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Electronic Communications Policy
Implementation of Regulatory Framework

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ROMANIA

2011

Telecommunication Market and Regulatory Developments

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ROMANIA

1. MAIN MARKET & REGULATORY DEVELOPMENTS

Development of the sector

Revenues in the electronic communications sector of Romania in 2010 totalled €3.6 billion, which was 7.2% less than the previous year. In particular, the revenues of the mobile sector experienced further decline of 9,2% after a 19.0% fall in 2009, from €2.259 billion to €2.050 billion, whereas the fixed sector recorded a slighter decrease of 7.2%, from €1.186 billion to €1.100 billion. This indicates that the divide between the two sectors has decreased, but the mobile is still almost double than the fixed.

The total value of tangible investment in electronic communications networks in 2010 amounted to €569 million (0.46% GDP). This represents a further reduction of 13,3% after the one experienced in 2009 (over 36%). Almost half of the investment was carried out by mobile operators (€256 million), while the cumulative investment of all alternative operators in fixed networks is higher (of €129 million) than the investment in fixed networks of the incumbent (€108 million).

The national strategies on the development of broadband and the digital switchover process adopted in 2009 have not been followed up with operational plans. The Strategy on digital switchover was amended by the Government to postpone the analogue switch off deadline till 2015.

In November 2011 the Autoritatea Nationala pentru Administrare si Reglementare in Comunicatii (ANCOM) notified the wholesale markets on call termination on individual public telephone networks provided at a fixed location as well as voice call termination on individual mobile networks. In its comments, the Commission invited ANCOM to end the transition phase at the end of 2012, to reconsider the slope of its current glide path and aim for a cost-efficient target rate to be reached already at the beginning of 2013 in order to comply with the EC Recommendation on termination rates.

Rules for 1 day portability is still to be implemented.

Progress in Broadband development and take-up

The fixed broadband penetration reached 15.3% in January 2012, compared to 14.0% in January 2011, but it still accounts for the lowest in the EU (the EU average stood at 27.7% in January 2012). As regards the infrastructure used, the Romanian broadband market is characterised by platform based competition. As far as the market structure is concerned, 1,010 operators provide fixed broadband internet access, of which 41 by cable network, 210 by fibre, 215 by radio, 17 by xDSL, 861 by UTP/FTP cable¹. The market share of the incumbent in DSL lines stayed at 99.9%, but the incumbent's market share in total broadband lines remained below the EU average, (30%, compared to the EU average of 76%).

Independence and effectiveness of the NRA

Autoritatea Nationala pentru Administrare si Reglementare in Comunicatii (ANCOM) is an autonomous public authority with legal personality, under parliamentary control, financed exclusively from own revenues. The financing of ANCOM does not rely on State budget resources, but is exclusively based on extra-budgetary revenues collected from the market

¹ Source: Autoritatea Nationala pentru Administrare si Reglementare in Comunicatii (ANCOM)

players. However, the Commission raised concerns regarding the adequacy of the human resources of the NRA following the planned remuneration of its staff according to the single public sector salary grid. In addition the Commission also expressed concerns regarding the authorisation regime which seem not to be in line with EU law.

Implementation of the Framework

On the 14th of December 2011, the Romanian Government approved the Government Emergency Ordinance no. 111/2011 on electronic communications which transposed the EU 2009 regulatory framework for electronic communications (the Framework Directive, the Authorisation Directive, the Access Directive and the Universal Service Directive) into national legislation², with the exception of the e-privacy related provisions. The modifications brought to the 2002/58/EC Directive by the 2009/136/EC Directive were recently transposed into Romanian law by a Government Emergency Ordinance approved on the 3rd of April 2012.

Spectrum management

The Strategy on digital switchover provides for the analogue switch in 2015. On 28 December 2011, ANCOM decided to extend the expiring licence with one year and organise an auction based on a competitive selection procedure in 2012 on the 900 and 1800 MHz bands. . A first set of licences will cover the period of 1 January 2013 – 5 April 2014, aligning them with the expiry dates of other existing licences. The second set of licences will be valid as of 6 April 2014. For the licences which were extended, the two operators paid a 6.4 million euro licence tax, a value that is proportionate with the amounts paid for obtaining the licences in 1996, computed by ANCOM by indexing the historical licences values.

Citizens and consumer protection

Availability of 116 harmonised numbers has been good in Romania, while awareness levels remained low at 13%. 112 is the sole Emergency Number in Romania and it is reported to function well. In June 2011 ANCOM established the quality indicators for the provision of the Internet access service and their publication. Interactive Tariff Guide through an online “price calculator” is foreseen to be implemented. The NRA adopted the new bylaws on the Implementation of Universal Service in the Field of Electronic Communications. The new regulatory framework on e-privacy has been recently transposed into national law by a Government Emergency Ordinance approved on the 3rd of April 2012.

2. NATIONAL REGULATORY AUTHORITY

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On 3 November 2009³ the Commission raised concerns in relation to the involvement of government departments (the Ministry of Communications and Information Society) with

² The Emergency Ordinance was published in the Official Journal no. 925/27.12.2011.

³ SG(2009)D/8304;C(2009)8218

regulatory tasks (allocation and assignment of radio frequencies) in the ownership and control of state-owned telecom companies, contrary to the requirements of Article 3(2) of the Framework Directive. The Romanian Authorities notified the relevant amending legislation by 9 May 2011 which satisfactorily addressed the grievances raised by the Commission.

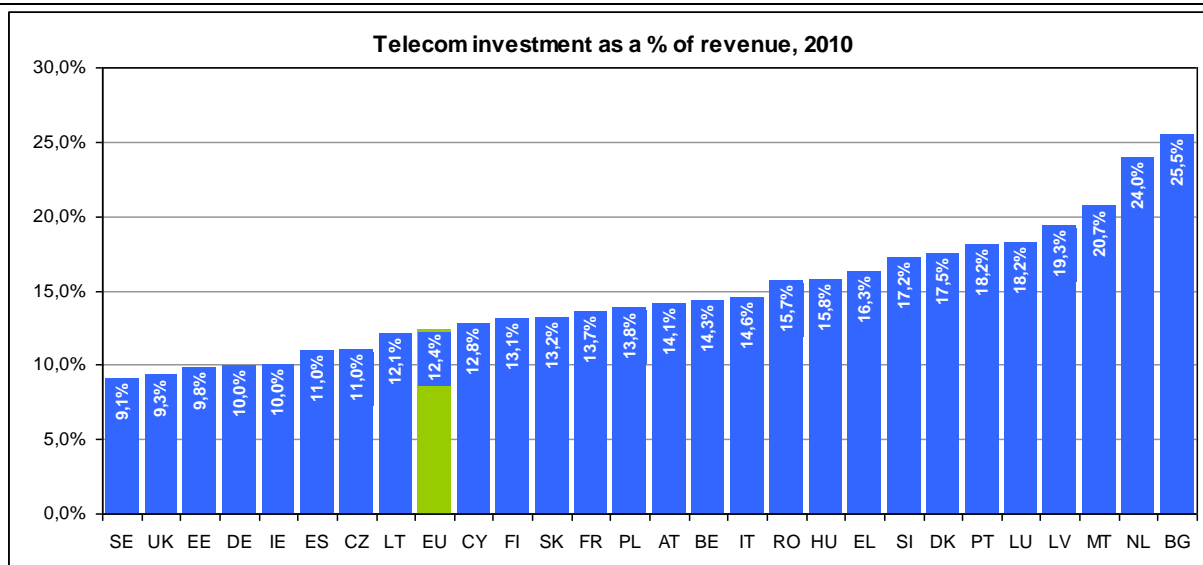
In November 2010, the Commission services have raised concerns on the impact of the legislative measures in the context of the economic downturn on ANCOM, in order to assess their effects on compliance with the requirements of the Framework Directive. In the response sent by the Romanian authorities in February 2011 it is not clear to what extent the inclusion of the ANCOM staff in the ambit of the single public sector salary grid affects the functioning of the NRA. The Commission will continue to look into this matter.

The Commission expressed its concerns in June 2011 on the requirements imposed by ANCOM in the Romanian general authorisation regime which seems to go beyond the restrictive list of conditions provided in the Authorisation Directive. Despite the answer of the Romanian authorities the Commission's services have serious doubts on the compliance of the Romanian authorisation regime and its application with EU law. The Commission will continue to look into this matter.

3. REVENUES AND INVESTMENTS

Revenues in the electronic communications sector of Romania in 2010 totalled €3.6 billion, which was 7.2% less than the previous year. In particular, the revenues of the mobile sector experienced further decline of 9,2% after a 19.0% fall in 2009, from €2.259 billion to €2.050 billion, whereas the fixed sector recorded a slighter decrease of 7.2%, from €1.186 billion to €1.100 billion. This indicates that the divide between the two sectors has decreased, but the mobile is still almost double than the fixed.

The total value of tangible investment in electronic communications networks in 2010 amounted to €569 million (0.46% GDP). This represents a further reduction of 13,3% after the one experienced in 2009 (over 36%). Almost half of the investment was carried out by mobile operators (€256 million), while the cumulative investment of all alternative operators in fixed networks is higher (of €129 million) than the investment in fixed networks of the incumbent (€108 million).



Source: Commission services

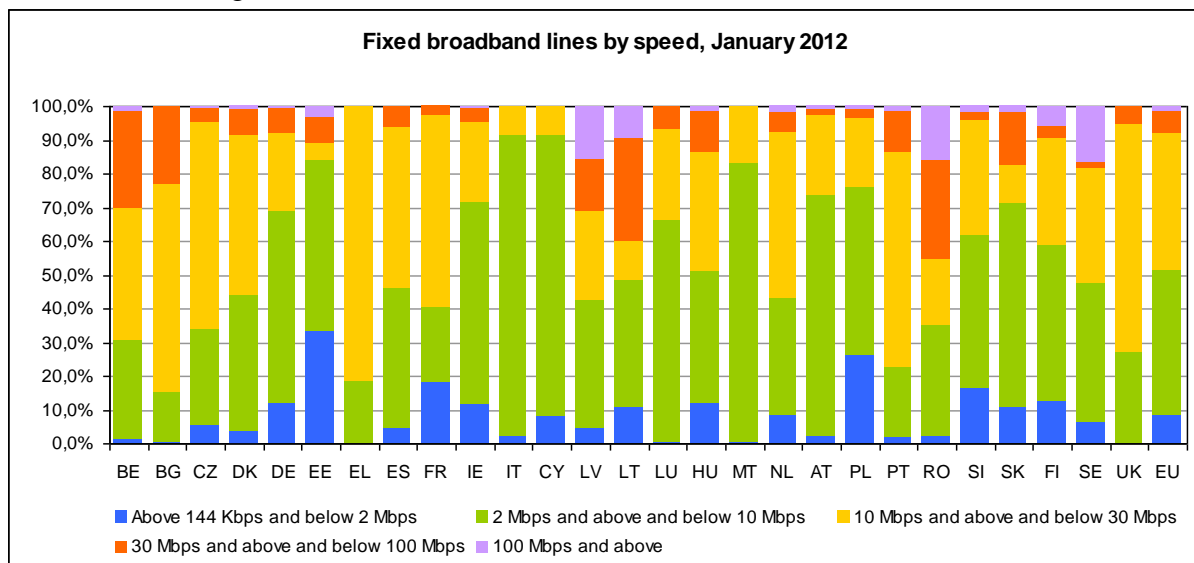
4. BROADBAND

The national strategies on the development of broadband and the digital switchover process adopted in 2009 have not been followed up with operational plans. The Strategy on digital switchover was amended by the Government to postpone the analogue switch off deadline till 2015.

The fixed broadband penetration reached 15.3% in January 2012, compared to 14.0% in January 2011, but it still accounts for the lowest in the EU (the EU average stood at 27.8% in January 2012). As regards the infrastructure used, the Romanian broadband market is characterised by platform based competition. As far as the market structure is concerned, 1,010 operators provide fixed broadband internet access, of which 41 by cable network, 210 by fibre, 215 by radio, 17 by xDSL, 861 by UTP/FTP cable⁴. The market share of the incumbent in DSL lines stayed at 99.9%, but the incumbent's market share in total broadband lines remained below the EU average, (from 30%, compared to the EU average of 76%).

4.1. Market situation and regulatory developments

As of January 2012, 70% of the 3 277 642 active retail broadband lines were non DSL. The number of ISPs that were commercially offering high speeds has been growing rapidly in the past years. As a result, the data for December 2011 indicated that 2,1% of connections offered speeds of up to 2Mbps, 33% between 2 and 10 Mbps, 19,7% between 10 and 30 Mbps, 29,2% between 30 and 100 Mbps. The market share of FTTH is considerably higher (16%) than the EU average of 1.3%.

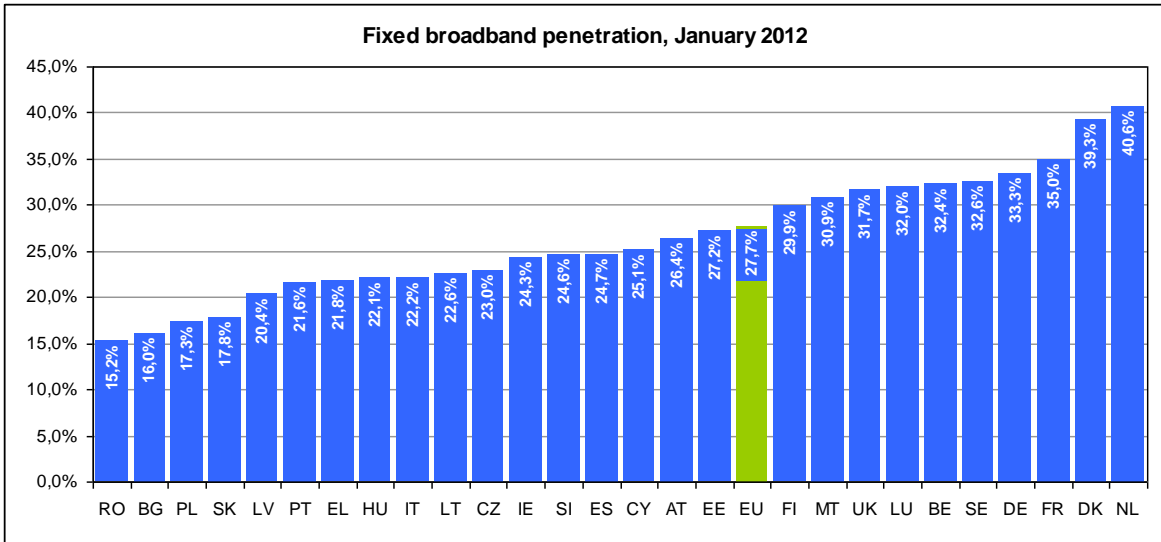


Source: Communications Committee

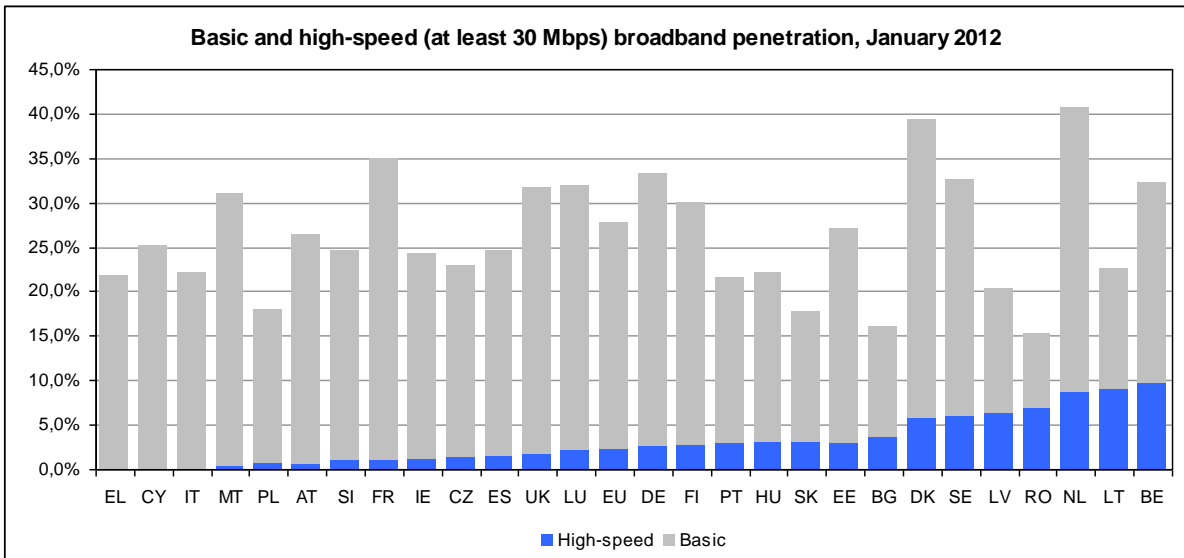
Given the considerable market share of the incumbent in DSL lines, the take-up of LLU was still very low. 8 operators are using the incumbent's network in order to provide internet services, out of 13 operators having LLU agreements with the incumbent⁵. The obligations imposed in 2010 on the incumbent following the analysis of the wholesale (physical) network infrastructure access market, including lower caps did not have effect on the take up of these services.

⁴ Source: Autoritatea Nationala pentru Administrare si Reglementare in Comunicatii (ANCOM)

⁵ Source: Autoritatea Nationala pentru Administrare si Reglementare in Comunicatii (ANCOM)

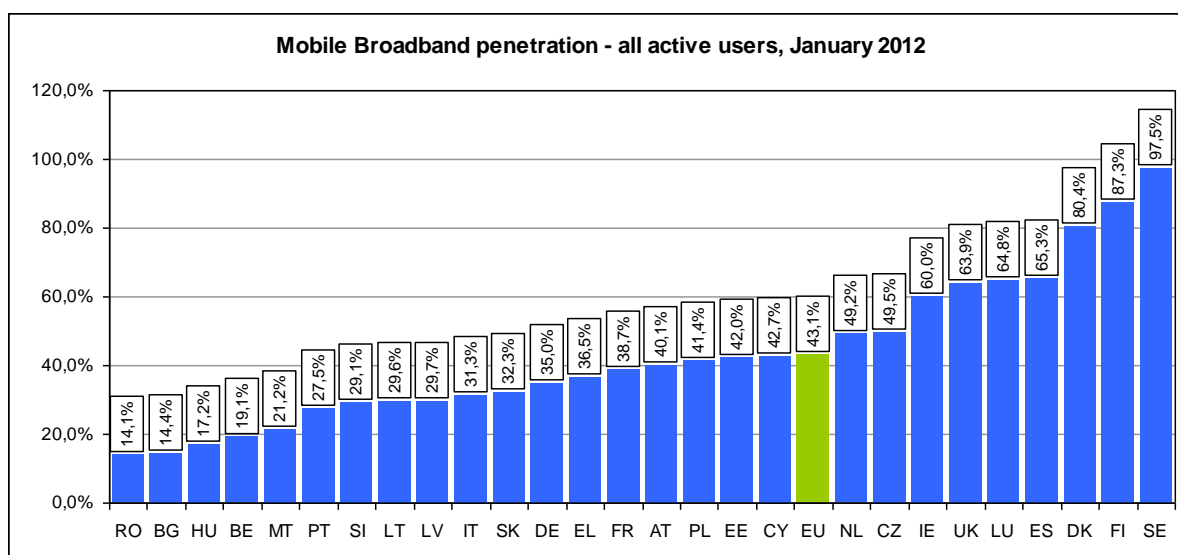


Source: Communications Committee



Source: Communications Committee

Mobile broadband penetration in Romania, based on the number of all active users, stood at 14,1 %, well under the EU average of 43,1%. In case of dedicated data service cards/modems/keys only, the penetration rate is 5,1%, below the EU average of 8,1%.



Source: Communications Committee

The Romanian legislation did not transpose yet the new provisions of the EU regulatory Framework on rights of way and facility sharing. The proposed legislation on electronic communication infrastructure, scheduled to be adopted in the first half of 2012, will address these issues. Market actors and stakeholders complained that in the absence of clear legal requirements and deadlines, deployment of network infrastructure is unduly hindered by the permitting process and the arbitrary decisions of some local authorities.

In 2010 ANCOM reviewed the wholesale (physical) network infrastructure access market, imposing a full set of obligations on the incumbent's copper network. The full LLU tariff went down to €6.02/month (-28%), while the shared access one went down in steps to reach €1.11/month by 1 July 2011 (-74%). While the new caps are effective from November 2010 the uptake of both full and shared LLU is still very low due to the platform based competition. The Commission asked ANCOM, *inter alia* in its comments, to impose access to the incumbent's FTTH lines, to re-assess the need to mandate access to ducts, and to consider whether circumstances at national level may require extending the migration period from two to five years. ANCOM considered that access to ducts should be regulated only in the case of high uptake of LLU, which currently is not the case.

As regards wholesale broadband access, in 2010 ANCOM found that the retail market for broadband internet access was effectively competitive in the absence of *ex ante* regulation of wholesale broadband access. ANCOM considered therefore that regulating the WBA market in Romania is neither necessary nor justified given the high level of infrastructure-based competition (over the providers' own access networks) in the retail market, the availability of the unbundled access to the local loop, as well as the positive impact expected to be achieved following the introduction of cost-oriented tariffs for access to the local loop. The Commission welcomed ANCOM's commitment to carefully monitor the development of differences in the competitive conditions between localities and carry out a new market review as appropriate. Furthermore, the Commission invited ANCOM to regularly assess all relevant structural and behavioural factors which would raise barriers to entry into the retail broadband market, especially in rural areas, and would require a regulatory intervention at wholesale level.

The provisions of the EU regulatory framework on rights of way, co-location and facility sharing are planned to be transposed in the law on electronic communications infrastructure which has been at an advanced stage of the legislative process for more than a year.

4.2. National Plans, private & public investments

The national strategies on the development of broadband and the digital switchover process adopted in 2009 have not been followed up with operational plans. The Strategy on digital switchover was amended by the Government to postpone the analogue switch off deadline till 2015.

Rights of way and facility sharing should be addressed more efficiently and consistently by the long overdue law on electronic communication infrastructure.

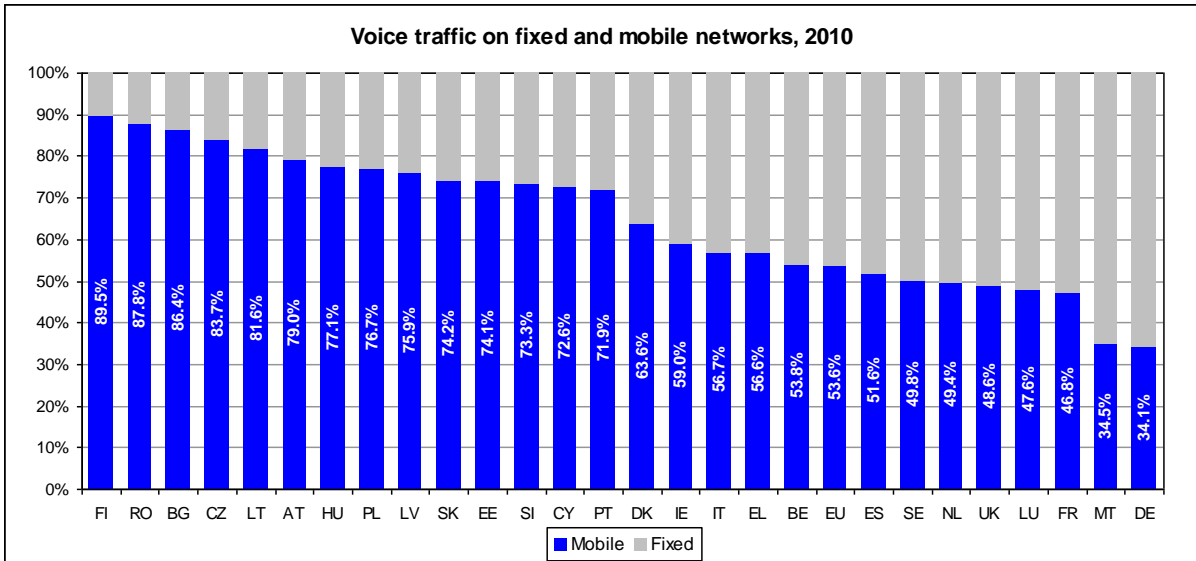
For the last couple of years Romania intends to use 84 million Euros of the EU structural funds to finance an infrastructure project which would have the aim of deploying broadband networks in underserved areas (so called "white areas"). While the Commission supports the goals of the project, it expressed concerns on the delays in presenting a fully documented project with a clear implementation model. After having set up in December 2010 a special Committee for this project which had the goal of developing an implementation model, consisting of representatives of the Ministry of Communications and Information Society, ANCOM, the Authority for the Coordination of the Structural Funds, the Management Authority for the operational programme, the Competition Council the ownership of the proposed infrastructure was not settled before October 2012. Despite the intensified efforts reported by the Ministry for Communication and Information Society the project proposal is still not finalized in order to be notified to the Commission. The Romanian authorities were repeatedly informed on the risk of delaying the project past the timeframe in which it would still be eligible for EU funding under the current financial programming period, leading to the failure to absorb the dedicated EU structural funds.

5. VOICE AND OTHER ECOMMUNICATION SERVICES

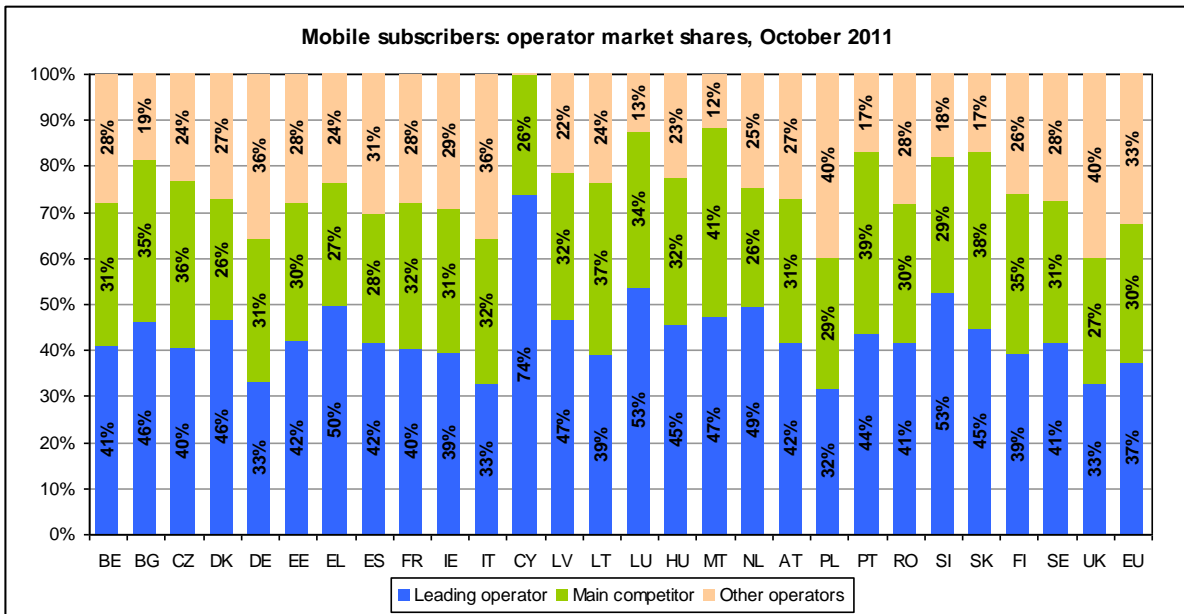
In November 2011 Autoritatea Nationala pentru Administrare si Reglementare in Comunicatii (ANCOM) notified the wholesale markets on call termination on individual public telephone networks provided at a fixed location and voice call termination on individual mobile networks. Following the market analysis, on 16 January 2012 ANCOM adopted the markets identification by decision 34/2012 followed by the individual SMP decisions on the 24 January 2012.

5.1. Mobile services

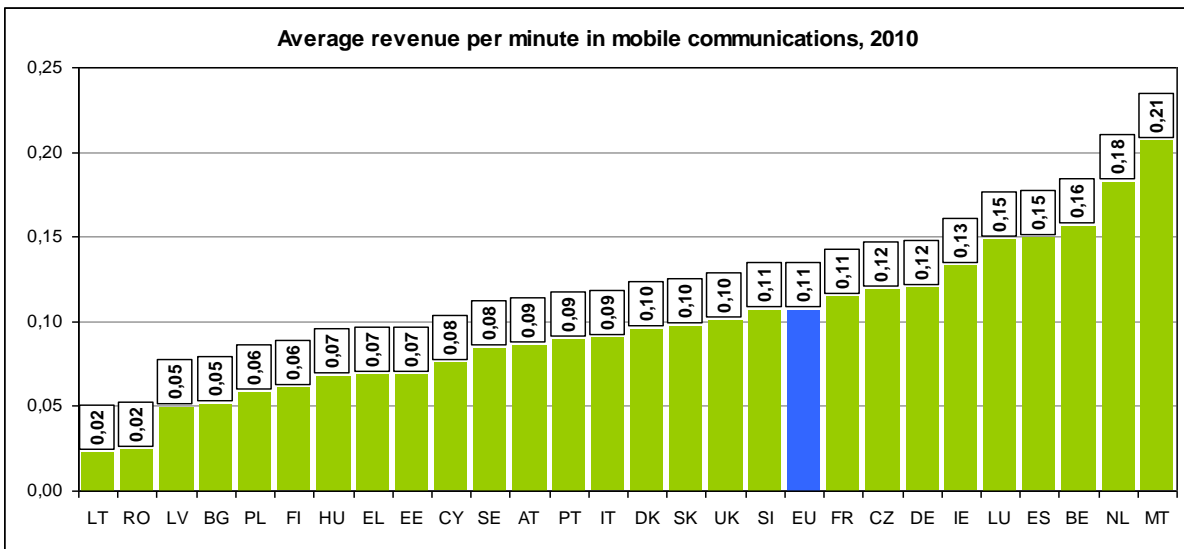
As of October 2011, the penetration rate of mobile telephone services showed a decline, to 110,2% (from 112.6% in October 2010). The majority of subscribers (61%) gave preference to pre-paid subscriptions. In 2011, there were six active MNOs, of which the first two operators had a combined market share of 71%, albeit under constant decrease. Five MNOs were also offering fixed telephony services, two had both UMTS and GSM services, while one operator was only in possession of a UMTS licence. In 2010 the average revenue per user of €64 further decreased from €119 in 2008 and €90 in 2009 is proportionately lower than that of the EU average.



Source: Commission services



Source: Commission services



Source: Commission services

Compared to 2009, in 2010 the average price per minute (calculated as a ratio between the total revenues from minutes of communication and the total number of minutes of retail traffic, roaming included) decreased by 29%, from 0,036 euro/minute to 0,025 euro/minute.

As of January 2012, there were 1.100.000 users of mobile broadband dedicated terminals (only via modems/cards/keys) and 3.020.000 mobile active users with access to dedicated data services via modems/cards and other active 3G users using mobile terminals.

No MVNOs are active in the Romanian market. However, in June 2011 ANCOM has launched a public consultation by publishing a questionnaire to find out the opinion of the Romanian communications market actors with regard to the provision of mobile virtual networks and the conditions related to the presence of MVNOs on the national mobile communications market. As a follow up, in February 2012 ANCOM presented the industry with draft guidelines on the activity of the MVNO in the Romanian electronic communications market, detailing the requirements to be met when entering the market as well as during the activity of those providers willing to offer mobile electronic communications services by means of accessing another operator's network.

Regulatory issues

The second round review of wholesale call termination on individual public telephone networks provided at mobile locations started in 2010. In November 2011 ANCOM notified the wholesale markets on call termination on individual public telephone networks provided at a fixed location and voice call termination on individual mobile networks. In its comments the Commission invited ANCOM to end the transition to the rates based on the pure LRIC model at the end of 2012 and to implement the identified cost-efficient symmetrical rates for the year 2013, therefore to reconsider the slope of its current glide path and aim for a cost-efficient target rate to be achieved already at the beginning of 2013. ANCOM has taken the utmost account of the comments received from the Commission and is considering, after finalising the development of its pure LRIC model by the end of 2012, to implement the identified cost-efficient symmetrical rates already at the beginning of year 2013. The Commission services will closely monitor this commitment.

On 16 January 2012 ANCOM adopted the markets identification by decision 34/2012 followed by the individual SMP decisions on the 24 January 2012. Accordingly the maximum tariffs were submitted to a two-phase cut, by around 40%, in 2012. Thus, starting 1 March 2012, the maximum tariff which the six mobile telephony operators identified as having significant market power – Cosmote, Orange, RCS&RDS, Romtelecom, Telemobil and Vodafone – may charge for the services of call termination on mobile telephone networks is 4.05 eurocents per minute. The second cut will take place as of 1 September 2012, when the maximum tariff to be charged will be 3.07 eurocents/minute.

The other remedies established for both markets, i.e. call termination at a fixed location and call termination at a mobile location remain unchanged. These remedies are: the obligation of transparency, the obligation of allowing access to, and use of, certain specific network elements and of the associated infrastructure, the obligation of non-discrimination and the obligation of price control (including the obligation to maintain the symmetry of the termination rates).

Roaming Regulation

According to ANCOM, all operators which have offered roaming services under the Roaming Regulation have fully implemented the necessary changes in their billing systems in order to comply with all requirements of the Roaming Regulation.

In Q3 2011, the three largest mobile operators offered alternative roaming packages, in addition to the Eurotariff. According to ANCOM, in Q2 2011, in the case of the alternative roaming packages, the average price per billed outgoing minute was lower than the Eurotariff (-7%), while for incoming calls the average price was higher than the Eurotariff (+18%), and also the average price per SMS was higher than the Euro-SMS tariff (+2%). Only one relatively small mobile operator offered the Eurotariff at prices lower than those regulated: 0,20 Euro/minute for outgoing calls (43% cheaper than the Eurotariff), 0,09 Euro/minute for incoming calls (18% cheaper compared to the Eurotariff) and 0,08 Euro/SMS sent (27% cheaper than the Euro-SMS tariff). Concerning data roaming, in Q2 2011, compared to Q2 2010, the average retail price for data roaming in the EU/EEA countries decreased by 21%, from 2.56 Euro/MB to 2.04 Euro/MB.⁶

5.2. Fixed

Market situation

In July 2011, 32 alternative fixed operators used their own infrastructure to provide access to fixed telephony services while 2 operators provide services through full LLU and other 2 have shared access. Romania accounted for one of the highest percentage of subscribers using an alternative provider for direct access, both for national (43%) and international (44%) calls.

According to ANCOM in 2011, there were 12 operators providing CS services, and 2 operators providing CPS. As for VoIP services, 26 operators offered managed services, and 16 operators offered only unmanaged services. The market share by traffic volume of VoIP operators on fixed calls showed an increase from 23% to 25%.

Regulatory issues

As presented above, In November 2011 ANCOM notified the wholesale markets on call termination on individual public telephone networks provided at a fixed location and voice call termination on individual mobile networks. In its comments, the Commission invited ANCOM to end the transition phase at the end of 2012, to reconsider the slope of its current glide path and aim for a cost-efficient target rate to be reached already at the beginning of 2013 in order to comply with the EC Recommendation on termination rates. ANCOM has taken the utmost account of the comments received from the Commission and is considering, after finalising the development of its pure LRIC model by the end of 2012, to implement the identified cost-efficient symmetrical rates already at the beginning of year 2013. The Commission services will closely monitor this commitment.

According to the ANCOM decision in January 2012, the maximum interconnection tariffs in view of call termination charged by the 51 fixed telephony operators identified as having significant market power decreased to 0.82 eurocents/minute as of 1 March 2012. As of 1 July 2012, these will further drop to 0.67 eurocents/minute. The interconnection tariffs charged by the fixed telephony operators will no longer be differentiated by peak/off-peak.

5.3. Broadcasting

Market situation

As of July 2011, there were 3.46 million cable subscribers (46.7% penetration rate). At the same time there were 2.2 million subscribers to DTH satellite networks and 40000 to IPTV

⁶ Source: Autoritatea Nationala pentru Administrare si Reglementare in Comunicatii (ANCOM)

services. Although the number of IPTV subscribers has shown rapid growth, these services held only a 0.5% share within the total number of subscribers to audio-visual programme retransmission services.

Romania postponed the Analogue TV Switch Off date to 2015, amending the Strategy on the digital switchover adopted in 2009, on grounds relating to additional time required to implement this project during the economic downturn, without consulting ANCOM.⁷

Must Carry

It was reported that the must carry regime has been changed because it is becoming burdensome to all carriers, except those exclusively using radio spectrum, reaching in some cases 40% of the total programs carried. The Commission services are looking into this matter. In addition, must carry rules would gain additional importance in the context of the digital switchover process, as certain channels would have to be carried by the multiplexes available.

6. SPECTRUM MANAGEMENT

The Strategy on digital switchover provides for the analogue switch in 2015. On 28 December 2011, Autoritatea Natională pentru Administrare și Reglementare în Comunicatii (ANCOM) decided to extend the expiring licence with one year and organise an auction based on a competitive selection procedure in 2012 on the 900 and 1800 MHz bands. . A first set of licences will cover the period of 1 January 2013 – 5 April 2014, aligning them with the expiry dates of other existing licences. The second set of licences will be valid as of 6 April 2014. For the licences which were extended, the two operators paid a 6.4 million euro licence tax, a value that is proportionate with the amounts paid for obtaining the licences in 1996, computed by ANCOM by indexing the historical licences values.

Digital Switchover

The national strategies on the development of broadband and the digital switchover process adopted in 2009 have not been followed up with operational plans. The Strategy on digital switchover was amended by the Government to postpone the analogue switch off deadline till 2015. ANCOM expressed its readiness to start the auction for awarding the licences for digital television multiplexes, i.e. the first stage of the digital switchover process which is to begin however upon the adoption of the new strategy document by the Ministry of Communications and Information Society.

In this context it shall be mentioned that Article 6.4 of the Radio Spectrum Policy Programme¹ (RSPP), requires Member States to carry out the authorization process by 1 January 2013 in order to allow the use of the 800 MHz band for electronic communications services. The Commission shall follow up on this issue, as it appears that Romania might not comply with the deadline set in the RSPP.

Spectrum auctions and refarming

In July 2011 ANCOM launched a public consultation⁸ on the prolongation of licences in the 900 MHz and 1800 MHz bands which is currently accommodating 3 mobile operators. This came in the context of the expiry on 1 January 2012 of the licences of 2 mobile operators in the 900 and 1800 MHz bands.

⁷ Government Decision No 833/2010.

⁸ Consultare privind extinderea valabilității drepturilor de utilizare a frecvențelor în benzile 890-915 MHz/935-960 MHz și 1722,7 MHz-1747,5 MHz/1817,7-1842,5 MHz, 14 iulie 2011

After further consultation with the stakeholders 3 days before the expiry of the licences, on 28 December 2011, ANCOM decided to extend the expiring licence with one year and organise an auction based on a competitive selection procedure in 2012 on the 900 and 1800 MHz bands. A first set of licences will cover the period of 1 January 2013 – 5 April 2014, aligning them with the expiry dates of other existing licences. The second set of licences will be valid as of 6 April 2014. For the licences which were extended, the two operators paid a 6.4 million euro licence tax, a value that is proportionate with the amounts paid for obtaining the licences in 1996, computed by ANCOM by indexing the historical licences values.

In the context of the auctions proposed for 2012, in January 2012 ANCOM and the Romanian Ministry of National Defence (MApN), as initiators, have submitted to public consultation the draft Emergency Ordinance on the release of the 830-862 MHz, 1747.5-1785 MHz, 1842.5-1880 MHz and 2500-2690 MHz frequency bands. These bands, which are now partially used by MApN, are to be auctioned by ANCOM in view of the provision of broadband electronic communications services. As a result, in March 2012 ANCOM launched a consultation on the auction procedure in the 800, 900, 1800, 2600 MHz bands.

In July 2011 ANCOM launched a consultation on the Strategy Paper on the national implementation and development of BWA systems in the 3400 – 3800 MHz frequency band for 2011 – 2020, which establishes the principles, conditions, procedure of granting the rights to use the spectrum in this band for broadband wireless services, as well as the method for its refarming. ANCOM decided that further analyses and debates are required before taking a decision on the technical matters under the Strategy Paper which are related to the object of a CEPT/ECC decision adopted in December.

MSS licencing

Regarding Mobile Satellite Systems (MSS), the general rules on enforcement of conditions and regulations laid down by the *Government Emergency ordinance n°111/2011* apply. The system is based on individual rights and no authorisation was granted to the selected operators to date as no request was received by ANCOM..

7. CONSUMER INTEREST

7.1. 116 – Harmonised numbers for services of social value

Availability of 116 harmonised numbers has been good in Romania, while awareness levels remained low at 13%.
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The National Numbering Plan reserves the national numbering range beginning with ‘116’ for harmonised numbers for harmonised services of social value. All the existing **five** reserved numbers were opened for assignment. At present, the following two harmonised services of social value are operational: 116000 – missing children hotline and 116111 – child helplines. Since no operator has submitted assignment requests for 116123, 116006, 116117, a simplified procedure is in place. According to the provisions of the Decision no.321/2008 on the allocation and the use of national short numbers for European harmonised services, ANCOM will apply “first-in, first-served” principle in order to grant licences for the use of the remaining numbers. Recently, another national number (116123) has been allocated for a harmonised service of social value – emotional support helpline.

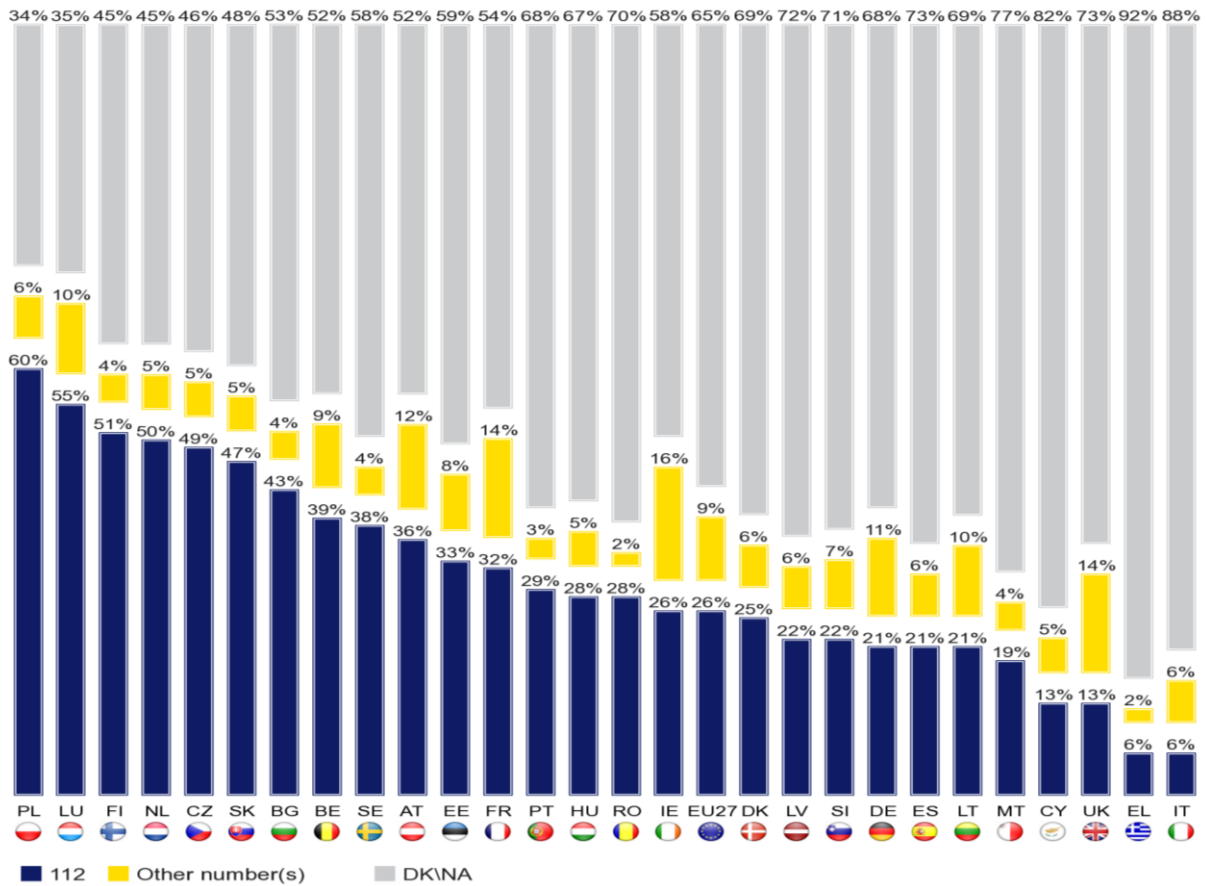
7.2. 112 – European Emergency Number

112 is the sole Emergency Number in Romania and it is reported to function well.
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Awareness of 112 as the EU-wide emergency number:

Can you tell me what telephone number enables you to call emergency services anywhere in the European Union?

(Base: all respondents, % by country)



Source : Eurobarometer 2012

Article 26 of the revised Universal Service Directive is transposed in article 70 of the Government Emergency Ordinance 111/2011. According to the latest Eurobarometer report, knowledge of the national 112 number is amongst the highest in Europe, however only 28% of Romanians know this the number is functional EU-wide. The relevant legislation ensures national roaming for 112 calls originated in any network. The caller location method is "Push" for both fixed and mobile calls. According to the legislation for the 112 system (G.O. 34/2008), each PSAP should be able to receive emergency calls in the languages of the national minorities and at least in one international language. Currently 112 SMS and 112 Fax for people with disabilities is under implementation.

7.3. Net neutrality and quality of service

In June 2011 Autoritatea Nationala pentru Administrare si Reglementare in Comunicatii (ANCOM) established the quality indicators for the provision of the Internet access service and their publication.

The Romanian legislation does not contain provisions preventing the providers to block certain applications. Nevertheless, at the regulatory level, there are several developments that are worth mentioning. The new Romanian legal framework has transposed the provisions of art. 20 from the revised Universal Service Directive regarding inclusion in the contracts of

certain net neutrality related information and the provisions of art. 21 from the same Directive, regarding providers' obligation to publish a series of net neutrality related information.

Concerning the transparency obligation on net neutrality aspects, besides the transposition of art. 21 from the revised Universal Service Directive, we can also mention ANCOM's Decision no. 77/2009 on the obligations of the providers of publicly available electronic communications services to inform the end-users. Among other obligations that have been imposed on the providers, the Decision stipulates that the providers of internet access services are recommended to make publicly available the upload/download capacity during peak hours, as well as the maximum upload/download capacity.

In June 2011 ANCOM established⁹ the quality indicators for the provision of the Internet access service and their publication. ANCOM's Decision does not impose minimum quality of service requirements, but according to its provisions, a set of transparency obligations regarding the technical and administrative quality parameters are incumbent on the providers of internet access services, e.g. to publish and include in the contracts a certain number of technical and administrative quality indicators. It also imposes the obligation for providers to publish comparable, adequate and up-to-date information on the quality of the internet access services they provide. Furthermore, ANCOM shall create, manage and make available to the public an interactive application on its website to measure technical quality parameters, such as data transmission speed, delay, jitter, packet loss rate. The interactive application will be available to the public at the end of 2012.

In practice, it seems that there are still two mobile operators who use a form of blocking VoIP services or certain type of traffic: one of them for prepaid cards, when VoIP traffic is not allowed and the other one where certain type of traffic, like for example, peer to peer traffic, are not allowed for the subscribers who use iPhone.

7.4. Consumer complaints, tariff transparency

Interactive Tariff Guide through an online "price calculator" is foreseen to be implemented.

In 2011 ANCOM has received approximately 940 complaints from the end users, mainly concerning: terms of contracts, lack of compliance with the terms of contracts (33%), network/service failure or the quality of service (16%), billing issues (15%), portability issues (15%).

ANCOM signed in 2011 a contract financed from structural funds to up an interactive Tariff Guide through an online "price calculator" that will perform, based on the user's options, comparative analyses of the standard tariff plans on the market with regard to fixed telephony, mobile telephony, internet access and bundles.

7.5. Number portability

Rules for 1 day portability is still to be implemented.

About 182000 numbers had been ported between October 2010 and October 2011. The Decision reducing the maximum term for portability from 10 to 3 working days will enter into force in the second half of 2012. These rulese allow for a number to be ported in one working day from the time the request is accepted by both the donor operator and the recipient operator.

⁹ Decision 1201

7.6. Universal Service

The NRA adopted the new bylaws on the Implementation of Universal Service in the Field of Electronic Communications.

As regards the third policy paper adopted in 2009 relating to the implementation of Universal Service in Romania, the telecoms regulator (ANCOM) has been working to adopt the bylaws to reflect the new approach. The ANCOM Decision was adopted and published on 17th of January 2011. The NRA's President's Decision no. 7/2011 on Implementation of Universal Service in the Field of Electronic Communications repealing the former Decision no. 1074/2004 sets out the scope of the universal service obligations in Romania. Such obligations are: ensuring access and connection, at a fixed location, to the public telephone networks and of access, at a fixed location, to the publicly available telephone services, at the household level; *homezone* access services provided over mobile networks are seen as substitute solutions to the access services provided at a fixed location over fixed public networks; ensuring telephony services at a fixed location, including faxes, and functional internet access (i.e. "internet access, at a fixed location, which allows a best-effort download speed of at least 144kbps"). In addition ANCOM may impose to USPs measures taken in favour of disabled users. In this regard a market research is planned in 2012 in order to assess the needs of disabled users and based on its findings, ANCOM may extend the above mentioned obligations to all undertakings.

7.7. E-privacy

The new regulatory framework on e-privacy has been recently transposed into national law by a Government Emergency Ordinance approved on the 3rd of April 2012.

The compliance with these new provisions will be monitored by the Romanian Data Protection Authority.

The protection of consumers with regard to cookies, spam and in case of data protection breach has been reinforced, ensuring thus the level of protection specified by the revised 2002/58/EC Directive.