



ADMINISTRATIVE BOARD

DECISION
Chișinau mun.

December 23,

No. 60

**On imposing special ex-ante obligations
on JSC "Moldtelecom" in relation to its significant power on the market for voice call
termination in its individual fixed telephone network**

Pursuant to the provisions of art. 9 para. (1) subs c), n) and u) and of art. 43 para. (1), (2), art. 44-48, art. 53 para. (3), (4) of the Electronic Communications Law no. 241-XVI of 15.11.2007,

Considering Administrative Board Decision no. 21 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 fixed telephone network,

Considering Administrative Board Decision no. 37 of 18.11.2010, of the Agency regarding the designation of JSC "Moldtelecom" as a provider with significant power on the market for voice call termination in the individual fixed telephone network,

In accordance with point 14 and point 15 lit. 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 „Moldtelecom” (IDNO 1002600048836), as a providers with significant market power on the market for voice call termination in individual fixed 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 Moldtelecom” within 3 working days.
5. The operative part of this Decision shall be published in the Official Gazette of the Republic of Moldova.

Chairman

Sergiu SITNIC

Board Members

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Special ex-ante obligations to be imposed on JSC Moldtelecom

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

1. JSC Moldtelecom, 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 to any provider who requests it, hereinafter "the requesting provider", for the purpose of local and national termination of calls in the fixed network operated by the incumbent.

2. The incumbent shall ensure the interconnection of the fixed telephone network it operates, in order to terminate the calls, to the extent that the requests are reasonable. Through the interconnection service for the termination of calls in its own fixed network, the incumbent shall ensure the transmission of the signal from the point of interconnection with the requesting provider's network up to any terminal point of its own fixed network, where the termination up to that terminal point is possible from the technical point of view.

3. The incumbent shall offer the requesting provider the termination service in its own fixed network for calls initiated in the requesting provider's own network. Also, the incumbent shall offer the termination service in its own fixed network of national voice calls initiated in another provider's own network and transited by the requesting provider in case of indirect interconnection in accordance with the provisions of the Interconnection Regulation.

[P.3 modified by ANRCETI Decision no.29 of 12.08.2015]

3¹. The incumbent shall have the obligation to provide the termination service in its own fixed network for calls originating at 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 Delegated Regulation No. 654/2021)*, to the calls originating at numbers of that state or those states, and accordingly, to the calls originating at numbers of the Republic of Moldova. This obligation occurs towards requestors that have the status of a provider or operators 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 from the state or states with which such an agreement has been concluded."

[P.3¹ amended by ANRCETI Decision no.15 of 06.04.2023]

[P.3¹ amended by ANRCETI Decision no. 11 of 31.03.2022]

4. The incumbent shall provide access for interconnection and provision of call termination services at any technically feasible point of the network, in every local rate geographic area, to provide call termination at local and/or national level, depending on the providers' request.

5. The incumbent shall provide any related service reasonably required by a requesting provider to obtain access to and effectively use the interconnection and call termination services, such as access to associated infrastructure, access through cable tunnels and passage through technical spaces, equipment collocation, air conditioning, electricity, heat, equipment-moving facilities, etc.

6. The incumbent shall respond to the requesting provider within maximum 10 working days from the date the request for interconnection, collocation and/or other interconnection-related services was received, indicating the solutions, including the terms of delivery of the requested capacities and services and the availability of concluding the interconnection agreement. In case the requested

services are refused, including partial ones, the provider shall thoroughly justify the reason for refusal, including if it considers the request as unreasonable.

7. The incumbent shall provide access to all the services necessary for the requesting provider to be able to provide its own electronic communications services, including emergency services, subscriber services and other services that can be provided in smart networks.

8. The incumbent shall be responsible for installing, operating and maintaining the segment of the interconnection link between its own switch and the interconnection point. The costs related to the installation, operation and maintenance of the given segment shall be borne by the provider- offeror.

9. The incumbent shall ensure the provision of SS7 signaling interconnection links at reasonable capacity and technical characteristics requested by the requesting provider within maximum 15 working days from the date the interconnection agreement was concluded. The term for the delivery of an additional interconnection link capacity shall not exceed 15 days from the date of the written request was received from the requesting provider already interconnected.

10. The lack of capacities available for interconnection or their reservation for the incumbent's own needs or by other providers cannot be a reason for refusal to ensure the interconnection or to expand the interconnection capacities. Where there is lack of available capacities necessary to meet the request, the incumbent shall expand the interconnection capacities to the extent necessary and shall make them available to the requesting provider, within maximum of 6 months from the moment of request.

11. The incumbent shall provide SIP protocol interconnection, at least at the technical characteristics by which it interconnects its soft switches with its PSTN network, within up to 1 month after the successful completion of interoperability tests with the requesting provider's network.

12. In case the segment of the interconnection link and/or any utility provided by the incumbent fails, the incumbent shall start the necessary actions to locate and remedy the failure, even provisionally, as well as to remove or limit possible damages:

a) during working hours - within maximum one hour after the failure was notified by the interconnected requesting provider or from the moment the failure came to the knowledge of the incumbent by any other means.

b) beyond working hours - within maximum of 8 hours after the failure was notified by the interconnected requesting provider or from the moment the failure came to the knowledge of the incumbent by any other means.

c) the term for fixing, at least provisionally, the failure/malfunction, but which allows the functioning of the interconnection, must not exceed 24 hours.

13. The expenses related to remedy of failure shall be borne by the incumbent, unless it is found that the requesting provider is responsible for the failure.

14. The incumbent shall provide the interconnection service, the services related to the interconnection and the termination service without conditioning their provision on simultaneous purchase by the requesting provider of some products or services, which the latter does not consider necessary for using the requested type of access, or on the purchase of a imposed volume of products or services, which would exceed the requested volume, or the imposition of any commercial, technical or other conditions that are not necessary for the provision of the requested type of access.

15. The incumbent shall provide physical colocation services at any address where it offers interconnection services and where colocation spaces for this purpose or spaces that can be prepared for this purpose in accordance with the provisions of point 17, are available. Physical co-location involves making available to the requesting provider a space arranged for this purpose, to install its equipment.

16. The incumbent shall offer the possibility of access of Requesting provider's employees to the collocated equipment within the physical collocation space:

a) for planned works - during working hours, according to the procedure established by the incumbent.

b) in case of damage or malfunction of the equipment during working hours - within maximum 1 hour from the notification.

c) in case of damage or malfunction of the equipment beyond working hours - according to the procedure established by the incumbent.

17. Where the incumbent receives a request for physical co-location that cannot be met for lack of available space, the incumbent shall allocate and prepare spaces for the physical co-location service within the spaces that are becoming available, have already become available as a result of network upgrade or can become available, if these spaces can be used for co-location from the technical point of view. For this purpose, the incumbent shall remove any equipment out of use, unless keeping this equipment is mandatory according to the legal provisions in force. The deadline for making the colocation service available in such a case will not exceed 6 months from the date of the request. The incumbent can ask the Agency to extend the given term, if it considers that for objective reasons it cannot be observed.

18. If the incumbent does not have the capacity to offer the physical co-location service, or does not have spaces that can be prepared for the provision of physical co-location services according to the requirements of point 17, it shall provide virtual co-location instead of physical co-location.

19. Virtual co-location involves allocating the necessary space in the same premises where the equipment of the incumbent operates, without building a structure with a protective nature that would separate them, and installing the equipment of the requesting provider in the allocated space. In the case of virtual colocation, the incumbent shall not have the obligation to provide access to the employees of the requesting provider to the colocation space for the purpose of installing, operating, repairing or withdrawing the collocated equipment

20. If the incumbent does not provide access to the employees of the requesting provider to the virtual colocation space or the equipment collocated inside this space, then it shall offer services of installation, operation, repair or withdrawal of the collocated equipment and of the segment which interconnects this equipment with its network, as well as the connecting segment of this equipment with other equipment or cables of the requesting provider up to the point where the requesting provider is given the possibility of access. The incumbent shall provide these services and maintain the security of the given equipment in the terms and conditions of quality no less favorable than for its own equipment.

21. If the requesting provider chooses remote collocation, the incumbent is obliged to ensure the conditions for the interconnection to be achieved. Through remote collocation, the requesting provider installs its equipment in spaces that do not belong to or are not operated by the incumbent. In this case, the incumbent shall install, operate and repair the segment of the interconnection link between its own equipment and the point where the requesting provider is offered the possibility of access to the interconnection link.

22. Physical or virtual co-location can be refused by the incumbent only in the following situations:

- 1) lack of collocation space and the possibility to prepare space for collocation, according to the obligation stipulated in point 17;
- 2) colocation is not technically possible.

23. The responsibility for proving the existence of the situations described in point 22 falls on the incumbent. The incumbent shall notify the requesting provider in writing about the refusal to provide physical collocation, and in the absence of available capacity for this - virtual colocation, within a maximum of 10 working days from the date of receiving the colocation request. In case of refusal of colocation, at the initiative of the requesting provider, the Agency shall request the incumbent to grant access, following a minimum 1-day notice, to the representatives of the Agency and the requesting provider, to the given physical space, in order to assess the reasonableness of the refusal.

24. The incumbent shall give the requesting provider the opportunity to install and connect the necessary equipment in the space allocated for physical colocation, including equipment that enhances the performance of the core equipment, enabling it to perform switching functions in the requesting provider's own network or advanced services. The incumbent shall not impose stricter security requirements on the requesting provider's equipment than those applied to its own equipment.

25. The incumbent shall allow the requesting providers, who already use collocation, to perform direct interconnection of their equipment placed in the colocation space, in accordance with reasonable pre-established conditions set by the incumbent.

26. The incumbent shall not condition or limit the ability of requesting providers to use the collocation spaces obtained for interconnection, as well as the collocated equipment, for access to other services, nor shall require them to lease and/or install separate or additional facilities.

27. The incumbent shall not condition the provision of interconnection services for call termination within its own fixed telephone network by requiring the requesting provider to solicit, provide, lease, or install separate or additional interconnection capacities, unless such a requirement is justified by the capacity utilization or specific requests. The incumbent shall not impose requirements on the configuration of interconnection links that may lead to a limitation of interconnection capacities vs to the configuration that can be functional without these limitations.

28. The incumbent shall allow the requesting provider to install the interconnection link segment located between the physical space boundary of the incumbent and the equipment collocated by the requesting provider.

29. If a request for interconnection and/or collocation services at a specific address reasonably indicates a date for the provision of these services, which is subsequent to the timelines specified in these obligations for such provision, these services shall be made available on the requested date. If the reservation of capacity is required for this purpose and requested by the provider, the incumbent can reserve them after notifying the requesting provider and may charge fees for the reserved capacities starting from the date when it informs the requesting provider that these capacities can actually be provided and are reserved.

30. Any modification made by the incumbent to its network or the spaces where interconnection takes place, which could affect the interconnection conditions of a provider already interconnected, shall be announced on its website and notified to the requesting provider at least 3 months before the proposed modification takes effect. Any actions by the incumbent that may result in the impossibility of continuing to provide interconnection services at a specific address shall be communicated to interconnected providers who could be affected, at least 9 months before the planned measures are undertaken.

31. In the event of network reconfiguration, modernization, including switch decommissioning, the incumbent is obliged to take all necessary measures to ensure that the interconnected provider continues to benefit from interconnection under price and quality conditions equivalent to the initial ones.

31¹. If the that the requestor is a network operator mentioned in p. 3¹ and 3², by way of derogation from the provisions of points 6-31, the technical and commercial conditions of interconnection shall be established between the incumbent and the requesting provider through negotiations in good faith.

[P.31¹ amended by ANRCETI Board Decision no. 11 of 31.03.2022]

II. Obligation to ensure transparency, including the publication of the reference offer for interconnection

32. The incumbent shall publish on its website, within a period of up to 2 months from the effective date of this decision, a Reference Offer for interconnection with its own fixed-line telephone network, hereinafter referred to as RIO, in accordance with Chapter IV and other provisions of the Regulation and this decision, and, upon request, shall make the RIO and its modifications and/or amendments available to any requesting provider.

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

34. The RIO shall be detailed enough to allow interconnection at all network points 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.

35. The incumbent shall specify in the RIO the types of interconnection links, the transport technology on which the provided interconnection links are based, and the conditions for providing the interconnection links. These conditions shall include at least the terms, payments, and quality levels

offered, and the provider will clearly define its responsibilities regarding the capacity of the provided link.

36. The incumbent shall include in the RIO the information regarding the set of parameters relevant to the quality of services provided to the requesting provider. It will also stipulate the timeframe for remedy of faults/disruptions, as well as the minimum limits for compensation in case of delayed remedy of faults/disruptions and the method for determining such compensation.

37. The incumbent shall provide in the RIO for the procedure of access, during business hours and beyond business hours, of the employees of the requesting providers to the colocation spaces and collocated equipment.

38. Any known situation that may limit the provision of interconnection services at a specific address must be described in the RIO. The timeframe for resolving this limitation should not exceed 6 months from the date of the interconnection service request at the given address.

39. The incumbent shall include in the RIO the address and interconnection capacity, including the available capacity, of every switch, where interconnection with the its fixed telephone network can be established for call termination. It shall also describe all related interconnection services offered at every such switch and any known limitations. The provided information shall be updated as needed but at least on a quarterly basis, specifying the date of the update.

40. The incumbent shall include in the RIO at least the information specified in p. 46 of the Regulation. This information shall be updated within a maximum of 10 days from the date of any changes, and the date of the update shall also be specified.

41. The incumbent shall make available to the requesting provider any information about its network that is not specified in the RIO, but is necessary for the requesting provider to effectively obtain interconnection services and related services. The RIO shall specify how the requesting provider can access this information.

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

- 1) Electric (optical) and physical interfaces
- 2) Transmission interface;
- 3) Signaling interface;
- 4) Where necessary, information about the functional capacities offered through interfaces.

43. The provider shall include in the RIO full information about the location of the buildings where collocation can be established, the surface area of spaces allocated for collocation at every address, including the collocable space, available space, and reserved space, the methods by which it offers collocation spaces and any restrictions, if applicable, regarding the collocation of specific equipment. This information shall be updated within a maximum of 15 working days from the date of any changes, and the date of the update shall also be specified.

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

45. Upon publishing the RIO, the incumbent shall also publish on its website and, upon request, make available to any requesting provider, a standard interconnection agreement, which shall contain standard contractual clauses in accordance with the provisions of the RIO.

46. The provider shall submit to the Agency and publish on its website, within the deadlines specified in p. 42 of the Regulation, the draft standard interconnection agreement in both paper and electronic formats, for the purpose of verifying compliance with these conditions.

47. The interconnection agreement must comply with the provisions of Chapter V and other relevant provisions of the Regulation. The interconnection agreement shall explicitly include the prices for interconnection services and related services offered for the purpose of interconnection.

48. The interconnection agreement for call termination in the fixed telephone network operated by the incumbent shall be negotiated in accordance with the terms and conditions specified in Chapter II and V of the Regulation. The negotiation timeframe for amending or supplementing an interconnection agreement is a maximum of 15 working days from the date the request has been received.

49. The interconnection agreement must include provisions regarding network modifications in the event of network restructuring or modernization operations that could impact the proper functioning of interconnection services.

50. The incumbent shall ensure the implementation of the provisions of the interconnection agreement so that the provision of termination services at each interconnection point can start within a maximum of 15 working days from the date of the agreement's conclusion or from the date of its modification.

51. In case where collocation is necessary for the provision of interconnection services, the timeframe specified in p. 50 shall also include the duration required for the incumbent to perform all necessary work to prepare the allocated physical space and make this space available to the requesting provider. Where, due to reasons attributable to the requesting provider, they do not install their equipment in the allocated collocation space within 60 days from the date of written notification by the incumbent regarding the space allocation, the incumbent shall withdraw the allocation, providing prior notification to the requesting provider and the Agency. If the requesting provider asks for it, the incumbent may establish a longer deadline for equipment installation, given that it proves that this is necessary given the specific circumstances of the case. The requesting provider may also ask the Agency to establish or revise the new deadline set by the requesting provider if it deems that there are objective reasons for the delay to be longer.

52. When amending or supplementing the interconnection agreement, in cases where no new points of access or capacity expansion are requested, the incumbent shall ensure that the interconnection is implemented so that the provision of the new services can start within a maximum of 10 working days from the date of the modification or amendment of the interconnection agreement.

53. The incumbent shall submit to the Agency copies of any interconnection agreements pertaining to call termination in the network of the incumbent and any amendments to them, within 10 working days from the date of their conclusion, as well as quarterly relevant information regarding the prices for termination services provided to any foreign provider.

54. The incumbent shall notify its interconnection partners regarding the necessity of amending interconnection agreements, whenever it is required, providing notice to the Agency and publishing the proposed amendments on its website 30 days before their implementation. The amendment of the interconnection agreement must be justified.

III. Obligation of non-discrimination

55. The obligation of non-discrimination in connection with the interconnection of the fixed telephone network operated by the incumbent for national voice call termination in the incumbent's network shall be implemented under the following conditions:

- 1) the incumbent shall provide equivalent conditions, under equivalent circumstances, to all requesting providers or providers who already benefit from interconnection with the fixed telephone network operated by the incumbent, for the purpose of call termination;
- 2) the incumbent shall make available to any requesting provider the services and information necessary for interconnection with the fixed telephone network it operates for call termination, under conditions, including terms, quality, and prices, no less favorable than those enjoyed by any affiliated individuals, subsidiaries, or partners;
- 3) the incumbent shall not discriminate in terms of the conditions for providing the termination service in its own fixed network, including discrimination in terms of price, quality, and/or volume, between national calls initiated in the network of the requesting provider and those initiated in the electronic communications network of any other provider.

[P.55 modified by ANRCETI Board Decision nr. 29 of 12.08.2015]

56. The incumbent, in the event that it offers its subsidiaries, affiliated persons, or partners interconnection conditions for call termination more favorable than those provided in RIO, will extend these conditions to all requesting providers on a nondiscriminatory basis. The RIO shall be amended to reflect these conditions as a public offer.

IV. Obligation regarding price control, including the obligation of cost-based pricing

57. The incumbent has the obligation to cost-base the price for the provision of interconnection services, national call termination services in its own fixed telephone network, and related services based on the Long Run Incremental Cost (LRIC). Calls are considered of national origin if they are initiated at numbers from the National Numbering Plan.

[P.57 modified by ANRCETI Board Decision no. 29 of 12.08.2015]

58. 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 fixed telephone network cannot exceed 0.0007 EUR/minute (excluding VAT).

[P. 58 modified by ANRCETI Board Decision no. 11 of 31.03.2022]

[P.58 modified by ANRCETI Board Decision no. 22 of 30.03.2017]

[P.58 modified by ANRCETI Board Decision no. 29 of 12.08.2015]

[P.59-61⁴ excluded by ANRCETI Board Decision no. 29 of 12.08.2015]

58¹. For the termination in its own fixed network of the calls mentioned in point 3¹, the incumbents shall apply prices that do not exceed the level of the corresponding rate derived from Article 5 of Delegated Regulation No. 654/2021.

[P.58¹ amended by ANRCETI Board Decision no. 11 of 31.03.2022]

58². The obligation regarding compliance with maximum rates, as specified in point 58¹, in relation to the termination of calls originating at numbers of European Union and European Economic Area member states, carried by operators of EU and EEA member states, shall come into effect on January 1, 2024, except the termination of calls originating at numbers of a state for which, at the time the obligation comes into effect, the rates aligned with the provisions of Delegated Regulation No. 654/2021 were already in place.

[P.58² amended by ANRCETI Board Decision no. 15 of 06.04.2023]

58³. In order to avoid doubts, for the application of the obligation at section 58¹, 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.

[P.58³ amended by ANRCETI Board Decision no. 15 of 06.04.2023]

59. 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.

60. The provider shall publish, including in the RIO, the interconnection prices established.

V. Obligation of separate accounting

61. The incumbent has the obligation to keep its management accounting records in a manner that ensures separate reporting for activities related to interconnection and the activities structurally related to them.

62. The incumbent shall fulfill the obligation of separate accounting in accordance with the relevant regulations approved by the Agency.

63. The incumbent shall annually publish, at minimum on its website, in accordance with the relevant regulations approved by the Agency, a statement regarding the implementation of separate accounting.

64. The incumbent shall make the implementation of separate accounting subject to verification by an auditor, shall publish the relevant annual audit report at minimum on its website and shall submit it to the Agency, by May 31 of each year following the reporting year.

[Ps.62-67 becomes 59-64, according to ANRCETI Board Decision no.29 of 12.08.2015]