



ACTIVITIES REPORT

2009

FREE FLOWING COMMUNICATION

ANACOM



AUTORIDADE
NACIONAL
DE COMUNICAÇÕES



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INTRODUCTION

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●● Introduction

The present Activities Report was prepared in fulfilment of the stipulations of the Statutes of ICP-ANACOM, with the aim of providing a comprehensive description of the activities undertaken by this Authority over the course of 2009.

Under article 37 of its Statutes, as approved by the annex to Decree-Law No. 309/2001 of 7 December, this report is subject to the opinion of ICP-ANACOM's Advisory Council.

The document is structured as follows:

Chapter 1 is focused on activities undertaken within the scope of regulation and includes measures taken on the prices and conditions governing the provision of services, on market analysis and on Universal Service (US). The chapter also looks at regulatory activities related to numbering, portability and pre-selection, as well as those covering radio spectrum use (allocation, amendment and repeal of rights of use of frequencies).

Chapter 2 describes activities related to monitoring, conflict resolution, inspection and enforcement and litigation. In addition to spectrum monitoring, the first set of activities covers those undertaken to assess compliance with the obligations that are binding upon operators and providers of electronic communications and postal services, in particular in terms of Quality of Service (QoS). In terms of inspection and enforcement, the various areas of intervention are described: electronic communications, postal services, the equipment market and telecommunications infrastructure in buildings (ITED - Infra-estruturas de Telecomunicações em Edifícios). Finally, with regard to litigation, information is divided into the following areas: Community litigation, infringement cases and administrative litigation.

Chapter 3 reports on ICP-ANACOM's international activity, subdivided into: i) representation of the Portuguese State at international organizations and bodies, expressing the positions that the State intends to take; ii) participation, in the exercise of the responsibilities and powers of this Authority, in the activities of various international entities; iii) international cooperation activities.

Chapter 4 sets out the activities undertaken in terms of external communication and ICP-ANACOM's institutional image, reporting on the various events held in connection with the celebrations marking this Authority's 20th anniversary, which included a revamp of the institutional image. This chapter also covers activities related to the processing of enquiries about the market and the Public Attendance Service (PAS), including statistical information on various indicators.

Chapter 5 reports on the standardization, technical and laboratory activities undertaken by this Authority in 2009.

Chapter 6 looks at the other activities undertaken by ICP-ANACOM, highlighting, due to its importance, this Authority's role as adviser to the Government and issues related to the security of communications. This chapter also covers the legislative changes, seen over the course of 2009, affecting the fees system applicable to electronic communications, and the ICP-ANACOM's cooperation with AdC - Autoridade da Concorrência (The Competition Authority) realized through requested opinions and, finally, reports on the *e.iniciativas* (e-initiatives) programme.



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REGULATORY ACTIVITIES

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● ● 1.1. Prices and conditions governing provision

2009 Reference Interconnection Offer (RIO)

By determination of 11 March 2009, approval was given to the final decision on the conditions of RIO to apply in 2009 and also to report of the prior hearing to which the respective draft decision was submitted.

Under this decision, PT Comunicações, S. A. (PTC) was ordered to introduce the following alterations into the RIO for 2009:

- The maximum price for pre-selection activation is 3.18 euros, applicable as of 1 January 2009.
- PTC shall submit, on an annual basis, together with information on the results of regulatory costing, the breakdown of the costs of the billing and collection service, identifying in detail for each of the products considered in determining these costs, the direct, joint and common costs of each sub-activities of activity F (F1 - develop processes for billing, F2 - billing, F3 - receiving and resolving billing problems, F4 - collection and F5 - revenue risk management) and the quantities (i. e., number of calls) of these products.
- The price of interconnection for calls originating from public payphones of PTC shall not exceed the price established for the call origination service multiplied by a scaling factor (k), which will evolve according to the following schedule:

1 July 2009: k = 3.50

1 January 2010: k = 4.00

- The following conditions shall be included in the RIO with respect to the 708xy range.
- Retail price: to be defined by the Other Service Providers (OSP).
- Interconnection conditions: PTC shall remunerate the OSPs according to the retail price minus the call origination rate on its network. Where the retail price is not free, the cost of billing, collection and non-collection risk (associated with the category "other services" shall be added, where the cost incurred by the caller exceeds the cost of Local PTC plan) shall be added.

This decision also stipulates that ICP-ANACOM will conduct a thorough investigation into the services of billing,

collection and non-collection risk with respect to portability and of pre-selection. In the event that the results of this investigation give rise to significant amendments to the currently prevailing conditions, ICP-ANACOM will determine the amendments deemed necessary to the provisions of RIO, which will have retroactive effect from 1 January 2009.

Publication of performance levels in QoS of the wholesale offers

On 11 March 2009, ICP-ANACOM approved the final decision on the publication of quality QoS performance levels applicable to the following wholesale offers: Reference Unbundling Offer (RUO), Leased Lines Reference Offer (LLRO), Reference Duct Access Offer (RDAO), "Rede ADSL PT" and the Wholesale Line Rental Offer (WLRO).

This decision sets out the way in which Grupo Portugal Telecom (Grupo PT) shall be required to provide and disclose information to end-users, the beneficiaries of its wholesale offers and to ICP-ANACOM about the performance levels achieved by the companies/internal departments of Grupo PT with respect to these wholesale offers. All information shall be provided on a quarterly basis, whereas indicators should be broken down into monthly or quarterly information. Meanwhile, the information provided to end-users should be made available on the website of Grupo PT and information intended for the beneficiaries of the offers and for ICP-ANACOM should be made available through an extranet, preferably using existing platforms, or, where it is demonstrated that this is not possible, by email.

Public consultation on the regulatory approach to Next Generation Access networks (NGA)

In order to ensure a regulatory approach to NGA which is coherent and consistent with the objectives of regulation enshrined in law, namely an approach that promotes competition and encourages the development of diversified and quality, innovative services, thereby ensuring that the interests of users are upheld, ICP-ANACOM approved a public consultation document on the regulatory approach to NGA. With this consultation, ICP-ANACOM sought to launch a debate on this issue and to compile contributions from all stakeholders.

By determination of 18 February 2009, approval was given to the public consultation report, in which it is concluded

that there is a recognized need to make the support infrastructure of the incumbent networks available for the development of NGA, given the nature of the costs involved in the development of NGA, including construction costs. It is concluded, in particular, that the conditions governing access to and use of passive infrastructure (ducts and other infrastructure such as poles) are a determinant aspect in the development of these networks in Portugal.

In this context, it becomes fundamental to promote non-discriminatory and transparent conditions for access to ducts and, especially, in the RDAO, whereby necessary mechanisms need to be put in place, including the obligation of equivalence of access.

ICP-ANACOM also identified the need, within the scope of its powers and responsibilities, to minimize or eliminate vertical barriers, in terms of any restrictions to access by any operator to the vertical infrastructure of buildings. In this regard, conditions need to be established which increase choice for end-users and so enable the entry of efficient operators into the market, including through the removal of vertical barriers which impede the provision of competing service in the same building, avoiding monopolistic situations in the provision of NGA at building level.

ICP-ANACOM argued, according to the principle of proportionality in the imposition of obligations, for a “phased” approach, possibly based on the analyses of markets 4 and 5, in which, besides obligations of non-discrimination and transparency related to the transition of unbundling offer based models to NGA:

- In competitive areas, the only obligation imposed is that of access to conduits, with improvements and equivalence of access, whereas other obligations are imposed (access to own fibre or dark fibre) only where there is a lack of space in ducts. In the last resort, where there is an agreement between the parties, and as an alternative to access to own fibre or dark fibre, the option of virtual access to the network may be taken.
- In non-competitive areas, in addition to access to ducts, access to own optical fibre or dark fibre is also imposed, as well as virtual access to the network (advanced bitstream).

“PT Social” Offer

On 27 March 2009, PTC notified this Authority that it intended to launch an offer called “PT Social”. This offer is characterized by a 50 % discount on the total value of the invoice of FTS at a fixed location, up to a maximum of 7.50 euros [20 % Value Added Tax (VAT)] per invoice included, granted to all customers who have been unemployed for a period of more than six months, applying between April and late December 2009.

Having assessed the proposal, particularly as regards the obligation of cost orientation and the obligation of non-discrimination, on 8 April 2009, ICP-ANACOM determined not to oppose the provision of this offer by PTC until the end of 2009. However, in the event of any extension to the continuance of the offer, the possibility of its replication by the other operators must be guaranteed, implying the need for specific measures at wholesale level. ICP-ANACOM further ordered PTC to send it information on this offer on a monthly basis.

Public consultation on the draft decision on the amendments to RUO

By determination of 5 August 2009, approval was given to the draft decision on the amendments to the RUO, as well as its submission to the prior hearing of interested parties, in accordance with articles 100 and 101 of the Administrative Proceeding Code (APC) for a period of 30 working days.

It was also decided to notify the European Commission (EC) and the NRAs of the other Member States pursuant to paragraph 1 of article 57 of Law No. 5/2004 of 10 February.

In light of the issues raised by the Commission with respect to the compatibility of the prior hearing procedure set forth in articles 100 and 101 of the APC with the consultation and transparency mechanisms defined in article 6 of the Framework Directive (and transposed by article 8 of Law No. 5/2004), and considering the interest expressed in an extension to the prior hearing, ICP-ANACOM decided, on 25 August, to launch a public consultation on the matter, which continued until 09 October 2009.

On 17 February 2010, approval was given to the final decision and to the report on the public consultation conducted on the matter.

“Telefone PT Hello” Offer

By determination of 21 October 2009, ICP-ANACOM notified PTC that it was given a period of one month to respond, if it sees fit, to the indications of non-compliance with the obligations under point a) and b) of paragraph 1 of article 28 of Law No. 5/2004 and to put an end to the non-compliance found in the “Telefone PT Hello” offer, including by: i) reformulating the conditions of the “Telefone PT Hello” offer in order to comply with the principles of cost orientation of prices and offer replicability (non-discrimination obligation); ii) publishing information on the service to be contracted and the prices and conditions of the “Telefone PT Hello” offer, in a clearly visible and easily accessible form and with a size and using a layout that makes it easy to find, as required by the determination of ICP-ANACOM of 21 April 2006; and iii) ensuring that all the lines which have the “Telefone PT Hello” service active are in conformity with the reformulated provisions of the offer. The period provided for PTC to respond ended on 11 December 2009.

Approval of the draft decision on the amendments to the RDAO

On 17 November 2009, ICP-ANACOM approved the draft decision on the amendments to the RDAO and determined to submit this draft decision to the prior hearing of interested parties, in accordance with articles 100 and 101 of the APC and also to the general consultation procedure set out in article 8 of Law No. 5/2004, of 10 February, whereby a period of 30 working days was provided for interested parties, who saw fit, to comment in writing.

The draft decision adopted a geographically targeted approach in terms of the provision of information online, also establishing monetary compensation in cases of non-compliance on the part of PTC.

Public Consultation on the format to be used for the provision of the items in the Centralized Information System (CIS)

Decree-Law No. 123/2009, of 21 May, made provision for the creation of a CIS to ensure the availability of information on infrastructure suitable for the accommodation of electronic communications networks.

It is incumbent upon ICP-ANACOM to carry out all acts necessary for the implementation of the CIS, whereas it is the specific responsibility of this Authority, under the terms of this Decree-Law, to realize the elements to be included in the infrastructure registers to be developed by the various entities (article 24, paragraph 2), to define the terms and formats in which record information should be provided in the CIS (article 24, paragraph 3) and define the format in which all items (record or otherwise) shall be made available in the CIS (article 25, paragraph 4).

In this context, by determination of 16 December, the respective public consultation was launched with a period of 30 working days provided for respondents to comment. Due to the large number of recipients, the consultation was also advertised in newspapers on 28 December 2009. The consultation closes on 9 February 2010.

Study on vertical separation in the electronic communications sector

ICP-ANACOM commissioned a study from Oxera Consulting Ltd. to analyse functional vertical separation in the Portuguese electronic communications sector. The study includes case studies incorporating experience of vertical separation in the electronic communications sectors of other countries (United Kingdom, Sweden, Italy, Australia and New Zealand) and in other sectors (post, gas, electricity, roads and railways.) Specifically, the study makes an assessment as to the extent to which the obligation of vertical separation may be an appropriate solution to address PTC’s position, as an undertaking with Significant Market Power (SMP) in the markets for local and wholesale broadband access, enabling ICP-ANACOM to achieve its statutory objective of promoting competition in networks and services in the electronic communications sector.

● ● 1.2. Market analyses

Adoption of the report on the prior hearing and on the decision regarding statistical indicators to be sent on a quarterly basis by postal service providers

With the aim of improving the statistical information on postal services operated in competition, ICP-ANACOM decided to modify some of the statistical indicators that providers of these services send to this Authority on a quarterly basis. The draft decision was subject to the prior hearing of interested parties. After analysing the responses received, on 11 March 2009, ICP-ANACOM adopted the report of the prior hearing and the final decision on these statistical items.

Final decision on the product and geographic markets, assessments of SMP, imposition/amendment of obligations in the markets for wholesale network infrastructure access at a fixed location and wholesale broadband access

By determination of 14 January 2009, and taking into consideration comments submitted by the European Commission under the terms of paragraph 3 of article 7 of Directive 2002/21/EC, approval was given to the final decision on the definition of the product and geographic markets, assessments of SMP and the imposition, maintenance, amendment or suppression of regulatory obligations with respect to wholesale (physical) network infrastructure access at a fixed location (market 4) and wholesale broadband access (market 5).

It was concluded that market 5 was competitive in specific geographical areas ("Areas C"¹), provided that regulation of market 4 was maintained in these areas, whereas the companies of Grupo PT are deemed to hold SMP in the "Areas NC"² of market 5.

In market 4, the companies of Grupo PT hold SMP throughout the national territory.

Under these terms, ICP-ANACOM decided, in addition to maintaining, with respect to the companies of Grupo PT with SMP in market 4 and in the "Areas NC" of market 5, all obligations which had been imposed in the analysis of this market conducted in 2005, to impose a specific obligation in market 4 of access to ducts and the possibility, according to a specific decision to be reached as part of the market consultation process, of imposing the obligation of access to optical fibre. This possibility was also envisaged for market 5 in "Areas NC."

¹ Areas comprising exchange areas where there is at least one co-installed operator and where there is at least one cable distribution network operator and where the percentage of homes cabled by the main operator in the exchange area exceeds 60 %;

² Remaining Areas.

Approval of the draft decision on the leased lines retail market and the wholesale markets of terminating and trunk segments of leased lines

By determination of 16 December 2009, ICP-ANACOM approved the decision (draft) on the definition of product markets and geographic markets, evaluation of SMP and the imposition, maintenance, amendment or withdrawal of regulatory obligations in relation to the market for the retail provision of leased lines and the wholesale markets for the provision of terminating and trunk segments of leased lines.

1.3. Universal Service (US)

Telephone directories and the information service within the scope of US

On 14 January 2009, ICP-ANACOM ordered Sonaecom - Serviços de Comunicações, S. A. (Sonaecom) and Vodafone Portugal - Comunicações Pessoais, S. A. (Vodafone) to send to ICP-ANACOM, within 30 days, the names, telephone numbers and, where known, the postcodes of the users of their mobile telephone services who have declared their wish to be included in the telephone directories of the US. ICP-ANACOM further ordered these companies to take steps to obtain the postcodes of users, where unknown, and send them to this Authority within 45 days.

This data was then sent to the US provider, PTC, and according to information from this company, the data in question is already available for consultation through the information services of the US and will be included in directories according to the respective schedule. It is already included in the Lisbon and the Azores directories, which were released on 1 September 2009.

Considering that the process has entered a more certain phase, ICP-ANACOM takes the view that there are no longer grounds for requiring that data be sent to it for subsequent transmission to PTC, and that the process can be simplified if data were sent directly by the companies to the US provider.

Therefore, on 2 September 2009, ICP-ANACOM authorized Sonaecom and Vodafone to send PT the data of their subscribers (who have declared their wish to be included in the telephone directories of the US) for inclusion in the directories and information services of the US.

On 21 October 2009, ICP-ANACOM approved a draft decision in which it ordered ZON TV Cabo Portugal, S. A. (ZON TV Cabo) and PTC to take such steps as may be necessary to reach an agreement, pursuant to and for the purposes of article 89 of Law No. 5/2004, of 10 February, on the format and the conditions applicable to the provision of relevant information for the inclusion of data in the directories and information services of US.

Approval of the proposed payphone tariff of the fixed telephone service, presented by PTC

In February 2009, PTC presented a proposal to amend the tariff for communications made from public payphones. After an examination of the issue, on 11 March 2009, ICP-ANACOM determined not to oppose the entry into force of the new tariff on 1 April, without prejudice to compliance with the obligations of transparency, which may be undertaken. This tariff was also submitted, in accordance with the provisions of paragraph c) of article 37 of the Statutes of ICP-ANACOM, as approved by Decree-Law No. 309/2001, of 7 December, to the Advisory Council of ICP-ANACOM.

The proposed tariff, in respect of fixed-fixed PTC intra-network calls, would comply with the obligations established, having a ratio of 2.9 between the average price of calls made from public payphones and those made according to the subscriber model. Regarding fixed-fixed PTC-OSP calls, the proposed tariff was in accordance with the applicable regulatory framework, with no distinction made to the prices of fixed-fixed called based on the destination operator.

Approval of decision on the proposed residential tariff of the telephone service at a fixed location, within the scope of the US, as presented by PTC

On 27 October 2009, PTC submitted a proposal, for assessment by ICP-ANACOM, to amend the US tariff applicable optionally at the request of customers. The amendment, which would take effect retroactively from 1 July 2009, is characterized by the further reduction of the price of the monthly access charge (whereby PTC proposed that the discount granted on the amount charged under the tariff applicable by default would increase from 0.60 euros to 0.70 euros - both figures including VAT).

This Authority found the tariff proposal to comply with the applicable price-cap of the Consumer Price Index (CPI) -2.75 % (which, for the year 2009, results in -0.25 %).

While PTC did not proposed any amendment to the tariff option to be applicable by default, which includes a free traffic period but does not include a discount on the value of the monthly charge, it was concluded that simply by maintaining the currently applicable tariff, it was in compliance with the applicable price-cap, derived from the impact of tariff change which occurred in 2008.

Accordingly, on 3 November 2009, ICP-ANACOM adopted a determination on the tariff proposal of the residential telephone service at a fixed location within the scope of the US, as presented by PTC, and determined, as provided for, under point c) of article 37 of its Statutes, to seek the opinion of the Advisory Council of ICP-ANACOM.

Approval of the tariff of the Universal Service for telecommunications for 2010

On 30 October 2009, PTC submitted a proposal, for assessment by ICP-ANACOM, to amend the tariffs of the US, both with respect to the option applicable by default - the main tariff - and to the option applicable at the request of users - the alternative tariff -, due to enter into force on 1 January 2010.

Having assessed the proposal, ICP-ANACOM decided, on 17 November 2009, to approve suspensively the proposal submitted by PTC, pending the opinion of the Advisory Council, whereby it did not oppose the entry into force, on 1 January 2010, of the tariff proposed for the residential telephone service at a fixed location, for 2010, within the scope of the US.

However, In the event that, when new data becomes available (related in particular to the value of the CPI published in the State Budget and the establishment of the basket in 2009), it is deemed that the applicable price-cap will not be achieved based on the proposal presented, PTC will be required to implement, in good time, a further reduction to the base tariff.

This Authority also determined that, given the change in the tariff structure associated with the main tariff and given that the current structure of the alternative tariff is maintained, PTC is required to publicize in an appropriate manner (on its website and in correspondence that is sent to customers to inform them of changes to the base tariff) the existence of and the specific conditions associated with both tariff options (main and alternate tariff). This publicity must be carried out under the same terms and with the same relevance given to both tariffs.

It also recommended to PTC that it send their proposals to amend the tariffs of the US sufficiently in advance so that the procedural requirements in the legal framework

can be carried out within a time that is consistent with the intentions of the company with respect to targeted date of entry into force of the presented tariffs.

The opinion of the Specialist Committee of the Advisory Board was sent to ICP-ANACOM on 24 November 2009.

Tariff of the Universal Postal Service

Throughout the year, ICP-ANACOM monitored information on the prices of the universal postal service disclosed by CTT - Correios de Portugal, S. A. (CTT), in particular on its website.

In November 2009, CTT notified ICP-ANACOM, pursuant to the Price Convention of the Universal Postal Service of 10 July 2008, as to the prices for the non-reserved US for sending Newspapers, Periodicals and Books, to take effect from 1 January 2010. These prices came into effect on the scheduled date, whereby ICP-ANACOM may determine, at any time, changes to each of these prices, where duly reasoned based on compliance with the tariff principles set out in the Price Convention and also taking into account the levels of quality observed (in accordance with paragraph 5 of article 5 and paragraph 1 of article 10 of this Convention).

Comparative study of prices of the providers of the Universal Postal Service in the European Union (EU)

In November, ICP-ANACOM published a study, which makes a comparison between a broad set of postal services provided under the US by the respective operators of the Member States of the EU.

According to the study, it is found that in Portugal the prices of national parcels up to 2 kilograms and of standard format and national priority mail up to 20 grams were maintained, while the prices for other services (comprising national non-priority mail up to 20 grams and cross-border intra-community mail in the EU up to 20 grams - both in standardized format) increased, although less than the average prices of the services in EU. As such, an overall slight improvement was seen with respect to the positioning of prices in Portugal compared to the other countries of the EU.

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

● ● 1.4. Frequencies

1.4.1. Use of frequencies

Rights of use of frequencies in the 450-470 MHz band

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

On 01 April 2009, ICP-ANACOM expressed its intention to repeal the act allocating the right of use of frequencies to RNT, as well as to determine the forfeiture of the provisional bond provided by the company pursuant to the Tender Regulation, due to the company's failure to present the required guarantee deposit.

By determination of 20 May 2009, ICP-ANACOM approved the report of the prior hearing of RNT and, accordingly, decided to repeal the act by which the company was allocated the right of use of frequencies, enacted on 7 January 2009. This decision involved the forfeiture, in favour of ICP-ANACOM, of the provisional bond posted by the company pursuant to the Tender Regulation.

Repeal of right of use of frequencies for Fixed Wireless Access (FWA) of Sonaecom

By determination of 7 January 2009, the right of use of frequencies allocated to Sonaecom for the operation of the FWA was repealed and it was decided to proceed with the recuperation of the block of 2 x 28 MHz, corresponding to the 3633-3661 MHz and 3733-3761 MHz frequencies, which had been assigned to the company.

Public consultation on the digital dividend

As part of its responsibilities in promoting the competitiveness and development of the market, ensuring the regulation and supervision of the communications sector and providing management of the radio spectrum, on 25 March 2009, ICP-ANACOM launched a public consultation, on the digital dividend in Portugal, which initially took place between 30 March and 13 May 2009.

However, the relevance of the issue led to widespread participation in this process by a variety of market players, following a workshop held on the matter during the consultation period. This led to requests from various stakeholders for an extension to the deadline for the submission of contributions, whereby this authority extended the period of the consultation until 22 May.

On 29 July 2009, ICP-ANACOM approved the consultation report, which includes a summary of the positions taken by the respondents and the general positions of this Authority, whereas the following main conclusions merit highlighting:

- The possibility must be provided that television operators will be able to transmit their programmes, using Digital Terrestrial Television (DTT), in high definition;
- Radio coverage for the provision of the mobile television service should be made available as soon as possible, and by public tender, in broadcast mode, to be shared by all interested operators.
- The 790-862 MHz sub-band should be allocated as soon as possible for wireless broadband applications, in accordance with the Wireless Access Policy for Electronic Communications Services (WAPECS).

Legislation governing Amateur and Amateur Satellite Services

On 2 March 2009, Decree-Law No. 53/2009 was published in Diário da República, 1st Series, No. 42, updating and simplifying the rules governing the use of the amateur radiocommunications service from a technical point of view and in terms of the administrative procedures to be observed in the exercise of the amateur activity.

Following the publication of this law, the Procedures governing the Amateur Service were drawn up, as well as Annex 6 of the National Table of Frequency Allocations (NTFA), which defines the rules governing the use of frequencies, by the Amateur and Amateur Satellite Services.

Amendment of the right of use of frequencies for FWA of OniTelecom - Infocomunicações, S. A. (Onitelecom)

By determination of 4 February 2009, ICP-ANACOM decided to amend, at the request of the holder, the right of use of frequencies allocated to Onitelecom for the operation of FWA in the 24.5-26.5 GHz band, concerning the minimum number of central stations, which the company will install.

Repeal of the right of use of frequencies of 3rd generation mobile communications system (UMTS - Universal Mobile Telecommunications System)

By determination of 4 February 2009, ICP-ANACOM decided to repeal, following the renouncement presented by Sonaecom, the respective right of use of the 5 MHz block of UMTS frequencies, corresponding to the 1900-1905 MHz frequencies, which were assigned for the operation of the UMTS system, and also to proceed with the respective recuperation.

Renewal of the right of use of frequencies of Repart - Sistemas de Comunicação de Recursos Partilhados, S. A. (Repart)

ICP-ANACOM approved the application for the renewal of the right of use of frequencies presented by Repart for the provision of Mobile Trunking Services (MTS) and renewed the right of use of frequencies that the company holds for a period of 15 years, setting their expiry on 21 March 2024. The title was issued on 1 April 2009 after the prior hearing of the company.

NTFA 2009-2010

ICP-ANACOM prepared the draft of the new NTFA 2009-2010 and decided, on 23 December 2009, to submit it to the general consultation procedure.

Apart from some editorial amendments, this new version of the NTFA includes the following amendments:

- update of the table of allocations, to include the new decisions of the Electronic Communications Committee (ECC) and of the European Commission;
- update, with reference to 15 July 2009, of information on uses of frequency bands;

- information about the spectrum available for the various radio services;
- information on equipment using Ultra Wideband (UWB).

Amendments were also made to the annexes on licence-exempt equipment and of the Amateur and Amateur Satellite Services.

e-QNAF (e-NTFA)

With the aim of creating a portal providing information on frequencies allowing information to be searched and viewed in a simple, intuitive and interactive form, in terms of frequency planning, allocations and national spectrum use, ICP-ANACOM began developing a software solution in 2009 (identification of requirements and definition of specifications), known as e-QNAF.

Radio interfaces

In 2009, an update was made to the technical specifications of the interfaces applicable to certain categories of radiocommunications equipment, in particular, stations of Short Range Devices (SRD) of the amateur service, the aeronautical radionavigation service, the maritime radionavigation service, the fixed service, the fixed-satellite service, the aeronautical mobile service, the Maritime Mobile Service (MMS), the mobile service satellite, the LMS and the broadcasting service.

These specifications have been notified to IPQ - Instituto Português da Qualidade (Portuguese Institute of Quality), an organization which is responsible for its transmission to the European Commission according to the provisions of Decree-Law No. 58/2000, of 18 April.

Public consultation on rights of use of the 2.6 GHz band

During the first half of 2009, a report was prepared and approved on the public consultation held to sound out the market in Portugal in order to assess the level of interest in the availability of the 2500-2690 MHz frequency band (also known as the 2.6 GHz band) for the operation of publicly available electronic communications services.

The responses to the public consultation revealed a broad interest in the 2500-2690 MHz, whereby ICP-ANACOM will make the spectrum at issue available, pursuant to Commission Decision 2008/477/EC. Other points of interest covered by the public consultation report include a combination of the 2.6 GHz band with other bands, both in terms of assignment and in terms of their provision.

National Agreement for Sharing of Frequencies in times of peace (ANPF - Acordo Nacional de Partilha de Frequências em tempos de paz)

The ANPF/1999 is the document which reflects the agreements reached in 1999 between ICP-ANACOM and the EMGFA - Estado-Maior-General das Forças Armadas (Armed Forces General Staff), with regard to the sharing of radio spectrum and containing an indication of the frequency bands of military command - aimed at meeting the needs to establish radiocommunications in the national territory for the defence sector and public security forces - and the frequency bands of civil management.

This update became necessary following the amendments to the Radio Regulations (RR) introduced by World and Regional Radiocommunication Conferences held in the meantime under the auspices of the International Telecommunication Union (ITU), the amendments to the bilateral agreements and also to the European decisions in the field of spectrum management adopted following that date.

Accordingly, during 2009, an update was made and a new agreement entered into force on 16 December 2009.

Mobile television (Digital Video Broadcasting – Handheld, DVB-H)

Following the evaluation study on the availability of spectrum for the implementation of a network of this kind on the mainland, prior to the switch-off of analogue television broadcasts, several possible business models were evaluated. It was concluded that the appropriate model was not consistent with current legislation, whereby it was necessary to amend the existing Television Law (Law No. 27/2007, of 30 July).

Frequency Modulated (FM) Radio broadcasting

In addition to the nationwide study of EMC conducted in 2008 to define spectral availability at municipal level, measurements of field intensities were taken in municipalities near the border to confirm the results obtained, since the frequencies listed as available could be occupied by stations located in neighbouring countries.

These measurements of field intensity confirmed that some of the frequencies, while indicated as available, actually are not.

Mobile Communications on board Vessels (MCV)

Completing the works of the European Conference of Postal and Telecommunications Administrations (CEPT) to identify the technical and operational conditions necessary to ensure the absence of harmful interference in radio services operating in the 900 MHz and 1800 MHz frequency range, in the territorial waters of Member States, in 2009 ICP-ANACOM began working on the preparation of a draft decision on the introduction of MCV services and on the definition of the type of authorization, which it is planned to submit to public consultation in order to sound out other stakeholders on this issue.

Bilateral meeting on the coordination of frequencies

On 18 and 19 May 2009, a meeting between Portugal and Morocco was held in Lisbon to coordinate the stations of the FM broadcasting service and to coordinate stations of the digital television broadcasting service.

Between 2 and 4 December 2009, another meeting took place in Lisbon between Portugal and Spain with the aim of initiating an assessment on the substitution, in assignments and contracts entered in the GE06 Plan with radio channels in the 790-862 MHz sub-band, of the respective radio channels with others in the 470-790 MHz band. This process intends the possible release of the 790-862 MHz sub-band, currently used in DTT, so that it can be used for broadband wireless applications.

Regulation establishing rules on the identification and marking of radio stations

On 23 June 2009, the Regulation was published in the Official Journal (Diário da República) No. 119 (2nd Series), which lays down rules governing the identification and marking of radio stations. The Regulation was submitted to the general consultation procedure provided for in article 11 of the Statutes of ICP-ANACOM.

Digital Terrestrial Television (DTT)

ICP-ANACOM determined, on 9 June 2009, to issue to PTC the titles of allocation of rights of use of frequencies for the provision of the DTT service, associated with multiplexers B to F, which are intended for the transmission of television programme services of non-conditional access with subscription or conditional access.

Meanwhile, in accordance with paragraph 2 of article 17 of the tender Regulation, as approved by Administrative Rule No. 207-A/2008 of 25 February, ERC - Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) allocated to PTC the title of distribution operator responsible for the activity of television which consists of the selection and compilation of programme services with conditional access or non-conditional access with subscription, and for their provision to the public.

It should be noted that the DTT broadcasting service, associated with multiplexer A and used for the transmission of unrestricted free-to-air television programme service, was started on 29 April 2009, whereas its coverage is currently being expanded and should extend in a phased manner to encompass the entire population by the fourth quarter of 2010, according to the authorization title.

Process of monitoring the migration from the analogue television system to the digital system/Digital Television Migration Monitoring Group (GAM-TD - Grupo de Acompanhamento da Migração para a Televisão Digital)

Resolution of the Council of Ministers No. 26/2009, published on 17 March 2009, determined that the switch-off of terrestrial analogue television broadcasts shall take place throughout the national territory by 26 April 2012, and established the GAM-TD bringing together representatives of those most directly involved in the process of transition from analogue to digital with the aim of assisting ICP-ANACOM in

promoting the conditions needed to accomplish this migration. This group includes, in addition to ICP-ANACOM (presiding), operators of electronic communications networks, television operators, consumer protection bodies and associations and equipment manufacturers.

A plan was formulated to oversee the transition, comprising, in 2010, regular process reports.

As part of its remit for spectrum management, ICP-ANACOM is preparing a detailed plan for the switch-off of the terrestrial analogue transmission of each transmitter or relay station, as provided for in the Resolution of the Council of Ministers, which also sets out that the plan be published in phased form, but always at least 3 months prior to the date of the termination of the terrestrial analogue transmissions of each transmitter or relay station figuring in the respective publication, and safeguarding the existence of a period of simultaneous terrestrial analogue and digital broadcasting, which shall be not less than 12 months.

In terms of providing information to the public, and to consumers in particular, ICP-ANACOM provided the necessary clarifications in response to the questions that have been raised and has kept the area of its website devoted to the transition from analogue to digital permanently updated.

Approval of the draft regulation of the auction for the allocation of rights of use of frequencies for Broadband Wireless Access (BWA) in the 3400-3800 MHz frequency band

By determination of 20 May 2009, approval was given to the draft regulation of the auction for allocating rights of use of frequencies for BWA in the 3400-3600 MHz and 3600-3800 MHz frequency bands, along with the relevant statement of reasons, which were submitted to the regulatory procedure set out in article 11 of the Statutes of ICP-ANACOM, as well as the general consultation procedure set out in article 8 of Law No. 5/2004, of 10 February, for a period of 30 working days.

On completion of the consultation procedures, the corresponding report was prepared, along with a new version of the auction regulation, receiving approval on 14 October 2009.

A guide listing the auction procedures was prepared for publication on the website of ICP-ANACOM, which presents examples to explain certain concepts and procedures adopted in the regulation, including the principle of the Second Price Rule and the methodology used for determining the winners.

With regard to carrying out technical trials in the frequency bands in question, it was considered appropriate, given the interest expressed by several entities, to extend the deadline announced on the website of ICP-ANACOM (30 September 2009) until the end of December 2009. It should be noted however that these trials will be subject to restrictions from the moment that the rights of use are allocated to the winners of the auction.

The Regulation was published in the 2nd Series of the Official Journal of 29 October 2009 and rectified on 27 November 2009.

Admission of applications of Bravesensor, Unipessoal, Lda., of Município de Sintra and of Onitelecom to the auction for the allocation of rights of use of frequencies for BWA

On 30 December 2009, ICP-ANACOM gave approval to the admission of the applications of Bravesensor, Unipessoal Lda., of Município de Sintra and of Onitelecom to the auction for the allocation of rights of use of frequencies for BWA, as well as to the notification of the applicants and dissemination on the website of this Authority. The applicants were notified on 7 January 2010.

Alteration of the right of use of frequencies for FWA of Vodafone

By determination of 17 June 2009, ICP-ANACOM decided, at the request of the party involved, to amend the right of use of frequencies allocated to Vodafone for the operation of the FWA system, with respect to the minimum number of central stations to be installed by the company.

Audit by International Civil Aviation Organization (ICAO) of the Portuguese State

ICP-ANACOM was involved in the audit by the ICAO of the Portuguese State, which aimed to assess the extent of the implementation of the Annexes to the Convention

on International Civil Aviation and the capacity for supervising the activities of civil aviation [Universal Safety Oversight Assessment Programme (USOAP)]. A team of ICAO technicians travelled to Portugal between 1 and 10 September 2009 and assessed the performance of the authorities with civil aviation responsibilities according to an established audit protocol.

During this period, a cooperation protocol was drawn up among the different authorities involved: INAC - Instituto Nacional de Aviação Civil (National Civil Aviation Institute), FAP - Força Aérea Portuguesa (Portuguese Air Force), IM, I. P. - Instituto de Meteorologia (Meteorology Institute), GPIAA - Gabinete de Prevenção e Investigação de Acidentes com Aeronaves (Aircraft Accident Prevention and Investigation Office) and ICP-ANACOM.

Protocol between ICP-ANACOM and INAC

In the course of the audit conducted by the ICAO of the Portuguese State, a protocol was signed on 7 September 2009 between ICP-ANACOM and INAC, in which clarification was made of the procedures to be followed by the two authorities in the process of allocating frequencies for aeronautical radiocommunication services. It was also established the procedures to be followed on issues involving the management of frequencies and resulting from the exercise of the technical representation of the Portuguese State in civil aviation organizations.

Clarification was also made of the situation on the licensing of stations installed in aircraft, whereby it was decided that all stations of the aeronautical mobile service and the radiodetermination service installed in aircraft should be exempt from licensing, provided that they have certification from INAC.

Repeal of the rights of use of frequencies of Bragatel - Companhia de Televisão por Cabo de Braga, S. A. (Bragatel)

By determination of 9 December 2009, the licence granted to Bragatel that has now been merged by incorporation into ZON TV Cabo - for the operation of FWA systems in the 27.5-29.5 GHz band was repealed, and the recuperation of the corresponding right of use of frequencies was determined, with effect from 1 January 2004. It was also

decided to reject the request to give the act retroactive effect from the date of award of the title, which took place on 29 December 1999.

Notification of European Commission Decisions

Throughout 2009, through the GPERI - Gabinete de Planeamento Estratégico e Relações Internacionais (Office of Strategic Planning and International Relations) of the MOPTC - Ministério das Obras Públicas, Transportes e Comunicações (Ministry of Public Works, Transport and Communications), notification was made to the European Commission with respect to the already implemented Decisions in Portugal, namely:

- 2008/673/EC - Commission Decision, of 13 August 2008, amending Decision 2005/928/EC on the harmonization of the 169.4-169.8125 MHz frequency band (ex-ERMES) in the Community.
- 2008/671/EC - Commission Decision, of 5 August 2008, on the harmonized use of radio spectrum in the 5875-5905 MHz frequency band for safety-related applications of Intelligent Transport Systems (ITS).
- 2008/477/EC - Commission Decision, of 13 June 2008, on the harmonization of the 2500-2690 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community.
- 2008/432/EC - Commission Decision, of 23 May 2008, amending Decision 2006/771/EC on harmonization of the radio spectrum for use by SRD.
- 2008/411/EC - Commission Decision, of 21 May 2008, on the harmonization of the 3400-3800 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community.
- 2008/294/EC - Commission Decision, of 7 April 2008, on harmonized conditions of spectrum use for the operation of mobile communication services on aircraft (MCA services) in the Community.

1.4.2. Radio licences

Table 1 shows the distribution of the activities of radio licensing among the various radiocommunication services for which ICP-ANACOM was responsible during 2009.

The objective of this activity is the issue of network and station licensing for the various radiocommunication services, particularly with respect to the mobile and radiodetermination services (public and private networks), fixed and satellite service and the broadcasting service (sound and television).

Radio licensing activities by radiocommunication service in 2009

Table 1

| Radiocommunication service | New licences | | Amendment of licences | | Temporary licences | | Misc. requests | |
|-----------------------------|--------------------------------------|---------|-----------------------|---------|--------------------|---------|----------------|-----|
| | Station | Network | Station | Network | Station | Network | | |
| Mobile | Land - private networks | - | 109 | - | 106 | - | 582 | 345 |
| | GSM | - | - | - | 49 | - | - | 3 |
| | UMTS | - | - | - | 40 | - | - | 3 |
| | Trunking | - | - | - | 2 | - | - | - |
| | Maritime | 36 | - | 46 | - | - | - | 72 |
| | Aeronautical | 50 | - | 56 | - | 6 | - | 50 |
| Fixed | Decametric waves | 40 | - | 3 | - | - | - | - |
| | Point-to-point links (bands < 1 GHz) | - | 2 | - | 9 | - | 2 | 29 |
| | Point-to-point links (bands > 1 GHz) | - | 8 | - | 126 | - | 2 | 125 |
| | Point-to-multipoint links | - | 1 | - | - | - | - | - |
| | Studio links | - | 10 | - | 234 | - | 10 | 509 |
| | Transportable connections | - | - | - | - | - | - | - |
| Broadcasting | Sound (Analogue) | 4 | - | 334 | - | 27 | - | 331 |
| | Sound (Digital) | - | - | - | 1 | - | - | - |
| | Television (Analogue) | 1 | - | 40 | - | - | - | 26 |
| | Television (Digital) | - | 1 | - | 1 | - | - | - |
| Radiodetermination | - | 21 | - | 4 | - | - | 25 | |
| SAP/SAB applications | - | - | - | - | 387 | - | - | |

Licensing and reorganization of networks and stations

In 2009, there was a decrease in the number of new registered stations in respect of the land mobile service - UMTS: 825 new registrations compared to 1435 in 2008.

In contrast, an increase was reported in the number of new registered stations for the Global System for Mobile Communications (GSM): 580 new registrations compared to 520 in 2008.

In 2009, the licensing process was concluded with respect to stations comprised by the Vessel Traffic Management System (VTS) of IPTM - Instituto Portuário e dos Transportes Marítimos (Port and Maritime Transport Institute).

With respect to the fixed service, 40 fixed stations were licensed, belonging to a network of ANPC - Autoridade Nacional de Protecção Civil (National Authority for Civil Protection), operating with decametric waves and used to establish emergency communications through ionospheric propagation using Near Vertical Incident Sky Wave (NVIS). Meanwhile, 8 new licences were assigned and 126 licences were amended, corresponding to the radio networks of operators.

In this regard, it should be noted that in 2009 Sonaecom, Vodafone PTC and Onitelecom installed 1490 fixed stations, of which 745 are providing new point-to-point links.

In the context of satellite radio services, note is made of the allocation of 34 temporary stations licences for Satellite News Gathering (SNG) used in the coverage of events in the country during 2009.

In terms of temporary licensing, 2009 was marked by a considerable increase in the allocation of such licences, which are generally used for events of short duration. Five hundred and eighty two temporary licences were awarded in terms of private networks of the land mobile service (compared to 323 in 2008) and 134 with respect to broadcast ancillary services, covering 387 applications encompassed by Services Ancillary to Programme Making (SAP)/Services Ancillary to Broadcasting (SAB).

Legislation applicable to the licensing of radiocommunications networks and stations

On 16 September 2009, Decree-Law No. 264/2009 was promulgated, amending the wording of Decree-Law No. 151-A/2000, of 20 July, and establishing the legal regime applicable to the licensing of radiocommunications networks and stations, the inspection of the installation of the such stations and the use of the radio spectrum, as well as the regime applicable to the sharing of radiocommunications infrastructure.

Decree-Law No. 264/2009 was published in the Official Journal, 1st Series No. 188, 28 September 2009.

Provision and use of electronic media

Decree-Law No. 264/2009, of 28 September, provides for the use of electronic media in procedures that involve communication between ICP-ANACOM and holders of network or station licences, in particular as regards the issue, amendment, transfer and revocation of licences, as well as all required submissions to this Authority.

In an attempt to respond efficiently and rapidly to the different requests of radio network or station licence holders or applicants, ICP-ANACOM approved a draft decision, on 23 December 2009, on the provision and use of electronic media in procedures which involve communication between this Authority and radio network or station licence holders and applicants, as well as all requirements which apply in this context.

This draft was submitted to a public consultation, and it was announced in the press on 29 December 2009. The period allowed for comments ended on 13 January 2010.

Notification and registration of frequencies

Notification was given regarding the radio broadcasting service and, as usual, the frequencies used by operators of short wave, for the two currently defined periods. Notifications were also given with respect to FM, radio broadcasting, resulting from changes in stations as well as from new stations entering operation.

With respect to the television broadcasting service, notifications were given in relation to digital television stations, under the agreements reached in the coordination meetings held with Morocco in May 2009.

Amateur and Amateur Satellite Services

Following the entry into force, on 1 June 2009, of Decree-Law No. 53/2009, of 02 March 2009, and the amateur service procedures, as well as Annex 6 to the NTFA which defines the rules governing the use of frequencies by the Amateur and Amateur Satellite Services, an application, known as the SAAS, entered into operation in order to carry out the management of these services.

Resulting from the entry into force of the new regulatory framework, a new model of communication between

amateurs and ICP-ANACOM was established, supported by a set of electronic services that constitute the Amateur Area, referred to as BV/AA.

Since the management of the Amateur and Amateur Satellite Services is in a transitional phase that will only be concluded in 2010, a summary is given in Table 2 of various indicators for the geographic areas POR, AZR and MDR (Continental Portugal, Azores and Madeira) with respect to National Amateur Certificates (NAC). These certificates constitute the only qualifying document for the exercise of the activity by amateurs and by Common Use Station Licences (CUSL), whose operation is the responsibility of the Amateur Associations or Civil Protection bodies that are in possession of stations of these services.

Number of NACs and of CUSLs active on 31 December 2009

Table 2

| | POR | AZR | MDR | Total |
|-------------|------------|------------|------------|--------------|
| NAC | 5,892 | 840 | 255 | 6,987 |
| CUSL | 116 | 28 | 8 | 152 |

With respect to the activity, between 1 June and 31 December 2009, about 2000 requests were received, including updates to data (addresses, phone numbers and emails), requests for clarification and requests for repeal and for suspension of the activity. It is noted that electronic means were used in 70 % of these requests.

Finally, it is noted that the process of decentralizing the conduct of amateur exams in the Autonomous Region of Madeira was concluded, allowing amateur candidates on the island of Porto Santo to take the examination without having to travel to the premises of ICP-ANACOM in Funchal. This initiative was part of the package of measures adopted by ICP-ANACOM as part of the 2009 Simplex programme.

Coordination of satellite networks

During 2009, an analysis was made of 407 CR/C special sections (notifications for coordination of satellites networks) published in 24 ITU weekly circulars, which

resulted in 29 manifestations of disagreement with the corresponding applications for coordination from various foreign administrations.

Protection of radio stations and network

Under the powers conferred by Decree-Law No. 151-A/2000, of 20 July, ICP-ANACOM, as a result of licensing and authorizations granted for the operation and use of radio networks and stations and in view of safeguarding their operation, undertakes to assure them the protection that is necessary and possible so as to enable them to pursue their objectives.

According to Decree-Law No. 597/1973, of 7 November, some of these radio stations enjoy special protection in light of their administrative use, whereby restrictions are placed on the construction and location of obstacles in areas defined in respect of this use.

ICP-ANACOM is asked to give an opinion on the feasibility of installing buildings and infrastructure in these areas. In particular, its assistance has been requested in the review of projects and issuance of opinions with regard to the feasibility of installing radio infrastructure, pursuant to Decree-Law No. 11/2003, of 18 January.

ICP-ANACOM also participated in several Joint Coordination Committees to review Municipal Director Plans (MDP), representing the Government, attending the meetings of these Committees, and contributing to the drafting of MDP and issuing opinions on such plans.

Table 3 presents the distribution of the number of requests and opinions expressed by ICP-ANACOM during 2009.

Requests and opinions issued in 2009

Table 3

| | Number of applications | Number of opinions |
|--|------------------------|--------------------|
| Items for the review of Municipal Director Plans (MDP) | 60 | 43 |
| Installation of radio infrastructure | 27 | 22 |
| Installation of wind farms | 61 | 39 |
| Installation of high voltage overhead lines | 37 | 33 |
| Plans for construction/urban development | 167 | 141 |
| Total | 352 | 278 |

● ● 1.5. Numbering, portability and pre-selection

Amendment to the Portability Regulation

On 18 February 2009, Regulation No. 87/2009 was issued amending Regulation No. 58/2005, of 18 August (Portability Regulation).

As such, greater responsibility was given to the recipient provider, while the subscriber was afforded increased protection throughout the process, and rules were introduced governing efficiency among providers. Provision was also made for monetary compensation in cases of non-compliance or negligence, both between providers and for the subscriber, whereas deadlines were established for the activation of portability for the subscriber. A solution was further defined for the portability of numbers of subscribers and former subscribers of companies that terminate the service, to whom such functionality must be guaranteed.

As provided for in article 4 of this regulation, Annexes I and II of the Specification for Portability were reviewed and updated by companies with portability obligations and by the Reference Entity with the coordination of ICP-ANACOM; these Annexes were approved by determination of 15 April 2009.

In the light of queries raised with regard to the calculation of time limits under certain provisions of the regulation, in particular in terms of their compatibility with the corresponding periods set out in the specifications for portability, there was a need to make further amendments to the regulation.

Accordingly, by determination of 8 July 2009, approval was given to the new amendment to the same regulation.

On 16 July 2009, Regulation No. 302/2009 was issued, amending Regulation No. 58/2005, of 18 August, as amended by Regulation No. 87/2009, of 18 February.

These amendments guarantee that the means of calculation of time limits, as always practised with respect to portability process, remain unaltered, clarifying that the same time limits established under the regulation and in the specifications for portability are also calculated according to the same system.

Synchronism between number portability and local loop unbundling

In order to implement the measures specified in the determination of ICP-ANACOM, of 14 January 2009, regarding the analysis of wholesale (physical) network infrastructure access at a fixed location (market 4), on 15 July 2009, ICP-ANACOM ordered PTC to make changes immediately to the RUO. This decision set out to provide for the full entry into force of the Portability Regulation, on 20 July, making provision that, where a portability process is concurrent with a local loop unbundling process, the transfer of the loop shall occur during the portability window agreed with the OLO (Other Licensed Operators), whereby the request for number portability must be made at least 8 days in advance of the first option of the proposed window, with the existing procedures established in RUO remaining applicable.

Approval of the portability questionnaire

By determination of 11 November 2009, ICP-ANACOM approved the final version of the questionnaire for compiling information on portability. Approval was also given to the report of the prior hearing of interested parties, to which the respective draft was submitted by determination of 15 July 2009.

Adoption of the consultation report and final decision on the adaptation of National Numbering Plan (NNP) to the amendment of Decree-Law No. 177/99, of 21 May, as determined by Decree-Law No. 63/2009, of 10 March

On 3 June 2009, ICP-ANACOM approved the consultation report and the final decision on the adaptation of the NNP to the amendment of Decree-Law No. 177/99, of 21 May, as determined by Decree-Law No. 63/2009, of 10 March, establishing new rules for message-based valued added services.

Three clarifications were published on this subject by ICP-ANACOM in order to provide greater clarity and harmonization in the operation of these services.

Return of numbering resources by Sonaecom

By determination of 23 December 2009, ICP-ANACOM decided to review the conditions associated with the return of rights of use of numbers granted to Sonaecom, approved by determination of 29 December 2008, having set a deadline of 1 year from the date of this decision for the return to ICP-ANACOM of one of the following numbering blocks of the network routing number - "D010", "D073", "D093."

Allocation of rights of use of numbers

In 2009, rights of use were allocated with respect to 270 thousand geographic numbers, of which 180 thousand and 60 thousand belonged to the geographical areas of Lisbon and Porto respectively. Meanwhile, in the same period, 490 thousand numbers were recovered, all relating to the remaining geographic areas of the country.

With regard to non-geographic numbers, Table 4 shows the distribution of numbers whose rights were allocated and/or reserved (A) and recovered (R) in 2009, by type of service.

With respect to audiotext numbers, rights of use of 1000 numbers were allocated for Tele-vote services (607) and of 1000 numbers for Erotic services (648), while 1000 numbers were recovered with reference to the General Audiotext service (601).

In 2009, the allocation of rights of use of short numbers for message-based valued added services began, comprising a total of 405 numbers of the "61", "62", "68" and "69" codes of the NNP registered for this purpose.

Non-geographic numbers for electronic communications services

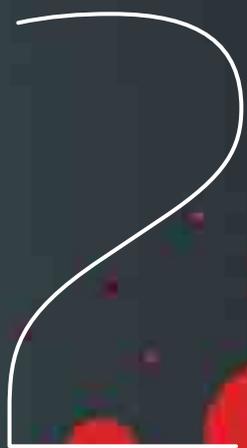
Table 4

| Allocated and/or Reserved (A) or Recovered (R) | Non-geographic numbers | | | | |
|--|------------------------------------|----------------------------|-------------------------------------|---------------------|---------------------------------------|
| | Nomadic VoIP services ³ | Short numbers ⁴ | Translation services and voice mail | Data services (ISP) | Mobile telephone service ⁵ |
| A | 70,000 | 2 | 0 | 0 | 1,500,000 |
| R | 120,000 | 6 | 160,000 | 0 | 0 |

³ Voice over Internet Protocol.

⁴ Corresponds to the 10xy, 116xyz, 14x (y), 15xy, 16xyz and 18xyz ranges.

⁵ The numbers are assigned in blocks of 10,000 for the 92 range. Rights of use of the 609 and 669 numbering ranges are implicitly allocated for access to the voice mail service, respectively, for voice mail consultation and leaving messages, and the 639 and 659 numbering ranges, respectively, for access to fax and data mobile services.



2

SUPERVISION ACTIVITIES

● ● 2.1. Monitoring

2.1.1 Monitoring and Control of the Spectrum (MCS)

MCS is conducted as part of the management of frequencies and has the following main objectives:

- Verification of the operating conditions of radio networks and stations, according to current legislation, in particular Decree-Law No. 151-A/2000, of 20 July.
- Compilation of information on the ground to assist the activities of spectrum planning and the licensing of radio stations and networks.
- Responding to requests related to problems and to improper and/or incorrect use of the radio spectrum.
- International cooperation in resolving problems and/or interference.

While the core of the activities MCS remains focused on operational activities, it is the support infrastructure that ensures that actions on the ground are executed in accordance with the established rules, with proper equipment, which is in perfect working order.

In 2009, ICP-ANACOM invested in the equipping and technological modernization of infrastructure supporting the MCS activity, specifically with the acquisition of 2 low noise reception systems, 2 real-time spectrum analysers, 2 Mercedes Sprinter 316 vehicles which constitute the mobile stations for radio monitoring (remaining from AOV), 2 new controllers for the command centres of SINCRER - Sistema Nacional de Controlo Remoto das Emissões Radioelétricas (National System for Remote Control of Radioelectric Emissions) and further various accessories and radio frequency equipment. Improvements were also made to the earth networks of some of the remote stations of SINCRER.

With respect to DTT, 6 signal monitors were acquired with 2 coverage assessment systems.

In addition, 13 antenna signal distributors were acquired, together with 5 switching antenna systems, 2 communications receivers with measuring capability and a range of other accessories and equipment for the Barcarena Centre with respect to PMI - Projecto de Monitorização Integrada (Integrated Monitoring Project) which is about 50 % concluded, in line with expectations.

Regarding the technical management of equipment and systems of MCS, the following activities should be noted in 2009:

Equipment calibration

- Definition of the calibration profiles for new equipment.
- Internal calibration of 104 appliances.
- External calibration of 9 appliances.

Corrective conservation

One hundred and forty three operations were carried out with respect to various appliances of all the MCS centres, of which just 9 made use of resources external to ICP-ANACOM. Of particular note were the disassembly works and subsequent re-assembly of the mobile radio direction finder of Porto and the repair of the relay matrix of the Caramelo remote station, being performed internally by ICP-ANACOM.

Preventive conservation

There have been some interventions in the hardware and software of SINCRER and the sets of antenna of the Barcarena and Porto centres.

In MCS operational terms, periodic monitoring campaigns were conducted over the course of 2009, to verify whether the operation of stations and networks is in accordance with current legislation and in particular with the conditions imposed in the licences of radio stations and networks.

There were 1840 requests, whose response, in the majority of cases, required the local intervention of a technical team. Of the total, 38 % resulted from complaints about interference, with 60 % of these referring to complaints resulting from interference in terrestrial television reception systems. Of the set of complaints about interference, note is made of the high level of occurrences/interference in communications of the aeronautical mobile service (14 %) and the networks and stations of the public operators of GSM and operators with code division multiple access technology (9 %).

Of the remaining 62 % of requests received, 9 % related to requests for verification of compliance with reference levels for the protection of the general population.

Furthermore, operational actions were undertaken which arose from requests from ERC, under the current protocol with ICP-ANACOM.

Cooperation with other public entities, including the PSP - Polícia de Segurança Pública (Public Security Police), GNR - Guarda Nacional Republicana (Republican National Guard), PJ - Polícia Judiciária (Criminal Police) and with our international counterparts, accounted for a considerable part of the activity in this area during the year, making up about 10 % of global activity.

Particular note should be made, with respect to MCS activities, of those which aim to address harmful interference affecting frequencies, channels and stations, including:

- The frequencies of the aeronautical mobile service for runway approach, distress and safety, and national airport control towers.
- Calling, distress and safety channels of the MMS.
- Aeronautic and maritime radionavigation service stations.
- Responses to requests from the authorities responsible for search and rescue [(search and rescue at sea coordination centre (SNBSM - Centro de Coordenação de Busca e Salvamento Marítimo) and/or FAP], with respect to false or deceptive alarms, whether intentional or due to negligence, have been given top priority by the operational services of spectrum management.

In all cases, activity is based on the principle that it is vital to eliminate harmful interference as quickly as possible, with recourse, if need be, to exceptional measures that can include the closure of the station causing the disturbance. When a foreign station and/or a station outside the jurisdiction of this Authority cause interference, it may take a substantial length of time to resolve the problem. In such cases, the notification procedures of the RR take on particular relevance.

Regarding international cooperation, Portugal registered 128 requests for cooperation with a view to resolving problems of interference or eliminating illegal emissions. Cooperation was closest with European countries (United Kingdom, Austria, Germany, Spain and France).

Also during 2009 and in an international context, 4 automatic High Frequency (HF) monitoring campaigns were conducted, as part of the continued monitoring of the HF bands for the CEPT (between January and April).

Special note should also be made, in 2009, of the work undertaken in cooperation with and at the request of the Ministry of National Defence, with the objective of approving, in terms of coverage validation, and of starting operation of the new radio network that guarantees the provision of the Global Maritime Distress Safety System (GMDSS) in sea area A1 (30 MN), and which was included in the SNBSM.

Non-ionising radiation

By the end of 2009, ICP-ANACOM had received 1347 requests related to non-ionising radiation; 1318 of these cases were concluded (225 involving educational institutions), many of which were in response to on-site measurements.

The results point to values at least 50 times lower than the reference levels of power density set out in Administrative Rule No. 1421/2004, of 23 November. Forty nine cases failed to ensure levels that are 50 times lower than the reference levels from the outset, however, all of them guaranteed the fulfilment of reference levels. All conclusions of the actions undertaken were brought to the attention of the people or entities who requested the evaluations.

Table 5 sets out the MCS activity in quantitative terms.

MCS activity in 2009

Table 5

| | No. (%) |
|---|----------------------|
| Requests | 1,840 (100 %) |
| Interference | 704 (38 %) |
| Television broadcasting services - television reception | 422 (60 %) |
| Aeronautical mobile service | 95 (14 %) |
| LMS and trunking service - public operators | 65 (9 %) |
| Amateur and amateur satellite service | 49 (7 %) |
| Other services | 73 (10 %) |
| Other requests | 1,136 (62 %) |
| Direct actions of inspection of radiocommunications stations and networks | 402 (35 %) |
| Cooperation requests from other national and international bodies | 181 (16 %) |
| Requests for international collaboration - counterpart authorities | 128 (71 %) |
| Requests for cooperation from national authorities (PSP, GNR, ERC, etc.) | 53 (29 %) |
| Requests for the conduct of studies and analysis of levels of radio network coverage | 130 (11 %) |
| Complaints about non-ionizing radiation | 100 (9 %) |
| Inspections at special events (national and international sport, entertainment) of short-duration | 33 (3 %) |
| Actions taken in response to other requests related to the activity | 290 (26 %) |

2.1.2. Quality of Service (QoS)

Regulation on the Quality of Service (RQS) applicable to the public telephone service

In 2009, ICP-ANACOM made a revision of the RQS - Regulation 46/2005, published on 14 June.

With the amendments Introduced by Regulation No. 372/2009, published on 28 August and rectified on

6 October by Rectification Declaration No. 2457/2009, it was sought to:

- adapt the RQS in order to provide users with access to timely, clear and comparable information on QoS, enabling the choice of the provider which is best suited to meeting their needs, in the light of the alterations of a regulatory, technological and commercial nature to which the telephone services have been subject in recent years and which have led to the emergence

of new commercial products which currently have significant expression in the market;

- clarify concepts and provisions of the Regulation which were not sufficiently explicit and/or detailed;
- to establish mechanisms that contribute to a better dissemination of information to users on the QoS, as well as to more effective verification by ICP-ANACOM, of compliance;
- to adjust certain parameters so that they can be more easily understood by end-users and so that they better reflect the issues of QoS in the fixed telephone service which are currently most pressing.

Quality of the Fixed Telephone Service (FTS)

In 2009, a study was conducted in this context on access to emergency services, especially using the single 112 number, and another on customer helpline waiting times covering the various providers present in the market.

Control of the levels of quality of the universal postal service

In terms of monitoring the levels of QoS provided by CTT, as the US provider, notices were published in the Official Journal on the results of the control performed in 2008 of the values reported for the years 2005, 2006 and 2007 (Notices No. 1912/2009 and No. 3911/2009, published in the Official Journal, 2nd Series, respectively, of 21 January 2009 and 16 July 2009).

On 11 February 2009, ICP-ANACOM contracted KPMG & Associados - Sociedade de Revisores Oficiais de Contas, S. A., to carry out an audit of the QoS indicators and complaints system of CTT with reference to the 2008 period.

Studies on the quality of mobile services

In this context, the following studies were conducted in 2009:

- Comparative study of the products offered by the operators of mobile communications [CTT/Phone-ix, Sonaecom, Radiomóvel - Radiocomunicações, S. A. (Radiomóvel), TMN - Telecomunicações Móveis Nacionais, S. A. (TMN), Vodafone and ZON Mobile].
- Comparative study on so-called low cost mobile operators.
- Study on the quality of mobile services (voice, videotelephony and coverage) in the Autonomous Regions of Azores and Madeira.

- Study on the quality of mobile services (voice, videotelephony and coverage) on the mainland.
- Study on the quality of mobile services on the Alfa Pendular (High-speed rail) service of CP - Caminhos de Ferro Portugueses (Portugal Railways).
- Study on the quality of mobile services on the suburban rail network of the Lisbon Region (Azambuja, Cascais, Sintra and Fertagus lines).

Cable distribution services

A comparative study was conducted of the triple play products of the operators ZON Multimédia - Serviços de Telecomunicações e Multimédia, S. G. P. S., S. A. (ZON Multimédia) e Cabovisão - Sociedade de Televisão por Cabo, S. A. (Cabovisão) and one other, on the offer of services of access to broadband Internet [cable/optical fibre, ADSL (Asymmetric Digital Subscriber Line) and Tmax] offered to the consumer.

An examination was also made to the existing offers based on Internet Protocol Television (IPTV) technology, including those presented by Sonaecom (Clix) and PTC (Meo).

With a view to promoting discussion and evaluation of the reality of set top boxes, in particular, the risk of non-conformities in the national market and new forms of violation of conditional access, meetings were held with external entities.

Quality of Internet access service

As in previous years, an annual survey was conducted and subsequently published on the quality of the Internet access service.

A Working Group (WG) was formed with representatives from the operators/providers of Internet access and DGC - Direcção-Geral do Consumidor (Directorate-General of the Consumer) in order to assess the negative impact resulting from the behaviour of certain users of Internet networks, commonly known as heavy users, on the performance of the networks, reflecting the degradation of QoS.

A study was also carried out of optical fibre with respect to NGNs and the respective offer of services.

112 emergency communications service

A supervisory action was undertaken with respect to the obligations resulting from Regulation No. 99/2009, of 23 February, which establishes the rules to be followed by companies providing publicly available telephone networks or services, in the provision, to authorities responsible for providing emergency services, of information on the location of callers to the single European 112 emergency number. It was concluded that there were no situations where the companies subject to this Regulation were found not to be in compliance.

Alteration of the model of disclosure of information on QoS to be adopted by companies providing the fixed telephone service

With the publication of Regulation No. 372/2009, of 28 August, (regulation on QoS), it became necessary to amend the recommendation on the "Model of Disclosure" to end-users of information on QoS to be adopted by companies providing the service of access to the public telephone network at a fixed location and the publicly available telephone service at a fixed location.

In this respect, on 11 November 2009, ICP-ANACOM approved an amendment to this recommendation, whereby companies providing these services are required to make this information available from 30 April 2010.

Postal services

A study was conducted on the quality of postal services, particularly with respect to the obligations of the convention concerning the sending of parcels.

There was also compilation and analysis of data on the provision of non-express mail services.

ECSI Portugal 2008 - National customer satisfaction index

In August 2009, ICP-ANACOM published the ECSI Portugal 2008 - National Customer Satisfaction Index - on its website. The Index covers the communications sector, particularly fixed network and mobile telephone services, Internet access (fixed and mobile), subscription television distribution and the postal service. This part of the study,

as it happened last year, was sponsored exclusively by ICP-ANACOM.

The ECSI project is a system for measuring, through customer satisfaction, the quality of goods and services available in the national market, and has been conducted since 1999 by a team consisting of APQ - Associação Portuguesa da Qualidade (Portuguese Quality Association), IPQ and the ISEG-UNL (Instituto Superior de Estatística e Gestão da Informação da Universidade Nova de Lisboa) covering, in addition to the communications sector, areas such as banking, insurance, fuel, transportation and water supply.

The data reveals that the sub-sector reporting greatest progress is subscription television distribution. In contrast, the postal sub-sector is reported as having an opposite tendency, with declines seen in nearly all indices. Attention should also be drawn to the positive and notable changes reported in the fixed network, subscription television distribution and Internet access sub-sectors.

2.1.3 Other monitoring activities

Approval of the prior hearing and the decision on the statistical indicators to be submitted on a quarterly basis by postal service providers

Aiming to improve statistical information on postal services operated in competition, ICP-ANACOM decided to modify some of the statistical indicators that providers of these services send to this Authority on a quarterly basis. The draft decision was subject to a prior hearing of the interested parties. After analysing the responses received, on 11 March 2009, ICP-ANACOM adopted the report of the prior hearing and the final decision on these statistical items.

Approval of the report of the prior hearing and the decision on statistical indicators to be submitted on a quarterly basis by mobile service providers

On 8 July 2009, ICP-ANACOM approved the report of the prior hearing and the final decision concerning the statistical data that mobile service providers are required to submit to this Authority, on a quarterly basis.

Compliance of the costing system of PTC with reference to the 2004-2005 financial periods

By determination of 16 December 2009, and subsequent to the prior hearing of PTC, the declarations of compliance of the company's analytical accounting system, with reference to the 2004-2005 financial periods, were approved.

These declarations involve not only the verification of compliance of the costing system with the regulatory provisions governing the telephone service and leased lines service, they also include a set of determinations and recommendations aimed at improving this system, which resulted from the audit carried out by BDO Binder & Co.

Audit of the costing system of PTC with reference to the 2006 financial period

By determination of 10 August 2009, ICP-ANACOM made an award to contract the auditing of the analytical accounting system of PTC for the 2006 financial period, accompanied by the development of a detailed, systematic and comprehensive analysis of the system.

Results of 2005-2006 audit of the costing system of CTT

It is incumbent upon ICP-ANACOM, as regulatory authority and pursuant to paragraph 2 of article 19 of Law No. 102/99, of 26 July, to approve the analytical accounting system of the universal service provider (USP), to oversee its proper implementation and post an annual declaration of compliance of the analytical accounting system and of the results obtained.

Therefore, in compliance with this provision, approval was given, in January 2009, to the issue of the declaration in respect of the 2005-2006 financial years, which was subsequently published in the 2nd Series of the Official Journal (Notice No. 4006/2009, of 19 February).

Public consultation on cost models

By determination of 28 October 2009, ICP-ANACOM decided, with respect to the public consultation process regarding cost models:

- to recognize that, in the light of the developments that have in the meantime occurred at Community level, culminating in particular in the Recommendation on

Accounting Separation and Cost Accounting Systems as well as the Recommendation on termination rates (mobile and fixed), the current context regarding the development and implementation of regulatory cost models is materially different from that existing at the launch of the public consultation;

- to find, as a result, that both the consultation document and the contributions received, may not be focused on the main issues at stake and may have lost their context, insofar as they may no longer reflect the position of the different parties. As such it was decided not to prepare a report on the public consultation held on cost models;
- to be informed of a summary of the comments received, considering these contributions, with the constraints mentioned above, to be factors to be taken into account in a more general and up-to-date reflection which is now important to undertake under the new framework comprised by the issues related to regulatory costing;
- to inform the interested parties of the upcoming developments in regulatory accounting, at a national level, advocated by this Authority;
- to stress that the envisaged developments will address a number of the issues subject covered by the 2005 public consultation and that the interested parties will always have the opportunity to comment in a more informed manner, in the current context and on more practical aspects.

Assessment of the curtailment costs of PTC

In order to analyse the amount of curtailment costs determined by PTC and to critically evaluate the impact of these costs on the unit costs of products and services and their inclusion for regulatory purposes, with a view to providing this Authority with an enhanced basis with respect to the annual audit of the regulatory accounting of PTC, ICP-ANACOM awarded study on the curtailment⁶ costs of PTC to KPMG & Associados, Sociedade de Revisores Oficiais de Contas, S. A.

It should be noted that, currently, the costs of the services provided by PTC encompass a portion of common costs including substantial costs of curtailment.

⁶ Extraordinary personnel costs resulting from the programme of downsizing through the early retirement of the company's employees.

Authorization to launch an international public tender for the development and implementation of a mobile termination costing model

The European Commission adopted a Recommendation, on 7 May, on the regulatory treatment of fixed and mobile termination rates in the EU, defining that the obligation of price control and cost accounting on those operators notified as having SMP by National Regulatory Authorities (NRAs), should be based on the current costs supplied by Long Run Incremental Cost (LRIC) and bottom-up costing models.

This recommendation also states that the most efficient technology available in the relevant time horizon should be considered and the voice termination service provided to third parties considered as the relevant increase, i. e., the LRIC model should allow assessment of the incremental costs of providing the voice termination service provided to third parties by making a comparison between the total long-term costs of an operator providing all the services in question and between a similar operator which provides all the services other than the mobile voice termination service and third parties.

The recommendation also provides for a transitional period until 31 December 2012, to enable the development by NRAs of an appropriate cost model; this period may be extended if the available resources of the NRAs do not enable their development within the defined period. In these situations, the Recommendation provides for the use of other methodologies in determining the cost of the mobile termination service (e. g. benchmarking), provided that these are consistent and compatible with the Recommendation. Given the complexity required in the development of a costing model to determine the costs of the termination service provided to third parties, which is consistent and compatible with the Commission's recommendation, ICP-ANACOM launched an international public tender, in October 2009, for the development and implementation of such costing model for mobile termination.

By determination of 23 February 2010, ICP-ANACOM approved the final report of this tender and authorized that an award be made to the company Analysys Mason Limited.

Definition of the methodology to be used for calculating the cost of capital of PTC

Given the direct impact that the methodology adopted for the calculation of the cost of capital of PTC has in terms of the costs of products and services provided by this company, on 17 November 2009, ICP-ANACOM adopted a draft decision which defines the methodology this Authority plans to adopt for the calculation of the cost of capital of PTC. This draft decision, establishes a linear and annual 1.0 % decrement rate for the value of the rate of cost of capital between 2009-11, until the defined value of 10.3 %, and was submitted to the prior hearing of interested parties and the general consultation procedure. In this context, the public version of the report drawn up by PricewaterhouseCoopers (PwC) on the cost of capital of PTC was made available. Approval was given to send notification to the European Commission and to the NRAs of other Member States.

The final decision on the matter was taken on 10 February 2010.

Oversight Report on the functioning of the market for wholesale termination including assessment of compliance with obligations of price control by OSPs in the market for termination of calls on fixed networks for the period 2006-2008

Having examined the evaluation report of the obligations of price control, ICP-ANACOM determined, in July 2009, to initiate infringement proceedings against Sonaecom for non-compliance with the obligations to which it is subject.

Audit of the Statistical data concerning the use of radio spectrum by mobile service providers

On 30 December 2009, this Authority gave approval to the findings of the audit report conducted of providers of mobile services (TMN, Vodafone and Sonaecom) for the years 2005, 2006, 2007 and 1st half of 2008, whereby these companies were ordered to adopt a set of measures in accordance with the results of this audit.

● ● 2.2. Dispute Resolution

Dispute between ZON TV Cabo and PTC over portability

On 27 October 2008, ZON TV Cabo presented ICP-ANACOM with a request to resolve a dispute which had arisen between this company and PTC with respect to portability.

According to the applicant, the dispute arose because of the following practices of PTC with respect to the portability process, which, in their view, should be considered illegal:

- Refusal of electronic requests due to a claimed lack of request processing capacity.
- Alleged lack of correspondence between the identification data of the customer and those that exist in the systems of PTC.
- Misuse of error code 301 (“contract not terminated/amended”).
- Rejection of portability of numbers that allegedly belonged to public payphones.
- Breach of confidentiality.

On 6 May 2009, ICP-ANACOM approved a draft decision which was submitted to a prior hearing of the parties. By determination of 5 August 2009, ICP-ANACOM denied the following requests from ZON TV Cabo:

- To declare the illegality and order the immediate cessation of refusals by PTC of electronic requests based on claimed lack of capacity to process said requests.
- To declare the illegality and order the immediate cessation of refusals by PTC of electronic requests based on the alleged lack of correspondence between the customer identification data and those that exist in the systems of PTC.
- To issue transitional determinations to PTC regarding the acceptance of the portability window.
- To establish a commission to monitor the process of portability between ZON TV Cabo and PTC.
- To issue practical guidelines clarifying the cases of refusal provided for by article 13 of the Portability Regulation.

This Authority further determined to examine, with a view to litigation, evidence of infringement revealed by the following behaviour of PTC alleged by ZON TV Cabo:

- Denials of electronic portability requests on the basis of the contract not being terminated or amended, transmitted using the error code 301.
- Denials of electronic requests based on the claim that the numbers were ineligible for portability because they belong to public payphones.
- Breach of confidentiality obligations.

Request to intervene submitted by Radiomóvel to obtain interconnection from PTC, Sonaecom, Vodafone and TMN

On 30 March 2009, Radiomóvel requested the adoption of specific measures to stop refusals to provide the interconnection of its electronic communications network with the networks (mobile, fixed and nomadic) of Sonaecom, PTC, Vodafone and TMN, in respect of that provided for by the legal regime governing the exercise of its activity. As part of the process which was initiated, a hearing of the companies opposing the requested interconnection was conducted.

Dispute concerning the misuse of guttering which is the property of PTC

During 2009, an assessment was initiated and completed of the request presented by Sonaecom, on 13 April, with the aim of reaching an administrative settlement of the dispute arising as a result of the misuse of guttering, which is the property of PTC in linking the modules of the applicant company. This process was concluded following an agreement reached by the two companies involved.

Request for intervention presented by Nortenet – Sistemas de Comunicação S. A. (Nortenet), for improper billing of ADSL loop migration by PTC

In September 2009, Nortenet requested the intervention of ICP-ANACOM in its dispute with PTC as a result of claims of improper billing in the migration of ADSL loops, in the specified periods. It is the position of Nortenet that such procedure is in breach of the determinations of ICP-ANACOM of 21 April 2006, 3 October 2007 and 26 June 2008, regarding the Rede ADSL PT offer, whereby it sought, in this context, the intervention of this Authority to instruct PTC to issue credits in respect of the amounts which had been improperly charged.

A preliminary analysis of the claim determined that Nortenet was instructed to submit documentation supporting its

claims whereas PTC was instructed to respond to the intended outcomes set out by Nortenet in this matter and to the facts and bases cited by the company as grounds for its claim. Whereas the two companies have responded to the instructions of this Authority, the case is under review.

Dispute between Sonaecom and PTC with respect to the payment of compensation for failures to comply with the levels of QoS established in the RUO and in the LLRO

In December 2007, Sonaecom sought the intervention of ICP-ANACOM to resolve its dispute with PTC, resulting from disagreement between the two companies as to the meaning and application of certain provisions of the RUO and LLRO, with regard to compensation payable by PTC for failure to comply with the levels of QoS established in these offers.

Upon conclusion of the process, ICP-ANACOM, by decision of 8 April 2009, rejected the application of Sonaecom, deeming the arguments and reasoning given as grounds for the request for the administrative dispute resolution as being without basis.

Dispute between PTC/TMN and Sonaecom on termination prices of the nomadic VoIP service

Following the dispute between PTC and TMN on the one side and Sonaecom on the other, regarding the termination price to be practised by Sonaecom in respect of the nomadic VoIP service, and that it impeded the opening of the “30” numbering range by PTC and TMN for routing calls over their networks, ICP-ANACOM sought information from the operators concerned.

After examining the issue, ICP-ANACOM took the position that the problem, which gave rise to the dispute (disagreement over the price to be charged by Sonaecom), was resolved, while there remained another issue, arising subsequently - disagreement over the price to be charged by PTC, especially regarding methodologies for its formation. Accordingly, the request for resolution of this “new” issue was presented by Sonaecom, in February 2009, and it is still under review pending final decision.

Dispute between AR Telecom - Acessos e Rede de Telecomunicações, S. A. (AR Telecom), Sonaecom and Vodafone regarding the remuneration conditions of the 760 service; dispute between PTC and Sonaecom as to the unilateral alteration of the remuneration of the company with respect to the access of its customers to PTC’s 760 service

In early 2009, ICP-ANACOM received several communications from AR Telecom requesting the intervention of this Authority in its dispute with Sonaecom and with Vodafone on the remuneration conditions in respect of services comprised by the 760 numbering range.

The dispute with Sonaecom relates to the following aspects:

- Unilateral alteration by Sonaecom of the prices of access to the 760 range of AR Telecom with effect from 1 November 2008;
- Unilateral alteration by Sonaecom of the characteristics of the billing and collection service and subsequent non-payment of values considered as uncollectable, with effect from 1 November 2008;
- Application by Sonaecom of a process whereby a deduction of 10% is made from the revenues generated from traffic on their networks for 760 services AR Telecom, with effects on traffic from November 2008.

As far as Vodafone is concerned, the dispute stemmed from its communication to AR Telecom, of March 2009, announcing that the value of the billing and collection service would remain unchanged, but would no longer include any risk of non-collection. According to information from AR Telecom, despite the fact that they had rejected these conditions, Vodafone responded they would be applied them from 1 April 2009.

Meanwhile, on 7 April 2009, PTC submitted a request to ICP-ANACOM to intervene in a dispute with Sonaecom on the unilateral alteration made to the remuneration of the company with respect to access by its customers to PTC’s 760 service.

PTC reported that, in December 2008, Sonaecom informed of the revision of call origination prices and prices of billing and collection applicable with respect to the access of its mobile network customers to PTC's 760 services. Subsequently, on 21 January 2009, Sonaecom informed PTC as to the alteration of the conditions of provision of the service associated with 760 traffic, in particular that it would begin to retain, for a period of 6 months, 10 % of the revenues of PTC to confirm proper collection by Sonaecom.

After reviewing both applications, ICP-ANACOM concluded that it had no powers to resolve the dispute in a binding manner. However, recognizing the importance of the matter, the subject was dealt with under a process promoted by this Authority, including through the holding of several meetings aimed at solving the problems encountered and involving several providers, of access and of the 760 service.

In this context, a code of conduct was concluded among AR Telecom, Grupo PT (TMN and PTC), Sonaecom and Vodafone Portugal governing the treatment of unrecoverable amounts resulting from access to services comprised by the 760X numbering range.

In July 2009, ICP-ANACOM informed AR Telecom and PTC as to its expectation that the entry into force of the system established by this code of conduct would put an end to the problems reported in the applications for intervention, whereby it would await until the results were reported and would not adopt additional measures.

In September 2009, AR Telecom informed this Authority that the dispute persisted, and so reiterated its request for intervention by ICP-ANACOM. This request remains under review.

Dispute between PTC and Sonaecom on the pricing and routing of traffic of former Telemilénio – Telecomunicações, Sociedade Unipessoal, Lda. (Tele2)

On 2 July 2009, PTC requested the intervention of this Authority to resolve its dispute with Sonaecom with respect to the interconnection relationship in force between both companies.

The applicant stated that, following the merger which occurred between Tele2 and Sonaecom, Sonaecom became PTC's counterpart with regard to the interconnection agreement previously concluded with Tele2. In April 2009, Sonaecom informed PTC, with a view to achieving the simplification and standardization of interconnection conditions governing the fixed network of Sonaecom, that new conditions would prevail with respect to call origination services and to billing and collection services, with effect from 1 May. PTC states that, despite the fact that it had not accepted these alterations, Sonaecom put them into practice.

PTC claims that Sonaecom is not entitled to change unilaterally terms of interconnection, which have been agreed and are in force, and requested the intervention of this Authority.

Meanwhile, in September 2009, Sonaecom also sought the intervention of ICP-ANACOM. Sonaecom claims that, in April 2009, it notified all operators with whom it has direct interconnections as to a number of essential routing modifications, and that all operators implemented these modifications; they all carried out these modifications with the exception of PTC which initially made the changes to traffic origination, but refused to do so for termination traffic.

Sonaecom considers that this refusal is incomprehensible, whereby it requested the intervention of ICP-ANACOM in order that PTC is required to effect the requested traffic changes. This issue remains under review.

● ● 2.3. Inspection

During 2009, ICP-ANACOM remained focused on its objective of strengthening its inspection and enforcement activities: on the one hand, with respect to the exercise of activities by entities that do not have the appropriate authorization title, and on the other, verifying compliance, by authorized entities, with obligations set out in the receptive activity exercise titles.

Enforcement and inspection actions focused on preventing situations that might arise from distortions in the normal functioning of the markets, seeking solutions that might resolve disputes between operators or between operators and consumers.

2.3.1. Electronic communications

Telephone Service at a Fixed Location

The following list includes the inspection and enforcement actions undertaken over the course of 2009 with respect to this service:

- alleged existence of discriminatory offer of PTC to its clients;
- compliance with the rules governing the 761 and 762 numbering ranges;
- publication and provision to users of information on QoS in the retail outlets of all providers;
- compliance with the rules on per second billing, after an initial fixed priced period;
- alleged constraints with respect to the RUO of two PTC telephone exchanges;
- collection of subscription contracts at points of sale of all service providers.

Public payphones

Twenty-four inspection actions were undertaken with respect to entities providing this service, with the aim of detecting situations lacking authorization titles for the exercise of the activity, as well as the compliance, in cases of legally authorized entities, with the obligations arising under the referred titles.

Mobile services

With respect to these services, tests were conducted on the accessibility and coverage of the mobile Internet access

services (Telemodem Zapp) of the operator Radiomóvel in 14 districts of mainland Portugal.

An analysis was made of the conditions applicable to the use of radio jammers advertised on the Internet, and of the legality of their sale and use in Portugal.

Portability

In addition to the analysis made of 144-refused portability requests, ICP-ANACOM conducted three investigations into the achievement of these requests in cases of dispute involving providers of the telephone service at a fixed location.

An investigation was also made into the existence and content of the online announcement informing callers that they are calling a ported number, when the existence of this announcement is imposed.

A review was conducted to verify the operation of information services regarding the prices of calls to ported numbers.

Roaming

Various investigations were conducted as to compliance with the obligations related to international roaming.

Data transmission service

Thirteen investigations of companies providing services in the area of data transmission were conducted.

Complaints books

In this regard, 51 investigations on compliance with the rules related to Complaints Book were conducted.

Valued added services provided by Short Message Service (SMS)

Ten investigations regarding the provision of this type of service were conducted via SMS.

2.3.2. Postal services

In this market, 27 investigations were conducted regarding the conditions of provision of the service, involving companies providing the postal service, and a further 26 on compliance with rules related to Complaints Book. All irregular situations detected were sent for analysis with a view to litigation.

2.3.3. Equipment market

This authority is responsible for enforcing compliance with the rules governing the free circulation, placing on the market, and putting into service in Portuguese territory of Radio equipment and Telecommunications Terminal Equipment (R&TTE), as established by Decree-Law No. 192/2000, of 18 August (transposition of Directive No. 1999/5/EC).

This regime covers various types of equipment, including:

- Radio equipment which uses radio frequencies (radio spectrum), containing a transmitter and/or a receiver, including mobile telephones, satellite terminals, CB equipment, maritime and wireless phones and short-range and low power equipment (bluetooth applications, remote control - wireless alarms, devices to open garage doors, etc.).
- Telecommunications terminal equipment which, through an interface, is connected to the public telecommunications network, including answering machines and modems.

With respect to the supervision of this market, there are three separate procedures, which are adopted with a view to assessing the conformity of equipment placed on the market:

- Procedure 1 - actions of direct investigation (in person and also using catalogues and the Internet) of economic agents (distributors, importers, retailers).
- Procedure 2 - market follow-up actions, through laboratory testing and analysis of technical documentation to verify compliance of equipment.

- Procedure 3 - market follow-up actions, through analysis of technical documentation to verify compliance of equipment.

The inspection activities performed over the course of 2009 can be broken down as follows:

- Procedure 1-285 pieces of equipment inspected, whereas 85 units were seized, due to their failure to meet one or more requirements for their placing on the market.
- Procedures 2 and 3 - 59 inspections of equipment were begun and 73 pieces of equipment were tested, with a recorded rate of technical non-compliance (tests) of 16 %.

It should be noted that procedure 2 involves laboratory tests and documentary analyses, allowing the compliance of equipment with the requirements in the regime of Decree-Law No. 192/2000, of 18 August, to be fully evaluated.

Table 6 shows the structure, by type, of the non-conformities detected in 2009 considering the set of procedures 2 and 3.

Technical and documentary non-compliance detected

Table 6

| Types of non-compliance | % of total |
|---|------------|
| Indication on the packaging as to whether the equipment is intended for use in Portugal | 0.8 |
| Indication in the manual as to whether the equipment is intended for use in Portugal | 0.8 |
| Alert of any restrictions/requirements to which the equipment is subject | 0.3 |
| Statement of Compliance (must accompany the equipment) - in reduced format and in Portuguese | 7.2 |
| Statement of Compliance (must accompany the equipment) - in full format or with reference to the Internet | 7.2 |
| Documentation and manuals in Portuguese Language | 1.6 |
| Existence of CE mark on the equipment (transmitter and receiver) | 2.6 |
| Existence of CE marking in the manual | 1.6 |
| Identification of the class of equipment (marking) on the equipment | 0.8 |
| Identification of the class of equipment (marking) on the packaging | 0.7 |
| Identification of the class of equipment (marking) in the manual | 0.8 |
| Identification of equipment - serial number or manufacturer | 4.1 |
| Notification in accordance with article 6.4 of the R&TTE Directive | 1.0 |
| General description of equipment | 4.9 |
| Drawings of the design and manufacture | 6.7 |
| Diagrams | 8.6 |
| Technical specifications | 7.2 |
| Block diagram | 8.6 |
| List of components | 9.0 |
| List of standards applied in full or in part | 3.1 |
| Harmonized Health Protection standards | 0.2 |
| Results of design calculations and tests performed | 0.7 |
| Radio test reports | 5.4 |
| EMC tests reports | 5.4 |
| LVD test reports | 5.2 |
| Statement issued by the manufacturer that meets the essential requirements (Annex III or Annex IV) | 0.7 |
| Full Statement of Compliance - provided with the equipment | 1.0 |
| Full Statement of Compliance - provided with the technical documentation or indication of technical standards | 3.3 |
| Radiated disturbing electromagnetic field | 0.5 |
| Voltage disturbing supply terminals | 0.2 |
| Frequency drift | 0.2 |

Table 7 details the 650 notifications of radio equipment that were received in 2009. These stem from the fact that, pursuant to article 9 of Decree-Law No. 192/2000, the manufacturer, the manufacturer's representative or the importer is required to

notify ICP-ANACOM as to its intention to place radio equipment on the market, which uses frequency bands whose use is not harmonized throughout the EU.

Types of equipment reported

Table 7

| Equipment | Notifications | |
|------------------------------------|---------------|------------|
| | Number | % |
| Radio Local Area Network (RLAN) | 411 | 63.2 |
| Private Mobile Radio network (PMR) | 21 | 3.2 |
| MMS | 65 | 10.0 |
| LMS | 55 | 8.5 |
| Wireless audio | 33 | 5.1 |
| Telecommand | 35 | 5.4 |
| Alarms | 30 | 4.6 |
| Total | 650 | 100 |

Between September 2008 and June 2009, ICP-ANACOM conducted a European campaign of market surveillance of radio equipment for telecommunications, together with several similar bodies in other European countries.

This market inspection campaign covered Professional/Private Mobile Radio network (PMR) equipment [e. g., PMR 446, Tetra (Terrestrial Trunked Radio)] and 2.4 GHz wireless applications [RLAN (Radio Local Area Network), wireless video transmitters, remote control]. The results of this campaign are available on the website of the European Commission⁷.

During the third quarter of 2009, ICP-ANACOM participated in another market monitoring campaign, also in a European context, regarding low-power FM transmission equipment, whose overall results are currently undergoing final analysis and are expected to be released in mid-2010.

ICP-ANACOM received 5 safeguard clauses under article 9 of Directive 1999/5/EC (article 16 of Decree-Law No. 192/2000, of 18 August).

Under Decree-Law No. 192/2000, of 18 August, it was also made mandatory for Public Telecommunications Network Operators (PTNO) to provide ICP-ANACOM with accurate and adequate technical specifications of their interfaces. This publication will enable manufacturers to design and produce suitable apparatus for operation on their networks.

In compliance with this obligation, in 2009, 9 PTNO reported on the specifications of their interfaces, which reports are available on ICP-ANACOM's website.

2.3.4. Telecommunications infrastructure in buildings (ITED)

In terms of ITED inspections, 415 actions were conducted over the course of 2009. Of the inspections performed, 15 were related to administrative processes and 400 were related to inspections of ITED, with a detected irregularity rate of 20 %.

⁷ http://ec.europa.eu/enterprise/sectors/rtte/documents/legislation/review/index_en.htm

In the same context, ICP-ANACOM participated in the WG which conducted a revision of the legislation amending the ITED regime and creating the regime governing Telecommunications Infrastructure in housing developments, urban settlements and concentrations of buildings (Infra-estruturas de Telecomunicações em Urbanizações - ITUR), resulting in Decree-Law No. 123/2009, of 21 May. This law was rectified by Decree-Law No. 258/2009, of 25 September, with amendment made in respect of the requirement that connections to the public networks may only be made once the installer has issued a term of responsibility of execution conformity. Following a period of public consultation and notification of the European Commission, approval was given to the new technical rules which are set out in the ITED Manual - 2nd edition and in the ITUR Manual - 1st ed. The entry into force of these technical requirements, on 1 January 2010, reflects strong technological development and a broadening of scope in relation to the preceding regime, implying a significant impact for the sector and a clear benefit to consumers, particularly by facilitating access to NGN services over optical fibre.

ICP-ANACOM also gave approval to new procedures governing the registration of training bodies, which are eligible to provide qualifying ITED and ITUR training courses as well as refresher courses for current ITED technicians.

In addition to providing information, through seminars, ICP-ANACOM provided clarification of queries and responded to requests for information, comprising a total 527 requests for information, involving a range of technical and legal analyses.

● ● 2.4. Litigation and offences

2.4.1. Community litigation

US Directories

On 12 March 2009, the Court of Justice of the European Communities (Tribunal de Justiça da União Europeia - TJUE) delivered a judgement declaring that, by not guaranteeing, in practice, the making available to all end-users of at least one comprehensive directory and at least one comprehensive telephone directory enquiry service in accordance with the provisions of articles 5 (1) and (2) and 25 (1) and (3) of Directive 2002/22/EC of the European Parliament and of the Council, of 7 March 2002, on US and users' rights relating to electronic communications networks and services (Universal Service Directive), the Portuguese Republic has failed to fulfil its obligations under that directive.

Immediately subsequent to this Judgement, both Sonaecom and Vodafone, in compliance with ICP-ANACOM determination, of 14 January 2009, sent the data of their subscribers to this Authority for inclusion in the printed directories of the US and, in the first case, also for the information service of the US, which data was forwarded to the US provider. In the case of Vodafone, a solution was deployed providing for remote consultation of the company's database by the information service of the US.

It should therefore be considered that the situation with respect to the inclusion of data from subscribers of the two companies providing mobile telephone services is properly rectified.

However, the Commission has not yet closed this process and has questioned the Government over the inclusion of data in the directories and information service of the US of users of telephone services of virtual mobile network operators and other operators.

ICP-ANACOM made an evaluation of the situation, finding that only ZON TV Cabo had not transmitted the data of its fixed and mobile telephone services customers to the US provider.

Accordingly, by determination of 21 October of 2009, ICP-ANACOM gave approval to a draft decision by which ZON TV Cabo and PTC were ordered that, within the subsequent 15 days, they take such steps as may be necessary to

reach an agreement, pursuant to and for the purposes of article 89 of Law No. 5/2004, of 10 February, on the format and the conditions applicable to the provision of relevant information about subscribers who have expressed a wish that their data be included in the directories and information services of the US.

After conducting a prior hearing, on 13 January 2010, ICP-ANACOM determined to maintain the determinations of its draft decision.

On 11 February 2010, ICP-ANACOM received notification from both companies that the agreement in question had been concluded.

Designation of the US provider(s)

Proceedings remain pending in the TJUE regarding Portugal's failure to comply with the rules governing the designation of the US provider.

Cases instituted in 2009

Table 8

| Cases | No. (Value) |
|----------------------------|--------------------|
| Instituted | 80 |
| Determined | 3 |
| - With acquittal | 2 |
| - With application of fine | 1 (€ 24,94) |

The written phase of this case ended in late November 2009 with the submission of the rejoinder of the Portuguese State. In light of the question specifically raised by the Court, the Court was notified through the Directorate-General for Technical and Economic Affairs of the Ministry of Foreign Affairs of the intention to present arguments in the case, pending any opinion by the Attorney-General and the scheduling of the hearing, with a view to producing arguments.

Internally, ICP-ANACOM continued to prepare the documents necessary to open a tender for the designation of US provider.

2.4.2. Infringement proceedings

The following tables set out the detail information on infringement proceedings began in 2009 (Table 8) and carried over from previous years (Table 9).

Proceedings carried over from previous years**Table 9**

| Cases | No. | (Value) |
|--------------------------|------------|----------------|
| Fines paid | 10 | 38,246,38 € |
| Sent for execution | 5 | 4,070,00 € |
| Challenged | 2 | 125,000,00 € |
| Determined | 78 | |
| Archived | 8 | |
| With acquittal | 22 | |
| With reprimand | 12 | |
| With application of fine | 36 | 851,284,76 € |
| Paid | 12 | 45,676,08€ |
| Executed | 2 | 649,88 € |
| Outstanding | 14 | 543,000,00 € |
| Appealed | 8 | 261,958,80 € |

The types of infringements committed which led to the institution of infringement proceedings in 2009 are summarized in the following tables (Table 10 and Table 11).

Cases brought for breach of Law No. 5/2004, of 10 February**Table 10**

| Electronic communications networks and services | No. |
|--|------------|
| Failure to provide information to ICP-ANACOM (article 108) | 18 |
| Violations of the right of subscribers to portability (article 54/1) | 3 |
| Non-compliance with orders or legitimate notices of ICP-ANACOM [article 113/1, point xxx) | 3 |
| Commencement of activity without prior notice to ICP-ANACOM - General Authorization Regime (article 21/1) | 2 |
| Breach of UMTS licence conditions [article 32/1, point g)] | 2 |
| Breach of obligations established in accordance with paragraphs 2, 3 and 5 of article 54 | 2 |
| Breach of conditions associated with the rights of use of geographic numbers (article 34/1 and 2) | 1 |
| Amendment of conditions governing the provision of services without giving prior notice to subscribers (article 48/3) | 1 |
| Breach of the duty of confidentiality of information received in connection with access or interconnection agreements (article 65/1) | 1 |
| Failure to comply with the QoS obligations of the US (article 92/5) | 1 |
| Unlawful suspension of telephone services in breach of rules governing the portability procedure (article 13/2 of Regulation No. 58/2005, of 18 August | 1 |

Cases brought for violation of other laws

Table 11

| | No. |
|---|-----|
| Postal services | |
| Failure to provide ICP-ANACOM with the information necessary for verification and enforcement of the requirements and conditions derived from authorizations or licences [article 18/1, point i) Decree-Law No. 150/2001, of 07 May, as amended by Decree-Law No. 116/2003, of 12 June] | 16 |
| Aeronautical mobile service | |
| Transmission of false or misleading emergency or danger alarm signals [article 11, point b) of Decree-Law No. 151-A/2000, of 20 July] | 3 |
| Amateur radio service (Decree-Law No. 5/95, of 17 January) | |
| Failure to transmit call sign at the beginning and end of each transmission [articles 23, paragraph 1, point a)] | 1 |
| Use of frequency bands and emission classes different from those authorized for the amateur service [article 23/2, point l)] | 1 |
| LMS for private use (Decree-Law No. 151-A/2000, of 20 July) | |
| Use of a radio network without licence (article 7/1) | 7 |
| Use of radio stations without licence (article 8/3) | 3 |
| Use of radio stations in violation of the technical parameters set by ICP-ANACOM [article 10, point g)] | 2 |
| Use of radio stations in unassigned frequencies [article 10, point f)] | 1 |
| Installation of ITED (Decree-Law No. 59/2000, of 19 April) | |
| Breach of the obligation of ITED installers to use, only on site, equipment and material that is compliant with the applicable requirements [article 19, point b)]. | 1 |
| Terminal and radio equipment (Decree-Law No. 192/2000, of 18 August) | |
| Placing on the market of equipment that is non-compliant with the essential requirements and has not been the object of conformity assessment procedure and which is not duly marked (article 7/1) | 12 |
| Failure to inform the user of the intended use of the equipment [article 8, point a)] | |
| Failure to supply the user with a Statement of Compliance to the essential requirements, together with the equipment [article 8, point b)] | |
| Violation of the obligation to provide the user with information, by failure to indicate on the packaging and instructions as to whether the radio equipment is intended for use in Portuguese territory or part thereof [article 9/1, point a)] | |
| Violations of the obligation to provide notification to ICP-ANACOM prior to the placing on the market of radio equipment using frequency bands whose use is not harmonized throughout the EU (article 9/3) | |
| Violations of the obligation to affix the CE mark of conformity on appliances that meet the essential requirements (article 27/1) | |
| Violation of the obligation to supply documentation, information manuals and instructions in Portuguese and with express indication of the legal provisions of conformity (article 28/3) | |
| Failure to declare that the equipment complies with the applicable essential requirements [paragraph 5, point b) of Annex III] | |

2.4.3. Administrative litigation

In 2009, 8 administrative actions were initiated: 1 interim measure and 7 special administrative actions. These actions are listed below, divided by type of service:

Electronic communications networks and services

- PTC, TMN and PT Prime - Soluções Empresariais de Telecomunicações e Sistemas, S. A. (PT Prime) presented a interim measure of suspension of validity, of article 1 of the new Portability Regulation, where it amends paragraph 2, points c) and f) and paragraph 5 of article 13 and, further, where it amends the provisions of paragraphs 1, 2 and 4 of article 15. This Authority presented its opposition on 18 March 2009. Ruling on 10 September 2009, the Lisbon Circuit Administrative Court dismissed the interim application.
- Special administrative action brought by Sonaecom to complement an action already brought of its own motion and having as its objective the cessation of the offer by Radiomóvel of the mobile broadband Internet access service (Zapp) and the payment to the plaintiff of compensation for losses incurred due to the inaction of ICP-ANACOM with respect to said Radiomóvel offer. ICP-ANACOM submitted its response on 11 March 2009 and the case is pending.
- Special administrative action brought by PTC, having as its objective the annulment of the decision of the vice-chairman of the Management Board of ICP-ANACOM, of 29 May 2008, with respect to compliance by the claimant with the rules governing number portability. This Authority submitted its response on 8 June 2009 and the case is pending.
- Special administrative action, brought by Sonaecom, having as its objective i) to annul the decision of the Management Board of ICP-ANACOM, of 4 June 2008, concerning the settlement of a dispute between Sonaecom and PTC as to payment of compensation for failure to comply with the levels of QoS established in the RUO; ii) to achieve the right to receive compensation from PTC, to the amount of 3,075,565.72 euros, for the operator's failure, in 2006, to comply with the levels of service with which it was bound to comply under the RUO. ICP-ANACOM submitted its response on July 2009 and the case is pending.
- Special administrative action, presented by Vodafone, to annul the Determination of the Management Board of ICP-ANACOM, of 14 January 2009, concerning the definition of geographic markets, evaluations of SMP and imposition, maintenance, amendment or suppression of regulatory obligations in relation to the market of wholesale (physical) network infrastructure access at a fixed location and the market of wholesale broadband access. The action was challenged by this Authority on 7 October and the case is pending.
- Special administrative action, brought by PTC, seeking partial annulment of the determination of the Management Board of ICP-ANACOM, of 11 March 2009, on the publication of levels of QoS performance in the RUO, LLRO, RDAO, Rede ADSL PT and WLRO. ICP-ANACOM submitted its response on 9 November 2009 and the case is pending.

Mobile trunking services

- Special administrative action brought by Radiomóvel, seeking a declaration of nullity or the annulment of the determination of the Management Board of ICP-ANACOM, of 25 September 2008, where it is determined to undertake the specification of the general conditions associated with the provision of PMTS, the right of use of frequencies and the right of use of numbering. This Authority submitted its response on 22 April 2009 and the case is pending.

Publicly available Land Mobile Service (LMS)

- Special administrative action, brought by TMN having as its objective: i) the declaration of illegality of the rule set forth in point a) of paragraph 3 of article 3 of the regulation of the public tender for the allocation of frequencies, on a national basis, for the provision of the LMS; ii) the ordering of ICP-ANACOM to reconstitute the current hypothetical situation which would exist had the challenged rule not been issued, declaring as null all acts of the Determination, of 7 January 2008, practised after the opening of the tender; iii) the consolidation of the respective interim process. ICP-ANACOM submitted its response on 22 June 2009, and ruling on 2 November 2009, the Lisbon Circuit Administrative Court determined the termination of proceedings without need to adjudicate.

Regarding the 48 cases carried over from previous years, the following were concluded in 2009:

Activity of PTNO and provider of UMTS

- Action for the recognition of a right (with respect to taxation) - action brought by Vodafone, applying for recognition of: i) its right to deduct VAT which, it is claimed, it had incurred when making payment of the fee due for the act of allocation of frequencies for the operation of International Mobile Telecommunications Systems (IMT2000/UMTS); ii) its right to an invoice, stating the amount which, it is claimed, was paid as tax.

The first application was brought against the Minister of Finance and the Director-General of Taxation, and the second against the Minister of Public Works, and in precaution, against the Management Board of ICP-ANACOM (whereby this Authority is called upon to intervene only with regard to the second indicated application).

The Management Board of ICP-ANACOM submitted its response on 7 March 2005.

On 25 February 2009, ICP-ANACOM was notified of the ruling delivered on 17 February 2009 of the Lisbon Tax Court, whereby the withdrawal of the application presented by the claimant (Vodafone) was declared valid, on 27 December 2007, endorsing it and, therefore, ruling and declaring the extinction of the right which the action was intended to assert. The case is closed.

Electronic communications networks and services

- Interim measure of suspension of validity, presented by TMN, seeking the immediate suspension of the Determination issued by the Management Board of ICP-ANACOM, on 2 July 2008, regarding the Wholesale Market for Voice Call Termination on Individual Mobile Networks - Specification of the Price Control Obligation. ICP-ANACOM submitted its opposition on 21 August 2008. Ruling on 15 June 2009, the Lisbon Circuit Administrative Court dismissed the application for the suspension of validity of the deliberation.
- Interim measure of suspension of validity, presented by Vodafone, seeking the suspension of the Determination issued by the Management Board of ICP-ANACOM, on 2 July 2008, with regard to the

Wholesale Market for Voice Call Termination on Individual Mobile Networks - Specification of the Price Control Obligation. On 22 August 2008, ICP-ANACOM notified Vodafone with respect to the Reasoned Resolution adopted by this Authority. On 27 August 2008, ICP-ANACOM submitted its objection. Ruling on 23 October 2008, the Lisbon Circuit Administrative Court rejected the requested interim procedure. Notified of the ruling, Vodafone did not concur and appealed to the Southern Central Administrative Court. ICP-ANACOM entered its counter-claims on 4 December 2008. On 10 February 2009, ICP-ANACOM was notified of the ruling of the Southern Central Administrative Court, on 3 February 2009, which denied the appeal and affirmed the appealed decision.

- Special administrative action, of indeterminable value, brought by TMN challenging the act practised on 19 November 2007 by Member of the Management Board of ICP-ANACOM, in the exercise of delegated powers, which determined the delivery to ICP-ANACOM of a copy of the contract agreed between TMN and CTT on access to the mobile network. ICP-ANACOM challenged on 26 June 2008. Ruling on 19 November 2009, the Lisbon Circuit Administrative Court dismissed the special administrative action as not proven.
- Joint administrative action, brought by Blue Card - Serviços de Telecomunicações Informáticas, Lda. (Blue Card) seeking clarification of points of Law, including whether Regulatory Order No. 1230/99 is a Regulation and, if not, whether it is ineffective due to the fact that it was published in the 2nd Series of the Official Journal and not the 1st Series-B in accordance with article 3, paragraph 3, point d) of Law No. 74/98, of 11 November, and to further ascertain whether the repeal of the Decree-Law which gave grounds thereto and its replacement by Law No. 5/2004, of 10 February, led to the termination of the validity of said regulation. ICP-ANACOM submitted its response in due course. Ruling on 21 January 2009, the Administrative and Fiscal Court of Almada upheld the plea of inadmissibility of the error in the process, acquitting the defendant of the proceedings.

DTT service

- Interim measure of suspension of validity, brought by Airplus Television Portugal, S. A. (Airplus) and others,

seeking that suspension is granted of the public tender for the allocation of rights of use of frequencies on a national and part-national basis for the digital terrestrial broadcasting service and for the licensing of a distribution operator - Muxes B to F. ICP-ANACOM presented its objection on 18 March 2009. Reasoned resolutions were presented, under the terms and for the purposes of paragraph 1 of article 128 of the Administrative Courts Procedural Code, both by ICP-ANACOM and the ERC, which were to be deemed illegal. This decision was appealed. Ruling on 10 September 2009, the Lisbon Circuit Administrative Court dismissed the application for the interim measure.

- Special administrative action, brought by Airplus and others, seeking the annulment of administrative acts performed by ICP-ANACOM and by ERC and conviction of the defendants with a view to the execution of a new assessment of applications in respect of the public tender for the allocation of rights of use of frequencies on a national and part-national basis for the DTT Broadcasting Service. ICP-ANACOM challenged on 2 October 2008. This Authority was notified of the ruling delivered by the Lisbon Circuit Administrative Court on 14 May 2009, whereby the withdrawal of the request presented by the claimant (Airplus) was declared valid and, therefore, the proceedings were declared closed and the defendant acquitted.

Publicly available LMS

- Interim measure of suspension of validity brought by TMN, in respect of the act of opening the public tender for the allocation of a right of use of frequencies on a

national basis, for the provision of the publicly available LMS, and any subsequent actions undertaken under this procedure, as well as prohibition of the practice and performance of any other subsequent acts in the same tender procedure. ICP-ANACOM submitted its opposition in 2008. Ruling on 14 October 2009, the Lisbon Circuit Administrative Court determined the termination of proceedings without need to adjudicate.

- Special administrative action, brought by Vodafone, challenging the Regulation of the public tender for the allocation of a right of use of frequencies, on a national basis, for the provision of the publicly available LMS. ICP-ANACOM challenged in 2008. This Authority was notified, on 23 July 2009, of a ruling by the Lisbon Circuit Administrative Court, which decided to uphold the plea of active legal incapacity raised by ICP-ANACOM against Vodafone. The case is closed.

Radio station support infrastructure

- Special administrative action, brought by Sonaecom (and others) seeking the suspension of validity of the act of the Councillor of the Municipal Council of Faro who ordered the removal, within 45 working days, of radio station support infrastructure located in the building at Lote A, Rua Alves Roçadas in Faro. ICP-ANACOM challenged on 3 December 2008. Ruling on 30 October 2009, the Administrative and Fiscal Court of Loulé determined the termination of proceedings without need to adjudicate.

2.4.4. Legal challenges of fees applied by ICP-ANACOM

In 2009, Globaltalk - Serviços de Telecomunicações, Lda. (Globaltalk) and Worldbroker - Telecomunicações, Lda. (Worldbroker) submitted 2 judicial appeals regarding acts of settlement of annual fees with reference to the exercise of the activity of provision of electronic communications networks and services. ICP-ANACOM prepared the challenges to be submitted by representatives of the tax authorities.

Throughout 2009, ICP-ANACOM also continued to monitor the 18 judicial appeals in respect of fees initiated in previous years.

2.4.5. Special judicial process of corporate recovery and insolvency

Thirty five special judicial processes for the recovery of companies and 3 insolvency processes were accompanied, in which ICP-ANACOM participated in the quality of creditor, in the most part due to claims resulting from the non-payment of fees.

There was also a new insolvency proceeding (under the new regime established by the Insolvency and Corporate Recovery Code), in respect of debts due to ICP-ANACOM arising from the non-payment of fees.

2.4.6. Tax foreclosures

Accompaniment continued over the course of 2008 of 7 cases of tax foreclosure brought forward from preceding years. In 2009, 11 new processes were begun.

3

INTERNATIONAL ACTIVITY

●● 3. International activity

ICP-ANACOM's international activity is undertaken at three different levels:

- As part of its remit as adviser to the Government, ICP-ANACOM is mandated by the Government to represent the Portuguese State as a competent body in the communications sector, issuing opinions and formulating positions which the State intends to adopt.
- Furthermore, in the exercise of its duties and powers, ICP-ANACOM participates in various forums of the EU and of international organizations and bodies, in particular from a perspective of the necessary development and application of measures comprised by the scope of this Authority's responsibilities.
- Cooperation represents another aspect of this Authority's international intervention, especially bilateral and multilateral cooperation with its counterpart NRA in all countries.

●● 3.1. Representation of the Portuguese State

3.1.1. European Union (EU)

Transport, Telecommunications and Energy (TTE) Council

ICP-ANACOM participated, assisting the Government and the permanent national representatives to the EU, in the Postal Group and in the Telecommunications and Information Society Group. ICP-ANACOM also supported the Government in its negotiations in the COREPER - Comité de Representantes Permanentes (Permanent Representatives Committee) and in the TTE, especially in the following fields:

Review of Regulatory Framework

Approval of the review package of the regulatory framework for electronic communications, which comprises the Better Regulation Directive (amending the Framework, Authorization and Access Directives), the Citizen's Rights Directive (amending the Universal Service and Data Protection Directives) and the Regulation establishing the Body of European Regulators for Electronic Communications.

From the approved package, note should be made of new powers of Member States, NRA and the Commission on several issues, including in terms of remedies, secondary trading of spectrum, network and information security, QoS and consumer protection.

International roaming

Approval of the revision of the regulation of international roaming, of which note is made of the extension of the period of voice regulation, the introduction of SMS regulation and regulation of data services, as well as the enhancement of transparency measures.

GSM Directive

Approval of the revision of the GSM Directive (87/372/ECC) providing for the use of the frequency reserved for this technology by other mobile services.

Digital dividend

Approval of the Council conclusions on the Commission Communication "Transforming the digital dividend into social benefits and economic growth."

Network and information security

Approval of a Council resolution on a collaborative European approach to network and information security, following the Commission Communication on critical information infrastructure protection entitled "Protecting Europe from large scale cyber-attacks and disruptions: enhancing preparedness, security and resilience".

Post-i2010

Approval of the Council conclusions: "Post-i2010 Strategy - towards an open, green and competitive knowledge society".

e-accessibility

Approval of the Council conclusions on an accessible information society.

Committees and Groups of the European Commission

ICP-ANACOM represented the Portuguese State in the following Committees and WGs:

Communications Committee (COCOM)

As part of this Committee's work, approval was given to the following documents:

- Committee Opinion on 116 and consequent Decision on 116.
- Report on EU broadband data.
- Decision No. 2009/449/EC which sets out to create, at European level, a common procedure for selecting of the operators of mobile satellite systems and establishing provisions for the coordinated authorization by the Member States of the operators of those services selected to operate in the 2 GHz band, through Decision No. 626/2008/EC and the Call for Applications 2008/C201/03.
- Commission Recommendation on termination rates.
- Regulation amending Commission Regulation (EC) No. 874/2004, of 28 April 2004, laying down public policy rules concerning the implementation and functions of the .eu top level domain and the principles governing registration.

At the end of the year, two proposed recommendation were still under discussion - one on MCV, and the other on regulated access to NGN.

ICP-ANACOM contributed to the preparation of the annual questionnaire on the implementation of the European emergency number 112 and also participated in meetings of the Group on Authorizations, established to assist the Committee in the selection process in respect of 2 GHz mobile satellite systems, the new WG on the compilation of data on broadband markets (WG on Market Data) and in the Expert Group on Emergency Access (EGEA), which is focused on issues related to the application of new technologies to emergency communications.

Radio Spectrum Committee (RSC)

As part of the activities undertaken in 2009 by RSC, approval was given to the following draft Decisions:

- Decision 2009/766/EC, of 16 October 2009, on the harmonization of the 900 MHz and 1800 MHz frequency bands for terrestrial systems capable of providing pan-european electronic communications services in the Community. The adoption of the Decision was only possible following the amendment of Directive 1987/372/CEE (GSM Directive).
- Decision 2009/381/EC, of 13 May 2009, amending Decision 2006/771/EC on the harmonization of radio frequencies for use by short-range and low-power equipment.
- Decision 2009/343/EC, of 21 April 2009, amending Decision 2007/131/EC on allowing the use of the radio spectrum for equipment using UWB technology in a harmonized manner in the Community.

The RSC is developing two new draft Decisions, due for adoption in 2010, one on the 800 MHz band, which aims to make available, on the basis of technological and service neutrality in the 790-862 MHz frequency band, that will be released following the transition from analogue television to digital terrestrial, and another on the harmonized conditions of spectrum use for MCV services in the territorial waters of the EU and establishing a set of conditions for spectrum use and technical parameters to be met by all MCV services authorized in the EU, in order to avoid harmful interference with base stations in the 900 MHz and 1800 MHz bands.

Telecommunications Conformity Assessment and Market Surveillance Committee (TCAM)

The TCAM focused, during 2009, on an analysis of issues related to the implementation of Directive 1999/5/EC, of 9 March, on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity, and formally began working on the revision of the Directive.

Radio Spectrum Policy Group (RSPG)

In 2009, this Group adopted the following opinions:

- Opinion on the Digital Dividend - advises the European Commission on a policy strategy, which promotes the provision by Member States of a "slice" of the digital dividend, including the 790-862 MHz sub-band based on technological and service neutrality.
- Opinion on best practices regarding the use of spectrum by some public sectors - identifies best practices for a more efficient use of spectrum by public sector bodies in the areas of defence, emergency and public safety and public transport, and identifies means for promoting more efficient management of the spectrum allocated to public services.
- Two opinions on the coordination of spectrum Interests of the EU - one on the coordination of European Interests in matters related to World Radiocommunication Conferences (WRC) and the other identifies the issues of the WRC-12 of interest to the EU, which require broad support within the EU.

The RSPG also created a WG to prepare a strategic document identifying a set of guidelines to maximize the benefits of wireless broadband services for consumers, citizens and society in general. In this context, a "position paper" was drawn up, describing the measures taken to limit "digital divide" in the context of wireless systems and also the opportunities offered by the spectrum for the provision of broadband services, including the spectrum bands below 1 GHz for coverage purposes. This document demonstrates the role of the "tools" available to the EU to remedy any (additional) spectrum constraints affecting broadband systems, including the recent technological developments, which enable more efficient sharing of spectrum among various types of systems and the need for harmonization.

In addition, Decision 2009/978/EC, of 16 December 2009, was adopted, amending Decision 2002/622/EC, establishing the RSPG, which now works as a Consultant, advising the Commission in the preparation of draft programmes in the area of the spectrum.

Joint WG of the European Regulators Group (ERG) and of the RSPG

This joint WG of the ERG and of the RSPG presented two reports in 2009. The first, *Transitional Spectrum Issues* addressing issues that may arise during the process of moving to flexible spectrum management, such as the introduction of UMTS in the 900 MHz and 1800 MHz band in the different Member States. The second report, entitled *Spectrum Competition Issues*, looks at the problems and practical experience of some Member States with respect to the prevention of spectrum hoarding as an anti-competitive practice.

This Group also started working towards the publication of a third report, dealing with the issues of spectrum in terms of the market definitions. The report is expected to be approved and published in early 2010.

The WG on Electromagnetic Compatibility (EMC)

In the context of Directive 2004/108/EC, this Group examined issues involving Power Line Communication (PLC) technology. All Member States, in general terms, reported complaints by amateur radio operators and, according to the European Commission, almost all complaints were resolved through ex-post intervention, principle of Recommendation 2005/292/EC.

Expert group on conditional access

Under Directive 98/84/EC, the European Commission created this group on the legal protection of services based on conditional access, and under article 3 of the Treaty on the adoption of measures to eliminate barriers to the free movement of goods, persons, services and capital.

Three objectives were established: cooperation between Member States, aimed at studying the transposition of the Directive at national level by identifying possible different implementations; monitoring policies developed in light of new areas where conditional access is implicit (especially in new distribution platforms and in the emergence of new

forms of piracy), and finally, fostering the exchange of experiences and best practices in the area of conditional access.

Of the activity undertaken by this group in 2009, note is made of the discussion on the so-called “grey market”, a consequence of the lack of cross-border offers and arising as a result of territorial fragmentation, leading to citizens subscribing to television services of their country of origin in other Member States. The equipment used for this purpose is not considered illegal equipment in accordance with the Directive, but conflicts with the territoriality of certain broadcasting rights, thereby creating a situation of uncertainty and a need for regulation.

Postal Directive Committee

In 2009, this Committee focused on the discussion of the process of implementing the 3rd Postal Directive (Directive 2008/6/EC, of 20 February), to monitor the developments in the postal sector, including the activities of Universal Postal Union (UPU) and World Trade Organization (WTO) and also to the issue related to the application of VAT in the sector.

Note is also made of the participation of ICP-ANACOM in the EU-China Seminar on postal reform and express delivery services which was held in Beijing in February, and in the conference of Postal Regulators held in March in Washington, D. C.

Article 133 Committee

This Committee is responsible for common EU commercial policy and monitors commercial relations with third countries, including the negotiation of agreements in the context of the WTO.

In the context of advising the Government, ICP-ANACOM issued several opinions and accompanied the negotiations on cooperation and free trade agreements between the EU and other countries, including the identification of offensive interests and comments on the proposals of other countries of various agreements, such as Canada, the Andean countries and China.

It is also noted that, with the entry into force of the Treaty of Lisbon on 1 December 2009, the article 207 Committee replaced the 133 Committee.

Group of experts on electric commerce

ICP-ANACOM follows the work of the Group of experts on electric commerce, chaired by the European Commission, which had only one meeting in 2009. Among the topics addressed, note is made of the presentation of new initiatives on online privacy, such as the *Hadopi Law*, in France, *Digital Britain*, in the United Kingdom, and the new legal framework on blocking websites in combating child pornography, in Germany. There was also debate on the implementation of article 3/4 of the Electronic Commerce Directive (EU Cooperation), on the concept of “directed activity” of the Brussels Convention I.

3.1.2. International Telecommunication Union (ITU)

Council

In the ordinary session of the Council of the ITU, held in October, approval was given to the budget for the 2010-2011 biennium.

The Council also conducted a review of the activity of the current WG and created new groups dedicated to the preparation of the Strategic and Financial Plan, to the Protection of Children Online and the preparation of International World Telecommunication Day, scheduled for 2012.

Approval was also given to the interoperability and conformity programme, which will include the application of measures to give buyers a clearer idea of the interoperability of equipment they want to buy.

Council WGs

As part of the financial regulations WG, an independent Audit Committee was established, whereas a review was conducted of the financial regulation presented by the secretariat of the ITU. This review stems from the adaptation of this regulation to the International Public Sector Accounting Standards (IPSAS), currently being implemented at the ITU.

The WG on Human Resource management approved the creation of an ethics policy for the ITU. The creation of a Human Resources Strategic Plan was also addressed.

At the meeting of the WG on the Information Society Summit, a roadmap was produced for each of the lines of action in which the ITU has assumed leadership.

4th World Telecommunication Policy Forum

The 4th World Telecommunications Policy Forum (WTPF-09) took place in April, in Lisbon.

The WTPF has the goal of promoting discussion and the exchange of views on emerging issues of regulation and telecommunications policy. The topics of debate at the WTPF-09 were as follows:

- Telecommunications policy and regulation.
- Public policies connected to the Internet.
- NGN.
- ITU international telecommunications regulation.

The event was chaired by the Assistant Secretary of State for Public Works and Communications and saw attendance by 850 delegates, by 19 Ministers, 9 vice-ministers and some 40 heads of regulatory authorities.

In addition to the report of the forum's chair, approval was given to the "Lisbon Consensus", a document which incorporates the views on the various topics that were examined at the Forum. It should be noted that, on the day preceding the opening of the Forum, a strategic discussion session was held on the impact of the crisis on the Information and Communication Technology (ICT) sector and the identification of ways in which ICT may help overcome the crisis. This session saw the participation of speakers from governments, businesses and other entities, with discussion focusing on the idea of creating a "digital Marshall plan."

3.1.3. Universal Postal Union (UPU)

Administration Council (AC) and Postal Operations Council (POC)

ICP-ANACOM participated in the WGs, committees and sessions of the AC and POC, together with representatives of CTT.

The plenary session of the COP debated the rules of the Council and the subsequent revision of rules governing the

creation and functioning of all cooperatives or voluntary groups funded through extra-budgetary funds.

The plenary session of the AC was held in November and focused on issues of governance (the competence of AC Committee 1) and Finance and Administration (the competence of AC Committee 3) and on the formalization of the two focus groups on Human Resources and on Auditing (which Portugal will join).

During the session, the first Postal Regulation Forum was held, addressing topics related to the organization of the postal market (several regulation models), the financing of the universal postal service and the overall impact of the liberalization of the postal market at national and international level. The Forum was attended by decision-makers from the postal sector and regulatory Authorities, and also saw participation from academics and service providers.

3.1.4. Postal Union of the Americas, Spain and Portugal (UPAEP)

21st Congress of the UPAEP

The Congress is the highest body of the UPAEP and brings together plenipotentiaries from the UE's member countries and territories every 4 years. At the 21st Congress of the UPAEP, which was held in Santiago, Chile, in August 2009, the Portuguese delegation, included the Portugal Embassy in Santiago and representatives of ICP-ANACOM and CTT.

Key issues included the finances, reform and development of the region's postal sector, technical cooperation (between not only member countries, but also close cooperation with other international organizations, such as the UPU) and elections to the elected posts of the General Secretariat and the Management Committee of the Consultative and Executive Council (CEC).

The 21st Congress was guided by prudence and restraint in financial matters and, with regard to the elections, was marked by the change of management, by virtue of the victory of the former Head of Projects of the UPAEP, Edwin Viscarra, of Bolivia. The former Secretary General, Serrana Bassini (of Uruguay), was re-elected for the 2009-13 period.

Consultative and Executive Council (CEC)

The works of the CEC focused on the preparation of proposals to the Congress of the Postal Union of the UPAEP and on the approval of the UPAEP budget, including a temporary measure to its reserve fund, demanded by the global crisis and changes in the exchange rate between the Uruguayan peso and U. S. Dollar in 2008.

ICP-ANACOM participated in the Postal Regulation Forum, presenting the European perspective on the gradual process of liberalization. ICP-ANACOM also participated in the Technical Co-operation Colloquium and in the Strategy Colloquium, where on Portugal's behalf, CTT presented the expectations on the future of UPAEP technical cooperation, emphasizing the issue of QoS.

3.1.5. Organization for Economic Cooperation and Development (OECD)

ICCP (Information, Computer and Communications Policy)

ICP-ANACOM was represented at the two meetings held in the context of the Committee for ICCP, the OECD body that examines the policy issues arising from the development and application of technologies and services in the area of information, computing and communications, including their impact on the economy and society in general and in terms of strengthening cooperation between Member and non-Members States.

In 2009, the ICCP gave particular emphasis to the economic and financial crisis and measures to combat it. In this context, a report was presented listing the measures implemented by member countries with greater impact on the economy, based on responses to a questionnaire from the OECD, to which ICP-ANACOM also contributed.

Additionally, and continuing the participation of non-governmental stakeholders in the work of the ICCP, the Committee agreed to establish ties with the technical community and civil society, the Internet Technical Advisory Committee (ITAC) and the Civil Society Information Society Advisory Council (CSISAC).

Finally, it is reported that the current chairman of UMIC - Unidade de Missão Inovação e Conhecimento (Knowledge Society Agency), Prof. Luís Magalhães, was re-elected as vice-chairman.

Working Party on Information Security and Privacy (WPISP)

ICP-ANACOM continues to provide one of the vice-chairmen of the WPISP, which, in 2009, focused on national strategies for cyber-security, authentication and digital identity management, privacy, spam and protection of children online.

Note is also made of ICP-ANACOM's participation, in 2009, in the Congress on Information and Communications Security, in Brasilia, at the invitation of Institutional Security Office of the Presidency of the Brazilian Republic.

3.1.6. European Telecommunications Satellite Organization (EUTELSAT IGO)

ICP-ANACOM provides national representation in the Assembly of Parties (AP) of the EUTELSAT IGO and in the Advisory Committee (AC), a support body of the organization's executive structure. In May, the 36th AP took place, approving the reappointment of the current Executive Secretary (France) for a second term of 4 years. Approval was also given to the accession of Montenegro, which became the 49th State to join EUTELSAT IGO.

Another significant point on the agenda was the monitoring of developments in the new French Space Law and respective regulations, whereas the AP decided that neither the States nor the IGO should assume additional responsibilities arising under this law.

There were two other meetings of the AC, in which there was analysis of the level of compliance, by the operator EUTELSAT in its operational and commercial activity, with the basic principles stipulated by the IGO and its obligations in terms of US.

3.1.7. International Telecommunications Satellite Organization (ITSO)

ICP-ANACOM provides national representation in the AP, presiding in the 2008-2010 biennium. It also sits, as an observer, on the AC of the organization. The Portuguese José Toscano has been Director General of the ITSO since 20 July 2009.

In 2009, an extraordinary AP was held, chaired by Mr. Saraiva Mendes, on the pretext of non-compliance by the Governments of the United States and of the United Kingdom with the obligations under article XII of the Agreement of ITSO, with respect to coordination of the orbital positions of the Common Heritage operated by the private company, Intelsat. During the AP, it was possible to reach a compromise, which constitutes a positive landmark in the recent history of the organization. Rejecting the use of arbitration proposed by the Director General at the time, the Assembly decided, additionally, to establish a WG on Frequencies, which will advise the new Director General in implementing the agreed procedure.

3.1.8. International Mobile Satellite Organization (IMSO)

ICP-ANACOM provides national representation in both the Assembly of IMSO, the highest body of the organization, also accompanying the work of the AC as an observer. The works of this Committee focused on defining the technical and financial aspects of the implementation of the ship Long Range Identification and Tracking (LRIT) system, where the IMSO functions as coordinator. This system was launched by the International Maritime Organization (IMO) to enhance maritime transport safety. The Committee also conducted an analysis of the new responsibilities assumed by IMSO as supervisor of future providers of GMDSS satellite services, which are authorized by the IMO, with a similar model as applies to Inmarsat.

● ● 3.2. Technical representation

3.2.1. Regulatory organizations

European Regulators Group (ERG)

The Plenary of the ERG, established by Commission Decision No. 2002/627/EC, met 4 times in 2009 (Berlin, Prague, Lucerne and Warsaw) in ordinary session, pursuing an ambitious work plan which included the active participation of ICP-ANACOM, both at Plenary level and at Project Team (PT) level. Among the works undertaken, note is made of the approval and publication of a timetable for monitoring the application of Common Positions and the adoption of a new version of the guidelines on the application on the regulation of International roaming.

Various reports were produced and discussed on a wide range of topics, including, in particular:

- the replicability of bundles and margin squeeze in bundles;
- transition from sector-specific regulation to competition law;
- regulatory costing;
- competition, spectrum and spectrum transition;
- fixed-mobile convergence;
- transparency of price information;
- economic analysis and regulatory principles of NGN and price consistency in broadband markets.

Likewise, a declaration was published on the digital dividend.

Independent Regulators Group (IRG)

The IRG is a group which sees participation of the NRAs of the communications sector of the 27 Member States of the EU as well as of the countries of the European Economic Area (Switzerland, Iceland, Norway and Liechtenstein), of EU accession candidate countries (Turkey, Croatia and the former Yugoslav Republic of Macedonia).

In 2009, the Authority attended all the plenary meetings of the IRG/ERG and in the preparatory meetings which preceded them, participating in the Contact Network which is the operational intermediate group representing each NRA.

ICP-ANACOM maintained its level of participation from previous years in the various WGs of the IRG, and continued to preside over the End-users PT and over the Independent Regulators Group Information Sharing (IRGIS)/Visibility PT.

ICP-ANACOM also continued its participation in several PTs, including Review of Regulatory Framework, Termination Fees, Benchmarking, Regulatory Accounting, ERG/RSPG Cooperation, End-users, IRGIS Roaming, Remedies, NGN, Convergence, and article 7 Specialist Group. ICP-ANACOM also participated in the ad hoc groups on security and access to information, particularly in the Informal IRG WG on Network and Information Security.

Latin American Forum of Telecommunications Regulatory Authorities (Regulatel)

The mission of the Regulatel is to enable the exchange information on the regulatory framework of each Administration in order to harmonize rules and activities. It has a nature that is the same as the IRG and ERG from Europe and it promotes sector cooperation and development in Latin America.

In 2009, ICP-ANACOM participated in the VIII Encontro de Corresponsales, at the AHCIET- REGULATEL Forum and in the Telecommunications Regulators Seminar held in Cuba and also in Colombia.

This Authority also participated in the VI High Level CMT I/ERG-REGULATEL Seminar and in the Regulatel Plenary at the IRG-Regulatel Summit, which took place in October 2009, in Capri.

Euro-Mediterranean network of Regulators (EMERG)

ICP-ANACOM is a founding member of the EMERG, which was established in June 2008 and which brings together representatives of regulators of the electronic communications sector from around the Mediterranean region, including members of the IRG, North Africa and the Middle East. This Authority was present at the meeting of the EMERG Contact Network and preparation meeting of the benchmark/work programme for 2010, held in Amman in December. ICP-ANACOM participated actively in the development of this Group's future website.

3.2.2. Other organizations

ITU Sectors

Telecommunication Standardization Sector (ITU-T)

The meeting of the Telecommunications Standardization Advisory Group (TSAG) was held in April with the main objective of defining the rules for the sector and monitoring the performance of the ITU-T at the beginning of the studies period of the phase following the World Telecommunications Standardization Assembly (WTSA), which took place in October 2008.

The 4th meeting of the Group of experts of the ITU took place in June, being the main goal the revising of the current text of the International Telecommunication Regulation.

Development Sector (ITU-D)

The 14th meeting of the Telecommunications Development Advisory Group (TDAG) was devoted to reviewing the implementation of the operational plan and to the analysis of the evolution of members of the development sector of ITU, which has 26 additional members since 2008.

During the discussions, the importance of defining quantitative and qualitative indicators was stressed. These Key Project Indicators (KPI) would work as metrics to assess the implementation of the operational plan.

In November, the 9th Global Symposium for Regulators (GSR) took place, an event which brings together regulators and policy decision-makers from developed and developing countries, promoting the exchange of ideas and experience on the sector's most pressing and current issues. In this respect, a document was prepared, in which Portugal had a particularly active and determinant role.

Note is also made of the preparatory meeting for the World Telecommunications Development Conference (WTDC), held in December. In this context, the following priority areas were defined: i) Communication and information infrastructure. ii) Cyber-security and ICT applications. iii) A conducive environment. iv) Training and other initiatives.

Radiocommunication Sector (ITU-R)

Within the sector ITU-R, this Authority participated in the following Working Parties (WP):

- WP1A (responsible for research into spectrum engineering techniques) which has reviewed several ITU recommendations and dealt with issues related to the WRC.
- WP1B [responsible for research on spectrum management methodologies and economic strategies), which dealt with matters related to Software Defined Radio & Cognitive Radio (SDR & CR) and with the Resolution 951].
- WP4B (responsible for studies related to satellite radio services).
- WP5A (responsible for studies related to the LMS and the amateur and amateur satellite service).
- WP5B (responsible for studies related to the MMS, including GMDSS, the aeronautical mobile service and radio-determination service) which focused on the development of technical and operational specifications of weather radars and MMS systems in metric and decametric waves.
- WP5C (responsible for the technical aspects related to the fixed service) which focused on the development of new frequency plans and the establishment of criteria for spectrum sharing between systems of the fixed service and other services.
- WP6A (responsible for studies related to the broadcasting service), which focused on the transition from analogue to digital technology.
- JTG 5-6 (responsible for studies on sharing between the mobile service and other services with allocation in the 790-862 MHz band: broadcast, fixed, mobile and aeronautical radio navigation services - in Regions 1 and 3, according to Resolution 749).

European Conference of Postal and Telecommunications Administrations (CEPT)

The objectives of the CEPT include the coordination of European regional positions in respect of the work of the sector's international organizations, namely the ITU and the UPU, in technical and regulatory matters. As usual, in 2009, ANACOM participated in the CEPT Assembly - its highest body.

European Commission Mandates to CEPT

In this context, the following works were developed:

- SRD - approved the report (CEPT 35) which examines the proposals on the harmonization of spectrum, and defines the technical characteristics and the frequency bands for such equipment.
- UWB - prepared and approved report (CEPT 34).
- Short Range Radar (SRR) - a report was developed, providing a review of the conditions/requirements for the operation of these radars, whereas it is expected that work will be completed in 2010 (CEPT Report 36);
- Digital Dividend - Reports CEPT 29, 30, 31 and 32 were prepared and approved in response to the mandate to conduct the necessary technical studies aimed at defining not only the optimal technical conditions for the use of the 790-862 MHz sub-band by fixed/mobile electronic communications, but also by other potential networks or services, taking into account the coexistence of the remaining services, including the broadcasting service. In this respect, approval was also given to Decision ECC/DEC/(09)03 on the harmonized conditions for Mobile/Fixed Communications Networks (MFCN) operating in the 790-862 MHz band.
- MCV - prepared and approved CEPT Report 28 identifying the technical and operational conditions necessary for the avoidance of harmful interference in radio services operating in the 900 MHz and 1800 MHz frequency band, in the territorial waters of Member States.
- WAPECS - the European Commission issued a new mandate to the CEPT to define the minimum technical conditions to be applied in the 2 GHz band (1900-1980 MHz/2010-2025 MHz/2110-2170 MHz), taking into account the need to avoid interference - with basis in the studies conducted with respect to the 2.6 GHz band.

The European Commission issued a further mandate to the CEPT in the 900 MHz and 800 MHz bands with the following objectives:

- Verify whether there are other technologies, in addition to Long Term Evolution (LTE), which may be deployed in the 900 MHz and 1800 MHz bands and whose compatibility with the GSM needs to be studied.

- To study the technical conditions which allow the development of LTE technology (and possibly other technologies) in the 900 MHz and 1800 MHz bands.
- To investigate compatibility between UMTS and systems in adjacent bands above 960 MHz.

Electronic Communications Committee (ECC)

ICP-ANACOM provided representation of the Portuguese Administration in the ECC, with approval given in 2009 to ECC Decisions on the following issues:

- Harmonization of the 1610-1626.5 MHz and 2483.5-2500 MHz frequency bands for use of mobile satellite service systems.
- Harmonization of the use of the 63-64 GHz band by ITS.
- Harmonized conditions for MFCN networks operating in the 790-862 MHz band.
- Exemption from individual licensing and free circulation and use of emission-only terminals of the mobile satellite service operating in the 1613.8-1626.5 MHz band.
- Reserving the national SMS numbering range beginning with 116 for harmonized SMS numbers and services of social value.

Approval was also given to ECC Decisions on the following topics:

- Designation and provision of frequencies for railway applications in the 876-880 MHz and 921-925 MHz band.
- Availability of bands for the introduction of wide band digital land mobile PMR/PAMR at 400 MHz and 800-900 MHz.
- Designation of the 1518-1525 MHz and 1670-1675 MHz bands for mobile satellite service systems.
- Exemption from licensing of specific UWB applications.
- Harmonized use of the 5 GHz band for the implementation of Wireless Access Systems including RLANS (WAS/RLANS).
- GSM on board aircraft.
- Frequency Information System (EFIS) - European Radiocommunications Office (ERO).

Regarding the monitoring of the ECC subgroups, this Authority opted to be present in the WGs and PTs, which included frequency management, spectrum engineering, regulatory affairs, numbering and addressing and technical aspects of interconnection.

Note is made of the following results achieved by these groups:

- The Frequency Management Working Group (WG FM) continued with activities with respect to radio spectrum harmonization at European level, including studies on the harmonization of the uses of protection and emergency applications, of SRD and of MSS in the 2 GHz band; updated the European table of frequency allocations (ECA, Report ECC 25) and continued with the development of the European Spectrum Information Portal (EFIS); developed spectrum monitoring campaigns and accompanied specific works with respect to the MMS and marine radionavigation.
- The Spectrum Engineering Working Group (WG SE) carried out studies that resulted in recommendations and reports to establish compatibility criteria between different radio systems. Note is made, among others, of reports on the introduction of WLAN on aircraft in the 5250-5350 MHz and 5725-5875 MHz frequency bands, microphone transmitters (PwMs), specific UWB applications; works were begun on the introduction of equipment using cognitive radio technology in the 470-790 MHz band.
- The Working Group on Regulatory Affairs (WG RA) engaged in work on the harmonization of technical/regulatory standards and procedures at European level, with particular notes made of the report on the introduction of impact assessments in the procedures of CEPT, in the harmonization of the radio interfaces in CEPT determinations, analyses on the applicability of the R&TTE Directives;

ICP-ANACOM also participated in the Conference Preparatory Group (CPG), which is preparing the works of the WRC being held in 2012. This Group created, for this purpose, 4 PTs, which are studying various subjects with respect to radiocommunications.

European Communications Office (ECO)

ICP-ANACOM provided representation of the Portuguese Administration on the Boards of the ERO and of the European Telecommunications Office (ETO), which met jointly, and for the last time, in May. On 1 July 2009, the Convention of the ECO entered into force, replacing the ERO Convention and the ETO Memorandum of Understanding, both dated 1993. Following the entry into force of the new Convention, the Office assumed the new name of ECO.

At the first meeting of the ECO Board, which took place in November, an analysis was conducted of the financial results of the organization of 15th CEPT, held on the theme "Common European Practices in Telecommunications" in Montreux, in October, marking the commemoration of the 50th anniversary of the organization's founding.

European Committee for Postal Regulation (CERP)

In 2009, the new structure of the CERP - Comité Europeu de Regulação Postal was implemented, consisting of 2 WGs - the Policy WG and the Application WG - with 9 PTs reporting to these Groups, maintaining the Plenary as the final provider of approval to the Committee's work.

The plenary meeting adopted the reports of the WGs, and a cooperation protocol was signed for the 2009-12 period between CERP and the Federation of Regional Communities in the area of Communications (RCC). At the plenary meeting in November, in Monaco, final approval was given to all PT's and WG's activity reports.

European Telecommunications Standards Institute (ETSI)

ICP-ANACOM is a member of the ETSI in the Administration category, and in this quality participated in the last General Assembly of the year. ETSI is active in three main areas: global standards producer, service providing organization and European standards organization, while in the area of standards special attention is given to ITS, to NGN and to the "Internet of Things". The ETSI currently has 717 members, from 62 countries on 5 continents.

● ● 3.3. Cooperation

The year 2009 was marked by consolidation in multilateral cooperation, particularly with regard to the relationship of ICP-ANACOM with its counterparts from the CPLP - Comunidade dos Países de Língua Oficial Portuguesa (Community of Portuguese speaking Countries).

The new cooperation mechanisms, adopted in 2008, confirmed greater efficiency regarding the internal and external expectations of key stakeholders. The establishment of new partnerships and new platforms of cooperation, in articulation with organizations and agencies and with the aim of providing support and development in their public and private aspects, have proved useful and effective with respect to the rationalization of ICP-ANACOM's professional skills and financial resources.

3.3.1. Multilateral cooperation

Association of Communications and Telecommunications Regulators of the Community of Portuguese Speaking Countries (CPLP-ARCTEL)

The I General Assembly of the ARCTEL-CPLP (Associação de Reguladores de Comunicações e Telecomunicações da CPLP) was held in February 2009 in Maputo, where the members of the Association's management bodies were elected, specifically the chairman, David Gomes, of Agência Nacional das Comunicações (ANAC) of Cape Verde, the vice-chairman, Ronaldo Sardenberg of Agência Nacional de Telecomunicações (ANATEL) of Brazil, and the Secretary, Filipe Batista, responsible for ICP-ANACOM's cooperation area. Approval was also given to the 2009 Activities Plan. This Association has been asserting itself and gaining ground on the international scene, and it already has a website (available in Portuguese and English), which resulted from crucial contributions provided by the 8 members of the Association.

Among the activities undertaken by this Association in 2009, note is made of the signing of a Memorandum of Understanding with its counterpart in the energy sector, RELOP - Associação de Reguladores de Energia dos Países de Língua Oficial Portuguesa (Association of Energy Regulators of Portuguese speaking Countries), with a view to inter-sectorial cooperation, and establishing an agreement with the ITU, aiming to jointly organize an informal meeting

of Regional Regulator Associations on the occasion of the GSR. Under this agreement, the ARCTEL-CPLP and the ITU organized the 1st meeting of Regional Regulator Associations.

In October 2009, ARCTEL was admitted to the ITU as a member of the Sector (ITU-D).

Association of Postal and Telecommunications Operators of Portuguese Speaking Countries and Territories (AICEP)

ICP-ANACOM attended the Annual Ordinary General Assembly of the AICEP held in Funchal, in April 2009. The General Assembly elected the new governing bodies and approved the 2009 budget and business plan.

Centre of Excellence for Portuguese and Spanish Speaking Countries in Africa (ITU CoE)

Following the agreement between the MOPTC and the ITU on the creation of the CoE, as well as the subsequent agreement between ICP-ANACOM and the ITU for the project's financing (contribution payment and offer of trainers), ICP-ANACOM actively participated in the launch of the project as well as in the implementation of its 2009 programme.

The beneficiary countries (Angola, Cape Verde, Guinea-Bissau, Equatorial Guinea, Mozambique, Sao Tome and Principe and East Timor) identified the need for training in various areas, including on regulation, policies and strategies for the provision of the US, spectrum management, network security and fraud management. In this context, there have been 12 training sessions, whereas ICP-ANACOM played an active part in the management, coordination and supervision of this programme, contributing decisively to the success of the first year of this project.

3.3.2. Bilateral cooperation

Indicative Cooperation Programmes (ICP) and Annual Cooperation Plans (ACP)

The year 2009 saw new mechanisms put into operation governing ICP-ANACOM's cooperation, in particular the ACP, which comprised various courses of action identified in the ICP.

In the first year of operation of these mechanisms, the results were, on average, 50 % achievement, a satisfactory value considering that this way of working is completely new.

In the bilateral context and pursuant to the ACP with the regulatory authorities of PALOP - Países Africanos de Língua Oficial Portuguesa (Portuguese speaking African Countries) several missions/initiatives took place in Angola (INACOM), Cape Verde (ANAC), Guinea-Bissau (ICGB), Mozambique (INCM), Sao Tome (AGER) and East Timor (ARCOM).

Actions undertaken pursuant to the technical cooperation agreements

The following list includes the actions undertaken during 2009, under the various technical cooperation agreements made between ICP-ANACOM and other NRAs:

Brazil (ANATEL)

- Technical mission of ICP-ANACOM to Brazil with the main aim of exchanging experiences on spectrum management.
- 2nd technical meeting on spectrum management, held in Portugal.
- Joint participation in a study entitled "Scientific Research Project Coordinated by ICP-ANACOM and ANATEL with a focus on mobile broadband", performed by a group of renowned academics from the United States.
- Preparation of the 13th Meeting of the ANACOM-ANATEL Coordination Commission, scheduled to take place in Brazil, Manaus, in April 2010.

Cape Verde (ANAC)

In December 2009, studies were conducted to assess the QoS of voice services, SMS and GSM network coverage, in the main urban centres and along the main roads of the island of Santiago - Cape Verde. The aim was to examine the quality of these services, which are supported on GSM/ General Packet Radio Service (GPRS)/Enhanced Data rates for GSM/DCS Evolution (EDGE) mobile networks. Automatic end-to-end tests were performed in the major urban centres and along the main roads of the island (8 and 4 hours of measurements, respectively, during daytime and night, in Praia, and 12 hours of measurements along the main roads of the Island of Santiago).

Ecuador (ANP)

The regulator of the postal sector in Ecuador (ANP) expressed interest in strengthening cooperation relations with ICP-ANACOM and proposed a cooperation protocol. It was then agreed to move forward in partnership to develop new models of cooperation, with a broader educational component and a significant reduction in ICP-ANACOM's costs. In this context, there are plans to sign a protocol in 2010.

Hungary (NCH)

Under the existing protocol between the National Communications Authority of Hungary (NCH) and ICP-ANACOM, a new cooperation action took place at NCH, in October, with the participation of 3 ICP-ANACOM's technicians and focusing on spectrum monitoring and control activities.

Morocco (ANRT)

Held in May, in Lisbon, the first frequency coordination meeting was held with the Moroccan regulator, under the cooperation protocol established in 2007. The agenda mainly focused on developments occurring in terms of digital television and the switch-off - the transition from the analogue to the digital system. The issue of coordination was also addressed in terms of the plans for radio and television in both countries.

Sao Tome and Principe (AGER)

In May, a cooperation action was conducted with Autoridade Geral de Regulação de São Tomé e Príncipe (AGER) on the regulatory framework applicable to the electronic communications and postal sector, as part of the respective ACP.

INA / ICP-ANACOM partnership

Following the evaluation visits carried out in all PALOP and the contracting of the ACP and ICP, the need for new training models was identified.

In this context a protocol was concluded between ANACOM and the INA - Instituto Nacional de Administração (National Institute of Administration), whereas in late 2009 the first edition of the Advanced Course for Technicians and Managers of the ARCTEL-CPLP was held, with the participation of 21 trainees from regulators around the area of the CPLP, with the exception of East Timor and Portugal.

ICP-ANACOM - UMIC - FCCN - UNICV Cooperation Protocol

In March 2009, ICP-ANACOM signed a cooperation protocol among UMIC, FCCN - Fundação para a Computação Científica Nacional (Foundation for National Scientific Computing), ICP-ANACOM and the University of Cape Verde (UNICV) with the aim of providing the University with access to the *B-on* database.

The protocol provides UNICV with access to approximately 3000 titles from international scientific publications and over one million bibliographic records of the *B-on* (online scientific library) in Portugal.

ICP-ANACOM - Associação Empresarial de Telecomunicações (ACIST-AET)

Whereas ACIST-AET (Telecommunications Business Association), an member of the Advisory Board of ICP-ANACOM - specialized ITED Committee, initiated a project to internationalize its members in 2008 - a project that is based on business trips and setting up a technological room for ITED training, though seminars (in Cape Verde and Mozambique) - ICP-ANACOM has signed a protocol with UNICV for the creation of a technological room at the University.

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COMMUNICATION ACTIVITIES, HANDLING OF REQUESTS AND ATTENDANCE

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● ● 4.1 External communication

ICP-ANACOM announces its decisions and initiatives, as well as a variety of market relevant information, through the gathering, processing and production of content, using the means of communication available to it, including its website and the monthly newsletter *Spectru*. This is also achieved through various publications, such as the *Annual Report and Accounts*, the *Regulation Report*, the *State of Communications Report* and the *Activities Report*, in addition to statistical and quality reports.

This Authority pays particular attention to its relationship with the general public, particularly consumers and users of communications services, dealing with the various enquiries addressed to it, a task handled by its PAS. The Centre for Documentation and Information (CDI) constitutes another connection with the public.

Internet presence

The website of ICP-ANACOM, available at www.anacom.pt saw a major revamp in 2008 and saw further changes in 2009 with the introduction of new features, including, most importantly, the launch of a mobile version (<http://www.anacom.pt/mobile/>).

Additionally, a statistical monitoring system was implemented, providing users with information about the most viewed pages, the tags (terms that comprise ICP-ANACOM's own taxonomy) that are most used and the content types which are most viewed by all those who visit the website.

Early in the second half of 2009, ICP-ANACOM became present on Twitter, a Web 2.0 social networking site, which enables this Authority to bring news of its activities faster to its public and to reach more people, enhancing the reach of news in both Portuguese and English.

The text version ensures that people with special needs are able to access the website's content and dynamic services, such as interactive forms. Additionally, the text version provides access to information from less conventional technology platforms, such as television and game consoles.

In 2009, ICP-ANACOM's website received over 2 million (2,277,038) visits. There were approximately 34 million

page views (34,176,081), with an average of 6,400 daily visits reported.

The "Tariff Monitor" of the mobile telephone service - a simulator which allows consumers to perform free and interactive consultations and comparisons of the fees that are in place at national level for voice calls, written messages (SMS) and multimedia messaging (MMS) - received considerable use in 2009: about 10,363 accesses and 11,622 simulation operations.

Cooperation was kept with the Citizen's Portal (Portal do Cidadão) and the Company Portal (Portal da Empresa). At the end of 2009, 12 services provided by ICP-ANACOM were available on the Citizen's Portal with different levels of sophistication: interactive services, information services and transaction-type services. Meanwhile the Company Portal offered 35 services from this Authority with different levels of sophistication: 8 information services; 15 interactive services; 12 transaction-type services.

Spectru

This regular publication is the regulator's official newsletter and one of the main ways in which ICP-ANACOM engages in institutional communication with the public, making a decisive contribution to spreading knowledge about the electronic communications and postal sector, through the regular publication of national and international information, which is relevant to the sector.

Communications in Portugal, in Europe and the the rest of the world continued to be the three main thematic areas in 2009, with the reporting of news from internal sources about national regulatory activity and ICP-ANACOM's presence in international organizations, as well as informative content from external sources, including from counterpart institutions and other international institutions of reference.

In addition to its regular edition, the *Spectru* newsletter marked the 20th anniversary of ICP-ANACOM with a special edition in November 2009, illustrating the evolution of the communications sector in recent years. It included testimony from the chairpersons of ICP-ANACOM's Management Board since 1989, from the Minister of MOPTC and from Diogo

Vasconcelos, chairman of APDC - Associação Portuguesa para o Desenvolvimento das Comunicações (Portuguese Communications Development Association).

The *Spectru* newsletter is released on paper in Portuguese only, with a circulation of 500 copies, and is sent to various entities, including ministries, consumer protection institutions, operators and providers of communications services, industry, ICP-ANACOM's national counterparts and counterparts in CPLP. The English version, which is only produced electronically, is sent to the heads and staff of foreign NRAs, the European Commission and different relevant international bodies.

The two electronic versions of *Spectru*, one in Portuguese and one in English, are available on ICP-ANACOM's website, whereas subscribers to the newsletter are sent an alert when each new edition is released. The public can subscribe online to *Spectru* free of charge.

● ● 4.2. Institutional image

As part of the celebrations surrounding this Authority's 20th anniversary, in February 2009, the Management Board launched a process to revamp the image of ICP-ANACOM (rebranding), seeking a seamless evolution from the previous image, conveying credibility and seriousness, updating the logo and instilling a new dynamic which signals a new cycle of modernity associated with the current challenges in the communications sector. Meanwhile, the slogan of ICP-ANACOM's brand "Free flowing communication" is maintained, affirming the role of this Authority as guarantor and promoter of transparent and effective communication.

Work on the conceptual and creative development of the new identity and its applications began in the second half of 2009, continuing into the first half of 2010. The new image was presented, at first hand, to ICP-ANACOM's staff at the celebration dinner of the 20th anniversary, held on 6 November 2009.

Publications

In 2009, the *Report and Accounts*, *Regulation Report* and the *Activities Report* were published in paper and electronic form, in Portuguese and with an English translation, all relating to 2008, together with the 2010-12 Management Plan and the 2009 edition of the *Communications Sector in Portugal Yearbook*. The *State of Communications* was the only publication available only in electronic form, both in Portuguese and in English.

Regarding the publication of studies of a technical nature, conducted by this Authority, note is made of the provision on this Authority's website of the following titles:

- *e.iniciativas* - Study on its take up and impact.
- GSM/UMTS Mobile communication systems - Evaluation of quality of service - Evaluation of QoS of voice services, video-telephony and GSM WCDMA network coverage in the main urban centres and along the main roads of Mainland Portugal.
- Evaluation study of the QoS of broadband Internet access.
- Network of postal establishments CTT at the end of 2008 and the end of the first quarter of 2009.
- Survey of the consumption of postal services - residential population.

- Comparisons of prices of the universal postal service providers in the European Union in 2009.

The following works commissioned by ICP-ANACOM were also published on this Authority's website:

- "Vertical functional separation in the electronic communications sector - What are its implications for the Portuguese market?" (conducted by Oxera and by Ellare Consulting).
- "The Broadband Adoption Index: Improving Measurements and Comparisons of Broadband Deployment and Adoption" (conducted by the Phoenix Center for Advanced Legal and Economic Public Policy Studies).
- "Electronic Communications Services Consumer Survey - residential population" (conducted by ICP-ANACOM and TNS-Euroteste).
- "Scientific Research Project Coordinated by ICP-ANACOM and ANATEL with a focus on mobile broadband - Final Report" (conducted by the Academic Team).

Events and meetings

ICP-ANACOM held its third international conference in Lisbon on 30 September 2009, on the theme "20 Years Later: Why Regulate?". This was the main event in the commemorations of this Authority's 20th anniversary, which was celebrated on 6 November 2009.

This initiative aimed to provide an opportunity for joint reflection on the major issues that currently face regulation of the communications sector, in view of the challenges envisaged for the future in an environment marked by the pace of technological development and its implications for the market (telecommunications and postal services).

The work undertaken centred on four main themes: "20 Years of regulation: building the future with the present and past"; "Regulate for investment? Competition as a driver to invest"; "Spectrum and competition: regulating the next 20 years"; and "Governance of Regulation: scope, legitimacy and accountability". To present and launch the debate, which took place on these issues, speakers of recognized merit, representing a wide range of important institutions, attended the Conference.

The conference was attended by 242 participants, including policymakers, academics, representatives of operators and of entities representing the sector, members of international organizations and regulatory authorities from other countries.

ICP-ANACOM also organized the 3rd Congress of the Portuguese Committee of the URSI - Union Radio-Scientifique Internationale (International Union of Radio Science), held on the subject "Radiocommunications: from the Earth to the Universe". This Congress, which took place on 3 and 4 November 2009, in Lisbon, was preceded by a prior call to the Academy to submit proposals for papers in areas related to the respective theme (call for papers). In parallel with the Congress, a technical display was put on with the participation of 9 exhibitors.

The Portuguese Committee of the URSI, also with the support of the Authority, started to allocate an annual career prize to reward excellence in a Portuguese scientist who had contributed to the advancement of radio science in Portugal in recent years. In 2009, the prize was awarded to Professor Carlos Salema.

Throughout 2009, a number of different workshops were promoted and/or organized by ICP-ANACOM:

- OECD-ANACOM Expert Workshop on "Measuring Mobile/Wireless Service Data", held on 19 and 20 February and was attended by 160 participants.
- OECD-ANACOM Expert Workshop on "Sensors Based Environments", held on 8 and 9 June and attended by 50 participants.
- "The digital dividend: Market Challenges and Objectives of Public Interest", held on 16 April and attended by 150 participants. This initiative acted as a catalyst for the public consultation on the digital dividend, launched on 30 March 2009, in order to assess trends and gauge the market's interest in the frequencies that will be freed up as a result of the process of migration from analogue to digital.
- "Resilience of Electronic Communications Infrastructures" held between 18 and 19 May and organized with support from the European Commission, European Network and Information Security Agency (ENISA) and Bell Labs with participation reported by 70 participants.

- CNSA-LAP “Fighting Spam”, held between 7 and 9 October, an initiative of the Contact Network of Spam Authorities (CNSA) and the London Action Plan (LAP) and attended by 130 participants.
- “ENUM: What’s the future?” held between 28 and 29 October on the functionality of Electronic Numbering (ENUM) (Telephone Number Mapping), with 100 participants. It aimed to disseminate the technological developments in the electronic communications sector and launch a broad debate among market players, particularly through the presentation of business solutions in other European countries. The intention was also to check the market’s appetite for User-ENUM as well as to gauge the commitment and availability of providers to develop the work necessary to make ENUM work in Portugal.
- “Application of the R&TTE Regime in Portugal”, held on 3 December and attended by 100 participants. This had the aim of providing a venue for debate that might contribute to the clarification of key issues related to the putting into service of radio equipment and telecommunications terminal equipment by manufacturers and/or distributors.

The “ANACOM Seminars” initiative continued through 2009, with the objective of promoting knowledge, discussion and debate around themes of importance to the sector, with the presentation and discussion of works or academic projects by national and foreign authors. Four seminars were held on the following themes:

- “The Hidden Elements of Per-second Billing” - Steffen Heinz Hoernig, of the Economics Faculty of Universidade Nova de Lisboa (January).
- “The Work of the Communications Consumer Panel” - Roger Darlington, founding member of the Communications Consumer Panel (formerly the Ofcom Consumer Panel), United Kingdom.
- “Communications Industries: Consumer Markets and Consumer Strategy” - Marek Havrda, Health and Consumer Protection Directorate General, European Commission.
- “The Future Direction of Regulation” - Michael Crew, Director of the Center for Research in Regulated Industries (CRRRI) of Rutgers University.

Additionally, a series of seminars was held over September and October 2009 on “The new ITED-ITUR regime”, with the aim of providing an opportunity to discuss and clarify issues related to the new legal regime governing ITED and ITUR. These seminars were held in Lisboa, Porto, Algarve, Açores and Madeira and had between 200 and 800 participants.

Twenty technical meetings were held, in the context of groups of international organizations in which ICP-ANACOM participates, as part of ICP-ANACOM’s remit to provide representation of the communications sector, as in the case of the IRG, the CEPT and the ENISA.

A highlight of 2009 was the WTPF-09 ITU, whose fourth edition was held at the Lisbon Congress Centre from 22 to 24 April 2009 at the invitation of the Portuguese Government and was organized by ICP-ANACOM. The WTPF-09, which was attended by almost 850 delegates, was preceded by a strategic discussion on ICT in the context of the current economic crisis.

ICP-ANACOM also took part in the organization of the XIX Summit of Heads of State and Government of Ibero-American States, held in Estoril from 30 November to 1 December 2009, addressing the theme “Innovation and Knowledge”.

Campaigns

Stemming from the adoption by the European Parliament, on 22 April 2009, of a set of amendments to Regulation (EC) No. 717/2007 on roaming on the public mobile telephone networks in the Community, and the subsequent confirmation of these rules by the Council of Ministers of the EU, on 8 June 2009, ICP-ANACOM launched the information campaign “Roaming Light”, aimed at the general public.

The goal of the campaign, which ran until September 2009, was to inform the users of roaming service about the new rules applicable to operators, belonging to the EU and the European Economic Area, from 1 July 2009. The campaign made use of various media, such as the website, the Internet, the press and outside publicity. A highlight of the campaign was the creation of the website www.roaminglight.net, providing useful and updated information on matters to consider before, during and after any trip abroad.

Also in 2009, ICP-ANACOM launched a campaign to publicise the auction of BWA frequencies, held to allocate rights of use of frequencies in the 3.4-3.6 GHz and 3.6-3.8 GHz bands for the development of BWA applications. The campaign relied on various sections of the press, national and international speciality magazines, including the invitation to participate in a clarification session on the functioning of the auction, which took place on 10 November, with 60 participants attending.

Sponsorship and publicity

In 2009, sponsorship was awarded to the FCM - Fundação para as Comunicações Móveis (Foundation for Mobile Communications) totalling 10 million euros, following a request from the Foundation to finance the projects developed under the *e-escolinhas* project, which was supported by order of the MOPTC, of 28 April 2009.

In the context of hosting the WTPF-09 which took place in Lisbon from 22 to 24 April 2009, ICP-ANACOM, by order of the Assistant Secretary of State for Public Works and Communications, supported the costs associated with the event, totalling 2,661 million euros.

A further 31 sponsorship awards were granted, the majority corresponding to specific events, promoted by educational establishments and entities representing the communication sector or with relevant activity. With respect to the themes covered by the sponsored initiatives, most were connected to electronic communications and radiocommunications, including the information society and other issues with sectorial relevance of a transversal nature.

Partnerships were maintained, through sponsorship and cooperation protocols, with bodies contributing to the research and production of studies on the sector, such as IJC - Instituto Jurídico da Comunicação (Legal Institute of Communication) and CEDIPRE - Centro de Estudos de Direito Público e Regulação (Centre for Studies in Public Law and Regulation).

The project "TIC Pediátrica" (Paediatric ICT) of FDTI - Fundação para a Divulgação das Tecnologias de Informação, supported by ICP-ANACOM since its inception, was also followed throughout 2009. In July, the 4th stage of the project was launched, focusing on the following paediatric hospitals:

Sousa Martins, São João, São Teotónio, Centro Hospitalar de Trás-os-Montes e Alto Douro, Unidade Local de Saúde do Alto Minho and Hospital de Santo André.

The partnership was also maintained between ICP-ANACOM and APDC, as well as the partnership with APQ in connection with the ECSI Portugal Project.

In 2009, various initiatives were also sponsored in the context of the activities plan of ACIST-AET, continuing a practice started previously.

Simultaneously, it was decided to award sponsorship to the annual conference on Fiber To The Home (FTTH), to be held in Portugal in 2010, with the aim of providing information about the new services, applications and content for FTTH. The FTTH Council Europe is an organization that promotes the provision of broadband access networks supported over optical fibre, which provide a flow of new services, which are very important to the lives of consumers and businesses, providing benefit for society in general.

In terms of publicity, around 80 proposals were assessed, with ICP-ANACOM taking a presence in a number of newspapers, directories and magazines with institutional advertising.

Institutional partnerships

ICP-ANACOM maintained institutional partnerships with national authorities with sector relevance, promoting the communications sector.

In this context, note should be made of this Authority's activity with respect to FPC - Fundação Portuguesa das Comunicações (Portuguese Communications Foundation), which involves the direct accompaniment of the activity of the bodies in which it is represented, in addition to its presence in the permanent exhibition of the Museum of Communications, specifically through the maintenance of "Espaço ANACOM" (ANACOM Space). ICP-ANACOM sat, as usual, on the judging panel of the "Prémio FPC" (FPC prize) contest.

In partnership with CTT, ICP-ANACOM helped organize the 2009 edition of the letter writing competition, aimed at young people between the ages of 9 and 15, residing in Portugal, and on the theme "Explain how decent working conditions can

lead to a better life". The prizes were awarded on World Post Day, on 9th October. The winning letter was forwarded to the UPU to represent Portugal in the international letter writing competition sponsored by this organization. Meanwhile, the 2010 edition of the contest was launched, for which the UPU has selected the following theme: "Write a letter to someone explaining why it is important to talk about AIDS and to protect yourself from the disease".

In 2009, this Authority joined APDSI - Associação para a Promoção e Desenvolvimento da Sociedade de Informação (Association for the Promotion and Development of the Information Society) and maintained an institutional relationship with various organizations, including in particular APDC and APMP - Associação de Promoção do Multimédia em Portugal (Association for Promoting Multimedia in Portugal).

4.3. Direct relationship with the public

Processing of enquiries about the market

ICP-ANACOM handles complaints and requests for information on the market, which are addressed to it, promoting information and providing clarification.

In the context of this activity, usual and regular informal contacts were maintained in 2009 with DGC in order to coordinate and maximize the work undertaken by each entity in terms of the respective areas of sectorial competence.

In particular, with regard to complaints entered in the Complaints book (Decree-Law No. 156/2005, of 15 September), DGC, in partnership with the INCM - Imprensa Nacional Casa da Moeda (National Mint), developed a tool which was put into operation, on 17 August 2009, the telematic network of common information (RTIC - Rede Telemática de Informação Comum). This tool enables the management and processing of complaints and facilitates the communication of resulting statistical data. ICP-ANACOM's applicational solution for complaint handling was integrated with this new tool, whereas a cooperation protocol was concluded with the DGC, INCM and other regulators and market oversight authorities, supporting the operation and sustained monitoring of the RTIC.

In 2009, 41,989 complaints were received at ICP-ANACOM, with 79 % relating to electronic communications services and about 18 % to postal services. This Authority also received 590 requests for information, 45 suggestions, 40 petitions and 178 communications of other types.

Compared to 2008, the overall volume of complaints received in 2009, reported an increase of around 24 %. The main reason for this trend is the steady increase in the volume of complaints entered into Complaints Books.

It should be noted that 78.8 % of the total complaints received, correspond to complaints entered into Complaints books (introduced under Decree-Law No. 156/2005, of 15 September), 17 % were sent electronically (using email or the website's online services) and only 4.2 % were sent by letter or fax.

The Internet access service originated the largest number of complaints, followed closely by the telephone service at a fixed location and the virtual calling card service.

The content of complaints continues to be related, in the most part, to issues of billing, equipment, customer service and technical assistance.

Furthermore, with regard to actions undertaken with a view to strengthening the protection of user interests, and in compliance with the Strategic Plan for 2009-11, ICP-ANACOM proceeded with the project to create the National Arbitration Centre for the electronic communications sector, whereby this Authority undertook the coordination of tasks required to set up the Centre, in conjunction with the various entities involved in the initiative.

Public attendance

ICP-ANACOM's direct relationship with the public is essentially supported by the Public Attendance Service (PAS), located in its headquarters in Lisbon, and in the regional offices (Porto, Azores and Madeira).

In 2009, the PAS received 45,378 requests, with the following table illustrating the distribution by means of communication used:

Distribution of requests received by the PAS

Table 12

| Means of communication | Number | % |
|------------------------|---------------|------------|
| Telephone | 22,338 | 49.2 |
| By post and fax | 14,078 | 31.0 |
| Electronic | 4,982 | 11.0 |
| In person | 3,980 | 8.8 |
| Total | 45,378 | 100 |

The PAS provides a range of important services, including: (i) the registration of ITED installers and project managers, including all related amendments, the reception, processing and preparation of lists and the filing of ITED terms of responsibility and certificates of conformity; (ii) registration, and all subsequent changes with respect to Personal Radio Service - CB customers; (iii) the scheduling and conducting of amateur exams and issue of the respective certificates; (iv) registration of intermediary providers of network services.

ICP-ANACOM also provides another set of services, whose enquiries, although received by the PAS, are handled by the respective competent internal departments. Such is the case of licensing of networks and stations of radio services (including, LMS, MMS, aeronautical mobile service, fixed and satellite radio service), radio and television broadcasting services, postal services, audiotext services and value-added services based on message sending and electronic communication services.

With respect to the majority of services provided by this Authority, 39,328 enquiries were received by the PAS in 2009. Table 13 presents the distribution of requests by type of service

Breakdown of enquiries by service type

Table 13

| Service | Number |
|---|---------------|
| ITED | 19,362 |
| Amateur | 6,696 |
| Personal radio (CB) | 5,793 |
| LMS - Private Networks | 1,966 |
| Non-discriminated services | 1,549 |
| Television broadcasting | 593 |
| Non sectorial | 462 |
| Mobile telephone | 420 |
| Other radio services | 283 |
| Electronic communications networks and services | 301 |
| Radio broadcasting | 293 |
| Fixed telephone | 277 |
| Audiotext | 178 |
| Value added - SMS | 228 |
| Data transmission/Internet access | 171 |
| Postal | 144 |
| Digital television | 112 |
| VoIP | 122 |
| Public payphones | 67 |
| WLAN | 61 |
| Cable television distribution | 34 |
| Virtual phone cards | 38 |
| Resale of telephone service at a fixed location | 26 |
| MMS | 35 |
| Resale of Internet access service | 26 |
| Satellite services | 26 |
| Intermediary network service providers | 16 |
| Aeronautical mobile | 19 |
| Satellite broadcasting | 15 |
| Virtual MVNO operators | 9 |
| UMTS, T-DAB, FWA | 6 |
| Total | 39,328 |

Requests received by mail, telephone or personally, with respect to "ANACOM services" saw an average answer time of 10 minutes, while 25 % of requests were answered in under 4 minutes, 50 % in less than 7 minutes and just 25 % of requests were answered following a delay of over 13 minutes.

For requests received by electronic means, also with respect to "ANACOM services", the average response time was 178 hours, with 25 % answered in less than 15 hours, 50 % in less than 69 hours and only a quarter of the requests had a response delay of more than 186 hours.

The latter group, with average response delay of more than 186 hours, involved requests for technical advice to the competent area depending on the issue. It should be noted that, as a channel that is open 24 hours a day, response times are calculated including nights, weekends and holidays.

Centre for Documentation and Information (CDI)

The CDI centralizes all kinds of publications and documents, which are essential for the development, and the constant update of the knowledge of ICP-ANACOM staff. The Centre is also open to the public between 9 a.m. and 5 p.m., from Mondays to Fridays, so the visitors are able to consult documentation and access the bibliographic catalogue, as well as other databases and online services.

In 2009, in terms of external users, the CDI received 144 telephone enquiries, 46 enquiries in person, 2 written requests and 11 email requests, out of a total of 201 enquiries.

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STANDARDIZATION, TECHNICAL AND LABORATORY ACTIVITIES

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● ● 5.1. Standardization

Under the terms of and in compliance with the regime set out in article 29 of Law No. 5/2004, of 10 February, a notice was published in the Official Journal announcing the publication, in the Official Journal of the European Communities, of the European Commission's Decision amending the list of harmonized standards.

Sector Standardization Body (ICP-ANACOM SSB)

This body works based on a protocol concluded with IPQ (national standardization body) and its activity is centred on the process of preparing technical standards, including international standards, resulting from the work of international standardization bodies with respect to telecommunications, the postal activity and EMC.

In 2009, two new national Electrotechnical Committees (CTE) were created: CTE 209 on "Cable networks for television signals, sound signals and interactive services" and 215 on "Electrotechnical aspects of telecommunications equipment", which, given the increasing importance of fibre optic networks, have taken on particular importance.

Besides the two new technical Committees, the ICP-ANACOM SSB participates in CTE 210 on "Electromagnetic compatibility" and CTE 46 on "Cables, wires and waveguides for telecommunications equipment". These Committees reflect the activity of the CENELEC - Comité Européen de Normalisation Electrotechnique (European Committee for Electrotechnical Standardization), the International Electrotechnical Commission (IEC) and the ETSI.

● ● 5.2. Technical support with respect to the radio and terminal equipment market

In 2009, ICP-ANACOM controlled the market for radio and telecommunications terminal equipment through the performance of tests on equipment covered by Decree-Law No. 192/2000, of 18 August. Technical opinions were issued in respect of litigation proceedings.

Likewise, controls were performed with respect to the market and the industry in verifying the essential requirement of EMC in electronic communications equipment covered by Decree-Law No. 325/2007, of 28 September.

Finally, and as a result of complaints regarding the use of PLC technology, this Authority verified the equipment involving this technology, both in the laboratory and on site.

● ● 5.3. Laboratories

Keeping in mind the need to rationalize and optimize the work of laboratories, a process was developed, aimed at changing the accreditation model of the laboratories (classic model) to the flexible accreditation model. In order to obtain this type of accreditation, meetings were held with the IPAC - Instituto Português de Acreditação (Portuguese Institute for Accreditation), whereas there are ongoing preparations of the application dossier for submission to the accrediting entity.

Electromagnetic Compatibility Laboratory (ECL)

In 2009, 107 appliances were tested, of which 14 tests were carried out at the request of outside parties and 93 for the purposes of supporting the area of market supervision.

The ECL remains accredited by IPAC according to standard NP EN ISO/IEC 17025 for performing tests.

Meanwhile, in 2010, ICP-ANACOM is due to participate in an international inter-laboratory comparison exercise, promoted by the organization of Asia-Pacific cooperation for accreditation.

In the context of the R&TTE Directive (1999/5/EC), approval was given for the acquisition of test equipment for the testing of immunity of conducted disturbances, induced by radio-frequency fields, of voice telephony terminal equipment of the PSTN (Public Switched Telephone Network), as provided for in the harmonized standard EN 55024, as well as Digital Enhanced Cordless Telecommunications (DECT) equipment, as provided in harmonized standard EN 301 489-6.

Radiocommunications equipment Laboratory (RL)

As part of the supervision of the market of radio equipment (R&TTE Directive), 184 radio equipment appliances with

different applications were tested - of which 15 were encompassed by a European surveillance campaign, 127 supported the area of market supervision and 42 related to inspections of radio spectrum use.

At the request of judicial and police authorities, ICP-ANACOM provided expertise on radio equipment.

ICP-ANACOM also participated in tests designed to identify possible disturbances in the radars of the I. M., I. P., caused by "hiperLAN" networks, and to resolve interference found in the functioning of the Radiomóvel radio station.

Radio Metrology Laboratory (RML)

In 2009, 193 calibration operations were performed, corresponding to an increase of 35 % over the previous year - whereas 68 of these calibrations were related to equipment of external clients.

It should be noted that, with a view to the continuous improvement of the laboratory, MetCal programming was implemented, enabling the automatic issuance of certificates of Direct Current (DC) and low frequency calibration. In parallel, a Visual Basic programme was developed to enable significant efficiency improvements to the control of records associated with the calculation of uncertainties, performed in Excel, for equipment associated with radio frequency.

The RML remains accredited by IPAC according to NP EN ISO/IEC 17025 standard, for performing calibrations with respect to the electrical field and frequency.

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OTHER ACTIVITIES

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● ● 6.1 Communication security

L112 Regulation - Location data

Regulation No. 99/2009, of 23 February, was published, establishing the principles and rules to be complied with by providers of publicly available telephone networks and services, as regards the provision, to authorities responsible for emergency services, of the necessary information on the location of callers to the single European 112 emergency number.

ICP-ANACOM conducted a surveillance operation on this matter and concluded that there were no situations of non-compliance by providers subject to this regulation with respect to mobile fixed localization solutions for calls to 112.

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

A public tender was launched for the execution of a study of evaluation and characterization of communications security on public networks of electronic communications. The aim of the study is the analysis of the infrastructure and resources of network operators and electronic communications service providers, as well as policies, measures, practices, plans, means and resources allocated to network security, keeping in mind the current regulatory framework and the standards and recommendations internationally recognized or contained in studies, such as the study "Availability and Robustness of Electronic Communication Infrastructures (ARECI)."

Study on the identification and characterization of the principle nodes and routes of international traffic flow between the mainland and the Autonomous Regions

In 2009, the first part of a study was carried out with respect to communications between the mainland and the Autonomous Regions, including intra-regional communications. It was concluded that there is a significant increase in the resilience of the network in the Azores as a result of the overhaul carried out by PTC following the communication failures which occurred in the region, and it was found that, overall, the links between the mainland and the Autonomous Regions enjoy good security conditions.

112 - European emergency number

ICP-ANACOM worked in conjunction with the authorities responsible for providing emergency service on the reorganization and implementation of the new 112 model, which resulted, in particular, in several changes and the modernization of the resources available to the public safety answering points.

In this area, the participation of this Authority should also be noted in the consolidation of the response to the third questionnaire on the implementation of the 112 number, conducted by the European Commission, processing the respective information compiled from the operators and entities responsible for emergency services.

Study on the interdependencies between the private networks of the State and public electronic communications networks

Implementing ICP-ANACOM's proposal, supported by Order No. 16025/2009, of 02 June, of the MOPTC, published in No. 134 of the 2nd Series of the Official Journal, this Authority began defining and characterizing the different types of interdependencies between public electronic communication networks and certain private networks of the State, in order to promote their resilience by better controlling the factors which might influence integrity and availability. This study aims to identify the factors, which, while outside the domain of the entity that oversees the management of the network and its respective services, may compromise the security objectives of the network, and the services provided over the network, particularly in terms of availability, integrity and confidentiality.

Interdependencies between civil protection policies and electronic communications policies

Various actions were conducted over the course of 2009 with a view to identifying the best solution whereby entities with civil protection responsibilities can be provided with the communication resources, which are appropriate to their activities.

Institution of ICP-ANACOM as National Authority for the Registration of Object Identifiers (OID)

In the context of this Authority's participation in the SCEE - *Sistema de Certificação Electrónica do Estado* (Management Council of the Electronic Certification System of the State), it was identified the need to constitute a National Authority for the Registration of OID, in accordance with ITU-T Recommendation X.660.

In this context, ICP-ANACOM presented a draft Decree-Law setting out its powers and responsibilities in the area of Digital Identity Management and particularly in the allocation and registration of OID. This proposal fills a gap in an area which, as a result of technological and market developments, particularly in terms of convergence and evolution of electronic communications services and networks for NGN, has become increasingly important.

Privacy of communications

Pursuant to its powers concerning the processing of personal data and the protection of privacy in the electronic communications sector, set out by Law No. 41/2004, of 18 August, ICP-ANACOM conducted a survey of companies providing electronic communications networks or services. It was concluded that, between 2006 and 2008, there were no incidents on public electronic communications networks or services.

Combat of unsolicited communications (spam)

In the context of the workshop that took place between 7 and 9 October 2009 and which brought together members of the Contact Network of Spam Authorities (CNSA) and the LAP, as well as representatives of various national bodies and a number of national companies, the European Commission, which coordinates the CNSA, released the results of a diagnostic study of measures adopted by EU Member States to combat spam. The study centred on the identification of activities to combat threats to confidence in the information society, such as spam, spyware and malicious software. The main conclusions for the Portuguese case point to the fragilities which are behind the weakness of activity on Portugal's part in combating spam and which primarily relate to the legal framework.

Protection of critical information infrastructure

The European Commission published Communication COM(2009) 149 "Protecting Europe from large scale cyber-attacks and disruptions: enhancing preparedness, security and resilience", which presents an action plan that is developed along the following lines: preparedness and prevention, detection and response, mitigation and recovery, international cooperation and criteria applicable to critical European infrastructure in the ICT sector. This plan is closely linked to changes to the European regulatory framework for electronic communications published in late 2009 and to the review of the mandate of the European Network and ENISA, and establishes a set of objectives for 2009-2010.

ICP-ANACOM cooperated in actions that were developed following the publication of this communication, having participated in the Tallinn Ministerial Conference on the protection of critical information infrastructure, and in meetings for the establishment of a European public-private partnership for resilience, and of the European Forum for sharing information between Member States.

It is further noted that COM(2009) 149 was subsequently endorsed by the European Council of Ministers through a resolution published on 18 December that addresses European collaboration in the field of network and information security.

ICP-ANACOM sub-register

Following the decision to establish a sub-register in ICP-ANACOM for the processing, management and control of all classified material which, within its competence, might be required in terms of National Security, in 2009, all the activities planned for the creation process were completed, with authorization for its entry into operation granted by Autoridade Nacional de Segurança (National Security Authority) in August.

The sub-register started, from that date, to pursue its mission, coordinating, among others, with Agência Nacional de Distribuição (National Distribution Agency) and with the ICP-ANACOM Control Post, already in existence, given the need to handle classified materials of the North Atlantic Treaty Organization (NATO).

The necessary actions were also undertaken together with the National Security Authority to equip ICP-ANACOM's sub-register with an electronic information security system, with completion due shortly.

ICP-ANACOM internal security

In June, the first phase of the implementation of an Information Security Management System in ICP-ANACOM was completed. It defines the main courses of action, the "roadmap", according to the proposal and the survey of the resources necessary with a view to the certification of the chosen processes.

Furthermore, a risk analysis questionnaire was prepared, in order to evaluate the responses obtained on perceived vulnerability with respect to the security of information within ICP-ANACOM.

ICP-ANACOM contingency plan

A contingency plan was prepared for ICP-ANACOM, to proactively provide a tool of reference with guidelines to deal with a possible H1N1 pandemic. Critical activities were identified as well as the human and material resources that are essential to achieve them. A WG was established to monitor and evaluate the potential for a pandemic crisis and its impact on the performance of the activities undertaken by ICP-ANACOM.

In the context of security of communications, the following activities are also highlighted:

- Conclusion of a protocol between ICP-ANACOM and UMIC as part of the *Internet segura* project.
- Participation in the SCEE.
- Participation in the Technical Accreditation Council of the National Security Authority, in the context of the electronic signature scheme.
- Participation in the Facilitation and Security Committee (FALSEC) of INAC.
- Participation in the Board of Directors of the ENISA and the network and information security WG of the IRG/NIS.

6.2 Advisement to the Government

Regime applicable to the construction and access to infrastructure suitable for the accommodation of electronic communications networks and applicable to the construction of ITED and in ITUR

In compliance with the provisions of Resolution of the Council of Ministers No. 120/2008, of 30 July, ICP-ANACOM engaged in the work of drafting the legislative acts required to ensure access by all operators, under equal terms, to the network of ducts and other relevant facilities for the installation of electronic communication networks and to eliminate barriers to the installation of optical NGN solutions in buildings. This work included amendments to the current technical Regulations, specifically to the ITED Manual and the creation of the technical ITUR specifications.

This process culminated with the approval of Decree-Law No. 123/2009, of 21 May, which approved the legal regime governing the construction, access and installation of electronic communications infrastructure and ITUR, as well as the approval of Law No. 32/2009, of 9 July, and Decree-Law No. 258/2009, of 25 September.

This regime, shaped by general principles of competition, open access, non-discrimination, efficiency and transparency, focuses on fostering the construction and installation and access to infrastructure suitable for the accommodation of electronic communications networks - with an approach based on technological neutrality - with respect to the property of public entities. As such, a rule is established of open and non-discriminatory access to ducts, poles and other installations belonging to entities which, while operating in other sectors, are in possession of ducts of significant importance. With the amendments introduced by Decree-Law No. 258/2009, this regime is extended to cover electronic communications undertakings as well as to the entities in possession of infrastructure, which is suitable for housing electronic communications networks for use by said undertakings.

This regime sets out to remove or mitigate barriers to the construction of infrastructure for the accommodation of electronic communications networks, with provision for rules that, likewise, facilitate the coordination of subsoil works. Another important issue is the harmonization of procedures, especially in the relationship between operators and local

authorities, which is an issue of unquestionable importance in removing uncertainties and barriers to the installation of infrastructure suitable for accommodating NGN. To this extent, the construction of such infrastructure is made subject to a procedure of prior notification to the city council pursuant to the legal regime governing urban development and building construction.

With regard to access to infrastructure, the law contains a number of provisions designed to ensure open access to existing and planned infrastructure, which access shall be provided on terms of equality, transparency and non-discrimination and subject to remuneration conditions, which are oriented to cost.

In parallel, a CIS was established to contain information deemed relevant for ensuring the right to use the public domain and the right of access to ducts and other infrastructures suited for the accommodation of electronic communications networks. The CIS is based on principles of information sharing and reciprocity; it can be accessed by entities which ensure the fulfilment of obligations related to the information therein.

Finally, for the first time, the legal regime applicable to ITUR and to ITED was defined, which in this context constitutes an evolution of the framework established by Decree-Law No. 59/2000, of 19 April, now repealed.

Pursuant to Notice No. 22358/2009, published in the Official Journal No. 240, 2nd Series, of 14 December, ICP-ANACOM, made public the approval of the 2nd edition of the *ITED Manual* and the 1st edition of the *ITUR Manual*.

Notification to the European Commission of the publication of Decree-Law No. 123/2009, of 21 May, of Law No. 32/2009, of 9 July, and Decree-Law No. 258/2009, of 25 September

Under the terms of Directive 2002/21/EC of the European Parliament and of the Council of 07 March 2002, on a common regulatory framework for electronic communications networks and services (Framework Directive), Member States are bound to inform the Commission regarding the text of the provisions of national law which they are due to adopt in the area governed by this Directive and any amendments thereto.

In this respect the GPERI was notified of the need to comply with the cited provision of the Framework Directive, following the publication of Decree-Law No. 123/2009, of 21 May, of Law No. 32/2009, of 9 July, as well as the respective authorized Decree-Law No. 258/2009, of 25 September, given that it represents legislative provisions whose purpose and scope is encompassed by the legal framework defined by the Law of Electronic Communications; this Law transposes the directives resulting from the "99 Review" process into national legislation.

General radiocommunications regime – Decree-Law No. 264/2009, of 28 September, which amended Decree-Law No. 151-A/2000, of 20 July

On 28 September 2009, Decree-Law No. 264/2009 was published, amending Decree-Law No. 151-A/2000, of 20 July, regarding the obligations of users, the transferability and the repeal of radio licences and fees. This represents a minor update and amendment to previous legislation, resulting above all from the experience gained from its application and from the entry into force in 2004 of new legislation on the activity of the electronic communications sector. This Law also establishes, as a measure of simplification, that electronic media, as defined and made public by ICP-ANACOM, may be used in the procedures which involve communication between this Authority and holders of network or station licences, in particular as regards the issue, amendment, transfer and revocation of licences, as well as all required submissions to this Authority.

Draft Resolution of Council of Ministers, which identifies the beneficiaries of reduced fees for use of the radio spectrum

This resolution, authorized by Decree-Law No. 151-A/2000, of 20 July, set out to (i) adapt Resolution of the Council of Ministers No. 23/1998, of 12 February (itself kept in force under Decree-Law No. 151-A/2000, of 20 July, which repealed the legislation of 1997 under which the Resolution in question is authorized) with the new wording resulting from the amendment introduced by Decree-Law No. 264/2009, of 28 September; (ii) update the contents of Resolution of the Council of Ministers No. 23/1998 in light of the renaming of various entities mentioned therein, resulting from the evolution of the respective governing legal framework; (iii) extend the scope of the entities so listed, in light of the emergence, in the area of

fire prevention, detection, surveillance and fighting, of new participants such as farmer associations.

Transposition of Directive 2008/6/EC of the European Parliament and of the Council, of 20 February 2008, amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services

Over the course of the year, ICP-ANACOM engaged in preparatory work for the transposition of this Directive, whose deadline expires on 31 December 2010. These works included a meeting in November with the European Commission, upon their request, the purpose of which was to discuss the status of transposition in Portugal and to ensure that implementation is performed in line with the principles stipulated in the Directive.

Analysis of possible solutions for revision of the contract governing the concession of public telecommunications

In order to ensure compliance with the requirements laid down in Directive No. 2002/22/EC of the European Parliament and of the Council, of 7 March 2002, on US and users' rights relating to electronic communications networks and services (Universal Service Directive) with respect to the designation of the US provider and to halt the procedure instituted by the European Commission against the Portuguese State for failure to fulfil its obligations, ICP-ANACOM, in its role as adviser to the Government, undertook the analysis of the various possibilities for revision of the contract governing the concession of public telecommunications service concluded between the state and PTC.

As such, the continuance of the concession contract, under which PTC is charged with ensuring provision of the US until 2025 constitutes one of the questions which needs to be resolved so that the process of selecting one or more providers of this service, in accordance with the Universal Service Directive, can begin.

Preparation of the documents governing the tender for the selection of the provider(s) of the US of electronic communications

In 2009, ICP-ANACOM continued the works preparing the documents governing the tender for the selection of the provider(s) of the US - Tender Regulation and

Tender Specifications - in view of the presentation to the Government of drafts aligned with the conclusions and recommendations made by ICP-ANACOM following the corresponding public consultation on the designation of the US provider(s).

The selection decision will be taken by the Government, by Resolution of the Council of Ministers, following the tender, whose regulation has been approved by joint Administrative Rule of the members of the Government responsible for finance and electronic communications.

The governing documents of the tender will be presented to Government in early 2010 so that the process to select the entity or entities responsible for the various services that comprise the service can begin as quickly as possible.

Public tenders for the installation, management, operation and maintenance of high-speed electronic communication networks

ICP-ANACOM advised the Government in the development of the documents governing the five public tenders for the installation, management, operation and maintenance of high-speed electronic communication networks.

With this initiative the Government intends to select the entities with which will conclude contracts with respect to the installation, management, operation and maintenance of high-speed electronic communication networks covering at least 50 % of the population of the geographical area of each municipality (comprising the five regions of the national territory - North, Centre, Alentejo and Algarve, the Azores, Madeira - for which tenders were opened).

ICP-ANACOM was charged with appointing the Tender Panel for each procedure and was also designated as instructor of the tender processes. At the request of the Jury, the technical services of ICP-ANACOM consulted in the analysis and evaluation of the presented proposals.

Additionally, in the context of these contracts, ICP-ANACOM advised the Government on related issues, and in particular on the assessment of measures to verify its compatibility with the guidelines published by the European Commission on the provision of state aid to the rapid deployment of broadband networks.

Draft Administrative Rule, which regulates Law No. 32/2008, of 17 July

An opinion was issued on the draft Administrative Rule laying down the technical and security conditions governing electronic communications between the competent authorities and suppliers of publicly available electronic communications or of a public communication network, for the purposes of the transmission of traffic and location data, pursuant to Law No. 32/2008, of 17 July.

Draft Law No. 102/2009, of 26 February (Radio Law)

At the request of Assistant Secretary of State for Public Works and Communications, an opinion was issued on this draft law, the objective of which is to regulate access to the radioactivity in the national territory and the exercise thereof.

Draft Administrative Rule pursuant to article 104 of Decree-Law No. 123/2009, of 21 May

An opinion was issued on the Administrative Rule which approved the method for calculating the costs incurred by an electronic communications company in the installation of shareable infrastructure, the form of payment between operators, including responsibility for managing the relationship between operators and condominiums, as well as all other aspects required for the implementation of the provisions of article 104 of Decree-Law No. 123/2009, of 21 May.

Preliminary draft Decree-Law for implementing Regulation (EC) No. 765/2008

An analysis was conducted, and forwarded to the Government, with regard to the contribution of ICP-ANACOM on the preliminary draft Decree-Law providing execution of Regulation (EC) No. 765/2008, of the European Parliament and of the Council, of 9 July 2008, setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No. 339/93.

Proposed amendment to Law No. 60/2007 (legal regime governing urban development and building construction)

An opinion was issued on Proposal No. 64/2009 which the Lisbon Municipal Council submitted to the Government and the Parliamentary Groups represented in the national Assembly of the Republic regarding the possibility of

conducting a review of Decree-Law No. 555/99, of 16 December, (legal regime governing urban development and building construction), as amended by Law No. 60/2007, of 4 September.

An opinion was also issued on the draft amendment prepared by the Government to the legal regime governing urban development and building construction.

Merger by incorporation of Superemprego, Sistemas de Informação para a Gestão de Recursos Humanos, S. A. into PTC

In accordance with the stipulations of article 26 of the Bases of the Public Telecommunications Service Concession, annexed to Decree-Law No. 31/2003, of 17 February, mergers and demergers affecting the concessionaire are subject to prior approval of the concession grantor, whereas consent may not be unduly refused.

In compliance with this Provision of the Concession Contract, on 25 September 2009, PTC sent a request to the MOPTC seeking authorization for the merger by incorporation of the company Superemprego, Sistemas de Informação para a Gestão de Recursos Humanos, S. A. into PTC, which request was submitted to ICP-ANACOM for assessment and information.

The proposed operation was subject to further analysis, and the subsequent opinion was sent to the Office of the Assistant Secretary of State for Public Works and Communications.

Preparation of the response to be sent to the European Commission on the exemption granted to PTC in respect to the fees regime approved by Administrative Rule No. 1473-B/2008, of 17 December

At the request of the General-Secretariat of the MOPTC, ICP-ANACOM set out its position on a set of issues required for the preparation of the response to be sent by the Portuguese State to the European Commission as part of an enquiry being led by the Commission following a complaint regarding the exemption from administrative fees granted to PTC by Administrative Rule No. of 1473-B/2008, of 17 December. This Rule establishes the fees due for the issue by ICP-ANACOM of statements supporting rights, for the exercise of the activity of provider of electronic

communications networks and services, and for the allocation of rights of use of frequencies and numbers, as well as the for the use of frequencies and numbers and the exemption from such fees granted to PTC.

The following list shows other activities carried out in the context of providing advice to the Government:

- Analysis and preparation of opinion on the proposed amendment to Decree-Law No. 103/2006, of 7 June, - System of ERC fees.
- Preparation of contributions for the fortnightly debates of the Prime Minister in the Assembly of the Republic on the State of the Nation.
- Preparation of draft replies for sending to various parliamentary groups, or to various municipalities, in connection with proposals, which these have submitted to amend legislation, or in connection with clarification sought in respect of the legal regime applicable to electronic communications sector, particularly with regard to the Municipal Fee for Rights of Way.
- Reporting to GPERI and the Assistant Secretary of State for Public Works and Communications regarding the status of progress on the transposition of Directive 2008/6/EC of the European Parliament and of the Council, of 20 February 2008, amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services, and Directive 2008/63/EC of the Commission, of 20 June 2008, on competition in the markets in telecommunications terminal equipment.
- Participation in a meeting held on 30 April between the European Commission and the Ministries responsible for the transposition of various directives of the internal market in order to transmit to the Commission the status of progress in transposing Directive 2008/6/EC.
- Participation, at the request of GPERI, in a multilateral meeting of the Commission with Member States on the draft "Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks", held on 22 June 2009.

● ● 6.3. Links with other authorities and sectorial regulators

AdC - Autoridade da Concorrência (The Competition Authority)

The following list contains requests of AdC which called for the participation of ICP-ANACOM during 2009:

- ICP-ANACOM was called upon to give a view, under the terms of paragraph 2 of article 28 of the Competition Law (Law No. 18/2003, of 11 June) on the draft of the final decision to be delivered by AdC in proceedings brought against the companies comprising Grupo PT in 2002 and 2003 for anti-competitive practices involving abuse of a dominant position in the wholesale and retail broadband access markets. This process, in which the Board of AdC deemed that there was an abuse of dominant position by the companies Portugal Telecom S. G. P. S., S. A., PTC, ZON Multimédia and ZON TV Cabo, in the wholesale and retail broadband access markets, refers to events preceding the regulatory intervention of ICP-ANACOM on the pricing of the ADSL PT wholesale offer.
- AdC informed ICP-ANACOM of facts that ZON TV Cabo alleges of PTC and which, in the view of the former of these companies, may represent practices which are prohibited under article 6 of the Competition Law and by article 32 of the Treaty establishing the European Community. The complaint relates to the launch on the market of 4 multi-service packages, Meo, through which the services of subscription television and Video on Demand (VoD), broadband Internet access (fixed and mobile) and fixed telephone are provided, which from the perspective of the complainant company, would be offered at negative margins and, as such, could be considered as solid evidence of predatory pricing. ICP-ANACOM stated its view on the facts contained in the complaint, providing AdC with available evidence that might contribute to the assessment of the pending case.
- ICP-ANACOM stated its view with regard to the prior notification of a concentration consisting of the acquisition by PTC of exclusive control of RETI - Rede Teledifusora Independente, S. A. This process was concluded with the decision of the Council of the AdC, of 24 December 2009, whereby it was decided to adopt a ruling of non-opposition to the merger, on the grounds that it is not liable to create or reinforce a dominant position that may result in significant barriers to effective competition in (i) the national market for the wholesale supply of television broadcasting services via analogical terrestrial networks; (ii) the national market for the provision of space on towers for the installation of electronic communication network infrastructures.
- ICP-ANACOM gave its opinion on the facts contained in the complaint filed by PTC against ZON TV Cabo for abuse of dominant position. More specifically, the complaint referred to an alleged negative margin associated with the provision of the service of access to conditional access channels with *Premium film* content, under the "ZON4 FILMES" retail offer. Considering the facts presented contain evidence of practices prohibited by article 6 of the Competition Law and by article 82 of the Treaty establishing the European Community, the AdC determined to open an investigation with respect to the practices in question.
- ICP-ANACOM sent AdC its opinion on the prior notification of a concentration operation consisting of the acquisition by the companies Ongoing Media, S. G. P. S., S. A. and Vertix S. G. P. S., S. A., of joint control over the company Grupo Media Capital, S. G. P. S., S. A., through acquisition, by the first company, of shares representing up to 35 % of the acquiree's capital.

● ● 6.4. Fees applicable to electronic communications

Approval of the report on the public consultation and on the regulation of settlement and collection of fees due to ICP-ANACOM

By determination of 25 March 2009, ICP-ANACOM approved the draft Regulation governing the settlement and collection of fees due to ICP-ANACOM, submitting this draft to the regulatory procedure set out in article 11 of the Statutes of ICP-ANACOM. Having analysed the responses to the consultation, the respective report was prepared, whereas, on 1 July 2009, this Authority approved the report of the public consultation on this Regulation, which was published in the 2nd Series of the Official Journal, on 15 July 2009 (Regulation 300/2009).

Amendments to Annexes III, V and VIII to Administrative Rule No. 1473-B/2008, of 17 December, made in order to reflect the changes enacted by Decree-Law No. 53/2009, of 2 March, and by Decree-Law No. 63/2009 of 10 March

In order to reflect the changes enacted by Decree-Law No. 53/2009, of 2 March, and by Decree-Law No. 63/2009, of 10 March, on 6 May, ICP-ANACOM adopted a draft Administrative Rule to amend Annexes III, V and VIII of Administrative Rule No. 1473-B/2008, of 17 December, which was published in 1st Series, No. 102 of the Official Journal, of 27 May 2009 (Administrative Rule No. 567/2009).

Draft Resolution of the Council of Ministers, authorized by Decree-Law No. 151 - A/2000, of 20 July, identifying the beneficiaries from reduced fees of use of radio spectrum

On May 13, ICP-ANACOM approved a draft resolution of the Council of Ministers, authorized under Decree-Law No. 151-A/2000, of 20 July, which identifies the organizations benefiting from reductions in fees for use of the radio spectrum.

Approval of the contributive percentage for the annual fee due in respect of the activity of supplier of electronic communications networks and services

The amount of the annual fee due in respect of the activity of supplier of electronic communications networks and services, referred to in point b) of paragraph 1 of article 105 of Law No. 5/2004, of 10 February, is calculated - in accordance with paragraph 1 of Annex II to Administrative

Rule No. 1473-B/2008, of 17 December - based on the administrative costs of ICP-ANACOM and on the value of relevant income related directly to the activity of electronic communications for the year preceding that in which settlement of fees is made, based on three scales: t0, t1 and t2.

By determination of 2 October 2009, ICP-ANACOM adopted a set of measures related to the new fee regime in force, since 1 January 2009, incorporating the following:

- Approval of the calculation of the amount of the regulation costs of the activity of supplier of electronic communications networks and services, which is 33,036,969 euros.
- Approval of the immediate launch of an audit of the providers of electronic communications networks and services which, in 2008, reported the highest levels of relevant income, and by sample, for the others.
- Approval of the immediate issuance of all billing, with the exception of the annual fee due in respect of the activity of supplier of electronic communications networks and services, namely: the immediate billing of fees due for the use of numbers, radio fees, fees due in respect of the activity of postal services and fees due in respect of the exercise of the audiotext activity.

Also in this context, ICP-ANACOM determined, on 27 November, to set at 0.005 826, the t2 contributive percentage, to be applied to the relevant revenues of suppliers of electronic communications networks and services.

● ● 6.5. *e.iniciativas* programme

In February 2009, ICP-ANACOM published a study to examine the impact of *e.iniciativas* (comprising the *e.escola*, *e.professor* and *e.oportunidades* programmes) and evaluating related policies in respect of the take up and use of communication technologies (including broadband), enabling the identification of measures that can be taken to optimize the project.

With a year having elapsed since the conclusion of the first study, using an outside entity selected by public tender (KPMG) and with the cooperation, in line with the first study, of FCM, of the GEPE - Gabinete de Estatística e Planeamento da Educação (Education Statistics and Planning Office) of the Ministry of Education and mobile operators, ICP-ANACOM conducted a reassessment of the impact of *e.iniciativas* on the target public, taking particular account of changing conditions in the market and related to the *e.iniciativas* programme itself.

This second study was completed in December 2009.

The survey data from the study points to a direct positive impact on subscribers and their households (in particular as regards more regular use of computers and the Internet).

The sign up rate of the *e.iniciativas* programme was reported, in April 2009, at about 41 % (compared with the sign up rate of 38 % registered in November 2008 in the previously published study), a value which approaches the one reached through the survey completed in October 2009 (43.8 %).

Furthermore, sign up rates, particularly with respect to the *e.escola* programme, tend to be higher in interior regions than in coastal regions, which suggest that the *e.iniciativas* programme is driving participation in areas where sign up to broadband provided under normal commercial conditions has been progressing at a slower rate.

The cost, according to the survey results, is one the key factors persuading the public to sign up, while mobility (e. g. laptop and mobile Internet) is relevant to a significant number of participants in the *e.escola* and *e.professor* programmes.

Meanwhile, it is reported that the majority of participants are from households that had Internet access prior to joining the programme (about 86 % in the *e.professor* programme, 82 % in the *e.escola* programme, and 62 % in the *e.oportunidades*), in the most part using fixed access, which suggests that value is given to mobility in Internet access, especially with regard to the *e.escola* programme.

Overall, the results of the survey conducted as part of the study suggest that around four-fifths of programme participants could be considered "supporters" of the *e.iniciativas* programme.

● ● 6.6. Citizens with special needs

ICP-ANACOM conducted a study with respect to people with special needs, examining in particular the existence of barriers to access to electronic communications, European case studies and offers available in Portugal.

Following this study, Authority intends to bring out a guide on offers available to these citizens.



ADVISORY COUNCIL

● ● Advisory Council

Introduction

On 28 July 2010, at a meeting of the Advisory Council convened for such purpose, an examination was made of the Activities Report for the year 2009, as presented by the Management Board of ICP-ANACOM, in light of the request for its opinion as stipulated in said article 37 of the Statutes of Autoridade Nacional de Comunicações.

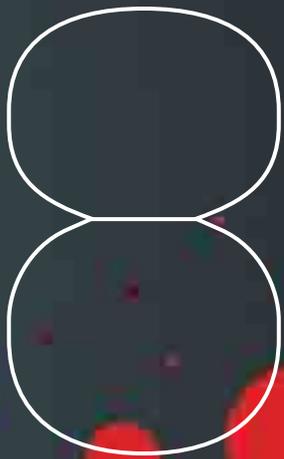
The Specialist Committee, previously established by determination of this Council, mandated for this purpose and composed of the following members of the Advisory Council: CTT - Correios de Portugal, DECO, Onitelecom, PT Comunicações, Sonaecom and Vodafone Portugal, met three times: a first time to conduct an initial reading of the documents and to define the working methodology; a second time to discuss and bring together the contributions of each of its members; and a third time to discuss the final draft of the Opinion to be submitted to the Advisory Council at a meeting convened for today, as follows:

Activities Report

1. The Advisory Council takes the position that the organisation and systematisation of the Activities Report is largely in line with, or even coincident with, the Regulation Report, providing an integrated vision of the exercise of the activity actually undertaken by ICP-ANACOM in the period to which it relates.
2. If the regulatory action of ICP-ANACOM should be understood in terms of the concrete goals achieved as a result of the measures taken and executed in the field of competition, quality, diversification and pricing of provision of services, so should the activities be appraised according not only to their level of execution but also according to the results achieved in light of the objectives proposed for the same period. It is therefore important in this case to consider the resources used and compare them with the effects obtained. The view is taken that, in so doing, the Activities Report will be distinguished from a logically and chronologically ordered list of actions.
3. The Advisory Council has already recommended that the Activities Report include a chapter on employment and utilization of human, technical and financial resources in order to provide a better assessment of the activity undertaken, given the breadth of the remit assigned to ICP-ANACOM.
4. The Council has likewise recommended that actions undertaken to sound out regulated entities should be increased and steps should be taken so that such actions do not have the detached character which they tend to assume. An enhanced and systematic dialogue between regulator and regulated could contribute positively to the formation of an environment that is conducive to the achievement of the objectives which are established.

The present opinion on the Activities Report is not binding and its approval is recommended.

Advisory Council, 28 July 2010



APPENDIX

● ● Appendix I - List of acronyms and abbreviations

| | | | |
|--------|---|------|---|
| AC | Administration Council/Advisory Committee | GSM | Global System for Mobile Communications |
| ADSL | Asymmetric Digital Subscriber Line | HF | High Frequency |
| AP | Assembly of Parties | ICT | Information and Communication Technology |
| ARECI | Availability and Robustness of Electronic Communication Infrastructures | IMT | International Mobile Telecommunications |
| BWA | Broadband Wireless Access | IPTV | Internet Protocol Television |
| CAP | Code of Administrative Procedure | ITED | Infra-estruturas de Telecomunicações em Edifícios Telecommunication infrastructure in buildings |
| CB | Citizen's Band | ITS | Intelligent Transport Systems |
| CIS | Centralized Information System | ITUR | Infra-estruturas de Telecomunicações em Urbanizações (Telecommunications infrastructures in housing developments, urban settlements and concentrations of buildings) |
| CoE | Centre of Excellence | KPI | Key Project Indicators |
| CPI | Consumer Price Index | LAP | London Action Plan |
| CUSL | Common Use Station Licences | LLRO | Leased Lines Reference Offer |
| DC | Direct Current | LMS | Land Mobile Service |
| DECT | Digital Enhanced Cordless Telecommunications | LRIC | Long Run Incremental Cost |
| DTT | Digital Terrestrial Television | LRIT | Long Range Identification and Tracking |
| DVB-H | Digital Video Broadcasting - Handheld | LTE | Long Term Evolution |
| ECL | Electromagnetic Compatibility Laboratory | MCS | Monitoring and Control of the Spectrum |
| ECSI | European Consumer Satisfaction Index | MCV | Mobile Communications on board Vessels |
| EDGE | Enhanced Data rates for GSM/DCS Evolution | MDP | Municipal Director Plans |
| EFIS | Frequency Information System | MFCN | Mobile/Fixed Communications Networks |
| EGEA | Expert Group on Emergency Access | MMS | Maritime Mobile Service |
| EMC | Electromagnetic Compatibility | NAC | National Amateur Certificate |
| ENUM | Electronic Numbering | NGA | Next Generation Access |
| FM | Frequency Modulated | NGN | Next Generation Networks |
| FTS | Fixed Telephone Service | NNP | National Numbering Plan |
| FTTH | Fiber To The Home | NVIS | Near Vertical Incident Sky Wave |
| FWA | Fixed Wireless Access | OECD | Organization for Economic Cooperation and Development |
| GAM-TD | Grupo de Acompanhamento da Migração para a Televisão Digital (Digital Television Migration Monitoring Group) | OID | Object Identifiers |
| GMDSS | Global Maritime Distress and Safety System | | |
| GPRS | General Packet Radio Service | | |

| | | | |
|------|---|--------|--|
| OLO | Other Licensed Operators | SAB | Services Ancillary to Broadcasting |
| OSP | Other Service Providers | SAP | Services Ancillary to Programme Making |
| PLC | Power Line Communication | SMP | Significant Market Power |
| PMI | Projecto de Monitorização Integrada (Integrated Monitoring Project) | SMS | Short Message Service |
| PMR | Private Mobile Radio | SNG | Satellite News Gathering |
| PMTS | Provision of Mobile Trunking Services | SRD | Short Range Devices |
| PT | Project Team | SSB | Sector Standardization Body |
| PTNO | Public Telecommunications Network Operators | Tetra | Terrestrial Trunked Radio |
| QNAF | Quadro Nacional de Atribuição de Frequências (National Frequency Allocation Plan) | TTE | Transport, Telecommunications and Energy Council |
| QoS | Quality of Service | UMTS | Universal Mobile Telecommunications System |
| RDAO | Reference Ducts Access Offer | US | Universal Service |
| RIO | Reference Interconnection Offer | UWB | Ultra Wideband |
| RL | Radiocommunications Laboratory | VAT | Value Added Tax |
| RLAN | Radio Local Area Network | VoD | Video on Demand |
| RML | Radio Metrology Laboratory | VoIP | Voice over Internet Protocol |
| RQS | Regulation on the Quality of Service | WAPECS | Wireless Access Policy for Electronic Communications Services |
| RR | Radio Regulations | WAS | Wireless Access Systems |
| RTIC | Rede Telemática de Informação Comum (Telematic Network of Common Information) | WLRO | Wholesale Line Rental Offer |

● ● Appendix II - List of operators

| | |
|----------------|--|
| Airplus | Airplus Television Portugal, S. A. |
| AR Telecom | AR Telecom - Acessos e Rede de Telecomunicações, S. A. |
| Bragatel | Bragatel - Companhia de Televisão por Cabo de Braga, S. A. |
| CTT | CTT - Correios de Portugal, S. A. |
| Nortenet | Nortenet - Sistemas de Comunicação S. A. |
| Onitelecom | OniTelecom - Infocomunicações, S. A. |
| PTC | PT Comunicações, S. A. |
| Repart | Repart - Sistemas de Comunicação de Recursos Partilhados, S. A. |
| RNT | RNT - Rede Nacional de Telecomunicações, S. A. |
| Sonaecom | Sonaecom - Serviços de Comunicações, S. A. |
| TMN | TMN - Telecomunicações Móveis Nacionais, S. A. |
| Vodafone | Vodafone Portugal - Comunicações Pessoais, S. A. |
| ZON Multimédia | ZON Multimédia - Serviços de Telecomunicações e Multimédia, S. G. P. S., S. A. |
| ZON TV Cabo | ZON TV Cabo Portugal, S. A. |

● ● Appendix III - List of other entities / organizations

| | | | |
|-------------|--|---------|---|
| ACIST-AET | Associação Empresarial de Telecomunicações (Telecommunications Business Association) | CDI | Centre for Documentation and Information |
| ACP | Annual Cooperation Plans | CEC | Consultative and Executive Council |
| AdC | Autoridade da Concorrência (The Competition Authority) | CEDIPRE | Centro de Estudos de Direito Público e Regulação (Centre for Studies in Public Law and Regulation) |
| AICEP | Association of Postal and Telecommunications Operators of Portuguese Speaking Countries and Territories | CENELEC | Comité Européu de Normalização Electrotécnica (European Committee for Electrotechnical Standardization) |
| ANAC | Agência Nacional das Comunicações | CEPT | Conferência Europeia das Administrações de Correios e Telecomunicações (European Conference of Postal and Telecommunications Administrations) |
| ANATEL | Agência Nacional de Telecomunicações | CERP | Comité Européu de Regulação Postal (European Committee for Postal Regulation) |
| ANPC | Autoridade Nacional de Protecção Civil (National Authority for Civil Protection) | CNSA | Contacts Network of Anti-Spam Authorities |
| ANPF | Acordo Nacional de Partilha de Frequências em tempos de paz (National Agreement for Sharing of Frequencies in Times of Peace) | COCOM | Communications Committee |
| APDC | Associação Portuguesa para o Desenvolvimento das Comunicações (Portuguese Communications Development Association) | COREPER | Comité de Representantes Permanentes |
| APDSI | Associação para a Promoção e Desenvolvimento da Sociedade de Informação (Association for the Promotion and Development of the Information Society) | CPG | Permanent Representatives Committee Conference Preparatory Group |
| APMP | Associação de Promoção do Multimédia em Portugal (Association for Promoting Multimedia in Portugal) | CPLP | Comunidade dos Países de Língua Oficial Portuguesa (Community of Portuguese Speaking Countries) |
| APQ | Associação Portuguesa da Qualidade (Portuguese Quality Association) | CSISAC | Civil Society Information Society Advisory Council |
| ARCTEL-CPLP | Associação de Reguladores de Comunicações e Telecomunicações da CPLP (Association of Communications and Telecommunications Regulators of the Community of Portuguese Speaking Countries) | CTE | Electrotechnical Committees |
| | | DGC | Direcção-Geral do Consumidor (Directorate-General of the Consumer) |
| | | EC | European Commission |
| | | ECC | Electronic Communications Committee |
| | | ECO | European Communications Office |
| | | EMERG | Euro-Mediterranean Network of Regulators |
| | | EMGFA | Estado-Maior-General das Forças Armadas (Armed Forces General Staff) |

| | | | |
|----------|---|----------|--|
| ENISA | European Network and Information Security Agency | GSR | Global Symposium for Regulators |
| ERC | Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media) | ICAO | International Civil Aviation Organization |
| ERG | European Regulators Group | ICCP | Information, Computer and Communications Policy |
| ERO | European Radiocommunications Office | ICP | Indicative Cooperation Programmes |
| ETO | European Telecommunications Office | IEC | International Electrotechnical Commission |
| ETSI | European Telecommunications Standards Institute | IJC | Instituto Jurídico da Comunicação (Legal Institute of Communication) |
| EU | European Union | IM, I.P. | Instituto de Meteorologia (Meteorology Institute) |
| EUTELSAT | European Telecommunications Satellite Organization | INCM | Imprensa Nacional da Casa da Moeda (National Mint) |
| FALSEC | Facilitation and Security Committee | IMO | International Maritime Organization |
| FAP | Força Aérea Portuguesa (Portuguese Air Force) | IMSO | International Mobile Satellite Organization |
| FCM | Fundação para as Comunicações Móveis (Foundation for Mobile Communications) | INA | Instituto Nacional de Administração (National Institute of Administration) |
| FCCN | Fundação para a Computação Científica Nacional (Foundation for National Scientific Computing) | INAC | Instituto Nacional de Aviação Civil (National Civil Aviation Institute) |
| FDTI | Fundação para a Computação Científica Nacional Fundação para a Divulgação das Tecnologias de Informação | IPAC | Instituto Português de Acreditação (Portuguese Institute for Accreditation) |
| GEPE | Gabinete de Estatística e Planeamento da Educação (Education Statistics and Planning Office) | IPQ | Instituto Português da Qualidade (Portuguese Institute of Quality) |
| GNR | Guarda Nacional Republicana (Republican National Guard) | IPSAS | International Public Sector Accounting Standards |
| GPERI | Gabinete de Planeamento Estratégico e Relações Internacionais (Office of Strategic Planning and International Relations) | IPTM | Instituto Portuário e dos Transportes Marítimos (Port and Maritime Transport Institute) |
| GPIAA | Gabinete de Prevenção e Investigação de Acidentes com Aeronaves (Aircraft Accident Prevention and Investigation Office) | IRG | Independent Regulators Group |
| | | IRGIS | Independent Regulators Group Information Sharing |
| | | ISEG-UNL | Instituto Superior de Estatística e Gestão da Informação da Universidade Nova de Lisboa |
| | | ITAC | Internet Technical Advisory Committee |
| | | ITSO | International Telecommunications Satellite Organization |

| | | | |
|-----------|---|-------|---|
| ITU | International Telecommunication Union | SNBSM | Centro de Coordenação de Busca e Salvamento Marítimo (Search and Rescue at Sea Coordination Centre) |
| ITU-D | International Telecommunication Union - Development sector | | |
| ITU-R | International Telecommunication Union - Radiocommunication sector | TCAM | Telecommunications Conformity Assessment and Market Surveillance Committee |
| MOPTC | Ministério das Obras Públicas, Transportes e Telecomunicações (Ministry of Public Works, Transport and Communications) | TDAG | Telecommunications Development Advisory Group |
| NATO | North Atlantic Treaty Organization | TJUE | Tribunal de Justiça da UE (Court of Justice of the European Communities) |
| NRA | National Regulatory Authority | TSAG | Telecommunications Standardization Advisory Group |
| PALOP | Países Africanos de Língua Oficial Portuguesa | UMIC | Unidade de Missão Inovação e Conhecimento (Knowledge Society Agency) |
| PAS | Public Attendance Service | UPAEP | União Postal das Américas, Espanha e Portugal (Postal Union of the Americas, Spain and Portugal) |
| PJ | Polícia Judiciária (Criminal Police) | UPU | Universal Postal Union |
| POC | Postal Operations Council | URSI | União Radiocientífica Internacional (International Union of Radio Science) |
| PSP | Polícia de Segurança Pública (Public Security Police) | USOAP | Universal Safety Oversight Assessment Programme |
| RCC | Regional Communities in the area of Communications | WRC | World Radiocommunication Conferences |
| Regulatel | Latin-American Forum of Telecommunications Regulatory Authorities | WTO | World Trade Organization |
| RSC | Radio Spectrum Committee | WTDC | World Telecommunications Development Conference |
| RSPG | Radio Spectrum Policy Group | WTSA | World Telecommunications Standardization Assembly |
| SCEE | Sistema de Certificação Electrónica do Estado (Management Council of the Electronic Certification System of the State) | WTPF | World Telecommunications Policy Forum |
| SINCRER | Sistema Nacional de Controlo Remoto das Emissões Radioelétricas (National System for Remote Control of Radioelectric Emissions) | | |

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Edição
ICP - Autoridade Nacional de Comunicações

ISBN
978-972-786-064-7

ISSN
1647-1482

Design
Brandia Central

Data
Setembro 2010

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