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 ijircce@gmail.com

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Principles of Providing Telecommunication-Technology Services to the Population

Orishov A.N.

Teacher of the Department of Informatics Teaching Methodology, Chirchik State Pedagogical University, Uzbekistan

ABSTRACT: Telecommunication services are diverse in terms of their types and content. The development of the Internet, the continuous expansion of the virtual world, and the deepening of digitization, as well as the creation of various technologies beyond human imagination, have led to an increase in the range of telecommunication services. Nowadays, people can't help but be amazed by the abundance of functions in their mobile phone devices. On the contrary, people's minds can be blown away by incredible technologies, the virtual capabilities of smartphones and the range of services provided by smart technologies. In this respect, today's science of civilization faces the problem of defining the subject of certain contractual constructions. Active intervention of "smart" - smart contracts in the regulation of social relations serves to increase the tasks before the science of civil law. This article examines the issues of determining the subject of the contract for the provision of telecommunication services, which represents a wide range of services, and defining its scope.

KEYWORDS: telecommunication, information, Internet, operator, provider, service, contract, parties, service, subscriber.

АХОЛИГА ТЕЛЕКОММУНИКАЦИЯ ХИЗМАТЛАРИНИ КЎРСАТИШ ТАМОЙЛЛАРИ

Ўришов А.Н.

Чирчиқ давлат педагогика университети
Информатика ўқитиш методикаси кафедраси ўқитувчиси

АННОТАЦИЯ: Телекоммуникация хизматлари ўзининг турлари ва мазмунига кўра рангбарангдир. Интернетнинг ривожланиши, виртуал оламнинг муттасил кенгайиб бориши, рақамлашувнинг чуқурлашиб бориши ўлароқ инсон тасаввурига ҳам келмайдиган турли технологияларнинг яратилиши телекоммуникация хизматлари доирасининг ортиб боришига олиб келди. Эндиликда кишиларнинг уяли телефон курилмасидаги функцияларнинг кўплиги билан ҳайратлантириб бўлмапти. Аксинча, кишиларни онги шуурини ақл бовар қилмайдиган технологиялар, смартфонларнинг виртуал имкониятлари ҳамда ақли технологиялар томонидан тақдим этилаётган хизматлар турлари кўлами билан лол қолдириш мумкин. Шу жиҳатдан бугунги цивилистика фани олдида муайян шартномавий конструкцияларнинг предметини белгилаш муаммоси турибди. Етмаганига “смарт” – ақли шартномаларнинг ижтимоий муносабатларни тартибга солишга фаол аралашуви фуқаролик ҳуқуқи фани олдидаги вазифаларни кўпайиб боришига хизмат қилмоқда. Мазкур мақолада кенг камровли хизматларни ўзида ифодаладиган телекоммуникация хизматларини кўрсатиш шартномасининг предметини аниқлаш ва унинг доирасини белгилаш масалалари тадқиқ этилган.

Калит сўзлар: телекоммуникация, ахборот, Интернет, оператор, провайдер, хизмат, шартнома, тарафлар, хизмат кўрсатиш, абонент.

I. INTRODUCTION

It is not difficult to understand that the naming of the contract for the provision of telecommunication services and the phrase "telecommunication services" in general are plural. Therefore, the phrase "telecommunication services" as a collective concept represents the implementation of activities aimed at satisfying the specific needs of the user using telecommunication networks. However, the main issue in this case is what types of actions or activities are included in the subject of this contract, and which of the relations in the field of complex and wide-ranging telecommunications are included in the subject of contractual regulation.

In the legal literature, there are a number of approaches to the problems of determining or defining the subject of the contract. According to O.G. Ershov, "the subject of the contract is an agreement of the parties directly, which implies that the will of the parties is directed towards the object, and it is in relation to this object that later rights and obligations arise, and the parties have the legal purpose of entering into a contractual relationship regarding these rights and obligations. will make efforts to achieve"

According to A.S. Grunsky, "the subject of the contract is the obligation (obligations) that the parties intend to establish by means of the contract, and whose fulfillment is regarded as the fact of the contract being void."

II. DISCUSSION AND RESULTS

In our opinion, the opinions of both the above authors regarding the subject of the contract have controversial aspects. The fact is that the subject of the contract or "thing" in Uzbek is the object reflected in the agreement of the parties. After all, the objects of civil rights listed in Article 81 of the FC can also be the subject of the contract. However, the subject of the contract deviates from the scope of objects of civil rights. For example, the subject of a sales contract is the transfer of property rights to goods to another person. This is understood from Article 386 of the FC. The subject of the lease agreement is the temporary transfer of property rights to another person (Article 535 of the Criminal Code). In other words, if the subject of the contract was the object of the rights and obligations of the parties, the subject of the sale and lease agreement or the loan agreement would be property. However, although all these contracts are concluded with respect to property, the actions to be performed in connection with the contract and the rights and obligations of the parties in relation to the object are different. This difference should be the subject of a separate civil law contract.

Commenting on the subject of the contract, in particular, the subject of the service contract, H. Rahmankulov notes the following: "The subject of the contract may be different, depending on what the action performed under this or that type of contract is aimed at achieving, that is, what result. For example, ... the subject of various service contracts is the performance of certain actions or the implementation of certain activities.

According to E.D. Sheshenin, "in all contractual obligations for the provision of services, the general subject of the contract - service is embodied as an activity to satisfy economic or cultural and household needs"

In our opinion, the subject, that is, the object of the contract is not the usual objects of civil law, but the obligations of the parties. After all, the purpose of concluding a contract is an agreement that the debtor will perform a certain action or refrain from a certain action in favor of the creditor. Therefore, delivery of the agreed item, performance of work, provision of service or payment of money can be the subject of the contract. This situation, in turn, is understood from the definition given to the concept of obligation in the first part of Article 234 of the FC. Through this norm, the legislator specifies the subject of the obligation-legal relationship, in particular, the contractual obligation relationship.

While observing the definition of the subject of the contract, I.S. Kokorin states the following: "each contractual obligation has a specific legal relationship, an object related only to this relationship. However, "movement" in many contractual obligations relates to "objects of the external world", matter or its form of movement. In this situation, goods and favors are the objects on which the debtor's "movement" depends."

If we take this idea in relation to the contract for the provision of telecommunication services, the subject of this contract can be defined simply as the activities of the operator and the provider aimed at ensuring the possibility of receiving, transmitting and processing signals and information through the relevant network for the benefit of the subscriber or user. The activity of the operator and the provider aimed at connecting subscribers to the network, ensuring quality communication and information exchange in the network, storing and transmitting information, and other similar actions should be recognized as the subject of the contract. In addition, the subject of the contract for the provision of telecommunication services includes the efforts of the operator and the provider to ensure a stable connection between the subscriber's device and the network. For example, when the provider provides the Wi-Fi service to the subscriber, according to the contract, he must provide him with the appropriate device and give the connection code and password to this device and keep it secret. In this case, the subject of the contract is not only to connect the subscriber to the telecommunication network and to provide information handling through it, but also the provider's obligations to provide the subscriber with a device and to keep secret the code and password for connecting to this device.

The provision of services is part of civil rights objects. Generally, service is seen as an activity or behavior performed by the performer for the benefit of the customer. Today's level of civilized thinking divides service into two types depending on the criterion of results. Services that create a specific result (for example, household services) and

services that do not create a material result. Expressing his reaction to this issue, H. Rahmonkulov expresses the following opinions: "Any service, depending on its character, what it is aimed at and what it belongs to, does not consist of a material form, but it is definitely related to achieving a certain result."

In our opinion, if the purpose of the contract is aimed at creating a result, then the obligation and action aimed at creating this result constitute its subject. Agreeing with the opinion expressed by H. Rahmonkulov, it should be noted that the result of the telecommunication services contract is that the subscriber is connected to the network and the needs of receiving, transmitting and processing information through this network are satisfied. The degree of satisfaction of this need and the provision of the quality level agreed in the contract are evaluated according to the subscriber's objections and requirements.

Contracts for the provision of telecommunication services are similar to contracts for the provision of services for a fee in their legal nature. Of course, there is also an aspect of this contract specific to general services. However, in telecommunication services, the main focus is on the action of the performer aimed at the benefit of the customer, the fact that no material result is created at the end of the service, and it does not create a tangible impression, it is the basis for including this contract in the type of service obligations for a fee.

While researching the subject of a service contract for a fee, T.A. Muminov expresses the following opinions: "The subject of a service contract for a fee is a variety of non-physical actions or activities performed by individuals and legal entities, entrepreneurs. are contracts"⁷. T.N. Skorikova analyzes the issues of the subject of the service contract for a fee on the example of a mobile phone connection contract and comes to the following conclusion: "activity" constitutes the subject of the contract in service relations, in particular, mobile communication service. This activity is expressed in the following actions of the operator: receiving, transmitting, processing, storing and sending electronic communication information. Each of these actions must be provided by the operator and guaranteed for the user. In addition, there are cases of interpretation of services as a result of activity in the legislation. Such a result is understood as a positive effect of communication service activity".

For example, the Law on Telecommunications and the Rules for the Provision of Telecommunications Services are interpreted as "telecommunications services - the activity product of the operator (provider)".

In contrast, the legislation of foreign countries has a more precise definition of the concept of "telecommunication services". In particular, according to paragraph 2 of the Law on Telecommunications of Estonia, telecommunication services are transmission or routing of signals in a telecommunication network or networks and establishment of a connection between terminal points of a telecommunication network. According to Article 2 of the Law No. 241-XVI of the Republic of Moldova dated November 15, 2007 "On Electronic Communications"¹⁰, electronic communication services are activities that are provided for a fee and consist of the transmission of signals through networks and electronic communication services. According to Article 2, Clause 30 of the Law of the Republic of Lithuania No. VIII-774 "On Telecommunications" dated June 9, 1998, telecommunication services are full or partial signal transmission, switching, as well as services for sending radio and television programs through telecommunication networks.

In our opinion, at this point, it is appropriate to see the subject of service contracts in the section of activity. Because the service is not focused on creating a tangible result and usually requires the implementation of a specific activity or action for the customer's needs. In particular, provision of e-mail services, provision of cable television or mobile phone communication services to the subscriber is carried out by the operator and the provider in a specific activity. In turn, the actions of the operator and the provider in the provision of telecommunication services result from their subject status and activity direction. For example, Clause 6 of the Telecommunication Services Provision Rules stipulates that "the activity of operators and providers related to the provision of telecommunication services shall be carried out on the basis of a license obtained in the established order and according to the license agreement concluded between the operator (provider) and the licensing authority"¹². This means that the telecommunication service providers operate on the basis of the appropriate license and their activities in the field of service are directly focused on providing communication of information through telecommunication networks.

In our opinion, the interpretation of the subject of service relations as a product of activity is based on economic theory. Because from an economic point of view, any activity produces a certain result, and profit and income are determined based on this result. At the moment, as a product of telecommunication activity, the subscriber's connection to the network, the possibility of receiving, transmitting and processing information through the network is seen. Modern economists describe service as a commodity of economic importance, providing a significant income that is correlated with the development of civilization and the increase of social welfare and characterizes the global tradition of sustainable growth.

In the economic literature, the following specific aspects of services are listed:

- service as a result of work. Regardless of the presence of a material form in the service, it is personalized, that is, the product of labor is appropriated by the subject;
 - the service can be provided in an intangible form. In this case, the services are not material goods, but represent information received in the virtual market;
 - the service can be identified only if the result of the activity creates a positive result for the consumer, that is, if the service is accepted without being rejected;
 - the service represents a package (combination) of a consumer nature, that is, it can be implemented in this field only when it is accepted individually by the subject. The performance of the service requires the interaction of the producer and the consumer in a certain specific situation in place and time;
 - khimzat represents the form of social relations that finds its subjects (consumers) in relation to the object (consumer subject). The above-mentioned aspects of the service make it possible to understand the service in the economic sense as the acquisition by one subject (consumer) of another subject (executor) in an intangible-intangible form (it cannot be the subject of alienation after consumption by another consumer) and there are positive consequences for the consumer.
- Gives

E.G. Shablova offers the following definition based on the analysis of service provision from a civil-legal and economic point of view: "service is a method of meeting the individual needs of a person, which is connected with the intangible result of executive activity, which is permitted by the applicable law and is carried out for a fee."

Civil scientists also try to justify the problem of the existence of the category of result in the service in the field of civil law, and in this case, the materialized result of the service is applied to the regulation of service relations for a fee (Article 708 of the FC, Article 783 of the FC of Russia, Article 687 of the FC of Kazakhstan) they point. In particular, in this issue, N.A. Barinov¹⁶ includes the contract, including the household contract, as part of the service, and as a proof of his opinion, dividing the services into tangible and intangible types, he emphasizes that the contract is a tangible service. E. A. Puchkov also emphasizes that services can be material, but focuses on the criterion of obtaining results to limit service and contractual agreements. It states that services are activities performed with the aim of obtaining a result for personal use.

Expressing her reaction to this issue, O.V. Gorbunova comments as follows: "only in the relationship of providing services for a fee, the executive undertakes to perform a specific action or perform a specific activity without the requirement to achieve a material result."

In our opinion, it is necessary to pay attention to the fact that the legislation has chosen two different approaches to the legal interpretation of "service". First of all, service is actions aimed at satisfying the household needs of the population, and results can be created in it. Secondly, the service is the performance of activities by the performer for the benefit of the consumer based on his order, and the question of the result does not matter. Expressing his reaction to this issue, B.I. Ibratov expresses the following opinions: "Service obligations are an agreement between the parties aimed at satisfying the interests of the consumer. Such services include passenger transportation, postal services, communication services, assignment contracts, and contracts with entertainment and entertainment organizations. According to the contract for providing household services to the population, the actions of the obliged person acquire a material nature if it is related to the household order.

In the opinion of N.S. Narmatov, the term "services" means the implementation of a specific action or a specific activity, which is related to the intangible result of the executive's activity in accordance with the law and is aimed at satisfying personal needs for a fee.

Some authors distinguish between the concepts of "service" and "service provision" and emphasize that the concept of "service" includes the concept of "service". In particular, in the opinion of some scientists, economic relations aimed at satisfying their consumption needs for citizens who have "individual consumption value" as a form of activity of a service organization belong to the service sector. Another group of scientists notes that the concept of "service" is a broad concept and the concept of "service provision" is part of it.

According to L. Achilova, the concept of "service" has a wider meaning "than the concept of providing services". Because "service" is a set of actions that are not related to the transfer of property rights to goods by one person to another and do not provide a specific material result and do not involve changes in physical form, which include delivery, transportation, insurance, storage of goods, actions aimed at satisfying the material and spiritual needs of other persons in such fields as mediation, reliable property management, tourism, consulting, medicine, veterinary medicine, communication

In our opinion, the telecommunication service is essentially a set of activities and actions performed by the executive on the basis of the customer's order and at his expense and in order to satisfy his benefit and need. Based on the nature and specificity of the customer's task, it is also possible to create a physical appearance in the telecommunications service. For example, setting up the subscriber's device, checking the network connection, installing the corresponding device, etc. However, the creation of a physical appearance is not considered a mandatory condition and requirement for telecommunication service. The primary criterion and main requirement for this type of service is to connect the customer to the network and satisfy his need for information exchange.

The areas of activity of the operator and the provider, which are the subject of the contract for the provision of telecommunication services, are mentioned in the Rules for the provision of telecommunication services. The types of services listed in the rules are quite wide and diverse, and the main criterion that unites them is their implementation through telecommunication networks. Such services include: telephone communication services, information services, telegraph services, data transmission network, including Internet services, mobile communication services, television services. These services themselves are divided into several small types of services. For example, mobile communication services include roaming communication service and subscriber number porting service.

In the legal literature, there are certain opinions about the specific characteristics of telecommunication services. In particular, N.S. Narmatov distinguishes the type of personal services provided by business entities and researches the specific aspects of such services. While justifying the essence of personal services and their legal nature, the author refers to three important aspects of personal services based on E.G. Shabalova's opinion that such services are aimed at satisfying the needs of a person and that the object of their influence is also the person himself. According to L. Achilov, the third aspect of the personal services provided by N.S. Normatov in this case is directly related to all types of khimzat for a fee, and according to it, these types of services are considered to be of significant social importance. Consequently, the consequences of failure to properly fulfill the obligation to provide services of a personal nature may have the status of severe social consequences.

In our opinion, it is not required that the telecommunications service be provided directly to a specific subscriber. Today's level of development of telecommunication networks allows the use of telecommunication services by an unlimited number of people. For example, a citizen can get an unlimited number of mobile numbers of all operators and providers operating in Uzbekistan and use it himself or give it to any other citizen. This situation is not limited by law, of course. However, the other side of the issue may be related to IMEI (International Mobile Equipment Identifier) codes. Because the IMEI-code is assigned by GSMA as a 15-digit number and is a number that identifies a mobile device operating in the GSM/UMTS/LTE standards. As a rule, the IMEI code must be registered. In this case, the registration of mobile phone numbers through phones with IMEI code may cause restrictions on SIM (Subscriber Identification Module) card replacement or other use. Therefore, the inclusion of telecommunication services in the category of personal services is controversial.

III. CONCLUSION

In conclusion, it would be appropriate to include in FC the rules that combine the characteristics of telecommunication services established by law and used in practice when determining the subject of the contract for the provision of telecommunication services. For this reason, it is appropriate to include an article entitled "Specific features of legal regulation of telecommunication services" in Chapter 38 of the FC. In this view, a special norm is expressed in RF FC. In particular, Article 783.1 of the RF FC defines the specific features of the contract for the provision of information services, focusing on the fact that the executive undertakes to provide certain information to the customer, and that not to disclose information to third parties is considered an obligation for both parties.

In our opinion, it is appropriate to include Article 7081 entitled "Specific features of the contract for the provision of telecommunication services" in the FC and define it as follows:

In the contract (telecommunication services provision contract) in which the executive undertakes to perform actions to provide telecommunication services to the customer, the obligation of one or both parties not to perform actions that lead to the disclosure of information to third parties for a certain period of time may be provided.



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