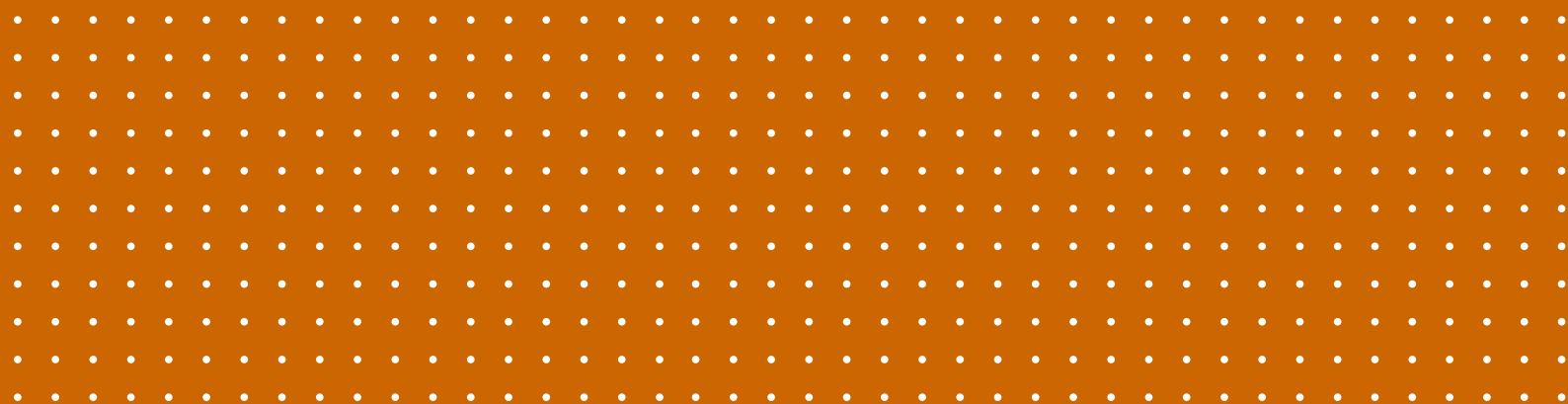


06.

Other Activities



● Communications security

New 112 Operation Model (European Emergency Number)

In accordance with Resolution of Council of Ministers no. 164/2007 of 20 September, in particular with the provisions of paragraphs 3 and 4, ICP-ANACOM participated in two meetings on the reorganisation of the 112 operation model, providing a written contribution on the issue, addressed to the coordinator of the specialist group established by the Resolution.

Assessment of possible constraints in the routing and delivery of 112 calls

In this respect, questioning was conducted of all companies with an obligation to offer their subscribers uninterrupted access to emergency services.

From the compiled information, there are no clear situations which raise concerns, either in terms of routing, or at the level of delivery, while note is made of the need to improve monitoring and statistics procedures in the future.

E112 Regulation

Given the importance of establishing the regulatory framework principles and rules to be followed by companies which offer publicly available networks and/or telephone services in ascertaining the location of the person making the call to the 112, *"Draft Regulation 112L - Provision to authorities responsible for providing emergency services of information on the location of callers to the single European 112 emergency number"* was drafted and submitted to public consultation.

Failures in communications

During 2008, there were two new incidents which affected communications in the Azores, occurring on 15 March and 22 July.

Following these failures, and among other actions, ICP-ANACOM decided to bring forward the study provided for in its 2008-2010 Activities Plan for the identification and characterization of the main nodes and routes of traffic flow internationally and between the mainland and the Autonomous Regions, giving priority to Autonomous Regions, including intra-regional communications.

Establishment of ICP-ANACOM Sub-Register

In order to provide ICP-ANACOM with the means necessary for the control and management of classified material, which, within its powers, may be necessary in terms of National Security, it was decided to establish at ICP-ANACOM a security body at Sub-Register level.

Accordingly the necessary steps were taken in order to obtain approval from *Autoridade Nacional de Segurança* (National Security Authority), which will be preceded by the inspection of the opening of the ICP-ANACOM Sub-Register.

Unsolicited communications (SPAM)

In 2008, with the objective of including content on unsolicited communications on ICP-ANACOM's website and conducting surveys on such matters, the following actions were performed:

- Conduct of an inquiry of ISPs on measures to combat spam and the respective summary report of responses;
- Participation in the meeting of CNSA and in the joint CNSA/LAP meeting;
- Promotion of an awareness raising session on combating unsolicited communications, which included the presence of staff from FCCN, CNPD and UMIC;
- Creation of an area on ICP-ANACOM's website on combating unsolicited communications;
- Analysis of a proposed amendment to D.L. 7/2004 by the Directorate General for the Consumer.

Interdependencies between the private networks of the state and the public electronic communications networks

The security of an electronic communications network, particularly in terms of its resilience depends not only on factors that are under the control of its management structure, but also on others related to other networks.

Therefore, in 2008 a study was initiated with the aim of assessing what types of interdependencies exist between public communications networks and certain private electronic networks of the state, and is due for completion in 2009.

Interdependencies between civil protection policies and electronic communications policies

Civil protection is crucial for the normal functioning of a society, given that its development depends to a large extent on the resources which allow communication between authorities and between authorities and citizens.

To conduct these communications, civil protection authorities make use not only of private resources, but also of public electronic communications networks. Therefore, the Law of Electronic Communications sets out several provisions that seek to secure the relevant public interests.

To assess the experience gained by the various parties involved, in 2008 ICP-ANACOM launched a study on interdependencies between civil protection policies and communications policies, which will also be conducted in 2009.

Evaluation of the concession of the public telecommunications service from the point of view of communications security

In 2008, a study was initiated to evaluate the concession of public telecommunications service with respect to communications security, the conduct of which will continue during 2009.

Object Identifiers

As part of ICP-ANACOM's participation in the *Conselho Gestor do Sistema de Certificação Electrónica do Estado* (Managing Council of the Electronic Certification System of the State), the need was identified to constitute a National Authority for Registration of Object Identifiers, in accordance with ITU-T Recommendation X.660. A legislative proposal is therefore being prepared for this purpose.

It should be mentioned that the identification of objects falls within the scope of digital identity management, an issue in respect of which, at international level, including in the ITU and the OECD, several works are being carried out in the context of the security of the Internet and IP-based networks, specifically Next Generation Networks.

Online Public Consultation of the European Commission - "Towards a Strengthened Network and Information Security in Europe"

The dissemination of the cited consultation, launched by the European Commission (EC) on 7 November, was promoted in order to compile information on the challenges of network and information security, the priorities and the resources need to achieve a strengthened policy of network and information security.

ICP-ANACOM made its contribution by responding to the consultation by proper means, aware of the importance of the matter so that the general public, and users in particular, derive maximum benefit in terms of choice, price and quality and have their rights to protection of privacy in electronic communications guaranteed.

Maritime Mobile Service

Note is made of the proposal forwarded to the Tutelage on 23 December, on the promotion of separate actions on the two components of this service - the SOS and emergency component and the public correspondence component - after which measures were taken to achieve compliance with the provisions of article 3 of the Decree-Law no. 31/2003 of 17 February.

● Advisor to the Government

The most relevant activities in this context are set out below:

- In compliance with the provisions of art. 9 of Regulation (EC) no. 717/2007 of the European Parliament and of the Council of 27 June 2007 on roaming on public mobile telephone networks within the Community, amending Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002, which determines that "Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented", a draft law of legislative authorization was drawn up and a draft decree-law authorized setting out said rules on penalties. The alignment of the fines applicable with the amounts provided for in the LEC determined the proposed form, while the Government subsequently decided to present a draft law that led to Law no. 35/2008 of 28 July;
- Preparation of Draft Decree-Law that defines the rules applicable to the amateur radio and amateur satellite services, approved by the Council of Ministers on 17/12/2008;
- Preparation of an opinion, at the request of the Secretary of State Assistant for Public Works and Communications (SEAOPC) on the draft Regulation of the public tender for the licencing of a nationwide, generalist programme service, with free, unrestricted access (5th channel Regulation), which was later approved by Administrative Rule no. 1239/2008 of 31 October;
- Study, providing implementation of Council of Ministers Resolution no. 120/2008, published in *Diário da República* of 30 July 2008, to identify barriers which currently restrict access, by companies of the electronic communications sector to conduits and other infrastructure suited to the accommodation of electronic communications networks and which, as such, constitute obstacles to development and investment in next generation networks. As part of this work concrete steps were also identified for inclusion in the legislative solution to be proposed to the Government;
- According to Resolution of the Council of Ministers of 10 July, published in *Diário da República*, 1st Series, no. 146 of 30 July, the Government determined that it was a strategic priority for the country to promote investment in next generation networks, listing a set of actions to be taken with a view to the mass take-up of high-speed access to the Internet and development of advanced applications, with the goal of connecting 1 million users to next generation networks by 2010. Further provision was made for social structures, such as schools, hospitals, public justice services, higher education institutions, museums and libraries, to be linked to next generation networks in accordance with a schedule between 2009 and 2010;
- In this context, legislation measures were prepared setting out the regime applicable to the construction of infrastructure suitable for the accommodation of electronic communications networks and to the installation of electronic communications networks and the construction of the telecommunications infrastructure in urban developments, condominiums and buildings, ensuring open and effective access by all operators to the network of conduits and other relevant facilities supporting next generation networks;
- Preparation of the draft resolution of the Assembly of the Republic to promote the approval, for ratification, of the Amendments to the Convention for the creation of the European Communications Office (ECO);
- Preparation of the draft resolution of the Assembly of the Republic to promote the approval, for ratification, of the Final Acts of the XX Congress of the Postal Union of the Americas, Spain and Portugal (UPAEP);
- Participation as Government adviser in a meeting convened by the European Commission in order to prepare the 14th Implementation Report of the Community regulatory framework applicable to electronic communications;
- Preparation of contributions, at the request of SEAOPC, for the twice-weekly debates of the Prime Minister in the Assembly of the Republic on the State of the Nation;

- Analysis at the request of SEAOPC, of two applications by PTC to the Minister of Public Works, Transport and Communications in accordance with the provisions of art. 26 of the Concession Contract, whose bases were approved by Decree-Law no. 31/2003 of 17 February, with a view to obtaining authorization for a merger operation, by the incorporation of PT.Com - Comunicações Interactivas, S.A. into PTC, and the merger by incorporation of PT Corporate - Soluções Empresariais de Telecomunicações e Sistemas, S.A. into PTC;
- Analysis of the draft law on the general rules governing goods in the public domain;
- Analysis and opinion, at the request of SEAOPC, on the draft Law of pluralism and non-concentration in the media;
- Analysis and opinion, at the request of SEAOPC, on the draft Law on the legal application of civil requisition and civilian mobilization for the public interest;
- Analysis and opinion, at the request of SEAOPC, of the draft to Decree-Law no. 103/2006 of 7 June - Schedule of ERC Fees;
- Preparation of contribution, at the request of SEAOPC, to the questionnaire and preparing for the visit of the OECD - Peer Review - Assessment of the Regulatory Capacity of the first 15 Member States of the European Union. Participation was also provided in the meeting with OECD representatives (meeting in PCM);
- Transmission to GPERI and SEAOPC regarding the progress in the implementation of Directive 2008/6/EC of 20/02/2008, amending Directive 97/67/EC concerning the full accomplishment of the internal market of Community postal services.

● Links with other authorities and sectoral regulators

Autoridade da Concorrência (AdC - The Competition Authority)

Under paragraph 2 of article 28 of Law no. 18/2003 of 11 June (the Competition Law) an opinion of ICP-ANACOM was sent to AdC, requested by that Authority on the draft final decision adopted in respect of the case relating to the provision of leased circuits of PTC in which PTC was defendant.

Submission was likewise made to AdC, under the terms of paragraph 1 of art. 39 of the Competition Law, in May 2008, of an opinion on the prior notification of a concentration operation whereby CATVP-TV Cabo Portugal, S.A. proposed to acquire sole control of TVTel.

In the same area, during 2008, a number of additional itens were sent to AdC, necessary for pursuit of cases involving the analysis of both the transaction referenced above, and that involving the acquisition of sole control by CATVP - TV Cabo Portugal, S.A., of Bragatel, of Pluricanal Leiria - Televisão por Cabo, S.A., and of Pluricanal Santarém - Televisão por Cabo, S.A.

AdC also asked, in 2008, for clarifications from ICP-ANACOM, following complaints received about the lack of transmission capacity in the links provided by PTC between the mainland and Azores and Madeira.

On this subject, which was already under review by the sector regulator, AdC was informed that the solution should be found under the laws and regulations applicable to the provision of leased circuits, the concession contract of public telecommunications service and, in particular, the obligations imposed on PTC pursuant to the analysis of wholesale markets for terminating and transit segments of leased circuits.

Other Entities

ICP-ANACOM received a request for an opinion from the panel of a public tender launched by the Ministry of Finance and Public Administration for the contracting of a fixed telephone service and related services, following a complaint lodged by Onitelecom in connection with practices restricting competition. The opinion of ICP-ANACOM on the subject was transmitted to the Ministry, which was notified to the Competition Authority, likewise consulted in this process.

At the request of *Gabinete para os Meios de Comunicação Social* (GMCS - Media department), a response was prepared to a questionnaire from the Council of Europe on legal protection of conditional access services.

A number of clarifications were also issued on the legal regime of the Municipal Fee for Rights of Way (MFRW), in response to several requests from municipalities.

● New fee model applicable to electronic communications

In November 2008, approval was given to the draft Administrative Rules on the new model for fees charged by ICP-ANACOM and on the reduction of fees for the Land Mobile Service for public use (SMTP).

Approval by the Board of Directors was preceded by an opinion of the Advisory Board of ICP-ANACOM, issued at the request of the Secretary of State Assistant for Public Works and Communications, which contained a set of recommendations.

In turn, the Office of the Minister of Parliamentary Affairs submitted comments on the proposed tariff.

The LEC has introduced new concepts and a new order with respect to the revenues of the Regulatory Authority, defining the method of calculation to be used in determining fees.

The new model, referred to in Article 105 of the LEC, requires substantial changes to the prior model, particularly as regards the fee model applicable to the use of the radio spectrum, which is based on spectrum allocated, irrespective of the operator customer base.

In this context, Administrative Rule no. 1473-A/2008 of 17 December was published, which approved changes to fees for the land mobile service (in UHF bands - decimetre waves).

In turn, Administrative Rule no. 1473-B/2008 of 17 December was published, which approved the fees due for the issue of declarations providing evidence of the rights, for the exercise of the activity of provider of electronic communications networks and services, for the allocation of rights to use frequencies and numbers, for the use of radio spectrum and other fees payable to this Authority.

The approach used to calculate the fees for the use of the radio spectrum is based on charging for the allocated spectrum; on the other hand, in a separate plan for the use of frequencies, associated with radio licencing, it was necessary to ensure effective and efficient use of frequencies.

This approach also took into account two areas of concern: competition, and a concern of a social nature, associated with broadcasting services - radio and television.

Given the significant changes brought about by this new pricing model applicable to electronic communications, and taking into account its entry into force on 1 January 2009, it was decided to have a transitional period of two and five years (the latter period for broadcasting services), giving those who have to pay more the chance to prepare, and preventing, on the other hand, a sharp drop in the overall revenues of this Authority.

● Fees applicable to operators of postal services

In February 2008, approval was given to the draft order on the fees applicable to operators of postal services subject to authorization, which would be published in *Diário da República*, 2nd Series, no. 104 of 30 May.

This draft resulted from the fact that the amount paid by the entities holding authorizations issued by ICP-ANACOM for services in competition had been found to be, in most cases, disproportionate to the volume of revenue generated.

It was therefore decided to redefine the fees payable by operators authorized to exercise the postal activity, in line with the distribution of the costs of postal regulation undertaken by this Authority, deducted from the consideration of costs associated with monitoring and supervising the provision of the universal postal service, based on the relevant turnover of service providers.

This order had retroactive effect from 1 January 2007 regarding the implementation of the annual fee for operators who hold an authorization for the exercise of the postal activity.

● SIMPLEX programme

In conjunction with the Coordination Unit of Administrative Modernization (Presidency of the Council of Ministers) in 2008, ICP-ANACOM participated in this programme, implementing the following measures:

- Improving the efficiency of information pages and electronic services available on the website;
- Electronic access to all ITED certificates of conformity, by any person, through ICP-ANACOM's website;
- Provision of document transmission and administrative procedures for registration and renewal of certification bodies in electronic form;
- Simplification of the licencing procedure and the relationship between radio amateurs and ICP-ANACOM, changing the regulatory framework for these services;
- Availability of resources which make it possible to apply for radio licencing of public mobile services (UMTS, GSM and Trunking) electronically via Internet;
- Availability of resources which make it possible to make applications for temporary radio licencing electronically via Internet.