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Regulation Report Situation of Communications in Portugal

Foreword

It is incumbent upon ICP-Autoridade Nacional de Comunicações (ICP-ANACOM) under the terms of its statutes, approved by Decree-Law no. 309/2001 of 7 December, to submit to the Government to be likewise presented to Parliament, an annual report on its regulatory and supervisory activity, as well as on the situation of communications. The current report aims to fulfil these statutory obligations. To that end, this report is divided into two parts. Part I presents activity in the areas of the regulation of electronic communications and postal services, spectrum management, oversight, international representation activity and disclosure of the institution's activities. Part II characterises the situation of communications, describing its evolution over the course of the year in focus.

ICP-ANACOM's activity was decisively marked in 2004 by the publication on 10 February of Law no. 5/2004 (Electronic Communications Law or REGICOM), which transposed most of the directives comprising the new community regulatory framework for electronic communications.

Following the publication of REGICOM, ICP-ANACOM undertook that instrument's process of implementation and regulation, with the following activities standing out, among others: production of market analyses, which will be described later in this text; approval of the ICP-ANACOM consultation procedures; approval of the procedures to begin offering electronic communications networks and services; approval of the new National Frequency Allocation Plan (NFAP).

In the area of consumer information, and also in the scope of REGICOM, ICP-ANACOM in 2005 cemented four extremely vital measures: approval in May of the quality of service regulation for companies that provide the service of access to the public telephone network at a fixed location and publicly available telephone service at a fixed location (Regulation no. 46/2005, published in the *Diário da República* on 14 June); definition of the guidelines for minimum content in contracts to provide electronic communications services, whose draft was also approved in May; definition of the aim and form of making available to the public the conditions for the offer and use of electronic communications services, whose draft decision was presented in July; and, finally, the establishment of a tariff simulator in late July, which enables individual consumers to consult, analyse and compare the rates charged by the three mobile operators.

Special mention is due, in the year 2004 and the first half of 2005, to the production of market analyses for an extensive and wide ranging set of electronic communications markets. This activity involves three distinct phases: market definition; assessment of existing significant market power situations; and the imposition, maintenance, amendment or withdrawal of obligations. At the time of this report's presentation, this analysis had been completed for 16 of the 19 markets defined by ICP-ANACOM. Note, to that end, that Portugal is clearly well advanced in this process, when compared to the other European Union countries.

The market analysis process thus played an exceptionally relevant role in the institution's activity in 2004 and the first half of 2005. For each of the defined markets the sector regulator declared the degree and form of intervention that creates the best conditions for enhancing consumer benefits and stimulating investment and innovation by the operators. The determination of the obligations imposed by ICP-ANACOM was always done with a view to fitting the nature of the identified market fault and its proportionality, i.e., the measures chosen involved as little intervention as possible, to assure efficient correction of the market faults originating the regulatory intervention.

Some of the obligations introduced deserve special mention, due to their impact on the year 2005. Regarding the retail markets for residential customers of narrowband access to the public telephone network at a fixed location and of publicly available local and/or national telephone services supplied at a fixed location (markets 1 and 3, respectively), PT Comunicações, as the significant market operator, continued to be forced to comply with a price cap – meant to guarantee affordability in the scope of universal service – defined as CPI-2.75 percentage points (p.p.), encompassing for residential customers the installation, monthly fee and local, regional and national calls. Implementation of this price cap led to a significant drop in prices, felt as from 1 July 2005, for local, regional and national calls (of 5.9, 28.3 and 21.8 percent, respectively) and in maintaining the amounts for installation and subscription. Note that the prices charged in the markets for local and/or national telephone services for non-residential customers stopped being covered by the price cap, in so far as the expected development of competition would tend by itself to ensure affordability.

In the markets for access to the fixed telephone network by residential and non-residential customers, the obligation to introduce a subscriber line reference offer (SLRO) was introduced. It consists of a wholesale offer of the significant market power operator's right to invoice telephone line and enables beneficiary entities to provide innovative retail offers, adding value for the end user. The SLRO implementation process took place over the course of 2005 and is expected to be completed in the third quarter of the current year. The obligation to impose an interconnection flat rate offer was also imposed and for that purpose a public consultation was launched at the end of the first half of the current year; it will enable the operators competing with the Grupo PT to competitively respond to certain offers and campaigns launched by that group's companies.

By determination dated 25 February 2005, ICP-ANACOM approved the definition of the markets for voice call termination in individual mobile networks, assessment of significant market power in those markets and the imposition of obligations. According to that determination, TMN, Vodafone and Optimus hold significant market power in the markets for call termination in their individual networks. Noteworthy among the set of imposed obligations is the significant drop in termination charges – which were the highest in the entire European Union – after March 2005 and for which a gradual track has been set until October 2006.

This decision significantly effected the market. On the one hand, the reduction of fixed-mobile terminations led to lower prices for fixed-mobile calls; on the other, the drop in mobile-mobile terminations – by its magnitude and the predictability associated to the gradual reduction track – created opportunities for the development of new commercial strategies which appeared on the market at the end of the first half of 2005, characterised by price tables with no difference for on-net/off-net call charges.

ICP-ANACOM's activity in the years 2004 and 2005 was decisively marked by more intense regulatory intervention in the scope of the broadband market, especially modifications to the "PT ADSL Network" wholesale offer and local loop unbundling (LLU), and in defining the broadband markets. With its regulatory activity ICP-ANACOM aims to ensure the existence of various wholesale offers that are complementary and mutually coherent (IP, ATM and LLU), giving alternative operators the opportunity, by investing in their own infrastructure, to rise on the "investment ladder", enabling increasingly different offers to be made available to end users.

Regarding analysis of the wholesale market for broadband access, the wholesale supply of broadband access, including broadband access services supported on the public switched telephone network and in cable distribution networks, was identified as a relevant market. Standing out among the obligations imposed on the significant market power operator are the non-discrimination obligation and the price control obligation, which envisage that the "PT ADSL Network" wholesale offer should allow alternative operators to respond and compete, with a suitable return level, with the retail offers for broadband internet access offered by the Grupo PT, no matter what technology is used.

Note, finally, that in the context of analysing the market for the wholesale provision of unbundled metallic loops and sub-loops to offer broadband and voice services, the obligation to offer network access in non-discriminatory conditions, with price orientation to costs and transparency, was maintained for the Grupo PT companies, specifically including the publication of a reference unbundling offer. ICP-ANACOM's LLU interventions during 2005 basically focused on reductions in the maximum time periods for supplying loops and in prices for the services covered in that offer – but also on various aspects concerning that offer's operational conditions – seeking to ensure coherence among the conditions of the various Grupo PT wholesale and retail offers. The corresponding reference offer (RUO) was increasingly accepted by the alternative operators, with a significant rise, from the end of 2004 on, in unbundled loops and also, though only after mid-2005, in the number of operators using that offer.

According to estimates presented in this report, communications sector profits will have recorded growth of 4.5 percent in 2004, slightly more than the nominal growth in gross domestic product; in turn, and as has been occurring since 2001, total sector employment again declined, by an estimated 4.3 percent. Very substantial gains in communications sector productivity were thus verified, clearly more than those verified in the Portuguese economy as a whole.

The main trends in the sector's recent evolution accentuated in 2004: reduction of the influence of fixed telephone service, basically reflecting the process of fixed-mobile substitution; increase of mobile telephone service's influence, though at a pace clearly slower than in previous years; and finally, a very sharp rise in the use and associated revenues of broadband technologies.

There was once again a reduction in installed main telephone accesses; the fixed telephone service (FTS) penetration rate stood at 40.5 percent, about 2.5 p.p. below that verified in 2000 and about 7.5 p.p. below the European Union figure. Voice traffic again dropped, by 2.7 percent, for an accumulated drop of 18.8 percent since 2000. This reduction was spread among all traffic types, except outgoing international traffic. During the 2000-2004 period, the historic operator's market share fell by 19.2 p.p., standing at 78.1 percent in the last year. Fixed telephone service prices again recorded a reduction in real terms – nearly 12.6 percent below those practiced in 2000. In this regard, 2002 saw a new reduction in FTS revenues, estimated at 4.1 percent.

Mobile telephone service on the contrary recorded growth in the number of subscribers (6.5 percent), conversation minutes (6.4 percent) and message services. Using 2000-2004 once again as the reference period, very substantial rises were verified for the three variables studied (about 50 percent for the number of subscribers and 72 percent for conversation minutes, while the figure for message services increased five-fold). Note, however, that the high level of mobile telephone service penetration, which is above the European Union average, and the price trends indicate a resistance to major increases in "mobile voice" revenues that is already manifest in 2005.

The broadband market recorded very substantial growth in 2004, particularly in the ADSL access mode. At the end of the year there were about 858,000 broadband customers, corresponding to 70.6 percent growth since the end of 2003. The number of ADSL access customers more than doubled with respect to the previous year, accounting for about half of broadband accesses, disputing the traditional dominance of cable access. In the fourth quarter of 2004, the broadband penetration rate in Portugal, defined as being the total number of accesses divided by the resident population – stood at 8.2 percent, slightly below the recorded figure for the European Union-25 (8.4 percent).

The CTT-Correios de Portugal, S.A., signed on 20 January 2004 a new Universal Postal Service Price Convention and new Universal Postal Service Quality Convention, which will remain in effect until the end of 2005. The Quality Convention generally envisages increasingly demanding levels, especially regarding services provided to the autonomous regions; the Price Convention, which regulates and defines the rules for setting prices for the services comprising the universal postal service provided by the CTT, stipulates an annual price reduction for the reserved area of CPI-0.5 p.p.

Postal traffic was verified to have decreased by about 1.8 percent in 2004, compared to the previous year; note, however, that it stood practically even with its level in 2000. The growth in the traffic of express mail services and the traffic of postal services operated in competition merited attention.

Regarding other ICP-ANACOM intervention areas, noteworthy are the approval in June 2004 of the report from the public consultation on the manner for future action in the scope of FWA (fixed wireless access) and the subsequent December 2004 consultation, for expression of interest by the respective operators, on the areas where they wish to continue operating the service in the scope of the frequency bands for which they are authorised; in July 2004 the new prescriptions and technical specifications for telecommunications infrastructures in buildings took force, designated as the ITED Manual; also in July 2004, ICP-ANACOM approved a decision on the offer of access to the concessionaire's conduits, determining the general principles and conditions governing the access and use of conduits and associated infrastructure; and the date 1 July 2004 was finally set for the start of commercial offer of the UMTS system. Also note ICP-ANACOM's approval in September 2004, after completing the corresponding consultation procedure, of the regulation establishing the procedures for coverage and monthly delivery to municipalities of the municipal fee for rights of way (TMDP – taxa municipal de direitos de passagem) established by REGICOM (Regulation no. 38/204, published in the *Diário da República* on 29 September).

ICP-ANACOM seeks, by means of its regulatory measures, conditions for strong and sustained growth of the communications markets – in terms of revenues and in terms of the quantity of

services provided, albeit compatible with lower prices and more diversity of services – based on companies committed to investment and innovation models that bring benefits to consumers. The regulator is thus responsible for creating conditions for development of these markets, also ensuring that there is room for the entry of new operators and the appearance of new business models.

The main goal of the sector regulator is to assure – by means of regulatory measures adjusted to the situation of communications in Portugal – the best prices for consumers, high levels of quality in the services provided and, finally, a sufficiently broad range of services offered, in a context of non-exclusion. It is important to stress that some of the regulatory measures determined in 2004 have led to clear benefits for end consumers over the course of 2005, as shown above.

July 2005

Pedro Duarte Neves

Opinion of the Advisory Council

The Advisory Council is responsible for providing an opinion on the annual activities report as well as on the report envisaged in article 51.

ICP-ANACOM shall submit to the Government, to be likewise presented to Parliament, an annual report on regulation activities.

[articles: 37, par. b) and 51 of the Statutes]

I Introduction

The ICP-ANACOM Statutes stipulate that the Advisory Council is responsible for providing an opinion on the annual activities report as well as on the regulation activities report. ICP-ANACOM annually prepares only one report called the Regulation Report. As such, and in the search for a consistent and useful orientation and scope for the statutory provisions in question, it seems fitting to issue an opinion on all activity during the period of one ICP-ANACOM calendar year, whether or not involving regulation, *strictu sensu*, as may namely be the case of the regulator's action in matters involving the areas of spectrum management, electromagnetic compatibility and technical standardisation, co-operation in the overall strategic definition of telecommunications development in the context of telecommunications convergence, and definition of the policy for civil emergency planning, as well as technical representation of the State in international bodies, which are all included in the list of the regulatory authority's responsibilities but which conceptually, for one reason or another, are outside the scope of regulatory activity. In turn, regulation properly speaking covers matters such as the guaranteed provision of universal service, the proper regulatory environment for the introduction of new services or technologies, dispute settlement, operators' access to existing networks, promotion of competitiveness in the sector and competition in the offer of networks and services, public consultation processes, disclosure of the regulatory framework and, lastly, sector oversight.

With the opinion's material scope and time frame delimited, it is important to explain some relevant aspects associated to the content and meaning of same, given that the Advisory Council is by legal definition a body for consultation, support and participation in setting the guidelines for ICP-ANACOM action; the opinion is consequently addressed to the regulatory body itself, which immediately sets it apart from other control-type interventions whose aim is to pronounce on its accounts or consider its activities, such as the Audit Court or the Fiscal Council. Interventions by the Advisory Council have a function of integrating the activity undertaken by ICP-ANACOM in so far as it must participate and support definition of the guidelines, excluding the functions of financial, jurisdictional, technical or strategic control.

As the aim of regulatory activity is to open the market to competition or for market problems to be corrected, addressed to the historic operator and the entering operators, and uses competition law as the legal framework, it must be considered on the basis of the measures taken by the regulatory body and their efficiency on the conditions for the new operators' entry and permanence on the market, the quality of the services rendered, innovation and favourable price evolution. The adopted administrative procedure model should also be assessed, to examine whether the adversary principle, the intervention of all interested parties and timely decision-making are effectively ensured. As this is an independent regulatory entity, it is right that it should be held accountable, or rather, that its activity should be governed by transparency, hearings, grounding, information and rendering of accounts.

The Regulation Report must thus contain information and be organised so that its addressees can draw conclusions of correlation between the measures adopted and the progress made towards the goal of building a competitive market.

II Appreciation

The Report submitted to the Advisory Council is composed of two distinct parts: the first is titled Regulation Report and describes in a specific and detailed manner, with strict respect for the way ICP-ANACOM is organised administratively, the measures taken over the course of the year 2004, with ample reference to activities realised in 2005, which is justified by the time lapse between the end of the year in question and the time the Report was published; the second, called the Situation of Communications in Portugal, organises and publicises available statistical information on the sector, collected and compiled over the course of the year 2004.

The Advisory Council considers that the document contains information of high interest for consumers, operators and academics in general and that in its organisation and format it corresponds to the requirements set out in the ICP-ANACOM Statutes on the subject.

The substance of the Regulation Report having been analysed, same highlights what is referred to in the Foreword: regulatory activity in the year 2004 was “decisively marked by the publication on 10 February of Law no. 5/2004”, which proceeded to transpose into the national legal order the European directives comprising the current EU regulatory framework for electronic communications and all the regulatory work derived from that Law that the Regulator undertook during the same time period. This included market analyses, consultation procedures; procedures to offer networks and services and approval of the new national frequency plan, as can also be read in the Foreword. The transposition of said set of instruments has been conspicuous in ICP-ANACOM’s activity and vital for the communications market in general, as it introduces a new method of sector regulation which broadly consists of gradually replacing, as per the assessment of effective competition in the markets declared to be relevant, *a priori* regulation with *a posteriori* regulation, according to competition law and with preference, whenever possible, for regulation in the wholesale phase. ICP-ANACOM’s effort regarding transposition of the new legal system for electronic communications into the internal legal order has been noteworthy.

Next, and in the same passage from the Report, it is also stated that the year 2004 was likewise “decisively marked by more intense regulatory intervention in the scope of the *broadband market*”, followed by mention that “with its regulatory activity ICP-ANACOM aims to ensure the existence of various wholesale offers that are complementary and mutually coherent”, giving “alternative operators”, as put in the cited text, “the opportunity, by investing in their own infrastructure, to rise on the ‘investment ladder’”. The widespread introduction of broadband in Portugal is of utmost importance for development of the information society.

Those two passages stand out because they are the ones the Report itself sets out as being vital for regulatory activity during the time period in question, configuring priority actions, though this is not clearly assumed.

The report mentions some relevant indicators for the sector’s evolution such as the declining influence of fixed telephone service, the growth of mobile telephone service and the growth of the broadband market, though in the ADSL access mode.

It may also be read in the 2004 Regulation Report that communications sector profits will have “recorded growth of 4.5 percent in 2004” and that employment, in line with the trend since 2001, showed a fall of 4.3%.

However, note that although the conclusions in the Foreword, without openly assuming it as a purpose, seek to confer coherence and correspondence on the measures adopted by the regulatory body and the situation of communications in Portugal, they do not entirely do so as the activities plan does not set targets with minimum quantification and clarity, nor does the Regulation Report, with respect to the drawn conclusions, relate them to the regulatory ends shown in the activities plan for the same period of time. If there is no proposal for a relationship between targets to be reached and results achieved then the latter will always seem the work of chance and the former as mere bets. The perceptible relationship between them strengthens the transparency of Regulation activities, as it endows regulation with stability and predictability, while also contributing to the desired accountability of the Regulator.

A merely descriptive Regulation Report organised from an administrative viewpoint, no matter how exhaustively it presents the activity undertaken, may be confused with a simple yearbook. There are important questions for consumers, the ultimate reason for regulation, as well as for the operators, which should be the object of the Regulation Report. Once dealt with they would enable assessment of the activity of regulation and understanding of its meaning, with advantages for the former due to optimisation of their consumer options, and decisive for the latter vis-à-vis their business plans.

Among such matters are those related to the audit process, the calendar for implementing regulatory measures, results of occasional or systematic inspection and investigation activity, degree of compliance with determinations and constraints affecting the Regulator's activity.

In more tangible terms, the following are namely recommended:

- (a) Adoption, during elaboration of the Regulation Report, of an analytical and less descriptive model, on the overall evolution of the sector and the activities of regulation, inspection and investigation, dispute settlement and those generally undertaken by ICP-ANACOM. The Report should thus contain information and be organised so that its addressees can draw conclusions relating the measures adopted and the progress achieved toward the goal of building a competitive market.
- (b) Explanation of hindrances to realisation of ANACOM's activity according to plan and the measures adopted for their removal;
- (c) Indication of the regulatory measures and priority actions assumed and their respective grounds;
- (d) Publication of the Regulation Report by the end of the first half of the year, to ensure its current relevance and to avoid the need for numerous references to circumstances subsequent to the period in question.

The observations and recommendations are meant to advise the ICP-ANACOM Board of Directors in the elaboration of future Regulation reports, from the standpoint of its addressees and the required monitoring of the activity of an independent regulatory authority, and also have the purpose of increasing levels of confidence in the regulator, which lends credibility to its regulatory measures and efficiency to its tangible action.

Lisbon, 21 October 2005

Part I – Regulation Report

1. Regulation of Electronic Communications

1.1 The new regulatory framework

Law no. 5/2004 (Electronic Communications Law or REGICOM) was published on 10 February 2004 and proceeded to transpose most of the directives comprising the new community regulatory framework for electronic communications.

In compliance with the provisions of the directives, the European Commission was notified of the instrument's publication; other information was also transmitted, such as the ICP-ANACOM consultation procedures and on the way information on the new regulatory framework is published and the universal service provider.

Publication of the Law was the response to two cases of non-compliance filed by the Commission for non-transposition of Directives 2002/19/EC (Access and Interconnection Directive), 2002/20/EC (Authorisation Directive), 2002/21/EC (Framework Directive) and 2002/22/EC (Universal Service Directive) on the one hand, and Directive 2002/77/EC (Competition Directive) on the other. ICP-ANACOM had transmitted to the Government its observations on the reasoned opinions received in the context of these non-compliance cases.

Bearing in mind the publication of REGICOM, the Government was also sent ICP-ANACOM's observations regarding a Commission notification on the implementation of Directive 98/84/EC (conditional access services), whose system was included in Law no. 5/2004, which revoked Decree-Law no. 287/2001 of 8 November.

Following the enactment of REGICOM, ICP-ANACOM went ahead with the process of implementation and setting regulations per this instrument, which was already in preparation.

In this regard, the following activities were carried out:

- Section 2 of article 8 of Law no. 5/2004 stipulates that the national regulatory authority (NRA) should publish the adopted consultation procedures, for effects of the provisions of section 1 of the same article, which establishes the general consultation procedure. Thus, by determination of 12 February 2004, the "ICP-ANACOM consultation procedures" were approved, in compliance with that provision. This document, which is available on the site, defines the terms to be obeyed by the general consultation procedure envisaged in article 8 of REGICOM, as well as its co-ordination with other consultation procedures that ICP-ANACOM observes and promotes.
- According to REGICOM article 120, ICP-ANACOM is responsible for providing and keeping updated information that contributes to an open and competitive market; its section 1 contains an exemplary list of matters that such information may concern. The information may be provided in various formats, as per the nature of the matter. In this context, ICP-ANACOM published a notice in the 3rd Series of the *Diário da República* (DR no. 71 of 24 March 2004) making public that all information alluded to in section 1 of article 120 of REGICOM is made available and updated on the site, without jeopardising other publication formats which, due to the nature of the matters, are deemed suitable by the regulator.
- REGICOM (article 21) establishes some information that companies intending to offer electronic communications networks and services are obliged to send to the NRA before beginning activity; it is up to ICP-ANACOM to set the terms those procedures must obey. By determination of 3 May 2004, the "Procedures to Begin Offering Electronic Communications Networks and Services" were approved and placed on the site, establishing the procedures to be followed by interested parties when beginning to offer electronic communications networks and services, besides allocating usage rights for frequencies and numbers, along with the associated communication model and form, to be submitted to ICP-ANACOM before beginning activity.

- REGICOM article 106 creates the possibility for local governments to cover a municipal fee for rights of way (TMDP) for the installation, passage and crossing of systems, equipment and other resources belonging to companies that offer publicly available electronic communications networks and services, at a fixed site, in municipal private and public domains. The TMDP is determined based on the application of a percentage for each invoice issued by those companies to all end users in the corresponding municipality; the invoices should explicitly mention the value of the fee to be paid. The said percentage is annually approved by each municipality, with a maximum limit of 0.25 percent. According to the power assigned it by Law, ICP-ANACOM on 9 September 2004 approved and ensured publication of Regulation no. 38/2004 (DR no. 230, 2nd Series, of 29 September 2004), which establishes the procedures for covering and delivery to local governments of the TMDP to be charged companies that offer publicly available electronic communications networks and services at a fixed site. ICP-ANACOM has also responded to various requests from local councils, operators and individuals to more clearly explain TMDP implementation.

- In the context of standardisation and in compliance with the provisions of section 2 of article 29 of Law no. 5/2004, ICP-ANACOM proceeded to publish a notice in the *Diário da República* (DR no. 128, 3rd Series, of 1 June 2004) making public that the Commission's list of standards and specifications concerning the harmonised offer of electronic communications networks and services and associated services had been published in the Official Journal of the European Communities (OJEC) on 31 December 2002 (intercalary edition). The publication of this notice also complies with the provisions of section 4 of article 78 and section 5 of article 103, both of Regicom, as the list covers the standards applied to conditional access systems and to the interoperability of consumer television equipment.

- Article 107 of the Law established the possibility that end users may submit disputes with companies that offer electronic communications networks and services to the legally constituted mediation and arbitration mechanisms, with ICP-ANACOM responsible for ensuring the development of extra-judicial dispute settlement mechanisms. To that end, ICP-ANACOM asked the companies that offer electronic communications networks and services to end users and the bodies with powers in the area of defending and promoting consumer rights to help identify the terms which should govern the production of those mechanisms.

- The draft regulation on quality of service applicable to companies that provide access to the public telephone network at a fixed location and telephone service at a fixed location, elaborated per the provisions of section 2 of article 40 and section 1 of article 125 of REGICOM, was approved on 23 November 2004 and submitted to public consultation. This regulation, which was approved on 4 May 2005, sets the parameters for quality of service to be measured by the companies that provide that service, as well as the content, format and mode of publication of same. The measured values for those parameters shall under the terms of section 1 of article 40 of that Law be published and disclosed by those companies to the end users, so that the latter can possess clear, complete and updated information on the quality of service practiced by each one of them.

Note also that the process of transposing the new regulatory framework was only completed with the publication of Law no. 41/2004 of 18 August, which transposed Directive no. 2002/58/EC of the European Parliament and of the Council, concerning the processing of personal data and privacy protection in the electronic communications sector. ICP-ANACOM worked with the Ministry of Justice (the body responsible for that directive's transposition process) in producing the draft that gave rise to this instrument.

Also significant is that by legislative option, article 13 of Directive 2002/58/EC, concerning unsolicited communications, was transposed by Decree-Law no. 7/2004 of 7 January, which covers electronic commerce.

1.2 Definition and analysis of relevant markets and application of obligations

According to articles 58 and 59 of REGICOM, ICP-ANACOM is responsible for defining and analysing relevant markets for products and services in the electronic communications sector for the purpose of imposing, maintaining, modifying or withdrawing obligations, as per Commission Recommendation 2003/311/EC of 11 February 2003 and the Commission Guidelines concerning the analysis and assessment of significant market power in the context of the community regulatory framework for electronic communications networks and services, published in July 2002 (hereinafter designated Guidelines), and in compliance with the principles of competition law.

According to the "ICP-ANACOM Consultation Procedures", each draft decision on these subjects is submitted to a public consultation, whose responses and appreciation report are published on this Authority's website and notified to the NRAs of the other member States and the Commission; an opinion is also requested from the Competition Authority. Subsequently in this process, and taking into account the positions of the bodies participating therein, ICP-ANACOM approves the measures on the definition of markets and assessment of significant market power (SMP) and notifies the Commission.

ICP-ANACOM proceeded to define and analyse most of the relevant markets, evaluated the existence of SMP in same and imposed the appropriate measures (obligations) on the entities with SMP operating in those markets, as indicated in table 1.

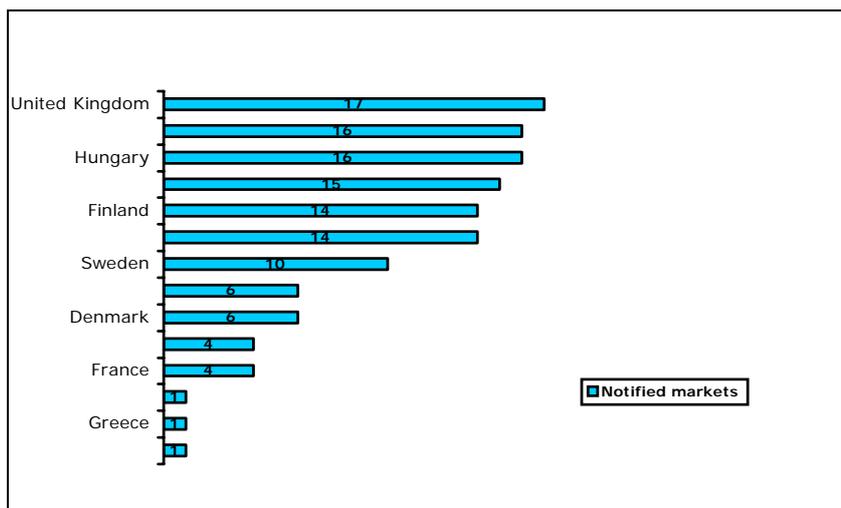
Table 1 – Notified Markets, Portugal

Markets	Consultation procedures		Commission notification - document		Commission comments		Decision		Commission notification of measures taken -document	
	Market Analysis and SMP Assessment	Application of Obligations	Market Analysis and SMP Assessment	Application of Obligations	Market Analysis and SMP Assessment	Application of Obligations	Market Analysis and SMP Assessment	Application of Obligations	Market Analysis and SMP Assessment	Application of Obligations
Narrowband retail markets										
Access to the public telephone network at a fixed location for residential customers (market 1)	<u>12-Mar-03</u> <u>04-May-20</u>	<u>26-Jul-04</u>	<u>04-May-28</u>	<u>22-Jul-04</u>	<u>25-Jun-04</u>	<u>04-Sep-03</u>	<u>8-Jul-04</u>	<u>04-Dec-14</u>	<u>16-Jul-04</u>	<u>04-Dec-21</u>
Access to the public telephone network at a fixed location for non-residential customers (market 2)	<u>12-Mar-04</u> <u>04-May-20</u>	<u>26-Jul-04</u>	<u>04-May-28</u>	<u>22-Jul-04</u>	<u>25-Jun-04</u>	<u>04-Sep-03</u>	<u>8-Jul-04</u>	<u>04-Dec-14</u>	<u>16-Jul-04</u>	<u>04-Dec-21</u>
Publicly available local and/or national telephone services supplied at a fixed location for residential customers (market 3)	<u>12-Mar-04</u> <u>04-May-20</u>	<u>26-Jul-04</u>	<u>04-May-28</u>	<u>22-Jul-04</u>	<u>25-Jun-04</u>	<u>04-Sep-03</u>	<u>8-Jul-04</u>	<u>04-Dec-14</u>	<u>16-Jul-04</u>	<u>04-Dec-21</u>
International telephone services publicly available at a fixed location for residential customers (market 4)	<u>12-Mar-04</u> <u>04-May-20</u>	<u>26-Jul-04</u>	<u>04-May-28</u>	<u>22-Jul-04</u>	<u>25-Jun-04</u>	<u>04-Sep-03</u>	<u>8-Jul-04</u>	<u>04-Dec-14</u>	<u>16-Jul-04</u>	<u>04-Dec-21</u>
Publicly available local and/or national telephone services supplied at a fixed location for non-residential customers (market 5)	<u>12-Mar-04</u> <u>04-May-20</u>	<u>26-Jul-04</u>	<u>04-May-28</u>	<u>22-Jul-04</u>	<u>25-Jun-04</u>	<u>04-Sep-03</u>	<u>8-Jul-04</u>	<u>04-Dec-14</u>	<u>16-Jul-04</u>	<u>04-Dec-21</u>
International telephone services publicly available at a fixed location for non-residential customers (market 6)	<u>12-Mar-04</u> <u>04-May-20</u>	<u>26-Jul-04</u>	<u>04-May-28</u>	<u>22-Jul-04</u>	<u>25-Jun-04</u>	<u>04-Sep-03</u>	<u>8-Jul-04</u>	<u>04-Dec-14</u>	<u>16-Jul-04</u>	<u>04-Dec-21</u>
Telephone services for non-geographic numbers publicly available at a fixed location (market 19 - new)	<u>12-Mar-04</u> <u>04-May-20</u>	<u>26-Jul-04</u>	<u>2004-May-28</u>	<u>22-Jul-04</u>	<u>25-Jun-04</u>	<u>04-Sep-03</u>	<u>8-Jul-04</u>	<u>04-Dec-14</u>	<u>16-Jul-04</u>	<u>04-Dec-21</u>
Narrowband wholesale markets										
Call origination in the public telephone network at a fixed location (market 8)	<u>12-Mar-04</u>	<u>26-Jul-04</u>	<u>04-May-28</u>	<u>22-Jul-04</u>	<u>25-Jun-04</u>	<u>04-Sep-03</u>	<u>8-Jul-04</u>	<u>04-Dec-17</u>	<u>16-Jul-04</u>	<u>04-Dec-29</u>
Call termination in individual public telephone networks at a fixed location (market 9)	<u>12-Mar-04</u>	<u>26-Jul-04</u>	<u>04-May-28</u>	<u>22-Jul-04</u>	<u>25-Jun-04</u>	<u>04-Sep-03</u>	<u>8-Jul-04</u>	<u>04-Dec-17</u>	<u>16-Jul-04</u>	<u>04-Dec-29</u>
Transit service in the public fixed telephone network (market 10)	<u>1-Mar-05</u>	<u>1-Mar-05</u>	<u>4-Mar-05</u>	<u>4-Mar-05</u>	<u>05-Apr-01</u>	<u>05-Apr-01</u>	<u>05-May-25</u>	<u>05-May-25</u>	Ongoing - request info. DRE	Ongoing - request info. DRE
Broadband wholesale markets										
Wholesale provision of unbundled access (including shared access) to metallic loops and sub-loops to offer broadband and voice services (market 11)	<u>25-Nov-04</u>		<u>25-Nov-04</u>		<u>04-Dec-20</u>		<u>30-Mar-05</u>		<u>05-Apr-01</u>	
Wholesale provision of broadband access (market 12)	<u>25-Nov-04</u>		<u>25-Nov-04</u>		<u>04-Dec-22</u>					
Leased line retail markets										
Minimum set of leased lines (market 7)	<u>18-Mar-05</u>		<u>17-Mar-05</u>							
Wholesale leased line markets										
Wholesale market for leased line terminal segments (market 13)	<u>18-Mar-05</u>		<u>17-Mar-05</u>							
Wholesale market for leased line transit segments (market 14)	<u>18-Mar-05</u>		<u>17-Mar-05</u>							
Wholesale markets for mobile services										
Call access and origination in public mobile telephone networks (market 15)										
Voice call termination in individual mobile networks (market 16)	<u>04-Dec-27</u>		<u>04-Dec-23</u>		<u>05-Feb-04</u>		<u>05-Feb-25</u>		<u>8-Mar-05</u>	
National wholesale market for international roaming services in public mobile networks (market 17)										
Wholesale broadcasting markets										

Source: ICP-ANACOM

On 23 May 2005 Portugal was at a relatively advanced stage of markets analysis, above the European average with respect to the number of notified markets, as indicated in graph 1, which summarises the measures the member States have notified to the European Commission and the other NRAs. Note that Portugal presented a number of notified markets above the European average. Of the 16 notified markets, 15 corresponded to what was envisaged in the European Commission Recommendation of 11 February 2003, while the market for telephone services for non-geographic numbers publicly available at a fixed location was defined by ICP-ANACOM. In none of the cases did the Commission issue relevant unfavourable comments; its intervention ended in the so-called phase 1 (phase 2 corresponds to veto).

Graph 1 – Number of notified markets under Article 7 of the Framework Directive



Source: ICP-ANACOM

Retail markets for fixed switched low-bandwidth services (markets 1 to 6 and 19)

Following approval of the respective draft decision and its submission to public consultation and opinion of the Competition Authority, and after having notified the NRAs from the other member States and the Commission, ICP-ANACOM approved by determination dated 8 July 2004 the definition of the markets for fixed switched low-bandwidth services, which correspond to markets 1 through 6. Also defined was a market not included in the Recommendation – market 19 – concerning telephone services meant for non-geographic numbers publicly available at a fixed location.

Specifically, the following markets were defined: (i) narrowband access to the public telephone network at a fixed location for residential customers; (ii) narrowband access to the public telephone network at a fixed location for non-residential customers; (iii) publicly available local and national telephone services supplied at a fixed location to residential customers; (iv) international telephone services publicly available at a fixed location for residential customers; (v) publicly available local and national telephone services supplied at a fixed location to non-residential customers; (vi) international telephone services publicly available at a fixed location for non-residential customers; (vii) telephone services meant for non-geographic numbers publicly available at a fixed location.

ICP-ANACOM at the same time approved a list of entities holding SMP in the said relevant markets: the Grupo PT companies that operate in those markets.

After analysing results from the consultation launched by ICP-ANACOM on 26 July 2004, the obligations to impose on the entities with SMP in those markets were approved on 14 December 2004.

The obligations of transparency and non-discrimination, orientation to costs, maintenance of a cost accounting system and accounts separation were imposed on markets 1 through 6.

Besides those obligations, for markets 1 and 2 a decision was made to present a subscriber line reference offer (SLRO), consisting of a wholesale offer of the right to invoice telephone line of the SMP operator in the respective relevant market. Development of this offer allows its beneficiary to make innovative retail offers, adding value for end users by creating diversified services, while competing with Grupo PT offers that combine access and other services in optional plans.

Markets 1, 3 and 4 saw application of the obligation to maintain affordability in the following forms: in market 1 by means of a price cap; in market 3 by means of a price cap for intra-network calls and orientation to efficient costs of fixed-mobile retention and maintenance of the existing rule¹ in fixed inter-network calls; in market 4 by means of orientation to efficient costs of fixed-mobile retention and maintenance of the current rule in fixed inter-network calls.

In the market for local and national telephone services publicly available at a fixed location meant for non-geographic numbers, besides maintaining management of the national numbering plan (NNP), it was deemed necessary to apply the following obligations to the entities holding SMP: assure transparency, show no undue preference, accounts separation and maintenance of a cost accounting system.

Note that the prices charged in the markets for local and/or national telephone services (non-residential customers) are no longer covered by the price cap.

Wholesale markets for fixed switched low-bandwidth services (markets 8, 9 and 10)

The situational status presented below distinguishes the situation of markets 8 and 9 from that of market 10.

Call origination and termination in the public telephone network at a fixed location (markets 8 and 9)

In the wake of approval of the respective draft decision and its submission to public consultation and opinion from the Competition Authority, and after the NRAs from the other member States and the Commission were notified, ICP-ANACOM approved in a determination dated 8 July 2004 definition of the following wholesale markets for fixed switched low-bandwidth services: (i) market for call origination in the public telephone network at a fixed location (market 8); (ii) market for call termination in individual public telephone networks at a fixed location (market 9).

The entities that hold SMP in those markets were likewise identified: in market 8, the Grupo PT companies operating in that market; and in market 9, all fixed network operators active in same.

The obligations to impose on the aforementioned companies were approved in a determination dated 17 December 2004.

The following obligations were imposed on the Grupo PT companies operating in both markets (8 and 9): transparency in the publication of information (including publication of prices, terms and conditions, a reference interconnection offer, technical information and information on service quality); no undue discrimination in the provision of network access (including making an interconnection flat rate offer available); accounts separation (costing system and accounting separation); response to reasonable network access requests; price control and cost accounting.

As for the fixed network operators, except for the Grupo PT companies that provide call termination service (market 9), the obligations of network access permission in fair and reasonable conditions and price control were imposed.

The publication of prices, terms and conditions and technical information (before the date they take force) is especially relevant, given the size of the Grupo PT's network. Besides contributing towards

¹ The prices of calls originating in the network of PT Comunicações (PTC) and terminating in the network of other fixed telephone service (FTS) providers should be identical to the prices of calls originating and terminating in the PTC network, and may be corrected by the duly and quantifiably justified difference between call termination in the PTC network and call termination in the network of each FTS provider. In other words, price differences may be admitted between the prices for calls to different operators, as long as that difference results from different values for the relevant termination prices.

market stability, preventing a sudden and unexpected change in the prices charged, it has repercussions on investment and furthers market transparency. It also enables competitors to restructure and plan their retail offer, taking into consideration the modifications carried out by the Grupo PT in the wholesale markets.

The provision of a flat tariff offer is accompanied by the introduction of a non-time-based interconnection model, which allows operators competing with the Grupo PT to competitively reply to certain offers and campaigns launched by the Grupo PT. The introduction of this measure, besides contributing to renewed interest in fixed network telecommunications, may help the other licensed operators (OLOs) increase their penetration and expansion, helping improve conditions for competition in the market.

ICP-ANACOM imposed on the Grupo PT similar obligations in both markets, given that the market power and problems identified are alike.

Transit services in the public telephone network at a fixed location (market 10)

ICP-ANACOM approved in a determination dated 25 May 2005 the decision on market definition and assessment of SMP for the transit market in the public telephone network at a fixed location (market 10).

ICP-ANACOM concluded that the transit market is a residual and competitive market, and did not identify current or predictable market faults; even should they arise, application of the legislation and the competition mechanisms to resolve same are deemed sufficient.

No companies were identified with SMP, so no ex-ante regulatory obligations whatsoever will be upheld or imposed. The obligations imposed on PT Comunicações (PTC) in the transit market for the public telephone network at a fixed location, as the operator notified as holding SMP in the national interconnection market under the previous regulatory framework, are thus withdrawn with the entrance into force of the current decision, which will occur 50 working days after its date of approval.

Wholesale broadband markets (markets 11 and 12)

ICP-ANACOM identified the following wholesale broadband markets: the market for the wholesale provision of unbundled access (including shared access) to metallic loops and sub-loops to offer broadband and voice services (market 11); and the market for the wholesale provision of broadband access (market 12).

ICP-ANACOM concluded that the Grupo PT holds SMP in both relevant markets identified.

Given the inexistence of effective competition in these markets, this Authority deemed that the following obligations were justified: access and use of specific network resources; transparency in the publication of information, including reference proposals; non-discrimination in the offer of access and interconnection and in the respective provision of information; accounts separation for specific activities related to access and/or interconnection; price control and cost accounting; and financial report.

Note that the obligations defined in the scope of the market for the wholesale provision of broadband access, given the specific conditions of this market in Portugal, envisage that whenever the Grupo PT wants to launch a broadband internet access retail offer, whether supported on the public switched telephone network or on the cable distribution network, that Group must present in the "PT ADSL Network" wholesale offer conditions that allow replication of the new retail offer by the alternative operators. Additionally, the prices of the "PT ADSL Network" wholesale offer must respect the "retail-minus" rule, which should be applied using as a reference all the retail offers for broadband access supported by the public switched telephone network and by the cable distribution network of the Grupo PT companies.

Leased lines markets (markets 7, 13 and 14)

ICP-ANACOM launched on 18 March 2005 a public consultation on the retail market for leased lines and the wholesale markets for terminal and transit segments of leased lines, which covers definition

of the product markets and geographic markets, assessment of SMP and the imposition, maintenance, amendment or withdrawal of regulatory obligations.

In the document under consultation, the following relevant markets were defined for effects of ex-ante regulation: (i) the retail market for analogue and digital leased lines up to and including 2 Mbps, covering all national territory (market 7); (ii) the wholesale market for analogue and digital terminal segments, with no distinction for capacity, covering all national territory (market 13); and (iii) the wholesale market for analogue and digital transit segments, with no distinction for capacity, covering national territory (market 14).

At the same time, the Grupo PT companies operating in those relevant markets were identified as holding SMP.

The obligations to impose on those companies vary according to the markets in question. Thus, with respect to market 7, the obligations to impose are the following: non-discrimination in the offer of access and interconnection and in the respective provision of information, transparency in the publication of information and price control and cost accounting.

The obligations applicable in markets 13 and 14 are: access and use of specific network resources, non-discrimination in the offer of access and interconnection and in the respective provision of information, transparency in the publication of information, including reference proposals, accounts separation for specific activities associated to access, price control and cost accounting, and financial report.

Mobile service markets (markets 15, 16 and 17)

The markets for mobile services cover the wholesale markets for voice call termination in individual mobile networks (market 16), the market for call access and origination in public mobile telephone networks (market 15) and the wholesale national market for international roaming in public mobile networks (market 17).

The launch of the third phase of the public consultation on the process of defining relevant markets, assessing SMP and imposing obligations was approved by determination of 6 April 2004, covering mobile services, specifically wholesale services for call access and origination in public mobile networks and wholesale services for voice call termination in individual mobile networks.

The mobile network operators were also asked on various occasions to provide quantitative information, with a view to complementing the process of analysing relevant markets under way in 2004.

Wholesale markets for voice call termination in individual mobile networks (market 16)

By determination of 25 February 2005, ICP-ANACOM approved the definition of the markets for voice call termination in individual mobile networks, assessment of SMP in those markets and the imposition of obligations on the entities that hold SMP in them.

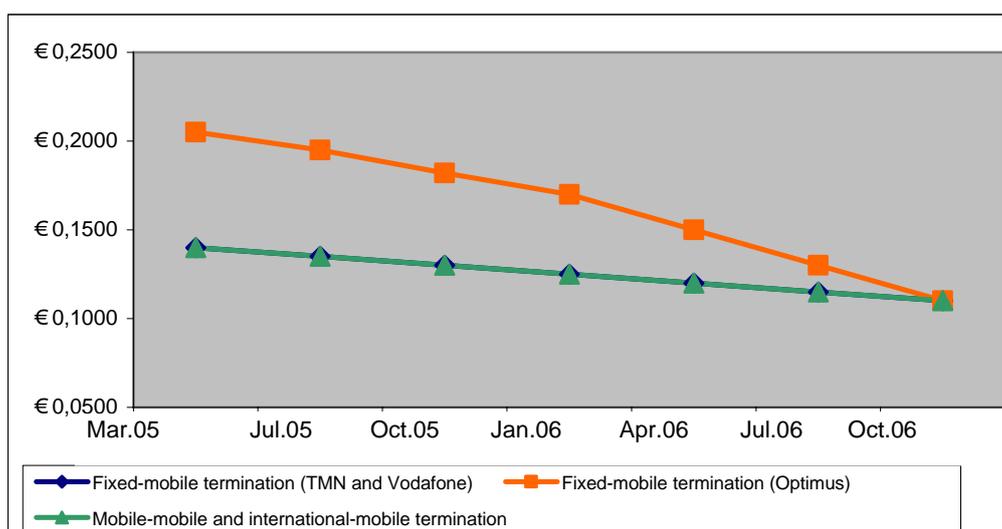
According to the said determination, TMN – Telecomunicações Nacionais, S.A. (TMN), VODAFONE PORTUGAL – Comunicações Pessoais, S.A. (VODAFONE PORTUGAL), and OPTIMUS – Telecomunicações, S.A. (OPTIMUS) hold SMP in the markets for call termination in their individual networks.

The following obligations were imposed: response to reasonable access requests; non-discrimination in the offer of access and interconnection and in the respective provision of information; transparent publication of information; price control and cost accounting; and accounts separation.

ICP-ANACOM understood that these measures were appropriate for resolving the structural and behavioural competition problems manifested in those markets. ICP-ANACOM was hence able to impose various regulatory obligations, among them the lower termination prices that took force as of March 2005.

ICP-ANACOM's intervention took into account the intention to progress gradually towards a situation of mobile termination charge convergence, to be achieved within about two years, so that there will be no difference whatsoever in mobile termination charges between active operators and between the various kinds of mobile termination. ICP-ANACOM thus decided to set the maximum prices, which are indicated in the graph below, with the aim of approximating termination prices to values more in line with those charged in the European Union.

Graph 2 – Evolution of mobile termination prices in Portugal



Source: ICP-ANACOM

Market for call access and origination in public mobile telephone networks (market 15)

At the date of this report, the public consultation process that will deal with definition of the geographic product markets, SMP assessment and the adoption of obligations in the market for call access and origination in public mobile networks was still being prepared.

National wholesale market for international roaming in public mobile networks (market 17)

A pilot project was recently developed for the wholesale international roaming market in the scope of the Independent Regulators Group (IRG), which was meant to prepare a joint market analysis of wholesale international roaming services, which can be used by the various NRAs in national market analysis.

Ten countries participated in the pilot project (Italy, France, United Kingdom, Norway, Sweden, the Netherlands, Lithuania, Hungary, Ireland and Portugal). The group presented the conclusions of its work at the plenary meeting of the European Regulators Group (ERG), held on 24-25 May 2005. The document prepared under the pilot project will be submitted to public consultation.

Terrestrial television signal transmission and distribution service (market 18)

The current prices for the transmission service provided by PTC, with significant social impact, are regulated by ICP-ANACOM under section 3 of article 16 of the Bases for Concession of public telecommunications service (Decree-Law no. 31/2003 of 17 February).

The switchover from analogue television to digital format is a major transformation, with implications and challenges at various levels, specifically in the overall context of information society development, as it makes television a foremost channel for the digital world, accessible to most citizens. ICP-ANACOM is currently studying this issue.

Parallel to this, ICP-ANACOM will study the wholesale market for broadcasting services for the delivery of content transmitted to end users, included in the European Commission Recommendation on relevant markets.

1.3 Universal service and telephone service at a fixed location (FTS)

Under the terms of REGICOM, universal service consists of a minimum set of provisions defined by law, with specific quality and available to all users, regardless of their geographic location, at an affordable price. The minimum set of provisions that should be available under universal service is as follows: connection to the public telephone network at a fixed location and access to telephone services publicly available at a fixed location; provision of a complete telephone directory and complete directory information that include all subscribers of publicly accessible telephone services (fixed and mobile); and an appropriate supply of public payphones.

PTC remains the universal service provider until the end of the public telecommunications service concession, as per the respective Bases, approved by Decree-Law no. 31/2003 of 17 February.

Affordability: the FTS price table

REGICOM stipulates that ICP-ANACOM is responsible for ensuring that universal service prices are affordable, taking particular account of national consumer prices and national income. To that end, ICP-ANACOM should evaluate and decide on the most appropriate means to guarantee affordability, and may determine that options or price packages should be made available that are different from those offered under normal commercial conditions, that maximum price limits should be imposed or that common tariffs or other similar systems be applied.

Also under the terms of REGICOM and until implementation of the regime envisaged therein, the price-setting rules contained in the Universal Service Price Convention signed on 30 December 2002 by ICP-ANACOM, the then Directorate General of Trade and Competition (DGCC) and PTC were maintained.

Under terms of article 8.3 of the Universal Service Price Convention, in force in 2004, as per article 124, section 3 of REGICOM, should ICP-ANACOM and the then DGCC decide not to oppose, the price tables take force on the date set by PTC without jeopardising fulfilment of the disclosure or publication obligations.

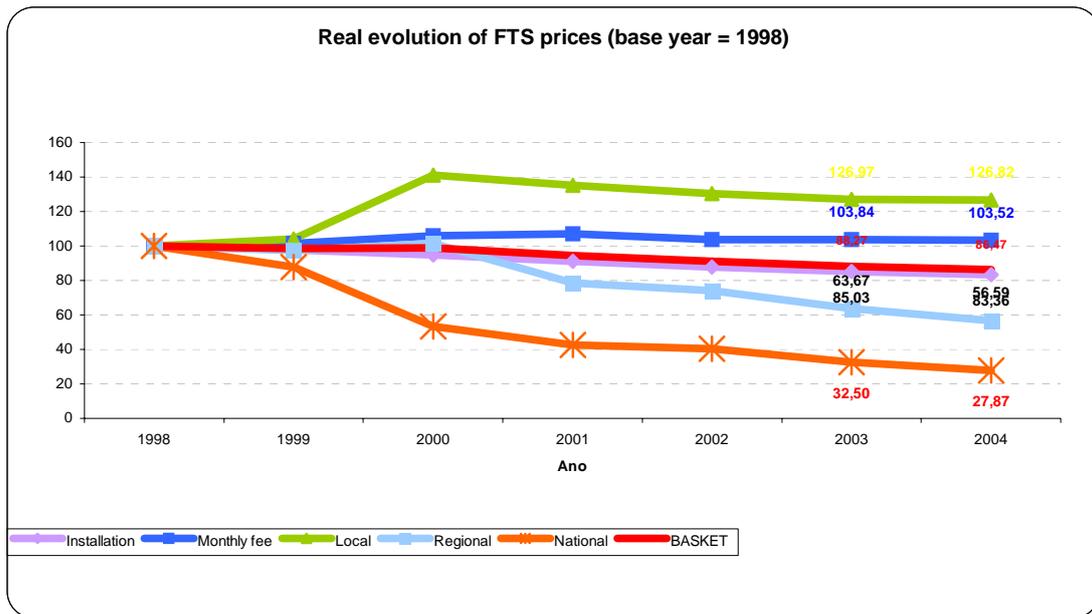
In a determination dated 29 April 2004, ICP-ANACOM blocked PTC from applying the new universal service price table – whose entrance into force the Authority had not opposed – on the date announced by that company, with same having to comply with the rule contained in section 3 of article 48 of REGICOM, vis-à-vis the entrance into force of that price table.

The said article 48, section 3 establishes that whenever a company that offers publicly available telephone networks and services proceeds to modify contractual conditions, it should notify subscribers of the proposed change, in a proper manner and with a minimum of one month's notice, and should also inform them of their right to rescind the contract with no penalty should they not accept the new conditions.

A determination dated 20 May 2004 contained ICP-ANACOM's decision not to oppose the entry into force of the proposed price table for fixed telephone service in 2004 submitted by PTC, without jeopardising fulfilment of the obligations envisaged in that legal provision.

Regarding the readjustment of FTS prices, as indicated in the graph below, same has been evident since 1999 through the constant decline in long distance prices, countered by the increase in the monthly subscription fee and local calls, in a gradual movement, so as not to present sharp variations in consumers' monthly invoices. In this context, the proposal submitted by PTC is one more step towards readjustment.

Graph 3 – Real evolution of FTS prices



Period: 1998-2004

Source: ICP-ANACOM

By determination dated 14 December 2004, in the scope of the imposition of obligations in retail narrowband markets (see point 1.2 of this report), the universal service obligations were also defined for the respective provider as per the terms of articles 91 and 94 of REGICOM; the price-setting rules from the said Convention thus ceased to have force, except the price cap applicable to PTC intra-network calls, which will remain in force until ICP-ANACOM sets a new price cap.

Subscriber directories and information service

A determination was approved on 18 December 2003 concerning the inclusion of subscribers' personal data in telephone directories and information service in the scope of universal service, under which the mobile telephone service providers, in a first phase, and the providers of telephone services at a fixed location, in a second phase, should ask their customers and, according to the latter's explicitly manifested desire, remit to the universal service provider the information on all customers who have given express authorisation for their data to be ceded. During the year 2004 ICP-ANACOM monitored implementation of the said determination, ensuring that those providers complied with same.

By determination of 19 May 2004, the interested parties having been heard, ICP-ANACOM blocked advertising carried on the directory information service provided via the 118 number under universal service by PTC, determining that said company should abstain from carrying any sort of publicity message using that service. Among other reasons that grounded that determination, the regulator held that allowing the universal service provider to make use of the advantages granted it so that it could, for its own benefit, promote its services or the services of third parties, deviated from the purposes of universal service and was also likely to be a factor distorting competition and market development.

Net costs of universal service

Compensation for the net cost of universal service is envisaged in REGICOM, which stipulates that ICP-ANACOM is responsible for calculating the net costs of the universal service obligations when it deems that the provision of that service may be an excessive burden for the respective providers. The Law also establishes the procedures by which that calculation should be effected, the pretexts to apply and the costs upon which the calculation should be based.

Should ICP-ANACOM conclude with respect to the net costs of universal service that same are an excessive burden for the respective providers, it will be up to the Government, per requests from the providers, to assure appropriate compensation. The Government will likewise choose the

compensation mechanism to adopt, which may alternatively or cumulatively be compensation from public funds or cost sharing by the other providers that in national territory offer publicly available electronic communications networks and services.

In the latter case, a compensation fund should be established for those companies to contribute to, which will be administered by the regulator or another independent body so designated by the Government, in that case supervised by ICP-ANACOM.

In the context of analysing the costs of universal telecommunications service undertaken by ICP-ANACOM, a decision was made on 26 August 2004 to reject the estimates submitted by PTC for the years 2001/2002 as they were deemed incomplete, incoherent and ungrounded. PTC was also informed that it could, should it so wish, present an appropriate, grounded, detailed and auditable estimate, as per Decree-Law no. 458-99 of 5 November, of the costs of providing universal service.

Public payphone service

The procedures PTC must comply with in the offer of public payphones as the universal service provider were approved by determination dated 15 July 2004, ruling specifically that PTC should submit statistical information every quarter, annually publish a strategy statement on development of the complement of public payphones and a circumstantiated report describing how the goals for the year in question were met and, if there were deviations, quantifying same, in depth and with presentation of corrective measures.

At the same time, the report from the consultation on public payphone service launched in May 2004 under section 1 of article 90 of REGICOM was approved.

Calls subject to selective and free blocking

ICP-ANACOM began in December 2004 the process envisaged in article 94 of the Electronic Communications Law regarding determination of the kinds of calls subject to selective and free blocking by the universal service provider, and heard the opinion of PTC to that end and for legal effects.

PT/DECO agreement

By determination of 18 March 2004, ICP-ANACOM approved a decision concerning the PT/DECO Agreement on reimbursement of the activation fee.

Under the terms in which it was disclosed, this agreement establishes as indemnity for the undue coverage of that fee during the years 1998 and 1999 a number of benefits for consumers, namely free calls within the PTC network during certain periods, free monthly fee during a given month for pensioners and retired customers, and the granting of credits to customers who want to subscribe to any service provider's ADSL internet service within a given period.

Bearing in mind that the prices applied to fixed telephone networks and fixed telephone service should obey the principles of equality, transparency and non-discrimination and that PTC should show no preference nor practice discrimination with respect to any individual or corporate body who seeks the services included in the public telecommunications service concession, ICP-ANACOM determined that:

- PTC cannot exclude from the scope of this agreement (or another signed with any other entity) those customers from other fixed telephone service providers who are in the same circumstances as PTC users;
- PTC should create for the other fixed telephone service providers proper conditions enabling their respective customers to benefit from an equivalent offer;
- PTC should guarantee that all internet access providers enjoy proper conditions enabling them to assure equivalent benefits for customers who subscribe to ADSL service via local loop;
- Benefits for calls not covered should only be applied to customers whose request for access to PTC fixed telephone service was dated up to 15 March 2004;
- Benefits granted should not have been accounted for effects of determining eventual net costs of universal service, nor been reflected in the cost accounting system for regulatory effects in the sphere of the orientation to costs principle.

New FTS offers – “PT Roadshow Close to You” campaign

By determination of 30 September 2004 and regarding the PT Comunicações campaign titled “PT Roadshow Close to You” [“*Roadshow* PT perto de si”], which included the offer of free local, regional and national calls in the Leiria area during a preset time period, ICP-ANACOM imposed on PTC the offer of free interconnection at local levels of simple and double transit for interested fixed telephone service providers, in any network grouping, which should include a number of fixed accesses close to that covered by the PTC campaign, for an equivalent time period.

In a subsequent determination dated 4 November 2004, ICP-ANACOM ruled that whenever PTC carries out campaigns similar or analogous to the one contemplated in the 30 September 2004 determination, specifically in the scope of the “PT Roadshow Close to You” event, it must notify at least three weeks beforehand the companies authorised to provide fixed telephone service, offering them free interconnection at local levels, simple and double transit, for a period corresponding to the length of the campaign.

PTC regulatory costing

PTC has since 2000 been designated as an entity holding SMP and as such is required to maintain price control and cost accounting. Previously, under the 1995-1997 Telecommunications Price Convention and the Public Telecommunications Service Concession Contract, the concession company had been required to implement and maintain a cost accounting system.

According to the legislative provisions, PTC is responsible for maintaining a cost accounting system for regulatory purposes, containing all information on costs and how they are processed, specifically on direct, joint and common costs per service and/or product and how they are assigned, respecting the principles, determinations and recommendations set by ICP-ANACOM.

ICP-ANACOM is *inter alia* responsible for auditing PTC’s regulatory accounting system, to ensure that it complies with the obligations set out in the legislative provisions, and with the national and international standards and good practices for regulatory accounting, so as to guarantee that the results obtained are credible.

Regarding the audit of PTC regulatory accounting for the 2001 financial year, ICP-ANACOM approved in a 14 April 2004 determination the declaration of conformity of the PTC cost accounting system, even though the said system was subject to some reservations, as it could not be considered satisfactory for some fundamental aspects, particularly the systematisation of processes and support documentation and the report of results; it was determined that the said system should be modified in order to comply with the necessary requirements.

To comply with the provisions of section 5 of the MEPAT (former Ministry of the Economy, Planning and Territorial Administration) Order no. 15021/99 of 20 July and of section 2 of article 35 of the Regulation for the Operation of Fixed Telephone Service, approved by Decree-Law no. 474/99 of 8 November, as well as article 29 of the Regulation for the Operation of Public Telecommunications Networks approved by Decree-Law no. 290-A/99 of 30 June, a notice was published in the *Diário da República* (DR no. 109/2004, 3rd Series, of 10 May) making public that the declaration of conformity of the PTC cost accounting system for financial year 2001, issued by ICP-ANACOM, was at the disposal of eventual interested parties at its public attendance services and on the website.

The European Commission was also notified of this declaration of conformity of the PTC cost accounting system for financial year 2001, issued by the auditors following the audit and of the ICP-ANACOM declaration of conformity which considered its results.

By determination of 28 October 2004, and as in previous years, ICP-ANACOM contracted an outside body to carry out a systematic and thorough analysis of PTC regulatory costing for the 2002 and 2003 financial years, encompassing the models, applications and components of regulatory costing and their organisation, as well as costing data processes, flows and sources and all support documentation, including any associated item of information, methods, processes or studies.

Other services assured by the concessionaire

PTC should additionally, as concessionaire, assure *inter alia* the provision of fixed telex service, the service of spreading and distributing transmitted telecommunications signal and telegraph service. It

must also provisionally assure maritime mobile service until the respective transfer to another entity. Under the terms set out in article 21 of the Concession Bases for public telecommunications service, the negative operational margins deriving from compliance with the obligations of providing fixed telex, telegraph, broadcasting and maritime mobile service should be annually compensated by direct assignment of compensation by the State. ICP-ANACOM is responsible for designating an independent body to audit the said margins and submit them to the Inspectorate General of Finance.

In this regard, ICP-ANACOM by determination of 28 October 2004 contracted an outside entity to carry out an in-depth and systematic analysis and audit, with a high degree of relevancy, covering financial year 2003, of the way of ascertainment and the value contained in the statement of results for fixed telex, telegraph, broadcasting and maritime mobile services, deriving from the regulatory costing system implemented by PTC.

1.4 Consolidation of measures to liberalise the sector and protect consumers/users

Portability

Operator portability was implemented in the fixed network on 30 June 2001 and in the mobile network on 1 January 2002. As at 31 December 2004 a total of 203,380 numbers had been ported, of which 158,623 pertained to fixed telephone service, 44,480 to mobile telephone service and 277 to other non-geographic services. These figures indicate an increase over those verified at the end of December 2003 in the said services, of 34.4 percent, 88.1 percent and 22.7 percent, respectively.

ICP-ANACOM approved by determination of 11 March 2004 the draft portability regulation, which sets out the principles and rules applicable to portability in public telephone networks, compulsory for all companies with portability obligations. This draft regulation was subject to the regulatory procedure envisaged in article 11 of the ICP-ANACOM Statutes, as well as the general consultation procedure established in REGICOM.

Drawn up as per the provisions of section 1 of article 125 of REGICOM, the draft portability regulation is based on the rules contained in the "Operator Portability Specification" approved on 28 June 2001, which were amended or adjusted, as needed, taking into account the experience gained since the beginning of portability implementation. At the time this report was being prepared, the procedure that will culminate with approval of the regulation's definitive version was being completed.

Along with the information required of customers for effects of cancelling contracts with the provider that gives/holds the number, supplied by the providers themselves and publicly available on the ICP-ANACOM website, October 2004 also saw disclosure of the procedures the three mobile operators' customers must follow when they want to deactivate or reactivate the online informative announcement that explains, in calls to ported mobile numbers, which network the dialled number belongs to.

Besides monitoring evolution of the quantity of ported numbers and the number of complaints in this area, ICP-ANACOM also proceeded in 2004 to verify compliance with the determination of 27 February 2003 concerning tariff transparency, and carried out the following actions:

- verification of compliance with implementation of the online announcement by the mobile telephone service (MTS) providers;
- verification of which MTS providers implemented the online announcement blocking function at user caller request and disclosure on the ICP-ANACOM website of the steps customers should take to that end;
- verification of whether information services regarding the price of calls to ported numbers conform with provisions of the determination.

Pre-selection and call-to-call selection

By determination of 22 January 2004, the launch of a public consultation on operator pre-selection and call-to-call selection in Portugal was approved; it took place from 2 February to 26 March 2004.

This consultation sought comments from providers/operators and end users regarding a number of issues enabling the pre-selection specification to be updated to improve or expand its functions for the market in general and users in particular; the update would also be reflected in call selection, when applicable.

By means of the determination dated 14 December 2004, concerning the imposition of obligations in narrowband retail markets, the obligations envisaged in the determination of 17 July 2003 were maintained, specifically regarding the six-month waiting period after the activation of pre-selection during which the Grupo PT companies are forbidden from carrying out customer win-back actions.

In its monitoring of this issue, ICP-ANACOM prepared and submitted via the IRG contact network in late 2004 a questionnaire on measures preventing the practice of win-back actions in the context of pre-selection, as implemented in different European countries. At the date this report was closed, the final report based on the information gathered in the respective questionnaire was being prepared.

A NOVIS TELECOM, S.A. (NOVIS), pre-selection contract was studied; it involved cession of the contractual position of PTC subscriber to NOVIS, to allow the latter operator to provide a commercial offer characterised by one single invoice. In the scope of this analysis, NOVIS and PTC, as well as ONITELECOM – Infocomunicações, S.A. (ONITELECOM), were informed that if they wanted to provide a similar offer the cession of the contract subscriber's contractual position should not be used as a means to obtain a single-invoice commercial offer, given that such legal construction does not duly safeguard subscribers' rights.

Fixed wireless access (FWA)

By determination of 3 May 2004, ICP-ANACOM approved the report from the public consultation launched in 2003 on the implementation of fixed wireless access (FWA) systems, as well as a proposed action framework, which was submitted to the general consultation procedure envisaged in REGICOM.

By determination of 24 June 2004, the final report on ICP-ANACOM's proposed FWA action framework was approved. In this regard, and as planned, ICP-ANACOM drew up and submitted to the Government a draft administrative rule, giving rise to Administrative Rule no. 1062/2004 of 25 August.

That administrative rule amended the Regulation for the Tender to Award National Licences for the Use of Frequencies for Fixed Wireless Access, approved by Administrative Rule no. 465-B/99 of 25 June, and revoked Administrative Rule no. 465-A/99 of 25 June (fees), enabling definition of a new operational model for FWA systems.

The following are aspects contained in this Administrative Rule:

- possibility of using frequency bands allocated as support for the respective operators' transmission networks;
- modification of the national frequency band allocation and operation model, considering that it is possible to make operators' spectrum needs more compatible with the effective frequency use principle by means of suitable geographic distribution by zones;
- equal treatment among all operators allocated FWA frequency usage rights;
- guaranteed continuity of use of frequency bands allocated to all operators who so desire, as long as they are being effectively used, and the possibility of recovering frequency usage rights when such situation is not verified;
- adjustment of operator authorisation titles in line with the introduced modifications;
- modification of the system governing radio spectrum usage fees to reflect more adjustment between their burden on those holding title to usage rights and the benefits they derive therefrom, also reflecting the adopted geographic distribution model.

To enable implementation of the new operation model, ICP-ANACOM decided in a 14 December 2004 determination, and as envisaged in the Final Report on the FWA General Consultation Procedure, to consult the operators so that the latter could express their interest in the areas they want to continue operating the service, as per the frequency bands for which they are authorised. This consultation, which involved the provision of information in terms of REGICOM article 108, took place over the one month counting from each operator's notification.

Conditions associated to the allocation of national numbering plan (NNP) numbers – Rules applied to the 707, 708, 809, 760 and 71 numbering ranges

In 2004 conditions were set, by means of three determinations, for the allocation of national numbering plan (NNP) numbers.

In the wake of complaints from telephone service providers and users regarding the prices and conditions governing use of the 707, 708 (universal access services) and 809 (shared cost call services) numbering ranges, ICP-ANACOM decided by determination dated 16 January 2004 to set the maximum prices to be paid by call-originating users in calls to the said numbers. These services are characterised as allowing access to a given number, always in the same way, for the same price and from anywhere in the country.

For the 707 and 708 ranges a maximum price of 0.10 euros per minute was set for calls originating in fixed networks and 0.25 per minute for calls originating in mobile networks, with determination of charging by the second from the first minute on.

For the 809 range, the maximum price set corresponds to the price of a national call, after the initial time credit of 10 seconds during normal hours in the universal service price table, currently 0.738 euros per minute, with determination of charging by the second from the first minute on.

Following this determination, and given that electronic communications service providers alleged a lack of business margin when providing some services, ICP-ANACOM deemed that an access dialling code for those services was advantageous, associated with a price table independent of call length and time, in order to provide the market in general and providers in particular with an offer without discontinuities in their range of services.

ICP-ANACOM thus on 28 January 2004 determined that the 760 service dialling code should be introduced, characterised by a single retail price of 0.60 euros per call, regardless of the time or length of same.

Parallel to these determinations, ICP-ANACOM, having verified deficient use of the 707, 708 and 809 numbering ranges, determined on 21 January 2004 the suspension of telephone service provided via diverse numbers in the said ranges of various service providers, and filed the corresponding administrative offence proceedings against the entities using those numbers (customers of the providers).

On 9 September 2004 the draft decision on creation in the NNP of a special dialling code – 71 – to accommodate premium rate utilitarian services was approved, subject to specific conditions regarding the allocation and use of numbers.

This determination resulted from a request submitted by the companies VODAFONE PORTUGAL and OPTIMUS for new numbering, as they considered that it was important to accommodate in the national numbering plan a code enabling services with a specific utilitarian content to be provided, outside the current audiotext codes and also distinct from the current price ceiling codes, as those services' operational costs prevented same from being commercialised for the amounts defined for existing numbering ranges.

This draft was submitted to the proper consultation procedures, as well as consideration by the Consumer Institute and consumer associations.

The way to recognise a service's utilitarian nature, the responsibility for that recognition and for the establishment of a price ceiling per minute and per call, the entity to whom the service code is

allotted and the way to ensure protection of consumer interests were the points analysed by ICP-ANACOM, and led to the final determination dated 25 February 2005, as follows:

- Numbers are assigned to the provider of support electronic communications services upon presentation of certain information associated to the service, especially its description and the prices to apply, as well as the opinion of the State body or administrative authority with oversight for the service's area of activity on the utilitarian nature of that service and the appropriateness of the respective prices.
- The use of the numbers eventually allocated to these services is subject to the following conditions:
- Annual opinion on maintenance of the utilitarian nature and adjustment of the prices to the service, which the electronic communications services (ECS) provider shall submit to ICP-ANACOM; the annual periodicity should use as reference the date the numbering resources needed to provide the service were allocated to the entity in question;
- The support ECS provider shall notify ICP-ANACOM one month beforehand of any change to the information associated with allocation of the respective code;
- Price information (VAT included) per minute and maximum per call (price ceiling) to be provided when same is made, clearly, audibly and free of charge, by means of an online announcement by the support ECS provider to the user caller, with the following content: "The price of this call is ... per minute and not more than ... euros, no matter how long the call";
- Call to be disconnected only by the parties involved (caller or called).

1.5 Numbering: Allocation of Numbers

According to REGICOM article 17, ICP-ANACOM is responsible for defining and publishing the guidelines, general principles and main NNP information and ensuring management of same in line with principles of transparency, efficiency, equality and non-discrimination.

In this regard, during the year 2004 some 250,000 geographic numbers were allocated for telephone service at a fixed location, about 100,000 numbers for non-geographic services (800, 808 ranges, etc.) and 100² numbers for internet access services. No numbers were allocated or requested for audiotext services; on the contrary many of the numbers already allocated were recovered as several providers ended activity.

The following tables depict the evolution of the situation in this area.

Table 2 – Geographic³ and non-geographic⁴ numbers – Evolution of the national situation

	Lisbon geographic area	Oporto geographic area	Remaining geographic areas	Non-geographic services (600, 707, 708, 760, 800, 808, 809)	Data services (67) (ISP)	Total
2000	130.000	70.000	1.580.000	300.000	600	2.080.600
2001	180.000	60.000	350.000	1.320.000	200	1.910.200
2002	140.000	50.000	530.000	110.000	100	830.100
2003	30.000	20.000	20.000	100.000	300	170.300
2004	30.000	30.000	190.000	100.020	100	350.120

Source: ICP-ANACOM

² Numbers are allocated in blocs of 100 for the 67 range (data service), with the last three digits predefined as zeros.

³ Numbers are allocated in blocs of 10,000 for the 2 range.

⁴ Numbers are allocated in blocs of 10,000 for the 600, 707, 708, 760, 800 and 809 ranges and singly in the 80080 range (Direct Country [País Directo]). In the 67 range (data services) they are allocated in blocs of 100, with the last three digits predefined as zeros.

Table 3 – Audiotext numbers⁵ – Evolution of the national situation

	601 General	607 Televoting	608 Sales	646 Competitions and Pastimes	648 Erotic	Total
Numbers allocated before 2004	18.000	12.000	11.000	11.000	12.000	64.000
Numbers allocated in 2004	0	0	0	0	0	0
Numbers recovered in 2004	12.000	8.000	9.000	9.000	2.000	40.000
Numbers currently allocated	6.000	4.000	2.000	2.000	10.000	24.000

Source: ICP-ANACOM

1.6 Leased lines market

Leased lines are a vital service supporting a broad range of telecommunications services, as operators use them as essential infrastructures for developing their own networks and thus retail services.

Given the importance of this market, ICP-ANACOM defined in 2004, as stated above, the calendar for analysis of the leased lines markets identified in the European Commission Recommendation, which are the minimum set of leased lines (market 7), the wholesale market for leased line terminal segments (market 13) and the wholesale market for leased line transit segments (market 14).

By determination of 10 February 2004, ICP-ANACOM intervened in the price table for the leased line rental service, specifically in the discount structure as defined. This determination was essential, in so far as it defined a discount structure that guarantees the existence of competitive and non-discriminatory conditions in the offer of leased lines.

The previously applied discount structure led to worse conditions for competing with the Grupo PT; the other operators incurred wholesale prices that were relatively higher, specifically compared to the prices incurred by PT PRIME – Soluções Empresariais de Telecomunicações e Sistemas, S.A.

Considering it advisable that whenever Grupo PT companies exist at a given discount level competing companies should exist as well, ICP-ANACOM altered the discount structure as follows:

Table 4 – Modification imposed on the leased lines discount structure

Previous situation:	
Gross monthly invoicing	% discount
Level A: equal to or above 19.951.916 EUR	32,0%
Level B [12.469.947 EUR; 19.951.916 EUR]	26,5%
Level C [7.481.968 EUR; 12.469.947 EUR]	21,5%
Level D [3.990.383 EUR; 7.481.968 EUR]	17,0%
Level E [1.995.192 EUR; 3.990.383 EUR]	13,0%
Level F [748.197 EUR; 1.995.192 EUR]	9,5%
Level G [249.399 EUR; 748.197 EUR]	6,5%
Level H [99.760 EUR; 249.399 EUR]	4,0%
New situation:	
Gross monthly invoicing	% discount
Level A: equal to or above 1.000.000 EUR	26,0%

⁵ Numbers are allocated in blocs of 100.

Level B [500.000 EUR; 1.000.000 EUR]	20,0%
Level C [100.000 EUR;500.000 EUR]	13,0%

Source: ICP-ANACOM

Another important measure included the definition of prices oriented to costs in the interconnection of leased lines and interconnection components, with ICP-ANACOM substantially lowering, by determination of 27 May 2004, the prices of those components, vital for a more energetic offer of leased lines.

The same determination stipulated that the reference interconnection offer (RIO) should allow the operators interconnected with PTC the option of using third parties to establish interconnection lines; those third parties may use for that purpose the respective co-mingling spaces.

ICP-ANACOM asked PTC to submit information about leased lines service in the year 2003, in order to comply with the provisions of Directive 92/44/EEC of the Council of 5 June, whose obligations are still in force under the transition regime established in Directive 2002/22/EC (Universal Service Directive). That information was subsequently transmitted to the European Commission, thus complying with the obligation that the national regulatory authorities should send to the Commission an annual report summarising the availability of that service referenced to the end of each calendar year.

On 21 May 2004 PTC submitted to ICP-ANACOM an authorisation request to suspend the leased lines service provided to EASTÉCNICA V – Comunicações Globais, S.A. (EASTÉCNICA V) for breach of the usage conditions, under terms of paragraph b) of section 1 and of section 3 of article 27 of the Regulation for the Operation of Public Telecommunications Networks, approved by Decree-Law no. 290-A/99 of 30 June, applicable as per paragraph a) of section 2 of REGICOM article 122.

By determination of 7 October 2004, ICP-ANACOM decided to grant this request, ensuring compliance with the legal requirements with respect to both PTC's prior notification of EASTÉCNICA V and to the latter company's notification of the respective users.

1.7 Interconnection and access market

Interconnection

The interconnection of public telecommunications networks in an environment of open and competitive markets arises as a logical and physical support necessary for end-to-end communication between the users of public use telecommunications services.

The conditions for interconnection and particularly the respective prices are vital aspects for development of an effectively competitive market and for users to obtain maximum benefits in terms of choice, price and quality.

Given that as an operator with SMP in the national interconnection market PTC is required to prepare reference interconnection offers (RIOs), ICP-ANACOM determined on 16 March 2004 that the RIO 2004 should be amended, with the following aspects standing out:

- The maximum prices of call origination and termination services should be as follows:

Table 5 – Maximum prices of call origination and termination prices according to the RIO of 13 March 2004

Level	Termination		Origination	
	Price per minute		Price per minute	
	Peak	Off-peak	Peak	Off-peak
Local	0,70	0,45	0,70	0,45
Single transit	1,00	0,63	1,00	0,63
Double transit	1,49	0,93	1,49	0,93

Price per minute, based on a 3 minute call (amounts in euro-cents without VAT)

Source: ICP-ANACOM

Call activation charges should be a maximum of 0.65 euro-cents for local level interconnection, 0.75 euro-cents for single transit interconnection and 0.85 euro-cents for double transit interconnection, applicable to call termination and call origination services. Invoicing is to be by the second as from the first second.

- The maximum charges for the service of invoicing, coverage and risk of non-coverage should be as follows:
- 3.65 euro-cents per call for access by PTC customers to shared cost call services, in which the cost paid by the caller is at most equal to that of a local call made under universal service, provided by the telecommunications service operators/providers;
- 5.20 euro-cents per call, for access by PTC customers to the remaining special services that are not free, specifically customer support services, information services, universal access services and shared cost call services in which the cost for users is more than that of a local call made under universal service, provided by the telecommunications service operators/providers.
- The maximum pre-selection activation charge was set at 7.91 euros.
- The maximum individual number porting charge was set at 15.00 euros.

PTC submitted to ICP-ANACOM on 3 December 2004 a proposal on prices to charge in the RIO to be in force in 2005 (RIO 2005). After analysing the proposal, ICP-ANACOM deemed that same was incompatible with the principle of orientation to costs.

By determination of 30 December 2004, the draft decision on PTC's modifications to the RIO 2005 was approved.

Interconnection prices were lowered by approximately 10 percent, with the reduction of incremental prices per minute one of the variables that influences the decline in prices. However, the lower activation value and the expanded schedule also contributed to the fall of interconnection prices.

Regarding action on local interconnection, interconnection prices were lowered taking into account the cost estimates and practices current in the European Union, for which effort has been made to converge. As indicated in the table below, the maximum prices defined by ICP-ANACOM for the services of call origination and termination to be included in the RIO 2005, considering an average length of three minutes, imply a closer approximation to the European average, either coinciding with the average or being slightly below it.

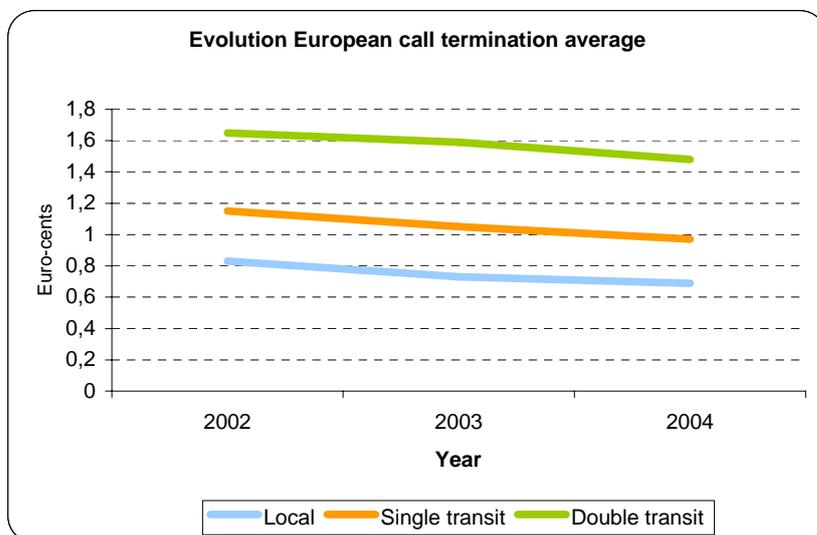
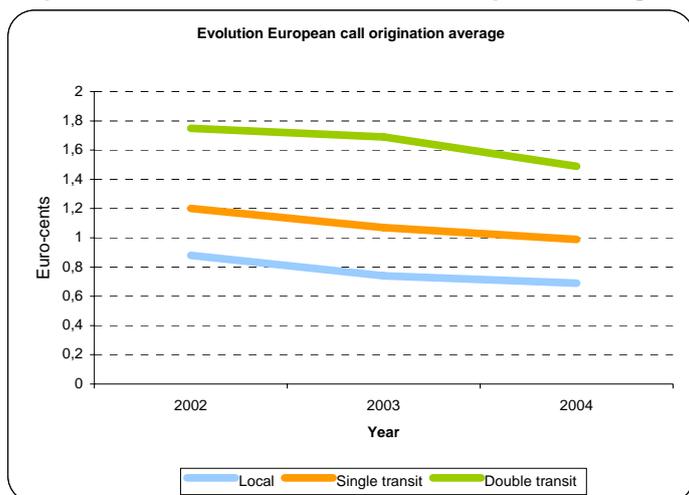
Table 6 – Comparison, in terms of price deviations from the community average, between the situation corresponding to the prices set in RIO 2004 and the maximum prices set for RIO 2005

	Call termination						Call origination					
	Local		Single transit		Double transit		Local		Single transit		Double transit	
	Peak	Off-peak	Peak	Off-peak	Peak	Off-peak	Peak	Off-peak	Peak	Off-Peak	Peak	Off-Peak
RIO 2004	1.2%	-6.2%	2.9%	-4.65%	0.8%	-3.8%	0.4%	-6.6%	1.5%	-5.9%	0.0%	-4.3%
RIO 2005	-1.3%	-9.8%	0.1%	-7.22%	-0.9%	-6.5%	-2.0%	-10.1%	-1.2%	-8.4%	-1.8%	-7.0%

Source: ICP-ANACOM calculation, based on information collected between October and December 2004.

This is true even in a context in which the European average itself is expected to fall in 2005, as its performance suggests (graphs below).

Graphs 4 and 5 – Evolution of the European average, for a 3 minute call, at peak hours



Source: ICP-ANACOM calculation based on information about prices collected at European level.

It is noteworthy that the level of local interconnection is where there is more deviation from the community average. This reveals a greater need to align the prices charged at that interconnection level compared to the others.

The below table allows verification that the maximum price set by ICP-ANACOM implies positioning Portugal on a par with the community average for all interconnection levels.

Table 7 – Comparison of maximum RIO 2005 prices with current EU practices (prices in euro-cents per minute for a 3 minute call)

Euro-cents per minute	CALL TERMINATION						CALL ORIGINATION					
	Local		Simple transit		Double transit		Local		Simple transit		Double transit	
	OFF-PEAK	PEAK	OFF-PEAK	PEAK	OFF-PEAK	PEAK	OFF-PEAK	PEAK	OFF-PEAK	PEAK	OFF-PEAK	
Germany	0,590	0,400	0,960	0,640	1,520	0,990	0,590	0,400	0,960	0,640	1,520	0,990
Austria	0,850	0,500	1,300	0,720	2,250	0,870	0,850	0,500	1,300	0,720	2,250	0,870
Belgium	0,699	0,367	1,008	0,528	1,258	0,660	0,699	0,367	1,008	0,528	1,008	0,528
Denmark	0,428	0,268	0,665	0,412	0,845	0,526	0,486	0,299	0,665	0,412	0,845	0,526

Spain	0,710	0,420	1,050	0,630	2,140	1,290	0,710	0,420	1,050	0,630	2,140	1,290
Finland	1,429	1,429	1,429	1,429	1,429	1,429	1,429	1,429	1,429	1,429	1,429	1,429
France	0,534	0,344	1,002	0,646	1,248	0,805	0,534	0,344	1,002	0,646	1,248	0,805
Greece	0,655	0,655	1,166	1,166	2,590	2,590	0,655	0,655	1,166	1,166	2,590	2,590
Netherlands	0,707	0,447	0,900	0,550	1,150	0,700	0,700	0,430	1,060	0,660	1,500	0,870
Ireland	0,579	0,323	0,891	0,497	1,198	0,667	0,562	0,313	0,880	0,490	1,078	0,601
Italy	0,469	0,334	0,836	0,594	1,376	0,975	0,469	0,334	0,836	0,594	1,376	0,975
Luxembourg	0,923	0,460	0,923	0,460	1,240	0,627	0,923	0,460	0,923	0,460	1,240	0,627
ANACOM maximum prices	0,680	0,430	0,973	0,613	1,467	0,907	0,680	0,430	0,973	0,613	1,467	0,907
United Kingdom	0,395	0,181	0,564	0,258	1,517	0,694	0,435	0,199	0,604	0,276	1,712	0,784
Sweden	0,677	0,547	0,910	0,720	0,970	0,760	0,677	0,547	0,910	0,720	0,970	0,760
EU Average (w/o PT)	0,689	0,477	0,972	0,661	1,481	0,970	0,694	0,478	0,985	0,669	1,493	0,975
PT deviation from average	-1,3%	-9,8%	0,1%	-7,22%	-0,9%	-6,5%	-2,0%	-10,1%	-1,2%	-8,4%	-1,8%	-6,9%
Average excluding extremes and PT	0,652	0,422	0,968	0,630	1,441	0,872	0,655	0,422	0,980	0,639	1,456	0,877
PT deviation from average excluding extremes	4,3%	1,9%	0,6%	-2,7%	1,8%	4,0%	3,9%	1,8%	-0,7%	-4,0%	0,8%	3,4%

Source: ICP-ANACOM calculation based on information collected between October and December 2004.

Access to conduits of the concessionaire PTC

ICP-ANACOM considered that investment in conduits should be compatible with economic efficiency criteria, avoiding both inefficient duplication of infrastructures and inconveniences for citizens and economic activities resulting from frequent and extensive construction work on and below ground, with repercussions on traffic and territorial planning, besides the consequent impact on the environment.

In this regard, by determination of 17 July 2004, after consultation, ICP-ANACOM approved a decision on the offer of access to the concessionaire's conduits and the corresponding consultation report, setting out the principles and general conditions governing the access and use of the concessionaire's conduits and associated infrastructure.

To conform, the concessionaire should henceforth provide, by agreement, to companies that offer publicly available electronic communications networks and services, access to the conduits, posts and other installations and sites that it owns or manages, for the installation and maintenance of their systems, equipment and other resources.

The concessionaire should submit to ICP-ANACOM a reference offer for access and use of the conduits and associated infrastructures it owns or manages, which should respect the principles of transparency, non-discrimination and price orientation to costs. This reference offer must be published 30 days before the respective date of entrance into force and be reviewed on an annual basis, and should include the following minimum information:

- Detailed conditions regarding access to conduits and associated infrastructures;
- Type of contract to be signed by the concessionaire and the beneficiary entities, which should envisage indicators and service quality levels and clauses that cover non-compliance;
- Prices that consider the different items for access and use of conduits and manholes boxes and the different items of the services to render;
- Description of the space in conduits, size of conduits and volume occupied;
- Sequence of typical procedures and interactions to establish between PTC and the beneficiary entities;
- Indicators of deadlines.

Regarding reservation of space for maintenance work or repair of conduits or cables, ICP-ANACOM determined that PTC should leave free, in each section, and for use by the beneficiary entities, an area corresponding to at least 20 percent of the internal area of each conduit.

By order handed down in the Case no. 2604/04.3BELSB, before the Lisbon Administrative and Fiscal Court, in which the parties are PTC as plaintiff and ICP-ANACOM as defendant, the request was granted to suspend the obligations contained in paragraph f) of point 6 and the last paragraph of Part I of the Annex to the ICP-ANACOM determination on the offer of access to conduits of the concessionaire PTC, of 17 July 2004, presented by PTC.

The same determination was the subject of a declaration of nullity or, adjacent to this, of cancellation and condemnation to re-establish the situation that would exist if the act had not been practiced, under terms and for effects of the provisions in paragraph a) of section 2 of article 4 and paragraph b) of section 2 of article 47 of the Code of Process of the Administrative Tribunals.

In another case (no. 2605/04.5BELSB), filed in the Lisbon Administrative and Fiscal Court, a ruling that ICP-ANACOM must issue a new provisional decision was sought, one which effectively guarantees the right of access to the conduits and other infrastructures of the concessionaire PTC, by imposing on the concessionaire PTC the duty to contract with NOVIS TELECOM, S.A., access to the respective conduits and infrastructures in strict observance of the minimum access conditions, and also cancellation of the determination and definitive replacement by a new decision.

1.8 Wholesale broadband internet access services

The enhanced offer of services upon which development of the information society is supported, specifically broadband internet access, is a fundamental pillar of ICP-ANACOM's action. It is thus vital to ensure conditions for competition in the supply of this service.

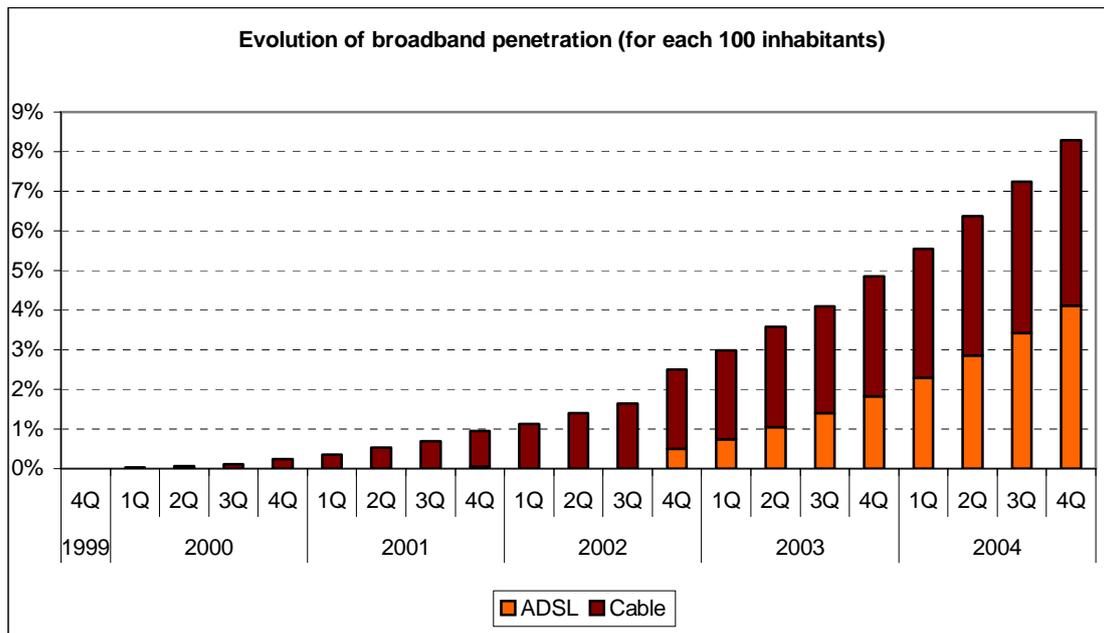
The essential features of broadband internet access are high speed and the possibility of continual functioning, which may be obtained through offers on the copper-wire telephone network (via xDSL technology, of which ADSL stands out), the cable distribution network (using cable modems) and new infrastructures⁶.

At present, operators can offer ADSL access services in retail by means of their own networks (direct access), by leasing local unbundled loops/sub-loops or by the "PT ADSL Network" ["Rede ADSL PT"] wholesale offer. ICP-ANACOM's action thus focused particularly on the "PT ADSL Network" wholesale offer and on local loop unbundling (LLU).

Broadband's penetration rate in Portugal has been rising sharply, placing Portugal at the level of the European average.

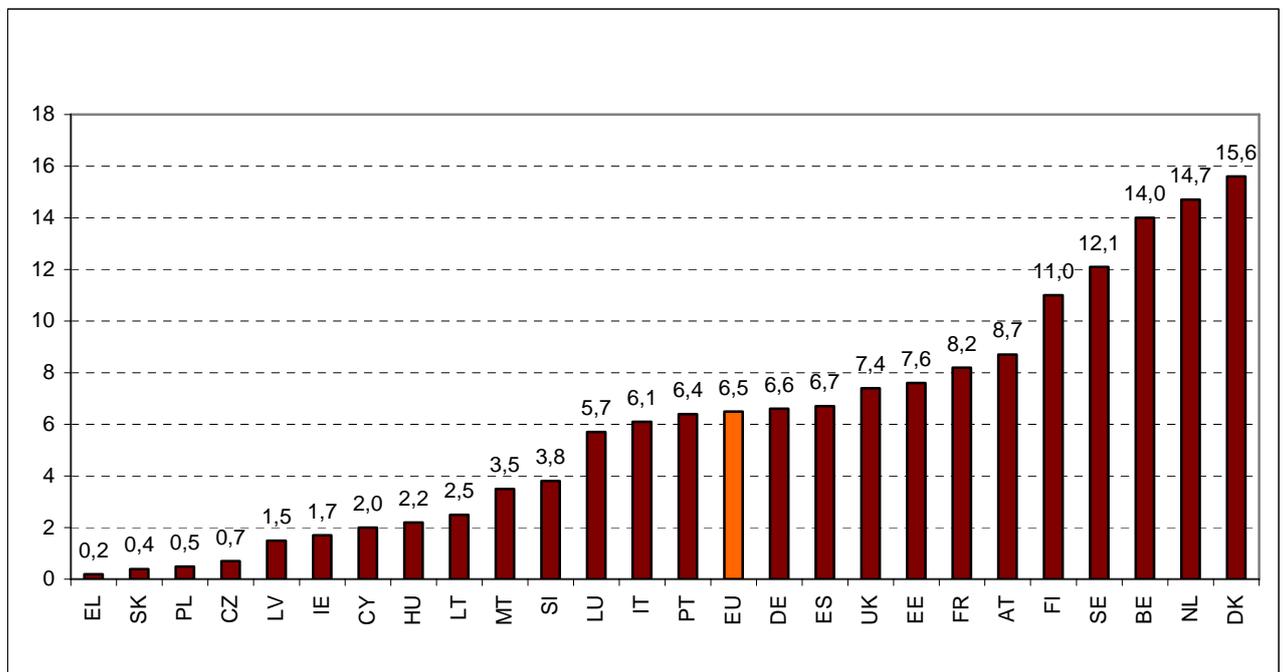
⁶ For example, fibre optics, fixed wireless access, third generation systems, R-LAN networks, electric power distribution networks and digital terrestrial television distribution networks.

Graph 6 – Evolution of broadband penetration in Portugal, 1999-2004



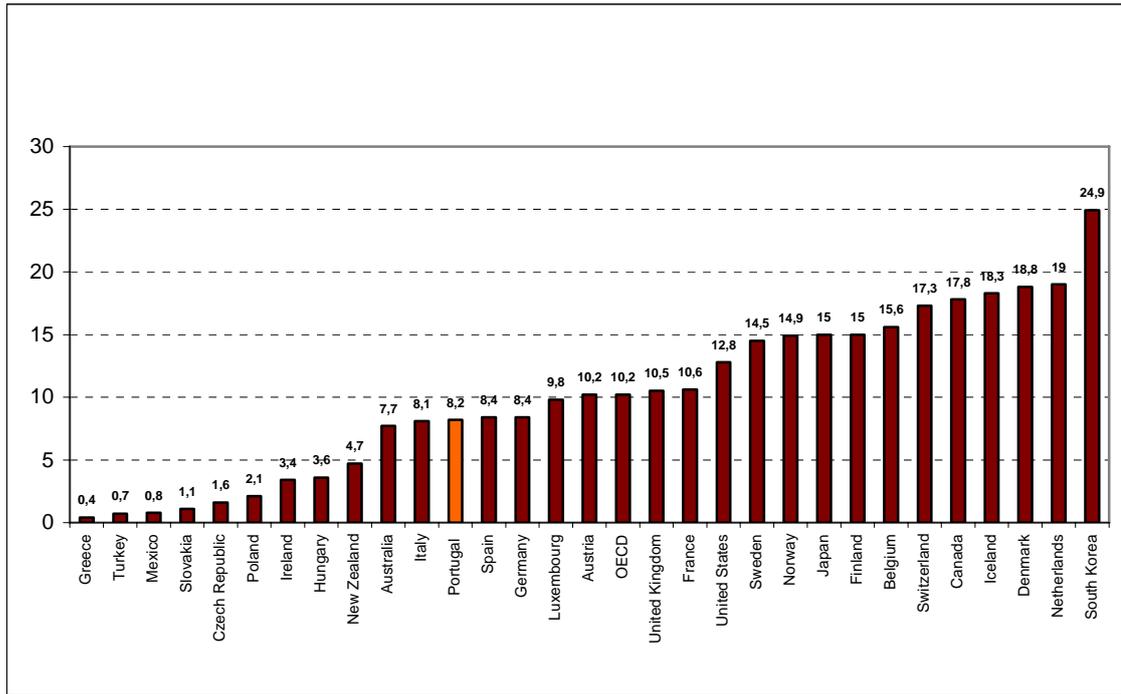
Source: ICP-ANACOM

Graph 7 – Broadband penetration rate in the EU, 2004 (for each 100 inhabitants)



Source: EC, based on COCOM data (01/07/2004).

Graph 8 – Broadband penetration rate in the OECD, 2004 (for each 100 inhabitants)



Source: OECD

(December 2004)

As can be seen in graph 8, taken from a study published by the OECD⁷, where figures for December 2004 are presented for broadband penetration in the countries of that organisation, of the set of 19 European Union countries in the OECD, Portugal records a total penetration per 100 inhabitants close to that registered in countries such as Spain, Germany and Italy.

“PT ADSL Network Offer”

The “PT ADSL Network” [“Rede ADSL PT”] wholesale offer is an offer enabling other service providers (OSPs) to offer broadband access solutions for the retail segment, without the need for extensive investments compared to the investments associated with direct access or access via LLU.

In the year 2004, in line with the interventions carried out since the start of the offer, ICP-ANACOM intervened in the “PT ADSL Network” offer in order to ensure compliance with the applicable regulatory principles and taking into account the goals of encouraging competition and pursuit of the public interest as per its responsibilities.

Upon verifying that the installation price for local access covered in retail by the Grupo PT subsidiary companies corresponded to 42.02 euros (without VAT), an amount much less than the corresponding wholesale price (70.00 euros) and given the relative influence of the Grupo PT companies in ADSL access (85 percent at the end of 2003), ICP-ANACOM intervened in the “PT ADSL Network” wholesale offer in January 2004. That intervention consisted of modifying to 38 euros the maximum price for local access installation service in the “PT ADSL Network” wholesale offer in the 512 kbps/128 kbps and 256 kbps/128 kbps service classes, constituting a price reduction of approximately 46 percent.

Another significant ICP-ANACOM intervention in the context of the “PT ADSL Network” wholesale offer took place in April 2004, guaranteeing evolution of that offer so as to enable interconnection at ATM network level. The supply of ATM transmission capacity (asynchronous transfer mode)⁸ allows

⁷ OECD *Broadband Statistics*, December 2004.

⁸ Communications protocol.

OSPs to offer new products, with different features, specifically with respect to debits, contention rates and other components associated to service quality, encouraging competition and benefiting end users.

On 12 October 2004 the Grupo PT disclosed the launch, scheduled for 15 October, of retail broadband offers at 1 and 2 Mbps over the respective cable distribution network. ICP-ANACOM understood that the only way to ensure conditions of non-discrimination between equivalent retail offers would be to ensure that the Grupo PT companies only launched cable offers after the equivalent wholesale offers in the “PT ADSL Network” offer take force, which has not occurred to date.

In this regard, by determination of 14 October 2004 ICP-ANACOM decided that the Grupo PT companies may only commercialise the announced retail offers of 1 Mbps and 2 Mbps broadband over the cable distribution network after the corresponding wholesale conditions in the “PT ADSL Network” wholesale offer take force.

By means of the determination dated 21 October 2004, it was deemed that coverage for ATM aggregation should equal coverage for IP (internet protocol) aggregation, and that the offer should henceforth envisage the provision at wholesale level of at least one class of local access at bit-rate equal to or above 2 Mbps, on a downscale, with the maximum local access price, regardless of class, becoming 9.50 euros.

New modifications were introduced by the determination of 21 December 2004, specifically the possibility of carrying out customer migrations between the IP aggregation mode and ATM aggregation (even between different ISPs), when there is no room for operations at distributor level, with no interruption of service to end users or any effect on all the procedures needed for there to be minimum service disturbance, which can in any case be no longer than one day. The maximum prices for a 1 Mbps VP were additionally set, at national and regional level, in the various service categories (CBR, UBR and VBR-nrt) and for migration service of more than 20 accesses in one DSLAM.

The modifications to prices in the “PT ADSL Network” wholesale offer, in the two possible aggregation modes, are indicated in the table below:

Table 8 – Evolution of “PT ADSL Network” Wholesale Offer Prices

Service	IP Aggregation	ATM Aggregation
Local access (monthly charge per access)	[€16,00; €82,98] depending on service class	€9,50
Aggregated access (UBR category – monthly price per Mbps)	[€251,39; €359,14] depending on total debit	[€125,00; €182,00] depending on access level
Migration of more than 20 accesses in one DSLAM (from IP to ATM: charge per access)	€38,00	€12,47

Source: ICP-ANACOM.

Local loop unbundling (LLU)

With the aim of intensifying competition and stimulating technological innovation in the local access market, by establishing harmonised conditions for LLU, the European Parliament and the Council approved on 18 December 2000 the Regulation (EC) no. 2887/2000, which took force in January 2001.

The providers may thus also offer broadband retail services by renting unbundled local loops/sub-loops (in the full access or shared access modes) according to the conditions set out in the reference unbundling offer (RUO). The full access option allows the providers in question to be more flexible when determining their retail offers; they may namely also offer voice services.

Given the need to adjust the deadlines for supplying loops to the deadlines practiced by PTC in retail and in the “PT ADSL Network” wholesale offer, ICP-ANACOM approved on 10 December 2004 a

draft determination envisaging substantial reductions in the deadlines set in the RUO. This draft determination later became definitive, in February 2005, implying the following changes in the deadlines for supplying active and inactive loops:

Table 9 – Evolution of the RUO Deadlines

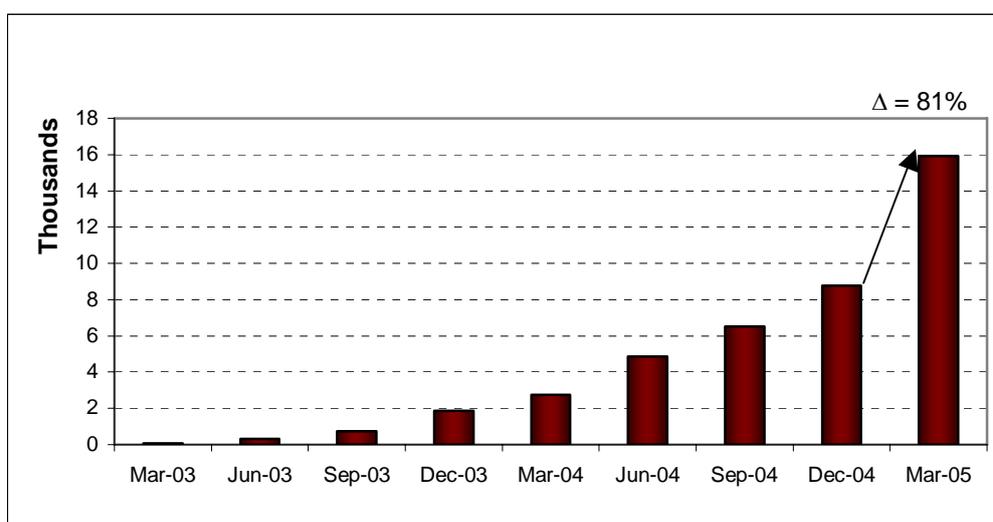
Service		Maximum deadline / practiced (in working days, for 95% of cases) Before intervention	Maximum deadline (in working days – for 95% of cases) After intervention
Supply of an active local loop	With portability	13 working days	In the portability window
	Without portability		7 working days
Supply of an active local loops	With less extensive intervention	119 working days (practice in the 1st half of 2004)	14 working days
	With more extensive intervention		22 working days

Note: These deadlines are the responsibility of PT Comunicações and do not include tests.

Source: ICP-ANACOM.

Until mid-2003 the operators showed little interest in LLU. However, there is evidence that this situation is changing due to ICP-ANACOM interventions, particularly during 2004. This circumstance is evident in the number of unbundled accesses, which was less than 2,000 at the end of 2003, while at the end of 2004 it was more than 8,700. Note the evolution of the number of unbundled accesses in the first half of 2005 (81 percent growth), which can only result from the changes introduced in the offer in the previous year, which also allowed more investment from the alternative operators.

Graph 9 – Evolution of the number of unbundled accesses, 2003-2005



Source: ICP-ANACOM.

REGULATORY ACTIVITY IN THE BROADBAND MARKET

ICP-ANACOM's activity in the years 2004 and 2005 was marked by more intense regulatory action in the broadband market, with special emphasis on changes to the "PT ADSL Network" wholesale offer and in the local loop offer (RUO) and with respect to definition of the broadband markets, which for the first time includes access via cable distribution network.

ICP-ANACOM intervened in the "PT ADSL Network" wholesale offer, forcing PTC to offer a higher number of more appropriate access points, to enable the alternative operators to more efficiently use available resources and to be more flexible when defining the conditions for retail offers, specifically in terms of debit in local access, contention rates and other components such as service quality.

ATM access was implemented at regional and national level and various service classes and new local access classes were made available. Some prices associated with this offer were also reduced, taking into account the principle of orientation to costs as well as coherence with the RUO, ATM and IP interconnection and the Grupo PT retail offers.

ICP-ANACOM's intervention regarding the provision of a 2 Mbps service class in the "PT ADSL Network" wholesale offer was also reflected vis-à-vis the maximum debit provided to the end customer, for which offers of 4 Mbps, 8 Mbps and 16 Mbps were later launched, supported in both LLU and in the "PT ADSL Network" offer.

Regarding the RUO, ICP-ANACOM interventions basically sought to lower the maximum prices for the supply of active and inactive loops and to lower the prices of services envisaged in that offer (including signal transport service), seeking to ensure coherence between the conditions from the Grupo PT's various wholesale and retail offers.

In market analysis, the wholesale supply of broadband access was identified as a relevant market; it includes the services of broadband access supported in the public switched telephone network and also in the cable distribution networks. The Grupo PT companies operating in the market in question were identified as being SMP operators. Regarding the imposed obligations, worthy of note are the non-discrimination obligation and the price control obligation (via a 'retail-minus' rule), which envisage that the "PT ADSL Network" wholesale offer should allow the alternative operators to replicate and compete (with a suitable level of return) with the Grupo PT's broadband internet access retail offers, regardless of the technology used.

ICP-ANACOM aims to ensure the existence of various complementary and mutually coherent (IP, ATM and LLU) wholesale offers, which require different amounts of investment by the competing operators and in turn allow distinct levels of differentiating the offers provided to end users. Regulatory action should enable more competition to develop, along with more diversification among the services offered, and should also encourage efficient investment by those operators, while at the same time placing value on existing infrastructures and ensuring that end users obtain maximum benefit in terms of choice, price and quality.

In this context, ICP-ANACOM's action has been ruled by a gradual approach, in light of the new regulatory framework, favouring the encouragement of competition in the electronic communications market that takes the proportionality of its measures into account. By means of coherence among the various offers' wholesale prices, the alternative operators are given a chance to rise on the "investment ladder". The alternative operators may choose to switch from one access form to a higher level, by investing in own infrastructure and subsequently adding value to their offers as they rise on the value chain.

Regulatory action in the broadband market – naturally, along with initiatives from the various market operators and initiatives from other public bodies – has enabled that market to develop and grow. The increased coverage of the wholesale offers (both the "PT ADSL Network" offer and LLU) have along with other factors helped increase broadband penetration.

1.9 Promotion of new technologies and services

Third generation mobile services: UMTS system

By determination of 10 February 2004, 1 July 2004 was set as the date to begin the commercial offer of the UMTS system.

TMN, VODAFONE PORTUGAL and OPTIMUS reported that they had begun commercial operation of the UMTS system on 21 April 2004, 5 May 2004 and 4 June 2004, respectively.

Third generation mobile services: CDMA system

On 7 May 2004, RADIOMÓVEL – Telecomunicações, S.A. (RADIOMÓVEL) informed ICP-ANACOM that it had begun providing trunking mobile service (TMS) according to the code division access system (CDMA).

In order to gauge the completion of the process of switching from MPT1327 and TETRA technologies to CDMA technology, ICP-ANACOM on 2 November 2004 asked the company for more information about its mode of execution. On 10 November 2004 RADIOMÓVEL submitted its reply to the information request addressed to it by ICP-ANACOM.

On 16 November 2004 ICP-ANACOM deemed that the information submitted by RADIOMÓVEL was not enough to gauge strict compliance with the obligation for MPT1327 and TETRA systems to switch to CDMA technology and that the company was constrained by terms of the licence it was awarded, and asked for more information. On 19 November 2004 RADIOMÓVEL submitted a file containing its response.

On 15 April 2005 ICP-ANACOM approved a determination concerning verification of the effective and efficient use of the frequencies assigned to RADIOMÓVEL and the obligation of the analogue and digital systems to switch to the CDMA system.

According to this determination, ICP-ANACOM considered that RADIOMÓVEL had not complied with the obligation that the analogue (MPT 1327) and digital (TETRA) systems should switch to CDMA technology by the deadline set in the licence it had been awarded to provide TMS as per the CDMA technological system, and that the company was not efficiently using the frequencies it had been assigned to use that system.

RADIOMÓVEL was thus given one month to end to the verified instances of non-compliance, or to reply in writing by the same deadline. As the said instances of non-compliance were not removed, ICP-ANACOM decided it would reassess the company's right to use the frequencies it had been assigned for the provision of TMS under the terms of its licence.

Meanwhile, on 30 September 2004 REPART – Sistemas de Comunicação de Recursos Partilhados, S.A. (REPART) asked ICP-ANACOM to allocate it the spectrum assigned to RADIOMÓVEL for the provision of TMS via the analogue (MPT 1327) and digital (TETRA) systems.

On 15 November 2004, ICP-ANACOM, taking into consideration that:

- REPART based its request for additional assignment of frequencies on the presumption that RADIOMÓVEL would by 9 November 2004 stop using its assigned frequencies, associated with the MPT 1327 and TETRA technologies, and that same would then be returned to ICP-ANACOM; and that
- the radio channels REPART would like to see made available are currently assigned to RADIOMÓVEL for the provision of TMS according to the MPT 1327 and TETRA technological systems, as indicated in the published frequencies for the 2002-2003 biennium, in force; determined in the form of a draft decision to reject the request for the assignment of additional radio channels submitted by REPART and to determine a prior hearing of the company.

Upon completion of the prior hearing, ICP-ANACOM decided by determination dated 9 February 2005 to reject the request submitted by REPART, deeming that at the time it did not minimally contain the pretexts that conditioned granting the request presented by the company, which concerns spectrum that is not currently available nor is it known when it will become available. This does not affect, should this occur, taking into due consideration the fact that REPART had manifested on 30 September 2004 its interested in being assigned the right to use those MPT 1327 and TETRA frequencies.

Broadband radio access

The working group on Local Networks via Radio (WG – WLAN) was set up in ICP-ANACOM in 2004, to gather the efforts and skills needed to analyse and monitor the current WLAN situation in Portugal (duly framed in an international context), from the technological and market standpoints, specifically the available commercial supply and the respective regulatory framework.

The said working group, encompassing an internal multi-disciplinary team, drew up an updated report on the WLAN situation, which was submitted to the board of directors. It referred to the technology's basic features and studied aspects concerning licensing, competition, quality, possible asymmetric regulation, potential problems, interference and security aspects affecting WLAN systems, besides presenting a number of recommendations in this context.

Power line communications (PLC)

By determination dated 27 February 2004, the creation of a Power Line working group (WG-PLC) was approved, comprising a multi-disciplinary team joining the efforts and skills needed to ensure study and monitoring of the current situation in the area of PLC (power line communications) technology in Portugal (duly framed in an international context), from the technological, regulatory and market standpoints, namely the available commercial supply.

In 2004 the working group studied, among others, aspects involving potential problems in the use of radio spectrum, competition, infrastructure access, quality of service and safety, with respect to the use of PLC technology, co-ordinating internally with ICP-ANACOM and drawing up recommendations and opinions when so requested.

This working group also examined the successive proposals for a Commission Recommendation on PLC, contributing with recommendations for the national position on the subject.

Supply of short message services (SMS) in the fixed network – mobile network codes

Recommendation E.212 of the International Telecommunication Union Standardisation Sector (ITU-T) was approved in May 2004, thus enabling the assignment of an MNC (mobile network code) to public telephone networks accessible at a fixed location as long as they support services with mobility or when, to supply them, interoperability with the mobile networks must be assured. An example of service under these conditions is SMS (short messaging service) in the fixed network.

Voice over Internet Protocol (VoIP)

In the wake of the work by the PT VoIP and WG NNA (working group on Names, Numbering and Addressing) of the ECC (Electronic Communications Committee), the final report on Numbering for VoIP Service was published, after elaboration of the respective public consultation. In this regard, the approval of an ECC recommendation – Numbering for Nomadic “Voice over IP” Services – is expected in 2005.

Digital terrestrial television (DTT)

With regard to digital terrestrial television (DTT), the activity of the internal working group (WG-DTT) continued, studying various possible alternatives for DTT implementation models in Portugal. To that end, and following on the work begun in 2003, two studies were completed:

- “Study and Analysis of the Supply of Services for Digital Terrestrial Television”, which enabled study and characterisation of a number of DTT implementation models in other countries, and analysis of the national supplies of television, internet and voice services, to identify a series of potential factors for success of the DTT value proposals, in order to select and prepare the value proposals to be tested in the subsequent study;
- “Study and Analysis of the Digital Terrestrial Television Market”, which included a market study supported by six value proposals resulting from the first study, which was based on nearly 1,200 interviews conducted in the 18 mainland districts and in the two autonomous regions. It served to gauge and estimate the potential receptivity and demand for DTT in Portugal, depending on a number of variables.

In the process of analysing the models for DTT implementation in Portugal, various discussion meetings were also organised by ICP-ANACOM, gathering the main economic players so that they could directly and indirectly become involved in the DTT study process. A preliminary summary of the main conclusions of the demand estimate study was presented.

Following on the work involving DTT, and on the understanding that digital television and its implementation in Portugal is an especially complex transversal subject, with impact in various areas, the Mission Unit for Digital Television (UM-TD) was set up in June 2004 by determination of ICP-ANACOM. It is a multidisciplinary team made up of staff from various departments and directorates, as well as two outside consultants. UM-TD succeeds the previous WG-DTT, while expanding its radius of action and working directly under the board of directors.

The activity of UM-TD is meant to propose measures tending to remove eventual barriers to the effective development and spread of digital television in Portugal – and the consequent migration/deactivation of the current analogue systems – in a sustained and balanced way,

minimising possible asymmetries and maximising benefits for all economic players, particularly consumers, and based on a diversified quality supply (at the level of services, technological access platforms and equipment) that is bearable and affordable by most of the population.

In the second half of 2004, beyond the various contributions presented in the scope of digital television, the production of a bi-monthly internal information bulletin and participation in a number of meetings and events involving digital television, priority was given to a more thorough analysis of digital television from the terrestrial standpoint. This was so that the introduction of DTT in Portugal, which had been suspended since the previous licence was revoked in March 2003, could now be re-launched during an international situation more favourable for the critical mass needed for its success, due to either the launch and consolidation of operations in other countries or to the manifest commitment of the European Commission.

To that end, as a result of the internal analysis of various elements in the process and of the hearing of various potential players, the information needed to adopt a position on how to introduce DTT in Portugal was prepared and submitted to the ministry of tutelage. The analysis included a memorandum on DTT (with a description of the national and international situation and the presentation of some possible scenarios for implementation in Portugal), a report-synopsis on the positions and opinions expressed by the various entities heard (based on two alternative DTT implementation models) and the identification of a set of critical regulatory factors to be overcome.

New electronic communications services

On 12 November 2004 NOVIS notified ICP-ANACOM of the launch of a service for residential users, in partnership with OPTIMUS, called Optimus Home. NOVIS identified the service provided as being fixed-mobile convergent. It additionally stated that it was using geographic numbers for fixed access telephone service from the national numbering plan.

Considering that the provision of this service in the way it was supplied was based on non-compliant use of NNP numbers, ICP-ANACOM determined that NOVIS should immediately cease commercialisation of the service called Optimus Home and take steps to prevent its continued advertisement to the public by any means, and that it should within a maximum of five days notify subscribers that the service would cease, ensuring fulfilment of the obligation to give prior notice when offers are suspended, under the terms set in paragraph c) of section no. 1 of REGICOM article 39.

Given that the Optimus Home product continued to be publicised by various means, ICP-ANACOM determined on 21 December 2004 that NOVIS should be fined a compulsory monetary sanction of 10,000.00 euros for each day of non-compliance, without affecting other sanctions applicable per a case of administrative offence.

Under this determination, OPTIMUS was also ordered to immediately cease any form of publicising that service, with non-compliance resulting in the application of an identical sanction as from 27 December 2004.

On 7 December 2004 NOVIS submitted to ICP-ANACOM a communication on the start of the offer of a new service for access to the public telephone network at a fixed location and telephone service at a fixed location. This new NOVIS offer arose following the interdiction, by ICP-ANACOM determination dated 26 November 2004, of commercialisation of the previous offer known as Optimus Home.

The features of the new offer are substantially different from the previous one with regard to the mobility allowed customers. The Optimus Home offer would allow a customer mobility in a geographic area coinciding with that of the NNP his or her access number belonged to. The offer communicated by NOVIS on 7 December "guarantees consumers coverage in a circumference with a radius of approximately 2,000 metres, similar to what occurs with other wireless technologies".

This new offer was considered by ICP-ANACOM from three standpoints: frequency usage, number usage and transparency in information to users.

Thus, by determination of 10 December 2004, ICP-ANACOM approved a draft decision with the following terms:

1. Allows use of the GSM frequencies of the OPTIMUS land mobile network in the local access network for the provision of voice services at a fixed location by NOVIS, with the typical service features presented to ICP-ANACOM on 7.12.2004;
2. Recognises the right to use the 2 numbering range of the NNP in the scope of that service, as long as the mobility associated with the terminal is only the one which, given the technology used, must inevitably assure access at a fixed location;
3. Determines that NOVIS must present clear and transparent information to end users about the said service, specifically explaining the following:
 - Service coverage area, including possible limits to indoor access;
 - Impact at caller localisation level in calls made to the European single emergency number (112);
4. Submits the determination to prior hearing of NOVIS and OPTIMUS, as well as to the general consultation procedure so that the interested parties may give their opinion;
5. Subordinates effective provision of the said service by NOVIS to the decision eventually made at the end of the mentioned procedures.

ICP-ANACOM's final decision on the electronic communications service notified by NOVIS was announced on 25 February 2005. The report produced with consideration of the questions the interested parties raised during the prior hearing procedures and the general consultation procedure carried out in wake of the determination dated 10 December 2004, which approved the corresponding draft decision, was approved at the same time.

ICP-ANACOM determined as follows:

1. To allow OPTIMUS, licensed to provide land mobile service, to use the GSM frequencies of the land mobile network in the local access network for the provision by NOVIS of the service presented to ICP-ANACOM on 7.12.2004, as long as the following conditions are compulsorily obeyed:
 - a) Access to the service should be effected via a terminal linked to one single predetermined BTS when calls are made, received and maintained;
 - b) In exceptional cases, technically justified and as such recognised by ICP-ANACOM, the terminal's association to two or a maximum of three predetermined BTSs is admissible;
 - c) The restrictions set out in the above paragraphs should be assured within a maximum period of ten days after activation of this service.
2. Recognises that NOVIS has the right to use the 2 numbering range of the NNP in the scope of the service notified to ICP-ANACOM on 7.12.2004, as long as the conditions envisaged in this determination are fulfilled.
3. Determines that OPTIMUS must present to ICP-ANACOM within 15 working days counting from this determination the description of the technical process governing the selection of BTSs, and of the duly typified situations which may exceptionally determine the connection to more than one BTS, including the adopted definition of service activation.
4. Determines that OPTIMUS and NOVIS must maintain a registry for all terminals and associated BTSs, specifically including:
 - a) The declared address for service access by the end user;
 - b) The telephone number of the end user;
 - c) The date of service activation;
 - d) The identification, including the geographic co-ordinates, of the BTS or exceptionally of the BTSs associated to the terminal, after their selection process.
5. Determines that NOVIS must present clear and transparent information to end users on the services's features, specifically explaining the following:
 - a) The guarantee that service access is exclusively assured at the addressed declared for that purpose by the end user;
 - b) Eventual limitations on indoor access;

c) Impact at caller localisation level in calls made to the European single emergency number (112).

2 Regulation of Postal Services

2.1 Universal service

Conventions

A new Universal Postal Service Price Convention and a new Universal Postal Service Quality Convention were signed with the CTT – Correios de Portugal, S.A. (CTT) on 20 January 2004 and published in the 3rd Series of the *Diário da República* (DR no. 66 of 18 March 2004). As indicated in article 15 of the Price Convention and article 12 of the Quality Convention, these instruments are meant to be in force from the date they were signed until 31 December 2005, with the possibility of renewal for two year periods, unless revoked by any of the parties.

As with the previous one, the current Price Convention regulates and defines the rules for the formulation of prices for the services comprising the universal postal service provided by the CTT, covering the reserved area and the non-reserved area. However, for the reserved services the setting of a price cap is maintained; for the non-reserved area's services the price system was modified. The setting of these prices is the concessionaire's responsibility; ICP-ANACOM may determine changes at any time, duly grounded in terms of compliance with the tariff principles set out in the Convention and also taking into account the observed levels of service quality.

Negotiations between ICP-ANACOM and the CTT continued with the aim of signing the pact on development goals for the public postal network and the minimum supplies of services, as envisaged in Basis XV of the Concession Bases for Universal Postal Service, approved by Decree-Law no. 448/99 of 4 November, amended by Decree-Law no. 116/2003 of 12 June. The CTT sent to ICP-ANACOM on 26 February 2004 a text proposal that was subject to analysis by the regulator.

Affordability

In the context of the Universal Postal Service Price Convention, ICP-ANACOM decided not to express opposition to the entrance into force of the price regime for the services included in the universal postal service proposed by the CTT to be in force as from February 2004.

Following the monitoring of the CTT's quality of service in 2003, which detected non-compliance with the service quality levels set for that year in the Universal Postal Service Quality Convention of 21 December 2000, in force from 2001 to 2003, ICP-ANACOM determined on 14 April 2004 to apply to the CTT the penalty envisaged in article 5 of the said Quality Convention. That penalty comprised a deduction of one percentage point from the annual average weighted variation limit for reserved postal services in force in 2004.

ICP-ANACOM consequently decided on 27 May 2004 not to oppose the entrance into force of the new prices for reserved services as from 1 June 2004, after verifying their compliance with that determination.

By determination of 21 December, ICP-ANACOM did not oppose the proposed price table for reserved postal services to be in force in 2005, nor reduction of the deadlines to communicate the new prices, as presented by the CTT.

Cost accounting system

As defined in article 19 of Law no. 102/99 of 26 July and in Basis XIII of the Concession Bases, the CTT is obliged to maintain a cost accounting system that enables the costs associated to each service to be determined.

Following approval of the statement of conformity of the CTT cost accounting system for the 2002 financial year, issued by ICP-ANACOM (see 2003 Regulation Report), a notice was published in the 3rd Series of the *Diário da República* (DR no. 31 of 6 February 2004), making public that said statement was available at the ICP-ANACOM attendance services and on its website. The European Commission was also notified of the statement of conformity with respect to that financial year.

In 2004 the CTT's cost accounting system for financial year 2003 was audited, with the ICP-ANACOM determination on the respective conclusions, including the statement of conformity of the system and the results obtained, expected during the year 2005.

Quality of universal postal service

Under terms of the provisions of the Quality Convention, ICP-ANACOM must quarterly monitor the public postal operator's quality of service indicators (QSIs), evaluating compliance with the stipulated conditions at the end of each year.

In this regard, the conclusions of an audit of the quality of service indicators and the claims system of the CTT for 2002 were approved by determination dated 14 April 2004, along with various recommendations and determinations that the public postal operator should put into practice in order to improve the respective quality of service and claims systems.

Regarding the year 2004, it was verified by duly monitoring the QSIs that the service quality levels offered by the CTT complied with the target values set in the Quality Convention, except for the indicator for priority mail (correio azul) not delivered within 10 working days (QSI 5), which barely attained the minimum value. The overall quality of service indicator registered a value of more than 100.

Creation and closing of postal establishments and schedule changes

According to section 2 of Basis XX of the Concession Bases, it is up to the concessionaire to: open and close postal establishments; and to modify the working hours of postal establishments, taking into account service needs and demand levels.

Under section 3 of the same Basis, the CTT are obliged to inform ICP-ANACOM of the determinations made with regard to the opening and closing, and to changes in the working hours of postal establishments. In cases involving closing or reduced working hours of stations, such communication should be made at least two months before the date when each determination should produce effects; ICP-ANACOM may oppose realisation of the determination by communicating same to the CTT.

Such communication from the CTT should be accompanied by the corresponding grounds, specifically regarding the service's needs, demand levels and satisfaction of the communication needs of the population and of economic activities (section 4 of Basis XX).

In this context, some 92 communications from the CTT were received in 2004, as broken down in the following table:

Table 10 – CTT communications in 2004

Designation	No. of occurrences
Changed working hours of stations	19
Closing of stations	6
Closing of postal stations and their replacement by mail posts ⁹	65
Opening of stations	2
Total	92

Source: ICP-ANACOM

International financial leasing contract

The CTT asked the granter for authorisation to carry out an operation called an international financial leasing contract or cross border leasing, with the technological equipment and intelligent systems that support the entire mail circuit as subjacent assets.

⁹ Mail posts are establishments belonging to private individuals or other entities, where the postal services of the CTT are provided on a contractual basis.

To make the presented operation feasible, the CTT also requested that a lead company be established, speeding up the registry process, and that the Concession Bases be modified, withdrawing the reversion to the State of the goods and rights pertaining to the concession in case of rescission or end of concession, as well as the State's envisaged right to step in and operate the service instead of the concessionaire.

The Government asked for ICP-ANACOM's opinion on this matter, which was transmitted on 24 March 2004, advising of aspects associated with the concession of universal postal service.

Meanwhile, on 26 March 2004, the CTT forwarded to ICP-ANACOM a letter by which they transmitted the position expressed to the Government regarding the two contracts signed with its subsidiary CTT – Gestão de Serviços e Equipamentos Postais, S.A., still in the process of constitution, concerning equipment the concessionaire owned: a first contract to buy and sell, and a second to lease the same equipment in the concessionaire's favour, both submitted to ICP-ANACOM.

By indication of the Government, the same letter asked for the opinion of ICP-ANACOM, bearing in mind the matter's possible implications on the concession contract, which was transmitted on 30 March 2004. After the opinion was issued, a supplement to the equipment leasing contract was signed, introducing a number of modifications indicated by ICP-ANACOM in order to safeguard fulfilment of the concession regime.

Agency of attendance operations in post offices – CTT/Fidelidade Mundial partnership

On 6 October 2004 the Government asked ICP-ANACOM to consider and provide information on an authorisation request submitted by the CTT to establish with third parties agency contracts for attendance in post offices, via which the subject, autonomously though on behalf and in the name of the CTT, provides to the public the postal service made available at the post office. The authorisation of the granter was requested as the participation of third parties in the activity of the concession itself was involved (Basis XXII of the Concession Bases).

This request was presented after a protocol was signed by the CTT and the insurance company Fidelidade Mundial, S.A., "which involves the development of a partnership network to be gradually implemented, with the aim of providing universal postal service and other postal services, as well as the commercialisation of Fidelidade Mutual products and services in post offices that will present themselves as multi-brand stores, in which attendance should be effected by autonomous third parties, who on an agency basis shall provide the service in the name and on the behalf of the CTT".

Subsequently, on 3 November 2004, the Government again asked for ICP-ANACOM's opinion regarding the contracts to sign with third parties to provide attendance services in post offices, which had been submitted by the CTT.

On 14 December 2004, the Government (State Secretary for Transports and Communications) informed the CTT of the approval of the draft agency and loan contract, in the wake of the ICP-ANACOM opinion. The Government mentions the need to know the property that will be the subject of each contract; the definitive text should be submitted for Government approval.

CTT/National Association of Portuguese Municipalities Protocol

The CTT submitted to ICP-ANACOM on 3 December 2004 the draft protocol to sign with the National Association of Portuguese Municipalities (ANMP), whose aim is to institutionalise and systematise manners of co-operation between the two bodies and the ANMP's associates, "regarding the supply of a universal postal service to populations and safeguarding users' interests". This protocol, in which ICP-ANACOM has observer status, contains clauses concerning the CTT's attendance network, specifically the postal establishment agencies, setting rules for the municipal councils' participation and collaboration in the process of reorganising the network of CTT establishments.

ICP-ANACOM examined the said draft, and in 2005 transmitted its comments and proposed modifications, leading the CTT to send on 2 February 2005 a revised version which was subject to analysis by the regulator; the protocol was meanwhile signed and a copy forwarded to the regulator.

2.2 Liberalised area

The calendar deriving from the regulatory framework in force since the publication of Decree-Law no. 16/2003 of 12 June regarding the gradual and progressive liberalisation of the postal services market is maintained, modifying the scope of the reserved services, while at the same time keeping the necessary public interest guarantees, as per the terms envisaged in the community framework, with a view to a single European market.

The following phases are thus envisaged for the opening to competition of the market segments that are still reserved:

- Until 31 December 2005, liberalisation of correspondence weighing more than 100 grams and price more than three times the reference tariff (priority mail – *correio azul* – in the Portuguese case);
- As of 1 January 2006, liberalisation of correspondence weighing more than 50 grams whose price is more than two and a half times the reference tariff;
- Maintenance in both phases of outgoing international mail and direct mail in the reserved area; these services are subject to the weight and price limites that determine whether or not postal services are included in the reserved area.

The postal directive (Directive 97/67/EC of 15 December 1997, modified by Directive 2002/39/EC of 10 June 2002) mentions eventual total liberalisation as of 1 January 2009.

The detailed analysis of the evolution of this market is presented in the chapter on the situation of communications.

3 Spectrum Planning, Management and Supervision

3.1 Compatibility studies and planning

The year 2004 witnessed continuation in the European Union and nationally of the analysis and debate begun in 2003 on the new concepts introduced in the planning and management of radio spectrum and which concern the rights of spectrum users and secondary spectrum trading.

These notions, deriving from the community framework transposed into the national context by Law no. 5/2004 of 10 February (REGICOM), require in-depth study to interpret, explain and consolidate them, and vis-à-vis the unequivocal determination of the implications of implementing same, both in the electronic communications market and in the spectrum management plan.

In 2004 work was undertaken on a first outline of possible scenarios developed in 2003, with consolidation of this phase expected in 2005.

Regarding spectrum planning, special emphasis was placed at national level on drawing up the National Frequency Allocation Plan (NFAP), deriving from application of REGICOM, which determines that it is ICP-ANACOM's responsibility, in the scope of spectrum management, to plan frequencies in line with the criteria for radio spectrum availability and to ensure the conditions for effective competition in the relevant markets and for effective and efficient frequency usage.

A determination dated 17 December 2004 thus approved the new NFAP, prepared per REGICOM articles 15 and 16, for effects of the general consultation procedure envisaged in that same instrument.

Once the said consultation procedure had been conducted, the definitive version of the new NFAP was approved by determination dated 4 May 2005. Likewise approved at the same time was the final report from the consultation.

The new NFAP contains three parts. The first contains the frequency allocation table (equivalent to the previous NFAP). The second identifies the frequency bands and the number of channels used to operate the publicly available electronic communications networks and services licensed up to 31 October 2004 and the frequency bands that are reserved and to become available in 2005 for the operation of electronic communications networks and services publicly available or not. The third part focuses on spectrum usage situations exempt from radio licensing (requiring notice).

This publication will in the future establish, as soon as they are clearly defined, all cases in which frequency usage rights are necessary, as well as the rules determining whether they can be transmitted.

In the context of planning and of compatibility studies and new technologies, the following also stand out:

Wireless local area networks (WLAN)

The recent proliferation of SRD (short range device) applications in the 2.4 GHz band and their growing demand for public WLAN technology uses will tend to increase saturation of this band, with impact on service quality. It was thus deemed vital to provide more spectrum for such applications, a necessary condition, among other factors, to enable satisfactory performance in the presence of other un-co-ordinated users, one of the key factors for market acceptance of such applications.

The expected expansion of the market for WLAN technology led spectrum regulatory bodies to seek new frequency bands for WLAN implementation, such as the 5 GHz band, for example.

The work and studies carried out resulted in identification of the 5150-5350 MHz and 5470-5725 MHz frequency bands for this kind of use.

This matter was the subject of a decision from the 2003 World Radiocommunications Conference (WRC-03) of the International Telecommunication Union (ITU), with comprehensive allocation of the

5150-5350 MHz and 5470-5725 MHz frequency bands to mobile service with primary status, to thus enable the implementation of wireless access systems, including WLAN.

Note that work on the DFS (dynamic frequency selection) specification, a mechanism that enables radar systems to be detected in the same channel, avoiding interference, was completed. Equipment meeting the technical specifications for such applications is already on the market.

During the year 2004, and also based on the studies carried out, spectrum was also identified in the 5725-5875 MHz band for the implementation of future access technologies.

SAP/SAB (services ancillary to program making/services ancillary to broadcasting) applications

In the wake of the process of replanning and identifying new frequency bands to accommodate SAP/SAB video connections in Portugal, particularly wireless cameras, SAP/SAB mobile and portable video connections and temporary point-to-point SAP/SAB digital video connections, used for direct broadcasts of news stories or events, new frequencies were allocated in 2004 to the current television operators for such applications.

SRR (short range radar) applications

Under the eSafety programme, which seeks to improve road safety in Europe, the European Commission deemed that the use of short distance radio finder systems using broadband technology – automotive short range radar (SRR) – which will be installed in vehicles in the future, was of the utmost importance in order to reduce road accidents. CEPT (the European Conference of Postal and Telecommunications Administrations) was granted a mandate to harmonise spectrum, with a view to facilitating the co-ordinated introduction in the European Union of automotive short range radar systems.

In compliance with this mandate, CEPT elaborated two ECC (Electronic Communications Committee) decisions in 2004, one on the designation of frequency bands for definitive SRR use in the 79 GHz band and another on the designation of frequency bands for temporary SRR introduction in the 24 GHz band, to enable the rapid introduction of automotive short range radars in the European Union.

The European Commission adopted on 8 July 2004 Decision 2004/545/EC, concerning spectrum harmonisation in the 79 GHz frequency band for SRR automobile use in the European Union and, on 17 January 2005, Decision 2005/50/EC, concerning spectrum harmonisation in the 24 GHz frequency band for time-limited SRR use by automobiles in the Community.

Other licence-exempt applications

New frequency bands were made available in 2004 for use by low power short range devices, in networks or stations exempt from radio licensing, for emitting microphones, radio frequency identification (RFID) systems, avalanche victim detection applications and active medical implants.

CDMA-SMRP systems

With a view to facilitating and implementing this new technology for trunking mobile services (TMS), studies were completed on compatibility between CDMA2000 systems and other existing systems in the 450 MHz band (TETRA, NMT450).

DVB-T

With regard to digital television planning, the first session of the ITU Regional Radiocommunications Conference was held in May 2004, to plan digital terrestrial broadcasting in the 174-230 MHz and 470-862 MHz bands. This conference, held in two phases, will revise the 1961 Stockholm Plan, in force, and result in elaboration of a new plan for the introduction of digital television in Europe, Africa and some Arab countries. This frequency plan will shape the framework for television development in the next few decades.

Besides a number of resolutions on various technical and regulatory issues, the first session adopted a report containing the bases needed to facilitate the planning exercises to be carried out during the inter-session period.

As part of preparations for the second Conference session, ICP-ANACOM undertook the work needed to present the national requirements for digital broadcasting (DVB-T and T-DAB) and the protection of analogue broadcasting and other primary services. These requirements were forwarded to the ITU in late February 2005 and constitute the “entry data” for planning the exercises scheduled for the inter-session period. It is vital for the said requirements to cover Portugal’s short/middle/long term aspirations for television as a whole, considering various aspects, given that the draft frequency plan resulting from the planning exercises, to be agreed on at the second Conference session, will be decisive for the Portuguese administration in the future.

The required activities will be carried out over the course of 2005, including the planning exercises, and should culminate with approval of the new frequency plan for terrestrial digital broadcasting at the second Conference session, to be held in mid-2006.

Satellite radiodetermination – Galileo System

In the wake of the decisions made by the World Radiocommunications Conferences of 2000 and 2003 (WRC-2000 and WRC-03) concerning frequency band allocation and the respective regulatory framework applicable to such systems, a group (GLS) was formed comprising the ITU Radiocommunications Sector (ITU-R) filing administrations for this future system, in which Portugal participated.

In 2003 and 2004 this group produced a memorandum of understanding (MoU) with the aim of creating a legal mechanism that would allow an entity set up under the European Commission to manage the use of ITU-filed frequencies for the Galileo system. This entity, designated the Galileo management entity (GME), will via the contract with the satellite operator eventually chosen by the European Commission for that purpose be able to use the frequencies that have been filed on a timely basis with ITU-R by a group of administrations.

The said MoU was signed on 5 November 2004 in Paris. When it took force in December the GLS group was dissolved, giving way to a Steering Committee formed by representatives of the signatory administrations, one of which is ICP-ANACOM.

Protection of aircraft from earth stations (VSAT, SIT, SUT)

In order to facilitate the development and/or implementation of radiocommunications earth stations near airports, and with a view to protecting electronic equipment on board aircraft, a study was carried out in 2004 on the technical and operational restrictions that such radiocommunications stations should obey.

Ultra wide band (UWB) systems

UWB (ultra wide band) technology allows various systems to be developed with different applications, namely systems for communication, measurement, viewing, vigilance and localisation, among others. This technology is meant for short range wireless communications, with a very high transmission rate, which can be up to 500 Mbps. These features mean UWB devices are able to affect various radiocommunications services.

Following the European Commission mandate for a solution to be produced in CEPT with a view to harmonising radio spectrum use by UWB systems in the European Union, CEPT drafted in 2004 a technical report that presents the requirements that guarantee protection of radiocommunication services operating below 10.6 GHz upon the introduction of generic UWB applications.

In the context of radio spectrum management and planning, the co-ordination with the Spanish Administration must lastly be emphasised, with respect to agreements governing national and international frequency co-ordination. The two countries’ respective regulatory authorities hold an annual co-ordination meeting on planning and interference resolution, with the aim of defining the rules governing spectrum use in same, so as to prevent interference in various radiocommunications services.

The 2004 the Portugal-Spain frequency co-ordination meeting was held in Lisbon in December. A number of interference cases were examined, rules of procedure were approved and co-ordination agreements reached, concerning the use of frequencies by stations and networks for the following radiocommunications services:

- Digital audio broadcasting service (T-DAB);
- Digital television broadcasting service (DVB-T);
- Frequency modulated audio broadcasting service (FM);
- Analogue television broadcasting service;
- Land mobile service:
 - private networks;
 - GSM system;
- UMTS system;
- Fixed service:
 - point-multipoint connections (FWA);
 - point-to-point connections;
- Satellite radiocommunications services.

3.2 Management and supervision

Radio licences

With the aim of issuing network and station licences for the various radiocommunications services, particularly for the areas of mobile services (private and public networks), fixed service and broadcasting service (audio and television), ICP-ANACOM analysed and saw through the respective licensing processes in 2004, including the assignment of frequencies. Noteworthy during this period was the licensing activity associated to the UEFA Euro 2004 event.

The table below shows the distribution among the various radiocommunications services of ICP-ANACOM's activities in the area of licensing networks and stations during the year 2004:

Table 11 – Radio licensing activities by radiocommunications service in 2004

Radiocommunications service		New licences		Modification or renewal of licences		Diverse solicitations
		Station	Netwo rk	Station	Netwo rk	
Amateur	Amateur	266	-	219	-	1.846
Mobile	Land – private networks	-	258	-	155	497
	Land – public networks (GSM)	-	-	-	11	21
	Land – public networks (UMTS)	-	3	-	1	4
	Land – trunking	-	2	-	3	6
	Maritime	18	-	9	-	48
	Aeronautic	5	-	2	-	7
Fixed	Point-to-point connections	-	20	-	170	242
	Point-multipoint connections	-	1	-	1	2
	Studio-emitter connections	-	6	-	12	24
	Transportable beams	-	-	-	-	-
Broadcasting	Audio (analogue)	39	-	344	-	170
	Audio (digital)	-	-	-	1	1
	Television (analogue)	20	-	1	-	33
Satellite	Fixed by satellite	1	-	7	-	9
	VSAT – very small aperture terminal	-	2	-	2	6
	SNG – satellite news gathering	18	-	-	-	22
	Satellite earth exploration	-	-	-	-	-
	Satellite mobile	-	-	-	-	-
Radiodetermination	Terrestrial radiodetermination	-	-	-	-	-
Radionavigation	Maritime	-	-	-	-	1
	Aeronautic	1	-	2	-	8
Radiolocalisation	Weather forecasting applications	1	-	-	-	1

Unit: number of requests

Fonte: ICP-ANACOM

Also in the scope of licensing activities the following stand out:

UEFA Euro 2004 football championship

Given the size of this event, held in Portugal from 12 June through 4 July 2004, and the expected intense use of the associated radiocommunications services, ICP-ANACOM carried out several actions meant to assure timely preparation of same, namely with respect to spectrum planning and management, radio licensing and the monitoring/control of frequency use.

Procedures were established and specific computer tools implemented, with the temporary licensing of radiocommunications stations and networks in mind.

Information dissemination actions were also carried out, specifically on the requirements for obtaining licences for such radiocommunications networks and stations in Portugal.

Worthy of note in this regard are the forms provided and the procedures developed for these radio licences, the information brochures prepared for UEFA and the Euro Broadcast Service, the actions taken involving spectrum monitoring and control, and the implementation of an online attendance service enabling potential users to electronically submit their radio licence requests, simulate radio fees, use means of electronic payment and follow up the status of the licensing request.

SIRESP System (Integrated System of Emergency and Safety Networks in Portugal)

A licensing process for an emergency and security network to become a part of SIRESP in the future was completed in 2004, in line with Council of Ministers Resolution no. 56/2003, published on 8 April.

Radio interfaces

The technical specifications of radio interfaces for radiocommunications equipment were updated in 2004 and the Portuguese Quality Institute (IPQ) was notified of same.

Amateur service

The year 2004 saw the start of efforts to build a closer relationship with amateur associations, which should be strengthened in the future. A document was completed which frames the operation of phonic repeaters in the amateur VHF and UHF bands. This process of rationalising the repeaters' operational bands and their licensing should be completed during the year 2005.

Price table

In 2000, Decree-Law no. 151-A/2000 of 20 July established the regime applicable to the licensing of radiocommunications networks and stations and to oversight of the said stations' installation and the use of radio spectrum, including the principles applicable to radio fees, protection against exposure to electromagnetic radiation and radiocommunications infrastructure sharing.

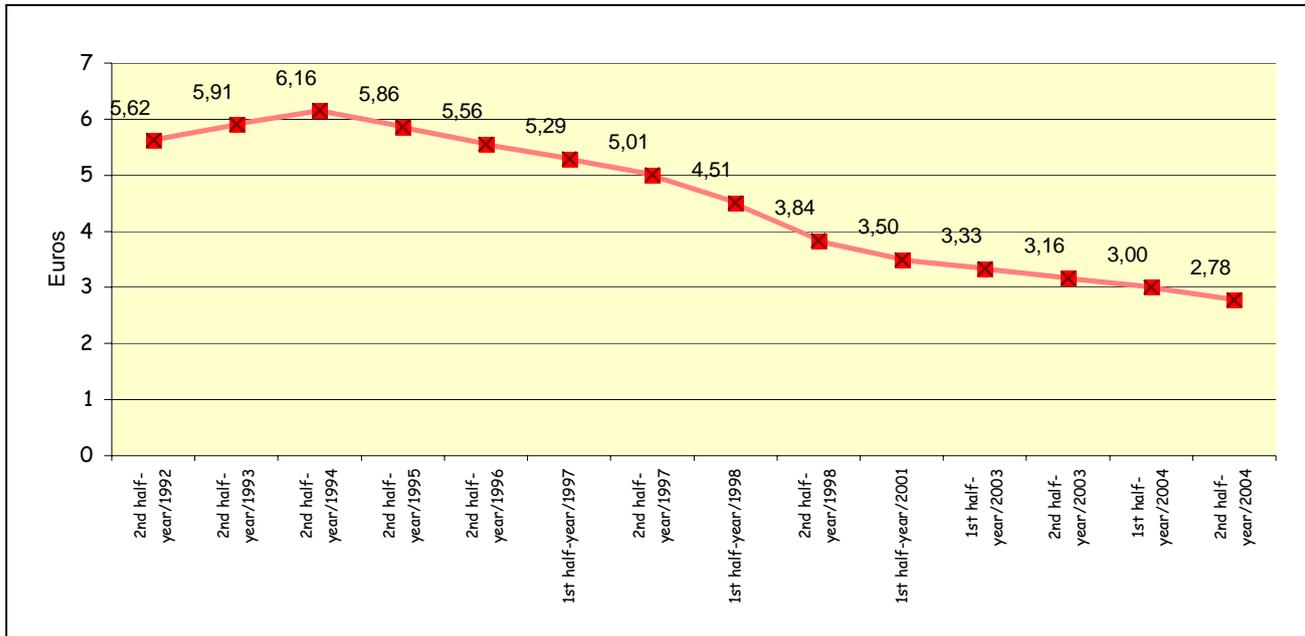
Administrative Rule no. 667-A/2001 of 2 July in turn introduced modifications to the radio fees, with the aim of seeing them gradually reflect a better adjustment between their burden on the respective title-holders and the benefit the latter gain from using radiocommunications networks and stations, also helping further a more efficient use of radio spectrum.

In this regard, and continuing the aforementioned transition process which, according to a new methodology, will be extended in phases to all radiocommunications service categories, several price table changes were proposed in 2004. They are reflected in Administrative Rule no. 1047/2004 of 16 August, which set the fees applicable to radiocommunications meant to be in force during the second half of 2004.

A 7.5 percent reduction of the public radiocommunications fees for land mobile service was thus achieved, as well as a reduction to half its value of the fees applicable to terrestrial digital audio broadcasting service in the VHF (metric waves) and UHF (decimetric waves) bands.

The evolution of the fees applicable to public land mobile service is depicted in the following graph.

Graph 10 – Evolution of the fees applicable to public radiocommunications for land mobile service, 1992-2004



Unit: euros
Source: ICP-ANACOM

In fixed service for public and private radiocommunications, the maximum and minimum limits applicable to the distances of single-path and multi-path radio connections were withdrawn. Also with regard to fixed service, for private networks the values of the fees applicable to single-path radio connections was corrected, with a view to ensuring coherence between uni-directional and bi-directional links and the respective bandwidths.

In private radiocommunications, two new fees were established to cover ancillary programme production services and ancillary broadcasting services – SAP-SAB applications (audio and video connections).

Finally, regarding FWA, given the results of the public consultation process conducted by ICP-ANACOM on this subject, the system governing radio spectrum usage fees was changed, as reflected in Administrative Rule no. 1062/2004 of 25 August.

Continuing the gradual and progressive adjustment of fees to effective radio spectrum use, a new tariff modification was prepared at the end of 2004, as reflected in Administrative Rule no. 126-A/2005 of 31 January, which set the fees for the first half of 2005.

A highlight among the main changes in this new price table is the 5 percent cut in the fees for public land mobile service. A decision was also made to incorporate in this price table the fees applicable to FWA, using the occasion to clarify a parameter mentioned in article 5 of that instrument (parameter a).

Information systems used in spectrum management

Licensing database (PLAGE)

With the aim of implementing the legal framework currently in force, ICP-ANACOM adjusted the PLAGE spectrum planning and management tool, which ensures the necessary flexibility by namely supporting the generation of values used to calculate spectrum usage fees according to the new methods. This database also effects the registration of all administrative information on the users of radiocommunications systems and on the technical parameters of radio stations and networks.

Integrated spectrum management system (SIGE)

The integrated spectrum management system (SIGE) comprises a set of software tools for the various existing radiocommunications services and a digital land information database. This system plays a vital role in such important areas as spectrum planning and management, licensing, monitoring, co-ordination among administrations and ITU filing.

The first phase of the SIGE project was completed in 2003 after the development, testing and final acceptance of the licensing database (PLAGE) interfaces with the calculation tools for the various radiocommunications services (GSM, radio-relay links and DVB-T, for example), as well as the adjustment of PLAGE and the calculation tools to enable their effective integration.

The second and last phase of the SIGE project was completed in the first half of 2004, with the conclusion of said system's implementation. During the year the adjustment and installation of new calculation programmes was begun, resulting from new application-related developments aiming to improve the software comprising SIGE's technical tools. This task was considered completed in December 2004.

Protection of radiocommunications stations and networks

In the scope of the powers granted it by Decree-Law no. 151-A/2000 of 20 July, ICP-ANACOM is obliged to assure the necessary and possible protection of licensed and authorised radiocommunications networks and stations, in order to safeguard the functioning, operations and operating conditions needed for them to pursue their goals. Complementary to this, ICP-ANACOM has the following obligations under associated legislation:

- Under the terms of Decree-Law no. 597/73 of 7 November it must follow up requests to constitute radio easements to protect radiocommunications centres and fixed radio connections assured by radio-relay links, preparing the corresponding administrative processes and respective draft instruments, with a view to seeing them approved or revoked by the tutelary entity, with consequent publication in the official gazette (*Diário da República*).
- In the scope of the instrument mentioned in the point above, or instruments arising therefrom, the opinion requests solicited by local governments or developers of urbanisation projects, regarding municipal master plans, edifications or similar constructions, should be examined whenever they are in the phase of approval, revision or detailing and the latter in consideration phase, for issuance of the respective building permit, when they are under the influence of the areas of liberation and clearance set out in the applicable instruments;
- In a process of studying or assessing environmental impact under the terms of Decree-Law no. 69/2000 of 3 May, combined with the provisions of Decree-Law no. 597/73 of 7 November, it must examine projects involving the establishment of aerial high-tension lines and the implementation of wind energy complexes, so as to issue the opinions solicited by the respective entities, specifically the Institute of the Environment;
- In municipal licensing processes regarding the installation of support infrastructures for radiocommunications stations and respective accessories, as per the provisions of Decree-Law no. 11/2003 of 18 January, it must examine the opinion requests solicited by local governments vis-à-vis municipal authorisations to install radiocommunications stations;
- In a process of licensing by the Directorate General of Geology and Energy, under the terms of section 5 of part II of Annex II of Decree-Law no. 312/2001 of 10 December, combined with the provisions of Decree-Law no. 597/73 of 7 November, it must analyse projects concerning the establishment of wind energy complexes and respective power transport lines, with a view to issuing the opinions solicited by the entities promoting same;
- Regarding the analysis of wind energy complex implementation projects, given their potential ability to disturb radiated electromagnetic fields, particularly analogue television broadcasting signals, which specific studies already carried out under ITU sponsorship indicate is basically due to the movement of the aero-generator rotors, several preventive measures have been adopted. Prior technical inspections are carried out at the selected sites, to indicate to their promoters the existence

of radiocommunications stations installed there, namely television broadcasting stations, with a view to obviating or minimising the appearance of such disturbances.

Considering the obligations described above, ICP-ANACOM examined and issued the corresponding opinions in the following instances in 2004:

- 11 cases of revoked radio easements;
- 41 cases of revised municipal master plans;
- 61 cases of edification and urbanisations;
- 26 cases of study and/or assessment of environmental impact, concerning the establishment of aerial high-tension lines;
- 145 cases of study and/or assessment of environmental impact, concerning the establishment of wind energy complexes;
- 48 opinions on the installation of radiocommunications infrastructures;
- 76 ongoing easement processes;
- 48 other diverse cases, not covered by the above categories.

Spectrum control and monitoring (SCM)

Spectrum control and monitoring (SCM) is part of the frequency management process with the principal aims of overseeing the operational conditions of radiocommunications networks and services according to the legislation in force, specifically Decree-Law no. 151-A/2000 of 20 July, and the gathering of on-the-ground information to aid spectrum planning activities and the licensing of radiocommunications networks and stations.

Although SCM's core activities are mainly operational, the importance of the respective support activities must also be stressed, as they ensure that on-the-ground actions are carried out according to the established rules and that the equipment used is proper and in perfect conditions.

In the year 2004 the activities involving the equipping and technical modernisation of support infrastructures for those activities stand out. To that end, diverse equipment was acquired, namely:

- Updating of the SINCRER system, with a view to its technological modernisation and integration with the SIGE system;
- The acquisition of two mobile VHF and UHF radiogoniometers;
- The acquisition of two portable communications receivers with indication of azimuths, for the Azores and Madeira offices;
- The acquisition of three portable spectrum analysis systems;
- Updating of the GSM testing system;
- The acquisition of equipment for internal testing and training in our services (LN-R¹⁰ and PLC¹¹);
- The acquisition of a maximum and minimum multimeter.

The bases were also launched for the future acquisition of the following additional infrastructures:

- Two SCM mobile stations;
- Fixed HF radiogoniometer¹²;
- Alarm system for remote SCM stations (SINCRER);
- Testing system for the UMTS system.

Developments continued in 2004 regarding the integrated monitoring project, with completion of the report on the Azores Spectrum Control and Monitoring Centre (SCMC) component. This report is currently under consideration internally, with a view to determining the hardware platform upon which will run the software to develop with the Telecommunications Institute. Also in this project, and parallel to the activities mentioned, various software control modules were produced for some of the equipment, henceforth enabling both local and remote operation by the Barcarena SCMC.

Regarding the technical management of ICP-ANACOM's SCM equipment and systems, the following activities are worthy of note:

- Equipment calibration;
- Definition of the calibration profiles for new equipment;

¹⁰ LN-R: local networks via radio.

¹¹ PLC: power line communications.

¹² HF: high frequency.

- Internal calibration of 121 equipment items;
- External calibration of 12 equipment items;
- Corrective preservation of equipment from all the SCM centres; a total of 424 interventions were effected (182 interventions in 2003), of which only six used human resources outside ICP-ANACOM;
- Establishment of a preventive SINCRER hardware and software maintenance contract.

From the SCM operational standpoint, although the action structure has a significant reactive component, i.e., based on claims/solicitations, periodical monitoring campaigns are carried out to verify whether stations and networks are operating in conformity with the legislation in force, namely with the conditions imposed in the licences for radiocommunications networks and stations.

During the year 2004 nearly 1,000 actions were carried out on the ground, with by far most of them involving trips to the operational sites of radiocommunications networks and stations. About 60 percent of the situations resulted from interference claims (of these, about 50 percent corresponded to claims from the general population regarding interference with their television reception systems). The remaining 40 percent of the actions basically consisted of inspections of radiocommunications networks and stations, with the aim of verifying compliance with the licensing conditions (included in these are verification of compliance with the reference levels to protect the general population).

The following actions were also carried out:

- Joint action with Navegação Aérea de Portugal E.P. (NAV) and the Air Force High Command [EMGFA (FAP)], to determine the conditions governing the use (power to use and effect of variation of same on instruments on board aircraft) of the Caparica non-directional radio beacon (NDB) as an alternative procedure for approaching runway 03 of the Portela airport during the period the ILS system is being replaced;
- Spectrum monitoring and oversight of radiocommunications networks and stations associated with the UEFA Euro 2004 event;
- Monitoring the parameters of all audio broadcasting stations operating in VHF band II (commonly known as FM stations);
- Gauging the quality of service of the GSM900/1800 networks on the ground;
- Detailed investigation of the 406.1-430 MHz band.

In SCM activities special attention must be given to harmful interference affecting the frequencies, channels and stations indicated below:

- The aeronautic mobile service (R) frequencies for runway approach, danger and rescue, and airport control towers;
- Maritime mobile service call, danger and rescue channels;
- Aeronautic and maritime radionavigation service stations.

In such cases action is based on the principle that it is vital to remove harmful interference as soon as possible, using, if required, exceptional measures that may even involve closing the station originating the disturbance.

During the year 2004 about 100 such situations were identified as originating from national stations, which were quickly resolved once the interfering station was identified.

As for interference caused by a foreign station, it may take quite some time to resolve same. Special relevance is thus given to the Radio Regulation (RR) notification procedures. The following were subject to notification in this context in 2004:

- Nine stations potentially interfering with national stations, which were operating in maritime mobile service and aeronautic mobile service (R) stations in derogation of the RR, complying with the stipulations of Resolution 207 of the RR;
- Seven technical and operational infringements of the RR, originating harmful interference in national stations, meanwhile resolved.

Regarding international co-operation in 2004, Portugal registered about 120 specific situations of information exchange with other international monitoring centres. It also took part in the following actions:

- International spectrum monitoring system, a regular annual activity under the ITU, which monitored 465 stations and identified 18 infringements of the RR;

- Execution of a monitoring campaign (in the scope of CEPT) in the bands between 4 MHz and 10 MHz.

Finally, worthy of mention are the technical co-operation activities with Hungary and with the members of the Community of Portuguese-speaking Countries (CPLP), as well as the realisation of about 25 actions (recordings and verifications of operational status) involving audio broadcasting stations, under the co-operational protocol with the Media Institute (ICS – Instituto da Comunicação Social).

3.3 Non-ionising radiation

In April 2001 the then ICP-ANACOM deliberated whether to adopt the reference levels for the population's exposure to electromagnetic fields as set in the Recommendation of the Council 1999/519/EC of 12 July, which established a table of reference levels and basic restrictions and recommended their adoption by the European Union member States.

Those levels became applicable in Portugal as a technical parameter for all radiocommunications stations to install under a network or station licence. This step was taken under article 22 of Decree-Law no. 151-A/2000 of 20 July, on an interim basis, until the respective provision is endowed with the legislative or regulatory status it lacks, i.e., approval by the respective entities, namely from the health area, of the said reference levels.

Decree-Law no. 11/2003 of 18 January was published in early 2003 and, modifying Decree-Law no. 151-A/2000, envisages setting those reference levels by joint administrative rule from various ministries. ICP-ANACOM subsequently produced, still in 2003, two draft regulations:

- Draft regulation concerning the procedures for monitoring and measuring the intensity levels of electromagnetic fields originating in radiocommunications stations, which was subject to public consultation process;
- Draft regulation establishing the methodology for monitoring and measuring the intensity levels of electromagnetic fields resulting from radiocommunications station emissions.

A draft regulation establishing rules for the identification and signalisation of radiocommunications stations was also subject to public consultation process.

At the end of 2004, following the proposal put forward by the inter-ministry group created by Joint Order no. 8/2002 of 7 January of the ministers of Social Infrastructure, Economy, Health, and Science and Technology, concerning the population's exposure to electromagnetic fields, Administrative Rule no. 1421/2004 of 23 November was published, which adopts the table of basic restrictions and reference levels for the population's exposure to electromagnetic fields set out in Recommendation of the Council no. 1999/519/EC of 12 July.

The inter-ministry group's report presents a set of recommendations that aim to enhance protection of the general population, namely protection of workers and consumers, as well as the operation of medical equipment.

The publication of Administrative Rule no. 1421/2004 of 23 November led to the disappearance of elements conditioning publication of the aforementioned regulations. ICP-ANACOM is thus endowed with the conditions to finalise the regulatory procedures already begun, which is expected to occur during the year 2005, without jeopardising future changes or added details due to the evolution of technology and scientific knowledge.

In July 2004 the Lisbon Municipal Council (CML) submitted to ICP-ANACOM the preliminary draft of a municipal regulation on the installation of radiocommunications stations which, while following the provisions of Decree-Law no. 11/2003, adopted a specific regime, defining steps conditioning the installation of radiocommunications stations vis-à-vis protecting the population from exposure to electromagnetic radiation.

Given that under terms of Decree-Law no. 11/2003 this Authority is responsible for taking such steps, according to the reference levels to be set by administrative rule which at that date had yet to

be published, and after studying the said preliminary draft, ICP-ANACOM warned the CML that it might be possible in the future for a situation of non-conformity to exist between the conditioning measures set by local regulations and those eventually adopted by ICP-ANACOM. As a way to duly resolve this situation, it was suggested that a provision allowing modification of the set standards be included, to make them compatible with the measures eventually adopted by ICP-ANACOM as per its legal responsibilities.

Information to the general public on non-ionising radiation

The increasing installation of base station antennas for mobile telephones in self-supported towers or in masts atop buildings has led a high number of clarification requests to be addressed to ICP-ANACOM, on the consequences of the population's exposure to the electromagnetic fields generated by those radiating systems. Follow-up analysis of those clarification requests has enabled demonstration that in most cases the electromagnetic field values are well below the reference levels mentioned in Administrative Rule no. 1421/2004, for which non-compliance is an administrative offence punished by a penalty under the terms of Decree-Law no. 151-A/2000 and Decree-Law no. 11/2003.

ICP-ANACOM had received 716 solicitations concerning non-ionising radiation by the end of 2004, for analysis of tangible situations; 657 cases were concluded (86 involving teaching institutions), many of them following on-site measurements. The compiled results indicate, as stated above, values at least 50 times below the reference levels for power density set out in Decree-Law no. 11/2003. There were 14 exceptions, seven of which were meanwhile resolved. The remaining situations – where it was not possible to guarantee the 50 times below mark, though the reference levels were complied with – were reported to the people or entities who had sought the evaluations.

Parallel to its inspection and investigation activity, and given the need to inform the general population about this subject, ICP-ANACOM has since 2002 taken a number of steps aiming to heighten public awareness about the electromagnetic fields caused by mobile telephone base station antennas, namely by distributing an information brochure and maintaining a specific section on the Authority's website.

Procedures and methods for measuring radiation levels

As stated above, a draft regulation on the procedures for monitoring and measuring the intensity levels of electromagnetic fields originating in radiocommunications stations was developed in 2003. It will serve as the basis for carrying out evaluations of electromagnetic fields emitted by fixed stations. In the context of the European Committee for Electrotechnical Standardisation (CENELEC), the work of the TC106X (exposure of the human body to electromagnetic fields) Committee is being followed; it covers various aspects concerning the population's exposure to electromagnetic fields in the frequency band between 0 Hz and 300 GHz.

Standing out among the standards produced by this technical committee is standard EN50392, a generic standard to demonstrate the compliance of electric and electronic equipment with the basic restrictions associated with human exposure to electromagnetic fields (0 Hz-300 GHz).

Under European Commission mandate M/305, and under Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 (concerning radio equipment and telecommunications terminal equipment), more basic and product standards are being prepared (respectively prEN50400 and prEN50401) to demonstrate compliance with the basic restrictions associated with human exposure to the electromagnetic fields of fixed radio transmission equipment (110 MHz-40 GHz) for use in wireless networks, when placed in service.

In this regard, the draft standards under preparation are also noteworthy: prEN50420 – basic standard to evaluate human exposure to electromagnetic fields originating in a broadcasting transmitter (30 MHz-40 GHz); and prEN50421 – product standard to demonstrate a broadcasting transmitter's conformity with the reference levels or with the basic restrictions associated to human exposure to electromagnetic fields (30 MHz-40 GHz).

4 Inspection and Investigation, Disputes

4.1 Inspection and Investigation

Among the powers set out in the ICP-ANACOM statutes is that of ensuring the application and oversight of compliance with the laws and technical requirements applicable as per its responsibilities, as well as to guarantee compliance by communications operators with provisions of the respective titles to exercise activity or concession contracts.

Thus, in the scope of the said responsibilities, enhanced oversight intervention was assumed to be a priority for ICP-ANACOM in 2004, to detect situations and consequently act vis-à-vis entities not holding the proper authorised title to exercise activities in the communications sector.

At the same time, and according to available resources, an effort was also made to verify that the authorised entities were complying with the obligations set out in the respective titles to exercise activity. From this standpoint, there was a concern to prevent situations that might potentially distort normal market functioning, and to seek solutions to eventually settle disputes between operators and/or between them and consumers.

ICP-ANACOM's oversight activity thus carried out the following interventions in 2004:

Electronic communications

Publicly available telephone service

Telephone service at a fixed site

In this area ICP-ANACOM carried out 36 oversight actions, covering various situations, among which the following stand out:

- The exercise of activity by unauthorised entities;
- Improper use of numbering ranges;
- Use of the 707, 708 and 809 numbering ranges;
- Verification of the maximum price in calls to the 707 range;
- Advertising inserted in calls to information service via the number 118;
- Functioning of the number portability procedures;
- Improper and automatic making of international calls in the fixed network due to software intrusion, from dial-up mode internet accesses;
- Verification of:
- Functioning of service accesses via short numbers (4 and 5 digits) in the direct and indirect access modes;
- Functioning of service accesses via numbers with the 760 dialling code;
- Conditions of supply and functioning of a hybrid and convergent product in the scope of telephone service at a fixed location, placed on the market in the last quarter of 2004;
- Conditions for using conduits in motorway sections.

All the irregular situations detected were later relegated to litigation. In other cases, relevant information was compiled for internal analysis.

Mobile services

As in previous years, the ICP-ANACOM website posted the conclusions of the annual study on the gauging of the service quality of the mobile networks (GSM), conducted in late 2003. A similar study was conducted in late 2004, whose conclusions were released during the first quarter of 2005. This initiative uses a methodology characterised by in-depth analysis and governed by a rigorous, unbiased and fair assessment of the services offered by the operators involved.

Besides the said study, the operational conditions of the respective operators' voice-mail systems were verified, with results deemed to be comprehensively satisfactory, as they ensured adequate protection of user rights.

Regarding verification of NNP compliance, specifically taking into account the criteria underlying harmonisation and guaranteed transparency, the following also merit attention:

- Analysis of the use of short numbering (codes from three to five digits) to access value added services based on SMS (short message service);
- Verification of the functioning of access to services via numbers beginning with the 800 code (free calls for users).

Public payphones

The supply of telephone service available to the general public was one of the most problematic issues in 2004, with respect to situations where the activity is exercised illegally. To identify the entities providing public payphone service without the respective authorisation title, various investigations were launched, targeting 52 commercial spaces. In a second instance 19 oversight actions were carried out, with filing of the respective proceedings and the seizure of equipment used to provide the service. All the detected situations were later relegated to litigation.

Cable distribution network operators

The cable distribution market was the subject of nine interventions in companies duly authorised for that purpose in 2004, with the aim of auditing the statistical indicators submitted quarterly to ICP-ANACOM and to verify compliance with the obligations set out in the respective authorisation titles. The collected information was considered for internal analysis.

Note also the realisation of 33 oversight actions involving alleged cases of production and/or commercialisation of illegal conditional access devices. These did not result in evidence of violation of the applied regulatory framework.

Internet access

The most relevant item from this particular standpoint was the start of work to determine the methodology and conception of an audit, to conduct in 2005, of the respective operators' supply conditions. It will seek to uncover eventual differences between the quality of service contracted and that effectively provided to users. The conclusions drawn may lead to recommendations to correct situations deemed anomalous and which help increase service penetration in Portugal.

Note also the realisation of oversight actions associated to the end of one operator's activity, in order to regularise the situation.

Actions also targeted the unauthorised provision of service and alleged problems some users experienced in access via ADSL technology when changing operators.

Lastly, noteworthy are various interventions meant to detect cases of illicit reconfiguration of service provider accesses. This reconfiguration was carried out by intrusive software, giving rise to international access numbers, with the user kept unaware of the entire process. After studying the situations presented, claimants were informed of the results and, to prevent their repetition, they were proposed a set of recommendations.

Fixed wireless access (FWA)

Seven oversight actions were carried out to:

- Verify the number of base stations installed for each licensed operator;
- Verify the number of customers with contract for the supply of services associated to that technology;
- Gathering of relevant information for internal analysis.

Audiotext

This market has been marked by a very substantial decline in traffic and the number of active operators. It was subject to a set of verifications meant to gauge compliance with the legal provisions in force in this area. One oversight action targeted one of those providers, leading to the filing of the proceedings and the consequent relegation to litigation.

Postal services

Regarding this market, marked by the increasing activity of companies operating services now included in the liberalised area, various oversight initiatives were carried out, specifically:

- Four actions to ascertain the reasons for closing a like number of CTT stations, enabling relevant information to be gathered for internal analysis;
- Six actions targeting companies holding authorisation titles to exercise this activity, to verify alleged violations of the CTT's exclusive concession area. Two situations of presumed violation of the reserved area were detected in these actions, with the respective acts relegated to litigation;
- Regarding the fight against illegal activity by entities that offer services in the scope of the non-reserved area, various investigations were launched, which led to 16 subsequent oversight actions targeting the companies exercising this activity without the respective authorisation title. The irregular situations detected were relegated to litigation.

Equipment

Decree-Law no. 192/2000 of 18 August established the regime of free circulation, market placement and placement in service in national territory of radio equipment and telecommunications terminal equipment, as well as the regime for the respective dialling and conformity assessment.

ICP-ANACOM has been granted powers to oversee compliance with this regime, without jeopardising the possibility of requesting collaboration from the Inspectorate General of Economic Activities (IGAE) and the Directorate General of Customs and Special Taxes on Consumption.

The equipment covered by this regulatory framework are:

- Radio equipment using radio frequencies (radio spectrum), containing a transmitter or receiver. Such is specifically the case of mobile telephones (GSM), satellite terminals, CB (citizen's band) equipment, maritime telephones, wireless telephones, low power short range devices (bluetooth applications, remote controls – wireless alarms, devices to open garage doors, wireless LAN and remote control toys);
- Telecommunications terminal equipment which use an interface to connect to the public telecommunications network (the public GSM networks, analogue or digital telephone networks and data networks). Such is specifically the case of telephones, telex, telephone answering machines, modems and GSM equipment (simultaneously radio equipment).

Oversight of this market involved three procedures meant to evaluate the conformity of market-placed equipment, namely:

- Procedure 1 – direct oversight actions (in person and also effected by catalogue and on the internet) targeting economic players (distributors, importers, merchants);
- Procedure 2 – market monitoring actions, via laboratory trials and examination of technical documentation to verify equipment conformity;
- Procedure 3 – market monitoring actions, via the examination of technical documentation to verify equipment conformity.

In the case of radio equipment that uses frequency bands whose usage is not harmonised throughout the European Union, it became necessary to report same to ICP-ANACOM by imposition of Decree-Law no. 192/2000 of 18 August. Said communication must precede market placement by four weeks and is always subject to appreciation by ICP-ANACOM. Non-compliance with ICP-ANACOM's indications regarding such equipment may lead to limits on its placement in service.

Thus, and regarding the described procedures, the activity carried out in 2004 was as follows:

- Procedure 1 – 357 equipment items: under this procedure 51 equipment items were seized as they did not comply with the market placement requirements (lack of statement of conformity and manuals in the Portuguese language);
- Procedure 2 – 162 equipment items;
- Procedure 3 – 9 equipment items.

Regarding the typology of the detected cases of non-compliance, the following was verified:

Table 12 — Documental and technical non-conformities detected in 2004, by type of non-conformity

Type of non-conformity	No.
User information on the equipment's purpose	1
Indication on the package whether the equipment is meant to be used in national territory or part thereof	17
Indication in the manual whether the equipment is meant to be used in national territory or part thereof	17
Warning of eventual limits or requirements to which the equipment is subject	8
Declaration of conformity that should accompany the equipment – in short format (in Portuguese) or in complete format	13
Documentation and instruction manuals in Portuguese language	8
Presence of CE label on equipment (emitter and receiver)	4
Presence of CE label on package	6
Presence of CE label in manual	13
Visible, legible and indelible label	0
Designation of notified body contacted (labelling) on equipment	6
Designation of notified body contacted (labelling) on package	8
Designation of notified body contacted (labelling) in manual	22
Identification of equipment class (labelling) on equipment	4
Identification of equipment class (labelling) on package	8
Identification of equipment class (labelling) in manual	13
Symbol informing that the equipment uses frequency bands whose usage is not harmonised in the European Union (!) on the equipment	6
Symbol informing that the equipment uses frequency bands whose usage is not harmonised in the European Union (!) on the package	9
Symbol informing that the equipment uses frequency bands whose usage is not harmonised in the European Union (!) in the manual	12
Equipment identification - Manufacturer	0
Equipment identification – Brand	0
Equipment identification – Model	0
Equipment identification - Series no.	0
Notification in accordance with article 6.4 of the R&TTE Directive	10
General description of equipment	6
Project and fabrication plans	11
Schematics	10
Technical specifications	5

Type of non-conformity	No.
Bloc diagrams	11
List of components	9
List of harmonised standards applied in whole or in part	2
Harmonised radio standards	3
Harmonised EMC standards	2
Harmonised LVD standards	2
Harmonised health protection standards	5
Description and explanation of the solutions adopted if harmonised standards have not been applied	4
Results of project calculations and tests carried out	3
Radio trial reports	11
EMC trial reports	9
LVD trial reports	11
Declaration issued by the manufacturer that the trials were carried out and that essential requirements have been met (annex III); or declaration issued by the notified body in which the technical file proves compliance with the essential requirements (annex IV); or declaration that proves evaluation of conformity with the obligations deriving from the quality system (annex V)	6
Declaration of conformity in complete format – supplied with the equipment	8
Declaration of conformity in complete format – supplied with the technical documentation	5
Declaration of conformity in complete format – indication of manufacturer	0
Declaration of conformity in complete format – signature of the issuer	1
Declaration of conformity in complete format – indication of compliance with Directive 1999/5/EC	0
Declaration of conformity in complete format – indication of technical standards	1
Declaration of conformity in complete format – indication of date	1
Power of the carrier (conduction)	2
Power of the adjacent channel	1
Mistaken emission frequency	1
Total	315

Note: the same equipment item may present more than one non-conformity.
Source: ICP-ANACOM.

In 2005 plans call for the start of a nine-month European oversight campaign targeting a specific type of R&TTE equipment, with the realisation of laboratory trials, which will include verification of conformity with the requirements envisaged in Decree-Law no. 192/2000. This European campaign is part of the administrative co-operation and oversight activities of various counterpart bodies, with a view to heightening consumer and manufacturer awareness of the requirements envisaged in Directive 1999/5/EC (transposed by the said Decree-Law no. 192/2000) with respect to radio equipment and telecommunications terminal equipment placed in the European market.

In 2004 1,594 radio equipment notifications were received, of which 1,382 were correct and 212 incorrect. Regarding the typology of the incorrect radio equipment notifications, the following distribution was verified:

Table 13 – Equipment notifications – most frequent incorrections, by incorrection type

Type of incorrections	% of total
Lack of European contact point	31,9%
Indication of frequency bands exclusively allocated to other services (e.g.: broadcasting-175 kHz; aeromodels-34.990-35.230 MHz; military management; medical implants; wireless audio; inductive applications; emitting microphones for non-professional use)	10,9%
Incorrections regarding equipment antennas (e.g.: antennas cannot be external, demand for integrated or dedicated antenna)	23,9%
No audio and voice signals are allowed in the frequency band in question	0,5%
Bands not adopted in Portugal	2,1%
Indication of maximum power limit	16,4%
Maximum power limit for applications with and without TPC and DFS / Frequency bands in which DFS and TPC are mandatory	14,3%

Source: ICP-ANACOM

In 2003 ICP-ANACOM received 10 safeguard clauses under article 9 of Directive 1999/5/EC (article 16 of Decree-Law no. 192/2000 of 18 August).

Also under the legal regime of Decree-Law no. 192/2000, ICP-ANACOM continued to oversee compliance with the provisions of article 30 of that instrument – the obligation for public telecommunications network operators (PTNOs) to publish the technical specifications of their interfaces.

The following table allows verification of this matter's status at the end of 2004:

Table 14 – Public telecommunications network operators (PTNOs) – publication of interfaces in 2004

Situation	No.	%
No. of PTNOs who reported lack of activity	2	8%
No. of PTNOs being evaluated on the obligation to publish (*)	9	37%
No of PTNOs who already provide online publications	3	13%
No. of PTNOs from whom ICP-ANACOM requested the online internet address to access the publications (**)	5	21%
No. of PTNOs from whom ICP-ANACOM requested the elaboration of specifications, after technical analysis	4	17%
No. of PTNOs who sent the document in question	1	4%
Total (***)	24	100

(*)These PTNOs may not be obliged to publish the specifications if they have interconnections with other operators and the conditions described in Guide 2 of the R&TTE Directive are verified.

(**) Although only on paper support, five PTNOs provided the technical specifications of the interfaces.

(***) In 2002 26 PTNOs were registered with ICP-ANACOM, but two of them were operators of broadcasting and television emission with no publication obligation.

Source: ICP-ANACOM

Electromagnetic compatibility

Decree-Law no. 74/92 of 29 April confers upon ICP-ANACOM oversight powers regarding the legal provisions on electromagnetic compatibility, without jeopardising the powers set by law for other entities.

The list of electric and electronic equipment covered by the electromagnetic compatibility regime is extremely broad. Examples include domestic electric appliances, office devices, computers and other information technology equipment, lighting equipment and electric lamps, and consumer electronics (including televisions), i.e., generally speaking, all equipment that can create or be affected by electromagnetic disturbances while functioning.

In market oversight terms, the three mentioned procedures to assess the conformity of radio equipment and telecommunications terminal equipment (procedures 1, 2 and 3) apply in this case.

Activity undertaken in 2003 in this context was as follows:

- Procedure 1 – 767 equipment items;
- Procedure 2 – 59 equipment items.

Regarding the type of non-conformities detected for the three aforementioned procedures, the following results were verified:

Table 15 – Documental and technical non-conformities detected in 2004

Type of non-conformity	No.
EC declaration of conformity mentions standards that are not applicable for the type of equipment in question	1
EC declaration of conformity does not mention Electromagnetic Compatibility Directive	3
EC declaration of conformity is not signed by the responsible person from the body that issued same	2
EC declaration of conformity does not mention solicited model	7
Technical standards presented in the EC declaration of conformity are not mentioned in the Official Journal of the European Union with the indicated dates	3
EC declaration of conformity does not mention all the technical standards applicable to the equipment in question	4
EC declaration of conformity does not mention the brand and model solicited	1
EC declaration of conformity was not delivered	1
Radiated disturbing electromagnetic field	4
Tension can disturb supply terminals	4
Total	30

Source: ICP-ANACOM

In 2004 ICP-ANACOM received 13 notifications under the co-operation procedure envisaged in this context, from other Member States of the European Union.

Lastly, note that ICP-ANACOM took part in a market oversight campaign conducted at European level¹³, with recourse to laboratory trials, which mean to determine compliance with the technical and legal requirements stipulated in the said instrument. Its results will enable data to be obtained at European level on compliance with the technical and administrative requirements applicable to electric and electronic equipment subject to electromagnetic compatibility.

4.2 Disputes

Contractual fines

Concession contract for public telecommunications service

Various contractual fines were applied to the concessionaire PT Comunicações, S.A. (PTC), in 2004, as per the concession contract for public telecommunications service, which were processed in that year:

- Following a complaint presented by CABOVISÃO – Sociedade de Televisão por Cabo, S.A. (CABOVISÃO), concerning various portability processes, a fine of 50,000.00 euros was applied to the concessionaire on 25 February 2004, for non-compliance with the Operator Portability Specification, conduct that is in breach of the obligation envisaged in paragraph a) of article 6 of the Concession Contract. This fine was settled on 31 May 2004.
- A fine of 25,000.00 euros was applied on 16 March 2004, due to the concessionaire's rejection of an access request from ONITELECOM – Infocomunicações, S.A. (ONITELECOM), on a basis of open space co-mingling, to that end invoking reasons not subsumable in the list in section 2 of article 3 of Regulation (EC) 2887/2000, conduct which substantiates a violation of the provisions of paragraph a) of section 2 of article 7 of the Concession Bases. An appeal was filed with the Arbitration Court.
- On 27 June 2002 a contractual fine of the amount of 94,224.24 euros was applied, as it was verified that the concessionaire had not signed written contracts with the respective business customers for the provision of fixed telephone service, conduct that violated the provisions of article 17 of Decree-Law no. 474/99 of 8 November and, in consequence, paragraph j) of section 1 of article 8 as well as paragraph a) of section 1 of article 10 of the Concession Bases. An appeal was filed with the Arbitration Court, which rejected the appeal, upholding the fine applied to the concessionaire, which effected the payment in 2005.

Concession contract for universal postal service

Various contractual fines were applied in 2004 to the concessionaire CTT – Correios de Portugal, S.A. (CTT), as per the concession contract for universal postal service:

- By order of 30 September 2004, the State Secretary for Transports and Communications, upon the proposal of ICP-ANACOM, applied a contractual fine of the amount of 16,203.00 euros to the concessionaire, corresponding to 0.003 percent of the annual volume of revenue deriving from operation of the concession realised in calendar year 2002, as that entity had closed a station (Cascais-Golfinhos) without giving ICP-ANACOM prior notice, conduct which violates the provisions of section 2 of clause 20 of the Concession Contract for universal postal service.
- By order of 30 September 2004, the State Secretary for Transports and Communications, upon the proposal of ICP-ANACOM, applied to the concessionaire a contractual fine of the amount of 27,005.00 euros, corresponding to 0.005 percent of the annual volume of revenue deriving from operation of the concession realised in calendar year 2002, as that entity had closed a station (Luz-Tavira) without giving ICP-ANACOM prior notice, conduct which violates the provisions of section 3 of clause 20 of the Concession Contract for universal postal service.
- On 14 April 2004 ICP-ANACOM determined that the concessionaire must deduct 1 percent from the limit of the annual average weighted variation of prices for reserved services in the 2004 price table, as it had not fulfilled some of the quality of service indicators (see chapter 2 of this report). The concessionaire filed an appeal with the Arbitration Court, but withdrew the request, as the parties agreed to pay for the costs of the case in equal parts.

¹³ In finalisation on the date this report was elaborated.

Administrative offence cases

In 2004, 156 administrative offence cases were filed, of which 91 were concluded in the following manner:

- 10 were shelved;
- 7 ended with voluntary payment of the minimum applicable penalty (698.32 euros);
- 14 ended with decisions to absolve;
- 6 ended with decisions to reprimand;
- 54 ended with decisions to order the payment of penalties, for a total of 620,647.26 euros, of which:
 - 6 were entirely paid (16,634.02 euros);
 - 9 were remitted to coercive execution (23,529.44 euros);
 - 22 have yet to be paid (235,485.00 euros); and
 - 17 have been subject to judicial appeals (344,998.80 euros).

Also processed were 45 administrative offence cases passed on from previous years, which were handled as follows:

- 17 were shelved;
- 6 ended with decision to absolve;
- 3 ended with decisions to reprimand;
- 14 ended with decisions to order the payment of penalties (154,091.80 euros), of which:
 - 3 were entirely paid (10,100.66 euros);
 - 5 were remitted for coercive execution (14,123.19 euros);
 - 1 has yet to be paid (10,000.00 euros); and
 - 5 were subject to judicial appeals (119,867.90 euros);
- 4 cases from 2003 were remitted for coercive execution (1,699.76 euros); and
- 1 case from 2003 was subject to judicial appeal (1,500.00 euros).

The types of illegalities that determined the filing of administrative offence cases in 2004 are presented in the following tables:

Table 16 – Illegal cases practiced before REGICOM took force

FIXED TELEPHONE SERVICE	10 Cases
RFTS (approved by Decree-Law no. 474/99 of 8 November)	
• Failure to comply with the regulation to notify the user at least eight days before the expected date of suspension of service provision [article 12/1].	5 Cases
• Failure to comply with the obligation for universal telecommunications service providers to publish and make available information on the conditions of the offer for access and use of FTS, along with the respective modifications [articles 9/2 and 7/1].	2 Cases
• Failure to comply with the obligation to make available to subscribers, free of charge, invoices with a minimum level of detail [articles 13/4 and 37/2, par. c)].	1 Case
• Failure to comply with the rule preventing the suspension or ending of FTS for lack of payment of associated instalments or service facilities [article 12/3]	1 Case
• Failure to comply with the obligation to regularly and continuously provide FTS [article 10/1].	1 Case
PORTABILITY – Fixed Telephone Service	6 Cases
RFTS (Decree-Law no. 474/99 of 8 November)	
• Failure to comply with the obligation to regularly and continuously provide FTS [article 10/1].	2 Cases
Decree-Law no. 381-A/97 of 30 December	
• Failure to comply with the obligation to provide ICP-ANACOM with all the information needed to verify, inspect and investigate the obligations and conditions deriving from the respective licence [article 26/2, par. e].	2 Cases
• Breach of the conditions and limits inherent to the registration or contained in the licence [article 26/2, par. a)].	2 Cases
PORTABILITY – Public Land Mobile Service	2 Cases
Decree-Law no. 381-A/97 of 30 December	

<ul style="list-style-type: none"> • Breach of the conditions and limits inherent to the registration or contained in the licence [article 26/2, par. a)]. 	2 Cases
PRE-SELECTION	1 Case
Decree-Law no. 415/98 of 31 December	
<ul style="list-style-type: none"> • Failure to comply with the obligation to offer end users access to the switched services of any interconnected network operator or service provider, making available the functions that allow users to choose the respective services by means of a pre-selection [artigo 32/1 and 2]. 	1 Case
PUBLIC TELECOMMUNICATIONS SERVICES	4 Cases
Decree-Law no. 290-B/99 of 30 July	
<ul style="list-style-type: none"> • Breach of the obligation to provide services regularly and continually [article 6/1]. 	2 Cases
<ul style="list-style-type: none"> • Breach of the obligation to inform users beforehand of any limit on the offer and provision of services [article 6/5]. 	2 Cases
OPERATION OF PUBLIC PAYPHONE SERVICE (FTS)	3 Cases
RFTS (Decree-Law no. 474/99 of 8 November)	
<ul style="list-style-type: none"> • Installation and commercial operation of public payphones for access to FTS by entities not registered with ICP-ANACOM [article 45/1]. 	3 Cases
DATA TRANSMISSION AND INTERNET ACCESS	5 Cases
Decree-Law no. 290-A/99 of 30 July	
<ul style="list-style-type: none"> • Operation of public telecommunications networks without the proper licensing title [article 2/2]. 	3 Cases
<ul style="list-style-type: none"> • Breach of the obligation to inform the user beforehand of any limit on the offer and provision of services [article 6/5]. 	2 Cases

Source: ICP-ANACOM

Table 17 – Illegal cases practiced after REGICOM took force

ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES	31 Cases
<ul style="list-style-type: none"> • Start of activity without prior communication to the National Regulatory Authority (NRA) – General Authorisation Regime [article 21/1]. 	14 Cases
<ul style="list-style-type: none"> • Failure to comply with the obligation to provide information to the National Regulatory Authority – NRA [article 108]. 	8 Cases
<ul style="list-style-type: none"> • Failure to comply with legitimate warrants or orders from the National Regulatory Authority (NRA) [see article 113/1, par. vvv) and no. 2)]. 	6 Cases
<ul style="list-style-type: none"> • Failure to comply with the obligation for companies that offer electronic communications networks and services to communicate changes to information previously supplied to the NRA under the General Authorisation [article 21/6]. 	1 Case
<ul style="list-style-type: none"> • Breach of the right of the users of publicly available networks and services to access, on equal terms, the supplied networks and services [article 39/1, par. a)]. 	1 Case
<ul style="list-style-type: none"> • Breach of the confidentiality obligations envisaged in art. 65/1 and 2. 	1 Case

Source: ICP-ANACOM

Table 18 – Illegal cases for violation of other instruments

AUDIOTEXT SERVICES	9 Cases
Decree-Law no. 177/99 of 21 May (in the version conferred by Law no. 95/2001 of 20 August)	
<ul style="list-style-type: none"> • Provision of audiotext services using numbers from the 702 and 809 ranges by entities 	6 Cases

not registered for that purpose [article 4]; • Lack of initial informative message and cadenced audio signal [article 9/2 and 3].	
• Provision by duly registered entities of autotext services using numbers from the 707 and 809 ranges without initial informative message or cadenced audio signal [article 9/2 and 3].	3 Cases
POSTAL SERVICES	11 Cases
Decree-Law no. 150/2001 of 7 May	
• Provision of postal services without the proper title to exercise activity – licence or general authorisation [articles 4/1 and 3/1 and 2].	6 Cases
• Exercise of the activity of providing postal services without respecting the terms and limits inherent to the authorisation [article 18/1, par. b)].	2 Cases
• Failure to comply with the obligation to submit statistical information [article 18/1, par. j)].	1 Case
• Failure to comply with quality levels (failure to meet the deadline for delivering an order) [article 18/1, par. b)]; • Breach of the obligation to ensure that user claims are processed using transparent, simple and low-cost procedures, guaranteeing a timely and grounded response to same [article 18/1, par. h)].	1 Case
• Failure to comply with the obligation to supply ICP-ANACOM with the information needed to verify, inspect and investigate the obligations and conditions inherent to the licences or authorisations [article 18/1, par. i)].	1 Case
TELEVISION ACTIVITY	2 Cases
Decree-Law no. 151-A/2000 of 20 July	
• Use of analogue television transmission or retransmission stations without a licence for that purpose [article 8/2]; • Provocation of harmful interference in stations that have the right to protection or non-reception of broadcasting emissions [art. 21/1, par. b)].	1 Case
• Failure to comply with the obligation to maintain networks and stations in a good functional state, refraining from provoking interference in other radiocommunications networks and stations [article 10, par. b)].	1 Case
AUDIO BROADCASTING ACTIVITY	5 Cases
Decree-Law no. 151-A/2000 of 20 July	
• Use of stations without a licence and not conforming with the technical plan submitted for licensing purposes [article 8/ 3].	2 Cases
• Use of a radiocommunications network without a licence for that purpose [article 7/1]; • Use of radiocommunications stations violating the technical parameters set by ICP-ANACOM [article 10, par. G)].	1 Case
• Use of unassigned frequencies [article 10, par. f)].	1 Case
• Use of radiocommunications stations violating the technical parameters set by ICP-ANACOM [article 10, par. G)].	1 Case
AUDIO BROADCASTING ACTIVITY (AB)	3 Cases
Decree-Law no. 272/1998 of 2 September	
• Use of AB system in breach of the limits and conditions established in the authorisation [article 7/1]; • Use of unauthorised channel identification code [article 5].	2 Cases
• Use of AB system without authorisation [article 3/1].	1 Case
AMATEUR RADIOCOMMUNICATIONS SERVICE	1 Case
Decree-Law no. 5/95 of 17 January	
• Intentional interference in the communications of other amateur stations and other radiocommunications services, as well as incorrect emission of the call indicator at the beginning and end of each emission [articles 17, par. h) and 23/1, par. a)].	1 Case
PERSONAL RADIO SERVICE (CB)	11 Cases

Decree-Law no. 47/2000 of 24 March	
• Use of CB stations by entities not registered with ICP-ANACOM [article 3/1].	8 Cases
• Use of frequency bands, powers and emission classes distinct from those authorised for personal radio service [article 8, par. b)]; • Denial of access to the CB station installation site by personnel responsible for radio oversight [article 13/1, par. c)].	1 Case
• Use of frequency bands, powers and emission classes distinct from those authorised for personal radio service [article 8, par. b)]; • Intentional interference in the communications of other radiocommunications services [article 13/1, par. a) and h)].	1 Case
• Use of frequency bands, powers and emission classes distinct from those authorised for personal radio service – CB [article 8, par. b)].	1 Case

PRIVATE LAND MOBILE SERVICE	14 Cases
Decree-Law no. 151-A/2000 of 20 July	
• Use of a radiocommunications network without a licence for that purpose [article 7/1].	7 Cases
• Use of radiocommunications stations violating the technical parameters set by ICP-ANACOM, as well as the use of unassigned frequencies [article 10, par. f) and g)].	2 Cases
• Use of unassigned frequencies [article 10, par. f)].	2 Cases
• Disrespect for the conditions applicable to radio equipment [article 10, par. c)].	1 Case
• Use of radiocommunications stations without a licence for that purpose [article 8/3].	1 Case
• Use of radiocommunications stations violating the technical parameters set by ICP-ANACOM [article 10, par. g)].	1 Case
RADIO AND TERMINAL EQUIPMENT	28 Cases
Decree-Law no. 192/2000 of 18 August	
• Market placement of equipment that does not meet the essential requirements, has been the subject of conformity evaluation procedure and is duly marked [article 7/1]; • Failure to comply with the obligation to inform users about the purpose of devices [article 8, par. a)]; • Failure to comply with the obligation to supply the user, along with the device, a statement of conformity with the essential requirements [article 8, par. b)]; • Breach of the obligation to inform the user, not indicating on packages and in the radio equipment usage instructions whether same is meant to be used in national territory or in part of that territory [article 9/1, par. a)]; • Breach of the obligation to inform ICP-ANACOM beforehand of the intention to place on the market radio equipment that uses frequency bands whose use is not harmonised throughout the European Union [article 9/3]; • Breach of the obligation to place the CE conformity label on devices that comply with the essential requirements [article 27/1]; • Breach of the obligation to ensure that the CE label is accompanied by the identification number of the notified bodies contacted [article 27/2]; • Failure to comply with the obligation to ensure that radio equipment is accompanied by the respective class identification [art. 27/3, par. a)];	28 Cases
• Breach of the obligation to supply documentation, information manuals and instructions in the Portuguese language, and with explicit indication of the legal conformity provisions [article 28/3]; • Failure to comply with the obligation to state that the device meets the applicable essential requirements [no. 5, par. b) of Annex III];	

<ul style="list-style-type: none"> • Failure to comply with the obligation to maintain the technical construction file at the disposal of the respective national authorities, for inspection purposes, during a period of not less than 10 years [no. 7 of Annex IV]. 	
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Source: ICP-ANACOM

Administrative litigation

During the year 2004, besides ICP-ANACOM's positions being sustained in five new requests to stay power, six new special administrative actions were processed and two legal notices (one for the ICP-ANACOM board of directors to adopt a given conduct, another for consultation of an administrative case and to pass full documentation certification), while 15 cases continue to be followed, passed on from previous years.

The new cases are as follows:

Complementary mobile communications service – trunking mobile services:

- Request to stay power filed by RADIOMÓVEL – Telecomunicações, S.A. (RADIOMÓVEL), following the determination by ICP-ANACOM dated 23 October 2003, which by extending the deadlines for installation and start of service operation, as requested by the company, did not go beyond the exact terms of the same request. Rejected.
- Special administrative action to contest the administrative act attempted by RADIOMÓVEL, in the wake of the same ICP-ANACOM determination dated 23 October 2003. ICP-ANACOM revoked by replacement the contested determination, grounded on the lack of prior hearing of the interested party. Prosecution was declared dissolved due to supervening inutility of issue.

Universal telecommunications service:

- Request to stay power filed by OPTIMUS – Telecomunicações, S.A. (OPTIMUS), in the wake of the ICP-ANACOM determination dated 18 December 2003, concerning the inclusion under universal telecommunications service of subscribers' personal data in telephone directories and information service. It was dismissed. Not agreeing with this decision, OPTIMUS appealed same to the Southern Central Administrative Court; the appeal was rejected and the appealed judgment maintained.
- Special administrative action to contest the administrative act attempted by OPTIMUS in the wake of the same ICP-ANACOM determination dated 18 December 2003. Remains pending.
- Request to stay power filed by VODAFONE PORTUGAL – Comunicações Pessoais, S.A. (VODAFONE PORTUGAL), in the wake of the same ICP-ANACOM determination of 18 December 2003. The suspension of point 2 of the determination was decreed, to replace the order specifically sought.
- Special administrative action to contest the administrative act attempted by VODAFONE PORTUGAL, in the wake of the same ICP-ANACOM determination of 18 December 2003. Remains pending.

Leased lines service:

- Request to stay power filed by PT Comunicações, S.A. (PTC), in the wake of the ICP-ANACOM determination dated 10 February 2004, concerning reorganisation of the conditions associated to the leased lines service provided by PTC. Remains pending.
- Special administrative action to contest the administrative act attempted by PTC, in the wake of the same ICP-ANACOM determination of 10 February 2004. Remains pending.

Electronic communications networks and services – access to conduits:

- Request to stay power filed by PTC, in the wake of the same ICP-ANACOM determination of 17 July 2004, concerning the offer of access to the conduits of the concessionaire PTC. Remains pending.
- Special administrative action to contest the administrative act attempted by PTC, in the wake of the same ICP-ANACOM determination of 17 July 2004. Remains pending.

- Special administrative act to contest the administrative act attempted by NOVIS TELECOM, S.A. (NOVIS), in the wake of the same ICP-ANACOM determination of 17 July 2004. Remains pending.
- Legal notice for the Administration to adopt a conduct filed by NOVIS, for ICP-ANACOM to adopt a new decision on access to the conduits of PTC, effectively guaranteeing its right. Remains pending.
- Legal notice for consultation of administrative procedure and passing full documentation certification filed by TVTEL Grande Porto – Comunicações, S.A. (TVTEL), for ICP-ANACOM to allow consultation of the administrative case and pass full documentation certification. Dismissed except for the passive incapacity raised by ICP-ANACOM. Likewise rejected was the main intervention request provoked by PTC. ICP-ANACOM was summoned to provide the administrative case consultation and to pass full certification of documentation.

Of the 15 cases followed in 2004, there were developments in the following:

Interconnection (Case concerning interconnection of the OPTIMUS and VODAFONE networks with the ONIWAY network):

- Contentious appeal for annulment filed in 2002 by VODAFONE TELECEL – Comunicações Pessoais, S.A. (VODAFONE TELECEL), in the wake of the ICP-ANACOM determinations dated 29 May 2002 and 20 and 27 June 2002. In 2004 VODAFONE TELECEL was forced to correct its initial petition, for which ICP-ANACOM was notified to reply. Remains pending.
- Contentious appeal for annulment filed by VODAFONE TELECEL in the wake of the ICP-ANACOM determination dated 24 September 2002. In 2004, ICP-ANACOM sought supervening inutility of issue. Remains pending.

Installation of telecommunications infrastructures in buildings (ITED):

- Contentious appeal for annulment filed by the company MEIRA DE SÁ – Projectos Engenharia e Serviços, Lda., concerning the ICP-ANACOM determination dated 12 December 2002 (suspension of activity). In 2003 prosecution was declared dissolved due to supervening inutility of issue. The MEIRA DE SÁ company nevertheless filed an appeal with the Supreme Administrative Court on 16 April 2004. The appeal was admitted and ICP-ANACOM presented the corresponding allegations on 8 July 2004. Remains pending.

Universal telecommunications service

- Contentious appeal for annulment filed by PTC in 2003 in the wake of the ICP-ANACOM determination of 21 August 2003, on the net costs of universal telecommunications service. ICP-ANACOM responded to the appeal in 2004. Remains pending.

Two actions declaring condemnation filed against ICP-ANACOM were also accompanied in the Administrative Court of the Lisbon Circuit. One awaits judgment and the other the elaboration of specification and questionnaire (STVA – Serviços de Telecomunicações de Valor Acrescentado, Lda., and Casa Viola – Lotarias, Lda.).

Judicial contestation of fees applied by ICP-ANACOM

Also accompanied were 13 judicial contestations of applied fees, presented by TVI, of which one was finalised in 2004.

Civil jurisdiction

The five civil judicial cases passed on from the previous years continued to be accompanied over the course of 2004. However, the action in which condemnation was sought for ICP-ANACOM to pay a certain quantity (attempted by the company Manuel Henriques Machado, Lda.) was concluded by agreement of the litigant parties.

Special judicial proceedings to recover companies and bankruptcies

Some 47 judicial proceedings to recover companies and bankruptcies were accompanied, in which ICP-ANACOM intervenes as creditor, generally as it possesses credits originating in the failure to pay fees. During the year 2004 nine of the pending cases were finalised. A new credit claim was presented.

Physical executions

Eleven cases of physical execution were accompanied (of which two were filed in 2004 and four finalised in the same year).

5 International Activity

5.1 Representation

In conformity with paragraph r) of section 1 of article 6 of its statutes, approved by Decree-Law no. 309/2001 of 7 December, ICP-ANACOM must namely assure technical representation of the Portuguese State in international sector bodies, monitor the activity of like regulatory bodies and foreign experience in regulating communications and establish relations with other regulatory bodies, as well as at technical level with community and international bodies.

The participation and representation of the Portuguese State is co-ordinated with the Government members linked to the area of communications, with the Ministry of Foreign Affairs and with the postal and telecommunications operators, when applicable.

ICP-ANACOM must also, as advisor to the Government, initiate and accompany the processes of transposing the fundamental instruments of some of those international organisations into the internal legal order.

European Union (EU)

In the European Union (EU), ICP-ANACOM intervenes in various areas: Council, European Commission (EC) and groups created at its initiative, Committees and respective subgroups.

Council

In collaboration with the national permanent representatives to the European Union (REPER), ICP-ANACOM participated in 2004 in formulating and defending national sector positions and marked its presence in meetings of the Telecommunications, Information Society and Postal Services Group (under the Transport, Telecommunications and Energy (TTE) Council), so as to directly accompany the matters deriving from its responsibilities;

ICP-ANACOM took part in preparation of the relevant agenda points and was part of the national delegation to the TTE Councils of Ministers held on 8-9 March, 10-11 June and 9 December 2004. It also worked in other areas with sector implications such as Public Markets, General Interest Services, Data Protection, Investigation and Development, Structural Funds, Galileo, Consumer Protection, Electromagnetic Fields and the community's external relations, with co-ordination assured at national level by the Ministry of Foreign Affairs (WTO, EUROMED, MERCOSUL).

European Commission

In 2004 ICP-ANACOM actively participated in committee activities of the Commission, particularly in the following: Communications Committee (COCOM); Radio Spectrum Committee (RSC); Postal Committee; TCAM (Telecommunications Conformity Assessment and Market Surveillance) Committee; Trans-European Telecom Networks Financial Regulation Committee; Trans-European Telecom Networks Orientations Committee; Information Society Committee; and the Internet Action Plan Committee. It also accompanied the work of the European Network Information Security Agency.

The following activities stand out regarding the year 2004:

- The Communications Committee (COCOM) met six times, with ICP-ANACOM attending all the meetings as national delegate. Highlights among the most relevant topics debated include the recommendations on R-LAN (radio local area networks), leased lines, relevant markets and power line communications (PLC). Relevant regulatory topics were also broached, such as renewal of the licences for second generation mobile telephone service operators, notifications under article 7 of the Framework Directive (2002/21/EC), creation of the .eu top-level domain, implementation of third generation mobile infrastructures, the 112 domain name, access to public mobile services (PAMR) and 116 numbering services.

- Under COCOM subgroups were created, on broadcasting issues and on standardisation aspects. COCOM also held two extraordinary meetings, to vote on the Commission's veto of a Finnish measure under article 7 of the Framework Directive (market 15 – access and origination of calls in public mobile telephone networks) and to vote on the Commission's veto of an Austrian measure

concerning market definition and SMP assessment in market 10 (transit services in the public fixed telephone network).

- The Radio Spectrum Committee (RSC) met four times in 2004. Highlights of its activity include the approval of a draft Commission Decision on harmonisation of the 24 GHz band for the temporary operation of SRR equipment (short range radars for automobiles) in the European Union and two mandates for the European Conference of Postal and Telecommunications Administrations (CEPT), one on the harmonisation of frequency bands for ultra wide band (UWB) applications and another for the harmonisation of additional spectrum for short range device (SRD) applications.

- The RSC's activity also included debate on various issues. Among them were the development of power line communications (PLC), code division multiple access – professional-private mobile radio (CDMA-PAMR) systems, results of the last World Radiocommunications Conference (WRC-03), possible applications for the 169.4-169.8 MHz frequency band currently reserved for the ERMES system, continued harmonisation of R-LAN (radio local area network) systems in Europe, increased synergies between spectrum management and development programmes at community level, co-operation with the development area, and investigation and co-ordination of RSC work with that of T-CAM.

- The Postal Committee met twice and examined the work carried out by the European Standardisation Committee (CEN), statistical information and the postal sector market, and decisions of the Universal Postal Union (UPU) Congress regarding community postal policy. Two workshops were also held, whose theme topics were "Principal Developments in the European Postal Sector", prepared by WIK, and "Economic Aspects of Postal Service", prepared by NERA.

In the committees, noteworthy are the following documents adopted by the Commission:

- Commission Decision 2004/545/EC of 8 July 2004, concerning spectrum harmonisation in the 79 GHz frequency band, for use by short range radar equipment for automobiles in the Community; and
- Commission Decision 2005/50/EC of 17 January 2005, concerning spectrum harmonisation in the 24 GHz frequency band for time-limited use in short range radar equipment by automobiles in the Community.

ICP-ANACOM also accompanied or participated in sector groups established by the Commission, namely the European Regulators Group (ERG), the Informal Internet Group, the article 7 Task Force, the International Affairs Group and the Informal Group on spam.

European Regulators Group (ERG)

As the national regulatory authority (NRA), ICP-ANACOM participated in the five European Regulators Group (ERG) meetings held in 2004. Highlights among the issues discussed at those meetings include the common position on obligations under the new regulatory framework, revision of the SMP concept, the common position on high bit-rate access, revision of the Recommendation on cost accounting and accounts separation and the concept of wholesale international roaming.

Other groups

With the same status, ICP-ANACOM took part in the three Radio Spectrum Policy Group (RSPG) meetings held in 2004, with significant results being the adoption of two Opinions, one on the European impact of the introduction of secondary spectrum trading and another on the spectrum implications resulting from the transition to digital broadcasting. The RSPG is also still working on two other Opinions, one on co-ordinated spectrum policy in the EU, concerning spectrum for wireless access platforms for electronic communications services and another on priorities and objectives the European Union should defend at the next ITU World Radiocommunications Conference (WRC-07).

ICP-ANACOM additionally worked with the European Commission by accompanying the implementation of various regulatory measures and preparing measures related to convergence and to electronic commerce. It also followed competition issues involving telecommunications services and postal services, particularly decisions from the Competition Directorate General and the Court of Justice, and contributed to sector negotiations in the scope of the World Trade Organisation (WTO) in the framework of European co-ordination (Committee 133). Lastly, it followed various relevant

community policy topics for the sector, namely the proposed internal market directive, state aid and co-operation with third countries (MERCOSUL and the Andes Community, among others).

Community programmes

In community programmes with sector implications, highlights include the eTEN programme (trans-European telecommunications networks), concerning the establishment of services and applications of public interest and of a trans-national nature, with the aim of facilitating the transition to the information society; the Promise programme, concerning development of the information society in Europe via benchmarking activities, and the identification, study and dissemination of best practices for the priority areas set out in the eEurope 2005 action plan; and the eContent programme (digital content), which aims to boost the development and use of European digital content in worldwide networks, and to encourage linguistic diversity in the information society.

Regarding the eTEN programme, ICP-ANACOM took part in 2004 in six joint meetings of the Orientations Committee and the Financial Committee and in informal meetings of the national contact points for the said programme. Beyond that participation, decisions were also made via written procedure and the drafting of comments on documents produced under the programme. As national contact point for the programme, responsible for promoting same, ICP-ANACOM liaised with the European Commission to obtain a status report on the negotiation of a contract with a Portuguese body and regularly updated the programme's respective working section on the internet website (programme goals, financing, public tenders, information days) and provided various explanations on same.

ICP-ANACOM additionally follows and divulges actions carried out via the eContent programme.

Independent Regulators Group (IRG)

In 2004 the Independent Regulators Group (IRG) grouped the communications sector NRAs from the 25 European Union (EU) member States, the countries of the European Economic Area (Iceland, Norway and Liechtenstein), Switzerland and, since April of that year, also Bulgaria and Romania.

In 2004 ICP-ANACOM attended all the IRG plenary meetings and the preparatory meetings preceding same, in which it participated in an intermediate operational group of representatives from each country which is called the contact network. Besides participating in the said meetings, ICP-ANACOM actively worked to gather and distribute information among the various NRAs, and in 2004 launched seven questionnaires, responding to a further 74 from other NRAs.

During the year 2004 ICP-ANACOM particularly favoured attendance and participation in the working groups (WGs) on Significant Market Power, Fixed Networks, Mobile Market, End Users, Regulatory Accounting, Obligations (Remedies), Analysis of Market Data and Implementation, and IRGIS (IRG website), chairing three of them (WG Fixed Networks, WG End Users and IRGIS, as well as a subgroup on universal service).

In collaboration with the Commission and under ERG auspices, the Significant Market Power WG produced a revision of the document on the SMP concept, with a view to including more detail for the analysis of some criteria for determining SMP and referring to some NRAs' experience applying same; it also drew up a report on the definition of relevant geographic markets under the new regulatory framework and examined the issue of leveraging market power.

The Fixed Networks WG completed a common position document on high bit-rate access, produced another document on high bit-rate access via the networks of cable operators and worked on analysing issues associated with leased lines and with regulatory and market aspects involving VoIP (Voice over Internet Protocol).

The Mobile Market WG prepared principles of implementation and best practices (PIBs) on mobile termination, a document on the glide path for mobile termination and continued work on the question of international roaming and monitoring developments with respect to the third mobile generation.

The End Users WG analysed issues concerning the supply and demand conditions for the development of a competitive market in information services, the principles and procedures to analyse the net cost and excessive burden of universal service and the main aspects regulating the

retail price, in the current phase of transition between the old and the new regulatory framework. Also studied was the question of service quality parameters applicable to voice telephone services.

The Regulatory Accounting WG drafted, in the ERG context, a revised version of the recommendation on cost accounting and accounts separation, worked on revision of the PIBs for LRIC (long run incremental costs) and began work on studying the different cost methodologies used in the EU.

In the Obligations (Remedies) WG a common position was elaborated on the application of regulatory obligations to the SMP operators.

The Market Data Analysis WG submitted the respective annual report containing statistical information on the sector from the various countries that submitted information to that end. Standing out as a result were the European SMS market, the issue of fixed-mobile substitution, development of the UMTS system and broadband evolution. Over the course of the year this group continued to perfect and make uniform the procedures for gathering information from the NRAs, with the aim of better responding to the needs deriving from the analysis of relevant markets. Some of the work consequently focused on the definition of indicators oriented to relevant markets, as well as on the future adoption of indicators for new services, specifically UMTS, VoIP and scatter propagation.

The Implementation WG focused its efforts on examining the issue of the primacy of community law, the national appeal procedures under the new regulatory framework and sanction-related powers, with the aim of creating a common position that reconciles the need for all NRAs to have similar powers to impose monetary sanctions. A report was also prepared that describes results of the questionnaire on data sharing.

In the wake of the activities of the different working groups, aiming to ensure fulfilment of the working programme determined for 2004, a number of important documents were made available to the general public (there were others which, due to their more reserved content, cannot be published), namely on the IRG's internet page: common position on high bit-rate access (ERG document); mobile termination PIBs; report on market analysis; analysis of mobile termination charges; and common position on remedies (ERG document).

International Telecommunication Union (ITU)

The International Telecommunication Union was founded in 1865 as the International Telegraph Union and has since 1947 been the United Nations specialised agency for telecommunications; it counts 189 members. The top body in the ITU is the Plenipotentiary Conference (PP), which meets every four years. During the period between PPs, the ITU's management is overseen by the Council, comprising 46 member States elected by the PP, and of which Portugal has been a member since 1994.

ICP-ANACOM maintained in 2004 the intense involvement in the ITU's activity that marked the year 2003. During the first half-year, ICP-ANACOM continued to assure the Portuguese presidency of the ITU Council, and thus inherently that of the troika and the Oversight Group (COG). Once the new president was elected at the 2004 Council, Portugal maintained its participation in the troika and the vice-chair of the COG. This situation will continue until the 2005 Council.

Portugal actively took part in the process of revising the structure and changing the working methods of the Union through its involvement in the COG. Note that the COG was established to monitor implementation of a set of measures approved by the Council in 2003, aiming to perfect and rationalise the Union's financial management and the correspondent revision of information systems. This group's mandate and composition were reformulated in the 2004 Council, to continue the work undertaken to date. Even though Portugal, as mentioned above, moved into the vice-chair position after the 2004 Council, the new Council president's inability to participate as much as the COG required meant that Portugal effectively wielded the group's chair. In this phase, the group's main mission was to monitor and orient the work of a consultancy firm contracted to develop solutions for revision of the ITU's management and modification of its working methods.

The 2004 Council made decisions on numerous other issues in the scope of its powers, mostly concerning current management and/or with financial implications, specifically the ITU's involvement

in the second phase of the World Summit on the Information Society (WSIS) and the holding of radio conferences.

In the Telecommunications Standardisation Sector (ITU-T), noteworthy was the holding of the World Telecommunications Standardisation Assembly (WTSA-04), the top body for the sector, which was held on 5-14 October 2004 in Florianópolis, Brazil. Among the main issues dealt with by the Assembly were the reorganisation of the Sector Study Groups, with a view to better adjusting them to the current situation of the communications sector and to rationalise resources of both the ITU and its members. The Assembly also gave rather intense coverage to some more specific topics involving the internet, cyber-security and next generation networks.

European participation in WTSA-04 was co-ordinated at CEPT level, as has been usual for the main ITU meetings. Portugal also actively took part in the co-ordination activities, undersigning the European common proposals (ECPs) produced in this context, which were generally well received by the Assembly.

A meeting of the ITU Advisory Group (TSAG) was also held in July 2004; as it was the last one before WTSA-04, it focused solely on preparations for same.

Also in ITU-T, with regard to Study Group 2, the group in charge of studies referring to the definition of services, numbering, routing and overall mobility, and in which ICP-ANACOM participates, the following aspects were dealt with during the year 2004:

- ENUM (Electronic Numbering) – the work concerning this addressing and numbering directory service continued;
- Recommendation E.164 – a new version of this recommendation was approved which includes the procedures and rules for allocating country codes (CCs). Related to this topic, a problem caused by the improper use of these codes was also dealt with, and a decision was made to prepare a new recommendation that regulates the use of CCs and prevents the fraudulent use of same;
- Recommendation E.212 – originating in a joint proposal from ICP-ANACOM and the Dutch regulator, a new version of this recommendation was approved which concerns the identification structure for mobile users and terminals. The new version allowed an MNC (mobile network code) to be assigned to the fixed network operators, so that they can provide services typical of mobile networks (e.g., SMS).
- Recommendation E.INT – this draft recommendation explains and indicates the steps to take for a company to register for the *.int* top-level domain.

Regarding Study Group 9, also under ITU-T, the group designated for Integrated Broadband Cable Networks and Television and Sound Transmission was followed. It produces studies and recommendations in two main areas: the use of cable networks and hybrid networks initially used for broadcasting in broadband networks for data services, VoD, voice and interactive services, etc.; and the use of contribution systems in broadcasting distribution systems and other data services. In this area various recommendations were produced and updated, such as the harmonisation of content format for interactive applications and fundamental requirements for set-top boxes.

In the Telecommunications Development Sector (ITU-D), participation in the respective Advisory Group (TDAG), which met twice in 2004, was maintained. The main subjects dealt with in these meetings concerned ITU-D follow-up of the results of the first WSIS phase and preparations for the next World Telecommunications Development Conference, the sector's top body, scheduled for March 2006 in Qatar.

The activity of the Radiocommunications Sector (ITU-R) is particularly important, given the strategic nature of its activities and the decisions approved in the world and regional conferences it holds. Those decisions are set out in international treaties which the ITU member States must compulsorily apply, with direct impact on areas of vital interest for each of them, including national security.

With regard to ITU-R, ICP-ANACOM gave particular emphasis to attending the following events and working groups in 2004:

- First session of the Regional Radiocommunications Conference (RRC-04), held in May in Geneva, attended by about 700 delegates from nearly 120 ITU member States. This two-session conference is meant to produce a new digital terrestrial broadcasting plan in the 174-230 MHz and 470-862 MHz

frequency bands. The first session adopted various resolutions on a number of technical and regulatory questions, as well as a report containing the bases needed to facilitate the planning work to be done before the second session, scheduled for May/June 2006 (RRC-06). The final result of the second session will be a Regional Agreement which, beyond the frequency plan for digital terrestrial broadcasting, should include the respective technical conditions and various associated regulatory procedures.

- Regulatory/Procedural Group (RPG), to prepare the second session of the Regional Radiocommunications Conference (RRC-06), which met in October 2004 and constituted point zero for the work on regulations and procedures concerning not only the new Agreement to result from the Conference's second session, but also the necessary revision of the 1961 Stockholm (ST61) and 1989 Geneva (GE89) regional agreements. This meeting saw work start on the draft texts for the process of co-ordinating new assignments and adjudications to the plan (article 4) and notifications (article 5), which are usually the most sensitive as they describe procedures and set deadlines to be followed by the administrations for those purposes.

- Radiocommunications Advisory Group (RAG), which met in November in Geneva. The RAG noted that, given the budget available for the Radiocommunications Sector in 2005, the Radiocommunications Department (BR) did not have the resources needed to implement the obligations deriving from Regulation 115 of the Plenipotentiary Conference (Marrakech 2002) which concern use of the three additional official languages (Arabic, Chinese and Russian) at the same level as the previously considered working languages. With the Arab States' agreement, transition measures will be proposed to the Council, with implementation limited in principle to the year 2005.

- Specific working groups on spectrum engineering, specifically: spectrum management techniques, spectrum oversight, radio propagation associated to point-multipoint applications, terrestrial broadcasting propagation, wireless access and fixed service planning.

With the publication in 2004 of the notice that the corresponding ratification instruments had been deposited with the ITU General Secretariat, the processes of receiving into the internal legal order were completed for the following binding ITU instruments, which were approved in 2003:

- Final Acts of the Regional Administrative Conference for planning audio broadcasting service in metric waves (Region 1 and part of Region 3), Geneva 1984 – approved by Decree no. 39/2003 of 2 September, deposit confirmed by Notice no. 26/2004;
- Final Acts of the Regional Administrative Conference of the ITU Members belonging to the European Broadcasting Area, which contains the Protocol amending the Stockholm Agreement (1961), Geneva 1985 – approved by Decree no. 21/2003 of 3 May, deposit confirmed by Notice no. 25/2004.

The following binding ITU instruments were approved in 2004 for reception into the internal legal order:

- Final Acts of the 1995 World Radiocommunications Conference (WRC-95) – Decree no. 2-A/2004 of 16 January;
- Final Acts of the 1998 Plenipotentiary Conference in Minneapolis (PP-98) – ratified by PR Decree no. 25/2004, prior approval for ratification by Resolution of Parliament no. 36/2004, both of 4 May.
- The following ratification processes remained pending in 2004, having been submitted in 2001 to the then Ministry of Social Infrastructure and to the Ministry of Foreign Affairs:
 - Final Acts of the European Broadcasting Conference for planning broadcasting service in metric and decimetric waves, Stockholm 1961;
 - Final Acts of the Regional Administrative Conference for planning maritime mobile and aeronautic radionavigations services in hectometric waves (Region 1), Geneva 1985;
 - Final Acts of the 1997 World Radiocommunications Conference (WRC-97).

European Conference of Postal and Telecommunications Administrations (CEPT)

The basic goals of the European Conference of Postal and Telecommunications Administrations (CEPT) are technical and regulatory harmonisation, as well as the co-ordination of European regional positions for the work of sector-related international organisations, the International Telecommunication Union (ITU) and the Universal Postal Union (UPU). At the end of 2004 CEPT counted 46 European countries as members.

As the Portuguese Administration, ICP-ANACOM takes part in all CEPT activities. Until 30 September 2004 Portugal was a member of the CEPT troika and held the vice-presidency of that organisation's Assemblies, fulfilling a one year term, as in the presidency it held until 30 September 2003. During this period ICP-ANACOM assured the transfer of all information on actions carried out during the Portuguese presidency, and advised the current presidency (Switzerland) of actions scheduled during its term. In particular, ICP-ANACOM actively took part in preparations for the Assemblies held in 2004 and drew up various opinions in reply to requests from the presidency. As vice-president of the Assemblies, ICP-ANACOM assumed the respective presidency during debate on a number of more sensitive issues directly involving the administration that held the presidency. Note that, mainly by producing documents and prior preparations for Assembly meetings, the said troika has taken on an especially significant role in conducting and facilitating CEPT's work.

Also noteworthy was participation in the working group responsible for CEPT co-ordination with the ITU (WG ITU), whose activity intensified in 2004, preparing the plenipotentiary and telecommunications development conferences to be held in 2006. Subgroups to prepare each of those conferences were set up and began working in 2004. The regional co-ordination for WTSA-04 of the ITU (see report section on the ITU) was also carried out in this group, likewise via a subgroup.

ICP-ANACOM also actively participated in the work of the standing committees – Electronic Communications Committee (ECC) and European Committee for Postal Regulation (CERP) – and respective working groups and project teams, as well as in the councils of administration of the European Radiocommunications Office (ERO) and the European Telecommunications Office (ETO).

At ECC level, ICP-ANACOM favoured attendance in the working groups (WGs) and project teams (PTs) on Frequency Management, Spectrum Engineering, Regulatory Affairs, IMT-2000 and Systems Beyond, Conference Preparatory, Numbering, Names and Addresses, and Interconnection and Access. The most relevant results obtained in 2004 by these groups are outlined below:

- In 2004 the Frequency Management working group (ECC WG FM) played a vital role in CEPT's activity regarding the harmonisation of radio spectrum at European level for radiocommunications systems and services. It developed strategies to implement plans for future spectrum use, preparing replies to European Commission mandates, preparing ECC Decisions, Recommendations and Reports on various subjects and co-ordinating monitoring activities and CEPT contributions to ITU-R work. In particular, this group produced the European common proposals (ECPs) to defend at the first session of the Regional Radiocommunication Conference (RRC-04/06). Given the importance of this Conference, whose second session will make decisions with significant political and economic impact, the ECC decided to set up a specific working group to prepare for same, with a scope not limited to technical questions – WG RRC-06. At its first meeting, held in September 2004, WG RRC-06 set up two subgroups, one to handle regulatory and procedural questions, and another to take care of all issues concerning the planning of digital terrestrial broadcasting;
- The Spectrum Engineering working group (ECC WG SE) carried out studies resulting in Recommendations and Reports that mainly established criteria for compatibility between various radiocommunications systems, and also produced studies aiming to gauge the spectrum efficiency of various mobile communication systems;
- The Regulatory Affairs working group (ECC WG RA) played a vital role in CEPT's activity concerning the harmonisation of technical/regulatory procedures and standards at European level, applicable to equipment to be used in electronic communications networks and services, as per the valid community legislation, with special emphasis on the preparation of Decisions on free movement, use and exemption from individual terminal licences;
- The working group on Numbering, Names and Addressing (ECC WG NNA) is responsible for handling numbering issues, specifically with a view to ensuring their harmonisation, and the exchange of information, positions and decisions on numbering-related aspects, particularly the allocation and management of those resources. The year 2004 saw the creation of four subgroups on: short codes, premium rate numbers, harmonised european short code and voice over Internet protocol, with the last of them (PT VoIP) counting the participation of ICP-ANACOM. Noteworthy among the Decisions produced by WG NNA in 2004 is the one on the numbering conventions associated to the European Telephone Numbering Space (ETNS). Additionally meriting attention is the work undertaken by ECC WG NNA envisaging the use of a harmonised 116 short code at

European level, which culminated in preparation of the respective Recommendation. The aforementioned PT VoIP, whose main mission is to investigate the implications on numbering for the growing use of voice services supported by packet switching, studied the interoperability of these services with other voice services and the use of existing ranges in the numbering plan E.164. As a result of its work a report titled "Numbering for VoIP Services" was published in 2004; a recommendation was also drawn up on "Numbering for Nomadic 'Voice over IP' Services", subject to public consultation until March 2005;

- Project team 1 of the ECC (ECC PT1) is responsible for all issues concerning evolution of the IMT-2000 system and systems beyond. It co-ordinates European contributions and its positions on spectrum, regulatory and sharing/compatibility questions in the scope of WP8F of ITU-R. Particularly noteworthy is this PT's responsibility for preparing European positions on relevant WRC items. The studies in reply to the European Commission mandate on the harmonisation of frequency use in the 2500-2690 MHz additional band to be made available for IMT-2000/UMTS systems in Europe deserves emphasis;

- Project team 2 of the ECC (ECC PT2), responsible for technical regulation and accompanying interconnection standards, produced three reports in 2004, subject to public consultation and approved by the ECC, on "Technical Issues of Establishing Any-to-any 2-way Real-time Communications over the Internet", "Voice Quality over IP Based Network" and "Short Message Service (SMS) in Fixed and Mobile Networks";

- With a view to replying to the European Commission mandate to develop a harmonised solution on spectrum use by UWB systems in the European Union, CEPT set up the ECC TG3 temporary group; it began work in 2004 and produced a technical report on this matter, which was submitted to the Commission;

- ICP-ANACOM also actively participated in the activities of the Conference Preparatory Group (CPG), which in 2004 began the work of preparing the positions to be submitted to the ITU 2007 World Radiocommunications Conference (WRC-07) as European common proposals (ECPs). In this group ICP-ANACOM chaired the project team (CPG PT1) responsible for handling regulatory aspects and procedures associated with the subjects debated on the agenda of that Conference. This PT is in charge of preparing ECPs for the topics under debate, revising proposals from the Radio Regulations Board (RRB) of the ITU to create or modify rules of procedure meant to improve interpretation of the Radio Regulation (RR) and also co-ordinating European positions to defend in the Radiocommunications Sector Advisory Group (RAG) and in the ITU Radiocommunications Assembly. Also in the CPG, ICP-ANACOM participated in the project teams CPG PT2, responsible for issues concerning spectrum allocation and sharing conditions between mobile and satellite mobile services and space science services (satellite earth exploration and satellite weather service); CPG PT3, responsible for issues concerning the allocation of new frequency bands and sharing conditions between aeronautic radionavigation, fixed and fixed satellite services; and CPG PT4, responsible for issues concerning maritime mobile and amateur services, as well as radiocommunications services operating in the short wave (HF) bands.

In 2004 the European Committee for Postal Regulation (CERP) focused particularly on issues involving preparations for the 23rd UPU Congress, specifically on a European position for same. This subject is detailed in the part of this chapter on the UPU.

CERP also accompanied the realisation of European Commission studies on the postal sector, as well as a proposal to introduce value added tax (VAT) in postal services provided by the universal service operator.

The following is worthy of note in the four working groups (WGs) of CERP:

- The UPU Issues WG, which focuses on activities of the Universal Postal Union, analysed for effects of submission to the UPU Congress, the proposals from member countries concerning reformulation of the Acts of the Union. Also discussed in this group was the code of conduct to adopt when taking positions at the 23rd Congress and the process of presenting proposals. The documents submitted to the UPU Council of Administration were also analysed, with debate focusing on the Bucharest World Postal Strategy;

- The Regulatory Issues WG focused its attention on questions concerning the transposition status of the postal directives. The project team that studies the consequences of cross-border postal liberalisation in the community space also reported on its activities, indicating the subjects that should be analysed and debated in the future, specifically the identification of barriers to competition, the obligations that should exist among postal operators, consumer rights and access to the postal network;
- The Economic Issues WG discussed issues concerning the costing system of the universal service operators, the price control system, the cost and financing of universal service, access to the postal network and terminal dues, including proposals for discussion at the 23rd UPU Congress;
- Lastly, the Standardisation WG based its activities around the standards developed by the European Committee for Standardisation (CEN) as per the mandates assigned by the European Commission. These standards may be subject to compulsory application by the universal service provider, should the European Commission's Postal Directive Committee, to whom CEN reports, so decide. In this context, worthy of note are the standards on measuring mail routing time and the processing of claims.

In the ERO and ETO Councils activity in 2004 was carried out with the two offices working together, in practice; the process continued of accepting, approving and ratifying amendments to the ERRO Convention, which will formalise the merger of the two offices and the consequent creation of the ECO (European Communications Office).

International Telecommunication Satellite Organisation (ITSO)

The International Telecommunication Satellite Organisation (ITSO) is a worldwide intergovernmental organisation, with 148 participating countries (Parties), resulting from the reorganisation of INTELSAT.

ICP-ANACOM represents Portugal in the ITSO Assembly of Parties, which meets every two years. Its 28th session was held in June/July 2004 and saw approval of the extension until July 2009 of the ITSO Director General's term, as well as of the composition of the Advisory Committee (body which supports the Director General between Assembly sessions) and the establishment of memorandums of understanding (MoU) with two counterpart organisations, EUTELSAT IGO (Europe) and ASETA (Latin America). The Assembly also considered the report on activities of the INTELSAT company, specifically its business policy and evolution of the shareholder composition, as per ITSO's duties to oversee compliance with the former's public service obligations.

International Mobile Satellite Organisation (IMSO)

The International Mobile Satellite Organisation (IMSO) is a worldwide intergovernmental organisation comprising 88 States (Parties), resulting from the reorganisation of INMARSAT.

ICP-ANACOM assures national representation in both the IMSO Assembly of Parties, which meets every two years, and the respective Advisory Committee, a body which supports the organisation's Director General and Secretariat.

The third and last meeting of the Inter-session Working Group set up by the 16th Assembly (September 2002) was held in February 2004. This group was basically established to study a proposal to amend the Convention, the IMSO's fundamental instrument. At the meeting there were major differences on the need to revise and modify the Convention, with strong opposition by some Parties such as the United Kingdom, Russia and the United States of America. This group's report was submitted to the 17th session of the IMSO Assembly, which was held in October 2004 and whose main agenda point was the said proposal to modify the Convention.

Basically, the amendments in question aimed to expand IMSO's current supervisory duties regarding the performance of the INMARSAT company's provision, currently on an exclusive basis, of satellite services under the global maritime distress and safety system (GMDSS) to eventual future providers of such services so authorised by the International Maritime Organisation (IMO), in the same way they are applied to INMARSAT. This question became relevant following the IMO's adoption of a resolution envisaging that such services might start being provided to other providers besides INMARSAT.

The matter also led to heated discussion in the Assembly. Portugal's position, shared by only a small minority group of countries, was to oppose adoption of the proposed amendments, as they had reservations and considered Assembly adoption to be premature, basically because they considered that various aspects associated to or deriving from the amendments (specifically contractual, financial and IMO co-ordination) had yet to be defined, and without which it would not be possible to go ahead with modifications to the Convention. On the contrary, there was widespread support for adoption of the amendments, especially as they were held to be a measure, deriving from the IMO decision, that would enable the GMDSS services to start being provided, and as their rejection was considered to possibly jeopardise GMDSS operation.

Despite the initial situation described, the Assembly's results were in line with the position defended by Portugal, substantiated by a compromise which basically recognised the principled agreement that IMSO may eventually play a role in supervising future providers of GMDSS-related services in ways similar to those currently applied to INMARSAT, based on amendments to the Convention to be adopted when all the information associated to or deriving from same has been defined. To that end, plans were made to hold an extraordinary Assembly in 2005 to approve the amendments.

Among the other agenda points, basically concerning administration and/or the organisation's current management, only the constitution of the Advisory Committee is worthy of note – the Assembly decided to expand its composition to include 17 countries (previously there were 15). With a mind to encourage rotation and to allow greater representation of all IMSO members in this Committee, Portugal withdrew from its position as an effective member, though it was nevertheless given observer status, basically for reasons of continuity, and is thus able to maintain a broad overview of the organisation's activities and management.

European Telecommunications Satellite Organisation (EUTELSAT IGO)

The European Telecommunications Satellite Organisation (EUTELSAT IGO) is a Europe-wide intergovernmental organisation resulting from the reorganisation of EUTELSAT, which counts 48 participating States (Parties).

ICP-ANACOM assures national representation in the EUTELSAT IGO Assembly of Parties, which meets every two years, and since 2004 also in the Advisory Committee, the body which supports the organisation's executive structure, comprising the Secretariat and the Executive Secretary.

The 31st session of the EUTELSAT IGO Assembly of Parties was held in May 2004 and chaired by Portugal. The procedure to gather candidacies for the position of Executive Secretary ahead of the April 2005 election was approved. Developments at the level of Eutelsat, S.A., the private company resulting from reorganisation of the original EUTELSAT, were also discussed. Eutelsat, S.A., is obliged to fulfil certain public service obligations – designaed Base Principles – under the supervision of EUTELSAT IGO. In particular, changes to the title of company shares occurring since it was privatised were examined, along with the respective impact of the company's fulfilment of its public service obligations. Various issues concerning the organisation's management were also dealt with, specifically financial aspects.

It was also necessary to summon an extraordinary session of the Assembly in July 2004, in reaction to the Eutelsat, S.A., management's intention to introduce changes in the company statutes that were deemed to be potentially harmful to the interests of EUTELSAT IGO, as they put at risk compliance with the Base Principles. A resolution to warn Eutelsat, S.A., was adopted at this Assembly session, warning of the possible consequences of non-compliance with its obligations. The Assembly also approved a mandate for the EUTELSAT IGO Executive Secretary to negotiate with the company new ways to supervise the latter's activity, as well as modifications to its statutes. This resolution had results which may be considered positive for EUTELSAT IGO, given that its supervisory capacity was enhanced. Portugal followed the entire process via its participation in the Advisory Committee.

European Telecommunications Standards Institute (ETSI)

The European Telecommunications Standards Institute (ETSI) is a European standardisation organisation whose main mission is to produce standards in the areas of telecommunications. ICP-ANACOM is a member of ETSI in the Administration category.

As a member, ICP-ANACOM participated in the two sessions of the General Assembly (GA), ETSI's top body, held in 2004.

Following on a decision adopted by the GA, a working group was set up in which ICP-ANACOM participates (High Level Review Group), with the aim of presenting a proposed revision of ETSI strategy at the first GA in 2005.

ICP-ANACOM has also been following developments in the context of the OCG ECN&S of ETSI, which is responsible for producing the standardisation mandates M328 and M331, as per articles 17 and 18 of the Framework Directive (Directive 2002/21/EC). These mandates are meant to revise the list of standards for electronic communications published in the OJEC dated 31 December 2002. This task is being carried out in close collaboration with COCOM, enhancing the benefits of better co-ordination between standardisation and regulation.

In 2004 ICP-ANACOM accompanied and participated in other ETSI activities, in areas such as security, electromagnetic compatibility, next generation networks, digital terrestrial television and telecommunications infrastructures in buildings (ITED).

Universal Postal Union (UPU)

The Universal Postal Union (UPU) is an intergovernmental organisation with 190 member countries, and is the United Nations specialised agency for the postal sector.

In 2004 ICP-ANACOM actively participated in the work of the UPU as a Member Country and Postal Administration, especially in the groups, commissions and plenary sessions of the Postal Operations Council (POC) and the Council of Administration (CA). In the current UPU structure, the CA basically aims to represent the interests of the Governments and regulators, while the POC's goal is basically to represent operators' interests, reflecting a growing need for greater distinction between the regulatory and operational functions.

The work on reforming the organisation continued, according to the recommendations of the high level group established by the 1999 Beijing Congress, and the developments in the work of the Management of the Union's Work project team created later, in 2001, with a view to better adjusting the UPU to the sector's structural changes, registered at global level, with better awareness of the need to assure quality universal postal service provided affordably to all citizens, along with increased competition in the sector.

With the approach of the 2004 Congress, held in Bucharest from 15 September to 5 October, the Union's work intensified with the goal of presenting proposals that modified both the Union's structure and the Acts, so as to better incorporate the interests of the entire postal industry, from equipment suppliers to end customers.

Chaired by China, the CA gathered the various working groups, project teams, action groups and commissions, besides the CA itself, in a plenary session where the five objectives proposed for the Bucharest World Postal Strategy were approved.

The POC, which Portugal chaired until the Bucharest Congress, also gathered the various action groups, commissions, committees and co-operatives, besides the POC itself, in a plenary session.

Noteworthy was the work of Group 1 on modifications to the future terminal dues system, in which various proposals concerning the applicable system for exchanges between the industrialised countries in 2004 and 2005 were debated. Group 1 also approved the proposals to modify the General Regulation on ending the positions of Subdirector-General and on introducing the bi-annual budget cycle in the UPU reports system, such as the financial management report and the programme and budget.

As for reformulation of the Acts, which was approved in 2003, specifically with regard to the draft agreement on postal payment services and their regulation, the International Bureau distributed this agreement to all the member countries in 2004, along with the drafts of the Universal Postal

Convention, the Mail Regulation and the Postal Parcel Regulation, which served as reference texts for presenting proposals to the Bucharest Congress.

Regarding the project teams (PTs), the following stand out:

- The PT Acts of the Union focused on questions of reservations regarding the Acts, definitions aiming to clarify same and replacement of the term Postal Administration with Member Country and/or Operator.
- The PT Management of the Union's Work specifically examined the separation of duties and responsibilities among regulators and operators, the postal regulation guide, the study on licensing, conclusions of the PT Acts of the Union regarding the term Postal Administration, the study on licensing systems, participation in the Advisory Group at the next UPU Congress and extraterritorial offices of exchange;
- The Universal Service PT (US) took note of the results of the questionnaire sent to the member countries on the evaluation of US according to the five main areas of universal service, specifically service access, customer satisfaction, speed and reliability, security and responsibility, and handling claims – a resolution was approved for the Congress on continuation of work in this UPU priority area;
- The PT on WTO Relations reported that at the end of the Cancun Ministerial Conference held in September 2003 a joint declaration was presented, urging the countries to continue negotiations; a workshop was also held, with the theme topic of "Achieving Consensus in GATS Negotiations on Postal Sector Issues".

The Advisory Group counted various presentations on subjects such as negotiations with the World Trade Organisation (WTO), developments to improve service quality, prospects for the future of the terminal dues system and UPU strategy planning activities until the Bucharest Congress. The main aim of this group, set up by the CA as per Resolution C105/1999 of the Beijing Congress and formally established at the Bucharest Congress with the designation Advisory Committee, is to adjust the UPU to the new environment resulting from the increasing liberalisation and globalisation of the postal market, and to gradually integrate all postal sector players in the work of this organisation. It is open to international non-governmental organisations, such as consumer or user organisations, private operator organisations and union organisations, whose interests and activities are directly related to the UPU's objectives and which can contribute to the latter's work. The group submitted two resolution proposals, later considered by the CA, to extend an invitation to its members to attend the Congress as observers without voting rights. It also examined the document from the International Bureau on the Bucharest World Postal Strategy and presented a document with its contribution to same, highlighting the need for the UPU to encourage debate on issues of major importance for the private sector and, should this be the case, to inform all member countries of the consensus reached by the group and to allow decisions of the future Advisory Committee, to be approved in the Congress, to be incorporated into the UPU.

The 23rd Congress of the Universal Postal Union took place in Bucharest from 15 September to 5 October 2004 and was attended by representatives from 172 of the Union's 190 Member Countries. The following issues stand out among the subjects discussed and approved at the Congress:

1. Definition of the Bucharest World Postal Strategy for the next four years, whose five objectives are (i) universal postal service, (ii) quality of service and efficiency of the postal network, (iii) markets and meeting customer needs, (iv) postal reform and lasting development and (v) co-operation and interaction between the parties involved;

2. Approval of the CA proposals resulting from recommendations of the High Level Group meant to reform the Union, with one of the adopted measures concerning a reduction of the inter-congress time period to four years, by which the 24th Congress should take place in Nairobi (Kenya) in 2008;

3. The holding of a strategy conference in 2006, to consider the status of work regarding Resolution 09 of the Congress, which concerns a study on replacement of the term Postal Administration, which is used ambiguously in the Acts of the UPU, as in some instances it refers to a Member Country (Government) and in others to the operator responsible for the obligations deriving from the Acts of the Union. With the goal of replacing the term Postal Administration with two other terms, Member Country or Operator, for better clarification and adjustment of the Acts of the Union to the postal market reality, Portugal sent to the UPU International Bureau in July 2004 53 proposals to replace the said term, which counted the support of Cape Verde and Luxembourg, with France, Norway,

Aruba, Kenya, the United Kingdom and Germany expressing interest in being co-authors, while CERP was in favour of same.

Proposals were also approved on the following subjects: new classification of countries according to the United Nations Development Programme for effects of the Fund to Improve Quality of Service; new terminal dues system; definition of a framework for the services provided by extraterritorial offices of exchange; encouragement of universal service (including a proposal from Portugal); improved quality of service with definition of a worldwide d+5 standard for 50 percent of mail.

The elections held at the Congress resulted in the election of Portugal as a member of the CA and its re-election as a member of the POC. Portugal will also chair Group 1 (Standards and Procedures) of the POC, whose aim is to approve modifications to the regulations, and will take part in the work of the CA, specifically in determining a new Union structure and in modifications of the Acts so that they reflect the decisions of the Bucharest Congress.

Postal Union of the Americas, Spain and Portugal (UPAEP)

The Postal Union of the Americas, Spain and Portugal (UPAEP) is an intergovernmental organisation currently comprising 27 members. As a Member Country and Postal Administration, ICP-ANACOM was present in 2004 in its Advisory and Executive Council and respective working groups.

The 2004 Council approved the work and proposals presented by the working groups (WGs) on UPU Reorganisation and UPAEP Future Development, Technical Co-operation, Electronic Commerce, Post-Customs Relationship, Quality System, ISO-9000 Certification, Debt Status of Member Countries and Philately, as well as the UPAEP Terminal dues consultation group and the Postal Security action group, with the following standing out:

- WG UPAEP Future Development – chaired by Portugal. Highlights in its work are the production of a proposal, approved by the Council, to set up a permanent working group for postal regulation issues, with the aim of helping UPAEP adjust to changes in the postal sector, towards separation of the duties of regulation and operation. The first meeting of this group will be held during the 2005 Council. A draft resolution was also drawn up with a view to formalising preparatory meetings of the Union's member countries for UPU Congresses, the aim being to establish common positions among the UPAEP members, to better defend the Union's interests. The WG also examined the question of the Management Committee's rules of procedure, mainly with the aim of encouraging transparency and divulgation of the subjects considered. Various questionnaires were also produced, to ascertain opinions on reform of UPAEP, and a proposal was presented on conducting an outside audit of UPAEP's economic and financial situation. As it considered the work accomplished to have been very positive for the Union, the WG decided to propose to the Council that its mandate be renewed, which was approved;
- WG Technical Co-operation – is producing a Manual on the use of technical co-operation resources; to that end it will submit to the 2005 Council a draft resolution proposing that projects presented to obtain resources from the availability fund should in the future depend on prior submission of a postal development plan by the requesting country. Should such plan be absent, the first project to accomplish using the availability fund's resources will be to draw up a postal strategy plan for the country. This WG also decided to present to the 2005 Council a system to evaluate the impact of the projects undertaken;
- WG Debt Status of the Member Countries – given that its mandate was extended until the next Congress, it examined the debt and decided to charge its Chairman, as well as the General Secretariat, with negotiating with the member country debtors a plan to pay debts deriving from their contribution fees, based on flexibility criteria.

The Council also approved modifications to the strategy plan, the Union's budget for 2005 and the accounts from financial year 2003, and took note of the report from the Inspection High Authority which approved the accounts from financial year 2003.

The General Secretariat presented in the Council a document concerning the Workshop on Regulation and Universal Service held on 27-29 January 2004 in Lisbon, under the UPAEP-UPU Co-operation Agreement. The document stresses the important role Portugal (ICP-ANACOM) played in

organising the workshop, whose aim was to debate regulatory issues of particular significance for all the UPAEP member countries, from the standpoint of not just the Union but also of Europe.

A forum of postal authorities was also held during the Council, as a joint initiative by the UPAEP and the UPU. It counted various presentations and contributions, specifically from the Chairman of the Postal Operations Council of the UPU (Portugal/CTT-Correios de Portugal), the UPU's Postal Development Action Group, the World Bank, the Inter-American Development Bank and the Brazilian State Secretary for Communications. The forum's aim was to assess the actions carried out by the member countries with regard to postal reform and modernisation, as a consequence of the recommendations in the Madrid declaration, signed in 2002 by the oversight ministries. Noteworthy was the decision to charge UPAEP with continuing to promote and co-ordinate actions meant to strengthen efforts to transform the postal sector in the Union's member countries. The forum also examined topics of interest for UPAEP, to be debated at the UPU Congress to be held in Bucharest in September and October 2004.

The next UPAEP Congress is scheduled for August 2005, and its objective will namely be to determine how to adjust its structure and Acts to the changes deriving from decisions made at the 23rd UPU Congress.

Regarding the fundamental instruments of this organisation, the Final Acts of the 18th UPAEP Congress, held in Panama in 2000, were approved per the terms of Decree no. 46/2003 of 15 October. Notice no. 149/2004 was published in 2004, concerning the deposit of the respective ratification instrument at the UPAEP General Secretariat.

Organisation for Economic Co-operation and Development (OECD)

In the OECD, ICP-ANACOM accompanies and takes part mainly in the activities carried out by its Information, Computer and Telecommunications Policy Committee (ICCP), which studies policy aspects resulting from the development and application of technologies and services in the area of information, computers and communications, including the respective impact on the economy and society in general and strengthened co-operation between member States and between member States and non-members.

Four working parties (WPs) relevant for the communications sector are associated to the ICCP: the WP on Telecommunications and Information Services Policy (TISP), the WP on the Information Economy (WP IE), the WP on Indicators for the Information Society (WP IIS) and the WP on Information Security and Privacy (WP ISP). A temporary group on combating spam (TF SPAM) was set up in 2004.

In 2004 ICP-ANACOM collaborated on the preparation of "Communications Outlook 2005", a biennial publication which is the responsibility of the ICCP (WP TISP). It presents various statistical indicators on action taken by the 30 OECD member countries in the communications sector. The 2005 edition includes a new chapter compared to previous ones, on the audiovisual market, and a final chapter on overall development trends which highlights the activity of the countries with the most impact on the communications market that are not OECD members (China and India, among others).

ICP-ANACOM took part in two TISP meetings held in 2004, where the main agenda topics were the impact of VoIP technology and VoWi-Fi development, the convergence of communications sectors and networks, and policy issues associated to secondary spectrum markets.

The WP ISP also met twice in 2004. The group's work focused, among other issues, on the implementation of security guidelines for networks and information systems, electronic authentication, information security and privacy regarding improved international travel security, spam, privacy and the trust economy.

The two WP IE meetings held in 2004 were also followed; the main topics on their agendas were broadband content and the use of ICTs for company development. ICP-ANACOM expanded its participation in this WP to analysis of information economy policies, revision and assessment of the economic and social implications of development and the dissemination and use of information and

communications technologies (ICTs) and electronic commerce, and also helped develop appropriate methods and tools for the international comparison and measurement of indicators.

Regarding the activity of WP IIS, ICP-ANACOM took part in the annual work meeting and helped define the method for collecting internationally comparable data on the supply and demand and impacts of ICTs. In 2004 ICP-ANACOM also collaborated on assessment of the development and interpretation of relevant indicators for policy formulation and for process monitoring, working to identify the impacts and barriers affecting the dissemination and use of ICTs.

Finally, 2004 was the first year in which the temporary group known as TF SPAM met; a questionnaire was launched to obtain information on the instruments each administration uses to fight spam, specifically the applicable legislation, responsible bodies, and cases detected and resolved, etc., based on which information will be prepared on topics such as spam regulation, international co-operation, anti-spam measures, existing and emergent anti-spam technologies, education and awareness of the spam problem, and co-operation among partners.

North Atlantic Treaty Organisation (OTAN/NATO)

In the North Atlantic Treaty Organisation (OTAN/NATO) the groups responsible for spectrum issues are namely the frequency management subcommittee (NATO/FMSC) and the policy working group (NATO PWG). Representatives of the NATO member countries, sometimes including the Partner Nations (countries participating in the Partnership for Peace), take part in their work.

NATO FMSC is the only committee with recognised powers to decide on matters of civil/military spectrum management. Among other responsibilities, it ensures harmonisation of the spectrum needed for military uses among the NATO countries and prepares, in co-ordination with the national authorities responsible for spectrum management, positions to defend by NATO and by military authorities at the ITU world radiocommunications conferences, as a way to best safeguard military interests.

NATO PWG is a technical group under NATO FMSC, which carries out activities to support and advise that committee. It examines the topics under discussion on the agenda of world radiocommunication conferences and advises NATO FMSC on the positions that best defend military interests, with support from the national authorities responsible for spectrum management. It also develops activities aiming to ensure conditions for spectrum harmonisation within NATO, namely by updating the NATO Joint Civil/Military Frequency Agreement (NJFA).

In its co-operation with military bodies, ICP-ANACOM took part in the work of the aforementioned civil/military committees.

European Space Agency (ESA)

The mission of the European Space Agency is to further develop scientific and technological knowledge and space-linked applications, along with concomitant support for the development of the associated industries and services.

Portugal's representation at Council level is incumbent on the Office of International Relations for Science and Higher Education (GRICES), dependent on the Ministry of Science and Higher Education. Representation on the management committees of the various ESA programmes pertains to bodies which by their nature and functions are most appropriate for the respective subject. ICP-ANACOM was consequently appointed in March 2000 to assume national representation on the Joint Board on the Management of Telecommunications Programmes (JCB), which in 2004 held four regular meetings and three extraordinary ones. ICP-ANACOM is also in charge of financing from that Agency's telecommunications programme. This financing is countered by a return of at least 90 percent of the underwritten amount, in development contracts with Portuguese R&D companies and institutes.

Many new projects involving technological development in the telecommunications area were initiated in 2004, with a view to strengthening the competitiveness of European industry in the middle term and its re-launch. Reflection also began on the long term plan for telecommunications, covering the 2006-2010 period.

The space sector's role via the ESA in the EU initiative to reduce the digital divide in the EU (digital divide initiative) was a topic which merited special JCB attention in 2004 and which will be resumed and amplified over the course of 2005.

The Galileo programme, although managed by its own programmes committee in the ESA context (PB-NAV), was also indirectly the subject of JCB attention, through the approval of various projects to develop applications where there are major synergies between telecommunications and satellite localisation/navigation.

World Summit on the Information Society (WSIS)

The World Summit on the Information Society (WSIS) originated in a recommendation from the International Telecommunication Union (ITU), which played the role of lead agency in its preparation and organisation. It was decided that WSIS would take place in two phases; the first session was held in Geneva in 2003, while the second was scheduled for Tunis in 2005.

In 2004 ICP-ANACOM accompanied WSIS-related developments and decisions, specifically the preliminary meetings associated with the second phase. It helped implement the pretexts defined by the base documents, namely the Declaration of Principles and the Action Plan, and prepared contributions for the EU position documents at the said Summit, and also took part in national co-ordination meetings under the aegis of the Ministry of Foreign Affairs.

Digital Terrestrial Television Action Group (DigiTAG)

In 2004 ICP-ANACOM accompanied the work of DigiTAG, whose basic aims are to establish an operational framework for the harmonious and market-oriented introduction of digital terrestrial television services, using the maximum potentials of the DVB-T system, and to identify ideal solutions for scenarios involving the transition from the current analogue system to digital services, and the subsequent switch to an entirely digital future. Besides the participation in meetings, information was also disclosed when relevant and timely on the evolution of the DVB-T system in different countries.

It must be stressed that ICP-ANACOM is the only regulator with a seat on the Steering Board, DigiTAG's executive body, whose purpose is to ensure fulfilment of the organisation's goals, defining appropriate policies and strategies to that end.

International Union of Radio Science (URSI)

The International Union of Radio Science (URSI) is a non-governmental non-profit organisation under the auspices of the International Council for Science, whose aim is to stimulate and internationally co-ordinate studies, research, applications, scientific interchange and exchanges of information in the areas of science and radio. Its members are national committees. To achieve its aims, URSI currently counts ten scientific commissions.

In January 2004 the Government designated ICP-ANACOM as the national institute attached to URSI. The Authority assumed responsibility for Portugal's participation in the Union's activities, including the national committees, thus succeeding GRICES (Office of International Relations for Science and Higher Education). ICP-ANACOM specifically oversees the presidency of the Portuguese URSI committee, with the duty of promoting/ensuring the respective co-ordination and dynamisation. An URSI/Portuguese committee section is currently being developed on the ICP-ANACOM website; the preparation of a draft regulation on the Portuguese URSI committee is also ongoing.

5.2 Co-operation

ICP-ANACOM has been assuring, as an important aspect of its action, bilateral or multilateral co-operation of an institutional and technical nature. In ICP-ANACOM's areas of intervention, this co-operation puts into practice and complements policies and priorities set at Government level.

Standing out in the area of co-operation are the bilateral protocols signed with the Transition Government of East Timor, the Federal Government of Brazil, the Government of Guinea-Bissau, the National Directorate of Post and Telecommunications of Angola, the Directorate General of Communications of Cape Verde and the National Communications Institute of Mozambique.

Institutional co-operation

Worthy of note in the international co-operation area in 2004 are two major multilateral events: the 8th Postal and Telecommunications Ministerial Meeting of the Community of Portuguese-speaking Countries (CPLP), held in June in Viseu, in which ICP-ANACOM participated, also assuring a large part of its financing; and the 3rd CPLP Telecommunications Technical Meeting, held in Lisbon in November, organised by this Authority.

Also at multilateral level, ICP-ANACOM took part in the ordinary general assembly and in the 12th Forum of the Association of Postal and Telecommunications Operators from the Portuguese-speaking Countries and Territories (AICEP), which were held in Viseu in June.

In bilateral co-operation, various contacts and relationships were established with sector institutions. Standing out as major relationship vectors are Brazil, the Portuguese-speaking African countries (known by the Portuguese acronym PALOP), East Timor and, lastly, the European countries, whether members of the European Union or not.

Regarding Brazil, where there is tradition of institutional relationship between regulators, the 8th meeting of the ICP-ANACOM/ANATEL co-ordination commission took place in November in Lisbon; also noteworthy on a more technical level was the August meeting in Lisbon on local loop unbundling.

With respect to the PALOPs and East Timor, a consultation on numbering and terminal equipment was conducted in April 2004, at the request of the National Communications Institute of Mozambique. An action on identifying training activities and future assistance was carried out with the same regulator in August, after which a joint meeting was held in November to present an action plan for co-operation with Mozambique for 2005 and a proposal to revise the co-operation protocol currently in force.

In the wake of the institutional contacts undertaken over the course of 2003, the Communications Institute of Guinea-Bissau (ICGB) was donated an R&S receiver model EB100 and an IFR 1200S S/N 12491 radiocommunications monitor, equipment used to control radio spectrum.

Support was provided to the Cape Verdean regulator in the dissemination of information on the respective new national numbering plan.

Regarding bilateral relations with the European countries, a meeting was held in 2004 between ICP-ANACOM and the Hungarian State Secretary for Communications, during which general questions concerning sector regulation and organisation were discussed. After various contacts with the National Communications Authority of Hungary (NCAH), a new co-operation protocol between the two countries' national regulatory authorities was signed in early 2005.

Technical co-operation

The technical co-operation actions undertaken in 2004 were meant to fulfil the co-operation plan annually prepared by ICP-ANACOM, based on solicitations from regulatory bodies and/or administrations from the PALOP countries and East Timor. During the period in question, three training programmes were held, involving about 35 trainees from those countries; the trainers were various qualified ICP-ANACOM personnel.

6 Communication, Image and Customer Service

To ensure fulfilment of the applicable legal provisions (namely ICP-ANACOM statutes and REGICOM), by which this Authority is required to provide continually updated information of a diverse nature which fosters an open and competitive market, ICP-ANACOM maintains, as its main vehicles for external institutional communication, an internet website (www.anacom.pt) and a monthly bulletin titled Spectru. This is one way to particularly assure pursuit of the legally enshrined goal of regulation, associated with the defense of consumer interests.

ICP-ANACOM's external communication platform also includes the activities of providing services and information to consumers by means of public attendance, along with handling claims.

6.1 Internet website

The ICP-ANACOM website at www.anacom.pt constitutes, also by legal imposition, an indispensable instrument for disclosing the regulatory body's activity and is meant to be a privileged platform for communication with the exterior. The determinations with outside impact approved by the ICP-ANACOM board of directors are published on the site in useful time, along with an important set of information on the sector, generic or specialised, including legislation. Also available is information for consumers, as well as an online services area containing the electronic forms associated with various services provided by ICP-ANACOM which are also accessible via the Citizen's Portal.

Content

Regarding the provision of content on the ICP-ANACOM website, the creation in 2004 of six new special focus sections (thematic areas) stands out.

The Electronic Commerce area, resulting from the assignment to ICP-ANACOM of duties in this area following the publication of Decree-Law no. 7/2004 of 7 January, contains information on legislation, studies, national and international work, besides a specific section dedicated to the Conference on Electronic Commerce in Portugal, an ICP-ANACOM promoted event held in March 2004.

The area on Relevant Markets, SMP and Obligations was made autonomous, using information initially accessible in the New Regulatory Framework (99 Review) section, as a result of the heightened regulatory activity around the analysis and definition of relevant markets, assessment of significant market power (SMP) and imposition of obligations in the area of electronic communications. This area includes the determinations adopted, consultations launched and European Commission notifications, as well as other associated developments, specifically the gathering of information via operator questionnaires. It also includes a table, updated quarterly, with all European Commission notifications, from ICP-ANACOM and the national regulatory authorities (NRAs) of the other member States.

As detailed more extensively in chapter 3 of this report, a specific area with support information for the UEFA Euro 2004 sporting event was placed on the ICP-ANACOM website from February to August, meant for potential users of radiocommunications systems seeking temporary licences. The section contained information on the use of those systems, as well as a number of electronic forms which users could access in online and offline versions.

The Digital Television section totally reworked the previous version on Digital Terrestrial Television (DTT), enlarging its scope, and followed the creation in ICP-ANACOM of a Mission Unit for Digital Television (UM-TD).

The World Radiocommunications Conference of the International Telecommunications Union (ITU) scheduled for 2007 (WRC-07) and the Regional Radiocommunications Conference for planning digital terrestrial broadcasting service in part of Regions 1 and 3, in the 174-230 MHz and 470-862 MHz frequency bands (RRC-04), led to the creation of specific sections for each of those conferences.

Certain sections were reworked, among them the one on the New Regulatory Framework, which benefited from a substantial amount of new information due to the enactment of REGICOM and the

consequent activity of this Authority. Parallel to this, various thematic explanations on user rights in the new regulatory context were published.

An informative package on ADSL services was published to help the users of electronic communications services, focusing particularly on the coverage and exchange areas available for the supply of these services, and identifying the respective providers. More information on portability was also provided and continually updated.

Other sections were also subject to reorganisation: international presence; sector-related community programmes; the communications sector, which saw the creation of lists of active operators and entities registered under REGICOM; the press room; and ITED (telecommunications infrastructures in buildings), following publication of the ITED Manual.

Lastly, in the functional area for ICP-ANACOM itself, new pages were set up, namely one compiling this Authority's determinations, another with information on protocols and a third with information on the ICP-ANACOM advisory council.

Services

Regarding the provision of services on the ICP-ANACOM website, the personalisation function is worthy of note. It was activated in February 2004 at the address <http://www.anacom.pt/login.jsp>, and results from simplification of the previous system of online information subscription/personalisation. This function enables users to create their own personal page, which can be dynamically managed, where they can receive the latest news on pre-determined subjects. This service is also available in text version.

The online services, also produced in text version, benefited in 2004 from the inclusion of new forms: on the procedures to follow for beginning to offer electronic communications networks and services; for the licensing of aeronautic mobile service stations and maritime mobile service; and for land mobile service – private networks.

With the aim of providing better service to citizens, an electronic form was made available in July 2004 which can be used to send information requests, claims, comments or suggestions to ICP-ANACOM. This form may be accessed from the bottom of any website page or directly via the address https://www.anacom.pt/bvirtual/form_recl.jsp. If relevant documentation needs to be attached, it can be sent electronically, faxed or mailed after electronic submission of the form.

Also, in the section on electronic commerce a form to be used for specific explanations on this subject was made available.

The online services section saw the publication in 2004 of a fee simulator applicable to land mobile service private radiocommunications networks, by which interested parties can obtain an approximate value to be paid for the use of a permanent private network, with shared channels, or a temporary private network, with either cellular or national coverage.

As of 2004 the transaction of data submitted by users in online forms was subject to enhanced security and safeguards against any interception by third parties, by means of a digital certificate. Once the communication channel is encrypted, users may also exchange information, with guaranteed privacy and security.

ICP-ANACOM actively joined in the work of the Agency for the Information Society (UMIC) to create the Citizen's Portal, which began in 2003. This Portal gathers the services provided by the central administration and other entities or companies providing public services, whether to individual citizens or to enterprises. At the date of its launch in 2004, it was already possible in the Citizen's Portal to consult general information on ICP-ANACOM and also to use the total of 18 electronically available services. Among others, it covers matters concerning forms for the registration and licensing of personal radio service (citizen's band), for audiotext services and for land mobile service – private networks, as well as for the enrolment of ITED (telecommunications infrastructures in buildings) designers and installers, the presentation of claims regarding protection from receiving broadcasting, and the scheduling and holding of amateur service aptitude tests. This process was

continually monitored to ensure that the updating and introduction of new contents and services on the ICP-ANACOM website was almost simultaneously reflected in the Citizen's Portal.

Thirty ICP-ANACOM services were available in the Citizen's Portal at the end of 2004, with various levels of sophistication:

- seven information services – in which users may consult information on a service and the times and places where same is provided;
- seven interactive services – in which users can download forms and/or submit requests online;
- sixteen transaction services – in which it is possible to complete the entire process online.

Evaluation

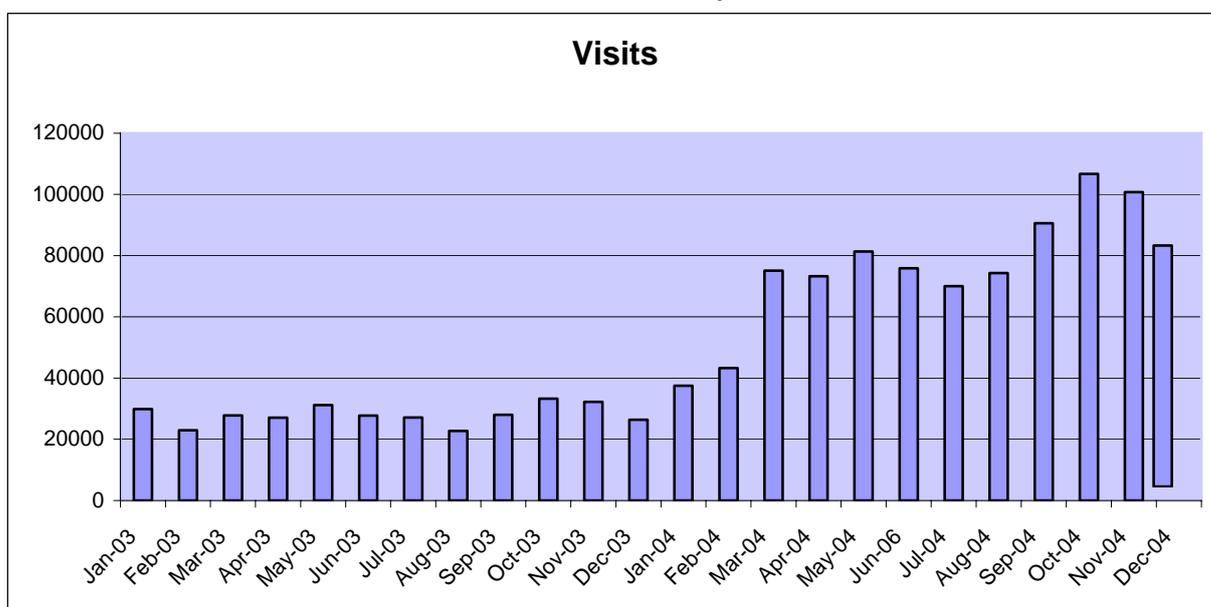
With the set of services available in its online attendance service, ICP-ANACOM took part between March and November 2004 in the Top of the Web comparative study organised annually by the European Commission, on the use of a common list of electronic public services in the 15-member European Union.

The overall rating of the users of ICP-ANACOM's online attendance electronic services was 82 percent, a value coinciding with the European average for the provision of services to companies. The main reasons indicated for the preference for online attendance electronic services were basically the savings in time and money, and to the speed of the entire process.

With the aim of directly gauging the reaction of visitors to this Authority's website, particularly the users of online attendance, a satisfaction questionnaire was published in 2004, accessible from the page registering the submission of any of the online attendance electronic forms. The collected data enabled the users' assessment of the site to be studied; the opinions and suggestions received will be taken into account during the process of continual improvement of this communication platform.

The number of visitors¹⁴ to the ICP-ANACOM website rose to nearly a million (907,488) in 2004, corresponding to about 461,000 new visitors. About 15 million pages (14,699,272) were viewed¹⁵, with an average number of daily consultations on the order of 40,000 and a daily average of nearly 2,500 visitors, who access about 16 pages before leaving the site. In other words, the number of visitors to www.anacom.pt nearly tripled in 2004, compared to the visits received the previous year.

Table 19 – Number of website visits between January 2003 and December 2004



Source: ICP-ANACOM

¹⁴ Visits: number of users who enter the ICP-ANACOM website.

¹⁵ Views: number of ICP-ANACOM pages (URLs) requested by users.

In technological terms, the ICP-ANACOM website has the capacity to allow syndication of content and automatically process external information and content (XML and RSS, among others), as well as the shared use of resources from other public administration websites. Besides this, a catalogue with a list of duly classified existing content is available on this Authority's server, for consultation by the various servers seeking specific information on the sector.

The website upholds the commitment to accessibility, maintaining a text channel in line with international standards, specifically those set by the Web Accessibility Initiative (WAI) of W3C (World Wide Web Consortium). This alternative to the graphic version is meant to facilitate access to site content by people with special needs. The text channel also enables the publication of content on new technological platforms, especially for third generation mobile systems and digital terrestrial television. Regarding accessibility and mobility, the ICP-ANACOM website is therefore prepared to run on any type of screen, from the address <http://www.anacom.pt/txt/index.jsp>.

Lastly, note that the website, in terms of accessibility and usability, complies with the best practices of the National Programme for the Participation of Citizens with Special Needs in the Information Society (ACESSO Programme).

6.2 *Spectru* Bulletin

The *Spectru* bulletin is another privileged instrument of ICP-ANACOM institutional communication. REGICOM enshrined this support as one of the vehicles for providing and keeping updated a broad range of information meant to further an open and competitive market – an obligation for this Authority, as set out in that instrument.

This monthly bulletin compiles and supplies information on ICP-ANACOM's activity and on the main national and international regulatory and rules-related events in the communications sector.

Each quarter, the *Spectru* bulletin includes a supplement containing the main statistical data for fixed telephone, mobile telephone, trunking mobile, and data transmission and internet access services, as well as cable distribution networks, audiotext services and postal services operated in competition. Four such statistical supplements were thus published in 2004.

Supplements with relevant national or European legislation and documentation are also published on a non-regular basis, such as the case of Electronic Communications Committee (ECC) decisions adopted by Portugal. In 2004 only one supplement with ECC decisions was published.

A supplement with an index of news items by specific issue published in the previous year is produced on an annual basis, which was also done in 2004.

On the other hand, a new supplement on European Commission Notifications began to be published in 2004. It reflects, in the context of implementing the new regulatory framework for electronic communications, the regulatory activity carried out by the member States in analysing and defining relevant markets, assessing significant market power (SMP) and imposing obligations, including the respective notifications to the Commission.

From January 2004 on, after a process of graphic renewal, the *Spectru* bulletin began to be published in four colours, with the ICP-ANACOM logo in colour at the bottom of the page, and with the addition of images (informative charts and tables). The way the meetings of international bodies this Authority participates in were described was also changed, to be henceforth published in a reduced version, with links to the more in-depth accounts of those meetings on the internet website.

The Portuguese version of the *Spectru* bulletin is published on paper, with a print run of 500 copies, and distributed to a wide range of entities, including representatives of different ministries, consumer defence associations, operators and providers of communications services, industry, and counterpart national bodies and those from the Portuguese-speaking countries, among others.

In electronic format, the Portuguese and English versions of the *Spectru* bulletin are placed on the ICP-ANACOM website, with the latter version sent directly to directors of the counterpart regulatory authorities, particularly the European ones, as well as those responsible for the sector in the European Commission and other sector-relevant international organisations. The free-subscription function for the *Spectru* bulletin from the ICP-ANACOM website, launched in 2003, resulted in a figure of about 1,150¹⁶ online subscribers to the Portuguese and English versions in December 2004.

6.3 Disclosure of the institutional image

Promotion of the image of ICP-ANACOM and of the sector, as well as the disclosure of market-relevant information, involves a number of different actions including:

- the publication of institutional publications, some of them required by the statutes;
- the holding of events for the national divulgation of sector specific matters and the organisation of international meetings in Portugal;
- the launch of information campaigns;
- the granting of sponsorships and other supports, including advertising inserts, as well as monitoring the corresponding returns;
- the co-ordinated reaction to outside solicitations – information requests, meetings and company presentations, among others;
- monitoring the activity of other relevant sector bodies, specifically by establishing partnerships, achieved in various manners.

Institutional publications

In the scope of accompanying and producing institutional publications, the year 2004 saw publication of the Annual Report and Accounts and Regulation Report of ICP-ANACOM as well as the Statistical Yearbook for the communications sector, all concerning 2003. These publications were widely disseminated on physical support and are also available on this Authority's website.

Also in 2004, ICP-ANACOM promoted and co-ordinated publication of the manual on *Electronic Commerce in Portugal: the legal framework and the business*, which was reissued due to the interest expressed, particularly by participants in the conference on that subject organised by this Authority.

Events

A number of initiatives stand out among the events, which are detailed according to the respective matter in the corresponding points of this report:

- Holding of the conference on “Electronic Commerce in Portugal: the legal framework and the business”;
- Meetings on the subject of electronic commerce with representatives from all entities with responsibilities in the sector under Decree-Law no. 7/2004 of 7 January;
- Session on awareness of the Action Plan for a Safer Internet;
- Holding in March 2004 of the third “ANACOM Meeting” on Digital Terrestrial Television, continuing an action begun in 2003 with the aim of encouraging discussion and reflection on the topic;
- Organisation of National Information Day, which took place on 9 March 2004, with the goal of disclosing the eTEN programme, including the terms and conditions for participation, and encouraging the presence of Portuguese entities in the programme;
- Meeting of the Convergence and Development Platform, focusing on the theme topic of “New Technologies: evolution and tendencies, in the context of the convergence of telecommunications, the audiovisual and ICTs”, with the aim of following developments and innovations at technological level with impact on market evolution;
- The start in November 2004 of the cycle of workshops on the subject of the “ITED (Telecommunications Infrastructure in Buildings) Regime, Legal Framework, Manual and Associated Procedures”, with the aim of providing information and explaining to interested parties the new applicable procedures, following the entrance into force on 1 July 2004 of various instruments involving ITED. A CD with relevant information on this subject was distributed at these workshops. The cycle will continue in 2005, with plans calling for coverage of the whole country;

¹⁶ Some entities subscribe to both the English and Portuguese versions of the *Spectru* bulletin.

- Organisation of seven technical meetings of working groups from international organisations in which ICP-ANACOM participates. The meetings were held in the context of the Contact Network and the IRG working groups on Market Analysis, Regulatory Accounting and Fixed Networks, as well as the Economic Issues and UPU working groups of CERP;
- Workshop in the UPAEP framework;
- Portugal/Spain co-ordination meeting on matters of radio frequencies.

Information campaigns

In order to ensure effective, efficient and interference-free use of radio spectrum before and during the UEFA Euro 2004 Championship, an information campaign was launched, targeting potential users of that resource, running from December 2003 to June 2004. Information was provided on the procedures, standards, legislation and allocation of temporary spectrum use licences; to that end, an information pamphlet titled “Football Transmission: We’re Ready” was produced and distributed.

As part of the aforementioned actions to disclose the new ITED regime, the process of creating panels alluding to the construction of ITED buildings in Braga and Viseu was begun. The completion and divulgation of those supports was passed on to 2005.

Sponsorships and other supports

The granting of sponsorships and other supports basically concerned events related to the ICP-ANACOM activity areas, mainly organised by sector associations. Support for training actions was also favoured, with particular incidence in the university sector.

Noteworthy was the constant accompaniment of actions carried out by the Portuguese Association for the Development of Communications (APDC), of which ICP-ANACOM is the general sponsor.

Regarding advertising inserts, ICP-ANACOM was present in a number of magazines and national newspaper supplements with the publication of content on relevant topics; its banners were also placed online on some websites. Information notices were also disseminated in national and regional newspapers, as part of the efforts to disclose the new ITED regime.

At the end of 2004 the process of regularly renewing ICP-ANACOM’s institutional announcements began.

External solicitations

In 2004, as in previous years, entities such as international consultancy firms, financial institutions or companies from the world of communications asked ICP-ANACOM to supply general information on the situation of the sector, market evolution (statistical data) and the regulator’s activity, as well as on specific sector questions related to the main agenda issues at the respective time.

Institutional partnerships

Developments associated with various ongoing co-operation protocols were monitored, along with ICP-ANACOM’s participation in entities deemed to be relevant.

The following actions stand out:

- Authorisation granted for a new divulgation of the study on “The Audiovisual Value Chain in Portugal”, produced by OBERCOM for ICP-ANACOM and for ICAM;
- Production of an article for the AICEP magazine *Convergir* (March edition), on the balanced results of co-operation undertaken by ICP-ANACOM in 2003 and participation in the 12th AICEP “Communications and Development” Forum held in Viseu on 15-18 June.
- Signing of a co-operation agreement with the Institute for the Development of Business Management (INDEG/ISCTE), particularly covering opinion studies on subjects involving quality of service and user satisfaction in the different sector markets;
- Signing of a partnership protocol with the Portuguese Quality Institute (IPQ) as part of the ECSI-Portugal Project – a project on the national customer satisfaction index – applicable in the year 2004 and concerning the communications sector.

ICP-ANACOM continued to participate in the Portuguese Communications Foundation (FPC) in 2004 as a founding member of that institution, directly accompanying the activity of the bodies in which it is represented.

On the other hand, the process of the 2004 Letter Competition, targeting children aged 9 through 15 and with the theme topic of “I write you to tell you how we young people can fight against poverty”, was carried out in partnership with the CTT – Correios de Portugal. The winning letter was translated and forwarded to the UPU, to participate and represent Portugal in the international letter competition held by that organisation, in which ICP-ANACOM is responsible for national representation.

The prizes for the national letter competition were awarded during the commemorations of World Post Day on 9 October. The 2005 letter competition was launched at the same time; its theme topic is “Letter to my favourite character from fairy tales”, in homage to Hans Christian Andersen.

ICP-ANACOM was also represented on the jury of the 4th “Portuguese Communications Foundation Prize” for 2004, in partnership with the Association of Postal and Telecommunications Operators from the Portuguese-speaking Countries and Territories (AICEP).

6.4 Public attendance and processing of claims

Public attendance

ICP-ANACOM’s direct relationship with the public/consumer is basically assured by the Public Attendance services located in the headquarters building in Lisbon, at the Barcarena facility (post closed in 2005) and also in the regional offices. By means of personal, telephone, postal or electronic attendance, this service assures integrated processing and action on the requests received (information requests, claims and comments) which involve the communications market, particularly those concerning services provided by the respective operators and providers or intervention by this Authority. To that end, explanations are provided for the interested parties and, when justified, the requests submitted to ICP-ANACOM are routed to other bodies.

The means of communication most used to contact this Authority in 2004 was the telephone, followed by post and fax, electronic and in-person. However, a major increase in electronic solicitations was noted, corresponding to a decline in contacts by post and fax.

Table 20 – Solicitations received in Attendance – mode of reception

Breakdown of solicitations received by mode of reception					
	2000	2001	2002	2003	2004
Total solicitations	27.088	24.530	26.265	36.663	39.190
Telephone	17.284	15.893	15.992	12.946	15.287
In-person	5.981	3.591	2.694	2.645	4.308
Post/fax	2.761	3.639	5.094	18.198	11.892
Electronic (including online attendance)	1.012	1.407	2.485	2.873	7.703

Source: ICP-ANACOM

Table 21 – Solicitations received in Attendance – subject

Breakdown of solicitations received by subject			
	2002	2003	2004
Audiotext	533	345	321
ITED (telecommunications infrastructures in buildings)	1.216	17.522	15.607
Private networks	2.041	1.466	1.997
Amateur radio	2.975	2.993	3.681
Personal radio/citizen’s band – CB	3.097	2.372	3.346
Audio broadcasting	401	301	305
Television broadcasting	---	295	650

Postal services	107	125	333
Breakdown of solicitations received by subject			
	2002	2003	2004
Land mobile service	1.026	680	1.983
Satellite service	---	36	54
Cable television	120	182	323
Paging service	---	5	4
Fixed telephone service	1.689	952	1.986
Trunking mobile service	---	13	3
Digital television	---	19	6
UMTS	---	16	13
Public payphones	---	28	55
Internet access	619	762	1.863
Fixed wireless access – FWA	---	7	12
Wireless LAN	---	43	49
Numbering	2.188	1.269	615
R&TTE	---	5	314
Interconnection	169	54	57
Universal telecommunications service	---	13	14
Non-ionising radiation	---	---	63
T-DAB	---	6	5
Telecommunications Price Convention	---	6	3
Private voice networks	---	---	1
Electronic commerce	---	---	143
Events	---	40	97
ICP-ANACOM publications	---	64	173
CEPT	---	---	4
Other radiocommunications services	406	209	889
Other telecommunications services	8.956	6.177	2.058
Other	1.577	658	2.163

Source: ICP-ANACOM

In 2004 Public Attendance likewise ensured comprehensive processing of the solicitations received concerning the services provided by ICP-ANACOM to its customers, i.e., the entities to any degree regulated by this Authority. Such is specifically the case of the following services¹⁷: enrolment of ITED designers and installers, including all associated modifications, the regular invoicing of certifying entities, the reception, production of lists, processing and archiving of the terms of responsibility and of the ITED conformity certificates; registry, licensing and all subsequent changes regarding CB (citizen's band) customers; scheduling and holding of amateur tests and issuance of the respective certificates.

In 2004 Public Attendance received about 25,703 solicitations regarding such services and related issues; all were processed immediately (within a maximum of three days, with most dealt with on the same day).

¹⁷ There are other services provided by ICP-ANACOM to its 'customers', whose solicitations are handled directly by other ICP-ANACOM departments, even though they may be received by Public Attendance. Such is the case of the licensing of radiocommunications service networks and stations (land mobile service, maritime mobile service, aeronautic mobile service, radio-termination, radio-localisation, radio-navigation and fixed and satellite radiocommunications service).

Table 22 – Main ICP-ANACOM solicitations in 2004, by service

Service	No. solicited
ITED	15.607
Private networks	1.997
Amateur radio	3.681
Personal radio / citizen's band – CB	3.346
Audio broadcasting	305
Television broadcasting	650
Satellites	54
Non-ionising radiation	63

Of the total solicitations received electronically (7,703), about 3,915 were registered via online attendance. In 2004, with electronic forms now available, there has been a notable increase in solicitations entered by this route.

Table 23 – Online attendance solicitations, 2002-2004

Online attendance solicitations	2002	2003	2004
Total	372	411	3.915
Radio reception interference	2	7	11
ITED – enrolment – individual	198	180	245
ITED – enrolment – corporate	9	10	29
ITED – modification of enrolment – individual	27	16	21
ITED – enrolment renewal – individual	---	28	14
ITED – modification of enrolment – corporate	27	0	0
ITED – enrolment renewals – corporate	---	1	0
ITED – clarifications	---	8	18
CB – citizen's band – registrations	106	115	150
CB – citizen's band – licences	20	13	0
CB modifications – diverse and clarifications	---	9	12
Audiotext	1	1	0
Private networks (diverse and licensing)	---	---	290
Amateur radio exams	7	23	16
Claims, information requests, comments and suggestions ¹⁸	---	---	3.060
Electronic commerce	---	---	49

Source: ICP-ANACOM

Processing claims

Processing the solicitations addressed to ICP-ANACOM makes it continually possible to understand which issues are most important for the users of communications services. For this reason it may be considered an important regulation tool, besides enabling information and explanations to be provided to the public/consumer. On the other hand, it allows detection of behaviour indications that may constitute non-compliance with the obligations set in the legislation and regulations applicable to electronic communications and the postal sector, which after due investigation may lead to the application of sanction measures (administrative offences and contractual fines). Situations of possible illegality were also occasionally denounced, though their consideration falls under the scope

¹⁸ 1509 claims, 1518 information requests and 33 suggestions or comments.

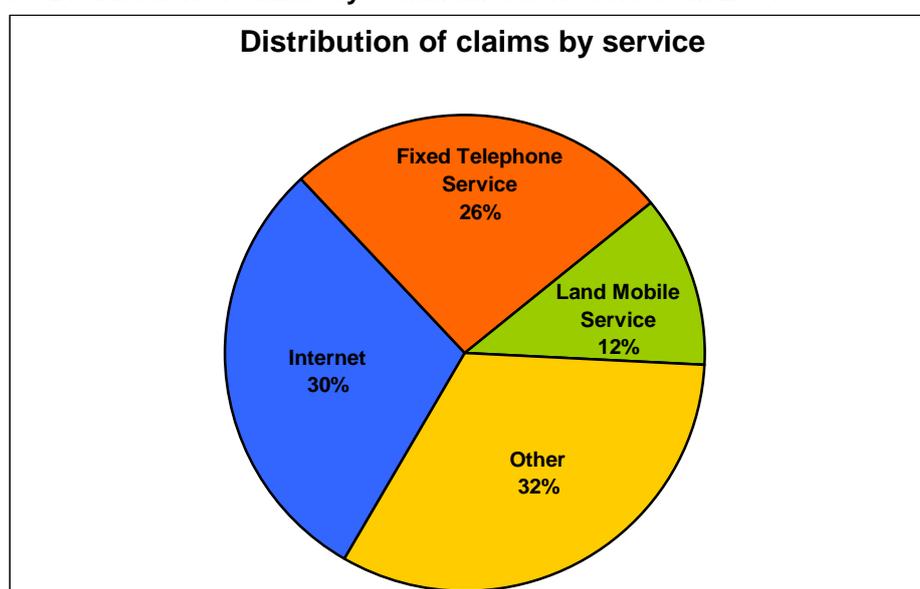
of intervention of other entities such as criminal investigation bodies, the Consumer Institute, the Inspectorate General of Economic Activities and the National Data Protection Commission.

The year 2004 was marked by progress towards systematisation and simplification of the procedures used to handle claims, with their analysis and treatment being gradually centralised. This included the process of producing and sending replies to claimants, the creation and use of “reply-types” and answers to frequently asked questions (FAQs), and the identification of contact intermediaries in all the operators and in the Consumer Institute. These initiatives enabled the management of this process to be considerably streamlined. On the other hand, a new specific computer application – the integrated solicitation management system (SGIS – sistema de gestão integrada de solicitações) began operating in an experimental phase.

The integrated development of the process of handling solicitations addressed to ICP-ANACOM and the definition of the support structure will be strongly boosted in 2005.

The following graph shows an estimate of the distribution by service of the solicitations received in 2004 which were classified as claims (about 10 percent of the total received); note that they basically concern internet access service and fixed telephone service.

Graph 11 – Distribution of claims by communications service in 2004



Source: ICP-ANACOM

7 Other Activities

7.1 Electronic commerce

Decree-Law no. 7/2004 of 7 January transposed into the national legal order Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000, regarding certain legal aspects of services associated to the information society, particularly electronic commerce, in the internal market (Directive on Electronic Commerce). In this regard, for legislative policy reasons, article 13 of Directive 2002/58/EC of 12 July 2002, concerning the processing of personal data and privacy protection in the electronic communications sector, was also transposed, by this means regulating the subject of unsolicited communications, a phenomenon commonly known as spam.

Decree-Law no. 7/2004 does not discipline the entire legal regime for electronic commerce, rather it encompasses its scope and certain aspects of information society services and the respective providers. This instrument generally regulates the provision of information society services, the conditions of irresponsibility of the so-called “intermediary service providers” regarding the content of

the information they provide, online advertising, unsolicited communications and electronic hiring, and also establishes the respective sanctions framework and a provisional dispute settlement mechanism to handle issues that may arise concerning the legality of network available content.

In the context of this instrument, ICP-ANACOM is designated as the central oversight body, with powers in all areas there regulated, a function it accumulates with that of sector oversight body in the area under its tutelage. This measure thus imposed new functions on ICP-ANACOM, namely at the level of regulation, supervision, inspection and investigation, dispute settlement and information, with the matter at hand moving beyond the traditional scope of this Authority's powers as the national regulator for electronic communications and postal services.

After the new regulatory framework for electronic commerce took force in January 2004, ICP-ANACOM undertook various tasks and projects, namely through the Mission and Development Unit for Electronic Commerce (UMD-CE).

- Continuing the work begun in November 2003, in 2004 two working sessions were held that gathered representatives of all relevant sector entities in the scope of Decree-Law no. 7/2004 of 7 January, which along with ICP-ANACOM are part of the designated informal working group for electronic commerce. These meetings basically focused on grounded debate of controversial issues regarding interpretation and application of the said instrument and led to the production of a final document that identified the aspects about which the various entities were able to achieve interpretative consensus and their different positions on subsisting controversial issues.

- Legal studies were produced with a view to better performance of the duties of supervision, regulation, assessment and disclosure incumbent on ICP-ANACOM, namely on national doctrine and case law, as well as on the legislative options of the other member States in matters of electronic commerce and in adjacent and complementary areas.

- To accompany the current status and evolution of the national and international electronic commerce markets, efforts regarding the economic aspect focused on the systematic collection and study of economic and statistical documentation on the digital economy and electronic commerce, analysis of the situation of the national and international electronic commerce markets and the compilation of statistics and the production of studies of the prospects and economic impact of electronic commerce and the digital economy.

- A publication titled *Electronic Commerce in Portugal* was produced, on the legal framework and the business, and published at the same time a conference was held on the same theme topic. The full version was placed on the ICP-ANACOM website. This manual is meant to be an instrument for promotion, dissemination and consultation, and reflects the work carried out in monitoring and studying issues that involve electronic commerce.

- A conference on the same theme topic – *Electronic Commerce in Portugal: the legal framework and the business* – was organised and held on 30 March 2004 in Lisbon, attended by about a thousand participants, including a prestigious group of experts on the matters covered. It promoted reflection and the disclosure of information on a broad range of topics relevant from the legal and economic standpoints, as well as extensive discussion of the implications and advantages, and targeted a large and diverse group, namely information society service providers, relevant sector associations, the academic community, business, financial institutions, some professional orders, other regulators, information spreading agencies and citizens in general.

- After this conference a pamphlet on the event was produced in collaboration with the Portuguese Association for the Development of Communications (APDC) and distributed in the May 2004 issue of the magazine *Comunicações*, published by the APDC.

- With a view to disclosing information on electronic commerce and associated areas, and to promote ICP-ANACOM's new services and missions in this area, a specific and regularly updated section was set up on this Authority's website.

- ICP-ANACOM took part in an eStrategy workshop focusing on the topic of "Electronic Commerce Strategies for SMEs" held in June 2004 at the Lisbon Autonomous University, with a speech on the

“General Panorama of Electronic Commerce in Portugal” given as part of the panel on “Electronic Commerce in Portugal”.

- At the invitation of the Faculty of Law of the University of Lisbon and the Portuguese Intellectual Law Association, the module on “Supervisory Bodies and Application of the Regime for Electronic Commerce” was administered as part of the third summer course on information society law, held in July 2004.
- In November 2004 a presentation was given on the topic of “Electronic Commerce in Portugal – the market and the legal and regulatory framework”, as part of the 14th Communications Congress organised by the Portuguese Association for the Development of Communications.
- A disclosure action was undertaken in December 2004 at the Engineering Faculty of the University of Oporto (FEUP), on the topic of “Electronic Commerce in Portugal – the market, the legal framework and security in transactions”. The session was attended by about a hundred people and included the presentation of short notes on ICP-ANACOM’s experience carrying out its central oversight duties in the area of electronic commerce.
- An exchange of information and experience carrying out the duties of regulating and supervising electronic commerce among the European Union member States was also promoted in 2004, with the sending of an informative note on ICP-ANACOM and its role as the central oversight body, as well as a short survey meant to gather information on the transposition of Directive 2003/31/EC on electronic commerce, the allocation of powers for regulation and supervision of this matter and the experience performing those duties.
- At the invitation of the Office for Legislative Policy and Planning of the Ministry of Justice (GPLP), ICP-ANACOM’s participation was assured in the annotation to Decree-Law no. 7/2004 of 7 January, whose publication was passed on to 2005, with the production of a chapter on ICP-ANACOM’s experience in the central oversight of electronic commerce since that instrument took force.

ICP-ANACOM’s relationship with the public in the area of electronic commerce

In the year that passed since the instrument regulating electronic commerce in Portugal took force, about a hundred and fifty information requests and claims were received. As verified in the other European Union member States, the public’s main concern was over the issue of unsolicited communications, or spam, representing about 25 percent of the requests, followed by subjects such as electronic hiring (18 percent), the provision of information society services (14 percent) and network available content (10 percent).

When the requests were examined according to type, it was noted that for information requests the main subjects over the course of the year 2004 concerned the provision of services (23 percent) and spam (19 percent). In the case of claims, topics related to spam (34 percent) and electronic hiring (32 percent) were the most predominant.

Regarding how the various requests were handled after being received, only about 13 percent were passed on to other bodies, specifically to the National Data Protection Commission, the High Authority for the Media and the Consumer Institute, as they were deemed to be the relevant sector entities that should consider the matters in question; ICP-ANACOM processed and replied to the others.

Regarding the provisional dispute settlement procedure for network available content, four requests to remove content were submitted to ICP-ANACOM over the course of 2004.

Action Plan for a Safer Internet

As the national regulatory for the area of communications, ICP-ANACOM was consulted several times by the European Union for its views on the Action Plan for a Safer Internet.

As the subject was deemed to be extremely relevant and current, with undeniable benefit deriving from Portuguese participation, ICP-ANACOM undertook various initiatives to heighten awareness in Portuguese society on the need for a national initiative in the scope of the Action Plan for a Safer

Internet, and on the urgent need to conceive and promote a Portuguese project in the areas of direct lines to denounce illegal internet content and to ensure public awareness of the internet safety issue.

To that end an awareness meeting was held in 2004, attended among other public and private entities by representatives of the telecommunications operators and institutions of higher education. The discussion highlighted the relevance of the economic players' initiative, as the success of internet business and the new communication technologies clearly depends on the creation and maintenance of a safe online environment. On a dominant note, the various telecommunications operators, higher education institutions and other entities expressed not only their willingness to cooperate in creating and upholding a safe online environment and to study possible participation in relevant projects, but also the willingness of the official bodies represented to work together to conceive and promote national projects in these areas.

Unsolicited communications (spam)

In 2004 ICP-ANACOM took part in the second and third meetings of European national authorities responsible for the issue of spam. They were held in Brussels, organised by the Directorate General of Enterprise and the Information Society (DG INFSO) of the European Commission. A workshop on combating spam, organised by the DG INFSO and the Dutch presidency, was also attended.

Along with participation in the European Commission's efforts to combat spam, ICP-ANACOM has also collaborated in the work carried out by the OECD and the ITU, by responding to the consultations on national anti-spam legislation and the authorities responsible for its respective application.

Regarding the OECD, a questionnaire on national anti-spam legislation and its application to international situations was replied to in July 2004. As for the ITU, collaboration was assured in September 2004 for the consultation process that led to the publication of information on anti-spam legislation and on the authorities responsible for applying same in that organisation's member countries.

7.2 The role of communications in development of the Information Society

According to paragraph s) of article 6 of its statutes, approved by Decree-Law no. 309/2001 of 7 December, it is incumbent on ICP-ANACOM "to assure the realisation of studies in the areas of postal communications and telecommunications, as well as the execution of projects to promote the development of access to the information and knowledge society, namely when involving the introduction of advanced services and networks, the reduction of regional asymmetries, the adoption of measures applicable to citizens with special needs, whether direct or in the form of support for public or private entities".

Below are listed the main activities undertaken to that end in 2004 with respect to following developments concerning new technological systems:

Collaboration protocol between ICP-ANACOM and UMIC

ICP-ANACOM and UMIC joined efforts and resources, based on co-ordinated collaboration as per the protocol agreed to in March 2003, to encourage and support the development of initiatives leading to wider access to the information society.

National Broadband Initiative (NBI)

ICP-ANACOM took part in the Action Group for Broadband (G@BL), which aims to share and consider ways to implement specific projects included in the NBI, with a group of entities with experience, knowledge and influence in this area. The said group is driven by UMIC and includes, besides ICP-ANACOM, various sector players as well as other institutional bodies such as the Competition Authority and the National Association of Portuguese Municipalities (ANMP).

Cyber-centres

Over the course of 2004 ICP-ANACOM took part in the establishment and management of Cyber-centres. To that end it worked with municipal councils and with the Foundation for the Divuligation of Information Technologies (FDTI). The Cyber-centres, which are managed by private non-profit

organisations, work as centres for practical demonstration and promotion of the use of information, communication and multimedia technologies, and basically target the young and student population; they are associated with social and recreation spaces.

At the date of this report Cyber-centres were functioning in the cities of Covilhã, Guimarães, Bragança, Castelo Branco and Beja, and in the establishment or construction phase in the cities of Guarda, Aveiro and Faro.

Citizens with special needs

With the aim of working to promote access by citizens with special needs to the new technologies, ICP-ANACOM took part in various actions organised by other entities, namely the ACESSO Unit, in order to minimise digital barriers resulting from the conception of digital content and software and hardware interfaces. To that end it was also represented on the panel assessing the financing line for Digital Inclusion, which means to evaluate proposals for projects that boost citizens' participation in the information society.

Protocol with the Madeira Autonomous Region

In order to ensure that the citizens of the Madeira Autonomous Region have access to transmissions of the general channels with unconditioned access available on the mainland, specifically RTP1, RTP2, SIC and TVI, a protocol was signed on 6 August 2004 by the Government of the Republic, the Regional Government of Madeira, ICP-ANACOM and Cabo TV Madeirense, S.A. It enables free access to the said channels in that Autonomous Region. The protocol also covers a set of mechanisms meant to facilitate the gradual switch from analogue to digital technology and establishes a realisation programme and the corresponding actions; the Government of the Republic and the Government of the Madeira Autonomous Region are responsible for financing same, according to the stipulated conditions. As the regulatory body, ICP-ANACOM monitors and oversees execution of that protocol, as per its clauses 8 and 9.

Convergence and Development Platform

The Convergence and Development Platform considers the prospective monitoring and analysis of technologies and services associated with the convergence of telecommunications, the audiovisual and information technologies. It works as a forum for discussion among economic players on the market. In 2004 ICP-ANACOM organised a meeting of this Platform under the theme topic of "New Technologies – Evolution and Trends", with the aim of monitoring technical innovations and developments and their potential impact on market evolution. The gathering was attended by representatives of network and service operators, equipment and software makers, universities, associations, specialists and experts in the area of new technologies and other electronic communications market players.

Adoption/use of the IPv6 Protocol

In the context of the measures proposed in the Communication to the Council and to the European Parliament of 21 February 2002, on next generation internet (action priorities in the switchover to the new IPv6 internet protocol), this protocol is recognised as being an important instrument in the priority establishment of broadband networks by 2005 throughout the European Union.

The said Communication also urges the member States to make efforts to ensure adoption and use of this protocol and highlights the need to remove barriers that might hinder the IPv6 transition/adoption. To that end, and as in other European countries, the Portuguese IPv6 Task Force (TF), in which ICP-ANACOM participates, was set up in late 2002.

To better learn about the status of IPv6 development in Portugal, ICP-ANACOM in May 2004 prepared and distributed a survey asking the providers of electronic communications services for information on identified technical barriers, the steps taken for IPv6 adoption/migration in the respective network and the degree of participation of knowledge regarding the Portuguese IPv6 TF.

Disclosure of the results obtained and eventual conclusions or recommendations, specifically those concerning elimination of problems in this area affecting operators/providers, is scheduled for 2005.

7.3 Activity of ICP-ANACOM as Sector Standardisation Body

Under the protocol with the Portuguese Quality Institute (IPQ) in the area of standardisation, vis-à-vis the National Quality Management System, ICP-ANACOM is recognised as being the sector standardisation body for the area of communications (telecommunications and postal service) and of electromagnetic compatibility.

According to that protocol, as the recognised sector standardisation body, ICP-ANACOM must reply to documents submitted to it by the IPQ which come from European and international standardisation organisations, namely the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (CENELEC), the European Telecommunications Standards Institute (ETSI), the International Standardisation Organisation (ISO) and the International Electrotechnical Commission (IEC).

The relevance of technical standardisation is enshrined in the ICP-ANACOM statutes, as it is a power of this Authority to “promote technical standardisation, in collaboration with other organisations, in the communications sector and associated areas”. To that end, Joint Order no. 94/2002 of the Ministry of Finance and Social Infrastructure also recognises ICP-ANACOM’s participation as a founding associate of the Portuguese Association of Sector Standardisation Bodies (APONS – Associação Portuguesa dos Organismos de Normalização Sectorial).

In the pursuit of its activities as sector standardisation body, ICP-ANACOM monitors the standardisation work of a wide range of technical committees and working groups in European and international bodies.

Table 24 – ICP-ANACOM activities monitoring European and international standardisation work in 2004

Standardisation Body	Matter	Technical Committee/Working Group
CEN	Postal Services	TC 331
CENELEC and IEC	Radiocommunications Transmission Equipment (RTE)	TC 77 (IEC)
	Communication Cables (CC)	CT 46 (IEC) CT 46XA, CT 46XB and (CENELEC)
	Electrotechnical Aspects of Telecommunications Equipment (EATE)	CT 215 (CENELEC)
	Electromagnetic Compatibility (EMC)	CT 77 and CISPR (IEC) CT 210 (CENELEC)
	Human Factors (HF)	CT 104 (IEC) CT 106X (CENELEC)
	Electromagnetic Field in the Human Environment (EMFHE)	CT 104 (IEC) CT 104 (CENELEC)
ETSI	Transmission and Multiplexing	TM4
	Radio Spectrum and Electromagnetic Compatibility (EMC+ERM)	TG17, TG25, TG26, TG28, TG3
	Terrestrial Radiocommunication System using TETRA Technology	WG 3 and WG 8
	Telecommunications for the Railway Sector	EP RT
	Satellite Earth Stations and Systems (SES)	HARM
	Broadcasting (audio and television) (BROADCAST)	DAB and JTC
	Digital Telecommunications System using DECT Technology	DECT

Source: ICP-ANACOM

In this regard, ICP-ANACOM must subject the standardisation documents being studied by these European and international standardisation bodies to the proper consultation procedure, draw up the respective report and issue a vote reflecting the national interest. To do so, opinions are requested from a wide range of representative bodies for the areas in question, according to the precepts of Directive 4/99 of the CNQ. In 2004 the field of consulted bodies encompassed five associations, seven enterprises and six public bodies.

Table 25 – National entities involved in ICP-ANACOM standardisation activities in 2004

National Entities Consulted	
Business Associations	ACIST, ANETIE, ANIMEE, APDC and APRITEL
Public Bodies	ICP-ANACOM, HEALTH DIRECTORATE GENERAL, IBMPT, IEP, INSA and ISQ
Enterprises	CABELTE, CTT, CUNHA BARROS, GENERAL CABLE, ONI, PAPELACO and Grupo PT

Source: ICP-ANACOM

In 2004 ICP-ANACOM's activity as sector standardisation body mainly concerned the IEC and CENELEC (55 percent of requests), followed by ETSI (43 percent). The predominant subjects were electromagnetic compatibility (47 percent of the total, in terms of representation), followed by those involving communications cables, for which a national technical commission was established (about 20 percent of the total), and radio transmission equipment (11 percent).

Table 26 – Representation of subjects dealt with by ICP-ANACOM in 2004 as part of its activity as sector standardisation body

Context	Context (European Standardisation Body)	Representation
Transmission and multiplexing	TM (ETSI)	2,7%
Electromagnetic compatibility and radio spectrum	ERM/EMC (ETSI)	25,8%
Satellite earth stations and systems	SES (ETSI)	1,2%
Environmental engineering for telecommunications	EE (ETSI)	2,7%
TETRA	TETRA (ETSI)	4,7%
Digital wireless telecommunications – DECT	DECT (ETSI)	3,9%
Television and/or radio transmission – BROADCASTING	BROADCAST (ETSI)	2,0%
Telecommunications in the railway sector	RT (ETSI)	0,4%
Electromagnetic fields in the human environment (IEC/CENELEC)	CEMAH (IEC/CENELEC)	3,1%
Electromagnetic compatibility	CEM (IEC/CENELEC)	21,5%
Electromagnetics (IEC/CENELEC)	CC (IEC/CENELEC)	19,5%
Communications cables (IEC/CENELEC)	CC (IEC/CENELEC)	19,5%
Radiocommunications transmission equipment (IEC)	ETR (IEC)	10,9%
Postal sector	POSTAL (CEN)	1,6%
Total activity in 2004		100,0%

Source: ICP-ANACOM

7.4 Installation of telecommunications infrastructures in buildings (ITED)

The new technical specifications and prescriptions for telecommunications infrastructures in buildings (ITED - infra-estruturas de telecomunicações em edifícios), known as the ITED Manual, took force on 1 July 2004 after notification of the European Commission.

Approval of this technical rule signifies a major technological advance and a relative enlargement compared to the previous prescriptions under the RITA system and for collective antennas (television, radio and satellite), and has a major impact on the sector, with clear benefits for consumers, specifically by facilitating access for multiple operators and enabling broadband services and intelligent buildings.

The assessment procedures, certification body registration procedures and the ITED conformity certificate were published in conjunction as the ITED Manual (first edition) took force, as envisaged in the instrument.

The new procedures for designating training entities took force later; they will conduct the authorised training of electricians, who will thus be able to register as ITED technicians with ICP-ANACOM.

A cycle of regional workshops on the ITED system was also begun. In 2004 workshops were held in Lisbon, Bragança, Faro and Évora, with strong attendance and 100 percent occupation of the respective auditoriums. Other workshops are scheduled to be held on the mainland and in the autonomous island regions over the course of 2005.

Efforts to re-evaluate certifying entities and installers/certifiers for whom three years have passed since registration began in 2004, according to the procedure approved in 2004; 21 entities were re-evaluated and 12 new certifying entities registered.

Also, 24 actions to inspect or investigate telecommunications infrastructures were carried out due to either re-evaluation processes or claims submitted to ICP-ANACOM.

Regarding this subject, in 2004 ICP-ANACOM received private claims associated to the circumstance of property projects which had been submitted to the respective municipal councils and were subsequently subject to charges by the public telecommunications service concessionaire, for the consideration or approval of said projects. Some municipal councils likewise queried ICP-ANACOM on this subject.

In this regard, ICP-ANACOM on 21 July 2004 provided explanations to the ANMP on the exclusion of urbanisation and land division operations in the context of ITED application, as well as the unnecessary prior approval of land division operations by PT Comunicações.

7.5 Laboratory activity

Aware of the modernisation challenges facing industry and the need for a high degree of product and service quality, and as per Decree-Law no. 74/92 of 29 April, regulated by Administrative Rule no. 767-A/93 of 31 August, and Decree-Law no. 192/2000 of 18 August, ICP-ANACOM regulates and oversees the market in the area of equipment and material.

ICP-ANACOM carries out electromagnetic compatibility trials (Electromagnetic Compatibility Laboratory), calibrations in the electric area (Radio Metrology Laboratory) and testing of radio equipment (Radio Equipment Testing Laboratory), as well as evaluation tests of electromagnetic environments.

All ICP-ANACOM laboratories are available for the provision of calibration and testing services to outside entities.

Laboratório de Compatibilidade Electromagnética (LCEM)

The Electromagnetic Compatibility Laboratory (LCEM) carries out trials of emission and immunity, whether conducted or radiated, on various kinds of electric and electronic equipment. This laboratory is accredited by the Portuguese Accreditation Institute (IPAC) according to the standard NP EN ISO/IEC 17025 to conduct electromagnetic compatibility trials as indicated in the IPAC no. 95/L.143 qualification certificate.

In 2004, the LCEM's activity remained stable vis-à-vis proportionality between the amount of equipment tested coming from ICP-ANACOM (internal customer) and that coming from external customers.

About 10 percent of the equipment tested was for external customers and 90 percent for internal customers.

Radio Metrology Laboratory (LMR)

The Radio Metrology Laboratory (LMR) is accredited by the Portuguese Accreditation Institute (IPAC) according to the standard NP EN ISO/IEC 17025, with IPAC qualification certificate no. 99/L.264, to calibrate devices in DE and AC tension, DE and AC current, resistance, frequency, RF power, attenuation, VSWR, harmonic distortion and AM, FM and PM modulations.

To fulfil the accreditation requirements, this laboratory maintains its standards as per international laboratories, where it regularly sends them to be calibrated. To verify the conformity of this process and the appropriateness of the measurement methods used, this laboratory has taken part in inter-laboratory comparisons promoted by the EA (European co-operation for Accreditation), IPQ and NPL (National Physical Laboratory – United Kingdom). In the frequency area, traceability is maintained by continual comparison of its standard with the signal received via the GPS chain.

The equipment covered by the LMR's calibration activity includes frequency meters, module meters, multi-meters, oscilloscopes, radiocommunication analysers, watt-meters, power sensors, audio analysers, spectrum analysers, radiocommunications monitors and coaxial accessories such as attenuators, charges, impedance pads, directional couplers, filters, cables and signal deriviers (splitters, circulators).

The LMR must also, by remote control, gauge and daily assure the good functioning of the ICP-ANACOM frequency standards installed in Barcarena, Oporto, Madeira and the Azores, which are used to help obtain precise values in frequency measurements conducted by the ICP-ANACOM laboratories and bodies that oversee radio spectrum.

In 2004 the LMR's activity also remained stable with regard to the proportionality between the amount of trial equipment coming from ICP-ANACOM (internal customer) – about 77 percent of the total, corresponding to approximately 93 percent of the laboratory's bench occupation rate – and the amount of equipment tested for outside customers – 23 percent, corresponding to about 7 percent of the bench occupation rate.

Radio Equipment Testing Laboratory (LR)

The Radio Equipment Testing Laboratory (LR) assures verification of the conformity of the characteristics of transmission, reception and transmission/reception equipment with the specific requirements established in national legislation (radiocommunications) and/or with harmonised European standards issued by ETSI, whose adoption has been recommended by the Electronic Communications Committee (ECC) of CEPT, specifically those whose reference and title have been published in OJEC.

Trials are carried out on equipment meant for various uses, specifically personal radio (CB), land mobile (private networks), fixed, aeronautic mobile, maritime mobile, paging (private and public networks), amateur radio, cordless phones, wireless microphones, and low power short range devices (SRDs), among others.

In 2004 the LR also conducted activities in the area of electromagnetic radiation, namely involving the:

- Identification, elaboration and development of procedures to measure electromagnetic fields, with a view to verifying conformity with the reference standards set in Council Recommendation 1999/519/EC of 12 July 1999;
- Realisation of on-the-ground measurements of electromagnetic fields at the request of outside entities, so that they can be compared with the aforementioned reference levels.

The LR's activity in 2004, compared to the previous year, showed a stabilisation in the number of tests conducted at the request of outside entities, while the amount of equipment tested for ICP-

ANACOM (internal customer) recorded a major increase. Thus, approximately 94 percent of requests were internal and 6 percent of external origin.

Principal Determinations of ICP-ANACOM

(Available at <http://www.anacom.pt/template15.jsp?categoryId=90193> , allowing direct access to the determinations)

2004

08.01.2004 - Reorganisation of the conditions associated to the leased lines service provided by PT Comunicações (draft decision)

08.01.2004 - Audit of the CTT cost accounting system (2002)

08.01.2004 - Adhesion contract of TELE LARM, to provide DOV Customer Service

16.01.2004 - Definition of the maximum retail prices for calls to numbers in the “707”, “708” (universal access services) and “809” (shared cost call services) ranges

20.01.2004 - “PT ADSL Network” wholesale offer

22.01.2004 - Publication of the report from the public consultation on the “subscriber line resale offer” (SLRO)

22.01.2004 - Public consultation on operation selection and pre-selection in Portugal

22.01.2004 - ITED (telecommunications infrastructures in buildings) Manual (draft technical standard)

28.01.2004 - Postponement of the deadline to implement the determination setting the maximum retail prices for calls to numbers in the “707”, “708” and “809” ranges and definition of an NNP access dialling code with a single retail price

28.01.2004 - Changes to introduce in the RIO 2004 (draft decision)

05.02.2004 - Evolution of the “PT ADSL Network” wholesale offer (draft decision)

10.02.2004 - Reorganisation of the conditions associated to the leased lines service provided by PT Comunicações

10.02.2004 - Operation of UMTS systems

12.02.2004 - ANACOM consultation procedures

08.03.2004 - Definition of the relevant markets for fixed switched low-bandwidth services and SMP assessment

08.03.2004 - Fixed-mobile interfaces

11.03.2004 - Draft Portability Regulation

16.03.2004 - Changes to introduce in the RIO 2004

18.03.2004 - PT/DECO Agreement

26.03.2004 - Trunking mobile service (TMS) – Radiomóvel licence

06.04.2004 - Process of defining relevant markets, assessing SMP and imposing obligations (public consultation – 3rd phase)

06.04.2004 - Evolution of the “PT ADSL Network” wholesale offer

- 14.04.2004 - Quality of service indicators and claims system (2002)
- 14.04.2004 - Advertising in "118" information service under universal service
- 14.04.2004 - Cost Accounting System of PT Comunicações (2001)
- 14.04.2004 - Monitoring of the CTT's quality of service – year 2003
- 19.04.2004 - PT Comunicações price table (2004)
- 29.04.2004 - Entrance into force of the PT Comunicações universal service price table (2004)
- 29.04.2004 - Prices of leased line interconnection services and interconnection components (draft decision)
- 29.04.2004 - Supply of access to the conduits of the concessionaire (draft decision)
- 29.04.2004 - Public Payphone Service (draft decision)
- 03.05.2004 - Report from the public consultation on FWA and proposal for future action
- 03.05.2004 - Procedures to begin the offer of electronic communications networks and services
- 06.05.2004 - Draft regulation on the procedures to cover and deliver the TMDP (municipal fee for rights of way) to municipalities (consultation)
- 10.05.2004 - Draft Regulation on the municipal fee for rights of way (TMDP)
- 19.05.2004 - Advertising in the "118" information service under universal service
- 19.05.2004 - Assessment of the conformity of the proposed price table for reserved postal services
- 20.05.2004 - Definition of the relevant markets for fixed switched low bandwidth services and SMP assessment (report from the public consultation and draft decision)
- 20.05.2004 - PT Comunicações universal service price table (2004)
- 27.05.2004 - Prices of leased line interconnection services and interconnection components
- 27.05.2004 - Proposed price table for reserved services
- 27.05.2004 and 14.06.2004 - ITED Manual and associated procedures
- 27.05.2004 - List of standards and/or specifications for electronic communications networks and services and associated resources and services (public consultation)
- 24.06.2004 - Final report on the FWA general consultation procedure
- 08.07.2004 - Definition of the relevant markets for fixed switched low-bandwidth services and SMP assessments
- 15.07.2004 - Public payphone service(report from the public consultation and decision)
- 15.07.2004 - Imposition of obligations in the area of wholesale markets for call origination and termination in the public telephone network at a fixed site (draft decision)
- 15.07.2004 - Imposition of obligations in the area of narrowband retail markets (draft decision)

- 16.07.2004 - Imposition of obligations in the area of wholesale markets for call origination and termination in the public telephone network at a fixed site (extension of the reply deadline)
- 16.07.2004 - Imposition of obligations in the area of narrowband retail markets (extension of the reply deadline)
- 17.07.2004 - Supply of conduits of the concessionaire PTC (Report from the public consultation and decision)
- 29.07.2004 - List of standards and/or specifications for electronic communications networks and services and associated resources and services (report from the consultation and future action measures)
- 26.08.2004 - "PT ADSL Network" wholesale offer – offer with ATM aggregation (draft decision)
- 09.09.2004 - Regulation, coverage procedures and delivery of the TMDP to municipalities
- 09.09.2004 - Creation of a specific code for premium rate utilitarian services
- 30.09.2004 - PT Comunicações offer in the scope of the "PT Roadshow Close to You" (decision and draft decision)
- 07.10.2004 - Suspension of lines to EASTÉCNICA V
- 14.10.2004 - Grupo PT broadband offers
- 21.10.2004 - "PT ADSL Network" wholesale offer - offer with ATM aggregation(decision and draft decision)
- 04.11.2004 - PT Comunicações campaigns identical or analogous to the one subject to the determination dated 30/09/2004 (in the scope of the "PT Roadshow Close to You")
- 17.11.2004 - Adhesion contract of TELE LARM, to provide DOV Customer Service
- 23.11.2004 - Designation of ITED training entities
- 23.11.2004 - Draft Quality of Service Regulation
- 24.11.2004 - Wholesale broadband access market (draft decision)
- 24.11.2004 - Wholesale unbundled access market (draft decision)
- 26.11.2004 - "Optimus Home" service
- 10.12.2004 - NOVIS offer of 7/12/2004 (draft decision)
- 10.12.2004 - Changes to make in the RUO (draft decision)
- 14.12.2004 - Imposition of obligations in the narrowband retail markets
- 14.12.2004 - Fixed wireless access (FWA) – Expression of interest in using allocated frequencies
- 17.12.2004 - National Frequency Allocation Plan (consultation)
- 17.12.2004 - Imposition of obligations in the wholesale markets for call origination and termination in the public telephone network at a fixed site
- 21.12.2004 - Wholesale markets for voice call termination in individual mobile networks (market 16) (draft decisions)

- 21.12.2004 - Non-compliance – “Optimus Home” offer
- 21.12.2004 - “PT ADSL Network” wholesale offer – offer with ATM aggregation
- 21.12.2004 - Extension of deadline – Novis offer of 7.12.04
- 22.12.2004 - Proposed price table for reserved postal services (2005)
- 30.12.2004 - Changes to introduce in the RIO 2005 (draft decision)

2005

- 12.01.2005 - Draft Quality of Service Regulation (consultation)
- 21.01.2005 - Change in the way quarterly statistical information is collected (draft decision)
- 21.01.2005 - National Frequency Allocation Plan (consultation)
- 03.02.2005 - SLRO reference offer (draft decision)
- 09.02.2005 - Audit of the LMS operators
- 09.02.2005 - Changes to make in the RUO (draft decision)
- 09.02.2005 - REPART request to be assigned the frequencies allocated to RADIOMÓVEL
- 17.02.2005 - Changes to make in the RUO
- 17.02.2005 - Changes to introduce in the RIO 2005
- 25.02.2005 - Wholesale markets for voice call termination in individual mobile networks (market 16)
- 25.02.2005 - Electronic communications service notified by NOVIS on 7/12/2004
- 25.02.2005 - Creation of a new NNP range (“71”) to accommodate “premium rate utilitarian services”
- 25.02.2005 - Transit market in the public telephone network at a fixed sit (draft decision)
- 17.03.2005 - Markets 7, 13 and 14 (draft decision)
- 13.04.2005 - Changes to make in the RUO
- 15.04.2005 - Verification of use of the frequencies assigned to RADIOMÓVEL and obligation for analogue and digital systems to switch to the CDMA system
- 04.05.2005 - Quality of Service Regulation
- 04.05.2005 - National Frequency Allocation Plan
- 04.05.2005 - Advertising and useful information in telephone directories provided under universal service
- 09.05.2005 - Modification of the “PT ADSL Network” wholesale offer (draft decision)
- 09.05.2005 - PT Comunicações fixed-mobile retail price table

17.05.2005 - Guidelines on the minimum content to include in contracts to provide electronic communications services

17.05.2005 - Retail price table for telephone service provided at a fixed site (PTC)

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