[RO] Draft Law on Electronic Communications

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The Autoritatea Naţională pentru Administrare şi Reglementare în Comunicaţii (National Authority for Administration and Regulation in Communications - ANCOM) has drafted a new Law on Electronic Communications and has submitted it for public consultation until 21 January 2011.

The amendments became necessary following the review of the European Framework and the main purpose is to implement the new European Directives (see IRIS 2010-1/7). The amendments concern several areas: the general authorisation regime; the radio spectrum and numbering management; end-users' rights; universal services; measures the regulatory authority should adopt in view of fostering competition; and sanctioning/monitoring procedures.

Concerning the radio spectrum the changes intend to enhance flexibility and efficiency in the allocation of this resource. The proposed amendments allow more flexibility as regards the spectrum users' possibility to transfer to third parties the right to use radio frequencies, provided that this does not harm competition and does not lead to a non-usage of frequencies. The Draft proposes that broadcasters providing public radio and television programmes be exempted from the selection procedure for the granting of the right to use radio frequencies under certain conditions. ANCOM will be able to wholly/partly revoke the right to use radio frequencies, if such a measure is deemed necessary in order to ensure competition. The licences granted for the use of radio frequencies will be renewed while ensuring the possibility for ANCOM to review the initial conditions. ANCOM will be able to subject the licence renewal to the payment of a licence fee, which will be put towards the State budget and the amount of which shall be established by the government.

One of the main objectives of the European Framework amendments relates to promoting consumers' interests, by ensuring a high level of protection of personal data and privacy and the integrity and security of the electronic communications networks and services.

The provisions concerning end-users' rights have also been amended and completed, to ensure transparency and the right to be informed by the providers on publicly available electronic communications services. In addition to the current regulations, providers must insert in the contracts information on:

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conditions limiting the access/use of certain services and applications; procedures for the measurement and management of the traffic load in order to avoid the congestion of network segments or to ensure their use at full capacity; the impact of these procedures on the service quality; the types of measures that can be taken should incidents, threats and vulnerability regarding the security/integrity of the network and/or services occur. Special importance was attached to end-users with disabilities.

The new European Framework brought a series of amendments with regard to sanctioning and monitoring procedures. If ANCOM finds that an obligation was breached, it will notify the provider and set a specific time limit for it to express its view on the breaches identified. The Authority will enforce the due sanction even in cases in which the provider undertook to remedy the respective infringement. ANCOM may even decide to suspend/postpone the provision of a service or a package of services, which might affect competition, for a certain period of time.

The amendments to the European Framework must be transposed into the Romanian legislation no later than 25 May 2011.

LEGE PRIVIND COMUNICAŢIILE ELECTRONICE (Proiect)

http://www.ancom.org.ro/DesktopModules/Interogation/DownloadFile.aspx?intSurveyID=895&intSurveyFilledInstancesID=1276935

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