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<http://www.anacom.pt/template31.jsp?categoryId=238244>

Clarification of 8.3.2007

<p style="text-align: center;">CLARIFICATION ON INTERCONNECTION FLAT RATE (NOTE II)</p>
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I. FRAMEWORK

1. On 26/01/07 Onitelecom - Infocomunicações, S.A. (Onitelecom), requested ICP-ANACOM to provide clarification on the following issues regarding the flat interconnection rate, in particular on: i) traffic transshipment options; and ii) the 50% increase in the remuneration of PT Comunicações (PTC) for calls originating on PTC public pay phones and routed over a capacity-based interconnection network..
2. Onitelecom and PTC were accordingly informed of the position that ICP-ANACOM takes on said issues, under the terms of the clarification of 16/02/07¹,
3. Subsequently on 28/02/07, PTC questioned ICP-ANACOM on the said clarification, in particular with regard to:
 - i) traffic transshipment options;
 - ii) the obligation of the OSPs to make capacity-based interconnection beams available in all GIPs where capacity-based interconnection is implemented; and
 - i) the calculation of the additional 50% in the remuneration of PT Comunicações (PTC) for calls originating on public pay phones.
4. Accordingly the issues raised by PTC are analysed as follows:

¹ See <http://www.anacom.pt/template31.jsp?categoryId=235262>.

II. ANALYSIS

2.1 TRAFFIC TRANSHIPMENT OPTIONS

A. Position of PTC

5. PTC stated, on 28/02/07, that the position set out in the clarification of 16/02/07, according to which “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”, constitutes a new element over that defined by ICP-ANACOM in the prior determination of 08/06/06. According to PTC, the determination of 08/06/06 clearly and explicitly sets out a well defined order for programming traffic transshipment routings. PTC argued that the new element which they claim is introduced by the clarification of 16/02/07 would wholly alter the presumption which PTC had used as a basis for formulating the prices to be applied to the capacity units, since unsuitable or inefficient behaviour on the part of the OSPs is no longer penalised.

B. Position of ICP-ANACOM

6. Following the decisions of ICP-ANACOM of 08/06/06² (Specification of the minimum elements of the capacity-based interconnection offer) and of 14/12/06³ (Changes to the RIO on capacity-based interconnection offer), it was set out in Section 5 (traffic transshipment conditions) of annex 9 (capacity-based interconnection) of the offer 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 PT 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

² See <http://www.anacom.pt/template31.jsp?categoryId=196062>

³ See <http://www.anacom.pt/template31.jsp?categoryId=224282>.

traffic to PT over its own lines, in case the interconnection lines contracted with PT Comunicações are congested.”

7. It is stated that the order set out above is merely explanatory and that in the clarification of 16/02/07, ICP-ANACOM states that *“the 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.”*
8. It is further noted that the report on the prior hearing approved by ICP-ANACOM determination of 08/06/06 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”*. Therefore it is not considered that the clarification of 16/02/07 introduces new elements over that which has previously been defined, and that accordingly, in a sequence of transshipment options, the transshipment may naturally and at any time be performed by way of only one of the options.
9. With respect to the application of the transshipment options, it is stated that, as set out in Annex 2 of the draft decision of 23/10/06 (position of point E) and further in the report on the decision of 14/12/06 (position of 2.2.3), *“the dimensioning of the circuits is within the remit of the beneficiary (OSP) that requests the capacity-based interconnection, even where the traffic originates on the network of PTC (emphasis added), and that PTC shall be responsible for defining alternative routes agreed with the OSPs on the map of routings”*. Accordingly the selection of the transshipment options shall result from an agreement between PTC and the beneficiary, which option may be applied in any order, except, naturally, option (iv) that applies to OSP originated traffic and permits the OSP to choose to send traffic to a third operator, who will deliver traffic to PT over its own lines, in case the interconnection lines contracted with PT Comunicações are congested.”
10. It is further stated that, in accordance with the RIO, the OSPs and PT are under the obligation to ensure mutual alternative traffic routing in case of failure of interconnection beams.
11. With respect to the claim that the explanation given in the clarification could cease to penalise unsuitable and inefficient behaviour on the part of the OPSs, such is considered to be without basis, given that, in any event, whenever a transshipment is performed through circuits associated with a time-based interconnection in the same GIP (an option that could incur extra costs for PTC), a penalty shall be imposed corresponding to twice the price of the time-based interconnection.

2.2 OBLIGATION OF OSPs TO MAKE TIME-BASED INTERCONNECTION BEAMS AVAILABLE IN ALL GIPs WHERE CAPACITY-BASED INTERCONNECTION IS IMPLEMENTED

A. Position of PTC

12. PTC questioned ICP-ANACOM on the possible obligation of the OSPs to make capacity-based interconnection beams available in all GIPs where capacity-based interconnection is implemented.

B. Position of ICP-ANACOM

13. With respect to the claimed obligation of the OSPs to make time-based interconnection beams available in all GIPs where capacity-based interconnection is implemented, it is clarified that capacity-based interconnection is an option that is separate from time-based interconnection, and that as such there is no obligation to provide the coexistence of both models in the same GIP. Therefore the OSPs are free to choose, for each GIP, the interconnection model which most suits their needs,

2.3 ADDITIONAL 50% IN THE REMUNERATION OF PT COMUNICAÇÕES (PTC) FOR CALLS ORIGINATING ON PUBLIC PAY PHONES

A. Position of PTC

14. PTC requested that ICP-ANACOM confirm that the additional 50% in the remuneration of PT Comunicações (PTC) for calls originating on PTC public pay phones is calculated with basis in the time-based price for the level of traffic corresponding to the capacity unit through which the traffic was routed.

B. Position of ICP-ANACOM

15. The clarification of 16/02/07 sets out that the additional value of 50% in the remuneration of PT Comunicações (PTC) for calls originating on PTC public pay phones shall be applied regardless of whether the traffic is delivered over time-based or capacity-based interconnection beams, and that provided that PT 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.

16. It is confirmed that this additional 50% in the remuneration of PT Comunicações (PTC) for calls originating on PTC public pay phones is calculated with basis in the time-based price of the traffic level corresponding to the capacity unit through which the traffic was routed. Further it is considered that this method represents the most simple, transparent and functional way of obtaining the value of the said remuneration

17. Accordingly, for example, where a call originating from a public pay-phone is routed through a capacity-based beam of simple traffic level, the basis price of the call shall correspond to the basis price per minute for that level.