



**ANACOM**

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**Portugal**

Per DHL and e-mail: mercado4@anacom.pt

13<sup>th</sup> February 2015

Dear Madam, Dear Sir,

*Subject: Consultation on Wholesale market for high-quality access at a fixed location (wholesale leased lines)*

Dear Madam, dear Sir,

Following the issuance by ANACOM of a public consultation regarding the "MERCADO DE ACESSO DE ELEVADA QUALIDADE GROSSISTA NUM LOCAL FIXO (CIRCUITOS ALUGADOS GROSSISTAS)" (*Consultation on Wholesale market for high-quality access at a fixed location (wholesale leased lines)*), BICS Portugal (BICS) would like to express its consideration and its thanks to ANACOM for the quality of the analysis and recommendations made on the topic of access to cable landing stations (CLS) for International connectivity. We also want to thank you for having granted BICS an extension of time to provide comments thereon.

BICS would like to make the following comments and remarks on the subject matter of the public consultation. :

BICS has noted with interest the following points:

- ANACOM acknowledges that Portugal Telecom (PTC) is a dominant operator on backhaul connections from CLS
- ANACOM confirms that in order to address this situation, PTC has to grant colocation in or next to a CLS for the benefit of other licensed operators in Portugal who are either

member of the consortium owning the involved submarine cable or designated as a backhaul provider by any such member.

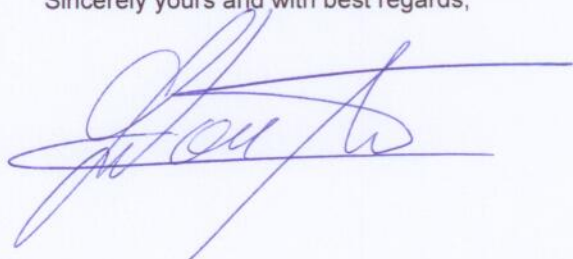
- ANACOM imposes ORCE on backhaul from CLS for capacities up to 10G.

BICS would also like to express its concerns about certain points in the proposed document:

- BICS fully agrees with the conclusion that colocation in or next to CLS is the best way to alleviate the issue of dominance on the backhaul. BICS would like to stress that such an approach needs to be enforced effectively in order to generate the expected results and to further note that:
  - ANACOM does not state anything about the cost of colocation. BICS believes that there is a need to specify clearly in the relevant decision or recommendation that the price charged by PTC should be based on a "cost +" approach for every element of the colocation, including cross-connection between colocation space and the Submarine cable equipment. The proposal made by PTC for colocation on EIG is not acceptable from that perspective. BICS would hope that ANACOM makes sure that the pricing set by PTC for colocation does not make the colocation approach unreasonably expensive but conform to market standards.
  - There needs to be a requirement to allow that a single colocation infrastructure installed by a given backhaul provider in a given landing station can be used to access multiple cables and obviously capacity belonging to multiple members within a cable. Not imposing this rule would imply a waste of resources for the backhaul providers and would put them at a marked disadvantage versus PTC.
  - ANACOM does not specify a timeline for making the colocation available.
  - In items 4.77 and 4.85 of the document, ANACOM mentions a caveat allowing PTC to refuse colocation for technical (or other undefined) reasons. In our opinion, such a clause is too open and puts a significant risk on the enforceability of the recommendation. BICS hopes that ANACOM can define more specifically the situations where PTC could refuse the colocation requests
- ANACOM imposes to develop an ORCE for backhaul connections? between 1 and 10 Gbps with cost a oriented approach. This could be a good way forward for smaller players. However, the number of submarine cables offering such interfaces is very limited today, although this will come in the future. In the meantime it would be appropriate to impose ORCA for capacities of STM-4, STM-16 and STM-64, again with a cost + approach and also taking into account an obligation to adapt pricing downwards as time goes by to take into account effect of volume growth on the cost structure.
- Both ORCA and ORCE should include an obligation to consolidate capacity from multiple origins on the cable into a single backhaul capacity (grooming) and the option to work with protected or unprotected backhaul. Not imposing this would again lead to inefficiencies and waste of resource for the backhaul services of alternative operators and would put them at a disadvantage compared to PTC.
- Both ORCA and ORCE offers should include prices for 1 year, 3 year and IRU contracts. Such contracts are common practice in the industry and are offered by PTC. Not imposing such offers would again put the alternative operators at a disadvantage compared to PTC.
- ANACOM does not foresee any SLA nor compensation for not meeting the SLAs in the colocation offer. We believe it is critical to that PTC guarantees proper commitments regarding the provisioning phase and regarding the operations phase. There should be a requirement towards PTC in that respect, including an indication of appropriate penalties.

We thank you for your attention to our remarks and we hope that ANACOM will be able to take them into account in the final document.

Sincerely yours and with best regards,

A handwritten signature in blue ink, appearing to read 'Johan Wouters', with a long horizontal stroke extending to the right.

Johan Wouters

Director

BICS Portugal SA