

**DRAFT GUIDELINES FOR TRAFFIC MANAGEMENT AND INTERNET
ADMINISTRATION THAT MUST BE SUBJECT TO THE CONCESSIONAIRE AND
AUTHORISED WHO PROVIDE INTERNET ACCESS SERVICES.**

**CHAPTER I
GENERAL PROVISIONS**

Article 1. The purpose of these guidelines is to set forth the policies for traffic management and Internet administration applicable to the concessionaires and authorized who provide Internet access service, through public telecommunication networks.

Article 2. For the purposes of these guidelines, in addition to the definitions provided for in the Federal Law on Telecommunications and Broadcasting, the Federal Antitrust Law and other legal provisions, the following definitions shall apply:

- I. Internet administration: set of activities, methods, procedures and tools used by Internet service providers for the operation and use of resources and capacities of a public telecommunication network;
- II. Traffic management: set of techniques used by Internet service providers to handle, process and operate the traffic flow carried over a public telecommunication network;
- III. Institute: Federal Institute of Telecommunications;
- IV. Internet service provider: those concessionaires and authorized who provide users access to Internet, through a public telecommunications network;
- V. Application, content and/or service provider: natural or legal person who makes applications, content and/or services available to users through Internet;
- VI. Internet service: public telecommunications service that allow the exchange, upload and download of traffic through the use of Internet IP protocol, allowing final users to access any content, application or service available on the Internet;
- VII. Specialised services: those services through which the Internet service providers give a particular treatment to the contents, applications and/or services accessed by the final users.

ACRONYM

Term	Definition
FLTB	Federal Law on Telecommunications and Broadcasting
ISP	Internet Service Provider
ACSP	Application, content and/or service provider

The terms and acronyms above can be used interchangeably in singular or plural, and in capital or small letters.

CHAPTER II

OF TRAFFIC MANAGEMENT AND NETWORK ADMINISTRATION

Article 3. The traffic management and network administration policies shall be deemed to:

- I. Ensure the quality and speed of the service contracted by final users;
- II. Preserve the integrity and security of the network; and
- III. Encouraging commercial innovation.

Notwithstanding the above, the Institute may order the ISPs to temporarily and/or definitively suspend traffic management and network administration policies or, as the case may be, the provisions for specialized and/or differentiated services referred to in Chapter III of these guidelines, when it is considered that they could affect just and free competition or are contrary to these guidelines and other applicable provisions.

Article 4. The traffic management and network administration policies, if any, implemented by the ISPs, must ensure:

- I. Free choice of final users to access any content, application or service on the Internet;
- II. Non-discriminatory treatment to final users, ACSPs, similar types of traffic, as well as own and third party traffic over the network, and
- III. The inviolability of private final user communications.

Article 5. ISPs may temporarily implement traffic management and network administration policies that result in the limitation, degradation, restriction, discrimination, obstruction, interference, filtering or blocking of access to content, applications or services to final users, only in the following cases:

- I. Technically verifiable risk to the integrity and security of the network, to the privacy of the final users or to the inviolability of their communications;
- II. Exceptional or temporary network congestion, subject to non-discrimination between similar types of traffic;
- III. Emergency or national security situations as provided by law;
- IV. At the express request of the competent authority; and
- V. At the express request of the final user, communicated in writing or by any electronic means.

For the purposes of section V of this Article, the ISPs shall, within a period not exceeding 10 (ten) calendar days from receipt of the user's request, they must only block the content, applications or services requested, without the blocking being extended to other final users or other content, applications or services other than those requested by the final user, unless there is a justified technical impossibility to carry out such blocking, in which case, the ISPs must inform the final user immediately.

The blocking referred to in the immediately preceding paragraph may be temporary and reversible, if requested by the final user. For such purposes, the ISP will have a period of no more than 10 (ten) calendar days from the receipt of the final user's request. The ISPs must also provide the final users with the tools, mechanisms and technical support to block, filter or restrict content, applications or services of their choice, free of charge and permanently, including, without limitation, the parental control service. To this end, they must inform the final users, on their Internet portal and in a brief, clear and precise manner, of the procedure to be followed to request, cancel or modify such settings. This procedure must be carried out, in a maximum of 3 (three) steps, from the main menu of their Internet portal.

Article 6. The ISPs shall respect the right of final users to incorporate or use any kind of instruments, devices, appliances or terminal equipment connected beyond the terminal connection point of a public telecommunications, provided that they are approved, and in compliance with applicable regulations. Additionally, the ISPs shall refrain from limiting any of the functionalities or operating systems of such instruments, devices, appliances or equipment.

CHAPTER III

DIFFERENTIATED AND SPECIALIZED SERVICES

Article 7. The ISPs may make available differentiated services to users, provided that they refrain from offering, advertising, marketing, providing or contracting as an Internet access service restricted access by final users to any content, application or service. Differentiated services may, among others, consider:

- I. The possibility of sponsoring the cost generated by the final users of the consumption of specific content, applications or services in any plan or package contracted by the final user.
To this end, ISPs must offer, on a non-discriminatory basis, the possibility to any interested party to sponsor data consumption. Exclusively, in cases of prepaid services, it must be limited to a period of the final user's balance and, in controlled post-payment with available service of access to Internet.
In the event that final users do not have a balance or have reached the data cap of their plan or package, the ISPs will be able to give access to the sponsored data, provided that such access is aimed at reducing the digital gap through any of the following purposes:
 - a. To promote the management of public services;
 - b. To promote educational, financial and labour inclusion; or
 - c. To encourage digital capacity building.
- II. Free access to content, applications or services of any plan or package contracted by the final user.
Exclusively, in the cases of prepaid and controlled postpaid services, these shall be limited to the period of the user's final balance or the one available to the Internet access service.

Article 8. The ISPs may offer specialized services, as long as they ensure that the provision of these is not detrimental to the Internet access service, so they must not degrade the quality or speed of other traffic on the public telecommunications network.

ISPs offering specialized services must do so under non-discriminatory conditions and should therefore, make available to the ACSP, the same diversity of services, quality and price when contracting conditions including, but not limited to, service levels, fault clearance times and levels of quality, which are equivalent. They must also refrain from denying the provision of such services for unjustified reasons, conclude exclusive agreements or perform behaviors with similar effects.

When an ISP distributes its own content, applications or services through the use of specific resources in its network, it should make available to other ACSP under the concept of specialized service.

The provision of specialized services by the ISP may not be translated, under no circumstances, in requiring a payment of ACSP for the course, under standard conditions, of the traffic generated by its contents, applications and/or services.

Article 9. ISPs offering specialized services must encourage the development and implementation of investment programs and improvement of its network infrastructure, based on the income generated by the provision of such services.

CHAPTER IV

TRANSPARENCY AND INFORMATION

Article 10. ISPs should publish and keep updated on their Internet websites the explanation of each type of differentiated service offered, in which shall be exemplified, among others, by computer graphics, the type of content, application or service, detailing limits, exceptions, terms, conditions and if any of those, would generate additional charges, as well as other relevant information for the final user.

The explanation referred to in the previous paragraph must be published in a clear, comprehensible manner and must be easily accessible, in accordance with Article 195 of the FLTB and the guidelines issued by the Institute for this purpose.

The ISPs offering specialized services must publish and maintain updated on its website, the terms and conditions applicable to each specialized service including features, limits, exceptions and uses which, if any, would generate additional charges, as well as the speed, quality, nature and guarantee of the service and other information relevant to ACSP.

Article 11. The ISPs that sign commercial agreements for the provision of differentiated services, in the category of sponsored data, shall submit to the Institute a quarterly report, including at least the name of the individuals or corporations with current agreements for sponsored data, the registration sheet of the Public Registry of Concessions containing the

contracted rate, the term of the agreement and other terms and conditions thereof, within 10 (ten) working days following the end of each quarter.

Article 12. ISPs that sign commercial agreements for the provision of specialized services must submit them to the Institute, including their amendments, for registration in the Public Registry of Concessions within 10 (ten) working days following their subscription.

Article 13. ISPs must publish on their Internet website, in accordance with these guidelines and other applicable provisions, their code of traffic management policies and respective modifications, which will have to be available for the users, those principles under which they will implement traffic management and Internet management referred to in these guidelines.

This code should include the detailed and understandable description of the traffic management and Internet administration policies implemented by the ISP considering at least the following:

- I. The policies applicable to Articles 3 and 6, in relation to Article 4 of these guidelines, detailing:
 - a. The typical frequency of implementation;
 - b. The impacts that may result from their implementation, and how these are reflected in the final user experience when using the Internet access service; and
 - c. The possible effects on the network in case these measures or actions were not implemented;
- II. A clear and understandable description of network monitoring techniques that may be used as the basis for applying traffic management and Internet administration;
- III. Recommendations for final users to minimize risks to their communication privacy, network integrity and/or security;
- IV. Updated references to the applicable legal framework and, where applicable, references to the international standards that give rise to the traffic management and Internet administration; and
- V. The date of the last update of the information contained in the code.

Article 14. These guidelines shall be reviewed by the Institute at least every three years after their entry into force.

CHAPTER V

VERIFICATION, MONITORING AND SANCTIONS

Article 15. The Institute shall monitor and verify compliance with the obligations established in these guidelines in accordance with the provisions of Title Fourteenth of the FLTB, in accordance with the procedures, mechanisms, methodologies and formats considered relevant. Any violation of the obligations established in these guidelines will be sanctioned

by the Institute in accordance with in Title Fifteen of the FLTB and other applicable legal provisions.

TRANSITORIES

FIRST - These guidelines will enter into force after 60 (sixty) days counted from the business day following its publication in the Federal Gazette.

SECOND - Internet service providers must submit to the Institute, for registration in the Public Registry of Concessions, the commercial agreements in force for specialized services signed prior to the entry into force of these guidelines, within 45 (forty-five) business days following their entry into force.

THIRD - Internet service providers, when appropriate, shall publish the information referred to in Articles 10 and 13 of present guidelines within 30 (thirty) calendar days of their entry into force. They must also notify the Institute of the above-mentioned publication.

FOURTH - Individuals or legal entities that have registration records of value added services granted prior to the entry into force of these guidelines shall be subject to the same obligations provided for in these guidelines for the concessionaires and authorized parties providing the Internet access service.