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Determination of 23.5.2002

ALTERATIONS TO BE INTRODUCED TO THE RIO 2002

In accordance with the provisions of n.º 1 of article 13.º of Decree-Law n.º 415/98, and without prejudice to the provisions of n.º 2 of the above-mentioned article, the ANACOM Board of Directors decided that PT Comunicações S.A. must modify the Reference Interconnection Offer (RIO) within a maximum of 10 days through the introduction of the following alterations.

The proposal and justification requested from PT Comunicações, S.A. in point 3 will be analysed subsequently, also bearing in mind the interests of other entities expressed and duly justified under the terms of article 100 and following articles of the Administrative Procedure Code.

1. INTERCONNECTION PRICES

1.1 Call Termination, Call Origination and Transit

PT Comunicações, S.A. presented a proposal to reduce interconnection prices. Having analysed the proposal it is not considered to be coherent with the principle of cost orientation, either in terms of the present situation or future growth scenarios.

In this context, and bearing in mind the likely evolution of market demand, current costs and growth prospects throughout 2002, overall market conditions, in a general framework of progressive alignment of prices to costs, and current European Union practices, the maximum interconnection prices (prices per minute chargeable to the second from the beginning of the call) to be in force from 01/05/2002, are as follows:

Price per minute, based on a 3-minute call (amounts in Euros - not including VAT)

LEVEL	CALL TERMINATION		CALL ORIGINATION		TRANSIT	
	Price Per Minute		Price Per Minute		Price Per Minute	
	Peak	Off-Peak	Peak	Off-Peak	Peak	Off-Peak
LOCAL	€0.0082	€0.0054	€0.0091	€0.0061	€0.0058	€0.0043
SINGLE TANDEM	€0.0120	€0.0079	€0.0134	€0.0089	n.a.	n.a.
DOUBLE TANDEM	€0.0176	€0.0116	€0.0197	€0.0131	n.a.	n.a.

For call termination, call origination and call transit (local interconnection) services, the maximum price for call set-up should be 0.0070 Euros for local interconnection, 0.0080 Euros for Single Tandem interconnection and 0.0090 Euros for Double Tandem interconnection. Invoicing will be to the second from the first second onwards.

1.2 Special Services

PT Comunicações, S.A. proposes a price increase for this service due to an increase in costs related to constitution of provisions against bad debt liability, and bearing in mind the average price per call applied by other operators.

It is felt the notified operator should receive remuneration for invoicing services, collection and bad debt liability, thus constituting provisions against such risk. Here, (i) bearing in mind lower common costs that are also more in line with the costs estimations adopted, (ii) taking into account the fact that the price of shared cost call services (808 calls) is the same for all

operators and is substantially lower than the prices charged for the other special services and (iii) being in possession of more recent and detailed information, it is defined:

- a) the maximum price for invoicing, collection and bad debt liability, applicable to PT Comunicações, S.A.' clients access to shared cost call services where the cost for the user is, at most, equal to that of a local call made within the bounds of the Universal Service, is €0.0311 per call;
- b) the maximum price for invoicing, collection and bad debt liability applicable to PT Comunicações, S.A.' clients access to all other paid special services, namely customer care services, informative services, universal access services and shared cost call services where the cost for the user is higher than a call made within the bounds of the Universal Service provided by operators, is €0.0530 per call.

ANACOM will continue to accompany this matter, especially in relation to the evolution of prices applied by other operators to PT Comunicações, S.A.' clients access to the special services provided by these operators.

In terms of invoicing and collection prices practised by other operators, these should not be fixed in the RIO, but should instead be subject to free negotiation between parties. It is recommended that these negotiations take market development, innovative and competitive offers, user interests and the principles of non-discrimination and proportionality into account.

1.3 Portability

PT Comunicações, S.A.'s price proposal was evaluated by taking the following considerations into account: that laid down in the Portability Specification, the principles of cost-allocation, current European Union practises, current prices applied by the Reference Entity and uncertainty in relation to the volume and composition of demand.

Thus, bearing in mind the above mentioned principles and estimates of evolution of portability, the price resulting from administrative costs, per ported number (per access), is 15 Euros. Maximum portability costs for blocks of consecutive numbers must not be more than that applied in the same situation by the Reference Entity.

Compensation for non-compliance with established deadlines should be defined and agreed between PT Comunicações, S.A. and the interested parties.

1.4 Interconnection Circuits

PT Comunicações, S.A. must revise the conditions applicable to interconnection circuits included in the RIO not more than 10 days after the conclusion of the process for the revision of the of leased lines service.

2. INTERCONNECTION OF LEASED LINES

Given that the RIO has not been adjusted to include the conditions applicable to the interconnection of leased lines services, enabling an OLO to provide an end-to-end leased line service to an end user with at least one of the local sections provided by PT Comunicações,

S.A., ANACOM reiterates its previous understanding on this matter, with special emphasis on the terms established in the "Set of items to be included in the Reference Interconnection Offer for 2001" and in ANACOM's subsequent rulings on alterations to the RIO.

In this framework, bearing in mind that the process of price reformulation for the leased lines service is currently under way, PT Comunicações, S.A. must adjust the supply conditions for interconnection of local sections in the RIO within 10 days of the conclusion of the said process and also taking that established in point 5 of this present decision into account.

3. TRANSIT SERVICE

PT Comunicações, S.A.'s proposal defines the Transit Service as the service whereby PT Comunicações, S.A. transports a call originated in the network of an OLO through its own network to a terminal point of the network of a third OLO. Only local interconnection is foreseen here and is applicable when the call is destined to a geographical point of interconnection of an OLO interconnected to the same access switch of the geographic point of interconnection to which it was routed. Under the terms of the proposal presented, this traffic must be supported by the circuits of the OLOs.

PT Comunicações, S.A.'s interconnection invoicing data submitted to ANACOM, reveals that Local Transit traffic represents almost all transit traffic, with only residual amounts recorded for Single and Double Tandem Transit.

Nevertheless, PT Comunicações, S.A.'s proposal, in associating the Transit Service to a mere "switching operation" in an interconnection point common to the origination and destination operators may potentially penalize the OLOs in specific situations where the call to be routed by PT Comunicações, S.A. has been originated in a terminal point of the networks of OLOs whose numbering level does not pertain to the local geographic point of interconnection where the call is routed.

In this context, PT Comunicações, S.A. must present a duly justified and detailed proposal, in line with the solution it proposed in a letter of 29/01/02 and bearing in mind the possible diversity of network elements involved. This proposal should include the conditions associated to the service with Single Tandem and Double Tandem interconnection levels, providing more potential to the possibility of routing traffic to interconnection points that are distinct from those to which the destination operator is interconnected.

4. NETWORK STRUCTURE AND LIST OF GEOGRAPHIC POINTS OF INTERCONNECTION

PT Comunicações, S.A.'s proposal is considered to represent a positive but limited step, especially within the scope of the coverage of network elements at regional and national level in terms of guaranteeing greater adequacy to the interconnection network structure, thus showing prospects of a growing commitment between PT Comunicações, S.A.'s interconnection offer and the specific needs that have been identified by the OLOs.

With this in mind, ANACOM feels that PT Comunicações, S.A. should consider taking the present proposal further, especially in terms of providing more potential to stimulate the growing optimisation of the local interconnection network structure and greater alignment with current practises in the different EU Member States.

5. COLLOCATION OF INTERCONNECTION EQUIPMENT

PT Comunicações, S.A.'s collocation proposal for the purposes of termination of interconnection circuits does not contemplate all collocation conditions foreseen in the RUO, in accordance with ANACOM's determination of 26/10/01.

ANACOM wants to see OLO access with its own infrastructure to PT Comunicações, S.A. exchanges become feasible immediately, with this being carried out in an economically efficient and rational way.

To achieve this, PT Comunicações S.A. will have to reformulate its proposal for the collocation of interconnection equipment within 30 days and favouring more economic, efficient and reasonable solutions and without prejudicing the integrity and security of the network, as well as taking current European Union practises in this matter into consideration.

6. CALL TERMINATION SERVICE

Under the terms of the presented proposal, the Call Termination Service would be subject to principles of balanced traffic distribution in cases where interconnection is available in more than one Distribution Exchange in the Lisbon and Oporto Network Groups that are Regional Geographic Points of Interconnection for the same numbering levels, or in more than one National Geographic Point of Interconnection in the Geographic Zone of either Lisbon or Oporto.

ANACOM can understand PT Comunicações, S.A. concern in ensuring the provision of a service with a high level of quality of service by fixing the generalised application of rules of efficiency. However, ANACOM feels that, in principle, it should be the operators who deliver the traffic who defines the rules to be applied to the routing of their traffic, whilst it is also to be expected that these rules also observe efficiency criteria.

It should also be added that, in accordance with n° 3 of article 6 of Decree Law n° 415/98, the routing of traffic and the point of delivery may be freely negotiated between the parties concerned.

Thus, it is recommend that operators respect, whenever possible, the principle of the balanced distribution of traffic destined for each numbering level by the Geographic Points of Interconnection, if interconnection is available in more than one Distribution Exchange in the Lisbon and Oporto Network Groups that are Regional Geographic Points of Interconnection for the same numbering levels, or in more than one National Geographic Point of Interconnection in the Geographic Zone of either Lisbon or Oporto. It is not however deemed necessary to include this principle in the RIO.

7. INVOICING PROCEDURES

Under the terms of the proposal presented by PT Comunicações, S.A., certain invoicing procedures have been reformulated. It is important to note that PT Comunicações, S.A. proposes to withdraw from the RIO the service of sending traffic elements for the operator to invoice PT Comunicações, S.A. , with the suggestion that this now be passed to operators/service providers in commercial conditions to be agreed between the parties.

PT Comunicações, S.A. explained that making traffic elements related to interconnection services provided by this operator or even additional statistical data (for example detailed information by Network Group Exchange) available is not in question.

In an initial phase and taking into account the associated delays and the resources involved in implementing an information system, it is admissible that PT Comunicações, S.A. supply the other operators with the information necessary for the invoicing of interconnection services provided by these operators.

It is felt however that in the light of the length of time that has passed since these operators entered the market to the establishment and maturing of relations between the operators and PT Comunicações, S.A., that they should already have an information system that allows them to collect the necessary information (traffic elements) so that the services they provide can be invoiced at a later date. Recourse to information made available by PT Comunicações, S.A., should be occasional, exceptional and only for the purpose of confirming data. This practise – the sending of information by the operators who charge to the operator charged – is general throughout the RIOs of other Member States.

Thus, the arguments presented by PT Comunicações, S.A. are understandable. However, bearing in mind the general objectives established by Decree Law n° 415/98 in the eventuality of operators still not possessing the means to collect and treat the relevant information, it is reasonable that present procedures remain unchanged until the end of 2002.

8. INTERNATIONAL TRAFFIC TRANSPORT SERVICE

Under the terms of the presented proposal, all references to International Traffic Transport Service were eliminated, given the effective level of competition that exists in the market, according to PT Comunicações, S.A.

This Authority considers that the elimination of the International Transport Service from the RIO should be duly analysed after a prior investigation into the competitive structure of this market segment because it represents a considerable alteration in supply conditions.

Within this context, it is considered that until the assessment of the results of the referred investigation, due to start soon, PT Comunicações, S.A. should maintain the conditions related to the International Traffic Transport Service in the RIO 2002.

9. RESOLUTION OF DISPUTES

PT Comunicações, S.A. excludes situations related to breach of intellectual property and confidentiality rights from the application of the litigation resolution procedure laid down in Decree-Law no. 415/98, integrated in the RIO 2002.

In relation to matters of confidentiality and considering the obligation specified in paragraph c) of no. 1 and no. 4 of article 8 of the above mentioned Decree-Law applicable to PT Comunicações, S.A., the RIO should be altered in order to eliminate de exclusion of the matters related to confidentiality from the scope of application of the said procedures.

10. INTERRUPTION AND SUSPENSION OF THE SERVICE

Explicit reference should be made within the RIO to the application, as a supplementary clause, of the interruption and suspension regime of the service contained within articles 15 to 17 of the Regulations for the Exploration of Public Telecommunications Networks.

11. OTHER ISSUES

- 11.1 Given the existence of certain services provided by PT Comunicações, S.A. whose use by end consumers is quite common and which can be classified as being of social interest, and following the principles of equality, transparency and non-discrimination, PT Comunicações, S.A. should include the conditions of offer applicable to access to services provided within the “14 numbering” range, namely the 1414 service – Lifeline and 144 – Social Emergency Line, in the RIO.
- 11.2 As that which is defined in point 20 of the RIO is not in line with that established in the Operator Portability Specification approved by ANACOM on 28/06/01, PT Comunicações, S.A. must revise the RIO, eliminating the second paragraph of the said point.
- 11.3 The portability tests defined in the RIO must follow that defined in the Operator Portability Specification approved by ANACOM on 28/06/01. The insertion or alteration of tests in the RIO must be subject to prior discussion between PT Comunicações, S.A. and the operators.
- 11.4 Point 15 of Appendix 5 of the RIO must be suppressed.
- 11.5 RIO 2001 foresees that in the case of collocation in PT Comunicações, S.A.’ buildings, the installation and operation of the main distribution frame shall be the responsibility of PT Comunicações, S.A. In the proposal presented by PT Comunicações, S.A. this responsibility is transferred to the other operator.

Thus, PT Comunicações, S.A. must change point 1.2.2 of Appendix 8 of the RIO in order to remove the alteration introduced.
- 11.6 PT Comunicações, S.A. must accept the notification of any breakdown reported, without prejudice to any later non-consideration, as long as it is justifiable. In these cases, the start of the breakdown must be taken as the moment it is reported by the respective operator.