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TO PARTICIPATE
IN THE
DEVELOPMENT
OF THE EU
INTERNAL
MARKET BY
IMPROVING
THE INTERNAL
PERFORMANCE

(OBJECTIVE 4)

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● ● 6 To participate in the development of the EU internal market by improving the internal performance (Objective 4)

Among the regulatory objectives pursued by the NRA, established within the Community framework for electronic communications and transposed into national legislation, and at the same level as promoting competition and assuring the interests of citizens, reference is made to the contribution to the development of the internal market and, in particular, to work with the EC and the Body of European Regulators for Electronic Communications (BEREC) to ensure the development of consistent regulatory practice and consistent application of the EU regulatory framework.

Therefore, the analyses of markets and the ensuing obligations are increasingly subjected to the scrutiny of extra-national bodies, while there is a clear move towards the harmonization of regulatory practices, both in the form of common positions of the regulators group (until 2009, the ERG and, with the revised framework, BEREC) and according to EC Recommendations or even EU Regulations (as in international roaming).

Moreover, in the postal sector, it should be noted that preparatory works for the transposition of the Directive

liberalizing this market into the national law of Member States has resulted in a growing levels of cooperation and exchange of views and experiences.

In this context, the ongoing and active involvement of ICP-ANACOM in the various Community bodies became determinant to ensure the defence and recognition of regulatory practices considered more appropriate and suited to national specifications. This participation naturally involves an additional level in the management of resources, which increasingly and in combination with the internal tasks are impacting this activity, becoming increasingly part of the daily activity of the organization.

Although naturally ICP-ANACOM's intervention is focused on European institutions and community organizations, brief reference should be made to participation in other international organizations regarding activities that in some way affect or influence the developments of the regulatory activity of the sectors of electronic communications and postal services.

6.1 European and Community bodies

6.1.1 European Union (EU)

Assisting the Government is one of ICP-ANACOM's functions which is embodied, at international level, in the representation and accompaniment of Committees pursuant to the regulatory framework for electronic communications and postal affairs, as well as in the provision of advice with respect to meetings and in the formulation of opinions related to the themes discussed in the Working Groups of the Council, Permanent Representatives Committee (COREPER), the Council of Ministers and at other cross-Community bodies with an emphasis on regulation.

Council

In the context of the support which ICP- ANACOM provided to the government in negotiations at the Transport, Telecommunications and Energy Council (TTE), of particular note in this regard were the following issues, with final decisions coming in 2009 which impacted the activities of regulation and spectrum management more directly:

- Review of the Regulatory Framework for Electronic Communications - approval of the review package of the regulatory framework for electronic communications, which comprises the Better Regulation Directive, - amending the Framework, Authorization and Access Directives-, the Citizen's Rights Directive - amending the Universal Service and Data Protection Directives - and the Regulation establishing BEREC and its office. From the approved package, note should be made of new powers of Member States, NRA and the EC on several issues, including in terms of secondary spectrum trading, network and information security, quality of service and consumer protection.
- International roaming - approval of the revision of the Regulation on International roaming, in respect of which note is made of the extension of the period of voice regulation, the introduction of regulation of SMS and data service tariffs and improved measures of transparency and consumer protection.
- GSM Directive - approval of the revision of the GSM Directive (87/372/ECC) providing for the use of the frequency reserved for this technology by other mobile services (in particular UMTS).
- Digital dividend - adoption of Council conclusions on the EC Communication "Transforming the digital dividend into social benefits and economic growth".
- Network and information security - approval of Council Resolution on a collaborative European approach to Network and Information Security, following the EC Communication on Critical Infrastructure Protection entitled "Protecting Europe from large scale cyber-attacks and disruptions: enhancing preparedness, security and resilience" which established a raft of objectives, principles, guidelines and which scheduled various activities for the period 2009-2010.
- Post-i2010 strategy - approval of the Council conclusions on the Post-i2010 - Towards an open, green and competitive knowledge society.
- e-accessibility - approval of the Council conclusions on an accessible information society.

Community Committees and Groups

In respect of its functions, ICP-ANACOM participated actively in the activities of comitology bodies provided for in the community framework, particularly in the following instances more focused on the implementation of EU policies and regulation of markets and the radio spectrum, such as the Communications Committee (COCOM), the Radio Spectrum Committee (RSC) and the Postal Directive Committee.

Communications Committee (COCOM)

In 2009, ICP-ANACOM participated actively in all meetings of COCOM, including subgroups on permits, selection of the 2 GHz MSS systems and data compilation on the broadband market, with the aim of advising on recommendations and decisions of the EC as well as monitoring the implementation of the regulatory framework.

During 2009, it adopted a set of opinions, in particular on:

- Decision on the 116 range of numbers.
- Decision no. 626/2008/EC of the European Parliament and of the Council which sets out to create, at European level, a common procedure for the selection of the

operators of mobile satellite systems and to establish provisions for the coordinated authorisation by Member States of operators of MSS selected to operate in the 2 GHz band (Call for Applications 2008/C201/03).

- Decision no. 2009/449/EC on the selection of MSS operators.
- Recommendation on termination rates.
- Regulation amending Regulation (EC) no. 874/2004 of 28 April 2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration.

Note should also be made of the publication of reports, on a six monthly and annual basis, on EU broadband data, to which ICP-ANACOM contributes, as the preparation of the annual questionnaire on the implementation of the 112 European emergency number.

Radio Spectrum Committee (RSC)

The RSC, established by Decision 676/2002/EC, continued its activities in 2009, with note made of its involvement in the approval process of the following EC decisions:

- Decision 2009/343/EC of 21 April 2009 amending Decision 2007/131/EC on allowing the use of the radio spectrum for equipment using UWB technology in a harmonised manner in the Community.
- Decision 2009/381/EC of 13 May 2009, amending Decision 2006/771/EC on the harmonization of radio frequencies for use by short-range and low-power equipment.
- Decision 2009/766/EC of 16 October 2009, on the harmonisation of the 900 MHz and 1800 MHz frequency bands for terrestrial systems capable of providing pan-European electronic communications services in the Community. The adoption of this Decision was only possible following the amendment of Directive 87/372/EEC (GSM Directive).

During 2009, two draft decisions were prepared in the context of the RSC, for adoption in 2010: one on the 800 MHz band, which aims to make the 790-862 MHz frequency band available on the basis of technological and service neutrality, and another on harmonized conditions of use of the spectrum for mobile communications on board vessels (MCV).

In 2009, the following mandates were adopted for the European Conference of Postal and Telecommunications Administrations (CEPT):

- WAPECS - new mandate to define the minimum technical conditions to be applied in the 2 GHz band (1900-1980 MHz / 2010-2025 MHz / 2110-2170 MHz), taking into account the need to avoid interference - with basis in the studies conducted with respect to the 2.6 GHz band.
- 900/1800 MHz bands - mandate that aims to (i) check whether there are other technologies, in addition to long term evolution (LTE), for potential use on the 900 and 1800 MHz bands and whose compatibility with GSM needs to be studied, (ii) to study the technical conditions that allow the development of LTE (and possibly other technologies) in the 900 and 1800 MHz bands, and (iii) to investigate the compatibility between UMTS and systems in adjacent bands above 960 MHz.

Radio Spectrum Policy Group (RSPG)

The Decision which created the RSPG (Decision no. 2002/622/EC) was amended by Decision no. 2009/978/EC of 16 December 2009, where the consultative functions of this group with respect to the EC in the preparation of draft programs in the spectrum areas are fully enshrined.

In 2009, the RSPG adopted four Opinions on the following topics: the digital dividend, best practices regarding the use of spectrum by some public sectors, the coordination of European interests in matters relating to the World Radiocommunication Conference (WRC) and issues of the WRC-12 of interest to the EU and which require broad support within the EU.

As part of the activity of this group, note should also be made of the preparation of a high-level strategic document identifying a set of guidelines to maximize the benefits of wireless broadband services for consumers, citizens and society in general, as well as the preparation of a report on cognitive technologies as a means of promoting innovation and facilitating access to the radio spectrum.

European Regulators Group (ERG)

The ERG is a key venue for cooperation between different NRA with a view to the consistent application of the regulatory framework for electronic communications. Unlike other EU Groups and Committees, the ERG is made up solely by regulatory authorities.

Under the 2006 Madeira Declaration, NRA undertake to follow the common positions adopted by the Group using the preparatory work undertaken by the Contact Network and by the project teams of the Independent Regulators Group (IRG).

As part of the ERG's work in 2009, note should be made of the approval and publication of a timetable for monitoring the implementation of Common Positions, the adoption of a new version of the guidelines on the implementation of the regulation on international roaming, as well as a set of reports, including on the replicability of bundles and margin squeeze in bundles, data on mobile terminations, transition from sector-specific regulation to competition law, fixed-mobile convergence, transparency of tariff information, economic analysis and regulatory principles of next generation networks and price consistency in broadband markets. In addition, a declaration was published on the digital dividend.

Under the new regulatory framework, BEREC was created, with preparation of the documents necessary for its implementation begun in early 2010, along with preparation of the rules of procedure and rules for the hiring of personnel.

Joint ERG RSPG Group

In 2009 this working group, which reflects the growing need for synergy between spectrum management and analysis of markets and their regulation, and which aims to examine various regulatory issues related to the regulation of spectrum, particularly the relationship between competition and new spectrum management, presented two reports: (i) Transitional Spectrum Issues addressing issues that may arise during the process of moving to flexible spectrum management, such as the introduction of UMTS in the 900 and 1800 MHz bands in different Member States, and (ii) Spectrum Competition Issues, which looks at the problems and practical experience of some Member States with respect to the prevention of spectrum hoarding as an anti-competitive practice.

This Group also started working towards the publication of a third report, dealing with spectrum issues in terms of market definitions.

Postal Directive Committee

ICP-ANACOM attended the two meetings of the Postal Directive Committee, at which there was discussion of the processes of implementing the third Postal Directive (Directive no. 2008/6/EC of 20 February 2008), the monitoring of international developments in the postal services sector, particularly the activities of the Universal Postal Union (UPU) and World Trade Organization (WTO), the issue of VAT in the sector and preparation of the postal agenda for the coming years.

In the context of the working group established by the Postal Directive Committee (April 2008) to monitor issues related to the transposition of Directive 2008/6/EC, ICP-ANACOM participated actively in the five meetings of 2009, where the following topics were covered: licensing, national regulatory authorities and the calculation of the cost of the US, market oversight and consumer protection, the external dimension of Community postal policy and accounting separation and cost allocation.

Group of Experts on Electronic Commerce

ICP-ANACOM follows the work of the Group of Experts on Electronic Commerce, chaired by the EC, which had only one meeting in 2009. Among the topics addressed, note is made of the presentation of new initiatives on privacy online, such as the Hadopi Law in France, Digital Britain in the United Kingdom, and the new legal framework on the blocking of websites in combating child pornography, in Germany. There was also discussion of the implementation of article 3 of the Electronic Commerce Directive (EU Cooperation) and the concept of “directed activity” of the Brussels Convention I.

Expert Group on Consumer Complaints

ICP-ANACOM participated in meetings of the expert group that supported the EC in the preparation and draft adoption, at European level, of a harmonized methodology for the classification of complaints and enquiries in the EU, including in particular electronic communications services and the postal services. The public consultation on this matter was scheduled for 5 October 2009, while a Recommendation is due for publication in the first half of 2011.

6.1.2 Independent Regulators Group (IRG)

The IRG was constituted as an association under private law, based in Brussels; it brings together the NRA of the electronic communications sector of 27 Member States of the EU, the European Economic Area (Switzerland, Iceland, Norway and Liechtenstein), candidate countries for EU membership (Croatia and Turkey) and Macedonia, as an observer member.

In 2009, ICP-ANACOM was present at all Plenary sessions of the IRG / ERG and at the preparatory meetings that preceded them, participating in the Contact Network, which is an operational middle group with representatives of each NRA. It also attended and participated actively in the meetings of the following project teams: Review of

Regulatory Framework, Termination Prices, Significant Market Power, Benchmarking, Regulatory Accounting, International roaming, Remedies, NGNs, Convergence, article 7 Panel of Experts, providing coordination of the End-Users and IRGIS (IRG information system) teams. ICP-ANACOM also participated in *ad hoc* groups of Security and access to information.

It is recalled that the IRG and ERG work in close cooperation at a technical level with the joint working groups of the two bodies.

Under the cooperation between European NRA, in 2009, ICP-ANACOM responded to 116 (of 127) questionnaires sent out by its counterparts and developed nine questionnaires on its own initiative.

6.1.3 European Network and Information Security Agency (ENISA)

At EU level the issue of network security and information saw the involvement and participation of ICP-ANACOM at meetings organised by the EC and in the Management Board of ENISA.

During 2009, several pieces of legislation were published at Community level, including in connection with amendments to the European regulatory framework for electronic communications, the European Action Plan for the protection of infrastructure and the European Council of Ministers resolution referred to above, which grants ENISA new powers that will necessarily be reflected in the future mandate of the agency.

In terms of its activities during 2009, ICP-ANACOM gave particular attention to the multi-annual thematic programme on improving the resilience of European electronic communications networks.

6.1.4 European Conference of Postal and Telecommunications Administrations (CEPT)

In the context of ICP-ANACOM's involvement in the CEPT - organization of technical harmonization - participation was provided in its Electronic Communications Committee, the European Committee for Postal Regulation (CERP) and the Committee for ITU Policy (Com-ITU) as well as in

various working groups related particularly with frequency management and spectrum and numbering engineering, addressing and interconnection, thereby contributing to the preparation of relevant regulatory decisions in these matters.

ICP-ANACOM also participated in several CERP working groups and project teams.

● ● 6.2 Other international organizations

6.2.1 International Telecommunication Union (ITU)

ICP-ANACOM participated in the 9th Global Symposium for Regulators, an ITU event launched in 2000 to bring together regulators and policy makers from developed and developing countries, promoting the sharing of ideas and experiences on the sectorial topics of greater urgency and relevance. This year's event was dedicated to the challenges of convergence and the changing role of regulators at a time when the sector of information and communication technologies is undergoing transformation driven by technological, regulatory and market developments. The symposium adopted a set of best practices aimed at identifying innovative regulatory approaches which help strengthen the foundations of a worldwide Information Society, with the Portuguese administration particularly involved in producing this document.

Furthermore, ICP-ANACOM organized and participated in the ITU's fourth World Telecommunication Policy Forum where issues were addressed arising from regulatory and telecommunications policy. At this forum, approval was given to the Lisbon Consensus, which includes a series of opinions on the Internet, next generation networks, broadband access, information and communication technologies (ICT) and the environment; concerted strategies for building trust and confidence in ICT use and the training of human resources to support the implementation of IPv6.

In 2009, ICP-ANACOM also continued its involvement in various study committees of the T and R sector of the ITU relating, respectively, to technical aspects of numbering management and interoperability of networks and radio spectrum management.

6.2.2 Universal Postal Union (UPU)

In connection with ICP-ANACOM's participation in the work of the UPU, note is made of the first Postal Regulation Forum, a global forum whose audience was intended to be the decision-makers of the postal sector and regulatory authorities, with participation also seen by academics and service providers. This first forum was focused on issues related to the organization of the postal market (various models of regulation), the financing of the Universal Service of postal services and the overall impact of postal market liberalization at national and international level.

6.2.3 Organisation for Economic Cooperation and Development (OECD)

In the area of information security and privacy, ICP-ANACOM participated in the Working Group on Information Security and Privacy (WPISP) of the OECD. In 2009, this working group focused its activities on issues related to the access of various countries to the OECD Convention, contribution to the Strategy of Innovation (sensor based networks), economic aspects of malicious code, national strategies for cybersecurity, critical information infrastructure (undersea cables), authentication and management of digital identity, privacy, SPAM and protection of children online.

ICP-ANACOM hosted the conference of OECD experts on Using Sensor-based Networks to Address Global Issues: Policy Opportunities and Challenges held in Lisbon in June 2009.