

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^{*}

(unofficially consolidated text,
including the legal provisions in force as of 27 March 2008)

CHAPTER I General Provisions

Art. 1 – This Emergency Ordinance aims to:

a) establish the general regulatory framework for the activities related to electronic communications networks and services, by defining the objectives and attributions of the National Regulatory Authority for Communications (hereinafter referred to as *ANRC*) in the electronic communications field, the authorisation regime for such activities, as well as the specific rules governing competition in the market for electronic communications networks and services;

b) establish the objectives and attributions of *ANRC* in the field of postal services;

c) set up *ANRC*, as the body of the central public administration specialised in the field of electronic communications and postal services.

Art. 2 – (1) For the purposes of this Emergency Ordinance, the following definitions shall apply:

1. *provision of an electronic communications network* – the installation, operation, control, or making available of an electronic communications network;

2. *provider of an electronic communications network* – a person whose business consists, in whole or in part, of the provision of an electronic communications network;

3. *end-user* – any user, except for those who provide public communications networks or publicly available electronic communications services;

4. *consumer* – any natural person who uses or requests a publicly available electronic communications service for purposes other than those of its commercial or professional business;

e) *harmful interference* – effect of an unwanted energy interference that occurs during reception on an electronic communications network that uses the radio frequency spectrum, which is caused by an emission or by a phenomenon of radiation or of induction, is detrimental - in any way – to the network performance and may trigger the erroneous interpretation of information or loss of information that could have been obtained in the absence of such an unwanted energy;

^{*} According to Art.20 of the Government Emergency Ordinance no. 22/2009 on the establishment of the National Authority for Management and Regulation in Communications, “the National Regulatory Authority for Communications” and “ANC” shall be replaced by “the National Authority for Management and Regulation in Communications” and “ANCOM”, throughout the normative acts in force.

According to Art.30(2) letter b) of the Government Emergency Ordinance no.25/2007 regarding the establishment of certain measures for the reorganisation of the Government working apparatus, within the normative acts in force, the wording “the General Inspectorate for Communications and Information Technology” shall be replaced by “the National Regulatory Authority for Communications and information Technology”, in case of the attributions regarding the field of radiocommunications, audio-visual communications, radio equipments and terminal electronic communications equipment, including as regards their electromagnetic compatibility.

f) *trans-national market* – market identified by the European Commission that covers the territory of the European Community or a considerable area of this territory.

(2) For the purposes of this Emergency Ordinance, the definitions set out in Art. 2 of the Government Ordinance no. 34/2002 on access to the public electronic communications networks and to the associated infrastructure, as well as their interconnection, approved with amendments and completions by Law no.527/2002, with the subsequent amendments, hereinafter referred to as the Access Ordinance, and in Art. 2 of the Government Ordinance no. 31/2002 on postal services, approved with amendments and completions by Law no.642/2002, with the subsequent amendments, hereinafter referred to as the Postal Services Ordinance, in Art.2 (1) of Law no.304/2003 for universal service and the users' rights regarding the electronic communications networks and services, hereinafter referred to as the Universal Service Law, as well as in Art.2(1) of Law no.510/2004 on the reorganisation of the Inspectorate General for Communications and Information Technology, with the subsequent amendments shall also apply.

Art. 3 – (1) repealed

(2) The provisions of this Emergency Ordinance shall not apply to the provision of electronic communications networks and services by the institutions within the National Defence System for their own needs, which shall be subject to the specific regulations applicable to those institutions.

(3) The interconnection of the electronic communications networks belonging to the institutions within the National Defence System with the public communications networks shall be performed in accordance with the provisions of the Access Ordinance.

Art.3¹ - repealed

CHAPTER II

Authorisation of the Provision of Electronic Communications Networks and Services

Art. 4 – (1) There shall be freedom to provide electronic communications networks and services, an activity which shall be pursued under the general authorisation regime, in accordance with the provisions of this Chapter.

(2) A person intending to provide electronic communications networks or services shall send ANCOM a notification on this intention, for the purpose of setting out an official record of the providers. The notification shall be made as provided for in paragraph (3).

(3) ANCOM establishes and updates the standard notification form containing the information that any person intending to provide electronic communications networks or services must communicate in order to benefit from the general authorisation. Such information will be provided under the following categories:

1. data necessary to identify and efficiently communicate with the provider;
2. description of the types of networks or services that the respective person intends to provide;
3. estimated date of starting the activity.

(4) The person who submitted the notification in compliance with paragraphs (2) and (3) shall be authorised to provide the types of networks and services he/she indicated in the notification, having all the rights and obligations under the general authorisation.

(5) Any modification of the data referred to in paragraph (3) shall be notified to ANCOM within 10 days.

(6) The entities that have been withdrawn the right to provide electronic communications networks or services shall be also withdrawn the licence for the use of radio frequencies and the licence for the use of numbering resources, as the case may be, and can no longer benefit from the general authorisation for a 3-year period after the withdrawal of the right.

(7) The entities who intend to provide electronic communications networks and services exclusively for their own needs do not have the obligation to send the notification. The rights and obligations provided in the general authorisation shall be enforced accordingly.

Art. 5 – (1) ANCOM shall elaborate and update the general authorisation for the types of networks and services, whereby it sets out the conditions for their provision, thus determining the rights and obligations of the providers of each type of network or service.

(2) The conditions mentioned in paragraph (1) shall be objectively justified in relation to the respective type of network or service and shall be non-discriminatory, proportionate, and transparent. They may envisage the following:

- a) financial contributions for financing the universal service;
- b) payment of the annual monitoring tariff;
- c) interoperability of services and interconnection of networks;
- d) availability of numbering resources for end-users, including conditions imposed on grounds of the special legislation on the universal service;
- e) requirements on the environment protection, urban and land planning, as well as requirements and conditions linked to the granting of the right of access on properties, co-location and facility sharing, including, as the case may be, the financial or technical guarantees necessary to ensure the proper execution of infrastructure works;
- f) obligations regarding the retransmission of programme services through the electronic communications networks, in accordance with the provisions under the audiovisual legislation;
- g) processing of personal data and protection of privacy;
- h) consumer protection;
- i) restrictions in relation to the transmission of illegal and harmful content, in accordance with the applicable legal provisions in the electronic commerce and in the audiovisual fields;
- j) information to be provided on grounds of Art. 4 paragraph (3) and Art. 51;
- k) legal interception of communications, including the bearing - by the providers of electronic communications networks or services - of the corresponding costs, and ensuring confidentiality by means of their own systems, accredited under the legislation in force;
- l) provision of electronic communications networks and services during the situations generated by a natural calamity or an extremely serious disaster;
- m) measures aimed at limiting the exposure of the population to the effects of electromagnetic fields generated by the electronic communications networks, under the conditions set out by the legal provisions in force;
- n) access obligations, other than those referred to in Arts. 5, 6 and 8 of the Access Ordinance or in the special legislation on the universal service;
- o) maintenance of the integrity of public communications networks, including by conditions that prevent harmful interference between electronic communications networks or services;
- p) ensuring the security of public communications networks against unauthorised access;
- q) conditions for the usage of radio-electric frequencies whose usage is subject only to the general authorisation regime, in accordance with the provisions of Art. 13 (2);

r) measures intended to ensure compliance with the technical standards or specifications;

s) criteria and procedures for imposing the obligations referred to in Arts. 5, 6, and 8 of the Access Ordinance or in the special legislation on the universal service.

(3) ANCOM shall amend the general authorisation, by observing the principles of objectivity and proportionality, only upon completion of the consultation procedure provided for in Art. 50 and only in the following situations:

a) such a decision is necessary in order to comply with the obligations under an international agreement in which Romania is a party;

b) the circumstances under which the general authorisation was issued have changed.

(4) ANCOM shall repeal the general authorisation, by observing the principles of objectivity and proportionality, only upon completion of the consultation procedure provided for in Art. 50 and only in the following situations:

a) such decision is necessary in order to comply with the obligations under an international agreement to which Romania is a party;

b) in order to protect the public interest, when the circumstances subject to which the general authorisation was issued have changed.

Art. 6 – (1) The entities authorised to provide electronic communications networks or services pursuant to Art. 4 shall benefit from the right of access on properties, under the conditions set out in Chapter IV herein.

(2) The entities authorised to provide public communications networks or publicly available electronic communications services pursuant to Art. 4 shall also benefit from the following rights:

a) the right to negotiate and conclude access or interconnection agreements with any other authorised providers of public communications networks or of publicly available electronic communications services, in accordance with the Access Ordinance;

b) the right to be designated for the provision of any of the universal service components, on the entire national territory or in certain areas thereof, under the conditions set out by the legal provisions in force.

(3) Upon request or *ex officio*, ANCOM shall issue, within 7 days, a standard certificate attesting that the relevant person has sent a notification in compliance with the conditions set out in Art. 4 and presenting the conditions subject to which the respective person benefits from the right of access on properties and from the right to negotiate access or interconnection agreements.

CHAPTER III ***Legal Regime of the Radio Frequency Spectrum and of the Numbering Resources***

Art. 7 – (1) Radio-electric frequencies and numbering resources are scarce resources under the public property of the state.

(2) The administration and management of the radio-electric frequencies and of the numbering resources shall be carried out in accordance with the principles of objectivity, transparency, non-discrimination, and proportionality.

Art. 8 – (1) The Ministry of Communications and Information Technology, hereinafter referred to as the *Relevant Ministry*, shall adopt the National Frequency Band Allocation Table.

(2) The General Inspectorate for Communications and Information Technology shall ensure, under the conditions set out by the legal provisions in force, the administration and coordination of the radio-electric frequency management, at a national level, in accordance with the National Frequency Band Allocation Table and with the international agreements in which Romania is a party.

(3) The *Relevant Ministry* may prohibit the partial or total use of a frequency band or of a certain frequency by natural or legal entities for a limited period, upon the grounded request of the competent public authorities, in cases where the national security, public order, or national defence so require.

(4) The public authorities in the fields of national defence, public order, and national security shall have the right to use the allocated radio-electric frequency bands, to the extent this is necessary for the fulfilment of the special attributions conferred by the law.

(5) The costs of a change of destination or reorganisation of certain radio frequencies shall be covered from the amount of the licence fee mentioned in Art.15 (3). The manner of compensation of these costs shall be established by Government Decision, on a case-by-case basis.

Art. 9 – The activity of the Inspectorate General for Communications and Information Technology with respect to the administration and coordination of the radio spectrum management shall be assisted by the Interdepartmental Radio-communications Commission set up by Government Decision no. 1.015/2001 on the establishment, organisation and functioning of the Interdepartmental Radio-communications Commission.

Art. 10 – (1) The authorities responsible for the management of the radio-electric frequency bands are the following:

a) the Inspectorate General for Communications and Information Technology, hereinafter referred to as IGCTI^{*}, for the frequencies in the bands which are allocated for non-governmental use;

b) the competent bodies in the field of national defence, public order, and national security, for the frequencies in the bands which are allocated for governmental use.

(2) ANCOM shall individually assign for usage the radio-electric frequencies in the bands provided in the National Frequency Band Allocation Table and shall permanently keep record of their use, in accordance with the procedure established by the ANCOM President's decision.

(3) The authorities referred to in paragraph (1) shall ensure the mutual exchange of information regarding the frequency assignments performed, in accordance with the provisions of Law no. 182/2002 on the protection of classified information. These authorities shall collaborate, under the co-ordination of ANCOM, in order to identify and locate unauthorised emissions and harmful interferences, with a view to ensuring the radio-electric protection of all the electronic communications services which use radio-electric frequencies.

Art. 11 – (1) ANCOM shall adopt the National Numbering Plan.

(2) *ANRC* shall ensure, under the conditions set out by the legal provisions in force, the administration and management of numbering resources at a national level, in compliance with the National Numbering Plan and the international agreements in which Romania is a party.

* According to Art.5 of the Government Emergency Ordinance no.25/2007 on the establishment of certain measures for the reorganisation and functioning of the Government working apparatus, published in the Romanian Official Journal, Part I, no.270 of 23 April 2007, the national Regulatory Authority for Communications and Information Technology takes over the specific attributions in the field of radiocommunications, audiovisual communications, radio equipment and electronic communications terminal equipment, including as regards their electromagnetic compatibility, from the Inspectorate General for Communications and Information Technology, which is dissolved. See also footnote 1.

Art. 12 – (1) *ANCOM* shall ensure that adequate numbering resources are made available for all the providers of publicly available electronic communications services.

(2) The management of the numbering resources shall be performed in compliance with the principle of equal treatment granted to all providers of publicly available electronic communications services.

(3) The providers of publicly available electronic communications services to whom ranges of numbers have been allocated shall apply the principles of non-discrimination and transparency as to other providers of electronic communications services, regarding the number sequences used to give access to their services.

Art. 13 – (1) The use of radio-electric frequencies shall be allowed only upon obtaining a licence granted, in accordance with the law, under such conditions as to ensure their efficient use and avoid the occurrence of harmful interferences on the networks operated by other entities who use the radio frequency spectrum under the legal provisions.

(2) The use of numbering resources shall be allowed only upon obtaining a licence, granted, in accordance with the law, under such conditions as to ensure their efficient use.

(3) *ANCOM* may designate certain categories of frequencies that can be used without a licence for the use of radio frequencies, subject to the general authorisation regime concerning the access and the conditions of use, in cases where this is technically possible and especially when the harmful interference risk is low. *ANCOM* establishes the harmonised usage regime, for each category of licence-free frequencies, by decision of its president.

(4) The use of the radio-electric frequencies necessary for the own needs of the institutions within the National Defence System shall be free of charge and shall not require a licence, on the grounds of the allocation performed by the *Relevant Ministry*, by the National Frequency Band Allocation Table, and in compliance with:

a) the technical and operational requirements necessary for the avoidance of harmful interferences and for limiting the exposure of the population to the effects of electromagnetic fields, where such conditions are different from those included in the general authorisation;

b) the obligations resulted from the international agreements relating to the use of frequencies.

(5) In case of the radio-electric frequencies required for the self-provision of communications services by embassies and diplomatic missions of other countries on the territory of Romania, the use and authorisation of these frequencies shall observe a special regime established by Government decision, in compliance with the harmonised European procedures and with the provisions under the international agreements in which Romania is a party.

Art. 13¹. – (1) The operating personnel of radiocommunications stations in the mobile aeronautical and satellite mobile aeronautical services, in the mobile maritime and satellite mobile maritime services, in the radiotelephone service on inland waterways and in the land mobile service, excepting the operation personnel of radiocommunications stations within the national mobile networks, shall have the adequate knowledge necessary for the operation of the respective stations.

(2) *ANCOM* shall provide for the certification of the personnel in paragraph (1), under the terms and conditions established by a regulation approved by the *ANCOM* President.

Art. 13². – (1) The radio frequencies in the amateur service shall be used without a licence for the use of radio frequencies.

(2) Only the adequately authorised entities – referred to as radioamateurs - shall operate in the amateur service, in frequency bands allocated by the National Frequency Allocations Table, for non-commercial activities and only for personal purposes, for individual instruction, technical studies and intercommunication.

(3) The certification and authorisation of radioamateurs, as well as their use of the radio frequencies, are established by regulations approved through a decision of the ANCOM President.

Art. 13³. – (1) By December 31, 2007, IGCTI shall adopt, by decision of its president, a set of regulations that establish the technical characteristics of harmful interferences, based on the types of radiocommunications services authorised in Romania, in compliance with the specifications, standards and technical rules applicable to equipments that generate an electromagnetic field.

Art. 14 – (1) The licence for the use of radio-electric frequencies is the administrative document whereby ANCOM grants to a provider authorised pursuant to Art. 4 the right to use one or several radio-electric frequencies in order to provide electronic communications networks or services, in compliance with certain technical parameters and for a limited period of time.

(2) The licence for the use of radio-electric frequencies establishes the conditions under which the holder may exercise the right provided for in paragraph (1). Such conditions shall be objectively justified in relation to the type of network or service concerned and shall be non-discriminatory, proportionate, and transparent. They may target the following:

a) the designation of the type of network or service or of the technology for which the right of use has been granted, including, as the case may be, the exclusive use of a frequency for the transmission of a certain content or for the retransmission of certain programme services;

b) the effective, rational, and efficient use of the frequencies, including, where appropriate, territory coverage requirements;

c) technical and operational requirements necessary for the avoidance of harmful interferences and for the limitation of exposure of the population to the effects of electromagnetic fields, where such conditions are different from those included in the general authorisation;

d) the duration for which the right of use is granted, subject to the modification of the National Frequency Band Allocation Table;

e) the transfer of the license;

f) the spectrum usage tariff, established in accordance with Art. 19;

g) any obligations undertaken by the relevant provider during a competitive or comparative selection procedure;

h) obligations resulted from the international agreements relating to the use of frequencies.

(3) The licence for the use of radio frequencies may be amended upon ANCOM's initiative, according to its attributions in accordance with the legislation in force, in the cases imposed by:

a) compliance with the conditions regarding the effective, rational and efficient use of the radio frequencies;

b) avoidance of harmful interferences;

c) achievement of the objectives regarding harmonisation at the European level and international cooperation on the use of radio frequencies;

- d) compliance with the international agreements in which Romania is a party, regarding the use of radio frequencies;
- e) solving the instances of radio frequency shortage, in certain geographic areas, in the frequency bands allocated for the network provision under licence;
- f) implementing the development strategy for electronic communications and the radio spectrum management policy;
- g) amending the National Frequency Allocations Table.

(4) In the situation provided by paragraph (3), ANCOM shall inform the holder of the licence for the use of radio frequencies on the amendments to be made and shall allow a term in view of achieving compliance in direct proportion with their qualitative and quantitative specific.

Art. 15 – (1) The licenses for the use of radio-electric frequencies shall be granted through an open, transparent, and non-discriminatory procedure, within at most 6 weeks after receipt of a duly filled in application in this respect, accompanied by all the documents required therefor, except for the licenses granted through a competitive or comparative selection procedure, for which the term is at most 8 months. This process should not drive to restricting, hindering or distorting competition.

(2) The terms under paragraph (1) may be modified by ANCOM if this is necessary for ensuring compliance with an international agreement regarding the use of the radio-electric frequency spectrum or of the orbital positions, in which Romania is a party.

(3) The granting of licences for the right to use radio frequencies by means of competitive or comparative selection procedures shall be bound by the payment, to the state budget, of a licence fee amounting to a value which is to be established by Government decision, on a case-by-case basis.

(4) *Competitive selection* is a procedure of granting licences for the use of radio frequencies by which the right of use is awarded to the winner of a tender, following the offer of the largest amount for the licence fee, starting from the minimum amount established according to paragraph (3), while ensuring compliance with certain short-listing technical, administrative and/or financial criteria.

(5) The *comparative selection* represents the procedure of granting licences for the use of radio frequencies whereby the right to use the radio spectrum is granted to the best ranked company/companies, following the assessment of their offers submitted based on a set of pre-established technical, administrative and/or financial criteria, as the case may be.

(6) The selection procedure applied for the granting of the right to use the radio spectrum shall be established by Government decision, whereas the detailed regulation of the development of the competitive or comparative selection procedures shall be established by decision of the ANCOM President.

Art. 16. – (1) The number of licences for the use of radio frequencies to be granted may be limited only when necessary in order to ensure an efficient use of the radio frequency spectrum.

(2) The number of licences for the use of radio frequencies to be granted shall not be limited unless the following conditions are met:

- a) ANCOM shall take into account the need that the measure maximise the benefits of the users and facilitate the development of competition;
- b) ANCOM shall give all the interested parties, including users and consumers, the opportunity to express their views on the limitation decision.

(2¹) ANCOM shall publish the decision to limit the number of licences, together with a statement of reasons therefor.

(2²) After establishing the procedure for granting the respective licences, ANCOM shall launch the invitation for submitting the requests, in accordance with the established procedure.

(3) ANCOM shall examine the decision to limit the number of licences on an annual basis or upon receipt of an application from an interested person, stating the reasons therefor, in order to establish whether this limitation is still justified.

(4) Where ANCOM considers that new radio frequencies meet the necessary conditions for being granted, it is bound to inform the public in this respect and to launch the invitation for submitting the requests.

(5) The granting of licences that have been limited in number shall be made only according to objective, transparent, non-discriminatory, and proportionate criteria.

Art. 17. – (1) The licence for the use of numbering resources is the administrative document whereby ANCOM grants to a provider authorised pursuant to Article 4 the right to use certain numbers in order to provide electronic communications services, for a limited period of time.

(2) The licence for the use of numbering resources establishes the conditions subject to which the holder may exercise the right provided for in paragraph (1). Such conditions shall be objectively justified in relation to the service concerned and shall be non-discriminatory, proportionate, and transparent. They may target the following:

a) the designation of the service for which the right of use of the numbering resources has been granted, including any requirements related to the provision of that service;

b) the effective, rational, and efficient use of the numbering resources;

c) requirements concerning number portability;

d) obligations related to the services for public directories of subscribers;

e) the duration for which the right of use is granted, subject to the modification of the Numbering National Plan;

f) the transfer of the licence;

g) the numbering resources usage tariff, established in accordance with Article 19;

h) any obligations undertaken by the relevant provider during a competitive or comparative selection procedure;

i) obligations resulted from the international agreements relating to the use of numbering resources.

Art. 18. – (1) The licences for the use of numbering resources shall be granted through an open, transparent, and non-discriminatory procedure, within at most 3 weeks after receipt of a complete application and of all documents necessary in this respect, in case of the numbering resources with a destination established in the National Numbering Plan, except for the licences that are granted through a competitive or comparative selection procedure, for which the term is at most 6 weeks.

(2) ANCOM shall grant licences for the use of numbering resources each time it receives a grounded application in this respect, considering the nature of the service concerned, the need for the applicant to obtain the respective numbering resources, the applicant's position in the market, and the assurance of an efficient use of the national numbering resources.

(3) After consulting the interested parties, under the conditions set out by the legal provisions in force, ANCOM may decide to grant certain categories of numbers, with special economic value, through competitive or comparative selection procedures.

Art. 19. – (1) The holder of the licence for the use of radio frequencies is bound to annually pay ANCOM a spectrum usage tariff established by ANCOM.

(2) ANCOM may impose on the holders of licences for the use of numbering resources to pay a tariff for the usage of these resources.

(3) The tariffs provided for under paragraphs (1) and (2) shall ensure the optimal use of the radio frequencies and of the numbering resources, and shall be objectively justified, transparent, non-discriminatory, and proportionate in relation to their intended purpose.

Art. 20. – (1) The licence for the use of radio frequencies and the licence for the use of numbering resources may be transferred to a third party authorised pursuant to Article 4, only with the prior approval of IGCTI, respectively of ANCOM, and only subject to undertaking all the obligations deriving from these licences, as well as to observing the transfer conditions set out therein. The licence for the use of radio frequencies may be transferred entirely, any agreement having as object the transfer of the usage right conferred by the licence for the use of radio frequencies being legally null and void.

(2) Any agreement having as object the transfer of the licence, concluded without observing the provisions under paragraph (1), shall be legally null and void.

(3) The transfer of the licence shall not result in restricting, obstructing, or distorting competition and, in cases where the usage of the frequencies is harmonised at the European Union level, it shall not lead to the change of destination of the frequencies constituting the object of the licence in a manner which contravenes to this harmonised usage.

(4) IGCTI, or ANCOM, respectively, shall be responsible for bringing to the knowledge of the public the transfer of the licence for the use of radio frequencies for the public electronic communications networks or of the licence for the use of numbering resources, respectively.

(5) The licence for the use of radio frequencies achieved through competitive or comparative selection procedure may be transferred only with the prior approval of IGCTI, with compliance by the assignor of all minimal conditions considered at the initial granting of the licence, as well as by his undertaking of all obligations under the licence.

Art. 21. – (1) The procedure of requesting and granting of the licences for the use of radio frequencies and of numbering resources shall be established by regulation, approved by decision of the IGCTI president or, respectively, by Decision of the ANCOM president.

(2) ANCOM shall establish the procedure of allocating, among others, the identification, signalling and routing codes, necessary for the provision of publicly available electronic communications services or operation of public electronic communications networks, as well as the rights and obligations of the holders of the right to use such resources, in compliance with the principles of objectivity, transparency and non-discrimination.

CHAPTER IV Rights of Way

Art. 22. – The providers of electronic communications networks authorised pursuant to Article 4 may, under the conditions set out by this Emergency Ordinance, install, maintain, replace, or move any elements of the electronic communications networks, including the supports and the other facilities necessary for their sustaining, as well as the terminal points used for providing electronic communications services, on, above, in or under the real estate under public or private property, as the case may be.

Art. 23. – (1) The providers of electronic communications networks authorised pursuant to Article 4 shall have the right to install, maintain, replace, or move any elements of the electronic communications networks, on, above, in or under the real estate under the public property of the state or of the administrative territorial units only to the extent that all of the following conditions are met:

a) the exercise of this right is compatible with the public use or interest for which the real estate concerned is intended;

b) the execution of the works concerned does not interfere jeopardize the specific requirements concerning the town or country planning, the protection of the environment, of health or public order, which are to be observed in the activities being performed on, above, in, or under the real estate concerned;

c) the conditions for exercising this right have been established by agreement of the parties or, in the absence of such agreement, by a court decision.

(2) The providers of public electronic communications networks authorised pursuant to Article 4 shall have the right to execute the works referred to in Article 22 on, above, in or under the real estate under private property only to the extent that all of the following conditions are met:

a) the real estate concerned would not be affected or would be insignificantly affected by the execution of these works, or, if another provider of electronic communications networks authorised pursuant to Article 4 has already executed works which are similar in nature to those referred to in Article 22 on, above, in or under the real estate concerned, the exercise of the right of use over the real estate concerned would not be permanently affected by an additional restraint caused by additional similar works;

b) the execution of the works referred to in Article 22 is not such as to jeopardize the specific requirements concerning the town or country planning, the protection of the environment, of health or public order, which are to be observed in the activities performed on, above, in, or under the real estate concerned;

c) the conditions for exercising this right have been established by agreement of the parties or, in the absence of such an agreement, by a court decision.

Art. 24. – The works referred to in Article 22 may be executed only in compliance with the legal provisions concerning:

a) the location of and the authorisation for the execution of the construction works;

b) the design and the location of constructions and installations in road areas, on bridges, passages, viaducts and traffic tunnels, as well as in the areas intended for the protection of airports and navigation;

c) the conditions for locating the technical-urban works and the poles for installations in road areas;

d) the quality in constructions;

e) the public hygiene and health protection;

f) the environment protection;

g) labour protection.

Art. 25. – (1) ANCOM may impose on a provider of electronic communications networks that performs works that fall within the category referred to in Article 22, on real estate under public or private property, the obligation to allow another provider of electronic communications networks authorised pursuant to Article 4 to use the supports and the other facilities intended to sustain the network elements installed, built or refurbished by the first provider, in order to execute the works referred to in Article 22, if the following conditions are cumulatively met:

a) the conditions necessary for the second provider to benefit from the right provided for in Article 23 are not met, or the use of similar facilities installed, built or

refurbished by the second provider while individually exercising the right provided for in Article 23 would imply disproportionate expenses as compared to the shared use of the facilities under the conditions set out by this article;

b) the works referred to in Article 22 may be executed by the second provider by using the same facilities, under conditions at least as convenient as those which may be ensured by using other similar facilities installed, built, or refurbished by this second provider;

c) this shared use of the facilities does not technically affect and does not additionally burden the execution by the first provider of the works provided for in Article 22, or the performance of its activities related to the provision of electronic communications networks;

d) the shared use of the facilities does not require the execution of major supplementary installation, building, or refurbishing works.

(2) In cases where ANCOM imposes on a provider of electronic communications networks the obligation provided for in paragraph (1), it shall also establish the conditions for facility sharing.

Art. 26. – (1) The holders of the right established under Article 23 may exercise this right only upon concluding an authentic contract with the holder of the property right on the real estate concerned, whereby the conditions for exercising this right are established. In case of the real estate under public property which are being administered by a third party, the contract shall be concluded with the holder of the administration right.

(2) The conditions established by the contract concluded with the proprietor or with the holder of the administration right over the real estate under public property shall be non-discriminatory for all the providers of public communications networks. The owner or the holder of the administration right shall be in charge of the publication of the contract thus concluded. A copy of the contract shall be delivered to ANRC, which is bound to make it available to any interested party.

(3) The contract concluded pursuant to this article shall provide at least:

a) the areas where access is allowed, the working methods to be used and the actual conditions, including the term within which the holder of the right established under Article 23 has access to the real estate in order to install or maintain the facilities concerned;

b) the conditions under which the owner or the holder of the real estate may execute works that would affect the access to elements of the electronic communications networks or their proper maintenance, or which would require their removal.

(4) The contract concluded pursuant to this article shall provide the obligation for the holder of the right established under Article 23 to pay to the owner or to the holder of the administration right over the immovable concerned a price representing the value of usage and the compensation for the damages caused by the execution of works. In case of real estate under public property, the price shall be established in compliance with the following principles:

a) the price shall be non-discriminatory for the providers of public communications networks, should be justified and proportionate in relation to the usage of the real estate concerned;

b) the price shall cover only the direct and ascertained damages caused by the execution of the works referred to in Article 22, as well as by the presence and functioning of the elements of the electronic communications networks that make the object of these works.

(5) In case where the Government establishes the obligation to pay certain amounts as fees or tariffs for usage or as any other taxes for the occupation and use of

certain real estate under public property, such as roads, bridges, passages, viaducts, tunnels, supports and the other facilities intended to support the network elements, and other similar constructions, the holder of the right established under Article 23 owes only these amounts as price of the contract.

(6) Any clause contrary to the provisions of paragraph (5) shall be legally null and void.

(7) The contract concluded pursuant to this article shall be opposable to any holder of a real right over the real estate concerned, as well as to the holder of the concession right, of the leasing right and to the holder of any other title.

Art. 27. – (1) In cases where the contract provided for in Article 26 may not be concluded within 4 months from the date when the applicant submitted the request to start the negotiations to the owner or to the holder of the administration right over the real estate concerned, the applicant may address to the competent court of law.

(2) In cases where the court finds the application reasonable, it may issue a decision which substitutes a contract between the parties.

(3) When the right established under Article 23 is exercised over an immovable under public property, the owner or the holder of the administration right shall be in charge with the publication of the court decision. A copy of the court decision shall be delivered to ANCOM, which is bound to make it available to any interested party.

(4) The provisions of Article 26 paragraph (7) shall correspondingly apply to the court decision which substitutes the contract between the parties in accordance with paragraph (2).

Art. 28. – (1) The entities empowered by the providers of electronic communications networks authorised pursuant to Article 4 to execute the works referred to in Article 22 or to run study or design activities in order to execute these works, have the right of access on, above, in and under the real estate under public or private property, as the case may be, only to the extent where access is necessary for accomplishing their due tasks, based on a written power-of-attorney from the providers concerned, and with the approval of the holder of the right of use or, in the absence of his approval, with the approval of the owner or of the holder of the administration right.

(2) The holder of the right of use and the owner or holder of the administration right are not entitled to deny the access of the entities mentioned in paragraph (1), if such access complies with the conditions set out in a contract concluded pursuant to Article 26 or with the court decision issued pursuant to Article 27.

(3) In the absence of such approval, the access may be authorised by court decision. In case of emergency, the court may order the access by Presidential Ordinance.

(4) Where the execution of some emergency maintenance or repair works is required in order to prevent or remove the consequences of a natural calamity or a sinister, or where maintenance or repair works are required by the national security or public order, the entities empowered in accordance with paragraph (1) shall have the right of access without the approval of the holder of the right of use or of the owner or of the holder of the administration right, based upon Presidential Ordinance. The request for Presidential Ordinance shall be judged as a matter of emergency, in the Council Chamber, without the obligation of summoning the parties.

Art. 29. – (1) The right established under Article 23 does not affect the existence of the property right or of other real rights over the real estate concerned, or over the shared facilities, or over the elements of the electronic communications networks.

(2) Exercising the right established under Article 23 shall not cause the change of destination of the immovable concerned, shall affect to the lowest extent its use by the

holder of the right of use and the outer aspect of the premises, and shall not endanger any person's health or physical integrity.

Art. 30. – The holder of the right established under Article 23 may require the owner or the holder of the administration right, as the case may be, to cut down, under the conditions set out by the legal provisions in force, the trees or bushes, as well as the branches or roots that render or would render more difficult the execution of the works referred to in Article 22. These works shall be performed at the applicant's expense and upon payment of damages under the conditions set out in Article 26 paragraph (4) letter b).

Art. 31. – (1) The holder of the right established under Article 23 shall relocate the elements of the electronic communications networks within the same property, at his own expense, when this relocation is necessary for the construction of buildings or for the execution of works by the owner or by the holder of the administration right, as the case may be, under the conditions set out in the contract concluded pursuant to Article 26 or in the court decision issued pursuant to Article 27.

(2) When the relocation of the elements of the electronic communications networks is necessary for the execution of works by a person other than the owner or the holder of the administration right, as the case may be, the expenses shall be born by these other entities, if not otherwise agreed upon in the contract concluded pursuant to Article 26.

CHAPTER V

Rules Applicable to Providers of Electronic Communications Networks and Services with Significant Market Power

Art. 32. – (1) Taking into account the European Commission Recommendation regarding the markets of products and services in the electronic communications sector, whose characteristics may justify the imposition of specific obligations on the providers of electronic communications networks or services with significant power on the market mentioned under Article 15 paragraph (1) of the Directive 2002/21/CE of the European Parliament and Council, of March 7, 2002, on the common regulatory framework for the electronic communications networks and services, hereinafter called the *Framework Directive*, as well as taking into account the European Commission Guidelines regarding the carrying out of market analyses and establishment of the significant market power, mentioned under Article 15 paragraph (2) of the *Framework Directive*, ANCOM shall identify the relevant markets in the electronic communications sector corresponding to the national features, especially the relevant geographic markets within the national territory.

(2) ANCOM may identify relevant markets within the electronic communications sector other than those included in the recommendation mentioned in paragraph (1), only after following the mandatory procedures provided in Articles 34¹ and 50.

(3) In accordance with the guidelines indicated in paragraph (1), ANCOM shall conduct, on a regular basis, market analyses on the relevant markets identified pursuant to paragraphs (1) or (2), in order to determine the competitive environment in these markets, as well as the necessity of imposing, maintaining, amending or withdrawing the specific obligations provided in Chapter II of the Access Ordinance or in Chapter III of the Universal Service Law.

(4) The identification of the relevant markets in the electronic communications sector and the carrying out of market analyses in these markets observe the principles established under the Competition Law no.21/1996, republished, with the subsequent amendments, and under the regulations issued in view of its application. Where appropriate, ANCOM shall collaborate with the Competition Council."

Art. 33. – (1) A provider of electronic communications networks or services shall be deemed to have significant power in a certain market if, either individually or jointly with other such providers, it enjoys a position equivalent to dominance in the respective market.

(2) Dominance in a certain market means the situation where a provider of electronic communications networks or services is able, to a considerable extent, to behave independently from competitors, clients, and consumers.

(3) The competitors shall also include the potential competitors, i.e. those entities that, under the given economic circumstances, are able to enter the market concerned with services that they provide in other geographic areas, or by the fast adjustment of their technology, under acceptable conditions of efficiency.

(4) repealed.

(5) Where a provider of electronic communications networks or services has significant power in a certain market, it may also be deemed to have significant power in a closely related market, provided that the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the provider.

Art. 34. – (1) If, following a market analysis, ANCOM establishes that the relevant market concerned is effectively competitive, ANCOM shall not impose any of the specific obligations mentioned in Article 32 paragraph (3) or, if such obligations already exist, it shall withdraw them. The ANCOM President's Decision, whereby the obligations imposed on a provider of electronic communications networks or services are withdrawn, shall establish a corresponding term regarding the date when the respective obligations cease, in order to allow the entities affected by this measure to adapt to the new conditions.

(2) If, following a market analysis, ANCOM establishes that the relevant market concerned is not effectively competitive, it shall identify, by applying the Regulation for conducting market analyses and determining the significant market power, the providers of electronic communications networks or services which have, pursuant to Article 33, significant market power, and may impose on them, as appropriate, one or several of the obligations mentioned in Article 32 paragraph (3), or shall maintain or amend these obligations where they already exist.

(3) If a trans-national market identified by the European Commission, in accordance with Article 15 paragraph (4) of the Framework-Ordinance, partially or totally covers Romania's territory, ANCOM, together with all the other national regulatory authorities concerned, shall conduct market analyses, shall identify the providers with significant market power and shall jointly decide on imposing, maintaining, amending or withdrawing the specific obligations under Article 32 paragraph (3).

(4) The measures provided for in paragraphs (1) to (3) may only be taken following the procedure set out in Article 34¹ and Article 50."

Art. 34¹. – (1) In addition to fulfilling the procedure mentioned under Article 50, if it intends to take one of the measures under Articles 32 or 34 herein, under Articles 5 or 8 of the Access Ordinance or under Articles 15–18 of the Universal Service Law, and such measure may affect the trade between the members states of the European Union, ANCOM shall notify the draft version of this measure to the European Commission and, at the same time, to the national regulatory authorities in the other members states of the European Union, together with the reasons for its adoption. The provisions under Article 52 paragraph (6) shall apply accordingly.

(2) The European Commission and the other national regulatory authorities may submit comments and suggestions as regards the measure proposed by ANCOM, within

one month from the notification date or within the public consultation period mentioned under Article 50, should such period be longer. The one month term may not be extended.

(3) In case the measure mentioned under paragraph (1) has as an object either the identification of a relevant market that is different from the markets identified within the recommendation of the European Commission set out by Article 15 paragraph (1) of the Framework Directive, or the determination of a competition situation on a relevant market, as regards the existence or the non-existence of electronic communications networks or services providers with significant market power, and in case such measure would affect the commerce among the member states of the European Union and the comments and suggestions the European Commission sent to ANCOM in accordance with paragraph (2) indicate that such measure would create a barrier to the single market or serious doubts as regards the compatibility of such a measure with the community right and especially with the objectives under Article 45, ANCOM may not adopt the proposed measure for two months.

(4) During the time span mentioned under paragraph (3), the European Commission may adopt a decision requiring ANCOM to withdraw the proposed measure. Such a decision shall be accompanied by a detailed and objective analysis of the reasons for which the European Commission considers that the measure should not be adopted, as well as by concrete suggestions aimed at changing the proposed measure.

(5) Except for the situation mentioned under paragraph (4), ANCOM may adopt the proposed measure, taking into consideration all the comments and suggestions received from the European Commission and the national regulatory authorities. ANCOM shall communicate the adopted measure to the European Commission.

(6) repealed

(7) Under exceptional circumstances, as a derogation from the provisions under paragraphs (1)–(5), when an urgent action is deemed necessary in view of protecting the competition and the end-users' interests, ANCOM may take provisional measures while observing the proportionality principle, and shall communicate this measure, together with the reasons for its adoption, to the European Commission and to the similar national regulatory authorities in the other members states of the European Union, within the shortest timeframe possible.

(8) The application of the measures under paragraph (7) may be extended or may become final only after the procedure under paragraphs (1)–(5) has been fulfilled.

CHAPTER VI

Promoting Competition and Settling the Disputes between Providers

Art. 35. – (1) The providers of public communications networks and the providers of publicly available electronic communications services which have special or exclusive rights for the provision of services in other economic sectors, in Romania or in a member state of the European Union, shall have the following obligations:

a) to keep separate accounts for the activities associated with the provision of electronic communications networks or services, in the same way as this would be done if these activities were carried out by distinct legal entities, so as to identify all the elements of cost and revenue related to the activities associated with the provision of electronic communications networks or services, as well as the basis of their calculation and the allocation methodologies applied, including an itemised breakdown of fixed assets and structural costs;

b) to have structural separation for the activities associated with the provision of electronic communications networks or services.

(2) The provisions of paragraph (1) letter a) shall not apply to the providers whose annual turnover in activities associated with the provision of electronic communications networks or services in Romania or in the member states of the European Union is less than EUR 50 million.

(3) The providers of public communication networks or the providers of publicly available electronic communications services which are not subject to the requirements of company law and do not satisfy the small and medium-sized enterprise criteria established by the accounting rules harmonised with the legal requirements of the European Union shall elaborate their statutory financial statements and submit them to an independent financial auditor for approval, under the conditions set out by the legal provisions in force, and published. This requirement shall also apply to the separate accounts required under paragraph (1) letter a).

Art. 36. – "(1) In the event of a dispute arising between the providers of electronic communications networks or services in relation to the obligations imposed on them on grounds of this Emergency Ordinance, of the special legislation in the electronic communications field or by the European community rules in the field of electronic communications or imposed by ANCOM in accordance with these provisions, the interested party may notify ANCOM in view of settling the dispute or may file a suit with the competent court. The dispute shall be settled by ANCOM within 4 months from the date of submitting an application in this respect, except for exceptional circumstances, when a longer term is necessary for the adequate settlement of the dispute."

(2) The Decision shall be communicated to the parties together with the outline of the reasons therefor, and shall be published on the website of ANCOM under the legal provisions on confidentiality.

(3) In the event of a cross-border dispute between providers of electronic communications networks or services from Romania or from any other Member State of the European Union, the interested party may notify the relevant national regulatory authority with a view to settling the dispute. Should ANCOM be notified, the dispute shall be settled by taking into consideration all the opinions expressed by the other national regulatory authorities.

(4) The Decision issued by the President of ANCOM pursuant to this article is a jurisdictional administrative act and may be appealed in front of the Administrative Division of the Court of Appeal, according to the provisions of Article 38 paragraph (7).

(5) The dispute settlement procedure provided for in this article shall be set out by Decision of the ANCOM President, within 30 days from the entry into force of the law for the approval of this Emergency Ordinance.

CHAPTER VII

The National Regulatory Authority for Communications

Art. 37 – 43 - repealed

CHAPTER VIII

Functions, Objectives, and Attributions of ANRC

Art. 44 – 48 – repealed

CHAPTER VIII¹

Monitoring Tariff

"Art. 48¹. – (1) Any person who is a provider of public electronic communications networks, a provider of publicly available electronic communications services or a provider

of postal services shall to pay to ANCOM an annual monitoring tariff, under the conditions stated in this chapter, from the moment of gaining the capacity as a provider until the termination of such capacity.

(2) The entities mentioned in paragraph (1), who have had the capacity of a provider for a whole calendar year shall be obliged to pay ANCOM an annual monitoring tariff for the next year, calculated as a percentage of the turnover of each provider achieved during the year prior to that for which the monitoring tariff is due.

(3) As regards the entities under paragraph (1), who did not have the capacity of a provider for the whole calendar year, their monitoring tariff shall be calculated as a percentage of the turnover achieved during the months of the year prior to that for which the monitoring tariff is due and during which these entities have had the capacity of a provider.

(4) The percentage provided in paragraphs (2) and (3) shall be determined annually and may not exceed 0.4%, as a ratio between:

a) the expenses listed in the income and expenditure budget approved in compliance with Article 42, minus the incomes achieved from other sources; and

b) the cumulated turnover of the entities mentioned in paragraphs (2) and (3).

(5) The turnover of the entities mentioned under paragraph (2) shall be the one mentioned in the financial statements drawn for the year prior to that for which the monitoring tariff is due.

(6) The turnover of the entities mentioned under paragraph (3) shall be calculated by cumulating the revenues achieved during the months of the year prior to that for which the monitoring tariff is due, during which the respective entities have had the capacity of a provider, by taking into consideration also the month when they gained this capacity and not taking into account the months when such capacity ceased.

(7) For natural entities or family associations legally authorised to independently carry out economic activities, the turnover shall correspond to the total of gross revenues achieved during the year prior to that for which the monitoring tariff is due, respectively the total gross revenues achieved during the months of the year prior to that for which the monitoring tariff is due, during which the respective entities have had the capacity of a provider.

(8) repealed

Art. 48². – (1) The amount of the monitoring tariff due by each provider on an annual basis shall be established by means of applying the percentage stated under Article 48¹ paragraph (4) to the turnover mentioned under Article 48¹ paragraphs (5) and (6), as the case may be.

(2) The amount of the monitoring tariff mentioned under paragraph (1) shall be established on the date when the cumulated turnover mentioned under Article 48¹ paragraph (4) letter b) is determined, but no later than the 15th of September of the respective year, by means of decision of the president of ANCOM, to be further communicated to each provider.

(3) The monitoring tariff and the tariff for the use of the numbering resources shall be managed by ANCOM and the provisions under the Government Ordinance no.92/2003 on the Fiscal Code procedure, republished, with the subsequent amendments and completions, shall apply accordingly, except for the cases when the special legislation provides otherwise.

Art. 48³. – (1) Upon the cessation of the capacity as a provider, regardless of the form of this cessation, any provider shall pay a monitoring tariff to be calculated as follows:

a) in case the cessation of the capacity of a provider occurs before the setting out of the annual monitoring tariff in compliance with article 48² paragraph (2), the monitoring tariff to be paid by the provider shall be the multiplication of the percentage established by ANCOM in accordance with Article 48¹ paragraph (4) for the previous year by the turnover achieved during the previous year or during the months of the previous year when it had the capacity of a provider, cumulated with the turnover achieved by that provider during the months of the year when the cessation occurs and during which he had this capacity;

b) in case the cessation of the capacity of a provider occurs after the setting out of the annual monitoring tariff in compliance with Article 48² paragraph (2), in addition to this tariff, the provider shall pay a supplementary tariff, calculated as the multiplication of the percentage established by ANCOM under Article 48¹ paragraph (4) for the current year by the turnover achieved during the months of the year when the cessation occurs and during which it had this capacity.

(2) The entities who owe the monitoring tariff mentioned under paragraph (1) shall transmit to ANCOM, once their capacity of a provider ceases, a report on the turnover achieved during the previous year or during the months of the previous year when it had the capacity of a provider, cumulated with the turnover achieved during the months of the year when the cessation occurs and during which it had this capacity or, respectively, on the turnover achieved during the months of the year when the cessation occurs and during which it had this capacity, under the conditions set out by ANCOM.

(3) Should the entities mentioned under paragraph (1) not communicate to ANCOM, once the capacity of a provider ceases, the documents under paragraph (2), until these are transmitted, ANCOM shall impose on these entities the obligation to pay the monitoring tariff as if the capacity of a provider would not have ceased.

(4) The monitoring tariff due in accordance with paragraph (1) letter a) shall be established by decision of the president of ANCOM, within 7 days after the documents under paragraph (2) are received, and the difference between this tariff and the anticipated payments established in compliance with Article 48⁴ paragraph (1) shall be paid within 30 days from the decision communication date or shall be returned in compliance with the Fiscal Procedure Code, as the case may be.

(5) The monitoring tariff due in accordance with paragraph (1) letter b) shall be established by decision of the president of ANCOM, within 7 days from receiving the documents under paragraph (2) and shall be paid within 30 days from the decision communication date.

(6) The entities who gained the capacity of a provider of electronic communications networks or services or providers of postal services during the same year when this capacity ceases shall owe a monitoring tariff equal to the percentage mentioned in paragraph (1) letter a) or in paragraph (1) letter b), as the case may be, and the turnover achieved during the months when it had this capacity.

(7) The provisions of paragraphs (2)–(5) shall accordingly apply to the entities mentioned under paragraph (6).

Art. 48⁴. – (1) The entities mentioned under Article 48¹ paragraph (1) shall pay the annual monitoring tariff, by making anticipated payments, as follows:

a) 30% of the monitoring tariff due for the previous year, no later than the 15th of March of that year;

b) 30% of the monitoring tariff due for the previous year, no later than the 15th of June of that year.

(2) The amount of the anticipated payments under paragraph (1) shall be established by decision of the president of ANCOM, no later than the 15th of February.

(3) The monitoring tariff due for the previous year, based on which the anticipated payments are established, shall be the monitoring tariff established under the terms laid down in Art.42²(2), without taking into account the anticipated payments made during that year.

(4) The difference between the annual monitoring tariff established under the terms laid down in Art.42²(2) and the anticipated payments established in compliance with paragraph (1) shall be paid within 30 days from the decision communication date of the president of ANCOM, or shall be refunded in compliance with the Fiscal Procedure Code, as the case may be.

Art. 48⁵. – (1) In view of establishing the tariff, the entities mentioned in Article 48¹ and Article 48³(1) and (6) may require that the revenues resulted from the provision of electronic communications networks or services or from the provision of postal services be taken into consideration instead of the turnover, and the provisions of Articles 48¹–48⁴ shall accordingly apply.

(2) In order to enforce the provisions under paragraph (1), the providers shall keep separate accounts on the revenues achieved from the provision of electronic communications networks or services or from the provision of postal services, as the case may be. Such revenues shall be certified by a legally authorised independent auditor, under the conditions set out by ANCOM.”

Art. 48⁶. - (1) The legal entities having the capacity of an undertaking, mentioned in Article 48¹ paragraphs (2) and (3), shall submit to ANCOM the annual financial statements – that contain the turnovers within the profit and loss account – necessary for the establishment of the monitoring tariff, within 5 days from the expiry date of the legal term for submitting these statements to the competent bodies these are registered with, according to the legislation in force.

(2) The natural entities and the family associations that owe the monitoring tariff mentioned under Article 48¹ shall submit to ANCOM the annual financial statements on the achieved gross revenues, necessary for the establishment of the monitoring tariff, within 5 days from the expiry date of the legal term for submitting these statements to the competent bodies these are registered with, according to the legislation in force.

(3) For other categories of entities than those under specified in paragraphs (1) and (2), who have the capacity of a provider, the documents that are necessary for the establishment of the monitoring tariff and the term for their submission to ANCOM shall be set out by decision of the president of ANCOM.

(4) The entities mentioned in Article 48¹(3) shall submit to ANCOM, within the legal term under paragraph (2), the statement on the turnover achieved during the months of the year prior to that they had the capacity of a provider of electronic communications networks or services or provider of postal services.

(5) If the documents necessary for establishing the monitoring tariff are not submitted within the terms and under the conditions provided by the law, the monitoring tariff shall be established in accordance with the turnover mentioned in Article 48¹ paragraph (5).

Art. 48⁷. – By way of derogation from the provisions of Article 48¹ paragraph (1) and of Article 48⁶ paragraphs (1) and (6), the providers who register a turnover which does not exceed the equivalent in RON of EUR 100,000, at the average exchange rate when the turnover was achieved, calculated based on the monthly average exchange rate communicated by the National Romanian Bank, are not obliged to pay the monitoring tariff, whereas the provisions of Articles 48¹ – 48⁶ shall apply accordingly.

Art. 48⁸. - The procedure of enforcing the provisions of Articles 48¹–48⁷ shall be set out by decision of the president of ANCOM

CHAPTER IX Consultation, Transparency and Information

Art. 49. – (1) ANCOM has the obligation to create, maintain, develop, and update its own website, intended for public information with respect to:

a) the ANCOM organisation, functioning, objectives and attributions, as well as the attributions of each internal structure of ANCOM;

b) the data necessary to ensure an efficient communication with the internal structures of ANCOM;

c) the national and international legislation applicable in the field of electronic communications and postal services;

d) the Decisions issued by the president of ANCOM concerning the providers of electronic communications networks and services, as well as the providers of postal services;

e) the legal ways of appeal available against the Decisions of the president of ANCOM;

f) the documents of which publication is mandatory during the consultations launched in accordance with Article 50;

g) the income and expenditure budget of ANCOM;

h) the authorities with similar attributions of other countries;

h¹) the obligations imposed by ANCOM in compliance with the Access Ordinance;

h²) the general authorisation procedure and the procedure for requesting and issuing licences for the use of numbering resources;

h³) the rights and obligations of the electronic communications networks or services providers, authorised in accordance with Article 4;

h⁴) the rights and obligations of the holders of licences for the use of numbering resources;"

i) any other information useful for public information, related to the ANCOM activity.

(2) ANCOM shall make all necessary efforts in order to ensure that information published on its website is also available in at least one international language.

Art. 49¹. – (1) ANCOM shall communicate to the European Commission the provisions adopted in the national legislation in the regulatory field of the Framework Directive, of Directive 2002/20/CE of the European Parliament and the Council of March 7, 2002, on the authorisation of electronic communications networks and services, of Directive 2002/19/CE of the European Parliament and the Council of March 7, 2002, on the access to the electronic communications networks and the associated infrastructure, as well as their interconnection, and of Directive 2002/22/CE of the European Parliament and the Council of March 7, 2002, on universal service and users' rights relating to the electronic communications networks and services, as well as any amendments or completions to these provisions.

(2) ANCOM shall submit to the European Commission a copy of the information mentioned under Article 49 paragraph (1) letter h¹).

Art. 50. – (1) ANCOM shall observe the consultation procedure set out by this article at any time it intends to adopt measures that may have a significant impact in the relevant market while enforcing the provisions of this Emergency Ordinance or of the

special legislation in the field of electronic communications or postal services, except for the measures adopted pursuant to Article 34¹ paragraph (7) or Article 36.

(2) ANCOM has the obligation to publish on its website the text subject to consultation, specifying: the date when the document has been published, the deadline for the submission of comments, and the estimated date when ANRC intends to adopt the measure subject to consultation. All the entities concerned who are required for their e-mail address to be entered on the special ANCOM correspondence list shall be informed on the launch of the consultation at the latest on the date when the document is published.

(3) As soon as the text subject to consultation is published on its website, ANCOM shall allow for a period of at least 30 days during which all of the interested entities may submit their written comments. In cases where the measures must be adopted as a matter of emergency, this period may be less than 30 days, but it cannot be less than 10 days.

(4) The measure subject to consultation may not be adopted before the expiry of a 10 day-period from the deadline for the submission of comments. ANCOM has the obligation to publish a summary of comments, which shall also specify its position with respect to these comments, at the latest on the date when the Decision whereby the measure is adopted is published on its website.

CHAPTER X

Surveillance and Control

Art. 51. – (1) ANCOM and MCSI have the right to request from any provider of electronic communications networks or services or of postal services all the information necessary in order to exercise the attributions provided by this Emergency Ordinance or by the special legislation in the field of electronic communications or postal services.

(2) The information provided in paragraph (1) may be requested by ANCOM and MCSI, especially for the following purposes:

“a) check compliance with the obligations provided by this Emergency Ordinance, by the special legislation in the field of electronic communications or of postal services or imposed by ANCOM and MCSI in conformity with these provisions, as well as the enforcement and execution of the community regulations in the electronic communications sector, especially as regards market monitoring and checking the compliance of the providers of electronic communications networks or services with the obligations under the regulations, where the competence of the national regulatory authority in this regard is established;”

b) establish the annual monitoring tariff, in accordance with the provisions of Chapter VIII¹;

c) establish the contributions for financing the services within the scope of Universal Service;

d) designate the Universal Service providers and impose the obligations provided in the special legislation in the field of electronic communications or of postal services;

e) identify the relevant markets in the electronic communications sector, perform market analyses and identify providers with significant market power, in accordance with the provisions of Chapter V;

f) impose on the providers of electronic communications networks or services with significant market power the obligations provided by the special legislation in the electronic communications field;

g) grant licences for the use of numbering resources and check compliance with the obligations provided by these licences;

h) settle disputes between the providers of electronic communications networks or services and between the end-users and the providers of electronic communications services;

i) conduct clear statistics required in the activity of ANCOM and MCSI, therefore granting a minimum term of 30 days for data collection;

j) elaborate reports, studies, analyses and other such documents on the field of electronic communications and of postal services, in order to evaluate the necessity and the adequacy of issuing new regulations, as well as for the evaluation and control of compliance with the regulations in force;

k) publish comparative reports on service quality and tariffs, in view of maximising the end-users' benefits.

(3) In order to exercise its attributions, ANCOM shall have the right to request from any provider of electronic communications networks all the information necessary in view of checking compliance with the obligations provided by this Emergency Ordinance, by the special legislation in the field of electronic communications or by the licences for the use of radio frequencies, or imposed by ANCOM, under these provisions.

(4) The information provided in paragraphs (1) and (3) shall be requested in written form and well reasoned, whereas the quantity and nature of such information shall be proportionate with the purpose for which it has been requested.

(5) The providers of electronic communications networks or services and the providers of postal services are bound to make available the requested information other than that mentioned in paragraph (2) letter i) - within the term and in compliance with the conditions indicated by ANCOM and MCSI or IGCTI, as the case may be.

Art. 52. – ANCOM cooperates with regulatory authorities in the field of electronic communications and postal services from abroad, including on the basis of collaboration and exchange of information agreements, for the purpose of performing its attributions under this Emergency Ordinance and under the special legislation in the field of electronic communications and postal services, as well as for the purpose of facilitating the performance by these authorities of the attributions under the applicable national legislation.

“(2) ANCOM shall submit to the national regulatory authorities of the other European Union's member states the information these requested on justified grounds, in order for them to fulfil their attributions provided by the community legislation.

(3) ANCOM shall submit to the European Commission, upon receiving a justified request, all necessary information in order to exercise its attributions. The nature and volume of such information shall be proportionate to the purpose for which they have been requested.

(4) Should the information requested by the European Union have been previously submitted by the providers of electronic communications networks or services, in compliance with Article 51, ANCOM shall inform the respective providers upon the submission of such information.

(5) To the extent it is deemed necessary, the European Commission may make available to the national regulatory authorities of the other member states of the European Union the information submitted in accordance with paragraph (3), save for the case when ANCOM expressly and justifiably required the contrary.

(6) Should the information submitted in accordance with paragraphs (2), (3) or (5) be deemed confidential by ANCOM, in compliance with the provisions under the national and the community legislation, the European Commission and the national regulatory authorities shall observe the confidentiality of such information.

(7) ANCOM may require from the national regulatory authorities of the other member states of the European Union the information that is necessary in view of

exercising its attributions provided hereunder or under the special legislation in the field of electronic communications or of postal services, by observing the confidentiality of the information received, where applicable.

(8) In view of the regular review of the community legislation in the field of electronic communications, ANCOM shall submit to the European Commission all information requested.

(9) ANCOM shall publish the information that may contribute to the development of an open and competitive market, including updated information on the enforcement of community regulations, while observing the confidentiality principle and the legal provisions related to the free access to information of public interest and shall state the conditions and the procedure for the access of the interested entities to such information."

Art. 53. – (1) ANCOM, acting through the specialised control personnel empowered for this purpose, shall be competent to control the compliance with the provisions of this Emergency Ordinance and of the special legislation in the field of electronic communications and postal services, with the obligations set out in the general authorisation and in the licences for the use of numbering resources, as well as with the obligations of the providers of electronic communications networks or services set under the community regulations, where the competence of the national regulatory authority regarding the monitoring or checking the compliance with these obligations is established.

(2) ANCOM, acting through the specialised control personnel empowered for this purpose and in accordance with the procedure set out by the legal provisions governing the activity of this institution, unless otherwise provided by this Emergency Ordinance, shall be competent to control the compliance with the obligations concerning the use of radio frequencies.

Art. 54. – (1) In exercising its control tasks, the personnel of ANCOM and of *IGCTI* empowered for this purpose has the right to request any necessary information from the providers of electronic communications networks or services, as well as from the providers of postal services, specifying the legal grounds and the purpose of the request, and may also set out deadlines for the provision of this information, subject to the sanction provided for in Article 56(1) letter a) of this Emergency Ordinance or in Article 60(1) letter a) of the *Postal Services Ordinance*.

(2) The specially empowered control personnel of ANCOM and of *IGCTI* shall have the right to request statements or any documents necessary to carry out the control activity, as well as to make copies of any registers, financial-accounting and commercial documents, or any other documents; it may also carry out inspections, including unexpected inspections, over any plants, premises, lands, or infrastructures used by the provider in the performance of its activities, the result of which shall be recorded in a statement of facts, and may also receive information and justifications upon summoning or on site.

(3) The specially empowered control personnel of ANCOM and of *IGCTI* shall also have the right to carry out searches, on the basis of the judicial authorisation granted by Presidential Ordinance by the president of the Tribunal of the county concerned, or of the Bucharest Tribunal under the competence of which the places to be searched are located, as the case may be, or by a judge delegated by this president. The request for Presidential Ordinance shall contain all the information that may justify the search and shall be judged without summoning the parties, within 3 days at most.

(4) The search and the operations therein shall be carried out under the authority and control of the judge having authorised them, who shall designate one or more judicial police officers to assist these operations and inform him thereon. In cases where some operations must be carried out in an area outside the competence of the court, the

president who issued the Presidential Ordinance shall order the establishment of a delegated committee in order for the president of the Tribunal under whose competence these operations are to be carried out to exercise the control thereon. The judge may inspect the searched places and may at any time decide to suspend or cease the search.

(5) Irrespective of the circumstances, the search may not start earlier than 6.00 a.m. or later than 8.00 p.m. and shall be carried out in the presence of the occupant of the place, or, in his/her absence, in the presence of a representative of that person or of a family member or neighbour, having full capacity of exercise; only the specially empowered control personnel of ANCOM and of *IGCTI*, the occupant of the place or his/her representative, and the judicial police officers may take knowledge of the pieces and documents before their seizure.

(6) Inventories shall be drawn and seals shall be placed in accordance with the provisions under the Criminal Procedure Code; the originals of the procès-verbal³ and of the inventory shall be transmitted to the judge who has ordered the search, and the pieces and documents that are no longer useful for the establishment of the truth shall be returned to the occupant of the place.

(7) The Presidential Ordinance may be appealed in front of the Bucharest Court of Appeal. The appeal shall not suspend the execution.

(8) The president of ANCOM or the general director of *IGCTI*, as the case may be, shall be immediately informed on the beginning of the search and on the operations carried out.

CHAPTER XI Sanctions

Art. 55. – (1) The following deeds are deemed contraventions:

a) provision of electronic communications networks or services by a person who has not been authorised pursuant to Article 4 for that type of activity, or during the period when the right to provide electronic communications networks or services has been suspended or withdrawn;

b) failure to comply with the conditions set out in the general authorisation, pursuant to Article 5;

c) use of radio frequencies without obtaining the necessary licence, pursuant to the provisions of Chapter III;

d) use of numbering resources without obtaining the necessary licence, pursuant to the provisions of Chapter III;

e) failure to comply with the conditions set out in the licences for the use of radio frequencies, granted pursuant to Chapter III;

e¹) production by any person and in any way of harmful interferences;

f) failure to comply with the conditions set out in the licences for the use of numbering resources, granted pursuant to Chapter III;

f¹) failure to comply with the obligations pursuant to the community regulations in the electronic communications sector, in the cases in which the national regulatory authority is competent to monitor and check the observance of these obligations;"

g) failure to comply with the obligation imposed by ANCOM pursuant to Article 25(1) or with the conditions set out by ANCOM pursuant to Article 25(2);

h) failure to comply with the obligations set out in Article 35;

h¹) failure to submit the annual financial statements or, in case of natural entities or family associations, the annual financial statements on the revenues achieved, within the term and under the conditions provided under Article 48⁶(1) and (2);

i) failure to comply with the regulations or technical norms, adopted on the basis of this Emergency Ordinance.

(2) The contraventions set out in paragraph (1) shall be sanctioned as follows:

“a) by a fine from RON 5,000 to 100,000;”

b) by way of derogation from the provisions of Article 8(2) letter a) of the Government Ordinance no. 2/2001 on the legal regime of contraventions, approved with amendments and completions by Law no. 180/2002, with the subsequent amendments and completions, with a fine up to 2% of the turnover and, in case of repeated breaches, up to 5%, in the case of the companies with a turnover exceeding RON 5,000,000.

(3) The amount of fines provided for in paragraph (2) may be updated by Government Decision, depending on the evolution of the inflation index.

Art. 56. – (1) ANCOM or *IGCTI*, as the case may be, may oblige the providers of electronic communications networks or services to pay administrative fines up to RON 300.000.000 per day of delay, establishing at the same time the date from which they are calculated, in order to determine them to:

a) fully and accurately provide the information they were requested pursuant to Article 51 or Article 54(1);

b) submit to the control referred to in Arts. 53 and 54;

c) comply with the measures taken by ANCOM in the application of the provisions of this Emergency Ordinance.

(2) The maximum amount of the administrative fine provided for in paragraph (1) may be updated by Government Decision, depending on the evolution of the inflation index.

(3) By way of derogation from the provisions of Article 2 of the Emergency Ordinance no. 30/2002 on the amendment of some annexes to the Law on the 2002 State Budget no.743/2001, as well as of other normative acts, the amounts resulted from the collection of the fines provided for in paragraph (1) shall be fully retained as own extra-budgetary revenues, on a permanent basis, at the disposal of ANCOM or of *IGCTI*, as the case may be, and shall be used in accordance with the legally approved income and expenditure budget.

Art. 57. – If a provider fails to pay the monitoring tariff, the tariff for the use of frequency spectrum and the tariff for the use of numbering resources, as well as the due penalties within 90 days from the date when the payment becomes outstanding, ANCOM or *IGCTI*, as the case may be, may suspend or withdraw its right to provide electronic communications networks or services based on the general authorisation, the licence for the use of radio frequencies or of numbering resources.

Art. 58. – (1) The contraventions set out in Article 55 paragraph (1) letters a), b), d) and f) - h¹) shall be ascertained by the control personnel provided for in Article 53(1).

(2) The contraventions set out in Article 55(1) letters c), e) and e¹) shall be ascertained by the control personnel specified in Article 53(2).

(3) The contravention set out in Article 55(1) letter i) shall be ascertained by the control personnel provided for in Article 53(1) or (2), as the case may be.

(4) The sanctions for the contraventions set out in Article 55 (1) a), b), d) and f) - h¹) shall be enforced, through written resolution, by the ANCOM President.

(5) The sanctions for the contraventions set out in Article 55(1) c) e) and e¹) shall be applied, through written resolution, by the ANCOM President.

(6) The sanction for the contravention set out in Article 55(1) letter i) shall be applied, through written resolution, by the ANCOM President or by the *IGCTI* President, as the case may be.

(6¹) The enforcement of the fines provided by Article 55(2) may be accompanied by the decision to seize the goods destined, resulted or used for committing the contraventions provided by Article 55 (1).

(7) The administrative fines provided for in Article 56 shall be applied by the ANCOM President or by the *IGCTI* President, as the case may be.

(8) The sanctions provided for in Article 57 shall be applied by the president of ANCOM or by the head of *IGCTI*.

(9) The act whereby the sanctions provided for in arts.56 and 57 are applied shall be considered writ of execution, without any other formality.

(10) To the extent that this Emergency Ordinance does not provide otherwise, the contraventions set out in Article 55 shall be subject to the Government Ordinance no.2/2001, approved, with amendments and completions, by Law no.180/2002, except for the provisions of Article 28.

Art. 59. – (1) In cases where a provider of electronic communications networks or services is found to be in breach of an obligation set out in this Emergency Ordinance, in the special legislation in the field of electronic communications, or in the normative or individual acts issued based on this Emergency Ordinance, in the special legislation in the field of electronic communications, ANCOM or *IGCTI*, as the case may be, shall transmit a notification to the provider concerned, whereby the latter shall be informed on the intention to apply the sanction provided for by the law and shall be allowed at least 30 days to justify or remedy the committed breach.

(2) The 30-day period may be reduced in the following situations:

- a) upon provider's consent;
- b) in cases where the provider has previously violated one or several of the obligations referred to in paragraph (1);
- c) repealed.

(3) In cases where the provider does not remedy the breach within the period as referred to in paragraphs (1) or (2) and the justification provided is not satisfactory, ANCOM or *IGCTI*, as the case may be, shall apply the corresponding sanction and shall order all the necessary measures to ensure the compliance with the obligation that has been violated. These measures shall be proportionate with their purpose and shall allow a reasonable period for the provider to comply with them.

(3¹) The measures provided in paragraph (3) shall be decided by the act enforcing the sanction, issued by the ANCOM President or by the *IGCTI* President, as the case may be. The document enforcing the sanction and establishing measures in view of ensuring compliance with the breached obligation shall be transmitted within 7 days from the date of issuance.

(4) In case of serious and repeated breaches, if the respective provider failed to comply with the measures taken in accordance with the provisions of paragraph (3):

- a) ANCOM may suspend or withdraw the respective provider's right to provide electronic communications networks or services on the basis of the general authorisation or the licence for the use of numbering resources, as the case may be;
- b) ANCOM may suspend or withdraw the respective provider's licence for the use of radio frequencies.

(5) If the breach of the obligations referred to in paragraph (1) represents a serious and immediate threat to national security, public order, public health or may create serious economic or operational problems to other providers of electronic communications networks and services or to the users, ANCOM or *IGCTI*, as the case may be, may take urgent interim measures to remove such danger, measures which may be confirmed afterwards. The provider concerned shall be given the opportunity to state its view, under reasonable conditions, and to propose solutions to remedy the situation created.

Art. 59¹. – The preliminary procedure provided in Article 59 shall not apply in the following situations:

- a) breach of the ANCOM President's decisions issued based on Article 36;
- b) breach of the obligation to send the information requested by ANCOM or IGCTI, as the case may be, according to Article 51 (2) a), respectively to Article 51 (3);
- c) the contraventions provided in Article 55 (1) a), c), d) and h¹);
- d) breach of the transparency obligations imposed by ANCOM in accordance with the provisions of Article 9 of the Access Ordinance.

Art. 59². – (1) In the event of discovering the failure of a provider of electronic communications networks or services to comply with one of the obligation pursuant to the community regulations, where the national regulatory authority is competent to monitor and check the observance of these obligations, ANCOM shall send the respective provider a notification whereby to announce it on the intention to apply the sanction provided by the law and shall require it to immediately cease the infringement.

(2) If the provider continues breaching the respective obligation, in accordance with the notification sent under the conditions of paragraph 1, ANCOM shall apply the corresponding sanction and shall take all the necessary measures with a view to ensuring the compliance with the breached obligation and to remedying the committed breach.

(3) The provisions of Article 59 (4) and (5) shall apply accordingly."

Art. 60. – Any entities using or disclosing for any purposes other than those provided for in this Emergency Ordinance documents or information which constitute professional secret, received or informed on while carrying out his/her job or job-related tasks, shall be liable according to the criminal law, and potentially forced to remedy the prejudice thus caused.

CHAPTER XII

Transitory and Final Provisions

Art. 61. – (1) Until the date of December 31st 2002, the National Telecommunications Company "Romtelecom" – S.A. shall benefit from:

a) the exclusive right to provide, against remuneration, publicly available fixed voice telephone services, telegraphy and telex services, at local, interurban and international levels;

b) the exclusive right to provide leased cable lines, with a view to ensure the transmission capacity between the terminal points of the fixed network operated by the National Telecommunications Company "Romtelecom" – S.A. on grounds of the licence granted under the Telecommunications Law no. 74/1996, with the subsequent amendments.

(2) Until the same date, the National Radiocommunications Company – S.A. shall benefit from the exclusive right to provide leased radio lines with a capacity exceeding 2Mbits/s.

Art. 62. – (1) The licences and authorisations issued on grounds of the Telecommunications Law no.74/1996, with the subsequent amendments, shall remain valid until the date of December 31st 2002, except for the cases where they provide a shorter term of validity.

(2) Until the expiry of the validity term referred to in paragraph (1), the holders of licences and authorisations shall transmit to ANCOM the notification referred to in Article 4, with a view to continuing the activity on the basis of the general authorisation. On the date of the notification, the licence or authorisation ceases its validity, except for the provisions referring to the rights of use for radio electric frequencies and numbering resources.

(3) repealed.

(4) Until the expiry of the validity term referred to in paragraph (1), ANCOM shall issue the licences for the use of numbering resources, in accordance with Chapter III herein, to the providers of networks and services who have benefited from the rights of use for these resources on the grounds of the Telecommunications Law no.74/1996, with the subsequent amendments.

Art. 62¹. – (1) Until December 31st, 2005, *IGCTI* shall review all the provisions regarding the rights of use of the frequencies and the obligations provided in the licences whereby rights of use for radio frequencies were granted, in the authorisations and agreements regarding the use of these frequencies issued on the grounds of the Telecommunications Law no.74/1996, with the subsequent amendments and of the associated secondary legislation, in order to ensure compliance of the provisions of Chapter III of this Emergency Ordinance, of the National Table for Frequency Band Allocation and of the regulations in force, elaborated on grounds of this Emergency Ordinance.

(2) The right to use the radio frequencies and the associated obligations, including the payment of the spectrum usage tariff, shall be exerted – respectively shall be undertaken on grounds of the provisions of paragraph (1) and shall remain valid until revision, except for the situations where their holders give up, by written request, the respective rights or they do not submit a request for the revision of the rights of use of the respective frequencies within the terms stipulated in the procedure for the issuance of licences for the use of radio-electric frequencies, provided under Article 21.

(3) Upon the revision of the licences, authorisations and agreements issued on grounds of Law no.74/1996, the holder shall be granted a new right of using radio-electric frequencies, together with the associated obligations, according to the provisions of this Emergency Ordinance.

Art. 62². – Until the review of the relevant markets in the electronic communications sector, identified before the date of Romania's accession to the European Union, and of the competitive environment on these markets, no later than December 31st 2008, the amendment or completion of the obligations ANRCTI imposed on the providers with significant market power, in accordance with the provisions of the special legislation in the field, shall be fulfilled without undergoing the procedure under Article 34¹.

Art. 63. – In order to finance its activity during the first 12 months of functioning, *ANRC* shall benefit from a credit from *IGCTI*, amounting to EUR 4,000,000, for a 5-year term, with a grace period of 1 year from the date of the conclusion of contract, with no interest, payable in the Romanian currency (RON) at the exchange rate of the National Bank of Romania from the date of the payment. The other conditions shall be established by contract, which shall be concluded within 15 days from the publication of this Emergency Ordinance in the Official Romanian Journal of Romania, Part I.

Art. 64. – The county councils and the local councils of the Bucharest sectors may provide, against remuneration, the necessary spaces for the activity of the territorial offices of ANCOM.

Art. 65. – On the date when this Emergency Ordinance enters into force, the Telecommunications Law no.74/1996, published in the Official Journal of Romania, Part I, no.156 of July 22nd, 1996, with the subsequent amendments, as well as any other contrary legal provisions, shall be repealed.

Art. 66. – On the date this Emergency Ordinance enters into force:

a) Article 22 of the Government Ordinance no.34/2002 on access to, and interconnection of, electronic communications networks and associated infrastructure, published in the Official Journal of Romania, Part I, no.88 of February 2nd, 2002, shall be amended to read as follows:

“Article 22 - Within the meaning of this Ordinance, the regulatory authority shall be the National Regulatory Authority for Communications”;

b) Article 2 point 10 of the Law no.676/2001 on the processing of personal data and the protection of privacy in the telecommunications sector, published in the Official Journal of Romania, Part I, no.800 of December 14th, 2001, shall be amended to read as follows:

“10. the regulatory authority – the National Regulatory Authority for Communications”;

c) Article 49 paragraph (2) of the Government Ordinance no.31/2002 on postal services, published in the Official Journal of Romania, Part I, no.87 of February 1st, 2002, shall be amended to read as follows:

“(2) For the purposes of this Ordinance, the attributions of the regulatory authority shall be fulfilled by the National Regulatory Authority for Communications;”

d) the Government Decision no.20/2001 on the organisation and functioning of the Ministry of Communications and Information Technology, published in the Official Journal of Romania, Part I, no.16 of January 10th, 2001, with the subsequent amendments, shall be modified accordingly.

e) Within the entire text of the Law no.504/2002 on audiovisual, the wording “the National Regulatory Authority for Communications” shall be replaced by “the Ministry of Communications and Information Technology.”

Art. 67. – (1) This Emergency Ordinance shall enter into force within 90 days from the date of its publication in the Official Journal of Romania, Part I, except for the provisions of Articles 37 - 40, Articles 42, 43, 63 and 64, which shall enter into force from the date this Emergency Ordinance is published in the Official Journal of Romania, Part I.

(2) Within the term provided for in paragraph (1), the Government shall adopt a Decision for the approval of the ANRC Rules of organisation and functioning.

(3) Until the expiry of the term provided for in paragraph (1), ANRC shall hire the necessary personnel with a view to effectively and completely fulfil the attributions referred to in this Emergency Ordinance.

(4) Until the expiry of the term provided for in paragraph (1), the attributions granted to ANRC by this Emergency Ordinance shall continue to be performed by the competent authorities, according to the legal provisions in force.

This Emergency Ordinance transposes Directive 2002/20/CE of the European Parliament and of the Council of March 7th, 2002, on the authorisation of electronic communications networks and services (Authorisation Directive), published in the Official Journal of the European Communities no. L 108 of April 24, 2002, and Directive 2002/21/CE of the European Parliament and of the Council of 7 March 2002, on a common regulatory framework for electronic communications networks and services (Framework Directive), published in the Official Journal of the European Communities no.L 108 of April 24, 2002.