

Important note: In case of divergent interpretation, the Turkish text shall prevail.

ORDINANCE ON PROTECTION OF OPERATORS' TRADE SECRETS AND PUBLICATION OF PUBLICLY AVAILABLE INFORMATION

CHAPTER ONE Purpose, Scope, Legal Basis and Definitions

Purpose

ARTICLE 1 – (1) The purpose of this Ordinance is to protect trade secrets of operators and to define the scope of publicly available information.

Scope

ARTICLE 2 – (1) This Ordinance covers the principles and procedures regarding the protection of trade secrets of operators authorized by the Authority and publication of publicly available information.

(2) Processing of individual requests for information by Operators, consumers or other third parties is deemed to fall outside the scope of this Ordinance.

Legal Basis

ARTICLE 3 – (1) This Ordinance is based on Article 6, paragraph 1, sub-paragraph (h) of the Electronic Communications Law No: 5809, dated 5/11/2008.

Definitions

ARTICLE 4 – (1) The definitions and abbreviations used in this Ordinance have the following meanings:

a) Operator: any legal entity, which has the right to provide electronic communications services and/or to provide electronic communications network and to operate the infrastructure within the framework of authorization,

b) Board: Information and Communication Technologies Board,

c) Authority: Information and Communication Technologies Authority,

ç) Trade secrets: Information which belongs to a corporation or a commercial undertaking in electronic communications sector, can be known and gathered by only a certain number of the undertaking's members and other employees related with its operations, can result in the undertaking to suffer damage in case learned by its competitors, should not be disclosed to third parties and to the public and is of great importance for the undertaking's commercial success and efficiency, including business plans and investment plans,

d) Residential area: Residential areas consisting of at least 10,000 inhabitants based on the data of Turkish Statistics Institute.

CHAPTER TWO

Principles, Protection of Trade Secrets, Publicly Available Information and Administrative Sanctions

Principles

ARTICLE 5 – (1) Publication of operators' information is predicated on the following principles:

a) Increasing transparency,

b) Informing and making consumers conscious to the greatest extent,

c) Protecting and enhancing competition.

Protection of trade secrets

ARTICLE 6 – (1) Operators are obliged to supply any kind of information and document requested by the Authority.

(2) The Authority shall protect the security of information, which is listed as trade secret below, except the requests of judicial authorities.

- a) Investment plans,
- b) Business plans and operation strategies,
- c) Marketing and tariff policies,
- ç) Research and development projects,
- d) Financial statements and income statements of private companies, except those which have significant market power in related markets

Information that may be made publicly available

ARTICLE 7 – (1) taking the principles in Article 5 of this Ordinance into consideration, the information, including but not limited to the following, may be published at designated media by Authority as it deems appropriate.

- a) Number of subscribers,
- b) Traffic data,
- c) Net sales,
- ç) Market share according to number of subscribers, traffic and net sales,
- d) Investments realized,
- e) Number and demographic distribution of personnel,
- f) Revenue, traffic, investment and personnel per subscriber,
- g) Number of subscribers switching operators,
- h) Quality of service results of operators’ networks (on the basis of residential area and/or metropolitan area) calculated according to the criteria defined beforehand by the Authority,
- i) Results of coverage calculated according to the criteria defined beforehand by the Authority,
- j) Measurement results on the field calculated according to the criteria defined beforehand by Authority,
- k) Quality of service calculation results according to Authority’s other regulations related to electronic communications services and networks.

(2) Authority can publish the information listed in paragraph 1 of this Article in detail according to operator, sector, tariff package, service call or connection type, subscriber type and similar categories.

(3) Information which is already available publicly, information except listed at the Article 6 of this Ordinance and information that can be derived from these is not under the scope of trade secret and can be published by the Authority.

Administrative Sanctions

ARTICLE 8 – (1) In case of breach of this Ordinance’s provisions, Authority’s ordinance on administrative monetary penalties shall be applied.

CHAPTER THREE

Final Provisions

Effective Date

ARTICLE 9 – (1) The Ordinance shall come into force on the date of publication.

Enforcement

ARTICLE 10 – (1) The provisions of the Ordinance shall be executed by the Chairman of the Board.