

**INFORMATION OF THE GOVERNMENT OF GEORGIA IN RESPONSE TO THE REQUEST OF THE UN SPECIAL
RAPPORTEUR ON THE PROMOTION OF THE RIGHT TO FREEDOM
OF OPINION AND EXPRESSION**

Topic 1(a):

Resolution No. 3 of Georgian National Communications Commission, Tbilisi, 17 March, 2006 Concerning the Approval of the Regulations in respect to the Provision of Services and Protection of Consumer Rights in the Sphere of Electronic Communications

Article 10¹. Internet Services

Paragraph 4 - Service provider shall develop such mechanisms as will enable him to cancel or disconnect a consumer, if it is revealed that the latter spreads/forwards unsolicited electronic messages, inadmissible production, computer viruses, fraudulent or/and other malicious software.

Paragraph 5 - Electronic mail registered on one's personal name and business electronic mail which is subject to administration, shall be inviolable. Its inspection shall be admissible based on a court decision or without it, in case of emergency as provided for by the Law. Service provider offering e-mail service to a consumer must ensure the protection of the latter from the penetration of any third persons.

Paragraph 6 - Service provider shall take all necessary measures to prevent the delivery to a consumer of unsolicited electronic correspondence and shall ensure the availability of a contact line which would enable the consumer concerned to receive information and take preventive measures in respect to unsolicited electronic correspondence.

Article 10². Possessor of an Internet Site

A possessor of an Internet site shall:

Sub-paragraph (c) - examine any link allocated on an Internet site in order to ascertain that the Internet site/page referred to by means of the link concerned does not contain any offensive or inadmissible production; on finding such, he shall take appropriate measures to eliminate them;

Article 10³ . Internet Domain

1. The domain of an Internet site must not be misleading, must not serve for the overlapping of another Internet site and must correspond to its contents.

2. Issuer of an Internet domain shall periodically examine the contents of the Internet sites registered by him in order to prevent the allocation of inadmissible production on such Internet sites. On finding such production, the issuer of an Internet domain must immediately take following appropriate measures to eliminate them:

- a. To warn the possessor of domain and identify the time limit for the removal of inadmissible production;
- b. To block the Internet site in case if the warning is ignored.

Article 25. Protection of Rights and Legitimate Interests of Consumers

Paragraph 4) Sub-paragraph (g) - Service provider shall be obliged: - To respond to the received information concerning the allocation of inadmissible production and adopt appropriate measures in order to eliminate it.

In all the above mentioned cases, Georgian National Communications Commission (GNCC) is authorized to consider the dispute in case of any.

Topic 1(b):

Law of Georgia on Electronic Communications

According to Article 8(1) of the Law of Georgia on Electronic Communications information on a user of electronic communication networks, also information transferred by a user via said networks, shall be confidential and its confidentiality shall be guaranteed by the legislation of Georgia. However, article 8(1) makes a reservation to the effect that the obligation of confidentiality of information shall not apply to cases where an authorised body carries out covert investigative activities envisaged by relevant provisions of the Criminal Procedure Code of Georgia. The Article 143¹ of the Criminal Procedure Code of Georgia prescribes, inter alia, the following types of covert investigative activities:

- secret eavesdropping and recording of phone conversations;
- removal and recording of information from a communications channel (by connecting to the communication facilities, computer networks, line communications and station devices), computer system (both directly and remotely) and installation of respective software in the computer system for this purpose.

The procedure of conducting covert investigative activities is prescribed in details by the Law of Georgia on Operative-investigative activities.

Article 8² - Recording instances of data transfer and provision of information to the Personal Data Protection Inspector

An electronic communications company shall record instances when the identification data of electronic communications are transferred under Articles 112 and 136 of the Criminal Procedure Code of Georgia to relevant state bodies and shall provide the relevant information to the Personal Data Protection Inspector.

Topic 3 – we do not have any regulations or policies governing activities of private entities described in this topic.

Topic 4: remedies on undue restrictions on Internet and telecommunications and access to customer data

Resolution No. 3 of Georgian National Communications Commission Tbilisi, 17 March, 2006 Concerning the Approval of the Regulations in respect to the Provision of Services and Protection of Consumer Rights in the Sphere of Electronic Communications

Article 25. Protection of Rights and Legitimate Interests of Consumers

1. The protection of rights and legitimate interests of consumers in the sphere of electronic communications is supervised by the Commission, whereas there operates the agency of Public Defender of Consumers Interests.

3. Service provider shall be obliged to ensure the secrecy and safety of the information transmitted by consumers. The tapping of telephone conversation and the disclosure of the information on the said conversations shall be admissible in conformity with the procedure established under the Georgian Legislation.

5. Based on the notification from a consumer, service provider shall address the issue and adopt all available measures in order to prevent the use of his network for:

- a. Unauthorized access;
- b. Transmission of a message containing inadmissible production; and
- c. The intimidation, insult and other humiliating acts in respect to a consumer.

6. With due consideration of legal interests of consumer, service provider shall be entitled at his discretion to determine the rules for the provision of certain services to consumers, which rules must not contradict the Legislation in force and may involve additional rights or obligations.

Article 26. Measures to Ensure Protection of Rights and Legitimate Interests of Consumers

1. Consumer shall be entitled to demand the restoration of his rights violated during or as a result of the provision of service and to claim the compensation for the material and moral damage sustained by him.

2. The grounds for the rehabilitation of a violated or disputed right and of legal interests of consumer shall be a complaint.

3. Deleted (9.11.2007 No 7)

4. Consumer may file a complaint immediately with the Consumer Complaints Addressing Agency of the relevant service provider, with the Agency of the Public Defender of Consumers Rights at the Commission, or with a court.

5. Any restriction or interruption of service by a service provider during the entire process of the consideration of complaint shall be inadmissible.

Measures on undue access to customer data:

Law of Georgia on personal data protection - Chapter VII – Administrative Liability for Violation of this Law

Article 43 – Data processing without the grounds under this Law

1. Data processing without the grounds under this Law shall result in a warning or a fine of GEL 500.

2. The same act committed by a person who has had an administrative penalty imposed in the course of one year for a violation under paragraph 1 of this article shall result in a fine of GEL 2 000.

Article 44 – Violation of principles of data processing

1. Violation of principles of data processing under this Law shall result in a warning or a fine of GEL 500.

2. The same act committed by a person who has had an administrative penalty imposed in the course of one year for a violation under paragraph 1 of this article shall result in a fine of GEL 2 000.

Topic 5: Internet accessibility and connectivity

In 2015, for efficient management and use of radio frequency spectrum, the Commission ensured harmonization of electronic communication services and radio frequency bands for terrestrial systems considered in accordance with EU decisions. Within the mentioned process, based on the decision of the Commission, on January 29, 2015, licenses of MagtiCom, Geocell and Mobitel issued for electronic communication services in harmonized bands of 800/900/1800/2100 MHz for terrestrial systems, were modified in accordance with the principle of technological and service neutrality.

The Government of Georgia has initiated the state program¹ on broadband infrastructure development. The aim of the project is to accelerate the roll out of broadband infrastructure and services, improve internet accessibility and connectivity. Project is divided into two phases and shall be implemented accordingly. The project is in the process of implementation and it shall cover, mainly, the rural areas of the country. The project duration is 3 years. Detailed information on the project is available on the following link: <https://matsne.gov.ge/ka/document/view/3355632>

Also, Georgian National Communications Commission together with the support of the European Bank for Reconstruction and Development (EBRD) initiated a project of technical cooperation in order to ensure the responsibilities taken under Georgia's recent Association Agreement with the EU2. Besides the revision and harmonization of Georgia's legislative base to better reflect the EU framework for ICT, the project shall focus on topics such as: adoption of a framework for regulation of Next Generation Access, including access to and sharing of telecom and telecom ready infrastructure³; and Universal Service provisions.

¹ <http://opennet.ge/>

² http://eeas.europa.eu/georgia/pdf/eu-ge_aa-dcfta_en.pdf Annex XV-N refers specifically to telecommunications services (Pages 300-301)

³ <http://www.gncc.ge/uploads/other/2/2163.pdf> - Draft of proposed amendment to the Law of Georgia on Electronic Communications