

Pursuant to Article 11, paragraph 1, sub-paragraph 1 and 16, Article 14, paragraph 1, sub-paragraph 6 and Article 92 in conjunction with Article 95 of the Law on Electronic Communications ("Official Gazette of Montenegro", No. 40/13), the Council of the Agency for Electronic Communications and Postal Services at its meeting held on 02.25.2014 adopted

THE RULEBOOK

on the methodology of calculation of the net cost of providing the services within the Universal Service

The Rulebook was published in "the Official Gazette of Montenegro", No 12/14 of 07.03.2014.

Content of the Rulebook

Article 1

This Rulebook regulates the method of calculating the net cost of tangible and intangible benefits that are taken into account when calculating the net cost of providing the services within the Universal Service, as well as the amount and method of payment of contributions for compensation of net costs of providing the services from the scope of the Universal Service.

Definitions

Article 2

Terms used herein shall have the following meanings:

1. **Intangible benefits of providing the Universal Service** are benefits that cannot be directly and accurately measured, but can only be estimated, and which the Universal Service operator receives as a result of greater visibility (brand), the presence in its territory and therefore of lower costs needed for network expansion to new end-users and marketing advantages due to access to a broad base of telephone subscribers.
2. **Tangible benefits of providing the Universal Service** are measurable benefits that the Universal Service operator receives by providing those services through direct and indirect revenues. Direct revenues are revenues that the Universal Service operator directly invoices to the Universal Service user for the services that it provides. Indirect revenues are revenues generated through calls of profitable users to unprofitable users of the Universal Service, and revenues from these calls are the revenues of the Universal Service operator deriving from calls to unprofitable customers.
3. **Reasonable profit rate** represents the weighted average rate of profit of operators in the area of electronic communications, which participate in the contribution for compensation of the net cost of providing the services within the Universal Services in the fiscal year for which the calculation of contribution to net cost of the Universal Service operators is made. (Weighted average rate of profit = the sum of the results of the operators before tax deduction (profit or loss before tax deduction) / sum of the operators' operating revenues) * 100).
4. **The contribution for the compensation of net cost of providing services within the Universal Service** (hereinafter referred to as "the contribution") is the amount which shall be paid by all registered operators in Montenegro whose share in the total annual revenue in the area of electronic communications exceeds 2%, and it can exclusively be used to

cover the approved net cost of providing the services from the scope of the Universal Service.

5. Other terms used herein shall have the same meaning pursuant to the Law on Electronic Communications (hereinafter referred to as the Law).

Calculation of net costs

Article 3

The calculation of net costs must be objective, proportionate, transparent and non-discriminatory.

The calculation of the net cost of the Universal Service operators must contain accounting data that serve as the basis for calculation, calculation criteria, as well as the procedure for calculating the net cost.

Net costs of providing individual services within the scope of the Universal Service are calculated in such a way that the total cost of providing a service within the scope of the Universal Service is reduced by the amount of revenue, tangible and intangible benefits, generated from the provision of a service within the Universal Service.

When calculating the net cost, the costs which would be accepted by any operator if there was no obligation of universal service provision shall be taken into account if they are expressed in prices that are cost-oriented.

If the operator of the Universal Service provides more than one service from the scope of the Universal Service, it shall show the net cost of providing each of these services individually. In this case, the total net cost of providing the Universal Service shall be calculated as the sum of all net costs for individual services from the scope of the Universal Service.

The Universal Service operator that provides the service of access to public electronic communications network and publicly available electronic communications services at a fixed location shall in the calculation of net costs clearly identify and describe:

- profitable and unprofitable end-users of the Universal Service;
- criteria for the definition of profitable and unprofitable end-users of the Universal Service;
- limit at which an unprofitable user of the Universal Service becomes profitable, and vice versa;
- cost of providing certain benefits to end-users from the category of persons with reduced mobility and persons with disabilities, and
- cost of providing certain benefits to end-users with low income.

Parameters of the calculation of net costs

Article 4

When calculating the net cost, the Universal Service operator shall take into account and include:

- only those costs that are directly related to the provision of services within the scope of the Universal Service;

- different costs from the costs specified in the public tender which the Agency shall take into consideration only in instances where conditions at the time of the public tender have changed for the reasons of an objective nature and when the universal service operator objectively and transparently justifies such deviations, and
- a reasonable rate of profit, which refers to the provision of services within the scope of the Universal Service.

The Agency may, for the purposes of reducing net costs for the provision of the Universal Service, require the Universal Service operator to apply certain technical or other solutions or to conclude the offered interconnection contracts or cooperate with other operators, or it may acknowledge net costs up to the amount that would result from application of the requested technical and other solutions.

When calculating the net costs, the items below shall not be taken into account:

- costs incurred as a consequence of regulatory obligations imposed on operators on the basis of market analysis;
- costs, arising from the fulfillment of the obligations of national security and defense;
- costs of providing electronic communications services that are not within the scope of Universal Service;
- costs of compensation and refund given to end-users that are due to inadequate quality of provided services from the scope of Universal Service;
- costs of upgrading the network, unless it is necessary to improve or fulfill the quality of providing the Universal Service, and
- costs of unbundling of accounts, selective blocking of outgoing calls, the introduction of prepaid system to pay for the access to public electronic communications networks, or for the use of publicly available telephone services.

The right to compensation of net cost

Article 5

The Universal Service Operator shall be entitled to compensation for the net cost of providing the Universal Service if the provision of services from the scope of the Universal Service represents an excessive cost.

The Universal Service operator shall submit to the Agency the report on services provided under the Universal Service, until the end of the second quarter of the current year, with the statement of net costs and accounting records, as well as the information used in the calculation of net costs for the Universal Service provision in the previous year.

The operator which fails to submit the report on services provided under the Universal Service with the statement of net costs and accounting records, within the period referred to in paragraph 2 of the Article hereof, shall not be entitled to compensation of net.

The Agency shall examine and approve the accounting records and information, and can authorize an independent auditor for the purpose of audit of the accounting records and information.

In verifying accounting records and information, the Agency shall realistically evaluate the costs which the Universal Service operator would not have chosen had there been no Universal Service obligation, as well as intangible benefits of such operator, whereby the double accounting of any benefits and costs shall not be allowed.

Determination of contributions

Article 6

The amount of contribution for each operator shall be determined in such a way that the amount of the approved net cost of the Universal Service operator is multiplied by the share of revenue of that operator generated from the provision of public electronic communications services in the total annual revenue of operators - contributors to the Universal Service Fund. The share is expressed as a percentage, with two decimal places. The total revenue of the operators - contributors is calculated on the basis of individual revenue of operators, the data on which they are required to submit in the manner and within the deadlines laid down in the Law.

The amount of the contribution for each operator is determined by the Agency, in proportion to the share of the revenue of each operator in the total revenue generated the electronic communications sector, where, among other things, it establishes the following:

- amount of contributions;
- bank account data of the Universal Service operator;
- deadline for payment of contributions, and
- other mandatory elements defined by the Law.

Determining the method of payment of contributions

Article 7

Operators shall pay their contributions directly to the operators of the Universal Service, in the amount and within deadlines specified in the decision of the Agency.

Management and administration of the Universal Service financing

Article 8

The Agency shall keep records on contributions for the financing of the Universal Service, as well as on any other information relevant to the financing of the Universal Service, including, but not being limited to:

- verified total annual revenue of each contributor, including the operators of the Universal Service;
- amount of contribution payable for the last year for each contributor, including the operators of the Universal Service, and
- amount of the contributions that have already been paid, for each contributor, except for the Universal Service operator.

The transparency of the procedure

Article 9

The Agency shall publish on its website the information on the compensation of net costs of the Universal Service, the manner of their allocation and use for the intended purpose.

The Agency shall publish on its website by December 31 a consolidated annual report on the compensation of net costs for the provision of the Universal Service for the previous fiscal year.

The Agency shall publish on its website the following integral parts of the consolidated annual report on the compensation of net cost for the provision of the Universal Service:

- all individual calculations of net of costs submitted by the Universal Service operators;
- results of assessment of all individual calculations of net costs submitted by the Universal Service operators, i.e. audit report in case the authorized auditor is engaged;
- an overview of the Universal Service operators who did not exercise their right to receive compensation for the net cost, with the reasons for their failure to exercise this right, and
- all individual decisions on the amount and method of payment of contributions, issued to contributors for financing the provision of the services within the Universal Service.

Termination of validity

Article 10

On the effective date of this Rulebook, it shall supersede the Rulebook on the methodology of calculation of the net cost for the provision of the Universal Service and the method of payment of contributions for financing of the Universal Service ("Official Gazette of Montenegro", No 35/2010).

Entry into force

Article 11

This Rulebook shall enter into force on the eight day following its publication in the "Official Gazette of Montenegro".

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Podgorica, 25.02.2014

Agency for Electronic Communications and Postal Services

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m.p.