**Romania’s contribution**

**in view of the 2017 Report on freedom of expression in the telecommunications and Internet access sector**

1. **Laws, regulations and other measures (including where applicable contractual arrangements and extra-legal action) that may permit authorities to require Telecommunications and Internet Service Providers to:**
	1. **Suspend or restrict access to websites or Internet and telecommunications networks;**
	2. **Provide or facilitate access to customer data.**

***Government Emergency Ordinance (GEO) no.111/ 2012 on electronic communications*** constitute a general framework for those activities related to electronic communications networks and services in Romania, as well as for the licensing regime. The ordinance defines the rights and obligations of electronic communications networks and of service providers and the end consumers rights and establishes the competent national regulatory authority, ANCOM.

In accordance with ***Art. 16, para. 1 of Law 365/2002 on electronic commerce***, as amended and supplemented, Internet service providers are obliged to immediately inform the competent public authorities of any illegal activities apparently exercised by the users of their service.

In developing the general authorization regime for each category of networks and services, ANCOM establishes the conditions for the provision of services and the rights and obligations of the Internet service providers, including the restrictions on the transmission of illegal and harmful content in accordance with the legal provisions applicable in the field of e-commerce and broadcasting.

The law no. 196/2003 republished on preventing and combating pornography, stipulates that ANCOM should require to the Internet service providers to block the pornographic websites that do not implement the legal obligation to create passwords for the websites concerned and to collect a fee for the access of pornographic websites. Art. 11 paragraph 2 of the same law stipulates that ANCOM has the power to require to the Internet service providers to block the pornographic websites, if the obligations under Art. 7 are not met.

The competent bodies to decide blocking or eliminating illegal content on the Internet are the courts of jurisdiction (which have general competence to order any measures that aim to restore a legal situation) and, in some cases expressly statutory, the relevant administrative bodies (pornographic content, illegal gambling or products likely to have psychoactive effects).

In case of issuing a final judicial decision or an unchallenged administrative decision, that recognizes the illegal nature of an Internet content and disposes to block it or replace it, the ISPs that do not conform with such a decision and do not implement it can be sanctioned with an administrative sanction (contravention) according to art. 142 of GEO no. 111/2012 on electronic communications, as amended and supplemented.

1. **Laws, regulations and other measures (including where applicable contractual arrangements and extra-legal action) on the public disclosure of requests made or actions taken to (a) suspend or restrict access to websites or Internet and telecommunications networks and the requests to provide or (b) facilitate access to customer data.**

Access to customers' data (individual) shall be in accordance with ***Law no. 677/2001*** on the protection of individuals with regard to the processing of personal data and the free movement of such data, as amended and supplemented, and the ***Law no. 506/2004 on processing personal data and the protection of data privacy in the electronic communications***, with completions. Likewise, the access to customers' data (legal entity) shall be in accordance with applicable laws, taking care to respect the data privacy where necessary.

1. **Laws, regulations and other measures (including where applicable contractual arrangements and extra-legal action) governing the activities of private entities that provide network components or related technical support, such as network equipment providers, submarine cable providers, and Internet exchange points.**

The legal framework in the field of radio equipments and telecommunications terminal equipments and electromagnetic compatibility includes ***Government Decizion (GD) no. 130/2015 on radio equipments and terminal equipments of electronic communications*** and mutual recognition of their conformity and ***GD. 487/2016 on electromagnetic compatibility***.

1. **Remedies available in the event of undue restrictions on Internet and telecommunications access or undue access to customer data.**

In accordance with Art. 12 para. (5) of ***Government Emergency Ordinance no.22/2009*** on the establishment of the National Authority for Management and Regulation in Communications, the decisions of the president of ANCOM may be appealed in administrative litigation at the Court of Appeal Bucharest, without completing the preliminary procedure laid down in ***Art. 7 of the Law no. 554/2004 on administrative litigation***, as amended and supplemented. The individual decisions can be appealed within 30 days from the notification.

1. **Other relevant laws, policies or initiatives to promote or enhance Internet accessibility and connectivity, including measures to promote network neutrality.**

In its activity on net neutrality BEREC (Body of European Regulators for Electronic Communications) identified several courses of action that have been developed over the years and which refer to:

- Traffic management practices;

- Quality of service;

- Transparency;

- Competition issues;

- IP interconnection.

On 30 August 2016, the Body of European Regulators for Electronic Communications (BEREC) held a presentation event of BEREC Book of Reference for the implementation of obligations under Regulation 2120/2015 of the European Parliament and of the Council on Net neutrality. The Book of Reference has crossed a period of public consultation and will be adopted at an extraordinary plenary meeting of BEREC.

The regulation concerning the open Internet is a legal instrument with direct applicability for the Member States that recognize and protect the rights of end-users to access and distribute information and content, to use and to provide applications and services and use terminal equipment at choice, regardless of the location of the end user or supplier, or the place, the origin or destination of the information, content, applications or services via their internet access service, thus ensuring the prerequisites for an open internet to the end users.

To guarantee this right, the Regulation concerning the open Internet introduces a number of performance criteria, rules and principles to operating networks and Internet service delivery, new responsibilities and obligations for regulators as well as new criteria and rules to ensure transparency and users' protection.