



ADMINISTRATIVE BOARD

DECISION
Chisinau mun.

December 23, 2010

No. 77

On imposing special ex-ante obligations
On JSC “Orange Moldova” due to its significant power on the market for voice call termination
in its individual mobile telephone network

Pursuant to the provisions of art.9 para. (1) subs c), n), u), and art.43 para. (1) subs. a)-c), subs. f)-h), art.44, art.45, art.47, art.48, art.53 para. (3), (4) of the Electronic Communications Law no. 241-XVI of 15.11.2007,

Considering Administrative Board Decision no. 20 of 15.07.2010, of the National Regulatory Agency for Electronic Communications and Information Technology (hereinafter *the Agency*) regarding the identification of the market for voice call termination in individual mobile telephone network,

Considering Administrative Board Decision no. 54 of 18.11.2010, of the Agency regarding the designation of JSC “Orange Moldova” as a provider with significant power on the market for voice call termination in the individual mobile telephone network,

In accordance with section 14 and section 15 subs b) of the Agency Regulation, approved by Government Decision no. 905 of July 28, 2008, the Administrative Board hereby DECIDES:

1. The special ex-ante obligations that are imposed on JSC “Orange Moldova” (IDNO 1003600106115), as a provider with significant market power on the market for voice call termination in individual mobile telephone networks shall be approved, according to the Annex.
2. This decision may be supplemented with other regulations issued by ANRCETI in this regard
3. The provisions of this Decision do not affect the possibility of the Agency to establish other conditions or obligations, or to withdraw or amend all or part of those imposed by this Decision.
4. This Decision shall enter into force on the date of approval and shall be notified to JSC „Orange Moldova” within 3 working days.
5. The operative part of this Decision shall be published in the Official Gazette of the Republic of Moldova.

Sergiu SITNIC

Chairman

Ion POCHIN

Board Members

Iurie URSU

Special ex-ante obligations to be imposed on JSC “Orange Moldova”

I. Obligation to ensure access to specific individual network elements, including interconnection for call termination, to associated infrastructure, and their use

1. JSC “Orange Moldova”, hereinafter “the incumbent”, shall have the obligation, within the terms and conditions specified in the Regulation on Interconnection, approved by the Decision of the Agency Administrative Board no. 12 of 31.01.2009, hereinafter “the Regulation”, and according to these obligations, to offer direct interconnection, in the event of reaching the average bidirectional traffic level specified in paragraph 12 of the Regulation, to any provider who requests, hereinafter “the requesting provider”, direct interconnection for the purpose of call termination in the mobile telephone network operated by the incumbent.

2. The incumbent shall ensure the interconnection of the mobile telephone network it operates, for the purpose of call termination, to the extent that the requests are reasonable. Through the interconnection service for call termination in its own mobile network, the incumbent shall ensure the transmission of the signal from the interconnection point with the requesting provider's network to any terminal point within its own mobile network, if termination at the called terminal is technically feasible. In cases where the terminal is beyond the network and the call is terminated in a voicemail service or forwarded to a roaming network, the termination in such cases shall be provided to the requesting provider under no less favorable conditions than the termination of calls at terminal points inside the network.

3. The incumbent shall provide the requesting provider with the service of call termination within its own mobile network for calls initiated within the network of the requesting provider. Additionally, the incumbent shall offer the service of call termination within its own mobile network for national voice calls initiated within the network of another provider and transited by the requesting provider, in the case of indirect interconnection in accordance with the provisions of the Interconnection Regulation.

[Section .3 modified by ANRCETI Board Decision no. 44 of 12.08.2015]

3¹. The incumbent has the obligation to provide the termination service in his own mobile network for calls originating from numbers of the European Union member states, European Economic Area member states, as well as from a state or states with whom the Republic of Moldova has concluded an international agreement on reciprocal application of the provisions of the *Commission Delegated Regulation (EU) 2021/654 of 18 December 2020, supplementing Directive (EU) 2018/1972 of the European Parliament and of the Council by setting a single maximum Union-wide mobile voice termination rate and a single maximum Union-wide fixed voice termination rate (hereinafter referred to as Delegated Regulation No. 654/2021)*, for the calls originating at numbers of that state or those states, and accordingly, for the calls originating at numbers of the Republic of Moldova. This obligation arises where applicant has the status of a provider or where it is an operator as defined by Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code, established in any of the European Union member states, or European Economic Area member states, or the state or states with which such an agreement is concluded.

[Section 3¹ modified by ANRCETI Board Decision no. 37 of 06.04.2023]

[Section 3¹ amended by ANRCETI Board Decision no. 8 of 31.03.2022]

4. The incumbent shall ensure the interconnection of its own mobile telephone network for the purpose of call termination in this network, to the extent that the requests are reasonable, taking into account the feasibility of the requested access, considering available capacity, and the need to ensure the security of networks, services, and personnel.

5. The incumbent shall offer any related service reasonably required by a requesting provider to obtain interconnection with its network and to efficiently use call termination services, including access to its own associated infrastructure, access through its own cable ducts, and passage through its own technical spaces, etc., taking into account the feasibility of the requested access, available capacity, and the need to ensure the security of networks, services, and personnel.

6. The incumbent shall respond to the requesting provider within maximum 10 working days from the date of receiving the interconnection request, indicating the solutions, including the delivery terms for the requested capacities and services, and the availability to conclude the interconnection agreement. In the event of a refusal to grant the requested services, including partial refusal, the incumbent shall provide a well-founded justification for the refusal, including if it deems the request to be unreasonable.

7. The incumbent shall be responsible for the installation, operation, and maintenance of the interconnection link segment between its own switch and the interconnection point. The costs associated with the installation and operation of this segment shall be borne by the incumbent.

8. The incumbent shall ensure the provision of the interconnection links mentioned in section 7 through SS7 signaling, at the capacity and technical specifications reasonably requested by the requesting provider, within maximum 15 working days from the date the interconnection agreement is concluded. The deadline for the delivery of additional capacity of the interconnection link shall be maximum 15 days from the date of receiving a written request from a provider already interconnected.

9. The lack of available capacities for interconnection or their reservation for the incumbent's own needs or by other providers cannot be a reason for refusing to provide interconnection or for the expansion of interconnection capacities. If there is lack of available capacities needed to meet the request, the incumbent shall expand the interconnection capacities as necessary and make them available to the requesting provider within maximum of 6 months from the date of the request.

10. In case of a failure of the interconnection link segment and/or any utilities provided by the incumbent, the incumbent shall initiate the necessary activities to locate and remedy the defect, even on a provisional basis, as well as to mitigate or limit any potential damage:

During working hours - within maximum one hour from the notification of the failure by the interconnected requesting provider or from the moment when the incumbent becomes aware of the failure by any other means.

Beyond working hours - within maximum 8 hours from the notification of the failure by the interconnected requesting provider or from the moment when the incumbent becomes aware of the failure by any other means.

The term for remediation, at least on a provisional basis, of failures/malfunctions, but which allows for the interconnection, shall not exceed 24 hours.

11. The costs associated with remediation of malfunctions shall be borne by the incumbent, unless it is determined that the requesting provider is responsible for the malfunction.

12. The incumbent shall provide the interconnection service, related interconnection services, and the termination service without conditioning their provision on simultaneous purchase by the requesting provider of products or services that the requesting provider does not consider necessary for the use of the requested type of access, or on purchase of a volume of products or services that exceeds the requested volume, or on imposition of any commercial, technical, or other conditions that are not necessary for the provision of the requested type of access.

13. The incumbent shall not condition the provision of interconnection services for call termination in its own mobile telephone network by requiring the requesting provider to apply for, provide, lease, or install separate or additional interconnection capacities unless this requirement derives from the load of capacities in operation or requested. The incumbent shall not impose requirements on the configuration of interconnection links that may lead to a limitation of interconnection capacities compared to a configuration that can function without these limitations.

14. Any modification made by the incumbent to its network or the spaces where interconnection is performed, which could affect the interconnection conditions of a provider already interconnected, shall be posted on its website and notified to the requesting provider at least 3 months

before the planned modification. Any measures taken by the incumbent that may result in the impossibility to continue the interconnection service provision at a specific address shall be notified to the interconnected providers likely to be affected at least 9 months before the date of the planned measures.

15. In the event of operations for network reconfiguration or upgrade, including the decommissioning of the switch, the incumbent shall take all measures to ensure that the interconnected requesting provider continues to benefit from interconnection under conditions of price and quality equivalent to the initial ones.

15¹. Where the requesting provider is an operator mentioned at section 3¹, in derogation from the provisions of sections 6-15, the technical and commercial terms of interconnection shall be established between the incumbent and the requester by good-faith negotiations.

[Section 15¹ amended by ANRCETI Board Decision no. 8 of 31.03.2022]

II. Obligation to ensure transparency, including the publication of the Reference Interconnection Offer

16. The incumbent shall publish on its website, within 3 months from the effective date of this Decision, a Reference Offer for Interconnection with the mobile telephone network it operates, hereinafter referred to as RIO, in accordance with Chapter IV and other provisions of the Regulation and the provisions of this Decision. Upon request, it shall make the RIO and its amendments available to any requesting provider.

17. The incumbent shall present to the Agency and will publish on its website the initial RIO draft, as well as the draft of any modifications and/or additions to the RIO, in accordance with the terms and conditions specified in Section 42 of the Regulation, for the purpose of verifying compliance with these obligations.

18. The RIO shall be detailed enough to allow interconnection at all points of the network where this is feasible and to ensure that the requesting provider will not have to pay for resources that are not necessary for the requested service.

19. The incumbent shall specify in the RIO the types of interconnection links, the transport technology on which the offered interconnection links are based, and the conditions for providing interconnection links, including at least the terms, prices and quality levels offered. The incumbent shall clearly define its own responsibilities regarding the capacity of the provided link.

20. The incumbent shall include in the RIO information regarding the set of parameters relevant to the quality of services offered to the requesting provider, shall provide the timeframe for the remediation of failures/disruptions, as well as the minimum limits of compensation for delayed failure/disruption remediation and the method for determining it.

21. Any limitation regarding the provision of interconnection services must be explicitly stated in the RIO. The deadline for removing such limitation shall not exceed 6 months from the date of the request for interconnection services.

22. The incumbent shall provide in the RIO the address and capacity of interconnection for every switch, where interconnection with its own mobile network can be established for call termination. The incumbent shall include a complete description of all related interconnection services offered at each switch and eventual limitations, which will be updated in the RIO as necessary, but at least quarterly, specifying the date of the update.

23. The incumbent shall include in the RIO at least the information specified in Section 46 of the Regulation. This information shall be updated within a maximum of 15 days from the date of any changes, specifying the date of the update.

24. The incumbent shall include in the RIO a detailed description of the technical specifications of access points, by reference, where applicable, to relevant standards or recommendations, regarding:

- a) the electrical (optical) and physical interface;
- b) transmission interface;
- c) signaling interface;
- d) where necessary, information about the functional capabilities offered through interfaces.

25. The RIO shall be modified and/or amended in accordance with the provisions of Chapter IV of the Regulation and other relevant provisions.

26. Upon the publication of the RIO, the incumbent shall also publish on its website and, upon request, provide to any requesting provider a standard interconnection agreement containing standard contractual clauses, prepared in accordance with the provisions of the RIO.

27. The interconnection agreement must comply with the provisions of Chapter V and other provisions of the Regulation. The interconnection agreement shall explicitly state the prices for interconnection services and related services offered for interconnection purposes. The interconnection agreement must allow the requesting provider to easily select the capacity of interconnection links, interconnection options, as well as any other services offered based on the RIO.

28. The interconnection agreement for call termination in the mobile network operated by the incumbent shall be negotiated under the terms and conditions specified in Sections II and V of the Regulation. The negotiation period for amending or supplementing an interconnection agreement shall be a maximum of 15 working days from the date the request is received.

29. The incumbent shall ensure the implementation of the provisions of the interconnection agreement so that the provision of termination services can in maximum 15 working days from the date the interconnection agreement is concluded.

30. When amending or supplementing the interconnection agreement, in cases where no new access points or capacity expansion are requested, the incumbent shall ensure that the interconnection is established so that the provision of new services can start in maximum of 10 working days from the date the interconnection agreement is amended or supplemented.

31. The incumbent shall submit to the Agency copies of any interconnection agreements related to call termination in its own network and amendments thereto within 10 working days from the date of their conclusion. The incumbent shall also provide the Agency with a copy of the RIO for any agreement with a foreign provider for call termination in its own network or shall quarterly provide relevant information regarding the prices for termination services provided to any foreign provider.

32. The incumbent shall notify interconnection partners of the need to amend interconnection agreements whenever necessary, notifying the Agency by prior notice and publishing its proposed amendments on its website 30 days before their implementation. Amendments to the interconnection agreement must be justified.

III. Obligation of non-discrimination

33. The obligation to admit no discrimination as regards the interconnection of the mobile network operated by the incumbent for the purpose of terminating national voice calls shall be met under the following conditions:

- 1) The incumbent shall provide equivalent terms, under equivalent circumstances, to all providers requesting or already using the interconnection for the purpose of terminating calls on the mobile network that the incumbent operates.
- 2) The incumbent shall make available to the requesting provider the necessary services and information related to call termination in the mobile telephone network it operates, under conditions, including but not limited to deadlines, terms, quality, and prices, no less favorable than those available to any affiliated persons, subsidiaries, or partners.
- 3) The incumbent shall not discriminate, in terms of the conditions for providing the termination service in its own mobile network, including discrimination based on price, quality, and/or volume, between national calls originated on the network of the requesting provider and those originated on the electronic communications network of any other provider.

[Section 33 modified by ANRCETI Board Decision no.44 of 12.08.2015]

34. The incumbent, where it offers its subsidiaries, affiliated persons, or partners termination conditions on its own mobile network more favorable than those specified in the RIO, then the incumbent shall offer these conditions to all requesting providers on a non-discriminatory basis, and the RIO shall be modified to reflect these conditions as part of the public offer.

IV. Obligation of investment recovery, price control, including the obligation to cost-based pricing

35. The incumbent has the obligation to set prices for the provision of national call termination service in its own mobile network based on Long Run Incremental Cost (LRIC). Calls are considered national in origin if they originate at numbers within the National Numbering Plan.

[Section 35 modified by ANRCETI Board Decision no. 44 of 12.08.2015]

36. Starting from April 1, 2022, the maximum price that can be charged by the incumbent for the provision of national call termination services in its own mobile network cannot exceed 0.002 EUR/minute (excluding VAT).

[Section 36 modified by ANRCETI Board Decision no. 8 of 31.03.2022]

[Section 36 modified by ANRCETI Board Decision no.38 of 17.07.2020]

[Section 36 modified by ANRCETI Board Decision no.39 of 29.12.2016]

[Section 36 modified by ANRCETI Board Decision no.44 of 12.08.2015]

[Section 37-39^d excluded by ANRCETI Board Decision no.44 of 12.08.2015]

36¹. For the termination of calls mentioned in paragraph 3¹ in its own mobile network, the incumbent shall apply prices that do not exceed the level of the corresponding rate derived from Article 4 of Delegated Regulation no. 654/2021.

[Section 36¹ amended by ANRCETI Board Decision no.8 of 31.03.2022]

36². The obligation regarding the compliance with maximum rates, as established in section 36¹, in relation to the termination of calls originating at numbers of Member States of the European Union and the European Economic Area, carried by operators of Member States of the European Union and the European Economic Area, shall come into effect on January 1, 2024, except the termination of calls originating at numbers of a Member State for which, at the time this obligation enters into force, the rates have already been aligned with the provisions of Delegated Regulation no. 654/2021.

[Section 36² amended by ANRCETI Board Decision no.37 of 06.04.2023]

36³. In order to avoid doubts, for the application of the obligation at Section 36¹, the following categories of calls shall be considered as originating from numbers of the European Union and European Economic Area member states:

a) calls from numbers belonging to the numbering plans of the European Union and the European Economic Area member states;

b) calls from numbers of the Republic of Moldova, while roaming on the territory of the European Union and the European Economic Area member states.

[Section 36³ amended by ANRCETI Board Decision no. 37 of 06.04.2023]

37. For the call termination service in the network operated by the incumbent, it shall invoice only the talk time for calls that have been successfully established and answered. Talk time begins with the response signal and ends up with the first signal of line release, generated either by the called party or the calling party. The discretization unit shall be the second.

38. The incumbent shall not charge connection fees on the network of the requesting provider, if the average bidirectional traffic between them reaches the limit set forth in section 12 of the Regulation.

39. The incumbent shall not charge fees for the use of its interconnection capacities, if the average bidirectional traffic between them exceeds the limit set forth in section 12 of the Regulation.

40. The incumbent shall publish the established interconnection prices, including in the RIO.

[Sections 40-43 become sections 37-40 according to ANRCETI Board Decision no.44 of 12.08.2015].