THE BASICS OF CONCLUDING CONTRACTS FOR THE PROVISION OF TELECOMMUNICATIONS SERVICES

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Annotation

This article provides a comprehensive overview of the key aspects of concluding contracts for the provision of telecommunications services. The author covers various important topics, such as the legal framework governing the telecommunications industry, the essential elements of a telecommunications services contract, and the rights and obligations of both parties involved in the contract. The article is well-researched and provides practical insights that can be useful to businesses and individuals who are looking to enter into contracts for the provision of telecommunications services. Overall, this is a valuable resource for anyone seeking to gain a better understanding of the legal and practical considerations involved in concluding telecommunications services contracts.

Key words: digital law, digital rights, the right to information, information technologies, digitalization, digital objects, information, internet.

Methods of concluding a contract are measures that guide the parties to reach an agreement on certain rights and obligations, ensuring their connection on the basis of mutual contractual relations. Depending on the specific type of contract and depending on what methods and measures the parties choose with the counterparty, the method of concluding the contract may vary. For example, based on an advertisement published by a person who wants to sign a contract, the other party can contact him and negotiate a contract. In addition, another example is that a party that has made a public offer to conclude a contract is forced to conclude a contract with any person who approached it on the basis of this offer.

According to experts, “the process of concluding a contract implies modeling the ideal form of legal relations between its participants, and as a result of concluding a contract, legal relations arise between them. Thus, a comprehensive review of the terms of the concluded contract and accuracy at its conclusion are considered a guarantee of achieving the legal goal pursued by the parties at the conclusion of the contract” [1].

A.V.Barinov believes that the conclusion of a contract is the achievement of an agreement based on the expression of oppositely oriented and mutually understood terms by the parties, such an agreement is expressed in the fact that it is carried out according to all important terms of the contract and the free expression by the parties of their will of the parties [2]. E.N.Zhukov writes that “consent to the conclusion of a contract should clearly reflect the terms of the proposal for it. The proposed terms mean that any deviation or differentiating terms mean that the parties could not agree, and that, in turn, the contract was not concluded” [3].

According to the Resource Dependency Theory, the formation and development of organizations, including the prosecutor's office system, is greatly influenced by the need for

resources such as material support (funds), personnel and state assistance. Changes in resource availability and distribution can lead to changes in prosecutorial strategies and priorities.

In our opinion, the conclusion of a contract, that is, the recording of terms or an agreement, requires that two or more parties come to an agreement on mutual rights and obligations. Such a stop, in turn, should be based on the desire of each party and the free expression of its own desire. The methods of reaching an agreement, the appeal of one party to the other in connection with the conclusion of a contract, or the ways in which a contract unites the parties into a specific contractual relationship are the means of concluding a contract. The expression of certain conditions in the contract, the agreement on rights and obligations must also be based on specific grounds. In this regard, it should be noted that when concluding a contract for the provision of telecommunications services, the parties determine the content of the contract on the basis of:

- based on the autonomy of Free. At the same time, the parties have the right to agree on any condition of the contract that does not contradict the law, based on their wishes.

- based on a model agreement recommended by the relevant authorities. The parties may change one or another condition provided for in the model agreement, or supplement its content by introducing a specific condition;

- based on the conclusion of a public contract. In this case, the party who proposed to conclude the contract will not be able to refuse to conclude the contract to the party who applied to him with a request to conclude it;

- under the merger agreement. The other party has no right to challenge, supplement or require amendments to the draft agreement proposed by one party and the conditions contained therein [4].

According to O.S. Levchenko, “the development of a legally binding public contract allows us to identify three stages of interaction between the parties that have formed in this area. The first stage begins with the implementation of public activities of a commercial organization and continues until the consumer expresses a requirement to conclude a public contract in a specific labor. The second stage begins with the consumer's demand to conclude a public contract and continues until the conclusion of this contract. The third stage covers legal relations arising from a certain contractual obligation” [5].

According to modern scientists, the study of the legal essence of any civil law contract requires the study of the grounds for distinguishing the relevant contract in the system of civil law contracts, which makes it possible to determine its relationship with a certain group of civil law contracts or establish its independence. Such grounds represent certain classification criteria for dividing contracts into types within the framework of a single system of contractual structures [6].

Having studied the peculiarities of the emergence of the right to information, including the specifics of its legal consolidation, several prerequisites were identified for the emergence of the need for legal regulation of information, which are primarily of a public legal nature. In many ways, the public nature of such regulation is predetermined by the sphere of public relations – the socially significant purpose of the adoption of normative legal acts and historical features of the development of legal systems.

Firstly, foreign and domestic practices of legal regulation of information demonstrate (in historical retrospect) that the first normative legal acts in relation to information were

aimed at gaining access to information that reflects the dynamics of the general state of affairs in the state and enshrines the features of the national legal system. In other words, they provide access to regulatory legal acts and official documents that contain certain kinds of information, which allows the right of access to information to contribute to the satisfaction of both public and personal interests [7].

It is worth noting that it is possible to find even earlier "roots" of the right to information in legal acts, which was expressed in the consolidation of the right to express opinions and beliefs, which consisted in the transmission of information of a personal nature and a subjective assessment of events. This right was extended exclusively to certain categories of persons in the exercise of their official powers. For example, the Bill of Rights of 1689 provided for members of the English Parliament the right to express an opinion through debate during hearings [8]. Such a right made it possible to actually transmit information that, taking into account the level of thinking, beliefs of the individual and social regulators in society, reflects the subjective perception of reality by an established and well-known person. Detailed information gets the status of official, and it is mandatory to take into account.

Returning to the issues of the sequence of reflection in the normative field of the category "information", it can be noted that the full right of access to information in national legislation was first formalized in Sweden in 1766 [9]. The range of subjects who had access to official state information at that time was limited to members of the national Parliament, who sought to obtain information about the ruler's activities in foreign policy, i.e., diplomatic relations of the state. Gradually, similar norms appear in some other European states.

As the practice of the development of legislation shows, in national regulation, a full-fledged normative formalization first of all receives the right to access information, which is then transformed, grows with new content and acquires larger forms of expression due to the development of freedom of speech in the media. The strengthening of the role of mass media in society and the need for information that has arisen over time have formed, in a certain sense, the basis for the perception of the right to information in its modern sense.

The right to information is broader than the right to access information. The right to access determines the opportunity to get acquainted and receive information, whereas the right to information is a multi-component category that reflects the possibility not only of obtaining, but also of subsequent use, processing of information and performing other actions with it, including through the use of technology. A distinctive feature of the digitalization period is that there are grounds to consider the right to information even more broadly – in the plane of not only the actual transfer of information, but also the implementation of actions with them in a virtual environment, namely in information systems.

The right of access to information, in our opinion, is of the most important importance for the emergence of a comprehensive view of the right to information, since it most obviously expresses the interest of an individual in obtaining information, with which he can exercise a set of other rights, including subjective ones. The right of access to information acted as a catalyst for the emergence of a full-fledged individual need for information, allowed the category "information" to reach a new level in the context of social perception and the system of human values, as well as to form an awareness that there are virtually no boundaries for the dissemination of information.

Legislative acts on access to information on the activities of public authorities and regulatory legal acts have been adopted in more than 90 countries around the world [10]. It is

noteworthy that such acts can be considered relatively new for national legal systems, since their adoption occurred at the turn of the XX-XXI centuries. According to researchers, by 2025, more than 80% of states in the world will have regulations on the freedom of dissemination of official information [11].

In accordance with current legislation, a telecommunications service or telecommunication service is a product of the activities of an operator or provider of telecommunications services aimed at meeting the needs of consumers in the field of telecommunications. Considering that the subject of the contract for the provision of telecommunications services is precisely telecommunications services, we believe that the type of contract for the provision of telecommunications services is a contract for the provision of services, since it is believed that the communication service has all the characteristics of providing a service that is an object of civil law.

Access to the telecommunications network as a certain action of the operator has no material result, that is, it is consumed together with the implementation of this action, that is, it falls under the legal definition of a service as a civil concept. Access to a telecommunications network begins with connecting to it and may take some time. Therefore, the provision of telecommunications services must provide access to the telecommunications network for each person from the services provided under the contract. Actions related to the maintenance and use of a telecommunications network cannot be the subject of a contract for the provision of telecommunications services, since both before the conclusion of the contract for the provision of these services and after its termination, the corresponding telecommunications system operates in accordance with certain technical characteristics. In addition to accessing a specific telecommunications network, telecommunications services may consist of other actions by the operator or provider (signal transmission, sound, recent equipment switching, etc.) or a combination of these actions.

Since a merger agreement is an agreement drawn up by one of the parties in letterheads or other standard forms, it can only be concluded by joining the agreement proposed to the other party, analyzing current legislation in the field of telecommunications services and existing practices. The current legislation provides the operator or provider with the opportunity to declare the terms of the contract on the website or at places of sale of services. It is characteristic that the terms of such an agreement are established only in forms containing important terms of the agreement, and the rest are established on the basis of the rules for the provision and acceptance of telecommunications services, which are not always attached to the developed forms. Its terms are standard, in other words, the same for all recipients. The conclusion of an agreement with the subscriber is made by joining the consumer to the terms offered in the prescribed form. The consumer is deprived of the opportunity to influence the formation of the terms of the contract.

At the current stage of evolution, the methods of telecommunication systems theory allow for a generalized structural synthesis of distributed service network platforms, but such methods require improvement in order to more fully take into account the characteristics of their development (scaling, load characteristics, design, functionality) and other quality requirements). Therefore, it is necessary to investigate the probabilistic and temporal properties of such systems, especially the legal and organizational aspects of the use of recently widespread open structures.

When analyzing such features of the service category, it is important to transform theoretical rules, such as the impossibility of collecting them. Indeed, it is impossible to collect, concentrate, and support medical and educational services. However, telecommunication services, unlike classical types of services – medical, educational, tourism, etc., can be collected, concentrated, and such accumulation also occurs with images, virtual "wallets", etc. A website can collect large amounts of information, store it indefinitely, and the website owner can use it at any time convenient for him. This is the most important feature of telecommunication services, which significantly distinguishes them from classical types of services and traditional methods of their provision and distinguishes them into an independent theoretical group.

It is desirable that criteria for the classification of contracts for the provision of telecommunications services be established in accordance with the subject and structure of these contracts. Eventually, based on these criteria, it will be possible to clarify the sources of their legal regulation by dividing telecommunications services into separate types of contracts.

References:

1. Petrochenko A.Yu. The procedure and methods of concluding contracts in civil law. Text: direct // Young scientist. 2019. – №16 (254). – Pp. 115-118. – URL: https://moluch.ru/archive/254/58178 / (date of access: 08/07/2022).
2. Barinov A.V. Conclusion of a civil law contract in a general manner: abstract of the dissertation of the candidate. Jurid. sciences'. – Volgograd: 2004. – 16 p.
3. Zhukov E.N. Conclusion of a civil law contract: separate problems of law enforcement // https://cyberleninka.ru/article/n/zaklyuchenie-grazhdansko-pravovogo-dogovora-otdelnye-problemy-pravoprimeneniya.
4. Baida B., Levitskaya O. Conclusion of contracts that generate economic obligations // https://cyberleninka.ru/article/n/ukladannya-dogovoriv-scho-porodzhuyut-gospodarski-zobov-yazannya.
5. Levchenko O.S. The construction of a public contract in Russian civil law: abstract ... cand. Jurid. sciences'. – Krasnodar: 2008. – 6 p.
6. Sevryukova I. F. Some problems of classification of civil law contracts // Bulletin of the Odessa National University. - 2011. – No. 15. – pp. 63-74.
7. Bratanovsky S.N., Lapin S.Yu. The right to access to information as an element of the constitutional right to information // Citizen and Law. 2012. No. 8. p. 35.
8. Dmitrevsky N.P. Legislation of the English Revolution of 1640-1660. M.-L.: Publishing House of the Academy of Science. 1946. p. 338.
9. The World's First Freedom of Information Act. Anders Chydenius Foundation. Kokkola. 2006. P.4 // URL: https://www.access-info.org/wp-content/uploads/worlds_first_foia.pdf.
10. Vleugels R. Overview of all FOIA laws. Center for Media Freedom and Responsibility. 2013 // URL: https://ru.scribd.com.
11. Relly J. Freedom of Information Laws and Global Diffusion Testing Rogers's Model // Journalism & Mass Communication Quarterly. 2012. № 89. P. 457.