



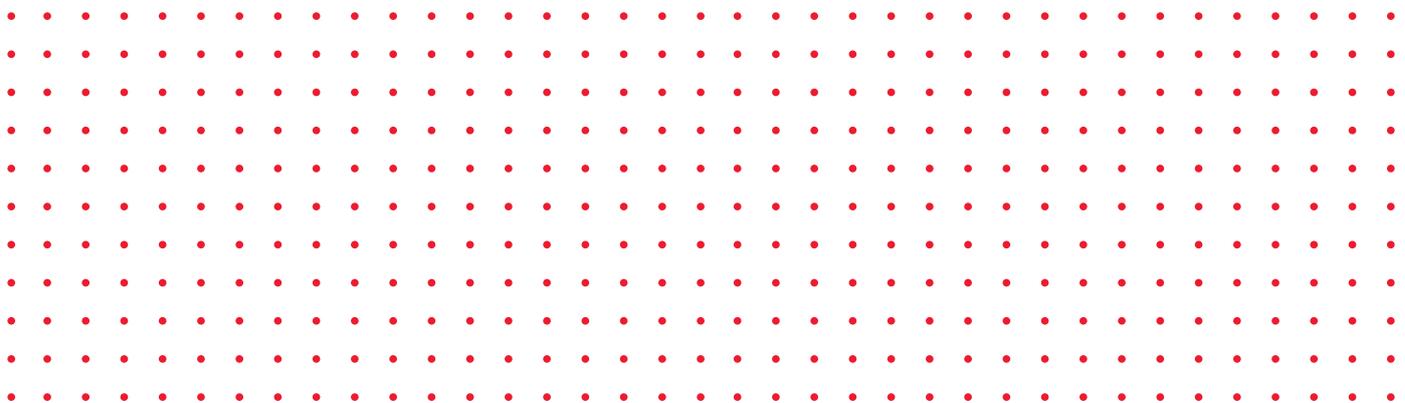
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Regulation Report

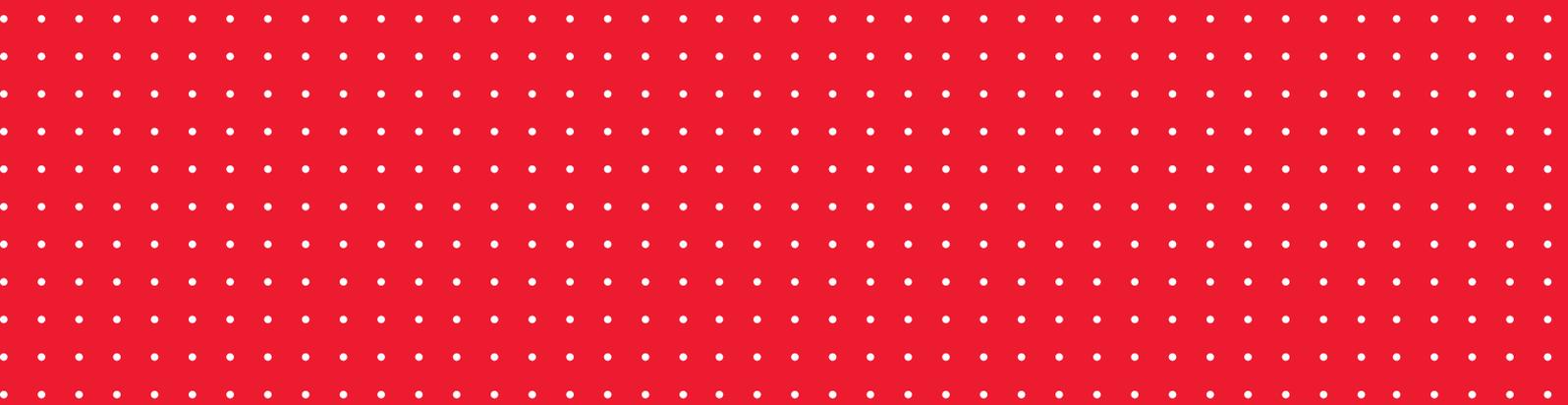
FREE FLOWING COMMUNICATIONS

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Regulation Report



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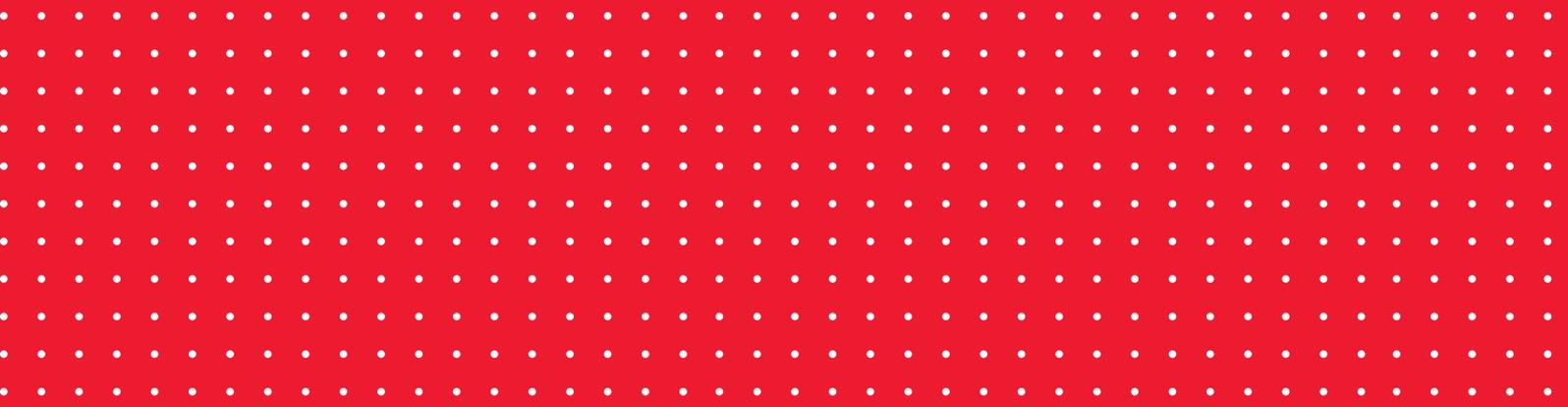
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01.

Framework



• 1.1 Nature and structure of report

The 2008 Regulation Report is prepared in accordance with the provisions of paragraph 1 of article 51 of the Statutes of ICP-Autoridade Nacional de Comunicações (ICP-ANACOM) as laid down in annex to Decree-Law number 309/2001 of 7 December. These provisions determine that this report be submitted on an annual basis to the Government, and also presented to the Assembly of the Republic.

In line with previous years, this report is published separately from the Activities Report and from the document on the State of Communications, since each document is based on distinct objectives and rationale. However it is important to note that they are complementary tools for analyzing the evolution of the sector and a more attentive observer or an analyst interested in more detailed study should not fail to consult these documents together.

In this context, it is noted that the Regulation Report, as its name suggests, focuses on providing an integrated and more detailed view of the specific activities related to the regulation of the markets for electronic communications and postal services, conducted in accordance with the applicable community framework, with national legislation which transposes this framework and the remit assigned to ICP-ANACOM as an independent regulatory authority, by means of its statutes.

It should be noted, however, that it is considered appropriate to underline in this context that some activities, while not having a clear regulatory nature, are linked with the activities of regulation, justifying their mention in this report while being covered with more detail in the Activities Report. Such is the case of certain more specific activities associated, for example, with the international representation of the State and international cooperation, with consumer protection and security of networks or with supervision, and litigation and sanctioning in cases of non-compliance.

Meanwhile, the Activities Report provides an overview of the whole range of activities performed by ICP-ANACOM, particularly those which, since they do not fall within its scope, are not covered by the Regulation Report (in particular activities related to monitoring of the radio

spectrum, market surveillance equipment, external communications, technical standardization and laboratories, and generally, activities related to the provision of advice to the Government, including representation of the Portuguese State).

Moreover, notwithstanding the assessment in this report of the impact of certain regulatory measures which, with the exception of aspects relating to the provision of universal service (US), focus primarily on the relationships between operators (wholesale market), it is important to note that further analysis and more detailed analysis of this impact must also look at the development of markets in terms of the final consumer (retail market), particularly in terms of innovation, quality, diversity and pricing of products and in terms of the degree of evident competition. In this regard, the State of Communications is of particular relevance.

The structure of this Regulation Report broadly follows that of previous years covering electronic communications and postal services individually and, in each case, detailing the issues associated with providing the US and developing, in the first case, the key areas of ICP-ANACOM's remit in the field of regulation, while in the latter, the activity of ICP-ANACOM is detailed in the context of supervising the Universal Postal Service concession:

- a) Analysis of regulated markets and offers;
- b) Strategic management of the radio spectrum and of numbering and associated features;
- c) Universal Service and protection of users.

Note that in section Strategic objectives of ICP-ANACOM for 2008 and their accomplishment an overall analysis is conducted on how the strategic objectives timely established for 2008 were pursued, taking note in particular of the actions related to these objectives and how they were implemented. Likewise, the most relevant cases are identified where these objectives were accomplished with delay or were postponed or were not pursued.

• 1.2 Strategic objectives of ICP-ANACOM for 2008 and their accomplishment

The strategic objectives of ICP-ANACOM for 2008 were outlined in the strategic plan for the three years period of 2008 – 2010, focusing on five main areas:

- To promote open and competitive markets;
- To uphold and protect the rights of users and citizens in general;
- To improve the regulator's efficiency and capability for action;
- To participate in the development of the internal market of the European Union (EU), improving internal "performance";
- To promote institutional and technical cooperation.

Below, a brief summary is given of the main accomplishments in the context of each of the main strategies which encompassed the regulatory activity of ICP-ANACOM in 2008.

To promote open and competitive markets

In this context, the main areas of action planned for 2008 meriting particular note are those resulting from the review of the regulatory framework for electronic communications (including the process of reviewing the analyses of markets and the associated obligations and developing the regulatory framework applicable to next generation access networks (NGA), the definition of principles, actions and timetables associated with the publication of quality indicators with respect to regulated wholesale offers, the development of specific studies (especially on the evolution of NGA and the functional separation of networks and evaluation of cost models in terms of fixed and mobile networks), the process of designating the provider(s) of the US in the context of electronic communications and the activities of advising the Government, the review of the price and quality conventions of CTT – Correios de Portugal, S.A. (CTT) and all actions related to the implementation of digital terrestrial television (DTT). It is noted that some of these

measures and others, related particularly to the management of the spectrum from a strategic perspective (secondary trading, mobile TV, digital dividend, reformulation of the NFAP¹, availability of the 2.5 GHz band) are also related to the second objective (to uphold and protect the rights of users and citizens in general).

As highlighted in the specific sections of this report, there were important developments in this area, with the completion or achievement of significant progress in many of the activities planned during the year 2008, even while there was a need to select some priorities and delay or discontinue certain actions considered less relevant, whether due to their nature or timing or due to developments occurring in the meantime, including developments at community level. This is particularly the case of actions relating to the review of the radio tenures regime, the analysis of wholesale Short Message Service, SMS and mobile broadband access markets, the definition or revision of cost models and the implementation of the revision of Directive 87/372/EC which provides for the "refarming" of the 900 MHz spectrum allocated to the GSM² service, with the latter two of these heavily influenced by EU schedules. Moreover, the allocation of resources to the review of the Portability Regulation (also in the plan for 2009), and the many questions raised in 2009 on the operation of this feature, made it necessary to delay the planned development of the Numbering Regulation.

Regarding the management of the radio spectrum, the aim was to maintain the perspective of its alignment with the regulatory objectives established for ICP-ANACOM, which was present in the annual review of the NFAP and in other decisions taken in this area over the course of 2008, with emphasis on the preparation of the process for allocating radio spectrum in the 3.4-3.8 GHz band, from a perspective of technological and service neutrality. In this respect, it is noted that some activities were not completed during 2008, since the internal reflection needed to launch public consultations (sometimes influenced by the agenda of the European Commission – EC) was extended during all this year. This situation applies to mobile TV, secondary spectrum trading and the digital dividend.

¹ National Frequency Allocation Plan.

² Global system for mobile communications.

To uphold and protect the interests of users and citizens in general

In terms of upholding and protecting the rights of users and citizens in general the main actions planned for 2008 included those connected to the development of dispute settlement mechanisms and their extension to the electronic communications sector, oversight of the implementation of the regulation on international roaming, analysis of the quality of the land mobile service and Internet access and the prices of postal services, the process of specification and implementation of 112L and various tests related to communications security, the implementation of the range of social support services 116xxx created by decision of the European Commission (EC), as well as various studies related to consumption patterns and the socio-demographic profiling of end-users and benchmark comparisons of postal service prices.

In general the actions planned were concluded, while it is noted that the consultation on the possible allocation of numbers directly to end customers was postponed until 2009 for reasons of priority and given the need to gather additional information on the subject.

To improve the regulator's efficiency and performance capacity

In order to achieve this objective, and among the various courses of action taken in 2008 and more directly linked to the activity of regulation, note should be made of the creation of a numbering database, the development and implementation of which was contracted in 2008, while the accomplishment of the latter was concluded only in 2009.

Additionally, ICP-ANACOM has continued a very significant effort to reduce consultancy costs and undertake studies

and analysis necessary for its regulatory function using internal resources.

To participate in the development of the internal market of the European Union (EU), improving internal "performance"

In order to participate actively in the development of the EU internal market and improve internal "performance", making it possible to envisage innovative strategies and anticipate problems and their solutions, ICP-ANACOM identified the following as major issues of regulation for 2008 at a Community level: the adoption of the new European regulatory framework, regulation of roaming, the review of US, the procedures under article 7 of the Framework Directive (Directive 2002/21/EC of 7 March 2002) and the new recommendations on relevant markets.

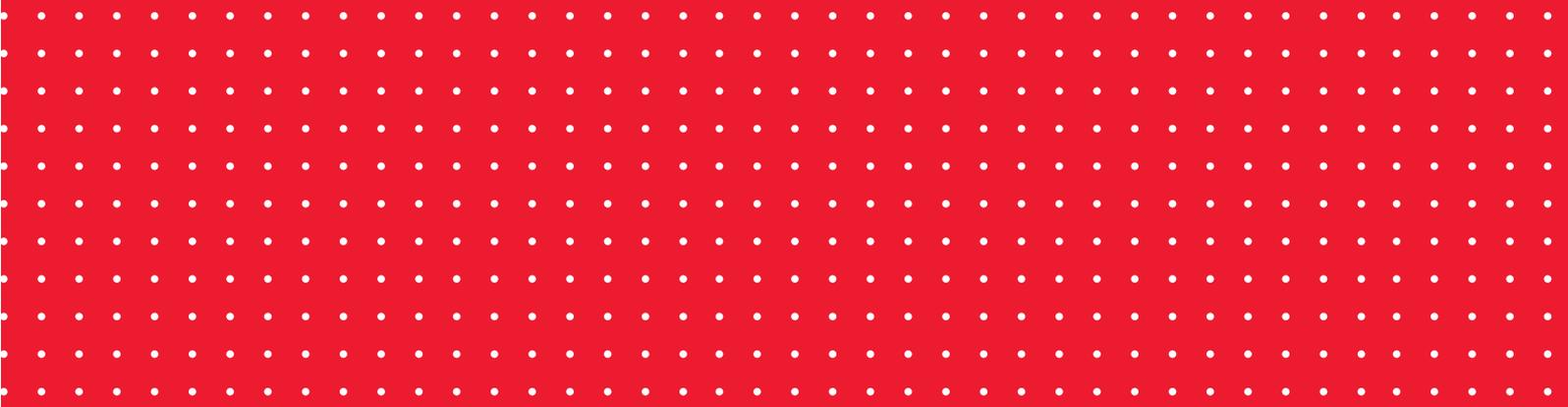
In this context, and as set out in the specific section of this report, the active involvement of ICP-ANACOM is noted, both in terms of its activity as the independent regulatory authority and in terms of adviser role the Government, in several Community and European bodies, contributing to the respective documents and common positions.

To promote institutional and technical cooperation

In the context of promoting technical and institutional cooperation, ICP-ANACOM continued cooperation with other countries and national regulatory authorities in the communications sector, focusing in particular on the relationship with other portuguese speaking countries. In this context experts were made available in matters of regulation and market analysis for various bilateral or multilateral cooperation projects.

02.

Electronic Communications



• 2.1 Market analyses

In the context of electronic communications and in terms of the definition and analysis of electronic communications markets and regulatory controls at national level, 2008 was marked by the implications arising from the implementation of the structural separation of PT Multimédia – Serviços de Telecomunicações e Multimédia, SGPS, S.A. (PTM, now ZON Multimédia – Serviços de Telecomunicações e Multimédia, SGPS, S.A.) and Portugal Telecom, SGPS, S.A. (Portugal Telecom), through the spin-off of PTM, and from the EC's approval of Recommendation 2007/879/EC of 17 December on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation – events which occurred at the end of the prior year.

In this context, in 2008, ICP-ANACOM adopted its position on the consequences of the spin-off of PTM and its impact in terms of analysis of the market and obligations arising therefrom. It conducted the entire process of analysis and notification to the EC, pursuant to Article 7 of the Framework Directive, with regard to the relevant markets 4 and 5 as identified in the EC Recommendation on relevant markets (Recommendation 2007/879/EC of 17 December 2007) – market of wholesale (physical) network infrastructure access at a fixed location and market for supply of wholesale broadband access.

With respect to the relevant markets identified in the previous version of the EC Recommendation on relevant markets (Recommendation 2003/11/EC of 11 February 2003), a final decision was adopted on market 16 (market for voice call termination on individual mobile networks) on the specification of the obligation of price control. With regard to market 15 (market for access and call origination on public mobile telephone networks), and following the work developed in 2007, ICP-ANACOM decided to urge operators holding rights to use frequencies for the provision of the publicly available mobile telephone service to adjust the prices of call origination and billing and collection on their networks, while at the same time monitoring the evolution of the entry into market of the first mobile virtual network operators (MVNO).

Effects of the spin-off of PT Multimédia

Following the spin-off of PTM and the EC's approval of EC Recommendation 2007/879/EC, ICP-ANACOM deemed it appropriate to adopt and make public, on 3 April, 2008, its position on the concluded operation and its impact in terms of market analysis and the obligations arising therefrom.

As such, ICP-ANACOM clarified that, subsequent to the spin-off, ZON Multimédia was no longer part of Grupo Portugal Telecom (Grupo PT), whereby the obligations arising from the market analysis conducted pursuant to Title IV of Chapter II of Law number 5/2004 of 10 February – Law of Electronic Communications (LEC) were no longer applicable to ZON Multimédia.

It was also noted in this position that the obligations applicable to companies that continue to be part of Grupo PT remain in force, until the review of markets is concluded, without prejudice to an immediate reassessment of the forms of implementation of the obligations, related to the market of wholesale broadband access (market 12 of the previous version of the EC Recommendation on relevant markets). This reassessment is set out in determination of 26 June 2008 and is covered with more detail in section "Rede ADSL PT" wholesale offer (broadband access) Given the particularly important consequences of this spin-off for markets 11 and 12, as defined by the previous version of the EC Recommendation on relevant markets and now known as markets 4 and 5 (under Recommendation 2007/879/EC), ICP-ANACOM stated from the outset that it would make the analysis of these markets a priority, which analysis was undertaken on the terms referred to below.

Broadband markets

ICP-ANACOM adopted, by determination of 26 June 2008³, for public consultation for a period of 30 working days, the draft decision on the definition of product markets and geographic markets, evaluation of significant market power (SMP) and imposition, maintenance, amendment or withdrawal of regulatory obligations in relation to the

³ The determinations and draft decisions (DD) taken by ICP-ANACOM, mentioned throughout this report, can be consulted on ICP-ANACOM's website in the "ANACOM – ANACOM Determinations" area.

market of wholesale (physical) network infrastructure access at a fixed location (market 4 of Recommendation 2007/879/EC) and the market of wholesale broadband access (market 5 of the same Recommendation).

On 7 August 2008, AdC – Autoridade da Concorrência (The Competition Authority) sent its opinion on the draft decision (DD) in question, pursuant to article 61 of the LEC, stating agreement with its content and considering that the analysis conducted was appropriate and generally consistent with the application of the methodology of competition law and that the definition of geographic markets was deemed appropriate to the identification of heterogeneous competitive conditions.

After considering the analysis conducted of the responses received in public consultation, by determination of 4 December 2008, approval was given to the respective report and to the new draft decision on markets 4 and 5 for notification to the EC and the national regulatory authorities (NRAs) of the other Member States pursuant to paragraph 1 of article 57 of the LEC.

The EC gave a favourable opinion on the draft decision, subject to some comments, citing reservations on the inclusion of coaxial cable in the definition of the markets and urging ICP-ANACOM to consider the application of regulatory measures in the context of NGA.

The final version of the analysis in question was subsequently approved by determination of the Board of Directors of ICP-ANACOM of 14 January 2009.

Following the analysis of the wholesale markets for broadband, ICP-ANACOM reached the following conclusions, with respect to the market of wholesale (physical) network infrastructure access at a fixed location (market 4):

- For the purposes of *ex-ante* regulation and in accordance with the principles of competition law, the market of wholesale (physical) network infrastructure access at a fixed location was identified as relevant, covering the entirety of the national territory;

- Grupo PT was designated as holding SMP in this market under identical terms as in the previous analysis of the market, whereby the following obligations were imposed: access to and use of specific network resources, transparency in the publication of information, including the publication of reference offers, non-discrimination in the provision of access and the respective provision of information, separation of accounts for specific activities related to access, control of prices and cost accounting and financial reporting.

With respect to the market of wholesale broadband access (market 5), the main conclusions of the analysis are:

- The existence of distinct competitive conditions justify the definition of two separate geographic markets:
 - Market of wholesale broadband access in “areas C” (deemed competitive) – market for the supply of wholesale broadband access encompassing the areas covered by exchange areas where there is at least one collocated operator and where there is at least one cable distribution network operator and where the percentage of homes cabled by the main operator in the exchange area exceeds 60 percent;
 - Market of wholesale broadband access in “areas NC” (deemed as non-competitive) – market of wholesale broadband access in other exchange areas of the national territory.
- The identification of Grupo PT as holding SMP in the market of wholesale broadband access in “areas NC”, whereby the following obligations were imposed: access to and use of specific network resources, transparency in the publication of information, including the publication of reference offers, non-discrimination in the provision of access and interconnection and in the respective provision of information, separation of accounts for specific activities related to access and/or interconnection, control of prices and cost accounting and financial reporting;

- The removal of the obligations previously imposed on Grupo PT in the market of wholesale broadband access in “areas C”, comprising about 61 percent of all broadband access;
- The definition of a transitional period of one year during which certain obligations of Grupo PT will remain in force in the market of wholesale broadband access in “areas C”, taking into account the need to ensure a gradual transition

which provides for the protection of end-users and operators who invested in the market and may require a period of time to adjust their offers, their objectives and their strategies to the new regulation.

It should be noted that in the case of both markets, provision was made for the possibility of specific obligations for optical fibre based access.

Location of exchange areas designated as “areas C”

Figure 1.



Market for voice call termination on individual mobile networks⁴

Following approval in October 2007 of a DD, subsequently submitted to public consultation on the specification obligation to control prices with respect to the wholesale markets of voice call termination on individual mobile

networks, and its notification to the EC, ICP-ANACOM approved a decision on this matter in July 2008.

Since ICP-ANACOM considered that analysis of the wholesale markets for voice call termination on individual mobile networks conducted in 2005, and subsequently notified to the EC, remained valid, along with the

⁴ This is market 16 as identified in the previous version of the EC Recommendation on relevant markets.

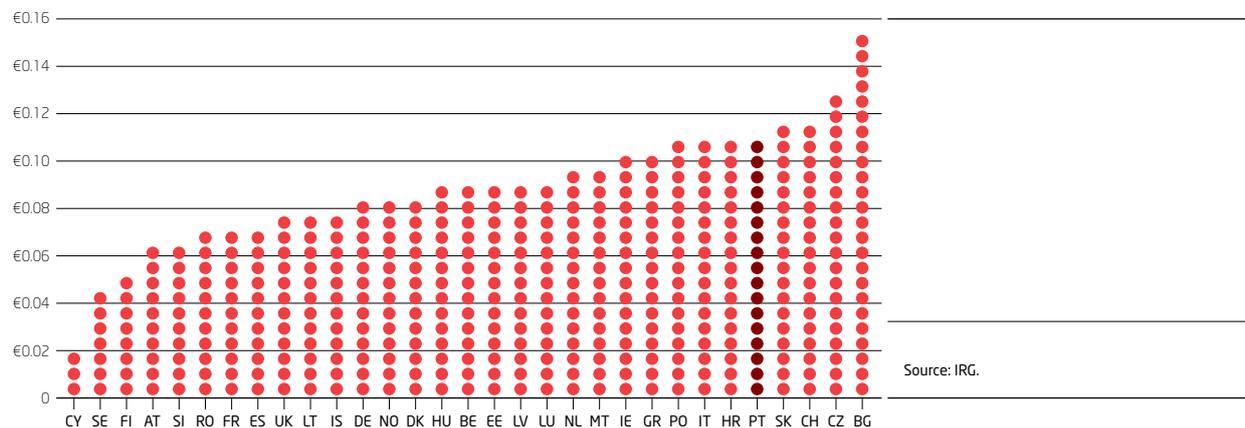
respective conclusions regarding the identification of operators with SMP, and the *ex-ante* regulatory obligations imposed upon such operators, this decision focused only on the specification of the obligation to control the prices which apply to mobile operators in business in Portugal.

It is recalled that the operators in business which were notified in 2005 as operators with SMP were TMN – Telecomunicações Móveis Nacionais, S.A. (TMN), Vodafone Portugal, Comunicações Pessoais, S.A. (Vodafone) and Optimus – Telecomunicações, S.A. (Optimus). This latter operator, in the meantime, merged with Novis Telecom, S.A. (Novis), operator of the same economic group, taking the name Sonaecom – Serviços de Comunicações, S.A. (Sonaecom).

The *ex-ante* regulatory obligations applicable to these operators are: (i) responding to reasonable requests for access, (ii) non-discrimination in the provision of access and interconnection and the respective provision of information, (iii) transparency in the publication of information, (iv) control of prices and costs accounting, and (v) separation of accounts.

However, the need to properly assess the matter, together with the decision of the operators to practice the maximum termination prices permitted under the 2005 determination, led to the maintenance of termination prices between October 2006 and the end of the first half of 2008, with the result that Portugal's ranking worsened in comparison with other European countries in July 2008, and the country had the fifth highest prices, as can be seen in Graph 1.

Average termination prices (July 2008) Graph 1.



Likewise, the decision took into account other factors of equal importance, such as the need to improve the conditions of competition between fixed and mobile national networks. Bearing in mind this objective, the decision had the aim of reducing the costs incurred by operators which were not part of the mobile market, including fixed operators, allowing them to compete on better terms with respect to calls to mobile terminals,

thereby avoiding distortions in the patterns of traffic between fixed and mobile networks and allowing each of these networks to be used more efficiently while taking the underlying costs into account.

ICP-ANACOM took account of the market failure associated with practice of exploiting network effects by larger operators, which had already been identified in the decision

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

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

adopted in 2005, whereby it decided to further reduce mobile termination rates to 0.065 euros per minute and to introduce an asymmetry for well-defined temporary period.

Accordingly new decision determined reductions in mobile termination price caps, with effect until the end of 2009, as detailed in Table 1.

Mobile termination price caps approved by determination of 2 July 2008 (price per minute with the per second billing in euros)

Table 1.

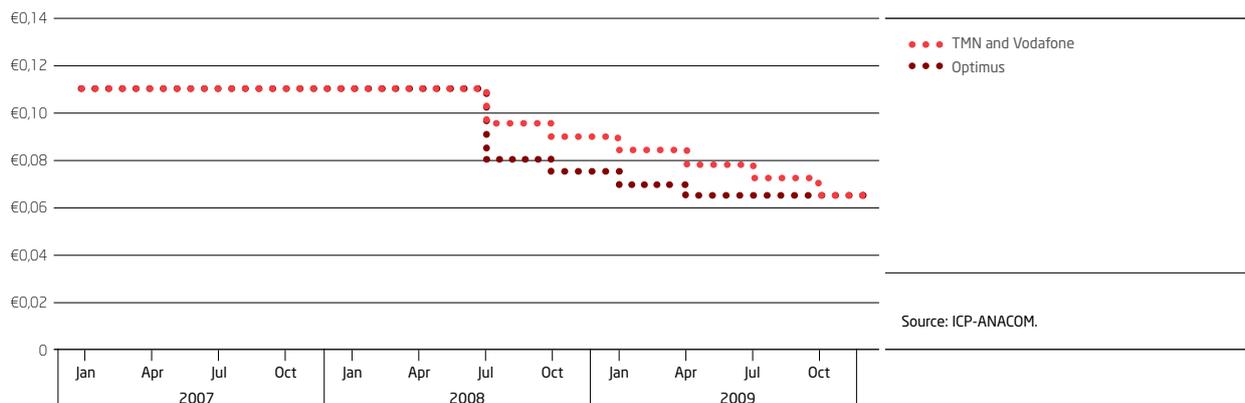
Applicable from:	For the following operators	
	TMN and Vodafone	Optimus
15 July 2008	0.080	0.096
1 October 2008	0.075	0.090
1 January 2009	0.070	0.084
1 April 2009	0.065	0.078
1 July 2009	0.065	0.072
1 October 2009	0.065	

Fonte: ICP ANACOM.

The following graph illustrates the downward trend in terminations prices ordered by ICP-ANACOM.

Evolution of maximum termination prices imposed by ICP-ANACOM

Graph 2.



Source: ICP-ANACOM.

In this context, this decision aims to create conditions for healthy and balanced competition for the benefit of end-users and an increase in global welfare, with the ultimate aim of upholding consumer interests by ensuring the

sustainability of the various mobile operators and enabling, in the short term, reductions in retail prices, in particularly for consumers of fixed-mobile calls, whose high price has led to a substantial reduction in the volumes for these

types of traffic. In this regard it is noted that the retail prices of fixed-mobile calls declined by around 22 percent between January 2008 and January 2009, and they are expected to continue to evolve in that direction following the reduction in termination prices determined by this Authority for 2009.

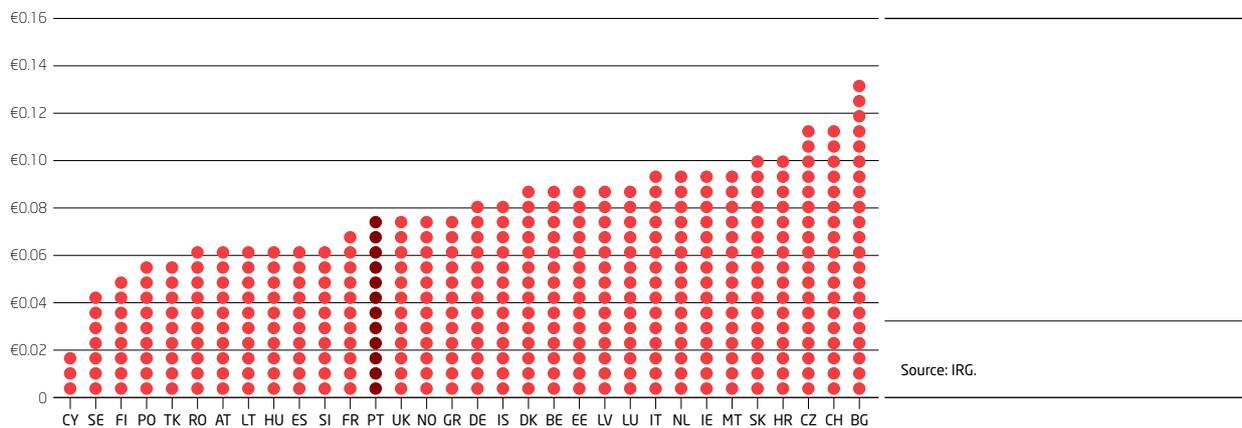
In the specific case of fixed-mobile calls, the benefit derived from the fall in mobile termination prices has been estimated at more than 60 million euros for the period

covered by the decision of ICP-ANACOM. This benefit will be transferred to a very large extent to consumers, given that the market leader – PTC – is regulated with respect to retail prices and is obliged to fully reflect the imposed reductions in mobile termination rates in the prices charged for these calls.

In terms of wholesale prices, Portugal was presented, in early 2009, as the country with the thirteenth lowest prices of all European countries, as seen in Graph 3.

Average termination prices (January 2009)

Graph 3.



A review of the decision is planned during the second half of 2009, taking account of developments occurring at EU level and the analysis of the relevant market.

Market for call access and origination in public mobile telephone networks⁵

In August 2008, ICP-ANACOM published a position on the pricing of services of call origination on national mobile networks and of billing and collection and risk of non-recovery charged by mobile operators in business in Portugal. This followed various complaints about the price of these services, which stood at levels similar to those of 2002.

In this position, ICP-ANACOM urged operators holding rights to use frequencies for the provision of the publicly available mobile telephone service:

- to reduce the prices of wholesale services for the origination of calls on their mobile networks to levels approaching or preferably in line with those set as the maximum for voice call termination on individual mobile networks, and at the same time
- to promote price reductions in the service of billing and collection on behalf of other operators, desirably to levels not exceeding 20 percent of those established in the Reference Interconnection Offer, RIO 2008.

⁵This is market 15, as identified in the previous version of the EC Recommendation on relevant markets (2003/11/EC).

• 2.2 Regulated offers

ICP-ANACOM also expressed its intention, in the event that no major changes are seen in these prices, to address this issue in the analysis of relevant market and/or submit the issue for consideration by AdC, pursuant to its remit.

Subsequent to this position, the mobile operators in business in Portugal implemented new rates for call origination and billing and collection, and in one case a schedule was presented of price reductions until the end of 2009; however the matter remains under review in view of the large gap that persists between prices for origination and termination on mobile networks.

Finally, it is noted that in the context of the MVNO business, there were five entities registered up to 2008 as MVNOs. Of these, two entities initiated their activities: CTT, back in 2007, through its Phone-IX offers, and ZON TV Cabo Portugal, S.A. (ZON TV Cabo) in 2008 through its ZON Mobile offers.

Considering that the wholesale offers are essential for promoting competition in the market, with resulting and significant benefits for end-users, on 15 October 2008, approval was given to the DD on the publication of accomplished levels of quality of service with respect to wholesale offers. With this measure, encompassing the various regulated wholesale offers, it is intended, among other things, to promote greater transparency for the market, with regard to the levels of quality of service offered by PT Comunicações, S.A. (PTC) – both to its own services and companies of Grupo PT and to other companies benefiting from these offerings. This would enable better assessment of the application of the principle of non-discrimination, while updating, systematizing and simplifying the information compiled and standardizing the methods and periods of collection, in the light of the experience acquired and market developments, aligning the procedures in this area with best European practice.

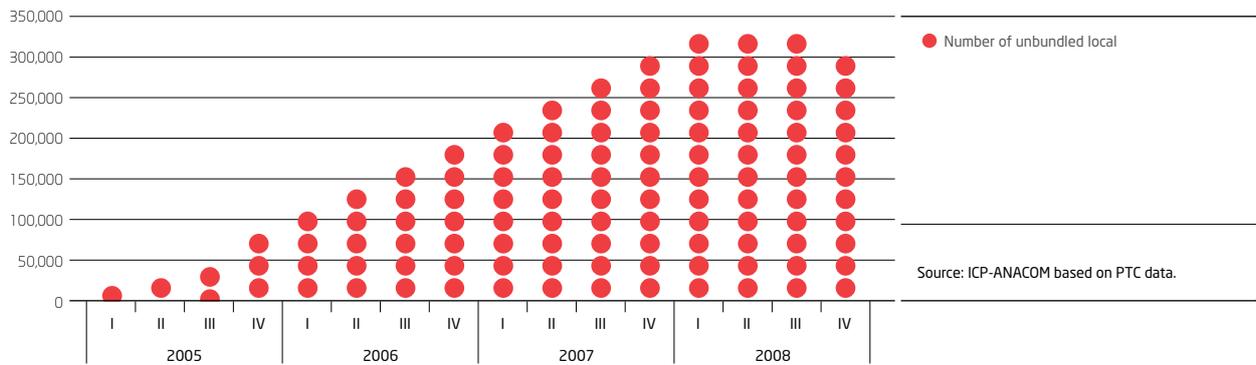
The final decision was adopted at the beginning of 2009, determining that comprehensive information on the quality of service be made available to ICP-ANACOM, end-users and beneficiaries of the offers concerned.

Reference unbundling offer (RUO)

The local loop unbundling offer (LLU), which has allowed other service providers (OSP) to supply end customers with their narrowband and/or broadband services, is marked, as regards the evolution of the number of unbundled loops, by a slight decrease over the course of 2008, while in annual terms an increase has been registered of 5 percent: 305,244 unbundled loops at the end of 2008 compared to 291,175 unbundled loops at the end of the previous year (Graph 4).

Evolution of number of unbundled local loops

Graph 4.

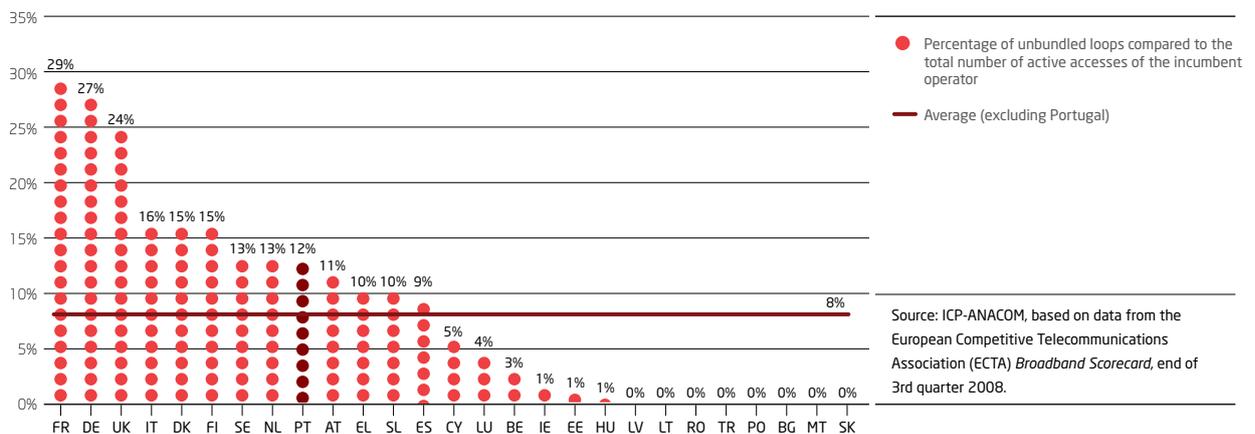


Despite the developments described above, at the end of the third quarter of 2008, it was reported that the penetration of unbundled loops in Portugal compared to

the total number of active accesses of the incumbent operator was above the average of the surveyed countries (excluding Portugal) – see Graph 5.

Percentage of unbundled loops compared to the total number of active accesses of the incumbent operator

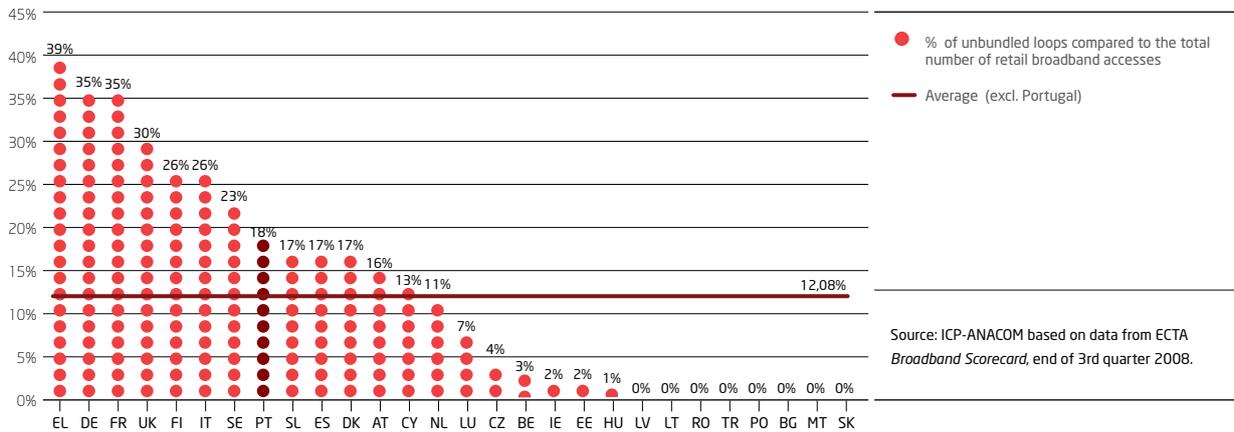
Graph 5.



Analysing the penetration of unbundled loops in terms of the total number of retail broadband accesses, it was concluded that Portugal is well ranked among the set of

European countries, with a value of 18 percent, which is higher than the average found in the countries surveyed (Graph 6).

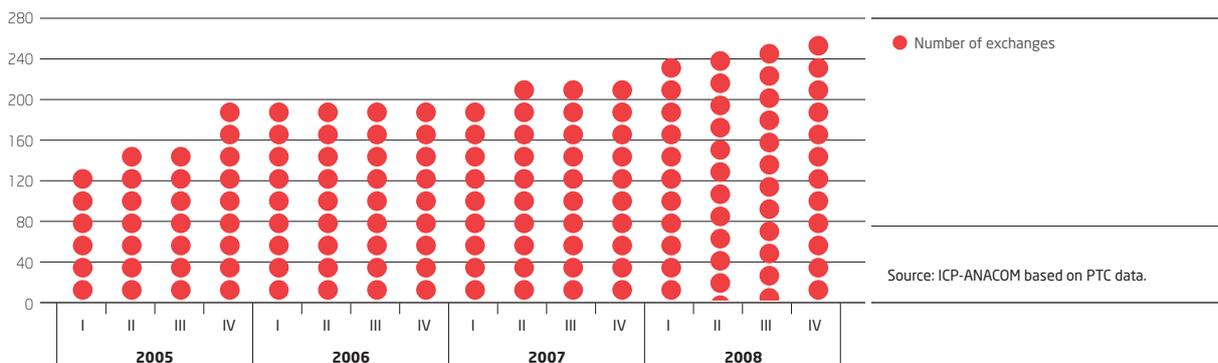
Percentage of unbundled loops compared to the total number of retail broadband accesses
Graph 6.



With respect to the presence of OSP in the exchanges of PTC, it was found that during 2008 the number of exchanges with collocated operators continued to increase,

rising from 221 at the end of 2007 to 258 at the end of 2008 (Graph 7).

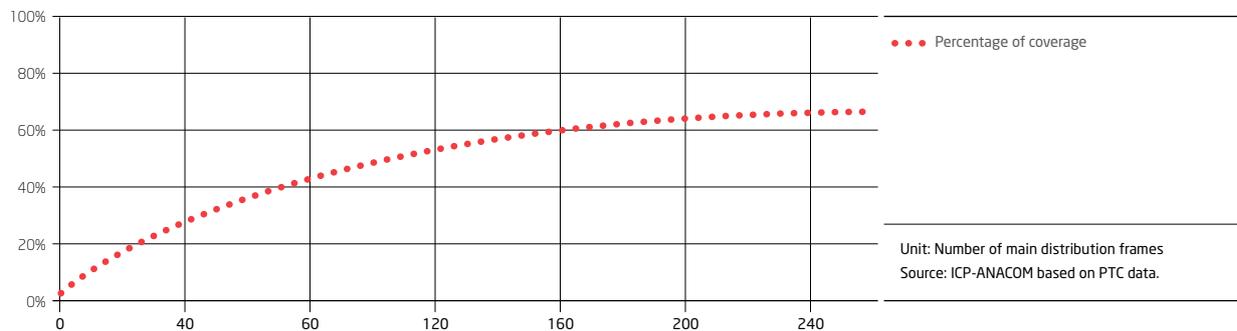
Number of exchanges with collocated operators
Graph 7.



Along with the increased number of exchanges with collocated operators, there was an increase in the coverage of Local Loop Unbundling, LLU-based retail offers from new operators. At the end of 2008 coverage was already over 65 percent of the total number of subscribers to the telephone service at a fixed location (FTS) of PTC, as demonstrated by Graph 8.

It should be made clear that, in light of the distribution of accesses among the various PTC exchanges (there are exchanges with tens of thousands of accesses and others with only a few dozen accesses), Graph 8 shows a concave curve – the marginal contribution of each exchange to the increase in overall LLU coverage will be increasingly less.

LLU coverage in terms of FTS subscribers – main distribution frames considered in descending order in respect of the number of loops in use
Graph 8.



This increase in potential coverage not only reflects an increase in the number of loops which can be unbundled but also a broadening of geographical areas with access to

the new offers. Figure 2 shows the location of exchanges where there were collocated OSPs as at the end of 2008 and from which LLU-based retail offers could be offered.

Location of exchanges where OSP benefit from the LLU in Mainland Portugal (4th quarter of 2008)

Figure 2.

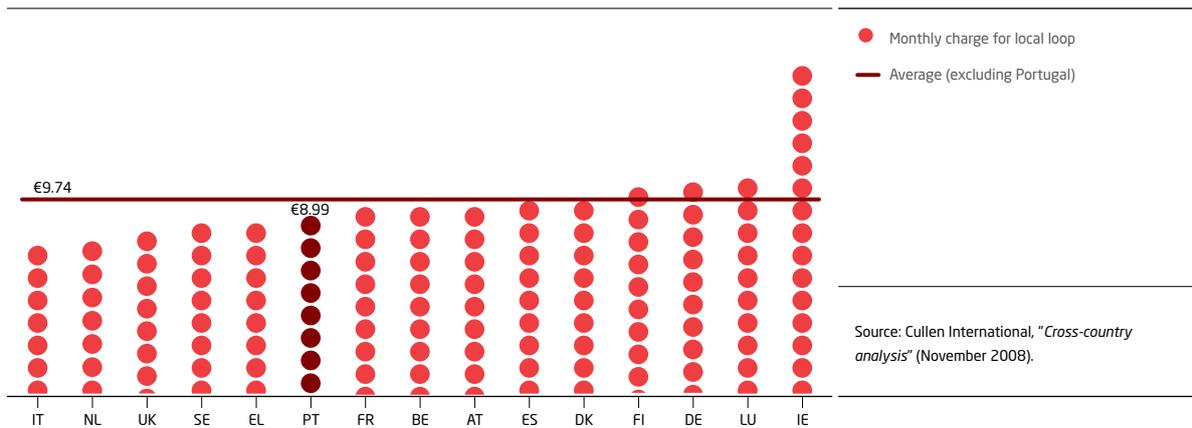


During 2008, ICP-ANACOM did not take a decision on any changes to prices applicable to the RUO. Nevertheless, existing prices were monitored and analyzed, especially in comparison to prices in other European countries.

International comparisons of prices indicate that prices in Portugal in 2008 continued, in any case, to compare well with practices at Community level (EU15), showing lower values than the average, as can be seen in the graphs below:

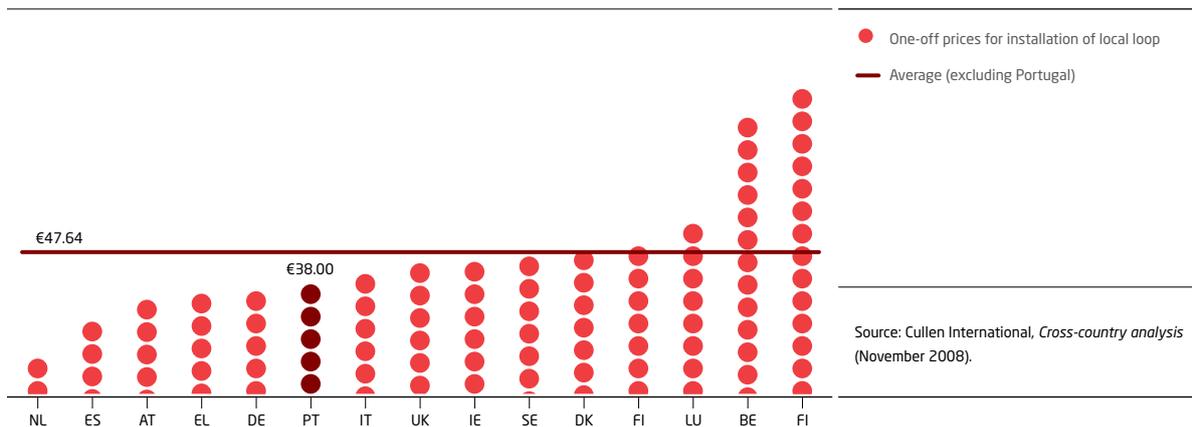
Monthly charge for local loop (full access) – EU15 comparison

Graph 9.



One-off prices for local loop (full access) – EU15 comparison

Graph 10.



Following the limited consultation, launched in 2007, to conduct an audit of the most relevant indicators of quality of service in respect of access to the local loop provided by PTC, for the period covering the first half of 2007, on 23 January 2008, this service was contracted from the company PricewaterhouseCoopers – Assessoria de Gestão, Lda. This audit took place during 2008 with the work concluded in 2009 and also covered the service of leased circuits.

2008 was also marked by requests for ICP-ANACOM's intervention, pursuant to article 10 of the LEC with respect to the resolution of three disputes regarding: (i) the non-payment of bills for power consumption in the context of the RUO (a final decision was adopted on 16 April 2008, whereby the application was denied due to the time elapsed); (ii) the request by Sonaecom for the payment of compensation for failures to comply with the levels of

quality of service established in the RUO in response to requests for verification of eligibility in 2006 (the final decision was adopted on 4 June 2008, whereunder the request was denied); (iii) the payment of compensation for failure to comply in 2006 with the levels of quality of service and time limits applicable to the restoration of service (repair of faults), established in RUO⁶ (the DD was adopted on 30 April 2008, with the final decision adopted in 2009).

“Rede ADSL PT” wholesale offer (broadband access)

During 2008, ICP-ANACOM maintained constant monitoring of conditions in which the services associated with the “Rede ADSL PT” offer were provided, including the level of quality of service guaranteed and the number of access provided to alternative operators.

This wholesale offer is of particular importance because, since 2006, it has provided coverage of the entire country in terms of the exchange areas of PTC (Figure 3), allowing the OSP to offer services throughout the national territory.

Location of exchanges enabled with DSLAM (Digital Subscriber Line Access Multiplexer) with subscribers (2nd quarter of 2008)

Figure 3.



⁶ And in the leased lines reference offer (LLRO).

The regulatory intervention of ICP-ANACOM in the scope of the “Rede ADSL PT” offer during 2008 involved the adoption, on 26 June 2008, of the decision on the assessment of ways of implementing the obligations that remain applicable to Grupo PT in the context of market 12 of the previous version of the EC Recommendation on relevant markets (market of wholesale broadband access), in order to make the assessment of conformity of these offers more transparent, thereby enabling Grupo PT to benefit from greater regulatory certainty in terms of the assessment of conformity with respect to their offers with the respective obligations.

This enables the replacement of the prior notification with an *ex-post* notification (5 days following entry into force) of the conditions to be provided at retail level. By means of the same decision, an update was made to the costs to be observed, using the “retail-minus” rule for 2008, with additional income related to traffic pricing taken into consideration in the analysis.

Following the recommendation of ICP-ANACOM of 2007 urging PTC to submit amendments to the “Rede ADSL PT” offer, in order to include the Naked DSL feature and develop a schedule for the implementation of the offer so that the Naked DSL is operational from 1 February 2008, ICP-ANACOM reviewed the proposal submitted by PTC and

the presented reasoning, as well as comments from stakeholders. It subsequently approved, by determination of 7 February 2008, the analysis of the offer, noting positively that PTC had put conditions in place to begin the Naked DSL feature during the first fortnight of February and to allow the offer to enter fully into operation during the first fortnight of March, while recommending to PTC that some changes be made to the offer to make the operations of this feature more appropriate.

Leased lines reference offer (LLRO)

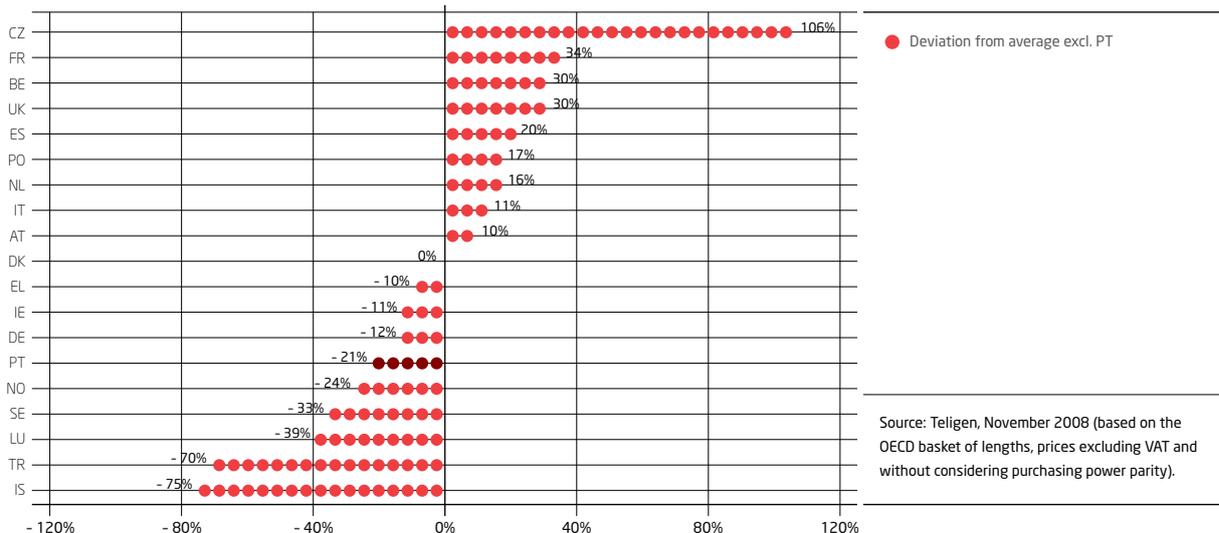
As stated with respect to the RUO, the audit of the indicators of quality of service, awarded in 2007, also covered the service of leased circuits.

At European level, according to a comparison of prices carried out by Teligen in November 2008, it is observed that, for circuits of lower speeds (64 Kbps⁷ and 2 Mbps⁸), the prices in Portugal were below the average prices of the countries surveyed, contrary to that observed for circuits of higher speeds (especially for 34 Mbps).

In the following graphs, the comparisons of prices are shown for the types of circuits mentioned, measured in terms of their deviation from the average (excluding Portugal).

Annual price of 64 Kbps digital circuits in Europe (November 2008)

Graph 11.

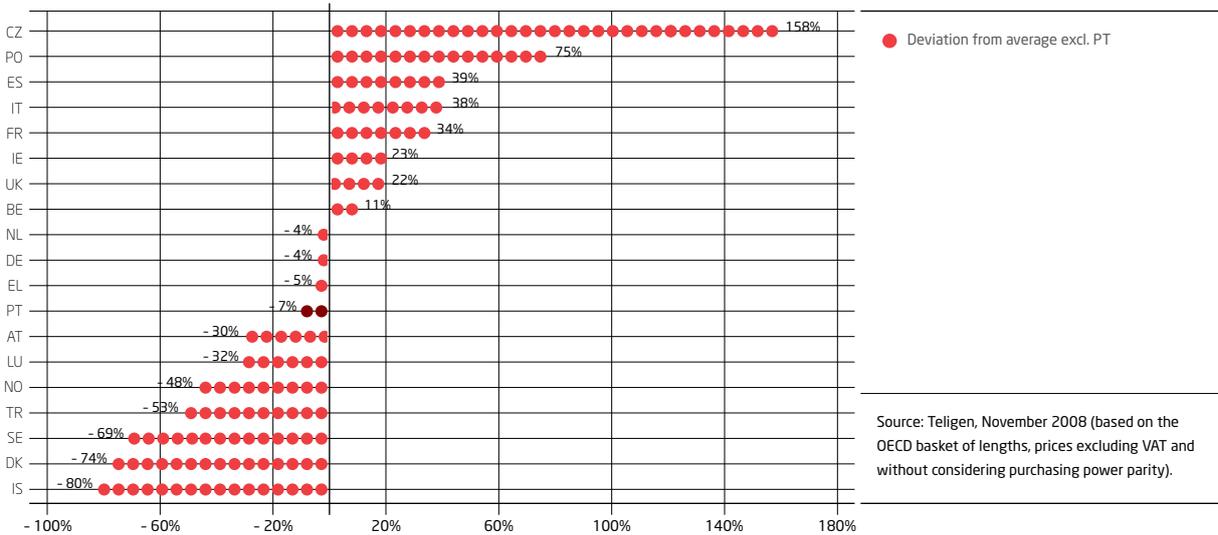


Source: Teligen, November 2008 (based on the OECD basket of lengths, prices excluding VAT and without considering purchasing power parity).

⁷ Kilobit per second (thousands of bits per second).
⁸ Megabit per second (millions of bits per second).

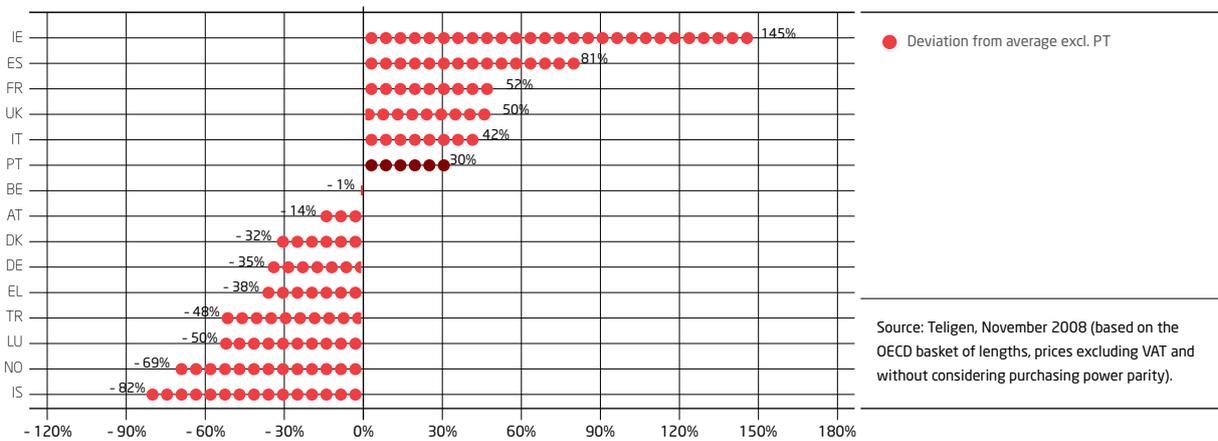
Annual price of 2 Mbps digital circuits in Europe (November 2008)

Graph 12.



Annual price of 34 Mbps digital circuits in Europe (November 2008)

Graph 13.



A request was made for ICP-ANACOM to intervene, pursuant to article 10 of the LEC, to settle a dispute between Sonaecom and PTC on the payment of compensation for

failures to comply with the levels of service quality established in the RUO and LLRO, the final determination on which was adopted in 2009.

Reference interconnection offer (RIO)

In 2008 a decision was approved on the conditions of the RIO, to be applied in 2008 (decision of 16 May 2008) and the DD on the changes to be made to the RIO in 2009 (DD of 4 December 2008).

Since the DD refers to the conditions to be applied in 2009, this report only refers to the conditions applying to 2008.

a) Call origination and termination prices

With the approval of the determination on the RIO in 2008, new prices were set for the origination and termination of calls with effect from 12 March 2008, determining reductions over prices previously in force, as detailed in the following table.

Comparison of maximum prices for call origination and termination defined in RIO 2007 with effect from 26 March 2007 and prices defined by ICP-ANACOM to apply in RIO 2008 (figures in euro-cents, excluding VAT)
Table 2.

Level	Call set-up		Price per minute			
			Peak hours		Off-peak hours	
Local	0.50 → 0.49	-2%	0.39 → 0.38	-3%	0.20 → 0.19	-5%
Single tandem	0.57 → 0.52	-9%	0.63 → 0.58	-8%	0.32 → 0.29	-9%
Double tandem	0.66 → 0.62	-6%	1.05 → 0.99	-6%	0.56 → 0.53	-5%

Billing shall be per-second from the first second. Peak hours will be applicable between 9am and 7pm on working days, and off-peak hours in remaining periods.

Fonte: ICP-ANACOM.

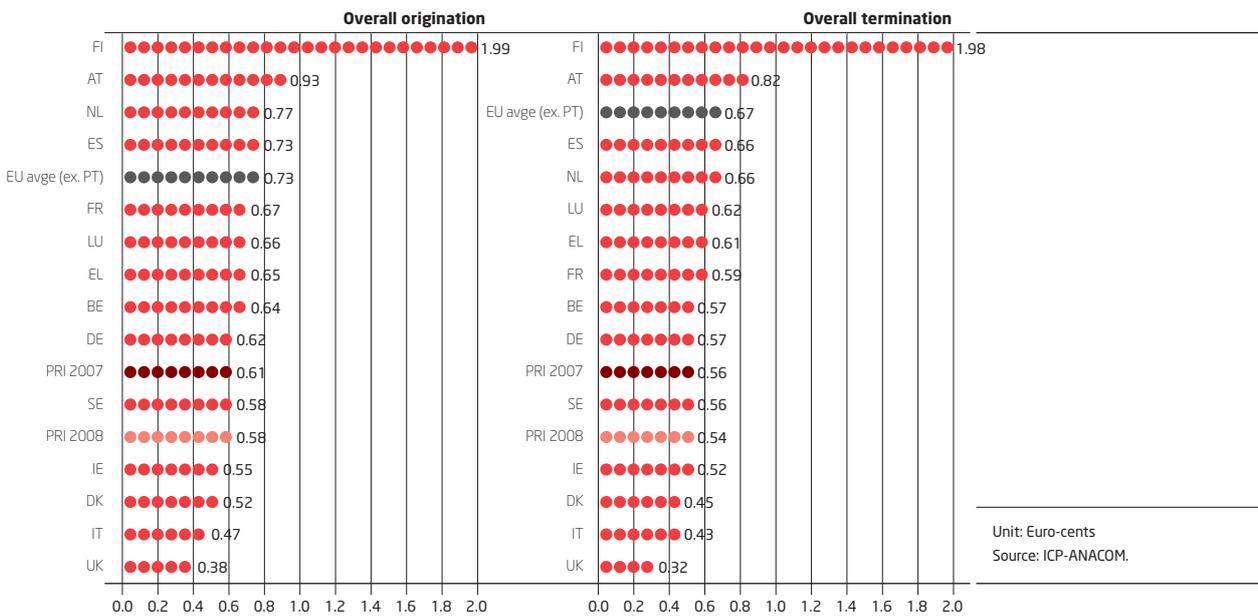
The reductions determined in accordance with the principle of cost orientation of prices result, compared to prices of RIO 2007, in approximate average nominal reductions (based on a call duration of three minutes, and considering the traffic profile envisaged by PTC for 2008) of 4.9 percent for termination and of 4.8 percent for origination. In real terms these amounted to average reductions of 2.8 percent and 2.7 percent respectively, taking into account the inflation rate forecasted in the 2008 State Budget.

The maximum prices determined make it possible to preserve a balance between the need to provide an incentive for own infrastructure development and the need to promote effective competition, also enabling an approach to current EU practice, as can be seen in the graphs below.

Accordingly, in terms of European comparisons, the prices established for interconnection represent an improvement in Portugal's ranking compared to the EU average (EU15),

European comparisons – fixed interconnection prices (call origination and termination)⁹

Graph 14.



both in terms of origination and termination, and compared to the various countries of the EU15.

average (excluding Portugal) in a range that is between -26 percent and -4.6 percent.

This reduction in prices, determined in accordance with the principle of cost orientation of prices, brought improvements to competitive conditions in the sector, and it can be seen that prices for interconnection in Portugal (for both call origination and termination) for all levels of interconnection and pricing periods, are significantly below the EU15

b) Capacity-based interconnection (flat interconnection tariff)

By determination of 16 May 2008, ICP-ANACOM approved the conditions to apply in the RIO 2008, with price reductions determined in terms of capacity-based interconnection, with the following changes in prices:

Maximum monthly price per minimum capacity unit (2 Mbps)

Table 3.

Level	RIO 2007 (from 26.03.2007)	Maximum prices ICP-ANACOM (from 12.03.2008)	Deviations from maximum prices ICP-ANACOM compared to RIO 2007
Local	≈1,162,09	≈1,123,69	-3,30%
Single tandem	≈1,858,19	≈1,690,35	-9,03%
Double tandem	≈2,593,98	≈2,130,26	-17,88%

⁹ The figures shown above for each country were obtained by applying the weightings of estimated interconnection traffic to the interconnection tariffs applying in each Member States (average price per minute for a three minute call) in order to obtain, for both call origination and call termination, an indicator that can be used to assess the various elements of interconnection in an integrated manner.

In the response to the DD of 19 March 2008 on conditions to apply in RIO 2008, PTC sent a proposal for a significant increase in prices associated with capacity-based interconnection (of around 78 percent), considering the theoretical model unsuited to reality.

As such, in the cited determination on RIO 2008, ICP-ANACOM stated, with respect to the provision of capacity-based interconnection, that the data provided by PTC should be presented with a greater level of detail, along with other information considered relevant which should be made available. Accordingly, it was not considered appropriate, at that time, to drop the established theoretical model or to change it significantly.

It should also be noted that this authority, considered that significant increases in the prices associated with capacity-based interconnection, as proposed by PTC, cannot be made without conducting a more thorough analysis of the issue. Accordingly, and with a view to regular monitoring being conducted by the Authority on the levels of use of this mode of interconnection, ICP-ANACOM requested more detailed information on this issue, especially regarding the traffic routed using this mode of interconnection.

Subsequent to this decision, ICP-ANACOM requested and received clarification and additional information from PTC, whereas in November 2008 the company submitted a new proposal containing a reassessment of the parameters of the theoretical model.

Under the conditions described, by determination of 23 December 2008, ICP-ANACOM approved a DD considered appropriate to maintain the application of the theoretical model with the alteration of some parameters and proposed a gradual introduction, setting a specific "glide path".

The same DD also set out, with effect from 1 January 2009, an increased penalty to be applied in situations of traffic transfer using circuits associated with time-based interconnection at the same geographic point of interconnection (GPI).

c) Prices of the service of billing, collection and non-collection risk.

With the cited determination of 16 May 2008, it was decided to enact reductions with regard to PTC's maximum prices of billing, collection and non-collection risk, as established in RIO 2007, taking into account the costs associated with this service.

Accordingly, ICP-ANACOM established maximum prices for billing, collection and non-collection risk, to take effect from 12 March 2008:

- (i) 2.90 euro cents per call for services where the cost to the caller does not exceed Local PTC (as defined in PTC's tariff for residential customers);
- (ii) 3.17 euro cents per call for other special non-free services;

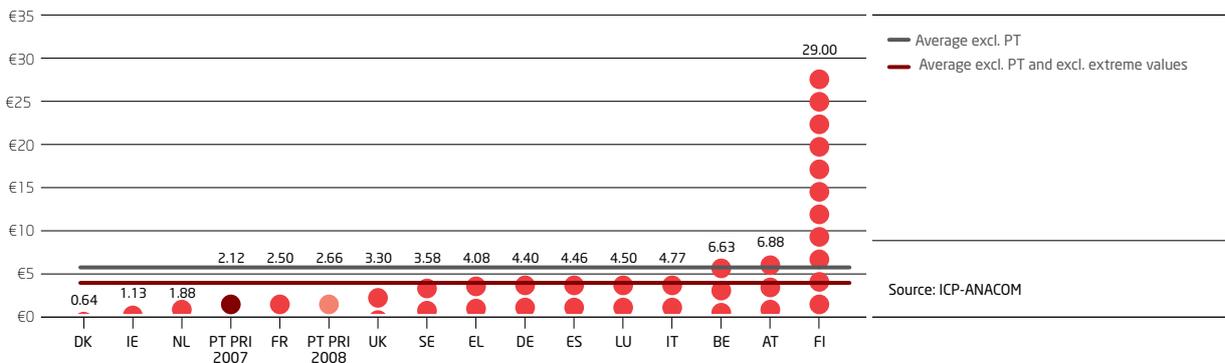
It represents approximate reductions of 5.8 percent and 7.8 percent for the services referred to in (i) and (ii), respectively.

d) Price of pre-selection activation

ICP-ANACOM deemed it appropriate to set a new maximum price for the activation of pre-selection (to take effect from 12 March 2008) at 2.66 euros. This price represents an increase of 25 percent but maintains Portugal in the group of the top five positions relative to the EU15, as shown in the following graph.

European practices for the price of pre-selection activation (2008)

Graph 15.



e) Prices for the activation of number portability

New price caps were set for the activation of porting by number, representing sharp reductions, as can be seen in the following table.

Maximum prices for the activation of porting by number

Table 4.

	Maximum price RIO 2007	Maximum price RIO 2008 (to take effect from 12.03.2008)	Percentage reduction
Individual porting	€5.39	€4.01	-25,6%
Blocks of 1 to 9 numbers	€4.25	€4.01	-5,6%
Blocks of 10 to 99 numbers	€1.67	€1.47	-11,8%
Blocks of numbers u2265100	€0.79	€0.73	-7,6%

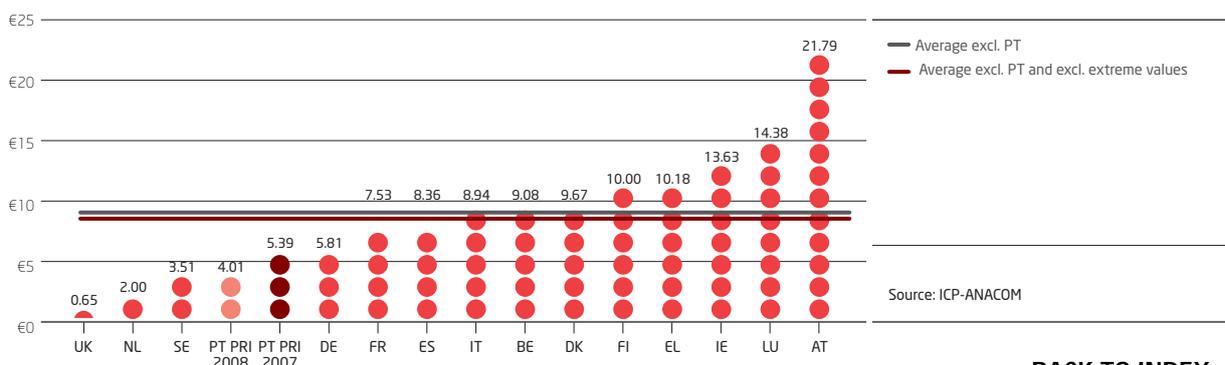
Fonte: ICP-ANACOM.

With respect to the price of porting individual numbers a decrease of about 26 percent has been seen which places the value in Portugal among the lowest in the EU15 and

about 53 percent below the EU15 average (excluding Portugal), as illustrated in following graph.

European practices on the cost of number portability per individual number (2008)

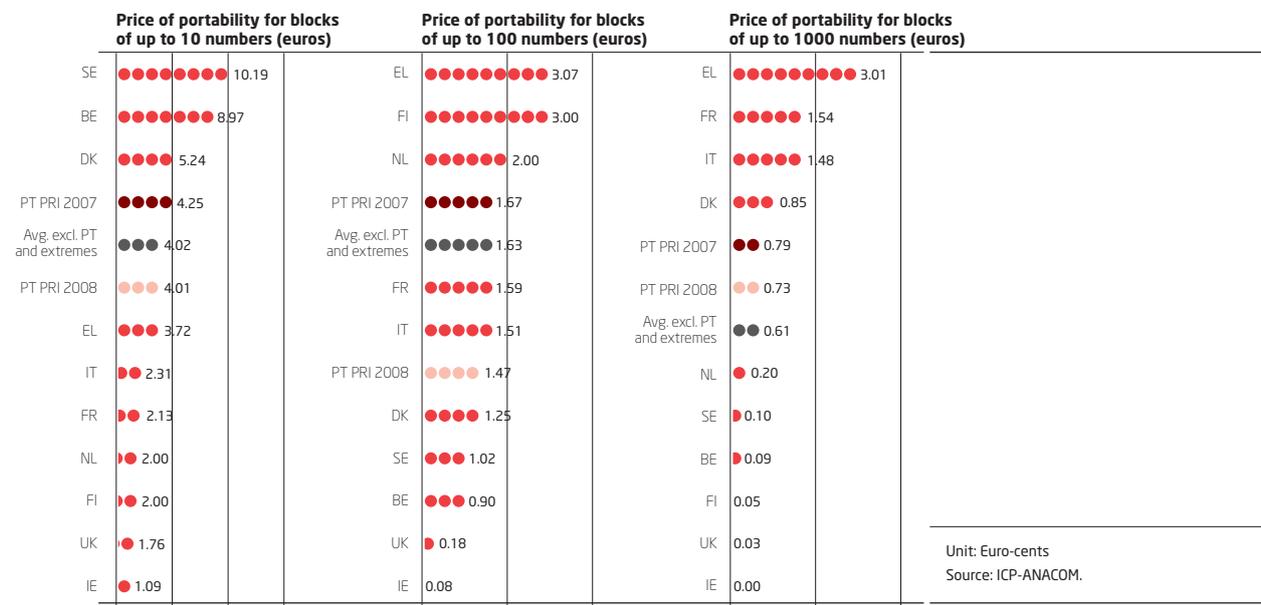
Graph 16.



With respect to porting blocks of numbers, Portugal 's ranking has remained in line with the EU average, as illustrated in the chart below.

European comparisons – prices of portability (2008)

Graph 17.



Wholesale line rental offer (WLRO)

Since the end of 2007, the number of WLRO activations for analogue access has been decreasing at a sharp rate given the progressive substitution by offers based on unbundled loops, whereas from January to December 2008 this number was reduced by about 46 percent, with 69,128 analogue accesses with active WLRO at the end of the year.

With respect to the number of ISDN (Integrated Services Digital Network) accesses, since the introduction of such

access in the WLRO, continuous and strong growth has been seen in the number of ISDN accesses with active WLRO, reaching 3,362 accesses at the end of 2008.

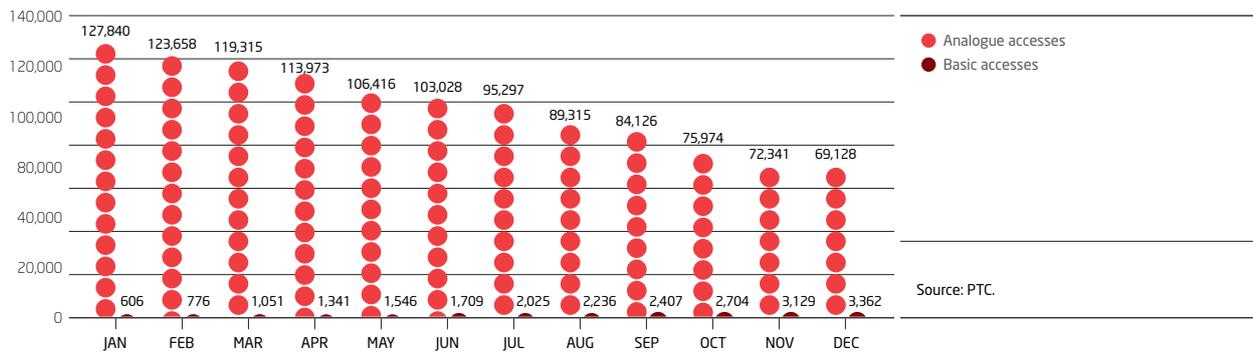
To better visualize the evolution of the number of accesses with active WLRO, both analogue and ISDN accesses (ISDN Basic and ISDN Basic Plus), the following graph presents information provided by PTC in this area for the year 2008.

Finally, with regard to this wholesale offer, it should be noted that ICP-ANACOM is analysing the level of compliance with the WLRO quality of service indicators,

whereby in 2008, it was found that there was overall compliance, with the exception of the time taken to repair faults associated with analogue accesses.

Analogue and ISDN accesses with active WLRO, excluding activations of Grupo PT companies (2008)

Graph 18.



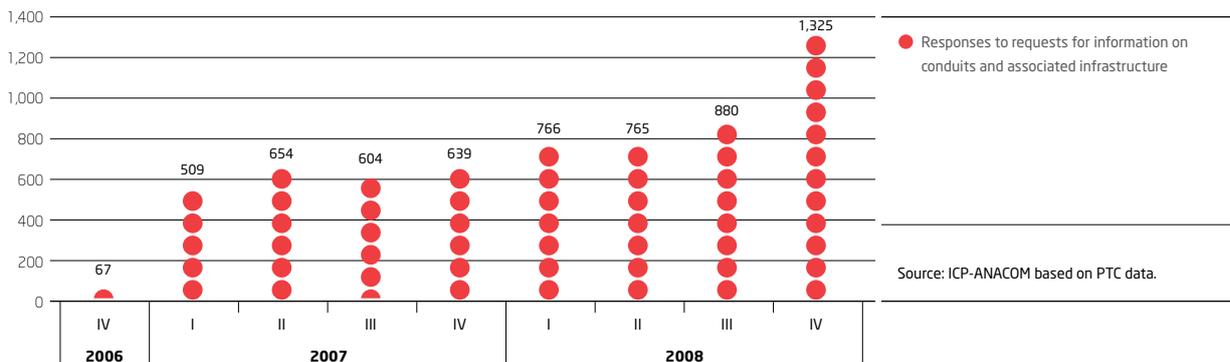
Reference duct access offer (RCAO)

2008 was characterized by an increase in the interest of operators in the use of the RCAO, which resulted in an increasing number of responses to requests for information

on conduits and associated infrastructure, the number of responses to requests for viability assessments and the number of interventions in the conduits of PTC, as shown in the graphs below.

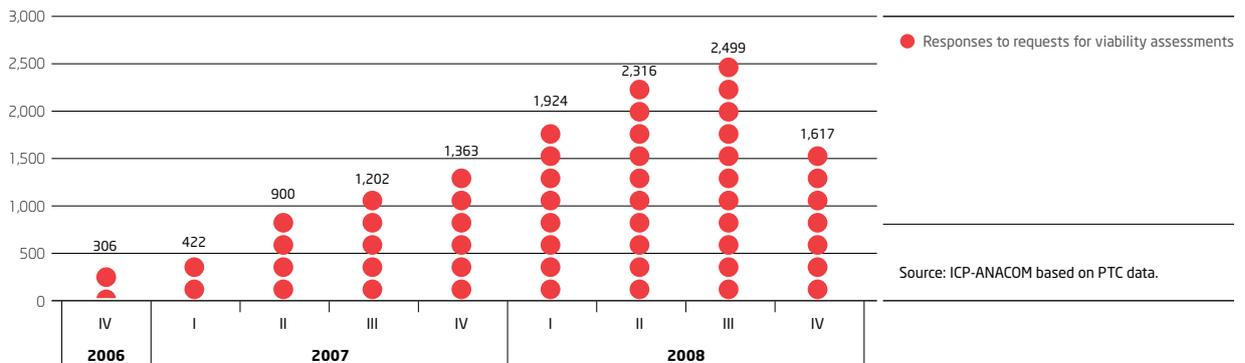
Number of responses to requests for information

Graph 19.



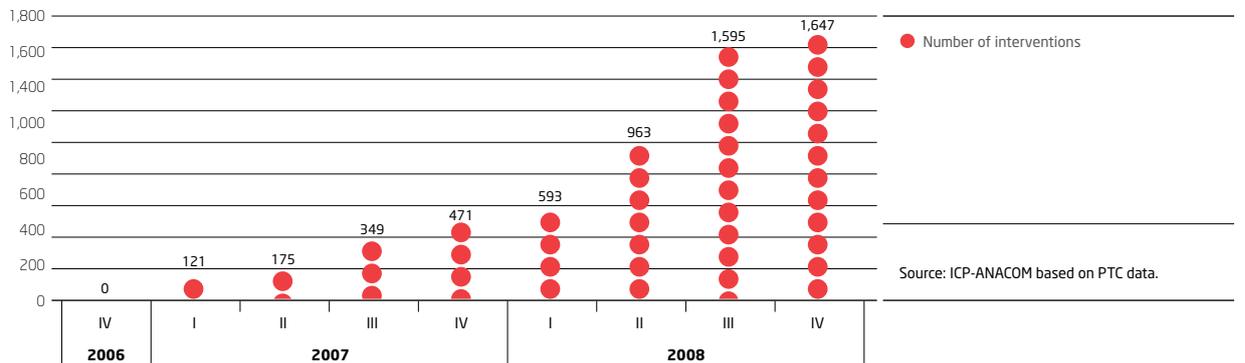
Number of responses to requests for viability assessments

Graph 20.



Number of interventions in context of RCAO

Graph 21.



Of ICP-ANACOM's intervention during 2008, note should be made of the determinations in the context of resolving specific situations and continued monitoring of the quality of service provided.

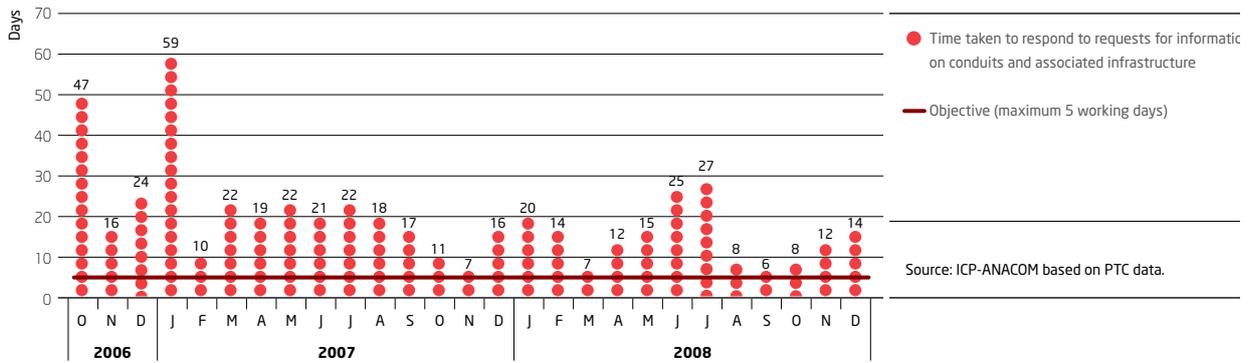
In this context note is made of the determination of 12 March 2008, by which ICP-ANACOM adopted a decision on access for beneficiaries of the RCAO to PTC's duct database, whereby it was determined that PTC shall maintain both systems of providing information on conduits and associated infrastructure (through access to an Extranet and using forms with plans provided in PDF format by email) for a further period of three months, after which period information on ducts may be accessed exclusively through the RCAO Extranet.

Furthermore, in the context of the access of beneficiaries of the RCAO to PTC's duct database, ICP-ANACOM adopted by determination of 6 August 2008, the maximum price of the service of access to the database, based on an annual price per district and per beneficiary that is substantially below the price previously established by PTC.

In terms of monitoring the levels of quality of service provided by PTC, it was found that although there was an improvement over past levels, values remained at levels that were incompatible with the objectives. This issue is under review in the appropriate framework.

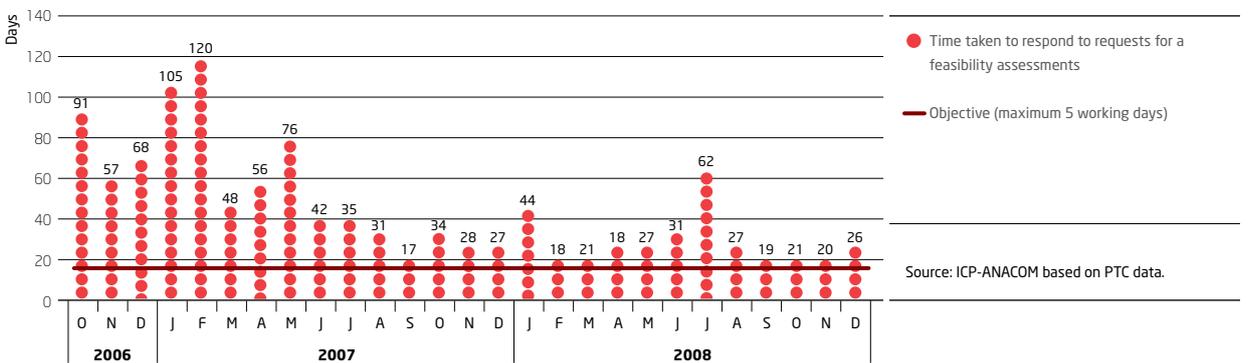
Time taken to respond to requests for information on ducts and associated infrastructure

Graph 22.



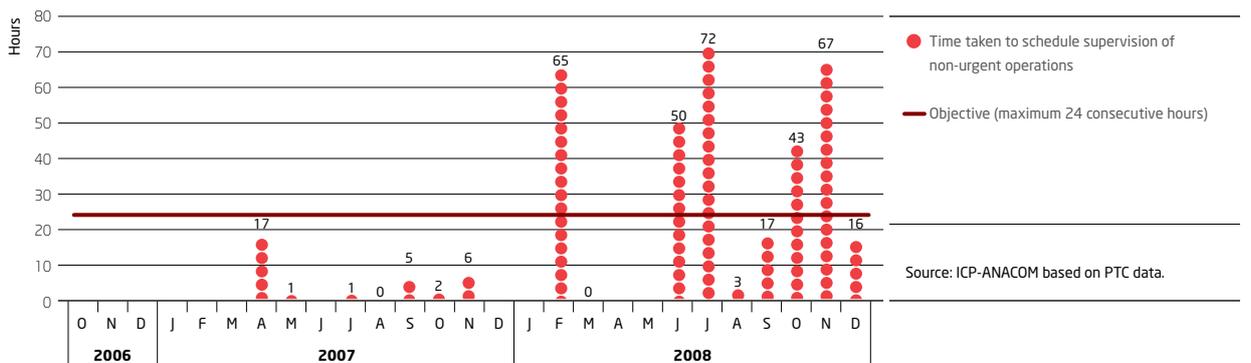
Time taken to respond to requests for feasibility assessments

Graph 23.



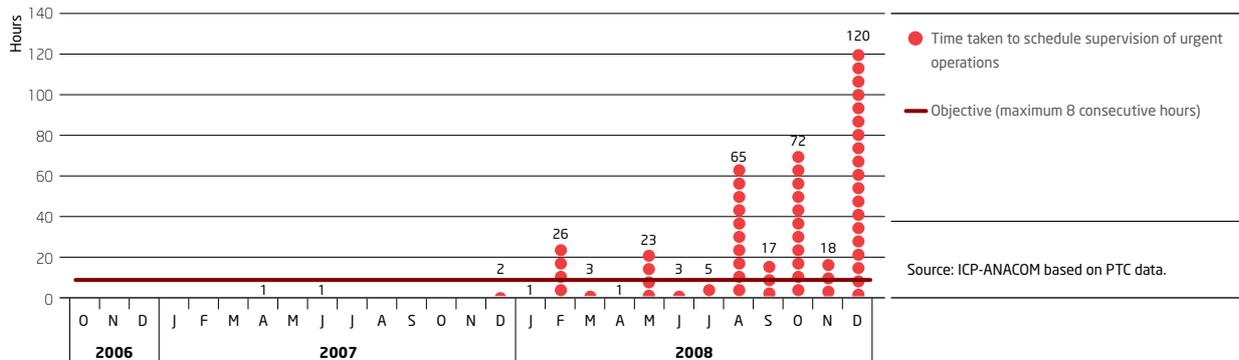
Time taken to schedule supervision of non-urgent operations

Graph 24.



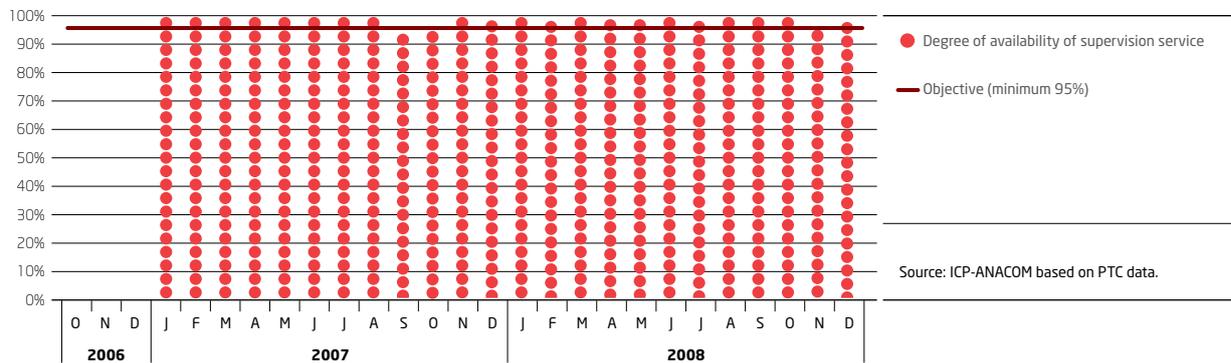
Time taken to schedule supervision of urgent operations

Graph 25.



Degree of availability of supervision service¹⁰

Graph 26.



In this respect, it should be noted that the non-compliant situation persists regarding the availability of information concerning the occupation of conduits.

Television signal distribution and broadcasting service offer

Following the analysis of the wholesale market of broadcasting transmission services for the delivery of broadcast content to end-users¹¹, conducted in 2007, Grupo PT was made subject to the obligation of cost orientation of prices with respect to the television signal distribution and broadcasting service.

In this context, ICP-ANACOM adopted, by determination of 10 September 2008, the final decision on the prices of the television signal distribution and broadcasting service practised by PTC. In accordance with this decision, Grupo PT was required to reduce the price of each of the services that comprise the television signal distribution and broadcasting service by a minimum of 23% from 1 September 2008, thereby ensuring compliance with the obligation of cost orientation.

¹⁰ This indicator is calculated based on the number of supervisions conducted on the dates that the concessionaire committed to, compared to the total number of supervisions conducted.
¹¹ This is market 18, as identified in the previous version of the EC Recommendation on relevant markets.

• 2.3 Next generation access networks (NGA)

In terms of the development of NGA, the importance of ensuring conditions of non-discrimination and of safeguarding conditions of info-inclusion is beyond dispute, both for the innovation that it brings in the provision of services to citizens, and due to issues that arise in terms of promoting competition.

Accordingly, and bearing in mind that current and foreseeable developments in NGA raise various questions connected to the current regulated offers and the impact that they will have in the markets, ICP-ANACOM set out to enact a regulatory approach to NGA which was coherent and consistent with the objectives of regulation enshrined in law, including ensuring the necessary balance between promoting competition and encouraging the development of innovative, diversified and quality services, thereby upholding the protection of interests of users.

Alongside these concerns, it is important for this authority to achieve the objective of promoting investment in these networks – ensuring greater transparency and predictability so that individual market players are able to make informed and timely investment decisions – maintaining the level of competition in the market.

In this context, and to better support the future interventions of ICP-ANACOM in this area according to its remit, on 20 June 2008, this authority launched a public consultation on the regulatory approach to NGA, through which a number of questions were put to the market and its various stakeholders (including operators, users and manufacturers), particularly questions related to the following aspects:

- Evolution in demand for services and networks and implications in terms of provided bandwidth;
- Technical solutions envisaged for the implementation of NGA and the respective limitations;
- Consequences for present networks (supported over copper pairs) and measures necessary to protect investments made in these networks;

- Models of NGA development and the role of different stakeholders in its deployment – business plans, return on investment and safeguarding competition;
- Role of State, local and regional initiatives and public-private partnerships;
- Specific regulatory measures: their suitability, necessity and opportunity; development of the current wholesale offers concerning access to ducts, local loop unbundling and bitstream broadband access; and the regime governing access to telecommunications infrastructures in buildings (ITED).

In 2009, approval was given to the report on the public consultation that brings together the analysis of responses and a summary of the position of principle taken by ICP-ANACOM on this topic.

In the context of promoting investment in NGA – a strategic priority set out with the publication of Resolution of the Council of Ministers number 120/2008 of 30 July –, the Government identified the need to mitigate or eliminate barriers to the deployment of networks and to remove barriers to access to existing infrastructure.

In this context, ICP-ANACOM was given the task of identifying the barriers that constrain access to conduits and other infrastructure owned by various entities, including those operating in sectors other than electronic communications and to identify barriers to the construction of conduits, and subsequently to propose measures for reducing such barriers. The work done on these issues was submitted in September 2008.

In accordance with the same Resolution of the Council of Ministers, ICP-ANACOM was also entrusted with the task of submitting proposals for concrete measures to be taken, legislative or otherwise, in order to ensure open and effective access by all operators to the network of ducts and other relevant facilities of all entities holding this type of subsoil infrastructure, for the purpose of installing next generation networks, and to propose solutions for the

● 2.4 Management of radio spectrum

elimination or mitigation of vertical barriers to the installation of fibre optic, in a framework based on sharing/pooling of infrastructure in buildings which prevents the first operator in a given building from monopolizing access. These proposals were submitted to the Government by ICP-ANACOM in October 2008.

Following the submission of these documents, the Government decided to request to ICP-ANACOM the preparation of proposals for legislative measures in the light of its options in this area, which would be submitted in January 2009. This procedure was concluded with the approval and publication of Decree-Law number 123/2009 of 21 May.

National Frequency Allocation Plan (NFAP)

As far as the planning of the spectrum is concerned, note should be made at national level of the annual review of the NFAP, arising from the application of the LEC. Pursuant to this law, ICP-ANACOM, in the course of managing the spectrum, is responsible for planning the use of frequencies in accordance with criteria of availability of the radio spectrum, ensuring the conditions for effective competition in the relevant markets and the effective and efficient use of frequencies.

Pursuant to and in compliance with articles 15 and 16 of the LEC, by determination of 15 October 2008, ICP-ANACOM approved the public consultation of the draft revision of NFAP, which included: an update of the table of frequency allocations which reflected the results of the World Radiocommunication Conference 2007 (WRC-07), the update of the uses of the frequency bands, the availability of spectrum to the market for the provision MCA (mobile communications on aircraft), GSM-R (communications related to railways), fixed service – FH (opening of new 56 MHz channels at 7 GHz and 13 GHz for radio), point-to-point connections at 74-76 / 84-86 GHz (fixed service), specific UWB GPR/WPR and BMA (ultra-wide band equipment), the updating of licensing exempt equipment, and the inclusion of a set of bands for military management, agreed with the EMGFA – Estado-Maior-General das Forças Armadas (Armed Forces General Staff) for use by exempt equipment operating on a “no protection and no interference” basis.

ICP-ANACOM reviewed the comments received through the consultation, and on 17 December 2008 approved the revised version of the NFAP in line with what was proposed in the public consultation.

Fixed wireless access (FWA)

In 2008, ICP-ANACOM revoked the rights to use frequencies for the operation of FWA systems previously allocated to Broadmídia – Comunicações Globais, S.A. (Broadmídia) and to AR Telecom – Acessos e Rede de

Telecomunicações, S.A. (AR Telecom) and further revoked the corresponding radio licenses at the request of the operators.

It also amended the rights to use frequencies for use of FWA, allocated to WTS – Redes e Serviços de Telecomunicações, S.A. (WTS), in order to reduce the operator's geographic area of service.

Broadband wireless access (BWA)

Following the public consultation launched on 31 October 2007 on the draft decision on limiting the number of frequency usage rights allocated for BWA, setting out the allocation of two rights in the 3.4-3.6 GHz bands and two others in the 3.6-3.8 GHz band in each of the areas defined in the Annex to Administrative Rule number 1026/2004 of 25 August, and setting out that the allocation process shall be by auction, the respective final decision was adopted on 24 January 2008.

During 2008, work was done on the definition of the auction model and on the respective rules and procedures established in Regulation subject to public consultation in the first quarter of 2009.

New usage rights in the 450-470 MHz band

Following approval, after the public consultation on 17 January 2008, of the decision on limiting the number of frequency usage rights to be allocated in the 450 MHz band for the provision of the publicly available mobile telephone service, on the definition of the allocation procedure and on the possibility of the provision of the mobile phone service in the same band by the providers of the mobile trunking service (MTS), on August 7, 2008, again following public consultation, approval was likewise given to the respective reports, the public tender regulation – Regulation number 474/2008 of 22 August – and the respective tender specifications.

The public act of opening the tender applications was held on 6 October 2008, with an application presented by only one competitor, Rede Nacional de Telecomunicações, S.A. (RNT¹²).

Development of new electronic communications services supported over the network MTS-CDMA¹³ in the 450-470 MHz frequency band

By determination of 28 May 2008, and following the respective public consultation, approval was given to the decision which allows the use of 450 MHz MTS-CDMA frequencies of Radiomóvel – Telecomunicações, S.A. (Radiomóvel) on the local access network for the provision of FTS and nomadic use Voice over Internet Protocol (VoIP), with the typical characteristics of the services presented by the operator in 2007, provided that certain conditions are met in terms of use of frequencies, numbering and information to users.

On 7 August 2008, Radiomóvel submitted a communication to ICP-ANACOM on beginning the provision of a new data transmission service. This nomadic broadband service, called "Wi-Zapp", consists of a data service with typically nomadic usage, which permits the establishment of data sessions in broadband to access the Internet and/or data servers authorized by the Radiomóvel network.

Following this communication, the draft decision to allow the use of 450 MHz MTS-CDMA frequencies on the Radiomóvel local access network for the provision of nomadic use broadband service by the company, provided that certain conditions are observed, was approved by ICP-ANACOM for public consultation by determination of 29 October 2008. The actual provision of the service by Radiomóvel is subject to the decision to be taken at the end of the consultation procedures.

Mobile television (DVB-H)

It will only be possible to develop and fully implement the planned national networks for mobile reception after the switch off of analogue television broadcasts, scheduled for 2012, in accordance with the Geneva Plan of 2006.

In view of the interest shown by the market in developing a network for this technology in the near future, i.e. before 2012, ICP-ANACOM carried out an assessment in 2008 of

¹² It is noted that in 2009, ICP-ANACOM approved the proposal, submitted by the Tender Committee to allocate the right to use frequencies to RNT, while later repealing the act of granting the right of use in question.

¹³ Code Division Multiple Access.

available spectrum for the transitional operation of a network of this kind in mainland territory before this date.

Mobile communications onboard aircraft (MCA)

Following the adoption at EU level of a Decision on the harmonized use of the 1710-1785 MHz and 1805-1880 MHz frequency bands and a Recommendation on the harmonization of the respective authorization procedures, both with respect to MCA services, ICP-ANACOM adopted a final decision on this matter on 13 August 2008, which in general terms included the following:

- Amendment of NFAP in order to accommodate the use of the 1710-1785 MHz and 1805-1880 MHz frequency bands for MCA services over 3000 meters of altitude;
- Authorization of the operation of MCA systems in the frequency ranges in question, on a non-interference and non-protection basis, under the general authorization scheme;
- Making MCA operators subject to the conditions of the LEC (paragraph 1 of article 27);
- Exemption of MCA service operators from the payment of spectrum fees for the use of these frequencies.

Availability of frequencies in the 2.6 GHz band

On 11 December 2008, approval was given to the launch of a public consultation on the 2500-2690 MHz frequency band (also known as the 2.6 GHz band), held to sound out the market about interest in the availability of this band for the operation of publicly available electronic communications services, taking account of developments at European level.

Digital terrestrial television (DTT)

With the culmination of the public consultation process in 2007, by Resolution of the Council of Ministers number

12/2008 of 22 January, the Government stressed the strategic importance of a rapid transition to digital, given the need to comply with community guidelines on the switch off of the analogue television broadcasting system in 2012.

Furthermore, the form of use was established for the remaining capacity of Multiplexer A, associated with the frequency usage right, reserved for digital terrestrial television broadcasting service in the NFAP, corresponding to one coverage on a national basis, and for the transmission of television programme services of free and non-conditional access.

Accordingly, conditions were created for ICP-ANACOM to undertake the actions necessary for the allocation of frequency usage rights reserved for the digital terrestrial television broadcasting service.

In this context, by determination of 30 January 2008, ICP-ANACOM adopted a decision on limiting the number of frequency usage rights reserved for digital terrestrial television broadcasting and defining the respective allocation procedure, previously subject to public consultation.

Following this decision the number of frequency usage rights reserved for the digital terrestrial television broadcasting services was limited, as identified in NFAP, to support two operations, as follows:

- One right to use frequencies corresponding to coverage on a national basis, associated with Multiplexer A, and for the transmission of television programme services of free and non-conditional access;
- Five rights to use frequencies to be allocated to a single entity, corresponding to two with coverage on a national basis, associated with multiplexers B and C, and three with part national coverage of the mainland territory, associated with multiplexers D, E and F, for the transmission of television programme services of non-conditional access with subscription or conditional access.

In the same decision it was further established that the procedure for granting the right to use frequencies, associated with Multiplexer A, would be by a public tender.

Subsequently, ICP-ANACOM approved the regulation of the public tender for the allocation of a right to use frequencies on a national basis for the digital terrestrial television broadcasting service (Multiplexer A) – ICP-ANACOM Regulation number 95-A/2008 of 25 February – and the respective tender specifications, and the report on the consultation held on the draft regulation.

Meanwhile the Government, through Administrative Rule number 207-A/2008 of 25 February, proceeded to open the tender for the award of five rights to use frequencies for the digital terrestrial television broadcasting service (multiplexers B to F) and the licensing of a distribution operator, approving the respective tender regulation, tender specification and the report on the consultation held on the draft regulation.

ICP-ANACOM, responsible for instructing both tenders, allowed the proposal of PTC regarding the tender for Multiplexer A on 24 April 2008 and, on 30 April 2008, following the favourable opinion of ERC – Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), allowed the proposals of PTC and Airplus Television Portugal, S.A. (AirPlus) to the tender for multiplexers B to F.

On 9 December 2008, ICP-ANACOM decided to grant to PTC the frequency usage right for the provision of the DTT service, associated with Multiplexer A.

According to that title, provision of the service should begin no later than 31 August 2009 with network deployment completed by the end of the fourth quarter of 2010, by which time the conditions for the transition to digital and the consequent cessation of the current terrestrial analogue system will have been met.

In order to create the conditions required for the full implementation of the transition to digital it is important to encourage migration by consumers, who will need to have suitable reception facilities if they wish to access the DTT service.

Accordingly, notwithstanding, the commitments and obligations, among others, of PTC as the holder of the right to use frequencies with respect to Multiplexer A, at the end of 2008 ICP-ANACOM began to prepare its monitoring of the transition process, and in the context of its role as adviser to the Government, prepared a draft Resolution of the Council of Ministers establishing a working group to monitor the migration from analogue television to digital, published in 2009 (Resolution of the Council of Ministers number 26/2009) which established 26 April 2012 as the date for the switch-off of the analogue network.

The tender on multiplexers B to F was concluded in 2009, subsequent to a judicial process pending for some time, following an action brought by the tenderer AirPlus.

Digital dividend

So that any decision to be taken with respect to the so-called “digital dividend” – the remaining spectrum allocated to the television broadcasting service in the VHF and UHF bands, resulting from the conversion of services from existing analogue terrestrial television programmes in digital format – has a fully sustainable basis, at the end of 2008 ICP-ANACOM conducted a thorough examination of the subject, leading to the launch a public consultation on this issue, during the first quarter of 2009, and the organization, during the period of consultation, of a seminar/workshop with the aim of achieving broader and more informed participation in the consultation.

Secondary spectrum trading

With respect to secondary spectrum trading, an internal review of the subject was held and a decision was taken to launch a public consultation in 2009.

Other matters relating to the management of radio spectrum

Reference should also be made of the impact that following the deliberations of ICP-ANACOM may have on the future management of radio spectrum:

- Formal adaptation of Radiomóvel's license to provide MTS with the specification of the conditions associated with the rights of use of frequencies and use of numbers in the national numbering plan (NNP) – determination of 26 April 2008;
- Renewal of the usage rights of Radiomóvel for the provision of the MTS – determination of 26 June and order of 25 September 2008;
- Enshrining in the frequency usage rights of Rádio e Televisão de Portugal, S.G.P.S., S.A. (RTP) for the exercise of the activity of analogue television broadcasting the recovery by ICP-ANACOM at no cost of the frequencies in question in response to changes in the NFAP, particularly as a result of the setting, in legal terms, of the date of the switch-off of television transmissions of the analogue system – determinations of 12 March and 16 April 2008;
- Renewal of the frequency usage rights allocated to radio broadcasting operators, accomplishing the full integration of these operators with respect to the legal regime set forth by the LEC – determination of 4 December 2008.

• 2.5 Numbering, portability and pre-selection

Clarification on the provision of services using geographic, nomadic or other numbers

In response to requests for clarification from the market on how the numbers of the NNP may be used by transnational entities to which the respective rights were not allocated, and in respect of enforcement actions carried out by this Authority, on 8 June 2008, ICP-ANACOM issued a clarification on the provision of electronic communications services with the use of geographic, nomadic or other types of numbers.

In this clarification ICP-ANACOM notes, among other things, that the numbers of the NNP may be allocated to customers/end-users by operators/service providers with activity declarations issued by ICP-ANACOM for the provision of services which are consistent with these numbers.

Nevertheless, this authority considered that numbers of NNP can be "dialed" to access electronic communications services offered by operators/service providers without activity declarations issued by ICP-ANACOM, if ownership of the traffic generated for these numbers is associated to a service not offered in Portugal.

In addition, it was further clarified that the allocation of rights to use numbers of the NNP remains subject to certain conditions, noting with respect to geographic numbers, the need to respect the use of each number in a single fixed location – the address of the subscriber – situated in the geographical area indicated by the digits of the number that have geographic significance.

Clarification on the use of CLI (caller line/number identification) with call origination

Following several questions put by companies providing electronic communications services related to the type of content and information that may be included in CLI information (calling line identification), ICP-ANACOM decided to issue a clarification on 12 November 2008, setting out that the information contained in the parameter "calling party number", of the network signalling and access signalling, shall

provide unambiguous identification of the originator of the call (network termination point or applicational instance – e.g. VoIP), whereby it is the obligation of the operator/service provider holding the number to validate the information when it is provided by the user.

In this clarification ICP-ANACOM noted that in the case of calls to the national emergency services, this information is used to identify and locate, where possible, the origin of the call, whereby its reliability is essential. The information contained in the CLI must also make it possible to return the call to the location or terminal from where the call was originated.

Database of numbering resources

By determination of 26 June 2008 a limited consultation was launched for the purchase of a numbering management solution, open to six companies with expertise in consulting and development of applications in this area. With this solution the intention is to respond more effectively to the needs associated with the management of numbers and integrate the management of requests for resources with

the IT systems and applications of ICP-ANACOM. Moreover, this solution will increase the robustness and security of information, providing data files which are most appropriate to the needs of stakeholders and enabling automatic procedures for the application of fees and the publication of the NNP on the website of this authority.

Following this consultation and the award of this project to the winning company, the corresponding contract was signed in December 2008.

Allocation of rights to use numbers

In 2008, there was an increase in the volume of allocated numbers, due in particular to allocations made for mobile telephone services and telephone services at a fixed location. Note is also made of the volume of recovered numbers, mainly due to several requests from providers to return numbers as a result of the entry into force, from 1 January 2009, of Administrative Rule number 1473-B/2008, published on December 17, under which the rights to use numbers of the NNP will be subject to the payment of fees.

Geographic numbers – evolution of the national situation

Table 5.

Year	Allocated and/or reserved (A) or recovered (R)	Geographic number ¹⁴		
		Lisbon area	Oporto area	Remaining geographical areas
2000	A	130,000	70,000	1,580,000
	R	0	0	0
2001	A	180,000	60,000	350,000
	R	0	0	0
2002	A	140,000	50,000	530,000
	R	10,000	10,000	0
2003	A	30,000	20,000	20,000
	R	50,000	50,000	310,000
2004	A	30,000	30,000	190,000
	R	0	0	0
2005	A	130,000	100,000	610,000
	R	20,000	10,000	20,000
2006	A	180,000	100,000	1,940,000
	R	0	0	0
2007	A	110,000	50,000	420,000
	R	10,000	0	0
2008	A	190,000	70,000	1,040,000
	R	0	0	100,000

¹⁴ Numbers are allocated in blocks of 10,000, except for number of the 80080 range which are allocated individually. Translation services are provided using 707, 708, 760, 761, 762, 800, 808 and 809 ranges of the NNP, while the voice mail service is provided using the 600 range

The evolution of the allocation of rights to use data is presented below.

Non-geographic numbers – evolution of the national situation

Table 6.

Year	Allocated and/or reserved (A) or recovered (R)	Non-geographic numbers				
		Nomadic VoIP services	Short numbers ¹⁵	Translation and voicemail services	Data services (ISP) ¹⁶	Mobile telephone service ¹⁷
2000	A	-	15	300,000	600	0
	R	-	0	0	0	0
2001	A	-	18	1,320,000	200	0
	R	-	0	0	0	0
2002	A	-	3	110,000	100	0
	R	-	7	0	200	0
2003	A	-	8	100,000	300	0
	R	-	7	0	400	0
2004	A	-	5	100,020	100	0
	R	-	4	0	0	0
2005	A	-	8	120,000	200	0
	R	-	11	0	800	0
2006	A	110,000	3	100,000	0	0
	R	0	1	0	100	0
2007	A	180,000	9	120,000	0	1,400,000
	R	0	4	0	400	0
2008	A	290,000	5	164,503	300	2,600,000
	R	50,000	5	60,000	400	350,000

¹⁵ Corresponds to 10xy, 116xyz, 14x (y), 15xy, 16xyz and 18xy ranges. Where numbers are allocated individually with exception of 16xyz range where they are allocated in blocks of 10.

¹⁶ Numbers allocated in blocks of 100, with the last 3 digits preset at zero for 67 range (data services)

¹⁷ Numbers allocated in blocks of 10,000 for "92" range. Numbering usage rights are allocated implicitly for the "609" and "659" range for access to the voicemail service, respectively, mail box consultation and message leaving, and the "639" and "659" numbering range, respectively, for access to mobile fax and data services

Non-geographic numbers for audiotext – evolution of the national situation

Table 7.

Year	Allocated and/or reserved (A) or recovered (R)	Non-geographic numbers - audiotext ¹⁸				
		General 601	Tele-vote 607	Sales 608	Competitions and hobbies 646	Erotic 648
2000	A	10,000	7,000	8,000	7,000	8,000
	R	0	0	0	0	0
2001	A	1,000	0	0	0	0
	R	0	0	0	0	0
2002	A	2,000	2,000	1,000	1,000	2,000
	R	0	0	0	0	0
2003	A	0	1,000	0	0	0
	R	1,000	1,000	1,000	1,000	0
2004	A	1,000	0	0	0	0
	R	9,000	7,000	7,000	6,000	7,000
2005	A	1,000	2,000	2,000	2,000	8,000
	R	4,000	2,000	2,000	2,000	3,000
2006	A	1,000	2,000	1,000	1,000	3,000
	R	0	0	0	0	0
2007	A	2,000	1,000	1,000	1,000	9,000
	R	1,000	2,000	1,000	1,000	0
2008	A	1,000	0	0	0	0
	R	3,000	2,000	3,000	2,000	2,000

Cumulative value of numbers allocated at national level since 2000

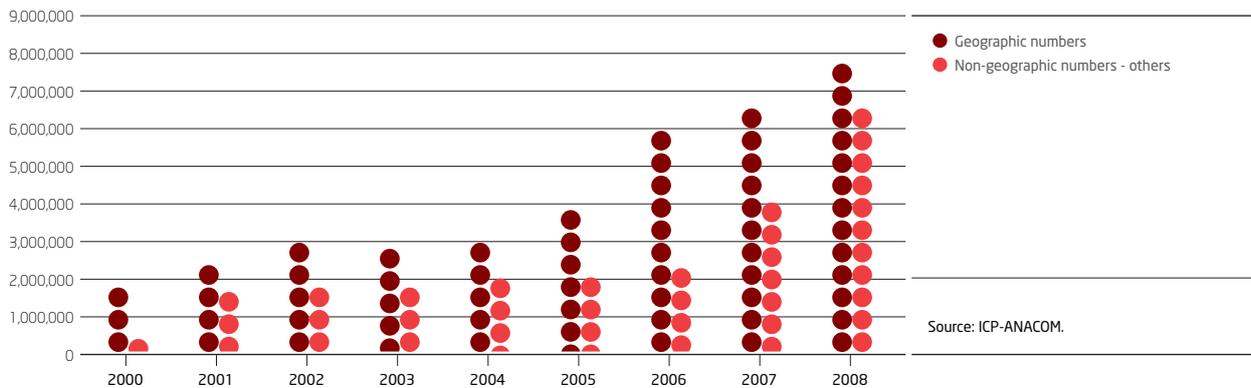
Table 8.

Year	Geographic numbers	Non-geographic numbers		Total
		Others	Audiotext	
2000	1,780,000	300,615	40,000	2,120,615
2001	2,370,000	1,620,833	41,000	4,031,833
2002	3,070,000	1,730,729	49,000	4,849,729
2003	2,730,000	1,830,630	46,000	4,606,630
2004	2,980,000	1,930,751	11,000	4,921,751
2005	3,770,000	2,050,148	13,000	5,833,148
2006	5,990,000	2,260,050	21,000	8,271,050
2007	6,560,000	3,959,655	30,000	10,549 655
2008	7,760,000	6,554,058	19,000	14,333 058

¹⁸ Numbers allocated in blocks of 1000

Cumulative value of numbers allocated at national level since 2000

Graph 27.



Transfer of rights to use numbers

By determination of 29 December 2008, ICP-ANACOM adopted a final decision on the conditions associated with the rights of use of numbers transferred by Optimus to Novis, on 24 October 2007, and the transfer of rights to use numbers attributed to Telemilénio, Lda. (Telemilénio) to Sonaecom. Pursuant to this determination Sonaecom is subject to the conditions associated with the rights of use of all the transferred numbers, as established in article 34 of the LEC.

To ensure the effective and efficient use of the transferred resources with a minimum of disruption to users, deadlines were established for the return of various accumulated resources and it was further determined that it must be ensured that the free numbers of non-geographic number blocks for IN translation services (e.g. calls service free for the caller) with the lowest percentage of use remain unavailable for allocation to customers.

Portability

Amendment of Portability Regulation

By determination of ICP-ANACOM's Board of Directors of 15 October 2008, approval was given to the Draft Amendment to Regulation number 58/2005 of 18 August, which proposed amendments to the Portability Regulation in order to establish rules for greater efficiency among providers and to increase subscriber protection.

Among the most important changes, the following are noted: (i) strengthening the responsibility of the receiving provider in the whole process, in particular concerning the verification of the identity of the signatory of the portability request, (ii) simplifying the process for validating electronic portability requests, allowing significant reduction in the minimum notice required for number porting (from 8 to 2 working days) and the establishment of a maximum period of 3 working days for the actual provision of portability to the final customer of the mobile telephone service, (iii) the introduction of monetary compensation for the subscriber, with the possibility of exercising the right of return between providers, in situations where portability is unsolicited, poorly implemented or delayed (mobile telephone service only), (iv) general alignment with the RIO of the maximum value allowed for administrative costs that the granting provider can pass on to the recipient provider, and (v) the definition of a solution guaranteeing the right of portability to subscribers of a company that ceases services.

This draft remained in public consultation until 2 December 2008, and some adjustments and clarifications were made with respect to the initial draft, based on contributions received. Regulation of Amendment to Regulation number 58/2005 of 18 August received approval in early 2009 and was published on 18 February 2009 as number 87/2009.

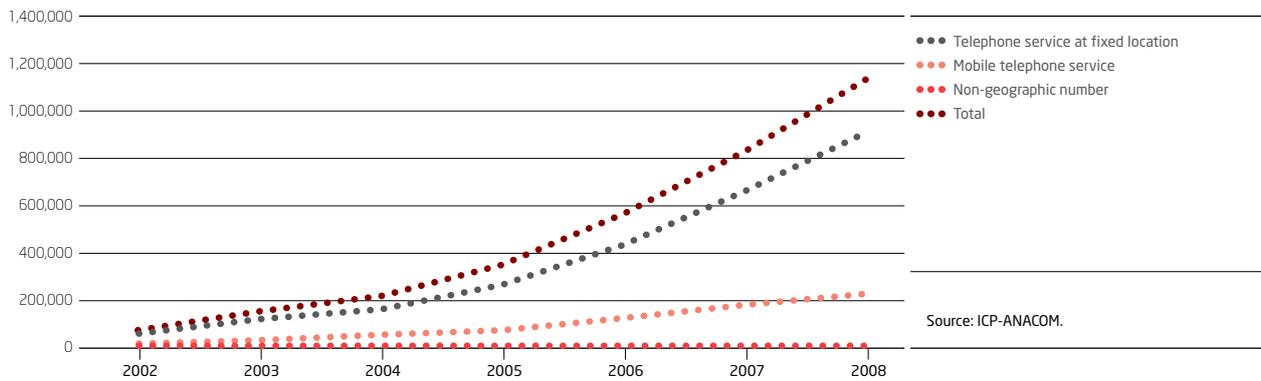
Evolution of ported numbers

On 31 December 2008 there were 1,143,173 ported telephone numbers. Of these, 918,953 were geographic

numbers, 223,335 mobile numbers and 885 non-geographic numbers, as shown in the chart below.

Evolution of the number of ported numbers

Graph 28.

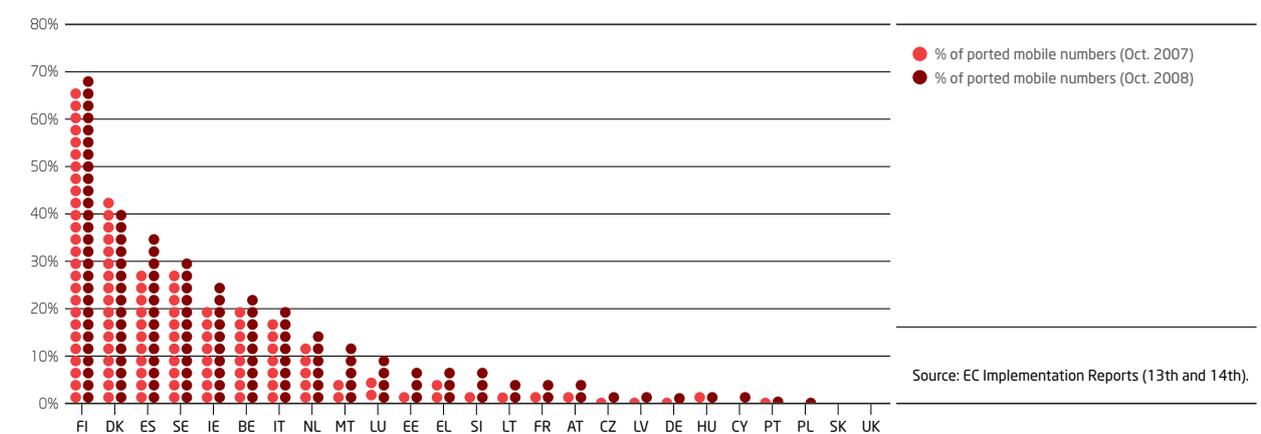


With regard specifically to the extent of mobile number porting, Portugal continues to have the lowest values across the EU, according to data in the Implementation

Reports of the EC, which situation is based on some modifications to the Portability Regulation specifically for mobile services.

Percentage of ported mobile numbers compared to the total number of subscribers of the mobile telephone service (cumulative figures in October 2007 and October 2008)

Graph 29.

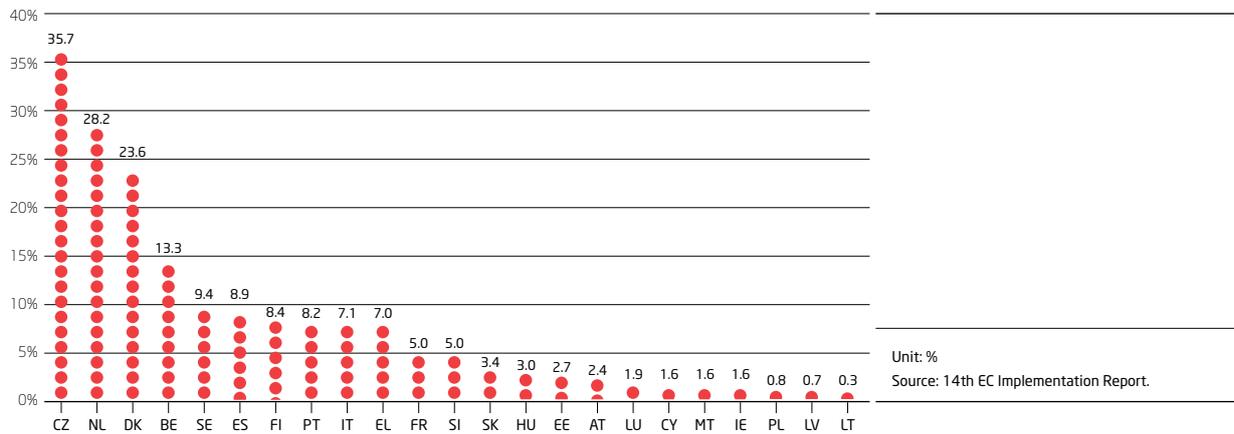


With regard to the porting of fixed numbers, it can be seen that Portugal is highlighted in the European context as one

of the countries with a higher proportion of fixed ported numbers, as shown in the chart below.

Percentage of ported fixed numbers compared to the total population (accumulated figures to October 2008)

Graph 30.



Monitoring of the evolution of prices and of compliance with portability obligations

In monitoring the evolution of prices and compliance with portability obligations, in 2008 ICP-ANACOM conducted the following actions:

- Compilation, from companies providing the mobile telephone service (including MVNOs) and the telephone service at a fixed location, of information on prices charged to subscribers for portability operations (retail prices) and the prices charged to recipients providers (wholesale prices) ;
- Completion of a survey of different European NRAs in order to compile a range of information on portability (e.g. wholesale and retail prices charged by operators and the respective regime governing compensation for delays in the implementation of portability requests and deadlines associated with the portability of numbers).

- Monitoring of compliance with the obligations set out in article 21 of the Portability Regulation (e.g. provision of a free online notice for national voice calls between mobile networks and made to ported numbers, providing information to subscribers on how to deactivate and reactivate this notice, implementation of information service on prices of calls to ported numbers) and complaints received.

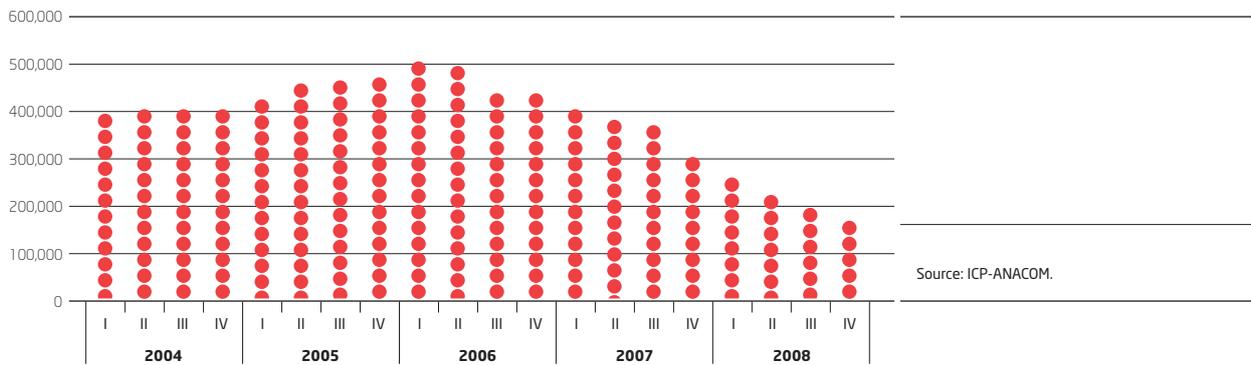
Carrier selection and pre-selection

the downward trend in the number of these customers seen since 2006, as illustrated in the following graph:

In 2008, a further reduction was seen in the number of indirect access customers using pre-selection, continuing

Evolution in number of indirect access customers using pre-selection

Graph 31.



This situation is a result of the main alternative operators in the market focusing on direct access FTS offers supported over their own infrastructure (copper networks or cable distribution networks and GSM) or over unbundled loops.

• 2.6. Universal Service

Parameters and levels of quality of service

The provider of the US (USP) is required, pursuant to determination of ICP-ANACOM of 30 March 2006, to publish quality of service parameters and performance targets for

the US on an annual basis and to provide information on levels of performance achieved for the preceding year.

The targets and levels achieved by the USP for each of the indicators are given in the table below:

Quality of service parameters of US

Table 9.

Quality of service parameters of US	Objective	Values calculated for 2008
PQS1. Supply time for initial network connection		
(a) Supply time for connection when customer does not specify a date (days)		
(a1) which corresponds to the 95% percentile of the fastest installations	21	19
(a2) which corresponds to the 99% percentile of the fastest installations	43	36
(b) Percentage of connection requests satisfied by date agreed with the client when the client sets a target date	85%	81%
(c) Ratio between the number of initial connections supplied by appointment with customers and the total number of initial connections provided	n.a.	20%
PQS2. Fault rate per access line	0.10	0.13
Total number of faults attended per access	n.a.	297,944
PQS3. Fault repair time (hours)		
(a) Repair times of faults on local access network		
(a1) corresponding to the 80% percentile of fastest repairs	72	74
(a2) corresponding to the 95% percentile of fastest repairs	165	139
(b) Repair times for other faults		
(b1) corresponding to the 80% percentile of fastest repairs	47	44
(b2) corresponding to the 95% percentile of fastest repairs	108	93
(c) Percentage of faults repaired within the target period established by USP for repairs	80%	68%
PQS4. Response time for operator services		
(a) Average response time for operator services (seconds)	11.0	17.0
(b) Percentage of calls to the operator services answered with 20 seconds by human operator	80%	91%
PQS5. Unsuccessful calls		
(a) Number of calls eligible for the calculation of PQS5		
- national calls	n.a.	1,600,848,841
- international calls	n.a.	
(b) Percentage of unsuccessful national calls	n.a.	
(c) Percentage of unsuccessful international calls	n.a.	0.16%
PQS6. Time taken to establish calls		
(a) Total number of calls eligible for the calculation of PQS6 of:		
- national calls	n.a.	n.d.
- international calls	n.a.	n.d.
(b) Time taken to establish national calls (seconds)		
(b1) corresponding to the 100% percentile of fastest calls	n.a.	n.d.
(b2) corresponding to the 95% percentile of fastest calls	n.a.	n.d.
(c) Time taken to establish international calls (seconds)		
(c1) corresponding to the 100% percentile of fastest calls	n.a.	n.d.
(c2) corresponding to the 95% percentile of fastest calls	n.a.	n.d.
PQS7. Response time for directory enquiry services		
(a) Average response time for directory enquiry services (seconds)	5.0	2.7
(b) Percentage of calls to directory enquiry services answered within 20 seconds by a human operator or by equivalent answering systems of response	95%	96%
PQS8. Proportion of coin and card operated public pay-telephones in working order		
The total number of complete days during which existing public pay-telephones are in full working order compared to the potential number of operational days of the average public pay-telephones park.	96%	98%
PQS9. Complaints about incorrect bills		
Percentage of bills which are object of complaint, compared to total number of bills issued	0.04%	0.02%

It was seen that the performance targets applicable to the US quality of service parameters were not full accomplished, and ICP-ANACOM is conducting a dedicated examination of the situation, in accordance with the determination of 30 March 2006 cited above.

USP public payphone strategy

As set out in determination of 15 July 2004, PTC submitted a statement on its development strategy for public payphones for 2008, along with the respective implementation report.

The public payphone development strategy presented for 2008 referenced: (i) a declining trend in the total number of public payphones, (ii) the replacement of equipment affected by vandalism, including consideration of relocation in more serious cases, (iii) the redefinition of coverage in places of special social interest, and (iv) the continuation of measures to respond to the specific needs of users with special needs.

The table and graph below show the relevant data for each type, according to geographical distribution, including that provided for in the statement of the development strategy for 2008, and that actually achieved this year and the respective deviations.

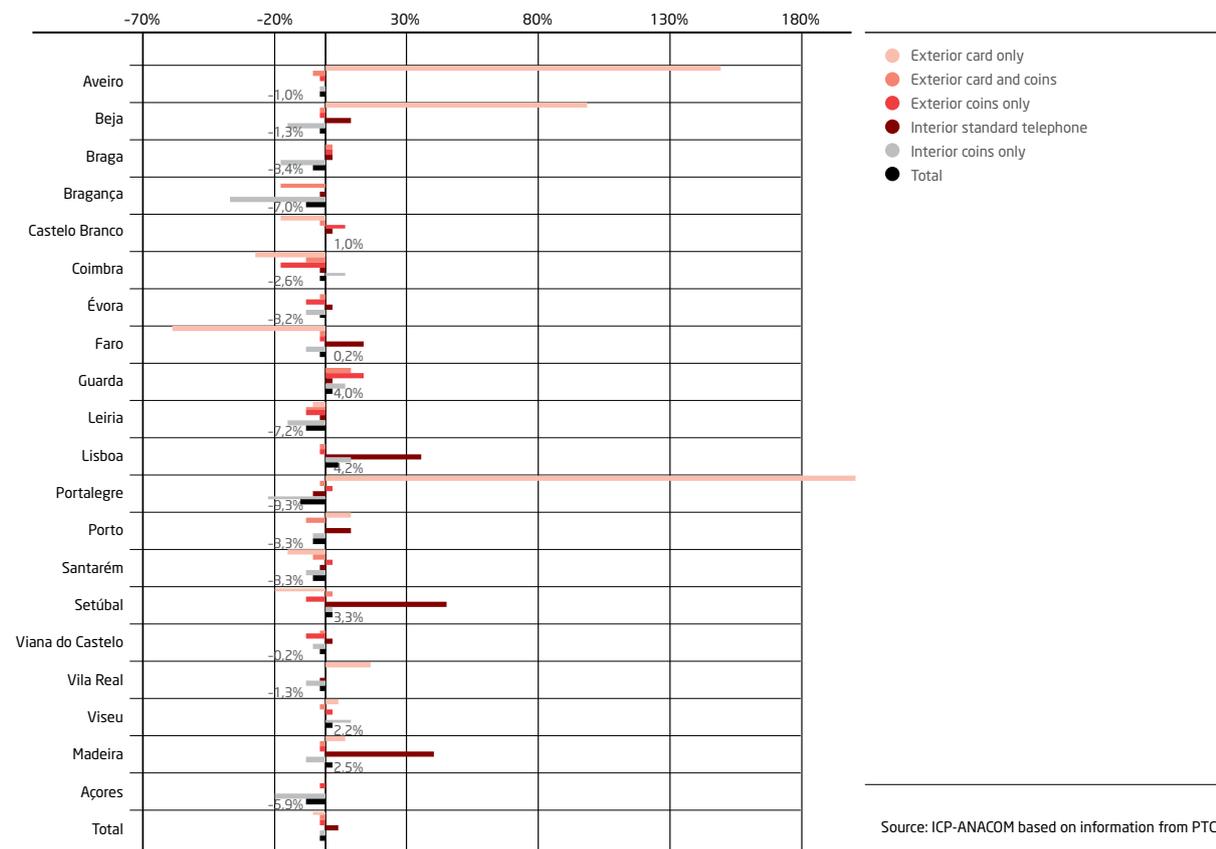
Overall planned and actual number of payphones in 2008

Table 10.

District	2008 Forecast						2008 Actual					
	Exterior			Interior		Total	Exterior			Interior		Total
	Card only	Card and coins	Coins only	Conventional telephone	Coins only	Total forecast	Card only	Card and coins	Coins only	Conventional telephone	Coins only	Total
Aveiro	2	366	186	720	604	1,878	5	346	181	730	598	1,860
Beja	4	185	151	279	245	864	8	183	149	305	208	853
Braga	18	316	134	965	681	2,114	18	326	139	987	573	2,043
Bragança	7	65	21	559	124	776	7	55	21	558	81	722
Castelo Branco	19	120	70	553	271	1,033	16	117	76	563	271	1,043
Coimbra	23	309	122	933	325	1,712	17	287	103	909	351	1,667
Évora	9	132	133	120	201	595	9	129	125	124	189	576
Faro	35	765	198	445	509	1,952	15	758	194	512	477	1,956
Guarda	18	77	49	570	137	851	18	84	56	580	147	885
Leiria	25	276	98	703	434	1,536	24	254	91	687	370	1,426
Lisbon	222	3,651	1,465	430	1,957	7,725	222	3,629	1,444	588	2,166	8,049
Portalegre	1	76	82	144	201	504	3	74	84	137	159	457
Oporto	68	1,818	477	611	3,013	5,987	74	1,691	479	675	2,873	5,792
Santarém	14	211	126	618	372	1,341	12	201	129	612	343	1,297
Setúbal	43	1,094	464	150	758	2,509	35	1,121	430	220	785	2,591
Viana do Castelo	3	139	79	518	262	1,001	3	138	74	531	253	999
Vila Real	6	84	37	776	267	1,170	7	84	37	777	250	1,155
Viseu	18	140	97	1,077	283	1,615	19	139	99	1,082	312	1,651
Madeira	26	179	118	106	323	752	28	176	115	151	301	771
Azores	12	135	60	126	179	512	12	137	59	127	147	482
Total	573	10,138	4167	10,403	11,146	36,427	552	9929	4085	10,855	10,854	36,275

Percentage deviation of actual total public payphones in 2008 from number planned

Graph 32.



As can be seen in the chart above, in most districts the total accomplished was actually worse than planned (13 districts), with the largest negative deviations found in the districts of Portalegre, Bragança and Leiria, with -9.3 percent (corresponding to 47 payphones), -7.0 percent (corresponding to 54 payphones) and -7.2 percent (corresponding to 110 payphones), respectively. Given the various types of payphone, and as shown in the table above, it is noted that, with the exception "Conventional Telephones", in which there was a positive deviation of 4.3

percent (corresponding to 452 payphones), all other types showed negative deviations in actual numbers from those forecasted.

As regards the allocation of public payphones in places of social interest, the following table summarizes the information provided by PTC with respect to actual and forecasted numbers in 2008, and the deviations seen at each location.

Deviation in total payphones in 2008 compared to PTC forecast

Table 11.

Type of location	Total payphones		Deviation of actual number compared to forecast for 2008	
	2008 forecast	2008 actual	Absolute deviation	Percentage deviation
Hospitals and health centres	1,161	1,158	-3	-0.3%
Educational establishments	1,323	1,302	-21	-1.6%
Airports	191	189	-2	-1.0%
Prisons	340	336	-4	-1.2%
Bus terminals	116	109	-7	-6.0%
Rail terminals	255	263	8	3.1%
Metro stations	161	165	4	2.5%
Courts and halls of justice	45	39	-6	-13.3%
Hotels, boarding houses and hostels	120	144	24	20.0%
Total in places considered of special interest	3,712	3,705	-7	-0.2%

In light of the graph and table above, it can be seen that for all payphones, there was a negative difference of only 0.2 percent between the actual number and the number forecast for 2008, which in absolute terms represents only 7 payphones.

Regarding the total number of public payphones directed particularly at users with special needs, it is noted that at the end of 2008, there was a total of 294 payphone which allowed wheelchair entry, representing a positive deviation of 10.5 percent compared to the value that was forecast in the strategy declaration for the year (266 payphone), while it should be pointed out that the actual number was essentially achieved through the resolution of pending situations, given that the installation of this type of payphone, in light of their size and form of operation, entails a more complex municipality authorisation process.

ICP-ANACOM will follow developments in this field in 2009, taking into account the need to ensure a fair balance between the satisfaction of social needs and avoiding increases to the costs of the US and impacting the efficiency of its delivery.

Telephone directories and directory enquiry services

With respect to the procedure for failure to fulfil obligations brought by the EC on the availability of telephone directories and directory enquiry services covering all numbers (including those associated with mobile services), ICP-ANACOM adopted a DD on 4 December 2008 ordering Sonaecom and Vodafone to send this Authority the data of end-users who have stated their willingness to be included in these services, within a period of 30 days.

Likewise, the format for sending the data was defined, together with its content, and guidelines were established on the technical solutions to be adopted, their deadlines and costs.

Price affordability

Residential FTS tariff provided in context of US

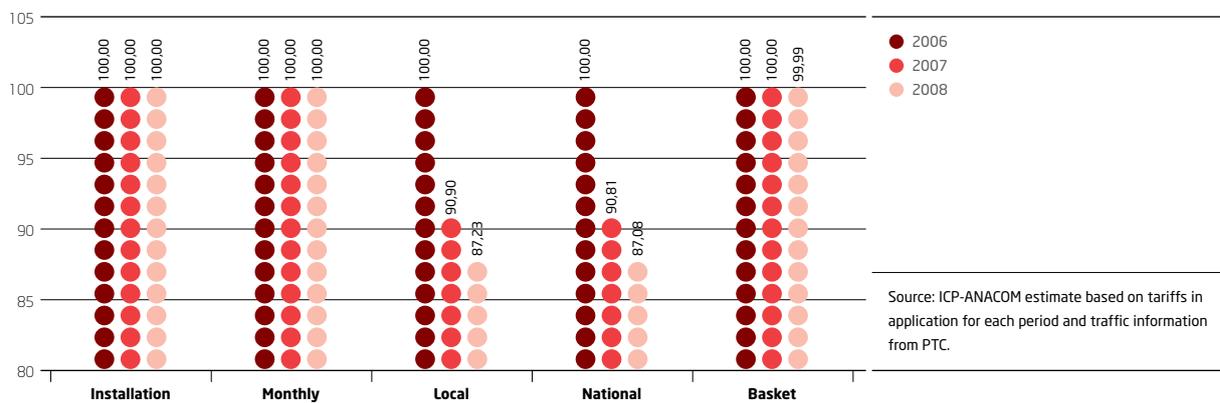
ICP-ANACOM decided not to oppose the proposed residential FTS tariff in respect of the US, which was presented by PTC on 28 October 2008, without prejudice to the obligations of transparency to be undertaken.

Examining the proposal submitted by PTC, which only extended the free period already offered during working days to weekends, ICP-ANACOM concluded that the variation in prices arising from the proposed FTS applicable by default, which was presented by PTC to take effect retroactively from 27 September 2008, is compatible with the applicable price-cap.

The average prices charged by the incumbent in the context of the US continued to decline in 2008, and there was a reduction in nominal traffic prices following the introduction of additional periods of free traffic (nominal variation of approximately 13 percent compared to 2006) while the monthly subscription price¹⁹ and installation price remained unchanged.

Nominal evolution of FTS prices for residential customers (base year = 2006)

Graph 33.



Note: Given that in 2006 the regional traffic category was added to the local category, the basket weightings currently available (used to calculate the average price of a basket of services) are not broken down into the 3 categories, whereby it is not possible to appropriately calculate the value of the basket where the regional category was still applicable. As such, it was decided to present the evolution of prices since 2006, calculating the value of the basket based on the most recent weightings, provided by PTC with respect to the 2008 US tariff.

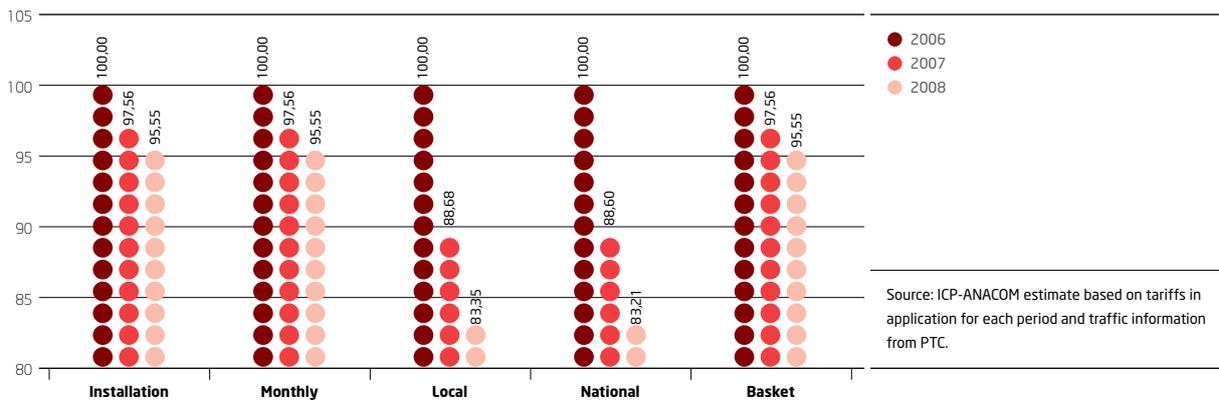
In real terms, a general decline in prices can be seen, in terms of calls, monthly charge and installation. Indeed, using 2006 as a base, there is a change in real terms of about -3 percent for installation and the monthly charge

and approximately -17 percent for the traffic (local and national calls), representing a real variation in the basket of services of approximately -5 percent in the period 2006-2008.

¹⁹ Analysis of evolution taking into account the traffic profiles reported by PTC and assuming, for 2007 and 2008, the base tariff applicable by default.

Real evolution in FTS prices for residential customers (base year = 2006)

Graph 34.



Note: Given that in 2006 the regional traffic category was added to the local category, the basket weightings currently available (used to calculate the average price of a basket of services) are not broken down into the 3 categories, whereby it is not possible to appropriately calculate the value of the basket where the regional category was still applicable. As such, it was decided to present the evolution of prices since 2006, calculating the value of the basket based on the most recent weightings, provided by PTC with respect to the 2008 US tariff.

Net costs of Universal Service provision

By determination of 30 January 2008, approval was given to the decision and to the report of prior hearing on the evaluation of the net costs of universal service provision, whereby ICP-ANACOM deemed that it was not appropriate to accept the estimated net costs of universal service provision for the year 2003 and the estimate revisions for 2001 and 2002 presented by the USP.

Since this decision provided for the beginning of a process of detailed specification on the methodology to be applied in the calculation of the net costs of universal service provision and for the definition of conditions whereby it may be considered that the provision of US may represent an excessive burden to the respective provider, it was decided to engage the consultants, WIK – Wissenschaftliches Institut für Kommunikationsdienste GmbH, with the aim of defining the methodology to be applied in the calculation of the net costs of universal service provision and the definition of excessive burden. This task was concluded during 2008 and will give basis to the public consultation which is to be held in 2009.

The process of designating the US Provider(s) (USP)

Article 99 of the LEC, sets out that:

- The universal service may be provided by more than one undertaking, differentiated by the provisions included or by geographical area, without prejudice to provision throughout national territory;
- The process for designating the provider(s) “shall be efficient, objective, transparent and non-discriminatory, ensuring that no undertaking is excluded a priori from being designated”;
- It is incumbent upon the Government, by resolution of the Council of Ministers, to designate the undertaking or undertakings responsible for the provision of the universal service following a tender, the regulation of which shall be approved by administrative regulation of the members of the Government with responsibility for areas of finance and electronic communications;

- The terms of said tender shall ensure that the universal service is provided in a cost-effective manner, and may be used as a means of determining the net cost of the universal service obligation.

Therefore, the US comprises the provision of various services and one or more undertakings may be charged with providing them, whereas it remains the responsibility of the Government to order the respective tender and approve the rules governing the selection of the undertaking or undertakings on which the obligation of providing these services is conferred. It is within this framework that the process of designation the provider(s) of the US should be seen.

As part of its advisory role to the Government, in 2008 ICP-ANACOM played an active role in this regard, preparing the tender for the designation of the US provider(s), taking into account from the outset the position expressed by the Government that, before starting the procedure for designating the US provider(s), it is important to sound out the market with respect to a set of choices involved in the identification of the most efficient and appropriate solutions to ensure provision of the components of the universal services and select the undertaking(s) responsible for its provision.

Accordingly, by joint order of the Minister of State and of Finance and the Minister of Public Works, Transport and Communications of 28 January 2008, it was determined to conduct a public consultation with the aim of collecting views on a range of issues related to the process of designating the USP and expressions of interest from the various market players in said provision and how it should be provided.

Under the terms of the same order, approval was given to the document setting out the questions to be submitted to the market, while ICP-ANACOM remained responsible for launching the consultation process and conducting it to its conclusion, and, in the same context, receiving and examining the proposals put forward by the various entities that responded.

Under the conditions described, the consultation was launched on 19 February 2008 and remained open for a period of thirty days, during which ICP-ANACOM received several contributions from the market which were subject to detailed analysis.

On 23 July 2008, ICP-ANACOM approved the final report with the summary of expressions received and, together with this report, forwarded a document to the Government containing a set of twenty-three recommendations with respect to the tender for the selection of the provider(s) of the US. In particular, note should be made of the recommendations presented on the segmentation of services, geographical segmentation, conditions associated with the price affordability and quality of service and criteria for the classification of tenders.

In September 2008, after the report and recommendations of ICP-ANACOM had been sent, this authority was asked to: (i) start preparation of the documentation necessary for the conduct of the tender in accordance with the presented recommendations; and (ii) to send additional clarifications and more detailed information about certain aspects of the recommendations presented.

In October 2008, ICP-ANACOM sent the Government a memorandum responding to the requests for additional clarifications and presenting more detailed information, in which it was considered by the Authority that the previous recommendations remained justified, and it started the preparatory work of the Tender Regulation.

• 2.7 User protection

Subscription contracts

During 2008, ICP-ANACOM gave approval to twenty-two new subscription contracts for the provision of different services. It is noted that it is incumbent upon ICP-ANACOM, pursuant to the LEC and subsequent to the opinion of the Directorate General for the Consumer, to give approval to subscription contracts for the provision of electronic communications.

Note is also made of the approval by ICP-ANACOM, on 11 December 2008, of the final decision on the amendment of the guidelines on minimum content to be included in contracts governing the provision of electronic communications services. These changes are related to “loyalty periods” and to the rules currently applicable to essential public services (Law number 12/2008 of 26 February, which amended Law number 23/96 of 26 July, widening its scope to include electronic communications services).

A period of 20 working days was set to amend subscription contracts to bring them into compliance and send them to ICP-ANACOM and a period of 30 working days for the provision of information to subscribers.

Quality of service

On 16 January 2008, ICP-ANACOM took a decision, following the consultation launched in October 2006, with respect to the extension of the Regulation on Quality of Service (Regulation number 46/2005 of 14 June), not to proceed with the alteration in question, whereby the Regulation would continue to apply only to the service of access to the public telephone network at a fixed location and the FTS.

In the referred determination, it was considered that to ensure that users obtain the maximum benefit in terms of choice, price and quality and as well as to promote the provision of information to consumers about the quality of service provided with respect to access to the Internet, the entities involved currently have faster, cheaper ways which are more easily adaptable to market changes.

It was likewise established that ICP-ANACOM would continue the actions it had been pursuing in order to improve quality of service in the context of the Internet access service and information provided on the service, and further that it would implement, in the short term, a number of additional measures in this area (including the continued monitoring of trends in the number and content of complaints received about the quality of the Internet access service and of other electronic communications services, as well as the way in which information on levels of quality of service provided is provided to the public and the content of information of this nature contained in customers contracts).

Among the activities carried out in this respect in 2008, special note should be made, along with the monitoring of complaints, to a new study on the “evaluation of Internet access service”, which was conducted for the first time in 2005 as detailed in section 2.11.

Between November 2008 and early 2009, subscription contracts to the Internet access service were checked in order to examine the inclusion in these contracts of the obligations and recommendations set out in the guidelines on minimum content to be included in contracts governing the provision of electronic communications services, adopted by ICP-ANACOM, especially with regard to aspects related to quality of service.

In 2008 monitoring was continued concerning information on quality of service which, pursuant to Regulation number 46/2005 of 14 June, is made available to ICP-ANACOM and end-users by the companies providing FTS.

In this context, on 24 September 2008, ICP-ANACOM adopted a “Model of Information Disclosure” as a recommendation, to be adopted by FTS companies as a means to promote the improvement of the ways of providing end-users with the information on quality of service set out in the Regulation, contributing significantly to enhance the comparability and clarity of the disclosed information.

During 2008 several studies were conducted and published, as a means of providing information to consumers, on the

quality of mobile services including various types of services (voice, video telephony, SMS, MMS), technologies (GSM and UMTS²⁰) and levels of coverage (mainland, Autonomous Regions and the Serviço Alfa of CP-Comboios de Portugal E.P.E. (Portuguese Railways)), as referenced in detail in the Activities Report.

International roaming

EC Regulation number 717/2007 of 27 June of the European Parliament and of the Council on roaming on public mobile telephone networks within the Community and amending the Framework Directive set out to achieve a sharp reduction in the prices of voice calls for users of public mobile telephone networks when travelling in the Community. It therefore imposed a variety of tariff obligations on operators, both at wholesale level and retail level, stipulating that a "Eurotariff" be made available.

During the first year of the Regulation's application the maximum value of the "Eurotariff" for voice calls made or received in roaming within the EU was 0.49 euros (excluding VAT) and 0.24 euros (excluding VAT) respectively, with a further reduction to 0.46 euros (excluding VAT) and 0.22 euros (excluding VAT) from the end of August 2008.

The Regulation also imposed a maximum value for the average wholesale tariff (calculated over a period of twelve months) that operators of visited networks are permitted to charge operators of the domestic network of a roaming customer's home network for a voice call in roaming with origination on this visited network. This limit was fixed by the Regulation at 0.30 euros per minute in the first year of its application, falling to 0.28 euros on 30 August 2008.

On 8 May 2008, the EC launched a public consultation on extending the duration of the regulation, prolonging the "glide path" applied to wholesale and retail prices, the review of its operation and its possible extension to SMS and other data services in roaming.

At the end of September 2008, the EC submitted the proposed revision of the Roaming Regulation to the

European Parliament and the Council with the objective of extending it until 2012 and expanding its scope to SMS and data services (e.g. Internet access, MMS) used in roaming in the intra-community area. This proposal also introduced additional measures to strengthen tariff transparency in the context of SMS and data, and to avoid occurrences of bill shock associated with the data transmission services in roaming. The final decision on the revision of the Regulation was taken in 2009, with effect from 1st July this year on.

Under the terms of the Regulation, ICP-ANACOM has engaged in several activities since its publication related to its implementation in the Portuguese territory, deserving a reference in what concerns 2008 the following ones:

- Informing the public about the application of the Regulation – with updates to ICP-ANACOM's website, the FAQs (Frequently Asked Questions) on the subject, and releasing the report on the Regulation's implementation in October 2008, including the results for Portugal;
- Cooperation with other NRAs with respect to the International Roaming Project Team (IRPT) of the European Regulators Group (ERG), in various activities related in particular to the preparation of questionnaires, the collection and processing of information relating to national operators, development of common guidelines on the application of the Regulation and preparation of ERG reports and positions on the revision of the Regulation;
- Six-monthly communication to the EC with information on the international roaming activity of operators working in Portugal, as required by the Regulation.

According to the third report of the ERG (document ERG (09) 01), covering the period between 1 April and 30 September 2008 (which also includes, for comparison purposes, data from the periods between 1 April and 30 September 2007 and between 1 October 2007 and 31 March 2008), the average wholesale prices and retail prices encompassed by the concept of the "Eurotariff" for voice communications in roaming made intra-EU/EEA, were in compliance with the Regulation in all Member States.

²⁰ Universal mobile telecommunications system.

However, in two thirds of the countries, the average prices of the "Eurotariff" coincided with the price cap applicable to this type of tariff or were situated slightly below this level. At wholesale level, there was also a clear drop in prices compared with the situation that existed before the Regulation entered into force.

With respect to text messages minor changes in prices were detected both in the wholesale market and at retail level. In terms of the data service, the average price per megabyte varies significantly between the various Member States, particularly at retail level. However, in general terms, the average tariffs at retail and wholesale level of the countries of the ERG showed a sharp downward trend between the fourth quarter of 2007 and third quarter of 2008.

Other issues

Analysis of the impact of the amendment of Essential Public Services Law

By determination of 21 May 2008, approval was given to the analysis of the impact on electronic communications of the amendment to Law number 23/96 of 26 July (Essential Public Services Law) brought by Law number 12/2008 of 26 February, which broadened the scope of this Law to include all electronic communications services.

Accordingly, all electronic communications services are now subject to the following new conditions:

- The provision of the service cannot be suspended without appropriate prior notice, unless due to unforeseeable circumstances or force majeure;
- The suspension of the service due to customer late payment is subject to prior notice, by letter, email or SMS, with ten days notice in advance of the date on which suspension is due. The customer must also be advised of the reason for suspension and informed of the means available to prevent suspension of the service and obtain its recovery;

- Provision of service may only be suspended on grounds of non-payment of any other service, even if included in the bill, if the two services are functionally inseparable;
- The customer is entitled to make partial payment and get partial discharge of the bill, in which case suspension should be limited to the service for which there are amounts outstanding, unless the services are functionally inseparable;
- The customer is entitled to receive bills on a monthly basis;
- In contracts for the provision of electronic communications services, where the customer is the consumer or has contracted the service for private, non-professional use, the requirement of a deposit, in any form or of any value, to guarantee compliance with the obligations arising from the provision of services is prohibited, whereas the provision of a deposit may only be demanded in situation where service provision is re-established subsequent to an interruption resulting from non-compliance on the part of the consumer, provided the customer does not opt to pay by direct debit;
- The right to receive payment for the provided service shall be extinguished within six months from being provided;
- The onus is on the service provider to prove all the facts concerning the fulfilment of their obligations and to take all appropriate steps arising from the provision of essential public services.

Position on the application to electronic communications of point q) of article 8 of Decree-Law number 57/2008 of 26 March

Whereas Decree-Law number 57/2008 of 26 March defined the legal regime applicable to unfair commercial practices of companies in their dealings with consumers, its application to electronic communications raised a number of questions, particularly in regard to provisions of point q) of article 8 in which it is prohibited as unfair trade practice, by being considered "a misleading action under any

circumstance”, “... rounding up the price, the duration or other factors that are, directly or indirectly, connected to the supply of goods or to the provision of services where this does not have exact and direct correspondence in the effective expenditure or use by the consumer and which leads to an increase in the price paid by the consumer”.

Following questions put by the market and after consulting its Advisory Council, on 2 May 2008 ICP-ANACOM published its position on this issue, setting out that the rule was not included in Directive 2005/29/EC of the European Parliament and of the Council of 11 May concerning unfair business-to-consumer commercial practices in the internal market, transposed by Decree-Law number 57/2008 of 26 March.

Underlining that it makes no sense to consider that there are calls, i.e., communications, lasting for one second, ICP-ANACOM considered that there was a minimum period – which does not correspond to a minimum consumption, much less an activation fee – which could be called a “voice product”, after which it makes sense, to comply with the rule, that billing must be calculated on a per-second basis so that no rounding up of the duration of the call is obligatorily imposed on consumers. ICP-ANACOM also took the position that the meaning of the rule in question is that operators shall allow the consumer to choose, as an alternative to other models, a tariff of this nature – with a single initial period followed by per-second billing according to a logic of “opt-in”.

Activity in combating unsolicited communications

ICP-ANACOM conducted a survey of Internet access service providers (ISP), hosted an awareness raising session and

developed diagnostics on the problem of unsolicited communications, whereby measures were identified to combat these situations based on the best practices of European and international regulators.

Handing of requests and user support

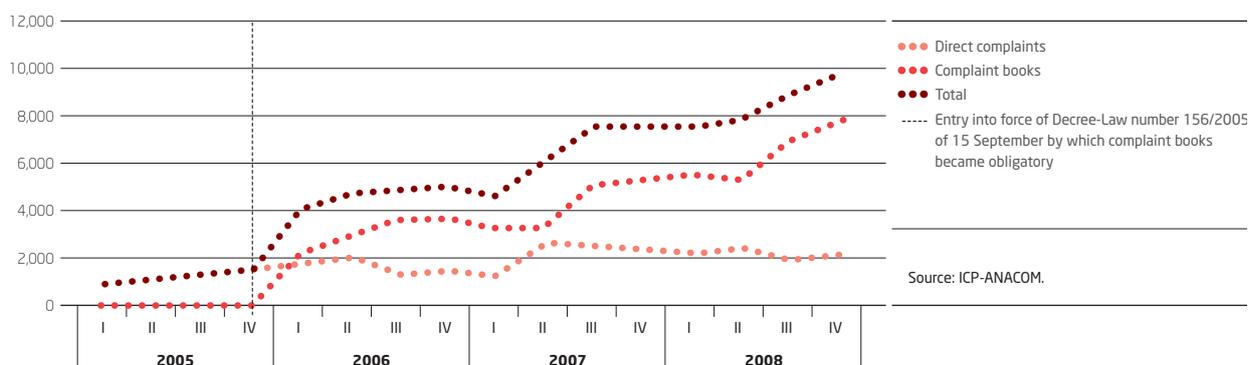
Aimed at promoting information and providing users of electronic communications services and postal services, as well as the general public, with clarifications, ICP-ANACOM processed all the complaints, inquiries, requests and suggestions it received.

With regard to complaints made using complaint books, ICP-ANACOM was contacted by the Directorate General for the Consumer with a view to promoting the formalization of a protocol of cooperation, based on the operation of a tool of the Directorate-General which enables the management and processing of complaints and facilitating the communication of resulting statistical data. The implementation of the project was postponed until 2009, including its assessment by this Authority of its feasibility and the impact of any subscription to the Protocol.

During 2008, ICP-ANACOM received 33,814 complaints, 421 requests for information, 123 petitions, 34 suggestions and 287 other types of communications, making a total of 34,679 requests. In terms of complaints, an increase of 36 per cent was seen in comparison to 2007, resulting in great part from the widespread use of complaint books, the scheme for which came into force on 1 January 2006 (Decree -Law number 156/2005 of 15 September, as amended by Decree number 371/2007 of 6 November).

Evolution of the quarterly volume of complaints by type of entry

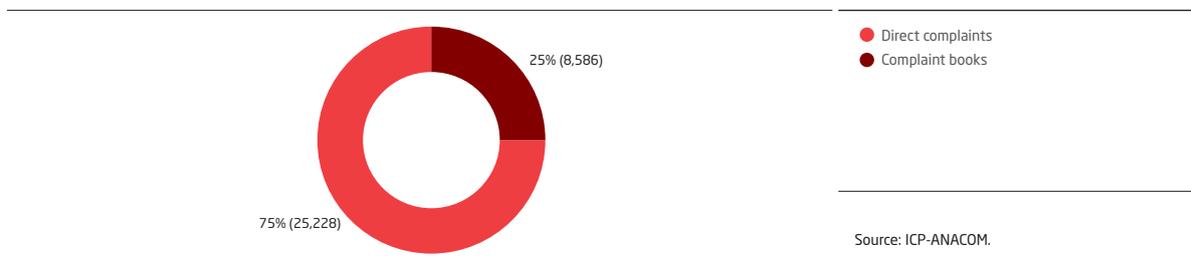
Graph 35.



It should be noted that in 2008, complaints entered in complaint books, received pursuant to the cited law, represented about 75 percent of the total complaints received by the Authority.

Complaints by type of entry

Graph 36.

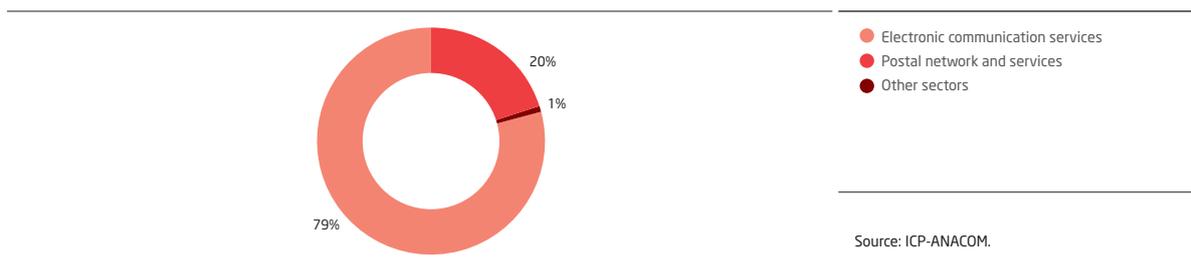


As can be seen in the graph below, and in line with previous years, the majority of complaints referred to the electronic communications sector – both with respect to complaints sent directly to ICP-ANACOM (7,679 complaints

out of a total of 8,051) and with respect to complaints entered into complaint books (18,420 out of 24,994). In the postal sector, about 97 percent of complaints corresponded to complaints entered in complaint books.

Complaints by sector

Graph 37.



With respect to electronic communications, in 2008, the Internet access service continued to give rise to the greatest number of complaints per 1,000 customers, followed closely by the FTS and the cable television service.

Services giving rise to most complaints (electronic communications)

Table 12.

	Services	Total	Customers	Complaints per 1,000 customers
1st	Internet access service	9,720	1,638,594	5,93
2nd	Telephone service at a fixed location (FTS)	7,742	3,152,084	2,46
3rd	Cable television service	3,073	1,489,808	2,06
4th	Public payphone service	72	39,120	1,84
5th	Voice over internet service (VoIP)	149	118,185	1,26
6th	Virtual phone cards service	25	23,060	1,08
7th	Satellite television service	304	543,038	0,56
8th	Mobile telephone service (MTS)	6,236	14,355,964	0,43

Regarding the issue underlying complaints about the electronic communications sector, with respect to complaints entered in complaint books, there was a preponderance of issues associated with equipment, customer support/service and billing, which are typically associated with users visiting the premises of their service providers. Regarding

complaints addressed directly to this Authority, there was a high volume of complaints about billing (with particular relevance to errors in bills), contracts (with a high incidence of cases connected with contractual changes) and technical support.

Total complaints by subject (electronic communications)**Table 13.**

Subjects	Total
Technical support	5,884
Equipment	5,549
Customer service	5,002
Invoicing	4,989
Contract	4,048
Provision of initial connection or installation	3,107
Faults	2,865
Cancellation of service	2,718
Tariffs	1,550
Suspension of service	1,539
Portability	1,395
SPEED	762
Selection and pre-selection	533
Infrastructure	239
Complaint Book	226
Roaming	179
Privacy and protection of personal data	164
Geographic portability	152
Local loop unbundling	137
Numbering	37
Telephone directories and directory enquiry services	37
Municipal Rights of Way Fees (MRWF)	9
Transfer of loops	4

Accordingly, as occurred in 2007, it is concluded that the issues associated with conflicts of consumption accounted for about half of total complaints made to ICP-ANACOM, despite the fact that this Authority lacks sectoral powers to intervene in such cases.

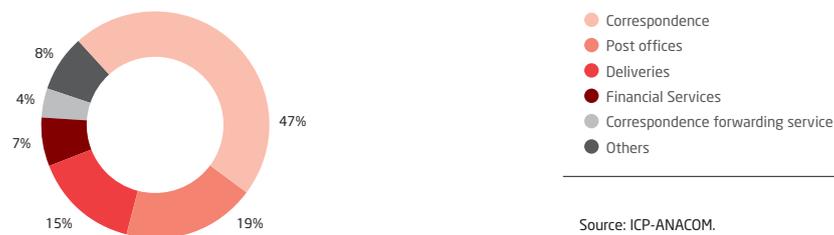
With respect to complaints made by users of electronic communications services, ICP-ANACOM's role is to provide the complainer with information (particular with respect to their powers of action and the means of reaction at their disposal), to identify situations in which intervention is

necessary at a regulatory or supervisory level and to produce and release statistical indicators.

With regard to the postal sector, the largest number of complaints focused, as in 2007 on the correspondence service. In complaints submitted directly to ICP-ANACOM the greatest number of complaints was associated with delayed delivery and loss, while in the case of complaints entered in complaint books, the vast majority of complaints centred on problems associated with customer service.

Complaints about the postal sector, by service

Graph 38.



While most requests relating to postal services did not fall within the intervention remit of this Authority, their analysis made it possible to compile useful information on sectoral regulation and allowed the detection of evidence of non-compliance with the obligations laid down in applicable sectoral legislation.

With respect to the processing of complaints, note should be made of the regular contacts with the Directorate General for the Consumer, with the aim of co-ordinating and making the most of the work of each of the entities with respect to their respective areas of sectoral competence. Contacts were also initiated with the Bar Association and Universidade Nova de Lisboa with a view to signing memoranda of cooperation in this area.

Regarding requests for information, most focused on the electronic communications sector and information society services, with the remaining sectors having residual character.

Finally, in respect of the remit of ICP-ANACOM and the provisions of the Strategic Plan 2009-2011 regarding the protection of consumer interests, two studies were conducted in 2008 on the problem of dealing with complaints:

- Study examining extrajudicial means of dispute settlement and their possible extension to the electronic communications sector.

This study was conducted during the first half of 2008, and with the use of benchmarking at national and international level, it was concluded that there were serious deficiencies in access to extrajudicial means of dispute settlement by end-users of electronic communications services. Based on these results, and taking national and EU legislation in this area into account, approval was given in June to the launch of a project to create a national arbitration centre specializing in the electronic communications sector, whereas subsequently, a process was begun to assess its viability, the conclusion of which was extended to 2009.

• 2.8 New fees model applicable to suppliers of electronic communications networks and services

- Study examining the possible revision of the conditions which currently apply to providers of electronic communications service in the processing of complaints.

This study was begun in November 2008, and is expected to be concluded during 2009.

Taking into account the studies already carried out on this issue, ICP-ANACOM concluded, during 2008, a proposed revision of the general model of fees applicable to providers of electronic communications networks and services, including fees associated with use of the radio spectrum. The new model, approved by the Government after hearing the Advisory Council of ICP-ANACOM, was published in Diário da República as Administrative Rule number 1473-B/2008 of 17 December 2008, thereby implementing the provisions of Article 105 of the LEC as of 1 January 2009.

The new model embodies profound changes in relation to the previous one, and is characterized by the following key features:

- New methodology for the calculation of fees relating to use of the radio spectrum, which entails charging for the amount of spectrum assigned, thereby encouraging its efficient use and discouraging the holding of quantities of spectrum that is surplus to need, taking into account that the cost incurred will be independent of the level of use.

Meanwhile, this approach is designed to address two areas of concern in some way safeguarded by the previous regime. The first, of a competitive nature, refers to the premise that in a model based on the amount of assigned spectrum, the cost of this resource does not reflect, in the first years of an operator's activity in the market, the extent of their customer base, what is not reflected in a model based on spectrum use. To maintain this advantage of the current model, without compromising the model adopted now, based on charging for the amount of spectrum allocated, it was decided to incorporate a reduction of 50 percent in the first three years of radio spectrum allocation in cases involving the licensing of new networks subject to the allocation of frequency usage rights under the NFAP, and the licensing of networks for the railway communications system (GSM-R).

The second concern, which is of a social nature, relates to television broadcasting services. For television and radio broadcasting services, which services are fundamental from the point of view of social cohesion, it is justified

that the spectrum which is assigned to them takes this dimension into consideration. Accordingly, it was decided to apply a fee equivalent to 37.5 percent of the value of spectrum to be allocated for the provision of television broadcasting service and a fee amounting to 15 percent of the value of spectrum allocated for the provision of radio broadcasting services.

- Introduction of fees for numbering resources, aimed at more efficient use of resources, and reflecting scarcity in certain numbering ranges.
- Determination of annual fees associated with the exercise of the activity of provider of electronic communications networks and services, according to the costs of regulation incurred by ICP-ANACOM and the relevant income of the sector. This new approach requires transparency in and the disclosure of the costs incurred by this authority, and the payment of fees by operators, according to their relevant income.

With this model, the revenue structure of ICP-ANACOM will undergo significant change insofar as radio spectrum fees will cease to represent, as before, almost the entirety of its income. In order to provide for the gradual implementation of the new model, a transition period of two years was put

in place until its full implementation, with the exception of the use of frequencies by the broadcasting service (radio and television), for which the transition period shall be five years, given the social character of the services in question.

Since the new model will have a material impact on the spectrum usage fees applicable to GSM, DCS 1800²¹ and UMTS mobile stations, resulting in a significant reduction in the amounts paid compared to the current model in 2008, and given the dynamics of the market ICP-ANACOM proposed and, the Government approved (Administrative Rule number 1473-A/2008, 17 December) a new tariff for each mobile station for the second half of 2008, which represented a reduction of 30 percent.

With regard to numbering resources, Administrative Rule number 1473-B/2008 of 17 December sets out the value of fees applicable to the allocation of rights to use numbers and the use of numbers, both under Article 105 of the LEC, and sets the terms for its implementation in the of two year transition period.

To calculate the annual amount of usage fees due for the use of numbers, four different rates were created, which are applied depending on the type and scarcity of the numbering resources.

• 2.9 Communication security

On this subject, note should be made of the public consultation held between 21 October and 2 December 2008 on the Regulation of 112L – The provision to authorities responsible for emergency services of information concerning the location of persons calling the single European emergency number 112²².

This Regulation establishes solutions in the current regulatory framework which enabled the implementation of caller location in 2007, and also enables ICP-ANACOM to promote, through a dynamic process and by listening to stakeholders, the adoption of better and more effective location solutions where technically possible and where beneficial to the authorities responsible for providing emergency services.

In the same context, note should also be made of ICP-ANACOM's participation in the reorganization process of the 112 operation model, pursuant to Resolution of the Council of Ministers number 164/2007 of 20 September.

• 2.10. Institutional cooperation

Assembly of the Republic

ICP-ANACOM, represented by its Chairman, was present twice before the Assembly of the Republic, at the request of the 6th Parliamentary Committee (Committee on Economic Affairs, Innovation and Regional Development).

In the first of these sessions, held on 4 June 2008, which was one of a series of hearings of the various regulatory authorities relating to consumer protection policy, a presentation was made on the protection of users in the communications sector in respect of the remit of this Authority in this area.

In this context, and in first place, an outline was given of ICP-ANACOM's powers and remit in terms of the protection of users in light of the existing regulatory framework and reference was made to the role of the functions of regulation, supervision and publication of information in pursuit of this remit, stressing that the action of the authority is not intended to address each of the cases that are submitted to it, but rather to regulate the sector, taking user interests and the protection of their interest with respect to their relationships with service providers into constant account.

In order to provide a broader view on the subject, the presentation made to the 6th Parliamentary Committee also included an evolutionary view of the levels of conflict seen in the industry in recent years (both in terms of electronic communication services and in terms of postal services), the identification of problems that have caused conflict, and ICP-ANACOM's response, either through its organizational structure, or through the relationship of this authority with the market in general and with other relevant organizations working for the protection of consumers.

In the second session, held on 2 July 2008, matters were addressed relating to postal services, particularly related to the network, distribution and quality of service.

In this context, an outline was given of the remit of ICP-ANACOM regarding the closure and change of business

²² It is noted that this Regulation was approved by determination of ICP-ANACOM in 2009, on 4 February.

hours in postal establishments, the rights and obligations of CTT were described, as concessionaire of the universal postal service and in terms of outsourcing of services, distribution of postal items and postal service offices, and reference was made to the tasks of ICP-ANACOM at the level of regulation and supervision of the quality of the universal postal service provided by CTT.

Autoridade da Concorrência (AdC – The Competition Authority)

During 2008, ICP-ANACOM issued a number opinions and clarifications to AdC, in accordance with national legislation, particularly in cases concerning abuse of dominant position and concentration operations by cable television distribution companies.

Other entities

In 2008, ICP-ANACOM engaged in various actions in cooperation with other entities, including:

- conducting meetings with the ERC, the Court of Auditors and the Ombudsman, in the framework of institutional relationships;
- issuing an opinion to the Ministry of Finance and Public Administration, following the request by the oversight board of a public tender launched by this Ministry with the aim of contracting FTS and related services, following a complaint lodged by OniTelecom – Infocomunicações, S.A. (OniTelecom), relating to restrictive competition practices. AdC was informed of this opinion and was also consulted in this process;
- provision of various clarifications on the legal regime governing the Municipal Rights of Way Fees (MRWF), in response to several requests from municipalities.

• 2.11 Studies conducted

With a view to better understanding and attaining greater knowledge of important matters in areas overseen by ICP-ANACOM, a series of studies were promoted by the Authority during 2008.

Of these, the following are of particular note:

- Publication of studies on the evaluation of the Internet access service;
- Next generation networks (NGN).

Assessment of the Internet access service

The study published in February 2008 presents the main results of the study assessing the overall quality of service of Internet access via broadband – supported over ADSL and cable distribution networks – from the user’s perspective. This study was carried out by ICP-ANACOM in partnership with MARKTEST and with the support of CONVEX consultants between 11 October and 13 November 2007. Among the results, it was noted that the indicator “speed of downloading the total pages of a website” recorded significantly higher values when the target ISPs are national than when dealing with pages hosted abroad. Also in the transfer of files, the average speed of downloading is lower when it comes to measurements for target ISPs which are international, which may be related to the interconnection bandwidth available to these ISPs. The speed of downloading for the transfer of files by HTTP (HTTP file transfer) obtained higher values, however, when compared with the speed of downloading of total pages of a website, as mentioned above, constituting the best indicator among those considered in the study with a view to assessing bandwidth actually available.

A working group was also set up with representatives of ISPs, Fundação para a Computação Científica (National Foundation for National Scientific Computing) and Direcção-Geral do Consumidor (Directorate General for the Consumer) to study the problems associated with the atypical behaviour of certain Internet users, commonly referred to as heavy users, who have a negative impact on the performance of networks.

Next generation networks (NGN)

Given the impact that the deployment of NGN is expected to have on the promotion of the information and knowledge society and on the economy of the business of operators, ICP-ANACOM sponsored a study on this issue which was carried out by the international consultants (Ovum Consulting), covering in particular (i) characterization of the demand for NGN-based services; (ii) characterization of existing networks in Portugal and their future development, (iii) the costs, investments and revenues associated with the development of NGN; (iv) the models for interconnection and co-installation between operators; (v) info-inclusion; (vi) the international scenario with respect to NGN deployment; (vii) access to buildings; and (viii) regulatory approaches.

The study published in late June 2008, alongside the public consultation carried out by ICP-ANACOM on the regulatory approach to NGA, which made a contribution to an analysis of the key issues it raised, showed that the development of NGN in Portugal was, in general, in line with the experience of other EU countries. The study concludes that the future seems to be driven primarily by growth in residential broadband users, whose numbers are estimated to reach 2.6 million in 2012 (representing a penetration rate of 85 percent in terms of classic resident families) and by the offers of television over IP²³, which should have an equal number of users by 2012.

This study also analyzed various scenarios for NGN evolution with different technological alternatives in terms of total or partial installation of fibre between the operator's exchange and the subscriber and with different forms of investment, presenting the different results in terms of operational costs (OPEX) and investment expenditure (CAPEX).

As regards the possibilities for co-installation of equipment among active operators, the main alternatives were identified in terms of street level distribution frames and the potential technical challenges (e.g. interference – "cross-talk" – between local sub-loops unbundled by different operators, physical problems of availability of space in conduits and limitations in the use of space in public places).

With respect to info-inclusion, it was concluded that in the medium term NGN could increase the existing gap between those who have access to more sophisticated access technologies and those who do not, insofar as operators will give priority to coverage by new transmission technologies in those areas which are the most profitable. As a result, new services available over NGN may not be made available from the outset in rural and remote areas.

The study also gives consideration to different measures such as public-private partnerships, subsidies or other mechanisms which make fibre optic investment in rural areas more attractive.

With regards to regulation, it was highlighted that it is necessary for the regulator to ensure interconnection and to control the supply of wholesale services, ensuring competition in retail markets, given that the existence of NGN does not in itself shift the focus of the regulator's action.

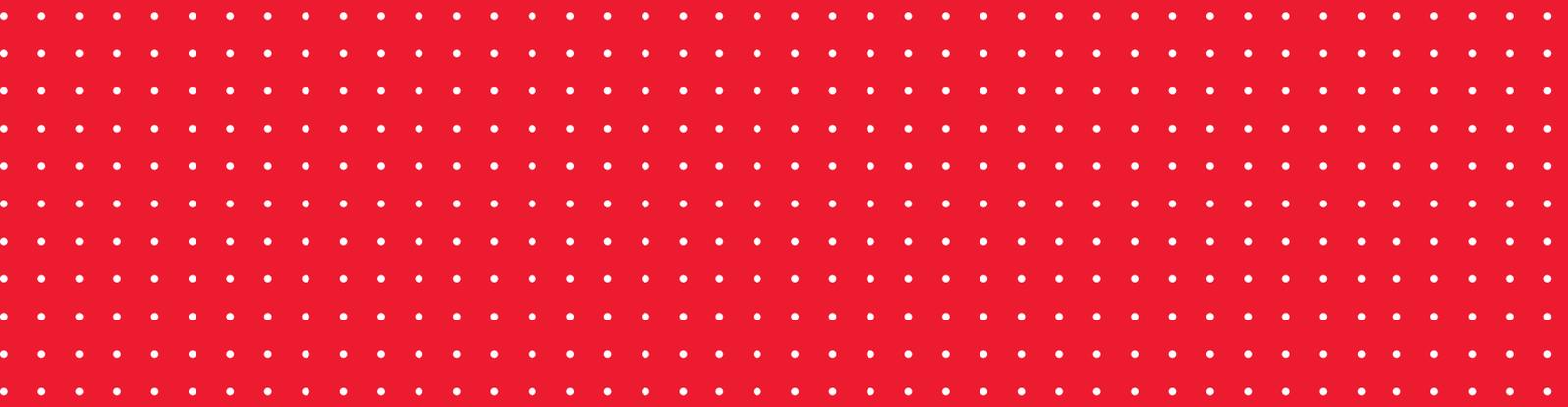
The study also examines the impact of conditions of access to buildings from a regulatory perspective, noting horizontal and vertical barriers (e.g. negotiations with the condominiums, the viability of the existing infrastructure for the passage of cables, the development of new infrastructure for the provision of fibre at the door of users and distribution of fibre within the home).

With regard to minimizing the horizontal barriers, the study highlighted the particularly favourable situation of Portugal with regard to overcoming these barriers using access to the conduits of the incumbent according to the RCAO, noting, in any case, the need for further actions to minimize the barriers in question and referring in particular to the need to reduce and simplify the licensing of works in the public domain and the need for a global register of infrastructure, which should facilitate the suitable formulation of expansion plans of the different network operators, while minimizing costs.

²³ Internet Protocol.

03.

Postal Services



• 3.1 Postal Services

Universal Service

CTT is obliged, pursuant to the Universal Postal Service Concession Contract (Concession) of 01 September 2000²⁴, as amended on 9 September 2003²⁵ and on 26 July 2006²⁶, to provide the Universal Postal Service, which encompasses a postal service for items of correspondence (including addressed publicity), books, catalogues, newspapers and periodicals up to 2 kilograms of weight and parcels up to 20 kilograms of weight, as well as a service for registered items and a service for sending items of declared value, provided on a national and international basis.

The provision of a subset of these services, which are included in the Universal Postal Service (in accordance with point b) of paragraph 1 of clause 2 of the Concession) are reserved exclusively to CTT. Since 1 January 2006 items of correspondence weighing less than 50 grams have been reserved to CTT, provided that the price is less than two and a half times the reference price (price of a letter of 20 grams sent using national priority mail ("correio azul")). Items of outgoing international correspondence, direct mail, registered correspondence and correspondence of declared value are included within the reserved area, within the limitations of weight and price.

The remaining postal services which are not included in the definition of reserved services may be provided by the concessionaire of the Universal Postal Service, CTT, or by natural or legal persons who are duly authorized to that effect in accordance with and pursuant to Decree-Law number 150/2001 of 7 May, as amended by Decree-Law number 116/2003 of 12 June.

It is incumbent on ICP-ANACOM, as postal regulator, to review the quality and price of postal services covered by the US – in accordance with paragraph c) of paragraph 2 of Article 18 of the Basic Law for Postal Services²⁷.

Conventions

Under the terms of paragraph 3 of clause 24 of the Concession and paragraph 2 of Article 14 of the Basic Law

of Postal Services, the rules for establishing the prices of individual services that comprise the US concession to CTT shall be determined by agreement between ICP-ANACOM and CTT.

Meanwhile, under the terms of clause 12 of the Concession and paragraph 5 of article 8 of the Basic Law for Postal Services, the parameters and minimum levels of quality of the US, which CTT is bound to provide, are established in agreement concluded between ICP-ANACOM and CTT, in a negotiation process running in parallel with the process in respect of US prices described above.

On 8 October 2007, CTT terminated the Price and Quality Conventions of the Universal Postal Service which applied through 2006 and 2007 and at the same time presented proposals for new conventions to take effect from 2008. Consequently, ICP-ANACOM proceeded to conduct an analysis of CTT's reasoning and proposals, conducting several studies on the provision of the US and corresponding obligations in preparation for its negotiations with CTT, which negotiations took place in 2008 and concluded with the signing of new conventions on 10 July 2008, subsequent to a hearing of organizations representing consumers.

The provisions of the Price Convention of the Universal Postal Service (Price Convention) of 10 July 2008, include the following:

- a) The term of the Price Convention, which took effect from 1 January 2008, was extended to 3 years, seeking greater regulatory predictability;
- b) US prices shall comply with the principles of cost orientation (carried out progressively, so as to allow for a gradual balance of tariffs and to ensure the accessibility of prices), of transparency, non discrimination and uniformity of application (article 2);
- c) The weighted average price variation of reserved postal services shall not exceed in 2008, in nominal terms, the rate of the inflation forecast in the State Budget minus 0.3 percentage points in 2008, which deduction rises to

²⁴ Concluded in accordance with and pursuant to the Bases of the Universal Postal Service Concession, approved by Decree-Law number 448/99 of 4 November.

²⁵ Following amendments to the Bases of the Concession introduced by Decree number 116/2003 of 12 June.

²⁶ Following amendments to the Bases of the Concession introduced by Decree number 112/2006 of 9 June.

²⁷ Law no 102/99 of 26 July, with the wording set forth by the cited Decree-Law number 112/2003 of 12 June.

0.4 percentage points in 2009 and 2010, thereby providing an incentive for increased efficiency during the continuance of the Price Convention. Where inflation deviates from the rate forecast, the resulting difference will be incorporated into the maximum variation in prices for the following year²⁸;

- d) The prices of non-reserved services included in the US shall take effect on the date provided for, ICP-ANACOM being entitled to alter those prices at any time, stating therefor reasons based on the compliance with principles, and taking also into account the levels of quality of service achieved (paragraph 5 of article 5);
- e) The minimum period of notice for CTT to disclose the prices of Universal Postal Service to users, which prices should also be made available at a specific address of CTT's website, was extended from five to ten working days.

The provisions of the Universal Postal Service Quality Convention (Quality Convention) of 10 July 2008, included the key following aspects:

- a) Alteration to the duration of the Quality Convention, extending it to three years (in line with the Price Convention), seeking greater regulatory predictability, which shall apply from 1 January 2008;
- b) Maintenance of the quality of service indicators (QSI) and levels of quality defined in the Quality Convention which applied in 2006 and 2007;
- c) The association made in the in the Quality Convention of the maximum variations in prices of reserved services, as defined in the Price Convention with the achievement by CTT of the levels of quality defined, is maintained, continuing the maximum deduction of 1 percentage point with respect to the prices of these services in the event of non-compliance. It is set out that in exceptional circumstances duly substantiated by CTT and in the event of operational difficulties associated with the implementation of price reductions, it is possible to replace the deduction made to the prices to customers with other

compensatory measures, which measures shall be subject to approval by ICP-ANACOM and have a financial value similar to that resulting from the reduction in prices;

- d) Inclusion of a provision on the obligation of CTT to publish the QSIs to which they are bound and the annually accomplished values, which obligation is set out by determination of ICP-ANACOM of 4 April 2002;
- e) Inclusion of the possibility that ICP-ANACOM may accept, until full liberalization of the sector, the disregard of records affected by the occurrence of CTT labour disruptions affecting the quality of service, but always subject to review and prior approval by this Authority.

Prices of the Universal Postal Service

By determination of 16 July 2008, ICP-ANACOM decided, *inter alia*, not to oppose the entry into force of the proposed pricing of the Universal Postal Service to take effect from 1 August 2008, notified by CTT pursuant to Price Convention concluded on 10 July 2008, without prejudice to specific analysis to be carried out independently on the proposed discounts applicable to the international editorial mail service.

The variation of prices proposed by CTT for the prices of reserved services – 2.1 percent – was in line with the maximum permitted by the Price Convention for 2008 – 2.2 percent – due to the rate of inflation forecast for 2008 and included in the State Budget for 2008 (2.1 percent), reduced by 0.3 percentage points and increased according to the difference between the rate of inflation seen in 2007 (2.5 percent) and the rate of inflation originally forecast for 2007 and included in the Report of the State Budget for 2007 (2.1 percent).

By determination of 26 November 2008, ICP-ANACOM decided not to oppose the entry into force of the proposed pricing of the universal postal service to take effect from 1 January 2009, notified by CTT pursuant to the cited Price Convention concluded on 10 July 2008. Notwithstanding this decision, ICP-ANACOM informed CTT that future pricing

²⁸ When calculating the maximum prices of reserved services for 2008, given that the the 2007 inflation rate was already known when the Price Convention was agreed, the difference in inflation to be incorporated corresponds to the difference between the actual inflation rate seen in 2007 (as published by INE (Statistics Portugal)) and the rate of inflation forecast for 2007 in the 2007 State Budget. In each of the years 2009 and 2010, and because the value of the applicable maximum price should be fixed prior to the beginning of each year, the value of the difference will no longer take into account the actual rate of inflation in the previous year (published by the INE), which will only known during the course of these years, but rather the difference between the projected rate of inflation for the year 2009 and 2010 in the Sate Budget for 2010 and 2011, respectively.

proposals should contribute significantly to the tariff rebalancing envisaged in the Price Convention. The variation of prices of reserved services proposed by CTT for 2009 – 2.9 percent – enables compliance with the maximum allowed variation under the Price Convention – 2.9 per cent –, resulting from the value of inflation forecast for 2009 and included in the State Budget for 2009 (2.5 percent), reduced by 0.4 percentage points and increased by the difference between the rate of inflation projected for 2008 in the Report on the State Budget for 2009 (2.9 percent) and the value of inflation initially forecast for 2008 and entered in the Report of the State Budget for 2008 (2.1 percent).

Additionally with respect to the proposed pricing of the Universal Postal Service presented by CTT to take effect from 1 January 2009, by determination of 17 December

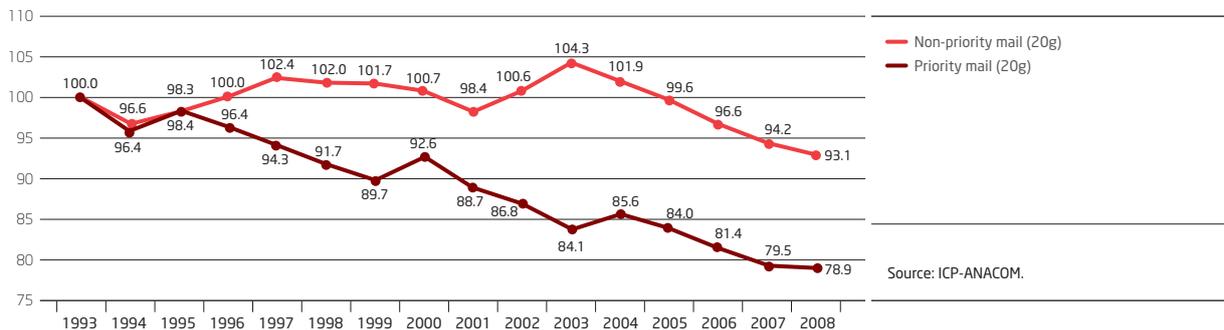
2008, ICP-ANACOM likewise decided not to oppose the entry into force of discounts associated with the use of franking machines, presented by CTT on 28 November 2008.

Regarding the disclosure of information to users and citizens in general, ICP-ANACOM’s website added a direct link to CTT’s web site where the prices of the universal postal service are published.

Between 1993²⁹ and 2008, the price of the base tariff (national price of sending a letter of 20 grams) of non-priority postage (“correio normal”) fell in real terms by 6.9 percent and the price of the basic rate of national priority mail (“correio azul”) fell by 21.1 percent in real terms between 1993 and 2008, as shown in the following chart.

Evolution of the base tariff in real terms (1993 = 100): non-priority mail (“correio normal”) and priority mail (“correio azul”)

Graph 39.



Quality of the Universal Postal Service

The Quality Convention sets out the QSIs and the respective levels of quality that CTT is bound to achieve annually. For each QSI a minimum level and a target level is established for quality of service.

The Quality Convention also establishes an indicator for overall quality of service (GI)³⁰, which is calculated based

on the levels of service quality achieved by CTT for the above QSIs.

In accordance with the Quality Convention, ICP-ANACOM shall monitor the QSIs of the provider of the Universal Postal Service (CTT) on a quarterly basis. At the end of each year, ICP-ANACOM assesses the level of compliance with the established requirements.

²⁹ Year of application of the first Price Convention concluded between ICP-ANACOM, CTT, and the then Direção-Geral do Comércio e da Concorrência (Directorate General for Trade and Competition).

³⁰ The GI is calculated as follows: 1) a classification is assigned to each QSI established in the Quality Convention in accordance with the following methodology: i) With the verification that the accomplished value is equal to the value established for each QSI, a value of 100 is assigned to the QSI, ii) if the amount accomplished is less than the minimum value, a value of 0 is assigned to the QSI, iii) if the realized value is between the minimum and the target, a proportional value of between 0 and 100 is assigned to the QSI, iv) for values above the target, the classification will be more than 100 in proportion to the positive difference achieved for the objective. 2.) Sum of the classifications assigned to each QSI, weighting them according to their relative importance. 3) if the IG is 100 or more there will be no deduction associated with the IG; ii) if it is less than 90 the full deduction of 1 percentage point shall be applied; iii) if it is between 90 and 100, the deduction shall be applied proportionately. The deduction corresponds to the deduction of a maximum of 1 percentage point with respect to the prices of reserved services allowed for the year following the respective lack of compliance.

By determination of 20 February 2008, after receiving the report of CTT with the overall results of measures implemented in 2007 by the operator in order to compensate users for failure to comply with certain QSIs in 2006, ICP-ANACOM concluded that the level of overall implementation of these actions in terms of value of benefits to users (which amounted to 2,831,721.70 euros), achieved the established objectives.

The Quality Convention sets out that “Should any *force majeure* or phenomenon situation take place, the burst and evolution of which are clearly outside the control of CTT, and have an impact on the quality of service provided by CTT, the latter may request, for the purpose of calculation of the quality of service indicators (QSI) comprised in [...] hereto, the deduction of the inputs for the concerned periods of time and geographic flows.”.

ICP-ANACOM granted, by determination of 1 October 2008, the request made by CTT to deduct the records of priority

mail and deliveries directly affected by general paralysis of the goods transporters which took place from 9 to 12 June 2008, on all national routes, with the exception of internal mail in each of the Autonomous Regions of the Azores and Madeira, for purposes of calculating the QSI defined in the Convention. It is also specified that the cited deduction should be limited to items of priority mail and deliveries actually sent between 6 and 13 June 2008 inclusive, excluding items sent on other days of the year, regardless of the date of dispatch originally planned.

In 2008 it was found, by monitoring the corresponding QSIs that the target was reached for all QSIs, with the exception of QSI4 (regular mail not delivered within 15 working days), which nevertheless exceeded the minimum value. The GI recorded a value in excess of 100 (see Table 14).

Therefore, because the GI was over 100 and all QSIs outperformed the corresponding minimum value, no deduction was applied to the prices of reserved services in 2009.

QSI defined in the Quality Convention and achieved by CTT in 2008

Table 14.

Quality of service indicators		Quality Convention			Quality of service observed in 2008 (a)	
		RI (%)	Established value			
			Min.	Obj.		
QSI1	Transit time for non-priority mail (D+3)	45.0	95.5%	96.3%	96.7%	
QSI2	Transit time for priority mail – mainland (D+1)	15.0	93.5%	94.5%	95.0%	
QSI3	Transit time for priority mail – CAM (D+2)	4.0	84.0%	87.0%	90.2%	
QSI4	Non-priority mail not delivered within 15 working days (per one thousand letters)	5.0	2.3‰	1.4‰	1.7‰	
QSI5	Priority mail not delivered within 10 working days (per one thousand letters)	3.0	2.5‰	1.5‰	1.3‰	
IQS6	Transit time for newspapers and periodicals (D+3)	11.0	95.5%	96.3%	98.6%	
QSI7	Transit time for Intra-community cross-border (D+3)	3.5	85.0%	88.0%	(i)	
QSI8	Transit time for Intra-community cross-border mail (D+5)	3.5	95.0%	97.0%	(i)	
QSI9	Transit time for non-priority parcels (D+3)	5.0	90.5%	92.0%	93.9%	
QSI10	Waiting time at post establishments (% of waiting time up to 10 minutes)	5.0	75.0%	85.0%	90.6%	
GI – INDICATOR OF OVERALL QUALITY OF SERVICE (b)		N/A	N/A	N/A	185	

Source: (a) CTT, (b) ICP-ANACOM Calculation.

Notes: D+X, means delivery up to X working day(s) after the deposit of the items at the mail reception point.

(i) Annual value corresponding to the average of November 2007 to October 2008.

RI – relative importance.

Min. – Minimum value.

Obj. – Target value.

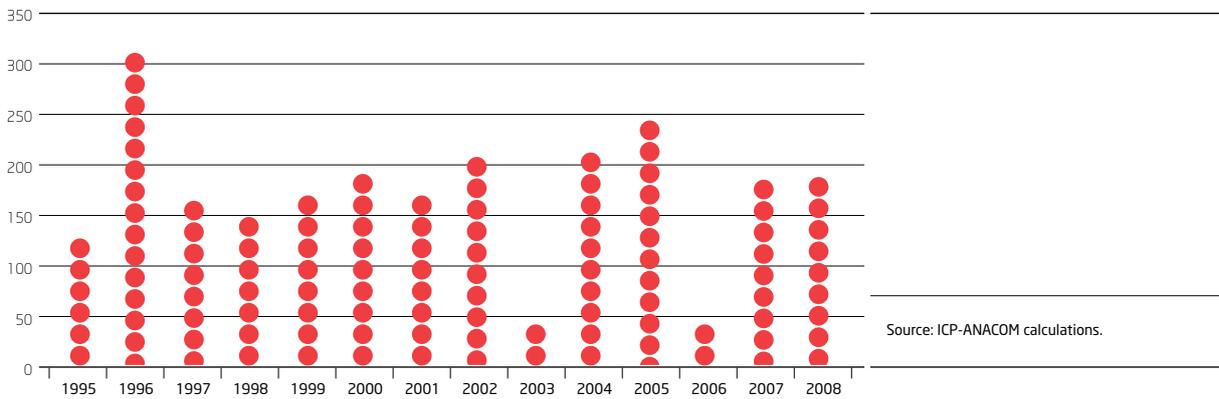
N/A – Not applicable.

It is noted that, even without the deduction of records of priority mail and deliveries, the conclusions would be the same, e.g. the QSIs would achieve their target value with the exception of QSI4, which would remain above the minimum value, and the GI would remain above 100.

Looking at Graph 40, it can be seen that the GI has positive values from 1997 to 2005, which trend was interrupted in 2003 and 2006 when the value dipped below 100 points.

Global Indicator of Quality of Service (GI)

Graph 40.



Note: Given that the value of the GI results from the individual values of the QSIs, comparison of the evolution of the GI should be calculated while taking account of the alterations made at the level of QSIs for each year and in terms of the methodology of their calculation

Paragraph 7 of article 8 of the Basic Law states that “the regulator will monitor, independently of the universal service provider, the levels of quality of service actually provided, with the results set out in a report published at least once a year”.

In this context, by determination of 17 December 2008, approval was given to the report on the results of the monitoring carried out by ICP-ANACOM on the levels of quality of service offered by CTT in 2005, in which it was concluded that:

- i. The recalculation of QSI1, QSI2, QSI4 and QSI5 corresponded to the value notified by CTT to ICP-ANACOM, whereas for QSI3 an insignificant difference was achieved relatively to the value notified by CTT to ICP-ANACOM;
- ii. As regards QSI6, QSI 9 and QSI10, no situations have been found that question the validity of values notified by CTT to ICP-ANACOM.

iii. QSI7 and QSI8 were not monitored, as basic information for calculation is available only from the International Post Corporation, since the calculation of transit time for Intra-community Cross-border Mail is carried out using the UNEX independent measurement system (Unipost external monitoring system).

By determination of 13 November 2008, approval was given to the publication of reports relating to the results of the monitoring of the quality system of the Universal Postal Service offered by CTT in the years 2006 and 2007, following the audit conducted of the QSIs and the company’s complaints system, in which it was concluded that:

- i. The validity of the values of QSI reported by CTT to ICP-ANACOM is assured, subject to the limitations identified in terms of the sample, points of improvement of the monitoring system and the values of IQS7 and IQS8 being calculated based on transit time for international mail calculated by the UNEX independent measurement system;

ii. There was no possibility of assuring the validity of the indicators on complaints reported by CTT to ICP-ANACOM, given that the procedures for classification and statistical processing of complaints revealed limitations with respect to the validation of their reliability.

Following the audit regarding the years 2006 and 2007, ICP-ANACOM issued several determinations and recommendations with a view to improving the quality of service and the complaints system of CTT, reiterating, at the same time, those issued in previous years.

Network of postal establishments

According to paragraph 3 of clause 20 of the Concession, the concessionaire has powers to open and close postal establishments and to alter the opening hours of postal establishments, taking into account the needs of the service and levels of demand.

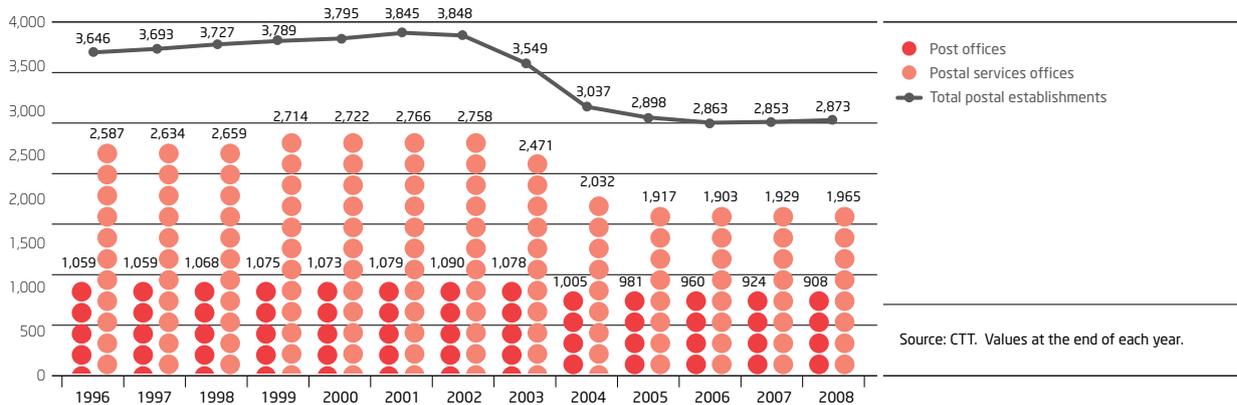
CTT is only obliged to inform ICP-ANACOM of the decisions taken on this matter, and in cases of closure and reduction of opening hours of post offices³¹, to give basis to their decisions in terms of need of service, levels of demand and the satisfaction of the communication needs of the population and economic activities.

In this context, it is noted that, in 2008, 15 notifications of post office closures were received, all replaced by postal service offices, and six reports of reduction of post office opening hours.

In 2008 a slight increase was seen in the total number of postal establishments, reversing the falling trend in place since 2002, although levelling off since 2005. This increase in the total number of establishments is due to the increased number of postal service offices, which more than offset the reduction in the number of post offices, which continues its downward trend (see Graph 41).

Number of postal establishments

Graph 41.



³¹ According to CTT, postal service offices are establishments operated by third parties, in accordance with a contract, with all such establishments providing the postal services included in the US.

● 3.2 Liberalization of postal services

Following the various phases of gradual liberalization of the sector, postal services became subject to Directive 2008/06/EC of 20 February. This Directive stipulates full market liberalisation no later than 31 December 2010, with the possibility of eleven Member States (Czech Republic, Greece, Cyprus, Latvia, Lithuania, Luxembourg, Malta, Poland, Romania and Slovakia) of delaying full liberalization of the market for a maximum of a further two years, and the inclusion of a temporary reciprocity clause applying to Member States which make use of this transition period. These eleven Member States confirmed their intention to use this derogation

The same Directive maintains the scope of the US and continues to require that Member States ensure a high quality US, including at least one delivery and one collection each working day of the week for all EU citizens.

Consumer protection was also strengthened, including through the application of minimum principles concerning complaint procedures to be followed by all postal operators and not just US providers and the possibility of Member States ensuring conditions of transparent and non discriminatory access to infrastructure and services, such as post office boxes, the postcode system and services providing redirection and return to sender.

The obligation to guarantee affordable prices for services that are part of the US is maintained, as is the possibility of

Member States imposing a uniform tariff for certain types of items, such as mail sent by individuals, whereas the imposition of a uniform tariff is now dependent on the public interest.

The new Directive also sets out that the guarantee of US shall be provided through the *ex-ante* designation of one or more providers of US, for the entire (or part of) the national territory and for its various components.

Where it is necessary to cover a share of the net costs of providing the US, Member States will have to choose from a range of options including, for example, state aid, public procurement, a compensation fund with contributions from the various market participants, with each Member State deciding which model best fits their requirements.

The new Directive also presents a description providing an indication of the methodology to be used for assessing the net cost of the US, taking both the costs and the direct and indirect benefits, including tangible and intangible benefits, of its provision into consideration.

It will also be necessary to adapt the national legislative framework to the new Directive by 31 December 2010, with ICP-ANACOM due to begin this task in 2009.

● 3.3 Studies conducted

In the context of the activity that ICP-ANACOM undertakes as a regulator of the postal communications sector and in order to improve knowledge about the market and the sector situation in Portugal compared to other EU countries, two studies were conducted during 2008, as detailed below.

Comparisons of prices of providers of the Universal Postal Service in the European Union (EU)

Given the lack of current public comparisons among European Union countries of prices of postal services, ICP-ANACOM undertook this study to make a systematic and current comparison between a broad range of postal services provided under the universal service by the respective operators of the Member States of the European Union. The comparison of prices is performed using direct exchange rates and purchasing power parity (PPP).

The study was published on the website site of ICP-ANACOM in October 2008, with the following key conclusions:

- a) National priority mail (“correio azul”) up to 20 grams – the price in Portugal is 2.0 percent and 0.3 percent below the EU27 average (excluding Portugal) compared with or without PPP, respectively;
- b) National non-priority mail (“correio normal”) up to 20 grams – the price in Portugal is 30.5 percent and 29.5 percent below the EU27 average (excluding Portugal) compared with or without PPP, respectively. Note that this service is available in only about half of the countries surveyed;

- c) National Orders up to 2 kg – the price in Portugal is below the average for the EU27 (excluding Portugal), with a deviation of around 14.6 percent in the case of a direct comparison and 2.5 percent when measured using PPP.

Study on the corporate consumption of postal services

Taking into account that companies are the major originators of postal traffic, a study was made on the corporate consumption of postal services. The results of the study were presented publicly and published on ICP-ANACOM’s website in May 2008. This study, organised by ICP-ANACOM and awarded to the consultancy firm KPMG Advisory, was based on a quantitative survey conducted using a sample of 1,119 companies and a qualitative survey based on interviews with the leading senders of post.

Among the main conclusions of the study, the following are key: i) a view that the use of postal services will be maintained or grow; ii) for companies price is not the most relevant of criteria in the selection of an operator; iii) the vast majority of Portuguese companies are in favour of liberalisation, despite a lack of awareness about the gradual liberalisation process; and iv) CTT continues to lead in all services in the corporate sector.

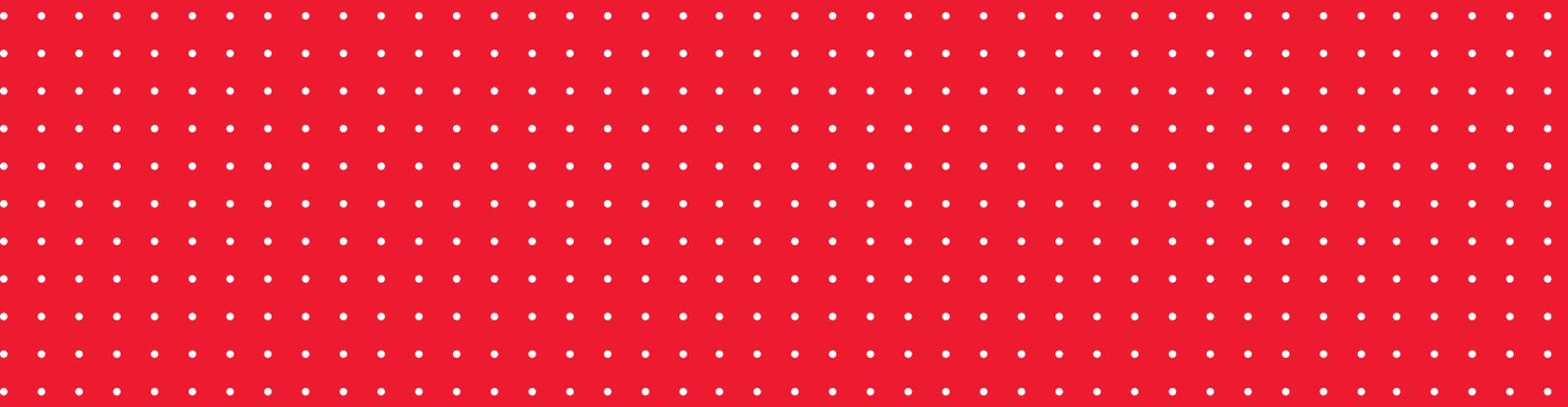
• 3.4 Other issues

As mentioned with regard to electronic communications, by determination of 21 May 2008, ICP-ANACOM adopted an analysis of the impact, also with regard to postal services, of the amendment of Law number 23/96 of 26 July (Essential Public Services Law) by the Law number 12/2008 of 26 February.

The main changes arising from this Law are detailed in Section Analysis of the impact of the amendment of Essential Public Services Law”.

04.

Supervision, Monitoring and Penalties



• 4.1 Cost audits

Regulatory cost accounting of PTC

With respect to the audits on the regulatory costing of PTC, the Authority contracted two specific studies in this area during 2008, related to the definition of PTC's cost of capital and the analysis of the issue of the costs of "curtailment".

Regulatory cost accounting of mobile operators

ICP-ANACOM actively participated in the discussions which took place in 2008, at a European level and particularly within the Independent Regulators Group (IRG), regarding the costing models to be considered for assessing the cost of mobile termination and which culminated in the publication of an EC recommendation in 2009. This has led to the creation of conditions which will allow the study and implementation of the appropriate system in Portugal to advance this year on a more consolidated basis.

Analytical accounting system (AAS) of CTT

CTT is required to maintain, as set out in Article 19 of the Basic Law for Postal Services and in clause 13 of the Concession, an analytical accounting system that allows the costs associated with each service to be determined. The maintenance of this system is also designed to ensure that the principle of cost orientation of prices is followed (paragraph 3 of article 2 of the Price Convention).

In this context, an audit was carried out in 2008, along with a consultation regarding the examination of results of the 2005 and 2007 AAS of CTT, whereby ICP-ANACOM passed a determination in early 2009 on the respective findings and declarations of conformity of the system and the results obtained.

Also in 2008, by determination of 8 October 2008, ICP-ANACOM contracted the audit of the 2007 results of CTT's AAS. This audit began in 2008, whereas the conclusion and determination of ICP-ANACOM on the respective findings and the declaration of conformity is expected during 2009.

• 4.2 Supervision and monitoring

Communications market

Maintaining the procedures adopted in previous years and considering the strategic guidelines of ICP-ANACOM, several enforcement and investigative measures were taken with a view to strengthening open and competitive markets. These measures focused specifically on: (i) the detection of abnormal situations in respect of pre-selection and portability; (ii) an investigation into possible irregularities in the acquisition or recovery of customers; (iii) the resolution of constraints in exchanges with respect to the RUO; (iv) the appropriate provision of voice mail functions; and (v) investigation into delays in customer service response times.

The Activities Report describes the set of actions pursued in detail, with regard to:

- The verification of compliance of retail offers with the obligations applicable in terms of transparency, non discrimination and cost orientation of prices, prices applicable to non-geographic numbers/services in respect of per-second billing according to the conditions of use of GSM frequencies for the provision of the FTS;
- The verification of legal authorisation for the provision of electronic communications services (including payphones and virtual calling cards) and postal services, and compliance with Complaint Book Rules.

Equipment market

Decree-Law number 192/2000 of 18 August (transposing Directive 1999/5/EC of 9 March 1999) establishes the regulatory framework for the placing on the market, free movement and putting into service in the national territory of radio and telecommunications terminal equipment (R&TTE).

ICP-ANACOM is responsible for monitoring compliance with this regime and for taking action when non-conformities are detected. In this respect 66 cases were submitted to litigation.

● 4.3. Penalties

Starting in September 2008, ICP-ANACOM participated in a European surveillance campaign of the radio and telecommunications equipment market, together with several of its counterparts from other European countries. This campaign was conducted as part of the administrative surveillance and cooperation activities pursuant to Directive 1999/05/EC, to raise awareness about the requirements of the Directive among consumers and among those responsible for placing such equipment on the market.

Telecommunications infrastructure in buildings – ITED

During 2008, 25 new ITED certifying entities were registered and the registration of six entities was revoked, with a total of 171 certifying entities existing as of the end of the year.

In terms of enforcing the ITED regime, 446 enforcement actions were conducted in the context of several cases.

It should be mentioned that during 2008, the SGITED – Sistema de Gestão das Instalações de Infra-estruturas de Telecomunicações em Edifícios (Telecommunications Infrastructure in Buildings Installation Management System) entered operation. This computer application was introduced in order to automate and streamline all ITED related processes, enabling ICP-ANACOM and the various stakeholders (including certifying entities, ITED training entities, ITED technicians, development owners and/or consumers) to obtain significant gains in efficiency.

In 2008, legal action was brought in 139 cases in respect of offences, arising from violations under the LEC and other legislation. This Authority's Activities Report describes all the activity in this area in more detail.

About 40 percent of the total number of cases were brought as a result of violation of the LEC, mostly in respect of failure to provide information to the NRA.

It should be noted that among the cases brought in respect of offences under other legislation, 10 were associated with postal services and were brought in respect of failures to comply with the obligation to provide ICP-ANACOM with the information necessary to verify and enforce the obligations and conditions inherent to the respective licenses or authorisations, 139 were associated with the private use land mobile service (of which 32 related to the unlicensed use of a radio network).

• 4.4 Legal administrative actions

There continued to be a high level of litigation as evidenced in the following table.

Cases initiated in 2008 and processes carried forward

Table 15.

2008 Proceedings	
Precautionary procedure	7 (suspension of validity)
Special administrative action	12
Joint administrative action	2
Total	21
Cases carried forward	
Precautionary procedure	4 (suspension of validity)
Special administrative action	24
Action for annulment	9
Declaratory action with ordinary procedure	2
Action to enforce a right (tax)	2
Action of the state liability	1
Common admin. proc common – employment law	1
Total	43

Among the precautionary procedures presented 2008, note is made of the requests for suspension of validity (i) of the determination regarding the methodology for evaluation of margin squeeze in the broadband offers of Grupo PT (dismissed without need to adjudicate, in light of the determination of ICP-ANACOM of 26 June 2008 regarding the special administrative action), (ii) the requirement that TMN present the MVNO contract with CTT (definitively dismissed, upholding the pending special administrative action), (iii) the determination on the specification of the control of mobile termination rates (brought by two mobile operators and dismissed, with respective special administrative actions pending), (iv) the DTT public tender – multiplexers B to F (dismissed due to definitive sentence already passed, with the authors abandoning the corresponding special administrative action following notification of the judgement handed down in precautionary

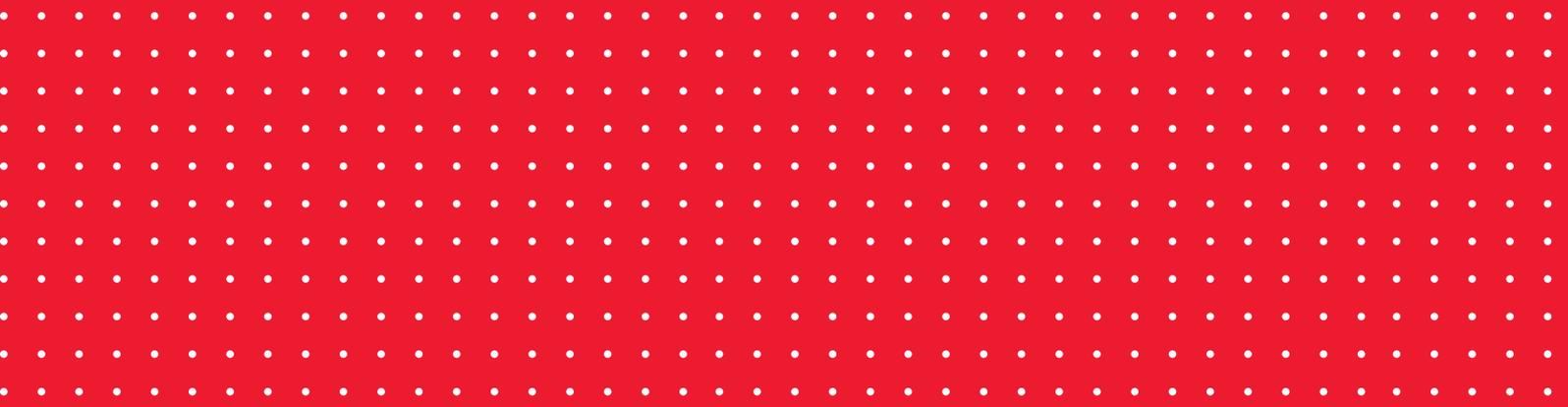
procedure) and finally, (v) the two applications for suspension of validity brought by TMN in connection with the allocation of usage rights in the 450 MHz band, which issue is under discussion in respect of six special administrative actions.

The decision of 30 January 2008 on the net costs of the universal service provision was also the object of a special administrative action brought by the USP.

It should be noted that with respect to the proceedings carried forward and closed in 2008, in no case were the applications filed by the authors upheld, noting however, that the increased level of litigation has made it necessary to add to the provision for current legal proceedings, which now amounts to an accumulated total of about 50 million euros.

05.

**International
Participation**



• 5.1 European Union (EU)

As part of its remit of adviser to the Government, ICP-ANACOM cooperated with the Tutelage, particularly in following the Working Groups and Committees encompassed by the regulatory framework dedicated to electronic communications and postal affairs.

Council

In 2008 ICP-ANACOM provided support to the government in negotiations in the Transport, Telecommunications and Energy Council (TTE). Of particular note in this regard were the following issues which impacted the activities of regulation and spectrum management more directly:

- **Review of the Regulatory Framework for Electronic Communications:** adoption of political agreement on proposals for the review of the regulatory framework;
- **Mobile Satellite Services (MSS):** adoption of Decision number 626/2008/EC which established, at European level, a common procedure for selection of MSS operators;
- **International Roaming:** adoption by November TTE Council of a general guideline on the Regulation on the Review of the Roaming Regulation, with the aim of extending the term of voice regulation, introducing regulation of SMS and data services and increasing transparency measures. The revised regulation was adopted in 2009, entering into force on 1 July of this year;
- **Digital Dividend:** adoption of Council conclusions on the Commission Communication on the matter.

Community Committees and Groups

In respect of its remit, ICP-ANACOM also participated actively in the activities of comitology bodies provided for in the community framework, particularly in the following instances more focused on the implementation of EU policies and regulation of the markets and the radio spectrum: the Communications Committee (COCOM), the Radio Spectrum Committee (RSC) and the Postal Directive Committee.

Communications Committee

In 2008 there were five meetings of COCOM, with ICP-ANACOM present and providing national representation and active participation in the discussions which took place. It is noted that in this Committee, established by the Framework Directive, there are four working groups, namely: the Expert Group on Emergency Access (EGEA), the Working Group on Authorisations and Rights of Use (AUTH), the Inclusive Communications Group (INCOM) and the Communications Broadcast Issues Sub-group (CBISS), which have the mission of carrying out studies to support the preparation of documents that are submitted to COCOM. Additionally a sub-group was established for the period of one year to examine the process of selecting applicants for pan-European MSS systems, in the framework of Decision 26/2008/EC cited above.

During this period, the following were adopted: (i) a Recommendation on the authorization of mobile communications services on board aircraft (MCA services) in the European Community, (ii) the Recommendation on the non-technical conditions attached to the rights of use for radio frequencies under the regulatory framework for electronic communications in the context of the Wireless Access Policy for Electronic Communications (WAPECS), (iii) the Recommendation on procedures associated with the notifications, time limits and consultations undertaken pursuant to article 7 of the Framework Directive; and (iv) the Report on the broadband.

The EC Recommendations on regulated access to NGN and harmonized regulation of termination rates in the EU were also addressed.

Radio Spectrum Committee (RSC)

In 2008 note should be made of the involvement of the RSC (Committee established by Decision number 676/2002/EC of 7 March 2002) in the approval processes of the following EC decisions:

- Decision 2008/294/EC of 7 April on the harmonized conditions of use of the spectrum for the operation of mobile communications services on board aircraft (MCA) in

the Community, in order to avoid interference to land mobile systems;

- Decision 2008/411/EC of 21 May on the harmonization of the 3400-3800 MHz bands for terrestrial systems capable of providing pan-European electronic communications in the Community (BWA);
- Decision 2008/432/EC of 23 May, amending Decision 2006/771/EC on the harmonization of radio frequencies for use by short-range and low-power equipment;
- Decision 2008/477/EC of 13 June on the harmonization of the 2500-2690 MHz bands for terrestrial systems capable of providing pan-European electronic communications in the Community;
- Decision 2008/671/EC of 5 August on the harmonised use of radio spectrum in the 5875 – 5905 MHz frequency band for safety applications in the area of smart vehicle communications (ITS – Intelligent Transport Systems);
- Decision 2008/673/EC of 13 August amending Decision 2005/928/EC on the harmonization of the 169.4-169.8125 MHz frequency band (ex-ERMES³²) in the Community.

Note should also be made of the adoption of the following four mandates for the European Conference of Postal and Telecommunications Administrations (CEPT):

SRR (Short range radar) – detailed review of the conditions/requirements for operation of SRR (at 24 GHz and 79 GHz, with the possibility of identifying additional spectrum);

- UWB (Ultra-wide band technologies) – mandate to identify the technical and operational conditions related to the harmonised introduction in the EU of UWB-based applications;
- MCV (Mobile Communications on Vessels) – mandate to identify the technical and operational conditions necessary to ensure the absence of harmful interference

in radio services operating in the 900 MHz and 1800 MHz frequency range, in the territorial waters of Member States;

- Digital Dividend – mandate to conduct the necessary technical studies aimed at defining not only the optimal technical conditions for the use of the 790-862 MHz sub-band by fixed/mobile electronic communications, but also by other potential networks or services, taking into account the coexistence of existing services, including the broadcasting service;

Radio Spectrum Policy Group (RSPG)

In 2008 three opinions were adopted by the RSPG (group established by Decision 2002/622/EC of 26 July 2002) on the following subjects: (i) streamlining the regulatory environment for the use of spectrum; (ii) aspects of a European approach to collective spectrum use (CSU); and (iii) coordination of frequencies with countries outside the European Union.

European Regulators Group (ERG)

During 2008, the ERG (established by Decision 2002/627/EC of 29 July 2002) continued, in general, the content of its work programme, noting, in particular, its involvement and participation in the discussion of legislative proposals on the review of the new regulatory framework and work undertaken regarding the application and revision of the Roaming Regulation.

The ERG proposed its own development as a guarantee of the consistent application of the regulatory framework, particularly in relation to article 7 of the Framework Directive and drew up the following documents:

- Common Position on Best Practice in Remedies Imposed as a Consequence of a Position of Significant Market Power in the Relevant Markets for Wholesale Leased Lines;
- Common Position on symmetry of fixed call termination rates and symmetry of mobile call termination rates;

³² European Radio Messaging System.

- Common position on Geographic Aspects of Market Analysis.

The ERG assumed a leadership role in monitoring the implementation of the Roaming Regulation, publishing two reports with statistical data on the regulation's implementation. The Group also participated in the revision of Regulation, responding to an EC public consultation.

In 2008, five reports were approved, focusing on: (i) Monitoring of Conformity with Common Positions: Lessons Learned from Broadband Questionnaires and Next Steps; (ii) wholesale broadband access and wholesale local access; (iii) Best Practices on Regulatory Regimes in Wholesale Unbundled Access and Bitstream Access; (iv) Guidance on the Application of the Three Criteria Test; (v) Broadband Retail Prices Methodology.

Meanwhile the report on regulatory cost accounting was updated and there was monitoring of the cases of the opening of phase II by the EC pursuant Article 7 of the Framework Directive of the European Union.

Joint Group of ERG and RSPG

As a result of the Plenary held in Vilnius (29 and 30 May 2008), the Presidencies of European Regulators Group, ERG and Radio Spectrum Policy Group, RSPG taking into account the overlap of the two groups with respect to spectrum and competition issues, agreed on the development of a

plan for future cooperation. This plan would be realised through the creation of a joint working group to examine issues of common interest in the context of spectrum regulation, particularly the relationship between competition and the new spectrum management.

ICP-ANACOM monitors the work of this group, which focuses on the following broad areas: issues concerning the transition to the new spectrum management system, market definition and analysis of dominance in spectrum trading.

Postal Directive Committee

The Postal Directive Committee (established by Directive 97/67/EC) met twice in 2008, with note made of the analysis of issues concerning the implementation of the Postal Directive, the preparation and accompaniment of the Congress of the Universal Postal Union (UPU) and the preparation of the postal agenda for 2009.

With respect to the working group established by the Postal Directive Committee in April 2008 to monitor the issues related to the transposition of the Postal Directive 2008/06/EC of 20 February 2008, ICP-ANACOM participated in two meetings where there was discussion on safeguarding the Universal Postal Service and discussion on barriers to competition and ways to overcome them.

• 5.2 Independent Regulators Group (IRG)

The IRG, which in 2008 changed its legal status to an association under Belgian private law, brings together the NRAs of the electronic communications sectors of the 27 Member States of the European Union, of the European Economic Area countries (Switzerland, Iceland, Liechtenstein and Norway) and EU candidate countries (Croatia and Turkey) and Macedonia, as an observer member.

ICP-ANACOM was present at all Plenary sessions, also participating in an operational middle group with representatives of each NRA, contributing additionally to the compilation and disclosure of information between the different NRAs. In 2008, on its own initiative, it launched 8 questionnaires and responded to another 123 launched on initiative of other NRAs.

During 2008, apart from participation in plenary meetings and Contacts Network meetings, ICP-ANACOM gave priority to its presence and participation in the following project teams: Review of Regulatory Framework (where it participated as reporter), Mobile Termination Rates, Convergence, SMP, End-users, IRGIS (IRG information system), Benchmark, Roaming and Regulatory Accounting, presiding over two project teams (End-users and IRGIS).

It should be noted that the work of the ERG is carried out in close cooperation with the IRG with the projects developed by joint working groups.

• 5.3 International Telecommunication Union (ITU)

ICP-ANACOM participates in the study committees of the T and R sectors, noting in particular the direct impact of recommendations made on the management of the NNP in the context of the first sector, especially regarding conditions of service operation, numbering and addressing and quality of service and network interoperability, while in the R sector the recommendations on radio are particularly relevant.

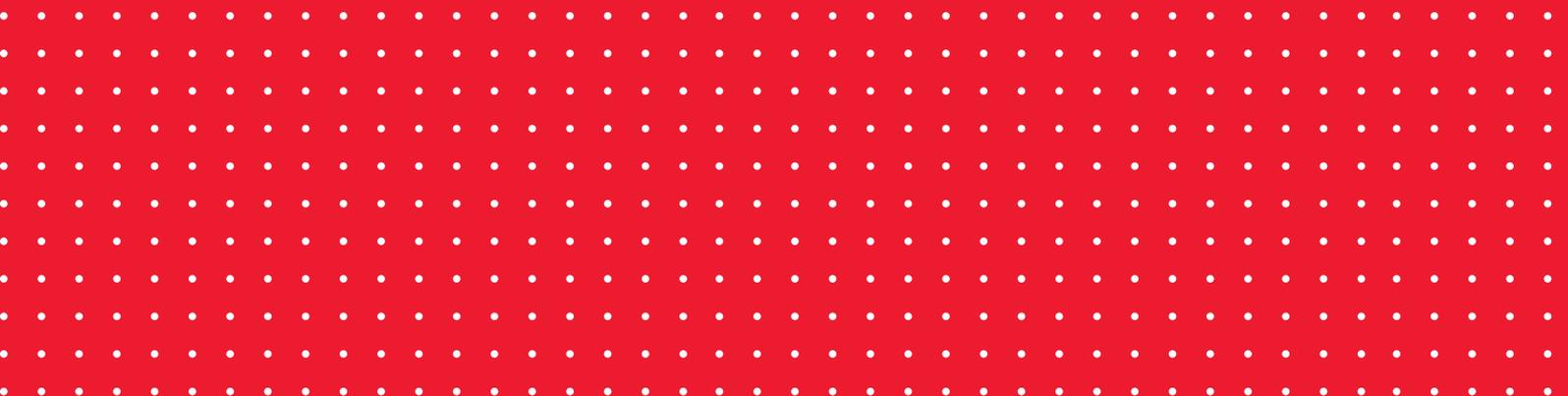
- **5.4 Universal Postal Union (UPU)**
- **5.5. European Conference of Postal and Telecommunications Administrations (CEPT)**

In the context of its participation in the UPU, in 2008 ICP-ANACOM was included in the Portuguese delegation to the 24th UPU Congress held in Geneva from 23 July to 12 August. The Congress is the highest body of this United Nations specialist agency for the postal sector, bringing together plenipotentiaries from all its member countries every four years. From the results of the Congress, regarding matters of regulatory impact, note is made of the review of the global system of terminal dues for international postal communications.

With respect to the CEPT, which is essentially an organization of technical harmonization, ICP-ANACOM participated in the Electronic Communications Committee (ECC), in the European Committee for Postal Regulation (CERP) and in several working groups associated, in particular, with frequency management and spectrum engineering and numbering, addressing and interconnection, contributing to the preparation of decisions with regulatory relevance.

06.

Final Considerations



At the end of the 2007 Regulation Report, three challenges were highlighted: the so called “2006 review” and the ensuing regulatory “back and forth” between National Regulatory Authorities and the European Commission – the “spreading of broadband” – with particular emphasis on mobile broadband in Portugal- and the “search for efficiency in the regulatory activity and its connection with the clear increase of dispute cases.”

The most visible note from 2008 is the confirmation that these challenges continue to be faced and, perhaps, have even grown in importance, while revealing new outlines and even new frameworks resulting from developments that have occurred in the meantime.

Indeed, the “2006 Review” is dragging on, and in 2008, despite all the work done both within the framework of the European Commission, European Parliament and even the Council of Ministers, and in the NRAs of various countries, and particularly in the European Regulators Group (ERG), many of the most controversial issues of the new Regulatory Framework that the Review is shaping – not the least of which is the suggestion of an (almost?) – European regulator – remain without conclusion, despite clear progress having been made.

This prolongation of the discussions has meant the increased allocation of resources and especially of time, by ICP-ANACOM, which has always sought to maintain any active presence in all scenarios that have any impact on the implementation of decisions relevant to the final definition of the new regulatory framework.

This continued presence is subsequent to the diagnosis already made in the 2007 Regulation Report, which noted that “it is undeniable that the decisions at the European level will growingly condition national regulatory decisions. ICP-ANACOM’s presence and role intensified during 2007, as could not happen otherwise, and will not slow down in 2008.”

If something needs to be added to what was said at that time it is that this view has expanded over time, confirming

that in 2009 the trend will not reverse but will be strengthened.

Awareness of this fact (and to heighten this awareness, it is enough to remember that the refarming of the 900 MHz band has been delayed due to the absence of European decision) suggests, if it does not require, that the organization of this Regulation Report will see changes in the near future, since an integrated vision of national regulatory challenges and responses is not possible outside the European Regulatory Framework, which is incompatible with the reference to the activities of ICP-ANACOM in respect of the European groups (IRG/ERG) – in addition to the expected evolution of the role of these groups – and increasingly in the RSPG, as a mere international participation.

That is, these activities are becoming less a separate item on ICP-ANACOM’s agenda and, increasingly, a determinant of that agenda.

On the second of the challenges mentioned above – the spread of broadband – in 2008 the problem not only deepened but expanded, acquiring new outlines, which resulted in particular from the recognition of the separation of ZON from PT, with a profound impact on the analysis of the relevant markets for broadband, and the advent of the deployment of next generation access networks. These developments, while extending the scope of broadband, exacerbate the problem of convergence – and the regulatory challenges it poses – given the constant development of mobile broadband offers, with some threat of a slowdown in Portugal, not due to any lack of demand, but rather the improvement of conditions for 3G coverage, which would clearly be helped by the completion of refarming.

Finally, the third point raised – increasing regulatory effectiveness and the increase in litigation – saw no major slowdown in 2008, starting to take on new outlines that are in some ways a “response” to an observation made in the 2007 Regulation Report that “the search for competition in the electronic communications markets depends not only on appropriate regulation, but more on the guarantee that the

established rules are followed in good faith by all market participants, which has not always happened.” In fact certain operators have started to go beyond contesting mainly regulatory decisions, arguing that the strengthening of competition, as well as the other objectives of regulation, may be jeopardized, not by existing decisions, but by failures to guarantee compliance with existing rules.

In some way, and using a language in line with the issues of regulation that the financial crisis (economic and social) has raised, some market players argue for a need for greater supervision of compliance with existing rules rather than for changes to these rules.

If we add another voice to this clamour – that of the end-users of communications, whether electronic or postal, who, from a more restricted regulatory point of view, should be better accommodated from a perspective of regulation of behaviour (*ex-post*), but who, increasingly, is addressing ICP-ANACOM (and, more generally, the NRAs, with the European Commission assuming a catalytic role in respect of these requirements) we better understand how regulatory activity cannot be confined to an area limited by a rigid boundary within which there is only typical *ex-ante* regulatory action.

This is the fundamental reason that justifies the presence in this report of multiple actions of ICP-ANACOM in areas such as network security, the technical aspects of installation and maintenance of networks, consumer protection, supervision, litigation and the sanctioning of non-compliance.

This undoing of the rigid boundaries of “classic” *ex-ante* regulation was very evident in 2008 and, without much doubt, points to a new path which demands particular care in the years ahead.

Two pressing situations in 2008 contributed significantly to this undoing: the role of the spectrum in the regulation and the effect of autonomous policy decisions on regulatory action over the short and long term.

As far as the spectrum is concerned, it appears increasingly clear that growing convergence will not “accept” a consistent

regulatory approach that disconnects spectrum management and, particularly spectrum allocation from the most relevant decisions of regulation: the digital dividend, mobile TV and mobile broadband, in all its aspects, are claiming their regulatory share.

Meanwhile, political agendas and schedules (whose legitimacy can never be questioned) sometimes interfere with the agenda of regulators and the planning of previously outlined work. In 2008, this was particularly visible in the launch of so-called e-initiatives (which, essentially, ended up promoting mobile broadband) and in the decisions of the Council of Ministers in the context of promoting investment in next generation access networks – NGA, which in practice ended up focusing on the development of fibre optic networks, which vision is certainly restrictive when measured against a truly broad and technologically neutral concept embodied by next generation access.

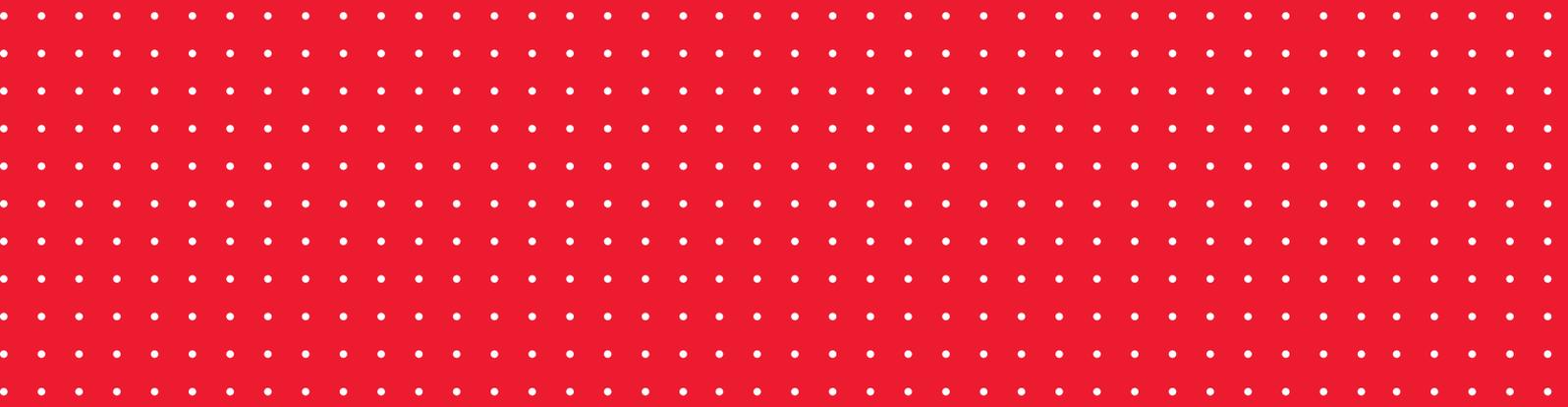
The natural requirement for participation in actions arising from the implementation of these policies creates new operational responsibilities for ICP-ANACOM, requiring a doubling of efforts: compatibility with the regulatory requirements that the NRA cannot and should not allow to be violated under any circumstances and the allocation of human resources with expertise in areas that blend with the regulatory expertise, putting pressure on the specific regulatory agenda, which requires, and naturally obliges, the adjustment of the programmed schedule.

In 2009 it will be these developments, primarily focused on NGA, on the furtherance of convergence and the growing “merger” of the various regulatory approaches, that will shape the regulatory challenges of the future.

To deal with this, ICP-ANACOM must have sufficient flexibility to recognize, first of all, that is not enough just to do what has been done so far and do it better. It will probably need to do something different which may require differentiated standpoints. But it is still certainly necessary to seek to anticipate changes and, especially, respond to challenges, which must also be done with opportunity and determination.

07.

Annexs



• Annex I – List of acronyms and abbreviations

AAS	Analytical accounting system	MHz	Megahertz (unit of frequency equal to one million Hertz)
BMA	Building material analysis	MMS	Multimedia messaging service
BWA	Broadband wireless access	MSS	Mobile satellite services
CDMA	Code Division Multiple Access	MTS	Mobile trunking service
CSU	Collective spectrum use	MVNO	Mobile virtual network operator
DCS 1800	1800 MHz digital cellular system	Naked DSL	Wholesale offer of naked digital subscriber line
DD	ICP-ANACOM draft decision	NFAP	National Frequency Allocation Plan
DSLAM	Digital Subscriber Line Access Multiplexer	NGN	Next generation networks
DTT	Digital terrestrial television	NGA	Next generation access networks
DVB-H	Digital video broadcasting – handheld	NNP	National numbering plan
ERMES	European Radio Messaging System	NRA	National regulatory authority
FTS	Telephone service at a fixed location	OSP	Other service providers
FWA	Fixed radio access	Price	
GHz	Gigahertz (unit of frequency equal to one thousand million Hertz)	Convention	Universal Postal Service Price Convention
GPR/WPR	Ground and wall probing radar	PPP	Purchasing power parity
GSM	Global system for mobile communications	QSI	Quality of service indicators
GSM-R	GSM-Railway	Quality	
GI	Overall indicator of quality of service	Convention	Universal Postal Service Quality Convention
GPI	Geographical point of interconnection	RCAO	Reference conduit access offer
IP	Internet Protocol	RUO	Reference offer for local loop unbundling
ISDN	Integrated services digital network	RIO	Reference interconnection offer
ISP	Internet access service provider	R&TTE	Radio and telecommunications terminal equipment
ITED	Telecommunications infrastructure in buildings	SMP	Significant market power
ITS	Intelligent Transport Systems	SGITED	Management system for telecommunications infrastructure in buildings
Kbps	Kilobit per second (thousands of bits per second)	SRR	Short range radar
LEC	Law on Electronic Communications (Law number 5/2004 of 10 February)	MRWF	Municipal Rights of Way Fee
LLU	Local loop unbundling offer	TMDP	Municipal Fee for Rights of Way
LLRO	Leased lines reference offer	TTE	Transport, Telecommunications and Energy
Mbps	Megabit per second (millions of bits per second)	UMTS	Universal mobile telecommunications system
MCA	Mobile Communications on aircraft	UNEX	Unipost external monitoring system
MCV	Mobile Communications on Vessels	US	Universal service
		USP	Universal service provider

• Annex II - List of operators

UWB	Ultra-wide band technologies	Airplus	Airplus Television Portugal, S.A.
VoIP	Voice over Internet Protocol	AR Telecom	AR Telecom - Acessos e Rede de Telecomunicações, S.A.
WAPECS	Wireless Access Policy for Electronic Communications	Broadmédia	Broadmédia - Comunicações Globais, S.A.
WG	Working Group	CTT	CTT - Correios de Portugal, S.A.
WLRO	Wholesale line rental offer	Grupo PT	Grupo Portugal Telecom
WRC-07	World Radiocommunication Conference 2007	Novis	Novis Telecom, S.A.
		OniTelecom	OniTelecom - Infocomunicações, S.A.
		Optimus	Optimus - Telecomunicações, S.A.
		PTC	PT Comunicações, S.A.
		Radiomóvel	Radiomóvel – Telecomunicações, S.A.
		RNT	RNT - Rede Nacional de Telecomunicações, S.A.
		Sonaecom	Sonaecom - Serviços de Comunicações, S.A.
		Telemilénio	Telemilénio, Lda.
		TMN	TMN - Telecomunicações Móveis Nacionais, S.A.
		Vodafone	Vodafone Portugal - Comunicações Pessoais, S.A.
		ZON Multimédia	ZON Multimédia - Serviços de Telecomunicações e Multimédia, SGPS, S.A.
		ZON TV Cabo	ZON TV Cabo Portugal, S.A.
		WTS	WTS - Redes e Serviços de Telecomunicações, S.A.

• Annex III - List of other entities/ organisations

AdC	Autoridade da Concorrência (Competition Authority)
AUTH	Working Group on Authorisations and Rights of Use
CEPT	European Conference of Postal and Telecommunications Administrations
CERP	European Committee for Postal Regulation
COCOM	Communications Committee
EC	European Commission
ECC	Electronic Communications Committee
ECTA	European Competitive Telecommunications Association
EGEA	Expert Group on Emergency Access
EMGFA	Estado-Maior-General das Forças Armadas (Armed Forces General Staff)
ERC	Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media)
ERG	European Regulators Group
EU	European Union
ICP-ANACOM	ICP - Autoridade Nacional de Comunicações
INCOM	Inclusive Communications Group
IRG	Independent Regulators Group
ITU	International Telecommunication Union
RSC	Radio Spectrum Committee
RSPG	Radio Spectrum Policy Group
UPU	Universal Postal UNION

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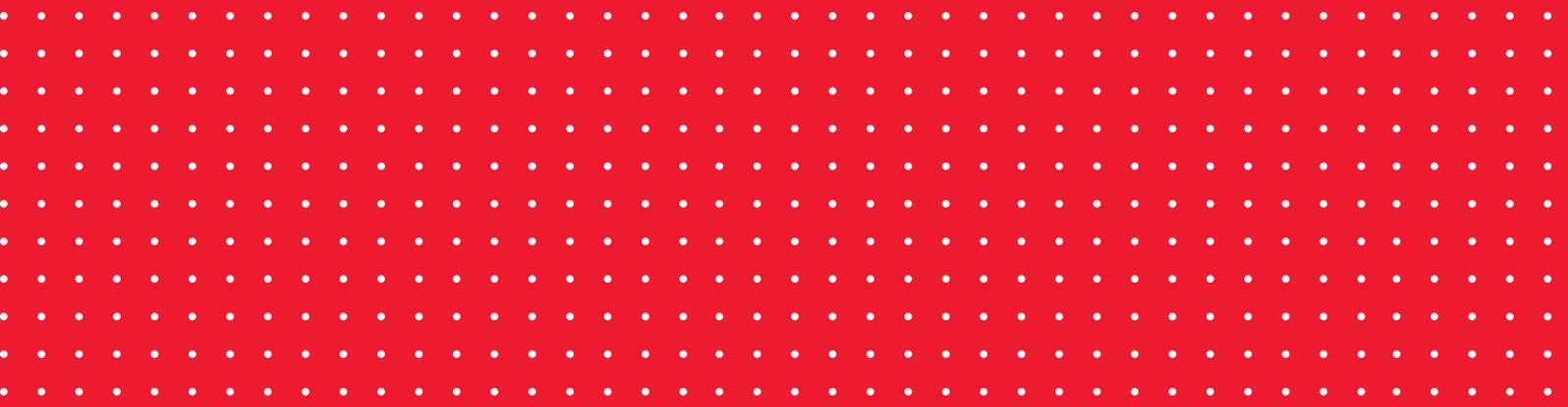
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Advisory Council



• Advisory council of ICP-ANACOM

I In general terms

The essential purpose of the Regulation Report is to provide information, in one integrated, systematic and comprehensive document, of all the regulatory measures approved or undertaken during the period being reported; Additionally it sets out the assessment of the Regulator with respect to the concrete effects produced by the regulatory measures put into execution, at least, in areas which are key to the regular functioning of the communications market, such as the development of infrastructure, diversity of offers, quality of service, pricing levels and markets accountability.

Evaluating the effects of measures on the functioning of markets is obviously a constant concern and permanent occupation of the Regulator. The publication of the underlying information, compiled and processed by the Regulator, not only facilitates the understanding of regulatory activity and the Report on this activity, it also encourages greater dialogue with those being regulated and contributes to a better understanding of the measures which have been taken. The view is taken that it constitutes an element which can make its own evolution predictable and, as such, enables the recipients to act in a more conscious and planned manner in the future.

The assessment of the effects of the various regulatory measures in the framework of the internal and external constraints at a practical level which prevent the production of the desired effects or distort these effects, and the recognition of the actual effects achieved, when authored by the regulator, is key to the certainty and credibility of the analysis, assuming thereby a nature of reliability as indicators for the market which could even lead to more appropriate behaviour by agents. This not does not involve an evaluation of the Regulator, but of the knowledge of the impact of the measures, with certainty and reliability, in order to correct deviant behaviour, remove barriers on the ground and, finally, define obligations (remedies) which are more effective.

Accordingly, the Advisory Board recommends that in future regulation reports this material be approached with regard to the regulatory measures implemented, thereby broadening the improvements that the reports have manifested year after year.

II In specific terms

Regarding the specific matters dealt with in the Regulation Report, the Advisory Board considers that the following observations should be brought to the attention of the Management Board:

1. Quantified information should be included in the results of specific actions of regulation and a review should be conducted of the wholesale offers launched and of mobile termination, taking the evolution of the market into consideration, in order to ensure current compatibility.
2. The delay is maintained in the development of action regarding the calculation of the cost of Universal Service (US), the definition of the concept of excessive burden and the respective rule governing the financing of costs. It is further noted that the transfer has not been completed of the Maritime Mobile Service (MMS), contrary to the provisions of DL 31/2003.
3. Furthermore, a lack of knowledge is noted on the part of market agents with regard to positions taken by ICP-ANACOM at international "fora" and meetings; this shortcoming requires correction, whereby it is suggested that the Management Board bestow all agents with periodic communications on this topic.

Lisbon, September 22, 2009

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