



MENTERI TENAGA, KOMUNIKASI DAN MULTIMEDIA, MALAYSIA
MINISTER OF ENERGY, COMMUNICATIONS AND MULTIMEDIA, MALAYSIA

COMMUNICATIONS AND MULTIMEDIA ACT 1998

MINISTERIAL GUIDELINES ON CLASS LICENCES FOR NETWORK SERVICES

MINISTERIAL GUIDELINES NO. 2 of 2002

IN exercise of the powers conferred by regulation 29 of the Communications and Multimedia (Licensing) Regulations 2000 ("Regulations"), the Minister issues the following Guidelines:

Citation and Commencement

1. These Guidelines may be cited as the "Ministerial Guidelines on Class Licences for Network Services".
2. These Guidelines shall come into operation on [17th September 2002]

Introduction

3. These Guidelines have been prepared to explain the criteria for registration under a network services provider class licence and to clarify the meaning of "niche customer access services" and "niche connection service" for the purposes of administering the Act and the Regulations.
4. Customer access service refers to services that enable a customer to access an applications service provided over a network.
5. Connection service refers to services that provide any-to-any connectivity between networks thus enabling the end users to communicate with each other despite being directly connected to different networks.

Criteria for Network Service Class Licence

6. In general, a network service, which has minimal impact on the general public and the communications market, will fall under the meaning of “niche” if it satisfies all the following criteria:

(a) Retail network service activity

The focus of the network service activity is on retailing to end users. Provision of network services to other service providers shall not be classified as niche.

(b) Service is provided to a limited number of persons to meet special requirements

The network service shall be provided to a limited number of persons to meet special requirements. Examples include availability of a network service for tourists to particular area or a particular business operation. Factors which may be relevant in determining whether a network service is provided to limited number of persons to meet special requirements are as follows:

(I) Special requirements may be identifiable by specialised applications or apparatus to access the network service; and

(II) Limited number of persons must be a group whose members identify themselves as members of that group by virtue of shared or common interests or requirements and does not include groups which are formed arbitrarily or solely for the purpose of using the service.

(c) Specific and limited purpose

A network service must be provided for a specific and limited purpose, and/ may be for a specific duration for which the network service is required. Examples include use of network services for special events such as coverage of sporting or cultural events and festivals.

(d) Degree or reliance by the general public on the network service

The degree of reliance by the general public on the network service should be low. In ascertaining the degree of reliance by the general public on the network service, the following shall be considered:

- (I) The activity or activities for which the network service is to be used rather than the capabilities of the network service itself; and
- (II) The substitutability of the network service by other network service providers.

Generally where the actual activity is restricted regardless of capability and the network service is substitutable, the activity would fall within a class license

- 7. A niche customer access service and niche connection service cannot be used to support applications services or content applications services which fall within individual licence activities.

8. **Illustrations of Niche Customer Access or Niche Connection Services**

As a further illustration, the following are examples of network services that would be niche :

- (1) Public mobile radio network service

Public mobile radio network service is a public two-way radiocommunications system which provides a network connection service between the mobile radio access devices. The communications traffic may pass through any of the channel or group of channels selected automatically by the system or access device being served by fixed radio base stations.

- (2) One or two way radio paging network service

Public radio paging network service is a public one-way or two-way radiocommunications system which provides a network service delivering paging messages to mobile radio paging access devices being served by fixed radio paging base stations.

- (3) Broadband point-to-point and point-to-multipoint wireless internet network service for purposes of connecting end users to the Internet Access Service Provider

Wireless broadband point-to-point and point-to-multipoint network service is a public radiocommunications system which provides a network connection service between a fixed radiocommunications service device or point communicating with one or many fixed radiocommunications devices or points.

- (4) Wired/Wireless video communications network for carrying video for purposes of monitoring, teaching, supervision, occasional events and surveillance information

Public wireless video communications network service is a public radiocommunications system which provides a network service for the carriage and distribution of video between video programme source and receivers.

- (5) Terrestrial wireless fixed/mobile data network service for the specific purposes of messaging, surveillance, ticketing, or inventory management

Wireless data network service is a public radiocommunications system which provides a network service between the mobile radio data access devices in which the data communications traffic between them are being served by fixed radio base stations.

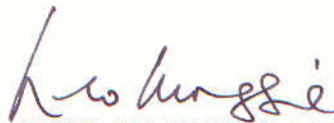
- (6) Broadband network customer access service offered for the sole purpose of connecting end users in a building or a single clustered building complex to the Internet Access Service Provider

9. Amendments

The Minister may from time to time amend these guidelines on the recommendation of the Commission.

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