

National Roadmap for release of the 700 MHz band

Second Addendum

The determination of the Board of Directors of the Autoridade Nacional de Comunicações (ANACOM), of 27 March 2020, approved an addendum to the national roadmap for the 700 MHz band (Addendum), following the decisions taken by ANACOM on 12 March 2020 (suspension of the DTT network migration process due to reasons of force majeure) and 19 March 2020 (suspension of the time limit of the regulatory consultation procedure applied to the draft regulation of the auction for allocation of right of use of frequencies in the 700 MHz, 900 MHz, 1800 MHz, 2,1 GHz, 2,6 GHz and 3,6 GHz bands), which was disclosed to the European Commission and all other Member States, in compliance with the provisions in number 1 of article 1 of Decision (UE) 2017/899 of the European Parliament and of the Council of 17 May 2017.

1. Restarting of the process of release of the 700 MHz band

Under the terms of the aforesaid Addendum the process of migration of the DTT network to the sub-700 MHz band (470-694 MHz) would be suspended until the conditions were in place to enable restarting the work in all its aspects, at which time new scheduling should be established, after hearing MEO - Serviços de Comunicações e Multimédia, S.A. (MEO).

On 22 May 2020, as the country and Europe were progressively returning to their activity, ANACOM, under the spectrum management powers and duties incumbent upon it, notified MEO to indicate the date on which it would have secured the necessary conditions to initiate the resumption of the DTT network frequency switchover work and present an updated detailed time frame of this switchover, so that, in compliance with the provisions established in the Addendum, a new schedule for the release of the 700 MHz band could be stipulated, conditional to its approval by ANACOM and the Government's agreement.

After analysis of the new schedule submitted by MEO and considering the operational reasons invoked by the company – associated to the *capacity and availability of the external suppliers of equipment to provide the hired services in the field*, as well as to

the preservation of the health and safety of the teams involved – the Board of Directors of ANACOM, by determination of 18 June 2020, following the explicit agreement of the Deputy Secretary of State and Communications of 9 June, approved the scheduling for the completion of the DTT network migration process in the context of the 700 MHz band, under the terms proposed by the company.

This scheduling was subsequently adjusted by ANACOM decision of 16 July 2020 – with prior agreement of the Secretary of State – due to the unavailability expressed by equipment suppliers to travel to this country and specifically to proceed with the resynchronisation of the transmitters located in the Greater Lisbon area, in view of the pandemic situation in the region.

This time, the process of release of the 700 MHz band follows the sequence of stages defined in annex 1 of the national roadmap, in the version amended by ANACOM decision of 4 October 2019 [*Changes of the DTT network (MUX A) in the context of the release of the 700 MHz band. Development plan and schedule*]. This process was restarted on 12 August 2020, with its termination being foreseen for the middle of the month of December, without prejudice to ANACOM continuing to keep a close eye on the evolution of the epidemiological situation.

2. Restarting of the process of allocation of rights of use of the 700 MHz band

Under the terms of the aforesaid Addendum, the regulatory consultation procedure applied to the Draft Regulation of the Auction for allocation of rights of use of frequencies in the 700 MHz, 900 MHz, 1800 MHz, 2,1 GHz, 2,6 GHz and 3,6 GHz bands, was suspended by ANACOM decision of 19 March 2020, until its lifting would be decided taking into account the enforcement of exceptional and temporary measures in response to the epidemiological situation caused by SARS-Cov2 and by the Covid-19 disease.

However, Law 1-A/2020 of 19 March was published on that same day, which determined exceptional and temporary measures in response to the epidemiological situation caused by the SARS-CoV-2 coronavirus and Covid-19 disease, that suspended the time limits of administrative procedures. This law was subsequently first amended, by Law 4-A/2020 of 6 April, which clarified (in article 6) that the suspension of these time limits would take effect on 9 March, i.e. on a date prior to ANACOM's decision. This means

that, even if ANACOM had not suspended the aforesaid procedural time limits, they would have been suspended anyway by virtue of this exceptional legislation.

Law 16/2020 was published on 29 May 2020, which changed the exceptional and temporary measures in response to the Covid-19 disease pandemic and that, among other aspects, enacted the fourth amendment to Law 1-A/2020 of 19 March.

Law 16/2020 determines, in article 5, that *“Administrative time limits whose original deadline would have occurred during the enforcement of the suspension arrangement established by article 7 of Law 1-A/2020 of 19 March, in its original wording and in the wording given by Law 4-A/2020 of 6 April, are considered to have expired on the twentieth business day after the entry into force of this law.”*, which occurred on the fifth business day following that of its publication.

This means that the procedural time limits that had been suspended were resumed by virtue of the law.

In this context, ANACOM did not find any reasons to determine a new suspension of the aforesaid procedure. Therefore, on 1 June, ANACOM informed the stakeholders that, under the terms of the law, the time limit of the regulatory consultation procedure applied to the Draft Regulation of the Auction for allocation of rights of use of frequencies in the 700 MHz, 900 MHz, 1800 MHz, 2,1 GHz, 2,6 GHz and 3,6 GHz bands, approved by determination of 6 February 2020, ended on 3 July.

In view of the deadline of this public consultation, the indicative schedule for the allocation of rights of use in the 700 MHz was reviewed, taking into the account the impact of the suspension of the public consultation procedure between March and June 2020 due to the pandemic crisis.

Thus, according to the revised indicative schedule, it is expected that the auction regulation should be approved in September and that the auction should start in October 2020, with the completion of the procedures of allocation of the corresponding user rights being foreseen to occur in early 2021.

Lisbon, 10 September 2020