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## Regulation Report 2005

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## ***Foreword***

The regulatory activity of ICP – Autoridade Nacional de Comunicações (ICP-ANACOM) in connection with electronic communications continued to be marked in 2005 by market analyses, which includes the definition of markets, the assessment of situations of significant market power (SMP) and, finally, the enforcement, maintenance, change or suppression of obligations.

The implementation of the obligations defined in these analyses had, in 2005, a very clear impact on the functioning of markets – promoting competition and benefits to end consumers and users. Particularly, the following items, which received a higher priority in this period, should be stressed:

- The creation of conditions for an effective use of the local loop unbundling (LLU), which registered a very expressive growth in 2005, thus clearly reflecting a reduction of the barriers for access to the basic telecommunications network.
- Several interventions in the *Rede ADSL PT* wholesale offer – thus ensuring the coherence with other wholesale offers and the appropriate incentives to fostering the activity of the new operators – with impact on the evolution of the market, in terms of penetration, prices and throughput;
- Actions regarding the leased lines service reference offer and the interconnection prices, which translated into the existence of appropriate competitive conditions, considering the Portuguese reality's specific characteristics.
- With the purpose of guaranteeing the affordability of prices in the scope of the universal service, the incumbent operator continued to be obliged to fulfil a price-cap (CPI minus 2.75 per cent) for residential clients, which in 2005 translated into significant reductions in the prices of most calls and in the maintenance of the values charged for installation and subscription;
- Creation of the favourable conditions for the effective implementation of the subscriber line resale offer, predictably with noticeable impact on the market already in 2006;

- Significant reduction the mobile operators' termination prices, which were, in the beginning of 2005, at the highest levels of the European Union (EU);
- Approval of the portability, selection and preselection regulations.

Regarding the intervention in the conditions of the wholesale offers, in 2005 ICP-ANACOM determined very important reductions to most wholesale offers: about 60 per cent in the local loop's installation price; about 20 per cent in 2005 (and 7.5 per cent already in 2006) in the corresponding monthly fee; about 50 per cent in the price of the bundled access; about 35 per cent in the monthly fee of the local access for a 2 Mbps offer; about 10 per cent in 2005 (and 5 per cent more already in 2006) in interconnection prices; about 30 per cent in 2005 in mobile operators terminations. This evolution has been gradually reinforced throughout 2006.

As a result of these actions by ICP-ANACOM – and considering the several international comparisons in this report – most wholesale offers in Portugal had price conditions that were close, but usually below, those of the remaining EU countries.

The regulation measures described above brought benefits to consumer, in terms of prices, diversity and accessibility. Furthermore, ICP-ANACOM put a set of initiatives in place with the purpose of guaranteeing and protecting consumers' rights. Among others, the following should be highlighted:

- Definition of quality of service parameters for the universal service and of the performance objectives applying to them;
- Approval of the quality regulation applying to the service of access to the public telephone network at a fixed location and the publicly available telephone service provided at a fixed location;
- Definition of the guidelines on the minimum content to be included in the service provision contracts;
- Draft decision on the object and ways of publicizing the conditions of offer and usage of electronic communications services;
- Availability to the public of the Tariff Simulator (TM), which gives the public the possibility to refer to and compare the voice tariffs practiced by the mobile telephone service (MTS) operators.

- Creation of the *Unidade de Missão de Tratamento de Solicitações sobre o Mercado* (UM-TSM – Mission Unit for the Handling of Market Requests), with the purpose of ensuring a regulation that is closer to the users, also contributing to an effective supervision of the regulated markets, including both electronic communications and postal services.

On the other hand, progress was made on important processes that are of the greatest relevance for the development of the communications sector, in a broad sense, such as the decisions on the provision of voice services using the IP protocol (VoIP) and the deepening of the process related with the launch of digital terrestrial television.

(\*\*\*)

Electronic communications services followed very diverse trends in 2005: new reduction in the weight of the fixed telephone service (FTS), in terms of traffic, in terms of unit costs and, consequently, in terms of revenues; strong expansion of the data transmission services, both in number of users and in terms of revenues; also important increases in the MTS traffic, however accompanied by a reduction in the average revenue per user; lastly, the cable television and satellite distribution services had once again positive growth trends, although slowing down.

The FTS continued with a strong traffic decrease trend, as since the beginning of this decade. In 2005, voice traffic had a 4.2 reduction, in number of minutes, and a 4.7 per cent one in number of calls. There was also a price reduction in most types of calls – mainly reflecting the impact of regulatory measures implemented by ICP-ANACOM – which additionally contributed to the reduction in this service's revenues. The roll-out of new commercial offers, such as price plans, new tariff structures and package offers should also be mentioned.

The MTS continued to register significant increases in terms of number of subscribers, number of calls and number of minutes (respectively, 10.5, 6.6 and 8.9 per cent increases). The very expressive increase in the number of short messages sent and the development of commercial offers based on the UMTS service should

also be mentioned. Also during 2005, new commercial strategies were put in place enclosing tariffs with no price distinction between on-net and off-net calls.

The Internet access service was characterized by a strong growth in the number of customers, particularly meaningful with broadband customers. In 2005, about 35 per cent of households had an Internet connection, three quarters of which were broadband. There was an important increase in the offered throughput capacities and, at the end of the year, 2 Mbps was the modal class used by Portuguese consumers. Competition conditions changed along the year and in the last quarter of 2005 about half of the new accesses were installed by alternative operators.

The number of subscribers to the cable television and satellite distribution services recorded further growths in 2005, in both cases of about 5 per cent and less accentuated than in previous years. In 2005, about 75 per cent of all households in Portugal were cabled.

Besides the evolution of the electronic communications in 2005, this report makes it possible to identify a set of highly important changes that took place in the 2000/2005 period, with significant impacts on the relative weight of the sector's several services:

- Strong decrease trend of voice traffic in the FTS, translated into a 22.2 per cent reduction in number of minutes, and a 25.4 per cent in volume of calls;
- Increase in the weight of the alternative operators which, in this period, reached market shares in the FTS of about 26 per cent;
- Strong adjustment of the FTS tariffs, with significant reductions in the prices of regional and national calls – about 52 and 55 per cent, respectively – and an increase of about 13 per cent in the monthly fee. In global terms, the incumbent operator's price index recorded a 2.3 per cent reduction, in nominal terms, and a 16 per cent one in real terms; this is probably the sole economic sector that has systematically given price reductions to consumers;
- Contrary to the FTS, there was a very expressive growth in voice traffic originating in mobile networks, which in the 2000/2005 period grew 52 per cent in number of calls, and 87.8 per cent in number of minutes;

- As a result of the different evolutions of “fixed voice” and “mobile voice”, the relative weight of the traffic originated in mobile networks already stood for about 60 per cent of total voice traffic in 2005, which is one of the three highest values in the EU25 and, surely, one of the most noticeable features of the electronic communications sector in Portugal;
- The mass use of broadband technologies is one of the most important evolutions since the beginning of the decade. Indeed, from a number of 27,000 clients in 2000, it reached a figure slightly above 1,200,000 by the end of 2005. Broadband penetration is close to the average European levels, while the main constraints identified by consumers regard factors – such as “no need, no interest” or “has no computer” – that do not show poor available offers, but rather situations that are more structural to the Portuguese reality.
- Contrary to what has occurred with the FTS, the incumbent operator’s market share of broadband customers increased up to 2004, with a decrease only in 2005 – to 77 per cent, one of the highest in the EU. However, throughout 2005 important changes took place in the market evolution, reflecting the improvement in the conditions of the LLU and the important growth in the offers via cable modem that are alternative to Grupo PT.

The electronic communications sector provides service offers – in terms of prices, quality, diversity and penetration – that are comparable to the average European levels.

The price levels practiced in Portugal for most electronic communications offers are close, but usually below, the average price levels practiced in the EU countries: in all of the comparisons shown in this report, there are no prices in the upper quartile of the considered countries (25 per cent of higher prices). They are predominantly in the second quartile (25-50 per cent of lower prices).

The quality and diversity of the electronic communications services provided to Portuguese consumers do not present, globally, any important variation regarding the practices of the remaining countries of the EU.

The penetration of electronic communications services in Portugal – although close to average European levels – has somewhat diverse situations, reflecting a high MTS penetration (about 12 per cent above EU's average), a low FTS penetration (about 1 per cent below EU's average), a broadband penetration slightly below EU's average and, lastly, a penetration rate of cabled households above the European average.

This report also contains, in its final part, a description of the state of postal services. In 2005 postal traffic stabilized, placing an important pressure on the future evolution of this kind of services. Highlight also goes to the significant increase in the number of providers in this sector. However, the alternative operators only have a noticeable weight in express mail – about 57 per cent of traffic – since the market shares of the incumbent operator are very high for most of the remaining services. In real terms, the prices of the provisions included in the universal service have decreased, and are now usually below the average level of the EU15. Lastly, it should be referred that the quality indicators of the universal service had a globally positive evolution in 2005.

This report also approaches several aspects of ICP-ANACOM's activity during 2005 stemming from its obligations and powers, as laid down in its statutes. Such is the case, namely, with the management of scarce resources, market supervision, including inspections and legal claims, the representation of the sector – international activity and cooperation – and action in matters of standardization, emergency communications and electronic commerce.

April 2006

*Pedro Duarte Neves*



## **Structure of the report**

Under the terms of the provisions of ANACOM's statutes, approved by Decree-Law no. 309/2001 of 7 December, it is this Authority's obligation, since January 2002, to write an annual report on its regulatory activities, which shall be submitted to the Government and further presented to the Parliament. ANACOM is also obliged to produce a report on the state of communications and its regulation and supervision activity, to be presented to the member of the Government with powers over the sector and to be publicly released.

This report aims to fulfil these statutes' requirements. For this purpose, it is divided into three different blocks: the Regulation Report, the State of Communications and the Activities Report. The model adopted by ICP-ANACOM on the three first editions of this annual report was that of a sole document made up of two parts: part I described the activity carried out during the year in the domains of regulation, supervision, sanctioning, representation of the communications sector and information to citizens; part II characterized the state of communications and explained its evolution along the year under analysis.

The structure adopted this year – which benefits from some recommendations from the Advisory Council's opinion included on the 2004 Regulation Report – is different from the one used for the three first editions of this annual report. The change that was made intends to clearly separate the description of ANACOM's activities – carried out during the year under analysis and presented as an annual report – from the analysis and interpretation of its acts and regulatory interventions, framed by the principles that guide this Authority's decisions and by the tri-annual strategic objectives defined in its plan.

Thus the Regulation Report starts by presenting the main guidelines of the regulator's activity: the mission and the strategic objectives defined as having priority, which make up ANACOM's medium-term vectors and are stated in this Authority's tri-annual Activities Plan.

The report further approaches how ANACOM's activities in 2005 were carried out in connection with the objectives for that year. Each of the mentioned subjects includes the identification of the cause(s) supporting the regulatory acts or interventions under analysis, which may include, namely, the application of the European regulatory framework, the result of identifying specific market operating flaws, the detection of situations of non-compliance, the protection of users and their rights, or the detection of coverage/quality of service deficiencies. As usual, distinction is made between the state of Electronic Communications and that of the Postal Services, a usual separation that, considering the regulatory matter herein, also corresponds to different stages and objectives.

Regarding the adopted measures, the report frames them with the regulatory objectives, the circumstances which are meant to be regulated and, when applicable or relevant, with international comparisons. The results obtained are described and, when applicable, the results expected are foreseen, considering the usual time lag of the regulatory measures' effects. This way, a more analytical approach is favoured over a descriptive one.

The State of communications in Portugal – which makes up the second part of this report, maintaining the same structure as adopted in previous years – contains the sector's most relevant characteristics and describes the evolution along the year under analysis.

Further to an initial international framework analysis, which analyses the evolution of the electronic communications sector in the EU, the following services are approached, in sequence: FTS, MTS, mobile trunking service, Internet access service, other data transmission services, cable television distribution service (CATV) and, lastly, postal services.

For each of these services several statistical indicators are shown, making it possible to identify, from the user's viewpoint, which are the main trends in term of usage level, prices and diversity of the offers available to the public. Additionally, whenever possible, price comparisons with other European countries are shown.

The Activities Report, which makes up the final section of this document, contains the activities carried out by ICP-ANACOM grouped by functional area, according to the following major reference areas: regulatory matters and regulation-setting – which, for the users interest, does not repeat the description of regulatory measures previously analysed – spectrum management, supervision, monitoring and litigious affairs, representation, cooperation, communications, image, standardization, and also one last category that groups activities of diverse nature that cannot be adequately included in the said categories.

The report and description of these activities is, in opposition to the approach favoured in the Regulation Report, more descriptive than analytical. In fact, the aim of this activities' description is to build an objective and, as much as possible, concise reference of ICP-ANACOM's activities in 2005, considering all scopes of this Authority's activity.

## **Part I – Regulation Report**

### **I.1 Regulation objectives**

ICP-ANACOM's main mission is to create conditions giving consumers the possibility to obtain the maximum well-being in terms of quality of service, prices, choice, diversity and universality, but at the same time promoting innovation and investment in the communications sector.

ICP-ANACOM's strategic vision for the 2006/2008 period led to the definition of three strategic objectives:

- To promote open and competitive markets;
- To foster benefits for consumers;
- To foster innovation and investment in infrastructures.

It is ICP-ANACOM's obligation, as the sector's regulator authority, to create conditions – through appropriate regulatory measures – that make it possible to reach these goals, as analysed below.

#### **To promote open and competitive markets**

It is ICP-ANACOM's obligation to create conditions that favour the creation and development of competitive markets, making it possible, at the same time, to maximize consumer benefits and to obtain investment levels for a sustained growth of the sector. This strategic objective is essential for the communications sector to fulfil its role in the process of growth, development and increase of competition of the Portuguese economy.

The aim is to ensure that there are no distortions or barriers to competition, such as discrimination in dealing with companies or dominant position abuses, and to

encourage the functioning of markets in a framework of transparency, stability and predictability of the corresponding tariff and regulatory systems.

### **To foster benefits for consumers**

Regulation's main objective – in situations where the free operation of the market does not lead to an efficient use of resources, as with the electronic communications and postal services sectors – is to ensure that consumers obtain the maximum well-being in terms of quality of service, prices, diversity and universality.

Consumer information is considered essential if that objective is to be achieved, through the provision of clear, updated and timely information, namely of understandable and comparable indicators on the functioning of markets and on the performance of the entities on the market. The aim is to actively ensure that companies and families have all the elements giving them the chance to make the best options regarding their consumption and investment solutions, thus fostering more demanding and efficient behaviours.

The aim is also to ensure consumer protection, fostering the establishment of prevention mechanisms for situations of non-fulfilment of the communications services providers' obligations and, also, of dispute settlement mechanisms ensuring consumers an appropriate and timely protection of their rights.

### **To foster innovation and investment in infrastructures**

The regulator must create conditions fostering innovation and investment in equipment and infrastructures through companies with sustainable business models, offering consumers quality products and services. It should also manage potential conflicts between short and medium-term consumer interests – between lower prices or higher incentives in the present, which may contribute to lower prices in the medium-term – by establishing priorities and compromises.

This important strategic guideline conditions the sector's sustainable development in the medium and long-term. To foster innovation and investment in infrastructures is necessary for the sector to continue to have, in the medium and long run, a leading role in the Portuguese economy.

The stated goals underlined ICP-ANACOM's entire regulatory activity in 2005 – both in the case of electronic communications and in the case of postal services – as explained below.

## **I.2 Electronic Communications**

For presentation sake, ICP-ANACOM's intervention in this area will be grouped in 2005 into two major scopes of action resulting from the implementation of the objectives described in section 1: to promote competition, innovation and investment, and to guarantee and protect consumers' rights.

### **I.2.1 Promotion of competition, innovation and investment**

#### **I.2.1.1 Market analysis – state and evolution in 2005**

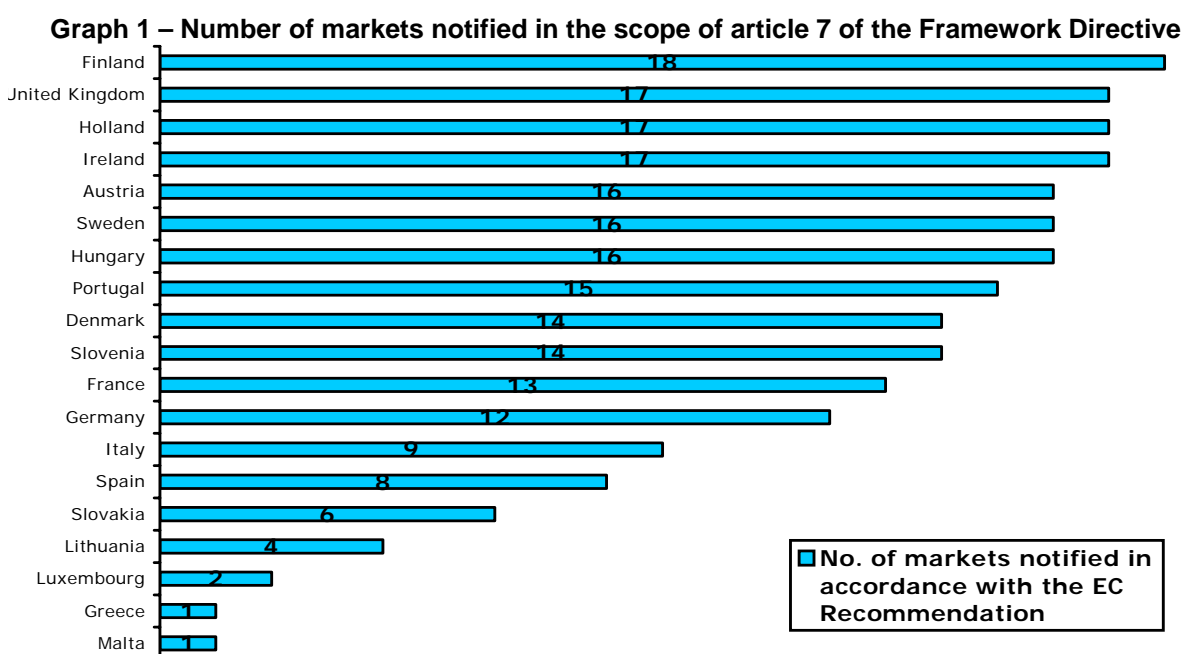
According to articles 58 and 59 of Regicom (Communications Regulation), it is ICP-ANACOM's duty to define and analyse the relevant markets of products and services of the electronic communications sector in order to enforce, maintain, change or suppress obligations, in accordance with the European Commission's Recommendations and Guidelines regarding the analysis and assessment of SMP in the scope of the community regulatory framework for electronic communications networks and services (henceforth referred to as Guidelines), and in accordance with the principles of the competition regulations.

As defined in "ICP-ANACOM's Consultation Procedures", each draft decision on these matters is subject to a public consultation, which answers and assessment report are published at this Authority's website, and notified to the national regulatory authorities of other Member States and to the European Commission. An opinion is also requested from *Autoridade da Concorrência* (Competition Authority). Further to this process, and taking into account the comments of the entities that participated in it, ICP-ANACOM approves the measures on the definition of markets and the assessment of SMP, and notifies the Commission.

In 2005, ICP-ANACOM's activity was marked, as in 2004, by the analysis of a wide range of electronic communications markets. By the end of 2005, this extremely important stage of the regulatory activity could be considered practically concluded –

of market definition, assessment of SMP situations and, finally, the process of enforcing, maintaining, changing or suppressing obligations. This means that the regulator had declared, for almost all the markets in the guidelines, the degree and type of market intervention creating the best conditions to foster consumer benefits and also investment and innovation by operators.

On 31 December 2005 Portugal was in the group of the most advanced countries regarding the number of markets notified to the Commission and to other NRAs in the scope of article 7 of the Framework Directive, with 15 completed notification processes, as can be seen in graph 1, which compares the state of EU member countries.



The following page has a summary table with the state of Portugal within that scope on that same date of 31 December 2005. It shows that, in 2005, there were interventions in the wholesale broadband markets (markets 11 and 12), in the leased lines markets (markets 7, 13 and 14), in the market of voice call termination in individual mobile networks (market 16) and in the market of transit services in the public fixed telephone network at a fixed location (market 10).



In the year 2005, the analyses concerning three of the 18 relevant markets defined according to European Commission's Recommendation and Guidelines were not completed: the market of call access and origination in public mobile telephone networks (market 15), the wholesale national market for international roaming services in public mobile networks (market 17) and the market of broadcasting services for delivery of content to final users (market 18).

Table 1 – Notified markets, Portugal

Markets	Consultation procedures		Notification to the Commission - document		Comments from the Commission		Decisions		Notification to the Commission of the adopted measures – doc.	
	Market analysis and SMP assessment	Enforcement of obligations	Market analysis and SMP assessment	Enforcement of obligations	Market analysis and SMP assessment	Enforcement of obligations	Market analysis and SMP assessment	Enforcement of obligations	Market analysis and SMP assessment	Enforcement of obligations
<b>Retail broadband markets</b>										
Access to the public telephone network at a fixed location for residential customers (market 1)	12-03-2003 20-05-2004	26-07-2004	28-05-2004	22-07-2004	25-06-2004	03-09-2004	08-07-2004	14-12-2004	16-07-2004	21-12-2004
Access to the public telephone network at a fixed location for non residential customers (market 2)	12-03-2004 20-05-2004	26-07-2004	28-05-2004	22-07-2004	25-06-2004	03-09-2004	08-07-2004	14-12-2004	16-07-2004	21-12-2004
Publicly available local and/or national telephone services provided at a fixed location for residential customers (market 3)	12-03-2004 20-05-2004	26-07-2004	28-05-2004	22-07-2004	25-06-2004	03-09-2004	08-07-2004	14-12-2004	16-07-2004	21-12-2004
Publicly international telephone services available at a fixed location for residential customers (market 4)	12-03-2004 20-05-2004	26-07-2004	28-05-2004	22-07-2004	25-06-2004	03-09-2004	08-07-2004	14-12-2004	16-07-2004	21-12-2004
Publicly available local and/or national telephone services provided at a fixed location for non-residential customers (market 5)	12-03-2004 20-05-2004	26-07-2004	28-05-2004	22-07-2004	25-06-2004	03-09-2004	08-07-2004	14-12-2004	16-07-2004	21-12-2004
International telephone services publicly available at a fixed location for non-residential customers (market 6)	12-03-2004 20-05-2004	26-07-2004	28-05-2004	22-07-2004	25-06-2004	03-09-2004	08-07-2004	14-12-2004	16-07-2004	21-12-2004
Telephone services for non-geographic numbers publicly available at a fixed location (outside the scope of mentioned European Commission Recommendation) (market 19 - new)	12-03-2004 20-05-2004	26-07-2004	28-05-2004	22-07-2004	25-06-2004	03-09-2004	08-07-2004	14-12-2004	16-07-2004	21-12-2004
<b>Wholesale broadband markets</b>										
Call origination in the public telephone network at a fixed location (market 8)	12-03-2004	26-07-2004	28-05-2004	22-07-2004	25-06-2004	03-09-2004	08-07-2004	17-12-2004	16-07-2004	29-12-2004
Call termination in individual public telephone networks at a fixed location (market 9)	12-03-2004	26-07-2004	28-05-2004	22-07-2004	25-06-2004	03-09-2004	08-07-2004	17-12-2004	16-07-2004	29-12-2004
Transit services in the public fixed telephone network (market 10)	01-03-2005	01-03-2005	04-03-2005	04-03-2005	01-04-2005	01-04-2005	25-05-2005	25-05-2005	02-07-2005	02-07-2005
<b>Wholesale narrow band markets</b>										
Wholesale provision of unbundled access (including shared access) to metallic loops and sub-loops to provide broadband and voice services (market 11)	25-11-2004		25-11-2004		20-12-2004		30-03-2005		01-04-2005	
Wholesale provision of broadband access (market 12)	25-11-2004		25-11-2004		22-12-2004		24-06-2005		24-06-2005	
<b>Retail leased lines markets</b>										
Minimum set of leased lines (market 7)	18-03-2005		17-03-2005		14-04-2005		08-07-2005		14-04-2005	
<b>Wholesale leased lines markets</b>										
Wholesale market for leased line terminal segments (market 13)	18-03-2005		17-03-2005				08-07-2005		14-07-2005	
Wholesale market for leased line transit segments (market 14)	18-03-2005		17-03-2005				08-07-2005		14-07-2005	
<b>Wholesale mobile services markets</b>										
Call access and origination in public mobile telephone networks (market 15)										
Voice call termination in individual mobile networks (market 16)	27-12-2004		23-12-2004		04-02-2005		25-02-2005		08-03-2005	
Wholesale national market for international roaming services in public mobile networks (market 17)										
<b>Wholesale broadcasting markets</b>										
Broadcasting services for the delivery of content transmitted to final users (market 18)										

The evolution of each group of markets concluded in 2006 was as follows:

### **Wholesale broadband markets (markets 11 and 12)**

By Determination of 30 March 2005, ICP-ANACOM approved the decision on the definition of product markets and geographical markets, SMP assessment and the enforcement, maintenance, change or suppression of regulatory obligations in the market of wholesale unbundled access (market 11 of Commission's Recommendation 2003/311/EC of 11 February 2003), having concluded that, in Portugal, there is a relevant market for the wholesale provision of unbundled access (including shared access) to metallic loops and sub-loops for the provision of broadband and voice services, and that companies of Grupo PT in that market have SMP.

On the other hand, on 24 June 2005 a decision was approved regarding the definition of product markets and geographical markets, SMP assessment and the enforcement, maintenance, change or suppression of regulatory obligations in the market of wholesale provision of broadband access (market 12 of Commission's Recommendation 2003/311/EC of 11 February 2003), identifying as relevant, for the purposes of *ex-ante* regulation and in accordance with the principles of competition regulations, the wholesale broadband market, which includes the services of broadband access using the public switched telephone network and the cable distribution networks, in the whole of the national territory. It was concluded that Grupo PT holds SMP in that market.

ICP-ANACOM enforced the following regulatory obligations to the companies of Grupo PT, currently PT Comunicações, S.A. (PTC), with SMP in the market of wholesale provision of unbundled access (including shared access) to metallic loops and sub-loops for the provision of broadband and voice services:

- Access and use of specific network resources;
- Transparency in the publication of information, including reference proposals;
- Non-discrimination in the provision of access and interconnection, and in the corresponding provision of information;

- Separation of accounts for specific activities in connection with access and/or interconnection;
- Price control and cost accountancy.

In the market of wholesale provision of broadband access, the following regulatory obligations were enforced:

- Access and use of specific network resources;
- Transparency in the publication of information, including reference proposals;
- Non-discrimination in the provision of access and interconnection, and in the corresponding provision of information<sup>1</sup>;
- Separation of accounts for specific activities in connection with access and/or interconnection;
- Price control and cost accountancy, including the application of a “retail-less” rule applicable to the wholesale offers of broadband access provided by companies of Grupo PT using ADSL (Asymmetric Digital Subscriber Line) or cable modem.

### **Leased lines markets (markets 7, 13 and 14)**

Determination of 8 July 2005 approved the decision on the definition of product markets and geographical markets, SMP assessment and the enforcement, maintenance, change or suppression of regulatory obligations regarding markets 7 (leased lines retail market), 13 (wholesale market of leased line terminal segments) and 14 (wholesale market of leased line transit segments) of Commission’s Recommendation 2003/311/EC of 11 February 2003.

Further to the analysis it made, ICP-ANACOM identified as relevant the retail market of analogue and digital leased lines up to and including 2 Mbps in all of the national territory (including circuits and routes to and from the Mainland, Azores and Madeira), the wholesale market of analogue and digital leased line terminal segments, without

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<sup>1</sup> Including a 30 day notice period to change wholesale offers – in the case of major changes to the wholesale offers this period is widened to two months, and the launch of retail offers is conditioned to the existence of equivalent wholesale offers in the *Rede ADSL PT*.

capacity distinction, in the wholesale market of analogue and digital transit segments, without capacity distinction, both also in all of the national territory. Furthermore, it was considered that Grupo PT's companies in these markets have SMP.

In the market of minimum set of leased lines, ICP-ANACOM enforced the following obligations to companies with SMP:

- Non-discrimination in the provision of access and interconnection, and in the corresponding provision of information;
- Transparency in the publication of information;
- Price control and cost accountancy.

In the wholesale markets of leased line terminal segments and transit segments, ICP-ANACOM enforced the following obligations to companies with SMP:

- Access and use of specific network resources;
- Non-discrimination in the provision of access and interconnection, and in the corresponding provision of information;
- Transparency in the publication of information, including reference proposals;
- Separation of accounts for specific activities in connection with the access and/or interconnection;
- Price control and cost accountancy.

### **Market of voice call termination in individual mobile networks (market 16)**

On 25 February 2005, ICP-ANACOM approved decisions concluding that there are three different relevant markets to which correspond the mobile networks of the three mobile network operators operating in Portugal – TMN – Telecomunicações Móveis, S.A. (TMN), Vodafone Portugal – Comunicações Pessoais, S.A. (Vodafone) and Optimus – Telecomunicações, S.A. (Optimus). These three operators have SMP in the corresponding wholesale termination markets.

Thus, ICP-ANACOM enforced the following regulatory obligations to companies with SMP:

- To comply with reasonable access requests;
- Non-discrimination in the provision of access and interconnection, and in the corresponding provision of information;
- Transparency in the publication of information;
- Price control (cost orientation) and cost accountancy; and
- Separation of accounts.

### **Market of transit services in the public fixed telephone network at a fixed location (market 10)**

By Determination of 25 May 2005, in the scope of the definition of the relevant markets, as in article 58 of Law no. 5/2004 of 10 February, ICP-ANACOM defined the relevant market and assessed SMP in the market of transit services in the public telephone network (market 10 of the list of the European Commission's Recommendation 2003/311/EC of 11 February 2003), and notified the adopted measures to the Commission on 2 June 2005.

ICP-ANACOM concluded that the transit market, which geographical scope is the national territory and that includes the transit services provided by an operator when it routes calls originated and terminated in a network that is different from its own, has a mere residual relevance (about 1 per cent) in the scope of narrow band interconnection markets and that it is competitive, with no detected problems or market flaws, and therefore it was decided not to define the transit market as a relevant market for purposes of *ex-ante* regulation. At the same time, *ex-ante* obligations that PTC was subject to under the scope of the previous regulatory framework were suppressed.

### **I.2.1.2 Reference local loop unbundling offer (RUO) including the conditions for effective local loop unbundling (LLU)**

Regulation (EC) no. 2887/2000, approved by the European Parliament and the Council on 18 December 2000 with the purpose of intensifying competition and fostering technological innovation in the local access market, via the establishment of harmonized conditions for the LLU, demands from operators with SMP that, among other obligations, they publish a RUO, that they comply with reasonable requests for unbundled access to local loops and associated resources, under transparent, equal and non-discriminatory conditions, and that they use cost-oriented prices for unbundled access to local loops.

It is also ICP-ANACOM's obligation to make an appropriate monitoring of the market in the scope of the LLU and to foster a greater efficiency in the implementation of the offer – a crucial factor for the increase of competition in the sector – so that the regulator can intervene rapidly, if needed, by enforcing corrective measures and protecting end consumers.

ICP-ANACOM's action in the scope of LLU, gradually focused on deadlines, prices, compensations, processes and statistical information – i.e., the relevant items for the success of this offer – in order to create the appropriate incentives for an effective use of this wholesale offer, making it more flexible, adjustable to different business models.

This performance is summarized in the following diagram:

	DEADLINES	PRICES	COMPENSATIONS	PROCESSES	STATISTICAL DATA
DEC-04	10 December Reduction of deadlines (draft decision)				
JAN-05					
FEB-05	17 February Reduction of deadlines (decision)	9 February Reduction of prices (draft decision)			
MAR-05					
APR-05		13 April Reduction of prices (decision)			
MAY-05					
JUN-05		24 June Market Analysis - Maintenance of the obligation of cost orientation of prices			
JUL-05			8 July Increase of compensations (draft decision)	28 July Simplification of the termination of the contract in the scope of LLU (draft decision)	
AUG-05					
SEP-05		20 September RUO proposal for 2006 (decision)			
OCT-05					
NOV-05			8 November Operating conditions (decision)		
DEC-05		14 December Prices for 2006 (draft decision)		14 December Simplification of the termination of the contract in the scope of LLU (decision)	14 December Statistical data on LLU (draft decision)
JAN-06					
FEV-06					7 February Statistical data on LLU (decision)

In 2005, ICP-ANACOM intervened to reduce the factors that prevented a greater success in the development of the ULL and of effective market competition.

Since there are already retail offers based on RUO and some accumulated experience within that scope, ICP-ANACOM considered that some of RUO's items had to be reviewed or updated (focusing especially on the need to improve processes, considering the recent implementation of the information and automatic request processing systems, and to improve the offer's prices and quality of service).

In the beginning of 2005, based on the Determination of 13 April, a price analysis was made to the wholesale offers in force that led to the changes that were defined for the RUO. For this purpose, the decision of 31 March on the maintenance of the regulatory obligations in the market of wholesale provision of unbundled access (market 11) was crucial, namely regarding the cost orientation obligation, as well as changes to prices in the wholesale offers downstream, the offer's own evolution, namely in connection with the information and automatic order handling system and the price reductions in some Member States.



The mentioned decision concerning price changes to be introduced by PTC in the RUO made way for a 60 per cent reduction in the installation price and 18.7 per cent one in the price of the local loop's monthly fee, and for a restatement of the conditions for the provision of the signal routing service (in most cases making it possible to reduce the installation's and monthly fee's prices). Furthermore, the price to un-install the local loop was eliminated.

Also to guarantee the consolidation of appropriate conditions for effective competition in the market, Determination of 8 November 2005 approved a decision on the conditions of deployment of the LLU, according to which PTC should change the RUO. The defined conditions relate to the need of guaranteeing the protection of end user's interests and the consolidation of appropriate conditions for effective market competition, namely by setting compensations for the non-fulfilment of the quality of service levels defined in the offer.

Among other items, it was determined that in the cases when, by responsibility of PTC or of its subcontractors, the final customer is kept without service for more than 30 minutes during or right after the local loop unbundling or the porting of the number and the local loop unbundling do not take place within the agreed window, that company must compensate the operator or service provider with 38 euros and one 24th part (1/24) of that value for each additional hour counting from the time when the service went down.

The determination also established that PTC must send a quarterly report to ICP-ANACOM on the levels of quality provided in the scope of the RUO and on the compensations it made.

In the same sense, simplification of the processes involving changes to, or the termination of contracts was the aim of a Determination in the scope of the LLU – by decision of 14 December 2005, on the process of termination of contracts in the scope of the LLU. It made the process of termination of contracts (full access) or subscriber authorization (shared access) comply with what was determined by this

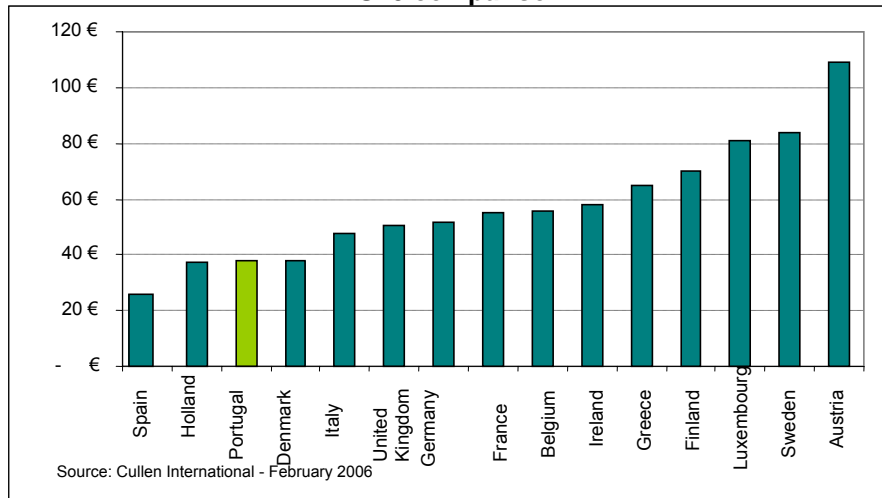
Authority in the scope of other offers such as portability, preselection and LLRO (leased lines reference offer). According to this decision, PTC begins the local loop provision process at the moment when it receives the order request from the provider chosen by the end user, with no previous check of the validity of the termination of the customers' contracts or of the authorizations, which occurred up to now, thus eliminating one of the factors delaying the provision of loops.

ICP-ANACOM also approved a draft Determination, on 14 December, concerning the information that PTC and other operators have to present to the regulator in the scope of the RUO, thus providing ICP-ANACOM with updated and detailed information that is needed to monitor the market, on the deadlines practiced by the several services in connection with the local loop.

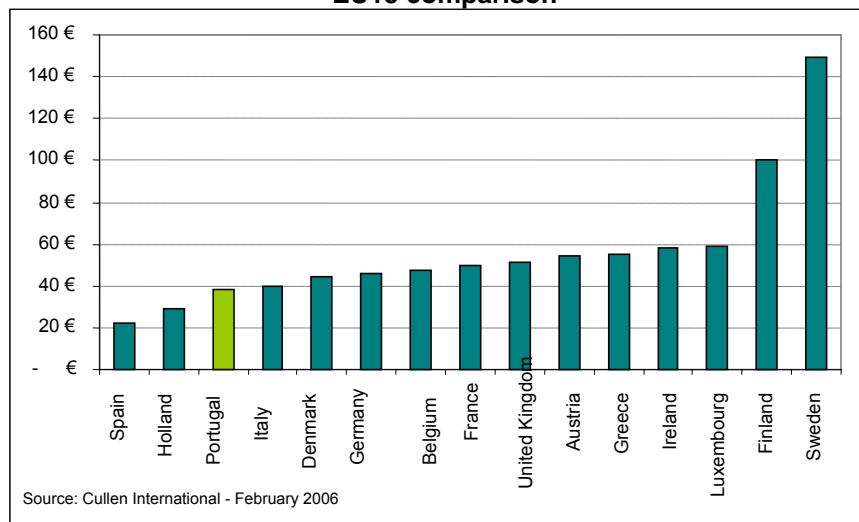
Aiming to foster business models with investment in infrastructures, ICP-ANACOM decided on 13 April 2006 to reduce the prices that PTC charges to alternative operators for the local loop, as of 1 January 2006. The decision includes reductions in the local loop's monthly fee to 8.99 euros, 7.5 per cent below the figure in force in 2005 and about 16 per cent below the price that ICP-ANACOM defined, also in 2005, for the SLRO. In the shared access, the monthly fee is reduced in 15 per cent, to 2.51 euros.

The prices defined by the regulator for the LLU are an improvement to the proposal presented by PTC, which intended to keep the prices of 2005 in force during 2006. The prices of this wholesale offer – resulting from a very quick approximation to the conditions considered appropriate, considering the Portuguese reality – are in the lowest quartile of the prices in the European Union, as shown on the following graphs:

**Graph 2 – Monthly fee regarding the local loop (full access) – EU15 comparison**



**Graph 3 – Installation prices regarding the local loop (full access) EU15 comparison**

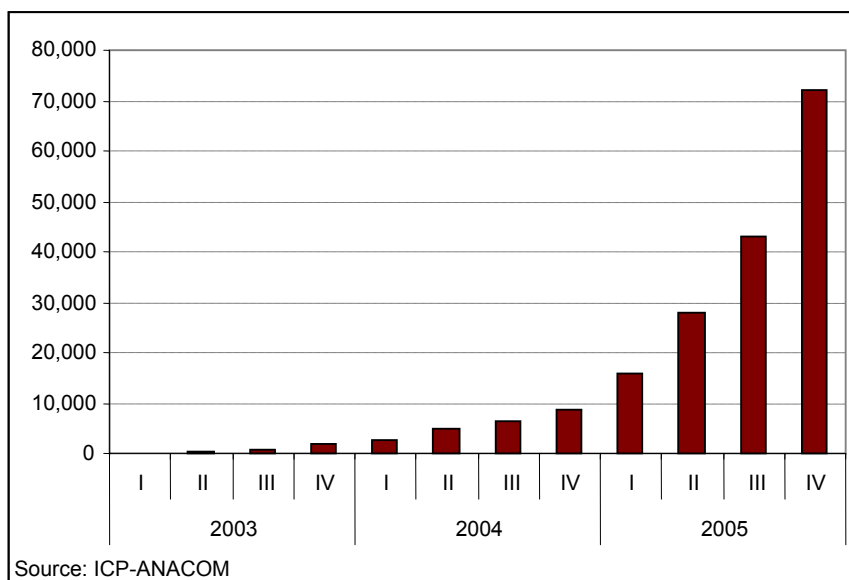


It may be considered that the wide range of measures undertaken by ICP-ANACOM in connection with the LLU where determinant to give alternative operators the chance to overcome access constraints, improving competition namely in the broadband market.

In fact, OLL-related action in 2005 increased operators' and service providers' confidence and certainty. They became more interested and started to invest more significantly in this offer and to deploy competitive commercial offers.

The operators' increased interest may be assessed by the evolution, in 2005, of the number of unbundled loops, which raised to 72,019 by the end of the year, a figure about eight times that of the 8,780 unbundled loops existing at the end of 2004.

**Graph 4 – Evolution of the number of unbundled local loops**



Together with the increase in the number of unbundled loops, the number of operators interested in directly reaching end users through the LLU also increased – more than doubling during 2005. In fact, by the end of December, there were already six co-installed operators in PTC's switchboards for LLU purposes. The number of switchboards with co-installed operators increased from 57 in December 2004 to 184 in the end of 2005.

The fast growth of the rhythm of loop unbundling thus very much stemmed from the set of regulatory changes undertaken by ICP-ANACOM in 2005, which made it possible to substantially reduce the local loop's prices of installation and monthly fee, besides leading to a reduction in the deadlines for provision and to a simplification of processes.

Also noteworthy is that the wholesale offers based on the LLU have greatly evolved in terms of provided bandwidth. This was possible due to ICP-ANACOM's decision to allow the installation of ADSL 2+ equipment in PTC's switchboards. Data shows that,

of the about 72,000 unbundled accesses existing in December 2005, around 69,000 were broadband. The launch of retail offers with 2 Mbps or higher throughputs led to the increase of the throughput of most retail offers, which reference offer was based on the 512 kbps to 2 Mbps.

Using the local loop unbundling gives new providers the chance to directly reach the homes of their customers and to develop more competitive voice and broadband offers.

It should be noted that, throughout 2005, in spite of an increase in the alternative operators' indirect access voice telephone traffic (in minutes) vis-à-vis 2004, the increase in the total voice traffic that they originated mainly resulted, for the first time, from the increase in the corresponding direct access voice traffic. This new trend can result, namely, from the new offers based on the RUO and on the *Rede ADSL PT*, mentioned in the following section.

Indeed, in 2005, one out of three new broadband accesses were installed by alternative operators (one out of two in the fourth quarter of 2005), although it should be mentioned that the growth in the new providers' marginal share was also due to the important growth in the access offers alternative to that of Grupo PT using cable modem.

This result led to important benefits to consumers, namely price reductions, increase in the number of packages with several services and the generalization of offers with greater throughput. It should be noted, particularly, the emergence of joint voice and broadband offers under very competitive conditions that, in some cases, gave the end consumer price reductions of about 50 per cent.

### **I.2.1.3 PT's *Rede ADSL* wholesale offer**

It is ICP-ANACOM's priority to ensure a sustainable and competitive development of ADSL services that are provided to end users, in order to promote universal access to broadband Internet and to guarantee that end users have the maximum benefits in choice, price and quality in connection with the provision of this service.

To serve this purpose, ICP-ANACOM tried to ensure several wholesale offers and conditions that are complementary and coherent among themselves, fostering the existence of different wholesale alternatives to choose from, which require different investment levels and which, on the other hand, make it possible to have several levels of differentiation and to add value to the offers provided to end users. Alternative operators may thus choose whatever suits their investment capabilities best and, possibly, migrate from an access mode to the immediately above level, by investing in their own infrastructure, this way adding value to their offers as they move up the chain.

ICP-ANACOM's action regarding the *Rede ADSL PT* wholesale offer during 2005 is framed in this context.

As previously mentioned, further to the market analysis ICP-ANACOM determined, on 31 March 2005, that Grupo PT has SMP in the wholesale provision of broadband access (market 12). The companies of this group are subject to several obligations, with highlight to the obligations of access at several network points, transparency in the publication of information, including the reference proposals, and of non-discrimination in the provision of access and interconnection, and price control.

It should be stressed that this market, relevant for purposes of *ex-ante* regulation, includes all broadband access services, based both on the public switched telephone network (ADSL services) and on the cable distribution networks.

It should also be noted that Grupo PT is forbidden to launch broadband offers in the cable network until similar offers in the *Rede ADSL* wholesale offer exist. This kind of

regulation aims to make it possible to quickly replicate the offers by the remaining operators. Furthermore, the prices of this wholesale offer must respect the retail-less rule, which should be applied having as reference all broadband access retail offers using the public telephone network and the cable distribution network of Grupo PT's companies.

It should be mentioned that some measures taken in 2004 – such as the enforcement of a 2 Mbps class downlink offer and the prohibition to sell 1 and 2 Mbps broadband retail offers using the cable distribution network before the entry into force of the corresponding wholesale offers in the *Rede ADSL PT* offer – had major impacts on the market evolution in 2005, particularly concerning the emergence of retail offers with greater throughputs.

In 2005, following PTC's initiative to generally increase the throughputs of the broadband offers, ICP-ANACOM decided, on 24 July, not to oppose to the entry into force of those retail offers, as long as PTC changed its *Rede ADSL PT* wholesale offer, reducing the maximum price of the monthly fee for local access with ATM aggregation to 7.05 euros, and to extend its gratuity for six months for the providers of the throughput change requests foreseen for the 2, 4 and 8 Mbps classes. This decision had the purpose of guaranteeing the coherence with other offers and the appropriate investment incentives.

ICP-ANACOM tried to ensure several effective complementary and coherent wholesale offers – IP, ATM and LLU – giving incentives to operators for them to move up the investment ladder, by investing in their own infrastructure, and thus making ways for growing differentiation levels in connection with the offers available to end users.

In order to ease the process of broadband clients' migration between the several service providers, ICP-ANACOM decided – decision of 28 July – that PTC should change its *Rede ADSL PT* broadband wholesale offer, in order to begin the customer's migration process as soon as it receives the request from the operator to which the customer wants to migrate. This inversion of roles that the regulator

intended to establish, making the migration process start when the operator that will gain the client delivers the provision request to PTC, will facilitate the process of client migration among operators.

On 23 August 2005, PTC proposed new changes to the *Rede ADSL PT* offer, this time targeted at service classes with 1:10 and 1:20 contention (i.e., classes targeting the business segment). Among the reported changes, the following ones stand out: the launch of three new access classes, the reduction in the prices of classes eight and nine and the adjustment of their maximum contention rates, the termination of five classes by migration, and the launch of two additional levels of quality of service regarding the service's replacement.

Further to the analysis it made, ICP-ANACOM considered in its Determination of 13 October 2005 that it was necessary to guarantee the coherence with other offers. It decided to extend the gratuity to providers of the requests for throughput change of the 2 Mbps, 4 Mbps and 8 Mbps classes to any throughput; that the evolution for service classes with higher throughputs should not, *per se*, imply the end of the existing service classes; and that the monthly fees of the local access of the several service classes are not coherent among themselves, justifying a global review of the prices.

The changes defined by ICP-ANACOM in this scope made it possible to gather a set of conditions that made it easier for the new operators to develop their activity. Among these are the new PTC's obligation to offer a greater number of network access points, the price reductions of the *Rede ADSL PT* wholesale offer, the introduction of new throughput classes and the change of procedures that aim to ease up the migration of clients among operators, putting PTC in charge of starting the process as soon as it receives the provision request from the provider chosen by the customer.

ICP-ANACOM's intervention in connection with this wholesale offer – together, naturally, with the creation of more appropriate conditions for the development of offers based on the access to the local loop – brought clear benefits to end



consumers, which made way for a strong increase of broadband penetration and the launch of new offers with higher throughputs. Particularly, the 2 Mbps class became, during the second quarter of 2005, the one mostly used one in Portugal – corresponding to about 50 per cent of the ADSL accesses – which comes to show an important qualitative change for consumers.

According to data from the market, ADSL was the main responsible, in 2005, for the growth of Internet in Portugal. Between the end of 2004 and the end of 2005, three out of each four new broadband clients chose ADSL access, resulting in a year-to-date growth of 66 per cent.

#### **I.2.1.4 Leased lines service reference offer (LLRO)**

Leased lines are a fundamental service on which telecommunications services in general are supported, since they are used by operators as essential infrastructures for the development of their own networks and, therefore, of the retail services.

Considering this market's importance, ICP-ANACOM, still in 2004, intervened in the tariffs of the leased lines service, by defining a discount structure that would guarantee the existence of competitive and non-discriminatory conditions in the provision of leased lines.

Later on, Determination of 8 July 2005 approved the decision on the definition of product markets and geographical markets, SMP assessment and the enforcement, maintenance, change or suppression of regulatory obligations concerning markets 7 (leased lines retail market) 13 (wholesale market for leased line terminal segments) and 14 (wholesale market for leased line transit segments) of Commission's Recommendation 2003/311/EC of 11 February 2003.

Further to the analysis it made in 2004 and in the beginning of 2005, ICP-ANACOM identified, in the decision of 8 July 2005, the retail market of leased lines and the

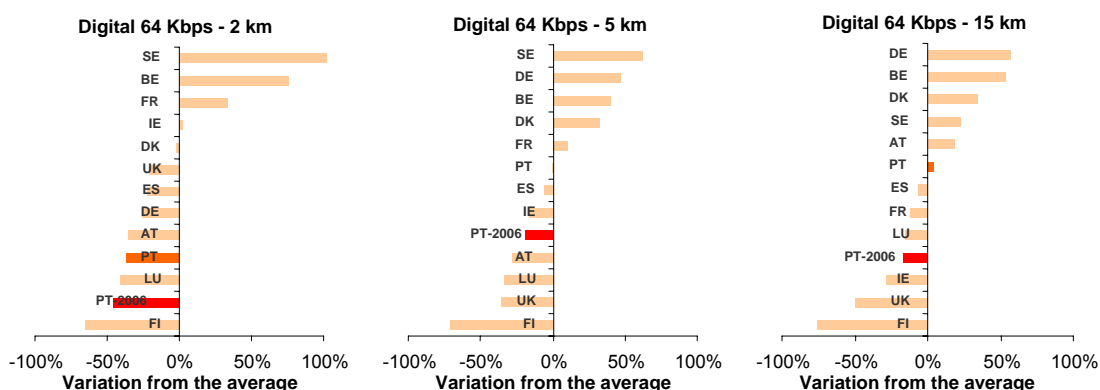
wholesale markets of leased line terminal segments and transit segments as relevant markets. It considered that Grupo PT's companies operating in these markets have SMP. Consequently, it concluded that a set of obligations should be enforced on these companies (namely of non-discrimination, transparency, and cost control and cost accountancy) with highlight, regarding the wholesale markets, to the obligation of publicizing a leased lines reference offer (LLRO).

In order to comply with this obligation, PTC sent ICP-ANACOM a draft LLRO. After analysing it, this authority decided, on 8 September, that the proposed tariff should be reviewed, since it was not in accordance with what was stated on the aforementioned decision of 8 July 2005.

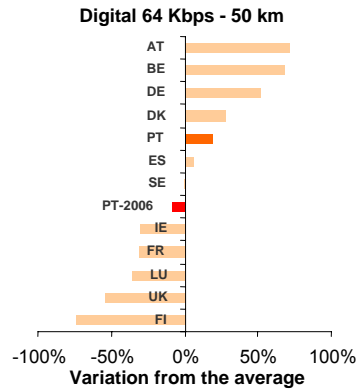
On 16 March 2006, ICP-ANACOM approved a draft determination on the LLRO with an average reduction of about 18 per cent in the prices of leased lines.

Taking this reduction into account, the prices of leased lines in Portugal are usually bellow the EU15 average, especially for short distances and low throughputs. The following graphs compare prices in Portugal with the remaining EU Member States, considering the current prices and the prices that are stated in the draft Determination:

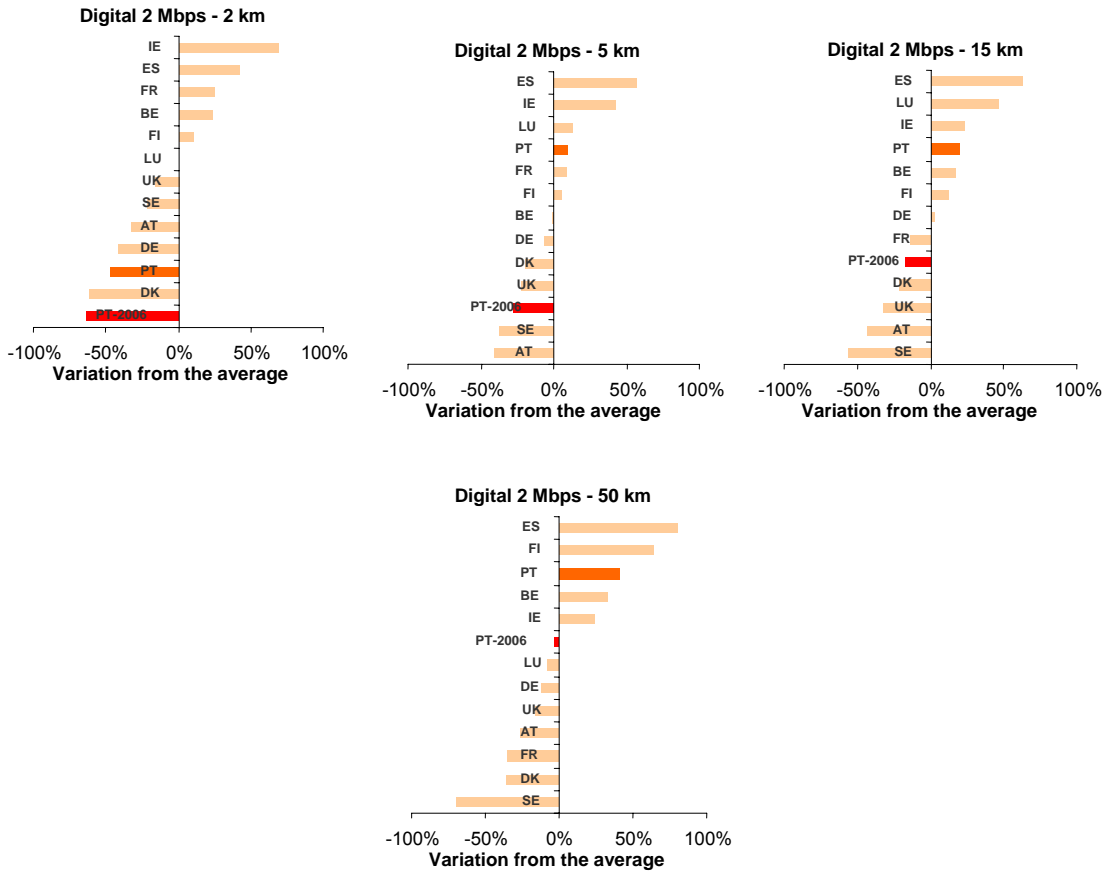
**Graph 5 – Prices of 64 kbps digital circuits in the EU (EU15)<sup>2</sup>**



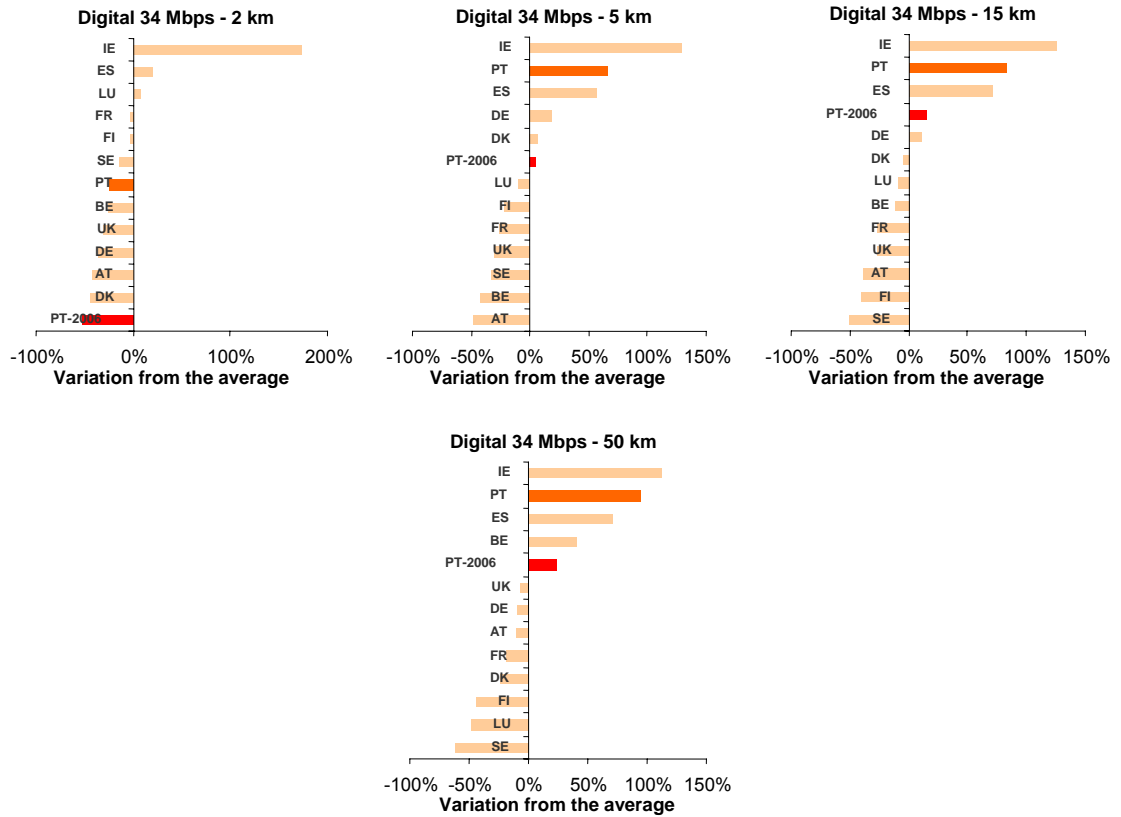
<sup>2</sup> PT – price practiced in Portugal by PTC on this report's closing date.  
 PT-2006 – price resulting from the price reduction foreseen in the draft determination on the changes to the LLRO, of 16 March 2006.



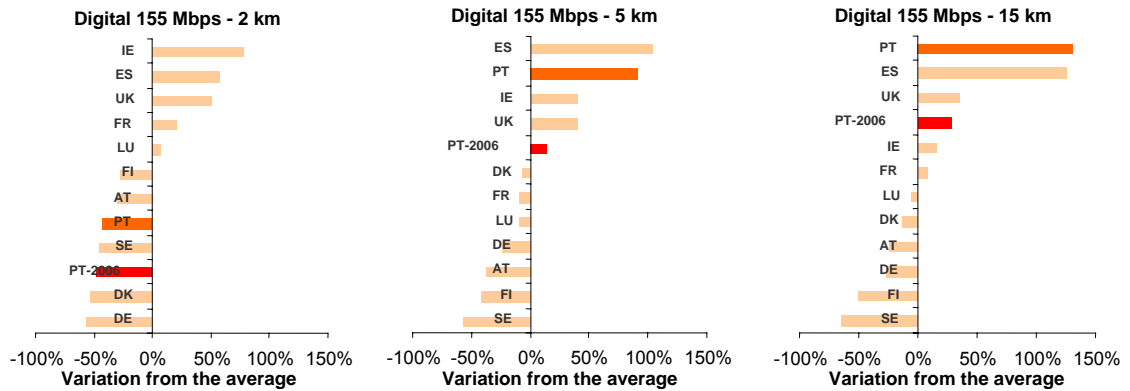
**Graph 6 – Prices of 2 Mbps digital circuits in the EU (EU15)<sup>2</sup>**

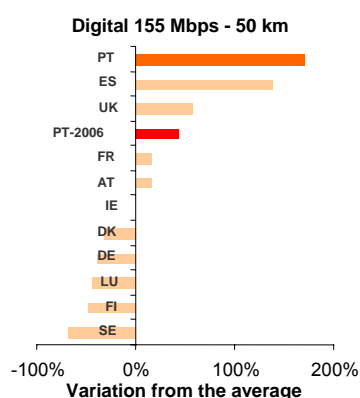


**Graph 7 – Prices of 34 Mbps digital circuits in the EU (EU15)<sup>2</sup>**



**Graph 8 – Prices of 155 Mbps digital circuits in the EU (EU15)<sup>2</sup>**





### I.2.1.5 Reference interconnection offer (RIO), including specifications of capacity-based interconnection (flat rate)

#### Call origination and termination services

##### RIO 2005

Determination of 17 February 2005 defined the maximum prices for the interconnection services, a global average price reduction of about 10 per cent, resulting from the reduction of the interconnection prices and from the 2 hour enlargement of the economic period (the normal period became applicable between 9:00 and 19:00h on working days, and the economic period in the remaining periods; previously, the transition between periods was at 21:00h). The maximum prices determined by ICP-ANACOM are shown on the following table.

**Table 2 – Price per minute, based on a 3 minute call – RIO 2005  
(Units in euro cents without VAT)**

Level	Termination		Origination	
	Price per minute		Price per minute	
	Normal period	Economic period	Normal period	Economic period
Local	0.68	0.43	0.68	0.43
Single transit	0.97	0.61	0.97	0.61
Double transit	1.47	0.90	1.47	0.90

According to the determination, the call activation prices shouldn't be above 0.60 euro cents for local interconnection, 0.70 euro cents for single transit interconnection, and 0.80 euro cents for double transit interconnection. This applies to the call termination and origination services. The billing would be made per second as from the first second.

## RIO 2006

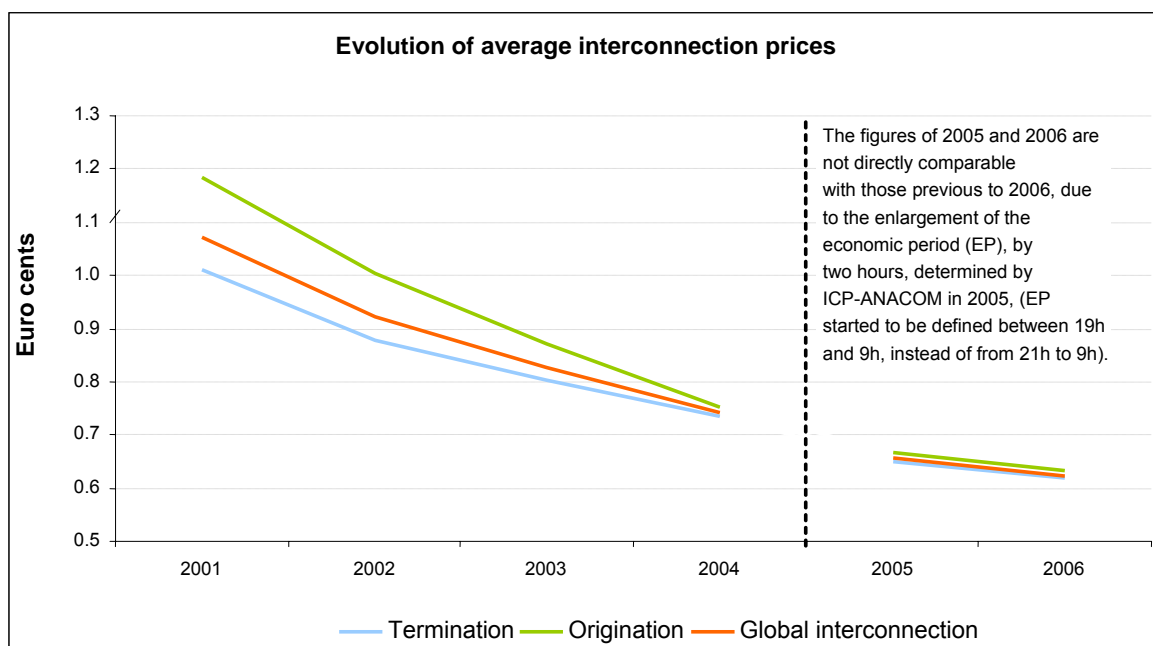
On 21 April 2006 the Determination on the changes to be made to the RIO 2006 was approved. It defined the tariff applying to the call origination and termination services, to be integrated in the RIO 2006 (see following table), of an average price reduction of about 5.1 per cent.

**Table 3 – Price per minute, base on a 3 minute call – RIO 2006  
(units in euro cents without VAT)**

▪ Level	Termination		Origination	
	Price per minute		Price per minute	
	Normal period	Economic period	Normal period	Economic period
▪ Local	0.64	0.41	0.64	0.41
▪ Single transit	0.93	0.58	0.93	0.58
▪ Double transit	1.44	0.88	1.44	0.88

The maximum prices defined for call activation must be 0.57 euro cents for interconnection at the local level, 0.66 euro cents for single transit interconnection, and 0.76 euro cents for double transit interconnection. Billing is done per minute from the first second. The normal period is kept between 9:00 and 19:00 during working days, and the economic period the remaining time, as defined in RIO 2005.

The evolution in the prices of the interconnection services since the beginning of the decade should be noted. The maximum prices defined by ICP-ANACOM made it possible to maintain a strong decreasing trend since 2001, as shown on the following graph.

**Graph 9 – Evolution of the average prices per minute, for a 3 minute call<sup>3</sup>**

Source: ICP-ANACOM reckoning based on the prices stated on the RIO for each year and on the Determination regarding RIO 2006.

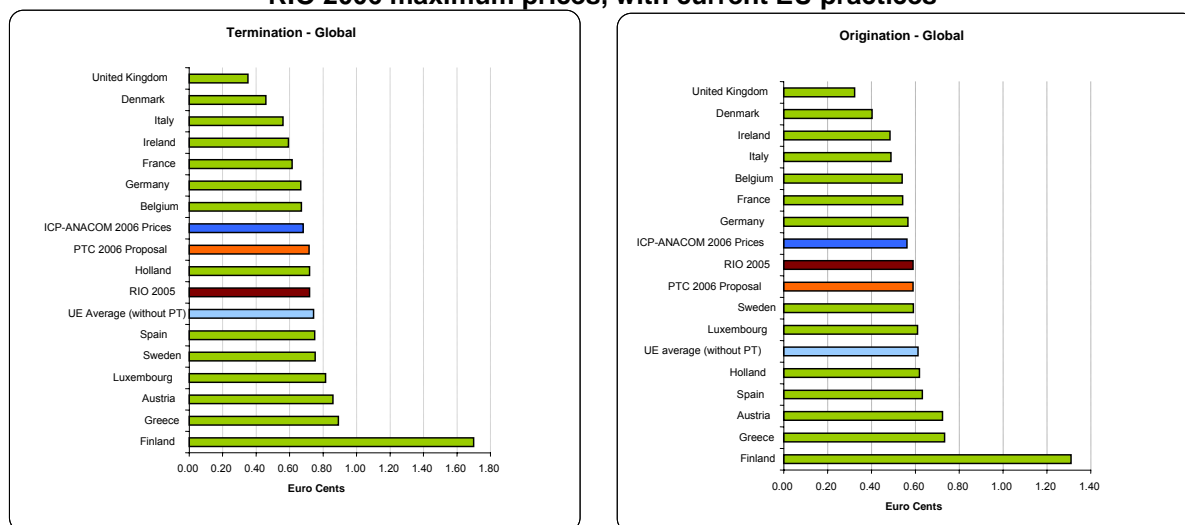
The progressive reduction of interconnection prices (decrease of about 42 per cent from 2001 to this date<sup>4</sup>, resulting from the 29 per cent reduction in termination and 47 per cent in origination) was an important contribution to the market development and the development of conditions for effective and sustainable competition, which resulted in a reduction of the entry barriers of alternative operators (particularly those offering preselection services). At the same time, it shows the impact of the measures adopted on the narrow band retail markets, especially the deployment of a wider range of options for the end user and the decrease in the prices of the services provided to the end user.

The maximum prices thus defined led to important decreases regarding those existing in 2001 – currently below the average values in the EU (see graphs below) – creating appropriate conditions for the alternative operators, considering the specific characteristics of the Portuguese reality.

<sup>3</sup> The traffic profiles foreseen by PTC for 2006 were adopted for reckoning purposes, for the 2005/2006 period. For the 2001/2004 period, the profiles presented by PTC for 2004 were adopted. The use of different traffic profiles, in spite of preventing a comparison between the values of 2004 and 2005, reflects the enlargement of the economic period that occurred in 2005.

<sup>4</sup> Reckoning based on the average price, per minute, of a three minute call, resulting from the application of the interconnection tariff in force each year.

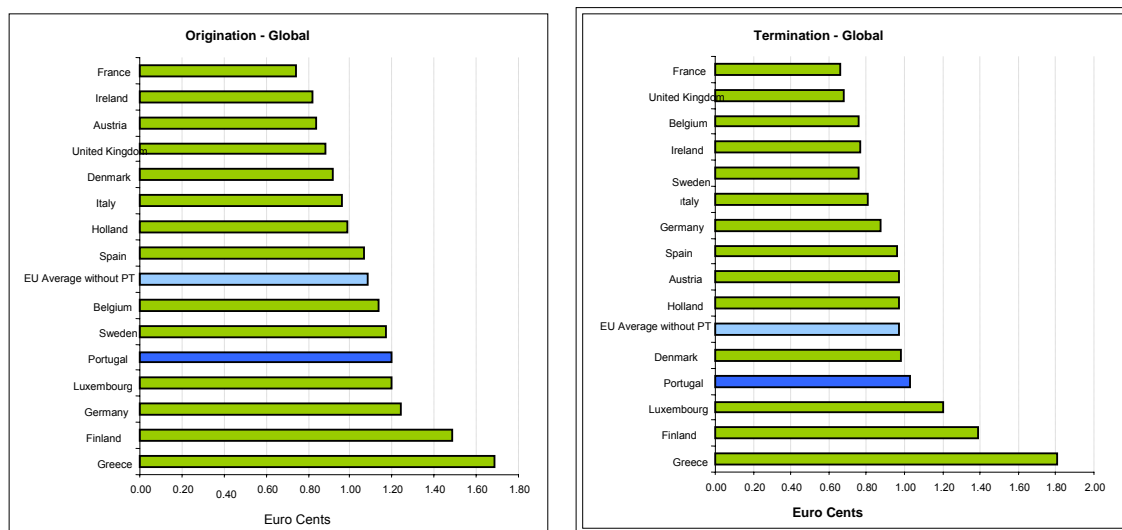
**Graph 10 – Comparison of the average price per minute of a 3 minute call, of the ICP-ANACOM RIO 2006 maximum prices, with current EU practices**



The important evolution of the average interconnection prices in the 2001/2005 period also had an impact on Portugal's relative positioning vis-à-vis the remaining EU countries. In 2006, the maximum prices defined by ICP-ANACOM in the Determination concerning the changes to be introduced in RIO 2006 resulted in -8 per cent variations regarding the EU15 average, both for termination and for origination, while the average price in force in 2001 represented variations of about 6 per cent for termination and 10 per cent for origination (see following graphs).



**Graph 11 – Comparison of the average price per minute for a 3 minute call with EU practices, for 2001**



## Invoicing, collection and non-collection risk service

### RIO 2005

Regarding the prices defined for the invoicing and collection services for shared cost call services, and the types of calls that they apply to, ICP-ANACOM established maximum prices based on the following components: (i) cost of the activity of invoicing and collecting and (ii) cost of non-collection risk, namely the cost resulting from the provisions made to face that risk.

The prices established are:

- (a) 3.03 euro cents, per call, for the shared cost call services, where the cost to be supported by the caller is below or equal to PT local (as defined in PTC's tariff);
- (b) 3.89 euro cents, per call, for the remaining non-free special services.

The prices thus defined are 17 per cent and 25 per cent below those of the RIO 2004, for the services mentioned in paragraph (i) and (ii), above, respectively. This variation is mainly justified by the evolution in the amounts of the provisions made to support the risk of non-collection.

## **RIO 2006**

By the Determination on the changes to be introduced in RIO 2006, approved on 21 April 2006, new prices for the invoicing and collection services for the shared cost call services were determined, and the types of calls that they apply to, based on the cost components previously mentioned. The following maximum prices were established:

- (c) 3.08 euro cents, per call, for the shared cost call services, where the cost to be supported by the caller is below or equal to PT local (as defined in PTC's tariff);
- (d) 3.44 euro cents, per call, for the remaining non-free special services, namely the customer support services, information services, universal access services and shared cost call services where the cost for the user is above that of a local call made in the scope of the universal service, provided by the operators/providers of electronic communications services.

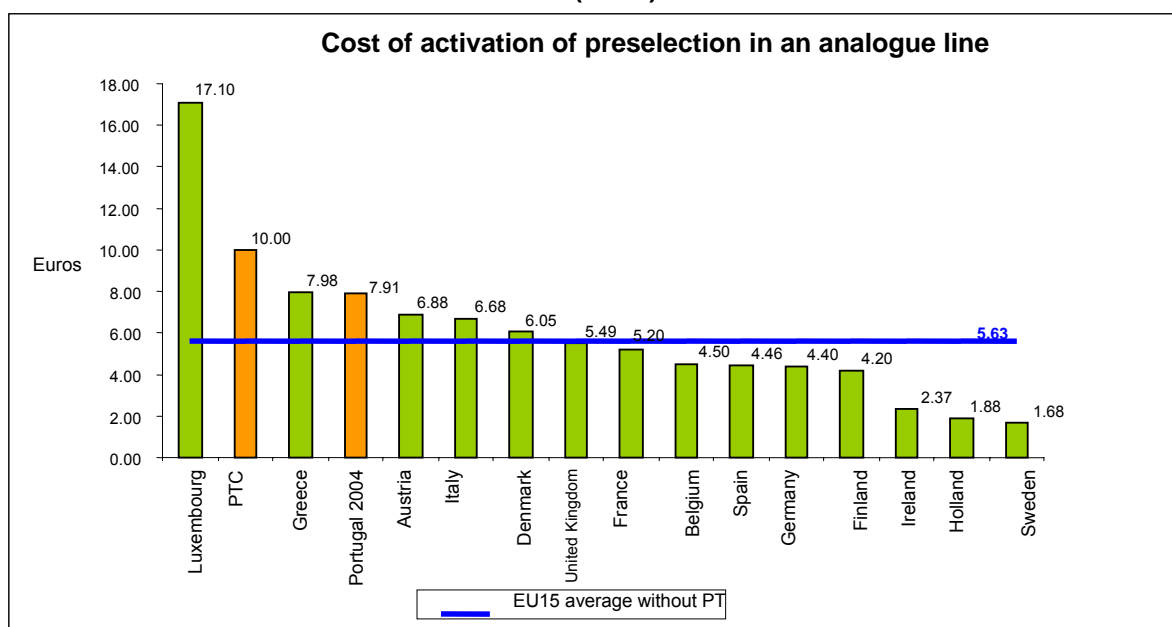
The prices thus defined mean about 2 per cent and -12 per cent variations for each of the mentioned numbering ranges, vis-à-vis RIO 2005. Furthermore, PTC had to clarify, for the conditions defined in RIO, that the prices mentioned therein include the non-collection risk component.

## Preselection prices

### RIO 2005

Recognizing that the price of preselection – which hadn't suffered changes since its definition in 2000 – was not appropriate and that such price is important to reinforce competition conditions, ICP-ANACOM decided that the preselection activation price should decrease to 5.60 euros, thus aligning with current European practices (see table below).

**Graph 12 – Current European practices concerning the activation of preselection in 2004 (EU15)**

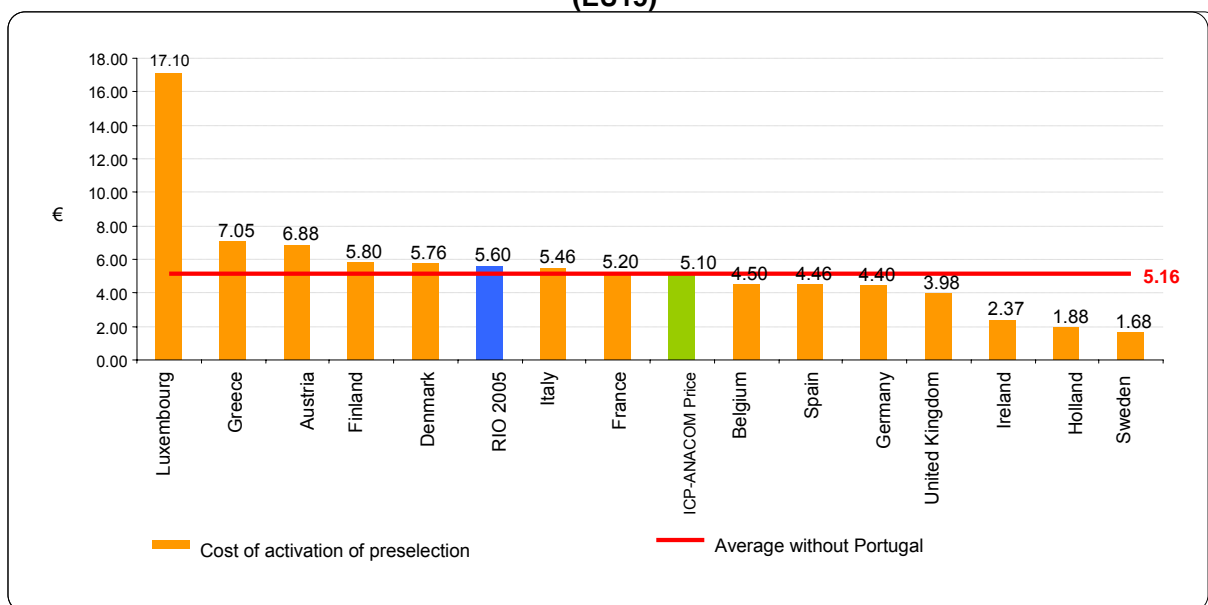


### RIO 2006

Considering the reduction of the estimated unit cost put forward by PTC for the provision of the preselection service, in relation with the expected increase in demand, and also considering the achieved simplification of the preselection request process, with the agreement for the simplification of procedures of service provider change signed by PTC and most operators, ICP-ANACOM approved on 21 April 2006 the Determination establishing a maximum preselection activation price of 5.10

euros, a 9 per cent decrease regarding the price stated in RIO 2005, thus becoming much closer to the current European practices (see graph below).

**Graph 13 – Current European practices concerning the activation of preselection in 2005 (EU15)**

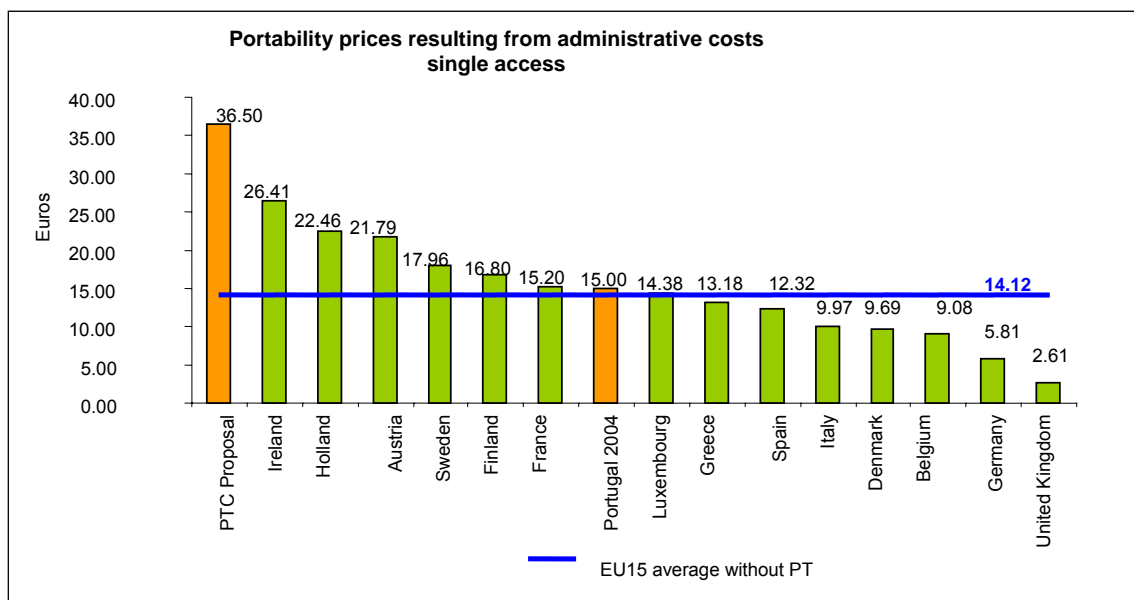


## Portability prices

### RIO 2005

Considering the European practices, according to the information collected in October 2004 – and not finding justification for the cost oriented price of an incremental service in the process of disconnecting a client to be above the price of the reference Entity that was set up, with commercial purposes, to only process portability requests, and which provides a more complex service under this perspective – ICP-ANACOM decided to maintain the price previously in force, of 15 euros, for it believes that the maximum price defined for portability is in line with the community average (see graph below). ICP-ANACOM will monitor the cost evolution, conditions of service provision and European practices, and will intervene whenever needed.

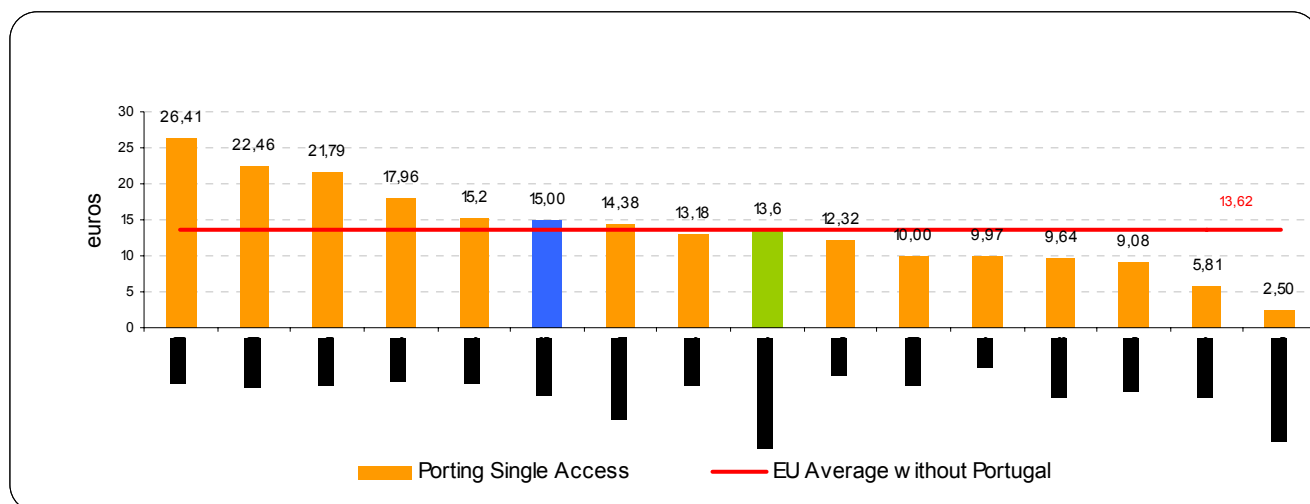
**Graph 14 – Current European practices concerning the prices applying to portability (single access), EU15 – 2004**



## RIO 2006

Considering the (i) rational supporting the Determination on the changes to be introduced in RIO 2005, particularly regarding the portability activation prices; (ii) the agreement for the simplification of the process of service providers change; and (iii) the expected decrease in portability costs, ICP-ANACOM approved on 21 July 2006 the Determination on the changes to be introduced in RIO 2006, which established a maximum price of 13.60 euros for porting a simple access, a decrease of about 9 per cent vis-à-vis the price in RIO 2005, in line with the current European practices, as shown on the following graph.

**Graph 15 – Current European practices concerning the prices applying to portability (single access), EU15 – 2005**



### Specifications of capacity-based interconnection – interconnection flat fee

Considering the evolution of the electronic communications market and the emergence of competitive and innovative products and services in retail, and which the operators competing with Grupo PT could not fully replicate, given the current time-based interconnection model, it became necessary to introduce a interconnection model that is not time-based and that allows operators competing with Grupo PT to replicate in a competitive way certain offers and campaigns of Grupo PT. Therefore, in connection with ICP-ANACOM's decision on the setting of obligations in the wholesale markets of origination and termination, the provision of a capacity-based interconnection model, alternative to the time-based one (i.e., based on the length of the switched calls) became mandatory for Grupo PT.

Its introduction should contribute to a more efficient management of the interconnection resources by operators, which can now adjust them to their traffic needs and profiles, making it possible for all to offer innovative products and services and fostering the use of the fixed network, ultimately benefiting users, and contributing to create competitive conditions.

Determination of 24 June 2005 approved the launch of a public consultation on the provision of capacity-based interconnection (interconnection flat rate). By Determination of 12 October 2005, ICP-ANACOM approved its report and the draft decision on the changes to RIO in order to include the capacity-based interconnection.

The capacity-based interconnection model is made up of the transparent and non-discriminatory offer by PTC to operators and service providers of certain capacity of interconnection services alternative to the time-based interconnection model, at the interconnection geographical points (IGP) foreseen in the RIO, with a fixed price (i.e., interconnection flat rate). The interconnection flat rate varies with the contracted capacity and is independent from the length of the effectively routed traffic, with the contracted capacity being measured in multiples of the basic capacity unit, of a 2 Mbps line.

The capacity-based interconnection model is valid for voice traffic and for the narrow band (dial-up) Internet access traffic, and implies that PTC provides the network resources aimed at complying with the interconnection requests of the operators that have contracted a certain capacity to route the eligible traffic, according to the agreed quality and availability objectives. It also implies the payment of a price for traffic transport, in the sense of promoting an efficient and rational use of capacity-based interconnection.

Its beneficiaries will be the current beneficiaries of the RIO (public telecommunications network operators and FTS, MTS and data transmission service providers).

Among the basic services of switched traffic interconnection, the origination and termination services, especially the indirect access, are the fundamental support of interconnection. Thus, eligible traffic for capacity-based interconnection is: a) origination traffic: local, single transit and double transit; b) termination traffic: local, single transit and double transit. The following services are excluded from the eligible

traffic for capacity-based interconnection: a) free interconnection services (e.g.: 112, 117, 1414); b) international termination and transit traffic.

In order to foster stability on interconnection and an appropriate planning of the interconnection traffic, it is necessary to establish a minimum contracting period for the capacity-based interconnection, at the end of which the operators and service providers may maintain, change or cancel the capacity-based interconnection contract, not paying any compensation to PTC. Should this minimum period not be complied with, namely with the beforehand cancellation of the basic capacity units or the migration of part or all of the contracted capacity at a given IGP, the non-compliant part must pay a reasonable compensation, to be defined in the RIO.

The principles to be considered in the reckoning of the interconnection prices are, mainly, that the interconnection prices must be based on the real cost of their provision and the economic continuity of the model. Therefore, a relationship was established between the monthly capacity price and the price per minute, through the criterion used for sizing – the expected monthly traffic, according to the following formula:

$$\text{Basic Unit Price} = \text{Minutes per month} * \text{Average price per minute resulting from the time-based interconnection}$$



### **I.2.1.6 Narrow band retail markets**

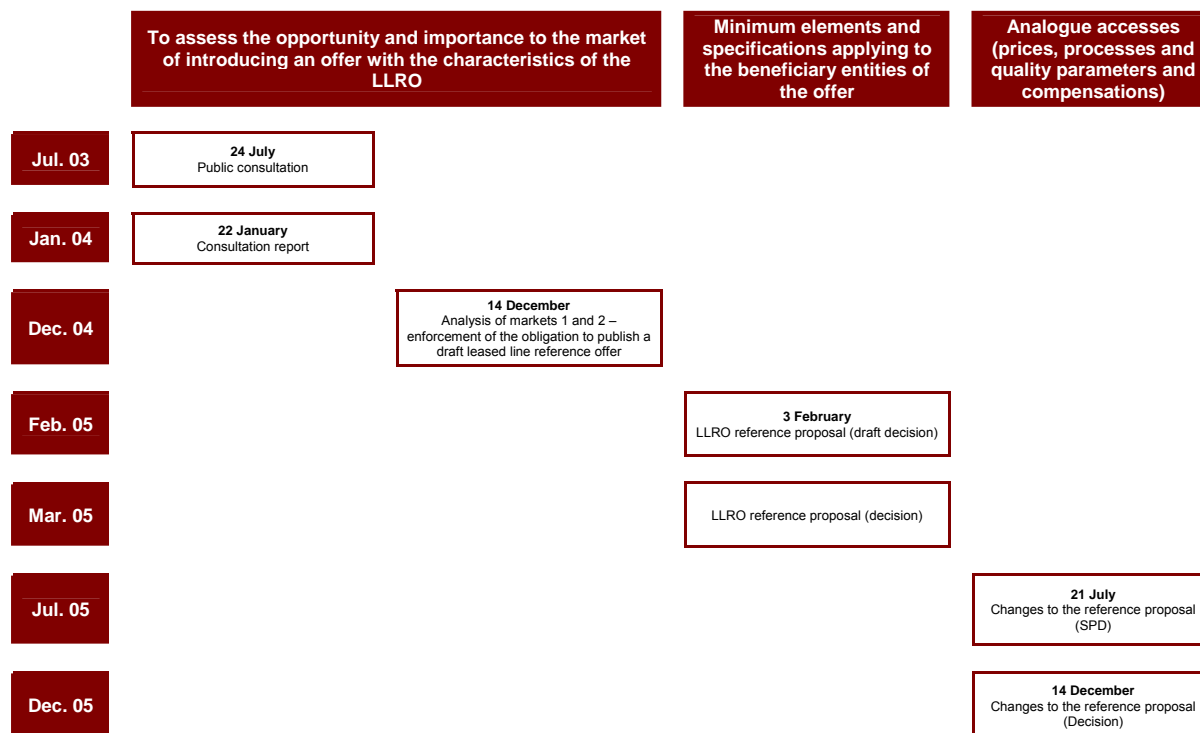
ICP-ANACOM's activity in 2005 was characterized by the intensification of solutions of access to the incumbent operator's network, also in the retail markets, the effective implementation of the leased lines reference offer (LLRO) standing out.

In the regulation model that ICP-ANACOM has been following, it is considered fundamental for the objective of promoting competition to ensure the coherence between the conditions of the several wholesale and retail offers of Grupo PT's companies.

#### **I.2.1.6.1. Leased lines reference offer (LLRO)**

The leased lines reference offer (LLRO) is a wholesale offer concerning the right of invoicing the telephone line of the operator with SMP in the residential and non-residential retail markets of access to the telephone network at a fixed location. The development of this offer makes it possible for the beneficiary entities to provide innovative retail offers, adding value for the end user by creating diversified services, and to compete with Grupo PT's offers aggregating access and other services, in optional plans.

The following figure shows the chronology of the LLRO implementation process.



The beginning of the process was in July 2003, with the public consultation on LLRO, which report was published on 22 January 2004.

On 14 December 2004 ICP-ANACOM determined that Grupo PT's companies operating in the residential and non-residential retail markets of access to the public telephone network at a fixed location<sup>5</sup> have the obligation to provide the LLRO and to publish a reference proposal in that scope.

As a result of what was determined on the Determination of December 2004 mentioned in the previous paragraph, ICP-ANACOM approved, by Determination of 29 April 2005, the minimum set of elements to be included in the LLRO proposal and the specifications applying to the beneficiaries of the offer, as well as the report on the consultation and previous hearing on the corresponding draft decision. It should be noted that that document contains the analysis made by ICP-ANACOM to the comments to the mentioned public consultation on LLRO launched in July 2003, to

<sup>5</sup> From hereon designated Grupo PT's companies.

the public consultation on the obligation in the narrow band retail markets, and to the experience of other Member States.

Later on, Determination of 14 December 2005 approved the changes to be made to the LLRO proposal. From the issues approached in this determination, the following stand out: (i) included accesses; (ii) prices (it was established that the LLRO's monthly fee should not be above 10.75 euros, VAT excluded); (iii) procedures for the provision of the services; (iv) quality of services parameters, applying performance objectives and compensation for non-fulfilment; and (iv) consumer invoicing and collection.

On the same date of 14 December 2005, also aiming to a quick and efficient implementation of the LLRO, ICP-ANACOM decided to approve the conditions for the provision, by Grupo PT's companies, of offers aggregating network line and traffic under one sole price. Under the terms of this Determination, companies of Grupo PT cannot provide retail offers aggregating access and telephone traffic as long as all the following requisites are not fulfilled: (i) effective provision of analogue and basic and primary ISDN accesses for LLRO activation; (ii) as long as the invoicing and collection price established by the LLRO beneficiary entity is reasonable and as long as the offer is active in the corresponding loop and for that entity, requests to the entities benefiting from the LLRO to invoice and collect all the services provided over LLRO-activated accesses, regardless of these being provided by Grupo PT's companies or by other companies, when they are invoiced to and collected from the subscribers of Grupo PT's companies; and (iii) efficient and effective implementation of the LLRO. For this last requisite, it is considered that the LLRO is being implemented in an efficient and effective way if the number of LLRO-activated accesses is, at least, 150,000 in equivalent analogue loops, excluding the activations of Grupo PT's companies.

If that amount is not reached within three months after the beginning of the LLRO's implementation, should such situation be due to non-optimised practices by Grupo PT's companies in the implementation of the LLRO, these will continue to be forbidden to provide retail offers aggregating access and telephone traffic. Otherwise,

ICP-ANACOM will not oppose to the provision by Grupo PT's companies of retail offers aggregating access and telephone traffic, as long as the applying regulatory framework is being complied with, including, namely, the compliance with the obligations of cost orientation and non-discrimination.

It is also shown that ICP-ANACOM, in the scope of its supervision and monitoring obligations, will continue to verify the implementation and functioning of the procedures associated to the LLRO, which transparency and efficiency should be guaranteed by the companies of Grupo PT.

Regarding current European practices within this scope, it should be mentioned that the United Kingdom's regulatory authority (OFCOM) published on 20 July 2005 a document where it analyses the replicability of the retail services (calls, subscriber lines and leased lines) where British Telecom (BT) has SMP, identifying the measures that BT must implement to guarantee the replicability of such services. Among those measures is the need for the LLRO to overcome the so-called fit-for-purpose test, which is the assessment of: (i) the LLRO's consistency with the corresponding functional specification; (ii) the LLRO's implementation having been made in order to minimize the barriers to an efficient competition; and (iii) the effective impact of the LLRO on the market.

Particularly regarding the prices of the LLRO's monthly fee in the countries where this measure was imposed, it should be noted that the figure established for Portugal (Determination of 14 December 2005) is about 12 per cent below the average of the considered countries (see following table).

**Table 4 – Prices of the LLRO monthly fee**

Country	LLRO monthly fee (euros)
Denmark	10.4
Ireland	18.0
Norway	12.7
Sweden	9.0
United Kingdom	12.6
<b>Portugal</b>	<b>10.8</b>
Average without PT	12.2
PT variation regarding the average without PT	-12.0%

The impact on the market of the implementation of the LLRO and of the changes to it approved on 14 December 2005 will be felt in 2006, considering that some maturing time is needed for the development and dissemination of the innovative retail offers made possible by that this measure.

#### **I.2.1.6.2 PTC retail offers**

ICP-ANACOM has carefully followed-up the evolution of the offers launched by PTC at the level of the retail markets<sup>6</sup>, ensuring that they comply with the applying regulatory principles, namely by verifying the alignment between the prices practiced and the costs (principle of cost orientation of prices) and the possibility that other operators have to replicate these offers, based on the interconnection costs practiced by PTC and which they are subject to (non-discrimination principle).

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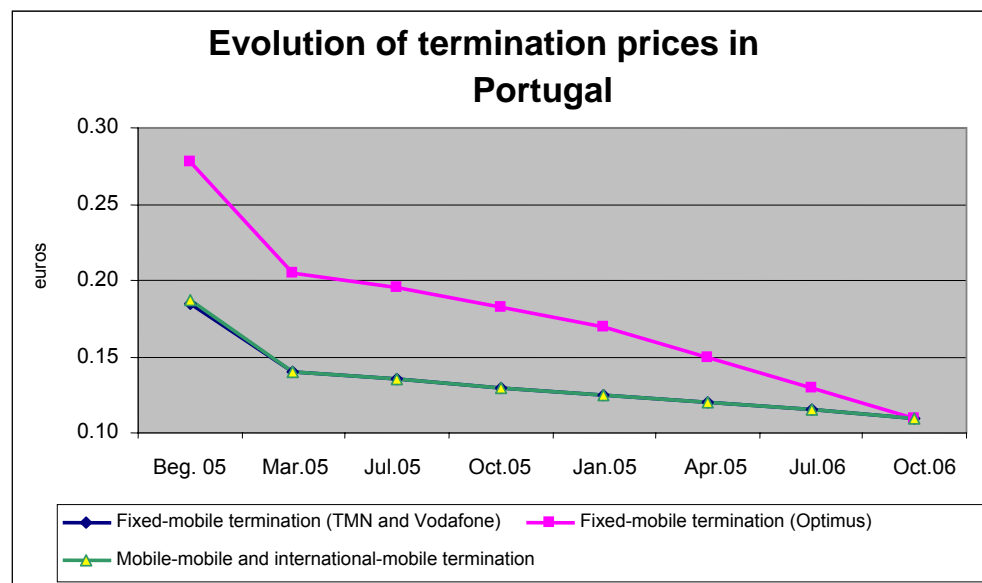
<sup>6</sup> The mentioned offers provide, for a monthly fee, unlimited traffic on PTC's network or the use of a ceiling of minutes, during a given time period. Some the examples of unlimited time plans include the offers PT Total, PT Manhãs, PT Tardes, PT Tardes +, PT Dias Úteis, PT FDS, PT Noites and PT Noites +; minute packages include the PT 200, PT 100 and PT 200 Total offers.

### I.2.1.7 Price control in the wholesale markets of voice call termination in individual mobile networks

In the scope of the relevant markets' analysis, the analysis to the wholesale markets of call termination in individual mobile networks was concluded on 25 February 2005, with the identification of the three mobile operators - TMN, Vodafone and Optimus - with SMP.

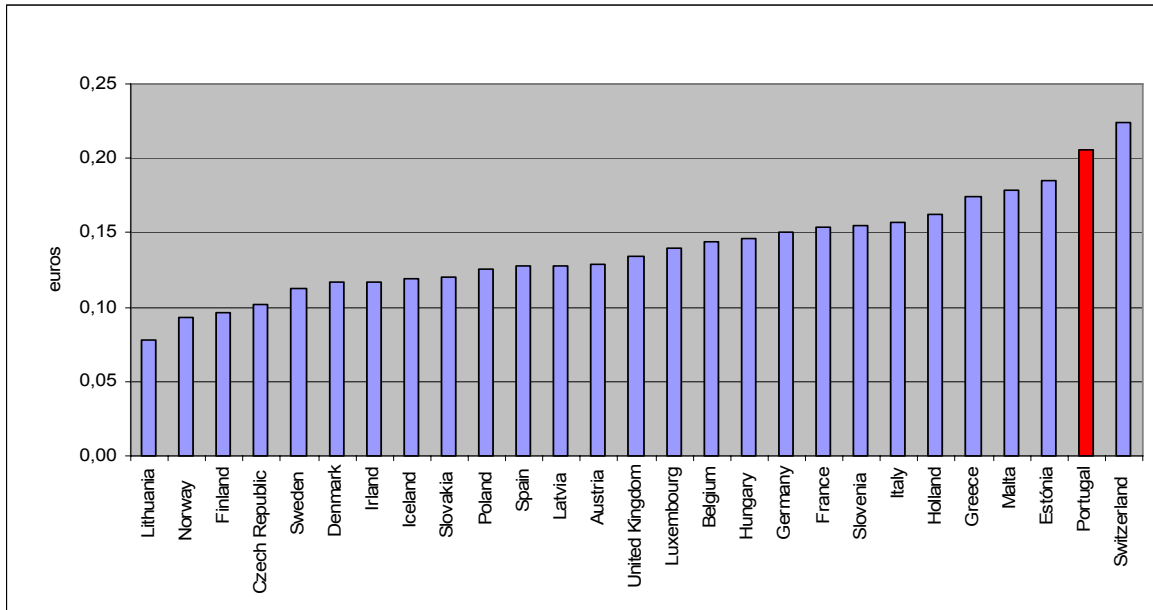
Important reductions were established regarding the prices previously practiced, through the price control implemented for the wholesale service of mobile termination. As from the first moment, in March 2005, reductions of about 25 per cent were registered, while at the end of the considered period, the price reductions will vary between 41 per cent and 60 per cent (see graph).

**Graph 16 – Evolution of the termination prices in Portugal**

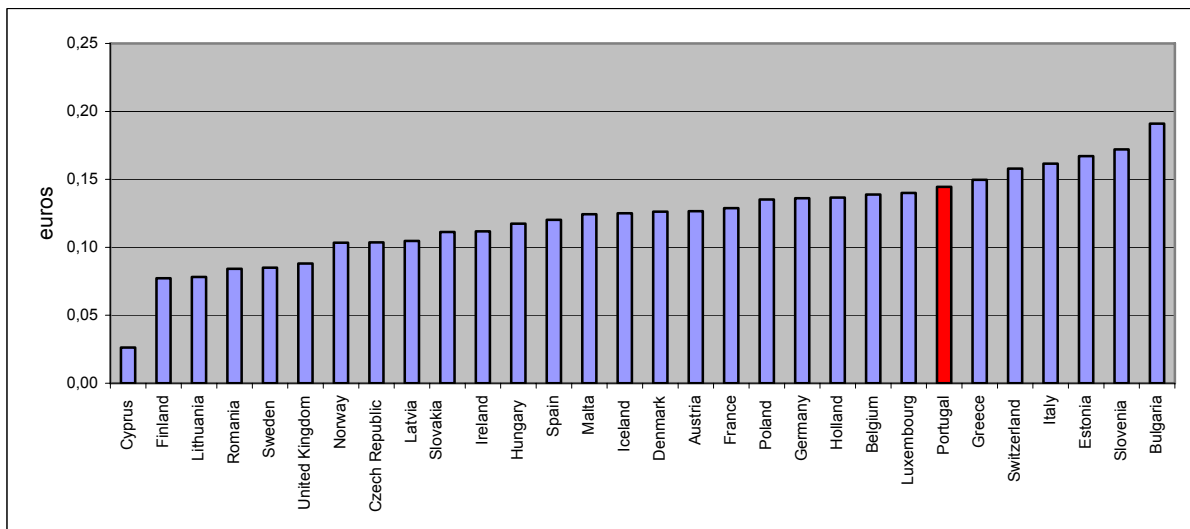


The following graphs show that the mandatory reductions resulted in considerable decreases of the average prices practiced in Portugal, and it is expected that they will become closer to the average European levels, further to the reductions to be implemented throughout 2006. The graphs also show an improvement in Portugal's relative position in July 2005 vis-à-vis that of last year.

**Graph 17 – Average prices of fixed-mobile termination – July 2004**



**Graph 18 – Average prices of fixed-mobile termination – July 2005**



Following ICP-ANACOM's decision on the reduction of the mobile termination prices of the three mobile network operators, it is considered that the competitive framework

of the mobile markets was benefited, namely by making way for commercial strategies that oppose the effects of network externalities. These effects are fostered by the practice of price discrimination at the wholesale level – between the prices for other networks and the prices for the own network – associated to the practice of *on-net* and *off-net* prices discrimination in the retail, placing smaller operators in disadvantage.

By imposing an important reduction in the termination prices, ICP-ANACOM contributed – besides the reductions in the retail prices applying to the fixed-mobile traffic – to create conditions for the emergence of more offers that do not differentiate the prices of on-net and off-net communications, and which include off-net retail prices that are more attractive to end users, which occurred in mid 2005.



### **I.2.1.8 Concessionaire PTC's reference conduits access offer (RCAO)**

The efficient use of the existing infrastructures is a very important item in the promotion of competitive conditions in the electronic communications market, making it possible to externalise investments made by several economic agents to the whole of the Portuguese economy.

This also depends on the promotion and verification of the conditions of access to the ducts of the public service's concessionaire and to the lines of other public entities.

PTC's obligation to provide by agreement access to lines, posts and other facilities and locations it owns or manages, is mandatory under the terms of no. 1 of article 26 of Law no. 5/2004 of 10 February. Article 26, no. 4 of this law also establishes that the concessionaire is obliged to provide an offer for access to the ducts, which must include the conditions of access and use, under the terms to be defined by ICP-ANACOM.

This obligation's main purpose is to overcome certain constraints that entities offering publicly available electronic communications networks and services face, namely to efficiently replicate the investment in ducts, in certain geographical zones, where there may be physical limitations to the viability of replicating ducts, this being conditioned, in certain situations, by underground occupation restrictions resulting from its saturation, or by municipal restrictions.

Furthermore, Decree-Law no. 68/2005 of 15 March specifically established the legal regime for the construction, management and access (especially recognizing the importance of the access to ducts), having in view the infrastructures of the State's public domain to host communications networks.

It should be noted that, by determination of 17 July 2004, after consulting the interested parties, ICP-ANACOM set the principles and general conditions to which the access and use of the concessionaire's ducts and associated infrastructure should obey, as well as the minimum elements to be included in the RCAO, which

must respect the principles of transparency, non-discrimination and cost orientation of prices.

PTC and Novis Telecom, S.A. (Novis) – respectively on 15 November 2004 and 16 November 2004 – filed special administrative complaints for administrative-connected pretension against ICP-ANACOM, requesting the annulment of the Determination of 17 July 2004. ICP-ANACOM had already received, on 4 November 2004 and 24 November 2004, respectively, summonings to respond to the requests for: (a) suspension of application of the mentioned Determination, by PTC, on the following obligations: i) description of the space in ducts and associated infrastructure, considered necessary for the development of own infrastructure and presumably used during the RCAO's validity; ii) setting up, maintenance and update of a database with descriptive information of the lines and associated infrastructure, and its release to the beneficiaries; (b) legal action requested by Novis, for the issuance of a new provisory determination, in the scope of a temporary suspension request.

This legal dispute notwithstanding, PTC sent ICP-ANACOM, on 23 November 2004, a RCAO, although not including the items that were temporarily suspended.

The verdict regarding PTC's request to suspend the application of the said measure was against PTC. On 9 August 2005, the Court (*2º Juízo do Tribunal Administrativo de Círculo de Lisboa*) notified ICP-ANACOM that PTC's request to suspend the application of the said measure was given a verdict denying it, on 5 August 2005. Thus, ICP-ANACOM was no longer prevented from applying the two determinations which suspension had been requested by PTC. The latter was once again obliged to comply with them. Considering that the deadline established for the compliance with both obligations was suspended during the period that went from ICP-ANACOM being asked to respond to the request to immediately suspend the application of its measure, filed by PTC (04/1104), and the time of the verdict (11 August 2005), such deadline ended on 20 September 2005.

Thus, for the full compliance with what is stated in ICP-ANACOM's Determination of 17 July 2004, ICP-ANACOM decided, by Determination of 2 September 2005:

- 1° - To restate that PTC, in accordance with the Determination of 17 July 2004, must proceed with the setting up, maintenance and update of a database providing descriptive data on the ducts and associated infrastructure, as decided on that same Determination. PTC should within this scope send to ICP-ANACOM a description of how the database is being set up, a detailed and phased schedule of the process of its deployment (namely including its technical specifications) and of the exhaustive assessment of the records of ducts and associated infrastructure, by geographical area, in the national territory.
  
- 2° - To restate that PTC must, in accordance with what is stated in the Determination of 17 July 2004, present to ICP-ANACOM a description of the space in ducts and associated infrastructure considered necessary for the deployment of its own infrastructures and that is presumably used during the validity of the reference offer.
  
- 3° - To proceed to a previous hearing of the interested parties, so that these may comment, should they want to do so, in writing, about the changes that it intends to make to the RCAO.

### **I.2.1.9. Selection and preselection**

Telephone services were traditionally bundled with the access to the public telephone network at a fixed location, a situation that was modified with the implementation of the so-called indirect access. Operator selection and preselection are indirect access options for users to choose an operator for their (national and/or international) calls that is not the one providing access to the public telephone network at a fixed location.

In the call-to-call selection mode (made available on 1 January 2000), should the users not wish to use the access provider's services they need to dial a code giving them access to the operator that they intend to select. In preselection (a mode that was made available on 1 July 2000), the pre-selected operator is pre-defined on a previous contract, after which all eligible calls are automatically made by this operator, with no need for code dialling.

Use of this feature has been steadily growing, and the number of indirect access clients has even had in 2005 the greatest increase since the beginning of liberalization (above 19 per cent), to which a more dynamic market approach by alternative providers has probably contributed. Preselection access points made up 17 per cent of the overall figure in the end of the fourth quarter of 2005.

Further to the strong growth in 2004, the number of call-by-call selection clients has stabilized around 101,000 in 2005.

Total FTS voice traffic has decreased every year since 2000, both in amount of minutes and in amount of calls. It is possible to observe that the overall fall is partly due to the significant decrease in traffic to fixed geographical numbers. In 2005, this traffic decreased 4.2 and 4.7 per cent, respectively. However, in spite of this trend, traffic routed using indirect traffic modes has significantly increased over the last five years, namely in 2004 and in 2005. In 2005, indirect access traffic stood for 20.1 per cent of all voice calls and 20.6 per cent of all minutes. Resulting from the progressive

relative increase of the indirect access traffic's weight in the overall voice traffic, Grupo PT's share (voice traffic, measured in minutes) has been showing a clear downward trend. By the end of 2005, it was about 74 per cent, a 4 per cent decrease versus 2004 and an 8 per cent one versus 2003.

It can be claimed that, like in the EU countries in general, the competition currently in place in Portugal in connection with the retail narrow band services has been considerably based on features such as preselection and call-by-call selection.

By the end of 2005, ICP-ANACOM took some measures that will expectedly contribute to protect the interests of the market in general and of the users, namely by reinforcing the positive evolution of selection and preselection.

The following measures stand out:

- 1 - The approval, by Determination of 14 December 2005, of the Selection and Preselection Regulation, published in the *Diário da República* on 9 January 2006 as Regulation no. 1/2006. This Regulation is based on the rules of the "Preselection Specification", approved on 12 May 2000, now broadened whenever applicable to call-by-call selection and changed or adjusted in order to take into account the experience gained from the implementation of indirect access since its beginning and the answers to the public consultation promoted by ICP-ANACOM on the issue. In this framework, mention should be made to the simpler processes of preselection activation and de-activation and to the widening of the eligible traffic to indirect access. Regarding the latter, national calls (calls with origin and destination in national public telephone networks, to geographical and non-geographical numbers) and international calls became eligible for indirect access. Still excluded from selection and preselection are calls from public payphones and temporary accesses, and toll-free international calls and national calls to emergency services and to internal services of the operator, Internet access services and toll-free numbers.

On a first phase, a Determination of 21 July 1999 considered eligible inter-urban<sup>7</sup> and international calls using the fixed telephone network and/or the fixed telephone service, and, when using the mobile telephone network and/or the mobile telephone service, only international calls. Later on, a Determination of 9 October 2000 defined that the preselection option for eligible national communications made by the user/consumer would also encompass regional and local calls.

2 - SLRO's approval in 2005, made further to ICP-ANACOM's Determination of 14 December 2004, on the enforcement of obligations within the narrow band retail markets, that offer being made available by PTC as from 30 December 2005. This action is described in detail in part 001 section 2.1 of this report and it is foreseen that, together with the broadening of the eligible traffic for selection and preselection, it will make ways for pre-selected operators to more and more commonly issue unique invoices (besides the monthly telephone subscription fee being possibly invoiced by pre-selected operators, the value of the voice telephone traffic invoiced by PTC will also be residual). Thus this possibility of a smaller dispersion in invoicing will in principle give clients with preselection an accrued facility.

By determination of 15 December 2005, also made further to Determination of 14 December 2004, on the enforcement of obligations within the narrow band retail markets, ICP-ANACOM also approved the draft decision on the measures restricting actions by Grupo PT's companies to win back pre-selected clients. This draft decision targets a decrease from six to four months in the period during which, since 17 July 2003, these companies are not allowed to take such action. Some changes were also made to the current terms of this draft decision, in order to reinforce the effectiveness of this measure. ICP-ANACOM is currently analysing the answers it received within

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<sup>7</sup> Inter-urban calls were those made between local networks more than 50 km apart.

the defined previous hearing process and general consultation process, in order to approve a final decision on this matter.

### **I.2.1.10 Portability and numbering**

#### **Portability**

Operator portability is the function giving subscribers to publicly available telephone services the possibility to keep their number or numbers on request, within the same service, regardless of the provider – in the cases with geographical numbers at a same location, and regarding the remaining numbers, all over the Portuguese territory.

Portability makes it possible to remove a possible barrier to the decision to switch operators – the harassment of changing telephone numbers. This function is provided for by the Community<sup>8</sup> as a right of users and is considered an essential factor to make it easier for consumers to make their choices and to ensure effective competition within a telecommunications framework.

Under the terms of Directive 98/61/EC of 24 September, national regulatory authorities should make sure that numbering portability among operators would be available in January 2000 at the latest or, for countries granted an additional transition period, as soon as possible but in no case more than two years after the approved date for the full liberalization of voice telephony services.

In Portugal, portability was implemented in the fixed network on 30 June 2001 and in the mobile network on 1 January 2002. However, it has had a moderate impact on the Portuguese market so far, particularly on the mobile network and when compared with other European countries.

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<sup>8</sup> Considering 40 of Directive 2002/22/EC of 7 March and Directive 98/61/EC of 24 September 1998

Thus, a recent study by BoCa Consulting compared the amount of ported numbers with the total amount of users<sup>9</sup> and put forward some data on the countries where portability is mostly used.

The following table contains the data made available in the said study and in the 11th Implementation Report of the European Commission and compares the amount of ported numbers with the amount of subscribers, using the consultant's method.

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<sup>9</sup> The amount of ported numbers should ideally be compared with the amount of granted numbers in use. Using the number of subscribers as a comparison is an approximation to this indicator.



**Table 5 – Comparison: amount of ported numbers vs. number of subscribers**

	Mobile service			Fixed service			Date of the data
	Amount of ported mobile numbers	Number of subscribers to the MTS	Ratio	Amount of ported fixed numbers	Number of subscribers to the FTS	Ratio	
Denmark	1,185,000	5,208,000	23.0%	457,000	3,409,000	13.0%	Jun. 2005
Spain	6,171,680	40,400,000	15.0%	1,710,651	n.a.	n.a.	Oct. 2005
Finland	3,000,000	5,100,000	59.0%	n.a.	n.a.	n.a.	Dec. 2005
France	458,900	46,100,000	1.0%	1,000,000	n.a.	n.a.	Oct. 2005
Italy	5,051,440	65,100,000	8.0%	1,182,738	n.a.	n.a.	Oct. 2005
Norway	1,700,000	4,811,000	35.0%	n.a.	n.a.	n.a.	Jun. 2005
<b>Portugal</b>	<b>73,394</b>	<b>11,448,000</b>	<b>1.0%</b>	<b>265,077</b>	<b>3,133,623</b>	<b>8.0%</b>	<b>Dec. 2005</b>
United Kingdom	4,413,152	61,600,000	7.0%	600,000	n.a.	n.a.	Oct. 2005
Sweden	1,500,000	9,000,000	17.0%	300,000	5,700,000	5.0%	Dec. 2005

Source: BoCa Consulting; 11th Implementation Report of the European Commission; ICP-ANACOM

The following table contains the evolution of the amount of ported number from the end of 2001 to the end of 2005.

**Table 6 – Amount of ported numbers**

	2001	2002	2003	2004	2005
Geographical numbers	2,332	63,427	118,017	158,623	265,077
Mobile numbers	n.a.	5,887	23,643	44,480	73,394
Other non-geographical numbers	6	145	215	277	351

Source: ICP-ANACOM

Regarding Portugal, the recent evolution of the amount of ported number stands out. Its growth rate from the end of 2004 to the end of 2005 was 67.1 per cent. Its absolute growth in 2005 was the greatest of all – over 100,000 numbers – since its implementation, showing how much the use of this function grew.

The strong growth in the amount of ported geographical numbers is in principle connected to the larger number of clients that changed fixed network operator in 2005. Indeed, providers not within Grupo PT had during this year a significant increase of direct Access clients (19.1 per cent), to which contributed the new GSM-based offers and the bundled fixed telephony and cable television and/or Internet offers. This increase, together with Grupo PT's companies' falling market shares, from 93.8 per cent to 88.9 per cent between the end of 2004 and the end of 2005, also in terms of direct access clients, is a sign of increasing churn rates.

The growth rate of the amount of ported mobile and other non-geographical numbers in this period was of 65 per cent and 26.7 per cent respectively, although the relatively small basis of calculation should be taken into account in the interpretation of these figures.

Portability has followed up the evolution of competition, although it has not been its drive. Apparently, new commercial offers have mostly driven this process.

The rules that were defined to frame portability were firstly part of the Operator Portability Specifications, approved by Determination of 28 June 2001.

At an initial phase there were some problems due to the lack of tariff transparency in connection with this new facility, and also several situations of diverse nature in connection with the activation process following the portability requests by users, which gave rise to countless complaints from consumers.

ICP-ANACOM approved in this framework, between 2002 and 2003, a set of measures aimed at promoting tariff transparency within the scope of portability, the following obligations standing out: (i) mobile operators should include an on-line message identifying the destination network of national voice calls to ported numbers between mobile telephone service networks, whenever there are tariff plans implying that the call to a ported number may be more expensive than before its porting; (ii) companies offering mobile or available at a fixed location telephone service and with tariff plans possibly implying that a call to a ported number is more expensive than before its porting should implement a telephone information service on the prices of voice, data and short messaging calls to ported numbers.

Thus, ICP-ANACOM approved between 2002 and 2003 a set of measures aiming to promote tariff transparency within the scope of portability. Standing out is the obligation of mobile operators to have an on-line message identifying the destination network for mobile-to-mobile calls to ported numbers, and the obligation of FTS and MTS providers in general to make available a telephone information service on the price of calls to ported numbers.

However costly to operators, the implementation of the on-line message was necessary considering the very large differences between the mobile operators' tariffs for on-net and off-net calls.

By a Determination of 22 July 2005, ICP-ANACOM approved the Portability Regulation, published in the *Diário da República*, Series II, of 18 August 2005 as Regulation no. 58/2005. This Regulation made some changes to the rules in force, namely to the content of the on-line message in mobile-to-mobile calls and to the procedural rules within the scope of the reception and handling of portability requests made by users. In order to lessen the possible harassment caused by the message, the Regulation was also changed in order to give operators the obligation to implement, up to the end of 2005, the possible inhibition of the message, at the calling user's request.

ICP-ANACOM has kept monitoring complaints on this matter and verified that the set of the above mentioned measures almost completely eliminated the reported tariff transparency problems in connection with portability.

Within the scope of tariff transparency, it is also noteworthy that, during 2005, ICP-ANACOM coordinated the making of the *Transparency of retail prices (with implementation of number portability)* report, part of the 2005 work plan of IRG (Independent Regulators Group)/ERG (European Regulators Group) and made in connection with the IRG End Users Working Group. This report described the main factors leading to tariff transparency problems in connection with portability, analysed the possible existence of such problems in several Member-States and identified the measures that were adopted to lessen them.

This *Transparency of retail prices (with implementation of number portability)* report namely contains an analysis of mobile-to-mobile calls' tariff differences among destination networks<sup>10</sup>. It verified that, up to this date, in Portugal, mobile-to-mobile

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<sup>10</sup> According to the report, a potentially high risk of tariff transparency problems in connection with tariff transparency occurs under three simultaneous conditions: significantly large price differences between on-net and off-net calls; a high degree of

off-net calls had much higher prices than those of the on-net calls, this being the largest tariff differential among the 23 analysed countries.

The results of the report showed that, in general, countries with large price differences between *on-net* and *off-net* calls have implemented an on-line message, just like in Portugal. Among these countries are Ireland, Italy, Lithuania and Austria.

Currently, mobile operators have already launched several tariff plans making no difference among destination networks and there are also tariff modes according to which *on-net* calls are free for a given monthly fee. The need to maintain the measures put in place to overcome the tariff transparency problems in connection with portability is thus kept.

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association of the prefixes to the corresponding operators by consumers; orientation of call prices to network-ported numbers (i.e., the tariff of the call is made based on the new network of the ported number).

## Numbering

During the year of 2005, activity within the scope of numbering took two main paths, namely the granting of rights of use and the observation and analysis of the use of these rights vis-à-vis the services' titles and possible requirements attached to their provision.

Regarding the first, 840,000 geographical numbers were granted for the telephone service at a fixed location, 120,000 numbers for non-geographical services (ranges 800, 808, etc.), 200 numbers for the Internet access service and 5,000 numbers for audiotext services.

Regarding the latter, it is worth mentioning the analysis of the use of geographical numbers both for (nomadic) VoIP services and for mobile trunking, due to unlawful uses that were then handled by the judicial authorities. Also noteworthy is the decision, by Determination of 22 July 2005, to open the national numbering plan (NNP) – E.164 – in the 11-digit 639 and 659 ranges, for access to MTS's fax and data services. The opening up of those ranges within the NNP made it possible to harmonize access to those services, regardless of the network handling them, which is relevant in a framework of portability.

Within the same context is a determination of 25 February 2005 approving a new range – 71 – within the NNP (E.164), for cost-plus tariff utilitarian services. Further to this decision came the corresponding draft decision (determination of 9 September 2004), put for the general consulting procedure and the previous hearing of interested parties. The creation of this code was subject to specific numbering allocation and usage conditions.

### **I.2.1.11 Regulatory approach to VoIP**

2005 witnessed a progressive growth in VoIP offering. ICP-ANACOM has closely monitored how this option evolves. It is generally considered that it has advantages for users, such as potentially lower prices and innovative services (e.g. Unified Messaging), and for operators, such as a more flexible and efficient use of network resources and simpler provision elements for multiple services.

VoIP services, as publicly available electronic communications services regulated by Law no. 5/2004, can be:

- i) Offered by an access provider – namely a broadband one – at a single fixed location and under conditions that are perceived by the user as equivalent to the traditional FTS. Examples of this kind of service are Oni220, provided by Onitelecom – Infocomunicações, S.A. (Onitelecom) and others based on wholesale offers;
- ii) Of a nomadic use, i.e., subject to use on several locations and based on a third-party access, i.e. not in control of the access network (an example of this kind of services is *Skype-OUT/IN*). By the end of 2005 there were 16 authorized providers for this kind of service, although none of them offered a service with the same features of FTS.

Gradual transition to VoIP will take place with the increasing penetration of broadband; decreasing prices of VoIP calls; terminal equipment with new features and the intensification of attractive offers by traditional telephony.

The EU (with a consultation put out in June 2004) and several NRAs are currently debating VoIP matters and their impact on the market, underlining a stable and predictable regulatory framework.

Within this scope, ICP-ANACOM launched a public consultation which deadline for comments was 21 December 2005, in order to ensure a regulatory approach to VoIP, as a publicly available electronic communications service, compatible with the

enhancement of competition, encouragement of innovative, diversified and quality services, consumer protection and efficient numbering use.

The consultation covered, besides numbering, the following issues: (a) development of mobile VoIP; (b) network access control as a factor for service categorization; (c) access conditions to emergency services, including caller locating, minimizing the unlawful use of those services and participation in standard *fora* in defining technical specifications; (d) lawful interception of calls; (e) quality of service; (f) SPIT and throttling handling; (g) net costs of the universal service and retail price affordability; (h) provision of relevant and updated information to users; (i) statistical data collection by ICP-ANACOM.

On 23 February 2006 ICP-ANACOM approved the report of this public consultation on the regulatory approach to voice services based on IP technology (VoIP), with the analysis of the received replies and this Authority's position on the matter.

Among other items, this position characterizes the VoIP services and considers the opening of a new non-geographical numbering range as adequate, range 30, making a distinction between the nomadic use VoIP service and the telephone service provided at a fixed location. It also establishes the implementation of portability by the nomadic use VoIP service providers and that the Quality of Service Regulation, already approved by ICP-ANACOM (Regulation no. 46/2005, published in *Diário da República* on 14 June), applies to companies providing VoIP service at a fixed location. Besides, all VoIP service providers with NNP numbers, including those providing nomadic use services, when on national territory, must ensure the routing of their VoIP calls to the emergency services, making calls to 112 possible. VoIP service providers at a fixed location must submit the same quarterly statistical data asked from the remaining FTS providers. In order to statistically monitor the activity of nomadic use VoIP providers, ICP-ANACOM will in due time put for consultation a form for submission of statistical data.

Regarding the opening up of the 30 range for nomadic use VoIP services, a complementary decision was made to grant these numbers to providers that are

authorized to provide nomadic use VoIP services, by ranges of 10,000 numbers, under the terms defined by ICP-ANACOM. Taking into account the terms of paragraph g) of no. 1 of article 3 of the Portability Regulation, range 30 was included within the scope of portability.

VoIP services are already part of the Portuguese reality. They play a role in greater competition and service diversity. The development and an increasingly common use of VoIP services will put pressure on traditional voice operators – resulting from the downward pressure on costs and decreasing entry barriers for new operators – and will inevitably lead to an end-price reduction. Furthermore, it may jeopardize the most common tariff systems, based on duration and distance.

Foreseeing these trends, ICP-ANACOM put some regulatory measures in place – such as the subscriber line resale offer and the terms under which offers can make available, for one single price, network line and traffic – which contribute to a gradual market transition vis-à-vis the marketing of new technological solutions.



## **I.2.2 Guaranteeing and protecting user rights**

ICP-ANACOM has clearly taken the strategic objective to ensure that consumers receive the maximum possible well-being, in terms of quality of service, prices, diversity and universality, in respect for the terms of article 5 of the Electronic Communications Law, paragraph c) of no. 1, establishing as an objective of regulation of the regulatory authority “to promote the interests of citizens”.

In order to achieve this objective, the performance during 2005 was based on the following strategic guidelines:

- To ensure the universal feature of access and the provision and quality of the universal service;
- To ensure the publicity of clear, updated and comparable information on the sector, and the entities and services therein, giving consumers the possibility to make the best choices, namely regarding prices and quality of service indicators, making it possible for families and companies to make the best options concerning their consumption and investment solutions and fostering more demanding and effective behaviours;
- To minimize situations where no alternative communications service providers can be chosen, namely due to lack of coverage;
- To actively ensure user protection, by fostering the establishment of contact points to detect and prevent situations where communications service providers do not fulfil their obligations;
- To promote the development of mechanisms easing up the dialogue between users and service providers and of arbitration and dispute settlement procedures ensuring the adequate and timely protection of consumers' rights.

The results of the application of these guidelines in 2005 are described on the following sections.

### **I.2.2.1 Universal service – quality of service and performance targets**

#### **Quality of service parameters and applying performance targets**

It is the universal service providers' obligation, under the terms of no. 1 of article 92 of Law no. 5/2004, to make available to consumers and ICP-ANACOM adequate and updated information on their performance in providing the universal service. Under those terms, this obligation must be based on the quality of service parameters set in the annex to that law, according to which the definition and measurement methods to be adopted within the scope of those parameters must follow version 1.1.1 of the document ETSI EG 201 769-1.

According to no. 2 of article 92 of Law no. 5/2004, ICP-ANACOM may specify additional quality of service parameters in order to evaluate the universal service providers in their provision of services to end-consumers and to disabled consumers, in the cases where relevant parameters have been defined. It can also define performance targets applying to the obligations of the universal service, according to no. 5 of the same article and further to the general consultation procedure defined in article 8 of that Law.

It should be stressed that, under the terms of article 40 of Law no. 5/2004 and by a Determination of 4 May 2005, ICP-ANACOM also approved the quality regulation applying to the access to the public telephone network at a fixed location service and to the publicly available telephone service at a fixed location, and the report of the corresponding public consultation, launched on 30 November 2004. It should be underlined that the quality of service parameters set within the scope of that draft are based on version 1.1.1 of the document ETSI EG 201 769-1.

Under this framework, ICP-ANACOM approved on 14 December 2005 the Draft decision on the universal service's quality of service parameters and the applying performance targets. Interested parties were given notice of this draft decision and had 30 working days to comment, according to articles 100 and 101 of the Code of Administrative Procedure. Simultaneously, the document was subject to the general

consultation procedure, under the terms of article 8 of Law no. 5/2004 and the consultation procedure approved by ICP-ANACOM on 12 February 2004, with the same 30 working days deadline for comments.

A Determination of 30 March 2006 approved the quality of service parameters and the performance targets applying to the universal service, mandatory for the universal service provider, the application of the bases of the Public Telecommunications Service Concession in the annex to Decree-Law no. 31/2003 of 17 February notwithstanding.

Always having in mind the interests of consumers, the setting of the quality of service parameters and of the corresponding performance targets applying to the universal service that are part of the Draft decision, shown on table 2, took namely into account: (a) the regulation on quality applicable to the telephone service at a fixed location; (b) the former Agreement between ICP-ANACOM and the universal service concessionaire PTC, under the terms of article 21 of the Bases of the public telecommunications service concession, approved by Decree-Law no. 40/1995 of 15 February, in force under the terms of no. 4 of article 21 of the bases of the public service concession; (c) the evolution of the levels reached by the universal service provider in connection with the quality parameters set by the Agreement; (d) the information sent by PTC on 8 July 2005 on the evolution of the quality of service parameters between 2000 and 2004; and (e) the current European practices, particularly IRG's work.

**Table 7 – Quality of service parameters and corresponding performance targets applying to the universal service**

Parameter indicator	Target
<b>Supply time for initial network connection (PQS1)</b>	
(a1) Delay values in the supply of connections which correspond to 95.0% of the swifter installations, where the consumer does not define a target date	21 days
(a2) Delay values in the supply of connections which correspond to 99.0% of the swifter installations, where the consumer does not define a target date	43 days
(b) Rate of supply requests fulfilled up to the date agreed with the consumer, where the consumer defines a target date	85.0%
<b>Fault rate per access line (PQS2)</b>	
Overall number of fault reports per access made by consumers	0.10
<b>Fault repair time (PQS3)</b>	
(a1) Time to repair faults of the local access network which correspond to 80.0% percentile values of the swifter repairs (hours)	72
(a2) Time to repair faults of the local access network which correspond to 95.0% percentile values of the swifter repairs (hours)	165
(b1) Time to repair other type of faults, which correspond to 80.0% percentile values of the swifter repairs (hours)	47
(b2) Time to repair other type of faults, which correspond to 95.0% percentile values of the swifter repairs (hours)	108
(c) Rate of repairs carried out within the repair time limit established by the universal service provider, intended to be offered to consumers	80.0%
<b>Response time for operator services (PQS4)</b>	
(a) Average response time for operator services (seconds)	11
(b) Rate of calls for operator services taken within 20 seconds by the human operator	80.0%
<b>Unsuccessful calls (PQS5)</b>	
(a) Total number of eligible calls for PQS5 calculation purposes broken down by national calls and international calls	NA
(b) Rate of unsuccessful calls in the case of national calls	NA
(c) Rate of unsuccessful calls in the case of international calls	NA
<b>Call set up time (PQS6)</b>	
(a) Total number of eligible calls for PQS6 calculation purposes broken down by national calls and international calls	NA
(b) Necessary period of time to set up national calls which corresponds to 100.0% of calls and 95.0% of swifter calls	NA
(c) Necessary period of time to set up international calls which corresponds to 100.0% of calls and 95.0% of swifter calls	NA
<b>Response time for directory enquiry services (PQS7)</b>	
(a) Directory enquiry services mean time to answer (seconds)	5
(b) Rate of calls answered within 20 seconds by human operators or equivalent response systems	95.0%
<b>Proportion of coin and card operated public pay-telephones in working order (PQS8)</b>	
Rate of whole days during which the existing public pay-telephones are in full working order versus the potential number of operational days of the average public pay-telephones park	96.0%
<b>Bill correctness complaints (PQS9)</b>	
Rate of bills claimed relatively to the total number of bills issued	0.04%

Note: Not applicable (the universal service provider must submit information on PQS5 and PQS6 to ICP-ANACOM, but it is not required to fulfil performance targets applying to these parameters).

### **I.2.2.2 Price affordability**

#### **FTS residential tariffs**

Law no. 5/2005 states that ICP-ANACOM must ensure the affordability of the prices of the universal service, taking mainly into account the national consumer prices and the national income. ICP-ANACOM must therefore evaluate and decide on the most adequate means to ensure price affordability. It may determine that options or tariff baskets other than those offered under normal market conditions shall be made available, and it may also enforce price ceilings and common tariffs or other regimes of the kind.

Regarding residential retail markets, of narrow band access to the public telephone network at a fixed location and of publicly available local and/or national telephone services provided at a fixed location, PTC, as the operator with SMP in these markets, should comply with the obligations set in a Determination of 14 December 2004, namely: (i) ensure transparency; (ii) not show illicit preference for specific end users; (iii) guide prices by costs; and (iv) keep the affordability of prices by complying with a price-cap enclosing, as far as residential clients are concerned, the connection price, the monthly subscription price, and local, regional and national calls.

By Determination of 17 May 2005, ICP-ANACOM did not oppose the entry into force on 1 July 2005 of the tariff proposal for the telephone service at a fixed location, submitted by PTC, the obligation to publicize and/or release the applying facts, under the terms of no. 3 of article 48 of Law no. 5/2004 of 10 February, notwithstanding.

The tariff scheme has a new two-grade structure (local/regional and national), resulting from the correction of the prices of former local and regional grades into one, thereby promoting simpler tariffs and being closer to the current European practices (see following table).

**Table 8 – Current European practices regarding the grades of domestic calls**

Countries	Grade of the call	
Germany/Austria/Denmark/Finland/Greece/Ireland/Sweden/United Kingdom	Local	
	National	
France	Local	
	National	< 30 km
		> 30 km
Italy	District local	Same code
	National (extra district)	<15 km
		>15 km
Luxembourg	National	
Holland	Local / Regional	
	National	
Spain	Metropolitan	
	Regional	
	National	

It also contains a different time credit included in the initial price, from 45 seconds (in the regional grade) to 60 seconds in the local/regional grade. There are also different time credits included in the initial price for the national grade's normal and economy period: 30 seconds and 60 seconds for the normal and economy time, respectively, instead of the 30 seconds of the formerly applying tariff scheme, with no time modules.

The changes made to the tariff scheme gave way to significant price reductions of each of the items in the price basket of the telephone service provided at a fixed location, as shown on the following table.

**Table 9 – 2004/2005 changes to the prices of the telephone service provided at a fixed location**

	Average yearly variation	Ad-hoc variation
Fees		
NL Connection	0.0%	0.0%
NL Subscription	1.7%	0.0%
Communications		
Local	-0.6%	-5.9%
Regional	-24.2%	-28.3%
National	-24.8%	-21.8%

The mentioned tariff scheme stands for a yearly weighted variation in the nominal prices of the telephone service provided at a fixed location of -0.75 per cent. It is

compatible with the CPI-2.75 per cent variation kept by the Determination of 14 December 2004.

Regarding the applying price cap value, the current European practices should be stressed (see following table). It should be noted that the data therein also show the different liberalization phases of each of the current national markets.

**Table 10 – Price cap – current European practices**

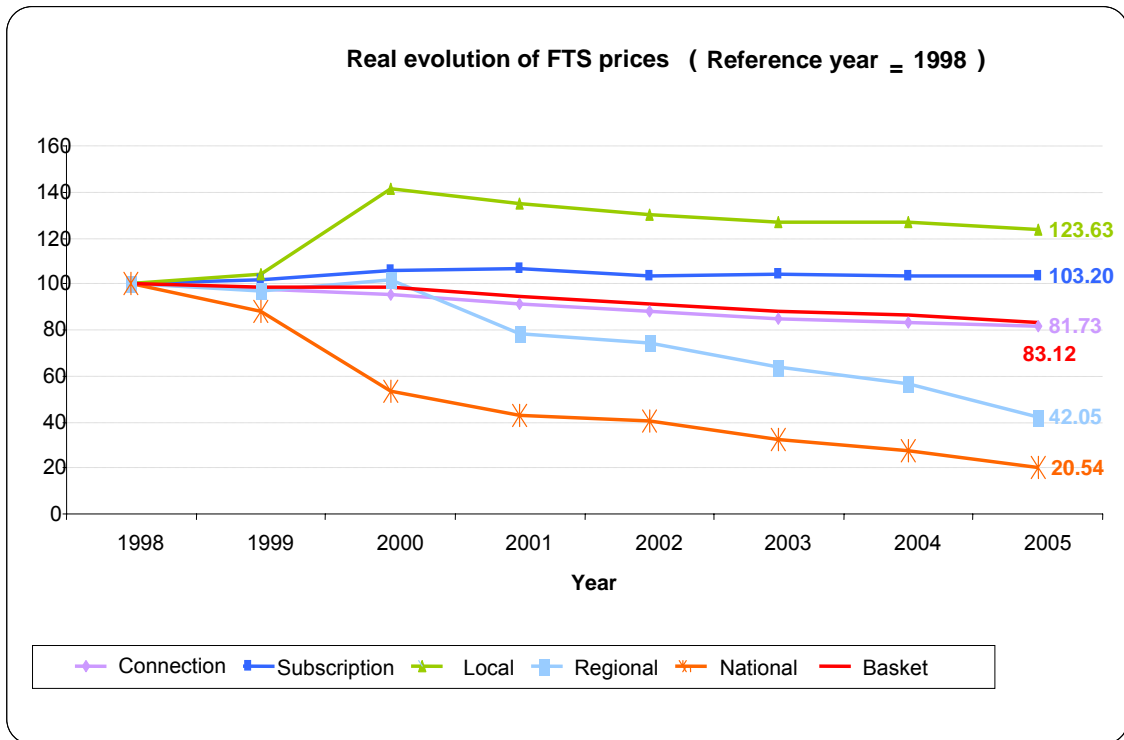
Countries	Price cap
Belgium	The cap that was set for 2004, CPI-3.0%, includes: the connection, the subscription, calls by residential clients and calls from public payphones.
Denmark	The maximum prices for basic services of voice telephony and universal service for the disabled in 2005 were those of 2003.
Germany	RegTP groups caps as follows: Network subscription: CPI+1.0%; Local calls: CPI-5.0%; National calls: CPI-2.0%; International calls: CPI-1.0%.
Ireland	The cap that was set for 2005, CPI-0.0%, encloses: local calls, trunked calls, calls by operators, from public payphones, from fixed to mobile numbers and ISDN (rental and connection).
Italy	The cap for connection and subscription is CPI-0.0%, with a sub-cap, of CPI-CPI, for residential subscriber lines. Regarding traffic, a cap applies to in- and off-district, of CPI-CPI. There is a foreseen cap for fixed-to-mobile calls, of CPI-6.0%. Caps will be reviewed in connection with market analyses.
Holland	A cap of CPI-0.0% was set up to 2006 enclosing: monthly subscription, local calls, national calls and fixed-to-mobile calls.
Spain	A cap of CPI-3.0% was set for a basket made up of metropolitan, provincial, inter- provincial, international d fixed-to-mobile calls, with a possible 2.0% subscription nominal increase.

The following graphs show the real and nominal evolution of the incumbent operator's prices for the telephone service at a fixed location.

2005 kept the decrease in the prices of the incumbent operator. The release of the new tariff scheme in July 2005 showed an important decrease in the nominal prices for medium and long-distance traffic, whereas the monthly subscription prices were kept. The nominal short-distance traffic prices decreased for the first time since 2000.

If compared with the year when the sector was liberalized, the incumbent operator's price basket decreased nominally about 2.3 per cent and 2005 saw the most significant decrease of all the years under analysis.

**Graph 18 – Real evolution of the FTS prices (reference year = 1998)**

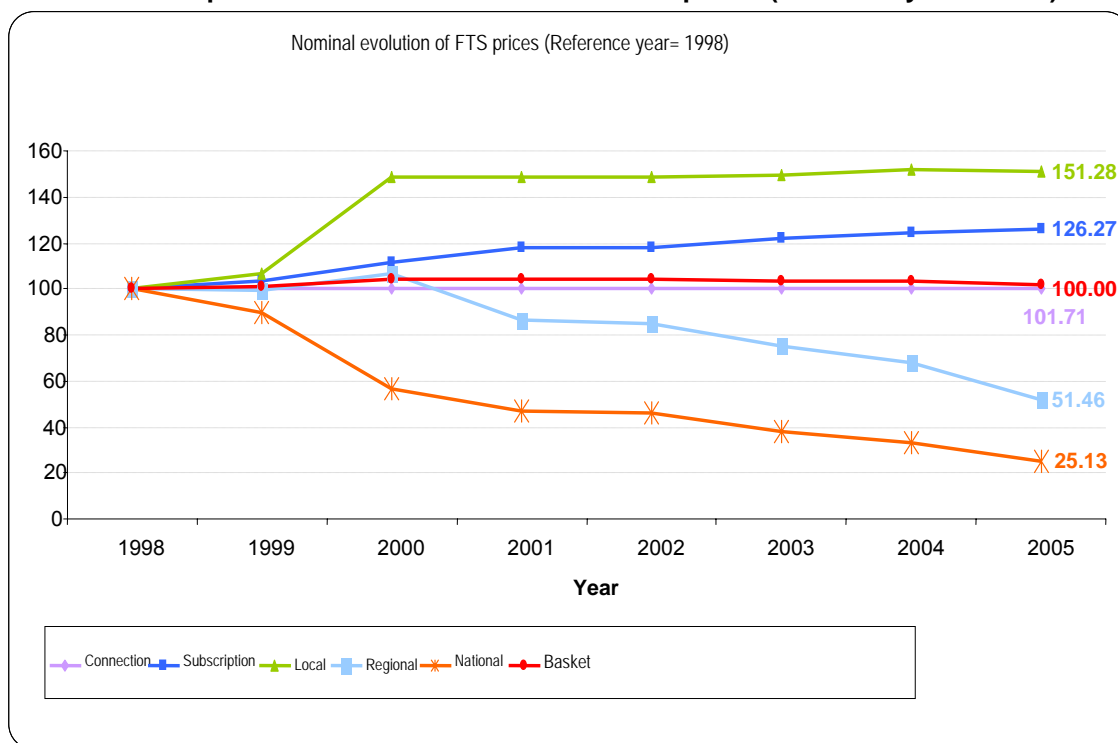


Source: ICP-ANACOM

There was a generalized decrease in the real prices of calls to the several traffic destinations since 2000. Regarding the service’s monthly subscription fee, it has kept pace with the evolution of the CPI, even with values below those of 2000.

It should be underlined that the prices of the electronic communications services paid by the consumers are almost the only ones with systematic decreases over the last five years, which results from important productivity gains in this sector of the economy.



**Graph 19 – Nominal evolution of the FTS prices (reference year = 1998)**

Source: ICP-ANACOM

### FTS public payphones tariffs

According to a Determination of 14 December 2004, on the enforcement of obligations in the narrow band retail markets, ICP-ANACOM – considering, *inter alia*, that the tariff readjustment of the public payphone mode is not yet at a final stage – defined that the ratio between FTS's communication, in the public payphone mode and in the subscriber mode, should keep complying with specific requirements making it possible to ensure the affordability of the provided services.

Thus, regarding PTC's on-net calls, a ratio of one to three was kept between the prices of calls with origin in PTC's public payphones and those of calls with origin in subscribers' terminals.

FTS prices, in the public payphone mode and for on-net calls, are on average characterized by an increase of local calls of approximately 27 per cent in the Mainland (26 per cent in the autonomous regions), a decrease of 8 per cent in

regional communications in the Mainland; and a decrease of 4 per cent in national communications (6 per cent in the autonomous regions).

These variations, particularly the increase in local calls, are mainly due to two factors: (i) in 2004, PTC's tariff scheme resulted in a ratio, vis-à-vis the tariff scheme applying to subscribers' lines, below the allowed ceiling and (ii) the less important variation of the price of local calls, if compared with the rest, in the public payphone mode (see next table).

**Table 11 – Evolution of the average price of calls from public payphones 2004/2005**

Unit in euros	2004			2005			Variation of the average prices	
	Subscriber line	Public payphone	Ratio public payphone / subscriber line	Subscriber line	Public payphone	Ratio public payphone / subscriber line	Subscriber line	Public payphone
Local	0.123	0.217	1.8	0.091	0.276	3.0	-26.0%	27.0%
Regional	0.191	0.301	1.6	0.091	0.276	3.0	-53.0%	-8.0%
National	0.267	0.362	1.4	0.114	0.347	3.0	-57.0%	-4.0%
Weighted average	0.160	0.256	1.7	0.095	0.290	3.0	-41.0%	13.0%

### **FTS tariffs PTC-other FTS providers**

Regarding calls with origin in PTC's fixed network and ending in other providers' fixed networks, the same Determination of 14 December 2004 kept the previous rule according to which the prices of calls with origin in PTC's fixed network and ending in other providers' fixed networks should be identical to the prices with origin and ending in PTC's fixed network. They can however be corrected in accordance with the fully and quantitatively justified difference between the termination of calls in PTC's network and the termination of calls in each FTS provider's network, i.e., differences among the prices of calls destined to different operators may be allowed, should they be a result of relevantly different termination rates.

The PTC-OSP tariff scheme in force as from 1 July 2005 reduced the average call price in 11 per cent as far as the residential market is concerned and 8 per cent for the corporate market, vis-à-vis the previous tariff scheme.

### **PTC's fixed-mobile tariffs – retention value**

By Determination of ICP-ANACOM of 14 December 2004, on the enforcement of obligations within the narrow band retail markets, fixed-mobile tariffs are subject to ICP-ANACOM's validation, since that operator's retention value should be guided by costs and it should be within reasonable ranges, thereby ensuring that the end prices charged to users are reasonable. PTC should reflect the mandatory decrease in its fixed-mobile termination prices on its retail prices, as per a Determination of 25 February 2005.

On 1 September 2005, and further to consulting interested parties, ICP-ANACOM approved a Determination on PTC's retention in connection with the fixed-mobile traffic, according to which PTC should gradually reduced the retention value from that traffic, in order to draw it closer to costs and to European current practices, in line with a pre-defined calendar and as shown on the next table.

**Table 12 – Maximum values set for retention (in euro cents)**

Maximum values set for retention	
Dates	Maximum values
01-10-2005	7.50
01-01-2006	7.20
01-04-2006	6.90
01-07-2006	6.60
01-10-2006	6.30

Due to these measures, PTC's retention values in connection with the retail prices applying to fixed-mobile traffic have decreased, thus reinforcing the effects of the decrease of mobile operators' termination in retail prices applying to this sort of traffic.

### **I.2.2.3 Information on the sector – quality of service**

Quality of service is a fundamental item in connection with ensuring and protecting users' rights. Thus, within this scope, ICP-ANACOM has focused its action on two main points:

- Promoting/setting obligations in connection with the adequate information to consumers on the quality levels of the providers (the problems reported by users are frequently the lack of clear and adequate information on the effective quality that is provided);
- Setting minimum quality levels for retail and/or wholesale, whenever deemed needed and whenever legally possible;
- Monitoring and controlling the quality of service offered to users.

In order to promote an adequate level of information to consumers on the quality of service provided within the scope of the several services, and besides the measures described in this section of the report, ICP-ANACOM also suggested, in connection with the determinations described in detail in section 2, some quality parameters to be publicized by the providers of the several electronic communications services.

### **Quality of service obligations– telephone service accessible at a fixed location**

In order to ensure the provision of better information to the final users, ICP-ANACOM approved on 4 March 2005, within the scope of article 40 of Regicom, the Quality Regulation applying to the service of access to the public telephone network at a fixed location and the telephone service accessible at a fixed location. This Regulation was published in the *Diário da República*, Series II, on 14 June 2005 as Regulation no. 46/05. Its aim is the publicity and release to final users of comparable, clear, complete and updated information on the several providers' quality of service, in order to give the former the possibility to make a free and enlightened choice of the provider and service that is most adequate to their needs. Thus, Regulation no. 46/05 contains an Annex with a list of quality parameters for which definitions and calculation methods were established, to be respected by providers. It took for reference the ETSI Guide document – EG 201 769-1 V1.1.1 (2000/2004), which aim is to make a harmonization possible, at international level, of the quality of service parameters adopted by the several Member States.

Given the current legal framework, however, this Regulation does not set any performance targets per parameter to be complied with by providers (the setting of performance targets for those parameters is only possible in connection with the universal service, under the terms of article 92 of Regicom<sup>11</sup>). On the other hand, should the suppliers not comply with the publicized figures regarding any of the parameters in the Regulation, clients are not entitled to compensation payments.

ICP-ANACOM intends to further work on this Regulation, to include parameters applying to other electronic communications services, namely, in 2006, the Internet access service.

Nevertheless, it should be stressed that, in spite of the fact that a great proportion of complaints received at ICP-ANACOM on the quality of service is in connection with the Internet access service, and specifically on effective lower access throughputs

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<sup>11</sup> Under the terms of this legal provision, ICP-ANACOM approved on 30 March 2006 the quality of service parameters and the performance targets applying to the universal service, which bound its provider, the application of the bases of the telecommunications public service concession notwithstanding (Decree-Law no. 31/2003 of 17 February).

than those announced by the providers, sometimes the problem is mainly due to insufficient and/or unclear information to consumers on the offered quality and not on the quality of service figures themselves.

### **Quality of service – mobile services**

Mobile service operators' licenses contain several minimum quality of service targets that they must ensure, which result from the corresponding proposals made in connection with the tenders. These obligations have been analysed, namely within the scope of the public consultation launched further to a Determination of 15 July 2005, on the renewal of rights of use granted to Vodafone and TMN for the provision of the land mobile service using the GSM 900/1800 system.

### **Other quality of service obligations**

Within the scope of the decisions made in connection with the remedies to apply to entities with SMP in the several retail and wholesale markets, ICP-ANACOM enforced some obligations regarding quality of service. Particularly in connection with the above mentioned wholesale offers such as LLRO and *Rede ADSL PT*, this Authority has intervened to improve the quality levels effectively rendered, thus trying to promote the improvement of quality of service within retail.

#### **1.2.2.4 Information on the sector – quality of service findings and monitoring**

Given the current legal framework, the quality of service control and monitoring has mainly focused on the following items:

- a) Control and monitoring of the quality of wholesale offers and of retail services for which there are established minimum quality of service levels, namely the universal service and mobile services.

This is made namely by analysing the information on quality of service sent to ICP-ANACOM by the providers. This Authority also carries out quality surveys of mobile operators Optimus, Vodafone and TMN on a yearly basis, which analyse technical parameters showing how users perceive the quality of the services.

The evaluation of the quality of GSM mobile services carried out in 2005, in spite of including new analysis approaches such as long duration call evaluation and short messaging system (SMS) evaluation, kept the Global Survey within the same lines as in the previous five years, thus reaching an indication of how GSM mobile networks' behaviour evolved.

Three very important indicators of a mobile network were analysed, considering quality from the user/consumer's standpoint, namely coverage, accessibility and audio quality.

The results of this study show that GSM mobile networks had good coverage levels and good performances in 2005. The Accessibility indicator has very good levels, maintaining the trend of the latest years. Of the test calls that were made in mainland Portugal's urban agglomerations and road axels, 97 per cent were successfully made and the conversational phase went by adequately and ended normally (by disconnection) in the pre-defined time. Regarding the audio quality indicator, approximately 99 per cent of test calls had good or acceptable average audio quality levels. Only about 1 per cent had poor or bad levels. However, this indicator's declining trend was maintained, such as since 2002, more acute in the urban agglomerations than on road axels. As for the accessibility indicator, mobile networks' performance shows no significant differences between urban agglomerations and road axels. The coverage indicator has good levels both in urban agglomerations and in the analysed road axels.

It should also be mentioned that an analysis of this study's global results shows no important differences among operators, regarding any of the surveyed indicators.

Complementarily, in the framework of the planned activities for the year 2005, ICP-ANACOM evaluated the quality of the GSM mobile services offered by the Portuguese operators on rail axles, also analysing technical parameters showing quality from the consumer's standpoint and using the same three indicators: coverage, accessibility and quality of service. The main Portuguese rail axles were surveyed.

Results show that GSM mobile networks have a poor performance on rail axles. Only 61.8 per cent of test calls were successfully made and adequately kept, and ended normally (by disconnection). Regarding how voice communications running on these networks were perceived, about 92 per cent of the test calls had average good or acceptable value, i.e., there is an important number of calls with average poor or bad values (about 8 per cent). The analysis of the results per operator showed no significant differences regarding the accessibility indicator.

The poor results of the rail axles are mainly explained by serious coverage deficiencies – sometimes a complete lack of signal – mainly in the Lisbon-Faro route, which was given notice to operators so that they can employ the due changes.

Results of these findings are shown in greater detail in part 002, section 3.4 of this report.

- b) Under the terms of the FTS quality regulation, information on quality of service parameters publicized to end users is quarterly sent to ICP-ANACOM, which analyses it and checks its compliance with the rules set in that regulation, namely:



- a. The availability of information on the performance levels for the previous year and for each of the defined parameters;
  - b. The availability of information on the performance levels that the providers intend to provide over the year, for each of the defined parameters;
  - c. The information to release (identified in (i) and (ii)) must be given to users, in writing, at all sales points;
  - d. The information to release must also be on the companies' Internet page, when they have one, and must be very noticeable and easy to spot.
- c) Based on the received information, ICP-ANACOM, under the terms of paragraph e) of no. 1 of Regicom and no. 4 of article 6 of Regulation no. 46/05 14 June, can also make and release comparative reports on quality. However, for the first and only report on that information given to ICP-ANACOM, in the end of January 2006, there were some problems because companies were not yet experienced in measuring the set parameters. Thus, it was not yet considered that it was a good time to release comparative reports based on the information received up to this moment.
- d) Complaints on quality of service received at ICP-ANACOM have also been an important element in connection with the control and monitoring activity. Based on the analysis of this information, we can identify the main quality of service issues faced by the users of electronic communications services. This information is relevant, namely in connection with a future regulation of the quality of service applying to other electronic communications services.
- e) Being the quality of service of Internet access one of the main reasons for complaints to ICP-ANACOM, this Authority carried out for the first time in 2005 a survey on the quality of service of several providers.

On a first stage, the study analysed the residential narrow band (dial-up) offers of the four Portuguese largest Internet services providers (ISPs) for this kind of access, standing for over 90 per cent of market. The study was based on 1) the services' availability/reliability indicators; and 2) throughput indicators (upload and download capacities). The results in this first stage were globally considered as good, with minor differences among the operators for all the analysed availability/reliability and throughput indicators.

The second stage of the project analysed the broadband (ADSL and cable) offers of the five Portuguese largest Internet services providers (ISPs) for this kind of access, standing for over 90 per cent of market. This stage was only based on the measurement of throughput indicators, with the evaluation of information (HTTP and FTP) download and upload speeds. The results of this second stage of the project are as follows:

- Regarding download, in spite of the good results of the operators in general, it is clearly faster when targeted ISPs are national ones, which, once again, shows constraints at the level of international bandwidth made available by operators;
- Regarding upload, results are also satisfactory and, unlike in the previous case, results are not substantially different between national and international targeted ISPs;
- The Ping indicator, which measures the latency time (particularly relevant when interactive applications – e.g. online games – are at use ) between the user and the pattern Internet site, has good results for all the operators;
- Lastly, indicator variation between week days and weekends are not meaningful, if at all, although some variation within the indicators was observed, regarding mainly the download speeds: FTP, HTTP and Ping.

These results are shown in greater detail in part 002, section 5.4 of this report.

### **I.2.2.5 Information on the sector – electronic communications services’ provision and usage conditions**

According to no. 1 of article 47 of the Electronic Communications Law, companies offering publicly available telephone networks or services must release to the public, and especially to consumers, clear and updated information on the usual terms and conditions regarding access to and use of the services. The set of information that the entities offering publicly available telephone networks and services must publish and release are stated in paragraphs a) to g) of no. 2 of the mentioned article 47 of Law no. 5/2004 of 10 February, and ICP-ANACOM should define how it should be published and released. Thus, companies offering publicly available telephone networks or services must release and publish the relevant information to be part and fulfil each of the paragraphs of no. 2 of article 47 of Law no. 5/2004 of 10 February.

As for the remaining publicly available electronic communications services offers, in accordance with paragraph b) of no. 1 of article 39 of the aforementioned Law no. 5/2004, it is the users’ right to have written information on the conditions of access and use of the service, within productive time and prior to the signing of any contract. However, Law no. 5/2004 does not lay down which kind of information should be publicized and advertised by providers to their users. It should be stressed, on the other hand, that according to no. 1 of paragraph j) of article 27 of the said Law no. 5/2004 companies offering electronic communications networks and services may be subject in the course of their activities to consumer protection rules that are specific to the electronic communications sector, and that it is ICP-ANACOM’s obligation to define them, taking into account the public accessibility of the services and in accordance with the non-discrimination, proportionality and transparency principles.

Within this framework, Determination of ICP-ANACOM’s Board of Directors of 21 July 2005 approved the draft decision on the object and ways of release to the public of the marketing and usage conditions of electronic communications services, which was subject to the general consultation procedure. The final decision on this matter was approved on 21 April 2006. In it, ICP-ANACOM:

- Defined how information mentioned in article 47 and in article 39, no. 1 paragraph b), of Law no. 5/2004 of 10 February should be publicized and released;
- Determined which minimum set of information should be publicized and released by entities offering services other than telephone services;
- Listed the information contents it considers useful to consumers, aiming to integrate the several paragraphs of no. 2 of article 47 of Law no. 5/2004 of 10 February.

The approved document namely specifies the information to be publicly released regarding the provider's identification, the scope of the offered services, normal prices, compensation payments or refunds, types of maintenance services that are offered, common contractual terms (among which the obligation to release to the clients information on the minimum quality of service levels to be offered and which non-compliance will lead to the payment of a compensation payment or refund) and dispute settlement mechanisms.

ICP-ANACOM suggests in the annex to the approved document some quality parameters in connection with the several electronic communications services, aiming to define and to release, by providers to consumers, the offered quality levels.

#### **I.2.2.6 Information on the sector – guidelines on the minimum content to be included in contracts for the provision electronic communications services**

With a view to creating conditions making it possible for providers to swiftly and effectively comply with the Law, and to ensure consumer protection in connection with the contracts for the provision of electronic communications services and also a better quality of the available information, ICP-ANACOM approved the guidelines on the minimum content to be included in contracts for electronic communications services provision, under the terms of articles 39 and 48 of Regicom, by Determination of 1 September 2005.

The aim of this document was to harmonize the rules of the subscription contracts in connection with the supply and offer of the publicly available telephone service (mobile or at a fixed location), other electronic communications services and the television distribution service, in order to ensure that these contracts regulate a set of matters that are considered fundamental and that they comply with a minimum information detail level.

It was also intended to ease up relations between providers and consumers, both at the time of the signing of the contracts and during the lifetime of the signed contracts, with clear and obvious contract specifications making it possible for subscribers and users to assert their claims, in accordance with the contracts, and ensuring greater transparency in connection with the provision of electronic communications services. Within this framework, identification of the contracting parties, the quality of the provided service and the anticipation of mechanisms for the swift settlement of disputes between service providers and consumers stand out.

The approved Guidelines focus on three service categories: the publicly available telephone service, electronic communications services in general and the television distribution service specifically.

This document elaborates on the contents of each of the paragraphs of no. 1 of article 48 of Law no. 5/2004 of 10 February, which list the mandatory elements to be made part of the contracts for the provision of publicly available telephone services, and specify the items to include in contracts for the provision of electronic communications services other than the telephone services.

It also contains some recommendations on the graphic layout of contracts and other items which, though not mandatory, can be included in the contract for the sake of a greater transparency of the relation between the service provider and the customer. This is the case with some information regarding maintenance services, the dispute settlement method, invoicing and quality of service (annex I to the approved document namely contains some ICP-ANACOM-suggested quality parameters to be measured by the providers of the several electronic communications services).

### **I.2.2.7 Information on the sector – other measures or actions – tariff monitor (TM)**

On 28 July 2005, ICP-ANACOM launched on its Internet site a feature named tariff monitor (TM), giving the general public the possibility to compare voice tariff systems of the mobile telephone service operators, and also to simulate virtual calls and messages and their monthly consumption in connection with those tariffs. On 8 November 2005 the TM added to the voice services written and multimedia message services.

This main goal of this project, which was developed and made available in cooperation with the three MTS operators, was to give private consumers, for free, the chance to analyse and compare the several tariff schemes offered by these operators.

It is an interactive solution to compare MTS communications costs and to refer to most of the publicly available tariff schemes. The several types of comparisons that can be made using this monitor are based on virtual consumptions of voice, SMS and MMS services on national networks that are defined on a case-by-case basis by, and for, each consumer, i.e., there is no use of pre-defined standard consumption profiles or call baskets.

Data on the mobile telephone service operators' public tariffs in this monitor are direct inputs of these operators, which safely upload information into an extranet using a digital certificate safe mode which fulfils the non-repudiation and confidentiality mechanisms giving each operator the chance to access only their working area.

The main tariff consultation and comparison modes that MTS users can use on this TM are the following ones:

- **Monthly consumption**

This option simulates the use of national mobile communications. It compares voice, SMS and MMS tariffs based on monthly consumption estimates and using inputs on a certain number of made calls or sent messages.

The output of this option is a list of the costs according to the several selected tariff schemes, as long as the latter are existing tariff schemes for the individual market. This gives the user the chance to compare these tariffs schemes with the one they actually use.

- **Tariff consultation**

Tariff consultation gives information on the existing market offers for individual clients. It does not consider the tariff schemes that, although being in force, do not apply to this market.

The outputs take the form of several boxes with general information on the tariff schemes, including operator, designation of the tariff scheme, value of the monthly bill or of the equivalent monthly pre-payment, included minutes (whenever applicable), ways to charge calls, applied VAT and prices of voice calls, MMS and SMS. Prices are shown in accordance with the necessary details, i.e., destination and time table period and also, in the case with messages, data on the type, unit or package.

There are two additional options – one with the comparison of calls or messages that are not grouped into monthly consumptions, and another making it possible to simulate the costs of a virtual call or message designated by the consumer.

### **1.2.2.8 User protection and dispute settlement – the mission unit for the handling of requests on the market (UM-TSM)**

UM-TSM was created on 17 May 2005 to increase the quality and the efficiency of the replies to information requests, complaints and requests regarding the market made by the general public, and mostly by electronic and postal communications services users, to ICP-ANACOM.

The ultimate goal is to provide ICP-ANACOM, as from 2006, with a structure ensuring an effective handling of requests regarding the market, to contribute to a better understanding that users of electronic communications services and of postal services, as well as the general public, have on these services and – by continuously analysing the information coming from the statistical analysis of those requests – to give the areas of monitoring and regulation another operating tool.

UM-TSM began operating on 30 May 2005, after initial archive reorganization and the analysis of the existing work, and it absorbed part of the Public Attendance's functions. On a first stage, it handled the requests made on a physical support and it should start handling electronic requests in the first quarter of 2006.

Publication of Decree-Law no. 156/2005 of 15 September, which made it mandatory for electronic and postal communications services, among other entities, to have complaint books in their establishments, led to the prospective evaluation of how the entry into force of its provisions on 1 January 2006 would impact ICP-ANACOM's workload. It will result from the foreseeable increase in the number of received complaints, and, therefore, from the corresponding increase in the number of files possibly subject to sanctioning by this Authority, and also to the load of its new monitoring functions, which, given the number and spreading of the spots to monitor, will demand a significant reinforcement in planning and resources.

It is considered that the setting up of this mission unit made it possible to improve the response capacity of ICP-ANACOM's services in 2005. On one hand, it made it



possible to improve the data collection that is useful to sectoral regulation and, on the other hand, to detect the signs of non-compliance with sector-specific legislation.

## **I.3 Postal services**

### **I.3.1 Universal service**

#### **Agreements**

The negotiation of a new price Convention for the universal postal service began in 2005 and its signing was postponed to 21 April 2006, but applying to the period between 1 January 2006 and 31 December 2006. The price convention regulates and defines the rules for the setting of prices of the services that are part of the universal postal service provided by CTT and including the reserved and non-reserved areas.

The signing of a new universal postal service quality Convention was also postponed to 21 April 2006, applying to the period between 1 January 2006 and 31 December 2006. The quality Convention sets the quality of service parameters and levels mandatory for CTT as providers of the universal postal service

Negotiations between ICP-ANACOM and CTT continued for the signing of a convention on the development objectives of the public postal network and minimum services provided, as foreseen on Basis XV of the bases for the concession of the universal postal service approved by Decree-Law no. 448/99 of 4 November, changed by Decree-Law no. 116/2003 of 12 June. ICP-ANACOM sent to CTT a proposal of a Convention on 30 June 2005 and the latter sent a counter-proposal on 18 July 2005, which was analysed by the regulator.

#### **Price affordability**

Within the scope of the price Convention for the universal postal service of 20 January 2004, ICP-ANACOM decided in 2004 not to oppose to the entry into force of the prices of services that are part of the universal postal service proposed by CTT for 2005.

According to this Convention, the weighted average variation of the prices of the reserved postal services for 2005 could not nominally exceed CPI minus 0.5 per cent.

### **Cost accountancy system**

According to article 19 of Law no. 102/99 of 26 July and to Basis XIII of the bases for the concession, CTT must keep a cost accountancy system allowing the reckoning of each service's costs.

Further to ICP-ANACOM's 31 May 2005 approval of the statement of compliance of CTT's cost accountancy system for 2003, a notice was published in Series II of *Diário da República* no. 126, of 4 July 2005, making it public that this statement is available for consultation at ICP-ANACOM's attendance services and website. The European Commission was also given notice of the statement of compliance for that year.

An audit to CTT's cost accountancy system for 2004 took place in 2005. ICP-ANACOM's Determination on its conclusions and the statement of compliance of the system and of the results of the audit is expected in 2006.

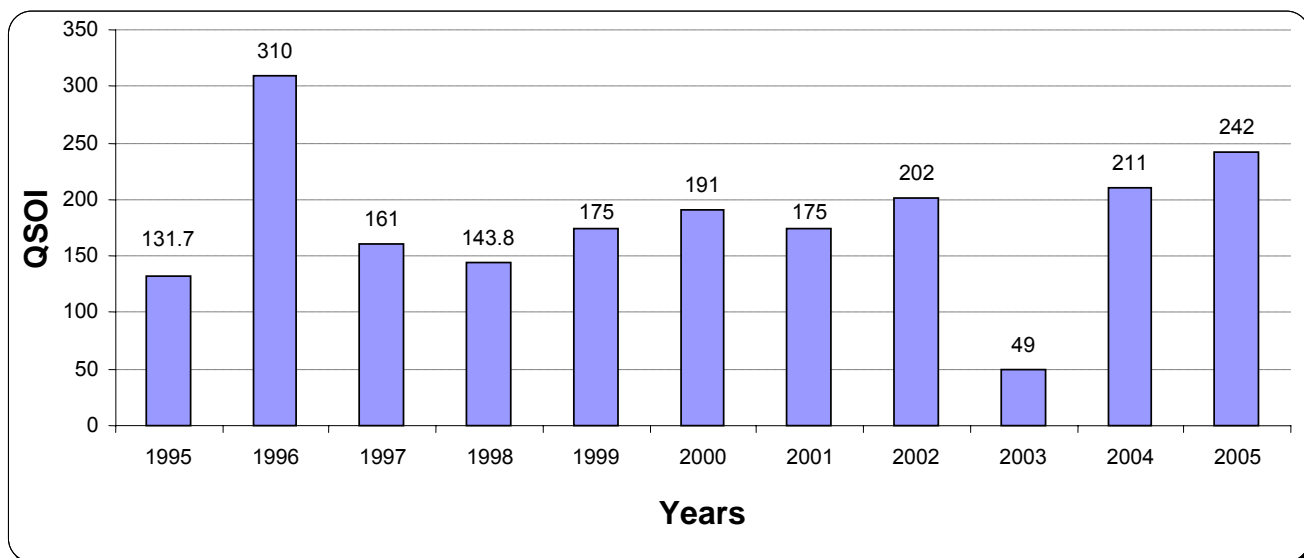
### **Quality of the universal postal service**

Under the terms of the universal postal service quality Convention signed between CTT and ICP-ANACOM on 20 January 2004, ICP-ANACOM should monitor on a quarterly basis the quality of service indicators (QSI) of the postal service provider (CTT), and should evaluate the fulfilment of what was previously agreed upon at the end of each year.

An audit to CTT's quality of service indicators and to its complaint system for 2004 took place in 2005. ICP-ANACOM's Determination on its conclusions should take place in 2006.

Regarding the year 2005, it was verified by measurements made to the QSIs that the quality of service levels offered by CTT exceed the target values set in the universal postal service's quality Convention, and therefore the Overall Quality of Service Indicator (OI) is valued above 100 (graph).

**Graph 20 –Overall Quality of Service Indicator (OI)**



As the above graph shows<sup>12</sup>, the OI has had a positive evaluation since 1997, with figures consistently above 140, which was only interrupted in 2003 (49), because some of the quality of service indicators were not fulfilled in that year (as per the Regulation Report 2004).

The detailed analysis of all the indicators that are part of the OI can be read on part 002 of this report – State of communications.

<sup>12</sup> Because the OI figures are a result of the several QSI individual figures, comparing the OI evolution should be made with caution, taking into account changes to the QSI defined for each year and the method for their reckoning.

### **Setting up and shutting down postal offices and changes to working time**

According to no. 2 of Basis XX of the universal postal service concession of 1 September 2000, with the text approved by Decree-Law no. 116/2003 of 12 June, it is the concessionaire's obligations:

- a) To open up and shut down postal offices;
- b) To change the postal offices' working time, taking into account the service needs and the demand levels.

Within the scope of no. 3 of the same Basis, CTT must inform ICP-ANACOM of their decisions to set up, shut down and change the working time of postal offices. In the cases with shutting down and reducing working time of post offices, notice must be given at least two months ahead of the date of the effects of that decision, and ICP-ANACOM may oppose to the execution of those decisions by informing CTT of that opposition.

This information to CTT must be sent together with the grounds on which it was made, namely regarding service needs, demand levels and meeting the population's and economic activities' needs (no. 4 of Basis XX).

Within this scope 34 notices were received from CTT in 2005, as shown in detail on the next table:

**Table 13 – Notices from CTT**

<b>Denomination</b>	<b>Notices from CTT in 2005</b>
Changes to post offices' working time	25
Shutting down of post offices	3
Shutting down of post offices and corresponding replacement with postal agencies <sup>13</sup>	6
Setting up of post offices	0
Overall	34

Date: From 1 January 2005 to 29 December 2005.  
Source: ICP-ANACOM.

### **Regulation defining the rules for assessment by ICP-ANACOM of notices from CTT to shut down or to reduce the working time of the post offices**

ICP-ANACOM's Board of Directors approved on 4 October 2005 the draft regulation defining the rules for assessment by ICP-ANACOM of notices from CTT to shut down or to reduce the working time of post offices.

This draft regulation is intended to evaluate notices from CTT regarding the shutting down and the reduction to the working time of the post offices (post offices and postal agencies), including the set of parameters that should be used by this Authority to assess those notices. It is also intended to set up procedural rules by CTT and other entities that may be asked to participate in the regulator's decision process.

Thus, a consultation on this matter was launched on 11 October 2005. Its deadline for receiving comments ended on 23 November 2005.

<sup>13</sup> Postal agencies are facilities owned by private entities or others, where CTT's postal services are provide, under contract.

### **I.3.2 Postal liberalization**

The calendar stemming from the regulatory framework in force since Decree-Law no. 116/2003 of 12 June, for the gradual and progressive liberalization of the postal services market, is kept, although the scope of the reserved services has been changed, but simultaneously keeping the necessary guarantees for the provision of the universal service, in accordance with the community framework, with a single European market as the goal.

Thus, the following phases are planned for the opening up to competition of the market segments still reserved:

- Until 31 December 2005, liberalization of correspondence weighting over 100 grams and with price above three times the reference tariff (20 gram priority mail, for Portugal);
- From 1 January 2006, liberalization of correspondence weighting over 50 grams and with price equal or above two and a half times the reference tariff;
- On both phases, outgoing international traffic and direct mail are kept in the reserved area; these services are subject to the weight and price limits defining the integration or not of postal services in the reserved area.

Postal directive (Directive 97/67/EC of 15 December 1997, amended by Directive 2002/39/EC of 10 June 2002) mentions the possible full liberalization on 1 January 2009.