

# REGULATION, SUPERVISION AND OTHER ACTIVITIES

2011

FREE FLOWING COMMUNICATION

ANACOM



AUTORIDADE  
NACIONAL  
DE COMUNICAÇÕES

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BACKGROUND AND  
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STRUCTURE  
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## **A. BACKGROUND AND STRUCTURE**

National Communications Authority (ICP-ANACOM) Annual report – 2011 – Regulation, Supervision and Other Activities (hereinafter the "Report") includes all information that is related to ICP-ANACOM's activities over the course of the year; It is submitted to the Government, on statutory terms, for presentation before *Assembleia da República* (Assembly of the Republic).

The structure used in this report reflects the key strategic objectives established for the year and set out in this Authority's 2011-2013 Management Plan, ensuring that a close link is maintained between these two documents.

As such, this first section provides an overall analysis of the activity pursued by ICP-ANACOM during 2011 in light of the strategic objectives defined by ICP-ANACOM for this year (section 1) and provides details on the extent to which the actions set out in the Management Plan for 2011 have been accomplished (section 2).

The report is divided into five main chapters: framework, regulation, supervision, other activities and final considerations. The chapters on regulation, supervision and other activities are developed in detail following the key strategic objectives defined by ICP-ANACOM for 2011.

## **1. Overview of the regulatory activity of ICP-ANACOM in 2011**

### **1.1. To promote open and competitive markets (Objective 1)**

In the promotion of open and competitive markets, important work was completed in 2011 with respect to market analyses, regulated offers and costing systems.

#### **1.1.1. Market analyses**

During 2011, ICP-ANACOM conducted market analyses related to: (i) the markets for wholesale (physical) network infrastructure access at a fixed location and wholesale broadband access – including next generation access networks (NGA); and (ii) the wholesale markets for voice call termination on individual mobile networks.

Work on the markets for wholesale (physical) network infrastructure access at a fixed location and wholesale broadband access culminated in 2011 with the adoption of a draft decision in early 2012, which, *inter alia*, imposed the obligation of access to Grupo PT's optical fibre network, with the exception of a few municipalities where competitive conditions were considered fulfilled.

Subsequent to the analysis conducted on the wholesales markets of voice call termination on individual mobile networks, with a final decision adopted in 2012, a gradual reduction in the maximum termination rates was imposed, bringing prices into line with the incremental cost of an efficient operator by the end of 2012, in accordance with the method and timetable set out in the European Commission (EC) Recommendation on Terminations.

#### **1.1.2. Regulated offers**

ICP-ANACOM intervened with regard to the various regulated wholesale offers during 2011, as follows:

- Reference interconnection offer (RIO)

An analysis was conducted of the services that comprise this offer, and with a view to developing a simplified cost model for each service, ICP-ANACOM initiated a consultancy project on the pricing of the service of billing, collection and non-collection risk, the pricing of the pre-selection activation service and of the number portability activation service.

- Reference unbundling offer (RUO)

Analysis and monitoring was conducted of this offer's prevailing pricing, especially as compared to pricing in other European countries; the adoption of a specific decision on this matter was not considered necessary.

- Leased lines reference offer (LLRO) and reference ethernet leased lines offer (RELLO)

A draft decision was adopted on amendments to the LLRO and RELLO aimed at establishing conditions more suited to market needs, particularly in terms of a reduction of time limits for the supply of leased lines, the application of compensation for non-compliance, a reduction in prices, and inclusion (in the RELLO) of information on quality of service parameters.

- Reference duct access offer (RDAO)

Implementation of a new version of the information system was promoted, with a view to improving coordination between PT Comunicações, S.A. (PTC) and the beneficiaries of this offer, in particular by enabling the direct submission of requests for installation in areas with information available on duct occupation levels.

- Reference poles access offer (RPAO)

Following the analysis conducted during 2011, ICP-ANACOM saw no reason for making amendments to the offer, given, in particular, that Grupo PT followed ICP-ANACOM's position that the RPAO should incorporate the procedures that had already established in terms of the RDAO.

- Pricing of analogue television broadcasting service

A draft decision was approved with a view to achieving a substantial reduction in the applicable tariff, ensuring compliance with the principle of cost orientation.

### **1.1.3. Costing systems**

The decisions taken by ICP-ANACOM on costing systems include decisions on:

- determining PTC's cost of capital rate for the years 2010 and 2011, with an upward revision made as a result of material and unanticipated alteration of the parameters related to the risk-free interest rate and the tax rate;

- the costing model for the service of voice call termination on individual mobile networks; as such, development of the model was concluded and the respective results adopted, giving basis to the glide path to apply in 2012;
- the Analytical Accounting System used by CTT – Correios de Portugal, S.A. (CTT); a public tender was launched for the performance of audits on the results obtained for the 2009-2011 three-year period.

## **1.2. To assure and protect the interests of users and citizens in general (Objective 2)**

In protecting the rights of users and citizens in general, key actions were taken by ICP-ANACOM in the framework of specific measures to protect users, especially in defining the conditions and procedures which govern the termination of supply contracts of publicly available electronic communications networks and services where termination is upon the initiative of the subscriber. Other such specific measures included modifications to the object and form of public disclosure of conditions of provision and use of services, in addition to the monitoring conducted with regard to portability compliance. Further actions were aimed at ensuring provision of the universal service (US) of electronic communications and postal services.

### **1.2.1. Protection of users**

- Amendment of the determination on the object and form of public disclosure of conditions of provision and use of electronic communication services

Following the general consultation procedure, approval was given to a number of amendments to ICP-ANACOM determination of 21 April 2006, on the object and form of public disclosure of conditions of provision and use of electronic communication services.

Following the entry into force of the amendments made to LCE –*Lei das Comunicações Eletrónicas* (Electronic Communications Law) – Law no. 5/2004 of 10 February, as implemented under Law no. 51/2011 of 13 September, and in light of the experience gained over the five-year period during which the determination on the object and form of public disclosure of conditions of provision and use of electronic communication services was in force, it became necessary to adapt this determination, bringing it into line with the current characteristics of these offers; this ensures effective and transparent information

on these offers, so that the rights and interests of end-users and particularly consumers remain protected<sup>1</sup>.

- Procedures required for the termination, on the initiative of subscribers, of contracts governing the offer of public networks or of publicly available electronic communication services

Based on its monitoring of the supply of public communication networks and of publicly available electronic communication services, and given the various procedures which each company stipulates for the termination of contracts, ICP-ANACOM found that end-users do not derive full benefit from the possibilities of choice contained in the various offers that are available to them.

Whereas under article 48, paragraph 5, companies are prohibited from establishing disproportionate contractual conditions or contract resolution procedures which are excessively onerous and which entail an excessive deterrent to the switching of providers, ICP-ANACOM decided to intervene. This intervention consisted of the approval, and submission to the general consultation procedure, of a draft decision aimed at defining appropriate, formal conditions and procedures to govern the termination of contracts applying to the offer of public communication networks and of publicly available electronic communication services where such termination occurs upon the subscriber's initiative<sup>2</sup>.

### **1.2.2. Portability**

Several actions were developed to protect users with regard to portability, in terms of monitoring compliance with the obligations applicable to providers, particularly as regards tariff transparency (e.g., compiling information on the procedures for deactivating/reactivating the online message which, in mobile-mobile communications, identifies the destination network, and monitoring the dissemination of portability pricing and of the services giving information on the prices of calls to ported numbers). In late 2011, approval was given to a draft regulation amending the *Regulamento da Portabilidade* (Portability Regulation), seeking in particular the application of a maximum

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<sup>1</sup> Determination available at: <http://www.anacom.pt/render.jsp?contentId=1101389&languageId=1>

<sup>2</sup> Determination available at: <http://www.anacom.pt/render.jsp?categoryId=343580>

time limit of one working day to complete the transfer of a number to a new operator; the new Regulation was published in 2012 (Regulation no. 114/2012 of 13 March).

### **1.2.3. Universal service (US) of electronic communications**

In 2011, the regulatory intervention of ICP-ANACOM as regards the universal service of electronic communications focused on the following issues: (i) monitoring of US parameters and levels of quality of service, (ii) analysis of the strategy of the universal service provider (USP) for public pay-telephones, (iii) verification of compliance with the conditions established in relation to affordability, (iv) the process of calculating the net cost of the universal service – *custos líquidos do serviço universal* (CLSU) and the concept of unfair burden, and (v) deliberation and provision of assistance to the Government in the process of designating the USP and defining universal service funding mechanisms.

In specific terms, the main effects of regulatory action were focused on the areas referred to above;

- verification of compliance with performance objectives applicable to universal service quality of service parameters;
- maintenance of affordability for the general public through the application of a price-cap;
- approval of the methodology to be used for calculating the CLSU, following which PTC submitted the preliminary CLSU calculation for the period from 2007 to 2010; this calculation will be audited by an independent entity;
- approval of the concept of unfair burden, whereby it was determined that, in light of the established criteria, the provision of the universal service in the period from 2001 to 2006 did not constitute an unfair burden for the USP;
- approval of an opinion on the CLSU compensation mechanism based on the establishment of a compensation fund which involves participation from all companies that generate revenues associated with public communications networks or publicly available electronic communication services with a level of turnover exceeding a certain threshold;
- the launch of a public consultation on the future development, in the context of the universal service, of the country's stock of public pay-telephones.

- launch of a public consultation by the Government, in conjunction with ICP-ANACOM, on the process of designating provider(s) of the universal service of electronic communications, the specifications of which tender incorporated the conditions of the offer to be established by ICP-ANACOM pursuant to its powers and responsibilities.

#### **1.2.4. Universal service (US) of postal services**

During 2011, and within the framework of its powers and responsibilities, ICP-ANACOM conducted monitoring of pricing and quality of service levels with respect to the universal service of postal services, aimed at ensuring fulfilment of the obligations incumbent upon the USP and guaranteeing that the end-consumer has access to postal services according to stipulated conditions, with prices which compare favourably with European practice. The evolution of the postal network and the reasoning given by CTT for such evolution was likewise monitored.

### **1.3. To promote open and competitive markets / To assure and protect the interests of users and citizens in general – Management of scarce resources and digital terrestrial television (Objectives 1 and 2)**

#### **1.3.1. Management of the radio spectrum**

To promote open and competitive markets / To assure and protect the interests of users and citizens in general are the two axes that drive ICP-ANACOM's spectrum management work.

Considering the principles of neutrality of service and technology, ICP-ANACOM has remained focused on timely radio spectrum allocation, based on procedures which are transparent, efficient and market oriented.

In 2011, ICP-ANACOM's strategic intervention focused on the following major areas in terms of the radio spectrum:

- revision of the national table of frequency allocations (NTFA) and development of an information website for frequencies (e-NTFA), which is due to be available in the first half of 2012;

- implementation of Decision 2011/251/EU on the harmonisation of the 900 MHz and 1800 MHz frequency bands for terrestrial systems capable of providing pan-European electronic communications services, complementing the implementation of Directive 2009/114/EC of 16 September 2009, in the context of the offer of mobile broadband services (MBB), so-called refarming;
- the allocation of rights of use of frequencies in the 450 MHz, 800 MHz, 900 MHz, 1800 MHz, 2.1 GHz and 2.6 GHz bands for the provision of electronic communications services, the rules on which were laid down in ICP-ANACOM Regulation no. 560-A/2011 of 19 October;
- national preparation for the World Radiocommunication Conference (WRC-12), including discussion of the various items on the conference agenda in groups with national bodies and the formulation of national positions;
- decision on the authorisation regime applicable to mobile satellite service (MSS) systems in the 2 GHz band in the national territory.

### **1.3.2. Numbering**

The quantity of numbering allocated at a national level continued to decline; this stems from the fees introduced in 2009, which led many companies to return unused numbering resources, and also from the merger and dissolution of companies.

Meanwhile, tests on putting the numbering and management solution into production entered their final phase – this will enable ICP-ANACOM to improve its management of all numbering resources in the Plano Nacional de Numeração – National Numbering Plan (NNP).

### **1.3.3. Digital Terrestrial Television (DTT)**

With the switch off of analogue television and the transition to DTT between 12 January and 26 April 2012, leading to more efficient use of the radio spectrum, spectrum has been released for use for other purposes. Since analogue television took up 49 radio channels, while digital television takes up only one (channel 56), a large number of channels can be released.

A small number of the released channels (nine) have been allocated to the provision of electronic communications services, and have been made available through the multi-

band auction conducted by ICP-ANACOM, for the provision of 4G services. The remaining 38 channels are free and could be allocated to the provision of television broadcasting services.

The activity performed by ICP-ANACOM in ensuring that the migration to digital television concludes without disturbance is reported in greater detail below, in the part of the Report focusing on the activities developed in the context of providing advice to the Government.

#### **1.4. To participate in the development of the European Union (EU) internal market (Objective 3)**

ICP-ANACOM has sought to consolidate its participation in the Body of European Regulators for Electronic Communications (BEREC) and in the various European forums, taking into account the creation of the EU internal market and the interest in being an active part in this process. With a view to this objective, ICP-ANACOM's internal coordination was strengthened in light of the increased responsibilities that were introduced with the new regulatory framework for electronic communications, including the establishment of BEREC. This body is taking on an increasingly important role in the harmonisation of regulatory practices at EU level and, in many cases, a decisive role with regard to the regulatory practices that are to be followed internally.

ICP-ANACOM has an important contribution to make to the development of the internal market, which should be seen as the result of a shared vision of the 27 national regulatory authorities (NRA) which form BEREC, and not as resulting from models which are alien to national regulation and which might be counterproductive in terms of other objectives being pursued by ICP-ANACOM and also in terms of the promotion of competition and the protection of rights of citizens.

BEREC was established as a sector regulation centre of excellence. ICP-ANACOM therefore has every interest in making an active contribution, while deriving benefits in terms of higher quality when it comes to internally produced regulation.

ICP-ANACOM participated in all of BEREC's meetings in 2011, as well as in the preparatory meetings that preceded them, and in all working groups.

Such active participation entails important internal coordination, involving a set of rules to govern information sharing, formulation and defence of positions and participation in meetings, which is supported on a horizontal axis with coordination between ICP-ANACOM's different departments and on a vertical axis, which ensures consistency

of positions and their effective defence at all levels from working groups to the meetings of BEREC's Management Board.

Participation in BEREC and in Europe's various forums is essential in several aspects, especially as regards: (i) defence of the interests and options of national regulation; (ii) recognition of the quality of work and regulatory practices of ICP-ANACOM; (iii) acquisition and consolidation of technical knowledge in various areas; (iv) guarantee of the defence of principles of healthy competition and defence of consumer interests.

#### **1.5. To promote institutional and technical cooperation (Objective 4)**

In this section, the report presents the activities pursued by ICP-ANACOM at the level of, national and international cooperation.

In the pursuit of cooperation activities, ICP-ANACOM is engaged in the promotion and disclosure of information on the regulatory practices adopted in Portugal, while conducting important exchanges of information with other organizations, and at the same time accessing information and experience, thereby acquiring increased levels of know-how.

##### **1.5.1. To improve the regulator's efficiency and performance capacity (Objective 5)**

A range of actions were developed in 2011 with a view to the accomplishment of this objective, particularly in the area of supervision, where ICP-ANACOM has an important supervisory role. This activity is important because it contributes to the accomplishment of several objectives, and is therefore transversal; it is through this activity that ICP-ANACOM seeks to ensure compliance with the regulatory framework governing electronic communications and postal services and compliance with its determinations, which in turn ensure conditions of healthy competition and ensure respect for the rights of consumers and citizens in general.

As part of its supervisory activities, ICP-ANACOM's work included: (i) monitoring the market, carrying out different studies and analyzing complaints received; (ii) inspection procedures, involving monitoring and control of the spectrum, electronic communications, DTT, postal services, the infrastructure of buildings, equipment and laboratory activities; (iii) the sanctioning of infractions, leading to the instigation of breach proceedings in 642 cases during the year; and (iv) the resolution of disputes arising between operators/providers.

In monitoring the market, the regulator seeks, proactively, to furnish itself with the instruments which give access to high levels of specialized information and know-how, so that it is able to take decisions which enable the reasoned and rigorous pursuit of regulatory action. In this respect, studies were conducted or promoted by ICP-ANACOM including studies on the postal sector, on NGN and on the bundled offer of electronic communications services, as well as progress reports on the transition to digital television.

In terms of inspection and enforcement, ICP-ANACOM checks for evidence of irregularities, referring cases to litigation with a view to the instigation of breach proceedings. In its supervisory capacity, ICP-ANACOM monitors the sector, the behaviour of operators and their activity, and also conducts various studies each year. As such, ICP-ANACOM furnishes itself with information which is essential for regulatory decision-making, strengthening the efficiency of its operations. Other measures undertaken with regard to the regulator's efficiency include measures in the area of human resources, building a cohesive work team which is highly motivated and highly skilled and above all in touch with the regulator's role and mission in the different areas of its remit.

At this level, technological tools/applications have been developed to streamline internal procedures as well as procedures which support relationships with other sector agents.

## **2. Accomplishment of strategic actions**

In this section, the report details the extent to which ICP-ANACOM accomplished the actions set out in the 2011-2013 Management Plan for each of the strategic objectives defined.

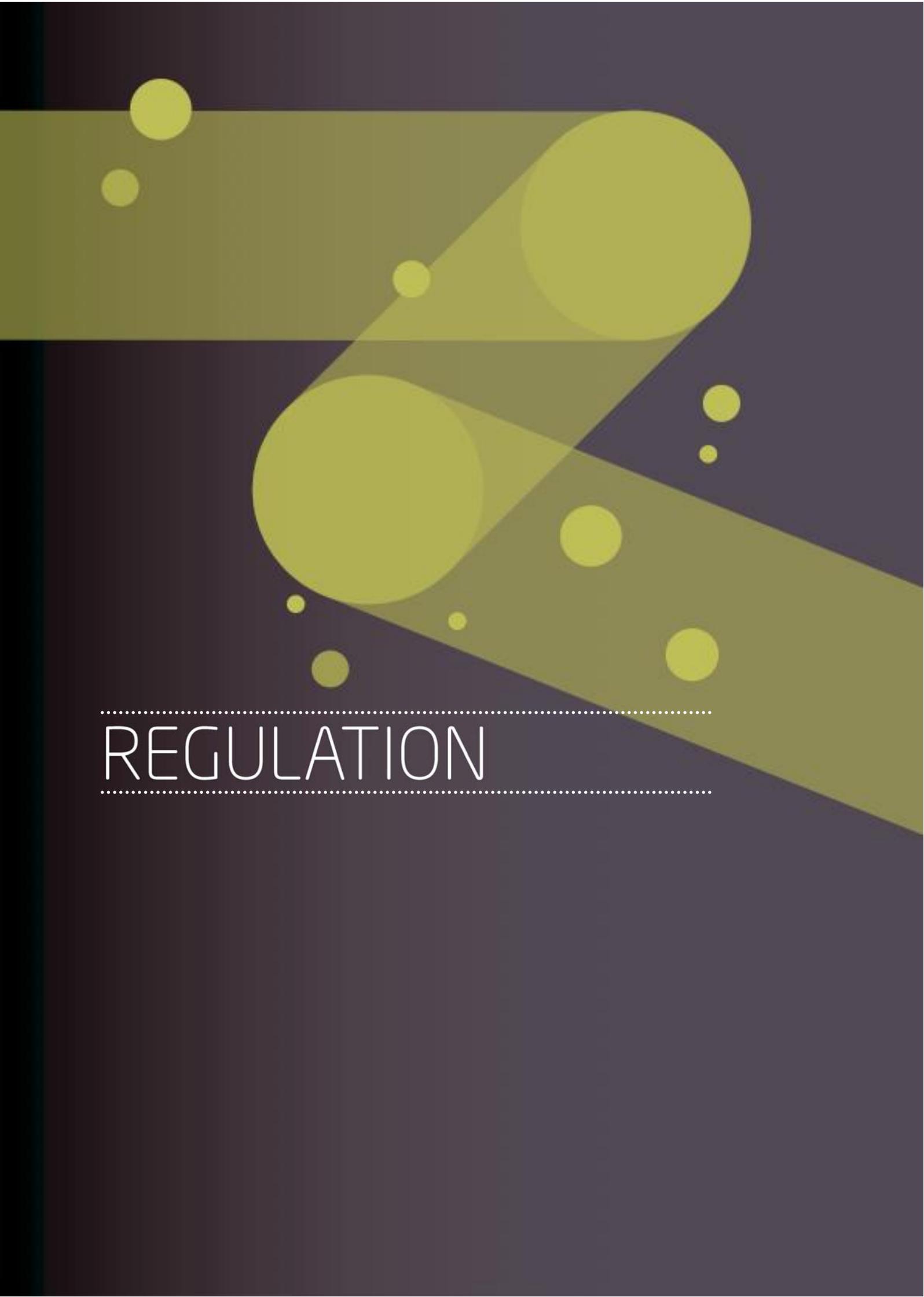
The plan sets out the accomplishment of 72 strategic actions, and, in total, 76 percent of scheduled strategic actions were accomplished during 2011, compared to 74 percent accomplished in the previous year.

Where actions remained unaccomplished, in many cases, this was due to reasons outside ICP-ANACOM's control. Meanwhile, there remains an important set of strategic actions which were not included in the year's plan, but which were nevertheless accomplished in 2011, including:

- conduct of consumer surveys on the use of DTT;

- launch of ANACOM's Consumers' Website, as well as *Com.escolha*, a tool that consumers can use to find best prices at any time and evaluate the options of different services according to their own type of consumption;
- conducting cost and service quality audits of CTT;
- monitoring and periodic reporting of developments in the postal network;
- preliminary decision on harmonisation of procedures for evaluating quality of service in the reference offers;
- public consultation on the inclusion and maintenance of the provision of public pay-telephones within the scope of the US;
- review of coordination arrangements established with Spain for the various radiocommunication services;
- determination of the concept of unfair burden and the net cost of the US.

Implementation of several measures included in commitment 5.19 in the Memorandum of Understanding (MoU) signed in 2011 between the Government of Portugal and the EC, the European Central Bank (ECB) and the International Monetary Fund (IMF –Troika).

The background features a dark grey color with several overlapping, semi-transparent olive green shapes. These include a horizontal bar at the top, a diagonal bar crossing from the top right towards the bottom right, and two large circles. Scattered throughout are numerous smaller circles of varying sizes, all in the same olive green hue. The overall aesthetic is modern and minimalist.

REGULATION

## **B. REGULATION**

### **3. To promote open and competitive markets (Objective 1)**

#### **3.1. Next generation access networks (NGA)**

Following the tenders launched in 2010 for the provision of NGA in rural areas for the North, Centre, Alentejo and Algarve zones of Portugal, it became incumbent upon ICP-ANACOM to monitor the implementation of the wholesale offers of the prevailing tenderers and to ensure that these offers remain compliant with wholesale access obligations.

During 2011, the EC<sup>3</sup> took fifteen decisions on broadband projects involving public funding – these projects have been deemed compatible with the Treaty of the European Union, with total approved funding of 1.7 billion euros. One such project concerns Portugal and provides financing (in the form of state aid) for the deployment of broadband NGA (in rural areas).

Additionally, in late 2010, ICP-ANACOM launched an international tender for the implementation and management of a centralised information system (CIS); this tender was closed in 2011 on procedural grounds, pending award in 2012.

In late 2011, the Action Plan for the monitoring of obligations contained in contracts concluded between the Government and the operators of next generation networks in rural areas was reformulated in the light of the contracts submitted to ICP-ANACOM.

Meanwhile, 1.9 million homes were reported as passed with optical fibre as at the end of the third quarter of 2011, approximately 500,000 more homes than passed than at the end of 2010.

#### **3.2. Market analysis**

##### **3.2.1. Broadband markets and leased lines markets**

Following the analysis of leased lines market conducted in 2010, wherein ICP-ANACOM concluded that there was a need for the regulation of circuits supported using Ethernet

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<sup>3</sup> See [http://ec.europa.eu/competition/sectors/telecommunications/broadband\\_decisions.pdf](http://ec.europa.eu/competition/sectors/telecommunications/broadband_decisions.pdf).

technology, with the establishment of the obligation that PT Comunicações, S.A. (PTC) make a reference offer available, on 6 December 2010, PTC published a RELLO, which was submitted to analysis by ICP-ANACOM in 2011.

Meanwhile, in 2011, a draft decision was prepared on the analyses of the markets for wholesale (physical) network infrastructure access at a fixed location and wholesale broadband access (markets 4 and 5 of Recommendation 2007/879/EC of 17 December 2007), due for approval by ICP-ANACOM in 2012. The draft decision was approved for submission to national public consultation on 6 February 2012.

As regards the provision of broadband services, several trends that were observed in 2010 persisted in 2011, especially in terms of offers to the end-customer, the proliferation of bundled offers (including triple-play offers) made available on the market, the expansion of MBB, in particular supported using data transmission cards connected to personal computers via USB cards (or other), which enable access to broadband Internet and the increase in broadband offer speeds, with offers supported over optical fibre networks and coaxial cable distribution networks (DOCSIS 3.0) providing download speeds in excess of 100 Mbps.

Likewise, trends observed in 2010 in the wholesale market also persisted in 2011, including reduced use by OSP of local loop unbundling (LLU) and the *Rede ADSL PT* wholesale offer – reflected in a reduction in the number of OSP accesses supported using these offers and a reduction in the number of PTC exchanges with co-located operators - and continued demand for access to physical infrastructure, in particular access to ducts as provided for under the RDAO, with a view to the installation by OSP of their own optical fibre networks (fibre to the home — FTTH).

Furthermore, high-speed access networks continued to report an accelerated level of growth, involving, as at the end of 2011:

- 3.9 million dwellings cabled with cable networks (DOCSIS 3.0);
- 1.9 million dwellings cabled with FTTH.

Overall, as at the end of 2011, there were about 2.2 million customers in Portugal with fixed Internet access, of which 2.19 million had broadband; this represents a rate of growth of 5.3 percent compared to the end of 2010. In terms of mobile access, there were about 2.9 million users who actually used the Internet with MBB, reflecting an increase of

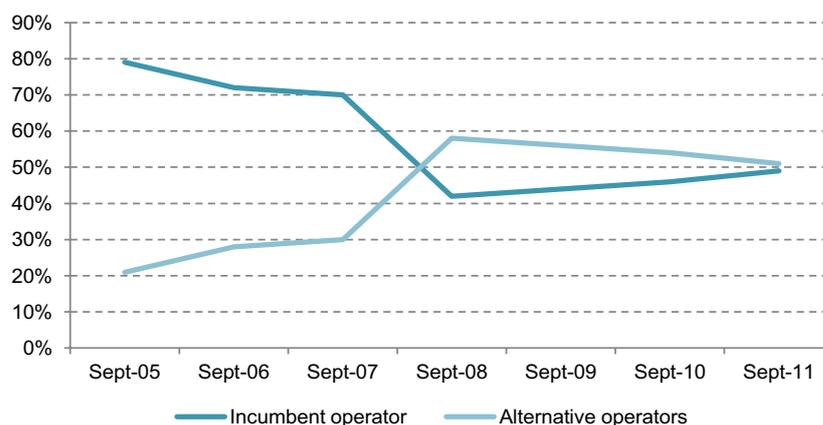
14.0 percent compared to 2010. Of all accesses, 1.1 million were provided using cards/modem.

The main fixed broadband (FBB) Internet access technology remains ADSL, representing 49 per cent. Meanwhile, about 40.3 percent of FBB take-up was achieved over cable distribution networks.

The fixed broadband market in Portugal has seen growth, with broadband penetration reaching 20.9 percent (below the EU average of 27.2 percent as on 1 July 2011). The market share of the principal operator increased from 44.8 percent in July 2010 to 47.0 percent in July 2011, while the market share of alternative operators fell (from 55.2 percent to 53.0 percent).

As such, it appears that in Portugal alternative operators continue to have, overall, a greater number of fixed broadband accesses (lines) than PTC, although PTC is gradually recovering market share (see graph below)

**Graph 1. Distribution of fixed broadband accesses by operator in Portugal**

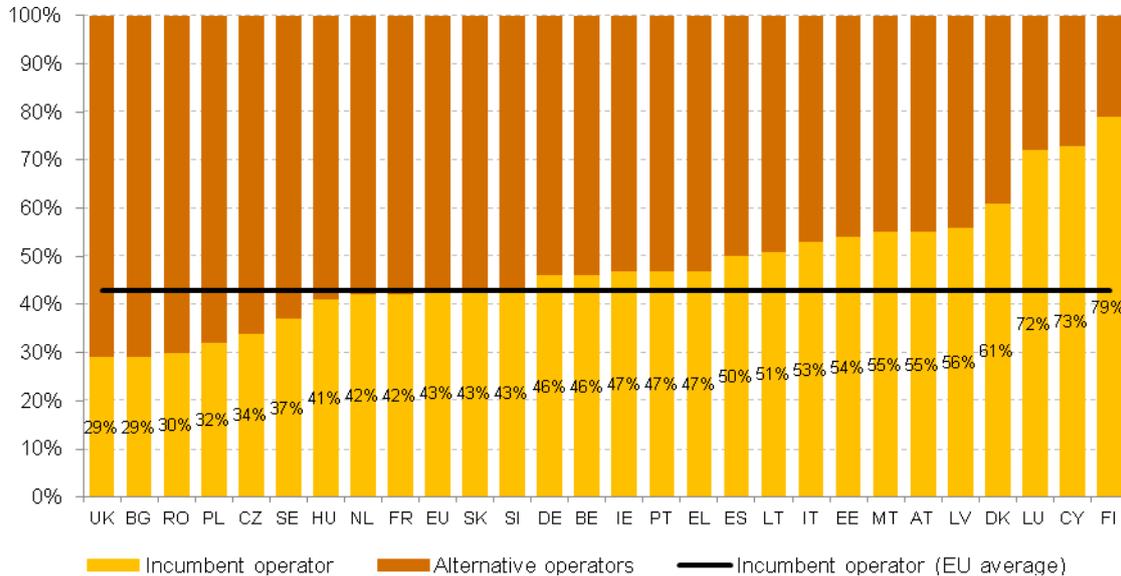


Unit: percentage of accesses.

Source: ICP-ANACOM based on operator data.

Meanwhile, according to data released by the Communications Committee (COCOM), Portugal is one of the EU countries where alternative operators invest more in the use of their own infrastructure as opposed to using the incumbent's infrastructure (which can be accessed via wholesale offers – e.g. LLU, *Rede ADSL*) – see graph 2.

**Graph 2. Fixed broadband accesses – market shares of incumbent and alternative operators in different countries (July 2011)**



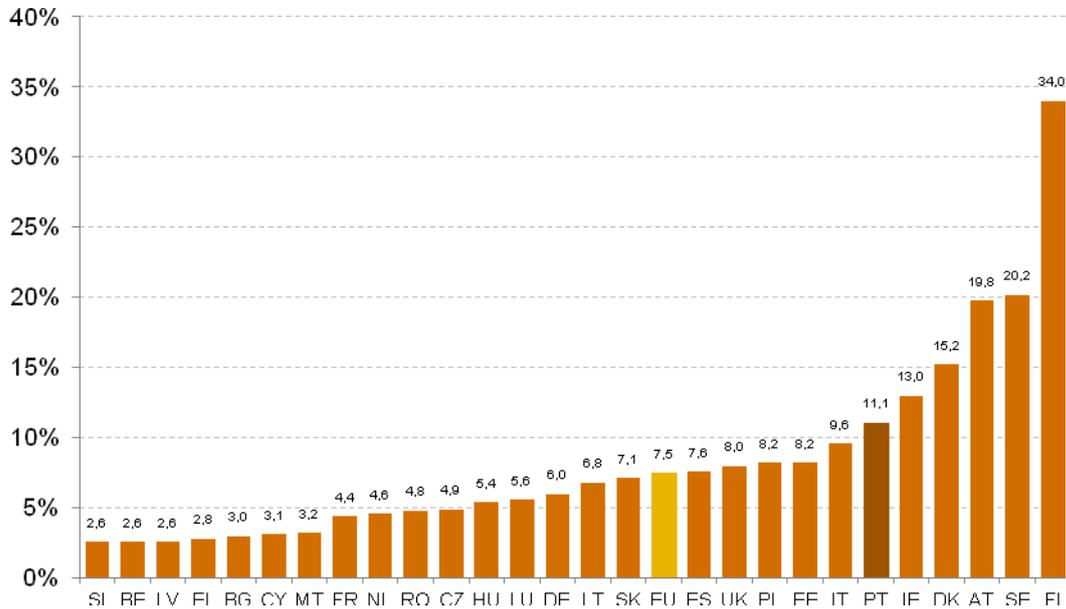
Unit: percentage.

Source: COCOM Working Document – Broadband access in the EU: situation at 1 July 2011

Portugal was a pioneer in making the incumbent operator subject to an obligation to develop an access offer to its duct network; this access offer has made it possible for interested operators (OSP) to develop their own networks at a much lower cost than if they had sought to build their own ducts. In addition to the specific structural separation of PT Multimédia (now ZON) and Portugal Telecom, these measures have been decisive for the use of own infrastructure by the OSP in Portugal.

Although FBB penetration is lower than the EU average, it is notable that Portugal is also one of the Member States where MBB has greater relevance. In fact, according to COCOM data from July 2011, MBB penetration in Portugal was 11.1 percent – the sixth highest in the EU27 (considering only cards and modems) – as shown in the following graph.

**Graph 3. MBB Penetration – dedicated data services – cards and modems (July 2011)**



Unit: percentage.

Source: COCOM Working Document - Broadband access in the EU: situation at 1 July 2011

Internet connections supported over optical fibre (FTTH/FTTB) accounted for about 236 thousand accesses (10.6 percent of total fixed broadband access) as at the end of 2011, growing by 81 per cent compared to the end of 2010.

Meanwhile, at a European level and according to COCOM, the number of connections supported over FTTH remains marginal in Europe (below levels reported in the United States, South Korea, Japan and China), with an average penetration rate of just 2 percent registered as on 1 July 2011.

### 3.2.2. Markets of voice call termination on individual mobile networks

In September 2011, ICP-ANACOM placed the updated detail of the price control obligation under public consultation; this obligation was imposed pursuant to the decision of May 2010 on the analysis of the wholesale markets of voice call termination on individual mobile networks. Also in May 2010, the decision on the detail of the price-control obligation was published, in which ICP-ANACOM indicated it would review the decision in 2011 while taking into account the results of costing model based on the methodology set out in the EC Recommendation on fixed and mobile terminations (known as pure long run incremental costs (LRIC) model), which was under development at that time.

In the document submitted to public consultation in September 2011, and from the ongoing monitoring conducted of the mobile sector, ICP-ANACOM concluded that the competitive distortions identified in the 2010 analysis persisted.

Meanwhile, a strong differentiation between on-net and off-net retail prices persisted (a trend that is magnified with a focus on new pre-paid tariff products which include free communications within the same network); this phenomenon, in conjunction with above-cost wholesale termination prices, generates significant imbalances between large and small operators, resulting in traffic imbalances and significant financial transfers. These imbalances hinder the emergence of a balanced level of competition between operators of different sizes, further discouraging the entry of new operators, and ultimately harming consumers.

Meanwhile, unequal competition conditions also persist between fixed and mobile operators; this factor gains renewed importance in a context of growing convergence between services, and strong investment in NGN. In this respect, ICP-ANACOM has estimated a net annual transfer from fixed networks to mobile networks that remains very significant, to the order of 26 million euros.

Given the nature and persistence of these distortions, which stem in particular from the existence of above-cost wholesale mobile termination prices, ICP-ANACOM considered, in draft decision, that there were grounds for determining a reduction in maximum termination rates, bringing them into line with the incremental costs of an efficient operator. This reduction is to be achieved by the end of 2012, in accordance with the methodology and timetable set out in the EC Recommendation on Terminations<sup>4</sup>.

Since the wholesale termination price represents a marginal cost for off-net calls, this price will tend to establish itself as a minimum threshold for the price of these communications. With the application of incremental long-term costs, conditions will be created enabling smaller mobile operators to replicate the prices offered by larger operators in the retail pricing of off-net calls. Furthermore, reflecting only the incremental cost of an efficient operator drives increased economic efficiency, investment and consumer well-being in the electronic communications sector as a whole, effectively addressing the historical inequality existing between the mobile and fixed sectors.

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<sup>4</sup> The EC Recommendation calls on EU Member States to adopt symmetric termination rates based on the incremental costs of an efficient operator, as resulting from the application of the pure LRIC model, by 31 December 2012.

As on the date of the draft decision, the cost level resulting from the application of the pure LRIC cost model (in the meantime concluded) to the Portuguese case is about 1.25 cents (euro) per minute. The following glide-path is proposed by ICP-ANACOM to achieve the incremental cost value in November 2012:

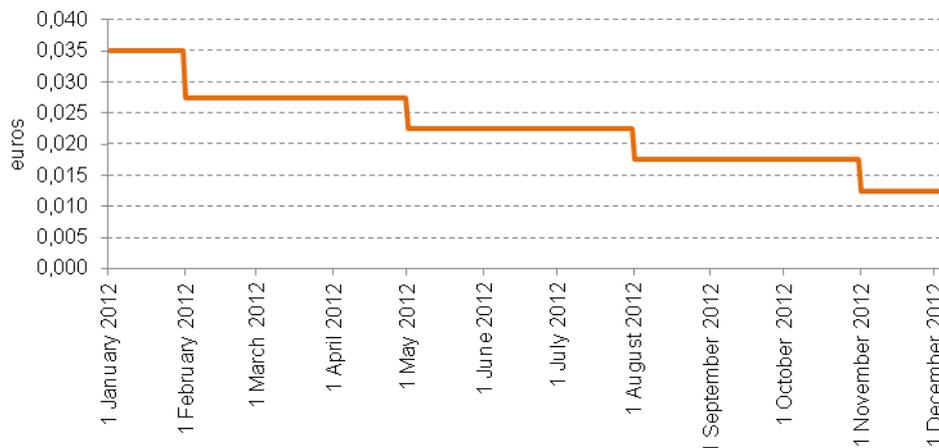
**Table 1. Mobile termination prices (draft decision)**

From	Price per minute
1 February 2012	0.0275 €
1 May 2012	0.0225 €
1 August 2012	0.0175 €
1 November 2012	0.0125 €

Source: ICP-ANACOM

In graphic terms, the following prices per minute will be applied over the course of 2012:

**Graph 4. Evolution of termination prices on national mobile networks (draft decision)**



Unit: euros.

Source: ICP-ANACOM

In conjunction with network access obligations included in the multi-band auction, this measure will favour the market entry of operators with diversified business plans able to compete effectively with the offers of the larger mobile operators. The final decision was adopted on 30 April 2012, following notification to the EC, with the glide-path amended and the final value set at 0.0127 euro as from 31 December 2012.

### **3.3. Regulated offers**

Regulated wholesale offers have an extremely important role for alternative operators, by enabling access conditions which allow them to develop innovative and competitive offers, particularly in geographic areas where they lack their own infrastructure and where deployment of their own infrastructure is not practicable, enabling an investment plan with reasonable profitability.

Given that these wholesale offers are made available by the operator identified as having significant market power (SMP) following the market analyses performed by ICP-ANACOM, this Authority seeks to ensure that, in a context of gradual deregulation of retail markets, all wholesale offers promote transversal conditions of healthy competition.

In this context, and by determination of 20 October 2011, ICP-ANACOM approved a draft decision on the procedures to be followed in assessing the quality of service of regulated wholesale offers; this draft decision was submitted to the prior hearing of interested parties and to the general consultation procedure. In general terms, the draft decision provided clarification on the beginning and end of the time to be counted when reporting fault repairs times, defined the procedures to be followed by PTC and by the beneficiary provider upon resolution of the fault and established a mechanism for joint interventions, enabling improved fault detection and repair. PTC was also asked to provide information on measures taken or proposed to reduce the level of faults usually associated with months of higher rainfall.

In accordance with the draft decision, PTC will be required to amend the various reference offers which specify time limits for the repair of faults (RUO, LLRO, RELLO, Rede ADSL PT, WLRO), within a period of 30 working days following notification of ICP-ANACOM's final decision.

#### **3.3.1. Reference interconnection offer (RIO)**

In 2011, the conditions of the RIO that prevailed from 15 April 2010 were maintained; the RIO not only determines the maximum price for call origination and termination services, but also governs the maximum pre-selection and number portability activation price.

**a) Call origination and termination prices**

As in previous years and in line with the trend seen in other European countries, in terms of the annual average, a further reduction was reported in maximum prices applicable under the RIO. This reduction occurs in terms of single and double transit, and is particularly significant in the latter case. Overall, a reduction of 1.6 percent was reported in the annual average in 2011, compared to the average of the prices charged during 2010 (calculation applying the 2010 traffic profile).

In summary, based on a three-minute call, the following table illustrates the variations between the average annual prices of 2011 and the 2010 average.

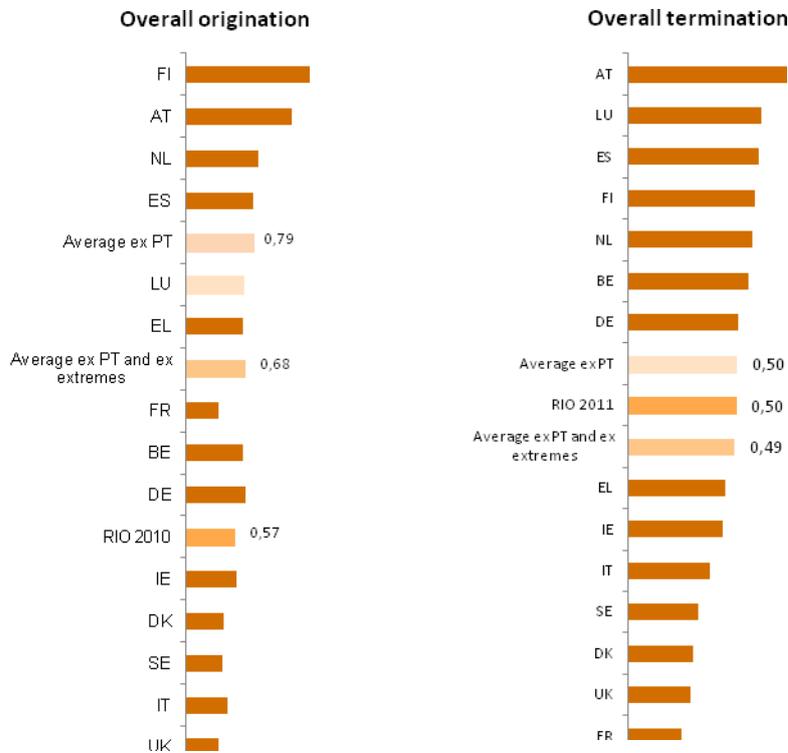
**Table 2. Change in annual average of interconnection prices prevailing in 2011, for the origination and termination services, based on a three-minute call, compared to the average annual price in 2010**

	Termination			Origination			Total weighted interconnection
	Peak hours	Off-peak hours	Average	Peak hours	Off-peak hours	Average	
Local	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Single transit	-2.9%	-2.3%	-2.7%	-2.9%	-2.3%	-2.8%	-2.8%
Double transit	-13.3%	-12.5%	-13.1%	-13.3%	-12.5%	-13.2%	-13.1%
Average	-1.4%	-0.9%	-1.2%	-2.7%	-2.4%	-2.6%	-1.6%

Source: ICP-ANACOM.

As can be seen in the graphs below, which illustrate the overall termination and origination prices, and in line with previous years, given the maximum prices prevailing in 2011, Portugal remained in a favourable position in relation to other current European practice. The comparison included below reflects the situation as of 31 December 2011.

**Graph 5. European comparisons – fixed interconnection prices (call origination and termination)<sup>5</sup>**



Unit: eurocents.

Source: ICP-ANACOM Calculation based on information from *Cullen International*.

As can be seen, on overall terms, the maximum prices charged in 2011 compare favourably to those charged in the same period in the EU15 set of Member States. As such, in 2011, Portugal continued to rank among the countries with lower rates, in terms of origination and termination.

Specifically, for each traffic level, the maximum prices prevailing in 2011 compare favourably with the EU average (simple EU average and EU average excluding extremes) at different periods and for single transit and double transit interconnection. In the case of local traffic, the maximum prices prevailing in 2011 are above the EU average – see the

<sup>5</sup> The figures given above for each country were obtained by applying the interconnection traffic profile recorded in 2010 to the interconnection tariffs prevailing in each Member State (average price per minute for a three-minute call), in order to obtain an indicator for call origination and call termination which enables integrated evaluation of the various interconnection components. In the particular case of France, only local interconnection was considered, being the only known value, whereby France is not counted in the European averages.

table below, which summarizes the deviations between Portugal and the average prices in the EU15.

**Table 3. Comparison of interconnection prices prevailing in 2011 with the practices of the EU15 (price per minute for a three-minute call)**

	Origination						Termination					
	Local		Single transit		Double transit		Local		Single transit		Double transit	
	Peak	Off-peak	Peak	Off-peak	Peak	Off-peak	Peak	Off-peak	Peak	Off-peak	Peak	Off-peak
RIO 2011 prices	0.54	0.35	0.67	0.42	0.78	0.49	0.54	0.35	0.67	0.42	0.78	0.49
EU avge. (ex. PT)	0.48	0.36	0.87	0.65	0.98	0.63	0.47	0.33	0.88	0.66	1.03	0.64
Deviation RIO 2011 from avge.	11.7%	-2.1%	-22.6%	-35.2%	-20.0%	-21.7%	15.7%	5.7%	-23.7%	-36.1%	-23.9%	-23.3%
Average ex. PT and extremes	0.47	0.36	0.77	0.53	0.89	0.62	0.46	0.33	0.79	0.54	0.96	0.63
Deviation RIO 2011 from avge ex. PT and extremes	14.4%	-2.0%	-13.3%	-20.3%	-12.5%	-20.4%	18.6%	7.0%	-15.0%	-22.1%	-19.2%	-22.7%

Source: ICP-ANACOM calculation based on information from Cullen International. Values in euro cents, excluding VAT.

**b) Pricing of the service of billing, collection and non-collection risk, the service of pre-selection activation and the service of number portability activation**

In 2011, prices of the service of billing, collection and non-collection risk, the service of pre-selection activation and the service of number portability activation were maintained.

Furthermore, and based on a set of factors that call for a rethink on the suitability of the methodology applied to the determination of maximum prices for the services mentioned, in 2011, a consultancy project was instigated on the services of portability, pre-selection, and of billing, collection and non-collection risk, with the development of a simplified costing model for each of the services.

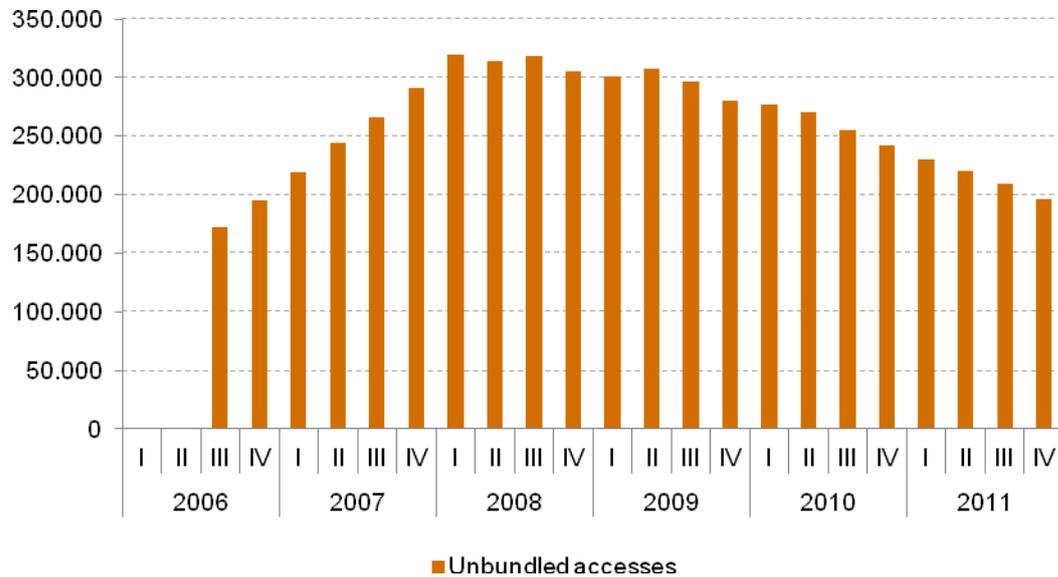
Indeed, in view, *inter alia*, of (i) the occurrence of significant variations in costs and/or quantities, resulting in both cases, in significant unit cost variations, (ii) the importance of providing the market with predictability, and (iii) the methodology of the analysis applied in the reviews of RIO, as well as its use over a considerable period of time, it was considered important to assess the suitability of the methodology that has been applied to the determination of maximum prices for the service of billing, collection and non-collection risk, the service of pre-selection activation and the service of number portability activation.

As such, in 2011, the technical specifications for this project were defined and respective award made; the information selection phase was then begun, with the definition of the assumptions on which models will be based.

**3.3.2. Reference unbundling offer (RUO)**

The local loop unbundling offer (LLU), which gives alternative operators physical access to the premises of final-customers via copper pairs, for the provision of narrowband and/or broadband services, saw a decrease in the number of unbundled loops in 2011, prolonging a trend evident since mid 2009. The number of unbundled loops fell by around 18.8 percent between 2010 and 2011 to 196,383 loops, compared to the 242,103 unbundled loops existing in 2010 (Graph 6).

**Graph 6. Evolution in the number of unbundled loops**

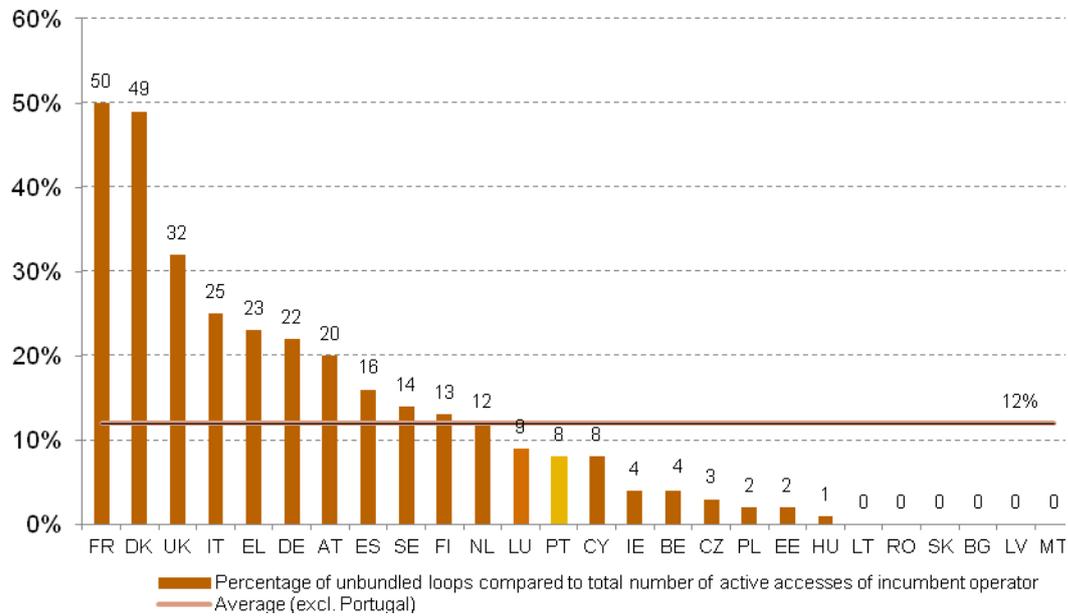


Unit: loops

Source: ICP-ANACOM based on data from PTC.

Therefore, and due also to the investment of alternative operators in their own infrastructure (optical fibre), the penetration rate of unbundled loops reported in Portugal in July 2011 compared to the total number of active accesses of the incumbent operator is lower than the average calculated for EU Member States considered (excluding Portugal) – see graph 7.

**Graph 7. Percentage of unbundled loops compared to total number of active accesses of incumbent operator**

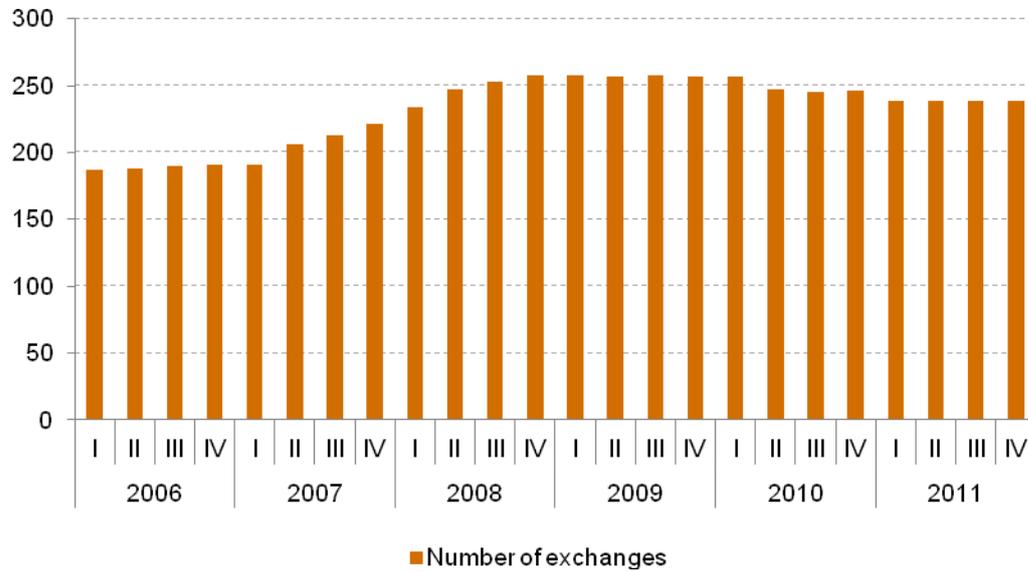


Unit: percentage.

Source: ICP-ANACOM based on EC data, July 2011.

Meanwhile, the presence of other service providers (OSP) in the exchanges of PTC saw a decline, with a slight reduction reported in the number of PTC exchanges with co-located operators, falling from 246 exchanges at the end of 2010 to 239 exchanges at the end of 2011 – graph 8.

**Graph 8. Evolution reported in number of exchanges with co-located operators**



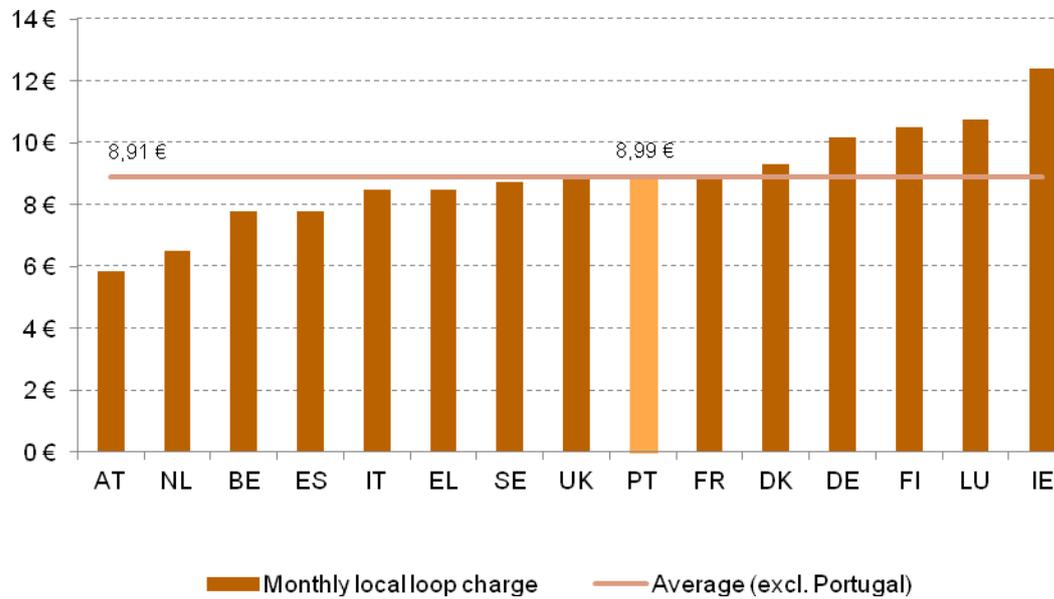
Unit: number of exchanges.

Source: ICP-ANACOM based on PTC data.

During 2011, ICP-ANACOM did not determine any price change under the RUO. Nevertheless, analysis and monitoring of existing pricing was continued, especially through comparison with prices in other European countries.

International comparisons of prices indicate that prices in Portugal remained close to best practice at EU level (EU15), as shown in the graphs below.

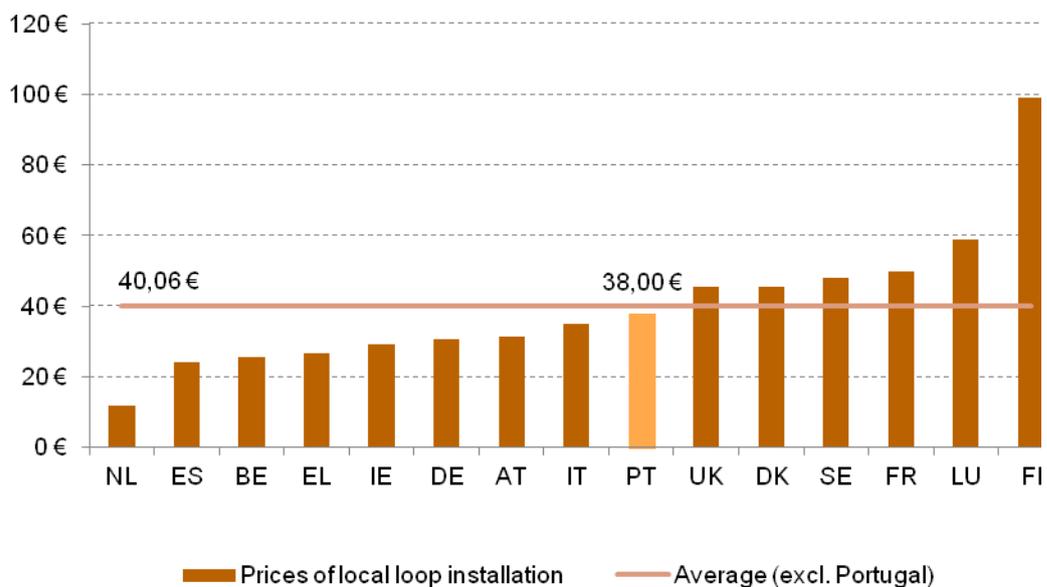
**Graph 9. Monthly local loop charge (full access) – comparison of EU15**



Unit: euros.

Source: ICP-ANACOM based on data from Cullen International (December 2011).

**Graph 10. Prices of local loop installation (full access) – comparison of EU15**



Unit: euros.

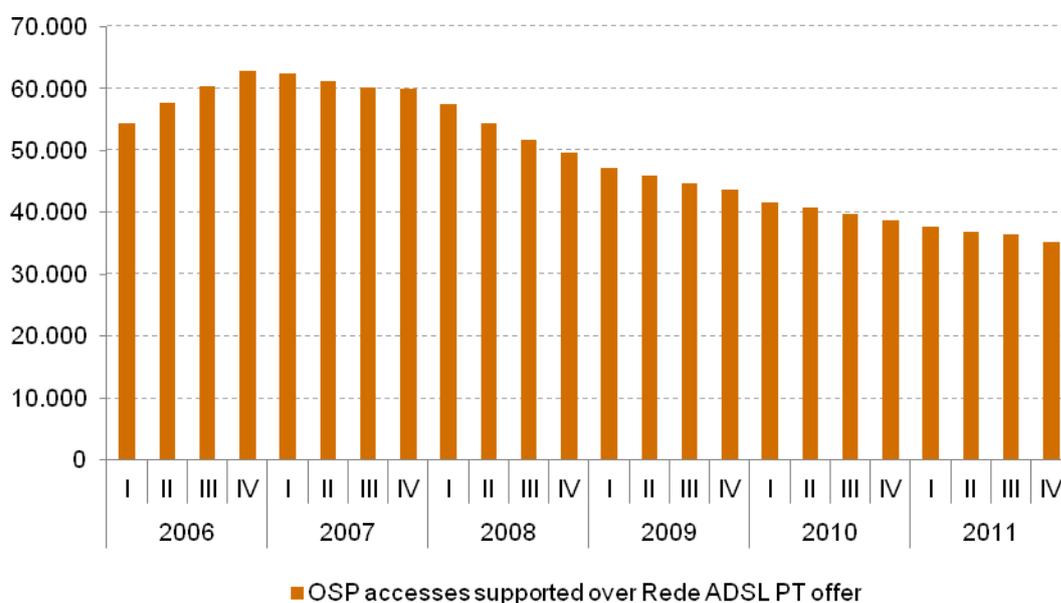
Source: ICP-ANACOM based on data from Cullen International (December 2011).

### 3.3.3. Rede ADSL PT

The *Rede ADSL PT* wholesale offer continues to support the broadband access retail offers of some OSP, particularly in the enterprise market and especially in the provision of integrated offers to clients at sites scattered throughout the country. As such, this offer remains an important tool in the promotion of universal broadband Internet access and in achieving conditions which ensure that provision of ADSL services to end-users is developed in a sustained and competitive manner.

However, since the end of 2007, a prolonged decrease in the number of accesses has been reported, albeit less pronounced in 2010 and 2011; as such, at the end of 2011, the total number of OSP accesses supported over the *Rede ADSL PT* offer was reported below 35.2 thousand (Graph 11).

**Graph 11. Evolution reported in number of OSP accesses supported over *Rede ADSL PT* offer**



Unit: accesses.

Source: ICP-ANACOM based on PTC data.

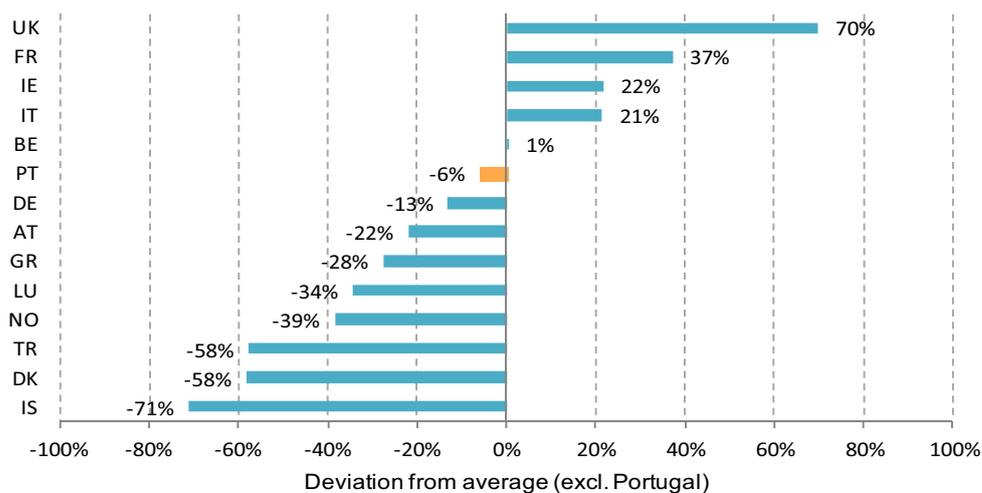
### 3.3.4. Leased lines reference offer (LLRO)

The LLRO continues to be used by the majority of operators and service providers, including operators working in the leased lines retail market.

As at the end of 2011, about 70 percent of lines leased by PTC at wholesale level were partial circuits or internal extensions for interconnection. Indeed, this was one of the factors leading to the deregulation of the market of leased lines trunk segments in 2010. According to a comparison of retail prices by Telligen, prepared with data from November 2011<sup>6</sup>, it was found that in the case of lower speed circuits (2 Mbps), prices in Portugal are below the average price of the analysed countries, while prices of higher speed circuits (34 Mbps) in Portugal are above average.

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

**Graph 12. Annual price of 2 Mbps digital circuits in Europe (November 2011)**



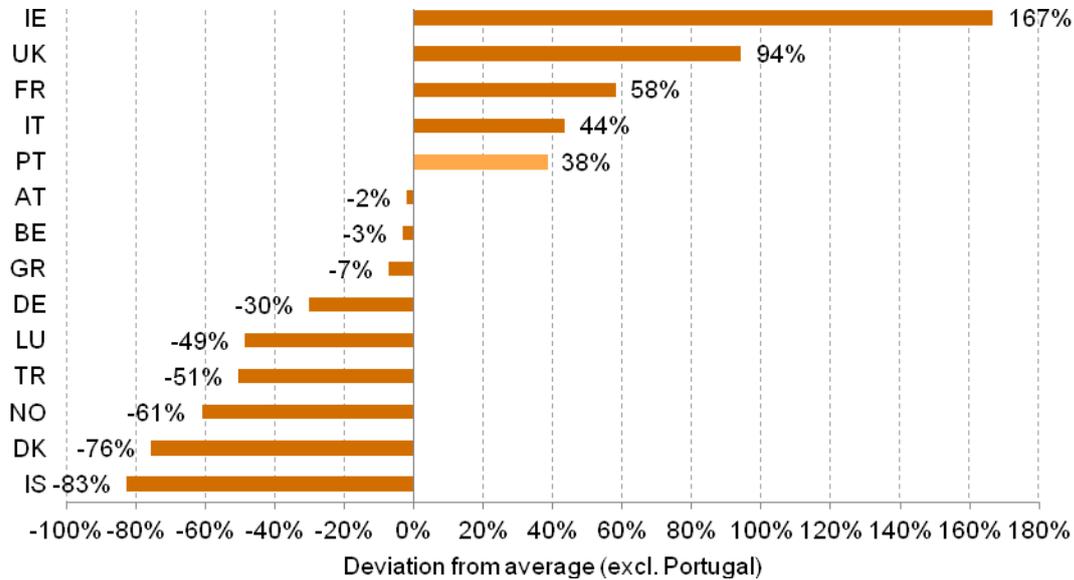
Unit: percentage.

Source: ANACOM based on data from Telligen, November 2011 (based on OECD basket of distances, prices without VAT and without considering purchasing power parity).

<sup>6</sup> To conduct a comparison of leased lines prices and to calculate the average price of a circuit with determined capacity, Telligen takes into account the prices of the incumbent operator in each country and uses the basket of OECD distances 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%

**Graph 13. Annual price of 34 Mbps digital circuits in Europe (November 2011)**



Unit: percentage

Source: ANACOM based on data from Telligen, November 2011 (based on OECD basket of distances, prices without VAT and without considering purchasing power parity).

In order to provide fixed network operators with better leased lines wholesale conditions, particularly in terms of pricing, time limits, procedures and conditions governing access to the autonomous regions, by determination of 17 November 2011, ICP-ANACOM approved a draft decision on amendments to the LLRO<sup>7</sup> (in conjunction with modifications to the RELLO – see next section).

In particular, and with regard to the LLRO, the draft decision made provision, *inter alia*, for:

- a) a reduction in the maximum supply times of leased lines, for 95 percent of cases and without regard to their type, to 20 calendar days in circuits involving Type A exchanges only, as defined in the RELLO, and 40 calendar days in remaining cases – these times calculated on a monthly basis for the set of circuits supplied to an OSP;
- b) definition of maximum supply times of leased lines, for 100 percent of cases and without regard to their type, at 40 calendar days in circuits involving Type A

<sup>7</sup> Following national consultation and with some specific changes, the draft final decision was notified to the EC in May 2012.

exchanges only, as defined in the RELLO, and 80 calendar days in remaining cases – these times calculated on a monthly basis for the set of circuits supplied to an OSP.

- c) application of compensation, as currently defined in LLRO, for failures to comply with the supply time for 95 percent of cases, for failures to comply for 100 percent of cases and review of compensation due for failures to comply with repair time limits which will include time limits for 100 percent of cases;
- d) simplification of the forward-looking requirements plan to be provided by OSP;
- e) PTC's obligation to undertake payment of compensation for failures to achieve the established quality of service targets by the end of the second month following the end of each six-month period in question and upon its own initiative, eliminating dependence of this payment on the presentation of the forecast plans in the case of fault repair times and availability indicator;
- f) reduction under the LLRO in the price of all tariff components (including CAM circuits) of 2 Mbps, 34 Mbps and 155 Mbps circuits by 35 percent, 40 percent and 45 percent respectively;
- g) specification of quality of service indicators (QSI) for circuits involving the autonomous regions, with detailed evaluation of the occupation of installed capacity;
- h) OSP access to submarine cable stations for co-location purposes except in the case of technical limitations or other duly substantiated limitations.

### **3.3.5. Reference Ethernet leased lines offer (RELLO)**

Available since the end of 2010, the RELLO offer sets out the technical characteristics and conditions (procedures governing supply of services and of operation and maintenance) and commercial characteristics and conditions (pricing and billing and payment procedures) associated with the wholesale provision of Ethernet circuits by PTC. It includes definition of quality of service parameters, applicable performance objectives and compensation for failure to meet these objectives.

As mentioned in the previous section, in order to furnish fixed network operators in general with better wholesale conditions in leased lines, particularly in terms of pricing, time limits, procedures and conditions governing access to the autonomous regions, by

determination of 17 November 2011, ICP-ANACOM approved a draft decision on amendments to the RELLO (in conjunction with amendments to LLRO).

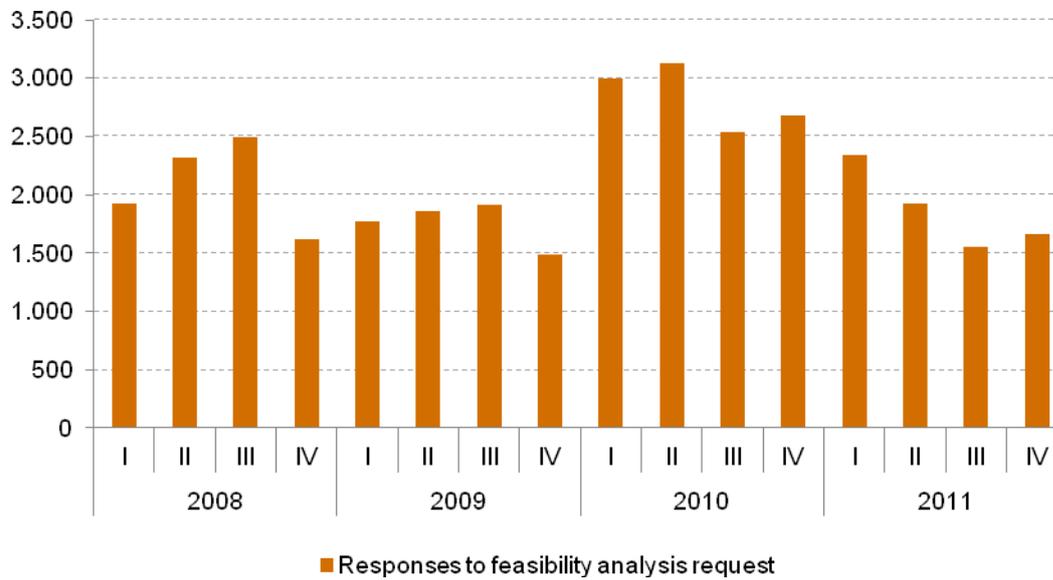
In particular, further to the application of the measures referred to in the previous section in relation to LLRO (with the exception of price decreases), the following measures were stipulated:

- a) reduction in the maximum time limit for the repair of faults in circuits to four consecutive hours for 90 percent of cases and increasing the degree of availability to 99.50 percent for 10 and 100 Mbps circuits and to 99.99 percent for 1 Gbps circuits;
- b) inclusion in the RELLO of information on all relevant parameters associated with quality of service of an OSI model level 1 offer;
- c) application of a maximum MTU value which is at least equal to the value provided by PTC in its Ethernet retail offers;
- d) elimination of minimum lock-in periods in the event of a PTR change of location inside the PTC exchange and in case of speed upgrades.

### **3.3.6. Reference duct access offer (RDAO)**

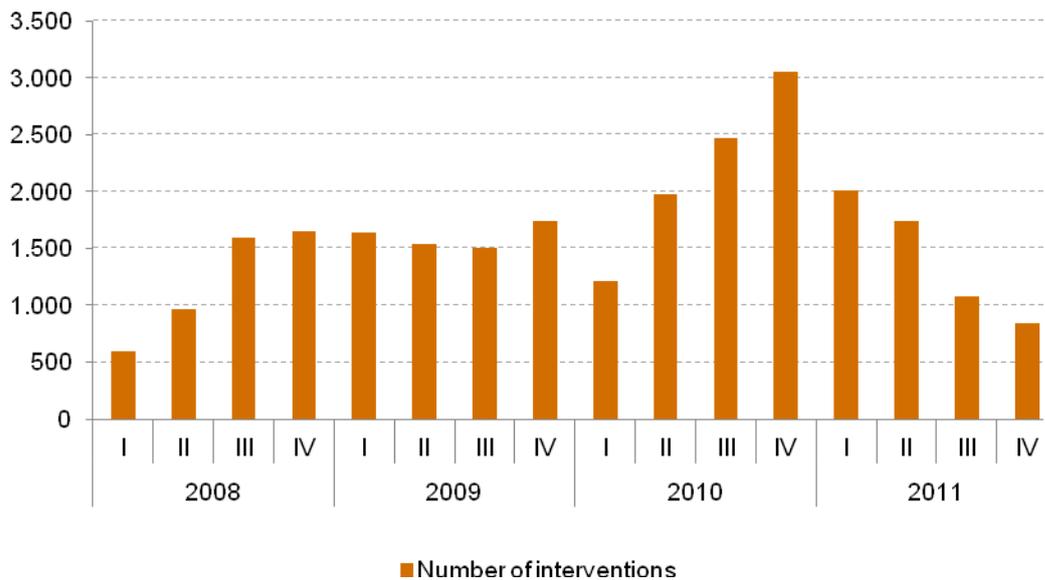
In 2011, the number of responses to occupation feasibility analysis requests remained high, along with requests for PTC monitoring of interventions/installations performed by beneficiaries in ducts, as evidenced in the graphs below.

**Graph 14. Number of responses to feasibility analysis request**



Source: ICP-ANACOM based on data from PTC.

**Graph 15. Number of interventions in the context of the RDAO**



Source: ICP-ANACOM based on data from PTC.

The intensive use of the RDAO wholesale offer by its beneficiaries stems from the current market context, where use of existing civil construction infrastructure is favoured with a view to the deployment of new optical fibre networks. Meanwhile, by determination of 28 October 2010, ICP-ANACOM decided to amend the RDAO with regard to aspects such as quality of service, the provision of information on infrastructure occupation, the implementation of an information system (IS-RDAO) and a review of non-compliance compensation to reinforce its effectiveness and deterrent effect.

It is considered that the impact of ICP-ANACOM's intervention will result in more efficient use of PTC infrastructure by alternative operators for NGN deployment, including optical fibre deployment.

Additionally, from January 2011, PTC made indicative information available on the RDAO Extranet on the occupation of ducts, based on a system of four colour levels in the metropolitan areas of Lisbon and Porto, as determined by ICP-ANACOM. Information was also made available on the profile of ducts and on duct section dimensions.

In March 2011, the above information was made available in remaining areas C, as identified following the analysis of the wholesale broadband access market (conducted in January 2009).

In July 2011, after ICP-ANACOM took steps to provide for better coordination between PTC and the RDAO beneficiaries, a new version of the information system (IS-RDAO 2.0) was implemented. With this system and in line with the determinations of ICP-ANACOM, beneficiaries are able to submit installation requests directly in areas where information on duct occupation is available (i.e. with no need to submit prior feasibility requests).

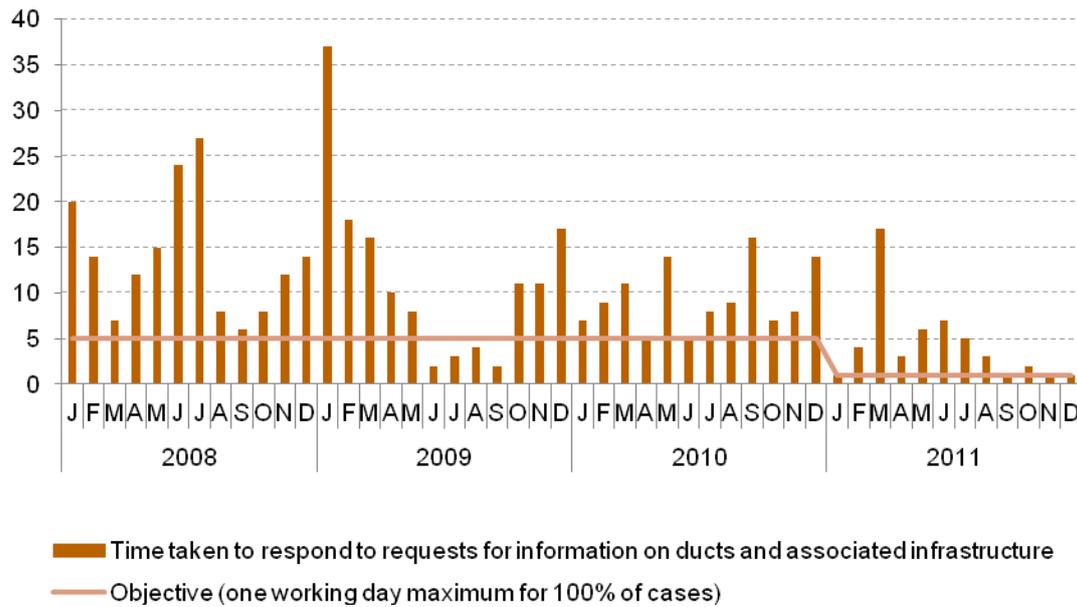
Part of ICP-ANACOM's intervention during 2011 focused on monitoring levels of quality of wholesale services provided by PTC in the context of the RDAO, finding that, despite some improvements over previous years, there remain performance indicators which fall short of the objectives. Since this offer came into force, the target-time periods have been defined for one hundred percent of occurrences<sup>8</sup>.

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<sup>8</sup> For example, it may happen that in a thousand cases PTC is in compliance in 999 cases but non-compliant in one case, whereby, in terms of the final result of the quality of service parameter, PTC is deemed to have failed to accomplish the objective.

In this regard, compensation payments are stipulated in the event that PTC fails to accomplish objectives established in the RDAO; this compensation can be demanded by the beneficiaries and has recently been raised.

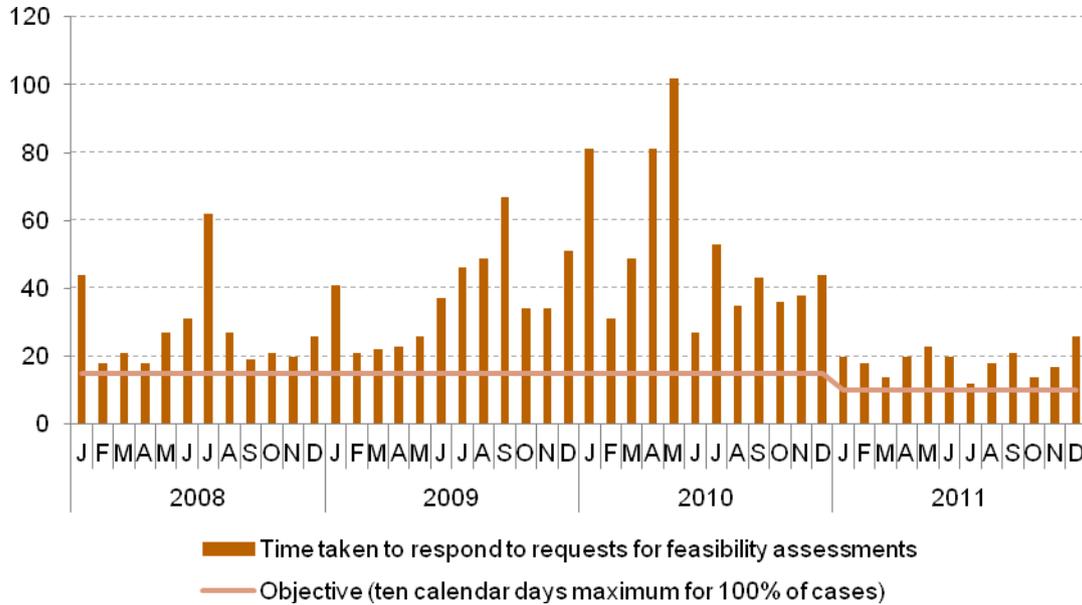
**Graph 16. Time taken to respond to requests for information on ducts and associated infrastructure**



Unit: days

Source: ICP-ANACOM based on data from PTC.

**Graph 17. Time taken to respond to requests for feasibility assessments**



Unit: days

Source: ICP-ANACOM based on data from PTC.

### 3.3.7. Reference poles access offer (RPAO)

The RPAO wholesale offer has been available since the end of 2010. This offer governs the provision by PTC of access to and use of its poles and associated infrastructure, for the installation, repair, maintenance or removal of overhead cables of beneficiary electronic communications networks.

The availability of this offer has contributed to the extension of NGA coverage by promoting the widespread use of poles, especially in rural areas, with positive effects in terms of the development of the information society and combating info-exclusion.

This offer was analysed during 2011, whereby it was found that Grupo PT followed ICP-ANACOM's guidance that the RPAO should follow the procedures as defined in the RDAO (given that the RPAO is an un-established offer). As such, ICP-ANACOM found no reason to proceed immediately with any amendments to the offer.

### 3.3.8. Wholesale line rental offer (WLRO)

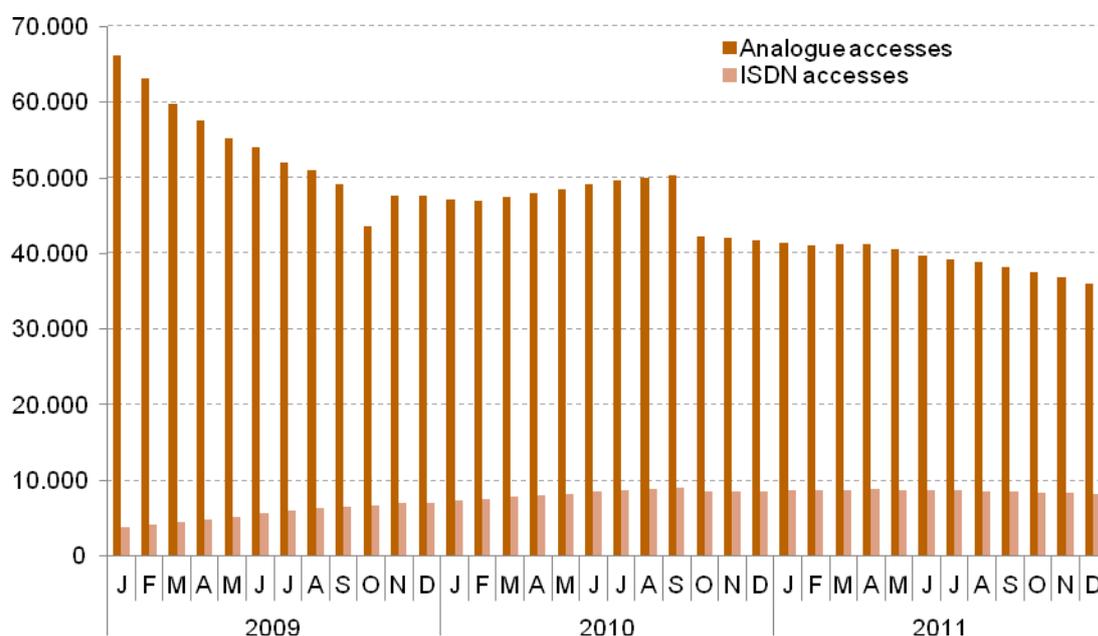
In line with the trend observed in recent years, the number of analogue accesses with active WLRO continued to decline. This is understandable given the evolution seen in the

provision of the telephone service at a fixed location (FTS) in indirect access mode. As such, there was a reduction of around 14 percent in the number of analogue accesses with active WLRO between December 2010 and December 2011, with 37,686 of these accesses reported at the end of 2011.

Meanwhile, there was a slight reduction in the use of the WLRO in relation to integrated services digital network (ISDN) accesses, usually associated with the enterprise market, with ISDN accesses with active WLRO essentially limited to ISDN basic and ISDN basic plus accesses, which at the end of 2011 together accounted for a total of 8,631 accesses, a decline of 5 percent compared to December 2010.

The following graph shows the evolution reported in the number of accesses with active WLRO over the past three years.

**Graph 18. Information presented by PTC on analogue and ISDN accesses with WLRO active, excluding the activations of Grupo PT companies**



Source: PTC.

### 3.4. Price of analogue television signal distribution and broadcasting service

By determination of 7 October 2011, ICP-ANACOM approved the draft decision on the pricing of the television signal (terrestrial) distribution and broadcasting (analogue)

service, as charged by PTC; this draft decision was submitted to a prior hearing of interested parties and to public consultation.

In accordance with the draft decision, PTC is required to reduce the price of each of the services that comprise the analogue television signal distribution and broadcasting service in order to ensure that the service's price system is in line with the principle of cost orientation. The final determination was adopted on 9 March 2012, establishing a minimum price reduction of 29.6 percent.

### **3.5. Costing systems**

As follows from the responsibilities of this Authority, necessary measures were taken in 2011, as specified in the sections below, with a view to implementing the obligations of cost orientation. These obligations are applicable to different operators in the electronic communications sector and the postal area with SMP in certain markets and/or the USP.

#### **3.5.1. SCA (Analytical Accounting System) of PTC**

As an entity with SMP in various markets, PTC is under obligation, *inter alia*, to control prices, to ensure accounting separation and cost accounting and for said purpose shall employ an Analytical Accounting System (SCA) which aggregates data on revenues and costs by product or service; meanwhile it is incumbent upon ICP-ANACOM or other independent entity which it designates, to audit the SCA and verify its compliance with applicable legislative and regulatory provisions.

In this context, by determination of 29 December 2011 and following a prior hearing of the company, ICP-ANACOM approved a declaration of conformity with respect to the SCA used by PTC as regards applicable regulations and with reference to the 2006 financial period. ICP-ANACOM likewise approved a set of determinations and recommendations aimed at improving the system. During 2011, fieldwork took place for the audit referring to 2007.

#### **3.5.2. Electronic communications costing models**

- **PTC's cost of capital for 2010 and 2011**

Pursuant to the obligation of price control and cost accounting to which PTC has been made subject, provision is made in article 74 of the LCE that ICP-ANACOM shall "take

into account the investment made by the operator and allow said operator 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.

Even while the values for the cost of capital rate up to 2011 were set in February 2010<sup>9</sup>, provision was made from the outset that the established values remain subject to review, especially as regards parameters dependent on macroeconomic conditions in the country, and therefore external to the company.

On 4 March 2011, PTC requested a review of the rate of cost of capital to be applied in 2010 and 2011, essentially given material and unanticipated alteration of the parameters related to the risk-free interest rate and the tax rate.

By determination of 26 August 2011 and following public consultation, while considering that the conditions required for a review of the rate of PTC's cost of capital were fulfilled, ICP-ANACOM set the following values for 2010 and 2011:

**Table 4. Cost of capital rate to be applied by PTC**

2010	11.6%
2011	11.0%

Source: ICP-ANACOM.

- **Cost model for mobile operators**

Considering, in particular, the implementation of EC Recommendation 2009/396/EC, in 2010, ICP-ANACOM began development of a costing model for the voice call termination service on individual mobile networks, as has been happening in other Member States, such as the United Kingdom, France, the Netherlands and Belgium.

The development of such a costing model for call termination on mobile networks began in 2010, in collaboration with the consultants Analysis Mason, Ltd., and continued through 2011. On 1 April 2011, ICP-ANACOM launched a public consultation to compile contributions from interested parties in relation to the methodological options to be considered in developing, implementing and applying the costing model in question, in particular the definition of the hypothetical efficient operator which it refers to.

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<sup>9</sup> By determination of 10 February 2010, it was stipulated that the rate of cost of capital to be applied by PTC would be 12.3 percent in 2009, 11.3 percent in 2010 and 10.3 percent in 2011.

Having concluded the development of this costing model, on 10 October 2011, ICP-ANACOM launched a public consultation, making available a non-confidential version of the model proposed for use in the regulation of maximum mobile termination.

In this draft decision, the value of costs indicated for 2012 was 1.25 cents. The final decision, adopted on 30 April 2012, established the value at 1.27 euro cents per minute, following minor adjustments in the model stemming from comments received during the public consultation.

### **3.5.3. SCA (Analytical Accounting System) of Correios de Portugal (CTT)**

The *Lei de Bases dos Serviços Postais* (Basic Law for Postal Services)<sup>10</sup> granted ICP-ANACOM, as postal sector regulator<sup>11</sup>, the power and responsibility to approve and oversee the correct application<sup>12</sup> of the SCA that CTT is required<sup>13</sup> to employ as US provider. Likewise, ICP-ANACOM is additionally required to publish an annual declaration attesting to the compliance of this SCA and of the results obtained.

The 2008 results of the SCA were audited by an entity designated by ICP-ANACOM in order to verify compliance with the obligations laid down in relevant legislation, as well as with national and international standards and best practice and with the principles, determinations and recommendations stipulated and issued by ICP-ANACOM. Following this audit, on 27 October 2011, ICP-ANACOM published the declaration of conformity of this SCA in respect of the results of the 2008 financial period and issued a set of determinations and recommendations with a view to improving the system.

Furthermore, in 2011, a public tender was launched to contract auditing of the results of CTT's SCA in respect of the 2009-2011 periods, with a view to:

- i) ensuring a degree of stability as regards the selected entity, insofar as experience obtained would contribute to improving the quality and efficiency of the audit during the established period;

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<sup>10</sup> Law no. 102/99 of 26 July, as amended by Decree-Law no. 112/2003 of 12 June.

<sup>11</sup> Paragraph 2 of article 18 of Law no. 102/99 of 26 July.

<sup>12</sup> Paragraph 2 of article 19 of Law no. 102/99 of 26 July.

<sup>13</sup> Paragraph 1 of article 19 of Law no. 102/99 of 26 July, and paragraph 1 of Base XIII of Decree-Law no. 448/99 of 4 November.

- ii) obtaining synergies arising from the simultaneous award of the audit for three financial years, resulting in improvements to ICP-ANACOM's activity by simplifying processes and through an optimization and proper scheduling of resources, so that SCA audits could be completed more swiftly.
- iii) reducing the average cost per audit by about 15 percent compared to previous years.

## 4. To assure and protect the interests of users and citizens in general (Objective 2)

### 4.1. Universal service (US) of electronic communications

#### 4.1.1. Parameters and levels of quality of service

As a result of ICP-ANACOM determination of 30 March 2006, the USP (currently PTC) is required to publish quality of service parameters and performance objectives for the US on an annual basis and to provide information on levels of performance achieved in the preceding year.

The established objectives and the levels achieved by the USP for each of the indicators in 2010 and 2011 are shown in table 5.

**Table 5. US quality of service parameters**

US quality of service parameters	Objective	2010	2011
<b>QSP1. Supply time for initial network connection</b>			
(a) Supply time for connection when customer does not specify a date (days)			
(a1) which corresponds to the 95% percentile of the fastest installations			
(a2) which corresponds to the 99% percentile of the fastest installations	21 43	13 29	12 29
(b) Percentage of requests for the supply of connections satisfied on or before the date agreed with the consumer in cases where the consumer specifies a target date	85%	94%	99%
(c) Ratio between the number of initial connections provided where a target date is specified by the consumer and the total number of initial connections supplied	n.a.	22%	25%
<b>QSP2. Fault rate per access line</b>	0.10	0.19	0.16
Total number of faults reported per access	n.a.	339 722	245 954
<b>QSP3. Fault repair time (hours)</b>			
(a) Repair times of faults on local access network			
(a1) corresponding to the 80% percentile of fastest repairs			
(a2) corresponding to the 95% percentile of fastest repairs	72 165	77 184	76 167

<b>US quality of service parameters</b>	<b>Objective</b>	<b>2010</b>	<b>2011</b>
(b) Repair times for other faults			
(b1) corresponding to the 80% percentile of fastest repairs	47	71	81
(b2) corresponding to the 95% percentile of fastest repairs	108	163	172
(c) Percentage of faults repaired within the deadline established by the universal service provider as objective governing provision to its customers	80%	66%	66%
<b>QSP4. Response time for operator services</b>			
(a) Average response time for operator services (seconds)	11.0	20.0	17.0
(b) Percentage of calls to the operator services answered with 20 seconds by human operator	80%	88%	89%
<b>QSP5. Unsuccessful calls</b>			
(a) No. of calls eligible for the calculation of PQS5		1368 064	1
- national calls	n.a.	847	290129607
- international calls	n.a.		
(b) Percentage of unsuccessful national calls	n.a.	0.08%	0.06%
(c) Percentage of unsuccessful international calls	n.a.		
<b>QSP6. Time taken to establish calls</b>			
(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)			
(b1) corresponding to the 100% percentile of fastest calls	n.a.	n.a.	n.a.
(b2) corresponding to the 95% percentile of fastest calls	n.a.	n.a.	n.a.
(c) Time taken to connect calls for international calls (seconds)			
(c1) corresponding to the 100% percentile of fastest calls	n.a.	n.a.	n.a.
(c2) corresponding to the 95% percentile of fastest calls	n.a.	n.a.	n.a.
<b>QSP7. Response time for directory enquiry services</b>			
(a) Average response time for directory enquiry services (seconds)	5.0	3	1.0
(b) Percentage of calls to directory enquiry services answered within 20 seconds by a human operator or by equivalent answering systems	95%	98%	99%
<b>QSP8. Proportion of coin and card operated public pay-telephones in working order</b>			
The total number of complete days during which existing public pay-telephones are in full working order compared to the potential number of operational days of the average public pay-telephones park.	96%	97%	96%
<b>QSP9. Bill correctness complaints</b>			
Percentage of bills resulting in complaints compared to the total number of bills issued	0.04%	0.04%	0.02%

Source: PTC.

In relation to the previous year, there was an improvement in the performance of most parameters. However, deterioration was noted in the performance of QSP3 (b).

Meanwhile, citing adverse weather conditions and incidences of cable theft, PTC sought non-consideration of values reported in November 2011 for the purpose of calculating QSP3 (time to repair faults). Likewise, in 2010, PTC sought non-consideration of values reported for January 2010, citing adverse weather conditions.

It can be observed, however, that in 2011 some performance objectives for the quality of service parameters of the US remain unaccomplished (including QSP2, QSP3 and QSP4 (a)).

#### **4.1.2. Strategy of the universal service provider (USP) for public pay-telephones**

In January 2011, PTC submitted a development strategy statement for the public pay-telephone service for 2011, based on the following key objectives:

- fulfilling the needs of the electronic communications market, including traditional voice services;
- relocating equipment subject to more frequent acts of vandalism;
- maintaining coverage in areas of special social interest, as defined for 2010;
- maintaining response to requirements of users with special needs.

In early 2012, PTC submitted a report to ICP-ANACOM on the accomplishment of the 2011 objectives. Information on PTC's stock of public pay-telephone for 2011 is shown in the following table, with data broken down by district and by accepted forms of payment.

**Table 6. PTC public pay-telephones for 2011**

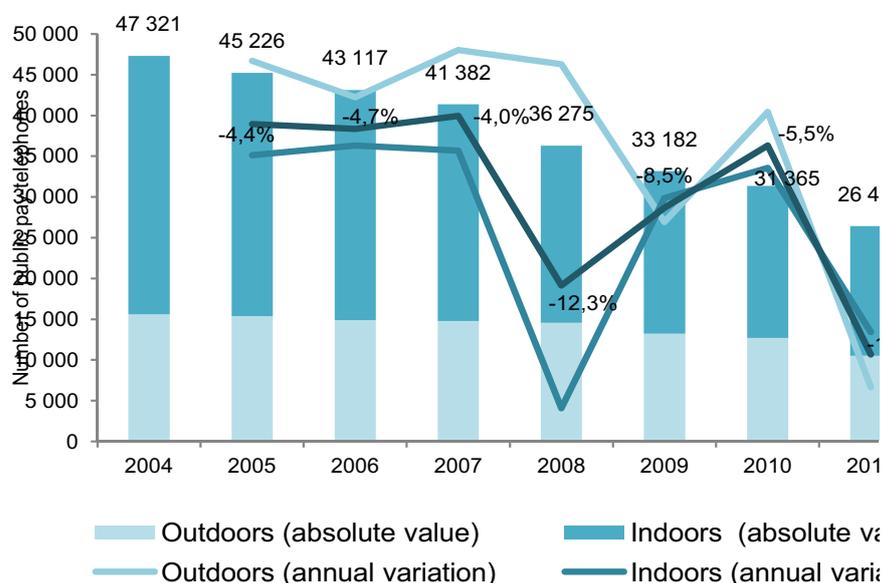
	2011 (PROVIDED)					TOTAL PROVIDED
	Outdoors			Indoors		
	Card only	Card and coins	Coins only	Conventional telephone	Coins only	
Aveiro	4	273	151	655	445	1,528
Beja	8	147	112	235	106	608
Braga	12	275	102	856	241	1,486
Bragança	7	52	16	503	22	600
Castelo Branco	10	104	68	491	209	882
Coimbra	13	234	88	752	259	1,346
Évora	5	99	90	106	78	378
Faro	10	677	147	346	251	1,431
Guarda	12	73	46	510	90	731
Leiria	21	207	79	596	305	1,208
Lisbon	150	2,675	851	374	1,682	5,732
Portalegre	2	53	55	119	60	289
Porto	64	1,088	286	524	1,584	3,546
Santarém	11	155	98	502	149	915
Setúbal	31	714	199	137	715	1,796
Viana do Castelo	2	104	58	464	191	819
Vila Real	6	78	28	682	87	881
Viseu	11	124	85	926	250	1,396
Madeira	19	164	93	83	136	495
Azores	12	116	38	103	97	366
<b>Total</b>	<b>410</b>	<b>7,412</b>	<b>2,690</b>	<b>8,964</b>	<b>6,957</b>	<b>26,433</b>

Source: PTC.

Compared to the stock existing in 2010, an overall reduction was reported of about 12 percent (representing 3,535 pay-telephones), with a downward variation reported in all types of public pay-telephone.

The following graph summarizes information on the evolution of public pay-telephones reported in the period 2004-2011. The overall reduction in this period works out at approximately - 44.1 percent for the total stock of public pay-telephones (-32.6 percent for pay-telephones located in outdoors locations and -49.8 percent for pay-telephones located indoors).

**Graph 19. Evolution reported in number of public pay-telephones in the period 2004-2011**



Source: PTC and ICP-ANACOM calculation.

During 2011, a sharp decline was reported in the stock of public pay-telephones located in sites of social interest (including hospitals and health centres, educational establishments and airports), with a reduction of about 19 percent, corresponding to 550 public pay-telephones. In absolute terms the largest reduction occurred in educational establishments and in hospitals and health centres, as shown in the following table.

**Table 7. Variation reported in PTC's stock of public pay-telephones in 2011, compared to 2010**

Type of location	Total public pay-telephones		Deviations between 2011 and 2010	
	2011	2010	Absolute difference	Percentage difference
Hospitals and health centres	729	901	-172	-19,1%
Educational establishments	615	910	-295	-32,4%
Airports	151	170	-19	-11,2%
Prisons	320	323	-3	-0,9%
Bus terminals	89	96	-7	-7,3%
Rail terminals	217	237	-20	-8,4%
Metro stations	158	159	-1	-0,6%
Courts and Halls of Justice	12	24	-12	-50,0%
Hotels, boarding houses and hostels	95	116	-21	-18,1%
<b>Total located in sites considered of special interest</b>	<b>2,386</b>	<b>2,936</b>	<b>-550</b>	<b>-18,7%</b>

Source: PTC and calculations of ICP-ANACOM.

Meanwhile, PTC slightly increased its stock of cabins which allow wheelchair entry and exit in 2011, from 310 to 313 cabins.

#### 4.1.3. Affordability – fixed telephone system (FTS) residential tariff provided within the scope of the universal service

By determination of 25 November 2011, and following the amendment of the fixed telephone service residential tariff proposed for 2012, within the scope of the US, as presented by PTC on 4 November 2011, ICP-ANACOM declared that the proposal submitted by PTC conformed to prevailing regulatory principles, in particular as regards compatibility with the applicable price-cap. This declaration was made on a suspensive basis, until such time as the Advisory Council of ICP-ANACOM rules thereon, pursuant to point c) of article 37 of the Statutes of ICP-ANACOM.

With regard to the main tariff, PTC's proposal consisted of an increase of 4.6 percent in the price per minute of peak calls, rising to 0.0318 euros (excluding VAT).

**Table 8. Main FTS tariff proposed by PTC, to take effect 1 January 2012**

Values ex. VAT	Initial price (euros)				Time credit (seconds)				Price per minute (euros)			
	Working days	Working days	Week-ends	Week-ends	Working days	Working days	Week-ends	Week-ends	Working days	Working days	Week-ends	Week-ends
	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am
Local	0.0700	0.0000	0.0000	0.0000	60	0	0	0	0.0318	0.0000	0.0000	0.0000
National	0.0700	0.0000	0.0000	0.0000	60	0	0	0	0.0318	0.0000	0.0000	0.0000
Installation	71.83											
Subscription charge	12.66											

Source: PTC. Values excluding VAT.

With regard to the alternative tariff, applicable upon customer request, PTC proposed an increase of 7.36 percent in the price per minute for peak-time calls, rising to 0.0277 euros (excluding VAT).

**Table 9. Alternative FTS tariff proposed by PTC, to take effect 1 January 2012**

Values ex. VAT	Initial price (euros)				Time credit (seconds)				Price per minute (euros)			
	Working days	Working days	Week-ends	Week-ends	Working days	Working days	Week-ends	Week-ends	Working days	Working days	Week-ends	Week-ends
	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am
Local	0.0700	0.0700	0.0700	0.0700	60	60	60	60	0.0277	0.0084	0.0084	0.0084
National	0.0700	0.0700	0.0700	0.0700	60	60	60	60	0.0277	0.0084	0.0084	0.0084
Installation	71.83											
Subscription charge	11.92											

Source: PTC. Values excluding VAT.

Following the analysis performed by ICP-ANACOM, it was concluded that the proposed FTS tariffs applicable by default (main tariff) and applicable on an optional basis upon customer request (alternative tariff), as presented by PTC to take effect from 1 January 2012, were in line with and slightly below the applicable price-cap corresponding to a rise in prices of 0.25 percent in nominal terms.

It was further concluded that the proposed tariff could be replicated by alternative operators, based on PTC's wholesale offers and that, as regards the cost orientation of the proposed prices and taking traffic and the monthly subscription charge together, the estimated margin represents positive values; as such it was concluded that the revenue generated by PTC would be sufficient to cover incurred costs.

#### **4.1.4. CLSU – Custos líquidos da prestação do serviço universal (Net costs of universal service provision)**

In 2011, ICP-ANACOM continued its work on this issue. In January, it adopted two draft decisions on the concept of Unfair Burden and on the methodology to be used for calculating the net costs of the universal service of telecommunications. In June, following a public consultation procedure and hearing of interested parties, the final decisions and respective prior hearing reports were given approval.

ICP-ANACOM determined that provision of the US of electronic communications constitutes an unfair burden on the provider whenever the USP's market share in terms of

FTS revenues, as calculated on an annual basis, is less than 80 percent and when the calculated CLSU is equal to or more than 2.5 million euros. Additionally it was concluded, taking into account this definition and the analysis performed, in particular as regards the evolution of the market's competitive situation and the current USP's capacity to internalize the CLSU, that provision of the universal service from 2001 to 2006 did not constitute an unfair burden for the USP (PTC).

On the same date, ICP-ANACOM approved the methodology to be used for calculating the CLSU. This methodology is based on the costs that the USP could avoid and the revenue that would be lost where, not having universal service obligations, it did not supply the service in unprofitable geographic areas and did not supply the service to unprofitable customers in profitable geographic areas, and also that it did not supply the service according to conditions that deviated from normal commercial conditions (for example in the case of retirees and pensioners). Under this assessment, the costs of these obligations are identified, as are the associated benefits; the resulting difference constitutes the CLSU.

It was also determined, with respect to the methodology itself, that the USP's costs and assets should be valued at historical cost and that is area covered by each Main distribution frame (MDF) should be used as the geographical unit of reference.

In calculating the CLSU associated with unprofitable customers, i.e. customers connected to the USP who generate revenues which are insufficient to cover all respective costs, two different types of customers are identified: a) those predominating in certain areas, making the group unprofitable as a whole and b) those residing among profitable customers, so that such areas generally remain profitable. In the latter group, the methodology only considers the net costs associated with customers where individual access costs exceed generated revenue, even if these are equal to or above the national average.

When calculating the CLSU in unprofitable areas, the methodology takes into account the avoidable costs and lost revenues in each of the geographic areas considered and the effects of received calls. Furthermore, the application of two criteria was considered to enhance the robustness of the results obtained from application of the methodology and to bring these results closer into line with reality:

- criterion for the existence of effective competition – an unprofitable area should not be considered as such in cases where there are at least two co-located

operators in the exchange; consideration of such an area as unprofitable must be based on a detailed analysis of the reasons that might justify its lack of profitability; and

- enclave criteria – an unprofitable area should not be considered as such where it is wholly surrounded by other areas which are deemed profitable; such an area may not be considered unprofitable except where the USP states the criteria it would consider at the time of an investment decision, as would result, in the absence of universal service obligations, in a decision not to connect the area in question.

The CLSU associated with provision of the discount due to retirees and pensioners is obtained by applying the following formula:

$$e) \quad CdRP = \sum_{n=1}^{12} NRPcd_{\text{month } n} (1 + \epsilon \times \Delta\%P/100) \times 0,5 \times MSTF_{\text{month } n}]$$

where,

CdRP - costs associated with providing the discount due to retirees and pensioners.

$NRPcd_{\text{month } n}$  - number of retirees and pensioners receiving the discount in month n, including retirees and pensioners receiving this discount through the WLRO.

$\epsilon$  - demand-price elasticity of monthly access charge.

$\Delta\%P$  - percentage change in prices (currently the percentage change in price is 100 per cent).

$MSTF_{\text{month } n}$  - monthly charge for FTS prevailing in month n.

Subsequently, ICP-ANACOM conducted a study with a view to determining the value to be considered for the demand-price elasticity of the monthly access charge, which was set at -0.098 (as approved by determination of 25 November 2011).

Given that the provision of a telephone directory and directory enquiry service is generally profitable, the methodology used for calculating the CLSU associated with this component of the US is not detailed.

The methodology adopted by ICP-ANACOM considers the calculation of net costs associated with unprofitable pay-telephones sited in profitable areas.

In accordance with the approved methodology, determining the CLSU should also take the benefits obtained by the USP into account. The methodology provides a method for ascertaining the value of the following indirect benefits: a) corporate reputation and brand enhancement; b) life cycle effects; c) ubiquity; d) public pay-telephone advertising; e) mailing; and f) regulation fees. ICP-ANACOM considered the benefit associated with the operation of a customer database to be negligible and accepted that the benefit associated with life cycle effects should not be considered in determining the CLSU.

On 29 August 2011, ICP-ANACOM ratified a decision of 18 August on a complaint submitted by PTC regarding the determination of 9 June 2011 which approved the methodology for calculating the CLSU. Following this determination, the methodology was changed "in order to use the prices actually charged to determine the unprofitable areas and unprofitable customers, as well as to establish the CLSU in unprofitable areas/customers (...)".

ICP-ANACOM likewise decided, in the same determination of 9 June 2011 as approved the methodology to be applied in calculating the CLSU, that PTC submit a preliminary calculation of CLSU, within a period not exceeding ninety (90) working days (extendable up to a period of one hundred eighty (180) days).

As such, during the last quarter of 2011, PTC sent its preliminary calculation of CLSU with reference to the years 2007, 2008, 2009 and 2010; this calculation will be audited to verify compliance with the methodology established by ICP-ANACOM.

Also in 2011, by determination of 29 December, ICP-ANACOM decided to accept, on a provisional and preliminary basis, the CLSU values presented by PTC for the period 2007-2009, which preliminary assessment is without prejudice to the final decision to be taken for the years in question, which can be approved subsequent to the results of the audit carried out by an independent entity.

#### **4.1.4.1. Methodology to be used for calculating the net costs of universal service provision**

In December 2011, following a request from the Secretary of State for Public Works, Transport and Communications of the Ministry of Economy and Employment, ICP-ANACOM formulated an opinion on the CLSU compensation mechanism. It should be recalled that definition of a CLSU funding mechanism remains the responsibility of the

Government and this definition is to precede the designation of the provider(s) of the US through a selection process.

#### **4.1.5. Procedure for designating the universal service provider (USP)**

During 2011, work already under preparation in previous years was continued, culminating with the launch of a public consultation on the process of designating provider(s) of the US of electronic communications on 16 November 2011; this public consultation was launched by the Government in conjunction with ICP-ANACOM.

Meanwhile, in 2011 and upon the initiative of ICP-ANACOM, a public consultation was opened on 18 March 2011 on the provision of public pay-telephones within the scope of the US of telecommunications, whereas the report of this public consultation was approved by subsequent determination of 7 July 2011.

##### **4.1.5.1. Public consultation on public pay-telephones**

Conducting a public consultation on the provision of public pay-telephones within the scope of the US of telecommunications, ICP-ANACOM sought to compile contributions from the market on whether and in what manner the public pay-telephone component should be maintained within the scope of the US.

As such, the document placed under consultation presented the prevailing legislative and regulatory framework, the theme of CLSU, the evolution of the public pay-telephone service as a service integrated within the universal service and a comparison with the evolution observed in the electronic communications sector, as well as an assessment of the positioning of Portugal in this regard compared to other European countries.

In this context, ICP-ANACOM put forward four options for consideration by the market, which can be summarised as follows:

- Option 1
  - Maintain the offer of public pay-telephones within the scope of the universal service as under the present conditions, entailing a total of stock 30,000 public pay-telephones.

- Option 2
  - Maintain an offer of public pay-telephones within the scope of the US while establishing a significant reduction in the number of pay-telephones as regards the current situation, with a minimum coverage obligation based on the application of geographic dispersion criteria: one public pay-telephone per parish and one further public pay-telephone per thousand inhabitants in each parish with more than one thousand inhabitants. This would lead to a stock of around 15,500 public pay-telephones.
  
- Option 3
  - Maintain an offer of public pay-telephones within the scope of the US while establishing an even greater reduction than envisaged in option 2, based on the application of less stringent geographic dispersion criteria: one public pay-telephone per parish and one further public pay-telephone in each parish with more than one thousand inhabitants. This option would lead to a stock of around 8,500 pay-telephones according to the following criterion of geographical dispersion: reduce the number of pay-telephones in areas of social interest, declassifying hotels, boarding houses and hostels as sites of social interest and including *Lojas do Cidadão* (Citizen's Bureaus), leading to a total stock of 2000 public pay-telephones.
  
- Option 4
  - Non-maintenance of the public pay-telephone service as a provision included in the US.

In light of the requirement to provide the general population with electronic communications beyond the FTS and mobile telephone service (MTS), and also in light of the high MTS penetration rate, the existence of population groups, albeit small, without the FTS and MTS, the need to balance the imposition of obligations with the costs which such obligations necessarily entail and which fall on consumers in general, the market was sounded out on the most appropriate options, and also on the existence of other options. Meanwhile, the public consultation also sought to gauge the level of interest among respondents in being designated as USP for the offer of public pay-telephones, and if so under what conditions respondents would make themselves available to undertake deployment of public pay-telephones as proposed in options 2 and 3.

At the outset, ICP-ANACOM presented positions on each of these options, while considering option 1 disproportionate and unjustified and option 4 as inappropriate given that there remains a fringe section of the population, likely of a lower socio-economic stratum, who depend on the option of accessing public pay-telephones to fulfil their communication needs,

As far as option 2 is concerned, ICP-ANACOM considered that, while continuing to ensure clear benefits for the general population, it also entailed a significant onus on the market. Finally, ICP-ANACOM considered that option 3 was the most advantageous, since this option guaranteed benefits for the general population, although, given its less stringent requirements, with a foreseeable lower level of costs.

As mentioned, by determination of 7 July 2011, ICP-ANACOM approved the public consultation report, noting with satisfaction the level of participation by operators and representatives of consumers in the procedure. There was a clear trend in support of maintaining public pay-telephones within the scope of the US, which is considered as support for ICP-ANACOM's position on the issue. Indeed, most respondents, including consumer associations, operators, and PTC itself, as USP, were in favour of the view that the service should remain part of the provision of the US.

In this context, there is also widespread acceptance among respondents that the public pay-telephone stock needs to be rationalised, from the perspective, suggested by ICP-ANACOM, of equating "a solution in which the benefits for the population are optimized, in order to ensure generalized access to telephone services, bearing in mind the penetration of the FTS and MTS, avoiding excessive and undue onus on consumers in general in support of a set of obligations that may no longer correspond to the real need of the population groups targeted by those obligations".

The results of this consultation were taken into account in preparing the documents placed under public consultation on 16 November 2011 on the process of designating the provider(s) of the universal service of electronic communications.

#### **4.1.5.2. Public consultation on the process of designating the provider(s) of the universal service**

In the context of its role advising and assisting the Government and upon request of the Government, ICP-ANACOM undertook preparation of the draft documents governing the

tender to select the USP of electronic communications. The component documents of the procedure associated with the performance of the tenders were submitted by the Government to public consultation with the aim of compiling proposals to improve and complete the drafts.

The public consultation documents included a statement of reasons and draft tender schedule, draft call for proposals and draft tender specifications for each of the three tenders, namely:

- tender 1 – connection to a public communications network at a fixed location and provision of a telephone service through that connection;
- tender 2 – provision of public pay-telephones;
- tender 3 – provision of a comprehensive directory and of a comprehensive telephone directory enquiry service.

As referred to in the statement of reasons, the option was taken to divide the procedure into various components, firstly in terms of the services, with the creation of three separate tender procedures covering each of the US provisions referred to in article 87 of the LCE, and also to divide the tenders in geographical terms, through the creation of three separate regions (lots) for two of these procedures (those relating to tenders 1 and 2). As such, the aim was to reduce any barriers that might deter participation in the selection process, and thereby increase levels of response.

The concept set out in the consultation documents to select the provider(s) of the US is based on the designation of those providers which, while ensuring the levels of quality and evolution of pricing specified – which are based on current levels of quality and evolution of prices stipulated to date – offer lower costs in relation to the provision of the services concerned, or in the case of directories and directory enquiry services, the highest remuneration payable to the State. That is, the intention is to designate undertakings which, being more efficient: a) require a lower level of funding to provide services in areas or to citizens where, under normal conditions and since income levels generated do not cover the costs of providing the services used, such provision would not be sufficiently attractive from an economic point of view, or b) in the specific case of directories and directory enquiry services, undertakings which offer a higher fee in return for providing the US.

The Government is therefore seeking to achieve two goals simultaneously: i) maintain levels of US provision in terms of quality and also in terms of pricing, which since 2003, has been falling at a rate of 2.75 per cent below inflation, and ii) maximize efficiency in the provision of these services, resulting in the minimization of related costs.

The consultation highlighted two aspects in particular: the concept of functional Internet access and incorporation of the telephone directory and directory enquiry services within the same lot.

As regards functional Internet access, the public consultation documents followed the option of maintaining the characteristics of the provision that is currently comprised by the US concept, i.e., link to an electronic communications network at a fixed location enabling a transmission speed of 56 Kbps. However it was stressed that this matter remains open and note was made of the importance of contributions in this area, particularly as to whether the market is able to ensure higher speeds, especially in terms of broadband offers, without recourse to the specifics of the universal service and, as such, at no additional cost to the electronic communications sector. It was also mentioned in the consultation's statement of reasons that a final decision on this matter will be made taking into account the results of the public consultation, as well as the opinion which ICP-ANACOM is due to present pursuant to paragraph 4 of article 88 of the LCE, which opinion will take into account the views expressed in this consultation<sup>14</sup>.

As regards the incorporation of the telephone directory and directory enquiry services within the same lot, it was considered that this did not constitute an obstacle to the goal of reducing barriers to participation in the tenders. It was also stated that if different opinions were expressed, and where properly reasoned, this matter would be reconsidered.

Furthermore, as also indicated in the consultation's statement of reasons, and taking into account the input received, ICP-ANACOM will: a) give approval, with definitive reasoning, to the decisions arising from the powers and responsibilities which are conferred on the regulator in this area by the LCE; b) prepare a public consultation report covering the areas which are the competence of the Government, and send this report to the Office of the Secretary of State for Public Works, Transport and Communications, enabling a final

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<sup>14</sup> This opinion was conveyed to the Government in early 2012.

decision to be taken on this matter which takes due account of the positions compiled over the intervening period.

Preparation of the report on the public consultation (which concluded on 30 December 2011) and of the detail of the Tender Specifications, which under the terms of the Law are the responsibility of ICP-ANACOM, was begun immediately; these documents were then approved by ICP-ANACOM decision adopted in February 2012, which also contained a set of recommendations made to the Government on the content of the tender documents.

#### **4.2. Universal service (US) of postal services**

Whereas 2012 saw the transposition into the Portuguese legal system of Directive 2008/6/EC of the European Parliament (EP) and of the Council of 20 February 2008, amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services, the regulatory framework for postal services was not changed in 2011.

As such, under the *Contrato de Concessão* (Concession Agreement) governing the Universal Postal Service (Concession) of 1 September 2000<sup>15</sup>, as amended on 9 September 2003<sup>16</sup> and 26 July 2006<sup>17</sup>, CTT remained bound to provide the universal postal service, which encompasses a postal service for items of correspondence (including addressed direct mail), books, catalogues, newspapers and other periodicals weighing up to two kilograms and parcels weighing up to 20 kilograms, as well as a service for registered items and a service for sending items of declared value, provided on a national and international basis.

Under the terms of this law, in 2011, provision of a subset of these services which are included in the universal postal service (in accordance with point b) of paragraph 1 of Clause 2 of the Concession) remain reserved exclusively to CTT: specifically, sending items of correspondence weighing less than 50 grams, provided that the price is less than

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<sup>15</sup> Concluded in accordance with and pursuant to the *Bases da Concessão do Serviço Postal Universal* (Universal Postal Service Concession Bases), approved by Decree-Law no. 448/99 of 4 November.

<sup>16</sup> Following amendments to the *Bases da Concessão* (Concession Bases) introduced by Decree-Law no. 116/2003 of 12 June.

<sup>17</sup> Following amendments to the *Bases da Concessão* (Concession Bases) introduced by Decree-Law no. 112/2006 of 9 June.

two and a half times the reference price (a letter rate of 20 grams of national priority mail ("*correio azul*")), and items of outgoing international correspondence, direct mail, registered correspondence and correspondence of declared value, within the same limitations of weight and price.

As postal regulator, it is incumbent upon ICP-ANACOM to review the quality and price of postal services covered by the US – in accordance with point c) of paragraph 2 of Article 18 of the *Lei de Bases dos Serviços Postais* (Basic Law for Postal Services)<sup>18</sup>.

#### **4.2.1. Pricing of universal postal service**

Under the terms of paragraph 3 of clause 24 of the Concession and paragraph 2 of article 14 of the *Lei de Bases dos Serviços Postais* (Basic Law of Postal Services), the rules for establishing the prices of individual services that comprise the universal service conceded to CTT shall be fixed in agreement between ICP-ANACOM and CTT.

In 2011, the *Convénio de Preços* (Price Convention) of the Universal Postal Service, concluded between ICP-ANACOM and CTT on 10 July 2008, was automatically renewed for a further one-year period, with the amendments as implemented on 9 July 2010, including, in particular:

- the prices of the US shall be subject to the principles of cost orientation (to be achieved progressively, allowing a gradual rebalancing of tariffs and ensuring affordability), of transparency, non-discrimination and uniformity as regards price application (article 2);
- the variation in the weighted average of prices of reserved postal services in 2011 is subject to price capping – this variation may not, in nominal terms, exceed 0.4 percentage points less than the sum of the rate of inflation forecast for 2011 in the State Budget and the value of the "CPI adjustment factor" (CPIAF), which corresponds to the difference between the inflation value forecast for 2010 in the 2011 State Budget Report and the rate of inflation initially forecast for 2010 as reported in the 2010 State Budget Report;
- the prices of non-reserved services included in the universal service shall take effect on the date provided for by CTT. However, ICP-ANACOM is entitled to modify these

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<sup>18</sup> Law no. 102/99 of 26 July, as amended by Decree-Law no. 112/2003 of 12 June.

prices at any time, stating the grounds for such modification based on the compliance with tariff principles, and taking also into account the levels of quality of service achieved (paragraph 5 of article 5);

- the minimum period of notice for CTT to disclose the prices of universal postal service to users, which prices should also be made available at a specific address of CTT's website, is ten working days, except where ICP-ANACOM authorises a shorter period of notice upon reasoned request submitted by CTT (paragraphs 6 and 7 of article 5).
- CTT is required to advertise the prices appropriately, including publication at a specific website address, and regularly provide users with information about the conditions governing the application of prices and discounts for services that are part of the US.

During 2011 there were no changes to the prices of the universal postal service, despite the fact that the application of the *Convénio de Preços* (Price Convention) in this year allowed an average change in the price of reserved services up to 2.3 percent.

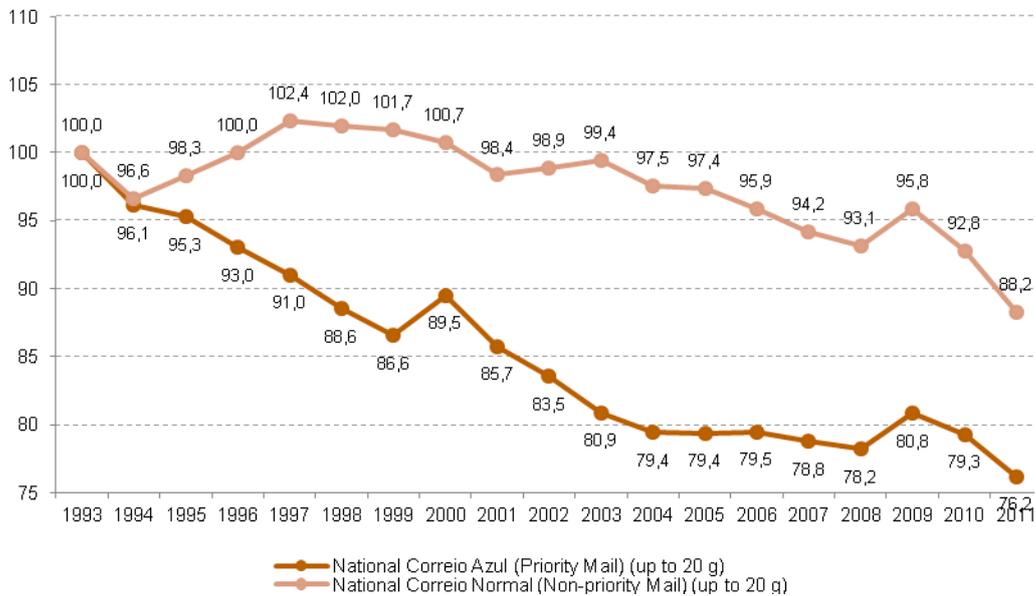
Between 1993<sup>19</sup> and 2011, the average tariff for national *correio normal* (non-priority mail) and *correio azul* (priority mail)<sup>20</sup> up to 20 grams followed a trend that has been positive for customers, with a reduction in real terms of 11.8 percentage points and 23.8 percentage points, respectively (see graph 20).

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<sup>19</sup> When the first *Convenção de Preços* (Price Convention) agreed between ICP-ANACOM, CTT and the then DGCC - Direção-Geral do Comércio e da Concorrência (Directorate General of Commerce and Competition) was in force.

<sup>20</sup> 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 2010. The calculation of the actual trend in the price index took each year's reported inflation rate into account.

**Graph 20. Real evolution in the average annual price index of the base tariff (1993 = 100): *correio normal* (non-priority) and *correio azul* (priority mail)**



Source: ICP-ANACOM.

Examining European comparisons, ICP-ANACOM conducted a study in 2011, comparing prices of Universal Postal Service providers in the EU. The results of this study were released in 2012.

#### 4.2.2. Quality of the universal postal service

Under paragraph 5 of article 8 of *Lei de Bases dos Serviços Postais* (Basic Law for Postal Services) and clause 12 of the Concession, the parameters and minimum levels of quality of the universal service, to which CTT is subject, are to be established in an agreement concluded between ICP-ANACOM and CTT, in a negotiation process running in parallel with the process referring to US prices.

The Universal Postal Service *Convénio de Qualidade* (Quality Convention), signed on 10 July 2008, as amended on 10 September 2010, which in line with the *Convénio de Preços* (Price Convention) was renewed through 2011, includes the following key provisions:

- definition of Quality of Service indicators (QSI) and levels of quality that CTT is bound to accomplish annually;

- association of the maximum variations in prices of reserved services, as defined in the *Convénio de Preços* (Price Convention) with the performance by CTT of the levels of quality defined in the *Convénio de Qualidade* (Quality Convention), whereas a deduction of up to one percentage point is applied to the maximum variation in prices allowed for the following year; in exceptional circumstances duly substantiated by CTT and in the event of operational difficulties associated with the implementation of price reductions, it is possible to replace the deduction made to the prices to customers with other compensatory measures, which measures shall be subject to approval by ICP-ANACOM and have a financial value similar to that resulting from the reduction in prices;
- obligation of CTT to publish the QSI to which it is bound and the annually accomplished values, which obligation is set out in ICP-ANACOM determination of 4 April 2002;
- should any force majeure or phenomenon situation take place, the burst and evolution of which are clearly outside the control of CTT, and have an impact on the quality of service provided by CTT, the latter may request, for the purpose of calculation of the quality of service indicators (QSI), the deduction of the inputs for the concerned periods of time and geographic flows; the decision regarding the request is incumbent upon ICP-ANACOM (article 6).

The *Convénio de Qualidade* (Quality Convention) also establishes an overall indicator of quality of service (GI), which is calculated based on the quality of service levels achieved by CTT for the QSI outlined above<sup>21</sup>.

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<sup>21</sup> The GI is calculated as follows: 1) a classification is assigned to each QSI established in the *Convénio de Qualidade* (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 GI; ii) If it is less than 90 the full deduction of one 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

In accordance with the *Convénio de Qualidade* (Quality Convention), ICP-ANACOM monitored the QSI reported by the universal postal service provider (CTT) on a quarterly basis.

At the end of each year, ICP-ANACOM assesses compliance against the established requirements.

By determination of 25 February 2011 and pursuant to article 6 of the *Convénio de Qualidade* (Quality Convention), ICP-ANACOM granted the exclusion of records covering distribution of *correio normal* (non-priority mail) and *correio azul* (priority mail) impacted directly by the general strike held on 24 November 2010, for the purposes of calculating the 2010 QSI<sup>22</sup>, as has already been reported in ICP-ANACOM's 2010 annual report.

In 2011, target values were achieved for all QSI, with the exception of QSI4 (Non-priority mail not delivered within 15 working days) and QSI5 (Priority mail not delivered within 10 working days), which nevertheless exceeded the respective minimum values.

The GI was reported with a value exceeding one hundred (see table 10).

Therefore, because the GI exceeds one hundred and all QSI exceeded their corresponding minimum values, no deduction has been applied to the maximum variation in prices allowed for reserved services in 2012.

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the respective lack of compliance, or may be effected through the application of alternative actions providing customers with compensation.

<sup>22</sup> <http://www.anacom.pt/render.jsp?contentId=1076267>.

**Table 10. QSI defined in the *Convénio de Qualidade* (Quality Convention) and accomplished by CTT in 2011**

Quality of service indicators		Convénio de Qualidade (Quality Convention)			Quality of service observed in 2011 (a)	
		RI (%)	Established value			
			Min.	Target		
QSI1	Transit time for non-priority mail (D 3)	45.0	95.5%	96.3%		96.8%
QSI2	Transit time for priority mail - mainland (D 1)	15.0	93.5%	94.5%		94.7%
QSI3	Transit time for priority mail - CAM (D 2)	4.0	84.0%	87.0%		91.8%
QSI4	Non-priority mail not delivered within 15 working days (per one thousand letters)	5.0	2.3 ‰	1.4 ‰		1.7 ‰
QSI5	Priority mail not delivered within 10 working days (per thousand letters)	3.0	2.5 ‰	1.5 ‰		1.6 ‰
QSI6	Transit time for newspapers and periodicals (D 3)	11.0	95.5%	96.3%		97.7%
QSI7	Transit time for Intra-community cross-border mail (D 3)	3.5	85.0%	88.0%	(i)	92.7%
QSI8	Transit time for intra-community cross-border mail (D 5)	3.5	95.0%	97.0%	(i)	98.4%
QSI9	Transit time for non-priority parcels (D 3)	5.0	90.5%	92.0%		94.8%
QSI10	Waiting time at postal establishments (% of waiting time up to 10 minutes)	5.0	75.0%	85.0%		87.0%
GI - INDICATOR OF OVERALL QUALITY OF SERVICE (b)		n.a.	n.a.	n.a.	n.a.	173

Source: (a) CTT. (b) ICP-ANACOM Calculation.

Notes: (i) corresponding to the average of 4th quarter 2010 and the value of the first three quarters of 2011.

D X, means delivery to the recipient up to X working day(s) following deposit of the item in a mail reception point.

RI - relative importance.

Min. - Minimum value.

Target - target value.

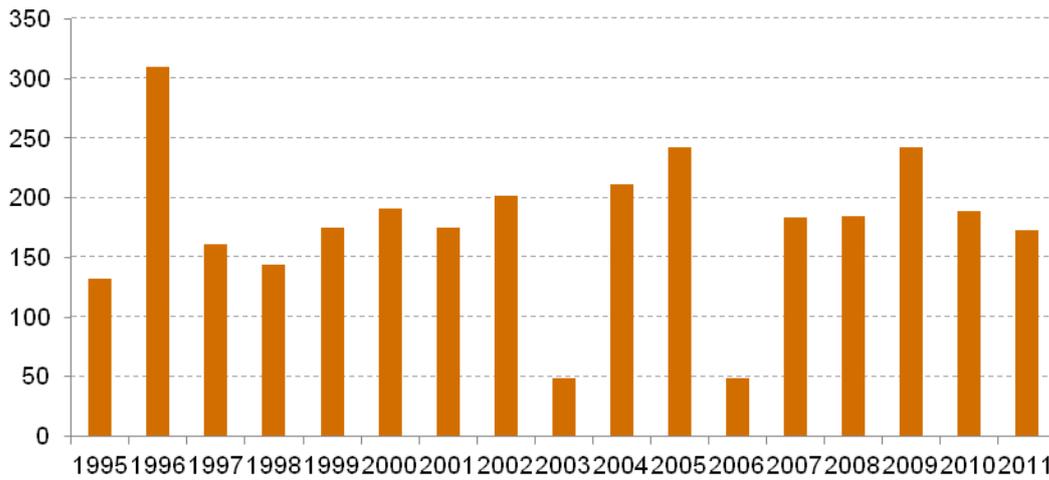
n.a - not applicable.

Unaudited figures.

The annual QSI values accomplished in 2011 and listed in table 11 incorporate, pursuant to article 6 of the *Convénio de Qualidade* (Quality Convention), the exclusion of records impacted by the general strike held on 24 November 2011 (in accordance with ICP-ANACOM determination of 16 February 2012).

Graph 21 shows the trend in the GI improving from 1997 to 2009, except in 2003 and 2006, when values under 100 points were reported; the trend has been seen deteriorating in the last two years.

**Graph 21. Indicator of overall quality of service - GI**



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.

Source: ICP-ANACOM calculations.

ICP-ANACOM also conducts quarterly monitoring of indicators on the complaints which CTT receives about the universal service.

In 2011, CTT responded to 54,328 complaints about the universal postal service within an average response time of 15.3 days, and 24,324 enquiries about the US. Although the majority of complaints and enquiries received were about the national service, most of the complaints that resulted in compensation for provided services referred to international services.

**Table 11. Complaints and enquiries**

Category	Complaints			Enquiries		Processes received in year
	Answered in the year	Answered in the year leading to payment of compensation	Average response time (calendar days)	Answered in year	Average response time (calendar days)	
Total	54,328	8,642	15.3	24,324	16.0	79,418
National	37,191	1,537	5.5	9,932	4.7	47,435
International	17,137	7,105	36.3	14,392	23.8	31,983

Source: CTT (unaudited values).

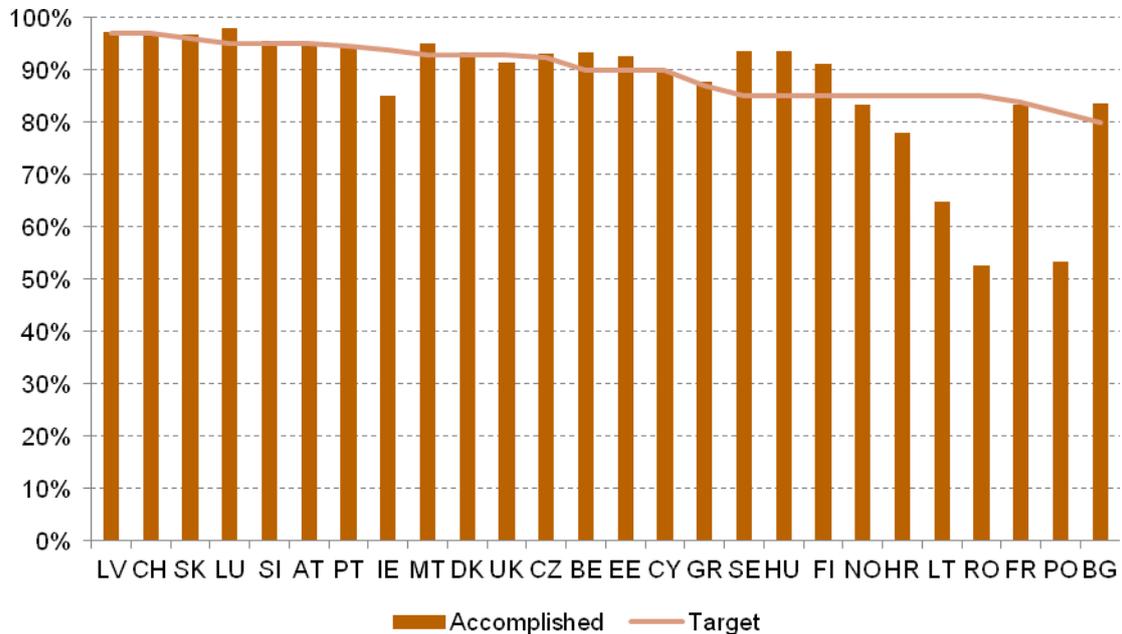
Paragraph 7 of article 8 of the *Lei de Bases* (Basic Law) sets out that "the regulatory body shall ensure, independently of the universal service provider, quality level monitoring for the services actually provided. The results shall be published in a report at least once a year".

In this context and by determination of 15 December 2011, the findings of the audit, conducted in 2011 on QSI values and complaints reported by CTT with reference to 2009 were released. Following this audit, ICP-ANACOM issued a set of determinations and recommendations with a view to improving CTT's quality of service system, while also reiterating those issued in previous years.

Also in 2011, a public tender was launched to select an entity to conduct an audit of CTT's quality of service indicators and indicators on complaints and enquiries, with reference to 2010 and 2011; this tender was awarded in early 2012.

In comparative terms, and based on data contained in the "Report on the quality of service and the end-user satisfaction" of 24 November 2011, prepared by European Regulators Group for Postal Services (ERGP), it is evident that portuguese priority mail (*correio azul*) has been performing well in terms of transit times, with the accomplished value exceeding the target value and with one of the highest accomplished values (and targets) among the EU's Member States.

**Graph 22. Comparison between target and accomplished values in priority mail transit time, 2010**



Source: ICP-ANACOM, based on data contained in the *Report on the quality of service and the end-user satisfaction*, ERGP, 24 November 2011.

#### 4.2.3. Network of postal establishments

According to paragraph 3 of clause 20 of the Concession, the concessionaire is responsible for the establishment and closure of postal establishments and the alteration of their working hours, taking into account service needs and levels of demand.

CTT is required to inform ICP-ANACOM on decisions taken in this regard, and in cases of closure and reduction of opening hours of post offices, to give basis to such decisions, especially in terms of service needs, levels of demand and satisfaction of the communication needs of the population and of economic activities.

In this context, notifications were received from CTT in 2011 with reference to:

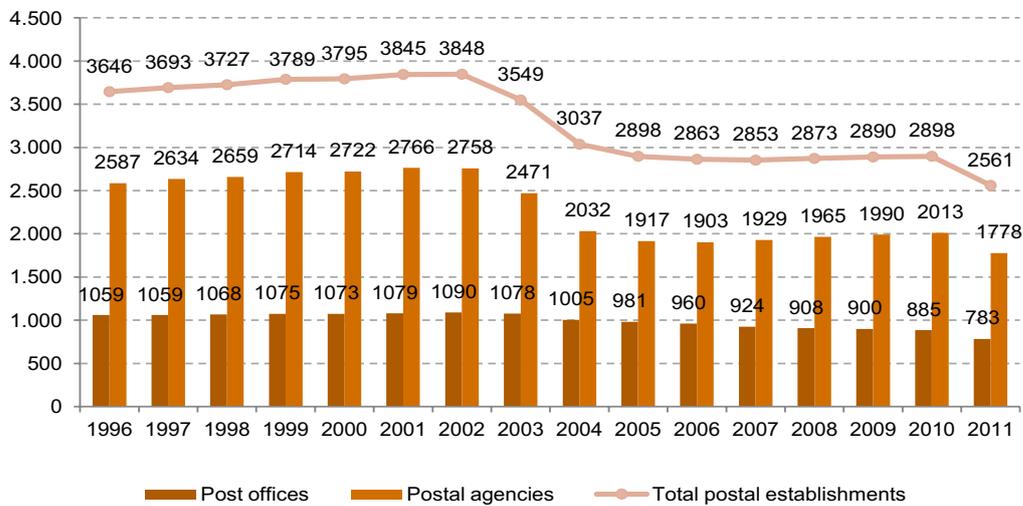
- the closure of 41 post offices;
- the closure of 65 post offices, replaced by postal agencies<sup>23</sup>;
- the establishment of 5 post offices;

<sup>23</sup> According to CTT, postal agencies are establishments operated under contract by third parties, with all such establishments providing the postal services included in the universal service.

- reduction in opening hours affecting 57 post offices;
- extension of opening hours affecting 3 post offices.

In 2011, a reduction of 11.6 percent was reported in the total number of postal establishments (see Graph 23), compared to 2010, breaking the upward trend observed since 2008. This decline is reported in terms of both post offices and postal agencies.

**Graph 23. Number of postal establishments**

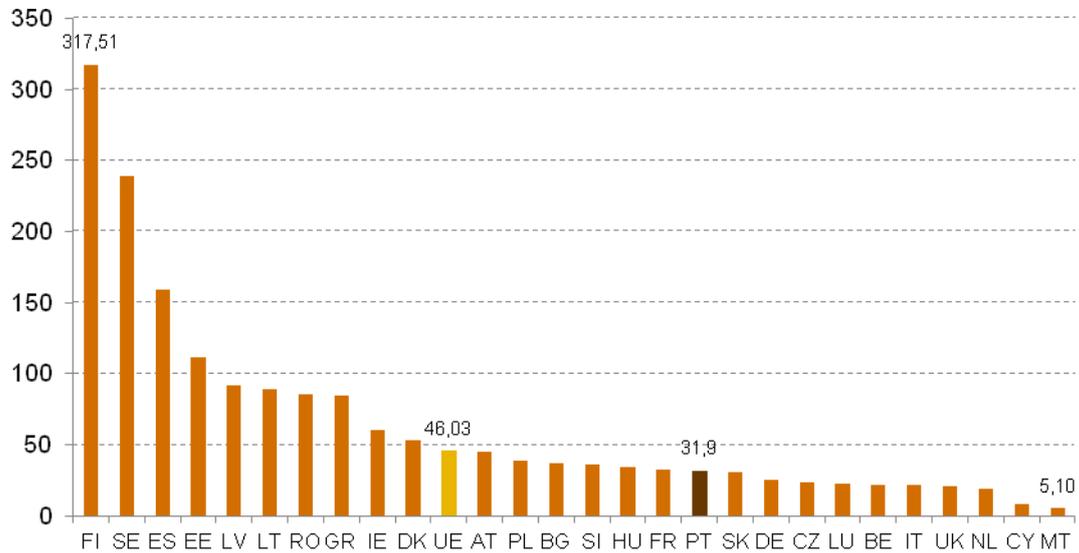


Unit: postal establishments

Source: CTT. Values at the end of each year.

Based on available data on the networks of permanent postal establishments belonging to the universal service providers in EU Member States, with reference to 2010, it can be concluded that the situation in Portugal compares favourably with the EU average (excluding Portugal), both in terms of postal coverage (see graph 24) and in terms of density index (see graph 25).

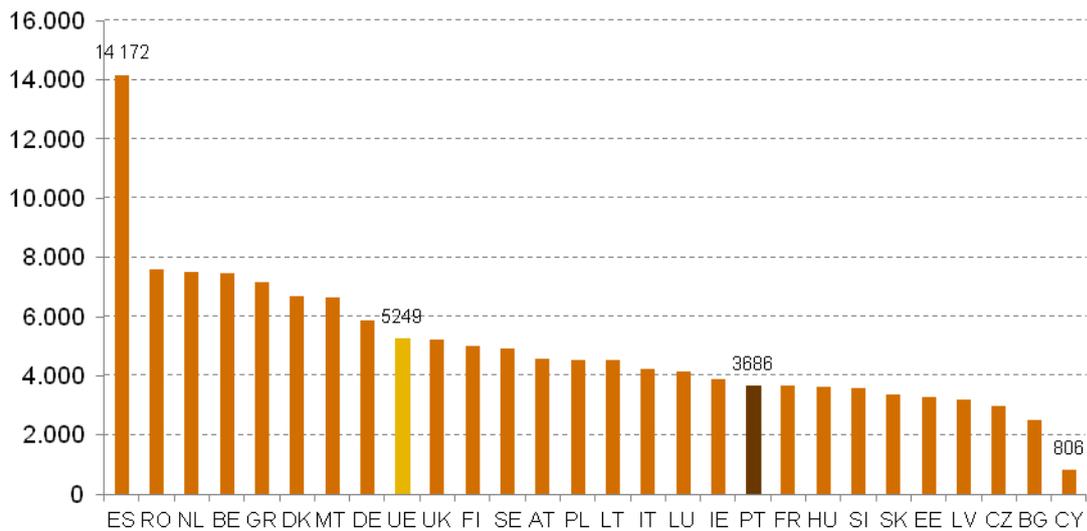
**Graph 24. Coverage of permanent postal establishments in the Member States of the EU in 2010 (km<sup>2</sup> per postal establishment)**



Note: Where 2010 data was unavailable, most recent available UPU data was used (ES - 2008; LV - 2008; BE - 2005). EU average excludes PT.

Unit: postal establishments.  
Source: UPU.

**Graph 25. Density of postal establishments in EU Member States in 2010 (population per postal establishment)**

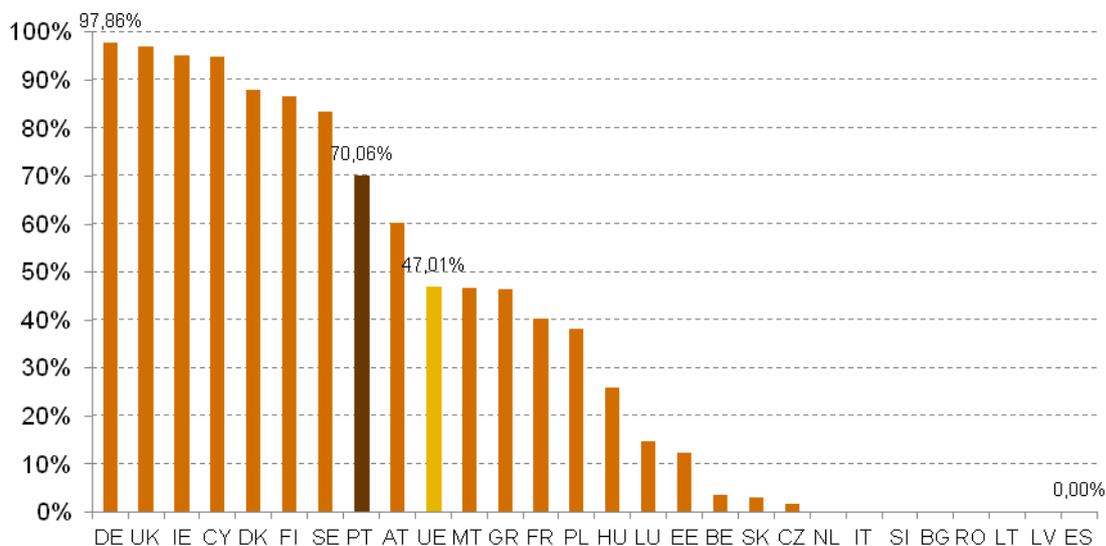


Note: Where 2010 data was unavailable, most recent available UPU data was used (ES - 2008; LV - 2008; BE - 2005). EU average excludes PT.

Unit: postal establishments.  
Source: UPU.

In Portugal, about 70 percent of permanent postal establishments are managed by third parties; according to 2010 data from the UPU, this value is lower than the value reported in Sweden (82 percent), Denmark (87 percent), Finland (87 percent), Cyprus (95 percent), Ireland (95 percent), United Kingdom (97 percent) and Germany (97 percent) – see Graph 26.

**Graph 26. Relative importance of permanent postal establishments managed by third parties (2010)**



Note: Where 2010 data was unavailable, most recent available UPU data was used (ES - 2008; LV - 2008; BE - 2005). EU average excludes PT.

Unit: percentage.

Source: UPU

### 4.3. Number portability and pre-selection

#### 4.3.1. Amendment of Regulamento da Portabilidade (Portability Regulation)

By determination of 27 October 2011, approval was given to a draft regulation amending the *Regulamento da Portabilidade* (Portability Regulation – Regulation no. 58/2005 of August 18, as amended by Regulation no. 87/2009 of 18 February and by Regulation no 302/2009 of 16 July).

The entry into force of Law no. 51/2011 of 13 September made it imperative to proceed with the immediate amendment of the portability regulation, achieving compliance with the provisions of paragraph 3 of article 54 of this Law, which stipulates that the transfer of the number to the new company must be fully completed within a period not exceeding one working day when the subscriber concludes an agreement to conduct this transfer.

Considering the problems existing with regard to portability in mobile services, owing to the high number of rejections associated with SIM card numbers, ICP-ANACOM saw fit to include an amendment in the Regulation in respect of the obligation to send electronic portability requests referring to mobile numbers with the number of this card, when there is another element providing identification of the subscriber requesting portability as may allow verification and validation by the provider; this measure is considered as beneficial to subscribers, in addition to corresponding to a repeatedly manifested general consensus among operators. In this respect, the SIM card number need only be sent in the case of portability of unidentified pre-paid subscribers.

It was also made mandatory for mobile operators to make detailed information available on their websites on how to correctly read the SIM card numbers to be sent with electronic portability requests.

This draft regulation was submitted to the regulatory procedure laid down in the Statutes of ANACOM and also to the general consultation procedure set out in the LCE, with a period provided of 30 working days. As such, the deadline for the receipt of comments was 14 December 2011.

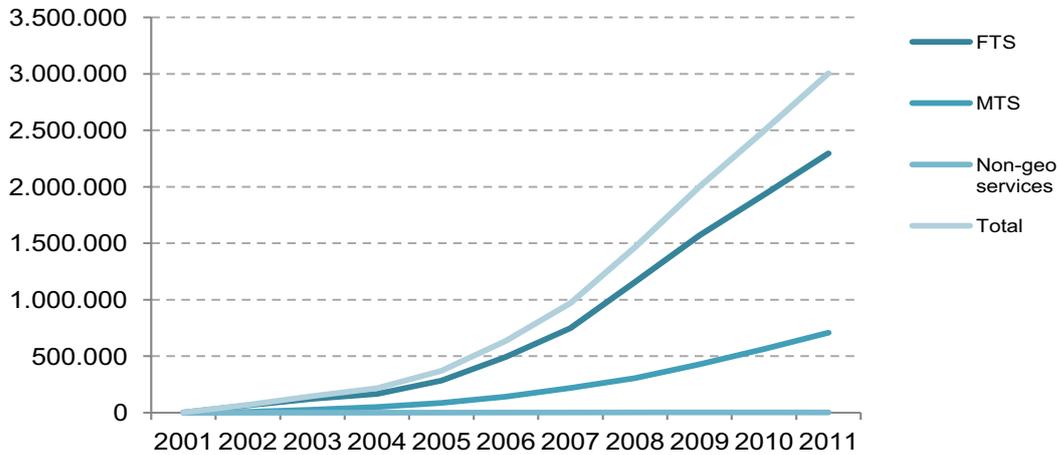
The Regulation was published on 13 March 2012 and the technical specification implementing the respective amendments was approved on 30 April. The changes are effective as from 13 September, six months following the Regulation's publication.

#### **4.3.2. Trend in ported numbers**

From the introduction of portability (in 2001) up to 31 December 2011, 3,005,046 telephone numbers have been ported (2,295,963 geographic numbers, 706,848 mobile numbers and 2,235 other non-geographic numbers, the latter including 49 numbers ported in the "30" numbering range associated with the nomadic VoIP service).

The graph below shows the growth rate reported in ported numbers for geographic numbers and mobile numbers, with an uptick in growth seen since 2004.

**Graph 27. Evolution reported in volume of ported numbers**



Unit: ported numbers.

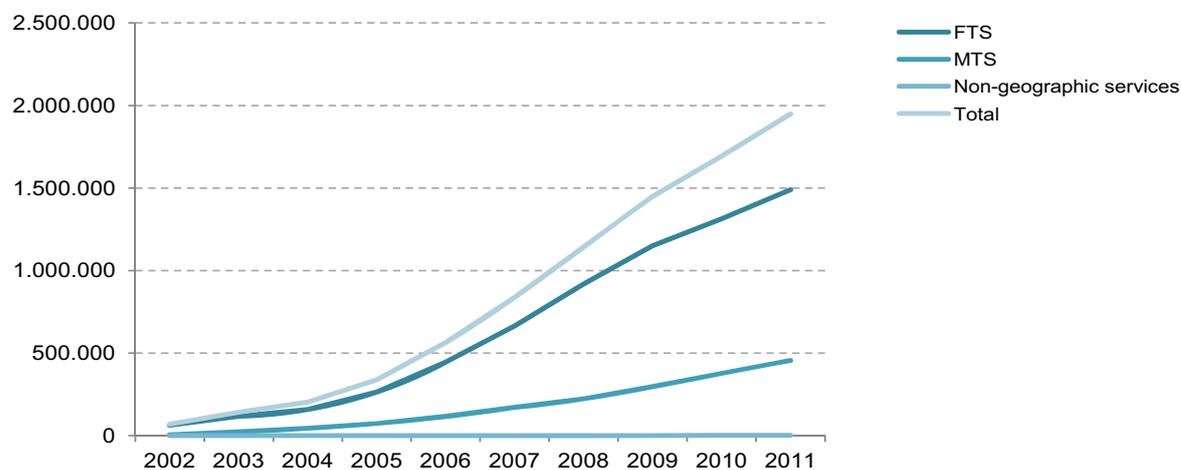
Source: ICP-ANACOM.

From 2010 to 2011, the rate of growth reported for mobile number portability (25.3 percent) exceeded the rate of growth reported for portability of geographic numbers (19 percent) but, in absolute terms, portability in the mobile service substantially lags the rate reported for the FTS.

Evolution in terms of actual numbers ported (which depicts the number of numbers that are ported at any given time) is also shown, according to data recorded in the Reference Entity's database. The values are lower than those recorded in the previous graph, since portability can be performed multiple times on the same number, where one client changes providers multiple times, including a return to their original provider.

As such, and as illustrated in the chart below, on 31 December 2011 there were 1,947,705 ported telephone numbers; this figure includes 1,489,515 geographic numbers (FTS), 456,387 mobile numbers (MTS) and 1,803 other non-geographic numbers – this last category includes 46 ported numbers from the "30" numbering range.

**Graph 28. Evolution reported in actual volume of ported numbers in the database**



Unit: ported numbers.

Source: ICP-ANACOM.

The proportion of total numbers allocated in respect of the FTS and MTS which were ported and the proportion of FTS customers with ported numbers can be seen in the following tables:

**Table 12. Proportion of numbers assigned to FTS customers, which are ported**

	End of 1st half of 2011	End of 2nd half of 2011
I. Total	18.43%	19.36%
II. Residential segment	20.23%	20.89%
III. Non-residential segment	16.27%	17.49%

Source: Responses from providers to the six-monthly portability questionnaire.

**Table 13. Proportion of direct access FTS customer with ported numbers<sup>24</sup>**

	End of 1st half of 2011	End of 2nd half of 2011
Proportion of direct access FTS customer with ported numbers	15.89%	16.39%

Source: Responses from providers to the six-monthly portability questionnaire.

**Table 14. Proportion of numbers, associated with mobile stations/MTS user equipment, which are ported<sup>25</sup>**

	End of 1st half of 2011	End of 2nd half of 2011
I. Total	2.84%	3.05%
II. Residential segment	1.62%	1.78%
III. Non-residential segment	8.22%	8.74%

Source: Responses from providers to the six-monthly portability questionnaire.

#### 4.3.3. Evolution in portability deadlines between operators

The entry into force of the new *Regulamento da Portabilidade* (Portability Regulation) in 2009 had an immediate effect on reducing delays in porting numbers, as can be seen in the graphs below.

<sup>24</sup> Only numbers assigned to end-customers of FTS providers themselves were considered, and so numbers assigned to end-customers of other providers of electronic communications services using the numbering of the FTS providers were not considered.

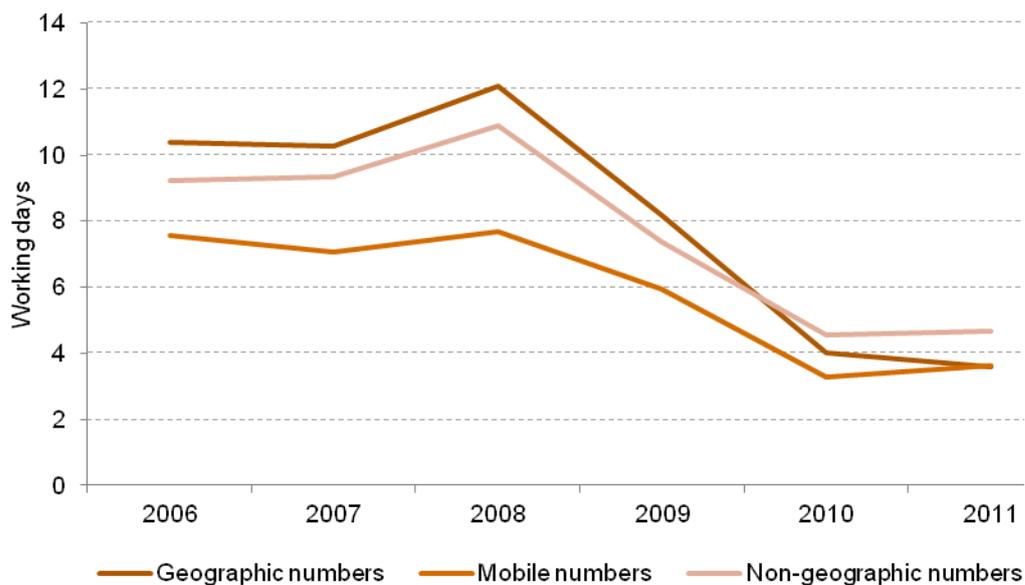
<sup>25</sup> Active mobile stations/user equipment is considered as mobile stations/user equipment which, at the end of the period under consideration is eligible to make use of one of the services available on mobile networks (i.e., it is eligible to make or receive voice calls or messages or to access a data transmission service), without necessarily being used. However, the numbers associated with the following categories were not considered:

- mobile stations/user equipment associated with specific situations (operator tests, pre-active stations at agents/distributors, offer plans with minimum balance where no contractual relationship is yet formalized following balance top-up or subscriber contract)
- mobile stations/user equipment exclusively supporting MBB service.

Although, in terms of electronic processes there is no differentiation in the established deadlines by type of number, following the entry of the new Regulation, a more significant reduction was reported in the timings associated with mobile number portability, due in particular to the imposition of a limit of three working days to fulfil the end-user's request, with compensation payable to the customer per day of delay. However in 2011, FTS portability timings came into line with the values reported for the MTS, with a slightly lower average value.

Making comparisons on European terms, in the fourth quarter of 2011, both FTS and MTS portability timings in Portugal were below the European average reported in 15th Implementation Report, which was given as 3.57 days and 3.63 days, respectively.

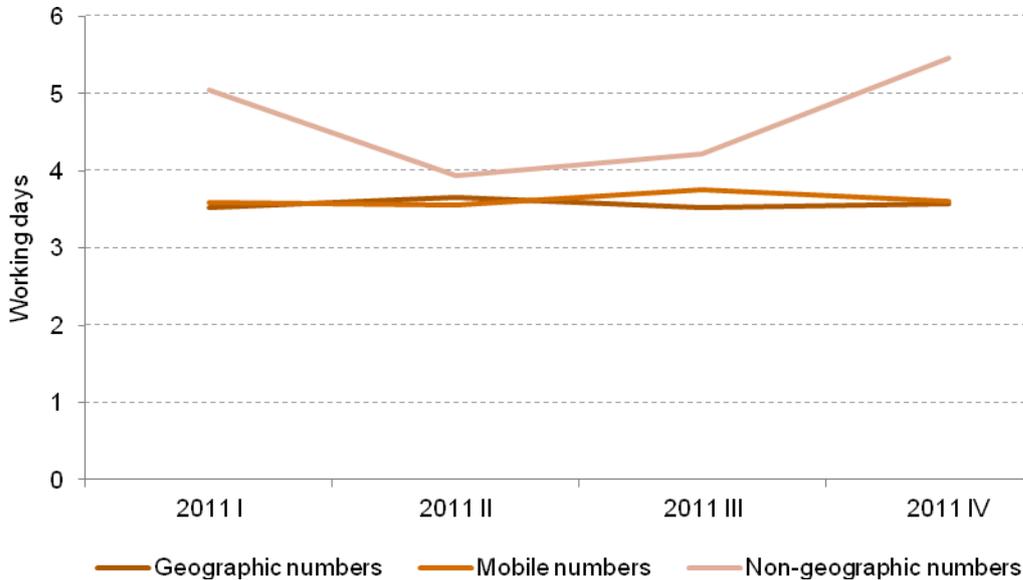
**Graph 29. Evolution in number portability deadlines**



Unit: working days.

Source: ICP-ANACOM.

**Graph 30. Evolution in number portability deadlines over course of 2011**



Unit: working days

Source: ICP-ANACOM.

#### **4.3.4. Evolution in portability prices**

ICP-ANACOM compiled information from companies providing the MTS, including virtual mobile network operators (MVNO), from companies providing the FTS and providers of nomadic use VoIP services on the prices charged to subscribers for the operation of portability (retail prices) and the prices charged to recipient providers (wholesale prices).

According to the information collected and disclosed on ICP-ANACOM's website, in the case of retail prices charged as at the end of the first half of 2011, it was found that MTS portability was provided free of charge. In terms of the FTS, it was found that ten out of the fifteen providers of the service do not charge any price to new customers who choose to keep their number. The remaining FTS providers charge prices that vary depending on the tariff plan or the market segment targeted, with a minimum value reported of 4.59 euros and a maximum value of 40.54 euros (excluding VAT). With respect to the nomadic VoIP service, it was found that portability is provided free of charge by six of the ten providers of this service, while the other three charge between 4.59 euros and 15 euros (excluding VAT). Compared to the prices charged at the end of 2010, it is reported that one provider no longer charges fees for portability in the mobile service. As regards the

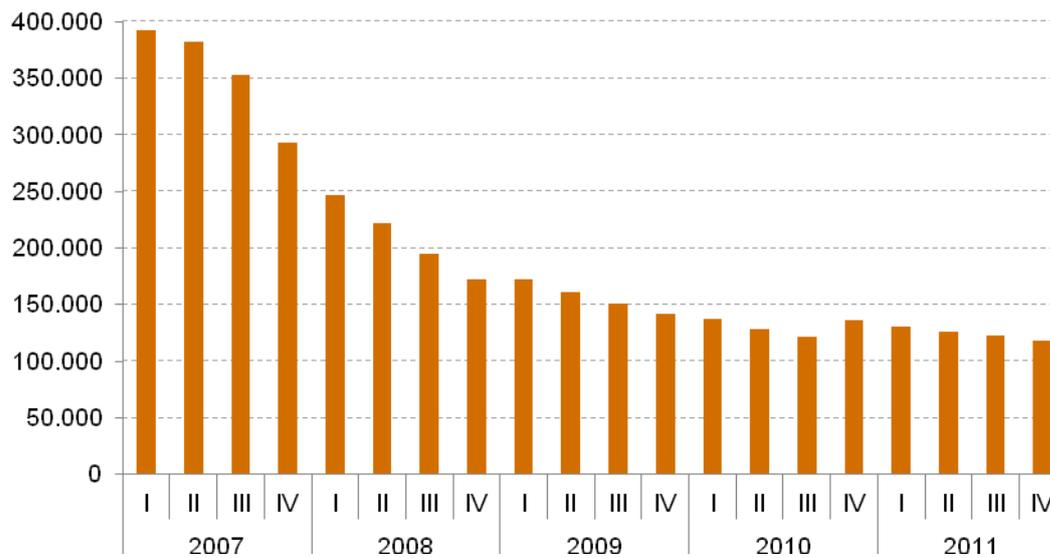
FTS, it is noteworthy that the operator with the highest price for portability operations has increased the price from 39.67 euros to 40.54 euros (excluding VAT).

In information compiled on wholesale prices, with reference to the first half of 2011, providers reported values in line with those defined in the RIO, complying therefore with the limits laid down in the *Regulamento da Portabilidade* (Portability Regulation).

#### 4.3.5. Pre-selection

Through 2011, the number of indirect access customers using pre-selection continued the significant decline seen in recent years, with a decrease of 13 percent reported over the end of 2010 (see graph 31).

**Graph 31. Evolution in the number of indirect access customers using pre-selection**



Unit: number of customers.

Source: ICP-ANACOM.

This trend reflects the options taken by operators/service providers of electronic communications which have increasingly focused on alternatives that involve direct access (either by investing in their own networks, or, albeit to a lesser extent, via local loop unbundling) rather than indirect access.

#### **4.4. International roaming**

In 2011, a reduction was made to the wholesale and retail prices associated with the international roaming service, as determined by Regulation (EC) no. 544/2009 of the Parliament and of the Council of 18 June 2009, which amends Regulation (EC) No 717/2007.

In this context, on 1 July 2011, reductions were made to the tariff caps established in the context of intra-EU/EEA<sup>26</sup> roaming voice communications, with the caps differing depending on whether applicable to the Eurotariff (retail level) or at wholesale level.

Therefore, the maximum value of the Eurotariff (Eurotariff Voice) payable by customers in the EU/EEA (excluding VAT) for mobile voice communications made using intra-EU/EEA roaming fell from 0.39 euros/minute (calls made) and 0.15 euros/minute (calls received) to 0.35 euros and 0.11 euros per minute respectively. As seen in the previous year, the Eurotariff continued to be billed per second, in the case of calls made, with application of an initial billing period not exceeding 30 seconds. Meanwhile, the maximum average wholesale price applied by each operator was reduced from 0.22 euros to 0.18 euros.

The caps set in 2009 for the retail prices of SMS messages originating and terminating in the EU (Euro-SMS tariff) and for the average wholesale price (0.11 euros and 0.04 euros respectively – excluding VAT) were maintained.

In addition, the average wholesale tariff for data communication services with packet switching used in roaming intra-EU/EEA was reduced from 0.80 euros to 0.50 euros per megabyte downloaded, with no tariff cap applicable at retail level.

It is noted that mobile operators in Portugal have been in compliance with the maximum values stipulated in the Regulations, and in some segments, have also made additional tariffs available to customers beyond those corresponding to these maximum prices.

Under the terms of the Regulation, ICP-ANACOM has conducted various activities related to its implementation in the national territory, including, in particular, cooperation with other NRA in the context of BEREC's International Roaming Project Team in various related activities, including the preparation of questionnaires, compilation and processing of information relating to national operators, and analysis of issues related to the interpretation of the Regulation.

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<sup>26</sup> EU member countries and also Iceland, Norway and Liechtenstein (European Economic Area- EEA).

On 6 July 2011, the EC adopted a proposal to rework the Regulation of the European Parliament and of the Council on roaming on public mobile communications networks in the EU (doc. 12639/11). The proposal presented by the EC sets out structural measures, which, according to the EC, are aimed at achieving a long-term solution to address the lack of competition and introduce consumer choice. As such, the EC is seeking to ensure that the market is opened up to different types of suppliers (thereby increasing the range of roaming offers) and also to better inform consumers about the prices of roaming and broaden their choices, also allowing them to subscribe to the roaming service as a stand-alone service. ICP-ANACOM has also been monitoring this issue, and in 2011 produced comments on the proposal presented by the EC at a national level and also through its participation in BEREC's International Roaming Project Team.

#### **4.5. Analysed retail offers**

In respect of the obligations to which the companies of Grupo PT are subject in narrowband retail markets, as undertakings with SMP in these markets, ICP-ANACOM continued regular oversight to ensure that the retail offers of the FTS remain compliant with the obligations applicable in terms of transparency, non discrimination and cost orientation of prices.

Following the alteration to the base tariff of the telephone service at a fixed location within the scope of the Universal Service, on 18 November 2011, PTC presented a proposal to ICP-ANACOM for the tariff applying to communications to direct customers of other service providers (PTC-OSP), which is due to enter into force on 1 January 2012 (inter-network tariff).

The presented proposal comprises two separate tariffs (one applying to operators whose average termination prices are close to the average price of termination on PT's networks – tariff Group 1, and a second tariff applying to the remaining operators – tariff Group 2. The proposal was made subject to analysis, and, as a result of this analysis, ICP-ANACOM was able to conclude that it was in compliance with the regulatory principles in force, particularly with regard to the obligations to which PTC was made subject under determination of 14 December 2004. ICP-ANACOM's decision of 24 November 2011 noted in particular that, since it was identical to the tariff charged by PTC for intra-network calls, the proposal for tariff Group 1 was in compliance with applicable obligations. Regarding tariff Group 2, it was found that the average price per call resulting

from the PTC proposal did not present deviations from the price as would result from the application of the defined rule, and was even slightly lower.

PTC's proposal is based on an increase in the price of communications during peak hours for tariff Group 2, from 0.0351 to 0.0371 euros per minute, representing a one-off increase of around 5.7 percent. With respect to tariff Group 1, an alteration was proposed, equating it to the base residential tariff applicable in 2012. This alteration is based on an increase in the price of communications during peak hours from 0.0258 to 0.0277 euros per minute, representing a one-off increase of around 5.0 percent. The price proposal presented by PTC is detailed in the following tables.

**Table 15. PTC-OSP tariff proposal presented by PTC (tariff Group 1)**

Tariff Group 1												
	Initial price (euros)				Time credit (minutes)				Price per minute (euros)			
	Working days	Working days	Week-ends	Week-ends	Working days	Working days	Week-ends	Week-ends	Working days	Working days	Week-ends	Week-ends
	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am
Local	0.0700	0.0700	0.0700	0.0700	1	1	1	1	0.0277	0.0084	0.0084	0.0084
National	0.0700	0.0700	0.0700	0.0700	1	1	1	1	0.0277	0.0084	0.0084	0.0084

Source: PTC. Values excluding VAT.

**Table 16. PTC-OSP tariff proposal presented by PTC (tariff Group 2)**

Tariff Group 2												
	Initial price (euros)				Time credit (minutes)				Price per minute (euros)			
	Working days	Working days	Week-ends	Week-ends	Working days	Working days	Week-ends	Week-ends	Working days	Working days	Week-ends	Week-ends
	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am	9am-9pm	9pm-9am
Local	0.0700	0.0700	0.0700	0.0700	1	1	1	1	0.0371	0.0100	0.0100	0.0100
National	0.0700	0.0700	0.0700	0.0700	1	1	1	1	0.0371	0.0100	0.0100	0.0100

Source: PTC. Values excluding VAT.

The proposal submitted by PTC was analyzed based on the methodology defined in the determination of 14 December 2004 on the imposition of obligations in the narrowband retail markets, which is currently based on the valuation of the components:

- (i) price of termination on the PTC network;
- (ii) Price of termination on OSP networks; and
- (iii) PTC intra-network retail price;

according to the following rule:

$\text{PTC-OSP retail price} = \text{PTC-PTC retail price} - \text{OSP termination price} - \text{PTC termination price}$
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with each component of the indicated calculation referring to the average price, per call, in terms of overall PTC-OSP traffic.

#### **4.6. Object and form of disclosure of conditions of provision and use of electronic communications services**

By determination of 10 October 2011, following conclusion of the general consultation procedure, ICP-ANACOM approved a final decision amending its determination of 21 April 2006 on the object and form of disclosure of conditions of provision and use of electronic communications services.

Companies offering electronic communication networks and services which provide publicly available electronic communication services were ordered to implement the approved alterations within a period of 120 working days following notification of the present determination.

The changes made over the determination of 21 April 2006 result from experience gained in monitoring compliance with this determination and seek, above all, to adapt the obligations established in respect of the public disclosure of conditions of provision and use of electronic communication services to the current characteristics of these offers. This will guarantee more effective and transparent information on these offers and ensure that the rights and interests of end-users and, in particular, consumers remain protected.

The new determination also seeks to ensure that information on the different items and conditions of supply can be found more easily on the websites of the different companies and is less dispersed, while also providing that this same information is given greater visibility at the providers' points of sale.

#### **4.7. Communication security**

Within the framework of communications security, 2011 was marked by publication of amendments to the LCE, transposing the amendments made to the European regulatory framework for electronic communications into national legislation, particularly as regards the security and integrity of networks and services.

Meanwhile, transposition of amendments referring to privacy protection and personal data protection in networks and electronic communications services remains pending.

Important actions on communications security were developed as contained in the European critical information infrastructure protection plan, the second version of which was published in 2011 through EC Communication COM (2011) 163 final, entitled "Achievements and next steps: towards global cyber-security". ICP-ANACOM participated actively in this plan, as further described below.

##### **4.7.1. Implementation of amendments to the regulatory framework**

Amendments to the framework have brought about new realities for the sector as regards the security of communications, such as the establishment of technical and organizational measures, notification of security breaches or loss of integrity with significant impact on the functioning of networks and services, and the performance of security audits. The law also sets out other obligations, including the establishment of contact points, the conduct of exercises, the development of security plans and presentation of annual reports, as well as new subscriber reporting obligations, minimum content to be included in contracts to be signed and access to emergency services.

The new law also establishes a set of standards for the sector in terms of security and emergency issues, including: on critical infrastructure, company measures and procedures on safeguarding reserve capacity for emergency communications of public interest and on network congestion in emergency situations, the response system for information security incidents, and electronic communications resources which are useful for civil protection.

During 2011, ICP-ANACOM took part in various sector events which saw presentation and dissemination of the main amendments to the framework as regards communications security.

Meanwhile, ICP-ANACOM participated actively in work at European level, supported by the European Network and Information Security Agency (ENISA), to implement the new framework. This work was related to article 13-A of the Framework Directive in terms of the new obligations of operators and providers of electronic communications as regards the security and integrity of networks and services, and involved, in parallel, operators and service providers, through workshops to raise awareness, as provided in the strategic actions, and by obtaining commentary on the documents under preparation.

As a result of this work, in late 2011, ENISA published two documents: "Technical Guidelines for Reporting Security Breaches" and "Technical Guidelines for Minimum Security Measures".

Following publication of these documents, two lines of action were developed. The first is related to making undertakings subject to obligations as regards notification of security breaches and losses of integrity with significant impact and respective public disclosure, with the respective draft decision submitted to public consultation towards the end of 2011. The second, related to the technical and organizational measures to be adopted by companies, seeks to conduct an initial assessment of the national situation based on the measures set out in the ENISA document.

Subsequently, it will be important to give substance to the provisions of article 13-B of the Framework Directive, in particular with respect to the performance of audits.

As mentioned above, the European regulatory framework's privacy and personal data protection amendments have yet to be transposed into national legislation. As a result, launch of the planned impact study in 2011 was delayed, since it was not considered fitting to proceed until after the publication of new legislation, whereby the opportunity was taken to develop preparation work.

#### **4.7.2. Single European emergency number – 112**

The restructuring of 112 call centres within a new infrastructure (112.pt) is not complete; this leads to the existence of a non-homogeneous scenario in the handling of emergency calls.

As in previous years, the answers to the EC's 5th questionnaire on the implementation of 112 in Portugal were prepared in conjunction with MAI, and ICP-ANACOM participated in the work of Expert Group on Emergency Access (EGEA).

As regards ascertaining the location of persons making 112 emergency calls, the new European framework stipulates that, in conjunction with European standards bodies, national regulators should define criteria of information accuracy and reliability in terms of location data provided by operators. In the national case, the E112 Regulation already governs this matter, while remaining subject to review with a view to its improvement.

A European goal is to put a harmonised and interoperable pan-European service into operation from 2015, responding to 112 emergency calls made manually or automatically from motor vehicles – "eCall service". After this date, this new functionality must be incorporated in all new vehicles. Nationally, a platform was created for eCall implementation in Portugal, coordinated by MAI and including ICP-ANACOM, which also participated in the works of the respective European platform.

#### **4.7.3. Articulation with civil protection**

ICP-ANACOM's development of actions in respect of civil protection is governed by the legal framework set out in the LCE, particularly following its republication by Law no. 51/2011 of 13 September, in the security and emergency context (article 2A) with maintenance of the protocol concluded previously with ANPC.

In the future, and given that under the framework laws of the MAI and MEE respectively, ANPC and ICP-ANACOM are conferred functions and duties of civil emergency planning, it is now expected that a set of actions will be undertaken to coordinate these two entities.

The following actions were developed over the course of 2011, including some listed in the management plan:

- ANPC initiated a review of its *Plano Nacional de Emergência de Proteção Civil* (National Emergency Civil Protection Plan) – ICP-ANACOM made a contribution to this plan in a first phase and is awaiting its development in the near future;
- one component of this plan is the *Sistema Nacional de Alerta e Aviso* (National Alert and Warning System), which was the focus of particular attention by both parties, especially as regards the requirement of the system to make use of public electronic communications networks and services, particularly broadcasting and mobile networks;
- on 17 November, the PROCIV V exercise was held. Organised and coordinated by ANPC. This exercise is highlighted due to the participation of electronic

communications sector, as represented by ICP-ANACOM and by PTC and the three mobile network operators. As a result of this exercise, it was possible to identify various aspects of articulation with and coordination of the sector that should be targeted for improvement or evaluation in future exercises; these aspects are detailed in the sector report:

- identification and characterization of interdependencies between the electronic communications sector and the energy sector (electricity, fuel);
- cooperation between companies in incident detection, evaluation and response;
- formation of stable teams and easy access to decision centres;
- broadening of participation to 112 centres, SIRESP and other communications infrastructure supporting civil protection activities.

Following a tornado occurring in the municipalities of Sertã, Tomar and Ferreira do Zêzere which affected a set of communications infrastructure, an analysis was conducted in order to identify any need to improve procedures adopted by operators.

#### **4.7.4. Communications security exercises**

From 2010, in the context of critical information infrastructure protection and with the support of ENISA, the EC began a programme of regular exercises involving Member States and extending them to members of EFTA and to the USA. In 2011, ICP-ANACOM continued to participate actively in this activity.

Following publication of the final report of Cyber Europe 2010 in early 2011, a set of recommendations was highlighted: the need for Member States to develop national contingency plans and to regularly conduct national exercises, and broadening participation in the exercises to include the private sector, thereby increasing their realism.

The EuroCybex and Cyber Atlantic exercises took place in 2011. The first tested the technical procedures of cooperation and information exchange between Member States during a cyber crisis, with a view to ascertaining its causes and mitigating its impact; participation was limited to four Member States. Cyber Atlantic 2011, in which ICP-ANACOM took part as an observer, was the first exercise in which participation was extended beyond EU Member States, in this case to the United States.

Finally, preparation of the Cyber Europe 2012 exercise was begun, with agreement that it would be conducted at the beginning of October 2012. Its aims are:

- to test the effectiveness and scalability of existing mechanisms and procedures, information flows, for cooperation between competent public authorities in the event of a large-scale cyber incident;
- to explore cooperation and coordination between public authorities and businesses during a large-scale cyber incident;
- identify shortcomings and challenges as regards the effective handling of large-scale cyber security incidents in Europe.

Nationally, preparations were begun for COMPOR 2012, with a workshop scheduled to take place in early 2012 and the exercise scheduled to take place towards the end of 2012.

#### **4.7.5. ICP-ANACOM sub-register and internal security**

In 2011, after ICP-ANACOM's Communications Security Department moved to the Authority's premises in Barcarena, care was taken to provide the department with a class 1 area to archive and handle classified material. The *Gabinete Nacional de Segurança* (GNS) (Office of National Security) is expected to perform an inspection to authorize the opening of this new facility at the beginning of 2012.

Likewise, ICP-ANACOM staff training was enhanced with the *Curso Geral de Segurança de Matérias Classificadas* (General Course on Security of Classified Material). In parallel, and perhaps also as a consequence, there was an increase in the number of certified staff.

In addition, preparation was made of the structure and content of training courses on information security, planned for 2012.

#### **4.7.6. Other matters**

In addition to the above, ICP-ANACOM engaged in further cooperation with *Fundação para a Computação Científica Nacional* (FCCN) (Foundation for National Scientific Computing), with a view to developing actions to combat SPAM and botnets; these actions should be continued in 2012.

ICP-ANACOM took part in a European project of cooperation between authorities responsible for enforcement of consumer protection legislation, in relation to SPAM and e-commerce, whose actions should be developed in 2012.

## **5. 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)**

The efficient management and use of the radio spectrum is essential for ensuring the development of the various economic activities that harness this scarce resource, resulting in benefits for consumers and citizens in general.

This section of the report highlights the various aspects analyzed and given continued oversight by ICP-ANACOM in terms of spectrum management and allocation of numbering resources.

### **5.1. Management of the radio spectrum**

In terms of spectrum management, the pages that follow detail the most important developments occurring over the year.

#### **5.1.1. Multi-band auction**

The mobile sector has a significant intrinsic set of externalities likely to act as effective barriers to entry and expansion in the market. With a view to the objectives of: i) promoting open and competitive markets and ii) assuring and protecting the rights of users and citizens in general, ICP-ANACOM has always sought to address these externalities in an effective and balanced manner. One example of this is the progressive and persistent reduction in wholesale mobile termination prices, constituting in the past and present, an essential tool for achieving a reduction in barriers to entry and expansion.

In addition to the reduction in wholesale termination prices, over recent years, ICP-ANACOM has implemented a range of other measures aimed at facilitating market entry, including: i) publicizing the regulatory framework governing the activity of mobile virtual network operators (MVNO) in 2007; ii) the allocation of rights of use of frequencies in the 3400-3800 MHz band for broadband wireless access (BWA) applications, in 2008, and iii) the launch, also in 2008, of the public tender for the allocation of a right of use of frequencies in the 450-470 MHz band for the provision of the MTS. At this level, key regulatory measures were taken in the context of portability, promoting quick and easy provider switching.

However, there remains some evidence that strong barriers to entry and expansion persist in a market that has a high level of maturity<sup>27</sup>. In this respect, it is notable that, to date, entry into the market by means of MVNO operations has not been a significant success. In fact, despite the fact that tariffs have been launched with high levels of innovation and competitiveness, these operations have so far failed to significantly alter the competitive dynamics of today's mobile operators.

To change this situation and following the public consultations launched in 2008 (Rights of use in the 2.6 GHz band<sup>28</sup>), 2009 (on the Digital Dividend<sup>29</sup> and NTFA 2009-2010<sup>30</sup>) and 2010 (Assignment of 790-862 MHz spectrum for electronic communication services<sup>31</sup>) and in view of the subsequent developments in this area, particularly at EU level (with the approval of Decisions 2008/477/EC<sup>32</sup>, 2009/766/ EC<sup>33</sup>, 2010/267/EU<sup>34</sup>), by determination of 17 March 2011 of its Management Board, ICP-ANACOM opened two public consultations on:

- the draft decision on limiting the number of rights of use of frequencies to be allocated in the 450 MHz, 800 MHz, 900 MHz, 1800 MHz, 2.1 GHz and 2.6 GHz bands and the definition of the respective allocation procedure; and
- the draft Auction Regulation for the allocation of rights of use of frequencies in the 450 MHz, 800 MHz, 900 MHz, 1800 MHz, 2.1 GHz and 2.6 GHz bands.

Taking into account the number, merits and complexity of the contributions received under the consultation procedure to which the first draft was submitted, and taking into account the provisions of paragraph 5.17 of the Memorandum of Understanding agreed between the Portuguese Government and the EU, the International Monetary Fund and European

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<sup>27</sup> In this respect, it should be noted that the three operators have their own networks with national coverage, and the market has a penetration rate that has exceeded 100 SIM cards per 100 inhabitants for more than six years.

<sup>28</sup> See <http://www.anacom.pt/render.jsp?contentId=776018&languageId=1>

<sup>29</sup> See <http://www.anacom.pt/render.jsp?contentId=894321&languageId=1>

<sup>30</sup> See <http://www.anacom.pt/render.jsp?contentId=1001855&languageId=1>

<sup>31</sup> See <http://www.anacom.pt/render.jsp?contentId=1064178&languageId=1>

<sup>32</sup> Commission Decision 2008/477/EC of 13 June 2008, on the harmonisation of the 2500-2690 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community.

<sup>33</sup> Decision 2009/766/ EC on the harmonisation of the 900 MHz and 1 800 MHz frequency bands for terrestrial systems capable of providing pan-European electronic communications services in the Community, following approval of Directive 2009/114/EC of the EP and of the Council of 16 September 2009 amending Council Directive 87/372/EEC on the frequency bands to be reserved for the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community.

<sup>34</sup> Commission Decision 2010/267/EU of 6 May 2010 on harmonised technical conditions of use in the 790-862 MHz frequency band for terrestrial systems capable of providing electronic communications services in the European Union.

Central Bank, which called for an increase in contestability levels and facilitation of market entry, significant changes were made. In particular, these changes referred to the auction model and the amount of spectrum to be made available, as well as referring to the obligations to be imposed, especially as designed to give impetus to the entry of new operators. As such, ICP-ANACOM took the view that there were grounds to prepare a new, separate draft.

Accordingly, by determination of 13 July 2011, ICP-ANACOM approved a new draft Auction Regulation for the allocation of rights of use of frequencies in the 450 MHz, 800 MHz, 900 MHz, 1800 MHz, 2.1 GHz and 2.6 GHz bands<sup>35</sup>, submitted to public consultation, pursuant to article 11 of its Statutes. The final version of this Regulation and the report of the respective regulatory consultation procedure were approved by ICP-ANACOM determination on 17 October 2011<sup>36</sup> and the Regulation was published in the *Diário da República* (Official Journal) on 19 October 2010 (Regulation no. 560-A/2011).

Having entered into force on 20 October, the Auction Regulation lays down the rules under which ICP-ANACOM sought to ensure, firstly, strong and balanced competition among the providers that currently provide mobile services, and secondly, the possibility of market entry by new companies. Taken together, the measures were structured to enable the entry of undertakings with diverse business models, based to a greater or lesser degree on their own access infrastructure and ensuring that all of these undertakings are able to benefit from a proper level playing field in providing services to the general public.

In particular, these measures included:

1. Imposition of the following limits on the amount of spectrum (spectrum caps) that each entity is able to obtain in the auction:
  - 2 x 10 MHz in the 800 MHz band;
  - 2 x 5 MHz in the 900 MHz band, applicable only to undertakings that already possess rights in this band;
  - 2 x 20 MHz in 1800 MHz band, including spectrum already held in this band;
  - 2 x 20 in the 2.6 GHz band (only applicable to shared spectrum).

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<sup>35</sup> See <http://www.anacom.pt/render.jsp?contentId=1091898>

<sup>36</sup> See <http://www.anacom.pt/render.jsp?contentId=1101632&languageId=1>

2. Imposition of an additional limit, deferred in time, whereby undertakings in possession of quantities of radio spectrum exceeding a limit of 2 x 20 MHz in the 800 MHz and 900 MHz bands following the auction would, after 30 June 2015, undertake to proceed with the sale of spectrum exceeding this limit to a third party or, failing this, return this spectrum to ICP-ANACOM.
3. Concession of a discount of 25 percent on the price of lots won in the 900 MHz band, applicable exclusively to entities which have no spectrum in this band.
4. Imposition of access network obligations, whereby, following the auction, entities holding 2 x 10 MHz in the 800 MHz band or at least 2 x 10 MHz in the 900 MHz band (including spectrum already held prior to auction) undertake to negotiate agreements in good faith and, under conditions of non-discrimination, to permit access to their networks (and, additionally, agreements on infrastructure access and sharing). These agreements may be national roaming agreements (which in turn may be taken on by operators who have rights of use of frequencies above 1 GHz) or for the use of mobile virtual network operations (MVNO).

In view of the objectives of promoting the information society and combating the digital divide, each lot in the 800 MHz frequency band was also made subject to a coverage obligation comprising a maximum of 80 parishes that have coverage levels considered manifestly insufficient for providing end-users with proper access to MBB services. Coverage obligations must be fulfilled in at least 50 percent and 100 percent of parishes within maximum terms of six months and one year respectively from the end of restrictions on the operation of the 800 MHz band.

Given the results of the auction, it is noted that the obligations referenced in point four will apply to the set of three winning operators (TMN, Vodafone and Optimus as regards the 800 MHz band and Vodafone as regards the 900 MHz band). Additionally Vodafone will release spectrum to the market after 30 June 2015. Finally, each of these operators will be required to cover a third of all parishes referred to above (a maximum of 160 parishes each).

Furthermore, with regard to network access obligations and under the Auction Regulation, ICP-ANACOM defined a set of measures that will enable it to conduct close oversight of the negotiation processes, strengthening its capacity to act and take decisions on any dispute arising between the parties. In addition and notwithstanding any other applicable sanction mechanisms, where a holder of any rights of use fails to comply with the

obligations to which it is bound, ICP-ANACOM may impose a mandatory financial penalty, in accordance with the law, following the decision ruling on compliance with the obligation imposed on the holder.

Finally, and in the context of the EU and national regulatory framework, ICP-ANACOM has undertaken to conduct an assessment of the electronic communications market within two years of the auction's conclusion, to gauge the existence of any competition distortions and ascertain whether measures are required to address them, in the context of its spectrum management responsibilities. The necessity of conducting this market assessment was included in the MoU itself.

By determination of 6 January 2012, ICP-ANACOM approved the final report of the auction for the allocation of rights of use of frequencies in the 450 MHz, 800 MHz, 900 MHz, 1800 MHz, 2.1 GHz and 2, 6 GHz bands (multi-band auction). Under the terms of the report, various spectrum allocations were made to Optimus, Vodafone and TMN

The multi-band auction attained a final amount of 372 million euros from the winning bidders as follows: 113 million euros (Optimus), 113 million euros (TMN) and 146 million euros (Vodafone).

### **5.1.2. National Table of Frequency Allocations (NTFA)**

With a view to the publication of the 2010/2011 NTFA, a review was made of data contained in the current version and the allocation tables updated to include new ECC and EC Decisions, with an update of the spectrum available in the context of electronic communications services/radiocommunications applications and an update of license-exempt equipment.

There were also developments, in this regard, on the frequency information website (e-NTFA), which was in the final stage of implementation; with this website, it is possible to consult and search information interactively, in the context of frequency planning, allocations and national spectrum use.

### **5.1.3. Digital dividend**

Given the availability of the 790-862 MHz sub-band for the provision of electronic communications services in the context of the multi-band auction, alterations were made to the radio channels in this sub-band and assigned to PTC on the DTT network

associated with MUX A; these alterations were implemented by ICP-ANACOM determinations of 9 March and 4 April 2011.

Following the public consultation launched by ICP-ANACOM at the end of 2010, ICP-ANACOM decided to assign the 790-862 MHz sub-band and make it available for the provision of electronic communications.

This decision allowed release of the 800 MHz sub-band (790-862 MHz) for electronic communications services, driving, in particular, the emergence of new services and innovative solutions at better prices, with the inherent development of the Information Society.

With the objective of efficient spectrum management and of harmonising the conditions of use of the sub-band in question throughout Europe, by ICP-ANACOM determinations of 9 March and 4 April 2011 and for reasons of public interest, changes were made to the radio channels which belonged to the 790-862 MHz sub-band and which were assigned to PTC on the DTT network associated with MUX A.

#### **5.1.4. Introduction of mobile satellite services in the 2 GHz (2 GHz MSS) band.**

A procedure was initiated to select and authorise operators of 2 GHz MSS systems at EU level, following approval of EC Decision 2007/98/EC<sup>37</sup> of 14 February 2007 on the harmonised use of radio spectrum in the 2 GHz frequency bands for the implementation of systems providing mobile satellite services. This has basis in CEPT Decision ECC DEC/(06)09<sup>38</sup>, in conjunction with ECC REPORT 013<sup>38</sup>.

The legal framework for this process was established by Decision no. 626/2008/EC<sup>39</sup> of the Parliament and of the Council on the selection and authorization of systems providing mobile satellite services (MSS). In accordance with the provisions of this Decision, an EU procedure was created for the selection of 2GHz MSS operators (comparative selection procedure) and common obligations laid down. However, authorisation of the selected operators at national level remains incumbent upon each Member State.

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<sup>37</sup> <http://www.anacom.pt/render.jsp?contentId=987537&languageId=1>

<sup>38</sup> See [www.ero.dk](http://www.ero.dk)

<sup>39</sup> Available at: [http://eurlex.europa.eu/Result.do?T1=V4&T2=2008&T3=626&RechType=RECH\\_naturel&Submit=Pesquisar](http://eurlex.europa.eu/Result.do?T1=V4&T2=2008&T3=626&RechType=RECH_naturel&Submit=Pesquisar)

Accordingly and having regard to Decision no. 626/2008/EC, as referred to above, and also to Decision no. 449/2009/EC, which details the results of the selection process, by determination of 5 May 2011, ICP-ANACOM adopted the draft decision on the definition of the authorization regime governing 2 GHz MSS systems in the national territory operated by the selected candidates. This draft decision was submitted to the public consultation procedure pursuant to article 8 of Law 5/2004 (LCE) of 10 February, which was extended for a period of five days, by determination of the Management Board of ICP-ANACOM of 2 June 2011, and received three contributions.

By determination of the Management Board of ICP-ANACOM of 10 November 2011, approval was given to the report of the public consultation procedure and to the decision on the authorization regime governing MSS systems in the 2 GHz band.<sup>40</sup> Under this regime, provision of MSS systems in the national territory in the 1980-2010 MHz and 2170-2200 MHz bands is subject to the allocation of a right of use by ICP-ANACOM, covering both the satellite component and the terrestrial component, and also remains subject to other conditions resulting from the EU selection procedure and resulting from the LCE.

#### **5.1.5. Fixed wireless access (FWA) – Decision to amend the right of use of frequencies for operation of the fixed wireless access system**

Onitelecom – Infocomunicações, S.A. (Oni) is holder of Right of Use of Frequencies ICP-ANACOM no. 6/2006, issued on 23 November 2006, which permits use of a block of 2x56MHz, corresponding to the 24.549 GHz - 24.605 GHz and 25.557 GHz - 25.613 GHz frequencies for FWA systems in geographical areas 1, 2 and 9, as defined in Administrative Rule no. 1062/2004 of 24 August.

By letter of 29 December 2010, Oni requested that ICP-ANACOM give approval to the phased deactivation of its FWA network, citing the non-maintenance of the products and the abandonment of their lines by manufacturers. Oni claimed that the absence of a standard on the band in question limits the offer of proprietary equipment and systems, whereby the infrastructure in operation is at the end of its life cycle with no possibility of supplier support.

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<sup>40</sup> <http://www.anacom.pt/render.jsp?contentId=1084284&languageId=1>

As such, Oni claimed that, in due course, it would be compelled to abandon this technology, and it proposed to undertake a phased deactivation of existing FWA infrastructure over five years.

After examining the request, by determination of 3 March 2011, ICP-ANACOM approved a draft decision to amend the right of use of frequencies allocated to Oni to operate the FWA fixed wireless access system. The determination was adopted on 15 April 2011.

Accordingly, ICP-ANACOM decided to amend the right of use frequencies allocated to Onitelecom S.A. for the operation of FWA systems in relation to the minimum number of central stations to be maintained by the company under annotation no. 2 included in the authorising title.

#### **5.1.6. Mobile Trunking Service (SMRP)**

On 8 September 2011, MobiZAPP notified ICP-ANACOM of its decision to discontinue the use of frequencies allocated in the 450-470 MHz band and also to discontinue operation of its CDMA 450 network, given that economic conditions did not support the operation of services. Following conclusion of the general consultation procedure, on 10 November 2011, ICP-ANACOM approved a Decision to repeal the right of use of frequencies held by MobiZAPP, which decision was made retroactive to 30 September 2011. Accordingly, the CDMA 450 network license was revoked along with the license governing the radio link networks that provided interconnection between base stations.

#### **5.1.7. Return of spectrum in the 450-470 MHz band**

Meanwhile, on 1 July 2011, REPART requested that ICP-ANACOM amend its right of use of frequencies, seeking closure of its analogue network with the return of analogue spectrum in the 450-470 MHz band. The company also sought to reduce its coverage obligations, so that, in the context of the TETRA network and the 410-430 MHz range, it would provide population coverage of 26 percent. On 10 November 2011, ICP-ANACOM decided to amend the right of use as requested by the operator, deciding also that the amendment of the right of use of frequencies, as concerns the use of the analogue system, should be phased, starting with cessation of the use of frequencies that support the analogue system, with the exception of four channels and then covering all channels by 31 January 2012. It was further decided that this phased amendment should be reflected in REPART's respective radio license.

### 5.1.8. Radio licensing

This area of activity comprises the issue of network and station licenses to the various radiocommunication services, particularly mobile services and radiodetermination services (public and private networks), the fixed and satellite service and the broadcasting service (radio and television), in accordance with the provisions of Decree-Law no. 151-A/2000 of 20 July, as amended by Decree-Law no. 264/2009 of 28 September.

ICP-ANACOM performed analysis and handling of the respective licensing procedures, including the assignment of frequencies. The distribution of radio licensing activities by the various radio services during 2011 is presented in the following table:

**Table 17. Radio licensing activities by radiocommunications service in 2011**

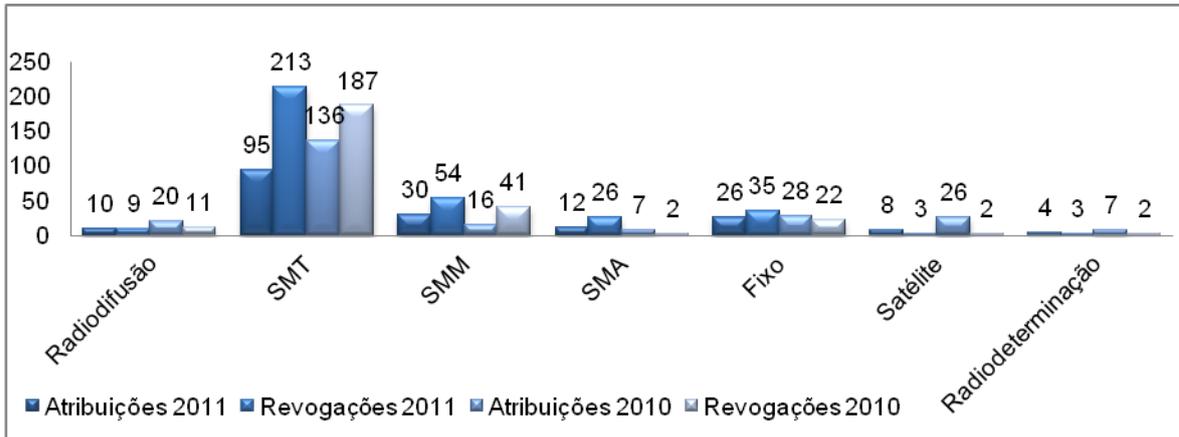
Radiocommunications Service		New licenses		License amendments		Temporary licenses	
		Station	Network	Station	Network	Station	Network
Mobile	Terrestrial Private networks	–	95	–	202	–	298
	Terrestrial Public networks (GSM)	–	–	–	23	–	2
	Terrestrial Public networks (UMTS)	–	–	–	23	–	–
	Terrestrial Trunking networks	–	–	–	–	–	–
	Maritime Private networks	28	–	77	–	–	–
	Maritime Public networks	2	–	3	–	–	–
	Aeronautical	12	–	10	–	–	–
Fixed	Fixed stations (Bands below 30 MHz)	–	–	–	–	–	–
	Point-point Networks (Bands below	–	2	–	–	–	1

	1 GHz)						
	Point-point Networks (Bands above 1 GHz)	-	16	-	67	-	-
	Point-multipoint Networks (Bands below 1 GHz)	-	2	-	3	-	-
	Point-multipoint Networks (Bands above 1 GHz)	-	-	-	-	-	-
	Studio-transmitter networks	-	6	-	29	-	11
	Transportable connections networks	-	-	-	-	-	-
Satellite Services	Fixed satellite Earth stations	1	-	3	-	-	-
	Fixed satellite SNG stations	1	-	1	-	81	-
	Fixed satellite VSAT networks	-	-	-	3	-	-
	Space operations Earth stations	6	-	-	-	-	-
Broadcasting	Radio (Analogue)	10	-	44	-	28	-
	Radio (Digital)	-	-	-	-	-	-
	Television (Analogue)	-	-	16	-	-	-
	Television (Digital)	-	-	-	1	-	-
Radiodetermi nation	Radiodetermination stations	-	4	-	4	-	-
SAP/SAB applications		-	-	-	-	137	

Source: ICP-ANACOM.

The following graphs detail the licensing activity by type of service for the years 2010 and 2011.

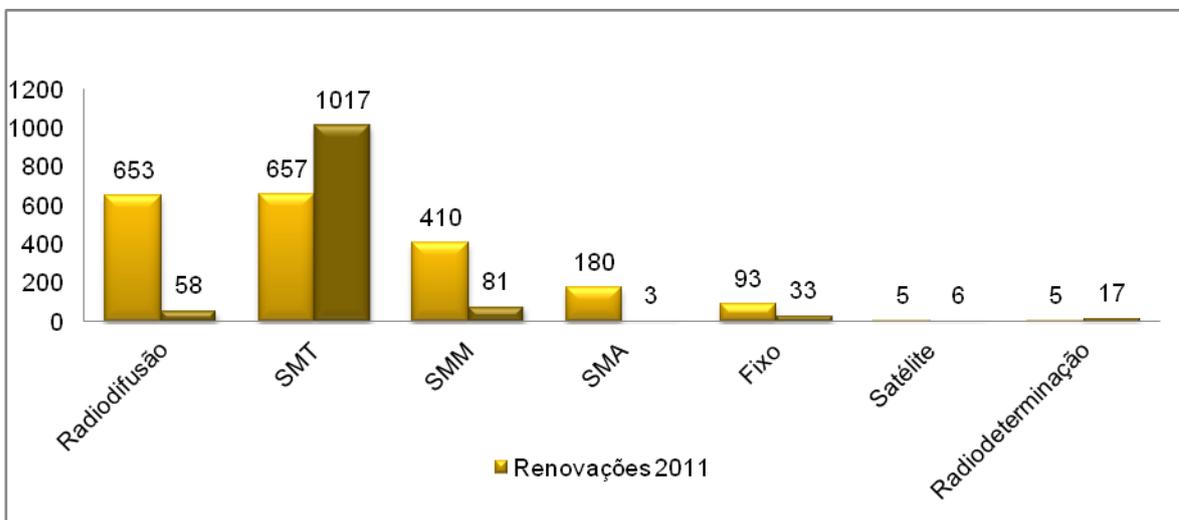
**Graph 32. Allocations and revocations of licenses in the period 2010-2011**



Unit: allocations and revocations

Source: ICP-ANACOM.

**Graph 33. License renewals in the period 2010-2011**



Unit: allocations and revocations.

Source: ICP-ANACOM.

In total, 2,320 requests were handled, as related to the various radiocommunications services:

**Table 18. Distribution of requests handled by service**

<b>Requests</b>	<b>Broadcasting service</b>	<b>Mobile and broadcasting services</b>	<b>Fixed service</b>	<b>Satellite services</b>	<b>Temporary licensing</b>
Licensing	146	428	484	11	554
Miscellaneous requests	258	252	114	73	0
Total	404	680	598	84	554

Source: ICP-ANACOM.

With regard to the land mobile service – UMTS – there was a slight decrease in the number of new stations registered in 2011, with 598 new registrations, compared to 703 in 2010. Meanwhile, 725 registrations were modified.

A slight decrease was also reported for GSM networks, with 530 new stations registered compared to 553 registered in 2010. 7,106 registrations were modified.

Regarding the fixed service, 16 licenses were awarded, and amendments were made to 67 licenses, corresponding to radio networks of operators, including Optimus, Vodafone Portugal, and PTC, which, taken together, installed 2,144 fixed stations, providing 1,072 new point-point connections.

In accordance with Decision 2008/477/EC of 13 June 2008 on the harmonisation of the 2500-2690 MHz frequency band for terrestrial systems, ZON TVCABO Madeirense, S.A. was due to release the spectrum used by the Multipoint Microwave Distribution System (MMDS) system on 31 December 2011 as operating in the Autonomous Region of Madeira. On 28 December 2011, ZON TVCABO Madeirense, S.A. informed ICP-ANACOM that the MMDS system had been deactivated on 20 December 2011.

Within the scope of the digital television broadcasting service, PTC's network license was amended in 2011 with the activation of 20 new stations, and following the decision on the substitution of the network's radio channels belonging to the 790-862 MHz sub-band; technical data referring to 144 stations was also modified.

As regards digital radio broadcasting, at the request of the license holder and following the corresponding public consultation, the right of use of frequencies of the T-DAB network

held by RTP – Rádio e Televisão de Portugal, S.A. was repealed on 15 April 2011, and likewise, the radio license covering this network of 46 stations was also revoked.

In respect of the short-wave broadcasting service, Profunk sought revocation of radio licenses governing its station in Sines, while Rádio e Televisão de Portugal, S.A., citing high related economic costs, requested authorization to suspend its transmissions, which request was granted.

In respect of satellite radio services, 81 temporary licenses were allocated to 81 Satellite News Gathering (SNG) stations used in the coverage of events occurring in Portugal during 2011. In terms of temporary licensing, note should be made of the number of land mobile service (LMS) network – private networks licenses granted, with 298 referring to services ancillary to broadcasting and 137 temporary licenses covering a total of 219 SAP/SAB applications. Temporary licenses are usually granted for the operation of radiocommunications networks and stations supporting short duration events.

#### **5.1.9. Amateur and amateur satellite services**

In the context of managing the amateur and amateur satellite service, in 2011, consolidation of the procedures laid down in Decree-Law no. 53/2009 of 2 March continued, with emphasis on the development of the following activities:

- creating conditions for the granting of authorisations to a set of common use stations, including: Fixed Network Simplex Links (LSF) and Amateur Television;
- the process of adjusting the existing regulatory framework was begun.

At an operational level, 2,383 requests were received in 2011, with 2,302 completed, which represents a processing rate of 97 percent. On average, these requests were handled in three days.

In addition, 27 authorisations were granted for the ionospheric propagation testing in the 5 MHz band.

#### **5.1.10. Protection of radiocommunication stations and networks**

In the context of its powers and responsibilities, as a result of licenses and authorizations granted for the operation and use of radiocommunication networks and stations and in

order to safeguard their operation, ICP-ANACOM is bound to provide protection, as necessary and possible, in order that they are able pursue their goals.

Some radio links and stations enjoy special protection through the creation of administrative easements which place restrictions on the construction and location of obstacles in areas defined therein. In this respect, ICP-ANACOM is asked to give an opinion on the feasibility of installing buildings and infrastructure in these areas, on the creation of areas subject to detailed planning and land development plans, installation of wind farms and energy transmission lines, construction of roads, rail and hydroelectric plants, operation of quarries, etc. ICP-ANACOM is also asked to assess projects and issue opinion on the feasibility of installing radiocommunications infrastructure, pursuant to Decree-Law no. 11/2003 of 18 January.

ICP-ANACOM also participates in several oversight committees to review *Planos Diretores Municipais* (PDM) (Municipal Director Plans), representing its Tutelage, attending the meetings of these Committees, contributing to the drafting of PDM and issuing opinions thereon.

317 opinion requests were handled in this area in 2011.

After a survey was conducted of all cases of non-completed radio easement formation processes, identifying the obstacles to their completion, all such applicants will be notified during 2012 as to the non-conclusion of their applications. The provision of updated information to Local Authorities on the legally established radio easements will reduce the number of requests for opinions submitted to this Authority.

## **5.2. Numbering**

### **5.2.1. Allocation of rights of use of numbering for electronic communications services**

The following tables contain data on trends in the allocation of rights of use of numbering since 2007, including the volume of numbers arising from the allocations made during 2011, and the volume of recovered numbers.

**Table 19. Geographic numbers – evolution reported in the national situation**

Year	Allocated and/or reserved (A) or recovered (R)	Geographic numbers <sup>41</sup>			
		Lisbon geographic area	Geographic area of Porto	Other geographical areas	Totals
2007	A	110,000	50,000	420,000	580,000
	R	10,000	0	0	10,000
2008	A	190,000	70,000	1,040,000	1,300,000
	R	10,000	10,000	590,000	610,000
2009	A	180,000	60,000	30,000	270,000
	R	0	0	490,000	490,000
2010	A	280,000	160,000	170,000	610,000
	R	0	0	0	0
2011	A	20,000	0	20,000	40,000
	R	20,000	20,000	470,000	510,000

Source: ICP-ANACOM.

<sup>41</sup> Numbers are allocated in blocks of 10,000, except in the 80080 range, where numbers are allocated individually. Translation services are provided using the 707, 708, 760, 761, 762, 800, 808 and 809 ranges of the PNN, while the voice mail service is provided in the 600 range.

**Table 20. Non-geographic numbers – evolution of the national situation**

Year	Allocated and/or reserved (A) or recovered (R)	Nomadic VoIP services <sup>42</sup>	Short numbers <sup>43</sup>	Translation and voice mail services <sup>44</sup>	Data services (ISP) <sup>45</sup>	MTS <sup>46</sup>	Total
2007	A	180,000	9	120,000	0	1,400,000	1,700,009
	R	0	4	0	400	0	404
2008	A	290,000	5	164,503	300	2,600,000	3,054,808
	R	50,000	8	140,000	400	350,000	540,408
2009	A	70,000	2	0	0	1,500,000	1,570,002
	R	120,000	6	160,000	0	0	280,006
2010	A	100,000	0	21,100	0	0	121,100
	R	0	2	10,000	0	0	10,002
2011	A	10,000	0	10,000	0	0	20,000
	R	20,000	6	140,000	0		160,006

Source: ICP-ANACOM.

In addition, one million numbers were returned from the Mobile Trunking Service.

An outline is given below of the cumulative values of numbers assigned nationally since 2007, with a reduction in numbers continuing in 2011. These results, firstly, from the fees introduced in 2009, causing many companies to return unused numbering resources, and also from the merger and dissolution of certain companies.

<sup>42</sup> VoIP – Voice over Internet Protocol.

<sup>43</sup> Corresponds to the 10xy, 116xyz, 14x (y), 15xy, 16xyz and 18xyz ranges. Numbers are allocated individually, except in the 116xyz range, where numbers are allocated in blocks of 10.

<sup>44</sup> Numbers are allocated in blocks of 10 000, except in the 80080 range, where numbers are allocated individually. Translation services are provided using the 707, 708, 760, 761, 762, 800, 808 and 809 ranges of the PNN, while the voice mail service is provided in the 600 range.

<sup>45</sup> Numbers are allocated in blocks of 100, with the last three digits set at zero for 67 range (data services).

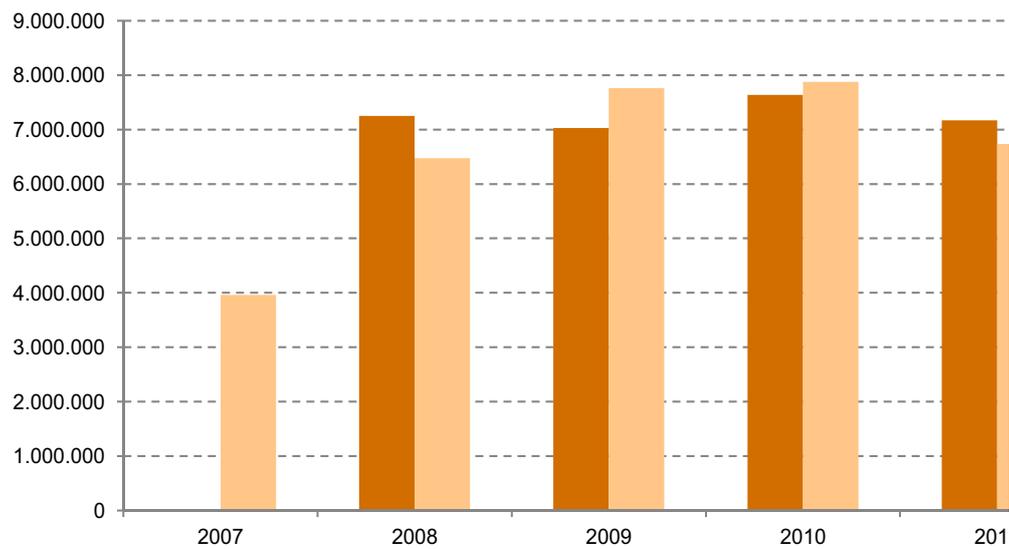
<sup>46</sup> Numbers are allocated in blocks of 10 000, except in the 92 range. Numbering usage rights are allocated implicitly for the "609" and "669" range for access to the voicemail service, respectively, mail box consultation and message leaving, and the "639" and "659" numbering range, respectively, for access to mobile fax and data services.

**Table 21. Accumulated value of numbers allocated nationally**

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
2010	7,640,000	7,875,149
2011	7,170,000	6,735,143

Source: ICP-ANACOM.

**Graph 34. Accumulated value of numbers allocated nationally**



Source: ICP-ANACOM.

### **5.2.2. Allocation of numbers to audiotext and message-based value added services**

The following tables show data on the evolution reported in the allocation of rights of use of numbering to audiotext companies. In contrast with 2010, there was a notable increase in the allocation of numbers in 2011, especially as regards the tele-voting service.

**Table 22. Audiotext numbers – national evolution**

Year	Allocated and/or reserved (A) or recovered (R)	Numbers for audiotext services <sup>47</sup>					
		General (601)	Tele-voting (607)	Sales (608)	Contests and competitions (646)	Erotic (648)	Totals
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
2010	A	0	3,000	0	0	0	3,000
	R	2,000	3,000	1,000	2,000	2,000	10,000
2011	A	1,000	4,000	0	0	1,000	6,000
	R	0	0	0	0	0	0

Source: ICP-ANACOM.

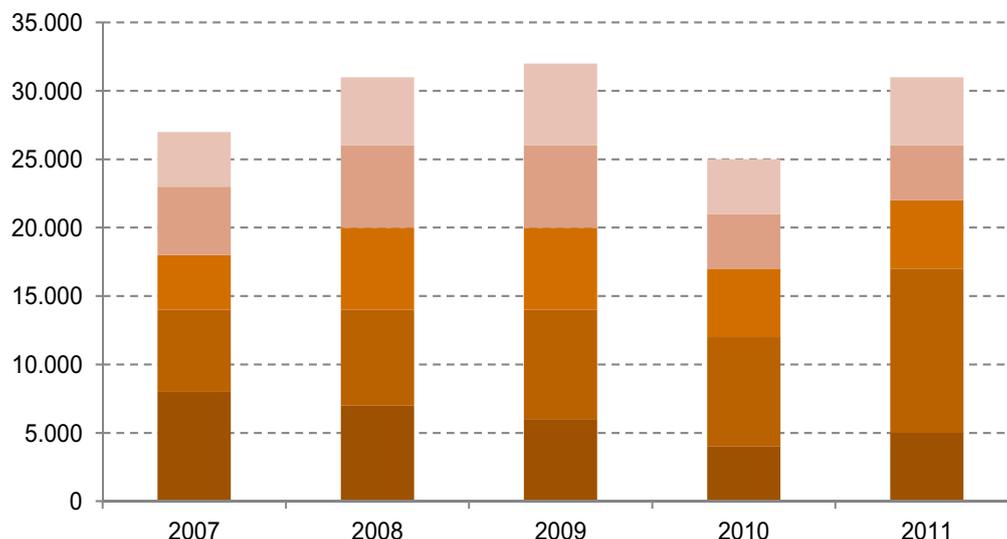
<sup>47</sup> Numbers allocated in blocks of 100.

**Table 23. Accumulated value of numbers allocated nationally**

Year	Audiotext					Totals
	General (601)	Tele-voting (607)	Sales (608)	Contests and competitions (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
2010	4,000	8,000	5,000	4,000	4,000	25,000
2011	5,000	12,000	5,000	4,000	5,000	31,000

Source: ICP-ANACOM.

**Graph 35. Accumulated value of audiotext numbers allocated nationally**



Unit: audiotext numbers.

Source: ICP-ANACOM.

In 2011, there was a reversal in the growth trend of previous years in the allocation of rights of use of short numbers to providers of message-based value added services (VAS). Indeed publication of Decree-Law no. 63/2009 of 10 March provided a framework to this activity instigating a reasonable level of take-up and corresponding demand for numbers. However, in 2011, the total volume of recovered numbers exceeded the volume

of allocated numbers, with a difference of 40 numbers. The return of these numbers stems from greater efficiency in the management of resources by companies, as well as the amendment of LCE with the introduction of barring of message-based value added services, as a rule.

**Table 24. Numbers for message-based valued added service – national situation**

Year	Allocated and/or reserved (A) or recovered (R)	Numbers for message-based value added services				Totals
		Raising donations subject to different tax regime (61xxx)	Sending of more than one message or sending messages on a periodic or continuous basis, with added price per message (62xxx)	Not covered by the 61, 62 and 69 codes (68xxx)	Declared as having erotic or sexual content (69xxx)	
2009	A	1	202	151	51	405
	R	0	0	0	0	0
2010	A	3	14	2	4	23
	R	0	0	11	1	12
2011	A	0	23	1	4	28
	R	0	28	34	6	68

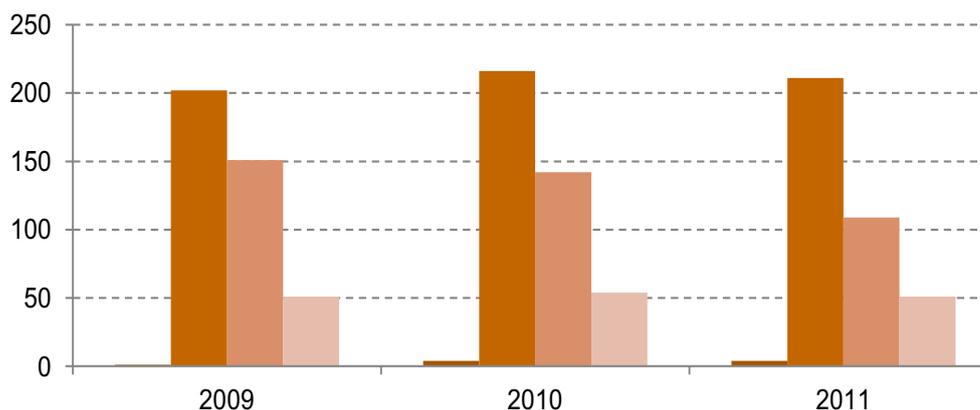
Source: ICP-ANACOM.

**Table 25. Accumulated value of numbers for message-based valued added service – national situation**

Year	Accumulated values of numbers for message-based value added services <sup>48</sup>				
	Raising donations subject to different tax regime (61xxx)	Sending of more than one message or sending messages on a periodic or continuous basis, with added price per message (62xxx)	Not covered by the 61, 62 and 69 codes (68xxx)	Declared as having erotic or sexual content (69xxx)	Totals
2009	1	202	151	51	405
2010	4	216	142	54	416
2011	4	211	109	52	376

Source: ICP-ANACOM.

**Graph 36. Cumulative value of numbers for message-based valued added service allocated nationally**



Source: ICP-ANACOM.

### 5.2.3. Electronic numbering (ENUM)

By determination of 13 January 2011, ICP-ANACOM designated FCCN as ENUM Tier 1 Registry for the management of the "1.5.3.e164.arpa" domain in the context of a User-ENUM pilot. By the same determination, approval was given to the terms of a protocol

<sup>48</sup> The prefixes [61abc, 62abc, 68abc and 69abc (a≠0)] of numbers for message-based value added services are allocated as follows: a= allocation of rights of use of numbers, following preference manifested by the providers of the services according to three options following provider registration, where: a≠9 in blocks of 10 numbers and a=9 number by number, up to maximum of 5 individual numbers. By determination of 3 June 2009, ICP-ANACOM decided to establish the total length as five digits so that end-users can identify the service, for a period of at least one year from the date of this determination.

signed with FCCN on 24 January 2011, providing for mutual cooperation in the deployment of the pilot.

Five<sup>49</sup> providers of electronic communications joined the protocol and subsequently created a working group that prepared a document defining the functional model for the ENUM pilot. This contained the rules and technical and operational requirements as well as the procedures governing the delegation of domains. One of the aspects most occupying the group was related to the methodology for validating the number and subscriber of this number when creating the respective domain, to ensure the opt-in requirement of the subscriber. This document was completed during December 2011, and the first implementations of the U-ENUM are expected to occur during 2012.

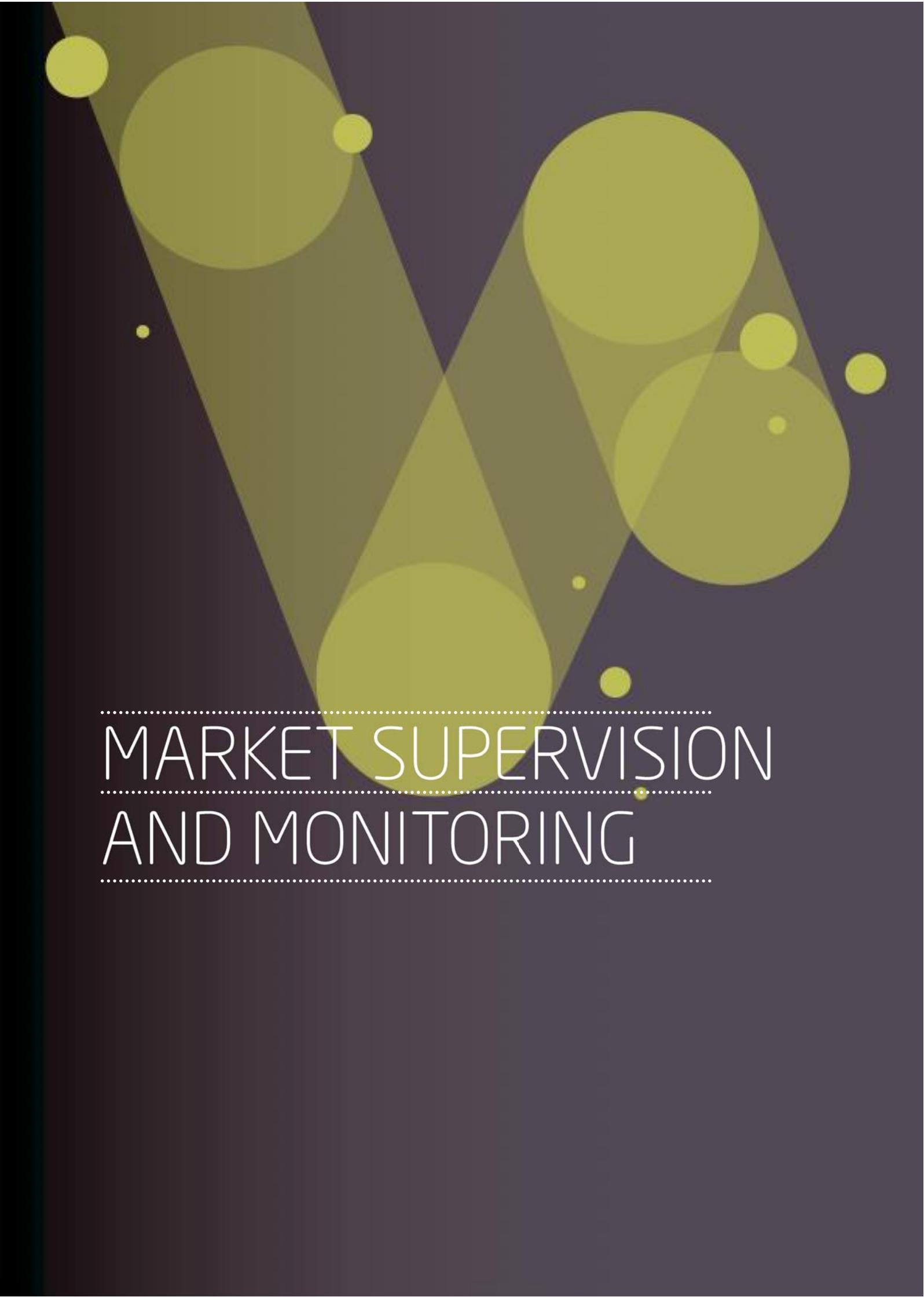
#### **5.2.4. Database of numbering resources**

In 2011, work continued on the entry into operation of the *Solução de Gestão de Numeração* (Numbering Management Solution) including compliance testing. This solution will make it possible for ICP-ANACOM to improve the management of all numbering resources of the PNN, including the numbering resources managed by other international organizations where ICP-ANACOM has particular notification responsibilities.

Additionally, this solution will improve and/or streamline procedures associated with numbering management, including integration into ICP-ANACOM's current information system (IS) and applications, electronic reception of requests, as well as the consultation, publication and retrieval of resource data on ICP-ANACOM's website.

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<sup>49</sup> One of the providers subsequently extinguished their activity



.....  
MARKET SUPERVISION  
.....  
AND MONITORING  
.....

## **C. MARKET SUPERVISION AND MONITORING**

### **6. To improve the regulator's efficiency and performance capacity (Objective 5), to promote open and competitive markets, to assure and protect the rights of users and citizens in general**

ICP-ANACOM has an important role of market supervision and monitoring, which enables it to verify and enforce compliance with prevailing legislation which governs the sector, while at the same time creating conditions that improve its decision-making capacity and therefore, the efficiency of its performance.

This section of the report provides information on the activities undertaken in this area and on the measures taken to rectify detected irregularities, with the aim of improving the market's functioning, both in terms of relationships between operators, ensuring the existence of open and competitive markets, and also with a view to safeguarding the interests of consumers and citizens in general.

As such, the following pages outline the various measures undertaken in the area of supervision, including matters related to: (i) complaints; (ii) inspection of operators and service providers, of infrastructure and of equipment; (iii) monitoring and control of the spectrum, as well as overseeing compliance with the obligations to which operators are bound, both in terms of licenses and in terms of information disclosure; (iv) breach proceedings; (v) resolution of conflicts between operators/providers; (vi) and monitoring of the market, including through studies – on quality of service, postal sector liberalization, enquiries and reports on the process of transition to digital television.

With regard to complaints, statistics on the use of complaint books<sup>50</sup> show that, at a national level, the electronic communications sector has one of the higher levels of conflict. This circumstance stems from: a significant presence of service provider

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<sup>50</sup> Information available at:

[http://www.portugal.gov.pt/pt/GC17/Governo/Ministerios/MEI/Documentos/Pages/20090312\\_MEI\\_Doc\\_Livro\\_Reclamacoes.aspx](http://www.portugal.gov.pt/pt/GC17/Governo/Ministerios/MEI/Documentos/Pages/20090312_MEI_Doc_Livro_Reclamacoes.aspx) and: [http://www.anacom-consumidor.com/assets\\_live/1582/relatorio\\_anual\\_2010.pdf](http://www.anacom-consumidor.com/assets_live/1582/relatorio_anual_2010.pdf) .

establishments among the population; the existence of a huge variety of retail offers of electronic communication products and services; and the multiplicity of technologies over which services are provided and which evolve very rapidly. Furthermore, users are becoming increasingly aware about their rights and available means of recourse.

In many cases, users complain to ICP-ANACOM thinking that the regulator is able to resolve their dispute with the service provider when, by law, ICP-ANACOM is unable to intervene directly in these conflicts and may not impose any obligations on service providers in respect of specific users. In most cases, ICP-ANACOM's role is informative – providing users with information on its powers and responsibilities, on acquiring and using services and on the avenues available to users seeking to resolve conflicts. However, whenever evidence of irregularities is detected in the analysis of a complaint, ICP-ANACOM may investigate and sanction the behaviour in question and where there is good reason, adopt regulatory measures to prevent its occurrence.

Accordingly, complaints provide ICP-ANACOM with an important tool for detecting market information needs as well as providing evidence that irregularities may be occurring. In such cases, inspection and enforcement actions are engaged to ascertain whether the situations described in the complaints constitute situations of non-compliance, and where appropriate instigate infringement proceedings.

In addition to enforcement actions, the regulator also carries out oversight actions at a distance, as another way of monitoring operator behaviour, specifically, when it comes to verifying the information provided by operators on their websites, for example, or compiling surveys or requesting information from operators, which is then analysed.

These actions are carried out directly where on-the-spot inspections are performed or where mystery shoppers are used, and indirectly when analysis is made of information received from operators or contained on their websites.

Investigations carried out by ICP-ANACOM cover a wide range of issues, ranging from the electronic communications sector to the information society, and encompassing the postal sector, spectrum, equipment, and installation of telecommunications infrastructure in buildings and in urban settlements.

In all these areas, ICP-ANACOM carried out more than 2,500 inspections in 2011 covering market and equipment inspections, monitoring and control of the spectrum, and verifications of compliance with the rules governing *Infraestruturas de telecomunicações em edifícios* (ITED) (Telecommunications infrastructure in buildings) and *Infraestruturas*

*de telecomunicações em loteamentos, urbanizações e conjuntos de edifícios (ITUR)* (Infrastructures for telecommunications in housing developments, urban settlements and concentrations of buildings).

ICP-ANACOM's market inspection actions also focused on overseeing the process of migration to DTT, totalling 123 actions (in addition to the 170 monitoring actions undertaken to conduct signal verification), and 230 inspections involving number portability anomalies.

### **6.1. Trends in complaints**

In 2011, ICP-ANACOM received a total of 46,038 complaints from users of electronic communications services and the general public. As such ICP-ANACOM received an average of 3,837 complaints per month.

The increasingly widespread use of complaint books<sup>51</sup> means that they remain a key vehicle in the presentation of complaints, representing about 79 percent of total complaints received by this Authority.

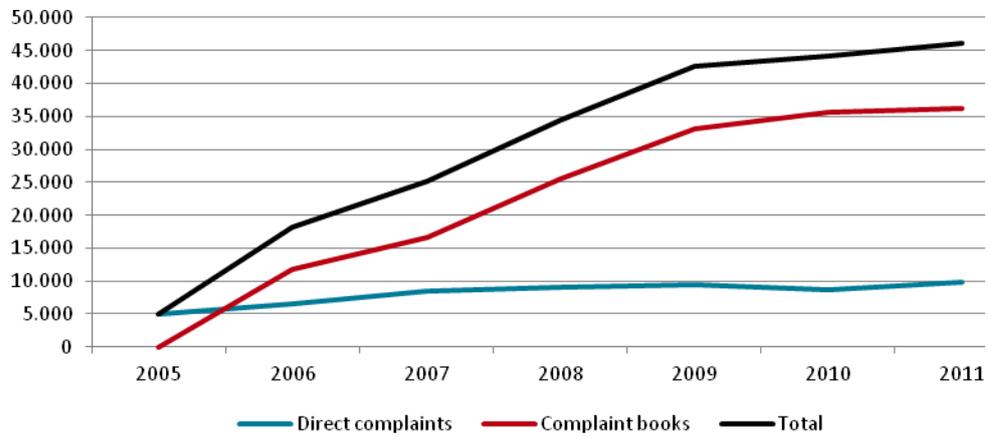
Among the complaints addressed directly, the electronic form provided by ICP-ANACOM saw increasing use.<sup>52</sup> – out of the 9,831 of complaints addressed directly to this ICP-ANACOM, 5,226 (53 percent) were presented by in this way, around 55 per cent more than in 2010.

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<sup>51</sup> 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.

<sup>52</sup> Available on ANACOM's Consumers' Website, at [www.anacom-consumidor.com](http://www.anacom-consumidor.com) and on ICPANACOM's institutional website at [www.anacom.pt](http://www.anacom.pt).

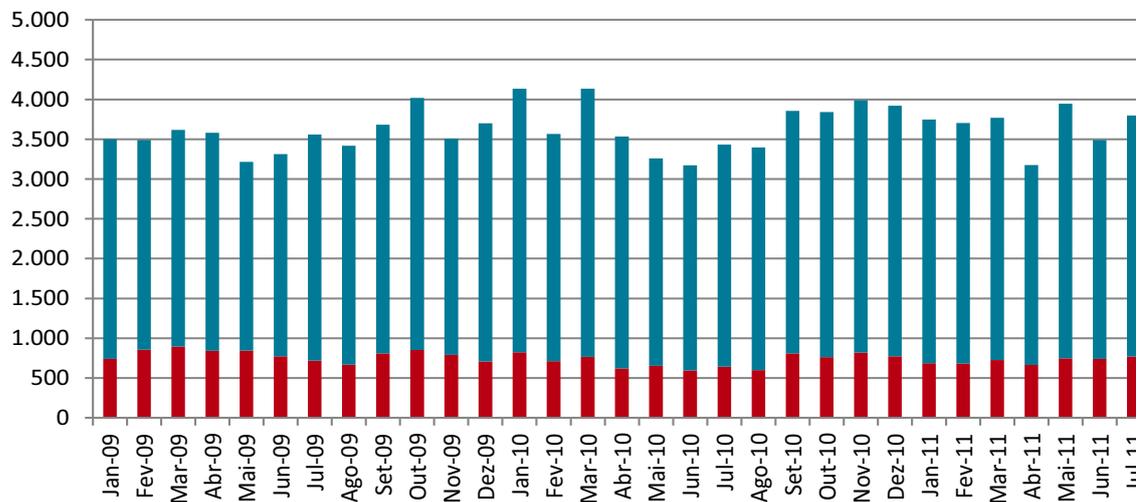
**Graph 37. Evolution in the annual volume of complaints by means of submission (2005-2011)**



Unit: complaints

Source: ICP-ANACOM.

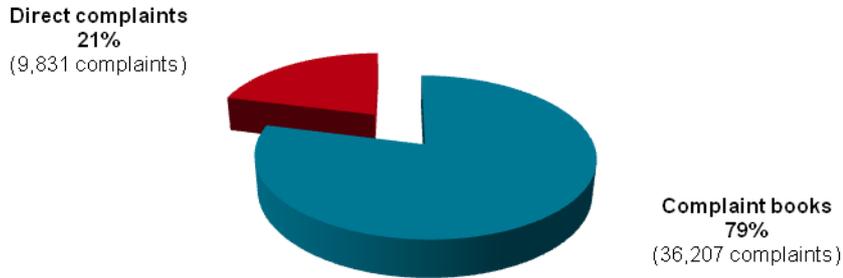
**Graph 38. Evolution in the monthly volume of complaints by means of submission (2009-2011)**



Unit: complaints

Source: ICP-ANACOM.

**Graph 39. Complaints by means of submission, 2011**

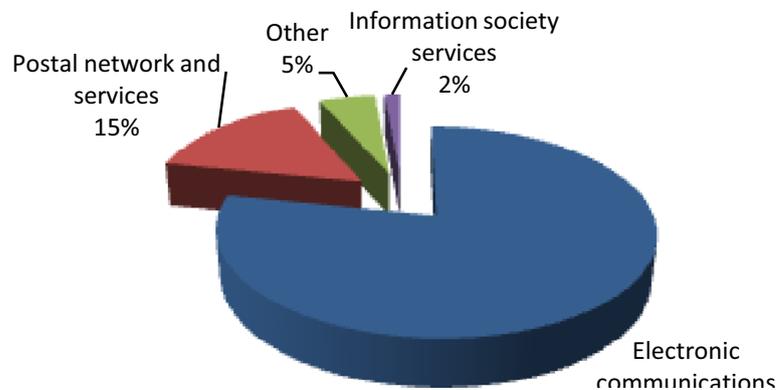


Source: ICP-ANACOM.

### 6.1.1. Complaint records<sup>53</sup> by sector

In 2011, as in previous years, the majority of complaints were focused on the electronic communications sector, comprising 58,784 complaint records. The postal sector received the second largest number with 11,528 records.

**Graph 40. Complaint records by sector, 2011**



Source: ICP-ANACOM.

<sup>53</sup> In 2011, ICP-ANACOM carried out a review of the indicators used for the accounting of enquiries and requests addressed to it. Since an enquiry or request can refer to more than one provider, service or subject, for the purpose of the analysis of these points, the number of situations giving rise to complaint was counted in each request, which is designated in this report by the number of "complaint records". Using this indicator, a total of 75,200 records are considered as arising from the 46,038 requests received by ICP-ANACOM in 2011. As such, in 2011, each request comprised an average of 1.6 records, that is, on average, 8 complaints were raised per 5 requests, concerning different aspects or perspectives, whereas, in the most frequent cases, a complainant refers to more than 1 subject (example: billing and contract complaints) or more than one provider (example: portability cases).

For this reason, a comparative analysis is not made of the data presented in this chapter in relation to previous years.

### 6.1.2. Electronic communications

The fixed Internet access service gave rise to the largest number of complaint records per thousand customers (4.19), followed by the subscription television service (3.44) and the fixed telephone service (2.74).

**Table 26. Services giving rise to most complaints (electronic communications)**

	<b>Service cited</b>	<b>Records 2011</b>	<b>Customers (2011 average)</b>	<b>Records per 1000 customers</b>
1.º	Fixed Internet access service	9,110	2,174,180	4,19
2.º	Subscription Television Service	9,926	2,884,523	3,44
3.º	Telephone service at a fixed location <sup>54</sup>	10,162	3,714,665	2,74
4.º	Public pay-telephone service <sup>55</sup>	55	29,312	1,88
5.º	Mobile Internet access service <sup>56</sup>	4,999	2,699,280	1,85
6.º	Mobile Telephone Service <sup>57</sup>	13,610	16,486,686	0,83
7.º	Voice over Internet service (nomadic VoIP) <sup>58</sup>	26	93,946	0,28
8.º	Virtual Calling Card Service	18	1,511.693	0,01

Source: ICP-ANACOM.

<sup>54</sup> The fixed telephone service includes indicators relating to the virtual private network (VPN) service and access to the fixed telephone network.

<sup>55</sup> Public pay-telephone means terminal equipment to access the FTS, installed in a public place, including with restricted access, available to the general public under a commercial offer.

<sup>56</sup> In the mobile Internet access service, the number of mobiles stations/devices of active users with access through cards / modem and the number of mobile phones, smart-phones, PDA, etc. was considered.

<sup>57</sup> For the mobile telephone service the number mobile stations/ devices of active users with post-paid, prepaid and combined/hybrid plans was considered.

<sup>58</sup> Users with a contractual relationship with a nomadic VoIP provider allocated a numbering resource who actually used the service during the quarter being reported, in terms of access for call origination or reception. For more information see ICPANACOM's position on VoIP services available at [www.anacom.pt](http://www.anacom.pt).

Among the subjects giving rise to most complaints in the electronic communications sector, there's a preponderance of issues related to equipment, contracting, billing, faults and service cancellation.

**Table 27. Total records by subject (electronic communications)**

Subject	Records 2011
Equipment	8,514
Contract	8,177
Billing	7,741
Faults	5,923
Cancellation of service	5,692
Provision of initial connection or installation	5,107
Customer service	4,699
Tariffs	3,810
Suspension of service	2,266
Technical support	2,107
Portability	1,279
Speed	965
Other matters	2,504
<b>Total</b>	<b>58.,784</b>

Source: ICP-ANACOM.

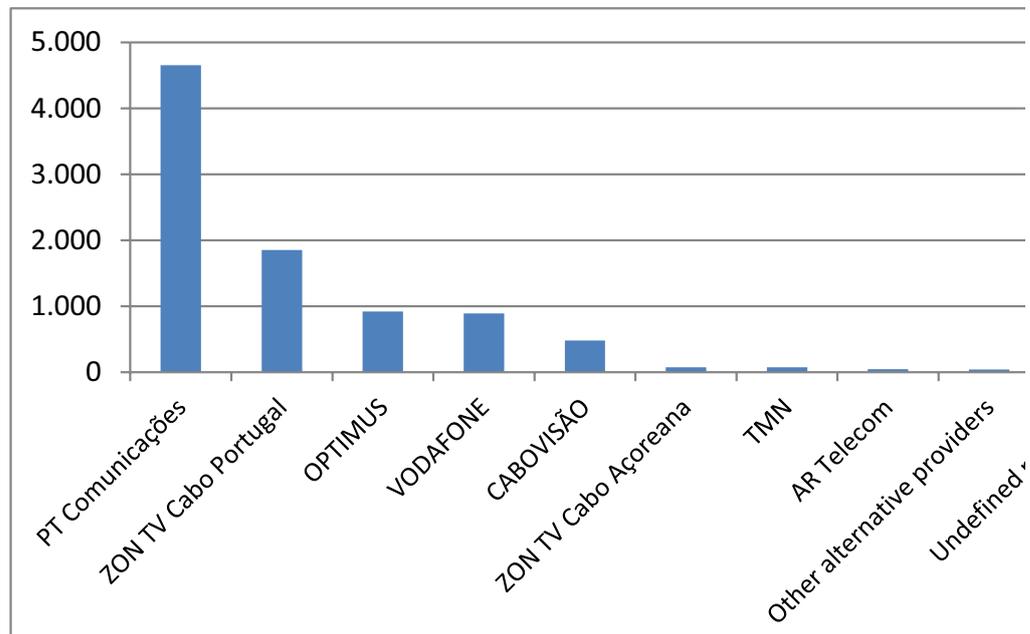
As regards the providers of electronic communications cited in complaints, the graphs below show the number of records per service, as well as the number of complaints per 1,000 customers and the market share by provider and service<sup>59</sup>.

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<sup>59</sup> There are providers that operate in specific market segments. The relative position holds of each provider should not be interpreted as an indicator of quality of service or of the performance of these operators in the segments they serve.

On the other hand, in the analysis of complaints by service and provider, it is relevant to take the relative position of each provider - market share - into consideration when looking at the data. In fact, it is to be expected that a provider that operates above all, for example, in the fixed Internet access market will be the subject of proportionally more records per thousand customers of this service than one that operates mainly in the mobile services market.

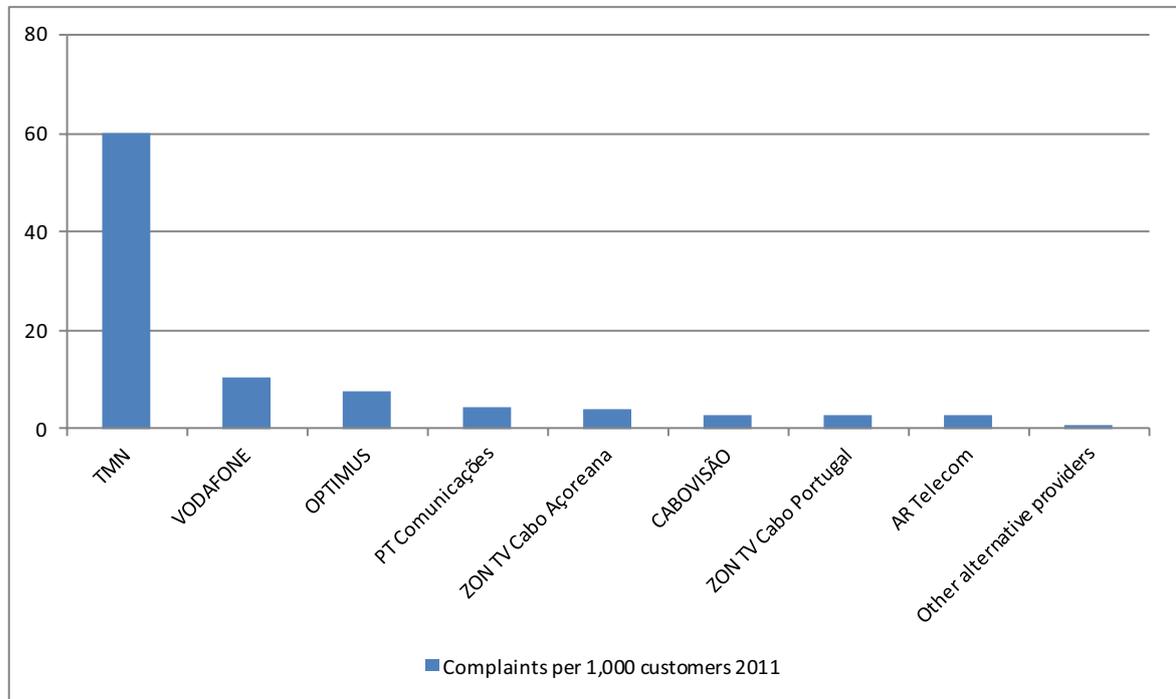
**Graph 41. Number of complaint records about the fixed Internet access service by provider<sup>60</sup>**



Source: ICP-ANACOM.

<sup>60</sup> In the analysis of the number of complaint records, the category "Other alternative providers" includes providers of electronic communications services cited, in 2011, in at least one (1) complaint record and in less than one hundred (100) complaint records for all electronic communications services considered here (fixed Internet access service; mobile Internet access service; telephone service at a fixed location; mobile telephone service; television subscription service).

**Graph 42. Complaint records about the fixed Internet access service per thousand customers by provider<sup>61</sup>**

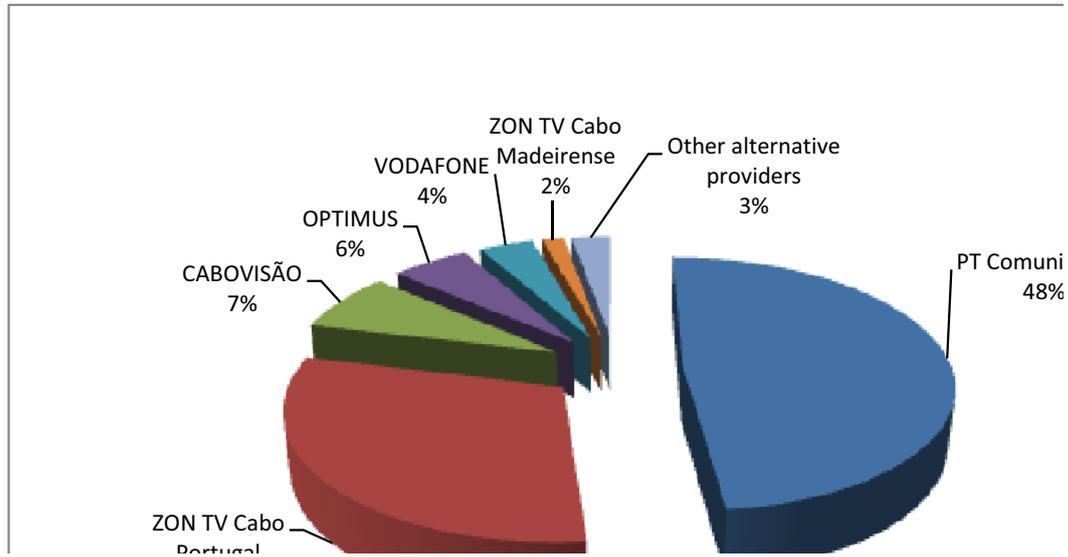


Source: ICP-ANACOM.

<sup>61</sup> In analyzing complaint records per one thousand (1,000) customers, only providers cited in complaint records and which simultaneously provide the service in question are considered.

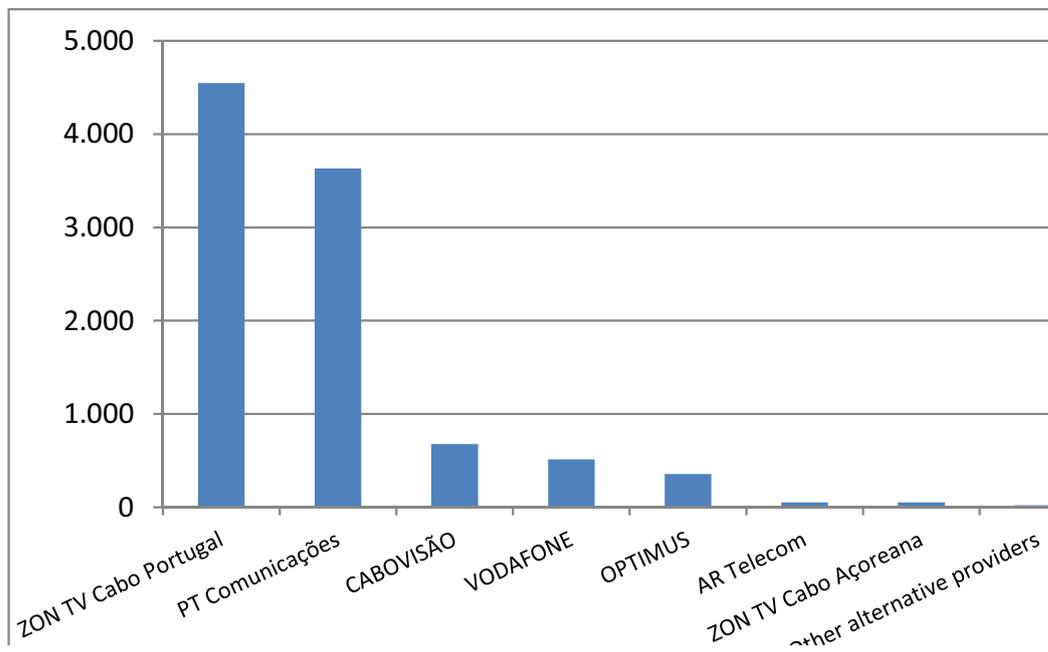
The category "Other alternative providers" includes providers of electronic communications services cited, in 2011, in at least one (1) complaint record and in less than one hundred (100) complaint records for all electronic communications services considered here (fixed Internet access service; mobile Internet access service; telephone service at a fixed location; mobile telephone service; television subscription service).

**Graph 43. Share of fixed Internet access market by provider<sup>62</sup>**



Source: ICP-ANACOM

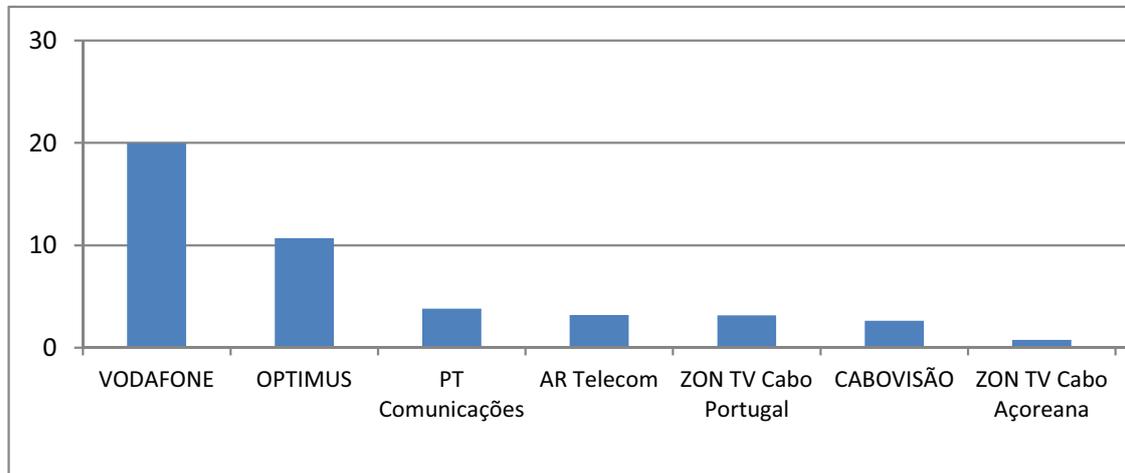
**Graph 44. Number of complaint records about the subscription television service by provider**



Source: ICP-ANACOM.

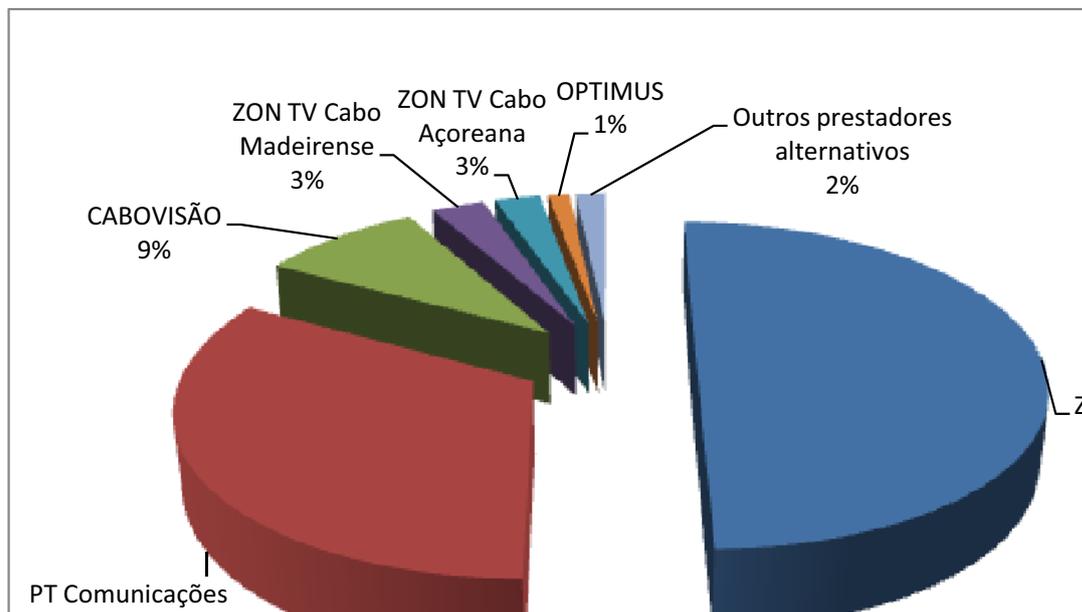
<sup>62</sup> In analyzing market share, the category "Other alternative providers" includes service providers whose market share is equal to or less than 1%.

**Graph 45. Complaint records about on subscription television service per thousand customers by provider**



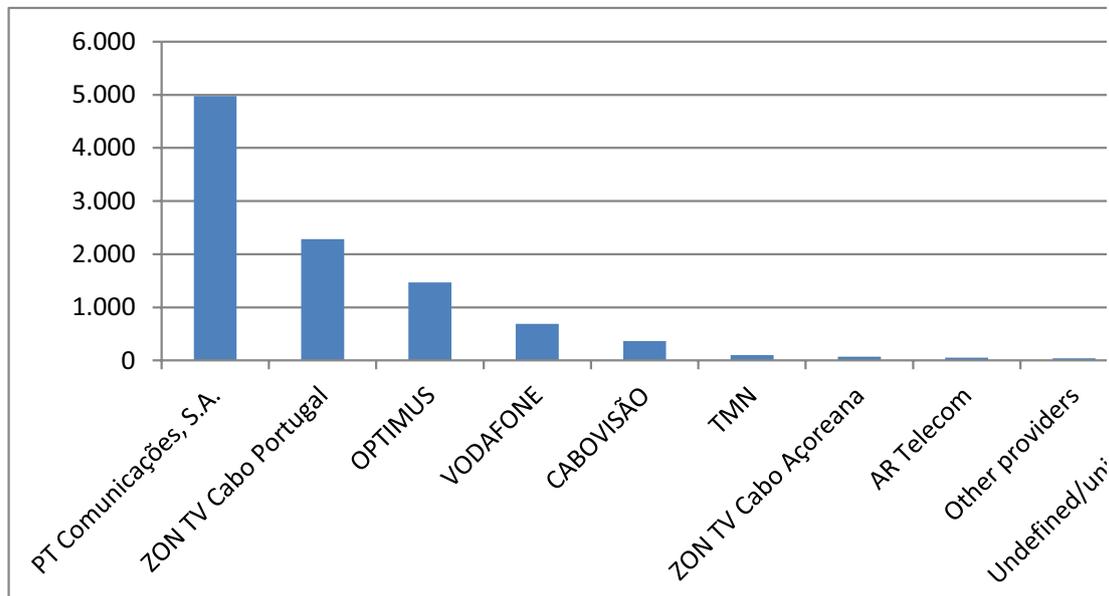
Source: ICP-ANACOM.

**Graph 46. Share of subscription television service market by provider**



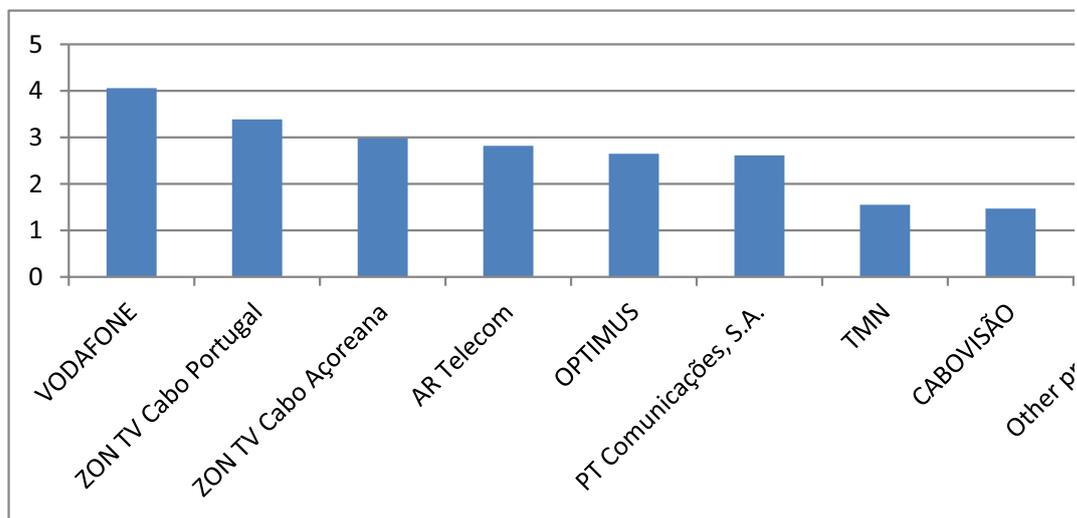
Source: ICP-ANACOM.

**Graph 47. Number of complaint records about fixed telephone service by provider**



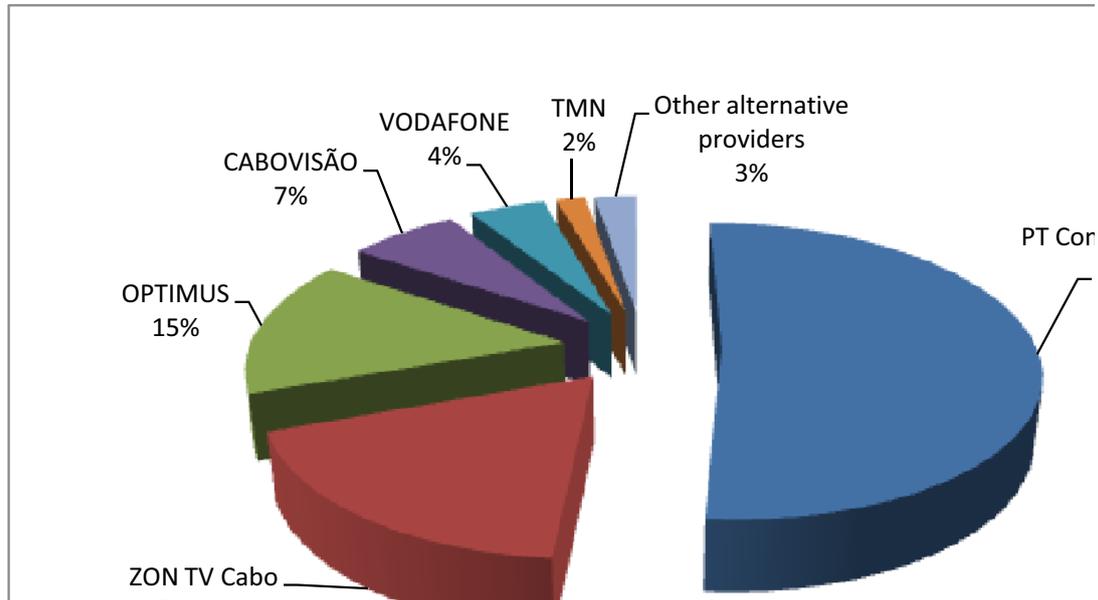
Source: ICP-ANACOM.

**Graph 48. Complaints records about fixed telephone service per thousand customers by provider**



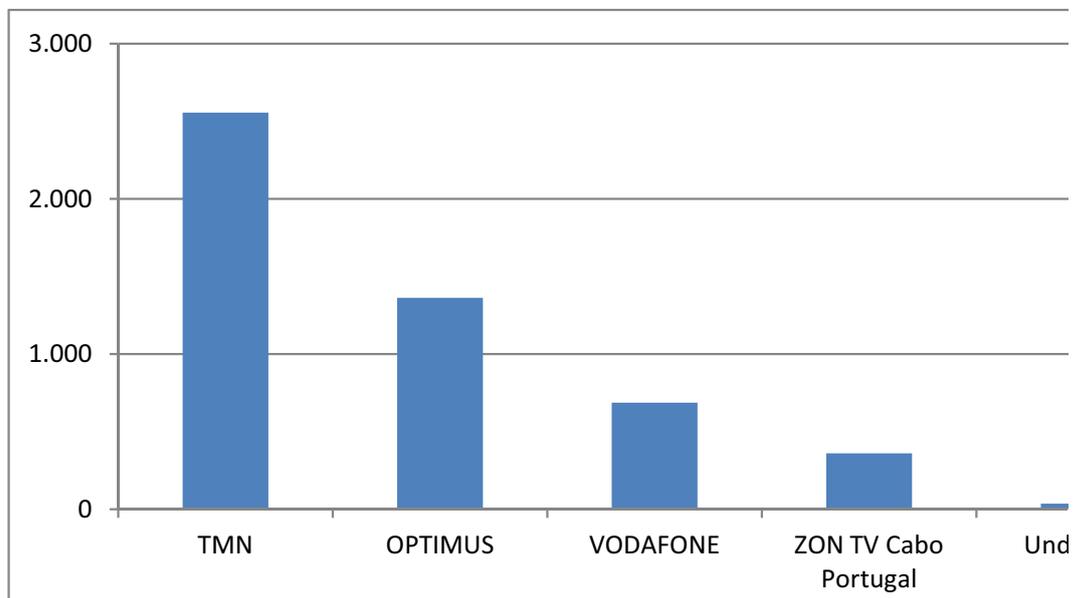
Source: ICP-ANACOM.

**Graph 49. Share of fixed telephone service market by provider**



Source: ICP-ANACOM.

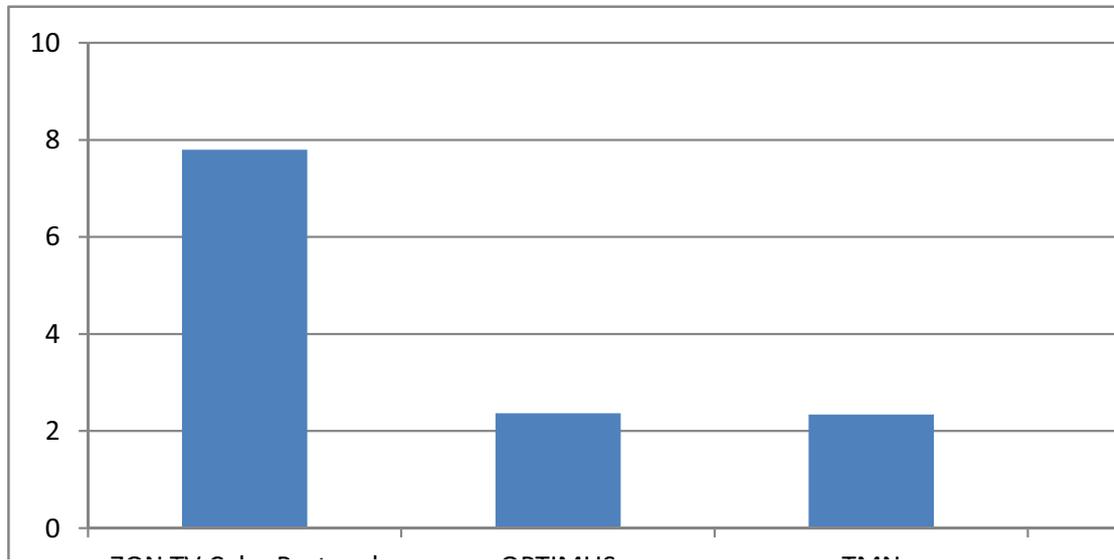
**Graph 50. Number of complaint records about mobile Internet access service by provider**



Unit: number of records

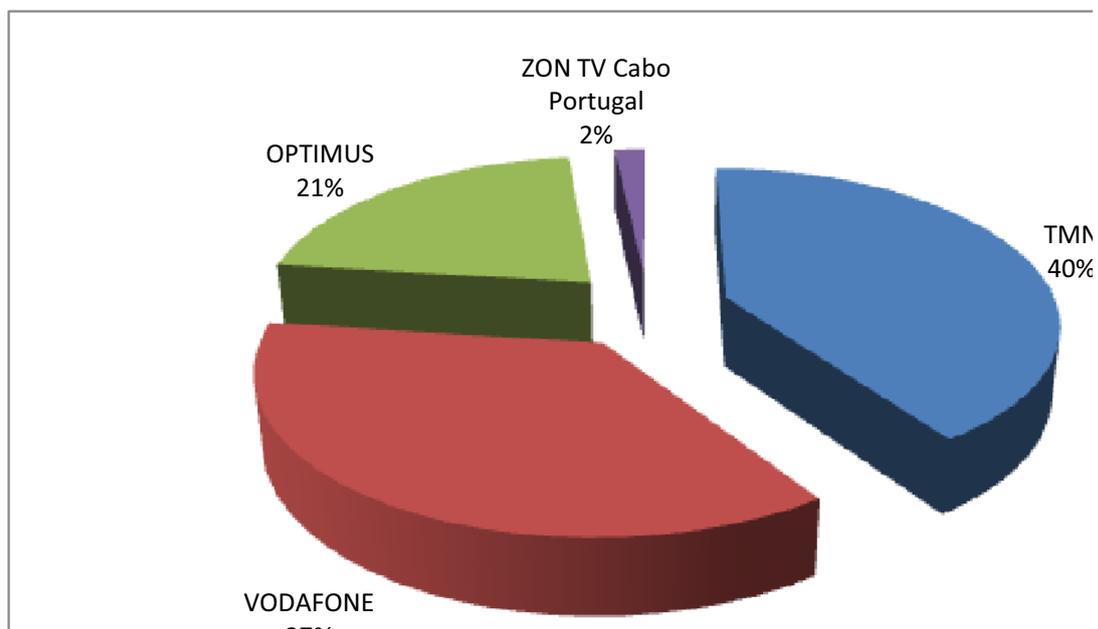
Source: ICP-ANACOM.

**Graph 51. Records of complaints about mobile Internet access service per thousand customers by provider**



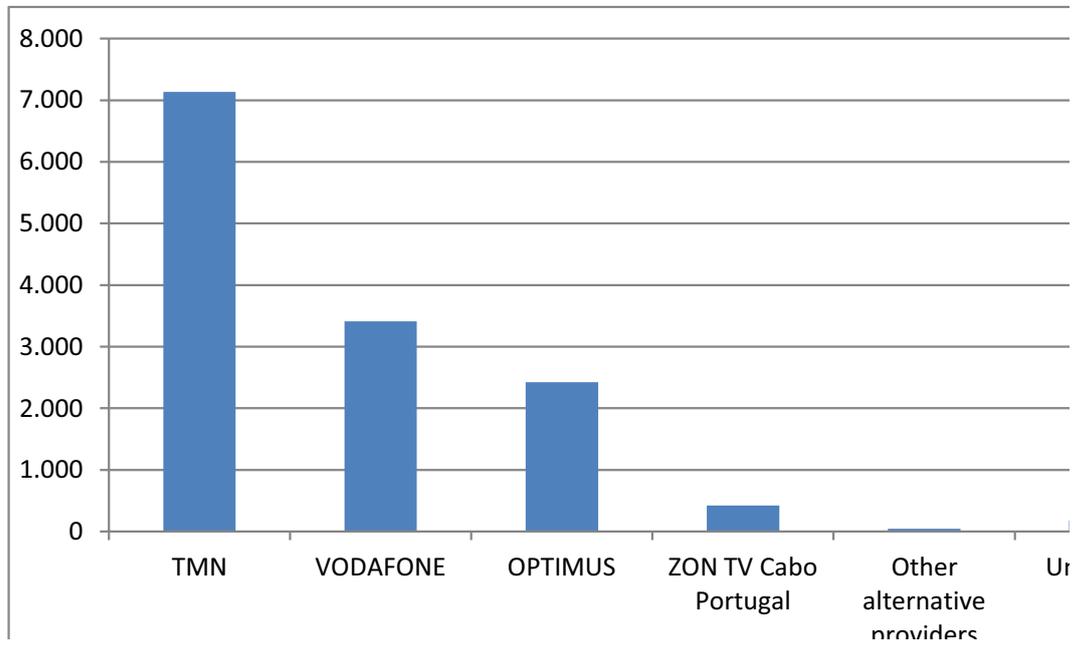
Source: ICP-ANACOM.

**Graph 52. Share of mobile Internet access service market by provider**



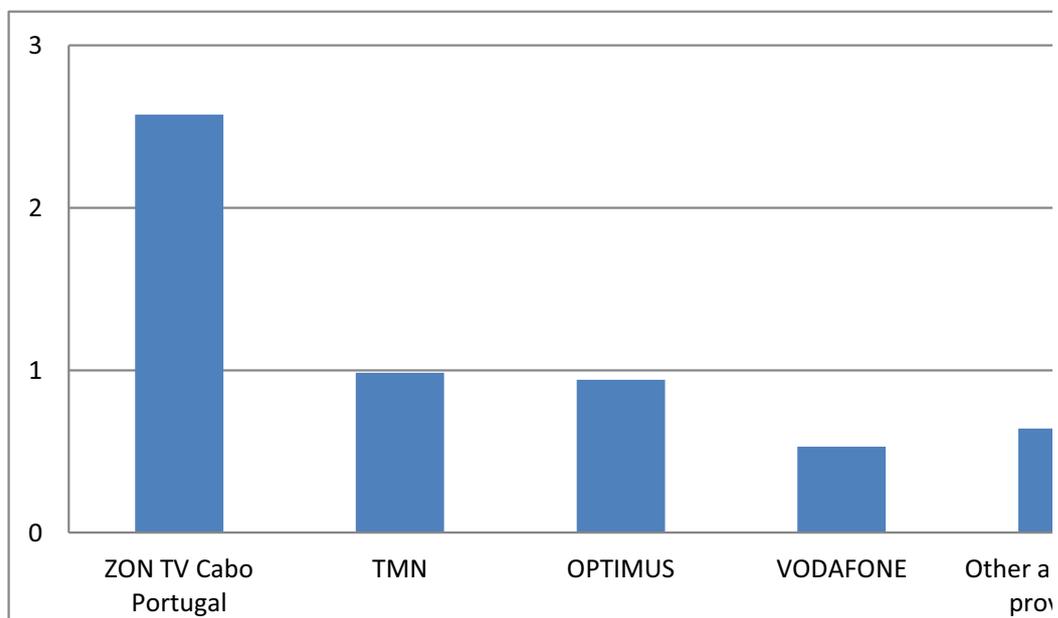
Source: ICP-ANACOM.

**Graph 53. Number of complaint records about mobile telephone service by provider**



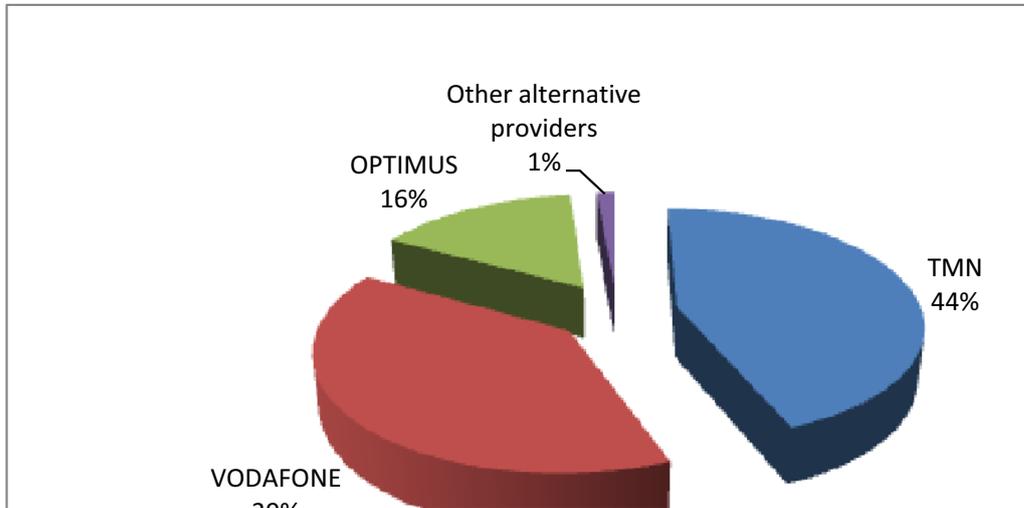
Source: ICP-ANACOM.

**Graph 54. Complaint records about the mobile telephone service per thousand customers by provider**



Source: ICP-ANACOM.

**Graph 55. Share of mobile telephone service market by provider**

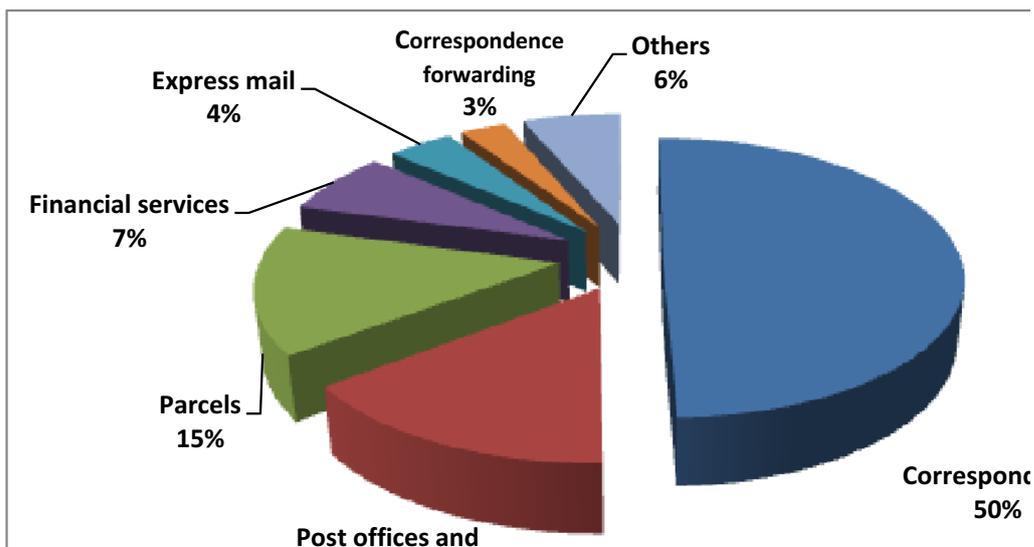


Source: ICP-ANACOM.

**6.1.3. Postal network and services**

Over 11,528 complaint records were registered in 2011, with the correspondence service giving rise to the largest number.

**Graph 56. Complaint records about the postal sector by service**



Source: ICP-ANACOM.

The subject giving rise to the most complaints was customer service, with 3,056 complaint records; these complaints are typically associated with users visiting service provider

outlets, reflecting the weight of complaints submitted using complaints books in the total volume of complaints presented to this Authority. Other matters giving rise to most complaints in this period were lack of attempted delivery at home (1,481 complaint records), problems related to notices of receipt<sup>63</sup> (1,225 records) and loss (1,123 records).

#### **6.1.4. Information society services**

The largest number of complaint records about information society services was related to message-based value added services, with 953 records in 2011, representing about 92 percent of all records sent to this Authority about these services. The main issues raised in these complaints about message-based value added services were related to various irregularities in subscription to these services.

#### **6.2. Results of analysis of complaint records**

Of the 75,200 records registered in 2011, about 3.1 percent were illegible, lacked content or were cancelled by the complainant.

Furthermore, around 14.8 percent of complaints were related to matters outside ICP-ANACOM's area of intervention, including complaints on issues which are not encompassed by the sectors which ICP-ANACOM regulates, as well as records that, although referring to areas regulated by this Authority, relate to issues beyond the scope of ICP-ANACOM's intervention. Such complaints include issues related to faults and technical assistance with regard to electronic communications terminal equipment, as well as general issues related to errors in billing for services. In both cases, and whenever possible, ICP-ANACOM referred parties making such complaints to the competent authorities.

Among the remaining records that fell within the scope of ICP-ANACOM's intervention, about 82.1 percent were processed, and evidence of non-compliance with applicable sector legislation was detected primarily with regard to the following issues:

- non-compliance with the rules governing provision of SMS and MMS-based value added services, as laid down by Decree-Law no. 63/2009 of 10 March, amending Decree-Law no. 175/99 of 21 May;

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<sup>63</sup> The records which refer to notices of receipt are typically associated with a failure to complete the notice, non-return of the notice to sender, the illegible completion of the notice illegible or incorrect completion.

- non-compliance with the rules governing the operation of call centres, as laid down by Decree-Law no. 134/2009 of 2 June;
- non-compliance with the rules governing number portability, as laid down by Regulation no. 87/2009 of 18 February, amending Regulation no 58/2005 of 18 August;
- non-compliance with the rules governing complaint books, as laid down by 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;
- non-compliance with the rules governing the unblocking of equipment, as laid down by Decree-Law no. 56/2010 of 1 June; and
- non-compliance with the rules governing pre-selection, as laid down by Regulation no. 268/2007 of 15 October, amending Regulation 1/2006 of 9 January.

In the records which showed no evidence of non-compliance with applicable legislation, the vast majority referred to strictly contractual situations (such as related to aspects of quality of service, tariffs, cancellation and service installation). As regards such records, ICP-ANACOM's role is informative, providing consumers and other users with clear information on the issues raised, in particular as regards applicable legislation, referring to the organizations which can help them resolve their conflict with the provider.

In the processing of all complaints received and wherever deemed necessary, ICP-ANACOM cooperates closely with service providers and with consumer protection organizations.

Since August 2009, ICP-ANACOM has also taken part in the *Rede Telemática de Informação Comum* (RTIC) (Telematic Network of Common Information), which is the responsibility of *Direcção-Geral do Consumidor* (DGC) (Directorate General for the Consumer). This system can be used by people to check the status of complaints they have submitted using complaint books.

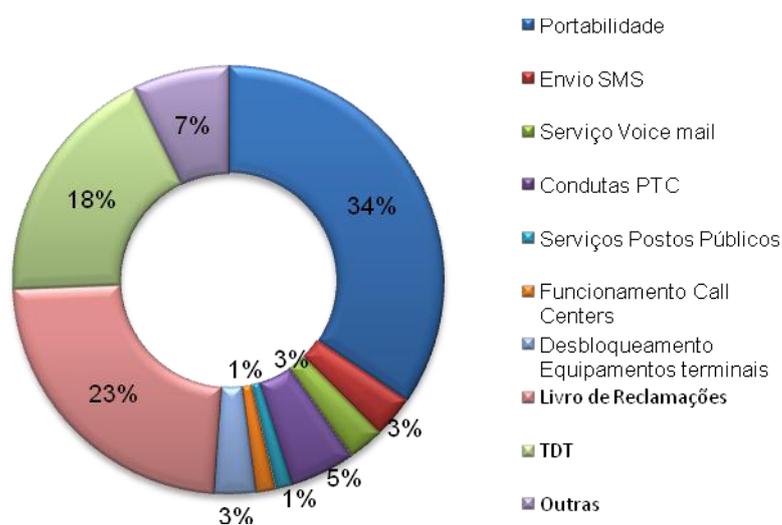
By processing the complaints which it receives, ICP-ANACOM is able not only to detect indications of non-compliance with applicable sector rules (legislation and regulatory measures), but is also able to compile a growing set of information useful for sector regulation and assisting users. Recognizing how important it is to deal with complaints quickly and effectively in order to accomplish these goals, ICP-ANACOM has focused on increasing its capacity to respond to user requests and enquiries. In 2011, this

commitment resulted in an increase in the number of requests and enquiries handled, while simultaneously improving the time taken to respond to them.

### 6.3. Inspection and laboratory activities

As part of its assignments, ICP-ANACOM conducts market inspection actions. It does so following an annual schedule, seeking to take action in areas that may reveal failures of functioning or with regard to other aspects deemed critical; and according to complaints received which indicate irregularities that warrant verification. In 2011, investigations were conducted in various areas: electronic communications, postal sector, message-based value added services, equipment and other areas.

Graph 57. Inspections undertaken in 2011



Source: ICP-ANACOM

#### 6.3.1. Electronic communications

Actions focusing on the electronic communications sector were performed in order to verify compliance by authorised entities with the obligations set forth pursuant to the titles authorising exercise of activity and pursuant to applicable legislation. Such actions were taken with a view to preventing situations which might potentially distort the normal functioning of markets, and also with a view to finding solutions that might lead to the settlement of disputes between operators and/or between operators and consumers.

Alongside these actions, ICP-ANACOM continued to control the exercise of activity and provision of services by entities that lack authorising title duly issued by ICP-ANACOM for this purpose.

In the communications market, ICP-ANACOM's inspection activities involved 667 operations covering a relatively mass services market.

The set of measures executed, include:

- 21 inspections related to compliance with Decree-Law no. 177/99 of 21 May (as amended by Decree-Law no. 63/2009 of 10 March). These inspections were conducted to verify compliance by providers of SMS and MMS-based value added services covering both subscription procedures and the fulfilment of requests by the support operators to bar access to such services (aspects that most frequently give rise to complaints sent to this Authority). Various occurrences of non-compliance were found, determining the instigation of various breach proceedings;
- 230 investigations of irregular number portability situations. Portability remained a focus of ICP-ANACOM's activities in 2011. These investigations covered MTS and FTS providers and sought to detect irregularities in the respective portability processes, in particular, in practices followed by the operators in providing information to consumers; as such ICP-ANACOM sought to verify compliance with the deadlines set out in the *Regulamento da Portabilidade* (Portability Regulation – Regulation no. 58/2005 of 18 August) and examine the reasons given for refusing to carry out number portability. Processes in this area were also forwarded to litigation, culminating in the instigation of breach proceedings;
- 18 investigations regarding compliance with ICP-ANACOM Determination of 16 May 2002, whereby it was stipulated that all telecommunications operators/service providers that offer the voice mail service are required to provide the caller with a period of five second after the beginning of the service message, where no charge is made, so that callers have time to decide whether to use the function or not. No irregular situations were detected;
- 33 inspections in PTC ducts, in the context of overseeing the RDAO, with the aim of assessing the correctness of indicative information on the occupation of ducts made available in the duct database (RDAO Extranet) through a colour system based on four levels of occupancy. In addition to verifying occupancy levels, on-the-ground

checks were conducted during these inspections on duct profiles and the correspondence of these profiles to the information available in the database. Detected situations of non-compliance were forwarded to litigation;

- eight inspections focused on the offer of the public pay-telephone service in commercial establishments open to the public; no breaches of the provisions of Law no. 5/2004 of 10 February were detected;
  - 10 inspections to verify compliance with obligations under Decree-Law no. 134/2009 of 2 June, concerning the functioning of call centres, focusing on answering times, the provision of menus and on information provided to the user. In light of the non-compliant situations detected, eight cases were referred to litigation;
  - 21 investigations related to Decree-Law no. 56/2010 of 1 June on the unblocking of terminal equipment, resulting in litigation citations.
  - 155 inspections regarding compliance with the rules set out in Decree-Law no. 156/2005 of 15 September, as amended by Decree-Law no. 371/2007 of 6 November (Complaint Books), with detected irregular situations referred to litigation;
  - 123 inspections related to DTT, focusing on the sale of decoders, the provision of information on the implementation of the service and competitive promotions conducted by companies that distribute television signals by cable;
  - 48 different investigations stemming from complaints received by ICP-ANACOM.

### **6.3.2. Postal services**

Aiming to ensure compliance with the activity licences of service providers and, at an operational level, respond to requests for intervention that may arise as a result of consumer complaints, four investigations were carried out in the postal services market. These investigations sought to check the activities pursued by other such companies, whereby it was concluded that there were situations where the activity of postal service provider was being exercised without authorising title; after drawing up the relevant official reports, these cases were referred to litigation.

An investigation was also carried out focusing on postal agencies whose operation has been conceded by CTT to various entities. As such, during 4th quarter 2011, 12 agencies were inspected, and inspections will continue across the national territory through 2012.

### **6.3.3. Infra-estruturas de Telecomunicações em Edifícios (ITED) (Telecommunications Infrastructure in Buildings) and Infra-estruturas de Telecomunicações em Urbanizações (ITUR) (Telecommunications Infrastructure in Housing Developments, Urban Settlements and Concentrations of Buildings)**

With regard to telecommunications infrastructure in building and in housing developments, urban settlements and concentrations of buildings, 571 inspections were carried out in 2011, comprising 534 infrastructure inspections and 37 documentary inspections. As a result 157 cases of non-compliance were detected (in relation to the respective project and applicable technical standards or in the project in respect of applicable technical standards) along with 259 situations of administrative non-compliance.

These inspections were carried out to ensure that the activities of market agents were in compliance with the prevailing legal framework.

14 investigations were also undertaken with respect to ITED/ITUR training entities.

Under the ITED legal regime<sup>64</sup>, the conformity of telecommunications infrastructure in buildings is the responsibility of the designers, during the project phase, and of the installers, in terms of execution. As such, declarations of responsibility must be issued and delivered to the site owners and to ICP-ANACOM, in accordance with the obligations provided for above.

Through its knowledge of the declarations of the responsibility provided by ITED designers and installers, ICP-ANACOM is able, beyond the proper performance of its inspection activities, to carry out effective verification of the technical and legal regime, ensuring the quality of telecommunications infrastructure in buildings.

In this respect, ICP-ANACOM engaged in a set of actions in 2011 with more than 40 Municipal Councils, enabling the compilation of a range of documentary evidence enabling the cross-checking of data. As a consequence, 139 inspections were carried out

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<sup>64</sup> Decree-Law no. 123/2009 of 21 May, as amended by Decree-Law no. 258/2009 of 25 September.

(based on this data), with evidence found of non-compliance with the obligation to deliver declarations of responsibility to ICP-ANACOM.

With regard to ITUR inspection activities, 68 documentary analyses were performed, in order to verify compliance of the respective ITUR projects with the applicable technical rules (ITUR manual) and of other documentation associated with the issuance of the respective declarations of responsibility.

Within the scope of ICP-ANACOM's collaboration with Municipal Councils, two seminars were held, aimed at council technical staff and with the aim of promoting debate and clarifying issues related to the legal and technical regime governing ITED/ITUR, the implementation of DTT and the CIS.

Meanwhile, ICP-ANACOM provided clarifications and responded to 410 requests for information, entailing various technical and legal analyses.

#### **6.3.4. Equipment market**

ICP-ANACOM has been granted powers to enforce compliance with Decree-Law no. 192/2000 of 18 August, which establishes the regime governing the free circulation, placing on the market, and putting into service in Portuguese territory of radio equipment and telecommunications terminal equipment. The following types of equipment are covered: (i) radio equipment using radio spectrum frequencies, containing a transmitter and/or a receiver<sup>65</sup>; and (ii) telecommunications terminal equipment which, through an interface, is connected to the public telecommunications network (public GSM networks, analogue or digital telephone networks and data networks).<sup>66</sup>

Equipment market inspections involve three procedures to assess conformity of equipment placed on the market:

- procedure 1 – direct inspection actions (on-the-spot, using catalogues and online) involving economic agents (distributors, importers, traders), to verify requirements and detect those responsible for placing equipment on the market;

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<sup>65</sup> This applies, for example, to mobile phones (GSM), satellite terminals, citizens band equipment, maritime band phones, cordless phones, short-range devices (Bluetooth applications, remote controls, wireless alarms, devices for opening garage doors, wireless networks and remote control toys).

<sup>66</sup> Examples include telephones, answering machines, *modems* and GSM equipment (simultaneously radio equipment).

- procedure 2 – market monitoring, using laboratory tests (conducted in ICP-ANACOM's laboratories), and analysis of technical documentation to verify equipment conformity;
- procedure 3 – market monitoring, through the analysis of technical documentation to verify equipment conformity.

Among the direct inspections conducted of economic agents (distributors, importers, retailers) – procedure 1, 178 inspections were performed in 2011, with 342 devices inspected, 178 devices seized and sent 129 cases referred to litigation.

Under procedures 2 and 3, 103 cases were opened, 219 completed (including previous cases carried over to 2011) and 64 devices tested.

As a result of these inspections and subsequent laboratory and technical documentation analysis, a total of 201 cases were referred to litigation as a result of detected non-conformities.

There is also the specific case of radio equipment using frequency bands whose use is not harmonised throughout the EU. The manufacturer, their importer or legal representative are now required to notify ICP-ANACOM four weeks before placing such equipment on the market, in accordance with article 9 of Decree-Law no. 192/2000 of 18 August. This notification is always reviewed by this Authority. Failure to comply with ICP-ANACOM's directions with regard to these devices can lead to a restriction on their entry into service. In addition, the restrictions stipulated to those responsible for placing the equipment on the market must be reflected in the information provided to the equipment's users. In 2011, 743 notifications were made under article 9 and 6, paragraph 4 of Directive no. 99/5 (R&TTE), 75 communications were found to be incorrect and responses/analyses were received to 27 notifications.

Also during 2011, and following requests for information in the context of R&TTE from representatives of equipment manufacturers or other undertakings responsible for placing equipment on the market, 11 requests for information were concluded which, in most cases, entailed technical analysis.

#### **6.3.4.1. Laboratory activities**

Related to the performance of its inspection activities, ICP-ANACOM has an important laboratory activity, supporting its oversight of the equipment market and actions to inspect the market and industry.

The *Laboratório de Ensaios e Calibração* (LEC)(Testing and Calibration Laboratory) obtained Flexible Accreditation in April 2011 to perform testing. This is the first such accreditation granted by *Instituto Português de Acreditação* (IPAC) (Portuguese Institute of Accreditation) in Portugal's electric sector. Flexible accreditation means that the list of accredited tests can be managed with more agility, which is essential in the current, fast-moving technological scenario, with constant changes in standardized test methods that have to be implemented in the area of radio testing and electromagnetic compatibility.

The LEC was involved in a bilateral comparison with the English laboratory RFI Global Services Ltd. in the areas of electromagnetic compatibility (EMC) and radio (RAD). This was undertaken pursuant to the requirement imposed under standard NP EN IEC/ISO 17025 (participation in inter-laboratory comparison programmes).

To this end, the following samples were tested to verify the essential requirements of the R&TTE Directive: a DECT phone and a cordless phone to check conformity as regards EMC requirements, and a MTS transmitter/receiver to assess radio requirements.

The results obtained in the two laboratories were practically identical, demonstrating a high level of reproducibility in the methods used.

The main actions undertaken to provide technical support in the market for radio and telecommunications terminal equipment, as well as the work carried out in the LEC, are outlined below.

- **Technical support with respect to radio and telecommunications terminal equipment**

During 2011, testing was performed on radio and telecommunications terminal equipment covered by Decree-Law no. 192/2000 of 18 August for the purposes of market oversight and for the issue of technical opinions in the context of legal proceedings.

Market and industry controls were also performed, through the verification of the essential electromagnetic compatibility requirement in electronic communications equipment covered by Decree-Law no. 325/2007 of 28 September, with opinions also issued in this area in support of legal proceedings.

As regards power line communication (PLC) technology, technical verification of equipment was performed in the laboratory and on-site.

- **Radio Testing Area (RAD)**

In providing oversight of the radio equipment market (R&TTE), 198 radio devices were tested with different applications, 118 taking place in the context of market investigations, 79 referring to investigations into the use of radio spectrum and one expert opinion on radiocommunications equipment, provided upon the request of judicial/police authorities.

Studies and tests were continued, with an expansion of the number of characteristics which can be subjected to laboratory verification.

In cooperation with the Spectrum planning and engineering department, involving a student from *Instituto Superior Técnico* (Higher Technical Institute), the following activities were initiated:

- identification/description of the spectrum mask of digital and analogue SMT-RP equipment;
- determination of the theoretical sensitivity of the receivers of such equipment;
- determination/verification of interference effects in order to ensure compatibility between analogue/digital equipment.

- **Electromagnetic compatibility test area (EMC)**

142 devices were tested during the year, including 111 for the purpose of market inspections in the context of R&TTE and 31 at the request of external agencies.

Meanwhile, a study was conducted on the digital dividend, based on tests for evaluating the performance of different coaxial cable structures in the presence of broadband radiocommunication systems, in particular Long term evolution (LTE). These tests reveal immunity shortcomings in certain cabling types directly related to the efficiency/quality of their shields.

- **Calibration Area (CAL)**

Accomplishing ICP-ANACOM equipment calibration plans, 238 measuring equipment calibrations were performed in 2011. Meanwhile 44 equipment calibrations were performed for external clients, representing a decrease of 27.3 percent in the number of calibrated units compared to 2010.

The accreditation granted by IPAC according to NP EN ISO/IEC 17025 was maintained for performing electric and frequency calibrations, and the laboratory's accreditation was extended to cover reflection coefficient calibration and attenuation calibration.

### 6.3.5. Monitoring and control of the spectrum (MCE)

ICP-ANACOM undertook preventative and reactive investigations with respect to its frequency management activity.

The preventive component entails verification of compliance with the regulations associated with spectrum management, seeking verification of the operating conditions of radiocommunications networks and stations and compiling information on the ground to assist the activities of spectrum planning and the licensing of radiocommunications networks and stations. Investigations carried out in this area resulted in around 64 percent of the 58 cases being referred to litigation, leading to the instigation of breach proceedings.

The remaining cases that were referred to litigation originate from ICP-ANACOM's reactive activities, which always stem from external requests.

Of a total of 1,152 external requests, 385 were related to interference and culminated with the issue of technical amendment orders to restore normal conditions.

Of the remaining 767, about 34 per cent were related to inspections focusing on radio stations and networks with around 36 percent of these cases referred to litigation.

The following table shows details of ICP-ANACOM's reactive activity, as developed in the mainland Portugal in 2011.

**Table 28. MCE activity in 2011**

1,152 processes (100%)	385 cases of interference (33%)	170 cases of interference. Television broadcasting service- television reception (44%)
		77 cases of interference. Aeronautical mobile service (20%)
		50 cases of interference. Amateur service and amateur-satellite service (13%)
		35 cases of interference. Public land mobile and trunking - public operators (9%)

		26 cases of interference. Private network service and CB CB (7%)	
		10 cases of interference. License exemptions (3%)	
		8 cases of interference. Radio broadcasting service (2%)	
		9 cases of interference. Other services (2%)	
	767 Other requests (67%)	258 Direct inspections of radiocommunications stations and networks (34%)	
		191 Requests for cooperation from other national and international bodies (25%)	134 Cooperation requests international - counterpart authorities (70%)
			57 Requests for cooperation from national entities (PSP, GNR, ERC...) (30%)
		81 Complaints about non-ionizing radiation (11%)	
		53 Inspections at special, short-duration events (sports, entertainment, national and international) (7%)	
		43 Requests for studies and analysis of levels of coverage of radiocommunications networks (6%)	
141 Actions in response to other requests related to the activity (18%)			

Source: ICP-ANACOM.

ICP-ANACOM was called on to resolve 385 cases of interference, with 44 percent related to difficulties involving digital and analogue television signal reception.

During 2011, ICP-ANACOM received 77 interference processes regarding communications of the aeronautical mobile service, making up 20 percent of all interference situations reported, which called for maximum priority.

ICP-ANACOM also resolved around 35 situations of interference affecting the networks of public MTS and mobile trunking operators. Such situations are particularly important due to their impact on the economic activity and life of ordinary citizens (given the high rate of penetration across Portuguese society).

Institutional representation and representation of Portugal internationally (all related to the use of radio spectrum) comprised: (i) 134 cases of cooperation with ICP-ANACOM's international counterparts; and (ii) 57 cases of cooperation with national agencies, e.g. PSP, GNR and ERC.

ICP-ANACOM also conducted monitoring, on a regular basis, at entertainment, sports and/or official short-duration events, which is an activity that has significant bearing on the regulator's international image. In addition to the main objective of ensuring that the communications of licensed users do not suffer interference problems (which significantly decreases demands on ICP-ANACOM's reactive activity in this regard), this type of activity has resulted in a very significant increase in "temporary" licensing granted by ICP-ANACOM.

Until the end of 2011, the monitoring and control of the spectrum department also received 1,544 enquiries related to non-ionizing radiation, calling for analysis of specific situations. 1,527 cases were concluded (involving analyses at 236 educational establishments), many of which involved on-site measurements.

The results point to values which are at least 50 times lower than the reference levels of power density stipulated in Administrative Rule no. 1421/2004 of 23 November. 54 situations were found which did not, at the outset, guarantee levels 50 times lower than the reference levels. However, in all cases, compliance of the reference levels was guaranteed. All the persons or entities requesting evaluations were informed of the respective findings.

#### **6.4. Monitoring activity**

ICP-ANACOM conducts monitoring in various areas. Rather than involving direct or on-the-spot inspections, this activity entails active market supervision carried out indirectly, verifying compliance with the rules in force or with the obligations to which operators are subject. It is based on the analysis of information provided by operators on their websites or information contained in contracts, on surveys sent out to operators or on statistical information which they are required to provide. In 2011, ICP-ANACOM engaged in a range of monitoring actions of this type - the most important actions are outlined below.

#### **6.4.1. Monitoring of compliance with portability obligations**

In 2011, ICP-ANACOM continued to monitor portability processes conducting analysis of non-response (time outs) to portability requests and of the types of refusal cited, in order to ascertain the most frequent causes of rejection and examine how occurrence of these causes can be reduced. As such, the current amendment to the *Regulamento da Portabilidade* (Portability Regulation) simplifies validation of identified MTS pre-pay subscribers.

With regard to the monitoring of tariff transparency obligations in 2011, ICP-ANACOM compiled information reported at the end of 2010 and at the end of the first half of 2011, including information on numbers to access the service giving information on prices of calls to ported numbers and information concerning the procedures indicated by MTS providers to deactivate/reactivate the portability announcement. This compilation was also used to update the information provided to the general public on ICP-ANACOM's website. Information is collected from responses given to the six-monthly portability questionnaire, which is used to compile and systemise the information which companies with portability obligations are required to submit to ICP-ANACOM. With this information ICP-ANACOM is able to monitor the performance of this feature and verify compliance with the portability obligations set out in the *Regulamento da Portabilidade* (Portability Regulation) and the LCE.

Based on the information collected through the portability questionnaire, a number of investigations were conducted in April 2011 to confirm/verify compliance, where applicable, with the consumer information obligations laid down in the *Regulamento da Portabilidade* (Portability Regulation) and to verify that the information provided to ICP-ANACOM under article 22 of the same Regulation is properly updated.

In lights of the situations of non-compliance detected as a result of these investigations, especially as regards: (i) failure by three providers in the provision of information on the pricing of calls to ported numbers; (ii) failure by one provide in the provision of the free online announcement in national voice calls between MTS networks made to ported numbers, with the call routed directly to the called number; and (iii) inability to deactivate the online portability announcement with one provider – the case was sent for examination with a view to litigation.

During the first fortnight of September 2011, monitoring was performed to check compliance with the obligation of provider companies to provide disclosure of the prices charged for portability operations on their websites. It was concluded that only three companies were disclosing information in a manner that is inconsistent with the responses which these companies provided to the six-monthly portability questionnaire. These situations of inconsistency detected by ICP-ANACOM were resolved by the companies concerned during September 2011.

During the first week of December 2011, ICP-ANACOM acted to monitor the models employed by provider companies in their disclosure of contact numbers used to obtain information on the price of calls to ported numbers and on the price of calls to these services. A number of inconsistencies were detected compared to the information submitted by companies to ICP-ANACOM – these will be addressed in 2012.

#### **6.4.2. Monitoring of obligations established pursuant to rights of use of frequencies granted for provision of the land mobile service (Global Positioning System – GSM and UMTS)**

Following unification, by determination of 8 July 2010, of rights of use of frequencies to provide the land mobile service (GSM and UMTS), it was considered relevant to implement improved systematization, through the definition of specific questionnaires, of the information that the three companies holding these titles are required to submit to ICP-ANACOM for the purpose of monitoring coverage, quality of service and the means of implementing site/address sharing.

These questionnaires were approved on 17 November 2011. The information pertaining to 2010 has been sent to ICP-ANACOM by the provider companies and is currently being examined.

#### **6.4.3. Monitoring of quality of service**

##### **6.4.3.1. Monitoring information on quality of service laid down in the Regulamento sobre Qualidade de Serviço (RQS) (Quality of Service Regulation)**

ICP-ANACOM monitored information on quality of service which, under the *Regulamento de Qualidade de Serviço* (Quality of Service Regulation) (Regulation no. 46/2005 of 14

June, as amended by Regulation no. 372/2009 of 28 August), it receives on a quarterly basis from companies providing the FTS.

Researching their websites during 2011, ICP-ANACOM sought to verify the extent to which companies were using the *Modelo de Divulgação* (Model of Disclosure) recommended by this Authority for disclosure to end-users of information stipulated under the RQS.

These checks focused on: (i) the information disclosed about the performance objectives that the companies proposed to offer in 2011 and; (ii) the levels of annual performance registered by companies in 2010.

Following warnings sent to providers regarding certain non-conformities with the recommendations, it was found that the model is being employed by the companies concerned.

#### **6.4.3.2. Monitoring of models of disclosure of information on quality of service in Internet access provider (ISP) subscription contracts**

With respect to the transparency of information on quality of service, the LCE, as recently amended, makes provision for certain additional instruments, including the possibility that the NRA determine (and not just recommend) the quality of service parameters (QSP) that companies providing electronic communications include in contracts concluded with their subscribers, in addition to the parameter 'time required for the initial connection'.

In order to assess the appropriateness of establishing such additional parameters in contracts, ICP-ANACOM will continue to monitor quality of service components included in subscription contracts as well as complaints about quality of service.

In this context, in November 2011, a questionnaire on quality of service was sent out via the BEREC Contact Network to the different NRA; responses to the questionnaire were received from 16 countries, revealing that four of the respondents (Finland, FYROM, Latvia and Romania) have established other parameters in addition to "Time taken for initial connection", for mandatory inclusion in contracts. Meanwhile, the Hungarian regulator is preparing a new Regulation on this matter and the Swedish regulator is considering the definition of a Regulation (or guidelines) on the definition of minimum service quality.

The definition of the overall strategy to be followed by ICP-ANACOM in terms of transparency on quality of service will be formulated in line with the developments which are occurring in terms of work ongoing at BEREC, particularly as regards quality of service in Internet access and in the context of net neutrality.

#### **6.4.4. Monitoring of various aspects associated with retail offers**

##### **6.4.4.1. Compliance with disclosure of information obligation in ISP subscription contracts**

Following a survey conducted in late 2010, it was found that five ISP did not have contracts available on their websites, indicating non-compliance with the provisions established on this matter in ICP-ANACOM determination of 21 April 2006 on the object and form of public disclosure of conditions of provision and use of electronic communication services. In early 2011 notices were sent to these companies requiring on them to correct the situations identified. In these notices, the companies were informed that if, prior to the deadline set by ICP-ANACOM, they failed to remedy the non-compliant situations reported, the processes would be forwarded to litigation.

It was found later that all the providers immediately corrected the non-compliant situations notified to them, except for one company whose case was forwarded to litigation, in view of its persistent failure and its failure to send any justification for not rectifying the situation.

##### **6.4.4.2. Model of disclosing tariffs on the websites of multiple-play service providers and providers of nomadic VoIP services and telephone traffic resale providers.**

Between October and November 2011, a consultation was performed of the websites of companies that provide telephone traffic resale services with initiated offers, to check the models used for disclosing the respective tariffs; these were found to conform to the stipulations of ICP-ANACOM determination of 21 April 2006.

#### **6.4.4.3. Provision by companies providing telephone services of tariffs with per-second billing and monitoring of the disclosure of said tariffs.**

All companies providing telephone services are required to make a tariff available with a single initial period followed by per-second billing –which may be based on an opt-in logic as regards all existing tariffs; they are likewise required to disclose their tariffs on their websites, where available. In this context, following on from the checks conducted in 2010, which focused on the FTS, MTS, nomadic VoIP service (with temporal charging) and dial-up ISP services (with temporal charging), a survey was conducted in October 2011 examining the websites of companies that provide offers targeted at consumers (residential sector) in respect of the following companies/services: new providers of the FTS, MTS, nomadic VoIP and dial-up Internet (after October 2010) and all providers of telephone traffic resale services with initiated offers, while also concluding the process with regards to non-compliant cases detected in 2010.

As a result of these surveys, it was concluded as follows:

- all situations of non-compliance detected in 2010 have been rectified;
- there are no new providers of the FTS, MTS, nomadic VoIP and dial-up Internet with offers launched subsequent to October 2010;
- providers of telephone traffic resale service are generally compliant with the obligation. However, some of the results remain under review.

#### **6.4.5. Monitoring compliance with the rules on the inclusion of advertising and information of a utilitarian nature in telephone directories to be provided within the scope of universal service**

During 2011, ICP-ANACOM continued to verify compliance with the obligations imposed on PTC in terms of the inclusion of advertising and information of a utilitarian nature in telephone directories supplied in accordance with the obligations of the US.

#### **6.5. Orders, recommendations and clarifications**

In providing supervision and oversight of the sector, it is incumbent upon ICP-ANACOM to ensure compliance with the obligations of US, and also to ensure the application and enforcement of laws, regulations and technical requirements within the scope of its powers and responsibilities. ICP-ANACOM is also responsible for ensuring that

communications operators are compliant with the provisions of the titles under which they are authorised to engage in activity or with the provisions of concession contracts, and for ensuring compliance with the general authorisation scheme (in the case of electronic communications).

Under the law, ICP-ANACOM may conduct investigations and inspections with respect to any undertaking or site in the performance of its responsibilities.

According to article 9 of its Statutes, and within the scope of its powers of regulation and supervision, ICP-ANACOM may adopt different procedures, whereby it may issue orders or determinations, which it does on a regular basis, formulate recommendations and disseminate information on the position which it adopts with regard to determined issues.

In the case of orders or determinations, ICP-ANACOM may require providers to change and/or correct their behaviour. As a rule, having detected irregularities, the services of this Authority notify the parties concerned, giving them a deadline to remedy the situation. Once these deadlines have expired, new inspections are performed to check whether the situation has been corrected. Such occurred on 19 May 2011, when ICP-ANACOM ordered the prohibition of commercial practices which, in any way, may instil the perception in consumers that if they want to continue to receive free-to-air channels (RTP 1, RTP 2, SIC and TVI and RTP Azores and RTP Madeira in the respective Autonomous Regions), they will need to subscribe to a paid service. This determination was directed at the providers of the television signal distribution service, as well as agents marketing and/or selling these services.

On 26 May 2011, ICP-ANACOM ordered PTC to immediately correct the information which it was providing on the allocation of subsidies for the acquisition of DTT reception equipment by citizens with special needs and by disadvantaged population groups and institutions of proven social value, as well as information on the reimbursement available on equipment and its installation in areas served by satellite reception. Recommendations are made in situations where the regulator considers that there are grounds for giving providers guidance on behaviour.

Clarifications/positions are issued to the market when the regulator sees a need to clarify its position on given issues, explaining its views to the market, and so increasing visibility with respect to regulatory action. Along such lines, on 21 January 2011, ICP-ANACOM set out its position on the application of compensation provided for under the *Regulamento da Portabilidade* (Portability Regulation – Regulation no. 87/2009, amending Regulation no.

58/2005 of 18 August). Following uncertainties expressed by mobile operators and VAS providers regarding a prior position, in 2011 ICP-ANACOM made it clear that the obligation of blocking access to value-added services based on message sending, as established in paragraph 3 of article 45 of the LCE, applies to all prevailing contracts concluded with companies offering public communications networks and publicly available electronic communication services which support the provision of message-based value-added services<sup>67</sup>.

Clarifications were also issued regarding the *taxa municipal de direitos de passagem* (municipal fee for rights of way - TMDP). By circular notice sent in June 2011 to undertakings providing publicly available electronic communication networks and services at a fixed location, ICP-ANACOM drew attention to the fact that Decree-Law no. 123/2009 of 21 May, as amended by Decree-Law no. 258/2009 of 25 September, clarified the legal regime governing TMDP; as such, ICP-ANACOM made clear that "for the use and enjoyment of property of the municipal public and private domain, comprising the construction of installation of infrastructure suitable for the accommodation of electronic communications networks by undertakings providing publicly available electronic communications networks and services, the TMDP (municipal fee for rights of way) is payable pursuant to article 106 of *Lei das Comunicações Eletrónicas* (Electronic Communications Law), as approved by Law No. 5/2004 of 10 February. No other fees, charges or payments are permitted in respect of the use and enjoyment of the property of the municipal public and private domain". On this occasion, it was also recalled that, as is clear from Regulation no. 38/2004 of 29 September<sup>68</sup>, "all companies subject to the TMDP (municipal fee for rights of way) shall inform ICP-ANACOM of the date from which they are subject to such fees and by reference to the municipalities covered", and shall "conduct annual audits performed by independent entities previously accepted" by this Authority "which demonstrate conformity of the procedures adopted in light of Law no. 5/2004 and the present Regulation and which guarantee the validation of information"<sup>69</sup>.

In this context, and so that ICP-ANACOM could update the information provided on its website, the companies were asked to provide the information referenced in the preceding

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<sup>67</sup> Determination available at: <http://www.anacom.pt/render.jsp?contentId=1112466&languageId=1>

<sup>68</sup> Regulation which establishes the procedures for collection and delivery to municipalities of the *Taxa Municipal de Direitos de Passagem* (Municipal Rights of Way Fee).

<sup>69</sup> Article 6, paragraph 1.

paragraph, where they had not already done so. The information received remains under analysis, while additional elements and responses are being compiled where warranted.

On 22 December 2011, exercising the powers assigned to it under Regulation no. 38/2004, published on 29 September, ICP-ANACOM decided to accept the auditors selected by Cabovisão – Televisão por Cabo, S.A., by Claranet Portugal – Telecomunicações, S.A., by OniTelecom - Infocomunicações, S.A., by Optimus – Comunicações, S.A., by ZON TV Cabo Açoreana, S.A. by ZON TV Cabo Portugal, S.A. and by ZON TV Cabo Madeirense, S.A., for the purposes of conducting audits, in compliance with the regime established under article 6 of Regulation no. 38/2004 of 29 September (TMDP - municipal fee for rights of way).

## **6.6. Litigation and offences**

ICP-ANACOM has authority to apply different types of sanctions: contractual penalties (in accordance with the *contratos de concessão* (concession contracts) governing the public telecommunications service and the universal postal service; sanctions in the context of breach proceedings; other administrative penalties (such as the suspension and cancellation of registrations); and may also impose mandatory monetary penalties.

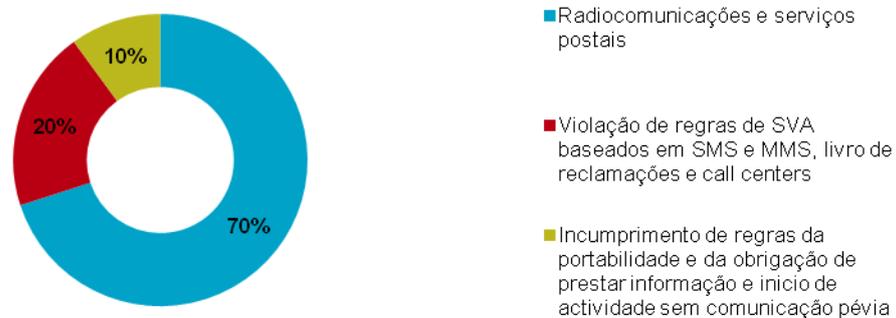
Provision is made under different pieces of sector legislation whereby ICP-ANACOM may instigate, instruct and rule on breach proceedings, whenever it is deemed that an administrative offense has been committed under such legislation.

Law no. 99/2009 of 4 September establishes the framework of administrative offences within the communications sector, in light of the specifications and requirements of the sector and allows a more homogeneous and more rapid response from the sector's regulator.

The creation of ICP-ANACOM's Litigation and Offences Department, with the addition of new human resources, has given new impetus to the processing of offences. In 2011, 642 breach proceedings were instigated, compared to 145 in 2010, with rulings issued with respect to 371 cases, compared to 92 in 2010. Breach proceedings may be instigated following investigations which uncover evidence of non-compliant situations, or based on allegations made by operators or users of services, or may originate in notices addressed by other bodies or authorities.

**Graph 58. Proceedings instigated in 2011**

**642 processos de contra-ordenação instaurados em 2011**



Unit: % (universe of 642 processes)

Source: ICP-ANACOM

About 10 percent of instigated proceedings resulted from evidence of breaches of the LCE, with note made of proceedings arising from situations of non-compliance with portability rules, and given their greater number, proceedings instigated in respect of failures to provide ICP-ANACOM with required information and proceedings instigated following commencement of the activity of provision of electronic communications services while failing to notify ICP-ANACOM.

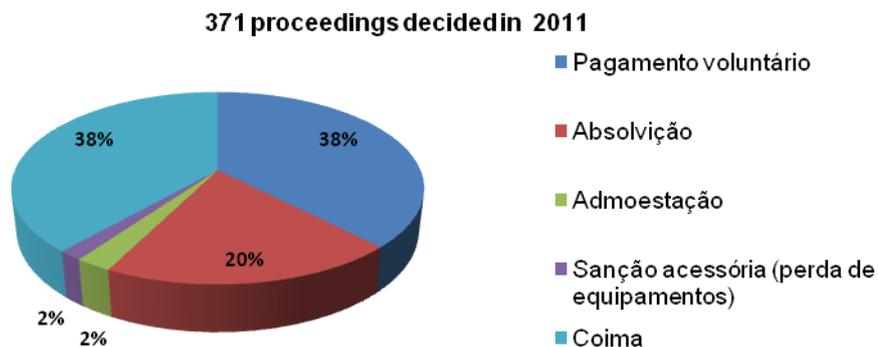
About 70 percent of instigated proceedings relate to radiocommunications, including the personal radio service – citizen's band, the private use land mobile service and the radio broadcast service; the offenses in question relate, in most cases, to the use of radiocommunication stations or networks without registration or license or in a manner non-compliant with the mandatory technical parameters.

In terms of postal services, note is made of the proceedings instigated in respect of breaches of the obligation of service providers to send regular information to ICP-ANACOM and proceedings related to the operation of postal services without authorising title.

Among the remaining cases, note is made of new proceedings in respect of breaches of the rules applicable to message-based value-added services; others in respect of breaches of the mandatory availability of complaints books in all establishments where goods or services are offered; and others for breaches of the legal regime governing the provision of services of promotion, information and assistance to consumers and users

through telephone call centres.

**Graph 59 Breach proceedings with rulings issued in 2011**



Unit: % (universe of 371 processes)

Source: ICP-ANACOM

Of all the breach proceedings that were ongoing in 2011, 371 were decided, of which 267 were instigated in the same year.

In 143 cases, fines were applied, totalling approximately 1,856,854 euros (reduced to 530,000 euros as a result of judicial decisions already made upon appeal).

5.4 percent of the decisions handed down in 2011 were appealed (20 decisions), with three of these appeals heard: in one case the fine was upheld, cancelled in another and reduced in the third. There were another 12 judicial rulings concerning appeals filed previously: in four cases the administrative decisions were upheld in full, the fines imposed reduced in seven and in one case, the procedure was dismissed due to limitation.

With the entry into force of the new LCE, breaches were classified according to their severity, with distinction made between the minor, serious and very serious breaches. Together with the size of the company, this classification determines the limits of the fine (in accordance with the framework scheme of administrative offences within the sector, approved by Law no. 99/2009 of 4 September, whose application to offenses under the LCE has become possible).

Also in accordance with Law no. 99/2009, costs were applied in decisions imposing fines and/or additional penalties, totalling 22,231.72 euros, with costs actually paid totalling only 2,907.80 euros.

## **6.7. Resolving conflicts between operators**

In 2011, ICP-ANACOM was called on to intervene in situations of conflict between different operators:

### **6.7.1. Dispute between Cabovisão and PTC in respect of the reference duct access offer**

On April 29, Cabovisão requested that ICP-ANACOM intervene to resolve a dispute stemming from PTC's failure to respond to feasibility analysis requests made pursuant to the RDAO. However, this Authority was ultimately informed by letter that the dispute had been resolved. As such the procedure was closed in June, without need to adjudicate.

### **6.7.2. Dispute between Sonaecom and PTC and TMN on nomadic VoIP terminations.**

The dispute between Sonaecom and PTC and TMN on nomadic VoIP terminations results from a disagreement over the termination price payable in respect of a request to open the nomadic VoIP range assigned to the then Sonaecom (now Optimus – Comunicações) on the PTC and TMN networks. The dispute remains pending.

### **6.7.3. Dispute between EDA and Ar Telecom, Cabovisão, Optimus and ZON TV Cabo on telephone directory and directory enquiry services**

Four requests were presented by European Directory Assistance (EDA) with regard to the four Portuguese operators which, according to the applicant, had refused to enter into negotiations for the transmission of their subscribers' data for the purpose of providing publicly available telephone directories and directory enquiry services, as required under paragraph 4 of article 50 of the LCE.

These requests were received in February 2011 and constitute the first cross-border disputes submitted to ANACOM under article 12 of the LCE. In July 2011, four draft decisions were approved to provide resolution of these disputes; these were notified to the parties in order to conduct their hearing. The views of Comissão Nacional de Protecção

de Dados (CNPD) (National Data Protection Commission) and the Belgian regulator (BIPT) were also sought, and final decisions were adopted in April 2012.

#### **6.7.4. Dispute between PTC and Sonaecom over unilateral alteration of the remuneration of this company in the access of its customers to PTC's 760 service**

In September 2010, PTC withdrew its request, as presented in April 2009, that ICP-ANACOM intervene regarding its dispute with Sonaecom. Subsequently the case was filed under article 110 of the *Código do Procedimento Administrativo* (Administrative Proceeding Code) which permits parties, upon written request, to withdraw from the procedure.

#### **6.7.5. Dispute between TVI and PTC (terrestrial digital broadcasting)**

By letter dated June 2011, TVI requested that ICP-ANACOM intervene in its dispute with PTC on PTC's (possible) imposition of discriminatory economic conditions in the provision of the digital terrestrial broadcasting service, during the period of simulcast.

Later, in November, TVI informed ICP-ANACOM that it had filed a complaint against PTC with *Autoridade da Concorrência (AdC)* (Portuguese Competition Authority) alleging abuse of dominant position and, as a result, altered and expanded the initially presented request. The case remains under review.

#### **6.7.6. Dispute between Nortenet and PTC (Rede ADSL.PT offer)**

A final decision was issued on 28 July 2011 with respect to the administrative settlement proceedings instigated by Nortenet, as regards the billing, which the company alleged was improper, of the migration of DSL loops, in the periods between 31 December 2007 and 30 June 2008 and between 25 November 2008 and 24 May 2009.

In its decision, ICP-ANACOM ordered PTC to rectify the improper billing of requests for migration of loops pursuant to the *Rede ADSL PT* offer<sup>70</sup>.

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<sup>70</sup> Determination available at: <http://www.anacom.pt/render.jsp?contentId=1094325&languageId=1>

## **6.8. Market monitoring – studies conducted**

In 2011, ICP-ANACOM conducted a series of studies, compiling information useful to sector regulation, and acquiring improved and enhanced knowledge of various issues involving the electronic communications and postal sectors, including:

### **6.8.1. Studies on quality service**

With a view to compiling information, several studies were conducted in 2011 on quality of service (QoS) in the context of the land mobile service, seeking to evaluate levels of service actually provided by Optimus, Vodafone Portugal and TMN. The studies focused on the QoS of message services (text and multimedia), and the actual performance of operators in the provision of voice call and video-telephone services, on mainland Portugal (main urban areas and main roads), in the Autonomous Regions of the Azores and Madeira, on Alfa high-speed trains and on the suburban rail network of the Porto region.

### **6.8.2. Study on bundles of electronic communications services in Portugal**

This study analysed the evolution of the offer of electronic communications services provided as bundles in Portugal, starting with an examination of the viability of the current concept of bundles of services, as used by service providers and by outside entities, such as the EC.

The study also looked at the reasons why service providers offer bundled offers and the impact of their sale on electronic communications markets, including in terms of competition and possible implications in terms of the evolution of the definition and analysis of relevant markets susceptible to *ex ante* regulation.

In addition, a range of statistical indicators on bundles of services is presented, looking at the best methods for analysing available statistical data and compiling new information.

### **6.8.3. Study on challenges regarding the liberalisation of the postal sector**

A study was conducted on the challenges brought about by the liberalisation of the postal sector, presenting the evolution of the postal service in Portugal and identifying the main challenges facing the providers of postal services and ICP-ANACOM, in the accomplishment of the sector's full liberalisation.

It also offers a view on postal economics in Portugal, using key postal activity indicators and a characterization of postal consumption (business and residential). The study also characterized the activity of the main postal service providers operating in Portugal, identifying the major business segments and their relative weightings.

Some case studies are also presented of countries which have accomplished full liberalisation of the service, seeking to extract lessons which are useful to the national case.

#### **6.8.4. Comparison study on of prices of providers of the universal postal service in the European Union in 2011**

ICP-ANACOM conducted a study entitled "Comparison of prices of Universal Postal Service providers in the EU in 2011". This study, which is conducted on an annual basis, compiles a comparison of prices of the most commonly used postal services encompassed by the US and as provided by the Universal Service Providers (USP) in each of the Member States of the EU, based on current exchange rates and also based on purchasing power parity (PPP), as well as tracking developments over the past four years. The study also included a comparison of pricing for newspapers and periodicals.

Finally it should be noted that ICP-ANACOM took part in a study conducted by the EC: "Intra-Community cross-border parcel delivery", developed by FTI Consulting; and accompanied the "Study on appropriate methodologies to better measure consumer preferences for postal services", developed by RAND Europe, in parallel with the above.

#### **6.8.5. Study on broadband in Portugal**

In the second quarter of 2011, ICP-ANACOM conducted a study entitled "Broadband in Portugal, 2011 – forms of access, types of use".

This study enabled an understanding of how users access the Internet, whether by fixed access or mobile access, the type of access attributed to accesses, satisfaction with accesses and the intention of quitting or changing means of Internet access.

Unlike other studies carried out by ICP-ANACOM and other organizations, this study enables a characterisation of the forms of use of all means of Internet access available to the respondent, not just the most used access. In addition, it enabled a comparison of how each access is used when this is the only means of access available to the

respondent and when this means of access is complemented by other means of Internet access.

#### **6.8.6. Progress report on the analogue-digital transition**

Throughout 2011, ICP-ANACOM produced quarterly reports on the progress of Portugal's analogue-digital transition. These reports consolidate qualitative and quantitative information on DTT, reporting on the status and progress of the transition process. The quantitative information in the report refers to the DTT coverage rate, provided by PTC on a quarterly basis; the rate of paid television subscription and the number of digital signal reception devices sold; and other information. Qualitative information refers to activities engaged in by ICP-ANACOM, alone or with other entities, to promote the transition to DTT.

#### **6.8.7. Market studies regarding the switch off of the analogue television signal**

In order to provide an evaluation of the process of ceasing television transmissions of the analogue system, a number of studies were conducted, through surveys, according to the switch off area and according to the dates established in the switch off plan:

1. Study on Alenquer pilot area
2. Study in Cacém pilot area (two survey phases)
3. Study in Nazaré pilot area
4. Study in the coastal areas of mainland Portugal (two survey phases)
5. Monitoring study in mainland Portugal

In general, the various studies, conducted by Marktest, revealed high levels of knowledge about DTT, as well as about the switch off of the analogue signal.

With regard to studies of the coastal area and to monitoring in mainland Portugal, preceding the two key junctures in the switch-off process, in addition to a high level of awareness about DTT, it was found that 70 percent of people who had to migrate were already prepared to do so, while 20 percent reported their intention to prepare before the switch-off date.



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OTHER ACTIVITIES  
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## **D. OTHER ACTIVITIES**

This section of the report covers measures associated with objectives 3 (to participate in the development of the EU internal market, improving the internal performance) and 4 (to promote institutional and technical cooperation), as well as activities undertaken to support the positions of ICP-ANACOM in the scope of administrative litigation, provision of advice to the Government and communication and image.

### **7. To participate in the development of the European Union internal market (Objective 3)**

This chapter outlines the actions performed by ICP-ANACOM while ensuring representation of the Portuguese State at international meetings and organizations, as well as in the technical representation provided by this Authority, in the exercise of its duties and responsibilities in the various EU forums and at international organizations.

This activity is pursued in a transversal manner across the various areas of ICP-ANACOM (in particular, external relations, regulation, spectrum management, communications security, information and consumers, oversight and studies). During 2011, ICP-ANACOM's representatives participated in over 300 international meetings, involving about 115 employees and totalling more than 900 days.

In representation of the Portuguese State, ICP-ANACOM was particularly involved in the meetings of the EU (Council and the EC, and also the International Telecommunication Union (ITU)).

In terms of technical representation, note is made of ICP-ANACOM's participation in meetings of the European Conference of Postal and Telecommunications Administrations (CEPT) and BEREC.

#### **7.1. Representation of the Portuguese State**

##### **7.1.1. European Union**

In its duties of assisting the Government, ICP-ANACOM provides 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 relating to the themes discussed in the Working Groups of the Council, in the Permanent Representatives Committee (COREPER), the Council of Transport, Telecommunications and Energy Ministers and other cross-Community bodies focused on regulation of the sector, including electronic commerce.

#### **7.1.1.1. Transport, Telecommunications and Energy Council (TTE)**

Assisting the Government, in particular, the Ministry of ICP-ANACOM's Tutelage and the permanent national representatives (REPER) to the EU, ICP-ANACOM participated in the postal and telecommunications group, issuing opinions and proposals and through its involvement in negotiations.

ICP-ANACOM also provided the Government with support in negotiations at COREPER and at the TTE Councils held in May and December in Brussels.

In this context, note is made of the following matters:

- **First radio spectrum policy programme for the EU (RSPP)**

Following presentation by the Commission, in 2010, of its proposal and after the EP's pronouncement in May 2011, the Council adopted a decision establishing the first radio spectrum policy programme in a first reading in December. The proposal was the subject of extensive discussion and negotiation, both within the Council's Telecommunications and Information Society Group and also at the EP at various technical meetings and trialogues that took place during the second half of the year.

The EP confirmed the agreed text in early 2012.

The key points of agreement between the Council and Parliament include provision of the 800 MHz band (790-862 MHz) by 1 January 2013 for electronic communications services, particularly for wireless broadband, with the EC allowing exceptions in specific cases.

Along the same lines, note is made of the final agreement regarding the provision of Wireless Access Policy for Electronic Communications Services (WAPECS) bands for the wireless broadband service by 31 December 2012.

Besides other aspects, note is also made of the focus on the future availability of additional spectrum for wireless data traffic and creation of an inventory of spectrum use.

- **European Network and Information Security Agency (ENISA)**

In September, the Commission presented a draft Regulation regarding ENISA, to substitute Regulation (EC) no. 460/2004, reformulating the rules governing the Agency and instituting it for a period of five years. In parallel, the Commission proposed a Regulation extending the current mandate of the Agency for 18 months, given the risk of legal vacuum if the new term is not adopted before the current term's expiration.

Both proposals were the subject of discussion within the Telecommunications and Information Society Group, and during the first half of the year, the Council and Parliament approved an extension of the current mandate for 18 months until 13 September 2013.

Despite extensive discussion, there was no agreement on the formulation of the ENISA mandate in the Council, and the EP also pronounced formally on the matter. In this context, the Polish and Belgian Presidencies, in the first and second halves of the year, limited themselves to the submission of progress reports.

- **International roaming**

In July, the Commission presented a draft reformulation of Regulation 717/2007, as amended by Regulation 544/2009 on roaming on public mobile communications networks in the EU.

The proposal includes structural measures in terms of the wholesale and retail offer, making provision, in particular, that consumers are able to subscribe to the roaming service on a stand-alone basis. The proposal seeks a sustainable and competitive solution over the long term, without need for future regulation. However, recognizing that structural solutions will take time to implement and produce results, the Commission also proposed the maintenance of wholesale and retail price caps, extending retail price caps to data services.

The proposal was the subject of preliminary discussions at the Telecommunications and Information Society Group, with only a progress report presented by the Polish Presidency to the Council.

- **Interconnection mechanism for Europe – Regulation on guidelines for trans-European telecommunications networks, repealing Decision no. 1336/97/EC**

In October, the Commission presented a legislative package on a plan – Connecting Europe Facility (CEF) – which provides funding of 50 billion euros for investments to

improve European transport, energy and digital technology networks, with 9.2 billion targeted at high-speed and very high-speed broadband networks, as well as pan-European services. As such the Commission intends to leverage private funding as far as possible and provide innovative financial instruments such as guarantees and bonds for the financing of projects, to obtain maximum leverage of EU funds.

In the specific context of information and communication technologies (ICT), on the same date, the Commission presented a draft regulation concerning guidelines for telecommunications networks, simultaneously repealing Decision 1336/97/EC. The draft Regulation seeks, on the one hand, to establish guidelines for determining trans-European electronic communications networks which will receive support under the CEF for their development, deployment, installation, interconnection and interoperability, and secondly, to set out the objectives and priorities for projects of common interest, to identify these projects and establish criteria for the identification of new projects of common interest. The proposed Regulation will be the subject of discussion within the Council's Telecommunications and Information Society Group.

Preliminary discussions were held and a presentation was made by the Commission to the Council in December.

- **Policy approach of the European Union for the World Radiocommunication Conference 2012 (WRC-12)**

With a view to the definition of a position, particularly on the aspects relevant to the Digital Agenda, in April, the Commission approved a communication on the EU policy approach to the WRC-12. The communication seeks, firstly, to inform the EP and the Council about the points on the agenda relevant to EU policies and then, propose common policy objectives. Seeking to ensure that Member States promote and defend agreed policy objectives, intervening, where necessary, on behalf of the EU, the Commission suggested that the Council Presidency coordinate relevant points on the agenda at the conference, in close coordination with the Commission, with the representative of the Member State holding the Presidency speaking on behalf of the Union, if necessary.

The communication was the object of analysis and discussion by the Telecommunications and Information Society Group, during the first half of the year. The Council adopted the respective conclusions in May, generally reiterating the Commission's concerns and supporting the policy objectives for the EU. It took the view, however, not to place special emphasis on coordination of issues related to the digital dividend and short-range devices,

and to refrain from stating its position on the proposal of the presidency in assuming coordination of EU positions during the conference. The Member States undertook to pursue the goals identified in the conclusions and submitted to the coordination of EU positions within the scope of the CEPT.

- **Ministerial conference "Perspectives for the development of the electronic communications market in the EU"**

The ministerial conference, "Perspectives for the development of the electronic communications market in the EU" took place in Warsaw, Poland, in October, with Portugal's participation provided by a delegation from ICP-ANACOM.

The first day's discussions were focused on next generation networks (NGN), with the Commission presenting the Connecting Europe Facility (referred to above).

The second day saw discussions on the use of radio spectrum for electronic communications services in the context of EU policies and coordination between Member States and third countries, with a focus on the adoption of the Ministerial Declaration of Warsaw on better use of spectrum, which had the support of most EU Member States, including Portugal, and Eastern European countries outside the EU, including Russia and Ukraine.

- **Critical Information Infrastructure Protection (CIIP)**

In March, the Commission presented a Communication on Critical Information Infrastructure Protection – "Achievements and next steps: towards global cyber-security" – presenting the results achieved since the adoption of the action plan contained in its Communication of 2009 and describing the next steps planned for each action at European level and internationally, especially, in light of the global dimension of the challenges and of the importance of strengthening cooperation between Member States and the private sector at national, European and international levels.

Following the communication, the Hungarian Presidency organised a ministerial conference on CIIP in April, in Balatonfüred, Hungary, and also presented draft conclusions on the matter. This was the subject of discussions during the first half of the year; then the Council adopted the conclusions in May.

- **Internet openness and neutrality in Europe**

In April, the Commission approved a communication containing its report on Internet openness and neutrality in Europe, which reflects the comments received in public consultation, as well as a broad debate with stakeholders, including a summit organised with the EP.

In short, the Commission reiterated the need to ensure that citizens and businesses are able to access an open and neutral Internet easily, but decided not to proceed with further action, preferring to allow time for the assessment of the first results of the implementation of the new regulatory framework – particularly with regard to new rules on transparency, quality of service and ability to switch providers – and also time for further analysis in cooperation with BEREC.

The Commission had intended to publish the results of BEREC's investigation by the end of the year, including possible situations where certain types of traffic are blocked or limited, as well as any guidelines, or even general legislative measures, where warranted by the results. This analysis remains ongoing.

Nevertheless, in the second half of the year, the Polish Presidency decided to present draft conclusions on the matter to the Telecommunications and Information Society Group. These conclusions were adopted by Council in December.

- **Review of the scope of the universal service**

Directive 2002/22/EC, as amended by Directive 2009/136/EC on the US of electronic communications, requires Member States to ensure that it is possible for citizens to connect, at affordable prices, to the public telephone network at a fixed location and gain access to public telephone services for voice and data communications with functional access to the Internet. Every three years, the Commission analyses whether there is a need to propose a revision of the scope of the directive.

As such, in March 2010, the Commission launched a consultation on the future of universal service in the digital age; the results of this consultation were only presented, however, in a communication of November 2011, together with the third periodic review of the scope of the universal service. The Commission considered it premature to change the concept and basic principles of the US to include mobile communications or broadband with a specific bitrate speed. As such, the flexibility afforded to Member States

by the regulatory framework in defining the rates suitable for functional connection to the Internet on a national basis was maintained.

The matter was the subject of discussion at the Council meeting in December, pending possible developments in 2012.

#### **7.1.1.2. Committees and groups of the European Commission**

Representing the Portuguese state, ICP-ANACOM participated in the committees created to assist the EC in the adoption of implementing acts, in particular as regards the regulatory framework for electronic communications – COCOM, the radio spectrum – Radio spectrum Committee (RSC), and the Postal Directive – Postal Policy Committee. ICP-ANACOM also participated in several EC expert groups, as well as in actions of the TAIEX programme and the Trade Policy Committee.

- **Communications Committee (COCOM)**

ICP-ANACOM participated in the four meetings of the Communications Committee held in 2011, during which COCOM was engaged in intense activity in various fields.

In terms of numbering, approval was given to the report on the implementation of 116 numbers in Member States, a document on eligibility requirements of 116 numbers, as well as a new procedure for approving these numbers.

With regard to the MSS, a key decision was adopted on the application of penalty rules with respect to the authorisation of MSS operators and the review of the terms of reference of the MSS Group.

In terms of monitoring market analyses, as usual, the EC presented regular reports on article 7 notifications of the Framework Directive.

Note is made of the publication, as in previous years, of the report on broadband data in the EU. In the context of the 112 European emergency call service, approval was given, by means of written procedure, to a standardization mandate to the European Standardisation Organizations (ESO) and questionnaires were launched on the implementation of the number.

COCOM also addressed issues related to the implementation of the new regulatory framework, particularly the implementation of article 5/3 of the Privacy Directive and the

powers of the NRA, and discussed the draft recommendation on certain elements of the US Directive

Note is also made of ICP-ANACOM's participation in meetings of the various COCOM sub-groups.

- **Radio Spectrum Committee (RSC)**

The RSC continued its activity in 2011, especially as regards its involvement in the approval of the following three EC decisions:

- Commission Implementing Decision 2011/251/EU, of 18 April 2011, amending Decision 2009/766/EC 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 changes will ensure compliance with the provisions of the amended GSM Directive, in order to allow both LTE and WiMAX technologies.
- Commission Decision 2011/485/EU, of July 29, amending Decision 2005/50/EC of 17 January 2005 on the harmonisation of the 24 GHz range radio spectrum band for the time-limited use by automotive short-range radar equipment in the Community.
- Commission Decision 2011/829/EU, of 8 December 2011, amending Decision 2006/771/EC on the harmonisation of the radio spectrum for use by short-range devices (fourth update of the technical annex).

The CEPT's second mandate to prepare technical studies on Mobile Communications onboard Aircraft (MCA) was finalised and approved, along with another mandate to revise/update the framework for the 169.4-169.8125 MHz frequency band.

With regard to ongoing work, note is made of the draft Decision on the harmonisation of the 2 GHz frequency band for terrestrial systems capable of providing electronic communications services in the Union.

- **Postal Policy Committee**

ICP-ANACOM participated in two meetings in 2011, held to present the status and progress of the implementation of the Postal Directive (Directive 2008/06/EC of 20

February 2008) and of the main activities of the ERGP, as well as to discuss the coordination of Member States at the 25th Universal Postal Union (UPU) Congress.

- **Telecommunications Conformity Assessment and Market Surveillance Committee (TCAM)**

ICP-ANACOM participated in meetings of the TCAM, with focus on the analysis and submission of comments on the proposed revision of the R&TTE Directive, with publication scheduled for 2012.

ICP-ANACOM provided representation in the R&TTE Administrative Co-operation Working Group, whose works focused on R&TTE surveillance activities, revision of the R&TTE Directive and the new legal framework, in the context of the CE marking requirements, most notably the various European surveillance campaigns.

- **Trade Policy Committee**

ICP-ANACOM accompanies the affairs of the Trade Policy Committee, responsible for common EU trade policy, particularly with regard to negotiations of agreements under the auspices of the World Trade Organization (WTO).

In this regard, ICP-ANACOM issued a number of opinions and accompanied the negotiations of cooperation and free trade agreements between the EU and other countries with regard to the communications sector.

- **Working Group on Electromagnetic Compatibility (EMC)**

Pursuant to Directive 2004/108/EC, this group prepared the text that was submitted to the Council and EP with the draft revision of the Electromagnetic Compatibility Directive (EMC) in line with Decision 768/2008/EC concerning a new legislative framework (NLF).

- **European Commission Association of Notified Bodies (ECANB)**

With a similar mission in terms of the EMC Directive, during 2011, ICP-ANACOM followed the meetings of ECANB, pursuant to Directive 2004/108/EC, comprising regulatory authorities, laboratories and EC representatives. ECANB provides for the exchange of information related to aspects of uniform compliance in Europe with the requirements of the directive, as well as the development of guides for the interpretation of the harmonized standards.

- **Radio Spectrum Policy Group (RSPG)**

The Decision which established the RSPG (Decision 2002/622/EC) was amended by Decision 2009/978/EC of 16 December 2009, fully enshrining the consultative functions of this group with respect to the EC, in the preparation of draft spectrum programmes.

The activities of this group in 2011 included adoption of the following opinions:

- opinion on cognitive technologies, which focuses on a generic approach for implementation of cognitive technologies based on three approaches (sensing, cognitive pilot channels and databases), to reflect technological developments;
- opinion on Common Policy Objectives for WRC-12, addressing the relevant items on the agenda and setting out detailed components of the common goals of European policy, with reference made to three areas that should benefit from cooperation at EU level, including international aspects of the implementation of the digital dividend, the requirements for a European satellite policy and an item for the future agenda of WRC-16, related to the provision of broadband communications.

The following reports were also approved: i) report on improving broadband coverage, ii) report on collective use of spectrum and other sharing approaches, and iii) report on the future of radio broadcasting in Europe – identified needs, opportunities and possible ways forward.

Additionally, two joint RSPG-BEREC reports were adopted: report on infrastructure and spectrum sharing in mobile wireless networks and report on competition: transitional issues in the mobile sector in Europe.

Meanwhile, the following remain under public consultation i) the RSPG work programme for 2012, ii) draft opinion on spectrum review, and iii) the draft opinion on bilateral assistance.

- **Group of experts on electronic commerce**

ICP-ANACOM monitors the work of the group of experts on electronic commerce, chaired by the EC, which had two meetings in 2011. The first meeting was focused on presenting the results of the public consultation on the future of electronic commerce in the internal market, conducted in 2010.

At the second meeting, the EC presented the main lines of communication on electronic commerce, including changes in the "notice and take-down" mechanism, provided for in Electronic Commerce Directive. This meeting also saw presentation of the drafts of the Common European Sales Directive, the legal framework governing personal data protection and the drafts of the alternative dispute resolution directive and of the regulation on online dispute resolution.

- **Expert group on conditional access**

This Commission group has three main objectives: (i) cooperation between Member States with a view to the analysis and transposition of the directive at national level and to the identification of possible different implementations in this area; (ii) to monitor the development of policies in new areas with implicit conditional access, such as new forms of piracy and new distribution platform; (iii) to ensure the exchange of experience and good practice in the area of conditional access.

In 2011, the fourth meeting of this group took place.

- **Working group on Access to the Postal and Courier Services Market**

In 2011, ICP-ANACOM participated in a meeting of the EC Working Group on Access to the Postal and Courier Services Market; an update was given on the status of postal reform in several countries (e.g. India, Japan, China) and specific issues were discussed related to market access by the EU, such as customs orders in China or licensing in Ethiopia and Kenya.

- **Technical Assistance Information Exchange Office (TAIEX)**

ICP-ANACOM has been participating in the EU's Technical Assistance Information Exchange Office (TAIEX) programme, with the following key actions taken in 2011:

- workshop on the European experience of regulation in the postal communications sector. The key issues addressed included the role of European regulators, the regulatory principles of the postal directives and systems of price regulation;
- workshop on the European experience in the implementation of the third Postal Directive. The topics discussed included the regulatory principles of postal directives, strategies of postal reform and regulatory models of the Western Balkan countries, the guarantee of the US, consumer protection and the role and independence of European regulatory authorities.

## **7.1.2. International Telecommunication Union (ITU)**

### **7.1.2.1. Council**

The 2011 session of the ITU Council, the body which manages the organisation which between the Plenipotentiary Conference (PP), was focused mainly on the results of the last Plenipotentiary Conference (Guadalajara, October 2010) and its general impact on the Union's work and organization?

As well as approving the budget for the 2012-2013 period and operational plans for 2012-2015, a new Council working group was created to address public Internet policies (International Internet-related Public Policy Issues). The principles to be observed in the creation, management and wind-up of working groups were likewise defined.

The ITU Council also focused on the adoption of decisions and resolutions related to the preparation of important ITU events, including the 2014 Plenipotentiary Conference – PP-14 (Busan, South Korea, in October/November 2014), the World Telecommunications Standardisation Assembly – WTSA-12 (Dubai, UAE, November 2012), the World Conference on International Telecommunications – WCIT-12 (Dubai, December 2012) and also 5th World Telecommunication Policy Forum (2013).

### **7.1.2.2. Council Working Groups**

The various Council working groups continued their work in accordance with the decisions taken at the most recent Plenipotentiary Conference, reporting to the Union Council.

It is important to note the discussions and work which took place at the level of financial and human resources management, stabilization of the text of the ITU Constitution, avoiding the need for regular changes and consequent ratification, implementation of the results of the World Summit on the Information Society (WSIS), as well as preparation of WCIT-12.

The objective of WCIT-12 is to review the International Telecommunication Regulations (ITR), an international treaty adopted in 1988 establishing a set of general principles related to international telecommunications services. Portugal has played an active role in the working group which ensures its preparation, holding one of the vice president posts, representing Europe.

### 7.1.3. Universal Postal Union (UPU)

In 2011, ICP-ANACOM continued active participation in the work of the UPU, including in the meetings of the two councils, the CA and the Postal Operations Council (POC), the postal regulation forum and in preparations for the 25th Congress, to be held in 2012, marking the beginning of a new cycle of activities (2013-2016).

- **Management Board (CA – Conselho de Administração) and Postal Operations Council (COP – Conselho de Operações Postais)**

ICP-ANACOM was represented in the works of the groups, committees and plenary sessions of the CA and COP, making up, along with representatives of CTT, the Portuguese delegation.

In the 2011 session of the COP, in addition to the presentation of the activities reports of the various project groups (PG) and committees, several draft proposals were approved for submission to the 25th UPU Congress, prepared by the various working groups. Preparation of the main UPU meeting was the main focus of the works making up the last annual session of the COP before the Congress, held in September/October 2012. The *.post* project, which the UPU has developed in conjunction with the Internet Corporation for Assigned Names and Numbers (ICANN), with a view to the creation of an Internet domain aggregating the postal community, saw developments throughout 2011, with active participation and contributions of this Authority.

At the CA session, ICP-ANACOM closely followed the work to reform the Union, work on the world postal strategy (the strategic plan that defines the UPU's goals and priority activities), the work revising and adapting the acts of the Union to recent developments in the postal sector, as well as issues related to interconnection and terminal dues. The essential work to reform the UPU, i.e., defining the organisational structure for the next cycle and defining mechanisms to streamline decision-making processes, was not concluded in 2011, due to lack of consensus and shortcomings in the document and proposals. ICP-ANACOM led the consultation process and comments from Portugal on this exercise of Union reform, seeking to ensure adherence to the three basic principles already agreed: that the UPU will remain an intergovernmental organisation, will remain focused on the sector and allow increasing participation of new sector entities.

A goal of 2011 was to complete the definition of the World Postal Strategy for the 2013-2016 cycle – Doha Postal Strategy (DPS), organizing the various activities and strategic

programmes of the UPU according to priority and, bringing the DPS into line with the UPU budget.

- **Fourth Postal Regulation Forum**

ICP-ANACOM participated in the fourth Postal Regulation Forum organised by the UPU, which brought together regulatory authorities and other entities in the postal sector, the forum was dedicated to the role of postal regulation in an era of e-substitution and liberalisation, identifying the sector policies best to achieve a sustainable postal sector.

#### **7.1.4. Postal Union of the Americas, Spain and Portugal (UPAEP)**

ICP-ANACOM participated in the 2011 session of the UPAEP Consultative and Executive Council (CEC), in the meetings of working groups, the Postal Regulation Forum and in the meeting of operating aspects. Financial affairs were again the main topic on the agenda of the CEC, which approved the creation of an *ad hoc* group to study and examine the UPAEP budget, with a view to adopting measures to optimize resources and increasing the UPAEP's liquidity without calling on member countries to increase their financial contribution.

The UPAEP's 2011 agenda includes issues of technical cooperation – the UPAEP's main line of action – and strategic planning, in the most part following the decisions and resolutions of the 21st Congress (2009).

The 2011 session of the CEC saw official celebration of the UPAEP's centenary, with the inauguration of a commemorative plaque and the issuance of a first day cover postage stamp, commemorating the Union's one hundred anniversary.

#### **7.1.5. Organization for Economic Cooperation and Development (OECD)**

ICP-ANACOM continued to accompany the work of the Committee on Information, Communications and Computer Policy (ICCP), an OECD body that addresses key policy questions resulting from the development and application of technologies and services in areas of information, computing and communications, including their impact on the economy and on society as a whole and on the strengthening of cooperation between Member States and between Member States and non-members.

The Committee is focused on following up on the Seoul Ministerial Declaration, holding a high-level meeting on the Internet economy, which resulted in the production of a

document containing a set of guiding principles that have earned the support of member countries. The ICCP has been called on to transpose these principles into a draft Council Recommendation. Additionally, issues such as cloud computing and the role of online intermediaries, as well as data protection and privacy, remain key components of the Committee's work.

Approval was also given to the 2013-2014 work programme and members of the ICCP *bureau* were appointed for 2012, consisting of a chairman and six vice- chairmen.

In 2011, ICP-ANACOM also maintained its presence in the ICCP's working parties, in particular the Working Party on Communication and Infrastructures and Services Policy (WPCISP) and the Working Party on Information Security and Privacy (WPISP).

#### **7.1.6. European Telecommunications Satellite Organization (EUTELSAT IGO)**

ICP-ANACOM provides national representation in the EUTELSAT IGO Assembly of Parties (AP) and in the Advisory Committee (AC), acting, since the last AP, as an observer. The AC is a support body of the organization's executive structure, consisting of the Secretariat and the Executive Secretary (ES).

In May 2011, EUTELSAT held an Assembly of Parties, giving continuity to its work and with a focus on overseeing compliance by the operator Eutelsat with the basic principles laid down by the IGO and its US obligations. The issue of interference from Iran in radio and television transmissions broadcasting by Eutelsat's satellites remained at the centre of debate after bilateral negotiations between the parties stalled. The matter was put to the ITU, which examined the case, and must do so again at the World Radiocommunication Conference (WRC) 2012.

The election and re-election procedures of the IGO Executive Secretary were reviewed, whereas the current Executive Secretary is due to make a proposal as to the level of salary to be included in his contract. This follows suggestions made by Portugal to introduce greater transparency into the organization's management.

Respecting the principle of rotation, Portugal, which had been a member of the AC, chose not to reapply, making way for Croatia's entry as a new member.

### **7.1.7. International Telecommunications Satellite Organization (ITSO)**

ICP-ANACOM provides national representation in the AP, while participating as an observer in ITSO's Advisory Committee (AC).

The organization is currently debating its future after 18 July 2013, the date on which ITSO will continue or wind up, according to the expressed will of two thirds of the Member States represented in AP. Meanwhile, the Director General (DG) presented several studies related to this issue.

To avoid the need to convene an extraordinary AP before the end of the DG's four year term and given that the next AP is scheduled for July 2012, the AC began the debate on the possible extension of the DG's mandate, in the event that the ITSO continues beyond 2013. It was decided that the matter should be put on the agenda of the next AC, which may consider adopting a recommendation to be put to the Assembly.

### **7.1.8. International Mobile Satellite Organization (IMSO)**

ICP-ANACOM provides national representation at the IMSO Assembly, the highest body of this organization, and follows the work of the Consultative Committee (CC) as an observer.

At the two meetings held in 2011, the CC focused primarily on issues related to the two main themes of the IMSO mandate, the Global Maritime Distress and Safety System (GMDSS) and the Long Range Identification and Tracking of Ships (LRIT).

Following the recommendations made at the 2010 Assembly by various parties, including Portugal, the CC examined new procedures that will mean that the biennial budget can be agreed by the Committee and submitted to the Assembly for approval in advance, in contrast to prevailing practice.

## **7.2. Technical representation**

### **7.2.1. Organizations of regulatory bodies**

In exercising its remit, ICP-ANACOM maintains membership of various organizations and associations of national regulatory authorities. In Europe, ICP-ANACOM participated in BEREC and in the Independent Regulators Group (IRG) through 2011, and in the

Association of Communications and Telecommunications Regulators of the Community of Portuguese Speaking Countries (ARCTEL-CPLP) in the Portuguese Speaking community.

#### **7.2.1.1. Body of European Regulators for Electronic Communications (BEREC)**

The Body of European Regulators for Electronic Communications (BEREC) seeks to foster cooperation and coordination between NRA and the EC, promoting the development of the internal market for electronic communications, networks and services.

BEREC is made up of the 27 NRA of the EU, whereas EU candidate countries (Turkey, Croatia, Former Yugoslav Republic of Macedonia and Montenegro) may also participate in the European Commission (EC), along with the countries of the European Economic Area (EEA - Switzerland, Iceland, Norway and Liechtenstein) - Switzerland by permanent invitation. BEREC also comprises an Office, led by a Director-General and the Management Committee (MC). The MC comprises 27 NRA from the EU and two members of the EC, whose mission is to provide support to BEREC.

In 2011, ICP-ANACOM was present at all plenary sessions of the BoR and of the MC of the Office and in the preparatory meetings which preceded them, participating in the Contact Network (CN), an operational intermediary group comprising representatives of each NRA.

ICP-ANACOM also took part in the various Expert Working Groups (EWG) in 2011, engaging actively in each of them: Framework Implementation, Convergence and Economic Analysis, Remedies, Roaming, Benchmarking, End Users, NGN, Regulatory Accounting, BEREC/RSPG, Termination Rates and Net Neutrality.

ICP-ANACOM continued to preside over the End-Users Working Group, whose work was focused on issues related to reviewing the scope of universal service, citizens with special need and the promotion of broadband, with publication of the document "Electronic communications services: ensuring equivalence in access and choice for disabled end-users"<sup>71</sup> and the launch of a consultation in December 2011 on the BEREC Broadband Promotion Report<sup>72</sup>.

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<sup>71</sup> Available at [http://erg.eu.int/doc/berec/bor\\_10\\_47Rev1.pdf](http://erg.eu.int/doc/berec/bor_10_47Rev1.pdf).

<sup>72</sup> Available at [http://erg.eu.int/doc/berec/bor11\\_70\\_broadbandpromo.pdf](http://erg.eu.int/doc/berec/bor11_70_broadbandpromo.pdf).

As part of its functions – as chair of the End Users WG – ICP-ANACOM also participated in the work of the project team on net neutrality and provider switching, working with the EC in preparing a report to present to the EP and to the Council.

ICP-ANACOM also participated in the Net Neutrality – Switching and in the Universal Service Task Forces.

With its level of participation in BEREC, ICP-ANACOM ensured that it was able to put forward and defend the national interest in the context of coordination and harmonisation of regulatory practices in the EU, as well as in the context of domestically produced regulation. As such, ICP-ANACOM took part in all EWG, and raised its contribution to the work of EWG with the provision of drafting work, especially with regard to the following documents: *cross-border issues (EWG Framework Implementation)*; *impact of fixed-mobile substitution in market definition, specific aspects of broadband commercialization and competition issues related to net neutrality (EWG Convergence and Economic Analysis)*; and *implementation of the NGA recommendation and open access (NGN EWG)*. As such, the importance and role of BEREC became a strong component of ICP-ANACOM's activity, in part due to the fact that BEREC constitutes a centre of excellence in sector regulation.

During 2011, BEREC's work was focused on three major areas: harmonisation, emerging challenges and implementing the new regulatory framework for electronic communications. It also promoted the establishment of its own structure.

In the context of harmonisation, BEREC approved and published reports on net neutrality and quality of service, special tariff services, benchmark data on international roaming, regulatory accounting, benchmark snapshot on mobile termination rates (MTR) and SMS, implementation of the Recommendation on next generation networks (NGA), common positions on broadband, international roaming compliance, alternative roaming tariffs, specific aspects on the marketing of broadband, the impact of fixed-mobile substitution in the definition of markets and open access. The Body also developed guidelines on transparency as a means of achieving net neutrality.

In terms of emerging challenges, BEREC approved and published a report on restrictions in the provision of business services and also the analysis of the EC's proposed Roaming Regulation, the responses to EC consultations on non-discrimination and costing methodologies. Together with the RSPG, it published a report on infrastructure and spectrum sharing on mobile and wireless networks, as well as a report on transition

issues. Public consultations processes were launched on the proposed guidelines on net neutrality and transparency and on the draft report on the promotion of broadband.

As regards the application of the new regulatory framework for electronic communications, reports were prepared on Phase II investigations concerning article 7 of the Framework Directive (involving Poland).

Finally, regarding the establishment of its own structure, BEREC approved and published a decision on the establishment of the public registration of its own documents and its work programme for 2012. To enhance its effectiveness, BEREC launched a public consultation on its medium-term Strategy Outlook (three to five years).

#### **7.2.1.2. Independent Regulators Group (IRG)**

ICP-ANACOM took part in all plenary meetings of the IRG in 2011 and in the preparatory meetings that preceded them, including the Contact Network; ICP-ANACOM took part in the working groups that function jointly with BEREC.

In the context of cooperation between NRA, ICP-ANACOM took part in responding to all 125 questionnaires issued by its counterpart NRA and issued ten questionnaires itself.

#### **7.2.1.3. European Regulators Group for Postal Services (ERGP)**

The ERGP was established by EC decision of 10 August 2010. Its functions are to advise and assist the EC in consolidating the internal market for postal services and in the consistent application of the EU regulatory framework in all Member States.

The ERGP comprises the EU's 27 postal sector NRA, with EEA countries, EU candidate countries and the EC taking part as observers.

2011 was the first year of this group's activity, and ICP-ANACOM played an important role in its organization, making use of its experience in IRG/BEREC.

Accordingly, ICP-ANACOM attended all the ERGP's plenary sessions and the preparatory meetings that preceded them, participating in the Contact Network, which is an operational middle group with representatives of each NRA. Along with the Belgian NRA, ICP-ANACOM presided over the End Users Satisfaction and Monitoring of Market Outcomes Working Group (working group focused on quality of service and user protection and on monitoring the postal sector's evolution), while also taking part in all other ERPG groups.

In 2011, the ERGP's work was centred on issues related to the allocation of the postal activity's common costs, regulation of network access, cross-border issues and the net costs of universal service obligations, as well as quality of service and sector indicators.

Accordingly, a report on the allocation of common costs was approved and submitted to public consultation, along with another report on the calculation of net costs and evaluation of a baseline scenario.

Finally, the ERGP approved and published two final reports, one on quality of service and user satisfaction and another on indicators for monitoring the evolution of the postal sector.

#### **7.2.1.4. Forúm Latino-americano das Entidades Reguladoras de Telecomunicações (Regulatel) (Latin-American Forum of Telecommunications Regulatory Authorities)**

Regulatel brings together the authorities responsible for the regulation of electronic communications across South America, providing a common venue for discussion, and for information and experience sharing. Regulatel aims to foster cooperation and coordination in activities related to telecommunications, promoting the sector's development in Latin America. ICP-ANACOM has been a part of Regulatel since January 2005 as an outside observer.

In 2011, ICP-ANACOM participated in various events (meetings of the *Corresponsales*, Seminars, working groups, plenary and the BEREC-Regulatel Summit).

ICP-ANACOM also participated in the EU-Argentina Dialogues and EU-Latin America Policy Summit events.

In the context of Regulatel, ICP-ANACOM participated in all 21 questionnaires that were issued during 2011. Meanwhile, ICP-ANACOM actively followed the Regulatory Policies and Broadband working groups, and participated in the technical workshops of the Roaming, SIRTEL (statistical indicators), Regulatory Policies and Broadband working groups.

Given the likely end or reduction in financial support from the EC, a debate took place in 2011 on Regulatel's financial sustainability and on the forum's draft new statutes for 2012.

#### **7.2.1.5. Euro-Mediterranean Network of Regulators (EMERG)**

EMERG brings together sector regulators from the countries of the Mediterranean region, including members of the IRG, North Africa and the Middle East. ICP-ANACOM is a founder member of EMERG, and has taken an active role in its initiatives, with a view to supporting euro-mediterranean cooperation.

In 2011, ICP-ANACOM took part in the following event: plenary; workshop on Licensing and open access to markets; workshop on Analogue to digital switchover and wireless broadband rollout; workshop on Consumer protection; workshop on Price regulation; workshop on NGN.

Jointly with the NATP-3 (New Approaches to Telecommunications Policy) project,

ICP-ANACOM organised a workshop on Infrastructure sharing and rights of way. The event was one of a series of themed workshops on areas of interest on the euro-mediterranean regulators.

In 2011, and with a view to holding the EMERG Benchmarking and Planning Conference in December, in Egypt, ICP-ANACOM also participated in the questionnaire that gave basis to the preparation of the EMERG Benchmarking Report.

Throughout 2011, the issue of EMERG's financing and restructuring received special focus given the likely reduction in financial support from the EC in 2013. On this subject, a meeting took place between the EC and EMERG in October; ICP-ANACOM accompanied the preparatory work for this meeting and the preparation of the working document.

#### **7.2.1.6. Associação de Reguladores da CPLP (ARCTEL-CPLP) (Association of Communications and Telecommunications Regulators of the Community of Portuguese Speaking Countries)**

ARCTEL-CPLP or ARCTEL is a permanent forum for exchanging information and sharing experiences in the regulation of the communications sector. Its mission is to reinforce existing historical bonds of friendship and cooperation and to develop cooperation between its members through projects of common interest. As such, ARCTEL-CPLP contributes to the creation of an institutional and regulatory environment which fosters strengthened cooperation in the sector and which stimulates innovation and the development of communications in each country specifically and in the Community of Portuguese Speaking Countries as a whole.

In 2011, ICP-ANACOM participated in the third ARCTEL General Assembly in Sintra, and also in the second Lusophone Forum of Communications and simultaneous Technological exhibition.

ICP-ANACOM regularly participates in the Statistics working group that was set up at the second ARCTEL General Assembly. The goal of this group is to develop mechanisms for compiling, processing and disseminating statistical data from the sector to all ARCTEL members, on the premise that the results produced will provide an important tool for each NRA, both in terms of supporting the definition of public policies and decision-making, and in protecting consumers, as well as in attracting foreign investment. The first meeting of this group was held in Brasilia in 2011 and was attended by NRA representatives. Based on indicators defined by the ITU, the different statistical analysis models employed by the respective regulators were discussed and a work methodology defined for approval, based on an automatic compilation procedure for a set of indicators divided between two groups: socioeconomic data and sector data. The indicators obtained will be processed and presented at the next General Assembly in 2012.

ICP-ANACOM also provides the functions of ARCTEL's secretariat.

## **7.2.2. Other organizations**

### **7.2.2.1. Sectors of International Telecommunication Union (ITU)**

- **Telecommunication Standardisation Sector (ITU-T)**

In the context of this sector's activities, note is made of the debate, taking place in the Telecommunications Standardisation Advisory Group (TSAG) with regard to equipment conformity and interoperability. Both in terms of need and associated costs, this programme is a source of great concern in several Member States.

The TSAG also worked on preparing for the World Telecommunications Standardization Assembly (WTSA-12), to be held in November 2012.

- **Development Sector (ITU-D)**

In 2010, the Director of the Telecommunication Development Bureau (BDT) presented a reorganization of the BDT, focused primarily on finding staff with skills to occupy posts that have been vacant for a long period, advancing a number of ideas on a strategy to

make the ITU-D's activity more useful and visible on the ground. In the context of this goal, the focus on partnerships with local entities was a key component of the activity of the Telecommunications Development Advisory Group (TDAG).

In 2011, ICP-ANACOM participated in the 11th Edition of the Global Symposium for Regulators), an event that brings together regulators and policy makers from developed and developing countries, promoting the sharing of ideas and experiences on the sector issues of greatest urgency and topicality. This session was dedicated to the theme of Smart Regulation for a Broadband World, with discussion of the challenges facing regulators in stimulating broadband deployment, through flexible regulation and innovative tools. The discussions concluded with approval of a set of best practices for the sector.

- **Radiocommunication Sector (ITU-R)**

In 2011, ICP-ANACOM participated in the work of the Radiocommunication Advisory Group (RAG) and in the preparatory meeting for the World Radiocommunication Conference (WRC-12), the CPM11-2. The meetings prepared and approved a report to serve as a basis for WRC-12, containing the results of studies developed by the ITU-R, and identifying and describing the methods suggested for each item on the WRC-12 agenda.

#### **7.2.2.2. European Conference of Postal and Telecommunications Administrations (CEPT)**

ICP-ANACOM provided representation of the Portuguese administration at the ECC and, in March 2011, organised its 28th meeting in Porto, which was attended by about 80 participants.

In 2011, five new ECC decisions were adopted, on the following subjects:

- protection of the earth exploration satellite service (passive) in the 1400-1427 MHz band (ECC Decision (11)01, of 11 March 2011);
- industrial Level Probing Radars (LPR) operating in frequency bands 6 - 8.5 GHz, 24.05-26.5 GHz, 57-64 GHz and 75-85 GHz; (ECC Decision (11)02, of 11 March 2011);
- the harmonised use of frequencies for Citizens' Band (CB) radio equipment; (ECC Decision (11)03, of 24 June 2011);

- exemption from individual licensing of digital terminals of narrowband and wideband PMR/PAMR/PPDR systems and free circulation and use of digital terminals of narrowband and wideband PPDR systems operating in the 80 MHz, 160 MHz, 380-470 MHz and 800/900 MHz bands (ECC Decision (11)04, of 9 December 2011);
- harmonised frequency arrangements for mobile/fixed communications networks (MFCN) operating in the bands 3400-3600 MHz and 3600-3800 MHz (ECC Decision (11)06, of 9 December 2011).

Four further decisions were amended in 2011:

- the harmonised conditions for devices using UWB technology in bands below 10.6 GHz, amended 15 December 2011 (ECC Decision (06)04, of 24 March 2006);
- harmonised frequencies, technical characteristics and exemption from individual licensing of Short Range Devices used for Ultra Low Power Active Medical Implants operating in the frequency band 402-405 MHz, amended 9 December 2011. (ECC Decision (01)17, of 12 March 2001);
- free circulation and use of GSM-R mobile terminals operating within the frequency bands 876-880 MHz and 921-925 MHz for railway purposes in CEPT countries, enlarging the field of application of ERC/DEC/(95)01, amended 11 March 2011 (ECC Decision (02)09, of 15 November 2002);
- exemption from individual licensing of GSM-R mobile terminals operating within the frequency bands 876-880 MHz and 921-925 MHz for railway purposes, amended 11 March 2011 (ECC Decision (02)10, of 15 November 2002).

The following decisions were repealed: ERC/DEC/(01)02, ERC/DEC/(01)03, ERC/DEC/(07), ERC/DEC/(01)10 and ERC/DEC/(01)16, by Decision ECC/DEC/(11)05 of 9 December 2011, and also Decision ECC/DEC/(06)12 of 1 December 2006, amended in Cordoba, 31 October 2008.

To accompany the work of the ECC groups, ICP-ANACOM gave priority to its presence in the following working groups (WG) and project teams (PT): Frequency Management (WG FM), Spectrum Engineering (WG SE), Regulation Affairs (WG RA) – the group that concluded its mission in late 2011 and was subsequently wound up – Numbering and Networks (WG NaN), IMT Affairs (ECC PT1) and the Conferences Preparatory Group (CPG).

- **European Committee for Postal Regulation (CERP)**

In 2011, ICP-ANACOM participated in the two CERP plenary meetings, which, due to the transfer of postal regulation matters to the newly created ERGP under the auspices of the EC, saw its agenda this year refocused on UPU work and activities. Preparation of European coordination for the 25th UPU Congress (September 2012) was therefore the main topic of debate at the CERP.

ICP-ANACOM remained very active in the WG UPU, which coordinates the positions of European countries in matters to be addressed at the UPU, deepening cooperation among CERP countries, in order to enhance the status of the CEPT Restricted Union, in the UPU.

- **ITU Policy Committee (Com-ITU)**

The mission of this CEPT Committee is to coordinate European positions on issues related to the ITU, particularly in terms of the Council, Plenipotentiary Conferences and Sector Conferences/Meetings.

In 2011, the work of this Committee was essentially related to European preparations for the World Telecommunications Standardisation Assembly (WTSA-12), with discussions on the restructuring of ITU-T and of the ITU Council and their respective working groups.

Other major points of discussion in 2011 included the preparation of common European positions to submit to the World Conference on International Telecommunications (WCIT-12). Portugal was given leadership of European coordination for this Conference, ensuring the preparation of CEPT contributions in this area.

- **European Communications Office (ECO)**

ICP-ANACOM represented the Portuguese Administration on the ECO Management Board, which meets on a six-monthly basis. The ECO functions as secretariat of the CEPT, and also provides technical support to the committees and working groups.

Concluding a long debate, the Council approved the request made by Turkey to reduce its financial contribution to the ECO from 10 to five contributory units and commenced the process of amending the Convention. Several states signed the amendment, whereas signatures remained dependent subsequently, and in most cases, on an internal process of acceptance, approval or ratification.

Other matters of importance include approval of the 2012 work programme and budget, as well as the 2013-2014 financial plan. Given the international economic crisis and the

difficulties which Administrations are experiencing, the Board decided not to change the contribution unit. Portugal again called for a more rapid reduction in the ECO's reserve fund, considering that it had an unnecessary surplus.

### **7.2.2.3. European Telecommunications Standards Institute (ETSI)**

ICP-ANACOM is a member of ETSI in the Administration category and, as such, participated in its two general assemblies (AG). In 2011, ETSI continued to develop its activities in three main areas – Global Standards Producer, Service Providing Organization and European Standards Organization – with a special focus on the relationship between standards and open source, on smart networks and on the green agenda.

The activity of 2011 was marked by elections, including of the Director General (with election of the Spanish candidate Lu s Jorge Romero Saro for a period of five years), of the members of the Board for the 2011-2014 period and its Chairman and members of the financial committee for 2011-2013. The Board now includes a member of Portugal Telecom.

### **7.2.2.4. Radio and Telecommunications Terminal Equipment Compliance Association (R&TTECA)**

Pursuant to the R&TTE Directive, during 2011, ICP-ANACOM was represented in the R&TTECA, which is made up of regulatory authorities, laboratories, equipment manufacturers and representatives of the Commission; its mission is to discuss technical issues and produce technical guidelines to verify compliance of equipment subject to the R&TTE Directive.

## **8. To promote institutional and technical cooperation (Objective 4)**

The promotion of institutional and technical cooperation is an objective underlying the other objectives established in ICP ANACOM's management plan. This section highlights the work done by ICP-ANACOM to promote and share know-how with respect to the electronic communications and postal services market.

After the reformulation of objectives and mechanisms in 2008 and the consolidation which took place in 2009, ICP-ANACOM's approach to institutional and technical cooperation matured over 2010 and 2011. This was reflected in greater rationalization in the use of ICP-ANACOM's professional competencies, in the increased number of activities, and also by increasing the substantial weight of concluded partnerships, both public and private, that serve to complement the entire activity.

### **8.1. International cooperation**

Cooperation represents a key facet of ICP-ANACOM's international work, in particular as regards cooperation with European countries, with South America and the Mediterranean, and with other Portuguese-speaking countries.

Given the responsibilities underlying ICP-ANACOM's mission with regards to co-operation, there remained a clear focus on initiatives of a technical nature, centred primarily on helping to build open and competitive markets.

The NRA of CPLP members remained a priority as a focus of the activities developed.

#### **8.1.1. Multilateral cooperation**

##### **8.1.1.1. Public partnership training**

The concentration of synergies and coordination of cooperative multilateral and bilateral actions, with an emphasis on the advantages resulting from public partnerships, enable, training courses to be conducted under the aegis of ARCTEL-CPLP, pursuant to the cooperation protocol concluded between the Instituto Nacional de Administração (INA) (National Institute of Administration) and ICP-ANACOM in December 2009.

With this partnership, certified training was provided, targeting technical staff and directors of CPLP regulators, with broad and diversified content extending beyond the regulatory activity. These courses included different thematic areas such as radio spectrum management, regulation in electronic communications and postal services, consumer protection, public accounting, innovation, evaluation and/or negotiation.

This new training model, in addition to being valued in terms of quality and efficiency, also enables the optimization of resources, including financial resources, so that in 2011, a significant reduction in the costs associated with this type of training was achieved compared to previous years.

Two courses were staged in 2011: advanced course for the leadership of regulators (CADISC) and advanced courses for technicians in the communications sector (CATESC). Both courses saw the involvement of participants from Angola, Cape Verde, Mozambique and Sao Tome and Principe.

A cooperation protocol was concluded between ICP-ANACOM, Instituto Nacional das Comunicações de Moçambique (INCM) (National Communications Institute of Mozambique) and Portugal's Associação Empresarial de Telecomunicações (Telecommunications Business Association), to provide staff training in information technologies, with a special focus on new regimes suited to the installation of fibre optics in telecommunications infrastructure in buildings and urban developments.

#### **8.1.1.2. II Lusophone Forum of Communications and I Technological exhibition (ARCTEL-CPLP)**

As referred to above, ARCTEL's II Lusophone Forum of Communications took place in Portugal in April 2011, centred on the theme of Challenges and Opportunities, and was attended by over 120 participants from the CPLP various countries.

In parallel, the first Technology Exhibition was held, attended by more than 20 sector companies, including manufacturers and operators in the various countries of the CPLP. The Exhibition's goal was to demonstrate the quality and accomplishments of the sector in the Portuguese-speaking world, and to foster contacts. Besides the private sector, the exhibition was also attended by institutions linked to cooperation and development in the CPLP countries.

### **8.1.1.3. Association of Postal and Telecommunications Operators of the Portuguese-Speaking Countries and Territories (AICEP)**

In 2011, ICP-ANACOM participated in the Annual General Meeting of AICEP, at which approval was given to the budget and management plan and to an amendment to the statutes, whereby AICEP was renamed Associação Internacional das Comunicações de Expressão Portuguesa (International Association of Portuguese Language Communications).

ICP-ANACOM likewise participated in the Regulation Seminar held in Cape Verde.

### **8.1.1.4. Centre of Excellence for Portuguese and Spanish speaking countries in Africa (ITU CoE)**

Following the decisions taken at the meeting of the Standing Committee, held in December in Cape Verde, the 3rd Sub-committee meeting took place in Lisbon, with detailed discussion of the 2011 activities plan.

ICP-ANACOM took an active part in the management and coordination of the project in 2011, with 10 seminars/workshops held, involving 20 national trainers (six from ICP-ANACOM). Over 330 technicians from the PALOP electronic communications sector received training in 2011. Accordingly, by the end of 2011, more than 1,000 technicians received training under this programme.

The following courses took place in 2011: quality of service; consumer protection and regulation in telecommunications; conflict management; operations of Internet service providers; vsats; submarine cables; management and marketing strategy; interconnection; costs and tariffs; management of scarce resources.

### **8.1.2. Bilateral cooperation**

ICP-ANACOM's bilateral relations were also naturally focused on relationships with the member countries of CPLP (important from the strategic standpoint of Portugal's relationships with third countries). Specific cooperation mechanisms have been established with these countries, based on indicative cooperation programmes (ICP) and annual cooperation plans (ACP); With these plans, it was again possible to obtain synergies with other projects to make ICP-ANACOM's efforts more effective.

Within the framework of ICP-ANACOM's bilateral relations with other NRA, a number of activities took place in 2011 within the framework of sector policy.

- **Cape Verde (ANAC – Agência Nacional de Comunicações)**

In 2011, ICP-ANACOM and ANAC developed the following bilateral actions:

- Island cooperation

Cooperation action involving representatives from the islands of the Azores and Madeira, aimed at the exchange of information and experiences for closer mutual knowledge. The two NRA noted the similarities of approach and common problems and solutions associated with spectrum monitoring in the particular geography of archipelagos, where there is a need for the installation of fixed or transportable remote stations linked to a command and control centre.

- ITED/ITUR regulation

ANAC organised a seminar, which took place in Praia in September, where ICP-ANACOM made a presentation on the roles of the regulator, the legal framework, ITED and ITUR manuals and the advantages of cost savings in next generation networks.

- Costing

In November the topic of costing was discussed jointly, covering issues related to the analysis of markets and imposition of obligations, LRIC costing models and regulation of VoIP services, with a focus on price control as a regulatory tool, separation of accounts, cross subsidization, rebalancing, theory and practice of price regulation and regulatory costing systems.

- Online Knowledge Library (B-on)

A protocol signed in 2009 between ICP-ANACOM, UMIC, FCCN and UniCV, related to access to B-on and financing of access to new publications, was renewed with ANAC.

- **Guinea-Bissau (ARN – Autoridade Reguladora Nacional)**

Staff from ARN took part in CADISC and CATESC courses as well as in activities undertaken in parallel, particularly in terms of training on the universal service and financial administration.

ICP-ANACOM donated computer equipment to ARN, in the context of bilateral cooperation between the two institutions and pursuant to the respective ACP; and at the request of the ARN, made an offer of books related to the communications sector.

As regards the 2011 ACP, ARN identified action priority areas comprising spectrum management and US, with ARN warranting support and accompaniment over an extended period of time. In this context, ICP-ANACOM contacted the World Bank in order to evaluate the possibility of developing joint cooperation activities. A first joint project is expected to start in 2012.

At the request of ARN, ICP-ANACOM issued an opinion on the quality of monitoring equipment at ARN and, in December, an ICP-ANACOM mission was sent to Bissau, subsidized by the ITU, in the context of the radio spectrum management.

- **Sao Tome and Principe (Autoridade Geral de Regulação – AGER)**

Following the annual cooperation plan with AGER defined for 2011, four AGER staff missions went to ICP-ANACOM with a view to developing knowledge in areas of Management Board support, administrative management of human resources, management skills and radio oversight.

- **Mozambique (Instituto Nacional das Comunicações de Moçambique – INCM)**

Pursuant to the protocol signed between INCM, ICP-ANACOM and ACIST-AET with a view to conducting training activities in the area of ITED and ITUR, three courses took place to instil and update knowledge among ITED/ITUR installers.

Following the annual cooperation plan with INCM defined for 2011, specifically in the area of staff missions, two members of the regulator received training administered by ICP-ANACOM in Portugal on Management Board support. Another five INCM staff were at ICP-ANACOM for training on management and financial analysis, competency management and purchasing management and external procurement.

- **Angola (Instituto Angolano das Comunicações – INACOM)**

Note is made of the participation of INACOM staff on CADISC and CATESC courses, as well as the actions performed in parallel and the mission conducted on sector legislative reforms.

- **Brazil (Agência Nacional de Telecomunicações – ANATEL)**

The 14th meeting of the ANACOM-ANATEL Coordination Commission took place in Portugal, with discussion of matters related to network security, regulation of competition, broadband and international cooperation.

- **Cooperation with other NRA**

Albeit with less extensive expression in ICP-ANACOM'S bilateral relations, a set of activities took place in 2011 that, while not significant in budgetary terms, are important from the point of view of Portugal's strategic relations with third countries in the context of sector policy. The following actions are of note in this context:

- **Spain**

Regular bilateral contacts were continued in the context of coordinating frequencies, with a meeting held between SETSI (Secretary of State for Telecommunications and the Information Society) and ICP-ANACOM, in which agreements were reached for the LMS in bands above 470 MHz, as well as on the coordination of space service earth stations.

Following the meeting, and after a series of contacts, an agreement was reached on the preferential distribution in each country of the 160 MHz band, for the LMS.

The process of frequency coordination was also continued in the context of radio and television broadcasting as well as in the context of satellite services.

- **Ecuador**

In the context of the Cooperation Agreement signed between the ANP (National Post Agency) and ICP-ANACOM, a bilateral meeting took place with increased bilateral exchanges of information, while a technical mission of ANP to Portugal was prepared for early 2012.

- **Ukraine**

A Cooperation Protocol was concluded between ICP-ANACOM and the Ukrainian regulator, CNRC (National Commission for Communications Regulation of Ukraine), in order to support the country's ongoing sector reform.

- **Lebanon**

A Cooperation Protocol was concluded between ANACOM and TRA (Telecommunications Regulatory Authority), which was followed by a TRA technical mission to Portugal, to discuss issues related to the sharing of infrastructure and access to ducts.

- **Cooperation with Georgia**

A Memorandum of Cooperation was established between ICP-ANACOM and CNCG (National Commission of Communications of Georgia) with a view to the development of the electronic communications sector.

## **8.2. National cooperation**

In this section, a summary is presented of the actions developed by ICP-ANACOM with respect to cooperation at national level, with particular focus on the work done in the analysis of restrictive competition practices and on issues of technical standardization, as well as the accomplishment of the switch off of analogue television.

- **Autoridade da Concorrência (AdC) (Competition Authority)**

Over the course of 2011, ICP-ANACOM responded to several requests from AdC:

- on July 29, ICP-ANACOM's opinion was sought, pursuant to paragraph 1 of article 29 of Law no. 18/2003 on the opening by AdC of an investigation into administrative offences, focusing on restrictive practices allegedly committed by TMN, Optimus and Vodafone in the context of the "tribal" or "youth" tariffs (opinion given on 12 September 2011);
- by notice dated 4 November, AdC informed ICP-ANACOM of a complaint brought by TVI – Televisão Independente, S.A. (TVI) against PT Comunicações, S.A. (PTC) in respect of the wholesale supply of DTT broadcasting services and television broadcasting via terrestrial analogue networks. After deciding to open an investigation (PRC-14/2011), AdC

sought ICP-ANACOM's position, as the regulatory authority for the communications sector, on the facts of the complaint, pursuant to and for the purposes of article 29 of Law no. 18/2003 of 11/06 (Lei da Concorrência – Competition Act) (response given by notice of 22 December 2011);

- on 10 December, ICP-ANACOM's opinion was sought, under paragraph 1 of article 39 of Law no. 18/2003 of 11 June, on prior notification of a concentration operation consisting of the acquisition by Caisse des Dépôts et Consignations and by the French State of joint control of La Poste, S.A. (Opinion delivered on 25 February 2012);
- on 21 December, ICP-ANACOM's opinion was sought, under paragraph 1 of article 39 of Law no. 18/2003 of 11 June, on the prior notification of a concentration operation consisting of the acquisition by ZON TV Cabo Portugal, S.A., of the residential customer base of Ar Telecom – Acessos e Redes de Telecomunicações S.A. (Opinion delivered on 3 January 2012).

- **Entidade Reguladora da Comunicação (Media Regulatory Authority)**

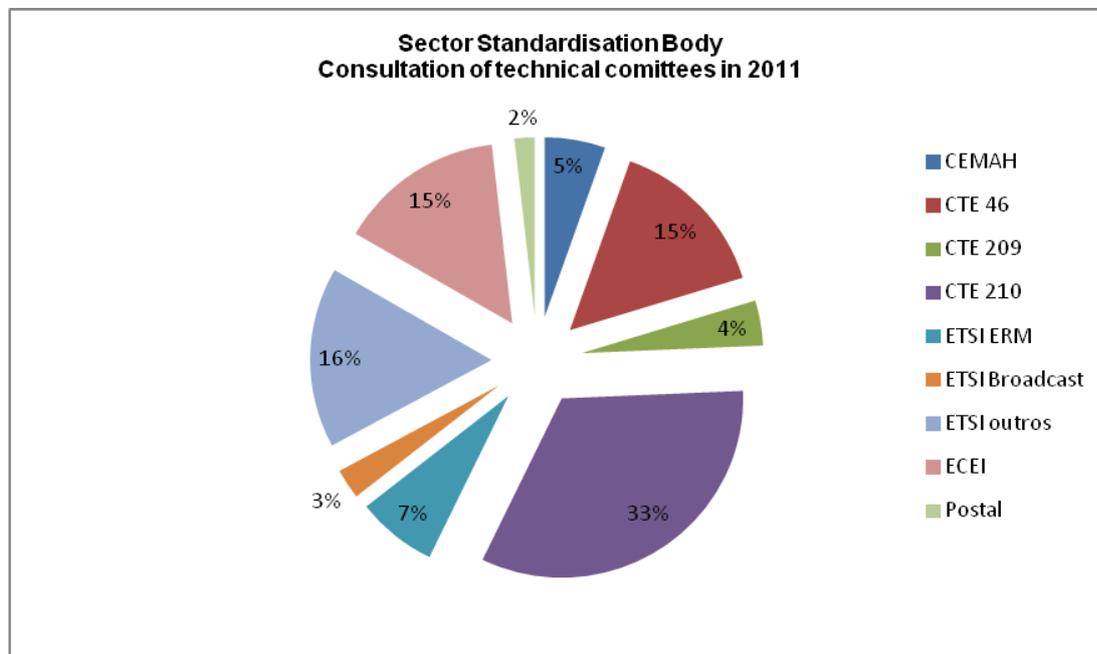
In February 2011 an opinion was requested on the draft decision on the specification of transport and delivery obligations in respect of specific television services and other services complementary thereto (opinion delivered on 14 March).

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

### **Activity of Sector Standardisation Body (ONS)/ICP-ANACOM during 2011**

In 2011, the activity developed within the ONS/ICP-ANACOM for telecommunications, postal activity and electromagnetic compatibility, comprised about 220 consultations, distributed by theme as according to the following graph:

**Graph 60. Consultation with technical committees in 2011**



Source: ICP-ANACOM.

These consultations have origin in the standardisation bodies of ETSI, CEI, CEN and CENELEC, and saw participation by the national electro-technical committees<sup>73</sup>:

- CTE 46 – cables, wires and wave guides for telecommunication equipment;
- CTE 210 – electromagnetic compatibility;
- CTE 215 – electro-technical aspects of telecommunications equipment;
- CTE 209 – cable networks for television signals, radio signals and interactive services.

In the consultation on the impact of electromagnetic radiation on the human environment (CEMAH), on the postal activity and equipment for consumer entertainment and information, interest groups are consulted in the absence of formally constituted national technical committees.

<sup>73</sup> Information on the scope and constitution of the national technical committees, in terms of members, is available in the standardisation area of ANACOM's website.

**Grupo de Acompanhamento da Migração para a Televisão Digital (GAM-TD) (Digital Television Migration Monitoring Group)**

ICP-ANACOM organised four plenary meetings of the GAM-TD, as created by Resolution of Council of Ministers no. 26/2009 and which includes representatives of stakeholders most directly involved in the analogue-digital transition process. The Group was set up to assist ICP-ANACOM in promoting the conditions necessary for the accomplishment of this process. ICP-ANACOM produced four quarterly progress reports to monitor the analogue-digital transition process, based on information compiled through the GAM-TD, from data submitted to this Authority by the main agents and from evidence gathered directly from entities that process statistical or market information.

## 9. Litigation

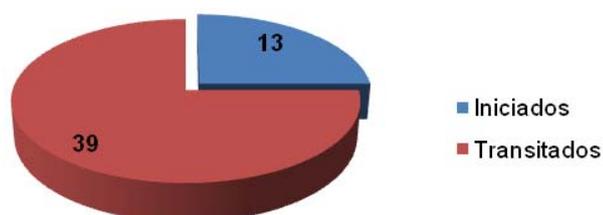
### 9.1. Administrative Litigation

The level of administrative litigation rose in 2011, compared to the previous year.

In addition to intervening in 13 new judicial procedures that were brought in 2011 (in which ICP-ANACOM was cited), ICP-ANACOM also monitored 39 cases carried over from previous years that remain ongoing – litigation therefore remains at relevant levels.

Graph 61. Administrative litigation procedures

#### Administrative litigation procedures – 2011



Source: ICP-ANACOM.

The 14 cases initiated in 2011 comprise four special administrative actions, two common administrative actions, two cases of pre-contractual litigation, three subpoena procedures and two protective orders:

- special administrative action brought by PTC and by TMN challenging ICP-ANACOM determination of 30.07.2010, which decided on the intervention request presented by MobiZAPP – Comunicações Eletrónicas, S.A. (formerly Radiomóvel) seeking to obtain

access or interconnection of its network, as used in the provision of the mobile trunking service, with the networks of PTC, Optimus (formerly Sonaecom), TMN and Vodafone. ICP-ANACOM submitted its response in 2011. The case is pending;

- special administrative action brought by PTC and by PT Prime, seeking partial annulment of ICP-ANACOM determination of 28 September 2010, "Final decision on the definition of the product markets and geographic markets, assessment of SMP and the imposition, maintenance, alteration or suppression of regulatory obligations on the retail market and on the wholesale markets of terminating and trunk segments of leased lines". ICP-ANACOM submitted its response in 2011. The case is pending;
- special administrative claim procedure related to administrative actions brought by PT Comunicações, seeking annulment of ICP-ANACOM determination of 9 June 2011, approving the "decision on the concept of unfair burden" and the "decision on the methodology to be used in calculating the net cost of universal service" (later amended following a complaint presented by plaintiff on 29 August 2011). A response is to be submitted in 2012. The case remains pending;
- special administrative procedure related to administrative acts, brought by Vodafone Portugal and seeking: (i) annulment of the decision of 18 August 2011 (ratified by determination of 29 August 2011) on the complaint submitted by the plaintiff and annulment of the new decision on the methodology to be used in calculating the CLSU, (ii) a ruling against ICP-ANACOM as regards the identification of which companies are currently authorized to operate electronic communications networks in Portugal; and (iii) a ruling against the regulator as regards the provision of information on the impact of the amendment introduced by that determination. A response is to be submitted in 2012. The case remains pending;
- common administrative action brought by Optimus seeking compensation for damages that the plaintiff claims to have suffered due to errors for which it holds ICP-ANACOM liable, regarding the approval and notification of determination of 2 July 2008 (establishment of maximum termination prices on the networks of Optimus, TMN and Vodafone, to apply from 15 July 2008). ICP-ANACOM responded in 2011 – the case remains pending;

- common administrative action brought by ONITELECOM comprising various applications: (i) a ruling against ICP-ANACOM as regards the recognition of a credit of the plaintiff and recognition of compensation paid by the plaintiff, (ii) a ruling against ICP-ANACOM as regards payment of the difference between the value of the credit and the amount of compensation referred to in the preceding paragraph; and (iii) alternatively, a declaration of the effectiveness of ICP-ANACOM determination of 2 July 2008, as regards the period 15.07.2011 to 07.08.2011. ICP-ANACOM submitted its response in 2011 – the case remains pending;
- pre-contractual litigation procedure brought by Ambisig – Ambiente e Sistemas de Informação Geográfica seeking annulment of ICP-ANACOM determination of 21.07.2011, which gave approval to the final report of the procedure panel and decided to award the contract to a third party in the case, Capgemini, and a ruling against ICP-ANACOM Management ordering issue of a determination excluding Capgemini's proposal and awarding the contract to the plaintiff, within seven days. The response was submitted in 2011. The case is pending;
- pre-contractual litigation procedure brought by Ambisig – Ambiente e Sistemas de Informação Geográfica, challenging the determination of 20.10.2011, seeking that the regulator be ordered to issue a decision overturning selection of the proposal by the third party in the case, Capgemini, and simultaneously, a decision to award in favour of the proposal submitted by the plaintiff, or, otherwise, that: (i) the public procurement procedure be annulled; (ii) that the defendant be ordered to issue a new contracting decision, with pre-contractual procedure restricted by prior qualification; and (iii) approval of a new procedure schedule that considers, among the minimum requisites of technical capacity, possession by candidates of certificates in respect of standards: ISO/IEC20000:2005, ISO/IEC27001:2005, ISO9011:2008 and ISO14001:2004). ICP-ANACOM's response was submitted in 2011 – the case is pending;
- protective order regarding a contract formulation procedure brought by Ambisig – Ambiente e Sistemas de Informação Geográfica seeking suspension: (i) of the procedure concluding the contract to provide services for the implementation and management of a centralise information system; and (ii) of the effectiveness of ICP-ANACOM determination of 20.10.2011. ICP-ANACOM submitted its opposition in 2011. The case remains pending;

- protective order of suspension of validity of the administrative act proposed by NFM – Global and Rádio NFM, presented against ERC, in which ICP-ANACOM was cited following an application subsequently entered by the applicants. ICP-ANACOM submitted its opposition, claiming passive illegitimacy;
- subpoena procedure as regards provision of information, process consultation and issue of documentation brought by PT Comunicações, seeking an order that ICP-ANACOM issue a simple and complete copy of a document of the administrative procedure by which the draft decision was issued concerning the concept of unfair burden and the methodology to be used for calculating the net costs of providing the US of telecommunications. ICP-ANACOM submitted its response in 2011; a ruling in the case was issued in the same year, whereby the defendant was ordered to provide the information sought. The regulator entered a court appeal of the ruling, which has not yet been decided;
- subpoena procedure as regards provision of information, process consultation or issuance of certificates brought by TVI – Televisão Independente, seeking access and consultation of the proposal presented by PTC to the national tender for the allocation of a right of use of frequencies, on a national basis, for the digital terrestrial television broadcasting service (associated with Multiplexer A), including information in respect of the respective economic/financial plan. ICP-ANACOM submitted its response; the case was decided with a ruling unfavourable to the applicant issued in 2011. TVI filed an appeal, which has not yet been decided; and
- subpoena process regarding the provision of information, process consultation or issuance of certificates brought by Ambisig – Ambiente e Sistemas de Informação Geográfica seeking an order against ICP-ANACOM to: (i) provide certified information indicating the status of the public tender procedure and what steps or actions were taken subsequent to the preliminary report; and (ii) provide the applicant with a certificate, by simple photocopy, of the supporting documentation of all acts and steps undertaken in respect of the procedure in question, subsequent to notification of the preliminary report, including any submissions of other tenderers pursuant to the prior hearing. ICP-ANACOM submitted its response in 2011. By ruling issued in the same year, it was declared without need to adjudicate and ICP-ANACOM ordered to pay costs. The regulator appealed part

of the court's ruling, which came to be decided by judgment in 2011 (where it was decided not to recognise the appeal).

## **9.2. Fee litigation**

Nine fee payment litigation procedures were instigated in 2011, eight with regard to disputes over fees and one a summons to adopt a practice. In addition, 27 cases were carried over from previous, all relating to challenges regarding fees.

### **9.2.1. Summons procedures to adopt a practice**

Cabovisão instigated a procedure seeking that ICP-ANACOM be served an order to reveal the absolute value of excluded revenues of the incumbent operator so that the applicant could perform the calculations needed to ascertain the value of the regulation fee demanded of it. ICP-ANACOM submitted its response in 2011 and the case was decided in the same year, with a ruling unfavourable to the regulator, which was appealed in court.

### **9.2.2. Legal challenges to fees applied by ICP-ANACOM**

In 2011, ICP-ANACOM was cited in eight new legal challenges in respect of application of fees. These procedures were brought by:

- Instituto Portuário de Transportes Marítimos (two procedures);
- ZON TV Cabo Madeirense;
- ZON TV Cabo Açoreana;
- ZON TV Cabo Portugal;
- Cabovisão;
- Optimus;
- Mota Engil.

ICP-ANACOM prepared its responses to submit in court – the cases in question remain pending.

In 2011, ICP-ANACOM also monitored 27 court challenges filed in previous years,

### **9.2.3. Opposition to tax foreclosures**

In 2011, ICP-ANACOM was involved in one new procedure regarding opposition to tax foreclosures, introduced in that year, and continued to accompany the progress of 21 cases carried over from previous years.

### **9.3. Civil litigation**

In terms of civil litigation, four cases were initiated in 2011, comprising three insolvency proceedings and one protective order. From previous years, 39 cases were carried forward regarding company recovery, bankruptcy and insolvency.

#### **9.3.1. Unspecified protective orders**

In 2011, ICP-ANACOM was cited in an unspecified protective order procedure brought by Sport Lisboa and Benfica, seeking that this Authority be ordered, pursuant to its powers, to close a website and prevent/block access thereto by third parties. ICP-ANACOM submitted its opposition and the case was pending as at the end of 2011.

#### **9.3.2. Special judicial processes of corporate recovery and insolvency**

In 2011, ICP-ANACOM began accompanying three new insolvency proceedings in respect of companies of which it is a creditor (in respect of unpaid fees).

ICP-ANACOM also accompanied 39 processes that were initiated in previous years but which remain pending.

## **10. Advising the Government**

In its role of advising the Government, ICP-ANACOM was involved in a range of issues in 2011; these include ensuring that the transition to digital television proceeded without problems, assisting in the transposition of European directives, and preparing legislation on financing mechanisms of the US of electronic communications. In some cases, this work also stemmed from the memorandum of understanding (MoU) signed in 2011 between the Government of Portugal and the EC, the ECB and the IMF (Troika).

### **10.1. Implementation of measures set out in the memorandum of understanding**

The MoU, signed in 2011, established a set of measures to be implemented in the areas of electronic communications and post. One of the measures in the MoU is specifically focused on fixed communications and calls on the Government of Portugal to adopt measures to increase competition in the fixed communications markets:

- (i) alleviating restrictions on mobility of consumers by reducing costs faced when deciding on provider along the lines proposed by the Competition Authority (such as standardized contracts, explicit right to free cancellation and facilitating price comparison) [third quarter 2011];
- (ii) reviewing barriers on entry and adopting measures to reduce them [1st quarter 2012]

In this context, an internal, interdisciplinary group was set up to ascertain the extent of accomplishment of the measures laid down in the troika document, identifying measures already established or measures requiring development in order to accomplish the objectives defined.

With a view to alleviating restrictions on the mobility of consumers, a draft decision was prepared to propose amendments to the *Regulamento da Portabilidade* (Portability Regulation), in particular adapting it to the transposition provisions of the new regulatory framework. The draft Regulation was approved on 27 October 2011 and subsequently submitted to public consultation.

In reviewing barriers on entry, at the end of 2011, a package of measures was under preparation to be implemented by ICP-ANACOM during the first quarter of 2012:

- amendments to the RDAO, in order to furnish fixed network operators in general with better wholesale conditions in leased lines, particularly in terms of pricing, time limits, procedures and conditions governing access to the autonomous regions, with the respective draft decision approved on 17 November 2011;
- horizontal measure applicable to all wholesale offers, to improve conditions for assessing quality of service, with the respective draft decision approved on 20 October 2011;
- analysis of the markets for wholesale (physical) network infrastructure access (including shared or fully unbundled access) at a fixed location and wholesale broadband access.

The multi-band auction for the allocation of rights of use of frequencies in the 450 MHz, 800 MHz, 900 MHz, 1800 MHz, 2.1 GHz and 2.6 GHz bands, referenced in section 5.1.1 of this report, was another topic that was on ICP-ANACOM's agenda but which saw some adjustment following conclusion of the MoU. In this respect, paragraph 5.17 of the memorandum called for an increase in contestability levels and facilitation of market entry. As such, and in the context of the auction, a second draft decision was formulated distinctly and separately from the first. Other issues dealt with in the context of the auction and set out in the MoU include a revision of fees applicable to the use of frequencies and provision of a monitoring and enforcement mechanism to ensure execution of obligations related to the negotiation of national roaming access and agreements with mobile virtual network operators.

In terms of measures to facilitate market entry, as referred to in paragraph 5.17 of the memorandum, a public consultation was launched in September 2011 on the updated detail of the price control obligation applicable to the wholesale markets of voice call termination on individual mobile networks, comprising the establishment of a new glidepath. This material is detailed in section 3.2.2.

As detailed previously in this report, important advisory work was developed with regard to provision of the universal service, given the objective established in the MoU to re-negotiate the concession contract with PT Comunicações and launch a new tender for designation of the universal service provider(s), taking the principle of non-discrimination into account (see section 4.1).

ICP-ANACOM was also intensely engaged in work to transpose European directives, including the third Postal Directive and the new regulatory framework for electronic communications, resulting in publication of Law no. 51/2011 of 13 September – paragraphs 5.16 and 5.22 of the MoU.

The memorandum also sets out the objective of making Points of Single Contact more user-friendly and responsive to the needs of small and medium sized enterprises (SME). In this context, in 2011, ICP-ANACOM cooperated with the Agência para a Modernização Administrativa (AMA) (Agency for Administrative Modernization), an entity which at the end of 2011 set up the "*Balcão do Empreendedor*" (Enterprise contact point), provided through the *Portal da Empresa* (business gateway website), to perform services supporting the exercise of economic activities.

A set of preparatory work was developed by this Authority over the year in support of this contact point.

## **10.2. Digital Terrestrial Television (DTT)**

The transition to DTT, which was completed on 26 April 2011, is an issue that warrants particular emphasis as regards ICP-ANACOM's activities of providing assistance to the government.

According to the switch-off plan approved in the summer of 2010, analogue television is to be switched off nationally in three stages: 12 January 2012 in the coastal area of the country, on 22 March in the Autonomous Regions of the Azores and Madeira and 26 April in the remaining territory. To test communications, network stability and public take-up in the transition process, it was decided to carry out three early pilots: Alenquer, 12 May; Cacém, 16 June and Nazaré, 13 October.

The government made ICP-ANACOM responsible for ensuring that the switch-off of the analogue television signal and the migration to digital would take place in a trouble-free manner and that no one would be deprived of their right to watch television. A process of this scale, covering 1.3 million families, required a massive mobilization of human resources at ICP-ANACOM throughout the year, especially as the date of the first phase of the switch-off approached: 12 January for coastal areas of mainland Portugal.

Even while the DTT network deployed by PTC following an international tender launched in 2008 has provided coverage of 100 per cent of the population since December 2010, and despite calls for migration to be accomplished progressively, it was considered likely that people would only migrate en-masse as the switch off dates approached. Therefore, at the beginning of 2011, ICP-ANACOM embarked on an intense communication effort to encourage people to migrate to digital television in good time, while a set of determinations were adopted to engage the transition process and clarify certain issues deemed key to achieving migration, in a timely and smooth manner. The most important aspects of the DTT process are outlined below:

- **Subsidies programme**

By ICP-ANACOM determination of 20 October 2008, and following an international public tender, PTC was awarded a right of use of frequencies, on a national basis, for the DTT broadcasting service, associated with Multiplexer (MUX A).

In accordance with the tender specifications, PTC made a commitment in the proposal submitted to the tender to "subsidise the acquisition of reception equipment, under the terms of the proposal presented, specifically acquisition by citizens with special needs and by disadvantaged population groups and institutions of proven social value until the cessation of terrestrial analogue television transmissions".

This obligation assumed by PTC forms an integral part of Right of Use of Frequency ANACOM no. 06/2008, issued on 9 December 2008.

On 22 September 2010, PTC submitted a set-top box subsidy programme intended for people with special needs, disadvantaged population groups and institutions of proven social value, with the aim of fulfilling the commitment it had made.

According to the analysis performed by ICP-ANACOM on the documents, it was deemed necessary to review and clarify certain aspects.

As such, on 11 February 2011, ICP-ANACOM approved a draft decision on the programme governing the allocation of subsidies for the acquisition of DTT signal reception equipment by citizens with special needs and disadvantaged population groups and institutions of proven social value, determining that said programme be made an integral part of Right of Use of Frequencies ANACOM no. 06/2008, as issued on 9 December 2008, thereby binding the company to its commitment.

The final decision was adopted on 24 March 2011<sup>74</sup>.

- **Reimbursement programme**

Under the terms of the same tender, PTC is bound to guarantee that "the population whose coverage is ensured only by resource to complementary means, namely DTH (...) - not exceeding 12.8 percent of the national population in areas indicated in the proposal – is at least provided with the same services of zones covered by terrestrial means, as well as levels of service and conditions of access of end-users comparable to those provided in such zones". In this context, PTC is bound to "(...) subsidise customers in areas which are not covered by terrestrial digital broadcasting so that the latter do not have to bear any higher costs than users in DTT areas, including labour, terminal receivers, antennae and wiring".

This obligation also forms an integral part of Right of Use of Frequencies ANACOM no. 6/2008, issued on 9 December 2008.

Specifically concerning the option to make use of supplementary means of coverage, article 21 of the Tender Regulations permitted accomplishment of the coverage obligations contained therein "(...) through the use of complementary coverage replacing terrestrial broadcasting provided that, the same services of television programmes are available, that the levels of service and access conditions for end-users in the areas concerned are comparable to those of the areas covered by terrestrial and that the population covered exclusively by such means does not exceed 14 percent of the national population".

PTC submitted the process of allocating set-top box reception equipment for areas of supplementary DTH coverage to ICP-ANACOM on 22 September 2010.

ICP-ANACOM considered it necessary to clarify the obligations assumed by PTC with regard to the reimbursement of installations and domestic satellite reception equipment (DTH).

In this context, by determination of 9 March 2011, ICP-ANACOM approved the draft decision on the definition of the reimbursement procedure for installations and equipment in areas of supplementary DTH coverage, determining that this procedure become part of Right of Use of

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<sup>74</sup> Determination available at: <http://www.anacom.pt/render.jsp?contentId=1079309>

Frequencies ANACOM no. 6/2008, issued on 9 December 2008, thereby binding the company to its execution.

On 7 April 2011,<sup>75</sup> the final decision was approved, whereby it was determined as follows:

- to approve the reimbursement programme for installations and equipment in areas with complementary means of coverage (DTH), in the context of DTT, as described in the determination;
- to determine that the reimbursement programme, referred to in the preceding paragraph, is made an integral part of Right of Use of Frequencies ANACOM no. 06/2008, issued on 9 December 2008, thereby binding the company to its execution;
- to determine that achieving compliance with the terms of the principle of equivalence, to which PTC is bound under point d) of paragraph 1 and paragraph 2 of article 9 of Right of Use of Frequencies ANACOM no. 06/2008, may be reviewed within a maximum period of three years from the date of the switch off, upon reasoned request from PTC;
- to determine that PTC shall bring the information which it provides on the reimbursement programme in areas covered by complementary means (Complementary DTT – DTH) into conformance with the provisions of the present decision.

- **Prior prohibition of unfair commercial practices**

The migration process associated with the switch off involves the adaptation of television reception equipment and infrastructure belonging to the section of the population currently receiving free-to-air television broadcasts in analogue form. As such the period of transition could present electronic communications companies, including STVS providers, with an opportunity to acquire new customers. In this context, ICP-ANACOM will not accept situations where companies or their agents exploit this business opportunity by adopting business practices that distort the economic behaviour of consumers, directly harming their economic interests and indirectly the economic interests of competitors, and indeed such practices are manifestly illegal.

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<sup>75</sup>Determination available at: <http://www.anacom.pt/render.jsp?contentId=1081499&languageId=1>

Therefore, by determination of 19 May 2011<sup>76</sup>, ICP-ANACOM prohibited all commercial practises which, in any way, lead the consumer to believe that a paid service should be subscribed to, in order to continue receiving free and unrestricted access television programme services, namely RTP1, RTP2, SIC and TVI, as well as RTP Açores and RTP Madeira in the respective Autonomous Regions.

This prohibition was directed at electronic communications companies providing television signal distribution services, as well as their agents responsible for publicising and marketing such services.

- **Imposition of immediate correction of the information provided by PTC**

Also in May, and following oversight actions undertaken by ICP-ANACOM, which found shortcomings in the information that PTC was providing to the public, especially as regards the programme of subsidies available to people on low incomes, PTC was ordered to make immediate improvements to the quality of information provided on matters related to DTT through its contact centre (800 200 838), on its website [www.tdt.telecom.pt](http://www.tdt.telecom.pt) and at its retail outlets.

- **Alteration of the radio channel associated with Mux A**

On 4 April 2011, a determination was adopted to alter the radio channel electric assigned to PTC on the DTT network and associated with MUX A (to 56 from 67). This follows ICP-ANACOM's decision to assign and make the 790-862 MHz sub-band available for the provision of electronic communications services.

Towards the end of the year, and with conditions of equivalence defined between the price of DTT set-top boxes and the price of DTH kits, and noting that the conditions were fulfilled as allow a downward revision of DTH kit prices, the respective decision was issued.

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<sup>76</sup> Determination available at: <http://www.anacom.pt/render.jsp?contentId=1085830&languageId=1>

- **Update of the value of the DTH kit**

In the programme accepted by ICP-ANACOM determination of 7 April 2011, it was established that the value of the complementary DTT kit (DTH), the first set-top box (STB), payable by the reimbursement applicant, after receipt thereof, will be 55 euros, as the amount corresponding to the average price per DTT set-top box.

Considering the likely trend in the cost of DTT equipment, it was further determined that this figure would be revised on a six-monthly basis upon the initiative of ICP-ANACOM. "in the event that, given the price (...) established, there is found to be a variation of more than 10 percent in the six-monthly average price of set-top boxes for DTT reception", thereby ensuring that the principle of equivalence remains properly implemented throughout the programme's duration.

Six months after the programme's approval, ICP-ANACOM checked the evolution in the average price of DTT set-top boxes (based on data from GFK) finding that, with reference to the six-month period from April to September 2011, the average price of a DTT set-top box was around 40 euros. As such, the amount calculated by reference to the April-September six-month period demonstrated a decline of over 10 percent in the price that was established for the DTH kit, determining its reduction. The price of the DTH kit was therefore reduced to 40 euros, in line with the average price of DTT reception equipment in the last six months, maintaining equivalence of access conditions for DTT and complimentary DTT (DTH) end-users.

In the same determination of 6 January 2012, further clarification was issued in respect of the reimbursement program, establishing that the new value was applicable to all DTH kit reimbursement processes incorporating a copy of an invoice giving proof of purchase dated after 7 October 2011 and prior to the decision, even if part of the reimbursement due to the applicant was already paid.

In 2012, the value of the DTH kit was updated again and set at 30 euros, with changes made to the programme of subsidies for the installation of reception equipment. This new support, of 61 euros, is available to citizens aged 65 years and older who live in situations of social isolation for structural or cyclical reasons, and who are registered as such at Social Security. The programme was extended until 31 August.

- **Communication actions**

In parallel, ICP-ANACOM engaged in a set of initiatives aimed at informing and alerting the public as to the need to prepare for digital television, while partnerships were established and attempts were made to mobilize agents working in communities, so that they would be able to provide information and support the population, especially the elderly and less informed, helping them through the transition.

In this regard, mailings to raise awareness of this process were distributed to all Municipal Councils, parish councils, parish churches, *instituições particulares de solidariedade social* (private institutions of social solidarity) and consulates of countries with a strong presence of Portuguese emigrants. Meetings were held with about one hundred and fifty local authorities and partnerships established with Associação Nacional de Freguesias (ANAFRE) (National Association of Parishes), CTT and DECO, to spread information about the transition to DTT. In the case of the partnership with DECO, plans were made to conduct one hundred open information sessions across the country aimed at the general public and organizations, leveraging a multiplier effect in the spread of information in the case of parish councils, IPSS, retailers, installers, etc. The partnership with CTT entailed training given by ICP-ANACOM technicians to postmen and post office staff so that they could then help people through the migration process. In the case of ANAFRE, training was given to district delegates, so that, in their respective areas, they could pass information on to parish chairmen, who could then help people in this process. In partnership with Direção-Geral do Consumidor (DGC) (Directorate General for the Consumer), DTT training programmes were conducted in Lisbon and Porto, directed at managers of Centros de Informação Autárquicos ao Consumidor (CIAC) (Municipal Consumer Information Centres).

A range of communication actions were also engaged. These actions were tested in three pilot areas – Alenquer, Cacém and Nazaré – and then replicated nationally. They include information sessions aimed at professionals (retailers, installers and electricians), social organizations and the general public. Meanwhile, a guide was distributed with information on the DTT transition process in the mailboxes of all homes in these areas, alongside a campaign of outdoor advertising and posters calling attention to the date of the switch-off.

In the specific case of Cacém, a leaflet was distributed at points of contact with the public (branches of Caixa Geral de Depósitos, CTT post offices, health centres, day centres,

businesses, parish councils, etc.) together with a free newspaper produced by ICP-ANACOM, "TDT Notícias" (DTT News) with useful information on DTT.

In each pilot area, an institutional session was held on the switch off of the analogue signal, attended by the municipal mayors of the areas covered, PTC and the media, with ICP-ANACOM technicians present at the town halls of these municipalities in the days following the switch off, to help with any questions or problems.

In July, ICP-ANACOM organised national distribution of 3.5 million copies of the newspaper "TDT Notícias" (DTT News), a free publication produced by this Authority to inform the Portuguese people about the DTT transition process. In August, a DTT beach campaign took place, also with distribution of the newspaper "TDT Notícias", focusing on ten<sup>77</sup> beaches in the Algarve and in the region of Nazaré/Alcobaça (the third pilot area of the country to switch off analogue television).

These initiatives culminated in an advertising campaign conceived and produced pursuant to an international tender. This campaign was conducted in three waves, preceding each switch-off phase, and had components of television, radio and outdoor advertising, in addition to a series of press advertisements; the campaign sought to increase awareness about DTT and to warn people of the need to migrate.

- First wave – from 28.11.2011 to 12.12.2011.
- Second wave – from 02.01.2012 to 23.02.2012.
- Third wave – from 12.04.2012 to 01.05.2012.

As part of this campaign, ICP-ANACOM set up an official DTT Facebook page<sup>78</sup>, sharing information on the main news stories and events associated with the launch of DTT in Portugal.

On ICP-ANACOM's institutional website, as well as on ANACOM's Consumers' Website<sup>79</sup>, information was provided about the campaign and about the digital television migration process, with a set of FAQ produced on DTT, which can be accessed interactively by users.

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<sup>77</sup> São Martinho do Porto, Nazaré, Praia da Falca, Praia do Norte, Praia de Olhão, Praia da Quarteira, Praia da Rocha, Praia dos Pescadores, Praia de Armação de Pera and Praia de Monte Gordo.

<sup>78</sup> See <http://www.facebook.com/tdtofcial>

<sup>79</sup> See <http://www.anacom-consumidor.pt>

ICP-ANACOM regularly released information to the media (newspapers, radio and television) and held a series of press conferences in order to give visibility to the digital television migration process.

In June 2011, ICP-ANACOM launched an international tender for the printing, packaging and distribution of six million copies of an informative guide on the DTT transition process – *Guia TDT* (DTT Guide) with clear and simple explanation of the steps of migration to digital television. This tender was awarded to CTT, which in October 2011 distributed the guide to all homes in mainland Portugal and the Autonomous Regions. An electronic version of this guide is also available, in Portuguese and English, along with audio, Braille and large-text versions.

- **Surveys**

During 2011, ICP-ANACOM conducted several population surveys, first in the pilot areas, and then at a national level, to assess people's levels of awareness and knowledge about DTT and the levels of take up of digital television, so that it could adjust its communication policy accordingly.

This need to monitor the evolution of the process led to the decision to stagger the first phase of the nationwide switch-off, which had been planned to occur in a single day, on 12 January 2012, into five stages, with transmitters and relays switched off on 12 January, 23 January, 1 February, 13 February and 23 February 2012. The second phase entailed the switch off of transmitters and relays in the Autonomous Regions of the Azores and Madeira, on 22 March 2012, and the process culminated with the switch off of the transmitters and relays in interior and northern areas of the country, as well as the transmitters sited at Mount da Virgem, Marão, Montejunto and Lousã (while located within in coastal areas, these transmitters could not be switched off in the first phase since they served equipment that could not be switched off until 26 April).

Surveys, conducted by Marktest revealed, in all cases, including in pilot zones, very high levels of awareness about DTT and knowledge about the switch off of the analogue signal.

The survey preceding the first phase of the switch off, conducted in November, revealed that 70 percent of people who needed to migrate to digital television had already done so, and that 20 percent reported they would do so before the switch-off date.

### **10.3. Next generation access networks (NGA)**

In 2011, pursuant to and in compliance with the Order of the Secretary of State for Public Works and Communications of 22 October 2010, and in the context of providing advice to the Government in the context of the process of the public tenders launched for the supply of NGA for the North, Centre, Alentejo and Algarve areas, ICP-ANACOM issued opinions regarding: (i) the consistency of applications, including in terms of investment plans, as regards the commitments assumed by the prevailing tenderer in their proposals to the international tender for the installation, management, operation and maintenance of networks of high-speed electronic communications in the areas concerned; and (ii) the suitability of the proposed technical solutions to the purpose.

In late 2011, a reformulation of the Action Plan for monitoring obligations under contracts concluded between the government and the operators of rural NGN was begun in light of the contracts submitted to ICP-ANACOM.

### **10.4. Other activities in advising the Government**

- **Transposition of Directives 2009/136/EC and 2009/140/EC of the EP and of the Council of 25 November, amending Directive 2002/21/EC and Directives 2002/21/EC, 2002/19/EC and 2002/20/EC, respectively, all of the EP and of the Council of 7 March (2006 review)**

ICP-ANACOM continued working towards the transposition of these Directives, having submitted a legislative draft to the Government for the purpose.

This process culminated in the publication of Law no. 51/2011 of 13 September, amending the LCE and transposing Directives 2009/136/EC and 2009/140/EC. Publication of this Law also implemented the penalty regime of Regulation (EC) no. 717/2007 of the EP and of the Council of 27 June on roaming on public mobile telephone networks within the Community, as amended by Regulation (EC) no. 544/2009 of the EP and of the Council of 18 June.

- **Transposition of Directive 2009/136/EC of the EP and of the Council of 25 November 2009, as amending Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector (2006 Revision)**

In response to the request put to it, ICP-ANACOM prepared and sent to the Government a draft law that embodies the first amendment to Law no. 41/2004 of 18 August, and transposes Directive no. 2002/58/EC of the EP and of the Council of 12 July into national legislation, concerning the processing of personal data and the protection of privacy in the electronic communications sector, as amended by Directive no. 2009/136/EC of the EP and of the Council of 25 November.

- **Transposition of Directive 2008/6/EC of the EP and of the Council of 20 February 2008, amending Directive 97/67/EC concerning the full accomplishment of the internal market of Community postal services**

ICP-ANACOM forwarded a proposed draft law, transposing the third Postal Directive, to the Government in 2010.

This draft has undergone a number of amendments as it passed through the Government's legislative process, and in January 2011, the XVIII Constitutional Government submitted a legislative draft to public consultation a bill, in which context ICP-ANACOM submitted comments.

Subsequently, after the XIX Constitutional Government took office, ICP-ANACOM provided advice in the process of this draft's review, following which a draft bill was approved on 7 December 2011 for passage to the *Assembleia da República* (Assembly of the Republic).

- **Preparation of draft amendment to the Administrative Rule approving the level of fees payable to ICP-ANACOM**

On 13.10.2011, a draft Administrative Rule to amend Administrative Rule no. 1473-B/2008 of 17 December was prepared and sent to the Government – this was subsequently approved and published as Administrative Rule no. 291-A/2011 of 4 November.

- **Preparation of opinion and draft Decree-Law on the financing mechanisms of the US of electronic communications**

At the request of the Government, ICP-ANACOM analysed various solutions that, under the terms of the law, may be used to finance the net costs of the US. It also presented a legislative draft in December to govern and regulate the procedures necessary to implement the financing of the net costs incurred by the provider(s) of the US as a result of the provisions thereof.

- **Draft legislation to amend the legal regime governing the construction, access and installation of networks and electronic communications infrastructure (Services Directive) – GSEPCM Revision**

In response to a request of the Office of the Assistant Secretary of State for Public Works and Communications (XVIII Constitutional Government), an opinion was given on this draft in September.

- **Process of approving the Acts approved at the XXIII UPU Congress**

Upon request of the MNE, this ratification process was completed, through the submission, on 9 May 2011, of the certified translation of these Acts and Statement of reasons of the draft resolution of the Government for passage to the *Assembleia da República* (Assembly of the Republic) and opinion of ICP-ANACOM regarding the opportunity of binding Portugal to these Acts.

- **Approval of the Tampere Convention**

Upon request of the MNE, this ratification process was completed, through the submission of the certified translation of the Convention on 16 May 2011.

- **Complaint made in respect of the pilot project on the spectrum auction (EU PILOT 2275/11/INSO)**

The prepared response was sent to GPERI/MECOM on 1 September 2011.

- **Complaint made in respect of the pilot-project on the execution of Decision 2007/344/EC on the harmonised provision of information on the use of the radio spectrum in the Community (EU Pilot 2490/11/INSO)**

As part of its role of advising the Government, clarification was prepared on Portugal's implementation of Decision 2007/344/EC.

- **Processes 2011/0927 and Processes 2011/0928 – formal notice**

As part of its role of advising the Government, and with regard to the transposition of Directives 2009/136/EC of the EP and of the Council of 25 November 2009 and Directive 2009/140/EC of the EP and of the Council of 25 November 2009, identified as being the responsibility of the MEE (OPTC / ANACOM), a response was prepared and sent to GPERI – Gabinete de Planeamento Estratégico e Relações Internacionais (Office of Strategic Planning and International Relations), for submission to the EC.

- **Defaulters database**

Upon request of the Office of the Assistant Secretary of State for Public Works, Transport and Communications, ICP-ANACOM set out its position on the memorandum submitted by Associação dos Operadores de Telecomunicações (APRITEL) (Association of Telecommunications Operators) that supported revision of rules on contract prevention mechanisms as provided for under article 46 of the LCE. A revision of these rules was included in the amendments implemented, in the meantime, in the LCE.

The following further activities are noted in the context of ICP-ANACOM's role of advising the Government:

- a) contribution to the response given to the EC questionnaire on revising Community Guidelines as to the application of State aid rules in relation to rapid deployment of broadband networks and active participation in the meeting held between the EC and Member States (Brussels, 14 November 2011) on revising guidelines on state aid for broadband;
- b) contributions to the study conducted by WIK for the EC on the implementation of guidelines on State aid for the deployment of broadband networks;
- c) contributions to: (i) Draft Commission Communication on the application of European Union State aid rules to compensation granted for the provision of services of general economic interest; (ii) Draft Commission Decision on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest; (iii) Draft EU Regulation on the application of articles 107 and 108 of the Treaty on the Functioning of the EU to *de minimis* aid granted to undertakings providing services of general economic interest; and (iv) Draft Commission Communication on the EU framework for State aid in the form of public service compensation;
- d) contributions for possible update, in December 2011, of ICP-ANACOM's proposed plan to monitor and verify deployment of NGA in rural areas;
- e) contribution to the meeting between the EC and MOPTC on integrated industrial policy for the Globalisation Era, held in March 2011;
- f) contributions regarding the revision of the *Lei da Concorrência* (Competition Law);
- g) responses to the IPCTN09 Survey and IPCTN10 Survey, both from former MCTES.

Clarification requests were also put to ICP-ANACOM about amending sector and cross-sector legislation, as well as information on the status of the institution, including:

- question no. 1391/XI/2 presented by the Social Democratic Party (Internet in interior regions of Algarve);
- question AR 1460/XII/1, presented by the Portuguese Communist Party (DTT);

- analytical memorandum on the institution, requested by the Ministry of Economy and Employment;
- report on ICP-ANACOM requested by the Secretary of State for Public Works, Transport and Communications;
- legislative draft establishing the legal regime governing the legal deposit of moving images;
- draft Resolution no. 347/XI – recommending that the Government use teleconferencing systems and videoconferencing to replace physical meetings;
- draft administrative rule – application of Law no. 9/2009: regulated professions and competent national authorities (Transposition of Qualifications Directive).

## **11. Institutional Communication and Image**

During 2011, ICP-ANACOM was engaged in a range of activities in the context of institutional communication and image, seeking to convey clear, relevant and useful information to consumers and to the market in general.

### **11.1. Internet presence**

In 2011, ICP-ANACOM continued to keep its website updated, and worked on the redesign and creation of thematic areas, often as a result of legislative and regulatory changes.

In particular, the website's Digital Television area was reworked, especially in terms of frequently asked questions, while the website's online services saw continual renewal, with provision of two new services to search training providers and ITED and ITUR courses and updated frequently asked questions.

Additionally, four interactive forms were made available for the permanent radio licensing fixed service.

ICP-ANACOM has maintained an account on the social network Twitter ([http://twitter.com/ICP\\_Anacom](http://twitter.com/ICP_Anacom)) since 2009, and had 1,388 followers as on 31 December 2011. This platform supports the dissemination of information published on ICP-ANACOM's institutional and consumers' websites, on a daily basis.

In terms of accessibility and usability, ICP-ANACOM makes use of a set of tools to provide faster and more efficient interaction with its website's users, and conducted a restyling of certain features, implementing new mechanisms which enhance the user experience, including:

- new search interface with more intuitive filters;
- redirect alerts – solution that helps users memorise and understand the sequence of clicks in the navigation process, seeking to resolve a common usability problem;
- user evaluation of the quality of information content – mechanisms seeking to obtain more information about the views of users on the content published by ICP-ANACOM on its website;

- redesign of the complaint form available as part of ICP-ANACOM's online services, making it easier and simpler to complete.

Meanwhile, through the "Virtual Assistant" that supports the "A ANACOM Responde" (ANACOM answers) brand, ICP-ANACOM tries to answer questions put by users on roaming, portability, DTT, message-based valued added services, and other issues. It also monitors the different questions and, where necessary, new questions and answers are developed on topics not covered in the knowledge base that serves the virtual assistant.

On 15 March 2011, ICP-ANACOM launched its Consumers' Website ([www.anacom-consumidor.com](http://www.anacom-consumidor.com)), marking Consumer Day; the website's objective is to improve the information that is provided to consumers, so that they are able to make better informed choices.

In June 2011, ICP-ANACOM launched *COM.escolha* – a new online tariff query and consumption simulation tool covering Internet, mobile phone, fixed telephone and TV services; *Com.escolha* is designed to help consumers choose the products and services best suited to their electronic communications needs. It is intended exclusively for individual and/or residential customers and allows consultation of tariffs/offers and the simulation of Internet, mobile telephone, fixed telephone and television consumption. In 2011, the contents of the Roaming Light website were updated to bring them into line with changes set out in the Roaming Regulation which entered into force on 1 July 2011. These changes were likewise reflected in the information provided through ANACOM's Consumers' Website and on ICP-ANACOM's institutional website.

ICP-ANACOM continues to maintain mobile and text versions of its website (in Portuguese and in English).

In 2011, a new application to measure visitor statistics was implemented, with a total of 968,649 visits reported, resulting from 655,729 users. There were 3,956,591 views of informational and transactional content.

ICP-ANACOM continued to maintain its cooperation with the *Portal do Cidadão* (Citizen's Website) and *Portal da Empresa* (Company Gateway Website). These provide additional means of disseminating information and expand the universe of individuals and companies with access

to this Authority. In late 2011, twenty-two files were submitted to the managers of these websites with regard to the services provided by ICP-ANACOM.

Finally, note is made of ICP-ANACOM's cooperation with AMA, the organizations which set up the *Balcão do Empreendedor* (Enterprise contact point) at the end of 2011, an electronic one-stop shop available through *Portal da Empresa* (Company Gateway Website) providing services related to the exercise of economic activities, as provided for under Decree-Law no. 92/2010 of 26 July and under the MoU, and as already mentioned in Section 10.1 of this report.

### **11.2. Spectru**

As one of ICP-ANACOM's key vehicles of institutional communication, the *Spectru* newsletter provides regular information about the activity of the regulator and on the most important national and international issues associated with electronic communications and postal services.

In 2011, with increasingly rigorous management of its resources and scrutiny of its impact on the environment, ICP-ANACOM decided to discontinue distribution of the paper edition of the newsletter, which will continue to be produced and freely available to the public in electronic form – available at [www.anacom.pt](http://www.anacom.pt). The newsletter has two electronic versions, one in Portuguese and one in English.

### **11.3. Publications**

In 2011, ICP-ANACOM published paper and electronic versions of its Annual Report and Accounts 2010 (bilingual version in English and Portuguese) and the Report on Regulation, Supervision and Other Activities 2010 (in Portuguese only). ICP-ANACOM's remaining publications were produced in electronic format and published on ICP-ANACOM's website, including the Activities Report 2010, Communications Sector in Portugal Yearbook in 2011, the 2010 State of Communications Report and 2012-2014 Management Plan.

A number of technical publications were also published online on ICP-ANACOM's website, including:

- comparison study on prices of providers of the universal postal service in the EU in 2010 (January);

- impact of discontinuation of service in portability – non-call related communications (January);
- the evolution of NGA (February);
- network of postal establishments belonging to CTT – Correios de Portugal, S.A., as at the end of 2010 (May);
- survey on the use of electronic communications services by small and medium-sized enterprises (May);
- mobile Communications Systems GSM/UMTS – Assessment of the QoS of – Voice Telephony, Video-telephony and GSM and WCDMA Network Coverage on Porto's Urban Rail Network (Aveiro, Braga, Caíde and Guimarães Lines) (May);
- the challenges of the postal sector in the face of full liberalisation (June);
- survey on the consumption of postal services – residential population (July);
- Mobile Communications Systems GSM/UMTS – assessment of the QoS of Voice Telephony (GSM), Video Telephony and Network Coverage (GSM and WCDMA) on the Alfa Pendular Service of CP (Portuguese Railways) (Braga-Porto-Lisbon-Faro line) (July);
- National Table of Frequency Allocations 2010/2011 (July).

#### **11.4. Events and meetings**

On 6 October 2011, ICP-ANACOM hosted its fifth international conference in Lisbon, on the theme “Liberalisation of the postal service: year one”, which was attended by speakers from various areas of the postal sector, including national regulatory authorities, industry and international organizations.

The year 2011 marked the beginning of full liberalisation of the postal service in the EU, a particularly important development in the communications sector. This conference provided an opportunity to make an assessment of progress, with debate revolving around the main themes of the works: the regulation of postal liberalisation; new strategies for the open market; and new business opportunities.

ICP-ANACOM was also in charge of organizing the fourth congress of the Portuguese Committee of the International Union of Radio Science (URSI), held in 2011 on the theme "Detection and measurement of radio signals in the future of radiocommunications". This conference, held in Lisbon in November, was preceded by a call for papers, directed at academia, seeking the submission of works in areas related to the event's theme.

The Portuguese Committee of URSI has the objective of stimulating, promoting and co-ordinating studies, at a national level, in the areas of radio-electric, telecommunications, and electronics science, whereas ICP-ANACOM is responsible for organising these works.

During the Congress, awards were made of the Portuguese Committee of URSI Career Prize, the ANACOM – URSI Portugal prize, and also the Best Student Paper Award, launched in 2011.

The Career Prize, which honours an individual who has contributed to the advancement of radio science in Portugal, was awarded to António Amândio Sanches de Magalhães, an engineer by training and a pioneer in national radio-astronomy. The ANACOM – URSI Portugal prize was awarded *ex aequo* to the works: (i) "UHF/UWB hybrid antennas for passive RFID for localization and identification systems for interior environment" by Ana Catarina Caniço Cruz, Instituto de Telecomunicações (Telecommunications Institute), ISCTE – Instituto Universitário de Lisboa (ISCTE – Lisbon University Institute) and of Instituto Superior Técnico – Universidade Técnica de Lisboa (IST Technical University of Lisbon). ; and (ii) "Novel excitation signals for efficient microwave power transmission: from theory to system integration in commercial RFID reader", by Alírio de Jesus Soares Boaventura, of the Department of Electronics, Telecommunications and Informatics, of Universidade de Aveiro. It was also decided to award an honourable mention to Professor Fernando Velez for the work "Fixed WIMAX Profit Maximisation with Energy Saving Through Relay Sleep Modes and Cell Zooming". With the goal of encouraging young authors, for the first time ICP-ANACOM sponsored the Best Student Paper Award, with a value of 500 euros. The prize was awarded to Marco Carvalho, of the Electronic and Telecommunications and Computer Engineering Department of ISEL – Instituto Superior de Engenharia de Lisboa (Lisbon Superior Engineering Institute) and of the Instituto de Telecomunicações (Telecommunications Institute), for the work "An Enhanced Handover Oscillation Control Algorithm in Self-Optimizing LTE Networks".

A series of different workshops and seminars were also held over the course of 2011, organised and promoted by ICP-ANACOM – these are listed below:

- workshop "Application of R&TTE Regime – the role of oversight bodies and market agents", on 29 November, targeting manufacturers, representatives and distributors of electronic communications equipment, in order to provide information about the placing of radio and telecommunications terminal equipment (R&TTE regime) on the market, as well as on the role of the authorities responsible for enforcing the regime;
- seminars on "ITED-ITUR Regime, Information System and Digital Terrestrial Television", 4 July in Santarem, and 28 September in Viseu. Targeting municipal council technicians, the aim of these seminars was to raise awareness of issues related to ITED, ITUR, CIS and the deployment of DTT;
- second ARCTEL-CPLP Lusophone Forum Communications, on the theme "Challenges and opportunities" on 14 and 15 April, in Sintra. The discussion focused on three main themes: the challenges of regional regulation; sector business organizations; and partnerships for development. In parallel a Technology Exhibition was held with the presence of 24 exhibitors showcasing the most recent innovations and offers of the communications sector.

Meanwhile, the "ANACOM Seminar" initiative was continued in 2011, with the aim of promoting knowledge, reflection and debate on various topics of importance to the communications sector through the presentation and discussion of academic and other papers or projects from Portugal and abroad. Two seminars were organised on the following topics: (i) Regulatory Remedies to mitigate asymmetric VAT-Exemptions (21 March); and (ii) "Spectrum Auctions: Theory and Practice" (5 April).

Furthermore, ICP-ANACOM organised 17 technical meetings within the scope of the working groups and international organizations in which it participates, pursuant to its responsibilities of providing representation of the communications sector, in particular, within the ECC, IRG/Body of European Regulators for Electronic Communications (BEREC), EMERG and CEPT.

### **11.5. Sponsorship and publicity**

ICP-ANACOM regularly sponsors a range of initiatives which support the objectives of its regulatory activities and are of relevance to the sector, promoting its development, the

dissemination of information and discussion on topics of reference, as well as scientific research and training.

During 2011, 31 sponsorships were granted, mostly corresponding to specific events promoted by educational institutions and by representative bodies or by bodies with relevant activity in the communications sector.

Through sponsorship and cooperation protocols, partnerships were maintained with entities that contribute to the research and production of studies and knowledge about the sector, such as Instituto Jurídico da Comunicação (IJC) (Legal Institute of Communication) and Centro de Estudos de Direito Público e Regulação (CEDIPRE) (Centre for Studies in Public Law and Regulation).

In its fourth and final phase, the "*TIC Pediátrica*" (Paediatric ICT) project of Fundação para a Divulgação das Tecnologias de Informação (FDTI) (Foundation for the Dissemination of Information Technologies) supported by ICP-ANACOM from its inception in 2005, continued to receive support in 2011. The objective of this project is to provide the paediatric units of public hospitals with technology, so that their younger patients can enjoy leisure activities and keep in contact with their schools.

ICP-ANACOM signed a cooperation protocol with FDTI on the "*Um Sorriso com a TIC 2.0 – Nova Geração*" (A Smile with ICT 2.0 – Next Generation) project, aiming to put the facilities and capabilities of ICT at the service of children admitted to hospitals. The project will run for three years (2010-2013) and will be implemented in all paediatric wards of public hospitals across Portugal. Following the dissolution of FDTI, Instituto Português do Desporto e Juventude (IPDJ) (Portuguese Institute of Sport and Youth) has assumed continuity of this project.

In 2011, ICP-ANACOM instituted the "ANACOM Research Prize", which is split into three areas: engineering, economics and law. The aim of this prize is to encourage the production and publication of scientific articles in Portugal in the area of economics, in fields related to ICT, electronic communications, postal services and electronic commerce, stimulating creativity, innovation, originality and analytical rigor in research work.

In the area of economics, the "ANACOM Prize – Economics of ICTs", is awarded to the best paper presented at each annual edition of the workshop on Economics of ICTs, organised jointly by the Centre of Studies and Finance at Universidade do Porto (CEF.UP) and the Centre for

Advanced Studies in Management and Economics of Universidade de Évora (CEFAGE.UE). The functioning of the law prize is currently being developed.

The partnership between ICP-ANACOM and Associação Portuguesa para o Desenvolvimento das Comunicações (APDC) (Portuguese Communications Development Association) was maintained; and a number of initiatives were granted sponsorship in the context of the activities plan of ACIST-AET.

In the management of ICP-ANACOM's advertising presence, about 70 proposals were examined in 2011. As a result ICP-ANACOM took a presence in various newspapers, magazines and directories, with an institutional advertisement and with advertisements promoting *Com.escolha* and the DTT Campaign. Notices were also published about DTT and to announce the multi-band spectrum auction, including with regard to the respective Regulation.

#### **11.6. Institutional partnerships**

As in previous years, ICP-ANACOM maintained institutional partnerships with national organizations with relevance to the sector through 2011, seeking to promote the communications sector.

In particular, as founder of Fundação Portuguesa das Comunicações (FPC) (Portuguese Communications Foundation), ICP-ANACOM remained involved in the activity of the bodies in which it is represented. As part of the Communications Museum's educational project for the 2011/2012 academic year, directed especially at teachers, ICP-ANACOM produced a leaflet with information about the activities that can be developed in this Authority's "*Mundo das Comunicações*" (World of Communications) area, which is part of the museum's permanent exhibition.

In partnership with CTT and, in 2011, with the special participation of the Secretary of State for Forestry and Rural Development, ICP-ANACOM participated in organizing the 2011 edition of the "Best Letter" competition targeting young residents in Portugal aged between nine and 15. The chosen theme of this year's competition was "Imagine you are a tree living in a forest. Write a letter to someone to explain why it is important to protect forests". The award ceremony took place on 11 October, during the commemorations to mark World Post Day, celebrated worldwide on 9 October. The winning letter was sent on to represent Portugal at the UPU's international letter-writing competition.

In 2011, ICP-ANACOM maintained institutional relationships with various organizations, including APDC, Associação para a Promoção e Desenvolvimento da Sociedade de Informação (APDSI) (Association for the Promotion and Development of the Information Society), Associação de Promoção do Multimédia em Portugal (APMP) (Association for Promoting Multimedia in Portugal), Observatório da Comunicação (OberCom) (Observatory for the Media) and Associação para as Comunicações, Electrónica, Informações e Sistemas de Informação para Profissionais (AFCEA Portugal) (Association for Communications, Electronics, Information Systems for Professionals).

### **11.7. The Information and Documentation Centre (CDI)**

The primary objective of ICP-ANACOM's CDI is to support the organization's different departments and its staff, centralizing all types of publications and knowledge as are essential for staff development and to keep knowledge up-to-date. The CDI is also open to the general public between 9am and 5pm, Monday to Friday, with visitors able to consult documentation and access the bibliographic catalogue, as well as other databases and online services.

In 2011, the CDI received 451 enquiries from external users, including 374 telephone enquiries, 25 personal enquiries, 1 written enquiry and 54 e-mail enquiries.

The CDI worked to replace its integrated library management in 2011 to ensure that information is properly processed and stored and to streamline the various operations involved in the service's functioning.

## 12. Consumer Information

In addition to the processing of complaints, providing information to citizens is another area on which ICP-ANACOM has focused, given that being in possession of the right information is the best way to ensure that consumers are able to make informed choices.

### 12.1. Launch of ANACOM's Consumers' Website

On 15 March 2011, ICP-ANACOM launched its Consumers' Website ([www.anacom-consumidor.com](http://www.anacom-consumidor.com)), during the events marking Consumer Day; the website's objective is provide consumers with better information about electronic communications and about postal services so that they are able to make better informed choices. This strengthens the regulator's role in protecting consumer rights. The Consumers' Website was developed by ICP-ANACOM to address the lack of information felt by consumers when acquiring services, a shortcoming considered as a major factor leading to conflict between users and providers.

Always driven by a desire to supply information that is clear, useful and easy to understand, ANACOM's Consumers' Website sets out the important details about current offers in the market, including bundles of services, and about operators in activity. Information is also provided on what consumers need to take into account when choosing a service and what they need to know about contracts, especially as related to tariffs, billing, cancellation; how to solve problems with service providers; and the role of ICP-ANACOM and other relevant organizations.

#### 12.1.1. Observatório de Tarifários (Tariff Monitor) COM.escolha

On its website, at <http://www.anacom.pt/tarifarios/> ICP-ANACOM has provided a new tariff comparison tool (*COM.escolha*), launched on 1 June. Using this tool, consumers can easily consult residential tariffs/offers and simulate Internet, mobile telephone, fixed telephone and television consumption (and also bundles combining these services).

This tariff comparison tool replaces the former *Observatório de Tarifários* (Tariff Monitor), launched in 2005, which covered only the mobile service and which was relatively complex to use. The *COM.escolha* tool provides a more comprehensive set of features, which are better suited to the current offer in the residential market, and broadens the scope of the tool to other services.

The *COM.escolha* comparison tool also lets users see tariffs/offers available for selected geographic areas, and, details are given on the features associated with each tariff/offer (price, technology, connection speeds, bundles of service and other parameters).

Using the *Com.escolha* tariff comparison tool, consumers can easily consult and compare available tariffs/offers (comparing tariffs/offers from different providers or from the same provider). The tool also lets consumers perform simulations of their consumption, based on their defined consumption profile. The tool also lets consumers configure a tailored bundle of services.

The service providers are responsible for the information provided and for updating it. To give the consumers access to more information and greater detail about the different services covered by *Com.escolha*, links are provided to the providers' websites.

## **12.2. Disclosure of information on quality of service specified in RQS**

As in 2010, in 2011, ICP-ANACOM released quarterly reports on its website containing key information on quality of service, as submitted by companies subject to the Regulamento de Qualidade de Serviço (RQS) (Quality of Service Regulation – Regulation no. 46/2005 of 14 June, as amended by Regulation no. 372/2009 of 28 August). These reports also include links giving access to information on the website of each provider.<sup>80</sup>

From the third quarter of 2011, simplified versions of these reports were released specifically for ANACOM's Consumers' Website.<sup>81</sup>

## **12.3. Disclosure of portability price and information on price of calls to ported numbers**

On its website<sup>82</sup>, ICP-ANACOM lists the contact numbers which consumers can use to obtain information on the price of calls to ported numbers and information on the procedures indicated by mobile telephone service (MTS) providers to deactivate/reactivate the Portability announcement.

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<sup>80</sup> <http://www.anacom.pt/render.jsp?categoryId=323697&themeMenu=1.horizontalMenuArea>

<sup>81</sup> <http://www.anacom-consumidor.com/em-destaque/qualidade-do-servico-telefonico-fixo2.html>

<sup>82</sup> <http://www.anacom.pt/render.jsp?categoryId=38615&themeMenu=1>

ICP-ANACOM also details the prices that operators (fixed, mobile and nomadic VoIP services) charge new customers who opt to keep their old number (currently available information refers to end of the first half of 2011)<sup>83</sup>.

The disclosed information is compiled by ICP-ANACOM through a questionnaire on portability sent to operators every six months<sup>84</sup>.

#### **12.4. Publication of links to the conditions of supply applied by providing companies**

To make it easier for users to access information, on 30 September, ICP-ANACOM brought together on its website<sup>85</sup> a (non-exhaustive) list of links to information available about the conditions of supply applied by different providers of the following electronic communications providers for the residential segment:

- individual services (mobile telephone, fixed telephone, Internet, subscription television);
- bundles of services (fixed telephone + Internet, fixed telephone + subscription TV, subscription TV + Internet, fixed telephone + Internet + subscription TV), with data provided to ICP-ANACOM by the service providers themselves.

This list includes links to the following details:

- description of services/offers (e.g. lock-in periods, compulsory account top-ups, maximum upload speeds and download speeds, usage, number of television channels, etc.);
- standard prices, including prices of the service (including charges for use, monthly charges, minimum consumption levels, compulsory account top-ups, means of recognising traffic types, etc.);
- portability prices;
- other prices (equipment rental, installation, promotions and discounts, etc.);
- any minimum contract period associated with the blocking of equipment;

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<sup>83</sup> <http://www.anacom.pt/render.jsp?contentId=1104881>

<sup>84</sup> <http://www.anacom.pt/render.jsp?contentId=994423&languageId=0>

<sup>85</sup> <http://www.anacom.pt/render.jsp?contentId=1098940>

- minimum levels of quality of service which are contracted with customers, whose non-accomplishment determines the payment of compensation or reimbursement;
- compensation and reimbursements payable to the customer where contracted levels of quality are not accomplished;
- maintenance services and prices.

Links are also provided to the *Com.escolha* tariff monitor and to quarterly reports on quality of service of the FTS and the prices charged by companies providing portability, on ICP-ANACOM's website.

#### **12.5. Launch of guide for users with special needs**

In 2011, ICP-ANACOM published a "Guide for users with special needs: find out about how the Internet and telephone can be adapted to special needs" with information on equipment, functionality and FTS, mobile telephone and Internet services available in Portugal which are specifically developed in response to the needs of these users.

The guide provides help for users who have special needs in terms of sight, hearing, mobility and understanding, as well as elderly users.

This guide, available with audio and Braille and paper versions, was widely distributed by disability associations and Municipal Consumer Information Centres (Centros de Informação Autárquica ao Consumidor).



.....  
FINAL CONCLUSIONS  
.....

## E. FINAL CONCLUSIONS

In the 2010 edition of this Report, a new format was adopted, providing "a more integrated view of ICP-ANACOM's performance and accomplishments which is in line with the generally integrated view that citizens have of its activity, given that its decisions, whatever their nature, are usually referred to as having been taken by the 'Regulator'".

It was anticipated, however, that "the challenge posed by this restructuring is large and difficult, but we hope that this exercise will contribute to giving greater transparency to ICP-ANACOM's activities, with a more integrated perspective."

Anticipation of the difficulty of the challenge was shown to be prescient and the singular nature of 2011 was an acid test of ICP-ANACOM's ability to overcome this challenge.

Indeed, the juncture of a set of circumstances might have given rise not to an integrated and transparent view of the activities of ICP-ANACOM, but rather a syncretism leading to a diffuse, and not in the least translucent, assessment of ICP-ANACOM's activities and, therefore, of its level of performance.

Among the many circumstances it is worth noting:

- i) the holding of early elections and the entry of a new Portuguese Government;
- ii) the signing of the Stability and Growth Pact and the presence of the "*Troika*" in Portugal, with considerable focus on the national agenda as regards communications;
- iii) the beginning of the deployment of DTT in Portugal;
- iv) the deteriorating economic and financial situation and crisis.

The change of Government immediately impacted ICP-ANACOM's scheduled activity with the postponed replacement of four of five members of the Management Board, introducing an element of uncertainty that extended to the end of the year and persisted even into 2012. It is evident, despite best efforts to continue to act as if everything remained as planned – and at this point a sincere "thank you" must go to ICP-ANACOM's staff, who demonstrated the embodiment of this spirit, overcoming any sense of uncertainty – the lack of a definite horizon meant that

actions had to be prioritised on a short term basis, which may imply a less dynamic performance.

This pressure on the definition of priorities was intensified with the legitimate and undeniable determination to accomplish the actions stipulated in the Memorandum of Understanding signed with the *'Troika'*, which, while essentially in line with the objectives already established by ICP-ANACOM for the communications sector, inevitably involved some timetabling adjustments, with a consequent change in priorities; this required obvious changes in scheduling and some reallocation of resources.

This circumstance also entailed a significant increase in activities related to advising the Government, with a heavy demand on availability to accomplish current and strategic actions in specific fields of regulation and oversight.

This pressure was intensified with the natural development (and resulting demand for active participation by ICP-ANACOM) of BEREC and the ERPG (post) and the RSPG (spectrum) in Europe; these bodies were seen, and continue to be seen, as having increasingly integrated and important roles in these areas.

ICP-ANACOM's normal functioning was further complicated by the deployment of DTT which, once scheduled, demanded unexpected resources and attention given the ensuing reactions (virtually nonexistent throughout the preparation process, the various public consultations and numerous meetings weighed on activities), including the permanent uncertainties created as regards its accomplishment on the scheduled date – an essential commitment, not only stemming from European obligations, but most pressingly from decisions already taken in terms of releasing spectrum to support the development of 4G mobile technologies.

Finally, but no less important, the economic and financial crisis, together with certain Government decisions have opened the door to instability in ICP-ANACOM's situation and among its staff, resulting from a number of contradictions between the objective laid down in the Memorandum of Understanding and those of the Government Programme – claimed as strengthening regulator independence and capacity for action – and also from budgetary decisions that have clearly jeopardised that independence (and still do), in clear disregard of what is upheld in the Statutes (not repealed).

It is with great satisfaction and gratitude that we found – and this report is irrefutable proof of this – that even if the door was opened, no instability was reflected in the results accomplished, not because our staff have not been affected by and concerned about the changes we have faced and may face, but because, with commitment, dedication and team spirit, they knew how the difficulties that confronted them could be overcome.

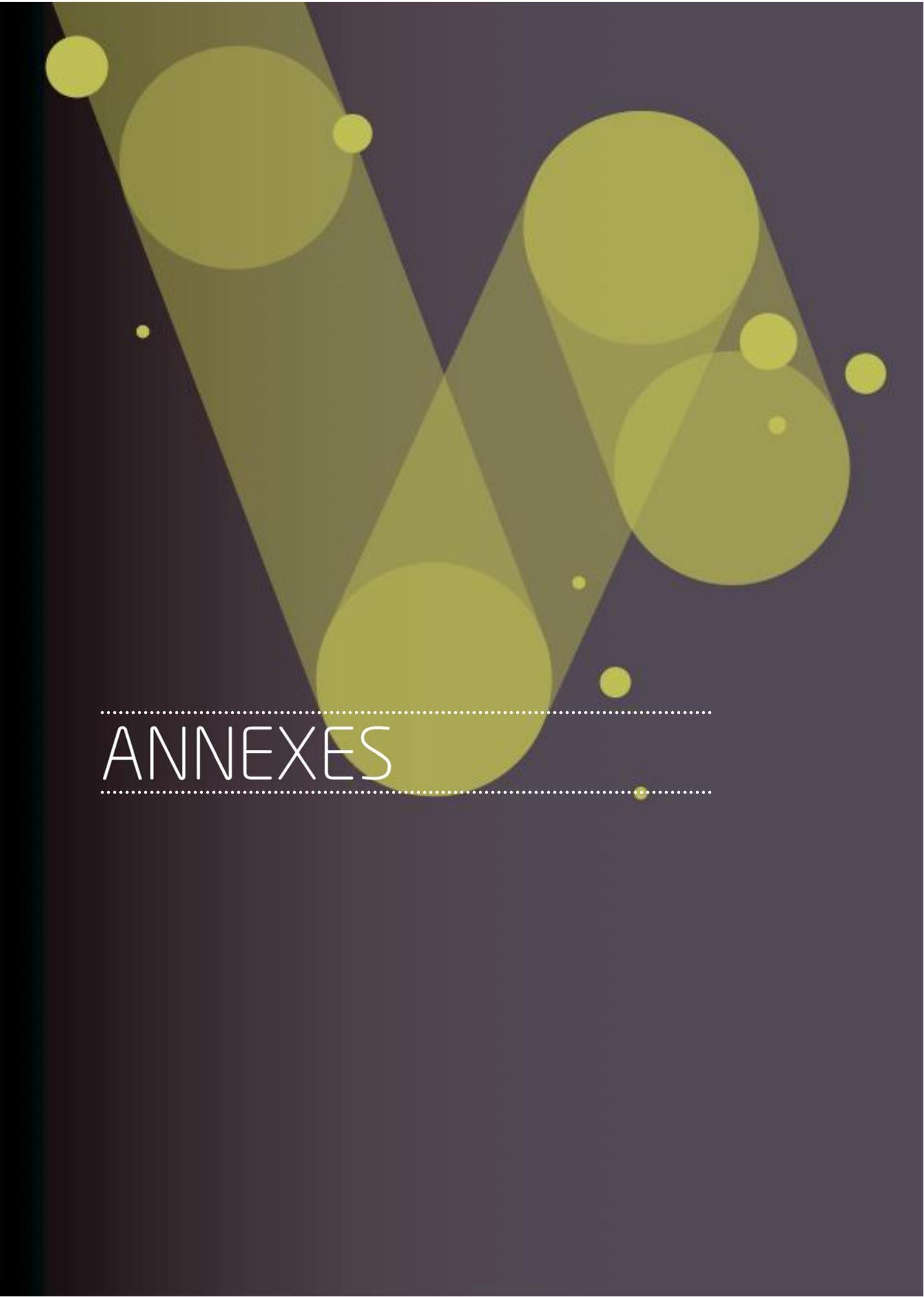
However, looking at most of the news circulating about ICP-ANACOM, the huge challenges that it faced, which are fundamentally challenges of regulation and supervision, were almost omitted or ignored.

This is a further reason that the adoption of a report of this type ends up being warranted only, and truly, for those who want a complete, integrated and transparent of ICP-ANACOM's activity.

As such, it is possible to identify all aspects of activity, in particular the increasing challenge of participation in BEREC (with all the contradiction that arises between universal and individual decisions, where the objectives of the European project clash with certain national interests), as well as new challenges raised by NGN, both fixed and mobile, with significant implications for market definitions, and achievement (or otherwise) of competition between infrastructure, when failure to achieve competition opens the door to a threat of near monopolisation of markets with significant effects on regulation. Issues such as functional, or even structural, separation cannot therefore be but properly addressed.

The recent liberalisation of postal services opens new fronts in the regulation pursued by ICP-ANACOM and, on another plane, accessibility of content in terms of net neutrality presses the need to confront, without hesitation, the problem of the role of OTT (over the top).

With flexibility, lifelong learning and humility, ICP-ANACOM must be prepared to address these challenges, and it will surely succeed, provided its capability and potential is not undermined by decisions (or lack of decisions) which fail to respect its competencies and independence, as guarantors of impartiality and responsibility over time.



# ANNEXES

## F. Annex I – List of acronyms and abbreviations

ADSL	Asymmetric Digital Subscriber Line
NRA	National Regulatory Authority
ATV	Amateur Television
B-on	Online Knowledge Library
BWA	Broadband wireless access
CAL	Calibration área
CIIP	Critical Information Infrastructure Protection
CIS	Centralised information system
CLSU	<i>Custos líquidos decorrentes da prestação do serviço universal</i> (Net costs of universal service provision)
CPI	Consumer price index
DMP	Domain management policy
DSL	Digital subscriber line
DSLAM	Digital subscriber line access multiplexer
DTH	Direct-to-home (satellite reception)
DTT	Digital terrestrial television
DUF	<i>Direitos de Utilização de Frequências</i> (Rights of use of frequencies)
DVB-H	Digital video broadcasting – Handheld
EFIS	Frequency information system
EMC	Electromagnetic compatibility
ENG	Eletronic news gathering
ENUM	Electronic numbering
FAQ	Frequently asked questions
FBB	Fixed broadband

FDC	Fully distributed costs
FTS	Telephone service at a fixed location
FTTH	Fibre to the home
FWA	Fixed wireless access
GAM-TD	Digital Television monitoring Group
GHz	Gigahertz
GI	Global indicator of quality of service
GMDSS	Global Maritime Distress and Safety System
GSM	Global System for Mobile Communications
HD	High definition
HF	High frequency
IAS	Internet access service
ICT	Information and communication technologies
IP	Internet Protocol
IS	Information System
ISDN	Integrated Services Digital Network
ISP	Internet access service provider
ITED	<i>Infraestruturas de telecomunicações em edifícios</i> (Telecommunications infrastructure in buildings)
ITUR	<i>Infraestruturas de telecomunicações em loteamentos, urbanizações e conjuntos de edifícios</i> (Telecommunications Infrastructure in Housing Developments, Urban Settlements and Concentrations of Buildings)
Kbps	Thousands of bits per second
LCE	<i>Lei das comunicações eletrónicas</i> (Electronic communications law)
LLRO	Leased lines reference offer
LLU	Local loop unbundling offer
LPR	Industrial level probing radars
LMS	Land mobile service

LRIC	Long run incremental costs
LRIT	Long Range Identification and Tracking of Ships
LSF	<i>Ligações Simplex à Rede Fixa</i> (Simple fixed network connections)
LTE	Long term evolution
MBB	Mobile Broadband
Mbps	Millions of bits per second
MCA	Mobile Communications onboard Aircraft
MCE	<i>Monitorização e controlo do espectro</i> (Monitoring and control of the spectrum)
MCV	Mobile Communications onboard vessels
MDF	Main Distribution Frames
MHz	Megahertz
MMDS	Multipoint Microwave Distribution System
MMS	Maritime Mobile Service
MSS	Mobile satellite service
MTR	Mobile termination rates
MTS	Mobile telephone service
MVNO	Virtual mobile network operator
NGA	Next generation access networks
NRA	National Regulatory Authorities
NGN	Next generation networks
NTFA (e-NTFA)	National Table of Frequency Allocations (Frequency information website)
OTT	Over the top
OSP	Other service providers
PDM	<i>Plano Diretor Municipal</i> (Municipal Director Plan)
PLC	Power Line Communication
PNN	<i>Plano nacional de numeração</i> (National numbering plan)

PPP	Purchasing Power Parity
QoS	Quality of service
QSI	Quality of service indicators
QSP	Quality of service parameter
R&TTE	Radio and telecommunications terminal equipment
RAD	Radio Testing Area
RDAO	Reference Duct Access Offer
RELLO	Reference Ethernet Leased Lines Offer
RIO	Reference Interconnection Offer
RPAO	Reference Poles Access Offer
RQS	<i>Regulamento sobre qualidade de serviço</i> (Quality of service regulation)
RTIC	<i>DGC Rede Telemática de Informação Comum</i> (Telematic network of common information)
RUO	Reference Unbundling Offer
SCA	<i>Sistema de contabilidade analítica</i> (Analytical accounting system)
SCEN	<i>Segurança nas comunicações eletrónicas nacionais</i> (Security in national electronic communications)
SME	Small and medium-sized enterprises
SMP	Significant Market Power
SMRP	<i>Serviço móvel com recursos partilhados</i> (Mobile trunking service)
SMS	Short Message Service
SNG	Satellite news gathering
SNG	<i>Serviço de números não geográficos</i> (Non-geographic numbers service)
SPAM	Unsolicited communications
SPD	<i>Sentido provável de decisão</i> (Draft decision)
STV	Subscription Television
STVS	Subscription television service

TMDP	<i>Taxa Municipal de Direitos de Passagem</i> (Municipal Fee for Rights of Way)
UMTS	Universal Mobile Telecommunications System (3rd generation)
US	Universal service
USP	Universal service provider
VAS	Value added service
VAT	Value added tax
VoIP	Voice over Internet Protocol
WACC	Weighted average cost of capital
WAPECS	Wireless Access Policy for Electronic Communications Services
WG	Working Group
WLRO	Wholesale Line Rental Offer

## **G. Annex II – List of entities / organizations**

ACIST-AET	Associação Empresarial de Telecomunicações de Portugal (Telecommunications Business Association)
AdC	Autoridade da Concorrência (Competition Authority)
AFCEA Portugal	Armed Forces Communications & Electronics Association
AGER	Autoridade Geral de Regulação de São Tomé e Príncipe (General Regulatory Authority of Sao Tome and Principe)
AICEP	Associação dos Operadores de Correios e Telecomunicações dos Países e Territórios de Língua Oficial Portuguesa (Association of Postal and Telecommunications Operators of the Portuguese-speaking Countries and Territories)
AMA	Agência para a Modernização Administrativa (Agency for Administrative Modernisation)
ANAC	Agência Nacional das Comunicações (National Communications Agency)
ANAFRE	Associação Nacional de Freguesias (National Association of Parishes)
ANATEL	Agência Nacional de Telecomunicações (National Telecommunications Agency)
ANP	Agência Nacional Postal (National Post Agency)
ANRT	Agence Nationale de Réglementation des Télécommunications
APDC	Associação Portuguesa para o Desenvolvimento das Comunicações (Portuguese Association for the Development of Communications)
APDSI	Associação para a Promoção e Desenvolvimento da Sociedade de Informação (Association for the Promotion and Development of the Information Society)
APMP	Associação de Promoção do Multimédia em Portugal (Association for Promoting Multimedia in Portugal)
APRITEL	Associação dos Operadores de Telecomunicações (Association of Telecommunication Operators);
ARCTEL - CPLP	Associação de Reguladores de Comunicações e Telecomunicações da Comunidade dos Países de Língua Portuguesa (Association of Communications and Telecommunications Regulators of the Community of Portuguese Speaking Countries)
ARN	Autoridade Reguladora Nacional (National Regulatory Authority)
BDT	Telecommunication Development Bureau
BEREC	Body of European Regulators for Electronic Communications

CA	Conselho de Administração (Management Board)
CC	Conselho Consultivo (Advisory Council)
CCE	Conselho Consultivo e Executivo (Consultative and Executive Council)
CEDIPRE	Centro de Estudos de Direito Público e Regulação (Centre for Studies in Public Law and Regulation)
CEGER	Centro de Gestão da Rede Informática do Governo (Government Information Network Management Centre)
CEPT	European Conference of Postal and Telecommunications Administrations
CERP	European Committee for Postal Regulation
CIAC	Centros de Informação Autárquicos ao Consumidor (Municipal Consumer Information Centres)
CNPD	Comissão Nacional de Protecção de Dados (National Data Protection Commission)
COCOM	Communications Committee
CoE	Centre of Excellence
COREPER	Permanent Representatives Committee
CPLP	Comunidade dos Países de Língua Oficial Portuguesa (Community of Portuguese Speaking Countries)
CTT	CTT – Correios de Portugal, S.A.
DECO	Associação Portuguesa para a Defesa do Consumidor (Portuguese Association for Consumer Protection)
DGC	Direção-Geral do Consumidor (Directorate General for the Consumer)
EC	European Commission
ECANB	European Commission Association of Notified Bodies
ECB	European Central Bank
ECC	Electronic Communications Committee
ECO	European Communications Office
EDA	European Directory Assistance
EEA	European Economic Area
EGEA	Expert Group on Emergency Access
EMC	Working Group on Electromagnetic Compatibility
EMERG	Euro-Mediterranean Network of Regulators

ENISA	European Network and Information Security Agency
EP	European Parliament
ERC	Entidade Reguladora para a Comunicação Social (Media Regulatory Authority)
ERG	European Regulators Group
ERGP	European Regulators Group for Postal Services
ESO	European Standardisation Organization
ETSI	European Telecommunications Standards Institute
EU	European Union
EUTELSAT	European Telecommunications Satellite Organization
FCCN	Fundação para a Computação Científica Nacional (National Scientific Computing Foundation)
FDTI	Fundação para a Divulgação das Tecnologias de Informação (Foundation for the Dissemination of Information Technology)
FPC	Fundação Portuguesa das Comunicações (Portuguese Communications Foundation)
GAM-TD	Grupo de Acompanhamento da Migração para a Televisão Digital (Digital Television Migration Monitoring Group)
GNR	Guarda Nacional Republicana (National Republican Guard)
GNS	Gabinete Nacional de Segurança (National Security Office)
ICANN	Internet Corporation for Assigned Names and Numbers
ICCP	Committee on Information, Communications and Computer Policy
ICP-ANACOM	ICP – Autoridade Nacional de Comunicações (National Communications Authority)
IEEE	Institute of Electrical and Electronic Engineers
IEC	International Electrotechnical Commission
IJC	Instituto Jurídico da Comunicação (Legal Institute of Communication)
IMF	International Monetary Fund
IMSO	International Mobile Satellite Organization
INA	Instituto Nacional de Administração (National Institute of Administration)
INACOM	Instituto Angolano das Comunicações (Angolan Institute of Communications)
INCM	Instituto Nacional das Comunicações de Moçambique (National

	Communications Institute of Mozambique)
IPAC	Instituto Português de Acreditação (Portuguese Institute of Accreditation)
IPDJ	Instituto Português do Desporto e Juventude (Portuguese Institute of Sport and Youth)
IPQ	Instituto Português da Qualidade (Portuguese Institute of Quality)
IRG	Independent Regulators Group
IST	Instituto Superior Técnico (Higher Technical Institute)
ITSO	International Telecommunications Satellite Organization
ITU	International Telecommunication Union
ITU-D	ITU – Telecommunication Development Sector
ITU-R	ITU – Radiocommunication Sector
ITU-T	ITU – Telecommunication Standardisation Sector
LEC	Laboratório de Ensaios e Calibração (Testing and Calibration Laboratory)
MDN	Portuguese Ministry of Defence
NATO	North Atlantic Treaty Organization
NCAH	National Communications Authority Hungary
NCCG	National Communications Commission of Georgia
NCCR	National Commission for Communications Regulation of Ukraine
NTC	National Telecommunications Commission
OberCom	Observatório da Comunicação (Observatory for the Media)
OECD	Organization for Economic Cooperation and Development
ONS	Organismo de Normalização Sectorial (Sector Standardisation Body)
ORECE	Body of European Regulators for Electronic Communications
PAC	Planos Anuais de Cooperação (Annual Cooperation Plans)
PIC	Programas indicativos de cooperação (Indicative Cooperation Programmes)
POC	Postal Operations Council
PP	Plenipotentiary Conference
PPER	First radio spectrum policy programme
PSP	Polícia de Segurança Pública (Public Security Police)

PTC	PT Comunicações S.A.
R&TTECA	Radio and Telecommunications Terminal Equipment Compliance Association
Regulatel	Fórum Latino-americano das Entidades Reguladoras de Telecomunicações (Latin American Forum of Telecommunications Regulators)
REPER	Permanent national representatives to the EU
RSC	Radio spectrum committee
RTR	Austrian Regulatory Authority of Broadcasting and Telecommunications
RSPG	Radio Spectrum Policy Group
SEAOPC	Assistant Secretary of State for Public Works and Communications
SETSI	Secretary of State for Telecommunications and the Information Society
TAIEX	Technical Assistance Information Exchange Office
TCAM	Telecommunications Conformity Assessment and Market Surveillance Committee
TDAG	Telecommunications Development Advisory Group
TRA	Telecommunications Regulatory Authority
TSAG	Telecommunications Standardisation Advisory Group
TTE	Transport, Telecommunications and Energy Council
UPAEP	União Postal das Américas, Espanha e Portugal (Postal Union of the Americas, Spain and Portugal)
UPU	Universal Postal Union
URSI	International Union of Radio Science
WPCISP	Working Party on Communication and Infrastructures and Services Policy
WPISP	OECD Working Party on Information Security and Privacy
WRC	World Radiocommunication Conference
WTO	World Trade Organization

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