

TELECOMMUNICATIONS MARKET COMMISSION

File number 2000/2459

In connection with the request made by SERVICIOS JURÍDICOS MARCO LEGAL, S.A. on 07-04-2000, please find attached for information, notification and other purposes the Resolution adopted by the Telecommunications Market Commission Council during its meeting of 27-04-2000.

Madrid, April 28th, 2000

The Licences Director
Commission Council
(Resolution dated 10-12-97 published
in the Official State Gazette on 29-01-98)

José Luis de Miguel Antón

Mr Agustín Bas Serra
SERVICIOS JURÍDICOS MARCO LEGAL, S.A.
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JOSÉ GIMÉNEZ CERVANTES, Secretary to the Telecommunications Market Commission Council, using one of the powers conferred upon him under paragraph 40 of the Telecommunications Market Commission Regulations, approved by Royal Decree 1904/1996, of September 6th, hereby

C E R T I F I E S:

That during the meeting of the Telecommunications Market Commission Council held on April 27th, 2000, the Council adopted the following RESOLUTION, in connection with File Number 2000/2489.

“In compliance of the precepts of Act 11/1998 dated April 24th, of the General Telecommunications Legislation, Royal Decree 1652/1996, of July 24th governing the Special Register of General Licence Holders and Order dated September 22nd 1998 which establishes the system applicable to general licenses for telecommunications services and networks and the conditions to be complied with by the holders, and in consideration of the following

I.- DE FACTO PRECEDENTS

- One. On April 7th, 2000 Mr Agustín Bas Serra, representing the company “SERVICIOS JURÍDICOS MARCO LEGAL, S.A.” (Tax Licence Number A-62204516), with registered offices for notification purposes at Barberà del vallès (Barcelona), Calle Mogoda, 1, informed of the company’s wish to provide telecommunications services in the form of “User Access to the Internet, electronic mail services, and Access to Databases”, all of which are classified under the heading “Supplier of Access to the Internet”, and authorized by a “Class C” General Licence.
- Two. A responsible declaration is attached to the letter of notification, which presupposes the conditions laid down in the Order of September 22nd 1998, for General Licences and all applicable licences, in each case.
- Three. The Technical Services office of the Telecommunications Market Commission Council has given a favourable verdict with regard to the service to be supplied, since from the description provided by the interested party, it is clear that all the services classified under the denomination “Supplier of Access to the Internet” are telecommunications services, and may be supplied as long as they are authorized by a “Class C” General Licence.
- Four. The interested party has provided all the documentation required, and especially all the information to be entered in the Special Register of General Licence Holders, by virtue of Royal Decree 11662/1998, dated July 24th.

II. LEGAL GROUNDS

- One. Paragraph 10 of the Act 11/1998 of April 24th, of the General Telecommunications Legislation states that a General Licence is required

for providing telecommunications services, and setting up or operating telecommunications networks which do not require an individual licence to be granted.

Two. Paragraph 4 of Order dated September 22nd 1998, which establishes the system applicable to general licences for telecommunications services and networks and the conditions to be complied with by the holders, states that in order to provide a service or set up or operate a network for which a general licence is required, all interested parties must notify this fact to the Telecommunications Market Commission.

Three. In accordance with the provisions of paragraph 4.3 of Order dated September 22nd on General Licences, the Telecommunications Market Commission will proceed, ex officio, to enter the information on the interested party and the service or network in the Special Register of General Licence Holders, in accordance with the provisions of paragraph 8 of the General Telecommunications Act.

Based on the above, the Telecommunications Market Commission, exercising the functions attributed to it by virtue of paragraph 1 of Royal Decree ----- (no puedo leer el número), dated July 24th, governing the Special Register of General Licence Holders, paragraph 4.3 of Order dated September 22nd, 1998, which establishes the system applicable to general licences for telecommunications services and networks and the conditions to be complied with by the holders of these licences, and paragraph 1. Two 2b) and 2n) of Act 12/1997, dated April 24th, on the Liberalization of the Telecommunications Sector,

RESOLVES: That the company "SERVICIOS JURÍDICOS MARCO LEGAL, S.A." (Tax Licence Number A-62204516), with registered offices for notification purposes at Barberà del Vallès (Barcelona); C/Mogoda, 1 be entered in the Special Register of General Licence Holders as the holder of a "CLASS C" GENERAL LICENCE for providing telecommunications services in the form of "User Access to the Internet, electronic mail services and Access to Databases", all of which are classified under the denomination "Supplier of Access to the Internet", including the information comprising Entry One specified in paragraph 13 of Royal Decree 1962/1998 which approves the Regulations of the Special Register of General Licence Holders.

The interested party may initiate the providing of the service covered by this General Licence starting on the date on which this notification has been received (paragraph 4.4 of Order dated September 22nd, on General Licences).

Conditions.

Under no circumstances may holders of a "Class C" General Licence provide the telephone service using data networks that are inter-operative with services provided to the public. For the providing of this type of service, the holder should request a temporary licence of the kind specified in Section III of the General Telecommunications Act.

Holders of a “Class C” General Licence should comply with the conditions laid down in Order dated September 22nd and the applicable regulations in force.

Holders of this type of Licence may not use networks installed by themselves to support their services, unless authorized to do so by means of the corresponding individual Licence.

Modification of information entered in the Register

Holders of “Class C General Licences” may provide other data transmission services to be covered by this licence after prior notification to the Telecommunications Market Commission under the terms established in paragraph 4 of Government Order dated September 22nd. The file opened as a result of this new notification will be treated as a modification by means of an extension of the “Class C” General Licence of which the interested party is already a holder.

Once the first entry of a General Licence has been made, all modifications to be made to the information entered, both with regard to the holder and the licence, will be entered in the corresponding Special Register. The licence holder should request all modifications made to the information to be entered in the register, except when this information is the result of an Act passed by the Ministry of Economic Development or the Telecommunications Market Commission itself. The request must be made no later than one month from the day on which it occurs.

Control and inspection.

This General Licence is subject to the provisions of Section VII of Act 11/1998, dated April 24th, of the General Telecommunications Legislation, in connection with the inspection of the telecommunications services and networks, with the conditions under which the services will be provided and the telecommunications equipment and systems to be used, as well as the application of the sanctions system.

For the purpose of complying with the provisions of paragraph 11.2 of the General Telecommunications Act and paragraph 10.2 of Order dated September 22nd, the holder of the General Licence must send to the Telecommunications Market Commission all information necessary for checking that its obligations are being fulfilled, meeting all statistical requirements and dealing with all requirements made by the regulations in force.

Termination of the Licence.

In the event that the interested party ceases to provide the service or operate the network, it should inform the Telecommunications Market Commission of this fact, so that the Commission can cancel the entry made

in the register. Likewise, once a period of ten years has elapsed since the first entry, and thereafter, every ten years, it should notify the Telecommunications Market Commission no later than one month after the term has expired, if it wishes to continue providing the service or operating the network. Any failure to notify this circumstance will mean the cancellation of the entry in the register, once the corresponding file has been duly processed.

In accordance with the provisions of paragraph 13 of the General Telecommunications Act, if the entity providing the service or whoever is operating the network under a general licence, should seriously contravene the provisions of the aforementioned paragraph, or any of the conditions laid down in Order dated September 22nd, on General Licences, the Telecommunications Market Commission will send it a letter, giving a term of one month within which to rectify this failure to comply. If this term elapses and no rectification has been forthcoming, it may cancel the entry in the register after duly applying the appropriate revocation process.

Likewise, the Commission will cancel the entry in the register after duly processing the corresponding file, in the event that the licence holder has not accepted the modification in the conditions made by Government Order, within the term stipulated, and in accordance with the provisions of paragraph 11.2 of the General Telecommunications Act.

Rates.

In accordance with the provisions of paragraph 71 of the General Telecommunications Act, and Royal Decree 1780/1998 of July 31st, all holders of a General Licence for providing services to third parties must pay the Telecommunications Market Commission an annual rate which will not exceed 2 per 1,000 of its gross operating income. The tax rate will be established for each year in the corresponding General State Budget Law. The rate will become due annually on December 31st each year. No later than three months from the day after the rate becomes due, the General Licence holder must present to the Telecommunications Market Commission (Department of Administrative and Economic Control), a declaration of all gross operating income earned during the period in which the tax becomes due.

This certificate is issued in accordance with the provisions of paragraph 27.5 of Law 30/1992 of November 26th, and Paragraph 23.2 of Order dated April 8th, 1997 approving the Internal Regulation System of the Telecommunications Market Commission, prior to approval of the Minutes of the corresponding meeting.

Likewise, it is hereby declared that an optional appeal for reversal may be made to the Commission against the resolution referred to in the present certificate, putting an end to administrative action, no later than one month from the day after the notification was made, or a direct contentious-administrative appeal may be made to the Contentious-Administrative Courtroom of the

National Court, no later than two months from the day after the notification was made, in accordance with the provisions of paragraph 1.eight of Law 12/1997, of April 24th, on the Liberalization of the Telecommunications Sector, additional provision Four, paragraph 5 of Law 29/1996 dated July 13th, governing Contentious-Administrative Jurisdiction and paragraph 118 of Law 30/1992, dated November 26th, of the Judicial System of Public Administrations and Common Administrative Proceedings, and, without prejudice to the above, the provisions of point 2 of paragraph 58 of the same Law.

THE SECRETARY

Approved:
THE CHAIRMAN

José María Vázquez Quintana

José Giménez Cervantes