

## **CLARIFICATION ON THE PROVISION OF SERVICES USING GEOGRAPHIC, NOMADIC OR OTHER NUMBERS**

### **Introduction**

ICP-ANACOM has been observing the provision of electronic communication services (ECS) and the use of numbering usage rights at the fringes of the legal framework which governs such activities.

In the course of inspection actions carried out by this Authority, it has been discovered that certain undertakings, which have not notified ICP-ANACOM of their activity, have allocated numbers to final customers. These numbers had previously been allocated to a provider with declaration of activity issued by ICP-ANACOM, in respect of which the pertinent numbering usage rights had been allocated.

Furthermore, these numbers were not being used in accordance with the respective conditions, in particular with those governing the requirements associated with the provision of the services which they identify.

Additionally, ICP-ANACOM has received requests for clarification from the market as to how the current regulatory framework accommodates the provision of certain ECSs, particularly those of a transnational character, and as to how the numbers of the National Numbering Plan (NNP), in particular the national telecommunications plan (recommendation E.164<sup>1</sup> of the ITU-T<sup>2</sup>), might be used.

In view of these issues, ICP-ANACOM has decided to publish the present Clarification.

### **Analysis and Framework**

#### **1. The provision of electronic communication services using numbers of the NNP**

By application of the General Authorisation regime set out in articles 21 et seq. of Law no 5/2004 of 10 February (LCE), the provision of ECSs is subject to the presentation of a notification of activity, while the use of numbers of the NNP is subject to the conditions set out in the same law, especially in article 34.

Additionally, the “Principles and criteria for the management and allocation of numbering resources”<sup>3</sup> remain in force, which Principles establish that an undertaking receiving secondary allocations<sup>4</sup> may not transfer or commercialise such resources. Accordingly, an undertaking having numbers at its disposal, may only “assign them” to third parties provided that it is an operator which received the usage rights of such numbers directly from ICP-ANACOM.

For any undertaking to be able to allocate numbers from the NNP to its customers, it shall, accordingly, in the first place, present a notification of activity for the provision of

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<sup>1</sup> *The international public telecommunication numbering plan*

<sup>2</sup> *International Telecommunication Union – Telecommunication Standardization Sector*

<sup>3</sup> See <http://www.anacom.pt/template15.jsp?categoryId=2399>

<sup>4</sup> The secondary allocation of numbers is taken as meaning that which is made by an operator/provider to its customers, while the respective usage rights with respect to these numbers were allocated by ANACOM to the operator/provider concerned.

the ECSs that these numbers identify in the NNP and the allocation of usage rights may subsequently be authorised.

Even where such undertaking is already an international operator or provider offering global ECSs, it is only an operator/provider in the view of ICP-ANACOM if it has a declaration of activity issued by ICP-ANACOM. Where it does not have such declaration, it may only be considered as a customer of electronic communication services and not as an operator/provider. As a result it may not allocate numbering resources, irrespective of their nature or type.

Likewise, the transfer of usage rights between undertakings pursuant to article 38 of the LCE is only possible where the undertaking in receipt of such rights meets the regulatory conditions set out in the general authorization regime and is in a situation meeting the conditions associated with the use of the transferred numbers, with particular reference to article 34.

Accordingly it is required that an undertaking notifies ICP-ANACOM of its activity where it intends to provide its own ECS in the national territory. Depending on the service offered, and irrespective of whether its own network is used or use is made of another network, such provider has the right to the allocation of numbering usage rights, or, where wanted, the right to obtain by transmission of the rights of the same type of resources of another operator/provider. In this case, as set out in article 38 of the LCE, certain mechanisms may be established in order to safeguard, in particular, the effective and efficient use of numbers and the rights of users.

## **2. The use of numbers of the NNP**

The numbers of the NNP within the scope of recommendation E.164 of the ITU-T (national telecommunication plan) have a dual function: they serve to enable users to access services and to enable operators to interconnect, thereby ensuring interoperability in communications. The numbers of the NNP are used, as the name indicates, at a national level and the numbers defined pursuant to said recommendation indicate points of the telephone network<sup>5</sup>.

The numbers of the NNP within the scope of recommendation E.164 of the ITU-T may be considered as being of two types, according to the property of the traffic of the calls which are destined for these numbers: (i) numbers in which the property of the traffic is of the operator/provider which originates the calls – geographic, mobile and nomadic numbers, (ii) numbers in which the traffic is the property of the operator of the destination of the calls – non-geographic numbers in which there is a tariff associated with the numbers, under the terms defined in the NNP.

Article 34 of the LCE, as mentioned above, establishes conditions associated with the rights to use numbers. Without prejudice to the conditions set out in point b) and h) of paragraph 1 of this article, especially, (i) the effective and efficient use of numbers in accordance with point b) of paragraph 2 of article 17, (ii) requirements in respect of number portability, pursuant to article 54, (iii) obligations in terms of directory services for the purposes of articles 50 and 89, and (iv) fees pursuant to article 105, the condition set out in point a), with reference to the “*designation of the service for which the number shall be used, including any requirements linked to the provision of said service*”, has particular importance in the present context.

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<sup>5</sup> Includes PSTN (*Public Switching Telephone Network*) and PLMN (*Public Land Mobile Network*)

In fact each type of number has specific conditions of use according to the nature of the services in respect of which the respective usage rights are allocated.

## **2.1 The use of geographic numbers**

It is a common feature of geographic, mobile and nomadic numbers that they are associated with persons or entities and that calls will be originated and terminated on them. The specific conditions of use of these numbers, by application of point a) of paragraph 1 of article 34 of the LCE take account of the requirements in respect of the provision of the respective services: publicly available telephone service at a fixed location, mobile telephone service and nomadic use VoIP service.

For the purposes of the present clarification mobile and nomadic numbers are not considered.

Accordingly and taking into account the definition of a geographic number as set out in point p) of article 2 of the LCE, the requirement of use imposed on geographic numbers is that such numbers shall be used exclusively for the provision of the publicly available telephone service at a single fixed location, which location shall be situated within the geographic area indicated by the digits of geographical significance which are a component of such numbers. This condition of use of the geographic number can only be guaranteed when control of access to the network, which may be performed variously depending on the adopted technology, is ensured by the provider of the service.

## **2.2 The use of non-geographic translation numbers (e.g. IN)**

As opposed to geographic, mobile and nomadic numbers, non-geographic numbers are only used to terminate calls and not to originate them. The requirement relating to the provision of the services for which these numbers are used, focuses, by application of point a) of paragraph 1 of article 34 of the LCE, on the maximum tariff payable by the user originating the call, which tariff is defined for each one of the service codes of this type of number (“800” – free for the caller, etc.).

As such, these non-geographic numbers are particularly suited for providing access to call centres, whereby it is possible that national numbers of this type are used to establish (international) calls to call centres abroad.

This is an old practice between incumbent operators later followed by emerging operators, whereby, by means of an agreement between the national operator and the international operator of the other country, it is possible to “translate” a non-geographic translation number in national format into the number(s), typically geographic numbers, which support call centres in this other country. In particular, there is explicit provision in the “800” service code for national and international calls which are free for the caller, with a specific range of numbers – “8008”<sup>6</sup> - provided for the latter.

It should be stressed that, in respect of non-geographic numbers which only terminate traffic and in which, by the traffic property regime associated with these numbers (point

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<sup>6</sup> See <http://www.anacom.pt/template12.jsp?categoryId=2388>, where for “8” the following can be consulted  
[http://www.anacom.pt/streaming/8\\_28junho07.xls?categoryId=7370&contentId=24500&field=ATTACHED\\_FILE](http://www.anacom.pt/streaming/8_28junho07.xls?categoryId=7370&contentId=24500&field=ATTACHED_FILE)

(ii) of paragraph 2.), such traffic is the property of the operator/provider which terminates the communication.

Accordingly, it is possible for an international operator/provider which provides a call centre service to customers on a global scale and which intends that the service has access from non-geographic translation numbers of the NPP, to provide this service without having a declaration of activity pursuant to the general authorisation regime of the LCE. Such a situation arises because this operator does not have customers and does not provide services in Portugal.

In such conditions the undertaking which assumes responsibilities as far as ICP-ANACOM is concerned for the use of these numbers is the Portuguese operator/provider.

However, for the provision of the same type of service with the same conditions on a global scale, international numbers, the usage rights of which are allocated by the ITU-T, are particularly suited.

Therefore, this operator/provider will have to be a recognised international telecommunications undertaking<sup>7</sup>, and by representation of its customers, request global numbers<sup>8</sup> from the ITU-T. There are different types of numbers available from the ITU-T which reflect different tariffs for the user originating the communications, including, in the context of a service to clients with call centres: (i) UIFN (Universal International Freephone Number) (CC = 800), (ii) UISCN (Universal International Shared Cost Number) (CC = 808).

In this case ICP-ANACOM does not play any part in the process of registering and allocating resources

## Conclusion

1. The numbers of the NNP may only be allocated to final customers/users by operators/providers with declaration of activity issued by ICP-ANACOM for the provision of services which are compatible with such numbers. NNP numbers may be used to access the ECSs offered by operators/providers without declaration of activity issued by ICP-ANACOM where the property of the traffic generated for these number consubstantiates a service whose provision does not take place in Portugal.
2. Such numbers may be obtained by operators/providers through one of the following means: (i) requesting the allocation of the respective rights from ICP-ANACOM, (ii) through the transfer of the usage rights if such numbers are from another operator/providers, authorized by ICP-ANACOM.
3. The allocation of rights to use numbers of the NNP is governed by conditions including, for geographic numbers, the need to respect the use of the number in a single fixed location -the address of the subscriber- situated in the geographic area indicated by the digits with geographic significance which are a component of the number. In respect of 1., non-geographic translation numbers of the NNP may be used to access call centres at a global level.

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<sup>7</sup> <http://www.itu.int/ITU-T/inr/roa/index.html>

<sup>8</sup> “Universal numbers”. See <http://www.itu.int/ITU-T/universalnumbers/uifn/index.html>