[RO] New Minimum Provisions for Improving Consumer Protection

IRIS 2012-4:1/37

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Starting with 25 February 2012, contracts concluded by consumers with providers of electronic communications services contain more minimum mandatory provisions intending to improve consumer protection (see IRIS 2008-6/24, IRIS 2010-5/33 and IRIS 2010-8/43).

The new provisions are included in the Emergency Government Decree no. 111/2011 on electronic communications, published in the Official Journal on 27 December 2011. The maximum initial duration of contracts concluded with resident end-users may not exceed 24 months. Providers are also obliged to give consumers the alternative to benefit from services for a contractual duration of maximum of 12 months and to enable consumers to choose the offer which best suits their needs.

The providers have to include in their contracts the restrictions they impose on the use of terminal equipment, the categories of measures they can take should incidents or security threats occur as well as information on the procedures of traffic management to avoid network congestion. This information will enable subscribers to find out whether their provider will restrict access to certain sites/web applications, will encode their telephone set or will limit transfer speed upon reaching a certain traffic volume. As for incidents/security threats, the providers must insert in contracts the actions they might take and their impact on the continuous provision of networks and services at regular level, as well as the conditions under which these restrictions will be enforced.

The contracts for Internet services must contain provisions relating to quality parameters: nominal/maximum data transfer speed; guaranteed minimum data transfer speed; transfer delay/transfer delay variation; packet loss rate; term from which Internet access will be provided; damage repair term; and the term of solving user complaints. Providers will quarterly publish on their websites the values of aforementioned parameters, firstly on 25 April 2012.

The changes apply to both, contracts concluded from 25 February 2012 and by that time. Providers have the obligation to amend the contracts and to inform the subscribers. The changes are imposed by legal provisions and not the result of the provider’s wish to unilaterally change contracts, so users who are currently in the

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minimum contractual period may not invoke these amendments to request contract cancellation without payment of agreed penalties.

The Autoritatea Naţională pentru Administrare şi Reglementare în Comunicaţii (National Authority for Administration and Regulation in Communications - ANCOM) took over the duties relating to monitoring and controlling the distance contracts concluded between providers of electronic communications services and users. ANCOM will take action to ensure the access of disabled end-users to, and their possibility to benefit from, electronic communications services adjusted to their needs and under the same conditions as those applicable to other end-users. ANCOM is entitled to sanction providers if they do not include the new minimum mandatory provisions in their contracts and may resolve disputes which have failed to be settled amicably between users and providers in relation to the non-observance of these provisions.

Contractele încheiate pentru furnizarea de servicii de comunicaţii electronice se vor modifica; comunicat de presă 23.02.2012

http://www.ancom.org.ro/en/23-februarie-2012_4679

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