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Publication - 5.9.2006

Regulation Report 2005

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Foreword

The regulatory activity of ICP – Autoridade Nacional de Comunicações (ICP-ANACOM) in connection with electronic communications continued to be marked in 2005 by market analyses, which includes the definition of markets, the assessment of situations of significant market power (SMP) and, finally, the enforcement, maintenance, change or suppression of obligations.

The implementation of the obligations defined in these analyses had, in 2005, a very clear impact on the functioning of markets – promoting competition and benefits to end consumers and users. Particularly, the following items, which received a higher priority in this period, should be stressed:

- The creation of conditions for an effective use of the local loop unbundling (LLU), which registered a very expressive growth in 2005, thus clearly reflecting a reduction of the barriers for access to the basic telecommunications network.
- Several interventions in the *Rede ADSL PT* wholesale offer – thus ensuring the coherence with other wholesale offers and the appropriate incentives to fostering the activity of the new operators – with impact on the evolution of the market, in terms of penetration, prices and throughput;
- Actions regarding the leased lines service reference offer and the interconnection prices, which translated into the existence of appropriate competitive conditions, considering the Portuguese reality's specific characteristics.
- With the purpose of guaranteeing the affordability of prices in the scope of the universal service, the incumbent operator continued to be obliged to fulfil a price-cap (CPI minus 2.75 per cent) for residential clients, which in 2005 translated into significant reductions in the prices of most calls and in the maintenance of the values charged for installation and subscription;
- Creation of the favourable conditions for the effective implementation of the subscriber line resale offer, predictably with noticeable impact on the market already in 2006;

- Significant reduction the mobile operators' termination prices, which were, in the beginning of 2005, at the highest levels of the European Union (EU);
- Approval of the portability, selection and preselection regulations.

Regarding the intervention in the conditions of the wholesale offers, in 2005 ICP-ANACOM determined very important reductions to most wholesale offers: about 60 per cent in the local loop's installation price; about 20 per cent in 2005 (and 7.5 per cent already in 2006) in the corresponding monthly fee; about 50 per cent in the price of the bundled access; about 35 per cent in the monthly fee of the local access for a 2 Mbps offer; about 10 per cent in 2005 (and 5 per cent more already in 2006) in interconnection prices; about 30 per cent in 2005 in mobile operators terminations. This evolution has been gradually reinforced throughout 2006.

As a result of these actions by ICP-ANACOM – and considering the several international comparisons in this report – most wholesale offers in Portugal had price conditions that were close, but usually below, those of the remaining EU countries.

The regulation measures described above brought benefits to consumer, in terms of prices, diversity and accessibility. Furthermore, ICP-ANACOM put a set of initiatives in place with the purpose of guaranteeing and protecting consumers' rights. Among others, the following should be highlighted:

- Definition of quality of service parameters for the universal service and of the performance objectives applying to them;
- Approval of the quality regulation applying to the service of access to the public telephone network at a fixed location and the publicly available telephone service provided at a fixed location;
- Definition of the guidelines on the minimum content to be included in the service provision contracts;
- Draft decision on the object and ways of publicizing the conditions of offer and usage of electronic communications services;
- Availability to the public of the Tariff Simulator (TM), which gives the public the possibility to refer to and compare the voice tariffs practiced by the mobile telephone service (MTS) operators.

- Creation of the *Unidade de Missão de Tratamento de Solicitações sobre o Mercado* (UM-TSM – Mission Unit for the Handling of Market Requests), with the purpose of ensuring a regulation that is closer to the users, also contributing to an effective supervision of the regulated markets, including both electronic communications and postal services.

On the other hand, progress was made on important processes that are of the greatest relevance for the development of the communications sector, in a broad sense, such as the decisions on the provision of voice services using the IP protocol (VoIP) and the deepening of the process related with the launch of digital terrestrial television.

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Electronic communications services followed very diverse trends in 2005: new reduction in the weight of the fixed telephone service (FTS), in terms of traffic, in terms of unit costs and, consequently, in terms of revenues; strong expansion of the data transmission services, both in number of users and in terms of revenues; also important increases in the MTS traffic, however accompanied by a reduction in the average revenue per user; lastly, the cable television and satellite distribution services had once again positive growth trends, although slowing down.

The FTS continued with a strong traffic decrease trend, as since the beginning of this decade. In 2005, voice traffic had a 4.2 reduction, in number of minutes, and a 4.7 per cent one in number of calls. There was also a price reduction in most types of calls – mainly reflecting the impact of regulatory measures implemented by ICP-ANACOM – which additionally contributed to the reduction in this service's revenues. The roll-out of new commercial offers, such as price plans, new tariff structures and package offers should also me mentioned.

The MTS continued to register significant increases in terms of number of subscribers, number of calls and number of minutes (respectively, 10.5, 6.6 and 8.9 per cent increases). The very expressive increase in the number of short messages sent and the development of commercial offers based on the UMTS service should also be mentioned. Also during 2005, new commercial strategies were put in place enclosing tariffs with no price distinction between on-net and off-net calls.

The Internet access service was characterized by a strong growth in the number of customers, particularly meaningful with broadband customers. In 2005, about 35 per cent of households had an Internet connection, three quarters of which were broadband. There was an important increase in the offered throughput capacities and, at the end of the year, 2 Mbps was the modal class used by Portuguese consumers. Competition conditions changed along the year and in the last quarter of 2005 about half of the new accesses were installed by alternative operators.

The number of subscribers to the cable television and satellite distribution services recorded further growths in 2005, in both cases of about 5 per cent and less accentuated than in previous years. In 2005, about 75 per cent of all households in Portugal were cabled.

Besides the evolution of the electronic communications in 2005, this report makes it possible to identify a set of highly important changes that took place in the 2000/2005 period, with significant impacts on the relative weight of the sector's several services:

- Strong decrease trend of voice traffic in the FTS, translated into a 22.2 per cent reduction in number of minutes, and a 25.4 per cent in volume of calls;
- Increase in the weight of the alternative operators which, in this period, reached market shares in the FTS of about 26 per cent;
- Strong adjustment of the FTS tariffs, with significant reductions in the prices of regional and national calls – about 52 and 55 per cent, respectively – and an increase of about 13 per cent in the monthly fee. In global terms, the incumbent operator's price index recorded a 2.3 per cent reduction, in nominal terms, and a 16 per cent one in real terms; this is probably the sole economic sector that has systematically given price reductions to consumers;
- Contrary to the FTS, there was a very expressive growth in voice traffic originating in mobile networks, which in the 2000/2005 period grew 52 per cent in number of calls, and 87.8 per cent in number of minutes;

- As a result of the different evolutions of “fixed voice” and “mobile voice”, the relative weight of the traffic originated in mobile networks already stood for about 60 per cent of total voice traffic in 2005, which is one of the three highest values in the EU25 and, surely, one of the most noticeable features of the electronic communications sector in Portugal;
- The mass use of broadband technologies is one of the most important evolutions since the beginning of the decade. Indeed, from a number of 27,000 clients in 2000, it reached a figure slightly above 1,200,000 by the end of 2005. Broadband penetration is close to the average European levels, while the main constraints identified by consumers regard factors – such as “no need, no interest” or “has no computer” – that do not show poor available offers, but rather situations that are more structural to the Portuguese reality.
- Contrary to what has occurred with the FTS, the incumbent operator’s market share of broadband customers increased up to 2004, with a decrease only in 2005 – to 77 per cent, one of the highest in the EU. However, throughout 2005 important changes took place in the market evolution, reflecting the improvement in the conditions of the LLU and the important growth in the offers via cable modem that are alternative to Grupo PT.

The electronic communications sector provides service offers – in terms of prices, quality, diversity and penetration – that are comparable to the average European levels.

The price levels practiced in Portugal for most electronic communications offers are close, but usually bellow, the average price levels practiced in the EU countries: in all of the comparisons shown in this report, there are no prices in the upper quartile of the considered countries (25 per cent of higher prices). They are predominantly in the second quartile (25-50 per cent of lower prices).

The quality and diversity of the electronic communications services provided to Portuguese consumers do not present, globally, any important variation regarding the practices of the remaining countries of the EU.

The penetration of electronic communications services in Portugal – although close to average European levels – has somewhat diverse situations, reflecting a high MTS penetration (about 12 per cent above EU's average), a low FTS penetration (about 1 per cent below EU's average), a broadband penetration slightly below EU's average and, lastly, a penetration rate of cabled households above the European average.

This report also contains, in its final part, a description of the state of postal services. In 2005 postal traffic stabilized, placing an important pressure on the future evolution of this kind of services. Highlight also goes to the significant increase in the number of providers in this sector. However, the alternative operators only have a noticeable weight in express mail – about 57 per cent of traffic – since the market shares of the incumbent operator are very high for most of the remaining services. In real terms, the prices of the provisions included in the universal service have decreased, and are now usually below the average level of the EU15. Lastly, it should be referred that the quality indicators of the universal service had a globally positive evolution in 2005.

This report also approaches several aspects of ICP-ANACOM's activity during 2005 stemming from its obligations and powers, as laid down in its statutes. Such is the case, namely, with the management of scarce resources, market supervision, including inspections and legal claims, the representation of the sector – international activity and cooperation – and action in matters of standardization, emergency communications and electronic commerce.

April 2006

Pedro Duarte Neves

Structure of the report

Under the terms of the provisions of ANACOM's statutes, approved by Decree-Law no. 309/2001 of 7 December, it is this Authority's obligation, since January 2002, to write an annual report on its regulatory activities, which shall be submitted to the Government and further presented to the Parliament. ANACOM is also obliged to produce a report on the state of communications and its regulation and supervision activity, to be presented to the member of the Government with powers over the sector and to be publicly released.

This report aims to fulfil these statutes' requirements. For this purpose, it is divided into three different blocks: the Regulation Report, the State of Communications and the Activities Report. The model adopted by ICP-ANACOM on the three first editions of this annual report was that of a sole document made up of two parts: part I described the activity carried out during the year in the domains of regulation, supervision, sanctioning, representation of the communications sector and information to citizens; part II characterized the state of communications and explained its evolution along the year under analysis.

The structure adopted this year – which benefits from some recommendations from the Advisory Council's opinion included on the 2004 Regulation Report – is different from the one used for the three first editions of this annual report. The change that was made intends to clearly separate the description of ANACOM's activities – carried out during the year under analysis and presented as an annual report – from the analysis and interpretation of its acts and regulatory interventions, framed by the principles that guide this Authority's decisions and by the tri-annual strategic objectives defined in its plan.

Thus the Regulation Report starts by presenting the main guidelines of the regulator's activity: the mission and the strategic objectives defined as having priority, which make up ANACOM's medium-term vectors and are stated in this Authority's tri-annual Activities Plan.

The report further approaches how ANACOM’s activities in 2005 were carried out in connection with the objectives for that year. Each of the mentioned subjects includes the identification of the cause(s) supporting the regulatory acts or interventions under analysis, which may include, namely, the application of the European regulatory framework, the result of identifying specific market operating flaws, the detection of situations of non-compliance, the protection of users and their rights, or the detection of coverage/quality of service deficiencies. As usual, distinction is made between the state of Electronic Communications and that of the Postal Services, a usual separation that, considering the regulatory matter herein, also corresponds to different stages and objectives.

Regarding the adopted measures, the report frames them with the regulatory objectives, the circumstances which are meant to be regulated and, when applicable or relevant, with international comparisons. The results obtained are described and, when applicable, the results expected are foreseen, considering the usual time lag of the regulatory measures’ effects. This way, a more analytical approach is favoured over a descriptive one.

The State of communications in Portugal – which makes up the second part of this report, maintaining the same structure as adopted in previous years – contains the sector’s most relevant characteristics and describes the evolution along the year under analysis.

Further to an initial international framework analysis, which analyses the evolution of the electronic communications sector in the EU, the following services are approached, in sequence: FTS, MTS, mobile trunking service, Internet access service, other data transmission services, cable television distribution service (CATV) and, lastly, postal services.
For each of these services several statistical indicators are shown, making it possible to identify, from the user’s viewpoint, which are the main trends in term of usage level, prices and diversity of the offers available to the public. Additionally, whenever possible, price comparisons with other European countries are shown.

The Activities Report, which makes up the final section of this document, contains the activities carried out by ICP-ANACOM grouped by functional area, according to the following major reference areas: regulatory matters and regulation-setting – which, for the users interest, does not repeat the description of regulatory measures previously analysed – spectrum management, supervision, monitoring and litigious affairs, representation, cooperation, communications, image, standardization, and also one last category that groups activities of diverse nature that cannot be adequately included in the said categories.

The report and description of these activities is, in opposition to the approach favoured in the Regulation Report, more descriptive than analytical. In fact, the aim of this activities' description is to build an objective and, as much as possible, concise reference of ICP-ANACOM's activities in 2005, considering all scopes of this Authority's activity.