

NATIONAL COMMUNICATIONS AUTHORITY (ANACOM)

REGULATION No. .../2019

Regulation amending Regulation No. 257/2018, of 8 May

Regulation No. 58/2005 of 18 August, as amended by Regulations No. 87/2009, of 18 February, No. 302/2009, of 16 July and No. 114/2012 of 13 March, which establishes the principles and rules applicable to portability in public communications networks (Portability Regulation), was recently amended by Regulation No. 257/2018, published on 8 May.

As set out in article 6 thereof, amendments made to the portability scheme by Regulation No. 257/2018, of 8 May, took effect on 22 May 2018, with the exception of some of its provisions, the entry into force of which was postponed.

This is the case with the provisions concerning the new validation mechanism for electronic portability applications, which require a Portability Validation Code (PVC), provisions which must be implemented within 9 months from the date of publication of the regulation, that is, by 9 February 2019.

However, several constraints were reported to ANACOM regarding the complexity associated with implementing and making the PVC available, as set forth in the new article 12-A of the Portability Regulation, namely the need for service providers with portability obligations to introduce changes in several IS/IT information systems interacting with one another, which could ultimately impact the right to portability and the trust of consumers in this new electronic portability application validation process.

For these reasons, ANACOM approved, on 14 November 2018, and publicized on 15 November 2018, its decision to initiate the procedure for amending Regulation No. 257/2018, of 8 May, with a view to amending the provision on the entry into force of the PVC scheme, in accordance with that laid down in paragraph 1 of article 98 of the Code of Administrative Procedure.

At the end of the period granted for such purpose, a contribution had been received from APRITEL - Associação dos Operadores de Comunicações Eletrónicas, on behalf of its associates, which was analysed and considered when preparing the draft amendment to Regulation No. 257/2018, of 8 May, which was submitted by ANACOM, under the terms of article 10 of its Statutes and articles 98 et seq. of the Code of Administrative Procedure, to the

corresponding regulatory consultation procedure, for a period of 10 working days, on account of the urgency of the matter, pursuant to paragraph 3 of article 10 of its Statutes, through publication on its website and in Series II of the Official Gazette *Diário da República* - Notice No. 18570/2018, on 12 December.

Following conclusion of the regulatory consultation, ANACOM analysed and considered the contributions submitted, the respective assessment being set out in the report that substantiates the approval of this regulation, which is published on this Regulatory Authority's website, as well as full versions of the contributions received.

The aim of this Regulation is essentially to extend the deadline established in point b) of paragraph 1 and paragraph 2 of article 6 of Regulation No. 257/2018, of 8 May, so that the provisions listed therein take effect on 11 May 2019.

Therefore, within the scope of the powers provided for in points a) and h) of paragraph 1 of article 8, and under the provisions of point a) of paragraph 2 of article 9, article 10 and point b) of paragraph 1 of article 26, all from ANACOM's Statutes, approved by Decree-Law No. 39/2015, of 16 March, in pursuit of the regulatory objectives set out in points a) and c) of paragraph 1 of article 5 and under the terms and for the purpose of article 54 and paragraph 1 of article 125, all from Law No. 5/2004, of 10 February, with the wording currently in force, ANACOM approved, by determination of 9 January 2019, the following amendments to Regulation No. 257/2018, of 8 May:

Article 1

Amendment to Regulation No. 257/2018, of 8 May

1 - Article 6 of Regulation No. 257/2018, of 8 May, is hereby amended to read as follows:

“Article 6

[...]

1 - ...

a) ...

b) Of article 2, paragraph 8 of article 7 and articles 8, 9, 12, 12-A, 13, 14, 17, 18 and 23-A, which take effect on 11 May 2019.

c) ...

2 - Annexes I and II of the Portability Specification, revised, updated and made available under the terms of paragraph 3 of article 5 of this Regulation, shall take effect on 11 May 2019.”

Article 2

Entry into force

The amendments introduced by this regulation to Regulation No. 257/2018, of 8 May, shall take effect on the business day following that of its publication.