



The information is also available in Anacom's Internet website in:

<http://www.anacom.pt/template31.jsp?categoryId=216544>

Determination of 7.2.2002

NOTICE TO BE GIVEN TO THE ENTITIES WITH A SIGNIFICANT MARKET POWER IN THE LEASED LINES MARKET FOR THE PURPOSES OF NO. 1 OF ARTICLE 21 OF REGULATIONS FOR THE EXPLOITATION OF PUBLIC TELECOMMUNICATION NETWORKS

1. The Regulation for the Exploitation of Public Telecommunication Networks approved by Decree-Law no. 290-A/99, of July 30th, with the amendments introduced by Decree-Law no. 249/2001, of September 21, establishes the general conditions for exploiting public telecommunications networks in the national territory aiming an open network provision, including the supply of leased lines.

One of the fundamental aspects of this diploma is the determination and declaration of operators with significant market power in the leased lines market, which become subject to the different types of obligations contained in the Regulations for the Exploitation of Public Telecommunication Network.

2. Pursuant to no. 1 of article 21 of the Regulations for the Exploitation of Public Telecommunication Network, it is the responsibility of Autoridade Nacional de Comunicações (ANACOM), after a prior opinion to be delivered by the Directorate-General for Trade and Competition (DGCC), to determine, declare and publish every year the list of public telecommunications network operators that have significant market power in the leased lines market.
3. Operators with significant market power shall be presumed to be those that comply with the primary criteria contained in number 2 of article 21 of the Regulations for the Exploitation of Public Telecommunication Network, without prejudice to the terms of no. 1 of the above-mentioned regulation.

ANACOM shall evaluate the market power of a certain operator taking into account the following criteria: (a) capacity of influencing the leased lines market conditions (b) the amount of sales comparing to the market size; (c) control of access means to end users; (d) access capacity to financial resources; (e) experience in terms of product and services supply in the market.

In addition, pursuant to no. 6 of article 21 of the Regulations for the Exploitation of Public Telecommunication Networks, two or more companies that operate in a concerted manner in a telecommunications market or a group of companies that, although legally distinct, have interdependence or subordination ties, may be considered as having significant market power.

4. It is considered that, in principle, there are no reasons to adopt a methodology significantly different from the one adopted in the previous notice.
5. Thus, in order to determine the relevant market, the several types of offered lines were considered, including the ones resulting from satellite networks operations in the whole national territory (including sections of international circuits installed in Portugal).
6. Taking into account the available information and, in accordance with the document of the European Commission on the “determination of organisations with significant market power for implementation of the ONP directives” of 99/03/01, market-shares of each operator were calculated based on the global volume of the proceeds resulting from leased lines.

In order to evaluate market power of operators with a market-share compatible with an entity classification holding significant market power, the criteria established in no. 5 of article 21 of the Regulations for the Exploitation of Public Telecommunications Networks were also considered.

7. Taking into account the above-mentioned criteria, PT Comunicações, S.A. is declared operator with significant market power in the leased lines market.
8. ANACOM will continue to investigate the activity of PT Prime, taking into account the relationships existing in PT Group and the possible existence of concerted operation with PTC.