

DECREE OF THE MINISTER OF COMMUNICATIONS
NUMBER KM. 33, YEAR 2004
CONCERNING
SUPERVISION OVER FAIR COMPETITION IN THE OPERATION OF
FIXED NETWORKS AND PROVISION OF BASIC TELEPHONY SERVICES

THE MINISTER OF COMMUNICATIONS

- Considering :
- a. that in order to guarantee certainty in the operation of fixed networks and provision of basic telephony services, regulation of supervision on the basis of principles of justice, transparency and equal treatment is needed;
 - b. that in order to implement the matter as meant in letter a, it is deemed necessary to issue provisions on supervision over fair competition in the operation of fixed networks and provision of basic telephony services.
- In view of :
1. Law No. 5/1999 concerning prohibition of monopolistic practices and unfair business competition (State Gazette of 1999 No. 33, Additional State Gazette No. 3817);
 2. Law No. 36/1999 concerning telecommunications (State Gazette of 1999 No. 54, Additional State Gazette No. 3881);
 3. Government Regulation No. 52/2000 concerning telecommunications operation (State Gazette of 2000 No. 107, Additional State Gazette No. 3980);
 4. Government Regulation No. 53/2000 concerning the use of spectrum of radio frequency and satellite radio (State Gazette of 2000 No. 108, Additional State Gazette No. 3981);
 5. Presidential Decree No. 102/2001 concerning the status, tasks, functions, authority, organizational structures and working arrangements of ministries as already amended by Presidential Decree No. 45/2002;
 6. Presidential Decree No. 109/2001 concerning first-echelon organizational units and tasks of ministries as already amended by Presidential Decree No. 47/2002;
 7. Decree of the Minister of Communications No. KM. 20/2001 concerning operation of telecommunications networks;
 8. Decree of the Minister of Communications No. KM. 21/2001 concerning provision of telecommunications services;

9. Decree of the Minister of Communications No. KM. 24/2001 concerning the organization and working arrangement of the Ministry of Communications as already amended by Decree of the Minister of Communications No. KM. 91/2002.

H A S D E C I D E D :

To stipulate : DECREE OF THE MINISTER OF COMMUNICATIONS CONCERNING SUPERVISION OVER FAIR COMPETITION IN THE OPERATION OF FIXED NETWORKS AND PROVISION OF BASIC TELEPHONY SERVICES

CHAPTER I
GENERAL PROVISION

Article 1

Referred to in this decree as:

1. Telecommunications is every kind of broadcast, dispatch and/or receipt of every information in the form of marks, symbol, writing, picture, voice through cable, optical, radio system or other electromagnetic system;
2. Telecommunications network is a set of telecommunications apparatuses and their equipment used in telecommunications;
3. Telecommunications service is telecommunications service to meet the telecommunications need by using telecommunications network;
4. Telecommunications operator is individual, cooperative, regional administration-owned enterprise, state-owned enterprises, private enterprise, government institution and state defense and security institution;
5. Telecommunications operation is activities of provision and/or service for telecommunications network enabling telecommunications to take place;
6. Operators of fixed networks are operators of fixed networks providing basic telephony services;
7. Provision of telecommunications service is activities of provision and/or service for telecommunications services I enabling telecommunications to take place;
8. Interconnection is inter-telecommunications network link of different telecommunications operator;
9. Minister is the minister in charge of telecommunications affairs;
10. Director General is the Director General of Post and Telecommunications.

CHAPTER II
DOMINANT POSITION

Article 2

Operators of fixed networks and providers of basic telephony services shall serve customers or users properly in accordance with the service performance standards.

Article 3

- (1) Operators of fixed networks and providers of basic telephony services shall be categorized as operators of dominant position if their business activities, coverage area and revenue control majority market.
- (2) The government shall announce operators of fixed networks and providers of basic telephony services categorized as dominant position in a segment of certain telecommunications operation every year on the basis of evaluation according to the laws in force.

CHAPTER III
PROHIBITION ON ABUSE OF DOMINANT POSITION

Article 4

Operators of fixed networks and providers of basic telephony services categorized as dominant position as meant in Article 3 shall be prohibited from:

- a. abusing their dominant position to undertake monopolistic practices or unfair business competition;
- b. dumping or selling or operating their businesses at a tariff lower than the cost and/or providing or selling their services at a price above the tariff already stipulated through the tariff formula according to the provisions in force;
- c. using their revenue for subsidizing cost of operation of fixed networks and provision of other competitive basic telephony services and not having dominant position, which is also operated by the relevant;
- d. requiring or forcing directly or indirectly users or their subscribers to use only networks and basic telephony services (SLJJ and SLI) that their operate/provide;
- e. not providing interconnection service or applying discriminatory actions to other operators of fixed networks and basic telephony services submitting request for interconnection.

Article 5

The prohibition as meant in Article 4 letters b, d and e also shall apply to operators of fixed networks and providers of basic telephony services categorized as non-dominant position.

CHAPTER IV
THE USE OF CODE OF ACCESS AND INTERCONNECTION

Article 6

Operators of fixed networks in undertaking their activities shall be prohibited from:

- a. not channeling a call, if users or subscribers linked to their networks choose other operators/providers to channel their call;
- b. shifting call to other networks not suitable to the choice of users/subscribers without consent of the users/subscribers;
- c. blocking code of certain access and every operator of network and provider of basic telephony service is obliged to guarantee that all codes of access of basic telephony service for SLJJ and SLI are accessible automatically from every terminal of their subscribers (normally opened).

Article 7

Operators of fixed networks shall channel calls from their users or subscribers to the available networks in accordance with codes of access chosen by the users or subscribers.

Article 8

Every operator of fixed network shall give equal treatment to other operators in providing interconnection services and/or other services, which can be in the form of:

- a. fulfillment the need for facilities to serve subscribers, open code of access and handle request for interconnection, from the aspect of time of provision, quality, dimension and cost;
- b. treatment of all conversation traffics, be they internal traffics inside their networks or interconnection traffics, channeled through their networks;
- c. enforcement of the same structure and amount of cost to every other operator for the utilization of resources, such as duck, billing system and tower;

- d. provision of equal treatment for preparation of billing data, billing receipts and collection to users.

CHAPTER V
LIMITED SERVICE

Article 9

Every operator of fixed network shall fulfill request of other telecommunications operators for services or facilities suitable to their need as far as the smallest possible unit (technical, business and geographic), including but not limited to:

- a. request for user of information service, opening of access code and/or billing service only in certain area or sphere of service;
- b. request for interconnection service only in components of inter-face, central, transmission or room (co-location) apparatuses.

CHAPTER VI
CONCLUSION

Article 10

The Director General shall foster and supervise the implementation of this decree.

Article 11

The decree shall come into force as from the date of stipulation.

Stipulated in Jakarta
On March 11, 2004
THE MINISTER OF COMMUNICATIONS

Signed

AGUM GUMELAR