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Clarification of 16.2.2007

Clarification on interconnection flat rate

I. Framework

Onitelecom, Infocomunicações, S.A., requested of ICP-ANACOM, on 26/01/07, clarification on the following issues:

- i) The provision of section 5 of annex 9 to the Reference Interconnection Offer (RIO), as regards traffic transshipment options;
- ii) Sharing of geographical interconnection points (GIP) and traffic transshipment conditions;
- iii) Service payment conditions;
- iv) Basic capacity unit;
- v) Increase by 50% of the remuneration of PT Comunicações (PTC) for calls originating on PTC public pay phones and routed over a capacity-based interconnection network;
- vi) Date of a prior hearing on amendments to the interconnection agreement standard form provided for in annex 10 to the RIO.

The same operator requested also the cancellation of changes made by PTC on 09/01/07, to annex 6 of RIO version v1/2007, on billing procedures.

In this context, follows the position taken by ICP-ANACOM on these matters.

II. Traffic transshipment options

Section 5 (traffic transshipment conditions) of annex 9 (capacity-based interconnection) of RIO provides that the transshipment of eligible traffic (that is, traffic exceeding the contracted capacity in the flat rate scheme) occurs:

“i) first of all, where a OSP is connected to a PTC exchange provided with more than one type of GIP operating in the capacity-based interconnection model, from an inferior level GIP to a higher level one, no penalty payment being imposed.

ii) second, over lines associated to time-based interconnection in the same GIP, a price being imposed for the traffic transshipment which corresponds to twice the price of time-based interconnection.

iii) third, where, for a given GIP, all capacity and time-based interconnection lines are occupied, the eligible traffic transshipment must take place according to the procedures applicable to time-based traffic, that is, in case the transshipment occurs over interconnection lines of a different GIP, the interconnection prices of the time-based interconnection model for the interconnection level of the GIP receiving the transshipment shall be applied.

iv) in alternative, through an indirect interconnection with a different operator, the OSP being allowed to choose to send traffic to a third operator, who will deliver traffic to PTC over its own lines, in case the interconnection lines contracted with PT Comunicações are congested.”

On 26/01/07, Onitelecom wished to know if the correct way to interpret these conditions was as follows:

“1) the OSP is entitled to choose a GIP model among the four options (namely only option iii) or among a combination of the latter in the desired order; or 2) the OSP is limited to choosing alternatively options i) to iii) in turn or option iv.”

The prior hearing approved by determination of ICP-ANACOM of 08/06/06¹, on minimum elements of the capacity-based interconnection offer, refers (in page12) that *“beneficiary entities may choose, for each GIP, one of the traffic transshipment options”*. Likewise, according to the RIO, the OSP and PTC are under the obligation to ensure mutual alternative traffic routing in case of failure of interconnection beams. Thus, it is hereby clarified that OSPs are effectively entitled to choose, in each GIP, and per each capacity-based interconnection beam, one of the presented options or a pre-defined order of options.

¹ See [Specification of changes to RIO \(capacity-based interconnection\) - determination of 8.6.2006](#).

III. Service payment conditions

Onitelecom argues it would be clearer if, regarding service payment conditions identified in tables provided in RIO, points 3.4 to 3.9, the call origination fee was established “*on PTC’s network*” instead of “*on its network*”, which would avoid any confusion on whether the call origination fee was imposed by PTC or the OSP. Thus, for example, in point 3.4.2 (access of PTC customers to customer support services provided by the OSP) for “*PTC shall pay the OSP the retail price deducted from the fee for the call originated on its network*”, Onitelecom suggests one should read “*PTC shall pay the OSP the retail price deducted from the fee for the call originated on PTC’s network*”.

The above mentioned amendment is not necessary, as the issue concerns access services provided to PTC customers, and thus the call origination fee refers obviously to the fee of calls originating on PTC’s network.

IV. Basic capacity unit

As regards the basic capacity unit, Onitelecom referred on 10/11/06 that the RIO should explicitly include the view of ICP-ANACOM stated on the report of determination of 08/06/06, according to which “*as the basic capacity unit is a 2Mmps line (E1) both capacity-based and time-based interconnection traffic can not coexist in that E1. However, different 2Mbps lines supported on the same physical means (for example, a 34Mbps PDH system) may transport both types of traffic (capacity-based and time-based).*”

ICP-ANACOM considers that the RIO does not conflict with the above-mentioned view, and thus fails to see the need to include it in this reference offer.

V. Increase by 50% of the remuneration of PT Comunicações (PTC) for calls originating on PTC public pay phones

On 14/12/04, ICP-ANACOM issued a determination² on the imposition of obligations on narrowband retail markets, stating that the tariff rebalancing concerning calls from public payphones was not yet concluded, even if PTC was charged with an additional 50% of fees for calls originating in its public payphones, the maintenance of this addition amount having been considered appropriate. Section 3 of annex 5 of the RIO refers that fees for calls originating in PTC public payphones are increased by 50% as regards the original amount of PTC remuneration.

² See [Imposition of obligations of narrowband retail markets - Determination of 14.12.2004](#).

Onitelecom considers that, as the traffic originated on PTC public payphones is not excluded from the flat rate scope, the monthly charge for this offer should comprise also calls originated on public payphones, and thus no additional amount should be charged. This operator refers also that, in case this additional amount is charged, OSPs would require the development of procedures for the submission of unbundled data to monitor and check that same amount.

In this context, it is hereby clarified that the additional amount by 50% applies regardless of whether the traffic is delivered over time-based or capacity-based interconnection beams, and thus, provided that PTC submits OSPs with unbundled data on that type of traffic, there is nothing to prevent the application of an additional amount of 50% to calls originating on public payphones and routed through capacity-based beams.

VI. GIP sharing and traffic transshipment conditions

As far as GIP sharing is concerned, Onitelecom argued that the RIO should add, as referred by ICP-ANACOM on the prior hearing report of 08/06/06, that as regards situations where an operator renders formal a GIP sharing agreement, PTC shall not *“charge for the opening of a new GIP, as an active and operating GIP is already available”*. As regards traffic transshipment conditions, Onitelecom deems that the RIO should add, as referred by ICP-ANACOM on the above-mentioned prior hearing report, that *“where the transshipment takes place over capacity-based interconnection lines of a different GIP, the cost per transhipped call is already included in the payment for the capacity-based beam”*.

In this context, ICP-ANACOM did refer the views above on the prior hearing report of 08/06/06 (pages 9 and 12), however the RIO does not conflict with them, so ICP-ANACOM fails to see the need to include them in this reference offer.

VII. Interconnection agreement standard form

According to Onitelecom, the standard form included in Annex 10 to the RIO comprises provisions which require deep amendments/suppression, and in this context that OSP requests information on how long will it take to hold a consultation on the matter.

ICP-ANACOM, on its determination of 14/12/06³, concerning changes to the RIO on capacity-based interconnection offer, took the view that services provided in the scope of the RIO should not be made subject to the conclusion of an interconnection agreement which is not compatible with the provisions of the RIO, this being the actual purpose of the reference proposal. Thus, the Authority determined the removal of the provision in

³ See [Changes to the RIO on capacity-based interconnection offer - determination of 14.12.2006](#).

section 25 of the RIO including capacity-based interconnection, according to which “*the provision of services comprised by the offer is subject to the conclusion of an interconnection agreement (...)*”.

On the other hand, considering that the integration of a standard form submitted by PTC in the RIO is a major factor for entities benefiting from the offer, ICP-ANACOM is of the opinion, in the prior hearing report approved by determination of 14/12/06, that the referred standard form proposal “*should be subject to a separate assessment and decision procedure*”. In this context, ICP-ANACOM is expected to publish soon a draft decision on this matter.

VIII. Billing procedures

Annex 6 (billing procedures) to the RIO provides that PTC shall inform the OSP every month on the number of contracted basic capacity units, per level (Local, Single Tandem and Double Tandem). This decision to amend the reference offer was taken by PTC on 09/01/07 and was not imposed by any determination from ICP-ANACOM.

Onitelecom requested on 26/01/07 the suppression of amendments introduced by PTC, on 09/01/07, to annex 6 to the RIO, on billing procedures, as it considers that they reduce the information conveyed by PTC as regards capacity-based interconnection, limiting it to the monthly conveyance of the number of basic capacity units per level, and not referring any GIP data.

PTC declared it introduced, on 29/01/07, a note to annex 6 to the RIO, concerning the provision of statistical information on the number and extent of calls, having stated on a footnote, that “*detailed statistical data per GIP shall be provided from 10/03/07 onwards, after the entry into force of the capacity-based interconnection*”.

It is deemed that the conveyance by PTC of monthly information to OSP on the number of contracted basic capacity units, per level (Local, Single Tandem and Double Tandem), is positive. However, it is not clear, in annex 6 to the RIO, whether the detail data per GIP applies or not to the number of contracted basic capacity units. In this context, PTC must make clear, in annex 6 to the RIO, that the monthly information submitted to OSPs on the number of contracted basic capacity units is unbundled per GIP.