

**Draft Regulation for 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**

Public consultation report

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1. Framework

By determination of the Management Board of ICP – Autoridade Nacional de Comunicações (ICP-ANACOM), of 17 March 2011, approval was given to the “Draft Auctioning Regulation - for 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”, hereinafter referred to as Draft Regulation, under article 35, no. 5, of Law no. 5/2004, of 10 February (Electronic Communications Law – ECL).

Pursuant to and in compliance with the provisions of article 11 of the Statutes of ICP ANACOM, annexed to Decree-Law no. 309/2001, of 7 December, the draft regulation was submitted to the regulatory consultation procedure, the interested parties having been given a time limit of 30 working days to comment on the subject-matter, which ended on 2 May 2011.

Within the scope of this procedure, replies were received within the time limit from the following entities:

- ACOP - Associação de Consumidores de Portugal (ACOP);
- CABOVISÃO – Televisão por Cabo, S.A. (CABOVISÃO);
- FENACOOP – Federação Nacional das Cooperativas de consumidores, FCRL (FENACOOP);
- Grupo Media Capital, SGPS, S.A. (GMCS);
- Grupo Portugal Telecom (GRUPO PT), in the name and on behalf of the companies Portugal Telecom, SGPS, S.A., PT – Comunicações, S.A., PT PRIME – Soluções Empresariais de Telecomunicações e Sistemas, S.A., and TMN – Telecomunicações Móveis Nacionais, S.A.;

- GRUPO ZON MULTIMEDIA (GRUPO ZON), in the name and on behalf of the companies ZON TV CABO, ZON TV CABO MADEIRENSE and ZON TV CABO AÇOREANA;
- MOBIZAPP - MobiZAPP, Comunicações Eletrónicas S.A. (MOBIZAPP);
- OPTIMUS – Serviços de Comunicações, S.A. (OPTIMUS);
- VODAFONE – Vodafone Portugal, Comunicações Pessoais, S.A. (VODAFONE);
- Identified entity that requested confidentiality.

The contributions provided by the entity that requested confidentiality, as well as the confidential contributions received from other entities, were not included in the present report, having nonetheless been taken into account in the positions taken by ICP-ANACOM and in the conclusions.

The present report presents a summary of the responses received and sets out the position of this Authority on the issues raised. ICP-ANACOM welcomes the positive and constructive character of the majority of responses received, which is reflected in the reception of multiple proposals.

In view of the summary nature of this document, its analysis does not replace consultation of said responses, which shall be made available on ICP-ANACOM's website, <http://www.anacom.pt>, simultaneously with the present report, following approval of the final decision.

In this document, the comments and the position of ICP-ANACOM regarding the concrete issues raised by the respondents are presented, together with the conclusions in the final section of the present analysis.

Finally, the confidential character of some or all of the responses submitted by some entities is revealed, which limits the transparency of the analysis and the decision-making process by ICP-ANACOM within the scope of the current public consultation procedure. These confidential contents are identified throughout this report as confidential sections, with the phrases **[Start of Confidential Information – SCI]** and **[End of Confidential Information – ECI]**.

2. General comments on the draft regulation

Before analysing the specific issues put forward by the entities that sent their contributions within the scope of the public consultation to which the draft regulation was submitted, the more general aspects raised by the respondents are summarised below.

2.1. General comments

ACOP

This association says it has no comments to make regarding the Auction Regulation.

CABOVISÃO

CABOVISÃO has, in principle, no interest in the rights of use of frequencies in the 450 MHz, 800 MHz, 900 MHz, 1800 MHz, 2.1 GHz and 2.6 GHz bands.

FENACOOOP

FENACOOOP, generally speaking, does not oppose the approval of the regulation under consultation. It emphasises that it is essential to boost the transparency of the process and competition in the market, so that consumers may have access, without geographical or social, economic or other obstacles, to quality electronic communications services and the best price and draws attention to the document "10 Rights and Principles of the Internet", published by the United Nations

in April 2011. Finally, it concludes that at the moment at which the auction for the fourth mobile generation is about to be launched, the Internet as a space of affirmation of human rights needs to be carefully considered.

PT GROUP

The PT GROUP is of the opinion that the adoption of the auction model as a procedure for allocating the rights of use of the frequencies in question, to the detriment of the traditional public tender procedure, is not sufficiently justified. On this point, it considers the reasons used by ICP-ANACOM, and which are related with the greater flexibility of implementation and the need to approximate the value of the spectrum to the reality of the market, to be manifestly insufficient.

[SCI] [ECI]

GRUPO ZON

In spite of there being a broad range of guidelines that it considers correct, GRUPO ZON also considers that the necessary conditions for the promotion of competition in the Portuguese mobile market have not yet been met in the draft regulation. Portugal has a unique opportunity to create conditions for the effective promotion of competition, through the possibility of the entry of a new mobile voice and broadband operator with its own network, entirely or partly owned. For this it is necessary to guarantee that the competitors are able to obtain the adequate quantity and combination of spectrum, without which the offers to be provided will not be credible or long-lasting.

GRUPO ZON considers that in Portugal the mobile communications market is far from being a market with the levels of competition necessary for the sustainable development of an information society, being fundamental for that development that the model of allocation of frequencies create conditions for the entry of additional competitors under sustainable conditions.

In relation to the lack of competition and dynamism of mobile communications in Portugal, it should be noted that Portugal is a closed mobile market where the same two operators have competed (in a relatively weak manner) for about 15 years, both of which have sought to block the entry of new companies in the market.

With regard to the MVNO operations, GRUPO ZON mentions that the three mobile operators managed to, pre-emptively and benefiting from the lack of regulatory intervention, reduce the (already very limited) space for the entry of MVNOs, through the launch of low cost offers.

OPTIMUS

[SCI] [ECI]

VODAFONE

VODAFONE is of the opinion that the adoption of the auction as a mechanism of allocation may address the objectives proposed by the regulator: ensure the possibility of implementation of different services, ensure the possibility of use of different technologies; create conditions for a flexible allocation, according to the needs of each operator; promote an efficient use of the spectrum, through a correct valuation of the same by the market and discourage inconsistent

spectrum allocations. Notwithstanding, it considers that the pursuit of these objectives is not ensured by the design of the auction.

It reiterates the need for a response to the request for clarification previously sent to ICP-ANACOM. VODAFONE highlights that it is considering resorting to all legal means at its disposal to ensure that its rights are guaranteed, in the event that the absence of information hinders the acquisition of sufficient and adequate spectrum.

This operator highlights that the auction processes are complex procedures that require particular care from their participants. In this context, it registers concerns regarding the deadlines defined for the auction, proposing their extension, as well as the organisation of clarification sessions, namely to become acquainted with the electronic platform.

VODAFONE makes reference to the public interest objectives that must govern the auction, to underline that only from a subsidiary and complementary perspective can the objective of generating proceeds from the auction process be taken into consideration, with precedence given to the existence of benefits for the Portuguese population in the technological advancement of the country and the development of the Information Society.

It also considers the guarantee of transparency of the process to be fundamental, namely with respect to the knowledge of the qualified and awarded entities in each sequence, as well as the knowledge of the amounts bidden by each bidder, considering that these are elements provided in European auction models, constituting the two main vectors that must guide the spectrum usage rights allocation procedure.

It further considers that the principle of the efficient use of spectrum must never be limited or even decreased relative to a complementary objective of increasing the financial proceeds of the State.

VODAFONE presents its disagreement regarding the provision of the spectrum extension of the 900 MHz GSM (e-GSM) to entities without experience in the market. On this point it considers that the decision is contrary to the interests of the current providers of LMS, inasmuch as these may capitalise on the greatest synergies from the allocation of this spectrum - due to the knowledge and experience acquired in the exploitation of this band and the two technologies currently permitted - being therefore in a position to better and more quickly satisfy the public interest. It also considers that this delimitation of access would not hinder the objectives of ICP-ANACOM concerning the promotion and increase of market competitiveness, given the existence of multiple frequency bands. On this issue, VODAFONE also considers that ICP-ANACOM omits to mention the justification behind the decision to provide all potentially interested parties with the possibility of acquiring the spectrum e-GSM, as well as the consequences, in terms of guarantee of material equity of individuals, in the event that the auction process results in a final and objective impossibility of the current LMS operators to carry out refarming along all of its extension and in terms of the wasted opportunity of evolution and growth for the operators, for the benefit of consumers, and ultimately, for the economic activity of the country.

VODAFONE also considers that ICP-ANACOM must guarantee that the current rights and obligations of all the entities qualified for the provision of the same services are identical and not discriminatory, reinforcing therefore the need for attention on the part of the regulator to the currently existing rights of use of frequencies and the possible

need for review immediately after the auction so as to avoid the existence of situations that penalise operators and are not in line with the market context and the principles outlined in this process. VODAFONE is thus of the opinion that both the current obligations as well as those that result from the auction process must be proportional, fair and reasonable, ensuring the principle of equality of all its intervenients, and one should namely consider that at the moment immediately after the auction, the current rights of use of frequencies must allow the use of all technologies in all frequencies, similarly to that which results from the Draft Auctioning Regulation for future rights of use of frequencies.

Understanding of ICP – ANACOM

In relation to the comments of the PT GROUP regarding the insufficient justification as to the adoption of an auction as a procedure to allocate the rights of use of frequencies in question (an issue only raised by this entity), ICP-ANACOM reiterates the positions set out in the public consultation report on the draft decision regarding the delimitation of the rights of use, within the scope of the ECL, as well as the necessary flexibility for the allocation of rights to be provided with regards to technological neutrality and the services associated to them. In addition, the PT GROUP did not present any information that would enable ICP-ANACOM to conclude differently relative to the adequacy of this mechanism for the allocation of the rights in question, with the addition that, within the scope of the introduction of LTE, this has been the most used mechanism in the European Union space.

With regards to the comment of VODAFONE on the e-GSM band, ICP-ANACOM reiterates the discussion in the report mentioned above, highlighting that within the scope of recent public consultations, as occurred, for example, in the public consultation relative to the availability of frequencies in the 2.6 GHz band (launched by determination of 11 December 2008), there were several entities that manifested an interest in this spectrum, including those that do not hold spectrum usage rights in the 900 MHz band.

As such, taking into account the principles established in the ECL, namely in its article 31, no arguments seem to exist that justify a possible exclusivity of access to the spectrum for current LMS operators. In any event, ICP-ANACOM takes note that this particular spectrum may have more value for the current mobile operators than for entities that do not possess spectrum in this frequency band, which will result in an additional bidding capability that may have negative consequences in terms of the equilibrium of the various auction participants.

As for the principle of equality, it is ICP-ANACOM's understanding that the same, as defined by VODAFONE, is not brought into question as a result of the allocation of rights of use under the terms defined in this auction process.

Under no. 2 of article 1 of the regulation, the rights and frequencies to be allocated are destined for the provision of any service through the use of any technology, provisions that are in accordance with the principle of technological neutrality, underpinning the new community regulatory framework of electronic communications which shall soon be transposed into national legislation.

This principle, of transversal application, will be valid for all frequency bands available for electronic communications services announced in

the NTFA and will not be limited to the frequency bands in question in the present auction or the rights of use allocated in said auction.

Finally, ICP-ANACOM clarifies that it responded to the request for clarification made by VODAFONE during the course of the consultation procedure, not having considered the mentioned clarifications indispensable for this entity to comment within the scope of this public consultation, as actually happened.

As such, ICP-ANACOM understood that providing clarifications during the course of the consultation could constitute an anticipation of the final position of this Authority, which it only intended to issue after having given due consideration to all the contributions of the various intervenients.

2.2. About the auction model

GRUPO ZON

GRUPO ZON is of the opinion that for an effective promotion of competition the process of allocation of frequencies should contribute towards permitting the entry of a new operator in the voice and broadband mobile market. In this sense, and having ICP-ANACOM opted for an allocation model via an auction, this must be structured so as to be able to achieve that objective.

However, it considers that, by selecting the auction model, ICP-ANACOM did not contemplate in its draft decision any elementary rules necessary for ensuring the entry of new players in the market. Namely, this entity considers that the auction model currently proposed, lot by lot and sequential, does not allow an operator to guarantee the purchase of a minimum aggregate of spectrum to have

a competitive and sustainable offer in the market, risking for example being able to purchase a lot of spectrum in category B (800 MHz) and not being able to purchase any other additional lots or even being able to purchase a lot in the 2.6 GHz without being able to complement it with other lots in the same category of frequencies.

It considers that this situation is more serious for a new entrant (that holds no spectrum), since it would not be able to complement some failures in the obtainment of lots of frequencies, with the spectrum already owned, and as such considers that this auction model is "demotivating" for the entry of a new operator in the frequency allocation process.

In order to remedy this risk, GRUPO ZON proposes that ICP-ANACOM opt for an auction model that permits the aggregation of lots (combinatorial or similar) in which each bidder bids for the set of lots that it intends to purchase, thus adding value to the complementarity of the various lots involved in the tender.

In this context, GRUPO ZON considers that the combination of at least 2 x 5 MHz in the 800/900 MHz band, with 2 x 20 MHz, in the 2.6 GHz band, is an appropriate portfolio, giving as example the auction models of Germany where simultaneous bids for various blocks were permitted and of the United Kingdom, where a combinatorial model is foreseen.

PT GROUP

[SCI] [ECI]

The model chosen by ICP-ANACOM presents, from the viewpoint of the PT GROUP, the following problems:

- It limits the capacity of the bidders in defining the aggregation of spectrum considered as adequate, thus taking a considerable risk, of obtaining a set of frequencies that is not desired, or of obtaining, in a given band, a number of lots that is less than that necessary for a commercially viable and technically balanced operation (paying a price that they would not pay if they knew beforehand that they were not going to obtain the number of lots seen as sufficient);
- It does not deal in the slightest with that which is known as the "risk of exposure" (aggregation risk); **[SCI] [ECI]**
- It results in the auction presenting risks of destruction of shareholder value, leading to unpredictable and undesirable results, since it includes a high level of uncertainty and does not allow a correct valuation and preparation of the bidding strategy, unless one only intends to guarantee an excessive overvaluation of the proceeds, which will be critical for the participants.

[SCI] [ECI]

OPTIMUS

[SCI] [ECI]

OPTIMUS also defends that ICP-ANACOM should justify the options made, identifying the advantages of the chosen model and the disadvantages of other alternatives, according to the objectives that ICP-ANACOM intends to achieve with the allocation of the rights of use of the included frequencies.

OPTIMUS carries out a comparative analysis between various auction models (CCA – *Combinatorial Clock Auction* -, SMRA, closed envelope and sequential), using a set of criteria which it considers as fundamental in the design of an auction, namely:

- Efficiency, ensuring that a specific block is always won by the bidder that most values it and guaranteeing a level of adequate competitiveness in the market after the auction;
- Minimisation of the risk of exposure, allowing the bidders to reflect on their preferences regarding complementary blocks, maximising the capacity of aggregation of the quantity of spectrum considered necessary by each of the participants, and reducing the risk of fragmentation of the spectrum in blocks allocated to the same participant, but not contiguous;
- Minimisation of the risk inherent to the common values;
- Robustness to collusion and to strategic or speculative bidding;
- Transparency; and
- Simplicity and speed.

Based on the analysis undertaken, OPTIMUS considers that the model placed on public consultation is inadequate and unprecedented, not corresponding to the best practices adopted in innumerable processes of spectrum allocation. It is a complex model, which leads to high levels of uncertainty likely to reduce the competition, resulting in losses for that competition and for consumers and well-being in general. Comparing various formats of auction, it considers the simultaneous (SMRA) or combinatorial (CCA) models to be superior to the sequential model. Within this scope, it considers that the exponential complexity of the last model suggests that the auction

model of the SMRA type, with possible adjustments, must be the one chosen by the regulator.

VODAFONE

VODAFONE considers that the current design of the auction must be modified so as to avoid unpredictable and possibly inefficient results, and seek to promote rational behaviour from the bidders.

It considers that the model adopted by ICP-ANACOM is inadequate and may most likely lead to inefficient results, which from a long term perspective may result in a significant decrease of the quality of the electronic communications services in Portugal.

It also considers that the fact that the model presented is sequential makes unjustifiably difficult the possibility of the operators acquiring the necessary spectrum and increases disproportionately the insecurity of the operators in the investment to be undertaken. Therefore, considering the adoption of the present model as unjustified, in comparison with the adoption of models already tested and of proven success, VODAFONE requests the review and reformulation of the same, with a view to adopting the various characteristics that are common to the majority of the spectrum auctions that have been developed at an international level.

It also mentions that the sequential models are recommended when the valuation that the bidders attribute to each good is independent from the others, not being the case of the current frequency bands object of bidding. It highlights that various entities, including itself, manifested themselves in favour of the possibility of combining the 2.6 GHz spectrum band with the remaining bands available (1800 MHz and 2.1 GHz). As such, given the existence of complementarity and

substitutability between the various bands, it considers that the same must serve as the basis for the flexibility and creativity that ICP-ANACOM should stimulate within the scope of the auction model, in opposition to the model proposed.

VODAFONE therefore emphasises that a sequential allocation of the lots jeopardises the attainment of synergies, contributing to the unpredictability of results, since said model:

- Does not reduce the common uncertainty associated to the auction process;
- Increases the complexity of the process, obliging bidders to predict not only the value of the lot but also the other substitute or complementary lots implicit to the strategies that they defined for the development of the support networks for the new mobile generation;
- Enhances discrimination of the acquisition values of the same quantity and type of spectrum;
- Enhances valuation errors of the different lots and unpredictable results, making it impossible to correct the spectrum values allocated by the bidders during the auction process;
- Makes the allocation of unwanted spectrum by bidders possible.

VODAFONE also emphasises other negative aspects related with the auction model, namely the possibility of lots of the same category being sold at different prices and the impossibility of the bidders to formulate bids for packages of lots, increasing the risk of not being able to ensure the execution of their strategies.

Based on comparisons with models adopted by some European authorities, emphasising that in none of the 12 countries where auctions have occurred or will occur was a sequential model chosen,

VODAFONE mentions that, from a general viewpoint, all opted for one of two models: SMRA or CCA. VODAFONE considers that the properties of both models allow the participants in the auction to reduce their level of uncertainty as to the valuation of the spectrum, defending that the alteration of the current model is fundamental, and highlighting the SMRA auction model as that which is most used in spectrum auctions and that is most similar with that proposed by ICP-ANACOM (with regards to the frequency bands in question).

Understanding of ICP-ANACOM

ICP-ANACOM gave thorough consideration to the comments, as well as the concerns raised as to the auction model in the various contributions received in the present consultation, in particular regarding the risks of exposure (aggregation risks) and substitution identified by almost all of the respondents.

In the formulation of the draft regulation, ICP-ANACOM had already evaluated this risk, having contrasted it to the objective of reducing the complexity of the implementation of the auction, namely from the viewpoint of the potential bidders.

Considering the responses recently received and the importance that is given to the risk of exposure – thus increasing the concerns that ICP-ANACOM already had in this area -, the review of the respective terms is considered essential, opting for the adoption of a model with simultaneous and increasing bids, i.e. SMRA type, which, it is this authority's understanding, effectively minimises some of the main problems identified by respondents in general.

In particular, the characteristic of simultaneity of the auction is noteworthy and, relative to the sequential model, is more suited to the fact that the bands in dispute can be substituted and/or complemented. In addition, the simultaneous model allows for a more complete "discovery" of prices, by enabling bidders to monitor the evolution of the relative prices between categories, thus avoiding the problem known in economic literature as the "winner's curse".

Finally, it is noted that the model proposed by ICP-ANACOM in the new draft regulation was also identified as adequate by various respondents.

Given the adoption of a new auction model, articles 17 and 21 of the present draft regulation, relative to the distribution phase, are substituted, since they are related to the operation of the adopted auction. In the new draft regulation, the operation of the bidding stage, which substitutes the distribution stage, is set out in articles 16 to 26.

3. Comments to the articles of the draft regulation

CHAPTER I - General Provisions

Article 1 – Purpose

Comments received

Only one entity that requested confidentiality commented on this article.

Understanding of ICP-ANACOM

Initially, ICP-ANACOM considered providing only 2 x 30 MHz in the 1800 MHz frequency band. However, in view of the expression of interest, within the scope of the public consultation to which the present report refers, regarding the auctioning of the entire spectrum available in each frequency band, as well as the recent announcements by the industry/technological development operators/equipment in the 1800 MHz, ICP-ANACOM decided to provide the remaining spectrum of this band - where 2 x 57 MHz are free -, as included in articles 1 and 7 of the new draft regulation.

In addition, and from the viewpoint of increasing the efficiency in the use of the radio spectrum in the 1800 MHz band (both current as well as future), ICP-ANACOM opts to reshuffle the current rights of use with

a view to making them contiguous, as laid out in article 31 of the new draft regulation.

Article 2 - Definitions

Comments received

PT GROUP

The PT GROUP mentions that it does not understand the reason for the reference, in sub-paragraph f) of this article, to the fact that the minimum variation on the best offer of the previous sequence is set by the Management Board of ICP-ANACOM when, in reality, said variation is already pre-established in article 19 of the Draft Auctioning Regulation.

OPTIMUS

OPTIMUS proposes alterations to sub-paragraphs d), k) and l) of this article:

- Sub-paragraph d) - substitution of the "distribution stage" for the "bidding stage";
- Sub-paragraph k) - substitution of the current definition of the "reserve price" for the "minimum amount to be bid in the first sequence of each lot";
- Sub-paragraph l) - substitution of the current definition of the "lot price" for the "minimum amount to be bid in the first sequence of each lot";

On the other hand, it suggests that the definition of "lot price" should precede the definition of "reserve price".

Understanding of ICP-ANACOM

With regards to the definitions, it should be mentioned that, in the review of the auction model, ICP-ANACOM redefines some definitions and eliminates others.

In relation to the comments presented by the PT GROUP, the definition of increment is withdrawn since it is considered unnecessary and, as for the comments of OPTIMUS, the comment relative to the substitution of the designation of "distribution phase" for bidding phase" was taken on board, and is set out in sub-paragraph f) of article 2 of the new draft regulation. As for the other comments, they are not taken on board since they are not in line with the new model.

Article 3 – Applicable legislation

Comments received

PT GROUP

In the opinion of the PT Group, this article should clearly establish the admissibility of the transmission of the rights of use of frequencies object of the auction, similarly to what has happened in other procedures relative to the allocation of rights of use of frequencies.

In addition, with regards to no. 4 of this article, it mentions that it does not understand to which mandates, injunctions and authorities

this provision intends to make reference to, nor does it understand to what extent the holders of the rights of use of frequencies allocated following the auction become subject to such mandates and injunctions differently to any other economic agents. In this way, it proposes the abolition of the mentioned provision.

Understanding of ICP–ANACOM

The comments of the PT Group regarding article 3 are taken on board. In the new draft regulation there is no provision similar to no. 4 of article 3 and, on the other hand, the regime of transmissibility of the rights of use of frequencies is clarified in no. 3 of article 36.

Article 4 – Management Board

Comments received

PT GROUP

The PT GROUP considers that the heading of this provision should be "Powers of the Management Board".

With regards to the responsibilities listed in this article, the PT GROUP considers that:

- It be clarified that all candidates have access and/or knowledge of the determinations adopted by the Management Board and that the way that information is transmitted to said candidates should be stipulated.

- The 24 hours deadline set in sub-paragraph a) is unjustifiably short to address possible shortcomings of the application process. This issue is considered important since not addressing the shortcomings in question within the deadline set leads to the exclusion of the bidder. It is thus the PT GROUP's understanding that the candidates should be granted a deadline of 2 days, identical to that set for the BWA auction.
- It is unacceptable that the Management Board may exclude bidders based on suspicions of "practices of collusion" since, except in the unlikely case of confession, it will be difficult to acquire conclusive evidence of practices of collusion. In fact, it is totally unclear how that body can determine, with a degree of certainty compatible with an (irrefutable) exclusion decision, the existence or not of collusion.

It thus considers that the Management Board should only be responsible for denouncing to the competent authorities the practices of collusion regarding which it has well-founded suspicions. The Auction Regulation should establish a rule that allows, if such practices are proven, the offenders to be forced to return the rights of use in question and to be penalised financially (for example, the bond is not returned in case of well-founded suspicions of collusion).

OPTIMUS

OPTIMUS proposes the following amendments to the present article:

- It suggests including "its" before "Management Board" in no. 1;
- In sub-paragraph a) of its no. 2, it proposes extending the maximum deadline of 24 hours, by including the following text:

“Granting the interested parties a reasonable deadline, to be set by the Management Board of ICP-ANACOM, of never more than 3 working days, to proceed (...)”;

- In sub-paragraph f) of no. 2 of this article it suggests a text similar to that used in article 70, no. 2, sub-paragraph g), and no. 3, of the Public Procurement Code: *“Exclude bidders, whether or not they have been declared winners, if the bidding reveals the existence of strong indications of acts, agreements, practices or information likely to distort the competition rules, with exclusion to be immediately communicated to the Competition Authority”;*
- The inclusion of the reasons for the suspension of the act during the course of the auction as well as the definition of what will happen, in the case of interruption of a sequence, to any submitted bids, as well as whether a maximum number of requests for suspension by the bidders will be established;
- The express indication of an electronic address and a telephone number to use under exceptional circumstances, and not only for requests for clarification as set out in article 11.

VODAFONE

VODAFONE requests:

- The extension of the deadline for correction of application requests, considering that 24 hours is clearly insufficient for such purposes;
- Clarification in the text of the draft regulation on the possibility of the candidates making corrections to their applications, given the absence of a clear mechanism on this possibility.

Understanding of ICP–ANACOM

ICP-ANACOM, in the new draft regulation, adopts some of the comments of the PT GROUP and OPTIMUS relative to the article on the powers of the Management Board. Therefore:

- The heading of the article has changed, having adopted the suggestion of the PT GROUP;
- The concern voiced regarding the deadline for addressing any shortcomings of the application process is considered justified and relevant, with the deadline having been extended to 2 days, according to sub-paragraph a) of no. 2 of article 4 of the new draft regulation;
- As for the exclusion of bidders on suspicion of collusion, Optimus' proposal is adopted, according to sub-paragraph g) of no. 2 of article 4 of the new draft regulation.

All other suggestions, duly analysed, were not considered adequate or necessary.

In relation to the requests of VODAFONE, it is clarified that the deadline for verification of the applications by the Management Board has been extended, according to the provisions in no.1 of article 14 of the new draft regulation.

Article 5 – Provision of clarifications

Comments received

PT GROUP

The PT GROUP considers that no. 1 of this article should establish a minimum deadline of 3 days to be granted to candidates to provide clarifications, given the seriousness of the consequences of failing to provide the clarifications requested by the Management Board in a timely manner, which is proposed in no. 2 of this article (exclusion of bidders).

GRUPO ZON

GRUPO ZON considers that the clarifications requested must be justified, fulfilling the principle of providing reasons for administrative acts. The clarification must be related to the auction process and must serve to clarify some doubt with an impact on the outcome of the same.

Understanding of ICP-ANACOM

Taking into account the speed at which one intends the auction process to be undertaken, ICP-ANACOM is of the opinion that the deadline for provision of clarifications, as well as the respective form, must be set in accordance with the degree of complexity of said clarifications.

Firstly, there is a general duty for the candidates to collaborate in the appropriate clarification of all the facts and, secondly, all the clarifications and information requests made by ICP-ANACOM are always duly justified, complying, under the law, with the principles of proportionality and suitability for the purpose intended.

CHAPTER II

The Auction

Section I

Auction model, lots and reserve prices

Article 6 – Auction model and stages

Comments received

GRUPO ZON

GRUPO ZON approves the amendment of this article with a view to reflecting a combinatory or other auction model that allows a bidder to bid for a set of frequencies that make sense for an operator.

OPTIMUS

OPTIMUS proposes the inclusion of the principle of transparency in this article, since it considers it the ideal place to enshrine it expressly, and the same should also be done in articles 16 and 23.

[SCI] [ECI]

Understanding of ICP-ANACOM

As mentioned above in 2.2, bearing in mind that in the new draft regulation a new auction model is contemplated, this article is substituted in conformity.

In addition, ICP-ANACOM considers that the information that, also taking into account the new auction model, is expected to be provided is sufficient and adequate for a correct price discovery and strategy design by the bidders, without compromising the existence of a high degree of competitiveness in the auction.

Article 7 – Available lots and reserve prices

Comments received

CABOVISÃO

CABOVISÃO considers that ICP-ANACOM must ensure that the prices and acquisition costs of the frequencies do not reach excessive values since the same may in the future encumber the sector, contributing for example towards an increase in the costs incurred by an MVNO, and have a negative impact on the final customers.

GRUPO ZON

As for this article (Available lots and reserve prices), GRUPO ZON reiterates what it presented within the scope of the public consultation on the limitation of the number of rights of use of frequencies and

definition of the allocation process of the same in the 450, 800, 900, 1800 MHz and 2.1 and 2.6 GHz bands, pointing out that the reserve prices do not consider differentiated values between bidding candidates that already have rights of use of frequencies and candidates that intend to initiate an operation and that are above the European benchmark.

It considers it essential to adapt the reserve price of the lots below 1 GHz to take into account:

- 1) The initial disadvantages of the operator entrants, and
- 2) The economic reality and the reality of the Portuguese market.

GRUPO ZON also presents the reserve prices that, from its viewpoint, must be the ones defined in the regulation.

- €30 M/lot in the 800 MHz band;
- €16 M/lot in the 900 MHz band;
- The prices for the reserved blocks for new entrants should have a value below 50% of those mentioned above, or even null, reflecting the need for investment in 100% of the network for these new operators.

Finally, it requests clarifications on FDD channeling in the 2.6 GHz frequency band, namely if the order of the paired lots is the same.

MOBIZAPP

Generally speaking, MOBIZAPP considers that the reserve prices presented in the draft auctioning regulation are too high, particularly the reserve prices of the lots of lower frequency bands - the A (450 MHz) and B (800 MHz) categories of the table presented in article 7.

It also mentions that the lower frequencies are of strategic interest for the country due to the greater facility in obtaining extended coverages of broadband, even in the most remote and deprived areas of the national territory. In this way, MOBIZAPP considers that the lots of categories A and B should have lower reserve prices, favouring extended coverage obligations to the detriment of the initial revenue of the spectrum, thus being able to ensure an efficient use of these frequencies and preventing the hoarding of spectrum, which is of undeniable strategic importance for the development of the country.

It is the understanding of MOBIZAPP that the reserve price to be considered in the regulation for Category A (450 MHz) should be substantially lower than that proposed, otherwise this round of the auction may become deserted.

In Category B (800 MHz), MOBIZAPP points out that the reserve prices proposed for each lot of 2 x 5 MHz (55 million euros) are particularly high compared with the equivalent procedures in other European markets.

With regards to Category C (900 MHz), MOBIZAPP does not understand the rationality behind the reserve price per lot being different from the reserve price per lot of category B (800 MHz). It states that this principle is not used in other European markets, for example in Spain, where the reserve price of 2 x 5 MHz of the 800 MHz is of 170 million euros, and in the 900 MHz (2 x 5 MHz) it is of 169 million euros. It concludes that this equivalence of valuation of the 800 MHz and of the 900 MHz seems to be the most reasonable scenario, since both bands have similar characteristics, due to their proximity.

[SCI] [ECI]

OPTIMUS

[SCI] [ECI]

OPTIMUS considers that the setting of reserve prices should take into account several aspects, among which the following are noteworthy:

- Not establish values that are so high that they drive away true interested parties in the spectrum in question;
- Not set values that are so low that they lead to "frivolous" participations.
- Limit collusion incentives.

It considers that the reserve prices set in Portugal are absolutely misaligned with the national reality and find no parallel with those registered in other countries. It adds that the countries present different characteristics between them that are decidedly relevant for the valuation of the spectrum to be bid and should, therefore, be taken into consideration in the setting of the reserve price. In this way, it indicates that the value of each MHz should be evaluated in accordance with the population of the country, inasmuch as this limits the size of the market and, consequently, the capability of the entities - to whom rights of use of spectrum were allocated - to extract value from these rights. In addition, it argues that the capacity for the spectrum to generate value for the entities that obtain the respective rights of use also depends on the purchasing power of the population of each market - which can be evaluated by *GDP per capita* and/or by the average revenue per user (ARPU) in each country. Portugal has a smaller population than several of its European partners and is at the bottom of the list in Europe with respect to purchasing power, which is equally reflected in a low average revenue per user of mobile services.

As such, it considers that the reserve prices in Portugal cannot be directly compared with the prices set for auctions in other countries.

In this context, OPTIMUS presents a comparative analysis of reserve prices adopted by other auctions undertaken in Europe, concluding that the reserve prices defined in the Draft Regulation are excessive, and also taking into account the obligations of coverage proposed.

Using a benchmark that takes into account the ARPU, population and GDP per capita, OPTIMUS mentions that in relation to the 800 MHz, Portugal presents the highest price, and, with respect to the 2.6 GHz, the reserve price is the 2nd or 3rd highest in a group of countries. In addition, OPTIMUS presents two benchmarks for the 800 MHz band and 2.6 GHz band, comparing the Portuguese case to the case of other countries, taking into account the reserve price adjusted by population and GDP pc and the coverage obligations.

[SCI] [ECI]

VODAFONE

VODAFONE considers that the values defined for the reserve prices are high if the reserve values defined in other countries and the average monthly revenue per user (ARPU) are taken into account. It thus considers that ICP-ANACOM should review the reserve prices of the various frequency bands, namely those of the 800 MHz band.

Understanding of ICP-ANACOM

In relation to the comments and suggestions received regarding the reserve prices, considered high by the majority of respondents, ICP-ANACOM intends to alter 2 of the reserve prices proposed in the previous draft regulation:

- In the 800 MHz band, a price of 45 million euros per lot is defined (when 55 million euros had been defined). The value proposed takes into account the comments received and the fact that in the new draft project a network access obligation is introduced, as well as a stricter requirement in terms of coverage obligation;
- In the 1800 MHz band, a price of 4 million euros is determined for each lot of 2 x 5 MHz in substitution of the 3 million euros set in the previous version of the draft regulation. ICP-ANACOM considers that the availability, in this auction, of the entire spectrum existing in this band (from 2 x 30 MHz to 2 x 57 MHz) and the consequent reshuffle of the current rights of use (without prejudice to the attribution of compensations to cover, in full or in part, any costs associated with this reshuffle), allows for a more efficient use and translates into a valuation of that same spectrum. An increase in the reserve prices of these lots is thus considered appropriate.

In addition, ICP-ANACOM sets at 3 million euros the reserve price of lots of the new category D, which includes 3 lots of 2 x 4 MHz in the 1800 MHz band that were not included in the draft decision object of this public consultation.

Article 8 – Limits to the allocation of spectrum

Comments received

PT GROUP

Considering legitimate the deterrence of hoarding, the PT GROUP warns that one will only be faced with hoarding inasmuch as the spectrum is appropriated or controlled by those that do not use it in an efficient manner, underlining the inefficiencies that may be generated due to the inability to distinguish between those two realities.

The PT GROUP warns that, if certain rules of the Draft Auctioning Regulation are not changed, there is the possibility of a specific operator paying, for a lower "quantity of spectrum" than what was intended to be obtained in the absence of spectrum caps, an amount substantially higher than that borne by another operator that has obtained the quantity of spectrum that it intended to obtain.

With reference to that which it considers to be an "egalitarian purpose" of the differentiation of the limits to the allocation of spectrum contained in sub-paragraph b) of no. 1 of this provision, the PT GROUP mentions that, if the objective is to inflict a competitive disadvantage on those that already have rights of use, then that objective should be made clear and be duly justified.

The PT GROUP also considers that, if the limits to the allocation of spectrum currently proposed are maintained, then there should, at least, be added a rule defining that the same would not be applied if there is a second round, i.e. if there is still spectrum available in the bands in question at the end of the first round.

In addition, the PT Group questions what the validity of the limits to the allocation of spectrum is, whether they are valid only within the scope of the auction or if they can be subsequently surpassed, namely through secondary spectrum trading operations or concentration operations. The PT GROUP also considers that, similarly to what happened in Spain, it would be convenient to establish rules that imposed the carrying out, within a certain deadline, of a market analysis to verify whether the maintenance of spectrum caps is in fact justified.

With reference to no. 2 of article 8 of the Draft Auctioning Regulation, the PT GROUP considers that this provision raises grounded doubts as to the terms of its application, in particular the reference to the Securities Code, which should be clarified in the final version of the Auction Regulation. In fact, it mentions that it is noteworthy that the Securities Code does not mention what is a "significant influence" (except in a context of regulation of public share offers), a concept that is used in this basis of the Draft Auctioning Regulation to establish rules relative to the spectrum caps applicable. Under these terms, the PT GROUP considers that the Auction Regulation should expressly stipulate what should be considered a "significant influence" (solution that would have been adopted in the BWA Auction Regulation).

On the other hand, the PT GROUP considers that the reference to article 8, no. 2 of the Draft Auctioning Regulation for the Securities Code is generic, not containing anything concrete as to the specific aspects of this Code that must be taken into account in this matter by the potential bidders, not establishing namely whether the concept of "control" referred to therein should be interpreted based on article 21 of the Securities Code and, in that case, whether it should or shouldn't

take into account the relations that, under the terms of articles 20 and 20-A of that Code, give rise to the allocation of votes.

In addition, this company considers that no indication was given on the way in which the fulfilment of the limitation contained in no. 2 of article 8 of the Draft Tender Regulation is verified, pointing out that the document that is demanded in sub-paragraph g) of no. 1 of article 13 is not manifestly appropriate - much less sufficient - for such a purpose.

In addition to this aspect, the PT GROUP mentions that it does not understand the useful purpose of this provision. The PT GROUP considers that the provision states that "*at the moment of bidding (or of the allocation of the rights of use of frequencies in question?)*", the spectrum caps established must be applied taking into account certain relations "of control or significant influence", but these relations, from this company's viewpoint, are not important if they occur immediately after the closing of the auction. The PT GROUP thus considers that the "static" character of the limitations that are imposed by the provision in question do not permit to adequately caution against those that are thought to be the concerns of ICP-ANACOM in this matter.

GRUPO ZON

GRUPO ZON considers that this article, along with the previous one, is determinant for the objectives of promotion of competition, since it is through this mechanism that one can encourage the entry of a new operator, limiting the access to specific lots of frequencies, reserving them for operators that are not holders of the rights of use of frequencies.

GRUPO ZON also presents the values for the limits to the allocation of spectrum that, from its viewpoint, must be the ones defined in the regulation.

- In the 800 MHz band, limiting the acquisition by the total number of mobile operators to only 4 lots of 2 x 5 MHz (thus dedicating 2 lots of 2 x 5 MHz to new entrants);
- In the 900 MHz band, reserving the entire spectrum for new operators;
- In the 2.6 GHz band, limiting the total acquisition of spectrum by the current operators to 10 lots of 2 x 5 MHz, reserving the other 4 lots of 2 x 5 MHz for new entrants.

In addition, it provides as examples the spectrum caps defined in countries such as Holland and Spain, in which spectrum was reserved for new entrants, and on the negative side, the case of Sweden, in which, given the inexistence of spectrum caps, the existing spectrum was seized by the 3 incumbents.

Finally, it proposes an additional point to this article so as to prevent the emergence of candidates which aim to circumvent the existence of spectrum caps.

This point aims to guarantee a long-lasting efficacy of the spectrum caps, imposing a prior control mechanism of secondary spectrum trading, preventing the possibility of indirect hoarding. Therefore, without restricting future commercialisation, the operation must be previously communicated not only to ICP-ANACOM, but also to the other participants of the auction, and the caps in force for the auction should be maintained during a significant period after the same (5 years).

MOBIZAPP

MOBIZAPP recalls its analysis and proposals, relative to the limits to allocation and spectrum, within the scope of the public consultation relative to the limitation of rights of use of frequencies where it highlights the need for a consistent spectrum caps policy to be defined to ensure an environment of contestability, with benefits for users and consumers in general, and that encourages the potential entry of a new player into the market. Based on these assumptions, it considers that this article should be reviewed to consider the following limits to the allocation of spectrum:

- In the set of sub-1 GHz (A, and B, and C) categories: the defined limit for the auction should be 2 x 10 MHz;
- In category D, a spectrum cap of 2 x 10 MHz should be considered per bidder that is already holder of the rights of use in the 1800 MHz band and of 2 x 15 MHz for the other bidders;
- In the set of the F, G and H categories: the spectrum cap should include the FDD and TDD spectrum, namely, a global spectrum cap of 50 MHz should be considered.

OPTIMUS

[SCI] [ECI] OPTIMUS considers that it is not clear how the spectrum caps will be implemented in practice during the bidding process with respect to the possibility or impossibility of continuing to bid for lots of specific frequency bands.

VODAFONE

VODAFONE agrees with the imposition of limits to the allocation of spectrum based on the objectives of public interest mentioned by ICP-ANACOM, provided the auction model guarantees the acquisition of sufficient spectrum for the fulfilment of the business plans of an operator.

On the other hand, VODAFONE presents its disagreement regarding the provision of the spectrum extension of the 900 MHz GSM (e-GSM) to entities without experience in the market (all potentially interested parties).

VODAFONE adds that ICP-ANACOM fails to mention the justification underlying this decision, which, together with the limitation proposed for the 900 MHz band - and in the set of 800 MHz and 900 MHz bands - can, ultimately, determine that a potential new operator will acquire more frequencies than those that the current SMT operators hold, which due to the specific characteristics of the band enable an adequate coverage with a lower level of investment.

VODAFONE considers that there is no justification for such discrimination, particularly when there is no equal status accorded to the conditions imposed on the current LMS providers at the time of the allocation of the 900 MHz frequency bands, in terms of coverage obligations, development for the Information Society or the seriousness of the business plans of the possible acquirers of this spectrum.

Therefore, if the current rules on the limitation of rights is maintained, in the case of an operator winning two lots in the 800 MHz band, an allocation limit of one lot in the 900 MHz band must be imposed,

regardless of whether the operator already provides mobile communications services or whether it is a new operator.

In the same vein, VODAFONE defends the imposition of identical limits in the D and E categories, in order to guarantee the principle of equality, or as a matter of transparency.

Understanding of ICP-ANACOM

ICP-ANACOM received several comments about the defined spectrum caps, as well as concrete proposals with respect to their amendment. Within this scope, it is important to highlight the generic objectives applicable to the determination of these limits and that are related to the observance of the frequency management criteria, defined in article 15 of the ECL: "a) availability of radio spectrum; b) guarantee of conditions of effective competition in relevant markets and c) effective and efficient use of frequencies".

Consistent with these criteria – to which ICP-ANACOM is obliged – the introduction of spectrum caps contributes to the creation of more favourable conditions so that operators of different sizes may participate in the auction on equal terms, at the same time preventing any single entity (or a very reduced number of entities) from hoarding all the available spectrum in each one of those bands.

In particular, ICP-ANACOM, aware of the need to promote greater competition in electronic communications markets and taking into account the comments of the interested parties, considers that it is vital to impose spectrum caps on the frequency bands below 1 GHz, where the scarcity of spectrum is greatest, with that restriction

applying both in the 800 MHz and the 900 MHz. The bands in question permit the development of extensive coverage solutions more easily and at lower costs, and as a result there may be various entities interested in the acquisition of rights in those bands, in terms of operators that already hold rights of use of frequencies in equivalent bands and operators that do not yet hold those rights, but that intend to enter the market.

In this context, ICP-ANACOM considers, however, that the determination of the spectrum caps shall have to be imposed so as to permit all interested parties to express their interest for the bands in question, with the aim of guaranteeing that the auction mechanism allocates the rights to those who value the respective bands the most.

Therefore, ICP-ANACOM does not consider it justifiable to determine spectrum caps which, in some way, can translate into the impossibility of the current operators with rights of use of frequency bands below 1 GHz acquiring additional rights of use of frequencies in the 800 MHz or 900 MHz bands. Such spectrum caps would be disproportionate, namely given that the new draft regulation contemplates an obligation to allow those entities, which are unable to acquire sufficient spectrum in the said bands, access to the network - of which they are also beneficiaries.

In addition, it is understood that the new draft regulation contemplates a 20% discount on the final price of the lots won in the 900 MHz band by entities that do not hold rights of use in the 890 – 915 MHz / 935 – 960 MHz band, considering that this measure is not as restrictive as that which would result from the spectrum reserve.

Likewise, it is not justifiable to prevent new entities that do not yet have rights of use of spectrum from being able to acquire those rights in the bands in question, bearing in mind their importance to enable

the development of a widespread coverage solution for electronic communications networks.

In addition, in relation to the comment of VODAFONE on the e-GSM (900 MHz) band, ICP-ANACOM reiterates what was expressed in the public consultation report on the delimitation of rights of use, highlighting that within the scope of recent public consultations, such as for example the public consultation launched by determination of 11 December 2008, on the 2.6 GHz frequency band, several entities expressed an interest in that spectrum, but not all hold spectrum in the 900 MHz band.

As such, taking into account the principles established in the ECL, namely in its article 31, no arguments seem to exist that justify a possible limitation of access to the spectrum for current LMS operators, or the imposition of spectrum caps that produce the equivalent effect.

In this way, ICP-ANACOM considers that the e-GSM spectrum, as well as the spectrum in the 800 MHz frequency band, should be provided under equivalent conditions to all interested entities.

In light of the above, the spectrum caps proposed in the bands below 1 GHz are maintained, which are applied considering the entire spectrum already held in the 900 MHz band.

Relative to the bands above 1 GHz, some respondents point to the need to create more restrictive spectrum caps. ICP-ANACOM considers that that proposal must be adopted, since it makes it possible for that spectrum to be distributed over a greater number of entities, namely guaranteeing that a part of that spectrum may be acquired by entities that do not yet hold any rights of use in the bands in question.

For this purpose, ICP-ANACOM introduces a spectrum cap in the 1800 MHz frequency band, balancing that measure with the placement in auction of the entire spectrum available in that band, which is of 2 x 57 MHz.

The determination of the spectrum cap in the 1800 MHz thus allows the current operators, holders of rights of use of frequencies in these bands, to complement their rights with additional spectrum, also leaving space for other entities, allowing all to conjugate lots of 2 x 5 MHz and of 2 x 4 MHz.

In addition, and taking into consideration the mentioned comments, ICP-ANACOM will introduce a lower spectrum cap for the 2.6 GHz frequency band, thus avoiding the accumulation of spectrum and creating conditions for its distribution to more entities.

Accordingly, ICP-ANACOM will review article 8, as follows:

- In the 800 MHz band the 2 x 10 MHz limit is maintained;
- In the 900 MHz band, the 2 x 5 MHz limit applicable to bidders that hold rights of use of frequencies in the 890 - 915 MHz / 935 - 960 MHz;
- In the 1800 MHz band, a limit of 2 x 20 MHz is defined, including the spectrum already held by the bidders in this band before the present selection process;
- In the 2.6 GHz band, the limit is changed to 2 x 20 MHz.

This article maintains the same number in the new draft regulation.

With regards to the issue of validity of the spectrum caps, , ICP-ANACOM took the position that it would be useful to clarify the issue, as proposed by the PT GROUP, such that a rule is included for that purpose, in the new draft regulation, which states that the exercise of

the powers referred to in article 37 of Law no. 5/2004, of 10 February, by ICP-ANACOM, is not negatively affected by the setting of spectrum caps under the terms of the present regulation.

ICP-ANACOM includes in the new draft regulation the application of a 20% discount in the final price of the lots won in category C by the bidders that do not hold rights of use of frequencies in the 890 – 915 MHz / 935 – 960 MHz band. This decision takes into account:

- The need to promote a level playing field between operators that, due to the fact that they already hold spectrum in this band, value the marginal spectrum above the value that the other operators attribute it;
- That the 900 MHz band presents itself as that which best allows a new operator to implement, in the short term, a voice and data commercial operation with extended coverage, which competes with the offers of the current mobile operators;
- That which is referred in the Memorandum of Understanding between the Portuguese Government, the European Commission (EC), the European Central Bank (ECB) and the International Monetary Fund (IMF) regarding the facilitation of entry of new operators into the market.

This amendment is introduced in nos. 2 and 3 of article 25 of the new draft regulation.

The comments of the PT GROUP relative to no. 2 of this article were also adopted, such that the new draft regulation includes the concepts of "control" and "significant influence", as well as amendments in the articles relative to the analysis of the applications that will enable the possible existence of those relations between the candidates to be verified.

Article 9 – Requirements for the applicants

Comments received

VODAFONE

VODAFONE considers that the requirements for the admission of applications should seek to mitigate behaviour or strategies by the bidders whose final objective does not coincide with the goals that ICP-ANACOM seeks to achieve. Therefore, VODAFONE considers that the admission of participants in the auction should be limited to entities already duly constituted and registered as electronic communications service providers, with proven competence, thus avoiding purely speculative practices.

VODAFONE justifies this restriction as being necessary to avoid the existence of bidders that do not seek to effectively use any lots of spectrum that they win during the course of the auction, instead seeking their own profits through the commercialisation of the same, with a clear loss for the applicants whose intentions, regarding participation in this process, are serious.

VODAFONE thus proposes the imposition of the obligation to pay, when applying, a non-refundable fee that should have a minimum value of 1 million euros.

OPTIMUS

It is of the opinion that the inexistence of any direct or indirect relation of control or significant influence between the candidates, as set out in the Securities Code, should be an auction admissibility requirement. In

fact, this absence can only be understood as a mistake. The reason for this claim is obvious: the natural alignment between these participants will be prejudicial to the auction process considering that one of them would be a mere instrument to introduce more uncertainty to the bids and thus make prices rise (which will obviously be more prejudicial to some specific operators).

Understanding of ICP-ANACOM

ICP-ANACOM is of the opinion that there should be no obstacle to companies in a direct or indirect controlling relationship or with significant influence participating simultaneously in the auction. Based on the way in which the spectrum caps are defined (applied to the bidders individually considered, or to the set of bidders if between them there are direct or indirect relations of control or significant influence) and the information that is provided to the bidders (namely, the fact that the identity and number of applicants admitted is not revealed), it is considered that the essential concerns associated to the simultaneous participation of companies in the described situation are safeguarded.

It should be noted that the authorisation titles are not issued to consortiums, even though an already existing operator participates in them. In the case of allocation of rights of use of frequencies to undertakings to be constituted, the procedures associated with the constitution and registration of legal persons must be observed.

Comments received

GRUPO ZON

GRUPO ZON considers that the definition of bond should be altered, and also proposes that the amount to be deposited be changed, namely defining the same as the sum of the reserve prices of a lot of each of the categories in which the applicants intend to bid, with a maximum of €20 M.

In addition, it proposes a specific text for the bank guarantee.

MOBIZAPP

MOBIZAPP agrees with the proposed value of the bond of one million euros, by category, "to enable bids in categories A, E, G, or H", and with the proposed value of the bond of twenty million euros to enable bids "in all categories." However, MOBIZAPP disagrees with the bond value considered in the draft regulation to enable bids in categories D and F (20 million euros).

Considering that the reserve prices per lot of categories D and F are of the same order of magnitude as the reserve prices proposed for categories A, E, G, or H, MOBIZAPP proposes that sub-paragraph a) of no. 1 of this article read as follows:

"To allow bid submission in categories A, D, E, F, G or H, in the amount of one million euros, per category;"

OPTIMUS

OPTIMUS proposes amendments to this article, namely:

- In no. 3 of this article it suggests the substitution of "the bidders" by "the applicants";
- It suggests that the final version of the Regulation should be accompanied by the bank guarantee model or deposit insurance, to which no. 4 refers to, which indicates the period of validity of the same;
- It suggests the addition of a new no. 7, so as to take on board the general regime, with a similar wording to that of article 295, no. 10, of the Public Procurement Code:

"7- The delay in the release of the bond gives the applicant or bidder that provided it the right to compensation, namely due to the additional costs incurred with the maintenance of the bond provided for a period greater than what should have been required".

Understanding of ICP-ANACOM

Considering the possibility of the bidders not presenting any bid submissions, ICP-ANACOM envisages in the new draft regulation the obligation of submitting bids in the first round, otherwise said bidders will not be allowed to present any bid submissions in subsequent rounds, according to the mechanics of the new proposed auction model, pursuant to articles 17 and 19 of the new draft regulation.

ICP-ANACOM considers that the comments of GRUPO ZON and MOBIZAPP are taken into account in no. 1 of article 10 of the new

version of the draft regulation, since the amount of the bond is associated to the specific categories in which the applicant plans to bid, with a maximum value of 20 million euros.

In relation to the proposals of OPTIMUS regarding the review of this article, as well as the joining of the bond and deposit insurance forms, ICP-ANACOM is of the opinion that all are to be adopted as suggested, such that it includes said proposals in no. 2 of article 10 of the new draft regulation. The proposal of GRUPO ZON is also taken into account with this amendment.

Article 11 – Requests for clarification

Comments received

PT GROUP

The PT GROUP is of the opinion that this article is not clear as to whether the clarifications are only provided to the interested party that requested them or whether they are provided to everyone else, via publication on the website of ICP-ANACOM (and, in that case, whether or not the identity of the interested party that requested the clarifications in question is revealed).

As such, the PT GROUP suggests that the clarifications be published on the website of ICP-ANACOM and that, in case of delay in the provision of clarifications, the period set for the submission of the applications be extended by the period corresponding to the delay verified.

VODAFONE

VODAFONE suggests extending the deadline set for the requests for clarification, which should be accepted up to 10 days following the entry into force of the Regulation.

Understanding of ICP-ANACOM

In relation to the issue raised by the PT GROUP, ICP- ANACOM includes no. 4 in article 11 of the new draft regulation, which stipulates non-disclosure, in the qualification stage, of the requests for clarification formulated by the interested parties, as well as of the clarifications provided by ICP-ANACOM, having regard to the need to safeguard the confidentiality of the process and, in particular, to prevent any indirect or unsuitable communication.

With reference to the extension of the deadlines intended by VODAFONE, ICP-ANACOM extends some of the deadlines provided for in the new draft regulation. With specific reference to the deadline for presentation of the requests for clarification, the same is set at 10 days as suggested by VODAFONE, as arises from the provisions set out in no. 1 of article 11 and in no. 5 of article 12 of the new draft regulation.

Article 12 – Application method and presentation

Comments received

PT GROUP

The PT Group considers that the deadline of 10 days established for the presentation of applications is unjustifiably short, given that under articles 14 and 15 of the draft project the bid submission period begins 4 days after the end of that deadline.

It further considers that only after the final rules of the auction are known (and admitting that the contributions of the interested parties could effectively result in a change of the rules proposed), are the interested parties able to:

- Decide whether they intend to effectively present an application and regarding which categories (essential for defining the bond amount);
- Define the bidding strategy (a fundamentally important aspect and strongly dependent on the final "design" of the auction) and,
- Guarantee the financing necessary for the payment of the lots intended.

Lastly, it points out that, in the BWA auction, the period between the publication of the Regulation and the end of the deadline for the presentation of applications was 7 weeks.

GRUPO ZON

GRUPO ZON considers that the deadline for the delivery of applications is manifestly short, deserving from its viewpoint an extension given

that the mobilisation of associated bank guarantees may take longer, also proposing that the same be a minimum of 30 days.

VODAFONE

VODAFONE proposes that the delivery of applications be made within 10 days after the publication of the clarifications provided under article 11.

Understanding of ICP-ANACOM

Regarding the comments of the PT GROUP, GRUPO ZON and VODAFONE, relative to the deadline for presentation of applications, ICP-ANACOM intends to review the same, without however leaving aside the need for compliance with that established in the IMF, which plans to hold the auction in the third quarter of 2011. As such, the deadline for presentation of applications is extended by half, increasing from 10 to 15 days, as laid out in no. 5 of article 12 of the new draft regulation.

Article 13 – Examination of application request

Comments received

PT GROUP

The PT GROUP considers that, with respect to sub-paragraph f) of no.1 of this article, it would be desirable to be able to substitute, at any

moment, the two people that can submit bids in the name and on behalf of the applicants.

With regards to sub-paragraph g) of no. 1 of this article, the PT GROUP considers that the document requested is not at all suitable for verifying the existence of relations of control under the terms established in the Securities Code, also presenting the reasons on which it bases this conviction.

Lastly, the PT GROUP is also of the opinion that no. 2 of this article, by not imposing any rules of capital stability during a specific period, allows the limitations contained in article 8 of the draft auctioning regulation to be easily circumvented.

VODAFONE

VODAFONE considers that the decision to limit the representative persons to two imposes a great responsibility on a structuring process of the sector. In addition, given the maximum duration of three minutes for each sequence, it may result in a process that is too quick and of unnecessarily unpredictable consequences for bidders and winners.

It thus proposes to ICP-ANACOM that it consider the possibility of the two representatives being accompanied by a maximum of an additional 4 team members that, not having power to submit bids on behalf of the candidate, will provide support and assistance to decision-making that will result in the various sequences of bid submissions.

In addition, and as a contingency plan, VODAFONE requests that ICP-ANACOM allows the appointment, at the beginning of the application procedure, of an additional team of 2 people that, in the event of the

unexpected unavailability of the representatives of the candidate with powers to submit bids, are able to assume that responsibility.

VODAFONE does not understand the underlying reasons for the strictness in terms of the deadlines for elements to be presented in the qualification stage, which results in a substantial risk of exclusion due to a possible error in one of the qualification requirements.

VODAFONE thus requests:

- The introduction of forms or drafts for each of the documents requested that do not yet have a legally established format - as in the case of the formal request for the application to be formalised, for the appointment of persons to represent, for the entity to bind the applicant, etc.;
- Establishment of a period of prior validation of the documents to be presented by the applicants for bidders whose approval, which is binding, will determine the impossibility of exclusion of those applicants for irregularities related with said qualification documents.

Understanding of ICP-ANACOM

With regards to the number of people that can submit bids on behalf of the candidates, ICP-ANACOM adopted the comments of the PT GROUP and VODAFONE, such that, in sub-paragraph f) of no. 1 of article 13 of the new draft regulation, that number is increased to 4. This number is considered appropriate and sufficient since the bidders will be able to access the electronic platform remotely. In addition, the representatives are essentially designated so that ICP-ANACOM can

send the notifications and documents, as laid out in the regulation, to the bidders throughout the entire auction process.

The comment of the PT GROUP relative to sub-paragraph g) of this article (sub-paragraph f) of no. 1 of article 13 of the new draft regulation) is adopted, having the same been reformulated, with the addition of a specific reference to the criteria included in article 21 of the Securities Code.

With reference to the comment of the PT GROUP regarding no. 2 of this article (absence of any rules of capital stability during a specific period), it is understood that the concern manifested has been appropriately addressed in the cases of possible transmission of rights of use of frequencies, which complies with the regime set forth in article 37 of the ECL.

With regards to the comments of VODAFONE, ICP-ANACOM clarifies that, relative to some forms that may raise greater doubts, such as that of the bond and deposit insurance, it provides the respective drafts in annex 2 of the new draft regulation.

Article 14 - Assessment of the applications

No comments were received regarding this article of the draft regulation.

Article 15 – Admission and exclusion of applications

Comments received

GRUPO ZON

GRUPO ZON considers that the period between the notification of admission or exclusion in the auction and the start of the same be a minimum of 3 working days following the said notification.

OPTIMUS

OPTIMUS suggests that no. 3 of this article be amended so as to reflect that the communication of the starting date of the distribution stage should be carried out until 16h00 of the working day prior to the working day on which it begins, and a confirmation of the reception of the notification should also be required, regardless of its format.

VODAFONE

VODAFONE considers that the start of the distribution stage should await 5 working days, in order to enable the applicant to undertake "basic preparation". It also mentions that it is vehemently opposed to the notification being made by electronic mail given the absence of

guarantee that the same is considered as carried out within its office hours and that any period is considered from the date of its effective reception.

Understanding of ICP-ANACOM

Taking into account the comments of several operators relative to the lack of clarity as to the counting of the period for notification, the duration of the actual period, as well as the start date of the distribution or bidding stage, ICP-ANACOM is of the opinion that it must make some amendments to this article, within the scope of the text of the new draft regulation.

Therefore, the notification of the admission or exclusion of the candidates shall be made within 2 days of the respective decision, as set out in no. 3 of article 15 of the new draft project, and an extension of five working days for the start of the bidding phase is established, such that ICP-ANACOM considers that, as a result, the comment of VODAFONE on the notification undertaken by electronic mail is no longer relevant.

**Section III -
Distribution Stage**

Article 16 – Bidding process

Comments received

OPTIMUS

OPTIMUS points out what it considers to be significant omissions, from a technical viewpoint, about the electronic platform that will serve as a basis for the auction. It further states that the Regulation should lay down the procedures to be followed in case of failure of the platform, including the alternative means through which bids may be submitted (suggesting hand deliveries or submitting bids by fax), also presenting proposals such as, in the event of failure of the system, stopping the process entirely and restarting only when the difficulty has been solved.

OPTIMUS also proposes that this article be amended so as to enshrine the principle of transparency, as well as the indication that the platform shall be revealed to the bidders in a timely manner, and that it guarantees the receipt of information sent by the bidders.

"Optimus is of the opinion that there is no valid reason for – in an auction of this importance and with the impact that the exclusion of a participant could bring about - a problem of a technical nature to prevent participation or create a situation of inequality between bidders. In addition to the electronic platform, ICP - ANACOM must guarantee the communications of said platform with the equipment of the bidders, thus eliminating the problem of interoperability between

systems and of the speed of the networks used. This solution also avoids litigiousness between the bidders and the regulator regarding the responsibility of possible (and probable) technical problems that may occur. In fact, it should be emphasised that the line of responsibility can be quite tenuous and therefore difficult to establish, which will generate an unacceptable injustice in a tender of this importance.

Any solution that is not in line with what is suggested seems to us to be absolutely contrary to the public interest and therefore manifestly illegal: does not allow the participation of all, does not allow the maximisation of the value to be obtained and hampers competition in the sector.”

OPTIMUS considers that the deadlines and forms of communication at the start and end of the various auction procedures should be clarified by ICP-ANACOM.

As to the deadlines and duration of the various processes of the auction, OPTIMUS requests clarification of the following points:

- Whether the start of the auction will be communicated to the public in general or if, namely for security reasons, such information will be restricted to applicants admitted to the auction.

The (in)existence of a maximum period of duration of the auction and procedures to be followed in case the pre-defined maximum period is surpassed.

VODAFONE

VODAFONE is very much concerned with the meaning of the rule set out in no. 3 of this article, which seems to indicate that only during the

preparation period for the distribution stage will the bidders have access to the conditions of access to the electronic platform to be provided by ICP-ANACOM, arguing that it does not seem reasonable or appropriate for bidders not to be familiarised with the access conditions, rules and characteristics of the platform at a much earlier time than the actual qualification stage.

In addition, it does not consider nos. 4 and 5 of this article to be very rigorous, requesting that ICP-ANACOM clarify:

- All the relevant information on the 'alternative means' adopted in case a technical problem occurs that compromises the continuity of the bidding process;
- That it will assume responsibility for the provision and operation of all equipment and systems that guarantee access to both the electronic platform and the so-called 'alternative means'.

Understanding of ICP-ANACOM

With regards to the comments and concern manifested by some operators, namely VODAFONE, with respect to the lack of time for the applicants to prepare themselves for bidding using the platform, as well as the timely disclosure of information on said platform and on the alternative means to be used in case of technical problems with the platform, ICP-ANACOM clarifies that individual training sessions for the bidders relative to the use of the platform are planned.

In the text recommended for this article in the new draft regulation (sub-paragraph b) of no. 3 of article 15), ICP-ANACOM clarifies that the notification includes the conditions of access to the electronic platform, as well as the alternative means to be used.

Comments received

GRUPO ZON

GRUPO ZON considers that this article exposes the fragility of the model adopted by ICP-ANACOM, by not fomenting the acquisition of complementary spectrum for the launch of a mobile operation.

It reiterates its arguments in previous sections with respect to the fact that this auction model does not enable the bidding operator to guarantee the acquisition of lots in terms of quantity and complementary frequency bands, as well as the preferential option for a combinatory auction model.

OPTIMUS

[SCI] [ECI]

OPTIMUS considers that the deadlines and forms of communication at the start and end of the various auction procedures should be clarified by ICP-ANACOM.

- The schedule over the course of the day during which the bids and the pre-established pauses take place.
- The maximum number of sequences to be carried out per day and/or lots to be allocated daily, or any other daily limit relative to the auction activity;
- The form and moment of communication of the start of each sequence and of the respective results;

- The time interval between the dissemination of the results of a sequence and the start of the following sequence;
- The break time between bids for lots of different categories and their form of communication;

The break time between rounds and their form of communication.

VODAFONE

VODAFONE mentions that the combined effect of the maximum duration of each sequence, which is manifestly short, is worsened by the rule of no. 6 of article 17, under the terms of which only the bidders that have formulated bids in the first sequence can participate in the second sequence, which makes this limitation of time even more penalising. In addition, VODAFONE is of the opinion that the limitation of time, in combination with the rule of no. 2 of article 20 (time tie-breaker) only contributes to increase the probability of occurrence of human error, without any advantage or associated justification.

VODAFONE also suggests that a rule be introduced that allows the return of spectrum by the bidders, while the auction is being carried out, enabling the lot to be placed in the second round. This rule, from its viewpoint, guarantees the adoption of complementarity and substitution strategies, for the acquisition, by the participants, of lots in the various categories.

Lastly, since VODAFONE considers that the rule in no. 8 of this article (related with the obligation of the bidder that wins a number of lots in category B to bid an equal number of lots in category F) does not ensure the objective of creation of networks that are flexible to the heterogeneous demands felt by the citizens, it proposes that the

bidding winners of lots in category B should be forced to submit bids in the 14 lots available in category F, with this obligation terminating:

- If they manage to buy the same number of lots as those they assured in category B, or
- If there are no more lots available.

MOBIZAPP

MOBIZAPP agrees with the provisions of point 8 of Article 17, namely that *“the bidders that win lots in category B in a given round, are obliged to formulate bids, representing an equal number of lots... in category F.”*. However, given this obligation, MOBIZAPP considers that it will be more logical and practical than no. 1 of article 17 on rounds to consider the following order of categories: A, B, F, C, D, E, G and H.

Understanding of ICP–ANACOM

Bearing in mind the adoption of a new auction model, this article is substituted, since it is related to its operation.

Article 18 – Duration of sequences

Comments received

OPTIMUS

OPTIMUS considers that the duration of the sequences proposed in the Draft Regulation is excessively short, bearing in mind that at stake are

complex decisions within the scope of which several factors must be considered, all characterised by uncertainties and taking into account the high values of the bids.

It also presents what it considers to be a whole set of tasks that must be undertaken during the limited duration of each sequence, seeking to demonstrate the impossibility of robust execution of this set of tasks. In addition, it established a comparison with the bidding times of the various auctions that have already taken place, in which the setting of a duration of 3 minutes finds no parallel.

Lastly, it suggests that any change to the duration of each sequence must be done before the start of the bids and never during the same, and that technical reasons should also be justified.

It is of the opinion that the duration of one hour for each sequence allows for a more robust decision-making process and with less exposure to error.

VODAFONE

VODAFONE considers that the maximum duration period of each sequence is manifestly short, and that a minimum of 30 minutes should be set. It also states that the negative impact of the maximum duration is worsened by the limitation of the number of representatives making their substitution in good time impossible and unjustifiably hampering a candidate whose representatives may suffer some contingency that prevents them from participating in a specific sequence.

Understanding of ICP–ANACOM

Bearing in mind the adoption of a new auction model, this article is substituted, since it is related with its operation, with the duration of the various deadlines having been modified, having adopted the suggestions presented.

Article 19 - Increment

Comments received

GRUPO ZON

GRUPO ZON mentions that the only reasoning for maintaining the minimum increment high is greater speed in the resolution of the auction, considered as a secondary objective of the process. It is of the opinion that the minimum increment is overvalued and presents the possibility of preventing a bidder willing to bid the maximum value from being the one to obtain the spectrum, as well as being able to decrease the value obtained for the spectrum. GRUPO ZON considers that the minimum increment should be within 0.5% of the value of the reserve price of each lot.

OPTIMUS

OPTIMUS made some observations on the amounts defined for the increment, and questions at what moment and in what form the value of the increment is communicated to the bidders. It adds that this information should be included in the Regulation through the amendment of a number to the present article. It considers that during

the setting of the increment, one should take into account that this could introduce inefficiency in the allocation of frequencies and that the increment could prevent the bidders from presenting bids close to the maximum ceiling of their valuation and unduly and prematurely exclude bidders from the auction.

[SCI] [ECI]

VODAFONE

VODAFONE is of the opinion that the values defined for the increment are incomprehensibly higher than those used in other countries. For this reason, it proposes that the same should be reviewed from a more gradual perspective and never more than 10% in order to guarantee greater reasonableness and the possibility of greater rationality in the investments to be made.

Understanding of ICP-ANACOM

Bearing in mind the adoption of a new auction model, this article is substituted, since it is related to its operation.

Article 20 – Determination of winning bidder

Comments received

OPTIMUS

OPTIMUS is of the opinion that the speed of bidding as a tie-break criterion in the distribution stage is inadequate, questioning what happens if two bidders formulate the bid at the same time. Considering that it is a rule that encourages litigation, it proposes that in a draw situation the sequence be continued, without the application of increments, until there is a winner, or alternatively that a draw system be established.

OPTIMUS also requests clarifications on:

- Whether the information of the maximum bid of each sequence will be given (i) to all the participants of the auction; (ii) to all that submitted bids in the first sequence of the lot in question, or (iii) only to those that have submitted a bid in the sequence to which the maximum bid refers to.
- "If", "how", "when" and who the winner is will be communicated to the bidders that have bid the final price in each lot.

It is of the opinion that the omission relative to the information about the winner in each sequence is critical for the auction process, with emphasis on two reasons: an economic one, and which has to do with the existing uncertainty at the end of each sequence as to the winner; another, relevant from a procedural viewpoint, related with the existence of spectrum caps.

OPTIMUS also wants the following clarified:

The moment and the form of communication of the existence of a winner in a given sequence, in the case in which no draw exists and in situations in which a draw is registered.

VODAFONE

VODAFONE is of the opinion that determination of the winner based on speed in submitting the value of the bid should be avoided, suggesting the creation of another sequence in which it shall be made known who the bidders in a draw situation are, which of the bidders was the fastest and allowing a new bid but without increment or with an increment identical to that established in the sequence in which there was a draw. VODAFONE also suggests that only subsequently, if the draw is maintained, should one resort to the mechanism proposed (choice via the fastest bidder) which, in reality, if the rules on the duration of each sequence are maintained, is based exclusively on luck.

Understanding of ICP-ANACOM

Bearing in mind the adoption of a new auction model, this article is substituted, since it is related to its operation.

With regards to the rule of tiebreaking, the suggestions presented are adopted in article 21 of the new draft regulation, namely with respect to the elimination of the tiebreaking criterion related with the period of reception of the bids.

As a result, in the new draft project the only tiebreak criterion is the holding of a random draw, to be implemented by the electronic platform.

Article 21 – Final amount

Bearing in mind the adoption of a new auction model, this article is substituted, since it is related to the operation of the adopted auction.

Section IV - Assignment Stage

Article 22 – Assignment Stage

Comments received

GRUPO ZON

GRUPO ZON is of the opinion that clear rules should be introduced to minimise the possibility of spectrum lots being chosen that prevent some bidder from obtaining continued spectrum.

OPTIMUS

OPTIMUS made some observations on the sorting criterion of the list of winning bidders, also proposing an alternative solution.

The company is of the opinion that the valuation of access to spectrum – contemplated in the distribution stage - must not be influenced by the choice of location of that spectrum within the band. But the current rules clearly promote bids with additional values relative to the value of access to the spectrum, so as to try to obtain advantage in the choice of location of the bands, which leads to sub-optimal results in terms of efficiency.

The decoupling between the distribution stage and the assignment stage is thus suggested because (i) the participation and valuation carried out by the participants will be characterised by less uncertainty, and (ii) will result in greater global efficiency – the greater the diversity in the evaluations of the incremental value of some lots over others by participants, the greater the efficiency.

OPTIMUS is of the opinion that a separate, ascending and totally open auction, implying the disclosure of the number and identification of the bidders in the auction and in each sequence to decide on the assignment, would allow the objectives that have just been listed to be better pursued.

Another very significant alternative, followed by the German regulator, would be to let the winners of the distribution stage in each category establish, within a pre-defined period, an agreement between themselves relative to the location of the various lots that they obtained. The intervention of the regulator and the holding of the previously mentioned additional auction would only take place if, following the end of the previously established deadline, the winners had not managed to define an agreement.

VODAFONE

VODAFONE is of the opinion that the form of defining the priorities of bidders in choosing the exact location of the lots that they won through average lot prices is unfair and meaningless. It therefore suggests that the criteria be the total value paid in that category, and in case of a tie, the greatest number of lots bought in all categories.

Still within the scope of this article, VODAFONE presents some concerns on the choice of lots and the guarantee of contiguity of spectrum, through a process of validation by the Management Board of ICP-ANACOM. Within this scope, VODAFONE is of the opinion that the mentioned validation cannot fail to consider the contiguity between the lots allocated in the current process, as well as previous processes. However, it points out that the determination of the location of the lots cannot translate into the carrying out of a possible reshuffling process of the rights of use already held, without the prior authorisation of the holders of the rights in question. It further states that such a reshuffle can never take place within the scope of this process given the obvious illegality of such an option. In this way, VODAFONE requests confirmation that the rule contained in no. 5 of this article does not involve any type of reshuffling process of the rights of use, a process that can only take place at the appropriate place and after the conclusion of the auction process.

Understanding of ICP-ANACOM

Considering that in the comments made regarding this article, several operators expressed concern with the allocation of contiguous spectrum within each band, ICP-ANACOM is of the opinion that that

matter was not treated with the necessary clarity in the draft regulation, such that in the new draft it is clarified in what terms the contiguity of the allocated spectrum must be ensured, as well as the remaining spectrum (not allocated at the end of the auction).

With respect to the contiguity of the spectrum allocated in this auction, ICP-ANACOM proposes that the choices of lots per operator be made with a view to guaranteeing their compatibility with the allocation of the contiguous spectrum, in each category, to all winning bidders, as well as the maintenance of the contiguity of the possible remaining spectrum. In the latter case, ICP-ANACOM considers it fundamental in terms of efficient management of spectrum that the remaining spectrum not be fragmented following the assignment act.

As for the spectrum in the 900 MHz band, ICP-ANACOM is of the opinion that after the conclusion of the auction process, it is up to the operators interested in the contiguity of the spectrum to request from ICP-ANACOM the reshuffling of the frequencies assigned in this band.

With specific reference to the concern of VODAFONE that no. 5 of article 22 might involve some type of reshuffle of rights of use - which in fact was not foreseen - it should be noted that the new draft regulation foresees, in article 31, an autonomous process of assignment of frequencies for the 1800 MHz band, which involves at the same time possible alterations of assignment of frequencies relative to holders of rights of use of frequencies in that band.

This process is based primarily on a negotiation between the operators involved. If this process does not produce results, ICP-ANACOM is responsible for deciding about the exact location of the spectrum in the frequency band, following a prior hearing with the interested parties.

In addition, this reshuffle may eventually result in compensations to cover possible costs under the regime foreseen in article 4 of Decree.Law no. 151-A/2000, of 20 July, as amended by Decree-Law no. 264/2009, of 28 September.

With regards to the comments received about the sorting criterion of the winning bidders for the choice of lots in the assignment stage, taking into account the amendments proposed in the new draft regulation, ICP-ANACOM is of the opinion that the same is presented as a proportional and transparent criterion, putting all entities on an equal footing, regardless of the number of lots acquired.

Section V - Allocation Stage

Article 23 – Final decision

Comments received

OPTIMUS

OPTIMUS requests the clarification of the fact that notification to the winning bidders of the auction only occurs after the prior hearing stage and the elaboration of its respective report. It also considers it important that it be defined how ICP-ANACOM will make available all the information relative to the activity of the auction so that bidders may have total visibility of the way the auction was carried out and how the end results were achieved.

OPTIMUS also suggests that in the situations of withdrawal of the act assigning the rights of use due to the deposit not having been carried out, that a mechanism be foreseen that allows the immediate verification, by ICP-ANACOM, of the existence of interested parties in that spectrum and the obligation of assignment of the rights of use – through rules to be defined – within a maximum period of 20 days, with the spectrum caps necessary for participation in the auction being maintained.

Understanding of ICP-ANACOM

ICP-ANACOM clarifies that the final decision of allocation of the rights of use of frequencies only occurs following the prior hearing of the interested parties within the scope of which they will have the opportunity of becoming aware of all the activity developed during the auction procedure.

Article 24 - Deposit

Comments received

PT GROUP

The PT GROUP is of the opinion that the deadline set in this article is excessively short for the winning bidders to make the deposit of the final amount.

GRUPO ZON

GRUPO ZON is of the opinion that there exists a mismatch in the deadline for the payment of the final amount which, when compared to the release of the bond, is manifestly disproportionate. It is thus of the opinion that the deadlines mentioned in this article (deposit of the final amount and release, by ICP-ANACOM, of the bonds) should be equalised and extended to 10 working days.

OPTIMUS

OPTIMUS is of the opinion that the deadline for payment of the final amount should be phased over the period of validity of the rights of use of frequencies, given the current economic scenario and the global financial climate, also mentioning that the cash flows resulting from the exercise of rights also occur in phases, and that the operators have already "paid" for the licences they use, having assumed additional obligations of coverage and development of the information society.

[SCI] [ECI]

VODAFONE

VODAFONE requires the alteration of the deadlines for deposit of the final amount to a minimum of 5 days, given the high amounts in question and the possible need of the bidder to carry out formalities for the mentioned act that may not be feasible with the time defined in the draft regulation.

Understanding of ICP–ANACOM

Taking into account the comments received from various operators, both in terms of the limited deadline for the deposit of the final amount and in terms of the difference between deadlines for the payment of the amounts in question and the release of the bond, ICP-ANACOM opts to extend the deadline for the deposit, as laid down in no. 1 of article 30 of the new draft regulation, and match both deadlines which will be 5 days.

Article 25 – Conditions associated to the rights of use of frequencies

Comments received

CABOVISÃO

Is of the opinion that due to electromagnetic interferences in installations of clients and in equipment of its network, exposed to radiofrequency in areas close to transmitters that use these bands, the allocation of rights of use of frequencies to third parties places restrictions on the use of the current frequency plan in the 118 - 758 MHz.

GRUPO ZON

GRUPO ZON is of the opinion that there should exist as obligations of the holders of rights of use, national roaming and wholesale, network and site sharing offer obligations. . It also mentions an essential

condition for the 800 MHz frequency band: non-interference with the Television by Subscription distribution network systems.

MOBIZAPP

Within the context presented in the draft regulation, MOBIZAPP strongly disagrees with no. 2 of article 25, which allows the companies holders of spectrum in 900 MHz to fulfil the obligations of coverage of 800 MHz by resorting to the 900 MHz frequency bands.

It considers that no. 2 of article 25 will only become coherent and reasonable if the regulation also considers a "spectrum cap" that includes the set of frequencies (800 MHz and 900 MHz), as proposed by this entity for article 8.

Finally, it is the understanding of MOBIZAPP that the set of articles 8 and 25, in their current formulation, is not coherent, and may result in a situation in which the 800 MHz spectrum owned by entities that hold rights of use in 900 MHz will only serve to block the entry of new competitors, and will not contribute towards the objectives announced by ICP-ANACOM.

OPTIMUS

OPTIMUS makes some observations on the fees of use of spectrum, making a comparison with other countries, based on publications of external entities (DotEcon, Eurostat and Merrill Lynch), concluding that the fees practiced in Portugal are high and above the average, and considers their review as a duty. In this context, it suggests that the amount of the fees be reduced by a minimum of 50% (and by 100% in the first 3 years), and it should be made explicit that it applies to the 800 MHz and the 2.6 GHz, that the duplication from 35 MHz be

eliminated, that the payment only apply from the moment that it is possible to use the fees, **[SCI] [ECI]**

In addition, OPTIMUS makes some observations about the possibility of being able to fulfil the obligations of coverage imposed for the 800 MHz band using the 900 MHz band.

It considers that, given the current context of predominance of the principle of technological neutrality, those coverage obligations should be able to be launched by resorting to any frequencies.

In this respect, it recalls that ICP-ANACOM, within the scope of the unification of GSM and UMTS licenses allowed, and rightfully so, the flexibilisation of the fulfilment of the coverage obligations. Therefore, it considers that provided the obligations assumed within the scope of the auction are fulfilled, the competitors should be able to use the obligations they hold indistinctly.

VODAFONE

VODAFONE requires confirmation that only the payment of the fees of spectrum usage following the withdrawal of the restrictions associated with the same will be demanded.

In this context, it also emphasises the significant weight that the fees due for spectrum usage have on the activity of the operators, conditioning their investment capacity and the service provision conditions, competing to call into question the fulfilment of the targets announced in the Digital Agenda 2015.

With regards to the coverage obligations, it considers it unnecessarily restrictive that the mentioned obligations may only be fulfilled through the use of the 800 MHz and 900 MHz frequency band, thus suggesting that the way of fulfilment of the same be technologically neutral.

Understanding of ICP-ANACOM

With regards to the comments that point to this auction as constituting an opportunity for the creation of conditions that allow a greater level of competition in the electronic communications services market and, in particular, in mobile markets, ICP-ANACOM takes note of the concerns manifested, as well as the proposals of imposition of obligations relative to network access, for MVNO and/or national roaming, and infrastructure sharing obligations.

In this respect, ICP-ANACOM is of the opinion that given the quantity of spectrum available in this selection procedure, all interested parties, including the entities that already hold rights of use of frequencies, as well as other entities that do not yet hold those rights, will have the opportunity to obtain spectrum in several frequency bands, in order to enable the viability of the respective business models.

Without prejudice, it has been a concern of this Authority, shared by some of the respondents to this public consultation, to guarantee the improvement of existing competition conditions in markets, namely permitting the creation of conditions aimed at increasing the contestability of the market, without the current holders of rights being affected, not only because they maintain the rights already acquired, but because they are also given the possibility of acquiring additional rights in any of the frequency bands provided in the auction.

In this context, ICP-ANACOM introduced alterations to the selection procedure, translating namely into alterations of the limits to the allocation of spectrum (spectrum caps), already mentioned previously and included in article 8 of the new draft regulation, as well as the

imposition of access obligations, reflected in article 34 of the new draft regulation. The two alterations mentioned, collectively, are expected to enable the entities that do not presently have rights of use of frequencies to have, on the one hand, the opportunity to decide on the acquisition of rights over specific frequency bands, if such is in line with their business plan, and on the other hand, to be able to benefit from the access obligations imposed if the viability of their business models does not involve resorting to those rights, or if the rights acquired are used the beneficiaries of the access obligations have the need to resort to national roaming services while they are unable to achieve an extended coverage of the national territory.

It should be noted that the amendments introduced in the regulation translate not only the concerns expressed by some of the entities that replied within the scope of the public consultation procedure, but also that which was referred in the IMF document regarding the facilitation of entry into the market, seeking to address those concerns. In addition, such concerns are in line with the criteria defined in the ECL for the management of the radio spectrum, to which ICP-ANACOM is obliged.

Specifically in relation to the obligation of allowing access to the network, ICP-ANACOM is of the opinion that it is a reasonable obligation for the holders of rights of use of frequencies, establishing at this phase some generic conditions, such as those relative to respect for the commercial autonomy of the entities involved and to the promotion of effective conditions of competition, as well as the establishment of some deadlines relative to the contracts signed, with the intention of instituting conditions of reasonable remuneration for the parties.

In addition, it is considered that the obligation in question is not excessive since it is only applicable to the entities that, at the end of the auction, obtain 2 X 10 MHz in the 800 MHz or 900 MHz frequency band, such that an operator with a lower quantity of spectrum will not be covered by the obligation in question. In addition, in the case of the specific obligation of negotiation of national roaming agreements, only those entities that have invested in the respective network will be beneficiaries, providing services to final users in those networks in at least 50% of the population. It should be noted that the criterion of the covered population as a baseline has already been used in other selection procedures. The value proposed does not differ substantially from the obligations included in the Specifications of the tender for the allocation of rights of use for IMT/2000, which determined, for the 5th year of activity, the value of 60% of the covered population.

It is also important to point out that the beneficiaries mentioned in the previous paragraph will only be able to be the entities that, possessing rights of use of frequencies in bands above 1 GHz, which are recognisably more appropriate to develop solutions with a view to increasing the capacity of the networks, do not have sufficient rights in the 800 and 900 MHz frequency bands (being able to have rights until 2 x 5 MHz), and it is also in these bands that there is greater scarcity of available spectrum, which otherwise would allow them to more easily build their own networks.

It is also noteworthy that the obligation of allowing access to the network (MVNO agreements, national roaming, and access and sharing of infrastructures) begins with the issuance of titles (in the case of the 90 MHz band) and with the notification of the end of the current restrictions in the 800 MHz band. The obligation of allowing access to

the network through MVNO and national roaming agreements has a duration of 10 years.

Lastly, it should be pointed out that for the calculation of the quantity of spectrum in the 900 MHz (2 x 10 MHz), above which the holder of the rights of use is obliged to allow access to the respective network, the spectrum already held in the same frequency band before the conclusion of the selection procedure submitted to this public consultation is also considered.

With regards to the proposals that point to the need to impose obligations of infrastructure sharing, ICP-ANACOM includes in the new draft regulation the obligation of the holders of rights of use, which at the end of the auction end up with 2 x 10 MHz in the 800 MHz band or at least 2 x 10 MHz in the 900 MHz band, to accept the negotiation of infrastructure sharing agreements in accordance with the regime laid out in Decree-Law no. 123/2009, of 21 May.

Finally, ICP is of the opinion that this increase of obligations must be accompanied by a reduction of the reserve prices of lots to which such obligations are bound. In this way, it considers it adequate to reduce the reserve price of the lots of the 800 MHz band from €55 M/lot to €45 M/lot.

In relation to the comments of CABOVISÃO and GRUPO ZON, with regards to possible situations of interference or degradation of the quality of the television reception service (namely cable TV) arising from the electronic communications services that will use the 790 - 862 MHz sub-band, ICP-ANACOM has monitored the tests and studies that have been undertaken in various countries (for example, in terms of regulators), which have so far not clearly shown the appearance of such situations. In fact, the more conclusive results relate possible

reception problems with the equipment (plugs/socket-outlets, cables, receivers, etc.), especially if this is presented in deficient conditions.

Note is once again made of the fact that, debates have been organised at the level of the European Commission - which mandated ETSI and CENELEC to analyse this matter within the scope of the Electromagnetic Compatibility Directive - namely the elaboration of rules for TV receptors (radio broadcast and by cable) - aiming in this way to improve the coexistence with the electronic communications systems that will exploit the 790 - 862 MHz sub-band. In this sense, there is the report of the 210 Technical Committee (TC210), which points to the possibility of a set of mitigation techniques being implemented by cable operators and electronic communications services, in order to avoid the occurrence of problems.

Of course, since this matter is quite relevant within the context of the availability of this band for the provision of electronic communications services, ICP-ANACOM will continue to closely follow the international bodies (of standardisation, in particular) in order to prevent any situations of possible interference.

In relation to the fees due for the use of the rights of use of frequencies, ICP-ANACOM takes note of the comments presented and recognises that without an alteration of these fees, the global amount obtained by the State in this area has a very high increase, if the allocation of the total (or a significant part) rights of use in dispute is verified. Notwithstanding, it is a matter within the scope of the Government's competence, regarding which ICP-ANACOM will analyse the matter, as manager of the radio spectrum and as advisor to the Government, with a view to elaborating a possible proposal of amendment of Ordinance no. 1473-B/2008 of 17 December.

Article 26 – Enforcement of the coverage obligations

Comments received

MOBIZAPP

In order to guarantee conditions of equality in the exploitation of the various spectrum bands object of auction, MOBIZAPP is of the opinion that minimum obligations of coverage should be established or, at least, criteria that aid that establishment at a future date, for all the bands, including those of lower economic value.

Specifically, MOBIZAPP is of the opinion that the coverage obligations foreseen in the draft project for the 800 MHz (no. 1 of article 26) are insufficient, considering the strategic value of the spectrum and its potential impact on the development of the country.

It is also of the opinion that no. 6 of this article characterises the speed of the mobile broadband to be provided, in a somewhat confusing fashion, not very transparent, and of difficult supervision.

Therefore, for the 800 MHz frequency band, MOBIZAPP suggests adopting much more significant coverage obligations than those that are actually foreseen in the draft regulation and that minimum speeds to be provided in those areas should be defined.

Finally, for the 450 MHz frequency band lot, due to coherence issues, MOBIZAPP suggests that the same coverage obligations that were defined in the public tender undertaken in 2008/2009 should be considered.

OPTIMUS

OPTIMUS is of the opinion that the list of the 360 parishes should be disclosed before the auction, as well as the division of the same by the 6 lots. On the other hand, it is of the opinion that the choice of parishes must be object of an independent valuation from that of the access to frequencies in order to guarantee that each bidder pays the fair price for the spectrum, regardless of the value it attributes to the choice of the set of locations it will have to cover. It is thus suggested, and in order not to disturb the design of the bidding strategy of each tenderer (which is in itself already very complex), that an autonomous auction be created for the choice of the set of parishes to be covered, where each one will have the opportunity to value the choice of the locations to be covered.

It is of the opinion that a period of 6 months for carrying out the coverage is very short.

VODAFONE

VODAFONE understands the need to ensure that the coverage obligations inherent to the allocation of lots in category B should accompany the development of the mobile broadband service enhanced by the technological evolutions expected from UMTS and LTE. However, VODAFONE is of the opinion that the definition of service to be provided, imposed in no. 6 of this article, will strongly encumber the winning operators of the lots of category B, conditioning their new network expansion and improvement policies. As such, it suggests as an alternative that the mobile broadband service should make available maximum debit speeds inherent to the commercial offers subscribed, at any moment, by the 5% of clients that opt for the tariff options of lower speed. VODAFONE also suggests the definition of

periods of review of the standards of speed (every two years), which should be followed by a period of 6 months for the implementation of the new speeds that come to be defined in the review process.

In addition, VODAFONE suggests that the deadline for the provision by ICP-ANACOM of the list of parishes, according to no. 2 of this article, should be shorter, never more than one month from the date of issue of the respective titles. It justifies this suggestion by considering that an operator that wins rights of use, in categories B and C, will immediately make every effort to guarantee territorial coverage, being possible that one year after the issuance of the titles - at which time the parishes to be covered will be defined - the same have already been covered. This case results in a penalty for the operator since the parishes covered in the interim were going to be removed from the mentioned list, thus ignoring the effective effort made by the operator to guarantee the territorial coverage.

Still within this context, VODAFONE is of the opinion that the deadline for the choice of parishes, of 15 days, is short, and that the deadline of six months for the fulfilment of the coverage obligations is also short. It thus suggests that the deadline for the fulfilment of the obligations be extended to a minimum of three years.

VODAFONE also warns about the danger of the actual parishes creating added difficulties for the fulfilment of the imposed obligation, through the imposition of procedures and/or administrative fees that make it impossible or excessively cumbersome to install the necessary transmission equipment to guarantee the coverage.

Understanding of ICP-ANACOM

ICP-ANACOM understands that the suggestion of VODAFONE relative to the need to define periods of review of the standards of maximum debit associated to the coverage obligation of the present article is valid and proportional. In this way, the review of the maximum debit associated to the obligation will be carried out every two years by ICP-ANACOM, according to no. 7 of article 33 of the new draft regulation. Given that this alteration implies that the operators only have to adjust the debit speed every two years, VODAFONE'S request for six months for the adaptation to the new debit speed is not accepted, and neither is the proposed criterion based on the commercial offers subscribed by 5% of clients that opt for the tariff options of lower speed.

In addition, and reflecting some concerns manifested in the present public consultation in article 33 of the new draft regulation, it was decided to extend the deadline for the fulfilment of the coverage obligation, such that a minimum of 50% and 100% of the number of parishes corresponding to the obligation of each operator must be covered within a period of 6 months and 1 year, respectively, following the notification date, by ICP-ANACOM, of the end of the existing restrictions to the operation in the 800 MHz band (no. 8). On the other hand, the maximum period for provision, by ICP-ANACOM, of the list of parishes to be covered (no. 2) is shortened, and it is now possible for the obligation to be fulfilled by resorting to the 900 MHz frequency bands that have been allocated within the scope of this auction, or that have already been previously assigned (no. 9).

ICP-ANACOM is of the opinion that it is not justified to accept the proposal of imposing coverage obligations in frequency bands above 1 GHz, since such an imposition would constitute a significant barrier to

the acquisition of rights of use of frequencies by entities not present in the market.

As to the obligations of coverage in the 800 MHz band, ICP-ANACOM, taking into account, on the one hand, the pursuit of the objectives of promotion of the Information Society and of the shortening of the extension of the info-excluded areas and, on the other hand, the proposal of reduction of the reserve prices for the lots of this band, considers it adequate to change, in the new draft project, the number of parishes to be covered, from 60 to 80 per lot.

Article 27 – Issuance of the titles

No comments were received regarding this article of the draft regulation.

Article 28 – Obligations of the holder of the right of use of frequencies

No comments were received regarding this article of the draft regulation.

Article 29 – Period of right of use of frequencies

Comments received

PT GROUP

The PT GROUP is of the opinion that it should be made clear that the period of the rights of use of frequencies in the 800 MHz band only starts from the date of the effective provision of the frequencies in question.

Understanding of ICP–ANACOM

The comment of the PT GROUP is endorsed and clarified in the text of the new draft regulation, concerning the start of the counting of the period for the 800 MHz band.

**CHAPTER III -
Final provisions**

Article 30 – Counting of periods

No comments were received regarding this article of the draft regulation.

Article 31 – Effective start date

No comments were received regarding this article of the draft regulation.

4. Other comments

GMCS

It is of the opinion that the State and ICP-ANACOM must not take into account only economic criteria in the selection procedure but associate to the auction conditions and compensations that guarantee the success of the operation of migration to DTT among the population and that safeguard the interests of the audiovisual industry and of the generalist televisions, namely:

- That a part of the revenues of the auction be allocated to the implementation of the digital terrestrial television (DTT);
- Subsidisation and/or cost compensation:

- Associated to the adaptation of the reception equipment;
- Of the distribution and broadcast service of the television signal in HD (high definition);
- In the acquisition of production equipment and in the production itself of HD contents;
- With distribution during the simulcast.

GMCS also suggests, in this regard, that the development model of open DTT be redefined, in order to allow the current television operators in DTT to provide the entire population with universal and free access to the respective programme services in HD, in simultaneous and full mode.

Understanding of ICP – ANACOM

With regards to the comments of GMCS relative to the allocation of funds that result from the auction for, namely, compensations, subsidiation and/or compensation of costs associated to the migration of DTT, ICP-ANACOM is of the opinion that this is not the appropriate time to deal with said comments.

5. Conclusion

The most significant alterations relative to the version commented within the scope of the consultation procedure to which the present report refers to, and which ICP-ANACOM introduces in the new draft auctioning regulation placed on public consultation, are the following:

- The auction model changes from sequential, held over various sequences and two rounds, to a simultaneous model held over multiple rounds, with its ascending and open character being maintained;
 - i. Following the alteration of the model, new essential concepts are introduced explaining its operation and respective rules, such as the eligibility of the bidders, points of eligibility of the lots, rules of activity, waivers and cancellations and respective penalties.
- The spectrum to be provided in 1800 MHz changes from 2 x 30 MHz to 2 x 57 MHz:
 - i. Following this alteration, category D now has 9 lots of 2 x 5 MHz, and a new category is introduced in the auction composed of 3 lots of 2 x 4 MHz.
 - ii. The reshuffle of the frequencies in the 1800 MHz band is foreseen, in order to maximise the contiguity of the spectrum allocated, as well as of the spectrum that will possibly not be allocated.
- The reserve prices in the 800 and 1800 MHz bands were altered:

- i. In the 800 MHz band, a price of 45 million euros is defined per lot (when 55 million euros had been defined);
 - ii. In the 1800 MHz band, a price of 4 million euros is defined for each lot of 2 x 5 MHz in substitution of the 3 million euros set in the previous version of the draft regulation;
 - iii. In addition, ICP-ANACOM sets at 3 million euros the reserve price of lots of the new category D, which includes 3 lots of 2 x 4 MHz in the 1800 MHz band that were not included in the previous draft regulation.
- A new bond model is proposed, with the inclusion of a new annex with drafts of the bond (bank guarantee and deposit insurance), to be used by the applicants to the auction.
- A limit to the allocation of spectrum in 1800 MHz is introduced and the limit that had been set at 2.6 GHz is altered:
 - i. In 1800 MHz there is now a limit of 2 x 20 MHz (which includes the spectrum already allocated);
 - ii. In 2.6 MHz the limit changes from 2 x 25 MHz to 2 x 20 MHz.
- The percentage of increments is altered, and its basis of calculation is now the best offer instead of the reserve price;
- In the 900 MHz band, a 20% discount is applied to the final prices of the lots won by bidders that do not hold rights of use of frequencies in the 890 - 915 MHz / 935 - 960 MHz band;
- In the coverage obligation, the number of parishes to be covered by lot (from 60 to 80) is altered and the determination of the maximum debit of the offer is set every two years;

- An obligation of allowing access under non-discriminatory conditions (MVNO agreements, national roaming and access and infrastructure sharing agreements) is introduced, imposed on the holders of 2 x 10 MHz in the 800 MHz frequency band or of at least 2 x 10 MHz in the 900 MHz band (including for the purpose the spectrum already held in this last band). The operators covered by this obligation are bound to accept the following in the negotiation:
 - i. Agreements that allow their networks to be used for virtual mobile operations of third parties, in the various modes characterised by *full* MVNO and *light* MVNO, for the provision of electronic communications services to final users equivalent to those they offer to their own clients by resorting to the frequency bands mentioned;
 - ii. National roaming agreements with third parties that possess rights of use of frequencies in the bands above 1 GHz and that do not possess rights of use of frequencies over more than 2 x 5 MHz in the 800 MHz and 900 MHz bands, and that provide services to final users based on the use of their networks in at least 50% of the population;
 - iii. Access and infrastructure sharing agreements, according to the regime laid out in Decree-Law no. 123/2009, of 21 May, as amended by Decree-Law no. 258/2009, of 25 September.
- The obligation of the start of commercial exploitation of the services in the specific case of the 900 MHz is altered, and for the current holders of the rights of use of frequencies in those bands, it is lowered from 3 years to 1 year;

- The limitation of the transmission of frequencies until 2 years have elapsed from the start of the commercial exploitation of the services is introduced;
- Several deadlines relative to the operation of the auction are altered, namely those set within the following context:
 - i. Qualification Stage;
 - ii. Bidding Stage;
 - iii. Final decision;
 - iv. Deposit of final amount.

The amendments adopted in the new draft regulation of the auction address several comments subscribed by almost all of the respondents (namely with regards to the minimisation of the risk of exposure and substitution, as well as the duration of periods), and in relation to divergent comments, ICP-ANACOM incorporated those it evaluated as being more in conformity with the objectives to which it is bound by Law.

Lisbon, _ of July of 2011

The Rapporteurs

Appendix