

**Regulation on Administrative Monetary Penalties to be Imposed by  
Telecommunication Authority on Operators and Other Sanctions and Measures**  
**CHAPTER ONE**  
**General Provisions**

**Purpose**

**Article 1-** The purpose of this regulation is to set out the implementing rules applicable to the appraisal of the administrative monetary penalties provided for in item (f) of Article 2 of the Telegram and Telephone Law No. 406, as amended by the Law No. 4673 and to the implementation of other sanctions in the event that operators act contrary to the requirements of the legislation as well as their concession agreements, telecommunication licenses or general authorizations.

**Scope**

**Article 2-** This regulation is to lay down the rules and procedures for the sanctions to be implemented if activities of capital companies, providing telecommunications services and/or operating telecommunications infrastructure under an authorization agreement, concession agreement made with the Authority or a telecommunications license or a general authorization obtained from the Authority, breach the legislation and provisions of authorization agreements, concession agreements, telecommunications licenses or general authorizations.

**Legal Basis**

**Article 3-** This Regulation is issued on the basis of item (f) and (g) of Article 2 of the Telegram and Telephone Law No. 406.

**Definitions**

**Article 4-** For the purposes of this Regulation:

‘the Previous Calendar Year’ means the calendar year previous to the date of breach; or the calendar year previous to the date of establishment of the breach, where the breach is perpetrated over years or the exact date of the breach could not be found,

‘Turnover’ means Net Sales of the Operator,

‘Certificate of Authorization’ means any authorization agreement or concession agreement or telecommunication license or general authorization which grants an authorization for the provision of telecommunications services and/ or the establishment and operation of the infrastructure required for the provision of such services.

For the implementation of this Regulation, definitions and abbreviations included in the Telegram and Telephone Law No. 406, Wireless Law No. 2813, Telecommunications Services Regulation, Tariffs Regulation and other Telecommunications Legislation.

**CHAPTER TWO**

Administrative Monetary Penalties to be Imposed where Obligations as to Information and Document Submissions are Breached and Declarations for Accrual are not Made

**Submission of Incorrect or Misleading Documents**

**Article 5-** If information and documentation required to be submitted to or requested by the Authority, including the documents required for the issuance of a Certificate of Authorization are incorrect or misleading, administrative monetary penalty up to 1% (one percent) of the operator’s turnover in the previous calendar year shall be imposed. The Authority may give adequate time for the concerned operator to correct the failure before imposing administrative monetary penalties, wherever it may deem necessary, depending upon the nature of the act of breach, except where information and documents are misleading.

**Delayed Submission of Information and Documents**

**Article 6-** Where information and documents to be submitted under the Certificate of Authorization and legislation are not submitted to the Authority or other bodies authorized by the legislation and the agreement or designated by the Authority within the period of time set out in the certificate of authorization and the legislation or stipulated by the Authority, or if the operator fails to submit any other information and documents required by the Authority in due time, administrative monetary penalty up to 1% (one percent) of the operator's turnover in the previous calendar year shall be imposed.

**Late Submission of Information and Documents**

**Article 7-** In case of operator's delayed fulfillment of the obligation specified in Article 6 of this Regulation, the penalty under Article 6 of this Regulation may be imposed in view of Article 32, but the Board shall be free not to impose any administrative monetary penalty considering the nature of the tangible event.

**Failure to Permit Reviews and Audits**

**Article 8-** If the operator prevents Authority staff or officials appointed by the Authority from performing on-site reviews and audits, administrative monetary penalty up to 2% (two percent) of the operator's turnover in the previous calendar year shall be imposed.

**Failure to Make Declarations for Accrual**

**Article 9-** If operators fail to make their declarations for accrual due to the use of frequencies or they make incorrect declarations, the concerned operator shall first be reminded and requested to send the declaration for accrual. If the concerned operator fails to make the declaration in spite of the reminder, administrative monetary penalty up to 1% (one percent) of the operator's turnover in the previous calendar year shall be imposed. The implementation of this provision shall consider each declaration separately.

**CHAPTER THREE**

**Administrative Monetary Penalties for the Breach of Certificate of Authorization Requirements**

**Administrative Monetary Penalties up to 1% (one percent) of the Operator's Turnover**

**Article 10-** For the following cases, administrative monetary penalty up to 1% (one percent) of the operator's turnover in the previous calendar year shall be imposed:

- a) If the coverage obligations are not duly fulfilled,
- b) If the operator fails to incorporate into subscription agreements the provision that their customers may use only those terminal equipment which are duly approved and documented by GSM MoU and the Authority to get connected to the GSM system, or fails to satisfy this provision in registering subscribers,
- c) Where the operator fails to take necessary measures to meet the subscribers' and users' needs in emergencies and fails to give precedence to such events, or give priority to public institutions and organizations in cases of health-related issues, fire, disasters and security,
- d) If the operator fails to run its networks and provide services according to technological developments and applicable international agreements, if any,
- e) If the operator does not comply with international standards and/ or service quality standards formulated by the Authority,
- f) If the operator fails to fulfill its obligations on directory and unknown numbers,
- g) If the operator does not provide an "All-Risks" insurance throughout the license period for the telecommunication facilities and services set up and operated by it,

h) In case the operator fails to take actions necessary to ensure that all its employees act in accordance with the legislation and agreement provisions and to ensure orderly performance of the work,

i) Failure to submit agreement text and economical conditions of the National Roaming agreement as well as any amendments to such agreement to the Authority prior to signature,

i) If unauthorized use of frequencies, other than those allocated by the Authority, is found,

j) If the operator fails to take necessary measures to prevent interference with other operators in Turkey and neighboring countries within the time frame set by the Authority,

k) If the operator fails to announce tariff changes through bills to be issued for subscribers or via other appropriate means of communication, and implements tariffs not announced to subscribers,

l) If the operator fails to fulfill its obligations regarding contributions to Authority costs and does not pay this contribution.

**Administrative Monetary Penalties up to 2% (two percent) of the Operator's Turnover**

**Article 11-** For the following cases, administrative monetary penalty up to 2% (two percent) of the operator's turnover in the previous calendar year shall be imposed:

a) If the operator fails to fulfill its obligations arising from the Authority regulations on consumer rights and the Certificate of Authorization, misinform or mislead the consumer,

b) If the operator makes "subscription agreements" not approved by the Authority or does not make the amendments on subscription agreements, which are required by the Authority,

c) If the operator fails to fulfill its obligations under subscription agreements,

d) Where the operator does not fulfill its obligations regarding the services it is to provide under the Certificate of Authorization uninterruptedly and in accordance with the stipulations under the Certificate of Authorization, without any force majeure or justified reasons acceptable to the Authority.

**Administrative Monetary Penalties up to 3% (three percent) of the Operator's Turnover**

**Article 12-** For the following cases, administrative monetary penalty up to 3% (three percent) of the operator's turnover in the previous calendar year shall be imposed:

a) If the operator does not satisfy its obligations regarding the assignment of the company, license and shares,

b) If the operator fails to keep facilities within the scope of the agreement in good and operational condition until the expiry of the agreement,

c) If the operator acts contrary to the privacy of communications, national security and public order; the operator or its employees hinder communications, except the cases foreseen by laws; invade privacy, inform and disclose to others; prevent submission or acquisition of information required in cases laid down by laws to/by persons and organizations authorized by Law,

d) Where license and usage fees of radio equipment of operators' subscribers covered by such operators' network within a calendar year, if the said fees are not paid in full within 15 days of a notification to be made in January of the ensuing year.

## **CHAPTER FOUR**

### **Administrative Monetary Penalties Applicable in case of Violation of Legislative Provisions**

#### **Overcharging, Price Discounts Restricting Competition, Discrimination between Users, Unapproved Tariffs**

**Article 13-** In the following cases and if the failure is not corrected despite the Authority's reminder, Administrative Monetary Penalties up to 1% (one percent) of the operator's turnover in the previous calendar year shall be imposed:

a) If it is established that operators with predominant position or effective market power offer their services for excessive prices and do not correct this in spite of the Authority's reminder,

b) If it is established that operators with predominant position or effective market power offer price tariffs aimed at restricting competition and do not correct this in spite of the Authority's reminder,

a) If it is established that operators with predominant position or effective market power offer tariffs that would lead to discrimination between users in the provision of similar or identical telecommunications services, and do not correct this in spite of the Authority's reminder,

d) If the operator offers a telecommunication service based on an unapproved tariff or it is substantiated that it implements tariffs above maximum price limits,

e) If it is established that operators with predominant position or effective market power lead to cross subsidization by supporting cost of a service through the fee of another service while determining their tariffs, and do not correct this in spite of the Authority's reminder.

If the above violations persist despite imposition of penalties, administrative monetary penalty up to 2% (two percent) of the operator's turnover in the previous year shall be imposed.

#### **Failure to Inform the Authority of the Tariff Changes**

**Article 14-** Where the GSM Operators do not inform the Authority of the tariff changes at least seven days before the new tariff enters into force, the operator shall be asked by the Authority to immediately suspend the said tariff. In case of the continuation of the violation or its repetition in the same year, a monetary penalty up to 1 % (one percent) of the turnover of the operator belonging to the previous year shall be imposed.

#### **Failure to Propose the Compulsory Tariff**

**Article 15-** Where the operators do not submit the tariff proposal to the Authority for its approval, which is compulsory to be conducted in accordance with the legislation and Authority regulations or they do not put them into force subsequent to their approval and this situation continues despite the of the Authority, a monetary penalty up to 1 % (one percent) of the turnover of the operator belonging to the previous calendar year shall be imposed. In case of the continuation of the violation or its repetition, a monetary penalty up to 2 % (two percent) of the turnover of the operator belonging to the previous year shall be imposed.

#### **Special Tariff Options**

**Article 16-** Where the operators do not fulfill their obligation to inform the Authority of their special tariff changes, a monetary penalty up to 0.4 % (one per thousand) of the turnover of the operator belonging to the previous calendar year shall be imposed.

#### **Operator Going Beyond Its Powers**

**Article 17-** Where the operator provides any services which are except those for which he was granted a certificate of authorization and/or he goes beyond its powers, a monetary penalty up to 2 % (two percent) of the turnover of the operator belonging to the previous calendar year shall be imposed.

#### **Minimum Service**

**Article 18-** Where the operators do not fulfill their obligation of the minimum service to be provided in consideration of a reasonable charge as affordable by everybody, which was determined in terms of its subjects and scope by taking the opinions of the Authority and the operators by the Ministry and is accessible by everybody within the borders of Republic of Turkey irrespective of its geographical position and possesses the specified quality, a monetary penalty up to 3 % (three percent) of the turnover of the operator belonging to the previous calendar year shall be imposed.

### **CHAPTER FIVE**

#### **Other Sanctions and Precautions**

##### **National Security**

**Article 19-** Operators and their employees have the obligation not to behave contrary to national security and to show the required care and priority in these subjects.

**Where the competent authorities find that any operator conduct operation contrary to the national security and this fact is declared to the Authority, it shall be counted as a heavy crime and the certificate of authorization belonging to the operator shall be terminated / cancelled. Where the competent authorities find that the behaviors which are contrary to the national security stem from the employees of the operator and this fact is declared to the Authority, the operator shall be warned in writing to end this breach and to take the necessary actions. In case the competent authorities find that the contrary behavior continues despite the warning, it shall be counted as a heavy crime and the certificate of authorization belonging to the operator shall be terminated / cancelled. The implementation of these provisions shall be without prejudice to the provisions of article 12 of this Regulation.**

##### **Breach of the Social Order**

**Article 20-** Following sanctions shall be applied for the actions which are against the public order:

**a) Operators and its employees shall not act against the principle of not preventing the communication or interfering the confidentiality or content of the communication. The operator has to take the necessary actions accordingly.**

**Without prejudice to the provisions of article 12 of this Regulation, where the competent authorities find that the operator and its employees breach any obligations which are provided in this article, the operator shall be warned in writing to end this breach and to take the necessary actions. Where the Authority finds that a heavy crime is committed because the contrary behavior is maintained despite the warning or and it becomes common to breach the obligations which were introduced for this point by the operator with the legislation and the certificate of authorization, certificate of authorization belonging to the operator shall be terminated / cancelled.**

**b) Where the Courts find that the breach provided in (a) subparagraph of this article was committed by the operators and its employees during their official work so against the public employees, the administrative sanction provided in**

**(a) subparagraph shall be applied to the operator without prejudice to the provisions of article 19 of this Regulation.**

**c) Where the Authority or the competent authorities find that the operator violates the public order, the operator shall be warned in writing to end this breach and to take the necessary action. In case the contrary behavior is maintained despite the warning, and it is decided that the said breach constitutes a heavy crime taking into account the quality of the breach and availability of the repeated or maintained breach, certificate of authorization belonging to the operator shall be terminated / cancelled.**

#### **Not Duly Executing the Public Services in the Telecommunication Field**

**Article 21-** Where the public services are not duly executed in accordance with the conditions which are provided in the telecommunication legislation and certificate of authorization, first the operator shall be warned in writing to duly execute the public service and take the necessary actions without prejudice to the provisions regarding the administrative monetary penalties. Where the Board finds that a heavy crime is committed because the breach is maintained despite the warning and that the public service is not duly executed within the framework of the legislation and the certificate of authorization, certificate of authorization belonging to the operator shall be terminated / cancelled.

#### **War, Mobilization and State of Emergency**

**Article 22-** In case of war, general mobilization and similar situations, the Authority may suspend whole or part of the operations of the operator for a limited or unlimited period for the public security and national defense upon the request of the competent authorities, directly operate the network, and withdraw some of the resources which were allocated to the operator due to the national security and public order. The time to be passed shall be added to the authorization period and the revenue gained in this period shall belong to the operator.

The fact that the operator fails to comply with the regulations and decisions which were enacted by the Authority in the said situations shall be counted as a heavy crime and the authorization certificate of the operator shall be terminated / cancelled.

#### **Public Security and Intelligence Agencies**

**Article 23-** The operator has the obligation to satisfy the requirements of the security and intelligence agencies and make their systems including the infrastructure comply with the Authority and the relevant legislation within the framework of the Constitution and the provisions of Law and apply the updates in this field. Where these obligations are not met within the period given, a monetary penalty up to 3 % (three percent) of the turnover of the operator belonging to the previous calendar year shall be imposed.

#### **Emergencies**

**Article 24-** If the following obligations are not fulfilled, provisions of article 21 of this Regulation shall be applied without prejudice to the provisions of article 10 of this Regulation.

**a) The operator has the obligation to take the necessary measures in order to satisfy the communication needs of its subscribers and users in case of natural disasters such as earthquake, fire, health, security and similar emergencies and give priority to these subjects.**

**b) The operator shall give priority to the competent or assigned public institutions and organizations to eliminate their failures and needs with respect to the emergencies. In case of emergencies, the operator has to meet the request of the disaster management authority in the region, to use the telecommunication systems.**

c) The operator shall route the calls for the security department and the other urgent public services, to the provincial center of the call and no charge shall be collected for this service.

d) The operator shall have available the infrastructures in the number and quality sufficient to ensure the required communication, to be used for the emergencies upon the demand of the authorized public institutions and organizations.

#### **Re-authorization**

**Article 25-** The Authority shall not issue another certificate of authorization to the companies whose certificates of authority were terminated / cancelled due to breach of the national security, public order and prevention of the communication and interference of the confidentiality and undue execution of the public service and the shareholders of the said companies with 5 % as a minimum requirement and the persons authorized to administer the legal entity and the companies which are established by these.

#### **Use of Non-standard Devices**

**Article 26-** If it is found that the radio and telecommunications devices which are used by the operators in their systems do not comply with the relevant legislation, the device is sealed in the first violation. An administrative monetary penalty up to 1 % (one percent) of the turnover of the operator belonging to the previous calendar year shall be imposed in case of the continuation and repetition of the violation irrespective of the number of the non-standard devices used.

#### **Changing the Technical Specifications of the Devices**

**Article 27-** If the technical specifications of the devices are changed which are not in the scope of the systems which are authorized by the Authority, a period of 15 days shall be granted in order to restore the device to its original features. An administrative monetary penalty up to 1 % (one percent) of the turnover of the operator belonging to the previous calendar year shall be imposed in case of the continuation and repetition after the granted period ends.

## **CHAPTER SIX**

#### **Joint Provisions**

##### **Payment**

**Article 28-** The administrative monetary penalties which are given by the Authority shall be collected by the Ministry of Finance upon the declaration of the Authority according to the provisions of the Law No: 6185 on the Procedure for Collection of the Public Receivables of 21/7/1953, pursuant to the Telegram and Telephone Law No: 406.

##### **Breaches**

**Article 29-** Where more than one administrative monetary penalty is given due to the same or different breaches which are realized by one operator, each of them shall be individually imposed.

##### **Repetition**

**Article 30-** For any breach which is repeated with the same quality in the same calendar year, the administrative monetary penalty may be imposed on condition that it does not exceed 3 % (three percent) of its operator's turnover belonging to the previous calendar year without depending on the upper limit of the administrative monetary penalty rates which are foreseen in the Regulation.

### **Application of the Other Administrative Sanctions**

**Article 31-** Application of the administrative monetary penalties to the breaches which are provided in this Regulation shall not prevent the application of the other administrative sanctions.

### **Criteria for Application of the Administrative Monetary Penalties**

**Article 32-** The Board shall make its decision by taking into account the following components listed below for the determination of the administrative monetary penalties

- a) Quality of the breach
- b) Size of the damage
- c) Whether any economic income was gained as a consequence of the breach and the size of the income
- d) Availability of the repeated or maintained breach
- e) Compliance with the rules in the past
- f) Goodwill and voluntary declaration

### **Authorization**

**Article 33-** The Board is authorized to apply the administrative monetary penalties which are set out in this Regulation.

### **Cases for Which No Provision is Made**

**Article 34-** Although it is not set out in this Regulation, in the other cases whereby the activities of the operators were found contrary to the legislation and the conditions of the certificate of authorization, Procedures shall be applied as per the decision of the Board.

### **Revoked Legislation**

**Article 25-** Regulation on Administrative Monetary Penalties to be Imposed by Telecommunication Authority on Operators, numbered 24833 and dated 1/8/2003, was revoked.

### **Entry into Force**

**Article 36-** This Regulation enters into force at its date of issue.

### **Enforcement**

**Article 37-** The provisions of this Regulation shall be enforced by the President of the Telecommunication Authority