Textul propunerii:

(i) Anun?ul privind elaborarea proiectului de lege privind adoptarea unor m?suri referitoare la infrastructuri informatice ?i de comunica?ii de interes na?ional ?i condi?iile implement?rii re?elelor 5G, publicat ?n data de 04.08.2020 pe pagina de internet a Ministerului Transporturilor, Infrastructurii ?i Comunica?iilor;

(i) Announcement on the drafting of the draft law on the adoption of measures relating to information and communication infrastructures of national interest and the conditions for the implementation of 5G networks, published on 04.08.2020 on the website of the Ministry of Transport, Infrastructure and Communications;

(ii) Procedura de consultare public? demarat? ?n condi?iile Legii nr. 52/2003 ?i stabilirea termenului de 17.08.2020 pentru primirea de observa?ii ?i propuneri cu privire la proiectul de act normativ men?ionat;

(ii) The public consultation procedure initiated under Law No. 52/2003 and setting the deadline of 17.08.2020 for the receipt of comments and proposals on the said draft normative act;

(iii) Faptul c?, astfel cum se arat? ?n Expunerea de motive la proiectul de lege, acesta va avea un impact semnificativ asupra sectorului guvernamental ?i institu?iilor din sistemul na?ional de ap?rare, ordine public? ?i securitate na?ional?;

(iii) The fact that, as set out in the Explanation of Reasons to the draft law, it will have a significant impact on the government sector and the institutions of the national defence, public order and national security system;

(iv) Faptul c? proiectul de lege va avea un impact semnificativ asupra furnizorilor de re?ele ?i servicii de comunica?ii electronice ?i asupra furnizorilor de echipamente, tehnologii ?i programe software utilizate ?n re?elele de comunica?ii, avand ?n vedere c?, printre altele, (a) stabile?te interzicerea utiliz?rii tehnologiilor, echipamentelor ?i programelor software care contribuie la servicii de comunica?ii electronice de tip 5G ale c?ror produc?tori nu de?in autorizare, potrivit proiectului de act normativ, (b) stabile?te o perioad? tranzitorie de utilizare a echipamentelor neautorizate de maxim 5 ani – ceea ce afecteaz? dreptul de proprietate, continuitatea afacerii furnizorilor de re?ele ?i servicii de comunica?ii electronice ?i libera concuren?? pe pia??, aspect re?inut ?i ?n Sec?iunea a 3-a din Expunerea de motive la proiectul de lege;

(iv) The fact that the draft law will have a significant impact on providers of electronic communications networks and services and on providers of equipment, technologies and software used in communications networks, given that, inter alia, (a) it prohibits the use of technologies, equipment and software contributing to 5G electronic communications services whose manufacturers do not have authorisation, according to the draft regulatory act, (b) establishes a transitional period for the use of unauthorised equipment of up to 5 years – which affects ownership, business continuity of providers of electronic communications networks and services and free competition on the market, which is also noted in Section 3 of the Explanation of Reasons to the draft law;

(v) ?mprejurarea c? acest proiect de act normativ are relevan?? deosebit? asupra economiei ?n general, asupra mediului de afaceri, avand un impact semnificativ asupra furnizorilor de re?ele ?i servicii de comunica?ii electronice ?i asupra furnizorilor de echipamente, tehnologii ?i programe software utilizate ?n re?elele de comunica?ii, cat ?i asupra sectorului guvernamental ?i institu?iilor din sistemul na?ional de ap?rare, ordine public? ?i securitate na?ional?, astfel ?ncat este obligatorie transmiterea sa c?tre asocia?iile de afaceri ?i c?tre alte asocia?ii legal constituite pe domenii de activitate ?n termenul prev?zut la articolul 7 alin. (2) din Legea nr. 52/2003, respectiv cu cel pu?in 30 de zile lucr?toare ?nainte de supunerea spre avizare de c?tre autorit??ile publice.

Industria infrastructurii TIC are un impact uria? asupra societ??ii ?i economiei romane?ti. Industria telecomunica?iilor are o valoare anual? neta de 10 miliarde de euro ?i active de 10 miliarde de euro, ceea ce afecteaz? valoarea produc?iei de 100 de miliarde de euro din PIB. Orice politici pentru industria telecomunica?iilor pot avea un impact incalculabil asupra dezvolt?rii socioeconomice globale, se consider? c? ?ntregul lan?ul industriei telecomunica?iilor (de exemplu, operatori, furnizori, parteneri, asocia?ii, consumatori, etc.) nu poate evalua ?n mod clar impactul acestui proiect de lege pe termen scurt.

(v) The fact that this draft regulatory act has particular relevance to the economy in general, to the business environment, having a significant impact on providers of electronic communications networks and services and on providers of equipment, technologies and software used in communications networks, as well as on the government sector and institutions of the national defence, public order and national security system, so that it is compulsory to be forwarded to business associations and other associations legally constituted by fields of activity within the time limit laid down in Article 7 para. (2) of Law No. 52/2003 respectively with at least 30 working days before submitting for approval by the public authorities.

The ICT infrastructure industry has a huge impact on Romanian society and economy. The telecom industry has an annual output value of 10 billion euros and assets of 10 billion euros, which affects the output value of 100 billion euros of GDP. Any policies for the telecom industry may have an incalculable impact on the overall socioeconomic development, it is believed that the entire telecom industry chain (e.g. carriers, suppliers, partners, associations, consumers, etc.) cannot clearly assess the impact of this draft law in the short term.

(vi) Exprimarea punctului de vedere de c?tre persoanele interesate prin formularea de sugestii sau opinii cu privire la proiectul de act normativ supus dezbaterii publice, ?n conformitate cu prevederile articolului 7 alin. (4) din Legea nr. 52/2003 este imperioas?, fa?? de domeniul reglementat;

(vi) Expression of the point of view by the persons interested through making suggestions or opinions on the draft normative act subject to public debate, in accordance with the provisions of Article 7 (4) of the Law No. 52/2003 it is mandatory for the regulated domain;

(vii) Potrivit prevederilor capitolulului IV din Regulamentul din 10 mai 2009 privind procedurile la nivelul Guvernului pentru elaborarea, avizarea ?i prezentarea proiectelor de documente, de politici publice, a proiectelor de acte normative precum ?i a altor documente ?n vederea adopt?rii/aprob?rii (“Regulamentul din 10 mai 2009”), este obligatorie parcurgerea procedurii consult?rii preliminare interinstitu?ionale, sens ?n care autorit??ile publice trebuie s? prezinte ini?iatorului un punct de vedere scris care s? con?in? observa?ii ?i propuneri privind aspectele de fond din aria proprie de competen??;

(viii) Proiectul de lege necesit? o analiz? atent? ?i complex?, avand implica?ii atat ?n sfera tehnologiei informa?iilor, cat ?i ?n sfera economic? ?i a mediului concuren?ial de afaceri, fiind necesar? formularea de propuneri ?i sugestii de c?tre speciali?ti din toate aceste sfere, modalitatea general? de reglementare a procedurilor prev?zute de acest proiect de lege, neputand fi considerat? c? satisface standardele de claritate, transparen??, propor?ionalitate, obiectivitate ?i respectare a drepturilor constitu?ionale;

(ix) Mai mult, ?n situa?ia ?n care o asocia?ie legal constituit? sau alt? autoritate public? solicit? organizarea unei ?ntalniri pentru dezbaterea public? a proiectului de act normativ, este obligatorie organizarea acestei dezbateri ?n conformitate cu prevederile articolului 7, alin. (10) din Legea nr. 52/2003, iar ?n aceast? situa?ie este necesar un interval de timp de 10 zile calendaristice de la data public?rii datei ?i locului unde urmeaz? s? fie organizate dezbaterile pentru desf??urarea acestora,

(vii) According to the provisions of Chapter IV of the Regulation of 10 May 2009 on procedures at Government level for the elaboration, the approval and presentation of draft documents, public policies, draft normative acts and other documents for adoption/approval (the 'Regulation of 10 May 2009'), it is mandatory to go through the procedure of the preliminary interinstitutional consultation, meaning that public authorities must submit to the originator a written point of view containing comments and proposals on substantive aspects of their area of competence;

(viii) The draft law requires careful and complex analysis, having implications both in the field of information technology and in the economic and competitive business sphere, it is necessary to formulate proposals and suggestions by specialists from all these spheres, the general way of regulating the procedures provided for in this bill, which cannot be considered to satisfy the standards of clarity , transparency, proportionality, objectivity and respect for constitutional rights;

(ix) Furthermore, where a legally constituted association or other public authority requests the organisation of a meeting for the public debate of the draft normative act, it is mandatory to organise that debate in accordance with the provisions of Article 7, paragraph 1. (10) of Law No 52/2003, and in this case, it is necessary a period of 10 calendar days from the date of publication and place where the debates will take place;

(x) Totodat?, ?n cadrul procedurii de elaborare a proiectului de act normativ nu s-au realizat studii de impact ?i/sau de fezabilitate de?i, ?n raport de specificul obiectului reglement?rii aceast? condi?ie era indispensabil? iar actul administrativ prin care s-a ini?iat procedura nu este motivat sub acest aspect ?i este v?dit contradictoriu ?n raport cu justificarea importan?ei elebor?rii proiectului de lege;

(x)At the same time, no impact and/or feasibility studies were carried out in the context of the procedure for drawing up the draft normative act, although, in relation to the specificity of the subject-matter of the regulation, this condition was indispensable and the administrative act by which the procedure was initiated is not reasoned in this respect and is manifestly contradictory in relation to the justification for the importance of the draft law; Apreciem c? se impune revocarea actului administrativ prin care s-a ini?iat procedura ?n vederea complinirii lipsurilor/remedierii viciilor la care am f?cut referire mai sus, iar, ?n subsidiar, cel pu?in, prelungirea perioadei de consultare public? cu termen ?n data de 17.08.2020 cu o perioad? de 45 - 60 de zile de la data publicarii proiectului de act normativ, astfel ?ncat emiterea actului administrativ s? permit? o real? consultare ?i remediere a viciilor.

We consider that it is necessary to revoke the administrative act by which the procedure was initiated in order to filling in the missing points/remedy of the defects referred to above, and, alternatively, at least, to extend the period of public consultation by a period of 17.08.2020 by a period of 45-60 days from the date of publishing the draft law, so that the issuance of the administrative act allows for a genuine consultation and remedy of the defects.

Proiectul de act normativ nu a fost discutat pe deplin cu p?r?ile interesate (operatori, furnizori, asocia?ii ale industriei etc.). Perioada de consultare este de numai opt zile lucr?toare ?i este imposibil s? se finalizeze o analiz? cuprinz?toare ?i detaliat? a impactului ?ntr-un timp atat de scurt.

Proiectul de lege nu ia ?n considerare impactul negativ uria? asupra func?ion?rii re?elei ?i stabilitatea situa?iei epidemice actuale, inclusiv impactul uria? asupra redres?rii economice dup? epidemie.

Astfel, termenul de 17.08.2020 (14 zile calendaristice) stabilit pentru consultarea public? ?i consultarea preliminar? interinstitu?ional? este, ?n contextul celor de mai sus, insuficient pentru formularea de sugestii ?i opinii cu privire la proiectul de act normativ de c?tre persoanele interesate, asocia?iile legal constituite sau autorit??ile publice, putand fi apreciat ca un termen pur formal, care nu poate asigura finalitatea avut? ?n vedere de lege ?i care nu respect? nici rigorile de transparen?? decizional? ?n administra?ia public? prev?zut de Legea nr. 52/2003 ?i nici procedurile de elaborare ?i consultare a proiectelor de acte normative prev?zute de Regulamentul din 10 mai 2009.

The draft was not fully discussed with stakeholders (carriers, suppliers, industry associations, etc.). The consultation period is only eight working days, and it is impossible to complete a comprehensive and detailed impact analysis in such a short time.

The draft law does not take into account the huge negative impact on network operation and stability in the current epidemic situation, including the huge impact on economic recovery after the epidemic.

Thus, the deadline of 17.08.2020 (14 calendar days) set for public consultation and preliminary interinstitutional consultation is, in the context of the foregoing, insufficient for the formulation of suggestions and opinions on the draft normative act by the persons concerned, legally constituted associations or public authorities, can be regarded as a purely formal term, which cannot ensure the intended purpose of the law and which does not comply with the rigours of decision-making transparency in public administration provided for by Law No. 52/2003 and with the procedures for drawing up and consulting the drafts of normative deeds provided by Regulation of 10 May 2009.

M?surile solicitate anterior sunt absolut necesare ?n vederea asigur?rii aplic?rii actelor normative men?ionate mai sus ?i a standardelor de transparen?? decizional?, precum ?i a respect?rii drepturilor constitu?ionale ale asocia?iilor de afaceri, autorit??ilor publice, persoanelor fizice ?i juridice interesate, precum ?i a mediului de afaceri ?n general.

The measures requested above are absolutely necessary in order to ensure the application of the abovementioned regulatory acts and the standards of decision-making transparency, as well as respect for the constitutional rights of business associations, public authorities, natural and legal persons concerned, as well as the business environment in general.

V? rug?m s? da?i eficien?? ?n regim de urgen?? prezentei solicit?ri, ?netemaite ?i pe dispozi?iile art. 14 din Legea nr. 52/2003.

Please make efficiency as a matter of urgency to this request, grounded also on the provisions of Article 14 of Law 52/2003.