

**NOTIFICATION OF DRAFT MEASURE UNDER ARTICLE 57 OF LAW  
NUMBER 5/2004, OF FEBRUARY 10<sup>TH</sup>**

**(CONSISTENT WITH ARTICLE 7, NUMBER 3 OF DIRECTIVE 2002/21/EC)**

1. On September 27<sup>th</sup>, 2007 ICP-ANACOM Board of Directors approved the draft measure regarding the details on price control obligation concerning wholesale voice call termination on individual mobile networks. This draft measure was approved under the framework of the decision on wholesale mobile voice call termination on individual mobile networks, designation of undertakings with significant market power and imposition of obligations to TMN, Vodafone and Optimus, published by ICP-ANACOM on February 25<sup>th</sup>, 2005, and previously notified to the Commission in December 2004 (PT/2004/0129).
2. On the same date, it was approved the request of the opinion of the National Competition Authority – Autoridade da Concorrência (AdC) –, according to article 8 of ICP-ANACOM Statutes, annexes to Decree-Law number 309/2001, of December 7<sup>th</sup>, and article 9 of AdC Statutes, annexes to Decree-Law number 10/2003, of January 18<sup>th</sup>.
3. On October 11<sup>th</sup>, 2007, the National Competition Authority informed that the present draft decision addresses its concerns, which were already mentioned several times, namely regarding the level of termination prices, the on-net/off-net retail prices differentials and the competitive disadvantage of smaller operators. Additionally, AdC stated that the asymmetry introduced will allow the reduction of the above mentioned competitive disadvantage – resulting from scale economies and network effects – of smaller operators regarding larger ones, especially important where a situation of late market entry exists.
4. In this context, on October 24<sup>th</sup>, 2007, ICP-ANACOM Board of Directors approved the launch of a public consultation and prior hearing of interested parties by written procedure, on the draft measure concerning the details on price control obligation on wholesale voice call termination on individual mobile networks.
5. On the same date, ICP-ANACOM, according to number 1 of article 57 of Law number 5/2004, of February 10<sup>th</sup>, and according to number 3 of ANACOM consultation procedures, approved by decision of February 12<sup>th</sup>, 2004, and within the context of number 3 of article 7 of Directive 2002/21/EC, of the European Parliament and of the Council, of March 7<sup>th</sup>, approved the launch of the specific consultation procedure making the draft measure available to European Commission and the national regulatory authorities in other Member States, together with the reasoning on which the measure is based. [Please note that the reasoning in which the draft measure is based includes confidential information. In that regard ICP-ANACOM has produced confidential and non-confidential versions of the draft measures. Please see bellow.]

As required by the Commission Recommendation 2003/561/EC of 23<sup>rd</sup> July, regarding notifications, time limits and consultations previewed in article 7 of Directive 2002/21/EC, of the European Parliament and of the Council, of March 7<sup>th</sup>, the main document is accompanied by a summary notification, which was drafted according to Annex I of that Recommendation.

Please refer to the following documents:

- “Summary Notification Form – Details on price control obligation regarding market 16” [*Summary Notification Form – Details on price control (market 16).pdf*]
- “Mercados Grossistas de Terminação de Chamadas Vocais em Redes Móveis Individuais – Especificação da Obrigação de Controlo de Preços” [Versão não confidencial: “*Obrigação Controlo Preços Mercado 16 – Versão Pública.pdf*”; Versão confidencial: “*Obrigação Controlo de Preços Mercado 16 – Versão Confidencial.pdf*”]