

On grounds of the provisions under Article 7 paragraphs (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, under Article 48⁸ of the Government Emergency Ordinance no.79/2002 on the regulatory framework for communications, approved with amendments and completions by Law no.591/2002, with the subsequent amendments and completions, as well as under Article 13 paragraph (2) of Law no.304/2003 on the universal service and users' rights relating to the electronic communications networks and services, with the subsequent amendments and completions,

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

issues the following:

DECISION

**on the procedure of establishing certain financial obligations owed by the
providers of electronic communications networks and services and by the
providers of postal services to the National Regulatory Authority for
Communications and Information Technology**

Art. 1. – The present decision aims to:

a) establish for the providers of electronic communications networks or services and the providers of postal services the procedure of exercising the right to choose the manner in which to be determined the monitoring tariff, depending on the revenues achieved from the provision of electronic communications networks or services or from the provision of postal services;

b) establish the procedure of exercising the right to choose of the providers of electronic communications networks or services in view of determining the contribution for the compensation of the net cost implied by the provision of services within the scope of

universal service depending on certain revenues from the field of electronic communications;

c) establish the rules for keeping the separate accounts by the providers of electronic communications networks or services and the providers of postal services, in view of determining the financial obligations towards the National Regulatory Authority for Communications and Information Technology, hereinafter referred to as ANRCTI, on another basis of calculation instead of the turnover;

d) establish the rules for determining the providers of electronic communications networks or services and the providers of postal services who have the obligation to pay the monitoring tariff.

Art. 2. – (1) For the purposes of the present decision, revenues achieved from the provision of electronic communications networks or services refer to the following types of revenues:

A. revenues achieved from the provision of electronic communications networks or services to end-users:

a) revenues achieved from the provision of telephone services;

b) revenues achieved from the provision of data transmission services and Internet access services;

c) revenues achieved from the provision of leased lines services;

d) revenues achieved from the provision of transmission of of audiovisual service programmes;

e) other revenues achieved from the provision of electronic communications networks or services;

B. revenues achieved from the provision of electronic communications networks or services towards other providers of electronic communications networks or services:

a) revenues achieved from the provision of interconnection services (including interconnection for the purpose of providing data transmission services and Internet access services);

b) revenues achieved from the provision of roaming services;

c) revenues achieved from the provision of leased lines services;

d) revenues achieved from the provision of other access services;

e) other revenues achieved from the provision of electronic communications networks or services.

(2) For the purposes of the present decision, revenues achieved from the provision of postal services include the following types of revenues:

A. revenues achieved from the provision of postal services within the scope of universal service, which include the revenues achieved from the provision of the following services:

a) clearance, sorting, transport and delivery of domestic and cross-border postal items (items of correspondence, printed matter and direct mail) up to 2 kg;

b) clearance, sorting, transport and delivery of domestic and cross-border postal items up to 10 kg;

c) distribution of postal parcels between 10 to 20 kg, sent from outside Romania's territory towards an address located in Romania;

d) service for registered items subject to:

- domestic and cross-boarder postal items up to 2 kg;

- domestic and cross-boarder postal parcels up to 10 kg;

- postal parcels between 10 to 20 kg, sent from outside Romania's territory to an address located in Romania;

e) service for insured items subject to:

- domestic and cross-boarder postal items up to 2 kg;

- domestic and cross-boarder postal parcels up to 10 kg;

- postal parcels between 10 to 20 kg, sent from outside Romania to an address located in Romania.

B. revenues achieved from the provision of postal services outside the scope of universal service, which include the provision of the following services:

a) services subject to domestic and cross-boarder postal items (items of correspondence, printed matter and direct mail) exceeding 2 kg;

b) services domestic postal parcels between 10 to 50 kg;

c) services subject to postal parcels between 10 to 50 kg, sent from outside Romania's territory to an address located in Romania;

d) services subject to postal parcels between 20 to 50 kg sent from outside Romania to an address located in its territory;

e) services presenting supplementary characteristics to the postal services included in the scope of universal service:

- Cash-on-delivery service;

- Change of destination service;

- Special delivery service;
- Advice of delivery service;
- Express service;
- f) Document exchange service.

(3) For the purposes of the present decision the definitions under the primary legislation in the fields of electronic communications and postal services and the relevant decisions issued by the President of ANRCTI shall also apply.

Art. 3. – (1) The providers of electronic communications networks or services and the providers of postal services shall have the right to choose the manner for determining the annual monitoring tariff whether based on the turnover or on the revenues achieved exclusively from the provision of electronic communications networks or services or of postal services, as the case may be.

(2) The providers of electronic communications networks or services shall have the right to choose whether to be taken into consideration the turnover or the revenues exclusively achieved from the provision of electronic communications networks or services in view of determining the existence of the obligation to pay the contribution for the compensation of the net cost of the provision of services within the scope of universal service, as well for determining its amount.

(3) In order to establish its amount, the providers obliged to pay the contribution for the compensation of the net cost implied by the provision of services within the scope of universal service shall have the right to choose that the revenues achieved from the transmission of audiovisual service programmes be diminished from the calculation basis, as well as the revenues achieved from the provision of interconnection services and roaming services.

(4) The providers shall exercise the right of option under paragraphs (1) to (3) by necessarily filling in the standard-form "Option on the manner to determine the financial obligations towards the National Regulatory Authority for Communications and Information Technology" under Annex no.1, which is to be sent to ANRCTI together with the annual financial statements, within the terms provided under Article 48⁶ 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, no later than July 15.

(5) The option communicated to ANRCTI shall apply during the year for which it was expressed, as well as during the following years, until expressing another option, under the terms established by paragraph (4).

(6) Failure to exercise the right of option under paragraphs (1) to (3) under the terms established by paragraph (4) shall lead to:

a) determining the financial obligations due to ANRCTI in terms of turnover;

b) determining the financial obligations due to ANRCTI according to the option expressed by the providers of electronic communications networks or services and the providers of postal services who exercised the right of option under paragraphs (1) to (3) by the date the present decision came into force.

Art. 4. – (1) As regards the persons who did not have the capacity of a provider for the whole calendar year, the monitoring tariff shall be calculated as a percentage of the turnover achieved during the months of the year prior to that for which the monitoring tariff is due and during which these persons have had the capacity of a provider.

(2) In order to determine the monitoring tariff, the persons mentioned under paragraph (1) shall send ANRCTI a report on the turnover achieved during the months of the year prior to that for which the monitoring tariff is due and during which these persons have had the capacity of a provider, by taking into consideration including the month when they gained such capacity, together with the synthetic balance sheets drawn up for the respective period, in the case of the providers – legal persons, or with copies of the statements drawn for the respective period according to the fiscal legislation, for the providers authorized to independently carry out certain economic activities, as natural persons or in family partnerships.

(3) Failure to send ANRCTI the documents under paragraph (2) shall effect in determining the financial obligations due to ANRCTI in terms of the turnover achieved during the entire previous year.

Art. 5. – (1) With a view to determine the financial obligations due to ANRCTI on another basis of calculation instead of the turnover, the providers of electronic communications networks or services and the providers of postal services – legal persons shall register within the accounting statements on the revenues achieved from the provision of electronic communications networks or services or from the provision of postal services according to the accounting regulations into force, based on the invoices

certifying the provision of the respective services, as well as the revenues from such activities achieved in the same period, for which invoices have not been issued yet, according to the development of the class of accounts entitled "Revenues" on analytical accounts, according to the categories of revenues set out in the standard-form entitled "Statement on the revenues achieved from the provision of electronic communications networks or services and/or from the provision of postal services", under Annex no.2.

(2) The symbols of the analytical accounts within the Statement on the revenues achieved from the provision of electronic communications networks or services and/or from the provision of postal services shall be the same with the symbols within the accounting statements of each provider specified under paragraph (1).

(3) The amounts under the credit of the analytical accounts of the "Revenues" class accounts shall be registered at the end of each month in a monthly report on the revenues achieved from the provision of electronic communications networks or services and/or provision of postal services, similar to the sales register drawn according to the regulations in force, that shall exclusively include the revenues achieved from the provision of electronic communications networks or services and/or provision of postal services.

(4) At the end of the year, based on the total amounts within the monthly statements under paragraph (3), the standard-form entitled "Centralizing of the monthly statements on the revenues achieved from the provision of electronic communications networks or services and/or from the provision of postal services " under Annex no.3 shall be prepared.

(5) The providers of electronic communications networks or services and the providers of postal services shall draw up and sent ANRCTI, together with the annual financial statements, the Statement on the revenues achieved from the provision of electronic communications networks or services and/or from the provision of postal services and the Centralizing of the monthly statements on the revenues achieved from the provision of electronic communications networks or services and/or from the provision of postal services within 5 days from the expiry date of the legal term provided for the submission of the annual financial statements to the competent bodies, according to the legislation in force.

(6) Failure to transmit the Statement on the revenues achieved from the provision of electronic communications networks or services and/or from the provision of postal services and the Centralizing of the monthly statements on the revenues achieved from the provision of electronic communications networks or services and/or from the provision

of postal services shall effect in the determination of the financial obligations due to ANRCTI in terms of turnover.

Art. 6. – (1) In view of determining the financial obligations towards ANRCTI in relation to another calculation basis instead of the turnover, the providers of electronic communications services and the providers of postal services authorised to independently carry out economic activities, as natural persons or in family partnerships, shall keep a separate record of the revenues achieved from the provision of electronic communications networks or services or the provision of postal services, according to the types of revenues established in the standard-form “Statement on the revenues achieved from the provision of electronic communications networks or services and/or from the provision of postal services ”, under Annex no.2.

(2) On the basis of the separate records provided in paragraph (1), the providers under paragraph (1) shall draw up and send ANRCTI the Statement on the revenues achieved from the provision of electronic communications networks or services and/or provision postal services and the Centralizing of the monthly statements on the revenues achieved from the provision of electronic communications networks or services and/or from the provision of postal services , together with the annual financial statements on the gross revenues achieved, as specified under the fiscal legislation, within 5 days from the expiry date of the legal term for the submission of the annual financial statements to the competent bodies they are registered with, according to the legislation in force.

Art. 7. – (1) The Statement on the revenues achieved from the provision of electronic communications networks or services and/or from the provision of postal services and the Centralizing of the monthly statements on the revenues achieved from the provision of electronic communications networks or services and/or from the provision of postal services shall be submitted to the certification of a financial auditor, authorised under the law, within a special purpose mission or when auditing the annual financial statements.

(2) Documents under paragraph (1) are considered audited if one of the following conditions is met:

- a) they are certified by the signature and seal of an authorised financial auditor;
- b) there is a report of the auditor where he expresses an opinion and makes direct reference to the documents under paragraph (1) and to the amounts within these

documents, prior elaborated by the provider, even if these are not certified by the signature and seal of the authorised financial auditor.

(3) Documents under paragraph (1) shall not be taken into consideration for the determination of the financial obligations towards ANRCTI in relation to other calculation basis than the turnover, in the following cases:

a) they are certified by the signature and seal of another person than the authorised financial auditor;

b) they are not certified by the signature and seal of an authorised financial auditor and there is no report of the auditor where he expresses his opinion and makes direct reference to the documents under paragraph (1) and to the amounts within these documents, prior elaborated by the provider;

c) they are not certified by the signature and seal of an authorised auditor and there is an auditor's report where he expresses a contrary opinion or does not express any opinion or specifies that he is in the impossibility to express an opinion relating to the documents under paragraph (1).

(4) Documents under paragraph (1) have effects exclusively on the determination of the financial obligations towards ANRCTI.

(5) Failure to submit the Statement on the revenues achieved from the provision of electronic communications networks or services and/or from the provision of postal services and the Centralizing of the monthly statements on the revenues achieved from the provision of electronic communications networks or services and/or from the provision of postal services or their submission under the terms specified in paragraph (3) leads to the determination of the financial obligations towards ANRCTI based on the turnover.

Art. 8. – (1) ANRCTI shall determine the obligation to pay the monitoring tariff due upon the cessation of activity in the fields of electronic communications or postal services, as follows:

a) upon the cessation of the capacity of a provider, regardless of the form of this cessation, the provider of electronic communications networks or services or the provider of postal services have the obligation to send ANRCTI a report on the revenues achieved during the year or months of the year prior to cessation, including the month when they gained the capacity of a provider, as well as the turnover achieved in the months of the year during which this capacity ceased, excluding the month the capacity of a provider terminated, accompanied by copies of the synthetic balance sheets drawn up for the

respective period, for the providers-legal persons, or by copies of the statements prepared for the respective period according to the fiscal legislation, for the providers authorized to independently carry out economic activities, as natural persons or in family partnerships;

b) the providers whose capacity ceases in the same year when the capacity was gained shall send to ANRCTI the report on the turnover achieved during that year, including during the month they gained the capacity of a provider and excluding the month when the capacity terminated, under the terms specified in letter a).

(2) The provider submits to ANRCTI the documents under paragraph (1) together with the request of renouncement at the right to provide all the types of electronic communications networks or services or postal services it was authorized to provide. Should the capacity as a provider cease following the sanction of withdrawal of the right to provide electronic communications networks or services or postal services under the general authorisation regime, the person whom was withdrawn the right has the obligation to transmit the documents under paragraph (1) within 30 days from the communication date of the sanctioning decision.

(3) Failure to send ANRCTI the documents under paragraph (1) shall determine ANRCTI to impose on these persons the obligation to pay the monitoring tariff as if the capacity of a provider would not have ceased.

(4) In view of establishing the obligation to pay the monitoring tariff due when the capacity as a provider terminates in relation to another calculation basis than the turnover, the providers under Article 5 paragraph (1) and Article 6 paragraph (1) shall send ANRCTI, together with the request for the renouncement at the right to provide all the types of electronic communications networks or services or postal services they were authorized to provide, the Statement on the revenues achieved from the provision of electronic communications networks or services and/or from the provision of postal services and the Centralizing of the monthly statements on the revenues achieved from the provision of electronic communications networks or services and/or from the provision of postal services , drawn up and certified according to the provisions of the present decision, distinctively, both for the period of the previous year during which they had the capacity of providers and for the period of the year during which such capacity terminated, under the terms provided in paragraph (1) letters a) or b), as the case may be.

Art. 9. – (1) The providers of electronic communications networks or services and/or postal services that register during a financial yearbook a turnover equivalent in

RON up to EUR 100,000, at the average exchange rate of the period when the turnover was achieved, calculated based on the monthly average exchange rate communicated by the Romanian National Bank, are not obliged to pay the monitoring tariff.

(2) The persons who did not have the capacity of a provider for a whole calendar year have the obligation to pay the monitoring tariff if the turnover registered during the months of the year prior to that for which the monitoring tariff is due and during which these persons have had the capacity of a provider exceeds the amount provided under paragraph (1).

(3) The persons whose capacity of a provider of electronic communications networks or services or provider of postal services ceases before the setting out of the annual monitoring tariff have the obligation to pay the monitoring tariff due at the cessation of the activity, as follows:

a) in case the turnover achieved during the year or months of the year prior to cessation, when they had the capacity of a provider, as well as if the turnover achieved during the months they had such capacity in the year during which the capacity terminates exceed the amount provided under paragraph (1), the providers have the obligation to pay the monitoring tariff, and the amount of the tariff is established based on the two cumulated turnovers;

b) in case only one of the turnovers under letter a) exceeds the amount provided under paragraph (1), the providers have the obligation to pay the monitoring tariff, and the amount of the tariff is exclusively established in relation to the turnover provided under letter a) which exceeds the amount under paragraph (1);

c) in case none of the turnovers under letter a) exceeds the amount provided in paragraph (1), the providers do not have the obligation to pay the monitoring tariff.

(4) The persons whose capacity of a provider of electronic communications networks or services or postal services terminates after the setting out of the annual monitoring tariff, in addition to this tariff, they shall pay a supplementary tariff, if the turnover achieved during the months of the year during which they had such capacity exceeds the amount under paragraph (1).

(5) The provisions under paragraphs (1) to (4) shall apply to the providers that chose that their financial obligations towards ANRCTI be established on another calculation basis instead of the turnover, in the event the documents sent to ANRCTI under the terms established by the present decision reveal that the total revenues achieved from the provision of electronic communications networks or services or from

the provision of postal services during the reference period do not exceed the amount under paragraph (1).

Art. 10. – (1) ANRCTI may subsequently check the accounting statements of the providers of electronic communications networks or services and of the postal services providers under the terms set out by the Government Ordinance no.92/2003 on the Fiscal procedure code, republished, in view of verifying the accurateness of the data included under the documents provided in the present decision, and sent to ANRCTI.

(2) The personnel authorized to perform the control under paragraph (1) shall be established by the Decision of the President of ANRCTI.

Art.11. – The annual financial statements drawn up by the providers of electronic communications networks or services and by the postal services providers – legal persons, as well as the annual financial statements drawn up by the providers of electronic communications networks or services and the postal services providers authorized to independently carry out economic activities as natural persons or in family partnerships, sent to ANRCTI under the terms provided under Article 48⁶ of the Government Emergency Ordinance no.79/2002 shall be accompanied by the proof of their submission to the competent bodies they are registered with, according to the legislation in force.

Art.12. – (1) Annexes no. 1 to 3 are parts of the present decision.

(2) The standard-forms under annexes no.1 to 3 can be purchased from ANRCTI's headquarters or from any of its territorial branches or from ANRCTI website.

(3) The documents may be forwarded to ANRCTI headquarters or to the territorial offices in the area where the providers of electronic communications networks or services and the postal services providers are domicile or headquarters are located, 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.

Art.13. – (1) The present decision shall be published in the Romanian Official Journal, Part I.

(2) With the entry into force of the present decision, the Decision of the President of the National Regulatory for Communications no.113/2006 on the procedure of exercising the right of making a choice with a view to determining the financial obligations to the National Regulatory Authority for Communications and conducting separated accounts by the providers of electronic communications networks and services and by the providers of postal services, published in the Romanian Official Journal, Part I, no.305 of April 5, 2006 shall be repealed.

Bucharest, August 14, 2007

No.2892

ANNEX No.1

**OPTION ON THE MODALITY TO DETERMINE THE FINANCIAL OBLIGATION TOWARDS
THE NATIONAL REGULATORY AUTHORITY FOR COMMUNICATIONS AND
INFORMATION TECHNOLOGY**

1. Provider's identification data:

1.1. Company's name / name:

.....

1.2. Headquarters / domicile:

1.3. Fiscal identification code:

2. Monitoring tariff

We choose that the annual monitoring tariff be established based on the*:

- a) turnover
- b) revenues achieved from the provision of electronic communications networks or services or from the provision of postal services

3. Contribution for the compensation of the net cost of the provision of services within the scope of universal service

3.1. We choose that the contribution for the compensation of the net cost of the provision of services within the scope of universal service be established based on the*:

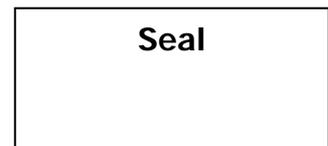
- a) turnover
- b) revenues achieved from the provision of electronic communications networks or services

3.2. We choose that the following types of revenues be diminished from the calculation basis under indent 3.1.*:

- a) revenues achieved from the provision of interconnection services
- b) revenues achieved from roaming services
- c) revenues achieved from the provision of transmissions of audiovisual service programmes

4. Clear name, signature of the legal representative and seal

.....



* you will mark with "X" the variant you chose

ANNEX No.2

**STATEMENT
ON THE REVENUES ACHIEVED FROM THE PROVISION OF ELECTRONIC
COMMUNICATIONS NETWORKS OR SERVICES OR
FROM THE PROVISION OF POSTAL SERVICES**

Provider's identification data:

Company's name / name:

.....

Headquarters / domicile:

.....
Fiscal identification code:
.....

CRITERION NO.	REVENUE	SYMBOL OF ACCOUNT *	AMOUNT YEAR (RON)
1.	Revenues achieved from the provision of electronic communications networks or services		
1.1.	Revenues achieved from the provision of electronic communications networks or services towards end-users		
1.1.1.	Revenues achieved from the provision of telephone services		
1.1.2.	Revenues achieved from the provision of data transmission and Internet access services		
1.1.3.	Revenues achieved from the provision of leased lines services		
1.1.4.	Revenues achieved from the provision of transmission of audio-visual service programmes		
1.1.5.	Other revenues achieved from the provision of electronic communications networks or services		
1.2.	Revenues achieved from the provision of electronic communications networks or services towards other providers of electronic communications networks or services		
1.2.1.	Revenues achieved from the provision of interconnection services (including the interconnection for the provision of data transmissions and Internet access services)		
1.2.2.	Revenues achieved from the provision of roaming services		
1.2.3.	Revenues achieved from the provision of leased lines services		
1.2.4.	Revenues achieved from the provision of other access services		
1.2.5.	Other revenues achieved from the provision of electronic communications networks or services		
2.	Revenues achieved from the provision of postal services		
2.1.	Revenues achieved from the provision of postal services within the scope of universal service		
2.1.1.	Revenues achieved from the clearance, sorting, transport and delivery of domestic and cross-boarder postal items (items of correspondence, printed matter, direct mail) up to 2 kg		
2.1.2.	Revenues achieved from the clearance, sorting, transport and delivery of domestic and cross-boarder postal items up to 10 kg		
2.1.3.	Revenues achieved from the distribution of postal items up to 20 kg sent from outside Romania's territory towards an address located on its territory		
2.1.4.	Revenues achieved from the service for insured items subject to postal items up to 2 kg, postal parcels up to 10 kg, respectively postal parcels up to 20 kg sent from outside Romania's territory towards an address located on its territory		
2.1.5.	Revenues achieved from the service for registered items subject to postal items up to 2 kg, postal parcels up to 10 kg, respectively postal parcels up to 20 kg sent from outside Romania's territory towards an address located on its territory		

2.2.	Revenues achieved from the provision of postal services outside the scope of universal service		
2.2.1.	Revenues achieved from services subject to domestic and cross-boarder postal items up to 2 kg (items of correspondence, printed matter, direct mail)		
2.2.2.	Revenues achieved from services subject to domestic postal parcels between 10 and 50 kg		
2.2.3.	Revenues achieved from services subject to postal parcels between 10 and 50 kg sent from outside Romania's territory towards an address located on its territory		
2.2.4.	Revenues achieved from services subject to postal parcels between 20 and 50 kg sent from outside Romania's territory towards an address located on its territory		
2.2.5.	Revenues from Cash-on-delivery service		
2.2.6.	Revenues from Change of destination service		
2.2.7.	Revenues from Special delivery service		
2.2.8.	Revenues from Advice of delivery service		
2.2.9.	Revenues from Express service		
2.2.10.	Revenues from Document exchange service		
3.	General total revenues achieved from the provision of electronic communications networks or services and from the provision of postal services		
4.	Turnover		

Administrator (General Director)

Economic Director (Chief accountant)

Authorised natural person/representative family partnership

Financial auditor,

* Authorised natural persons and family partnerships shall not fill in the column with the symbols of accounts.

ANNEX No.3

CENTRALIZING
of the monthly statements on the revenues achieved from the provision of electronic communications networks or services and/or from the provision of postal services in (the year).....

Provider's identification data:

Company's name / name:

Headquarters / domicile:

Fiscal identification code:

CRITERION NO.	Report on the revenues achieved from the provision of electronic communications networks or services and/or achieved from the provision of postal services	AMOUNT (RON)*
1	January	
2	February	
3	March	
4	April	
5	May	
6	June	
7	July	
8	August	
9	September	
10	October	
11	November	
12	December	
13	General total revenues achieved from the provision of electronic communications networks or services and/or achieved from the provision of postal services	
14	Total turnover	
15	Share of the revenues from the provision of electronic communications networks or services and/or achieved from the provision of postal services within the total turnover	

Administrator (General Director)

Economic Director (Chief Accountant)

Authorised natural person/Representative family partnership

Financial auditor.....

*13 = total from row 1 until row 12.

14 = turnover achieved during the entire activity.

15 = (row 13/row 14) × 100.