ROMANIA
NATIONAL REGULATORY AUTHORITY FOR COMMUNICATIONS AND INFORMATION TECHNOLOGY
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On grounds of the Decision no.234/2006 of the Prime Minister on the appointment of Mr. Dan Cristian Georgescu as President of the National Regulatory Authority for Communications and Information Technology,

On grounds of the provisions under art.6 paragraph (2) and art.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 art.34 paragraph (2) 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, as well as under art.15 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,

Having regard to the provisions of the ANRC President's Decision no.1250/2005, amended by the ANRCTI President's Decision no.1948/2007,

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

issues the present:

DECISION

Art.1. – The Decision establishes hereby the price cap formulas, as well as the terms of their application for the services provided by S.C. „Romtelecom" – S.A., hereinafter referred to as the *Provider*, on the market of access to the public telephone network at a fixed location for residential customers, on the market of access to the public telephone network at a fixed location for non-residential customers, on the market of publicly available local telephone services provided at a fixed location for residential customers, on the market of publicly available local telephone services provided at a fixed location for non-residential customers, on the market of publicly available national telephone services provided at a fixed location for residential customers, on the market of publicly available national telephone services provided at a fixed location for non-residential customers, on the market of publicly available international telephone services provided at a fixed location for residential customers, on the market of publicly available international telephone services provided at a fixed location for non-residential customers, on the market of calls at fixed locations towards mobile public telephony networks for residential users and respectively on the

market of calls at fixed locations towards mobile public telephony networks for non-residential users.

Art.2. – The annual maximum average growth of tariffs of the *Provider* for the services provided on the relevant specific retail markets mentioned under art.1 for a certain year is determined based on the following formula:

$$\Delta P_{\max_t}\% = \Delta IPC_t + 2{,}09\%$$

where:

$\Delta P_{\max_t}\%$ is the annual maximum average growth of tariffs for services provided on the relevant specific markets set out under art.1 for the year t (the year for which the formula is applied);

ΔIPC_t is the IPC_t–100, and IPC_t is consumer price index communicated by the National Statistics Institute for the month of June of the year t as compared to the month of June of the year $t-1$ (the year previous to the one for which the formula is applied).

(2) The annual maximum average growth rate resulted based on the formula specified in paragraph (1) is applied to the tariffs expressed in the Romanian currency – lei.

Art.3 – (1) Based on the separate financial statements prepared by the *Provider* for the envisaged year, on grounds of the Regulation for the realization, by S.C. „Romtelecom" – S.A., of the accounting separation within the internal accounting system, approved by the ANRC President's Decision no.1380/2003, amended and completed by the ANRC President's Decision no.1250/2005, the National Regulatory Authority for Communications and Information Technology, hereinafter referred to as *ANRCTI*, shall verify, during the following year, whether, by applying the formulas provided for in annex no.1, which is an integral part of the present decision, the *Provider* framed within the annual maximum average growth for a certain year.

(2) Should the annual average variation rate of tariffs, calculated based on the formulas provided for in annex no.1, be bigger or smaller than the annual maximum average growth rate, resulted from the price cap formula mentioned under art.2 paragraph (1), *ANRCTI* shall take into consideration this difference within the price cap formula used for the determination of the maximum average annual growth rate for the following year, as presented below:

$$\Delta P_{\max_{t+1}}\% = \Delta IPC_{t+1} + 2{,}09\% + Q_{t+1}$$

where:

$\Delta P_{\max_{t+1}}\%$ is the annual maximum average growth rate of tariffs for the services provided on the relevant specific markets set out under art.1 for the year $t+1$

(the year following the one when the annual average tariffs variation rate is bigger or smaller than the annual maximum average growth rate);

ΔIPC_{t+1} is $IPC_{t+1}-100$ and IPC_{t+1} is the consumer price index communicated by the National Statistics Institute for the month of June of the year $t+1$ as compared to the month of June of the year t.

Q_{t+1} is the correction factor of the annual maximum average growth rate, calculated based on the following formula: $Q_{t+1} = \Delta P_{max\ t}\% - \Delta P_t\%$, where $\Delta P_t\%$ represents the average variation of tariffs for the services provided on the relevant specific retail markets mentioned in art.1, registered by the *Provider* during the year t.

(3) Should the annual average growth rate of the tariffs be bigger than the annual maximum average growth rate of the tariffs as resulted from the formula presented in art.2 paragraph (1), the *Provider* shall have the obligation to apply in the following year a smaller tariffs increase than the annual maximum average growth rate which would result from the application of the price cap formula provided for in art.2 paragraph (1) or of lowering the tariffs, with a view to comply with the provisions under paragraph (2).

(4) The provisions under paragraphs (2) and (3) do not intervene within other measures which *ANRCTI* may impose, in accordance with the legal provisions, should the *Provider* charge tariffs bigger than the ones established by the application of the annual maximum average growth rate.

Art.4. − (1) The *Provider* has the obligation to notify *ANRCTI* on the modification of any of its tariffs or on the introduction of any new packages of services or tariffs reduction schemes on the relevant specific retail markets provided for in art.1, within 5 days at the most since their entry in force.

(2) *ANRCTI* may verify whenever is necessary whether by the tariffs for services or packages of services or by the tariffs reduction schemes applied on the relevant specific markets provided under art.1, the *Provider* breaches its obligation of not practising margin squeeze and therefore limiting the market entry or restricting competition.

(3) With a view to verify the compliance with the obligation of not practising margin squeeze, thus limiting the market entry or restricting competition, the *Provider* has the obligation to transmit, upon request from *ANRCTI*, information on the registered average monthly traffic, for different categories of subscribers, identified in terms of services combinations, packages of services and options available in the *Provider*'s commercial offer for each service provided.

(4) *ANRCTI* shall establish the format for sending the information provided under paragraph (3) and shall communicate it to the *Provider* together with the request of information.

(5) The verification of the compliance with the obligation of not practising margin squeeze, thus limiting the market entry or restricting competition, shall

be fulfilled by the enforcement of the methodology provided for in annex no.2, which is part of the present decision.

(6) Should be found, following the analysis of the information transmitted as according to paragraph (3), that the *Provider* breaches its obligation of not practising margin squeeze, thus limiting the market entry or restricting competition, then *ANRCTI* shall impose on tariffs the due modification or the retirement of the packages of services or of the tariffs reduction schemes, as the case may be.

(7) The provisions of paragraph (6) do not intervene within other measures which *ANRCTI* may impose, in accordance with the legal provisions, should the *Provider* breach its obligation of not practising margin squeeze, thus limiting the market entry or restricting the competition.

Art.5. – (1) In view of enforcing in 2007 the provisions under art.3 paragraph (1), the average tariff charged in 2006 for every service provided on the relevant specific retail markets stipulated under art.1 shall be determined in terms of revenues and of the real volume units registered during the last 3 months of 2006.

(2) In view of enforcing the provisions of art.4 paragraph (2) in 2007, the *Provider* shall transmit to *ANRCTI*, once, taking into consideration the date of fulfilling the notification provided under art.4 paragraph (1), the last available separate financial statements for 2005 or for 2006, completed according to the Regulation for the realization, by S.C. „Romtelecom" – S.A., of accounting separation within the internal accounting system, retreated in such a manner that the tariffs for network internal use should be equivalent with the tariffs for services provided to other operators, as stipulated in the ANRC President's Decision no.1459/2005, applicable starting January 1, 2007, with a report of an independent auditor, elaborated in accordance with the International Standard no.4400 regarding the related services – "*Engagements to Perform Agree – upon Procedures Regarding Financial Information*", whereby certifies the correctness of the retreated separate financial statements.

Art.6. – The Decision hereby is enforced until December 31, 2009.

Art.7. – The present Decision shall be communicated to S.C. „Romtelecom" – S.A.

PRESIDENT,
DAN CRISTIAN GEORGESCU

Bucharest, May 28, 2007
No.1949

Annex no.1

THE FORMULAS USED FOR THE FULFILMENT OF THE OBLIGATIONS
PROVIDED UNDER ART.2 PARAGRAPH (1)

a) The annual average variation rate of tariffs for the services provided on the relevant specific retail markets specified in art.1 is determined based on the following formula:

$$\Delta P_t \% = \sum_{i=1}^{n} \Delta P_{i_t} \% * V_{i_{t-1}} / V_{tot_{t-1}}$$

where:

$\Delta P_t\%$ is the average variation rate of tariffs for the services provided on the relevant specific retail markets specified under art.1;
$\Delta P_{i\,t}\%$ is the percentage variation of tariffs for the service "*i*";
$V_{i\,t-1}$ represent the revenues resulted from the commercialisation of the service "*i*" during the year previous to the one for which the formula is applied;
$V_{tot\,t-1}$ are the total revenues obtained by the *Provider* from the commercialisation of the services provided on the relevant specific retail markets specified under art.1 during the year previous to the year for which the formula is applied.

b) The percentage variation of tariffs for every service provided on the relevant specific retail market specified under art.1 is determined based on the following formula:

$$\Delta P_{i_t} \% = \frac{\overline{T_{i_t}}}{\overline{T_{i_{t-1}}}} * 100 - 100$$

where:
$\Delta P_{i\,t}\%$ is the percentage variation of tariffs for the service „*i*";

$\overline{T_{i_{t-1}}}$ is the average tariff for the service "*i*" in the year before the year for which the formula is applied and it is calculated according to the formula provided for in letter c);

$\overline{T_{i_t}}$ is the average tariff for the service "*i*" charged in the year for which the

formula is applied and it is calculated according to the formula provided for in letter c).

c) The average tariff for a certain year for every service provided on the relevant specific retail markets specified under art.1 is determined based on the following formula:

$$\overline{T_i} = \frac{V_i}{Q_i}$$

where:

$\overline{T_i}$ is the average tariff for the service "i" for the respective year;

V_i are the annual revenues resulted from the commercialisation of the service "i" for the respective year;

Q_i represents the total volume of real units (real traffic, number of subscriptions, number of connections etc.) provided from the service "i" for the respective year;

Annex no.2

THE VERIFICATION METHODOLOGY OF THE COMPLIANCE WITH THE OBLIGATION OF NOT PRACTISING MARGIN SQUEEZE, THUS LIMITING THE MARKET ENTRY OR RESTRICTING COMPETITION

In order to verify the compliance with the obligation of not practising margin squeeze, thus limiting the market entry or restricting competition, ANRCTI shall use the following price cap formulas:

a) $P_i * (1 - \varepsilon_i) \geq (\sum U_{ij} * T_j + k) * (1 + r) * w$

where:

P_i is the tariff from the *Provider's* offer for the service "*i*";

ε_i is the discount granted to the subscriber for the service "*i*";

U_{ij} represents the usage rate of the wholesale service "*j*" by the retail service "*i*";

T_j represents the transfer charge for the wholesale service "*j*";

k stands for the other providers' interconnection costs (calculated per minute);

r is the retail sales margin, determined as a proportion between the retail sales costs for the services provided on the relevant specific retail markets specified under art.1, without the restructuring costs, and the network costs for these services, without the restructuring costs, as well;

w is the proportion between the real total traffic and the invoiced total traffic.

b) $V_p = \sum P_l + \sum q_i * P_i * (1 - \varepsilon_i) \geq (\sum q_i * U_{ij} * T_j + \sum q_i * k) * (1 + r) * w$

where:

V_p is the average total revenue obtained per a certain category subscriber, without the revenues resulted from access services;

P_l is the monthly tariff paid by the subscriber in order to benefit from the package "*l*";

P_i stands for the separate tariff from the *Provider*'s offer for the service "*i*" included in the analysed package;

q_i represents the average invoiced quantity for the service "*i*" calculated for the subscriber benefiting from the analysed package;

ε_i is the discount granted to the subscriber for the service "*i*";

U_{ij} stands for the usage rate of the wholesale service "*j*" by the retail service "*i*";

T_j is the transfer charge for the wholesale service "*j*";

k represents the other providers' interconnection costs (calculated per minute);

r is the retail sales margin, determined as a proportion between the retail sales costs for the services provided on the relevant specific retail markets specified under art.1, without the restructuring costs, and the network costs for these services, without the restructuring costs, as well;

w is the proportion between the real total traffic and the invoiced total traffic.

Should the *Provider* not comply with the formulas mentioned above when establishing the tariffs for its services or packages of services or when applying tariffs reduction schemes, *ANRCTI* shall verify whether their application limits the market entry or restricts competition, by comparing the *Provider*'s offer with the offers of the first 3 providers who offer publicly available telephone services at fixed locations, other than the *Provider*, ordered by the market shares determined in terms of the subscribers' number through own networks.