electronic communications merchant (hereinafter – the violation), the discontinuation of the ensuring of electronic communications networks or the provision of electronic communications services in case of violations.

**II. Common Conditions**

2. The electronic communications merchant shall provide information to the Regulator in the amount and in accordance with the procedures laid down in laws and regulations or also upon a request of the Regulator, if the information is necessary for the execution of the functions of the Regulator or for the supervision of the fulfilment of the conditions of the general authorisation.

3. The electronic communications merchant shall make payments for the financing of the universal service in accordance with the procedures laid down by the Cabinet.

4. The electronic communications merchant shall pay the annual State fee for the regulation of public utilities in the amount and in accordance with the procedures laid down in the laws and regulations.

5. The electronic communications merchant shall conform to the requirements laid down in the laws and regulations for the protection of data in the field of electronic communications.

6. The electronic communications merchant shall ensure the protection of user data in accordance with the procedures laid down in the laws and regulations.

7. When constructing and installing an electronic communications network, the electronic communications merchant shall conform to the requirements of the laws and regulations governing construction and installation.

8. In ensuring an electronic communications network or providing an electronic communications service, the electronic communications merchant shall conform to the environmental and administrative spatial planning requirements laid down in the laws and regulations.

9. The electronic communications merchant shall reach a written agreement with the owner of immovable property or an authorised person thereof on the procedures by which employees of the electronic communications merchant may access the electronic communications network that is located in the relevant immovable property, as well as on the procedures by which the parties shall exchange the necessary information.

10. The electronic communications merchants shall reach a mutual agreement on the technical conditions, financial guarantees and the reimbursement for ensuring the operation of the infrastructure handed over for shared use.

11. In emergency situations, the electronic communications merchant has an obligation to take all the necessary measures to continue to ensure the electronic communications network or to provide the electronic communications service as far as technically possible, conforming to the conditions of the general authorisation and the requirements laid down in the laws and regulations. In emergency situations, the electronic communications merchant which provides voice telephony services shall, as far as technically possible, perform activities in relation to the ensuring of electronic communications networks or electronic communications service to the State Fire and Rescue Service, the State Police, the State Emergency Medical Service, gas emergency service, the Maritime Search and Rescue Service, telephone number “112” service and State administrative institutions in accordance with the procedures laid down in the laws and regulations, as well as the informing of the inhabitants in emergency situations.

12. The electronic communications merchant shall carry out the current planned technical maintenance of the electronic communications network equipment in the hours of the least traffic.

13. The electronic communications merchant shall ensure the operation of the electronic communications network equipment, conforming to the limitations of exposure to the electromagnetic radiation specified in the laws and regulations and the requirements applicable thereto, as well as ensure the conformity of the electronic communications network equipment with the electrical safety and electromagnetic compatibility requirements laid down in the laws and regulations.

14. The electronic communications merchant shall conform to the requirements for the installation and use of radio communication networks or radio equipment laid down in the laws and regulations.

15. The electronic communications merchant has the right to use the radio frequency spectrum bands specified in the common radio frequency assignment use permit for commercial activities without receipt of the right of use for radio frequency spectrum assigned by the Regulator.

16. The operator shall ensure technical and organisational measures to protect the electronic communications network against unauthorised access and to ensure, within the limits of the technical possibilities, integrity of the network, safety and continuity of communication. For the achievement of this objective, the operator shall process and analyse metadata of the electronic communications network (traffic data, location data, data on the transmitted content, personal identification data, etc.).

17. The operator or the electronic communications merchant has the right to terminate the provision of the electronic communications service to the end-user in the following cases:

17.1. the end-user is using unauthorised access to the electronic communications network or also fraud or an attempt thereof which may have a negative effect on the rights or lawful interests of the operator or end-users can be established;

17.2. the end-user is using the connection of the end-user for commercial activity in the field of electronic communications without the consent of the electronic communications merchant;

17.3. the end-user does not comply with the regulations regarding the use of services;

17.4. in the cases specified in the electronic communications services contract, the regulations regarding the use of electronic communications services, or the laws and regulations;

17.5. if there are justified suspicions of money laundering or terrorism financing, as well as if a person has been included in the list of sanctions binding on Latvia.

18. The electronic communications merchant shall conform to the restrictions of the transmission of the information of illegal content specified in the laws and regulations.

19. The electronic communications merchant shall not encourage access to the information the distribution of which on the Internet is prohibited in accordance with the laws and regulations. Upon a request of the user, the provider of the public Internet access services shall provide information regarding the possibility to use a programme (a filter) which restricts the availability of such materials in which cruel behaviour, violence, erotica, and pornography are promoted and which cause a threat to the mental development of a child, as well as shall ensure the installation of a content filter if the subscriber and the electronic communications merchant have mutually agreed thereon.

20. The electronic communications merchant which provides public data transmission and electronic messaging services or public Internet access services with a temporary storage of the transmitted information which is done only for the purpose of the transmission of information, provided that the information is stored not longer than the time period necessary for the transmission of information, shall be responsible for the content of the transmitted information in the following cases:

20.1. if the electronic communications merchant initiates the transmission of information;

20.2. if the electronic communications merchant chooses the recipient of the information to be transmitted;

20.3. if the electronic communications merchant chooses or changes the information to be transmitted.

21. The electronic communications merchant does not have an obligation to supervise the content of information transmitted thereby, except for the cases specified in Paragraph 20 of this Regulation, as well as does not have an obligation to search for the facts and circumstances indicating to the transmission of information of illegal content.

22. The electronic communications merchant shall conform to the national standards of the Republic of Latvia the application of which is compulsory, as well as the standards the application of which is compulsory, specified in the list of standards or specifications, published in the Official Journal of the European Union.

**III. Specific Conditions for Consumer Rights Protection**

23. The electronic communications merchant shall conform to the requirements for consumer rights protection laid down in the laws and regulations.

24. In the electronic communications service contract with the subscriber, the electronic communications merchant shall include the information specified in the special laws and regulations of the field of electronic communications.

25. The electronic communications merchant shall include in the electronic communications services contract the following specific requirements for consumer rights protection:

25.1. information regarding possible inclusion of services provided by a third party in the invoice if fee for such services is included in the invoice of the subscriber;

25.2. the condition regarding the possibility for the subscriber to receive an itemised invoice free of charge;

25.3. information regarding the operator (the name and single registration number of the merchant) which ensures the electronic communications service to the end-user according to a mutual contract with the electronic communications merchant;

25.4. the termination point of the electronic communications network and the place of receipt of electronic communications services individually for each electronic communications service provided if it is possible to indicate such information;

25.5. the quality conditions for the electronic communications services provided to the subscriber which are laid down in Sub-paragraphs 25.6–25.11 of these Regulations, including based on the declared values of the quality parameters of electronic communications services for the failure to ensure which the subscriber has the right to receive a compensation or reduced subscription fee;

25.6. if voice telephony service is provided in a fixed electronic communications network, at least the following values of the quality parameters of electronic communications services:

25.6.1. the minimum value of the speech transmission quality which has been specified, using a 5-point assessment system according to the recommendation ITU-T P.862 or P.863 of the International Telecommunications Union (ITU);

25.6.2. the time for the elimination of damages in its fixed telephone network;

25.7. if voice telephony service is provided in a mobile electronic communications network, at least the following values of the quality parameters of electronic communications services:

25.7.1. the minimum value of the speech transmission quality, using a 5-point assessment system according to the recommendation ITU-T P.862 or P.863 of the International Telecommunications Union (ITU);

25.7.2. the maximum time for the delivery of a text message in its mobile telephone network;

25.8. if the public Internet access service is provided – the connection speed for uploading and downloading which is determined in the section from the termination point of the end-user to the Internet exchange point of Latvia;

25.9. if the public Internet access service is provided in a fixed electronic communications network, at least the following values of the quality parameters of electronic communications services:

25.9.1. the maximum (advertised) numerical value of the connection speed or speed range which characterises the actual connection speed or speed range (upload and download)provided to the end-user which is constantly available to the end-user day and night, except for the hours of the highest traffic or specific circumstances which limit the receipt of electronic communications services;

25.9.2. the normally available numerical value of the connection speed or speed range (upload and download) which characterises the speed or speed range of the connection which is constantly available to the end-user day and night, including hours of the highest load, which may coincide with the maximum (advertised) numerical value of the speed or with the speed range of the connection and the numerical value or lowest limit of the speed range of which is not lower than the minimum guaranteed speed of the connection;

25.9.3. the minimum guaranteed connection speed (upload and download) which is not lower than 20 % of the numerical value of the maximum (advertised) connection speed indicated in the electronic communications services contract or of the upper limit of the speed range;

25.9.4. the availability of the service;

25.9.5. the time for the elimination of damages;

25.10. if the public Internet access service is provided in a mobile electronic communications network, at least the following values of the quality parameters of electronic communications services:

25.10.1. the maximum (advertised) numerical value of the connection speed or speed range which characterises the maximum connection speed (upload and download) actually available to the end-user;

25.10.2. the minimum guaranteed connection speed (upload and download) which is not lower then the lowest speed limit of the bandwidth connection;

25.10.3. the availability of the service;

25.10.4. the time for the elimination of damages;

25.11. if the television programme broadcasting service is provided in a public electronic communications network, at least the following values of the quality parameters of electronic communications services:

25.11.1. the time for the elimination of damages;

25.11.2. the minimum value of the subjective visual valuation of the quality of the image which has been specified in accordance with methodology for the measurement of the quality of electronic communications services of the Regulator.

26. If the electronic communications merchant has specified a limit on the fee for electronic communications services in the electronic communications service contract, the electronic communications merchant shall include the following information in the electronic communications service contract:

26.1. the type of communication in which the electronic communications merchant shall inform the subscriber if the amount of electronic communications services used has reached the limit of the fee after which the provision of electronic communications services is discontinued;

26.2. the procedures (conditions, time periods, and limits) for informing by which the electronic communications merchant shall inform the subscriber who uses the roaming electronic communications service of reaching the limit of the fee for electronic communications services after which the provision of electronic communications services is discontinued;

26.3. the procedures by which the electronic communications merchant shall ensure renewal of the provision of electronic communications services if it had been discontinued due to reaching the fee limit.

27. The electronic communications merchant, if it includes references to a website in the electronic communications service contract, shall ensure that the information can be stored on the website and printed out therefrom with date and time identification.

28. Upon a request of the subscriber, the electronic communications merchant shall provide free of charge the electronic communications contract, its annexes, as well as the documents issued by the electronic communications merchant which are referenced in the electronic communications services contract, including references to the website of the electronic communications merchant, in printed form with the date and time identification of the printout of each document or in other way agreed upon with the subscriber within the scope of the communication channels offered by the merchant.

29. If the electronic communications merchant has included a reference in the electronic communications services contract to the regulations of the electronic communications merchant binding on the subscriber or to the binding information on the website, the electronic communications merchant shall, in accordance with the Electronic Communications Law, inform the subscriber of the changes made in the regulations of the electronic communications merchant binding on the subscriber and in the binding information that is provided on the website.

30. If the electronic communications merchant does not conclude a written electronic communications service contract with the end-user for the provision of electronic communications services:

30.1. the electronic communications merchant shall ensure the identification of the provider of electronic communications services;

30.2. the electronic communications merchant shall ensure public access to the description of the electronic communications services, the regulations regarding the use of electronic communications services, the tariffs of the electronic communications services, and information regarding the procedures for the settlement of disputes and submission of claims by the end-user, as well as informing of the end-user of changes in the description of the electronic communications services, the regulations regarding the use of electronic communications services, the tariffs of the electronic communications services, and the procedures for the settlement of disputes and submission of claims by the end-user;

30.3. the electronic communications merchant shall ensure public access to the quality parameters of the provided electronic communications services and quality parameter values of electronic communications services, including according to the declared quality parameter values of electronic communications services for the failure to ensure which the end-user has the right to receive a compensation in accordance with the conditions laid down in Sub-paragraphs 25.6–25.11 of the Regulations.

31. The electronic communications merchant shall conform to the requirements laid down in the laws and regulations in order to ensure the provision of electronic communications services to disabled persons and public specific information regarding the available electronic communications services and equipment provided for disabled persons.

32. The electronic communications merchant shall ensure the operation of the electronic communications network to its users for 24 hours a day, unless the electronic communications merchant and the user agree otherwise in writing.

33. The electronic communications merchant shall ensure a possibility to end-users to contact the help centre free of charge 24 hours a day in order to report on damages to the electronic communications network or interferences in the receipt of electronic communications services, information regarding the quality of electronic communications services, inaccurate invoices for the provided electronic communications services, information regarding the blocking of an identifiable user identification module card which has been stolen, lost or moved outside of the control of the owner against his or her will in any other way, as well as ensure information regarding this help service, indicating the type of communication and contact details.

34. The electronic communications merchant shall, without delay, register the application of the user received at the help service on the damage to the electronic communications network or interferences in the receipt of electronic communications services, the quality of electronic communications services, and inaccurate invoices for the provided electronic communications services, information regarding and identifiable terminal equipment which has been stolen, lost or moved outside of the control of the owner against his or her will in any other way and the request of the user the block the user identification module card, except when the application has already been registered due to a failure in the electronic communications network.

**IV. Special Conditions for the Interconnection Service Provider**

35. In order to ensure the interoperability of electronic communications services, the operator has the right and, if it has been requested by another electronic communications merchant, also the obligation to negotiate access to the electronic communications network or establishment of interconnections and to conclude the access or interconnection contract. The interconnection contract shall be drawn up in three copies and one of the copies thereof shall be submitted to the Regulator within ten working days after conclusion of the interconnection contract.

36. The electronic communications merchant shall conform to the technical and operational regulations of the electronic communications network laid down in the laws and regulations for the provision of the interconnection service. The electronic communications merchant on whom the obligation to ensure access has not been imposed shall conform to the abovementioned regulations in the provision of the interconnection service.

37. The electronic communications merchant shall be responsible for the quality of electronic communications services within the boundaries of its electronic communications network.

38. The electronic communications merchant shall be responsible for the traffic within the boundaries of its electronic communications network which has been commenced or routed in the electronic communications network of the electronic communications merchant and terminated in another electronic communications network.

39. In the interconnection contract, the electronic communications merchant shall determine the procedures by which routing of calls and access to numbers and electronic communications services shall be discontinued, as well as the procedures for mutual payments in cases when fraud using numbering or incorrect use of numbering is established.

40. The electronic communications merchant shall comply with the objective and conditions for the use of the numbering specified in the national numbering plan and, in ensuring an electronic communications network or providing an electronic communications service, ensure routing of calls according to the national numbering plan, numbers of the European Numbering Space, universal international freephone numbers and, if technically feasible, numbering plans of other European Union Member States.

41. The electronic communications merchant shall ensure to the users a possibility to call up numbers conforming to the national numbering plan and the European Numbering Space in accordance with the concluded interconnection contracts of the electronic communications merchant.

42. The electronic communications merchant shall ensure technical and organisational measures in order to prevent fraud using numbering and incorrect use of numbering. For this purpose, the operator shall process and analyse metadata of the electronic communications network (traffic data, location data, data of the transmitted content, personal identification data, etc.), as well as block the numbering ranges or interconnection directions which are involved in fraud or an attempt thereof.

**V. Elimination of the Violations of the Provisions of the General Authorisation**

43. If the Regulator establishes a violation in the operation of the electronic communications merchant in the field of electronic communications, the Regulator shall send a warning letter to the electronic communications merchant in accordance with the procedures laid down in the Law on Notification, indicating therein:

43.1. the established violation;

43.2. the obligation to implement efficient measures to eliminate the established violation (hereinafter – the measure);

43.3. the recommended measures;

43.4. the deadline by which the electronic communications merchant must provide explanations for the established violation and the implementation of measures;

43.5. the time period for the elimination of the established violation and implementation of the measure.

44. By a warning letter which is notified in accordance with the procedures laid down in the Law on Notification, the Regulator shall determine an immediate time period for the elimination of the established violation and the implementation of the measure for the electronic communications merchant if the measure can be technically implemented without delay and at least one of the following conditions exists:

44.1. the established violation significantly affects the public interests;

44.2. the established violation infringes the rights of the end-user;

44.3. there are circumstances in which the established violation must be urgently eliminated.

45. The Regulator shall, without being subject to the procedures laid down in this Regulation, decide on the temporary measures to be implemented within a time period no longer than three months if the established violation causes immediate threats to public safety or may cause significant harm to other electronic communications merchants or users. The Regulator may extend the time period for the implementation of temporary measures for another three months if the established violation has not been completely eliminated due to substantiated reasons.

46. If the electronic communications merchant fails to eliminate the violation established by the Regulator within the deadline specified in the warning letter, the Regulator shall initiate proceedings for an administrative violation case.

47. If the electronic communications merchant fails to eliminate a similar violation committed repeatedly within a year (hereinafter – the repeat violation) within the deadline specified in the warning letter of the Regulator, the Regulator shall:

47.1. initiate proceedings within the framework of an administrative violation case;

47.2. send a letter to the electronic communications merchant indicating the established repeat violation, imposing an obligation to eliminate the repeat violation, specifying the deadline by which the established repeat violation must be eliminated, and warning the electronic communications merchant that if it does not eliminate the established repeat violation, the Regulator may suspend the operation of the electronic communications merchant in the provision of electronic communications services and ensuring of electronic communications networks for a time period of up to five years, withdrawing the rights to provide electronic communications services and to ensure an electronic communications network from such electronic communications merchant.

48. If the electronic communications merchant does not eliminate the repeat violation established within the time period specified in the letter referred to in Sub-paragraph 47.2 of the Regulations, the Regulator shall decide on the suspension of the operation of the electronic communications merchant in the provision of electronic communications services and ensuring of electronic communications networks for a time period of up to five years, withdrawing the rights to provide electronic communications services and to ensure an electronic communications network from such electronic communications merchant.

49. By the decision referred to in Paragraph 48 of this Regulation, the Regulator shall determine an obligation for the electronic communications merchant:

49.1. to inform end-users without delay of the suspension of the operation of the electronic communications merchant in the provision of electronic communications services and ensuring of electronic communications networks and the withdrawal of the rights to provide electronic communications services and to ensure an electronic communications network;

49.2. within a month after fulfilment of the obligation specified in Sub-paragraph 49.1 of this Regulation, to ensure the number portability service for the end-user if requested by the end-user of such electronic communications merchant.

50. After taking of the decision referred to in Paragraph 48 of these Regulations, the Regulator shall exclude such electronic communications merchant whose operation in the provision of electronic communications services and ensuring of electronic communications networks has been suspended and for which the rights to provide electronic communications services and to ensure an electronic communications network have been withdrawn from the list of electronic communications merchants.

51. The Regulator shall publish a notice on the website www.sprk.gov.lv on the electronic communications merchants whose operation in the provision of electronic communications services and ensuring of electronic communications networks has been suspended and for which the rights to provide electronic communications services and to ensure an electronic communications network have been withdrawn under the decision of the Regulator, as well as indicate the time period for the suspension of the operation.

52. The Regulator shall decide on the cancellation of the right to use limited resources granted to the electronic communications merchant if, under the decision of the Regulator, the operation of the electronic communications merchant in the provision of electronic communications services and ensuring of electronic communications networks has been suspended and the rights to provide electronic communications services and to ensure an electronic communications network have been withdrawn therefrom.

53. If the electronic communications merchant whose operation in the provision of electronic communications services and ensuring of electronic communications networks has been suspended and rights to provide electronic communications services and to ensure an electronic communications network have been withdrawn under the decision of the Regulator sends the Regulator a new notification on the registration of the electronic communications merchant within the time period of the suspension of the operation, the Regulator shall not examine such notification and send a letter to the merchant indicating the reasons for refusal.

**VI. Closing Provisions**

54. The specific requirements for end-user rights protection specified in the Regulations shall apply to such electronic communications service contracts which have been concluded after the day of coming into force of these Regulations. The electronic communications merchant shall, upon its own initiative or upon a written request of the subscriber, make amendments to electronic communications service contracts which have been concluded until the day of coming into force of these Regulations, without extending the time period of validity of the electronic communications service contract.

55. Decision No. 1/3 of the Public Utilities Commission of 12 February 2015, Regulations Regarding the Prevention of Violations of General Authorisation in the Field of Electronic Communications (*Latvijas Vēstnesis*, 2015, No. 33), is repealed.

56. Decision No. 1/8 of the Public Utilities Commission of 4 June 2015, Regulations Regarding General Authorisation in the Field of Electronic Communications (*Latvijas Vēstnesis*, 2015, No. 113; 2017, No. 69), is repealed.

57. Paragraph 25 of these Regulations shall come into force on 1 April 2019.

58. These Regulations shall come into force on 1 January 2019.

**Informative Reference to European Union Directives**

These Regulations contains legal norms arising from the following European Union Directives:

1) Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive);

2) Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive);

3) Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users’ rights relating to electronic communications networks and services (Universal Service Directive);

4) Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive);

5) Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users’ rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws;

6) Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services.

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