



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, art.4 paragraph (4), art.9 paragraphs (2) and (3), art.10 paragraph (10) and art.13 paragraph (2) of Law no.304/2002 on universal service and the users' rights regarding the electronic communications networks and services,

Considering the Order of the Minister for Communications and Information Technology no.184/2004 on the approval of the policy and strategy document regarding the implementation of universal service in the electronic communications sector,

THE PRESIDENT OF THE NATIONAL REGULATORY AUTHORITY FOR COMMUNICATIONS

issues the present:

DECISION On the Implementation of Universal Service in the Field of Electronic Communications

Chapter I – General Provisions

Art.1. – (1) The present decision regulates the implementation process of universal service in the field of electronic communications, by establishing the conditions and procedure for the designation of universal service providers, as they are defined under art.2 paragraph (1) letter g) of Law no.304/2003 on universal service and the users' rights regarding the electronic communications networks and services, as well as by setting out the mechanism of compensating the net cost for the provision of services within the scope of universal service.

(2) In applying the provisions of the present decision, the National Regulatory Authority for Communications, hereinafter referred to as *ANRC*, shall act in order to ensure the right of access to universal service on the territory of Romania whilst observing the principle of technological neutrality, by achieving the objectives set out by the Order of the Minister of Communications and Information Technology no.184/2004 on the approval of the policy and strategy document regarding the implementation of universal service in the electronic communications sector.

Art.2. – (1) The services included in the scope of universal service, subject to this decision, are:

- a) the provision of access to the public telephone network, at a fixed location;
- b) access to public pay telephones.

(2) The service under paragraph (1) letter a) is ensured by means of telecentres under the conditions set out in section 1 of chapter II, as well as by means of subsidies granted under the conditions set out in section 2 of chapter II.

(3) The service under paragraph (1) letter b) is ensured under the conditions set out in section 1 of chapter II.

(4) The following can be designated as universal service providers:

a) the persons who are, cumulatively, providers of public electronic communications networks and publicly available telephone services for the service specified at paragraph (1) letter a) ensured by means of telecentres, as well as for the service specified at paragraph (1) letter b).

b) the providers of publicly available telephone services for the service specified at paragraph (1) letter a), for the purpose of granting subsidies;

Art.3. – (1) For the purpose of this decision, the following definitions shall apply:

a) *services of access to the public telephone network* – making available to the end-users, based on a written contract and in exchange for a periodical tariff, usually on a monthly basis, the equipments and services necessary for them to benefit from publicly available telephone services;

b) *eligible localities* – localities that do not benefit from services of access to the public telephone network, at a fixed location, or from reasonable means of access to the publicly available telephone service, as well as those localities where the penetration of these services is not sufficient as to meet the reasonable needs of the end-users;

c) *telecentres* – locations made available to the public, where access to a public telephone network at a fixed location is provided and allow its members to initiate and receive local, national and international calls, facsimile communications and data communications, at data rates that are sufficient to permit functional Internet access; the basic technical and economic characteristics of the telecentres are specified in annex no.1;

d) *family* – husband and wife, not-married man and woman or a single person and, as the case may be, 4th grade relatives, who live together and form a household.

(2) The expression „*who live together and form a household*“, specified at paragraph (1) letter d) refers to the persons who cumulatively comply with the following conditions:

a) have the same domicile, or residency, as the case may be;

b) contribute together to the acquisition or realisation of goods and incomes obtained from rendering these goods valuable or contribute together to the consuming of such goods.

(3) The families comprising foreign citizens or stateless persons, whose residence or domicile, as the case may be, is located in Romania as per the Romanian legislation, shall benefit from the provisions of the present decision.

(4) For the purpose of this decision, the definitions set out in art. 2 point 12 of Law no.676/2001 on the processing of personal data and the protection of privacy in the telecommunications sector, with the subsequent amendments, in art. 2 of Government Ordinance no.34/2002 on the access to, and interconnection of, electronic communications networks and associated facilities, approved with amendments and completions by Law no.527/2002, and in art. 2 paragraph (1) of Government Emergency Ordinance no.79/2002 on the general regulatory framework for communications, approved with

amendments and completions by Law no.591/2002, and in art.2 paragraph (1) of Law no.304/2003, shall also apply.

Chapter II – Measures for Achieving the Objectives of the Policy and Strategy for the Implementation of Universal Service

Section 1 – The Provision of Access to the Public Telephone Network, at a Fixed Location, by Means of Telecentres, and of Access to Public Pay Telephones

Art.4. – In order to accomplish the objective of ensuring the availability, quality and accessibility of those services within the scope of universal service which represent reasonable means of access to the publicly available telephone service, *ANRC* shall impose on the designated universal service providers the obligation to ensure access to the public telephone network, at a fixed location, by means of telecentres, and access to public pay telephones, at accessible tariffs and at a certain quality level, in those localities identified by *ANRC*, based on a study carried out at a national level, as eligible localities.

Art.5. – The localities with priority in installing the first telecentres and public pay telephones shall be selected from the list of eligible localities, depending on the level of availability of publicly available telephone services, number of inhabitants and efficiency in implementing such projects.

Art.6. – (1) In the localities chosen according to the provisions of art.5, *ANRC* will designate, based on a tender or, as an exception, *ex officio*, the universal service providers who will have the obligation to ensure the provision of access to public telephone network, at a fixed location, by means of telecentres, and/or access to the public pay telephones.

(2) The universal service providers designated to provide access to the public telephone network, at a fixed location, by means of telecentres, or access to public pay telephones shall be designated for at least a 3 year-period.

(3) In case *ANRC* designates, upon tender, a universal service provider in a locality where, at the moment of publishing the tender announcement according to the provision of art.19 paragraph (1), telecentres or public pay telephones have already been established, the provider of access to the public telephone network, at a fixed location, by means of those telecentres, or of access to those public pay telephones has the right to request the compensation of the possible net cost which can occur after the telecentre or the public pay telephone, object of the tender, is operational, including the costs of the non-depreciated fixed assets until the respective date, up to the limit of the net cost determined based on the tender, while afterwards it will be designated *ex officio* as universal service provider, having the same obligations as those stipulated in the terms of reference of the tender.

Art.7. – (1) In case of a tender, the closing amount represents the net cost of the provision of services within the scope of universal service. This amount will be transferred, upon request, to the universal service provider, according to the compensation mechanism established by *ANRC*.

(2) In case the provider is designated *ex officio*, the negative difference between the commercial benefits, both tangible and intangible, and the total costs for the provision of services of access to the public telephone network, at a fixed location, by means of telecentres, or access to public pay telephones, under the conditions established by *ANRC*, incurred in the designation period and discounted down to the moment of adoption of the designation decision, represents the net cost of the provision of services within the scope of universal service and will be transferred, upon request, to the universal provider, according to the compensation mechanism established by *ANRC*.

Section 2 – Subsidising the Services of Access to Public Telephone Network, at a Fixed Location, and Granting Facilities Applicable in Case of Non-payment of the Telephone Bill

Art.8. – (1) In order to accomplish the objective of ensuring the accessibility of services of access to the public telephone network at a fixed location or to a reasonable means of access to the publicly available telephone service, for certain categories of disadvantaged users, *ANRC* shall impose on the universal service providers, designated under the conditions of art.9 paragraph (1), the obligation to grant a subsidy for the service of access to the public telephone network, at a fixed location, as well as the obligation to offer the facilities specified at paragraph (2), applicable in case of non-payment of the telephone bill to the families who require supplementary protection, due to their low incomes.

(2) The universal service providers have the obligation to offer to the persons specified at art.10 the facilities listed below, applicable in case of non-payment of the telephone bill, which shall be expressly provided for in the contracts concluded with the end-users:

a) the interests, increases or penalties related to delayed payment shall not exceed 0.15% of the owed amounts per day;

b) disconnection from the telephone network shall not be enforced before 90 days since the day the service is suspended;

c) during the entire period of service suspension, the subscriber shall be able to make or receive those calls that do not incur a charge to him and shall owe the universal service provider only the regular tariff for the provision of services of access to the public telephone network; in case the regular tariff includes the equivalent value of a certain number of minutes for the purpose of initiating calls, these minutes shall be carried over into the month when the subscriber pays the amounts owed that caused the service disconnection, together with the afferent interest, increases or penalties;

d) the reconnection, if it is realised in the suspension period, shall be made free of charge, but only after the subscriber has paid the amounts owed that caused the service disconnection, together with the interests, increases or penalties related to delayed payment .

(3) The service of access to the public telephone network shall be suspended only after the universal service provider notifies the subscriber.

(4) The universal service provider has the obligation to modify the contract in force, in accordance with the provisions under paragraphs (2) and (3), within 15 days after a request in this respect is submitted under the conditions set out in art.14.

Art.9. – (1) *ANRC* will designate as universal service providers who will have the obligation to offer to the end-users subsidies for the services of access to public telephone network, at a fixed location, and facilities applicable in case of non-payment of the telephone bill, *ex officio*, all the providers of services of access to public telephone network, at a fixed location, irrespective of the type of network or technology used.

(2) In order to be designated as universal service providers, the providers of publicly available telephone services who offer services of access to the public telephone network, at a fixed location, have the obligation to send *ANRC* a notice containing this specification, within 15 days after the present decision enters into force or after making public their commercial offer regarding the service.

(3) The universal service providers specified in paragraph (1) shall be designated for a period between the date when the designation decision is communicated and the date of December 31, that year.

Art.10. – (1) The families with a monthly net income per family member less than ROL2,460,000 and who have ongoing contracts, when applying for the subsidy according to art.14 with the universal service provider for services of access to the public telephone network, may benefit, represented by the contract holders, from the subsidy and the facilities set out in art.8.

(2) The families who have more than one contract for services of access to the public telephone network, at a fixed location may choose for the subsidisation of only one service.

Art.11. – (1) In order to establish the monthly net income per family member there will be taken into consideration all the incomes obtained by the family members during the month prior to the submission of the request, including the incomes obtained from the unemployment indemnity, legal rights, civil conventions for support under execution, retributions with a permanent character, state allocations for children, supplementary allocations for families with children, support allocations for children under social assistance or fostered children, scholarships for pupils and students granted according to the law, as well as support granted to the wives of young men undergoing the obligatory military service.

(2) Should the family own lands, buildings, apartments or other mobile or fixed assets, when establishing the monthly net average income per family member, shall be taken in consideration leases, rents, other civil, natural or industrial results thereof, as well as incomes likely to be obtained from rendering valuable the respective goods, under the condition of maintaining minimum dwelling and the goods necessary for the family needs.

Art.12. – (1) Subsidies and facilities shall be granted in a transparent and non-discriminatory manner to all the families that fulfil the conditions under art.10 herein and submit a request under the conditions of art.14.

(2) Within 15 days after its designation, the universal service provider shall make public the conditions for granting subsidies and facilities, by publishing them on its website and in a newspaper with large circulation and national coverage, as well as by posting them at all its commercial locations in places with high visibility. Also, the universal service provider shall print certain summarised information, regarding the conditions for granting

subsidies and facilities, at least on the first bill sent to the individual end-users after the designation.

Art.13. – The universal service providers may not impose on the families mentioned under art.10 obligations related to the payment of certain services or facilities additional to those stated herein, except when the services or facilities have been expressly requested by these families.

Art.14. – (1) In order to grant the subsidy and the facilities, the holder of the contract shall send to the universal service provider, no later than the 1st of October that year, the standard request for granting the subsidy and the facilities, having the format set out in annex no.2, part of the present decision.

(2) The universal service provider makes available to the requester the standard request for granting the subsidy and the facilities.

(3) The universal service provider has the obligation to make available to *ANRC*, upon *ANRC* request, copies of the standard request for granting the subsidy and the facilities

(4) The universal service provider shall analyse if the content of the standard request fulfils the conditions for granting the subsidy and the facilities, and shall decide, within 15 days, to admit or reject the request. The rejection of the request will be communicated to the holder of the contract.

Art.15. – (1) In order to establish the amount of the subsidy, the universal service providers have the obligation to transmit to *ANRC*, until the 15th of October, a consolidated record comprising the received requests that have not been rejected according to the provisions under art.14 paragraph (4).

(2) Until the 1st of November *ANRC* shall communicate to the universal service providers the amount of the individual subsidy, which shall not exceed the amount paid for the provision of services of access to the public telephone network during the designation period set out in art.9 paragraph (3).

(3) The subsidy shall be granted only once for the entire designation period mentioned under art.9 paragraph (3).

(4) The subsidy shall be written and operated by the universal service provider in the first invoice issued to the holder of the contract after the amount of the individual subsidy is established and communicated by *ANRC*.

(5) Should the subsidy exceed the value of the bill, the difference shall be operated accordingly in the bills for the next months, until the subsidy is entirely covered.

Art.16. – The total subsidy granted, calculated as the sum of the subsidies granted to the end-users during the designation period, represents the net cost of the provision under the conditions set out in this section, of the service of access to the public telephone network, at a fixed location, to be transferred to the universal service provider, upon request, in accordance with the number of the of the end-users who benefited from the subsidy.

Chapter III – Designation Based upon a Tender

Art.17. – (1) The providers who will have the obligation to ensure the provision of access to the public telephone network, at a fixed location, by means of telecentres, or access to public pay telephones will be designated based on public tenders, organised in accordance with the principle of fair competition, transparency, non-discrimination and confidentiality.

(2) The stages of a tender are the following:

- a) the tender documentation is elaborated and the tender participation announcement is published;
- b) the interested parties purchase the documentation;
- c) the parties who obtained the documentation submit their offers;
- d) the offers are evaluated and the winner is designated;
- e) the result of the tender is communicated.

Art.18. – (1) The tender will be organised by a commission designated on grounds of a decision issued by the president of *ANRC*.

(2) The tender commission shall have a president and at least 4 members from *ANRC*, specialists in the economic, technical and legal fields. The commission shall have a secretary who will elaborate the statement-of-facts.

(3) The tender commission shall have the following attributions:

- a) to elaborate the tender documentation and to publish the tender participation announcement;
- b) to verify the documents submitted by the tenderers;
- c) to verify whether the tenderers complied with the eligibility requirements;
- d) to evaluate the offers and designate the winner;
- e) to communicate the results of the tender;
- f) to elaborate the draft decision for the designation of the universal service provider.

Art.19. – (1) In order to initiate a tender procedure, *ANRC* shall publish a tender announcement, in at least one newspaper with large circulation and national coverage and on its website, at least 45 days prior to the opening of the offers.

(2) It is mandatory for the tender participation announcement to contain the following information:

- a) the localities and services within the scope of universal service for which certain universal service providers will be designated;
- b) the date of the tender;
- c) the place where the tender documentation can be obtained and its price;
- d) the deadline for buying the tender documentation;
- e) the deadline for requesting clarifications;
- f) the deadline for submitting the offers, which shall not be earlier than 40 days after the publication of the participation announcement;
- g) the place to submit the offers;
- h) date, hour and place for the opening of the offers.

Art.20. – After the publication of the tender participation announcement, *ANRC* shall make available to all the requesters the tender documentation which shall contain:

- a) the standard request for the designation as a universal service provider;
- b) the documents which shall be presented by the tenderer in order to evaluate their eligibility;
- c) the terms of reference;
- d) instructions for preparing the technical and financial proposals;
- e) information regarding the criteria applied for the designation of the universal service provider, including the score grid;
- f) other documents necessary for the tender participation.

Art.21. – The standard request for the designation as a universal service provider shall have the format set out in annex no.3, part of the present decision, and shall be accompanied by the following documents:

- a) certificate of registration issued by the Office of the Trade Register, stating the non-existence of a procedure of voluntary or legal dissolving or a procedure that follows the legal restructuring or the bankruptcy of the tenderer;
- b) certificate proving the fulfilment of the payment obligation to the state budget, the state social security budget, to the social health insurance budget, to the special funds budget and any other budgetary obligations;
- c) copy of the annual financial statements for the last three years or for the entire period since the establishment, should this period be less than three years, submitted to the territorial units of the Ministry of Public Finances;
- d) the technical proposal accompanied by the detailed description of the technological, material and human resources by which the tenderer will ensure the provision of services within the scope of universal service for which he requests to be designated;
- e) the financial proposal accompanied by the justification of the possible losses determined by the provision of services within the scope of universal service for the provision of which he requests to be designated;
- f) any other documents requested in the tender documentation.

Art.22. – The terms of reference shall contain at least the following:

- a) the minimum technical, economic and quality requirements for the provision of services within the scope of universal service;
- b) the financial requirements the tenderer shall comply with;
- c) the obligations imposed on the universal service provider after its designation;
- d) the rights of the universal service provider;
- e) the estimated net cost of the provision of services within the scope of universal service, which represents the starting price of the tender.

Art.23. – (1) *ANRC* will accept any request for clarifications as regards the tender procedure, but no later than the deadline provided for in the tender announcement participation.

(2) The request for clarifications shall be made in writing and shall be submitted to the *ANRC* headquarters by a representative of the tenderer, upon signature, or transmitted by registered mail with confirmed receipt.

(3) *ANRC* shall respond in writing to the respective requests, at least 5 days before the deadline for the submission of proposals.

Art.24. – (1) *ANRC* may modify the tender documentation, on its own initiative or upon the requests received.

(2) The modifications shall be notified in writing to all the parties who requested the tender documentation, at least 7 days before the deadline for the submission of the requests.

Art.25. – (1) The tender is organised based on firm, definitive, irrevocable and unconditioned proposals, submitted in conformity with the tender documentation.

(2) The proposals shall be submitted in person by the representative of the tenderer, in a closed and sealed envelope, upon signature, or by registered mail with confirmation receipt.

(3) Several providers of electronic communications services or networks have the right to associate and submit a joint offer, without having the obligation to present their association in a legalised manner. Each of them shall assume the obligation for their joint offer.

(4) The tenderer has the right to contract other persons to perform specific activities or provide specific services necessary for complying with the technical, economic and quality requirements for the provision of services within the scope of universal service. The tenderer shall assume the responsibility for all the obligations included in the offer.

Art.26. – (1) The tender commission shall evaluate only the offers submitted before the deadline for the submission of offers.

(2) The tender commission has the obligation to open the offers on the date, at the hour and in the place indicated in the tender participation announcement.

(3) The tender is organised in the presence of all the members of the tender commission.

(4) The husband/wife or relatives, the 3rd rank included, of the associates or administrators of the tenderers are not allowed to be part of the tender commission.

(5) Each tenderer has the right to be present at the opening session through his representatives.

(6) The tender commission has the right to reject an offer in the following cases:

a) the offer does not contain the standard request for the designation as universal service provider or one of the documents set out in art.21;

b) the offer does not observe the requirements stipulated in the documentation for the elaboration and presentation of the offer.

(7) The tender commission may request the tenderers to make available any other documents, additional information or clarifications, that are necessary for selecting the winning offer and shall indicate the deadline for their submission.

(8) The tender commission will draw up a statement-of-facts to be signed both by the members of the commission and by the representatives of the tenderers present at the opening.

Art.27. – In case no offers have been submitted, or the offers of the tenderers have been rejected according to art.26 paragraphs (1) or (6) or none of the tenderers has offered an amount of money less than or at least equal to the starting price of the tender,

the tender may be repeated after 15 days from the date established for opening the offers for the previous tender or the universal service provider may be designated *ex officio*, according to the provisions under chapter IV.

Art.28. – (1) The deadline for the tender commission to evaluate the offers in order to designate the winning offer is of maximum 30 days after the opening of the offers.

(2) In order to award the winning offer, the tender commission shall mainly apply the criterion of the most advantageous financial offer, as regards the volume of the net cost, as well the following additional criteria, as the case may be:

- a) the most advantageous technical offer;
- b) the technical, economic and financial capacity of the tenderer;
- c) previous experience in the provision of services within the scope of universal service for which the designation was requested or the provision of other electronic communications services;
- d) the coverage and density of the network, as well as the capacity of the tenderer to develop and to have access to electronic communications networks for the purpose of providing publicly available telephone services in the localities taken into consideration for this tender;
- e) the capacity to ensure the same level of tariffs for the services within the scope of universal service at national level;
- f) retail tariffs that will be charged at the telecentre;
- g) other relevant data presented by the tenderer, in conformity with the requirements of the terms of reference.

(3) Based on the criteria set out in paragraph (2), the tender commission will fill in a score grid for each tenderer, in conformity with the tender documentation.

(4) The tender commission will declare as winner the offer with the highest score, based on the score grid.

(5) The result of the tender shall be recorded in a statement-of-facts, approved by the president of *ANRC*.

(6) *ANRC* shall simultaneously communicate the result of the tender to all the tenderers.

(7) The interested parties may contest the result of the tender, within 2 days after being informed about the results as set out in paragraph (6). The legal contest shall be made in writing and shall be submitted to the *ANRC* headquarters by a representative of the requester, upon signature or sent by registered mail with confirmed receipt.

(8) In order to solve the legal contests, the president of *ANRC* shall designate, by decision, a commission comprising other persons than the members of the tender commission. The commission shall solve the legal contests within 3 days from their submission and shall draw up a statement-of-facts, approved by the president of *ANRC*. The result will be communicated in writing to all the contestants.

(9) Based on the results of the tender, the tender commission or the commission responsible for solving the legal contests, respectively, shall elaborate the decision for the designation of the universal service provider and shall submit it to the president of *ANRC* for approval.

Art.29. – In case the tender commission or the commission responsible for solving the contests ascertain that, after analysing the offers, none of the tenderers comply with the requirements in order to be designated as universal service provider, the tender may be repeated after 15 days from the date of the statement-of-facts that specifies the result of the tender or the statement-of-facts related to the solving of legal contests, or the universal service provider may be designated *ex officio*, in conformity with the provision under chapter IV.

Chapter IV – *Ex Officio* Designation

Art.30. – (1) *ANRC* may designate *ex officio* a provider of electronic communications networks or services as universal service provider under the conditions and in the cases set out in art.6 paragraph (3), art.9 paragraph (1), art.27 and art.29.

(2) The *ex officio* designation of the universal service providers shall be carried out on grounds of a decision of the president of *ANRC*, whilst observing the consultation procedure set out in art.50 of Government Emergency Ordinance no.79/2002.

Art.31. – (1) In order to designate *ex officio* a universal service provider in the cases set out in art.27 and art.29, the president of *ANRC* shall establish, by decision, an evaluation commission as referred to in art.18 paragraph (2).

(2) The evaluation commission will propose the designation of a provider of electronic communications networks or services as universal service provider, based upon the criteria set out in art.28 paragraph (2) letters b)-e) and g).

Chapter V – The Financing Mechanism

Art.32. – The compensation of the net cost of the provision of services within the scope of universal service will be based on financial resources obtained from an activity fully financed from own incomes, to be carried out within *ANRC* and adopted by Government Decision.

Art.33. – (1) For the annual financing requirements for the universal service, *ANRC* shall require from the providers of public electronic communications networks and the providers of publicly available telephone services, with a turnover for the previous year equal to or higher than EUR3 million:

a) in 2004, an amount equal to 0.8% of their turnover minus the revenues obtained from the interconnection and roaming services provided on the wholesale market to the mobile telephony operators from outside Romania for their users who are in Romania;

b) for 2005 – 2010, an amount equal to 0.5% of the turnover minus the revenues obtained from the interconnection and roaming services provided on the wholesale market to the mobile telephony operators from outside Romania for their users who are in Romania, but the amount shall not exceed EUR2,000,000 for each provider.

(2) In the case specified at paragraph (1) letter b), if after the application of the 0.5% there are providers whose obligation exceeds EUR2,000,000, the percentage to be

used for the calculation of the contribution owed by the providers shall be reduced so that the maximum amount paid by a provider become equal to EUR2,000,000.

Art.34. – (1) In order to determine the volume of the individual contributions owed by the providers referred to in art.33 paragraph (1), the latter have the obligation to send to *ANRC* a declaration on their own account regarding the incomes obtained during the previous year from the interconnection and roaming services provided on the wholesale market to the mobile telephony operators from outside Romania for their users who are in Romania, until May 31 of the respective year.

(2) The volume of individual contributions owed by the providers referred to in art.33 paragraph (1) shall be established on an annual basis, until July 1, by a decision of the *ANRC* President.

(3) The contribution shall be paid within 30 days after the decision referred to in paragraph (2) is communicated.

Art.35. – The universal service providers designated, under the conditions set out in section 1 of chapter II, to provide services set out in art.2 paragraph (1) letter a) will receive the amount which represents the net cost of the provision of the respective services within 30 days after *ANRC* receives a request in this respect, this request being submitted after the installation of the telecentres or the public pay telephones, respectively, under the conditions set out in the designation decision.

Art.36. – (1) The universal service providers designated under the conditions set out in art.9 paragraph (1) have the right to request the compensation of the net cost of the provision of services within the scope of universal service, with an amount equal to the total granted subsidy, calculated as sum of all subsidies granted to the end-users according to the provisions under art.15.

(2) The net cost set out in paragraph (1) will be compensated within 30 days after *ANRC* receives a request in this respect, accompanied by a consolidated record which reflects the granting of subsidies according to the provisions under art.15.

(3) The universal service providers have the obligation to make available to *ANRC*, upon its request, the documents justifying the grant of subsidies included in the consolidated record set out in paragraph (2).

Chapter VI – Special provisions

Art.37. – The capacity as a universal service provider may be withdrawn, by decision of the *ANRC* president, in case the universal service provider is found guilty of repeatedly and seriously infringing the obligations, conditions, standards, rules, procedures and deadlines imposed on the universal service provider on grounds of the designation decision.

Art.38. – The capacity as a universal service provider ceases in the following cases:

- a) the universal service provider ceases to exist;

b) as a result of legal restructuring and bankruptcy procedure initiated against the universal service provider in accordance with Law no.64/1995 on the procedure for legal restructuring and bankruptcy, republished, with the subsequent amendments and completions;

c) the right to provide electronic communications services or networks based on the general authorisation, the licence for the use of radio electric frequencies or the licence for the use of numbering resources, under the conditions set out in art.59 paragraph (4) of Government Emergency Ordinance no.79/2002 is withdrawn;

d) the designation period expires;

e) *ANRC* withdraws this capacity under the conditions set out in art.37.

Art.39. – (1) The providers referred to in art.33 paragraph (1) have the obligation to send declarations on their own account regarding the incomes obtained in 2003 from the interconnection and roaming services provided on the wholesale market to the mobile telephony operators from outside Romania for their users who are in Romania, within 20 days from the entry into force of the present decision.

(2) The decision of the *ANRC* President setting out the volume of the individual contributions for 2004 shall be issued within 60 days after the entry into force of the present decision.

Art.40. – The present decision shall be published in the Romanian Official Journal, Part I and shall enter into force in 3 days after its publication.

**PRESIDENT,
ION SMEEIANU**

Bucharest, July 6, 2004
No.1074/EN

Annex no.1

TECHNICAL AND ECONOMIC ASPECTS OF TELECENTRES

A telecentre is divided into two separate business units:

- a) the provision of access and connection at a fixed location to a public telephone network and the provision of access to publicly available telephone services at a fixed location to the business unit referred to at letter b);
- b) the management of the telecentre.

a) the provision of access and connection at a fixed location to a public telephone network and the provision of publicly available telephone services require the installation, operation and maintenance of the access connection for the entire period during which the operator is designated as universal service provider.

The universal service provider shall ensure at least two lines of access to the public telephone network, with the possibility to add at least three new lines, thus allowing the end-users to initiate and receive local, national and international calls, facsimile communications and data communications at a transfer rate of minimum 33 kbps per line. The minimum availability of the transfer rate shall be stipulated in the terms of reference of the tender, according to the provisions of art.22.

b) the management of the telecentre requires ensuring, operating and maintaining the space and equipments that are necessary for the provision of services under letter a), as well as the provision of such services to end-users.

The universal service provider shall endow the telecentre with at least the following equipments:

- 2 computers allowing Internet connections;
- one fax machine;
- two telephone terminals.

Also, the universal service provider must ensure:

- the possibility for the user to receive calls by recording vocal messages, if the caller uses special individually allotted user codes;
- permanent access to publicly available telephone services.

ANRC shall establish the maximum tariffs that can be charged for the provision of telephone services at the telecentre. The tariffs for other services provided at the telecentre shall be established on commercial basis.

The financing of the net cost based on the compensation mechanism established by *ANRC* creates the conditions for the telecentres to become profitable, given an efficient organisation of the activity.

Annex nr.2

STANDARD REQUEST AND STATEMENT ON THE OWN RESPONSIBILITY

To,

- **Commercial Society „...” – S.A./S.R.L.**

- **National Regulatory Authority for Communications**

I. The undersigned....., owner of B.I./C.I.¹ series....., no....., issued by....., as of....., C.N.P....., with domicile in street....., no....., block....., entrance....., apartment....., county/sector.....telephone....., hereby ask you to grant me the subsidy for the service of access to the public telephone network, at a fixed location, as well as the facilities applicable in case of non-payment of the telephone bill, as per Decision of the President of ANRC no.1074/EN/2004.

II. In support of my request, I hereby mention the following:

A) As regards the family members and their identification data²:

- 1) Surname and first name
- Numerical personal code
- Identity card /justifying act³series.....no.....
- 2) Surname and first name
- Numerical personal code
- Identity card / justifying actseries.....no.....
- 3) Surname and first name
- Numerical personal code
- Identity card / justifying actseries.....no.....
- 4) Surname and first name
- Numerical personal code
- Identity card / justifying actseries.....no.....
- 5) Surname and first name
- Numerical personal code
- Identity card / justifying actseries.....no.....
- 6) Surname and first name
- Numerical personal code
- Identity card / justifying actseries.....no.....

¹ For the foreign citizens or the stateless persons identity shall be proved by means of identity documents required by the law.

² An annex shall be filled in if the family comprises more than 6 members.

³ For the children under the age of 14 or who do not own an identity act, the data from the birth certificate shall be inscribed.

B) Regarding the net incomes obtained by the family members during the month prior to the submission of the request:

1) Salaries and other retribution rights:.....
.....
.....

2) Pensions:.....
.....
.....

3) Other social security rights:.....
.....
.....

4) Permanent indemnities:.....
.....
.....

5) Allowances:.....
.....
.....

6) Grants:.....
.....
.....

7) Aids:.....
.....
.....

8) Other sources of income:.....
.....
.....

Total net incomes obtained by the family during the month prior to the submission of the request:.....
.....

Monthly average income per family member obtained during the month prior to the submission of the request:
.....

C) The contract (subscription) for which they request the subsidy and the facilities:
.....

III. I hereby declare that neither I nor my family members have requested the subsidy and facilities applicable in case of non-payment of the telephone bill for other services of access to the public telephone network of S.C. „...” – S.A./S.R.L. or for other services of access to public telephone networks of other universal service providers.

IV. Being fully aware of the provisions under art.215 of the Penal Code regarding fraud, namely that misleading a person, either by presenting a false fact as a true one or by presenting a true fact as a false one for the purpose of obtaining for myself or for another person an unjust material benefit and should a prejudice be brought thereby, such misleading shall be punished with imprisonment from 6 months to 12 years, and being fully aware of the provisions under art.292 of the Penal Code regarding false statements, namely that the non-appropriate statement of the truth made to a state body or institution, for the purpose of producing legal consequences, for myself or for another person, at a time when, according to the law or to the circumstances, such statement is used to produce those consequences, such false statement shall be punished with imprisonment from 3 months to 2 years or with a fine, I hereby declare on my own responsibility that all data and information included in this request are correct and complete.

Date

Signature
of the requester

.....

.....

REQUEST
for the Designation as a Universal Service Provider

A. Data necessary for identifying and efficiently communicating with the requester:

Name of the requester: <input type="text"/>				
Domicile/ Headquarters of the requester:				
Street: <input type="text"/>		No.: <input type="text"/>	Block: <input type="text"/>	Entrance: <input type="text"/>
City: <input type="text"/>		Postal code: <input type="text"/>		
County / Sector: <input type="text"/>		Telephone: <input type="text"/>	Fax: <input type="text"/>	
E-mail: <input type="text"/>		Website: <input type="text"/>		
The requester is registered with the Trade Register of:				
County/Sector: <input type="text"/>		Number: <input type="text"/>	As of: <input type="text"/>	
Fiscal code: <input type="text"/>		Unique registration number: <input type="text"/>		
Contact person:				
Surname: <input type="text"/>		First name: <input type="text"/>		
Numerical personal code: <input type="text"/>				
Street: <input type="text"/>		No.: <input type="text"/>	Block: <input type="text"/>	Entrance: <input type="text"/>
City: <input type="text"/>		Postal code: <input type="text"/>		
County/ Sector: <input type="text"/>		Telephone: <input type="text"/>	Fax: <input type="text"/>	
E-mail: <input type="text"/>				

B. Description of the types of services within the scope of universal service the requester intends to provide as universal service provider:

B.1. Access to the public telephone network, at a fixed location

B.2. Access to public pay telephones.

C. Locality/localities for which is requested the designation as a universal service provider (an annex to the designation request may be added in case there is not enough space below):

D. The following documents are attached to this request for the designation as a universal service provider:

acknowledging certificate issued by the Office of the Trade Register on the non-existence of a procedure of voluntary or legal dissolving or a procedure that follows the legal restructuring or the bankruptcy;

certificates regarding the fulfilment of the payment obligations to the state budget, to the social insurances state budget, to the social health insurances budget, to the special funds budget and of any other budgetary obligations;

copies of the annual financial statements for the last 3 years or for the entire period since the establishment, should this period be less than 3 years, that have been submitted to the territorial units of the Ministry of Public Finances;

technical proposal together with a detailed description of the technological, material and human resources by which the requester will ensure the services within the scope of universal service for which he requests the designation;

financial proposal together with justifying documents for possible losses caused by the provision of the services within the scope of universal service for which designation is requested;

other documents requested by the documents of the tender.

E. The undersigned,....., in my capacity as the legal representative of the requester, I hereby declare on my own responsibility, being fully aware of the provisions under art.292 of the Penal Code regarding false statements, that all data and information mentioned in the present request and the attached documents are correct and complete.

Date of filling in:

The seal of the requester:

The signature of the legal representative of the requester: