

Determination of 16.1.2004

Determination from ANACOM regarding the definition of maximum retail price for calls to “707”, “708” (universal access services) and “809” (shared cost call services) numbering ranges

I. Antecedent

By determination of 28 November 2003, the Board of Directors of ANACOM has approved the draft decision relating the maximum retail prices for calls to “707”, “708” (universal access services) and “809” (shared cost call services) numbering ranges.

The draft decision was submitted to the prior hearing of interested parties, who are entitled to assess the issue within 10 working days at the most, pursuant to article 100 and 101 of the Code of Administrative Procedure.

The draft decision was likewise notified to Institute for the Consumer, DECO, FENACOOOP and UGC, who are entitled to present their opinion, having regard to the impact of the decision on consumer interests.

Those interested parties, the fixed telephone services providers and land mobile service providers, Coltél, Jazztel, Novis Telecom, Onitelecom, Optimus, PT Comunicações and TMN, that were notified pursuant articles no. 100 and no. 101 of CAP, replied within the settled deadline.

Vodafone, replied out of settled deadline.

Still, the Institute for the Consumer, DECO, and UGC presented their opinion as regards the decision to be adopted.

Besides those referred, 4 entities have also sent comments to ANACOM: Dialmídia, Tecnologias Multimédia, Media Capital Telecomunicações, SA and World Premium Rates.

The analysis of the received comments is part of the prior hearing report which is annexed to the present determination.

II. Framework

The services provided through the “707”, “708” and “809” numbering ranges are characterised by allowing the access to a certain number, always in the same way and at the same price, throughout the entire country.

The services using the “809” numbering range are further characterised by the distribution of the call price between the entity originating it (user) and the called party (service client).

The client engaging such service from a telecommunications provider (provider holding the number) and defining its usage criteria (place, date, time, etc.) is generally an enterprise undertaking those numbers for its public enquiry services.

The price of calls for these numbering ranges is determined by the provider holding the number rather than by the provider in the network of which the call is originated.

III. Reasoning and decision

In the course of the last year, ANACOM has received complaints from users as well as from providers of telephone services, regarding the prices of calls for the “707”, “708” and “809” ranges and also the usage conditions for these numbering resources.

In fact, ANACOM 's attention was drawn to the emergence of services, in these ranges, that allegedly are close to the concept of audio text (<http://www.anacom.pt/template16.jsp?categoryId=4689>), being the users faced

with unexpectedly high telephone bills resulting from calls made to such numbers.

Another type of complaint concerns the enterprises public enquiry services, that being provided under “707” numbers, force the user who makes enquiries by telephone, to pay a higher price for the call than would be expected having regard to the nature of the information.

Having regards the importance of the matter, ANACOM, within the scope of a public consultation regarding the National Numbering Plan (NNP) launched on 2/6/2003, raised the question of imposing a maximum tariff on calls for these numbers.

In their replies to the consultation, most of the telecommunications service providers (Jazztel, Novis Telecom, Onitelecom, Optimus, PT Comunicações and TMN) as well as the Institute for the Consumer, showed a favourable disposition towards this solution.

The same happened at prior hearing process on the present draft decision where most of interested parties that accessed the issue, as well as the Institute for the Consumer, DECO and UGC agreed in establishing maximum tariffs, to be paid by the caller user on the calls for the ranges concerned.

The indication of the price to pay for a call to a certain numbering range is valuable information to the user - that is, it is important that the number includes information as to the “price area” where the connection is placed.

For the providers in the network from which the call is originated there are also advantages to be gained from the determination of a price for these numbering ranges, for many times they struggle with amounts which are uncollectible or of difficult collection, a reflex of user complaints as regards the amounts to be paid.

It must be highlighted once more that the determination of the call price might be outside the scope of these providers, who are responsible for handing over

the income collected to the provider holding the number (to whom they solely charge for the origination price, plus remuneration for billing and collection).

It is incumbent upon ANACOM to manage the NNP according to the principles of transparency, equity and efficiency, as well as to define the prefixes and identification codes for telecommunication services or other, establishing the respective usage conditions (paragraphs a) and b) of no. 2 of article 28 of Decree-Law no. 415/98, of 31/12.)

Pursuant to NNP (<http://www.anacom.pt/template12.jsp?categoryId=5396>) which is itself a set of rules, ANACOM is entitled, within its management powers regarding numbers, codes and addresses, to review the procedure stated therein where such a review proves to be necessary.

It is further incumbent upon ANACOM to determine the rules regarding the granting and mode of usage of numbering resources, as well as the protection of consumer interests, namely by ensuring the disclosure of information relating to public usage of communications.

Within this context, ANACOM deems necessary and appropriate to determine a maximum retail price for calls to the “707”, “708” and “809” numbering ranges, having regard to the fact that this measure shall enable the user to be provided with a more reliable and clear information as to the usage conditions of such numbering resources.

In the prior hearing process the service providers regarded, by majority, the prices in the draft decision far too low, preventing covering the costs, namely, those originating from mobile network calls.

On the contrary, DECO defended that the tariffs established in the draft decision for the “707” and “708” ranges were far too high.

The positions expressed by all the interested parties, were weighed in light of more recent data available from ANACOM, as regards distribution of calls to these numbers of fixed or mobile origin, and bearing in mind the significant

differences between the price tariffs originating from fixed networks and mobile networks, it is this Authority's understanding to have established, for the numbers "707" and "708" two distinct price levels, applicable according to call origin.

This difference means that the highest price tariff established for calls originating from fixed networks is now lower comparatively to the lowest figure in the draft decision applicable then to "707".

In this sense, ANACOM understands that the differences between top tariff prices from "707" and "708" ranges in the draft decision, loses importance.

Regarding the "809", the positions revealed at the prior hearing were not enough to alter ANACOM's initial understanding on the price tariff settled then, that is, the price of a national call at normal time in the scope of the universal service (at present, € 0,0738 per minute, after initial time credit of 10 seconds), considering that the NNP already presents a connection between the price of calls with shared costs ("808") and the universal service tariff.

The maximum price tariff settled by ANACOM, correspond to prices per minute, recorded by the second from the first minute.

ANACOM holds also that this measure should be applied at once, taking account of the need to safeguard the interests of users, without prejudice to possible amendments in the same manner as a general framework in this matter, resulting from the process of consultation of the NNP, currently under way.

Lastly ANACOM reckons to be reasonable the settling of a maximum deadline period, for the execution of the present determination, at end of which, non-fulfilment shall be considered a violation of the legal obligation in conformity with the NNP, pursuant to paragraph m) of no. 1 of the article 7 and paragraph f) of no. 1 of the article 11, both of the Decree-Law no. 381-A/97, 30 December and pursuant paragraph d) of the article 6 of the Basis of the Concession of the

Telecommunications Public Service, approved by the decree-law no. 31/2003, 17 February, according to the cases concerned.

In light of the above, within the scope of the powers provided for in article 6, no. 1, paragraphs b) and h) of the Statutes, approved by Decree-law no. 309/2001 of 7 December, the Board of Directors of ICP-ANACOM, pursuant to paragraphs a) and b) of article 28 of Decree-Law no. 415/98 of 31/12, hereby determines the following:

1) The maximum retail prices applicable to calls to the “707”, “708” and “809” numbering ranges are the following:

- “707”: and “708”: € 0,10 per minute for calls from fixed networks and €0,25 per minute for calls from mobile networks, defining the tariff by the second as from the first minute;

- “809”: the price of a national call after initial time credit of 10 seconds time, at normal time in the scope of the universal service tariff, at present € 0,0738 per minute, defining the tariff by the second as from the first minute.

2) ANACOM shall monitor the evolution of market conditions as regards the prices practiced within the offer of services of universal access and shared costs, aiming at assessing the need for further intervention.

3) The present determination is compulsory as from 1 February 2004, without prejudice of the same to be executed before hand by initiative of the service providers, which are bound to it.