TELECOMMUNICATIONS SERVICES – AMENDMENTS TO OTHER REGULATIONS

* **There shall be no more divergences in interpretation: upon having amended the contract concluded by phone or on-line, you can withdraw therefrom within
14 days.**
* **You are entitled to specify the limit amount you are ready to pay for premium rate SMS. Default amount is PLN 35.**
* **On December 12, the amendment to the Telecommunications Act came into force.**

**[Warsaw, December 12, 2018]** The amendment to the [Telecommunications Act](http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20041711800/U/D20041800Lj.pdf), which has been in force since December 12, introduces several important changes for consumers using mobile networks, fixed telephony, cable and satellite television services.

**Withdrawal from a contract**

There shall be no more market irregularities due to misinterpretation of the issue of withdrawal from a contract in the event of amending the terms and conditions thereof by telephone or on-line. They resulted from discrepancies between the Telecommunications Act and the [Act on Consumer Rights.](http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20140000827/U/D20140827Lj.pdf) The former included a provision allowing it to withdraw within 10 days and only provided that the company has not already started to provide services under the amended rules with the subscriber’s consent. The amendment removed this provision. Now, the consumer has the right to withdraw from the contract within 14 days, even if the company has started providing the services. The previously binding term of 10 days under the telecommunications act could have therefore only been used in business relations between companies. It is also worthwhile recalling that under the Act on Consumer Rights, when concluding or amending a contract by phone, the operator is obliged to confirm to the consumer the terms and conditions of the offer on paper or a durable medium before the latter makes a definite decision to become bound by the contractual provisions.

As early as in 2014, the Office of Competition and Consumer Protection and Office of Electronic Communications presented common [position](https://www.uokik.gov.pl/komentarze_wyjasnienia_i_stanowiska.php?news_id=11357) on this issue. In their position, the entities concerned explained that consumers are equally protected as regards telecommunication contracts as in the case of other services they order on-line or by phone. Despite this, the industry operators have sometimes tried to limit the right to withdraw from the contract to 10 days. What is more, some irregularities in the procedure for concluding a contract by telephone also emerged. For instance, in 2017 the Office of Competition and Consumer Protection (UOKiK) issued a decision against the [Multimedia Polska](https://uokik.gov.pl/aktualnosci.php?news_id=14090) company. The operator evaded penalty because they undertook to change their practice and grant compensation to customers.The Office is investigating similar irregularities in other companies: mobile phone and cable operators. Investigations into the practices of T-Mobile, Polkomtel, P4, Orange and UPC and an investigation into practices affecting the collective interests of consumers against Vectra are pending.

**Premium SMS**

What is more, the amendment introduces changes concerning services charged with higher fee, i.e. premium rate SMS. In recent years, UOKiK has received many complaints from affected consumers. Irregularities included offering fake shopping vouchers to branded shops, contests with fake prizes, and even threatening with spells that could be revoked by sending an expensive SMS. The Office has intervened several times with mobile operators or third parties cooperating with them. UOKiK also conducts several investigations against operators who are suspected of irregularities in providing premium rate services. As
a result, several websites providing fraudulent operations were banned and consumers were reimbursed in some cases. Also, the number of complaints has decreased recently.

Under the amended telecommunications law:

* before a premium rate service provider starts providing the service in question, it must obtain the consumer’s consent thereto,
* PLN 35 - this shall be the default amount up to which the subscriber may bear the costs of premium SMS in a given billing period. Moreover, the operator is obliged to enable them to choose one of at least four thresholds for blocking premium rate services, i.e.: PLN 0, PLN 35, PLN 100, PLN 200,
* the consumer can completely block premium services, including incoming calls, even if they are free of charge,
* the operator must not charge for services provided against the subscriber's will, e.g. if, despite the subscriber's request the operator has not blocked the services concerned,
* premium rate services may be provided only by entities entered into [to the register kept by the President of Office of Electronic Communications](https://archiwum.uke.gov.pl/tablice/NumerUpo-list.do?execution=e2s1).

**Document-like form of the contract**

Until now, contracts for the provision of telecommunications services had to be concluded in writing or in electronic form (i.e. using a special form). From now on, they can also be concluded in a document-like form. This means that you only need to accept the terms and conditions in such a way that enables your identification, e.g. by e-mail, SMS, on the phone during a recorded call. The signature is no longer needed. The operator shall provide consumers entering into contracts in the document-like form with contents of the contract and their statement on entering into the contract, recorded on a durable medium. The form of the contract shall be chosen by the client from among those offered by the company.

Operators should bear in mind that a durable medium must guarantee the durability and consistency of the recorded information and their availability for the period necessary for the execution of the contract and related claims. Durable medium can be e.g. paper, CD, e-mail, SMS, internal subscriber’s service, provided they meet the features mentioned above.

**Consumer support:**

Phone: +48 801 440 220 or +48 22 290 89 16 – consumer helpline
Email: porady@dlakonsumentow.pl
[Branches of the Consumer Federation](http://www.federacja-konsumentow.org.pl/63%2Ctu-znajdziesz-pomoc.html)
[Consumer ombudsmen](https://uokik.gov.pl/pomoc.php) – in your town or district
[Consumer Information Centre](https://cik.uke.gov.pl/) at the Office of Electronic Communications

**Additional information for the media:**

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