

REASONS ON THE IDENTIFICATION OF RELEVANT WHOLESALE MARKETS IN THE ELECTRONIC COMMUNICATIONS SECTOR

Additional details

- It is one of ANRC objectives to encourage efficient investments in facilities, to promote innovations in the field, as well as to sustain the diversifying of services on the electronic communications market.
- As a rule, ANRC shall minimize the regulation of the new-formed markets, currently developing and with an accelerated dynamic, and shall focus on facilitating market development. ANRC shall take such regulatory measures designed to promote competition on these markets only when there are signs that the power market owned by the first providers entered on the market will prevent the future competition development.

3. The market of unconditioned access to the twisted metallic pairs local loop for the purpose of providing broadband data services and voice services

In order to delimitate the market of providing unconditioned access to the local loop, in accordance with criteria under part I of the „Regulation to identify the relevant markets in the electronic communications sector“ ANRC takes into account the following fragmentation:

- a) depending on data transmission network:
 - providing access to the twisted metallic pairs local loop;
 - providing access to the coaxial cable local loop;
 - providing access to the optic fiber local loop;
 - providing access to the radio local loop.
- b) depending on the bandwidth used:
 - providing access to broadband data services;
 - providing access to narrow band data services.

The retail market

Market of providing access to broadband data services

The increase of Internet use for a wide range of electronic communications services resulted in an accelerated increase of the market of access to data services at fixed locations.

The providing of broadband data services for final users consists in ensuring a transmission network from, as well as to, their locations and providing Internet access services.

At the present moment, the following services allow access to the Internet:

- dial-up service;
- ISDN service;
- access to the broadband data services using coaxial cable;
- access to broadband data services using xDSL lines;
- leased lines services (generally based on xDSL technology).

Final users will not (in most cases) substitute the access to broadband data services to the access to narrow band data services, mainly because there are applications that do not operate properly in case of reduced bandwidth. As a conclusion, we define a distinctive retail market for access to broadband data services.

Starting from the market of providing access to the narrow band services is defined the wholesale market of access to public fixed telephony networks.

The retail market of providing access to broadband data services is a new, fully developing market. For the purpose of facilitating the development of this market, ANRC intends to impose on corresponding wholesale markets certain measures in order to stimulate the offer of broadband data services to be diversified and increased.

The wholesale market

The market of providing the local loop, comprising unconditioned access to the twisted metallic pairs local loop, for the purpose of providing broadband data services and voice services.

For the provision of broadband data services at fixed location, the following facilities may be used: twisted metallic pairs local loop, optical fiber local loop, coaxial cable local loop, radio local loop, third generation mobile systems, satellite transmission systems or electric lines transmission systems.

At the present moment, considering the involved costs and technological limitations, the most efficient way to provide broadband data services is the unconditioned access to the twisted metallic pairs local loop.

For providing access to data services, a transmission channel able to convey data in both directions and at an appropriate transfer speed is necessary. In order to shortly offer access to data services on the retail market, a services provider shall purchase services for access to the local loop.

The radio local loop technology is limited by frequency, topography and other technical conditions, thus allowing a reduced number of connections. The coaxial cable local loop capable to offer access to broadband data services represents a yet underdeveloped, but growing technology, taking into account the possibility of network modernization. The twisted metallic pairs local loop is the most advantageous way of access to broadband data services, considering

the high degree of penetration and the technical and economical characteristics of the xDSL solutions.

In order to provide broadband data services to end users by means of the local loop, on wholesale markets the newly entered services providers need to have local leased lines or unconditioned access to the twisted metallic pairs local loop.

In certain cases, from a technical standpoint, the solution offered to the end user starting from each of the above options may turn to be the same. From an economical standpoint, however, at wholesale market level there are differences that impose the separation of the two kinds of services over distinctive markets:

Access to the local loop means:	Leased lines services means:
<ul style="list-style-type: none"> - additional costs (collocation fee, equipment acquisition, line administration costs); - a long period for line installation (information are necessary on the network point where the end user is connected; may appear problems regarding the implementation of legal provisions); - a high risk of not recovering the investments; - the necessity to access information on network parameters and quality; - possible disputes with the network provider. 	<ul style="list-style-type: none"> - a process of co-operation with the services provider; - reduced investments; - a minimum amount of information with respect to the network of the services provider.

The entrance on the wholesale market of providing access to data services is limited by large investments and by the long period of time necessary for the installation of a new network, especially with respect to twisted metallic pairs local loop.

In order to impose *ex-ante* regulatory measures that facilitate the development of the market of providing broadband data services, ANRC identifies a specific segment of the local loop, i.e. **the market of unconditioned access to the twisted metallic pairs local loop**, as relevant market.

The provision of access to the twisted metallic pairs local loop may represent the support for providing voice services. The above mentioned economic reasons lead to the conclusion that providing voice services by means of unconditioned access to the twisted metallic pairs local loop does not significantly represent a substitute for the provision of voice services based on

interconnection agreements. However, voice services may be offered in a package of services together with the broadband data services (and/or programs services). Therefore, voice services offered by means of unconditioned access to the twisted metallic pairs local loop may be considered adjacent to the broadband data services. Consequently, the provision of access to the local loop for providing voice services is included in the same market as the provision of access to the local loop for providing broadband data services.

The geographical market

Starting from the length of the network and the area where exclusive rights are granted, the geographical dimension of the market of providing twisted metallic pairs local loop is defined by the **national territory**.

On the relevant wholesale market defined above, the imposing by ANRC of specific obligations to the unique provider of twisted metallic pairs local loop can be justified based on the following additional criteria:

Existence of exclusive rights – there are exclusive rights granted to a sole provider until 31.12.2002 with respect to building, operating, modernizing and improving the fixed telecommunications network and to the associated facility, for the purpose of providing fixed telephony services;

Obstacles at market entrance – the entering on the market is limited by the existence of raised barriers (building a local loop needs major investments and long time intervals).

4. The market of providing leased lines at the local network level, comprising services for providing leased lines at local level.

The leased lines service is that electronic communications service provided through the public electronic communications network which offers permanent transmission capacity between two network points and does not allow the possibility of switching upon users' request.

From the standpoint of the operator who provides leased lines services on the retail market, these lines are divided in:

- *leased line – total circuit* – dedicated capacity for permanent transmission between two terminal points of the network that does not allow the possibility of switching upon users' request;
- *leased line – partial circuit* - a segment of the leased line – total circuit based on a link between a terminal point of the network and a network node;
- *leased line – dedicated capacity at transport network level* – a segment of the leased line – total circuit based on the link between two nodes of the network.

A leased lines market analysis starts with the following fragmentation criteria:

- a) depending on the length of the leased line:
 - leased lines at local network level;
 - leased lines at national network level (inter-county);
 - international leased lines.
- b) depending on the line support:
 - cable leased lines;
 - radio leased lines.
- c) depending on the capacity:
 - small capacity leased lines (inferior to 2 Mbs);
 - medium capacity leased lines (between 2Mbs and 34 Mbs);
 - large capacity leased lines (superior to 34 Mbs).

The retail market

The market of providing leased lines service

Substituting the request – on the retail market level, the end user can relatively easy substitute a cable leased line with leased radio line (and backwards) in case of small, significant and non-transitory price increase.

Substituting the offer – an operator who wishes to provide leased lines services must build a network or purchase leased line services from the respective wholesale market. The construction of a network does not substitute the service of providing leased lines on the market as it involves a long period of time and major investments. Therefore, in order to provide leased lines services on the retail market within short time, an operator must purchase these services from the respective wholesale market.

The wholesale market

The market of providing leased lines services at local network level

The leased lines wholesale market is strongly related to the retail market and the difference between the two markets is sometimes hard to observe. Many final users purchase services from Internet providers who, at their turn, purchase leased lines or parts thereof from the wholesale market. The local network (be means of which leased are provided lines at local level) is difficult to duplicate and has different features from those of the national market.

Based on the criteria for substituting the request and the offer, we differentiate the market of national level leased lines and the market of local level leased lines.

Additional criteria:

At local and national networks levels there are exclusive rights granted until 31.12.2002 with respect to providing cable leased lines (rights are granted by S.N.Tc. Romtelecom S.A.) and to providing radio leased lines with a capacity over 2Mbs (rights are granted by National Radio-communications Society).

The market of providing national leased line is strongly dynamic and it is predicted that, in the near future, new providers that can offer leased lines through their own facility will enter the market. Based on the second additional criterion under the "Regulation to identify the relevant markets in the electronic communications sector", this market is not considered to require imposing regulatory measures.

Local leased lines market is characterized by the existence of high structural barriers that make the entrance of new providers on the market difficult due to the important investments and the long time interval necessary for the installation of an alternative network.

The experience gained on the international market proves that general competition rules do not manage to ensure an effective competition on the market of providing local leased lines, when there are no specific regulations for the respective sector.

In order to impose *ex-ante* regulatory measures, ANRC defines **the market of providing leased lines services at local network level.**

The geographical market

Starting from the length of the network and the area where exclusive rights are granted, the geographical dimension of the market of providing leased lines services at local network level is defined by the **national territory**. In case of this market, national territory means the spread of the network that is hierarchically inferior to the digital routers at regional level.

5. The market of the access provision to the associated facility of the electronic communication level comprising any facility, including associated resources that have not been created to be used as a support of electronic communications networks, that are used as associated facility for at least one electronic communications network (high and low voltage piles, ducts, trenches, buildings, towers, subway tunnels etc).

On grounds of Government Ordinance no. 34/2002 on access to, and interconnection of, public electronic communications networks and associated facilities, approved with amendments and completions by Law no. 527/2002,

ANRC may establish regulations for the market of providing access to facilities associated to electronic communications networks.

The product market

The various facilities differ from the point of view of their capacity to sustain the electronic communications networks (number of wires, weight, security, cost). The product markets are:

- the markets of providing access to piles and over-terrestrial facilities;
- the market of providing access to pipes and under-terrestrial facilities.

The above-mentioned markets include only elements presently used as facilities for electronic communications networks.

The geographical market

The geographical market is defined by the national territory. Where, after applying criteria regarding the substitution of request and offer, ANRC acknowledges the existence of particular and homogenous conditions for competition on a smaller area than the national territory, ANRC shall identify a distinctive geographical market.

On the relevant wholesale market defined above, it may be justified for ANRC to impose specific obligations to the providers of facilities associated to the electronic communications networks, under the following supplementary criteria:

Barriers at market entrance – the high structural barrier make the duplication of existing associated facilities almost impossible, due to the supposed high costs.

The efficiency of general competition rules – the experience gained on the international market proves that general competition rules do not manage to ensure an effective competition on the market, when there are no specific regulations for the respective sector.