

**DECISION ON THE EXPIRY OF REGULATORY OBLIGATIONS IMPOSED ON MEO,
IN THE CONTEXT OF THE WHOLESALE MARKET OF TELEVISION
BROADCASTING SERVICES OVER ANALOGUE TERRESTRIAL NETWORKS**

1. By determination of 2 August 2007¹, the Management Board of ANACOM approved a decision on the definition of product and geographical markets, assessments of significant market power (SMP), and the imposition, maintenance, amendment or suppression of regulatory obligations in the wholesale market of broadcasting services for the delivery of broadcast content to final users².
2. In the scope of this analysis, ANACOM identified as relevant for the purpose of *ex ante* regulation the following market:
 - **Wholesale market of television broadcasting services over analogue terrestrial networks, covering the entire national territory.**
3. Having examined this market, ANACOM concluded that PT Comunicações, S.A. (now MEO – Serviços de Comunicações e Multimédia, S.A., hereinafter MEO) held SMP, and as such, the Authority imposed on this company a set of obligations, in particular the access to, and use of, specific network facilities, obligation for transparency of published information, obligation for non-discrimination in relation to interconnection and/or access provision and respective information provision, obligation for accounting separation in relation to specific activities related to interconnection and/or access, obligation for price control and cost accounting obligations, and financial reporting requirements.
4. Since August 2007, when the above-mentioned analysis was published, several changes have occurred which have affected the structure of the electronic communications market, with a special impact on the wholesale market of broadcasting services for the delivery of broadcast content to final users, the switch-off of analogue terrestrial TV broadcasts³ being highlighted, on 26 April 2012, further to the introduction in Portugal of the digital terrestrial television (DTT).
5. Having the analogue terrestrial TV been switched off, this service was required to be fully replaced by digital terrestrial television, no rights of use for frequencies

¹ Vide ["Wholesale market of broadcasting services for the delivery of content transmitted to final users"](#).

² Market 18 of Commission Recommendation 2003/311/EC, of 11 February 2003.

³ Which occurred on 26 April 2012, in compliance with Resolution of the Council of Ministers No. 26/2009, of 17 March, according to the detailed Plan approved by determination of ANACOM of 24 June 2010. Available at: ["Council of Ministers Resolution no. 26/2009, published on 17 March"](#).

(RUF) being currently assigned to the television broadcasting service based on analogue technology, nor frequencies being designated in the National Frequency Allocation Plan (NFAP) for the television broadcasting service based on analogue technology. Consequently, the provider of the television broadcasting service based on analogue technology has ceased to provide this service as from 26 April 2012, to provide only the DTT service (complemented with the satellite broadcasting television, in the scope of the provision of free-to-air TV broadcasting services of contents to final users).

6. Given that the wholesale market of television broadcasting services over analogue terrestrial networks ceased to exist further to the switch-off, regulatory obligations imposed on MEO (company declared to hold SMP in the referred market) automatically expired on account of the lack of subject matter. This means that there is no operator providing services in this market and, as such, obligations that had been imposed no longer apply⁴.
7. This view was included on the draft decision on the wholesale market of broadcasting services for the delivery of broadcast content to final users, approved by determination of 22 July 2015, subject to a public consultation and prior hearing of stakeholders.
8. Having stakeholders been given the opportunity to assess the expiry of regulatory obligations imposed on MEO, in the context of the wholesale market of television broadcasting services over analogue terrestrial networks, no comments were received on the matter.
9. In its opinion on the referred draft decision, the *Autoridade da Concorrência* (Competition Authority) made no comment in this regard.
10. The draft decision, which included other matters, namely the analysis of the DTT market and the Pay-TV market, was notified to the European Commission on 18 November 2015, having the European Commission (by communication of 17 December 2015) raised serious doubts as to whether the draft decision complied with Community Law.
11. Bearing in mind, among other factors, that the serious doubts raised by the European Commission seemed to be hard to overcome in the context in which the

⁴ It is noted that this is a specific case, which does not fall within the *typical* process of market analyses. In fact, this is not a case where a market previously defined and notified became competitive, which would consequently determine the suppression of regulatory obligations imposed on the operator with SMP; on the contrary, the European Commission will only be notified as to the absence of such market, due to the switch-off, and of the consequent expiry of obligations imposed on MEO.

notified measure was included, ANACOM decided, on 23 December 2015, to withdraw the draft decision, in the scope of the Community notification procedure.

12. Regardless of procedures adopted by ANACOM as regards the referred draft decision on the wholesale market of broadcasting services for the delivery of broadcast content to final users, in particular the analysis of the DTT market, the expiry of regulatory obligations imposed on MEO, by determination of 2 August 2007, in the context of the wholesale market of television broadcasting services over terrestrial analogue networks, is an indisputable fact, which must be formally closed.
13. This fact has no impact on a possible future definition of the wholesale market of broadcasting services for the delivery of broadcast content to final users, in which the DTT service may be included, and it is without prejudice to whatever views are taken in the context of the referred future analysis.
14. By determination of 28 January 2016, the Management Board of ANACOM approved a draft final decision to be notified to the European Commission, the Body of European Regulators for Electronic Communications (BEREC) as well as National Regulatory Authorities of remaining Member States of the European Union, declaring the expiry, with effect as from 26 April 2012, of regulatory obligations imposed on MEO in the context of the wholesale market of television broadcasting services over terrestrial analogue networks.
15. The European Commission assessed the notified analysis on 19 February 2016, not having made any comments.
16. Therefore, ANACOM hereby declares the expiry, with effect as from 26 April 2012, of obligations imposed on MEO by determination of 2 August 2007, on the definition of product and geographical markets, assessments of SMP, and the imposition, maintenance, amendment or suppression of regulatory obligations in the wholesale market of broadcasting services for the delivery of broadcast content to final users.