



**Republika e Kosovës**  
**Republika Kosova-Republic of Kosovo**



**Autoriteti Rregullator i Telekomunikacionit**  
**Telecommunications Regulatory Authority**  
**Regulativni Autoritet Telekomunikacije**

3 November 2008  
ref.no 222/08

**REGULATION ON CONSUMER PROTECTION AND TELECOMMUNICATIONS SERVICES CONSUMER PRIVACY**

**Section 1**  
Legal Basis

The present regulation is issued pursuant to section 4, paragraph 4, sections 69, 70, 71, 72, 73, 74, 75, 76, 77 of the Law on Telecommunications UNMIK/REG. 2003/16.

**Section 2**  
Purpose of the Regulation

The present regulation determines the rights and obligations of the consumers, providers of the telecommunications services and consumer-provider relations. Its purpose is protection of rights and privacy of the consumers, defined by the Law on Telecommunications as consumer rights.

**Section 3**  
Scope of Implementation

This regulation regulates the relations between consumers and providers, and determines all duties that derive from the written agreement between them.

**Section 4**  
Definitions

A meaning or definition provided under this regulation shall have the same meaning as in the Telecommunications Law, whereas the following terms and expressions shall have the following meaning:

**-Complaint-** means any request submitted by the consumers to TRA or the relevant body that is established by the telecommunications or network services provider, based upon any decision or behavior.

**-Law-** Law on Telecommunications UNMIK/REG. 2003/16.

**-Consumer-** persons that have a valid agreement with public telecommunications services providers for the usage of their services.

**-Contract-** any written agreement between consumer and provider of telecommunications services, whose purpose is service provision by the provider and fulfillment of obligations by the consumer.

**-Commission for Dispute Resolution CDR (alb.KZK)-** the TRA's commission that shall deal with consumer complaints/requests.

**- Eavesdropping-** is an undisclosed interference in order to seize, listen and record the communication and content of data that are connected through originating and terminating point.

**-Services-** are services determined to be offered to the consumers as defined by the Law on Telecommunications.

## **Section 5**

### **Contract**

The relations between a service provider and a consumer shall be finalized with a written contract that specifies date of reaching the agreement, type of services, maintenance offered, compensation and/or reimbursement and a summary of procedures on dispute resolution.

The agreement reached must be based upon the principles of contractual equality between the parties.

A service provider shall offer TRA contracts, upon such a request. TRA may review the contract to ensure that it is in compliance with the general conditions of the provider, in the event of any dispute, as well.

## **Section 6**

### **Consumer Rights and Obligations**

6.1. All consumers have the right to:

- a) Use and access the public telecommunications services on a transparent and non-discriminatory basis in the territory of the Republic of Kosovo;
- b) Be provided with continuous, regular and useful services;
- c) Bills, customer contracts and announcements, whether written, verbal, recorded or broadcast shall be delivered in all official languages under the applicable Law in Kosovo;
- d) Access information on telephone numbers, emergency services, and other universal services;
- e) Require explanations; make complaints on the service provided;
- f) Notification/information;
- g) Legal protection and
- h) Use services upon payment.

6.2. Consumers are obliged to pay for used services, maintain and care for their terminating equipment in order to protect the network.

6.3. Consumer rights may be limited in exceptional cases, in order to protect the interest and security of the Republic of Kosovo.

## **Section 7** Consumer Security

7.1. Telecommunications services providers shall create/ issue safe services in the market.

7.2. Safe services are considered services that meet:

- a) European standards;
- b) International standards;
- c) Level of technological development;
- d) Legitimate requirements of the consumer on security issues.

## **Section 8** Obligations of Providers to Offer Services to the Consumers

The service providers are obliged to:

- a) Guarantee security, quality and regular services;
- b) Provide telecommunications services and equipment to the consumers, in impartial and non-discriminatory basis;
- c) Maintain and develop the public telecommunications networks administered;
- d) Provide services on a basis of prices declared;
- e) Contribute towards protection of public order and national security;
- f) Implement the license terms and conditions.

## **Section 9** Provider Obligations on Environment and Health Protection

The service providers are obliged to take all necessary steps towards environmental protection and health protection of the telecommunications networks users and persons exposed to these networks.

## **Section 10** Quality of Service Obligations

Service providers shall offer their consumers quality services of approved standards, in the territory of their operation.

In exceptional cases, the consumer may reach an agreement with the provider for a higher quality service, upon payment.

## **Section 11**

### Obligation to provide information/ notification

Service providers are obliged to offer the consumer complete, correct and exact data/information on service characteristics:

- a) Price;
- b) Quality;
- c) Usage method;
- d) Maintenance method;
- e) Service risk.

## **Section 12**

### Emergency Services

The telephone service provider shall offer free emergency services at any time. The emergency service is a continuation of calls to short numbers that are assigned to respective emergency services such as:

- a) National police forces;
- b) Fire protection forces;
- c) Ambulance.

## **Section 13**

### Provider Maintenance Obligations

The service provider is obliged to maintain the telecommunications equipment, in compliance with technical conditions and respective standards.

The public telecommunications network may involve only the equipment that has the technical characteristics in compliance with standards harmonized and approved by the international telecommunications authorities.

## **Section 14**

### Provider Obligations on Protection of National Interest and Public Order

The service provider shall prioritize the issues of national interest and public order, pursuant to law requirements and license conditions.

## **Section 15**

### Protection of Telecommunications Privacy/Confidentiality

15.1 All providers of telecommunications service and each person that participates in the delivery of such services shall safeguard the confidentiality of telecommunications, and this obligation shall remain, after the conclusion of the activities that they were obliged to safeguard.

15.2 Persons subject to the provision of this section shall not obtain information related to the content, facts or circumstances of messages transmitted exceeding the absolute minimum required for the performance of individual telecommunications services. Such persons shall only be entitled to use such information for the provision of telecommunications services and the implementation of contractual obligations in connection therewith.

15.3 All service providers which, in the conduct of telecommunications services, obtain information regarding the content of transmitted messages, or copy or store the messages transferred, shall notify the consumer of such upon the conclusion of a contract or at the start of the provision of the telecommunications services and shall explain the reasons therefore to the consumer, and shall delete the information on the content of the message or the message itself as soon as is technically feasible and as soon as it is no longer required for the provision of a particular service.

15.4 The addressee of the message may record the message, but shall notify the sender of such or adjust the operation of the recording device in such a way that the sender of the message is notified of its operation, except regarding telecommunications services in which the recording of the message by the addressee is a component or the purpose of the telecommunications services, including facsimile messages, email or SMS services.

15.5 Notwithstanding other provisions of this section, organizations that receive emergency calls may record and trace such calls for the purpose of registering emergency calls or identifying nuisance calls.

15.6 If a radio system, terminal equipment, or other technical equipment receives messages that are not intended for the radio system, terminal equipment or other technical equipment the content of such messages shall not be recorded or used for any purposes, and shall be immediately erased or destroyed.

15.7 All forms of monitoring, disseminating, intercepting and recording messages that are transmitted using telecommunications networks and services shall be prohibited, except insofar as is permitted pursuant to this section.

## **Section 16** Traffic Data

16.1 For the purpose of maintaining accurate billing records, service providers may keep and process the following traffic data until the services are paid for, until the expiration of the statute of limitation or until a ruling on the claim in the event of a dispute or a court order becomes legally binding:

- (a) The number and the identity of the caller and person called;
- (b) The subscriber's address and type of terminal;
- (c) The applicable schedule of charges;
- (d) The total minutes of use or other metered standard;
- (e) The type, date, time and duration of the call and/or the quantity of data transmitted; or

(f) other information in connection with payment, such as payment in advance, payment in installments, a reminder for the user, an objection by the user, and a response thereto, and disconnection of the user.

16.2 All traffic and billing data shall be processed in accordance with the confidentiality requirements of this regulation, section 74 of the Law and other applicable laws.

16.3 In the event of a dispute, the data specified in paragraph 1 of this section shall be accessible in an unabbreviated form for at least three (3) years to the body ruling on the dispute.

16.4 Traffic data required for billing, management of traffic, information for consumers, exposure of fraud and the service provider's own marketing may be processed only by personnel under the supervision of the service provider, and their access to such traffic data shall be limited to the minimum extent necessary to conduct such work.

16.5 Service providers marketing their own services shall obtain the consent of any legal or natural person whose data shall be used therefore.

## **Section 17**

### **Limitations on Collection and Use of Subscriber Information**

17.1 Service providers of the public telecommunications networks and services may collect the following personal information about their subscribers:

(a) The subscriber's full name, including an academic or professional title used by the subscriber, if the subscriber so desires;

(b) The subscriber's business name and/or name of organizational unit;

(c) The subscriber's activities, if the subscriber so desires;

(d) If the subscriber address;

(e) The subscriber's number;

(f) Additional information if the subscriber so agrees and third persons are not affected thereby and

(g) The tax number for a natural person and the tax number and registration number for a legal person.

17.2 Service providers may use the information about their subscribers to service contract negotiations, charging for services, preparing and publishing directories of subscribers and providing directory services.

17.3 Directories of subscribers, whether printed or on electronic media, may contain all the subscriber information specified in this section, provided that the subscriber consents in writing to its publications. Other information specified in this section may be published provided that the subscriber consents to its use in writing.

17.4 Service providers shall correct, alter, delete or re-enter information contained in the directory, upon the request of the subscriber, free of charge. Information in directories shall be up-to-date, considering the method of publication, and information at directory enquiries services shall be updated at least once a month.

17.5 At the request of a person or a firm that wishes to publish a directory, a service provider shall, solely for such a purpose, supply information on subscribers that did not oppose publication in a directory.

17.6 Service providers shall provide information about subscribers to the TRA, free of charge, and to other persons at reasonable prices and under non-discriminatory conditions.

17.7 Upon termination of the subscription relationship, service providers shall store the information specified in paragraph 1 of this section until the subscribers settle their liabilities or until judicial proceedings are concluded, and shall store the bills pursuant to applicable law.

### **Section 18**

#### Tracing of Calls

18.1 Service providers of public telecommunications networks/services may, in the event of nuisance calls to a subscriber, identify the caller, notwithstanding the latter's consent.

18.2 If the consumer requests the tracing of nuisance or damaging calls, the service provider of the public telecommunications network/services shall organize tracing, or for new calls temporarily disable prevention of the display of the caller's identity.

18.3 The service provider shall store information on tracing and shall forward it to the subscriber, under the conditions and in the manner as specified under Law, and to authorities of the Republic of Kosovo in connection with preliminary and criminal proceedings or the safeguarding of security in the Republic of Kosovo.

18.4 Service providers of public telecommunications networks/services shall disable prevention of the display of the caller's identity for individual connections at the request of appropriate authorities of the Republic of Kosovo.

### **Section 19**

#### Obligation to Provide Information to National Authorities

Without derogating from section 15 of this regulation, the service provider shall, for the purpose of performing penal investigations, keep files of its users, upon such a request by TRA or any other authority determined by the Code of Penal Procedure.

### **Section 20**

#### Telecommunications Eavesdropping

Without derogating from section 15 of this regulation, the service provider shall enable the authorized bodies established by special law, to eavesdrop, record and reproduce communications performed through his network, in accordance with the Code of Penal Procedure and other applicable laws in the territory of the Republic of Kosovo.

**Section 21**  
Billing

- 21.1 The service provider is obliged to issue to the consumer a bill on the service offered.
- 21.2 The service provider shall upon issuing any bill ensure that every amount stated as due in the bill is no higher than the amount that represents the true extent of any such service lawfully provided by the service provider to the consumer.
- 21.3 Billing is performed on periodical basis, pursuant to the contract, where the consumer is notified of his financial obligation, within one (1) month from the billing date.

**Section 22**  
Non-payment of Bills

- 22.1 All service providers providing telecommunications services to the public shall publish in their general conditions details related to measures to be taken and procedures to be applied in the event of non-payment of bills.
- 22.2 A service provider that is in compliance with paragraph 22.1 of this section may disconnect a consumer that is delinquent making a payment or a part of a payment, provided that prior notification of the non-payment has been delivered by the service provider to the consumer pursuant to the terms set out in the service provider's general conditions.
- 22.3 Consumers may file complaints or objections to a bill, provided that such a complaint is filed with the service provider not later than fifteen (15) days after receipt thereof. The complaint shall be handled with the provision of section 26 of this regulation.

**Section 23**  
Detailed Call Specification

- 23.1 At the request of subscribers, service providers of fixed public telephone services and mobile public radio services, shall itemize the calls on the bill, which shall be sufficiently detailed to enable user of telephone services or individual calls to verify such calls. The service provider may, but shall not be required, to itemize calls to free telephone numbers or emergency numbers.
- 23.2 A subscriber shall have the right to choose among one or more levels of itemization in bills, which shall be defined by the service provider in its general conditions.
- 23.3 Prices for additional itemization charged by the service provider for such service shall be based upon the service provider's actual cost of preparation.
- 23.4 Service providers shall provide samples of itemized bills to TRA, together with their terms and conditions.



**Section 24**  
Force Majeure

24.1 If the service provider is prevented from performing any of its obligations under this regulation because of force majeure the service provider shall notify the Regulator of the obligations it is prevented from performing and the reason why as soon as practicable after it becomes aware of such force majeure.

24.2 TRA may suspend those obligations under this regulation and the service provider will not be liable to perform those obligations, for so long as the force majeure continues, only if and to the extent that the inability to perform under this regulation could not have been prevented.

**Section 25**  
Customer Relations

25.1 The service provider shall publish a code of practice for subscriber affairs approved in writing by the Regulator, giving guidance to the subscribers/consumers in respect of any disputes and complaints relating to the provision by the service provider.

25.2 The code of practice shall address the following issues:

- a) The published number which shall be used as a main contact point for public members;
- b) Methodology of filing complaints;
- c) Deadline when the service provider shall respond to complaints;
- d) Procedures for complaint settlement;
- e) Maintenance of complaint file and
- f) If the complaint is not settled after thirty (30) days, each party may address it to the regulator for a solution.

**Section 26**  
Complaint and Dispute Resolution by TRA

26.1 All consumers shall have the right to file complaint with the authority or appropriate body established by the public telecommunications services/network provider regarding any decision or behavior.

26.2 All service providers providing telecommunications service to the public shall publish as a constituent part of the service provider's general conditions a summary of the procedure to be followed in addressing consumer's complaints.

26.3 Complaint or objection to a bill must be filed not later than fifteen (15) days after receipt thereof, while all other complaints must be filed not later than thirty (30) days after the service provider's act, omission to act, or decision giving rise to such complaint.

26.4 The service provider shall make a determination as to the validity of the complaint or objection not later than fifteen (15) days of the receipt thereof.

26.5 In the event that the service provider fails to uphold the complaint or objection, or fails to make a determination thereon during the fifteen (15) day period, the complaining or objecting party may file an appeal with the TRA within fifteen (15) days thereafter.

26.6 In the event that a consumer files an objection or an appeal with the TRA under this section, the service provider shall not be entitled to disconnect or cease delivering services to the consumer. This prohibition shall remain in force until the conclusion of the appeal process.

26.7 Complaints filed with the TRA shall be reviewed by the Commission for Dispute Resolution.

### **Section 27**

#### **Procedures within the Commission for Dispute Resolution (CDR)**

27.1 During consideration of the complaints related to consumer protection and privacy of telecommunications services consumers, the CDR may:

- a) Invite parties and/or witnesses on hearings;
- b) Request from parties to submit additional documentation or any other proof deemed as appropriate;
- c) Request information, documentation or opinion by other public authorities on a specific case;
- d) Visit the site for inspection purposes;
- e) Perform other activities with a purpose of obtaining information of importance to the contest.

27.2 After consideration of a complaint and its references, the Commission shall make a recommendation to the TRA Board.

27.3 The Board shall issue a decision on the complaint, within thirty (30) days from the date of complaint reception.

27.5 Decisions of TRA may be appealed against by the unsatisfied party in accordance with section 11 paragraph 8 of the Telecommunications Law.

**Section 28**

Entry into force

The present regulation enters into force on the date of its signature, and may be amended, when considered necessary.

Prishtina,  
03 November 2008

Anton Berisha, Chairman  
Telecommunications Regulatory Authority