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DECISION ON THE CONDITIONS FOR THE INCLUSION OF ACCESSES TO THE INTEGRATED SERVICES DIGITAL NETWORK IN THE SUBSCRIBER LINE RESALE OFFER REFERENCE PROPOSAL

I – Framework

By determination of 14/12/04¹, which establishes the obligations that apply to companies provided with significant market power (SMP) in narrowband retail markets, ICP-ANACOM determined that it was incumbent on companies of the PT Group that are active in retail markets for access to the public telephone network at a fixed location for residential customers and non-residential customers² to provide a subscriber line resale offer (SLRO) and to publish the corresponding Reference Proposal³. Earlier, on 22/01/04⁴, in the scope of the report on the SLRO consultation launched by ICP-ANACOM on 24/07/03⁵, this obligation had already been considered, and it was concluded that its introduction should be weighted in the scope of market assessments, under the new regulatory framework.

By determination of 29 April 2005⁶, approval was granted to the minimum elements to be included in the Reference Proposal, as well as the specifications that applied to the beneficiaries of the offer. Companies of the PT Group were bound to submit to ICP – ANACOM, together with an accurate reasoning thereto, a Reference Proposal, and to redraft it up to the first quarter of 2006, in order to include therein the basic and the primary rate accesses to the integrated services digital network (ISDN). On 01/06/05 and 15/06/05, PT Comunicações S.A. (PTC) submitted to ICP-ANACOM respectively versions 1.00 and 1.01 of the Reference Proposal⁷.

ICP-ANACOM approved, by Determination of 14/12/05⁸, alterations to the Reference Proposal, having version 1.1 thereof been published on 09/01/06. In this Determination, it was established that the companies of the PT Group should send to ICP-ANACOM, up to

¹ See <http://www.anacom.pt/template31.jsp?categoryId=216105>

² Hereinafter referred to as “companies of the PT Group”.

³ Hereinafter referred to as “Reference Proposal”.

⁴ See <http://www.anacom.pt/template31.jsp?categoryId=225922>

⁵ See <http://www.anacom.pt/template15.jsp?categoryId=37877>

⁶ See <http://www.anacom.pt/template31.jsp?categoryId=215372>

⁷ Version 1.00 of the Reference Proposal is silent on a number of issues, regarding which PTC requested some clarifications. Having such clarifications been provided, ICP-ANACOM ratified on 06/06/05 the amendments to Determination of 29/04/05 (see <http://www.anacom.pt/template31.jsp?categoryId=215403>)

⁸ See <http://www.anacom.pt/template31.jsp?categoryId=215542>

06/01/06, a duly substantiated proposal that included ISDN accesses in the Reference Proposal.

Thus, on 06/01/06, PTC put forward the conditions it wished to attach to the inclusion of ISDN accesses in the Reference Proposal⁹, having updated on 31/08/06 the cost accounting system (CAS) figures on which the proposal was based, following a request from ICP-ANACOM on 18/08/06.

However, SLRO costs presented by PTC (similarly to CAS figures for 2005) were calculated based on a different method of calculation and a different allocation of cost of capital. In this regard, ICP-ANACOM had earlier requested of PTC, on 26/05/06, the CAS figures for 2005, based on the method of calculation and allocation of cost of capital commonly used, which were submitted on 31/08/06.

Thus, PTC was requested on 06/09/06 to submit updated data on SLRO and retail unit costs and estimates for basic and primary rate ISDN accesses, based on the CAS results for 2005, which should be amended in similar terms to those presented by ICP-ANACOM to PTC on 26/05/06, having that entity replied on 13/09/06 (these are the figures considered in the present assessment). Subsequently, on 10/10/06, and following a request by ICP-ANACOM on 28/09/06, PTC submitted comments on a preliminary estimate made by ICP-ANACOM as regards SLRO direct and joint costs in basic and primary rate ISDN accesses.

Moreover, on 31/01/07, PTC submitted to ICP-ANACOM a breakdown of net revenue of primary rate ISDN accesses for 2005, including subscriber-related revenue and revenue related to Internet service providers (ISPs).

It should be taken into account that, under determination of 14/12/05, on conditions concerning the provision of bundled network line and traffic offerings by companies of the PT Group¹⁰, these companies may not provide retail offers which bundle access and telephone traffic at a single price unless three cumulative requirements are met, including the effective provision of basic and primary rate ISDN (in addition to analogue) accesses for activation of the SLRO¹¹.

II – Position of PTC

II.A – Activation

⁹ On 16/02/06, PTC submitted to ICP-ANACOM some amendments to SLRO and retail unit costs, in the scope of basic and primary rate ISDN presented on 06/01/06.

¹⁰ See <http://www.anacom.pt/template31.jsp?categoryId=215364>

¹¹ The other two requirements are: (i) provided that the billing and charging price established by the beneficiary is reasonable and that, for as long as the SLRO is activated in the loop at stake and for the beneficiary under consideration, the companies of the PT Group request of other beneficiaries the billing and charging of all services provided on the activated accesses to the SLRO, whether they are provided by the companies of the PT Group themselves, or by other companies where the services are billed and charged to customers by companies of the PT Group; and (ii) complete and effective deployment of the SLRO by companies of the PT Group.

PTC proposed a SLRO activation price of €5,60 for ISDN accesses, no VAT included, which corresponded to the activation price of the SLRO in analogue accesses and of the pre-selection in force on 06/01/06, when the proposal was presented.

II.B – Monthly charge

PTC proposed SLRO ISDN monthly charges, presented in Table 1, which are lower by 15% than the respective retail charges (the same relation occurs in the scope of SLRO and retail monthly charges for analogue accesses) as:

- (i) The CAS only presented results for two products of the ISDN accesses (“basic rate ISDN” and “primary rate ISDN”), when there are in fact five retail products attached to the ISDN accesses (basic rate ISDN accesses, basic plus rate ISDN accesses, primary rate ISDN accesses, split primary rate ISDN accesses, and additional B channels); and
- (ii) This would ensure coherent and non-discriminatory offers.

Table 1. PTC price proposal for SLRO ISDN accesses (€no VAT included)

Basic rate ISDN access monthly charge	22,47
Basic plus rate ISDN access monthly charge	24,25
Primary rate ISDN access monthly charge	211,31
Split primary rate ISDN accesses	
Monthly charge - (includes 15 B channels)	128,39
- Each additional B channel	
o Installation	136,17
o Monthly charge	5,53

According to PTC, the activities “A1 – Marketing strategy planning and control”, “A2 - To know customers and the market” and “B2 – To improve products and services” are generic activities, and thus apply to both wholesale and retail products. In particular, these activities are associated to SLRO and Reference Proposal development costs. However, PTC considered that the costs involved in activity “B2 – To improve products and services” could be avoided in the scope of the SLRO, and deemed that activities “A1 – Marketing strategy planning and control” and “A2 - To know customers and the market” could be partially avoided.

As regards activities “C1 - To commercialise products and services” and “C2 – To advertise and disclose products and services”, PTC stated that procedures and resources allocated to the marketing, selling and billing of wholesale services were independent and different from the procedures and resources allocated to the marketing, selling and billing of retail services. According to PTC, there is an area that manages wholesale customers which, notwithstanding its commercial nature, is intended to commercialise and sell wholesale products and to support operators who purchase them. Thus, PTC is of the opinion that retail access unit costs associated to the activities “C1 - To commercialise

products and services” and “C2 – To advertise and disclose products and services” may be partially avoided in the scope of the SLRO.

As regards activities deemed partially avoidable (“A1 – M Marketing strategy planning and control”, “A2 - To know customers and the market”, “B1 – To develop new products and services”, “C1 - To commercialise products and services”, “C2 - To advertise and disclose products and services”, “C4 – To support, govern and control sales”, F2 – Billing” and “F4 – Collecting”), PTC deems that the portion of non-avoidable costs in retail access costs corresponds to 18%, a rate equivalent in 2005 to the estimated weight of pre-selected accesses in ISDN accesses.

PTC considered also that the SLRO unit costs associated to the activities “C4 - To support, govern and control sales” (no grounds were submitted in this case), “F3 – To receive and handle billing complaints”, “F5 – Revenue Assurance”, “S13 – Damages” and “Others” corresponded to retail access costs of the same activities. In particular, it mentioned that costs associated to the activity “S13 – Damages” had not been considered in Determination issued on 14/12/05 on alterations to the Reference Proposal.

PTC referred on 13/09/06 that, in 2005, unit common costs, including curtailment costs, regarding the SLRO monthly charge, were: (i) [Start confidential information]¹² [End confidential information]¹³, for basic rate ISDN accesses; and (ii) [SCI] [ECI] for primary rate ISDN accesses.

III – Assessment

The previous method, in the scope of the SLRO, used to establish the monthly payment for analogue accesses, based on the principle of cost orientation of prices, resulted in the adoption of a model that addressed the determination of avoidable costs. This method led in this case to the calculation of a SLRO monthly charge around 15% lower than the respective retail monthly charge.

As regards PTC’s argument according to which its CAS presented only results for two products attached to ISDN accesses (“basic ISDN” and “primary ISDN”), when there are in fact five retail products attached to ISDN accesses (basic rate ISDN accesses, basic plus rate ISDN accesses, primary rate ISDN accesses, split primary rate ISDN accesses, and additional B channels), it is deemed that the CAS of PTC, although it is not broken down as the retail offer, may be a meaningful proxy for costs of basic rate and primary rate ISDN retail accesses. PTC is also provided with data on the difference between average costs for a basic rate ISDN access and average costs of a basic plus rate ISDN access.

In relation to PTC’s claim that SLRO ISDN monthly charges lower by 15% than the respective retail charges (the same relation occurs in the scope of SLRO and retail monthly charges for analogue accesses) would ensure coherent and non-discriminatory offers, it must be stressed that PTC’s margins in the scope of monthly retail charges for

¹² Hereinafter referred to as [SCI].

¹³ Hereinafter referred to as [ECI].

ISDN accesses are very significant, specially as regards primary rate ISDN accesses. Moreover, since 2003 a significant difference has emerged between retail prices and unit PTC CAS revenues attached to the installation and retail monthly charges of ISDN accesses, which should reflect a discount practice on the part of PTC.

The application in the case of ISDN access of the method previously used in the scope of the SLRO would mean that SLRO monthly charges applied to ISDN accesses would be in line with costs (taking in account the avoidable costs), but well below retail prices (around [SCI] [ECI] for basic rate ISDN accesses and [SCI] [ECI] for primary rate ISDN accesses).

This approach would lead beneficiary entities to enjoy very significant margins in the scope of the provision of retail ISDN accesses (such margins were, for 2005, around [SCI] [ECI] for basic rate ISDN accesses and [SCI] [ECI] for primary rate ISDN accesses), a situation which is contrary to the targets for which the SLRO was implemented. In fact, this offer aimed to: (i) decrease the situations where consumers are faced with two providers of electronic communications services; and (ii) enable beneficiary entities to present retail offers which are competitive, as far as content is concerned, with PTC's offers, and to bill and collect the subscriber line resale.

Consequently, the SLRO was not designed as a business on its own, but as a tool to promote competition, as regards competitors of the companies of the PT Group and consumers. An approach where the SLRO integrated a margin greater than is necessary to cover costs arising to beneficiaries from their offers would thus be contrary to this purpose, and could lead to the mere transfer of the margin enjoyed by PTC to beneficiaries, without any benefit for consumers.

The approach adopted by ICP-ANACOM, which is explained below in detail, aims to establish prices compatible with the current framework.

III.A – Activation

As there seem to be no significant differences between SLRO activations according to the type of access, the SLRO activation price for ISDN accesses should not be higher than the one that applies to analogue and pre-selection accesses, which was €5,60, no VAT included, at the time PTC submitted the proposal, but which is now €5,10, no VAT included.

III. B – Monthly charges

III.B.1 – Method

As referred above, the previous method, in the scope of the SLRO, used to establish the monthly payment for analogue accesses, based on the principle of cost orientation of prices, resulted in the adoption of a model that determined avoidable costs. This method led in this case to the calculation of a SLRO monthly charge around 15% lower than the respective retail monthly charge.

In this regard, it should be noted that: (i) PTC margins in retail monthly charges of ISDN accesses are significantly higher, in relative and absolute terms, than PTC margins in retail monthly charges of analogue accesses; (ii) beneficiary entities, as from the SLRO consultation launched by ICP-ANACOM on 24/07/03, have deemed the “retail minus” method as the best means to define prices in the scope of the SLRO; (iii) PTC presented a “retail minus” method in the SLRO price proposal in the case of ISDN accesses; and (iv) the adoption of a “retail minus” approach does not imply that cost should not be taken into account, namely in the definition of the difference between retail and wholesale prices.

It should be stressed that, at a European level, the “retail minus” approach was adopted by the Danish regulator (retail – 21%) and his Irish counterpart (retail -10%) for the definition of SLRO prices. OFCOM, on the other hand, defined SLRO based on the local loop unbundling, which are not currently regulated in Norway.

It should be stressed that, since 2003, there has been a significant difference between retail prices and unit revenues of PTC’s CAS attached to the retail monthly charge of ISDN accesses. In 2005, the monthly charge revenues of ISDN basic rate and primary rate accesses were around [SCI] [ECI] and [SCI] [ECI] lower than the respective retail prices. As a result, maximum SLRO ISDN monthly charges are not established based on the relation with retail prices, as a tariff definition would demand, but with prices effectively charged on the market, which may be calculated by resort to CAS unit revenues.

Part of the difference between retail revenues and prices of primary rate ISDN access monthly charges arises from determination of 21/02/01¹⁴, under which, as from 01/03/01, the maximum price of primary rate ISDN accesses to be used by ISPs for interconnection between its POPs and the switches of PTC (local primary rate ISDN accesses), should be reduced by 20% in relation to the respective retail prices prevailing in 2001. Moreover, pursuant to Determination of 03/05/01¹⁵, the price of primary rate ISDN accesses to enable remote POPs should be at the most the price of local primary rate ISDN access, plus 20%. As a result, unit revenues considered in the case of primary rate ISDN accesses are revenues attached to the subscriber line resale, but only for accesses provided to subscribers, excluding accesses provided to ISPs. According to PTC, these revenues were of [SCI] [ECI] for 2005.

Thus, monthly charges for the SLRO in ISDN accesses should be lower than the respective retail revenues, deducted from the avoidable costs, which corresponds to a decrease by around 18% relatively to the retail tariff, in case of basic rate ISDN accesses and by 30% in case of primary rate ISDN accesses.

Moreover, given the technological resemblance of accesses under consideration and the absence of autonomous data in PTC’s CAS on costs and revenues of basic plus rate ISDN accesses, split primary rate ISDN accesses (which represented, according to PTC, around 1% of all ISDN accesses by the end of 2005) and additional B channels, SLRO monthly

¹⁴ See <http://www.anacom.pt/template31.jsp?categoryId=214506>

¹⁵ See <http://www.anacom.pt/template31.jsp?categoryId=214492>

charges that apply to: (i) basic plus rate ISDN accesses must be compatible with the relation between SLRO monthly charges and retail charges of basic rate ISDN accesses; and (ii) split primary rate ISDN accesses and additional B channels (it should be noted that the SLRO engagement for an additional B channel requires the previous engagement of SLRO in an access and the respective activation) must be compatible with the relation between SLRO monthly charges and retail charges of primary rate ISDN accesses.

It should be highlighted that prices thus established by ICP-ANACOM are also generally consistent with a balanced compromise between: (i) the verification of cost-orientation of prices, one of the obligations to which the companies of the PT Group are bound in narrowband wholesale and retail markets; (ii) the verification of non-discrimination, to which the companies of the PT Group are also bound in narrowband wholesale and retail markets; (iii) the introduction of incentives to the effective development of own infrastructures on the part of operators, as referred by ICP-ANACOM as from the SLRO consultation launched on 24/07/03; and (iv) the economic balance of the concession contract, which has been provided for in the preamble to Decree-Law no. 31/2003 of 17 February, which approved the Basis of the Public Telecommunications Service Concession.

III.B.2 – Cost orientation of prices

As referred in the hearing report on amendments to the Reference Proposal¹⁶, it is not reasonable that partially avoidable SLRO costs correspond to the relation between the SLRO likely demand and total stock of ISDN accesses, which would result, according to PTC, in the case of ISDN accesses, in 82% of avoidable costs. However, in the absence of better information and of a consistent alternative, this assumption is accepted, yet subject to a review where the CAS results are determined.

As regards the detailed activity costs, from the outset, activities “A1 – Marketing strategy planning and control” and “A2 - To know customers and the market” are by nature typically retail activities, thus their inclusion in a wholesale offer does not seem reasonable, which is the view ICP-ANACOM had already taken in the scope of Determination of 21/07/05¹⁷, concerning the draft decision on changes to be introduced in the Reference Proposal. There are not many beneficiary entities, so PTC already possesses a considerable amount of business experience, thus costs would be low, if any. Consequently, it is hereby restated the view according to which cost attached to these activities are avoidable in the scope of the SLRO.

As far as activity “B2 – To improve products and services” is concerned, PTC in its SLRO cost estimates, considered that costs attached to this activity were avoidable, both as regards analogue accesses and ISDN accesses, and in fact there are no grounds that justify a different position.

¹⁶ See <http://www.anacom.pt/template31.jsp?categoryId=215542>

¹⁷ See <http://www.anacom.pt/template31.jsp?categoryId=215422>

ICP-ANACOM agrees with PTC's view that costs attached to activities "C3 – To sell products and services" and "C5 – Customer management services" are avoidable in the scope of the SLRO.

However, relatively to activities "C1 - To market products and services" and "C4 – To support, govern and control sales", it is deemed, based on details on wholesale procedures and resources presented by PTC, that these are partially avoidable in the scope of the SLRO. Without prejudice, it should be highlighted that PTC, in analogue SLRO accesses, acknowledged that costs attached to activity "C4 – To support, govern and control sales" were fully avoidable.

On the contrary, costs attached to the activity "C2 - To advertise and disclose products and services" are deemed avoidable, as it is not likely that PTC incurs, in the scope of the SLRO, in any relevant costs related to the definition, implementation and control of communication/disclosure action of products and services in the market (namely through advertising, direct marketing, telemarketing and merchandising). Even if these costs (as PTC proposed) were to be considered partially avoidable, they would take up insignificant values (less than 0.01 Euro cents).

Table 2. Direct and joint costs considered to determine the SLRO monthly charge for the ISDN basic and primary rates accesses
(€) [SCI]

Activity	Basic rate ISDN		Primary rate ISDN	
	PTC	ICP-ANACOM	PTC	ICP-ANACOM
A1 – Marketing strategy planning and control ¹				
A2 – To know customers and the market ²				
A – To know customers and the market				
B1 – To develop new products and services ³				
B2 – To improve products and services ⁴				
B – To develop new products and services / to improve existing ones				
C1 – To market products and services ⁵				
C2 – To advertise and disclose products and services ⁶				
C3 – To sell products and services ⁷				
C4 – To support, govern and control sales ⁸				
C5 – Customer management services				
C – To market and to sell				
D1 – To design specific customer solutions ⁹				
D2 – To allocate means ¹⁰				
D3 – To install and activate the service ¹¹				
D – To deliver the service to the customer				
E1 – To receive notification of damages / quality of service ¹²				
E2 – To repair the service in the network of the subscriber and terminal equipment ¹³				
E3 – To assess the quality of service ¹⁴				
E4 – To deal with, clarify and inform the customer ¹⁵				
E5 – To create and update basic records of customer database				
E – To maintain customer services				

F1 – To develop/maintain billing/collection procedures ¹⁶				
F2 – To bill ¹⁷				
F3 – To receive and handle billing complaints ¹⁸				
F4 –To collect ¹⁹				
F5 – Revenue assurance ²⁰				
F – To bill and to collect				
SI3 – Damages				
SI – Information services / Supported communications				
S – To manage information services				
Hardware and software				
T3 – To control and report financial and business information – Costs				
T – To control and report business financial information				
W1 – To promote the company image ²¹				
W2 – To manage relations with international bodies ²²				
W3 – To manage relations with the regulatory entity and other bodies ²³				
W – To manage the company image and external relations				
Targeted network activities				
Others				
Direct and joint costs				

[ECI]

The activities “F3 - To receive and handle billing complaints” and “F5 – Revenue assurance” were deemed partially avoidable in the scope of analogue SLRO accesses. Taking also into account that PTC has not presented any grounds to the contrary and that there are no reasons that prevent the adoption of an approach as regards the establishment of SLRO monthly charge costs estimates that is similar for the different types of access, it is deemed that such costs are partially avoidable in the scope of ISDN accesses, and that the 82% ratio of avoidable costs proposed by PTC should apply.

As regards activity “S13 – Damages”, contrary to what PTC has conveyed, its costs are not deemed avoidable in the scope of analogue SLRO accesses, as stated in the hearing report on alterations to the Reference Proposal. Thus, such costs should be considered not avoidable as regards the SLRO ISDN.

It should also be restated that, without prejudice to the identification by PTC of curtailment costs amortised over an eight-year period, these costs shall be subject to a specific assessment as to whether or not they should be included for regulatory purposes. In particular, and according to the views of ICP-ANACOM expressed in earlier occasions, namely in the definition of prices applicable to PTC’s wholesale offers, it is deemed that, given the medium-long term nature of the curtailment policy, the recovery of costs may be weighted or not, when the results of this policy are noticeable, as regards competitiveness, rationalization and effectiveness. Nevertheless, and just as it was established in the scope of analogue accesses, the maximum price should ensure, given available data, sufficient margin to meet the costs which arise from the curtailment policy adopted by PTC.

In the light of the above assessment, as presented in Table 2, direct and joint costs to be considered in the scope of the SLRO are: (i) [SCI] [ECI], for basic rate ISDN accesses; and (ii) [SCI] [ECI], for primary rate ISDN accesses.

Taking into account retail costs presented by PTC, on 13/09/06, SLRO avoidable direct and joint unit costs determined by ICP-ANACOM for basic and primary rate ISDN accesses correspond respectively to [SCI] [ECI] and [SCI] [ECI].

Taking into consideration that the relationship between the level of common costs and direct and joint costs estimated by PTC for SLRO ISDN accesses is around 10%, which is an acceptable level for common costs, avoidable costs correspond to [SCI] [ECI] and [SCI] [ECI] respectively for basic rate and primary rate ISDN accesses.

III.C – Installation of additional B channels

The application for installation of additional B channels (it should be noted that the engagement of an additional B channel requires the previous engagement of SLRO in an access and the respective activation) should be submitted by the subscriber to the beneficiary entity, that shall subsequently convey it to PTC.

The maximum price for the installation of each B channel must correspond to the retail price practised by PTC, and there will be no SLRO activation additional charge for each additional B channel.

III.D – Quality of service

Parameters, levels of quality of service and penalties for non-compliance currently defined in the SLRO reference proposal apply, duly adapted, to ISDN accesses. It should be stressed that for PQS2 - Fault rate per access line, just as in the case of regulation no. 46/2005, of 14 June¹⁸, on quality of service, for each valid report regarding a basic rate access or a primary rate access, only one fault shall be accounted for, regardless of the number of activated channels that have been affected by the fault.

Companies of the PT Group must publish in the respective website, pursuant to determination of 29/04/05, and submit every three months to ICP – ANACOM, up to the twentieth day following the end of each quarter, the levels achieved concerning the parameters of quality of service defined in the SLRO Reference Proposal, with monthly particulars and per beneficiary entity, including the levels regarding the companies of the PT Group, with sufficient detail to enable the assessment of whether or not the companies of the PT Group provide other companies with a quality of service equivalent to that which they provide to companies of their own group. This report must be broken down by the different types of access (analogue, basic rate ISDN, primary rate ISDN, etc.)

III.E – Procedures

¹⁸ See <http://www.anacom.pt/template20.jsp?categoryId=154827&contentId=279158>

Procedures associated to ISDN SLRO shall generally follow the equivalent procedures in the scope of the SLRO for analogue accesses, duly adapted, any adjustments being duly grounded.

III.F – Maximum prices defined by ICP-ANACOM

In summary, given the above assessment, it is deemed reasonable that prices, no VAT included, for SLRO activation and monthly charge in ISDN accesses do not exceed the ones established in Table 3.

The margin between SLRO total estimated costs and ICP-ANACOM's price proposal for that offer is around [SCI] [ECI] for basic rate ISDN accesses, [SCI] [ECI] for basic plus ISDN accesses and [SCI] [ECI] for primary rate ISDN accesses. The relation between PTC retail unit revenues for 2005 and SLRO prices is around [SCI] [ECI] for basic rate ISDN accesses and [SCI] [ECI] for primary rate ISDN accesses.

Table 3. Prices and revenues attached to ISDN accesses (€no VAT included) [SCI]

	Retail price	Retail unit revenues for 2005	PTC position	Maximum price defined by ICP-ANACOM
Basic rate ISDN access				
- Activation	148,00		5,60	5,10
- Monthly charge	26,46		22,47	21,72
Basic plus rate ISDN access				
- Activation	148,00		5,60	5,10
- Monthly charge	28,56		24,25	23,42
Primary rate ISDN access				
- Activation	740,00		5,60	5,10
- Monthly charge	248,85		211,31	172,96
Split primary rate ISDN access				
- Activation	740,00		5,60	5,10
- Monthly charge (includes 15 B channels)	151,20		128,39	105,84
- Each additional B channel				
o Monthly charge	6,51		5,53	4,56

[ECI]

IV – Conclusions and Determination

Whereas:

- (a) prices established by ICP-ANACOM:
 - (a.1.1) must be lower than retail prices, regarding monthly charges for basic and primary rate ISDN accesses, at an amount that reflects the respective retail revenues, deducted from the avoidable costs, which corresponds to a decrease by respectively 18% and 30% relatively to the retail tariff;
 - (a.1.2) must be compatible, as far as basic plus rate ISDN accesses, split primary rate ISDN accesses and additional B channels are concerned, with the

relation between SLRO monthly charges and retail charges of basic rate ISDN accesses (as regards basic plus rate ISDN accesses) and of primary rate ISDN accesses (as regards the remaining accesses), given the technological resemblance of accesses under consideration and the absence of autonomous data in PTC's CAS on costs and revenues of basic plus rate ISDN accesses, split primary rate ISDN accesses and additional B channels;

- (a.2) must be consistent with a balanced compromise between: (i) the verification of cost-orientation of prices and non-discrimination, two obligations to which the companies of the PT Group are bound as holders of SMP in narrowband wholesale and retail markets; (ii) the introduction of incentives to the effective development of own infrastructures on the part of operators, as referred by ICP-ANACOM as from the SLRO consultation launched on 24/07/03; and (iii) the economic balance of the concession contract, provided for in the preamble to Decree-Law no. 31/2003 of 17 February, which approved the Basis of the Public Telecommunications Service Concession;
- (a.3) must take into consideration the costs resulting from the cost accounting system of PTC, as well as estimates presented by this entity;
- (b) the SLRO was not designed as a business on its own, but as a tool to promote competition, as regards competitors of the companies of the PT Group and consumers; thus an approach where the SLRO integrated a margin greater than is necessary to cover costs arising to beneficiaries from their offers would be contrary to this purpose, and could lead to the mere transfer of the margin enjoyed by PTC to beneficiaries, without any benefit for consumers, notwithstanding the fact that it is acknowledged that PTC's margins in the scope of monthly retail charges for ISDN accesses are very significant;
- (c) there seem to be no significant differences between SLRO activations according to the type of access, thus the SLRO activation price for ISDN accesses should not be higher than the one that applies to analogue and pre-selection accesses;
- (d) the SLRO monthly charge should not be lower than the monthly charge that applies to the Reference Unbundling Offer (RUO), as referred in the assessment that supports determination of 14/12/05 (approving the amendments to the Reference Proposal to be introduced by companies of the PT Group), so as to create the correct incentives to promote infrastructure investment, as an entity that chooses in the beginning a business model focused on the resale of services may benefit, later, from the adoption of a strategy integrating both the production and provision of services, and it is likely that in some cases, both business models coexist;
- (e) since 2003 a significant difference has emerged between retail prices and unit PTC CAS revenues attached to the installation and retail monthly charges of ISDN accesses, and in 2005, the monthly charge revenues of basic rate and

primary rate ISDN accesses were around [SCI] [ECI] and [SCI] [ECI] lower than the respective retail prices;

- (f) the definition of SLRO monthly charges higher than the respective retail monthly charges, and, in this context, to the corresponding unit retail revenues, is not compatible with the non-discrimination obligation to which companies of the PT Group are bound, as entities holding SMP in narrowband wholesale and retail markets;
- (g) without prejudice to being all the more important for residential customers, the SLRO may be an attractive option in commercial offers intended for non-residential customers with solutions based on ISDN accesses, thus turning the inclusion of ISDN accesses into an important issue for the promotion of competition, as referred in the hearing report on amendments to the Reference Proposal,

In the scope of the assignments provided for in points b) and f) of paragraph 1 of article 6, of the Statutes attached to Decree Law n.º 309/2001 of 7 December, in light of the regulatory objectives established in points a) of paragraph 1 and b) of paragraph 2 of article 5 of Law n.º 5/2004 of 10 February, the Board of Directors, having heard interested parties, and taking into account the prior hearing report, which is an integral part hereof, under article 26 of the Statutes of ICP-ANACOM, hereby determines that companies of the PT Group must amend within 10 working days the SLRO Reference Proposal as follows:

1. The SLRO maximum activation price for ISDN accesses shall correspond to the SLRO and pre-selection activation price for analogue accesses, which is currently €10, (no VAT included).
2. The SLRO maximum monthly charges for ISDN accesses shall be as follows:

Table 4. SLRO maximum monthly charges for ISDN accesses (€no VAT included)

Basic rate ISDN access monthly charge	21,72
Basic plus rate ISDN access monthly charge	23,42
Primary rate ISDN access monthly charge	172,96
Split primary rate ISDN accesses	
Monthly charge - (includes 15 channels B)	105,84
- Each additional B channel	
o Monthly charge	4,56

3. Parameters, levels of quality of service (the respective report must be broken down by the different types of access: analogue, basic rate ISDN, basic plus rate ISDN, primary rate ISDN, split primary rate ISDN) and penalties for non-compliance currently defined in the SLRO reference proposal apply, duly adapted, to ISDN accesses, and any adjustments shall be duly grounded.

4. Procedures associated to SLRO ISDN shall generally follow the equivalent procedures in the scope of the SLRO for analogue accesses, duly adapted, any adjustments being duly grounded.

Notes to Table 2

¹ “To develop a strategic marketing plan and to control its implementation; and to define a pricing policy” (see MGC activity description for the 1st half of 2004, comprised in the letter sent on 04/03/05 by PTC, with reference ANACOM-E07447/2005).

² “To identify customer needs as regards new products and services, to determine demand as regards existing products and services and to measure the level of satisfaction; and to study the market, its segmentation structure and its changing trends in terms of quality and quantity, in order to detect threats and/or business opportunities” (see MGC activity description for the 1st half of 2004).

³ “To develop new products and services; to implement prototypes and to monitor the experimental operation of new services in an introduction stage, assessing its performance and quality; to establish a plan for the introduction in the market of new telecommunications products and services; and to prepare characterization dossiers for the new services” (see MGC activity description for the 1st half of 2004).

⁴ “To ensure the development of existing services, implementing any adaptations deemed necessary for improvement purposes” (see MGC activity description for the 1st half of 2004).

⁵ “To define the business policy, establish products and services plans, namely by managing marketing-mix variables (product, pricing, communication and distribution channels)” (see MGC activity description for the 1st half of 2004).

⁶ “To define, implement and control market communication/disclosure action for products and services, by means of advertising, direct marketing (mailings), telemarketing, merchandising, etc.” (see MGC activity description for the 1st half of 2004).

⁷ “Comprises sales, as well as the handling and forwarding of products and services requests and applications” (see MGC activity description for the 1st half of 2004).

⁸ “To ensure sales logistics; to gather and handle data for sales control and objective negotiation; to guide, boost and coordinate sales in the scope of the management and development of new sales channels; to promote action that aims to develop the commercial network (implementation of new sales channels, recasting and broadening of the existing ones); and to provide technical support to sales forces” (see MGC activity description for the 1st half of 2004).

⁹ “To develop specific proposals for the provision of telecommunications products and services, outlining solutions and preparing technical projects, thus meeting customer requirements” (see MGC activity description for the 1st half of 2004).

¹⁰ “Allocation of pairs and other network elements” (see MGC activity description for the 1st half of 2004).

¹¹ “To install, activate, test and provide the service (includes all work related with the subscriber network and terminal equipment)” (see MGC activity description for the 1st half of 2004).

¹² “To receive, register and distribute notification of damages” (see MGC activity description for the 1st half of 2004).

¹³ “To perform the test/trial, to provide a technical characterization of the damage, to visit the location, perform necessary tasks to restore standard levels of quality and to close the repair order” (see MGC activity description for the 1st half of 2004).

¹⁴ To assess the service provided to the customer, including the definition of quality targets; to gather and analyse quality indicators of provided services; to implement projects related to the improvement of the quality of service and of the company’s commercial operation; and to issue quality reports” (see MGC activity description for the 1st half of 2004).

¹⁵ To provide free clarifications and information requested by customers, namely in the scope of the telephone fixed service; this activity does not comprise those which are included in activities “C3 – To sell products and services”, “E1 – To receive notification of damages / quality of service” and “F3 – To receive and handle billing complaints” (see MGC activity description for the 1st half of 2004).

¹⁶ To develop, standardize and optimize billing/collection procedures and to support the implementation of new billing/collection methods, ensuring the definition and unification of functionalities and operation rules of associated information systems” (see MGC activity description for the 1st half of 2004).

¹⁷ To guarantee and ensure the availability and processing of billing data; to validate records on which customer bills are based; to ensure billing control; and to issue, address and send bills” (see MGC activity description for the 1st half of 2004).

¹⁸ “To receive and handle billing complaints” (see MGC activity description for the 1st half of 2004).

¹⁹ “To classify and process collections; to control reimbursements; to launch non-payment procedures; to negotiate instalments; to launch bad debts procedures; and to bring court procedures” (see MGC activity description for the 1st half of 2004).

²⁰ “To assess business processes and to identify associated potential risks; to design and propose alterations to business processes that minimize revenue risks; and to conceive and implement control methods that enable the compliance with such procedures” (see MGC activity description for the 1st half of 2004).

²¹ “To plan and coordinate the image of PTC; to develop and promote institutional events and projects; to convey to the media and to the general public a company’s prestige image; to plan and coordinate the participation of the company in external affairs, such as fairs, seminars, expositions and other events aimed at customers” (see MGC activity description for the 1st half of 2004).

²² “To ensure the institutional relationship with the different coordinating international bodies; to participate in international cooperation events and to support company bodies at the level of telecommunications regulatory policy; and to ensure the handling and disclosure of strategic data issued by international bodies of the company” (see MGC activity description for the 1st half of 2004).

²³ “To support the Board of Directors in its external relations in the scope of the concession, with other operators and with State bodies; and to define development policies and policies on telecommunications public service, taking into account obligations that arise from the concession contract (see MGC activity description for the 1st half of 2004).