

decree n° 2013/0399 / pm et
laying down the terms and conditions for the protection of consumers
electronic communications services.

7 7 FEB 2013

THE PRIME MINISTER, HEAD OF GOVERNMENT,

Considering the Constitution;
Considering the law n° 98/013 of July 14, 1998 relating to competition;
Considering the law n° 2006/018 of December 29, 2006 governing advertising in Cameroon;
Considering the law n° 2010/012 of December 21, 2010 relating to Cybersecurity and Cybercrime in Cameroon;
Considering the law n° 2010/013 of December 21, 2010 governing communications electronics in Cameroon;
Considering the framework law n° 2011/012 of 06 May 2011 on the protection of consumer in Cameroon;
Considering the decree n° 92/889 of May 04, 1992 specifying the attributions of the First Minister, modified and supplemented by decree n° 95/145 bis of August 4, 1995;
Having regard to decree n° 2011/408 of 09 December 2011 on the organization of Government;
Having regard to decree n° 2011/409 of 09 December 2011 appointing a Prime Minister, Head of Government;
Having regard to Decree No. 2012/180 of April 10, 2012 on the organization and functioning of the National Information Technology Agency and Communication;
Having regard to Decree No. 2012/203 of April 20, 2012 on the organization and functioning of the Telecommunications Regulatory Agency;
Having regard to Decree No. 2012/512 of 12 November 2012 on the organization of Ministry of Posts and Telecommunications. ;
Considering the decree n° 2012/1318 / PM of May 22, 2012 fixing the conditions and the procedures for granting authorizations to exercise the certification activity electronic;
Considering the decree n° 2012/1638 / PM of June 14, 2012 fixing the modalities establishment and / or operation of networks and provision of services electronic communications subject to authorization,

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CHAPTER I
GENERAL PROVISIONS

ARTICLE 1.- (1) This decree sets out the terms and conditions for the protection of consumers of electronic communications services.

(2) It guarantees the consumers referred to in paragraph (1) above the rights relating to privacy, to the quality and permanence of services, to information and processing of personal data.

ARTICLE 2.- For the application of this decree, the definitions below are admitted:

- 1. **Confidentiality**: maintaining the secrecy of information and transactions in order to prevent the unauthorized disclosure of information to non recipients allowing reading, listening, illegal copying ✓ of intentional or accidental origin during their storage, treatment or transfer;
- 2. **Consent** : manifestation of free will, specific to a user or subscriber after receiving information clear and complete;
- 3. **Consumer** : natural or legal person who uses services of electronic communications to meet their own needs and / or those of his dependents and not to resell them or transform, or any person who benefits from the benefits of publicly available electronic communications services;
- 4. **Operator** : natural or legal person operating a network of electronic communications open to the public or providing to the public an electronic communications service;
- 5. **Prospecting** : sending any message intended to make, directly or indirectly, the promotion of goods, services or the image of a person selling goods or providing services;
- 6. **Electronic communications network open to the public**: set of established electronic communications networks or used for the needs of the public.

ARTICLE 3.- (1) Network operators, service providers electronic communications and electronic certification authorities must respect, in the context of their contractual relations with beneficiaries of electronic communications services, the principles of protection, satisfaction, equity and participation.

(2) They are bound by the duty of information, the duty of warning and advice vis-à-vis their subscribers.

ARTICLE 4.- (1) The consumer of communications services electronic devices has the right to:

- the protection of privacy, health, safety and the environment in the consumption of technologies, goods and electronic communications services;
- the quality and permanence of the service;
- information from the operator or service providers;
- full compensation for damage for the damage suffered attributable to operators and suppliers of communications services electronic;

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- the freedom to form independent associations or organizations and independent in order to carry out or participate in the promotion and defense of consumer rights.

(2) He is also entitled:

- access to electronic communications services, with standards of quality and consistency inherent in its nature, throughout the National territory ;
- the freedom of choice of its service provider;
- non-discrimination in terms of access and conditions of use service;
- adequate information concerning the conditions of supply of services, tariffs and other related costs;
- to the inviolability and secrecy of its communications, except in conditions provided for by the regulations in force;
- at his request, the non-disclosure of his access identifier;
- non-suspension of the service provided, except for non-compliance with the clauses of his contract;
- prior information on the suspension clauses of the contract;
- the service provider's responses to its complaints;
- compensation for damages arising from the violation of his rights.

CHAPTER II
PROTECTION OF THE PRIVACY OF CONSUMERS

ARTICLE 5.- (1) Network operators and service providers electronic communications, electronic certification authorities guarantee the rights of consumers of communications services electronic.

(2) The rights referred to in paragraph (1) above relate to:

- confidentiality and respect for the principle of inviolability and secrecy of messages transmitted through their networks electronic communications;
- the protection of personal data of consumers;
- the security of the information conveyed through the networks of electronic communications and information systems.

ARTICLE 6.- The operators of networks open to the public are bound by a simple and free way to give consumers the opportunity to hide their numbers.

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ARTICLE 7.- (1) Network operators and service providers of electronic communications ensure that electronic communications for prospecting purposes without consent prior to consumers.

(2) Network operators and service providers of electronic communications ensure non-emission through their networks, electronic messages for prospecting purposes, concealing the identity and contact details of the issuer.

ARTICLE 8.- (1) Direct prospecting by electronic communications is authorized if the recipient's contact details have been collected directly to him during the provision of services.

(2) The prospecting referred to in paragraph (1) above concerns the products or services provided by the same service provider. However, the author of the prospecting is required to put in place a system allowing to the recipient to terminate it in a simple and cost-free manner.

ARTICLE 9.- (1) Operators and service providers electronic communications are required to set up a system control technique for malicious or non-malicious electronic communications desired and to make known, by any means, the existence of it.

(2) Network operators and service providers electronic communications services offer their subscribers systems for blocking malicious or non-malicious electronic communications desired.

ARTICLE 10.- (1) The registration in a directory of subscribers as well as the verification, correction and deletion of personal data is free, subscribers are not required to participate in the costs preparation and publication of the directory

(2) Operators and service providers of electronic communications guarantee the principle of refusal to appear in the directory for subscribers who request it.

(3) Natural persons who refuse to appear in the directory of subscribers formulate a written request addressed to their operator or their electronic communications service provider. Additional charges are applied for this purpose in accordance with the tariff in force in the matter.

ARTICLE 11.- Operators and service providers electronic communications guarantee the inviolability of communications electronic. As such, they set up a technical device preventing any unauthorized person from listening, intercepting, store communications and traffic data, without prior consent of the consumers concerned.

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CHAPTER III
CONSUMERS RIGHT TO INFORMATION

ARTICLE 12.- (1) Operators, service providers electronic communications and electronic certification authorities regularly publish and make available to consumers, clear, transparent and up-to-date information relating to all services offered, at the cost of electronic communications and general conditions of offer of services and this, before, during or after the conclusion of the contract.

(2) The contract referred to in paragraph (1) above includes the items below:

- the establishment's address, telephone number, number of the fax machine and the e-mail address of the operator or service provider when available;
- the geographical address of the commercial headquarters of the operator or service provider if it is different from the address establishment;
- the service (s) provided and the time required for their provision;
- details of the prices and tariffs charged and the means by which updated information on all applicable tariffs and maintenance fee can be obtained;
- the types of maintenance services offered or after sales offered, if applicable;
- the duration of the contract, the conditions for renewal and interruption of services and the contract;
- compensation and reimbursement formulas possibly applicable if the quality levels services provided for in the contract are not achieved);
- the procedures for initiating procedures for the settlement of disputes;
- the conditions under which the consent of the subscriber must be given before any contractual modification;
- the conditions under which the subscription contract;
- information on possible limitations of liability contractual.

ARTICLE 13.- Operators, service providers electronic communications and electronic certification authorities must present their subscribers with invoices which clearly mention transparent and in the official Cameroonian languages; information correct on all charges for the relevant billing period, the date due date, unpaid balances, administration fees related, and if applicable the exact details of all amounts payable as well as the payment due date.

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CHAPTER IV
OF THE QUALITY AND PERMANENCE OF THE SERVICES OF ELECTRONIC COMMUNICATIONS

ARTICLE 14.- Network operators, service providers electronic communications and electronic certification authorities continuously provide quality services to consumers.

ARTICLE 15.- (1) The Agency continuously ensures the quality of services offered to consumers by network operators, providers of electronic communications services and authorities electronic certification.

(2) The consumer is entitled to demand compensation for any damage resulting from non-compliance with contractual supply clauses an electronic communication service attributable to the operator.

ARTICLE 16.- (1) Network operators, service providers electronic communications and certification authorities take all the measures necessary to guarantee the continuity of the services offered to consumers in accordance with the provisions of their specifications.

(2) The Agency shall ensure that the services referred to in paragraph (1) below above are not interrupted, except in cases of force majeure.

(3) When an interruption of service is envisaged by a network operator or by a service provider, it is required, prior to this interruption, to inform consumers by any means means leaving a written record forty eight (48) hours at least before. The operator of S supplier shall inform the Agency thereof within the same time limit.

(4) The interruption referred to in paragraph (2) above may not exceed one hundred and eighty (180) minutes. Beyond this period, the Agency requires the operator or service provider order repair action general without prejudice to any individual action of consumers having suffered particular damage.

ARTICLE 17.- Network operators and service providers electronic communications take all appropriate measures to guarantee their subscribers uninterrupted access to emergency services.

ARTICLE 18.- Operators of communications networks are prohibited electronics and communications network providers open to the public to restrict or refuse the connection of electronic communications terminal equipment approved by the Agency, unless this restriction or refusal is requested by the the State for the needs of national defense or public security.

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CHAPTER V
SETTLEMENT OF DISPUTES BETWEEN OPERATORS AND CONSUMERS

ARTICLE 19.- (1) The Agency is competent to know, before the referral of any jurisdiction, disputes between network operators communication, service providers and certification authorities to consumers.

(2) The Agency may, on its own initiative or at the request of one of the parties, make an attempt at conciliation in order to find an amicable solution to the litigation. It may take measures that it deems useful for this purpose, in particular by to be assisted, if necessary, by internal or external experts.

ARTICLE 20.- In the event of failure of the conciliation procedure initiated by Agency, the procedure followed is that provided for by the provisions of Law no. 2010/013 of 21 December 2010 referred to above relating to the settlement of disputes between operators.

CHAPTER VI
MISCELLANEOUS AND FINAL PROVISIONS

ARTICLE 21.- The Agency may, either ex officio or at the request of a professional organization, an approved association of users or a natural or legal person, sanction, after observation or verification, failures by operators and service providers electronic communications, in accordance with the provisions of article 66 and following of the law n° 2010 / 013 of December 21, 2010 referred to above.

ARTICLE 22.- (1) The Agency shall consult consumers, manufacturers, electronic communications companies on any rights-related issue of consumers when these affect the market.

(2) The parties referred to in paragraph (1) above may, following the Agency's guidelines, put in place mechanisms making it possible to improve the general quality of services, in particular by developing codes of conduct as well as operating standards.

ARTICLE 23.- Specific texts of the Minister in charge of telecommunications specify, as necessary, the terms and conditions application of this decree.

ARTICLE 24.- This decree will be registered, published following the procedure emergency, then inserted in the Official Journal in French and English.)

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THE PRIME MINISTER,
HEAD OF GOVERNMENT,