NATIONAL ADMINISTRATIVE REGISTER · MAY 30, 2008

VALUE ADDED SERVICES

NTC MEMORANDUM CIRCULAR NO. 02-05-2008, May 30, 2008

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WHEREAS, the 1987 Constitution fully recognizes the vital role of communications in nation building and provides for the emergence of communications structures suitable to the needs and aspirations of the nation;

WHEREAS, the promotion of competition in the telecommunications market is a key objective of Republic Act No. 7925 (RA 7925, for brevity), otherwise known as The Public Telecommunications Policy Act of the Philippines, which mandates that "a healthy competitive environment shall be fostered, one in which telecommunications carriers a free to make business decisions and interact with one another in providing telecommunications services, with the end in view of encouraging their financial viability while maintaining affordable rates."

WHEREAS, RA 7925 further defines the role of the government to "promote a fair, efficient and responsive market to stimulate growth and development of the telecommunications facilities and services";

WHEREAS, the National Telecommunications Commission (Commission) defined "Value Added Services" in MC No. 05-08-2005 as enhanced services beyond those ordinarily provided for by local exchange and inter-exchange operators, and overseas carriers through circuit switched networks.

WHEREAS, the Commission in the same MC also defined "Enhanced Services" as services that improve upon the quality and/or functionality of services ordinarily offered by local exchange and inter-change operators and overseas carriers and "Services Ordinarily provided for by Local Exchange and Inter-Exchange Operators and Overseas Carriers" refer to voice services offered through circuit switched networks.

NOW, THEREFORE, pursuant to RA 7925, Executive Order (EO) No. 546, series of 1979, and pursuant to the decision of the Supreme Court in G.R. No. 143964 dated 26 July 2004 and in order to maintain and foster fair competition in the telecommunications industry, and to bring the benefits of enhanced services to the general public, the National Telecommunications Commission (the Commission/NTC, for brevity) hereby promulgates the following guidelines:

A. Scope

1. The following services are classified as value added services:

- Messaging services - includes all types of messaging services such as short messaging service (not more than 160 characters), messaging service (more than 160 characters), Multimedia messaging service (allows the sending and receiving of multimedia messages such as video, graphics and audio clips), and unified messaging service (allows voice messages to be stored in the mailbox along with email and can be accessed through email client or through telephone with telephone user interface).

- Audio conferencing - allows conference between two (2) or more participants at different sites by using networks to transmit audio.

- Audio and video conferencing - allows conference between two (2) or more participants at different sites by

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using networks to transmit audio and video data.

- Voice mail service - refers to email system that supports audio where users can leave spoken messages for one another and listen to the messages by extending appropriate commands in the email system.

- Electronic mail service - is a store and forward method of composing, sending, storing and receiving messages over electronic communications system.

- Information service - includes all types of information delivered to/accessed by the users/subscribers, e.g. road traffic information, financial information, visa application information, and others of similar nature.

- Electronic Gaming Services except gambling - allows a user to play games online.

- Applications service - includes all types of applications delivered to/accessed h the users/subscribers, e.g. mobile banking, electronic payments, point of service, etc.

- Content and Program service - includes all types of contents delivered to/accesed by the users/subscribers such as music, ring tones, logos, video clips, and ^ of similar nature. '

- Audiotext service - is a system where consumers dial a phone number navigate a voicemail-like system to get desired information (such as forecast, horoscope, and others of similar nature).

- Facsimile service-allows a consumer to send and receive documents throu the electronic communications network.

- Virtual Private Network service - is a communications network tunneled through another network and dedicated for a specific network. One common application is a secure communications through the public internet,

- Hosting service - allows a service provided to host in its facilities websites and private branch exchanges (PBX).

2. The foregoing list of value added services may be revised, modified, expanded or shortened by the Commission after due public consultation.

3. These rules shall apply to the value added services listed in Sec. 1 hereof and shall not apply to voice over IP (VoIP) service. VoIP service is covered by MC 05-08-2005.

4. Public telecommunications entities (PTEs) shall offer leased line service to VAS providers at the same quality and at a price not higher than the prevailing leased line prices offered by the PTEs to the public. PTEs shall not deny requests by VAS providers for leased line service. If a PTE is unable to provide leased line to a VAS provider, said PTE shall inform in writing, copy furnishing the Commission, the requesting VAS provider of the reasons for denial of request. The Commission may require the PTE to further substantiate its denial of the request.

B. Registration

5. No entity shall provide value added service without valid certificate of registration from the Commission. The application for registration shall be filed and acted upon by the Commission not later than seven (7) working days from date of application, with complete requirements.

6. The application shall include the following documents:

- Valid registration from the Securities and Exchange Commission or from t e Department of Trade and Industry and Articles of Incorporation;

- System configuration and mode of operation;

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- List of services to be offered;

- Facilities lease agreement with duly enfranchised and certificated Public telecommunications entity; and

- Written undertaking that the applicant will not discriminate other VAS providers terms of rates and service quality for similar facilities leased to them (for duly enfranchised and certificated public telecommunications entity).

7. The Certificate of Registration shall be valid for a maximum period of five (5) years. Applicants for registration may opt to apply for shorter period of not less than one (1) year. Certificates of Registration shall be renewable.

C. General Provisions

8. Aduly registered VAS provider

- may utilize its own equipment capable only of processing, routing and storing messages in whatever format;

- shall strictly comply with the service performance standards, NTC MC No. 10-17- 2000 and NTC MC No. 19-12-2004, and other applicable standards prescribed by the Commission;

9. The rates for value added services shall be deregulated. The VAS provider shall inform the Commission of the rates for each of the value added services offered at least seven (7) days prior to the offering of such value added service. VAS providers seeking increases in rates for existing VAS shall inform the Commission of the details of such increases at least seven (7) days prior to the implementation of the increase. The Commission in the exercise of its mandate to protect consumers may not allow the increase. If the Commission does not act on the information within seven (7) days from receipt of the . same, the VAS provider can impose the new rates.

D. Fees and Charges

10. The following fees and charges shall be imposed:

a. Filing Fee :

PhP 300.00

b. Annual Registration Fee :

6,000.00 for the first 5 services registered 1,000.00 for each additional service registered

c. Surcharge for late filing of application for renewal :

50% of the annual registration fee if application is filed within six (6) months from date of expiry 100% if filed after six (6) months from date of expiry

E. Sanctions

11. Violation of any of the provisions of this Circular shall be a ground for the revocation or cancellation of the registration as VAS provider.

12 Any violation of this Circular shall be dealt with in accordance with law.

F. Final Provision

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13. Any circular, order, memoranda or parts thereof inconsistent herewith are deemed repealed or amended accordingly.

14. This Circular shall take effect fifteen (15) days after publication in a newspaper of general circulation and three (3) certified true copies are furnished the UP Law Center

Adopted: 30 May 2008

(SGD.) RUEL V. CANOBAS

Commissioner

(SGD.) JORGE V. SARMIENTO

(SGD.) JAIME M. FORTES, JR.

Deputy Commissioner

Deputy Commissioner

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