



On the grounds of Article 6(1) indent 15 and of Article 7(1), (3) and (5) of the Government Emergency Ordinance no.134/2006 on the establishment of the National Regulatory Authority for Communications and Information Technology, as well as of Article 6(2) of the Government Ordinance no.31/2002 on postal services, approved with amendments and completions by Law no.642/2002, with the subsequent amendments and completions,

Having regard to the Order of the Minister of Communications and Information Technology no.225/2003 on the approval of the Policy and Strategy Paper on the Universal Service Implementation in the Postal Services Sector,

**THE PRESIDENT OF THE NATIONAL REGULATORY AUTHORITY FOR
COMMUNICATIONS AND INFORMATION TECHNOLOGY**

issues the present:

DECISION

**on the conditions and procedure for the designation of the universal service
provider in the field of postal services**

CHAPTER I – General provisions

Art.1. – (1) The present decision establishes the conditions and the procedure for the designation of the postal services provider as universal service providers, in compliance with the Government Ordinance no.31/2002 on postal services, approved with amendments and completions by Law no.642/2002, with the subsequent amendments and completions, hereinafter referred to as the *Government Ordinance no.31/2002*.

(2) Within the text of the present decision the relevant definitions in Article 2 of the Government Ordinance no.31/2002 and in indent 1.1 under Annex 1 to the

Decision of the President of the National Regulatory Authority for Communications and Information Technology no.2858/2007 on the general authorisation regime for the provision of postal services.

Art.2. – Any provider of postal services authorised to provide the services included within the scope of the universal service it shall be designated to provide, under the conditions of the general authorisation regime, which ensures the compliance of the conditions provided in the Government Ordinance no.31/2002, may be designated as universal service provider.

Art.3. – (1) The National Regulatory Authority for Communications and Information Technology, hereinafter referred to as *ANRCTI*, shall designate, upon request or ex officio, a postal services provider as universal service provider in the postal services field for one or several services included within the scope of universal service, as defined in the Government Ordinance no.31/2002 and in the secondary legislation of ANRCTI.

(2) The universal service providers shall be designated for maximum 5 years.

(3) In the enforcement of the provisions under the present decision, ANRCTI shall pursue the objectives provided in Article 49(1) of the Government Ordinance no.31/2002 and shall act in view of limiting the possible negative effects triggered by the provision of services within the scope of universal service over the competition, as well as of ensuring the protection of end-users' interests, observing the provisions of the Order of the Minister of Communications and Information Technology no.225/2003 on the approval of the Policy and Strategy Paper on the Universal Service Implementation in the Postal Services Sector.

CHAPTER II – Designation upon request

Art.4. – (1) Any provider of postal services within the scope of universal service which intends to be designated as universal service provider shall send to

ANRCTI headquarters or to its territorial branches a request notifying its intention, under the form provided in the annex which is part of the present decision.

(2) The term in which the postal services providers may send the request under paragraph (1) is 30 days from the date ANRCTI publishes an announcement, on its own website and at least in one significant newspaper, on its intention to designate one or several providers of postal services within the scope of universal service as universal service providers.

(3) The announcement under paragraph (2) shall include at least the services included within the scope of universal service for which the designation of the universal service providers and the designation period is intended.

(4) The request shall be sent together with the other documents necessary only as follows:

a) personally or through a representative, upon signature;

b) by mail;

c) in electronic format, having included, attached or logically associated an extended electronic signature based upon a qualified certificate that has not been invalidated or revoked at the respective moment, generated using a secured device for creating electronic signature.

(5) The date the notification was registered with the general registry of ANRCTI correspondence reception-sending, the date of confirmation of receiving the document at ANRCTI headquarters through mail with confirmation of the receipt or the date of confirming the receipt of the electronic form shall be considered the sending date, as the case may be.

Art.5. – (1) The request for the designation as universal service provider shall include the following information:

a) the applicant's identification data;

b) the services within the scope of universal service for which the designation is required.

(2) The following documents, which are part of the designation request, shall

be annexed to the request for the designation as a universal service provider:

a) ascertaining certificate issued by the National Office of the Trade Registry certifying that no procedure of voluntary or judicial dissolving, as well as that no dissolving procedure following bankruptcy or judicial reorganisation has been initiated;

b) copies of the annual financial statements for the past 3 years or for the whole period since the establishment of the company, should it be shorter than 3 years, as submitted to the competent bodies these are registered with, according to the legislation in force;

c) detailed description of the technological, material and human means by which the applicant guarantees, for the provision of the postal services within the scope of universal service for which the designation is required, the compliance with the requirements provided in Articles 7 to 10 of the Government Ordinance no.31/2002;

d) detailed description of the quality requirements whose fulfilment is guaranteed by the applicant, as well as a description of the technologies used and of the measures required for the fulfilment of the respective requirements;

e) financial proposal together with the justification for the occurring losses triggered by the provision of services within the scope of universal service for which designation is required, as well as the measures proposed by the applicant with a view to covering the respective losses;

f) a list of the locations of all the access and contact points in the postal network operated by the applicant or by other providers of postal services with whom the applicant concluded contracts within this purpose, which the applicant guarantees to use with a view to providing the postal services within the scope of universal service for which the designation is required.

(3) The information under paragraph (2) letter d) shall include, for example, the norms for the distribution of the postal items subject of the postal services within the scope of universal service for which designation is required, the annual number of grounded complaints regarding the postal items, accused of being not-delivered, delivered in a non-corresponding state, which are object of the provision of postal services for which designation is required, and the annual number of grounded

complaints regarding the attitude of the provider's employees to the users of postal services within the scope of universal service for which designation is required.

Art.6. – (1) Within 15 days from the date the announcement under Article 4(2) is published, the President of ANRCTI shall establish, by decision, an evaluation commission with a view to analysing the applications for the designation as universal service provider.

(2) The evaluation commission provided under paragraph (1) shall consist of specialists in the economic, technical and legal fields and shall have the following attributions:

a) checking the fulfilment of the formal conditions of the applications for the designation as a universal service provider, as provided under Article 5;

b) checking the fulfilment of the eligibility conditions and of the capacity of the applicant to comply with the obligations on the provision of services within the scope of universal service, provided in the Government Ordinance no.31/2002, as well as of the applicant's financial proposal;

c) drawing up the draft decision for the designation as a universal service provider.

(3) The evaluation commission may require the applicants any documents, additional information or explanations, as required for solving the applications, also indicating the term within which these documents shall be submitted.

Art.7. – In view of establishing the winning offer, the evaluation commission shall consider the following:

a) coverage degree of the national territory guaranteed by the applicants, including the density of the access and contact points in the postal networks operated by them or by other providers of postal services with whom the providers concluded contracts within this purpose;

b) previous experience in providing the postal services within the scope of universal service for which the designation was required or of other postal services;

- c) technical, economic and financial capacity of the applicants;
- d) capacity to ensure an even level of the tariffs for the services within the scope of the universal service over the whole national territory;
- e) net cost associated to the provision of postal services within the scope of universal service for which designation is required;
- f) other relevant data provided by the applicants.

Art.8. – The evaluation commission may reject a request for the designation as a universal service provider in the following cases:

- a) the request for the designation as a universal service provider does not fulfil the formal conditions under Article 5;
- b) the request for the designation as a universal service provider has not been submitted within the term provided in Article 4(2);
- c) the documents, additional information and explanations required by the evaluation commission with a view to settle the requests for the designation as a universal service provider have not been submitted within the term indicated by the evaluation commission according to Article 6(3);
- d) the applicant does not fulfil the eligibility conditions or does not make the proof of the capacity to comply with the obligations on the provision of services within the scope of universal service, provided in the Government Ordinance no.31/2002.

Art.9. – (1) The term for the solving of the requests for the designation as a universal service provider is 120 days from the date the announcement under Article 4(2) is published.

(2) If, according to the provisions of Article 6(3), an applicant is required documents, additional information or explanations, the term under paragraph (1) shall be suspended until their receipt or until the expiry of the submission term established by the evaluation commission.

CHAPTER III – Designation ex officio

Art.10. – ANRCTI shall be able to designate ex officio the universal service providers in the following cases:

a) if no provider of postal services within the scope of universal service submitted a request for the designation as a universal service provider within the term provided in Article 4(2);

b) if none of the providers of postal services within the scope of universal service which submitted a request for the designation as a universal service provider within term provided in Article 4(2) was designated as a universal service provider following the procedure under Chapter II;

c) if, following the procedure under Chapter II, no provider was designated as a universal service provider for all the postal services within the scope of universal service for which ANRCTI intended to designate universal service providers.

Art.11. – (1) The designation ex officio is performed by the Decision of the President of ANRCTI, based on the proposals of the evaluation commission provided in Article 6, complying with the consultation procedure under Article 50 of the Government Emergency Ordinance no.79/2002 on the general regulatory framework for communications, approved with amendments and completions by Law no.591/2002, with the subsequent amendments and completions.

(2) The evaluation commission proposes the designation of a universal service provider based on one or several criteria provided in Article 7, as well as, if case requires, based on other relevant criteria, observing the principles of efficiency, objectivity, transparency and non-discrimination.

(3) The proposals of the evaluation commission shall mention the provider of postal services within the scope of universal service proposed to be designated as a universal service provider, the services within the scope of universal services for which designation is proposed, the reasons for which the designation ex officio is necessary, as well as the other data to be included in the designation decision.

CHAPTER IV – The Decision of Designation as a Universal Service Provider

Art.12. – (1) The decision of designation as a universal service provider grants the universal service provider specific rights and obligations, additional to those under the general authorisation regime.

(2) The decision of designation of the universal service provider shall include at least the following information:

- a) the services for which the universal service provider was designated;
- b) the designation period;
- c) the of right priority access to customs points and to customs offices;
- d) the right to install, maintain, replace and remove, cost free, postal packages in/on the immovables which are public property of the state or of its administrative-territorial bodies;
- e) the right to function in international relationships as a universal service provider and to conclude operational agreements under this quality;
- f) the right to use the specific international forms, provided in the international agreements in which Romania is a party;
- g) the right to benefit from the amounts or advantages of any other nature to which it is entitled on grounds of any mechanism for the compensation of the costs incurred by the provision of postal services within the scope of universal service, under the conditions established by the Law and by ANRCTI;
- h) the obligation to ensure at least one collection from each access point and at least one delivery to the address of each natural person and to the headquarters of each legal person, every working day, not less than 5 days a week, excepting the cases or the geographical conditions deemed exceptional by ANRC, in each locality where it provides the services within the scope of universal service which it has the obligation to provide;
- i) the obligations to comply with the essential requirements of non-discrimination, of continuously providing the services for which it was designated, except for the cases of force majeure, and of development;

j) the obligation to publish the information on the characteristics of the services within the scope of universal service for which it was designated;

k) the obligation to ensure access to the public postal network it operates for the users, under transparency, objectivity and non-discrimination procedures, as well as, as the case may be, the obligation to ensure access to the public postal network it operates for other providers;

l) the obligation to charge affordable, transparent, non-discriminatory and cost-oriented tariffs for the services within the scope of universal services for which it was designated as a universal service provider;

m) the obligation to submit ANRCTI for approval the tariffs charged for the postal services within the scope of universal service for which it was designated as universal service provider, as well as to publish these tariffs;

n) the obligation to observe the principles provided in the Government Ordinance no.31/2002 when concluding the agreements on the terminal payments for the intercommunity postal items sent from the territory of a Member State of the European Union to an address located on Romania's territory;

o) obligations on keeping separate accounts;

p) obligations on the regulations applicable to the postal services within the scope of universal service for which it was designated;

q) the quality standards the universal service provider is obliged to observe;

r) obligations on submitting to ANRCTI for approval the frame-agreement, based on which the universal service provider operates in relationships with its users;

s) other relevant rights and obligations regarding the provision of postal services within the scope of universal service for which it was designated as a universal service provider.

CHAPTER V – Special provisions

Art.13. – The capacity of universal service provider may be withdrawn by the Decision of the president of ANRCTI, in the following cases:

a) if the universal service provider seriously and repeatedly breached the obligations, conditions, standards, regulations, procedures and terms set out in the designation procedure;

b) if the universal service provider was withdrawn the right to provide postal services within the scope of universal service under the conditions provided in the general authorisation.

Art.14. – The capacity of universal service provider shall cease in the following cases:

a) upon the dissolving of the universal service provider, except for the cases of fusion or division within which the provision of postal services within the scope of universal service for which it was designate is transferred to other persons;

b) following the initiation of the procedure of the insolvency procedure, according to Law no.85/2006 on the insolvency procedure, with the subsequent amendments;

c) upon the expiry date of the designation period;

d) following the withdrawal of this quality by ANRCTI under the conditions provided in Article 13.

(2) As regards the fusion and division procedures provided in paragraph (1) letter a), the person taking over the activity of provision of postal services within the scope of universal service for which the universal service provider was designated shall have the obligations and rights established by the decision for the designation as universal service provider.

Art.15. – (1) The present decision shall be published in the Romanian Official Journal, Part I, and shall entry into force within 3 days from its publication date.

(2) By the date the present decision comes into force, the Decision of the President of the National Regulatory Authority for Communications no.1351/2003 on the conditions and procedure for the designation of the universal service providers in

the field of postal services, published in the Romanian Official Journal, Part I, no.885 of December 12, 2003, shall be repealed.

**f. PRESIDENT OF THE NATIONAL REGULATORY AUTHORITY FOR
COMMUNICATIONS AND INFORMATION TECHNOLOGY,**

ALEXANDRINA-LUMINITA HIRTAN

Bucharest, December 19, 2007

No.3442

Name:

First name:

Telephone:

Fax:

E-mail:

B. Description of the postal services the requester intends to provide as universal service provider:

B.1. Clearance, sorting, transport and delivery of domestic and cross-boarder postal items up to 2 kg:

B.1.1 items of correspondence:

B.1.1.1. domestic

B.1.1.2. cross-boarder

B.1.2. printed matter:

B.1.2.1. domestic

B.1.2.2. cross-boarder

B.1.3. direct mail:

B.1.3.1. domestic

B.1.3.2. cross-boarder

B.2. Clearance, sorting, transport and delivery of postal parcels up to 10 kg:

B.2.1. domestic

B.2.2. cross-boarder

B.3. distribution of postal parcels up to between 10 and 20 kg sent from outside Romania to an address located on its territory

B.4. advice o delivery service, subject to:

B.4.1. postal items up to 2 kg:

B.4.1.1. domestic

B.4.1.2. cross-boarder

B.4.2. postal parcels up to 10 kg:

B.4.2.1. domestic

B.4.2.2. cross-boarder

B.4.3. postal parcels up to between 10 and 20 kg sent from outside Romania to an address located on its territory

B.5. declared value service, subject to:

B.5.1. postal items up to 2 kg:

B.5.1.1. domestic

B.5.1.2. cross-boarder

B.5.2. postal parcels up to 10 kg:

B.5.2.1. domestic

- B.5.2.2. cross-boarder
- B.5.3. postal parcels up to between 10 and 20 kg sent from outside Romania to an address located on its territory

B. The requester annexes to the present designation request the following information and documents:

- ascertaining certificate issued by the National Office of the Trade Registry certifying that no procedure of voluntary or judicial dissolving, as well as that no dissolving procedure following bankruptcy or judicial reorganisation has been initiated;
- copies of the annual financial statements for the past 3 years or for the whole period since the establishment of the company, should it be shorter than 3 years, as submitted to the competent bodies these are registered with, according to the legislation in force;
- detailed description of the technological, material and human means by which the applicant guarantees, for the provision of the postal services within the scope of universal service for which the designation is required, the compliance with the requirements provided in Articles 7 to 10 of the Government Ordinance no.31/2002 on postal services, approved with amendments and completions by law no.642/2002, with the subsequent amendments and completions;
- detailed description of the quality requirements whose fulfilment is guaranteed by the applicant, as well as a description of the technologies used and of the measures required for the fulfilment of the respective requirements (for example, the distribution norms of the postal items subject to the postal services within the scope of universal service for designation is required, the annual number of grounded complaints regarding the postal items, accused of being not-delivered, delivered in a non-corresponding state, which are object of the provision of postal services for which designation is required, and the annual number of grounded complaints regarding the attitude of the provider's employees to the users of postal services within the scope of universal service for which designation is required etc.);
- financial proposal together with the justification for the occurring losses triggered by the provision of services within the scope of universal service for which designation is required, as well as the measures proposed by the applicant with a view to covering the respective losses;
- a list of the locations of all the access and contact points in the postal network operated by the applicant or by other providers of postal services with whom the applicant concluded contracts within this purpose, which the applicant guarantees to use with a view to providing the postal services within the scope of universal service

for which the designation is required.

D. The undersigned,, legal representative of the requester, declare on my own responsibility, fully aware of the provisions under Article 292 of the Penal Code on false statements, that all the data and information within the present requests and enclosed documents are accurate and comprehensive.

Signature of the legal representative and seal of the requester

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