



DECISION OF ICP ON INTERNET ACCESS CONDITIONS

The promotion of Internet access is considered to be a fundamental vector in the development of the Knowledge and Information Society and modernisation of the country, in terms of citizens' well-being, strengthening of their respective capabilities and an increase in the competitiveness of companies.

This fundamental action line is assumed at both the European and national levels, reflected in the e-Europe Initiative resulting from the Lisbon Summit, the Programme of the XIV Portuguese Government, the Main Options of the Plan for 2001 and recent Council of Ministers Resolutions relating to the Information Society.

In this context, and bearing in mind the targets set for the coming years in terms of the development of Internet access, particularly regarding affordability, as specified in the Main Options of the 2001, the decisions of the regulatory authority are also guided by the objective to develop open and competitive markets.

It proved necessary for ICP to intervene in this field in two areas:

- Definition of the pricing system for Internet access, involving the entire value chain of the provision of services;
- The provision of unmetered Internet access (flat-rates).

Recognising that it is necessary to define guidelines for the medium-term, that will condition the plans of economic agents and have a decisive influence on their market behaviour and strategies, ICP decided to consult the main parties involved, including Internet Service Providers (ISPs), the concessionaire company, PT Comunicações, consumer associations and the competition authority.

Overall, the integration of Internet traffic within the scope of interconnection, as proposed by ICP, was well received by most parties, without prejudice to the fact that there was general consensus of the need to establish a transition period.

ICP considers that this solution will make it possible to integrate a rapidly developing service within a familiar regulatory framework that has been tested by the different parties. This framework also offers clear advantages in terms of legal certainty and security, in particular regarding ICP's powers to set guidelines and to intervene.

In this manner Internet access will migrate from a model based upon revenue-sharing in the fixed telephone service, to a logic of interconnection based on call origination.

This new system is compatible with established public interest objectives and application of market competition principles, both forming part of the regulatory authority's reference framework.

The various regulatory instruments that frame ICP's regulatory activity, are guided by the common goal to pursue public interest objectives through a fair balance between the individual value and the social value as a whole. ICP's activities are equally governed by the principle of proportionality, both in terms of the promotion of open and competitive markets, and the promotion of access to services.

In regards to Internet access, the regulatory framework encompasses not only the interconnection framework, but also the legal framework applying to public telecommunications networks and the fixed telephone network.

Hence,

- a) Integrating Internet traffic within the scope of Decree-Law no. 415/98, of December 31st;
- b) In accordance with the principles established in article 4 of this diploma, namely the promotion of the establishment and development of, and access to, national networks and services, and the promotion of a competitive market, in accordance with the guidelines set in the e-Europe initiative, the Programme of the Government, the Main Options of the Plan for 2001 and recent Council of Ministers Resolutions regarding the Information Society;
- c) Considering the need to uphold, in a cost effective manner, user interests as interconnection objectives;
- d) Considering the possibility to set different interconnection conditions for different types of entity whenever such differences may be objectively justified, specifically in terms of the type of interconnection provided, in accordance with the terms of article 10 (3) of Decree-Law no. 415/98;
- e) Aware that Internet traffic has characteristics that are substantially distinct from those of voice traffic and for which the existing network is not entirely suitable, and that it is advisable to implement new network architectures and rationalise the corresponding means of transmission, in line with technological progress – in order to optimise traffic management and the use or occupation of network resources and uphold user interests, in particular regarding the preservation of suitable levels of service quality;
- f) Recalling the recommendations of the European Commission that the lowest prices of the European Union (“*benchmarks*”) should be used to bring prices down to levels that suitably remunerate the investment made in the supply of an efficient interconnection service, and that, in this framework, prices close to the European average may be considered as an upper limit for the costs to be borne by the operator in operating conditions with due levels of efficiency; and given that it is also appropriate to declare that the advisable network architecture, in the case of the Internet, given the specific nature of interconnection, is likely to deliver reductions in associated costs;
- g) Given that the ICP is responsible for guaranteeing, under the terms of article 10 (4) of the said Decree-Law, that the application of the different interconnection conditions do not distort open competition, and in particular that interconnection prices, terms and conditions are applied in a transparent and non-discriminatory manner;
- h) Given that PT Comunicações, as the entity that legally succeeds Portugal Telecom, SA, has been declared as an entity with significant market power in the national interconnection market, the fixed telephone network market and/or the fixed telephone service market and in the leased circuits market, and is thereby

subject to prepare reference interconnection offer proposals, as specified in paragraph c) of article 9 (1) of Decree-Law no. 415/98;

- i) Considering that PT Comunicações presented an “Offer of Access to ISPs” to ICP on February 13th;

ICP has decided, under the terms of article 13 (1) of Decree-Law no. 415/98, that PT Comunicações shall introduce the following changes in its offer, to be included within a Reference Internet Access Offer Proposal, to be published by March 1st, 2001:

Transition to a model of call origination

- 1 All Internet traffic must migrate from the current model of revenue-sharing between the direct access operator and ISPs to a model of interconnection based on a logic of call origination charges, in which ISPs are responsible for the definition of the price to be paid by the final user, in Internet access via the fixed telephone network, paying an origination charge to the direct access operator.

Transition period

- 2 The evolution from the current model of revenue-sharing to a model of call origination will include a transition period that will terminate on 31/05/01. ISPs may adhere to the model of call origination at any moment up until that date.
- 3 The need for a reduction in “compensatory payments” was explicitly set in the “guidelines for a better definition of the framework of provision of Internet access services”. In this context, during the period in which the current model of revenue sharing still applies, and in situations in which “compensatory payments” are made resulting from the difference between the price of local calls paid by the end user and the reference call price, the said “compensatory payment” shall be reduced by 10%, taking effect from 01/03/01.

Unmetered access (flat-rate tariffs)

- 4 PT Comunicações shall start to offer unmetered Internet access (flat-rate tariffs) in the fixed telephone network, in relation to ISPs. The maximum prices to be practised in the system of unmetered access, to be presented by PT Comunicações, are as follows:

(amounts in PTE, excluding VAT)

Level	24-hour access	Economic Period
Local	4,000	2,000
Single Tandem	5,100	2,700

- 5 Users with basic ISDN access should be covered by the offer of unmetered access defined for the “Economic Period”.

Metered access (charges by the minute)

- 6 The maximum prices of call origination for Internet access traffic shall correspond to the maximum call origination charges defined in the Reference Interconnection Offer (RIO) 2001, with the following reductions – 7.1% in the prices of local interconnection in the Off-Peak Period, 27.7% in the prices of single tandem interconnection and 14.7% in the prices of double tandem interconnection. This will lead to the following maximum prices per minute:

(amounts in PTE, excluding VAT)

Level	Set-up Call	Off-Peak	Peak
Local	1.60	0.92	1.54
Single Tandem	1.80	1.33	2.55
Double Tandem	2.00	2.72	4.53

Economic Period

- 7 The “Economic Period” applicable to the offer of Internet access, should be the period between 18.00 and 9.00 on weekdays and all day on weekends and public holidays.

Billing

- 8 The ISP has the right to bill the final client, but in all circumstances PT Comunicações, shall guarantee the billing of traffic destined for numbers allocated to ISPs, whenever the interested operators so request. The agreements signed for this purpose should specify the possibility that itemised billing may be supplied “on-line” by the ISP.
- 9 In the cases in which PT Comunicações bills the client, the range of applicable tariffs should be widened in order to guarantee greater flexibility to ISPs (unless this proves to be technically impossible), on the assumption that such flexibility will held satisfy the natural expectations of users. For this purpose, ISPs should communicate possible tariffs to PT Comunicações with due prior notice.
- 10 In regards to the prices to be used in the billing service to be provided by PT Comunicações:
- In metered access and calls made outside the economy period defined for unmetered access, and taking into consideration the latest information provided by PT Comunicações, the maximum price per call shall be PTE 1.60 (excluding VAT);
 - In unmetered access, the ISP also has the right to bill its clients directly, although PT Comunicações should guarantee billing at a reasonable price, when so requested.

ISDN access line - Primary rate

- 11 From 01/03/01, the maximum price of ISDN access line - primary rate interface to be used by ISPs for interconnection between its POPs and the switches of PT Comunicações, should be reduced by 20% in relation to the consumer retail prices prevailing in 2001. For this purpose a transparent and non-discriminatory system of discounts shall be used.

Restructuring of the network

- 12 The proposal presented PT Comunicações, for the metropolitan areas of Lisbon and Oporto is considered to represent an approach that converges with the concerns specified in the “guidelines” defined by ICP. In this context, PT Comunicações shall also present a restructuring plan for the network in the rest of the country. A well-founded justification shall also be presented to explain why (a) ISDN access line - primary rate interface is not available in exchanges identified as aggregation points (extended single tandem) in zones outside the metropolitan areas of Lisbon and Oporto; and why (b) connection to the POP of an ISP will only be possible via ISDN access line - primary rate interface in the aggregation points of the metropolitan areas of Lisbon and Oporto.