

DECISION

Issue of the title of Rights of Use for Frequencies allocated to MEO in the 700 MHz and 3.6 GHz bands following the Auction governed by Regulation No 987-A/2020, of 5 November

1. Framework

By determination of 23 November 2021, Autoridade Nacional de Comunicações (ANACOM) approved the final report of the Auction for the allocation of Rights of Use for Frequencies (RUF) in the 700 MHz, 900 MHz, 1800 MHz, 2.1 GHz, 2.6 GHz and 3.6 GHz bands, governed by Regulation No 987-A/2020, of 5 November (Auction Regulation), which includes the decision to allocate the corresponding RUF.

Within the scope of this Auction, MEO - Serviços de Comunicações e Multimédia, S.A. (MEO) was allocated the rights to use the frequencies corresponding to the twelve lots won by this company, as follows:

- ❖ 2 x 5 MHz in the 700 MHz frequency band (703-733 MHz / 758-788 MHz);
- ❖ 2 x 2 MHz in the 900 MHz band;
- ❖ 90 MHz in the 3.6 GHz band (3400-3800 MHz).

Under paragraph 1 of article 40 of the Auction Regulation, the titles granting the rights of use for frequencies are issued by ANACOM's Board of Directors at the latest 20 days after fulfilment of the deposit obligation provided for in article 38 of the same Regulation.

The titles allocating rights of use for frequencies in the 900 MHz band must be issued within 20 days after the approval of the agreement referred to in paragraph 4 of article 39 or after the decision referred to in paragraph 5 of that article has been taken.

The titles that certify the rights of use allocated in this procedure must indicate the conditions associated with the respective exercise referred to in articles 41 *et seq* of the Auction Regulation (cf. paragraph 3 of article 40).

Paragraph 3 of the aforementioned article 40 also establishes that, in the case of holders of RUF in force on the date on which the Auction Regulation takes effect, the titles of RUF

allocated in this procedure are integrated into the respective single titles, by means of the addition of chapters relating to the frequency bands in which they now hold RUF.

For the purpose of the issue regime set out in the Auction Regulation, ANACOM's Board of Directors is required to promote the prior hearing of RUF holders pursuant to article 121 *et seq* of the Administrative Procedure Code, which, accordingly, suspends the course of the period set out in paragraph 1 of article 40 of that Regulation.

2. Analysis

In this context, and considering that the option to defer part of the payment, as provided for in paragraph 4 of article 38 of the Auction Regulation, was exercised, with the deposit of 50% of the amount due for the spectrum assigned to MEO having been made on 7 December 2021, and that, pursuant to paragraph 10 of article 38 of the Auction Regulation, MEO provided a new bank guarantee, it is now incumbent on ANACOM to approve, in the form of an endorsement, the addition of chapters relating to the bands in which MEO now holds RUF following the Auction, which must be integrated in its single title, under paragraph 4 of article 40 of the Auction Regulation.

This addition does not include the title relating to the right of use for frequencies in the 900 MHz band allocated to MEO, which will only be issued after ANACOM's decision provided for in paragraph 2 of Article 40 of the Auction Regulation, and as such this matter is not addressed in this draft decision.

This addition naturally implies some adjustments¹ to the single title already issued to MEO, which, as results from the endorsement in annex, are merely editorial and do not entail, as such, any amendment to the conditions of exercise of the rights of use for frequencies already allocated to the company and included in the pre-existing title.

Taking into account that ANACOM is responsible for publishing and keeping up to date the National Frequency Allocation Table (NFAT), which includes, *inter alia*, the frequency bands and spectrum allocated to providers of public communications networks or publicly available electronic communications services, including the date on which the allocation is reviewed,

¹ Which result from the need to introduce the reference, namely, to the spectrum which is the object of the new Rights of Use for Frequencies, to the Auction Regulation or to list the access obligations arising from the Auction.

the allocation to MEO of RUF concerned, as well as the date of expiry of its validity, must now be incorporated in this table.

Finally, in compliance with the provisions of paragraph 5 of article 40 of the Auction Regulation, the draft decision approved by decision of the Chairman of the Board of Directors of ANACOM on 7 December 2021, and ratified by the Board of Directors on 10 December 2021, was submitted to the prior hearing of MEO, pursuant to article 121 *et seq* of the Administrative Procedure Code, a period of 10 working days having been set for this purpose.

In this context, the company's statement was received on 14 December 2021, following which ANACOM prepared the corresponding Prior Hearing Report, which forms an integral part of this decision and includes a summary of the positions expressed by MEO, as well as ANACOM's views thereon.

In compliance with "ANACOM's consultation procedures", MEO's statement will be made available at this Authority's website, safeguarding information of a confidential nature.

3. Decision

In the light of the above, pursuant to article 40 *et seq* of the Auction Regulation, and pursuant to paragraph 3 of article 29 of ANACOM's Statutes, approved in annex to Decree-Law No 39/2015 of 16 March, **I hereby decide as follows:**

1. To approve Endorsement No 7 to ICP-ANACOM Title No 02/2012, adding to the single title of rights of use for frequencies held by MEO the conditions applicable to the rights of use of 2 x 5 MHz in the 700 MHz band and 90 MHz in the 3.6 GHz band which were allocated to this company for the provision of publicly available terrestrial electronic communications services within the scope of the Auction governed by Regulation No 987-A/2020, of 5 November, in accordance with the endorsement in annex to this decision and which forms an integral part hereof.
2. To approve the report of the prior hearing to which the respective draft decision was submitted.
3. To incorporate in the National Frequency Allocation Table the allocation to MEO of the new RUF, in accordance with the provisions of article 16 of the Electronic

Communications Law.

4. To notify the company of the final decision through the auction email address - leilao5G@anacom.pt.
5. To submit this decision for ratification by the Board of Directors at its next ordinary meeting.

Lisbon, 15 December 2021.