



EUROPEAN COMMISSION

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Autoridade Nacional de
Comunicações (ANACOM)
Avenida José Malhoa No. 12
1099-017 Lisboa
Portugal

For the attention of
Mr. João Cadete de Matos
Chairperson

Fax: +351 21 721 10 02

Dear Mr Cadete de Matos,

Subject: Commission Decision concerning Case PT/2017/2045: Wholesale call termination on individual public telephone networks provided at a fixed location in Portugal – remedies

Article 7(3) of Directive 2002/21/EC: No comments

1. PROCEDURE

On 17 November 2017, the Commission registered a notification from the Portuguese national regulatory authority, *Autoridade Nacional de Comunicações* (ANACOM)¹, concerning remedies on the market for wholesale call termination on individual public telephone networks provided at a fixed location² in Portugal.

The national consultation³ ran from 7 August to 15 September 2017.

¹ Under Article 7 of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), OJ L 108, 24.4.2002, p. 33, as amended by Directive 2009/140/EC, OJ L 337, 18.12.2009, p. 37, and Regulation (EC) No 544/2009, OJ L 167, 29.6.2009, p. 12.

² Corresponding to market 1 in Commission Recommendation 2014/710/EU of 9 October 2014 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (Recommendation on Relevant Markets), OJ L 295, 11.10.2014, p. 79.

³ In accordance with Article 6 of the Framework Directive.

On 29 November 2017, a request for information⁴ was sent to ANACOM and a response was received on 30 November 2017.

2. DESCRIPTION OF THE DRAFT MEASURE

2.1. Background

The market for wholesale call termination on individual public telephone networks provided at a fixed location in Portugal was previously notified to and assessed by the Commission under case PT/2016/1932⁵.

ANACOM concluded that each of the notified product markets comprised the termination services of a single network operator. The relevant market covers fixed voice call termination services, provided at different network levels, independently of the transport and interconnection interface used. The market also includes the provision of VoIP (fixed or nomadic) termination services⁶ and fixed phone call services provided over GSM/UMTS frequencies (the so-called "homezone" services)⁷.

ANACOM identified 18 operators as having SMP on their relevant termination markets and imposed on them access (both TDM and IP), transparency⁸, non-discrimination and price control obligations. The non-discrimination and price control obligations are not applicable to calls originated outside the European Economic Area (EEA).

In particular, as part of the access obligation, ANACOM obliged MEO to submit a proposal for an IP interconnection architecture within 4 months following the publication of the final measure⁹.

The price control obligation implied the imposition of price-caps calculated on the basis of a pure BU-LRIC model (0.0644 €/minute). It applies for termination at the local and the single transit (regional) levels. As to the rate applicable at the double transit (national) level, ANACOM proposes to leave it to commercial negotiations.¹⁰

⁴ In accordance with Article 5(2) of the Framework Directive.

⁵ C(2016)7887.

⁶ Not including Skype-to-Skype.

⁷ The "homezone" services are offers allowing access to the public telephone network from a fixed location, based on GSM and UMTS technology and network.

⁸ This obligation includes for the incumbent MEO the requirement to publish a reference offer.

⁹ ANACOM further envisaged organising a meeting with all concerned operators within 2 months after the adoption of the final measure. During this meeting, MEO should present the guidelines of its proposal in order to give alternative operators the opportunity to present their suggestions and concerns, which had to be taken into account in the final proposal for IP interconnection. MEO's proposal should be then assessed by ANACOM in coordination with all market operators.

¹⁰ In the absence of a commercial agreement, the rates should not exceed 0.1642 €/minute.

The Commission commented on the delineation between the transit and the fixed voice call termination markets (ANACOM proposed to include the termination of calls at the double transit (national) level in the relevant termination markets) urging ANACOM to review the definition of the wholesale fixed call termination markets as soon as possible and to set an exact demarcation point between termination and transit markets, in recognition of the state of competition on transit routes beyond the regional/local point of interconnection. In the meantime, the Commission urged ANACOM to lift, in its final measure, the safety caps imposed on tariffs for termination at national level. The Commission also called upon ANACOM to update its cost model (based on 2012 data) without undue delay with a view to ensuring that fixed termination rates in Portugal are forward-looking and set on the basis of the most recent data available.

2.2. The notified measure

The notified draft measure now concerns the specification of the IP Interconnection obligations, including in particular changes to the Reference Interconnection Offer (RIO) of MEO. In essence, ANACOM presents its position on the relevant issues related to the technical proposal for IP interconnection as presented by MEO.

In particular, the draft measure refers to the following topics: i) network architecture and topology, together with the technical characteristics of the IP interconnection, quality of service, numbering and portability, among others; ii) the migration plan; iii) call origination¹¹ and iv) other issues raised such as traffic to mobile networks and costs.¹²

MEO's IP network would be based on two distinct IP geographical Interconnection points ("GIPs"), one located in Lisbon and the other in Porto, with two IP Points of Interconnection (POIs) being made available at each location. In this regard the draft notification provides that only smaller operators interconnected with MEO may choose an interconnection at a single GIP IP operated by MEO, having the choice in such case to deliver the entire termination traffic at such GIP, and MEO also being able in such circumstances to deliver the termination traffic at a single GIP IP from such operators. Moreover, no operator interconnected with another is obliged to be interconnected at more than two GIP IPs of each operator.

Regarding the migration plan, MEO would have six months for implementing the solution for the IP interconnection in its network, with the obligation to migrate

¹¹ According to the notified draft measure, within two months from the adoption of the final decision, MEO should present a specific migration plan for call origination, which should take into due account what was decided regarding the termination services, for reasons of overall efficiency of the interconnection process which normally associates, in operational terms, the two types of services with many common characteristics.

¹² ANACOM clarified that the IP interconnection obligation was only specified in the context of fixed markets. Nevertheless, nothing precludes operators from negotiating the most suitable technology solutions with each other for their specific circumstances. Moreover, regarding the costs, ANACOM proposes that, as in the case of TDM interconnection, MEO also includes in the RIO the description of how IP interconnection will be operationalized within its exchanges and how other reference offers (RELO and RUO) can be used to establish interconnection circuits with MEO, including information regarding the interconnection of operators present in MEO exchanges. ANACOM clarified that the notified measure has no impact on the current costing model, or on regulated prices, and is only intended to operationalize IP interconnection.

50% of the traffic terminated in its network over the following twelve months; the remaining traffic must be migrated in the following six months.

3. NO COMMENTS

The Commission has examined the notifications and the additional information provided by the ANACOM and has no comments.¹³

Pursuant to Article 7(7) of the Framework Directive, ANACOM may adopt the draft measure and, where it does so, shall communicate it to the Commission.

The Commission's position on this particular notification is without prejudice to any position it may take *vis-à-vis* other notified draft measures.

Pursuant to Point 15 of Recommendation 2008/850/EC¹⁴ the Commission will publish this document on its website. The Commission does not consider the information contained herein to be confidential. You are invited to inform the Commission¹⁵ within three working days following receipt whether you consider that, in accordance with EU and national rules on business confidentiality, this document contains confidential information which you wish to have deleted prior to such publication.¹⁶ You should give reasons for any such request.

Yours sincerely,

For the Commission,
Roberto Viola
Director-General

¹³ In accordance with Article 7(3) of the Framework Directive.

¹⁴ Commission Recommendation 2008/850/EC of 15 October 2008 on notifications, time limits and consultations provided for in Article 7 of Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services, OJ L 301, 12.11.2008, p. 23.

¹⁵ Your request should be sent either by email: CNECT-ARTICLE7@ec.europa.eu or by fax: +32 2 298 87 82.

¹⁶ The Commission may inform the public of the result of its assessment before the end of this three-day period.