

DECISION

Amendment to rights of use for frequencies allocated in the 2100 MHz band for the provision of terrestrial electronic communications services

1. BACKGROUND

By determination of 12 June 2015¹, ANACOM approved a draft decision on the *amendment of the right of use of frequencies allocated to Vodafone for the provision of terrestrial electronic communication services*, which read as follows:

- 1. To amend the right of use for frequencies allocated to Vodafone, ICP - ANACOM No 03/2012, as regards the respective date of expiry (point 17.1.a) of the qualifying document), pursuant to endorsement No 2 to be integrated in the qualifying document in annex to this draft decision.*
- 2. To consider that there is no reason why NOS and MEO should be treated differently; consequently, in case these companies also apply for a postponement of the date of expiry of the respective RUF, namely in the scope of the assessment of this draft decision, such request shall be decided in the same line, according to the date of effective start of operation of the respective UMTS systems.*
- 3. To consider that, where dates of expiry of RUFs held by NOS, MEO and Vodafone are postponed, procedures relating to the respective renewal are extinguished as they are no longer required (article 112 of the former CAP).*

This draft decision was submitted to the prior hearing of Vodafone Portugal Comunicações Pessoais, S. A., of MEO - Serviços de Comunicações e Multimédia, S. A., and of NOS Comunicações, S. A., under article 100 *et seq* of the former Code of Administrative Procedure, approved by Decree-Law No 442/91, of 15 November (former CAP), as well as to the general consultation procedure, under articles 8 and 20, paragraph 3, of the Electronic

¹ Available at [Amendment of the right of use of frequencies allocated to Vodafone for terrestrial electronic communication services - deadline extension](#) .

Communications Law (ECL)², stakeholders having been granted 20 working days to assess the issue, if they so wished. The deadline for comments expired on 27.07.2015.

In the scope of the referred procedures, timely contributions were received from the following bodies:

- NOS Comunicações, S. A. (hereinafter NOS).
- MEO - Serviços de Comunicações e Multimédia, S. A. (hereinafter MEO).
- Vodafone Portugal - Comunicações Pessoais, S. A. (hereinafter Vodafone).

The report of the prior hearing and consultation procedures was drawn up, which is deemed to be an integral part of this decision, and includes a summary of positions taken as well as ANACOM's views thereon. The report substantiates this decision, and justifies also amendments that ANACOM deemed fit to introduce hereto.

2. VODAFONE'S APPLICATION

By letter received on 31 March 2015, Vodafone submitted to ANACOM, under article 20 of ECL, a **request for review of the date of expiry of its right of use for frequencies in the 2100 MHz band**, stating in brief as follows:

- a) By means of Administrative Rule No 532-A/2000, of 31 July, approval was granted to the Public Tender Regulation governing the allocation of 4 licenses of a national scope for the operation of international mobile telecommunication systems (IMT2000/UMTS), according to which the license would have a 15-year period of validity (article 24). On its turn, Administrative Rule No 532-B/2000, with the same date and subject-matter, established that the license would be charged 20.000.000.000\$00 (currently about 10 million Euro).
- b) On 19 December 2000, the Minister for Social Equipment announced the allocation of 4 licenses of a national scope for the operation of the international mobile

² Law No 5/2004, of 10 February, as amended and republished by Law No 51/2011 of 13 September, and subsequently amended by Law No 10/2013, of 28 January, by Law No 42/2013 of 3 July, by Decree-Law No 35/2014 of 7 March, by Law No 82-B/2014 of 31 December, and by Law No 127/2015 of 3 September.

telecommunication systems (IMT2000/UMTS), and on 11 January 2001, ICP - ANACOM issued the corresponding licenses which conferred Rights of Use for Frequencies in the 2100 MHz band for a 15-year period, which could be renewed for similar periods, upon request for licensed bodies.

- c) Several factors which subsequently arose at technological and economic levels made it impossible to start the commercial operation of the UMTS system on the date initially established, January 2002 (namely, unavailability of equipment, underdevelopment of overall interoperability tests, absence of available technology, weak user demand of new technologies and shortage of solutions on service platforms).
- d) These subsequent changes occurred not only on a national but also on an international level, leading some National Regulatory Authorities, in view of the same situation, to alter the date of the start of commercial operation (such as Belgium, Spain, Germany, Austria, Finland, United Kingdom and Italy) and/or to extend the period of validity of licenses by a further period of 5 years, that is, for 20 years (such as France and Italy).
- e) In Portugal, the date initially determined for the effective start of service operation was also postponed three times, for reasons of *force majeure*, namely to 31.12.2002, 31.12.2003 and 1.7.2004.
- f) In the scope of Vodafone's application of 21 August 2003 (as well as of other holders of UMTS licenses) which determined the last postponement of the start of service operation, the company applied for the review of the period of validity of the UMTS license held by it, so that such period was calculated from the date of effective launch of the service.
- g) This application was analysed in the Working Group set up by ICP - ANACOM for the purpose, which considered, in brief, that (i) legislation in force at the time did not allow for the change of the period of validity set out in the license, however (ii) in any case, the statutory instrument transposing the so-called 99 review, the approval of which was expected to take place, provided that the Regulatory Authority was entitled, in duly substantiated situations, to allocate rights of use for frequencies up to a maximum of 20 years. The Working Group did not recommend the immediate amendment of periods of validity of licenses, but proposed that ICP - ANACOM decided "to admit for the possibility of reviewing periods of validity of licenses issued

according to applicable rules of the new regulatory framework.” ICP - ANACOM approved this proposal as a final decision on 10.02.2004.

- h)** In any event, ICP - ANACOM considered as postponed the time limit for compliance with part of obligations arising from the UMTS license, namely when the Regulatory Authority provided, as regards Vodafone’s coverage obligations that “year 4” of its license would only end on 5 May 2008.
- i)** As ICP - ANACOM had foreseen, the legislative evolution of the electronic communications regulatory framework did in fact establish that: *“Rights of use for frequencies shall be granted for a 15-year period of time, and in duly substantiated situations, according to the service concerned and taking due account of the objective pursued as well as of the need to allow for an appropriate period for investment amortisation, they may be granted by the NRA for a different period, for a minimum of 10 years and a maximum of 20 years.”* This provision is currently in force in article 33, paragraph 1, of the Electronic Communications Law.
- j)** On the other hand, paragraph 1 of article 20 of ECL lays down that: *“The conditions, rights and procedures applicable to the exercise of the activity, including the rights of use or rights to install facilities, may only be amended in cases of objective justification and in accordance with the principle of proportionality, by means of law, regulation or administrative act, as appropriate.”*
- k)** Vodafone believes that it finds itself precisely in a situation where there is objective justification for amending the date of expiry of its right of use for frequencies in the 2100 MHz band, given that, through no fault of its own, by the current date of expiry of its rights of use for the referred frequencies - 11 January 2016 -, it will not have had the opportunity to operate the referred frequencies for the period initially established, that is, 14 years (this is because, although the UMTS license provided for a 15-year time limit, in fact the expected period of commercial operation was 14 years, as a 1-year time gap had been provided for the actual start of operation).
- l)** The company considers that the referred duration of the UMTS license is intrinsically linked to the investment it made, both in the scope of the purchase of the license - worth a 100 million Euro -, and at the level of commitments undertaken in the scope of the public tender to obtain it (such as contributions to the Information Society,

investment for complying with the various obligations underlying the license, such as coverage levels, etc.)

- m)** Vodafone refers that this possibility of “correcting” the date of expiry is also expressly provided for in equivalent national law. In fact, under articles 297 and 298 of the Public Procurement Law, in case the performance of a public contract is “suspended” for reasons outside the control of the private contracting party, the time period of the referred impossibility must not be considered for the purpose of the duration of the contract initially determined. Consequently, in the first place, the performance of the contract is suspended, and in the second place, the initial contractual time limit is extended, in order to guarantee the duration of the contract as previously established, which determined, obviously, the initial decision to enter into a contract and the value of the investment required to perform the contract (and corresponding amortization plans). Although the allocation of rights of use for frequencies under consideration here is not qualified as a public contract, Vodafone takes the view that the *ratio decidendi* of solutions put forward fully applies to this situation.
- n)** On the other hand, in an international comparative perspective, Vodafone stresses also that most “UMTS Licenses” are allocated at European level to last for 20 years.
- o)** In this case, the company believes that the postponement of the date of expiry of rights of use for frequencies is not disproportionate given that (i) not only the requested postponement of the date of expiry will not determine that Vodafone shall benefit from a period of time longer than the 15 years initially stipulated (it will only consider that during part of those 15 years the commercial operation will not have taken place, this situation being corrected) but also (ii) such alteration will not determine any competitive advantage compared to its European peers, which for the most part already enjoy rights of use for frequencies for a 20-year period.
- p)** Vodafone further admits that this amendment of the date of expiry is applied to all Portuguese mobile electronic communications operators, as the situation that determined the impossibility of commercial operation of frequencies for 15 years affected the whole market.
- q)** Lastly, Vodafone takes the view that the request, as set out, does not change the substantial nature of rights of use, nor does it create comparative advantages, and the company naturally agrees with it, as holder of the respective rights of use. For this

reason, under paragraphs 3 and 4 of article 20 of ECL, it does not require necessarily a public consultation, although Vodafone does not oppose to such a procedure, in case ICP - ANACOM deems it to be appropriate.

Vodafone thus request, under articles 20 and 33 of ECL, **the amendment of the date of expiry of its Right of Use for Frequencies in the 2100 MHz band to 5 May 2018**, according to the possibility already admitted by ICP - ANACOM in its Determination of 10 February 2004.

3. FRAMEWORK

3.1. The qualifying document of rights of use for frequencies allocated to Vodafone for the provision of terrestrial electronic communications services - ICP - ANACOM No 03/2012

Pursuant to paragraphs 1a) and 10.1.b) of qualifying document ICP - ANACOM No 03/2012, issued on 9 March 2012, Vodafone holds rights of use , on the national territory, for the provision of publicly available terrestrial electronic communications services, of 2 x 20 MHz in the sub-band 1920-1980 MHz/2110-2170 MHz, for the UMTS system and other systems that comply with technical constrains that are established in the scope of the implementation of Decision No 676/2002/EC of the European Parliament and of the Council, of 7 March.

The right of use for frequencies (RUF) under consideration was allocated for 15 years, expiring on 11 January 2016 (paragraph 17.1.a) of qualifying document ICP - ANACOM No 03/2012).

RUFs allocated to NOS - ICP - ANACOM No 01/2012 - and to MEO - ICP - ANACOM No 02/2012 - include a similar clause, being set out that licenses expire also on 11 January 2016.

3.2. Amendment and period of validity of rights of use for frequencies

Pursuant to article 20 of ECL, conditions applicable to the exercise of an activity, including rights of use, may be amended in cases of objective justification and in accordance with the principle of proportionality, by means of law, regulation or administrative act, as appropriate.

In such circumstances, amendments to be adopted are subject to the general consultation procedure³, and stakeholders, namely users and consumers, are allowed a sufficient period of time to express their views on the proposed amendments, which is no less than 20 days, except in exceptional and duly justified circumstances (paragraph 3).

The general consultation procedure, in the context of article 20 of ECL, is not required in the case of minor amendments, which do not change the substantial nature of rights of use, namely not causing any comparative advantage, and which have been agreed with the holder of rights of use (paragraph 4).

As far as the period of validity of rights of use for frequencies is concerned, article 33 of ECL lays down that such rights are granted for a 15-year period of time, and in duly substantiated situations, according to the service concerned and taking due account of the objective pursued as well as of the need to allow for an appropriate period for investment amortisation, they may be granted for a different period, for a minimum of 10 years and a maximum of 20 years.

4. ANALYSIS OF THE APPLICATION

The application submitted by Vodafone, here under examination, represents a request for amendment of conditions associated to RUF ICP - ANACOM No 03/2012, pursuant to article 20 of ECL, namely the RUF's date of expiry.

In fact, Vodafone requests the postponement of the date of expiry of rights of use for frequencies in the 2100 MHz band from 11 January 2016 to 5 May 2018 (date which corresponds to the expiry of the 14-year period of time calculated from the effective start of commercial operation of UMTS systems by Vodafone), so that the respective period of validity would be around 17 years and 4 months. This request represents an amendment of the administrative act allocating Vodafone the referred right of use for frequencies, and it is admitted under article 173 of the (new) Administrative Procedure Code (hereinafter new APC)⁴, repealing rules applying.

³ Provided for in article 8 of ECL.

⁴ Approved by Decree-Law No 4/2015, of 7 January.

In this context, ANACOM is the authority empowered to perform the required amendments, which must take the form of the repealed act (articles 169 and 170 of the new CAP, which apply *ex vi* article 173).

Valid administrative acts establishing rights may be amended under article 167 of the new CAP, which applies by virtue of article 173 of the same Code, in this case the amendment of the administrative act was requested by the respective beneficiary, inalienable rights not being here in question.

4.1. Former positions taken by ANACOM on applications for extension of the deadline for start of commercial operation of the UMTS system and of the period of validity of the UMTS license

Vodafone starts by invoking and describing a set of facts on the successive extensions of the deadline for start of the commercial operation of the UMTS system, which also concerned other mobile operators who obtained UMTS licenses under the same conditions as Vodafone - NOS and MEO -, as well as on the application for extension of the period of validity of its UMTS license.

In fact, in this context, ANACOM, by determination of 10 February 2004, admitted the possibility of reviewing periods of validity of issued licenses. As such:

Further to two extensions of the maximum deadline for start of the commercial operation of the UMTS system, to 31 December 2002⁵ and 31 December 2003⁶, based on the proven lack in the market of network infrastructure equipment and of terminal equipment that allowed for the effective start of commercial activity according to schedules and under the conditions provided for in the licenses, ANACOM received in 2003 new applications from the three UMTS operators⁷ aiming for the amendment of obligations specified in the respective licenses, namely as regards the start of commercial operation, infrastructure implementation targets

⁵ According to Order No 111/MES/2001, of 24 October, from the then Minister of Social Equipment.

⁶ According to Order No 886/2003, of 16 January, from the then Minister of Economy.

⁷ Letters were received from TMN - Telecomunicações Móveis Nacionais, S. A., on 26 June 2003, from VODAFONE TELECEL - Comunicações Pessoais, S. A., on 21 August 2003, and from OPTIMUS - Telecomunicações, S.A., on 24 October 2003.

and coverage targets, as well as others associated to operating conditions of the UMTS system, such as business conditions, sharing of infrastructure and spectrum assigned for the purpose.

Operators unanimously requested that the maximum deadline for starting the system operation (31.12.2003) was extended for a further 6 months, due to the delay in the availability of commercial versions of UMTS equipment and in the stabilization of technology, and that, for the purpose of coverage obligations, year “1” corresponded to the 12-month period calculated from the date of start of commercial operation of the service.

Only Vodafone, on that occasion, requested that the 15-year period of validity of licenses was calculated from the date of commercial launch of the service (and not from the date of issue of qualifying documents).

As referred in its report, the Working Group on the state and forecast of implementation of UMTS systems (UMTS WG), set up by determination of ANACOM’s Management Board, while admitting that the amount of terminal equipment and network infrastructure equipment available at the time could limit the scale of the commercial launch, found that there were objective conditions for the introduction of the UMTS system on the date set. However, it was deemed that the operation of the UMTS system could involve a 6-month pre-commercial stage, consisting only in the provision of services to a limited and closed number of users.

In this sense, and considering that there were minimum conditions for the introduction of the UMTS operation on 1 January 2004 and that it was appropriate to admit, in the light of the limited availability in the market of terminal equipment and network infrastructure equipment, and in the scope of the UMTS system operation, a 6-month pre-commercial stage, the UMTS WG took the view that the UMTS commercial offer should start at the latest on 1 July 2004.

By determination of 10 February 2004, and having heard stakeholders, ANACOM approved the report drawn up by the UMTS WG, assuming, accordingly, that there were minimum conditions for the introduction of the UMTS system operation on 1 January 2004, and admitting, given the limited availability in the market of terminal equipment and network infrastructure equipment, a 6-month pre-commercial stage. As such, the UMTS commercial offer should start at the latest on 1 July 2004. It was also established that, for the purpose of coverage obligations, the end of year “1” corresponded to the 12-month period elapsed from the date of start of commercial operation of the service (which occurred on 21 April 2004, 5 May 2004 and 4 June 2004, respectively, in the case of MEO, Vodafone and NOS).

It was in this scope that, as regards Vodafone's request (that the 15-year period of validity of licenses was calculated from the date the service was commercially launched), ANACOM decided *"to admit for the possibility of reviewing periods of validity of licenses issued according to applicable rules of the new regulatory framework."*

In fact, in the report of the UMTS WG approved by ANACOM's Management Board, it was stressed that *"the statutory instrument transposing the so-called 99 review, the approval of which is expected to take place, provides that the Regulatory Authority is entitled, in duly substantiated situations, to allocate rights of use for frequencies up to a maximum of 20 years. The regime on renewal of rights of use for frequencies will also be more flexible in the scope of the new regulatory framework."*

It is well known that the legislative evolution occurred with the entry into force of the Electronic Communications Law (Law No 5/2004, of 10 February).

On 1 June 2007, Vodafone applied to ANACOM for the amendment of License No ICP - 01/UMTS, involving increased flexibility in commitments on network and coverage development, amendment of obligations on special offers to be made available in the scope of the information society and the review of the respective deadline up to 2012, in the light of the commercial launch of the service only in 2004 and the need for amortisation of the investment over a longer period of time. In reply, ANACOM informed that a possible introduction of amendments to rights of use for frequencies held by UMTS operators should be weighted and dealt with in a comprehensive perspective, involving the three market operators, and for this purpose, the general consultation procedure provided for in article 8 and 20 of ECL was promoted⁸.

4.2. Period of effective use of frequencies

In the light of the described facts and in the framework of articles 20 and 33, paragraph 1, of ECL, Vodafone supports that it finds itself in a situation where objective justification exists for

⁸ On 8 July 2010, ANACOM adopted a final decision unifying into a single document the conditions applicable to the exercise of rights of use for frequencies allocated to Optimus, TMN and Vodafone Portugal for the provision of the land mobile service, in accordance with GSM 900/1800 and UMTS technologies, the corresponding documents having been issued. On that same date, approval was given also to the report of the prior hearing of stakeholders and of the general consultation procedure to which the corresponding draft decision had been submitted, none of the operators having raised the issue of the expiry of their rights of use for frequencies.

changing the date of expiry of its right of use for frequencies in the 2100 MHz band, given that, through no fault of its own, by the current date of expiry of rights of use for the referred frequencies - 11 January 2016 -, it will not have had the opportunity to commercially operate services provided over the referred frequencies for the period initially established, that is, 14 years.

The company alleges also that the duration of the UMTS license is intrinsically linked to the investment it made, both in the scope of the purchase of the license - for 100 million Euro -, and at the level of commitments undertaken in the scope of the public tender to obtain it (such as contributions to the Information Society, investment for complying with the various obligations underlying the license, as such as coverage levels, etc.).

According to Vodafone, the postponement of the expiry of its rights of use for frequencies will not be disproportionate given that the company shall not benefit from a period of time longer than the 15 years initially stipulated, as during part of those 15 years the commercial operation did in fact not take place.

In the light of the above and bearing in mind the circumstances of the UMTS specific case - the series of postponements of the maximum deadline for effective operation of services supported on frequencies concerned (due to the delay in the availability of commercial versions of UMTS equipment and in the stabilization of technology), having ANACOM admitted at the time the *possibility of reviewing periods of validity of licenses* - this Authority believes that it must be acknowledged that companies holding UMTS licenses, by the expiry of the period of time currently set in the RUFs, will not have had the opportunity to effectively use frequencies for a 15-year period (one year being spent in starting the commercial operation of services, as initially established) as would have been the case where economic and technological conditions had been met by the date initially established for the start of the commercial operation of UMTS systems.

It should be noted that no fees for use of spectrum were paid until the commercial operation of UMTS systems started. In fact, further to ANACOM's proposals on the postponement of the date of start of operation, the Government determined that a fee of null amount for use of radio spectrum was applied both in 2002 - as a way to encourage licensed operators to start the commercial operation of UMTS services in the course of that year - and in 2003, for operators that would start the commercial operation of UMTS services in the course of that year, which failed to occur.

It is also considered that the reduction, for reasons beyond the company's control as acknowledged at the time, of the maximum period of time of effective use of frequencies (initially set for 15 years, one year being dedicated to starting the commercial operation of services) constitutes an objective alteration of a relevant assumption, which was at the basis of the definition, by the operator, of its initial business plan and, in particular, of the level of investment that - as regards the amount invested with the purchase of the license and the investment associated to several commitments undertaken - it undertook to make and to which it was bound.

In this sense, the amendment of the duration of the RUF will allow the period of effective use of frequencies to be in line with the date of effective start of the commercial operation of UMTS systems, bearing also in mind that the deadlines for compliance with coverage obligations were pushed forward due to the extension of that deadline.

Moreover, given that this amendment entails an extension by around two years and four months of the expiry of rights of use for frequencies in a band that is harmonized at European level, in particular by means of Commission Implementing Decision 2012/688/EU, of 05.11.2012 (on the harmonisation of the frequency bands 1 920-1 980 MHz and 2 110-2 170 MHz for terrestrial systems capable of providing electronic communications services), not being likely to affect on its own the harmonized use of frequencies under consideration, it is deemed that there is nothing to object in terms of spectrum management.

4.3. Period of validity of rights of use for frequencies

Vodafone believes also that the amendment to the date of expiry will not determine any competitive advantage compared to its European peers, alleging that not only some National Regulatory Authorities, in view of the same situation, altered the date of the start of commercial operation (such as Belgium, Spain, Germany, Austria, Finland, United Kingdom and Italy) and/or extended the period of validity of licenses by a further 5-year period (for 20 years, for example in France and Italy), but also most "UMTS Licenses" allocated at European level are valid for a 20-year period.

As stated above, ANACOM, having weighted constrains in the market of network infrastructure equipment and of terminal equipment, accepted, by the end of 2001 and the end of 2002,

postponements of the date of start of commercial operation of UMTS systems, having admitted on 10 February 2004 the possibility of reviewing periods of validity of issued licenses.

As regards periods of validity of rights of use for frequencies allocated in Europe, it is possible to confirm, in the light of CEPT data available at www.efis.dk (EFIS), the information indicated by Vodafone, although data for some countries are not coherent with EFIS (such as Germany and Sweden).

4.4. General consultation procedure

Lastly, Vodafone takes the view that the request, as set out, does not change the substantial nature of rights of use, nor does it create comparative advantages, and the company naturally agrees with it, as holder of the respective rights of use. For this reason, under paragraphs 3 and 4 of article 20 of ECL, such request does not necessarily require a public consultation, although Vodafone does not oppose to such a procedure, in case ICP - ANACOM deems it to be appropriate.

However, ANACOM considers that the decision on the request for alteration submitted by Vodafone has a significant impact on the market; in addition, the situation of other operators that obtained UMTS licenses under similar conditions as Vodafone must be taken into account.

In fact, in observance of the principles of impartiality and proportionality, there is no reason why NOS and MEO should be treated differently; consequently, in case these companies also apply for an extension of the period of validity of the respective RUF, namely in the scope of the assessment of this draft decision, such request shall be decided in the same line, according to the date of effective start of operation of the respective UMTS systems.

In this regards, and as referred above, in its application, Vodafone admitted that the amendment of the date of expiry applies to all Portuguese mobile electronic communications operators, as the situation that determined the impossibility of commercial operation of frequencies for 15 years affected the whole market in a similar way.

In this context, and as referred in point 1. *BACKGROUND*, the draft decision which preceded this decision was submitted to a general consultation procedure provided for in article 8 of CAP, as well as to the prior hearing of stakeholders, under the prior CAP.

5. APPLICATIONS FOR RENEWAL OF RUF

NOS, MEO and Vodafone, respectively on 17 November 2014, 26 November 2014 and 2 March 2015, applied to ANACOM for renewal of their rights of use for frequencies in the 2100 MHz band.

Having concluded that the decision to be issued in this procedure represents a preliminary ruling under paragraph 1 of article 38 of the new CAP, ANACOM determined, on 10 April 2015, the suspension of RUF renewal procedures until a final decision on Vodafone's request here under consideration is adopted, all the more so because it is admitted, as explained earlier, that there are no reasons why NOS and MEO should be treated differently, thus any applications for extension of the period of validity of their RUF, namely in the scope of the assessment of the draft decision that preceded this decision, would be decided in the same line.

Under the law (article 33 of ECL), the renewal of rights of use for frequencies depends on a request submitted by the right holder, ANACOM being entitled: a) to oppose the renewal of the right of use through a duly substantiated decision; b) to grant the renewal under the same conditions specified in the initial allocation of the right of use, including the respective term; c) to grant the renewal imposing different conditions than those specified in the right. In this last case, the requirement for compliance with new coverage obligations could be considered.

In the scope of the assessment to the draft decision, MEO requested the amendment of the date of expiry of its RUF to 21 April 2018, while NOS simply expressed an intention to apply for the postponement of its RUF, considering that it should be given sufficient time to do so after a final decision of the procedure and that the acceptance of all applications for extension should occur at the same time.

In this context, ANACOM takes the view that it should grant NOS the opportunity to request the amendment of the expiry date of its RUF, further to which ANACOM will decide at final level on the applications for extension that are effectively submitted, a decision which will take effect on renewal procedures of RUF here under consideration, which shall now be resumed, all other steps provided for in the law going ahead.

6. DECISION

As such, **ANACOM's Management Board**, pursuing its regulatory targets, namely those provided for in article 5, paragraph 2 b) and d) of the Electronic Communications Law, pursuant to articles 15, 20 and 33 of the same Law, in the exercise of powers conferred by article 9, paragraph 1 b) of its Statutes, approved by Decree-Law No 39/2015, of 16 March, as well as by article 173 of the new CAP, **hereby determines:**

1. To amend the date of expiry of the right of use for frequencies assigned in the 2100 MHz band to Vodafone, under the draft endorsement No 2 to be integrated in the qualifying document ICP - ANACOM No 03/2012 in annex hereto.
2. To amend the date of expiry of the right of use for frequencies assigned in the 2100 MHz band to MEO, under the draft endorsement No 3 to be integrated in the qualifying document ICP - ANACOM No 02/2012 in annex hereto.
3. To grant NOS a period of 5 working days so that, if the company so wishes, it may request the amendment of the date of expiry of its right of use for frequencies, which shall be determined according to the date of start of operation of the UMTS system, under the draft endorsement No 4 to be integrated in the respective qualifying document, ICP - ANACOM No 01/2012, in annex hereto.
4. To determine that amendments provided for in paragraphs 1 and 2 above shall only take effect further to the decision of final approval of endorsements to draft qualifying documents in annex, which shall be adopted further to the expiry of the time limit set out in paragraph 3.

Lisbon, 22 October 2015.

**QUALIFYING DOCUMENT
FOR RIGHTS OF USE FOR FREQUENCIES
FOR THE PROVISION OF TERRESTRIAL ELECTRONIC COMMUNICATIONS SERVICES**

ICP - ANACOM No 03/2012

ENDORSEMENT No 2

By determination of 2015, ANACOM has extended up to 5 May 2018 the date of expiry of the right of use for frequencies assigned in the 2100 MHz to Vodafone Portugal Comunicações Pessoais, S. A..

**QUALIFYING DOCUMENT
FOR RIGHTS OF USE FOR FREQUENCIES
FOR THE PROVISION OF TERRESTRIAL ELECTRONIC COMMUNICATIONS SERVICES**

ICP - ANACOM No 02/2012

ENDORSEMENT No 3

By determination of 2015, ANACOM has extended up to 21 April 2018 the date of expiry of the right of use for frequencies assigned in the 2100 MHz to MEO - Serviços de Comunicações e Multimédia, S. A.

**QUALIFYING DOCUMENT
FOR RIGHTS OF USE FOR FREQUENCIES
FOR THE PROVISION OF TERRESTRIAL ELECTRONIC COMMUNICATIONS SERVICES**

ICP - ANACOM No 01/2012

ENDORSEMENT No 4

By determination of 2015, ANACOM has extended up to 4 June 2018 the date of expiry of the right of use for frequencies assigned in the 2100 MHz to NOS Comunicações, S. A.