

DECISION

changing the value of the Complementary DTT (DTH) Kit, extending co-payment to the 1st additional DTH set-top-box and adjusting the Co-Payment Programme procedure

A. Framework

Resolution No 26/2009 of the Council of Ministers, published on 17 March, requires this Authority to promote «*the necessary conditions to ensure the digital switchover, and therefore the termination of analogue terrestrial television broadcasting (...), ensuring in particular [the] supervision of the digital switchover process*».¹

In this context, ICP - ANACOM has supervised and developed a significant set of actions and demarches intended to monitor conditions under which the migration to the digital terrestrial television (DTT) is taking place.

Since early 2011, and in order to provide Portuguese people with information on this reality, ICP - ANACOM has promoted several communication actions, namely information campaigns on television, radio and abroad; the nationwide distribution of 6 million copies of the “DTT Guide”; and several mailings providing information on a subsidy programme for people in need, granted to all those who fulfilled the established requirements regardless of the type of coverage in the area where they lived, as well as on a co-payment programme for people living in areas covered via DTH.

Notwithstanding, ICP - ANACOM has also endeavoured to involve in this process all entities closely related to the citizens (liaison actors), that are able to make a very significant contribution in support of the population. With this purpose, this Authority established contacts (via mailing) with all chairmen of municipalities and parishes of the country, all parish priests, IPSS² and the Misericórdia church-based organisation.

Along the same lines, ICP - ANACOM established partnerships with:

- Associação Nacional de Freguesias (National Parish Association)
- DECO, in the scope of which 100 clarification sessions on DTT throughout the national territory are expected to take place (some of which have already been held);
- The Instituto da Segurança Social (Social Security Institute), which has provided information on DTT on its website and customer service points;
- CTT, in accordance with which ICP - ANACOM has provided training for postmen and staff of post office counters so that they may inform and raise awareness of migration among populations, especially bearing in mind the most aged and isolated ones.

Moreover, efforts are also being made to hold meetings with chairmen (or respective representatives) of municipalities covered by the switch-off scheduled to take place on 26 April. So far, meetings have been held with the Association of Municipalities of Baixo Tâmega, with the Inter-municipal Community of Vale do Cávado as well as with Inter-municipal

¹ Vide paragraph 4 a) of the referred Resolution.

² Instituições Particulares de Solidariedade Social (private charities).

Communities of Minho-Lima, Pinhal Interior Norte, Alto Alentejo and Algarve, as well as with Associations of Municipalities of Terra Quente Transmontana, Baixo Alentejo and Alentejo Litoral and Algarve. Several meetings have also taken place with individual representatives of various municipalities and parishes, both in the mainland and in the autonomous regions. A total of 100 municipalities have been covered by this round of contacts, and additional meetings with associations representing over 40 municipalities have also been arranged.

ICP - ANACOM thus intends to involve in the information process for migration to the digital platform the 148 municipalities where the analogue signal will be switched off on 26 April.

At a different level, ICP - ANACOM has also attended sessions at the *Assembleia da República* (the Assembly of the Republic) to provide information on all this process and to clarify doubts raised by the various parliamentary groups.

All these interactions allowed ICP - ANACOM to collect relevant information on how migration to DTT is taking place, identifying the main problems of the process, which are supposed to be the reason for which not all citizens covered by the transition process have taken so far the appropriate measures for adapting to digital television. According to the most recent data provided by Marktest³, a percentage by around 30% of citizens is covered by this process.

In this context, the fact that part of the population receives the digital TV signal through satellite (DTH coverage zones) is one of the most serious troubles. In fact, populations living in these areas declare that they are subject to higher costs, compared to migration costs to be borne by those living in areas with digital terrestrial coverage, whose households are already provided with installed reception antennae. Local claims for a reinforced DTT coverage have strengthened this perception and justified the postponement of the decision to migrate.

This circumstance has been one of the main reasons invoked to explain the resistance to the change to the digital platform, which may be confirmed by the very low number of DTH kits sold so far by PT Comunicações, S.A. (PTC). According to data submitted by PTC on 9.2.2012, the cumulative number of DTH kits sold by the end of the 4th quarter of 2012 was merely **[Start Confidential Information] [End Confidential Information]**.

Consequently, being completed the second stage of the digital switchover (which took place in the Autonomous Regions of the Azores and Madeira on 22 March⁴) and a month before the final switch-off (set for 26 April), ICP - ANACOM considers that there are justifiable concerns that the population living in areas served by satellite coverage will fail to migrate on time, namely for economic reasons. To provide a last boost to decrease the resistance to an inevitable change, ANACOM has thus adopted the measures explained in the following items, in the scope of a Programme for co-payment of installation and equipment in areas covered by means of complementary coverage (DTH), in the scope of DTT.

³ Received at ICP - ANACOM on 23 March 2012.

⁴ As provided for in the detailed switch-off plan approved by determination of the Management Board of ICP - ANACOM on 24.06.2010, «Where it is not feasible to disconnect all stations at the same time, the 5 transmitters of the Azores and the transmitter in Madeira will be switched off in a first phase, on 22 March. In the Autonomous Region of the Azores, and since the transmitters are spread over eight islands, they should be shut down within the 15 subsequent days, while in Madeira the relays shall be switched off within 7 subsequent days.» Determination available at: <http://www.anacom.pt/render.jsp?contentId=1032177>

B. Co-Payment Programme

By determination of 7 April 2011⁵, the Management Board of ICP - ANACOM accepted a programme for co-payment of installation and equipment in areas covered by means of complementary coverage (DTH), in the scope of DTT (hereinafter Co-Payment Programme), which integrated the Right of Use for Frequencies No 06/2008⁶ (hereinafter RUF), thus binding PTC to compliance therewith.

B.1. Change in the value of the DTH Kit

Given the need to ensure compliance, throughout the full period of the Co-Payment Programme, with the principle of equivalence to which PTC is bound, under paragraphs 1 d) and 2, both of article 9 of RUF and taking into account the then likely evolution of costs of DTT equipment, the above-mentioned determination provided that this figure could be adjusted every six months, upon ICP-ANACOM's initiative, *«should the price (...) fixed face a variation of over 10% in the average six month price of STBs for DTT reception»*.

In accordance with the mentioned provision, by determination of 6 January 2012⁷, the Management Board of ICP - ANACOM determined that the value of the Complementary DTT (DTH) Kit, first STB, to be borne by the applicant, after having received the reimbursement, would be €40.

Given that the established value took effect on 7 October 2011, the amount could be changed on 7 April, if requirements for its review were met, namely the variation of over 10% in the average six month price of STBs for DTT reception.

As the number of kits sold so far is very low and given that the switch-off date (set for 26 April) is very close (and cannot be postponed), it is justified to make a one-off change in the method applied, the value of the DTH kit being immediately reviewed, as a measure intended to boost migration and appropriately monitor the principle of equivalence.

Given that the most recent data available to ICP - ANACOM on the price of DTT boxes refers to the period October 2011-February 2012, and that it confirms the decreasing trend of such prices, this will be the reference period taken into account for this new review of the DTH kit value.

Evolution of the average price of STBs for DTT reception

To analyse and monitor the evolution of STB prices, ICP - ANACOM concluded with GfK PORTUGAL - MARKETING SERVICES, S.A. (GfK for short) a contract covering the regular provision of data on the TV and decoder retail market.

Collected data were obtained by GfK's retail panel team, through a sample of around 2350 points of sale, representative of a set of 6000 stores. GfK estimates that its retail panel team covered around 92% of the market for sales of these products to final consumers in 2010.

⁵ Available at <http://www.anacom.pt/render.jsp?contentId=1080844>

⁶ Available at

http://www.anacom.pt/streaming/TDT_delib91222008.pdf?contentId=764139&field=ATTACHED_FILE

⁷ Available at <http://www.anacom.pt/render.jsp?contentId=1113119>

On the basis of data collected by GfK⁸, it is verified that, for the five-month period between October 2011 and February 2012, the average price of a DTT STB is now around 30€.

This means, in the present case, that the value achieved by reference to the period October 2011-February 2012 shows a downward change exceeding 10%⁹ of the price currently set for the DTH Kit, which is 40€.

ICP - ANACOM thus deems it appropriate to change the DTH Kit value to be borne by the user, after being reimbursed, to €30, in line with the average price of DTT reception equipment during the last five months, in order to maintain the equivalence of conditions of access between DTT and Complementary DTT (DTH) end users.

B.2. Extension of the co-payment to the 1st additional DTH STB

ANACOM further considers there is room to deepen the principle of equivalence of migration costs between those living in areas with terrestrial coverage and with satellite coverage, provided for in determination of the Management Board of ICP - ANACOM of 7 April 2011, in accordance with article 21, paragraph 3 of the Tender Regulation¹⁰ and in article 9, paragraphs 1d) and 2 of Right of Use for Frequencies No 06/2008¹¹ granted to PTC.

In fact, although the principle of equivalence provided for in the tender is ensured through the existence of one television set capable to receive the service, given the fact that families without pay-TV in Portugal own on average two television sets, ICP - ANACOM takes the view that there are conditions to extend the co-payment set for the purchase of a DTH kit also to an additional DTH STB (set-top-box).

Notwithstanding the need to maintain control of possible situations of fraud in the resale of satellite STB and bearing in mind the broadcasting rights of television operators in Portugal, the co-payment of an indefinite number of additional STB is not possible. However, its extension to the first additional STB is deemed not to hinder the concerns expressed.

Consequently, the value now defined for the DTH kit after reimbursement - €30 - is also valid for the purchase of the first additional STB.

In case the user wishes to purchase his/her first additional STB, that is, having already purchased a DTH kit, and as such, having PTC already verified his/her eligibility in the scope of the Co-Payment framework, the presentation of new documents proving fulfilment of the Programme's conditions must not be required.

B.3. Adjustment of the Co-Payment Programme procedure

Still in the scope of steps required to expedite migration-encouraging measures, and in spite of the principle of equivalence - making migration costs borne by a citizen living in a DTH coverage area equivalent to those borne by another citizen living in a TDT area - ANACOM

⁸ Received at ICP - ANACOM on 22 March 2012.

⁹ In fact, this corresponds to a variation by 25%.

¹⁰ Regulation No 95-A/2008, of 25 February, available at: <http://www.anacom.pt/render.jsp?contentId=958877>

¹¹ ICP - ANACOM No 6/2008, available at <http://www.anacom.pt/render.jsp?categoryId=303315>.

acknowledges that there is a substantially different impact on the applicant, especially in the current national economic circumstances, if he/she pays the value of a TDT STB (the average store price of which was around €40 in the period April-September 2011 and €30 in the period October 2011-February 2012) or if he/she pays first the DTH Kit (€77) and later receives the respective reimbursement (thus bearing the same cost than a resident in a TDT coverage zone).

To minimize this initial obstacle to migration, that can be a real barrier to populations in serious financial need a month before the final switch-off, ANACOM considers that there are grounds to introduce a procedure to purchase the DTH Kit, in alternative to the one provided for in point 6 of the current Co-Payment Programme, without prejudice to an adequate verification of eligibility requirements by PTC. The person applying to the co-payment is thus able to choose between the two procedures, as explained below.

To purchase the Complementary DTT (DTH) Kit, the applicant may now choose one of the following procedures:

- Complying with the procedure referred to in point 6 of the Co-Payment Programme, purchasing the equipment and paying its full value (77€), receiving the co-payment reimbursement later under the conditions laid down;
- Complying with the procedure referred to in point 6 i and iv) of the Co-Payment Programme, and ordering the equipment. In this situation, after PTC has verified/confirmed, within 5 working days, for 95% of cases, that the applicant meets all requirements to join the Programme, he/she may purchase the equipment for only €30 per Kit (value which applies to the DTH Kit as well as to the 1st additional STB).

This measure is expected to give a strong boost to the process of migration to digital television in areas where the signal reception is ensured via satellite.

C. Decision

The closeness of the switch-off, scheduled for 26 April, and the consequent need, in the short period leading up to it, to quickly boost migration to DTT by all those that, for the above-mentioned reasons, are putting off the change, a fact which ICP - ANACOM only recently was able to confirm, more specifically on 23.03.2012, when Markttest results were received with data now available on the first stage of the switchover¹², and on 9.2.2012, when data on the total cumulative number of DTH kits sold during the 4th quarter of 2011 were received, justify the urgent approval of the present evolution of the Co-Payment Procedure and adjustment of the respective procedure, otherwise these new measures may be deprived of all practical effectiveness [article 103, paragraph 1 a) and b) of the Administrative Procedure Code].

Therefore, in the light of above-mentioned arguments, the Management Board of ICP - ANACOM, pursuant to article 32, paragraph 1 g) of the Electronic Communications Law, of article 9, paragraph 1 d) and paragraph 2 of the same article of the right of use for frequencies ICP - ANACOM No 6/2008, under point l) of article 26 of its Statutes, published in annex to

¹² According to the Determination of the Management Board of ICP - ANACOM of 5 January 2012 on the adjustment of the switch-off timetable for the 1st stage of the switch-off plan, available at: <http://www.anacom.pt/render.jsp?contentId=1112704>

Decree-Law number 309/2001, of 7 December, and having regard to article 103 paragraph 1 a) and b) of APC, hereby decides as follows:

1. To determine that the value of the Complementary DTT (DTH) Kit, first STB, established in Point 4 of the Programme, reviewed by determination of the Management Board of 6 January 2012, to be borne by the applicant is €30, which corresponds to the average price per DTT STB;
2. To determine that the value referred to in the preceding paragraph applies also to the purchase of the first additional DTH STB;
3. To determine the introduction, in point 6 of the programme, of the alternative procedure for purchase of the DTH kit, described in point B.3. hereof;
4. To determine that PTC, within 5 working days, must bring its procedures in line with provisions herein, including the information made available on co-payment for areas covered by means of complementary coverage (Complementary DTT - DTH).

Lisbon, 23 March 2012