

TELECOMMUNICATIONS IN SERBIA



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I MARKET OVERVIEW

TELECOMMUNICATIONS IN SERBIA

1. MOBILE NETWORKS AND SERVICES

There are three operators licensed for both mobile networks and mobile services: Telenor, a member of the Telenor Group; Telekom Srbija, in the majority ownership of the Republic of Serbia¹, and Vip mobile, a member of the Telekom Austria Group. All three operators were issued licences for the operation of networks under second and third generation standards².

According to the most recently published market overview of the sector regulator³, the market share by revenue is divided as follows: 41% for Telenor, 37% for Telekom Srbija and 22% for Vip mobile. With the mobile services market being the most competitive, the dominant trend is the gradual increase in Vip's share.

In February 2013, a fourth mobile operator was authorised, though its activities are limited to the provision of virtual mobile services. The mobile services of Serbia Broadband – SBB, a cable operator that was acquired by KKR in late 2013, are not yet operational and are supposed to be provisioned over the network of one of the three licensed network operators.

2. FIXED NETWORKS AND FIXED TELEPHONY

Nearly the entire fixed telephony market is still held by the incumbent operator, Telekom Srbija. Two more operators, Orion Telekom⁴ and Telenor⁵, acquired licences for fixed networks and related services before the liberalisation of fixed telephony in 2012. The number of authorised operators thereafter increased to 14 in total⁶. In addition, numerous providers offer VoIP telephony services, mainly related to international voice traffic.

3. INTERNET

ADSL is the main broadband Internet technology available on the retail market, catering for 47% of all subscribers. Cable modems are used by 25% of subscribers, mobile Internet by 19%, and wireless access by 5%⁷.

Regarding Internet access at fixed locations, Telekom Srbija, and SBB, hold by far the largest stakes as service providers, the former in the ADSL segment and the latter in the cable distribution segment.

In the wholesale market, the liberalisation of international interconnections in 2008 enabled direct global Internet access to a larger number of operators, thus dispensing with necessity for the intermediary wholesale services of incumbent operator Telekom Srbija. Regarding wholesale access to end users' premises, both bit-stream and local loop unbundling are available to ADSL providers on the *ex-ante* regulated markets.

1. 58.11% of Telekom Srbija's shares are owned by the state, 20% of the total issued share capital is represented by treasury shares, 6.94% of total issued share capital was distributed to current and former employees of the company, while 15.94% of total issued share capital was distributed to citizens of the Republic of Serbia. The shares of Telekom Srbija are not listed.

2. GSM/GSM 1800 and UMTS/IMT/2000.

3. Agency for Electronic Communications, Overview of Telecom Markets in 2013 http://www.ratel.rs/market/overviews_of_telecom_market.129.html.

4. Orion Telekom in 2009 obtained a licence for a CDMA access network and provision of services over that network.

5. Telenor was issued a licence for fixed network and related services in 2010, but has not yet started the provision of fixed services on a large scale.

6. Among the operators that entered the market after liberalisation, the largest is SBB, and three other entrants in this market are affiliates of SBB.

7. The Agency for Electronic Communications, Overview of Telecom Markets in 2013 http://www.ratel.rs/market/overviews_of_telecom_market.129.html.

4. DISTRIBUTION OF MEDIA CONTENT

Cable distribution systems dominate with 70% of subscribers, ahead of IPTV systems (16%) and DTH systems (14%) in the market for distribution of media content.

The main provider is SBB, covering 53% of the market for the distribution of media content. The second is Telekom Srbija's IPTV service with a share of 15%. The remainder of the market is divided between Public Enterprise PTT and Kopernikus Technology⁸, each holding 6%, I.KOM⁹ with 5%, and numerous minor providers¹⁰.

8. Fully owned by Kopernikus LLC, USA.

9. Full name: Interaktivne objedinjene kablovske mreže; owned by Mitton Investments Limited, Cyprus (33.7%), Percolation Trading Limited, Cyprus (25.4%), Ironbark Ltd, Cyprus (10.2%) and natural persons (32.7%).

10. The Agency for Electronic Communications, Overview of Telecom Markets in 2013. http://www.ratel.rs/market/overviews_of_telecom_market.129.html.

II REGULATORY FRAMEWORK

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1. COMPETENCIES OF THE STATE AUTHORITIES AND SECTOR REGULATOR

The Electronic Communications Act¹¹ (“**ECA**”) stipulates that the competencies for the regulation of electronic communications are divided between the Government, the Ministry in charge of telecommunications and information society¹² (“**Ministry**”) and the regulatory body, the Regulatory Agency for Electronic Communications and Postal Services (“**Agency**”)¹³.

The Government, upon the proposal of the Ministry, determines policy in the area of electronic communications and adopts strategies and action plans for their implementation. The Government, *inter alia*, adopts radio frequency allocation plans.

The Ministry supervises the implementation of the ECA and associated bye-laws. It also adopts radio-frequency allotment plans and bye-laws related to technical conditions applicable to networks and equipment.

The Agency is functionally and financially independent from all other state authorities. Its Managing Board is appointed by the National Assembly. It is vested with the authority to adopt bye-laws and make decisions on the rights and obligations of operators and users. Its decisions are final in administrative proceedings and are subject to judicial review by the Administrative Court.

The supervision of operators is divided between the Agency and the Ministry. The Agency is authorised to verify operators’ compliance with their obligations determined by the ECA, the implementation of bye-laws and decisions of the Agency. To this end, it is authorised to request the necessary information from operators, and measure and test networks, services and equipment. If an operator that committed a breach has not remedied it within the time stipulated by the Agency, the Agency can notify the inspectorate within the Ministry of the breach.

The Ministry, on the other hand, is authorised to conduct inspections, through the Inspectors for Electronic Communications, whose authority ranges from ordering measures to remedy a breach of rules, the temporary seizure of equipment (e.g. if the equipment is a threat to public security or poses a danger to the environment), and a temporary ban of activities (especially when an operator prevents supervision, conducts activities without proper authorisation or when measures previously taken by the inspector were not implemented in due time).

The fines imposed on operators can amount up to close to EUR 17,000¹⁴. Alternatively, a fine can be determined based on the damage caused by the operator, the value of the obligation not performed or, as the case may be, “the value of goods which is the subject-matter of the misdemeanour”, capped at the lower of twenty-times the damage or other reference value and approximately EUR 85,000¹⁵. Finally, a fine to a significant market power (“SMP”) operator for a breach of an SMP operator’s obligations may amount to as much as 10% of the operator’s annual revenue generated in the year preceding the year in which the infringement was committed.

11. *Zakon o elektronskim komunikacijama*, “Official Gazette of the Republic of Serbia” nos. 44/10, 60/13 – decision of the Constitutional Court, and 66/14.

12. Currently the Ministry for Trade, Tourism and Telecommunications.

13. The Act on Amendments to the Electronic Communications Act stipulates the addition of postal service regulations to the official duties of this regulatory body and hence prompted a modification of its name to the Regulatory Agency for Electronic Communications and Postal Services.

14. ECA, Article 137.

15. ECA, Articles 137-138; Misdemeanours Act (*Zakon o prekršajima*), “Official Gazette of the Republic of Serbia” no. 65/13, Article 39.

2. AUTHORISATIONS

The authorisation regime endorsed in the ECA corresponds to the 2002 EU regulatory framework for electronic communications.

Under the current authorisation regime, the conditions for the performance of electronic communications activities related to electronic communications networks (construction, installation, maintenance, use and rent) and electronic communications services (provision of telecommunications services and distribution/broadcasting of media content services consisting entirely or mainly of the transmission of signals) are simple. Any person may commence, modify or cease to perform all or some of their activities subject to advance notice of 15 days to the Agency. The Agency enters such notifications into its registry and issues a confirmation of registration to the operator upon request. Registration itself does not have a constitutive effect – notification alone is sufficient for the right to operate the notified activity and the obligation to comply with the general terms and conditions set out for such activity.

The annual fee for conducting electronic communications activities is capped at 0.5% of sales revenue in the relevant year. Separate fees are payable for the use of numbering, radio-frequency spectrum and Agency services.

Individual and general licences issued under the 2003 Telecommunications Act, which was superseded by the ECA¹⁶, remain valid until their expiry, although their holders are obliged to comply with the new conditions stipulated by the ECA.

3. USE OF SCARCE RESOURCES – NUMBERING AND RADIO-FREQUENCIES

The use of scarce resources is subject to acquiring an individual right of use granted by the Agency in accordance with the applicable numbering plan, as well as with the applicable radio-frequency band allocation plan adopted by Government, and the applicable radio-frequency allotment plan adopted by the Ministry.

3.1 NUMBERING

Numbering resources are granted by a decision of the Agency, due within 20 days of the request. The right of use is valid for a renewable period of up to ten years. The regime existing under the Authorisation Directive¹⁷, which provides for the granting of numbering blocks for commercial interests through a public tender procedure, is not applicable in Serbia.

A transfer of the right of use is subject to the Agency's prior approval, including when the transfer is a result of a change of status such as merger or demerger.

The Agency has adopted rulebooks enabling number portability between mobile and fixed networks. Mobile number portability became operational in July 2011, and fixed number portability in April 2014¹⁸.

3.2 RADIO FREQUENCIES

Radio frequency use is, as a rule, subject to a separate Agency decision. For most frequency bands, such a decision is rendered upon the operator's request within 40 days. The allotment plan may envision that a band shall be granted by public tender for reason of limited availability.

The right of use granted by the Agency is valid for a maximum period of ten years and can be renewed.

The right of use relating to radio frequencies cannot be transferred except in the case of a merger or demerger, and subject to the Agency's approval. The approval may be withheld if the Agency determines that the transfer would lead to a distortion of competition.

Certain radio frequency bands can be used without any decision of the Agency, on the basis of general authorisation itself (if the danger of interference is minimal or the bands are coordinated).

The Government adopted in October 2012 the new radio frequency allocation plan enabling technological neutrality¹⁹. However, the implementation of these changes with regard to the 900 MHz and 1800 MHz frequency bands, which would open additional bands for mobile services on a technologically neutral basis, is awaiting the adoption of a new allotment plan²⁰.

4. NETWORK DEVELOPMENT

The sector-specific requirements for the design, construction, installation, use and maintenance of networks and associated facilities, and the use of related equipment, are all determined by the Ministry. The partial liberalisation of these conditions took place in June 2012 when the obligation to acquire technical permits for both networks and equipment was removed.

16. *Zakon o telekomunikacijama*, "Official Gazette of the Republic of Serbia" nos. 44/03, 50/09 – decision of the Constitutional Court, and 36/06.

17. Directive 2009/20/EC as amended by Directive 2009/140/EC.

18. The Rulebook on Number Portability in Public Telephone Networks on Fixed Locations (*Pravilnik o prenosivosti broja u javnim telefonskim mrežama na fiksnoj lokaciji*), "Official Gazette of the Republic of Serbia" no. 52/11, envisages that a request for number portability is also considered a request for the termination of contract(s) governing all services provided over that number. However, this solution does not make possible number portability without a change of provider of broadband services over the same telephone line.

19. The Rulebook on Radio Frequency Band Allocation Plan (*Uredba o utvrđivanju Plana namene radio-frekvencijskih opsega*), "Official Gazette of the Republic of Serbia" no. 99/12.

20. Foreign Investors Council: *The White Book - Proposals for Improvement of the Business Environment in Serbia 2013*, p.17; Cullen International: *Monitoring regulatory and market development for electronic communications and information society services in Enlargement Countries*. <http://www.cullen-international.com/asset/?location=/content/assets/research/studies/2011/11/final-summary-report-4-feb-2014.pdf/final-summary-report-4-feb-2014.pdf>, p. 53

The current conditions for putting equipment into place include an assessment of conformity of radio and telecommunications terminal equipment with Serbian standards²¹. This procedure is in place even for products which comply with harmonised EU standards.

The Ministry has also defined the technical rules²² which impose, *inter alia*, the following obligations on the developers of commercial and residential facilities: (i) the access to all new premises must be enabled for all operators under equal conditions; (ii) the selection of operators must be available to all end users; and (iii) the use of access infrastructure, connected equipment and the common parts of electronic communications network in buildings has to be granted free-of-charge.

Other non-specific regulations relate to spatial planning and construction, environmental protection, and the protection of cultural heritage.

5. EASEMENT AND SHARED USE

Operators have the right of easement on other person's property if it is necessary for the construction or installation of equipment and associated facilities. In the absence of an agreement between the operator and the owner or holder of the property, easement in favour of the operator can be granted *ex lege*²³.

The agreements granting easement on publicly-owned property are supposed to be concluded within 30 days from the receipt of a request to that effect.

Operators have the right to the shared use of network elements and associated facilities owned by other operators or third persons, if such use is necessary for the purpose of competitive, effective and efficient performance of electronic communications activities; or if it is not possible to construct or install a new network or associated facilities without detrimental effects on the environment, public security, spatial plans or cultural heritage. If an agreement on such use is not executed within 60 days from the receipt of a request, the Agency is authorised to determine the terms of shared use in a manner that reflects previous investments, enables a reasonable rate of return and encourages further investment.

6. ACCESS AND INTERCONNECTION

All operators have the right to access network elements and the associated facilities of other operators in order to provide public electronic communications services to end-users, including the right to interconnection as a specific type of access enabling the users to communicate with other operators' users, or access the services of other operators or those of third persons. In case an interconnection or access agreement cannot be reached within 60 days, the Agency is authorised to determine technical and commercial terms thereof.

All agreements on international interconnection have to be notified to the Agency within 30 days of their execution.

7. SMP OPERATORS' OBLIGATIONS

The ECA reflects the model of *ex-ante* regulation stipulated in the 2002 EU regulatory framework for electronic communications. The markets susceptible to *ex-ante* regulation initially were the same as those envisaged in the European Commission Recommendation of December 2007²⁴: retail access to the public telephone network (Market 1), wholesale call origination on the public telephone network (Market 2), wholesale call termination on the public telephone network (Market 3), wholesale (physical) access to network elements and associated facilities – including shared and fully unbundled access to the local loop (Market 4), wholesale broadband access (Market 5), wholesale leased lines (Market 6), and wholesale call termination on mobile telephone networks (Market 7). In late 2011, the Agency adopted a decision adding two more relevant markets: the market for the distribution of media content (Market 8) and the market of publicly available telephone services at a fixed location (Market 9).

The obligations that can be imposed on SMP operators are also defined in accordance with the 2002 EU regulatory framework and include: (i) transparency; (ii) non-discrimination; (iii) accounting separation; (iv) provision of access to, and use of, network elements and associated facilities; (v) price control and cost accounting; (vi) provision of a minimum set of leased lines²⁵; (vii) carrier selection and carrier pre-selection; and (viii) provision of retail services under specified conditions²⁶.

The Agency is obliged to conduct market analysis at least once in three years, implement EU recommendations on market analysis and assess the parties holding significant market power.

SMP operators were designated in November 2011. Telekom Srbija was declared an SMP operator on all wholesale markets (Markets 2, 3, 4, 5, 6 and 7) and on two retail markets related to fixed telephony (Markets 1 and 9). In accordance with the cited European Commission recommendation of 2007, all other fixed and mobile operators who started to operate before market analysis was conducted were also designated as SMP operators in the markets of wholesale call termination (fixed telephony operator Orion Telekom in Market 3 and mobile telephony operators Telenor and Vip mobile in Market 7). Finally, the largest cable operator SBB was designated as an SMP in Market 8 (distribution of media content).

Such designation decisions in wholesale markets in most cases impose on SMPs all obligations foreseen in the ECA. The exception is the obligation of accounting separation and cost accounting, which are imposed neither on Orion Telekom in Market 3 (wholesale call termination on the public telephone network), nor on any of the mobile operators in Market 7 (wholesale call termination on mobile telephone networks). The decisions referring to retail markets (Markets 1, 8 and 9) impose all obligations stipulated by the ECA. However, the prohibition of unreasonable service bundling is translated into the obligation to acquire formal approval of the Agency for prices and their changes in the case of service bundling.

The majority of the Agency's decisions designating SMPs have been contested by Telekom Srbija and SBB.

21. Stipulated in the Rulebook on Radio Equipment and Telecommunications Terminal Equipment (*Pravilnik o radio opremi i telekomunikacionoj terminalnoj opremi*), "Official Gazette of the Republic of Serbia" no. 11/12.

22. The Rulebook on Technical and Other Requirements of Constructing Associated Infrastructure Necessary for the Installation of Electronic Communications Networks, Associated Facilities and Electronic Communications Equipment when Constructing Business and Residential Premises (*Pravilnik o tehničkim i drugim zahtevima pri izgradnji prateće infrastrukture potrebne za postavljanje elektronskih komunikacionih mreža, pripadajućih sredstava i elektronske komunikacione opreme prilikom izgradnje poslovnih i stambenih objekata*), "Official Gazette of the Republic of Serbia" no. 123/12.

23. *Zakon o osnovama svojinskoopravnih odnosa*, "Official Journal of SFR Yugoslavia" nos. 6/80 and 36/90, "Official Journal of FR Yugoslavia" no. 29/96, "Official Gazette of the Republic of Serbia" no. 115/05. The Expropriation Act contains a provision on the possibility of limited expropriation if the purpose is the installation of electrical or telephone cables or a similar purpose (*Zakon o eksproprijaciji*), „Official Gazette of the Republic of Serbia " no. 53/95, "Official Journal of FR Yugoslavia" no. 16/01, "Official Gazette of the Republic of Serbia" nos.20/09 and 55/13.

24. The Commission Recommendation on relevant product and service markets within the electronic communications sector susceptible to *ex-ante* regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and service, 2007/879/EC, Official Journal L 344 of 28.12.2007.

25. This obligation remains in the national regulatory framework, although it is removed from the set of SMP operators' obligations by Directive 2009/136/EC. On the other hand, the regulator's authorisation to impose on SMP operators the functional separation of their activities related to wholesale access, which was introduced in 2009, by Directive 2009/140, is not yet envisaged.

26. According to the ECA, the obligations on retail markets can consist of: (i) prohibition of excessive pricing, prohibition of the inhibition of market entry or restriction of competition by setting predatory prices, undue preference to specific end-users or unreasonable bundling of services; and (ii) retail price caps, control of individual tariffs, and orientation of tariffs towards costs or prices on comparable markets.

8. UNIVERSAL SERVICE

The minimum scope of service guaranteed to every person is defined generally in line with the Universal Service Directive²⁷, and includes: (i) access to the public telephone network and publicly available telephone services at a fixed location, including data transmission services which enable functional Internet access; (ii) access to the directory enquiry service and public telephone directories; (iii) use of public pay telephones; (iv) free calls to emergency services; and (v) special measures aimed at persons with disabilities and socially vulnerable users to enable equal access to publicly available telephones, including calls to emergency services, directory enquiry services and public telephone directories.

The Rulebook on Universal Service²⁸, adopted by the Ministry, sets forth that functional Internet access should not be inferior to dial-up access. The Rulebook also stipulates the obligation of operators to adjust terminal equipment and public pay telephones for use by persons with disabilities. In addition, operators are obliged to discount their one-off fees and monthly subscriptions and provide charge-free portions of traffic to users receiving social and financial aid.

The designation of universal service providers and supervision of the implementation of such services falls within the responsibility of the Agency. In 2010, the Agency identified as providers of universal service all operators which then provided services over fixed, mobile or fixed wireless access networks i.e. Telekom Srbija, Telenor, Vip mobile and Orion Telekom. The operators providing services only over mobile networks (Vip mobile and Telenor at the time) were expected to use CLL mobile technology²⁹, this being in line with the principle of technological neutrality regarding universal service provision set out by the ECA. Currently, there are no designated providers of public directory and directory enquiry services.

According to the ECA, the Agency is authorised to adjust prices or other terms of universal service if it estimates that this is in the interest of ensuring equal opportunity for use of services to persons with disabilities or socially vulnerable users. In March 2013, the Agency adopted a decision determining retail pricing and wholesale interconnection charges of universal service when provided over CLL technology. As in the other countries of southeast Europe with the exception of Montenegro³⁰, the funding of universal services has not yet taken place. According to the ECA, universal service should be funded by operators in proportion to their market share, after a universal service provider has demonstrated that the costs of universal service provision are excessive.

9. DISTRIBUTION AND BROADCASTING OF MEDIA CONTENT

The distribution of media content falls within the scope of the general terms and conditions for performance of all electronic communications activities. The few provisions of the ECA that are specific to distribution and broadcasting of media content relate to conditional access, must-carry obligations, cooperation between the Agency and the Regulatory Authority for Electronic Media³¹, as well as to the ongoing digitalisation of television broadcasting³².

The provisions on conditional access are taken from the Access Directive³³ and *inter alia* envisage: (i) the obligation of operators to offer their technical services to broadcasters on a fair, reasonable and non-discriminatory basis; and (ii) the authority of the Agency to oblige an operator to enable access to its programme interfaces and electronic programme guides to other operators, if and to the extent it is necessary to ensure accessibility of services to end-users.

The conditions for the imposition of must-carry obligations are basically the same as stipulated in the Universal Service Directive i.e. that an electronic communications network is the only or principal means to receive media content for a significant number of end users, and that the imposition of this obligation is necessary, proportionate to its cause, and transparent.

10. PROTECTION OF USERS

The ECA stipulates that service contracts must be concluded in written form and sets forth the mandatory elements of such contracts. The implementing bye-law³⁴ adds that the ordering of additional services shall be subject to a confirmation by the operator, in written form or, if agreed, in electronic form. Unilateral changes of prices and other terms by operators must be announced to their users at least one month in advance. In case such changes of service terms are unfavourable, the user has the right to terminate the agreement with no obligation to pay termination charges. The price lists and template contracts for services provided to natural persons have to be published “in an appropriate manner”³⁵.

In line with the Universal Service Directive, the ECA sets out a procedure for the out-of-court resolution of disputes between operators and users, envisaging that such a procedure can take place before the Agency should an operator reject a user’s complaint with reference to the invoiced amount or quality of service.

The parameters to ensure the quality of services are defined by the Agency for public voice services at fixed locations, public mobile services, public voice services over the Internet, broadband Internet access services and distribution of media content services. They are in most cases defined by minimum average values³⁶.

The ECA overlaps with the Consumer Protection Act with respect to electronic communications services provided to natural persons for non-commercial personal use. The new Consumer Protection Act, which became applicable in September 2014, supersedes any other legislation providing for a lower level of consumer protection, including the sector-specific legislation³⁷.

27. Directive 2009/22/EC as amended by Directive 2009/136/EC.

28. *Pravilnik o univerzalnom servisu*, “Official Gazette of the Republic of Serbia” no. 24/2012.

29. Cellular local loop.

30. The Rulebook on the Methodology of Determining Net Cost in Provision of Universal Service and on the Amount and Manner of Payment of Charges for Financing of Universal Service (*Pravilnik o metodologiji proračuna neto troška pružanja i visini i načinu plaćanja naknade za finansiranje Univerzalnog servisa*), “Official Journal of Montenegro” no. 35/10.

31. Former Republic Broadcasting Agency, transformed into the Regulatory Authority for Electronic Media by the Electronic Media Act (*Zakon o elektronskim medijima*), “Official Gazette of the Republic of Serbia” no. 83/2014.

32. The switch-over to digital broadcasting is referred to in more detail below, in the last section of this overview which is related to future developments in the industry.

33. Directive 2002/19/EC as amended by Directive 2009/140/EC.

34. The Rulebook on General Terms for Performance of Electronic Communications Activities (*Pravilnik o opštim uslovima za obavljanje delatnosti elektronskih komunikacija po režimu opšteg ovlašćenja*), “Official Gazette of the Republic of Serbia” nos. 38/11, 44/11 and 15/14.

35. The limitation of maximum duration of contracts with consumers, as envisaged by the Directive 2009/136, is still not in place, but can be expected within the scope of harmonisation with the current EU framework for electronic communications.

36. The Rulebook on the Parameters of Quality for Publicly Available Electronic Communications Services and the Supervision of Electronic Communications Activities (*Pravilnik o parametrima kvaliteta javno dostupnih elektronskih komunikacionih usluga i sprovođenju kontrole obavljanja delatnosti elektronskih komunikacija*) “Official Gazette of the Republic of Serbia” nos. 73/11 and 3/14.

37. This solution differs from Directive 2011/83/EU on Consumer Rights, which stipulates that sector-specific rules shall prevail over the provisions of that directive in case of a discrepancy.

11. SECURITY AND INTEGRITY OF NETWORKS, LAWFUL INTERCEPTION AND DATA RETENTION

With a view to ensure the security and integrity of networks and services, the privacy of communications, as well as the protection of personal data, traffic data and location data, operators are obliged to take adequate technical and organisational measures, and to cooperate with other operators whose networks, associated facilities or services they use. They must also inform their subscribers about significant risks such as unauthorised access, major loss of data, and risks to the confidentiality of communication and security of personal data. This also encompasses the duty to inform the Agency of any violation to the security and integrity of their networks and services that has had a significant impact on the operator's business.

Lawful interception, which reveals the content of communication, is subject to: (i) the user's acceptance (given under conditions prescribed by the legislation regulating the protection of personal data); or (ii) a court decision, if the interception is necessary for criminal proceedings or for the protection of state security.

Data retention is applied to data necessary for: (i) tracing and identifying the source of communication; (ii) identifying the destination of communication; (iii) determining the beginning, duration and end of communication; (iv) identifying the type of communication; (v) identifying the user's terminal equipment; and (vi) identifying the location of the user's mobile terminal equipment. The mandatory retention period is 12 months from the date of communication.



III FUTURE DEVELOPMENTS

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1. SWITCH-OVER TO DIGITAL BROADCASTING

In accordance with the Final Acts of the Regional Conference on Radio Communications for the Planning of Digital Terrestrial Radio Services, Geneva, 16 June 2006³⁸, Serbia assumed the obligation to switch-over from analogue to digital broadcasting of television programmes by 17 June 2015. The part of the radio frequency spectrum previously used for analogue broadcasting shall be made available for the provision of broadband services (digital dividend).

In accordance with the ECA, the public enterprise *Emisiona tehnika i veze* was founded in order to establish an electronic communications network for the multiplexing, distribution and broadcasting of digital television programmes.

With reference to the switch-over to digital broadcasting, the ECA was amended in June 2014 to allow the Government to determine the measures to support disadvantaged users' access to the necessary terminal equipment, and the criteria for determining vulnerable consumers qualified for such aid.

The time frame, distribution zones, phases of switch-over, technical standards and other technical conditions are set forth by a rulebook adopted by the Ministry³⁹, in accordance with the strategies adopted by Government⁴⁰. According to the action plans for the implementation of the aforementioned strategies, the digital dividend will be granted via a public tender, which will support the convergence of new commercial services in telecommunications, information technology and broadcasting.

2. PLANS FOR THE DEVELOPMENT OF BROADBAND NETWORKS AND SERVICES

The Action Plan (2013-2014) for the Implementation of the Strategy for the Development of Electronic Communications in the Republic of Serbia from 2010 until 2020, apart from the digitalisation of broadcasting, especially emphasises a range of measures regarding the roll-out of broadband access including: an analysis of the state of the constructed network as the basis for the development of broadband access; analysis of the availability of broadband access; and the incentives available to areas where there is no commercial interest for investment in broadband.

The Strategy for Development of Broadband Networks and Services by 2016⁴¹, envisages that the principles of broadband development are: (i) technological neutrality; (ii) the establishment of broadband access as a universal service (with support from the public sector, *inter alia* by contribution to the construction of infrastructure, acquisition of the rights to easement when necessary and by providing maps of passive infrastructure available for cabling); and (iii) the development of next generation access networks. The strategy endorses the idea of creating an open national network, and providing resources for the distribution of different services. Such an open network would be created by unifying the available optical fibre network infrastructure and its connection with available wireless capacity. On the next layer, IP platform services could be provided without control or maintenance of the network by the providers of those services.

38. "Official Gazette of the Republic of Serbia – International Agreements" no. 4/10.

39. The Rulebook on the Transfer from Analogue to Digital Broadcasting of Television Programmes and Access to Multiplex, (*Pravilnik o prelasku sa analognog na digitalno emitovanje televizijskog programa i pristupu multipleksu*), "Official Gazette of the Republic of Serbia" no. 86/14.

40. The Strategy for the Development of Electronic Communications 2010-2020 (*Strategija razvoja elektronskih komunikacija u Republici Srbiji od 2010. do 2020. godine*); Strategy for the Switch-Over from Analogue to Digital Broadcasting of Television Programmes in the Republic of Serbia (*Strategija za prelazak sa analognog na digitalno emitovanje radio i televizijskog programa u Republici Srbiji*), "Official Gazette of the Republic of Serbia" nos. 52/09, 18/12 and 26/13; Action Plan (2013-2014) for the Implementation of the Strategy for Development of Electronic Communications in the Republic of Serbia from 2010 until 2020 (*Akcioni plan (2013.-2014.) za sprovođenje Strategije razvoja elektronskih komunikacija u Republici Srbiji od 2010. do 2020. godine*); Action Plan for the Implementation of the Strategy for Switch-Over from Analogue to Digital Broadcasting of Radio and Television Programmes in the Republic of Serbia (*Akcioni plan za sprovođenje strategije za prelazak sa analognog na digitalno emitovanje radio i televizijskog programa u Republici Srbiji*), <http://mtt.gov.rs/dokumenti/#cmpamezuje>.

41. *Strategija razvoja širokopojasnih mreža u Republici Srbiji do 2016. godine (Official Gazette of the Republic of Serbia" no. 81/14.*

3. MOBILE FINANCIAL SERVICES

In 2013, the largest mobile operator by revenue, Telenor acquired the banking licence of KBC Bank in Serbia, which enabled it to provide and develop mobile financial services. According to the Serbian media, the second-largest mobile operator Telekom Srbija is also considering entry to this market, and in July 2014 it submitted a bid to acquire a bank. Such take-overs would allow mobile operators to provide financial services to their subscribers, and make possible transactions between their users without depending on incumbent banks.



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