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NATIONAL FREQUENCY ALLOCATION PLAN

2007 Edition

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INTRODUCTION

Law no 5/2004 of 10 February established the legal regime applying to electronic communications networks and services and to associated resources and services. It defines the responsibilities of ICP-Autoridade Nacional de Comunicações (ICP-ANACOM) in this area, in connection with the process of transposing Directives 2002/19/EC, 2002/20/EC, 2002/21/EC and 2002/22/EC, all of the European Parliament and of the Council, of 7 March 2002, and Directive 2002/77/EC of the Commission, of 16 September 2002. In accordance with article 3 of the Law of Electronic Communications, the following definitions are used:

“Electronic communications network” means transmission systems and, where applicable, switching or routing equipment and other resources making it possible to send signals by cable, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit-switched or packet switched, including the Internet) and land mobile networks, power line systems, when used to transmit signals, networks used for audio and television broadcasting, and cable television networks, irrespective of the type of information conveyed.”

“Electronic communications services” means a service normally provided for a price, which includes or is fully made up of sending signals through electronic communications networks, including telecommunications services and transmission services on networks used for broadcasting, without prejudice to the exclusion referred to in paragraph b) of section 1 of article 2 of Law no. 5/2004 of 10 February”.

In accordance with Article 15 of the Law of Electronic Communications, in the scope of spectrum management ICP-ANACOM is the entity who plans out frequencies in compliance with the following criteria:

- a) Availability of radio spectrum;
- b) Guarantee of effective competition in the relevant markets;
- c) Effective and efficient use of frequencies.

ICP-ANACOM is likewise responsible for allocating and assigning frequencies according to objective, transparent, non-discriminatory and proportionate criteria.

ICP-ANACOM shall promote the harmonized use of frequencies in the European Union in order to ensure their effective and efficient use, in the scope of Decision no 676/2002/EC of the Parliament and of the Council of 7 March 2002, concerning a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision).

In accordance with Article 16 of The Law of Electronic Communications , ICP-ANACOM shall publish, on an annual basis, the National Frequency Allocation Plan (*Quadro Nacional de Atribuição de Frequências*) (NFAP), which shall consist of:

- a) the frequency bands and number of channels already allocated to companies providing publicly available electronic communications networks and services, including the revision date for the allocation;
- b) the reserved frequency bands and those to be made available in the following year, in the scope of (publicly available or not) electronic communications networks and services, specifying the cases where rights of frequency use are required, and the corresponding allocation procedure;
- c) the frequencies whose rights of use may be transferred, under the terms of article 37 of the Law of Electronic Communications.

The frequencies allocated to the Armed Forces and to security forces and services are excluded from that disclosure.

The NFAP further contains the appropriate radio spectrum subdivisions, listing for each frequency band all radiocommunications services applicable to Portugal, according to the Radiocommunications Regulation (RR) of the International Telecommunication Union - Radiocommunication Sector (ITU-R). This information is presented in the “Frequency Allocation Table”, which likewise reflects the main national applications, without prejudice to future decisions which may be taken by determination of the Board of Directors of ICP-ANACOM.

The Radio Regulations is a document published by ITU-R. It is the result of agreements signed by the Member States and is an international treaty to be obeyed by the countries belonging to this organization. The *Frequency Allocation Table* is effectively derived from this treaty, specifically Article 5 thereof, which identifies the spectrum allocated to a wide range of radio services for each one of the ITU's three administrative regions of the world.

The “*Frequency Allocation Table*” of Article 5, and all other Articles, Appendices, Resolutions and Recommendations of the RR may only be modified at the World Radiocommunication Conferences (WRCs), held every two or three years. Besides the reviewing the RR, the WRCs establish regulatory and technical guidelines for the use of the radio spectrum and for satellite communications. The results of the most recent WRC, held in Geneva, from 9 June to 4 July 2003, can be consulted at <http://www.anacom.pt/template20.jsp?categoryId=110041&contentId=197111>. In the meantime the preparation work is currently underway for the next WRC, which is being held from 22 October to 16 November 2007 (<http://www.anacom.pt/template9.jsp?categoryId=110041>).

Spectrum use should be based on the publication of the frequency band uses and reservations established for each year by the NFAP, in respect of electronic communication services and networks whether publicly available or not.

Undertakings intending to provide electronic communications networks and services are bound to submit previously to ICP- ANACOM a short description of the network or service they wish to commence and to give an estimate of the date on which they intend to commence the activity, without prejudice to other particulars required by the regulator. The procedures for commencing the provision of electronic communication networks or services can be consulted on ICP-ANACOM’s website at (<http://www.anacom.pt/template25.jsp?categoryId=115580>).

Where frequency uses are for own use and exempt from radio licence, no prior ICP-ANACOM action is required for spectrum use. The NFAP includes indication of such uses that are exempt from radio licensing.

The NFAP specifies the cases where rights of frequency use are required, and the corresponding allocation procedure, which may be by full accessibility mode or may involve selection by competition or comparison, including auction or tender. The respective processes follow specific procedures, as set out by articles 31 and 35 of the Law of Electronic Communications.

The usage rights set out in this publication are transferable in accordance with the regime set forth in article 37 of the Law of Electronic Communications, without prejudice to the fact that ANACOM may define a general policy, in respect of the transmission of frequency usage rights, with the establishment of rules and relevant conditions.

Under the terms of article 31 of the Law of Electronic Communications, notwithstanding the terms of the NFAP, ICP-ANCOM may proceed to release decisions limiting the allocation of rights of use, which decisions shall have due grounds and shall take into consideration the need to maximise benefits for users and to facilitate the development of competition.

In summary, it is the remit of ICP-ANACOM to carry out planning of frequencies, which planning shall have a basis that includes the availability of radio spectrum and the effective and efficient use of frequencies.

As can be seen in the section of the NFAP that presents the reservation of frequency bands established for each year, the process of allocating available spectrum is, as a rule, that of full accessibility. This permits users of the spectrum swifter access, maximising benefits for consumers, promoting competition and the development of the market.

As noted, the allocation and assignment of frequencies is governed by objective, transparent, non-discriminatory and proportionate criteria. The harmonisation of spectrum usages at a European / worldwide level is a further factor of spectrum planning, which is reflected in the information contained in the NFAP. In this context emphasis should be given to the extreme importance that the NFAP has for the management and planning of the radio spectrum insofar as it brings together part of the elements required for the full compliance of these activities, as for the market, providing in a transparent form to all stakeholders, the information needed for the development of their activity.

Following amendments made by the WRC to the RR, and as a result of the analysis and background of market developments and trends at a national and European level, amendments to the NFAP are proposed through this document. Taking into account that the adoption of the NFAP constitutes a measure with significant impact on the relevant market, it is annually submitted to the general consultation procedure as set out in article 8 of the Law of Electronic Communications. Subsequently, a new edition of the NFAP is published, in order that the edition in force remains updated. Nevertheless, in exceptional circumstances and where there is due cause, there may be a need to make alterations to items contained in the NFAP under the terms of the administrative procedure.

As a fundamental instrument in the management of the spectrum, stability is enshrined in the NFAP by the Law itself, in order to guarantee security to market players, together with the capacity to adapt.

In the meantime, it is necessary to ensure a balance between the stability that is the aim of NFAP and the alterations that need to be made so that it continues to appropriately reflect the objectives as set out by Law, in particular by the need to promote harmonisation of frequency use (paragraph 4 of article 15 of the Law of Electronic Communications) and the guarantee of conditions for effective completion in the relevant markets, as well as the effective and efficient use of frequencies (see points b) and c) of paragraph 2 of article 15 of the Law of Electronic Communications).

The present edition of the NFAP contributes to the achievement of these objectives in two complementary ways: a vision of progressive neutrality of spectrum use is adopted and a procedure for the expression of interest is set out with a view to assessing the interest of the market in using frequencies that are available and for which a need to limit the respective number of usage rights can be anticipated..

Accordingly, the following measures are adopted in the NFAP:

- a) The obligation to use the spectrum of the 900 MHz band in accordance with GSM technology is removed, permitting more efficient use of this resource. This alteration will contribute to uses of this band based in other technologies being seen, particularly UMTS, with expected advantages with regard to spectrum efficiency and wider coverage implementation, The technological neutrality of this frequency band remains subject to the adoption of the Decision put forward in the European Commission on this subject , of the corresponding CEPT Decision ECC(06)13 and of Directive 87/372/EEC of 25 June 1987;
- b) Provision is made for sounding out the market with respect to expression of interest for the use of spectrum identified as reserved frequency bands (Annex 3) for use connected to the terrestrial mobile service (in the 450 MHz, 900 MHz and 1800 MHz bands), from a perspective of technological neutrality.
- c) The provision by which the GSM spectrum in the 900 and 1800 MHz bands was previously reserved for current terrestrial mobile operators in the event of proven need is removed, including with respect to spectrum for the purposes of expression of interest referred to above. This approach allows an assessment of whether this spectrum should remain reserved for allocation to current operators or if it should be released to the market under the conditions set forth in the Law of Electronic Communications.

The NFAP was also amended with respect to the services which are expected to become subject to allocation procedures during 2007. This is done through the updating of information concerning the frequency bands reserved and to be made available in connection to Digital Terrestrial Television Broadcasting (DVB-T) and Broadband Wireless Access (BWA). It is noted, in respect of Digital Terrestrial Television Broadcasting (DVB-T), that while the reserved frequency bands (channels) have been indicated, the respective usage and allocation model remains in a phase of definition.

Finally the NFAP was updated in order to reflect the situation regarding certain uses as follows:

- a) Update of spectrum uses with reference to 30 November 2006 (e.g., rectification of the number of FWA blocks in use and the respective scope of use; revision of the number of channels in use by the Fixed Point-Point, Radio and Television Broadcasting Services; updating of the frequency bands and/or entities using Fixed Satellite service, GMPCS (Global Mobile Personal Communications by Satellite), AES (Aircraft Earth Station) and Amateur Service).
- b) Update of information with regards to the Sistema Integrado das Redes de Emergência e Segurança de Portugal (SIRESP) ([Integrated System for Portugal's Security and Emergency Networks](#));
- c) Updates to the spectrum uses that are exempt from radio licensing (frequency bands and certain technical parameters in respect of SRDs (Short Range and Low Power devices) operating on non-interference and non-protection basis and which do not require station licensing); lifting of restriction on the licensing exemption of VSAT terminal stations which satisfy the requirements listed in CEPT Decision ERC/DEC/(00)05;
- d) Amendment to the procedure for the allocation of usage rights in the 1980-2010 MHz/ 2170-2200 MHz bands, to the Mobile Satellite Service (MSS), being dependent on the conclusion of discussion currently underway in Europe on this matter;
- e) Introduction of certain modification in order to bring the document up to date.

NATIONAL FREQUENCY ALLOCATION PLAN

The NFAP has four parts:

- The first part (Annex 1), the “Frequency Allocation Table”, contains a detailed view of the radio spectrum subdivisions indicating for each frequency band all radiocommunication services therein, according to allocations applying to Portugal made in the RR of the ITU-R, and the services and systems used and planned.
- The second part(Annex 2), “Publication of the frequency band uses”, sets out the frequency bands and number of channels used in the operation of publicly available electronic communications networks and services, up to 30 November 2006.
- The third part(Annex 3), “Reserved Frequency bands”, sets out the frequency bands reserved and to be made available in 2007, for the operation of electronic communications networks and services that are (i) publically available and (ii) not publically available.
- The fourth part of the NFAP (Annex 4), “Uses Exempt from radio licensing, sets out uses of the spectrum that are exempt from radio licensing, divided into (i) Exempt from network licensing and (ii) Exempt from station licensing.

Annex 5 contains additional items (e.g., definitions, acronyms, relevant documents, figures).