

## CLARIFICATION NOTE

### Implementation of message-based value added services – Decree-Law number 177/99 of 21 May as amended by Decree-Law number 63/2009, of 10 March

#### Framework

Decree-Law number 63/2009, of 10 March, amended Decree-Law number 177/99 of 21 May, by introducing the legal regime of message-based value added services. In the scope of its powers, ANACOM decided, in order to implement the mentioned Decree-Law, further to a public consultation procedure, to adjust the National Numbering Plan to the provision of message-based value added services, having adopted for this purpose determination of 3 June 2009, made public on 8 June 2009 (see <http://www.anacom.pt/render.jsp?contentId=956947>).

In the scope of this new regime, ANACOM was faced with some doubts on the type of numbering resources which should be used to make message-based value added services operational, especially when the provision of such services implies the exchange of free or standard-price (non-value-added) messages prior to the message transmitting the content (value added service).

In fact, in the scope of conditions inherent to general services under consideration, article 9-A of the mentioned Decree-Law number 177/99, of 21 May, lays down that prior to the provision of the service, the customer must send messages requesting the service and confirming this request (which should be free or at standard price) and the provider must send a message with information on the conditions of service provision (also at no cost to the customer). As prior messages and the message through which the value added service is provided use the same number – and as the service provision message is transmitted in the same direction as one of the prior messages – the application of the different pricing resulting from the law is a difficult task.

The reason put forward to justify the doubts thus concerns the technical problems connected to the association of a single number to different pricings in the same direction of communication.

Given this obstacle, ANACOM was questioned on numbers which could or should be used to accommodate preliminary messages (service request, information message and request confirmation) and the actual service provision message.

#### Understanding

Where it is technically impossible to use the same number – either individual or belonging to a block of 10 numbers the right of which is granted by ANACOM to a company for the provision of message-based value added services (“61”, “62”, “68” or “69” calling codes) – with different pricings, in the same direction of communication, and whereas:

- I. It is urgent that market agents, especially mobile operators, render operational in due time the conditions required to provide services, in accordance with Decree-Law number 177/99 of 21 May, as amended by Decree-Law number 63/2009, of 10 March;

- II. The exchange of preliminary messages – either free or standard-price – is required, for some types of services, prior to transmitting the value added content or making the service effective;
- III. It would not be appropriate, as this would require a further reflection, to establish a specific numbering range to meet the referred technical problem;
- IV. It is fundamental that the use, in preliminary messages, of numbers which differ from those allocated for the provision of value added services does not hinder consumer protection measures or their rights to information, deemed to mean the existence of a transparent one-to-one correspondence between codes of access to services and types of services;

ANACOM takes the view that:

1. Messages from the customer, either (i) requesting value added services and (ii) confirming this request, and from the service provider (iii) supplying information on the conditions of the offer – as provided for in paragraphs 1 and 2 of article 9-A of Decree-Law number 177/99 of 21 May, as amended by Decree-Law number 63/2009, of 10 March –, may be sent to a number which is different from the one whose right of use was allocated for the provision of the respective service, insofar as that number is preceded by the calling code (“61”, “62”, “68” or “69”) used to make the service offer effective.
2. In the service invoice, the service must be identified by the number specifically allocated for the purpose.