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SERVICE AS AN OBJECT OF INFORMATION RELATIONS

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Summary

This article depicts the possibility of considering the information services as an object of information relations. Based on normative and theoretical base a scientific definition of the information service is suggested as well as its main features. The article describes various information types of services, such as advertising, intellectual services, services of libraries, Internet-services. As a result of analysis of public and private sectors of provision of services, features of subjective content of these relations are provided. Also some changes in the Ukraine Legislation are suggested.

Key words: information, information service, information product, public sector, private sector.

Аннотация

Законодательство Украины определяет объектом информационных отношений информацию. В статье рассматривается возможность отнесения информационной услуги к объекту информационных отношений. На основе нормативной и теоретической базы предлагается доктринальное определение информационной услуги, определяются ее признаки. Рассматриваются отдельные виды информационных услуг, такие как реклама, интеллектуальные услуги, услуги библиотек, Интернет-услуги. В результате анализа публичной и частной сфер предоставления услуг сформулированы особенности субъектного состава рассмотренных правоотношений. Также предлагаются изменения в законодательство Украины.

Ключевые слова: информация, информационная услуга, информационный продукт, публичная сфера, частная сфера.

Problem statement. It is common in the legal literature the statement that the subject of information relations is information. However, regarding the provision of services which are very diverse, we believe that the service itself can also be viewed as an object of information relations in particular. Information services are fairly common in the service sector. The problems of legal regulation of social relations that are formed in the service sector were initially studied by E.D. Sheshenin and later by A.J. Kabalkyn [1, p. 5]. However, the legal nature of the services is ambiguous, and the approaches of scientists in the legal literature to this problem differ. Typically, the service is considered as non-material entity which is used during certain activities [or commitment of certain activities]. However, based on the classification of services, they can be of material nature, that is to have a specific objective materialization as well as to be non-material. The relevance of this publication is substantiated by the fact that legal nature of services in the sphere of information was left unattended by Ukrainian law scientists.

The purpose of this article is to study information services as an object of information relations, and among the main objectives of the study we define the following: to formulate a definition of information services on the basis of the theoretical material and regulatory framework; make classification of information services; determine the subjective part in the relationship of information services; consider certain types of information services.

The level of scientific development. Since the scope of information services is a multilateral, then the researches in this direction were made by the representatives of different sciences. Since information services may be provided by the state, which we will outline in this article, then scientific research was carried out by specialists of government administration K.V.G. Brychuk, O.O. Kazanska, representatives of law science I.V. Aristova, A.O. Kodynets, D.V. Sulatsky, economists T.A. Butenko, V.A.L. Pleskach, A.A. Prokopov, M.V.G. Proskurnia, O.M. Chernega. As for the information services provided by the



libraries, these issues were treated by K. Abbott, D. Crawford, I.O. Shevchenko.

Presentation of the base material in the domestic legal acts legal definition of “services” is presented in the Law of Ukraine “On Protection of Consumer Rights” [2] dated 12.05.1991 № 1023-XII, which has a particular and not the general character and applies only to the specific subjective structure and therefore can not be used as a basis in this study. Instead, Article 1 of the Law of Ukraine “On the National Informational Program” [3] dated 04.02.1998 № 74/98-B contains the legal definition of information services, under which should be understood actions to provide consumers with information products. And the information product in the context of the Law is the documented information prepared and intended to meet the needs of users. However, this definition of information product is objectionable, because based on the legal nature of the service, the service may be a non-material object (which, actually, it is, as a rule). And if it is not documented? Is it possible that regarding the above definition it cannot be considered as a service? Therefore, in our view, the definition of information product should be reconsidered and edited, as follows. Information product is the documented information prepared and intended to meet the needs of users. However, information can be differently framed. Thus, I.V. Aristova suggested a broad understanding of information services as assistance in direct search, obtaining, transfer, distribution, processing, and storage of information [4, p. 236].

Information service – is not only the providing of information but also customer satisfaction using communication technologies (hereinafter – CT). It is any service in the information society (in accordance with Directive 2000/31 / EC of the European Parliament and of the Council of Europe of 08.06.2000), which is carried out remotely via CT according to the order of beneficiaries, where “remote” means that the service is provided without the simultaneous presence of the parties, i. e. for geographically separated individuals with common interests who use telecommunication means to communicate. The term “by electronic means” means that the service is sent and received at the destination by means of electronic equipment for the processing and storage

of data and completely sent, delivered and received via data channels, radio, fiberoptic lines or other electronic means [5, p. 8–9]. Thus we can talk about providing these services through the Internet.

O.I. Karpenko distinguishes Internet based service as an object of civil relations, particular among other services in the respect that providing and receiving this service is possible without restriction in space and time (generally around the clock) provided that the access to the Internet is available to the technical device. Systematization of Internet service in her opinion can be made as follows: access services to the Internet (Internet providing); Internet services (domain name registration, hosting); services mediated by the Internet (distance learning, Internet banking, advertising, posting content). As for self-defence of civil rights O.I. Karpenko includes: encryption, digital watermarks, passwords, malware spreading using circumvention methods to compromise protection [6, p. 3–4].

N.V. Savchuk determines the specificity of commodity form of Internet service as follows: 1) it can be both a commodity and a resource for further production of goods; 2) it is inexhaustible – does not disappear in the process of productive consumption; 3) it has no material form, no distribution limits, no taxation, no quality certificates, and no time limitations (availability round the clock); it is of international nature [7, p. 3]. The usefulness of Internet services depends on the value of the content to the user due to the information it contains. The same Internet service can satisfy different user groups and completely different needs and therefore presents to them, respectively, different values [7, p. 6].

Thus, information services can be provided both on public and private basis. Since information services take place within the service sector, we can make differentiation of information services in the following areas: 1) public service sector (information institutions (libraries, address bureau), health care, cultural institutions, consumer organizations, the media, advertising, educational institutions, Electronic Government; reference and information services; 2) the private sector; 3) information and publishing; 4) transfer of information orally, in electronic or paper form; 5) the contract-based relationships.

Public services are all services provided by public (national and local) sector or other entities at the expense of public funds. In this case: B. Klimenko distinguishes between “public”, “municipal” and “administrative” services [8, p. 14]. We believe that this division is conditional since both state and municipal services are provided by authorities.

Thus, in the administrative area, which is in fact public, information services are particularly important. The spread of the Internet in Ukraine and the first steps to build Electronic Government of official institutions present issues regarding introducing not only its technological components, but also the perception of the relevant principles and approaches to Electronic Government in the information society [8, p. 10]. However, there are also other issues that need to be addressed - it is the identification of citizens in cyberspace; confidentiality; protection of personal data; jurisdiction in cyberspace; taxation of electronic commerce; cybercrime; cyberterrorism. Information describing public services can be standardized, which is a significant advantage for both government agencies and consumers of governmental services. State organizations and institutions will receive a general structure for the description of their services, which may result in a simplified process of developing governmental information systems and management of governmental information flows [8, p. 13].

According to the Order of providing information and other services using electronic information system Electronic Government dated 15.08.2003 № 149 [9] the concepts used are as follows: **1) the information and other services** are the executive authorities activities in a particular legal form for conveying information products in digital form for the attention of consumers to meet their information needs in governmental (administrative) services. The “other services” – are those that may evolve due to the development of information technology (the use of digital signatures, digital document management, etc.); **2) state (administrative services)** are mandatory services, which are set by the law and are granted to individuals or legal entities by executive agencies and their established institutions and organizations that are maintained by the respective



budgets. Providing of these services is directly linked to the performance of basic functions and tasks of the authority; 3) *information of general purpose* is information services provision that requires no identification of subjects of legal relations. Thus, the order "On approval of the content and procedures for providing information and other services using Electronic Government electronic information system dated" 15.08.2003 № 149 defines a comprehensive list of services provided by electronic information system Electronic Government. To summarize, I would like to mention the standards for the provision of administrative services. The Order of the Ministry of Justice of Ukraine "On approval of standards of administrative services" [10] dated 31.08.2009 № 1555/5 identifies eleven areas for which standardization is intended.

Thus, referring a service to administrative services is conditioned by the subject content of such law relationships. That is a person providing such a service is a public authority and the person who gets it can be a physical or legal person. The provision of such service is conditioned not only by the desire of a person to receive it, but also may stem from its mandatory nature determined by the authorities. Of course, the public service is much wider concept contrary to administrative one and it follows from the subjective content where the provider of such services can be individuals, legal persons, subjects of business activities, business entities, and authorities. At the same time, from the above normative acts various interpretation of conceptual apparatus is meant, that of course is caused by varying the scope of application of the above mentioned acts. However, the elaborated normative base in the information sphere is already so wide that it requires appropriate unification. The lack of unity in defining concepts in the regulations is the shortcoming that needs to be eliminated. Hence we suggest the following scientific definition of *information service*, as a service provided for the person interested in receiving it (customer) on a paid or free of charge basis, from any other person (provider) in oral, written, digital form or by other

remote means of communication, on the basis of law or contract agreement to meet their needs.

Concerning the certain types of information services, it is worth to mention advertising. In the context of the law of Ukraine "About advertising" [11] dated 03.07.1996 № 270/96-BP, advertising is information about a person or a product, distributed in any form and in any way, and intended to generate or support the awareness of consumers for such person or goods and evoke their interest in it. Advertising serves an important tool of business, and is an active player in the formation of demand and sales promotion of the goods. Advertising is a concise, bright and vivid information for a particular group of consumers, which aims at fostering in them the appropriate attitude to the advertised goods, services and the advertiser by non-personal communication [12, p. 22]. In fact, advertising can also be seen as an information service, which refers to an undefined community of people. However, from a legal point of view, it is necessary to distinguish advertising from information sign. Information sign is a sign or a structure, which is located on the façade of the building and contains the important information about the company: its name, main activities and location [13]. Thus, information signs and advertising messages are targeted to undefined range of persons and represent an institution, organization, company or an individual entrepreneur. But their purposes are completely different. So, the main purpose of advertising is to sell a product or service, to evoke an interest in the consumer. Sign only gives the basic information about the organization that is fixed at the legislative level [13].

Libraries provide not less important information function. Certainly, the ability to find the necessary information currently is facilitated by using the materials that are in the public domain, that satisfies the significant number of users. However, in our belief the information role of libraries can by no means equal to other sources of information. Christine Abbott study is devoted to the role and quality of work of libraries. The system of

quality indicators in the field of public sector provision of services depends to some extent on political factors. National political need in encouraging the more effective work and accountability in the area of public services played a key role. The consequence of this pressure was the attempt to introduce a system of mandatory indicators of quality of work in all sectors of library services [14, p. 9]. In this area contracts for the provision of services may take place. These agreements should be settled in writing form and identify the types of services, payment, duties and responsibilities of the parties. In order to ensure that these agreements possess some kind of meaning the documents should indicate the norms according to which the services are provided [14, p. 11]. Thus, in providing public services a system for quality management and control of their application within the certain time limits should be elaborated.

Recently intellectual services are studied in the literature. O.V. Yarmak distinguishes intellectual services according to the following criteria: 1) capital formation is the services that are the sources of accumulation of human and intellectual capital of an individual, firm, society; 2) provision of resources is providing of intellectual services aimed at ensuring of consumers with the most important resources for innovative economic development-knowledges and information; 3) traffic forwarding is a special channel for the transmission of professional knowledge and consumer information in the field of intellectual services innovation. Respectively, O.V. Yarmak distinguishes educational, consulting, scientific and technical services and health services [15, p. 5–6]. Intellectual Services are professional, personalized, individualized net services, based on a special (professional) knowledge and information which result in consumer benefits (individuals, firms and society), from their mastering and use for personal, organizational, business, economic, social, spiritual and other purposes [15, p. 6]. However, intellectual services can hardly be regarded as a separate component in the system of information services. Since during the committing of such an act it is consumed in the process of its providing to the other person this not necessarily results in creation of a new

¹ Electronic Government Information system determines the procedure for granting of information and other services to individuals and legal entities by executive power.



object of legal relations. We have already partially mentioned about the possibility of the conclusion of the agreements for the provision of information services. In general, such contracts are civil-legal, and are regulated by the Civil Code of Ukraine. In case of an agreement on the creation of a particular object of intellectual property or the execution of other work when provider should use their creative and/or intellectual abilities to achieve the result, then it is really possible to talk about providing intellectual services. And if it relates only to the provision of certain information (for example, about a product) or the implementation of educational services, there is only the transfer of certain information or knowledge that is not interconnected with intellectual services. Therefore the issue of payment for such services is surfaced. There was the opinion that the customer pays directly for the cost of storage media, and the information itself is not paid because it is not a commodity [1, p. 130]. We consider the above statement as debatable, though the subject of this article is not to clarify the legal nature of information, we still note that depending on the stage of the circulation of information, it can be regarded as a commodity. And in this case, information as a commodity, as a unit of commodity-money circulation acquires a number of specific features.

Thus, as a result of the above and in accordance with assigned tasks, we come to the following **conclusions**. Thus, in our view, not only the information can be a subject of information relations, but also the information services. Hence we suggest the following scientific definition of information service, as a service provided for the person interested in receiving it (customer) on a paid or free of charge basis, from any other person (provider) in oral, written, digital form or by other remote means of communication, on the basis of law or contract to meet their needs. On the basis of social relations which arise between its participants, information services can be divided into public and private, which in turn affects their subjective content. The proposed amendments to Article 1 of the law of Ukraine "On national programme of informatization regarding the clarification of the definition of an information product". Information services can be

carried out not only based on law but also under contract agreement. It is the very provision of information services on a contractual basis will serve as a subject of further scientific research.

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