

Decision on the tariff proposal applicable to communications originating on the network of PTC and terminating on the networks of OSPs, as presented by PTC on 30/11/09 and corrected on 5/1/10 and 8/1/10

1. In a letter dated 30/11/09, PT Comunicações, S.A. (PTC) presented ANACOM with the new tariffs applying to communications which have as their destination the direct customers of other providers (PTC-OSP), which it was proposed would enter into force on 01/02/10 and would comprise two separate tariffs - one applying to operators whose average termination prices are close to the average price of termination on the network of PT (Colt, Equant and PT Prime) - Tariff Group 1, and a second tariff applying to the remaining operators - Tariff Group 2.
2. Following a request for clarification by ICP-ANACOM on the information used by PTC as the basis for the presentation of said proposal, on 05/01/10, the operator submitted a correction to the proposal for 2010 PTC-OSP prices, which was further amended on 08/01/10, in particular with regard to operators covered by each tariff- Tariff Group 1 therefore comprised Equant and PT Prime only, while Tariff Group 2 applied to all other operators. The final price proposal submitted by PTC is set out in the following tables.

Table 1. PTC-OSP tariff proposal presented by PTC on 05/01/10 (Tariff Group 1)

Tariff Group 1 (applicable to calls made to Equant and PT Prime networks)												
	Initial charge (euros)				Credit time (minutes)				Price per minute (euros)			
	Working days 9am - 9pm	Working days 9pm - 9am	Weekends 9am - 9pm	Weekends 9pm - 9am	Working days 9am - 9pm	Working days 9pm - 9am	Weekends 9am - 9pm	Weekends 9pm - 9am	Working days 9am - 9pm	Working days 9pm - 9am	Weekends 9am - 9pm	Weekends 9pm - 9am
Local	0.0700	0.0700	0.0700	0.0700	1.00	1.00	1.00	1.00	0.0261	0.0084	0.0084	0.0084
National	0.0700	0.0700	0.0700	0.0700	1.00	1.00	1.00	1.00	0.0446	0.0084	0.0084	0.0084

Table 2. PTC-OSP tariff proposal presented by PTC on 05/01/10 (Tariff Group 2)

Tariff Group2 (applicable to calls made to remaining operators)												
	Initial charge (euros)				Credit time (minutes)				Price per minute (euros)			
	Working days 9am - 9pm	Working days 9pm - 9am	Weekends 9am - 9pm	Weekends 9pm - 9am	Working days 9am - 9pm	Working days 9pm - 9am	Weekends 9am - 9pm	Weekends 9pm - 9am	Working days 9am - 9pm	Working days 9pm - 9am	Weekends 9am - 9pm	Weekends 9pm - 9am
Local	0.0700	0.0700	0.0700	0.0700	1.00	1.00	1.00	0.0342	0.0100	0.0100	0.0100	0.0100
National	0.0700	0.0700	0.0700	0.0700	1.00	1.00	1.00	0.0530	0.0100	0.0100	0.0100	0.0100

3. Determination of 14/12/04¹ on the imposition of obligations with respect to narrowband retail markets, maintains the rule for the verification of compliance of inter-network tariffs established in the determination of 03/11/00², whereby *"The price of calls originating on the network of PT and terminating on the networks of other FTS providers shall be identical to the prices of calls both originating and terminating on the network of PT, and may be corrected by the difference, as quantified and reasoned, between the termination of calls on the network of PT and the termination of calls on the network of each FTS provider, i.e., differences between the prices of calls to different operators is permitted, provided that this difference is due to differences in the values of the relevant termination charges"*.

¹<http://www.anacom.pt/template12.jsp?categoryId=142884>.

²<http://www.anacom.pt/template12.jsp?categoryId=8529>.

1. Therefore, the methodology adopted by ANACOM to verify whether the PTC-OSP tariff is in compliance is based on the values given to the following components:
 - (i) Price of termination on the network of PTC;
 - (ii) Price of termination on the networks of OSPs; and
 - (iii) PTC intra-network retail price;

according to the rule shown below:

$$\text{PTC-OSP retail price} = \text{PTC-PTC retail price} + \text{OSP Termination Price} - \text{PTC termination Price}$$

where each component of the calculation indicated refers to the average price, per call, in terms of overall PTC-OSP traffic.

4. In March 2007, two tariff options were introduced for fixed telephone service subscribers. Option 1 is characterized by free traffic during the period between 9pm and 9am (initially only on working days, whereas the tariffs introduced in September 2008 extended the free period to weekends) and applies by default, while Option 2 is characterized by a lower monthly fee for analogue access than that charged under Option 1, while users who subscribe to this option do not benefit from the period of free traffic. PTC states in its proposal that the tariffs comply with the terms of the determination of 14/12/04, using for said purpose the prices of traffic associated with Option 2.
5. ICP-ANACOM considers that, under the current constitution of these options, the use of Option 2 is proper for the purpose of verifying compliance with the applicable rule in the PTC-OSP tariff. This is because Option 1 is an offer where access and traffic is bundled, so that were this option to be used to perform the verification of the maximum permitted ratio, it would be necessary to break the offer down into its constituent services (subscription fees and traffic) and to calculate the values associated with each service, i.e. assign a specific price for calls made during the period of free traffic to arrive at an appropriate value. On the contrary, the tariff of Option 2 does not include any bundling, allowing the prices associated with the calls in each time period to be immediately ascertained.
6. It is further noted that, were an analysis made with regard to Option 1 under the described conditions, the average price of calls in Option 2 would correspond to a good estimate of the level of the equivalent average prices under Option 1 in the event that there was no bundled offer associated with a monthly charge. This is based on the principle underlying the provision of the two subscriber pricing options, specifically that the total value of both should be equivalent, taking the difference in price between the monthly charges of the 2 options to represent the approximate value of the free traffic included in Option 1, in accordance with the tariff of this period set out in Option 2.
7. In this context, taking into account that in the determination of 14/12/04 it is stated that *"The price of calls originating on the network of PT and terminated on the networks of other FTS providers shall be identical to the prices of calls both originating and terminating on the network of PT, and may be corrected by the difference, as quantified and reasoned, between the termination of calls on the network of PT and the termination of calls on the network of each FTS provider"*, the use of Option 2 for this purpose is considered appropriate.

8. Having concluded an analysis of the proposal presented by PTC, and without prejudice to any future review of the consequences, in terms of transparency for users, of the existence of intra-network and extra-network tariffs with substantially distinct structures, particularly as regards the existence of free periods, it was concluded that:
 - a. With regard to Tariff Group 1, it is noted that the proposal submitted by PTC is comprised of a tariff equal to that practised by PTC for intra-network calls, whereby it is in compliance with the applicable obligations;
 - b. With regard to Tariff Group 2, it is stated that the average price per call resulting from the PTC proposal does not deviate from that resulting from the application of the defined rule. Therefore, the proposal of Tariff Group 2 of PTC is in compliance with the applicable obligations
9. Accordingly, under the powers provided for in paragraphs b), f) and h) of paragraph 1 of article 6 of the Statutes annexed to Decree-Law No 309/2001 of 7 December and in accordance with the regulatory objectives set out in points a) and c) of paragraph 1 and points a) and b) of paragraph 2, all of article 5 of Law No 5/2004 of 10 February, the Management Board of ICP-ANACOM determines not to oppose the tariff proposal applicable to communications originating on the network of PTC and terminating on the networks of OSPs, without prejudice to compliance with the obligations of transparency which may be undertaken.