

## **DECISION**

### **Amendment of the Right of Use for DTT Frequencies (MUX A)**

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## 1. FRAMEWORK

### 1.1. Resolution of the Council of Ministers No. 37-C/2016, of 8 July

Under Resolution of the Council of Ministers No. 37-C/2016, of 8 July, published in the Official Gazette, Series I, No. 130, of 8 July 2016 (RCM No. 37-C/2016), the Council of Ministers decided:

- (i) To determine the discontinuation of the following reservations of capacity in Multiplexer A (MUX A)<sup>1</sup>:
  - a. Reservation of capacity related to the free-to-air unrestricted access television programme service, provided for in paragraph 1 of Resolution of the Council of Ministers No. 12/2008, of 22 January (RCM No. 12/2008)<sup>2</sup>;
  - b. Reservation of capacity for the high definition broadcast, in non-simultaneous mode, of programme services distributed in MUX A, provided for in paragraph 3 of RCM No. 12/2008<sup>3</sup>.
- (ii) To determine the reservation of capacity in Multiplexer A as required for:
  - a. Two television programme services in SDTV definition<sup>4</sup>, so as to allow the provision of RTP3 and RTP Memória, programme services of the national public service, in the digital terrestrial television broadcasting service intended for the broadcast of free-to-air unrestricted access television programme services<sup>5</sup>;
  - b. Two television programme services in SDTV definition, so as to allow the opening of a public tender for the award of a license, under Law No. 27/2007, of 30 July (Television Law), as it stands, for two free-to-air unrestricted access television programme services<sup>6</sup>.

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<sup>1</sup> RCM No. 37-C/2016 acknowledges that the referred reservations are useless and that their use for the intended purpose is unnecessary.

<sup>2</sup> Cfr. paragraph 1 of RCM No. 37-C/2016.

<sup>3</sup> Cfr. paragraph 2 of RCM No. 37-C/2016.

<sup>4</sup> Standard Definition Television.

<sup>5</sup> Cfr. paragraph 3 of RCM No. 37-C/2016.

<sup>6</sup> Cfr. paragraph 5 of RCM No. 37-C/2016.

## 1.2. Law No. 33/2016, of 24 August

Law No. 33/2016, of 24 August (Law No. 33/2016 or Law) aims to support the expansion of the provision of digital terrestrial television (DTT) programme services, under proper technical conditions and ensuring price control over the provision of the DTT signal carrying and broadcasting service.

Within the framework of its transitional provisions, Law No. 33/2016 lays down that ANACOM is required to adopt, within 30 days from the date of entry into force thereof, the necessary amendments to the title of the right of use for frequencies (RUF) held by the operator of the digital terrestrial network (namely RUF ICP-ANACOM No. 06/2008, held by MEO - Serviços de Comunicações e Multimédia, S.A., hereinafter 'MEO'), in order to accommodate the changes arising from that law<sup>7</sup>.

The referred statutory instrument lays down, in article 2, that *"The broadcasting of audiovisual media services provided under a free-to-air unrestricted access regime via DTT and complementary service, especially the broadcasting of programme services of the radio and television public services established under the law and contract, shall be deemed to be a matter of relevant public interest for society, to the extent that it represents a factor for the promotion of pluralism, diversity, social inclusion and national cohesion, as well as of culture and education."* (emphasis added).

In this respect, this Law governs, in summary, the following set of matters:

- (i) Reservations of capacity in MUX A<sup>8</sup>;
- (ii) Conditions for the provision of the DTT signal carrying and broadcasting service, pricing included<sup>9</sup>.

### 1.2.1. Reservations of capacity in MUX A

As far as the reservations of capacity in MUX A are concerned, Law No. 33/2016 lays down as follows<sup>10</sup>:

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<sup>7</sup> Cfr. paragraph 1 of article 6 of Law No. 33/2016.

<sup>8</sup> Cfr. article 3 and paragraph 5 of article 6 of Law No. 33/2016.

<sup>9</sup> Cfr. article 4 and paragraphs 2 and 3 of article 6 of Law No. 33/2016.

<sup>10</sup> Cfr. article 3 of Law No. 33/2016.

- Television programme services that are licensed and concessioned by the date of entry into force of the Law maintain the right to use the broadcasting capacity available in Mux A;
- The operator holding the RUF of a national scope for the DTT service associated to Mux A operation reserves broadcasting capacity for thematic programme services of the national radio and television public service provided under the regime of free-to-air access subject to a subscription on the date of entry into force of Law No. 33/2016.

The Law lays down, in paragraph 5 of article 6, that: *“Without prejudice to the occupation of Mux A with new programme services, as provided for under Resolution of the Council of Ministers No. 37-C/2016, of 8 July, the technical and financial conditions required to integrate remaining programme services of the concessionaire of the radio and television public service in the free-to-air unrestricted access DTT shall be analysed.”*

This statutory instrument also safeguards the broadcast, in Mux A, of the video signal provided for the purpose by *Assembleia da República* - the Portuguese Parliament (according to the power provided for in Law No. 6/97, of 1 March, as amended by Law No. 36/2012, of 27 August, and under the the contractual terms defined with the network operator)<sup>11</sup>.

Lastly, under the Law, the spare capacity in MUX A which may not be technically used to accommodate other television programme services and complementary services may be freely used by the holder of the respective RUF<sup>12</sup>.

### **1.2.2. Price charged for the DTT signal carrying and broadcasting service**

As regards the price charged for the DTT signal carrying and broadcasting service, paragraphs 3 to 6 of article 4 of Law No. 33/2016 lay down as follows:

*“3 - The price charged by the electronic communications operator holding the right of use for frequencies of a national scope for the DTT basic and complementary service associated to Mux A operation shall comply with the principles of transparency, non-discrimination and cost-orientation, shall be based on the space effectively occupied by each television programme service and shall be restricted by the price presented in the successful public tender bid.*

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<sup>11</sup> Cfr. paragraph 2 of article 3 of Law No. 33/2016.

<sup>12</sup> Cfr. paragraph 4 of article 3 of Law No. 33/2016.

*4 - The price charged for carrying and broadcasting the signal of regional programme services in the Autonomous Regions shall be reduced in proportion to the size of the network in the geographic space concerned and shall not exceed amounts charged on the date of entry into force of this law.*

*5 - It shall be incumbent on ANACOM, in accordance with the assumptions referred to in article 2 and in paragraphs 3 and 4 of this article, and having been checked the criteria required by the Community regulatory framework for imposing ex ante regulatory measures, to determine the maximum price to be charged by the holder of the RUF associated to the operation of Mux A for the provision of the signal multiplexing, carrying and broadcasting service of each programme service, after hearing Autoridade da Concorrência (Competition Authority) and Entidade Reguladora para a Comunicação Social (ERC - the Regulatory Authority for the Media).*

*6 - ANACOM shall assess whether prices charged for the provision of the broadcasting service to television operators require a review, on its own initiative and on an annual basis, in a strict, transparent and public manner, taking into account paragraph 3 of this article, and based on the eligible investment plan, the reduction of the value of fixed assets and depreciation.”*

Paragraphs 2 and 3 of article 6 of Law No. 33/2016 establish, within the framework of transitional provisions, that:

*“2 - The electronic communications operator holding the right of use for frequencies of a national scope associated to the operation of Mux A shall adopt, within 15 days from the amendment of the RUF, the contractual changes required to implement provisions laid down in articles 3 and 4.*

*3 - In the absence of an agreement regarding the contractual changes provided for within the deadline referred to in the preceding paragraph, each programme service shall pay the maximum price presented in the successful bid of the tender for allocation of a right of use for frequencies associated to the operation of MUX A, until a price is established under paragraph 5 of article 4.”*

### **1.3. Decision to reissue the title of the DTT RUF (MUX A)**

By decisions of 16 May 2013<sup>13</sup> and 1 October 2015<sup>14</sup>, ANACOM decided to integrate new frequencies in RUF ICP-ANACOM No. 6/2008 and amended land-based population coverage obligations.

In the latter of the referred decisions, ANACOM found that “... *conditions associated to the RUF granted to MEO are currently set out in the respective title (RUF ICP-ANACOM No. 6/2008), in endorsement 1 thereto, in determinations amending operating channels of Mux A and also in decision of 16 May 2013, conditions described above being now also added.*” As such, “[t]aking into account the successive amendments introduced to conditions associated to the RUF, ANACOM deem[ed] that there [were] grounds for reissuing the title which establishes it, as this is the solution that in a more transparent and integrated manner allows for the publication of amendments introduced by this determination.”

In this framework, the Regulatory Authority determined “*To reissue RUF ICP - ANACOM No. 06/2008, incorporating in the respective title the preceding paragraphs, as well as amendments previously set out in endorsement No. 1 to the referred RUF, in determinations amending operating channels of Mux A, as well as in determination of 16 May 2013.*”

The RUF has not been reissued to date.

## **2. ANALYSIS**

### **2.1. Amendment of conditions laid down in RUF ICP-ANACOM No. 06/2008**

Determinations of RCM No. 37-C/2016 and of Law No. 33/2016, on reservations of capacity in MUX A and prices of the DTT signal carrying and broadcasting service, imply the amendment of conditions associated to RUF ICP - ANACOM No. 06/2008. Consequently, these amendments must also be incorporated in the corresponding qualifying title.

#### **2.1.1. Amendment of capacity reservation and “must carry” obligations**

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<sup>13</sup> Available at: <https://www.anacom.pt/render.jsp?contentId=1161743>

<sup>14</sup> Available at: <https://www.anacom.pt/render.jsp?contentId=1368580>

Capacity reservation and “must carry” obligations set out in RUF ICP - ANACOM No. 06/2008 are amended as follows:

- a. Paragraphs 1 and 2, respectively, of RCM No. 37-C/2016, **removed capacity reservations** currently provided for in clause 15, paragraph 1 b) and c) of the title, resulting from paragraphs 1 and 3 of RCM No. 12/2008, which respectively concern the digital broadcasting (i) in standard definition of a free-to-air unrestricted access television programme service to be licensed under the Television Law (the so-called 5<sup>th</sup> channel) and (ii) in high definition, up to the switching off of analogue terrestrial television, in non-simultaneous mode - a single programme service at any given time - with free-to-air unrestricted access, of programming elements of programme services distributed in MUX A (the so-called shared HD).

This removal must be reflected in the title.

- b. Paragraphs 3 and 5 of RCM No. 37-C/2016 (safeguarded by paragraph 5 of article 6 of Law No. 33/2016), respectively, and paragraph 3 of article 3 of Law No. 33/2016, imposed **four new capacity reservation obligations**, intended (i) for the broadcast of two national television programme services, RTP3 and RTP Memória, in SDTV definition, and (ii) for the broadcast of two free-to-air unrestricted television programme services in SDTV definition, to be licensed under the Television Law.

These new obligations shall be provided for in paragraph 17.1.b) and c) of the title to be reissued.

- c. Paragraph 3 of article 3 of Law No. 33/2016 imposed a **capacity reservation obligation** for the broadcasting of thematic programme services of the national radio and television public service, provided under the regime of free-to-air access subject to a subscription on the date of entry into force of that law.

This capacity reservation obligation for the broadcast of the referred programme services, in addition to RTP3 and RTP Memória, is subject to the satisfaction of the necessary technical and financial conditions, namely spare capacity in MUX A after fulfilment of remaining capacity reservations that are determined.

This obligation, with the referred constrain, shall be provided for in paragraph 17.2. of the title to be reissued.

- d. Given the removal of capacity reservation obligations and the imposition of new reservations (vd. points a. to c. above), **“must carry” obligations** imposed under article 43 of the ECL **must be adjusted accordingly**.

The obligation to ensure the transmission, including the encoding, multiplexing, carrying and broadcasting, is specifically imposed, free of charge for final users, for: (i) the four new television programme services (namely, RTP 3, RTP Memória and the two new future programme services to be licensed under the Television Law), for which a capacity reservation was determined by RCM No. 37-C/2016 and by Law No. 33/2016, and which are dependent on the start of broadcasts; and (ii) thematic programme services of the national radio and television public service provided under the regime of free-to-air access subject to a subscription on the date of entry into force of Law No. 33/2016, after having been satisfied the requirements for application of the corresponding reservation obligation.

This obligation shall be provided for in paragraph 17.4. of the title to be reissued.

- e. Given the removal of capacity reservation obligations (vd. point a. above) and the imposition of new reservation obligations (vd. points b. and c. above), resulting from Law No. 33/2016 and RCM No. 37-C/2016, (i) **the capacity to be reserved** for video and audio components of programme services **must be amended** - in point 17.6. of the title to be reissued -, and (ii) **capacity reservations** for interactive services and improved audio quality through multichannel systems, of the AC-3 Dolby Digital 5.1 or Dolby Digital Plus type, **must be removed** (currently provided for in clause 15, paragraph 6 a) and b) *in fine* of the title).

Amendments concerned take into consideration: (i) MEO's letter to ANACOM of 13.07.2016, following the publication of RCM No. 37-C/2016, in which the company analysed the current capacity available in MUX A, in the scope of the DTT operation, and the possible expansion of the offer of television programme services; (ii) the technical meeting between MEO and ANACOM, held on 12.09.2016; and (iii) MEO's letter to ANACOM, of 14.09.2016, in which the company sends a new document with



its perspective on the occupation of MUX A, bearing in mind the introduction of RTP3, RTP Memória and the two new “channels”.

As regards the imposition of **capacity reservation obligations**, described in points b. and c. above, the following must be explained:

- Paragraph 1 of article 3 of Law No. 33/2016 lays down that television programme services that are licensed and concessioned by the date of its entry into force (that is, RTP1, RTP2, SIC and TVI, at national level, and RTP Açores and RTP Madeira, in the respective regions), maintain the right to use the broadcasting capacity in DTT MUX A. The capacity reservation under consideration will thus be maintained in the title.
- Law No. 33/2016 does not explicitly provide for the reservation of capacity for the two new free-to-air unrestricted access television programme services, to be licensed under the Television Law. The referred reservation is, however, safeguarded by paragraph 5 of the respective article 6. In fact, this provision establishes that the analysis of technical and financial conditions required to integrate remaining programme services of the concessionaire of the radio and television public service in the free-to-air unrestricted access DTT, is without prejudice to the occupation of Mux A with new television programme services as provided for by RCM No. 37-C/2016 (namely, RTP3, RTP Memória and the two programme services to be licensed under the Television Law).
- The reservation of capacity for thematic programme services of the radio and television public service in DTT, under the regime of free-to-air unrestricted access, established in paragraph 3 of article 3 of Law No. 33/2016 (in addition to RTP3 and RTP Memória), is subject to the existence of spare capacity in MUX A, after remaining capacity reservations which the RUF holder is required to observe are satisfied.

**“Must carry” obligations** imposed by ANACOM under article 43 of ECL stem from reservations of capacity to which the RUF holder is bound *ope legis*. In fact, the legislator himself acknowledged, in article 2 of Law No. 33/2016, that the broadcasting of audio-visual media services provided under a free-to-air unrestricted access regime via DTT and complementary service is a matter of public interest, capacity reservation obligations having been determined (cfr. RCM No. 37-C/2016 and Law No. 33/2016), this means (reservation of capacity) having been specified for programme services covered by “must carry” obligations.

In this context, in the light of such specification defined by law, ANACOM cannot but impose, under article 43 of ECL, the corresponding “must carry” obligations - as was the case also in the scope of the public tender for MUX A DTT, given that the Television Law and RCM No. 12/2008 had provided for reservations of capacity which were later established in the RUF.

As regards **ARTV - Canal Parlamento**, paragraph 2 of article 3 of Law No. 33/2016 lays down that *“The broadcasting on the same Mux A of the video signal provided for the purpose by Assembleia da República is (...) hereby safeguarded, in compliance with the option provided for in Law No. 6/97, of 1 March, as amended by Law No. 36/2012, of 27 August, in accordance with the contractual terms defined with the network operator.”*

ANACOM takes the view that neither paragraph 2 of article 3 of Law No. 33/2016, which merely safeguards the broadcasting of Canal Parlamento in MUX A, in accordance with the contractual terms defined with MEO, nor Law No. 36/2012, of 27 August, which amended Law No. 6/97, of 1 March, imposed on MEO, as DTT operator, an obligation for reservation of capacity, and consequently, a “must carry” obligation of Canal Parlamento in MUX A.

In this framework, the view set out in Decision of 02.05.2014 on the price charged by the then PT Comunicações, S.A. for the provision of the DTT service in MUX A is recalled<sup>15</sup>:

*“Under Law No. 36/2012, of 27 August, which amended Law No. 6/97, of 1 March, allowing the disclosure of parliamentary work on DTT, the duty to provide the signal exists (just like in the original law) on the part of the Portuguese Parliament, and distribution operators of television programme services hold a right to broadcast/access the signal. In other words, PTC it not made subject, as DTT operator, to capacity reservation and “must carry” obligations as far as Canal Parlamento is concerned, and such obligations have also not been imposed in the scope of the broadcast of this channel in cable distribution networks.”<sup>74</sup>*

*The explanatory statement of the respective draft law refers that “there has been no change in the special nature of Canal Parlamento” and “this nature and special status determine that to Canal Parlamento is not applied the television law”.*

*(...)*

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<sup>15</sup> Cfr. chapter 2.3 of ANACOM's decision, available at: <https://www.anacom.pt/render.jsp?contentId=1217592>

*However, as referred earlier, Canal Parlamento does not benefit from a "must carry" obligation on MUX A, and as such the regime of article 43 of ECL (which is specific for "must carry" obligations) does not apply to the regulation of this price.*

*(...)*

<sup>74</sup> *Note also that ERC, in the scope of its competencies, did not specify Canal Parlamento as beneficiary of "must carry" obligations."*

However, to clarify beyond doubt that the broadcasting of Canal Parlamento in MUX A is safeguarded, in accordance with the contractual terms defined with MEO, under paragraph 2 of article 3 of Law No. 33/2016, the title to be reissued is amended by reference to the Law (cfr. point 17.3. of the title to be reissued).

With respect to the **amendment of the capacity to be reserved** in MUX A, for video and audio components of programme services, set out in point 17.6. of the title to be reissued, it should be noted that:

The capacity reservation obligations determined by RCM No. 37-C/2016 require a higher speed than that provided for capacity reservations that were removed by determination of that same RCM, which implies a reassignment of capacity to programme services currently broadcasted in MUX A, namely as regards the audio component, which decreases from an average speed of 128 kbit/s to 96 kbit/s per programme service. However, according to information submitted by the operator, this decrease in capacity does not bring about a reduction in quality, due to the development of encoders used by network operators. These values are, in fact, already used in practise.

In order to enable the network operator to use statistical multiplexing, a speed of 14.4 Mbit/s for the video component, which implies an average speed of 1.8 Mbit/s per programme service, and a speed of 768 kbit/s for the audio component, which entails, as referred above, an average speed of 96 kbit/s per programme service, are reserved, as a whole, for the eight television programme services, of national scope, covered by capacity reservations in MUX A, on the Mainland.

Given the existence of programme services of a regional scope (RTP Açores and RTP Madeira) in the Autonomous Regions, the total speed in these regions shall be of 16.2 Mbit/s for the video component and of 864 kbit/s for the audio component.

So that new capacity reservations may be accommodated, it is also necessary to **release capacity reserved for interactive services and for improved audio quality** through multichannel systems, such as the AC-3 Dolby Digital 5.1 or Dolby Digital Plus types (provided for in current clause 15, paragraph 6, points a) and b) *in fine*), which must be ensured by MEO, it is recalled, *if and when requested by television operators*.

As regards the capacity reserved for **interactive services**, it is noted that it is not specifically provided for in contracts concluded between MEO and television operators, having the company declared that the referred operators, in the framework of the contract conclusion stage, renounced these interactive services<sup>16</sup>, which were not implemented.

In its determination of 17 November 2015, on the conclusions of the thorough investigation conducted into the costs and revenues of the DTT service provided by MEO<sup>17</sup>, ANACOM referred that this capacity was reserved for MEO, and should remain as such, unless RUF No.6/2008 was amended - which is now the case, the final part of point b) of paragraph 6 of current clause 15 of the title being removed.

Lastly, under paragraph 4 of article 3 of Law No. 33/2016, the spare capacity in Mux A which may not be technically used to accommodate other television programme services and complementary services may be freely used by the holder of the respective RUF, reason for which current clause 6, paragraph 2, of the title is adjusted (point 6.2. of the title to be reissued).

#### **2.1.2. Amendment of conditions related to the price charged for the DTT signal carrying and broadcasting service**

The conditions related to the price to be charged for the DTT signal transmission service, including the encoding, multiplexing, carrying and broadcasting services, set out in clause 16 of RUF ICP-ANACOM No. 6/2008, are amended so as to accommodate determinations arising from Law No. 33/2016.

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<sup>16</sup> Cfr. page 23 of the report of the public consultation and prior hearing on the draft decision concerning the conclusions of the thorough investigation conducted into the costs and revenues of the digital terrestrial television (DTT) service provided by MEO, available at [http://www.anacom.pt/streaming/relatorioconsultaTDT27Jul2015.pdf?contentId=1371915&field=ATTACHED\\_FILE](http://www.anacom.pt/streaming/relatorioconsultaTDT27Jul2015.pdf?contentId=1371915&field=ATTACHED_FILE)

<sup>17</sup> Cfr. page 8 of the referred Decision, available at: <https://www.anacom.pt/render.jsp?contentId=1372646>

In this context, point 18. of the title to be reissued shall now lay down that:

- a. As from the entry into force of Law No. 33/2016, the price of the DTT signal transmission service, including the encoding, multiplexing, carrying and broadcasting services (transmission service) charged by MEO must observe the principles of transparency, non-discrimination and cost-orientation, be based on the space effectively occupied by each television programme service and be limited by the price indicated in the variant scenario of the winning bid.
- b. The price charged for signal transmission of the regional programme services in the Autonomous Regions is decreased in proportion to the size of the network in the geographic space concerned and shall not exceed values charged on the date of entry into force of Law No. 33/2016.
- c. Referred prices shall be agreed upon between MEO and operators responsible for programme services subject to capacity reservations indicated in point 17.
- d. The price to be charged by MEO for the signal transmission of each programme service must comply with the maximum price that is set by ANACOM, after hearing *Autoridade da Concorrência* (the Competition Authority) and Entidade Reguladora para a Comunicação Social (the Media Regulatory Authority), in accordance with assumptions referred in article 2 and in paragraphs 3 and 4 of article 4 of Law No. 33/2016, and having been satisfied criteria required by the Community legal framework for the imposition of *ex ante* regulatory measures.
- e. MEO is required to review prices charged for the DTT signal transmission service to television operators, whenever deemed necessary by ANACOM, under paragraph 6 of article 4 of Law No. 33/2016.

As regards transitional provisions set out in paragraphs 2 and 3 of article 6 of Law No. 33/2016, it must be referred that, by letter of 9 January 2017<sup>18</sup>, MEO notified ANACOM that, following the entry into force of RCM No. 37/2016 and of Law No. 3372016, the company concluded, on 30 November and 29 December 2016, with RTP and TVI respectively, two addenda to

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<sup>18</sup> MEO letter with reference S0011.

contracts for the provision of the signal encoding, multiplexing, carrying and broadcasting services over the digital terrestrial network and complementary coverage, which were submitted by letter of 26.01.2017<sup>19</sup>, further to a request from this Authority.

Later, by letter of 7 February 2017<sup>20</sup>, MEO provided information also on the conclusion of the addendum to the contract for provision of the signal encoding, multiplexing, carrying and broadcasting services over the digital terrestrial network and complementary coverage, concluded with SIC, having submitted the respective copy.

In view of the fact that MEO, as holder of the right of use for frequencies, and television operators, were able to reach an agreement in the meantime on contractual amendments to be introduced, namely as regards the price to be charged for the transmission service of the signal for each programme service, the transitional regime provided for in paragraphs 2 and 3 of article 6 of Law No. 33/2016, which in any case results directly from the Law, no longer needs to be provided for in the RUF title to be reissued.

Bearing in mind that ANACOM is required to monitor the conditions associated to the service, a maximum time-limit of 30 days after the conclusion of the contract is hereby established so that prices agreed upon between MEO and television operators, as well as any amendments thereto, are notified to ANACOM, in line with paragraph 4 of current clause 16., which will be reflected in point 18.5. of the title to be reissued.

Whereas:

- (i) By determination of 20.10.2008, ANACOM endorsed the proposal submitted by the Commission appointed in the scope of the public tender for allocation of a RUF of a national scope for the provision of the terrestrial television broadcasting service, associated to MUX A, having allocated to the then PT Comunicações, S.A., the corresponding RUF, according to the bid in the variant scenario submitted to the tender;
- (ii) The condition set out in clause 16, paragraph 2, of the title issued originally, which would bind the company to the basic tender bid, was not satisfied;

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<sup>19</sup> MEO letter with reference S0038.

<sup>20</sup> MEO letter with reference S0068.

(iii) As clearly results from ANACOM's decision of 12.07.2008<sup>21</sup>, notwithstanding the revocation of the rights of use for frequencies associated to Multiplexers B to F introduced by that act, the RUF associated to MUX A remained unchanged, not having been affected the terms and conditions set out therein, namely as regards the obligation to observe the variant scenario presented by MEO in the winning bid. In this context, the referred decision expressly indicated that *"notwithstanding the application for revocation submitted by PTC, this company remains bound to terms and conditions, specifically as regards the price for providing the service to television operators, set out in the variant scenario of the bid submitted to the FTA operation tender, given that the condition provided for in clause 16, paragraph 2, of the issued title, was not fulfilled, otherwise the company would be bound to observe the basic tender bid"*;

all references to the basic scenario (paragraphs 2, 3 and 4 of current clause 16.) are hereby removed.

## **2.2. Reissue of the title of the DTT RUF (MUX A) (RUF ICP-ANACOM No. 6/2008)**

As referred above, ANACOM decided, on 1.10.2015, to reissue RUF ICP-ANACOM No. 06/2008, incorporating in the respective title determinations established at the time, as well as amendments previously set out in endorsement No. 1 to the referred RUF, and those which had resulted from determinations amending operating channels of Mux A, as well as determination of 16 May 2013. ANACOM takes this opportunity to implement that determination.

Accordingly, the following amendments arising from previous determinations issued by ANACOM shall be integrated in the title:

- The amendment of frequencies for the Autonomous Region of Azores resulting from endorsement No. 1<sup>22</sup> to RUF ICP-ANACOM No. 06/2008 (amendments incorporated in paragraph 7.1.);

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<sup>21</sup> Available at:

[http://www.anacom.pt/streaming/delib12Jul2010muxBF.pdf?contentId=1035562&field=ATTACHED\\_FILE](http://www.anacom.pt/streaming/delib12Jul2010muxBF.pdf?contentId=1035562&field=ATTACHED_FILE)

<sup>22</sup> Available at:

[http://www.anacom.pt/streaming/Averbamento\\_Mux\\_A.pdf?contentId=1067991&field=ATTACHED\\_FILE](http://www.anacom.pt/streaming/Averbamento_Mux_A.pdf?contentId=1067991&field=ATTACHED_FILE).

- Amendment of the name of PT Comunicações to MEO, resulting from endorsement No. 2<sup>23</sup> to that title (amendments incorporated in paragraph 1 and throughout the text);
  - Amendment of some operating channels of MUX A in the DTT service by determination of 09.03.2011<sup>24</sup> (amendments incorporated in paragraph 7.1.);
  - Replacement of channel 67 assigned to MEO for the Mainland, for channel 56, by determination of 04.04.2011<sup>25</sup> (amendments incorporated in paragraph 7.1.);
  - Amendments stemming from decision of 16.05.2013, on the evolution of the DTT network, and of 01.10.2015, on obligations for terrestrial coverage and amendment of the RUF (amendments incorporated in paragraph 7.1., 7.2., 9.1.c), 10. and 11.);
  - Amendments stemming from decision of 14.01.2016, correcting Decision of 01.10.2015, on land-based coverage obligations and amendment of the DTT RUF (MUX A) (amendments incorporated in paragraph 9.1.c) and in table of Annex 2 to the title);
- and
- Identification of points that define the area associated to each assignment set out in annex 1 to the Decision on the evolution of the DTT network (MUX A), of 24.10.2013<sup>26</sup> (reference incorporated in the note to Annexes 1 and 3 to the title);

Still on the subject of the reissue of RUF ICP-ANACOM No. 06/2008, amendments introduced for the purpose of compliance with provisions of RCM No. 37-C/2016 and Law No. 33/2016 are also incorporated, as explained in point 2.1. above.

On this occasion, ANACOM introduces also the following updates to the title, which have no substantial impact:

- (i) In view of the publication of Decree-Law No. 39/2015, of 16 March, which approved ANACOM's Statutes, references to the name of this Authority are updated (under paragraph 1 of article 2 of the referred statutory instrument);

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<sup>23</sup> Available at: <http://www.anacom.pt/render.jsp?contentId=1347364#.V9agwvK3Jv0>.

<sup>24</sup> Final decision on the amendment of some operating channels of Multiplexer A (Mux A) of the digital terrestrial television service (DTT), of 9.03.2011, available at: <https://www.anacom.pt/render.jsp?contentId=1076911>.

<sup>25</sup> Final decision on the replacement of channel 67 (838-846MHz) assigned to MEO for the Mainland, for channel 56 (750-758 MHz), of 04.04.2011, available at: <https://www.anacom.pt/render.jsp?contentId=1081451>.

<sup>26</sup> Decision that identifies the points that define the area associated with each of the awards listed in Annex 1 to the decision on the development of the Digital Terrestrial Television (DTT) network, available at: <https://www.anacom.pt/render.jsp?contentId=1179103>.



- (ii) Bearing in mind legislative amendments introduced in the meantime, references to provisions of the Electronic Communications Law (ECL - Law No. 5/2004, of 10 February, as it stands) are updated;
- (iii) In line with titles of rights of use for frequencies recently issued by ANACOM, references to “clauses” are replaced by “paragraphs”, and some strictly editorial improvements are introduced, also taking into account that this refers to the reissue in 2016 of a RUF allocated on 20 October 2008;
- (iv) Current clause 13 is removed, on account of the redundancy as regards the provision in current clause 8, now paragraph 8. of the title to be reissued;
- (v) In view of the system adopted, current clause 17 becomes paragraph 16., integrating chapter III (conditions associated to the right of use for frequencies) and the title of chapter IV now concerns the price.

### **3. PRIOR HEARING AND CONSULTATION PROCEDURES CARRIED OUT**

By determination of 22 September 2016, ANACOM approved a draft decision on the amendment of the rights of use for DTT frequencies (MUX A)<sup>27</sup> (DD), having decided to submit the referred DD to the prior hearing of MEO – Serviços de Comunicações e Multimédia S.A. (MEO), Rádio e Televisão de Portugal, S.A (RTP), SIC – Sociedade Independente de Comunicações, S.A (SIC), TVI – Televisão Independente, S.A (TVI) and ARTV - Canal Parlamento (ARTV-Canal Parlamento), under articles 121 *et seq.* of the Administrative Procedure Code (APC), interested parties having been given a period of twenty working days from the date of notification of the DD to submit their comments in writing. The DD was submitted also to the general consultation procedure, so that interested parties could provide their comments in writing, under article 8 of the Electronic Communications Law (ECL), by reference set out in article 20, paragraph 3, of that same law, for the same period of time, however in the case, from the date on which the DD was made available at ANACOM’s website on the internet.

Having been notified for the purpose, MEO, RTP, SIC, TVI and ARTV-Canal Parlamento submitted their comments in due time, by letter and email received at ANACOM on 21.20.2016, except for ARTV-Canal Parlamento, which only submitted its comment via email.

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<sup>27</sup> Available at <https://www.anacom.pt/render.jsp?contentId=1395898>.

The following contributions were also received within the time limit set for reception of comments (that is, by 21.10.2016):

- Associação Portuguesa para a Defesa do Consumidor (DECO - the Portuguese Association for Consumer Protection);
- the blog “TDT em Portugal” (DTT in Portugal); and
- Nelson Teixeira;

A report of these consultation procedures was drawn up, deemed to be an integral part of this decision, and includes a summary of arguments presented by interested parties in their comments to the draft decision, of positions taken by respondents as regards the DD, as well as of ANACOM's views thereon.

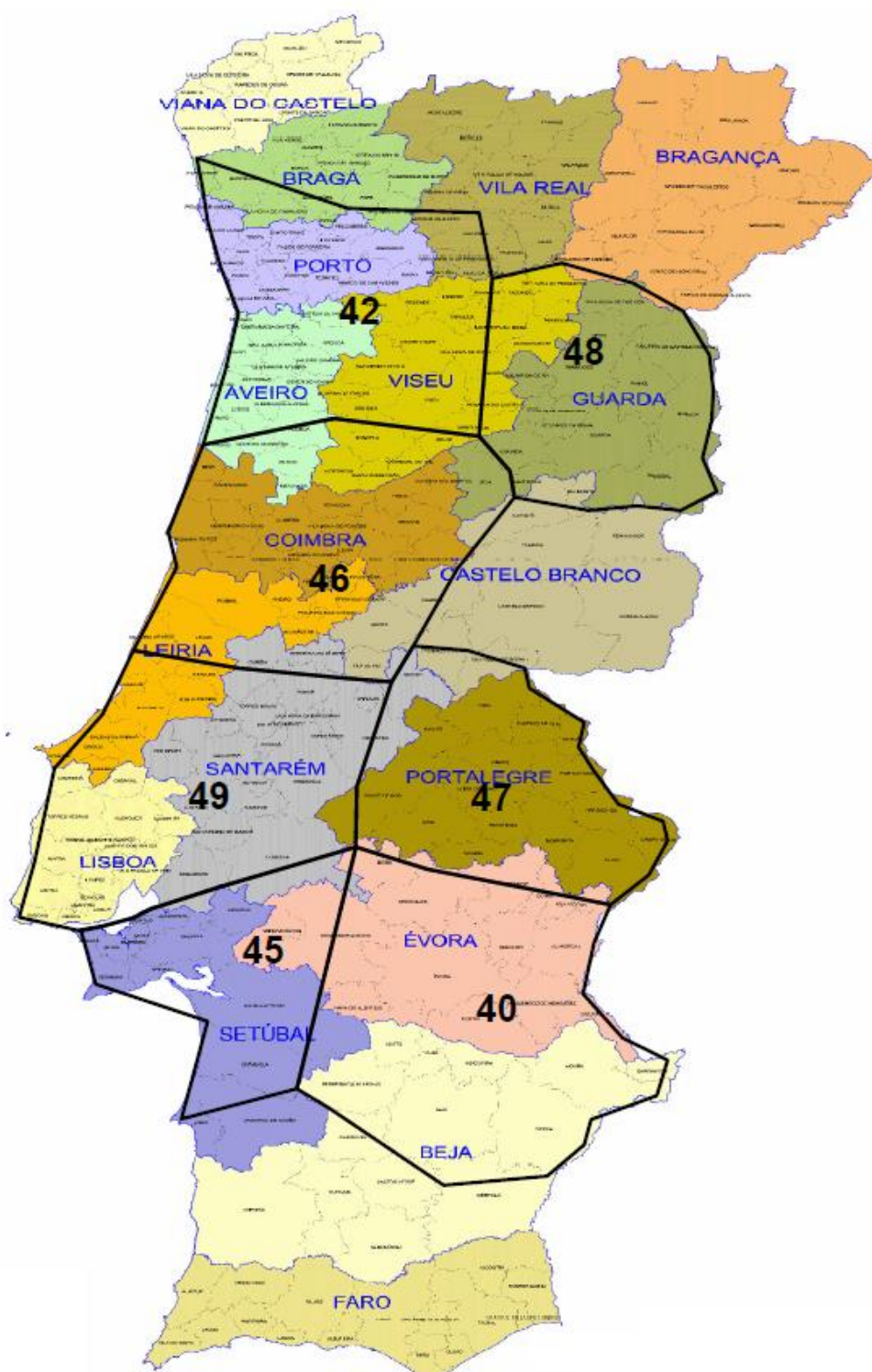
#### **4. DETERMINATION**

As such, for the above-mentioned reasons, ANACOM's Management Board, in the scope of assignments provided for in article 8, paragraph 1 e) of its Statutes, approved by Decree-Law No. 39/2015, of 16 March, in the pursue of regulatory objectives provided for in article 5, paragraph 1 c) of ECL and under articles 8, 20 and 30, as well as the body and points a) and b) all of paragraph 1 of article 32, and paragraph 1 c) of article 109, *ex vi* point t) of paragraph 1 of article 27, all of ECL, and article 9, paragraph 1 b) and c) of its Statutes, and following point 4. of the deliberative section of decision of 01.10.2015 and provisions of Law No. 33/2016, of 24 August and RCM No. 37-C/2016, of 8 July, hereby determines:

1. To amend the conditions associated to the RUF, of a national scope, allocated to MEO, for the digital terrestrial television broadcasting service (DTT), associated with MUX A (RUF ICP-ANACOM No. 06/2008), as set out in paragraphs 6.2., 17. and 18. of the title in Annex to this decision, which is deemed to be an integral part hereof.
2. To approve the reissue of the title that sets out the referred RUF, under the terms determined in decision of ANACOM of 1.10.2015 and in Law No. 33/2016, of 24 August, taking also into account RCM No. 37-C/2016, according to the Annex to this decision, which is deemed to be an integral part hereof.

Lisbon, 22 June 2017

## ANEXO 1



**NOTA:** Os pontos que definem as áreas associadas às adjudicações constantes do presente mapa são os identificados na Deliberação da ANACOM de 24 de outubro 2013.

## ANEXO 2

Concelho	% Cobertura Terrestre
Abrantes	88.01%
Águeda	89.99%
Aguiar da Beira	59.74%
Alandroal	93.79%
Albergaria	82.95%
Albufeira	99.46%
Alcácer do Sal	67.86%
Alcanena	82.46%
Alcobaça	93.46%
Alcochete	100.00%
Alcoutim	19.38%
Alenquer	84.15%
Alfândega da Fé	77.27%
Alijó	73.95%
Aljezur	75.83%
Aljustrel	62.68%
Almada	99.81%
Almeida	58.27%
Almeirim	89.83%
Almodôvar	48.11%
Alpiarça	100.00%
Alter do Chão	94.76%
Alvaiázere	94.37%
Alvito	26.08%
Amadora	100.00%
Amarante	83.24%
Amares	98.81%
Anadia	81.04%
Ansião	84.63%
Arcos de Valdevez	82.05%
Arganil	61.18%
Armamar	93.49%
Arouca	76.51%
Arraiolos	55.90%
Arronches	74.53%
Arruda dos Vinhos	89.77%

<b>Concelho</b>	<b>% Cobertura Terrestre</b>
<b>Aveiro</b>	<b>99.38%</b>
<b>Avis</b>	<b>73.06%</b>
<b>Azambuja</b>	<b>80.53%</b>
<b>Baião</b>	<b>83.17%</b>
<b>Barcelos</b>	<b>96.65%</b>
<b>Barrancos</b>	<b>84.19%</b>
<b>Barreiro</b>	<b>100.00%</b>
<b>Batalha</b>	<b>92.68%</b>
<b>Beja</b>	<b>94.55%</b>
<b>Belmonte</b>	<b>97.49%</b>
<b>Benavente</b>	<b>97.49%</b>
<b>Bombarral</b>	<b>92.83%</b>
<b>Borba</b>	<b>85.77%</b>
<b>Boticas</b>	<b>83.35%</b>
<b>Braga</b>	<b>98.44%</b>
<b>Bragança</b>	<b>84.16%</b>
<b>Cabeceiras de Basto</b>	<b>86.13%</b>
<b>Cadaval</b>	<b>88.93%</b>
<b>Caldas da Rainha</b>	<b>93.59%</b>
<b>Caminha</b>	<b>83.31%</b>
<b>Campo Maior</b>	<b>92.77%</b>
<b>Cantanhede</b>	<b>91.28%</b>
<b>Carraceda de Ansiães</b>	<b>80.32%</b>
<b>Carregal do Sal</b>	<b>89.38%</b>
<b>Cartaxo</b>	<b>78.71%</b>
<b>Cascais</b>	<b>100.00%</b>
<b>Castanheira de Pera</b>	<b>83.11%</b>
<b>Castelo Branco</b>	<b>94.73%</b>
<b>Castelo de Paiva</b>	<b>80.83%</b>
<b>Castelo de Vide</b>	<b>82.73%</b>
<b>Castro Daire</b>	<b>38.81%</b>
<b>Castro Marim</b>	<b>67.05%</b>
<b>Castro Verde</b>	<b>87.64%</b>
<b>Celorico da Beira</b>	<b>86.77%</b>
<b>Celorico de Basto</b>	<b>85.88%</b>
<b>Chamusca</b>	<b>67.74%</b>
<b>Chaves</b>	<b>89.18%</b>
<b>Cinfães</b>	<b>77.93%</b>
<b>Coimbra</b>	<b>89.90%</b>

<b>Concelho</b>	<b>% Cobertura Terrestre</b>
Condeixa-a-Nova	72.67%
Constância	92.56%
Coruche	85.38%
Covilhã	96.07%
Crato	57.03%
Cuba	67.25%
Elvas	96.95%
Entroncamento	100.00%
Espinho	79.25%
Esposende	91.60%
Estarreja	98.29%
Estremoz	85.06%
Évora	96.32%
Fafe	92.36%
Faro	99.89%
Felgueiras	89.50%
Ferreira do Alentejo	61.89%
Ferreira do Zêzere	88.84%
Figueira da Foz	86.91%
Figueira de Castelo Rodrigo	90.57%
Figueiró dos Vinhos	67.34%
Fornos de Algodres	76.32%
Freixo de Espada à Cinta	65.35%
Fronteira	65.09%
Fundão	92.40%
Gavião	61.13%
Góis	27.25%
Golegã	89.24%
Gondomar	99.70%
Gouveia	79.73%
Grândola	65.34%
Guarda	92.21%
Guimarães	98.40%
Idanha-a-Nova	78.90%
Ílhavo	99.28%
Lagoa	94.59%
Lagos	89.34%
Lamego	89.55%
Leiria	90.75%

<b>Concelho</b>	<b>% Cobertura Terrestre</b>
Lisboa	99.99%
Loulé	95.71%
Loures	93.51%
Lourinhã	87.33%
Lousã	94.91%
Lousada	96.58%
Mação	38.89%
Macedo de Cavaleiros	73.65%
Mafra	94.23%
Maia	99.22%
Mangualde	91.59%
Manteigas	82.05%
Marco de Canaveses	88.23%
Marinha Grande	98.47%
Marvão	55.16%
Matosinhos	98.93%
Mealhada	80.15%
Meda	87.18%
Melgaço	54.01%
Mértola	51.82%
Mesão Frio	95.91%
Mira	57.98%
Miranda do Corvo	50.31%
Miranda do Douro	58.72%
Mirandela	86.51%
Mogadouro	60.37%
Moimenta da Beira	89.53%
Moita	100.00%
Monção	97.63%
Monchique	64.80%
Mondim de Basto	81.11%
Monforte	78.81%
Montalegre	58.87%
Montemor-o-Novo	61.61%
Montemor-o-Velho	97.11%
Montijo	99.36%
Mora	64.20%
Mortágua	83.91%
Moura	59.03%

<b>Concelho</b>	<b>% Cobertura Terrestre</b>
<b>Mourão</b>	<b>76.59%</b>
<b>Murça</b>	<b>48.84%</b>
<b>Murtosa</b>	<b>98.55%</b>
<b>Nazaré</b>	<b>92.47%</b>
<b>Nelas</b>	<b>91.55%</b>
<b>Nisa</b>	<b>94.12%</b>
<b>Óbidos</b>	<b>96.94%</b>
<b>Odemira</b>	<b>36.54%</b>
<b>Odivelas</b>	<b>99.94%</b>
<b>Oeiras</b>	<b>100.00%</b>
<b>Oleiros</b>	<b>45.02%</b>
<b>Olhão</b>	<b>99.66%</b>
<b>Oliveira de Azeméis</b>	<b>92.41%</b>
<b>Oliveira de Frades</b>	<b>47.33%</b>
<b>Oliveira do Bairro</b>	<b>94.32%</b>
<b>Oliveira do Hospital</b>	<b>79.48%</b>
<b>Ourém</b>	<b>80.66%</b>
<b>Ourique</b>	<b>55.04%</b>
<b>Ovar</b>	<b>91.41%</b>
<b>Paços de Ferreira</b>	<b>96.11%</b>
<b>Palmela</b>	<b>100.00%</b>
<b>Pampilhosa da Serra</b>	<b>64.34%</b>
<b>Paredes</b>	<b>94.91%</b>
<b>Paredes de Coura</b>	<b>94.24%</b>
<b>Pedrógão Grande</b>	<b>51.15%</b>
<b>Penacova</b>	<b>45.57%</b>
<b>Penafiel</b>	<b>93.05%</b>
<b>Penalva do Castelo</b>	<b>89.12%</b>
<b>Penamacor</b>	<b>96.02%</b>
<b>Penedono</b>	<b>91.32%</b>
<b>Penela</b>	<b>70.37%</b>
<b>Peniche</b>	<b>94.85%</b>
<b>Peso da Régua</b>	<b>96.94%</b>
<b>Pinhel</b>	<b>78.42%</b>
<b>Pombal</b>	<b>83.38%</b>
<b>Ponte da Barca</b>	<b>81.89%</b>
<b>Ponte de Lima</b>	<b>94.23%</b>
<b>Ponte de Sor</b>	<b>74.85%</b>
<b>Portalegre</b>	<b>84.50%</b>

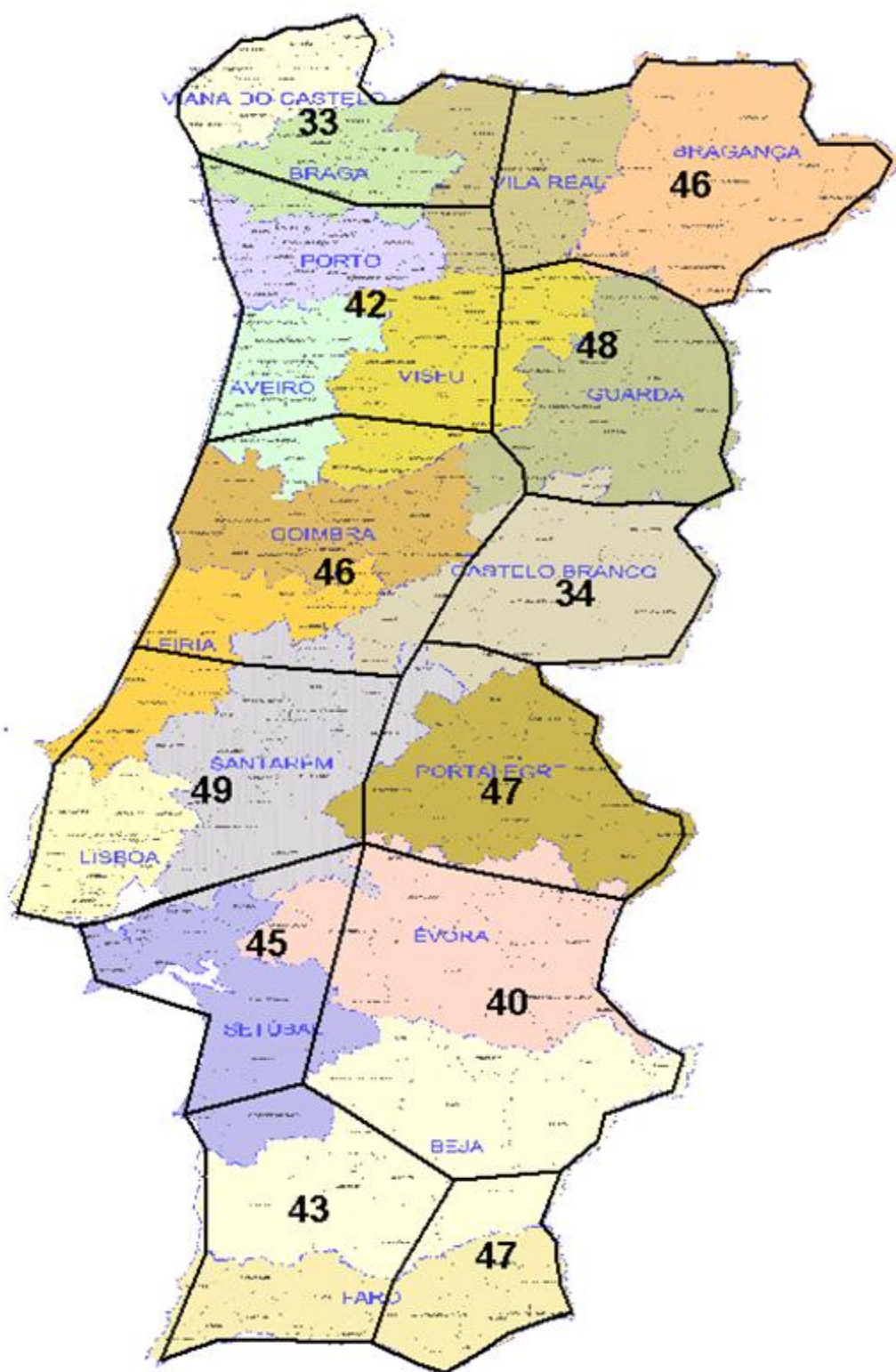


<b>Concelho</b>	<b>% Cobertura Terrestre</b>
<b>Portel</b>	<b>81.23%</b>
<b>Portimão</b>	<b>99.84%</b>
<b>Porto</b>	<b>100.00%</b>
<b>Porto de Mós</b>	<b>83.06%</b>
<b>Póvoa do Lanhoso</b>	<b>96.98%</b>
<b>Póvoa do Varzim</b>	<b>99.20%</b>
<b>Proença-a-Nova</b>	<b>85.34%</b>
<b>Redondo</b>	<b>99.36%</b>
<b>Reguengos de Monsaraz</b>	<b>96.80%</b>
<b>Resende</b>	<b>82.33%</b>
<b>Ribeira de Pena</b>	<b>87.38%</b>
<b>Rio Maior</b>	<b>92.07%</b>
<b>Sabrosa</b>	<b>74.84%</b>
<b>Sabugal</b>	<b>65.53%</b>
<b>Salvaterra de Magos</b>	<b>91.87%</b>
<b>Santa Comba Dão</b>	<b>93.87%</b>
<b>Santa Maria da Feira</b>	<b>92.04%</b>
<b>Santa Marta de Penaguião</b>	<b>91.70%</b>
<b>Santarém</b>	<b>80.85%</b>
<b>Santiago do Cacém</b>	<b>78.50%</b>
<b>Santo Tirso</b>	<b>97.78%</b>
<b>São Brás de Alportel</b>	<b>100.00%</b>
<b>São João da Madeira</b>	<b>100.00%</b>
<b>São João da Pesqueira</b>	<b>82.36%</b>
<b>São Pedro do Sul</b>	<b>76.45%</b>
<b>Sardoal</b>	<b>30.98%</b>
<b>Sátão</b>	<b>80.85%</b>
<b>Seia</b>	<b>62.98%</b>
<b>Seixal</b>	<b>97.74%</b>
<b>Sernancelhe</b>	<b>78.91%</b>
<b>Serpa</b>	<b>83.57%</b>
<b>Sertão</b>	<b>89.02%</b>
<b>Sesimbra</b>	<b>99.29%</b>
<b>Setúbal</b>	<b>97.87%</b>
<b>Sever do Vouga</b>	<b>49.36%</b>
<b>Silves</b>	<b>88.79%</b>
<b>Sines</b>	<b>99.60%</b>
<b>Sintra</b>	<b>98.45%</b>
<b>Sobral de Monte Agraço</b>	<b>74.65%</b>

<b>Concelho</b>	<b>% Cobertura Terrestre</b>
Soure	87.75%
Sousel	57.48%
Tábua	93.18%
Tabuaço	80.09%
Tarouca	86.98%
Tavira	96.38%
Terras de Bouro	64.32%
Tomar	80.38%
Tondela	92.02%
Torre de Moncorvo	92.72%
Torres Novas	91.74%
Torres Vedras	80.47%
Trancoso	86.82%
Trofa	98.73%
Vagos	87.63%
Vale de Cambra	87.40%
Valença	99.88%
Valongo	96.19%
Valpaços	61.85%
Vendas Novas	74.20%
Viana do Alentejo	75.86%
Viana do Castelo	94.23%
Vidigueira	94.20%
Vieira do Minho	84.80%
Vila de Rei	70.17%
Vila do Bispo	52.28%
Vila do Conde	98.04%
Vila Flor	65.80%
Vila Franca de Xira	89.41%
Vila Nova da Barquinha	77.41%
Vila Nova de Cerveira	99.15%
Vila Nova de Famalicão	95.97%
Vila Nova de Foz Côa	89.37%
Vila Nova de Gaia	99.14%
Vila Nova de Paiva	52.03%
Vila Nova de Poiares	87.43%
Vila Pouca de Aguiar	82.22%
Vila Real	90.77%
Vila Real de Santo António	89.33%

<b>Concelho</b>	<b>% Cobertura Terrestre</b>
<b>Vila Velha de Ródão</b>	<b>83.32%</b>
<b>Vila Verde</b>	<b>90.46%</b>
<b>Vila Viçosa</b>	<b>100.00%</b>
<b>Vimioso</b>	<b>42.09%</b>
<b>Vinhais</b>	<b>60.52%</b>
<b>Viseu</b>	<b>93.65%</b>
<b>Vizela</b>	<b>99.94%</b>
<b>Vouzela</b>	<b>56.87%</b>

### ANEXO 3



**NOTA:** Os pontos que definem as áreas associadas às adjudicações constantes do presente mapa são os identificados na Deliberação da ANACOM de 24 de outubro 2013.