**Romania’s comments in respect to**

**the right to freedom of opinion and expression in the digital age**

The internet is a means of communication and thus a means of expression. This global computer network is embraced by millions of users all over the world and helps us to communicate with each other. Most importantly, the Internet puts a set of tools in the hands of individuals, so that anyone can become not just a consumer of information, but a producer, publisher, or broadcaster as well.

The Romanian Constitution guarantees the freedom of expression (art. 30). There is no regulation on restricting the right of expression on the internet; freedom of expression extends to the online environment.

One of the major priorities of the Romanian authorities aims at developing the information society. An advanced digital society requires that most of its citizens can access the Internet and fully benefit from its advantages.

At institutional level, the Ministry of Communications and Information Society of Romania has been set up with a view to ensuring the elaboration and implementation of the strategies and policies in the field of electronic communications, information technologies and information society. The National Authority for Management and Regulation in Communications is the body that protects the interests of the communications users in Romania, by promoting competition in the communications market, ensuring the management of scarce resources and encouraging innovation and efficient investments in infrastructure.

Romania's state authorities continue to provide their citizens and business environment with access to Internet connection. Statistically, in 2015, the penetration rate of the mobile broadband internet was 100%, while the fixed broadband internet penetration rate was 20.9% on population level, respectively 50.3% on household level.

According to the National Authority for the Management and Regulation of Communications in Romania (ANCOM), the market for fixed broadband Internet access services will remain competitive. The market is dynamic, fluid and in constant growth, Romania featuring the highest degree of infrastructure competition in the European Union, with a total of over 750 providers of fixed broadband Internet access services in 2014, over 60% of the access connections enabling 30Mbps and more, and over 2/3 of the population in localities covered by at least three networks offering fixed internet access. Moreover, there is a high degree of product innovation and differentiation in the market, hence a wide range of products, various transmission speeds and price offers, on a competitive level. For example, the charges for fixed broadband Internet access connections, especially for those with transmission speeds of at least 30 Mbps, are among the lowest in the European Union.

In its national strategy on Digital Agenda for Romania, the Romanian Government undertakes to implement measures with a view to reducing the digital literacy among all sector of population. Efforts are made in order for the Romanian public institutions to involve citizens in their decisions, in the research and implementation of public initiatives. The citizens should be considered the main source of feedback for improving the governance act, and an active participant in the development of government policies. Social media and e-petitions can enhance citizens’ involvement in the governmental decisions. The Romanian government is part of the Open Government Partnership, whose principles refer to promoting government transparency, using new technologies to improve efficiency in the fight against corruption and increase civil society participation in public life. Also, the National Strategy on Digital Agenda for Romania 2020 provides the framework for developing projects financed through European funds in the field of open data.

In 2014, ANCOM published the Report on network neutrality, aimed at informing the interested persons on the concept of network neutrality and on providing details on the technical aspects defining such a topical issue on the European level. The debate on the network neutrality envisages mainly how the open character of the Internet network can be preserved, while ensuring the highest quality of the internet access service for all users, supporting innovation in the field and observing fundamental rights such as the freedom of expression and the freedom to undertake a commercial activity, given the exponential growth of the internet traffic, which generates important investments and costs. Although there is no generally valid definition of network neutrality, in the vision of the Body of European Regulators for Electronic Communications (BEREC) this concept is based on the principle according to which all the electronic communications transmitted by means of a network must be treated equally, irrespective of their content, of the applications or of the technology, the service, the equipment (device) used, of the “sender” or of the ”addressee”, where these notions define the service/content/application provider and the end-user. The report envisages offering an image as comprehensive as possible on the neutrality concept, offering an overview on issues such as transparency, service quality and traffic management, including traffic jam and degradation. The users can choose the best suited offer taking into account exhaustive information on the service they intend to purchase, including information regarding the possible limitations of the service or the traffic management applied by the providers.

The government of Romania is in favor of all initiatives to guarantee that online information can be accessed in a meaningful way by the entire population.

The national authorities also ensure access to online content that is generally free of censorship except the following legal provisions whereby access to certain websites is restricted:

- Article 11 of Law no. 196/2003 on preventing and combating pornography: In case that the National Authority for Management and Regulation in Communications receives a notification and controls the site content in question, it shall request the internet service providers to block access to this site. Failure by internet service providers to block access to sites that do not comply with the provisions of art. 7, within 48 hours of receiving the request from the National Authority for Management and Regulation in Communications, represents a contravention and is punishable by a fine between 10,000 and 50,000 RON.

- Art. 10 para. 7 of Emergency Ordinance no. 77/2009 on the organization and operation of gambling: The electronic communications networks and services providers are obliged to comply with the decisions of the Supervisory Board of the National Office for Gambling on restricting access to the gambling websites that are not authorized in Romania, as well as on those related to gambling publicity organized by an unlicensed gambling operator in Romania.

- Art. 13 para. (2) of Law no. 194/2011 on combating operations through products likely to have psychoactive effects other than those provided for by laws in force: Where such operations are carried out electronically, the Ministry for Information Society, upon notification by the competent authorities under par. (1), calls for the electronic communications service providers to block access to site content in question under the law.

The way the information is disseminated on the Internet imparts special characteristics. On the Internet the information can be propagated quickly in any corner of the world and can be easily accessed. Also, the information has a relatively perpetual nature, meaning that once written, it remains permanently accessible. For this reason a violation of a person's right made in the online environment can have more serious consequences in terms of exposure and how it spreads.

In 2014, the High Court of Cassation and Justice upheld the decision of the Târgu-Mureş Court of Appeal that one's Facebook wall constitutes public space. The case centered on discriminatory remarks posted online in 2012 by a former public official. The decision spurred debates on freedom of speech online, but no legislation dealing with the issue was passed.

As regards the ways in which the actors within the ICT sector implicate freedom of expression, we may point out that there is a constant concern of the corporate sector in Romania not to limit the freedom of expression in online environment.

It should be also pointed out that in 2015, a site promoting films and series without complying with copyright legislation and without the rights to distribute content on the Internet was sequestered, based on art. 249 of the Criminal Procedure Code, by the Prosecutor's Office attached to the High Court of Cassation and Justice.

Based on our knowledge, there are no ongoing projects identifying relevant human rights principles or obligations of the private ICT sector.

In general, the Romanian authorities support all platforms where citizens share their ideas and opinions, enabling them to exercise their freedom of expression.