

REGULATION REPORT

2009



FREE FLOWING COMMUNICATION

ANACOM



AUTORIDADE
NACIONAL
DE COMUNICAÇÕES



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FRAMEWORK

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● ● 1 Framework

This first section of the 2009 Regulation Report seeks to present, in a clear and simple manner, the structure which will be followed throughout this report (section 1.1), while in section 1.2, a comprehensive analysis is conducted of the activity pursued in 2009 in light of the strategic objectives defined by ICP - Autoridade Nacional de Comunicações (ICP-ANACOM) for that year.

●● 1.1 Nature and structure of Report

The 2009 Regulation Report is prepared in accordance with the provisions of paragraph 1 of article 51 of the Statutes of ICP-ANACOM, as laid down in annex to Decree-Law no. 309/2001 of 7 December. These provisions determine that this report be submitted on an annual basis to the Government, and also presented to the Assembly of the Republic (Parliament).

In line with previous years, this report is published separately from the Activities Report and from the document on the State of Communications, and it is important to note that these three publications are complementary tools which, from distinct points of view, contribute to an analysis of the developments seen in the electronic communications and postal services sector.

The present report continues to focus on the aspects usually considered in the context of market regulation, including measures to promote competition and protect users, as well as the management of radio spectrum and numbering resources, which are essential tools for the accomplishment of such regulation.

This report therefore sets out to provide a more comprehensive description of regulatory activities, describing the motivations and the results which are forecast or already achieved from adopted measures.

Special note should be made of the activities linked to strengthening the efficiency and effectiveness of sectorial regulation and the contribution made to the development of the internal market of the European Union (EU) and to the promotion of technical and institutional cooperation with other entities.

To improve the organisation of the Regulation Report, it was decided to structure the report according to the key strategic objectives set out by ICP-ANACOM for 2009, as enshrined in this Authority's 2009-2011 Strategic Plan.

As such, the organization of the report was reviewed and it is now divided into six main areas which also reflect the objectives outlined in the EU regulatory framework, revised in 2009 and to which the National Regulatory Authorities (NRA) are bound:

- To promote open and competitive markets (Objective 1).
- To assure and protect the rights of users and citizens in general (Objective 2).
- To promote open and competitive markets / to assure and protect the rights of users and citizens in general (Objectives 1+2) - Management of scarce resources.
- To improve the regulator's efficiency and performance capacity (Objective 3).
- To participate in the development of the EU internal market by improving the internal performance (Objective 4).
- To promote institutional and technical cooperation (Objective 5).

With the Report's new organization, the markets for electronic communications and postal services are addressed in a more integrated manner and, depending on the nature of the measures concerned, in the sections corresponding to the transverse strategic objectives outlined above.

1.2 Overview of ICP-ANACOM regulatory activity in 2009

For a better understanding of the key regulatory measures taken during 2009, in the exercise of its powers and responsibilities, as set out in Decree-Law no. 309/2001 of 7 December, approving the statutes of this Authority, ICP-ANACOM deemed it important to organise these in accordance with the objectives outlined in the Strategic Plan for the 2009-2011 period as outlined above.

1.2.1 To promote open and competitive markets (Objective 1)

In terms of promoting open and competitive markets, note is made of the following actions undertaken in 2009, regarding Next Generation Access Networks (NGA), market analyses and regulated offers.

Next Generation Access Networks (NGA)

The work begun in 2008 on NGA was concluded, culminating with the adoption in 2009 of the report of the public consultation on the regulatory approach to NGA and the publication of legislation aimed at removing the cited horizontal and vertical barriers to the development of these networks.

Through its participation in these activities, ICP-ANACOM intended specifically to ensure that the regulatory approach to NGA was consistent and coherent, aiming to promote competition while at the same time encouraging the development of innovative, diversified and quality services. As such the interests of users would be upheld and a smooth transition provided from business models based on the Local Loop Unbundling offer (LLU) to NGA.

In practical terms, the role played by ICP-ANACOM in the legislative framework, and in the adoption of specific measures according to its remit, drove the removal or mitigation of barriers to the construction of infrastructure for the accommodation of electronic communications networks, the harmonization of procedures (especially in the

relationship between operators and local authorities), the definition of the legal regime governing ITUR (Infrastructures for telecommunications in housing developments, urban settlements and concentrations of buildings) and ITED (Telecommunications infrastructure in buildings) and the launch by the Government of five Public Tenders for the installation, management, operation and maintenance of NGA in rural areas, contributing to info-inclusion in these areas.

In this context, it is noted that there were quite significant investments in NGA during 2009¹, whereas it is estimated that by the end of the year there were already about 1.2 million homes cabled with optical fibre.

Market analyses

With respect to the market analyses completed or performed in 2009, particularly on the markets for broadband and leased lines (markets 4, 5 and 6 of Recommendation 2007/879/EC of 17 December 2007), the goal was to withdraw obligations existing in areas / routes considered competitive, enabling the adjustment of regulation to the development of the market, applying *ex-ante* regulation only where and when effective competition does not exist.

Regarding the analysis of the markets for voice call termination on individual mobile networks, for which preparation took place during 2009, note is made of a further reduction in wholesale termination rates, as determined in 2010.

There have been some delays in the development of the analysis of the retail market of access to the public telephone network at a fixed location for residential and non-residential customers and the wholesale markets of call origination and termination on individual public telephone networks provided at a fixed location (markets 1, 2, and 3 of the referenced Recommendation), due, in particular, to the prioritisation of other markets, especially the market

¹ For example note is made of the information reported by some operators in their Report and Accounts: (i) according to the Report and Accounts of Grupo Portugal Telecom (Grupo PT) for 2009 "Wireline capex increased from 403 million euros in 2008 to 565 million euros in 2009, primarily as a result of the FTTH rollout"; (ii) according to data from the Report and Accounts of Sonaecom - Serviços de Comunicações, S. A. (Sonaecom) for 2009 the increase of about 37 million euros "that occurred in the amounts for the "Development of fixed network" concern, essentially, to investments related to the development of the fibre network (FTTH)"; (iii) Vodafone Portugal - Comunicações Pessoais, S. A. (Vodafone) states in its Annual Report 2008 (for fiscal year ended 31 March 2009) that during the year, it made an investment amounting to 156.4 million euros in fixed assets, with around 75% applying to the development of its (GSM/GPRS, UMTS/HSDPA and DSL) networks, with investment in its third generation networks and ADSL network comprising around three quarters of this value; (iv) in the 2008/2009 Report and Accounts of OniTelecom - Infocomunicações, S. A. (Onitelecom) it is reported that that "investment costs amounted to about 11.8 million euros of which 8.6 million euros corresponded to investments in Next Generation Networks, particularly in the expansion and modernization of multi-service data and optical transport networks." (v) in the 2009 Consolidated Reports and Accounts of ZON Multimédia - Serviços de Telecomunicações e Multimédia, SGPS, S. A. (ZON Multimédia), it is reported that there was an increase in Total CAPEX of 32.8 % over the previous year, amounting to 213.6 million euros of which 88.5 million euros relate to investment in infrastructure supporting Subscription TV, Broadband and Voice "mainly explained by upgrade of the network through the implementation of EuroDOCSIS 3.0 and cell division".

of voice call termination on individual mobile networks, the market of retail leased lines and the markets of wholesale terminating and trunk segments of leased lines. With respect to the market of broadcasting transmission services, to deliver broadcast content to end users (market 18 of the previous Recommendation of the European Commission (EC)), this analysis is pending the conclusion of the process of Digital Terrestrial Television (DTT).

Taking into account the delay in the publication of the EC Recommendation on the regulation of NGA, the formalization of the specific regulatory framework applicable to these networks, following the analysis of broadband markets and the public consultation launched in 2008, was left unaccomplished in 2009, although the report of the public consultation already contained some guidelines.

Regulated offers

Within a framework of partial deregulation at retail level and in respect of certain wholesale markets, as indicated above, the regulated offers associated with access to network elements which cannot be easily replicated assume a key role in ensuring effective competition.

The measures proposed or adopted by ICP-ANACOM in 2009 regarding the various regulated wholesale offers, with particular focus on the Reference Unbundling Offer (RUO) and on the Reference Duct Access Offer (RDAO), allow the adjustment of their conditions to new costing data and to the needs of the market and its evolution, likewise taking into account the evaluation of the contribution presented by various operators with a view to their improvement. Note is made, in particular, of the work done with respect to the RUO which involved an extensive review of the offer, particularly in terms of quality of service and compensation for non-compliance, providing for a significant improvement in 2010 in the conditions of retail products based on LLU.

Special note should also be made of the decision on the publication of performance levels regarding the quality of service of the various regulated wholesale offers, providing the market and consumers with greater transparency when it comes to the levels of quality of service provided by PT Comunicações, S. A. (PTC) contributing, also and thereby, to better evaluation of the application of the principle of non-discrimination.

1.2.2 To assure and protect the rights of users and citizens in general (Objective 2)

In pursuit of this objective, note is made of the work of ICP-ANACOM with respect to a number of specific measures designed to protect users and ensure the provision of the Universal Service (US) of electronic communications and of postal services under the established conditions.

User protection

ICP-ANACOM focused on four specific areas in this context, namely, number portability, quality of service, international roaming and the handling of enquiries and user support.

A notable example, in 2009, is the determination which stipulated the amendment of the model recognized for the disclosure of information on quality of service, the activities undertaken in terms of disclosure and oversight of the matters related to the EU Roaming Regulation (e.g. the Roaming Light campaign), the revision of the Portability Regulation and the handling of complaints, requests for information, petitions and suggestions regarding the market, associated with the preparatory work of setting up a national arbitration centre for electronic communications.

In the case of portability, the aim was to overcome several barriers which have blocked the effective implementation of this functionality which is essential to improve the options of choice available to users, shortening the time periods involved and improving associated processes. The result of this measure led to a reduction of about one third in the average time taken for mobile number portability during 2009.

Note is also made of the activities undertaken, in a short period of time, in relation to the implementation of Decree-Law no. 63/2009, which was approved by the Government and which set out regulation governing the provision of valued added services based on message sending and the growing activity of ICP-ANACOM in matters related to communications security and privacy and to emergency communications.

The work developed in this important area of protecting users has centred on the promotion of information and clarification on the use of electronic communications and postal services, ensuring greater transparency and providing recipients of the services with a level of knowledge that will enable them, as they become increasingly informed, to demand full compliance with the contracted conditions. Furthermore, ICP-ANACOM also provided, along with the above measures, that its intervention in the market is more visible while ensuring, in particular, that the interests of consumers are upheld, while guaranteeing healthy competition.

Universal Service (US) of electronic communications

The regulatory intervention of this Authority in 2009, in terms of US, was conducted with focus on the following issues: (i) oversight of parameters and levels of quality of service of the US; (ii) analysis of the strategy of the Universal Service Provider (USP) for public payphones; (iii) ensuring the availability of telephone directories and information services containing information from all providers of electronic communications services; (iv) verification of compliance with conditions established with respect to affordability; (v) study of the process of calculating the net costs of US; and (vi) consideration and provision of assistance to the Government in the process of appointing the USP.

Specifically, the main effects of regulatory action developed in the areas outlined above are:

- overall improvement in compliance with the objectives of quality of service defined for the US with direct benefit for end-users;
- maintenance of affordability for the general public through the application of a price-cap, accompanied by a simplification of the tariff structure making it easier and more transparent;
- the search for solutions related to the appointment of the USP, where there is limited experience at international level, ensuring the fulfilment of objectives and compliance with the EU regulatory framework and enabling a selection process which is transparent, objective and non-discriminatory, while also taking into account the interests manifested by the various market

players in the context of the public consultation and the development and specific characteristics of the national electronic communications market.

Universal Service of postal services

In accordance with its powers and responsibilities, ICP-ANACOM proceeded, over the course of 2009, to monitor the development of the postal network, the prices and levels of quality of service of the US of postal services, thereby ensuring that the USP fulfils the obligations to which it is bound and which guarantee that the end-consumer has access to postal services according to stipulated conditions, with prices which compare favourably with European practice.

1.2.3 To promote open and competitive markets / to assure and protect the rights of users and citizens in general - Management of scarce resources (Objectives 1+2)

Radio spectrum management

During 2009, ICP-ANACOM continued its work of bringing its management of the radio spectrum closer into line with the activities of market regulation, whereby the management of this scarce resource is conducted for the accomplishment of the objectives related to promoting open and competitive markets and upholding and protecting the rights of users and citizens in general.

With this perspective, an approach was maintained based on the provision of spectrum to the market in a timely manner, alongside the progressive adoption of principles of service and technological neutrality, enabling the holders of rights of use of frequencies to take the decisions they deem most appropriate for their exploitation, respecting the need to avoid interference and comply with international agreements and Community stipulations.

In 2009, there were five key main areas which saw the intervention of ICP-ANACOM, namely:

- the revision of the National Table of Frequency Allocations (NTFA) involving also preparatory work to implement a frequency information portal (e-NTFA);

- the technical and regulatory preparation of the first auction of frequencies in Portugal for the allocation of rights of use in the 3.4 - 3.8 Gigahertz (GHz) band on the basis of service and technological neutrality;
- the provision of new frequency bands, with the conclusion of the tender for the 450 Megahertz (MHz) band and the completion of public consultations on the 2.6 GHz band and the digital dividend and the allocation of DTT licensing; and
- preparation of the transposition of the new Directive 2009/114/EC of 16 September 2009 which amended Directive 87/372/EEC (Directive on the frequency bands to be reserved for the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community) which was only concluded in 2010, in view also of its publication schedule.

Numbering

With respect to numbering, note is made of the alteration of the National Numbering Plan (NNP) with a view to the implementation of the service codes resulting from the implementation of the regime governing message-based value-added services, whereas it is reported that the average time taken for the allocation of rights of use of numbers of all kinds is 5 working days.

It is noted that due to the priority given in 2009 to this latter subject and to the various actions undertaken in relation to portability, a number of actions of lesser relevance in terms of numbering were not concluded. However a public consultation was prepared on the implementation of the common position of the European Regulators Group (ERG) with respect to Voice over Internet Protocol (VoIP), in particular with regard to aspects related to numbering, portability and access to emergency services, which impacted the timing of the development of the Numbering Regulation.

1.2.4 To improve the regulator's efficiency and performance capacity (Objective 3)

Regarding this specific objective, in the context of regulatory activity, note is made of a number of actions aimed at the enforcement of regulatory action, particularly in terms of market supervision, monitoring, sanctioning and conflict resolution.

In terms of supervision, monitoring and sanctioning, it is important to note the role played by ICP-ANACOM with respect to: (i) audits of costing systems, in both the electronic communications sector and in the postal sector; (ii) the procedures associated with the supervision and surveillance of the communications equipment market, and ITED and ITUR; (iii) the establishment of the framework regime governing infringements in the communications sector, which involved the contribution of this Authority to the review of the applicable legal framework and the formulation of more appropriate means of legal redress; (iv) sanctioning, involving 80 infringement proceedings instigated following violations of the Electronic Communications Law (ECL) and other legislation; and (v) administrative litigation, including the preparation of the necessary responses to lawsuits, which in carried over cases do not jeopardise the determinations of ICP-ANACOM.

As part of its regulatory work in terms of cost audits, it is noted positively that there is demand for greater rigour in the accounts of providers, bringing them into line with European recommendations. This provides the regulator with more detailed information and information which is more appropriate to the pursuit of the activity of regulation, especially so that it can properly evaluate the extent of compliance with the principle of cost orientation of prices and the correct allocations of costs to the different services.

Also in this context, it is worth noting the launch of a study on the curtailment costs of PTC and the conclusion of work developed in terms of assessing the calculations of the cost of capital of PTC, with the presentation of a draft decision which was transformed into a final determination following the public consultation in early 2010. This ensures better measurement of the costs of this operator in terms of regulated products or services, in accordance with European guidelines, recommendations and best practice. These actions have a positive impact on the pricing conditions at the level of the wholesale market and a direct and predictable effect in improved pricing conditions offered to the end-consumer.

Following an international tender, held in 2009, to select a consultant to support the development of a mobile termination costing model, the respective work was undertaken.

ICP-ANACOM has an important role in ensuring compliance with the national legislation of the electronic communications and postal services sector, which is evident in terms of the instigation of infringement proceedings and response to litigation. On the one hand, the market has incentive to comply with existing rules and, second, market players are encouraged to interact with the regulator in upholding their rights.

During 2009, ICP-ANACOM also intervened in several disputes of various kinds (as detailed in section 5.4), under the mechanism for administrative dispute resolution provided for in article 10 of the ECL.

The intention behind these actions is to enable speedier and more satisfactory resolution of the disputes in question, benefitting not only the parties directly involved, but also

consumers in general. Moreover, such actions can provide the market with knowledge of expected regulatory action, thereby heading off potential new disputes of the same nature.

1.2.5 To participate in the development of the EU internal market by improving the internal performance (Objective 4)

Detailed in section 6.1 (on international participation), ICP-ANACOM engaged in intense activity as adviser to the government and intervening on its own behalf as an independent regulatory authority in various international *fora*, with particular note of the activities conducted in the context of European committees and groups, and in particular, intense and active participation in the European Regulators Group.

1.2.6 To promote institutional and technical cooperation (Objective 5)

ICP-ANACOM continued with its cooperative activities, both nationally and internationally, including in particular the provision of information and training on regulatory practices in Portugal and in the EU. In general terms, these measures have contributed to the professional enrichment of its technicians and greater visibility and recognition of the regulatory capacity of ICP-ANACOM.

Note is also made, in terms of institutional cooperation, of the work carried out with AdC - Autoridade da Concorrência (Competition Authority), with respect to the restrictive practices of competition, enabling coordination with AdC on the coherent application of competition law in the electronic communications sector.



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TO PROMOTE OPEN AND COMPETITIVE MARKETS

(OBJECTIVE 1)

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●● 2 To promote open and competitive markets (Objective 1)

This section of the report sets out the actions undertaken with a view to ensuring conditions of effective competition, enabling users to derive maximum benefit in terms of choice, price and quality, while promoting efficient investment and creating conditions which are conducive to innovative solutions.

In addition to various aspects of electronic communications that are described below, ICP-ANACOM engaged, in the

context of postal services, in a range of preparatory work in 2009 with a view to the process of transposing Directive 2008/06/EC of 20 February, which establishes that full liberalization of the postal market shall occur no later than 31 December 2010.

●● 2.1 Next Generation Access Networks (NGA)

The increasing importance of NGA is evident, although it is undeniable that its development raises several questions in terms of the development of the electronic communications market, with emphasis on the promotion of sustained competition alongside the promotion of investment, ensuring conditions of non-discrimination and safeguarding conditions supporting info-inclusion.

In this context, ICP-ANACOM launched (in 2008) a public consultation on the regulatory approach to NGA, through which questions were put to the market and its various agents (including, operators, users and manufacturers) on a range of issues. In 2009, by determination of 18 February, ICP-ANACOM approved the public consultation report which combines the analysis of the various responses with a summary of the position of principle taken by this Authority, with the following key conclusions:

- the importance of vertical and horizontal barriers and the need to minimize or eliminate them;
- the importance of access to ducts according to conditions which are non-discriminatory and transparent, and the need to overcome problems that may arise in the context of such access (e.g. lack of available space and lack of economic viability in access to ducts);
- the continuity of business models based on LLU and their transition to NGA;
- the need to establish clear guidelines regarding regulation, subject in any case to the publication of the EC Recommendation on the regulatory approach to NGA.

As such, taking into account the principle of proportionality in the imposition of obligations, ICP-ANACOM deemed it appropriate to adopt a “phased” approach, possibly based on an analysis of broadband markets, in which, in addition to obligations of non-discrimination and transparency and obligations related to the transition of models based on LLU to NGA, the following conditions would apply:

- in competitive areas, only access to ducts is obligated, with improvements and equivalence of access, whereas other obligations are imposed (access to the own fibre

or dark fibre) only where there is a lack of space in ducts. As a last resort, where there is agreement between the parties, and as an alternative to access to own fibre or dark fibre, the option of virtual access to the network may be taken;

- in non-competitive areas, in addition to access to ducts, access to own fibre or dark fibre is also imposed, as well as virtual access to the network (advanced bitstream).

In the context of promoting NGA investment - a strategic priority stemming from the publication of Council of Ministers Resolution no. 120/2008 of 30 July - ICP-ANACOM continued with the work already begun in 2008 as part of its mission of advising the Government, preparing legislation and other acts necessary to ensure access by all operators, according to conditions which are non-discriminatory, to the duct network and other relevant facilities for the installation of electronic communications networks and the elimination of barriers to the installation, in buildings, of optical solutions associated with next generation networks. These works also included the introduction of appropriate amendments to current technical regulations, namely the ITED manual and the creation of new ITUR technical specifications.

This process culminated in the publication of Decree-Law no. 123/2009 of 21 May which approved the legal regime governing construction, access and installation of electronic communications networks and infrastructure and construction of telecommunications infrastructure in housing developments, urban settlements and concentrations of buildings, as well as in the approval of Law no. 32/2009 of 9 July and Decree-Law no. 258/2009 of 25 September.

This regime, governed by the general principles of competition, open access, non-discrimination, efficiency and transparency, is aimed at promoting the construction, installation and access to infrastructure suitable for the accommodation of electronic communications networks - with an approach based on technological neutrality - with respect to the property of public entities. This covers not only entities of the State, Autonomous Regions and local authorities, but also entities that are subject to the supervision or oversight thereof and which exercise administrative functions, regardless of their corporate

nature, as well as public companies, concessionaires or other entities owning infrastructure installed in the public domain of the State, Autonomous Regions and local authorities.

As such, a rule is established of open and non-discriminatory access to ducts, poles and other installations belonging to entities which, while operating in other sectors, are in possession of duct networks of significant importance. With the amendments introduced by Decree-Law no. 258/2009, this regime is extended to cover electronic communications undertakings as well as to the entities in possession of infrastructure which is suitable for housing electronic communications networks for use by said undertakings, without prejudice to the regime laid down in ECL, in particular with regard to the concessionaire of the public telecommunications service.

This regime sets out to remove or mitigate the barriers to the construction of infrastructure for the accommodation of electronic communications networks, with provision for rules which, likewise, facilitate the coordination of underground works, including with respect to the obligation to give prior notice of the execution of works which allow for the construction of infrastructure suitable for the accommodation of electronic communications networks and the obligation to allow other companies of this sector to associate themselves with this intervention.

Another important issue is the harmonization of procedures, especially in the relationship between operators and local authorities, which is an issue of unquestionable importance in removing uncertainties and barriers to the installation of infrastructure suitable for accommodating next generation networks. To this extent, it is established that the construction of infrastructure which is suited to accommodation of electronic communications networks is subject to the procedure of prior notification to the city council pursuant to the legal regime governing urban development and building construction.

With regard to access to infrastructure, this legislation contains a number of provisions designed to ensure open access to existing and planned infrastructure which, according to its characteristics, is suitable for the accommodation of electronic communications networks.

This right is limited only where the infrastructure is unsuited to the accommodation of communications networks, where the use of infrastructure impedes the primary purpose for which it was created, when there is implication of breach of public service obligations assumed by the entities concerned or when there is no available space in the ducts concerned due to their state of occupancy whereas it may be subject to compliance with the technical and safety standards established by the entities in possession of the infrastructure or of the domain in which the infrastructure is located. Access to applicable infrastructure shall be provided on terms of equality, transparency and non-discrimination, subject to remuneration conditions which are orientated to cost.

Finally, for the first time, the legal regime applicable to ITUR was defined and the regime applicable to ITED was established, which in this context constitutes a development of the framework set forth by the previous Decree-Law no. 59/2000 of 19 April, now repealed.

On 14 December 2009, through Notice no. 22358/2009, published in *Diário da República* (Official Journal) no. 240, 2nd series, of 14 December, the new ITED and ITUR were published, as approved by ICP-ANACOM on 25 November 2009 and as available on this Authority's website.

Also in the context of ITED / ITUR infrastructure, through various determinations in 2009, ICP-ANACOM approved new models of declarations of planning and execution responsibility, as well as the procedures for the evaluation of this infrastructure and the registration and renewal of training providers.

It is also noted that, by determination of 18 March 2009, ICP-ANACOM approved the conclusions of the public consultation on the development of a system for registering electronic communications infrastructure (which was launched in September 2007) and the respective report.

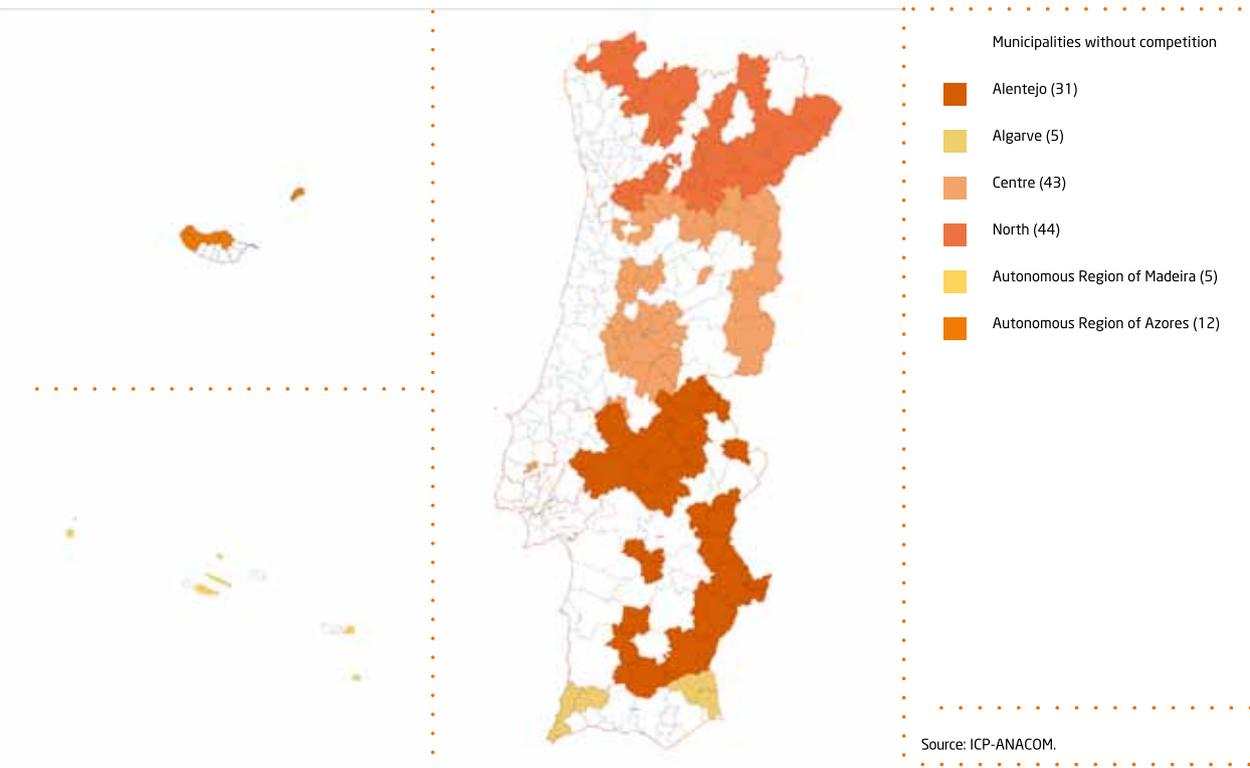
Meanwhile, pursuant to the new regime applicable to the construction of and access to and deployment of electronic communications infrastructure, this Authority is responsible for the conception, management and

maintenance of a Centralized Information System (CIS). The CIS is a key instrument to ensure open and efficient access by all electronic communications companies to infrastructure suitable for the accommodation of the respective networks, based on principles of information sharing and reciprocity. The system is accessible to entities to ensure compliance with the obligations related to the information included therein.

By determination of 16 December, 2009, ICP-ANACOM approved the public consultation document on the format to be used for the provision of elements in the CIS.

It is noted that, in order to ensure territorial cohesion and to uphold equality of opportunity, in 2009 the Government decided to launch five Public Tenders for the construction, installation, financing, operation and maintenance of NGA, with co-financing, with the aim of addressing possible market failures in 140 municipalities, divided into five regions (the Centre, Alentejo and Algarve, North, Madeira and the Azores). The municipalities covered in each of these areas are those not on the coaxial cable network and without co-located operators and when all the parishes comprising the municipality are classified as rural by the European Agricultural Fund for Rural Development (EAFRD)².

Municipalities in the tender | Figure 1



² This latter condition applies only to the mainland, since there is no classification for the autonomous regions.

In accordance with the Tender Specifications, each of the tenders will have to ensure achievement of minimum coverage of 50 % of the population and a minimum rate of 40 Mbps³ *per* end-user, within a maximum period of twenty-four months, in the geographic area covered by each of the municipalities covered by the tender.

Each high-speed network shall be operated as an open network, whereby it must be ensured that, for a period of twenty years, there is a wholesale offer available which provides all operators and providers of electronic communications services interested in the use of such networks with access thereto for the provision of services to end-users.

The instruction of these tenders is incumbent on ICP-ANACOM, which shall also appoint the respective tender panel, to whom

the technical services of this Authority will provide assistance in the analysis and appraisal of the proposals presented.

Furthermore, pursuant to these tenders, during 2009, ICP-ANACOM provided assistance to the Government in many aspects, including in the assessment of measures designed to check compatibility with the guidelines published by the EC on the provision of State aid for the rapid deployment of broadband networks.

The decisions to award these tenders have been taken in 2010.

³ Megabit *per* second (million bits *per* second).

●● 2.2 Market analyses

2.2.1 Broadband markets

By determination of 14 January 2009, and taking into consideration comments submitted by the EC, pursuant to paragraph 3 of article 7 of Directive 2002/21/EC, approval was given to the final decision on the definition of product and geographic markets, assessment of Significant Market Power (SMP) and the imposition, maintenance, amendment or withdrawal of regulatory obligations in the markets of wholesale (physical) network infrastructure access at a fixed location and of wholesale broadband access (corresponding to markets 4 and 5 of the EC Recommendation).

Having performed this analysis over the course of 2008, the detailed description of this decision is provided in that year's Regulation Report.

Nevertheless, this report highlights the main results of this analysis:

- in the market of wholesale (physical) network infrastructure access at a fixed location Grupo Portugal Telecom (Grupo PT) was designated as having SMP and various obligations were imposed on this undertaking, as well as the possibility of imposing access to dark fibre where access to ducts is not possible;
- in the market of wholesale broadband access, it is concluded that the competitive conditions were such as to determine the definition of two separate geographic markets. This resulted in the identification of Grupo PT as having SMP in the NC Areas (deemed uncompetitive) and the subsequent imposition of obligations; and the withdrawal of obligations applying to Grupo PT in the C Areas (deemed competitive), whereas a transition period of one year was determined during which certain obligations would remain in effect, which period expired in 2010.

It is also noted in this context that Portugal is among the top third of countries where alternative operators have a greater share of the broadband market in terms of access (56 %⁴), as presented in the EC's 15th Implementation Report of Electronic Communications.

2.2.2 Markets of voice call termination on individual mobile networks

Over the course of 2009, ICP-ANACOM continued to monitor the mobile communications markets, with particular focus on markets of wholesale call termination, and especially in view of the competitive distortions occurring both between fixed operators and mobile operators and also within the mobile retail market, particularly with regard to the practice of retail price differentiation between on-net and off-net calls, intensifying network effects.

In this context, in 2009, ICP-ANACOM sought statistical information from various operators on their activities and conducted different analyses of the evolution of the market and of the products developed in the market.

The publication of the EC Recommendation on the regulatory treatment of fixed and mobile termination rates in the EU, on 7 May 2009, and its implications in terms of significant reductions in termination rates, as well as information compiled from other European NRA on measures taken or due to be taken in relation to this issue, also warranted in depth analysis of the markets concerned.

Therefore, based on work undertaken during 2009, in early 2010, ICP-ANACOM approved two draft decisions on the definition of relevant markets of wholesale voice call termination on individual mobile networks, the assessment of SMP on these markets and the imposition, amendment or withdrawal of regulatory obligations - corresponding to market 7 of EC Recommendation 2007/879/EC of 17 December - and the implementation of the price control obligation in these markets. After the corresponding public consultation and compilation of opinions from AdC and the EC, these documents were approved, with a number of amendments, leading to the final determination in May 2010.

2.2.3 Leased lines markets

By determination of 16 December 2009, ICP-ANACOM approved the draft decision on the definition of product markets and geographic markets, assessment of SMP and

⁴ Data referring to January 2010.

the imposition, maintenance, amendment or withdrawal of regulatory obligations in relation to the market for the retail provision of leased lines and markets of wholesale terminating and trunk segments of leased lines. It is noted that only the market of wholesale terminating segments is identified as being a market susceptible to *ex-ante* regulation in the EC Recommendation on relevant markets (market 6). The market of retail leased lines and the market of wholesale trunk segments of leased lines correspond to markets identified in the previous Recommendation (markets 7 and 14 of Recommendation 2003/11/EC of 11 February).

In this Draft decision ICP-ANACOM concluded that the leased lines retail market does not fulfil the criteria that justify the imposition of *ex-ante* regulation and that therefore the obligations imposed on Grupo PT in this market should be withdrawn.

With respect to the market of wholesale terminating segments, the main conclusions contained in the draft decision are:

- for the purposes of *ex-ante* regulation, and in accordance with the principles of competition law, the market of wholesale terminating segments of leased lines, irrespective of the technology used to provide leased or dedicated capacity, is identified as relevant, encompassing the entire national territory;
- Grupo PT was designated as having SMP on this market, whereby in this respect the following obligations were imposed: access to and use of specific network resources, non-discrimination in the provision of access and interconnection and in the respective provision of information, transparency in the publication of information, including the publication of reference offers, separation of accounts for specific activities related to access and/or interconnection, control of prices and cost accounting and financial reporting.

With respect to the market of wholesale trunk segments of leased lines, the main conclusions of the analysis embodied in this draft decision are as follows:

- the existence of heterogeneous competitive conditions in two different sets of routes identified justifies the definition of two geographic markets, also distinct:
 - market of wholesale terminating segments of leased lines, irrespective of technology or capacity, consisting of C Routes - covering routes which connect the main urban centres (and within urban centres, especially the metropolitan areas of Lisboa and Porto), with greater population and corporate density and where there are various competing alternative network offers;
 - market of wholesale trunking segments of leased lines, irrespective of capacity and technology, consisting of NC Routes - covering routes linking areas of lower population and corporate density and where, in most cases, only the incumbent operator is present (and, in these cases, obviously, with a market share of 100 %).
- for the purposes of *ex-ante* regulation and, in accordance with the principles of competition law, the market of wholesale trunking segments of leased lines, irrespective of technology or capacity, is identified as being a relevant market, covering the entire national territory;
- whereas Grupo PT is designated as possessing SMP on this market, the following obligations were imposed: access to and use of specific network resources, non-discrimination in access and interconnection, and in the disclosure of information, transparency in the disclosure of information, including reference offers, accounting separation for specific activities related to access and/or interconnection, price control and cost accounting and financial reporting.

For the purposes of *ex-ante* regulation, the market of wholesale trunking segments, irrespective of capability and technology, consisting of C Routes, was identified as not relevant, whereby provision was made for the removal of obligations previously imposed with respect to this market.

In practice and in conclusion, and in terms of the major changes proposed in the draft decision with respect to the current situation, note is made of the inclusion of circuits supported by Ethernet technology in the regulated area and the deregulation of the entire leased lines retail market and of a significant part of the wholesale market corresponding to a given set of routes (trunking segments).

The analysis of the responses received pursuant to the public consultation and the drafting of the respective report were conducted in 2010.

2.3 Regulated offers

Given the evident importance of wholesale offers in the promotion of competition with direct implications for end-users, on 11 March 2009, approval was given to the decision on the publication of performance levels regarding the quality of service of the regulated wholesale offers - RUO, Leased Lines Reference Offer (LLRO), RDAO, Rede ADSL PT offer and Wholesale Line Rental Offer (WLRO). In the same decision the information compiled is simplified, taking into account the principle of proportionality.

This measure was designed, among other objectives, to promote greater transparency for the market regarding the levels of quality of service provided by PTC - both to its own departments and companies of Grupo PT and to the other recipients of its wholesale offers - thereby enabling better assessment of the principle of non-discrimination.

It was therefore recognised that it was important to have information on the conditions under which wholesale

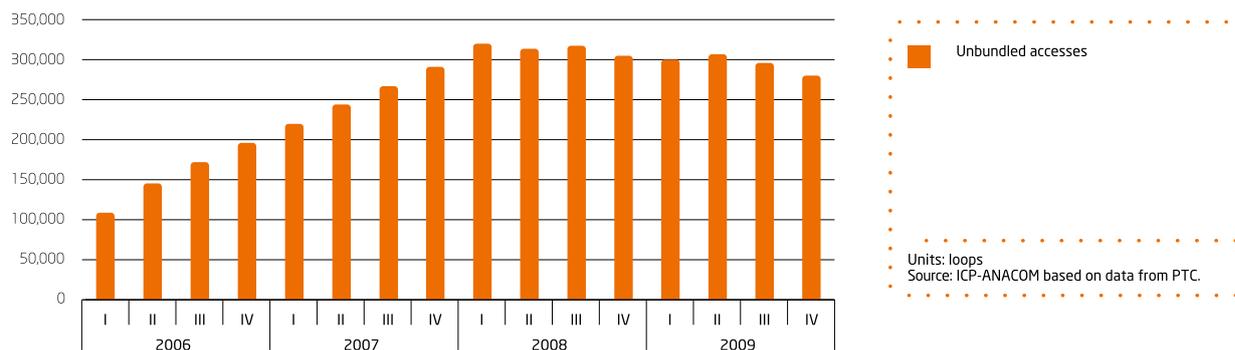
services are provided by PTC to other companies of Grupo PT and to its own internal departments and the conditions under which some retail services are provided, as well as to address the different information needs of end users, the beneficiaries of wholesale offers and ICP-ANACOM.

2.3.1 Reference Unbundling Offer (RUO)

LLU provides alternative operators with physical access over copper pairs to the premises of end-customers for the provision of narrowband and/or broadband services.

2009 was characterized by a decline, though not marked, in the number of loops unbundled, with an annual reduction reported of around 8 %: 280,518 unbundled loops at the end of 2009 compared to 305,244 unbundled loops reported at the end of the previous year (graph 1).

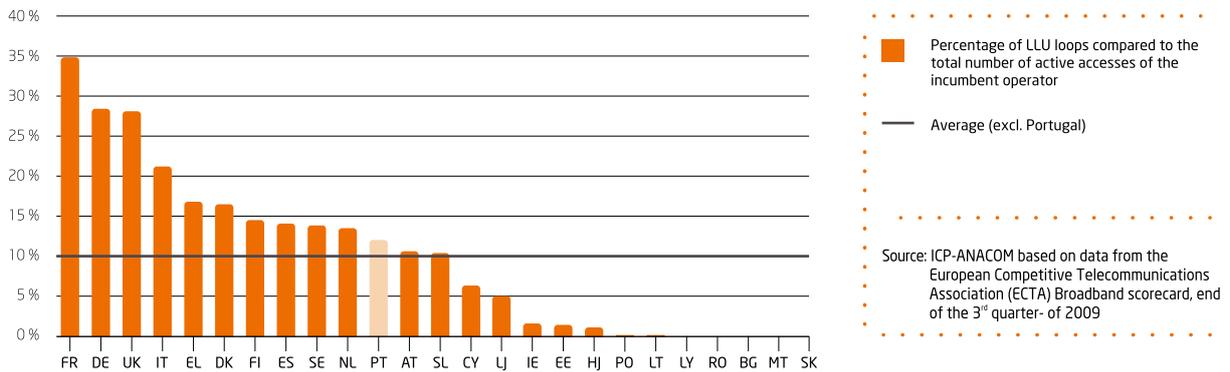
Evolution in the number of unbundled loops | Graph 1



Despite this decline, in the third quarter of 2009, the rate of penetration of unbundled loops as a proportion of the incumbent's total active accesses in Portugal was

higher than the average calculated for the Member States considered (excluding Portugal) - see graph 2.

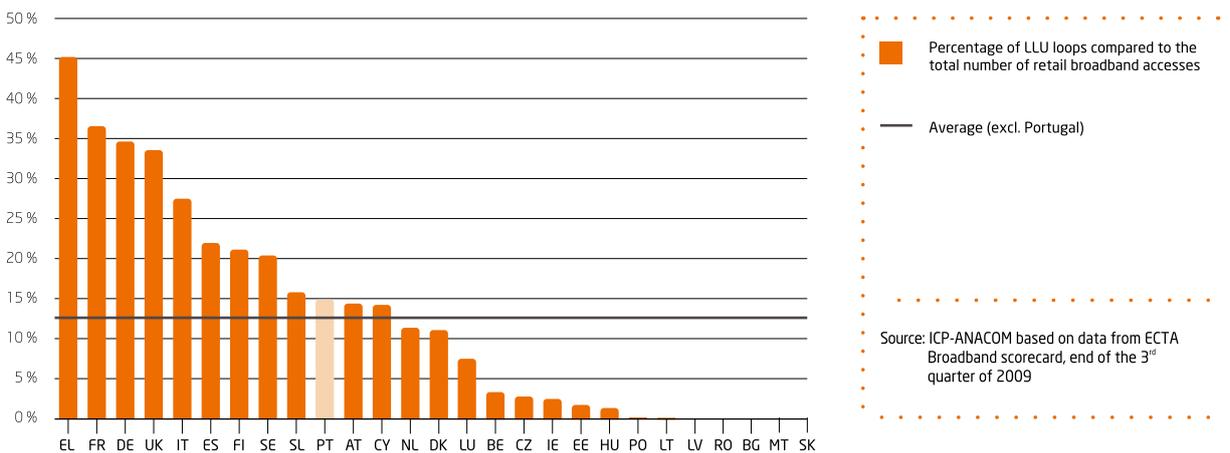
Percentage of unbundled loops compared to the total number of active accesses of the incumbent operator | Graph 2



Considering the number of unbundled loops compared to total broadband access, in the third quarter of 2009, a

penetration rate is reported in Portugal which is above the average of countries considered (graph 3).

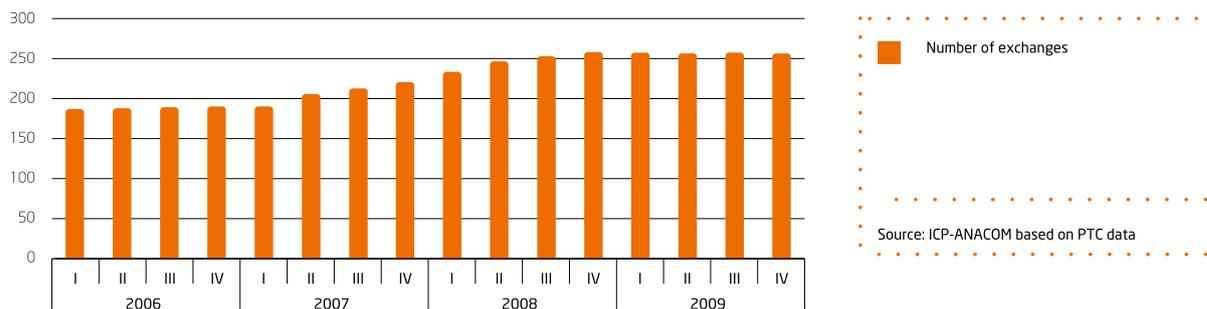
Percentage of unbundled loops compared to the total number of retail broadband accesses | Graph 3



With respect to the presence of Other Service Providers (OSP) in PTC exchanges, it is clear that during 2009 the number of exchanges with co-located operators remained

unchanged, totalling 257 exchanges as at the end of 2009 (graph 4).

Number of exchanges with co-located operators | Graph 4



There was a slight reduction reported in 2009 in the coverage of the retail offers of the OSP supported on LLU, whereas, at the end of the year, coverage was reported as reaching just over 60 % of the total number of subscribers to the Fixed Telephone Service (FTS) of PTC, as shown in graph 5.

It is noted that the distribution of accesses by the exchanges of PTC⁵ results in a curve sloped as shown in graph 5, since the marginal contribution of each exchange to the increase in the LLU coverage will be increasingly less.

LLU coverage in terms of FTS subscribers - main distribution frames considered in descending order in respect of the number of loops in use | Graph 5

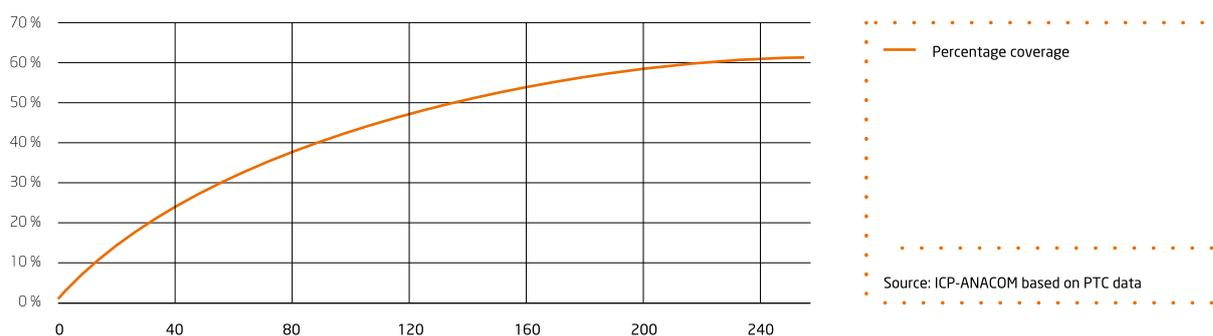


Figure 2 shows the location of the exchanges with co-located OSP at the end of 2009 from which retail services can be offered based on LLU.

⁵ There are exchanges with tens of thousands of accesses and others with only a few dozen accesses.

Location of exchanges where OSP make use of the LLU in Mainland Portugal (4th quarter of 2009) | Figure 2



Source: ICP-ANACOM based on PTC data

The regulatory intervention of ICP-ANACOM in the context of LLU during 2009 involved the adoption, on 15 July, of the decision on the synchronisation between number portability and local loop unbundling, subsequent to the publication, on 18 February 2009, of Regulation no. 87/2009 amending the Portability Regulation - Regulation no. 58/2005 of 18 August and the amendment to the Specifications for Portability. It was so determined that PTC amend the RUO to make provision that, in case of concurrency of the portability process and local loop unbundling process, the transfer of the loop occurs during the portability window agreed with the OSP, whereby the request for number portability must be made at least 8 working days in advance of the first proposed window option. This decision was designed to enable the full entry into force of Regulation no. 87/2009 on 20 July 2009.

The intervention of this Authority in the context of 2009 LLU also involved approval, on 5 August 2009, of a draft decision on the amendments to the RUO, subsequent to the analysis of market 4 of the EC Recommendation (market of wholesale (physical) network infrastructure access at a fixed location) and aiming to improve the offer in the light of experience gained in its implementation and market needs.

The amendments proposed in this draft decision involved various aspects, including:

- the introduction of services with Premium and Urgent levels of quality with tighter fault repair deadlines compared to those previously practiced;

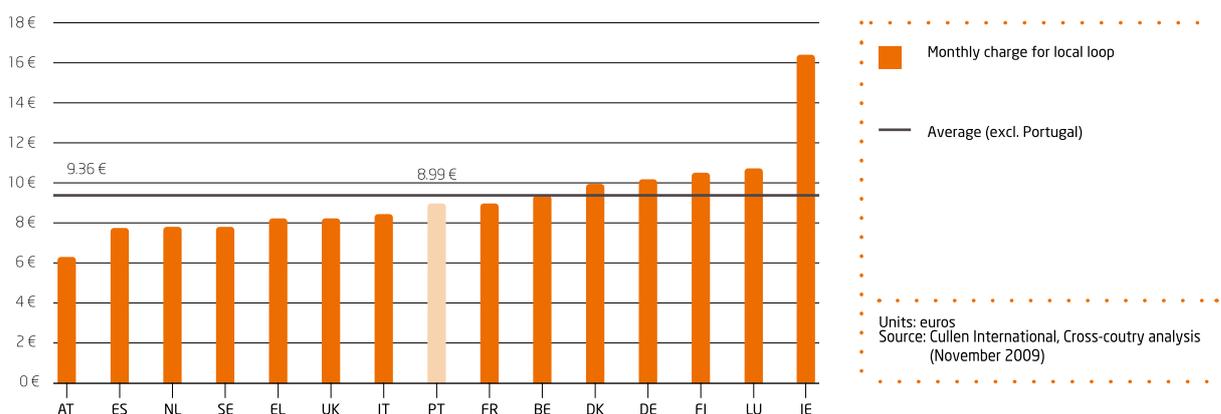
- the increase in compensation for non-compliance to encourage fulfilment of the obligations and disassociating the prior submission of forecasts from the eligibility to receive such compensation;
- the establishment of the obligation of PTC to make detailed information available to OSP at the level attendance points, increasing the transparency and predictability of the conditions of this wholesale offer and driving its expansion;
- an increased period of advance notice required with respect to network modifications (including in the event of loop relocation), made dependent on the number of loops subject to relocation, aiming at providing increased protection of the investments made by the beneficiaries of the offer;
- a reduction in the maximum periods of order confirmation and scheduling of unbundling, in the case of unbundling of loops with portability;
- simplification of the process of entering exchanges with own infrastructure;
- allowed use of new technologies on unbundled loops in accordance with international standards.

Pursuant to the prior hearing and public consultation on the draft decision, various comments were received, and the final decision was adopted in 2010.

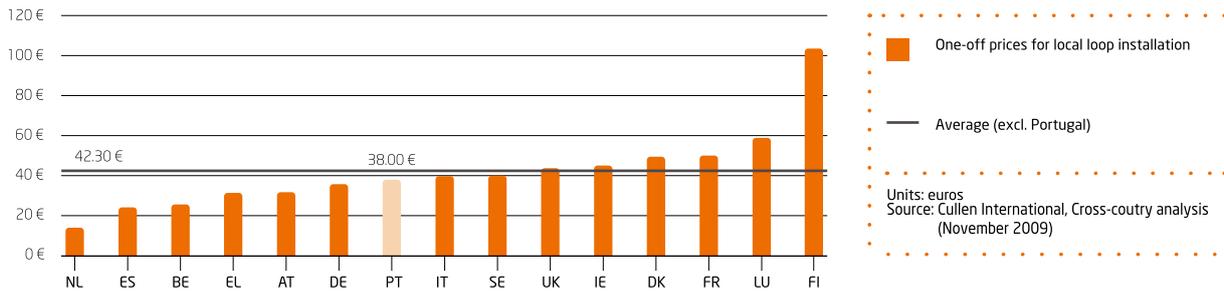
With regard to prices applicable to RUO, during 2009, no changes were determined. Nevertheless, the analysis and monitoring of existing prices was continued, especially through comparison with prices in other European countries.

International comparisons of prices indicate that prices in Portugal in 2009 remain in line with best practice at EU level (EU15) with values below average, as evidenced by the following graphs.

Monthly charge for local loop (full access) - EU15 comparison | Graph 6



One-off prices for local loop installation (full access) - EU15 comparison | Graph 7

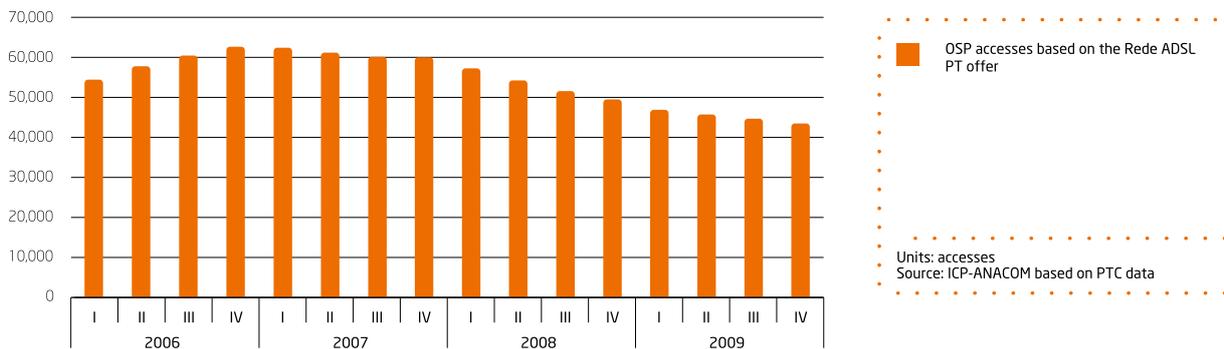


2.3.2 Rede ADSL PT wholesale offer (broadband access)

The wholesale Rede ADSL PT offer remains an important factor in promoting the universality of broadband Internet access and conditions which ensure the sustained and competitive development of Asymmetric Digital Subscriber Line (ADSL) services provided to end-users. In this respect, the suitability and proper functioning of the wholesale offer remains a priority for ICP-ANACOM.

The Rede ADSL PT wholesale offer continues to provide support to the broadband access retail offers of a number of OSP, despite the fact that, since late 2007 and as a result of natural trend towards offers with greater added value, supported on the unbundling of loops, a continued slowdown has been reported in these accesses, whereas at the end of 2009 the total number of OSP access base on this wholesale offer still amounted to more than 40 thousand accesses (graph 8).

Evolution of OSP accesses based on the Rede ADSL PT offer | Graph 8



It is further noted that, pursuant to the consultation and public hearing on the draft decision on the analysis of broadband markets (market 4 and 5 of EC Recommendation 2007/879/EC of 17 December), certain entities expressed concern about a possible discontinuation of the Rede ADSL PT wholesale offer in the market of wholesale broadband access in C Areas as a result of ICP-ANACOM

having withdrawn the obligations in this same market after concluding that no company had SMP.

However, it is noted that in 2009, Grupo PT continued to provide this wholesale offer in C Areas of the market of wholesale broadband access under the same conditions, maintaining the coverage indicated in figure 3.

Location of exchanges with Digital Subscriber Line Access Multiplexer (DSLAM) with subscribers (2009) | Figure 3



PTC central with DSLAM

Source: ICP-ANACOM based on PTC data

2.3.3 Leased Lines Reference Offer (LLRO)

The LLRO, available on the market since 2005, continued to be actively used by the majority of OSP, especially the operators acting in the leased lines retail market.

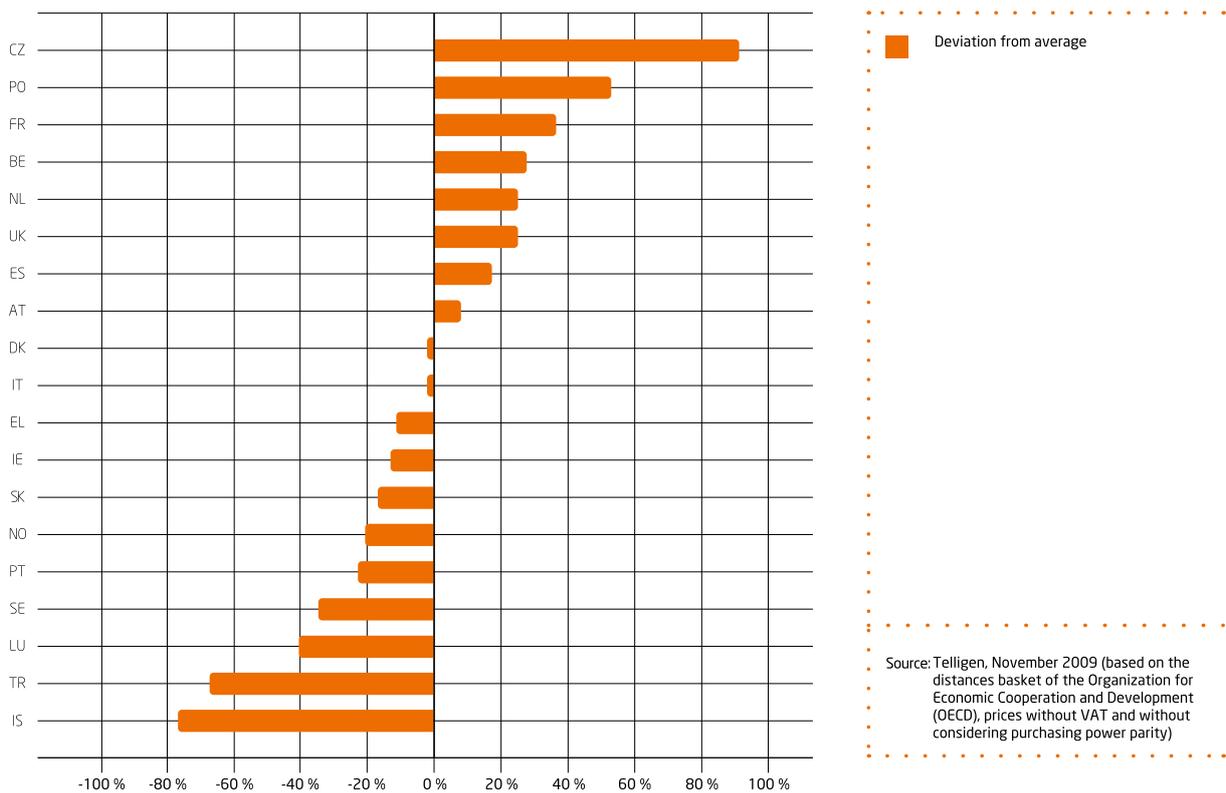
The importance of this wholesale offer is reflected in the fact that operators have access throughout the national

territory, and on a non-discriminatory basis, to inputs at a wholesale level, at cost-oriented prices, in clearly defined time frames and with a determined quality of service; this allows a significant reduction in the entry barriers and a contribution to improved competitive conditions.

According to a comparison of prices prepared by Teligen, with data from November 2009⁶, it is reported that in the case of lower speed circuits (64 Kbps⁷ and 2 Mbps), prices in Portugal were below the average prices of the countries studied, unlike the situation found with respect to circuits with higher bandwidths (particularly for those of 34 Mbps), where there is already a generally greater degree of competition.

The following graphs present these price comparisons for the types of circuits referenced, measured in terms of deviation from the average of the countries considered - the average is calculated excluding prices for Portugal.

Annual price of 64 Kbps digital circuits in Europe (November 2009) | Graph 9

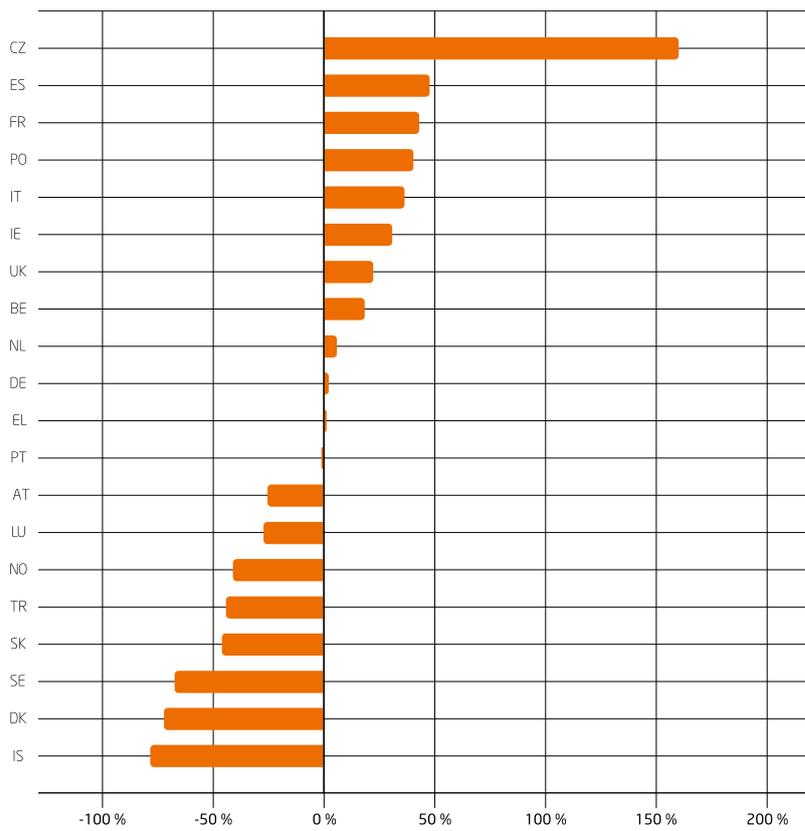


⁶ To perform the comparison of prices for leased lines and calculate the average price of a circuit of a determined capacity, Teligen takes into account the prices of the incumbent operator in each country and uses the basket of OECD as a weighting, involving six distance segments:

Distances	2 km	20 km	50 km	100 km	200 km	500 km
OECD basket	35 %	20 %	15 %	20 %	5 %	5 %

⁷ Kilobit *per* second (thousand bits *per* second).

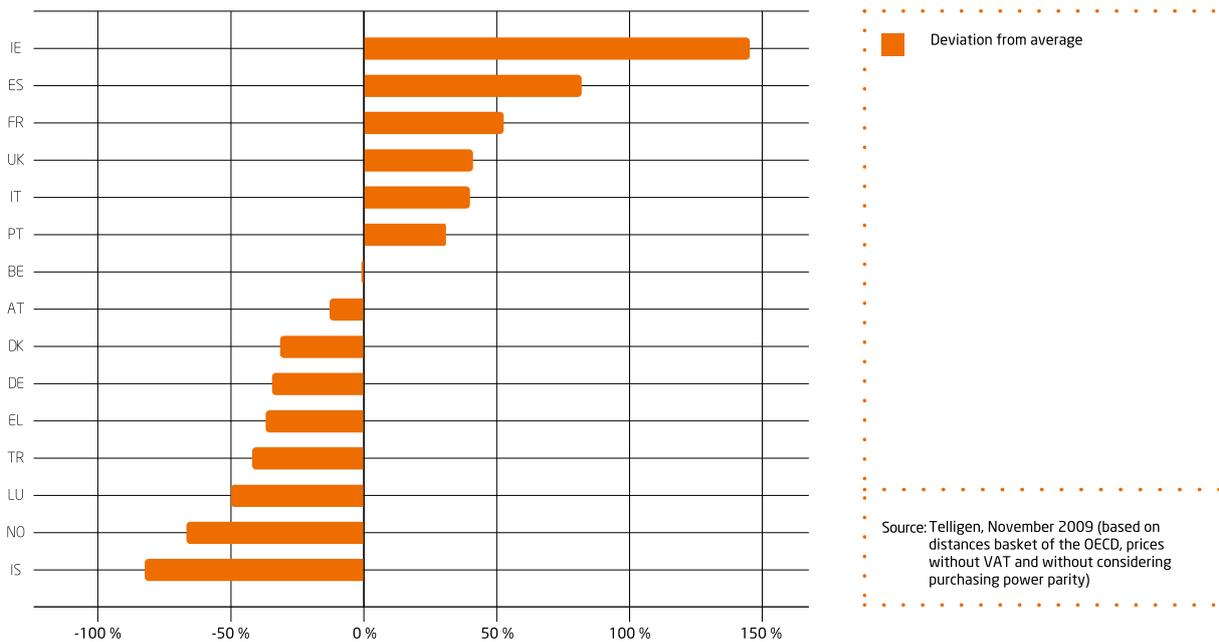
Annual price of 2 Mbps digital lines in Europe (November 2009) | Graph 10



■ Deviation from average

Source: Telligen, November 2009 (based on distances basket of the OECD, prices without VAT and without considering purchasing power parity)

Annual price of 34 Mbps digital lines in Europe (November 2009) | Graph 11



2.3.4 Reference Interconnection Offer (RIO)

On 11 March 2009, ICP-ANACOM approved the final decision on the conditions of the RIO to take effect in 2009, as well as the report of the prior hearing to which the respective draft decision, adopted on 4 December 2008, was subject.

a) Call origination and termination rates

In the determination on the 2009 RIO, ICP-ANACOM decided that the maintenance of current price caps, which derive in particular from the results of PTC’s costing system and a lower level of fixed network use, makes it possible to ensure

the balance between the need to promote incentives to develop own infrastructure and the promotion of effective competition.

It is further seen that the average annual price variation for interconnection is not zero since, during 2008, two different interconnection tariffs were in force, so embodying the variation of approximately -0.5 % (assuming the traffic profiles estimated by PTC for 2009).

The following table illustrates the variations compared to prices previously in force, in terms of average annual revenues.

Variation of average annual interconnection revenues in 2009 compared to 2008, for origination and termination services, based on an average call duration | Table 1

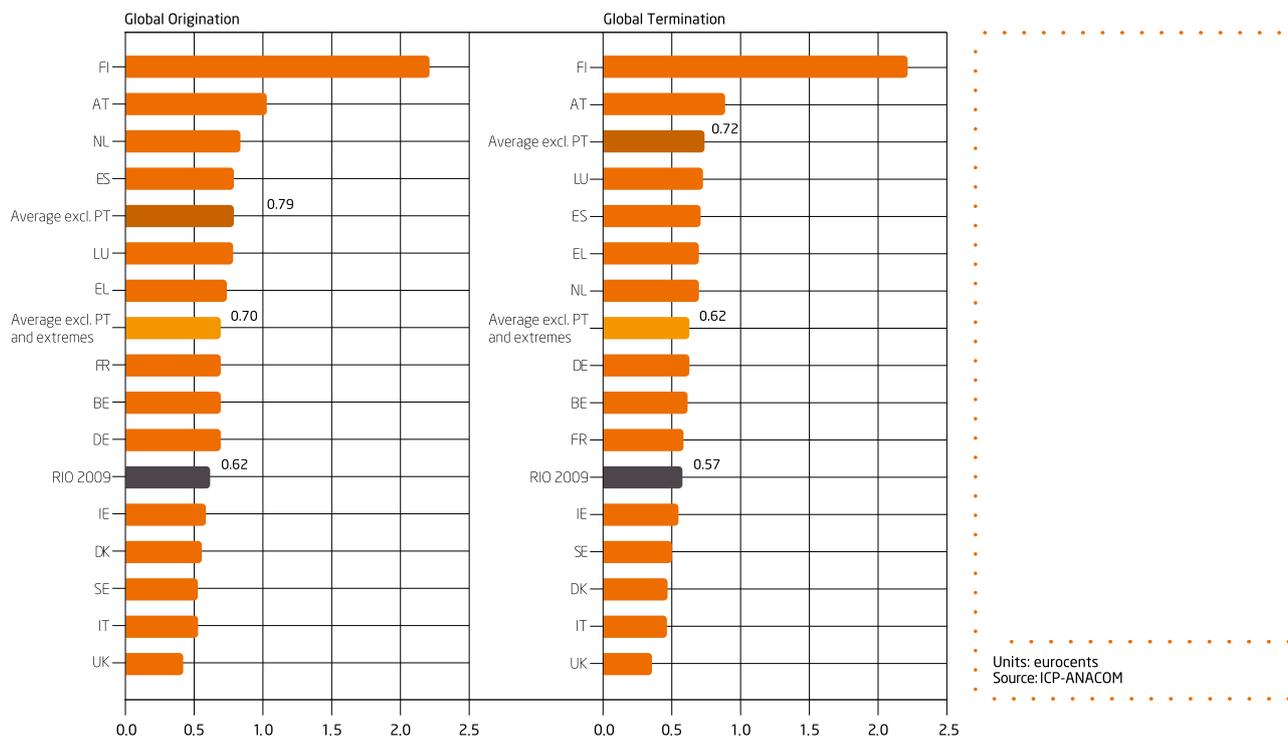
	Termination			Origination			Total interconnection considered
	Peak time	Off-peak time	Average	Peak time	Off-peak time	Average	
Local	0.00 %	0.00 %	0.00 %	0.00 %	0.00 %	0.00 %	0.00 %
Single tandem	-0.66 %	-1.65 %	-0.89 %	-0.68 %	-1.02 %	-0.72 %	-0.81 %
Double tandem	-1.09 %	-1.82 %	-1.46 %	-1.13 %	-1.74 %	-1.26 %	-1.42 %
Average	-0.35 %	-0.97 %	-0.52 %	-0.45 %	-0.70 %	-0.49 %	-0.51 %

Source: ICP-ANACOM

The determined maximum prices enable a favourable position in relation to current European practice to be

maintained in this respect, as is shown in the following graphs.

European comparisons - fixed interconnection prices (call origination and termination)⁸ | Graph 12



⁸ The figures presented above for each country were obtained by applying the estimated interconnection traffic weightings to interconnection tariffs in force for each Member State (average price per minute for a three minute call) in order to obtain, for both call origination and call termination, an indicator that can be used to assess the various elements of interconnection in an integrated manner.

Compared to the situation in 2008 (applying the traffic profile estimated by PTC for 2009 and maintaining the prices), it appears that Portugal has kept the same position with respect to origination, while moving from fourth to fifth place with regard to termination. It should also be noted that the EU average (excluding Portugal), rose in the 2008-2009

period, whereas variations were reported of 2.6 % and 2.9 % for origination and termination, respectively. The following table provides more detailed information concerning the position of Portugal compared to the European average, following the determination of 11 May 2009.

Comparison of interconnection prices with the practices of the EU15 (price per minute of a three minute call) | Table 2

	Origination						Termination					
	Local		Single tandem		Double tandem		Local		Single tandem		Double tandem	
	Peak	Off-peak	Peak	Off-peak	Peak	Off-peak	Peak	Off-peak	Peak	Off-peak	Peak	Off-peak
ICP-ANACOM prices	0.54	0.35	0.75	0.46	1.20	0.74	0.54	0.35	0.75	0.46	1.20	0.74
EU Average (excl. PT)	0.69	0.49	0.95	0.65	1.33	0.84	0.69	0.49	0.93	0.64	1.29	0.83
Desviation ICP-ANACOM prices from average	-21.2 %	-27.5 %	-20.3 %	-28.8 %	-10.4 %	-12.5 %	-20.6 %	-27.2 %	-19.3 %	-27.9 %	-7.0 %	-10.8 %
Average excl. PT and extremes	0.59	0.37	0.88	0.56	1.27	0.76	0.59	0.37	0.87	0.55	1.26	0.74
Desviation ICP-ANACOM prices from average excluding extremes	-8.2 %	-4.9 %	-14.2 %	-16.7 %	-5.5 %	-3.1 %	-7.6 %	-4.7 %	-13.0 %	-15.5 %	-5.3 %	-0.7 %

Source: Calculations of ICP-ANACOM, based on information from Cullen International, December 2007

b) Prices of the service of billing, non-collection and collection risk

ICP-ANACOM decided to maintain the prices set out in the 2008 RIO for the service of billing, collection and non-collection risk, considering it premature to define new values without further analysis of the subject. It should be noted that the applicable values are (i) 2.90 eurocents *per call* for call services where the cost incurred by the caller does not exceed Local PTC (as defined in the tariff for PTC

residential customers) and (ii) 3.17 eurocents, *per call*, for other special charged services.

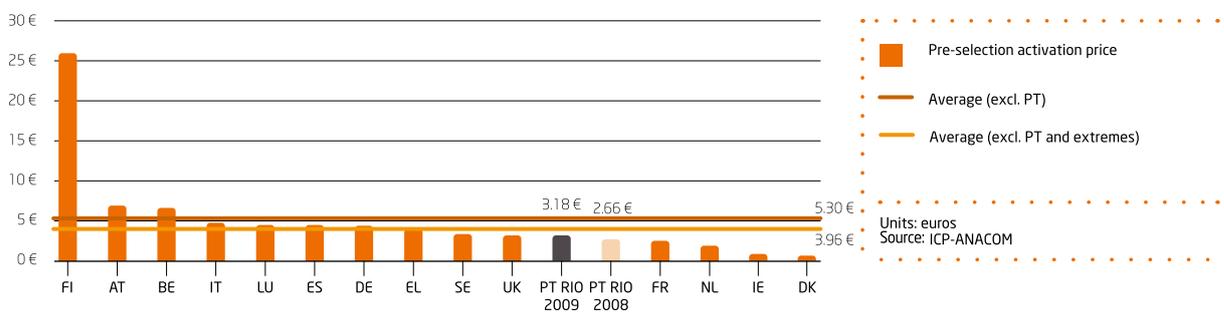
c) Price of pre-selection activation

ICP-ANACOM deemed it appropriate to proceed with an increase in the maximum pre-selection activation price effective from 1 January 2009, setting this at 3.18 euros, representing an increase of 20 % over the price in force at that time.

It is noted that, according to European comparisons, the new price is the fifth lowest in the EU, whereby Portugal remains

in the group of five best relative positions, as can be seen in the graph below.

European practices regarding pre-selection activation prices (September 2008) | Graph 13



In its decision to increase prices, ICP-ANACOM took note of: (i) the very significant variations in the quantities of pre-selection activations (for which highly significant decreases have been reported in recent years) and the evolution in unit costs, according to data from Analytical Accounting System (AAS) of the incumbent operator; (ii) the fact that there appears to be no stable relationship between the change seen at the level of costs and the variation in the quantities of pre-selection activations, which makes cost forecasts difficult; (iii) the significant removal from European best practices that will result from the simple consideration

of cost estimates based on costing data for the first half of 2008; (iv) the existence of a clear trend of significant decline in the number of pre-selection activations; and (v) the need to provide the market with predictability in terms of prevailing conditions.

d) Number portability activation prices

It was decided to maintain the activation prices applying to fixed number portability in 2008, which had the following values:

Maximum prices for portability activation by number | Table 3

	Maximum price RIO 2009
Individual porting	4.01€
Block of 1 to 9 numbers	4.01€
Blocks of 10 to 99 numbers	1.47€
Blocks of numbers ≥ 100	0.73€

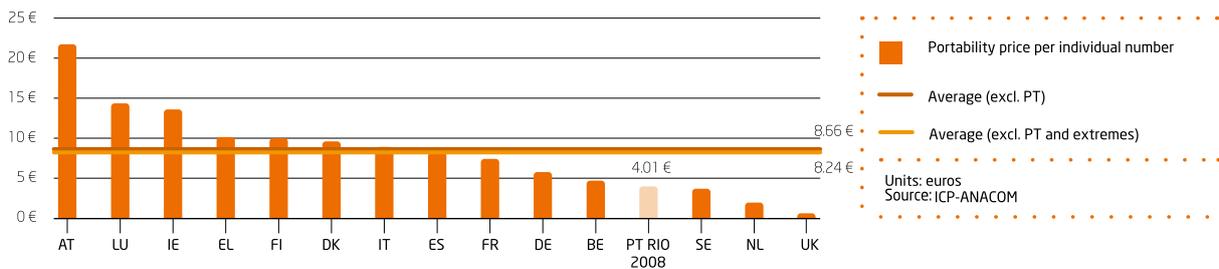
Source: ICP-ANACOM

The decision of ICP-ANACOM was based essentially on the fact that: (i) the current price compares favourably with the situation at European level, which fact is an indication that prices are not out of line with best market practices; (ii) the followed option is the one that represents less disruption to market conditions, including significant fluctuations in terms of portability volumes; and (iii) the lack of specific

costing data for the porting of numbering ranges.

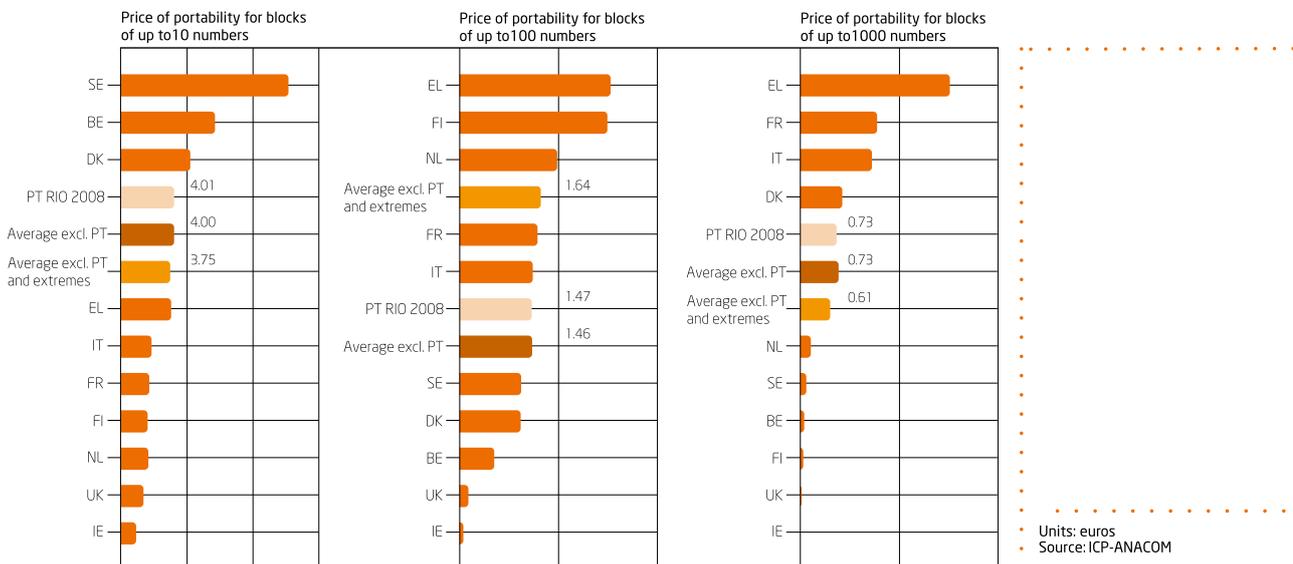
Note that in terms of European comparisons, the price of portability for an individual number in 2009 compares favourably with the EU average (with and without extremes).

European practices relating to the portability price per individual number (September 2008) | Graph 14



Regarding the portability of number blocks, the position of Portugal remained in line with the EU average, as illustrated in the following graphs.

European comparisons - portability prices (September 2008) | Graph 15



2.3.5 Wholesale Line Rental Offer (WLRO)

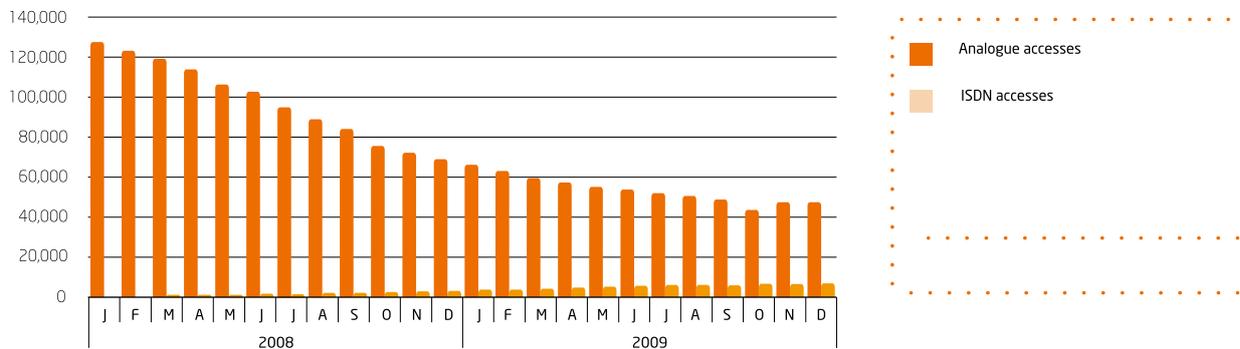
The number of analogue accesses with active WLRO continued to decline at a pace reflecting the sharp decline reported in the provision of the FTS in indirect access mode. As such, a reduction was reported of 27 % during the 2009 - in late December 2009 there were 48,430 analogue accesses with active WLRO (47,652, excluding the companies of Grupo PT).

However, the number of Integrated Services Digital Network (ISDN) accesses with active WLRO, closely associated with

the business market, has grown at a sharp rate, whereas, at the end of 2009, an increase was reported of 115 % compared to the end of 2008, with 7,085 accesses reported at the end of the year (7,085 excluding the companies of Grupo PT).

To better visualize the evolution of the number of accesses with active WLRO, for both analogue accesses and ISDN accesses (Basic ISDN and Basic Plus ISDN), the information transmitted by PTC with reference to 2008 and 2009 is presented in the following graph.

Information presented by PTC on analogue and ISDN accesses with active WLRO, excluding the activations of the companies of Grupo PT | Graph 16

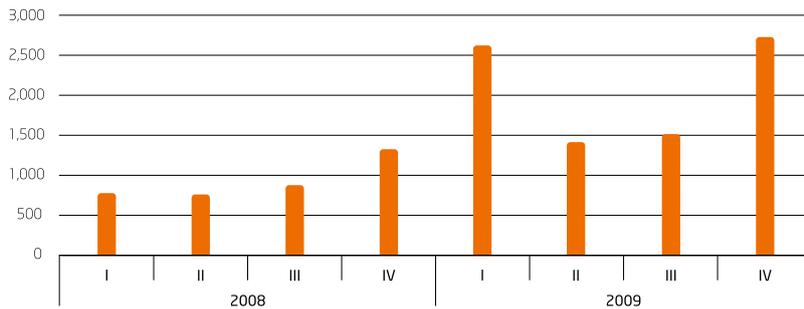


2.3.6 Reference Duct Access Offer (RDAO)

Since its entry into force (in mid-2006), the interest shown by RDAO beneficiaries in the offer has been growing, and 2009 was no exception, as reflected in particular in the

increasing number of responses to requests for information on ducts and associated infrastructure, and the number of interventions in PTC ducts, as evidenced by the following graphs.

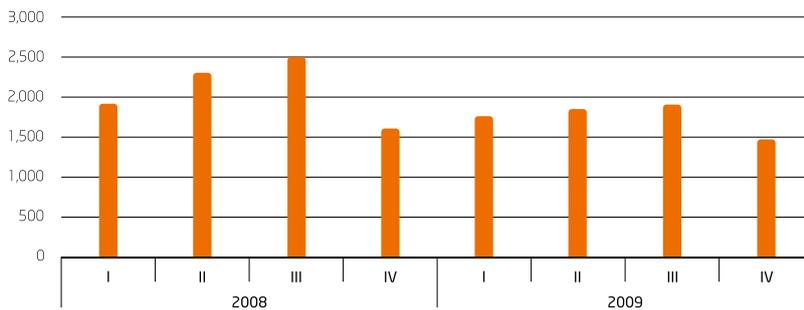
Number of responses to requests for information | Graph 17



■ Responses to requests for information about ducts and associated infrastructure

Units: responses
Source: ICP-ANACOM based on data from PTC

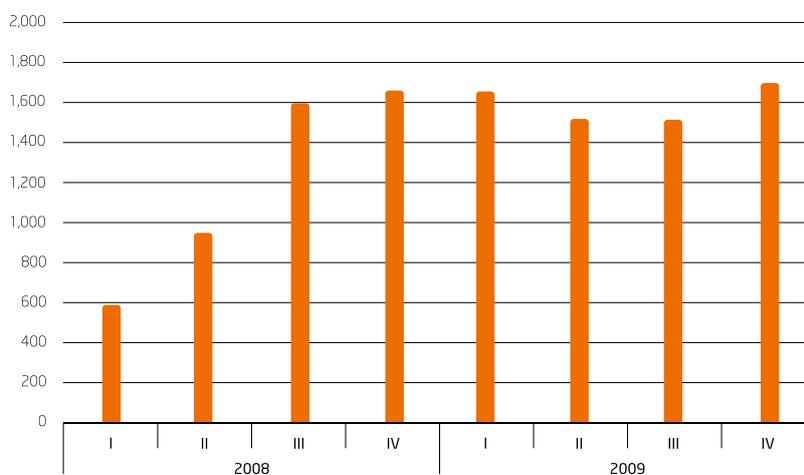
Number of responses to requests for assessments of viability | Graph 18



■ Responses to requests for assessments of viability

Units: responses
Source: ICP-ANACOM based on data from PTC

Number of interventions in the context of the RDAO | Graph 19



■ Number of interventions

Units: interventions
Source: ICP-ANACOM based on data from PTC

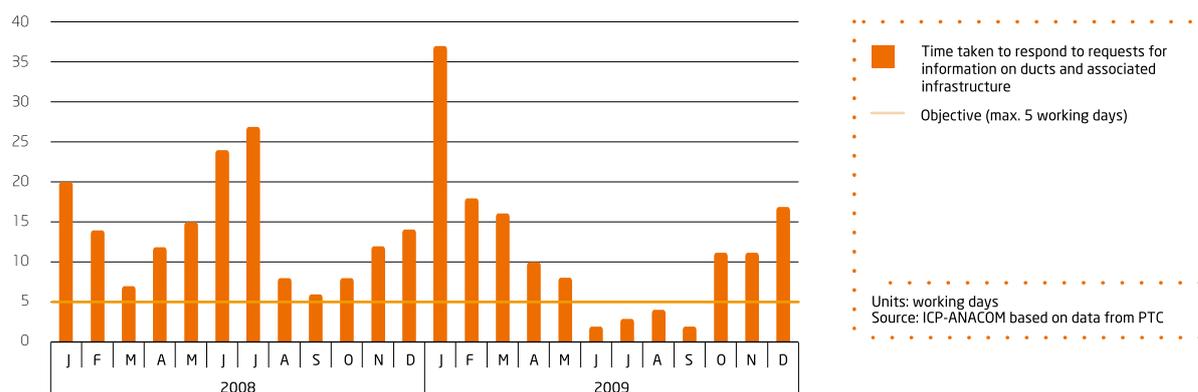
This growing use of the RDAO reflects the increased importance of this wholesale offer in the current market context, whereby it was necessary to make it more efficient, comprehensive and extensive, adapting it to market requirements, especially in a period of NGA development where access to ducts assumes vital importance. In this respect, by determination of 17 November 2009, a draft decision on the RDAO was approved, which involved, among other things, issues such as quality of service, availability of information, the information system and compensation for non-compliance. In particular, ICP-ANACOM proposed in this draft decision:

- to extend the obligations of access to poles and cable input tunnels in the exchanges;
- to extend compensation for non-compliance to all services, whereas payment thereof shall not be subject to the submission of forecasts or to prior request of the beneficiaries;

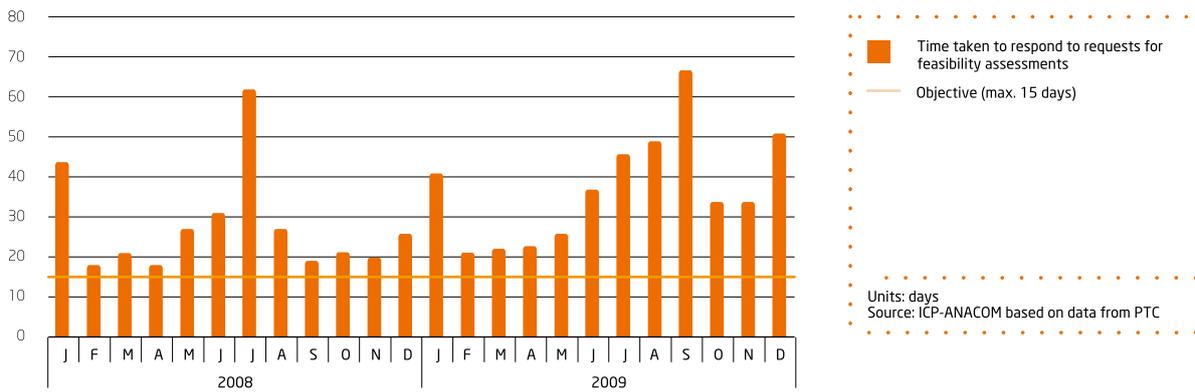
- to establish priorities on the inclusion of information on occupation of ducts according to geographic location;
- to promote the establishment of an information system (RDAO IS) which allows requests and responses to be processed automatically, speeding up the processes of this offer;
- to reduce certain response times, and to establish application for 100 % of cases.

From ICP-ANACOM's intervention in 2009, note is also made of the continued monitoring of the levels of quality of service provided by PTC, whereas it was noted that, while some improvement has been observed compared to previous years, there are certain indicators with values which are inconsistent with the opportunely established objectives (see graph 20 to graph 23). These findings are being analyzed separately.

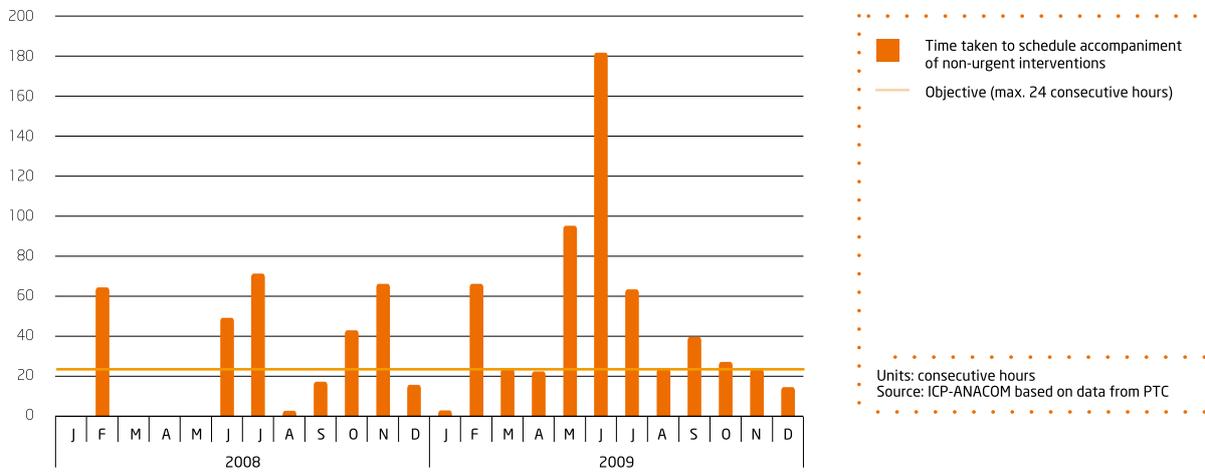
Time taken to respond to requests for information on ducts and associated infrastructure | Graph 20



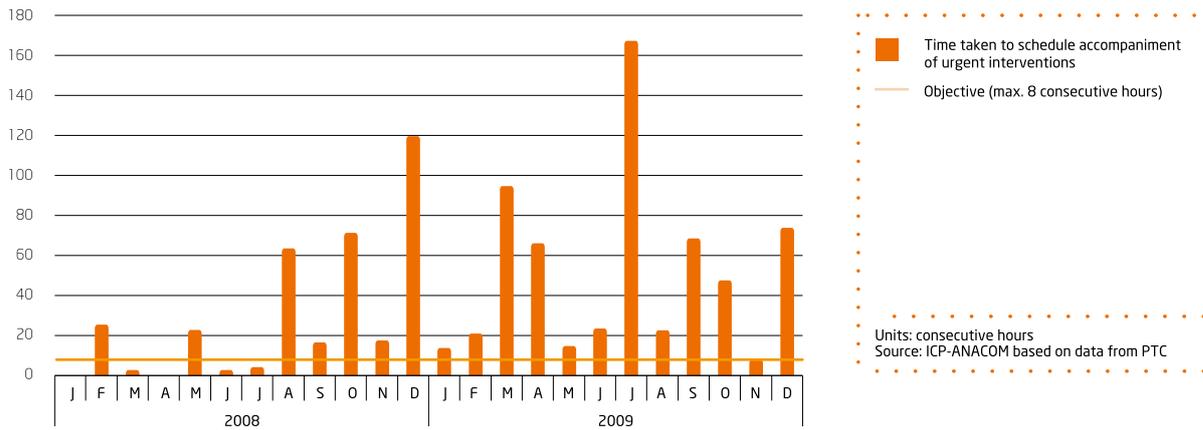
Time taken to respond to requests for feasibility assessments | Graph 21



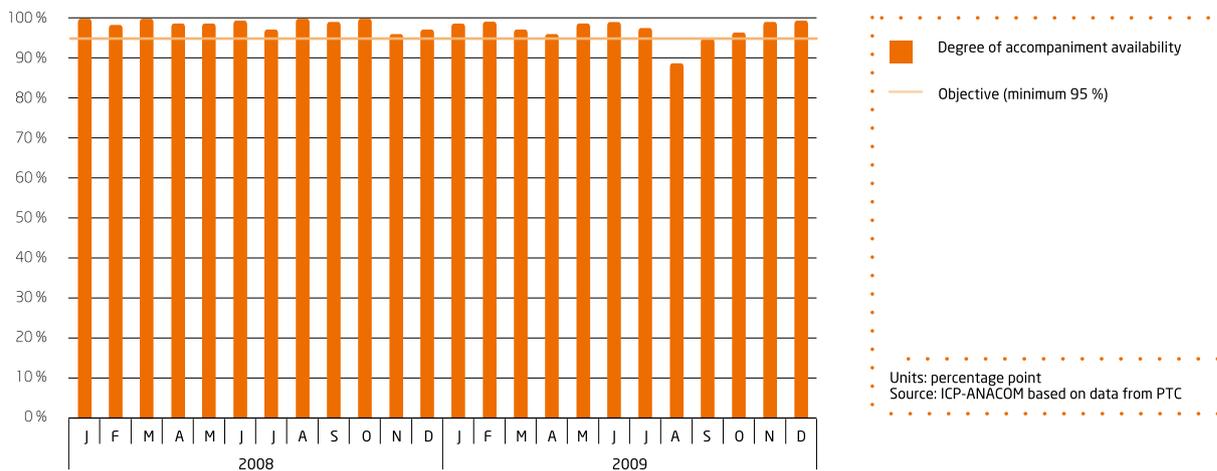
Time taken to schedule accompaniment of non-urgent interventions | Graph 22



Time taken to schedule accompaniment of urgent interventions | Graph 23



Degree of availability of accompaniment service⁹ | Graph 24



⁹ This indicator is calculated based on the number of accompaniments made on the agreed date as a proportion of all accompaniments conducted.

3

.....

TO ASSURE AND PROTECT THE RIGHTS OF USERS AND CITIZENS IN GENERAL

(OBJECTIVE 2)

.....

● ● 3 To assure and protect the rights of users and citizens in general (Objective 2);

To assure the interests of citizens is a duty of the NRA which is enshrined in the EU's regulatory framework and in national legislation, providing consumers with a high level of protection in their dealings with service providers, particularly in terms of transparency in offers and the protection of personal data, and a US with affordable prices and a specified quality of service.

The adoption of measures aimed at removing barriers that limit the ability of consumers to switch providers is also a key objective in this context, associated in particular with the effective implementation of features such as number portability and to a lesser extent, pre-selection.

● ● 3.1 Universal Service (US) of electronic communications

3.1.1 Parameters and levels of quality of service

The USP, currently PTC, is obliged in particular, and following the determination of ICP-ANACOM of 30 March 2006, to publish the parameters of quality of service and the

performance targets applicable to the US on an annual basis, as well as information on performance levels accomplished in the prior year.

Table 4 presents the targets and levels achieved by the USP for each of the indicators in 2008 and 2009.

Quality of service parameters of US | Table 4

Quality of service parameters of US	Target	2008	2009
QSP1. Supply time for initial network connection			
(a) Supply time for connection when customer does not specify a date (days)			
(a ₁) which corresponds to the 95 percentile of the fastest installations	21	19	18
(a ₂) which corresponds to the 99 percentile of the fastest installations	43	36	36
(b) Percentage of connection requests satisfied by date agreed with the client when the client sets a target date	85 %	81 %	89 %
(c) Ratio between the number of initial connections supplied by appointment with customers and the total number of initial connections provided	n.a.	20 %	26 %
QSP2. Fault rate per access line			
Total number of faults attended per access	0.10	0.13	0.16
	n.a.	297	320
		944	229
QSP3. Fault repair time (hours)			
(a) Repair times of faults on local access network			
(a ₁) corresponding to the 80 percentile of fastest repairs	72	74	76
(a ₂) corresponding to the 95 percentile of fastest repairs	165	139	144
(b) Repair times for other faults			
(b ₁) corresponding to the 80 percentile of fastest repairs	47	44	62
(b ₂) corresponding to the 95 percentile of fastest repairs	108	93	114
(c) Percentage of faults repaired within the target period established by USP for repairs	80 %	68 %	66 %
QSP4. Response time for operator services			
(a) Average response time for operator services (seconds)	11.0	17.0	19.0
(b) Percentage of calls to the operator services answered with 20 seconds by human operator	80 %	91 %	88 %
QSP5. Unsuccessful calls			
(a) Number of calls eligible for the calculation of PQS5		1,600,848,841	1,494,090,504
-national calls	n.a.		
-international calls	n.a.		
(b) Percentage of unsuccessful national calls	n.a.	0.16 %	0.07 %
(c) Percentage of unsuccessful international calls	n.a.		
QSP6. Time taken to establish calls			
(a) Total number of calls eligible for the calculation of QSP6 of:			
-national calls	n.a.	n.a.	n.a.
-international calls	n.a.	n.a.	n.a.
(b) Time taken to establish national calls (seconds)			
(b ₁) corresponding to the 100 percentile of fastest calls	n.a.	n.a.	n.a.
(b ₂) corresponding to the 95 percentile of fastest calls	n.a.	n.a.	n.a.
(c) Time taken to connect calls for international calls (seconds)			
(c ₁) corresponding to the 100 percentile of fastest calls	n.a.	n.a.	n.a.
(c ₂) corresponding to the 95 percentile of fastest calls	n.a.	n.a.	n.a.
QSP7. Response time for directory enquiry services			
(a) Average response time for directory enquiry services (seconds)	5.0	2.7	3.0
(b) Percentage of calls to directory enquiry services answered within 20 seconds by a human operator or by equivalent answering systems	95 %	96 %	95 %
QSP8. Proportion of coin and card operated public payphones- in working order			
The total number of complete days during which existing public payphones are in full working order compared to the potential number of operational days of the average public payphones park.	96 %	98 %	98 %
QSP9. Complaints about incorrect bills			
Percentage of bills which are object of complaint, compared to total number of bills issued	0.04 %	0.02 %	0.03 %

Source: PTC

As reported by the USP, between 2008 and 2009, the record of non-compliance with respect to certain performance targets applicable to the US quality of service parameters persisted; as such, ICP-ANACOM is analysing the situation, as foreseen in the referred determination of 30 March 2006.

3.1.2 USP public payphone strategy

On 9 December 2009, PTC submitted to ICP-ANACOM a statement on its development strategy for public payphones for 2010, along with the respective implementation report referring to 2009.

Concerning the accomplishment of the objectives which PTC had proposed for 2009, it is seen that the total number of payphones achieved represents a high level of adherence to the forecast (the total number of payphones

achieved in 2009 represents a very slight deviation from the forecast (-0.1 %). Nevertheless, it appears that this level of compliance is not found with respect to the total number of payphones installed in places of social interest and those associated with special needs. In fact, with regard to public payphone at places of social interest, in relation to the total number of public payphones, there was a negative deviation of about 10 % in terms of the number accomplished over the number forecast, and with respect to payphones associated with users with special needs, the total number of payphones which enable the entry and exit of wheel chairs saw no change in 2009.

Table 5 presents the trends in the total number of planned and actual public payphones in 2009 in greater detail, detailing geographic dispersion, location and forms of available payment.

Overall Public payphone planned and actually installed in 2009 | Table 5

District	Forecast 2009						Actual 2009					
	Exterior		Interior		Total		Exterior		Interior		Total	
	Card only	Card and coins	Coins only	Conventional telephone	Coins only	Total forecast	Card only	Card and coins	Coins only	Conventional telephone	Coins only	Actual total
Aveiro	5	313	170	716	548	1,752	4	309	167	706	523	1,709
Beja	12	167	134	264	179	756	9	172	140	269	174	764
Braga	18	305	130	980	434	1,867	16	308	127	970	539	1,960
Bragança	7	53	19	552	75	706	7	53	20	546	81	707
Castelo Branco	17	109	74	542	290	1,032	12	116	74	541	239	982
Coimbra	20	275	94	894	320	1,603	15	277	100	881	287	1,560
Évora	9	115	116	122	190	552	8	120	108	120	154	510
Faro	22	717	177	439	386	1,741	12	741	181	446	496	1,876
Guarda	18	75	52	566	84	795	13	79	50	567	97	806
Leiria	24	240	98	673	322	1,357	22	241	87	676	349	1,375
Lisboa	221	3,344	1,340	430	1,716	7,051	166	3,371	1,241	425	1,941	7,144
Portalegre	3	67	78	128	188	464	3	65	70	135	126	399
Porto	77	1,562	427	600	2,591	5,257	67	1,390	462	601	2,464	4,984
Santarém	10	180	114	596	293	1,193	10	180	115	598	329	1,232
Setúbal	32	1,013	392	161	743	2,341	28	1,030	370	164	835	2,427
Viana do Castelo	3	131	73	531	246	984	3	132	64	518	240	957
Vila Real	7	81	34	761	206	1,089	6	84	34	767	234	1,125
Viseu	19	128	94	1,056	292	1,589	15	131	92	1,047	269	1,554
Madeira	28	155	100	143	240	666	24	177	114	102	254	671
Açores	12	121	52	123	123	431	12	132	46	119	131	440
Total	564	9,151	3,768	10,277	9,465	33,226	452	9,108	3,662	10,198	9,762	33,182

Source: PTC

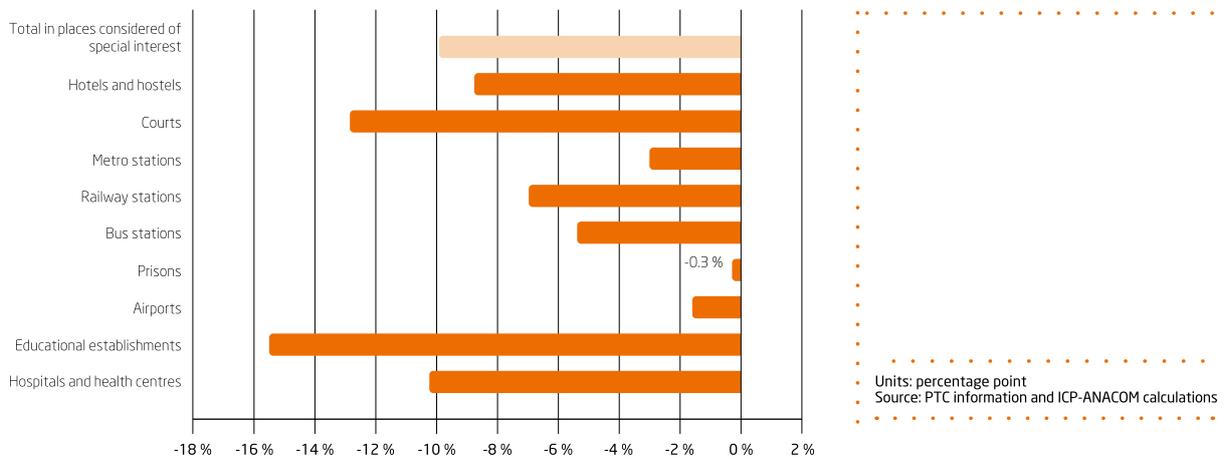
As noted, the public payphones installed in 2009 shows a deviation in the overall number compared to the forecast of approximately -0.1 %. Looking, in particular, at each type of public payphone, it is seen that the more significant deviations occurred with respect to outside “card only” phones and “coin only” indoor phones, with deviations of -19.9 % and 3.1 % respectively.

In most districts the number of payphones actually installed exceeded the forecast. The districts with the largest positive deviations are Faro and Braga, with 7.8 % and 5.0 % respectively. Negative deviations were seen in

eight districts, with the largest reported in the districts of Portalegre (-14.0 %) and Evora (-7.6 %).

As regards public payphones associated with sites of social interest, PTC had forecast 3,519 payphones, whereas there were 3,169 public payphones actually made available as at the end of 2009. The most significant deviations occurred in the number of payphones installed in educational establishments (-15.5 %), whereas the greatest level of compliance in terms of the forecast was reported in the number of payphones installed in airports, with a deviation reported of -0.3 %.

Percentage deviation of total public payphones in 2009 compared to forecast | Graph 25



3.1.3 Telephone directories and directory enquiry services

To ensure the inclusion of data from subscribers of Sonaecom - Serviços de Comunicações, S. A. (Sonaecom) and Vodafone Portugal - Comunicações Pessoais, S. A. (Vodafone) in the telephone directories and directory enquiry services of the US, by determination of 2 September 2009, ICP-ANACOM authorised Sonaecom and Vodafone to send their data directly to PTC, since, in accordance with the determination of 14 January 2009, they were bound to send said data to ICP-ANACOM.

Aiming to ensure that data relating to subscribers of ZON TV Cabo Portugal, S. A. (ZON TV Cabo) who have expressed a wish that their data be included in the directories and information services of the Universal Service, by determination of 21 October 2009, ICP-ANACOM adopted a draft decision, by which it ordered this company and PTC, that within a period of 15 consecutive days, they take such steps as may be necessary to reach an agreement, pursuant to and for the purposes of article 89 of the ECL, on the format and the conditions applicable to the provision of relevant information about subscribers.

The draft was submitted to the prior hearing of interested parties, whereas the respective final decision was adopted in 2010.

3.1.4 Price affordability

Residential FTS tariff provided in context of the US

On 27 October 2009, PTC submitted a proposal to ICP-ANACOM to amend the tariff of the Universal Service (US), applicable on

an optional basis at the request of customers (tariff without free periods, with a very low number of customers - 177 customers in August 2009). The proposal made by PTC consisted of an increase in the discount to the monthly subscription price, compared to the monthly price under the main tariff, of 60 cents (with VAT) to 70 cents (with VAT), and applying retroactively on July 2009. The following table summarizes the FTS tariff proposed by PTC.

FTS tariff proposed by PTC | Table 6

Values escl. VAT	Initial price (euros)				Time credit (seconds)				Price per minute (euros)			
	Working days 9am- 9pm	Working days 9pm- 9am	Wknds 9am- 9pm	Wknds 9pm- 9am	Working days 9am- 9pm	Working days 9pm- 9am	Wknds 9am- 9pm	Wknds 9pm- 9am	Working days 9am- 9pm	Working days 9pm- 9am	Wknds 9am- 9pm	Wknds 9pm- 9am
Local	0.0700	0.0700	0.0700	0.0700	60	60	60	60	0.0261	0.0084	0.0084	0.0084
National	0.0700	0.0700	0.0700	0.0700	30	60	60	60	0.0496	0.0084	0.0084	0.0084
Installation	71.83											
Subscription	12.08											

Source: PTC.

As regards the tariff applicable by default, the price change occurred in 2008 (effective 27 September), produced by the extension of free traffic to weekend nights, was more than sufficient to ensure that the price-cap for this tariff option was met in 2009, whereby no proposal for amendment was submitted.

ICP-ANACOM examined the proposal presented by PTC and concluded that it was compatible with the applicable price-cap, so that, by determination of 3 November 2009, it decided not to oppose the proposal, without prejudice to due fulfilment of applicable transparency obligations.

Regarding the tariff for the year 2010, on 30 October 2009, PTC submitted a proposal to ICP-ANACOM to amend the FTS residential tariff, within the scope of the US, applicable both to the main and alternative tariff, to take effect from 1 January 2010, and comprising a CPI value for this year of 1.5 %.

By determination of 17 November 2009, ICP-ANACOM decided not to oppose the entry into force on 1 January 2010 of the FTS residential tariff, proposed by PTC for 2010 within the scope of the US. It is noted, however, that if it became clear (in the light of new data on the value of CPI forecast for 2010, as published in the State Budget and according to the composition of the basket in 2009) that the price-cap would not be met, PTC would then be bound to implement, in a timely manner, an additional reduction of the main tariff. This further reduction in fact occurred in 2010.

Public payphone tariff of FTS

According to the determination on the imposition of remedies in the retail narrowband market, dated 14 December 2004, ICP-ANACOM determined that the relationship between the price of FTS communications using public payphones and private subscription should continue to comply with specific requirements, in line with regulatory practice

applicable at that time (in particular, the Price Convention for the Universal Service of Telecommunications), which set out to ensure the affordability of the services provided. Accordingly, ICP-ANACOM set out in this respect that the price relation of 3 to 1 between calls made from the public payphones of PTC and calls from subscriber phones shall be maintained.

With regard to calls originating on the fixed network of PTC and terminated on the fixed networks of other providers, and under the same determination, the rule previously applicable remained in force, whereby it was stated that the prices of calls originated on the network of PTC and terminating within the networks of other FTS providers shall be identical to the prices of calls both originating and terminating on the network of PTC; in this respect, any difference can be corrected, where due and quantified on a reasoned basis, between the termination of calls on the PT network and call termination on the network of each FTS provider. With regard to calls terminating on mobile networks and VoIP calls originating from payphones, no specific rule to control prices was established in this determination.

By determination of 11 March 2009, ICP-ANACOM decided not to oppose the tariff proposed for FTS public payphones presented by PTC on 11 February 2009, considering that, with respect to fixed-fixed *intra*-PTC network calls, this tariff fulfilled the established obligations, and that with respect to fixed-fixed PTC-Other operator calls, the tariff proposed by PTC was in compliance with the applicable regulatory framework, given that this tariff made no distinction in the prices of fixed-fixed calls based on the called operator.

The proposal for the tariff applicable to communications made from public payphones was presented by PTC as seeking to enhance the simplicity and standardization of the tariff, including pricing, time credits and timings of impulses which were identical in all time periods, as well as uniformity in the prices of Local, National and VOIP calls to any network.

The proposed tariff, approved by determination of 11 March 2009, is presented in the following table.

Tariff approved by ICP-ANACOM for the public payphones of FTS | Table 7

	Mainland				Autonomous regions			
	Fixed-Fixed		VoIP	Fixed-Mobile	Fixed-Fixed		VoIP	Fixed-Mobile
	L	N			L	N		
Price <i>per</i> impulse (euro)	0.0583			0.0614				
Initial price (impulse)	2	2	2	7	2	2	2	7
Time credit (seconds)	60			60				
Impulse duration (seconds)	PT (weekdays 9am-9pm) OPT (other times)			20	22.20			30

Source: PTC.

3.1.5 Net costs of Universal Service provision

Following the study prepared by WIK on the methodology to apply in the calculation of the net costs of Universal Service provision and for the definition of conditions under which it may be considered that the provision of US might represent an excessive burden to the respective provider, over the course of 2009, ICP-ANACOM engaged in various additional analyses from a legal and economic perspective and compiled information from other countries, with a view to the submission of a proposed methodology for the calculation and the definition of the excessive burden concept.

Based on its analyses and on the information compiled, ICP-ANACOM drew up internal documentation to prepare a public consultation on the methodology to be used for calculating the net costs of Universal Service provision, on the excessive burden concept and on the process of calculating the net costs of Universal Service provision presented by PTC for the 2001 to 2003 period.

3.1.6 Process of designating the USP

Following the public consultation which took place in 2008 with the aim of compiling views on a range of issues related to process of designating the USP and expressions of interest from the various market players and how it should be provided, and following the recommendation subsequently sent by ICP-ANACOM and the additional clarification sent in the meantime, in 2009, this Authority was engaged in preparing the documentation required to conduct this tender.

Therefore, in 2009, the work was undertaken to prepare the tender documents - Tender Regulation and Specifications - for the selection of the USP or USPs, with a view to submission of drafts to the Government which were aligned with the conclusions and recommendations made by ICP-ANACOM.

● ● 3.2 Universal Service (US) of postal services

It falls within the remit of ICP-ANACOM, as postal regulator, to monitor the quality and pricing of postal services covered by the US, in accordance with point c) of paragraph 2 of article 18 of the Basic Law for Postal Services¹⁰ and taking into account the conditions established in the conventions concluded between ICP-ANACOM and CTT - Correios de Portugal, S. A. (CTT) under the terms of the concession.

It is the responsibility of the concessionaire of the US of postal services, in accordance with paragraph 3 of clause 20 of the Concession, to open and close postal establishments and change their hours of operation, taking into account the needs of the service and demand levels, whereas CTT is obliged to inform ICP-ANACOM on the decisions taken on this matter, and in cases of closure and reduction of opening hours of post offices, to give basis to such decisions.

3.2.1 Prices of the US of postal services

On 1 January 2009, the new prices of the US of postal services entered into force, subsequent to the non-opposition of ICP-ANACOM at the end of 2008, whereas it is noted that the prices of non-reserved services are not subject to a maximum price variation. Within this context, a 2.9 % variation was seen in the prices of reserved services (in compliance with the maximum variation permitted by

the Price Convention - also 2.9 %) and, at the level of non-reserved services, the average variation of correspondence prices was reported at 3.1 %.

In November 2009, CTT notified this Authority of a proposal to update prices applicable to the non-reserved Universal Service with respect to the sending of Newspapers, Periodicals and Books, to take effect from 1 January 2010. These prices came into effect on schedule, whereas ICP-ANACOM may determine, at any time, changes to each of these prices, duly reasoned based on compliance with the tariff principles set out in the Price Convention and also taking into account the levels of quality observed (in accordance with paragraph 5 of article 5 and paragraph 1 of article 10 of this Convention).

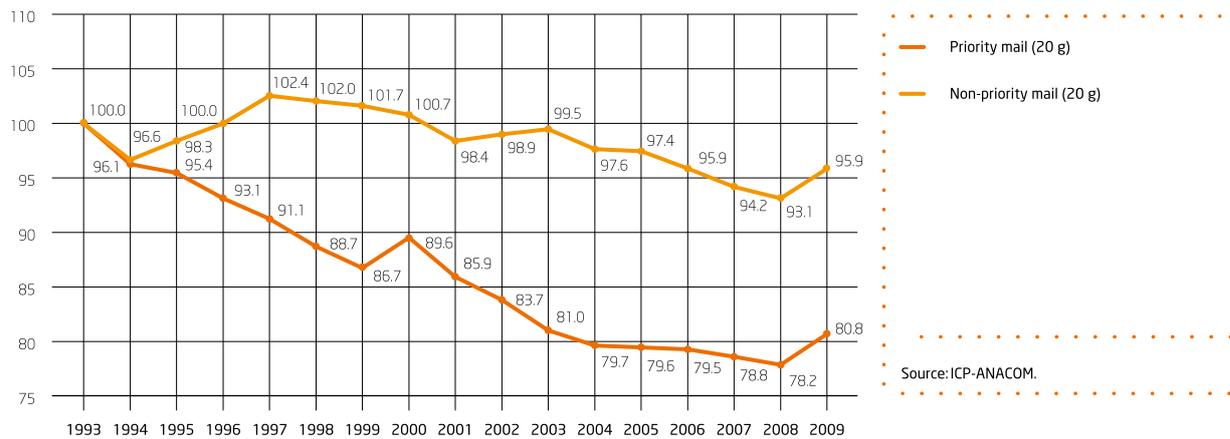
In terms of price evolution it is seen that between 1993¹¹ and 2009, the average annual price of the basic tariff (tariff applying to a standard letter weighing up to 20 g¹²) of national standard mail fell in real terms, by 4.1 %, while the average annual price of the base tariff of national *correio azul* (priority mail) fell over the same period, by 19.2 % in real terms, as shown by the graph below. The rise in real terms in 2009 occurred as a result of the negative inflation reported in this year.

¹⁰ Law no.102/99 of 26 July, with the wording set forth by said Decree-Law no.112/2003 of 12 June.

¹¹ Year in which the first Price Convention entered into force, as concluded between ICP-ANACOM, CTT, and the then Direção-Geral do Comércio e da Concorrência (Directorate General for Trade and Competition).

¹² The prices considered are those of: stamps and franking at the post office counter; items sent according to flat-rate fee; stamps in vending machines (1 and 10 units). In calculating average annual prices a fixed traffic structure is used, corresponding to 2008 as the last available. The calculation of the actual trend in the price index took each year's reported information rate into account.

Real evolution in the average annual price index of the base tariff (1993 = 100): national non-priority and priority mail | Graph 26



3.2.2 Quality of the US of postal services

The Quality Convention defines the various Quality of Service Indicators (QSI) and levels of quality that CTT is bound to accomplish annually, where a minimum target level of quality of service is set for each QSI. An indicator is also established for overall quality of service (GI), which is calculated according to the level of service quality achieved by CTT for various QSI¹³.

Pursuant to the Quality Convention, in 2009, ICP-ANACOM conducted monitoring of the QSI of CTT on a quarterly basis, including the annual assessment of compliance with stipulated levels of quality of service.

It was found that in 2009, targets were achieved for all QSI, except QSI4 (non-priority mail not delivered within 15 working days) and QSI5 (priority mail not delivered within 15 working days) - nevertheless these two QSI exceeded the minimum value, whereas the situation reported was to some extent due to a number of theft from letter boxes, including letter boxes in post offices. The GI was reported with a value in excess of 100 (see table 8).

Therefore, because the GI was over 100 and all QSI exceeded the corresponding minimum values, no deduction was applied to the maximum price change for reserved services allowed for 2010.

¹³ The GI is calculated as follows: 1) a classification is assigned to each QSI established in the Quality Convention in accordance with the following methodology: i) With the verification that the accomplished value is equal to the value established for each QSI, a value of 100 is assigned to the QSI, ii) if the amount accomplished is less than the minimum value, a value of 0 is assigned to the QSI, iii) if the realized value is between the minimum and the target, a proportional value of between 0 and 100 is assigned to the QSI, iv) for values above the target, the classification will be more than 100 in proportion to the positive difference achieved for the objective. 2.) Sum of the classifications assigned to each QSI, weighting them according to their relative importance. 3) If the GI is 100 or more there will be no deduction associated with the IG; ii) If it is less than 90 the full deduction of 1 percentage point shall be applied; iii) if it is between 90 and 100, the deduction shall be applied proportionately. The deduction corresponds to the deduction of a maximum of 1 percentage point with respect to the prices of reserved services allowed for the year following the respective lack of compliance.

QSI defined in the Quality Convention and achieved by CTT in 2009 | Table 8

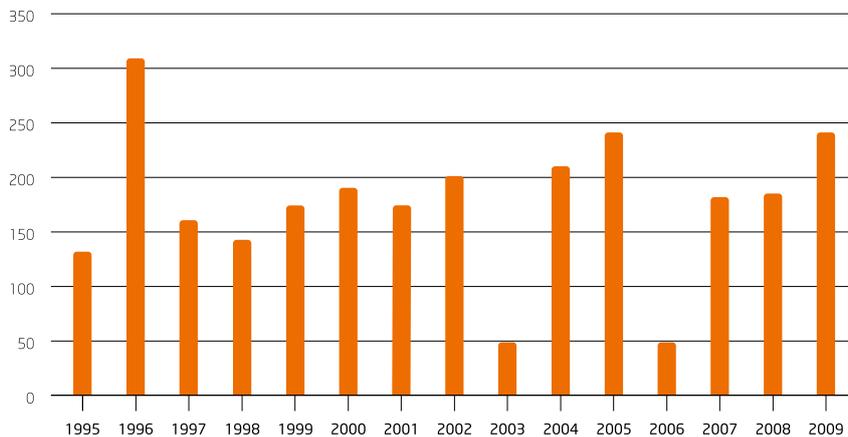
Quality of service indicators	Quality Conventional			Quality of service reported in 2009 ^(a)	
	IR (%)	Established values			
		Min.	Obj.		
IQS1	Transit time for non-priority mail (D+3))	45.0	95.5 %	96.3 %	97.6 %
IQS2	Transit time for priority mail – mainland (D+1)	15.0	93.5 %	94.5 %	95.2 %
IQS3	Transit time for priority mail – CAM (D+2)	4.0	84.0 %	87.0 %	91.3 %
IQS4	Non-priority mail not delivered within 15 working days (per one thousand letters)	5.0	2.3 ‰	1.4 ‰	2.1 ‰
IQS5	Priority mail not delivered within 10 working days (per one thousand letters)	3.0	2.5 ‰	1.5 ‰	2.1 ‰
IQS6	Transit time for newspapers and periodicals (D+3)	11.0	95.5 %	96.3 %	99.1 %
IQS7	Transit time for <i>Intra</i> -community cross-border (D+3)	3.5	85.0 %	88.0 %	⁽ⁱ⁾ 94,3 %
IQS8	Transit time for <i>Intra</i> -community cross-border mail (D+5)	3.5	95.0 %	97.0 %	⁽ⁱ⁾ 99,0 %
IQS9	Transit time for non-priority parcels (D+3)	5.0	90.5 %	92.0 %	93.6 %
IQS10	Waiting time at post establishments (% of waiting time up to 10 minutes)	5.0	75.0 %	85.0 %	92.3 %
GI – INDICATOR OF OVERALL QUALITY OF SERVICE (b) ^(b)		n.a.	n.a.	n.a.	242

Source: (a) CTT (b) ICP-ANACOM calculations.
 Notes: D+X, means delivery up to X working day(s) after the deposit of the items at the mail reception point.
 (i) Annual value corresponding to the average of November 2008 to October 2009

IR - Relative importance
 Min. - Minimum value.
 Obj. - Target value.
 n.a. - Not applicable.

It is shown in graph 27 that the overall trend between 1997 and 2009 is favourable - whereas this indicator only had a value below 100 points in 2003 and 2006.

Global Indicator of Quality of Service (GI) | Graph 27



Source: ICP-ANACOM calculations

Note: Given that the value of the GI results from the individual values of the QSI, any comparison of the evolution of the GI should take account of the alterations made at the level of QSI for each year and in terms of the methodology of their calculation.

Paragraph 7 of article 8 of the Basic Law sets out that ICP-ANACOM conduct “control, independently of the Universal Service provider, of the levels of quality of service actually provided, with the results set out in a report published at least once a year”.

In this context, and following the determination of 11 February 2009, an audit of the QSI and of the complaints system of CTT, for the year 2008, was conducted in 2009 with the respective findings published in 2010.

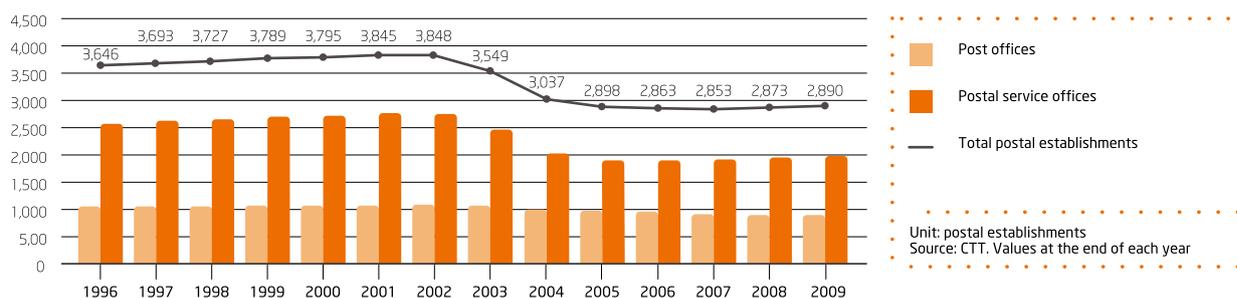
Also in the context of the quality of the US of postal services, it is reported that ICP-ANACOM examined the conditions of implementation of the DTE - Distribuição Empresarial (Corporate Distribution) Project, launched by CTT. According to information obtained and the findings of this Authority, ICP-ANACOM concluded that there was no occurrence of non-compliance pursuant to the concession contract.

3.2.3 Network of postal establishments

In 2009, 43 notifications were received from CTT on changes in the network of postal establishments, including five communications of post office closures and their replacement with postal service offices¹⁴ and 26 notifications on reduced opening hours of post offices.

During 2009 there was a slight increase in the total number of postal establishments, confirming the upward trend observed since the second half of 2008. This is a result of the increased number of postal service offices, which more than offset the reduction in the number of post offices, which maintained the downward trend seen since 2002 (see graph 28).

Number of postal establishments | Graph 28



¹⁴ According to CTT, postal service offices are establishments operated under contract by third parties, with all such establishments providing the postal services included in the US.

● ● 3.3 Number portability and pre-selection

3.3.1 Portability

Approval was granted, to the Regulation Amending Regulation no. 58/2005 of 18 August, by determination of 4 February 2009, which was published on 18 February 2009 as Regulation no. 87/2009, partly entering into force on 4 March 2009.

Changes introduced in the referred Regulation were made namely to uphold the interests of subscribers, comprising a significant reduction in the minimum notice required for scheduling portability, the establishment of a maximum of three days for the porting mobile numbers, pecuniary compensation in case of failures or fault and the definition of a solution for the portability of numbers of subscribers and former subscribers of companies which discontinue services.

Simultaneously, better conditions have been created in terms of competition among operators, particularly in strengthening the responsibility of the recipient provider throughout the process and the introduction of rules which encourage the efficiency of the processes involved. In particular, this is achieved through the simplification of methods to validate the title of the subscriber and a reduction of the time taken in processes; in addition, from 1 January 2010 - in 2009 an algorithm was applied - it will no longer be possible to refuse portability requests because portability processing capacity has exceeded its limit.

As set out in article 4 of Regulation no. 87/2009, work was undertaken on the revision and updating of Annexes I and II of the Especificação de Portabilidade (Specifications for Portability) by companies with portability obligations and by the Reference Entity with the coordination of ICP-ANACOM, which work was concluded within the deadline set.

As a result of the meetings held with operators on the review and updating of Annex I, and focusing only on the

most relevant aspects, it was decided to introduce a new scenario for blocks of numbers assigned to companies that discontinue services. Under this scenario, provision is made for the implementation of the routing methodology based on the All Call Query (ACQ) solution.

With respect to Annex II, besides the introduction of a section specifying the functions to be performed by the Reference Entity when emulating a provider which terminates the service, new values were defined for timings and changes, including deletions and/or additions, regarding the message formats, parameters and reasons for rejection of portability requests.

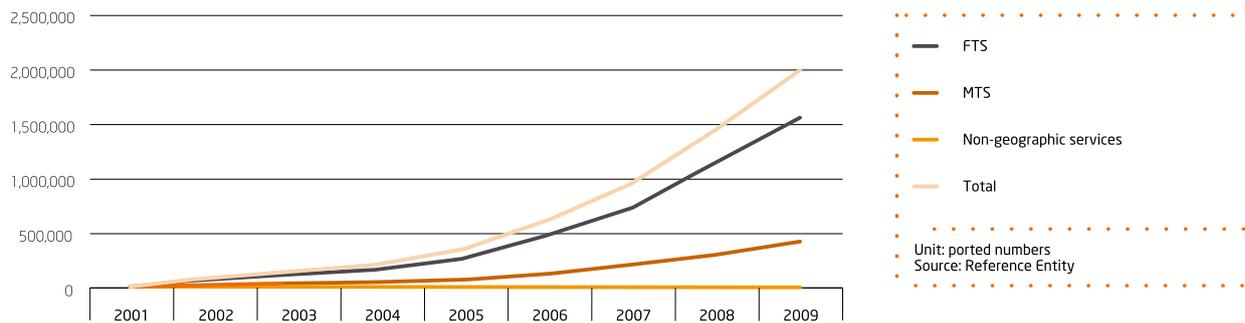
In the light of queries raised with regard to the calculation of time limits under certain provisions of the regulation, in particular in terms of their compatibility with the corresponding periods set out in the Especificação de Portabilidade (Specifications for Portability), there was a need to make further amendments to the Regulamento da Portabilidade (Portability Regulation). This was accomplished, subsequent to the respective regulatory procedures through Regulation no. 302/2009 of 16 July 2009, entering fully into force on 20 July 2009.

Evolution of ported numbers

Since the introduction of portability (in 2001) up to 31 December 2009, 2,000,237 numbers have been ported (1,570,453 geographic numbers, 428,563 mobile numbers and 1221 "other non-geographic numbers", the latter including a number ported in the 30 numbering range).

Portability was introduced in Portugal in 2001 for geographical numbers and in 2002 for mobile numbers, with significant rates of growth seen in ported numbers since 2004, mainly as a result of competition in FTS - see graph 29

Evolution of the number of ported numbers | Graph 29



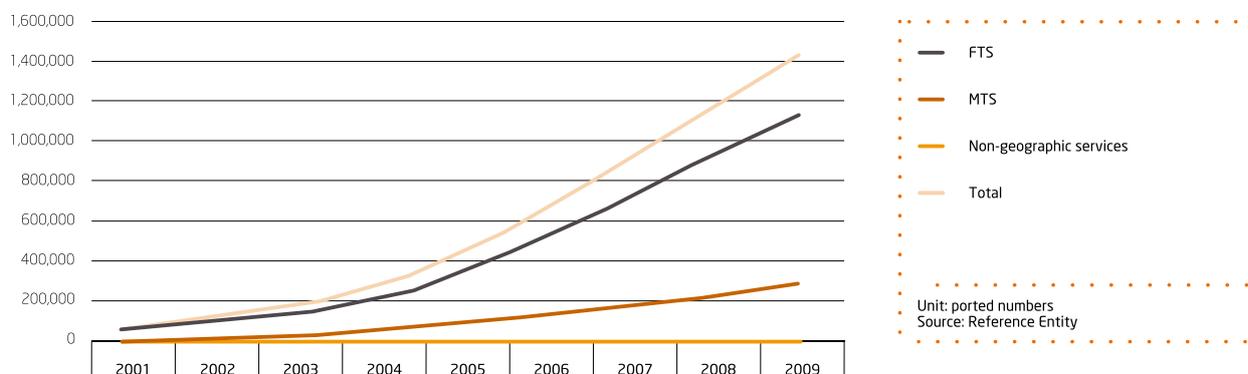
As noted in the 2008 Regulation Report, portability penetration of the Mobile Telephone Service (MTS) remains low. However, from 2008 to 2009, the rate of growth reported in the portability of mobile numbers (39.8 %) exceeded the growth rate reported in geographic numbers (35.8 %), reversing the trend of the previous year.

The trend in numbers actually ported, which reflects the quantity of numbers that are ported in the respective database at a given time, is lower than shown in the previous graph, because portability can be performed several times

on the same number as the customer switches successively between different service providers, and may even return to their original provider.

As such, on 31 December 2009, there were 1,449,037 ported telephone numbers, including 1,149,926 geographic numbers (FTS), 298,045 mobile numbers (MTS) and 1,066 “other non-geographic numbers” (SNG); the last category includes a ported number from the 30 numbering range (number associated with nomadic VoIP service), as illustrated in the chart below.

Evolution of the number of actual ported numbers in database | Graph 30



Evolution in portability deadlines between operators

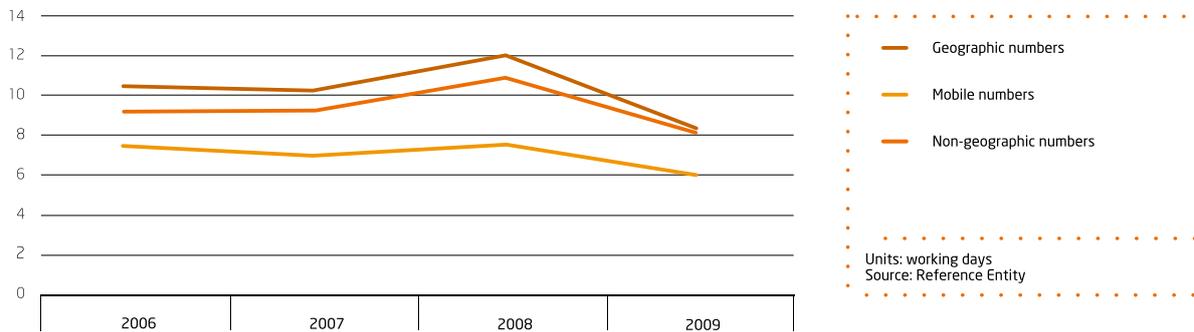
The entry into force of the new Portability Regulation, which introduced provision for considerably shorter time limits for scheduling portability subsequent to requests between operators, has had an immediate and visible impact, as can be seen in the following graphs.

Although the deadlines involved are the same, regardless of the type of numbers, there is a more marked reduction in respect of mobile number portability. This has certainly been driven by the pressure put on mobile operators by

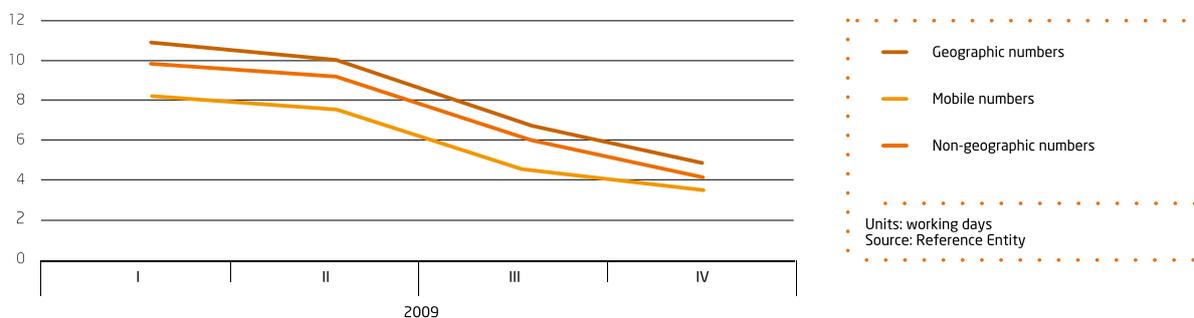
the imposition of a deadline of three working days, with compensation payable to the customer *per day* of delay, coupled with the delay inherent in geographic number portability, which is frequently associated with local loop unbundling or the deployment of the operator's own infrastructure.

In terms of European benchmarks, it is reported that Portugal, in the fourth quarter of 2009, applied FTS and MTS portability deadlines which were below the European average, with 6.5 days and 4.1 days, respectively.

Evolution of the deadlines for number portability | Graph 31



Evolution of the deadlines for number portability over the course of 2009 | Graph 32



Monitoring of price evolution and of compliance with portability obligations

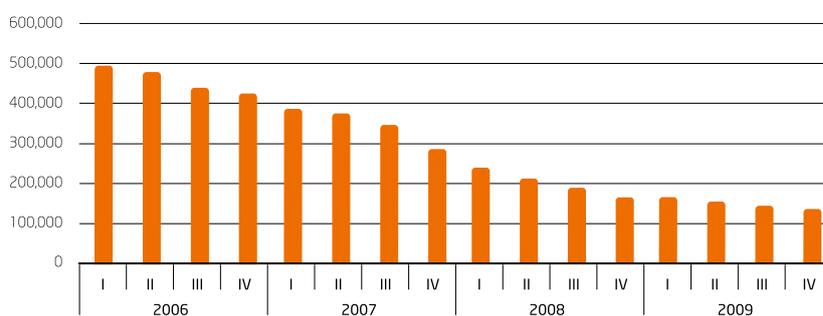
Regarding the monitoring of price evolution and compliance with portability obligations, the following actions taken in 2009 by ICP-ANACOM are highlighted:

- data collected from companies providing MTS (including Mobile Virtual Network Operators (MVNO)) and companies providing FTS, on prices charged to subscribers for portability operations (retail prices) and prices charged to recipient providers (wholesale prices). According to information compiled on retail prices charged, portability is generally free within the MTS¹⁵. With respect to the FTS, it was found that eight of the fifteen providers of the service do not charge new customers who choose to keep their number. The other FTS providers charge prices that vary depending on the tariff plan or market segment, ranging between 10 euros and 39.67 euros (excluding VAT)¹⁶;
- in terms of wholesale prices charged, it was found that both companies providing MTS and companies providing FTS apply the prices established in the RIO;
- specification of the six-monthly questionnaire on portability (approved by decision of 11 November 2009), which compiles and summarizes the information which companies with portability obligations are bound to submit to ICP-ANACOM. The information is used for monitoring the development of this feature, for the verification of compliance with portability obligations set out in Portability Regulation and ECL and for the evaluation of measures taken to provide consumers with information on portability operations, calls to numbers ported and their prices.

3.3.2 Pre-selection

The sharp downward trend in the number of indirect access customers using pre-selection continued during 2009, as can be seen in the graph below.

Evolution of the number of indirect access customers using pre-selection | Graph 33



Units: customers
Source: ICP-ANACOM

This trend results from the continued growth in investment by market players in other alternatives, including direct access solutions using their own network (including the use of GSM frequencies - Global system for mobile communications) or local loop unbundling.

In this regard, Portugal has the highest level within the EU in terms of percentage of direct accesses supported over alternative networks (41.3 %), well above the EU average which is reported at 24 %¹⁷.

¹⁵ Only one operator reserves, in the context of offers directed at the corporate segment, the right to charge a price of 30 euros per number ported.

¹⁶ This information relates to the third quarter 2009 and is available on ICP-ANACOM's website.

¹⁷ Data from July 2009, EC 15th Implementation Report of Electronic Communications.

● ● 3.4 Quality of service

In 2009, a survey was carried out of the websites of FTS providers to gauge how information on quality of service, as defined in Regulation no. 46/2005 of 14 June (Quality of Service Regulation) was being disclosed, and the degree to which the model of disclosure of such information to end-users had been adopted (model approved by means of recommendation, by determination of ICP-ANACOM of 24 September 2008).

Although it was concluded that not all companies were following the disclosure model as of the recommended date, it was considered that, given the process now begun to amend the Quality of Service Regulation, it would be necessary to adapt the recommendation concerned in the short term. As such, it was considered, that instead of notifying the providers on the conclusions reached on the degree of compliance with the recommendation (which would be amended in due course), ICP-ANACOM should rather focus on adapting the recommended disclosure model in an effective manner. This adaptation was approved by determination of ICP-ANACOM on 11 November 2009.

By determination of 19 August 2009, ICP-ANACOM also approved Regulation no. 379/2009 of 28 August, amending the Quality of Service Regulation, applicable to companies which provide access to the public telephone network at a fixed location and the FTS.

Regarding the provision of FTS, new developments were observed which resulted in the emergence of new

commercial products that no longer match the traditional form of providing that service, together with experience gained over three years of monitoring the implementation of the Quality of Service Regulation, led to the conclusion that it was necessary to introduce a number of amendments to original version of the Regulation, so that it would continue to ensure that users have access to timely, clear and comparable information on quality of service, enabling the choice of the provider which is best suited to meeting their needs.

The changes which were introduced have taken into account the alterations of a regulatory, technological and commercial nature to which the telephone services have been subject over recent years, and which led to new commercial offers which now have a significant presence in the market. In this context, it was sought to clarify some concepts and provisions of the Regulation, establishing new procedures for better disclosure of information on quality of service to users and enabling more effective verification by ICP-ANACOM of compliance, as well as to make adjustments in the definition of certain parameters so that users could understand them more easily.

Among the actions in terms of quality of other electronic communications services, it should also be highlighted the monitoring of complaints and the repeat of the study on the evaluation of quality of the Internet access service, the details of which are presented in section 5.5.

●● 3.5 International roaming

Regulation (EC) no. 544/2009 of the European Parliament and of the Council of 18 June 2009, which amends Regulation (EC) no. 717/2007 on roaming on public mobile telephone networks in the Community and Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services (Framework Directive) introduced a common approach to ensure that users of public mobile communications networks did not pay excessive prices for roaming services when travelling in the Community (International Roaming), in comparison with competitive prices at national level, when making and receiving phone calls and short messages (SMS) and using data communication services with packet switching. This approach aims to contribute to the smooth functioning of the internal market, while achieving a high level of consumer protection, promoting competition and transparency in the market and offering both incentives to innovation and consumer choice.

Among other things, the new regulation introduced new rules on the tariffs that may be levied by mobile operators in providing roaming services across the Community. In the context of communications using *intra*-EU/EEA¹⁸ International Roaming, price ceilings were fixed (at retail level for the Eurotariff, and wholesale) with respect to voice calls, whereas the obligation was also established, with respect to SMS message originated and terminated within the Community, to make available a retail tariff (Euro-SMS tariff), which is also subject to tariff ceilings and also wholesale price caps. With respect to data communication services with packet switching used in *intra*-EU/EEA roaming, the new regulation also established tariff ceilings (in this case, only at wholesale level).

The maximum Eurotariff (Voice Eurotariff) which EU/EEA customers can pay (excluding VAT) for mobile voice communications made in roaming in the *intra* EU/EEA region fell from 0.46 euros (calls made) and 0.22 euros (calls received) *per* minute to 0.43 euros and 0.19 euros *per* minute respectively on 1 July 2009¹⁹. Moreover, billing

shall be *per* second, and, in respect of calls made, the initial billing period applied may not exceed 30 seconds. Operators must also provide their roaming customers with a tariff for sending SMS (Euro-SMS tariff) in the *intra* EU/EEA region with a value not exceeding 0.11 euros (excluding VAT). With respect to wholesale roaming data communications in the region, the regulation establishes that the average wholesale tariff for this type of communication may not exceed 1.00 euro *per* downloaded megabyte²⁰.

As already seen in respect of voice communication, rules have been established which allow *intra*-EU/EEA roaming customers to gain a better understanding of the roaming charges which apply to SMS and data communications²¹.

Under the terms of the Regulation, ICP-ANACOM has conducted various activities related to its implementation in the national territory, including, in 2009:

- providing information to the public about the Regulation's application;
- updating the FAQs (Frequently Asked Questions) on this matter on ICP-ANACOM's website;
- disclosing in August 2009, the fourth ERG report (ERG document (09) 31 International Roaming Report), on the collection of data on roaming which took place in the period between October 2008 and March 2009;
- developing the Roaming Light information campaign, launched on 24 June 2009, to inform consumers not only about the new tariffs but also about various aspects which should be taken into account when using a mobile telephone or accessing the Internet while roaming, before travelling aboard;
- cooperation with other NRA with respect to the International Roaming Project Team of the ERG, in several related activities, including preparation

¹⁸ EU member countries and Iceland, Norway and Liechtenstein (European Economic Area - EEA). It is expected that the geographical scope of the new roaming regulation will be extended to Member States of the European Economic Area - Norway, Iceland and Liechtenstein - under EU/EEU agreement. However, until the regulation enters into force in these countries, the first roaming regulation - Regulation (EC) no. 717/2007 - will continue to apply.

¹⁹ From 1 July 2010, the maximum values of the Eurotariff will be reduced to 0.39 euros *per* minute (calls made) and 0.15 euros *per* minute (calls received) and from 1 July 2011, they will be reduced further to 0.35 euros and 0.11 euros, respectively.

²⁰ From 1 July 2010 and 1 July 2012, this value will decrease to 0.80 euros and 0.50 euros respectively.

²¹ Mobile operators have also been required to make a free application available that provides customers with information about their accumulated consumption, expressed in traffic volume or in euros, and to provide an automatic mechanism that blocks the data service as soon as a certain billing threshold is reached. Except for customers who choose not to take advantage of the automatic block, by 1 July 2010. This mechanism will be activated once the bill reaches 50 euros (unless the customer has chosen another limit provided by the operator).

of questionnaires, compilation and processing of information related to national operators and analysis of issues relating to the interpretation of the new regulation;

- collection of information from national operators;
- monitoring of complaints about roaming and surveillance activities with respect to tariff transparency measures provided for in the Regulation.

●● 3.6 Retail offers

Homezoning offers

With respect to the verification of the consumer information obligations defined by ICP-ANACOM in the context of the terminations on offers of the type Homezoning²², a number of cases of non-compliance were detected, particularly in relation to information disclosed on “any limitations in terms of indoor access” and on the “impact in terms of caller location in calls made to the 112 emergency number” - meanwhile these irregularities have been solved.

Disclosure of the conditions governing the offers of companies providing Internet access

In 2009, a number of situations were detected and reported to the target companies where there was a lack of compliance with certain points established in the determination of ICP-ANACOM of 21 April 2006, on the object and form of public disclosure of the conditions of provision and use of electronic communication services.

“PT Social” retail offer

By determination of 8 April 2009, ICP-ANACOM decided not to oppose the provision of the offer by PTC called “PT Social”, which is characterized by the granting of a 50 % discount on the total value of the invoice of fixed telephone service at a fixed location, up to a maximum of 7.50 euros (including VAT at 20 %) *per* invoice, to all customers who have been unemployed for over six months, applying between April and late December 2009. Furthermore, this Authority ordered PTC to send information on this offer on a monthly basis, given the relevance of information on patterns of use to the proper oversight of its evolution.

²² The offers of the type Homezoning consist in the provision of the FTS using the GSM / UMTS mobile networks, i.e., it enables the use of GSM and UMTS frequencies of the land mobile network on the local access network for the provision of the telephone service at a fixed location.

●● 3.7 Value-added services based on message sending

Decree-Law no. 63/2009 of 10 March amended the decree-law regulating audiotext services publicity (Decree-Law no. 175/99 of 21 May) and the regime governing access to and the exercise of the activity of provider of audiotext services (Decree-Law no. 177/99 of 21 May), extending the regime governing these services to value-added services based on message sending.

Decree-Law no. 63/2009 also extended the remit of ICP-ANACOM, in the context of audiotext services, to information society services provided through messages supported by electronic communications services, particularly in the areas of activity registration, allocation of rights of use of numbering and supervision. Under this amendment, the powers of this Authority were widened in respect of content services that are exercised through the management of numbering resources. Therefore, by determination of 3 June 2009, ICP-ANACOM adapted the NNP to this new reality, involving the creation of codes and the definition of conditions of allocation and use of numbers accommodated in these codes.

In accordance with this new decree-law, ICP-ANACOM is responsible for allocating the different access codes to the providers of services covered by this legislation, in accordance with the nature and content of the services and depending on the description of the services given by the providers upon registration of their activity with this Authority.

Responding to the concerns expressed generally by providers, according to whom it would not be technically possible to implement the said legislation in the short to medium term, ICP-ANACOM decided to establish the total length of the numbers involved as being five digits, for a period of at least one year, with the first two digits identifying the type of service involved.

To allow greater clarity and ensure harmonization in the operation of these services, particularly when the form of provision of such services involves the exchange of messages, free or standard priced (non-value-added), prior to the message transmitting the content (value-added service), on 2 September 2009, ICP-ANACOM published a

clarification on the use of such numbers in this particular situation.

This clarification sets out that, in stages preceding the offer of the service, the customer or provider can use a number other than the number for which the right was allocated for the offer of this service, provided that it is a number with the same access code as the code of the number used to actually provide the service, and provided that the number to which it is specifically allocated is identified in the service's bills.

On the same subject, ICP-ANACOM published two further clarifications.

Clarification on the provision of value-added services based on message sending

By order of 15 June 2009, ratified by determination of 17 June 2009, ICP-ANACOM took the view, in light of the legal regime set forth by Decree-Law no. 63/2009 of 10 March, that it was fitting to publicly clarify a number of aspects related to the provision of value-added services based on message sending:

- definition of value-added services based on message sending (paragraph 3 of article 1 of Decree-Law no. 175/99 and paragraph 2 of article 2 of Decree-Law no. 177/99);
- obligation to register with ICP-ANACOM and allocation of access codes;
- elements required for registration and allocation of right of use of numbers;
- cost of SMS message terminating the contract;
- voting services or contests or other such services, not involving the sending of content;
- subscription of services over the Internet;
- barring of access to value-added services based on message sending.

Position on campaigns associated with added value services

By decision of 9 September 2009, ratified by determination of 16 September, and following the analysis of various situations raised by campaigns already in progress with respect to the implementation of the Decree-Law, approval was given to a clarification note on current campaigns through value-added services based on message sending, as well as on the application of article 9 A of Decree-Law no. 177/99 of 21 May.

In light of the regime established by Decree Law no. 177/99 of 21 May, as amended by Decree-Law no. 63/2009 of 10 March, ICP-ANACOM took the view that:

- 4-digit short numbers already advertised for contests or hobbies as part of campaigns starting prior to 8

June 2009 could still be used until 31 December 2009, provided that they were duly notified to this Authority;

- with respect to value-added services based on message sending which involve the customer agreeing beforehand to the general conditions governing provision of these services for a minimum contractual period defined by the service provider, but where the sending of each piece of content is individually requested by the customer, it is considered sufficient, in order to comply with the provisions of article 9 A of Decree-Law no. 177/99, to send the message with the information referred to therein and to confirm the request for the service at the time the customer agrees to the general conditions and whenever these undergo change.

3.8 Processing of requests and user support

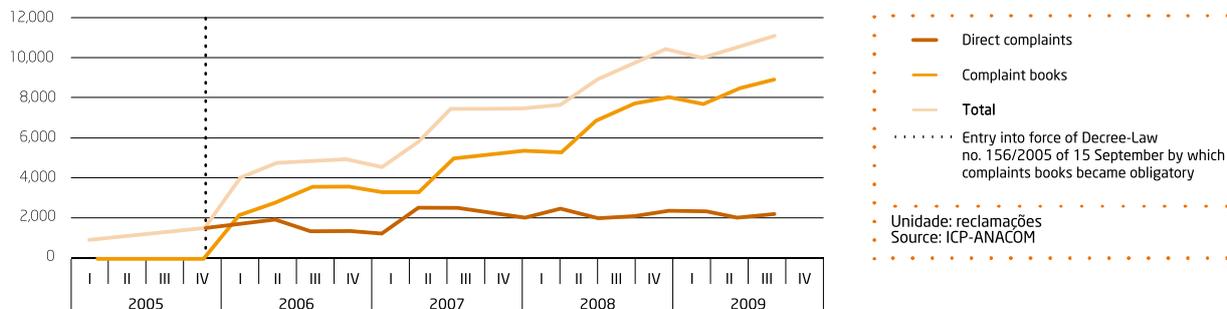
ICP-ANACOM ensures the handling of complaints, inquiries, requests and suggestions about the market for which it is responsible, providing information and clarifications to users of electronic communications and postal services as well as to the general public.

In 2009, and in particular in relation to complaints entered into complaints book, work was done on the integration of the applicational solution used by this Authority with the new technology platform developed by DGC - Direcção-Geral do Consumidor (Directorate General for the Consumer) in partnership with INCM - Imprensa Nacional Casa da Moeda (National Mint), RTIC - Rede Telemática de Informação Comum (Telematic network of common information), which began operation on 17 August 2009. This new tool is designed to enable monitoring and analysis of overall

market performance with respect to consumer relations, whereas a cooperation protocol was signed with respect to its functioning and sustained follow up, which involved, in addition to this Authority, the DGC, INCM and other regulators and market oversight entities.

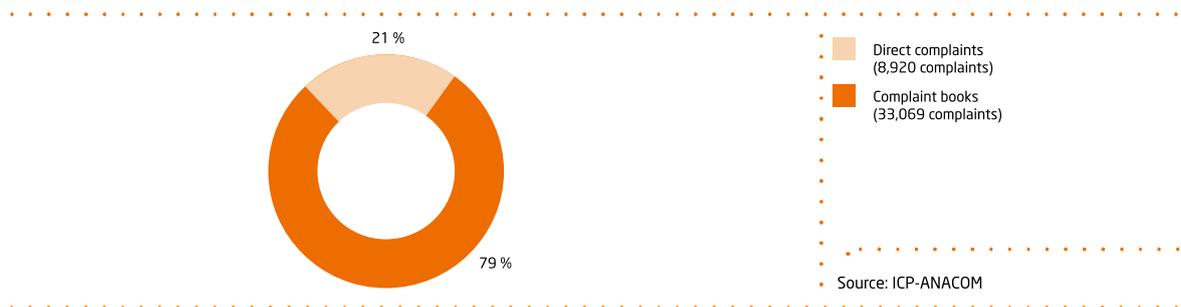
During 2009, ICP-ANACOM received 41,989 complaints, 590 requests for information, 45 suggestions, 40 petitions and 178 communications of other types, making a total of 42,842 enquiries. With regard to complaints, this volume represents, in relation to 2008, an increase of around 24 %, which results largely from the widespread use of complaints book, which scheme came into force on 1 January 2006 (Decree-Law no. 156/2005 of 15 September, as amended by Decree-Law no. 371/2007 of 6 November and by Decree-Law no. 118/2009 of 19 May).

Trends in the quarterly volume of complaints by type of entry | Graph 34



In fact, in 2009, complaints entered in complaint books represented around 79 % of all complaints received by this Authority.

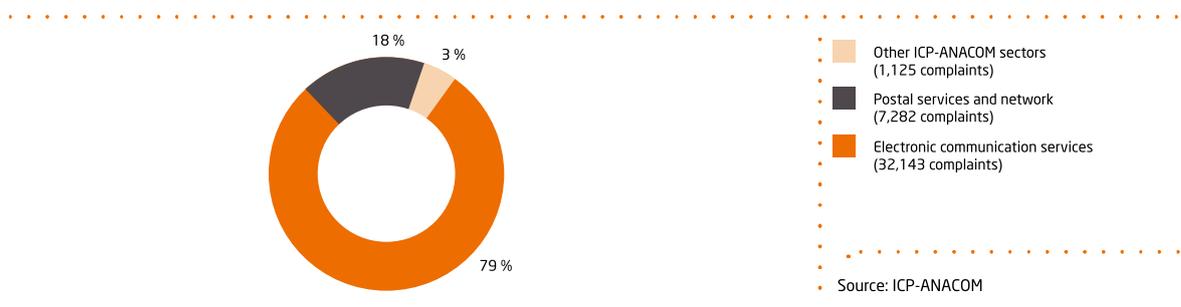
Complaints by type of entry | Graph 35



As regards the sectors concerned, most of the complaints referred, as in previous years, to the electronic

communications sector. In the postal sector, about 97 % of complaints corresponded to complaints entered in complaint books.

Complaints by sector | Graph 36



In terms of electronic communications, the Internet access service gave rise to the largest number of complaints *per*

1,000 customers, followed closely by the FTS and the virtual calling card service.

Services giving rise to most complaints (electronic communications) | Table 9

	Service	2009	Customers (average of period)	Complaints per 1,000 customers
1 st	Internet access service	11,110	3,391,866	3.28
2 nd	FTS	8,110	3,222,269	2.52
3 rd	Virtual calling card service	36	14,499	2.48
4 th	Public payphone service	53	34,615	1.53
5 th	Cable television service	2,170	1,468,509	1.48
6 th	Satellite TV service (DTH)	409	608,093	0.67
7 th	MTS	7,490	15,283,555	0.49
8 th	VoIP	50	122,929	0.41

Source: ICP-ANACOM.

In the electronic communications sector and with respect to complaint books, the most commonly cited issues were those related to equipment, technical assistance, customer services and billing, which issues are typically associated with a customer visiting the establishments of the respective

service providers. Regarding complaints addressed directly to this Authority, there was a high volume of complaints about billing (with particular relevance to errors in bills), contracts (with a high incidence of cases connected with contractual changes) and technical support.

Total complaints by subject (electronic communications) | Table 10

Subject	2009	2008	Variation % 2008/2009
Billing	7,494	4,974	51 %
Equipment	7,423	5,564	33 %
Customer service	6,317	4,993	27 %
Technical assistance	6,255	5,869	7 %
Contracts	5,390	4,021	34 %
Faults	4,439	2,891	54 %
Provision of initial connection or installation	4,023	3,058	32 %
Cancellation of service	3,094	2,721	14 %
Tariffs	2,224	1,555	43 %
Suspension of service	2,129	1,542	38 %
Portability	1,486	1,398	6 %
Speed	1,001	759	32 %
Infrastructure	249	236	6 %
Privacy and personal data	196	162	21 %
Complaint books	194	224	-13 %
Roaming	176	181	-3 %
Geographic portability	141	146	-3 %
Selection and pre-selection	109	522	-79 %
Local loop unbundling	50	145	-66 %
Numbering	41	37	11 %
Directories and directory enquiry services	30	38	-21 %
Municipal Rights of Way Fees (MRWF)	8	9	-11 %
Transfer loops	7	4	75 %

Source: ICP-ANACOM.

It can therefore be concluded that consumer issues accounted for over half the total volume of complaints addressed to ICP-ANACOM, despite the fact that this Authority lacks sectorial powers to intervene in such cases.

In general, and with respect to complaints made by users of electronic communications services, this Authority took the following position:

- it provided the person making the complaint with full information, in particular, with respect to their powers of action and the means of recourse at their disposal;

- it identified situations in which intervention was necessary at a regulatory or supervisory level; and
- it produced and released statistical indicators.

Regarding the postal sector, the largest number of complaints were related to the correspondence service - in complaints addressed directly to this authority, the situations leading to most complaints were those resulting from loss and delay in delivery; meanwhile in terms of the complaints entered in complaint books, the vast majority of situations giving rise to complaints stemmed from problems associated with customer services.

Complaints about the postal sector, by service | Graph 37



While most requests relating to postal services did not fall within the intervention remit of this Authority, their analysis made it possible to compile useful information on sectorial regulation and allowed the detection of evidence of non-compliance with the obligations stipulated under applicable sectorial legislation and regulatory measures.

In the handling of complaints, regular and informal contacts were maintained with the DGC, in order to coordinate and maximize the work undertaken by each entity in terms of the respective areas of sectorial competence.

Requests for information mostly focused on the electronic communications sector and information society services, with the remaining sectors having residual character.

Additionally, ICP-ANACOM published a number of clarifications on its website, aiming to address new issues raised in 2009, as was the case of valued-added services based on message sending, as reported in section 3.7 of this Report, and issues arising from irregularities detected in the functioning of the market - see the cases of reported refusals of electronic portability requests and the inclusion of subscriber data in the directories and information services of the US.

Furthermore, in 2009, ICP-ANACOM proceeded with the project to create the national arbitration centre for the electronic communications sector, in conjunction with the various entities involved in the initiative. The completion of this project was carried over to 2010.

● ● 3.9 Communication security

With respect to the security of communications, ICP-ANACOM engaged in various actions related in particular to communications over public networks, including infrastructure resilience, access to emergency services and privacy. Some of the most relevant of these actions are detailed below.

Evaluation and characterization of security of communications on public electronic communications networks

During 2009, a public tender was launched for the execution of a study of evaluation and characterization of communications security on public networks of electronic communications - the execution of this study was awarded in November.

This is a fundamental study for understanding the existing situation and for the development of subsequent actions in this matter. Its main objectives include: (i) analysis of the infrastructure and resources of network operators and electronic communications service providers, as well as policies, measures, practices, plans, means and resources allocated to network security; (ii) characterization of the main kinds of interdependencies existing between different networks; and (iii) electronic communications services and risk assessment and characterization in relation to the situations encountered.

The study should also prepare and present a set of recommendation, and the impact of such recommendations, to be adopted by different public and private agents, in order to strengthen the robustness and availability of public electronic communications networks and public available electronic communications services.

Identification and characterization of the main nodes and routes of international traffic flow and between the mainland and the Autonomous Regions

The first part of the study was concluded on communications between the mainland and the autonomous regions, including *intra*-regional communications, noting in particular the significant increase in the resilience of the Azores network due to the comprehensive overhaul conducted by PTC after the communications failures observed in that region.

Interdependencies between the private networks of the State and public electronic communications networks

Continued work was done on a study aimed at defining and characterizing the different types of interdependencies between public electronic communication networks and certain private networks of the State, in order to promote their resilience by better controlling the factors which might impact their integrity and availability.

The study also aims to identify and characterize the existing reality and, from this analysis, propose a set of recommendations for improving the security of communications.

E112 Regulation - Location data

ICP-ANACOM Regulation no. 99/2009 was published on 23 February - on the provision, to authorities responsible for providing emergency services, of information on the location of callers to the single European 112 emergency number, establishing the principles and rules which apply to undertakings providing publicly available telephone services and networks.

112 - Emergency communications

ICP-ANACOM worked in conjunction with the authorities responsible for providing emergency service in the reorganization and implementation of the new 112 model, which resulted, in particular, in changes to and the modernization of the resources available to the Public Safety Answering Points.

Institution of ICP-ANACOM as National Authority for Registration of Object Identifiers

As part of ICP-ANACOM's participation in the SCEE - Conselho Gestor do Sistema de Certificação Electrónica do Estado (Managing Council of the Electronic Certification System of the State), the need was identified, in the context of Internet security and security of networks based on Internet protocol (IP), specifically next generation networks, to constitute a National Authority for Registration of Object Identifiers, in accordance with ITU-T Recommendation X.660.

Following the request from SCEE, ICP-ANACOM presented a draft decree-law setting out its powers and responsibilities in the area of Digital Identity Management and particularly in the allocation and registration of Object Identifiers.

Privacy of communications

As part of its remit with respect to the handling of personal data and privacy protection in the electronic communications sector, ICP-ANACOM sent a questionnaire to companies offering electronic communications networks and services. According to received answers there were no incidents affecting public electronic communications networks or services in the years 2006 to 2008.

Combat of unsolicited communications (SPAM)

In October 2009 a workshop on combating spam was held with the participation of members of the Contact Network of Spam Authorities (CNSA) and the London Action Plan (LAP), as well as representatives from various national bodies with interest in this security issue, including CNPD - Comissão Nacional de Protecção de Dados (National Data Protection Commission), Instituto do Consumidor (Consumer Institute), Polícia Judiciária (Criminal Police), FCCN - Fundação para a Computação Científica Nacional (Foundation for National Scientific Computing) and a number of companies working in this area on the national scene. The workshop provided an opportunity for an important exchange of experience, creating improved conditions of cooperation between the various bodies concerned and ICP-ANACOM.

4

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TO PROMOTE
OPEN AND
COMPETITIVE
MARKETS / TO
ASSURE AND
PROTECT THE
RIGHTS OF USERS
AND CITIZENS
IN GENERAL -
MANAGEMENT
OF SCARCE
RESOURCES

(OBJECTIVES 1 + 2)

.....

● ● 4 To promote open and competitive markets/ to assure and protect the rights of users and citizens in general - Management of scarce resources (objectives 1+2)

Among the regulatory objectives established in the Community framework and in national legislation is the objective of encouraging efficient use and ensuring effective management of radio frequencies and numbering resources, which is embodied by objectives 1 and 2 of ICP- ANACOM's strategic plan and, to some extent, objective 4 when this involves coordination within the EU.

In fact, if the ultimate goal of achieving effective and efficient use of resources is to obtain benefits for consumers and citizens in general, such management and, in particular,

management of the spectrum can and must also be made an instrument to be used in the promotion of competition, where the principles of technological and service neutrality have a key role in ensuring that spectrum provision is increasingly market orientated.

The allocation of numbering resources within a reasonable time and using objective, transparent and non discriminatory procedures, is also a necessary condition for the development of markets of competitive and innovative services.

●● 4.1 Radio spectrum management

4.1.1 National Table of Frequency Allocations (NTFA)

By ICP-ANACOM determination of 23 December 2008 and pursuant to and in accordance with articles 15 and 16 of the ECL, approval was given to the public consultation on the draft revision of the NTFA, 2009/2010 edition.

This review consists in updating the allocation table to include new decisions of the Electronic Communications Committee (ECC) and of the EC, and also to incorporate new information on the uses of frequency bands with reference to 15 July 2009, spectrum available for the various radio services and information, provided in the Annex, on equipment using Ultra Wideband (UWB). Amendments were also proposed to the annexes on equipment exempt from licensing and on the amateur and amateur satellite service.

Regarding the frequencies bands and respective conditions of use for the different amateur categories, beyond the status of amateur and amateur satellite services, ICP-ANACOM gave approval to a specific determination on 27 May 2009.

With the aim of creating a portal providing information on frequencies and allowing information to be searched and viewed in a simple, intuitive and interactive form, in terms of frequency planning, allocations and national spectrum use, the requisites and specifications were identified and defined for the development of a software solution named e-NTFA.

Finally, and in compliance with the provisions of Decree-Law no. 58/2000 of 18 April, notification was made to IPQ - Instituto Português da Qualidade (Portuguese Institute of Quality), for subsequent submission to the EC, of the updates made to the technical specifications of the radio interfaces applicable to certain radio equipment categories, including short-range and low power stations Short Range Devices (SRD), of the amateur service, the aeronautical radionavigation service, the maritime radionavigation service, the fixed service, the fixed-satellite service, the aeronautical mobile service, the maritime mobile service, the Mobile Satellite Service (MSS), Land Mobile Service (LMS) and the broadcasting service.

4.1.2 National Agreement for Sharing of frequencies in Times of Peace (ANPF/1999)

In 2009 an update was made to the ANPF/1999 a document which reflects agreements reached in 1999 between ICP-ANACOM and the EMGFA/DICSI - Estado-Maior-General das Forças Armadas / Divisão de Comunicações e Sistemas de Informação (Armed Forces General Staff / Communications and Information Systems Division), on the sharing of radio spectrum.

The need to review that agreement resulted from amendments to the Radio Regulations introduced by World and Regional Radiocommunication Conferences held in the meantime under the auspices of the International Telecommunication Union (ITU), amendments to the bilateral agreements and also to the European decisions in the field of spectrum management.

In late 2009, EMGFA / DICSI and ICP-ANACOM approved and endorsed an update to the ANPF/1999 which came into force on 16 December 2009.

4.1.3 Fixed Wireless Access (FWA)

In 2009, upon request of the holder, ICP-ANACOM revoked the rights of use of frequencies for the operation of FWA systems awarded to Sonaecom, and further revoked the corresponding radio licenses.

4.1.4 Broadband Wireless Access (BWA)

By determination of 14 October 2009, ICP-ANACOM approved Regulation no. 427/2009, amended by Statement no. 2930/2009 of 16 November 2009, for the Allocation of Rights of Use of Frequencies for BWA in the 3400-3600 MHz and the 3600-3800 MHz frequency bands, following the public consultation held on the matter.

Under the terms of this regulation, an auction selection process was initiated, representing the first frequency auction in Portugal. This process aimed, in particular, to promote efficiency in the allocation and use of spectrum and to promote flexibility in the implementation of commercial operations, as well as follow the trend seen globally in the telecommunications sector.

This auction took place between late 2009 and early 2010, and covered 36 lots of frequencies in the 3400-3800 MHz range, reserved for BWA. The 36 lots, of 28 MHz each, corresponded to four lots in each of the nine defined geographic areas.

In this auction, operators holding rights of use of frequencies in the 3400-3800 MHz frequency band and operators designated in Portugal with significant market power on the wholesale broadband access market were excluded, along with operators holding rights of use of frequencies in Portugal for the provision of the publicly available LMS. With this decision, ICP-ANACOM intended, first, to foster competition in the provision of broadband and, secondly, to promote more efficient spectrum use.

A combinatorial auction model was chosen with two rounds of secret bidding (one for the distribution stage and another in the assignment stage), with application of the second price rule. The round of bidding in the distribution stage was designed to define the number of lots won by each bidder in each geographical area, whereas the assignment stage would determine the specific lots won by each bidder. A combinatorial model was chosen because it would allow participating entities to simultaneously bid for several lots in different geographical areas. The purpose of applying the second price rule was to encourage bidders to reveal the real value which they attached to the spectrum, reducing the strategic complexity of bidding and promoting efficiency in the allocation of a scarce resource.

Applications to the auction were received from three entities, whereas Bravesensor, Unipessoal, Lda. (Bravesensor) won three lots in geographical area 1, two lots in geographic area 2, and one lot in geographic areas 3 to 8, while OniTelecom - Infocomunicações, S. A. (OniTelecom) won one lot in geographical areas 1-8.

Since the winning bidders obtained lots in different regions (with only geographical area 9, corresponding to the Madeira archipelago, without allocated lots), a key objective of ICP-ANACOM for this auction was accomplished, which was to enable the development of commercial operations

in info-excluded areas. Furthermore, the speed with which the auction, once started, was conducted, and the allocation of a significant proportion of the lots in question (50 %), shows that this procedure for allocating rights of use was successful, whereas it also provided ICP-ANACOM with know-how in the design and conduct of auctions, which will be a very useful asset in the future.

4.1.5 New rights of use of frequencies in the 450-470 MHz band

By determination of 7 January 2009, ICP-ANACOM endorsed the proposal, submitted by the Commission appointed for the tender, to allocate to Rede Nacional de Telecomunicações, S. A. (RNT) the right of use frequencies, on a national basis, in the 450-470 MHz frequency band for the provision of the publicly available LMS.

By determination of 20 May 2009, ICP-ANACOM approved the report of the prior hearing of RNT and, accordingly, decided to revoke the act granting the company the right of use of frequencies, given that RNT failed to provide the collateral that was required under paragraph 1 of article 15 and article 19 of the Tender Regulation. This decision involved the forfeit, in favour of ICP-ANACOM, of the provisional bond provided by the company pursuant to the Tender Regulation.

4.1.6 Mobile television (DVB-H)

In 2009 various business models were put forward for the introduction of mobile TV in broadcast mode, while today this type of service is provided by mobile operators in unicast mode (addressed) . However, the potential distribution of television programming services by several operators on the same radio network is inconsistent with the legislation that is currently in force, making it necessary to amend to the existing Television Law (Law no. 27/2007 of 30 July), which amendments ICP-ANACOM has in the meantime proposed to the Government. In 2010 the Government is due to submit a draft law to make the first amendment to the Television Law.

²³ The study done in 2008 showed that a network of this kind can be implemented on the mainland before the switch-off.

4.1.7 Allocation of rights of use in the 2.6 GHz band

By determination of 17 June 2009, ICP-ANACOM approved the public consultation report on the allocation of rights of use in the 2500-2690 MHz (2.6 GHz band) frequency band for the operation of publicly available electronic communication services.

The responses to the public consultation show that there is broad interest in the 2.6 GHz band for electronic communications services in Portugal, whereby ICP-ANACOM will make the spectrum in question available, pursuant to EC Decision 2008/477/EC.

As regards the combination of the 2.6 GHz band with other bands, the positions expressed during the consultation were varied. In general there was interest expressed in complementing the 2.6 GHz frequency band with other bands, varying depending on the areas of business and the interest of respondents.

In this context, taking into account the responses received and the guidelines laid down in legislation, in the public consultation report ICP-ANACOM deemed it fitting to establish a set of guidelines, specifically:

- The market should be given the opportunity of combining the provision of the 2.6 GHz band with available spectrum, while not defining a priori closed aggregations of spectrum. As such, the opportunity should be given, in the same selection process, for the different participants in the market to aggregate the spectrum from what is available as seen fit, i.e. in the 2.6 GHz band, in the 1800 MHz band and in the 2.1 GHz band (5 carriers of 5 MHz, corresponding to the spectrum of 1900-1910 MHz and 2010-2025 MHz).
- The options for the GSM extension band (e-GSM) shall only be taken after conclusion of the process of “refarming” of GSM 900/1800.

4.1.8 Digital Terrestrial Television (DTT)

Following the tender opened by Administrative Rule no. 207-A/2008 of 25 February, ICP-ANACOM determined, on 9 June 2009, to issue PTC the titles of allocation of rights of use of frequencies for the provision of the DTT service, corresponding to two coverages on a national basis, associated with Multiplexers B and C, and three partial coverages of mainland territory, associated with Multiplexers D, E and F, for the transmission of television programme services of unrestricted access with subscription or restricted access.

In parallel, and in accordance with paragraph 2 of article 17 of the Tender Regulation approved by Administrative Rule no. 207-A/2008 of 25 February, on 2 June 2009, ERC - Entidade Reguladora para a Comunicação Social (Media Regulatory Authority) decided to issue to PTC the title of distribution operator responsible for the activity of television which consists of the selection and putting together of programme services with conditional access or non-conditional access with subscription, and for their provision to the public.

4.1.9 Digital dividend

By determination of 25 March 2009, ICP-ANACOM approved the launch of a public consultation on the Digital Dividend, in order to come to a properly sustained decision on this issue. This consultation took place between 30 March and 22 May 2009, during which time a workshop was held on the subject.

By determination of 29 July 2009, ICP-ANACOM approved the public consultation report, noting, *inter alia*, the indication that it was deemed likely that the 790-862 MHz sub-band would be made for broadband electronic communications services, in accordance with the principles of the Wireless Access Policy for Electronic Communications Services (WAPECS), although this material would have to be subject to specific public consultation.

4.1.10 Other issues

It is also fitting to make reference, in particular due to the impact they might have on the future management of radio spectrum, to following the determinations of ICP-ANACOM:

- partial repeal, following the renunciation submitted by Sonaecom, of the right of use of a block of 5 MHz frequencies of the third generation mobile communications system (UMTS) Time-Division Duplexing (TDD), corresponding to the 1900-1905 MHz frequencies, which were assigned to the company for the operation of the UMTS system - determination of 4 February 2009;
- amendment at the request of the holders, of the rights of use of frequencies allocated to Oni Telecom and Vodafone for the operation of the FWA system, as regards the minimum number of central stations to be installed by the companies - determinations of 4 February 2009 and 17 June 2009, respectively;
- repeal of the license granted to Bragatel - Companhia de Televisão por Cabo de Braga, S. A. (Bragatel) - which company was since merged by incorporation into ZON TV Cabo - for the operation of FWA systems in the 27.5-29.5 GHz band and recovery of the corresponding right of use of frequencies with effect on 1 January 2004 - determination of 9 December 2009;
- renewal at the request of the company, of the right of use of frequencies assigned to Sistemas de Comunicação de Recursos Partilhados, S. A. (Repart) for the provision of mobile trunking services for a period of 15 years, setting its expiry on 21 March 2024. The title was issued on 1 April 2009 after a prior hearing of the company determinations of 17 December 2008 and 1 April 2009.

●● 4.2 Numbering

4.2.1 Use of geographic numbering on multi-site private networks

Many companies and institutions are currently pursuing plans to migrate from traditional telephone networks to private telephone networks supported on IP technology, with the aim of developing new features and reducing the investment and operational cost associated with communications.

This reduction in costs also includes the reduction of interfaces with the public network, enabling the optimization and utilization of existing capacity between the private network and public network. However, on cancelling access points to the public network, the corresponding geographic numbers lose the network address function, whereby the legitimacy of its use is put in question. Breaking the link between geographic number and the physical location - address - where the call originates may, in particular, affect the effectiveness of assistance provided when a request is made to the Emergency Services through a 112 call.

In this context, ICP-ANACOM issued a clarification on 27 March 2009, in which, recognizing that it is important to maintain geographic numbers on multi-site networks and, also the existence of technical solutions on IP networks (e.g. IPSec tunnelling) capable of ensuring, when properly used, control of FTS communications in each of the access points available, it is considered there is an emulation of these eliminated access points, which can be identified under these conditions through the respective geographic numbers.

4.2.2 Transfer of rights of use of numbers

By determination of 23 December 2009, ICP-ANACOM decided to review the conditions associated with the return of rights of use of numbers transferred to Sonaecom SGPS, defined by determination of 29 December 2008, allowing

the company to maintain two Network Routing Number (NRN) codes taking into account that return under the terms indicated as possible by the company would involve effort, costs and risk which goes beyond Sonaecom itself and that these resources are abundant, whereas there is no commercial benefit in the merger of two codes by the same operator.

4.2.3 New numbers in the 116 range of the NNP: 116006 and 116117

EC Decision 2009/884/EC of 3 December 2009, amending the annex to Decision 2007/116/EC, reserved new numbers of the 116 range for harmonised services of social value: 116006 for the helpline for victims of crimes and 116117 for non-emergency medical calls. These numbers are added to three other numbers in the 116 range, reserved throughout the EU for services of social value: 11600 missing children hotline, 116111 child helpline and 116123 emotional support line.

Therefore, ICP-ANACOM amended the NNP in line with the designations of the corresponding harmonised services of social value, whereby the right of use of these numbers may be allocated to interested parties. These new numbers are disclosed on ICP-ANACOM's website.

4.2.4 Allocation of rights of use of numbers for electronic communications services

Data is presented below on the evolution seen in the allocation of rights of use of numbers, which details the volume of numbers resulting from allocations made in 2009 and, more importantly, the volume of numbers recovered, resulting, to a large extent, from the fact that rights of use of numbers of the NNP have been made subject to the payment of fees, according to the new fee model which entered into force on 1 January 2009, pursuant to Administrative Rule no. 1473-B/2008 of 17 December.

Geographic numbers - evolution of the national situation | Table 11

Year	Allocated and/or reserved (A) or Recovered (R)	Geographic numbers ²⁴			Totals
		Lisbon geographic area	Porto geographic area	Other geographic areas	
2007	A R	110,000 10,000	50,000 0	420,000 0	580,000 10,000
2008	A R	190,000 10,000	70,000 10,000	1,040,000 590,000	1,300,000 610,000
2009	A R	180,000 0	60,000 0	30,000 490,000	270,000 490,000

Source: ICP-ANACOM.

Non-geographic numbers - evolution of the national situation | Table 12

Year	Allocated and/or reserved (A) or Recovered (R)	Nomadic VoIP ²⁵ services	Short numbers ²⁶	Voice mail and translation services ²⁷	Data services (ISP) ²⁸	MTS ²⁹	Totals
2007	A R	180,000 0	9 4	120,000 0	0 400	1,400,000 0	1,700,009 404
2008	A R	290,000 50,000	5 8	164,503 140,000	300 400	2,600,000 350,000	3,054,808 540,408
2009	A R	70,000 120,000	2 6	0 160,000	0 0	1,500,000 0	1,570,002 280,006

Source: ICP-ANACOM.

An outline is given below of the cumulative values of numbers assigned nationally since 2000; an increase is seen, for electronic communication services, in the use of the NNP with respect to non-geographic numbers (including mobile) and an overall decline in geographical numbers.

This reflects not so much a reduction in FTS activity, but the application of measures of self-control by the operators, taking into account that the use of numbers is now subject to the payment of fees, contributing to more effective and efficient management of numbering.

²⁴ Numbers allocated in blocks of 10,000.

²⁵ Voice over Internet Protocol.

²⁶ Corresponds to the ranges 10xy, 116xyz, 14x (y), 15xy, 16xyz and 18xy. Are allocated individually with exception of 16xyz which is allocated in blocks of 10.

²⁷ Allocated in blocks of 10,000 with exception of 80080 range which is allocated individually. Translation services are provided using the 707, 708, 760, 761, 762, 800, 808 and 809 range of the PNN, while the voice mail service is provided using the 600 range.

²⁸ Allocated in blocks of 10, with last 3 digits fixed as zeros for 67 range (data services).

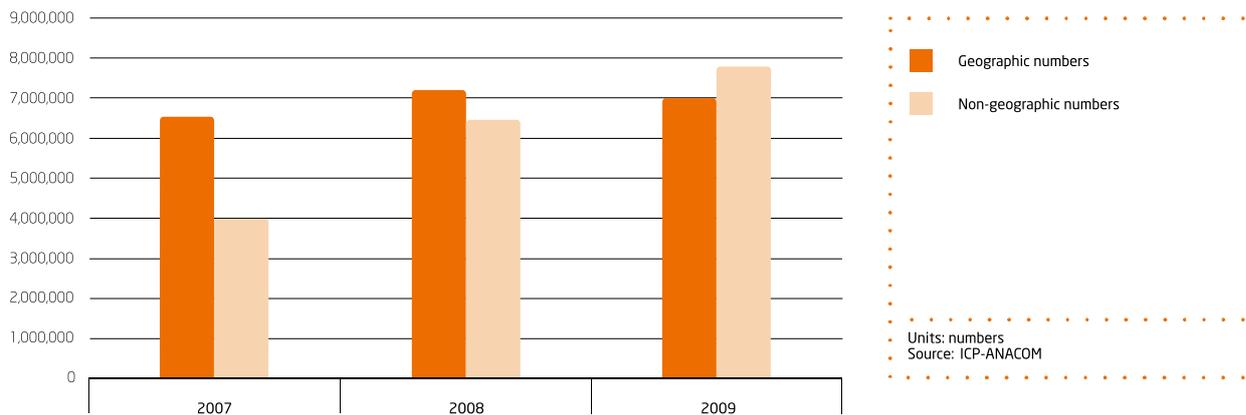
²⁹ Allocated in blocks of 10,000 for the 92 range. Rights of use of numbers of the 609 and 669 range are implicitly allocated for access to the voice mail service, respectively, voice mail consultation and leaving messages and the numbers of the 639 and 659 range, respectively for access to fax and data mobile services.

Accumulated value of numbers assigned nationally | Table 13

Year	Geographic numbers	Non-geographic numbers
2007	6,560,000	3,959,655
2008	7,250,000	6,474,055
2009	7,030,000	7,764,051

Source: ICP-ANACOM.

Accumulated value of numbers assigned nationally | Graph 38



4.2.5 Allocation of numbers to audiotext services and valued-added services based on message sending

Data is presented below on trends in the allocation of rights of use of numbers to audiotext companies, highlighting a steady reduction in the total volume of numbers whose rights are allocated to these companies, reflecting a significant decline in these activities.

Audiotext numbers - national trends | Table 14

Year	Allocated and/or reserved (A) or Recovered (R)	Numbers for audiotext services ³⁰					Totals
		General (601)	Tele-voting (607)	Sales (608)	Competitions and hobbies (646)	Erotic (648)	
2007	A	4,000	2,000	2,000	1,000	1,000	10,000
	R	1,000	2,000	1,000	1,000	0	5,000
2008	A	2,000	1,000	2,000	1,000	1,000	7,000
	R	3,000	0	0	0	0	3,000
2009	A	0	1,000	0	0	1,000	2,000
	R	1,000	0	0	0	0	1,000

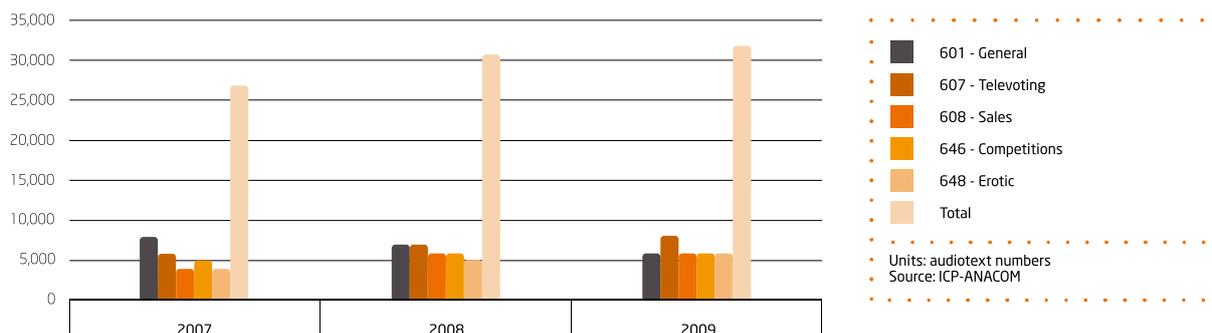
Source: ICP-ANACOM.

Accumulated value of numbers assigned nationally | Table 15

Year	Audiotext					Totals
	General (601)	Tele-voting (607)	Sales (608)	Competitions and hobbies (646)	Erotic (648)	
2007	8,000	6,000	4,000	5,000	4,000	27,000
2008	7,000	7,000	6,000	6,000	5,000	31,000
2009	6,000	8,000	6,000	6,000	6,000	32,000

Source: ICP-ANACOM.

Accumulated value of audiotext numbers assigned nationally | Graph 39



³⁰ Numbers are allocated in blocks of 1,000.

In 2009, with the publication of Decree Law no. 63/2009 of 10 March on valued-added services based on message sending, there was a period of intense activity in the allocation of rights of use for the codes established by ICP-ANACOM, as mentioned in section 3.7.

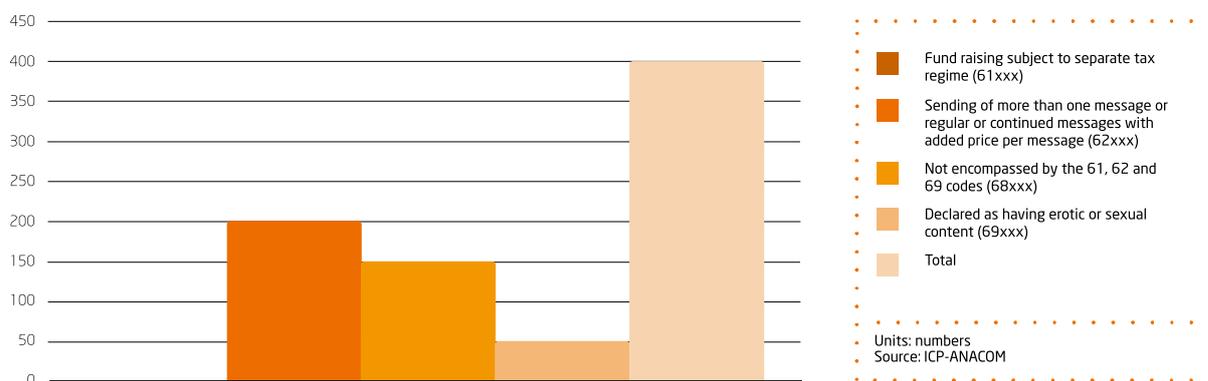
Figures on the allocation of rights of use of these numbers during 2009 to companies providing valued-added services based on message sending are presented below.

Figures for message-based valued-added services - national situation | Table 16

Year	Allocated and/or reserved (A) or Recovered (R)	Figures for message-based valued-added services ³¹				Totals
		Fund raising subject to separate tax regime (61xxx)	Sending of more than one message or regular or continued messages with added price per message (62xxx)	Not encompassed by the 61, 62 and 69 codes (68xxx)	Declared as having erotic or sexual content (69xxx)	
2009	A R	1 0	202 0	151 0	51 0	405 0

Source: ICP-ANACOM.

Numbers for valued-added services based on message sending allocated at national level (2009) | Graph 40



³¹ Numbers are allocated in blocks of 10 numbers up to a maximum of 5 individual numbers, in accordance with ICP-ANACOM determination of 3 June 2009.

4.2.6 Electronic numbering (ENUM)

It is part of ICP-ANACOM's remit to participate in the overall definition of the development of communications, particularly in the context of convergence between telecommunications and information technologies, and, to promote technical standardization, in cooperation with other organizations, in the communications sector and related fields. As such this Authority organized a workshop entitled ENUM: What's the Future? on 28 and 29 October 2009, bringing together national and international representations from manufacturers, operators, Sectorial Regulators and

DNS/ENUM Registries. Themes were addressed related to User-ENUM *versus* Infrastructure-ENUM, relations between ENUM and NGA, applications and services and regulatory aspects.

From the discussion on the issues at hand, it was evident that the User-ENUM has as its main target the user and Infrastructure-ENUM the operators. In the case of Infrastructure-ENUM it was also evident that this will be a key technology in NGA networks for enhancing the quality of communications and maximizing resources, including with respect to interconnection and number portability.

5

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TO IMPROVE THE REGULATOR'S EFFICIENCY AND PERFORMANCE CAPACITY

(OBJECTIVE 3)

.....

● ● 5 To improve the regulator's efficiency and performance capacity (Objective 3)

The various activities developed in pursuit of the objective "to improve the regulator's efficiency and performance capacity" and those also related to cross-organisation internal practice and management are described and detailed in the Activities Report and are not covered in this report.

This section includes the actions related to audits and cost models and actions of market supervision, monitoring and penalties which contribute to the enforcement of the decisions taken in respect of market regulation, assuring their effectiveness and enhancing the regulator's

performance capacity. There are also references to the development in 2009, of the processes of administrative litigation and dispute resolution.

Likewise, contributing to better knowledge of the market and better quality and reasoning of regulatory decisions, the various studies promoted by this Authority are also referenced in this section, concluding with an indication of a number of measures to promote efficiency and streamlined procedures and to implement the new fee system established at the end of 2008.

● ● 5.1 Audits and cost models

The cost models and respective audits are important tools for the implementation of cost orientation obligations, affecting different operators with SMP on certain markets and/or the USP in the electronic communications sector and postal area.

5.1.1 Analytical Accounting System (AAS) of PTC

Following the audit of the 2004 and 2005 results of PTC's AAS, conducted by an independent auditor selected by this Authority, ICP-ANACOM, by determination of 16 December 2009, published the system's respective declaration of conformity, whereas a set of determinations and recommendations for the improving the AAS was notified to PTC.

With respect to the 2006 results, ICP-ANACOM awarded the respective audit on 10 August 2009.

5.1.2 Cost models

Public consultation on cost models

Given the significant change in the existing context regarding the launch in 2005 of the public consultation on cost models, which occurred particularly as a result of the publication of the EC Recommendation on accounting separation and cost accounting systems as well as the recommendation on termination rates (mobile and fixed), and recognizing that both the consultation document and the contributions received may be outdated, ICP-ANACOM opted to inform the market, by determination of 28 October 2009, on the next developments expected in this area, thereby addressing a number of the issues covered by the public consultation, whereas interested parties will always have the opportunity to comment. In particular, note is made of: (i) the award made to two consulting companies of two studies (the methodology to be used for calculating the cost of capital to be considered and the framework of curtailment costs in the PTC Regulatory Costing System); (ii) the completion of a consultancy study to make a comprehensive assessment of the current Regulatory Costing System of PTC and its possible revision; and (iii) to launch an international tender for the development and implementation of a model of termination on mobile networks (in accordance with the EC Recommendation).

Definition of the methodology to be used for calculating PTC's cost of capital for 2009-2011

With respect to the obligation of price control and cost accounting to which PTC has been made subject, provision is made in article 74 of the ECL, that ICP-ANACOM shall "take into account the investment made by the operator and allow it a reasonable rate of return on the capital invested, taking the risks involved into account(...)". This rate corresponds to the rate of cost of capital.

EC Recommendation 98/322/EC of 8 April sets out that: (i) "charges for interconnection be cost-oriented, including a reasonable return on investment"; and (ii) "the cost of capital of operators should reflect the opportunity cost of funds invested in network components and other related assets".

Taking into consideration the impact that the cost of capital has on the unit costs of products or services, and that it is essential to define a proper methodology for determining the cost of capital, it was considered that this issue should be given to consultation by an independent company with expertise in this area.

For this purpose, by determination of 21 January 2009, ICP-ANACOM awarded the contract to carry out the consultancy with respect to the cost of capital of PTC.

Subsequently, based on the study undertaken by the consultants selected, by determination of 17 November 2009, a draft decision on the methodology for calculating PTC's cost of capital with respect to the 2009-2011 period was submitted to the prior hearing of interested parties and the respective final decision was adopted in 2010.

Study on the curtailment costs of PTC

According to EC Recommendation 98/322/EC - on interconnection in a liberalised telecommunications market - "a well defined cost-allocation system will enable at least 90 % of the costs to be allocated on the basis of direct or indirect cost-causation." The costs of the services provided by PTC currently include a portion relative to common costs which comprise, among other items, so-called curtailment costs which are associated with a staff restructuring programme, comprising early retirement and suspension of staff contracts.

Given the significant impact that curtailment costs have on the unit costs of PTC's products and services, it was considered important that this issue be thoroughly studied in order to analyze the amount of curtailment costs determined by PTC and critically evaluate their inclusion for regulatory purposes. Accordingly, by determination of 21 January 2009, an award was made for the conduct of a consultancy study on the curtailment costs of PTC, which was carried out during 2009 with a view to developments in this area in 2010.

Regulatory costing for mobile operators

With the publication, on May 2009, of the EC Recommendation on the regulatory treatment of fixed and mobile termination rates in the European Union, NRA are bound to calculate the incremental costs of providing the voice termination service (fixed or mobile) by an efficient operator, mainly based on current costs provided by Long Run Incremental Costs (LRIC) and bottom-up cost models, whereby the technology considered should be the most efficient available in the period covered by the model.

By determination of 7 October 2009, ICP-ANACOM approved the launch of a public tender for the development and implementation of a costing model for mobile termination, and following this tender awarded the work on 19 March 2010, whereas the development of the model began in the first quarter of 2010.

5.1.3 Analytical Accounting System (AAS) of CTT

Pursuant to article 19 of the Basic Law and clause 13 of the Concession, CTT, as concessionaire company for the provision of the US of postal services and operation of the

postal network, is bound to maintain an AAS which enables: (i) determination of the revenues and direct and indirect costs of each of the reserved services and each of the non-reserved services and (ii) separation between the costs associated with the various basic operations making up the postal services (collection, handling, transportation and distribution). The maintenance of this system further aims to ensure adherence to the principle of cost orientation of prices, in accordance with paragraph 3 of article 2 of the Price Convention.

ICP-ANACOM, or another entity which it so designates, is competent to audit this system, to verify its compliance with the obligations under the relevant legislation, as well as with national and international standards and best practice, and with the principles, determinations and recommendations established and issued by this Authority, to ensure the credibility of the results. It is also incumbent upon ICP-ANACOM to publish an annual declaration attesting to the system's compliance.

In this context, and following the audits of the 2005 and 2006 results of CTT's AAS, on 14 January 2009, approval was given to the report of the prior hearing, the declarations of conformity of the AAS (2005/2006) and the determinations and recommendations made with a view to improving the AAS of CTT.

During 2009, the audit and associated consultations were performed with respect to the examination of the 2007 results of CTT's AAS.

Also in 2009, the process was initiated to award the audit of the 2008 results of CTT's AAS, which award was approved in 2010.

● ● 5.2 Supervision, enforcement and sanctioning

5.2.1 Supervision and enforcement

Communications market

In line with the procedures adopted in previous years and taking into account the strategic guidelines of ICP-ANACOM, various types of enforcement action were undertaken, aimed at enhancing the protection of consumer rights and ensuring that conditions exist for the operation of open and competitive markets. Such actions focus, in particular, on the detection of irregular situations in portability processes, on the resolution of constraints in PTC exchanges in the context of the RUO, the conditions of supply and provision of value-added services based on message sending and the operation of the E112 service, as regards obligations of transmission of data relevant to the location of emergency calls, which must be provided by electronic communications operators.

To provide consumers, as well as the operators and service providers involved, with more information, several studies were conducted to monitor the quality of service of the mobile telephone networks, covering the mainland, the autonomous regions of Madeira and the Açores and several railway lines, in addition to a survey on quality of service in broadband Internet access.

As part of ICP-ANACOM's activity of monitoring the market and with a view to compiling indicators on mobile stations and users, traffic, financial data, quality of service and network infrastructure which enable measurement of data, such as the level of development and use of the mobile service and the assessment of the development of competition in the provision of the services, by determination of 8 July 2009, this Authority approved the final decision on the set of statistical indicators to be submitted by mobile service providers on a quarterly basis.

Equipment market

ICP-ANACOM is responsible for overseeing compliance with Decree-Law no. 192/2000 of 18 August, which establishes the regulatory framework for the placing on the market, free movement and putting into service in the national territory of Radio and Telecommunications Terminal Equipment (R&TTE)³². In providing market oversight with respect to this type of equipment, 48 processes were sent for analysis

with a view to litigation, resulting from the detection of irregularities.

It should be noted that in late 2009, a workshop was held entitled Application of the RTTE Regime in Portugal, which, in addition to providing an opportunity to disseminate the R&TTE regime, served to present the European market surveillance campaigns in which ICP-ANACOM participated, in cooperation with its European counterparts.

ITED (Telecommunications Infrastructure in Buildings) and ITUR (Infrastructures for Telecommunications in Housing Developments, Urban Settlements and Concentrations of Buildings)

In terms of ITED oversight, 400 inspections were conducted of telecommunications infrastructure in buildings during 2009, with a non-compliance rate reported of 20 %.

5.2.2 Sanctioning

During 2009, 80 cases were brought for offences arising from breaches of the ECL and other legislation, whereas more detail is provided of the activities developed in this area in this Authority's Activities Report.

About half of the actions brought resulted from situations involving breaches of the ECL, especially due to failure to provide required information to ICP-ANACOM and due to issues related to number portability.

With respect to proceedings brought for breach of other legislation (45 cases), note is made, in particular, of 5 cases related to postal services and resulting from failures to comply with the obligation to provide this Authority with the information required for verification and inspection in respect of the obligations and conditions attached to licenses or authorizations, 13 cases associated with the private use LMS and 12 cases connected to terminal and radio equipment.

In terms of the framework scheme of administrative offences within the communications sector, particularly with respect to electronic communications, and taking into account that the sector is undergoing constant evolution and becoming increasingly complex, with specific needs, there are grounds

³² Radio and Telecommunications Terminal Equipment.

for a dedicated scheme of offences, allowing more effective action to be taken in terms of prevention and sanctioning of the multiple types of infringement. As such a draft law on such a scheme was prepared by ICP-ANACOM and submitted to the Government, giving rise to Law no. 99/2009 of 4 September.

The scheme approved by that law has allowed the simplification and consequent streamlining of procedures, without jeopardising the guarantees of the accused, and contains some special solutions which seek to respond to the requirements of general deterrence.

This establishes a tripartite classification of offenses according to their severity, reflected in the limits of the applicable fines, which depend on whether the offences are committed by natural or legal persons, and in the case of latter, according to the size of the offender.

The minimum and maximum fines were increased with respect to the general scheme of offences, but not for those already established in the ECL.

A system governing the loss of unclaimed objects was also established, distinct from that provided for in the Criminal

Proceeding Code, which is characterized by being faster and having no costs for individuals.

The sector's own and specific needs call also for new procedures, such as: (i) warnings, applying to minor offenses which consist of reparable irregularities that did not result in significant damage, and (ii) summary proceedings, for possible application prior to formal accusation, for minor or serious offences.

In line with the provisions of the ECL, mandatory pecuniary penalties may be applied to offenders, with a view to cessation of the offence, wherever provided for legally.

The full implementation of Law no. 99/2009 depends on the adaptation of various pieces of sector legislation; whereas it is necessary, in the application of each one, to define the severity of the offence, as well as the specific limits of the fines which should vary - within the limits established under the framework scheme, according to the envisaged social repercussions of the offence. Such adjustments will be completed in 2010.

5.3 Administrative litigation

Although the number of processes of administrative litigation declined slightly from the previous year, the level

of litigation in 2009 remained relevant, as shown in the following table.

Cases initiated in 2008 and processes carried forward | Table 17

2009 Processes - 8	
Precautionary Procedures (suspension of validity)	1 (closed)
Special Administrative Action	7 (1 closed)
Cases carried forward - 40	
Precautionary Procedures (suspension of validity)	4 (closed)
Special Administrative Actions	27 (3 closed)
Action for annulment	5
Joint Administrative Actions	3 (1 closed)
Action to Enforce a Right (tax)	1
Employment cases carried over from previous years - 2	
Actions	2

Source: ICP-ANACOM.

The precautionary procedure submitted in 2009 refers to the application for suspension of validity, submitted by the companies of Grupo PT, of article 1 of the new Portability Regulation; it was dismissed due to definitive sentence having already been passed.

Of all the special administrative actions presented in 2009, the following should be noted (i) relating to determination of ICP-ANACOM of 14 January 2009 on the definition of geographic markets, assessment of SMP and the imposition, amendment or withdrawal of regulatory obligations concerning the market of wholesale (physical) network infrastructure access at a fixed location and wholesale broadband access, brought by Vodafone, and (ii) relating to the partial annulment of ICP-ANACOM determination of 11 March 2009 on the publication of quality of service performance levels in the RUO, LLRO, RDAO, Rede ADSL PT and WLRO, brought by PTC.

The remaining actions initiated in 2009 refer to more specific issues related in particular to the mobile broadband access service, number portability, compensation for non-compliance with quality of service under the RUO and general conditions associated with the provision of mobile trunking services and the tender for the allocation of frequencies in the 450 MHz band.

Of the processes brought forward and ended in 2009, the plaintiff's application was upheld in one case only, related to the clarification of questions of law, whereas two precautionary procedures, brought with respect to the determination of 2 July 2008 on mobile termination price control, were dismissed.

● ● 5.4 Settlement of disputes

During 2009, ICP-ANACOM, pursuant to the administrative dispute resolution scheme provided for in article 10 of the ECL, intervened in several disputes between operators, related to:

- number portability - refusals of electronic requests;
- misuse of guttering which is the property of PTC;
- interconnection of Radiomóvel - Telecomunicações, S.A. (Radiomóvel) with other operators;
- alleged improper billing of ADSL loop migration;
- payment of compensation for breach of levels of quality of service established in the RUO and LLRO;
- termination rates of nomadic VoIP service;
- remuneration conditions of 760 service;
- fees and conditions of routing traffic from the former Tele2.

Some of these disputes were decided in 2009 while others, because they remained un concluded or because they required further analysis, were carried over to 2010.

●● 5.5 Studies

Study on vertical separation in Portugal

The study Vertical functional separation in the electronic communications sector - What are its implications for the Portuguese market? conducted by Oxera (after selection by public tender) and published on 3 August 2009, analyzed vertical functional separation in the electronic communications sector in Portugal, covering a range of issues, including the European and national regulatory framework, literature on the advantages and disadvantages of vertical separation *versus* vertical integration, case studies on experience of vertical separation in the electronic communications sector in other countries (United Kingdom, Sweden, Italy, Australia and New Zealand) and in other sectors (post, gas, electricity, roads and railways) and the assessment of any implementation of a vertical separation solution in Portugal.

Specifically, an assessment is made, in particular, of the extent to which the obligation of vertical separation may be an appropriate solution to address the position of PTC as holder of SMP on the broadband market, and also to enable ICP-ANACOM to achieve its statutory objective of promoting competition in networks and services in the electronic communications sector.

This matter was examined in the light of existing information - which in view of the authors of the study would need to be expanded to allow better appreciative judgement - and given a different set of separation options, especially in terms of complexity, costs and impacts.

Study on broadband with a focus on mobile broadband

Due to poor information available at the level of scientific research on the major differences between the various types of broadband Internet access, ICP-ANACOM (in partnership with its counterpart in Brazil - ANATEL) asked a group of prestigious scholars in the U.S. (Academic Team) to conduct a study in this respect.

This study, entitled Scientific Research Project coordinated by ICP-ANACOM and ANATEL with a focus on Mobile Broadband, was published on 9 October 2009 and focused,

among other aspects, on characterizing residential broadband users by type of access, on their patterns of use and propensity to switch operator.

The results of this study suggest that the volume of hours of broadband Internet use is relatively consistent between different age groups and regions in Portugal and, in general, older users have a lower number of hours of use, while wealthier users use broadband Internet for longer.

The main factors associated with switching operator (or not) seem to be access speed and features of the service itself.

Concerning the differences between fixed broadband access and mobile broadband access, according to the results of this study, while the first is valued by individuals seeking to access the Internet at home and higher bandwidth, Mobile Broadband access is valued specifically for its mobility. However, the pattern of use is relatively similar between the two types of broadband user.

With respect to the characteristics of the population, it was found that, in general, individuals with higher income and higher levels of education prefer mobile broadband access over fixed broadband access.

Study on improving broadband adoption indexes

In certain international comparisons, broadband penetration continues to be calculated based solely on the number of fixed broadband accesses (as is the case of index used by the OECD). However, these indexes have limitations because cases, such in the Portuguese case, where the current number of mobile broadband accesses is greater than the number of fixed broadband accesses are placed at a competitive disadvantage compared to countries where mobile broadband has not yet reached an advanced stage of development.

In this respect, ICP-ANACOM considered that it was necessary to conduct a study to develop a more efficient index for calculating broadband penetration, and to this end and in

partnership with ANATEL, a study of this nature was sought from the Phoenix Center for Advanced Legal and Economic Public Policy. The study *The Broadband Adoption Index: Improving Measurements and Comparisons of Broadband Deployment and Adoption* was published on 5 August 2009 and states that the optimal number of accesses is not provided by 100 % penetration of the population but only by the percentage which actually takes some advantage from these accesses, determined by appropriate indices.

ECSI Portugal Study 2008 - National Customer Satisfaction Index

In August 2009, the ECSI Portugal 2008 - National Customer Satisfaction Index was published on ICP-ANACOM's website; this study covers the communications sector, and in particular, fixed and mobile network services, Internet access (fixed and mobile) services, subscription television distribution and the postal service. This part of study, as last year, was exclusively sponsored by ICP-ANACOM, which also gave its support in data collection, whereas the conclusions and recommendations are the sole responsibility of Instituto Superior de Economia e Gestão of Universidade Nova de Lisboa.

With regard to customer satisfaction, compared with results obtained in the ECSI Portugal study of 2007, the subscription television distribution sub-sector is reporting positive development (with more positive variations reported in the seven estimated indices), while the postal sub-sector shows an opposite trend with negative changes in almost all indices. Note should also be made of the marked positive trend reported in subsectors related to the fixed network, subscription television distribution and Internet access with respect to the perceived value index. This development may, perhaps, be connected to the increased level of consumer demand for these services.

Study on the internal procedures of providers of electronic communications services for handling complaints

As part of the steps taken to enhance the protection of consumer interests, in 2009 ICP-ANACOM concluded the study on the internal procedures of providers of electronic communications services for the handling of complaints, began in 2008. In 2010, according to the data collected and conclusions drawn from the study, this Authority will assess the possible adoption of measures in this context.

Other studies in the field of electronic communications

ICP-ANACOM also conducted a number of internal studies, which are unpublished, on subjects related to the evolution of voice services, retail prices applicable to on-net and off-net traffic of mobile networks, the technological evolution of WiMax systems and citizens with special needs.

Study on comparisons of the prices of UPS providers in the EU

As part of the activities carried out by ICP-ANACOM in the context of regulating the postal communications sector, a study was conducted on Comparisons of prices of providers of the universal postal service in the European Union. Published on 25 November 2009, this study sets out to make a systematic and current comparison between a wide range of postal services provided under the US by the respective operators of the Member States of the EU.

It was concluded from this study that in Portugal the prices of national parcels up to 2 kg and national priority mail up to 20 g were maintained, with increases seen in all other prices studied - national non-priority mail up to 20 g and cross-border *intra*-community mail up to 20 g³³ - although less than the average price of services in the EU.

³³ Both in standard format.

It is further noted that, with the exception of sending non-priority cross-border *intra*-community up to 20 g, current prices in euros are below the EU average. When prices are analysed in terms of purchasing power parity, they are again found to be below the average of the EU, with the exception of sending non-priority cross-border *intra*-community and priority national mail up to 20 g.

It was also reported that there was an overall slight improvement in the position of prices in Portugal compared to other EU countries, whereas, as in 2008, prices in euros remain below the EU average, with the exception of sending non-priority cross-border *intra*-community up to 20 g.

Indicators relating to postal services

Aiming to provide ICP-ANACOM with information on indicators on traffic, financial aspects and on the postal network which enable it to assess the level of development and use of postal networks, and also gauge the relative positions of the providers in the liberalised area and their development over time, on 11 March 2009, this Authority approved the final decision on the set of statistical data which providers of postal services are required to send on a quarterly basis.

●● 5.6 Other measures to promote efficiency

Availability and use of electronic media in communication with ICP-ANACOM

By determination of 23 December 2009, ICP-ANACOM approved the draft decision on the provision and use of electronic media in procedures which involve communication between this Authority and radio network or station licensees, as well as all requirements which apply in this context, under the terms of Decree-Law no. 151-A/2000 of 20 July, in the wording set forth by Decree-Law no. 264/2009 of 28 September.

The primary intention is to ensure more rapid and effective forms of communication by this Authority and market participants.

Amateur and amateur satellite services

On 2 March 2009, Decree-Law no. 53/2009 was published, updating and simplifying the rules governing use of the amateur radiocommunications service from a technical point of view and in terms of the administrative procedures to be observed in the exercise of the amateur activity.

● ● 5.7 New fee models applicable to the use of the radio spectrum and numbering resources and to suppliers of electronic communications networks and services

Since 1 January 2009, new general fee models have been in force, whose main characteristics were detailed in the 2008 Regulation Report (pursuant to Administrative Rule no.1473-B/2008 of 17 December). By determination of 2 October 2009, ICP-ANACOM adopted a package of measures related to the new tariff regime applicable to network and service providers. This new regime consists of the following:

- approval of the calculation of the costs of regulating the activity of supplier of electronic communications networks and services, as 33,036,969 euros. It should be noted that, taking into account the existence of a transition period for the implementation of this new fee model, in this first year of its implementation, only a third of the value of the costs of regulation is recovered by the respective fees;
- launch of an audit of the providers of electronic communications networks and services which, in 2008, reported the highest levels of relevant income, and by sample, the others, to ensure uniformity of criteria for the calculation of this type of revenues;
- issue of invoices associated with the new fees, taking into account the provisions of the Administrative Rule and, in particular, the transition period.

6

.....

TO PARTICIPATE IN THE DEVELOPMENT OF THE EU INTERNAL MARKET BY IMPROVING THE INTERNAL PERFORMANCE

(OBJECTIVE 4)

.....

● ● 6 To participate in the development of the EU internal market by improving the internal performance (Objective 4)

Among the regulatory objectives pursued by the NRA, established within the Community framework for electronic communications and transposed into national legislation, and at the same level as promoting competition and assuring the interests of citizens, reference is made to the contribution to the development of the internal market and, in particular, to work with the EC and the Body of European Regulators for Electronic Communications (BEREC) to ensure the development of consistent regulatory practice and consistent application of the EU regulatory framework.

Therefore, the analyses of markets and the ensuing obligations are increasingly subjected to the scrutiny of extra-national bodies, while there is a clear move towards the harmonization of regulatory practices, both in the form of common positions of the regulators group (until 2009, the ERG and, with the revised framework, BEREC) and according to EC Recommendations or even EU Regulations (as in international roaming).

Moreover, in the postal sector, it should be noted that preparatory works for the transposition of the Directive

liberalizing this market into the national law of Member States has resulted in a growing levels of cooperation and exchange of views and experiences.

In this context, the ongoing and active involvement of ICP-ANACOM in the various Community bodies became determinant to ensure the defence and recognition of regulatory practices considered more appropriate and suited to national specifications. This participation naturally involves an additional level in the management of resources, which increasingly and in combination with the internal tasks are impacting this activity, becoming increasingly part of the daily activity of the organization.

Although naturally ICP-ANACOM's intervention is focused on European institutions and community organizations, brief reference should be made to participation in other international organizations regarding activities that in some way affect or influence the developments of the regulatory activity of the sectors of electronic communications and postal services.

6.1 European and Community bodies

6.1.1 European Union (EU)

Assisting the Government is one of ICP-ANACOM's functions which is embodied, at international level, in the representation and accompaniment of Committees pursuant to the regulatory framework for electronic communications and postal affairs, as well as in the provision of advice with respect to meetings and in the formulation of opinions related to the themes discussed in the Working Groups of the Council, Permanent Representatives Committee (COREPER), the Council of Ministers and at other cross-Community bodies with an emphasis on regulation.

Council

In the context of the support which ICP- ANACOM provided to the government in negotiations at the Transport, Telecommunications and Energy Council (TTE), of particular note in this regard were the following issues, with final decisions coming in 2009 which impacted the activities of regulation and spectrum management more directly:

- Review of the Regulatory Framework for Electronic Communications - approval of the review package of the regulatory framework for electronic communications, which comprises the Better Regulation Directive, - amending the Framework, Authorization and Access Directives-, the Citizen's Rights Directive - amending the Universal Service and Data Protection Directives - and the Regulation establishing BEREC and its office. From the approved package, note should be made of new powers of Member States, NRA and the EC on several issues, including in terms of secondary spectrum trading, network and information security, quality of service and consumer protection.
- International roaming - approval of the revision of the Regulation on International roaming, in respect of which note is made of the extension of the period of voice regulation, the introduction of regulation of SMS and data service tariffs and improved measures of transparency and consumer protection.
- GSM Directive - approval of the revision of the GSM Directive (87/372/ECC) providing for the use of the frequency reserved for this technology by other mobile services (in particular UMTS).
- Digital dividend - adoption of Council conclusions on the EC Communication "Transforming the digital dividend into social benefits and economic growth".
- Network and information security - approval of Council Resolution on a collaborative European approach to Network and Information Security, following the EC Communication on Critical Infrastructure Protection entitled "Protecting Europe from large scale cyber-attacks and disruptions: enhancing preparedness, security and resilience" which established a raft of objectives, principles, guidelines and which scheduled various activities for the period 2009-2010.
- Post-i2010 strategy - approval of the Council conclusions on the Post-i2010 - Towards an open, green and competitive knowledge society.
- e-accessibility - approval of the Council conclusions on an accessible information society.

Community Committees and Groups

In respect of its functions, ICP-ANACOM participated actively in the activities of comitology bodies provided for in the community framework, particularly in the following instances more focused on the implementation of EU policies and regulation of markets and the radio spectrum, such as the Communications Committee (COCOM), the Radio Spectrum Committee (RSC) and the Postal Directive Committee.

Communications Committee (COCOM)

In 2009, ICP-ANACOM participated actively in all meetings of COCOM, including subgroups on permits, selection of the 2 GHz MSS systems and data compilation on the broadband market, with the aim of advising on recommendations and decisions of the EC as well as monitoring the implementation of the regulatory framework.

During 2009, it adopted a set of opinions, in particular on:

- Decision on the 116 range of numbers.
- Decision no. 626/2008/EC of the European Parliament and of the Council which sets out to create, at European level, a common procedure for the selection of the

operators of mobile satellite systems and to establish provisions for the coordinated authorisation by Member States of operators of MSS selected to operate in the 2 GHz band (Call for Applications 2008/C201/03).

- Decision no. 2009/449/EC on the selection of MSS operators.
- Recommendation on termination rates.
- Regulation amending Regulation (EC) no. 874/2004 of 28 April 2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration.

Note should also be made of the publication of reports, on a six monthly and annual basis, on EU broadband data, to which ICP-ANACOM contributes, as the preparation of the annual questionnaire on the implementation of the 112 European emergency number.

Radio Spectrum Committee (RSC)

The RSC, established by Decision 676/2002/EC, continued its activities in 2009, with note made of its involvement in the approval process of the following EC decisions:

- Decision 2009/343/EC of 21 April 2009 amending Decision 2007/131/EC on allowing the use of the radio spectrum for equipment using UWB technology in a harmonised manner in the Community.
- Decision 2009/381/EC of 13 May 2009, amending Decision 2006/771/EC on the harmonization of radio frequencies for use by short-range and low-power equipment.
- Decision 2009/766/EC of 16 October 2009, on the harmonisation of the 900 MHz and 1800 MHz frequency bands for terrestrial systems capable of providing pan-European electronic communications services in the Community. The adoption of this Decision was only possible following the amendment of Directive 87/372/EEC (GSM Directive).

During 2009, two draft decisions were prepared in the context of the RSC, for adoption in 2010: one on the 800 MHz band, which aims to make the 790-862 MHz frequency band available on the basis of technological and service neutrality, and another on harmonized conditions of use of the spectrum for mobile communications on board vessels (MCV).

In 2009, the following mandates were adopted for the European Conference of Postal and Telecommunications Administrations (CEPT):

- WAPECS - new mandate to define the minimum technical conditions to be applied in the 2 GHz band (1900-1980 MHz / 2010-2025 MHz / 2110-2170 MHz), taking into account the need to avoid interference - with basis in the studies conducted with respect to the 2.6 GHz band.
- 900/1800 MHz bands - mandate that aims to (i) check whether there are other technologies, in addition to long term evolution (LTE), for potential use on the 900 and 1800 MHz bands and whose compatibility with GSM needs to be studied, (ii) to study the technical conditions that allow the development of LTE (and possibly other technologies) in the 900 and 1800 MHz bands, and (iii) to investigate the compatibility between UMTS and systems in adjacent bands above 960 MHz.

Radio Spectrum Policy Group (RSPG)

The Decision which created the RSPG (Decision no. 2002/622/EC) was amended by Decision no. 2009/978/EC of 16 December 2009, where the consultative functions of this group with respect to the EC in the preparation of draft programs in the spectrum areas are fully enshrined.

In 2009, the RSPG adopted four Opinions on the following topics: the digital dividend, best practices regarding the use of spectrum by some public sectors, the coordination of European interests in matters relating to the World Radiocommunication Conference (WRC) and issues of the WRC-12 of interest to the EU and which require broad support within the EU.

As part of the activity of this group, note should also be made of the preparation of a high-level strategic document identifying a set of guidelines to maximize the benefits of wireless broadband services for consumers, citizens and society in general, as well as the preparation of a report on cognitive technologies as a means of promoting innovation and facilitating access to the radio spectrum.

European Regulators Group (ERG)

The ERG is a key venue for cooperation between different NRA with a view to the consistent application of the regulatory framework for electronic communications. Unlike other EU Groups and Committees, the ERG is made up solely by regulatory authorities.

Under the 2006 Madeira Declaration, NRA undertake to follow the common positions adopted by the Group using the preparatory work undertaken by the Contact Network and by the project teams of the Independent Regulators Group (IRG).

As part of the ERG's work in 2009, note should be made of the approval and publication of a timetable for monitoring the implementation of Common Positions, the adoption of a new version of the guidelines on the implementation of the regulation on international roaming, as well as a set of reports, including on the replicability of bundles and margin squeeze in bundles, data on mobile terminations, transition from sector-specific regulation to competition law, fixed-mobile convergence, transparency of tariff information, economic analysis and regulatory principles of next generation networks and price consistency in broadband markets. In addition, a declaration was published on the digital dividend.

Under the new regulatory framework, BEREC was created, with preparation of the documents necessary for its implementation begun in early 2010, along with preparation of the rules of procedure and rules for the hiring of personnel.

Joint ERG RSPG Group

In 2009 this working group, which reflects the growing need for synergy between spectrum management and analysis of markets and their regulation, and which aims to examine various regulatory issues related to the regulation of spectrum, particularly the relationship between competition and new spectrum management, presented two reports: (i) Transitional Spectrum Issues addressing issues that may arise during the process of moving to flexible spectrum management, such as the introduction of UMTS in the 900 and 1800 MHz bands in different Member States, and (ii) Spectrum Competition Issues, which looks at the problems and practical experience of some Member States with respect to the prevention of spectrum hoarding as an anti-competitive practice.

This Group also started working towards the publication of a third report, dealing with spectrum issues in terms of market definitions.

Postal Directive Committee

ICP-ANACOM attended the two meetings of the Postal Directive Committee, at which there was discussion of the processes of implementing the third Postal Directive (Directive no. 2008/6/EC of 20 February 2008), the monitoring of international developments in the postal services sector, particularly the activities of the Universal Postal Union (UPU) and World Trade Organization (WTO), the issue of VAT in the sector and preparation of the postal agenda for the coming years.

In the context of the working group established by the Postal Directive Committee (April 2008) to monitor issues related to the transposition of Directive 2008/6/EC, ICP-ANACOM participated actively in the five meetings of 2009, where the following topics were covered: licensing, national regulatory authorities and the calculation of the cost of the US, market oversight and consumer protection, the external dimension of Community postal policy and accounting separation and cost allocation.

Group of Experts on Electronic Commerce

ICP-ANACOM follows the work of the Group of Experts on Electronic Commerce, chaired by the EC, which had only one meeting in 2009. Among the topics addressed, note is made of the presentation of new initiatives on privacy online, such as the Hadopi Law in France, Digital Britain in the United Kingdom, and the new legal framework on the blocking of websites in combating child pornography, in Germany. There was also discussion of the implementation of article 3 of the Electronic Commerce Directive (EU Cooperation) and the concept of “directed activity” of the Brussels Convention I.

Expert Group on Consumer Complaints

ICP-ANACOM participated in meetings of the expert group that supported the EC in the preparation and draft adoption, at European level, of a harmonized methodology for the classification of complaints and enquiries in the EU, including in particular electronic communications services and the postal services. The public consultation on this matter was scheduled for 5 October 2009, while a Recommendation is due for publication in the first half of 2011.

6.1.2 Independent Regulators Group (IRG)

The IRG was constituted as an association under private law, based in Brussels; it brings together the NRA of the electronic communications sector of 27 Member States of the EU, the European Economic Area (Switzerland, Iceland, Norway and Liechtenstein), candidate countries for EU membership (Croatia and Turkey) and Macedonia, as an observer member.

In 2009, ICP-ANACOM was present at all Plenary sessions of the IRG / ERG and at the preparatory meetings that preceded them, participating in the Contact Network, which is an operational middle group with representatives of each NRA. It also attended and participated actively in the meetings of the following project teams: Review of

Regulatory Framework, Termination Prices, Significant Market Power, Benchmarking, Regulatory Accounting, International roaming, Remedies, NGNs, Convergence, article 7 Panel of Experts, providing coordination of the End-Users and IRGIS (IRG information system) teams. ICP-ANACOM also participated in *ad hoc* groups of Security and access to information.

It is recalled that the IRG and ERG work in close cooperation at a technical level with the joint working groups of the two bodies.

Under the cooperation between European NRA, in 2009, ICP-ANACOM responded to 116 (of 127) questionnaires sent out by its counterparts and developed nine questionnaires on its own initiative.

6.1.3 European Network and Information Security Agency (ENISA)

At EU level the issue of network security and information saw the involvement and participation of ICP-ANACOM at meetings organised by the EC and in the Management Board of ENISA.

During 2009, several pieces of legislation were published at Community level, including in connection with amendments to the European regulatory framework for electronic communications, the European Action Plan for the protection of infrastructure and the European Council of Ministers resolution referred to above, which grants ENISA new powers that will necessarily be reflected in the future mandate of the agency.

In terms of its activities during 2009, ICP-ANACOM gave particular attention to the multi-annual thematic programme on improving the resilience of European electronic communications networks.

6.1.4 European Conference of Postal and Telecommunications Administrations (CEPT)

In the context of ICP-ANACOM's involvement in the CEPT - organization of technical harmonization - participation was provided in its Electronic Communications Committee, the European Committee for Postal Regulation (CERP) and the Committee for ITU Policy (Com-ITU) as well as in

various working groups related particularly with frequency management and spectrum and numbering engineering, addressing and interconnection, thereby contributing to the preparation of relevant regulatory decisions in these matters.

ICP-ANACOM also participated in several CERP working groups and project teams.

● ● 6.2 Other international organizations

6.2.1 International Telecommunication Union (ITU)

ICP-ANACOM participated in the 9th Global Symposium for Regulators, an ITU event launched in 2000 to bring together regulators and policy makers from developed and developing countries, promoting the sharing of ideas and experiences on the sectorial topics of greater urgency and relevance. This year's event was dedicated to the challenges of convergence and the changing role of regulators at a time when the sector of information and communication technologies is undergoing transformation driven by technological, regulatory and market developments. The symposium adopted a set of best practices aimed at identifying innovative regulatory approaches which help strengthen the foundations of a worldwide Information Society, with the Portuguese administration particularly involved in producing this document.

Furthermore, ICP-ANACOM organized and participated in the ITU's fourth World Telecommunication Policy Forum where issues were addressed arising from regulatory and telecommunications policy. At this forum, approval was given to the Lisbon Consensus, which includes a series of opinions on the Internet, next generation networks, broadband access, information and communication technologies (ICT) and the environment; concerted strategies for building trust and confidence in ICT use and the training of human resources to support the implementation of IPv6.

In 2009, ICP-ANACOM also continued its involvement in various study committees of the T and R sector of the ITU relating, respectively, to technical aspects of numbering management and interoperability of networks and radio spectrum management.

6.2.2 Universal Postal Union (UPU)

In connection with ICP-ANACOM's participation in the work of the UPU, note is made of the first Postal Regulation Forum, a global forum whose audience was intended to be the decision-makers of the postal sector and regulatory authorities, with participation also seen by academics and service providers. This first forum was focused on issues related to the organization of the postal market (various models of regulation), the financing of the Universal Service of postal services and the overall impact of postal market liberalization at national and international level.

6.2.3 Organisation for Economic Cooperation and Development (OECD)

In the area of information security and privacy, ICP-ANACOM participated in the Working Group on Information Security and Privacy (WPISP) of the OECD. In 2009, this working group focused its activities on issues related to the access of various countries to the OECD Convention, contribution to the Strategy of Innovation (sensor based networks), economic aspects of malicious code, national strategies for cybersecurity, critical information infrastructure (undersea cables), authentication and management of digital identity, privacy, SPAM and protection of children online.

ICP-ANACOM hosted the conference of OECD experts on Using Sensor-based Networks to Address Global Issues: Policy Opportunities and Challenges held in Lisbon in June 2009.



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TO PROMOTE
INSTITUTIONAL
AND TECHNICAL
COOPERATION

(OBJECTIVE 5)

.....

● ● 7 To promote institutional and technical cooperation (Objective 5)

This goal, while not arising directly from the Community framework and national legislation, is enshrined in the Strategic Plan of ICP-ANACOM, constituting an objective running through all the objectives detailed throughout the present report.

Key in this section was the work which ICP-ANACOM undertook in promoting a better understanding of the

activities it pursues, as well as to support the development of actions of other regulators / entities present in the market for electronic communications and postal services. Note is also made in this section of the role played by ICP-ANACOM regarding institutional cooperation, with particular attention to the work on analysis of competition and restrictive practices and in areas of technical standardization

● ● 7.1 Institutional cooperation

7.1.1 AdC - Autoridade da Concorrência (Competition Authority)

In 2009, ICP-ANACOM set out its position with regard to certain concentration operations performed by companies (especially PTC/RETI - Rede Teledifusora Independente, S.A., and Ongoing/Vertix/MC) and issued opinions on the draft final decisions of AdC on restrictive practices of competition.

7.1.2 IPQ - Instituto Português de Qualidade (Portuguese Quality Institute)

The Sector Standardisation Body (ICP-ANACOM SSB) works on the basis of a protocol developed with IPQ as the National Standardisation Body and encompasses telecommunications, the postal activity and electromagnetic compatibility; in addition to two new national technical committees set up in 2009, ICP-ANACOM SSB promotes the functioning of two other committees, CTE 210 on Electromagnetic Compatibility and CTE 46 on Cables, wires and waveguides for telecommunications equipment. All of these national technical committees act as a mirror of the activity carried out by the European Committee for Electrotechnical Standardization (CENELEC), the International Electrotechnical Commission (IEC) and the European Telecommunications Standards Institute (ETSI) in the areas described and include the participation of experts representing national industry and ICP-ANACOM.

The activity of ICP-ANACOM SSB is conducted around the process of preparing technical standards, including international standards, stemming from the work of international standardization bodies.

Two new national technical committees were set up in 2009: CTE 209 on Cable networks for television signals,

sound signals and interactive services and CTE 215 on Aspects of electrical telecommunications equipment. The standardization activity of these two new technical committees is particularly important given the increasing importance of optical fibre networks both inside and outside of buildings.

7.1.3 Other entities

In 2009, ICP-ANACOM signed a number of protocols, including the following:

- Protocol between ICP-ANACOM and INAC - Instituto Nacional de Aviação Civil (National Civil Aviation Institute), to clarify the procedures to be followed by the two authorities for the process of frequency allocation for aeronautical radio services and establishing procedures to be followed with respect to issues involving the management of frequencies and resulting from the exercise of technical representation of the Portuguese State in civil aviation organizations;
- Protocol between ICP-ANACOM and UMIC - Unidade de Missão Inovação e Conhecimento (Knowledge Society Agency) under the Safer Internet project.

In the context of the security of communications, note is made of this Authority's participation in the Conselho Gestor do Sistema de Certificação Electrónica do Estado (Managing Council of the Electronic Certification System of the State), in the context of the digital signature scheme, and participation in FALSEC - Comissão de Facilitação e Segurança (Facilitation and Security Committee).

● ● 7.2 Technical cooperation

In advising the Government and in the fulfilment of other responsibilities, ICP-ANACOM worked actively in the dissemination of national regulatory models with respect to other markets, including CPLP Community of Portuguese Speaking Countries and the Mediterranean and South America

These actions were carried out bilaterally with several NRA counterparts - in isolation or in an integrated manner through the completion of Annual Cooperation Plans - or through an effective collaboration with the ITU in the supply of trainers

for the ITU Centre of Excellence (CoE) for African Portuguese and Spanish-speaking countries, or even by the active participation of ICP-ANACOM in the activities of regional associations of regulators (e.g. CPLP-ARCTEL - Associação de Reguladores de Comunicações e Telecomunicações da CPLP (Association of Communications and Telecommunications Regulators of the CPLP), Regulatel - Fórum Latino-americano das Entidades Reguladoras de Telecomunicações (Latin-American Forum of Telecommunications Regulatory Authorities) and the European Mediterranean Regulators Group (EMERG).



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FINAL CONCLUSIONS

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● ● 8 Final conclusions

At the end of the 2008 Regulation Report, it was explicitly stated that developments centred on NGN, the expansion of convergence and the increased alignment of the various regulatory approaches, which constitute the regulatory challenges of the future, would be the key issues.

The report which is now presented does not detract from this assertion, but rather builds upon it, specifically in the field of NGN/A, while it must be recognised that in 2009 there have been no significant breaks with the regulatory logic of the past, despite relevant developments, especially in terms of radio spectrum management, both in terms of new trials of its usage and, in particular, in the enhancement of its role in a convergent management of electronic communications.

The delay of the 2006 Review which finally saw conclusion in late 2009, as was clearly emphasized in previous reports, contributed greatly to this waiting period.

Immediately, it appears conclusive that the main challenge for 2010 will be the suitable and timely transposition of the "new" Regulatory Framework for Electronic Communications into Portuguese legislation, in which the key concern, in light of the principle of subsidiarity, which can never be put at risk, will be to balance European principles, which are undeniably common, with the specific characteristics of the Portuguese sector, respecting these characteristics without their discharacterisation.

This *desideratum* is not confined, however, to the legislative area, since the way in which the constitution of any internal market for electronic communications, the final design of European sector policy, becomes more comprehensive on a daily basis, will have a decisive influence on the achievement of this balance, which is so desired and so necessary.

The establishment of BEREC and its office, with all the vicissitudes and controversies generated as to its role and its governance, whether wanted or not, marks a step towards the creation of this single market, whereas the achievement or rupture of this balance depends on its actual functioning and governance.

As such, it becomes imperative and decisive to have competent and continuous participation from all European regulators, and participation from ICP-ANACOM in particular, not only in the first steps, but in all the developments of these new entities.

Recognition of this need is evidence of what may be seen as a clear dependence of national regulation regarding community decisions. However, this vision can be perverse and even irresponsible for National Regulatory Authorities. It is that this dependence need not be, and nor should it be, unilateral and it will depend fundamentally on how BEREC operates, not to mention, first of all, on how Community policy decisions are taken.

Since the Electronic Communications Sector is one which most deeply entwines Community and national decisions, it is important to guarantee that there is no clear dependence on one of the sides, with recognition, in this case, that precedence must be given to Community rules. However, such precedence will only bring true dependence if such rules do not result in the exercise of shared sovereignty but a dominance of some or, more likely, of a bureaucratic structure, which only happens if the participation by all is not ready, active and competent.

This is the great challenge for 2010 which will imply, certainly, a common learning exercise which must be conducted according to suitable governance, which, in turn, will surely comprise not negligible adjustments to the mode of organization of the inner workings of their own national bodies of regulation.

The concern of ICP-ANACOM to respond to this challenge is well reflected in the design of one of its key objectives outlined in this report - To participate in the development of the EU internal market, by improving internal performance.

But the challenge of improving internal performance must be reflected in the exercise of the shared search for common solutions, differentiated where justified, and this exercise must be driven by results in a timely manner, without identification of such precedence putting in question a coherent, useful and efficient development of regulatory measures at all levels.

In the Portuguese case, the delay in the development of national decisions on NGN/A, “refarming” (finally possible!) and Universal Service has been clear, as a result of the persistent uncertainties with respect to the preceding Community decisions.

But the most notable case is probably the delay in the 2006 Review. Its conclusion, only in 2009, as a consequence of discussion which resulted in a delay of three years, in which profound technological alterations took place which

were not taken into account, nor could have been, in the base proposal of 2006, led to a piece of legislation at risk of being unable to properly respond to the new challenges which emerge.

A demand has been made to regulators for regulatory certainty (not regulatory consistency in the universe of increasing uncertainty?) and also an innovative attitude (which is obviously compatible with consistency, but not with certainty, because innovation is unpredictable). More than ever this attitude, which entails obvious risks, must be part of the “toolbox” of ICP-ANACOM, particularly when regulatory measures in the strictest sense need to take into account an increasingly convergent whole, from spectrum management to content management, with the respect and promotion of the rights of the citizen, anchored and secured in the search of security, integrity and continuity of networks and the information carried thereon.

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ADVISORY
COUNCIL
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● ● 9 Advisory Council of ICP-ANACOM

It is incumbent upon the Advisory Council to issue an opinion on the Regulation Report

[point b) of article 37 of the Statutes of ICP-Anacom]

Introduction

On 28 July 2010, at a meeting of the Advisory Council convened for such purpose, an examination was made of the Regulation Report for the year 2009, in light of the request for the opinion stipulated in said article 37 of the Statutes of Autoridade Nacional de Comunicações.

The Specialized Committee, previously established by determination of this Council, mandated for this purpose and composed of the following members of the Advisory Council: CTT - Postal Portugal, DECO, Onitelem, PT Comunicações, Sonaecom and Vodafone Portugal, met three times: a first time to conduct an initial reading of the documents and to define the working methodology; a second time to discuss and integrate the contributions of each of its members; a third time to discuss the final draft Opinion to be submitted to the Advisory Council, which follows.

In general terms

1. The Regulation Report, from the viewpoint of the scope of subject matter, which by law it is required cover, is comprehensive and, in general terms, it is deemed that it sets out, in an accurate and detailed manner, the actions and regulatory measures undertaken by ICP-ANACOM in the calendar year 2009.
2. The Advisory Council notes and appreciates very positively the restructuring of the report's organization, which brings it into line with the major strategic objectives as defined by ICP-ANACOM and which are consistent with those established under the EU regulatory framework. The restructuring effected means that the report is more accessible to the general public, allowing a better understanding of the purpose and scope of ICP-ANACOM's activity.
3. The provision of both the Report on the State of Communications in 2009 and the 2009 Regulation Report, jointly with the 2009 Activities Report, provides

a fitting view of the activity undertaken by ICP-ANACOM and the effects thereof on the communications market. However, it seems advisable that ICP-ANACOM consider a formal, logical and temporal articulation between the three documents in order to prevent overlap and duplication, and to ensure accurate references that assist understanding of its regulatory activity as it deals with reality and gives it value.

4. The Board further considers, notwithstanding that the Regulation Report and the documents referred to in the preceding paragraph provide an integrated and comprehensive overall view of regulatory activity in the markets for electronic communications and postal services, that the Report would be enriched by the inclusion of an examination focusing on the application and consequent effects of the regulatory measures adopted by ICP-ANACOM.
5. The Advisory Council does not consider that it would be inappropriate were the Regulation Report to consider the outlook for the evolution of the relevant segments of the markets for electronic communications and postal services. The prospective component of these guidelines of ICP-ANACOM is likely to contribute to greater predictability of the market. In this regard and by way of example, we indicate the issues which make up the agenda of the European electronic communications sector:
 - i) Net Neutrality.
 - ii) Digital Single Market (Contents, Copyright).
 - iii) OTT (Over the Top).
 - iv) Social Networking.
 - v) E-education.
 - vi) E-health.
 - vii) Cloud Computing.

Such a forward looking view and analysis would allow stakeholders to acquaint themselves with the areas of ICP-ANACOM's concern and the focus of its action and enhance the general public's awareness of the impact of the regulator's activity.

6. ICP-ANACOM highlights the relevancy of the actions undertaken in the context of community committees and groups, as well as its participation in the European Regulators Group, setting out the decisions taken and the results achieved. In this respect, and reiterating earlier advice of this Council, ICP-ANACOM should involve market players in briefings and hearings, held in a systematic and regular manner, with a view to their greater participation and a better understanding of the issues, their treatment and expected outcomes. Such recommended cooperation may enable enhanced consideration of the present reality of the national industry, its capacities and constraints, as well as closer regulation.
7. The Advisory Board, given the length and technicality of the Regulation Report, considers and recommends that the chapter entitled "framework" be developed and expanded, written in language which is appropriately accessible to the general public, with the aim of converting it into a true "executive summary" suited for distribution among a broader range of recipients beyond those who are mandatorily and naturally addressed by the Regulation Report.

In specific terms

Among the matters which are at present of most concern to operators, in terms of competition, are those related to:

- a) Regulated offers.
- b) Transposition of the new regulatory framework.
- c) Universal Service.
- d) DT and Digital Dividend.

8. Regulated Offers. Despite the progress reported and quantified in the Regulation Report, it is the view of the operators that these are matters which continue to require careful oversight by the Regulator, in particular as regards the RUO, and especially with regard to the remote enabling of exchanges and quality of service.

9. New Regulatory Framework. The current level of information is considered insufficient. ICP-ANACOM should report on the status of said transposition and enable market players to participate in this respect.

10. Universal Service. There remains a lack of knowledge about the development of policies in respect of Calculating the Cost of the US, Definition of the Concept of excessive burden and rules governing the financing of the Cost of the US, despite the stipulations of Law 5/2004.

11. DT and Digital Dividend. The information provided on this issue is insufficient, particularly regarding the phasing of coverage. Given the importance of spectrum resources for the provision of electronic communications, operators have stressed the need for timely information on the policy governing the availability of said resources in the different frequency bands.

The Advisory Board recommends that in relation to conflict resolution, the Regulation Reports should include details of the actions taken by ICP-ANACOM and their respective deadlines. It is further considered fitting, with respect to enquiries and support to users, that in addition to outlining the statistics and types of complaint, that reference is made to the type of intervention which ensues and the results thereof.

The present opinion is not binding, and recommends the adoption of the Regulation Report with reference to the calendar year 2009.

Lisbon, 28 July 2010.



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ANNEXES

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● ● Annex I - List of acronyms and abbreviations

ADSL	Asymmetric Digital Subscriber Line	NRA	National Regulatory Authority
AAS	Analytical Accounting System	OSP	Other Service Providers
BWA	Broadband Wireless Access	QSI	Quality of Service Indicators
CIS	Centralised Information System	R&TTE	Radio and Telecommunications Terminal Equipment
CPI	Consumer Price Index	RDAO	Reference Duct Access Offer
DSLAM	Digital Subscriber Line Access Multiplexer	RIO	Reference Interconnection Offer
DTH	Direct-to-Home	RUO	Reference offer for local loop unbundling
DTT	Digital Terrestrial Television	SMP	Significant Market Power
DVB-H	Digital Video Broadcasting - Handheld	SMS	Short Message Service
EAFRD	European Agricultural Fund for Rural Development	SPAM	Unsolicited communications
ECL	Electronic Communications Law (Law no. 5/2004 of 10 February)	SRD	Short Range Devices
ENUM	Electronic Numbering	TTE	Transport, Telecommunications and Energy
FAQ	Frequently Asked Questions	UMTS	Universal Mobile Telecommunications System
FTS	Fixed Telephone Service	US	Universal Service
FWA	Fixed Wireless Access	USP	Universal Service Provider
GHz	Gigahertz (unit of frequency equal to one thousand million Hertz)	UWB	Ultra Wideband Technologies
GI	Overall indicator of quality of service	VAT	Value-Added Tax
GSM	Global System for Mobile communications	VOIP	Voice Over Internet Protocol
ICT	Information and Communication Technologies	WAPECS	Wireless Access Policy for Electronic Communications Services
IP	Internet Protocol	WLRO	Wholesale Line Rental Offer
IS	Information System	WRC	World Radiocommunication Conference
ISDN	Integrated Services Digital Network		
ITED	Telecommunications infrastructure in buildings		
ITUR	Infrastructures for telecommunications in housing developments, urban settlements and concentrations of buildings		
Kbps	Kilobit <i>per second</i> (thousands of bits <i>per second</i>)		
LLRO	Leased Lines Reference Offer		
LLU	Local Loop Unbundling offer		
LMS	Land Mobile Service		
LRIC	Long Run Incremental Costs		
LTE	Long Term Evolution		
Mbps	Megabit <i>per second</i> (millions of bits <i>per second</i>)		
MCV	Mobile Communications on Vessels		
MHz	Megahertz		
MSS	Mobile Satellite Services		
MTS	Mobile Telephone Service		
MVNO	Mobile Virtual Network Operator		
NTFA	National Table of Frequency Allocation		
NGA	Next Generation Access Networks		
NGN	Next Generation Networks		
NNP	National Numbering Plan		

● ● Annex II - List of operators

Bragatel	Bragatel - Companhia de Televisão por Cabo de Braga, S. A.
Bravesensor	Bravesensor, Unipessoal, Lda.
CTT	CTT - Correios de Portugal, S.A.
Grupo PT	Grupo Portugal Telecom
OniTelecom	OniTelecom - Infocomunicações, S. A.
PTC	PT Comunicações, S. A.
Radiomóvel	Radiomóvel - Telecomunicações, S.A.
RNT	RNT - Rede Nacional de Telecomunicações, S. A.
Repart	Repart - Sistemas de Comunicação de Recursos Partilhados, S. A.
Sonaecom	Sonaecom - Serviços de Comunicações, S. A.
Vodafone	Vodafone Portugal - Comunicações Pessoais, S. A.
ZON Multimédia	ZON Multimédia - Serviços de Telecomunicações e Multimédia, SGPS, S. A.
ZON TV Cabo	ZON TV Cabo Portugal, S. A.

● ● Annex III - List of other entities / organisations

AdC	Autoridade da Concorrência (Competition Authority)
ARCTEL-CPLP	Associação de Reguladores de Comunicações e Telecomunicações da CPLP (Association of Communications and Telecommunications Regulators of the CPLP)
BEREC	Body of European Regulators for Electronic Communications
CENELEC	European Committee for Electrotechnical Standardization
CEPT	European Conference of Postal and Telecommunications Administrations
CERP	European Committee for Postal Regulation
CNPD	Comissão Nacional de Protecção de Dados (National Data Protection Commission)
COCOM	Communications Committee
COREPER	Permanent Representatives Committee
CPLP	Community of Portuguese Speaking Countries
DGC	Direcção-Geral do Consumidor (Directorate General for the Consumer)
EC	European Commission
ECC	Electronic Communications Committee
ECTA	European Competitive Telecommunications Association
EEA	European Economic Area
EMERG	European Mediterranean Regulators Group
EMGFA	Estado-Maior-General das Forças Armadas (Armed Forces General Staff)
ENISA	European Network and Information Security Agency
ERC	Entidade Reguladora para a Comunicação Social (Media Regulatory Authority)
ERG	European Regulators Group
ETSI	European Telecommunications Standards Institute
EU	European Union
FCCN	Fundação para a Computação Científica Nacional (Foundation for National Scientific Computing)
ICP-ANACOM	ICP - Autoridade Nacional de Comunicações
IEC	International Electrotechnical Commission
INAC	Instituto Nacional de Aviação Civil (National Civil Aviation Institute)
INCM	Imprensa Nacional Casa da Moeda (National Mint)
IPQ	Instituto Português da Qualidade (Portuguese Institute of Quality)
IRG	Independent Regulators Group
ITU	International Telecommunication Union
OECD	Organisation for Economic Cooperation and Development
Regulatel	Fórum Latino-americano das Entidades Reguladoras de Telecomunicações (Latin-American Forum of Telecommunications Regulatory Authorities)
RSC	Radio Spectrum Committee
RSPG	Radio Spectrum Policy Group
RTIC	Rede Telemática de Informação Comum (Telematic network of common information)
SCEE	Sistema de Certificação Electrónica do Estado (Managing Council of the Electronic Certification System of the State)
SSB	Sectorial Standardisation Body
UMIC	Unidade de Missão Inovação e Conhecimento (The Knowledge Society Agency)
UPU	Universal Postal Union
WPISP	OECD Working Group on Information Security and Privacy
WTO	World Trade Organisation

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