

<http://www.anacom.pt/template31.jsp?categoryId=238643>

Determination of 22.3.2007

DECISION ON CONDITIONS FOR THE PROVISION OF BUNDLED NETWORK LINE AND TRAFFIC OFFERS BY COMPANIES OF THE PT GROUP

I – FRAMEWORK

1. 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.
2. On 29/04/05⁶, 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 being bound to submit a Reference Proposal to ICP – ANACOM.
3. PT Comunicações, S.A. (PTC) sent ICP-ANACOM, on 01/06/05, version 1.00 of the Reference Proposal, which was silent on a number of issues, regarding which PTC requested some clarifications. In that connection, ICP-ANACOM ratified on 08/06/05⁷ the amendments to Determination of 29/04/05, and PTC submitted, on 15/06/05, version 1.01 of the Reference Proposal. ICP-ANACOM approved, by determination of 14/12/05⁸, the amendments to be introduced in the Reference Proposal, having version 1.1 thereof been published on 09/01/06.
4. PTC has since amended the Reference Proposal several times:
 - (a) version 1.2, of 06/04/06, included amendments on benefits conferred to retired people and pensioners, undue fault reports, fault management and specification and format of electronic files;

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 See <http://www.anacom.pt/template31.jsp?categoryId=215403>

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

- (b) Version 1.3, of 23/05/06 comprised amendments in the scope of the activation price, specification and format of electronic files and specification of application program interface (API);
 - (c) version 1.4, of 07/09/06, integrated changes on procedures on provision of services, management, operation and maintenance and specification and format of electronic files, thus contributing towards overcoming problems related to the simultaneous activation of the SLRO and pre-selection;
 - (d) Version 1.5, of 29/09/06, included, in particular, procedures for billing undue fault reports and changes in the specification and format of electronic files and API specification;
 - (e) version 1.6, of 18/10/06, comprised amendments to procedures on provision of services as regards the temporary suspension of the service and SLRO suspension for subscriber payment default;
 - (f) version 1.7, of 13/11/06, included, in particular, amendments to procedures on provision of services, specification and format of electronic files and API specification, and the possibility of simultaneous activation of the SLRO and pre-selection or broadband internet access; and
 - (g) Version 1.8, of 02/01/07, was related, in particular, to changes on procedures on provision of services as regards SLRO suspension for subscriber payment default and format of electronic files.
5. It should be stressed that, pursuant to Determination of 14/12/05, on conditions for the provision of bundled network line and traffic offers by companies of the PT Group, these companies may not provide retail offers which bundle access and telephone traffic at a single price unless three cumulative requirements are met:
- (a) Effective provision by companies of the PT Group of basic and primary rate ISDN (integrated services digital network) accesses, in addition to analogue accesses, in the scope of the SLRO;
 - (b) 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
 - (c) Effective and efficient deployment of the SLRO by companies of the PT Group.
6. Under this Determination also, the last requirement is deemed fulfilled where there are at the least 150,000 equivalent analogue loops with an activated SLRO, excluding activations of companies of the PT Group. If this target was not met, ICP-

ANACOM would reassess the conditions associated to the provision by companies of the PT Group of retail offers which bundled access and telephone traffic, in order to assess if the absence of the minimum number of activated SLRO accesses was a result of possible suboptimal performance on the part of the companies of the PT Group as regards the deployment of the SLRO. If it was deemed that the situation under consideration was due to inadequate performance on the part the companies of the PT Group, the latter would be prevented from providing retail offers bundling access and telephone traffic. In the opposite case, ICP-ANACOM would not oppose to the provision of retail offers bundling access and telephone traffic, insofar as the regulatory framework in force was complied with.

7. In order to assess whether the absence of the minimum number of SLRO accesses arose from a suboptimal performance on the part of the companies of the PT Group as regards the deployment of the SLRO, the mentioned determination of 14/12/05 referred that ICP-ANACOM would take under consideration, in particular, the following elements:
 - (a) Monthly report submitted by companies of the PT Group and beneficiaries, with achieved levels parameters of quality of service (PQS) defined in the Reference Proposal;
 - (b) Information on SLRO accesses, to be submitted by companies of the PT Group and by beneficiaries;
 - (c) Conditions associated to the SLRO demand, including the investment engaged by beneficiaries in alternative or complementary accesses to the SLRO;
 - (d) Monthly report to be submitted compulsorily by companies of the PT Group, and optionally by beneficiaries, on the current state of general conditions and progress verified in the SLRO deployment.

II – ASSESSMENT

8. In compliance with the above, the assessment of conditions for the provision of bundled network line and traffic offers by companies of the PT Group will focus on the fulfilment of the following requirements:
 - (a) Effective provision by companies of the PT Group of basic and primary rate ISDN accesses (in addition to analogue accesses) for activation of the SLRO;
 - (b) 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
 - (c) Effective and efficient deployment of the SLRO by companies of the PT Group.

II.A INCLUSION OF ISDN ACCESSSES IN THE SLRO

9. By determination of 15/03/07⁹, approval was granted to the conditions for the inclusion of ISDN accesses in the SLRO Reference Proposal, according to which companies of the PT Group were bound to amend the SLRO Reference Proposal, within ten working days, under the terms of that determination.

II.B BILLING AND COLLECTION OF RETAIL SERVICES PROVIDED OVER SLRO ACCESSSES

II.B.1 APPLICABLE PRICE

10. ICP-ANACOM has stressed¹⁰ that, although most SLRO subscribers will not require more than a single bill, in some cases this may not be true, as there may situations where companies of the PT Group do not require of beneficiaries that they bill and collect other services, besides access, comprised by the SLRO, and in some situations, there may not be an agreement between beneficiaries and companies outside the PT Group that provide services not comprised by the SLRO.
11. According to available information¹¹:
 - a) PTC referred that, on 02/10/06, it had accepted a proposal from Sonaecom SGPS, S.A. (Sonaecom) (3,74 Euro cents per call for metered services and 3% of billed value in other cases), the amount of 3,74 Euro cents being consistent with the amount defined in interconnection agreements known to ICP-ANACOM, concluded between PTC and some operators;
 - b) Sonaecom referred on 02/03/07 that the price agreed with PTC concerned the billing and collection service and did not include the risk of non-recovery;
 - c) PTC mentioned that it had notified OniTelecom, on 18/10/06, of the conditions agreed with a beneficiary on the billing and collection of retail services provided by PTC in accesses with an activated SLRO, having OniTelecom requested of ICP-ANACOM, on 27/07/06, that the Authority determined objectively a reasonable billing and collection price, and referred, on 28/02/07, that the price proposed by PTC could be accepted as such, insofar as an amount was established for the risk of non-recovery;

⁹ See <http://www.anacom.pt/template31.jsp?categoryId=238042>.

¹⁰ See public consultation on SLRO, approved by determination of 24/07/03 (see <http://www.anacom.pt/template31.jsp?categoryId=214785>) and consultation report on minimum elements to be included on the Reference Proposal and specifications that apply to beneficiaries (see http://www.anacom.pt/streaming/relatorio.ora29.4.05.pdf?categoryId=150162&contentId=270845&field=ATTACHED_FILE)

¹¹ According to PTC, beneficiaries were made aware on 13/03/06 of the information conveyance specification in the scope of the retail services billing and collection service provided by the beneficiary. Given the relevance of this information, failure to provide it may have prevented beneficiaries from fully defining conditions that apply to their billing and collection services of retail services provided in SLRO accesses, thus delaying an agreement on this matter.

d) on 08/11/06, PTC mentioned that, on 19/10/06, it had notified AR Telecom – Acessos e Redes de Telecomunicações, S.A. (AR Telecom), G9SA – Telecomunicações, S.A. (G9SA) and PT Prime – Soluções Empresariais de Telecomunicações e Sistemas, S.A. (PT Prime) of the conditions agreed with a beneficiary on the billing and collection of retail services provided by PTC in accesses with an activated SLRO, and that PT Prime had not objected to the proposal, although it had made the acceptance thereof subject to the acceptance by PTC of reciprocal conditions; and

e) Tele2 considered that, before the third quarter of 2006, it would not be able to bill and collect PTC retail services provided over SLRO accesses, although it aimed to do so, having PTC referred, on 08/11/06, that it had notified Tele2, on 19/10/06, of the conditions agreed with a beneficiary on this matter.

12. The amount of 3.74 Euro cents per call (no VAT included) charged for the billing and collection of all metered services provided by companies of the PT Group, or by other companies in case the services are billed and collected by companies of the PT Group, is consistent with the amount defined in interconnection agreements known to ICP-ANACOM, concluded between PTC and some operators.
13. It is also noted that the price defined in interconnection agreements concluded between PTC and some operators, of 3.74 Euro cents per call (no VAT included), for metered services defined in the RIO, already comprises a component related to the risk of non-recovery, in the same way as PTC's billing and collection prices.
14. It should also be referred, in this context, that costs connected to the risk of non-recovery are likely to be less significant, as the SLRO may be suspended on the grounds of subscriber payment default.
15. In the light of the above, it is deemed that for metered services provided on SLRO accesses, by companies of the PT Group, or by other companies in case the services are billed and collected by companies of the PT Group, an amount with a value equal to or greater than 3.74 Euro cents per call (no VAT included), including the risk of non-recovery, is reasonable.
16. As regards the billing and collection for non-metered services, it is deemed that a price equal to or greater than 3% of the invoice value, including the risk of non-recovery, is reasonable, a minimum value of 3.74 cents (no VAT included) being ensured at all times for each invoiced item (so as to guarantee that billing and collection costs are covered).
17. In any case, ICP-ANACOM is entitled to reassess, where appropriate, within a six-month period, the referred conditions, where PTC and other operators submit concrete and objective data on this matter, especially as regards involved costs and levels of bad debts.

II.B.2 FORMAT OF INFORMATION

18. On 15/03/06, PTC informed that on 13/03/06 it had disclosed to beneficiaries the specification of the interface for exchange of information necessary for the billing and collection of retail services provided by PTC¹², which provided, among other aspects, that companies of the PT Group supplied beneficiaries with billing information for a given month up to the tenth day of the second month following the month under consideration, having these beneficiaries referred on 26/05/06 that they were considering the specification, without prejudice to their understanding that it would be unfeasible for PTC to supply them with billing information for a given month up to the tenth day of the second month following the month under consideration.
19. In this regard, PTC, on 16/08/06, informed that, on 20/07/06 and 21/07/06, it had proposed to beneficiaries the supply of billing information for a given month on the day that corresponded to the end of the subscriber invoice cycle of the month following the month under consideration. This proposal had been accepted by some beneficiaries, whereas others had requested clarifications thereon. OniTelecom, on 14/09/06 referred that it awaited for clarifications from PTC on procedures for exchange of billing information, however it did not deem reasonable a proposal submitted by that company, according to which the incumbent operator was entitled, on an exceptional basis, to convey information under consideration to beneficiaries within at the most six months, when the maximum time limit, general rule, was thirty five days. PTC informed, on 19/12/06, that operation procedures for the supply of billing information were concluded.
20. The Reference Proposal provides currently that “PT shall supply the beneficiary with the relevant billing elements, within thirty days at the most, the beneficiary being bound to use these elements for billing and collection purposes only, and expressly prohibited from using such elements for any other purpose” (pp.12/119) and that “billing elements shall be submitted by PT by the end of the month following the month for which the services provided in the scope of the SLRO are concerned. The billing shall be carried out on a monthly basis, and billed data corresponds to the period between 00:00 of the first day of each month and 24:00 of the last day of each month” (pp.68/119).
21. It is thus desirable, taking into account the agreement referred by PTC, concluded between itself and some beneficiaries, that companies of the PT Group and beneficiaries continue to cooperate so as to swiftly and effectively define the applicable technical requirements as regards the format for information conveyance in the scope of billing and collection services provided by beneficiaries of retail

¹² It should be highlighted that Novis, on 14/03/06, informed that on 09/01/06 it had questioned PTC on the format of information to be conveyed in the scope of the billing and collection service for retail services provided by companies of the PT Group, or by other companies in case the services are billed and collected by companies of the PT Group, in SLRO accesses. According to Novis, this information was crucial to define the price of the service under consideration, as costs attached to the service depended directly on the format of information conveyance.

services provided by companies of the PT Group, or by other companies in case the services are billed and collected by companies of the PT Group, in SLRO accesses. As regards specific dates for submitting necessary data to bill and collect monthly charges and services comprised in the SLRO, it is desirable that PTC and beneficiaries reach an agreement on this issue, and it is deemed that the terms of this agreement must be included in the Reference Proposal. Under no circumstances – although situations of traffic recovery are likely to be very irregular and potential, thus having an exceptional nature - does a six month delay seem reasonable.

II.B.3 BILLING OF THE SUBSCRIBER LINE RESALE ON THE MONTH THE SLRO IS ACTIVATED

22. PTC referred, on 16/08/06, that the company usually bills every month the subscriber line resale for that month, and consequently, if the SLRO activation took place after the end of the billing cycle, the subscriber line resale would be billed twice (by PTC and by the beneficiary) on the month the SLRO was activated. In these situations, PTC would give back the amount of the subscriber line resale that was billed twice in the month following the month of the SLRO activation. This company referred also that it was in the process of analyzing other solutions, so as to prevent or minimize the adverse effects for subscribers, having stressed that consideration should be given to: (i) the effects of those solutions, resulting from the number of subscribers and the alteration of billing rules; and (ii) the technical feasibility. According to that operator also, the procedure provided for the SLRO is similar to the ones provided for the network line deactivation, namely in the scope of the local loop unbundling offer (LLU).
23. On 14/11/06, PTC, following a request from ICP-ANACOM, referred that the retail billing for the fixed telephone service (FTS) would be carried out based on ten billing cycles (one cycle every three days), and that, in the scope of the SLRO, normal time periods between the reception of subscriber data for each billing cycle and the sending of corresponding bills would be as follows: (i) zero days, when the SLRO is activated previously to the billing cycle; (ii) between one and thirty days, when the SLRO activation takes place after the billing cycle has started and the date this activation takes effect concerns the month it takes place; and (iii) more than thirty days, when the SLRO activation date takes place after the billing cycle has started and the date of effect concerns previous months (these cases are sporadic and due to problems related to information systems and SLRO activations with previous date of effect).
24. As the situation in (iii) above is likely to induce disturbances to beneficiaries and confusion to the respective customers, PTC must take all necessary measures to prevent and correct it.
25. On 14/11/06, PTC referred that the maximum time limit that had elapsed between the reception of subscriber data for each billing cycle and the sending of corresponding bills for October 2006, for 95% of cases, was twenty nine days (that is, twenty one working days).

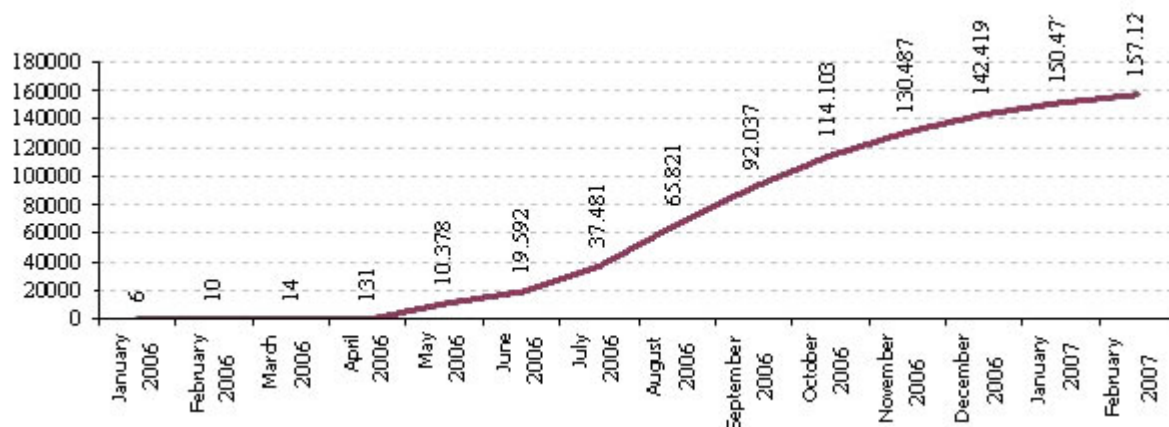
26. It is acknowledged that PTC, given the existence of several billing cycles, is not always able to prevent a double billing of the subscriber line resale (one by PT and the other by the beneficiary) on the month the SLRO is activated, thus ICP-ANACOM shall monitor measures implemented by PTC, and if necessary, shall act in this context, without prejudice to the fact that, from the outset, it does not deem reasonable that the same subscriber is made subject to the “double billing” situation for more than one month.

II.C EFFECTIVE AND EFFICIENT SLRO IMPLEMENTATION BY COMPANIES OF THE PT GROUP

II.C.1 AMOUNT OF ACTIVATED SLRO ACCESSES

27. By the end of February 2007, there were 157.124 SLRO accesses, excluding activations of companies of the PT Group (there was a total of 157.125 SLRO accesses), thus outgrowing the 150.000 equivalent analogue loops with activated SLRO, excluding activations of companies of the PT Group, provided for in Determination of 14/12/05, on conditions for the provision of bundled network line and traffic offerings by companies of the PT Group. This amount is thus considerably lower than the expected demand, which, according to PTC, on 01/06/05, corresponded to all pre-selection users. In this context, it should be highlighted that: (i) the number of SLRO activation requests has increased considerably since April 2006, as evidenced by the graphic below, and (ii) the number of SLRO deactivations has increased significantly between December 2006 and February 2007.

Graphic 1. Data submitted by PTC on analogue accesses with activated SLRO, excluding activations of companies of the PT Group.



Source: PTC

28. Having ICP-ANACOM determined, in the referred determination of 14/12/05, that the SLRO would be deemed to be completely and effectively deployed where the number of activated SLRO accesses was at the least 150.000 in equivalent analogue loops, excluding activations performed by PT Group companies, it is thus concluded

that this condition has been fulfilled, and that companies of the PT Group have completely and effectively deployed the SLRO.

29. This conclusion is without prejudice, nevertheless, to the progressive improvement of the offer, taking into account market evolution and dynamics, experience gained and end-users needs. In this context, some factors that may contribute towards the progressive improvement of the SLRO are analysed below.

II.C.2 OTHER FACTORS THAT MAY CONTRIBUTE TOWARDS THE PROGRESSIVE IMPROVEMENT OF THE SLRO

30. The important restraining factors in the evolution of the SLRO implementation which have been presented above (without prejudice to other which are discussed below) are:
 - a) failure on the part of most beneficiaries to present forecast plans concerning the number of SLRO accesses (according to information provided by PTC, only Tele2 had provided that operator with the plan in consideration, but other beneficiaries had a negligible weight of SLRO accesses or waited for the definition of conditions, namely as regards the billing and collection services of retail services provided by companies of the PT Group, or by other companies in case the services are billed and collected by companies of the PT Group, in activated SLRO accesses, such conditions being deemed crucial to plan and forecast their SLRO subscription, a situation deemed to be reasonable); and
 - b) absence of agreements between PTC and beneficiaries on conditions that apply to the billing and collection services of retail services provided by companies of the PT Group, or by other companies in case the services are billed and collected by companies of the PT Group, in SLRO accesses.
31. It should be stressed that, according to data submitted by PTC on 19/12/06, no operator had submitted any forecast in the scope of SLRO for 2007, this data being important for the compliance with levels of service.
32. Under the Reference Proposal, when, for a given subscriber line, more than one entity requests the SLRO activation, PTC shall satisfy the application submitted by the beneficiary the subscriber first approached. In this context, the Reference Proposal defines a five-day period during which all subsequent applications in the scope of the SLRO are rejected, and following which the SLRO shall be implemented in the access under consideration; a subsequent application for SLRO activation, alteration or termination shall launch a new procedure.
33. Taking into account the evolution of the offer and needs of end users and beneficiaries, it is reasonable to admit a parallel evolution of conditions provided for in the Reference Proposal. In this context, it is considered that the predictability and effectiveness of the offer operation and the market would not be affected by the reduction of the period during which all subsequent SLRO requests are rejected, as regards SLRO deactivation requests on the part of beneficiaries, as it is deemed that this alteration will have a positive effect on the SLRO development, as it will speed

up the SLRO termination procedure and a possible SLRO activation by another beneficiary, thus meeting the subscriber's wishes.

34. It is thus recommended that companies of the PT Group alter their systems and procedures within a three month time limit, so that the referred period during which all subsequent SLRO requests are rejected (and following which the SLRO shall be implemented in the access under consideration, a subsequent application for SLRO activation, alteration or termination launching a new procedure) – comprising not only SLRO deactivation requests but also applications for subscriber line resale offer, change of beneficiary and alteration of services – is reduced to three working days.
35. In specific cases where SLRO deactivation requests are presented by beneficiaries for their own accesses with activated SLRO, PTC must implement the alteration referred in version 1.7 of the Reference Proposal, that is, to totally eliminate the application of the referred five-working-day period.

II.C.2.1 LEVELS OF QUALITY OF SERVICE

36. There are several inaccuracies in the statistical information on SLRO submitted by PTC to ICP-ANACOM¹³, which is summarized in the following table. This could mean a possible fault in resources based on which the information is provided, situation that, if verified, will not contribute towards the efficient and effective SLRO deployment by companies of the PT Group. To avoid these inaccuracies, PTC requested an extension of the time limit to send statistical information on SLRO up to the fifteenth working day of the month following the month the information concerns. This is not deemed reasonable, on account of: (i) the need for a close supervision by ICP-ANACOM of the SLRO implementation; and (ii) experience gained by PTC, through the preparation of fourteen reports with statistical information on SLRO. In all events, it should be stated that the quality of statistical SLRO information submitted by PTC to ICP-ANACOM has improved more recently.

¹³ PTC corrected several times the statistical information on SLRO submitted to ICP-ANACOM, namely information for: (i) January 2006 was corrected on 20/04/06; (ii) February 2006 was corrected on 20/04/06 and 05/05/06; (iii) March 2006 was corrected on 18/04/06 and 05/05/06; (iv) May 2006 was corrected on 19/06/06, 20/06/06 (twice) and 14/11/06; (v) June 2006 was corrected on 23/08/06 and 14/11/06; (vi) July 2006 was corrected in 23/08/06 and 14/11/06; (vii) August 2006 was corrected on 14/11/06; and (viii) September 2006 was corrected on 14/11/06. These corrections were due to calculation and measurement errors made by PTC, namely as regards: (i) PQS levels achieved; (ii) number of SLRO activation applications; and (iii) number of analogue accesses with activated SLRO.

Table 1. Information submitted by PTC on achieved PQS total levels

	Monthly target	01/06	02/06	03/06	04/06	05/06	06/06	07/06	08/06	09/06	10/06	11/06	12/06	01/07	02/07
(PQS1) (a)	48 h	(h)	(h)	(h)	(h)	5,4 h	70,8 h	49,2 h	45,7 h	42,2 h	66,9 h	147,8 h	200,2 h	79,7h	94,2h
(PQS2) (b)	16%	(h)	(h)	(h)	(h)	0,06%	1,15%	1%	0,85%	1,20%	1,44%	0,85%	1,06%	0,75%	0,75%
(PQS3) (c)	0,8‰	(h)	(h)	(h)	(h)	(h)	(h)	735,2 ‰	(h)	(h)	(h)	(h)	(h)	(h)	(h)
(PQS4) (d)	5 w.d. ⁽ⁱ⁾	1 w.d.	2 w.d.	3 w.d.	2 w.d.	3 w.d.	1 w.d.	4 w.d.	5 w.d.	1 w.d.	2 w.d.	1 w.d.	2 w.d.	2 w.d.	2 w.d.
(PQS5) ⁽ⁱ⁾ (e)	10 w.d.	(h)	0 w.d.	0 w.d.	0 w.d.	0 w.d.	0 w.d.	0 w.d.	0 w.d.	0 w.d.	0 w.d.	0 w.d.	0 w.d.	0 w.d.	0
(PQS6) (f)	30 w.d.	(h)	(h)	(h)	(h)	(h)	(h)	12 w.d.	(h)	(h)	(h)	(h)	(h)	(h)	(h)
(PQS7) (g)	99,5%	100%	100%	100%	100%	100%	99,98% ^(g)	99,99%	99,99%	99,99%	99,98%	99,96%	99,94 %	99,98 %	99,98 %

Source: PTC

(a) “Fault repair time”

(b) “Fault rate per access line”

(c) “Bill correctness complaints”

(d) “Deadline for meeting requests for SLRO activation, alteration or termination”

(e) “Period of time for submitting the necessary data to bill and collect the monthly charge and comprised services”

(f) “Response time for claiming bills”

(g) “Subscriber line availability degree”

(h) No registered events

(i) PTC referred that it had not yet agreed specific dates with beneficiaries for the conveyance of data necessary to bill and collect the SLRO monthly charges and services, having sent them by the end of the month following the month they concern. Thus, PTC considered that the date agreed with beneficiaries for the conveyance of data necessary to bill and collect the SLRO monthly charges and services corresponded to the end of the month following the month they concern, thus information concerns the previous month. It should be noted that PTC informed it had disclosed, on 13/03/06, to all beneficiaries the specification for the conveyance of data in the scope of the retail service billing and collection service provided by the beneficiary.

^(j) w.d. – working days

- “Fault repair time”¹⁴ (PQS1)

37. According to the information submitted by PTC, the performance target that applies to “fault repair time” (PQS1) was not met in June and July 2006 and between October 2006 and February 2007. The achieved level, in fact, worsened significantly between October and December 2006.

38. Without prejudice to the payment of penalties to beneficiaries, resulting from the non-compliance with target levels established for PQS1, ICP-ANACOM notes with concern the levels achieved by PTC, which must improve in the future.

¹⁴ Reference Proposal definition: “Time, measured in consecutive hours, from the instant a valid fault is reported by the Beneficiary to PT to the instant where the service has been restored to full normal working order. This parameter refers to the worse record for the best 95% of observations.”

- *“Bill correctness complaints”¹⁵ (PQS3)*
39. PTC referred that situations of “bill correctness complaints” (PQS3) took place in July 2006 only, and concerning one beneficiary only, in this case the performance target applicable to the PQS not having been met.
40. On the other hand, another beneficiary deemed that PTC had not met the performance target applicable to “bill correctness complaints” (PQS3) between May and November 2006. This beneficiary referred that some of these situations resulted from inaccuracies on the part of PTC as regards the date of SLRO activation in some accesses and the amount billed for this services, which did not reflect the reduction in the pre-selection activation price.
- *“Deadline for meeting requests for SLRO activation, alteration or termination”¹⁶ (PQS4)*
41. As regards the “deadline for meeting requests for SLRO activation, alteration or termination” (PQS4), according to Tele2, PTC never met the applicable performance target, contrary to claims by PTC. According to OniTelecom, the “deadline for meeting requests for SLRO activation, alteration or termination” (PQS4) was met only in October 2006 and as from December 2006, inclusive.
42. Having PTC referred that the performance target that applies to the “deadline for meeting requests for SLRO activation, alteration or termination” (PQS4) is not consistent with the deadline for meeting requests for pre-selection activation, it should be referred that, contrary to what this operator states, the last deadline is of five days, as established in the Selection and Pre-selection Regulation, approved by determination of 14/12/05, thus the argument presented by PTC should be dismissed.
- *“Period of time for submitting the necessary data to bill and collect the monthly charge and comprised services”¹⁷ (PQS5)*
43. As regards the “period of time for submitting the necessary data to bill and collect the monthly charge and comprised services” (PQS5), pursuant to Determination of 29/04/05, the companies of the PT Group must provide at the most every thirty days, all relevant information to bill and collect the monthly charge and services comprised in the SLRO.
44. In all events, the companies of the PT Group and beneficiaries must agree on specific dates to convey the necessary data to bill and collect the monthly charge and services

¹⁵ Reference Proposal definition: “Number of SLRO accesses, the billing of which was claimed by the Beneficiary, on account of its disagreement with amounts debited or variables that influence such amount, per 1000 accesses relatively to the number of SLRO accesses for which the Beneficiary is billed”.

¹⁶ Reference Proposal definition: “Time, measured in working days, from the instant PT receives a valid electronic application for activation, Beneficiary alteration or SLRO termination, to the instant the request is effectively met, for 100% of observations”.

¹⁷ Reference Proposal definition: “Time, measured in working days, from the date agreed with the Beneficiary for conveyance of the necessary data to bill and collect the monthly charge and comprised services up to the date such data is effectively conveyed”.

comprised in the SLRO, in compliance with the definition of “period of time for submitting the necessary data to bill and collect the monthly charge and comprised services” (PQS5) comprised in Determination of 29/04/05. It should be stressed that, in the absence of such an agreement, PTC informed it has been sending data under consideration by the end of the month following the month they concern, and has considered this time limit for PQS5 calculation purposes.

- *“Fault rate per access line”¹⁸(PQS2), “response time for claiming bills”¹⁹(PQS6) and “subscriber line availability degree”²⁰ (PQS7)*

45. According to PTC, the performance targets that apply to “fault rate per access line” (PQS2), “response time for claiming bills” (PQS6) and “subscriber line availability degree” (PQS7) had been complied for all registered reports.

II.C.2.2 EXCHANGE OF INFORMATION ON APPLICATIONS, NOTIFICATIONS AND CONSULTATIONS

46. Since version 1.1 of the Reference Proposal, dated 09/01/06, PTC has referred that, in alternative to the exchange of SLRO information through files, an API had been made available, the specification of which could be provided to beneficiaries upon request from the latter.
47. On 15/03/06, PTC referred that, on 13/03/06, it had provided AR Telecom, Colt Telecom – Serviços de Telecomunicações, Unipessoal, Lda. (Colt), Novis, OniTelecom and Nortenet – Sistemas de Comunicação, S.A. the interface for the SLRO information exchange necessary to bill and collect retail services provided by PTC, as well as the respective specification, thus meeting the corresponding solicitations from beneficiaries. According to PTC, AR Telecom, Novis and OniTelecom raised some questions of the matter, and PTC replied on 13/03/06 to OniTelecom and Novis.
48. Without prejudice, PTC, on 14/06/06, referred also that there were ongoing improvements as regards procedures for handling and treating the exchange of SLRO information through files. In particular, on 14/09/06, PTC informed that alterations had been included in these procedures so as to ensure files were sequential and not duplicated, as well as to improve their formatting validation.
49. On 15/01/07, PTC referred that beneficiaries had continued to send SLRO activation requests through files and had not yet implemented the API information exchange system. The incumbent operator referred also, on 14/03/07, that Novis had

¹⁸ Reference Proposal definition: “Number of valid fault reports made by the beneficiary to the services of PT, for reasons of disrupted or degraded service attributable to the network of PT or any interconnected public network involved in eligible communications for purposes of parameter calculation”.

¹⁹ Reference Proposal definition: “Time, measured in working days, from the instant PT receives from the Beneficiary a claim deemed justified on the bill’s inaccuracy, to the instant it sends the Beneficiary the correct information, so that the latter may bill the subscriber, referring to the worse record for the best 95% of observations.

²⁰ Reference Proposal definition: “Rate of available hours (in functioning conditions) relatively to the potential number of operating hours of the average access base subject to the SLRO”.

successfully concluded on 06/03/07 API tests, and that this beneficiary expects to start using it shortly.

50. According to PTC, API is an application that constantly evolves, by nature, namely based on experience gained through its own use and consequent comments from beneficiaries. Without prejudice, it is deemed that PTC should prepare a time schedule with the main future developments of the application under consideration, which would be useful to plan beneficiary activities.
51. Version 1.7 of the Reference Proposal comprised amendments to specification and format of electronic files and API specification, so as to update them based on SLRO new features, in particular, the suspension of the service for subscriber payment default and temporary service suspension.
52. APRITEL, on 21/11/06, considered that beneficiaries, just as PTC, should be able to provide a prompt response to questions put forward by subscribers on the state of reported faults. This would be achieved through an API for the exchange of information on faults reported in the scope of the SLRO. The construction of the API could be based on experience gained with work developed with a similar API in the scope of the LLU.
53. According to APRITEL, the API available in the scope of the SLRO should also include the exchange of information on the temporary suspension of the service.
54. That entity deemed that, for operational and financial reasons and based on PTC's retail practise, the activation of supplementary services/service facilities should be requested by subscribers by telephone to customer support services of beneficiaries, as opposed to the filling in and signature of forms. In this context, this entity was also of the opinion that beneficiaries should be responsible for launching the respective activation procedure with PTC by means of files. OniTelecom, on 15/01/07, considered also that the activation of supplementary services/service facilities should be carried out through automated processes.
55. On 29/11/06, PTC informed OniTelecom that it had conferred different levels of priority to each type of application (taking into consideration the level of complexity, the practical need and the amount of requests associated to each application), and that, based on these priorities, it would review the application handling procedures and assess whether their automation is possible.
56. According to APRITEL, PTC OniTelecom and Tele2, the Reference Proposal should describe in a clear, detailed and unequivocal manner the codes attached to the rejection of SLRO activation requests²¹.

²¹ Version 1.7 of the Reference Proposal provided for the following codes attached to the rejection of SLRO activation requests: (i) "C01 – Unfilled field"; (ii) "C02 – Filed with an inaccurate number of digits"; (iii) "C03 – This is a numeric field"; (iv) "C04 – Invalid field"; (v) "S10 – Non existent FTS"; (vi) "S11 – FTS not compatible with SLRO"; (vii) "S12 – FTS not associated to the SLRO"; (viii) "S13 – Non existent SLRO"; (ix) "S14 – Service attached to a terminating SLRO"; (x) "S15 – FTS undergoing amendments"; (xi) "S16 – Associated to a service not compatible with the SLRO"; (xii) "S17 – the request

57. As the API has not been used by any beneficiary, it is not possible to assess whether it is actually reliable and effective, however it does not seem likely that the number of SLRO activation requests results from significant faults in the current system of SLRO information exchange. This system will probably improve gradually, based on gained experience. Without prejudice, it is likely that the exchange of information through the API is crucial to the SLRO success, especially when a reasonable number of SLRO accesses has been activated and when its operation has begun.
58. In this context, it would be beneficial that the exchange of information concerning fault report, temporary suspension of service and activation and deactivation of supplementary services/service facilities was done electronically (both by means of electronic files and API).
59. Moreover, it is fundamental that the Reference Proposal describes in a clear, detailed and unequivocal manner the codes attached to the rejection of SLRO activation requests, namely as far as services not compatible with the SLRO are concerned.
60. As regards documents required from subscribers for activation of supplementary services/service facilities, taking into account the necessary compliance with the obligation of non-discrimination, it is not acceptable that it is established in a different way according to whether subscribers are SLRO customers or not. Therefore, where customers in general are required to present specific documents, the same applies to SLRO customers. Where customers in general are not required to present specific documents, SLRO customers should likewise not be requested to present the corresponding documents.
61. As regards the description of services, provided by companies of the PT Group or by other companies where the services are billed and collected to customers by companies of the PT Group, it is deemed that it shall contribute towards a more effective and efficient operation of SLRO procedures, thus companies of the PT Group must submit to beneficiaries, on a monthly basis (except where no alteration has been registered relatively to the previous month), a complete and thorough list with a clear identification of all services and applicable prices as well as any pricing alterations that are implemented.

II.C.2.3 SERVICE SUSPENSION FOR SUBSCRIBER PAYMENT DEFAULT

62. Version 1.8 of the Reference Proposal provides as follows:

(a) the SLRO suspension activation and deactivation for subscriber payment default shall be carried out by companies of the PT Group within at the most five working days; and

does not alter the service”; (xiii) “S18 – The service attached to the SLRO is not owned by the Beneficiary”; (xiv) “S19 – Request for start-up/deactivation/alteration of SLRO beneficiary in course”; (xv) “S20 – Duplicated request”; (xvi) “S45 – Invalid request – access subject to temporary suspension”; (xvii) “A30 – FTS holder does not correspond to the form holder”; (xviii) “A31 – Request cancelled manually by PT”; (xix) “A32 – Cancelled on account of absence of form”; (xx) “A33 – Cancelled on account of invalid form”; and (xxi) “A34 – Cancelled by PT on account of Pre-Selection or ADSL Local Access (PT ADSL Network) activation rejection”.

(b) in the scope of the provision of this facility to the Beneficiary, the respective activation price shall correspond to the SLRO activation price.

63. The activation price that applies to the SLRO for subscriber payment default shall be non-discriminatory and cost-orientated.
64. As regards the cost-orientation of prices, it is deemed reasonable that the activation price that applies to the SLRO for subscriber payment default corresponds to the current pre-selection activation price, having regard:
- (a) to the similarity of procedures, referred by PTC, between the SLRO suspension for subscriber payment default and pre-selection procedures, which, according to that operator, involve back-office to handle requests and the development of PTC's information systems;
 - (b) to the absence of an assessment of costs associated to the development of procedures and information systems intended for the inclusion of the possibility of SLRO suspension for subscriber payment default;
 - (c) to the fact that the cost accounting system does not include specific information on SLRO suspension for subscriber payment default.
65. As regards non-discrimination, it is noted that the fixed telephone service (FTS) tariff currently in force, although not providing for a price for FTS suspension for subscriber payment default, provides that, in this kind of situations, the price that applies to the reestablishment of the access under consideration is €10.47 (no VAT included), thus the price defined in the Reference Proposal (€5.10, no VAT included) is not considered discriminatory, as beneficiaries are able to apply to subscribers the same price applied by PTC when the suspension is deactivated. It should also be stressed that, in the case of SLRO suspension for subscriber payment default, PTC is entitled to receive the activation price associated to the SLRO suspension paid by the beneficiary, and must not charge any amount to subscribers or beneficiaries for the suspension deactivation, being incumbent upon the beneficiary to determinate the amount the subscriber must pay at that moment.
66. Relatively to the proposed level of service, according to PTC's general conditions for FTS provision, comprised in PTC's subscription contract for the provision of this service, approved by Determination of 08/07/05²², PTC is entitled to suspend the FTS for subscriber payment default, following a due prior notice to the subscriber, of at the least eight working days.
67. It is thus deemed reasonable that companies of the PT Group provide response to requests for activation of SLRO suspension for subscriber payment default within five working days, as this shall enable the beneficiary to provide the subscriber a prior notice of at the least eight working days, which is also the minimum time limit to which PTC is bound.

²² See <http://www.anacom.pt/template31.jsp?categoryId=207686>

68. As regards the SLRO suspension deactivation for subscriber payment default, the five-working-day time limit would be disproportionate, as the customer has already rectified the situation; it is deemed that one working day is a more reasonable time limit and more consistent with current retail practises. Taking into account likely difficulties with the immediate operation of the one working day target-time-limit, as regards the SLRO suspension deactivation for subscriber payment default, it is considered that: (i) it should be implemented within six months and (ii) within three months and up to the implementation of one working day target-time-limit, the target-time-limit shall be three working days.
69. Moreover, it is deemed reasonable that, to promote an increased effectiveness in this type of procedures, PTC must pay each beneficiary a penalty amount for each situation of non-compliance, as regards time-limits for both activation and deactivation for subscriber payment default, and it is deemed appropriate that this penalty amount corresponds to the one established for PQS4 (deadline for meeting requests for SLRO activation, alteration or termination).

II.C.2.4. TEMPORARY SUSPENSION OF SERVICE

70. On 16/08/06, PTC informed that there were [SCI] [ECI] subscribers with an activated temporary suspension of services, and around which only 1% paid for it. The company mentioned that some aspects of its retail business policy was currently under review, and in this context, it weighted [SCI] [ECI] of the temporary suspension of services.
71. ICP-ANACOM conveyed to PTC, on 04/10/06²³ its position on the temporary suspension of service, and clarified that there was no justification for the provision by PTC of a temporary service suspension at wholesale level, in the scope of the SLRO, in less favourable conditions than those that were applied at retail level. Such a practise on the part of PTC would entail a discriminatory behaviour, thus PTC should provide the temporary service suspension at wholesale level in the same conditions as those practised at retail level.
72. In particular, in the current conditions, the beneficiary must be able to request the SLRO suspension (based on an application by the subscriber), free of charge, once a year and for four months at the most (except in situations of absence of the subscriber due to civil or military service commission or employment contract, in which the suspension period corresponds to the duration of absence); during the suspension period, the payment of the SLRO monthly charge due by beneficiaries to PTC must be suspended, as is the case with PTC subscribers.
73. Version 1.6 of the Reference Proposal, of 18/10/06, included amendments to procedures on service provision as regards the temporary service suspension, so as to render them compatible with the position of ICP-ANACOM. PTC notified on 19/12/06 that version 1.7 of the Reference Proposal describes new types of request and new notifications concerning activation and termination procedures for FTS temporary suspension.

²³ See <http://www.anacom.pt/template31.jsp?categoryId=232765>

74. On 21/11/06, APRITEL referred that PTC continues to activate the temporary suspension of the service without a prior request from beneficiaries. As the Reference Proposal has laid down, the presentation of documentary evidence in the scope of the temporary suspension of the service must be carried out before the beneficiary, that is responsible for validating the required documents, which must be conveyed to the companies of the PT Group where they so request. PTC must thus take all the necessary measures to avoid situations where the procedure for temporary suspension of the service is launched by the subscriber before that company.
75. On 15/11/06, OniTelecom referred that it failed to understand why the SLRO reactivation by the end of the temporary suspension of the service took place only after the beneficiary had placed a request for this purpose, instead of being automatic. According to PTC, this situation resulted of a transitory limitation of its systems, and indeed version 1.7 of the Reference Proposal provides that, as from 11/12/06, this reactivation is to take place automatically.
76. On 29/11/06, PTC referred to OniTelecom that it intended to include improvements on the temporary suspension of the service in April 2007, and by this date it would present new features to this facility, namely as regards the level of service. OniTelecom referred on 18/12/06 that PTC had notified, on 03/11/06, that time limits considered in the scope of the SLRO were those applicable in the scope of retail services.

II.C.2.5 SLRO AND PRE-SELECTION AND/OR BROADBAND INTERNET ACCESS ACTIVATION

77. As from determination of 29/04/05, on minimum elements to be included in the Reference Proposal, as well as the specifications that apply to beneficiaries of the offer, ICP-ANACOM foresees the possibility of both the request for SLRO activation and for pre-selection activation being submitted at the same time. Accordingly, the Reference Proposal provides for this possibility, as from version 1.0. Version 1.7 of the Reference Proposal covers namely the possibility of a simultaneous activation of the SLRO and of pre-selection or of broadband Internet access.
78. On 07/09/06, PTC started to associate the requests for SLRO and pre-selection activation based only on the FTS number and, consequently, requests for SLRO activation ceased to be rejected based on the different date of request of SLRO and pre-selection activation. Moreover, on 21/11/06, PTC informed it had made available the interface for exchange of the necessary information in the scope of the SLRO to activate the SLRO and the pre-selection at the same time.
79. Following a preliminary assessment of this interface, ICP-ANACOM identified that (i) the exchange of files on success and failures would not flow from PTC to the beneficiary, but in the opposite direction; (ii) the maximum deadline for pre-selection implementation did not correspond exactly to the provisions in the Regulation on

selection and pre-selection; (iii) the providers code list did not correspond to the list of indirect access provider codes currently in force in the scope of the numbering national plan and (iv) the definition of some concepts was not clear, namely “simultaneous requests”, “overlapping requests”, “overclaims”, “customer with incompatible service”, “incompatibility with internal request made to the DAP”, “incompatibility as regards the type of service”, having been requested clarifications of PTC, on 14/12/06, as regards each of these matters.

80. Version 1.1, of 21/12/06, of the interface for exchange of the necessary information in the scope of the SLRO for simultaneous activation of the SLRO and the pre-selection service included the above-mentioned points.
81. In situations where the beneficiary provides, in the specific access, both services to which the SLRO may be associated (pre-selection service or broadband Internet service), it is considered that, even if one of these services ceases to be provided by the beneficiary, PTC may not deactivate the SLRO if the beneficiary continues to provide the other service. Thus, for a specific access, in case the service to which the SLRO is initially associated ceases to be provided by the beneficiary, and the latter continues to provide the other service, PTC may not deactivate the SLRO. Likewise, it is considered that PTC must provide in the Reference Proposal for the possibility of a simultaneous activation of the SLRO and of both pre-selection and broadband Internet access services, thus avoiding any interruption of the service in case one of the services to which the SLRO is associated ceases to be provided by the beneficiary.
82. It is not likely that the current amount of requests for SLRO activations results from significant failures in the current SLRO and pre-selection and/or broadband Internet access activation procedures. Without prejudice, it is likely that the companies of the PT Group and beneficiaries cooperate in order to make such procedures more swift and effective.
83. Having regard to the fact that, in the short term, the SLRO activation may be carried out based simultaneously on pre-selection services and broadband Internet access, beneficiaries shall pay in these circumstances, naturally, only the price for SLRO activation, together with the cost of pre-selection activation and the corresponding costs of broadband Internet access activation, in case these services are not active on the date the SLRO is activated. In case beneficiaries intend to associate additional services to an activated SLRO access, the costs concerning the inclusion of additional services in the SLRO are deemed to be negligible, and thus the definition of an additional price to be charged to beneficiaries is not justified.

II.C.2.6 FAULT REPORTS

84. APRITEL referred on 21/11/06 that procedures for filing reports used by PTC did not comply with the provisions of the Reference Proposal, and for this reason that entity considered that:

- (a) PTC should guarantee a reasonable period of time to beneficiaries from the moment it notifies them of the date scheduled for the arrival of its collaborators at subscribers' premises and this date;
- (b) PTC collaborators must contact the beneficiary in case the subscriber is not present at its premises at the time scheduled for their arrival;
- (c) beneficiaries should be able to request an alteration of the date scheduled for the arrival of PTC collaborators at subscribers' premises, without penalties, in case the request was made within twenty-four hours of the initial scheduled date; and
- (d) an online mechanism should be provided enabling beneficiaries to confirm conclusions drawn by PTC in case it decides to close fault reports where no fault is found during tests carried out.

85. As regards prices, APRITEL was of the opinion that: (i) undue fault reports should not be charged in case PTC collaborators failed to show up at subscribers' premises, contrary to the provisions of the Reference Proposal; and (ii) the wholesale price of travelling by PTC collaborators to subscribers' premises should be lower than the respective retail price.

86. It is desirable and likely that companies of the PT Group and beneficiaries continue to cooperate in order to continuously improve procedures related to fault report and management, in view of the experiences gained. Without prejudice, it should be highlighted that the period of time that may be defined between the moment PTC informs beneficiaries of the date scheduled for the arrival of its collaborators at subscribers' premises and this date must not harm the performance targets that apply to PQS included in the Reference Proposal.

87. As regards prices, it should be noted that the Reference Proposal refers prices that apply to undue fault reports (€72,40 and €41,90, respectively whether or not PTC collaborators have travelled to subscribers' premises), as from version 1.2, of 06/04/06. On 07/04/06, PTC submitted to ICP-ANACOM the grounds for such prices, which were based on the following assumptions:

- (a) A fault test that does not require travelling to subscribers' premises entails two hours of work of a technician of the class "Telecommunications electro-technician" (TEL) during peak hours;
- (b) A fault test that involves travelling to subscribers' premises entails 2,8 (3) hours (50 minutes for travelling plus 2 hours for testing the fault) of a TEL class technician during peak hours, as well as the use of a car;
- (c) The price of each hour of work of a TEL class technician during peak hours increases by [SCI] [ECI], no VAT included;
- (d) The cost of a car would be [SCI] [ECI], no VAT included; and
- (e) Common costs would correspond to 19% of labour force base costs.

88. It is considered that PTC should be compensated for all costs it would reasonably bear in the attempt to solve a fault (among which, the cost of travelling by collaborators to subscribers' premises), provided that this is compatible with non-discriminatory practises.
89. Costs associated to undue fault reports involve the following elements: (i) labour force of a TEL class technician during peak hours; (ii) time spent in travelling and testing the fault; (iii) use of a car; and (iv) allocation of commons costs.
90. The cost increase of each hour of work of a TEL class technician during peak hours is around 7% above the cost increase of each hour of work of a TEL class technician during peak hours used by PTC in the scope of the LLU, for 2002. The cost increase of each hour of work of a technician of the class "Principal Telecommunications Electro-technician" (PTE) and of a technician of the class "Graduate Advanced Technician" (GAT) used by PTC in the scope of the reference interconnection proposal (RIO) for 2006 is more than 9% than the cost increase of each hour of work of a TEL class technician during peak hours used by PTC in the scope of the LLU, for 2002. Thus, given that the relation between costs used by PTC in the scope of the SLRO and costs used by PTC in the scope of the LLU is close to the relation between costs used by PTC in the scope of the RIO for 2006 and costs used by PTC in the scope of the LLU, the cost increase of each hour of work of a TEL class technician during peak hours is deemed reasonable ([SCI] [ECI], no VAT included).
91. PTC considered that the fault test carried out by its technician would last two hours, but did not submit any clear and detailed grounds on specific procedures to be followed by the technician in the indicated period of time. Nevertheless, for calculation purposes, this information was used.
92. This entity considered also that the cost of a car would be [SCI] [ECI], no VAT included. This amount is deemed reasonable, as it is consistent with the cost of a car as mentioned in the scope of other PTC offers, namely the Reference Conduit Access Offer (RCAO).
93. According to ANACOM's view in previous occasions, it is deemed that the variation of common costs should usually reflect PTC's management policies, and not specifically costs directly incurred by PTC in providing services. In this context, it is not justifiable that beneficiaries are made subject to variations of wholesale prices for reasons exclusively related to PTC's internal management, and not for reasons resulting from market forces or service evolution. Thus, it is deemed that PTC's commons costs that are not specifically associated to service provision should not have impact on the level of prices applied by PTC. Without prejudice, it is considered that prices should include margins needed for PTC's curtailment policy.
94. PTC failed to substantiate the assumption according to which common costs correspond to 19% of labour force base costs, having only referred that this value results from expected results of its costs accounting system for 2006. As referred in previous assessments made by ICP-ANACOM, namely in the scope of alterations to

RIO 2006 and in the report of the prior hearing of the determination dated 26/05/06 on alterations to be introduced in PTC's Reference Conduit Access Offer, it is accepted, as reference, that common costs represent around 10% of direct and joint costs, the value used by PTC not being compatible with this latter value.

95. Taking this assumption into consideration, costs estimated for undue fault reports, presented in Table 2, would be [SCI] [ECI] and [SCI] [ECI], respectively whether or not PTC collaborators have travelled to subscribers' premises. Thus, the definition of cost-orientated prices implies that the travelling of PTC collaborators to subscribers' premises in the scope of the SLRO in the event of undue fault reports (difference between the price for undue fault reports whether or not PTC collaborators have travelled to subscribers' premises) would cost [SCI] [ECI], no VAT included.

Table 2. Estimate of undue fault report costs (€no VAT included) [SCI]

	Cost
Undue fault report without travelling by PTC collaborators <ul style="list-style-type: none"> - 2 hours of work of a TEL class technician - Common costs 	
Undue fault report with travelling by PTC collaborators <ul style="list-style-type: none"> - 2 hours of work of a TEL class technician - 50 minutes for travelling - Use of a car - Common costs 	

[ECI]

Source: PTC data, letter dated 07/04/06, except for level of common costs, for which 10% of direct and joint costs was considered

96. PTC's FTS tariff currently in force provides that the subscriber must pay €19,95, no VAT included, where PTC acknowledges, following the arrival of PTC collaborators at subscribers' premises, that the fault reported by the subscriber has occurred in equipment the maintenance of which is his own responsibility. The cost of undue fault report, with travelling by PTC collaborators, which is estimated based on that value (cost of undue fault report, without travelling by PTC collaborators, added to the retail price of travelling by PTC collaborators) would be [SCI] [ECI].
97. Thus, the adoption of the principle of cost-orientation of prices would lead to higher prices than those obtained based on the principle of non-discrimination, which is not reasonable. Given the above, it is deemed, as presented in Table 3, that prices for undue fault report in the scope of the SLRO, no VAT included, should only be charged in case PTC collaborators have travelled, and in this case the respective retail prices should not be exceeded. It is also considered that the referred retail price, as is the case for PTC's retail tariff, should only be applied if the reported fault takes place in equipment the maintenance of which is incumbent on the subscriber.

Table 3. Prices for undue fault reports (€no VAT included)

	PTC's FTS tariff	SLRO Reference Proposal	
		Version 1.8	ICP-ANACOM maximum price
Undue fault reports without travelling by PTC collaborators	Not applicable	41,90	0
Undue fault reports with travelling by PTC collaborators	Not applicable	72,40	0
Travelling of technical staff to subscriber's premises, at their request (in case of undue fault reports)	19,95	Not applicable	19,95

II.C.2.7 EXTERNAL CHANGES

98. On 29/11/06, PTC informed OniTelecom that the prices that applied to external changes (change of address by the subscriber) in the scope of the SLRO corresponded to the retail tariff that applies to the same service, as shown in Table 4. This seems reasonable, and PTC must include this tariff in the Reference Proposal, which is applicable in situations where a subscriber who has subscribed the SLRO changes his/her address. It should be noted that: (i) any deductions offered by PTC at retail level should apply likewise at wholesale level; and (ii) prices that apply to external changes, in addition to those that refer to analogue accesses, should comprise prices concerning ISDN accesses.
99. Given that prices that apply to changes should correspond to retail prices applicable to the same service by companies of the PT Group, the publication of such prices in the Reference Proposal would be redundant, thus is not deemed necessary. Nevertheless, PTC should clearly refer that to services under consideration apply retail prices as established in the respective tariffs, so as to promote transparency. The incumbent operator should also inform beneficiaries, within a reasonable time limit, of any tariff alterations, at retail level, with impact on prices applied at the level of the SLRO.

Table 4. Retail tariff applicable to external changes (€no VAT included)

	analogue	Price per access	
		Basic rate ISDN	Primary rate ISDN
Where the subscriber is not provided with a telephone infrastructure at the new address	Respective installation	Respective installation	Respective installation
Where the subscriber is already provided with a telephone infrastructure at the new address	35,91	74	

100. In requests for external changes, PTC must ensure to customers with active SLRO a level of quality of service which is similar at the least to the level ensured to general customers. Thus, in requests for external changes, the provision in PTC's

subscription contract²⁴ for the supply of a publicly available telephone service at a fixed location, as regards the maximum time limit for initial service startup connection, including the provision on non-compliance with the referred time-limit, may be considered as a reasonable reference for the compliance with the obligation of non-discrimination. Thus, the maximum time-limit for an external change, in the scope of the SLRO, must be fifteen working days, except where special work needs to be carried out, and the customer may demand a reduction by 50% of the amount paid for the external change, where companies of the PT Group fail to comply with this maximum time-limit, for reasons attributable to it.

III – DETERMINATION

101. Thus, taking the above into consideration, and whereas:

- (a) As regards conditions that apply to billing and collection data for retail services rendered, by companies of the PT Group, or by other companies where the services are billed and charged by companies of the PT Group, it is considered that as regards services provided on SLRO accesses, when beneficiaries bill and charge for all services rendered, by companies of the PT Group, or by other companies where the services are billed and charged by companies of the PT Group:
 - (a.1) For metered services, an amount with a value equal to or greater than 3.74 Euro cents per call (no VAT included), including the risk of non-recovery, is reasonable;
 - (a.2) For non-metered services, a price equal to or greater than 3% of the invoice value, including the risk of non-recovery, is reasonable, a minimum value of 3.74 cents (no VAT included) being ensured at all times for each invoiced item (so as to guarantee that billing and collection costs are covered);
- (b) ICP-ANACOM approved, on 15/03/07, a final determination on conditions for the inclusion of ISDN accesses in the SLRO Reference Proposal;
- (c) the Reference Proposal defines a five-day period during which all subsequent applications in the scope of the SLRO are rejected (and following which the SLRO shall be implemented in the access under consideration and a subsequent application for SLRO activation, alteration or termination shall launch a new procedure), however, taking into account the evolution of the offer and needs of end users and beneficiaries, it is reasonable to admit a parallel evolution of conditions provided for in the Reference Proposal, and thus:
 - (c1) It is recommended that companies of the PT Group alter their systems and procedures within a three month time limit, so that the referred period during which all subsequent SLRO requests are rejected (and following

²⁴ <http://www.anacom.pt/template31.jsp?categoryId=227347>

which the SLRO shall be implemented in the access under consideration, a subsequent application for SLRO activation, alteration or termination launching a new procedure) – comprising not only SLRO deactivation requests but also applications for subscriber line resale offer, change of beneficiary and alteration of services – is reduced to three working days;

- (c2) It is important that, in specific cases where SLRO deactivation requests are presented by beneficiaries for their own accesses with activated SLRO, PTC must implement the alteration referred in version 1.7 of the Reference Proposal, that is, to totally eliminate the application of the referred five-working-day period;
- (d) By the end of February 2007, there were 157.124 SLRO analogue accesses, excluding activations of companies of the PT Group, thus outgrowing the 150.000 equivalent analogue loops with activated SLRO, provided for in Determination of 14/12/05 as one of the *sine quibus non* conditions that enable the companies of the PT Group to provide offers that bundle signature and traffic;
- (e) According to PTC, the performance targets that apply to SLRO PQS were generally met, except for “fault repair time” (PQS1) which was not met in June and July 2006 and between October 2006 and February 2007 and “bill correctness complaints” (PQS3) in July 2006, without prejudice to some aspects which must be clarified as regards compliance with performance targets that apply to PQS, as there are inconsistencies, although on a lower degree (and this matter shall continue to be monitored by ICP-ANACOM): (i) at the level of information provided by PTC; and (ii) between information provided by PTC and by beneficiaries;
- (f) It is desirable, taking into account the agreement referred by PTC, concluded between itself and some beneficiaries, that companies of the PT Group and beneficiaries continue to cooperate so as to swiftly and effectively define the applicable technical requirements as regards the format for information conveyance in the scope of billing and collection services provided by beneficiaries of retail services provided by companies of the PT Group, or by other companies in case the services are billed and collected by companies of the PT Group, in SLRO accesses;
- (g) As regards specific dates for submitting necessary data to bill and collect monthly charges and services comprised in the SLRO, it is desirable that PTC and beneficiaries reach an agreement on this issue, and it is deemed that the terms of this agreement must be included in the Reference Proposal; however, under no circumstances– although situations of traffic recovery are likely to be very irregular and potential, thus having an exceptional nature - does a six month delay seem reasonable.
- (h) The implementation of the SLRO has been carried out through electronic files and the API has not been used by any beneficiary (having the incumbent

operator referred on 14/03/07, that Novis had successfully concluded API tests on 06/03/07, and that it is expected to start using it shortly) thus it is not possible to assess whether it is actually reliable and effective;

- (i) The Reference Proposal does not describe the codes attached to the rejection of SLRO activation requests;
- (j) Version 1.8 of the Reference Proposal provides that the SLRO suspension for subscriber payment default may be brought forward to 15/01/07, although between this date and April 2007, it would be incumbent upon the beneficiary to suspend access to broadband services, which it would be entitled to do as beneficiary of PTC's wholesale offer for such services;
 - (j.1) The time limit for the SLRO suspension deactivation for subscriber payment default is deemed disproportionate, as the customer has already rectified the situation;
 - (j.2.) Situations where procedures for temporary suspension are launched directly before companies of the PT Group are deemed to be unacceptable;
- (k) The simultaneous activation (i) of the SLRO and the pre-selection and (ii) of the SLRO and broadband internet access has been made available, according to PTC, as from 05/06/06;
- (l) Taking into account the necessary compliance with the non-discrimination obligation, it is not acceptable that documentary requirements for activation of supplementary services/service facilities are established in a different way according to whether subscribers are SLRO customers or not;
- (m) The description and conveyance to beneficiaries of a list of services that would be billed and charged by beneficiaries shall contribute towards a better operation of SLRO-related procedures;
- (n) It is desirable that companies of the PT Group, when the SLRO is activated, provide to beneficiaries information on supplementary services that are active in the access under consideration, based on the most recent available information, at the request of beneficiaries and with the explicit permission of the customer, within a reasonable period of time;
- (o) The Reference Proposal does not provide for the possibility of SLRO activation based simultaneously on both pre-selection and broadband Internet access services, which would avoid any interruption of the service in case one of the services to which the SLRO is associated ceases to be provided by the beneficiary;
- (p) Prices for undue fault reports must comply with the principles of cost-orientation of prices and of non-discrimination; and

- (q) PTC must ensure to customers with active SLRO a level of quality of service associated to external changes which is similar at the least to the level ensured to general customers,

The Board of Directors of ICP-ANACOM, in the scope of assignments provided for in points b), f) and h) of paragraph 1 of article 6 of its Statutes, approved by Decree-Law no. 309/2001, of 7 December, taking into consideration the regulation targets provided for in points a) of paragraph 1 and b) of paragraph 2 of article 5 of Law no. 5/2004, of 10 February, and according to paragraph 3 of article 68 of Law no. 5/2004, of 10 February, having heard interested parties, hereby determines, taking also into account the grounds included in the prior hearing report, which is deemed an integral part hereof, as follows:

1. Companies of the PT Group are entitled to provide retail offers that bundle access and telephone traffic, in so far as:
 - (i) Beneficiaries are requested (notifying ICP-ANACOM thereof) to bill and charge for all services rendered, by companies of the PT Group, or by other companies where the services are billed and charged by companies of the PT Group, on accesses with an activated SLRO, at a price equal to or greater than:
 - (a) 3.74 Euro cents per call, including the risk of non-recovery, for metered services;
 - (b) 3% of the invoice value, in all other cases, including the risk of non-recovery, a minimum value of 3.74 cents being ensured at all times for each invoiced item, including the risk of non-recovery;
 - (ii) The SLRO Reference Proposal is amended, so as to include issues determined by ICP-ANACOM in the determination of 15/03/07, on conditions for the inclusion of ISDN accesses in the SLRO Reference Proposal;
 - (iii) Offers that bundle access and telephone traffic comply with applicable obligations, especially cost-orientation of prices, non-discrimination and transparency;
2. Companies of the PT Group must amend and publish the Reference Proposal within ten working days, according to the following amendments:
 - (i) the application of a five-day period during which all subsequent applications in the scope of the SLRO are rejected (and following which the SLRO shall be implemented in the access under consideration and a subsequent application for SLRO activation, alteration or termination shall launch a new procedure), must be eliminated, in specific cases where SLRO deactivation requests are presented by beneficiaries for their own accesses with activated SLRO;

- (ii) the Reference Proposal must describe in a clear, detailed and unequivocal manner the codes attached to the rejection of SLRO activation requests, namely as far as services not compatible with the SLRO are concerned;
- (iii) The maximum time limit for SLRO suspension deactivation for subscriber payment default shall correspond to:
 - (a) One working day, within a six-month deadline, and
 - (b) Three working days, within a three-month deadline and up to the implementation of the above target time limit;
- (iv) The Reference Proposal shall provide that PTC must pay each beneficiary for each situation of non-compliance, as regards time-limits for both activation and deactivation for subscriber payment default, a penalty amount that corresponds to the one established for PQS4 (deadline for meeting requests for SLRO activation, alteration or termination);
- (v) The Reference Proposal shall provide for the possibility of SLRO activation based simultaneously on both pre-selection and broadband Internet access services, and ensure that it is maintained for as long as one of these services is activated and the customer does not state otherwise;
- (vi) Prices for undue fault report in the scope of the SLRO (no VAT included) shall not be higher than the price applied at retail level (which is currently €19,95) and shall only be charged when the following cumulative conditions are fulfilled:
 - (a) Travelling by PTC collaborators; and
 - (b) The reported fault must take place in equipment the maintenance of which is incumbent on the subscriber;
- (vii) The Reference Proposal shall provide for the possibility of the SLRO activation being carried out based simultaneously on pre-selection services and broadband Internet access, and beneficiaries shall pay in these circumstances only the price for SLRO activation, together with the cost of pre-selection activation and the corresponding costs of broadband Internet access activation, in case these services are not active on the date the SLRO is activated. In case beneficiaries intend to associate additional services to a loop in which the SLRO has been activated, no additional price shall be charged thereto;
- (viii) The Reference Proposal shall provide that where customers in general are required to present specific documents, the same applies to SLRO customers. Where customers in general are not required to present specific documents, SLRO customers should likewise not be requested to present the corresponding documents;

- (ix) The Reference Proposal shall provide that companies of the PT Group must submit to beneficiaries, on a monthly basis (except where no alteration has been registered relatively to the previous month), a complete and thorough list with a clear identification of all services billed and collected by beneficiaries and applicable prices as well as any pricing alterations that are implemented;
- (x) The Reference Proposal shall provide that prices that apply to external changes, when a subscriber who has subscribed the SLRO changes its address, should correspond to retail prices applicable to the same service, which currently in the case of analogue accesses correspond to the respective installation, where the subscriber is not provided with a telephone infrastructure at the new address, and to €35,91, no VAT included, where the subscriber is already provided with a telephone infrastructure at the new address, and it should be stressed that:
 - (a) Any deductions offered by companies of the PT Group at retail level should apply likewise at wholesale level;
 - (b) Prices that apply to external changes, in addition to those that refer to analogue accesses, should comprise prices concerning ISDN accesses;
 - (c) The Reference Proposal shall clearly provide that to services under consideration apply retail prices as established in the respective tariffs, as well as that the incumbent operator must also inform beneficiaries, within a reasonable time limit, of any tariff alterations, at retail level, with impact on prices applied at the level of the SLRO;
- (xi) The Reference Proposal shall provide that the maximum time-limit for an external change, in the scope of the SLRO, must be fifteen working days, except where special work needs to be carried out, and the customer may demand a reduction by 50% of the amount paid for the external change, where companies of the PT Group fail to comply with this maximum time-limit, for reasons attributable to it.