

## **RESULTS OF THE HEARING IN CONNECTION WITH THE “SET OF ITEMS TO BE INCLUDED IN THE RIO 2001”**

Pursuant to the terms of Article 10.2 of Decree-Law 415/98, of December 31, ICP is responsible for establishing and publishing the set of items to be included in the reference interconnection offer.

On 07/07/2000, ICP published a draft of the “Set of Items to be included in the RIO 2001”, with a view to hearing interested parties, thus contributing to the enrichment of the process of establishing the said “Set of Items”.

In the wake of this hearing, the main results are now presented, as is ICP’s understanding with regard to the issues raised, which understanding has taken into consideration such comments as were received.

<b>Q1 – Do you consider that the interconnection conditions applicable to data/Internet traffic should be included within the scope of the RIO 2001?</b>
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Most replies, with the exception of the Significant Market Power Operator (SMPO)<sup>1</sup> and of the sub-concessionaire of the international fixed telephone service, considered that the interconnection conditions applicable to data/Internet traffic should be included within the scope of the RIO since, according to these entities, access to the ISPs would continue to be made in most cases via the SMPO network, while there was also a need to promote measures to foster the development of the Internet in Portugal. With a view to a greater integration of services and increased transparency, it would be advantageous to include the Internet/data traffic in the RIO, in the opinion of the Other Licensed Operators (OLOs).

According to the SMPO, the relationship between a network operator and the providers whose services are supported in the network should be a relationship of access and therefore, in the understanding of this entity, it should not be included in the RIO.

Since the applicability of Decree-Law 415/98 to data traffic is unquestioned, and bearing in mind:

- (i) that the conditions for the interconnection of data/Internet traffic were part of the interconnection agreements proposed by the SMPO until 1999, in recognition of their nature as interconnection traffic;
- (ii) that the principle of transparency could benefit from the inclusion of this kind of traffic in the RIO; and
- (iii) the possible advantages arising from bringing about greater adaptation to an overall perspective of the provision of services within the interconnection market.

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<sup>1</sup> Entity notified as the holder of significant market power in the fixed telephone network and/or fixed telephone services markets and in the leased lines market.

it is considered that this present issue could be subsumed to the enlargement of the eligibility of all the traffic categories in the indirect access regime, ICP to continue to monitor future evolution, particularly with regard to the stimulation of innovative services, the sedimentation of alternative tariff formulae and alterations at the level of technology and network engineering.

**Q2 – In view of the concerns expressed, do you consider that the present structure, the hierarchical adjustment and the distribution of points of interconnection are adequate? What possible alterations, in 2001, would you consider satisfactory with regard to the provision of points of interconnection?**

The SMPO considers that the present interconnection structure is adequate and that no alteration is warranted. The OLOs as a whole consider: (i) that the number of existing local interconnection points is excessive, particularly in Lisbon and Oporto; and (ii) that the number of national interconnection points is insufficient.

The interconnection structure at local level warrants its own integrated analysis that cannot be dissociated from the analysis of the interconnection prices.

With regard to the provision of national points of interconnection, ICP, recognising their importance, particularly in the Autonomous Regions, recommends that their number should be increased by the SMPO.

**Q3 – What parameters should be enhanced to ensure greater transparency and the development of the co-location service?**

In the “Set of Items to be included in the RIO 2000” this Institute established that the conditions governing the rental of infrastructures and space (e.g., the use of conduits to establish interconnection circuits, co-location of equipment) should be specified as far as prices are concerned.

In its comments on the draft “Set of Items to be included in the RIO 2001”, the SMPO states that it intends to draw up a more detailed proposal regarding co-location, to ensure: (i) compatibility with the development of its network and strict compliance with the principles of non-discrimination; (ii) preservation of the conditions and security of the Basic Network, to ensure interconnection; and (iii) the technical conditions (available space, electricity and security) and a guarantee of confidentiality of the communications.

Most of the OLOs consider that this matter should be explicitly included in the RIO, through the definition of a large number of parameters.

Despite being enshrined in the RIO 2000, co-location has not taken place in an effective manner this year. This issue is of particular importance within the scope of sharing interconnection circuits and, without prejudice to adequacy within the scope of the Unbundling of the Local Loop (ULL), ICP considers that in the RIO 2001 the SMPO should detail with precision its supply conditions, presenting for each point of interconnection the conditions in terms of price, available space, electricity, security, implementation schedule, conditions of access, requisites covering applications for co-location and the respective technical specifications.

**Q4 – Taking into account the evolution in interconnection circuits in the meantime:**

**4.1 Do you consider that the provision of primary ISDN access should be included in the “Set of Items”? What alterations would you consider adequate within the framework of the interconnection conditions related to Internet/data traffic?**

**4.2 Could the interconnection conditions applicable to Internet/data traffic be properly re-examined in the provision of rented circuits? What additional consideration do you suggest regarding this matter?**

As in the replies to Question 1 regarding the inclusion of data/Internet traffic within the scope of the RIO, the understanding of the SMPO differs from that of the remaining entities in that it considers that the primary ISDN accesses are not means of interconnection but means of access. They should not therefore be included in the RIO. The SMPO adds that the interconnection circuits to be included in the RIO should be limited to digital circuits at 2Mbps.

The OLOs as a whole, though considering that the primary ISDN accesses might not constitute the best solution and that new forms of interconnection should be provided, consider that the interconnection conditions linked to the said primary accesses should be contained in the RIO, with a special focus on the equipment supply and installation times and on service quality.

The primary ISDN accesses used in access to the ISPs could be covered, depending on their actual use, by the definition contained in the Framework Law and in Decree-Law 415/98, according to which any physical and logical connection between telecommunications networks allowing access to services provided by the operators constitutes an interconnection circuit.

The understanding is therefore that the conditions of access and use of primary ISDN accesses should be specified in the “Set of Items”, particularly with regard to prices and installation times.

**Q5 – With a view to stimulate a competitive leased lines market that could contribute to the development of the Information Society, do you consider that more detailed specifications should be given on the interconnection conditions between the SMP operator’s circuits and those of the other operators? If so, what particular aspects do you consider should be focused?**

The SMPO considers that the issues raised are, under the terms envisaged in law, covered by the provision of the leased lines service, and that regard be had for the principle of minimum regulation.

Most of the OLOs think that this question should be specified in greater detail within the scope of the RIO, suggesting the inclusion of conditions concerned with prices, quality of service, interfaces usable, location of the service and principles underlying the co-location.

Certain entities also suggested the inclusion in the RIO of conditions covering the provision of higher hierarchy circuits, given the past and expected growth of traffic volumes.

As mentioned in the consultation document, there is a need to stimulate the development of an increasingly competitive lease lines market through investment in alternative infrastructure, particularly in optical fibre. However, in view of the predictable need for the new operators to continue to interconnect to the notified operator network, to support the services they provide, there is a need to specify in greater detail the conditions applicable to interconnection of the circuits of the SMPO, particularly the short loops, with those of the other operators so as to allow the latter to provide their end customers with a wider range of leased lines.

In this connection, the conditions governing the provision of leased lines should be included in the RIO, particularly in terms of prices, quality of service, usable interfaces and principles underlying the collocation, with a possibility of specifying the provision of different technologies (e.g., PDH and SDH).

**Q6 – Do you consider that the conveyance of international traffic should be included in the RIO?**

Most of the OLOs consider that the conveyance of international traffic should be included in the RIO, and they call attention to the need to ensure real competition. The SMPO and the sub-concessionaire are of the opinion that, under present conditions, the inclusion of the conveyance of international traffic in the RIO is not warranted, and that the market should act freely.

At Community level, in some member States, the conveyance of international traffic service is not included in the RIO. This could be due to the sustained fall of international transmission prices and to the existence of competition in international traffic forwarding.

Nevertheless, as emphasised in the draft “Set of Items”, the existence of different levels of development and the particular working conditions of the various European markets could well justify the adoption of differing strategies in the pursuit of a common objective.

In the present circumstances, ICP’s understanding is that the conditions applicable to the conveyance of international outgoing traffic service should be kept in the RIO. In view of the emerging questions, ICP will make a start this year to an analysis of the structure of the competition in this segment of the market, also covering the conditions of the provision of ‘backhaul’ to access submarine cables and the possible stimulation of alternative services. In the light of the results, the possibility is not excluded of dispensing with the eligibility of the present type of traffic as far as the RIO is concerned.

**Q7 – With a view to the desirable balance between the principle of freedom of negotiation and the preservation of the principle of transparency, do you agree that the conditions applicable to the formation of discounts and other special conditions should be included in full in the RIO 2001?**

Certain entities (including the SMPO) consider that the conditions concerning the formation of discounts and other special conditions should not be included in the RIO 2001. Others, invoking the principle of transparency, consider that this issue should be defined in the RIO.

Nevertheless, taking into account the recent evolution of market conditions and the need to preserve greater equilibrium between the principle of freedom of negotiation and the principle of transparency, it is considered that a complete description of the mechanisms applicable to the formation of discounts and other special conditions in the RIO 2001 could be advisable.

**Q8 – Do you agree with the approach presented in respect of the quality of service indicators that ought to be observed? Which indicators in particular should be focused?**

With regard to ICP's preliminary understanding that the quality of service indicators to be observed, as well as the established levels, should be identical to those established for the notified operator in the Leased Lines and Fixed Telephone Service markets, the conclusion, following an appraisal of the replies received by this Institute, is that most of the answers agree with ICP's approach.

However, several matters were raised by the various entities, of which the focus is on the understanding that distinct quality of service indicators should be applied, depending in the use of the circuit.

Taking into account the fact that the various entities are planning the interconnection in advance, through estimates of traffic and of the means for traffic interconnection, ICP maintains its preliminary understanding that the quality of service indicators to be observed in the interconnection, as well as the levels established, should be identical to those for the notified operator in the Leased Lines and Fixed Telephone Service markets.

In the wake of the comments received and recognising that the development of the market and its increasing dynamism require the provision of services with a quality adequate to the progress seen in the meantime, it is considered that the parameters and indicators referred to in the draft of the "Set of Items to be included in the RIO 2001" and those established for the notified operator in the Leased Line and Fixed Telephone Service markets are satisfactory.

**Q9 – Do you consider that the conditions regarding access to free-phone numbers, "Blue" (shared-costs) numbers, information services, customer support services, virtual phone cards, "Universal" number, etc., should be included in the RIO? If so, what specific aspects should be safeguarded?**

Most of the OLOs consider that the conditions for the provision of these services should be included in the RIO, since they are essential to the provision of an overall, competitive service by the new operators. The SMPO and the sub-concessionaire, in turn, were opposed to this possibility since they considered that there was no need to include in the RIO conditions governing non-geographic numbers, alleging that they could be covered by a commercial agreement between the parties.

In this connection, and taking into account the comments received, the European practice and the specific nature of the numbers and services in question, it is considered that should be included within the scope of the RIO, particularly the conditions in respect of the Freephone numbers, the "Blue" numbers, customer support and information services provided respectively within the 16xy.z and 18xy number range, the 118 information service (concomitantly with the

legal provisions contained in Decree-Law 415/98, emergency services (e.g. 112, 117) and virtual phone card service provided in the 882 number range.

**Q10 – What additional issues would you like to see addressed in the “Set of Items to be included in the RIO 2001”?**

Bearing in mind the experience acquired by the market parties in the meantime, within a framework of total liberalization with a focus on the establishment and development of relations between them, ICP admitted that there might be additional aspects worthy of adequate reflection within the framework of the “Set of Items to be included in the RIO 2001”, and asked the interested entities to list other issues that they considered ought to be addressed in this connection.

The responding entities raised several pertinent issues, addressing issues of great important and timeliness, related particularly to the Unbundling of the Local Loop (ULL), number portability, interconnection prices and the conditions, or exceptions, concerning traffic ownership.

With regard to ULL, ICP made a timely communication to the effect that the service at national level should be available by 01/06/2001. A public enquiry is now under way and it could well be that the conditions relating to ULL could come to be subject of separate analysis and supporting documents.

With regard to portability, it is considered that the understanding presented in the draft “Set of Items to be included in the RIO 2001” should be maintained. Therefore, the technical options, the prices and the price formation conditions regarding operator portability on the fixed network and on the integrated services digital network (ISDN) should be specified in the RIO 2001, which should be introduced by 30/06/2001.

The issue involving interconnection prices will be subject to integrated analysis in the wake of the reception of the draft RIO from PT.

Lastly, with regard to the conditions, or exceptions, relating to traffic ownership, it is considered that the recent determination by ICP Board of Directors dated July 7<sup>th</sup> concerning the interconnection conditions applicable to access to the special services clarifies this issue.