

(Only the Turkish text is authentic)

Ordinance on Principles and Procedures for Making National Roaming Agreements

PART ONE

Purpose, Scope, Legal Basis and Definitions

Purpose

Article 1 – The purpose of this Ordinance is to set out the principles and procedures in relation to the fulfilment of national roaming obligation put forward in the amended Article 10 of the Telegram and Telephone Law No. 406.

Scope

Article 2 – This Ordinance covers the principles and procedures in relation to the establishment of national roaming agreements among mobile telecommunications and data operators and operators of other services and infrastructure as determined by the Authority.

Legal Basis

Article 3 – This Ordinance is prepared pursuant to the Telegram and Telephone Law No. 406 and Wireless Law No. 2813.

Definitions

Article 4 – The terms used in this Ordinance shall have the following meanings:

Board: Telecommunications Board,

Authority: Telecommunications Authority,

Operator: A capital-stock company, including Türk Telekom, providing telecommunications services and/or operating telecommunications infrastructure under an authorisation agreement, a concession agreement entered into with, and/or a telecommunications license or a general authorization obtained from, the Authority,

Mobile Telecommunications Services: telecommunications services between land mobile stations and satellite and land stations or between land mobile stations,

National Roaming: Inter-systems conveyance which provides operation of services of an operator through the equipment of clients of another operator or which provides interconnection to another system, provided that certain technical compatibility exists,

Dispute: Dispute between the Parties in relation to the establishment of National Roaming agreement,

Requesting Operator: operator requesting National Roaming,

Operator Requested to Provide National Roaming: Mobile telecommunications and data operators or operators of other services and infrastructure as determined by the Authority, requested by another operator working in the same field to provide National Roaming,

Parties: Requesting Operator and Operator Requested to Provide National Roaming,

National Roaming Obligation: Obligation of an Operator to meet reasonable, economically proportionate and technically feasible National Roaming requests of other operators working in the same field for permitting the use of the customer equipment of the Requesting Operator on its telecommunications system,

Operator Obligated to Provide National Roaming: Mobile telecommunications and data operators or operators of other services and infrastructure as determined by the Authority, requested to meet reasonable, economically proportionate and technically feasible National Roaming requests of other operators working in the same field.

PART TWO

General Principles

Agreement between the Parties

Article 5 – Mobile telecommunications and data operators or operators of other services and infrastructure as determined by the Authority can freely make National Roaming agreements, provided that these agreements do not have provisions against the applicable laws, concession and authorisation agreements, telecommunications licenses and general authorisations, and the Authority's regulations. However, mobile telecommunications and data operators and operators of other services as determined by the Authority are obliged to meet reasonable, economically proportionate and technically feasible National Roaming requests of other operators working in the same field for permitting the use of the customer equipment of the requesting operator on their telecommunications system.

Disagreement between the Parties

Article 6 – In the event that no National Roaming agreement is reached between the Parties, the Authority, upon application of the Requesting Operator, applies the principles and procedures specified by this Ordinance.

PART THREE

Applications

Pre-requisites for Applications

Article 7 – Before starting a resolution process for a dispute relating to the establishment of National Roaming agreement, The Authority will look for concrete information and documents indicating that the Parties have engaged in genuine negotiations that have proved unsuccessful.

In order to start the resolution process regarding the dispute between the Requesting Operator and the Operator Requested to Provide National Roaming, the Authority will stipulate prior to the applications that:

- a) The Operator Requested to Provide National Roaming has not replied in written the request of the Requesting Operator within fifteen days after the certified receipt of the written request of the Requesting Operator, or
- b) Parties have not reached an agreement within thirty days after the Operator Requested to Provide National Roaming replied the request in written in the period specified in sub-article (a).

Form of Application

Article 8 – Applications to the Authority should be made in written.

The Application folder should cover at least but not limited to the following:

- a) Name of the Operator Requested to Provide National Roaming
- b) Scope of the National Roaming Request
- c) All relevant information and documents, letters, notifications and warnings, written outcomes and other supporting documents verifying the request.

PART FOUR

Principles and Procedures for Resolution

Treatment of Applications

Article 9 – After evaluating the application, the Authority will ask the Operator Requested to Provide National Roaming to send in written the information and documents in relation to the subject matter. The operator in question shall inform the Authority in written in seven days.

After completion of this period, taking into account the information and documents available, the Board will decide in fifteen days whether the conditions of Dispute have

been realised and the application is acceptable or not, and notify the Parties of its decision.

Granting the Parties a Settlement Period

Article 10 – In the event that the application is accepted, the Parties, by a written notice from the Authority, shall be given four weeks to reach a mutual agreement. This period may be extended by the Authority in the event that the Parties inform the Authority that the process is still on-going and therefore they mutually request an extension. If required, in these periods the Authority may hold meetings by inviting the Parties.

Reporting

Article 11 – In the event that no agreement is reached between the Parties in the period specified in Article 10 of this Ordinance, the Parties shall submit a report, mutually or separately prepared, and other relevant information and documents to the Authority.

The report shall cover at least the following topics:

- a) Scope and duration of National Roaming agreement,
- b) Services to be provided in the scope of National Roaming,
- c) Liabilities of the Parties,
- d) Charging, billing and accounting requirements,
- e) Service quality requirements,
- f) Conditions of temporary interruption and/or restriction of services,
- g) Fraud prevention requirements,
- h) Monthly regional traffic forecasts,
- i) Investment needs and predicted cost and duration of investment for additional facilities, equipment and software required to provide National Roaming,
- j) Technical issues.

In the event that the Operator Requested to Provide National Roaming does not submit the above-mentioned report to the Authority in the specified period, the subjects on which an agreement is reached and not reached shall be recorded in minutes of the meetings to be held with participation of the Authority and the Parties. The minutes should cover the Parties' concrete proposals towards the establishment of national roaming agreement, including scope, capacity, duration, price, terms of payment and other issues.

Principles Governing the National Roaming Agreement

Article 12 – In the establishment of National Roaming agreement, the following guidelines shall be taken into consideration both in qualitative and quantitative aspects, besides the report scope of which is described in Article 11 of this Ordinance:

- a) Promotion of practices which shall provide access by every person to telecommunications services and infrastructure at affordable prices and in this context provision of new market offerings and a wider range of telecommunication services to the customers,
- b) Unless otherwise required on the basis of objective reasons, non-discriminatory treatment of subscribers, users and Operators under similar conditions, and accessibility of services by everyone similarly situated under equal conditions,
- c) Unless otherwise provided by the applicable laws or required on the basis of objective reasons, taking care of the principles of qualitative and quantitative continuity, reliability, productivity, clarity, transparency and efficient use of resources,
- d) Attaining and protection of free competition in provision of telecommunications services and operation of infrastructure,
- e) Mutual compatibility of telecommunications systems in accordance with international norms and maintenance of the integrity of the public telecommunications network,
- f) Reflection, to the extent possible, in the tariffs to be charged for telecommunications services provided, of the costs of investments and operations, a relevant share of overheads, depreciation and a reasonable profit.
- g) Ensuring the establishment of a transparent, clear and non-discriminatory balance between the legitimate interests of the Parties,

- h) Ensuring non-discrimination between the subscribers of the Operator Requested to Provide National Roaming and the Requesting Operator in terms of the quality of service,
- i) Ensuring that no attempt is made by the Operator Requested to Provide National Roaming via the service provided in order to acquire the subscribers of the Requesting Operator.

Evaluation of the Request

Article 13 – The Board decides whether or not the request is reasonable, economically proportionate and technically feasible after evaluating the report prepared in accordance with the provisions of Article 11 and other information and documents, in both qualitative and quantitative aspects.

In the event that the Board does find the request appropriate in these aspects, it notifies the Parties of its decision.

In the event that the Board does not find the request appropriate in these aspects, it decides under what terms and conditions a request could be deemed reasonable, economically proportionate and technically feasible, and notifies the Parties of its decision.

Arising of National Roaming Obligation

Article 14 – In the event that the right of requesting National Roaming is used in accordance with the terms and duration determined by the Board decision as specified in Article 13 of this Ordinance, National Roaming Obligation is deemed arisen for the Operator Requested to Provide National Roaming.

Establishment of National Roaming Agreement

Article 15 – Prior to its signing, a certified copy of the National Roaming agreement to be made between the Parties shall be sent to the Authority together with its enclosures.

In the event that the agreement is decided to have provisions against the applicable laws, concession or authorisation agreements, telecommunications licenses and general authorisations, and the Authority's regulations, the Parties shall be granted a period of fifteen days to make the necessary corrections in the agreement. In the event that the required corrections are not made in this period, the Authority shall take the necessary measures according to the status of incongruity.

Maintaining the Competition

Article 16 – It is essential that National Roaming agreements to be made between the Parties do not impede free competition in provision of telecommunications services and operation of infrastructure.

If needed, the Authority may apply to the Competition Authority pursuant to provisions of Law No. 4054 in order to ensure the establishment of free competition.

Administrative Fines and Sanctions

Article 17 – Pursuant to the amended Article 2 (f) of Telegram and Telephone Law No. 406;

a) In the event that the Operator Requested to Provide National Roaming does not submit the report specified in Article 11 of this Ordinance or other information and documents as requested by the Authority in relation to the dispute, or submits deficient or misleading information, then the Operator Requested to Provide National Roaming shall be imposed an administrative fine equal in value to 0.01% (one-hundredth of one percent) of its previous calendar year's turnover.

b) The Operator that does not fulfil its National Roaming Obligation specified in Article 14 in accordance with the terms and duration determined by the Board decision specified in Article 13 shall be imposed an administrative fine in the proportion determined by the Board, provided that it is no less than %1 (one percent) and no more than %3 (three percent) of the previous calendar year's turnover of the Operator concerned.

c) In the event that the Operator Obligated to Provide National Roaming interrupts the service after it starts providing the National Roaming Service unless there is a justified

reason, then the Operator Obligated to Provide National Roaming shall be imposed an administrative fine in the proportion determined by the Board, provided that it is no less than %1 (one percent) and no more than %3 (three percent) of the previous calendar year's turnover of the Operator concerned.

Waiver from National Roaming Request

Article 18 – In the event that the Requesting Operator does not submit the report specified in Article 11 of this Ordinance or provide the Authority with information and documents requested by the Authority in the process of dispute resolution, it shall be deemed a waiver from its request.

Disputes Arising after the Agreement

Article 19 – In the event that the National Roaming agreement made between the Parties is terminated as a result of a dispute arising under the agreement, provisions of Article 11 and subsequent articles of this Ordinance are applied upon application of the Requesting Operator to the Authority.

PART FIVE Other Provisions

Abrogated Provisions

Article 20 – “Principles and Procedures to be applied for Resolution of National Roaming Disputes” put in effect by the Authority pursuant to the Board Decision dated 4/5/2001 and numbered 2001/166 is abrogated.

INTERIM ARTICLE 1 – The dispute resolution process started prior to the effective date of this Ordinance shall be sustained, no matter in what stage it is, in accordance with the provisions of this Ordinance, and all transactions made, documents held and negotiations taken place until the effective date of this Ordinance shall continue to maintain their validity and to arise effects under this Ordinance.

Effective Date

Article 21 – This Ordinance shall enter into force on the date of its publication.

Execution

Article 22 – The provisions of this Ordinance shall be executed by Chairman of the Telecommunications Board.