

Decision

on the amendment of the Semi-Annual Portability Questionnaire

I. Framework

By determination of 11 November 2009, the Board of Directors of ANACOM has approved the Semi-annual Portability Questionnaire, which compiles and systematises information as must be submitted to ANACOM by companies with portability obligations. This information is required so that ANACOM is able to monitor the development of portability and verify provider compliance with a determined set of obligations as under prevailing legislation and regulation (obligations set forth in *Regulamento da Portabilidade* (Portability Regulation) and in *Lei das Comunicações Eletrónicas* (Electronic Communications Law - Law no. 5/2004 of 10 February in its current version)). It is also required to enable evaluation of the measures which have been established to ensure that consumers have information about portability operations, about calls to ported numbers and about applicable prices.

The information complied through this questionnaire complements data received from the Reference Entity (entity that manages the database which stores information on ported numbers, as well as the history of transactions) under paragraph 4.5 of article 4 of the "Contrato de Fornecimento de Serviços de Portabilidade" (Portability Services Supply Contract) in force between Portabil, the providers of electronic communications with portability obligations and ANACOM.

Whereas:

- a) The recent publication of Regulation no. 257/2018 of 8 May introduced some changes to the obligations set out in Article 21 of *Regulamento da Portabilidade* (Portability Regulation), in particular as regards the regime governing availability of the free on-line portability notice and as regards the information provided for under article 22 (to be sent to ANACOM by providers for the purpose of oversight). In this context, it should be noted that, under the Portability Regulation, in its current version: i) the free on-line notice applicable to calls made to ported mobile numbers is only made available where this has been expressly requested by the user; and (ii) companies which are providers of mobile telephone services or telephone services available at a fixed location and which have tariff plans whereby a call to a ported number may be more expensive than before portability, shall be required to provide, through a free number for calls made from their own network, a telephone information service on prices for voice calls and non-call related communications to ported numbers;

- b) Certain indicators in the Portability Semi-annual Questionnaire require adaptation, in order to ensure consistency with the adaptations of indicators applied under Regulation 255/2017 of 16 May on the provision of information of a statistical nature;
- c) It is important to compile information on the quantity of ported-in numbers associated with active Machine-to-Machine mobile accesses and active mobile accesses with connection exclusively through PC/tablet/pen/router, which information cannot be obtained from the Reference Entity under the aforementioned Portability Services Supply Agreement, whereby it is considered that this information should be requested from the providers, since the quantity is currently unknown;
- d) It is important to compile information on portability which enables a better understanding of the trend in the ratio "percentage of numbers that are ported", by requesting additional information from providers on the main components of the semi-annual variation of this ratio's numerator and denominator;
- e) There is a lack of knowledge as regards the percentage of ported-in numbers from the 800, 808, 809, 707, 708, 760, 761, 71 and 884 30 numbering ranges;

It was deemed necessary to amend the Semi-Annual Portability Questionnaire approved by determination of 11 November 2009.

II. Draft Decision and Prior Hearing of Interested Parties

By determination of 2 August 2018, and in consideration of the above, the Board of Directors approved a draft decision to amend the Semi-Annual Portability Questionnaire (to be completed by companies with portability obligations).

The draft decision, including the Semi-Annual Portability Questionnaire in annex hereto, was submitted to the prior hearing of interested parties for a period of 15 working days.

Following the request submitted by NOWO - Communications, SA and Onitelecom - Infocomunicações, SA, seeking an extension to this period, on 20 August 2018, ANACOM decided to partially grant the request, extending the hearing period by another 7 working days, until 7 September 2018.

Under this procedure, replies were received, within the deadline established for this purpose, from the following undertakings:

- MEO - Serviços de Comunicações e Multimédia, S.A. (MEO);
- NOS Comunicações, SA, in its own name and on behalf of its subsidiaries NOS Madeira Comunicações, S.A. and NOS Açores Comunicações, S.A. (NOS);
- NOWO - Communications, S.A. and Onitelecom - Infocomunicações, S.A. (NOWO/ONI); and
- Vodafone Portugal – Comunicações Pessoais, S.A. (Vodafone).

The report of the prior hearing, which is an integral part of this decision, has been prepared and includes a summary of the views expressed, and likewise sets out the positions taken by ANACOM with regard thereto.

The report sets out the reasoning for this decision, justifying the amendments that ANACOM saw fit to introduce and which were not included in the draft decision, specifically:

- (i) the extension, until 30 July 2019, of the time limit applicable to the first submission to ANACOM of the items contained in question 3.2. of Part I and the items listed in question 6 of Parts I and II of the final version of the new questionnaire, all of which are to be reported with reference to 30 June 2019. However, for the remainder of the information provided for in the questionnaire, the obligation to submit a reply to ANACOM no later than 30 January 2019 is maintained (information to be reported with reference to 31 December 2018);
- (ii) the obligation for providers to report, no later than 30 January 2019, the items requested in question 3.2. of Part I and question 6 of Parts I and II of the Semi-Annual Portability Questionnaire previously in force (questionnaire approved by ANACOM on 11 November 2009¹);
- (iii) the insertion, in the context of question 3. 2. of Part I of the new questionnaire, of a request to identify the classification criteria used for the purpose of reporting information on complaints about the on-line notice (information which is requested in the same point);
- (iv) the introduction, in question 6 of Part I of the new questionnaire, of an indicator which, albeit not provided for under the draft decision, ANACOM has been requesting from providers since November 2010². This is the indicator "quantity of numbers associated with active mobile accesses excluding those associated with mobile accesses used exclusively for broadband" (i.e. excluding numbers associated with mobile accesses exclusively connected via PC/tablet/pen/router) and corresponding detail in terms of residential and non-residential segments. Compilation of this indicator will address the issue of series comparability as regards the denominator of the ratio "Percentage of numbers that are ported" (raised in the context of comments received by ANACOM);
- (v) the elimination, from the final version of the new questionnaire, of the indicators in question 3 of Part III (30 numbering range) related to the semi-annual variation of the numerator and denominator of the ratio "Percentage of numbers that are ported", foreseen in the draft questionnaire approved in the context of the draft decision, i.e.: "1.1. Quantity of numbers which, between the beginning and the end of the six-month period, cease to be ported-in", "1.2. Quantity of new numbers which, between the

¹ Available at <https://www.anacom.pt/render.jsp?contentId=996609>.

² For the purpose of mobile accesses considered in the report submitted, ANACOM asked providers to exclude numbers associated with mobile stations/user equipment used exclusively to support the mobile broadband service, in the semi-annual portability questionnaire that has been in force. This request to providers (which has been maintained) was sent for the first time through ANACOM's communication in November 2010, following preliminary analysis of the first responses to the questionnaire on portability, approved by ANACOM determination of 11 November 2009.

beginning and the end of the six-month period, were ported in", "2.1. Quantity of numbers which, between the beginning and the end of the six-month period, cease to be allocated to customers of the company" and "2.2. Quantity of numbers which, between the beginning and the end of the six-month period, are now allocated to customers of the company";

- (vi) the elimination of question 3 of Part IV of the draft questionnaire concerning the percentage of numbers from the 800, 808, 809, 707, 708, 760, 761, 71 and 884 30 numbering ranges which are ported-in;
- (vii) the adaptation of certain indicator designations and respective notes, in order to clarify the meaning of these indicators, taking into account some uncertainties raised in comments received by ANACOM.

III. DECISION

In view of the above and pursuant to the powers provided for in points g), i) and m) of paragraph 1 of article 9 of ANACOM's Statutes (approved by Decree-Law no. 39/2015 of 16 March), in pursuit of its regulatory objectives, particularly those set out in points a) and c) of paragraph 1, and point d) of paragraph 4 of article 5 of Law no. 5/2004 of 10 February (current wording), pursuant to paragraph 5 of article 54 of the same Law and in development of article 22 of *Regulamento da Portabilidade* (Portability Regulation - current version), ANACOM's Board of Directors determines as follows:

- 1) To approve the Semi-Annual Portability Questionnaire (in **annex** hereto), to be completed by companies with portability obligations (companies covered by the provisions of paragraph 3 of article 1 of *Regulamento da Portabilidade* (Portability Regulation)), that is, companies:
 - a) Responsible for routing call traffic and non-call related communication traffic to numbers of the PNN - Plano Nacional de Numeração (National Numbering Plan);
 - b) Companies holding PNN numbers, assigned to their subscribers on a secondary basis and which may be ported;
 - c) Companies which, by means of portability, receive numbers assigned to subscribers by other companies;
- 2) That the first submission to ANACOM of responses to the Semi-annual Portability Questionnaire is to take place no later than 30 January 2019 (containing information reported to the end of the second half of 2018), except in the case of answers to the following questions, whose first submission to ANACOM (with information to the end of the first half of 2019) is to be made no later than 30 July 2019:
 - a) question 3.2. of Part I of the new questionnaire (information on the number of complaints concerning the on-line portability notice, with data detailed in terms of the number of complaints about the on-line portability notice not being played and the number of complaints about the on-line portability notice's availability under the terms of paragraphs 1 to 3 of article 21);

- b) question 6 of Parts I and II of the new questionnaire;
- 3) That providers shall also submit to ANACOM, no later than 30 January 2019, those items which are requested under question 3.2. of Part I and question 6 of Parts I and II of the Semi-Annual Portability Questionnaire as has been in force (questionnaire approved by ANACOM on 11 November 2009³), with data reported to the end of the second half of 2018.

³ Available at <https://www.anacom.pt/render.jsp?contentId=996609>.