

FAQ of BIPT for the attention of the consumers relating to the compulsory identification of prepaid card users

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## **1. What does the new regulation relate to?**

### **1.1. What will change?**

The new regulation, laid down in [the Royal Decree of 27 November 2016](#) on the identification of prepaid cards, introduces the obligation for users of prepaid cards to be identified. Identification is possible among other things by means of your electronic identity card or an online payment transaction. This regards one of the counter-terrorism measures the government has laid down.

### **1.2. Does the new regulation also apply to the prepaid cards of foreign operators sold in Belgium?**

Yes.

### **1.3. Does the new regulation also apply to M2M SIM cards?**

#### **1.3.1. What is an M2M SIM card?**

This is a SIM card which can only be used for M2M (machine-to-machine) applications. As a rule you cannot make calls with this type of SIM card, especially as the SIM card is anchored in the device. Think for instance of an M2M SIM card in your car or gas heater.

You can however also use regular SIM cards for M2M applications. In that case there is however no M2M SIM card involved as you will be able to use the SIM card in a regular telephone as well.

#### **1.3.2. Do the buyers of M2M SIM cards have to be identified?**

Yes, but not according to the methods of the new Royal Decree. The operator is free to determine how he identifies the buyer of the M2M SIM card (the same goes for subscriptions).

#### **1.3.3. I use a regular prepaid SIM card, so no M2M SIM card, for an M2M application. Do I have to identify myself for this SIM card?**

Yes, in conformity with one of the methods of the new Royal Decree (see 1.1).

#### **1.3.4. I need a prepaid SIM card for an M2M application. Which type of SIM card should I use best?**

In this case you had best use an M2M SIM card.

## **2. In which cases does one have to identify oneself?**

### **2.1. I wish to buy a prepaid card. What do I have to do?**

Your operator is only allowed to activate your prepaid card (i.e. render it useable) after he has established your identity.

He is not allowed to activate your card if he perceives an anomaly or an error relating to your identity.

### **2.2. What do I have to do if my operator asks me to identify myself again?**

The regulation stipulates that you have to identify yourself each time your operator asks you to. It is possible that your operator asks you to identify yourself again for example because he perceived an anomaly regarding your identification.

### **2.3. I have moved or my identity card changed. Do I have to identify myself again?**

No, that is not necessary.

## **3. Who has to identify himself?**

### **3.1. How can a legal person (non-profit organisation, company, etc.) purchase prepaid cards?**

When one or more prepaid cards are bought on behalf of a legal person (non-profit organisation, company, etc.) it is the private person (one of the representatives) requesting the activation of the card who will have to identify himself. Usually this is the legal person's prepaid cards manager (the "fleet manager"). In addition the operator may (but does not have to) identify the legal person.

### **3.2. How do I relinquish a prepaid card to a third party?**

#### **3.2.1. What is understood by "to relinquish a prepaid card to a third party"?**

You relinquish a prepaid card to a third party if the ownership of the card is yielded to a third party, for instance by buying a card on the account of a third party, by giving a card to a third party as a present or by reselling a card to a third party.

The new regulation limits the possibility to relinquish a prepaid card to a third party.

#### **3.2.2. Can I buy a prepaid card for another natural person, e.g. for my child?**

Yes, you may buy an activated card for someone you are related to (your parents, grandparents, children, grandchildren, brothers or sisters), for you husband or wife, for the person you are in legal cohabitation with or for someone whom you are the guardian of.

It is however always preferable that the person who actually uses the prepaid card, identifies himself. For the regulation stipulates that the person identified is considered to be using the card himself. This way the person actually using the card can get better help in case of a call to the emergency services (in case of calls to the medical emergency service, the fire department, the police services or the civil protection the name and first name from the caller is communicated to these services).

#### **3.2.3. May I relinquish an activated prepaid card (e.g. resell it) to other persons?**

No, unless that other person has identified him- or herself with the operator.

#### **3.2.4. May I buy a card for my personnel?**

Yes, as a legal person you may give activated prepaid cards to natural persons performing services for you (your employees, consultants, subcontractors).

The legal person will however have to keep an updated list based on which the relation can be established between the prepaid cards bought and the natural persons who have received a card. This list has to be updated constantly, which implies that it has to be adapted when a prepaid card that is allocated to one person is given to someone else afterwards. This list has to include at least the name, first name and date of birth of the person whom the card has been

assigned to. This list has to be provided to the operator upon activation of the prepaid card and at his simple request.

### **3.2.5. May I give an activated prepaid card to my customers?**

No, unless your customer has identified himself with the operator in advance.

### **3.2.6. What sanctions apply?**

You can receive a fine upon non-compliance. Furthermore you are deemed to use the prepaid card yourself. In case of an investigation the police will turn to you.

### **3.2.7. What are the possibilities for buying a card for a third person?**

In order to comply with the regulation the following solutions are available:

- Ask the third party to whom you would like to relinquish the card to buy the prepaid card himself;
- Give the third party a card that is not activated. That third party will have to identify himself before being able to use the card however;
- See section 3.3.

## **3.3. How can a third party use a prepaid card without you relinquishing it?**

### **3.3.1. What is understood by this?**

You remain the owner of the prepaid card but you allow a third party to use your prepaid card temporarily.

This kind of practice is not without its risks because of the legal presumption that the person identified, in this case you, uses the card himself. In case one of your SIM cards has been abused, the police will therefore turn to you.

### **3.3.2. What can I do as a legal person?**

A legal person would like to buy his clients prepaid cards. Think for instance of a provider of M2M (machine-to-machine) applications buying prepaid cards for his customers (prepaid cards in a car, a gas heater, a refrigerator, etc.).

If you want your customer to be able to use your SIM card (without relinquishing the card), someone of your legal person needs to identify himself with the operator. In analogy with the prepaid cards a legal person distributes among his employees, you are expected to keep an up-to-date list of which SIM card is inserted in which device with which customer or user. For you are ultimately responsible for the use of the cards. In case one of your cards has been abused, the police will therefore turn to you.

## **3.4. Is tethering still allowed?**

The regulation is not opposed to the practice of tethering (i.e. sharing the Internet connection of mobile terminal equipment with other devices) by means of a prepaid card offering Internet access<sup>1</sup>.

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<sup>1</sup>The tethering technology allows mobile terminal equipment (usually a mobile phone) to share its Internet connection with another device such as a laptop or a tablet. The mobile terminal equipment's

Do keep in mind though that, in case of a violation the police will first turn to the person identified, in other words: to you.

## **4. How do you have to identify yourself?**

### **4.1. When do you have to identify yourself?**

You can identify yourself upon the purchase of the prepaid card (e.g. in a point of sale) or later (e.g. when you buy the prepaid card in a point of sale unable to identify you). You will then have to identify yourself later through the operator's website.

### **4.2. Determine the identification method(s) proposed by your operator.**

Each operator selling prepaid cards has to offer his clients one of the methods aimed at by the regulation and presented below.

Your operator will inform you of the identification method(s) he offers.

### **4.3. Identification in a point of sale**

#### **4.3.1. Whether or not to identify oneself in a point of sale**

Following identification in the point of sale (whether or not it is one of the operator's) where you buy the prepaid card, you will either leave with an activated card or with a card that will soon be activated (depending on the time the operator needs to confirm the reliability of the data you have provided to the point of sale).

You can always choose not to identify yourself in a point of sale. In that case however the prepaid card will not be sold to you or will not be activated and you will have to provide for the identification yourself through an identification method from a distance (e.g. online) to activate the card.

#### **4.3.2 Which identity documents have to be presented in the point of sale?**

You identify yourself at the point of sale by presenting a valid identification document. Documents regarded as valid identification documents include:

- [a Belgian electronic identity card](#)
- an identity card from another European Union Member State
- [an international passport](#)
- [an electronic foreigner's card](#)
- an official document temporarily replacing one of the above-mentioned documents that was stolen or lost

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interconnection with other devices can be set up through a cable connection such as a USB cable or through a wireless connection such as Bluetooth or Wi-Fi, putting the terminal equipment on a par with a Wi-Fi hotspot.

You always have to present the original identity piece (not a copy) and that document has to be legible and legally valid. If this is not the case, the operator must refuse the document.

Bear in mind that the regulation determines that the point of sale is allowed to copy your identification documents but must not keep any identification data or documents, which are thus forwarded to the operator's central computer system.

#### **4.3.3. Do I have to enter my PIN code?**

Upon electronic reading of the Belgian identity card the point of sale may ask you to enter that identity card's PIN code. If you are asked to do so but you do not want to do it, the point of sale may refuse to sell you the prepaid card or may sell you a non-activated prepaid card.

#### **4.4. Online identification and electronic signature by means of the electronic identity card**

You can identify yourself by connecting to an Internet application of the operator or by electronically signing a document of the operator. This method requires the use of the electronic identity card and the entry of a PIN code.

#### **4.5. Provider of an identification service**

Your operator can also identify you based on an account that already exists or that has to be created with a provider of an identification service for which your identity has already been verified. In other words: you identify yourself with a provider of an identification service, generally online, and the latter will provide your operator with your identification data. Before being able to provide his identification services, the provider of identification services has to have developed a similar application allowing access to a digital application by the government services and this similar application has to be approved by the Federal Public Service for Information and Communication Technology.

#### **4.6. Online payment transaction**

You can identify yourself by purchasing a prepaid card online or by recharging and paying with a debit or credit card, provided that the provider of payment services is subject to the Act of 11 January 1993 for the prevention of the use of the financial system for the purpose of money laundering and terrorism financing. In that case the regulation requires for a new identification to take place within 18 months following the payment transaction relating to the prepaid card.

#### **4.7. Product extension or migration**

If you have already subscribed to a product with the operator, for which you have been identified (you have for example a subscription) and you wish to buy a prepaid card or to switch to a postpaid formula, your operator should in principle be able to recover your identification data assembled in the context of the postpaid formula.

Your operator however has to ensure, one way or the other, that the person identified in the context of the postpaid formula is indeed the same person requesting the activation of the prepaid card (for instance by asking you to present an identity piece).

The method for renewal or migration of a product will not work if the operator has only identified a legal person in the case of a postpaid formula (your non-profit organisation, your company, etc.) and this legal person wishes to purchase prepaid cards. In that case the operator will have to identify the natural person who will request the activation of the prepaid cards within the legal person.

#### **4.8. Verification by the operator of the identification data communicated**

Certain operators allow you to identify yourself by communicating your identification data (at least your name, first name, date and place of birth, as well as your residence) through the communication channels he has provided for (e.g. via an online form). Following verification of those data your operator will send you your SIM card and activate it.

### **5. Risk of fraud, theft or loss**

#### **5.1. What type of fraud can I fall victim to?**

You should be extra careful with a third party who might try and pose as your operator, asking for your identification data and documents and causing you harm (abuse these data and documents, make a call to a number with a surcharge, etc.).

These are examples of questions that are (may be) unlawful:

- you are asked to provide a code (e.g. the PIN code of your identity card) or a password;
- you are contacted by telephone and the caller is asking you to provide your personal data;
- you are contacted by telephone or text message and the number is hidden or foreign;
- you are contacted (by telephone, by text message, on your voice mail, via e-mail, etc.) and you are invited to call back or send a text message to a foreign premium rate number or a number with a surcharge;
- you are asked to identify yourself according to a method that is not mentioned by your operator;
- you are invited to connect to an unsecure website ("http://" instead of "https://") or the domain name of which does not fall under an official site of your operator.

#### **5.2. What to do to avoid fraud?**

Stay on your guard and never send your personal data if you are not sure that your conversation partner is indeed your operator or a person acting on behalf of the latter, such as a point of sale. In case of doubt, immediately contact your operator through one of the information channels you have at your disposal: his website, his telephone helpdesk or his official points of sale.

Be careful when you are asked for your PIN code and password. Ensure that the person/tool asking these data is indeed related to the operator and that this question is asked with the sole purpose of identifying the customer.

### **5.3. I have lost my prepaid card or it has been stolen. What do I have to do?**

You need to inform your operator as soon as possible (within 24 hours) of the theft or loss of this prepaid card. The operator will then deactivate your card.

## **6. Where can I get more information?**

### **6.1. Who can I turn to?**

For all additional questions we refer to the operator providing the electronic communications service through the prepaid card.

### **6.2. What are the references of the legislation in force?**

The new regulation comprises two regulatory texts, namely:

- the Act of 1/09/2016 amending Article 127 of the Act of 13 June 2005 on electronic communications and Article 16/2 of the Act of 30 November 1998 regulating the intelligence and safety services; and
- the Royal Decree of 27/11/2016 regarding the identification of the end-user of public mobile electronic communications services provided on the basis of a prepaid card.