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Determination of 10.10.2002

ANACOM DRAFT DECISION RELATED TO CHANGES TO BE INTRODUCED IN THE DRAFT REFERENCE INTERNET ACCESS OFFER

By determination of 07/02/02, and following a prior hearing to PT Comunicações, S.A., pursuant to articles 100 and following ones of the Administrative Procedure Code, a decision regarding the evolution of the Reference Interconnection Offer (RIO) and the Reference Internet Access Offer (RIAO) was approved.

Specially, PT Comunicações, S.A. was requested to provide a RIAO evolution that would reflect the determinations of this Authority on the conditions applicable to the Internet access traffic, namely the ones approved by determinations of 21/02/01, 03/05/01, 16/05/01 and 31/07/01 and by decision of 22/08/01, except for the matter related to prices and, naturally, the transition dates into the new regime.

Consequently, PT Comunicações, S.A. submitted, on 15/03/02, a draft RIAO, that includes a revision of the interconnection price applicable to the Internet access traffic.

On 06/06/02, PT Comunicações, S.A. submitted the results of the cost accounting system for 2001, and on 11/06/02 and 23/07/02 corrected some profit and loss statements. These are the first results of the cost accounting system that allow evaluating, although with some reserves, the impact of the RIAO model.

After having analysed draft RIAO, the Board of Directors of ANACOM decided, pursuant to the provisions of paragraph 1 of article 13 of Decree-Law no. 415/98, notwithstanding the provisions contained in paragraph 2 of the above-mentioned article, to carry on prior hearing of the interested parties, in accordance with articles 100 and 101 of the Administrative Procedure Code, a deadline of 10 days being granted for those parties to submit their written statement on the Determination that they intend to adopt with the following content:

PT Comunicações, S.A. must, within 10 days, change the draft RIAO submitted to ANACOM, in order to introduce the changes referred to below:

1. INTERCONNECTION PRICES APPLICABLE TO THE INTERNET ACCESS TRAFFIC AND PRICE APPLICABLE TO THE BILLING AND COLLECTION SERVICE

The price proposal submitted by PT Comunicações, S.A. contains an increase of its average remuneration in approximately 35%, being an excessive margin not compatible with what is established in the former determinations of ANACOM on this matter, namely regarding the promotion of the access to and development of Information Society, the guarantee, with economic efficiency, of the interests of final users, pursuant to the provisions contained in article 4 of Decree-Law no. 415/98, and the specific obligations that, in accordance with article 9 of said legal diploma, fall upon the entities that have significant market power.

Within this framework, taking into account variation in demand and in costs as well as the interconnection market evolution as a whole, namely as far as the global origination economy is concerned, the interconnection prices applicable to the Internet access traffic currently in force within the scope of RIAO should be maintained.

Regarding the billing and collection service, PT Comunicações, S.A. suggested a price of 2.80 Euro cents per call, which represents an increase of about 250% as compared to the price currently in force.

Maintaining the criteria followed in the previous decision consisting in considering that PT Comunicações, S.A. should be remunerated by the increase in costs that the billing and collection activity implies, considering also that this is represented by the additional costs of billing and collecting of the Internet access service and that direct costs can be identified as the incremental costs of billing and collection, and in view of the recent data of the 2001 cost accounting system, the billing and collection price should not exceed 1.32 Euro cents per call. Thus, given the necessary gradual price evolution, and taking into account the principle of orientation to the costs, the billing and collection price to be in force as from 01/01/03 must be, at the utmost, 1.32 Euro cents per call, and the price currently in force being maintained up to said date.

2. FLAT-RATES

Although no flat rate has appeared on the retail market, there is no reason to change the conditions currently in force. Therefore, the maximum prices to be practiced in the unmetered Internet access offers regime defined by ANACOM should be maintained within the scope of the RIAO 2001 (determination of 21/02/01), notwithstanding any revision of the same, namely when information related to the service provision conditions of the same will be available, namely about the associated costs.

3. ISDN PRIMARY RATE INTERFACE

Since PT Comunicações, S.A. proposal does not meet the conditions applicable to the ISDN primary rate interface offer within the scope of the RIAO defined by this Authority, we hereby reiterate what was established in former determinations, considering that:

- a) The prices applicable to the ISDN primary rate interface used by the ISPs to interconnect its POPs to PT Comunicações, S.A.'s switches should be reduced in 20% as to the applicable retail price.
- b) The prices applicable to the ISDN primary rate interface used for enable remote POPs should, at the maximum, correspond to the prices applicable to the ISDN primary rate interface used for interconnection of the POPs to PT Comunicações, S.A.'s switches plus 20%;
- c) All the remaining conditions registered in RIAO 2001 will be maintained valid and the conditions applicable to the ISDN primary rate interface extensions should be revised as soon as the revision process of PT Comunicações, S.A.'s leased lines offer is concluded.