

DECISION

**REQUESTS SUBMITTED BY NOS SEEKING ALLOCATION OF
FREQUENCIES IN THE 900 MHZ AND 2100 MHZ BANDS**

ANACOM

DECEMBER 2019

CONTENTS

1. Requests submitted by NOS and consultation procedure	1
2. Legal framework	2
3. Analysis.....	3
3.1. Analysis of the request in respect of the 900 MHz band	4
3.2. Analysis of the request in respect of the 2100 MHz band	8
4. Applicable consultation procedures	11
5. Decision.....	12

1. Requests submitted by NOS and consultation procedure

By letter dated 6 June 2019, received on 11 June 2019, NOS Comunicações, S.A. (NOS) submitted requests to Autoridade Nacional de Comunicações (ANACOM) in respect of the following issues:

- i. ***the direct and immediate allocation of 2x200 kHz in the 900 MHz band, contiguous to the current band***, claiming that it was placed at a disadvantage in relation to its direct competitors - MEO - Serviços de Comunicações e Multimédia, S.A. (MEO) and Vodafone Portugal - Comunicações Pessoais, S.A. (VODAFONE) - in terms of capacity and flexibility of spectrum management, from the time of the initial allocation of spectrum in this band to NOS (in 1997), which holds 39 channels (2x7.8 MHz) while its direct competitors have always held at least 40 channels (2x8 MHz) in the same band; it also claims that the situation of inequality between NOS and other mobile network operators has always been a disadvantage, which has worsened with the increase of NOS' customer base;
- ii. ***the direct and immediate allocation of 2x5 MHz in the 2100 MHz band (FDD), corresponding to the block of frequencies the rights of use of which NOS waived in January 2012¹***, the request being based on technological and market developments, the size of which NOS could not have foreseen, according to the company, which occurred since the waiver decision was taken. NOS highlights the increase in active accesses, as well as the sharp growth in mobile broadband traffic per user, combined phenomena which exponentially increased (in a way, in its opinion, it could not have anticipated) the network capacity required to support its customers' data traffic. It also invokes the technical implementation of the possibility to use spectrum in the 2100 MHz band to support LTE technology, which in its view in 2012 was a "*purely theoretical option*". NOS thus concludes that holding less than 2x5 MHz spectrum in this band places it at a disadvantage vis-à-vis its direct competitors and therefore considers it timely, proportionate and justified to "*recover*" this spectrum.

¹ Decision available at <https://www.anacom.pt/render.jsp?contentId=1116035> (<https://www.anacom.pt/render.jsp?contentId=1116641>).

2. Legal framework

Under ANACOM's Statutes, approved by Decree-Law No 39/2015, of 16 March, this Authority is responsible for ensuring, pursuant to applicable legislation, "*an effective management of radio spectrum, involving the planning, allocation and monitoring of spectrum resources, and the coordination between civil, military and paramilitary radiocommunications*" (article 8, paragraph 1 e) of the Statutes). Also in accordance with the Statutes, ANACOM is responsible, under applicable legislation, for "*allocating, amending and revoking rights of use for frequencies*" (article 9, paragraph 1 b) of the Statutes).

The Electronic Communications Law (ECL - Law No. 5/2004, of 10 February, as it stands), as the applicable substantive regime, entrusts to ANACOM the pursuit of several regulatory objectives for electronic communications, namely "*to promote competition in the provision of electronic communications networks, electronic communications services and associated facilities and services*", in respect of which this Authority, among other responsibilities, is charged with "*encouraging an effective use and ensuring an efficient management of frequencies*" (article 5, paragraphs 1 a) and 2 d) of ECL).

In this context, it is incumbent on ANACOM to "*ensure the efficient management of spectrum (...) taking due account of the important social, cultural and economic value*" of frequencies, to "*plan frequencies*" in accordance with the criteria of "*a) availability of radio spectrum; b) guarantee of conditions of effective competition in relevant markets; c) effective and efficient use of frequencies; d) weighing of interests of radio spectrum users*" (article 15, paragraphs 1 and 2 of ECL).

For this purpose, ANACOM is required to publish the National Table of Frequency Allocations (NTFA) and to keep up to date. This table must include, among other items, the frequency allocation table, frequency bands and spectrum allocated to undertakings providing public communications networks or publicly available electronic communications services, reserved and available frequency bands in the scope of electronic communications networks and services, available and not available to the public, being specified, for each band, the cases where rights of use are required and the respective procedure of allocation (article 16 of ECL).

ANACOM is also responsible for the allocation of rights of use for frequencies (RUF) (article 19, paragraph 3 of ECL), which must be allocated through open, objective, transparent, proportional, non-discriminatory procedures and with the guarantee of the principles of

technological and service neutrality, in accordance with article 16-A of ECL, and their allocation may take place under a full accessibility regime or be subject to competitive or comparative selection procedures, namely auction or tender (article 30, paragraphs 3 and 5 of ECL).

The allocation of RUF is subject to an application, which, under the full accessibility regime, must be submitted to ANACOM, attaching the necessary elements to prove the applicant's capacity to comply with the conditions associated with the RUF established in article 32 of ECL, under the terms to be defined by ANACOM. In the case of an auction or tender, the application must be submitted in accordance with the requirements established in the respective regulation for allocation of RUF.

3. Analysis

In view of the above framework, ANACOM takes the view that the request for "*direct allocation*" of spectrum submitted by NOS consists, under the applicable legal terms, of a request for the allocation of frequencies in a full accessibility regime.

It is under this assumption that the two requests submitted by NOS are analysed below.

In addition, and it could not be any other way, the analysis of these requests and respective draft decision have been combined with the decision which this Authority intends to adopt in the scope of the future allocation procedure for the 700 MHz band and other relevant bands, which includes the 900 MHz band, whose "*Draft decision on the designation of the 700 MHz band for terrestrial electronic communications services, as regards limitation of the number of rights of use for frequencies to be allocated in the 700 MHz, 900 MHz, 1800 MHz, 2.1 GHz, 2.6 GHz and 3.6 GHz bands and definition of the respective allocation procedure*" was adopted on this same date², thus making available to the applicant and other stakeholders a comprehensive framework of information on what ANACOM supports in the scope of the efficient spectrum management which this Authority is required to ensure.

² Decisions available at www.anacom.pt.

3.1. Analysis of the request in respect of the 900 MHz band³

MEO, NOS and VODAFONE currently hold rights of use for frequencies in the 900 MHz band. The current occupation of spectrum in this band is represented in **Figure 1** below.

	100 kHz								100 kHz	
Up Link [MHz]	880.0	885.0	885.0	890.0	890.1	895.1	898.1	905.9	905.9	913.9
LB [MHz]	5,0		5,0		5,0	3,0	7,8		8,0	1,0
Operator	Livre		VODAFONE		VODAFONE	Free	NOS		MEO	Livre
Down Link [MHz]	925.0	930.0	930.0	935.0	935.1	940.1	943.1	950.9	950.9	958.9
LB [MHz]	5,0		5,0		5,0	3,0	7,8		8,0	1,0
Operator	Livre		VODAFONE		VODAFONE	Free	NOS		MEO	Livre
LB [MHz]	Vodafone		20,000		NOS		15,600	MEO		16,000

Figure 1: Occupation of the 900 MHz band

To put this in context, by 2012 - the year in which the frequency allocation procedure called Multi-Band Auction⁴ was concluded - and as regards the 890-915/935-960 MHz frequency band⁵ (initially referred to as the “GSM band”), the three referred operators held RUF over the following amount of spectrum: MEO and VODAFONE, 40 channels of 2x200 kHz (2x8 MHz) and NOS, 39 channels (2x7.8 MHz). This difference (of 1 channel of 2x200 kHz) resulted from the fact that the channelling arrangement was to maintain a guard band of 2x100 kHz at the ends of the “GSM channels”, whereby the “GSM band” was left with 119 “GSM channels” of 2x200 kHz and two guard bands of 2x100 kHz. The allocation of spectrum to NOS took place in 1997, after MEO and VODAFONE were allocated spectrum, and at that time all available spectrum was made available for this purpose.

In 2011, the 880-915/925-960 MHz range (the GSM extension spectrum, known as the “e-GSM band”) was designated in the NTFA for *Terrestrial electronic communications services* and made available to the market in the scope of the referred Multi-Band Auction.

Thus, in this auction two lots of 2x5 MHz were made available in the 900 MHz band, one of these lots having been acquired by VODAFONE and no interest having been shown in the other lot, which remains available (880-885/925-930 MHz), as shown in **Figure 1**.

³ 900 MHz band: corresponds to the 880-915/925-960 MHz range.

⁴ Auction for the allocation of rights of use for frequencies in the 450 MHz, 800 MHz, 900 MHz, 1800 MHz, 2.1 GHz and 2.6 GHz bands, the rules of which were set out in Regulation 560-A/2011 of 19 October.

⁵ The 914-915/959-960 MHz band was not made available for GSM in most European countries (namely, in Portugal in 1991/1992/1997) as it was by then “occupied” with cordless telephones (CT1).

Due to the application of the 2x20 MHz deferred limit in spectrum ownership in the 900 MHz band (and in the 800 MHz band, under the Multi-Band Auction Regulation), VODAFONE subsequently returned 2x3 MHz⁶ of spectrum in this band. Therefore, in conclusion, MEO and NOS maintained the spectrum they held in the 900 MHz band, respectively 2x8 MHz and 2x7.8 MHz, VODAFONE now holds 2x10 MHz, and 2x3 MHz became available, as indicated in **Figure 1**.

In the meantime, the 914-915/959-960 MHz range, formerly “occupied” by cordless telephones (CT1), can now be made available to the market - as justified in the scope of the “*Draft decision on the designation of the 700 MHz band for terrestrial electronic communications services, as regards limitation of the number of rights of use for frequencies to be allocated in the 700 MHz, 900 MHz, 1800 MHz, 2.1 GHz, 2.6 GHz and 3.6 GHz bands and definition of the respective allocation procedure*”.

And lastly, under RUF currently owned by operators, the 900 MHz band may be used by systems identified in the annex to European Commission Decision 2009/766/EC of 16 October, as amended by Commission Implementing Decision 2011/251 (Decision 2011/251/EU) of 18 April 2011, on the harmonisation of the 900 MHz and 1800 MHz frequency bands for terrestrial systems capable of providing pan-European electronic communications services in the Community. In line with the technical annex to Decision 2011/251/EU, the two above-mentioned guard bands are no longer a necessary requirement.

In the light of the above, the currently unused spectrum in the 900 MHz band (identified in **Figure 1**) is as follows:

- 2x5 MHz (880-885/925-930 MHz)
- 2x100 kHz (890-890.1/935-935.1 MHz)
- 2x3 MHz (895.1-898.1/940.1-943.1 MHz)
- 2x100 kHz (913.9-914/958.9-959 MHz)
- 2x1 MHz (914-915/959-960 MHz)

amounting to 2x9.2 MHz of non-contiguous spectrum.

⁶ ANACOM decision of 11 February 2016, available at: <https://www.anacom.pt/render.jsp?contentId=1379371>.

All this spectrum is designated in the *Radiocommunications and Applications* section of the NTFA for *Terrestrial electronic communications services*, whereby only one 2x5 MHz channel in the 880-890/925-935 MHz range is currently identified in the *Reservations* section of the NTFA, subject to the allocation of a nationwide RUF, the allocation process not having yet been defined.

However, as explained in the “*Draft decision on the designation of the 700 MHz band for terrestrial electronic communications services, as regards limitation of the number of rights of use for frequencies to be allocated in the 700 MHz, 900 MHz, 1800 MHz, 2.1 GHz, 2.6 GHz and 3.6 GHz bands and definition of the respective allocation procedure*”, ANACOM intends to make available, by means of an auction, 2x9 MHz [2x5 MHz (FDD) + 2x3 MHz (FDD) + 2x1 MHz (FDD)] in the 900 MHz band (the NTFA being amended accordingly), in lots of 2x5 and 2x1 MHz, which allows for the allocation of up to 5 RUF in that band.

In this context, and exclusively from the point of view of the availability of spectrum resources, 2x200 kHz in the 900 MHz band are also available.

In support of its request, NOS invokes the situation of inequality in which it finds itself and which puts it at a disadvantage vis-à-vis its competitors in terms of capacity and flexibility of spectrum management, even claiming that ANACOM “*has always recognised this situation and in the report of the public consultation on the radio spectrum national strategic plan published in 2016 (...) concluded:*

*Regarding the request from NOS for a level playing field regarding the number of channels in the 900 MHz band, **this issue is relevant for ANACOM***” [emphasis added by NOS].

NOS also adds that the situation of inequality has worsened with the increase of its customer base.

In this context, it should be noted that NOS has actually expressed several times its interest to be provided with 1 channel of 2x200 kHz in the 900 MHz band. ANACOM has taken note of the interest shown and has referred the discussion to the appropriate forum, not having, in any situation, intended to create any expectation of allocation of that spectrum to NOS. In the example mentioned by NOS (National Strategic Spectrum Plan), this Authority stated that “*Regarding the request from NOS for a level playing field regarding the number of channels in the 900 MHz band, this issue is relevant for ANACOM and shall be considered at the appropriate time (e.g. when additional spectrum is allocated to TECS)*”. NOS now

submits its formal request for 1 channel of 2x200 kHz in the 900 MHz band for the first time, thus triggering this analysis.

It should also be noted that there is no provision in any legal instrument imposing an equitable distribution of spectrum in the market. It should also be noted that, at the time spectrum was made available (through a public tender), this was the amount of spectrum available for allocation.

Furthermore, in the scope of the Multi-Band Auction, NOS had the chance to acquire additional spectrum in this band under the same conditions as VODAFONE and chose not to do so.

Finally, in relation to the alleged worsening of the situation of inequality due to the increase of NOS' customer base, ANACOM finds no basis for this statement, being aware, on the one hand, of the spectrum held by each operator and, on the other hand, of each operator's market shares.

Without prejudice to the above, ANACOM acknowledges that - without calling into question the making available of 2x9 MHz in the 900 MHz band in the future allocation procedure for the 700 MHz band (and other relevant bands) and that making lots of 2x200 kHz available is not appropriate in this context - spectrum is still available in this band to meet NOS' request, and that only this operator, given its specific circumstances, has expressed an interest in holding this small amount of spectrum, corresponding to a single channel of 2x200 kHz. In this context, ANACOM is of the opinion that there are no obstacles to allowing the allocation of this spectrum to NOS in a fully accessibility regime.

Notwithstanding, considering the future allocation procedure for the 700 MHz band and other relevant bands, which includes the 900 MHz band, ANACOM cannot guarantee the contiguity of this spectrum as requested by NOS.

In fact, NOS, in view of the return of 2x3 MHz by VODAFONE, has requested spectrum contiguous to the one it already holds, but, as follows from the above, ANACOM intends to place these 2x3 MHz up for auction.

As can easily be anticipated, the results of the planned auction will be crucial to determine whether the 900 MHz band requires a readjustment, for the purpose of the contiguity of spectrum held by current and future RUF holders in this band, as addressed in the *"Draft decision on the designation of the 700 MHz band for terrestrial electronic communications services, as regards limitation of the number of rights of use for frequencies to be allocated"*

in the 700 MHz, 900 MHz, 1800 MHz, 2.1 GHz, 2.6 GHz and 3.6 GHz bands and definition of the respective allocation procedure", and, in this context, the acceptance of NOS's request may not, at this time, involve the indication of the actual spectrum range location, which will always be dependant on the results of the referred auction.

In brief,

- ANACOM does not identify obstacles in the allocation to NOS, in a full accessibility regime, of 2x200 kHz in the 900 MHz band, the NTFA being accordingly amended in the *Reservations* section with respect to the 890-890.1/935-935.1 MHz range and the 913.9-914/958.9-959 MHz range, i.e. with no guarantee of contiguity with spectrum already held by NOS in that band;
- The integration of these frequencies into the RUF held by NOS involves the appropriate amendment of the "Title of Rights of Use for Frequencies for Terrestrial Electronic Communications Services ICP-ANACOM No 01/2012", the use of these frequencies being subject to the conditions defined in Chapter I of Part III of the referred Title;
- However, the allocation will only take effect after the allocation of RUF that will be acquired in the future procedure for allocation of the 700 MHz band and other relevant bands, which include the 900 MHz band, at which time the actual location of this spectrum in the band can be established and the RUF held by NOS can accordingly be amended. The company agreed to these conditions in the scope of the prior hearing.

3.2. Analysis of the request in respect of the 2100 MHz band⁷

MEO, NOS and VODAFONE currently hold rights of use for frequencies in the 2100 MHz band. The current occupation of spectrum in this band is represented in **Figure 2** below.

⁷ 2100 MHz band: covers paired spectrum, FDD mode (1920-1980/2110-2170 MHz), and unpaired spectrum, TDD mode (1900-1920 MHz and 2010-2025 MHz).

	TDD				TDD			
Frequency band	1900 - 1920				2010 - 2025			
LB [MHz]	20,0				15,0			
Operator	Free				Free			
	FDD							
Up Link [MHz]	1920	1940	1940	1955	1960	1980		
LB [MHz]	20,0		15,0	5,0	20,0			
Operator	VODAFONE		NOS	Free	MEO			
Down Link [MHz]	2110	2130	2130	2145	2150	2170		
LB [MHz]	20,0		15,0	5,0	20,0			
Operator	VODAFONE		NOS	Free	MEO			
LB [MHz]	Vodafone 40,000		NOS 30,000		MEO 40,000			

Figure 2: Occupation of the 2100MHz band

It must be recalled that, by decision of 3 February 2012⁸, with effect as from 10 January of the same year, ANACOM granted the request submitted by NOS (then OPTIMUS) to return a 2x5 MHz block of UMTS-FDD frequencies in the 2100 MHz band (corresponding to the 1955-1960/2145-2150 MHz frequency range - shown in **Figure 2**), and accordingly amended the RUF held by the company.

The NTFA currently identifies, in the *Reservations* section, that the above-mentioned spectrum, designated for *terrestrial electronic communications services*, is subject to the allocation of RUF of a national scope, the allocation process not having yet been defined.

Furthermore, no interest has been expressed as regards these 2x5 MHz FDD (1955-1960/2145-2150 MHz) by any other entity until now, and this range has not been submitted to market consultation with the objective of assessing or prospecting a possible or potential interest therein. In fact, the issue included in the Consultation on the making available of spectrum in the 700 MHz frequency band (and other relevant bands)⁹, restricted its scope to the TDD sub-band.

In justification of its request, NOS now claims with ANACOM a number of arguments - summarised in point 1 above - which cannot but cause some surprise to this Authority.

In fact, in January 2012, for the purpose of returning spectrum, NOS alleged - as summarized in point 3.2 of ANACOM's decision of 03.02.2012 and set out in its letter of 9 January 2012, received on 10 January 2012 - that one of its primary objectives is the effective and efficient management of rights of use for frequencies held by the company at any given time, reason why the company constantly assesses spectrum needs for the

⁸ Vide footnote No 1.

⁹ Which can be found at <https://www.anacom.pt/render.jsp?contentId=1431846>.

pursuit of its activity and continuously monitors technological developments and international experiences related to the use of frequencies. In its request, NOS thus took into account the rights of use for frequencies held at that time - it is recalled, soon after having acquired RUF in the 800 MHz, 1800 MHz and 2600 MHz bands, within the referred Multi-Band Auction -, the assessment of its needs and the objectives of effective and efficient management of spectrum pursued by the company. NOS also clarified that its request was without prejudice to the fulfilment of obligations included in (at the time) Right of Use for Frequencies ICP-ANACOM No 01/2010.

It is therefore unquestionable that the return of this spectrum was a free and informed decision on the part of NOS, the company being well aware that it would find itself in a different situation from other operators holding spectrum in the 2100 MHz band - it must be insisted, a situation in which NOS placed itself voluntarily.

After this return of spectrum, NOS requested the allocation of temporary licences to increase capacity in several and numerous events, according to its needs. At the time, this allowed it to decrease the fees for use of spectrum it paid, given that, under the terms of Administrative Rule No. 1473-B/2008 of 17 December (the Fees Administrative Rule), in the version in force at the time, the fee associated with the temporary use of frequencies for terrestrial electronic communications services was proportional to the geographical area of the territory to which frequencies were temporarily allocated.

The case-by-case, intermittent and frequent use of spectrum involved the handling of several temporary licensing applications, at an irregular but intense pace, whereby this mechanism, intended to be flexible and occasional, was used in an unexpected manner.

This frequent use of spectrum (once or twice a month) led to additional regulatory costs, which have been assigned to spectrum management, i.e. the sector as a whole, with repercussions for the market and end-users.

In 2017, the spectrum tariff was reviewed¹⁰ and, among other amendments, ANACOM removed the provision which established the proportionality of the fee charged for spectrum used for terrestrial electronic communications services, by geographical area, where it was used only in part of the national territory. A decrease in NOS' applications for temporary spectrum was then observed.

¹⁰ Administrative Rule No 157/2017, of 10 May (6th amendment to Administrative Rule No 1473-B/2008, of 17 December, which approves the fees due to ANACOM), available at: <https://www.anacom.pt/render.jsp?contentId=1415253>.

Resuming, while it is of course up to NOS to make the options it favours regarding the management of spectrum held by it with respect to assessments made at each moment, it is not entitled, however, to “recover” spectrum it voluntarily returned, therefore the request for “*direct allocation*”, or rather, for allocation in a full accessibility regime, which it has addressed to ANACOM should be assessed by this Authority on the basis of the factual circumstances in question, in the exercise of its powers of efficient management of spectrum and in the pursuit of regulatory objectives for which it is responsible, within the applicable legal and regulatory framework.

As such, unaware of the real interest that other operators or any other entities may have in this (single) available FDD carrier, namely whether it may be relevant for any possible new operation (even where combined with other spectrum) or whether it may be relevant to reinforce an existing operation - for example on the part of MEO or VODAFONE - ANACOM considers that the conditions for the immediate allocation to NOS of the respective RUF, in a full accessibility regime, are not met.

On the contrary, ANACOM considers it appropriate to include the 2x5 MHz available in this band (1955-1960/2145-2150 MHz) in the future allocation procedure for the 700 MHz band and other relevant bands, whose “*Draft decision on the designation of the 700 MHz band for terrestrial electronic communications services, as regards limitation of the number of rights of use for frequencies to be allocated in the 700 MHz, 900 MHz, 1800 MHz, 2.1 GHz, 2.6 GHz and 3.6 GHz bands and definition of the respective allocation procedure*” was, as mentioned above, approved on this same date, whereby NOS or other possible stakeholders are able, in the framework of this allocation procedure, to acquire spectrum in a transparent and non-discriminatory manner.

4. Applicable consultation procedures

Article 8 of ECL provides that where, in the exercise of its powers, ANACOM intends to adopt measures with a significant impact on the market concerned, it is required to publish the respective draft, giving stakeholders the opportunity to comment on it within a period set for the purpose, of not less than 20 days.

Moreover, paragraph 3 of article 20 of ECL determines that amendments to rights of use for frequencies are subject to the general consultation procedure provided for in article 8 of the same law, and interested parties, including users and consumers, must be allowed a

sufficient period of time to express their views on the proposed amendments, which must be no less than 20 days, except in exceptional and duly justified circumstances.

In compliance with articles 121 *et seq.* of the Administrative Procedure Code, the draft decision was submitted to NOS for a prior hearing, the 20-working-day deadline having been set.

As such, on 22 October 2019, ANACOM thus approved a draft decision (DD) on requests received from NOS Comunicações (NOS) for the allocation of frequencies in the 900 MHz and 2100 MHz bands¹¹, which was submitted to the prior hearing of NOS, pursuant to articles 121 and 122 of the Administrative Procedure Code, as well as to the general consultation procedure, pursuant to article 8 of the [Electronic Communications Law](#).

By the expiry date of this period, on 20 November 2019, assessments were received from the following bodies:

- MEO – Serviços de Comunicações e Multimédia, S.A. (MEO);
- NOS Comunicações, S.A.¹² (NOS);
- Joint position of NOWO Communications, S.A., and ONITELECOM – Infocomunicações, S.A. (NOWO and ONI);
- VODAFONE Portugal – Comunicações Pessoais, S.A. (VODAFONE).

ANACOM subsequently prepared the Report of the Prior Hearing and Public Consultation on the Draft Decision, which is an integral part of this Decision and includes a summary of the positions expressed by stakeholders as well as ANACOM's views thereon.

In accordance with paragraph 3 d) of “ANACOM consultation procedures”, approved by determination of 12 February 2004¹³, ANACOM makes assessments received available at its website, safeguarding information of a confidential nature.

5. Decision

In the light of the above, **ANACOM's Board of Directors**, within the scope of duties provided for in paragraph 1 e) of article 8 of its Statutes, approved by Decree-Law No 39/2015, of 16 March, in pursuit of regulatory objectives provided for in paragraphs 1 a) and

¹¹ Available at <https://www.anacom.pt/render.jsp?contentId=1493045>.

¹² The joint position is shared with NOS Açores Comunicações S.A. and NOS Madeira Comunicações, S.A..

¹³ Available at <https://www.anacom.pt/render.jsp?contentId=420767>.

2 d) of article 5 of the Electronic Communications Law, Law No 5/2004, of 10 February, as it stands, and in the exercise of powers provided for in paragraph 1b) of article 9 of its Statutes, as well as articles 8, 15, 16, 20 and 30, all of the Electronic Communications Law, **hereby determines as follows:**

1. To amend the National Table of Frequency Allocations (NTFA), providing for the reservation of the 890-890.1/935-935.1 MHz and 913.9-914/958.9-959 MHz frequency ranges, to be allocated in a full accessibility regime, subject to the allocation of a RUF of a national scope.
2. To accept the request submitted by NOS for 2x200 kHz in the 900 MHz band, in a full accessibility regime, with no guarantee of contiguity with spectrum already held by the company in that band.
3. To amend the “Title of Rights of Use for Frequencies for Terrestrial Electronic Communications Services ICP-ANACOM No 01/2012” held by NOS, integrating frequencies referred to in the preceding paragraph into the RUF and making the use of these frequencies subject to conditions defined in Chapter I of Part III of the referred Title, which includes the applicable period of validity.
4. The allocation referred to in paragraph 2 shall only take effect after the allocation of RUF that will be acquired in the future procedure for allocation of the 700 MHz band and other relevant bands, which include the 900 MHz band, at which time the actual location of this spectrum in the band can be established and the RUF held by NOS can accordingly be amended, in accordance with the preceding paragraph.
5. To reject NOS’ request for “*direct and immediate allocation*” of 2x5 MHz in the 2100 MHz band (FDD), corresponding to the 1955-1960/2145-2150 MHz frequency block.

Lisbon, 23 December 2019.