

Final Decision on the assignment of a new code in the National Numbering Plan to identify the geographic area of Braga for provision of the publicly available telephone service at a fixed location

I. Background

By determination of 17 March 2017, the Management Board of Autoridade Nacional de Comunicações (hereinafter «ANACOM») approved a draft decision on the assignment of a new code to identify the geographic area of Braga in the *Plano Nacional de Numeração* (the National Numbering Plan - hereinafter «PNN») intended for the provision of the publicly available telephone service at a fixed location, as follows:

- “1. To determine the opening in the PNN of a new code - “257” - to identify the geographic area of Braga, assigned for the publicly available telephone service at a fixed location, which shall be allocated blocks of 10,000 numbers, whose corresponding rights of use must be allocated to providers of this service according to objective, transparent and non-discriminatory criteria, as soon as there are no further numbering blocks available in the “253” code.*
- 2. To submit the draft decision to the prior hearing of interested parties under articles 121 et seq of the Administrative Procedure Code, approved by Decree-Law No. 4/2015, of 7 January, as well as to the general consultation procedure laid down in article 8 of the Electronic Communications Law (Law No. 5/2004 of 10 February, as it stands), a period of 20 working days being provided in both cases for interested parties to assess the matter, in writing and in Portuguese.”*

Having been analysed the comments received to the public consultation and prior hearing on the draft decision, a report was drawn up which includes a summary of contributions received and the Regulatory Authority’s views thereon. The report is deemed to be an integral part of this decision.

II. Assessment

1. Framework

With the restructure of the PNN¹, implemented on 31 October 1999, geographic numbers², intended for the provision of the publicly available telephone service at a fixed location, were

¹ Available at: <http://www.anacom.pt/render.jsp?contentId=13096>.

² As defined in article 2 t) of the Electronic Communications Law: «Geographic number» means a number from the national numbering plan containing certain digits with geographic meaning, used for routing calls to the physical location of the network termination point (NTP).

accommodated in the numbering range prefixed by “2”, with a 9-digit structure. These numbers are dialled always in the same way, regardless of the geographic location of the caller and of the geographic area code (closed dialling plan), this code having become part of the number, serving to identify each of the fifty-one geographic areas of the country.

In this scope, 1,000 blocks of 10,000 numbers were made available for the geographic areas of Lisbon and Oporto, 100 blocks of 10,000 numbers having been made available for other areas. This difference was due to the fact that geographic area codes with only two digits (“21” and “22”, respectively) were defined for the Lisbon and Oporto areas, while other areas were defined 3-digit codes (for example, “253” - Braga).

Recently, in the pursue of its PNN management powers established in the Electronic Communications Law³ (hereinafter «ECL»), ANACOM found that, as a result of demand and consequent allocation of a block of numbers in the geographic area of Braga - “253” code -, the free and available numbering capacity for primary allocation to potential stakeholders faces, in the short term, a risk of exhaustion, as there are only 5 free numbering blocks in this area.

This means that, of all 100 blocks allocated to the geographic area of Braga, 95 are currently assigned to providers of the publicly available telephone service at a fixed location (hereinafter «FTS providers»), whereby MEO - Serviços de Comunicações e Multimédia, S.A., is the holder of 71 blocks, NOS - Comunicações S.A., 11 blocks, Vodafone Portugal - Comunicações Pessoais, S.A., 7 blocks, ONITELECOM - Infocomunicações, S.A., 2 blocks, and COLT Technology Services, Unipessoal, Lda., IP Telecom - Serviços de Telecomunicações, S.A., Dialoga - Servicios Interactivos, S.A., and AR Telecom - Acessos e Redes de Telecomunicações, S.A., 1 block each⁴.

Although the additional assignment of numbering blocks to an SFT provider for the same geographic area now depends on the use of more than 60% of allocated blocks by that FTS provider, MEO, for historic reasons, disposed initially of its rights of use of 69⁵ blocks, that

³ Law No. 5/2004, of 10 February, as it stands, available at: <https://www.anacom.pt/render.jsp?contentId=975162>.

⁴ Information available at:

<https://www.anacom.pt/pnn/pnnSearchResults.do?jsessionid=de45f058111c493da82aacc7ba300e2c?dataInicioDia=dd&dataFimAno=yyyy&dataInicioMes=mm&dataFimDia=dd&dumy=1488989937368&dataInicioAno=yyyy&ssl=false&assunto=&anguageld=0&css=73&dataFimMes=mm&estado=&jscript=on>

⁵ MEO currently holds the right of use of 71 blocks, due to the merger by incorporation of ex-PT Prime (1 block) and ex-TMN (1 block).

is, 69% of the total free capacity in the geographic area of Braga. Given that these numbers were intended for the provision of the publicly available telephone service at a fixed location, which are associated to individuals or bodies that were interested (and still are) in maintaining these numbers, the return by MEO of any of these blocks of 10,000 numbers was precluded.

As such, the fact is that, almost 18 years⁶ later and for the above-mentioned reasons, there is a potential risk of exhaustion of geographic numbers in the Braga area, thus ANACOM must take action so as to ensure the availability of appropriate numbering resources, as established in article 17 of ECL.

Given that it is not possible to accurately predict when the free available numbering in the Braga geographic area will effectively be exhausted, as this depends (i) on the numbering needs of current providers of the telephone service at a fixed location in the Braga geographic area and (ii) on the emergence of new providers of that service on the national market, it is estimated that, if the average of allocations of the last three years, of 3 blocks/year⁷, is maintained, the available capacity in the Braga geographic area will be exhausted by 2018. However, for the above-mentioned reasons, this is without prejudice to the possibility that the current numbering capacity may be exhausted before that date.

As such, ANACOM deemed it necessary and appropriate to provide the PNN right now with additional numbering capacity in the Braga geographic area, in order to guarantee, in a sustained manner, the provision of the publicly available telephone service at a fixed location in this region and the timely planning of providers for operational purposes.

2. Analysis

According to article 17, paragraph 1 and paragraph 2 b) and c) of ECL, ANACOM is required to ensure, not only that “suitable numbering resources” are “available for all publicly available electronic communications networks and services”, but also that their allocation takes place “according to objective, transparent and non-discriminatory procedures”.

⁶ As from the introduction of the new National Numbering Plan (PNN) on 31 October 1999.

⁷ 6 blocks in 2014, 1 block in 2015 and 2 blocks in 2016.

There is an urgent need to provide the PNN with additional numbering capacity in the Braga geographic area, thus ANACOM believes that it is necessary and appropriate to define a new identification code for this geographic area.

Among three-digit codes⁸ that are available⁹ in the PNN to identify a new geographic area prefixed by “2”, there are: “237”, “240”, “246”, “247”, “248”, “250”, “257”, “260”, “264”, “267”, “270”, “280”, “287”, “288”, “290”, “293”, “294”, “297”, “298” and “299”.

As the current code in the Braga geographic area is the “253”, this Authority believes that the new code should be as similar as possible, not only to avoid disruptions from the past but also to facilitate the association, by users, to numbers of the geographic area. In this sense, the new code should be made up by three digits, where the first two are also “25”.

As it is not possible to allocate any of the two adjacent codes - “252” or “254” -, as they have been already allocated, respectively, to identify the geographic area of Vila Nova de Famalicão and Peso da Régua, it is deemed that, from the remaining codes starting with “25”, the “257” code is the one that best meets the purposes of this Authority, as set out above.

Although ANACOM acknowledges that the opening of a new code with geographic meaning implies, in particular, an update of the set-up of relevant systems used to correctly route communications, the Authority also finds that this set-up and possible network adjustment will not differ from the opening of a new block of 10,000 numbers in the “253” code that is allocated to an FTS provider. As such, it is considered that the opening of a new “257” code in the Braga geographic area does not require extraordinary measures with relevant impact on the activity of companies providing electronic communications networks and services.

As far as users are concerned, it is deemed that any initial doubts will be dispelled over time, all the more because, from the perspective of tariff transparency, this code does not introduce any changes. To address this aspect, the new code will be duly disclosed both by ANACOM at its webpage and by providers of the telephone service to their subscribers.

⁸ The “20” two-digit code is excluded from the outset, although it is available, as it is deemed that should remain reserved for future use.

⁹ Not allocated to any service or geographic area.

It must be stressed that companies that provide electronic communications networks and services are required to comply with point j) of article 27 of ECL, and as such, they must carry out the appropriate and necessary adjustments/set-ups in the provision of their services, thereby ensuring access of final users to PNN numbers.

The use of numbers depends on the allocation of rights of use by ANACOM, under the law, in compliance with principles and criteria for use and management of numbering resources in force¹⁰. Rights of use in the “257” code will be allocated as from the moment all numbering blocks which are still available in the “253” code are exhausted, ANACOM thereby ensuring an efficient management of the PNN.

III. Decision

In the light of the above and in carrying out the tasks conferred on ANACOM by paragraph a), f) and h) of article 8 of its Statutes, published by Decree-Law No. 39/2015, of 16 March, in the pursue of regulatory objectives set out in paragraphs 1 a) and 2 d) of article 5 of the Electronic Communications Law, as it stands, and under articles 17, 36 and 37 of the same law, ANACOM’s Management Board hereby decides:

- To determine the opening in the PNN of a new code - “257” - to identify the geographic area of Braga, assigning it for the provision of the publicly available telephone service at a fixed location, which shall be allocated blocks of 10,000 numbers, the corresponding rights of use of which shall be allocated to providers of this service according to objective, transparent and non-discriminatory criteria, as soon as there are no further numbering blocks available in the “253” code.

¹⁰ Available at: <https://www.anacom.pt/render.jsp?categoryId=5365>