

On grounds of art.38 paragraphs (1), (3) and (5) of Government Emergency Ordinance no.79/2002 on the general regulatory framework for communications, approved with amendments and completions by Law no.591/2002, of art.6 paragraph (2), art.7, art.9 paragraph (2), art.12 paragraph (1), art.15 paragraph (4), art.22 paragraphs (2), (5) and (6), art.24 paragraphs (4)-(6), art.27 paragraphs (2) and (3), art.30 paragraphs (1) and (2), art.32 paragraph (2) and art.34 of Government Ordinance no.31/2002 on postal services, approved with amendments and completions by Law no.642/2002, and of art.9 paragraph (2) of the Decision of the President of the National Regulatory Authority for Communications no.1351/2003 on the conditions and the procedure for the designation of the universal service providers in the postal services sector,

Considering the provisions of the Order of the Minister for Communications and Information Technology no.225/2003 on the approval of the policy and strategy document regarding the implementation of universal service in the postal services sector,

Considering the propositions of the commission for the evaluation of the requests for the designation as universal service provider, established through the Decision of the President of the National Regulatory Authority for Communications no.1405/2003,

THE PRESIDENT OF THE NATIONAL REGULATORY AUTHORITY FOR COMMUNICATIONS

issues the present:

DECISION

On the Designation of the Universal Service Provider in the Postal Services Sector

Chapter I – General Provisions

Art.1. – (1) Through this decision, the National Company "Posta Romana" - S.A., having the headquarters in Bucharest, 6, Splaiul Unirii, block B3A, sector 4, registered with the Trade Register of Bucharest under the unique registration code 427410, hereinafter referred to as *CNPR*, is designated, for 5 years, as universal service provider within the postal services sector, as it is defined at art.2q) of the Government Ordinance no.31/2002 regarding postal services, approved with completions and amendments, by Law no.642/2002, hereinafter referred to as *Ordinance on postal services*.

(2) *CNPR* has the obligation to provide, under the conditions established by the legislation in the postal services sector and the present decision, the following postal services:

- a) the clearance, sorting, transport and delivery of domestic and cross-border postal items, up to 2 kg;
- b) clearance, sorting, transport and delivery of postal packages, domestic or cross-border, up to 10 kilograms;
- c) the distribution of postal packages up to 20 kg, sent from outside Romania to an address located in Romania;
- d) the registered postal items service, either domestic or cross-border;
- e) the service for insured items, either domestic or cross-border.

Art.2. – Throughout the present decision are applicable the definitions of art.2 of the *Ordinance on postal services*, as well as of art.2.2 of the Individual License regarding the provision of postal services within the scope of the universal service granted to *CNPR*, registered at the National Regulatory Authority for Communications, hereinafter referred to as *ANRC*, with no.1396/08.07.2003.

Art.3. – For the provision of universal service on the entire territory of Romania, *CNPR* is granted the rights and is imposed the specific obligation stipulated by the present decision, in addition to those set by the general authorization regime and the individual license.

Chapter II – *CNPR* Rights

Art.4. – (1) In order to ensure the users' right of access to universal service, *CNPR* is granted the following rights:

a) priority when renting the necessary space for the purpose of carrying out the transport of postal items and postal orders, which are in the property of the commercial societies, national societies, national companies and autonomous administrations having in their object of activity the public road, railway, maritime, fluvial, and air transportation;

b) priority for the transport of postal items and postal money orders by commercial companies, national societies, and autonomous administrations having in their object of activity the public road, railway, maritime, fluvial, and air transportation, as well as priority in what concerns the access to the means of transportation under the property or administration of these companies;

c) priority in what concerns the access at the border points and the customs authorities;

d) the right to install, maintain, replace or move, free of charge, letter boxes on or from the buildings under public state property or under property of the territorial-administrative units;

e) the right to act in international affairs in its capacity of universal service provider, to conclude operational agreements in the said capacity;

f) the right to use the specific international forms provided for in the international agreements to which Romania is a party;

g) the right granted to an universal service provider for the purpose of covering the losses caused by the provision of the services he is designated for, which may be a compensation mechanism or reserved rights, under the conditions provided by the law and *ANRC*, when *ANRC* considers it is necessary to create such a mechanism;

h) the exclusive right to provide the reserved services established by *ANRC*;

i) the exclusive right to distribute and sell stamps and postal issues, used for the purpose of certifying the payment of the value of postal services.

(2) The rights under paragraph (1) are exercised under the conditions of the *Ordinance on postal services* and the special legislation within the postal services domain and other domains.

(3) *ANRC* will take all the measures under its competence for the effective exercise of the rights under paragraph (1).

Art.5. – (1) *CNPR* is granted the exclusive right to provide items of correspondence, whether the delivery is accelerated or not, with the weight under 100 g and the value less than 12,000 lei, including value added tax, consisting in:

a) clearance, sorting, transport and delivery of domestic postal items;

b) the distribution of postal items, sent from outside Romania to an address located in Romania.

(2) *CNPR* benefits of the exclusive right to provide registered postal items and insured items, under the conditions mentioned at paragraph (1).

(3) The postal services providers can provide services under paragraph (1) and (2), with or without added value, with the condition to set a tariff of at least 12, 000 lei, including value added tax.

Chapter III – *CNPR* Obligations

Art.6. – (1) *CNPR* has the obligation to ensure, in each settlement/territorial-administrative unit, on the Romanian territory, at least one clearance from every point of access and at least one delivery to the home or premises of every natural or legal person, during every working day and not less than five days a week.

(2) By derogation from provision under paragraph(1), *CNPR* has the obligation to ensure at least two clearances from every access point and at least two deliveries to the home or premises of every natural or legal person, every week, in the case of circumstances or geographical conditions deemed exceptional.

(3) In case of the homes and premises situated outside the settlements/territorial-administrative units, *CNPR* can make the delivery, under the conditions mentioned at paragraph (1) or (2), as the case may be, at its contact points situated in the respective settlements/territorial-administrative units.

(4) *CNPR* will present *ANRC*, in 30 days from the entry into force of the present decision, a proposal which will contain all the settlements/territorial-administrative units deemed exceptional as regards the geographical conditions and the number of clearances, deliveries respectively, which the company has the obligation to ensure in each of these settlements/territorial-administrative units.

(5) In 45 days from the presentation of the proposal mentioned at paragraph (4), *ANRC* will elaborate a list comprising all the settlements/territorial-administrative units deemed exceptional as regards the geographical conditions and the number of clearances, deliveries respectively, which *CNPR* has the obligation to ensure in each of these settlements/territorial-administrative units.

(6) The list mentioned at paragraph (5) can be modified by *ANRC* at the *CNPR* proposal or ex-officio.

Art.7. – (1) *CNPR* has the obligation to observe all the general conditions for the compliance with the obligations to provide services mentioned at art.1 (2):

a) to ensure the compliance with the essential requirements, as defined at art.2 (v) of the *Ordinance on postal services*;

b) to provide services under identical conditions to comparable users;

c) to make available the services in a non-discriminatory manner;

d) to continuously provide services, except for the cases of force majeure ;

e) to ensure the continuous evolution of services, depending on the technical, economic and social requirements, as well as to adapt them to the users.

(2) *CNPR* has the obligations to take all the measures to ensure the postal security, especially as regards:

a) the security of the postal network;

b) the security of the postal installations;

c) the security of the personnel;

d) the security and integrity of the postal items.

Art.8. – *CNPR* has the obligation to accept and deliver the postal items generated by the sender with the observance of the legal provisions, even-though they are not marked with the postal code.

Art.9. – (1) *CNPR* has the obligation to deliver to the home and premises of the addressee or at its contact points, under the conditions mentioned at art.6 (3), all the postal items with the weight under or equal to 500 g.

(2) The delivery of postal items is carried out as follows:

a) to any recipient agreed by the addressee to receive the postal items addressed to him;

b) to the person authorized to receive the postal item;

c) the postal office, after sending the addressee a notice informing him that a postal item with the weight over 500g or a registered postal item will arrive.

Art.10. – *CNPR* has the obligation to take all the measures to ensure the confidentiality of the operations carried out at the access points operated by personnel.

Art.11. – (1) In 60 days from the entry into force of the present decision, *CNPR* establishes and submits for the *ANRC* approval the rules applicable to the postal services mentioned at art.1(2), with the observance of the minimum mandatory obligations mentioned at art.8-10, as well as the framework-contract for the provision of these services.

(2) In case the company finds that the proposed rules and the framework-contract are not technically satisfactory or as regards the protection of users or break the legal provisions, the international agreements Romania is a party or the minimum mandatory obligations mentioned at art.8-10, *ANRC* may request the adequate amendment of these rules or the framework-contract, *CNPR* being obliged to operate these amendments.

(3) Any changes in the rules applicable to the postal services mentioned at art.1(2) or the clauses of the framework-contract for the provision of these services are submitted for the *ANRC* approval, the provisions under paragraph (2) being applied accordingly.

Art.12. – (1) *CNPR* has the obligation to ensure the following norms for the distribution of domestic postal issues from the fastest standard category, which are the object of the services under art.1(2) a):

a) until the end of 2004: Z+1 for 70% of the total number of postal items and Z+2 for 80% of the total number of postal items;

b) until the end of 2005: Z+1 for 77% of the total number of postal items and Z+2 for 90% of the total number of postal items;

c) until the end of 2006: Z+1 for 85% of the total number of postal items and Z+2 for 97% of the total number of postal items.

(2) *CNPR* has the obligation to ensure the following norms for the distribution of cross-border postal issues from the fastest standard category, which are the object of the services under art.1 (2) a):

a) until the end of 2004: Z+3 for 75% of the total number of postal items and Z+5 for 85% of the total number of postal items;

b) until the end of 2005: Z+3 for 80% of the total number of postal items and Z+5 for 90% of the total number of postal items;

c) until the end of 2006: Z+3 for 85% of the total number of postal items and Z+5 for 97% of the total number of postal items.

(3) The distribution norm mentioned at paragraph (2) will be ensured for the postal traffic for each state.

(4) In order to ensure the compliance with the obligations mentioned at paragraph (1) and (2), until September 1, 2004, *CNPR* is obliged to indicate on each mail box and at each access point the days and hours when the clearance is realized.

Art.13. – (1) The *CNPR's* compliance with the quality standards imposed will be annually verified by an independent body, under the conditions and according to the procedure established by the *ANRC* President's decision.

(2) The evaluation report mentioned at paragraph (1) will be published on annual basis on the expense of *CNPR* on its website, as well as the entire content or extracts, in two national daily newspapers, 10 days after its approval.

(3) At the same time with the publication of the report mentioned at paragraph (2), *CNPR* will publish on its website information about the statistics of the received complaints, divided on the respective postal services, the object of complaints, as well as the way they were solved.

Art.14. – (1) *CNPR* has the obligation to ensure a daily 8 working hours with the public at each access point operated by personnel.

(2) *CNPR* will present for the *ANRC* approval, at the same time with the proposal mentioned at art.6(4), the list of access points operated by personnel with a postal traffic that does not justify a daily 8 working hours with the public.

(3) *ANRC* will establish the list of access points operated by personnel and the short working hours, but not less than 2 hours per day, which *CNPR* is obliged to ensure.

(4) *CNPR* will take all the measures to completely eliminate, until December 31, 2006, the short working hours. *CNPR* will report annually to *ANRC*, until January 31 next year, the measures taken in this respect.

Art.15. – (1) *CNPR* has the obligation to take all the measures for the gradual location, until December 31, 2005, of at least one mail box or any other permanent access point, as well as at least one contact point in each settlements/territorial-administrative units on the Romanian territory.

(2) *CNPR* has the obligation to gradually increase the number of mail boxes, so that until December 31, 2006, will be:

- a) minimum one mail box for 3, 000 inhabitants in the rural regions,
- b) minimum one mail box for 5, 000 inhabitants in the urban regions;
- c) minimum one mail box for 10, 000 inhabitants in Bucharest.

(3) *CNPR* has the obligation to ensure, gradually, an optimum density of access points where can be presented registered postal items, so that, until December 31, 2006, this will allow:

- a) in rural regions, 95% of the potential users of postal services to be situated no further than 2 km from the access point and
- b) in urban regions, 95% of the potential users of postal services to be situated no further than 5 km from the access point.

(4) *CNPR* has the obligation to ensure, gradually, a best density of access points operated by the company personnel, where can be presented postal packages and unregistered postal items, so that, until December 31, 2006, this will allow:

- a) in rural regions, 95% of the potential users of postal services to be situated no further than 5 km from the access point and
- b) in urban regions, 95% of the potential users of postal services to be situated no further than 20 km from the access point.

Art.16. – (1) *CNPR* has the obligation to ensure the users' access to the public postal network he operates, under conditions of transparency, objectivity and non-discrimination.

(2) *CNPR* has the obligation to take all the measures to ensure easy access of disabled persons in the buildings where are offices for relation with the public.

Art.17. – (1) The tariffs of *CNPR* for the services mentioned at art.1 (2) shall be accessible, transparent, non-discriminatory and cost-oriented.

(2) The tariffs of *CNPR* for the provision of each of the services mentioned at art.1 (2) shall uniform on the entire territory of Romania.

(3) The amendment of the tariffs mentioned at paragraph (1) can be realized at the *CNPR* proposal with the *ANRC* approval.

(4) The tariffs established according to the provision under paragraph (3) will be made available to the public, therefore will be posted at each access point operated by the *CNPR* personnel, will be published on the *CNPR* website, as well as in two daily newspapers.

(5) The tariffs established according to the provisions under paragraph (3) will be charged by *CNPR* only 30 days after these tariffs were made available to the public under the conditions mentioned at paragraph (4).

Art.18. – (1) *CNPR* may offer cost oriented tariff facilities in case of a larger volume of deliveries from the same sender, object of the services mentioned at art.1 (2), only based on written contract concluded with the sender.

(2) *CNPR* will publish on its website and will post at its access points operated by its personnel information about the tariff facilities, as regards the respective postal service, the preferential tariff, number and type of postal items the facilities are offered for, the packaging requirements and the coverage area where the delivery should be made, as well as other relevant aspects regarding the facilities.

(3) *CNPR* has the obligation to apply the principle of transparency and non-discrimination as regards the tariffs and the associated conditions.

Art.19. – (1) *CNPR* has the obligation to observe, when concluding the agreements for the terminal expenses with the cross-border postal items, object to the services mentioned at art.1 (2), sent from outside Romania to an address located in Romania, the following principle:

a) the terminal expenses are set depending on the costs with the processing and delivery of the cross-border postal items;

b) the level of tariffs shall be appropriate to the quality of services;

c) the terminal expenses shall be established observing the principle of transparency and non-discrimination .

(2) In case no such agreements have been concluded, *CNPR* has the obligation to apply the provisions of the international agreements Romania is a party.

Art.20. – (1) *CNPR* has the obligation to implement and develop a system for the internal accounting of the costs, detailed enough so it would be capable to identify the costs with the individual provision of services within the scope of the universal service.

(2) Based on the system mentioned at paragraph(1), *CNPR* has the obligation to realize, within the internal accounting, the separation of activities outside the scope of the universal service, as well as the separation between the services reserved and the non-reserved services.

(3) For the implementation of the separate accountings and for the elaboration of the separated financial statements will be observed the following principles:

a) *cost causation*, according to which revenues and costs, assets and liabilities will be allocated to cost components, services and categories of businesses, in accordance with the activities which cause the revenues to be earned, the costs to be incurred, the assets to be acquired or the liabilities to be incurred;

b) *objectivity*, according to which the allocation of costs to services and categories of businesses will be objective and will not be intended for the benefit of the *CNPR* or of a third party, for a product or service, for a category of products or services;

c) *consistency of treatment*, according to which, where there are changes in the regulatory accounting principles, in the methodology of cost allocation or in the accounting policies, that have a material effect on the information included in the current separated financial statements, the financial statements of the previous period will be restated, according to these changes. The effect of the above-mentioned changes upon the information included in the separated financial statements is considered to be material if by non-presentation or faulty presentation of these changes the economic decisions of the users, based on the separated financial statements, might be influenced.

d) *transparency*, according to which the principles, the accounting policies and the methodology for cost allocation, will allow a clear understanding also of the effects of these principles, policies and methodologies on the separated financial statements.

Art.21. – (1) For the purpose of implementing the separate accounting system under art.20 (1), *CNPR* has the obligation to forward to *ANRC*, no later than October 31, 2004, a methodology that describes in detail the principles, hypotheses, and methods used for the development of the separate accounting system and for elaborating the accounting registers based on this system, and this methodology shall observe the aforementioned principles.

(2) In case it is acknowledged that the methodology mentioned at paragraph (1) breaches the legal provisions or the principles stated at art.20 (3), *ANRC* may impose the change of this methodology.

(3) *CNPR* has the obligation to keep its accounting based upon the separate accounting system under art.20 (1) until November 30 of each year for the previous year. The first accounting registers shall be completed by November 30, 2005, for the year 2004.

(4) The separate accounting kept by *CNPR* in accordance with the legal provisions and the methodology under art.21 (1) shall be annually submitted to an assessment by an independent body, under the conditions and in accordance with the procedure set out by decision of the president of *ANRC*.

Art.22. – (1) *CNPR* has the obligation to regularly make available to the users precise, detailed and updated information regarding the features of services mentioned at art.1 (2), specially information regarding the general conditions for the access to these services, as well as the tariffs and the level of quality standards of these services.

(2) *CNPR* has the obligation to bring to make public the number of clearances and deliveries, respectively, determined under the conditions mentioned at art.6, that it is obliged to carry out at each access point and at each contact point, respectively.

(3) *CNPR* shall publish the information mentioned at paragraphs (1) and (2) as well as the clauses of the framework-contract under art.11 (1) on its website and shall make them available to the public at all access points served by personnel, by means of posters or otherwise.

(4) Any change to information mentioned at paragraphs (1) and (2) or to the clauses of the framework-contract shall be made public as stated in paragraph (3), previous to its application.

Chapter IV – Final Provisions

Art.23. – (1) The conditions for the provision of universal service set out herein may be modified following *CNPR* initiative under the conditions mentioned at art.11 of the Decision of the President of ANRC no.1351/2003 on the conditions and the procedure for the designation of the universal service providers in the postal services sector.

(2) *ANRC* may modify the provisions herein in case the circumstances that were valid at the moment of its issue suffer substantial changes.

Art.24. – *CNPR* capacity as a universal service provider ceases in the cases mentioned at art.13 of the Decision of the President of ANRC no.1351/2003.

Art.25. – In addition to the rights and obligations hereunder, *CNPR* shall have the rights and obligations resulted from its capacity as a universal service provider stated by the Convention of the Universal Postal Union and its rules of application as well as by other international agreements to which Romania is a party.

Art.26. – Point 3.5.2 of the General Authorisation Regime for the provision of postal services, annex no.1 to the Decision of the President of ANRC no.118/2003 on the authorisation procedure for the postal services providers, published in the Romanian Official Journal, Part I, no.212 as of April 1, 2003, is repealed.

Art.27. – This decision shall be published in the Romanian Official Journal, Part I, and shall enter into force 3 days after it is published, except for the provisions under art.5 and art.26 that will enter into force 30 days after this date.

**PRESIDENT,
ION SMEEIANU**