

A.L. 19 ta' l-2003**ATT BIEX JIRREGOLA T-TELEKOMUNIKAZZJONI
(KAP. 399)****Regolamenti ta' l-2003 dwar *Data Personali* u
Protezzjoni tal-Privatezza**

BIS-SAHHA tas-setghat moghtija bl-artikolu 38 ta' l-Att biex jirregola t-Telekomunikazzjoni, il-Ministru ghat-Trasport u Komunikazzjoni, wara konsultazzjoni ma' l-Awtorità ta' Malta dwar il-Komunikazzjoni, ghamel dawn ir-regolamenti li ġejjin:-

1. It-titolu ta' dawn ir-regolamenti hu *Regolamenti ta' l-2003* Titolu. dwar *Data Personali* u *Protezzjoni tal-Privatezza*.

2. Dawn ir-regolamenti ghandhom jibdeu isehhu hekk kif il- Bidu fis-sehh. Ministru jista' b'ordni fil-Gazzetta jistabilixxi u dati differenti jistghu jiġu stabbiliti ghar-rigward ta' regolamenti differenti.

3. (1) Kemm-il darba ma jissemmiex xort'ohra f'dawn ir- Tifsiriet. regolamenti, it-tifsiriet ghandhom japplikaw fl-Att biex jirregola t-Telekomunikazzjoni u l-Att dwar il-*Protezzjoni* u l-*Privatezza tad-Data*.

(2) F'dawn ir-regolamenti, kemm-il darba r-rabta tal-kliem ma tkunx titlob xort'ohra:

“Att” kemm-il darba ma jissemmiex xort'ohra f'dawn ir- Kap. 399. regolamenti, tfisser l-Att biex jirregola t-Telekomunikazzjoni;

“Awtorità “ tfisser l-Awtorità ta' Malta dwar il-Komunikazzjoni;

“telefonata” tfisser konnessjoni stabbilita permezz ta' servizz tat-telefon pubblikament disponibbli li jkun jippermetti komunikazzjoni bejn żewġ nahat dak il-hin stess;

“commissioner” tfisser il-Kummissarju għall-*Protezzjoni tad-Data*;

“komunikazzjoni “ tfisser kull informazzjoni skambjata jew trasmessa bejn għadd li jintemm ta’ partijiet permezz ta’ servizz ta’ telekomunikazzjonijiet pubblikament disponibbli. Dan ma jinkludix informazzjoni li tingarr bhala parti minn servizz ta’ xandir lill-pubbliku fuq sistema ta’ telekomunikazzjonijiet hliel sal-limitu li l-informazzjoni tista’ tkun relatata ma’ l-abbonat jew utent identifikabbli li jkun qed jirċievi l-informazzjoni;

Kap. 440.

“kunsens” tfisser kunsens minn utent jew abbonat u tikkorrispondi għall-kunsens mogħti minn suġġett ta’ data skond l-artikolu 2 ta’ l-Att dwar il-Protezzjoni u l-Privatezza tad-Data;

“numri ta’ dhul ta’ emerġenza” tfisser dawk in-numri kif inhuma stabbiliti skond l-Att biex jirregola t-Telekomunikazzjoni jew regolamenti magħmulin tahtu sabiex jiżguraw id-dhul ta’ l-utenti kollha fis-servizzi ta’ emerġenza;

“data ta’ lokazzjoni” tfisser kull data pproċessata f’sistema ta’ telekomunikazzjonijiet , li tkun tindika il-pożizzjoni ġeografika tat-tagħmir terminali ta’ utent ta’ servizz ta’ telekomunikazzjonijiet pubblikament disponibbli;

“Ministru” kemm-il darba ma jissemmiex xort’ohra f’dawn ir-regolamenti tfisser il-Ministru responsabbli għat-telekomunikazzjonijiet;

“data personali” tfisser kull informazzjoni li tkun tirrigwarda persuna identifikata jew identifikabbli; persuna identifikabbli hija persuna li tista’ tkun identifikata, direttament jew indirettament, partikolarment b’riferenza għal numru ta’ identifikazzjoni jew għal xi fattur wiehed jew aktar speċiku għall-identità fiżika, fiżjoloġika, mentali, ekonomika, kulturali jew soċjali ta’ dik il-persuna;

“ipproċessar” u “ipproċessar ta’ data personali” ifissru kull hidma jew sett ta’ hidmiet li jsiru dwar data personali, sew jekk dan jiġri jew le b’mezzi awtomatiċi, u tinkludi il-kollezzjoni, reġistrazzjoni, organizzazzjoni, hżin, adattament, bdil, ksib lura, ġbir, uzu, żvelar bi trasmissjoni, tixrid jew b’kull mod iehor li bih l-informazzjoni ssir disponibbli, allinjament jew kombinazzjoni, bblukkar, thassir jew qirda ta’ dik id-data;

“sistema pubblika ta’ telekomunikazzjonijiet” tfisser sistemi ta’ trasmissjoni u, meta dan ikun japplika, tagħmir ta’ swiċċjar u rizorsi ohra li jkunu jippermettu il-ġarr ta’ sinjali bejn punti terminali definiti bil-fil, bir-radju, b’mezzi ottiċi jew mezzi ohra elettromanjetiċi, li jintużaw, għalkollox jew f’parti minnhom, biex jingħata servizz ta’ telekomunikazzjonijiet li jkun pubblikament disponibbli;

“provditur ta’ servizz” tfisser kull persuna li jkollha liċenza valida jew permess biex tipprovdni servizz pubbliku ta’ telekomunikazzjonijiet taht l-Att, jew li tkun reġistrata taht l-Att bhala persuna awtorizzata kif hawn qabel imsemmi (sew jekk tkunx jew le ukoll provditur ta’ sistema ta’ telekomunikazzjonijiet);

“provditur ta’ sistema” tfisser kull persuna li jkollha liċenza valida jew permess biex thaddem sistema pubblika ta’ telekomunikazzjonijiet taht l-Att, jew li tkun reġistrata taht l-Att bhala persuna awtorizzata kif hawn qabel imsemmi (sew jekk tkunx ukoll provditur ta’ servizz ta’ telekomunikazzjonijiet jew le); u

“utent” tfisser kull persuna naturali li tkun qed tuża servizz ta’ telekomunikazzjonijiet pubblikament disponibbli, għal finijiet privati jew kummerċjali, mingħajr ma neċessarjament tkun abbonat f’dak is-servizz.

4. (1) Dawn ir-regolamenti għandhom japplikaw għall-Applikazzjoni. ipproċessar ta’ data personali in konnessjoni ma’ l-ghoti ta’ servizz ta’ telekomunikazzjonijiet pubblikament disponibbli f’ sistema pubblika ta’ telekomunikazzjonijiet f’ Malta u f’ kull pajjiż ieħor hekk kif il-Ministru jista’ wara konsultazzjoni mal-Ministru responsabbli għall-protezzjoni tad-*data*, isemmi b’ avviż fil-Gazzetta.

(2) Ir-regolamenti 9, 10 u 11 għandhom japplikaw għal linji ta’ abbonati konnessi ma’ *exchanges* diġitali, u meta jkun teknikament possibbli u jekk ma jkunx meħtieġa sforz ekonomiku spropozjonat, għal linji ta’ abbonati konnessi ma’ *exchanges* analogi.

5. (1) Il-provditur ta’ servizz għandu jiehu miżuri adatti ta’ xorta Figurezza. teknika u organizzattiva biex iħares is-sigurezza tas-servizzi li jkun qed jipprovdni.

(2) Jekk ikun meħtieġ, il-miżuri meħtieġa bil-paragrafu (1) ta’ dan ir-regolament għandhom jittiehdu flimkien mal-provditur ta’ sistema li għandu jikkonforma ma’ kull talba raġonevoli magħmula mill-provditur ta’ servizz għall-finijiet ta’ dan.

(3) Għall-finijiet ta’ dan ir-regolament, miżuri għandhom jitqiesu biss bhala li jkunu adatti jekk, wara li jitqiesu ;

(a) l-istat ta’ żvilupp teknoloġiku; u

(b) l-ispiza ta’ implimentazzjoni tal-miżuri;

dawn ikunu proporzjonati mar-riskji li dawn ikunu qegħdin jagħtu harsien kontribom.

(4) Meta, minkejja li jkunu ttiehdu l-mizuri mehtieġa b'dan, ikun hemm riskju sinifikattiv ta' ksur fis-sigurezza tas-sistema, il-provditur ta' servizz ghandu jgharraf lill-abbonati involuti dwar;

(a) dak ir-riskju;

(b) kull rimedju adatt li jkun jaghti harsien kontra dak ir-riskju li l-abbonati nfushom jistghu jiehdu; u

(c) l-ispejjeż involuti fir-rigward ta' dawk ir-rimedji.

Obbligazzjoni li tinghata informazzjoni

6. Il-provditur ta' servizz ghandu jgharraf sew abbonati sew, jekk ikun possibbli, utenti dwar l-eżistenza ta' sitwazzjonijiet li jhallu l-kontenut ta' komunikazzjonijiet bla ebda hsieb ta' xejn jsir maghruf minn persuni li ma jkollhomx x'jaqsmu maghhom.

Kontijiet dettaljati.

7. Meta abbonat jitlob lil provditur ta' servizz li jaghtih kontijiet li ma jkunux dettaljati, dak il-provditur ta' servizz ghandu jhares dik it-talba.

Kontijiet dettaljati u privatezza.

8. Meta l-Awtorità tkun qed teżerçita xi funzjoni ghar-rigward ta' protezzjoni ta' *data* fit-telekomunikazzjonijiet, din ghandha tqis il-htieġa li tirrikoncilja id-drittijiet ta' abbonati li jkunu qed jirçievu kontijiet dettaljati mad-dritt ghal privatezza ta' utenti li jkunu qed jagħmlu telefonata u abbonati li jkunu qed jirçievu telefonata.

Preżentazzjoni u restrizzjoni ta' identifikazzjoni ta' linja li minnha ssir telefonata u ta' linja konnessa.

9. (1) Meta tiġi offruta preżentazzjoni ta' identifikazzjoni ta' linja li minnha ssir telefonata, il-provditur ta' servizz ghandu jiżgura li l-utent li jkun qed jagħmel it-telefonata jkollu l-possibilità, permezz ta' mezzi sempliċi u bla ebda hlas, li jipprevjeni l-preżentazzjoni tal-linja li minnha ssir identifikazzjoni ta' telefonata abbażi ta' kull telefonata. Il-provditur ta' servizz ghandu jiżgura li l-abbonat li jkun qed jagħmel it-telefonata jkollu din il-possibilità abbażi ta' kull linja.

(2) Meta tiġi offruta preżentazzjoni ta' identifikazzjoni ta' linja li minnha ssir telefonata, il-provditur ta' servizz ghandu jiżgura li l-abbonat li jkun qed jirçievi telefonata jkollu l-possibilità permezz ta' mezzi sempliċi u bla ebda hlas ghal użu raġonevoli ta' din il-funzjoni,

li jipprevjeni l-prezentazzjoni ta' l-identifikazzjoni tal-linja li tkun qed tagħmel it-telefonata għal telefonati li jkunu dehlin.

(3) Meta tiġi offruta prezentazzjoni ta' linja li minnha ssir telefonata u meta l-identifikazzjoni tal-linja li minnha ssir telefonata tiġi pprezentata qabel ma t-telefonata tkun giet stabbilita, il-provditur ta' servizz għandu jiżgura li l-abbonat li jkun qed jirċievi t-telefonata jkollu l-possibilità, permezz ta' mezzi sempliċi, li ma jhallix jidhlu telefonati li jkunu dehlin meta l-prezentazzjoni ta' l-identifikazzjoni tal-linja li tkun qed tagħmel it-telefonata tkun giet prevjenuta mill-utent jew abbonat li jkun qed jagħmel it-telefonata.

(4) Meta tiġi offruta prezentazzjoni ta' l-identifikazzjoni ta' linja konnessa, il-provditur ta' servizz għandu jiżgura li l-abbonat li jkun qed jirċievi telefonata jkollu l-possibilità, permezz ta' mezzi sempliċi, u bla ebda hłas, li jipprevjeni l-prezentazzjoni ta' l-identifikazzjoni tal-linja konnessa lill-utent li jkun qed jagħmel it-telefonata.

(5) Id-disposizzjonijiet tal-paragrafu (1) ta' dan ir-regolament għandhom ukoll japplikaw dwar telefonati lejn pajjiżi oħra, filwaqt li d-disposizzjonijiet tal-paragrafi (2), (3) u (4) ta' dan ir-regolament għandhom japplikaw għal telefonati li jkunu dehlin u li jorihinaw minn pajjiżi oħra.

(6) Meta tkun disponibbli l-prezentazzjoni ta' l-identifikazzjoni ta' linja li minnha tkun ġejja telefonata jew linja konnessa, il-provditur ta' servizz jew il-provditur ta' sistema għandu jgħarraf lill-abbonati u lill-utenti bl-eżistenza ta' dawk is-servizzi kif ukoll bil-possibilitajiet msemmija fil-paragrafi (1), (2), (3) u (4) ta' dan ir-regolament.

10. (1) Abbonat li jkun qed jirċievi telefonati malizzjużi jew ta' fastidju jista' jitlob lill-provditur ta' servizz jwarrab l-eliminazzjoni ta' l-identifikazzjoni tal-linja li tkun qed tagħmel it-telefonata fuq bażi temporanja . Id-data li jkun fiha l-identifikazzjoni ta' l-abbonat li jkun qed jagħmel it-telefonata għandhom jinħażnu u jintgħamli disponibbli Eċċezzjonijiet.

mill-provditur ta' servizz skond il-leġislazzjoni rilevanti u direttivi li jistgħu, minn żmien għal żmien, jinħarġu mill-Awtorità.

(2) It-twarrib ta' l-identifikazzjoni ta' l-eliminazzjoni tal-linja li tkun qed tagħmel it-telefonata skond paragrafu (1) ta' dan ir-regolament jista' biss jiġi pprovdut għal dak iż-żmien li matulu jibqgħu għaddejn it-telefonati malizzjużi jew ta' fastidju.

(3) Talba li ssir taht dan ir-regolament għandha ssir bil-miktub u għandha tinkludi dik l-informazzjoni li tista' tkun meħtieġa għall-ipproċessar tat-talba. F'każijiet ta' urġenza tista' ssir talba verbali iżda għandha tintbagħat talba bil-miktub fi żmien erbgha u għoxrin siegħa mit-talba li tkun saret verbalment.

(4) Provditur ta' servizz għandu jwarrab l-eliminazzjoni ta' l-identifikazzjoni tal-preżentazzjoni ta' linja li minnha tkun diehla telefonata u ċ-ċaħda temporanja jew nuqqas ta' kunsens ta' abbonat jew utent għall-ipproċessar ta' *data* ta' lokazzjoni, abbażi ta' kull linja għal telefonati magħmulin f'numri ta' dhul ta' emerġenza għall-fini li jinġhataw twegibiet għal dawk it-telefonati.

Terminazzjoni telefonati li jintbagħtu b' mod awtomatiku li persuna ma tkunx trid tirċevihom.

11. (1) Meta telefonati oriġinarjament diretti lejn linja oħra jkunu qegħdin awtomatikament jintbagħtu lill-linja ta' abbonat minhabba f'azzjoni li tittiehed minn xi terza persuna u l-abbonat jitlob lill-provditur ta' servizz jitermina dawk it-telefonati, dak il-provditur għandu jiżgura, bla ebda hłas, li dik it-trasmissjoni tieqaf bla ebda dewmien.

(2) Kull provditur ta' servizz iehor għandu jħares kull talba raġonevoli magħmula mill-provditur ta' servizz ta' l-abbonat għall-finijiet ta' dan ir-regolament.

Meta ma japplikawx ċerti regolamenti.

12. Id-disposizzjonijiet tal-paragrafi (1) sa (5) tar-regolament 9 ma jkunux japplikaw meta liġi tkun speċifikament tipprovdi li tinghata informazzjoni bhala miżura meħtieġa fl-interess:

- (a) tas-sigurezza nazzjonali;
- (b) tad-difiża;
- (ċ) tas-sigurezza pubblika;

(d) tal-prevenzjoni, investigazzjoni, kxif u prosekuzzjoni ta' reati kriminali jew amministrattivi, jew ta' ksur ta' etika għal professjonijiet regolati;

(e) ta' xi interess ekonomiku jew finanzjarju importanti inklużi affarijiet monetarji, ta' l-estimi u tassazzjoni;

(f) ta' funzjoni ta' sorveljanza, spezzjon jew regulatorja konnessa, ukoll okkażjonalment, ma' l-eżerċizzju ta' l-awtorità uffiċjali msemmija fil-paragrafi (ċ), (d) u (e) ta' dan ir-regolament; jew

(g) tal-harsien ta' l-abbonat jew ta' l-utent jew tad-drittijiet u l-libertajiet ta' l-ohrajn.

13. (1) Persuna li gġarrab xi telf jew hsara minhabba f'xi ksur ta' dawn ir-regolamenti minn xi persuna ohra jkollha jedd li tiehu azzjoni quddiem il-qorti kompetenti fejn tfittex kumpens minn dik il-persuna l-ohra għal dak it-telf jew hsara. Kumpens għal nuqqas ta' tharis tar-regolamenti.

(2) It-terminu ta' skadenza li hemm provdut dwaru fis-subartikolu (2) ta' l-artikolu 46 ta' l-Att dwar il-Protezzjoni u l-Privatezza tad-Data għandu japplika għal kull azzjoni taht paragrafu (1) ta' dan ir-regolament.

14. L-Awtorità tkun responsabbli sabiex tiżgura it-tharis tad-disposizzjonijiet ta' dawn ir-regolamenti. Infurzar.

15. L-Awtorità tista' timponi penali skond ir-Regolamenti ta' l-2002 dwar Penali u Sanzjonijiet Amministrattivi fit-Telekomunikazzjonijiet fuq provditur awtorizzat li jonqos milli jhars id-disposizzjonijiet ta' dawn ir-regolamenti jew xi direttiva li l-Awtorità tista' tohroġ taht dawn ir-regolamenti. Penali u sanzjonijiet amministrattivi.

16. Persuna li thoss ruhha aggravata minn deċiżjoni mehuda mill-Awtorità skond dawn ir-regolamenti u li jkollha interess legali tikkontesta tali deċiżjoni jista' jappella lill-Bord ta' l-Appelli dwar it-Telekomunikazzjonijiet. Appelli minn deċiżjonijiet ta' l-Awtorità.

17. L-Awtorità titlob il-parir ta' u meta jkun hekk adatt għandha tikkonsulta lill-Kummissarju fl-eżerċizzju ta' xi funzjoni tagħha taht dawn ir-regolamenti. Parir.

Jitlob li l-Awtorità
teżerċita l-
funzjonijiet tagħha
ta' infurzar.

18. Meta jkun allegat li xi regolamenti minn dawn ikunu inkisru, il-Kummissarju jew il-persuna aggravata tista' titlob lill-Awtorità teżerċita l-funzjonijiet ta' infurzar tagħha għar-rigward ta' dak il-ksur.

Iżda ebda haġa f'dan ir-regolament ma għandha titfisser bħala limitazzjoni fuq is-setgħat diskrezzjonali ta' l-Awtorità.

L.N.19 of 2003

**TELECOMMUNICATIONS (REGULATION) ACT
(CAP. 399)**

**Telecommunications (Personal Data and Protection of Privacy)
Regulations, 2003**

IN exercise of the powers conferred by article 38 of the Telecommunications (Regulation) Act, the Minister for Transport and Communications, after consultation with the Malta Communications Authority, has made the following regulations:-

1. The title of these regulations is the Telecommunications (Personal Data and Protection of Privacy) Regulations, 2003. Citation.

2. These regulations shall come into force as the Minister may by order in the Gazette determine and different dates may be appointed in respect of different regulations. Commencement.

3. (1) Unless otherwise stated in these Regulations, the definitions in the Telecommunications (Regulation) Act and the Data Protection Act shall apply. Definitions.

(2) In these Regulations, unless the context otherwise requires:

“Act” unless otherwise stated in these regulations, means the Telecommunications (Regulation) Act; Cap. 399.

“Authority” means the Malta Communications Authority;

“call” means a connection established by means of a publicly available telephone service allowing a two-way communication in real time;

“Commissioner” means the Data Protection Commissioner;

“communication” means any information exchanged or transmitted between a finite number of parties by means of a publicly available telecommunications service. This does not include any information conveyed as part of a broadcasting service to the public over a telecommunications system except to the extent that the information can be related to the identifiable subscriber or user receiving the information;

“consent” means consent by a user or subscriber and corresponds to the consent given by a data subject in accordance with article 2 of the Data Protection Act;

“emergency access numbers” means such numbers as are established in accordance with the Telecommunications (Regulation) Act or any regulations made thereunder to ensure the access of all users to emergency services;

“location data” means any data processed in a telecommunications system, indicating the geographic position of the terminal equipment of a user of a publicly available telecommunications service;

“Minister” unless otherwise stated in these Regulations means the Minister responsible for telecommunications;

“personal data” means any information relating to an identified or identifiable person; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to that person’s physical, physiological, mental, economic, cultural or social identity;

“processing” and “processing of personal data” mean any operation or set of operations which is taken in regard to personal data, whether or not it occurs by automatic means, and includes the collection, recording, organisation, storage, adaptation, alteration, retrieval, gathering, use, disclosure by transmission, dissemination or otherwise making information available, alignment or combination, blocking, erasure or destruction of such data;

“public telecommunications system” means transmission systems and, where applicable, switching equipment and other resources which permit the conveyance of signals between defined termination points by wire, by radio, by optical or by other electromagnetic means, which are used, in whole or in part, for the provision of publicly available telecommunications services;

“service provider” means any person who holds a valid licence or permit to provide a public telecommunications service under the Act, or is registered under the Act as a person authorised as aforesaid (whether or not he is also a telecommunications system provider);

“system provider” means any person who holds a valid licence or permit to operate a public telecommunications system under the Act, or is registered under the Act as a person authorised as aforesaid (whether or not he is also a telecommunications service provider); and

“user” means any natural person using a publicly available telecommunications service, for private or business purposes, without necessarily having subscribed to such service.

4. (1) These Regulations shall apply to the processing of personal data in connection with the provision of publicly available telecommunications services in public telecommunications systems in Malta and any other country as the Minister may after consultation with the Minister responsible for data protection, designate by notice in the Gazette. ^{Application.}

(2) Regulations 9, 10 and 11 shall apply to subscriber lines connected to digital exchanges, and where technically possible and if it does not require a disproportionate economic effort, to subscriber lines connected to analogue exchanges.

5. (1) The service provider shall take appropriate technical and organisational measures to safeguard the security of the services it provides. ^{Security.}

(2) If necessary, the measures required by paragraph (1) of this regulation shall be taken in conjunction with the system provider who shall comply with any reasonable requests made by the service provider for the purposes hereof.

(3) For the purposes of this regulation, measures shall only be taken to be appropriate if, having regard to;

- (a) the state of technological development; and
- (b) the cost of implementing the measures;

they are proportionate to the risks against which they would afford safeguards.

(4) Where, notwithstanding the taking of the measures required hereby, there is a significant risk of a breach of the security of the system, the service provider shall inform the subscribers concerned of -

(a) that risk;

(b) any remedies appropriate to afford safeguards against that risk which the subscribers themselves might take; and

(c) the costs involved in relation to such remedies.

Obligation to inform.

6. The service provider shall inform subscribers and, if possible, users about the existence of any situations allowing the contents of communications to be unintentionally made known to persons who are not party to them.

Itemised billing.

7. If a subscriber requests a service provider to submit to him bills that are not itemised, that service provider shall comply with such a request.

Itemised billing and privacy.

8. The Authority in exercising any function in respect of data protection in telecommunications shall have regard to the need to reconcile the rights of subscribers receiving itemised bills with the right of privacy of calling users and called subscribers.

Presentation and restriction of calling and connected line identification.

9. (1) Where presentation of calling-line identification is offered, the service provider shall ensure that the calling user shall have the possibility, using a simple means and free of charge, of preventing the presentation of the calling-line identification on a per call basis. The service provider shall ensure that the calling subscriber shall have this possibility on a per line basis.

(2) Where presentation of calling-line identification is offered, the service provider shall ensure that the called subscriber shall have the possibility, using a simple means and free of charge for reasonable use of this function, of preventing the presentation of the calling line identification of incoming calls.

(3) Where presentation of calling line identification is offered and where the calling line identification is presented prior to the call being established, the service provider shall ensure that the called subscriber shall have the possibility, using a simple means, of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling user or subscriber.

(4) Where presentation of connected line identification is offered, the service provider shall ensure that the called subscriber shall have the possibility, using a simple means and free of charge, of preventing the presentation of the connected line identification to the calling user.

(5) The provisions of paragraph (1) of this regulation shall also apply with regard to calls to other countries, whereas the provisions of paragraphs (2), (3) and (4) of this regulation shall apply to incoming calls originating in other countries.

(6) Where the presentation of calling or connected line identification is available, the service provider or the system provider shall inform subscribers and users of the existence of such services as well as of the possibilities referred in paragraphs (1), (2), (3) and (4) of this regulation.

10. (1) Any subscriber receiving malicious or nuisance calls may request the service provider to override the elimination of the calling line identification on a temporary basis. The data containing the identification of the calling subscriber shall be stored and shall be made available by the service provider in accordance with the relevant legislation and any directives that may, from time to time, be issued by the Authority. Exceptions.

(2) The overriding of the elimination of the calling line identification in accordance with paragraph (1) of this regulation may only be provided for the duration of the period during which the malicious or nuisance calls take place.

(3) A request under this regulation shall be made in writing and shall include such information as may be necessary for the processing of the request. In cases of urgency a verbal request may be made provided a written request is sent within twenty-four hours of the request made verbally.

(4) A service provider shall override the elimination of the presentation of calling line identification and the temporary denial or absence of consent of a subscriber or user for the processing of location data, on a per-line basis for calls made to emergency access numbers for the purpose of responding to such calls.

11. (1) Where calls originally directed to another line are being automatically forwarded to the line of a subscriber because of action taken by a third party and the subscriber requests the service provider to terminate such calls, that provider shall ensure, without charge, that such forwarding ceases without any delay. Termination of unwanted automatic call forwarding.

(2) Any other service provider shall comply with any reasonable requests made by the service provider of the subscriber for the purposes of this regulation.

Non-applicability of certain regulations.

12. The provisions of paragraphs (1) to (5) of regulation 9 shall not apply when a law specifically provides for the provision of information as a necessary measure in the interest of:

- (a) national security;
- (b) defence;
- (c) public security;
- (d) the prevention, investigation, detection and prosecution of criminal or administrative offences, or of breaches of ethics for regulated professions;
- (e) an important economic or financial interest including monetary, budgetary and taxation matters;
- (f) a monitoring, inspection or regulatory function connected, even occasionally, with the exercise of official authority referred to in paragraphs (c), (d) and (e) of this regulation; or
- (g) the protection of the subscriber or user or of the rights and freedoms of others.

Compensation for failure to comply with Regulations

13. (1) A person who suffers any loss or damage because of any contravention of these regulations by any other person shall be entitled to take action before the competent court seeking compensation from that other person for that loss or damage.

(2) The period of limitation provided for in subarticle (2) of article 46 of the Data Protection Act shall apply to an action under paragraph (1) of this regulation.

Enforcement.

14. The Authority shall be responsible to ensure compliance with the provisions of these regulations.

Administrative fines and sanctions.

15. The Authority may impose a fine in accordance with the Telecommunications (Administrative Fines and Sanctions) Regulations, 2002 upon an authorised provider who fails to comply with any of the provisions of these regulations or with any directive that the Authority may issue under these regulations.

Appeals from decisions of the Authority.

16. Any person aggrieved by a decision taken by the Authority in accordance with these regulations and having a legal interest to contest such a decision may appeal to the Telecommunications Appeals Board.

17. The Authority may request the advice of and where appropriate shall consult with the Commissioner in the exercise of any of its functions under these regulations. Advice.

18. Where it is alleged that any of these regulations have been contravened, the Commissioner or any aggrieved person may request the Authority to exercise its enforcement functions in respect of that contravention: Request that the Authority exercises its enforcement functions

Provided that nothing in this regulation shall be interpreted as a limitation on the discretionary powers of the Authority.

