

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **FTS residential tariffs**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

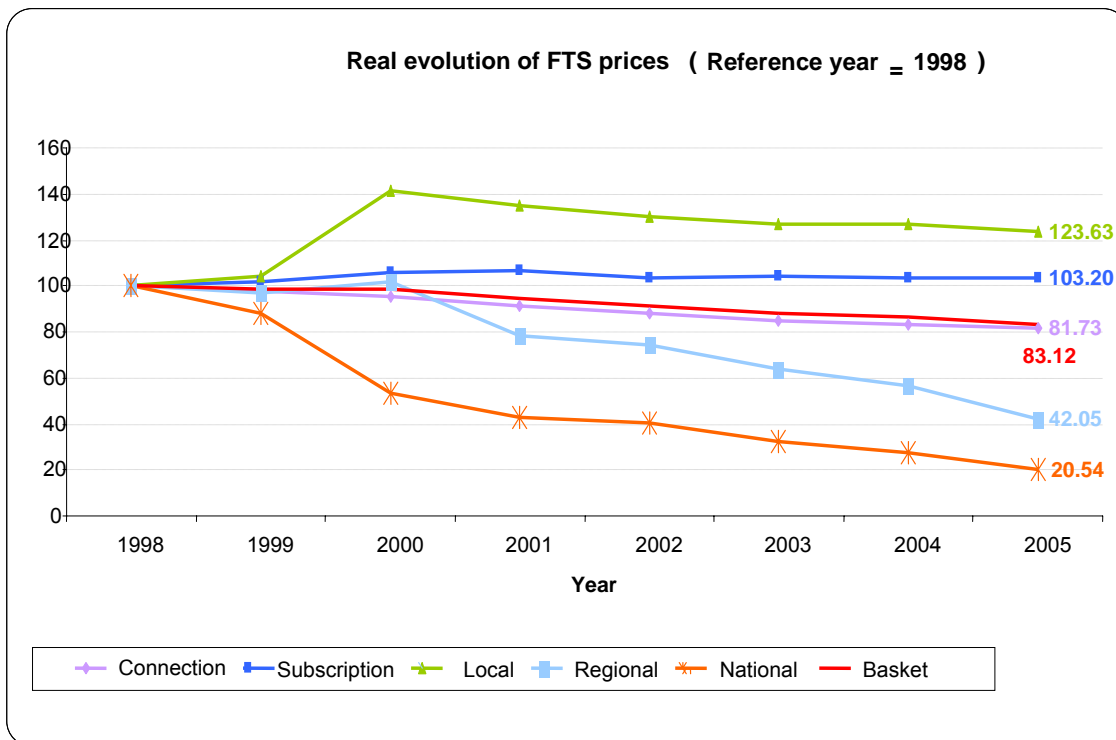
Countries	Price cap
Belgium	The cap that was set for 2004, CPI-3.0%, includes: the connection, the subscription, calls by residential clients and calls from public payphones.
Denmark	The maximum prices for basic services of voice telephony and universal service for the disabled in 2005 were those of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

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

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

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

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

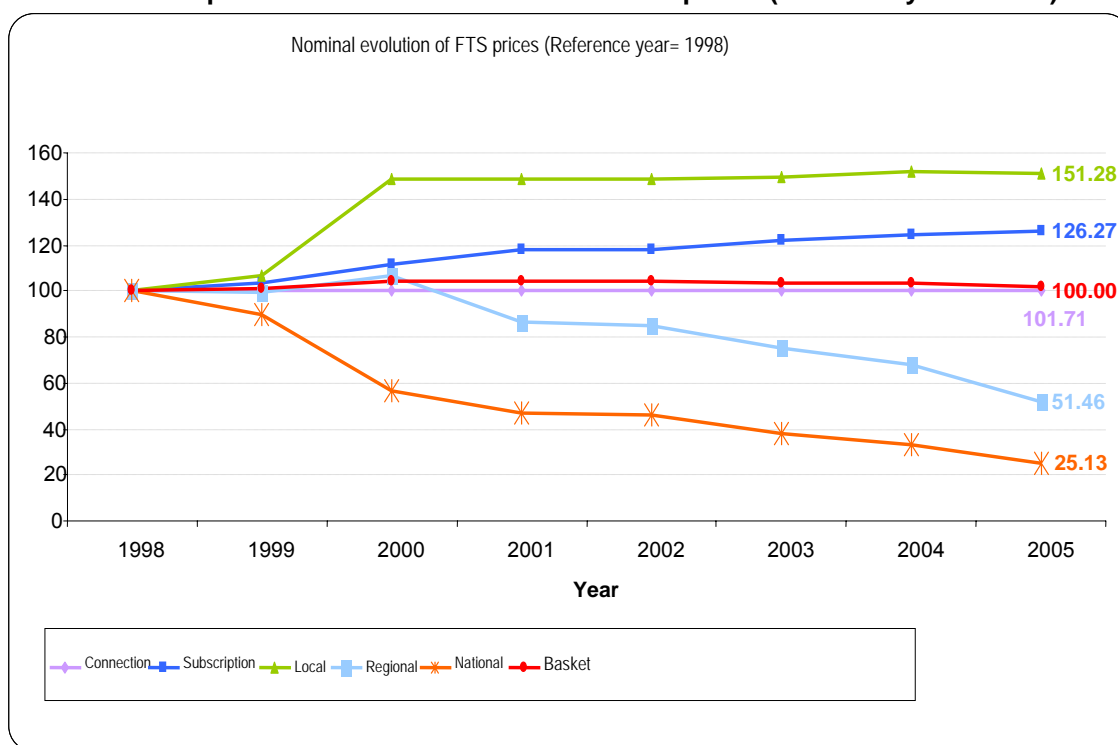


Source: ICP-ANACOM

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

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



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

Source: ICP-ANACOM

### FTS public payphones tariffs

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- **Monthly consumption**

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

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

- **Tariff consultation**

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

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

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

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

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

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

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

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

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



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