

## **Decision on the introduction of mobile communication services on aircraft (MCA)**

By determination of 08.05.2008, approval was granted to a draft decision on the introduction of mobile communication services on aircraft (MCA).

This determination went through the general consultation procedure, interested parties having been given 20 working days to submit their comments.

Having the general consultation procedure been completed, contributions were analysed and a report was prepared, which includes the assessment of issues raised by interested parties. This assessment has been attached hereto and constitutes the statement of grounds hereof.

Having regard to conclusions presented, the Board of Directors, in the scope of assignments provided for in article 6 c), f) and m) of the Statutes approved by Decree-Law no. 309/2001, of 7 December, to pursue regulatory objectives provided for in article 5 of Law no. 5/2004 of 10 February, especially paragraph 1 a) thereof, and under articles 8, 15, 16 and 27 of the referred Law, hereby determines to approve:

- a) The public consultation report, attached hereto;
- b) The following decision concerning the introduction of mobile communication services on aircraft (MCA):
  - 1. To amend the provisions of the National Frequency Allocation Plan so as to include the use of the 1710-1785 MHz and 1805-1880 MHz bands for MCA services at 3000m height above ground;
  - 2. To authorize MCA systems - mobile communication services on aircraft -operating in the 1710-1785 MHz and 1805-1880 MHz bands, on a non-protected and non-interference basis, subject to the general authorization regime, pursuant to the ECL;
  - 3. To make MCA operators subject to the compliance with conditions provided for in paragraph 1 of article 27 of the ECL:
    - a. To guarantee equitable user access to the service provided;
    - b. To ensure network security against unauthorised access, according to Law no. 41/2004, of 18 August;
    - c. To ensure personal data and privacy protection with specific respect to electronic communications, according to Law no. 41/2004, of 18 August;

- d. To guarantee the provision of legal interception systems to competent national authorities;
- e. To guarantee the supply to competent national authorities of decryption or decoding means where these facilities are present, in accordance with legislation governing personal data and privacy protection within the scope of electronic communications;
- f. To comply with technical standards, laid down in the annex to Decision 2005/294/EC, of 7 April 2008;
- g. To provide the service in compliance with all aeronautical safety requirements established by the competent Aeronautical Authority;
- h. To provide the service on a non-protected and non-interference basis relatively to the use of frequencies, insofar as specific technical requirements, laid down in the technical Annex to both Decisions ECC/DEC(06)07 and Decision of the European Commission, are complied with;
- i. To supply ICP-ANACOM with relevant data with regard to aircrafts registered in Portugal operating the MCA system;
- j. To use equipment according to Decree-Law no. 192/2000 of 18 August and Harmonized Standard ETSI EN 302 480;
- k. To pay applicable fees, namely an annual fee for the pursue of the activity of electronic communications provider, pursuant to article 105 of Law no. 5/2004 of 10 February, for the amount specified by order of the member of the Government responsible for the communications area;
- l. To provide ICP-ANACOM with information requested in the scope of paragraph 1 of article 108 of Law no. 5/2004 of 10 February, for the purpose of article 109 thereof;

4. To exempt MCA operators from spectrum usage fees for the use of frequencies.

It should be stressed that, following an information request on the part of ICP-ANACOM to the *Instituto Nacional de Aviação Civil (INAC)* – National Civil Aviation Institute – this body clarified, relatively to the compliance with aeronautical safety requirements that “... it is incumbent upon the *Autoridade Aeronáutica Nacional* - National Aeronautical Authority -to issue airworthiness certificates, as well as to verify the conditions for compliance with air safety requirements, which shall be subject to appropriate provisions on airworthiness certification, as well as the respective electronic communications requirements.”

Point 3g) hereof was accordingly amended.