

AUTORIDADE NACIONAL DE COMUNICAÇÕES (ANACOM)

Regulation No. .../2018

Amending Regulation No. 58/2005 of 18 August, as amended, republished and renumbered by Regulation No. 87/2009 of 18 February, amended by Regulation No. 302/2009 of 16 July, and amended and republished by Regulation No. 114/2012, of 13 March.

Portability Regulation

ANACOM Regulation No. 58/2005 of 18 August (hereinafter Portability Regulation), which lays down the principles and rules governing portability on public communication networks, was amended by Regulation No. 87/2009 of 18 February and by Regulation No. 302/2009, of 16 July, the latter amendment being solely intended to clarify the equivalence of time limits established therein and in the Portability Specification. Subsequently, a further amendment to the Portability Regulation was introduced by Regulation No. 114/2012, of 13 March, so as to comply with paragraph 3 of article 54 of Law No. 5/2004, of 10 February (Electronic Communications Law), as amended by Law No. 51/2011, of 13 September, which establishes that where the subscriber has concluded an agreement to port a number, the effective transfer of the number to the new company shall occur within one working day at the most.

Four years after the last amendment to the mentioned Regulation, ANACOM deems it necessary and appropriate to review some aspects of the portability regime, reason for which, by determination of 4 August 2016, the Authority approved the launch of the procedure for drafting a regulation amending the Portability Regulation, as well as the publication of the respective disclosure, inviting contributions, under paragraph 1 of article 98 of the Administrative Procedure Code.

By the end of the prescribed time limit, seven contributions had been received, which were analysed and weighted in the drafting of the amended regulation, which in accordance with article 10 of its Statutes and articles 98 et seq of the Administrative Procedure Code, was submitted by ANACOM to the corresponding regulatory consultation procedure, which lasted for 30 working days, having been published at ANACOM's website as well as in Series II of the Official Gazette - Notice No. 7175/2017, published on 28 June. The consultation period was, in the meantime, extended by 8 working days.

Upon conclusion of the regulatory consultation, ANACOM analysed and weighted contributions submitted, views thereon being set out in the report that supports choices made when this Regulation was approved. The report has been published at this Authority's website, as well as full versions of contributions received.

The aim of this regulation is essentially to extend the operating period of the portability window, the duration of which remains three consecutive hours, and the simplification of some processes, namely, the adjustment of some response times to the time limit of one working day for the effective porting of the number and the introduction of a new subscriber validation mechanism in the scope of the electronic portability application, in this latter case with the purpose of reducing the number of electronic applications rejected due to the lack of subscriber identification data at the donor or holder provider. The portability validation code was established for this purpose. In a technical perspective, the ACQ (All Call Query) method is established for call routing purposes, this method being already implemented in the situation of service cancellation, as it deemed to be the one that best suits the use of IP (Internet Protocol) technology and the associated standardization. ANACOM defined also the methodology to be used to route electronic communications (such as SMS) other than calls.

As regards procedures between companies under portability obligations, the delivery of contractual termination documents is restricted to situations of portability not applied to by the subscriber, whereby the obligation to store the mentioned documentation is also imposed on the recipient provider. This measure makes it possible to optimize resources and simplify procedures between companies under portability obligations, limiting the cases of compensation between companies to situations of undue portability, which refers to the portability of a number which has not been applied to by the subscriber.

Bearing in mind the increasing use of advanced electronic signature and the use of autograph signature acknowledged by a body with legal powers, “by resemblance” or “in that capacity with power to perform the act”, it was deemed appropriate to clarify that, in these cases, the signature of the subscriber in the contractual termination document, for portability purposes, does not require the conformity check.

At the level of price transparency, the notice that applies to calls to ported mobile numbers is now provided only at the express request of the end user. This change stems from the growing proliferation of flat rate pricing plans, that include communications to other networks, without prejudice to the right of subscribers to have the notice played, where requested.

Therefore, in the scope of powers provided for in points a) and h) of paragraph 1 of article 8, and under point a) of paragraph 2 of article 9, article 10 and point b) of paragraph 1 of article 26, all of ANACOM’s Statutes, approved by Decree-Law No. 39/2015, of 16 March, in pursuit of the regulatory objectives set out in point a) and c) of paragraph 1 of article 5 and for the purpose of articles 54 and 125, all of Law No. 5/2004, of 10 February, as it stands, ANACOM approved, by determination of 13 April 2018, the following amendments to the Portability Regulation:

Article 1
Amendment to the Portability Regulation

1 - Titles of chapters IV, V, VI and VIII of Regulation No. 58/2005 of 18 August, as amended, republished and renumbered by Regulation No. 87/2009 of 18 February, amended by Regulation No. 302/2009 of 16 July, and amended and republished by Regulation No. 114/2012, of 13 March (the Portability Regulation), are hereby amended to read as follows:

«Chapter IV
Routing of communications to ported numbers

Chapter V
Costs, prices and information

Chapter VI
Synchronization of processes

Chapter VIII
Final Provisions».

2 - Articles 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 28 of Regulation No. 58/2005 of 18 August, as amended, republished and renumbered by Regulation No. 87/2009 of 18 February, amended by Regulation No. 302/2009 of 16 July, and amended and republished by Regulation No. 114/2012, of 13 March (the Portability Regulation), are hereby amended to read as follows:

**«Article 1
[...]**

1 - ...

2 - ...

3 - The provisions of this Regulation shall be binding upon all companies under portability obligations, referred to hereinafter as companies, which shall cover:

a) Companies responsible for routing call traffic and non-call related communication traffic to numbers of the National Numbering Plan (NNP);

b) Companies holding NNP numbers, assigned to their subscribers on a secondary basis and which may be ported;

c) Companies which, by means of portability, receive numbers assigned to subscribers by other companies.

4 - Companies which do not have their own means for routing calls and non-call related communication traffic to ported numbers and for managing portability processes, may acquire these services from third parties, so as to meet portability obligations.

5 - ...

**Article 2
[...]**

1 - ...

a) «Geographic numbering area» shall mean each of the areas of the Portuguese territory identified by its own NNP access code;

b) «Reference Database» shall mean the set of data comprising, in particular, the numbers and codes required to route calls and non-call related communication traffic to ported numbers, the ported numbers themselves, the historical record of transactions between companies and additional items required so that portability takes effect correctly;

c) *(Repealed.)*

d) «Portability validation code» shall mean the identifier generated according to the format defined in Annex II to the Portability Specification, that allows the donor or holder provider to unambiguously identify the subscriber and its number(s) for the purpose of portability;

e) *[Former point d).]*

f) «Non-call related communications» shall mean any communication, other than a call, sent as a signalling message, where the number is used for routing purposes;

g) *[Former point e).]*

h) «Reference Body» shall mean the independent intermediary body in portability processes that manages the reference database;

i) *[Former point g].*

j) *(Repealed.)*

k) *[Former point h].*

l) *[Former point i].*

m) «Portability window» shall mean the three-consecutive-hour period during which portability or changes to the NRN occur, which takes place between 8 am and 11 pm. There are four portability windows: from 8 am to 11 am, from 12 pm to 3 pm, from 4 pm to 7 pm and from 8 pm to 11 pm;

n) *(Repealed.)*

o) *[Former point l].*

p) «Coherent application» shall mean a set of electronic portability applications related to various numbers and/or ranges of numbers of the same subscriber, handled as a single application and, consequently, ported within the same window, which may cover:

i) Geographic numbers;

ii) Mobile numbers;

iii) Nomadic numbers;

iv) Other non-geographic numbers.

q) *[Former point m].*

r) *[Former point p].*

s) «Portability» shall mean the feature which allows subscribers of publicly available electronic communications services to keep their number or numbers, within the scope of the same service, regardless of the company providing the service, for geographic numbers in a given location, and for the remaining numbers, throughout the national territory (operator portability);

t) *[Former point r].*

u) «Restricted geographic portability» shall mean the feature whereby a subscriber of electronic communications services is able to change the location of access to services within the national territory, while maintaining its geographic number. This feature is limited by the company's commercial offering and the geographic numbering area;

v) *[Former point t].*

w) *[Former point u].*

x) *[Former point v].*

y) *[Former point w].*

z) *[Former point x).]*

aa) *[Former point y).]*

2 - For the purpose of this Regulation, the following abbreviations shall apply:

a) «ACQ» shall mean All Call Query;

b) *[Former point a).]*

c) *[Former point b).]*

d) *[Former point c).]*

e) «PVC» shall mean Portability Validation Code;

f) *[Former point d).]*

g) *[Former point e).]*

h) *[Former point f).]*

i) *[Former point g).]*

j) *[Former point h).]*

k) *[Former point i).]*

l) *[Former point j).]*

m) *[Former point k).]*

n) *[Former point l).]*

o) *[Former point m).]*

p) *[Former point n).]*

q) *[Former point o).]*

r) *[Former point p).]*

s) *[Former point q).]*

t) *(Repealed.)*

u) *(Repealed.)*

v) *[Former point r).]*

w) *[Former point s).]*

x) «SMS» shall mean Short Message Service;

y) «TR» shall mean Technical Report;

z) «TS» shall mean Technical Standard;

aa) [*Former point v).*]

Article 3 **[...]**

1 - ...

a) ...

b) Mobile telephone service (91, 92, 93, 96);

c) ...

d) ...

e) ...

f) ...

g) ...

h) ...

i) ...

j) Other services or numbering ranges considered on a case-by-case basis by decision of ANACOM.

2 - ...

3 - ...

4 - ...

5 - ...

6 - ...

7 - ...

8 - Following number portability, in a simultaneous or subsequent act and through a commercial offering of the RP, the latter may allow the number to be maintained within the same geographic numbering area - restricted geographic portability.

Article 4
[...]

1 - The technical solution adopted in the interconnection of networks to implement portability, as specified in Annex 1 to the Portability Specification, which companies are required to carry out, shall be supported, from the network technical point of view, in ACQ or a similar solution that allows a previous query to a database, with appropriate information to route the call.

2 - *(Repealed.)*

3 - *(Repealed.)*

4 - In the case of non-call related communications, the technical solution shall be supported on methodologies described on the ETSI TS 123 066 standard, as defined in Annex 1 to the Portability Specification.

5 - Companies shall be required to maintain their database up-to-date in conformity with the RDB, ensuring that it covers necessary and sufficient information to allow the routing of traffic to ported numbers.

Article 5
[...]

1 - ...

2 - ...

3 - ...

4 - Companies shall ensure that the support networks and systems are prepared for number portability as from the date on which operation of the service begins, both as regards the routing of traffic to ported numbers and portability from and to their network, and shall also request access to the Portability Extranet to the Regulatory Authority, at least one month in advance.

5 - Pursuant to Law No. 5/2004, of 10 February, as it stands, companies shall provide the Regulatory Authority with all such information as the latter requests for the purposes of monitoring portability.

Article 7
[...]

1 - ...

2 - ...

3 - ...

4 - ...

5 - ...

6 - It shall be incumbent on the RP to ask the portability applicant if any other portability applications have been placed with other companies, so as to avoid overlapping applications.

7 - ...

a) ...

b) ...

c) ...

d) ...

e) *(Repealed.)*

f) Measures established by the Regulatory Authority for the provision of information to end-users, under article 21;

g) Period of time required for portability to take effect, defined in paragraph 10 of article 12.

8 - The RP shall be required to check the conformity of the portability application in accordance with article 12.

9 - *[Former paragraph 8.]*

10 - The RP shall be required to inform the subscriber of the portability window at least twelve hours in advance, and also that the service could be suspended or interrupted during this period.

11 - *[Former paragraph 10.]*

12 - *[Former paragraph 11.]*

13 - *[Former paragraph 12.]*

14 - *[Former paragraph 13.]*

Article 8 **[...]**

1 - ...

a) ...

b) URL of websites with information on procedures that allow the subscriber to obtain its PVC or additional items related to portability;

c) Contact points for inquiries on portability, namely the PVC.

2 - ...

3 - ...

4 - ...

5 - ...

6 - ...

7 - ...

a) ...

b) ...

8 - ...

9 - ...

10 - ...

Article 9

[...]

1 - In addition to the provisions set out in this chapter, portability support processes, which companies are required to carry out, are detailed in Annex II to the Portability Specification.

2 - ...

a) ...

b) ...

c) Electronic portability application presented by the RP to the DP, under articles 12, 13 and 14;

d) Number return process, under article 16.

Article 10

[...]

1 - ...

2 - The contract termination, duly identified as taking place for the purposes of portability, shall be addressed to the DP and submitted by the subscriber to the RP, whereby the RP shall be required to verify the termination document, in order to check, in particular, whether the respective signature is in conformity with the identification document presented for the purpose. In case of a legal person, a document evidencing the capacity of the signatory to sign the termination document on behalf of the legal person shall also be presented to the RP.

3 - The RP shall be required to store the contract termination documents that concerns portability for at least 5 years from the date on which they were presented.

4 - (*Repealed.*)

5 - As far as pre-paid services are concerned, termination shall be made effective by means of a portability application, which must be submitted to the RP via a document signed by the subscriber. The RP shall be required to store portability applications for at least 5 years from the date on which they were presented.

6 - ...

7 - ...

a) ...

b) ...

8 - ...

Article 11

[...]

1 - ...

2 - ...

3 - ...

4 - ...

a) Recovery by ANACOM of all numbers whose rights had been assigned to the company by this Regulatory Authority, including numbers that were inactive by the date of service cancellation, numbers that were active but which were not ported during the quarantine period, and numbers deactivated after the quarantine period that were subject to a return process;

b) ...

c) ...

d) ...

e) ...

f) ...

5 - ...

6 - ...

Article 12

[...]

1 - ...

2 - The subscriber that applies for number portability shall be required to:

- a) Apply for portability to the RP, filling an application specifically for that purpose;
- b) Provide the RP his/her own identification, even where he/she subscribes pre-paid services. In case of a legal person, a document evidencing the capacity of the signatory to sign the portability application on behalf of the legal person must also be presented to the RP, where appropriate;
- c) Provide the RP his/her PVC, for the purpose of article 12-A;
- d) Present the termination referred to in article 10, which may be included in the portability application referred to in point a), where appropriate.

3 - ...

4 - ...

5 - The simple or coherent application shall be transmitted electronically by the RP to the DP - electronic portability application - with indication of a window and day, such transmission taking place at least 24 consecutive hours on working days in advance of the indicated window.

6 - ...

7 - The DP shall be required to reply to the electronic portability application within at the most 15 consecutive hours on working days from the moment the application is presented, either accepting the indicated window or refusing the electronic portability application on a reasoned basis, under article 13.

8 - ...

9 - ...

10 - ...

a) ...

b) In the case of MSN and DDI portability entailing an active setting request from the RP to the DP, where the subscriber is unaware of such setting;

c) ...

d) When the services for which portability is required are sold on the basis of distance or off-premises contracts.

11 - In the cases provided for in points b) and d) of the preceding paragraph, the RP shall be required to ensure the effective transfer of the number within at the most 3 working days from the day on which the application presented by the subscriber is made, and, in the case referred to in point c), within one working day at the most, from the conclusion of the physical network intervention or from the provision of access to this network.

12 - Where the subscriber application is submitted after 5 pm on a working day, or where the physical network intervention is concluded after 5 pm on a working day, such applications

shall be deemed to have been lodged or concluded on the subsequent working day, for the purpose of the calculation of time limits referred to in paragraphs 10 and 11.

13 - ...

Article 13 **[...]**

1 - ...

2 - ...

a) ...

b) ...

c) *(Repealed.)*

d) *(Repealed.)*

e) ...

f) ...

g) Where the PVC does not correspond to the one notified by the subscriber to the DP, under article 12-A.

3 - ...

4 - *(Repealed.)*

5 - *(Repealed.)*

6 - ...

7 - ...

8 - ...

Article 14 **[...]**

1 - ...

2 - ...

a) Cancel the electronic portability application up to 12 consecutive hours on working days after the portability application cancellation request is submitted by the subscriber, except where the DP has not yet confirmed reception of the electronic application already submitted, in which case the cancellation must occur immediately upon receipt of this confirmation;

b) Cancel the coherent application, where the subscriber cancels the portability application associated to any of the numbers covered in the referred application;

c) Not renew the electronic application where it is refused by the DP or in case of error.

3 - ...

Article 16 **[...]**

1 - ...

2 - The return process provided for in the preceding paragraph shall also apply in case of the deactivation of a number which the RP became the holder of following a service cancellation, under article 11.

3 - At the end of the number return process, the number shall be returned to the Dp which must ensure compliance with the waiting period until its re-use.

4 - *[Former paragraph 3.]*

5 - For the purpose of paragraph 2, the RP is required to inform ANACOM of the number that was the subject of the return process, within 15 days from the expiry of the respective quarantine period.

Article 17 **[...]**

1 - ...

2 - ...

3 - ...

4 - ...

a) ...

b) ...

c) ...

d) ...

e) ...

5 - ...

a) *(Repealed.)*

b) ...

c) ...

d) ...

6 - A partial portability of DDI numbers may take place without requiring a prior resetting at the Dp, in which case the following conditions shall be observed:

a) ...

b) ...

c) In case of a second or subsequent portability, the HP shall be required to launch the process for the return of deactivated numbers to the Dp.

7 - ...

a) ...

b) ...

c) ...

d) ...

8 - ...

a) ...

b) ...

c) ...

d) ...

Article 18

[...]

1 - Without prejudice to this chapter, the conditions related to the traffic routing of calls and non-call related communications to ported numbers shall be defined in the Portability Specification, with which companies shall be required to comply.

2 - It is incumbent on the company in which the traffic is originated to route the call traffic and non-call related communication traffic to a ported number. This shall include the indirect access company, where selected, except in the following situations:

a) ...

b) ...

c) ...

3 - The responsibility for routing incoming international traffic to a ported number lies with the first network that receives it, whether fixed or mobile; this obligation may be fulfilled by a subsequent network, via a commercial agreement, where the first network does not have the capacity to understand the adopted signalling protocol.

4 - In the case of non-call related communication traffic, the methodology for routing it to ported numbers shall take place according to provisions set out in Annex I to the Portability Specification.

5 - *[Former paragraph 4.]*

6 - *[Former paragraph 5.]*

7 - The CLI shall be maintained in all electronic communications originated in the ported number.

Article 19

[...]

1 - ...

2 - ...

3 - When routing traffic of international origin to ported numbers, the RP shall not be required, unless it has been otherwise agreed, to pay any additional transmission costs for communications terminating on its network.

Article 20

[...]

1 - The price of a call or of a non-call related communication to a ported number shall be defined by the traffic owner, pursuant to paragraph 3 of article 64 of Law No. 5/2004 of 10 February, as it stands.

2 - ...

Article 21

Information to end-users

1 - Providers of mobile telephone services shall be required to provide the end-user, at his/her express request and at no cost, a free on-line notice, when making national voice calls between mobile networks to ported numbers, whenever they practise tariff plans which might result in a call to a ported number being more expensive than before portability of the same number.

2 - ...

3 - ...

4 - ...

a) ...

b) ...

c) ...

d) Where requested by the end-user, at no cost to the latter.

5 - For the purpose of paragraph 1 and point d) of the preceding paragraph, end-users shall be duly informed by each company of procedures to be adopted to activate and deactivate the hearing of the notice made available by companies.

6 - Without prejudice to other means of provision of information on prices under the terms of applicable legislation, providers of mobile telephone services or telephone services available at a fixed location and which have tariff plans whereby a call to a ported number may be more expensive than before portability, shall be required to provide, through a free number for calls made from their own network, a telephone information service on prices for voice calls and non-call related communications to ported numbers.

7 - The information services referred to in the preceding paragraph must be able to identify the destination network of the call about which the subscriber intends to obtain pricing information, where such identification is required for a proper provision of that information.

8 - Where companies choose to maintain prices of calls to ported numbers equal to those that applied prior to portability - number-based pricing - end-users must be unambiguously informed as to the existence of this rule, which is to be made clear in advertisements to pricing plans concerned.

9 - It is incumbent on the Regulatory Authority to determine, whenever deemed necessary, other ways and means of provision of information by companies to end-users concerning portability operations, calls to ported numbers and respective prices, thereby ensuring that such information remains appropriate and transparent.

Article 22

[...]

1 - ...

2 - ...

a) ...

b) Number of complaints received per month concerning the online notice, broken down according to the number of complaints related to the failure to hear the notice and the number of complaints related to its provision under paragraphs 1 to 3 of article 21, which must be submitted by the 30th day following the end of each semester;

c) Description of procedures to be adopted by end-users to activate and deactivate the notice, provided for in paragraphs 1 to 4 of article 21, which must be submitted by the 30th day following the end of each semester; where these procedures are changed, such changes, as well as the date on which they are to take effect, shall be notified to the Regulatory Authority at least five working days in advance;

d) Total of numbers which provide the active online notice provided for in paragraph 1 of article 21, referring to the end of each semester, which shall be submitted by the 30th day following the end of the same semester;

e) To inform the Regulatory Authority, where appropriate, of pricing plans where prices of calls and of non-call related communications to ported numbers vary according to the destination network, in order to check compliance with paragraphs 6 and 7 of article 21;

f) Indication by the 30th day following the end of each semester, of the number in force for access to the information service on prices of calls to ported numbers implemented by the company, for the purpose of publication at ANACOM's website; where this number is changed, the new number and the date of its entry into operation, shall be notified to the Regulatory Authority at least five working days in advance;

g) ...

3 - ...

4 - Companies holding numbers of the NNP, which may be ported and have been assigned to their subscribers on a secondary basis, and companies that receive numbers assigned on a secondary basis by other companies, through portability, are required to submit to the Regulatory Authority, by the 30th day following the end of each semester, up-to-date information on:

a) ...

b) ...

5 - ...

Article 23 Portability and Reference Unbundling Offer (RUO)

1 - ...

2 - ...

3 - ...

4 - ...

5 - ...

6 - By accepting the portability window, the DP shall be required to synchronise it with the loop unbundling process, so as to allow the portability process to take effect.

7 - ...

Article 25 [...]

Infringements to this Regulation shall be punishable under point dd) of paragraph 2 of article 113 of Law No. 5/2004, of 10 February, as it stands.

Article 26
[...]

1 - *(Repealed.)*

2 - In situations of undue portability, as provided for in article 10-A, the RP:

a) Shall not require the subscriber to pay for any communications, monthly charges or penalties that take place after the undue execution takes effect, bearing any costs incurred in returning the number to the DP, unless the subscriber declares not to desire this return;

b) Shall compensate the DP, RB and other companies with portability obligations for all costs they incur in completing the undue portability, for reasons for which the RP is responsible;

c) Shall pay the DP compensation amounting to (Euro) 100 for each number unduly ported, for reasons for which the RP is responsible, to a maximum of (Euro) 5000 per portability application completed in the case of portability of DDI ranges;

d) ...

3 - *(Repealed.)*

4 - In case of a delay in the transfer of numbers in relation to the time limit set out in paragraph 10 of article 12, the RP shall pay the subscriber compensation amounting to (Euro) 2.50 for each full working day of delay, per number, except in the case of subscribers who are not consumers and whose contracts specify different compensation amounts.

5 - ...

6 - ...

7 - Where the undue portability takes effect because the DP fails to verify the PVC in the electronic portability application, costs referred to in paragraph 2 shall be apportioned equally between the RP and the DP, in terms and time limits to be agreed between them, or, in the absence of agreement, within at the most sixty days from the date of undue portability.

8 - ...

9 - ...

Article 28
[...]

1 - Companies involved in portability procedures shall comply with Decree-Law No. 123/2009, of 21 May, as it stands, which governs the regime that applies to the construction of infrastructures suitable for the accommodation of electronic communications networks, to the set-up of electronic communications networks and the construction of infrastructures for telecommunications in housing developments, urban settlements and concentrations of buildings, in all matters applicable to them.

2 - ...

3 - ...».

Article 2
Addition to the Portability Regulation

Articles 10-A, 12-A and 23-A are hereby added to Regulation No. 58/2005 of 18 August, as amended, republished and renumbered by Regulation No. 87/2009 of 18 February, amended by Regulation No. 302/2009 of 16 July, and amended and republished by Regulation No. 114/2012, of 13 March, and shall read as follows:

«Article 10-A
Undue Portability

1 - In case a subscriber's number is ported without any prior application from the subscriber to that effect, the so-called undue portability, the DP may request the RP to send the documents referred in paragraphs 2 and 5 of article 10 within at the most 5 working days, calculated from the day on which it became aware of the allegedly undue portability.

2 - The request referred to in the preceding paragraph shall include the elements that suggest the undue portability, namely the complaint or claim from the subscriber.

3 - The RP shall send the DP the documents referred to in paragraph 1, in a medium that allow them to be appropriately and fully displayed, within at the most 3 days from the date on which the corresponding request is received.

Article 12-A
Portability Validation Code

1 - The portability validation code (PVC) shall be included in the electronic portability application.

2 - For the purpose of the preceding paragraph, the PVC shall be generated by the Dp when the number is assigned to the subscriber, or by the HP when it receives the number via portability, under Annex II to the Portability Specification.

3 - In the case of bundled service offerings, the DP may generate a single PVC for all numbers that integrate the offer.

4 - In the case of numbers to a DDI range, the DP shall generate a single PVC for all numbers within that range, which shall be used in the scope of partial or total portability processes according to procedures specified in article 17 hereof.

5 - The PVC shall remain valid:

- a) Until conclusion of the number or DDI range portability process;
- b) Until conclusion of the portability process of numbers that integrate a bundled service offering, in case a single PVC has been generated;
- c) Until expiry of the quarantine period;
- d) During the period of contract suspension.

6 - The DP shall inform the subscriber of the PVC through the following means:

- a) Invoices sent on a monthly basis, in case of post-paid services;
- b) SMS, in case of pre-paid services, within at the most 24 hours after the service is activated;
- c) The client's reserved area, where made available on the Internet or another platform, within at most 24 hours after the PVC is generated.

7 - Without prejudice to the preceding paragraph, the PVC may be requested by the subscriber through a face-to-face or telephone contact, or an SMS sent from the number to which the PVC corresponds.

8 - For the purpose of the preceding paragraph, the DP shall immediately inform the subscriber of the PVC in a durable medium through a face-to-face contact, automatic telephone voice mail, after the subscriber's identification data are validated, or automatic reply SMS, specifically for requests made via SMS.

Article 23-A **Portability and bundled service offerings**

1 - In the case of simultaneous portability of several numbers associated to bundled service offerings, the RP may submit a coherent application to the DP.

2 - The RP shall ensure an effective transfer of numbers covered by the coherent application within one working day, calculated from the submission of the portability application by the subscriber under paragraph 2 of article 12, except where a different time limit results from points a) to d) of paragraph 10 and paragraph 11 of article 12.

3 - The regime provided for in this article shall be without prejudice to article 23.»

Article 3 **Repeal**

Points c), j), m) and n) of paragraph 1 of article 2, points t) and u) of paragraph 2 of article 2, paragraphs 2 and 3 of article 4, point e) of paragraph 7 of article 7, paragraph 4 of article 10, points c) and d) of paragraph 2 and paragraphs 4 and 5 of article 13, point a) of paragraph 5 of article 17 and paragraphs 1 and 3 of article 26 of the Portability Regulation are hereby repealed.

Article 4 **Republication**

1 - Regulation No. 58/2005 of 18 August, as amended by the present Regulation, is republished in annex hereto, being deemed to be an integral part hereof.

2 - For the purpose of republication, for «ICP - Autoridade Nacional de Comunicações» and «ICP - ANACOM», read respectively «Autoridade Nacional de Comunicações» and «ANACOM».

Article 5 **Transitory provision**

1 - By the date of entry into force of article 21 of Regulation No. 58/2005 of 18 August, as amended by the present Regulation, providers of the mobile telephone service shall inform

their end-users, in good time, that where they wish to maintain the notice provided for in paragraph 1 of the referred article, they are required to make an express request for the purpose.

2 - By the date of entry into force of point b) of paragraph 1 of article 6 of this Regulation, companies shall:

a) Generate, under the terms defined in the Portability Specification, the Portability Validation Code (PVC) for active numbers that may be ported, as well as for numbers in quarantine by the date of entry into force of this Regulation;

b) Inform their subscribers of their PVC, in good time, and under the terms provided for in article 12-A of Regulation No. 58/2005 of 18 August, as amended by the present Regulation.

3 - Within three months at the most from the date of publication of this Regulation, Annexes I and II of the Portability Specification shall be reviewed and updated by companies under portability obligations and by the Reference Body, under ANACOM's coordination, and shall be made available at this Authority's website.

Article 6 **Entry into force**

1 - Amendments made to Regulation No. 58/2005 of 18 August by this Regulation shall take effect 10 days after they are published, except for:

a) Point f) and g) of paragraph 7, of article 7, and articles 21 and 22, which take effect 3 months from that date;

b) Article 2, paragraph 8 of article 7 and articles 8, 9, 12, 12-A, 13, 14, 17, 18 and 23-A, which take effect 9 months from that date.

c) Article 4, which takes effect 2 years from that date.

2 - Annexes I and II of the Portability Specification, updated and made available under paragraph 3 of article 5 of this Regulation, shall take effect 9 months from the date of publication hereof.

ANNEX

Republication of Regulation No. 58/2005 of 18 August

(Portability Regulation)

CHAPTER I General Provisions

Article 1 Subject-matter and scope

1 - The present regulation lays down the principles and rules that apply to portability in public communication networks.

2 - This Regulation does not cover aspects related to the Reference Body, in particular those of a legal, contractual and functional nature.

3 - The provisions of this Regulation shall be binding upon all companies under portability obligations, referred to hereinafter as companies, which shall cover:

a) Companies responsible for routing call traffic and non-call related communication traffic to numbers of the National Numbering Plan (NNP);

b) Companies holding NNP numbers, assigned to their subscribers on a secondary basis and which may be ported;

c) Companies which, by means of portability, receive numbers assigned to subscribers by other companies.

4 - Companies which do not have their own means for routing calls and non-call related communication traffic to ported numbers and for managing portability processes, may acquire these services from third parties, so as to meet portability obligations.

5 - In case services are acquired from third parties, under the preceding paragraph, the company acquiring the services shall be required to assume responsibility, towards the Regulatory Authority, users, other companies and the Reference Body, for meeting obligations arising from applicable legislation and regulations, as well as from other instruments, namely the contract with the Reference Body.

Article 2 Definitions and abbreviations

1 - For the purpose of this Regulation, the following definitions shall apply:

a) «Geographic numbering area» shall mean each of the areas of the Portuguese territory identified by its own NNP access code;

b) «Reference Database» shall mean the set of data comprising, in particular, the numbers and codes required to route calls and non-call related communication traffic to ported numbers, the ported numbers themselves, the historical record of transactions between companies and additional items required so that portability takes effect correctly;

c) *(Repealed.)*

d) «Portability validation code» shall mean the identifier generated according to the format defined in Annex II to the Portability Specification, that allows the donor or holder provider to unambiguously identify the subscriber and its number(s) for the purpose of portability;

e) «Monitoring Committee» shall mean the body created under the Protocol signed on 23 January 2001 between ANACOM, APRITEL, and public telecommunication service providers under portability obligations, providing an interface between the Reference Body and providers under portability obligations;

f) «Non-call related communications» shall mean any communication, other than a call, sent as a signalling message, where the number is used for routing purposes;

g) «Working day» shall mean any weekday, from Monday to Friday, other than Portuguese national holidays, Carnival Tuesday and Christmas Eve;

h) «Reference Body» shall mean the independent intermediary body in portability processes that manages the reference database;

i) «Portability Specification» shall mean the technical and procedural rules governing portability, adopted by the Regulatory Authority and which companies are required to comply with. The Specification corresponds to Annexes I and II to the “Operator Portability Specification”, approved by determination of ANACOM’s Management Board of 28 June 2001, without prejudice to amendments which may be introduced thereto, where appropriate;

j) *(Repealed.)*

k) «Portability Extranet» shall mean the secure site hosted at anacom.pt, where portability-related information is made available, and external access to which is restricted to the Reference Body and companies under portability obligations;

l) «DDI Range» shall mean ranges of 10, 100, or 1000 contiguous numbers, starting with a number ending in 0, 00, and 000, respectively, identifying PABX extensions. DDI ranges of a PABX may be either contiguous or non-contiguous;

m) «Portability window» shall mean the three-consecutive-hour period during which portability or changes to the NRN occur, which takes place between 8 am and 11 pm. There are four portability windows: from 8 am to 11 am, from 12 pm to 3 pm, from 4 pm to 7 pm and from 8 pm to 11 pm;

n) *(Repealed.)*

o) «Multiple Subscriber Number (MSN)» shall mean the set of individual numbers allocated to the same network interface, which may include contiguous or non-contiguous numbers;

p) «Coherent application» shall mean a set of electronic portability applications related to various numbers and/or ranges of numbers of the same subscriber, handled as a single application and, consequently, ported within the same window, which may cover:

i) Geographic numbers;

ii) Mobile numbers;

iii) Nomadic numbers;

iv) Other non-geographic numbers.

q) «Simple application» shall mean an electronic portability application concerning a single number or range of numbers;

r) «Point of no return» shall mean that moment as from which it is no longer possible to cancel an electronic portability application;

s) «Portability» shall mean the feature which allows subscribers of publicly available electronic communications services to keep their number or numbers, within the scope of the same service, regardless of the company providing the service, for geographic numbers in a given location, and for the remaining numbers, throughout the national territory (operator portability);

t) «Implicit portability» shall mean number portability associated with subscriber numbers, in particular mobile telephone service numbers for fax, data, and voice mail services, without associated administrative procedures; companies shall assume by default that numbers assigned to these services are also ported when the subscriber number with which they are associated is ported;

u) «Restricted geographic portability» shall mean the feature whereby a subscriber of electronic communications services is able to change the location of access to services within the national territory, while maintaining its geographic number. This feature is limited by the company's commercial offering and the geographic numbering area;

v) «Holder provider» shall mean the recipient provider that acts in portability processes as the holder of the number(s) or range(s) of numbers from which the subscriber switches through a portability application subsequent to the first one;

w) «Donor provider» shall mean the company responsible for the numbering resources which were initially allocated to it by the Regulatory Authority and from which the subscriber switches in its first portability application;

x) «Recipient provider» shall mean the company to which the subscriber switches, importing the respective numbering resources;

y) «Regulatory Authority» shall mean Autoridade Nacional de Comunicações (ANACOM);

z) «Waiting period» shall mean the 6-month period during which companies are not allowed to assign numbers previously in use to new subscribers. The waiting period includes the quarantine period;

aa) «Quarantine period» shall mean the 3-month period during which, following the end of the agreement with the DP, the user may request the use of the number in the same company or apply for portability. The quarantine period expires on the same day of the month if it is a working day or, otherwise, on the next working day.

2 - For the purpose of this Regulation, the following abbreviations shall apply:

a) «ACQ» shall mean All Call Query;

b) «APRITEL» shall mean Telecommunications Operators Association;

- c) «RDB» shall mean Reference Database;
- d) «CLI» shall mean Calling Line Identification;
- e) «PVC» shall mean Portability Validation Code;
- f) «DDI» shall mean Direct Dial In;
- g) «RB» shall mean Reference Body;
- h) «ETSI» shall mean European Telecommunications Standards Institute;
- i) «MSISDN» shall mean Mobile Station ISDN Number;
- j) «MSN» shall mean Multiple Subscriber Number;
- k) «NRN» shall mean Network Routing Number;
- l) «RUO» shall mean Reference Unbundling Offer;
- m) «RIO» shall mean Reference Interconnection Offer;
- n) «DAP» shall mean Direct Access Provider;
- o) «DP» shall mean Donor or Holder Provider;
- p) «HP» shall mean Holder Provider;
- q) «Dp» shall mean Donor Provider;
- r) «NNP» shall mean National Numbering Plan;
- s) «PABX» shall mean Private Automatic Branch Exchange;
- t) *(Repealed.)*
- u) *(Repealed.)*
- v) «PSP» shall mean Pre-Selected Provider;
- w) «RP» shall mean Recipient Provider;
- x) «SMS» shall mean Short Message Service;
- y) «TR» shall mean Technical Report;
- z) «TS» shall mean Technical Standard;
- aa) «VoIP» shall mean Voice over Internet Protocol.

Article 3 **Scope of portability**

1 - Numbers assigned to the following services may be ported:

- a) Telephone service at a fixed location (2);
- b) Mobile telephone service (91, 92, 93, 96);
- c) Nomadic VoIP service (30);
- d) Toll-free Call Services (800);
- e) Shared Cost Call Services (808, 809);
- f) Universal Access Services (707 and 708);
- g) Flat-rate call service (760, 761, 762);
- h) Premium-rate utility service (71);
- i) Personal Number Service (884);
- j) Other services or numbering ranges considered on a case-by-case basis by decision of ANACOM.

2 - The following numbers may not be ported:

- a) Numbers related to public pay-phones;
- b) Numbers related to temporary accesses;
- c) Inactive numbers, except where they are in quarantine.

3 - The portability of a non-geographic non-mobile number shall not necessarily imply the portability of the corresponding support number, save where the subscriber explicitly gives an indication to that effect, in which case the RP shall be required to maintain the link between the non-geographic non-mobile number and the corresponding number.

4 - The portability of mobile telephone service numbers shall entail the implicit portability of associated numbers for access to the voice mail service, including a number for checking voice mail and another number for leaving messages, as follows:

- a) Checking voice mail - 60 9xxxxxxx;
- b) Leaving messages - 66 9xxxxxxx.

5 - The portability of mobile telephone service numbers shall entail the implicit portability of associated numbers for access to mobile fax and data services, including a number for each service, as follows:

- a) Access to mobile fax services - 63 9xxxxxxx;

b) Access to mobile data services - 65 9xxxxxxx;

6 - Notwithstanding the maintenance of the service and its fundamental characteristics, the number portability shall limit the subscriber to the commercial offering of such service by the RP, including situations of return to the DP, and practices whereby subscribers with and without ported numbers are discriminated shall be prohibited.

7 - The DP shall be required to provide access to services which are dependent on it at a technical level, as they are part of its commercial offering, so that the RP may provide them to a subscriber with the ported number.

8 - Following number portability, in a simultaneous or subsequent act and through a commercial offering of the RP, the latter may allow the number to be maintained within the same geographic numbering area - restricted geographic portability.

Article 4 Portability solution

1 - The technical solution adopted in the interconnection of networks to implement portability, as specified in Annex 1 to the Portability Specification, which companies are required to carry out, shall be supported, from the network technical point of view, in ACQ or a similar solution that allows a previous query to a database, with appropriate information to route the call.

2 - *(Repealed.)*

3 - *(Repealed.)*

4 - In the case of non-call related communications, the technical solution shall be supported on methodologies described on the ETSI TS 123 066 standard, as defined in Annex 1 to the Portability Specification.

5 - Companies shall be required to maintain their database up-to-date in conformity with the RDB, ensuring that it covers necessary and sufficient information to allow the routing of traffic to ported numbers.

CHAPTER II Principles and rules to be observed by companies with portability obligations

Article 5 General rules and principles

1 - Companies shall cooperate with each other to facilitate number portability and to guarantee the respective quality, namely through the conclusion of interconnection agreements, in compliance with the legal framework in force.

2 - The entire portability process shall be carried out so as to minimise the interruption of the service provided to the subscriber, the portability window being admitted as the limit for such interruption.

3 - Networks and systems shall be developed and improved as required, in order to monitor the evolution of portability, particularly as regards the growth in the number of applications and/or ported numbers and the introduction of new services and features.

4 - Companies shall ensure that the support networks and systems are prepared for number portability as from the date on which operation of the service begins, both as regards the routing of traffic to ported numbers and portability from and to their network, and shall also request access to the Portability Extranet to the Regulatory Authority, at least one month in advance.

5 - Pursuant to Law No. 5/2004, of 10 February, as it stands, companies shall provide the Regulatory Authority with all such information as the latter requests for the purposes of monitoring portability.

Article 6

Obligations of the donor and holder providers

1 - The Dp shall be responsible for the numbers that are assigned to it by the Regulatory Authority on a primary allocation basis, as well as for those it becomes the holder of as a result of a service cancellation, under article 11.

2 - Where the subscriber submits a request for termination of a portability application directly to the DP, the latter shall impartially inform the subscriber that the termination request must be submitted to the RP.

3 - The DP shall not charge the subscriber for the number portability.

4 - Following the number portability, and without prejudice to the fulfilment of contractual obligations, the DP shall not bill the former subscriber for any service(s) associated with the ported number(s).

5 - Where a number under a portability process is monitored by the competent authorities, in accordance with powers for lawful interception of telecommunications, guaranteed by law, the DP shall notify the authority that ordered the interception that the referred number will be ported, the moment when the portability takes effect and the RP concerned, immediately after the point of no return, and in a timely manner, so as to not compromise the continuity of interception.

6 - When the DP is also the DAP, in the scope of pre-selection, it shall inform the PSP in this scope as regards the dismantling of the pre-selection.

7 - The Dp shall provide users with a free notice on the inactive number during the period of time between the recovery of the number and the end of the waiting period.

8 - In case of a transfer of contractual position between subscribers, the Dp shall not object where the RP allows the number to be maintained, insofar as the service is not interrupted.

Article 7

Obligations of the recipient provider

1 - The RP shall be responsible for the entire number portability process, being required to manage this process in the protection of the subscriber's interests.

2 - The RP shall respect the subscriber's portability application in conformity with the definition of that feature, which means that the subscriber switches companies while maintaining its number from the moment he/she subscribes the service provided by the RP.

3 - The RP shall ready-prepare its network and systems, before connecting the new subscriber.

4 - The RP shall be responsible for the proper sizing of its networks, services and support systems so as to ensure that portability does not cause the degradation of the quality of service.

5 - When the RP receives a portability application for a number in quarantine, it shall check the termination date of the contract between the applicant and the DP, in order to ensure that the electronic portability application is processed on time.

6 - It shall be incumbent on the RP to ask the portability applicant if any other portability applications have been placed with other companies, so as to avoid overlapping applications.

7 - Upon subscription to the service, the RP shall provide the subscriber with all information related to the portability process, namely:

a) Any costs associated with the respective application;

b) Loss of any positive balances with the DP;

c) The right to be compensated of (Euro) 20 per day per number for service interruption of ported number(s), under article 26, except in the case of subscribers who are not consumers and whose contracts specify different compensation amounts;

d) The right to be compensated of (Euro) 2.50 per day per number for each day by which the period required for portability to take effect has been exceeded, under article 26, except in the case of subscribers who are not consumers and whose contracts specify different compensation amounts;

e) *(Repealed.)*

f) Measures established by the Regulatory Authority for the provision of information to end-users, under article 21;

g) Period of time required for portability to take effect, defined in paragraph 10 of article 12.

8 - The RP shall be required to check the conformity of the portability application in accordance with article 12.

9 - The RP shall be required to inform subscribers who have a pre-paid card agreement with the DP that the information provided by the subscriber for the portability process may be made available to the DP.

10 - The RP shall be required to inform the subscriber of the portability window, at least twelve hours in advance, and also that the service could be suspended or interrupted during this period.

11 - The RP shall be responsible for ensuring, insofar as possible, that the subscriber has access to emergency services during the portability window.

12 - The RP shall be responsible for confirming that portability has been completed successfully, as well as, in case of failure, for taking the necessary corrective actions in a timely manner.

13 - The RP shall provide users with a free notice on the inactive number during the quarantine period and until the RB returns the number to the Dp at the end of the number return process.

14 - The RP shall be required to comply with the conditions of use of ported numbers, including during the quarantine period, as appropriate.

Article 8

Common obligations of companies with portability obligations

1 - Within the scope of Portability Extranet, companies shall be required to provide the information below, 10 working days in advance of the respective operating date, and to it keep up to date, without prejudice to any other information deemed by ANACOM to be relevant:

a) Network Routing Number (NRN) tables;

b) URL of websites with information on procedures that allow the subscriber to obtain its PVC or additional items related to portability;

c) Contact points for inquiries on portability, namely the PVC.

2 - The preceding paragraph shall be without prejudice to the obligation of companies to make the same information available in other contexts, in particular with respect to interconnection agreements.

3 - Companies shall consult the information made available in the Portability Extranet on a regular basis.

4 - Without prejudice to legislation governing the protection of personal data and privacy, companies shall provide each other with relevant information on the successful development of portability processes, namely information referred to in paragraphs 2 and 3 of article 17.

5 - Companies shall be required to ensure a proper and effective management and operation of procedures defined to support the portability solution, so as not to degrade such solution.

6 - Companies shall be required to bear, in the scope of their own systems and those of the RB, the costs of the automatic portability solution in force, as well as those related to any changes to that solution, resulting from regulatory measures adopted by ANACOM, in particular to implement article 11, further to applicable consultation procedures.

7 - Companies shall be required to meet obligations set out in the protocol concluded between the Regulatory Authority, APRITEL and telecommunication service providers with portability obligations on 23 January 2001, and in the service agreement concluded with the RB on 25 June 2001, namely:

a) To clarify matters with the Monitoring Committee, namely of a legal, economic, technical or functional nature, as required by such Committee;

b) To sit on the Monitoring Committee when appointed through APRITEL and to abide by the respective rules of operation.

8 - Companies shall carry out, on their networks and systems, the actions required for each portability process during the respective window, so that service interruption does not exceed this window.

9 - Companies shall carry out in a timely manner the actions required to resolve faults that prevent portability processes from being successfully completed, namely in compliance with ETSI TR 101 698, using contacts defined for this purpose entered by each company in the respective area of the Portability Extranet.

10 - Companies that, under paragraph 5 of article 11, take on all obligations and rights related to numbers of a cancelled service, shall send ANACOM the list of numbers concerned and the date on which the respective obligations are taken on, within 10 working days from the quarantine period that follows the service cancellation.

CHAPTER III Portability processes

Article 9 Processes

1 - In addition to the provisions set out in this chapter, portability support processes, which companies are required to carry out, are detailed in Annex II to the Portability Specification.

2 - Portability processes include the following fundamental administrative procedures:

- a) Termination or amendment of the contract concluded with the DP, under articles 10 and 11;
- b) Portability application submitted by the subscriber to the RP, under articles 12 and 14;
- c) Electronic portability application presented by the RP to the DP, under articles 12, 13 and 14;
- d) Number return process, under article 16.

Article 10 Contract termination

1 - Portability shall imply expiry of the contract between the subscriber applying for portability and a given company and the conclusion of a new contract with another company to which the number or numbers concerned are ported.

2 - The contract termination, duly identified as taking place for the purposes of portability, shall be addressed to the DP and submitted by the subscriber to the RP, whereby the RP shall be required to verify the termination document, in order to check, in particular, whether the respective signature is in conformity with the identification document presented for the purpose. In case of a legal person, a document evidencing the capacity of the signatory to sign the termination document on behalf of the legal person shall also be presented to the RP.

3 - The RP shall be required to store the contract termination documents that concerns portability for at least 5 years from the date on which they were presented.

4 - *(Repealed.)*

5 - As far as pre-paid services are concerned, termination shall be made effective by means of a portability application, which must be submitted to the RP via a document signed by the subscriber. The RP shall be required to store portability applications for at least 5 years from the date on which they were presented.

6 - The termination of the contract shall take effect on the moment when portability effectively takes place, which corresponds to the agreed portability window and the respective update of the RDB by the RB.

7 - Termination associated with a portability application shall be cancelled in the following cases:

a) On expiry, 3 months after it is submitted;

b) At the specific request of the subscriber, addressed to the DP and submitted to the RP.

8 - This article shall apply where mere amendments to the contract with the DP are introduced, where this contract includes numbers other than the number or numbers to be ported.

Article 10-A Undue Portability

1 - In case a subscriber's number is ported without any prior application from the subscriber to that effect, the so-called undue portability, the DP may request the RP to send the documents referred in paragraphs 2 and 5 of article 10 within at the most 5 working days, calculated from the day on which it became aware of the allegedly undue portability.

2 - The request referred to in the preceding paragraph shall include the elements that suggest the undue portability, namely the complaint or claim from the subscriber.

3 - The RP shall send the DP the documents referred to in paragraph 1, in a medium that allow them to be appropriately and fully displayed, within at the most 3 days from the date on which the corresponding request is received.

Article 11 Service cancellation

1 - Where a company intends to cancel the service, it shall be required to provide advance notice of the cancellation of the offering to the respective subscribers within the legal or contractual time limits, informing subscribers that they may port their numbers prior to the expiry of the quarantine period.

2 - The contractual relationship ceases at the end of the period of notice which the company is required to provide, or at a later date, according to the notification.

3 - Without prejudice to penalties applicable to the company, failure by the company to notify the subscriber under paragraph 1 shall be without prejudice to the subscriber's right to portability, the subscriber being entitled to apply for portability as from the moment the service provision ends, as confirmed by ANACOM.

4 - Cancellation of service is implemented through the following actions:

- a) Recovery by ANACOM of all numbers whose rights had been assigned to the company by this Regulatory Authority, including numbers that were inactive by the date of service cancellation, numbers that were active but which were not ported during the quarantine period, and numbers deactivated after the quarantine period that were subject to a return process;
- b) Recovery by Dp of all numbers which had been ported to the company cancelling the service and which during the quarantine period were not the subject of an application for portability to another operator;
- c) Taking on by the RP of all rights and responsibilities associated with the numbers of its subscribers, assigned to the company of the cancelled service on a primary basis and which had been ported to the RP up to the date of service cancellation, as from that date;
- d) Taking on by the RP of all rights and responsibilities associated with the numbers of its subscribers, assigned, on a primary basis, to the company of the cancelled service which had ported its numbers, as a first portability during the quarantine period, as from the date on which the portability is made effective;
- e) Taking on by the RP of the condition of Dp as regards numbers of its subscribers under the conditions of the two preceding paragraphs, who become subscribers of other companies through portability;
- f) Taking on by the RB of the role of DP, in terms of processes, in respect of the first portability of numbers of the cancelled service, as from the date of such cancellation and during the quarantine period.

5 - To the RP of numbers ported from a company that cancelled the service under this article, to whom such numbers had been assigned by the Regulatory Authority on a primary basis, shall apply all conditions associated with the rights of use of such numbers as from the date the service is cancelled or the date on which the first portability application is made effective, where the latter takes place at a later date, during the quarantine period. For future portability processes concerning these numbers, the RP shall be a Dp.

6 - Where the RP receives a portability application concerning a number or numbers of a subscriber of a company that cancelled the service as provided for in this article, the RP shall act as if a DP existed, whereby the role of DP shall be played by the RB, for process purposes.

Article 12

Portability application

1 - The switching of companies by a subscriber, in order to sign up to the same service, shall not imply portability of the number, except if otherwise expressly indicated by the subscriber.

2 - The subscriber that applies for number portability shall be required to:

- a) Apply for portability to the RP, filling an application specifically for that purpose;
- b) Provide the RP his/her own identification, even where he/she subscribe pre-paid services. In case of a legal person, a document evidencing the capacity of the signatory to sign the portability application on behalf of the legal person must also be presented to the RP, where appropriate;
- c) Provide the RP his/her PVC, for the purpose of article 12-A;

d) Present the termination referred to in article 10, which may be included in the portability application referred to in point a), where appropriate.

3 - The subscriber may request portability on behalf of a duly identified third party who has given the subscriber express authorization to conclude the new contract with the RP.

4 - The provisions of the preceding paragraph shall not apply in cases of merger, acquisition, or change of corporate name, being deemed that the contract with the RP is concluded with the same party.

5 - The simple or coherent application shall be transmitted electronically by the RP to the DP - electronic portability application - with indication of a window and day, such transmission taking place at least 24 consecutive hours on working days in advance of the indicated window.

6 - Coherent applications shall be submitted individually, being referred by the total number of applications, and being sequentially ordered.

7 - The DP shall be required to reply to the electronic portability application within at the most 15 consecutive hours on working days from the moment the application is presented, either accepting the indicated window or refusing the electronic portability application on a reasoned basis, under article 13.

8 - *(Repealed.)*

9 - *(Repealed.)*

10 - The RP shall ensure that the number is effectively ported within one working day at the most from the moment the subscriber's application is submitted, under paragraph 2, except in the following cases:

a) Where the subscriber has requested or agreed to a longer period;

b) In the case of MSN and DDI portability entailing an active setting request from the RP to the DP, where the subscriber is unaware of such setting;

c) Where the switching of provider to which portability is associated entails physical intervention on the network that supports the service to be provided or where access to this network is not available;

d) When the services for which portability is required are sold on the basis of distance or off-premises contracts.

11 - In the cases provided for in points b) and d) of the preceding paragraph, the RP shall be required to ensure the effective transfer of the number within at the most 3 working days from the day on which the application presented by the subscriber is made, and, in the case referred to in point c), within one working day at the most, from the conclusion of the physical network intervention or from the provision of access to this network.

12 - Where the subscriber application is submitted after 5 pm on a working day, or where the physical network intervention is concluded after 5 pm on a working day, such applications shall be deemed to have been lodged or concluded on the subsequent working day, for the purpose of the calculation of time limits referred to in paragraphs 10 and 11.

13 - Time limits referred to in paragraphs 5 and 7 begin on the moment the event that triggers their calculation occurs.

Article 12-A Portability Validation Code

1 - The portability validation code (PVC) shall be included in the electronic portability application.

2 - For the purpose of the preceding paragraph, the PVC shall be generated by the Dp when the number is assigned to the subscriber, or by the HP when it receives the number via portability, under Annex II to the Portability Specification.

3 - In the case of bundled service offerings, the DP may generate a single PVC for all numbers that integrate the offer.

4 - In the case of numbers to a DDI range, the DP shall generate a single PVC for all numbers within that range, which shall be used in the scope of partial or total portability processes according to procedures specified in article 17 hereof.

5 - The PVC shall remain valid:

- a) Until conclusion of the number or DDI range portability process;
- b) Until conclusion of the portability process of numbers that integrate a bundled service offering, in case a single PVC has been generated;
- c) Until expiry of the quarantine period;
- d) During the period of contract suspension.

6 - The DP shall inform the subscriber of the PVC through the following means:

- a) Invoices sent on a monthly basis, in case of post-paid services;
- b) SMS, in case of pre-paid services, within at the most 24 hours after the service is activated;
- c) The client's reserved area, where made available on the Internet or another platform, within at most 24 hours after the PVC is generated.

7 - Without prejudice to the preceding paragraph, the PVC may be requested by the subscriber through a face-to-face or telephone contact, or an SMS sent from the number to which the PVC corresponds.

8 - For the purpose of the preceding paragraph, the DP shall immediately inform the subscriber of the PVC in a durable medium through a face-to-face contact, automatic telephone voice mail, after the subscriber's identification data are validated, or automatic reply SMS, specifically for requests made via SMS.

Article 13
Rejection of an electronic application

1 - Where coherent applications are concerned, rejection of an application implies the rejection of the whole coherent application and, consequently, the end of the process.

2 - The DP may only refuse electronic portability requests in the following circumstances:

a) Where the number may not be ported under paragraph 2 of article 3;

b) Where there is a pending application to change the number;

c) *(Repealed.)*

d) *(Repealed.)*

e) Where national defence problems exist;

f) For any other reason expressly defined by the Regulatory Authority;

g) Where the PVC does not correspond to the one notified by the subscriber to the DP, under article 12-A.

3 - In the situations referred to in paragraph 2, rejection shall be mandatory, the cause being immediately indicated.

4 - *(Repealed.)*

5 - *(Repealed.)*

6 - *(Repealed.)*

7 - Without prejudice to paragraph 5 of article 46 of Law No. 5/2004, of 10 February, as it stands, failure by subscribers to meet contractual obligations towards the DP shall not be cause for loss of the right to portability.

8 - Electronic portability applications related to numbers whose contract is suspended may not be rejected.

Article 14
Cancellation of the application

1 - Where a portability application is in progress and the DP or a third-party company is contacted by the subscriber who placed the application with the intention of, expressly or tacitly, cancelling the application, the contacted company must, without prejudice to the contractual issues involved, immediately inform the subscriber that he/she is required to cancel his/her application with the RP.

2 - Upon submission of the cancellation request to the RP, where the electronic portability application has already been sent to the DP, the RP shall:

a) Cancel the electronic portability application up to 12 consecutive hours on working days after the portability application cancellation request is submitted by the subscriber, except where the DP has not yet confirmed reception of the electronic application already submitted, in which case the cancellation must occur immediately upon receipt of this confirmation;

b) Cancel the coherent application, where the subscriber cancels the portability application associated to any of the numbers covered in the referred application;

c) Not renew the electronic application where it is refused by the DP or in case of error.

3 - Where there is no time to cancel the electronic application under the preceding paragraph - before the point of no return - the portability process shall be concluded and a new portability process shall be launched.

Article 15 Capacity in number portability

(Repealed.)

Article 16 Number return

1 - The number recovery by the Dp shall take place through the number return process, to be submitted by the RP to the RB within at the most 2 working days following deactivation of the number.

2 - The return process provided for in the preceding paragraph shall also apply in case of the deactivation of a number which the RP became the holder of following a service cancellation, under article 11.

3 - At the end of the number return process, the number shall be returned to the Dp which must ensure compliance with the waiting period until its re-use.

4 - Numbers which had been ported to the company cancelling the service and which during the quarantine period were not subject to a portability request of another provider shall be recovered by the Dp, after the quarantine period, by means of an electronic notice given by the RB.

5 - For the purpose of paragraph 2, the RP is required to inform ANACOM of the number that was the subject of the return process, within 15 days from the expiry of the respective quarantine period.

Article 17 MSN and DDI Portability

1 - Without prejudice to the applicability of other rules laid down in this Regulation, MSN and DDI portability shall be subject to procedures specified in this article.

2 - Before sending the electronic portability application, the RP may request the DP for the active settings of all the numbers it holds, upon express authorization from the subscriber, which shall be submitted to the DP by any means that allows the subscriber to be properly identified.

3 - The DP is required to reply to the active settings request within at the most two working days from the date on which the request is sent, declaring the number and type of accesses, the MSN, DDI and main PABX numbers, as well as any other associated numbers.

The time limit referred to above shall comply with the following conditions: a request sent by the RP by 6 pm on a working day X must be replied to by the DP by 6 pm by working day X+2.

4 - With respect to the number portability of an MSN, the following conditions shall be observed:

a) Where the subscriber intends a partial portability of numbers comprising the MSN to take place, he/she shall indicate, by means of an amendment to the contract, the numbers to be ported, as well as the numbers to be deactivated, on the date on which portability takes effect, other numbers remaining active at the DP;

b) Numbers to be ported may or may not include the main access number of the current settings;

c) Any actions associated with the conclusion of the portability process which might lead to the suspension or interruption of the service provided to the subscriber, in particular by the DP, shall be concluded during the portability window;

d) In case of a second or subsequent portability, the HP shall be required to launch the process for the return of deactivated numbers to the Dp;

e) The portability of more than one MSN number shall require the submission of a coherent application, under paragraph 6 of article 12.

5 - With respect to the number portability of a DDI, the following conditions shall be observed:

a) *(Repealed.)*

b) Ranges to be ported may or may not include the main PABX number of the current settings;

c) The portability of non-contiguous ranges requires the submission of a coherent application, under paragraph 6 of article 12;

d) Any actions associated with the completion of portability which might lead to the suspension or interruption of the service provided to the subscriber, in particular by the DP, shall be concluded during the portability window.

6 - A partial portability of DDI numbers may take place without requiring a prior resetting at the Dp, in which case the following conditions shall be observed:

a) The amount of numbers to be ported shall not be less than 60% of the active settings at the Dp;

b) Where the subscriber intends a partial portability of numbers comprising the MSN to take place, he/she shall indicate, by means of an amendment to the contract, the numbers to be ported, as well as the numbers to be disconnected, on the date on which portability takes effect, other numbers remaining active at the Dp, in which latter case it shall be necessary to specify the number of accesses to be maintained at the Dp;

c) In case of a second or subsequent portability, the HP shall be required to launch the process for the return of deactivated numbers to the Dp.

7 - In a PABX with only one numbering range, the following limitations shall apply, X corresponding to a whole number between 1 and 9:

a) For a PABX with 10 numbers, only full portability shall be allowed;

b) For a PABX with 100 numbers, in addition to full portability, the partial portability of X ranges of 10 numbers each shall be allowed;

c) For a PABX with 1000 numbers, in addition to full portability, the partial portability of X ranges of 100 numbers each shall be allowed;

d) The limit defined in point a) of the preceding paragraph shall be observed where appropriate.

8 - In a PABX with several ranges of 10, 100 or 1000 numbers, the following limitations shall apply, where X and Y are whole numbers between 1 and 9 and where X is lower than or equal to Y:

a) For a PABX with 10 numbers, the partial portability of X ranges of 10 numbers each shall be allowed;

b) For a PABX with Y ranges of 100 numbers, the partial portability of X ranges of 100 numbers each shall be allowed;

c) For a PABX with Y ranges of 1000 numbers, the partial portability of X ranges of 1000 numbers each shall be allowed;

d) The limit defined in point a) of paragraph 6 shall be observed where appropriate.

CHAPTER IV **Routing of traffic to ported numbers**

Article 18 **Routing**

1 - Without prejudice to this chapter, the conditions related to the traffic routing of calls and non-call related communications to ported numbers shall be defined in the Portability Specification, with which companies shall be required to comply.

2 - It is incumbent on the company in which the traffic is originated to route the call traffic and non-call related communication traffic to a ported number. This shall include the indirect access company, where selected, except in the following situations:

a) Re-routed call - for which the company where the routing is activated is responsible;

b) Call made with a virtual calling card - for which the company providing the service is responsible, being entitled to transfer responsibility, in particular to the company providing the support service;

c) Call with translation, in which case the ported number is the “physical” number - for which the company providing the translation service is responsible, being entitled to transfer responsibility, in particular to the company providing the support service.

3 - The responsibility for routing incoming international traffic to a ported number lies with the first network that receives it, whether fixed or mobile; this obligation may be fulfilled by a subsequent network, via a commercial agreement, where the first network does not have the capacity to understand the adopted signalling protocol.

4 - In the case of non-call related communication traffic, the methodology for routing it to ported numbers shall take place according to provisions set out in Annex I to the Portability Specification.

5 - An NRN number has a DP1P2P3C1C2C3 format, where D (number with a hexadecimal format) is the service code (portability), P1P2P3 is the company code assigned by the Regulatory Authority and C1C2C3 is the exchange code defined by the respective provider, whereby companies are entitled, by mutual agreement, in the case of non-geographic numbering services (translation services), to match the non-geographic service access code under consideration or relevant network node to the C1C2C3 code of the NRN.

6 - The company code referred to in the preceding paragraph shall follow the 0xy format (where x is other than 0).

7 - The CLI shall be maintained in all electronic communications originated in the ported number.

CHAPTER V

Costs, prices and information

Article 19

Costs

1 - Each company shall bear in its network and systems the costs of establishing systems associated with the additions and/or modifications to be made to the networks and systems of each company and of other procedures required for portability purposes.

2 - The administrative costs incurred per ported number may be passed on by the DP to the RP, and shall not exceed amounts provided for in the RIO.

3 - When routing traffic of international origin to ported numbers, the RP shall not be required, unless it has been otherwise agreed, to pay any additional transmission costs for communications terminating on its network.

Article 20

Prices

1 - The price of a call or of a non-call related communication to a ported number shall be defined by the traffic owner, pursuant to paragraph 3 of article 64 of Law No. 5/2004 of 10 February, as it stands.

2 - It is incumbent upon ANACOM to monitor and oversee prices charged by the RP to the respective subscribers in respect of portability operations, so as to ensure that retail pricing does not act as a disincentive for subscribers who wish to benefit from portability.

Article 21

Information to end-users

1 - Providers of mobile telephone services shall be required to provide the end-user, at his/her express request and at no cost, a free on-line notice, when making national voice calls between mobile networks to ported numbers, whenever they practise tariff plans which might result in a call to a ported number being more expensive than before portability of the same number.

2 - The notice provided for in the preceding paragraph shall not be mandatory for calls to numbers ported to the company's own network.

3 - The notice provided for in the preceding paragraph shall be "Aviso: Está a ligar para um assinante que agora pertence à [...]. Aguarde" (Notice: The subscriber you are calling is now a customer of (...). Please hold).

4 - The service providers shall prevent this notice from being played in the following cases:

a) National calls to toll-free numbers;

b) Other national calls not covered by paragraph 1 to numbers that may be ported;

c) Roaming calls in which national mobile networks are used by subscribers of foreign mobile operators;

d) Where requested by the end-user, at no cost to the latter.

5 - For the purpose of paragraph 1 and point d) of the preceding paragraph, end-users shall be duly informed by each company of procedures to be adopted to activate and deactivate the hearing of the notice made available by companies.

6 - Without prejudice to other means of provision of information on prices under the terms of applicable legislation, providers of mobile telephone services or telephone services available at a fixed location and which have tariff plans whereby a call to a ported number may be more expensive than before portability, shall be required to provide, through a free number for calls made from their own network, a telephone information service on prices for voice calls and non-call related communications to ported numbers.

7 - The information services referred to in the preceding paragraph must be able to identify the destination network of the call about which the subscriber intends to obtain pricing information, where such identification is required for a proper provision of that information.

8 - Where companies choose to maintain prices of calls to ported numbers equal to those that applied prior to portability - number-based pricing - end-users must be unambiguously informed as to the existence of this rule, which is to be made clear in advertisements to pricing plans concerned.

9 - It is incumbent on the Regulatory Authority to determine, whenever deemed necessary, other ways and means of provision of information by companies to end-users concerning portability operations, calls to ported numbers and respective prices, thereby ensuring that such information remains appropriate and transparent.

Article 22

Provision of information

1 - In order to verify implementation of measures set out in articles 19, 20 and 21, as well as to monitor their effectiveness, companies are required to provide the Regulatory Authority with the information provided for in the following paragraphs.

2 - Providers of mobile telephone services shall supply the following information:

a) Date of implementation of the free online notice provided for in paragraph 1 of article 21, at least five working days in advance of the date on which the service becomes operational;

b) Number of complaints received per month concerning the online notice, broken down according to the number of complaints related to the failure to hear the notice and the number of complaints related to its provision under paragraphs 1 to 3 of article 21, which must be submitted by the 30th day following the end of each semester;

c) Description of procedures to be adopted by end-users to activate and deactivate the notice, provided for in paragraphs 1 to 4 of article 21, which must be submitted by the 30th day following the end of each semester; where these procedures are changed, such changes, as well as the date on which they are to take effect, shall be notified to the Regulatory Authority at least five working days in advance;

d) Total of numbers which provide the active online notice provided for in paragraph 1 of article 21, referring to the end of each semester, which shall be submitted by the 30th day following the end of the same semester;

e) To inform the Regulatory Authority, where appropriate, of pricing plans where prices of calls and of non-call related communications to ported numbers vary according to the destination network, in order to check compliance with paragraphs 6 and 7 of article 21;

f) Indication by the 30th day following the end of each semester, of the number in force for access to the information service on prices of calls to ported numbers implemented by the company, for the purpose of publication at ANACOM's website; where this number is changed, the new number and the date of its entry into operation, shall be notified to the Regulatory Authority at least five working days in advance;

g) Indication, at least five working days in advance, of the date on which pricing plans referred to in point e) cease to be applied, and indication also of the date on which the information service provided for in paragraphs 6 and 7 of article 21 ceases to be provided.

3 - Companies that provide telephone services at a fixed location shall submit the information referred to in points e) to g) of paragraph 2.

4 - Companies holding numbers of the NNP, which may be ported and have been assigned to their subscribers on a secondary basis, and companies that receive numbers assigned on a secondary basis by other companies, through portability, are required to submit to the Regulatory Authority, by the 30th day following the end of each semester, up-to-date information on:

a) Prices charged to subscribers for the portability operation, if any, and the respective method of payment, broken down by service and pricing plan;

b) Wholesale prices, per type of ported number, which, as HP, may be charged to the RP, if any; this information is also to include details on any discounts (for example, discounts given according to the amount of ported numbers and size of blocks of contiguous numbers to be ported).

5 - The Regulatory Authority may waive the requirement to send any of the information referred to in the present article, where this is deemed to be justified.

CHAPTER VI Synchronization of processes

Article 23 Portability and Reference Unbundling Offer (RUO)

1 - Where the portability process and the local loop unbundling process take place at the same time, the electronic portability application shall be sent by the RP to the DP after eligibility of the local loop is confirmed and, where applicable, following qualification tests, in accordance with the time limits set out in the RUO.

2 - Contract termination takes place at the same time for the purpose of portability and local loop unbundling.

3 - After all termination elements and documents for local loop unbundling purposes are checked, they shall be deemed valid for the purpose of the portability process.

4 - The number portability and local loop unbundling processes shall take place within the agreed portability window, taking into account that the local loop unbundling process must be concluded, whenever possible, within the first half of this window.

5 - The RP shall remain responsible for managing the entire portability process where it is associated with a local loop unbundling process.

6 - By accepting the portability window, the DP shall be required to synchronise it with the loop unbundling process, so as to allow the portability process to take effect.

7 - Where a portability application is associated with a return of a loop, the number portability and the loop return shall take place within the portability window, where the HP no longer uses the loop to provide any service to customers.

Article 23-A Portability and bundled service offerings

1 - In the case of simultaneous portability of several numbers associated to bundled service offerings, the RP may submit a coherent application to the DP.

2 - The RP shall ensure an effective transfer of numbers covered by the coherent application within one working day, calculated from the submission of the portability application by the subscriber under paragraph 2 of article 12, except where a different time limit results from points a) to d) of paragraph 10 and paragraph 11 of article 12.

3 - The regime provided for in this article shall be without prejudice to article 23.

CHAPTER VII
Enforcement, penalty regime and compensation

Article 24
Enforcement

It shall be incumbent on ANACOM to enforce compliance with this Regulation.

Article 25
Penalty regime

Infringements to this Regulation shall be punishable under point dd) of paragraph 2 of article 113 of Law No. 5/2004, of 10 February, as it stands.

Article 26
Compensation

1 - *(Repealed.)*

2 - In situations of undue portability, as provided for in article 10-A, the RP:

a) Shall not require the subscriber to pay for any communications, monthly charges or penalties that take place after the undue execution takes effect, bearing any costs incurred in returning the number to the DP, unless the subscriber declares not to desire this return;

b) Shall compensate the DP, RB and other companies with portability obligations for all costs they incur in completing the undue portability, for reasons for which the RP is responsible;

c) Shall pay the DP compensation amounting to (Euro) 100 for each number unduly ported, for reasons for which the RP is responsible, to a maximum of (Euro) 5000 per portability application completed in the case of portability of DDI ranges;

d) Shall pay the subscriber compensation of 20 euros per number and per each day that the number is unduly ported, to a maximum of 5000 euros per portability application;

3 - *(Repealed.)*

4 - In case of a delay in the transfer of numbers in relation to the time limit set out in paragraph 10 of article 12, the RP shall pay the subscriber compensation amounting to (Euro) 2.50 for each full working day of delay, per number, except in the case of subscribers who are not consumers and whose contracts specify different compensation amounts.

5 - In case of an interruption in the service provided to the subscriber through the number to which portability was applied, further to the submission of an application for portability under paragraph 2 of article 12, the RP shall pay the subscriber compensation amounting to (Euro) 20 for each day of interruption, per number, up to a maximum of (Euro) 5000 per portability application, except in the case of subscribers who are not consumers and whose contracts specify different compensation amounts.

6 - Where the DP is responsible for the undue portability referred to in points a) to d) of paragraph 2, for delays in the implementation of portability or for interruption of service, respectively under paragraphs 4 and 5 hereof, the DP shall compensate the RP for all costs incurred by the latter by virtue of the provisions hereof, in terms and time limits to be agreed

between them, or, in the absence of agreement, within at the most sixty days from the date the application was submitted.

7 - Where the undue portability takes effect because the DP fails to verify the PVC in the electronic portability application, costs referred to in paragraph 2 shall be apportioned equally between the RP and the DP, in terms and time limits to be agreed between them, or, in the absence of agreement, within at the most sixty days from the date of undue portability.

8 - All payments which, by virtue hereof, are due to the subscriber do not require prior request and shall be made by crediting the amount concerned in the following bill issued by the RP or, in the absence of a contractual relationship, through any direct means, including payment by bank transfer or cheque, within 30 days from the fact giving rise to the compensation.

9 - The compensation regime provided for herein shall be without prejudice to the establishment of liability and to its enforcement under general terms, as well as to the application of the portability penalty system.

CHAPTER VIII Final provisions

Article 27 Code of conduct

Without prejudice to applicable legislation and to this Regulation, companies, in order to improve the availability of portability, are entitled to establish codes of conduct, intended to standardize portability-related procedures.

Article 28 Access to telecommunication infrastructures in buildings

1 - Companies involved in portability procedures shall comply with Decree-Law No. 123/2009, of 21 May, as it stands, which governs the regime that applies to the construction of infrastructures suitable for the accommodation of electronic communications networks, to the set-up of electronic communications networks and the construction of infrastructures for telecommunications in housing developments, urban settlements and concentrations of buildings, in all matters applicable to them.

2 - If joint or simultaneous work is required, companies involved shall agree its performance between themselves, to minimise its impact on the service provided to the subscriber.

3 - The company performing work at the subscriber's premises shall be liable for any failures resulting from the conclusion of such work, even where it is sub-contracted.