



EUROPEAN COMMISSION

Brussels, 14/03/2012  
C(2012)1831

**SG-Greffe (2012) D/4575**

Autoritatea Națională pentru  
Administrare și Reglementare în  
Comunicații (ANCOM)

Delea Noua, 2  
030925 Bucharest  
Romania

For the attention of:

Mr. Marius Catalin Marinescu  
President

Fax: +40 372 845 402

Dear Mr Marinescu,

**Subject: Commission decision concerning Case RO/2012/1297: Modification of the cost accounting separation obligation in Romania**

**Article 7(3) of Directive 2002/21/EC: No comments**

## **I. PROCEDURE**

On 14 February 2012, the Commission registered a notification from the Romanian national regulatory authority, Autoritatea Națională pentru Administrare și Reglementare în Comunicații (ANCOM)<sup>1</sup>, concerning a draft measure relating to the cost accounting obligation imposed on S.C. Romtelecom S.A. (Romtelecom) in a series of markets, i.e. the market for call origination on the public telephone network provided at a fixed location, the market for call termination on individual public telephone networks provided at a fixed location, the market for wholesale network infrastructure access (including shared or fully unbundled access) at a fixed location, the market for wholesale

---

<sup>1</sup> In accordance with Article 7 of Directive 2002/21/EC 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), OJ L 108, 24.4.2002, p. 33, as amended by Directive 2009/140/EC, OJ L 337, 18.12.2009, p. 37, and Regulation (EC) No 544/2009, OJ L 167, 29.6.2009, p. 12.

terminating segments of leased lines up to and including 2 Mbps<sup>2</sup> and the market for transit services in the fixed public telephone network in Romania<sup>3</sup>.

The national consultation<sup>4</sup> ran from 2 December 2011 to 6 January 2012.

Pursuant to Article 7(3) of the Framework Directive, national regulatory authorities (NRAs), the Body of European Regulators for Electronic Communications (BEREC) and the Commission may make comments on notified draft measures to the NRA concerned.

## II. DESCRIPTION OF THE DRAFT MEASURE

### II.1. Background

In its first market review of market 2 notified in 2009, ANCOM imposed on Romtelecom, inter alia, a cost accounting separation obligation<sup>5</sup>.

Further, in its first market review of market 3 notified in 2008, ANCOM imposed on Romtelecom a cost accounting separation obligation<sup>6</sup>, in addition to obligations imposed on all operators found to have SMP<sup>7</sup>. In its second review of market 3, ANCOM proposed to withdraw the obligation of accounting separation once the termination rates reach pure LRIC levels, i.e. by 2014<sup>8</sup>.

In its first market review of market 4, ANCOM imposed on Romtelecom, inter alia, a cost accounting separation obligation<sup>9</sup>.

In its first market review of market 6, ANCOM defined two markets, one for low bandwidth (wholesale terminating segments of leased lines providing bandwidths up to

---

<sup>2</sup> Corresponding to markets 2,3,4 and 6 in Commission Recommendation 2007/879/EC of 17 December 2007 on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services, OJ L 344, 28.12.2007, p. 65.

<sup>3</sup> Corresponding to market 10 in Commission Recommendation 2003/311/EC of 11 February 2003 on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services, OJ L 114, 8.5.2003, p. 45.

<sup>4</sup> In accordance with Article 6 of the Framework Directive.

<sup>5</sup> Case RO/2009/1002 (SG-Greffe (2009), D/10933). The Commission commented on the market definition and the non-imposition of wholesale line rental.

<sup>6</sup> Case RO/2008/0774 (SG-Greffe (2008) D/203723). The Commission commented on the market definition and the need for a coherent European approach regarding the termination rates. Further details regarding the interconnection offer were notified in Case RO/2009/1003, SG-Greffe (2009) D/10916. The Commission issued a no comments letter.

<sup>7</sup> The alternative network operators designated as operators with SMS are not subject to a cost accounting separation obligation.

<sup>8</sup> Case RO/2011/1271, SG Greffe(2011) D/22974; the Commission commented on the implementation of cost-efficient symmetrical termination rates.

<sup>9</sup> Case RO/2010/1101, SG-Greffe (2010 D/12085); the Commission commented on the scope of the access obligation regarding fibre loops, the migration period and the need for a consistent European approach for regulation of NGA.

and including 2 Mbit/s) and one for high bandwidth (circuits providing bandwidths above 2 Mbit/s). Only the market for low bandwidth was found to fulfil the three criteria test. ANCOM imposed, inter alia, an obligation for accounting separation on Romtelecom in the market for low bandwidth<sup>10</sup>.

In its review of the market for transit services in the fixed public telephone network, ANCOM imposed, inter alia, a cost accounting separation obligation on Romtelecom<sup>11</sup>. Furthermore, ANCOM concluded on the absence of the fulfilment of the three criteria test in the retail calls markets<sup>12</sup> and accordingly withdrew the existing regulation<sup>13</sup>.

## **II.2. Regulatory remedies**

In the notified measure, ANCOM proposes to specify details of the cost accounting separation obligation imposed on Romtelecom, such as the level of details for separated accounts, their presentation, explanatory information to be provided, methodology for cost allocation in separate book-keeping, publication of the separate accounts and auditing. The proposed changes were, inter alia, introduced to mirror modifications, such as the division of the leased line market. Furthermore, following the withdrawal of regulation in retail markets, ANCOM removes the obligation to keep separate cost accounting for the specific retail business units. Another proposed novelty is that the value of the weighted average cost of capital (WACC) would from now on be set by ANCOM.

## **III. NO COMMENTS**

The Commission has examined the notifications and has no comments.<sup>14</sup>

Pursuant to Article 7(7) of the Framework Directive, ANCOM may adopt the draft measure and, where it does so, shall communicate it to the Commission.

The Commission's position on this particular notification is without prejudice to any position it may take *vis-à-vis* other notified draft measures.

Pursuant to Point 15 of Recommendation 2008/850/EC<sup>15</sup> the Commission will publish this document on its website. The Commission does not consider the information contained herein to be confidential. You are invited to inform the Commission<sup>16</sup> within three working days following receipt whether you consider that, in accordance with EU and

---

<sup>10</sup> Case RO/2010/1156, SG-Greffe (2010) D/21533. The Commission issued a no comments letter.

<sup>11</sup> Case RO/2009/1005, SG-Greffe (2009) D/10915. The Commission commented on the need to monitor the market.

<sup>12</sup> Corresponding to markets 3-6 in Commission Recommendation 2003/311/EC, see footnote 3.

<sup>13</sup> Case RO/2009/1004, SG-Greffe (2009) D/10922. The Commission issued a no comments letter.

<sup>14</sup> In accordance with Article 7(3) of the Framework Directive.

<sup>15</sup> Commission Recommendation 2008/850/EC of 15 October 2008 on notifications, time limits and consultations provided for in Article 7 of Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services, OJ L 301, 12.11.2008, p. 23.

<sup>16</sup> Your request should be sent either by email: [INFSO-COMP-ARTICLE7@ec.europa.eu](mailto:INFSO-COMP-ARTICLE7@ec.europa.eu) or by fax: +32 2 298 87 82.

national rules on business confidentiality, this document contains confidential information which you wish to have deleted prior to such publication.<sup>17</sup> You should give reasons for any such request.

Yours sincerely,  
For the Commission,  
Robert Madelin  
Director-General

---

<sup>17</sup> The Commission may inform the public of the result of its assessment before the end of this three-day period.