

C. ANACOM REGULATIONS

- > **Selection and pre-selection regulation – Regulation no. 1/2006, published on 9 January, amended by Regulation no. 268/2007, published on 15 October**

- > **Portability regulation – Regulation no. 58/2005, published on 18 August**

- > **Regulation on quality of service – Regulation no. 46/2005, published on 14 June**

- > **Procedures for the collection and delivery to municipalities of the municipal fee for rights of way – Regulation no. 38/2004, published on 29 September**

SELECTION AND PRE-SELECTION REGULATION

Regulation no. 1/2006, published on 9 January, amended by Regulation no. 268/2007, published on 15 October^{1 2}

The indirect access, on a call-by-call basis by dialling a company's selection identification code, was introduced in Portugal on 1 January 2000.

Subsequently, the pre-selection modality, without there being any need to dial a prefix and with a facility to override any pre-selected choice on a call-by-call basis, was made available as from 30 June 2000, first, through an interim solution, and as from 1 October in its definitive form, in the geographical areas of Lisbon and Oporto, and on 15 November in the remaining areas, with the possible exception of areas covered by ELD exchanges, which were covered subsequently by the limit date of 31 December 2000.

The selection and pre-selection resources were ensured at the time by all providers of the fixed telephone service with direct access, comprising in the beginning, by determination of the then ICP, only long distance national calls and international calls.

Subsequently, the scope of national calls was extended with the inclusion of fixed-mobile calls, on 1 October 2000, and of local and regional calls, on 1 January 2001.

The then ICP further determined that, as from 31 March 2000, the providers of the mobile telephone service, where requested, should make available call-by-call selection to international calls.

Having arisen the need for an intervention on the part of the regulator as regards the definition of harmonized rules for the pre-selection implementation and provision, the Board of Directors of the then ICP approved, by determination of 12 May 2000, the "Specification of Pre-Selection by FTS providers".

Four years on, on 22 January 2004, ICP-ANACOM launched a public consultation on operator selection and pre-selection in Portugal, aiming to reassess the provision of these resources, particularly as regards the possible extension thereof to other types of traffic and improvements to be included in the Specification. The respective report was approved by determination of 21 July 2005.

With the publication of Law no. 5/2004, of 10 February (Electronic Communications Law), the selection and pre-selection provision became binding only on companies declared to possess significant market power in the connection to the public telephone network and use of this network at a fixed location. It is incumbent upon ICP-ANACOM to assess and decide on requests of users regarding the installation of these resources in other networks or other means, following the market assessment procedure.

¹ This is not an official translation of the law.

² Regulation no. 1/2006, published in *Diário da República*, no. 6, II Series, of 9 January 2006; and Regulation no. 268/2007, published in *Diário da República*, no. 198, II Série, of 15 October 2007.

The referred Law – paragraph 4 of article 84 and paragraph 1 of article 125 – provide for the power of ICP-ANACOM to determine the necessary rules for the implementation of the selection and pre-selection, which must take the form of a regulation.

Taking into account that nowadays the provision of selection and pre-selection resources is generalised, ICP-ANACOM decided to establish rules and procedures which apply to all providers of telephone services, both fixed or mobile, who provide these resources, even if only for commercial purposes, without prejudice to the existence of a set of specific provisions for direct access providers with significant market power.

The regulation thus establishes the principles and rules applicable to selection and pre-selection in public telephone networks, and is binding on all companies part of a selection and pre-selection procedure, as providers of a direct or indirect access. The aim is thus to harmonize procedures as much as possible for the final benefit of subscribers.

This regulation is based on the rules comprised in the Specification of Pre-Selection, extended to the selection, where applicable, which are now altered or adapted, in the light of the experience gained through the introduction of the indirect access since its start, in particular the difficulties pointed out by parties involved, as well as the replies received to the public consultation launched by ICP-ANACOM.

In this context, the extension of the traffic eligible for indirect access and the simplification of pre-selection activation and deactivation procedures should be highlighted, in the pursue of market interests and user interests in particular.

In compliance with article 11 of the Statutes of ICP-ANACOM, approved by Decree-Law no. 309/2001, of 7 December, and article 8 of Law no. 5/2004, of 10 February, the regulation, in its draft stage, was submitted to the respective consultation procedures, both regulatory and general, interested parties having been granted a 30-working day time limit to assess the subject.

The final report, that analyses replies received in the scope of these procedures and justifies the options taken by ICP-ANACOM, is published on the website of this Authority.

Thus, pursuant to point a) of article 9 of the Statutes of ICP - Autoridade Nacional de Comunicações (ICP-ANACOM), approved by Decree-Law no. 309/2001, of 7 December, to paragraph 4 of article 84 and to paragraph 1 of article 125, both of Law no. 5/2004, of 10 February, the Board of Directors of ICP-ANACOM hereby approves the following regulation:

Chapter I

General Provisions

Article 1

Subject-matter and scope

1. The present regulation establishes the principles and rules that apply to selection and pre-selection in public telephone networks.
2. The provisions of the present regulation apply to pre-selection, and where appropriate on account of its nature, to call selection.

3. The following companies part of a selection or pre-selection process are bound to comply with this regulation:

a) Companies that, providing access to public telephone networks and the use of these networks, enable their customers to gain access to the services of any company that provides publicly available telephone services and that is interconnected therewith;

b) Companies that provide publicly available telephone services:

i) On a call-by-call basis, by dialling a company's selection identification code;

ii) By means of pre-selection, with a facility to override any pre-selected choice on a call-by-call basis, by dialling a company's selection identification code.

Article 2

Definitions and abbreviations

1. For the purposes of this regulation, the following definitions shall apply:

a) Subscriber access: physical or electromagnetic backbone that connects the subscriber to the company, to which a given subscriber configuration is associated;

b) Temporary access: subscriber access installed for no more than three months;

c) Working day: any weekday, from Monday to Friday, except for national holidays, Shrove Tuesday and Christmas Eve;

d) Company: entity providing publicly available networks and/or services;

e) Selected company: company providing publicly available services, through selection and/or pre-selection;

f) Prefix: set of digits that enable the selection of different formats of numbers, networks and/or services, in the scope of Recommendation ITU-T E.164, but which are not an integral part of the number, namely for calling line identification (CLI) purposes;

g) Company' identification code: prefix conferring access to the company to be selected, which must be dialled immediately before the number to be called. This prefix has the format "10xy", where "xy" identifies the indirect access company, and is allocated by the regulator;

h) Pre-selection: indirect access modality that requires a pre-designation of a company, which means that all comprised calls will be automatically forwarded through this company without the company's identification code having to be dialled;

i) Regulator: ICP - Autoridade Nacional de Comunicações (ICP-ANACOM);

j) Call-by-call selection: indirect access modality that implies the dialling of a company's identification code for call forwarding purposes.

2. For the purposes of this regulation, the following abbreviations shall apply:

a) CCBS: Completion of Calls to Busy Subscriber (ETSI EN 300 356-18);

b) CCNR: Completion of Calls on No Reply (ETSI EN 300 356-20);

c) CD: Call Deflection (ETSI EN 300 356-15);

d) CFB: Call Forwarding on Busy (ETSI EN 300 356-15);

- e) CFNR: Call Forwarding on No Reply (ETSI EN 300 356-15);
- f) CFU: Call Forwarding Unconditional (ETSI EN 300 356-15);
- g) CLI: Calling Line Identification (ETSI EN 300 356-3 and ETSI EN 300 356-4);
- h) ECT: Explicit Call Transfer (ETSI EN 300 356-15);
- i) ETSI: European Telecommunications Standards Institute;
- j) ISUP: ISDN User Part (ETSI EN 300 356-1);
- k) DAP: Direct Access Provider;
- l) PSP: Pre-selected Provider;
- m) SS7: Signalling System 7 (ITU-T's Q.7XX series Recommendations);
- n) ITU-T: International Telecommunication Union - Standardization Sector.

Article 3

Selection and pre-selection scope

1. The following calls are eligible for selection or pre-selection:
 - a) National calls, i.e., calls originating and terminating within the national public telephone networks, both to geographic numbers and non-geographic numbers;
 - b) International calls, i.e. calls made in the international format, by dialling prefix "00".
2. Calls originating in public pay phones or in temporary accesses shall be excluded from the selection and pre-selection scope, and so shall the following calls:
 - a) National calls:
 - i) To emergency services and internal services within the provider's own network;
 - ii) Internet access services;
 - iii) Free of charge services to the calling subscriber.
 - b) International calls to services free of charge to the calling subscriber.
3. The selection and pre-selection cover calls where call forwarding (CD, CFU, CFNR, CFB, ECT) or automatic call-back (CCBS, CCNR) have been invoked, provided they are eligible.
4. The DAP or the pre-selected company may provide the following possibilities:
 - a) National calls;
 - b) International calls;
 - c) National and international calls.
5. The calls to be included in each of the options referred to in the preceding paragraph depend on the business offer of the DAP, save as provided for in paragraph 1 of article 7.

Chapter II

Principles and rules to be complied with by companies

Article 4

General principles

1. Companies shall cooperate between themselves to facilitate and ensure the quality of resources subject matter of the present regulation, namely by means of interconnection agreements, in observance of the legal framework in force and the provisions of this regulation.
2. The contractual relationships between the subscriber and the selected company are independent from the contractual relationships between the subscriber and the DAP, without prejudice to agreements to be established and interconnection obligations.
3. The pre-selected company is entitled to bill subscribers directly for the service provision, except where it is not the traffic owner, in which case it may only do so by means of an agreement with the respective owner.
4. The direct access suspension in the cases legally provided for implies the suspension of the indirect access service for the duration of the former.
5. Failure on the part of the subscriber to pay the DAP, except in those cases involving interruption of direct access, does not determine the suspension of the indirect access service.
6. Where the contractual position of the DAP subscriber is transferred, the pre-selection activated on the access which is the subject-matter of the contract ceases; in this situation, the DAP must send the PSP a communication regarding the deactivation date, pursuant to paragraph 4 of article 10.
7. The conclusion of a contract with a PSP presupposes that the same subscriber has entered into a contract with the DAP, that is, only a subscriber of a direct access contract may engage a pre-selection contract with the indirect access company.
8. For the purposes of the preceding paragraph, in cases of merger, acquisition or change in the company name of legal persons, the contract with the PSP is deemed to be concluded with the same contract holder.

Article 5

Information requirement

1. Companies are under the obligation to make available to the regulator all information requested by the latter in order to monitor selection and pre-selection.

Article 6

Obligations on the DAP

1. The following obligations fall upon the DAP:

- a) To activate the pre-selection at the subscriber's base of access, except where the subscriber indicates otherwise, and provided the implementation is technically feasible;
- b) To ensure that the validation of call eligibility is performed as close as possible to its origination, except where the regulator has explicitly determined otherwise or a different agreement thereon has been reached by companies;
- c) To distinguish the situation of non-eligible traffic in a call with selection and to ensure that an appropriate free-of-charge information is provided to the calling user, in a clear and audible way, through an online advertisement;
- d) To implement support procedures to the pre-selection, that must not derogate from the framework in force and the provisions of this regulation.
- e) Not to accept or to handle requests for alteration or termination of indirect access contracts, and to inform subscribers who contact it for that purpose of this fact and that such requests must be submitted directly to the pre-selected provider.^(*)

2. The DAP must not reject pre-selection requests based on grounds resulting from its contractual or business relationships with the subscriber, except where the alleged argument concerns the justified suspension of the direct access.

3. The DAP shall submit the selected company, via SS7 (ISUP):

- a) The CLI, as well as the correspondent information on the information restriction;
- b) Identification code of the selected company, which shall be included in the "Called Party Number" (10xy + "Destination Address Number");
- c) The category of the number that activated the indirect access ("Calling Party's Category").

4. Whenever a call forwarding takes place, the DAP shall send to the PSP, via SS7 (ISUP), the calling number, the number where the forwarding was invoked from, and the destination number (including the identification code of the selected company 10xy).

Article 7

Specific obligations on the DAP with significant market power (SMP)

1. Companies with SMP which provide their subscribers with access to the services of any company providing publicly available telephone services, which is interconnected therewith, pursuant to paragraph 1 of article 84 of Law no. 5/2004, of 10 February, are under the obligation to:

- a) Discriminate its provision according to all the options provided for in paragraph 4 of article 3, namely through two different PSP;
- b) Include as eligible all traffic provided for as such in article 3.

2. Companies with SMP upon which selection and pre-selection obligations are imposed pursuant to paragraph 2 of article 84 of Law no. 5/2004, of 10 February, must comply with specific obligation imposed following a market assessment and under the terms defined therein.

Article 8

Obligations on selected companies

1. The selected company shall provide information to its subscribers on the maximum period of time necessary to install the respective service, and is responsible for the performance of its obligations.
2. It is incumbent upon the selected company to notify its subscribers, at the least one month ahead, of any alterations in traffic eligibility, even where such alterations result from factors outside its control.
3. The selected company is responsible for the implementation of the selective call barring, according to the subscriber's request and its business provision.

Article 9

Pre-selection activation

1. The pre-selection process begins with the order submitted electronically by the PSP to the DAP, to a single contact point, based on the explicit consent of the subscriber, put forward by any means, comprising sufficient information to identify him/her as a DAP subscriber, including the name and telephone number, in full compliance with the legislation on protection of personal data and privacy.
2. The DAP shall make the pre-selection available no later than 5 working days from the date of the electronic request made by the PSP, pursuant to the preceding paragraph; the DAP shall also notify the PSP of the actual date of activation of the respective pre-selection, no later than two days after the activation has taken place, being incumbent upon the PSP to provide the same information to the subscriber, within two working days from the notification made by the DAP.⁽¹⁾
3. Without prejudice to paragraph 1, the PSP must require from the subscriber a declaration of will through a document signed by the latter, and shall send to the DAP, on a monthly basis and under terms to be mutually agreed, all documents on pre-selection activations occurred in the previous 30 days, except where an agreement between the companies establishes otherwise.
4. Without prejudice to the right to compensation under the general terms, the PSP is responsible, before subscribers and the DAP, for pre-selection activations that do not correspond to the will of subscribers, under the following terms:
 - a) The PSP may not request subscriber payment for calls made through an improperly activated pre-selection;
 - b) The PSP must compensate the DAP for all costs incurred by the latter due to improper pre-selection activation.
5. If two or more PSO present requests to the DAP in different moments, for the same traffic option or for different options with traffic overlapping, the DAP shall implement the request received first, and shall reject all activation or deactivation requests, received within the five subsequent working days.

6. The selection and pre-selection shall prevail upon call barring, and for this purpose the subscriber declaration shall include the explicit consent to cancel or to maintain possible call barring facilities in the scope of those resources, without prejudice to the provision of paragraph 3 of article 8.

7. Without prejudice to the applicable penalty regime, the DAP shall pay the PSP a direct compensation of €2.5 for each day by which the pre-selection activation date has been exceeded, after the five-working-day-time limit set out in paragraph 2 has elapsed.⁽⁷⁾

Article 10

Pre-selection deactivation

1. The pre-selection deactivation shall take place exclusively following the alteration or termination of the respective contract with the PSP, which is bound to convey electronically to the DAP, to a single contact point, the respective deactivation request, within two working days at the most.

2. The replacement of a PSP for another, for the same traffic option or for different options with traffic overlapping, shall occur based on a pre-selection contract between the subscriber and a new PSP, together with the termination addressed to the former PSP, to be delivered by the new PSP within two working days at the most.

3. In the cases referred to in the preceding paragraph, the new pre-selection procedure shall comply with article 9.

4. The DAP shall deactivate the pre-selection no later than five working days from the date of the deactivation request made by the PSP or the pre-selection implementation request made by the new PSP, as appropriate, complying at all times with the first request received, and rejecting all activation or deactivation requests received within the five subsequent working days. The DAP shall also notify the ceasing PSP of the actual date of deactivation of the respective pre-selection, within two working days at the most from the deactivation, or activation relatively to the new PSP, and shall, in the first case, provide the same information to the subscriber, within the same time limit.⁽⁷⁾

5. Contract alterations concerning changes in characteristics of subscriber access does not imply the pre-selection deactivation, which shall be made continuously available by the DAP, provided that the changes exclusively regard the selected access, as well as the following options:

- a) Number(s);
- b) Support technology;
- c) Other options determined by the regulator.

6. In the case of point a) of the preceding paragraph, the DAP shall notify the PSP, at least five working days in advance, of the new number(s) and the respective date of alteration.

7. In case of contract alterations not provided for in paragraph 5, the DAP shall:

- a) Require the subscriber, together with the request, to state clearly that he/she is aware that his/her request results in the pre-selection deactivation;

b) Notify the PSP, within at the most two working days from the reception of the request, that the provision of the resource has come to an end;

c) To notify the PSP of the date of pre-selection deactivation, under paragraph 4 hereof.

8. Without prejudice to the applicable penalty regime, in situations where the pre-selection is deactivated and the PSP is not replaced, the PSP shall pay the subscriber a direct compensation of €5.00 for each day by which the pre-selection deactivation date has been exceeded, after seven working days have elapsed from the date the request for alteration or termination of indirect access contract was submitted.^(*)

9. In the situations provided for in the preceding paragraph, the PSP shall be entitled to pursue remedies against the DAP, where the delay in the deactivation results from a fact for which the latter is responsible, namely failure to meet the five-working-day-time limit provided in paragraph 4, under the terms and time-limit to be agreed between the parties, never later than 60 days after the date on which the PSP requests reimbursement from the DAP.^(*)

Chapter III

Monitoring, penalties, transitional and final provisions

Article 11

Monitoring

It is incumbent upon the regulator to monitor the compliance with the provisions of this regulation.

Article 12

Penalties

Infringements of the provisions in this regulation are offences under point bbb) of paragraph 1 of article 113 of Law no. 5/2004, of 10 February.

Article 13

Transitional provisions

1. Companies that, pursuant to paragraph 1 of article 84 of Law no. 5/2004, of 10 February, are under the obligation to make available selection and pre-selection resources, on the date of entry into force of this regulation, and selected companies that interconnect therewith, must make available selection and pre-selection resources, at 00.00 of the first Tuesday, 3 months after the entry into force of this regulation, comprising all traffic defined herein as eligible.

2. Companies that, pursuant to article 84 of Law no. 5/2004, of 10 February, are not under the obligation to make available, as DAP, the selection and pre-selection resources, yet provided them previously to the entry into force of this law, must, within three months from the entry into force of this regulation:

a) Adapt their interconnection agreements according to the present regulation, in case they decide to continue providing these resources;

b) Notify the respective companies of the provision termination, in case they decide to cease the provision.

3. Without prejudice to paragraph 2 of article 7, companies upon which the obligation to make available selection and pre-selection resources is imposed after the entry into force of this regulation, pursuant to paragraphs 1 and 2 of article 84 of Law no. 5/2004, of 10 February, must fulfil this obligation accordingly, within the time limit to be defined following a market assessment.

Article 14

Repeal provision

1. The “Specification of Pre-selection by FTS providers”, approved by determination of the then ICP, of 12 May 2000, is hereby repealed.

2. The following determinations are also repealed:

a) Determination of the then ICP of 13 December 2000, on contracts for operator pre-selection and consumer information, as far as call barring and conclusion of direct and indirect access contracts are concerned;

b) Determination of the then ICP of 7 February 2002, on the statistical information on FTS providers;

c) Order of the Chairman of the Board of Directors of ICP-ANACOM of 13 October 2003, and determination of ICP-ANACOM of 16 October 2003, on pre-selection (call barring 10xy).

^(*) Amended by Regulation no. 268/2007, published on 15 October.

PORTABILITY REGULATION

Regulation no. 58/2005, published on 18 August^{1 2}

Portability, defined here as the feature which allows public telephone service subscribers who request it to keep their number or numbers within the scope of the same service, regardless of the undertaking providing the service, for geographic numbers in a given location, and for the remaining numbers, across the whole of the national territory, was introduced on 30 June 2001 for the fixed telephone networks and on 1 January 2002 for the mobile networks.

The general rules and principles to be observed by providers with portability obligations comprise the "Specifications for Operator Portability" approved following a decision of ICP – ANACOM's Board of Directors on 28 June 2001 which also describes in detail the technical and administrative procedures necessary for the achievement of portability.

Law no. 5/2004 of 10 February - Electronic Communications Law - grants ICP – ANACOM the authority to determine the rules related to the execution of portability, which shall take the form of regulations.

In light of the above, ICP – ANACOM drew up the regulations published herein, which establish the principles and rules applicable to portability in public telephone networks and are binding on all undertakings with portability obligations.

These regulations are based on the rules comprising the Specifications, modified or adapted as necessary in light of the experience obtained since the onset of portability deployment.

In addition to this set of rules, the Specifications for Operator Portability also contained two appendices, one pertaining to the technical interface between networks and the other pertaining to the administrative procedures which, although they are separate from the regulations, remain in effect pursuant thereto.

In fulfilment of the provisions of article 11 of ICP – ANACOM's articles of association, approved by Decree Law no. 309/2001 of 7 December, and of article 8 of Law no. 5/2004 of 10 February, the regulations were submitted in draft form to the corresponding regulatory and general consultation procedures, with a period of 30 working days for interested parties to voice their opinions.

The final report, which assesses the responses received under these procedures and justifies ICP – ANACOM's choices, has been published on this Authority's website.

Thus, pursuant to the provisions of article 9, Section a) of ANACOM's articles of association, approved by Decree Law no. 309/2001 of 7 December, article 54, Item 5 and article 125, Item 1, both of Law no. 5/2004 of 10 February, hereby approves the following regulations:

¹ This is not an official translation of the law.

² Regulation no. 58/2005, published in *Diário da República*, no. 158, II Series, of 18 August 2005.

Chapter I

General Provisions

Article 1

Purpose and scope

1. This document establishes the principles and rules applicable to portability in public telephone networks.
2. The aspects pertaining to the Reference Entity, in particular those of a legal, contractual and functional nature, are excluded from the scope of application of the present regulations.
3. All undertakings with portability obligations, henceforth referred to as undertakings, shall be required to fulfil the provisions of these regulations. These include:
 - a) Undertakings responsible for routing telephone traffic to National Numbering Plan (NNP) numbers;
 - b) Undertakings which have NNP numbers, assigned to their subscribers in secondary assignments and capable of portability;
 - c) Undertakings which, through portability, receive numbers which are assigned as secondary numbers by other undertakings.
4. Undertakings which do not have their own means for routing calls to ported numbers and for managing portability processes can acquire these services from third parties with a view to fulfilling portability obligations.
5. With respect to the acquisition of numbers from third parties under the terms of the previous number, the undertaking acquiring the numbers shall be required to assume responsibility, vis-à-vis the regulator, the users, the other undertakings and the Reference Entity, for fulfilling the obligations arising from the applicable legislation and regulations as well as in other instruments, in particular from the agreement with the Reference Entity.

Article 2

Definitions and abbreviations

1. For the purposes of the provisions of these regulations, the following definitions shall apply:
 - a) Geographic Numbering Area: each of the 51 zones in the Portuguese territory identified by its own access code;
 - b) Reference Database signifies the set of data comprising, in particular, the numbers and codes necessary for routing calls to ported numbers, the ported numbers themselves, the log of transactions between the Providers and additional items necessary for the proper achievement of portability;
 - c) Portability Cycle: period lasting from the first time a number is ported until the number is returned to the donor;
 - d) Monitoring Committee body created under the Protocol signed on 23 January 2001 between ICP – ANACOM, APRITEL, and the public telecommunication service providers with portability

obligations, serving as an interlocutor between the Reference Entity and providers with portability obligations;

e) Working day: any day of the week, from Monday to Friday, except Portuguese national holidays, Shrove Tuesday and Christmas Eve;

f) Undertaking: the entity which provides networks and/or public telephone services;

g) Reference Entity: independent entity which serves as an intermediary in portability processes, managing, in addition, a system of data bases which store information related to ported numbers as well as the log of transactions carried out;

h) Specifications for portability: technical and procedural rules pertaining to portability, adopted by the regulator and which the undertakings are required to follow. The Specifications correspond to Appendixes I and II to the “Specifications for Operator Portability”, approved following a decision of ICP – ANACOM’s board of directors on 28 June 2001, notwithstanding any modifications which may be introduced thereto, whenever this is appropriate;

i) Portability Extranet: secure site hosted at anacom.pt in which information pertinent to portability is made available, and to which external access is restricted to the Reference Entity and undertakings with portability obligations;

j) DDI Range: ranges of 10, 100, or 1000 contiguous numbers, starting with a number ending in 0, 00, and 000, respectively, supported in Basic and Primary ISDN accesses; the main PABX number is, by definition, the first number of one of its ranges, which ranges may be either contiguous or non-contiguous;

k) Unique and indivisible range: DDI range included in a portability order that may be either a simple order or one which is part of a coherent order, in which the range remains stable after the first portability associated with that order;

l) Portability window: three-hour period during which portability or changes to the NRN occur; there are three portability windows defined: 9:00 – 12:00 a.m.; 2:00 - 05:00 p.m.; 06:00 - 09:00 p.m.;

m) Multiple Subscriber Number (MSN): multi-point configuration supported in basic ISDN accesses which may include contiguous or non-contiguous numbers;

n) Simple order: electronic portability order pertaining to a single number or range of numbers;

o) Overlapping order: electronic portability order placed after another order related to the same phone number without the first order having been cancelled;

p) Coherent order: a set of electronic portability orders related to various numbers and/or ranges of numbers from the same subscriber, handled as a single order and consequently ported within the same window, and separately covering:

Geographic numbers;

Non-geographic non-mobile numbers which can include the corresponding support numbers;

Mobile numbers;

q) Point of no return: time after which it is no longer possible to cancel an electronic portability request;

r) Portability: feature which allows public telephone service subscribers who request it to keep their number or numbers within the scope of the same service, regardless of the undertaking providing the service, for geographic numbers in a given location, and for the remaining numbers, across the whole of the national territory (operator portability);

s) Implicit portability: portability of numbers associated with subscriber numbers, in particular of mobile telephone service numbers for fax, data, and voice mail services, without associated administrative procedures; the undertakings must assume by default that the numbers assigned to these services are also ported when the subscriber number with which they are associated is ported;

t) Restricted geographic portability: feature which allows a subscriber to telephone services accessible at a fixed location to change access locations within Portugal and keep his/her telephone number; this service is conditioned by the undertaking's commercial supply and the geographic numbering area;

u) Holder provider a recipient provider which operates as long as it holds the number(s) or range(s) of numbers and from which the subscriber switches over by a portability order subsequent to the first one;

v) Donor provider: undertaking responsible for the numbering resources which were initially allocated to it by the regulator and from which the subscriber switches over in the first portability order;

w) Recipient provider undertaking to which the subscriber switches over, "importing" the respective numbering resources;

x) Regulator: ICP – Autoridade Nacional de Comunicações (ICP – ANACOM);

y) Waiting period: 6 month period during which undertakings shall not be able to assign numbers previously in use to new subscribers. The quarantine period is included in the waiting period;

z) Quarantine period: 3 month period during which, following the end of the agreement with the PD, the user can request to use the number in the same undertaking or request portability. The quarantine period expires on the same day of the month if it is a working day or, if not, on the next working day.

2. For the purposes of the provisions of these regulations, the following abbreviations shall apply:

a) APRITEL: Telecommunications Operators' Association;

b) RDB: Reference Database;

c) CLI: Calling Line Identification;

d) DDI: Direct Dial In;

e) RE: Reference Entity;

f) ETSI: European Telecommunications Standards Institute;

g) ETSI TR 101 698: Administrative support of service provider portability for geographic and non-geographic numbers;

h) IN: Intelligent Network;

i) MMS: Multimedia Messaging Service;

- j) MSISDN: Mobile Station ISDN Number;
- k) MSN: Multiple Subscriber Number;
- l) NRN: Network Routing Number;
- m) DAP: Direct Access Provider;
- n) DP: Donor or Holder Provider;
- o) Hp: Holder Provider;
- p) Dp: Donor Provider;
- q) NNP: Geographic Numbering Plan;
- r) PABX: Private Automatic Branch Exchange;
- s) PSP: Pre-selected provider;
- t) RP: Recipient Provider;
- u) QoR: Query on Release;
- v) ISDN: Integrated Services Digital Network;
- w) SIM: Subscriber Identification Module;
- x) SMS: Short Message Service.

Article 3

Scope of portability

1. Numbers assigned to the following services may be ported:

- a) Telephone service accessible at a fixed location (2);
- b) Mobile telephone services (91,93,96);
- c) Toll-free Call Services (800);
- d) Shared Cost Call Services (808,809);
- e) Universal Access Services (707 and 808);
- f) Flat-rate Call Services (760);
- g) Other services to be considered on a case by case basis.

2. The following numbers cannot be ported:

- a) Those associated with public terminals;
- b) Those associated with temporary accesses;
- c) Those which are inactive, unless they are in the quarantine period.

3. The portability of a non-geographic, non-mobile number does not necessarily imply the portability of the corresponding support, unless expressly indicated by the subscriber, in which case RP maintenance of the link between the non-geographic, non-mobile number and the corresponding number is not mandatory.

4. The portability of mobile telephone service numbers signifies the implicit portability of the numbers associated with it for the voice mail service, including a number for checking voice mail and another number for leaving messages, under the following terms:

a) Checking voice mail - 60 9xxxxxxx;

b) Leaving voice mail - 66 9xxxxxxx.

5. The portability of mobile telephone service numbers signifies the implicit portability of the numbers associated with it for mobile fax and data services, including a number for each service, under the following terms:

a) Access to mobile fax services - 63 9xxxxxxx;

b) Access to mobile data services - 65 9xxxxxxx.

6. Notwithstanding the maintenance of the service and its fundamental characteristics, number portability limits the subscriber to the commercial supply of said service by the RP, including returns to the Dp, excluding discriminatory practices between subscribers with and without ported numbers.

7. The DP is required to allow access to services which, being part of its commercial supply, technically depend on the DP in order for the RP to be able to provide them to a subscriber with the ported number.

8. Following number portability, as a subsequent action or through the commercial supply of the RP, this latter may allow the number to be kept within the same geographic numbering area - restricted geographic portability.

Article 4

Portability solution

1. The technical solution adopted in interconnecting networks for portability implementation, specified in the Specifications for Portability and which the undertakings are required to carry out, is supported, from the technical point of view of the network, in the QoR, which consists, for calls to ported numbers and in the case of attempts to establish a link to the donor access switch through signaling, of the latter sending a response (release), indicating that a data base belonging to the originating network must be asked (query), with sufficient information to route the call.

2. The data bases of the originating networks contain a copy of a centralized RDB which is managed by a third party, the RE.

3. The undertakings are required to maintain their database in conformity with the RDB and to perform checks as often as each undertaking deems appropriate for the achievement of the intended objective.

Chapter II

Principles and rules to be observed by undertakings with portability obligations

Article 5

General rules and principles

1. The undertakings must cooperate with each other in facilitating number portability and in assuring the quality of such portability, in particular by concluding interconnection agreements and by respecting the legal framework in force.
2. The entire portability process must be carried out in such a manner as to minimize service interruptions for the subscriber, the admissible limit for such interruptions being the portability window.
3. The systems and networks must be developed and improved in order to monitor the evolution of portability, particularly as regards the increase in the number of orders and/or ported numbers an in relation to the introduction of new services and features.
4. New undertakings shall ensure that the networks and support systems are prepared for number portability from the date on which service operation begins and also ask the regulator, at least 2 months beforehand, for access to the Portability Extranet.
5. Pursuant to the terms of Law no. 5/2004, the undertakings shall give the regulator all information requested by the latter for the purpose of portability monitoring.

Article 6

Obligations of donor and holder service providers

1. The Dp is responsible for the numbers which have been assigned to it by the regulator for primary allocation.
2. When a termination notice associated with a portability order is presented to the DP directly by the subscriber, the former shall freely inform the subscriber that the termination notice must be submitted to the RP.
3. The DP may not charge its subscriber any fees whatsoever for number portability.
4. Following number portability, and without prejudice to fulfilling its contractual obligations, the DP shall refrain from billing the former subscriber for any service(s) associated with the ported number.
5. Whenever a number undergoing a portability process is monitored by the competent authorities in accordance with the power to legally intercept communications enshrined in law, the DP must inform, immediately after the point of no return, and promptly, so as to not compromise the continuity of interception, the authority which decided that the above-mentioned number could be ported when the portability will take place and to which RP.
6. When the DP is also the DAP it shall, within the scope of pre-selection, inform the PSP of the breakdown of the pre-selection.

7. The Dp must provide users with an inactive number message during the period lasting from the recovery of the number until the end of the waiting period.

Article 7

Obligations of the recipient provider

1. The RP is responsible for the entire number portability process and shall manage this process in defence of the subscriber's interest.
2. The RP must respect the subscriber's portability order in conformity with the definition of this feature, i.e. the subscriber changes undertakings and keeps the same number from the moment s/he signs up for the service provided by the RP.
3. The RP shall prepare its network and systems in advance, before connecting the new subscriber.
4. The RP is responsible for the proper sizing of its networks, services and support systems so as to ensure that portability does not cause a loss of quality of service.
5. When the RP receives a portability order relating to a number in the quarantine period, it must check when the agreement between the orderer and the DP comes to an end in order to ensure that the electronic portability order is carried out on time.
6. It is the responsibility of the RP to ask the portability orderer if there are any other portability orders placed with another undertaking.
7. The RP shall provide the subscriber, at the time of the latter's signing up to the service, with all information related to the portability process, namely:
 - a) Potential charges associated with the respective order;
 - b) Loss of any credit balances with the DP;
 - c) With respect to number portability, the fact that callers will no longer be able to identify the destination network by the first two digits;
 - d) The consumer information measures established by the regulator pursuant to article 21.
8. The RP must inform the subscriber having a pre-paid card agreement with the DP that the information provided by the subscriber for the portability process may be made available to the DP.
9. The RP must give the subscriber at least 24 hours advance notice about the portability window and inform him/her that service suspensions or interruptions may occur during this period.
10. The RP is responsible for ensuring, insofar as possible, that the subscriber has access to emergency services during the portability window.
11. The RP is responsible for confirming the successful completion of portability as well as, in case of failure, for promptly carrying out the actions needed to correct the problem.
12. The RP must provide users with an inactive number message during the quarantine period and until the RE returns the number to the Dp at the end of the number return process.
13. The RP is required to make effective and efficient use of the ported numbers.

Article 8

Common obligations for undertakings with portability obligations

1. The undertakings are required to provide, within the scope of the Portability Extranet, at least 10 working days' advance notice relative to the date of the respective deployment, and to keep up to date any other information which ICP – ANACOM deems relevant, concerning:

- a) Network Routing Number (NRN) Tables;
- b) Portability contacts.

2. The provisions in the preceding number do not relieve the undertakings of their obligation to provide the same information in other contexts, in particular with respect to interconnection agreements.

3. The undertakings must regularly consult the information made available in the Portability Extranet.

4. Without prejudice to the legislation on the protection of personal data and privacy, the undertakings must provide each other with information relevant to the good development of the portability processes, namely the information specified in items 2 and 3 of article 17.

5. The undertakings are required to ensure, in a proper and efficacious manner, the management and deployment defined to support the portability solution so as not to negatively impact this solution.

6. The undertakings are required to bear the costs of the existing automatic portability solution and those related to any changes to that solution, resulting from regulatory measures prescribed by ICP – ANACOM, adopted in the wake of the applicable consultation procedures.

7. The undertakings are required to fulfil the obligations in the protocol signed on 23 January 2001 between ICP – ANACOM, APRITEL, and the public telecommunication service providers with portability obligations, and in the service agreement signed with the RE on 25 June 2001, namely:

- a) To provide the Monitoring Committee with any information that it requests, in particular concerning legal, economic, technical or functional issues;
- b) To join with the Monitoring Committee when indicated through APRITEL and to respect the respective rules of operation.

8. The undertakings are required to promptly carry out the actions necessary for the resolution of faults at cause in unsuccessful portability processes, following, in particular, the provisions defined in TR 101 698 of the ETSI, through contacts defined for such purpose and introduced by each undertaking in the respective Portability Extranet area.

Chapter III

Portability processes

Article 9

Processes

1. In addition to the provisions contained in this Chapter, the portability support processes are listed in the Specifications for Portability which the undertakings are required to comply with.
2. The portability processes include the following fundamental administrative procedures:
 - a) Termination or modification of the agreement concluded with the DP, pursuant to articles 10 and 11;
 - b) Portability order submitted by the subscriber to the RP, pursuant to articles 12 and 14;
 - c) Electronic portability order presented by the RP to the DP, pursuant to articles 12 and 14.

Article 10

Termination of the agreement

1. Portability implies the termination of the agreement existing between the subscriber requesting portability and a given undertaking and the conclusion of a new agreement with another undertaking to which the number or numbers in question are ported.
2. The termination of the agreement, duly identified as being for purposes of portability, shall be submitted by the subscriber to the RP and forwarded to the DP, the RP being required to send, each month, and by any means which allow the proper identification of the subscriber, all agreement termination documents related to portability orders carried out within the preceding 30 days.
3. Without ruling out the right to compensation in the general terms, the RP is responsible before the subscribers and the DP for portability processes carried out which do not reflect subscriber wishes, under the following terms:
 - a) The RP may not charge the subscriber for any calls whatsoever that are made after a portability which has been improperly carried out, and must also bear the potential costs related to the return to DP, if the subscriber so requests;
 - b) The RP must compensate the DP, the RE, and the other undertakings with portability obligations for all costs resulting from a portability which has been improperly carried out.
4. Termination of an agreement for purposes of portability shall comply with the requirements contractually defined by the DP for a termination without an associated portability order.
5. For pre-paid services the termination is implemented with the portability order to be submitted to the RP pursuant to article 12, by means of a document signed by the subscriber, the RP being required to send the orders to the DP pursuant to the information referred to in article 2.
6. The termination of the agreement takes effect at the moment when the portability is carried out, defined as the occurrence of the allocated portability window and the respective updating of the RDB by the RE.

7. The termination associated with a portability order shall become null and void in the following cases:

- a) By default after 3 months have elapsed from the date of its submission;
- b) On the specific request of the subscriber, sent to the DP and presented to the RP.

8. The provisions of this article shall apply in cases of simple modifications to the agreement with the DP, if this agreement includes numbers in addition to the number or numbers to be ported.

Article 11

Cancellation of service

1. When an undertaking intends to cancel the service, it must provide advance notice of the termination of the offer to the respective subscribers within the legal or contractual time periods established, and must inform them if it is possible to port their numbers before the expiry of the quarantine period.

2. The termination of the contractual relationship occurs at the end of the advance warning period which the undertaking is required to provide, or at a later date, if this is established in the notification.

3. Without ruling out the sanctions which apply to the undertaking, failure to notify the subscriber pursuant to item 1 does not negatively impact the latter's right to portability; the subscriber may order portability from the moment the service ceases to be available, as duly confirmed by ICP – ANACOM.

4. It is the responsibility of the regulator to include in the Specifications for Portability solutions which guarantee:

- a) The right to portability of the subscribers of the undertaking cancelling the service, in the cases established in items 2 and 3;
- b) The right of the subscribers, who through portability of the numbers assigned by the undertaking cancelling the service are now subscribers to another undertaking, to keep their numbers.

5. It is also the responsibility of the regulator to define the solution which allows the RDB to cancel deactivated numbers and so to recover these same numbers.

Article 12

Portability order

1. When a subscriber changes undertakings in order to sign up to the same service, this does not imply the portability of the number, unless the subscriber specifically so indicates.

2. Along with the termination referred to in article 10, the subscriber ordering portability must request it of the RP in an order specifically for that purpose, and including, in the same or in a separate document, his/her identification, even if he/she is a non-identified subscriber of pre-paid services.

3. The subscriber can request portability on behalf of a third party, duly identified, and for whom the subscriber is expressly authorized to conclude the new contract with the RP.
4. The provisions of the previous item do not apply in cases of merger, acquisition, or change of corporate name; in such cases the agreement with the RP is considered to be concluded with the same party.
5. The portability order is submitted electronically by the RP to the DP – electronic portability order – with a proposal of three separate portability windows, necessarily including 2 consecutive working days, in order of priority, of which the DP is required to accept one, bearing in mind the provisions in items 8 and 9 of this article and to submit the order within the following time periods:
 - a) For telephone service numbers accessible in a fixed location, with at least 8 working days advance notice relative, in time, to the first window;
 - b) For mobile telephone service numbers, with at least 5 days advance notice relative to the same window.
6. Coherent orders shall be arranged individually, referenced by the total number of orders, and placed in numerical order.
7. The DP must respond to the electronic portability order submitted by the RP in no more than 2 working days, by accepting one of the windows proposed or by giving a justified refusal of the electronic portability order, pursuant to item 2 of article 13.
8. The undertakings are required to make rational and balanced use of the three portability windows defined, and the DP must, whenever possible, respect the order of priority indicated by the RP.
9. In the light of the specificity of the order, when the portability window between 18:00 and 21:00 is indicated as a first and second priority, the DP cannot choose the third option.

Article 13

Refusal of an electronic order

1. With coherent orders, the refusal of an order entails the refusal of the entire coherent order and consequently, the end of the process.
2. The DP may only refuse electronic portability requests in the following circumstances:
 - a) If the number is not portable under the terms of item 2 of article 3;
 - b) If there is a pending number change request;
 - c) If the identification or holder data in the portability order do not correspond to that on file with the DP, except when the non-correspondence is a result of abbreviations or special accents;
 - d) If the address listed in the electronic portability order does not correspond to the service access address of the subscriber, except when the non-correspondence is the result of abbreviations or special accents;
 - e) If there is no SIM, the SIM does not correspond to the MSISDN, or is lost or missing;
 - f) If the daily capacity has been exceeded, as defined in article 15, items 1 and 2;
 - g) If there are problems in the area of national defence;

h) For any other reason expressly defined by the regulator.

3. The reason for refusal specified in section c) of the previous number does not apply to numbers connected with non-identified pre-paid cards.

4. The reason for refusal specified in section d) item 2 only applies to geographic numbers.

5. The reasons for refusal specified in section e) item 2, only apply to mobile telephone service numbers.

6. Without prejudice to the provisions in article 46, item 5 of the Electronic Communications Law, the non-fulfilment of contractual obligations by subscribers vis-à-vis the DP does not constitute cause for loss of the right to portability.

7. Electronic portability orders related to numbers whose agreement is suspended may not be refused.

Article 14

Cancellation of the order

1. If there is a portability order in progress and the DP or a third party undertaking is contacted by the subscriber who placed the order with the intention of, expressly or tacitly, cancelling the same, the undertaking contacted must, notwithstanding the contractual questions involved, immediately inform the subscriber that s/he must cancel his/her order with the RP.

2. Once the cancellation request has been submitted to the RP, if the electronic portability order has already been sent to the DP, then the RP must:

Cancel the electronic portability order by the working day following that on which the portability order cancellation request is submitted by the subscriber, unless confirmation of the electronic order has not been yet been received by the DP, in which case the cancellation must occur immediately this confirmation is received;

Not renew the electronic order in the event of refusal of the same by the DP, or error.

3. If there is not enough time to carry out the cancellation of the electronic order as described in the previous item – before the point of no return - the portability shall be carried out and it will be necessary to initiate a new portability process.

Article 15

Capacity in number portability

1. The undertakings must have sufficient capacity for a given daily minimum, including portability and NRN modifications, initially set at 2000.

2. The minimum mentioned in the previous item shall be reviewed every four months and must be increased by 30 %, within a maximum time limit of 4 months, if, during the preceding two months the average amount of ported numbers was equal or superior to 70% of that amount.

3. These values shall be made available in the Portability Extranet, at monthly intervals.

Article 16

Number return

1. The Dp must recover the number by means of a number return process to be submitted to the RE by the Hp within a maximum of 5 working days following the deactivation of the number.
2. At the end of the number return process, the number shall be returned to the Dp which must ensure compliance with the waiting period until its re-use.

Article 17

MSN and DDI Portability

1. Without prejudice to the other rules in these regulations, MSN and DDI portability is subject to the procedures specified in this article.
2. Prior to sending the electronic portability order, the RP may ask the DP for the active configuration of all the numbers the latter holds, through the express authorization of the subscriber, which must be submitted to the DP by any method which allows the precise identification of the subscriber.
3. The DP must respond to the active configuration request, within no more than three working days after the respective date on which the request is sent, including the number and type of accesses, the MSN and DDI and the main PABX numbers as well as any other associated numbers. The above-mentioned time limit must respect the following: a request sent by the RP by 18:00 on working day X must be answered by the DP by 18:00 on working day X+3.
4. In the number portability of an MSN the following conditioning factors must be respected:
 - a) In the event that the subscriber wants partial portability of the numbers comprising the MSN, s/he must, by modifying the agreement, indicate the numbers to be ported as well as the numbers to be deactivated on the date on which portability is carried out; the rest of the numbers are to remain active with the DP;
 - b) The numbers to be ported may or may not include the main access number of the current configuration;
 - c) Any actions associated with carrying out the portability and which might lead to the suspension or interruption of the service to the subscriber, in particular by the DP, must be carried out during the portability window;
 - d) In the event of a second or subsequent portability, the Hp must activate a process for the return of the deactivated numbers to the Dp;
 - e) The portability of more than one MSN number requires the placing of a coherent order under the terms of article 12, item 6.
5. In the number portability of a DDI, the following conditioning factors must be respected:
 - a) After the first portability, the ported ranges remain unique and indivisible until the end of the portability cycle, except for prior reconfiguration at the Hp, in which case it shall not be possible to port the deactivated numbers, which must to be returned to the donor;

b) The ranges to be ported may or may not include the main PABX number in the current configuration;

c) The portability of non-contiguous ranges requires the placing of a coherent order pursuant to article 12, item 6;

d) Any actions associated with carrying out the portability and which might cause the suspension or interruption of the service to the subscriber, in particular by the DP, must be carried out during the portability window;

6. In a first portability, a partial portability of DDI numbers shall be possible without the need for prior reconfiguration at the Dp, in which case the following conditioning factors must be respected:

a) The amount of numbers to be ported may not be less than 60 % of the active configuration at the Dp;

b) In the event that the subscriber desires partial portability of the numbers constituting the MSN, s/he must, by modifying the agreement, indicate the numbers to be ported as well as the numbers to be disconnected on the date on which portability is carried out; the rest of the numbers are to remain active at the Dp, in which case is necessary to specify the number of accesses to be maintained at the Dp.

7. In a PABX with only one numbering range, the following limitations shall exist, with X being a whole number between 1 and 9:

a) In a PABX with 10 numbers only total portability shall be permitted;

b) In a PABX with 100 numbers, in addition to total portability, the partial portability of X ranges of 10 numbers each shall be permitted;

c) In a PABX with 1000 numbers, in addition to total portability, the partial portability of X ranges of 100 numbers each shall be permitted;

d) The limit defined in section a) of the previous item must be respected, whenever applicable.

8. In a PABX with different ranges of 10, 100 or 1000 numbers, the following limitations apply, in which X and Y are whole numbers between 1 and 9, X is less than or equal to Y:

a) In a PABX with 10 numbers, in addition to total portability, the partial portability of X ranges of 10 numbers each shall be permitted;

b) In a PABX with Y ranges of 100 numbers, the partial portability of X ranges of 100 numbers each shall be permitted;

c) In a PABX with Y ranges of 1000 numbers, the partial portability of X ranges of 1000 numbers each shall be permitted;

d) The limit defined in section a) of the previous item must be respected, whenever applicable.

Chapter IV

Call routing

Article 18

Routing

1. In addition to the provisions contained in this Chapter, the conditions associated with call routing in portability are defined in the Specifications for Portability which the undertakings are required to comply with.
2. It is the responsibility of the undertaking at which the call is originated to route the call to a ported number; this includes the indirect access undertaking when selected, except in the following situations:
 - a) Call with re-routing, which is the responsibility of the undertaking at which the routing is activated;
 - b) Virtual calling card call, which is the responsibility of the undertaking offering the service, and this latter may, in particular, transfer responsibility to the undertaking offering the support service;
 - c) Call with IN translation, in which the ported number is the “physical” number, which is the responsibility of the undertaking offering the IN service; the latter may, in particular, transfer responsibility to the undertaking offering the support service.
3. The responsibility for routing an incoming international call to a ported number lies with the first network to receive it, be it fixed or mobile; this obligation may be fulfilled by a subsequent network, via a commercial agreement, in the event that the first network does not have the capacity to understand the adopted signalization protocol.
4. An NRN number has the format DP1P2P3C1C2C3, with D being the service code (portability), P1P2P3 the undertaking code assigned by the regulator and C1C2C3 the exchange code defined by the respective provider.
5. The undertaking code mentioned in the previous item follows the format 0xy (in which x is different from 0).
6. The CLI must be maintained in all calls originated at the ported number.

Chapter V

Costs and prices

Article 19

Costs

1. The cost of establishing systems associated with the introductions or modifications to be made in the networks and systems of each undertaking and with other procedures associated with portability must be borne by each undertaking in its network and systems.
2. The administrative costs incurred per ported number may be recovered by the DP from the RP.

3. When routing traffic of international origin to ported numbers, the RP is not required, unless bound by an agreement to the contrary, to pay for any additional transmission costs for calls terminating at its network.

Article 20

Prices

The price of a call to a ported number shall be defined by the undertaking owning the traffic, pursuant to article 64, item 3 of Law no. 5/2004 of 10 February.

Article 21

Consumer information

1. The undertakings which offer a mobile telephone service must provide a free on-line message, in domestic voice calls between mobile networks and bound for ported numbers, whenever they practise rate plans which might result in a call to a ported number being more expensive than before the portability of the same number.

2. The message stipulated in the previous item is not mandatory for calls to numbers ported to the undertaking's own network.

3. The message stipulated in the previous item must be "Aviso: Está a ligar para um assinante que agora pertence à (...). Aguarde."⁽¹⁾

4. The service providers must prevent the playing of this message in the following cases:

a) Domestic calls to toll-free numbers;

b) Other domestic calls not covered by item 1 to numbers capable of portability;

c) Roaming calls in which national mobile networks are used by subscribers of foreign mobile operators;

d) Whenever the calling subscriber requests it and without charge to him/her.

5. For the purposes of the provisions of section d) of the previous item, the subscribers must be duly informed by each undertaking as to how to activate and deactivate the (prevention of the) playing of the message provided by the undertakings.

6. Without prejudice to other types of information on prices under the terms of the applicable legislation, the undertakings offering a mobile telephone service or telephone service which is accessible at a fixed location, with rate plans which might make a call to a ported number more expensive than before the portability of the same number, must maintain a telephone information service about prices for voice calls, data calls, and short text messages to ported numbers.

7. The information services referred in the previous item must be capable of identifying the destination network about which the subscriber wishes to obtain rate information, if this identification is necessary for the proper provision of this information.

8. In situations in which the undertakings choose to keep the prices of calls to ported numbers the same as the pre-portability prices – number guide price – the subscribers and consumers in

general must be unequivocally informed of the existence of this rule, which must be clarified in the advertising of the rate plans in question.

9. The regulator is responsible for determining, whenever necessary, other ways and means for the undertakings to provide information to consumers concerning portability operations, calls to ported numbers and their respective prices, thus ensuring that such information is appropriate and transparent.

Article 22

Publication of information

1. In order to verify the implementation of the measures specified in the previous article as well as to monitor its efficacy, the undertakings must provide the regulator with the information specified in the following items.

2. Undertakings offering a mobile telephone service must:

a) Provide the number of complaints received per month about the on-line message being used, which information is to be submitted by the 15th day after the end of each quarter;

b) Inform and submit to the regulator, when applicable, the rate plans in which voice calls, data or short messages to ported numbers may vary according to the destination network which establishes these under the obligation to implement the information service provided for in article 21, items 6 and 7;

c) Indicate the current number for accessing the information service implemented by the undertaking about prices for calls to ported numbers, for the purpose of publication on ICP – ANACOM's website; if this number has been changed, the new number must be communicated to the regulator at least 5 working days before the respective date on which the service becomes operational;

d) Inform the regulator at least 5 working days beforehand if they wish to stop practising the rate plans mentioned in section b); they must also indicate the date on which the information service established in article 21, items 6 and 7, is to be cancelled.

3. Undertakings offering fixed-location telephone service must submit the information mentioned in sections b) and d) of the previous item.

4. Undertakings providing mobile and/or fixed-location telephone services must submit updated information to the regulator about prices charged to subscribers for carrying out the portability operation and the respective method of payment, separated by rate plan.

5. The regulator may relieve an undertaking of the obligation to send any of the information mentioned in this article whenever it deems appropriate.

Chapter VI

Portability and Local Loop Unbundling

Article 23

Synchronization of processes

1. If the portability process and the local loop unbundling process occur at the same time, the electronic portability order shall be sent by the RP to the DP after confirmation of the local loop's eligibility and, if applicable, of the qualification tests in the local loop unbundling process.
2. The termination of the agreement is carried out at the same time for purposes of portability and local loop unbundling.
3. Once all the components and documents comprising the termination notice for the purpose of unbundling of the local loop have been checked, they must be considered valid for the portability process.
4. Number portability and local loop unbundling shall occur within the agreed portability window, bearing in mind that the local loop unbundling must be completed, whenever possible, within the first half of this window.
5. The RP remains responsible for managing the entire portability process whenever a local loop unbundling is associated with it.
6. The DP, in indicating the portability window, is obliged to synchronize the local loop unbundling with this window, thus allowing portability to be carried out.

Chapter VII

Monitoring and penalty regime

Article 24

Monitoring

ICP – ANACOM is responsible for monitoring the fulfilment of the provisions of these regulations.

Article 25

Penalty regime

Breaches of the provisions of these regulations are punishable pursuant to section II) of article 113 of Law no. 5/2004, of 10 February.

Chapter VIII

Final and temporary provisions

Article 26

Code of conduct

Without ruling out the provisions in the applicable legislation and in these regulations, the undertakings may, with a view to improving the availability of portability, draw up codes of conduct with the goal of harmonizing the procedures related thereto.

Article 27

Access to telecommunication infrastructures in buildings

1. Undertakings involved in portability processes must respect the provisions of Decree-Law no. 59/2000 of 19 April, which establishes the installation regime governing telecommunication infrastructures in buildings.
2. If joint or simultaneous work is necessary, the undertakings involved must agree among themselves on their execution, with the goal of minimizing the impact on the service provided to the subscriber.
3. Faults caused by work performed in the subscriber's facilities are the responsibility of the undertaking performing the work, even if the faults are caused by a subcontractor acting on its behalf.

Article 28

Temporary provisions

1. The solution defined in article 3, item 5 shall be implemented by all the undertakings, simultaneously, under the following terms:
 - a) At 0:00 on the first Tuesday ("day zero") after 6 months have elapsed since the date these regulations take effect, for new subscribers and ported numbers;
 - b) At 0:00 on the first Tuesday ("day zero") after one year has elapsed since the date these regulations take effect, for old subscribers;
 - c) The time limit defined in the previous number corresponds to the period in which the solution currently in force shall coexist with the solution defined herein.
 - d) The window of implementation shall last no more than 3 hours;
 - e) On "day zero" of the beginning of portability of mobile telephone service fax or data numbers, old subscribers shall automatically be guaranteed portability.
2. The provisions of article 15, item 1 must be implemented by all the undertakings at 0:00 on the first working day after 6 months have elapsed since the date on which these regulations take effect.

3. The provisions of article 15, item 17 must be implemented simultaneously by all undertakings that offer telephone services accessible at a fixed location at 0:00 on the first working day after 6 months have elapsed since the date on which these regulations take effect.

4. The content of the notice indicated in article 21, item 3 must be adopted within ten working days of the publication of these regulations.

5. The solution established in article 21, item 4, section d) must be implemented by 31 December 2005.

⁽¹⁾ Meaning: "Notice: You are calling a subscriber who is now a (...) customer. Please hold on."



REGULATION ON QUALITY OF SERVICE

Regulation no. 46/2005, published on 14 June^{1 2}

In a fully competitive market, the information on the features and quality of services is a matter of the utmost importance, in order to allow end-users to choose, in a free and informed way, both the providing undertaking and the most appropriate service to fulfil their needs.

The Law of Electronic Communications thus establishes on undertakings that provide publicly available electronic communications services the obligation to publish and make available to end-users comparable, clear, comprehensive and up-to-date information on the quality of services provided.

The law aims at ensuring that end-users are effectively informed as regards the features and quality of offers made available by the several undertakings qualified to provide publicly available electronic communications services. For this reason, it is determined that the information should be comparable, up-to-date, clear, and comprehensive.

In order to ensure that the information is clear, up-to-date and comparable, it is incumbent upon ANACOM to define the quality of service parameters to be measured, and the contents, form and manner of information to be published.

The definition of parameters of quality of service for electronic communication services and the determination of the respective contents is a complex task, namely considering the different features of each service and the dynamics of the sector, marked by a constant technical development and the consequent presentation of new offers.

As a consequence, ANACOM opted, in an initial stage, to set up only the quality parameters to be made available by undertakings that provide access to the public telephone network at a fixed location and telephone service at a fixed location, regardless of the supporting technology.

The importance of the referred services justify that quality parameters are now set up, especially as in this field a vast study and harmonization work has already been carried out, namely at the level of the European Telecommunications Standard Institute - ETSI.

At a later stage, having pondered the market needs, the development at harmonization level and the regulation objectives to be pursued by ANACOM, this Authority shall weight the opportunity and the need to establish parameters to define the quality levels for other electronic communications services to be integrated in the present regulation.

Therefore, pursuant to point a) of article 9 of the Statutes of the Autoridade Nacional de Comunicações (ANACOM), approved by Decree-Law no. 309/2001, of 7 December, of paragraph 2 of article 40 and of paragraph 1 of article 125, both of Law no. 5/2004, of 10 February, the Board of Directors of ANACOM, having heard the interested parties in the scope of the general consultation procedure provided for in article 8 of Law no. 5/2004, of 10 February, as well as in article 11 of the mentioned Statutes of ANACOM, hereby approves the following:

¹ This is not an official translation of the law.

² Regulation no. 46/2005, published in *Diário da República*, no. 112, II Series, of 14 June 2005.

Article 1

Subject and scope

1. The present regulation establishes the parameters of quality of service for access to the public telephone network at a fixed location and publicly available telephone service at a fixed location, regardless of the supporting technology, to be measured by the undertakings responsible for the provision thereof, and also determines the contents, form and manner of publication of information on the quality of services provided, without prejudice to the future setting up of quality parameters for other electronic communications services.
2. All undertakings that provide to end-users the services mentioned in the preceding paragraph, hereinafter referred to as “undertakings”, shall comply with the provisions set out herein.
3. The provisions of the present regulation do not withdraw nor do they prejudice the compliance with parameters and levels of quality of service set up specifically under the law, namely:
 - a) Upon the universal service provider;
 - b) Upon undertakings providing electronic communications services and networks according to rights of use assigned thereto by ANACOM;
 - c) Upon the concessionaire of the telecommunications public service;
 - d) Upon undertakings providing electronic communications services and networks pursuant to Title IV of Law no. 5/2004, of 10 February.

Article 2

Parameters of quality of service

1. The parameters of quality of service to be measured are those that at a given time are defined in annex to the present regulation.
2. The measurement of parameters referred to in paragraph 1 shall only include the standard levels of quality of service for each parameter. This means that from the measurement of parameters are excluded the situations where a provider offers, for the same offer/technology, higher levels of quality of service through the payment of an additional price.
3. The adoption of parameters of quality of service other than those provided for in the annex to the present regulation does not exempt undertakings providing publicly available electronic communications services from the compliance with parameters set out by ANACOM.
4. In the absence of a specific provision, the reference period for the measurement of the quality of service corresponds to each calendar quarter.
5. The parameters of quality of service may be altered, added or complemented by ANACOM pursuant to applicable law and according to the market needs, the development at harmonization level and the regulation objectives to be pursued by this Authority.

Article 3

Obligations on providing undertakings

1. The following obligations fall upon undertakings comprised by the present regulation:

a) As regards the introduction of procedures and information systems intended for the treatment of indicators defined in the scope of the present regulation, to ensure the appropriate mechanisms which facilitate the audit thereto by ANACOM, or by an entity engaged by this Authority, namely the mechanisms comprised in article 4;

b) To make available to users and ANACOM the information on the quality of services provided, under the law and the present regulation.

2. When undertakings decide to adopt parameters of quality of service other than the ones set out in the present regulation, which they wish to disclose to the public, they shall inform ANACOM thereof, within at the most 30 days from the commencement of the respective measurement, explaining also the methods and systems used for that measurement.

Article 4

Information systems and procedures used to measure parameters of quality of service

1. Within 6 months from the expiry of the time-limit for the commencement of the measurement of the parameters of quality of service, established in paragraph 1 of article 8, undertakings shall be provided with a manual integrating the following documentation:

a) Full documentation of work processes regarding indicator treatment;

b) Relevant technical documentation on information systems concerning indicator treatment, giving details on used data structures, which must be duly commented as regards the respective functional usage;

c) Algorithmic manual of indicator calculation, with a clear mention of information sources, which shall comply with the technical documentation referred to in the preceding paragraph.

2. Undertakings shall ensure the permanent updating of the manual referred to in the preceding paragraph, and where ANACOM so requests, they shall submit thereto the different versions applied, both in electronic format and attaching supporting documentation.

3. Where alterations are made to the procedures adopted by the undertakings or in case ANACOM so determines, undertakings shall promote the necessary adaptations to the manual referred to in paragraph 1, within 30 days at the most.

Article 5

Unpredictable situations and cases of «force majeure»

Where at a given time situations of an unpredictable nature occur, such as catastrophes or other cases of «force majeure», in the information regarding the quality of service provided, undertakings shall:

a) Give information on the registered situation of an unpredictable nature or «force majeure»;

b) Make information available, giving details both on real parameters and on parameters cleared from the happenings referred in point a), as well as an explanatory note on the differences observed.

Article 6

Information to be submitted to ANACOM

1. Undertakings shall submit to ANACOM, up to the last working day of the month following the end of each calendar quarter, a report with information on the quality levels registered in the course of that quarter for each of the different parameters set out in the annex hereto, save for those cases where the annex itself sets out another specific time-limit.
2. The information to be made available to ANACOM pursuant to the preceding paragraph shall concern full calendar quarters, except where the commencement of the measurement of parameters of quality of service, defined herein, does not coincide with the commencement of a calendar quarter.
3. Without prejudice to the provision of the preceding paragraph, undertakings shall submit to ANACOM the information made available to end-users pursuant to and within the time limits established in points b) and c) of paragraph 2 of article 7.
4. ANACOM is entitled to publish comparable quality of service reports based on the information gathered under the preceding paragraphs, pursuant to point e) of paragraph 1 of article 109 of Law no. 5/2004, of 10 February.

Article 7

Making information available to end-users

1. Before any contract is concluded, undertakings shall make available to end-users clear, comparable and up-to-date information of the quality of service provided.
2. For the purpose of the preceding paragraph, undertakings shall every year:
 - a) Disclose, up to the last working day of January, the information on the performance levels registered regarding the elapsed year, within the scope of the measurement of each parameter defined in annex to the present regulation;
 - b) Disclose, up to the last working day of January, the information on the quality levels they propose to provide, in the course of the year, within the scope of parameters referred to in the preceding point;
 - c) Update the information made available to end-users under the terms referred to in the preceding point, where in the course of a year, they decide to alter the performance levels proposed to be provided for the same year.
3. In those cases where the commencement of the measurement of parameters of quality of service defined herein does not coincide with the beginning of the calendar year, the information to be made available pursuant to paragraph 1 shall merely relate to the period in which that measurement was performed, and shall be made known as such.
4. The information concerning quality referred to in paragraph 2 shall be made known and made available to users, in writing, in all the service's points of sale.
5. The information referred to in the preceding paragraph shall also be disclosed in the undertakings' website, where it exists, in a clearly identifiable advertisement.

Article 8

Final provisions

1. The measurement of the quality of service pursuant to and for the purposes provided for in the present regulation and in any amendment hereto shall begin at the most five months from the date of the publication hereof, unless otherwise is specifically provided for.
2. Where the service provision begins after the present regulation or any amendment hereto has been published, the five-month time-limit provided for in the preceding paragraph shall be calculated from the date in which the service provision begins.
3. The first conveyance of information to ANACOM on the parameters established herein shall take place up to the last working day of the month following the end of the quarter in which the respective measurement begun.
4. The first disclosure to end-users of the information provided for in point b) of paragraph 2 of article 7 shall coincide with the time limit referred to in the preceding paragraph.
5. Up to the publication of rules specifically applicable to the universal service, the entity responsible for the provision thereof, notwithstanding being bound to the quality parameters established in the present regulation, as well as to the information obligations provided herein, and also to the rules set out in annex to Law no. 5/2004, of 10 February, pursuant to article 92, paragraph 1, of that statutory instrument, shall further submit to ANACOM the information on the quality of service provided, established pursuant to the prior concession contract (Decree-Law no. 40/95, of 15 February).

ANNEX

Parameters of quality of service (PQS) for access to the public telephone network at a fixed location and publicly available telephone service at a fixed location

The parameters of quality of service established in the present annex and identified in the following table are based on ETSI Guide EG 201 769-1 V1.1.1 (2000-04):

Parameters	Presentation of results	Type of access	Scope of application
PQS1 — Supply time for initial network connection.	a) Delay in the supply of connections which correspond to 95% and 99% percentile values of the swifter installations. b) Rate of connection supply requests fulfilled up to the date agreed with the client.	Direct access	
PQS2 — Fault rate per access line.	a) Number of reported faults per access.	Direct access	Including all reports on faults regarding call originating in the fixed network.
PQS3 — Fault repair time.	a) Average fault repair time of the local access network which correspond to 80% and 95% percentile values of the swifter installations. b) Average fault repair time of	Direct access	Excluding reports on faults regarding, namely: Service facilities (understood as additional services as defined in

	<p>other type of repairs which correspond to 80% and 95% percentile values of the swifter installations.</p> <p>c) Rate of repairs carried out within the repair time limit intended to be provided to clients.</p>		<p>recommendation I.250 of ITU-T);</p> <p>Calls for audiotext services, Internet access services and services for private voice networks;</p> <p>Calls made by means of virtual call cards.</p>
<p>PQS4 — Response time for operator services.</p>	<p>a) Average response time for operator services.</p> <p>b) Rate of calls taken within 20 seconds.</p>	<p>Direct and indirect access</p>	<p>Parameters concern all calls received at operator services, provided that they regard requests within the scope of services under consideration (including requests intended for mobile numbers).</p>

The parameters identified above do not apply to:

Service facilities [understood as supplementary services as defined in recommendation I.250 of ITU-T⁽¹⁾];

Calls for audiotext services;

Calls for Internet access and services for private voice networks;

Calls made by means of virtual call cards, except for parameter hereinafter referred to as QSP4, the measurement of which includes all calls received, provided that they regard requests within the scope of services under consideration.

PQS1 - Supply time for initial network connection

1. Definition:

1.1. The PQS1 is intended to measure the time duration, in calendar days, from the instant a valid service request is made by a client regarding the supply of a connection by the providing undertaking for access to the public telephone network at a fixed location, to the instant that undertaking actually provides a publicly available telephone service at a fixed location, regardless of the supporting technology.

1.2. To calculate the present parameter, a valid connection request means any solicitation made to the providing undertaking and accepted by it, concerning:

A new connection to the service of access to the public telephone network at a fixed location provided by the undertaking (first connection of a specific client or a new connection as result of a change of the respective address); or

An additional connection of a client of the undertaking (for the same address or a different one); or

Migration from the analogue line of a client of the undertaking to RDIS.

1.3. The cases where a new connection for the access to the FTS is installed at the same time the ADSL technology is made available shall not be excluded from the measurement of the present parameter.

1.4. The connection for access to the public telephone network at a fixed location means installing and making effectively available to the client, for the use thereof, a connection between the local switching central or concentrator and the first terminal device for exclusive use of the client, or in alternative, to the client's network, pursuant to legislation in force regarding telecommunications infrastructure in buildings.

1.5. The measurement of this parameter shall be carried out only as regards the requests for connection which comprise also a network connection and service activation.

1.6. In those cases where a request for installation involves more than one connection for access to the public telephone network at a fixed location, the installation of each one of these connections shall be accounted in separate for the calculation of the parameter

1.7. The measurement of the PQS1 shall not consider:

The temporary installations, which refer to those the duration of which is of one month at the most;

The cases where the providing undertaking resorts to third parties' infrastructures (local loop, leased lines) for the supply of the service connection.

2. To measure the quality of service according to the present parameter, providing undertakings shall gather:

a) Delay values in the supply of connections corresponding to 95% and 99% percentile values of the swifter installations;

b) Rate of supply requests fulfilled up to the date agreed with the client.

3. Calculation method regarding the information provided for in point a) of the preceding paragraph:

3.1. The calculation of values provided for in point a) of paragraph 2 shall be based on the method comprised in Annex B of the document ETSI EG 201 769-1 v1.1.1 (2000-04).

3.2. The calculation of values provided for in point a) of the paragraph 2 shall disregard the cases where the client defines an aim date, nevertheless, the providing undertaking shall supply, in addition to the present parameter, information on the *ratio* between the number of initial connections supplied, the client having established an aim date, and the total number of initial connections supplied.

3.3. For the purpose of the preceding paragraph, an aim date is deemed to exist where the established installation date has been requested by the client and is subsequent to the date which results from the application of the value disclosed for the present parameter of quality in the scope of point b) of paragraph 2 of article 7 of the present Regulation.

3.4. The supply time limit shall be considered:

From the date of reception of the request by the providing undertaking; or

From the date of amendments/additions to agreements already concluded.

3.5. The parameter calculation shall disregard:

Time imputable to the client that elapses from the moment the providing undertaking is informed or is aware that the premises of the client do not offer conditions for the supply of the connection, up to the moment the referred situation is cleared;

The delays associated to the installation of the client's network or to the first terminal device for the client's exclusive use, pursuant to legislation in force regarding telecommunications infrastructure in buildings, where such installation is not under the responsibility of the providing undertaking.

3.6. The periods between delays imputable to the client, where they exist, are deemed as being under the responsibility of the providing undertaking, and as such, shall be added up for parameter calculation purposes.

3.7. The present parameter concerns all requests for connection fulfilled within the reference period and shall be unbundled, where applicable, by the different types of access:

- Analogue;
- Basic RDIS;
- Primary RDIS;
- Others.

4. Calculation method regarding the information provided for in point b) of paragraph 2:

4.1. The date agreed with the client shall mean:

- Any date requested by the client and accepted by the providing undertaking;
- Any date set by the providing undertaking and not refused by the client.

4.2. In case of postponement of a first date agreed with the client and later setting of a new date for reasons imputable to the providing undertaking, the first date shall be considered for parameter calculation purposes.

4.3. The cases where the client defines an aim date shall be considered for the purpose of calculation of the present parameter.

PQS2 - Fault rate per access line

1. Definition:

1.1. The QSP2 measures the number of valid fault reports made by users to the services of the providing undertaking, for reasons of disrupted or degraded service attributable to the network of the providing undertaking or any interconnected public network involved in eligible communications⁽²⁾ for calculation purposes.

1.2. A valid fault report shall mean:

- a) The fault the existence of which is confirmed after a test is made;
- b) A fault which disappears when the test is carried out, there being means to prove that it actually took place.

1.3. The measurement of the QSP2 shall not consider fault reports concerning the physical state of public pay phones for the access to the telephone service at a fixed location, but the reports on faults concerning communications made from public pay phones where the disrupted or degraded service is attributable to the network of the providing undertaking of the telephone service at a fixed location shall be considered.

1.4. The services of the providing undertaking shall mean the services intended for the report of faults on the part of clients.

1.5. For each valid report regarding a basic or primary access, only one fault shall be accounted for, regardless of the number of activated channels that have been affected by the fault.

1.6. Until the fault has been repaired by the providing undertaking, the reports on the same access shall be accounted for as a single report.

1.7. The common faults that affect several clients shall be accounted for by the number of client reports associated to each fault.

1.8. For the purpose of parameter calculation, faults and accesses shall be accounted for evenly, even where they have been reported by the same client.

1.9. The network faults from the first terminal device for the client's exclusive use shall be excluded, pursuant to legislation in force regarding telecommunication infrastructure in buildings, and likewise shall be excluded faults in the equipment on the side of the client.

2. To measure the quality of service according to the present parameter, providing undertakings shall assemble the total number of faults reported in the course of the reference period, only the values regarding direct access being considered for this purpose.

2.1. For the purpose of the preceding paragraph, the average number of accesses for a given period shall be accounted for, including all type of access⁽³⁾ made available by the providing undertaking, namely, analogue access (including public pay phones for the access to the telephone service at a fixed location), and digital access, regardless of the means (means owned by third parties, including local loop and leased lines, or the undertaking's own means) or the infrastructure involved (for example, cable, optic means, radio means).

PQS3 - Fault repair time

1. Definition:

1.1. The PQS3 is intended to measure the time duration, in consecutive hours, from the instant a valid fault in the network of the providing undertaking (or in any interconnected public network involved in eligible communications for calculation purposes) has been reported to the services of the providing undertaking to the instant where the service has been restored to full normal working order.

1.2. The services of the providing undertaking shall mean the services intended for the report of faults on the part of clients.

1.3. For the purpose of calculation of the present parameter, full normal working order is deemed to exist where the initial situation that existed before the fault occurred has been restored, that is, where the problem reported by the client/user has been solved (this corresponds to the moment of notification to the client concerning the fault repair, this notification not being contested by the client within at the most 5 working days).

1.4. In the event the same fault is reported more than once, by the same client/user or not, the instant in which the providing undertaking is aware of the fault for the first time, through the client/user report, shall be considered for purposes of parameter accounting.

1.5. The valid fault reports considered in point b) of point 1.2 of PQS2 shall not be considered for the calculation of the present parameter.

1.6. Where the fault repair is scheduled for a date/hour later than that established initially by the providing undertaking, at the convenience of the client, the time elapsed between these two dates/hours shall not be accounted for.

1.7. The calculation of the present parameter shall include faults repaired within the reference period, regardless of the report date.

1.8. The calculation of the PQS3 shall not include:

Situations where, following a prior notice of the visit, it is impossible to restore the service to full normal working order for reasons imputable to the client;

Situations where the providing undertaking provides a swifter repair service through the payment of an additional amount.

2. To measure the quality of service according to the present parameter, providing undertakings shall assemble the values regarding:

a) Time to repair faults of the local access network which correspond to 80% and 95% percentile values of the swifter installations (direct access);

b) Time to repair other type of faults, which correspond to 80% and 95% percentile values of the swifter installations (direct access);

c) Rate of repairs carried out within the repair time limit intended to be offered to clients (direct access).

2.1. The calculation of values provided for in point a) and b) of paragraph 2 shall be based on the method comprised in Annex B of ETSI EG 201 769-1 v1.1.1 (2000-04).

2.2. For the purpose of calculation of the present parameter, the full list of events occurred shall be considered for the reference period.

2.3. Faults in the local access network shall mean those imputable to the connection between the first concentrator of the network of the providing undertaking and the first terminal device for exclusive use of the client, or in alternative, to the client's network, pursuant to legislation in force regarding telecommunications infrastructure in buildings.

2.4. "Other repairs" shall mean those deemed not to be imputable to the local access network.

2.5. The providing undertaking, in the scope of the parameter indicated in 2.c), shall submit to ANACOM updated information on the fault repair time limit it has established to be offered to the clients for the reference period (direct access) and as such disclosed in the scope of point b) of paragraph 2 of article 7 of this Regulation.

2.6. In addition to the information provided for in 2 a), b) and c), the providing undertaking shall submit to ANACOM updated information on the numbers for access to services made available to report faults.

PQS4 - Response time for operator services

1. Definition:

1.1. The PQS4 is intended to measure the time duration, in seconds, from the instant the calling signal is established to the instant the calling user is answered by the human operator, from whom the service effectively desired shall be solicited.

1.2. Operator services shall mean those services with specific access codes used for the establishment of communications with assistant intervention, to be charged at the destination or not, intended to support difficulties in obtaining calls.

1.3. Where providing undertakings do not offer operator services as defined in the preceding paragraph and, thus, do not measure the PQS4, they shall notify ANACOM thereof.

1.4. The calculation of PQS4 shall include the time spent in going through the equivalent systems activated by voice or other means, up to the moment the caller actually requests the desired service.

1.5. The calculation of PQS4 shall not consider:

Services provided wholly by automatic response systems;

Emergency services;

Time spent with the treatment of the request, namely the conversation time between the caller and the human operator.

2. To measure the quality of service according to the present parameter, providing undertakings shall assemble:

a) Average response time for operator services (direct and indirect access);

b) Rate of calls taken within 20 seconds by the human operator from whom the calling user requests the service effectively desired (direct and indirect access).

2.1. For the purpose of calculation of the present parameter, the full list of events occurred shall be considered for the reference period.

2.2. Where the providing undertaking provides both direct and indirect access, it shall present an unbundled parameter for both types of access.

2.3. In those cases where a third entity is subcontracted to provide operator services, the providing undertaking of the publicly available electronic communications service at a fixed location, notwithstanding being responsible for submitting parameters, may subcontract with that entity the calculation of the parameter.

⁽¹⁾ Recommendation I.250 of the International Telecommunications Union - "Definition of supplementary services".

⁽²⁾ The communications referred to in the notes following the summary table comprised in the first page of the present annex shall be excepted.

⁽³⁾ The number of accesses shall be accounted for (not the respective number of channels, in the case of basic and primary accesses).



PROCEDURES FOR THE COLLECTION AND DELIVERY TO MUNICIPALITIES OF THE MUNICIPAL FEE FOR RIGHTS OF WAY

Regulation no. 38/2004, published on 29 September^{1 2}

The Law of Electronic Communications - Law no. 5/2004, of 10 February - has established that the rights and charges as regards implanting, crossing or passing over of systems, equipments and further resources of undertakings providing publicly available electronic communications networks and services, at a fixed location of a public or private municipal domain, may give rise to the establishment of a municipal fee for rights of way (MFRW).

Pursuant to that law, the MFRW is determined on the basis of the application of a percentage on each bill issued by undertakings providing publicly available electronic communications networks and services, at a fixed location, to all end-clients of the corresponding municipality. And this percentage is to be approved annually by each municipality up to the end of December of the year preceding that of its enforcement, and shall not exceed 0,25%.

According to the principle of tariff transparency, in municipalities where the MFRW is collected, undertakings are required to explicitly include the amount due in the bills of end-clients, as provided for in paragraph 3 of article 106 of Law no. 5/2004.

Pursuant to the Law, it is incumbent upon the Autoridade Nacional de Comunicações (ANACOM) to publish a regulation that defines the procedures as regards the monthly collection and delivery, to municipalities, of revenues that result from the application of the MFRW, to be adopted by undertakings providing publicly available electronic communications networks and services at fixed locations.

This set of rules, concerning the collection and delivery procedures, is hereby thus published.

Pursuant to and in compliance with the provision of articles 11 of the Statutes of ANACOM, approved by Decree-Law no. 309/2001, of 7 December, and 8 of Law no. 5/2004, of 10 February, the draft regulation was submitted to the respective consultation procedures, both regulatory and general, the interested parties having been given a time limit of 30 working days to assess the subject-matter.

As provided for in paragraph 5 of article 11 of the Statutes of ANACOM, concerning the regulatory procedure, the preliminary report of a regulation serves as the basis for the decisions, with necessary reference to criticism or suggestions made with regard to the draft.

And pursuant to the procedures adopted by ANACOM, on 12 February 2004, this Authority, within the scope of a general consultation procedure, analyses all the replies and makes available a final document comprising a reference to all replies received as well as a global assessment that evidences its opinion thereon [point d) of paragraph 3].

The final report, with this double subject, has been published at the website of ANACOM.

Therefore:

¹ This is not an official translation of the law.

² Regulation no. 38/2004, published in *Diário da República*, no. 230, II Series, of 29 September 2004.

Pursuant to point a) of article 9 of the Statutes of ICP – Autoridade Nacional de Comunicações (ICP – ANACOM), approved by Decree-Law no. 309/2001 of 7 December, and to paragraph 3 of article 123 of Law no. 5/2004 of 10 February, the Board of Directors of ICP – ANACOM hereby approves the following regulation:

Article 1

Scope

The present regulation establishes the procedures for the collection and delivery to municipalities of the municipal fee for rights of way (MFRW), provided for in Law no. 5/2004, of 10 February.

Article 2

Definitions

For the purposes of the present Regulation, the definitions comprised in Law no. 5/2004 of 10 February, shall apply.

Article 3

Bills issued to end-clients

1. The percentage on the MFRW, approved annually pursuant to the law, by municipalities wherein the referred fee is collected, shall be applied regarding the amount of each issued bill, no VAT included, by undertakings providing publicly available electronic communications networks and services, at a fixed location, to all end-clients of the correspondent municipality, understood as clients who do not provide public communications networks or publicly available electronic communications services, and who have facilities in that municipality.
2. For the purposes of the preceding paragraph, the amounts of services that, though included in the bills, do not constitute electronic communications services, pursuant to the law, such as equipment sale or renting, consultancy, technical assistance, configuration of terminal equipments, website or webpage construction, telephone directory inscription or audio-text services, shall not be taken into account.
3. The public pay phone and virtual phone card services shall not be subject to the MFRW.
4. Wholesale services, understood as electronic communications services provided to other undertakings which provide electronic communications networks and services for the purpose of their offer to end-clients, are not comprised by the present Regulation.

Article 4

Undertaking information system

1. The billing database for undertakings subject to the MFRW shall allow, through an appropriate information system, the production of the necessary information, per municipality, in order to permit the establishment of the incidence base value, the respective percentages and the calculation of the fee amount, in a transparent way, allowing audits to be carried out.

2. For the purpose of the preceding paragraph, the address of the facility site of the end-client shall be considered, pursuant to paragraph 1 of article 3, and not the billing address or the collecting address, as regards single bill clients (large clients) or centralized collection clients.

3. Where it is not possible to assign a billing amount to the different facility sites of end-clients, such as in the case of leased lines, both the billing address and the collecting address may be taken into consideration.

4. The provisions of the preceding paragraphs do not exempt from the explicit inclusion in the bill of the fee amount to be paid, as provided for in paragraph 3 of article 106 of Law no. 5/2004 of 10 February.

5. In order to ensure the enforcement of the provisions of the preceding paragraphs, municipalities shall make available to undertakings subject to the MFRW a conversion rate between postcodes and areas of the respective municipality, as well as ensure the permanent updating thereof.

Article 5

Delivery to municipalities

1. Undertakings subject to the MFRW shall carry out, based on the establishment of values collected, and up to the end of the month following that of the bill issue, the payment of the MFRW to municipalities, either by cheque or bank transfer.

2. Upon having received the payment referred to in the preceding paragraph, municipalities shall issue the respective discharge receipt and send it to undertakings.

3. The financial settlements, either favourable or unfavourable to municipalities, resulting from adjustments and which generally imply the issue of debit notes and credit notes, may be added or deducted, as appropriate, in the delivery provided for in paragraph 1 in the month following that of the verification of such situations.

Article 6

Audits

1. Undertakings subject to the MFRW shall promote annual audits, to be carried out by independent entities previously accepted by ANACOM, which shall assess compliance with procedures adopted pursuant to Law no. 5/2004 and the present Regulation, and ensure the validation of information provided.

2. The audit results shall be made available by undertakings to municipalities that so require and to ANACOM.

3. All undertakings subject to the MFRW shall notify ANACOM of the date as from which they are under the duty to pay that fee, and shall refer municipalities comprised.

Article 7

Transitory provision

1. For the purpose of implementing the present Regulation, and without prejudice to relationships between municipalities and undertakings in matters of application of building and construction legal regimes, electronic communications undertakings shall supply municipalities with the appropriate information as regards implanting, crossing or passing over of systems, equipments and further resources installed in public or private municipal domain, so that it constitutes the necessary information support, at the moment of the initial application of the MFRW.

2. The consideration of the address of the facility site of the end-client, pursuant to paragraph 2 of article 4, shall be compulsorily implemented up to the end of the year 2005.

