

Date of publication – 2.12.2008



REGULATION REPORT 2007

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1. FRAMEWORK

1.1. This Report's Structure

ICP – Autoridade Nacional de Comunicações (ICP-ANACOM), under the terms of its Statutes¹, is bound to send every year the Regulation Report to the Government, also to be submitted to the Parliament.

As with the Regulation Report 2006, this is a specific document that will not include the section on the State of Communications, nor the Activities Report, for as the three publications' goals, rationale and even issuance dates are different.

We remind that the Regulation Report offers an outlook of ICP-ANACOM's regulatory activities, which also has other duties, assigned to it by its Statutes or by other legislation, as commonly known, with boundaries between them not always obvious. However, we do believe that, as in previous years, the main facts of ICP-ANACOM's activities in the field of market regulation are well portrayed in this document.

This Report's structure is similar to that of 2006, showing ICP-ANACOM's main regulatory tools and its means of intervention. Thus, regarding electronic communications, it presents the Regulator's three fundamental action areas, namely:

- (i) market analyses and the consequent imposition of duties on the companies with significant market power (SMP), particularly regarding regulated reference offers;
- (ii) frequency and numbering management;
- (iii) monitoring of the universal service (US), mainly regarding prices and quality of service, and also covering the postal services sector.

This report also covers other ICP-ANACOM's more specific activities, namely in connection with user protection, communications' safety and with supervision, monitoring and sanctioning. It also contains references to cooperation with other entities, particularly the Competition Authority (AdC), and participation at numerous international bodies as the National Regulatory Authority or in representation of the Portuguese State.

¹ Article 51, no. 1 of the Statutes annexed to Decree-Law no. 309/2001 of 7 December.

The Report ends with a set of final considerations highlighting the main challenges faced by regulation.

1.2. ICP-ANACOM's strategic goals for 2007 and their accomplishment

The Regulation Report concerning 2007 takes as its mandatory referential ICP-ANACOM's performance goals and general guidelines for that year, which were previously stated by the Regulator on its corresponding Activity Plan.

The strategic vision of ICP-ANACOM's Board of Directors for the 2006-2008 triennium, under this Authority's duties, was basically maintained for the following triennium, with some updates resulting from the experience gained, and led to the adoption of the following strategic goals for the 2007-2009 period:

- To promote open and competitive markets;
- To improve usage conditions for citizens;
- To foster innovation and investment on infrastructure;
- To actively follow-up the development of the European Union's (EU) internal market;
- To increase ICP-ANACOM's action ability and its efficiency
- To foster international cooperation.

Below are presented with greater detail the first previously mentioned four goals for the 2006-2008 triennium, which are those more directly connected to the regulatory activity that is the object of this Report. General highlight is given to how the main activities carried out in 2007 contributed to the accomplishment of these goals.

To promote open and competitive markets

The existence of open and competitive markets is essential for the communications sector to fulfil its role in the process of growth, development and increase competitiveness of the Portuguese economy, both fostering consumer and end user benefits, and obtaining investment levels that enable the sector's sustainable growth, under strict conditions regarding a high level of network reliability and the use of safety criteria.

This strategic goal intends to minimize distortions or barriers to competition, such as discrimination when handling with companies or dominant position abuse, and to encourage markets to operate in a context of transparency, stability and predictability regarding the corresponding tariff and regulatory systems.

In order to implement this goal, the strategy adopted for 2007-2009 was based on five items:

- To apply proportionate, transparent and predictable regulatory principles;
- To review the analyses of electronic communications markets (defining relevant markets, evaluating significant market power and imposing obligations), with particular emphasis on the changes proposed within the EU;
- To prevent situations of dominant position abuse;
- To take measures favouring competition among different technologies;
- To deepen the study concerning the postal services market.

Within his scope, as detailed along this report's relevant sections, several items stand out:

- The conclusion of the first round of analysis of relevant markets stated on the Recommendation of the European Commission (CE) 2003/11/EC, of 11 February;
- The adoption of measures preventing dominant position abuse, namely by acting on several retail offers and by granting conditional authorization to the incumbent operator for integrated retail offers aggregating network access lines and telephone traffic. This was only possible further to the watchdog making sure that the alternative operators would have the conditions to replicate that offer;
- The consolidation of technology- and service-neutral policies within the scope of radio spectrum management, which is increasingly regulated towards the effective availability of radio spectrum to the market, and the promotion of competition;
- The public disclosure of a study on the development prospects of postal services in Portugal in connection with its coming liberalization.

It should be pointed out that, in 2007, within the scope of the wholesale offer regulation and within a framework of application of the proportionality principle, some soft law regulatory measures were developed, through the issuance of recommendations (e.g. within the scope of the naked DSL wholesale offer). Also, further transparency and predictability mechanisms were implemented that year, namely with the detailed publication of the methodology used in some compliance tests regarding the application of regulatory rules (such as the application of the “retail-minus” rule within the scope of the “Rede ADSL PT” offer).

To improve usage conditions for citizens

In situations where the free market operation does not lead to an efficient social distribution of resources, as happens with a considerable part of the electronic communications and the postal services sectors, it is essential that the regulator makes sure that citizens and companies get the best satisfaction possible in terms of quality of service, prices, diversity and universality. This strategic goal is the end goal of the regulatory activity and is clearly stated on the regulator’s mission statement.

In order to accomplish this goal, it should be actively assured that companies and families have the information enabling them to make the best options regarding their purchasing and investment solutions, thus fostering more demanding and efficient behaviours.

Consumer education and information is considered essential, through the dissemination of clear, updated and timely information, namely of perceivable and comparable indicators on the operation of markets and on the performance of entities operating in the sector.

It is also considered essential to make sure that consumer protection is in place, by fostering the establishment of mechanisms preventing the providers of communications services of not fulfilling their duties.

Within this scope, these were the guiding principles for 2007-2009:

- To make sure that information is in place enabling consumers and other end users to make the best choices;
- To promote the spreading of quality of service indicators;

- To reduce the situations where there is no alternative choice of communications services providers;
- To assure the universal access and provision of the US, and to foresee its scope considering citizens' new demands;
- To foster the development of mechanisms easing up the relationship between consumers and operators;
- To assure the decrease of payments for services that are not used or that are not properly provided, besides improving their quality.

In this context, some activities implemented in 2007 stand out within the scope of the US tariff scheme for the telephone service at a fixed location (FTS). They aimed at balancing the consumers' immediate interests with the long term sustainability of competition in this service's offer, in the framework of the maintenance of specific social schemes for retired people and pensioners, thus preventing its discontinuity in face of the suspension of funding foreseen in connection with that matter in the State's General Budget,

Quality control of postal services was also subject to particular care, with measures being adopted to compensate users for the non-fulfilment, in 2006, of the goals set by CTT – Correios de Portugal, S.A. (CTT), considering a framework of flexibility of those measures without reducing their financial impact and the coverage of these service's user universe.

The safeguard of consumers' rights and demands was also at the origin of several decisions by ICP-ANACOM, namely related to the pre-selection customers' activation and deactivation procedures, and the sanctioning of the non-fulfilment of the corresponding Regulation by the involved operators, with direct and immediate benefits to users.

Finally, regulatory measures were implemented at the wholesale level with an indirect but considerable impact for consumers and other end users, such as the one concerning the so-called naked DSL, which made it possible to provide the end consumer with offers that only include the service of their interest (in the case of naked DSL, broadband internet access), while at the same time several operators introduced package (double or triple-play) offers in the market.

To foster innovation and investment on infrastructure

Innovation and investment on infrastructure are paramount to the sustainability of any sector's development, in the medium and long run. This principle is based on the need to assure the availability of networks with increasing quality, on the several technological alternatives available, and which are a prerequisite for an effective non-discriminatory access and an efficient use.

Regulatory activity must foster these factors, for the communications sector to continue to achieve, in the medium and long term, a relevant role in the development of the Portuguese economy, namely through companies that develop sustainable business models, providing quality products and services to citizens.

Besides creating an environment assuring that innovation and investment on equipment and infrastructure are fostered, it is also the regulator's job to manage potentially conflicting short, medium and long-term consumer interests – lower prices versus incentives to investment in present days leading to lower prices in the medium run – establishing priorities and compromises.

These were the main guiding principles adopted for 2007-2009

- To adopt, when need be, measures fostering business models based on developing and favouring communications infrastructure;
- To actively participate in the process leading to the use of public infrastructure for electronic communications and postal services;
- To promote the development of new services and systems;
- To make sure that a regulatory framework fostering convergence and the development of systems, services and equipment is in place.
- To foster cooperation with higher education and research entities for the dissemination of high-edge technological knowledge and to create the environment for its correct adaptation to the development of communications.

On this domain, it is important to stress out ICP-ANACOM's performance in 2007 in preparing the entire legal framework for the implementation of digital terrestrial television

(DTT) in Portugal, in creating new numbering ranges for new services (116x, 76x), for harmonized social value services and flat-rate per call services, and also in clarifying the regulatory framework of the mobile virtual network operators' (MVNO) activity.

Within this scope, and besides launching several analyses and draft studies concerning the development of new generation networks (NGN) and their regulatory framework, it is also important to highlight some measures aiming to promote investment efficiency and resource optimization, namely within the scope of the shared use of co-installation areas on the exchanges of PT Comunicações, S.A. (PTC), and creating the environment for interconnection between operators colocated there.

The establishment of a more favourable environment for the development of studies and scientific analyses concerning ICP-ANACOM's regulatory activity should also be noted, from a standpoint of anticipating markets evolution, and towards a closer connection between the Authority and higher education and research entities, by means of creating and implementing, in 2007, the Office for Studies and Prospect.

To actively follow-up the development of the European Union's (EU) internal market

In accordance with ICP-ANACOM's duties, the need to contribute to the development of EU's internal market is always present, notwithstanding the safeguard of national market specificities, if relevant, and of the necessary conditions for its autonomous development, which enables its efficient integration in a common market under construction, without artificial barriers.

Thus, it was timely established that ICP-ANACOM would follow-up and discuss the project for EU's new electronic communications regulatory framework.

ICP-ANACOM had therefore quite an active participation, both in the electronic communications and in the postal sector, regarding the important developments occurred in 2007 at the EU (namely the development of the new electronic communications regulatory framework proposed by the EC and the new Postal Directive adopted by the Council and the European Parliament).

This Authority's intervention was carried out both in the fulfilment of its duties in terms of Government advisory and autonomously as a National Regulatory Authority, within the scope of the European Regulators Group (ERG), where it actively participated in the

preparation and adoption of several reports, opinions and common positions, thus contributing to the formation of harmonized understandings on several relevant matters for the EU's internal market.

Mention should be made to ICP-ANACOM's intervention in the implementation in Portugal of the EU's regulation regarding international roaming, ensuring its entry into force in the established deadlines and conditions, and supervising its application.

2. ELECTRONIC COMMUNICATIONS

2.1. Market analyses

By the end of 2007, ICP-ANACOM had concluded the analysis and notified the EC in accordance with the terms of article 7 of the Framework-Directive (Directive 2002/21/EC) on the relevant markets identified on the Recommendation of the Commission (2003/11/EC) for the purpose of ex-ante regulatory intervention, with the exception of markets 15 and 17. It should be noted, however, that the publication of the new Recommendation of the EC (2007/879/EC)², on 17 December, only identifies 7 relevant markets, not including former markets 15 and 17, and therefore their analysis and notification to the EC³ is no longer mandatory.

Notwithstanding, namely regarding market 15 (call access and origination in public mobile telephone networks wholesale market), for which ICP-ANACOM developed several preliminary works during 2007, a decision may be adopted for a notification, should there be the need for a regulatory intervention in order to reduce possible competition problems identified in that market.

In fact and in this context, it should be highlighted that the non-inclusion of a given market on the list of markets identified by the EC as being eligible for ex-ante regulation does not mean that this market cannot be subject to regulatory interventions. In fact, the EC, in the explanatory note of the new Recommendation⁴, mentions that possibility and urges national regulators to specifically follow-up that market and its competition dynamics.

² Recommendation of the Commission, regarding relevant product and service markets in the electronic communications sector eligible for ex-ante regulation according to Directive 2002/21/EC of the European Parliament and the Council

http://ec.europa.eu/information_society/policy/ecomm/doc/library/proposals/rec_markets_en.pdf

³ Besides former markets 15 and 17, the Recommendation of the EC (2007/879/EC) no longer includes on the list of relevant markets the retail markets for telephone services (former markets 3 to 6), leased lines retail and wholesale markets (former markets 7 and 14), the transit services market (former market 10) and the broadcasting services market (former market 18).

⁴ Explanatory Note SEC(2007)1483 final

http://ec.europa.eu/information_society/policy/ecomm/doc/library/proposals/exp_note_markets_en.pdf

2.1.1. Market 18 – Broadcasting transmission services to deliver broadcast content to end users

ICP-ANACOM's Board of Directors approved, on its determination of 11 January 2007⁵, this Authority's draft decision regarding the definition of the wholesale market of broadcasting transmission services to the delivery of broadcast contents to end users, the assessment of SMP in that market and the imposition, maintenance, change or suppression of regulatory obligations, which preparation work took place in 2006, as mentioned in the corresponding Regulation Report, and also approved on that occasion sending this decision to AdC. After receiving this Authority's opinion, a determination of 22 February approved the launch of a public consultation procedure regarding the mentioned draft decision.

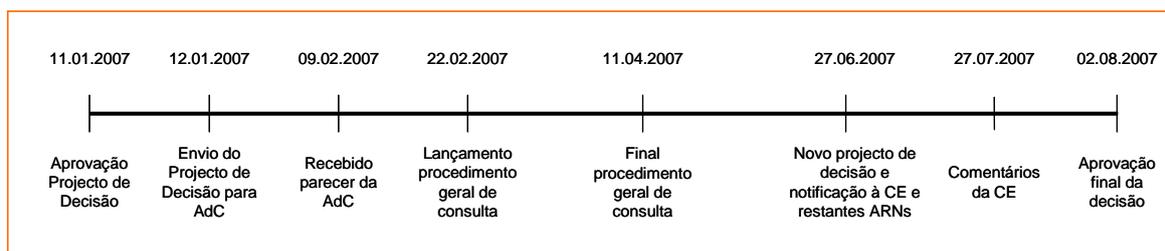
After weighting the analysis made to the received proposals, a determination of 27 June approved the new draft decision regarding market 18 for notification to the EC and to the national regulatory authorities of the remaining Member States.

On July 27th the EC stated its opinion on the notified analysis, It only referred that emerging technologies such as fixed wireless access (FWA) and the set of DSL (xDSL) / Internet Protocol (IP) technologies may increasingly become a competitive restriction to cable television broadcasting services. It therefore invited ICP-ANACOM "to monitor developments in this market and to re-evaluate the situation if necessary", which did not change the analysis that had been carried out, since the decision already foresaw that follow-up.

ICP-ANACOM's Board of Directors approved on August 2nd the final decision on market 18, the analysis' main conclusions being already described on Regulation Report 2006. Figure 1 summarizes the entire schedule associated to market 18, which shows the typical schedule of the market analyses under the framework established by the EU.

⁵ ICP-ANACOM's determinations and draft decisions (DD) mentioned throughout this Report are available at this Authority's web site, on the "ANACOM - ANACOM Determinations" area (<http://www.anacom.pt/render.jsp?categoryId=69000&languageId=1>).

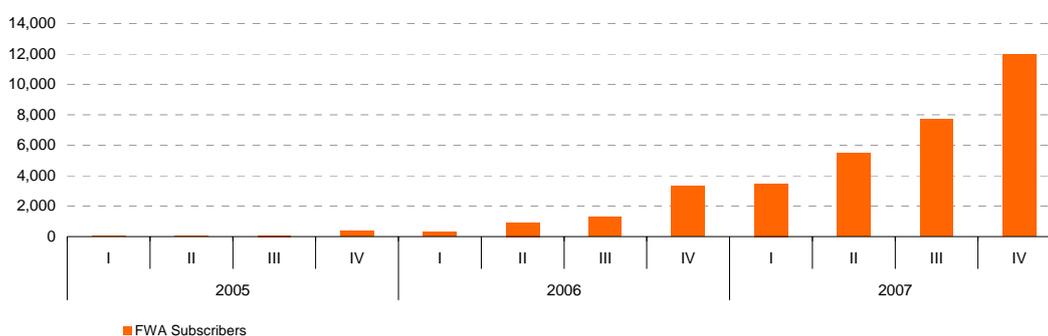
Figure 1. Schedule associated to the approval of the final decision on market 18



As mentioned on the final decision on market 18, ICP-ANACOM closely monitored, during 2007, the developments concerning emerging broadcasting technologies, such as FWA and xDSL/IP.

Regarding the FWA technology, as shown on Graph 1, it registered a considerable increase in the amount of accesses which, supported on this technology, enabled the provision of triple-play services, including paid TV. In absolute terms, however, the number of accesses is still relatively low.

Graph 1. Evolution in the number of subscribers of FWA triple-play offers



Source: ICP-ANACOM

Regarding the internet protocol Television service (IPTV), over ADSL (asymmetric digital subscriber line) accesses, a considerable evolution on this type of offers was also registered, with new and more competitive conditions. One of the alternative operators having included in its broadband Internet and fixed telephone bundled offer the possibility to reach around 20 TV channels while maintaining the offer's global price. Also regarding these technologies, the start of IPTV service provision (in the pack named Meo) by the incumbent operator should be mentioned, in the year when PT Multimédia's spin-off from Grupo Portugal Telecom (PT Group) took place.

Also regarding the monitoring of alternative broadcast technologies it is important to mention the beginning of the provision of direct to home (DTH) services by a cable

television distribution operator, enabling the increase of competition in the provision of the paid television service in the whole national territory.

Lastly, it should also be mentioned that 2007 witnessed the start of the consultation procedure in connection with the introduction of DTT in Portugal, as further developed in section 2.4.6. Following this process there will be an evolution towards the beginning of the provision of services based on this technology, which will completely replace the broadcasting service using terrestrial analogue networks.

2.1.2. Market 15 – Access and call origination on public mobile telephone networks

In 2007, several events took place that may have an important impact on market 15's competitive situation and contribute to a more sustained decision on the need of regulatory intervention. In this context, the signature of an agreement regarding the creation of conditions for the provision of an MVNO service with postal operator CTT stands out.

In addition, mention should also be made to the activities started by ICP-ANACOM on the granting of frequencies for broadband wireless access systems (BWA) in the 3.4-3.8 GHz band and for rights of use of frequencies in the 450-470 MHz band, mentioned on sections 2.4.3. and 2.4.4 of this report, which will expectedly foster the entry of new players into the market, which will hopefully lead to increased competition.

2.1.3. MVNO activity's regulatory framework

The fact that the analysis of market 15 is not yet concluded and that, therefore, no operator has been notified with SMP with the obligation to provide access to its networks, does not hinder the possibility for entities to emerge operating as MVNOs, following free negotiations between the parties.

Therefore, and in order to clarify some doubts placed by potential interested parties in the operation of MVNO activity, ICP-ANACOM decided to publish, in February 2007, a summary of the regulatory framework in force applying to MVNOs⁶, particularly concerning the general authorization regime, and issues concerning rights and obligations regarding numbering and interconnection. Thus, the entry into the market of MVNOs became more

⁶ Available at <http://www.anacom.pt/render.jsp?categoryId=235942&contentId=455223&languageId=1>.

efficient and transparent, recognizing their potential contribution to increasing the mobile market's competitive level.

In this context, ICP-ANACOM considered that there are several economic operations that may be included under the designation MVNO, with the common factor that they are not based on rights of use of frequencies and, consequently, on own infrastructure connected to the radio access network, and should therefore be supported on radio means provided by the network operators holding the corresponding right of use.

The notion of MVNO implies that there is at least a contractual relation between the MVNO and the end customer, in connection with the provision of the service, not including activities such as the simple distribution of services or its representation, where the contractual relationship between the end customer and the mobile network operator is maintained.

Another MVNO characteristic is the design and marketing of an own retail offer, with the freedom to differentiate it from the offer of the mobile network operator on which they are supported, and defining their own commercial strategy autonomously. But even sharing the mentioned characteristics, different operations may be within the framework of MVNO, depending on the degree on which they use their own infrastructure, and in either case the use of numbering rights can be granted, including blocs in the level "9" numbering range.

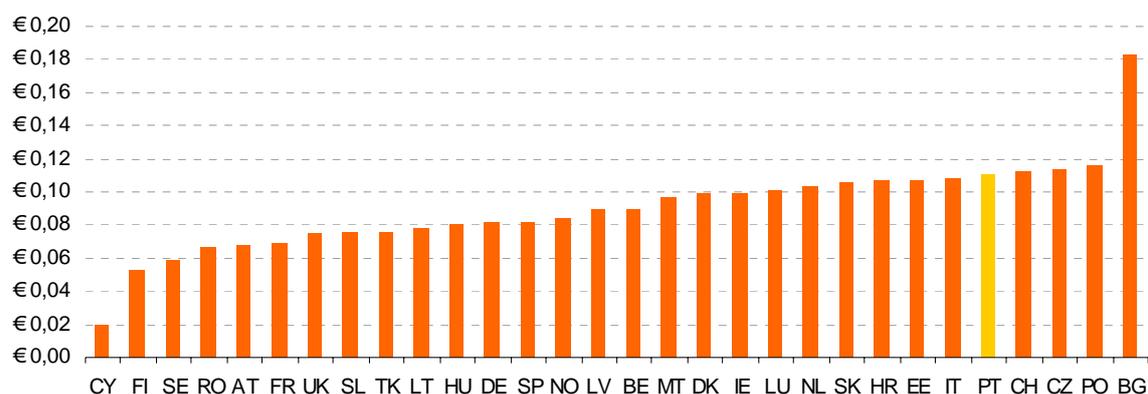
Following these clarifications provided by ICP-ANACOM, four entities registered as MVNO, still in 2007, while CTT was the only one who started providing the service, as mentioned above.

2.1.4. Market 16 – Voice call termination on individual mobile networks

In October 2007, ICP-ANACOM published a draft decision (DD) specifying the obligation of cost control of prices within the wholesale markets of voice call termination on individual mobile networks. The EC was simultaneously notified, according to the legally foreseen specific consultation procedure. It should be noted that in 2006 ICP-ANACOM notified the decision on the analysis of these relevant markets, which is still in force, as well as all its conclusions, including the obligations established at that time.

The absence of any termination price fall between October 2006 and the end of 2007 led Portugal's relative stand, in January 2008, to decline versus the remaining European countries. It became the 5th country with the highest price levels, as shown on Graph 2⁷.

Graph 2. Average termination prices (January 2008)



Source: IRG

The final decision was adopted in July 2008 taking into account the replies received to the public consultation on the DD, which took place until 11 December 2007.

2.1.5. Market 17 – Wholesale national market for international roaming on public mobile networks

Regarding market 17 (wholesale national market for international roaming on public mobile networks), considering the recent developments in this area, particularly the entry into force of the Regulation of the Council and of the European Parliament on international

⁷ The abbreviations contained in the following table will be adopted throughout this document:

Germany	DE	France	FR	Malta	MT
Austria	AT	Greece	EL	Norway	NO
Belgium	BE	Netherlands	NL	Poland	PO
Bulgaria	BU	Hungary	HU	United Kingdom	UK
Cyprus	CY	Ireland	IE	Czech Republic	CZ
Denmark	DK	Iceland	IS	Slovak Republic	SK
Slovenia	SL	Italy	IT	Romania	RO
Spain	ES	Latvia	LV	Sweden	SE
Estonia	EE	Lithuania	LT	Switzerland	CH
Finland	FI	Luxembourg	LU	Turkey	TR
Portugal – PT					

roaming⁸, its pan-European nature, and its removal from the list of markets eligible for *ex-ante* regulation, ICP-ANACOM considered that its analysis was not justified.

2.2. Regulated offers

ICP-ANACOM pursued its activity of regulating the incumbent operator's reference offers, reviewing and consolidating offers already available on the market for some time (such as the reference interconnection offer (RIO), the leased lines reference offer (LLRO) and the "Rede ADSL PT" offer, regarding broadband wholesale access), and closely following-up the development of other more recently implemented offers (such as the reference conduit access offer (RCAO) and the wholesale line rental offer (WLRO)).

Below is a summary of the main activities implemented in 2007 for each of these offers:

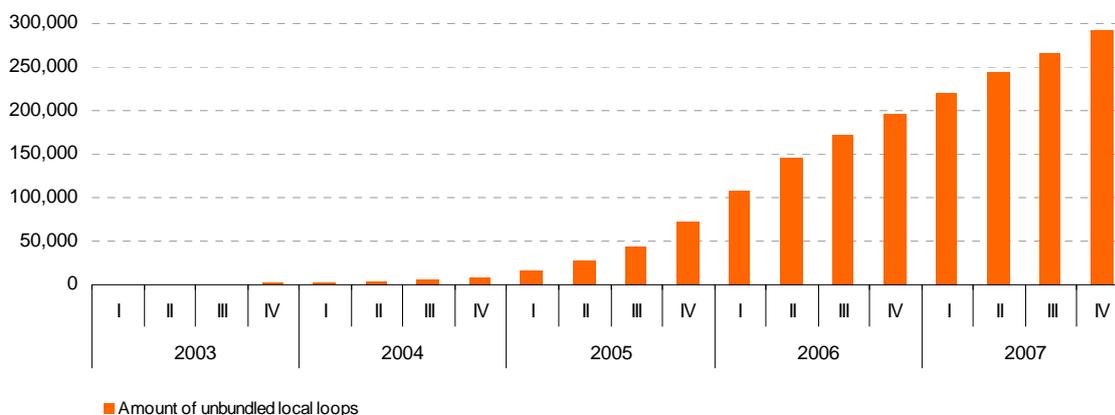
2.2.1. Reference unbundling offer (RUO)

The reference unbundling offer (RUO), which gives alternative operators physical access over the copper pairs to the facilities of end customers, continued to develop considerably and consistently during 2007.

The other service providers (OSP) maintained their interest and investment on the offer, which can be measured by the number of unbundled loops that, by the end of 2007, amounted to 291,175, which translated into a 49 per cent increase regarding the 195,752 unbundled loops existing in the end of 2006 (Graph 3).

⁸ Regulation 717/2007 of the Council and of the European Parliament, of 27 June 2007, regarding international roaming, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:171:0032:0040:EN:PDF>

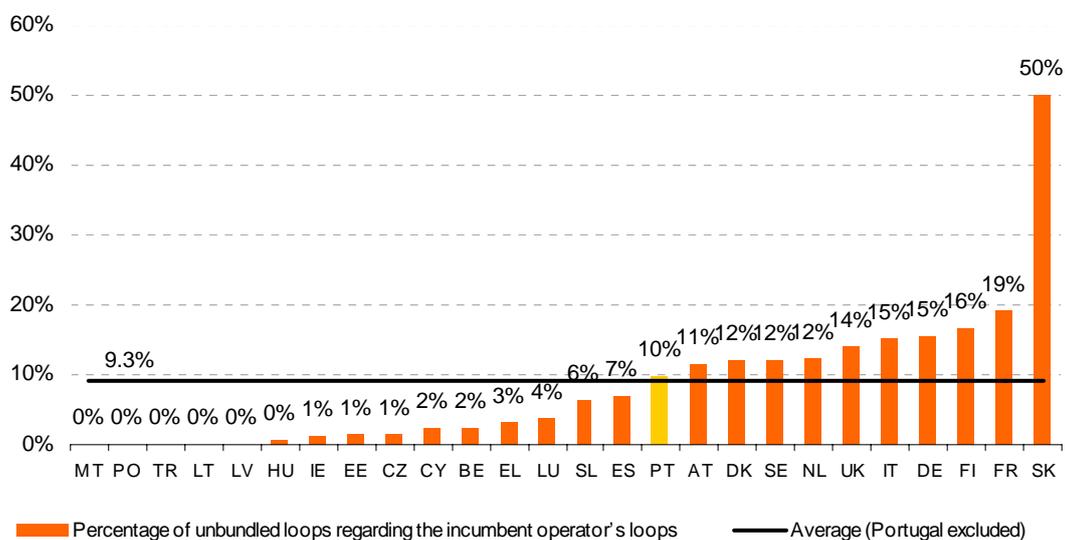
Graph 3. Evolution of the number of unbundled local loops



Source: ICP-ANACOM based on PTC data

Weighting the number of unbundled loops versus the incumbent operator's total loops, the conclusion is that Portugal had by the end of 2007 a ratio above the average of the considered countries (excluding Portugal) – see Graph 4.

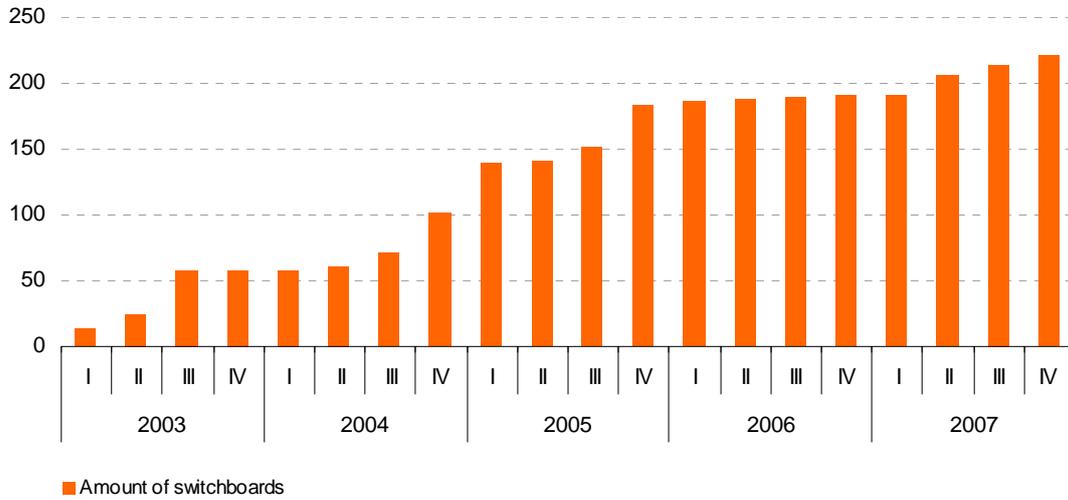
Graph 4. Percentage of unbundled loops regarding the incumbent operator's loops



Source: ICP-ANACOM based on data from the European Competitive Telecommunications Associations (ECTA) Broadband Scorecard, end of 3rd quarter 2007

Together with the increase in the number of unbundled loops, there was also an increase in the number of exchanges with co-located operators, which increased from 191 in December 2006 to 221 by the end of 2007 (Graph 5).

Graph 5. Evolution in the number of exchanges with co-located operators

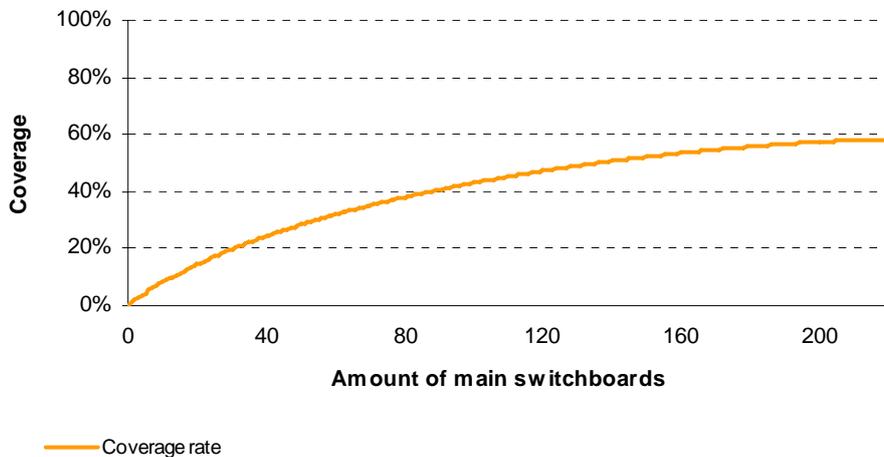


Source: ICP-ANACOM based on PTC data

Highlight should be made to the fact that the increase in the amount of exchanges enables the increase in the coverage of the new operator’s wholesale offers based on LLU. At the end of 2007, the coverage rate was close to 60 per cent of the total amount of FTS subscribers, from PTC – see Graph 6.

It should also be mentioned that the distribution of accesses by PTC’s exchanges – there are exchanges with thousands of accesses and others with only a few dozen accesses - explains the shape of the curve of Graph 6, since the marginal contribution of each exchange for the growth of LLU’s coverage becomes smaller.

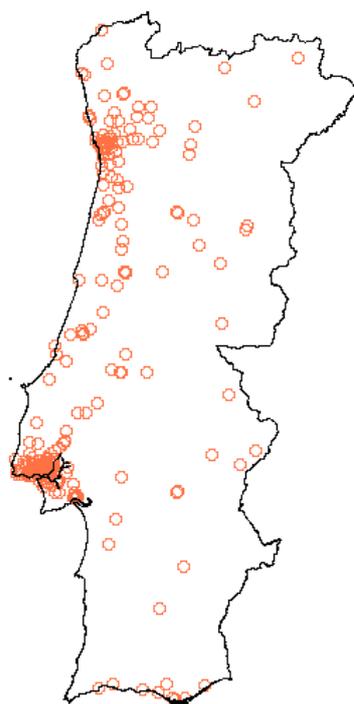
Graph 6. LLU’s coverage in terms of FTS subscribers – main exchanges ordered decreasingly regarding the number of loops in use



Source: ICP-ANACOM based on PTC data

It should be noted that the increase in coverage does not correspond only to an increase in the amount of loops that can be unbundled, but also to the broadening of the geographic areas where users can now have access to new offers, particularly inland. Figure 2 shows the location of the exchanges where OSPs were co-located by the end of 2007 and from which they can offer retail services based on the LLU.

Figure 2. Location of the exchanges where OSPs enjoy LLU in Mainland Portugal (4th quarter 2007)



Source: ICP-ANACOM based on PTC data

It should be noted that, by the end of 2006 and during 2007, two new operators started providing retail services based on LLU, with positive effects regarding the competition that was introduced in the offer of communications services, particularly those regarding broadband Internet access.

On the other hand, the increase in the amount of co-located operators on each exchange contributed to increase the impact of some constraints that had already been detected on PTC exchanges, thus imposing a stronger regulatory intervention by ICP-ANACOM on this matter during 2007, within the framework of the regulation goals foreseen in Law no. 5/2004 of 10 February (Electronic Communications Law - ECL). Particularly standing out on this matter are the goals concerning the promotion of competition in the offer of electronic communications networks and services, the guarantee that users have the

maximum benefit in terms of choice, price and quality, and the fostering of efficient investment on infrastructure and the promotion of innovation.

This intervention was noticed by means of a preventive and continuous action, mainly related to the close follow-up of the quality of service provided by PTC, but also, when necessary, with the implementation of measures aiming to solve specific obstacles timely identified by this Authority.

As previously mentioned, one of the obstacles already identified before 2007 was the fact that PTC had started to show a set of constraints, on several exchanges, preventing a quick availability of the conditions for the co-installation of equipment or for enlarging the modules already contracted by the OSPs, thus hindering the development of alternative offers and, in the final instance, end users. These constraints mainly regarded space availability on PTC's main exchanges' facilities and in the main exchanges, and concerning the availability of direct current (DC) power for supplying these operators' equipment.

In this context, this Authority implemented several supervisory actions on these exchanges in order to verify and contribute to solve these constraints.

Following these actions, and in order to foster a more efficient use of the RUO, it became necessary to establish additional rules for the reference offer. Under these terms, ICP-ANACOM approved on 12 April 2007, further to a previous hearing of the interested parties, a final decision on co-installation procedures.

Through that decision, ICP-ANACOM tried to minimize the above-mentioned constraints, establishing rules for an efficient and rational use of resources, having as main actions:

- (i) To implement a *use it or loose it* rule, preventing the abusive maintenance of a space that is not being used by the OSP in situations where they are clearly not present;
- (ii) Not to allow refusals or delays in co-location based on DC power constraints, when the OSP has sent demand forecasts;
- (iii) To render possible the installation of smaller-sized modules, thus maximizing the use of the available space;
- (iv) To ease and give credibility to demand forecasts by the OSPs.

Following the said determination, and taking into account the proposals for changes the RUO presented by PTC, ICP-ANACOM approved on 6 June 2007 another determination in order to further increase the efficiency of procedures and services connected to co-installation.

At the same time, there was also a decision on a new procedure for the resolution of malfunction repair on loops⁹, resulting from a malfunction on internal cables or on the handover distribution frame (HDF), enabling PTC to chose that procedure, obviously in a non-discriminatory way.

On 20 July 2007, ICP-ANACOM issued a clarification on the procedures to adopt regarding the sharing of costs in connection with the total replacement of DC power systems, establishing that that cost sharing must take into account the total space occupied by all active equipment of all operators in that exchange, including PT Group companies.

Finally, a determination of 19 October 2007 approved the launch of a limited consultation for the performance of an audit to the quality indicators of the local loop access services provided by PTC, in order to identify the procedures for their determination and to guarantee their credibility, since the existence of an adequate and properly supervised quality of service will be increasingly crucial in maintaining LLU's sustained development.

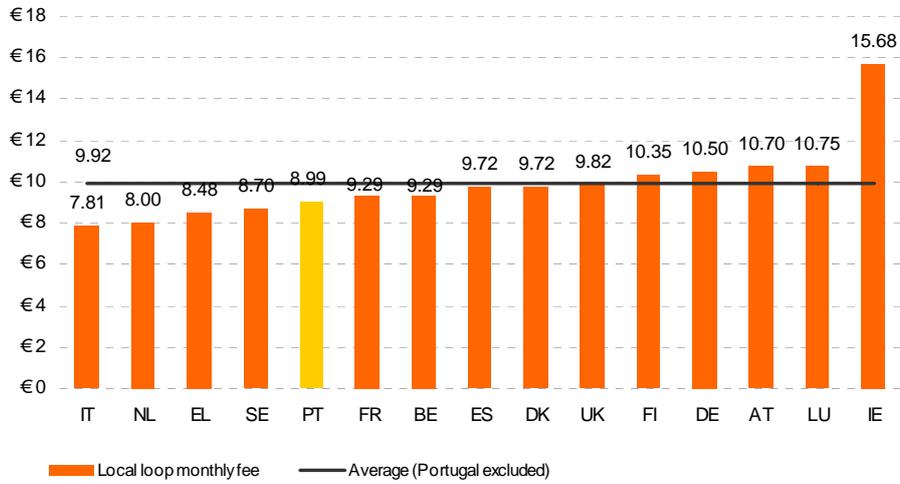
During 2007, this Authority did not determine any change to the prices applying to the RUO. Notwithstanding, an analysis and constant monitoring was carried out regarding existing prices, not only taking into account the changes occurring in other wholesale offers (on "Rede ADSL PT", for example), but also by properly weighting the prices charged in other European countries.

International price comparisons show that the prices charged in Portugal in 2007 continued to be, in any case, best practices at the community (EU15) level, as shown on the following graphs:

⁹ Characterized by the following procedures:

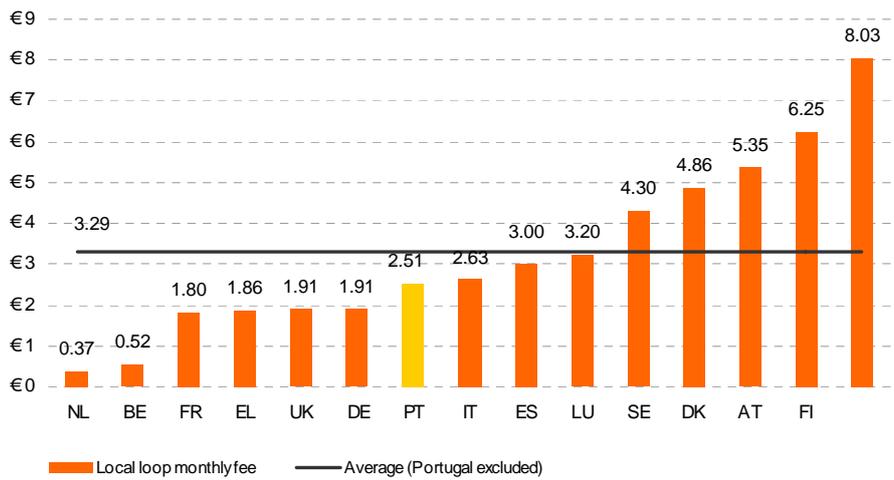
- Each operator should reserve, for each module or set of adjacent modules at a given exchange, a bloc of 50 or 100 pairs, and the corresponding HDF positions, to be used only in case of failure;
- In this situation, the exchange's positions become available, only in the event of failure of a pair, in a cable or in the exchange's borne, in which case the operator is requested to name the new HDF position to be used;
- Any possible costs in connection with the internal connection will be supported by PTC.

Graph 7. Local loop monthly fee (full access) – EU15 comparison



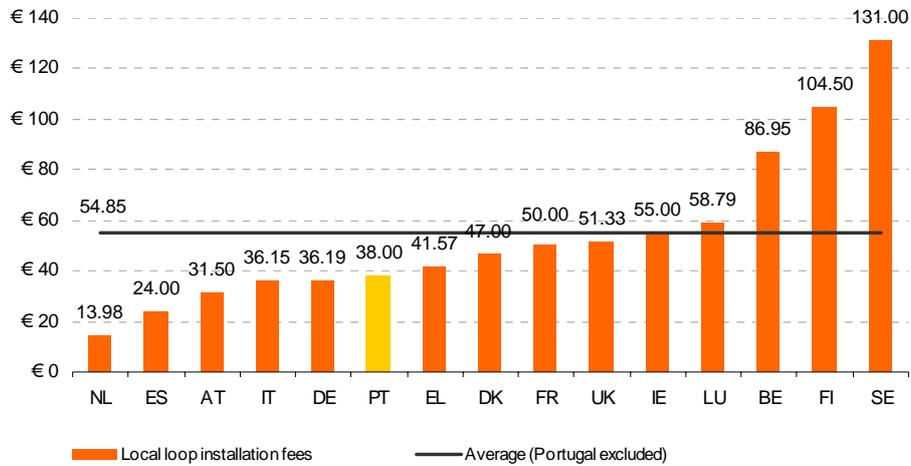
Source: Cullen International, "Cross-country analysis" (November 2007)

Graph 8. Local loop monthly fee (shared access) – EU15 comparison



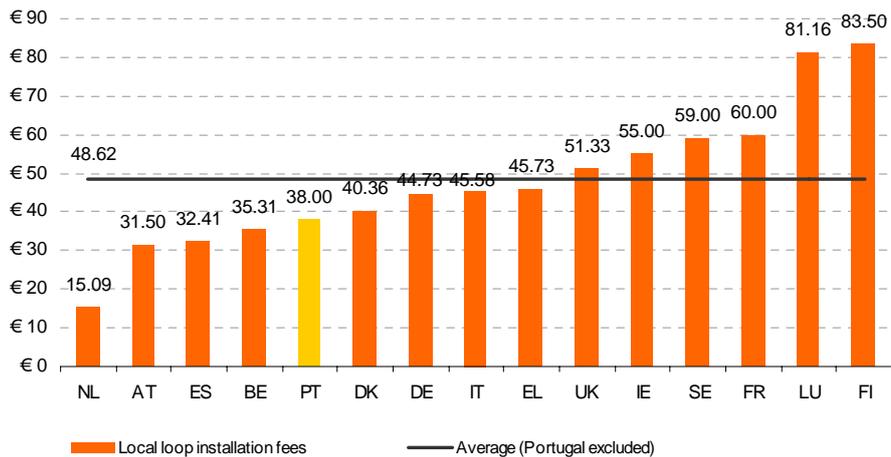
Source: Cullen International, "Cross-country analysis" (November 2007)

Graph 9. Local loop one-off charges (full access) – EU15 comparison



Source: Cullen International, "Cross-country analysis" (November 2007)

Graph 10. Local loop one-off charges (shared access) – EU15 comparison



Source: Cullen International, "Cross-country analysis" (November 2007)

In addition, highlight should be given to the impact of LLU's development on the market structure, with important benefits for end users. It should be noted that the retail offers based on LLU have maintained a high level of innovation and flexibility, making it not only possible to access broadband Internet and the FTS, but also paid television services based on IPTV technology.

Within this framework, this Authority developed in 2007 preliminary works on the reformation of the RUO giving particular attention to the issues of service levels, access to exchanges and proceedings in general.

ICP-ANACOM was also asked to intervene, under the terms of article 10 of the ECL, in the resolution of a dispute on power consumptions in the scope of the RUO, having issued

a DD on this matter on 31 October 2007, with the final decision being adopted already in 2008.

2.2.2. “Rede ADSL PT” wholesale offer (broadband access)

The “Rede ADSL PT” offer is an essential element in fostering universal access to broadband Internet and in fostering the development of wholesale conditions ensuring the sustained and competitive development of ADSL services provided to end users. This way, the adequacy and good operation of the “Rede ADSL PT” offer is obviously a priority for ICP-ANACOM.

In fact, in order to encourage the offer of services, such as broadband Internet access, highly important for the development of the information society, this Authority considers that ensuring adequate competitive conditions in the provision of the wholesale broadband Internet access service is an important goal of its regulatory action.

This offer’s importance is also greater given the fact that it is the only wholesale offer, since 2006, to assure full country coverage regarding PTC’s exchange areas (Figure 3), thus enabling alternative operators to provide service in the entire national territory, without having to be co-located, mandatorily, in all of those company’s exchanges, which is not economically viable.

Figure 3. Location of exchanges with DSLAM (digital subscriber line access multiplexer) and subscribers (evolution from 3rd quarter 2006 to 3rd quarter 2007)



Source: ICP-ANACOM, based on PTC data

ICP-ANACOM's regulatory action in the scope of the "Rede ADSL PT" offer during 2007 took into account the previously explained importance, trying to guarantee a set of conditions fostering the development of the new operators' activity, in connection with the promotion of end users' interests and the fostering of broadband penetration on the entire national territory.

Thus, besides a continuous follow-up of the conditions under which the services connected with the offer were provided, namely regarding the guaranteed quality of service and the amount of accesses provided to alternative providers, ICP-ANACOM considered it was paramount to intervene on the market in order to clarify the methodology for evaluating the existence of margin squeeze on PT Group's broadband offers.

In fact, the determination of 3 October 2007 on this matter not only aimed at the adjustment or systematization of the methodology already being used by this Authority, but also to address the need to clarify with all the interested parties the methodology's detail, increasing transparency and regulatory certainty for all market players.

In the mentioned determination, this Authority understood that, on always-on retail offers¹⁰, the minimum difference between the monthly profits by access and the monthly costs by access in the “Rede ADSL PT” wholesale offer should be measured with a combination of an absolute figure and a relative figure, considering its best adaptation to the several real costs connected to the provision of the several wholesale offers.

It is not possible to separate this determination’s approval, resulting in higher market predictability, from the changes that were introduced by PTC on the conditions of the “Rede ADSL PT” wholesale offer that where in force on the entire national territory, specially regarding considerable reductions in their prices¹¹.

The table below shows the percentage reductions in the prices charged for the IP traffic aggregation mode.

Table 1. Percentage of price reductions in the local access classes for the IP aggregation mode and for aggregated access (with IP aggregation)

Item	Price variation
Monthly fee per local access class in the IP aggregation mode	between -15% and -30%
Monthly fee per IP aggregated access – physical access	-60%
Monthly fee per Mbps ¹² of the total bit rate of IP aggregated access – logical connections	-32%

PTC also made a 32 per cent reduction in the monthly fees connected to the ATM (asynchronous transfer mode) traffic aggregation mode, and a 5 per cent drop in the monthly fee of ATM local access.

Together with the reduction of wholesale prices and resulting from the intervention in them, broadband access retail offers based on the “Rede ADSL PT” offer had important price reductions or a considerable increase in the maximum bit rate, whilst maintaining the same retail price.

Naked DSL

By determination of 4 April 2007, ICP-ANACOM’s Board of Directors approved the launch of a public consultation on the wholesale offer of an exclusive line for broadband services

¹⁰ Always on.

¹¹ Changes made to version 29.6 of the “Rede ADSL PT” offer, of 30 October 2007.

¹² Megabit per second (million bits per second).

(naked DSL), which is a wholesale offer mode that makes it possible to provide an ADSL service to the end user without this one having to establish a contract or keep the traditional FTS.

By launching this consultation, this Authority aimed to assess the market's interest regarding the introduction of an offer that could contribute to promote broadband Internet access services in Portugal, by fostering:

- (a) The reduction of overall costs to end users in the access to broadband Internet access services;
- (b) Info-inclusion and social wellbeing;
- (c) Increased competition;
- (d) The recovery, recruitment or maintenance of customers possibly interested in broadband Internet but who have communications consumptions that do not justify the setting up of a fixed network line and its corresponding cost;
- (e) Offerings' innovation through the promotion of conditions favouring fixed and mobile communications integrated offers (fostering the MVNO market nation-wide) and triple or quadruple-play.

There was great interest in the consultation, with a high number of comments received from operators and other entities. The majority of the entities that replied shared ICP-ANACOM's understanding, considering naked DSL as an important contribution to stimulate broadband services penetration and competition, namely in areas with lower population density and with populations with lower incomes, by contributing to reduce total costs of broadband Internet access to end users.

ICP-ANACOM analysed the received comments and presented its understanding on the issues mentioned on the public consultation's report, approved as per determination of 25 July 2007.

At the same time and under a soft law regulation approach, ICP-ANACOM decided to recommend PT to introduce a modification on the "Rede ADSL PT" offer in order to include naked DSL. It was then established as a regulatory goal that PTC would develop an implementation schedule for the offer so that naked DSL would be operational as of 1 February 2008.

Following this Authority's recommendation, PTC changed the wholesale offer in order to introduce the naked DSL function, within the recommend schedule, and Portugal now belongs, since the beginning of 2008, to the group of European countries where this offer is available.

Table 2. Naked DSL availability in several Member States

AT	BE	DK	FI	FR	DE	EL	IE	IT	LU	NL	ES	SE	UK
✓	✓	✓		✓			✓	✓		✓		✓	✓

Source: Cullen International, "Cross-country analysis" (November 2007)

2.2.3. Leased lines reference offer (LLRO)

Within the offer of leased lines services foreseen in LLRO there are the "interconnection support components" and the "internal extensions for interconnection". These services, as their names reveal, exist to enable OSPs to use their own lines more extensively and efficiently in the connection to PTC's network, to other operators or even to end customers.

Given the market development registered since the approval of the determination defining the conditions applying to these services (determination of 27 May 2004), this Authority understood it was necessary – aiming at an optimum use of the infrastructure rolled-out by the OSPs in PTC's switchboards, and in the scope of promoting efficient investment at a global level – to safeguard the possibility of a co-located OSP in a PTC building to be able to interconnect with another OSP co-located in that same building, or to Group PT companies that have interconnection points therein.

In this sense, ICP-ANACOM approved on 7 November 2007, and after consulting the interested parties, the final decision regarding the changes to adopt in the scope of the RIO to be in force in 2007 and of the LLRO that, regarding the interconnection conditions inside PTC exchanges, led to removing the restrictions that prevented interconnection in the mentioned situations.

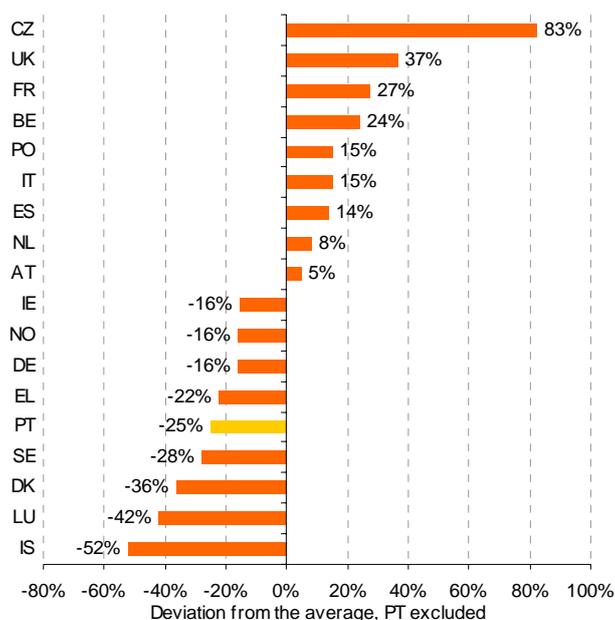
At the same time it was restated, as mentioned by ICP-ANACOM on a clarification issued on 5 March 2007, that the interconnection support component service is not limited to PTC's local exchanges that are geographic interconnection points identified by the RIO. Thus, as long as there are no technical restrictions, PTC must provide the support components at all its exchanges, allowing co-located OSPs to also benefit from this service in order to establish connections between the modules of the co-installed OSPs, among other goals.

It should also be highlighted that, as per determination of 19 October 2007, the launch of a limited consultation was approved for the performance of an audit to the quality of the leased lines service provided by PTC, and that ICP-ANACOM carried out in 2007 draft works to reshuffle the service levels and the maximum prices of the leased lines service.

In European terms, according to a price comparison by Teligen based on data from November 2007, prices in Portugal for lines of lower bit rate (64 Kbps¹³ and 2 Mbps) were below the average of the analysed countries, unlike those of the higher bit rate lines (particularly 34 Mbps lines).

The graphs below compare prices of some types of lines, measured as deviations from the average (Portugal excluded).

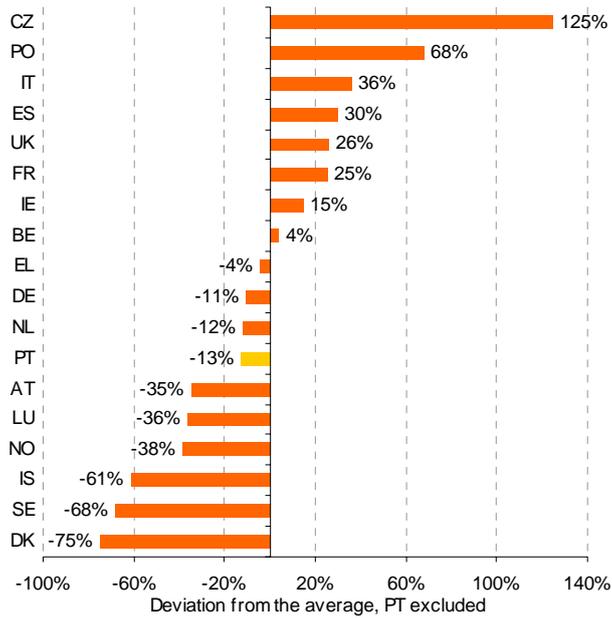
Graph 11. Annual price of 64 Kbps digital lines in Europe (November 2007)



Source: Teligen, November 2007 (based on OECD's distance basket, prices without tax and not considering purchasing power parity)

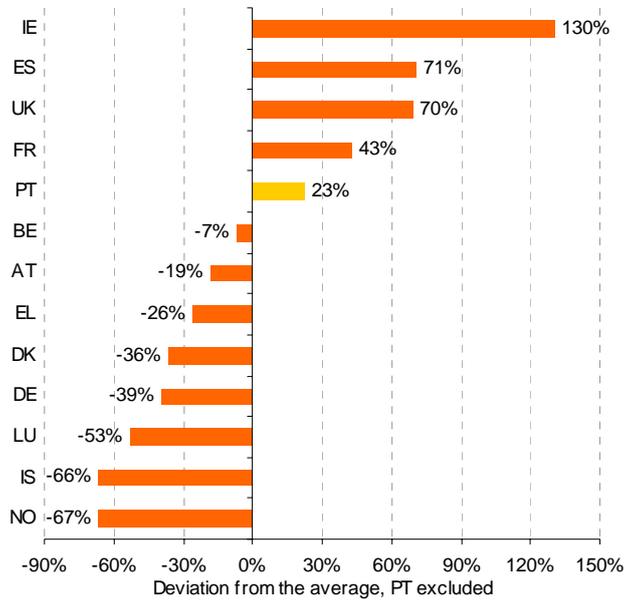
¹³ Kilobit per second (thousand bits per second).

Graph 12. Annual price of 2 Mbps digital lines in Europe (November 2007)



Source: Teligen, November 2007 (based on OECD's distance basket, prices without tax and not considering purchasing power parity)

Graph 13. Annual price of 34 Mbps digital lines in Europe (November 2007)



Source: Teligen, November 2007 (based on OECD's distance basket, prices without tax and not considering purchasing power parity)

2.2.4. Reference interconnection offer (RIO)

ICP-ANACOM approved on 31 October 2007 the decision on the changes to be made to the RIO, to enter into force in 2007, and the new interconnection conditions within PTC's exchanges.

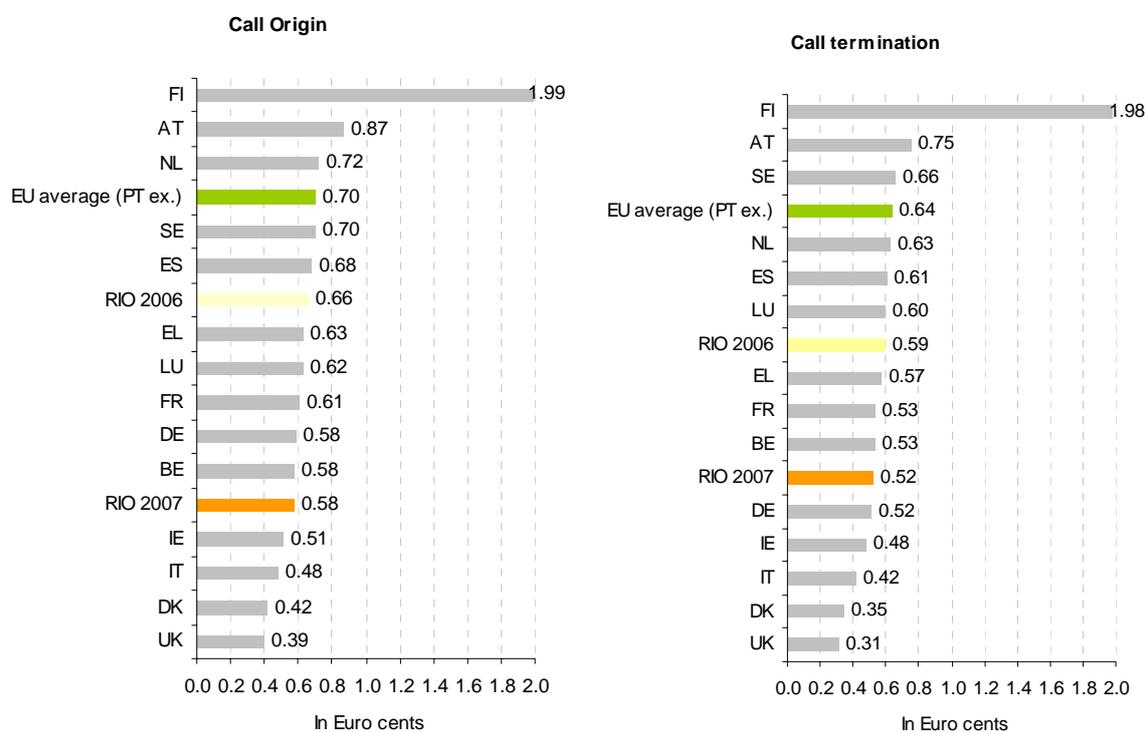
a) Call origination and termination prices

It should be noted that with this decision, which already includes the reduction following the determination of 28 February 2007 regarding the implementation of the US tariffs, the market enjoyed in 2007 an average reduction of about 12 per cent in interconnection prices with PTC.

These reductions were based on two components of the interconnection prices: call set-up price (reductions of about 0.07 to 0.1 Euro cents) and price per minute (reductions between 0.02 and 0.14 Euro cents), depending on the type of interconnection.

Thus, in terms of European comparisons, the established interconnection prices stand for a considerable improvement in Portugal's position regarding the community (EU15) average, both regarding call origination and termination, as well in comparison with several EU15 countries.

Graph 14. European comparisons – fixed interconnection prices (call origination and termination)¹⁴



Source: ICP-ANACOM

This price drop, determined according to the principle of price orientation to costs, helped improve competition in the sector. Records show that, at the local and single tandem levels, the most used in the market, and in the peak period, termination prices in Portugal in 2007 became lower than the EU15 average (Portugal excluded) in about -18 and -12 percent, respectively (in 2006 these deviations were -4 and +1 percent, respectively), while in the off-peak period, favourable deviations surpass 20 per cent.

¹⁴ Figures presented above for each country were obtained by applying the estimated interconnection traffic weightings to the interconnection tariff scheme in force in each Member State (average price per minute for a three minute call), in order to obtain, both for call origination and call termination, an indicator which is liable to evaluate the several interconnection elements in an aggregated way.

Table 3. Comparison of interconnection prices with EU15 in 2007 (price per minute of a three minute call)

Countries	Origination						Termination					
	Local		Single Tandem		Double Tandem		Local		Single Tandem		Double Tandem	
	N.T.T.	E.T.T.	N.T.T.	E.T.T.	N.T.T.	E.T.T.	N.T.T.	E.T.T.	N.T.T.	E.T.T.	N.T.T.	E.T.T.
Germany	0.52	0.36	0.88	0.59	1.36	0.89	0.52	0.36	0.88	0.59	1.36	0.89
Austria	0.82	0.48	1.28	0.71	2.90	1.10	0.82	0.48	1.28	0.71	2.25	0.87
Belgium	0.62	0.32	0.87	0.46	0.87	0.46	0.62	0.32	0.87	0.46	1.12	0.59
Denmark	0.43	0.27	0.56	0.35	0.80	0.50	0.38	0.23	0.56	0.35	0.80	0.50
Spain	0.67	0.40	1.00	0.60	1.39	0.84	0.67	0.40	1.00	0.60	1.39	0.84
Finland	1.99	1.99	1.99	1.99	1.99	1.99	1.98	1.98	1.98	1.98	1.98	1.98
France	0.53	0.34	1.00	0.65	1.25	0.81	0.53	0.34	1.00	0.65	1.25	0.81
Greece	0.52	0.49	0.85	0.79	1.09	1.02	0.52	0.49	0.85	0.79	1.09	1.02
Netherlands	0.70	0.43	1.06	0.66	1.50	0.87	0.71	0.45	0.90	0.55	1.15	0.70
Ireland	0.54	0.30	0.73	0.41	0.92	0.51	0.56	0.31	0.76	0.42	1.03	0.57
Italy	0.42	0.28	0.74	0.49	1.18	0.80	0.42	0.28	0.74	0.49	1.18	0.80
Luxemburg	0.76	0.38	0.76	0.38	1.00	0.50	0.76	0.38	0.76	0.38	1.00	0.50
Sweden	0.67	0.54	0.90	0.72	0.97	0.76	0.67	0.54	0.90	0.72	0.97	0.76
United Kingdom	0.39	0.18	0.56	0.25	1.54	0.70	0.36	0.16	0.52	0.24	1.50	0.69
RIO 2006	0.64	0.41	0.93	0.58	1.44	0.88	0.64	0.41	0.93	0.58	1.44	0.88
RIO 2007	0.56	0.37	0.82	0.51	1.27	0.78	0.56	0.37	0.82	0.51	1.27	0.78
EU Average (PT excluded)	0.68	0.48	0.94	0.65	1.34	0.84	0.68	0.48	0.93	0.64	1.29	0.82
RIO 2007 deviation vs. average	-18.7%	-24.2%	-12.9%	-21.1%	-5.2%	-7.0%	-18.1%	-23.8%	-11.7%	-20.1%	-1.5%	-5.1%
Average excluding extremes and PT	0.60	0.38	0.89	0.57	1.25	0.77	0.60	0.38	0.87	0.56	1.25	0.75
RIO 2007 deviation vs. average excluding extremes	-7.3%	-4.5%	-7.5%	-10.1%	1.3%	0.7%	-6.9%	-4.1%	-6.3%	-8.8%	1.5%	3.7%

Euro cents

Source: ICP-ANACOM

b) Capacity interconnection (interconnection flat rate)

The capacity interconnection model is the transparent and non-discriminatory offer, by PTC to the OSPs, of a given capacity of interconnection services at a fixed monthly price, as an alternative to the traditional time-based interconnection model, thus establishing an interconnection flat rate.

Following the mentioned price reduction decided for time-based interconnection, monthly fees connected to capacity interconnection were also reviewed, considerably improving the conditions associated to this offer.

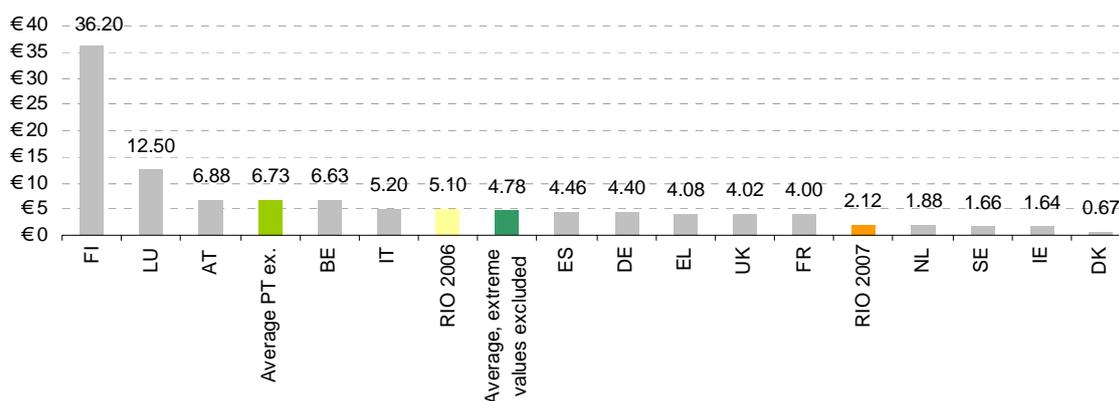
c) Billing, collection, and non-collection risk service prices

With the mentioned determination of 31 October 2007, it was decided to maintain the maximum prices of PTC's billing, collection, and non-collection risk service established on RIO 2006, considering its associated costs.

d) Pre-selection activation price

A new price was set for pre-selection activation, establishing a 58 per cent reduction, which changed from 5.10 Euros to 2.12 Euros, a figure that stands among the best European practices and 69 per cent below the EU15 average (Portugal excluded), as shown on the following graph.

Graph 15. European practices regarding the pre-selection activation price (2007)



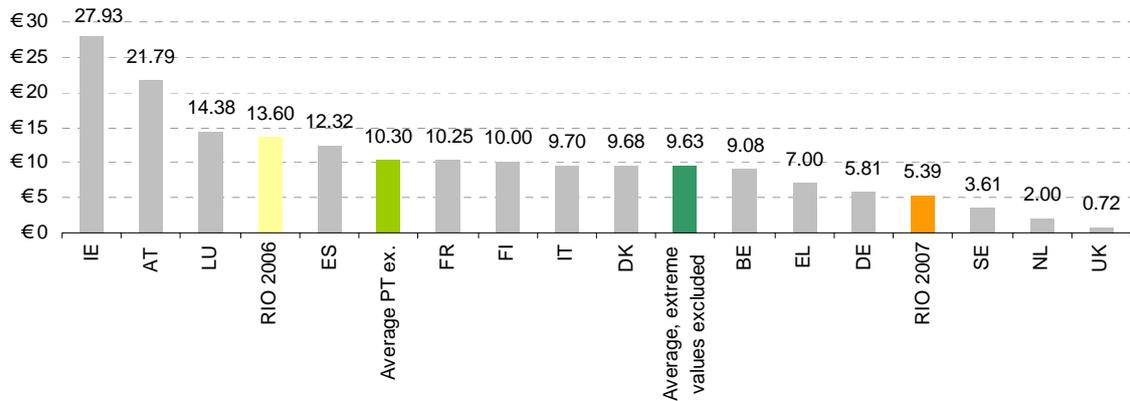
Source: ICP-ANACOM

e) Number portability activation prices

Number portability is an important function in the promotion of increased competition in telephone service, since it attenuates one of the barriers concerning changes in this market.

There was a 60 per cent reduction (from 13.60 Euros to 5.39 Euros) in the individual number portability price that placed Portugal among the lowest EU15, and about 44 per cent below the corresponding average (Portugal excluded), as shown on the graph below.

Graph 16. European practices regarding individual number portability price (2007)

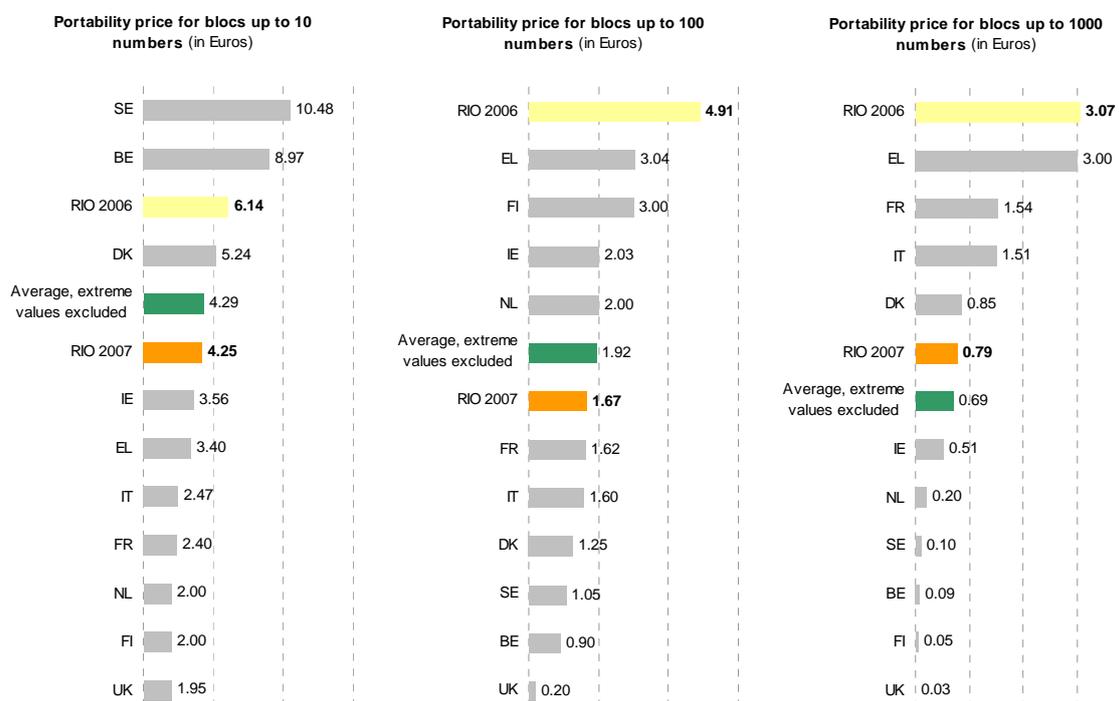


Source: ICP-ANACOM

It was also decided to considerably simplify the tariff scheme applying to the portability of number blocs. It is no longer in connection with the total amount of portations during the previous quarter and to the figures set by the Reference Entity. Reductions were established which, in the higher numbering ranges, surpassed 50 per cent.

This measure also made it possible to considerably improve Portugal's stand in this matter regarding the EU15, while also contributing to a favourable position on the amount of ported numbers, as analysed on section 2.5.5.1.

Graph 17. European comparisons – portability prices (2007)



Source: ICP-ANACOM

f) Interconnections within PTC's exchanges

As mentioned regarding the LLRO, an important measure was adopted regarding the conditions of interconnection at PTC's exchanges among OSPs co-located therein or with PT Group companies with an interconnection point installed at the same building.

RIO – Interconnection standard agreement model

Determination of 12 July 2007 approved the DD on the changes to the interconnection standard agreement model included in PTC's RIO. The approval of the mentioned determination aimed to assure a greater compatibility between the interconnection standard agreement model included in the RIO and the applying regulatory framework, in order to adopt transparent, efficient and non-discriminatory procedures, the mentioned DD also promoting a specific consultation on this matter.

In the context of the previous hearing concerning the mentioned DD, several comments were received that justified a proper weighting and delayed of the final decision to 2008.

2.2.5. Wholesale line rental offer

a) Changes to the reference offer and evaluation of the conditions for its implementation

Having surpassed by the end of February 2007, the amount of 150,000 equivalent analogue loops with activated WLRO, excluding activations from PT Group companies, foreseen in the determination of 14 December 2005, on the conditions of the provision by PT Group companies of offers aggregating network line and traffic, ICP-ANACOM determined, as per determination of 22 March 2007, that PT Group companies may provide retail offers aggregating telephone access, as long as:

- They request the beneficiaries to bill and collect all services provided by PT Group companies or by other companies, when billed and charged by PT Group companies, on the accesses with activated WLRO, according to the maximum prices established by ICP-ANACOM.
- The WLRO reference offer would be modified, fulfilling ICP-ANACOM's determination of 15 March 2007, on the conditions of the inclusion of ISDN (integrated services digital network) accesses in the WLRO reference offer;
- Offers that aggregate telephone access and traffic fulfilling the applying obligations, namely of cost-orientation of prices, non-discriminations and transparency.

Under these terms, ICP-ANACOM concluded that the WLRO was being efficiently and effectively implemented, not hindering a progressive and gradual improvement in the offer, namely considering the market's evolution and dynamics, the experience gained and the needs of end users.

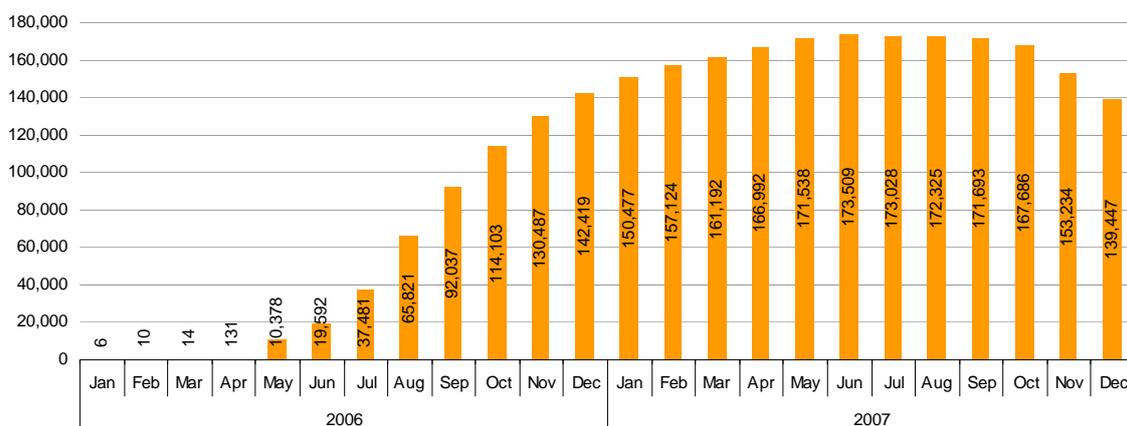
In this sense and on the same determination of 22 March 2007, ICP-ANACOM decided to introduce several changes to the WLRO, namely related with:

- Quality parameters and corresponding compensation for non-fulfilment;
- WLRO suspension for lack of subscriber payment;
- Codes associated to the rejection of WLRO activation requests;
- The maximum deadline for WLRO suspension by lack of subscriber payment;

- The possibility to activate the WLRO based simultaneously on pre-selection and broadband internet access services;
- The price for reporting undue failures in the scope of the WLRO;
- The price and deadlines applying to external changes;
- Documents to demand from WLRO subscribers.

In this context it should be highlighted that the amount of WLRO activation requests has considerably increased since the beginning of this offer in 2006, as shown on the graph below, a trend that started to reverse by the end of 2007. This reversion may be related to a change in the business model of OSPs who benefit from the WLRO, in order to base their offers on the LLU.

Graph 18. Information presented by PTC on analogue accesses with activated WLRO, excluding activations from Group PT companies



Source: PTC

b) Inclusion of ISDN accesses in the WLRO reference offer

As per determination of 15 March 2007, ICP-ANACOM approved the conditions of the inclusion of integrated services digital network accesses (ISDN) in the WLRO reference offer.

This measure established changes to the offer, namely concerning the following items and for ISDN accesses:

- Maximum WLRO activation price in the case of ISDN accesses equal to the pre-selection price;

- Maximum WLRO monthly fees for ISDN accesses according to the following table;

Table 4. Maximum WLRO prices for ISDN accesses (figures in Euros, excluding VAT)

Basic ISDN access monthly fee	21.72
Basic plus ISDN access monthly fee	23.42
Primary ISDN access monthly fee	172.96
Fractioned primary ISDN access	
- Monthly fee (includes 15 B channels)	105.84
- Monthly fee additional B channel	4.56

- Implementation of the parameters, quality of service levels and penalties for non-fulfilment currently defined in the WLRO reference offer, with the possibly needed and properly supported adaptations;
- Implementation of the processes of the ISDN WLRO to equivalent processes of the WLRO for analogue access, with the possibly needed and properly supported adaptations.

2.2.6. Reference conduit access offer (RCAO)

PTC's obligation to give access to conduits that it owns or mandatorily manages is established by no. 1 of article 26 of the ECL. Article 26, no. 4, also determines the concessionaire's obligation to release an offer for access to conduits, which must include the terms of access and use, as defined by ICP-ANACOM. This placed Portugal at a unique situation at European level since this offer's importance has only recently been acknowledged, explicitly, as an important tool fostering competition, namely within the scope of the development of NGNs, and while other regulators began activities in order to implement that obligation.

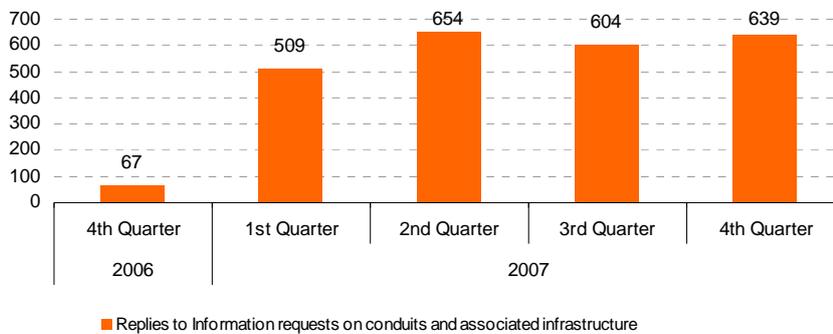
Using the RCAO is, in fact, an important factor in reducing the barriers to the implementation of alternative networks, making it possible to overcome physical and economic obstacles in connection with underground saturation or with logistical and bureaucratic constrains to the development of conduit rolling-out activities, and with the lack of efficiency related to its duplication in a high number of geographical areas.

An effective and updated implementation of a RCAO is thus a vital tool in promoting competition by assuring that investment on conduits and associated infrastructure is guided by economic efficiency criteria, avoiding unnecessary doubling of resources, and minimizing inconveniencies for both citizens and economic activities in general, that come

with frequent works on the public way leading to issues with traffic, citizen's comfort and safety and even the environment itself.

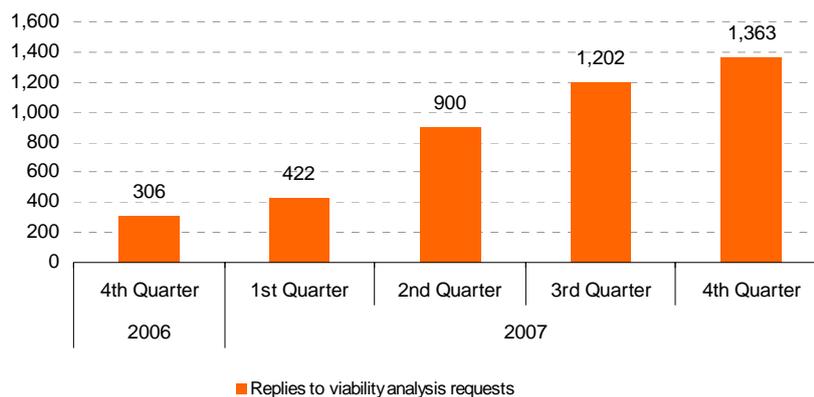
2007 was characterized by a certain stabilization of the conditions stated on the RCAO concerning the services foreseen in that offer, further to the decisions made in the previous years. This stabilization translated into the increase in the amount of replies to information requests on conduits and associated infrastructure and in the amount of replies to viability analysis requests (see Graph 19 and Graph 20). The increased interest from operators in using this offer also led to more conduit works by PTC, as shown on Graph 21.

Graph 19. Amount of replies to information requests



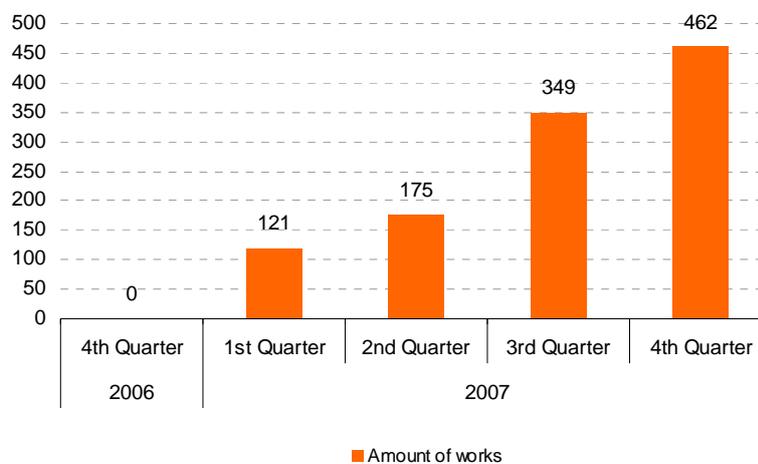
Source: ICP-ANACOM based on PTC data

Graph 20. Amount of replies to viability analysis requests



Source: ICP-ANACOM based on PTC data

Graph 21. Amount of works within the scope of the RCAO



Source: ICP-ANACOM based on PTC data

Therefore, ICP-ANACOM's intervention in the RCAO during 2007, besides the constant monitoring of the quality of service of the several services foreseen in the offer, mainly translated into the resolution of few very specific situations or obstacles in connection with the offer.

Among these situations is the determination of 15 March 2007, which established the monthly price for the space of each connection point, and the monthly price for the space of cable clearance.

Regarding the monitoring of the levels of quality of service provided by PTC, albeit the existence of some situations of non-fulfilment of the goals defined in the RCAO, there was a considerable improvement in the disclosed indicators.

At the end of 2007, PTC disclosed information on its extranet regarding the maps with the layouts of conduits, access pipes to buildings and the locations of the visiting shafts, for the entire conduit network that it owns or it manages, following previous ICP-ANACOM determinations on this matter.

2.3. Next generation networks

The roll-out of NGNs, further to fostering innovation in the provision of services to citizens, also raises an important set of questions concerning the promotion of sustained competition, the assurance of non-discriminatory conditions, and the safeguard of information inclusion conditions.

In this context it is important to determine how development towards the NGNs may affect the existing competition scenarios and specifically the broadband offers by alternative operators, to end customers, based on the unbundled local loop and sub-local loop wholesale offer, by evaluating its effects on a possible change of the minimum optimum scale and/or on the alternative operators' capacity to benefit from economies of scale.

Complementarily, the investment level foreseen by the (incumbent and alternative) operators should be assessed, including the areas with lower population density, and the advantages for operators as well as for end users (namely in terms of innovative services and of packages that could better fit their consumption pattern) should be evaluated, which requires a deep study of the issues concerning users and the preservation of competition.

Thus, in order to better support ICP-ANACOM's futures interventions on this matter within its powers, this Authority started in 2007 the preparatory works for a public consultation that was launched in 2008 on this issue and requested a consultancy company to conduct a study, which it published¹⁵, on the impact of NGNs on the operators' business economy, cost structure, network topology and offers.

At the same time, ICP-ANACOM actively participated on the ERG's works on the NGN issue, transposed into the document "ERG Opinion on Regulatory Principles of Next Generation Access", which analyses the impact of NGN development at the regulatory level and how the principles and regulatory approach may be adapted in order to assure both transparency and predictability for operators.

2.4. Radio spectrum management

2.4.1. National Frequency Allocation Plan (NFAP)

Regarding spectrum planning, NFAP's annual revision, made in compliance with the ECL, has great importance nationally. The ECL gave ICP-ANACOM the tasks of frequency planning, in compliance with the spectrum availability criteria, of assuring effective competition in the relevant markets and concerning the effective and efficient use of frequencies.

¹⁵ Available at http://www.anacom.pt/streaming/estudo_ngn_jun08.pdf?contentId=595631&field=ATTACHED_FILE

As per determination of 8 March 2007, in compliance with articles no. 15 and 16 of the ECL, ICP-ANACOM approved a public consultation of the NFAP to be implemented in 2007, which contemplated the elements defined in the ECL and, particularly, after hearing the market on their possible interest in using the spectrum identified as a reserve for frequency bands to be used by the land mobile service (on the 450 MHz, 900 MHz and 1800 MHz bands), from a standpoint of technological neutrality.

Following this consultation, all comments received were taken into account, ICP-ANACOM analysed them according to the regulatory goals set by the ECL and to each of the respondent's positioning on the communications.

Among the report's main conclusions, the following stand out:

- ICP-ANACOM will maintain the approach towards a steady adoption of technological neutrality, only limited by the need to prevent interferences, to assure the compliance with standards that are relevant for the creation of a European single market, and to respect the international agreements of which Portugal is part of, always respecting the need to safeguard the effective and efficient use of the radio spectrum;
- ICP-ANACOM understands that there is a need to assure compatibility between the use of these frequency bands, by the entities that are still not on the market – which is considered positive from a challenge perspective and in order to contribute to create effective competition in the market – and the fact that current mobile operators may need additional spectrum, in order to provide innovative services and increase investment efficiency, thus benefitting end users.

Simultaneously, more specific action lines were launched for the 450 MHz and 900 MHz bands to be used by land mobile service systems, in order, respectively:

- To consider granting rights of frequency use in the 450 MHz band under a technological neutrality perspective, considering the contest as a selection method and considering to prevent access to entities that are already installed in the market, in order to increase the competition level in the mobile market;
- To authorize the use of frequencies already granted in the 900 MHz band to operate UMTS (universal mobile telecommunications system) system – the so-called refarming – that will enable considerable savings on its implementation.

ICP-ANACOM also considered to introduce, in NFAP 2007's final version, an exemption of individual radio licence for AIS (automatic identification system) receiving stations, and to mention ultra-wideband (UWB) technologies, as a result of developments at the international level (particularly, the Decision of the EC 2007/131/CE, of 21 February 2007, regarding the harmonized use of radio spectrum for devices using ultra-wideband technology in the Community).

2.4.2. Fixed wireless access

Following the rights of use reformation process, in 2007 radio licences were modified and sent to operators, duly updated according to the data regarding the corresponding networks.

2.4.3. Broadband wireless access (BWA)

Considering the interest stated, by several market players, in introducing BWA applications in Portugal, ICP-ANACOM launched in 2006 a public consultation on its introduction in Portugal. The corresponding report, approved on 14 June 2007, presents the conclusions and the action plan foreseen by ICP-ANACOM, considering several items, particularly frequency bands, technologies and types of use, spectrum allocation modes and indicative timetable.

As a consequence, ICP- ANACOM promoted, as per determination of 31 October 2007, a general consultation procedure on the draft decision regarding the setting of limits to the amount of rights of use reserved for BWA, in compliance with the general consultation procedure foreseen in article 8 of the ECL, for the 3.4-3.8 GHz the band. It also established the corresponding granting procedure, which analysis report approval and final decision took place in 2008, establishing, as foreseen, the granting of two rights of frequency use in the 3.4-3.6 GHz band and of two other in the 3.6-3.8 GHz band, for each of the areas defined in the Annex to the Administrative Rule no. 1026/2004 of 25 August, and setting an auction as the procedure to grant those rights.

2.4.4. Limiting the rights of use in the 450 MHz band

Following the approval of the NFAP 2007 and of the action plan stated in section 4 of the corresponding analysis report, a plan containing an indicative timetable of the activities regarding the granting of spectrum in the 450-470 MHz band for the provision of the publicly available land mobile service, ICP-ANACOM, as per determination of 4 October 2007, carried out a general consultation procedure on the limitation of rights of use in the

frequencies to be granted. The approval of the analysis report resulting from the launched consultation took place in 2008, as per decision of 17 January 2008, which confirmed the measures proposed on the DD, namely:

- To limit to one the amount of rights of frequency use to be granted in 450-470 MHz frequency band for the provision of the publicly available land mobile service;
- To define the public tender mode as the procedure for granting this right of frequency use;
- To allow terrestrial trunked radio service (mobile trunking) operators, further to a modification to their corresponding titles and at their own request, to offer publicly available land mobile services in the 450-470 MHz band under the terms of the tender mentioned in the previous paragraph, notwithstanding the fulfilment, by mobile trunking operators, of determinations to be issued by ICP-ANACOM within the scope of the current procedures.

2.4.5. Mobile television (DVB-H)

The three nation-wide networks planned for mobile reception in the context of the Conference carried out in mid-2006 and which led to the 2006 Geneva Plan, can only be fully developed and implemented after the switch off of analogue TV broadcast, which is expected to take place until 2012, at the most.

Because the market showed interest in developing a network for this kind of technology in a near future, i.e., before 2012, ICP-ANACOM started the necessary electromagnetic compatibility studies, considering the possibility of allocating spectrum for a network of this kind. However, when the switch off of analogue television broadcast occurs, the frequencies identifies in this study should be changed for the frequencies planned in the 2006 Geneva Plan.

2.4.6. Digital terrestrial television (DTT)

In 2007 ICP-ANACOM pursued its activity of monitoring the developments in the field of terrestrial television, particularly regarding the terrestrial platform in countries with operations already ongoing, and by analysing the impacts of the new legal regime for access to the television broadcasting activity according to the models and solutions foreseen for the introduction of DTT in Portugal. In this field, ICP-ANACOM developed all the work necessary to launch a public consultation on the implementation of DTT. Thus,

notwithstanding the studies and draft works carried out in 2006, following the publication of Law no. 27/2007 of 30 July (new Television Law), the impacts of the new legal regime for access to the television broadcasting activity according to the models and solutions foreseen for the introduction of DTT were analysed.

Considering the powers shared between the Government and the Regulator, on 29 August 2007 ICP-ANACOM approved and submitted to the proper consultation procedures the following tools:

- Draft decision on the limitation of the amount of rights of frequency use reserved for digital terrestrial television broadcasting and the definition of the corresponding granting procedure, under the terms of article 31 of the ECL; and
- Draft regulation of the public tender for granting a nation-wide right of frequency use for the digital terrestrial television broadcasting service, to be associated to Multiplexer A, under the terms of article 31, no. 5, of the ECL.

Simultaneously, ICP-ANACOM, in its role as Government advisor and in cooperation with the Office for the Media (GMCS)¹⁶, followed-up the making of a draft regulation of the public tender for the granting of five rights of use of frequencies reserved for the digital terrestrial television broadcasting service, corresponding to two nation-wide licences and to three licences covering parts of the mainland territory, to be associated, respectively, to Multiplexers B and C and to Multiplexers D, E and F, as well as the distribution operator responsible for the television activity which is the selection and aggregation of free or paid access TV program services, to be provided to the public on the mentioned Multiplexers B to F.

This draft regulation was subject to public consultation further to a joint order of the Minister of Public Works, Transport and Communications and the Minister of Parliamentary Affairs (Order no. 19,973-B/2007 of 27 August 2007) published in the 2nd series of the Official Journal (*Diário da República*) of 31 August.

During the last quarter of 2007, ICP-ANACOM analysed the received comments and produced the consultation report following the procedures within its powers, in order to support its final options regarding the mentioned decision and the regulation of the public tender that will be associated to Multiplexer A, also having assisted the Government, in

¹⁶ Former Instituto da Comunicação Social (ICS).

articulation with the GMCS, in analysing the comments and preparing the grounds for the options concerning the regulation of the public tender that will be associated to Multiplexers B to F, in order to publish the consultation report, which was carried out in the context of that process, as well as the conclusion of all regulatory tools giving shape to both public tenders, including the corresponding tender specifications, at the beginning of 2008¹⁷.

2.4.7. Telephone services at a fixed location using GSM¹⁸/UMTS frequencies

TMN – Telecomunicações Móveis Nacionais, S.A. (TMN) submitted to ICP-ANACOM, on 14 November 2006, in compliance with article 21 of the ECL, a communication regarding the beginning of the offer of a new electronic communications service.

Since this service was identical to the electronic communications service notified by Novis Telecom, S.A. (Novis) on 7 December 2004, to which ICP-ANACOM did not oppose, as per determination of 25 February 2005 (Optimus Home service), and by Vodafone Portugal – Comunicações Pessoais, S.A. (Vodafone Portugal), which offer was also approved by a determination of 8 August 2006 (homephone service), the analysis of TMN's service offer notification focused on the same issues that were previously analysed:

After the general consultation procedure mentioned in article 8 of the ECL, and the previously hearing of TMN, ICP-ANACOM decided, on 19 April 2007, to authorize the use of GSM and UMTS frequencies of TMN's land mobile network on the local access network for the provision of FTS by the company, as long as it fulfils some conditions detailed in the decision.

2.4.8. Study on secondary trade of spectrum

Following the conclusion of the study on the applicability of secondary trade of spectrum in Portugal, considering the comments received during the NFAP's public consultations process, ICP-ANACOM carried out the analysis and the preparation of scenarios for the implementation of the secondary trade of spectrum. Special focus was particularly given to the preparation of a public consultation concerning this issue.

¹⁷ The mentioned regulations were published on 25 February 2008 (see Regulation no. 95-A/2008 and Administrative Rule no. 207/2008, respectively).

¹⁸ Global system for mobile communications.

2.4.9. Study on the review of spectrum fees

ECL's publication redefined, in its article 105, the fees regime applying to electronic communications in general, and, particularly, to frequency use.

In order to propose changes to the current tariff model, compatible with the ECL-defined goals, ICP-ANACOM promoted a study on the European radio spectrum tariff scenario, complemented by an independent view on the tariff model to adopt.

Taking into account some of this study's recommendations and also the national context of the telecommunications industry, ICP-ANACOM developed a proposal for the review of the general tariff scheme, including that related to spectrum use, which it sent to the Government, within its advising activity.

2.5. Numbering, portability and pre-selection

2.5.1. Electronic numbering (ENUM)

Following the public consultation launched in 2006 on the ENUM¹⁹ service, ICP-ANACOM approved, by a determination of 11 January 2007, the public consultation report and a set of measures, with highlight to the promotion, by ICP-ANACOM together with other entities, of a working group on ENUM, in order to analyse its introduction in Portugal, including the development of a pilot project.

Thus, operators and other entities responding to the public consultation were invited to a meeting, aiming to start the process of building this working group and to establish its terms of operation, including the objectives, tasks and responsibilities of the parties, as well as establishing the schedule, goals and financing for the pilot project to be developed within its context.

Albeit most participants recognized ENUM's interest and stated their availability to participate on the works to be carried out in order to implement a pilot project, it was also realized that with ENUM there was a confrontation between two business models – one, stemming from the public switched circuit telephone network, and another from the Internet, leading to two possibly different positions or interests. Additionally, some

¹⁹ ENUM is a function that makes it possible to establish a correspondence between E.164 telephone numbers and electronic communications applications connected to those numbers. For that purpose, it uses a protocol that employs an architecture supported on DNS (Domain Name System). This is a service that makes the convergence between the telecommunications and Internet networks possible.

positions stated it was convenient for ICP-ANACOM to lead the process, although recognizing that the nature of the matters at stake, particularly operational, would render a regulator's intervention unadjusted, due to its lack of vocation and of technical skills.

The action points foreseen in that meeting later received very little response from the participating companies, and ICP-ANACOM now considers the opportunity and possibility of having a more active intervention, resuming the discussion of this matter in 2008.

2.5.2. Designation of new ranges in the national numbering plan (NNP)

2.5.2.1. Numbering range for the mobile telephone service (MTS)

In the context of the regulatory framework of the MVNO activity (see section 2.1.3.), it was considered as adequate to allocate the right of use of the E.164²⁰ numbers to MVNOs (light and full) that will establish as autonomous companies, with their own offer of a publicly available telephone service, and which present, namely, the access agreement with the supporting operator. This allocation, made in blocs of 10,000 numbers, is dependant on the foreseen and reasoned demand of numbers. In the lack of the mentioned agreement, reserve of the numbering resources for a period of 6 months, renewable upon request, was considered.

Determination of 12 July 2007 decided to approve the framework regarding the designation of a new numbering range ("92") of the NNP for the MTS and to establish its management under the terms currently defined in the "Principles and criteria for the management and allocation of numbering resources".

The determination made it possible to address the lack of free ranges for the mobile services according to the established criteria regarding a usage rate above 60% of previous allocations. Under these conditions, should there be the need for numbering, both from players already in the market and from other that might install, ICP-ANACOM decided to broaden the numbering capacity for the MTS on free ranges that were adjacent to those already in use by the existing mobile operators, choosing range "92".

²⁰ Recommendation of the ITU-T (International Telecommunication Union, Telecommunication Standardization Sector)

2.5.2.2. Range "116" for social value harmonized services

A determination of 5 September 2007 approved the designation of NNP's range "116" to host social value harmonized services, and the designation of each NNP's "116xxx" number for the corresponding service, in compliance with the items established at the EU level on Decision 2007/116/EC, of 15 February 2007.

It also decided to approve and publish the procedure for granting rights of use of numbers in the "116" range, as well as the allocation and usage conditions associated to these numbers.

In light of that Decision, complemented by Decision 2007/698/EC, which reserved new numbers beginning with "116" and which modified the first decision, number 116000 was reserved in the NNP for the "Free line for missing children cases" service, and numbers 116111 and 116123 were reserved for the "Child support line" and the "Emotional support line" services, respectively. The designation of the service lodged in number 116000 was also changed to "Missing children free number" and its description was included.

2.5.2.3. New "761" and "762" codes for flat rate tariff services

A determination of 4 April 2007 decided to create the "761" and "762" codes, with a 1 Euro and 2 Euro maximum tariff per call, respectively (figures not including VAT), and to designate them as a flat rate per call service. It also decided to characterize the services identified by these codes and to define the specific conditions for granting rights of use of numbers in those codes.

The flat rate per call service means access to goods, services or content, which payment is made by establishing a telephone call, and which tariff is defined by the service's access code. This service has the following characteristics:

- Flat rate services enable the access, always the same way, by setting a price per call from any point in the country, to a given number corresponding to this service's access code;
- Maximum tariffs applied are independent from the duration and time of the call, which retail prices vary with the service's access code, as follows:
 - "761" – 1 Euro, maximum, per call (price excludes VAT);
 - "762" – 2 Euro, maximum, per call (price excludes VAT);

2.5.3. Allocation of rights of use of numbers

Below is data on the evolution of the allocation of rights of use of numbers, with highlight to the increase in the amount of numbers resulting from 2007 allocations, particularly resulting from the opening of new NNP ranges, namely ranges “761”, “762” and “92”.

Table 5. Geographic numbers – evolution of the national stand

Year	Allocated and/or Reserved (A) or Recovered (R)	Geographic numbers ²¹		
		Lisbon geographic area	Porto geographic area	Remaining geographic areas
2000	A	130,000	70,000	1,580,000
	R	0	0	0
2001	A	180,000	60,000	350,000
	R	0	0	0
2002	A	140,000	50,000	530,000
	R	10,000	10,000	0
2003	A	30,000	20,000	20,000
	R	50,000	50,000	310,000
2004	A	30,000	30,000	190,000
	R	0	0	0
2005	A	130,000	100,000	610,000
	R	20,000	10,000	20,000
2006	A	180,000	100,000	1,940,000
	R	0	0	0
2007	A	110,000	50,000	420,000
	R	10,000	0	0

Table 6. Non-geographic numbers – evolution of the national stand

Year	Allocated and/or Reserved (A) or Recovered (R)	Non-geographic numbers				
		VoIP ²² Nomadic Services ²¹	Short Numbers ²³	Translation and voice mail services ²¹	Data Services (ISP) ²⁴	Mobile Telephone Service ²⁵
2000	A	-	15	300,000	600	0
	R	-	0	0	0	0
2001	A	-	18	1,320,000	200	0

²¹ Numbers are allocated in blocs of 10,000 with the exception of range 80080, which is allocated per unit. Translation services are provided in ranges 707, 708, 760, 761, 762, 800, 808 and 809 of the NNP, while the voice-mail service is provided on range 600.

²² Voice over Internet Protocol.

²³ Corresponds to the 10xy, 116xyz, 14x (y), 15xy, 16xyz and 18xy ranges. They are allocated per unit with the exception of range 16xyz, which is allocated in blocs of 10.

²⁴ Numbers are allocated in blocs of 100, since the last three digits are predefined for the 67 range (data services).

²⁵ Numbers are allocated in blocs of 10,000 to the “92” range. Rights of use of numbers are allocated by default in the “609” and “669” ranges for access to the voice service, respectively, to check the mail box and to leave messages, and numbers in the “639” and “659” ranges to access, respectively, mobile fax and data services.

Year	Allocated and/or Reserved (A) or Recovered (R)	Non-geographic numbers				
		VoIP ²² Nomadic ²¹ Services	Short Numbers ²³	Translation and voice mail services ²¹	Data Services (ISP) ²⁴	Mobile Telephone Service ²⁵
	R	-	0	0	0	0
2002	A	-	3	110,000	100	0
	R	-	7	0	200	0
2003	A	-	8	100,000	300	0
	R	-	7	0	400	0
2004	A	-	5	100,020	100	0
	R	-	4	0	0	0
2005	A	-	8	120,000	200	0
	R	-	11	0	800	0
2006	A	110,000	3	100,000	0	0
	R	0	1	0	100	0
2007	A	180,000	9	120,000	0	1,400,000
	R	0	4	0	400	0

Table 7. Audiotext non-geographic numbers – evolution of the national stand

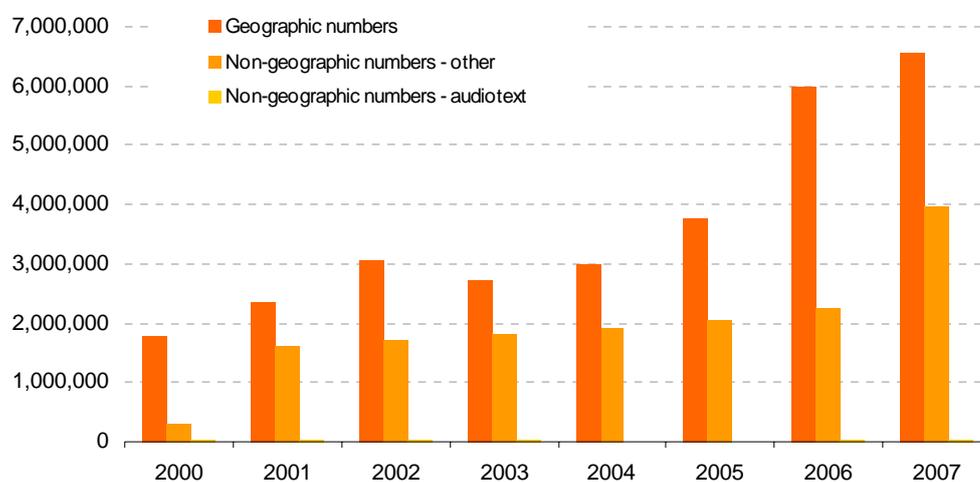
Year	Allocated and/or Reserved (A) or Recovered (R)	Audiotext non-geographic numbers ²⁶				
		General 601	Televoting 607	Sales 608	Contests and Pastimes 646	Erotic 648
2000	A	10,000	7,000	8,000	7,000	8,000
	R	0	0	0	0	0
2001	A	1,000	0	0	0	0
	R	0	0	0	0	0
2002	A	2,000	2,000	1,000	1,000	2,000
	R	0	0	0	0	0
2003	A	0	1,000	0	0	0
	R	1,000	1,000	1,000	1,000	0
2004	A	1,000	0	0	0	0
	R	9,000	7,000	7,000	6,000	7,000
2005	A	1,000	2,000	2,000	2,000	8,000
	R	4,000	2,000	2,000	2,000	3,000
2006	A	1,000	2,000	1,000	1,000	3,000
	R	0	0	0	0	0
2007	A	2,000	1,000	1,000	1,000	9,000
	R	1,000	2,000	1,000	1,000	0

²⁶ Numbers are allocated in blocs of 1,000.

Table 8. Accumulated amount of numbers distributed nation-wide since 2000

Year	Geographic Numbers	Non-geographic Numbers		Totals
		Other	Audiotext	
2000	1,780,000	300,615	40,000	2,120,615
2001	2,370,000	1,620,833	41,000	4,031,833
2002	3,070,000	1,730,729	49,000	4,849,729
2003	2,730,000	1,830,630	46,000	4,606,630
2004	2,980,000	1,930,751	11,000	4,921,751
2005	3,770,000	2,050,148	13,000	5,833,148
2006	5,990,000	2,260,050	21,000	8,271,050
2007	6,560,000	3,959,655	30,000	10,549,655

Graph 22. Accumulated amount of numbers distributed nation-wide since 2000



Source: ICP-ANACOM

2.5.4. Transmission of rights of use of numbers

By a determination of 24 October 2007, ICP-ANACOM approved a final decision concerning the authorization request for the transmission of rights of use of frequencies and numbers allocated to Optimus – Telecomunicações, S.A. (Optimus) to the ownership

of Novis. This transmission regarding the numbers was authorized with the condition that the obligation to use the numbers effectively and efficiently is fulfilled, as foreseen in article 38 of the ECL. This was thus an attempt to balance that goal with the goal of assuring the minimum inconvenience to the users of the several codes involved in the operation.

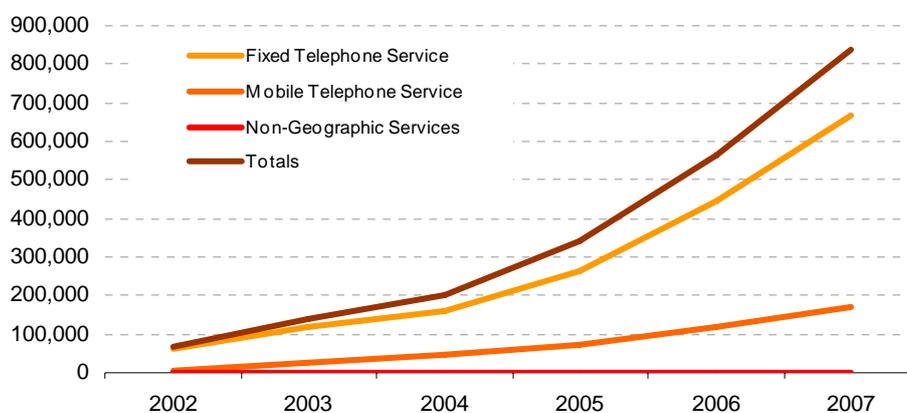
2.5.5. Portability

2.5.5.1. Evolution of ported numbers

On 31 December 2007, there was a total of 837,637 ported telephone numbers. From that amount, 664,684 were geographical numbers, 172,214 were mobile numbers and 739 were non-geographic numbers.

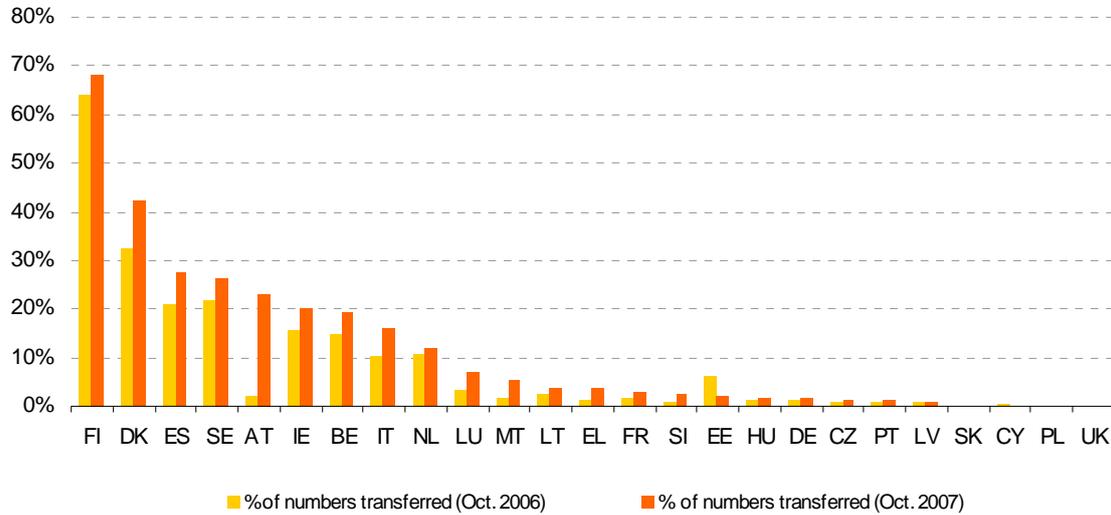
Portability was introduced in Portugal in 2001 for geographic numbers and in 2002 for mobile numbers, with a higher rate of ported numbers after 2004, mainly as a result of the competition in the FTS – Graph 23.

Graph 23. Evolution in the number of ported numbers



Source: ICP-ANACOM

Graph 24. Cumulative amount of mobile numbers transferred as a percentage of the total amount of mobile numbers (October 2006 and 2007)

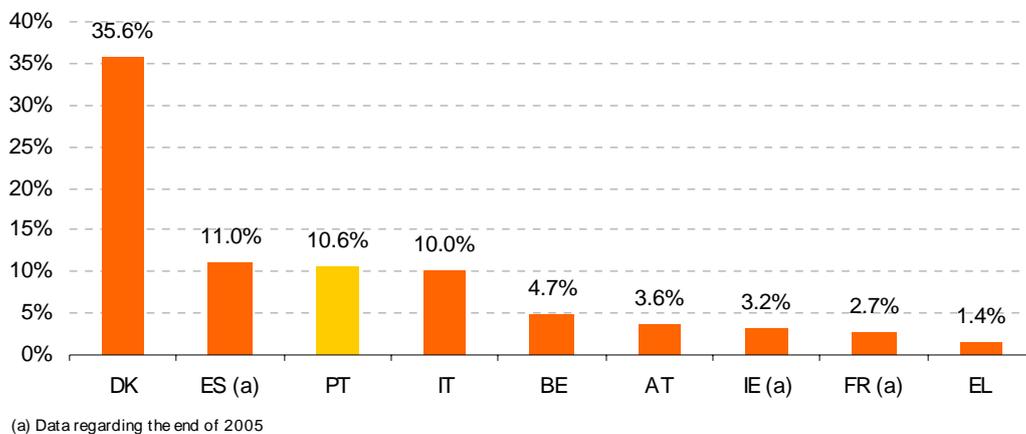


Source: EC's 13th Implementation Report

There is still a very low adoption of ported mobile numbers. Portugal has one of the lowest figures in the entire EU, according to the EC's 13th Implementation Report, which raises some worries.

On the contrary, regarding ported fixed numbers, it is important to stress Portugal's position in the European context, where it stands out as one of the countries with higher rates of ported fixed numbers, as shown on the following graph:

Graph 25. Percentage of fixed numbers versus total main telephone accesses (cumulative values until the end of 2006)



Source: ECTA Regulatory Scorecard 2007

2.5.5.2. Monitoring the evolution of prices and the fulfilment of obligations in portability

Concerning the measures established in article 21 of the portability Regulation, ICP-ANACOM collected the necessary information to monitor the effective availability:

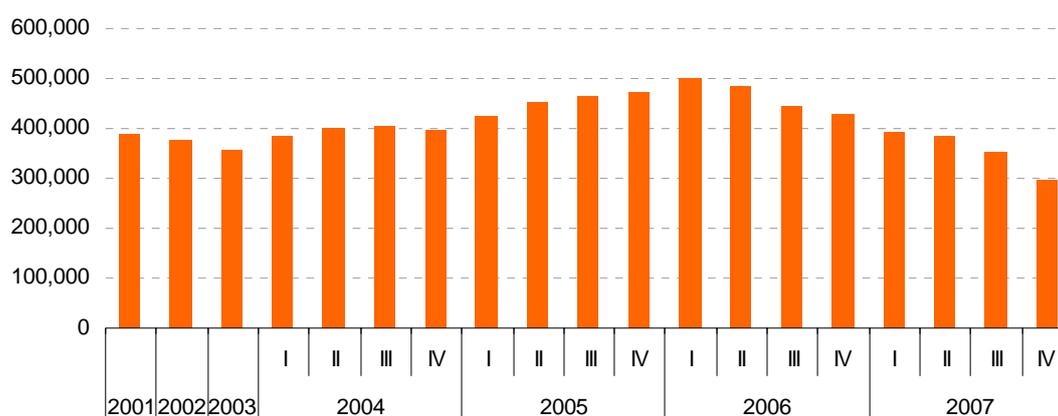
- Of the free online warning notice by MTS providers for national voice calls between MTS networks and addressed to ported numbers, whenever those providers practice tariff schemes where a call to a ported number may become more expensive than before its portability;
- Of the fulfilment of the obligation to implement the information service on the prices of calls to ported numbers, foreseen on no. 6 of article 21 of the portability Regulation.

ICP-ANACOM has also been monitoring the evolution of the wholesale and retail prices charged by companies in the portability context, considering a possible intervention on this matter and notwithstanding what has been established about it within the RIO.

2.5.6. Selection and pre-selection

2007 registered a considerable reduction in the amount of customers with indirect access through pre-selection as a result of greater investment by new operators in offers based on LLU, as shown on the graph below:

Graph 26. Evolution in the amount of indirect access customers using pre-selection



Source: ICP-ANACOM

2007 recorded a growing number of complaints concerning the procedures for withdrawing pre-selection. Following these complaints, several supervision initiatives

were carried out. They proved the existence of malfunctions regarding the presentation of forms for withdrawing pre-selection.

Since these practices violated article 10 of Regulation no. 1/2006 of 9 January²⁷, ICP-ANACOM approved two decisions, on 8 March 2007 and on 27 July 2007 (further to a previous hearing of the interested parties on the draft decision), on which it decided:

- To immediately stop any deactivations that were not originated on requests transmitted by the pre-selected provider, based on the change or withdrawing of the contract by the subscriber to this provider (on 8 March 2007);
- To remove PTC's Internet website with information concerning the procedures for withdrawing pre-selection under the terms stated there at that time. This information should be published in compliance with article 10 of the Regulation (on 8 March 2007);
- The non-acceptance, by PTC, of any requests concerning the change or withdrawing of pre-selection contracts submitted by subscribers of the pre-selected providers, thus not fulfilling the procedures established on the Regulation for the deactivation procedure (on 25 July 2007); and
- To compel the involved OSP to contact, within 10 working days, all the subscribers whose deactivation requests it received from PTC, to verify their effective willingness to change or terminate the corresponding contracts (on 25 July 2007).

ICP-ANACOM also intervened in two dispute settlement processes between operators, started under article 10 of the ECL, concerning pre-selection deactivation procedures in the same scope of the mentioned determinations.

In the context of selection and pre-selection, through Regulation no. 268/2007 of 15 October, a change was introduced in Regulation no. 1/2006 of 9 January – selection and pre-selection regulation. This change aimed to accomplish two main goals: (1) to strengthen the idea that the contract relationship between pre-selected providers and the subscribers should be preferred, in which the direct access provider should not have any intervention; and (2) to allocate greater responsibility to providers, both among them, in the implementation of pre-selection processes, and regarding subscribers, particularly in

²⁷ Selection and pre-selection Regulation.

the fulfilment of the maximum deadlines established in the regulation, and setting the compensations for end users in the case of non-fulfilment.

A determination of 10 May 2007 approved the draft regulation, which final text was approved on 13 September 2007.

2.6. Universal service

2.6.1. Quality of service parameters and levels

Determination of 30 March 2006 approved the quality of service parameters and performance objectives applying to the US, which the US provider (USP) is obliged to fulfil, notwithstanding the application of the Basis for the Telecommunications Public Service Concession stated in the annex to Decree-Law no. 31/2003 of 17 February,

Under the terms of this determination, the USP is obliged, namely, to annually provide information on the performance levels reached the year before, and information on the performance levels it intends to offer throughout the year.

Thus, the following table show the targets established and the levels achieved by the USP for each of the indicators:

Table 9. Universal service quality of service parameters

Universal service quality of service parameters	Target	2007 Values
QSP1. Supply time for initial network connection		
(a) Average delay in the supply of a connection when the customer does not set a target date (days)		
(a1) corresponding to 95% of the swifter installations	21	17
(a2) corresponding to 99% of the swifter installations	43	39
(b) Rate of supply requests fulfilled up to the date agreed with the customer, when the customer does not set a target date	85%	85%
(c) Rate between the number of initial connections provided with the customer setting the target date and the total number of initial connections supplied	n.a.	24%
QSP2. Rate of faults per access line	0.10	0.12
Total amount of reported faults per access	n.a.	305,508
QSP3. Fault repair time (hours)		
(a) Fault repair time of the local access network		
(a1) corresponding to 80% of the swifter repairs	72	69
(a2) corresponding to 95% of the swifter repairs	165	120
(b) Other faults repair time		
(b1) corresponding to 80% of the swifter repairs	47	43
(b2) corresponding to 95% of the swifter repairs	108	73
(c) Rate of repairs carried out within the repair time limit intended to be offered to customers by the universal service provider	80%	78%
QSP4. Average response time for operator services		
(a) Average response time for operator services (seconds)	11.0	17.0
(b) Rate of calls taken by the operator within 20 seconds	80%	93%

Universal service quality of service parameters	Target	2007 Values
QSP5. Unsuccessful calls		
(a) Number of eligible calls for PQS5 calculation purposes		
- national calls	n.a.	1,640,910,962
- international calls	n.a.	
(b) Rate of unsuccessful calls in the case of national calls	n.a.	0.13%
(c) Rate of unsuccessful calls in the case of international calls	n.a.	
QSP6. Time to set up calls		
(a) Total number of eligible calls for PQS6 reckoning purposes:		
- national calls	n.a.	n.A.
- international calls	n.a.	n.A.
(b) Time needed to set up national calls (seconds)		
(b1) corresponding to 100% of the swifter calls	n.a.	n.A.
(b2) corresponding to 95% of the swifter calls	n.a.	n.A.
(c) Time needed to set up international calls (seconds)		
(c1) corresponding to 100% of the swifter calls	n.a.	n.A.
(c2) corresponding to 95% of the swifter calls	n.a.	n.A.
QSP7. Response time for directory enquiry services		
(a) Directory enquiry services average response time (seconds)	5,0	4,3
(b) Rate of calls answered within 20 seconds by operators or equivalent response systems	95%	94.2%
QSP8. Rate of coin and card operated public pay-telephones in working order		
Rate of whole days during which the public pay-telephones are in full working order versus the potential number of operational days of the average public pay-telephones park	96%	98%
QSP9. Bill correctness complaints		
Rate of bills claimed relatively to the total number of bills issued	0.04%	0.02%

n.a. Not applicable

n.A. Not available

Depending on the USP's report, the performance objectives applying to the US's quality of service parameters were not met for some indicators, and ICP-ANACOM is now analysing the situation in compliance with the mentioned determination of 30 March 2006.

2.6.2. USP's strategy for public payphones

In compliance with the determination of 15 July 2004, PTC presented a development strategy statement for the public payphone services, regarding 2007. Later on, it, also submitted to this Authority the report on the accomplishment of objectives concerning 2007.

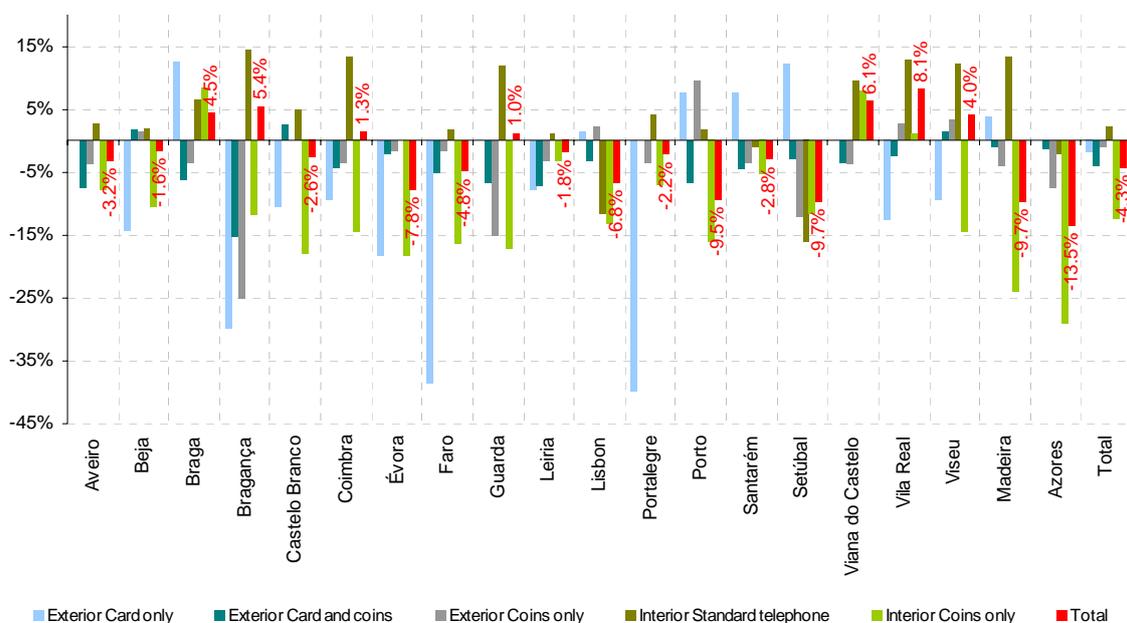
From the development strategy statement for 2007 presented by PTC to what was effectively accomplished during that year, the following table and graph show the relevant data for each of the modes available, according to their geographic distribution.

Table 10. Amount of public payphones foreseen and effectively accomplished in 2007

	FORESEEN 2007						ACCOMPLISHED 2007					
	Exterior		Interior		Total		Exterior		Interior		Total	
	Card-only	Card and coins	Coin-only	Standard telephone	Coin-only	Total foreseen	Card-only	Card and coins	Coin-only	Standard telephone	Coin-only	Total Accomplished
Aveiro	5	382	190	779	677	2,033	5	353	183	801	625	1,967
Beja	7	181	148	386	260	982	6	184	150	393	233	966
Braga	16	342	146	1,015	621	2,140	18	321	141	1,082	674	2,236
Bragança	10	65	28	494	110	707	7	55	21	565	97	745
Castelo Branco	19	116	77	606	340	1,158	17	119	77	636	279	1,128
Coimbra	21	309	112	829	474	1,745	19	296	108	940	405	1,768
Évora	11	136	128	142	241	658	9	133	126	142	197	607
Faro	26	798	200	1,194	648	2,866	16	757	197	1,215	542	2,727
Guarda	18	88	66	557	231	960	18	82	56	623	191	970
Leiria	26	276	94	853	435	1,684	24	256	91	862	421	1,654
Lisbon	214	3,838	1,456	2,177	2,867	10,552	217	3,715	1,489	1,927	2,490	9,838
Portalegre	5	76	87	149	172	489	3	76	84	155	160	478
Porto	65	1,810	448	837	3,681	6,841	70	1,690	491	852	3,089	6,192
Santarém	13	223	139	749	414	1,538	14	213	134	742	392	1,495
Setúbal	33	1,164	501	899	903	3,500	37	1,131	440	755	798	3,161
Viana do Castelo	3	140	78	500	244	965	3	135	75	548	263	1,024
Vila Real	8	84	36	705	288	1,121	7	82	37	795	291	1,212
Viseu	21	137	95	1,052	426	1,731	19	139	98	1,181	364	1,801
Madeira	27	184	125	180	474	990	28	182	120	204	360	894
Azores	12	141	66	137	244	600	12	139	61	134	173	519
Total	560	10,490	4,220	14,240	13,750	43,260	549	10,058	4,179	14,552	12,044	41,382

Source: PTC

Graph 27. Deviation rate of the accomplished amount of public payphones in 2007 versus the foreseen amount



Source: ICP-ANACOM based on PTC data

As shown on the graph above, in most districts the amount of public payphones stood below the foreseen amount, although these deviations are not significant (with the

exception of Porto, Setúbal and Madeira, which have negative deviations of about 10 per cent; and of the Azores, which recorded the greatest deviation regarding the foreseen amount, around 14 per cent).

Concerning the allocation of public payphones to social interest locations, the following table summarizes the information disclosed by PTC regarding forecasts and effective accomplishments in 2007, as well as the deviation recorded for each location.

Table 11. Deviation in the amount of public payphones accomplished in 2007 and the amount foreseen by PTC for that year

Location Type	Amount of PP		Deviations between the foreseen and accomplished amounts for 2007	
	Foreseen 2007	Accomplished 2007	Absolute deviation	Deviation rate
Hospitals and health centres	1,360	1,235	-125	-9.2%
Education establishments	1,700	1,413	-287	-16.9%
Airports	225	192	-33	-14.7%
Prison facilities	330	326	-4	-1.2%
Road terminals	110	109	-1	-0.9%
Railway terminals	280	264	-16	-5.7%
Metro stations	170	161	-9	-5.3%
Courts and Justice Halls	40	43	3	7.5%
Hotels, Pensions and Hostels	580	562	-18	-3.1%
Total amount in public interest locations	4,795	4,305	-490	-10.2%

Source: PTC data and ICP-ANACOM reckoning

The table above thus shows that, concerning the total amount of public payphones, there was a -10.2 per cent deviation in the effectively accomplished amount versus the forecast for 2007 (which stands for 490 payphones), mainly resulting from deviations in the amount of devices installed at education establishments and airports.

Regarding users with special needs, the amount of public payphones enabling the entrance and exit of wheelchairs that was effectively accomplished stood 50.5 per cent below the foreseen amount, in spite of the effective increase that was registered.

ICP-ANACOM will follow-up this matter's evolution in 2008.

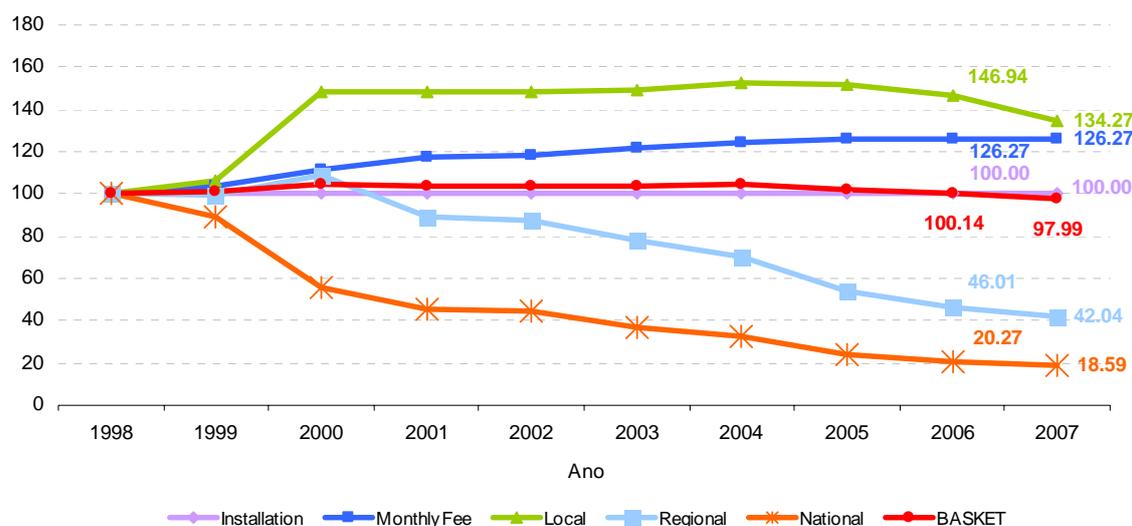
2.6.3. Price accessibility

2.6.3.1. Residential tariffs of the FTS provided in the scope of the US

Following the process started in August 2006 that was detailed in that year's Regulation Report, and as a result of ICP-ANACOM's final determination of 28 February 2007, the US tariff scheme entered into force on 26 March 2007, further to the verification of several conditions established in the mentioned determination.

Thus, 2007 continued to record a decrease in the prices charged by the incumbent operator, with the reduction of traffic's nominal prices and the maintenance of monthly fees²⁸. Versus 1998, the incumbent operator's average price decreased about 2 per cent in nominal terms.

Graph 28. Evolution in nominal terms of FTS prices for residential customers (base year = 1998)

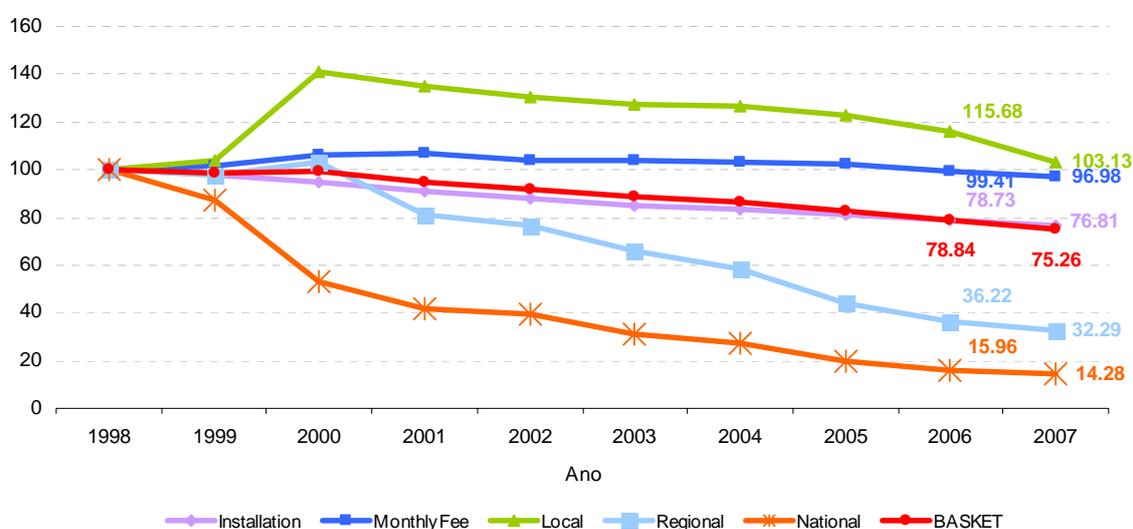


Source: ICP-ANACOM estimate based on the tariff scheme in force for each period and on PTC traffic data

In real terms, there was a generalized decrease of call prices for several traffic destinations since 2000.

²⁸ Evolution analysis considering the traffic profiles provided by PTC and assuming, for 2007, the basic tariff applied by default.

Graph 29. Real evolution of FTS prices for residential customers (base year = 1998)



Source: ICP-ANACOM estimate based on the tariff scheme in force for each period and on PTC traffic data

2.6.3.2. Specific conditions for retired subscribers and pensioners

In compliance with article 158 of Law no. 53-A/2006 of 29 November, which approved the State's General Budget for 2007, Decree-Law no. 20-C/86 of 13 February was revoked. In the context of this Decree-Law, PTC was obliged to grant retired people and pensioners, with a monthly household income equal or below the minimum wage, a 50 per cent discount on the subscriber line's monthly fee, while, in compliance with article 4 of the mentioned Decree-Law (with the amendments by Decree-Law no. 18/2003 of 3 February), PTC would be annually reimbursed by the State for the profit losses resulting from granting that discount. Following the publication of that legal diploma, PTC submitted to ICP-ANACOM, on 13 February 2007, two alternative price plans, which were analyzed by this Authority in the determination of 17 May 2007.

In order to safeguard price accessibility for consumers with lower incomes and considering that the Government removed from the 2007 General Budget the 50 per cent subsidy in force until then, ICP-ANACOM decided not to accept the mentioned plan presented by PTC and established that:

- Within the scope of the US, PTC must provide retired people and pensioners subscribing a single analogue network line, with a household monthly income equal to or lower than the minimum wage, a 50 per cent discount on the network line's monthly fee (in reference to the US's default basic tariff scheme). PTC may also provide, as a

commercial option, an additional 10 per cent discount on the analogue access's monthly fee and a traffic credit not exceeding 2.30 Euros (VAT excluded);

- The 50 per cent discount on the network subscriber's line would have an output on the WLRO accesses that support the services provided to retired people and pensioners subscribing a single analogue line, with a household monthly income equal to or lower than the minimum wage, under the same conditions that currently apply.

2.6.4. Net costs of the universal service provision (USNC)

On 7 December 2007, ICP-ANACOM's Board of Directors approved the DD on the USNC assessment, according to the understanding that there were no conditions to accept the USNC estimates for 2003 and the estimate reviews for 2001 and 2002 presented by the USP.

The Board of Directors of ICP-ANACOM also decided to start a process for the detailed specification of the methodology to be applied in reckoning the USNC and the definition of the conditions under which its provision may represent an excessive burden for the corresponding provider, thus justifying the creation of a compensation mechanism. This process will take into account, among other aspects, the information available on this issue, namely in terms of benchmarking, as well as the specific characteristics of the Portuguese FTS market and the process of designating the USP.

The DD was submitted to PTC's previous hearing, in compliance with article 100 and 101 of the Administrative Procedure Code, the final decision being approved already in 2008 (determination of 30 January 2008).

2.7. User protection

2.7.1. Subscription contracts

Under the terms of the ECL, it is up to ICP-ANACOM to approve the subscription contracts for the provision of electronic communications services, following the opinion of Direcção-Geral do Consumidor (Consumer's General-Directorate). During 2007, ICP-ANACOM approved eight new subscription contracts for the provision of different services.

2.7.2. Dispute concerning the recruitment and deactivation of cable TV network customers

On 10 August 2007 and after hearing the interested parties, there was a decision on a dispute between CATVP – TV Cabo Portugal (TV Cabo) and Bragatel – Companhia de Televisão por Cabo de Braga (Bragatel), Cabovisão – Televisão por Cabo (Cabovisão), Pluricanal Leiria – Televisão por Cabo (Pluricanal Leiria), Pluricanal Santarém – Televisão por Cabo (Pluricanal Santarém) and TVTEL Comunicações (TVTEL), concerning the customer recruitment processes and the intervention on cable TV infrastructure in order to disconnect the services.

In the context of this decision, operators were recommended to:

- a. Inform customers who move to another operator about the need to fulfil the contract clauses regarding contract termination, namely on the way to communicate the termination and the time in advance;
- b. Reach agreement on the proper proceedings for disconnecting and activating the services, and to uninstall the pre-existent infrastructure, in order to safeguard any situation that may hinder the integrity of cable distribution networks and consumers' interests.

It was also decided that, within 3 months after being notified of this process's decision, operators should inform ICP-ANACOM on the efforts made following this recommendation and on the results achieved towards the establishment of the agreement.

After an extension of the originally foreseen deadline, operators came to an agreement and subscribed in 2008 a Code of Conduct on this matter, which regulates the basic terms applying to cooperation among the several operators in the scope of the interventions on electronic communications networks for the purpose of disconnecting and activating/installing electronic communications services.

2.7.3. Regulation no. 46/2005 on quality of service

Determination of 4 October 2006 launched a public consultation on a draft Regulation aiming to change the Regulation on quality of service currently in force (Regulation no. 46/2005 of 14 June), in order to also include in that regulation the definition of parameters that apply to companies providing the Internet access service.

Following that consultation, ICP-ANACOM developed in 2007 the corresponding consultation report which supported, at that time, not to change the mentioned Regulation²⁹, albeit continuing the activity it has been developing in order to improve the quality of service in the scope of the Internet access service and the information provided about it, and a set of other additional activities on this domain.

Simultaneously, in the context of the same Regulation, ICP-ANACOM continued in 2007 to supervise the information regarding the quality of the provided service, presented to this Authority and to end users, by companies providing the fixed telephone service, aiming to improve their mode of disclosure to end users.

2.7.4. International roaming

Regulation of the EC no. 717/2007, of 27 June, approved by the Council and the European Parliament, intended to considerably decrease the prices paid by public mobile telephone network users when travelling throughout the Community, thus imposing operators several tariff obligations both at the wholesale and retail level, having achieved the offer of a “eurotariff” since the Summer of 2007.

This “eurotariff”, valid all over Europe, established the maximum prices of 0.49 Euros and 0.24 Euros (figures excluding VAT), respectively, for voice calls set up or received in roaming, within the EU. The Regulation also foresees new price reductions for the second and third years after their entry into force, while the average wholesale offer, in compliance with the Regulation, may not exceed 0.30 Euros per minute. Price reductions are also foreseen for 2008 and 2009.

The regulation also foresees measures to increase the transparency of the retail tariffs applying to roamed voice calls, both made and received, inside the EU, namely by forcing operators to automatically make available to their customers who are roaming in the EU a free message service that provides customized information on the roaming tariffs applying to calls set up and received on the visited Member States.

In compliance with the Regulation, ICP-ANACOM developed, since its publication, several activities, namely in terms of:

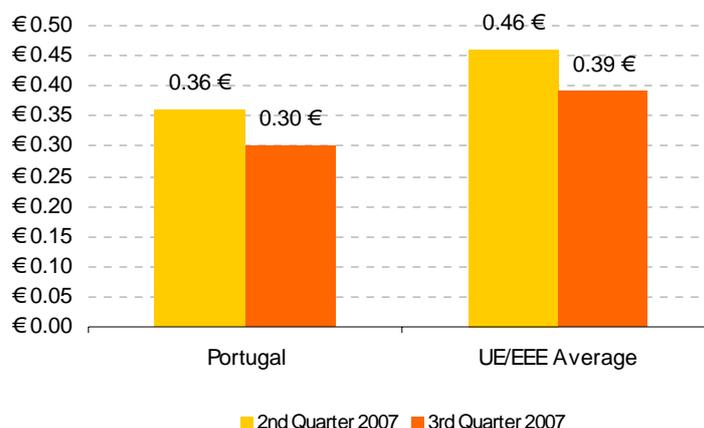
- Following-up and supervising its fulfilment on the national territory;

²⁹ The report was approved by final decision already in 2008.

- Disclosing information to the public on the regulation's implementation;
- Monitoring tariffs and the use of traffic orientation techniques that are harmful to customers;
- Following-up involuntary cross-border roaming situations;
- Collection, handling and reporting data on its application concerning national operators;
- Cooperating with other national regulatory authorities (NRAs) in the scope of the ERG, preparing several forms to be used by the NRAs to collect harmonized information, and defining the orientation guidelines on the Regulation's implementation.

ICP-ANACOM also gave its contribution to the report published by the ERG³⁰, in 2008, which shows some decreases in roaming prices, at the European level, even if the maximum price limits set by the Regulation only entered into force, regarding wholesale prices, on 30 August 2007, and regarding retail prices, on 30 September 2007.

Graph 30. Comparison of average wholesale prices (revenues per invoiced minute) of the calls made outside the groups, in the EU (2007)



Source: ICP-ANACOM and IRG

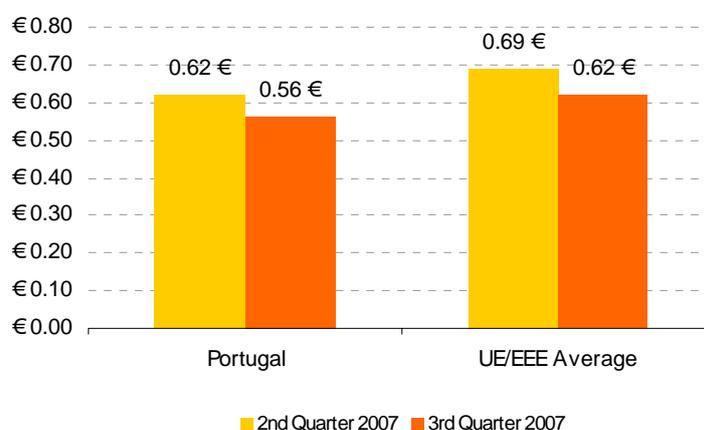
Graph 30 shows a comparison of roaming wholesale prices practiced by national mobile operators versus the average prices practiced by European operators. It is worthy pointing out that the average prices charged by national operators during the third quarter of 2007

³⁰ Document ERG(07)85, available at http://erg.eu.int/doc/publications/erg_07_85_intl_roaming_rep.pdf

were already within the maximum limits established by the Regulation, roughly 0.30 Euros.

Concerning the retail prices for made calls, the comparison with the European average is also favourable to Portugal. While average prices practiced in Europe dropped from 0.96 Euros to 0.62 Euros from the second to the third quarter of 2007, average prices of calls set up in roaming by customers of the national mobile operators, in the same period, went from 0.62 Euros to 0.56 Euros.

Graph 31. Comparison of average retail prices (revenue per invoiced minute) of calls made in the EU (2007)



Source: ICP-ANACOM and IRG

2.8. Communications safety

ICP-ANACOM's activity in this matter – an issue which importance led to the creation of a specific unit within this Authority – in 2007, focused mainly on the location of calls to the national emergency number 112 (112L) and was mainly developed under the global coordination of the 112L number implementation project, based on a working group that was set up for that purpose. This group includes the electronic communications companies that provide (fixed and mobile) publicly available telephone services and which, through 112, provide access to emergency services, and to the entities responsible for these services.

The following tasks were developed within the mentioned working group:

- Development and finishing of the technical documents supporting 112L solutions, both for fixed telephone networks and services, and for mobile telephone networks and services;

- Testing and implementation plans for each solution.

The works previously mentioned led to the successful conclusion of the 112L's implementation project, as detailed below:

- Calls to 112 started to be located using a central database, as from 1 June 2007;
- Calls to 112 placed from mobile networks started to be located according to the timetable proposed by the Ministry of Internal Affairs for the different 112 Attendance Centrals:
 - In the Mainland, between 28 May and 14 June 2007;
 - In the Autonomous Regions of the Azores and Madeira, on 30 July 2007.

It should also be stressed that, besides providing all the relevant information to the Government, ICP-ANACOM also informed the EC, in a detailed and thorough way, on the entire 112L's implementation process, thus helping to discharge the ongoing process against the Portuguese State for not implementing the Community rules concerning this matter.

ICP-ANACOM also participated in the working group of the European Telecommunications Standards Institute (ETSI) – OCG ECN&S (Electronic Communications Networks & Services Directives) – which was given the powers, by the EC, to update the list of standards mentioned in articles 17 and 18 of the Framework-Directive (transposed by article 29 of the ECL) and, during 2007, cooperated in the making of a special report³¹ that is an intermediate analysis work which may have results on the next standard's listing update.

2.9. Cooperation with other entities

According to the competition's juridical regime (Law no. 18/2003 of 11 June), whenever a company concentration operation takes place with impact on a market subject to sector regulation, AdC, before making its decision, asks for the opinion of the corresponding regulatory authority.

³¹ ETSI SR 002 586 – “Electronic communications networks and services; Consequence on the NGN standardization activity from the EU ECN&S regulatory view point”.

Within this framework, during 2007, ICP-ANACOM gave opinions on: (1) the previous notification of a concentration operation according to which Sonaecom, S.G.P.S., S.A. (Sonaecom), through its holding Novis, gained exclusive control over a set of assets that correspond to the residential segment of the fixed network communications retail business (voice and Internet) of OniTelecom – Infocomunicações, S.A. (OniTelecom); (2) the previous notification of a concentration operation according to which Sonaecom gained exclusive control over the entire share capital of Telemilénio, Lda. (Telemilénio); and (3) the previous notification of a concentration operation according to which CATVP gained exclusive control over Bragatel, Pluricanal Leiria and Pluricanal Santarém.

3. POSTAL SERVICES

3.1. Universal service

It is ICP-ANACOM's duty, as the postal regulatory entity, to supervise the quality and the price of the postal services included in the universal postal service (US) – according to paragraph c) of no. 2 of article 18 of the Basic Law for Postal Services³². In 2007, several activities were carried out in connection with these matters.

3.1.1. Universal postal service's prices

The rules for setting prices of the services that make up the US services provided by CTT are defined by an agreement signed between ICP-ANACOM and CTT (no. 3 of Clause 24 of the Concession and no. 2 of article 14 of the Basic Law).

The Universal Postal Service Price Convention (Price Convention) signed on 21 April 2006 between CTT and ICP-ANACOM was in force until 31 December 2007. In the meanwhile, it was terminated by CTT in October 2007, in order to negotiate another convention replacing it, namely in terms of the maximum price variation of the services provided allowed for each year.

The following stands out within the Price Convention:

- a) US prices must obey the principles of cost orientation (made progressively, in order to make it possible to rebalance the tariffs and to guarantee price accessibility), transparency, non-discrimination and uniformity in its application (article 2);
- b) The weighted average variation of the reserved postal services cannot outdo, in real terms, CPI-0.3%. For this purpose, CPI is the inflation expected for each year that is officially forecasted by the Government and thus included in the State Budget each year (paragraph k) of article 3). Since the value stated in the 2007 State Budget was 2.1 per cent, the average price variation of the reserved postal services allowed in 2006 was 1.8 per cent.
- c) The prices of the non-reserved services that make part of the US enter into force on the foreseen date. ICP-ANACOM may, at any time, decide changes to each of those

³² Law no. 102/99 of 26 July, as amended by the mentioned Decree-Law no. 112/2003 of 12 June.

prices, duly supported in terms of the fulfilment of the tariff principles and considering the quality levels observed (no. 5 of article 5).

Also in 2006, by determination of 14 December, ICP-ANACOM decided not to oppose the entry into force of the US prices proposed by CTT to be in force after 1 January 2007. The weighted average variation of the prices of the reserved postal services proposed was 1.8 per cent, as mentioned before.

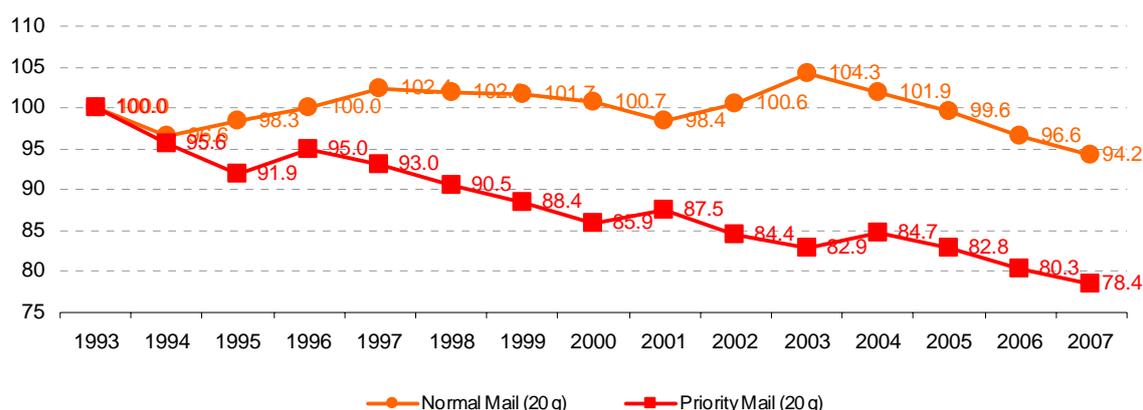
ICP-ANACOM also decided, on 8 March 2007, not to oppose the entry into force of the proposal of a tariff scheme and discounts regarding the newspaper, periodical and book service, presented by CTT in the scope of the Price Convention.

The negotiation process for a new Price Convention was started in 2007, following the mentioned termination by CTT of the convention signed on 21 April 2006 and together with the presentation by that operator of a proposal for a new convention to be in force in 2008.

Between 1993 and 2007, the price of the basic tariff (tariff of a 20 grams letter, national) for normal mail decreased, in real terms, 5.8 per cent³³ (Graph 32).

The price of the national priority mail's basic tariff decreased 21.6 per cent in real terms, between 1993 and 2007 (Graph 32).

Graph 32. Evolution in real terms of the basic tariff (1993 = 100): normal and priority mail, national



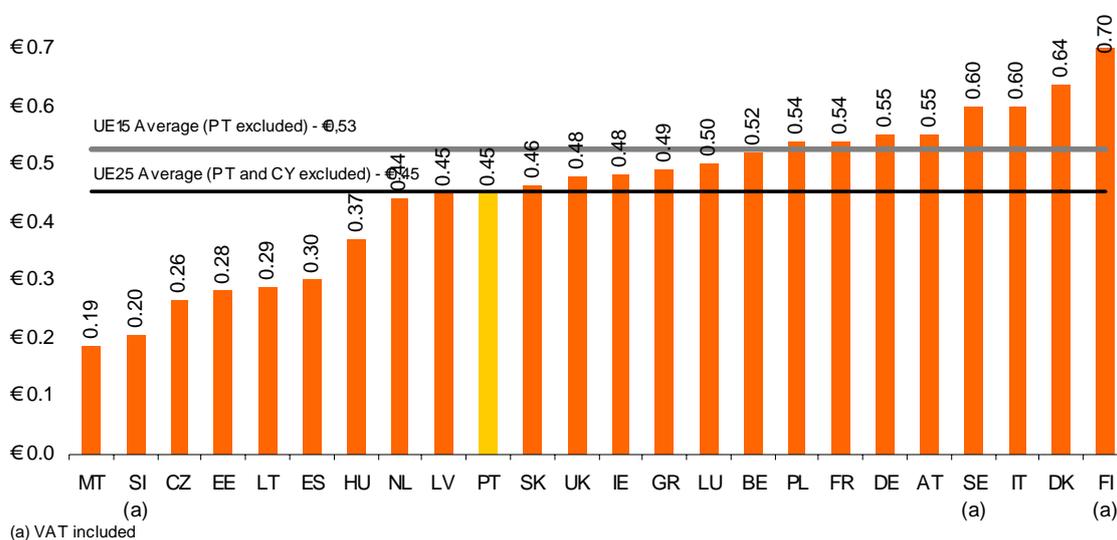
Source: ICP-ANACOM

³³ Year in which the first Price Convention, signed between ICP-ANACOM, CTT and the former Direcção-Geral do Comércio e da Concorrência (Directorate-General for Commerce and Competition), entered into force.

These figures stand favourably besides the European Union's average in 2007³⁴ (Graph 33 and Graph 34):

- a) The price of a 20 grams national priority mail sending ("blue mail" in Portugal) is 15.1 per cent below the UE15³⁵ average and equal to the UE25^{Error! Bookmark not defined.,36} average;
- b) The price of a 20 grams national non-priority mail sending ("normal mail" in Portugal) is 28.6 per cent below de average of the UE25^{Error! Bookmark not defined.} countries that provide an equivalent service.

Graph 33. Basic tariff of the domestic priority mail



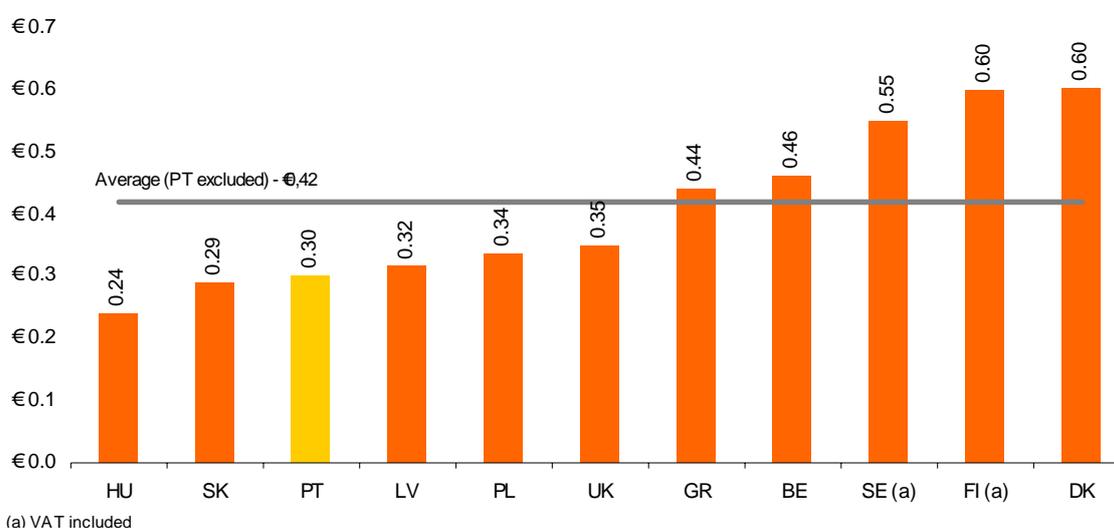
Source: ICP-ANACOM

³⁴ According to the collection of prices made by ICP-ANACOM, directly from the websites of the universal postal services providers, 13 February 2007.

³⁵ Average excluding Portugal.

³⁶ Does not include Cyprus (no information available).

Graph 34. Basic tariff domestic non-priority mail



Source: ICP-ANACOM

3.1.2. Universal postal service's quality of service

Through a convention to be signed between ICP-ANACOM and CTT, on a negotiation process that takes place at the same time as the negotiation of the US price scheme, the parameters and minimum quality levels that CTT is committed to fulfil on the US are established and published (Clause 12 of the Concession and no. 5 of article 8 of the Basic Law).

Also in force until 31 December 2006 was the Universal Postal Service Quality Convention (Quality Convention), signed on the same date that the Price Convention was signed (21 April 2006), and which was also terminated by CTT on 31 October 2007.

The Quality Convention sets the several quality of service indicators (QSI) to be considered, establishing a minimum level and a target level for the quality of service, as shown on Table 12.

Table 12. QSI defined by the Quality Convention for 2006 and 2007

Quality of service indicators	2006 and 2007 Convention		
	RI (%)	Min.	Target
IQS1 – Transit time for non-priority mail (D+3)	45.0	95.5%	96.3%
IQS2 – Transit time for priority mail - Mainland (D+1)	15.0	93.5%	94.5%
IQS3 – Transit time for priority mail - CAM (D+2)	4.0	84.0%	87.0%
IQS4 – Non-priority mail not delivered within 15 working days (per each thousand letters)	5.0	2.3‰	1.4‰
IQS5 – Priority mail not delivered within 10 working days (per each thousand letters)	3.0	2.5‰	1.5‰
IQS6 – Transit time for newspapers and periodicals (D+3)	11.0	95.5%	96.3%
IQS7 – Transit time for intra-Community cross border mail (D+3)	3.5	85.0%	88.0%

Quality of service indicators	2006 and 2007 Convention		
	RI (%)	Min.	Target
IQS8 – Transit time for intra-Community cross border mail (D+5)	3.5	95.0%	97.0%
IQS9 – Transit time for non-priority parcels (D+3)	5.0	90.5%	92.0%
IQS10 – Waiting time at post establishments (% of occurrences < 10min)	5.0	75.0%	85.0%

Source: Universal Postal Service Quality Convention of 21 April 2006

The Quality Convention also sets a global quality of service indicator (OQSI)³⁷, which is reckoned according to the quality of service levels reached by CTT for the aforementioned QSI.

Under the terms of the Quality Convention, ICP-ANACOM monitors the QSI of the universal postal service provider (CTT) every quarter, assessing the compliance regarding what was set, by the end of each year.

Should CTT not fulfil the quality of service levels it is obliged to assure, the Quality Convention foresees that consumers should be compensated through a deduction of up to 1 per cent on the prices of the services which provision is reserved to CTT, that deduction being applied on the prices for the year following the year of the non-fulfilment.

Regarding the monitoring of the QSI achieved by CTT in 2006, where the values of some indicators did not reach the minimum and/or target values applying to that year, which according to CTT was due, namely, to strikes by its employees, the OQSI reached a value of 49. In this context, ICP-ANACOM decided, as per determination of 18 July 2007, to apply to CTT the deduction, foreseen in the Quality Convention, of 1 per cent to the weighted average variation of the prices of the reserved services allowed for 2007. For that purpose, it requested CTT to send a proposal for carrying out that measure, which implementation should take place until the end of that year.

Thus, as per determination of 5 September, ICP-ANACOM decided not to oppose the implementation of the deduction proposed by CTT to compensate users in general for the

³⁷ The OQSI is reckoned in the following way: Firstly, each QSI defined in the Quality Agreement is given a classification in accordance with the following methodology: i) given the value set for each QSI, the target value is given the value 100 ii) non-fulfilment of the minimum value = 0; iii) proportional value from 0 to 100 for values in the interval between the target and the minimum; iv) for values above the target, the classification will also be above 100, in proportion to the positive variation regarding the target. Secondly, sum of the classifications given to each QSI, weighted by their corresponding relative importance. Thirdly, should the OQSI be: i) 100 or above 100, there is no application of the subtraction associated to the OQSI; ii) below 90, one fully applies the maximum deduction foreseen, of 1 per cent; iii) between 90 and 100, one applies the subtraction proportionally, The subtraction corresponds to deducting up to 1 per cent to the price variation of the reserved services allowed for the year following the year of the non-fulfilment.

quality of service deterioration registered in 2006, notwithstanding the implementation of a control mechanism in order to, if needed, timely correct until the end of 2007 the possible non-fulfilment of its values.

Measures proposed by CTT and accepted by ICP-ANACOM included benefits for users in the amount of roughly 3 million Euros, a figure slightly higher than 1 per cent of the net profits foreseen for the reserved service in 2007.

According to the forecast, based on intermediate report sent by CTT in November, that the activities originally planned by that operator would lead to an under-implementation of the foreseen values, ICP-ANACOM, on a determination of 13 December 2007, did not oppose complementary activities to be carried out by CTT until the end of 2007, in order to fully achieve the initial goals, notwithstanding the assessment of their fulfilment at the beginning of 2008.

Already in 2008, after receiving CTT's report with the results of the activities implemented in 2007 to compensate users for the deterioration of the quality of service in 2006, the conclusion was that the level of the overall implementation of the mentioned activities, concerning benefits for users, accomplished the targets that were established³⁸.

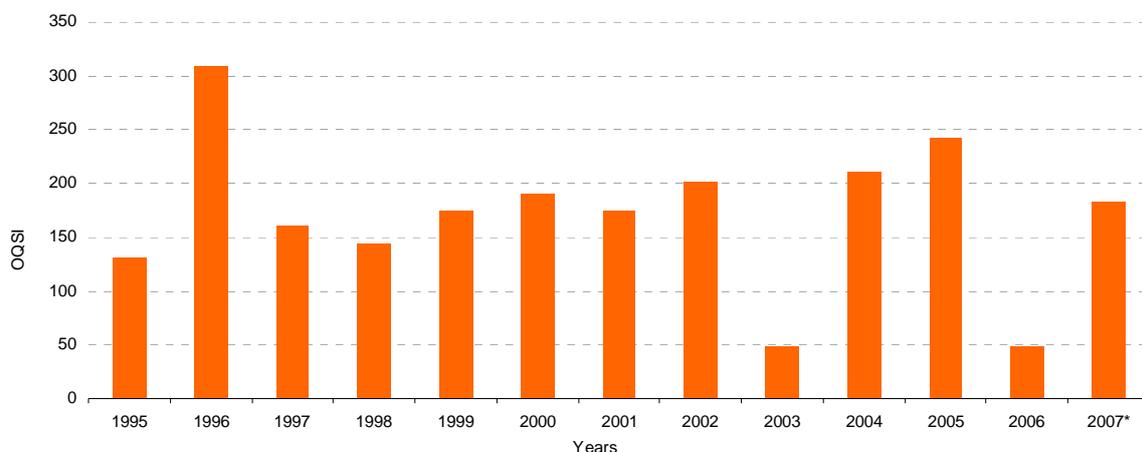
Regarding 2007 and further to the monitoring of the QSI, there was a general improvement in the quality of service levels provided by CTT, the OQSI registering a value above 100.

Graph 35 shows that the OQSI has a positive evolution from 1997 to 2005, although interrupted in 2003 and 2006, when it registered a value below 100 points.

³⁸ See

http://www.anacom.pt/streaming/report.pdf?contentId=583718&field=ATTACHED_FILE

Graph 35. Overall quality of service indicator



Note: Since the OQSI figure results from QSI individual values, the comparison of OQSI's evolution should be done carefully, taking into account the changes on the QSI established for each year and their corresponding reckoning methodology.

*Provisional value.

Source: ICP-ANACOM

No. 7 of article 8 of the Basic Law also establishes that “the regulatory entity will assure, independently from the USP, the control of the quality of service levels effectively offered, the results being object of a report to be published at least once a year”.

In this context, a determination of 7 November 2007 approved the publication of the report on the quality monitoring system of the US provided by CTT, regarding 2004, following the audit performed to the QSI and to that company's complaints system, which concluded that: (i) the QSI values reported by CTT to ICP-ANACOM were in compliance, albeit the identification of limitations at the sample level and of items to be improved in the monitoring system; (ii) that the complaints system did not present an adequate level of reliability and precision regarding the analyzed sample since, namely, it did not enable the validation of data on the total amount of complaints that year, and on the average response time, therefore lacking the conditions to assess its compliance.

Following the mentioned audit, ICP-ANACOM carried out determinations and recommendations in order to improve CTT's quality of service system and complaints system.

An audit to CTT's QSI monitoring system and complaints system was carried out in 2007, regarding 2006 and 2007, which will be concluded in 2008.

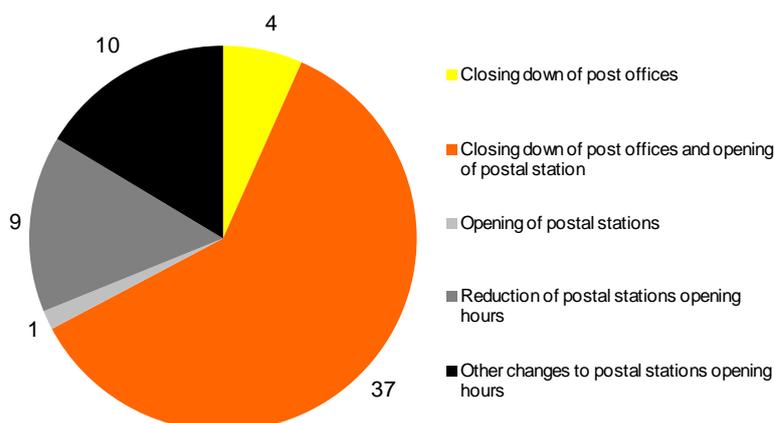
3.1.3. Postal stations network

According to no. 3 of clause 20 of the Concession, it is the concessionary's duty to create and close down postal stations, and to change the opening hours of postal stations, considering the needs of the service and its demand.

CTT is only obliged to inform ICP-ANACOM of the determinations that it adopts on that matter, and to support its decision in the cases of closing down postal stations or changing their opening hours, namely based on the service need, demand levels and level of satisfaction of the population's and economic activities' need for communication.

In this scope, 62 communications were received from CTT in 2007, as shown in Graph 36:

Graph 36. Communications from CTT in the scope of Basis XX, no. 4 of the Concession

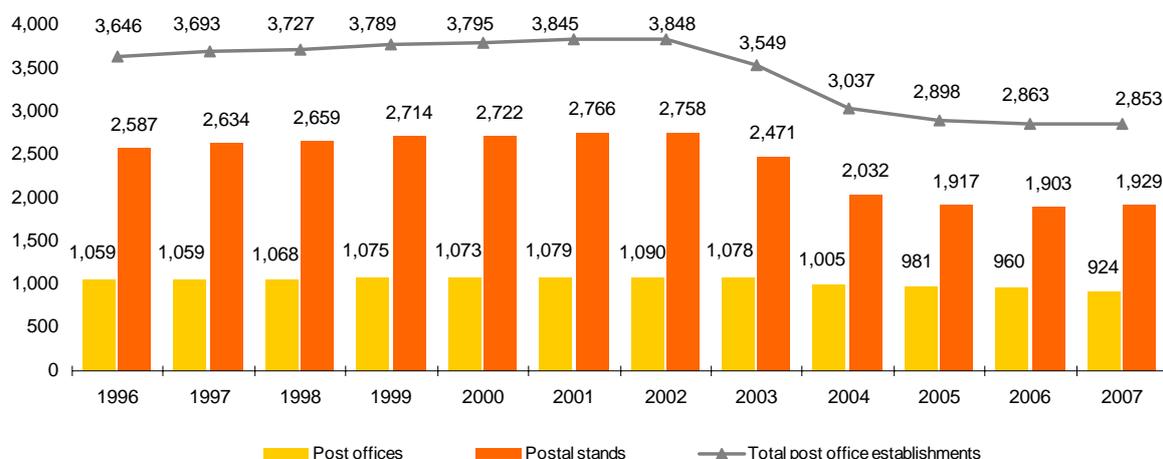


Source: CTT

Albeit the trend registered towards the decrease in the amount of postal stations since 2002, the last three years³⁹ also registered a trend towards stabilization (see Graph 37).

³⁹ According to CTT, post office stands are stations which operation is of the responsibility of third parties, following a contract. All of them provide postal services that make part of the US.

Graph 37. Evolution in the amount of postal stations



Source: CTT

3.1.4. Conventions

Further to CTT's termination of the universal postal service's price and quality Conventions on 8 October 2007, and its simultaneous proposal of the conventions to be in force from 2008 on, ICP-ANACOM analyzed that company's texts and proposals, and implemented preparatory studies in order to negotiate them with CTT, which took place already in 2008 and ended with the celebration of the conventions on 10 July 2008.

3.2. Postal services liberalization

After long negotiations lasting throughout most of 2007, on 8 November 2007, under the Portuguese Presidency, a common position of the Council was adopted changing Directive 97/67/EC regarding the full accomplishment of the Community's postal services internal market.

The EC considered that the text of the common position totally reflected the fundamental elements of its initial proposal, presented on 19 October 2006, also respecting the modification made by the EP on a first reading. Standing out, particularly, among these changes, is the final date for the sector's full liberalization (until 31 December 2010), some Member States being able to postpone the market's full liberalization for another two years, at the most, and including a reciprocity clause applying to Member States that make use of that transition period. Together with the sector's full liberalization, the

directive safeguards the provision of the universal service to all users regardless of where they are located in the EU⁴⁰.

To better support ICP-ANACOM's intervention in the framework of its duties and taking into account the coming liberalization of the sector, ICP-ANACOM promoted a study on the development of competition in the Portuguese postal market, conducted in 2006 by an independent consultant, to characterize the market and its forecasted evolution, and to identify possible effects on the sector resulting from potential liberalization scenarios.

ICP-ANACOM promoted (at a seminar that took place on 26 September 2007) the public presentation of this report, which main conclusions indicated that the Portuguese postal market seems to be ready for full liberalization, the general effect of this liberalization being presented as globally favourable and with low probability of creating disruptive effects, notwithstanding the need to clearly define the future postal activity's regulatory framework, namely regarding the US's definition and financing scheme, the corresponding provider's statute, the public postal network's access regime, and the alternative operators' obligations.

Considering the abovementioned liberalization scenario, clearly established by the EU, and the need to carry out a deeper analysis of the Portuguese market aiming at the future regulation of postal services, ICP-ANACOM decided to launch in 2007 a study on the consumption of postal services by the business market in Portugal, carried out by a consultancy firm hired for that purpose.

This study is justified by the importance of the business segment in the postal sector, which, according to a study carried out for the EU⁴¹, is responsible for about 89 per cent of the overall traffic originated in Portugal. Public entities, financial companies and electronic communications companies stand among the largest senders of Direct Mail. The courier, priority and parcels services are led by the pharmaceutical industry, mobile components, editors, and textile and footwear industries.

The study intended: (1) to characterize business consumers regarding the demand of postal services; (2) to characterize the *business to business* and *business to consumer* postal markets; (3) to evaluate the perceived quality and the satisfaction levels of business

⁴⁰ The new Postal Directive (Directive 2008/6/EC) of the European Parliament and the Council was published on 20 February 2008.

⁴¹ "Development of Competition in the European Postal Sector", Ecorys (2005)

consumers; (4) to analyze the different issues related with market competition, namely liberalized area's market shares, to evaluate the perception of competition by business customers and to asses their behaviour regarding sector regulatory developments.

4. SUPERVISION, MONITORING AND PENALTIES

4.1. Cost audit

4.1.1. PTC's regulatory costing (RC)

Since 2000, PTC has been declared as an entity with SMP, being obliged, namely, to implement price control, accounting separation and cost accounting.

In this context, PTC has an analytical accounting system for regulatory purposes that gathers information on costs, namely direct, joint and common costs, costs per product or service, and how they are allocated, complying with ICP-ANACOM's principles, determinations and recommendations.

ICP-ANACOM, or another independent entity that it indicates, have the powers, *inter alia*, to audit the mentioned RC and to verify their compliance with the legal rules, as well as with the national and international standards and best practices, in order to assure the credibility of results. It will also issue and publish the corresponding compliance statement.

Following the audit to PTC's 2002 and 2003 RC results, carried out by an independent auditor selected by this Authority, ICP-ANACOM, as per determination of 31 May 2007, published a system compliance statement, highlighting that auditors had concluded for its compliance, except regarding: (i) the low level of integration of the software applications supporting the costing model; (ii) the methodology used for separating business areas, and (iii) the methodology used for separating assets from liabilities. This understanding was conveyed to PTC, as well as a set of determinations for mandatory changes to the RC, in order to improve it.

Regarding 2004 and 2005 results, ICP-ANACOM, as per determination of 28 February 2007, decided to award the corresponding audit together with the development of a deep, systematic and overall analysis to PTC's RC.

4.1.2. CTT's analytical accounting system (AAS)

Under the terms of article 19 of the Basic Law and clause 13 of the Concession, CTT are obliged to keep an AAS that makes it possible to determine the direct and indirect revenues and costs linked to each service.

This system aims to assure the fulfilment of the price cost orientation principle, according to no. 3 of article 2 of the Price Convention.

ICP-ANACOM shall audit the mentioned system, verify its compliance with the obligations resulting from the relevant law, as well as the national and international standards and best practices, and with the principles, determinations and recommendations defined and issued by this Authority, in order to assure the credibility of results. ICP-ANACOM shall also publish every year a system compliance statement.

In this context, on a determination of 10 October 2007, ICP-ANACOM decided to award the audit and consultancy for the examination of CTT's 2005 and 2006 AAS results.

4.2. Information collection and disclosure

During 2007, quarterly statistical information was collected, handled, validated and analysed regarding the cable TV distribution service (DTH included), the Internet access service, the data transmission service, the nomadic VoIP service and FWA. Data was also collected, handled and validated for the purpose of designating relevant markets and to assess SMP situations concerning fixed retail and interconnection services, the leased lines service, and the broadband Internet access service.

Standing out is the fact that statistics regarding bundled offers were collected for the first time, in a consolidated way, in 2007.

The information collected at the operators was complemented with information obtained through consumer surveys and directly from the operators' websites. Surveys were carried out on the use of electronic communications services and the perception of quality by users. Broadband tariff schemes were also collected in order to perform international price comparisons, later published.

Regarding the validation of the information sent by operators, an audit was carried out to the MTS's 2002-2004 statistical data.

It should be mentioned that, during the year under review, there was a reformulation of the (fixed) Internet access service indicators – approved by a determination of 19 December 2007 – and of the paid TV service – submitted to public consultation on 24 October 2007 – taking into account the technological evolution occurred in the meanwhile, namely television broadcasting using the copper network that supports the public switched

telephone network (PSTN) and FWA systems, and the need to reply to information requests from external entities, namely the EC.

Besides being used internally for the purpose of monitoring electronic communications services and markets, and the fulfilment of ICP-ANACOM's remaining legal and statutory obligations, this information is provided to the public through ICP-ANACOM's Internet website, on quarterly reports, and as an annex to the State of Communications Report.

In the context of the provision and disclosure of statistical information, ICP-ANACOM decided, after hearing the interested parties, to start disclosing the market shares of subscribers, customers, accesses and traffic for the FTS and the Internet access service, in order to foster transparency, to assure that everyone may access the information they need to make their best choices and decisions, and to foster knowledge about the industry, thus contributing to the development of markets and competition.

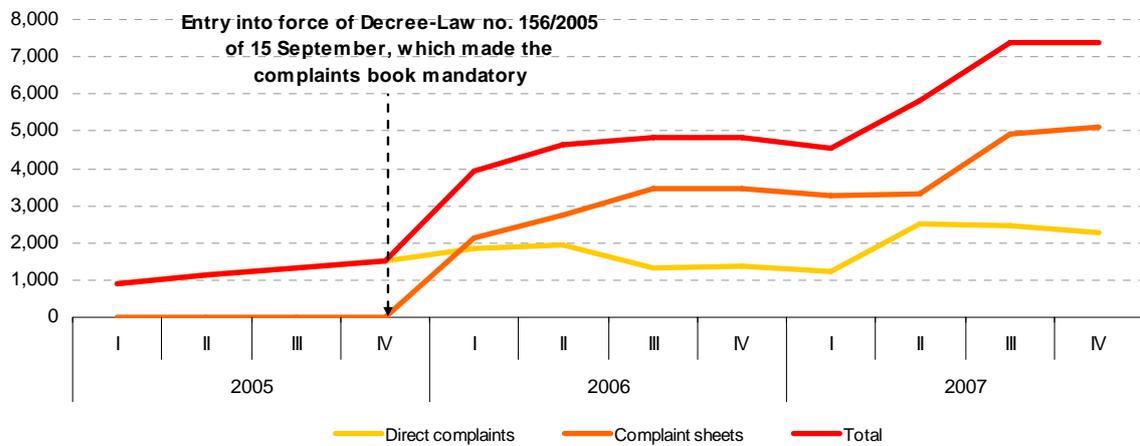
4.3. Handling of requests and user support

In March 2007, a Users Support Division was created within ICP-ANACOM's Communication and Image Directorate. This new functional unit assures the handling of all complaints, information requests, petitions and suggestions on the market received at ICP-ANACOM, thus promoting information and the clarification of electronic communications' and postal services' users, as well as of the general public.

The implementation, in January 2007, of a new software solution to manage the handling of requests, with functions that modernized, simplified and automated procedures, led to an increase in the efficiency and quality of ICP-ANACOM's services in connection with this matter, its management tools, and the mechanisms it uses to get the statistical data that it needs in order to efficiently perform its duties.

During 2007, ICP-ANACOM received 24,745 complaints, 575 information requests, 79 petitions, 16 suggestions and 59 communications of other sort, totalling 25,474 requests. Regarding complaints, the amount stands for an increase of around 43 per cent from 2006, and mainly results from the generalized use of the complaint books, which entered into force on 1 January 2006 (Decree-Law no. 156/2005 of 15 September).

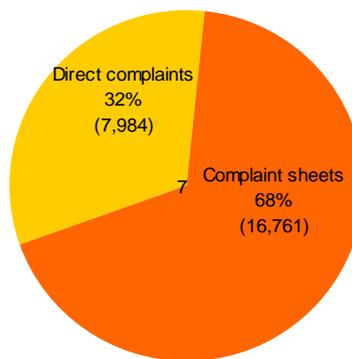
Graph 38. Evolution in the quarterly amount of complaints, per reception medium



Source: ICP-ANACOM

It should be noted that in 2007 the complaint books' sheets received under the terms of the mentioned legal diploma stood for 68 per cent of the total amount of complaints received at this Authority.

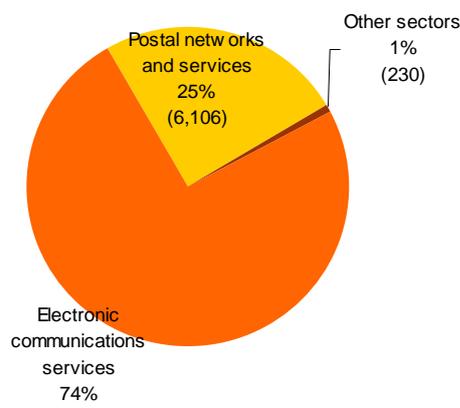
Graph 39. Complains per reception medium



Source: ICP-ANACOM

Concerning the sectors being subject to complaints, as in previous years, most complaints focused on the electronic communications sector – both regarding complaints directly sent to ICP-ANACOM (7,646 complaints from a total of 7,984), and the complaint book sheets (10,760 from 16,761). In the postal sector, about 97 per cent of complaints corresponded to complaint book sheets.

Graph 40. Complaints by sector



Source: ICP-ANACOM

Regarding electronic communications, the VoIP service motivated the highest amount of complaints per each 1,000 customers – albeit its small representation on overall complaints in this service – immediately followed by the Internet access service, FTS and the cable TV distribution service. However, almost half of the complaints received within the scope of the FTS were caused by an exceptional situation of delay in the deactivation of pre-selection, which happened particularly during the second semester of 2007 and which received intervention by ICP-ANACOM (see Table 13).

Table 13. Services with most complaints (electronic communications)

	Service	Total	Customers	Complaints per 1000 customers
1.º	Voice over Internet Protocol service (VOIP)	217	41,437	5.24
2.º	Internet Access Service	5,017	1,591,216	3.15
3.º	Fixed Telephone Service	6,105	3,227,721	1.89
4.º	Cable Television Service	1,650	1,460,980	1.13
5.º	Public Payphone Service	46	43,351	1.06
6.º	Virtual Calling Cards Service	25	38,518	0.65
7.º	Mobile Telephone Service	4,457	12,797,499	0.35

Regarding complaints within the electronic communications sector, complaint book sheets focused on issues related to equipment, attendance / technical assistance to the customer and invoicing, which are typically associated to the users' presence at the establishments of the corresponding service providers. Otherwise, in the context of the complaints directly sent to this Authority, the leading issue was pre-selection, due to the mentioned situation regarding the delay in the deactivation of this feature. Also in the scope of the complaints directly sent to this Authority, the high amount of complaints concerning invoicing

(particularly regarding mistakes on the invoices), contracts (especially concerning contract changes) and technical assistance stand out.

Table 14. Total complaints per issue (electronic communications)

Issue	Total
Equipment	3,685
Technical assistance	3,419
Customer Attendance	3,288
Invoicing	2,954
Selection and pre-selection	2,803
Contract	1,714
Provision of initial connection or Installation	1,444
Termination of service	1,328
Malfunctions	1,279
Tariff schemes	1,054
Service suspension	909
Speed	582
Portability	475
Lack of Service	440
Local loop unbundling	242
Complaints Book	167
Infrastructure	149
Interferences	107
Geographic portability	91
Numbering	91
Roaming	91
Privacy and Personal Data Protection	82
Telephone Directories e Information Services	55
Municipal Right-of-Way Fee	17
Information and Statistics	2

In this context, it may be concluded that consumption issues stood for about half of the overall amount of complaints sent to ICP-ANACOM, even if this Authority lacks the sectoral powers to intervene on these matters.

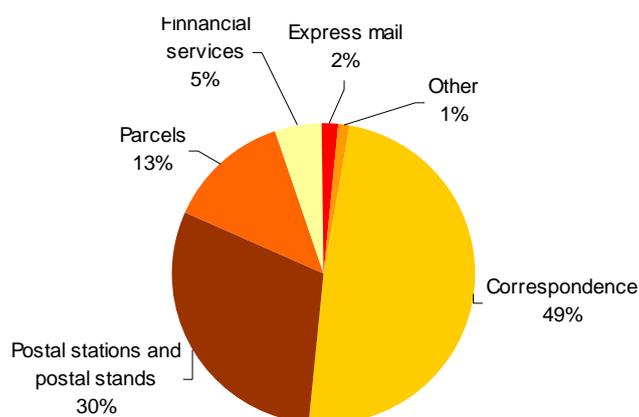
In general, and regarding the complaints that were sent by electronic communications services' users, this Authority took the following stand:

- It properly informed the interested party, specially concerning its powers and the reaction means it holds;
- It identified the situations where it was necessary to intervene at the regulatory or supervisory levels; and

- It assured the production and dissemination of statistical indicators.

Regarding the postal sector, the largest number of complaints focused on the correspondence service. While on complaints directly sent to ICP-ANACOM, most complaints related to delivery delays, correspondence gone astray or wrongful mail return, for the complaint book sheets the vast majority of complaints was connected to customer attendance services.

Graph 41. Postal sector complaints, per service



Source: ICP-ANACOM

Thus, and although a great part of the requests concerning postal services, due to their content, did not fall under this Authority's scope of intervention, their analysis enabled, in one hand, a growing collection of information that is useful to sectoral regulation, and, on the other hand, to detect the non-fulfilment of the obligations established on sector rules (legislation and regulatory measures).

In the scope of handling complaints, regular contacts were also established with the Consumer's Directorate-General, in order to coordinate and maximize the work developed by each entity on their corresponding sectoral fields.

Also in this context, it should be noted ICP-ANACOM's exclusive sponsorship of the implementation, by Universidade Nova de Lisboa's Instituto Superior de Estatística e Gestão de Informação, in cooperation with Associação Portuguesa para a Qualidade (Portuguese Association for Quality) and Instituto Português da Qualidade (Portuguese Quality Institute), of the study ECSI⁴² Portugal 2007 for communications, which results

⁴² European Customer Satisfaction Index.

were published already in 2008⁴³. Concerning the Communications sector, this year's study includes, besides an overall assessment and aggregated sector results, the fixed telephone service, the Internet access service (namely including mobile broadband access), the paid television distribution service, the mobile telephone service and the postal service.

Regarding the information requests, most of them focused on the electronic communications sector, more specifically concerning contracts, tariff schemes and portability.

4.4. Supervision and monitoring

As in 2006, and in view of the strategy outlined by ICP-ANACOM's Board of Directors, several actions were carried out aiming to foster open and competitive markets, namely focusing on the analysis of delays on pre-selection deactivations, on monitoring the fulfilment of determinations forbidding customer win-back activities by PT Group companies, on the analysis of several constraints on PTC's exchanges, identified by parties interested in the co-location of equipment in the scope of the RUO, on the operation of voice-mail in MTS operators, and concerning new telephone services at a fixed location provided in the national market.

On the other hand, in order to assure the provision of high quality information to consumers and operators, surveys were carried out to the quality of service of mobile telephone networks and to the Internet access service, the corresponding results being disclosed in 2008.

4.5. Penalties

Regarding the function of setting penalties, it should be mentioned that 243 administrative offense procedures were set in 2007, resulting from violations to the ECL and other legal diplomas, which represent a major increase regarding the previous year.

The types of violations that determined the setting of administrative offence procedures and the amount of procedures were, essentially, the following:

- Administrative offence procedures for violations to the ECL – 110, with highlight to 78 procedures for the non-fulfilment of the obligation to provide information to the NRA, 6

⁴³ Available at <http://www.anacom.pt/render.jsp?contentId=606658&languageId=1>.

procedures for the non-fulfilment of obligations set in selection and pre-selection Regulation, and 5 procedures for the use of subscription contracts without the NRA's previous approval;

- Administrative offence procedures for violation of other legal diplomas – 133, with highlight to 39 procedures connected to postal services for the non-fulfilment of the obligation to provide ICP-ANACOM with the information needed to verify and monitor the obligations and conditions inherent to the licenses or authorizations, 25 procedures connected to the use of radiocommunication stations for the non-fulfilment of the technical parameters set by ICP-ANACOM on the radio broadcasting and the private mobile telephone services, 24 procedures for the use of radiocommunications networks without the private mobile telephone service licence, and 9 procedures for the issuance of ITED Compliance Certificate for non-compliant installation.

5. INTERNATIONAL PARTICIPATION

5.1. European Union

In 2007, ICP-ANACOM worked closely with the relevant Ministry in the organization of the Portuguese Presidency, leading the national representations in the postal and telecommunications group, and assuring assistance to the Government in the negotiations at the Council and at European Parliament. All the goals of the Presidency were achieved or exceeded, namely:

- Postal services: Adoption of a common position on a Draft Directive of the European Parliament and the Council that changes Directive 97/67/EC regarding the full accomplishment of the Community's postal services internal market, already agreed with the European Parliament. This directive's main proposal is the opening of the postal market to competition by the end of 2010, simultaneously guaranteeing the provision of the universal postal service to all users, regardless of their location within the EU.
- Mobile satellite services (MSS): Presentation of a follow-up report with a general agreement on its text. The proposal intends to create, at European level, a common procedure for the selection of mobile satellite service operators, as well as to set the terms for a coordinated authorization, by Member states, of the MSS operators selected to operate in the 2 GHz band.
- Mobile TV: Adoption of the Conclusions of the Council in order to support a coordinated approach in the introduction of Mobile TV in Europe.
- GSM Directive: Adoption of a general approach on the directive, which aims to allow the use of frequencies used by that technology for other mobile services.
- World Radiocommunication Conference 2007 (WRC-07): Approval of the Conclusions of the Council for coordinating the Community position at the International Telecommunication Union's (ITU) WRC-07.
- Review of the regulatory framework: beginning of the proposal's analysis, on a technical level, and presentation of the impact report. The EC presented its legislative proposal for the review of the regulatory framework for electronic communications at the Council of Ministers of Transport, Telecommunications and Energy, on 29 November 2007.

Within its powers, ICP-ANACOM participated actively in the committee activities foreseen in the community framework, specially in the following bodies, more focused on the regulation of markets and of radio spectrum: Communications Committee (COCOM); Radio Spectrum Committee (RSC) and Radio Spectrum Policy Group (RSPG); Postal Directive Committee.

During the first quarter, still under the German Presidency, ICP-ANACOM assisted the Government on issues that were under analysis at the Council (in the scope of the Telecommunications Group), the international roaming Regulation standing out.

5.1.1. Communications Committee

COCOM was created by the Framework-Directive. ICP-ANACOM was present at all six COCOM meetings held in 2007, assuring the national representation and actively participating in all the debates that occurred. Four subgroups operate within COCOM – the Expert Group on Emergency Access (EGA), the working group on authorizations, the Inclusive Communication (INCOM) group, the group on standardization, and the group on Digital TV (CBISS - Communications Broadcast Issues) – which study and prepare documents that are presented to the COCOM.

During this period, a Decision was adopted that changes Decision 2007/116/EC in order to introduce new reserved numbers starting with “116” for harmonized social value services, and a Decision was adopted changing Decision 2003/548/EC concerning the elimination of specific types of leased lines from the minimum set of leased lines.

Other issues were also discussed, such as the European emergency number “112”, the Recommendation of the EC on rights of frequency use in the context of the wireless access policy for electronic communications (WAPECS), the notifications process in compliance with article 7 of the Framework-Directive, the list of reviewed standards, the European Telephony Numbering Space (ETNS), the harmonized usage conditions regarding the use of spectrum for mobile communications on board aircrafts, and the assessment of broadband’s situation in the EU.

5.1.2. Radio Spectrum Committee

RSC, created by the Decision no. 676/2002/EC, continued its activity in 2007 with the development of several draft decisions, namely the EC draft Decision on the harmonization of technical conditions required by mobile communications systems on

board aircrafts (MCA), the draft review of the Decision that changes Decision 2006/771/EC on short range devices (SRD), and a draft review of the Decision of the EC concerning the 3.4-3.8 GHz band for BWA.

Also standing out from this Committee's activity in 2007 was the participation in the approval of the following EC draft decisions:

- Decision changing point 1 of article 4 of EC's Decision 2005/513/EC, on the harmonized use of spectrum in the 5 GHz frequency band for the implementation of wireless access systems, including wireless local access networks (WAS/RLAN);
- Decision on the harmonization of the radio spectrum for devices that use ultra-wideband (UWB) technology in the Community;
- Decision on the harmonized use of the radio spectrum in the 2 GHz frequency band for the implementation of systems that provide mobile satellite services (MSS);
- Decision on the harmonized disclosure of information concerning spectrum use;
- Decision of the EC on the harmonized use of the 900 MHz and 1800 MHz frequency bands for terrestrial systems that are able to provide pan-European electronic communications services in the Community in connection with the withdrawal of Directive 87/372/EEC, named "GSM Directive".

Also in 2007, a standardization mandate was adopted for the European Conference of Postal and Telecommunications Administrations (CEPT) on technical considerations aiming to harmonize the options for using the digital dividend (spectrum became free due to the implementation of DTT and to the switch-off of analogue television).

5.1.3. Radio Spectrum Policy Group

RSPG, created by Decision no. 2002/622/EC, adopted two Opinions in 2007, one on the implications for spectrum policy resulting from the digital dividend, and another on WRC-07.

This world conference organized by the ITU took place from 22 October to 16 November 2007, trying to find harmonized solutions to ease the future development of wireless communications all over world. Over 2800 delegates from 164 Member states and 104 Observers were present, ICP-ANACOM being included in the national representation. The

WRC-07 agenda included about 20 issues, concerning practically all terrestrial and satellite radiocommunication services and applications. The agreements reached during this Conference, currently transposed to WRC-07's draft final acts, enter into force on 1 January 2009.

This Committee is currently pursuing its activity, developing several Opinions, namely the European approach on the collective use of spectrum (CUS), the use of spectrum by some public sectors and its implications in the EU, operational modernization and the improvement of coordination in the context of the EU concerning spectrum management, and lastly, another Opinion to assist Member States in the coordination of frequencies with non-EU countries.

5.1.4. Postal Directive Committee

The postal Directive Committee, created by Directive 97/67/EC, met twice in 2007, with highlight on the analysis of postal standardization issues, including the approval of the new mandate for CEN (European Committee for Standardisation) regarding postal services and equipment, the collection of statistical data for the implementation of the 3rd Postal Directive, quality of service, and US financing through State aids.

5.1.5. European Regulators Group

ERG, created by Commission's Decision no. 2002/627/EC, fulfilled in general the foreseen work agenda. Highlight goes to its contribution for the development, by the EC, of proposals on the review of the regulatory framework, including the recommendation on relevant markets, and the works developed concerning regulatory harmonization in the scope of the implementation of the international roaming regulation.

Regarding the review of the regulatory framework, ERG closely cooperated with the EC in the development of proposals (for example, through extensive Opinions on functional separation and on relevant markets), and in building a new institutional model. ERG proposed its own development to be a guarantee of the consistent implementation of the regulatory framework, particularly regarding article 7, and developed common positions on the regulation of the local access wholesale market and the broadband access wholesale market.

ERG had a leadership role in the follow-up of the implementation of the roaming regulation, having published orientation guidelines regarding its interpretation, and a report on the data collection process resulting from its implementation.

Also published in 2007 was the Common Position on VoIP, the Opinion on the regulatory principles applied to new generation networks, the Principles for the implementation of best practices on WACC⁴⁴, a report on interconnection, and another on the regulatory accounting systems used by ERG members; There was an update to the report on competition in the broadband market, and also a follow-up of the cases of opening of phase II by the EC in the scope of article 7 of EU's Framework-Directive.

Also in December 2007, the draft common positions on the symmetry of mobile termination fees on the fixed and mobile services were approved for public consultation, after an intense work and a broad internal debate.

Also at the end of 2007, there was a public consultation on a report on best practices regarding regulatory regimes in the wholesale unbundled access and in the high throughput access, and the EC changed its Decision creating ERG in order to include Bulgaria and Romania on the list of relevant regulatory authorities.

Another highlight during last year was the organization of a seminar on the NGNs designated "NGN Regulation and Investment", and of a meeting with the Broadcasting Regulators Group (EPRA) in order to analyze convergence issues.

ICP-ANACOM also participated proactively in ERG's activities, being represented in almost all its working groups, recognizing the importance of these activities in the development of the regulatory framework and establishing the best regulation practices at the EU level.

5.2. Independent Regulators Group (IRG)

IRG (Independent Regulators Group) gathers the NRA of the electronic communications sector of the 27 EU Member States, of the European Economic Area (Switzerland, Iceland, Norway and Liechtenstein), and of the candidate countries to the EU (Turkey and Croatia), while Macedonia was admitted as an observer

⁴⁴ Weighted average cost of capital.

In 2007, ICP-ANACOM attended all IRG plenary meetings and their preparatory meetings, having made part of an operational middle group with representatives of each NRA, named Contact Network.

Following the discussion started in 2006 on the ways to strengthen IRG's role and the need to make it more efficient, the Chairman's permanent Secretariat was created, in compliance with a decision of the Plenary meeting of December 2006, and a Group was formally created at the Rome Plenary meeting, with its own budget and with registered headquarters in Brussels.

ICP-ANACOM actively contributed to the collection and dissemination of information among several NRAs. In 2007, it launched twelve questionnaires and replied to 83, from other NRAs.

During 2007, ICP-ANACOM focused its presence and participation on the following working groups (WG): Fixed Networks, Significant Market Power, Mobile Market, End Users, Regulatory Costing and IRGIS (IRG information system), having chaired two of these (End Users and IRGIS WG). It also participated on project teams: Obligations (Remedies), International Roaming, IP-IC/NGN (Next Generation Networks), VoIP, Fixed and Mobile Termination, and the Review of the Regulatory Framework.

It should be mentioned that ERG's work is developed in close cooperation with IRG, with projects being developed by this organization's working groups.

Thus, following the activities of the different working groups, aiming to assure the fulfilment of the work agenda set for 2007, the documents already mentioned on the ERG section were approved at the Plenary meeting and made available to the general public (other, due to their more reserved content, were not publicized).

The publication by IRG of the benchmark on mobile termination prices in Europe should also be noted.

6. FINAL CONSIDERATIONS

Regulation Report 2006 mentioned the atypical regulatory year it represented, both due to Sonaecom's initial public offer (IPO) on PT, and to the change of almost the entire Board of Administrators of ICP-ANACOM, which on top, fully coincided with the development of the IPO process.

The rejection of that offer on the first months of 2007, on one hand, reinstated the normality in the development of regulatory issues, but on the other hand, its secondary effects took no time to reach the electronic communications market in Portugal, namely by the end of 2007, when PT Multimédia's formal spin-off from Grupo PT took place, greatly as a consequence of the reaction to the IPO.

This event had a considerable impact on the regulatory challenges faced, adding to other challenges that the Administration had already identified as demanding, or continuing to demand, a swift answer, namely:

“The developments of the “2006 Review”, without forgetting the institutional evolution of EU's regulation, the liberalization of posts, the evolution of the US in the electronic communications and the posts, the market analysis and their possible re-definition under the “2006 Review” and the enlargement of “convergence”, weighting the re-evaluation of the criteria for the application of the regime of penalties so that it becomes an effective item in the discouragement of non-fulfilments and violations to the legislative and regulatory framework, the spreading of broadband, not forgetting the role of mobile telephony, the launch of digital terrestrial television and the development of mobile television and, lastly, but not less important, the review of the national frequency allocation plan, supported on a scenery of neutral technology and aiming at a more efficient spectrum use, also with the contribution of a new tariff proposal.”

Reading the current report fully confirms these forecasts, and ICP-ANACOM's regulatory activity tried to reach the answers to these challenges, some of which are obviously recurring, notwithstanding the fact that they offer new qualities, that fortunately demand differentiating answers, to which sometimes the more or less necessary formalism and methodologies that have characterized the regulatory approach have some inertia to adapt.

We allow ourselves to select three major points from the previously mentioned challenges, for the reflexes they will have on years to come, namely on the understanding that regulation can and should be dynamic and agile.

Firstly, the so-called “2006 Review”, which complexity is confirmed by the dragging on of the works connected to it, namely resulting from the existence of different views on the way to build the electronic communications internal market (which still (?) doesn't exit). The main difficulties for reaching an agreement between NRAs and the EC lay on these different views. ICP-ANACOM understands that it must be a gradual process and that the principle of subsidiarity must prevail, whenever it is justified, which doesn't hinder, but actually fosters growing cooperation among NRAs and with the EC.

In this scope, it must be taken into account that electronic communications are the sole industry where the EC has powers to define national regulation guidelines, through the veto it holds regarding market analysis and which it has tried to extend to remedies, due to the alleged need for regulatory coherence lacking in the internal market, situations that are rejected by most NRAs.

This is not the least reason for the immediate opposition regarding the proposal for the launch of an institution that, without being a real European regulatory agency, would enable the EC to gain powers that now belong to the NRAs, with its informal organization, IRG, understanding that it is still not the time (if ever) to become centralized.

The Portuguese presence was particularly relevant on this matter, not only through ICP-ANACOM, on numerous reunions with the EC and with the active presence on working groups, contact networks and on the ITG/ERG plenary meetings, but also through the influence and the significant results obtained during the Portuguese Presidency on the second quarter of 2007, with highlight to the approval of the Postal Directive.

It is undeniable that the decisions at the European level will growingly condition national regulatory decisions. ICP-ANACOM's presence and role intensified during 2007, as could not happen otherwise, and will not slow down in 2008.

One of the examples of EC's influence at the national level is the delay in the non-withdrawal of the conditions of the implementation of the GSM Directive (which, it should be recognized, had its high point in good time), which prevents the implementation of ICP-ANACOM's decision allowing the refarming of the 900 MHz band, and the consequent more competitive development of mobile broadband.

In fact, this example leads us to the second point that we wish to highlight and which is, undeniably, the spreading of broadband, largely due to the development of mobile broadband, with a growth rate in Portugal clearly above fixed broadband's, intensifying the convergence problem and the regulatory solutions that its possible implementation will carry.

ICP-ANACOM's 1st International Conference, on convergence, carried out in 2007 in the scope of the EU's Portuguese Presidency, gave strong contributions to the definition of the paths that structure it, raising new issues concerning the regulatory framework, the least of which will surely be the definition of markets (or a market only, admitting a full convergence?).

The third point we would like to highlight relates to the search for efficiency in the regulatory activity and its connection with the clear increase of dispute cases.

Convergence and, mainly, the implementation of New Generation and Access Networks, which can be the greatest expression of that convergence, have shown that the search for competition in the electronic communications markets depends not only of an appropriate regulation, but even more from the guarantee that the established rules are fulfilled in good faith by all market agents, which has not always happened.

For this reason, behaviours that create artificial barriers to access, which seems easy to prevent on regulations, cannot be allowed, and the celerity in removing these obstacles will be the success measure for regulation, and particularly for the creation of a competitive and efficient environment. All delaying processes will thus be a clearly harmful element for the full development of electronic communications markets.

The Regulation Report could not end without a new and more supported reference to the spin-off that took place at the end of the year, less for the effects it had on regulation during 2007, but rather for the challenges that can already be pictured but that will only be fully visible in 2008. The truth is that if the separation becomes unquestionable, as the first strategies of both separate companies seem to show – with a growing and stiff competition between PT Group and PT Multimédia (now ZON Multimédia), the first one offering IPTV and the second providing fixed telephone – there is still some structural changes to be considered in some of the relevant markets studied by ICP-ANACOM that will impose new revaluations, which become very complex due to the need to untangle so many assets that were commonly shared and created throughout so many years.

This untangle is particularly urgent and relevant considering its framework in the development of New Generation and Access Networks, the greatest regulatory challenge for 2008, which has to be taken, with openness, innovation and humbleness.

Annex I – List of acronyms and abbreviations

ADSL.....	Asymmetric digital subscriber line
NRA	National regulatory authority
ATM	Asynchronous transfer mode
BWA.....	Broadband wireless access
USNC.....	Universal service net cost
Price Agreement	Universal Postal Services Price Agreement
Quality Agreement	Universal Postal Services Quality Agreement
RC.....	Regulatory costing
DC.....	Direct current (at -48 Volt)
DSLAM.....	Digital subscriber line access multiplexer
DTH.....	Direct to home
DVB-H.....	Digital video broadcasting – handheld
ENUM	Electronic Numbering
FWA	Fixed wireless access
GHz.....	Gigahertz (frequency unit equal to one billion Hertz)
GSM.....	Global system for mobile communications
HDF.....	Handover distribution frame
WG.....	Working group
OQSI	Global quality of service indicator
IP.....	Internet Protocol
IPC.....	Consumer price index
IPTV	Internet protocol television
IQS.....	Quality of service indicators
Kbps.....	Kilobits per second (thousands of bits per second)
ECL.....	Electronic Communications Law (Law no. 5/2004, of 10 February)
Mbps	Megabit per second (millions of bits per second)
MHz.....	Megahertz (frequency unit equal to one million Hertz)
MMS.....	Multimedia message service
MSS	Mobile satellite services
MVNO	Mobile virtual network operator
Naked DSL.....	Wholesale reference offer of exclusive subscriber line for DSL services
NGN	New generation networks
LLU	Local Loop Unbundling

IPO.....	Initial Public Offer
OSP	Other Service Providers
RCAO.....	Reference conduit access offer
RUO	Reference unbundling offer
LLRO.....	Leased lines reference offer
WLRO	Wholesale line rental offer
SMP	Significant market power
NNP	National numbering plan
RIO.....	Reference Interconnection Offer
USP.....	Universal service provider
NFAP	National frequency allocation plan
ISDN	Integrated services digital network
PSTN	Public Switched Telephone Network
AAS	Analytical accounts system
TETRA	Terrestrial trunked radio service
DD.....	ICP-ANACOM's draft determination
FST	Telephone service at a fixed location
MTS	Mobile telephone service
US.....	Universal service
DTT	Digital terrestrial television
UMTS.....	Universal mobile telecommunications system
UWB.....	Ultra wideband
VoIP	Voice over Internet Protocol
x-DSL	All types of DSL technology
WACC	Weighted average cost of capital
WAPECS	Wireless access policy for electronic communications services
WRC-07	World Radiocommunication Conference 2007

Annex II – List of operators

Bragatel.....	Bragatel – Companhia de Televisão por Cabo de Braga, S.A.
Cabovisão	Cabovisão – Televisão por Cabo, S.A.
CTT	CTT – Correios de Portugal, S.A.
Grupo PT	Grupo Portugal Telecom
Novis	Novis Telecom, S.A.
OniTelecom.....	OniTelecom – Infocomunicações, S.A.
Optimus.....	Optimus – Telecomunicações, S.A.
Pluricanal Leiria	Pluricanal Leiria – Televisão por Cabo, S.A.
Pluricanal Santarém.....	Pluricanal Santarém – Televisão por Cabo, S.A.
PTC.....	PT Comunicações, S.A.
Sonaecom.....	Sonaecom, S.G.P.S., S.A.
Telemilénio.....	Telemilénio, Lda.
TMN	TMN – Telecomunicações Móveis Nacionais, S.A.
TV Cabo.....	CATVP – TV Cabo Portugal, S.A.
TVTEL.....	TVTEL Comunicações, S.A.
Vodafone Portugal	VODAFONE PORTUGAL – Comunicações Pessoais, S.A.

Annex III – List of other entities/organizations

AdC	Competition Authority
EC	European Commission
CEPT	European Conference of Postal and Telecommunications Administrations
COCOM	Communications Committee
ECTA	European Competitive Telecommunications Committee
EPRA	European Platform of Regulatory Authorities
ERG	European Regulators Group
ETSI	European Telecommunications Standards Institute
GMCS	Office for the Media
ICP-ANACOM	ICP – Autoridade Nacional de Comunicações
IRG	Independent Regulators Group
RSC	Radio Spectrum Committee
RSPG	Radio Spectrum Policy Group
EU	European Union
ITU	International Telecommunication Union

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