

Regulation no. .../2012

Amending Regulation no. 58/2005 of 18 August, as amended, republished and renumbered by Regulation no. 87/2009 of 18 February, and as amended by Regulation no. 302/2009 of 16 July

(Portability Regulation)

ICP-ANACOM Regulation no. 58/2005 of 18 August (*Regulamento da Portabilidade* (Portability Regulation)), establishing the principles and rules governing portability on public telephone networks, was amended by Regulation no. 87/2009 of 18 February and again by the Regulation no. 302/2009 of 16 July, the purpose of the latter amendment limited to providing clarification as to the equivalence of the time limits established therein and as established in the *especificação da portabilidade* (portability specifications).

Upon the entry into force of Law no. 51/2011 of 13 September, which amended the LCE (*Lei das Comunicações Eletrónicas* - Law no. 5/2004 of 10 February (Electronic Communications Law)), enacting, *inter alia*, transposition of Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009, which amended, specifically, Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, it became imperative to proceed with the immediate amendment of the *Regulamento da Portabilidade* (Portability Regulation), bringing it into compliance with the provisions of paragraph 3 of article 54 of Law no. 5/2004 of 10 February as currently worded, wherein it is stipulated that where the subscriber has concluded an agreement to port a number, the effective porting of the number to the new undertaking shall occur within one working day at the most.

It is incumbent upon ICP-ANACOM to determine the necessary rules for the implementation of portability, including the definition of the global process of the porting of numbers, taking into account national provisions on contracts, the technical feasibility and the need to maintain continuity of service to the subscriber, as well as subscriber protection mechanisms, namely setting

compensations to be paid by undertakings in case of delay in porting or undue portability (see paragraph 7 of article 54 of the LCE).

Under the terms of the Universal Service Directive, number portability is a key facilitator of consumer choice and effective competition in competitive electronic communications markets, and it is to be applied as rapidly as possible, so that the number is functionally activated within a period not exceeding one working day.

Therefore, focusing on this priority, ICP-ANACOM saw fit to proceed immediately and only with such amendments to the regulation as are necessary to implement the law, providing the subscriber with effective porting of the number within a period not exceeding one working day following the subscriber's request.

However, the regulator also gave consideration to cases where provider compliance with this time limit is unachievable, establishing exceptions in the regulation, in particular, in cases of physical intervention or access to the network and regarding services provided pursuant to contracts concluded at a distance or through door-to-door sales. In these latter cases, and safeguarding the interests of the customers, a time limit of three working days is applied from the presentation of the request by the subscriber for the effective porting of the number, and in other cases, the shortest possible time is applied.

In addition to the rules governing the time limit to which number porting is subject and considering the problems existing with regard to portability in mobile services owing to the high number of rejections associated with SIM card numbers, ICP-ANACOM has seen fit to include an amendment in the regulation in respect of the obligation to send electronic portability requests referring to mobile numbers with the number of this card, when any other element identifying the subscriber requesting portability is available which may allow verification and validation by the provider; this measure is considered as beneficial to subscribers, in addition to corresponding to a repeatedly manifested general consensus among operators.

In compliance with the provisions of article 11 of the Statutes of ICP-ANACOM, as in annex to Decree-Law no. 309/2001 of 7 December, the regulation, while in draft form, was submitted to the respective regulatory consultation procedure, whereby stakeholders were given a period of 30 working days in which to submit comments.

The final report, which examines the responses received under this procedure and provides reasoning of the options taken by ICP-ANACOM, is published on ICP-ANACOM's website.

Accordingly, pursuant to point a) of article 9 of the Statutes of ICP-ANACOM, as in annex to Decree-Law no. 309/2001 of 7 December, and pursuant to paragraph 7 of article 54 of the LCE, in furtherance of the objectives of regulation, in particular the objectives laid down in point c) of paragraph 1 of article 5 of the LCE, the Management Board of ICP-ANACOM approves the following amendment to Regulation no 58/2005 of 18 August, as amended by Regulation no. 87/2009 of 18 February and by Regulation no. 302/2009 of 16 July (*Regulamento da Portabilidade* (Portability Regulation)):

Article 1

Amendment to *Regulamento da Portabilidade* (Portability Regulation)

Articles 1, 7, 8, 12, 13, 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, and as further amended by Regulation no.. 302/2009 of 16 July (*Regulamento da Portabilidade* (Portability Regulation)), are to read as follows:

"Article 1

(...)

1 - The present regulation lays down the principles and rules applicable to portability on public communications networks.

2 - (...)

3 - (...)

4 - (...)

5 - (...)

Article 7

(...)

1 - (...)

2 - (...)

3 - (...)

4 - (...)

5 - (...)

6 - (...)

7 - (...)

a) (...)

b) (...)

c) The right to compensation of 20.00 euros per day per number in case of interruption of service provided using the ported number(s), under the terms of article 6, except where subscribers are not consumers and when the respective contract expressly establishes different compensation;

d) The right to compensation of 2.50 euros per day per number in case of a delay exceeding the time limit specified for the implementation of the portability, under the terms of article 26, except where subscribers are not consumers and when the respective contract expressly establishes different compensation;

e) [*Former point c*]

f) [*Former point d*]

8 - (...)

9 - (...)

10 - (...)

11 - (...)

12 - (...)

13 - (...)

Article 8

(...)

1 - (...)

a) (...)

b) URL of websites with information on how to identify and read the numbers printed on SIM cards currently on the market and on the procedures that the DP requires its subscribers to follow in order that it may obtain their SIM card number, by telephone, by SMS, over the web or in stores;

c) Portability contacts, in particular contacts to be used to obtain speedy clarification of specific difficulties in reading the SIM card number printed on SIM cards.

2 - (...)

3 - (...)

4 - (...)

5 - (...)

6 - (...)

7 - (...)

8 - Companies shall execute, on their networks and systems, the actions entailed in each portability during the respective window, limiting interruption to service to no more than the duration of this window.

9 - (*Former paragraph 8*)

10 - (*Former paragraph 9*)

Article 12

(...)

1 - (...)

2 - (...)

3 - (...)

4 - (...)

5. The portability order is submitted electronically by the RP to the DP - electronic portability order - with indication of a window and day, so that a period of not less than 24 consecutive hours elapses during working days between said submission and the window so indicated.

6 - (...)

7. The DP shall reply to the electronic portability order within a period not exceeding 18 hours elapsing during working days from the instant of the order's presentation, either accepting the indicated window or refusing the electronic portability order on a reasoned basis, pursuant to article 13.

8 - *(Repealed)*

9 - *(Repealed)*

10. The RP shall ensure effective porting of the number within a period not exceeding one working day, subsequent to the presentation of the subscriber's request, as made under the terms of paragraph 2, except in the following cases:

- a) When the subscriber has requested or agreed to a lengthier period;
- b) In the case of MSN and DDI portability entailing an active configuration request from the RP to the DP, where the subscriber has no knowledge of said configuration;
- c) Where a change of provider, associated with the portability, 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 using distance contracts or "door-to-door" sales.

11 - In the cases provided for in points b) and d) of the previous paragraph, the RP is required to undertake the effective transfer of the number within a period

of 3 working days following the presentation of the request by the subscriber and, in the case referred to in point c) in the shortest possible time.

12 - In the event that the request of the subscriber is submitted after 5 p.m. on a working day, such request shall be considered, for purposes of calculating the period referred to in the preceding paragraph, as having been made on the subsequent working day.

13 - (*Former paragraph 12*).

Article 13

(...)

1 - (...)

2 - (...)

a) (...)

b) (...)

c) (...)

d) in the event that the SIM does not exist, does not correspond to the MSISDN or is lost or misplaced, in the case of numbers associated with unidentified prepaid cards of the mobile telephone service;

e) (...)

f) (...)

3 - (...)

4 - The grounds for refusal set out in point c) of paragraph 2 do not apply in the case of numbers associated with unidentified prepaid cards.

5 - The grounds for refusal set out in point d) of paragraph 2 are also mandatory when the SIM number has been optionally submitted by the RP in the electronic portability order.

6 - (*Repealed*)

7 - (...)

8 - (...)

Article 25

(...)

Breaches of the provisions of the present regulation are punishable pursuant to point aa) of paragraph 2 of article 113 of Law no. 5/2004 of 10 February, as amended by Law no. 51/2011 of 13 September.

Article 26

(...)

1 - (...)

2 - (...)

3 - (...)

4 - In the event that a delay occurs in the transfer of numbers in respect of the period stipulated in paragraph 10 of article 12, for each full working day of delay, the RP shall pay compensation to the subscriber amounting to 2.50 euros per number, except in the case of subscribers who are not consumers and whose contracts specify other levels of compensation.

5 - In the event that, subsequent to the portability order made in accordance with paragraph 2 of article 12, any interruption occurs to the service provided to the subscriber using the number subject to the requested portability, for each day of interruption, the RP is required to pay compensation to the subscriber amounting to 20 euros per number up to a maximum of 5,000 euros per portability order, except in the case of subscribers who are not consumers and whose contracts establish other levels of compensation.

6 - (...)

7 - (...)

8 - (...)

9 - (...)

Article 28

(...)

1 - The undertakings which are involved in the processes of portability shall comply, insofar as they are applicable, with the provisions of Decree-Law no. 123/2009 of 21 May, as amended by Decree-Law no. 258/2009 of 25 September, which establishes the regime governing the construction of infrastructure which is suitable for accommodating electronic communications networks, the installation of electronic communications networks and the construction of *Infraestruturas de Telecomunicações em Loteamentos, Urbanizações e Condomínios* (Infrastructures for telecommunications in housing developments, urban settlements and concentrations of buildings) and *Infraestruturas de Telecomunicações em Edifícios* (Telecommunications infrastructure in buildings).

2 - (...)

3 - (...)"

Article 2

Repeals

Paragraphs 8 and 9 of article 12, paragraph 6 of article 13 and article 15 of the *Regulamento da Portabilidade* (Portability Regulation) are repealed.

Article 3

Republication

1 - Regulation. No. 58/2005 of 18 August, as currently worded, is republished in annex hereto, whereby it is an integral part of the present regulation.

2 - Paragraph 2 of Article 14 was organised into points.

Article 4

Entry into force

- 1 - The present Regulation enters into force six months following its publication.
- 2 - Annex II of the *Especificação de Portabilidade* (Portability Specification) is to be reviewed and updated by undertakings subject to portability obligations and by the *Entidade de Referência* (Reference Entity), in liaison with ICP-ANACOM, and is to be made available on the website of ICP-ANACOM within a period of 60 days following publication of the present regulation, entering into force following the same six-month period as referenced in the paragraph above.

1 March 2012

Chairman of the Management Board, *José Manuel Amado da Silva*

Annex

Republication of Regulation no. 58/2005 of 18 August
Regulamento da Portabilidade (Portability Regulation)

"Article 1

Object and scope

- 1 - The present regulation lays down the principles and rules applicable to portability on public communications networks.
- 2 - The aspects pertaining to the *Entidade de Referência* (Reference Entity), in particular those of a legal, contractual and functional nature, are excluded from the scope of application of the present regulation.
- 3 - The provisions of these regulations are binding upon all undertakings with portability obligations, referred to hereinafter as undertakings, which undertakings include:
 - a) Undertakings responsible for routing telephone traffic to numbers contained in the PNN - *Plano Nacional de Numeração* (National Numbering Plan);
 - b) Undertakings which have numbers from the PNN, assigned to their subscribers on a secondary basis and eligible for portability;

- c) Undertakings which, through portability, receive numbers which are assigned on a secondary basis by other undertakings.
- 4. Undertakings which do not have their own means for routing calls to ported numbers and for managing portability processes are able to acquire these services from third parties with a view to fulfilling portability obligations.
- 5. With respect to the acquisition of services from third parties under the terms of paragraph 5, the undertaking acquiring the services shall be required to assume responsibility, vis-à-vis the regulator, the users, the other undertakings and the Reference Entity, for fulfilling the obligations arising from the applicable legislation and regulations as well as in other instruments, in particular from the agreement with the Reference Entity.

Article 2

Definitions and abbreviations

1 - For the purposes of the provisions of these regulations, the following definitions shall apply:

- a) "Geographic Numbering Area" - each of the 51 zones in the Portuguese territory identified by its own access code;
- b) "Reference Database" - means the set of data comprising, in particular, the numbers and codes necessary for routing calls to ported numbers, the ported numbers themselves, the log of transactions between the Providers and additional items necessary for the correct execution of portability;
- c) "Portability Cycle" - period which elapses from the first time a number is ported until the number's return to the donor;
- d) "Monitoring Committee" - body created under the Protocol signed on 23 January 2001 between ICP-ANACOM, APRITEL, and the public telecommunication service providers with portability obligations, serving as an interlocutor between the Reference Entity and providers with portability obligations;
- e) "Working day" - any weekday, from Monday to Friday, other than Portuguese national holidays, Shrove Tuesday and Christmas Eve;

- f) "*Entidade de Referência*" (Reference Entity): independent entity which serves as an intermediary in portability processes, managing, in addition, a system of databases which store information related to ported numbers as well as the log of transactions carried out;
- g) "*Especificação de portabilidade*" (Portability Specifications) - technical and procedural rules pertaining to portability, adopted by the regulator and which the undertakings are required to follow. The Specifications correspond to Annexes I and II to the "*Especificação de Portabilidade de Operador*" (Operator Portability Specifications), as approved by decision of ICP-ANACOM's Management Board on 28 June 2001, notwithstanding any modifications which may be introduced thereto, as appropriate;
- h) "Portability Extranet" - secure site hosted at anacom.pt in which information pertinent to portability is made available, and to which external access is restricted to the Reference Entity and undertakings with portability obligations;
- i) "DDI Range": ranges of 10, 100, or 1,000 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;
- j) "Unique and indivisible range" - DDI range included in a portability order that may be either a simple order or one which is part of a coherent order, in which the range remains stable after the first portability associated with that order;
- k) "Portability window" - three-hour period during which portability or changes to the NRN occur; there are three portability windows defined: 9:00 a.m. – 12:00 a.m.; 2:00 p.m. - 05:00 p.m.; 06:00 p.m. - 09:00 p.m.:
- l) "Multiple Subscriber Number (MSN)" - set of individual numbers allocated to the same network interface, which may include contiguous or non-contiguous numbers;
- m) "Simple order" - electronic portability order pertaining to a single number or range of numbers;

- n) "Overlapping order" - electronic portability order placed after another order related to the same phone number without the first order having been cancelled;
- o) "Coherent order" - a set of electronic portability orders related to various numbers and/or ranges of numbers from the same subscriber, handled as a single order and consequently ported within the same window, and separately covering:
 - Geographic numbers;
 - Non-geographic non-mobile numbers which can include the corresponding support numbers;
 - Mobile numbers;
- p) "Point of no return" - instant after which it is no longer possible to cancel an electronic portability request;
- q) "Portability" - feature which allows public telephone service subscribers who so request to keep their number or numbers within the scope of the same service, regardless of the undertaking providing the service, for geographic numbers in a given location, and for the remaining numbers, in all parts of the national territory (operator portability);
- r) "Implicit portability" - portability of numbers associated with subscriber numbers, in particular of mobile telephone service numbers for fax, data, and voice mail services, without associated administrative procedures; the undertakings shall assume by default that the numbers assigned to these services are also ported when the subscriber number with which they are associated is ported;
- s) "Restricted geographic portability" - feature by which subscribers to telephone services available at a fixed location are able to change access locations within the national territory and keep their telephone number; this service is limited by the undertaking's commercial supply and the geographic numbering area;
- t) "Holder provider" - a recipient provider which, in processes of portability, acts as holder of the number(s) or range(s) of numbers and from which the subscriber switches, with subsequent portability, to the first provider;

- u) "Donor provider" - undertaking responsible for the numbering resources which were initially allocated to it by the regulator and from which the subscriber switches in the first portability order;
- v) "Recipient provider" - undertaking to which the subscriber switches, "importing" the respective numbering resources;
- w) "Regulator" - ICP – Autoridade Nacional de Comunicações (ICP-ANACOM);
- x) "Waiting period" - 6 month period during which undertakings are prohibited from assigning numbers previously in use to new subscribers. The waiting period includes the quarantine period;
- y) "Quarantine period" - 3 month period during which, following the end of the agreement with the PD, the user may request to use the number in the same undertaking or request portability. The quarantine period expires on the same day of the month if it is a working day or, if not, on the next working day.

2. For the purposes of the provisions of these regulations, the following abbreviations shall apply:

- a) APRITEL: Telecommunications Operators' Association
- b) RDB: Reference Database;
- c) CLI: Calling Line Identification;
- d) DDI: Direct Dial In;
- e) RE: Entidade de Referência (Reference Entity);
- f) ETSI: European Telecommunications Standards Institute;
- g) MSISDN: Mobile Station ISDN Number
- h) MSN: Multiple Subscriber Number;
- i) NRN: Network Routing Number;
- j) RUO: Reference Unbundling Offer ;
- k) RIO: Reference Interconnection Offer;
- l) DAP: Direct Access Provider;
- m) DP: Donor or Holder Provider;
- n) HP: Holder Provider;
- o) Dp: Donor Provider;
- p) PNN: *plano nacional de numeração* (National Numbering Plan);

- q) PABX: Private Automatic Branch Exchange;
- r) PSP: Pre-selected provider;
- s) RP: Recipient Provider;
- t) QoR: Query on Release;
- u) SIM: Subscriber Identification Module;
- v) VoIP: Voice over Internet Protocol.

Article 3

Scope of portability

1. Numbers assigned to the following services may be ported:
 - a) Telephone service accessible at a fixed location (2);
 - b) Mobile telephone service (91, 92, 93, 96 and any others assigned for this service);
 - 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 considered on a case-by-case basis by decision of ICP-ANACOM.
- 2 - The following numbers are not eligible for portability:
 - a) Numbers associated with public terminals;
 - b) Numbers associated with temporary accesses;
 - c) Numbers which are inactive, unless they are in the quarantine period.
- 3 - The portability of a non-geographic, non-mobile number does not necessarily imply the portability of the corresponding support, unless expressly indicated by the subscriber, in which case maintenance at the RP of the link between the non-geographic, non-mobile number and the corresponding number is not mandatory.
- 4 - The portability of mobile telephone service numbers entails 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, on the following terms:

a) Checking voice mail - 60 9xxxxxxx;

b) Leaving messages - 66 9xxxxxxx.

5 - The portability of mobile telephone service numbers entails the implicit portability of associated numbers for access to mobile fax and data services, including a number for each service, on the following terms:

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

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

6 - Notwithstanding the maintenance of the service and its fundamental characteristics, number portability limits the subscriber to the commercial supply of said service by the RP, including returns to the Dp, whereas practices which discriminate between subscribers with and without ported numbers are prohibited.

7 - The DP is required to enable access to services which, being part of its commercial supply, depend technically on the DP, in order for the RP to be able to provide them to a subscriber with the ported number.

8 - Following number portability, as a subsequent act or through the commercial supply of the RP, the RP may allow the number to be kept within the same geographic numbering area - restricted geographic portability.

Article 4

Portability solution

1 - The technical solution adopted in the interconnection of networks with a view to the implementation of portability, as specified in the *Especificação de Portabilidade* (Portability Specifications) and which the undertakings are required to carry out, is supported, from the technical point of view of the network, in the QoR, which, for calls to ported numbers and in the case of attempts to establish a link to the donor access switch through signalling, consists of the donor access switch sending a response (release), indicating that a data base belonging to the originating network is to be queried, with sufficient information to route the call.

2 - Where the service is cancelled, pursuant to article 11, the originating network, in the absence of a donor network that sends a release message (#14), shall route the calls directly to ported numbers of the cancelled service blocks, as from the date on which the cancellation takes place, as made publicly available by ICP-ANACOM.

3 - The databases of the originating networks contain a copy of a centralized RDB which is managed by a third party, the RE

4 - The undertakings are required to maintain their database in conformity with the RDB and to perform checks as often as each undertaking deems appropriate for the achievement of the intended objective.

Chapter II

Principles and rules to be observed by undertakings with portability obligations

Article 5

General rules and principles

1 - The undertakings shall cooperate with each other with a view to facilitating number portability and in guaranteeing the quality of said portability, in particular by concluding interconnection agreements and by respecting the legal framework in force.

2 - The entire portability process is to be carried out in such a manner as to minimise interruptions of service provided to the subscriber, the admissible limit for such interruptions being the portability window.

3 - Systems and networks are to be developed and improved as necessary, in order to monitor the evolution of portability, particularly as regards the increase in the number of orders and/or ported numbers and in relation to the introduction of new services and features.

4 - New undertakings shall ensure that the networks and support systems are properly prepared for number portability from the date on which operation of the service begins and also ask the regulator, at least 2 months in advance, for access to the Portability Extranet.

5 - Pursuant to the terms of Law no. 5/2004, the undertakings shall provide the regulator with all such information as the regulator requests for the purposes overseeing of portability.

Article 6

Obligations of the donor and holder providers

1 - The Dp is responsible for the numbers which have been assigned to it by the regulator on a primary allocation basis as well as for those held as a result of service cancellations pursuant to article 11.

2 - When a notice of termination associated with a portability order is presented to the DP directly by the subscriber, the DP should inform the subscriber that the termination notice is to be submitted to the RP.

3 - The DP is prohibited from requiring any payment from its subscribers in respect of number portability.

4 - Following number portability, and notwithstanding the fulfilment of contractual obligations, the DP is prohibited from billing the former subscriber for any service(s) associated with the ported number(s).

5 - Whenever a number undergoing a portability process is being monitored by the competent authorities in accordance with powers permitting the legal interception of communications, as enshrined in law, the DP shall notify the authority which so determined, as to the scheduled portability of said number, giving notice as to when portability will take place and to which RP, which notification is to be made 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 it shall, within the scope of pre-selection, inform the PSP as to the disarrangement of the pre-selection.

7 - The Dp shall provide users with an inactive number message during the period elapsing from the recovery of the number until the end of the waiting period.

8 - The Dp shall not object where the RP permits maintenance of the number in case of a transfer of contractual position between subscribers, provided that the service is not interrupted.

Article 7

Obligations of the recipient provider

1 - The RP is responsible for the entire number portability process and shall manage this process in defence of the subscriber's interest.

2 - The RP shall respect the subscriber's portability order in keeping with the definition of this feature, i.e. the subscriber changes undertakings and keeps the same number from the moment he signs up for the service provided by the RP.

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

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

5 - When the RP receives a portability order relating to a number in the quarantine period, it shall check when the agreement between the ordering party and the DP comes to an end, in order to ensure that the electronic portability order is carried out on time.

6 - It is the responsibility of the RP to ask the party ordering portability if any other portability orders have been placed with other undertakings.

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

- a) Potential charges associated with the respective order;
- b) Loss of any credit balances with the DP;
- c) The right to compensation of 20.00 euros per day per number in case of interruption of service provided using the ported number(s), under the terms of article 6, except where subscribers are not consumers and when the respective contract expressly establishes different compensation;
- d) The right to compensation of 2.50 euros per day per number in case of a delay exceeding the time limit specified for the implementation of the portability, under the terms of article 26, except where subscribers are not consumers and when the respective contract expressly establishes different compensation;

e) With respect to number portability of mobile telephone numbers, the fact that callers will no longer be able to identify the destination network through the number;

f) The consumer information measures established by the regulator pursuant to article 21.

8 - The RP is 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.

9 - The RP shall give the subscriber advance notice, of not less than 24 hours, as to the portability window and inform the subscriber that suspensions or interruptions to the service may occur during this period.

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

11 - The RP is responsible for confirming that portability has been completed successfully, and, in the event that portability has been unsuccessful, for promptly carrying out the actions necessary to remedy the situation.

12 - The RP is to provide users with an inactive number message during the quarantine period and until such time as the RE returns the number to the Dp at the end of the number return process.

13 - The RP is required to comply with the conditions of use of ported numbers, including during the quarantine period, where applicable.

Article 8

Common obligations for companies with portability obligations

1 - The undertakings are bound to provide, within the scope of the Portability Extranet, advance notice of not less than 10 working days prior to the date of the respective deployment, and to keep any other information which ICP-ANACOM deems relevant up to date, in respect of:

a) Network Routing Number (NRN) tables;

b) URL of websites with information on how to identify and read the numbers printed on SIM cards currently on the market and on the procedures that the DP requires its subscribers to follow in order that it

may obtain their SIM card number, by telephone, by SMS, over the web or in stores;

- c) Portability contacts, in particular contacts to be used to obtain speedy clarification of specific difficulties in reading the SIM card number printed on SIM cards.

2 - The provisions in the preceding number do not relieve the undertakings of their obligation to provide the same information in other contexts, in particular with respect to interconnection agreements.

3 - The undertakings 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, undertakings shall provide each other with information relevant to the good development of the portability processes, namely the information specified in points 2 and 3 of article 17.

5 - The undertakings are required to ensure, in a proper, efficient and effective manner, the management and deployment defined to support the portability solution so as not to negatively impact this solution.

6 - Undertakings are required to bear, both in respect of their own systems and those of the RE, the costs of the automatic portability solution in force and bear costs related to any changes to that solution which result from regulatory measures adopted by ICP-ANACOM, including measures adopted to implement the provisions of article 11, subsequent to applicable consultation procedures.

7 - The undertakings are required to fulfil the obligations in the protocol signed on 23 January 2001 between ICP-ANACOM, APRITEL, and the public telecommunication service providers with portability obligations, and in the service agreement signed with the RE on 25 June 2001, namely:

- a) To provide the Monitoring Committee with any information that it requests, in particular concerning legal, economic, technical or functional issues;
- b) To sit on the Monitoring Committee when so designated by APRITEL and to respect the respective rules of operation.

8 - Companies shall execute, on their networks and systems, the actions which each portability entails during the respective window, limiting interruption to service to no more than the duration of this window.

9 - The undertakings are required to promptly carry out the actions necessary to resolve faults giving rise to unsuccessful portability processes, following, in particular, the provisions defined in TR 101 698 of ETSI, doing so using the contacts defined for such purpose and entered by each undertaking in the respective area of the Portability Extranet.

10 - Undertakings which, pursuant to paragraph 5 of article 11, assume all obligations and rights to numbers of the cancelled service, shall send to ICP-ANACOM, 10 working days following the quarantine period that follows the service cancellation, the lists of numbers concerned and the date on which obligations are to be assumed.

Chapter III Portability processes

Article 9 Processes

1 - In addition to the provisions contained in this Chapter, the portability support processes, which undertakings are bound execute, are listed in the *Especificação de Portabilidade* (Portability Specifications).

2 - The portability processes include the following fundamental administrative procedures:

- a) Termination or modification of the agreement concluded with the DP, pursuant to articles 10 and 11;
- b) Portability order submitted by the subscriber to the RP, pursuant to articles 12 and 14;
- c) Electronic portability order presented by the RP to the DP, pursuant to articles 12 to 14.

Article 10 Contract termination

1 - Portability entails termination of the contract existing between the subscriber requesting portability and a given undertaking and the conclusion of a new

contract with another undertaking to which the number or numbers in question are ported.

2 - The contractual termination, duly identified as being effected for the purposes of portability, shall be addressed to the DP and submitted by the subscriber to the RP, whereas the RP is required to verify the termination document, in order to check, in particular, whether the respective signature is in conformance with the identification document presented (Citizen Card, Identification Card, Residence Permit or Passport). In cases involving a legal person, a document is also to be submitted to the RP which demonstrates the eligibility of the signatory to sign the termination document on behalf of the legal person.

3 - The RP shall send to the DP, on a monthly basis and by any means which allow the proper identification of the subscriber and respective signature, all termination documents related to portability orders executed within the preceding 30 days, except where otherwise agreed between the undertakings.

4 - Termination of an agreement for purposes of portability shall comply with the requirements contractually defined by the DP for termination which is not associated with portability order.

5 - Where made in respect of pre-paid services, termination is made effective by means of a portability order, which is to be submitted to the RP pursuant to Article 12, through a document signed by the subscriber, whereas the RP is required to send the orders to the DP, in accordance with paragraph 3.

6 - Contract termination takes effect at the instant when portability is executed, which instant is deemed as the occurrence of the allocated portability window and the respective updating of the RDB by the RE.

7 - Termination associated with a portability order is made null and void in the following cases:

- a) By expiry, a period of 3 months having elapsed following the date of its submission;
- b) On the specific request of the subscriber, sent to the DP and presented to the RP.

8. The provisions of this article shall apply in cases of simple modifications to the contract with the DP, if this contract includes numbers in addition to the number or numbers to be ported.

Article 11
Service cancellation

1 - When an undertaking intends to cancel the service, it is required to provide advance notice of the termination of the offer to the respective subscribers within the legal or contractual time periods established, and is required to inform the respective subscribers as to the possibility of porting their numbers prior to the expiry of the quarantine period.

2 - The contractual relationship ceases upon termination of the advance period of notice which the undertaking is required to provide, or having a later date, as established in the notification.

3 - Without prejudice to the application of penalties, failure by the undertaking to notify the subscriber pursuant to paragraph 1 does not affect the right of the subscriber to portability; the subscriber may order portability from the instant the service ceases to be available, as confirmed by ICP-ANACOM.

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

- a) ICP-ANACOM recovers all numbers whose rights it has allocated to the undertaking, including numbers which on the date of service cancellation were not active and numbers which were active but which were not ported during the quarantine period;
- b) The DP recovers all numbers which had been ported to the undertaking cancelling the service and which during the quarantine period were not subject to an order for portability to another operator;
- c) The RP assumes all rights and responsibilities associated with the numbers of its subscribers, as allocated to the undertaking of the cancelled service on a primary basis and as had been ported to the RP up to the date of service cancellation, as from that date;
- d) The RP assumes all rights and responsibilities associated with the numbers of its subscribers, as allocated, on a primary basis, to the undertaking of the cancelled service which had ported its numbers, in first portability during the quarantine period, as from the date on which the portability is made effective;

- e) The RP takes on the condition of Dp in respect of numbers governed by points c) and d) and belonging to subscribers who become subscribers of other undertakings through portability;
- f) The RE takes on the role of HP, in terms of procedure, in respect of the first portability of numbers of the cancelled service, as from the date of cancellation and during the quarantine period.

5 - Where ported numbers are of an undertaking which cancelled the service as provided for herein and where such numbers had been allocated by the regulatory authority on a primary basis, the RP thereof shall be subject to all conditions associated with the rights of use of said numbers as from the date of service cancellation or the date on which the first portability order is made effective, whichever is later, during the quarantine period. Where these numbers are ported in the future, the RP becomes a Dp.

6 - Where the RP receives a portability order in respect of a number or numbers of a subscriber of an undertaking that cancelled the service as provided for herein, the RP shall act as if a DP existed, whereas, for the purposes of procedure, the role of DP will be played by the RE.

Article 12

Portability order

1 - When a subscriber changes undertakings in order to sign up to the same service, this does not imply portability of the number, unless the subscriber so specifically indicates.

2 - Along with the termination referred to in Article 10, the subscriber ordering portability must request portability from the RP, making an order specifically for that purpose, and including therein, or in a separate document, his/her identification, including where a non-identified subscriber of pre-paid services.

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 paragraph 3 do not apply in cases of merger, acquisition, or change of corporate name; in such cases the agreement with the RP is considered as to be concluded with the same party.

5 - The portability order is submitted electronically by the RP to the DP - electronic portability order - with indication of a window and day, so that a period of not less than 24 consecutive hours elapses during working days between said submission and the window so indicated.

6 - Coherent orders shall be placed individually, referenced by the total number of orders, and placed in numerical order.

7 - The DP shall reply to the electronic portability order within a period not exceeding 18 hours elapsing during working days from the instant of the order's presentation, either accepting the indicated window or refusing the electronic portability order on a reasoned basis, pursuant to article 13.

8 - *(Repealed)*

9 - *(Repealed)*

10 - The RP shall ensure effective porting of the number within a period not exceeding one working day, subsequent to the presentation of the subscriber's request, as made under the terms of paragraph 2, except in the following cases:

- a) When the subscriber has requested or agreed to a lengthier period;
- b) In the case of MSN and DDI portability entailing an active configuration request from the RP to the DP, where the subscriber has no knowledge of said configuration;
- c) Where a change of provider, associated with the portability, 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 using distance contracts or "door-to-door" sales.

11 - In the cases provided for in points b) and d) of the previous paragraph, the RP is required to undertake the effective transfer of the number within a period of 3 working days following the presentation of the request by the subscriber and, in the case referred to in point c) in the shortest possible time.

12 - In the event that the request of the subscriber is submitted after 5 p.m. on a working day, such request shall be considered, for purposes of calculating the period referred to in the preceding paragraph, as having been made on the subsequent working day.

12. The time limits referred to in paragraphs 5 and 7 are counted from the instant the event that triggers their calculation occurs.

Article 13

Refusal of an electronic order

1. In cases involving coherent orders, refusal of an order entails refusal of the entire coherent order and, consequently, the end of the process.

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

- a) Where the number is not portable under the terms of paragraph 2 of article 3;
- b) Where there is a request pending to change the number;
- c) Where the number of the subscriber's identification document (Citizen Card, Identification Card, Residence Permit, Tax Number or Passport) as given in the portability order does not correspond to the number held on record by the DP with respect to the telephone number(s) to be ported, or, in the event that these elements are absent from the records of the DP, whereby they cannot be verified, and at the same time, the holder's name does not correspond to the one which the DP has on record with respect to the number(s) to be ported, except in the case of identifications with more than three names, in which case it is sufficient that these three names correspond, in the same sequence, to the names which the DP has on record;
- d) In the event that the SIM does not exist, does not correspond to the MSISDN or is lost or misplaced, in the case of numbers associated with unidentified prepaid cards of the mobile telephone service;
- e) If there are problems in the area of national defence;
- f) For any other reason expressly defined by the regulator.

3. In the situations referred in paragraph 2, refusal is mandatory, and the cause must be immediately indicated.

4 - The grounds for refusal set out in point c) of paragraph 2 do not apply in the case of numbers associated with unidentified prepaid cards.

5 - The grounds for refusal set out in point d) of paragraph 2 are also mandatory when the SIM number has been optionally submitted by the RP in the electronic portability order.

6 - (*Repealed*)

7 - Without prejudice to the provisions in paragraph 5 of Article 46 of Law no. 5/2004 of 10 February, failure by subscribers to fulfil contractual obligations vis-à-vis the DP does not constitute cause for loss of the right to portability.

8 - Electronic portability orders related to numbers governed by contracts which are suspended may not be refused.

Article 14

Cancellation of the order

1. Where a portability order is in progress and the DP or a third party undertaking is contacted by the subscriber who placed the order with the intention of, expressly or tacitly, cancelling the order, the undertaking contacted must, notwithstanding the contractual questions involved, immediately inform the subscriber that he must cancel his order with the RP.

2. Upon submission of the cancellation request to the RP, in the event that the electronic portability order has already been sent to the DP, the RP shall:

- a) Cancel the electronic portability order no later than the working day following that on which the portability order cancellation request is submitted by the subscriber, unless confirmation of the electronic order has not been yet been received by the DP, in which case the cancellation must occur immediately upon receipt of this confirmation;
- b) Not renew the electronic order in the event that it is refused by the DP or in the event of error.

3. If there is insufficient time to carry out cancellation of the electronic order as described in paragraph 2 – prior to the point of no return - portability is to be carried out, whereby it will be necessary to initiate a new portability process.

Article 15
Capacity in number portability
(Repealed)

Article 16
Number return

1 - The DP is required to provide for recovery of the number by means of a number return process, to be submitted by the RP to the RE, not more than 2 working days following deactivation of the number.

2 - Upon conclusion of the number return process, the number will be returned to the Dp, which is bound to ensure compliance with the waiting period prior to its re-use.

3 - Numbers which had been ported to the undertaking 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, following the quarantine period, by means of an electronic notice given by the RE.

Article 17
MSN and DDI Portability

1 - Without prejudice to the other rules which are laid down in the present regulation, MSN and DDI portability is subject to the procedures specified in the present article.

2 - Prior to sending the electronic portability order, the RP may ask the DP for the active configuration of all the numbers the DP holds, upon express authorization of the subscriber, which authorization is to be submitted to the DP by any method which provides for precise identification of the subscriber.

3 - The DP is required to respond to the active configuration request, within a period of not more than two working days following the date on which the request is sent, covering the number and type of accesses, the MSN and DDI and the main PABX numbers as well as any other associated numbers.

The time limit stipulated above shall be in accordance with the following: a request sent by the RP by 6 p.m. on working day X must be replied to by the DP by 6 p.m. by working day X+2.

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

- a) In the event that the subscriber intends partial portability of the numbers comprising the MSN, the subscriber must, by means of amendment to the contract, indicate the numbers to be ported and the numbers to be deactivated on the date on which portability is carried out; the remaining numbers are to remain active with the DP;
- b) The numbers to be ported may or may not include the main access number of the current configuration;
- c) Any actions associated with the execution of portability which might lead to the suspension or interruption of the service provided to the subscriber, in particular by the DP, are to be performed and concluded during the portability window;
- d) In the event of a second or subsequent portability, the Hp is required to activate a process for the return of the deactivated numbers to the Dp;
- e) The portability of more than one MSN number requires the placing of a coherent order under the terms of article 12, paragraph 6.

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

- a) After the first portability, the ported ranges remain unique and indivisible until the end of the portability cycle, except by prior reconfiguration at the Hp, in which case it shall not be possible to port the deactivated numbers, which numbers are to be returned to the donor;
- b) The ranges to be ported may or may not include the main PABX number in the current configuration;
- c) The portability of non-contiguous ranges requires submission of a coherent order pursuant to article 12, paragraph 6;
- d) Any actions associated with the execution of portability and which might cause suspension or interruption of the service provided to the

subscriber, in particular by the DP, are to be performed and concluded during the portability window;

6 - In cases of first portability, partial portability of DDI numbers is possible without the need for prior reconfiguration at the Dp, in which case the following conditions are to be observed:

- a) The quantity of numbers to be ported shall not be less than 60% of the active configuration at the Dp;
- b) In the event that the subscriber intends partial portability of the numbers constituting the MSN, the subscriber will be required, by means of amendment to the contract, to indicate the numbers to be ported and the numbers to be disconnected on the date on which portability is carried out; the remaining numbers are to remain active at the Dp, in which case it is necessary to specify the number of accesses to be maintained at the Dp.

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

- a) In a PABX with 10 numbers only total portability is permitted;
- b) In a PABX with 100 numbers, in addition to total portability, the partial portability of X ranges of 10 numbers each is permitted;
- c) In a PABX with 1000 numbers, in addition to total portability, the partial portability of X ranges of 100 numbers each is permitted;
- d) The limit defined in point a) of paragraph 6 is to be observed whenever applicable.

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

- a) In a PABX with 10 numbers, in addition to total portability, the partial portability of X ranges of 10 numbers each is permitted;
- b) In a PABX with Y ranges of 100 numbers, the partial portability of X ranges of 100 numbers each is permitted;
- c) In a PABX with Y ranges of 1000 numbers, the partial portability of X ranges of 1000 numbers each is permitted;
- d) The limit defined in point a) of paragraph 6 is to be observed whenever applicable.

Chapter IV

Call routing

Article 18

Routing

1 - In addition to the provisions contained in this Chapter, the conditions associated with call routing in portability are defined in the *especificação de portabilidade* (portability specifications) with which the undertakings are bound to comply.

2 - Routing of the call to a ported number is the responsibility of the undertaking at which the call is originated, including the indirect access undertaking when selected, except in the following situations:

- a) Calls with re-routing, which are the responsibility of the undertaking at which the routing is activated;
- b) Calls made with virtual calling cards, which are the responsibility of the undertaking offering this service, which undertaking may, transfer responsibility, including to the undertaking offering the support service;
- c) Calls with translation, in which case the ported number is the "physical" number, which is the responsibility of the undertaking providing the translation service; however this responsibility may be transferred, including to the undertaking providing the support service.

3 - The responsibility for routing an incoming international call to a ported number lies with the first network on which the call is received, irrespective of whether this network is fixed or mobile; this obligation may be fulfilled by a subsequent network, under commercial agreement, in the event that the first network does not have the capacity to understand the adopted signaling protocol.

4 - An NRN number has the format DP1P2P3C1C2C3, where D (number with an hexadecimal format) is the service code (portability), P1P2P3 the undertaking code assigned by the regulator and C1C2C3 the exchange code defined by the respective provider, whereby undertakings 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 of the NRN.

5 - The undertaking code referred to in paragraph 4 follows the format 0xy (where x is different from 0).

6 - CLI must be maintained in all calls originated at the ported number.

Chapter V Costs and prices

Article 19 Costs

1 - The cost of establishing systems associated with the additions and/or modifications to be made to the networks and systems of each undertaking and associated with other portability procedures are borne by each undertaking in its network and systems.

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

3 - When routing traffic of international origin to ported numbers, the RP is not required, unless bound by an agreement to the contrary, to pay for any additional transmission costs for calls terminating on its network.

Article 20 Prices

1 - The price of a call to a ported number shall be defined by the traffic owner, pursuant to article 64, paragraph 3, of Law no. 5/2004 of 10 February.

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

Article 21
Consumer information

1 - The undertakings which offer a mobile telephone service are required to provide a free on-line message, in national voice calls between mobile networks where destined for ported numbers, whenever they practise tariff plans which might result in a call to a ported number being more expensive than before the portability of the same number.

2 - The message stipulated in the previous item is not mandatory for calls to numbers ported to the undertaking's own network.

3 - The message stipulated in the previous item must 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 are to prevent this message 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 subject to portability;
- c) Roaming calls in which national mobile networks are used by subscribers of foreign mobile operators;
- d) Whenever the calling subscriber requests it and without charge to said subscriber.

5 - For the purposes of the provisions of point d) of the paragraph 4, subscribers are to be duly informed by each undertaking as to how the message provided by the undertakings can be activated and deactivated.

6 - Without prejudice to other means of provision of information on prices under the terms of applicable legislation, undertakings which offer a mobile telephone service or telephone service which is available at a fixed location and which have tariff plans whereby a call to a ported number may be more expensive subsequent to portability than previously are to maintain a telephone information service on prices for voice calls, data calls and short text messages to ported numbers.

7 - The information services referred in paragraph 6 are to be capable of identifying the destination network about which the subscriber wishes to obtain

tariff information where such identification is necessary for the proper provision of this information.

8 - In situations where undertakings choose to maintain the prices of calls to ported numbers as from prices applying prior to portability – pricing based on number – subscribers and consumers in general are to be unequivocally informed as to the existence of this rule, which is to be made clear in advertising related to the tariff plans in question.

9 - The regulator is responsible for determining, whenever deemed necessary, other ways and means by which undertakings are to provide information to consumers concerning portability operations, calls to ported numbers and respective pricing, thereby ensuring that such information remains appropriate and transparent.

Article 22

Provision of information

1 - In order to verify implementation of the measures set forth in articles 19, 20 and 21, as well as to monitor their effectiveness, undertakings are required to provide the regulatory authority with the information detailed in the following paragraphs.

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

- a) Date of implementation of the free online message foreseen in paragraph 1 of article 21, no less than five working days prior to the date on which the service is to become operational;
- b) Number of complaints received per month concerning the implemented online message, which information is to be submitted no later than the 15th day following the end of each half-year period;
- c) Description of procedures to be adopted by calling subscribers to activate and deactivate the message foreseen in paragraph 4 of article 21, which information is to be submitted no later than the 15th day following the end of each half-year period; where these procedures are amended, the regulatory authority is to be given advance notice of no

less than five working days as to the amendments and as to the date on which they are to take effect.

- d) Number of subscribers of the undertaking who have deactivated the online message foreseen in paragraph 1 of article 21, which information is to be reported to the end of each half-year period and is to be submitted no later than the 15th day following the end of each half-year period;
- e) Inform and submit to the regulator, as applicable, the tariff plans in which voice calls, data calls or short messages to ported numbers may vary according to the destination network, whereby the obligation is established to implement the information service described in paragraphs 6 and 7 of article 21;
- f) Indication, for the purpose of publication on ICP- ANACOM's website and given no later than the 15th day following the end of the half-year period, of the number giving access to the information service implemented by the undertaking for the purposes of providing information on prices of calls to ported numbers; in the event that this number is changed, the regulator is to be given prior notice of not less than five working days as to the new number and the date of its entry into use;
- g) Indication, with prior notice of not less than five working days, as to the date on which the tariff plans referred to in point e) cease to be practiced, and indication also as to the date on which provision of the information service stipulated under paragraphs 6 and 7 of article 21 is to cease.

3 - Undertakings which offer telephone services available at a fixed location are to submit the information detailed in points e) to g) of paragraph 2.

4 - Undertakings which have numbers from the PNN which are eligible for portability and assigned to their subscribers on a secondary basis and undertakings which, through portability, receive numbers assigned on a secondary basis by other undertakings, are to submit to the regulator, no later than the 15th day following the end of each half-year period, updated information on:

- a) Prices charged to subscribers, if any, in respect of the portability operation and the respective method of payment, which information is to be disaggregated by service and tariff plan;
- b) Wholesale prices, by type of ported number, which, as HP, it charges the RP, if any; this information is also to include details of any discounts (for example, discounts given according to the quantity of ported numbers and size of blocks of contiguous numbers to be ported).

5 - The regulator may, where it sees fit, waive the obligation of an undertaking to send all or part of the information detailed in the present article.

Chapter VI

Portability and Local Loop Unbundling

Article 23

Synchronization of processes

1 - Where the portability process and the local loop unbundling process occur simultaneously, the electronic portability order is to be sent by the RP to the DP following confirmation of local loop eligibility and, where applicable, following qualification tests, in accordance with the time limits set out in the RUO.

2 - For the purposes of portability and local loop unbundling, termination of the contract is effected simultaneously.

3 - Subsequent to their verification for the purpose of unbundling of the local loop, all the components and documents comprising the termination notice are likewise to be considered valid for the purpose of the portability process.

4 - Number portability and local loop unbundling shall occur within the agreed portability window, while local loop unbundling is to be concluded, whenever possible, within the first half of this window.

5 - The RP remains responsible for managing the entire portability process when associated with local loop unbundling.

6 - On indicating the portability window, the DP is obliged to synchronize the local loop unbundling with this window, thereby enabling the execution of portability.

7 - Where a portability order is associated with a return of loop, portability of the number and return of the loop is to occur within the period of the portability window, in situations where the HP no longer uses the loop for the provision of services to customers.

Chapter VII

Enforcement, penalty regime and compensation

Article 24

Enforcement

Enforcement of compliance with the provisions of the present regulation is incumbent upon ICP-ANACOM.

Article 25

Penalty regime

Breaches of the provisions of the present regulation are punishable pursuant to point aa) of paragraph 2 of article 113 of Law no. 5/2004 of 10 February, as amended by Law no. 51/2011 of 13 September.

Article 26

Compensation

1 - The RP is liable vis-à-vis subscribers and other participants in the portability process for portability orders which are executed but which do not correspond to the will of subscribers - undue portability, entailing a lack of correspondence between the party making the request and the ported number or numbers and the falsification of the signature on the portability order or termination.

2 - In such situations as referred to in paragraph 1, the RP:

- a) Shall not require payment from the subscriber in respect of any calls made, monthly charges or penalties following the undue execution of portability, and shall bear any costs incurred in returning the number to the DP, unless the subscriber declares not to desire this return;

- b) Shall compensate the DP, RE and other undertakings with portability obligations in respect of all costs incurred as a result of undue execution of portability occurring for reasons attributable solely to the RP;
- c) Shall pay compensation to the DP amounting to 100 euros for each number unduly ported, where for reasons solely attributable to the RP, to a maximum of 5,000 euros per portability order executed in respect 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 5,000 euros per portability order;

3 - Where the documents referred to in paragraph 3 of article 10 are not sent, the RP shall pay the DP compensation amounting to 100 euros per number, to a maximum of 5,000 euros per executed portability order in respect of portability of DDI ranges;

4 - In the event that a delay occurs in the transfer of numbers in respect of the period stipulated in paragraph 10 of Article 12, for each full working day of delay, the RP shall pay compensation to the subscriber amounting to 2.50 euros per number, except in the case of subscribers who are not consumers and whose contracts specify other levels of compensation.

5 - In the event that, subsequent to the portability order made in accordance with paragraph 2 of article 12, any interruption occurs to the service provided to the subscriber using the number subject to the requested portability, for each day of interruption, the RP is required to pay compensation to the subscriber amounting to 20 euros per number up to a maximum of 5,000 euros per portability order, except in the case of subscribers who are not consumers and whose contracts establish other levels of compensation.

6 - Where undue portability as referred to in points a) to d) of paragraph 2 occurs for reasons attributable to the DP or where the DP is responsible for delays in the implementation of portability or for interruption of service, pursuant respectively to paragraphs 4 and 5 hereof, the DP is to pay compensation to the RP in respect of all costs incurred by the RP by application of the provisions contained herein, according to such terms and time limits as are established by

mutual agreement, or, in the absence of such agreement, within a period not exceeding sixty days following the date on which the order was presented.

7 - Where the undue portability is executed owing to omission by the DP to verify the subscriber's data in the electronic portability order, the costs specified in paragraph 2 shall be divided equally between the RP and the DP, according to such terms and time limits as are established by mutual agreement, or, in the absence of such agreement, within a period not exceeding sixty days following the date of undue portability.

8 - All payments which, by application of the present article, are due to the subscriber do not require prior request and shall be effected by means of 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, which payment shall be made no later than 30 days subsequent to the occurrence giving rise to the compensation.

9 - The compensation regime provided for herein is without prejudice to the establishment of liability on general terms and is without prejudice to the application of the portability penalty system

Chapter VIII

Final and temporary provisions

Article 26

Code of conduct

Without prejudice to the provisions of applicable legislation and of the present regulation, with a view to improving the availability of portability, the undertakings may draw up codes of conduct with the objective of harmonizing related procedures.

Article 28

Access to telecommunication infrastructures in buildings

1 - The undertakings which are involved in the processes of portability shall comply, insofar as they are applicable, with the provisions of Decree-Law no.

123/2009 of 21 May, as amended by Decree-Law no. 258/2009 of 25 September, which establishes the regime governing the construction of infrastructure which is suitable for accommodating electronic communications networks, the installation of electronic communications networks and the construction of *Infraestruturas de Telecomunicações em Loteamentos, Urbanizações e Condomínios* (Infrastructures for telecommunications in housing developments, urban settlements and concentrations of buildings) and *Infraestruturas de Telecomunicações em Edifícios* (Telecommunications infrastructure in buildings).

2 - If joint or simultaneous work is necessary, the undertakings involved shall agree among themselves as to its execution, with a view to minimising its impact on the service provided to the subscriber.

3 - The undertaking performing work on the subscriber's premises shall be liable for any faults resulting from the execution of such work, even where caused by a subcontractor acting on its behalf.

... March 2012. - Chairman of the Management Board, *José Manuel Amado da Silva*