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Regulation Report

2003



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FOREWORD

It is incumbent upon ICP-ANACOM, in its area of intervention, “to ensure that users, including disabled users, derive maximum benefit in terms of choice, price, and quality”. [par. a), section 2, article 5 of Law no. 5/2004 of 10 February]

I

ICP-ANACOM was established in 1981 and its first organic statutes only approved nine years later. Over time its functions and institutional context have been decisively influenced by the sector's evolution and by community law vis-à-vis liberalisation and the promotion of competition. It is today the regulator of electronic and postal communications in Portugal, with a broad range of responsibilities: (i) technical standardisation, electromagnetic compatibility, certification; (ii) management of radio spectrum and allocation of spectrum resources; (iii) management of the numbering plan; (iv) fulfilment of obligations inherent to universal postal and telecommunications service; (v) issuance of permits to exercise postal activity and electronic communications (general authorisation); (vi) promotion of competition in the offer of electronic communications service and networks; (vii) central oversight body for electronic commerce; (viii) production of sector statistics; (ix) inspection and investigation of compliance with applicable legislation, of service quality and networks; (xi) dispute resolution and application of sanctions. This entire range, which is still not all, is covered by terms of its Statutes, approved by Decree-Law no. 309/2001 of 7 December, in the definitions and previsions of Law no. 5/2004 of 10 February, and in the pertinent injunction of Decree-Law no. 7/2004 of 7 January and in the determinations of other legislation on its powers regarding technical regulation.

Competences

II

In the constitutionally accepted model of an independent administrative body, **ICP-ANACOM** is a regulatory authority organically, financially and functionally separate from the Government as well as from regulated enterprises, endowed with the necessary means to perform its duties. *But it is not a “State” within another State.* That is, its necessary autonomy does not imply a situation of independence in absolute terms: its acts of authority are subject to jurisdictional control, from the common and administrative courts, with accompaniment of its financial activity subject to rulings of the accounts court; the members of its board of directors are civilly and criminally answerable for their actions. Although observance of the rules of public accounting is not required, the respective budget, plan and activities report are subject to approval by the Government, which may extinguish or merge this authority with another one; the practice of serious irregularities and unjustified budget deviations are grounds to dissolve the board of directors. Finally, **ICP-ANACOM** must annually draft a report on its regulatory activities and submit it to the Government so that it may also be presented to Parliament. This is yet further evidence of the regulator’s accountability. That regulation report is precisely what is now presented to the Government and made public. With regard to the past year of 2003, it describes the activity and demonstrates the regulatory measures developed and undertaken by ICP-ANACOM; mentions indicators that enable characterisation of the state of electronic and postal communications during that same year and, to a certain degree, provides of a view of its evolution in the near future.

Control

III

The year 2003 was the last period of application of the previous and not very old though rapidly obsolete regulatory framework for the telecommunications sector, and also the year to finalise preparatory work on the new legal framework for telecommunications, or rather, electronic communications, according to the current designation. A rigid framework was thus left behind, under which a limited and not always coherent number of stereotypical obligations could be applied to the operators; these were of very difficult modulation, which made specific regulation impossible. Henceforward the sector can count on a stable regulatory framework, built on the principles of the right to competition and using its methods, and respecting the unstoppable convergence of telecommunications networks and services. Regulation is now predictable for the operators, flexible and responsible, and is felt where it ought to be and is more efficient: compulsorily and preferably in the previously identified wholesale markets, where companies with declared significant market power operate, which are subject to the proportional obligations of concession of access and cost control, and non-discrimination and transparency. In markets where there is effective competition or where it has become effective only the competition law is applied. The old system of individual authorisations, casuistic and limited, is replaced by the general authorisation regime, which guarantees greater freedom and favours competition in the consumers' interest. This is a profound transformation of electronic communications law in Portugal, approved by Law no. 5/2004 of 10 February, from which relevant effects are expected on the electronic communications sector's development in Europe and in Portugal.

Transition

IV

Despite an atmosphere marked by the general cooling of economic activity and with a significant slowdown in pace, the year 2003 was still a period of positive growth for the communications sector – 1.7% for electronic communications and 5.4% for the postal sector, once postal services operated in competition are accounted for. The sector's productivity also grew. However, and worrisome due to the consequences it may have on the quality of provided services, during the year under review there was a significant drop in investment, which fell to less than half the figure registered the year before. There was an accentuated tendency to replace fixed telephone service, which declined, with mobile, which again grew in minutes, calls and subscribers, while the average monthly revenue per customer dropped. The evolution of internet access service was very positive, with the penetration rate now above the European average. Also, the evolution of broadband (cable and ADSL) saw a substantial increase of more than 90% over the previous year. Broadband's penetration rate should now be approaching the European average. Its evolution is notable for its fast pace, and also due to its importance for various services and for innovation, and may be interpreted as a positive sign of receptivity with respect to new technological developments, in whose vanguard UMTS, TV D, FWA, WI-FI and VoIP are already evident. Such are the new challenges of regulation achievable for the benefit of end consumers and economic players.

The sector regulator's essential aim to promote competition in its ex ante activity means only to sustain the market model, which is understood to provide end consumers with better quality and better prices, the ultimate reason for regulation.

July 2004

The Board of Directors

Álvaro Dâmaso

José Saraiva Mendes

Maria do Carmo Seabra

INTRODUCTION

The aim of this document is to comply with stipulations of the statutes of the ICP-Autoridade Nacional de Comunicações (ICP-ANACOM) approved by Decree-Law no. 309/2001 of 7 December.

According to the said statutory provisions, it is this Authority's responsibility to draft an annual report on its regulatory activities, to be sent to the Government and for submission to Parliament, and also to produce, for presentation to the member of government who oversees the sector, and for public release, a report on the situation of communications and its regulatory and oversight activity.

The annual report model adopted by ANACOM reflects the joining of those two statutory provisions: Part I describes the activity undertaken during the year in the regulatory, oversight, sanctions, communications sector representation and information to citizens domains; Part II describes the situation of communications and explains its evolution over the course of the year under review.

Part I, on ANACOM Activity in 2003, has been organised according to the structure of the Authority's powers.

It thus begins with activity involving regulation, in its broadest sense. The first three chapters, on the Regulation of Electronic Communications, Regulation of Postal Services, and Planning, Management and Control of Radio Spectrum, are dedicated to this activity, the principal and fundamental core of ANACOM's many incumbent responsibilities.

The activities of Inspection and Investigation, and Disputes, to which the fourth chapter refers, derive directly from regulatory activity and are framed by the sanction function for the sector, which is also this Authority's responsibility.

Chapter five is dedicated to the activity of Representation and Co-operation, in which ANACOM acts as representative of the communications sector and of the Portuguese State in the various relevant international instances and in co-operation activities with third countries.

ANACOM's Image and Communication, both internally and externally, and the service provided to Customers, are dealt with in chapter six.

The title of the last chapter of Part I, Other Activities, may mistakenly be taken as a residual category. However, it describes activities undertaken in 2003 in areas as important as Electronic Commerce or the role of communications in the Information Society, to cite only two subpoints included therein. These activities are not directly covered by the statutory provisions that govern

ANACOM's activity but which have been made incumbent upon same, and in which this Authority has consequently also invested its resources and the best of its efforts.

Part II, the Situation of Communications in 2003, focuses in turn on the organisation of the communications sector itself, in which two distinct areas are immediately identified: electronic communications and postal services.

To frame the sector's evolution over the course of 2003 it is considered relevant to begin by broadly describing the overall, international and national situation in which that evolution took place. Although outside the limited scope of this report, this reference table is outlined in chapter 1 of the second part of this Report.

The other chapter is dedicated to the situation of communications in Portugal. It describes the evolution of the communications sector and its role in the national economy, before going on to separately study the evolution and situation in 2003 of the subsectors of electronic communications and postal services.

Although focusing on the year 2003, this Report also describes all relevant circumstances that took place before the beginning or after the end of that reference period. Indeed, the period covered by a civil year is not enough time, for example, for regulatory measures taken or any technological innovations that arise to achieve stable or complete effects on a sector of this size and nature.

SUMMARY

1. Regulation of electronic communications (chapter 1)

- **Promotion of new technologies and services (section 1.1.)**

ICP-ANACOM:

- Considered that minimum conditions were met to introduce operation of the **UMTS system** on 1 January 2004, thus opposing the delay requested by the operators. However, given the limited market availability of terminal equipment and network infrastructure, ICP-ANACOM allowed during the first six months of 2004 for services to be offered to a limited number of users – closed user groups. The date of 1 July 2004 was thus set as the starting date for commercial offer of the UMTS system. ICP-ANACOM's analysis and decision on this matter was subsequently revealed to be the correct regulatory step (section 1.1);
- Accompanied and continually intervened, specifically in the matter of interconnection, with the aim to ensure the entrance into operation of the fourth licensed mobile operator – **OniWay** – as a third generation mobile services operator. However, by determination of the shareholders and upon the company's request, OniWay's licence was revoked on 13 January 2003 (section 1.1.1);
- Decided to prolong for one year the time limits set in the licence held by Radiomóvel, which allows it to commercially exploit **TMS based on CDMA technology** (section 1.1.2);
- Made available the 2.4 GHz and 5 GHz frequency bands for the provision of public access via R-LAN to public electronic communications services and networks. In 2003 there were four ISPs that began provision of **Wi-Fi** service – the particular case of R-LAN (section 1.1.3);
- Maintained on course a set of actions aiming to ensure co-existence, specifically at interference level, between radiocommunications services and Power Line Telecommunications (**PLT**) and Digital Subscriber Lines (**xDSL**) services (section 1.1.4);

- Granted authorisation to use an **MNC** (Mobile Network Code) code to an entity with fixed network that launched an offer for SMS service in fixed networks interoperable with the mobile networks. In this context, the modification of recommendation E.212 of ITU-T was encouraged (section 1.1.5);
 - Took part in the Project Team (PT on **VoIP**) of the NNA Working Group of the ECC, which studies the different existing ranges in the numbering plans E.164 (ITU-T) so as to indicate the most appropriate alternatives for the provision of VoIP (section 1.1.6);
 - Proposed revoking the licence to establish and operate a Digital Terrestrial Television (**DTT**) Platform. In this context, and with the aim of promoting establishment of this platform, a number of events were organised with interested economic players. Studies were carried out simultaneously to identify worthy proposals for DTT and the respective critical success factors, and to test the said proposals based on market study.
- **Consolidation of measures to liberalise the sector and protect consumers/users (section 1.2)**
 - Number **portability** (section 1.2.1):

ICP-ANACOM:

- a) Sought to streamline the process of number portability: A maximum time limit was established for PT Comunicações to implement portability requests for numbers whose contract is suspended and stipulated that the receiving providers could not be required to furnish information that had not been solicited from the user when the contract to be ended was signed;
- b) Required the LMS operators to provide, from 30 June 2003, a free online notice in national voice calls between LMS network operators and to ported numbers. This measure enables minimisation of the negative consequences stemming from the elimination, due to number portability, of the price information normally associated with the mobile network's dialling code;
- c) Published at the beginning of 2004 a draft Portability Regulation which was submitted to public consultation; the replies are currently being studied.

- **Pre-selection and call-to-call selection** (section 1.2.2).

ICP-ANACOM:

- a) Imposed a six month waiting period after the activation of pre-selection, during which companies of the Portugal Telecom group that provided direct access fixed telephone service are blocked from undertaking any 'commercial siege' activities to '**win-back**' customers (section 1.2.2).

In this regard, ICP-ANACOM also obliged PTC to respect the confidentiality of the information it holds vis-à-vis pre-selection; it is not allowed to transmit same to subsidiary or associated companies nor to its own services, specifically the commercial ones;

- b) Determined that a customer's will as expressed in the pre-selection forms, regarding the request to activate pre-selection, should prevail over a previous 10XY barring request submitted by the customer;
- c) Launched a public consultation on operator selection and pre-selection in Portugal in early 2004. The consultation sought opinions, specifically on expanding the traffic eligible for pre-selection effects. The replies are currently being studied.

- **Subscriber line resale offer (SLRO)** (section 1.2.3):

ICP-ANACOM launched a public consultation on the subscriber line resale offer (SLRO), which is within the scope of measures that aim to encourage competition in the fixed communications market.

- **Fixed Wireless Access (FWA)** (section 1.2.4):

Following a public consultation on the subject, ICP-ANACOM submitted to the Government a proposal on action regarding FWA, based on the following principles: reformulation of the previous FWA licensing model; assurance that all operators are able to continue using the assigned frequency bands; granting of new usage rights on a defined geographic basis; application of the principle of equal treatment between PTC

and the other operators; allowing the use of these frequency bands in the transmission network; reformulation of the radio fees system.

- **Rules applicable to the “707”, “708” and “809” numbering ranges and creation of the “760” dialling code (section 1.2.5):**

ICP-ANACOM:

- a) Set the maximum retail prices for calls to the “707”, “708” (universal access services) and “809” (shared cost call services) numbering ranges. This determination was made following complaints about the price of such calls, which in some cases approached the auidotext concept;
- b) Defined, in the wake of concerns manifested by some players, a “760” access dialling code characterised by a single retail price per call. The existence of this type of service guarantees positive margins.

- **Universal Service and fixed telephone service (section 1.3)**

- **Price affordability: the FTS price table (section 1.3.1):**

ICP-ANACOM did not oppose the entrance into force of the proposed FTS price table for 2003, submitted by PTC. The real annual variations of the FTS prices on the table, for the FTS subscriber mode, -2.7%, and for the public payphone and 118 directory information service (14.5%), are compatible with what was agreed upon in the universal service convention.

- **New FTS offers (section 1.3.4)**

ICP-ANACOM determined that new offers from PT Comunicações should be withdrawn from the market, specifically several optional price plans, and a joint offer from PT Comunicações and TV Cabo, as they were held to not respect the principle of non-discrimination in the offer of interconnection and/or for not being compatible with the principle of orientation to costs and non-discrimination.

- **Lists of Subscribers and Information Service section (section 1.3.2)**

ICP-ANACOM determined that the providers of mobile telephone services should ask their customers to explicitly state their will regarding their data being included in information lists and services.

- **Net costs of universal service (section 1.3.3)**

ICP-ANACOM decided not to accept the application of any compensation mechanisms concerning the period prior to full liberalisation of the telecommunications market.

- **Leased lines market (section 1.4)**

ICP-ANACOM:

- Decided to restructure the conditions associated with the leased lines service provided by PT Comunicações, specifically the discounts;
- Clarified and defined conditions for the provision of leased interconnection lines, specifically their price, contributing towards the stimulation of competition.

- **Interconnection market (section 1.5)**

ICP-ANACOM:

- Pursued the goal of seeking the gradual alignment of the **prices** of interconnection services with the costs incurred by their provision, intervening to set maximum prices for

interconnection, invoicing, collection and risk of non-collection, call activation and pre-selection services, and number portability;

- Imposed on PTC the provision of collocation on an open space basis (“**co-mingling**”), which allows operators to install their equipment in the same rooms where PTC equipment is installed. Such measure enabled the operators alternative to PTC to lower the cost of providing their retail services;
- Reduced the maximum prices applicable to data transmission service (used, for example, to support means of electronic payment), and established the model of call origination for this service (the provider of the data transmission service henceforth sets the retail price);
- Decided to end the exclusion of the internet access traffic envisaged in the RIO, which may help providers of this service to economise;
- Encouraged lower prices for **fixed-mobile** call termination service. TMN and Vodafone committed themselves to lowering this price by about 7% per quarter.

- **Wholesale broadband internet access services (section 1.6)**

ICP-ANACOM encouraged broadband internet access by stimulating competition for the provision of this service. ICP-ANACOM's action thus focused particularly on the “PT ADSL Network” (“Rede ADSL PT”) wholesale offers and the local loop unbundling (LLU) offer. In this regard, ICP ANACOM:

- Ensured conditions of competitive and non-discriminatory activity between companies of the Grupo PT and the other market competitors with regard to the “**PT ADSL Network**” wholesale offer. It specifically intervened in the joint offer by PT Comunicações and Telepac designated as “PT First Time ADSL” (“PT Primeira Vez ADSL”); replaced the quantity and loyalty discounts that benefited the PT group companies with a general price reduction of 20% and the imposition of a “less retail” pricing rule in the 512/128 kbps class; intervened in the offer of the new class 4 (256/128 kbps) launched by the Grupo PT, guaranteeing the offer's transparency and an appropriate margin with respect to the competition (section 1.6.1);

- Also intervened to reduce the prices for various services associated to **LLU** and encouraged simplification of the process of requesting and installing such access. Note that the imposition of 'co-mingling' (see section 1.5) resulted in significant growth in the new operators' total unbundled local loops (section 1.6.2).

- **Transmission and distribution of terrestrial television signal service (section 1.7)**

Following RTP's explanation, and taking into account the principle of orienting prices to costs, ICP-ANACOM assured **price cuts of 14%** for the service of distributing and broadcasting terrestrial television signal provided by PTC. An additional real reduction of 1.2% was registered on 1 June 2003.

- **Numbering: Assignment of Numbers (section 1.8)**

During the year 2003 some 80,000 numbers were assigned for fixed telephone service, 100,000 numbers for non-geographic services ("800", "808" ranges, etc.) and 300 numbers for other services, specifically internet access.

- **New regulatory framework**

- Over the course of 2003, the process of **transposition** into the national legal framework of the Directives of the European Parliament and of the Council which cover the electronic communications sector took place. This process culminated in the publication of Law no. 5/2004 (section 1.9);
- In the context of implementing the new regulatory framework, it is up to ICP-ANACOM to define and study the relevant markets for electronic communications sector products and services, in order to impose, maintain, modify or suppress obligations.

The year 2003 saw the start of the process of defining and analysing the first group of markets subject to this process – the markets for low bandwidth switched services. This process involved internal training, a preliminary public consultation and the gathering of information. The draft decisions were according to Law submitted in 2004 to a general consultation process, to an opinion from the Competition Authority and to a specific consultation process (notification of draft decisions to the European Community and the other European regulators). Note that of the first 77 **notifications to the European Commission**, only the nine from Portugal were not subject to comments.

The process's remaining phases will be carried out during the current year.

2. Regulation of postal services (chapter 2)

- **Universal Service (section 2.1.)**

ICP-ANACOM

- Did not oppose the entrance into force of the proposal from the CTT – Correios de Portugal on the **prices** for the services comprising universal postal service for 2003 and negotiated a new Universal Postal Service **Price Convention** valid for the period between 20 January 2004 and 31 December 2005;
- Audited the **CTT's cost accounting system**;
- Audited the **quality of service indicators** and the claims system of the CTT – Correios de Portugal, and concluded, regarding the indicators IQS1, IQS3 and IQS5, that it was not possible to ensure conformity with the established principles. On the other hand, the claims system does not present an appropriate degree of reliability and precision;
- Began negotiations to sign a **convention on the development goals of the public postal network**;
- Gave its opinion on 74 planned **closings and schedule changes involving postal establishments** drawn up by the CTT; neighbourhood councils and local governments of the affected places were consulted to that end.

3. Spectrum planning, management and supervision (Chapter 3)

- Planning and compatibility studies (section 3.1)

ICP-ANACOM:

- Began study of the concepts of “spectrum usage rights” and “secondary spectrum trading”; published the “Announcement of Frequencies for the 2002-2003 Biennium”; identified new frequency bands, made spectrum available and created regulatory conditions that made possible WLAN networks, SRR applications, SAP/SAB video connections and regular digital audio broadcasting (DRM – Digital Radio Mondiale) emissions; studied compatibility between CDMA2000 systems and TETRA and NMT450 systems; established an agreement with the Armed Forces High Command and INAC to enable the Portuguese Armed Forces and allies to use JTIDS/MIDS systems; and co-ordinated frequency usage with the Spanish Administration.

- **Spectrum management and supervision (Section 3.2)**

ICP-ANACOM:

- In the wake of the publication of Decree-Law no. 151-A/2000, proceeded with the corresponding publication of the Notice in the *Diário da República*, 3rd series, no. 168 of 23 July 2003, on the radiocommunications stations and/or networks that do not have a radio licence as well as those exempt from licence and from radio fees (section 3.2.1);
- Studied the **licensing** processes, including the assignment of frequencies, with the aim of issuing station and network licences for the various radiocommunications services, particularly in the areas of land mobile service (private networks and public networks), fixed service (particularly fixed service by radio relay system) and broadcasting service (audio and television). Worthy of note is the establishment of procedures for the temporary licensing of radiocommunications stations/networks to be used for **EURO 2004** (section 3.2.2);

- Introduced changes to **radio fees** so that same reflect increasing adjustment between their burden on radio licence holders and the benefits same derive therefrom (section 3.2.3);
- Ensured the necessary **protection of radiocommunications networks and stations**, safeguarding their operability and exploitation (section 3.2.4);
- In the context of **spectrum monitoring and control**, nearly 900 inspection and investigation actions were undertaken to verify the existence of harmful interference, specifically that affecting the frequencies for aeronautic runway approach mobile service, search and rescue, and airport control towers; the call, search and rescue channels of maritime mobile service; aeronautic and maritime radionavigation services (section 3.2.5);
- Regarding **non-ionising radiation**, and following publication of the legal instrument that sets reference levels for the population's exposure to electromagnetic fields, two projects on methods and procedures to monitor and measure the intensity levels of electromagnetic fields were drafted, compliance with the set reference levels was overseen and the public was provided with information about this problem (section 3.3).

4. Inspection, investigation and disputes (Chapter 4)

- ICP-ANACOM undertook a number of inspection and investigation actions in the area of electronic communications, postal services and equipment (section 4.1) and imposed fines and filed administrative offence charges against violators (section 4.2).

5. International activity (Chapter 5)

- In the scope of its powers, ICP-ANACOM represented the State of Portugal in the following international bodies: EU, IRG, OECD, ITU, CEPT, NATO, ITSO, IMSO, EUTELSAT, ESA, ETSI, UPU, UPAEP, World Summit on the Information Society and DigiTAG (section 5.1);
- ICP-ANACOM undertook co-operation actions with other countries and administrations. In this regard, worthy of note is the existence of bilateral collaboration protocols signed with: the Transition Government of East Timor, the Federal Government of Brazil, the

Government of Guinea-Bissau, the National Postal and Telecommunications Directorate of Angola, the Directorate General of Communications of Cape Verde and the National Communications Institute of Mozambique.

6. Electronic commerce (section 7.1)

The following actions were undertaken in the context of the new tasks incumbent upon ICP-ANACOM involving electronic commerce:

- Preparation of a publication titled “Electronic Commerce in Portugal: the legal framework and the business”, published in the first quarter of 2004;
- Organisation of a conference on the subject of “Electronic Commerce in Portugal: the legal framework and the business” (which took place in the first quarter of 2004);
- Provision of information on electronic commerce and related areas via the ANACOM website;
- Holding of external training and promotion actions, to provide information on this area.

7. The role of communications in development of the Information Society (section 7.2)

ICP-ANACOM:

- Collaborated on drafting the National Broadband Initiative, which was approved in a Council of Ministers Resolution dated 26 June 2003;
- At regulatory intervention level considered the required installation in buildings of infrastructures that enable the provision of broadband services, promotion of the development of broadband wholesale offers, adoption of service quality levels in the broadband offer, stimulation of simplification of all processes associated to the mobility of broadband service end users between service providers, proper application of the non-discrimination principle in broadband provision, proper application of the regulatory model that assures the development of technologies and emergent broadband support

platforms and the guarantee of interoperability between technological platforms and networks.

- Participated in the constitution of Cyber-Centres;
- Collaborated on implementation of the National Programme for the Inclusion of Citizens with Special Needs in the Information Society.

8. Other activities (Chapter 5)

ICP-ANACOM also undertook the following activities:

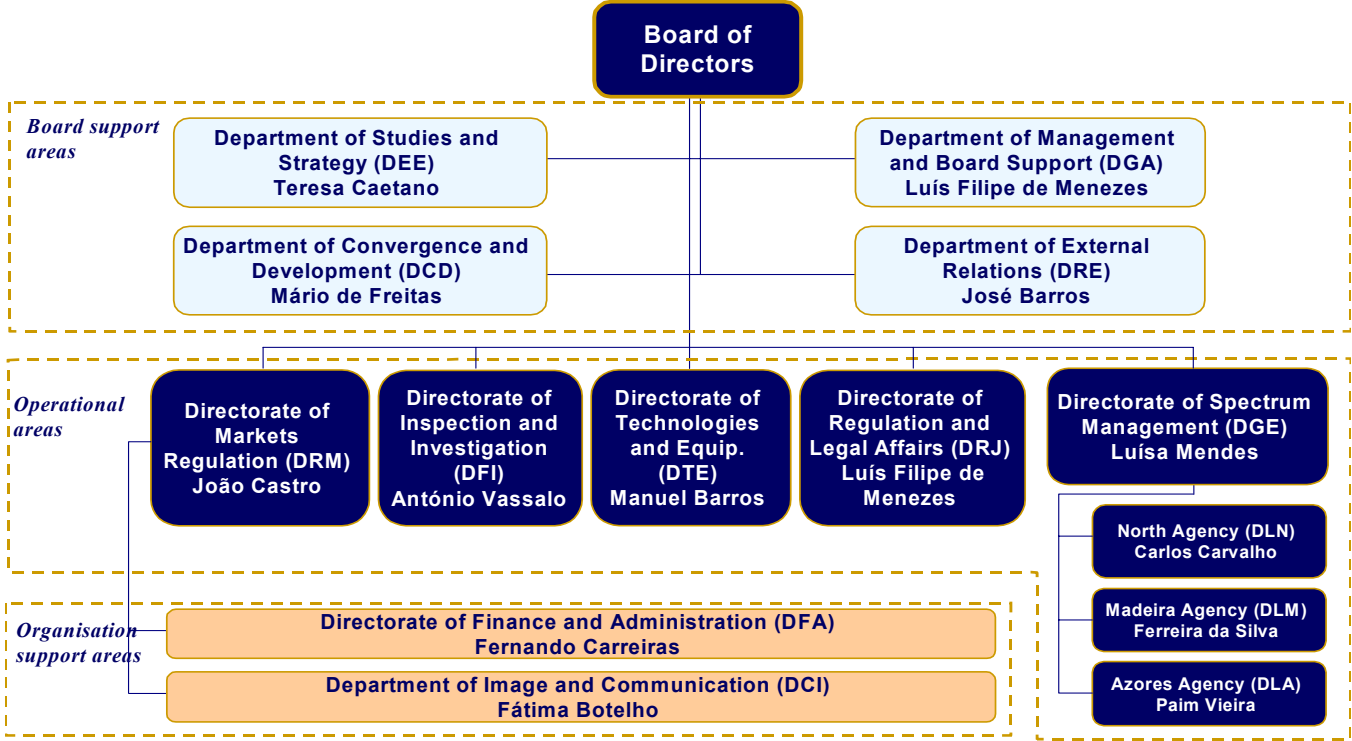
- Proceeded to enrol designers and installers under **ITED** (Telecommunications Infrastructures in Buildings), for a total of 1,032 new enrolments (versus 1,216 in 2002). Regarding certifying entities, some 24 new ones were registered, for a total of 91 registered bodies at the end of 2003. The certifying entities forwarded to ICP-ANACOM a total of 27,194 ITED conformity certificates;
- Assumed the chair of the **Emergency Communications Planning Commission**;
- Regarding **laboratory activity**, carried out electromagnetic compatibility trials (Electromagnetic Compatibility Laboratory), calibrations in the electric area (Radio Metrology Laboratory) and radiocommunications equipment trials (Radiocommunications Equipment Testing Laboratory), as well as tests to evaluate electromagnetic environments.

9. Communication, Image and Customer Service (Chapter 5)

- The external aspect of ICP-ANACOM's communication policy basically comprises divulgation of the institutional image, the production of content and its respective publication and release on various communication supports. Among these the internet website, the monthly bulletin Spectru and public attendance are fundamental instruments. The internal communication platform includes the ICP-ANACOM Technical Information and Documentation Unit, which organises, provides and disseminates documentation and the intranet (sections 6.1 and 6.2);

- ICP-ANACOM processed about 2,763 **claims** in the year 2003. The main areas subject to claims were, in decreasing order of quantity: “non-ionising radiation”, “interference in broadcasting services”, “internet” and “fixed telephone service/universal service” (section 6.3).

ANACOM Organisation Chart



Part I

1. REGULATION OF ELECTRONIC COMMUNICATIONS

The report on ICP-ANACOM's activity vis-à-vis the regulation of electronic communications markets in 2003 is hereby presented, along with relevant events since the end of the year, i.e., in 2004, among which must be stressed publication of the Electronic Communications Law or Regicom, Law no. 5/2004 of 10 February, which as of that date became this sector's legal framework of reference.

This legal instrument, which was drafted over the course of 2003, transposed into the national legal framework the directives of the European Parliament and of the Council that have since March 2002 covered the electronic communications sector.

The various measures taken by ANACOM which are presented below have been classified according to the various areas, markets and services subject to regulation.

Although most actions undertaken in 2003 were still covered by the legal framework that preceded Regicom, effort was made over the course of that year to ensure forthwith a transition to the legal framework then being prepared.

1.1 Promotion of new technologies and services

First are noted the measures associated to the promotion of new technologies and services, specifically measures concerning third generation mobile services, radio broadband access, powerline telecommunications (PLT), digital subscriber lines (xDSL), cable communications, digital terrestrial television (DTT) and terrestrial digital audio broadcasting (T-DAB).

1.1.1 Third generation mobile systems: UMTS system

Regarding UMTS (Universal Mobile Telecommunications System), ANACOM's decisions on the operational start-up of UMTS services and determinations concerning OniWay stand out.

Operational start-up of UMTS services

National licences for international mobile telecommunications systems (IMT-2000/UMTS) issued in January 2001 envisaged that the corresponding activity would begin by 31 December 2001.

In 2001 the then ICP received requests from the licensed operators, indicating the need to push back the start of activity, as they held it was not possible to provide commercial offers according to the calendars and conditions set in the licences. The opinion of the then ICP (determination of 31 July 2001) was approved by the Ministry of Social Infrastructure in Order no. 111/MES/2001, signed on 24 October 2001, which postponed the deadline until 31 December 2002.

The said liberalisation also envisaged that the market situation would be reassessed during the third quarter of 2002, vis-à-vis developments in the meanwhile. An ICP-ANACOM working group was thus set up in 2002, to focus on the status and forecasted implementation of UMTS systems (determination of 24 October 2001), with the following mandate: to study replies submitted by the licensed operators, in the wake of a request for information addressed to them by ICP-ANACOM, with the aim of gauging the status of UMTS; to verify the status of UMTS development with respect to the projects presented in the scope of the tender; to assess the situation in terms of implementation or realisation of the UMTS system in the other European Union member states; to draw up recommendations, proposing measures deemed appropriate.

The study led to conclusion that the development status of the UMTS networks pertaining to the licensed entities was quite long from what would be necessary to allow the commercial launch of UMTS services on the set date (31 December 2002) under the terms envisaged in the proposals submitted for the tender and in compliance with the obligations indicated in the respective licences.

The proposals presented by ICP-ANACOM were thus confirmed by Order no. 886/2003 of the Ministry of the Economy of 31 December 2002, which specifically postponed until 31 December 2003 the deadline for the UMTS operators to begin the licensed activity, maintaining all obligations indicated in the granted licences, including those concerning the development of projects in the information society context. Such projects should be undertaken, according to the set terms, on the GSM/GPRS system whenever and as long as technically possible. A decision was also made to apply in 2003 a zero value fee for the usage of radio spectrum assigned to UMTS services for those operators that began commercial operation during that year.

Taking into account the delayed activity associated to the IMT2000/UMTS licences, the process involving the entrance into operation of the fourth licensed operator – OniWay – required

constant intervention and accompaniment by the regulator, in order to ensure compliance with the applicable rules, specifically with regard to interconnection with the other mobile operators.

However, by determination of the shareholders and at the company's request, OniWay's licence was revoked by order of the Minister of the Economy no. 1758/2003 of 13 January 2003, grounded on an ICP-ANACOM opinion.

In mid-2003 the entities licensed to be UMTS operators submitted requests to modify the obligations indicated in the licences, particularly with regard to the start of UMTS operation, about which, and after due study, ICP-ANACOM considered among other aspects that:

- Minimum conditions did exist for the operational start-up of the UMTS system on 1 January 2004;
- It was proper, given the limited market availability of terminal equipment and network infrastructure, to allow in the scope of the operating the UMTS system a six-month pre-commercial phase during which the service would only be available to a limited and closed field of users;

In conformity, the date of 1 July 2004 was set as the date for starting commercial provision of the UMTS system.

Minimum coverage obligations were set and the operators bound to assure, by their own means, coverage of the national population at 144 kbps bandwidth, corresponding to 60% of the values set in the respective licenses, in any case always without jeopardising compliance with the minimum requirements of the Specifications. Considering that permission to share the UMTS networks' infrastructure had already been deliberated, a decision was also made to allow the difference between the general population and area coverage to which each operator is bound by the licence it holds and the minimum coverage by its own means, now required of the same operator, may be assured by means of national roaming, as per terms of an annual plan to be submitted by the operators and approved by ICP-ANACOM.

1.1.2 Third generation mobile services: Trunking Mobile Service (TMS¹) – CDMA System

In 2002 the trunking mobile service (TMS) operator Radiomóvel requested that its operator's licence be modified to include the authorisation to use the CDMA (code division multiple access) system in the provision of that service. Its licence was reconfigured to that end, though maintaining it as a provider of TMS. The company was to begin providing service via CDMA in May 2003 and finish the process of migrating from use of the previous MPT 1327 and TETRA technologies to CDMA technology by November of that same year. As part of the licence reconfiguration, Radiomóvel was also obliged to install a set of telecommunications infrastructures, and to guarantee minimum service quality values.

In May 2003 Radiomóvel requested a one year postponement of the commercial start-up of TMS operation based on CDMA technology. This request led to the launch of a public consultation that in March 2004 resulted in an ANACOM determination with effects from 23 October 2003, which set a one-year postponement of the deadlines contained in the licence held by Radiomóvel.

Lastly, note that a process is under way to integrate operation of the two current operators of the service, whose only direct shareholder, the Netherlands-based Valkia Invest B.V., is common to both.

¹ Mobile telecommunications via radio service characterised by the establishment of bi-directional communication of voice and data between a given users' group, in a closed manner, by means of mobile terminal equipment. In this service frequencies are dynamically shared by various customers to ensure profitable use of radio spectrum, and are managed by the operator in order to guarantee access to all customers. Each customer has access to a private virtual network and does not have to worry about licences for the use of radio spectrum, infrastructure or equipment maintenance. TMS is especially meant to serve companies that function with fleets.

1.1.3 Broadband Radio Access

Local Radio Networks (LRNs), also known as R-LANs (Radio Local Area Networks) can be a means to provide wireless access to the internet. Such networks may use the 2.4 GHz band (2400.0-2483.5 MHz) or the 5 GHz bands (5150-5350 MHz and 5740-5725 MHz) and can constitute private company networks, though also be used in public access networks.

Regarding R-LAN systems, standards of the European Telecommunications Standards Institute (ETSI) and the Institute of Electrical and Electronics Engineers (IEEE) have been developed, whose requirements, particularly vis-à-vis power control and dynamic frequency selection, are relevant for application of decisions by the Electronic Communications Committee (ECC) of the European Conference of Postal and Telecommunications Administrations (CEPT).

The use of such applications for private and public ends has merited special attention from the European Commission, which in March 2003 approved Recommendation 2003/203/EC, concerning harmonisation of the offer of public access via R-LAN to public electronic communications services and networks in the Community; it recommends that the Member States should allow the provision of public access via R-LAN to public electronic communications services and networks in the 2.4 GHz and 5 GHz frequency bands, as long as possible without any specific conditions and in any case subject only to general authorisation, given that these are bands exempt from radio licence and which operate on the basis of non-protection, non-interference.

At the time ANACOM had already made available not only the frequency bands for that purpose but also the public access to same.

Wi-Fi

A particularity of R-LANs are those designated as Wi-Fi, which consist of wireless networks with a limited action radius (about 300 metres) and whose designation derives from the fact that they use equipment certified by the Wi-Fi Alliance.

They are currently based on IEEE standard 802.11b, which allows speeds on the order of 11 Mbits/second; IEEE standard 802.11g was meanwhile approved in June 2003 and for the same frequency band permits speeds on the order of 54 Mbits/second.

By means of a public access point (hotspot) these networks enable users who possess hardware/software devices allowing their portable computer or PDA (Personal Digital Assistant) to work as a wireless station to connect to a provider of internet access services (ISP).

Four ISPs began provision of this service in 2003, three in the last quarter of the year and of them one in launch phase, with only one hotspot. At the end of the first quarter of 2004 there were nearly 330 hotspots in urban areas, mainly spread among hotels/conference centres, commercial/leisure zones and cafés/universities.

1.1.4 Cable transmission systems: Power Line Telecommunications (PLT), Digital Subscriber Lines (xDSL) and others

The increasing use of transmission technologies to provide broadband services to end customers has raised a number of questions, specifically concerning those technologies' possible interference with radiocommunications services in the same spectrum band.

The cable transmission systems in question are, among others:

- Power Line Telecommunications (PLT), which enables high speed transmission of information using the electric power distribution network;
- Digital Subscriber Line (DSL), which enables high speed transmission of information in copper-wire telecommunications networks; there are nevertheless varieties of DSL, as per the speed required – xDSL is the most generic term used to describe this technology;
- Cable communications that use dedicated coaxial cables to distribute television signal and interactive services, including internet.

Keeping in mind the study on this matter, a Report was drawn up in the Spectrum Engineering Group of the Electronic Communications Committee (ECC) of the European Conference of Postal and Telecommunications Administrations (CEPT), which analyses the compatibility of the systems in question. Besides exhaustively presenting a set of general features of the various systems and compatibility studies, and listing existing standards and recommendations currently in effect, this Report aims to safeguard the establishment of protection criteria as a commitment to defend the interests of two distinct communities which use different technologies.

With the aim of implementing methodologies that enable co-existence between radiocommunications services and services that use cable transmission, ICP-ANACOM has since 2002 developed, and maintains under way, the following actions: study of the technical work undertaken by the European Telecommunications Standards Institute (ETSI) and the other regulators, preparation of field tests to observe xDSL interference in systems that use radio spectrum, and monitoring of development of a recommendation to introduce these technologies in the market, within the European Union.

1.1.5 Offer of Short Messaging Service (SMS) in the fixed network: Mobile Network Codes

In 2003 an entity with fixed network launched the offer of SMS service in fixed networks, to be interoperable with the entities that offer the same service in the mobile networks. To make this offer feasible, ICP-ANACOM granted the entity in question authorisation to use a Mobile Network Code (MNC).

To that end, and as per its international participation in both ITU-T and WG NNA (Working Group on Numbering, Names and Addresses) of the ECC (Electronic Communications Committee), ICP-ANACOM took the necessary steps that in 2003 allowed it to propose modification of ITU-T recommendation E.212 , envisaging that same should be approved in 2004.

Its approval will allow extension of application of the principles and criteria used to assign the said code so that it may be assigned to entities that offer services with mobility in the fixed networks interoperable with mobile networks that offer the same services, such as SMS.

1.1.6 Voice over Internet Protocol (VoIP)

In the context of convergence between networks associated to the provision of services such as voice over IP (VoIP), worthy of note is ICP-ANACOM's participation in the Project Team (PT on VoIP) of the ECC's NNA Working Group. This team means to study the different existing ranges in the E.164 (ITU-T) numbering plans so as to indicate the most appropriate alternatives for the provision of VoIP vis-à-vis numbering and compliance with the requirements and associated conditions inherent to the service itself. As a consequence the drafting and publication of a report in 2004 is considered, which will later result in the launch of a public consultation.

1.1.7 Digital Terrestrial Television (DTT)

Digital Terrestrial Television (DTT) is an alternative to current forms of television distribution and in the future is meant to replace the current analogue platform. According to the Commission working document on the transition from analogue to digital broadcasting (From Digital Switchover to Analogue Switch-off), with ref. COM(2003) 541- final, the European Commission adopted a communication on the transition to digital broadcasting that considers two strategic issues vital for the Member States:

- The strategy to be adopted on a subject vital for development of the Information Society in the Member States;
- How radio spectrum that becomes available after the end of analogue transmissions should be allocated.

The Communication in question does not aim to be a set of standards for compulsory imposition on the Member States, but rather a guide meant to help the Member States in that transition. Indeed, the penetration of Digital Television in the Member States varies to such a degree that any attempt to impose single political solutions on all the Member States – such as a single switch-off date or the compulsory acquisition of digital televisions – would be inappropriate.

Regarding this platform's introduction in Portugal, not the following:

- In the wake of a public tender to assign a national licence for the establishment and operation of a Digital Terrestrial Television Platform, a licence was on 17 August 2001 granted to the company Plataforma de Televisão Digital Portuguesa, S.A. (PDTP) for the operation of 4 MUX of national coverage;
- The start of commercial operation was planned for August 2002, a deadline postponed at PTDP's request until 1 March 2003. PTDP's postponement request was grounded on the duly verified delays in product certification (based on self-certification), hindering the manufacturers' possibility of inserting the MHP logo in terminals (STB). This consolidated and credible certification would be advantageous for adhesion to and expansion of DTT and for a lower product end price;

- Having assessed the status of development of PTDP's operational project (Technical Report of 18 February 2003, drafted by ANACOM's Spectrum Management and Engineering Directorate), recognised the objective difficulties involved in the mass provision of the terminal equipment needed to begin commercial operation of the said platform and studied the business model upon which the launch of the public tender that led to the licence being granted was based, and having considered that the licensed operator (PTDP) admitted the solution of ending the rights and obligations inherent to the licence it was granted, and keeping in mind defence of the public interest, ANACOM decided on 13 March 2003 to propose to the Minister of the Economy that PTDP's operational licence should be revoked; this was accepted, as per Order of the Minister of the Economy no. 6973/2003 of 9 April;
- In the first quarter of 2003 a Working Group was set up in ANACOM to study alternative business models for digital television in Portugal. The meetings led to the drafting of a framework document that deals with a number of issues underlying this problem. Over the course of the work external presentations were likewise organised, providing different views, specifically from the television operators RTP, SIC and TVI and the company that had been assigned the previous licence – PTDP. As part of the process of studying the model for implementing DTT in Portugal ANACOM organised various discussion-meetings in 2003 and on into 2004, which were attended by the main economic players directly and indirectly involved in DTT.
- As a result of the WG's work, a consultation firm was commissioned to undertake two studies on this subject:
 - "Study and analysis of the offer of services for Digital Terrestrial Television", to characterise the international DTT models, analyse the national offers for television service, internet, voice and interactive services, critical factors for the success of the worthy DTT proposals, and select worthy proposals to be tested in the second study;
 - "Study and analysis of the Digital Terrestrial Television market", including a market study based on interviews as per the value proposals defined in the first study.

Plans call for results of these studies to be released in 2004, as well as an activity proposal for the transition to this platform.

1.1.8 Terrestrial Digital Audio Broadcasting (T- DAB)

A multilateral meeting organised by CEPT was held in Wiesbaden in 1995 to plan two T-DAB coverages per country. This digital terrestrial radio standard was conceived to replace the current analogue audio broadcasting system in FM. Later, the need to plan an additional coverage per country was noted and for this reason a decision was made to hold a new planning meeting, which was held in Maastricht on 10-18 June 2002.

This planning meeting was meant, in a concerted manner at international level, to assign frequency blocs in the L band (1.5 GHz) to geographic areas previously set by each CEPT member country, to enable each country to operate T-DAB without interference in the future, within its borders and with neighbouring countries.

In the course of preparing for this meeting, Portugal formulated its requirements in advance, to ensure that most local radios have access to this new digital audio broadcasting service.

The meeting resulted in the allocation of frequency blocs to all the previously established geographic regions; the national objectives were met entirely.

As per the terms of the issued licence, RDP – Radiodifusão Portuguesa S.A. has developed a national network.

1.2 Consolidation of sector liberalisation measures and protection of consumers/users

Following are described some of the main measures taken over the course of 2003 with the goal of consolidating liberalisation of the electronic communications markets. These measures are specifically meant to lower entrance barriers and encourage competition in these markets.

1.2.1 Portability

Operator portability was implemented in the fixed network on 30 June 2001 and in the mobile network on 1 January 2002 and has grown substantially, for a total of 72,276 numbers ported during the year 2003, of which 54,590 were in fixed telephone service, 17,617 in mobile telephone service and 69 pertained to non-geographic numbers.

Thus, at the end of December 2003, and also considering the movements from 2001 and 2002, the situation in terms of existing ported numbers was as follows: 118,017 fixed telephone service numbers and 214 non-geographic numbers, as well as the 23,643 numbers from land mobile service.

However, by the end of 2004 in most European countries that had implemented portability in the mobile network, recourse to this function registered levels a great deal higher than in Portugal². In the fixed network the degree of adhesion to portability was at the time above that of countries such as Ireland, the Netherlands, Italy and France.

Development of this function is immediately associated to various aspects whose evolution has been accompanied by ANACOM, such as the existing level of competition in the market, the efficacy of the portability processes, the prices eventually charged to end users for number portability and development of unbundled local loop (relevant only for the fixed network).

To promote development of this function, ICP-ANACOM recognised in a determination dated 13 March 2003 that there was no legal grounds to refuse portability requests because the contract between the customer and the telephone service provider was suspended, and set a 30-day deadline for PT Comunicações to implement the conditions for admission of portability requests for numbers whose contract was suspended. These conditions were implemented by the company and were subsequently included in the draft Portability Regulation approved, for submission to public consultation, by an ICP-ANACOM determination dated 11 March 2004.

On the other hand, given the persistent refusals by donor/holder providers of portability requests due to alleged non-inclusion of essential information in the contract notification transmitted by the receiving providers and/or the failure to send the remaining documentation required for that purpose, some providers asked the Regulatory Authority to intervene to resolve the situation.

ANACOM thus considered as a rule, and without jeopardising the specific regime for contracting prepaid services, that the receiving providers acting on behalf of the customers requesting portability could not be required to submit, for notification effects, more information and documents than had been solicited when the contract to be terminated was signed.

² Source: Replies received to the questionnaire that ICP-ANACOM sent in March 2004 to the national regulatory authorities belonging to the IRG (Independent Regulators Group – encompassing the European National Regulatory Authorities, representing the European Union Member States as well as Iceland, Liechtenstein, Norway and Switzerland) to gather information on portability. The following countries, besides Portugal, replied to the questionnaire: Denmark, France, Germany, Greece, Ireland, Italy, the Netherlands, Poland, Slovakia, Slovenia, Spain, Switzerland and the United Kingdom. Of these respondents, at the end of 2003 ported numbers had yet to be registered in Poland, Slovenia, Slovakia and Greece, while Switzerland, Germany and the United Kingdom did not provide figures on total ported numbers in the fixed network.

To accomplish this rule, the providers with portability obligations were asked to report the information and documentation each required in order to sign the respective contracts to provide telephone service.

The information received to date from the providers with portability obligations is now made available so that all the companies have access to the information, bearing in mind compliance with the aforementioned rule and the smooth functioning of portability processes.

These principles were also included in the draft Portability Regulation submitted to public consultation in March 2004.

Given the existence of tariff strategies that sharply distinguish call prices according to the destination network of same, portability, despite its vital role in encouraging competition in the sector by lowering the costs associated to change of operator, raises some problems for consumers, in so far as it eliminates price information traditionally associated to the mobile network dialling code included in the numbers dialled. Thus, to respond to the legitimate consumer interests occasioned by use of this function, ICP-ANACOM decided (determination of 27 February 2003) to take a number of steps regarding the information to be provided to consumers on the destination network of calls to ported numbers.

According to this determination, LMS operators are obliged from 30 June 2003 to provide a free online announcement in national voice calls between LMS operator networks and to ported numbers.

Complementary to this, the LMS operators and FTS providers whose price tables may imply that a call to a ported number is more expensive than before portability to same must maintain a telephone information service on call prices (voice calls, data and short messages) to ported numbers, as per the ANACOM determination dated 18 April 2002.

In the context of the said determination, it was also decided that ANACOM would undertake an information campaign focusing specifically on the LMS operators' introduction of the online announcement identifying the calls' destination network and also aiming to spread awareness of portability and provide information on the associated procedures, specifically the calculation by users of the charges for calls to ported numbers.

It was also decided that ANACOM should continue to gather and study information on the development of portability and its consequences, from the standpoint of creating a competitive market and safeguarding consumer interests.

Together with other aspects held to be necessary for portability to work better, these rules were also included in the aforesaid draft Regulation, whose replies to the respective public consultation are currently being studied by ANACOM.

1.2.2 Pre-selection and call-to-call selection

After the prior hearing process for interested parties, ANACOM approved the determination dated 17 July 2003 concerning introduction into the pre-selection specification of a compulsory six-month waiting period after the activation of pre-selection, during which companies of the Portugal Telecom group that provide direct access fixed telephone service would be prohibited from carrying out any customer win-back actions.

This determination was grounded on complaints by the pre-selected operators regarding behaviour labelled a “commercial siege” of their customers by PT Comunicações (PTC), which consisted of attempts to win back those same customers, contacting them and proposing alternative service provision conditions.

Such practices hinder a free and clear choice by customers, very often before they have fully used the service of the pre-selected provider.

It was also verified that the possibility of maintaining customer loyalty by setting minimum time durations for the respective contracts, allowed in the Pre-selection Specification, was not a sufficiently effective mechanism for the pre-selected providers to prevent, in such cases, termination of the said customers’ contracts.

Under these circumstances the establishment of the said six-month waiting period after the activation of pre-selection was held to be an appropriate means to give the customer the time needed to fully use the pre-selected provider’s service, trying it and maintaining the freedom to remain a customer or end the contract, without any outside pressure.

Naturally, this would not at any time prevent customers on their own initiative to seek other service provision conditions and other providers.

Complementary to this, PT COMUNICAÇÕES was also obliged, under the same ANACOM determination of 17 July 2003, to respect the confidentiality of information it retains in the context of pre-selection, and is not to transmit it to subsidiary or associated companies, nor to its own services, specifically the commercial ones.

In August 2003 and in the exercise of its inspection and investigation powers ICP-ANACOM proceeded to assess compliance with the 17 July 2003 determination, vis-à-vis the imposition of a waiting period after the activation of pre-selection (“win-back”).

On 16 October 2003 ANACOM determined, also in the context of pre-selection, and following a request to intervene from Novis related to the 10XY barring service provided by PTC³, to order the latter company to comply with the Pre-selection Specification and its customers’ will as expressed in the pre-selection forms to the effect that the pre-selection activation request should prevail over a customer’s previous request for 10XY barring.

The same determination also specifically ruled for the immediate cessation of PTC’s procedure of verifying the authenticity of pre-selection requests submitted by its customers who have active 10xy barring. That provider is also obliged to stop eventual rejections of pre-selection requests based on the existence of certain price tables contracted with the customer.

These rules as well as other aspects considered relevant for pre-selection to function more correctly, especially increased traffic eligible for pre-selection effects, were incorporated in the public consultation on operator selection and pre-selection in Portugal approved by ANACOM determination and dated 22 January 2004, the replies to which are currently being studied.

1.2.3 Subscriber line resale offer (SLRO)

On 25 July 2003 a public consultation was launched on the subscriber line resale offer (SLRO)⁴, included in the scope of measures that aim to promote competition in the telecommunications market, particularly in the fixed communications market. This consultation’s report⁵ was approved on 22 January 2004 and published on the ANACOM website.

The imposition of an obligation with the SLRO’s features effectively represents a change in market conditions, implying modified relationships between the various operators and service providers and between them and end customers, as well as the generation of new and complex contract relations and financial flows. It also has profound implications on other areas of the market.

ICP-ANACOM thus holds that the time to introduce the SLRO should be considered vis-à-vis ongoing market studies under the new regulatory framework. In this regard, and by considering

³ The 10xy dialling code precedes the destination number in calls by indirect access (pre-selection or call-to-call selection).

⁴ <http://www.anacom.pt/template15.jsp?categoryId=79131>

⁵ <http://www.anacom.pt/template12.jsp?categoryId=95920>.

the SLRO to be a potential proportional obligation to impose on eventual operators with SMP, ICP-ANACOM will take into account the positions expressed by the various entities that responded to the public consultation.

1.2.4 FWA – Fixed Wireless Access

Fixed wireless access (FWA) systems are a potential alternative to the traditional copper-wire network for the provision of telecommunications services, specifically for the provision of fixed telephone service. Based on this pretext, 11 licences were granted in 1999 for the corresponding frequency bands: 3600-3800 MHz (three licences), 24.5-26.5 GHz (six licences) and 27.5-29.5 GHz (two licences).

The high market expectations at the time for the development of FWA networks were not met for various reasons, due to evolution since 1999 of the economic situation, where negative performance led operators to change their action plan, particularly regarding investment, and also due to evolution of the equipment market, where costs did not drop as forecast and technological developments by manufacturers were not as expected.

This situation was verified by ICP-ANACOM over the course of 2002, in the scope of its market oversight powers, by means of regular actions to monitor the various operators' activity.

It must also be borne in mind that the specific nature of the FWA licensing process, particularly the tender, led the regulation itself to explicitly mention that the frequency usage conditions should be evaluated within a time period of not less than two years.

ICP-ANACOM thus launched on 2 June 2003 a public consultation on FWA systems addressed to the various market players. The aim was to prepare the decision-making process and to help characterise the appropriate measures for sustained implementation of FWA, namely regarding the licences granted in the 1999 tender.

In May 2004, and following study of all aspects of the FWA process and the consideration of contributions from the consultation, the public consultation report was approved along with a draft action framework, which were submitted to the general consultation procedure envisaged in article 8 of Law no. 5/2004 of 10 February.

The deadline for this last procedure was 1 June 2004. Once finished, ANACOM will submit to the Government the draft regulation needed to achieve the action proposal, which is based on the following principles:

- Reformulate the previous FWA licensing model;
- Ensure that all operators, should they so desire, are able to continue using the allocated frequency bands as long as they are being effectively used;
- Consider the possibility of allocating new usage rights to companies that request same, on a set geographic basis;
- Apply the principle of equal treatment between PTC and the other operators;
- Allow these frequency bands to be used in the transmission network;
- Reformulate the radio fees system.

Should the regulatory project be approved in this regard, ANACOM will consult the operators so that they can express their interest in the areas where they wish to continue providing the service, in the frequency bands for which they are qualified.

The operators will be granted not more than one month to present a network implementation proposal and the respective calendar, as per conditions to be defined by ICP-ANACOM and which will be communicated to them when they request the manifestation of interest.

1.2.5 Rules applicable to the “707”, “708” and “809” numbering ranges

During the year 2003 ANACOM received various claims from users and also from providers of fixed telephone service concerning call charges for the “707”, “708” and “809” ranges and also the conditions for using those numbering resources.

The claims called attention to the emergence of services in these ranges that allegedly approached the audiotext concept; users were faced with unexpectedly high telephone invoices deriving from calls to these numbers.

Another sort of claim had to do with company attendance services using “707” numbers, which forced users seeking information by telephone to pay a price for the respective call that was higher than what should be expected given the nature of the information.

As a consequence, the draft decision on the definition of the maximum retail prices for calls to numbers in the “707” and “708” (universal access services) and “809” (shared cost call services) ranges was approved by determination dated 28 November 2003.

This draft decision was submitted to prior hearing of the interested parties, as per articles 100 and 101 of the Code of Administrative Procedure, and was likewise reported to the Consumer Institute, DECO, FENACOOOP and UGC, and approved in 2004 by a determination dated 16 January.

Complementary to this and by determination of 28 January 2004 an access dialling code in the National Numbering Plan (NNP) – 760 – was approved. It entails a single retail price of €0.60 per call to numbers beginning with that dialling code. The existence of an access dialling code for such services with a given price regardless of call time or length in which users can intuitively associate price with the dialled number was considered advantageous, given the lack of business margin in the provision of some services alleged by some providers.

1.3 Universal service and fixed telephone service

The provision of universal service is governed by the principles of universality, equality, continuity and affordability as determined until February 2004 by Law no. 91/97 of 1 August (Telecommunications Basic Law) and guarantees a basic level of telecommunications services with quality and accessible to all users, and includes provision of the following⁶: connection to the fixed telephone network and access to fixed telephone service (FTS); supply of public payphones; and availability of telephone directories and an information service that includes the numbers of FTS and mobile telephone service subscribers.

⁶ The scope of universal telecommunications service and the regimes for price setting and financing applicable to same are set out in Decree-Law no. 458/99 of 5 November, which transposed into the internal legal order the standards of Directive 98/10/EC of the European Parliament and of the Council of 26 February, concerning application of open network provision (ONP) to voice telephony and to universal telecommunications service in a competitive environment, and of Directive 97/33/EC, also of the European Parliament and of the Council of 30 June, concerning interconnection in the telecommunications sector with the aim of assuring universal service and interoperability by application of the ONP principles.

1.3.1 Affordability: the FTS price table

As stipulated in the Basic Law in force at the time, Decree-Law no. 458/99 of 5 November envisaged that the prices for universal telecommunications service would be regulated by means of a price convention to be signed by the Directorate General of Commerce and Competition (DGCC) and the then ICP and PTC.

The price convention for universal telecommunications service signed on 30 December 2002 by ICP-ANACOM, the DGCC and PTC thus established the price framework applicable to provision of the following aspects of universal telecommunications service: fixed telephone service in subscriber mode (installation of analogue network line, subscription to analogue network line and telephone communications in the country); FTS in the public payphone mode (telephone communications in the country); telephone directories and information service. The convention also determined PTC's obligations with regard to low-income pensioners and retired customers, low-consumption residential customers and customers with special needs.

The gradual adjustment of prices to costs led in 2003, and regarding FTS subscribers, to the obligation that the nominal average weighted price variation should not be above the value of the Consumer Price Index (CPI) minus 2.75 p.p. for calls in the country. PTC was also enjoined to provide an optional price plan ("Low Consumption Plan" – LCP) aiming to benefit residential customers with lower telephone consumption.

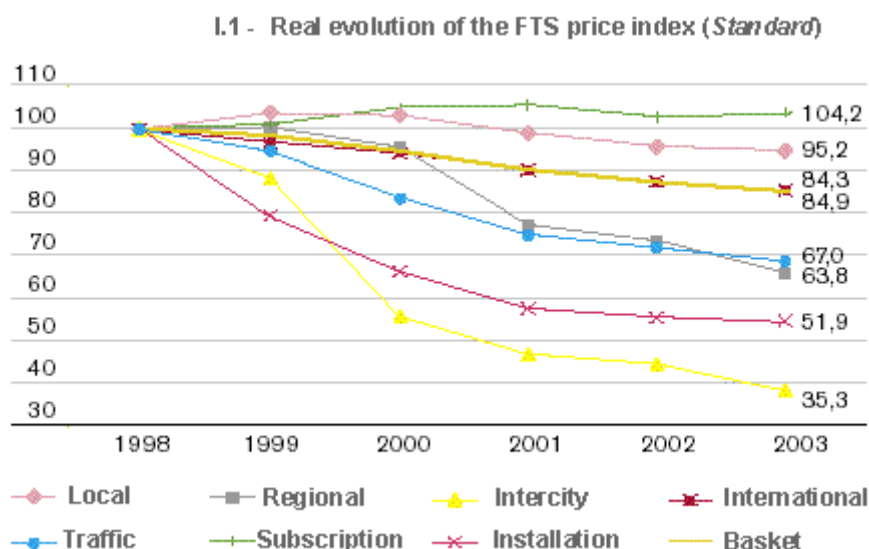
By determination of 6 February 2003⁷, ICP-ANACOM decided not to oppose the entrance into force on 15 February 2003 of the proposed FTS price table for 2003 presented by PTC. The real annual price variations of the FTS price table, -2.7% in the FTS subscriber mode (corresponding to a nominal variation of -0.25%), in the public payphone mode (ratio of 1.97 vis-à-vis prices in the subscriber mode) and 14.5% for the 118 information service (corresponding to nominal variation of 17.4%), are compatible with what was agreed in the universal service convention. The framework for the LCP and the discounts applicable to retirees and pensioners was also in line with the terms of the universal service convention.

Based on a study of FTS price trends between 1998 and 2003,⁸ and as shown in the graph below, it was noted that in real terms most prices for the various components of the FTS invoice dropped significantly; this is all the more evident in international traffic and in long distance traffic.

⁷ <http://www.anacom.pt/template12.jsp?categoryId=57989>.

⁸ <http://www.anacom.pt/template15.jsp?categoryId=82530>.

Regarding the accumulated real variation of prices in the standard table for the period in question, it was noted that the price of local, regional, national long distance and international calls dropped by 4.8%, 36.2%, 64.7% and 48.1%, respectively. Also worthy of note is the 15.1% drop in the installation price; the monthly subscription was the only provision where a real price increase was noted (4.2%)⁹.



Source: ANACOM calculation based on information from PTC

1.3.2 Subscriber Directories and Information Service

As stated above, Decree-Law no. 458/99 of 5 November included in universal service provision the service of making available telephone directories and an information service that includes the numbers of subscribers to fixed telephone service and mobile telephone service.

In this regard, and after consultation of the interested parties, a decision on the inclusion of subscribers' personal data in telephone directories and information service under universal telecommunications service was approved on 18 December 2003. To that end, ICP-ANACOM specifically determined that the mobile telephone service providers should within a maximum of thirty days ask their customers to explicitly manifest their interest in having their data included in

⁹ In national terms, the price for local calls and for subscription tended to increase (although less sharply for local calls), with nominal average annual rises corresponding to 2.1% and 4.0%, respectively. There was a drop with respect to the base year in the annual average prices of regional and long distance calls, of 5.7% and 16.2%, respectively. Note also that there was an annual average nominal reduction of 9.5% in the price for international traffic. The nominal price of the FTS basket has been practically constant since 2000, due to the distinct evolution of the price table's various components.

information services and directories, particularly in the context of universal telecommunications service. It was made clear that the absence of any manifest interest by the subscriber would be understood as meaning that same did not wish to be listed.

1.3.3 Net costs of universal service

The mechanism for compensating the providers of universal telecommunications service for the negative margins inherent to the provision of same, when such occur, and applicable through 31 December 2003, was envisaged in Decree-Law no. 458/99 of 5 November. For this purpose universal telecommunications service providers were required to demonstrate their negative margins and submit them to ICP-ANACOM for approval.

In the scope of cost analysis for universal telecommunications service undertaken by ICP-ANACOM, a decision was made¹⁰ on 21 August 2003, after prior hearing of the interested parties, to not accept the application of any compensation mechanisms for the period before full liberalisation of the telecommunications market. In this decision PTC was also asked to submit a grounded statement of the eventual net costs associated to the provision of universal telecommunications service during the period of full and effective liberalisation of the telecommunications market.

1.3.4 New FTS offers

Over the course of 2003 and until the publication of REGICOM, new fixed telephone service offers were subject to provisions of the Regulation for the Operation of Fixed Telephone Service, approved by Decree-Law no. 474/99 of 8 November, and of Decree-Law no. 415/98 of 31 December, when applicable. It was stipulated that the prices of these new offers should not discriminate and be oriented to costs, and that the historic operator, PT Comunicações, S.A. (PTC), should provide its competitors with the same wholesale conditions that benefit its internal services and offer similar access conditions to all companies that provide the services in question.

In the scope of analysis of PTC's new offers, and by order of 17 January 2003¹¹, a decision was made to provisionally suspend two new PTC optional price plans called "PT Network Line without Subscription", whose market introduction had been communicated to ICP-ANACOM on 5

¹⁰ <http://www.anacom.pt/template12.jsp?categoryId=80071>.

¹¹ <http://www.anacom.pt/template12.jsp?categoryId=53241>.

December 2002. These modes of FTS provision were held to not respect the principle of non-discrimination in the provision of interconnection.

By determination of 10 April 2003, the draft decision to make the previous provisional suspension definitive was approved. Finally, in an ordinary meeting on 29 May 2003 the ICP-ANACOM Board of Directors decided¹² to uphold suspension of the “PT Network Line without Subscription” for as long as the grounds for said suspension remained valid, i.e., until PTC should offer the other operators the possibility of presenting offers of the same kind.

Another set of new PTC commercial offers called “PT Destinations”, “PT Timeslots” and “PT Groups” was also reviewed. These offers were verified to include packages whose prices per minute were less than the costs estimated for service provision, specifically the packages labelled “Friends 1 to 1” and “Friends 1 to 3” included in the “PT Groups” offer. As these two offers were seen not to comply with the principle of orientation to costs, ICP-ANACOM decided¹³ on 3 July 2003 that the said offers should be withdrawn from the market.

Note also that, following a campaign called “Gold Customer” undertaken by PTC and TV Cabo, ICP-ANACOM concluded after review of same that the said campaign did not respect the principles of non-discrimination and orientation of prices to costs. PTC was on 13 January 2004 ordered to end the campaign immediately. The “Gold Customer” campaign included the offer of packages of services provided by the two companies belonging to the Grupo PT, specifically the offer of a PTC fixed network line and various services provided by TV Cabo.

Last is mentioned the offer of SMS in the fixed network mentioned in point 1.1.5, which PTC introduced in 2003, enabling the reception and transmission of written messages to and from fixed networks by using appropriate mobile terminal equipment.

1.4 Leased lines markets

Leased lines are a fundamental service upon which most telecommunications services are supported, as they are used by operators as vital infrastructures for the development of their own networks, and thus of retail services. To that end, and to encourage price reductions for operators in this area, ICP-ANACOM is not only encouraging competition in the provision of these services but also for most services they provide in retail.

¹² <http://www.anacom.pt/template12.jsp?categoryId=74830>

¹³ <http://www.anacom.pt/template12.jsp?categoryId=72130>.

The fundamental regulatory instrument for the leased lines market is the Regulation for the Operation of Public Telecommunications Networks. Chapter IV of the said Regulation particularly concerns the operators of public telecommunications networks with significant market power in the leased lines market, also designated as significant market position or, to use current terminology, dominant position.

The said Chapter IV of the Regulation for the Operation of Public Telecommunications Networks assigns ICP-ANACOM the obligation to determine the list of operators with significant market power in the leased lines market, to define the minimum set of leased lines to be offered by the Public Telecommunications Service Concessionaire – PT Comunicações, to define the service quality levels provided by the operators with SMP, to oversee compliance with the price rules and principles and the cost accounting system implemented to that end.

This instrument also imposed upon the SMP operators a set of obligations, specifically obligations vis-à-vis open network provision, and also the conditions under which the SMP operators can end that provision.

The following were ICP-ANACOM's main interventions in the leased lines markets in 2003:

- In the wake of the ICP-ANACOM decision dated September 2002¹⁴ and concerning reformulation of PTC's leased lines offer, a new reorganised price table took effect, with prices cut across the board. Following that determination, ANACOM closely monitored throughout 2003 the market impact of the new pricing structure, particularly the discounts. This process culminated in early 2004 (10 February 2004) in a determination by the ICP-ANACOM Board of Directors on the restructuring of conditions associated to the leased lines service provided by PT Comunicações, specifically the discounts applied by the operator;
- To remove the need for new operators to lease the specific components for extending lines within PTC exchanges at the same price as the price of a local extension, and to stimulate competition in light of the applicable regulatory principles, ICP-ANACOM clarified and defined the conditions for the provision of leased lines interconnection, specifically the price¹⁵.

¹⁴ See determination of 19 September 2002 at <http://www.anacom.pt/template12.jsp?categoryId=44310>.

¹⁵ See determination of 19 June 2004 at <http://www.anacom.pt/template12.jsp?categoryId=75650>.

In terms of international comparisons, the price of the overall national lines basket (analogue, digital at 64 kbps, 2 Mbps and 34 Mbps) was in early 2003 about 29% lower than the average values verified in the other European Union countries¹⁶.

1.5 Interconnection Market

The interconnection of public telecommunications networks in a context of open and competitive markets emerges as the physical and logical support needed for end-to-end communication between users of public telecommunications services.

Interconnection conditions, and particularly the respective prices, are vital for the development of an effectively competitive market, and also ensure that users obtain maximum benefits in terms of choice, price and quality.

Interconnection was in 2003 governed by Decree-Law no. 415/98 of 31 December. The regime envisaged in this instrument, based on enshrinement of the principle of freedom to negotiate interconnection agreements between operators of public telecommunications networks and public telecommunications service providers, is complemented by the imposition of an interconnection offer guaranteed in first line by the basic telecommunications network, and in second line by the set of operators and/or providers with significant market power.

Under terms of that instrument, the National Regulatory Authority must determine, declare and annually publish a list of the entities with significant market power (SMP) and impose the obligations envisaged by law on those operators and on operators without SMP. Among the obligations to impose on the SMP operators the following stand out: to meet all reasonable requests for interconnection; to draft reference interconnection offers; and to have separate accounting for interconnection activity.

ICP-ANACOM could also intervene in the negotiation of interconnection agreements and become involved in the resolution of disputes between operators.

¹⁶ See study on “International Comparison of Leased Lines Service Prices – January 2003” at <http://www.anacom.pt/template15.jsp?categoryId=53131>.

Bearing in mind that PTC, as the operator with significant market power in the interconnection market, must draft reference interconnection offers (RIOs), ICP-ANACOM undertook the following actions with regard to the 2003 RIO:

- Pursued the goal of gradual alignment of the prices for interconnection services with the costs incurred in the provision of same, intervening to set maximum interconnection prices to be in effect from 1 March 2003, which represent an average reduction of about 10 percent compared to the same prices practiced in 2002¹⁷;

With this determination of 21 March 2003, the interconnection prices practiced by PTC approached the European Union (EU) average, as attested by the following table:

Comparison of the 2003 RIO prices and the EU average (prices in euro-cents per minute for a three-minute call):

Comparison of 2003 RIO prices and the EU average

	Call Origination						Call Termination					
	Local		Single Tandem		Double Tandem		Local		Single Tandem		Double Tandem	
	P.	O.P.	P.	O.P.	P.	O.P.	P.	O.P.	P.	O.P.	P.	O.P.
PT deviation from average.	0.9%	-4.4%	3.1%	-1.5%	4.0%	1.8%	2.1%	-3.8%	5.3%	0.7%	11.8%	10.1%

P. = Peak / O.P. = Off-Peak

- Set conditions that would allow a reduction of costs for operators alternative to PTC in the provision of their retail services. Worthy of note is the simplification of the new operators' access to the historic operators' telephone exchanges as per the imposed obligation that PTC must provide collocation on an open space basis (co-mingling)¹⁸, thus enabling operators to install their equipment in the same room where PTC equipment is installed, which means that PTC does not have to build a room for that purpose. This decision, dated 9 June 2003, impacts not only interconnection services, but also unbundled local loop access services and leased lines interconnection service. By adopting it, Portugal in 2003 became one of three community countries to include this obligation in the interconnection offer, along with Belgium and Denmark;

¹⁷ See determination of 21 March 2003 at <http://www.anacom.pt/template12.jsp?categoryId=60470>.

¹⁸ See determination of 19 June 2003 at <http://www.anacom.pt/template12.jsp?categoryId=75650>.

- Regarding the RIO, it also intervened to assure that the maximum prices for invoicing, collection and risk of non-collection applicable in PTC customers' access to special services provided by the other operators¹⁷, and the maximum prices for the services of call pre-selection and activation and of number porting, approximate the effective costs of their provision;
- Given that PTC's price table for access to data transmission services by operators and providers of services used, for example, to support means of electronic payment did not clearly reflect the factor of price differences between free and non-free calls, PTC was asked to revise the respective price table. ICP-ANACOM subsequently intervened to reduce the maximum applicable prices for the service and to clarify the respective interconnection model¹⁹. By establishing the call origination model for this service, ICP-ANACOM held that the entity that adds value to the service (in this case, the provider of data transmission service) should set the retail price. By promoting efficient use of resources, ICP-ANACOM envisaged the possibility that the same interconnection line could be used for voice transmission and data;
- At the end of 2003, considering that the practice of low interconnection prices was relevant for the development of competition in the sector, PTC was asked to proceed with revision of the RIO with effects from 1 January 2004, in particular to again lower interconnection prices²⁰.
- On 16 March 2004 ICP-ANACOM again decided on reduction of the maximum prices for the services of call origination and termination, invoicing, collection and risk of non-collection. Note also that ICP-ANACOM determined an end to the exclusion of internet access traffic as envisaged in the RIO²¹.

Regarding interconnection provided by the mobile operators, and in the wake of decisions made in previous years, in which price cuts were assured for fixed-mobile call termination service, TMN and Vodafone committed themselves to reducing the price of that service by about 7 percent per quarter. Yet in spite of those price cuts advocated by ANACOM, the prices for fixed-mobile termination practiced in Portugal are still substantially higher than the European Union average.

¹⁹ See determination of 9 January 2003 at <http://www.anacom.pt/template12.jsp?categoryId=52389> and determination of 23 September 2003 at <http://www.anacom.pt/template12.jsp?categoryId=80750>

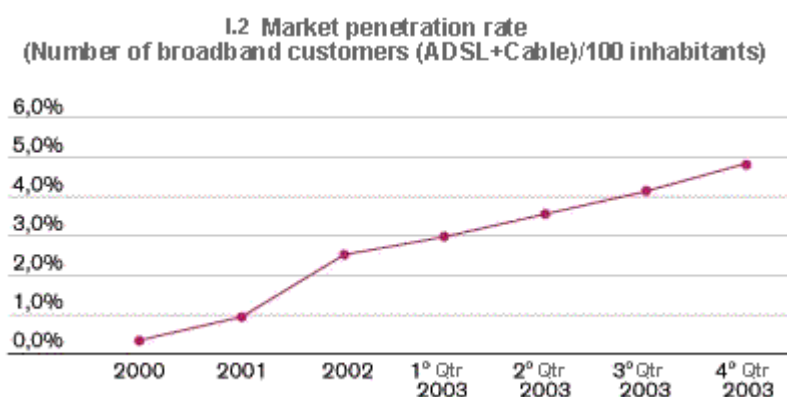
²⁰ See determination of 18 December 2003 at <http://www.anacom.pt/template12.jsp?categoryId=89921>

²¹ <http://www.anacom.pt/template20.jsp?categoryId=103619&contentId=177663>

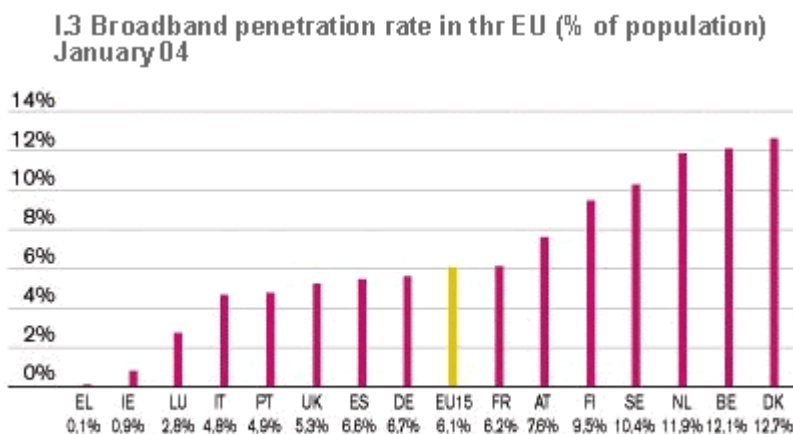
1.6. Wholesale broadband internet access services

The promotion of information society services and especially broadband internet access is a fundamental pillar of ICP-ANACOM's activity. To that end it is vital to ensure competition in the provision of this service. ICP-ANACOM has thus particularly focused its action on the unbundled local loop (LLU) provision and "PT ADSL Network" wholesale offers.

Broadband's penetration rate in Portugal rose significantly in 2003²² (see Graph 1), placing Portugal slightly below the EU average (according to the document COCOM04-20 FINAL²³)



Source: ICP-ANACOM



Source: European Commission

²² See statistics at <http://www.anacom.pt/template12.jsp?categoryId=103699>

²³

<http://forum.europa.eu.int/irc/Download/kYetAAJ2mjGFFVxmUpoo2yLiBbk2pUmA6FOUv7yhK2DUD6BYRrHli0UmGIXhV-uGV9SD/COCOM04-20%20Final%20Broadband%20data.pdf>

1.6.1 “PT ADSL Network” offer

Regarding the “PT ADSL Network” offer, ANACOM sought to ensure conditions of fair competition and non-discrimination between Grupo PT companies and other market competitors.

A first intervention by ICP-ANACOM on 29 May 2003 concerned a joint offer by PTC and Telepac labelled “PT First Time ADSL”, addressed to customers who wanted to subscribe to Telepac’s ADSL service but did not have an analogue line. In order to allow the other providers, if they so desired, to develop analogue offers under equal conditions vis-à-vis the Grupo PT companies, and not opposing continuation of that campaign, ICP-ANACOM ordered PTC to make available to the service providers that so request conditions equal to those offered to its subsidiary PTM.com in the “PT First Time ADSL” offer, namely exemption of the end user’s payment of the network line installation price and the prices and discounts it practiced, and to end limits on indirect access²⁴.

Having verified that Telepac benefited significantly from the wholesale offer, particularly the application of volume discounts and, probably, maximum loyalty discounts, and fearing the effects this discount practice might have on development of a competitive market, ICP-ANACOM intervened in the “PT ADSL Network” wholesale offer in June 2003. This intervention consisted of imposing a 20 percent drop in prices of the wholesale offer by ending the discounts and of introducing a “retail minus” rule in the monthly fee for the class with most market implementation (the 512/128 kbps class) that should prevent subsequent squeezing of the margins²⁵.

In November 2003, following announcement of the launch of a new Grupo PT retail offer for 256/128 kbps, ICP-ANACOM again intervened in PTC’s wholesale offer, in the new class 4 (256/128 kbps), to clarify the respective conditions and ensure an appropriate margin for the other operators.

1.6.2 Local loop unbundling (LLU) offer

In order to boost competition and stimulate technological innovation in the local access market by establishing harmonised conditions for LLU, the European Parliament and the Council approved on 18 December 2000 Regulation (EC) no. 2887/2000, which took effect in January 2001.

²⁴ See determination of 29 May 2003 at <http://www.anacom.pt/template12.jsp?categoryId=68270>

²⁵ See determination of 25 June 2003 at <http://www.anacom.pt/template12.jsp?categoryId=71800>

Providers may thus also offer broadband services in retail by leasing unbundled local loops/sub-loops (in the modes of full or shared access). The full access option enables the provider in question to enjoy greater flexibility in defining the retail offers it provides, and may specifically also offer voice services.

Until mid-2003 operators showed little interest in LLU. This is evident in the low number of unbundled accesses (303 at the end of the first quarter).

But from the date when ICP-ANACOM imposed collocation on an open space basis (also known as co-mingling) in the RUO (Reference Unbundling Offer), there was renewed interest by the other licensed operators (OLOs) in this offer, which grew by 516% in the second half of 2003 (1,867 unbundled accesses at the end of 2003, split between OniTelecom and Novis).

In 2003 ICP-ANACOM also intervened to reduce the price of various services associated to LLU:

- a) In full access service, the monthly fee was lowered by 13 percent from €3.78 to €1.96. This reduction enabled the service to be offered at a price 6 percent lower than the community average. The installation price for this access type became €84.07, which, added to the eligibility price (€8.05), is framed in current European Union practices;
- b) The monthly fee for shared access was likewise set at €2.95. The previous price was €7.82, for a reduction of about 55 percent%. The installation price for this access type was set at €88.21.

A set of procedures and deadlines was also defined, to be complied with during the process of requesting access and subsequent installation of the operators' equipment in PTC exchanges. The aim of these obligations is to streamline and simplify the process, removing barriers to good functioning of the market.

1.7 Terrestrial television signal distribution and transmission service

The price Convention signed on 1 July 1997 by the Instituto da Comunicação Social (ICS – Media Institute), the Autoridade Nacional de Comunicações (then designated the Instituto das Comunicações de Portugal), the Directorate General of Trade and Competition (DGCC) and PT Comunicações, S.A. (PTC), then Portugal Telecom, S.A., as per the provisions of sections 1 and 2 of article 17 of Decree-Law no. 122/94 of 14 May, defined the price regime for the service of

distribution and dissemination of terrestrial television signal provided by PTC. Under the terms of section 1 of clause 2 of the said Convention, the determination of prices for that service should take into account the principles of transparency, non-discrimination and orientation to costs. Clause 3 sets the maximum prices for the service of distribution and dissemination of terrestrial television signal to practice in 1997 and stipulated that in 1998 the prices would be updated to the maximum value of the average CPI variation rate envisaged in the State Budget for that year. By ANACOM determination of 25 January 2001 the said Convention remained in effect.

The prices for terrestrial television signal distribution and dissemination service were not updated after 1998, even though the Convention allowed this to occur; for this reason they suffered a real accumulated negative variation of –12.2 percent from 1998 to 2002.

Decree-Law no. 31/2003 (Agreement Modifying the Concession Contract for Public Telecommunications Service) was published on 17 February 2003. Its section 3, article 16 maintains the principles applicable to the price regime for access to the network that transports and disseminates television signal, with ANACOM, having heard the ICS on the subject, responsible for ensuring respect for same.

ANACOM received on 18 March 2003 a letter from Radiotevisão Portuguesa, S.A. (RTP), concerning prices for the service of distributing and disseminating terrestrial television signal practiced by PTC. In the letter, RTP considers that PTC's prices for the said service are far above the costs, and asks ANACOM to intervene under the terms of section 3 of article 16 of Decree-Law no. 31/2003 of 17 February.

Aware of the social repercussion of the service of distributing and disseminating terrestrial television signal and of its overall significance for development of the Information Society, and taking into account the principle of price orientation to costs, ICP-ANACOM intervened (determination of 21 April 2003) to assure price reductions for each one of the individual provisions encompassed by the service of distributing and disseminating terrestrial television signal provided by PTC, for the period running from 1 June 2003 to 31 May 2006.

Thus, after modifying the price table of March 2003, with effects retroactive to January 2003, for an annual nominal variation of –14.06 percent over the price table in effect in 2002, ICP-ANACOM promoted an additional real reduction of the prices then in effect of not less than 1.2 percent, from 1 June 2003.

1.8 Numbering: Assignment of Numbers

The processes of assigning numbers or series of numbers obey the principles of transparency, fairness and effectiveness. It is up to the ICP to assign identification codes and series of numbers to entities duly qualified for that purpose in a non-discriminatory, objective and transparent manner; to guarantee that the processes of assigning individual numbers and/or series of numbers are transparent, fair and efficient, and also that their assignment be carried out in an objective, transparent and non-discriminatory manner, to ensure loyal and fair treatment of all duly qualified entities that provide public telecommunications services.

In this regard, the year 2003 saw the assignment of 80,000 numbers for fixed telephone service, 100,000 numbers for non-geographic services ("800", "808", etc.) and 300 numbers for other services, namely internet access.

The following tables and graphs depict the evolution of the national situation in this area, associated to the corresponding activity of ICP-ANACOM.

Geographic Numbers ²⁶						
	Before 2000	2000	2001	2002	2003	Total
Lisbon Geographic Area	3.890.000	130.000	180.000	140.000	30.000	4.230.000
Oporto Geographic Area	1.810.000	70.000	60.000	50.000	20.000	1.960.000
Remaining geographic areas	15.870.000	1.580.000	350.000	530.000	20.000	17.820.000

Source: ANACOM

Non-geographic numbers ²⁶						
	Before 2000	2000	2001	2002	2003	Total
Non-geographic services (600,	580.000	300.000	1.320.000	110.000	100.000	2.410.000

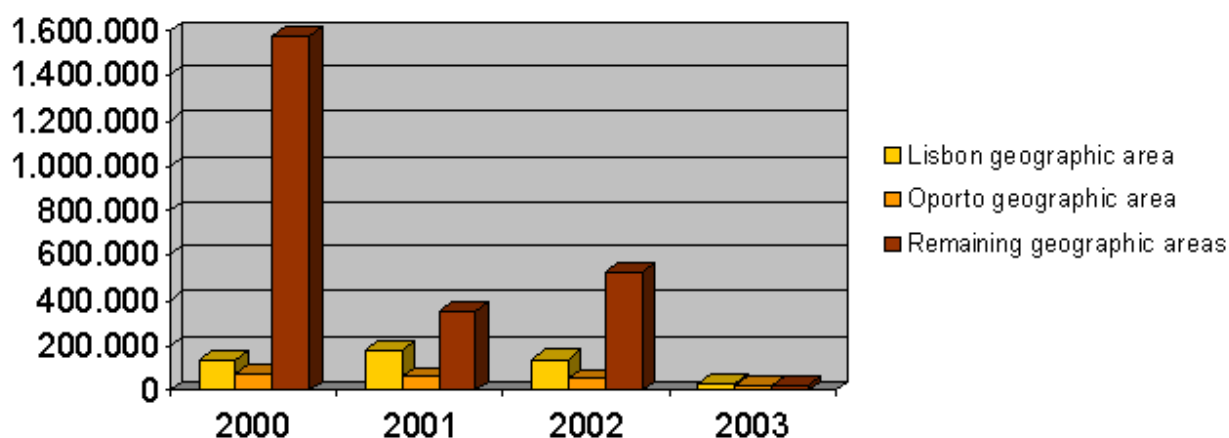
²⁶ Numbers are allocated in blocs of 10,000 for the ranges 2, 600, 707, 708, 800, 808 and 809 and in blocs of 100 for the 67 range (data services).

609, 669, 707, 708, 800, 808, 809)						
Data services (ISP)	3.300	600	200	100	300	4.500

Source: ANACOM

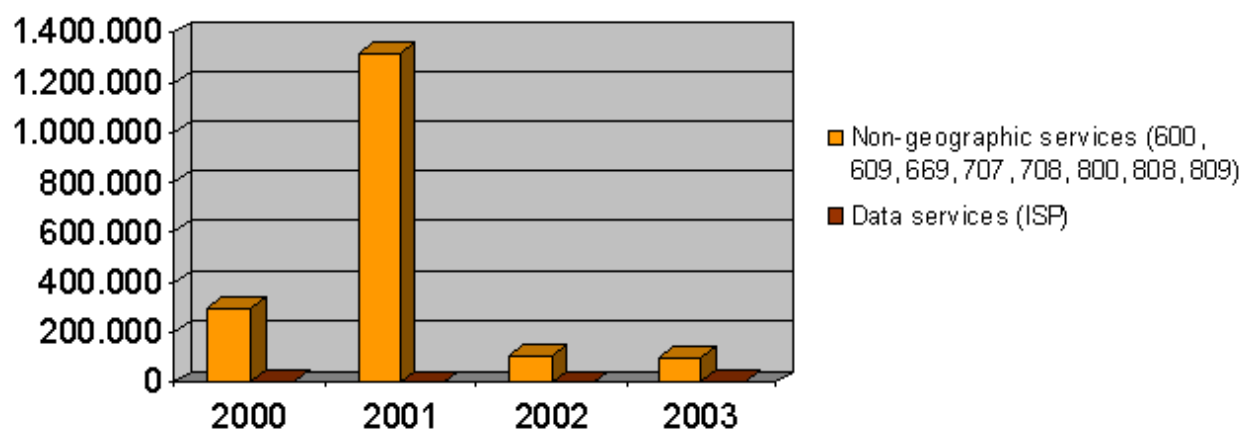
* Note: Numbers are allocated in blocs of 10,000 for the ranges 2, 600, 707, 708, 800, 808 and 809 and in blocs of 100 for the 67 range (data services).

I.4 Geographic numbers



Source: ICP-ANACOM

I.5 Non-geographic numbers



Source: ICP-ANACOM

Bearing in mind reformulation of the principles and criteria for allocating and managing numbering resources, to adjust the characterisation of existing services, study how to provide access to emerging services and end practices that eventually distort the market, ICP-ANACOM carried out in 2003 a public consultation on the National Numbering Plan (NNP).

1.9 Drafting of a new regulatory framework

The process of transposing into the national legal framework the Directives of the European Parliament and of the Council that cover the electronic telecommunications sector took place over the course of 2003 and culminated, as stated above, in the publication of Law no. 5/2004 of 10 February 2004.

Specifically, it concerned the transposition of Directives 2002/21/EC of 7 March 2002 (Framework Directive, on a common regulatory framework for electronic communications networks and services), 2002/19/EC of 7 March 2002 (Access Directive – on access and interconnection of the electronic communications network and associated resources), 2002/20/EC of 7 March 2002 (Authorisation Directive – on the authorisation of electronic communications networks and services), 2002/22/EC of 7 March 2002 (Universal Service Directive – on universal service and users' rights vis-à-vis electronic communications networks and services) and 2002/77/EC of 16 September 2002 (on competition in the markets for electronic communications networks and services).

The publication of the said Law no. 5/2004, the Electronic Communications Law or Regicom, was followed by an immediate formal start of the process for regulating same.

This process, which is subject to procedures of public consultation and/or prior hearing of interested parties, implying lengthy time periods for same, is under way and should be completed at the end of 2004.

The new Competition Law, Law no. 18/2003, was published on 11 June 2003. Its article 15 stipulates that the "Competition Authority and the sector regulatory authorities work together on applying competition legislation (...)". To clarify terms of mutual collaboration as defined in the legislation, ICP-ANACOM and that authority signed in September 2003 a co-operation agreement whose aims are to facilitate collaboration between the parties "in compliance with the respective duties in accordance with the powers they have been legally granted, to avoid duplication of work (...) and ensure the coherence of adopted decisions or measures (...)".

1.10 Definition and analysis of relevant markets and imposition of obligations

In the context of implementation of the new regulatory framework, and as per articles 58 and 59 of Law no. 5/2004 of 10 February the National Regulatory Authority, ICP-ANACOM, is responsible for defining and analysing the relevant markets for products and services in the electronic communications sector, for the purpose of imposition, maintenance, modification or suppression of obligations, in accordance with the Recommendation and with the Guidelines issued by the European Commission and in compliance with the principles of the right to competition.

Although REGICOM was only published in 2004, ANACOM had already begun the preliminary phase of the said process of defining and analysing markets and assessing SMP on 30 May 2003. The process is currently under way and is expected to finish at the end of 2004.

To ensure operational definition and analysis of markets as imposed by the new regulatory framework, ANACOM defined the following actions:

- It aggregated into four groups the markets defined in the European Commission Recommendation:
 1. Markets for fixed switched low-bandwidth services;
 2. Markets for mobile services;
 3. Markets for leased line, LLU and broadband services;
 4. Television broadcasting;
- Decided to proceed with definition of markets and SMP assessment in a sequential manner and in accordance with the above list;
- The following tasks were developed for each one of the market groups:
 - Preliminary public consultation on methodological questions;
 - Gathering of statistical, operational and financial information;
 - Elaboration of draft decisions on market definition and SMP assessment;
 - “General consultation procedure” [National public consultation] under the terms of article 8 of Law no. 5/2004 of 10 February, of section 1 of article 57 of the same

Law and of section 3 of the “ANACOM Consultation Procedures”, approved by determination of 12 February 2004;

- Hearing of interested parties as per the terms of articles 100 and 101 of the CAP;
- Solicitation of opinion from the Competition Authority as per the terms of article 61 of Law no. 5/2004;
- “Specific consultation procedure” [Consultation of the EC and the regulators from other Member States] as per the terms of article 57 of Law no. 5/2004 of 10 February;
- Draft decision of the ICP-ANACOM Board of Directors;
- Notification of the European Commission and the remaining regulators from the Member States.

ICP-ANACOM decided to first define and analyse the markets, leaving to a later phase the imposition, maintenance, modification or suppression of obligations.

1.10.1 Markets for fixed switched low-bandwidth services

The definition and analysis of the markets for fixed switched low-bandwidth services began in late 2002 with a preliminary market analysis based on existing information. This work enabled gaps to be identified in the available information and in the powers needed to carry out the said work. (Note, to that end, that the new regulatory framework requires the definition of relevant markets subject to ex ante regulation and the evaluation of competition in those markets to be effected by recourse to the principles and techniques of European Competition Law).

Internal training

It was then necessary to train personnel to take charge of this work. A limited international consultation was thus carried out with the aim of acquiring consultation and training services in the area of market definition and analysis and Competition Law. This job was commissioned to a consortium comprising an international consultancy firm, national university consultants and an international law firm specialising in Competition Law.

The training sessions took place during the month of February 2003, attended by about 40 ICP-ANACOM employees. The consultants likewise produced a report on “Methodologies for Market

Definition and Market Analysis”; the public version of the said study is available on the ICP-ANACOM website²⁷.

Preliminary public consultation

In the wake of the initial analyses and the aforementioned training, a decision was made to proceed with a preliminary public consultation on a number of methodological and market questions²⁸. The aim of said consultation was to gather opinions and additional information on certain of ICP-ANACOM’s preliminary options and on related matters, specifically the criteria and indicators used to define relevant markets, assessment of the degree of effective competition in each of the markets and the imposition, maintenance and suppression of obligations. Information was likewise sought for consideration during the subsequent market analysis process.

This preliminary public consultation ran from 30 May 2003 to 25 July 2003. Seven replies were received. ICP-ANACOM produced a report on this consultation which is available on the internet. The information gathered was considered in the context of the subsequent market definitions and analyses.

Request for information on fixed interconnection and retail services

Likewise requested was a set of statistical, operational and financial information needed to define relevant markets and to assess the degree of competition in the identified relevant markets. This information was gathered from 12 June 2003 to 15 July 2003.

The information gathering process faced some difficulties that delayed the whole process. To prevent the same delays and barriers from affecting future market analyses, the ICP-ANACOM Board of Directors decided in a determination dated 1 September 2003 that PT Comunicações and the other FTS providers should adapt their information systems so as to gather the indicators defined in the “request for information on fixed interconnection and retail services”. Deadlines and dates for the regular collection of this information were also set.

²⁷ See report on “Methodologies for Market Definition and Market Analysis” available at <http://www.anacom.pt/template12.jsp?categoryId=79632>

²⁸ The consultation document may be consulted at <http://www.anacom.pt/template15.jsp?categoryId=79630>.

Elaboration of the draft decision

Based on the information gathered in the preliminary consultation, in the “request for information on fixed interconnection and retail services”, in the Commission Recommendation on relevant markets for products and services in the electronic communications sector²⁹, in the Commission Guidelines for the analysis and evaluation of significant market power³⁰ and in the Report on “Methodologies for Market Definition and Market Analysis”, the ICP-ANACOM draft decision on the definition and analysis of the markets for fixed switched low-bandwidth services was then drawn up³¹.

The criteria for replacement on the supply and demand side were basically used to define relevant markets³². Regarding the markets so identified, it was necessary to verify that same were subject to ex ante regulation, using for that purpose the criteria imposed by the commission: existence of almost unsurpassable and non-transitory entrance barriers, lack of dynamic factors that promote competition between the companies present in the market and the impossibility of resolving market failures by applying competition law.

The following markets were thus defined:

- a. Market for narrowband access to the public telephone network at a fixed location by residential customers;
- b. Market for narrowband access to the public telephone network at a fixed location by non-residential customers;
- c. Market for publicly available local and national telephone services provided at a fixed location for residential customers;
- d. Market for publicly available international telephone services provided at a fixed location for residential customers;
- e. Market for publicly available local and national telephone services provided at a fixed location for non-residential customers;
- f. Market for publicly available international telephone services provided at a fixed location for non-residential customers;
- g. Market for telephone services destined for non-geographic numbers publicly available at a fixed location;
- h. Market for call origination in the public telephone network at a fixed location;

²⁹ See <http://www.anacom.pt/template20.jsp?categoryId=58713&contentId=93379>

³⁰ See <http://www.anacom.pt/template20.jsp?categoryId=58712&contentId=93378>

³¹ See <http://www.anacom.pt/template15.jsp?categoryId=79630>

³² See chapter 2 of the consultation document at <http://www.anacom.pt/template15.jsp?categoryId=79630>

- i. Market for call termination in individual public telephone networks at a fixed location.

Effective competition was evaluated in each of these markets. This analysis was based on the following criteria: market shares, level of competition between the installed companies (concentration, size of companies, barriers to expansion, price rivalry, profitability), potential competition (economies of range, scale and experience, strategic barriers) and users' counter-power³³.

Generally speaking:

- The Grupo PT has very high market shares, in some cases above 90%;
- The level of concentration is always very high and the size of the market leader and the difference between same and its closest competitors is quite significant;
- There are barriers to expansion (economies of scale and range, infrastructures that can be copied only with difficulty, etc...);
- In pricing terms, the Grupo PT's competitors act as followers and the pricing policy of the Grupo PT companies is determined by regulation;
- The profitability of the Grupo PT operators is not compatible with the existence of effective competition;
- There are high entrance barriers and low volatility in terms of market entrance and exit;
- Indications of consumer inertia were identified;
- Purchasers' counter-power is non-existent given that individual customers account for a small share of PT's revenues and that there are costs of change. It was likewise impossible to identify a large number of alternative service providers for the major business customers.

³³ See Chapter 3 of the preliminary public consultation document at <http://www.anacom.pt/template15.jsp?categoryId=79630> and the documents that ground the draft decision at <http://www.anacom.pt/template15.jsp?categoryId=102680>.

On the other hand, in markets for call termination in individual public telephone networks at a fixed location, it was verified that:

- All the operators monopolise;
- There is no evidence of users' counter-power.

In the wake of the above described analysis, the following companies with significant market power were identified:

- Companies of the Grupo PT that operate in the identified relevant markets [markets a) to i)];
- All the fixed network operators that act in the market for call termination in individual public telephone networks at a fixed location [market i)].

Pre-notification meeting

In accordance with the Commission Recommendation on notifications, deadlines and consultations envisaged in article 7 of Directive 2002/21/EC³⁴, the Commission must grant the national regulatory authorities the opportunity to informally debate any draft instrument before its formal notification.

Thus, after completing the market definition and analysis work, the methodology and main results that comprise the draft decision were debated with the European Union.

This pre-notification meeting was held in Brussels on 25 February 2004.

Approval of draft decision

Following the entrance into force of the new Basic Law for Electronic Communications – Law no. 5/2004 of 10 February 2004 (REGICOM), and after the 25 February 2005 pre-notification meeting, the draft decision on the definition of relevant markets for fixed switched low-bandwidth

³⁴ See <http://www.anacom.pt/template20.jsp?categoryId=72843&contentId=118251>.

services (retail and wholesale, excluding the transit market) and the evaluation of significant market power (SMP) in those markets³⁵ was approved in a determination dated 8 March 2004.

Submission of opinion to the Competition Authority

Under the terms of article 61 of Law no. 5/2004 of 10 February, ICP-ANACOM requested the opinion of the Competition Authority on the aforesaid draft decision.

The opinion of the Competition Authority on the market definitions and evaluations of SMP indicated in the documents submitted on 12 March 2004 was as follows³⁶:

“The Competition Authority agrees with the methodology used to define the relevant markets and, based on the premises presented by ICP-ANACOM, considers the conclusions to be correct...”

The Competition Authority explicitly stated its agreement on the non-creation of a segment for major business customers and on the company concept used in the said documents.

On the other hand, “[the] Competition Authority considers to be fundamental the respective participation in the sector regulator’s decision-making process vis-à-vis the ex ante measures to impose on the operators with SMP”.

Note that, in accordance with article 61 of REGICOM, ICP-ANACOM is not obliged to involve the Competition Authority in the process of imposing obligations.

³⁵ See <http://www.anacom.pt/template12.jsp?categoryId=109440>

³⁶ See http://forum.europa.eu.int/irc/DownLoad/kdeyAJJRmqGDugKODDPT7s2wPb2l01zu3GdZSzJ4AF222QEqBjGv3Nd2lDqs12dFFVroUpoo2yLiBbk0dUzH4_NH_2wYReCS/Autoridade%20da%20Concorr%Eancia.pdf

General process of consulting and hearing interested parties

The aforementioned draft decision was likewise subject to the general procedure for prior consultation envisaged in section 1 of article 57 of the same Law and in section 3 of the “ICP-ANACOM Consultation Procedures”, approved by determination of 12 February 2004, and to the hearing of interested parties, in compliance with the provisions of articles 100 and 101 of the Code of Administrative Procedure³⁷.

These consultation and hearing processes took place from 12 March 2004 to 26 April 2004; ICP-ANACOM received replies from four entities:

- GRUPO PT;
- ONITELECOM;
- NOVIS TELECOM;
- COLTEL.

Regarding the retail markets, the main objections presented by the respondents, specifically the Grupo PT, were as follows:

- ICP-ANACOM did not take into account the competitive pressure exercised by the mobile services;
- The existing level of competition in the major business customer segment was not considered;
- Dynamic factors specifically related to the introduction of new technologies and services were not considered.

Regarding the wholesale markets, specifically the termination market, the main criteria presented (by the new operators) were the following:

³⁷ See <http://www.anacom.pt/template15.jsp?categoryId=102680>

- The decision was solely based on the market shares criterion;
- Existing differences between prices practiced by the new operators and those offered by PTC are explained by economic factors;
- The historic operator has counter-power as a customer of termination services;
- The new operators are not able to act independently of their competitors.

Under the terms of paragraph d) of section 3 of the “ICP-ANACOM Consultation Procedures”, approved by determination of 12 February 2004, a Consultation report was drafted containing reference to all the replies received and an overall view that reflects this Authority’s understanding of same³⁸.

In the wake of those processes, and by determination of 20 May 2004, ICP-ANACOM approved the consultation report and the draft measures³⁹. These draft measures took into consideration the replies to the public consultation and the opinion of the National Competition Authority.

The previously presented conclusions on the definition of relevant markets and the evaluation of SMP were not changed.

Specific consultation process: notification of draft measure to the European Commission and to the National Regulatory Authorities

On 20 May 2004 the ICP-ANACOM Board of Administration likewise approved making available to the national regulatory authorities of the other Member States and to the European Commission the proposed measure, in accordance with article 57 of Law no. 5/2004 of 10 February. This procedure is associated to the harmonisation and construction of a single market.

The notification was effected on 26 March 2004⁴⁰.

³⁸ See <http://www.anacom.pt/template15.jsp?categoryId=102680>

³⁹ See <http://www.anacom.pt/template12.jsp?categoryId=124579>

⁴⁰ See <http://forum.europa.eu.int/Public/irc/infso/ecctf/library?l=/portugal/registeredsnotifications&vm=detailed&sb=Title> [Cases PT/2004/0053 to PT/2004/0061].

The notification was drafted in accordance with the precepts contained in the Commission Recommendation on notifications, deadlines and prior consultations⁴¹. As stated in the said Recommendation, the draft measures and respective grounds are accompanied by summarised notification forms.

In the context of this consultation process, the Commission may ask the national regulatory authority to withdraw the proposed measure whenever it considers that same creates barriers to the internal market or when they are incompatible with community law and with the regulation's objectives.

Any other comments produced in this context by the Commission or by the other Member States' national regulatory authorities should be taken into account by the notifying Regulatory Authority.

In the cases of nine notifications presented by ICP-ANACOM, the European Commission did not make any objections or comments.

In a communication addressed to the ANACOM Board of Administration, dated 25 June 2004, the Commission states that^{42,43}:

"The Commission studied the notifications... and has no comment... ANACOM may approve the resulting proposed measure; whenever it proceeds in this manner it shall communicate this fact to the Commission".

This was the first time since the beginning of this process that a draft measure notified by a member country's national regulatory authority was not subject to any remark on the part of the European Commission. (Of the first 77 notifications, only the nine notifications by Portugal were not subject to comments).

The regulators from the other member States likewise did not express any objection to the measure taken.

Final approval of the measures and notification

⁴¹ See <http://www.anacom.pt/template20.jsp?categoryId=72843&contentId=118251>.

⁴² See http://forum.europa.eu.int/irc/Download/kweyA6JAmoGUdfOO1r0B_GZ-pHre0Ee-db5DrlpgiftlpwltD4GRcD2r6RfY6Sctuh4lGr00GdUdHXkRfQc0wuQE0Yl/SG-Grefe%202004%20D202508.pdf

⁴³ See <http://forum.europa.eu.int/irc/Download/kde-A-JHmqGHvj72tqrnbNFgUIKIUH3t3p1Lr0Z461HDUpIZHwDzLP0-gKfcKEfltTT2OUQDqRf-V7foD4s3KhZPnFx/PT2004%200053-0059%20pt.pdf>

Final approval of the measures took place on 8 April 2004. The interested parties, EU National Regulatory Authorities and the European Commission were next notified of the measures.

Imposition of obligations

The draft decision on the imposition of obligations on entities with SMP that operate in this market was approved by the ICP-ANACOM Board of Directors on 15 July 2004 and will next be subject to the general and specific consultation processes.

1.10.2 Other markets

Regarding the other market groups identified above, the following tasks were pursued:

- Markets 7 and 11 through 14 (markets for leased lines, LLU, broadband)
 - Preliminary public consultation – 23.09.2003-25.07.2003⁴⁴
 - Information gathering – 06.11.2003⁴⁵
- Markets 15 and 16 (markets for mobile services)
 - Information gathering – 01.03.2004-15.03.2004⁴⁶
 - Preliminary public consultation – 23.09.2003-25.07.2003⁴⁷

The table below shows the planned calendar for the remaining actions associated to these markets.

The analysis of market 17 (roaming) and 18 (television broadcasting) will begin in September.

⁴⁴ See <http://www.anacom.pt/template15.jsp?categoryId=79670>

⁴⁵ See <http://www.anacom.pt/template12.jsp?categoryId=83870> and <http://www.anacom.pt/template12.jsp?categoryId=83871>

⁴⁶ See <http://www.anacom.pt/template12.jsp?categoryId=102259> .

⁴⁷ See <http://www.anacom.pt/template15.jsp?categoryId=79670>

ICP-ANACOM Market Analysis Programme

	Markets 1-6 and 8-9 Def. Mark. + SMP	Markets 1-6 and 8-9 Obligations	Markets 11 and 12 (LLU+BB)	Markets 15-16 (mobile)	Markets 7 and 13-14 (lines)
1. Preliminary consultation	30.05.2003-25.07.2002	30.05.2003-25.07.2003	01.03.2004-15.03.2004	06.04.2004-29.04.2004	23.09.2003-25.07.2003
2. Information gathering	12.06.2003-15.07.2003	-	01.03.2004-15.03.2004	01.03.2004-15.03.2004	06.11.2003-31.12.2003
3. Pre-notification	25.02.2004	07.07.2004	07.07.2004	07.07.2004	Sep-04
4. Approval of draft decision	08.03.2004	15.07.2004	Jul-04	Apr-04	Sep-04
. Definition of relevant market	08.03.2004	-	Jul-04	Apr-04	
. Evaluation of SMP	08.03.2004	-	Jul-04	Apr-04	
. Imposition of obligations	-	15.07.2004	Jul-04		
5. General consulting process (market), hearing of interested parties and opinion of the Competition Authority	12.03.2004-26.-2004	Jul-04	Jul-04/Aug-04	Jul-04	Sep-04
6. Approval of draft measure	20.05.2004	Aug-04	Sep-04	Jul-04/Aug-04	Nov-04
7. Specific consultation process (EC and other NRAs)	26.05.2004-26.06.2004	Aug-04/Sep-04	Sep-04	Aug-04/Sep-04	Nov-04
8. Approval and final notification of measure	08.07.2004	Sep-04/Oct-04	Oct-04/Nov-04	Sep-04/Oct-04	Dec-04

2. REGULATION OF POSTAL SERVICES

Following is described ICP-ANACOM's activity regulating the postal services markets during the year 2003.

2.1 Universal service

According to Law no. 102/99 of 26 July, the State is responsible for assuring the existence and availability of universal service, understood to be a permanent supply of postal services of a specified quality, provided throughout national territory, at prices affordable for all users, aiming to meet the communication needs of the population and of economic and social activities.

The provision of universal service was granted to CTT-Correios, S.A., by means of a contract.

With the aim of guaranteeing affordability and service quality, along with provision of the service throughout national territory, a set of obligations were imposed upon that company, as described below.

Affordability

Price setting for each of the services comprising universal service obeys the principles of orientation to costs, non-discrimination, transparency and affordability for all users. The rules for formulating the prices of the postal services comprising universal service are subject to the convention to established between the regulatory authority, the Directorate General of Commerce and Competition and the operator.

Under the Price Convention for Universal Postal Service, signed on 21 December 2000 and valid for the period between 1 January 2001 and 31 December 2003, a second Addendum to the said Convention was negotiated over the course of 2002, concerning the price regime for non-reserved services included in the universal postal service in effect in 2003; it was signed in 2003⁴⁸.

⁴⁸ <http://www.anacom.pt/template12.jsp?categoryId=53230> .

ICP-ANACOM decided while still in 2002 not to oppose the entrance into force of the price regime for the services included in universal postal service proposed by the CTT – Correios de Portugal, S.A., to be in effect in 2003 (determination of 6 December 2002).

The Consumer Institute and the consumer representative organisations were asked to comment on the proposed price regime for non-reserved services in effect in 2003. They were provided for their information a copy of the proposed price table submitted by the CTT – Correios de Portugal, S.A.

A new Universal Postal Service Price Convention was negotiated in 2003 and signed on 20 January 2004. It is valid for the period between 20 January 2004 and 31 December 2005.

Regarding the evolution of prices, a study carried out by ANACOM was published on its website in March 2003. It concerned the prices for the services of priority mail (*correio azul*) and normal mail (non-priority), according to which the price basket for these service diminished in real terms from 1989 to 2003. Comparing the national and international base tariff (tariffs for normal letters weighing up to 20 grams) values practiced in the European Union member States, the study concluded that the average prices in Portugal continued to be lower than the average prices practiced in the European Union, for both priority and non-priority mail.

Cost Accounting System

According to the Price Convention, CTT – Correios de Portugal, S.A., must maintain a cost accounting system that allows determination of the costs associated to each service.

In this context, the cost accounting system for financial year 2002 was audited in 2003. The respective conclusions, as well as the statement of conformity of the system and the results obtained, were approved in 2004 (determination of 8 January 2004). This audit by an independent entity concluded that in all materially relevant aspects the system complied with the applicable regulatory provisions, despite the fact that ANACOM had determined that some situations identified during the audit needed to be improved.

Quality of universal postal service

The parameters and minimum service quality levels associated with the provision of universal service are set by the convention established between the regulatory body and the universal

service provider. The said parameters and quality levels are compatible with the quality standards set at community level for intra-community services and for the remaining international services. Independently of the universal service provider, the regulatory entity assures control of the effectively provided service quality levels; the results must be the subject of a report published at least once a year.

The Universal Postal Service Quality Convention valid for the period between 1 January 2001 and 31 December 2003 was signed on 21 December 2000. An Addendum to this Convention was subsequently signed on 21 January 2001, concerning parameters and service quality levels for intra-community cross-border mail.

A new Universal Postal Service Quality Convention was negotiated in 2003 and signed on 20 January 2004; it is valid for the period between 20 January 2004 and 31 December 2005.

Under terms of the provisions of the said Quality Conventions, ICP-ANACOM must quarterly monitor the quality of service indicators (QSIs) and evaluate compliance with same at the end of each year, namely by carrying out audits.

The quality of service indicators and the claims system of CTT – Correios de Portugal for 2002 were thus audited in 2003. The respective conclusions were approved and later published on the ICP-ANACOM website. Regarding the quality of service indicators QSI2, QSI4, QSI6 and QSI7 the audit concluded that their conformity and reliability of calculation were assured. However, regarding the indicators QSI1, QSI3 and QSI5 conformity is not assured, as the information in the respective databases does not reflect with a confidence level equal to or greater than 90 percent the information in the support objects for calculation of same, regardless of whether the identified differences do or do not have any impact on the indicator's calculation⁴⁹; the claims

⁴⁹ Evaluation of the quality of service indicators is supported by analysis of results of the following activities: (i) calculation of the indicator for the entire test population; (ii) evaluation of the statistical matrix's representation compared to the real population; (iii) evaluation of the test population's representation compared to the statistical matrix; (iv) analysis of the information's consistence and integrity; (v) analysis of conformity between the physical support and the information registered in the database; (vi) calculation of the values that originated compliance with the CTT's quality of service indicators, in accordance with the Universal Postal Service Quality Convention. The information registered in the respective databases for each indicator is the support for calculation of the QSIs. In this context, the following evaluation methodology was agreed upon: A sample of 114 objects was chosen to evaluate conformity between the information in the electronic support (database) and the respective physical support. The aim of this comparison was to confirm that the information in the respective databases correctly reflected the characteristics of the physical object. The statistical model adopted stipulated that for percentages of error of less than 5% in the objects selected for the sample (114) it could be inferred that for the population the error percentage would not exceed 10% (i.e., that the information in the databases reflects, with a confidence level equal to or greater than 90%, the information in the physical objects). This percentage thus corresponds to the maximum tolerated value of error to allow information in the support database for the calculation of the respective indicators to rigorously transmit the information from the test objects.

system does not have an appropriate level of reliability and precision, vis-à-vis both the reported values and the analysed data – for this reason its conformity is not assured. The decision following on that audit of the quality of service monitoring system and the claims system of CTT – Correios de Portugal was made in 2004 (determination of 14 April 2004).

Regarding monitoring of the quality of service levels (QSLs) achieved by the CTT – Correios de Portugal in 2003⁵⁰ it was verified that some of the indicators did not achieve the quality of service levels applicable in this year. Indeed, the CTT did not meet the minimum values set for “Time routing priority mail (D+1)”, “Time routing normal package (D+3)” and “Time waiting in line at post offices (average)”. On the other hand, while meeting the minimum values, the objective values set for “Time routing normal mail (D+3)”, “Priority mail not delivered in 10 working days” and “Time waiting in line in post offices (peak hour)” were not reached.

Thus, by determination of 14 April 2004, ICP-ANACOM decided to apply to the CTT – Correios de Portugal, S.A., once the company had been heard, the penalty envisaged in article 5 of the Universal Postal Service Quality Convention for the 2001-2003 period, which implies a deduction of 1 percent from the limit of the average annual weighted variation for reserved postal services in effect in 2004. As a consequence, CTT was ordered to submit to ICP-ANACOM within 10 days after said determination a new price table proposal for reserved services, whose conformity with that determination was duly verified by the regulator.

Concession contract for universal postal service – development goals of the public postal network

The development goals of the public postal network are established between the ICP and the concessionaire by convention.

After consultation of the interested parties, the audit report on the development goals of the public postal network and the minimum service provisions, containing the results of same and ICP-ANACOM’s understanding on the questions asked (determination of 29 May 2003)⁵¹ was approved. ICP-ANACOM subsequently began negotiations to sign the convention, and to that end asked the CTT to quantify the indicators proposed by ICP-ANACOM. A quantification proposal submitted by the CTT was received on 26 February 2004.

In this context, given the sample errors of above 5% it is not possible to conclude positively on QSI conformity, as this circumstance is an alteration of the minimum and maximum value of the percentage of error for the population compared to the interval defined in the statistical model used, which was between 0% and 10%.

⁵⁰ Detail in the point on Postal Services in the chapter on “The Situation of Communications”.

⁵¹ <http://www.anacom.pt/template12.jsp?categoryId=91740> .

Creation and closing of postal establishments and schedule changes

According to section 2 of Base 20 of the Universal Postal Service Concession, as per the reading introduced by Decree-Law no. 116/2003 of 12 June, the concessionaire is responsible for the following, upon favourable prior opinion from ICP-ANACOM:

- a) The creation and closing of postal establishments;
- b) Changing the working hours of postal establishments, taking into account the service needs and levels of demand.

Under section 3 of the same Base the CTT must notify ICP-ANACOM of any determinations made with regard to the creation, closing or changing of the working hours of postal establishments. In cases of closing or reduction of stations' working hours, such notification must be made at least two months before the date in which each determination should take effect; ICP-ANACOM may oppose realisation of the determination by communicating same to the CTT.

This communication to the CTT should be accompanied by the corresponding grounds, specifically with regard to the service's needs, the levels of demand and satisfaction of the population's communication needs and those of economic activities (section 4).

Prior to the entrance into force of the said Decree-law no. 116/2003, the creation and increased work hours of postal establishments also required a favourable opinion from ICP-ANACOM.

In this context, some 76 notifications were received from the CTT in 2003, as broken down in the following table:

CTT Notifications in 2003

DESIGNATION	CTT Notifications in 2003
Change of working hours of postal establishments	23
Closing of postal establishments	6
Closing of post offices and their replacement by mail points ⁵²	45
Creation of postal establishments	2

⁵² Post offices (*estações de correio*) are held by the CTT, while mail points (*postos de correio*) are managed by third parties under the CTT's responsibility.

TOTAL	76
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ANACOM's criterion for the population and taking into account the provision of universal service has consisted of not expressing opposition to change communicated by the CTT, as long as same is duly grounded and has been agreed to by the respective neighbourhood and municipal councils.

2.2 Liberalised area

In Portugal and as per the terms envisaged in the community context, taking into account the European single market in accordance with Directive no. 2002/39/EC of 10 June, transposed into national legislation in 2003 by the publication of Decree-Law no. 116/2003 of 12 June, plans call for the continued gradual and progressive liberalisation of the postal services market, modifying the scope of reserved services while at the same time maintaining the guarantees necessary for the public interest.

The new regulatory framework in force in Portugal since publication of the aforesaid Decree-Law envisages the following schedule until 1 January 2009, aiming for the opening to competition of market segments that are still reserved:

- Until 2006, liberalisation of correspondence weighing more than 100 grams and with price above three times the reference tariff (priority mail – *correio azul* – in Portugal);
- From 1 January 2006 until 2009, liberalisation of correspondence weighing more than 50 grams and with price above two and a half times the reference tariff;
- Maintenance in both phases of outgoing international mail and direct mail in the reserved area;
- Eventual total liberalisation from 1 January 2009.

As a result of this evolution, the number of operational providers has increased in Portugal; at the end of 2003 there were 14 active and qualified entities in this market segment, some of them operating in contiguous markets such as merchandise transport.

Detailed study of this market's evolution is undertaken in the chapter on the situation of communications.

3. SPECTRUM PLANNING, MANAGEMENT AND SUPERVISION

The management of radio spectrum, involving planning and the associated compatibility studies, the allocation of spectrum resources by means of radio licences and their supervision, is among ICP-ANACOM's responsibilities. Activities were carried out in various aspects of this area in 2003.

3.1 Planning and compatibility studies

At planning level and deriving from the new community framework new spectrum management concepts were introduced that in 2003 merited particular attention and which concern "spectrum usage rights" and "secondary spectrum trading".

Although these notions have been considered in the new legislation – Law no. 5/2004 of 10 February – they still warrant thorough study to consolidate them and determine the impact of their implementation in both the communications market and on spectrum management.

These studies were launched in 2003 at both national and community level, with a first outline of possible scenarios. This work continues to be developed and should be consolidated in 2004.

The following is also noteworthy at the level of planning and compatibility studies:

Frequency Publication

With the main goal of ensuring transparency in the conditions for effective market competition with regard to radio spectrum access, ICP-ANACOM approved and published the "Publication of Frequencies for the 2002-2003 period". This document identifies the frequencies allocated until 30 September 2002 and the frequency bands reserved for 2003, for use by the operators of public telecommunications networks, public telecommunications service providers and holders of private telecommunications networks, besides defining the frequency allocation modes for the different entities.

This publication also includes the spectrum uses that are exempt from radio licence, of which low power short range stations stand out, among others.

Wireless local area networks (WLANs)

The recent proliferation of SRD applications in the 2.4 GHz band and the demand for public usages of WLAN technology will tend to increase saturation of the 2.4 GHz band, with impact on the quality of service.

Under these conditions it was held to be vital to provide more spectrum for such applications, as among other factors it is a necessary condition for satisfactory performance in the presence of other non-co-ordinated users, and is one of the key conditions for market acceptance of such applications.

The expected upsurge of the WLAN market led regulatory bodies to seek new frequency bands for the implementation of WLAN, such as 5 GHz, for example.

The studies resulted in identification of the 5150-5350 MHz and 5470-5725 MHz frequency bands for WLAN use. (This matter was also subject to a WRC03 decision). Nevertheless, the DFS specification work that includes a mechanism to detect radio systems in the same channel, thus preventing interference, was under development, and industry was unable to produce equipment that complied with the relevant CEPT Decision.

SAP/SAB applications

New frequency bands were identified and the current ones re-planned to accommodate SAP/SAB video connections in Portugal, particularly wireless cameras, portable and mobile SAP/SAB video connections and temporary point-point SAP/SAB digital video connections, used for direct transmissions of reports or events.

SRR applications

Under the eSafety programme to improve road safety in Europe, the European Commission has considered that the utilisation of automotive short range radars (SRRS) using broadband technologies, to be installed in new vehicles in the future, is of major importance for the reduction of road accidents.

To pursue this goal the European Commission mandated CEPT to harmonise spectrum use for these short range radar systems.

To fulfil this mandate a solution was developed with identification of a permanent band (77 GHz) to be used in the long term for SRR in Europe, and an interim 24 GHz solution to allow the advance introduction of SRR equipment. This solution envisages a transfer mechanism that guarantees that all systems should function in 77 GHz in the medium/long term.

CDMA2000 systems

With the aim of facilitating this technology's implementation for Trunking Mobile Services (TMS), studies were undertaken of compatibility between CDMA2000 systems and other systems in the 450 MHz band (TETRA, NMT450).

The first phase of the study on the relationship between traffic flow capacity and the number of RF channels needed for CDMA systems and other systems meant for TMS was also begun.

Fixed Service

Software applications were developed to implement models for propagation and the determination of fading margins in the context of fixed service.

DVB-T

At the level of digital television network planning, beyond the necessary negotiations with the Spanish administration, various studies and efforts were undertaken as part of national preparations for the first session of the Regional Conference (RRC04). Note that this Conference will revise the 1961 Stockholm Plan currently in force and draft new plans for the introduction of digital television in Europe, Africa and other Arab countries. This plan will form the framework for television development in upcoming decades.

Digital audio broadcasting – DRM System

Regulatory conditions were established to allow regular transmission of digital audio broadcasting – DRM (Digital Radio Mondiale) system – to begin in Portugal.

Satellite radio-determination – Galileo system

In the wake of the decisions made at WRC-2000 and WRC-03 on the allocation of frequency bands and the respective regulatory framework applicable to such systems, a group (GLS) was formed comprising the ITU-R notifying administrations vis-à-vis this future system, in which Portugal has participated.

This group accompanies the regulatory developments stemming from European Galileo notifications and co-ordinates European intervention in technical co-ordination meetings (in a global context) between the notifying administrations for all satellite radio-determination systems.

There is in this phase a proposal to create an MoU to formalise the group.

The following stand out with regard to established agreements on national and international frequency co-ordination:

Co-ordination with the Spanish administration

In order to plan and resolve interference a co-ordination meeting is held annually with Spain, to define the rules governing the two countries' spectrum usage with the aim of preventing interference in the various radiocommunications services.

A meeting to co-ordinate spectrum frequencies between Spain and Portugal was thus held in Madrid in January 2003, during which various cases of interference were studied; rules of procedure were also approved and agreements made on co-ordination of frequency use by stations and networks involving the following radiocommunications services:

- Digital audio broadcasting service (T-DAB)
- Digital television broadcasting service (DVB-T)
- Audio broadcasting service in modulated frequency

- Analogue television broadcasting service
- Land Mobile Service
 - o private networks
 - o GSM system
 - o UMTS system
- Fixed Service
 - o point-multipoint connections (FWA)
 - o point-point connections
- Satellite radiocommunications services

Agreement on the JTIDS/MIDS system

Co-ordination work continued with the aim of drafting an agreement between the Armed Forces General Staff/Communications and Information Systems Division (EMGFA/DICSI), the National Civil Aviation Institute (INAC) and the ICP-Autoridade Nacional de Comunicações (ICP-ANACOM) in order to allow the Portuguese Armed Forces and allies to use JTIDS/MIDS (Joint Tactical Information Distribution System/Multifunctional Information Distribution System) systems in Portugal installed in aerial, naval or land platforms, operating in the 960-1215 MHz frequency band.

That Agreement means to create necessary and sufficient conditions for rational use of JTIDS/MIDS system networks in airspace assigned to Portugal's responsibility. Thus, by delegation from the EMGFA/DICSI, the Portuguese Air Force (FAP) will have the flexibility and freedom of action needed to programme the means, strictly obeying the applicable conditions and terms, particularly regarding the need to safeguard the security of air traffic services; it will also gain possession of an instrument that will speed the whole process of obtaining the authorisations needed to use the JTIDS/MIDS system in Portugal, improve the co-ordination procedures and facilitate contact between interested parties.

3.2 Management and Supervision

3.2.1 Radio licensing

In wake of the publication of Decree-Law no. 151-A/2000 the update and corresponding publication of the Notice in the *Diário da República*, 3rd series, no. 168, of 23 July 2003 took place, with indication of the radiocommunications stations and/or networks that required a radio licence as well as those exempt from licence and radio fees.

In this area, ICP-ANACOM assured in 2003 analysis of the licensing processes, including the assignment of frequencies, with the aim of issuing network and station licences for the various radiocommunications services, particularly for the areas of land mobile service (private networks and public networks), fixed service (especially fixed service by radio relay system) and broadcasting service (audio and television).

ICP-ANACOM's activities in this area consisted of licensing networks and stations split among the various radiocommunications services, as shown below:

New licences (2003)

Radiocommunications Service		Registration of New Stations	New Licences	
			Station	Network
Amateur	Amateur	255	255	-
Mobile	Land – Private Networks	251	-	203
	Land – Public Networks (GSM)	437	-	0
	Land – Public Networks (UMTS)	0	-	0
	Land – Trunking	10	-	1
	Maritime	30	30	-
	Aeronautic	11	11	-
Fixed	Point-Point Connections	1266	-	59
	Point-Multipoint Connections	58	-	4
	Studio Connections – Transmitter	200	-	60
	Transportable Beams	0	-	0
Broadcasting	Audio (Analogue)	41	41	-
	Audio (Digital)	10	-	1
	Television (Analogue)	33	33	-
Satellite	Fixed by Satellite	15	15	-
	Very Small Aperture Terminal	7	-	3
	Satellite News Gathering	9	9	-

	Earth Exploration by Satellite	0	0	-
	Mobile by Satellite	1	1	-
Radiodetermination	Land Radiodetermination	0	0	-
Radionavigation	Maritime	0	0	-
	Aeronautic	0	0	-
Radiolocalisation	Weather Application	0	0	-

Sources: ANACOM

Modification and renewal of radio licences (2003)

Radiocommunications Services		Modified Licences	
		Station	Network
Amateur	Amateur	753	-
Mobile	Land – Private Networks	-	798
	Land – Public Networks (GSM)	-	18
	Land – Public Networks (UMTS)	-	0
	Land - Trunking	-	1
	Maritime	809	-
	Aeronautic	253	-
Fixed	Point-Point Connections	-	193
	Point-Multipoint Connections	-	14
	Studio Connections – Transmitter	-	162
	Transportable Beams	-	0
Broadcasting	Audio (Analogue)	356	-
	Audio (Digital)	-	1
	Television (Analogue)	24	-
Satellite			

	Fixed by Satellite	30	-
	Very Small Aperture Terminal	-	24
	Satellite News Gathering	11	-
	Earth Exploration by Satellite	1	-
	Mobile by Satellite	3	-
Radiodetermination	Land Radiodetermination	31	-
Radionavigation	Maritime	0	-
	Aeronautic	12	-
Radiolocalisation	Weather Application	0	-

Source: ANACOM

Modification of stations' technical parameters (2003)

Radiocommunications Services		Modified Stations
Amateur	Amateur	753
Mobile	Land – Private Networks	781
	Land – Public Networks (GSM)	293
	Land – Public Networks (UMTS)	0
	Land – Trunking	1
	Maritime	395
	Aeronautic	215
Fixed	Point-Point Connections	2707
	Point-Multipoint Connections	51
	Studio Connections – Transmitter	48
	Transportable Beams	0
Broadcasting	Audio (Analogue)	197
	Audio (Digital)	94
	Television (Analogue)	98
Satellite		

	Fixed by Satellite	12
	Very Small Aperture Terminal	18
	Satellite News Gathering	2
	Earth Exploration by Satellite	0
	Mobile by Satellite	1
Radiodetermination	Land Radiodetermination	87
Radionavigation	Maritime	0
	Aeronautic	0
Radiolocalisation	Weather Application	0

Source: ANACOM

Computer System (PLAGE) – Diverse modifications

Radiocommunications Services		Diverse Modifications No. of Requests
Amateur	Amateur	1922
Mobile	Land – Private Networks	538
	Land – Public Networks (GSM)	51
	Land – Public Networks (UMTS)	0
	Land – Trunking	2
	Maritime	112
	Aeronautic	31
Fixed	Point- Point Connections	377
	Point-Multipoint Connections	10
	Studio Connections – Transmitter	37
	Transportable Beams	3
Broadcasting	Audio (Analogue)	243
	Audio (Digital)	8
	Television (Analogue)	39

Satellite	Fixed by Satellite	1
	Very Small Aperture Terminal	1
	Satellite News Gathering	14
	Earth Exploration by Satellite	1
	Mobile by Satellite	0
Radiodetermination	Land Radiodetermination	1
Radionavigation	Maritime	0
	Aeronautic	4
Radiolocalisation		
	Weather Application	0

Source: ANACOM

Also noteworthy in the licensing scope are the following:

Euro 2004

Procedures were established and specific computer tools developed for the temporary licensing of radiocommunications stations and networks to be used during the 2004 European Football Championship. These tools will allow users to directly request licences for their stations and networks by electronic means.

Publicity actions were also undertaken to this end; potential users were informed of the national requirements for licensing this type of networks and stations.

SIRESP System

Procedures were adopted for the licensing of radiocommunications networks for emergency and security communications and the process of licensing emergency and security networks was begun, with the aim of future inclusion in the Integrated System of Portuguese Emergency and Security Networks (SIRESP).

Radio interfaces

The technical specifications of radio interfaces regarding radiocommunications equipment were updated.

3.2.2 Price Table

Decree-Law no. 151-A/2000 of 20 July established the applicable regime for the licensing of radiocommunications networks and stations, and oversight of the installation of said stations and the use of radio spectrum, including the principles applicable to radio fees, protection against exposure to electromagnetic radiation and radiocommunications infrastructure sharing.

With Administrative Rule no. 667-A/2001 of 2 July, and following on the publication of Decree-Law no. 151-A/2000, the radio fees were modified so as to gradually reflect an increasingly greater adjustment between the burden they represent for radio licence holders and the benefit the latter gain from the use of radiocommunications stations and networks, likewise promoting more efficient use of the radio spectrum.

In this regard, continuing the said transition process which according to a new methodology will be extended in stages to all categories of radiocommunications services, some modifications to the price table were proposed in 2003 and reflected in Administrative Rule no. 149-B/2004, published on 12 February, and which are worthy of note.

The values of the public radiocommunications fees in the scope of land mobile service were thus modified.

The radio fees applicable to stations for digital audio broadcasting service by terrestrial means functioning in the LF (long wave), MF (medium wave) and HF (short wave) bands were incorporated.

Also, the radio fees applicable to multi-user mobile service stations and networks were suppressed, along with paging service, as these services were no longer available.

The usage fees applicable to auxiliary broadcasting services (audio and video connections) for cases of temporary licences to be granted for the 2004 European Football Championship were also included.

Finally, regarding FWA, the pricing regime included in Administrative Rule no. 465-A/99 of 25 June was kept in force and expanded to the frequency bands to which same is applicable. Note that the applicable regime for FWA systems is currently being revised.

3.2.3 Spectrum management information systems

Integrated Spectrum Management System - SIGE

The Integrated Spectrum Management System known as SIGE comprises a set of software tools for the various existing radiocommunications services and a digital on-the-ground information database.

This system plays a vital role in such important areas as spectrum planning and management, licensing, monitoring, co-ordination between administrations and ITU notification.

SIGE was in the final implementation phase in December 2002. The year 2003 saw the start of testing of interfaces for the licensing database (PLAGE) with the calculation tools for the various radiocommunications services (GSM, radio-relay system, DVB-T, for example), as well as adjustment of PLAGE and the calculation tools to enable their effective integration.

After the final acceptance in July 2003 of the calculation tools for the various radiocommunications services, the first phase of the SIGE project was completed in November 2003, with provision of the respective interfaces with the licensing database (PLAGE) and its adaptation, and the calculation tools to enable its effective integration.

Licensing database - PLAGE

In order to implement the current legal framework ICP-ANACOM developed a new spectrum planning and management tool – PLAGE – which ensures the necessary flexibility, specifically by supporting the calculation of spectrum usage fees according to new methods. The registration of all the administrative information of users of radiocommunications systems and the technical parameters that characterise radio stations and networks is also carried out by this database.

In this context, and after procedures and parameters had been established to enable it to support the price table applicable to land mobile service – private networks, PLAGE was further adapted in 2003 for the radio licensing of services previously not included, namely radiodetermination service.

Electronic licensing

ICP-ANACOM is likewise working on a project that aims to provide in web environment automatic means for users vis-à-vis radio licensing, frequency allocation and the simulation of spectrum usage fees. This action was begun in 2002 with a target of 2004, and particularly depends on the technical possibilities (integration of calculation systems, geographic database, PLAGE, development of interactivity models and verification of security aspects) and the study of legal issues.

3.2.4 Protection of radiocommunications stations and networks

Context

Due to the responsibilities assigned it by Decree-Law no. 151-A/2000 of 20 July, and consequent to the licences and authorisations it grants for the functioning and use of radiocommunications stations and networks, ICP-ANACOM is obliged, in order to safeguard their workability and operation, to ensure that the said stations and networks have the necessary and possible protection allowing them to pursue their objectives.

Complementary to this, and as per associated legislation, ICP-ANACOM has the following obligations:

- Under terms of Decree-Law no. 597/73 of 7 November, it must follow up on requests to constitute radio rights of way to protect radiocommunications centres and fixed radio connections assured by radio relay system, preparing the corresponding administrative processes and respective draft instruments, for approval or revocation by the Tutelary entity and consequent publication in the *Diário da República*;
- Also in the scope of the same instrument or measures deriving therefrom it must study requests for opinion requested by local governments or developers of urbanisation projects, concerning municipal master plans, buildings or similar constructions whenever the former are in approval, revision or detailing phase and the latter in review phase for issuance of the corresponding building permit, exercising influence on the areas of clearance and removal as defined in the applicable instruments;
- In process of definition in the scope of the study or environmental impact assessment, under terms of Decree-Law no. 69/2000 of 3 May, joined with

the provisions of Decree-Law no. 597/73, it must study projects concerning the establishment of aerial high tension lines and the implementation of wind power complexes, in order to issue the opinions requested by the entities involved, namely the Institute of the Environment;

- In Municipal Licensing processes concerning the installation of support infrastructures for radiocommunications stations and respective accessories, under the provisions of Decree-Law no. 11/2003 of 18 January, it must study the opinion requests solicited by local governments vis-à-vis municipal authorisations for the installation of radiocommunications stations;
- In process of licensing by the Directorate General of Geology and Energy, as per section 5 of part 2 of Annex 2 of Decree-Law no. 312/2001 of 10 December, joined with the provisions of Decree-Law no. 597/73 of 5 November, it must study projects involving the establishment of wind power complexes and respective electric power transport lines, so as to issue the opinions requested by the entities developing the said wind power complexes;
- In the analysis of projects to implement wind power complexes, given their potential ability to disturb radiated electromagnetic fields, especially in signals involving analogue television broadcasting, which specific studies carried out under the auspices of the International Telecommunications Union (ITU) have shown to be due basically to the movement of the power generators' rotors, a number of measures of a preventive nature have been adopted. Prior technical inspections have been carried out at selected sites, so as to indicate to their developers the existence of radiocommunications stations installed in the locations under analysis, explicitly television broadcasting service stations, so as to prevent or minimise the appearance of such disturbances.

In this context, the following cases were studied within ICP-ANACOM during the year 2003:

- a) 6 cases concerning the revocation of rights of way;
- b) 51 opinions concerning the revision of Municipal Master Plans;
- c) 69 opinions concerning buildings and urbanisation projects;
- d) 10 opinions concerning the study and/or evaluation of environmental impact, vis-à-vis the establishment of High Tension Aerial Lines;
- e) 30 opinions concerning the study and/or evaluation of environmental impact, vis-à-vis the establishment of Wind Power Complexes;

- f) 76 opinions concerning the implementation of Wind Power Complexes;
- g) 55 opinions concerning the installation of radiocommunications stations;
- h) 144 ongoing cases involving rights of way;
- i) 8 other cases.

3.2.5 Spectrum monitoring and control (SMC)

Spectrum monitoring and control (SMC) is a part of the frequency management process whose main goals are to oversee the conditions governing the operation of radiocommunications stations and networks, according to current legislation, specifically Decree-Law no. 151-A/2000 of 20 July, and to gather information in the field to aid the activities of spectrum planning and licensing of radiocommunications stations and networks.

Although the core SMC activities are centred on operational activities, the importance of support activities must be stressed, as they ensure that field actions are carried out according to the established rules and that the equipment used is appropriate and in perfect condition.

The activities to equip and technologically modernise technical infrastructures in 2003 is noteworthy.

In this context, acquisition of the following tools was undertaken:

- Update of the SINCRER system, anticipating its technological modernisation and its integration with the SIGE system;
- RF watt-meters for the new radiocommunications services in frequencies above 1 GHz;
- Communications receiver with measurement capacity for the Azores Office.

The bases for future acquisition of the following infrastructures were also launched:

- 2 V and UHF radiogoniometers;
- 2 mobile SMC stations;
- Fixed HF radiogoniometer;

- Test system for DVB-T.

Development continued under the Integrated Monitoring Project, with completion of the report on the Azores Spectrum Monitoring and Control Centre (CMCEA). This report is undergoing internal review to define the hardware platform upon which the software to develop in collaboration with the Telecommunications Institute will run.

Also in this project, and parallel to the aforesaid activities, the following tools were developed:

- Diverse equipment control software modules, among them the remote ESMB receiver command;
- Controller for the rotor and the polarisation selector of the HL007 directive antenna;
- 6 antenna selectors.

Also with regard to the technical management of ICP-ANACOM's SMC systems and equipment, the following activities are worthy of note:

- Equipment calibration:
 - Definition of calibration profiles for new equipment;
 - Calibration of 118 equipment items, of a total of 129 envisaged in the Calibration Plan. Note an increase of 287.8 percent over 2002, when 41 equipment items were calibrated;
- At the level of corrective maintenance of equipment from all the SMC centres, a total of 182 interventions were carried out (243 in 2002), of which only 12 with recourse to human resources outside ICP-ANACOM;
- At the level of preventive maintenance actions were carried out, using specialised companies, on the SINCRER towers and antennas, at the Barcarena Centre and at the North Office Centre.

From the operational aspect of SMC, and although the active structure has a significant reactive component, i.e., based on claims/requests, periodic monitoring campaigns have been undertaken in order to verify whether the operation of stations and networks complies with the legislation in force and specifically with the conditions imposed in the licences for radiocommunications stations and networks.

About 900 actions were carried out in the field in 2003, with almost all of them involving trips to the operating sites of the radiocommunications stations and networks. Nearly 50 percent of the situations were originated by claims over interference (of these about a third correspond to claims from the general public on interference affecting their television reception systems). The remaining 50 percent were basically inspections of radiocommunications stations and networks, with the aim of verifying compliance with the licensing conditions (in these are included verification of compliance with the reference levels for protection of the general public).

The following actions were additionally accomplished:

- Monitoring of the RDS (Radio Data System) and MPX (composed signal) parameters for all audio broadcasting stations operating in band 2 of VHF (commonly known as FM stations);
- Gauging the quality of service of GSM900/1800 networks in the field;
- Detailed investigation of the 406.1-430 MHz band.

Worthy of special attention in SMC activities is harmful interference that affects the following frequencies, channels and stations:

- Aeronautic mobile service (R) frequencies for runway approach, search and rescue, and airport control towers;
- Maritime mobile service call, danger and rescue channels;
- Maritime and aeronautic radionavigation services stations.

Action is based on the principle that it is crucial to eliminate harmful interference as soon as possible, if necessary by using exceptional measures that can include closing down the station originating the disturbance.

About 40 situations of this type were identified in 2003 as originating in national stations; they were quickly resolved after identification of the interfering station.

Nevertheless, when the interfering station is a foreign one, resolution of the interference can take much longer; to that end the Radio Regulation notification procedures are especially significant.

In this context the following were subject to notification in 2003:

- 34 stations potentially interfering with national stations, which were operating in the maritime mobile service and aeronautic mobile service (R), derogated to the RR, complying with the stipulations of Resolution 207 of the RR;
- 4 technical and operational infringements of the RR, which caused harmful interference in national stations, resolved in the meanwhile.

As for international co-operation, besides the nearly 176 situations of exchanging specific information with other international monitoring centres, Portugal in 2003 participated in the international spectrum monitoring system, a regular annual activity overseen by the International Telecommunications Union (ITU); some 444 stations were monitored and 10 RR infringements identified.

Lastly, worthy of note are the technical co-operation actions with Hungary and with the CPLP countries, and the realisation of about 60 actions (recordings and operational verification) involving audio broadcasting stations under the ICS (Media Institute) co-operation protocol.

3.3 Non-ionising radiation

Context

In April 2001 the then ICP decided to adopt reference levels for the population's exposure to electromagnetic fields set in Council Recommendation 1999/519/EC of 12 July, which establishes a table of reference levels and basic limits, and recommends their adoption by the European Union member States. These levels were soon applied as a technical parameter to all radiocommunications stations to be installed under a network or station licence.

This measure was taken under article 22 of Decree-Law no. 151-A/2000 of 20 July on a transitory basis, until said provision should be endowed with the still lacking legislative or regulatory endorsement, i.e., approval of those reference levels by the responsible entities, namely from the health area.

Decree-Law no. 11/2003 of 18 January was published in 2003; modifying Decree-Law no. 151-A/2000, it envisages that those reference levels will be set by joint administrative rule from various ministers.

In derivation from that publication, ICP-ANACOM developed two Draft Regulations:

- Draft Regulation on the procedures to monitor and measure the intensity levels of electromagnetic fields originating in radiocommunications stations, which has already been subject to the public consultation process;
- Draft Regulation that establishes the methodology for monitoring and measuring the intensity levels of electromagnetic fields due to emissions from radiocommunications stations, which will be subject to public consultation in 2004.

Also, with regard to this problem, the Draft Regulation that establishes rules for the identification and signalisation of radiocommunications stations was subject to the public consultation process.

The publication of these regulations depends on publication of the aforementioned joint administrative rule.

Analysis of the effects of non-ionising radiation

The Inter-Ministry Group established by Joint Order no. 8 of 2002 of 7 January from the ministers of Social Infrastructure, Economy, Health, and Science and Technology, on the population's exposure to electromagnetic fields, and which counted the participation of the Autoridade Nacional de Comunicações (ANACOM), completed its work on 7 April 2003.

This working group's Report, which has yet to be approved by the ministers involved, recommends, based on current scientific knowledge, adoption of the reference levels and basic limits contained in the Recommendation of the Council of the European Union no. 1999/5199/EC of 12 July 1999.

It also presents a set of recommendations that aim to enhance protection of the population in general, namely protecting workers and consumers, as well as the operation of medical equipment.

Information to the public in general on non-ionising radiation

The increasing installation of base station antennas for mobile telephones, in self-supported towers or masts atop buildings, has given rise to a high number of clarification requests addressed to ICP-ANACOM about consequences of the population's exposure to the electromagnetic fields generated by those radiating systems.

Analysis of the clarification requests involving radiocommunications stations has shown that in most cases the electromagnetic field values were substantially less than the reference levels in the said Recommendation 1999/519/EC of 12 July.

Given the need to clarify the population in general on how the respective structures work and regarding the fear that such installations are not duly controlled, ICP-ANACOM developed a set of measures meant to promote public awareness about electromagnetic fields caused by mobile telephone base station antennas.

On the one hand, following a previous determination of the then ICP in November 2001, a pamphlet on this issue was produced in 2002. It aimed to explain the technical and legal questions associated to the localisation of antennas and the authorised emission levels for electromagnetic radiation, which are among the most evident concerns of the general public, whether individuals or institutions of various kinds, and sought to answer questions related to ICP-ANACOM's area of intervention.

Divulcation of this pamphlet began in October 2002 when it was published in the ICP-ANACOM website, provided to the public attendance services and distributed as an insert in the October issue of *Spectru*, the monthly bulletin of ICP-ANACOM. The pamphlet was likewise disseminated via the Portuguese Association for the Development of Communications (APDC) and made

available in all post offices of the CTT – Correios de Portugal (nationwide) and in the Citizen Attendance Centres (*Lojas do Cidadão*) in Lisbon, Oporto, Aveiro, Viseu, Setúbal and Braga. The National Association of Portuguese Municipalities (ANMP) also aided its widespread dissemination. Copies were also sent to the Ministries of Health, of Cities, Territorial Planning and Environment, and of Education. In all, nearly 203,200 pamphlets were distributed.

Meanwhile, in February 2002 a section was set up on the ICP-ANACOM website containing detailed information on the problem of exposure to electromagnetic fields. It provides answers to the main questions associated to the installation of radiocommunications antennas/stations, as well as relevant information on the matter, particularly the main measures adopted by ICP-ANACOM. A number of interesting links are also included, among them studies undertaken by other entities, whether national or from other countries and international organisations.

ICP is also working on a theoretical model that analyses for the various radiocommunications services the distribution of electromagnetic field around the antenna, in order to determine for each of these services the distances that obey the maximum electric field values indicated in the said Recommendation 1999/519/EC.

As a next step, and with the help of other tools (SIGE, for example), plans call for the gauging and evaluation of results. This project's evolution may be dependent on conclusions of the aforementioned inter-ministry group on the population's exposure to electromagnetic fields.

Oversight of compliance with the reference levels

ICP-ANACOM has been overseeing the licence-holders' compliance with the reference levels set in Council Recommendation 1999/519/EC of 12 July, acting either on own initiative or due to complaints or claims; the respective non-compliance is an administrative offence punishable by fine under the terms of Decree-Law no. 151-A/2000.

In this regard and until the end of the first quarter of 2004 ICP-ANACOM received some 617 solicitations involving non-ionising radiation, for the study of tangible situations; 533 cases were closed (77 involving teaching institutions), many of them following on-site measurements.

The results obtained indicate, as mentioned above, values at least 50 times less than the power density reference levels in Recommendation of the European Council 1999/519/EC of 12 July 1999. There were 12 exceptions, seven of them resolved in the meanwhile. The remaining situations, where it was not possible to guarantee the 50 times less platform, though

nevertheless complying with the reference levels, were reported to the people or entities who had requested the evaluations.

Characterisation of the procedures and methods for measuring radiation levels

As mentioned above, the Draft Regulation on the procedures involved in monitoring and measuring the intensity levels of electromagnetic fields originating in radiocommunications stations was developed, which will serve as the basis for evaluations of electromagnetic fields emitted by stations of a fixed nature. In the European Committee for Electrotechnical Standardisation (CENELEC) the work of Committee TC106X (human body's exposure to electromagnetic fields), which deals with various aspects of the population's exposure to electromagnetic fields in the frequency band running from 0 Hz to 300 GHz, is being accompanied.

Standing out among the standards produced by this technical committee, under mandate M/305 of the European Commission and in the scope of Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 (concerning radio equipment and telecommunications terminal equipment), are Standard EN50360 – product standard for demonstration of conformity with the basic limits related to human exposure to electromagnetic fields (300 MHz – 3 GHz), and Standard EN50361 – basic standard for measuring the specific absorption rate for human exposure to the electromagnetic fields of mobile telephones (300 MHz – 3 GHz).

The ICP-ANACOM laboratories are studying the possibility of acquiring equipment and enhancing knowledge in this area, to promote implementation of a system to measure the specific absorption rate (SAR) in the head.

4. INSPECTION AND INVESTIGATION, DISPUTES

4.1 Inspection and Investigation

As it is legally incumbent upon ANACOM to oversee compliance by the operators and other providers of services in the communications sector with the laws, regulations and ICP determinations made in the pursuit of its responsibility as the regulatory authority for the communications sector, the actions undertaken in 2003 are summarised below.

4.1.1 Electronic communications

Verification the audiotext service providers' compliance with obligations vis-à-vis the respective registries:

Following on claims submitted by consumers, inspection and investigation actions were carried out to verify how audiotext services were being provided by a given provider, via the access numbers envisaged for that purpose in the NNP, specifically whether same was complying with the provisions of applicable legislation. Irregularities were detected in the service's operation; the corresponding report was drawn up and the case submitted to analysis for litigation.

Oversight of the obligations resulting from the regime for the access and pursuit of the activity of telecommunications, specifically:

Verification of the space conditions in the Permanent Visit Chambers and Conduits of PT Comunicações in Oporto, Matosinhos and Vila Nova de Gaia:

The oversight actions were carried out following claims submitted to ICP-ANACOM by an operator, telling of certain behaviour by PT Comunicações considered to be abusive and damaging to its interests, specifically concerning a substantial reduction in the availability of infrastructure. The actions enabled verification on the ground of the consistence of the allegations by the parties involved; factual information was collected and the corresponding case submitted for internal legal analysis.

Verification of the space conditions for collocation provided by PT Comunicações:

The oversight actions targeted the Carnaxide and Alfragide exchanges. In these actions factual information was gathered for internal analysis.

Verification of the service provision conditions offered via the “118” universal access number, specifically with regard to advertising carried on that information service:

Oversight actions consisted of gathering information on this telephone service. It was verified that the information desired was often provided only after the prior hearing of advertising messages. The way the service was being provided was described and the corresponding case was relegated to internal legal analysis.

Verification of the conditions for the provision of virtual international calling card service:

Various virtual international calling cards were acquired on the market. The cards' mode of functioning and service provision was subsequently studied, along with the information content included therein and whether they obeyed the applied legal requirements, specifically verification of registry with ICP-ANACOM and compliance with provisions of the national numbering plan for access to the service. The report corresponding to the action and the conclusions obtained was submitted for internal legal analysis.

Verification of compliance with provisions of the Determination of the ICP-ANACOM Board of Directors of 17 July 2003, concerning pre-selection:

Oversight actions focused on PTC and the other FTS providers and involved verification of compliance with the ICP-ANACOM determination of 17 July 2003, specifically on the obligation of the Grupo PT companies that provide FTS to implement and maintain a 6-month waiting period during which they cannot carry out commercial initiatives to win back former customers who have since switched over to become customers of other providers via the pre-selection function. To verify implementation of the determination, oversight actions were undertaken for PT Comunicações. Complementary to this, and in order to ascertain the existence of eventual claims or situations of non-compliance with the determination, oversight actions were carried out for other FTS providers. The information gathered from PTC and the other providers did not show evidence of non-compliance with the determination.

Oversight on the amount of detail in PTC's fixed telephone service invoices:

This action was carried out following a claim submitted by a customer who wanted to know the minimum amount of telephone invoice detail PTC is obliged to provide. The

oversight action involving PTC resulted in obtaining the necessary information for full clarification of the situation and the case was relegated to internal legal analysis.

Oversight vis-à-vis selective telephone call barring undertaken by PTC:

The goal of this action was to verify availability of the service function enabling consumers to effect selective barring of calls, without added charges, to other public telecommunications services and to audiotext services. The information gathered was relegated to internal analysis.

Verification of the conformity of services publicised by an FTS provider versus those effectively provided:

Following a claim by a consumer who alleged that it was not possible to make telephone calls to the Optimus network via his fixed telephone service provider, and that he had not been previously informed of that service limitation. Study of the matter brought to light that the price table divulged to the public by the provider indicated the price for calls to the mobile operator in question. The information gathered was relegated to analysis for litigation.

Verification of the provision of fixed telephone service by public payphones, by entities not qualified by ICP-ANACOM:

The oversight activities were undertaken following claims presented to ICP-ANACOM by a certified service provider. The actions resulted in drawing up the respective reports which were routed to analysis for litigation.

Oversight of compliance with the obligations of the FWA (fixed wireless access) operators, in the scope of their respective licences:

The actions led to specific verification of the number of installed base stations for each operator, the services provided and the number of customers who contracted services supported by this technology. The relevant information was gathered during these actions and the case relegated to internal analysis.

Oversight of compliance with obligations by the fixed telephone service (FTS) providers, in the scope of the respective licences:

Criteria and the procedures used to calculate the statistical indicators sent regularly to ICP-ANACOM were verified, along with the services provided. Relevant information for analysis was gathered during these actions and the conformity thereof was verified.

Collection and analysis of the price tables of the FTS providers and LMS operators for verification of the provisions of the Determination of the Board of Directors of 18 April 2002 in the scope of portability:

The oversight actions focused on verification of compliance with the ICP-ANACOM determination of 18 April 2002, specifically on the obligation of the LMS operators and FTS providers who have price tables indicating that charges will be higher after porting to maintain a telephone information service on call (voice and data calls and short messages) charges to ported numbers. In the same context the ability to identify the destination network of the call about which customers desire that information was studied. Irregular situations were identified and the case with the corresponding reports was relegated to analysis for litigation.

Oversight of the conditions for using numbering in the 707, 708 and 809 ranges:

Various entities were detected that carried out activities which by their nature could not be accommodated in these numbering ranges. These actions were carried out after being informed of the alleged occurrences by diverse means, namely consumer claims, television advertising and the print media; services were being provided that were similar to audiotext services, with evidence of incorrect usage of the aforementioned numbering ranges. The irregular situations were relegated to analysis for litigation.

4.1.2 Postal services

Verification of conformity of the postal service offers in the liberalised area with the regulatory framework in force:

These actions aimed to detect companies carrying out activities in the liberalised postal area without authorisation to pursue same. The respective reports were drawn up as a result of the actions and routed to analysis for litigation.

Verification of eventual violations of the area reserved for universal postal service:

Actions were carried out following claims submitted to ICP-ANACOM by the concession company for the area reserved for universal postal service, CTT-Correios de Portugal. In the situations subject to investigation no evidence of violation of the area reserved for universal postal service was detected.

4.1.3 Equipment

Decree-Law no. 192/2000 of 18 August established the regime for the free circulation, market placement and placement in service in national territory of radio equipment and telecommunications terminal equipment, as well as the regime for the respective evaluation of conformity and labelling.

ICP-ANACOM was granted powers to oversee compliance with this regime, without jeopardising the possibility, in this or any other duly justified situation, of requesting collaboration from the Inspectorate-General of Economic Activities (IGAE – Inspecção-Geral das Actividades Económicas) and the Directorate-General of Customs and Special Duties on Consumption (Direcção-Geral das Alfândegas e dos Impostos Especiais sobre o Consumo)

+The equipment covered by this regulatory framework is the following:

- Radio equipment that uses radio frequencies (radio spectrum) containing a transmitter or a receiver. Such is specifically the case of mobile telephones (GSM), satellite terminals, CB (citizens band) equipment, maritime telephones, wireless telephones, low power short range equipment (bluetooth applications, remote controls – wireless alarms, garage door openers, wireless LANs and remote control toys;
- Telecommunications terminal equipment which by means of an interface is linked to the public telecommunications network (the public GSM networks, the analogue or digital telephone networks and the data networks). Such is specifically the case of telephones, telex equipment, telephone answering machines, modems and GSM equipment (simultaneously radio equipment).

Oversight of this market involves three procedures meant to assess the conformity of equipment placed on the market, namely:

- Procedure 1 – direct oversight actions (in person and also by catalogue and on the internet) involving economic players (distributors, importers, merchants);
- Procedure 2 – market monitoring actions, by means of laboratory trials and analysis of technical documentation to verify equipment conformity;
- Procedure 3 – market monitoring actions, by means of analysis of technical documentation to verify equipment conformity.

In the case of radio equipment that uses frequency bands whose usage is not harmonised throughout the European Union, it became necessary to report same to ICP-ANACOM by imposition of Decree-Law no. 192/2000 of 18 August. Said communication must precede market placement by four weeks and is always subject to appreciation by ICP-ANACOM. Non-compliance with ICP-ANACOM's indications regarding such equipment may lead to limits on its placement in service.

Thus, and regarding the described procedures, the activity carried out in 2003 was as follows:

- Procedure 1 – 552 equipment items. In the scope of this procedure 54 equipment items were seized as they did not comply with the market placement requirements (lack of conformity statement, manuals in the Portuguese language, indications of usage limits);
- Procedure 2 – 25 equipment items;
- Procedure 3 – 16 equipment items.

Regarding the typology of the detected cases of non-compliance, the following was verified:

Documental and technical non-conformities detected

Type of non-conformity	Nº
User information on the equipment's purpose	3
Indication on the package whether the equipment is meant to be used in national territory or part thereof	36
Indication in the manual whether the equipment is meant to be used in national territory or part thereof	28
Warning of eventual limits or requirements to which the equipment is subject	18

Declaration of conformity that should accompany the equipment – in short format (in Portuguese) or in complete format	75
Documentation and instruction manuals in Portuguese language	24
Presence of CE label on equipment (emitter and receiver)	5
Presence of CE label on package	4
Presence of CE label in manual	25
Visible, legible and indelible label	1
Designation of notified body contacted (labelling) on equipment	9
Designation of notified body contacted (labelling) on package	17
Designation of notified body contacted (labelling) in manual	21
Identification of equipment class (labelling) on equipment	17
Identification of equipment class (labelling) on package	20
Identification of equipment class (labelling) in manual	21
Symbol informing that the equipment uses frequency bands whose usage is not harmonised in the European Union (!) on the equipment	6
Symbol informing that the equipment uses frequency bands whose usage is not harmonised in the European Union (!) on the package	13
Symbol informing that the equipment uses frequency bands whose usage is not harmonised in the European Union (!) in the manual	16
Equipment identification - Manufacturer	3
Equipment identification – Brand	2
Equipment identification – Model	3
Equipment identification - Series no.	7
Notification in accordance with article 6.4 of the R&TTE Directive	19

Documental and technical non-conformities detected (Continuation)

Type of non-conformity	Nº
General description of equipment	30
Project and fabrication plans	36
Schematics	35
Technical specifications	32
Bloc diagrams	32
List of components	27
List of harmonised standards applied in whole or in part	25

Harmonised radio standards	9
Harmonised EMC standards	7
Harmonised LVD standards	9
Harmonised health protection standards	10
Description and explanation of the solutions adopted if harmonised standards have not been applied	15
Results of project calculations and tests carried out	19
Radio trial reports	24
EMC trial reports	19
LVD trial reports	25
Declaration issued by the manufacturer that the trials were carried out and that essential requirements have been met (annex III); or declaration issued by the notified body in which the technical file proves compliance with the essential requirements (annex IV); or declaration that proves evaluation of conformity with the obligations deriving from the quality system (annex V)	24
Declaration of conformity in complete format – supplied with the equipment	20
Declaration of conformity in complete format – supplied with the technical documentation	17
Declaration of conformity in complete format – indication of manufacturer	0
Declaration of conformity in complete format – signature of the issuer	2
Declaration of conformity in complete format – indication of compliance with Directive 1999/5/EC	5
Declaration of conformity in complete format – indication of technical standards	2
Declaration of conformity in complete format – indication of date	2

Documental and technical non-conformities detected (Continuation)

Type of non-conformity	Nº
Power of the carrier (conduction)	3
Power of the adjacent channel	2
Mistaken emission frequency	1

Note: the same equipment item may present more than one non-conformity

Notifications of incorrect radio equipment

In 2003 2,792 radio equipment notifications were received, 2,615 of them correct and 177 incorrect.

The following distribution was verified in terms of incorrect radio equipment notification typology:

MOST FREQUENT INCORRECTION	%
Lack of European contact point	38,31
Indication of frequency bands exclusively allocated to other services (e.g.: broadcasting-175 kHz; aeromodels-34.990-35.230 MHz; military management; medical implants; wireless audio; inductive applications; emitting microphones for non-professional use)	5,65
Excessive duty cycle limits (e.g.:the duty cycle should be less than 10% or 1%)	0,40
Failure to indicate the magnetic field intensity value	1,61
Incorrections regarding equipment antennas (e.g.: antennas cannot be external, demand for integrated or dedicated antenna)	20,16
Bands not adopted in Portugal	2,82
Indication of maximum power limit	7,66
Wireless Land in 5 GHz without DFS	23,39

In 2003 ICP-ANACOM received 46 safeguard clauses under article 9 of Directive 1999/5/EC (article 16 of Decree-Law 192/2000 of 18 August).

Electromagnetic compatibility

Decree-Law no. 74/92 of 29 April confers upon ICP-ANACOM oversight powers regarding the legal provisions on electromagnetic compatibility, without jeopardising the powers set by law for other entities.

The list of electric and electronic equipment covered by the electromagnetic compatibility regime is extremely broad. Examples include domestic electric appliances, office devices, computers and other information technology equipment, lighting equipment and electric lamps, and

consumer electronics (including televisions), i.e., generally speaking, all equipment that can create or be affected by electromagnetic disturbances while functioning.

In market oversight terms, the three mentioned procedures to assess the conformity of radio equipment and telecommunications terminal equipment (procedures 1, 2 and 3) apply in this case.

Activity undertaken in 2003 in this context was as follows:

- Procedure 1 – 481 equipment items. A total of 84 units were apprehended for not complying with the market placement requirements (lack of CE label);
- Procedure 2 – 101 equipment items;
- Procedure 3 – 271 equipment items were analysed in documental terms.

Regarding the type of non-conformities detected for the three aforementioned procedures, the following results were verified:

Type of non-conformity	N.º	%
Absence of CE declaration	2	1,19
Absence of CE label	84	49,70
Radiated disturbing electromagnetic field – electric field	30	17,75
EC declaration of conformity does not mention Electromagnetic Compatibility Directive	5	2,95
EC declaration of conformity does not mention EMF standard	15	8,87
EC declaration of conformity does not mention solicited model	2	1,19
EC declaration of conformity is not dated	14	8,28
Declaration does not mention model	2	1,19
Discrepancy between date of EC declaration of conformity and date since equipment has been commercialised	1	0,60
Lack of Portuguese instruction manual	4	2,36
Manual does not cover model	1	0,60
EC declaration of conformity was not delivered	3	1,77
EMF standard presented in EC Declaration has expired	2	1,19
Tension can disturb supply terminals	4	2,36
Total	169	100

In 2003 ICP-ANACOM received 117 notifications under the co-operation procedures envisaged in this context, from other Member States of the European Union.

4.2 Disputes

4.2.1 Contractual fines

Regarding oversight of the concession contract between the State and PT Comunicações, S.A., ICP-ANACOM in 2003 decided to apply two contractual fines to the concessionaire, one worth €50,000.00 (for failure to comply with the operator portability specification) and another worth €25,000.00 (for rejection of co-mingling regime access request).

4.2.2 Administrative offence cases

In 2003, 45 administrative offence cases were filed. Of these, 25 were resolved, as follows:

- with voluntary payment of the applicable penalty (€6,733.79);
- 4 decisions to absolve;
- 5 decisions to reprimand;
- 10 decisions to condemn the payment of penalties, for a total of €4,770.12, of which:
 - 4 were fully paid (€897.84);
 - 2 were submitted to coercive execution (€997.58);
 - 4 are still to be paid (€2,874.70).

Also considered were 31 administrative offence cases passed on from previous years, as follows:

- 7 were closed;
- 3 ended with decision to absolve;
- 1 ended with decision to reprimand;

- 9 ended with decision to pay penalties (€132,910.01), of which:
 - 1 was fully paid (€249.40);
 - 1 was submitted to coercive execution (€44,891.81);
 - 2 are still to be paid (€449.76); and
 - in 5 cases, judicial appeals were filed (€87,319.04).

A total of 9 penalties were submitted to coercive execution, applied in 2000 and 2001, for a total value of €59,706.55.

Judicial appeals were filed for 2 penalties, applied in 2001, for a total value of €9,975.96.

The type of infringements subject to administrative offence cases filed in 2003 were as follows:

FIXED TELEPHONE SERVICE (Regulation to Operate Fixed Telephone Service, approved by Decree-Law no. 474/99 of 8 November)	7 cases
FTS not provided regularly and continuously (article 10/1)	3 cases
Failure to comply with the access and usage conditions for fixed telephone service (article 12/3)	1 case
Rejection of access requests without legal grounds (article 33/6), and violation of the principle of equality and non-discrimination [article 13/1, par. a) and article 13/2 of Decree-Law no. 290-A/99 of 30 July]	1 case
Failure to comply with the obligation for universal telecommunications service providers to make available, whenever technical and economically feasible, (...) selective call barring, with no added charges, destined (...) to audiotext services [article 13/1 par. f)]	1 case
Failure to comply with the obligation for universal telecommunications service providers to submit for the approval and knowledge of ICP-ANACOM, and the Consumer Institute, in the case of cable television service, the contracts to provide fixed telephone service, to provide internet service and to provide cable television service [article 17/4 of the Reg. on FTS, annexed to Decree-Law no.	1 case

474/99 of 8 Nov., article 7/1, par. a) of Decree-Law no. 381-A/97 of 30 Dec. and article 17/2 of Decree-Law no. 241/97 of 18 Sep.]	
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FIXED TELEPHONE SERVICE – Portability (Decree-Law no. 381-A/97 of 30 December)	5 cases
Failure to respect the conditions and limits inherent to the registration or contained in the licence [article 26/2, par. a)]	5 cases

OPERATION OF PUBLIC TELECOMMUNICATIONS NETWORKS (Decree-Law no. 290-B/99 of 30 June)	1 case
Breach of the obligation to guarantee access to the national emergency number – 112 [article 4/2, par. i)]	1 case

INTERCONNECTION (Decree-Law no. 415/98 of 31 December)	1 case
Failure to comply with the determinations to modify the reference interconnection offers (article 13)	1 case

PUBLIC USE LAND MOBILE SERVICE – Portability (Decree-Law no. 381-A/97 of 30 December)	2 cases
Failure to respect the conditions and limits inherent to the registration of contained in the licence [article 26/2, par. a)].	2 cases

POSTBOXES (Regulatory Decree no. 21/98 of 4 September)	1 case
Failure to comply with the obligation to install domicile postboxes (article 2/1 and article 9/4)	1 case

DATA TRANSMISSION AND INTERNET ACCESS SERVICE (Decree-Law no. 381-A/97 of 30 December)	3 cases
Failure to respect the conditions and limits inherent to the registration or contained in the licence (article 26/2)	3 cases

TERMINAL EQUIPMENT (Decree-Law no. 192/2000 of 18 August)	1 case
Market placement of devices that do not meet the set legal requirements (article 7/1), and failure to comply with the obligation for device manufacturers or those responsible for their market placement to inform users about the purpose for which the devices are meant to be used (article 8, par. a))	1 case

INSTALLATION OF TELECOMMUNICATIONS INFRASTRUCTURES IN BUILDINGS (Decree-Law no. 59/2000 of 19 April)	1 case
Failure to comply with the obligations of the certifying entities concerning the duties to: <ul style="list-style-type: none"> - report to ICP-ANACOM any changes to the information contained in the registration request for that activity within 30 days after verification of same (article 26/1); - and to submit to ICP-ANACOM the certificate of installation conformity within 3 days after same was issued (article 27/2) 	1 case

OPERATION OF PUBLIC PAYPHONE SERVICE (Telephone Service) (Decree-Law no. 474/99 of 8 November)	1 case
Installation and commercial operation of public payphones for access to FTS, by entities not registered with ICP-ANACOM (article 45/1)	1 case

AUDIOTEXT SERVICE	4 cases
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(Decree-Law no. 177/99 of 21 May, on the version conferred by Law no. 95/2002 of 20 August)	
Lack of initial information message and cadenced audio signal (article 9/2)	1 case
Provision of audiotext services by non-registered entities (article 3) and lack of initial information message and cadenced audio signal (article 9/2 and 3)	3 cases

AUDIO BROADCASTING ACTIVITY (Decree-Law no. 151-A/2000 of 20 July, applicable by force of article 1 of Decree-Law no. 126/2002 of 10 May)	4 cases
Use of a radiocommunications network with no licence to that end (articles 5/1 and 2 and 7/1)	2 cases
Failure to place identifying sign at station, outside and in a very visible place (article 10, par. h))	1 case
Oversight of station not permitted, nor access to site of the respective installation, by ICP-ANACOM inspectors (article 10, par. e))	1 case

TELEVISION ACTIVITY (Decree-Law no. 151-A/2000 of 20 July)	1 case
Use of radiocommunications stations violating the technical parameters set by ICP-ANACOM (article 10, par. g)	1 case

PERSONAL RADIO SERVICE - C.B. (Decree-Law no. 47/2000 of 24 March)	9 cases
Use of CB stations by entities not registered with ICP-ANACOM (article 3/1)	8 cases
Use of frequency bands, power and emission classes different from those authorised for Personal Radio Service - CB [article 13/1, par. a)]. Refusal of access to CB station installation site by radio inspectors [article 13/1, par. c)]. Intentional interference in the communications of other radiocommunications services, as well as failure to comply with ANACOM warnings to eliminate such interference	1 case

[article 13/1/par. d) and h)]	
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PRIVATE USE LAND MOBILE SERVICE (Decree-Law no. 151-A/2000 of 20 July)	4 cases
Use of unassigned frequencies [article 10, par. f)]	1 case
Use of a radiocommunications network without a licence to that end (article 7/1)	2 cases
Use of radiocommunications stations violating technical parameters set by ICP-ANACOM [article 10, par. g)]	1 case

4.2.3 Administrative disputes

ICP-ANACOM's defence was assured in cases of disputed contestation of practiced acts.

During the year 2003, besides ICP-ANACOM's positions being sustained in three new requests to stay power, ten new contentious appeals were processed and nine continue to be accompanied, passed on from previous years.

The new cases are as follows:

- Pre-selection (win-back prohibition):

Request to stay power submitted by PT COMUNICAÇÕES, S.A., in the wake of the Determination of this Authority's Board of Directors dated 17 July 2003, which was rejected by the Court.

Contentious appeal for annulment filed by PT COMUNICAÇÕES, S.A., in the wake of the Determination of this Authority's Board of Directors dated 17 July 2003. Remains pending.

- Interconnection (Case concerning the interconnection of Optimus and Vodafone with ONIWAY):

Request to stay power submitted by OPTIMUS TELECOMUNICAÇÕES, S.A., in the wake of the Determinations of this Authority's Board of Directors dated 29 May 2002, 20 and 27 June 2002. Prosecution was declared dissolved due to supervening inutility of the issue.

Contentious appeal of annulment filed by VODAFONE TELECEL – COMUNICAÇÕES PESSOAIS, S.A., in the wake of the Determination of the ICP-ANACOM Board of Directors of 24 September 2002. Remains pending.

Contentious appeal of annulment filed by OPTIMUS TELECOMUNICAÇÕES, S.A., in the wake of the Determinations of the ICP-ANACOM Board of Directors dated 6 March 2002, 29 May 2002, 20 and 27 June 2002. Optimus withdrew from the respective appeal.

- Installation of telecommunications infrastructures in buildings:

Request to stay power of the Determination that ruled the suspension for three months of activity by the company MEIRA DE SÁ - Projectos Engenharia e Serviços, Lda. Was rejected;

Contentious appeal for annulment filed by the company MEIRA DE SÁ - Projectos Engenharia e Serviços, Lda, regarding the same Determination of the Board of Directors of 12 December 2002 (suspension of activity). Prosecution declared dissolved due to supervening inutility of issue.

- Audio Broadcasting Activity:

Contentious appeal for annulment filed by NRT - NORTE RÁDIO TELEVISÃO, LDA, in the wake of an act practiced by ICP-ANACOM's Director of Spectrum Management and Engineering on 4 October 2002, which rejected the definitive licence request for the installation of an audio broadcasting emission station in the Nogueira mountain range in Bragança county. Remains pending.

- Universal Telecommunications Service:

Contentious appeal for annulment filed by PT COMUNICAÇÕES, S.A., in the wake of a decision by this Authority's Board of Directors dated 21 August 2003, on net costs of Universal Telecommunications Service. Remains pending.

- Operation of Public Telecommunications Networks:

Contentious appeal for annulment filed by HLC, TELECOMUNICAÇÕES MULTIMÉDIA, S.A., in the wake of an ICP-ANACOM decision not to initiate administrative offence proceedings against PT COMUNICAÇÕES, S.A., for alleged breach of the Fixed Telephone Service Regulation and the Regulation on the Operation of Public Telecommunications Networks. Remains pending.

Two actions declaring condemnation filed by ICP-ANACOM were also accompanied in the Administrative Court of the Lisbon Circuit, one of which awaits sentence and the other elaboration of Specification and Questionnaire (STVA – Serviços de Telecomunicações de Valor Acrescentado, Lda. and Casa Viola – Lotarias, Lda.).

4.2.4 Judicial impugnation of fees applied by ICP-ANACOM

Also accompanied were 21 judicial contestations of applied fees submitted by TVI, of which six were finalised in 2003.

4.2.5 Civil jurisdiction

Two appellate reviews were accompanied, filed by Vodafone Telecel – Comunicações Pessoais, S.A. and by Optimus – Telecomunicações, S.A. against the ICP-ANACOM determination in the case involving dispute resolution in the context of network interconnection, between those operators and OniWay, which this Authority decided not to acknowledge, and which followed ulterior procedural steps in the Courts of Appeal of Lisbon and Oporto. Optimus - Telecomunicações, S.A., withdrew from the appeal, while that of Vodafone Telecel – Comunicações Pessoais, S.A., remains pending.

Two actions were accompanied, with preparation of the necessary procedural portions, in which the condemnation of ICP-ANACOM to pay indemnities is sought (the authors were Manuel Henriques Machado, Lda., and Sociedade Imobiliária Manzaca & Filhos, Lda.).

ICP-ANACOM also contested two actions filed with Labour Court by ex-workers of OniWay, asking for indemnities for the company's closing, which remain pending.

ICP-ANACOM supported preparation of the contestation to present by the State in an indemnity action brought by TVI – Televisão Independente, S.A., in which the latter sought condemnation of the Portuguese State and of PT COMUNICAÇÕES, S.A., to jointly pay an indemnity of 12,760,024,000\$00 [escudos] for damages resulting from the modified licensing conditions for its television channel (public television broadcasting fees) that occurred both in the Convention signed on 1 July 1997 and in the fee practice followed by PT Comunicações, S.A., and to which the State consented.

4.2.6 Special judicial proceedings to recover companies and bankruptcies

Some 44 special judicial cases involving the recovery of companies and of bankruptcies, of which ICP-ANACOM is a creditor, were accompanied, generally due to unpaid spectrum usage fees, three of which were finalised in 2003.

Four new credit claims were filed.

4.2.7 Physical executions

Ten cases of physical execution were accompanied (one of which filed in 2003 and two finalised in the same year).

5. INTERNATIONAL ACTIVITY

5.1 Representation

ANACOM assures technical representation of the communications sector, as per paragraph r) of section 1 of article 6 of its statutes, approved by Decree-Law no. 309/2001 of 7 December.

With respect to international representation, it is specifically incumbent on ANACOM to undertake technical representation of the Portuguese State in sector-related international bodies, and to accompany the activity of like regulatory bodies as well as foreign experience in communications regulation, establish relations with other regulatory bodies and, on a technical level, with community and international bodies. Such participation and representation of the Portuguese State is closely co-ordinated with the members of Government linked to the communications area, with the Minister of Foreign Affairs and with the telecommunications and postal operators, when applicable.

In this context, ANACOM also initiates and accompanies the processes of transposing the fundamental instruments of some of those international organisations into the internal legal order, as an advisor to the Government (ministry in charge of the communications area and the Ministry of Foreign Affairs).

5.1.1 European Union (EU)

Context

ANACOM intervenes in various aspects at European Union (EU) level: Council, European Commission (EC) and groups set up on its initiative, Committees and respective subgroups.

At Council level the communications sector – telecommunications and postal service – is covered under the Council of Ministers of Transports, Telecommunications and Energy, and in the respective Telecommunications/Information Society Group and Postal Group.

In the European Commission, the communications sector is subject to treatment by the Information Society Directorate General, the Internal Market Directorate General (postal services) and the Enterprise Directorate General, besides the Competition Directorate General.

The main sector groups are namely the European Regulators Group (ERG) established by Commission Decision 2002/627/EC of 29 July 2002, the Radio Spectrum Policy Group established by Commission Decision 2002/622/EC of 26 July 2002 and the Informal Internet Group, the International Affairs Group and horizontal groups such as EUROMED.

Regarding committees, those involved with communications are the following: High Level Groups – Telecommunications and Postal Service; Communications Committee (COCOM); Radio Spectrum Group; Postal Directive Committee; TCAM (Telecommunications Conformity Assessment and Telecommunications Terminal and Radio Equipment Market Surveillance) Committee; Working Group on Electromagnetic Compatibility; Public Telecommunications Markets Advisory Committee; Financial Regulation Committee for Trans-European Telecommunications Networks; Steering Committee for Trans-European Telecommunications Networks; and the Committee to implement the Multiannual Programme to Stimulate the Establishment of the Information Society in Europe (Promise Programme).

Regarding the community programmes with implications for the sector, the following stand out: the eTEN programme (trans-European telecommunications networks), which aims to establish trans-national services and applications of interest to the public in order to facilitate transition to the information society; the Promise programme, which seeks to promote the information society in Europe by means of benchmarking and the identification, analysis and dissemination of best practices for the priority areas defined in the eEurope 2005 action plan; and the Digital Content (eContent) programme, which aims to stimulate the development and usage of European digital content in global networks, and to promote linguistic diversity in the information society.

Activity pursued in 2003

Council

In 2003 ANACOM participated in formulating the defence of national sector-related positions at national level (DGE/ME, DGAC/MNE) and at community level, collaborating with the national permanent representatives to the European Union (REPER).

ANACOM was also represented at meetings of the Group on Telecommunications, Information Society and Postal Services (in the scope of the TTE Council) in order to directly accompany issues related to its powers.

In 2003 ANACOM collaborated on preparation of the relevant agenda points and was part of the national delegation to the TTE Councils of Ministers held on 27 March, 5 June and 20 November, and the informal Council held on 3-4 September.

ANACOM likewise collaborated in other areas with implications for the sector, such as Public Markets, EU Enlargement, European Economic Area, General Interest Services, Data Protection, Research and Development, Structural Funds, GALILEO, Consumer Protection, Electromagnetic Fields and the community's external relations in the scope of co-ordination assured at national level by the Ministry of Foreign Affairs (WTO, EUROMED, MERCOSUL).

In 2003 the following documents directly or indirectly relevant to ANACOM activity were studied, adopted or published:

- Commission Communication (COM(2003)271 final) on the World Summit on the Information Society. The Telecommunications Council of Ministers of 5 June 2003 adopted conclusions on this subject:
- Commission Communication on the transition from analogue to digital broadcasting: from the transition to digital to the end of analogue – COM(2003) 541 final, of 17 September 2003. The Telecommunications Council of Ministers of 20 November 2003 adopted conclusions on this subject;
- Commission Communication on the Final Report of eEurope 2002, COM(2003)66 final, presented in the Telecommunications Council of Ministers on 27 March 2003;
- Commission Communication on the 2003 World Radiocommunications Conference. The Consumer Affairs Council of 2-3 June 2003 adopted conclusions on this subject;
- Commission on the European Growth Initiative – intermediate report to the European Council (COM(2003)579 final, of 1 October 2003), considered in the Telecommunications Council of Ministers of 20 November 2003;
- Communication on electronic communications and the way to the knowledge society – COM(2003)65 final, discussed in the Council of Ministers of 27 March 2003;

- Communication on barriers to general access to new information society services and applications by means of open platforms in digital television and in third generation mobile communications – COM(2003)410 final, of 9 July 2003. The Telecommunications Council of Ministers of 20 November 2003 adopted conclusions on this subject;
- Decision no. 1151/2003 EC of the European Parliament and of the Council of 16 June 2003, modifying Decision no. 276/1999/EC which adopts a multiannual community action plan to promote safer internet use by combating illegal and harmful content in global networks;
- Decision no. 2256/2003/EC of the European Parliament and of the Council of 17 November 2003, which approves a multiannual programme (2003-2005) to accompany the eEurope action plan, disseminate good practices and strengthen information networks (MODINIS);
- Decision no. 2003/840/EC of the Council of 17 November 2003, concerning the signing on the European Community's behalf of Convention no. 180 of the Council of Europe on legal co-operation and information in matters of information society services;
- Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003, concerning the reuse of public sector information;
- Green Paper on General Interest Services. The Commission launched a public consultation, recognising the need for extensive discussion of the EU's role in defining the goals, evaluation method, organisation and financing of general interest services. ANACOM submitted its contributions in October 2003;
- Proposed Decision of the EP and of the Council on the Interoperable Delivery of Pan-European Online Administration Services (eGovernment) to Public Administrations, Businesses and Citizens (IDABC). The Telecommunications Council of Ministers of 20 November 2003 adopted conclusions on this subject;
- Proposed Directive (by means of amendments to Directive 77/388/EEC) on application of the Value Added Tax (VAT) to postal services. This proposed Directive is in discussion phase at ECOFIN;

- Proposed Directive of the EP and of the Council on co-ordination of the processes of awarding contracts in the water, power, transport and postal services sectors (2000/0117 (COD)); agreement was reached under the Conciliation Committee, meeting in December;
- Proposed Directive on approximation of the Member States' legislation with respect to electromagnetic compatibility;
- Proposed Directive concerning harmonisation of the Member States' laws on electric equipment to use within certain voltage limits, COM(2003) 252 final, of 12 May 2003;
- Proposed Directive on minimum safety and health prescriptions with respect to the exposure of workers to risks from physical agents (electromagnetic fields); political agreement on Employment, Social Policy, Health and Consumers was obtained on 20 October 2003;
- Regulation of the European Parliament and of the Council of 11 February 2003, establishing the European Network and Information Security Agency (COM(2003) 63 final);
- Council Resolution of 18 February 2003 concerning a European approach to a culture in network and information security matters.

European Commission

ANACOM actively participated in committee activities, particularly in the following: Communications Committee (COCOM); Radio Spectrum Committee; Postal Committee; TCAM (Telecommunications Conformity Assessment and Telecommunications Terminal and Radio Equipment Market Surveillance) Committee; Financial Regulation Committee for Trans-European Telecommunications Networks; Steering Committee for Trans-European Telecommunications Networks; Information Society Committee; and the Internet Action Plan Committee.

The following stand out among the activities of these committees:

The Communications Committee (COCOM) met in 2003 on 12 February, 10 April, 7 May, 11 June, 17 September and 17 December; ANACOM was represented at all the meetings. The most relevant subjects of debate were recommendations on R-LANs, Leased Lines, Relevant Markets, notifications under article 7 of the Framework Directive and caller localisation;

The Spectrum Committee met on 8 April 2003 (RSC3), 28 May 2003 (RSC4), 1 October 2003 (RSC5) and 10 December 2003 (RSC6). Among other issues, the Spectrum Committee's activity included frequency usage and harmonisation of procedures for the use of short range radars, the fifth CEPT mandate on UMTS, possible applications for the 169.4-169.8 MHz frequency band currently reserved for theERMES system, power line communications, harmonisation of RLAN usage and the CEPT mandate on R-LANS, broadband technologies functioning in the 450 MHz band, UWB systems, co-operation with the research and development area, and co-ordination of RSCOM's work with that of TCAM;

The Postal Committee met on 25 November 2003 and studied transposition of the Postal Directive in the Member States and in the candidate countries, the work achieved by the European Committee for Standardisation (CEN), and adopted the Committee's rules of procedure.

Noteworthy in the committee work are the following documents adopted by the Commission;

Commission Recommendation 2003/311/EC of 11 February 2003 – concerning relevant markets for products and services in the electronic communications sector subject to ex ante regulation, as per the provisions of Directive 2002/21/EC of the European Parliament and of the Council concerning a common regulatory framework for electronic communications networks and services;

Commission Recommendation 2003/561/EC of 23 July 2003 – regarding the notifications, deadlines and consultations envisaged in article 7 of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002, concerning a common regulatory framework for electronic communications networks and services;

Commission Recommendation 2003/558/EC of 25 July 2003 – concerning the processing of information on localising persons making calls in electronic communications networks, taking into account emergency calling services with localisation capacity;

Commission Decision 2003/548/EC of 24 July 2003 – concerning the minimum set of leased lines with harmonised characteristics and respective standards referred to in article 18 of the Universal Service Directive;

Commission Decision 2003/375/EC of 21 May 2003, on designation of Registry of the “.eu” top-level domain;

Commission Recommendation of 20 March 2003, concerning harmonisation of the provision of public access via RL-R to public electronic communications networks and services in the Community.

ANACOM also accompanied and/or participated in sector groups established by the Commission, namely the European Regulators Group (ERG), the Informal Internet Group, the Task Force from article 7 of the International Affairs Group and the Informal Group on SPAM.

European Regulators Group - ERG

As the national regulatory authority, ANACOM participated in the five meetings of the European Regulators Group (ERG) held in 2003 (23 January, 28 March, 20 May, 25 September and 21 November), at which the following issues were worthy of note: the concept of Significant Market Power (SMP) in the new regulatory framework; the proposed Common Position of the ERG/EC on obligations in the new regulatory framework, the interim common position on high speed access, the public consultation on the FL-LRIC (forward looking long run incremental costs) costing model and the report on the universal service provider designation.

Other Groups

With the same status, ANACOM participated in the two meetings of the Radio Spectrum Policy Group held during the reference period, on 17 January (RSPG#1) and 19 September (RSPG#2), where among other topics the following were discussed: the possible spectrum dividend deriving from the switchover from analogue TV to digital TV, preparation of WRC07 and eventual harmonisation of European policies regarding the introduction of secondary spectrum trading.

ANACOM additionally worked with the European Commission, as per usual practice, on accompanying implementation of various regulatory measures and on preparing measures associated to convergence and electronic commerce. It also accompanied competition issues concerning telecommunications services and postal services, particularly decisions of the

Competition Directorate General and the Court of Justice, and also contributed to sector-related negotiations under the World Trade Organisation (WTO), in the context of European co-ordination (Committee 133). Lastly, ANACOM accompanied various community policy topics relevant to telecommunications, namely the European Union enlargement process and co-operation with third countries (MERCOSUL and the Andes Community, among others).

Community programmes

ANACOM's involvement in relevant community programmes is reflected by its participation in the respective committees. Accompaniment of the eTEN programme in 2003 thus involved ANACOM's attendance of six joint meetings of the Steering Committee and the Financial Committee and of informal meetings of the national contact groups for the said programme. Besides participation in the said Committees, there was place for decisions by written procedure and for the drafting of comments and documents produced under the programme. As national contact point for the programme, with promotion responsibility, ANACOM contacted a number of companies to provide clarifications on same, maintained liaison with the European Commission to obtain an overview of the situation regarding negotiation of a contract with a Portuguese entity and regularly updated the programme's working area on the internet website (programme objectives, funding, public tenders, information days).

ANACOM additionally accompanies and publicises actions undertaken in the "Digital Content: eContent" Programme approved by Decision of the Council of the European Union of 22 December 2000 (2000/48/EC of 18 January 2001), which aims to stimulate the development and use of European digital content in global networks, and to encourage linguistic diversity in the Information Society.

5.1.2 Independent Regulators Group (IRG)

Context

Established in 1997, the Independent Regulators Group (IRG) groups the national regulatory authorities (NRAs) for telecommunications at European level, i.e., the 15 European Union (EU) Member States, the countries of the European Economic Area (Iceland, Norway and Liechtenstein) and Switzerland. Since 1 January 2003 it has also included the NRAs from the 10 countries that more recently joined the EU (Poland, Czech Republic, Hungary, Latvia, Lithuania,

Slovakia, Malta, Slovenia, Estonia and Cyprus), as well as the two candidate countries (Bulgaria and Romania).

The IRG's structure is light and functional, and aims to avoid duplication of ongoing debate in other bodies (EU, European Conference of Postal and Telecommunications Administrations – CEPT) and has established various working groups that accompany developments regarding specialised topics.

Activity pursued in 2003

With 25 July 2003 set to be the date the new European regulatory framework took force, the IRG's work was almost entirely devoted to studying aspects related to implementation of the said regulatory framework, specifically the obligations to impose on operators with significant market power. To that end a co-ordination group was even set up, made up of the chairpersons of some of the IRG working groups, with the participation of European Commission representatives. In the IRG context, ANACOM particularly favours attendance in the following working groups: Significant Market Power, Fixed Networks, Mobile Market, End Users, Regulatory Accounting, Market Analysis and Implementation.

The Significant Market Power working group, together with the Commission and under ERG auspices, produced a working document defining the criteria for evaluating effective competition and its implications on assessment of the existence of significant market power (SMP). This document is meant to help achieve a harmonised application of the criteria and at the same time provide a few more relevant indicators in the market analysis context.

The Fixed Networks working group focused its work on analysis of issues related to leased lines, local fixed telephony and the development of competition in broadband, besides supporting the co-ordination group.

The Mobile Market working group collaborated with the co-ordination group, prepared a common position on mobile termination charges which aims to harmonise any regulatory intervention seeking to lower mobile termination charges to competitive levels, established the working basis on international roaming that should develop in 2004 and continued to accompany 3G developments.

In the End Users working group PIBs (principles of implementation and best practices) were developed on call barring, detailed invoicing and the cessation of services to users. It also dealt

with issues related to the provision of universal service in the different Member States (in terms of the provider designation, about which a report was published), services covered, service quality, cost assessment and financing methods.

In the Regulatory Accounting working group, the PIBs on cost amortisation were finalised so as to orient the NRAs towards harmonised application of the various systems for recovering costs. Also, revision of the PIBs on the FL-LRIC (forward looking long run incremental costs) costing model was begun, along with the PIBs on accounting separation and, together with the Commission, the Commission Recommendation that originated their elaboration, as the entrance into force of the new regulatory framework rendered those two documents obsolete.

The Market Analysis working group submitted its annual report and studied possible ways of making uniform the NRAs' information gathering procedures.

The Implementation working group focused its efforts on studying and improving the text proposed by the Commission for the Recommendation on the procedures of article 7 of the Framework Directive which was adopted on 23 July; it continues to be a significant forum for debate and the sharing of experience with regard to transposition and practical implementation of the new regulatory framework.

In sum, following on the different working groups' activities and with the aim of ensuring fulfilment of the working programme set out for 2003, a number of important documents were made available to the public in general (there were others which, due to their more reserved content, cannot be published), namely on the IRG website:

- PIBs on cessation of services to user;
- PIBs on call barring;
- Concept of SMP under the new regulatory framework;
- PIBs on detailed invoicing;
- PIBs on cost amortisation;
- Report on the universal service designation.

5.1.3 Organisation for Economic Co-operation and Development (OECD)

Context

The activities of the Organisation for Economic Co-operation and Development (OECD) most relevant from the sector's point of view are those carried out under the Committee for Information, Computer and Communications Policy (ICCP).

This committee studies policy aspects resulting from the development and application of technologies and services in the area of information, computers and communications, as well as electronic commerce and issues concerning information infrastructure, including the respective impact on the economy and society in general and on strengthened co-operation among member States, and between member and non-member States.

The ICCP has four associated working groups relevant to the communications sector and as such accompanied by ICP-ANACOM: the Working Group on Information and Telecommunications Services Policies, the Working Group on the Information Economy, the Working Group on Information Society Indicators and the Working Group on Information Security and Privacy.

Activity pursued in 2003

In 2003 ICP-ANACOM collaborated on elaboration of various OECD publications prepared in the scope of the ICCP, among them the "Communications Outlook 2003", which covers the latest developments in communications policies (mobile market, interconnection, portability, operator pre-selection, local loop unbundling), as well as issues concerning market size (telecommunications revenues), network size and development (number of accesses, ISDN, digitalisation, mobile penetration, investment) and internet infrastructure (subscribers, hosts, sites, number of top-level domains).

As a result of efforts by the Working Group on Information Security and Privacy, the year 2003 saw publication of a practical guide on "Privacy Online: Policy and Practical Guidance" and an implementation plan titled "Plan for the OECD Guidelines for the Security of Information Systems and Networks: Towards a Culture of Security". These guidelines (which are the basis for Resolution A/RES/57/239 of the United Nations General Assembly for the "Creation of a Global

Culture of Cybersecurity”) encourage a security culture among all participants that develop, possess, supply, manage, maintain and use information systems and networks, regardless of whether they pertain to governments, business or civil society. The new principles upon which they are based – awareness, responsibility, reaction, ethics, democracy, risk assessment, security conception and implementation, security management and reassessment – are applied to all participants, though differently, depending on their roles with respect to information systems and networks.

ICP-ANACOM accompanied meetings of the Working Group on the Information Economy held in 2003, commenting on the produced documents whenever the occasion arose and taking part in the analysis of information economy policies, and the revision and evaluation of the economic and social implications resulting from the development, dissemination and use of information and communication technologies (ICTs) and electronic commerce. ICP-ANACOM also contributed towards the development of appropriate tools and methods for the international comparison and measurement of indicators.

In the scope of activity of the Working Group on Information Society Indicators, ICP-ANACOM accompanied the working meetings and took part in defining the method for gathering internationally comparable data with respect to the supply, demand and impact of ICTs. In 2003 ICP-ANACOM also collaborated on assessing the development and interpretation of relevant indicators for the formulation of policies and to monitor processes, contributing towards the identification of impacts and barriers to the dissemination and use of ICTs.

In 2003, ICP-ANACOM also accompanied meetings of the Working Group on Information and Telecommunications Services Policies and produced comments on the elaborated documents. ICP-ANACOM contributed to pursuit of the main goals of this working group, which in a continually expanding Information Society included international co-operation and the exploration of common objectives and strategies in the information and telecommunications sectors. Notable among the principal tasks are analysis of the social and economic impact of modifying the structure of the telecommunications market (including the internet), analysis of the relationship between electronic commerce and telecommunications, analysis of the economic and political impact of convergence of the communications and information sectors, and analysis of issues related to the trade in services in these areas.

5.1.4 International Telecommunication Union (ITU)

Context

The International Telecommunication Union (ITU) was founded in 1865 as the International Telegraph Union, and since 1947 has been a specialised agency of the United Nations.

The ITU's main body is the Plenipotentiary Conference (PP) which every four years gathers the highest representatives from the Member States to debate issues concerning general policy, strategic planning and the organisation's management in the long term. During the period between PPs, the ITU's management is the responsibility of the Council, to which the PP delegates certain powers. The Council is composed of 46 Member States elected by the PP. Portugal has been a member of the Council since 1994.

ANACOM's involvement in the ITU as a Member State is felt at the level of the main bodies – Plenipotentiary Conference, Council and high level events – and in the scope of the three Sectors, including their various respective bodies (conferences and/or assemblies, work groups, advisory groups).

Activity pursued in 2003

The year 2003 was particularly active for ANACOM in the ITU. After the 2002 Plenipotentiary Conference (PP-02), Portugal not only continued to be a member of the Council for the third consecutive mandate (this time for the four-year period 2002-2006, until PP-06), but also chaired this body through José Saraiva Mendes, a member of its Board of Directors, whose mandate covered the period from October 2002 until June 2004 – the first time Portugal has carried out such important duties in the ITU.

Portugal actively participated in various actions to revise the structure and modify the Union's working methods. In the group of specialists for revision of the ITU's management (GoS), established in 2002 due to a decision made at PP-02, Portugal represents region B (western Europe) by means of an official appointed by ANACOM. This group, comprising one representative of each of the five ITU administrative regions, is vital for efforts to resolve some of the ITU's financial and structural problems. As it held the Council Presidency, ANACOM headed the Council oversight group (COG), which accompanied all activity related to the Union's reform process.

In 2003 the Council met twice, exceptionally, for the budget had not been approved at the May meeting. It was thus necessary to hold an additional meeting in October. It was obvious from the start that the fundamental issue in question concerned the ITU's acute financial situation, directly

caused by the drop in contributions from the various Member States at PP-02 – mainly western countries – and structurally justified by difficulties in the ITU's management.

In the May session debate covered the States' expression of dissatisfaction over the lack of transparency in the Union's management and finances, which led to approval of most of the short term measures proposed by the GoS. It was decided that the remaining recommendations (middle and long term) and their implementation would be further developed by this group, with a view to being considered and eventually approved by the Council at its ordinary session in 2004. A relevant circumstance that occurred for the first time in the Council's history was that the budget submitted by the ITU secretary general (who oversees the Union's executive management) for the following biennium (2004-2005) was not approved, as the administrations did not hold it to be sufficiently transparent and explanatory for them to consider it. The secretary general thus revised the draft budget, taking into account the expressed concerns and questions, with a view to considering and adopting it at an additional Council session, which was held in late October for that specific purpose.

At its additional October session, the revised budget submitted by the Secretary General (SG) of the ITU differed little in content from the May one, though it was more transparently presented and more information was provided to the counsellors. For this reason it was approved even though some Member States, among them Portugal, were not entirely satisfied with same. The counsellors had realised that another rejection, meaning that financial year 2004 would begin without an approved budget, would lead to an undesirable situation for the ITU. Likewise approved were a number of actions to be accomplished by the SG, in light of which the budget's execution will be revised at the 2004 Council session. A decision was also made to hire an outside consultant and the respective work mandate was approved, with a final report to be submitted to the 2004 Council.

In the Telecommunications Standardisation Sector (ITU-T) two meetings of the Telecommunications Standardisation Advisory Group (TSAG), in February and November 2003, are worthy of note. They basically focused on preparation for the World Telecommunications Standardisation Assembly (WTSA) to be held on 5-14 October 2004 in Florianópolis, Brazil.

The top of the agenda is and was reform of the Standardisation sector, to adjust it to meet the budgetary limits resulting from PP-02, with the aim to increase revenues by scaling back the services provided, specifically publications, and also to cut costs, mainly by concentrating activity. To that end arose the prospect of modifying the Study Groups which in ITU-T deal with

various technical issues related to technology compatibility and convergence, so as to reduce their number and concentrate topics.

In the Telecommunications Development Sector (ITU-D), participation in the respective Advisory Group in March 2003 is highlighted. The central theme topics were the prospects of applying the Istanbul Action Plan (resulting from the 2002 World Telecommunications Development Conference in Istanbul) and, based on that reference document, the ITU-D's contribution to the then ongoing process of putting together the Declaration and Action Plan of the World Summit on the Information Society (WSIS).

The activity of the Radiocommunications Sector (ITU-R) is particularly important for Portugal and other countries, especially the European ones, given the strategic nature of its activity and the decisions approved at global and regional conferences held under its aegis.

Such decisions are materialised in international treaties which must compulsorily be applied by the ITU Member States, with direct impact on areas of vital interest for each of them, including national security.

In ITU-R, ANACOM particularly emphasised attendance in the following events and working groups in 2003:

- The World Radiocommunications Conference, held from 9 June to 4 July in Geneva (WRC-03). This Conference was attended by 2,278 delegates representing 138 Member States, 38 Sector Members (recognised operators), 15 scientific and industrial bodies, 4 representatives of United Nations organisations, 17 regional organisations and other international organisations, 6 regional telecommunications organisations and 6 intergovernmental organisations involved in the operation of satellite systems. The main highlights among the 45 agenda items, which covered the most diverse topics in this area, are the allocation of frequencies around 5 GHz for RLAN (radio local area network) applications, the resolution on the technical and regulatory framework for satellite radionavigation systems (GPS and GALILEO), the need to continue studying technical and operational issues related to the development of IMT-2000 and systems beyond, with the aim of “building” a comprehensive view of what that “that future” will effectively be, revision of planning for the mobile maritime service bands in short wave taking into account the use of new digital technology, spectrum allocation for internet applications via satellite and the realignment of frequency band allocations to amateur and amateur by satellite services and broadcasting service around 7 MHz.

Also worthy of note is that Portugal was asked to chair the editing group on stratospheric platforms for IMT-2000 (item 1.33 on the agenda) during the Conference and that mandate was successfully completed.

- Conference Preparatory Meeting (CPM) on 7-8 July, which was point zero for WRC-07 preparatory work; the structure and report to work on the upcoming study period was approved.
- Radiocommunications Assembly (RA-03), held on 2-6 June, which saw approval of more than 30 Recommendations, most of them related to agenda topics of the WRC held in the following weeks. The approved Recommendations concern areas as diverse as IMT-2000, Wireless Local Area Networks (WLANs), the use of fixed service by satellite Earth Stations on Board Vessels (ESVs), the protection of passive services such as Satellite Earth Exploration Service and Radio-Astronomy Service.
- Radiocommunications Advisory Group (RAG), which met in Geneva from 27 to 31 January to consider issues related to the use of languages, the need to update various ITU-R Resolutions on conference preparatory work, specifically the need to activate the Special Committee and the strategies and priorities adopted by the Radiocommunications Sector. In its report the RAG-2003 recommended that electronic means should be provided to exchange information, and that their use should be encouraged in order to reduce the volume of paper and cut spending on the publication of documents.
- WP8F Working Group (IMT-2000 and Systems Beyond IMT-2000), which develops a long term vision of IMT-2000 and particularly defines radio spectrum needs as a support for WRC decisions. To that end it developed and updated a number of recommendations, such as on planning and the appropriate bands for IMT-2000 implementation and IMT-2000 compatibility with other radiocommunications systems.
- Group TG 6/8, established in 2002 under Study Group 6 (Broadcasting) to prepare the next Regional Radiocommunications Conference (RRC-04), whose objective is to revise the 1961 Stockholm Agreement on television broadcasting; the aim was basically to carry out appropriate planning for digital television.
- Various specific working groups in the scope of spectrum engineering, WP 1A (spectrum management techniques), WP 1C (spectrum oversight), WP 3K (radio propagation

related to point-multipoint applications) WP 6E (land broadcasting propagation), JRG 8A-9B (wireless radio access) and WP 9B (fixed service planning).

In 2003 the ITU played a decisive role in the World Summit on the Information Society (WSIS) process ongoing under United Nations auspices. Indeed, besides assuming responsibility for organising same, the ITU established a working group within the Council (WG WSIS) to prepare its contributions in terms of content. During the year in question this group held its third meeting on 14-15 April in Geneva, where it reviewed the ITU's sector contributions vis-à-vis proposals of the Declaration of Principles and Action Plan for the WSIS first phase, held in Geneva on 10-12 December. The ITU's vital role and the need for greater involvement by the Information and Communication Technologies (ICTs) business world in the WSIS dominated the 4th WG WSIS meeting, which was held on 10-11 September in Funchal, Madeira, hosted by ANACOM.

ANACOM's involvement in the work of the World Summit on the Information Society consisted at internal level of taking part in the process of inter-ministry co-ordination promoted by the Ministry of Foreign Affairs. At international level it was limited this year to taking part in the aforementioned ITU Council Working Group on the WSIS (WG WSIS).

The following ITU binding instruments were approved for reception in the legal order in 2003:

- Final Acts of the Regional Administrative Conference for planning audio broadcasting services in metric waves (Region 1 and part of Region 3), held in Geneva in 1984 – as per Decree no. 39/2003 of 2 September;
- Final Acts of the Regional Administrative Conference for planning maritime radionavigation service (radio beacons) in the European Maritime Area, held in Geneva in 1985 – as per Decree no. 47/2003 of 17 October;
- Final Acts of the Regional Administrative Conference of ITU Members belonging to the European Broadcasting Area, which contains the Protocol amending the Stockholm Agreement (1961), held in Geneva in 1985 – as per Decree no. 21/2003 of 3 May.

These processes were not however finalised in 2003, as the Notice of deposit of the corresponding ratification instruments with the ITU Secretary General had not been published.

The following ratification processes remained pending in 2003, all submitted by ANACOM in 2001 to the then Ministry of Social Infrastructure and the Ministry of Foreign Affairs:

- Final Acts of the European Broadcasting Conference for planning broadcasting service in metric and decimetric waves, held in Stockholm in 1961;
- Final Acts of the Regional Administrative Conference for planning mobile maritime and aeronautic radionavigation services in hectometric waves (Region 1), held in Geneva in 1985;
- Final Acts of the 1995 World Radiocommunications Conference (WRC-95);
- Final Acts of the 1997 World Radiocommunications Conference (WRC-97);
- Final Acts of the Plenipotentiary Conference held in Minneapolis in 1998 (PP-98);

5.1.5 European Conference of Postal and Telecommunications Administrations (CEPT)

Context

The European Conference of Postal and Telecommunications Administrations (CEPT) was founded on 26 June 1959 and at the end of 2003 counted 46 European countries as members.

Activity pursued in 2003

ANACOM takes part in all CEPT activities as the Portuguese Administration. The Portuguese presidency of the organisation began on 1 October 2002 and ran through 30 September 2003.

As the Portuguese CEPT Presidency, ANACOM undertook various measures and actions, especially with regard to topics identified as being presidency priorities, to wit:

- Promotion and publicity of CEPT, internally and externally;
- Action on and enhancement of relations with regional organisations with which CEPT maintains co-operation agreements;
- Clarification of CEPT's involvement in preparing the World Summit on the Information Society (WSIS);

- Development in CEPT of a policy to co-ordinate candidacies for positions in international organisations in the communications sector;
- Negotiation of the co-operation agreement between CEPT and the European Commission and CEPT's involvement in issues inherent to application of the new community regulatory framework.

Next are indicated the main results of those actions during the Portuguese Presidency, some of them the result of a lengthy negotiating process led by ANACOM:

- Completion of negotiations on the co-operation agreement between CEPT and the European Commission; once the full legal process inherent to the Commission was concluded it was also possible to approve same at the last Assembly under the Portuguese Presidency;
- Start of co-operation between the RCC (regional organisation grouping Russia and 11 other former Soviet Republics in eastern Europe and central Asia) in the wake of the signing of the Memorandum of Understanding (MoU) with that organisation at the start of the Portuguese Presidency;
- Action on and enhancement of co-operation ties with counterpart organisations at global level, specifically by promoting bilateral and multilateral meetings which served to launch a solid basis for continuation of the work and co-operation under existing agreements;
- Promotion and publicity of CEPT internally and externally: production of a CEPT promotion brochure (in the organisation's three languages), launch of a new internet site and use of fast systems to divulge relevant information to the proper members and organisations;
- Adoption of a method to co-ordinate candidacies to positions in international organisations involved in the communications sector and in the postal sector;
- Agreement on adjustments to make to the organisation's organic structure at Assembly level;

- Organisation, presidency and secretariat of the two CEPT Assemblies held in 2003, respectively in March and September. Beyond the discussion during those sessions, the presidency also launched various consultations and decision processes concerning issues which, for scheduling reasons, had to be decided between sessions.

Even after the end of the respect CEPT Presidency mandate (on 30 September 2003), the Portuguese administration continued to play an active and productive role in the organisation's top management through its participation in work of the troika, of which it is a vice-presidential member until 30 September 2004. The troika, especially by drafting documents and preparing for Assembly meetings, has played a significant role in leading and facilitating CEPT's work.

ANACOM likewise continued to actively participate in work of the standing committees – ECC and CERP – and the respective working groups and project teams, as well as in the ERO and ETO Councils of Administration.

At ECC level, ANACOM particularly focused on attending the following project teams and working groups: Frequency Management, Spectrum Engineering, Radio Regulation (Regulation Affairs, since October 2003), IMT and Other Systems, Conference Preparatory, Economic Aspects, Numbering and Addressing Aspects, and Technical Aspects regarding Interconnection.

The Frequency Management working group (ECC WG FM) played a decisive role in 2003 in CEPT activity concerning radio spectrum harmonisation at European level for radiocommunications systems and services, developing strategies to implement plans for future spectrum use, preparing replies to European Commission mandates, preparing ECC Decisions on various topics and co-ordinating monitoring activities as well as CEPT contributions to ITU-R and its groups. This group was particularly responsible for drafting European common proposals (ECPs) to defend at the first session of the Regional Radio Conference (RRC-04/05) on planning digital land broadcasting service in Regions 1 and 3, in the 174-230 MHz and 470-862 MHz frequency bands.

The Spectrum Engineering working group (ECC WG SE) carried out studies that resulted in Recommendations and Reports that for the most part established compatibility criteria for various radiocommunications systems. It also undertook studies to gauge the spectrum efficiency of various mobile communication systems. This group's studies took into account diverse specifications from the European Telecommunications Standards Institute (ETSI) and ITU-R.

The working group on Radio Regulation/Regulation Affairs (ECC WG RA) played a vital role in CEPT activity involving the harmonisation of standards and technical/regulatory procedures at European level, applicable to equipment meant for radiocommunications systems and services, as per current community legislation, particularly the preparation of Decisions on free movement, usage and exemption from individual terminal licences.

Project team 1 of the ECC (ECC PT1) is in charge of all matters related to the evolution of IMT-2000 and systems beyond and co-ordinates European contributions and its positions on issues involving spectrum, regulation and sharing/compatibility in the scope of WP8F of ITU-R. This team's responsibility particularly stands out in the preparation of European positions for relevant WRC items. Among the studies carried out by this team are those meant to respond to the European Commission mandate on the co-ordinated implementation of third generation systems (IMT-2000/UMTS) in the European Community.

ANACOM's involvement must particularly be stressed in activity of the Conference Preparatory Group (CPG), which in 2003 prepared the European positions submitted to WRC-03 as ECPs (European common proposals) and also promoted and organised the actions needed for co-ordination with regional telecommunications organisations; in particular, European co-ordination of three WRC-03 agenda topics was ensured:

- Undue application of the power flow density limits of non-geostationary fixed satellite service systems, contained in article 21 of the Radio Regulation;
- Sharing between geostationary and non-geostationary systems;
- Stratospheric platforms in the IMT-2000 context.

Lastly, it is worth noting that in 2003 the ECC approved a new internal structure which almost entirely took effect in October 2003.

At ERO Council level activity continued normally in 2003, with both offices, ERO and ETO working together in practice; the process continued of accepting, approving and ratifying amendments to the ERO Convention which will formalise the two offices' merger and the consequent establishment of the ECO.

Regarding the European Committee for Postal Regulation (CERP), 2003 saw particular emphasis placed on issues concerning implementation of Postal Directive 2003/39/EC, which modified Directive 97/67/EC. The realisation and presentation of sector-related European Commission studies and developments vis-à-vis classification proposals and initial offers for

compromises in the negotiation of postal services under the General Agreement on Trade in Services of the World Trade Organisation (WTO) was accompanied, along with negotiation of the public contracts directive and the proposal to introduce value added tax in postal services provided by the universal service operator, and developments involving the green paper on general interest services.

This Committee was also involved in work to prepare the next Congress of the Universal Postal Union, to be held in Bucharest from 15 September to 5 October 2004, and in studying proposals to reform the Union resulting from the recommendations of its previous Congress and from the high level group established by same – work that has continued within the UPU.

CERP also further developed its website, providing it with diverse information of public interest on the Committee's activity, and worked on compiling and updating information of a basically regulatory nature on its members, which is available in an electronic compendium.

Its four working groups, namely UPU Issues, Regulatory Issues, Economic Issues and Standardisation, as well as the European Commission and POSTEUROP Contact Committees, reported on their activities:

- The UPU Issues group focuses on activities of the Universal Postal Union, and considered about 200 proposals from European countries to be submitted to the UPU Congress in 2004, concerning the reformulation of Union measures. Also discussed within this group was the code of conduct and the proposal submission process, as well as analysis of documents submitted to the UPU Council of Administration and debate on the Bucharest World Postal Strategy document;
- The Regulatory Affairs working group focused on issues concerning the status of the Postal Directives' transposition and on developments regarding the introduction of postal services in GATS negotiations and on the green paper on general interest services. It sent a letter to the Commission containing a position on this matter. Also, the project team that studies the consequences of liberalising cross-border mail in the community space reported on its activities, indicating the theme topics that should be studied and debated in the future, specifically the identification of barriers to competition, obligations that should exist between postal operators, consumer rights and access to the postal network;
- The Economic Issues group discussed matters concerning the universal service operators' accounting system, the price control system, the cost and financing of universal service, terminal dues and access to the postal network. Also discussed

was a proposal to modify the current VAT regime applicable to postal services in the Community;

- Lastly the Standardisation WG centred its activities around standards developed by the European Committee for Standardisation (CEN), as per the European Commission mandates. Those standards may be of compulsory application by the universal service provider if the European Commission's Postal Directive Committee, to which CEN reports, so decides. Noteworthy in this context are the standards on measuring the time involved in routing and processing claims.

5.1.6 North Atlantic Treaty Organisation (NATO)

Context

In the North Atlantic Treaty Organisation (NATO) the groups responsible for spectrum issues are specifically the spectrum management subcommittee (NATO FMSC) and the policy working group (NATO PWG).

NATO FMSC is the only committee with recognised competence to decide on issues involving the management of civil/military spectrum. Among other powers, it assures harmonisation of the spectrum needed for military uses by the NATO countries and drafts, in liaison with the national authorities responsible for spectrum management, positions to defend by NATO and by military authorities at the ITU's world radiocommunications conferences, in order to better safeguard military interests.

NATO PWG is a technical group subordinate to NATO FMSC which in this context carries out activities to support and advise that Committee. NATO PWG studies topics being debated on the agenda of world radiocommunications conferences and advises NATO FMSC on positions that best assure the defence of military interests, with support from the national authorities responsible for spectrum management. It also carries out activities meant to establish conditions for spectrum harmonisation within NATO, namely by updating the NATO Joint Civil/Military Frequency Agreement (NJFA).

Representatives of the NATO member countries and, sometimes, the Partner Nations (countries participating in the Partnership for Peace programme), take part in work of the two committees described above.

Activity pursued in 2003

In the course of its co-operation with military entities, ANACOM took part in work of the two aforementioned civil/military committees.

Noteworthy in the PWG's activities is finalisation of the positions defending military interests for the NATO administrations to take at WRC-03. These positions were later approved by the FMSC.

The PWG completed revision of the supplement to the NATO Joint Frequency Agreement (NJFA) on situations of crisis and war, which was meanwhile approved in 2004.

5.1.7 International Telecommunication Satellite Organisation (ITSO)

Context

The International Telecommunication Satellite Organisation (ITSO) is a global intergovernmental organisation resulting from the reorganisation of INTELSAT.

The current structure of ITSO, comprising 148 States (Parties), is composed of the Assembly of Parties, which meets every two years, an Executive Body headed by the Director General, who assumes executive duties, and the Advisory Committee, which supports the Director General between Assembly sessions.

Activity pursued in 2003

ANACOM's responsibility is to assure national representation at the ITSO Assembly of Parties, which met in July 2002 and will hold its next biennial meeting in June/July 2004.

Regarding the organisation's fundamental instruments, the process of ratifying the Amendments to the INTELSAT Agreement and the respective Operation Agreement remained pending in 2003, following their submission in 2001 to the then Ministry of Social Infrastructure and to the Ministry of Foreign Affairs.

5.1.8 International Mobile Satellite Organisation (IMSO)

Context

The International Mobile Satellite Organisation (IMSO) is a global organisation resulting from the reorganisation of INMARSAT.

IMSO's current structure, constituted by 88 States (Parties), is composed of the Assembly, which meets every two years with all the Parties, the Secretariat, an executive body headed by a Director General, and the Advisory Committee supporting the Director General, of which Portugal has been part of since its establishment.

ANACOM assures national representation in both the IMSO Assembly of Parties and in the respective Advisory Committee.

Activity pursued in 2003

IMSO's work was carried out in the wake of the 16th Assembly of Parties in September 2002, which decided to establish the Intersession Working Group, chaired by Brazil. This group, which is responsible for studying a proposal first drafted by Denmark to modify the Convention, IMSO's base instrument, and studying the organisation's future structure, met twice in 2003. Noteworthy in its work are major differences over the need to revise the base instrument, with the IMSO bureaucracy pushing for same in the face of strong opposition to eventual modifications raised by countries such as the United Kingdom, Russia and the United States of America. The Advisory Committee met in parallel, basically analysing the 2003 budget and financial prospects for 2004.

5.1.9 European Telecommunications Satellite Organisation (EUTELSAT)

Context

The European Telecommunications Satellite Organisation (EUTELSAT) is a European intergovernmental organisation that originated with the so-designated INTERIM EUTELSAT (Interim European Telecommunications Satellite Organisation) established by the provisional agreement signed in Paris on 13 May 1977, with the definitive designation to come into use when the Convention (definitive instrument replacing the provisional agreement) took effect. Portugal was one of EUTELSAT's founding members. The organisation's main goal was to

supply the space segment necessary to provide Europe's international telecommunications services, including broadcasting services.

EUTELSAT was reorganised in July 2001 to adjust it to the new regulatory conditions and the new competitive environment. In this context, and basically for commercial reasons, it was privatised with a consequent split into two distinct entities.

EUTELSAT's operational component was thus transferred to a private limited company, EUTELSAT, S.A., which took on management of the space segment, the fulfilment of public service obligations and pan-European coverage of the satellite system. The intergovernmental organisation was also maintained, now designated as EUTELSAT-IGO (Intergovernmental Organisation), whose duties centred on overseeing the new company's compliance with the universal service obligations and the principles of non-discrimination and fair competition.

EUTELSAT's current structure, composed of 48 States (Parties), is confined to the Assembly of Parties, which meets with all the Parties every two years, and to the Secretariat, an executive body headed by the Executive Secretary, and the Advisory Committee, which supports the latter.

Activity pursued in 2003

ANACOM assures national representation in the EUTELSAT Assembly of Parties. The 30th Assembly of Parties was held in May 2002; the 31st biennial Assembly is scheduled for May 2004.

Regarding ratification of its base instruments, the Agreement to Modify the Protocol on EUTELSAT Privileges and Immunities (1999) was approved for ratification as per Resolution of Parliament no. 65/2003 and ratified by Presidential Decree no. 44/2003, both instruments dated 2 August. However, the notice that the corresponding ratification instrument had been deposited with the EUTELSAT Director General was not published in 2003.

5.1.10 European Space Agency (ESA)

Context

The mission of the European Space Agency (ESA) is to promote knowledge of science, technology and applications linked to space, as well as the concomitant support for the development of industries and services associated to same.

Portugal joined the ESA as a member with full rights in 2000. The main aspects of the ESA's activity include scientific development programmes and telecommunications, navigation and earth observation launches.

Portugal's representation at Council level is the responsibility of the Office of International Relations for Science and Higher Education (GRICES), which reports to the Ministry of Science and Higher Education.

Representation in the management committees of the various ESA programmes is passed on to the bodies which by their nature and functions are best related to the respective subject. ANACOM was thus in March 2000 appointed to oversee national representation on the Communications Programme Management Board (JCB).

ANACOM also supports national participation for financing the Agency's telecommunications programme. The counter-entry for this financing is an at least 90 percent return on the subscribed amount, in development contracts with Portuguese R&D institutes and companies.

Activity pursued in 2003

In 2003 the ESA's activity in telecommunications was quite intense, specifically involving preparation of working plans to strengthen European industry's competitiveness in the middle term as well as its resurgence, taking into account a certain crisis in the sector resulting from the slowdown in the European and global economy, which particularly affected the ICT sector.

Debate also began on the space sector's role via the ESA in the EU initiative to reduce the "digital divide" in the Union (the Digital Divide Initiative); this subject should be taken up again and broadened in 2004 and following years.

The GALILEO programme, while overseen by its own programmes committee in the ESA (PB-NAV), was also subject to indirect JCB attention, via approval of various projects to develop applications where major synergies exist between telecommunications and satellite localisation/navigation.

In 2003, the JCB held four regular meetings and two extraordinary ones.

5.1.11 European Telecommunications Standards Institute (ETSI)

Context

The European Telecommunications Standards Institute (ETSI) is a European standardisation organisation whose mission is to produce standards in the areas of telecommunications, and also to undertake activities involving pre-standardisation and standardisation in the areas of information technologies and television and audio broadcasting.

ETSI's bodies are the General Assembly (decision-making body responsible for defining standardisation strategy, endowments, members' affairs, the designation of Council members, designation of the Director General and the Assistant Director General, the approval of external co-operation agreements in standardisation, and approval of the Institute's statutes and rules of procedure), the Council (responsible for ETSI activity between Assembly meetings, exercising the powers and duties delegated to it by same), a secretariat, the organisation's permanent support structure, and the technical committees and task forces, which are bodies of an eminently technical nature.

Activity pursued in 2003

As a member in the Administration category, ANACOM participated in the two ETSI General Assemblies in 2003.

Besides the ANACOM proposal undersigned by the National Delegation and presented at the March 2003 General Assembly, and which led to introduction of the ETSI reorganisation process, since begun, the Portuguese State's technical representation in ETSI in 2003 was in the areas of security, electromagnetic compatibility and next generation networks.

5.1.12 Universal Postal Union (UPU)

Context

The then designated General Postal Union was founded on 9 October 1974 with the Berne Treaty. Portugal was among the 22 countries that signed that Treaty. This intergovernmental

organisation took on its current designation, Universal Postal Union (UPU) in 1878, and in 1948 was constituted as a specialised institution of the United Nations.

Activity pursued in 2003

In 2003 ANACOM actively participated in work of the Universal Postal Union (UPU) as a Member Country and Postal Administration, particularly in the groups, committees and plenaries of the Councils of Administration and Postal Operations (CA and COP).

The Union continued the reform work in accordance with recommendations from the high level group established by the 1999 Beijing Congress and the developments in work of the project team on Management of the Work of the Union, set up later in 2001.

The Union reform work seeks to better adjust the UPU to global structural changes in the sector, with better awareness of the need to guarantee a quality universal postal service provided to all citizens at affordable prices and to increase competition in the sector.

With the approach of the Congress scheduled for 15 September-5 October 2004 in Bucharest, the Union's work intensified with the aim to present proposals that modify both the Union's structure and the Acts, to better cover the interests of the entire postal industry, from equipment suppliers to end users.

This work to integrate all sector players in the Union's work has enabled analysis of pertinent and current issues meant to promote development and co-operation in the postal market and the discussion of subjects involving the provision of universal service and the respective quality, market trends and its players, new markets and postal products, the postal reform process in the Member Countries, reservations to Union Acts, the Postal Administration designation, extraterritorial offices of exchange and licensing systems in effect in the Member Countries.

The Postal Operations Council, headed by Portugal, gathered the various Action Groups, Commissions, Committees and Co-operatives, besides the POC itself, in plenary session. Noteworthy is Group 1's work on modifications to the future terminal dues system; various proposals were debated, concerning the system applicable to exchanges between industrialised countries in 2004 and 2005. As for reformulation of the Acts, the draft Agreement on Postal Payment Services and their regulations was approved; the International Bureau should proceed to distribute this Agreement to all the member countries, along with drafts of the Universal Postal

Convention, the Correspondences Regulation and the Regulation on Postal Packages, which will serve as reference texts for the submission of proposals at the next Congress.

The Council of Administration, headed by China, also gathered the various working groups, project teams, action groups and commissions, as well as the CA itself, in plenary session. Work by the Acts of the Union project team was notable: it had focused on issues concerning reservations about the Acts, definitions meant to clarify same and replacement of the term Postal Administration by Member Country and/or Operator. The respective document presented by the International Bureau was based on work done by ANACOM; this PT has decided to carry out a consultation of the member countries on this issue.

The PT on Management of the Work of the Union studied various issues, such as the separation of duties and responsibilities between regulators and operators, the postal regulation guide, the study on licensing, conclusions of the Acts of the Union PT with respect to the term Postal Administration, the study on licensing systems, the Advisory Group's participation in the next UPU Congress and Extraterritorial Offices of Exchange.

The Universal Service (US) PT noted results from the questionnaire sent to the member countries on the evaluation of US according to the five main areas of universal service: access to service, customer satisfaction, speed and reliability, security, and responsibility for and processing of claims. It approved a resolution for the Congress on continuing work in this UPU priority area.

The Advisory Group counted various speakers who gave presentations on topics such as WTO negotiations, major developments to improve service quality, future prospects of the terminal dues system and UPU strategic planning activities until the Bucharest Congress. The Group approved two resolution proposals that formalised the invitation to be addressed by the CA to the Advisory Group and its members, for them to attend the Congress as observers without the right to vote – subsequently approved by the Council of Administration. The Group also analysed the International Bureau document concerning the Bucharest World Postal Strategy and presented a document with its contribution to the World Strategy, emphasising that the UPU should allow debate on topics of major importance for the private sector, and in such cases inform all UPU member countries of the consensus attained by the Group and permit decisions of the future Consultative Committee, up for approval at the Congress, to be incorporated into the UPU.

The PT on WTO Relations reported that to conclude the Cancun Ministerial Conference held in September 2003 a Joint Declaration was presented, which urged negotiators to continue work on

the negotiations. A workshop was also held, focusing on the topic of “Reaching Consensus in GATS Negotiations on Postal Sector Issues”.

Committee 1 approved the proposals to modify the General Regulation to eliminate the positions of Subdirector General and to introduce the biannual budget cycle in the system of UPU reports, such as the Financial Management Report and the Programme and Budget.

Committee 2 reviewed the financial situation of the Fund to Improve Service Quality, declaring that there were 92 projects approved by the Council on 30 June 2003. Guinea-Bissau’s request to have its debt amortisation plan changed from 10 to 15 years was approved, enabling that country to vote in the next Congress.

The Council approved the five proposed objectives of the Bucharest World Postal Strategy: universal postal service, service quality and efficiency in the postal network, markets and response to customer needs, postal reform and sustainable development, and co-operation and interaction between the parties involved.

Note that on 9 April 2003 Portugal put forth Carlos Silva, Inspector General of the CTT (Portuguese postal service) and current Chairman of the Union’s Postal Operations Council, as candidate for the post of Director General of the UPU International Bureau.

Lastly, the process of ratifying the Final Acts of the 22nd Congress of the Universal Postal Union, held in Beijing in 1999, is still under way; the process was forwarded by ANACOM to the Ministry of the Economy and Ministry of Foreign Affairs in 2002.

5.1.13 Postal Union of the Americas, Spain and Portugal (UPAEP)

Context

The Postal Union of the Americas, Spain and Portugal (UPAEP) is an intergovernmental organisation currently comprising 27 States, based in Montevideo, Uruguay.

Activity pursued in 2003

As Member Country and Postal Administration, ANACOM was in 2003 present on the Advisory and Executive Council and the respective working groups.

In 2003 UPAEP continued its reform process and to that end paid particular attention to recommendations of the working group on Future UPAEP Development, chaired by Portugal.

This subgroup's work focused on reformulating the Acts of the Union, specifically on introducing a biennial cycle from 2006 on and the consequent modification of the Union's strategy plan and financial management system, as well as modification of the congress schedule and the respective adjustments needed regarding the term length of elected positions in the International Secretariat. The subgroup also studied the issue of observer participation in meetings of the Advisory and Executive Council, and drew up a number of proposals to modify the Regulations as well as various questionnaires to learn opinions on UPAEP reform; it decided to maintain the status quo with regard to the election of Management Committee members.

The Advisory and Executive Council decided, given the work submitted, to enlarge the subgroup's mandate so that same could also study the possibility of having the Union's accounts audited by other entities, and to study investment alternatives for the UPAEP's financial resources.

The Advisory and Executive Council approved the work and proposals submitted by the Groups on UPU Reorganisation and Future UPAEP Development, the UPAEP Terminal Dues Advisory Group, Technical Co-operation, Electronic Commerce, Postal/Customs Relationship, Quality System, ISO 9000 Certification, Debt Status of Member Countries and Postal Security Action Group.

The Council approved modifications to the strategy plan, the Union's 2004 budget and the accounts from financial year 2002, and took note of the report from the High Inspection Authority which approved the accounts from financial year 2002.

Lastly, the Council decided that a Forum of Postal Authorities would be held in May 2004 to evaluate the member countries' actions with respect to postal reform and modernisation, as a consequence of recommendations from the Madrid declaration signed in 2002 by the oversight ministers. It also aims to study topics that will be debated at the UPU Congress which are of particular interest to the UPAEP.

It must be emphasised that this Union's Congress will be held in 2005, with the goal of adapting its structure and Acts to changes stemming from decisions made at the UPU Congress in 2004.

Regarding this organisation's fundamental instruments, the Final Acts of the 18th UPAEP Congress, held in Panama in 2000, were approved in Decree no. 46/2003 of 15 October, although the Notice of the respective ratification instrument's deposit with the UPAEP General Secretariat was not published in 2003.

Regarding Final Acts of the 14th UPAEP Congress, held in Buenos Aires in 1990, and Final Acts of the 15th UPAEP Congress, held in Montevideo in 1993, publication of the Notice that the respective ratification instruments had been deposited with the UPAEP General Secretariat remained pending in 2003.

5.1.14 World Summit on the Information Society

The emergence of the information and knowledge society has in recent years been subject to reflection in various contexts – from the G-8 to the task force set up by the United Nations in 2001, as well as by the Organisation for Economic Co-operation and Development (OECD), Unesco and the Council of Europe, among others. In this regard the need arose to join the various pieces together and to approximate the various goals and perspectives, in order to establish a set of structuring principles and pretexts earning global consensus, which forms the basis for holding the World Summit on the Information Society (WSIS).

As an additional backdrop there is also the intention to consider information and communication technologies (ICTs) as being an opportunity to be used and not an instrument engendering new imbalances and a widening gap separating rich and poor countries.

The holding of the World Summit on the Information Society (WSIS) thus arose from a recommendation from the International Telecommunication Union (ITU), which became the lead agency in its preparation and organisation.

It was decided that WSIS would take place in two phases, a first session in 2003 in Geneva and a second one in 2005 in Tunis, so as to strengthen relations between the developed and developing countries.

Among the groups of more developed countries, the European Union (EU) was the most enthusiastic proponent of this Summit, on the pretext of its concern over the "inclusion" of and connection to developing countries. The latter in turn immediately accepted the idea, although with different objectives depending on the respective positions.

For the developing countries in general, though with slight differences, it was vital to define principles for the information society (IS) based on solid foundations of respect for human rights and the freedom of expression and information, on the essential contribution of not only governments but also the business community and civil society, on creation of an environment favourable to IS development (including appropriate ordering for each country's level), on a balance between the public domain and intellectual property rights and on a balanced evolution of international governance of the internet.

The developing countries together opposed having the Summit's first phase concentrate only on principles, leaving the second phase for means of action and the implementation plan (a position initially defended by some developing countries), as they held they could not commit themselves to principles without the means to implement same. This position prevailed and the Summit's first part thus adopted not only a Political Declaration, with the principles, but also an Action Plan.

The structuring of the Summit theme topics and the Declaration of Principles together had a very clear EU stamp, which ended up decisively influencing the results obtained.

Regarding Portugal, there was active adhesion to the two Summit vectors: the definition and structuring of the IS principles, and reduction of the digital divide separating the developed from the developing countries.

Portugal likewise supports defending issues of cultural and linguistic diversity in the IS context, to enhance use of the Portuguese language and expand its presence on the internet.

The Portuguese delegation in this first WSIS session was headed by José Luís Arnaut, Assistant Minister to the Prime Minister. Portugal also promoted a parallel event on the national project to electronically connect universities known as the Virtual Campus, whose implementation is considered to be pioneer.

After structuring the set of principles and theme topics to consider, according to which the Action Plan will be developed, the final Summit issues focused on the following aspects:

- (a) The human rights framework, freedom of expression and the media, considered as a basis for the IS in terms of the *acquis* of respective international instruments;
- (b) Intellectual property and the access to information – both were considered important, though autonomously, as intellectual property is not conditioned by the information access principle;

- (c) International governance of the internet – the issue was not resolved, nor was such expected. A number of general order principles were defined and a decision was made to set up a group on this topic under the aegis of the UN Secretary General; its reference terms were defined and it is to present results in 2005;
- (d) Financing and, in particular, the creation of a digital solidarity fund – this is an extremely controversial issue, about which it was established that a survey/study will be carried out on the resources and mechanisms existing at international level to support the IS, which will include eventual creation of a digital solidarity fund; the respective results and recommendations would be submitted for consideration at the second Summit phase in Tunis.

The Political Declaration in turn encompasses:

- A common view of the information society – which includes references to the UN charter, the Universal Human Rights Declaration, the role of education, knowledge, information, communication and science in the IS, recognition that ICTs are instruments that should be placed at the service of dialogue, of quality of life and the well being of individuals and economic growth, and to the role of youth and women in the IS, and the particular attention that must be paid to developing countries, the poor and those who live in rural or remote areas. The need for new forms of solidarity to overcome the digital divide and establish links to the Millennium Declaration, Objectives and Targets is recognised;
- The key principles of an IS for all – specifically including the role governments and all stakeholders play in promoting ICTs as a motor for development; the information and communication infrastructure as a vital support for the IS; the question of access to information and knowledge; confidence building and the secure use of ICTs; the creation of an environment favouring dissemination of the IS; the benefits associated with ICT usage in all sectors of life; diversity and cultural identity and linguistic diversity; the media; ethical dimensions of the IS; and international and regional co-operation, among others.
- The need to share knowledge as a way to disseminate the IS.

Although consensus was not reached on a number of issues contained in the Political Declaration, such as internet governance, they will be taken up again during the second Summit phase, which culminates in 2005 in Tunis.

The Action Plan encompasses on the one hand programmatic development elements from the political declaration's principles, and on the other measures to adopt at regional, national and international level, including in either case the various stakeholders involved in this process.

Two aspects to be covered in the future were left open in the Summit's final negotiation phase, to wit: activity of the group to set up under the UN Secretary General's aegis on international governance of the internet, and the survey/study on existing financial mechanisms to support IS activities, including analysis of whether to eventually create a digital solidarity fund.

The Geneva Summit was a unique occasion to learn what the various countries are undertaking in the IS context; it enabled new topics of dialogue to be explored between governments, the business community and civil society, and served to exhibit what companies and diverse organisations are doing in this area (by intermediary of various stands and also parallel events organised at all levels).

The said Summit and all the events parallel to the preparatory process for same were revealed to be essential and are a reference for future development of the work of building relations between the developed and developing countries which began when the Summit was convoked.

The Geneva Summit launched the bases for a process that will have another important consolidation point at the Tunis Summit in 2005.

5.1.15 Digital Terrestrial Television Action Group (DigiTAG)

ANACOM has participated in and accompanied plenary meetings of the Digital Terrestrial Television Action Group (DigiTAG), whose main goals are to create an operational framework for the harmonious and market-oriented introduction of digital terrestrial television services, using the maximum potential of the DVB-T system, and to identify ideal solutions for scenarios involving the switchover from the analogue system to digital services and the subsequent migration to an entirely digital future.

5.2 Co-operation

Context

ANACOM has been assuming institutional and technical co-operation with other countries and administrations as an important aspect of its activity. Whether bilateral or multilateral, this co-operation has to a certain degree followed up the policies and priorities set at government level, complementing them in ANACOM's areas of intervention.

In this regard, the existence of bilateral co-operation protocols in these areas must be stressed, signed with the following entities: Transition Government of East Timor, Federal Government of Brazil, Government of Guinea-Bissau, National Postal and Telecommunications Directorate of Angola, Directorate General of Communications of Cape Verde and the National Communications Institute of Mozambique.

5.2.1 Institutional co-operation

Noteworthy in 2003 in the multilateral co-operation context was participation in the 2nd Technical Telecommunications Meeting of the Community of Portuguese-speaking Countries (CPLP), held in Brasilia on 29 September-1 October.

ANACOM also participated in the Ordinary General Assembly and in the 11th Forum of the Association of Postal and Telecommunications Operators from Countries and Territories where Portuguese is the Official Language (AICEP), held on 6-9 May in Luanda. It accompanied workshops organised by AICEP, in liaison with the Portuguese Communications Foundation, on Postal Management for Upper Management, Postal Sector Reform and Universal Service and Telecommunications Company Management for Upper Management, all held in Lisbon in September.

Regarding bilateral institutional co-operation, and continuing to narrow relations between the Portuguese and Brazilian regulatory bodies for the telecommunications sector, the holding of the 7th ANACOM-ANATEL Co-ordination Committee meeting is worthy of note. A meeting was also held between representatives of ANACOM and ANATEL's head of Assessment of Relations with Users and the Control Manager for Obligations (Universal Service), which enabled experience on consumer support modes to be shared.

Also in this regard, but at PALOP (Portuguese-speaking African countries) level, besides the sharing of information and consultancy provided by ANACOM, the President of the ANACOM Board of Directors and the Cape Verdean Minister of Infrastructures and Transports met in

March; a meeting was also held with a representative of the Ministerial Commission for Angolan Postal Reform in April.

Regarding bilateral institutional relations with the PECO countries, 2003 was a year to narrow relations with Moldova, Bulgaria and Hungary. In February a meeting was held between ANACOM and a delegation from Moldova, comprising representatives of the regulatory authority (National Regulatory Agency in Telecommunications and Informatics – ANRTI), the incumbent telecommunications operator (MOLDTELECOM) and one of the mobile operators (MOLDCELL). April saw a meeting held with the Bulgarian Communications Regulation Commission (CRC), which resulted in the identification of new ways for the two entities to work together. With respect to Hungary, two bilateral meetings were held with the Communications Authority of Hungary (NCAH), one in October and the other in November. The latter resulted in agreement to revise the current protocol governing relations between the two entities, to adjust it to the current institutional realities and policies of the Republic of Hungary, namely its entrance into the European Union.

5.2.2 Technical co-operation

Technical co-operation was realised both in terms of support in consultancy terms provided at long distance, and in the holding of courses in Portugal and in loco missions. The aim was to develop the bilateral co-operation protocols in force with the respective authorities in the Portuguese-speaking African Countries (PALOPs) and East Timor.

The actions undertaken in 2003 were based on the corresponding ANACOM co-operation plan, drawn up annually based on requests from the regulatory bodies and/or administrations from those countries.

ANACOM organised four courses, which involved a significant number of qualified ANACOM resources and 60 trainees from the Portuguese-speaking African Countries (PALOPs) – for the first time including São Tomé and Príncipe in such training actions – and East Timor. The said courses focused on the areas of:

- Standardisation, equipment certification and the regime governing telecommunication infrastructures in buildings – 6-17 October;

- Accounting and financial management, human resources management and documentation and public attendance services – 20-31 October;
- Regulation and rules in the postal and telecommunications sectors – 3-14 November;
- Telecommunications engineering and spectrum management, numbering and spectrum oversight – 4-21 November.

5.2.3 Other actions

ANACOM took part in July in a meeting organised by the PECO Information and Assistance Office of the Directorate General of Community Affairs of the Ministry of Foreign Affairs. The aim, duly framed in the Technical Assistance Information Exchange Office (TAIEX), was to identify the training needs of the European Union candidate countries and ways for ANACOM to participate in events organised by that office.

6. COMMUNICATION, IMAGE AND CUSTOMER SERVICE

6.1 External communication

The external communication policy of ICP-ANACOM is basically accomplished by publicising the institutional image, producing content and the respective publication and dissemination on diverse communication supports. Among these, the internet website, the monthly bulletin Spectru and public attendance are fundamental instruments.

6.1.1 Internet

This communication platform – www.anacom.pt - makes available in a timely manner the determinations with outside impact approved by the Board of Directors, as well as an important set of information of a generic or specialised nature (thematic sections), including legislation. Also provided is information addressed to consumers, and an online services area with the electronic forms associated to ICP-ANACOM's various services.

Regarding content available on the ICP-ANACOM website, new specialised areas on currently relevant topics were set up in 2003. Among them is the section on the regulatory framework for electronic communications (99 Review), with information on new community legislation and the corresponding national measures, and a section on network and information system security, which contains various measures and initiatives pursued by governments and sector organisations in this context.

Besides this, national and international events related to the communications sector have also been given a separate section. The same is true for public consultations organised by various entities (European Commission and other international organisations, national regulatory authorities from other countries, among others) on different theme topics with impact on the sector. A section was also launched on the assignment of temporary licences for the Euro 2004 final phase draw, which in 2004 grew into a section containing all information associated to the use of radiocommunications systems involved in that event, providing the forms needed to request the corresponding services. The directory of hyperlinks to various bodies (links section) was reworked as well, and information compiled on private land mobile service networks in the radiocommunications services section.

The website's publication of a dynamic questionnaire enabled study of how it is assessed by the respective users, both internal and external, with respect to various aspects related to the

available content and services and how it is organised, and to consider and follow up on tangible suggestions formulated in this context.

In 2003 ICP-ANACOM joined in commemorations of the European Year of People with Disabilities by launching a text channel of its website. According to international accessibility standards, specifically those defined by the Web Accessibility Initiative (WAI) of the World Wide Web Consortium (W3C), the text channel is meant to facilitate access by people with special needs to content of the Authority's internet website. ICP-ANACOM's online services, accessible via the website, were made available in text version. The corresponding forms, which thus became accessible to all citizens and to more internet access devices, have achieved a triple-A conformity rating and follow all WAI recommendations, meeting requirements for the first, second and third priorities.

The text channel also enables the publication of content on new technological platforms, with emphasis on third generation mobile services and digital terrestrial television. The ICP-ANACOM website, with respect to accessibility and mobility, is thus prepared to run on any kind of screen via the address <http://www.anacom.pt/txt>

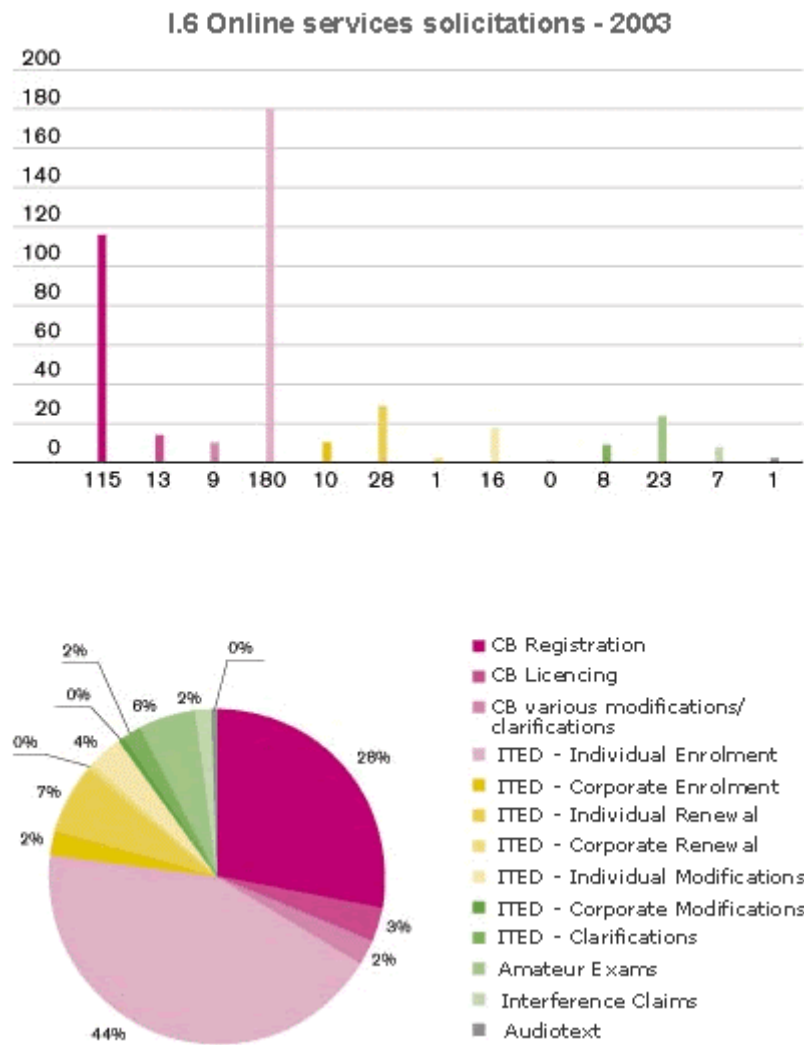
In technological terms, the ICP-ANACOM website allows the syndication of content and shared use of the resources of other public administration websites. The Authority's website also provides a catalogue with a classified list of existing content for consultation by the various servers who wish to have specific information on the sector.

The ICP-ANACOM website was among those which in 2003 were subject to analysis in the second external evaluation of the internet websites pertaining to direct state Administration bodies; some 370 websites were evaluated, out of total of 476 identified.

In this evaluation, the Authority's website was included in the group of the seven best practices among bodies involved in direct and indirect State administration, and was ranked second: content – very good; updating of content – excellent; navigability – excellent; convenience for citizens with special needs – excellent; online services – fair.

Compared to the first study, carried out in 2002, the ICP-ANACOM website registered progress in “content” and “updating of content” in 2003.

Regarding the number of hits in 2003 on the website in general, the online services and, more specifically, the forms published in the online services section, the following tables and graphs indicate the number of visits and the number of web pages visited.

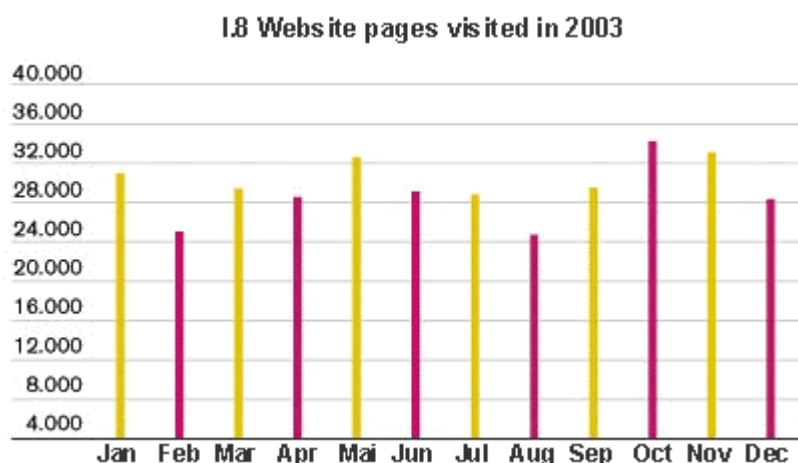
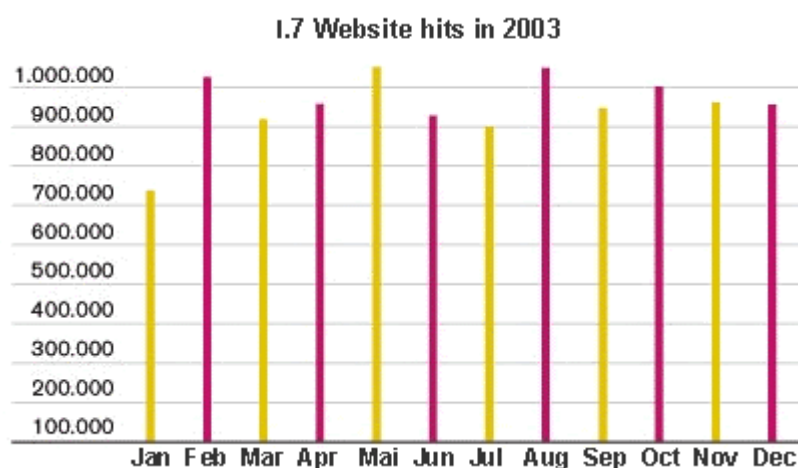


Hits and pages visited on the ANACOM website in 2003

Hits												
	February	March	April	May	June	July	August	September	October	November	December	Total
29,888	22,974	27,815	27,037	31,171	27,757	27,119	22,720	28,015	33,270	32,209	26,398	336,373

January	February	March	April	May	June	July	August	September	October	November	December	Total
678,659	965,500	853,067	894,262	993,681	867,575	836,462	989,329	887,879	939,817	902,887	895,992	10705,11

Website hits in 2003



6.1.2 Spectru

The Spectru bulletin, another major platform for communication, provides monthly information on ICP-ANACOM's activity, and also includes the principal national and international regulatory-related events affecting the communications sector. It is based on internally available information and on research and the processing of outside data.

Spectru also includes a quarterly supplement with the main statistical data for the following services: fixed telephone service, land mobile service, paging service, trunking mobile service, data transmission service and internet access, cable distribution networks and audiotext services. From June 2003 on the supplement also began to include data on postal services operated in competition. Four supplements of this type were published in 2003.

Less regularly published are supplements containing relevant legislation and documents, national or European, as is the case of decisions by the Electronic Communications Committee (ECC) of the European Conference of Postal and Telecommunications Administrations (CEPT) adopted by Portugal. In 2003 four supplements on ECC Decisions were produced.

Once a year – as occurred in 2003 – a supplement is also published with an index of news items, listing the issues covered in the previous year. One supplement with the new ICP-ANACOM organisation chart was also published in 2003, following an internal reorganisation.

Published on paper in Portuguese, with a print run of 600 copies, Spectru is distributed to a broad range of entities, including representatives of different ministries, consumer defence associations, communications operators, industry, and counterpart national bodies and those from the Portuguese-speaking countries, among others.

The Portuguese and English language versions of Spectru are available on the ICP-ANACOM website, with the latter sent directly to officials from the counterpart regulatory authorities, particularly the European ones, as well as to sector officials from the European Commission and other international organisations.

The mode of free subscription to Spectru was launched in April 2003 from the ICP-ANACOM website; the number of online subscribers from April to December 2003 was about 500.

The year 2003 also saw the start of Spectru's graphic renewal process. It began with introduction of the ICP-ANACOM colour logo at the bottom of the page and the addition of images (informative graphs and tables). The format for presenting texts about meetings of international bodies in which the Authority participates was also reworked and they have henceforth been published in a reduced version, with indication of the internet address where a more thorough version of those meetings is posted. The graphic renewal only ended in 2004, with adaptation of the initial graphic renewal to four-colour production of the bulletin.

6.1.3 Public attendance

ICP-ANACOM's external relations with the public in general benefits from integrated processing and action on replies to specific requests of a generic and sector-related nature, in which the public attendance service located at the headquarters building in Lisbon and at the office in Barcarena and the regional offices (Oporto, Funchal and Ponta Delgada) plays a vital role.

The service is provided in various modes, including personal, telephone, postal and electronic attendance, and aims to ensure clarification and, when justified, internal or external routing of the numerous requests for information and claims that it receives.

The evolution and characteristics of the solicitations received in 2003 is characterised in the following tables.

Total number of solicitations received								
1995	1996	1997	1998	1999	2000	2001	2002	2003
24 459	27 572	29 357	29 440	29 730	27 088	24 530	26 265	36 663

Breakdown of solicitations received by mode of reception	2003	2002	2001	2000
Total solicitations	36 663	26 265	24 530	27 088
Solicitations by telephone	12 946	15 992	15 893	17 284
Solicitations in person	2 645	2 694	3 591	5 981
Solicitations by mail/fax	18 198	5 094	3 639	2 761
Solicitations by electronic means (including via online services)	2 873	2 485	1 407	1 012

Breakdown of solicitations received by matter in question	2003	2002	2001
Audiotext	345	533	2 408
Telecommunications infrastructures in buildings (ITED)	17 522	1 216	1 387
Private networks	1 466	2 041	3 391
Amateur radio	2.993	2.975	2.876

Personal radio/Citizen's Band - CB	2.372	3.097	4.524
Audio broadcasting	301	401	399
Television broadcasting	295		
Postal service	125	107	58
Land mobile service	680	1.026	733
Satellite services	36		
Cable television	182	120	148
Paging service	5		
Fixed telephone service	952	1.689	1.164
Trunking mobile service	13		

Breakdown of solicitations received by matter in question (Continuation)	2003	2002	2001
Digital television	19		
Short range devices (SRD)	43		
UMTS	16		
Public payphones	28		
Internet access	762	619	1 062
Fixed wireless access – FWA	7		
Numbering plan	1 269	2 188	132
R&TTE	5		
Interconnection	54	169	75
Universal telecommunications service	13		
T-DAB	6		
Telecommunications Price Convention	6		
Events	40		
ICP-ANACOM publications	64		

Other radiocommunications services	209	406	479
Other telecommunications services	6.177	8.956	1.018
Other	658	1 577	1 464

Of the solicitations received by electronic means (2,873), 411 were registered via the online services, concerning the matters listed in the table below.

Online services solicitations	2003	2002
Total	411	372
Radio reception interference	7	2
ITED – enrolment modifications – corporate	0	27
ITED – enrolment modifications – individual	16	27
ITED – clarifications	8	
ITED – enrolments – corporate	10	9
ITED – enrolments – individual	180	198
ITED – enrolment renewals – corporate	1	
ITED – enrolment renewals – individual	28	
CB – citizen’s band – licences	13	20
CB – citizen’s band – registrations	115	106
CB modifications – various and clarifications	9	
Audiotext	1	1
Amateur radio exams	23	7

The processing of the solicitations and requests addressed to ICP-ANACOM enables continual perception of the issues most relevant for the users of communications services and for this reason is an important regulation tool, besides promoting awareness of the respective information and clarifications.

ICP-ANACOM's public attendance service also assures direct provision of a set of customer services, particularly those related to enrolments and subsequent modifications for ITED (telecommunications infrastructure in buildings) technical personnel and companies, the registration of certifying entities, acquisition of registration certificate for personal radio service – citizen's band (CB) and award of amateur exam certificates. The following table depicts the main activities in this area in 2003.

Customer services – ITED, CB and amateur exam	2003
ITED – enrolment of designers and/or installers – individual	950
ITED – enrolment of designers and/or installers – corporate	82
ITED – renewal of designer and/or installers – individual	4.614
ITED – renewal of designer and/or installer – corporate	104
ITED – certifying entities – acquisition of registration	24
Personal radio service – citizen's band (CB) – acquisition of registration certificate	736
Amateur service – exams taken	540

6.1.4 Diverse actions

Other actions carried out in 2003 focused mainly on promoting the image of ICP-ANACOM and the sector, and on disseminating market-relevant information, particularly through institutional publications, some of them compulsory in statutory terms, such as the annual report and accounts and the regulation report, both for 2002. The statistical yearbook for the communications sector (2002) was also published, along with a brochure from the European Conference of Postal and Telecommunications Administrations (CEPT) in three versions (English, French and German), and the thematic pamphlet titled "What You Need to Know about the Antennas of Mobile Telephone Ground Stations" (reprint).

Two information campaigns were also launched in this context. One, a campaign on portability targeting the public in general, was launched in late May and continued into early June 2003. The aim was to publicise the possibility of switching operator without switching telephone number. To that end an information pamphlet "The Number Always Stays with Me" was

produced, along with an internet banner; the pamphlet was subject to nationwide mass distribution via mail drops and as an insert in various newspapers and magazines.

In December 2003 a campaign began targeting potential users of radio spectrum before and during Euro 2004, with the aim of informing them, among other aspects, about the procedures, standards and applicable legislation, to ensure effective, efficient and interference-free radio spectrum use during the event. To that end an information pamphlet titled “Football is On the Air – We’re Ready” was prepared and distributed in strategic locations.

Also, and in collaboration with the CTT (Portuguese postal service), the process of choosing the best letter written on the theme topic of “I write to tell you how we can build a better future” was undertaken in 2003, targeting the field of children aged 9-12, as part of the 2003 Letter Writing Contest of the Universal Postal Union (UPU). On the occasion of World Postal Day – 9 October 2003 – the prizes for the 2003 national competition were awarded and the 2004 Letter Writing Contest was launched, with the theme topic of “I write to tell you how we young people can fight against poverty”.

ICP-ANACOM also participated in a stand at the Business Forum organised by the Faculty of Economy at Lisbon’s Universidade Nova, held on 12-13 November at the Campolide campus with the aim of encouraging contact and mutual knowledge between students and the business community.

The year 2003 also saw the holding of two “ANACOM Meetings” on Digital Terrestrial Television – dinners organised to stimulate discussion and reflection on this subject and involving entities with interest in the matter and respected experts.

Also with regard to external communication, ICP-ANACOM’s Technical Information and Documentation Unit (NDIT), though essentially meant for the internal public, plays an important role. The NDIT assures accompaniment of research and information recovery needs, enabling the public in general to access the enormous available document store and also the databases and online services.

Last mentioned is the media relationship, co-ordinated by a press counsellor according to strategies set by the Board of Directors. During the year under review the media communication policy was continued, both in the daily management of solicitations from journalists and in the realisation of specific clarification actions, in person or not, whenever the material in question so justified, and by publicising the measures and initiatives promoted by the regulator.

6.2 Internal communication

The internal communication platform includes the aforementioned Technical Information and Documentation Unit (NDIT) of ICP-ANACOM, which organises, makes available and disseminates relevant documentation from an active and management perspective, mainly addressing the interests of internal users, and the intranet.

6.2.1 Technical Information and Documentation Unit (NDIT)

The NDIT has a documental store of more than 20,000 copies of books, studies and reports at its disposal, besides documentation from international bodies linked to the communications sector, although it covers other thematic areas such as management and economy, law, social sciences and information technologies. It also possesses a collection of about 200 periodicals, continually available for consultation and borrowing, and enables access to a set of 20 databases and online accesses, with particular incidence on the areas of information technologies, telecommunications, standardisation, legislation and case law.

A survey of existing information (books, periodicals, databases) and the procedures followed was carried out in 2003, and same was reorganised to better align with the guiding principles for internal communication. The aim was to ensure wide dissemination of the available knowledge, in a timely manner and adapted to the specific needs of internal users.

Development of the “virtual library” project as a gateway to information banks selected and structured according to ICP-ANACOM’s interests and needs was given a significant boost. This project, whose materialisation passed on to 2004, specifically aims to make available in all work posts and on the intranet the catalogue of existing electronic documentation as well as access to online databases and services, and should likewise be a space to disseminate the most recent work received by the NDIT and publication highlights.

The following tables indicate the set of services provided by the NDIT and the number and typology of the solicitations received from its users:

	Technical Documentation (including legislation)		Periodicals	
	2002	2003	2002	2003
Acquisitions and subscriptions	301	355	232	172
Loans	491	476	73	112
On-site consultations	1066	1344	544	222
Information research	1573	2351	548	107
Dissemination by circulation	604	2132	5978	6894

Most Solicited Issues

Mobile communications – 3G /UMTS
Internet
Electronic commerce
Digital television
Interconnection
Fixed/mobile service replacement
Law
Postal services
Sector legislation

Solicitations received by the NDI in 2002 and 2003:

	In person		By telephone		Written		E-mail		TOTAL
	2002	2003	2002	2003	2002	2003	2002	2003	
Internal users	108	223	574	555	291	305	118	201	2375
External users	104	103	61	95	4	5	3	3	378
TOTAL	212	326	635	650	295	310	121	204	2753

6.2.2 Intranet

The project to transform the intranet into a platform of internal communication excellence progressed in an unprecedented manner in 2003, via evaluation of the existing situation and preparation for a thorough renewal of both management tools and content, including definition of a new information framework adjusted to the content to provide, and development of the 'Q Space' dissemination area for relevant information on the Total Quality Management System.

6.3 Claims

In the context of activity undertaken in 2003, the management of claims submitted by the public in general (private individuals and companies) merited special attention from this Authority.

While some of the claims presented originated due to a lack of knowledge about the rules limiting the regulator's intervention in the sector, analysis and processing of the claims enables understanding of the issues that cause most dissatisfaction to users of communications services accessible to the public and which, as such, may justify intervention by ICP-ANACOM.

This activity particularly enables identification of behaviour which may constitute non-compliance with the obligations set in legislation and regulations applicable to telecommunications and the postal sector, and also the handling of a number of situations that require intervention to ensure effective competition in the market and adequate consumer protection.

In this regard, the year 2003 saw the identification of various cases of irregular behaviour whose indications justified the application of either sanction measures – administrative offences and contractual fines – or regulatory measures meant to correct deviations in the activity of service providers and operators that were incompatible with the development of a competitive market and respect for consumer rights

Also identified were possibly illegal situations whose consideration is in the scope of intervention of other entities, namely the criminal investigation bodies, the Consumer Institute, the Inspectorate General of Economic Activities, the Directorate General of Trade and Competition, and the National Data Protection Commission.

As an example, the following table depicts a representative sample⁵³ of the breakdown by activity area of claims identified over the course of 2003.

Distribution of claims by service/area

Services/area	2003	2002
Audiotext	40	207
Cable television distribution	108	79
Interference in broadcasting services	524	350
Interconnection	7	7
Internet	379	320
ITED	12	
Numbering	386	329
Public payphones	1	1
Publications	0	1
Non-ionising radiation	580	302
Postboxes and other equipment	2	3
Private networks	64	106
Amateur service	42	66
Paging service	1	3
Fixed telephone service/Universal service	360	672
Land mobile service	186	334
Personal radio service/Citizen's band – CB	7	5
Postal services	44	13
Other	17	94
TOTAL	2.760	2.894

⁵³ It covers claims registered in the services of public attendance, inspection and investigation, spectrum management and control, and the postal area.

7. OTHER ACTIVITIES

7.1 Electronic commerce

Mission and Development Unit for Electronic Commerce

To fully carry out the new tasks that would befall ANACOM with respect to electronic commerce (anticipating what would become Decree-Law no. 7/2004 of 7 January, which transposed into the national legal order Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000, concerning certain legal aspects of information society services, particularly electronic commerce, in the internal market – “Directive on Electronic Commerce”) a working group was set up in May 2003 to better enable this Authority to optimise resources and knowledge to meet the obligations deriving from law and emerging market needs. This group was designated the Mission and Development Unit for Electronic Commerce (UMD-CE).

The consolidation of this unit's framework was aided in November and December 2003 by working visits to entities that carry out duties in other Member State similar to those ANACOM was preparing to take on, and which were in a more advanced state of legislative implementation and operations with respect to electronic commerce, namely:

- in Germany, to the *Bezirksregierung Düsseldorf* (Düsseldorf District Government) and to the *Bundesministerium für Wirtschaft und Arbeit* (Ministry of the Economy and Labour);
- in Spain to the *Ministerio de la Ciencia y Tecnología* (Ministry of Science and Technology); and
- in the United Kingdom, to the Department of Trade and Industry.

The aim of these visits was to gather information and experience on the supervision of electronic commerce, specifically with respect to the duties, necessary resources and work volume associated to its performance, as well as the strengths and weaknesses of the organisational models implemented by those entities.

Likewise, and taking into account insertion of the unsolicited communications (commonly known as spam) issue in the scope of the (future) Decree-Law no. 7/2004, the UMD-CE sought to

accompany the latest developments in this area, where its participation in the European Commission's workshop on unsolicited communications, held in Brussels on 16 October 2003, stands out. Also worthy of note in this regard is the designation of UMD-CE officials to represent ANACOM at Meetings of the National Authorities on Unsolicited Communications or Spam and also as national contact points under the recently established Contact Network of Spam Authorities (CNSA).

With a view to the entrance into force of this new legislative framework on electronic commerce, which took place in January 2004, and anticipating its eventual role in this context, various tasks and projects were pursued by the UMD-CE, namely:

Informal Group on electronic commerce

In the wake of the approval by the Council of Ministers of 31 October 2003 of the instrument on electronic commerce, the UMD-CE organised, ahead of the respective entrance into force, a working meeting with various entities that would potentially take on an oversight role under this instrument, keeping in mind debate on a number of relevant and particularly sensitive issues with respect to its execution.

This meeting was held on 26 November 2003 and attended by a large number of entities, indicative of heightened interest in the matter. Despite the sensitivity of some of the topics considered, a good deal of willingness to closely work with ANACOM on this subject was generally manifested.

In this regard an informal working group on electronic commerce was established, composed of ANACOM, as the central supervisory authority in the area of electronic commerce, and the sector supervisory entities that intervene in this area, namely the High Authority for the Media, the Bank of Portugal, the Commission on the Application of Fines in Economic and Advertising Matters, the Securities Market Commission, the National Data Protection Commission, the Energy Services Regulatory Entity, the Inspectorate General of Cultural Activities, the Inspectorate General of Economic Activities, the Media Institute, the Consumer Institute and the Portuguese Insurance Institute.

The main objectives behind the establishment of this working group were:

- the exchange of experience and information, keeping in mind a good and uniform application of the law in electronic commerce matters;

- uniformity of regulation of the law, particularly with regard to the procedure for the provisional resolution of disputes involving network content;
- provisional resolution procedure for disputes involving network content;
- the signing of collaboration protocols, specifically for the speedy transmission of information requests and claims;
- creation of the conditions needed for an effective and concerted response to solicitations from the European Commission, namely with respect to monitoring implementation of Directive 2000/31/EC; and, in general,
- creation of a forum to reflect on the matter of electronic commerce.

Generally speaking, the commitment and willingness shown by all entities at this meeting stands out, vis-à-vis working together to attain the legal security needed for a good and uniform application of the instrument on electronic commerce.

Continuing the work begun in November 2003, plans for 2004 call for the holding of other working meetings, basically for grounded discussion of controversial issues involving the interpretation and application of Decree-Law no. 7/2004.

Manual on electronic commerce

In 2003, ANACOM put together a publication titled “Electronic Commerce in Portugal: the legal framework and the business”, which was released in the first quarter of 2004 at the same time as a conference on the same topic.

This publication is meant to be an instrument to promote, disseminate and advise with information on this topic, and reflects work undertaken by the UMD-CE in accompanying and analysing issues with respect to electronic commerce. Its elaboration process counted the collaboration of José de Oliveira Ascensão (author of the draft law) from the Office of Legislative Policy and Planning of the Ministry of Justice (entity responsible for the transposition work), and the Sonae, PT and Microsoft Groups.

Conference on Electronic Commerce

Work to prepare and organise a conference on the theme topic of Electronic Commerce in Portugal: the legal framework and the business (which took place in the first quarter of 2004) was begun.

The organisation of an initiative of this nature was held to be opportune and necessary following approval of the new legal framework for electronic commerce and the supervisory duties that this Authority would assume in this regard.

An esteemed group of reference figures on the matters in question gathered with the aim of encouraging reflection and the release of information on diverse subjects linked to this situation, in its legal and economic aspects, as well as broad debate on its implications and strengths, reaching out to a large field of target entities, namely information society service providers, relevant sector associations, the academic community, business circles, financial institutions, some professional orders, other regulators, information spreading agents and citizens in general.

Anacom website section on electronic commerce

With a view to providing information on electronic commerce and associated areas, and to promote this Authority's new services and missions in this domain, a special section on electronic commerce was set up on the ANACOM website and launched for the public on 2 March 2004. The work undertaken in 2003 consisted in the first phase of the section's conception, the choice of relevant information to publish and the elaboration of content for the available categories.

Promotion and external training actions

A project was undertaken to carry out external training and promotion actions, to divulge information on this area, and to explain to its principal players the various strengths and implications of this kind of trade, and thus provide an important contribution towards effective implementation of the instrument and the good functioning of the electronic commerce market. At the same time it would promote ANACOM's image and the major role it plays in the scope of these matters.

The pursuit of these actions would include giving presentations on electronic commerce to professionals working in the area (lawyers, economists, engineers), academics, information

society service providers, companies that use electronic commerce and consumers. The presentations cover various issues related to electronic commerce from the economic and legal standpoint, depending on the target audience. They are part of a number of initiatives, specifically: sessions with relevant audiences, the organisation of workshops, seminars, summer courses or the insertion of these theme topics in high level academic studies.

Plans call for these presentations to start being given in the second half of 2004.

Safer Internet

ANACOM has been asked by the European Union a number of times to comment on the Action Plan for a Safer Internet. In this regard, ANACOM had occasion to take part on 12 September 2003 in an information session held in Luxembourg, where the community institutions expressed their satisfaction over ANACOM's interest in the matter, and especially expectations that this Authority would encourage more adhesion to the Action Plan by potential Portuguese participants, particularly with respect to national direct lines to denounce illegal internet content and awareness of the internet security issue.

Given the extreme current relevance of the topic and the undeniable benefit that Portuguese participation may bring to our country, ANACOM decided to organise a broad-reaching meeting to inform various public and private entities in attendance of the need for a national initiative on the Action Plan for a Safer Internet (which would take place during the first quarter of 2004).

Meeting of the Platform on Electronic Commerce

Meetings of the Convergence and Development Platform organised by ICP-ANACOM provide a view of the prospective accompaniment and analysis of service and technology platforms with regard to the convergence of telecommunications, the audiovisual and information technologies, and function as a forum for debate among the market's economic players.

In the context of the aforesaid Convergence and Development Platform, a meeting on Electronic Commerce and SMEs – instrument of efficiency and internationalisation – was held on 10 April 2003 with the aim of discussing issues related to the adhesion of SMEs to electronic commerce.

The meeting included the presentation by Silicon of a study on the “Adhesion of National SMEs to the Practice of Electronic Commerce”, followed by an international comparison presented by

ICP-ANACOM. The Innovation and Knowledge Mission Unit (UMIC) ended the presentations with a demonstration of the public electronic purchasing project.

The invited participants included representatives of operators, manufacturers, consumer associations and other telecommunications market players, who were able to express their opinions and discuss issues related to electronic commerce.

7.2 The role of communications in development of the Information Society

According to the Green Paper on the Information Society, the “Information Society” concept refers to a social and economic development mode in which the acquisition, storage, processing, valorisation, transmission, distribution and dissemination of information leading to the creation of knowledge and satisfying the needs of citizens and companies plays a vital role in economic activity, the creation of wealth and the definition of citizens’ quality of life and their cultural practices. The Information Society consequently corresponds to a society that increasingly uses digital information networks. This change in the domain of economic activity and the factors determining social well being results from the development of new technologies of information, the audiovisual and communications, with major ramifications and impacts on work, education, science, health, leisure, transports and the environment, among others.

Among the vicissitudes associated to the use of new information and communication technologies, and besides the structural problems – such as resistance to change, organisational inertia and budget restrictions – are namely the preservation of human rights, the protection of minors, intellectual property and personal data, database safety and the spread of the Information Society.

As the Information Society is currently an aspect that affects and has repercussions on all areas of the economy, it is subject to horizontal co-ordination by a body under the charge of the assistant minister to the Prime Minister. The aim is to develop a comprehensive and centralised strategy that enables decentralised implementation. In this regard, all State ministries and bodies plan to launch various concerted actions and initiatives to encourage and promote the information society.

The promotion of Information Society development is likewise a crucial goal of communications regulation. The initiatives envisaged in the remaining two ICP-ANACOM strategy objectives, concerning the development of open and competitive markets and the protection of user and consumer interests are consequently joined to that end.

In 2003, the main ICP-ANACOM initiatives in this regard encompassed:

Collaboration Protocol between ICP-ANACOM and UMIC

In the wake of the creation of the Innovation and Knowledge Mission Unit (UMIC) by Council of Ministers Resolution no. 135/2002, which also defines the powers of same, UMIC and ICP-ANACOM agreed to join efforts and resources on a basis of co-ordinated collaboration in order to promote and support the development of initiatives to ensure widespread access to the Information Society.

To that end a collaboration protocol was signed by ICP-ANACOM and UMIC on 28 March 2003. Its Action Plan envisages a number of initiatives including a survey of existing communications infrastructures, development of a diversified supply of electronic communications network infrastructures and access services with quality, security and at affordable prices, a survey of the status of the national content industry and its promotion, divulgation and training in ICTs, and information on the benefits of broadband.

National Broadband Initiative

In the scope of co-operation with UMIC, specifically as per the protocol signed in March 2003, ICP-ANACOM collaborated on elaboration of the National Broadband Initiative, which was approved by a Council of Ministers Resolution dated 26 June 2003.

This initiative envisages five major activity axes involving infrastructures and accesses, content and multimedia applications, broadband use, info-inclusion, and national competitiveness.

In this regard there is also place for legislative and regulatory intervention; annexed to the aforesaid initiative's support document is a Joint ICP-ANACOM/UMIC Statement considering a number of matters in this area.

At the level of legislative intervention the definition of a legal framework was considered, to regulate the sharing of infrastructures and rights of way, the establishment of appropriate broadband provision conditions in disadvantaged regions, the approval of two instruments that include measures to stimulate the use of electronic means and conclusion of the process of approving the legal measures deemed critical for broadband development.

With respect to regulatory intervention the compulsory installation in buildings of infrastructures that enable the provision of broadband services was considered, along with promotion of the development of broadband wholesale offers, the adoption of service quality levels for the provision of broadband, incentives for simplifying all processes involving the mobility of broadband service end users between service providers, proper application of the non-discrimination principle in broadband provision, proper application of the regulatory model that assures the development of emerging support platforms and technologies for broadband, and the guarantee of interoperability between technological platforms and networks.

Study on the Creation of an Open LRN Network

Under the collaboration between ICP-ANACOM and UMIC the latter contracted a consultancy firm in October 2003 to carry out a study on the creation of an Open LRN (Local Radio Network) Network, which involved ICP-ANACOM as the sector regulator.

This task was part of the National Broadband Strategy, and aimed to stimulate the active market presence of new communication technologies, namely LRN, by facilitating initiatives that eliminate barriers to their adoption, such as, for example, interoperability between platforms and billing and roaming standards.

The study was finished and submitted to ICP-ANACOM and UMIC in December 2003. First, it provided a benchmark and analysis of best practices for business models associated to LRNs, having studied the business's value chain and alternative positions for the various kinds of players. The work specifically covered the presentation of models for pricing/payment, investments and associated costs, coverage strategies, value offers associated to localisation, and regulation-related initiatives developed in other countries.

The study's second part listed a number of features associated to an open LRN network, vis-à-vis security and service quality, among others.

The study also considered conceptualising a possible business model, with regard to characterisation of the kind of activities and players, as well as the logic and mode of functioning. This included a business case to demonstrate economic feasibility and the ability to sustain the proposed model.

Lastly, an awareness strategy was proposed to highlight the advantages and benefits of creating an open network.

Support for Conceiving a National Home Broadband Strategy

As part of the collaboration between ICP-ANACOM and UMIC, the latter contracted a consultancy firm in October 2003 to carry out a Support Study on the Conception of a National Home Broadband Strategy, which involved ICP-ANACOM as the sector regulator.

This work is part of the National Broadband Strategy and means to stimulate the development and operation of alternative technological platforms with lower investment and operational costs.

In the first phase, the work covers the analysis and systematisation of technological options, with top-down identification of the solutions to closely evaluate in each region, a survey of eventual actions to launch by the Government and the systematisation of strategy options and the respective macro-actions.

In the second phase, the study will on the one hand consider the requirements for base technology coverage, with analysis of the gaps, overlaps, prevailing technologies and definition of the best alternatives per region, and on the other hand the underlying requirements for housing, specifically with respect to telecommunications infrastructures in buildings.

The second phase should also see the strategy become operational, namely with regard to models for possible state intervention and, among others, the various players' plans for communication/information.

Cyber-centres

ICP-ANACOM participates in the constitution of Cyber-Centres, which are managed by private non-profit associations and function as centres for the practical demonstration and promotion of the use of information, communication and multimedia technologies. The centres generally target the youth and student population and are associated to spaces for socialising and recreation.

The Cyber-Centre founders are usually the local municipal councils, together with ICP-ANACOM and the Foundation for the Divulgarion of Information Technologies (FDTI).

The following Cyber-Centres were legally constituted in 2003: Castelo Branco, Covilhã, Guarda, Guimarães, Bragança and Faro. Only three of the aforesaid are functioning: Covilhã, Bragança and Guimarães.

The associations that constitute Cyber-Centres are set up after protocols have been signed by the government representatives for the telecommunications sector and for youth and the head of the local government in question. The costs of installing and equipping (computer and communications equipment) the Cyber-Centres are usually split between ICP-ANACOM, the Portuguese Youth Institute, the Cinema, Audiovisual and Multimedia Institute, and the respective Municipal Councils, which take charge of the Centres' premises.

Citizens with Special Needs

One of ICP-ANACOM's concerns, as per the 2005 eEurope Action Plan, is to accompany and carry out actions that help promote access by citizens with special needs to new technologies and to co-operate with actions undertaken by other entities.

Council of Ministers Resolution no. 110/2003 of 12 August approved the National Programme for the Participation of Citizens with Special Needs in the Information Society, which specifically aims to "minimise digital barriers created in the conception of digital content and of software and hardware interfaces", namely the internet content of public administration and the interfaces of third generation mobile communications and digital terrestrial television. The ACCESS Unit, working with various State bodies and specifically with ANACOM, was the pivotal entity for implementation of this national programme

In sum, it may be said that Portugal and especially ICP-ANACOM, as per its competences, has sought to implement measures, define actions and take part in initiatives to encourage development of the Information Society, an objective stipulated at community level and based on sustained development of the European economy.

7.3 Standardisation under the protocol with the IPQ

Under articles 17 and 18 of the Framework Directive, The EC issued the standardisation mandates M328 and M331, which aim to guarantee interoperability and expanded consumer choice. Underlying this standardisation work are different technologies for electronic communications, with digital television given an autonomous position via M331.

ICP-ANACOM has been following this normative work undertaken in the standardisation bodies, specifically in OCG ECN&S of ETSI.

A list of standards and/or specifications for electronic communications networks and services and associated resources and services had been published in OJEU 2002/C331/04, intermediate edition, origin of the aforesaid mandates, which results from the new regulatory framework. The EC asserted that the Member States should play a role to encourage the adoption of standards, establishing the Framework Directive; in the case of eventual problems with interoperability, the EC could make application of some of the standards on the list compulsory.

Aware of the responsibility granted by the EC to the Member States, ICP-ANACOM has been making efforts to promote internal awareness by publicising on the intranet the progress with this legislative work. In a second phase, expansion of this awareness policy outside of ICP-ANACOM has been planned, with the eventual participation of service providers and operators, to measure the impact of adopting the standards on the list.

7.4 Installation of Telecommunications Infrastructures in Buildings (ITED)

The regulation on the installation of telecommunications infrastructures in buildings (the Portuguese acronym is ITED) and respective connections to public telecommunications services, as well as the regime governing installation certifying activity and assessment of the conformity of equipment, materials and infrastructures, derive from application of Decree-Law no. 59/2000 of 19 April.

This context of responsibility, beyond action at the level of designing and installing telecommunications infrastructures in buildings, also includes the certification of the installations' conformity – with the applicable legal and regulatory provisions and with the respective technical plan – to be issued by the certifying entity or by the installer-certifier, of recognised competence and duly registered with ICP-ANACOM.

Under ITED, ICP-ANACOM is responsible for not only overseeing compliance with provisions of the said instrument, but also for enrolling and registering the various entities involved (designers, installers, installer-certifiers and certifying entities), releasing information on the registered entities and certified installations, and evaluating equipment and infrastructure conformity with the applicable requirements and with the information contained in the respective certificates and statements of conformity. ICP-ANACOM is also in charge of developing and approving the Technical Installation Prescriptions, the Technical Specifications for Equipment and Material (which will together comprise the Technical Prescriptions and Specifications – ITED Manual), and issuing the procedures to evaluate infrastructure conformity.

Also in this regard, collaboration actions are under way with other entities, specifically the Institute for Training Innovation (INOFOR), the Institute for Employment and Vocational Training (IEFP) and the Portuguese Quality Institute (IPQ), with the respective aim of designating the training entities, creating a reference on the training of technical personnel and, lastly, framing the ITED certifying entities in the Portuguese Quality System. Parallel to this, ICP-ANACOM has been in regular contact with Portuguese industry to develop materials appropriate for ITED.

The year 2003 saw continued enrolment of technical designers and technical installers, 1,032 of whom were newly enrolled (versus 1,216 in 2002).

With respect to the certifying entities, 24 new entities were registered, for an end 2003 total of 91 registered entities.

A total of 27,194 ITED conformity certificates were issued by the certifying entities and sent to ICP-ANACOM.

Activity also continued in 2003 on overseeing the certifying entities in accordance with the procedure approved in late 2001, with the aim of verifying compliance with the registration conditions, and of the accomplished activity and other obligations assumed by those entities. In this regard 19 inspection and investigation actions were carried out.

ICP-ANACOM also approved the second version of the draft technical standard designated as the “ITED Manual”, which contains the technical specifications and prescriptions for telecommunications infrastructures in buildings, following on the European Commission opinion on the first version and on the Government’s initiative for broadband. The previous specifications, prescriptions and RITA technical instructions will remain force until final approval of the ITED Manual.

7.5 National Emergency Plan

ICP-ANACOM is endowed by its statutes with a set of powers covering this aspect of the communications sector, powers that are shared between support that should be provided to the entities charged with planning actions in areas associated with civil protection, specifically the National Fire Fighting and Civil Protection Service, and collaboration on the definition of civil emergency planning policies via the Emergency Communications Planning Commission, which is chaired by the President of ICP-ANACOM (Decree-Law 128/2002 of 11 May).

Regarding activities associated with Civil Protection, in 2003 contacts were initiated with figures who in the new structure resulting from the governmental reorganisation have responsibilities in the emergency communications area; the forms of collaboration aim to proceed with revision of the Emergency Communications Plan, which at 10 years old is obsolete given the recent developments in the communications sector.

Regarding the Emergency Communications Planning Commission, ICP-ANACOM fully assumed its respective chair and in 2003 began a process of reflection on the activities and operational mode in light of the new regulatory framework and technological evolution in the sector, whose results should materialise in 2004.

7.6 Laboratory Activity

Context

Given its statutory responsibilities in the area of equipment and material, ICP-ANACOM oversees and regulates the market, keeping in mind the modernisation challenges faced by industry and the need to attain a high degree of quality in products and services. This is surely an important contribution towards national technological development.

ICP-ANACOM thus conducts electromagnetic compatibility trials (Electromagnetic Compatibility Laboratory), calibrations in the electric area (Radio Metrology Laboratory) and testing of radiocommunications equipment (Radiocommunications Equipment Testing Laboratory), as well as testing to evaluate electromagnetic environments.

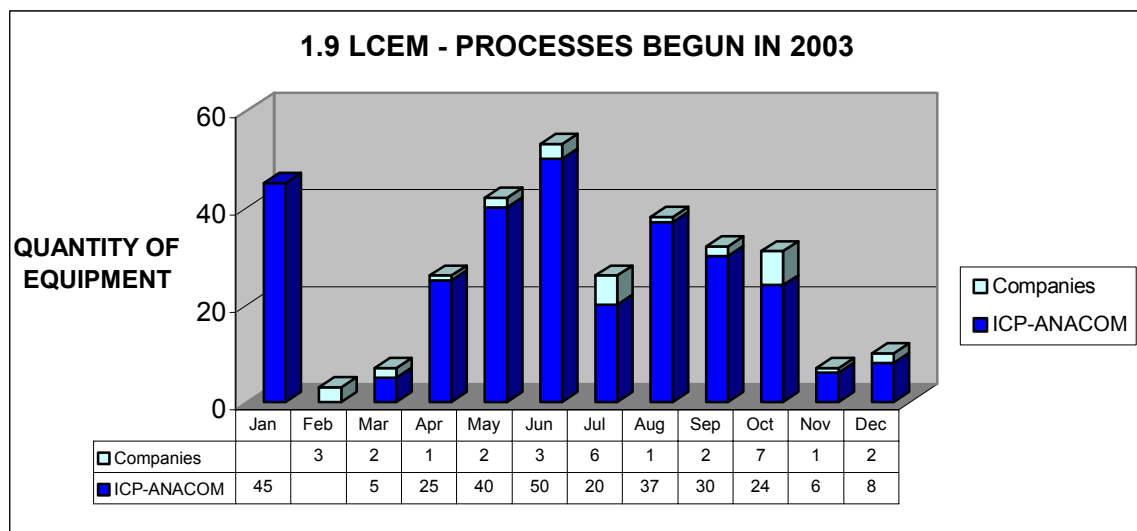
Activity pursued in 2003

Realisation of electromagnetic compatibility trials on electric and electronic equipment.

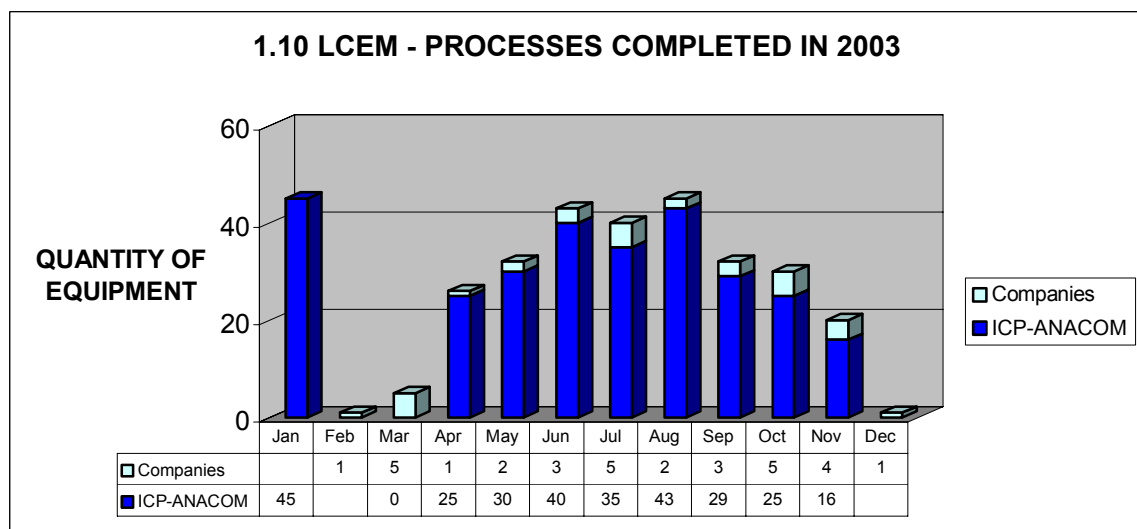
The Electromagnetic Compatibility Laboratory (LCEM) carries out tests of emission and immunity, whether conducted or radiated, on electric and electronic equipment of various kinds.

The laboratory is accredited with the Portuguese Quality Institute (IPQ) under standard NP EN ISO/IEC 17025 to conduct electromagnetic compatibility trials as per IPQ qualification certificate no. 95/L.143.

Compared to the previous year, the LCEM's activity in 2003 saw a stabilisation in the quantity of equipment tests for ICP-ANACOM (internal customer) and an increase in the quantity of equipment tested for outside customers.



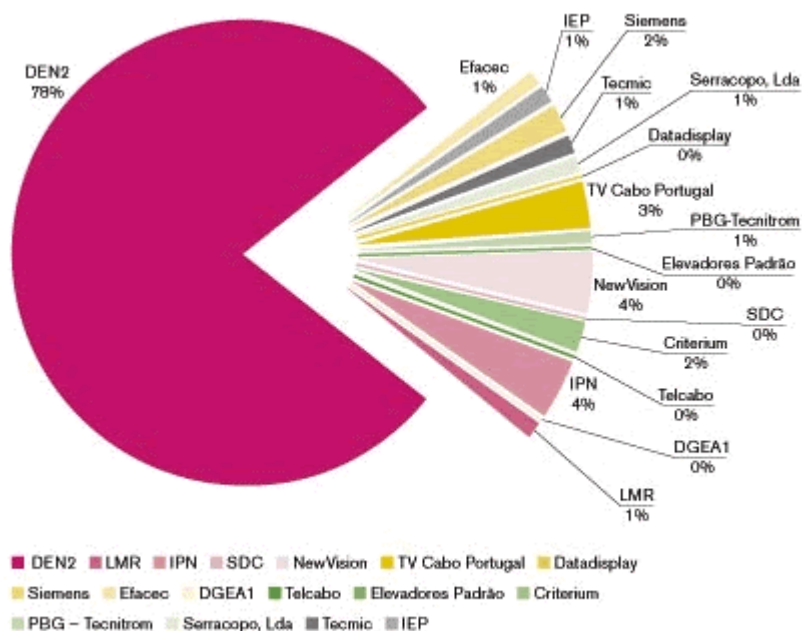
Source: ICP-ANACOM



Source: ICP-ANACOM

In 2003, considering the accumulated value for hours spent for the various LCEM laboratory customers, the following relative position was registered:

I.11 LCEM - Relative position of customers



Source: ICP-ANACOM

Calibrations effected in the Radio Metrology Laboratory (LMR)

The Radio Metrology Laboratory (LMR) is a laboratory accredited by the Portuguese Quality Institute (IPQ) according to standard NP EN ISO/IEC 17025 with IPQ certificate no. 99/L.264. This laboratory's accreditation encompasses the calibration of devices in DC/low frequency and radio frequency (RF) up to 18 GHz in the following: frequency, RF power, attenuation, VSWR, AM, FM and PM, harmonic distortion, AC and DC tension, AC and DC current and resistance.

The kinds of equipment covered by the LMR's activity are above all the following:

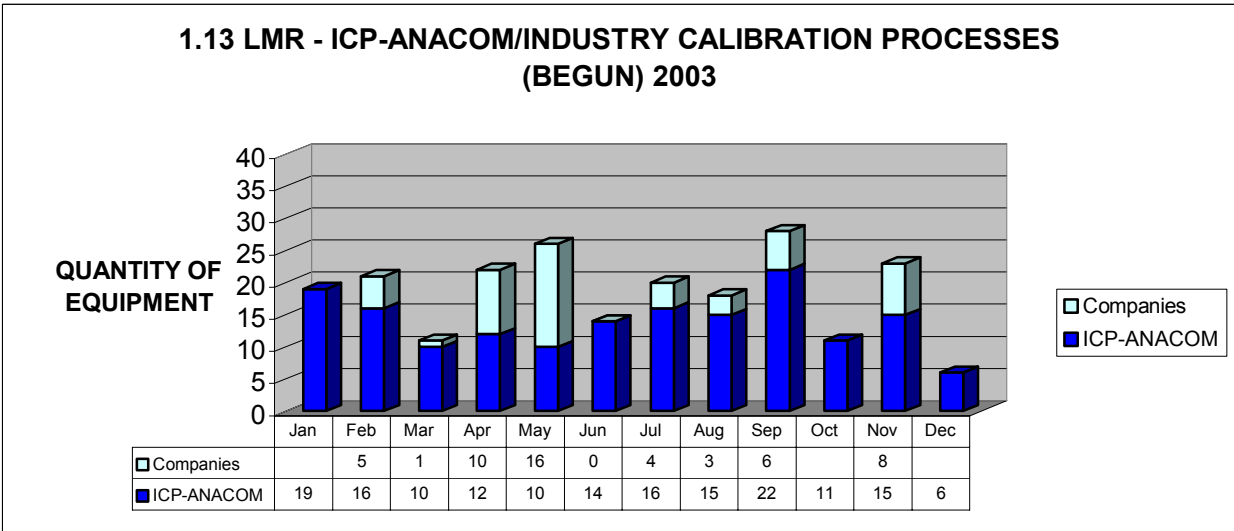
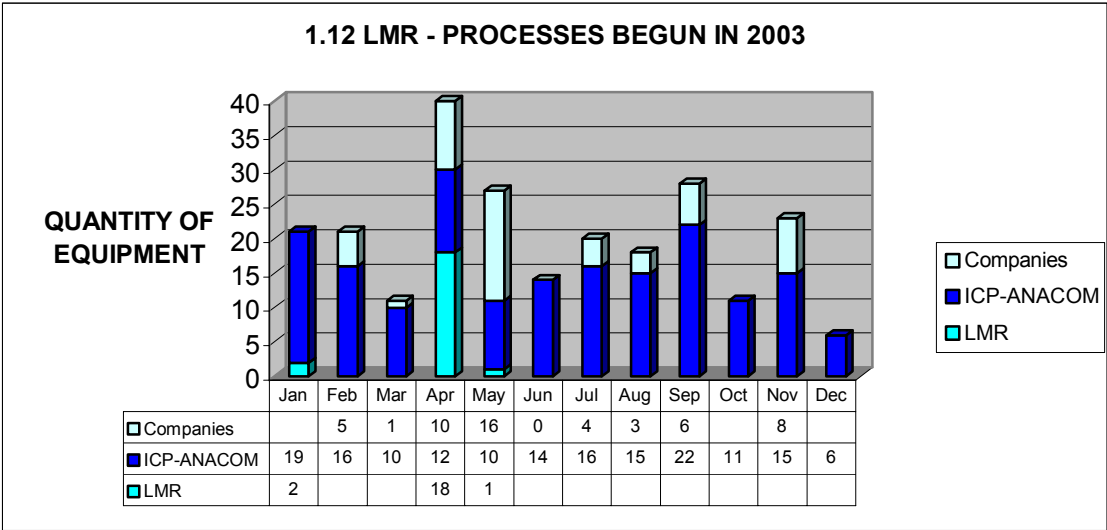
- DC/LF: multimeters;
- RF: Radiocommunications analysers, frequency managers and component attenuation.

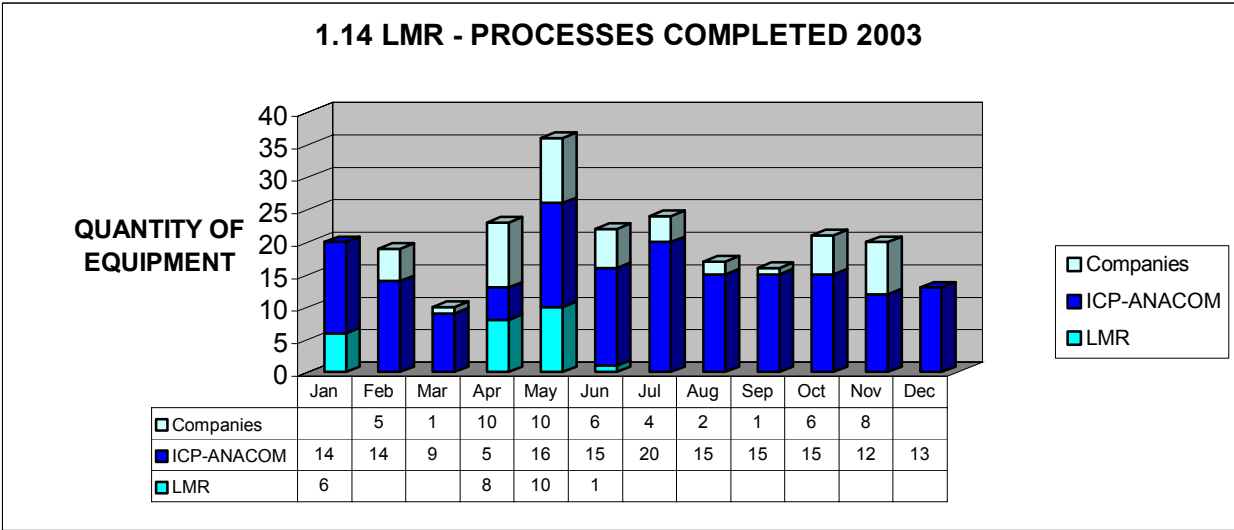
As is the case with the other ICP-ANACOM laboratories, the LMR is available to provide calibration services to outside entities.

The LMR is also via remote control in charge of daily gauging and ensuring that the ICP-ANACOM Frequency Standards installed in Barcarena, Oporto, Madeira and the Azores are in

good order, as they support the precise frequency measurement values needed by the ICP-ANACOM laboratories and radio spectrum oversight bodies.

LMR – Annual activity/processes completed



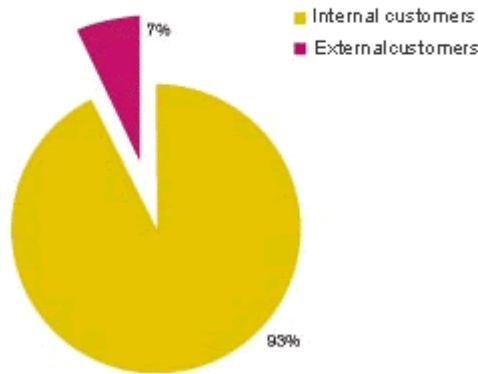


Source: ICP-ANACOM

Regarding the relative position of the LMR’s customers, with respect to the accumulated values of hours spent in 2003, the following distribution was verified:

I.15 LMR - Relative position of customers

LMR Subtotals in 2003
Internal and external customers



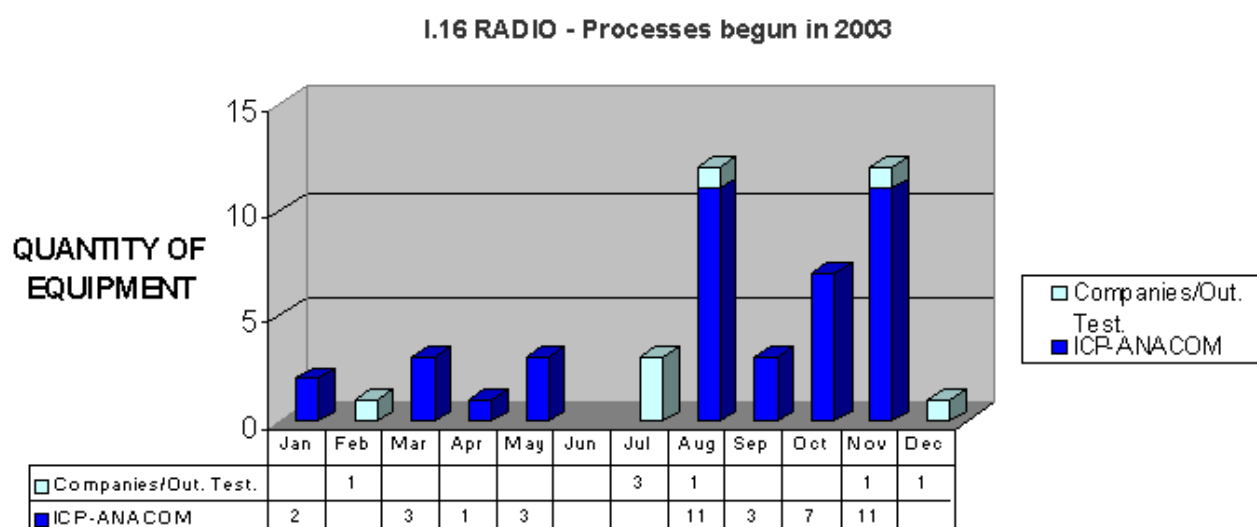
Testing of radio equipment

The Radiocommunications Equipment Testing Laboratory (LEER) verifies conformity of the characteristics of transmission, reception and transmission/reception equipment with the specific requirements stipulated by national legislation (radiocommunications) and/or European standards from the European Telecommunications Standards Institute (ETSI) and whose

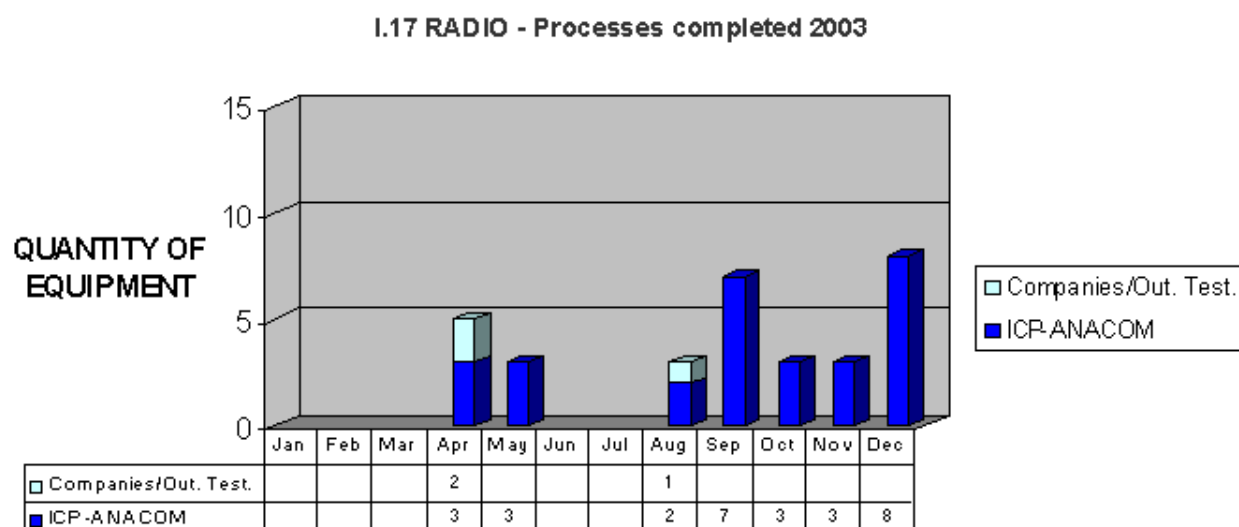
adoption was recommended by the Electronic Communications Committee (ECC) of the European Conference of Postal and Telecommunications Administrations (CEPT).

The tests involve equipment for various uses, specifically: personal radio (CB), land mobile (private networks), fixed, aeronautic mobile, maritime mobile, paging (private and public networks), amateur radio, cordless telephony, wireless microphones and low power short range devices (SRDs).

Available data for equipment tested and to be tested in 2003 are as follows:



Source: ICP-ANACOM



Unit: equipment/outside test
Source: ICP-ANACOM

In 2003 the LEER also carried out activities in the field of electromagnetic radiation, namely concerning:

- The identification, elaboration and development of procedures to measure electromagnetic fields, keeping in mind the verification of conformity with the reference levels set in Council Recommendation 1999/519/EC of 12 July 1999;
- The realisation at the request of outside entities of on-site measurement of electromagnetic fields so that they can be compared to the aforementioned reference levels.