

Decision regarding the principles and pre-conditions of the reference offer for unbundled access to the local loop

The president of the National Communications Regulatory Authority ("ANRC") has issued Decision no. 1098/EI/2004 ("the Decision") regarding the Reference Offer for unbundled access to the local loop ("ROA"), which has been submitted to S.C. Romtelecom S.A.

The Decision prescribes how full unbundled access to the local loop is to be granted to beneficiaries by S.C. Romtelecom S.A. ("the Operator").

Beneficiaries will be granted at least:

- Full unbundled access to the local loop (authorising the exclusive use by the beneficiary of the full frequency spectrum of the local loop or local sub-loop, with the beneficiary entitled to independently establish the electronic communications services to be provided on the local loop or sub-loop);
- Shared access to the local loop (authorising the beneficiaries' use of the non-voice band frequency spectrum of the local loop and sub-loop, with the Operator continuing to use the frequencies on which telephony services at a fixed location are provided; the beneficiary may establish independently the electronic communications services to be provided on the local loop or sub-loop).

Operating and maintaining the local loop or sub-loop is the Operator's responsibility. The Beneficiary will be in charge of operating and maintaining active or passive transmission equipment mounted at the ends of the local loop or sub-loop.

The Operator's refusal to provide unbundled access to the local loop must be properly justified and notified in writing to the applicant and to ANRC.

Costs for building infrastructure over a distance longer than 30 metres are to be borne by the beneficiary, with the unbundled access provision agreement to be concluded within not less than 12 months.

The beneficiary may elect to fully cover the infrastructure costs.

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Set out in the Decision are the time-limits in which the Operator is required to remedy any malfunctions in the facilities provided or maintained by the Operator.

Under the Decision, the Operator is bound to meet specific deadlines in relation with the beneficiaries (e.g.: the period in which a frame agreement for the provision of unbundled access to the local loop must be negotiated based on the ROA, the time-limit for developing and communicating technical solutions for implementing the provisions of the frame agreement for the provision of unbundled access to the local loop, etc.).

Pursuant to the Decision, damages for breach of deadlines prescribed by the Decision are agreed upon by the parties under the frame agreement for the provision of unbundled access to the local loop. The damages are to cover at least the beneficiary's losses arising from the impossibility to benefit from unbundled access to the local loop on the agreed date.

Save for the cases where the Decision prescribes a term longer than 12 months, agreements for the provision of unbundled access to the local loop must be made for indefinite terms, unless the beneficiary requests conclusion of a fixed-term agreement. Clauses allowing the Operator to unilaterally terminate indefinite term agreements are prohibited.

Maximum tariffs which can be charged by the Operator for the provision of unbundled access to the local loop are laid down in an appendix to the Decision.

[Source: ANRC's web site]

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