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## **LAW no.175 of 9 June 2022 on ensuring the access of natural persons to fixed broadband Internet services**

**The Romanian Parliament** adopts this law.

### **Art. 1**

(1) Natural persons have the right to be ensured, to the extent it is reasonable, the access to at least one functional broadband Internet service through a connection provided at a fixed location.

(2) The characteristics of the functional broadband Internet access service shall be defined within 6 months from the entry into force of the present law, by order of the Minister of Research, Innovation and Digitalization.

(3) The reasonableness criteria for the provision of the access mentioned in paragraph (1) shall be established by decision of the National Authority for Management and Regulation in Communications, hereinafter referred as ANCOM, taking into consideration, as the case may be, the service installation costs, the position towards a terrestrial communication path, the special geographical conditions, the housing situation of natural persons and other such elements.

### **Art. 2**

(1) The authorities of the central or local public administration have the obligation, within the limits of their competence, to ensure the access to the services mentioned in Article 1, paragraph (1) in the areas identified in the list mentioned at Article 5, paragraph (1), without significantly affecting the competitive environment on the electronic communications market at national or local level.

(2) Within the purpose mentioned at paragraph (1) the competent authorities of the central or local public administration may in particular:

a) establish and apply, in a non-discriminatory manner, procedures for issuing promptly and with priority the permits for the construction of public electronic communications networks or of physical infrastructure elements intended for the installation of such networks;

b) by derogation from the provisions of Articles 6 and 11 of Law no. 159/2016 on the regime of electronic communications networks infrastructure and on establishing certain measures for reducing the cost of electronic communications networks roll-out, with the subsequent amendments and completions, establish free, non-discriminatory access to the public or private property they own or administrate, for the installation of electronic communication networks or physical infrastructure elements intended for installing such networks;

c) by derogation from the provisions of Article 19 of Law no 159/2016, with the subsequent amendments and completions, in the contracts whereby a third party is entrusted with the provision of a public utility community service, specify the third party's obligation to grant the free and non-discriminatory access to the assets

making up the public utilities system corresponding to the public utility community service in question, for the installation of public electronic communications networks or physical infrastructure elements intended for installing such networks;

(3) For the purpose mentioned at paragraph (1), the competent authorities of the central or local public administration may attract public or private financing to implement projects, such as:

a) the construction of physical infrastructure elements intended for the installation of public electronic communication networks capable to provide the services mentioned in Article (1) paragraph (1). Access to these elements shall be granted in accordance with the applicable national legal framework, free of charge or against payment, to the providers of public electronic communications networks;

b) the granting of state aid.

(4) The state aid under paragraph (3), point b) is granted for the following eligible costs:

a) investment costs for the development of a passive broadband infrastructure;

b) investment costs triggered by civil engineering works related to broadband infrastructure;

c) investment costs for the development of next generation access networks.

### **Art. 3**

(1) By way of derogation from the provisions of Article 25 of Law 159/2016, with the subsequent amendments and completions, the technical and economic conditions under which the providers of public electronic communication networks have access to the infrastructure elements intended for the installation of public electronic communication networks built pursuant to the provisions of Article 2 paragraph (3), point a) in the localities where the end-users natural persons do not have access to a broadband Internet service provided at a fixed location are not subject to ANCOM approval.

(2) The holders of the right of administration, concession, lease or gratuitous use, as the case may be, or in their absence, the public administration authorities that exercise the right of ownership, on behalf of the state or the administrative-territorial units, over the physical infrastructure elements mentioned at paragraph (1) shall grant access to these physical infrastructure elements, under objective, transparent, proportionate and non-discriminatory conditions, within the limits of available capacity, to all the providers of public electronic communications networks that request the access for installing, maintaining, replacing or moving elements of public electronic communications networks. The physical infrastructure elements mentioned at paragraph (1) shall be designed in such way as to allow the additional installation of at least two network elements, such as cables or equipment, but not limited to these elements, equivalent to those originally considered. In all situations, the access to the physical infrastructure elements mentioned at paragraph (1) must be granted for at least three providers of public electronic communications networks that do not belong to the same group.

(3) The tariffs levied on the providers of public electronic communications networks for the access to the physical infrastructure elements mentioned at paragraph (1) shall not exceed the maximum tariffs for exercising the right of access to the real

estate public property established in accordance with Article 6 of Law no. 159/2016, with the subsequent amendments and completions.

(4) To facilitate the roll-out of the electronic communications networks, the persons mentioned at paragraph (2) can establish, in compliance with the non-discrimination principle, access tariffs lower than those mentioned at paragraph (3) or they can decide to grant free of charge access to the physical infrastructure elements specified in paragraph (1), taking also into account the circumstances in which the construction of the physical infrastructure elements was financed. Full financing through European non-refundable funds constitutes, in any case, a sufficient ground for the application of this paragraph.

#### **Art. 4**

In addition to the measures that can be taken pursuant to paragraph (2), in compliance with the provisions of Chapter VI – Universal Service of the Government Emergency Ordinance no. 111/2011 on electronic communications, approved with amendments and completions by Law no. 140/2012, with the subsequent amendments and completions, ANCOM imposes universal services obligations to ensure the access to the services specified in Article 1 paragraph (1) in the areas identified in the list referred to in Article 5 paragraph (1).

#### **Art. 5**

(1) ANCOM shall publish annually, on its website, the list of areas where, on the indicated reference date, there is no access to the services mentioned at Article 1 paragraph (1).

(2) The local public administration authorities under whose territorial competence are the areas included in the list referred to in paragraph (1) shall, within 120 days from the date of communication by ANCOM of the information that these areas are included in the respective list, adopt a plan of measures to facilitate the roll-out of the electronic communications networks in those areas, which may include one or several of the measures provided at Article 2 paragraphs (2) and (3), stating also the timeframes for the implementation of the proposed measures.

(3) By way of exception from the provisions of paragraph (1), within 30 days from the date of entry into force of this law, ANCOM shall publish the list of localities where, according to the information at its disposal, the end-users natural persons do not have access to a broadband Internet service provided at a fixed location and shall communicate this information to the local public administration authorities under whose territorial competence are the areas included in the list.

(4) The local public administration authorities have the obligation to submit to ANCOM, at the latter's request, the latest available street nomenclature corresponding to the localities from the area under their territorial competence.

#### **Art. 6**

In compliance with the provisions of Chapter VI - Universal Service of the Government Emergency Ordinance no 111/2011 on electronic communications, approved with amendments and completions by Law no. 140/2012, with the subsequent amendments and completions, ANCOM imposes universal services obligations to ensure the affordability, in terms of tariffs, of the services mentioned at Article 1 paragraph (1).

## **Art. 7**

Within 3 years from the date of entry into force of this law, the institutions and the public authorities, regardless of their financing, have the obligation to have connected to a public electronic communications network capable to provide internet services, at data transfer speeds and other quality conditions adapted to specific needs, all the buildings which they own or administrate and whose main destination is the provision of public services, if these buildings are in the area of availability of at least one network capable of providing the necessary internet services.

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This law was adopted by the Parliament of Romania, in compliance with the provisions of Article 75 and Article 76 paragraph (1) of the Romanian Constitution, republished.

President of the Chamber of Deputies of Romania

**ION-MARCEL CIOLACU**

p. PRESIDENT OF THE SENATE,

**ALINA-ȘTEFANIA GORGHIU**

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