



EUROPEAN COMMISSION

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Autoridade Nacional de
Comunicações (ANACOM)
Avenida José Malhoa No. 12
1099-017 Lisboa
Portugal

For the attention of
Mr João Cadete de Matos
Chairperson

Fax: + 351 21721 1002

Dear Mr Cadete de Matos,

Subject: Commission Decision concerning Case PT/2019/2144: wholesale high quality access provided at a fixed location in Portugal (prices for CAM and inter-island lines)

Article 7(3) of Directive 2002/21/EC: No comments

1. PROCEDURE

On 25 January 2019, the Commission registered a short form notification from the Portuguese national regulatory authority, Autoridade Nacional de Comunicações (ANACOM)¹, concerning the market for wholesale high-quality access provided at a fixed location² in Portugal.

The national consultation³ ran from 7 November 2018 to 5 December 2018.

¹ Under Article 7 of Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), OJ L 108, 24.4.2002, p. 33, as amended by Directive 2009/140/EC, OJ L 337, 18.12.2009, p. 37, and Regulation (EC) No 544/2009, OJ L 167, 29.6.2009, p. 12.

² Corresponding to market 4 in Commission Recommendation 2014/710/EU of 9 October 2014 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (Recommendation on Relevant Markets), OJ L 295, 11.10.2014, p. 79.

³ In accordance with Article 6 of the Framework Directive.

On 30 January 2019, a request for information⁴ was sent to ANACOM and a response was received on 04 February 2019.

2. DESCRIPTION OF THE DRAFT MEASURE

2.1. Background

The market for wholesale high-quality access provided at a fixed location and the market for trunk segments of leased lines in Portugal were previously notified to and assessed by the Commission under cases PT/2016/1890-1891⁵.

ANACOM distinguished the market for wholesale trunk segments of leased lines in the mainland from the market for wholesale trunk segments of Continental-Azores-Madeira (CAM)⁶, Inter-island, and international submarine circuits.

ANACOM analysed the links between the mainland and the Autonomous Regions (CAM circuits), and the ring connections between several islands of the Azores (inter-island circuits) supported by submarine cables which are the property of MEO - *Serviços de Comunicação e Multimédia S.A* (MEO).

ANACOM designated MEO with SMP on the wholesale market of CAM and Inter-island circuits⁷ and, proposed to impose on MEO a complete set of remedies: (i) access obligations and the use of specific network resources⁸; (ii) transparency, including reference offers; (iii) non-discrimination; (iv) accounting separation; (v) price control in the form of cost orientation and cost accounting.

2.2. The draft measure notified by way of a short form

Further to the market analysis of trunk segments of leased lines, ANACOM must review the prices of CAM and inter-island circuits on an annual basis. Accordingly, the present draft measure concerns the annual cost analysis and price adjustment of the relevant MEO circuits⁹.

⁴ In accordance with Article 5(2) of the Framework Directive.

⁵ C(2016) 5063.

⁶ All the CAM circuits (over the optical infrastructure at submarine cable) form a ring connecting the mainland, the Autonomous Region of the Azores and the Autonomous Region of Madeira. Submarine cables of MEO ensure the links between mainland and the autonomous regions. Fibroglobal also installed submarine cables between the islands of these regions (inter-island circuits).

⁷ According to ANACOM, these trunk segments are subject to different competitive conditions as compared to trunk segments on the mainland. Furthermore, during the timeframe of the market analysis, there is no technical and economic feasibility for a possible extension of alternative operators' transport network on these routes, since the distance and the ocean as well as the limited number of connected households constitute strong barriers to network extension. ANACOM therefore concluded that CAM and inter-islands circuits should be considered as a distinct geographic market.

⁸ Apart from others obligation, MEO should ensure the expansion of capacity in CAM and Inter-island circuits, also including a capacity up to 10 Gbps.

⁹ ANACOM confirms in its response to the RFI that the methodology used is the same as previously notified (PT/2016/1890-1891). ANACOM computed the final data submitted by MEO on the annual costs for submarine cables to support CAM and inter-island circuits and associated activities, as per

ANACOM does not consider it appropriate to make any change in the prices in force for traditional CAM and inter-island circuits, regulated by the reference offer for leased lines (ORCA).¹⁰

ANACOM proposes to reduce the price caps of CAM Ethernet circuits by 10 % as well as to reduce the price of inter-island Ethernet circuits by 6 %, which are under the MEO Ethernet reference offer (ORCE).¹¹ The tables below capture the proposed revision of prices.

CAM Ethernet circuits

	Price (EUR)
10 Mbps	314
100 Mbps	691
1 Gbps	2 281
10 Gbps	22 803

Inter-island Ethernet circuits

Maximum monthly price for one inter-island circuit per section (without securitisation)

Inter-island sections	Price per capacity (EUR)			
	10 Gbps	1 Gbps	100 Mbps	10 Mbps
STA.Maria — S. Miguel	7 946	794	241	109
São Miguel — Terceira	12 255	1 226	371	169
3 rd — Graciosa	6 446	645	196	88
Graciosa — S. Jorge	7 352	735	223	102
São Jorge — Faial	5 915	591	180	82
Faial — Pico	5 630	563	170	77
Pico — Sta. Maria	16 383	1 638	496	226

3. NO COMMENTS

The Commission has examined the notification and has no comments.¹²

Pursuant to Article 7(7) of the Framework Directive, ANACOM may adopt the draft measure and, where it does so, shall communicate it to the Commission.

the framework of its Analytical Accounting System for 2017.

¹⁰ There are is very little demand from alternative service providers. Furthermore, according to data submitted by MEO, there were 8 traditional circuits in 2015, to 4 in 2016 and below 3 in 2017.

¹¹ In calculating the total costs associated with CAM and inter-islands circuits, ANACOM takes into due account: investment costs, depreciation and operation and maintenance costs. It also ponders the total capacity used/reserved by MEO.

¹² In accordance with Article 7(3) of the Framework Directive.

The Commission's position on this particular notification is without prejudice to any position it may take *vis-à-vis* other notified draft measures.

Pursuant to Point 15 of Recommendation 2008/850/EC¹³ the Commission will publish this document on its website. The Commission does not consider the information contained herein to be confidential. You are invited to inform the Commission¹⁴ within three working days following receipt whether you consider that, in accordance with EU and national rules on business confidentiality, this document contains confidential information which you wish to have deleted prior to such publication.¹⁵ You should give reasons for any such request.

Yours sincerely,



For the Commission,
Roberto Viola
Director-General

¹³ Commission Recommendation 2008/850/EC of 15 October 2008 on notifications, time limits and consultations provided for in Article 7 of Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services, OJ L 301, 12.11.2008, p. 23.

¹⁴ Your request should be sent either by email: CNECT-ARTICLE7@ec.europa.eu or by fax: +32 2 298 87 82.

¹⁵ The Commission may inform the public of the result of its assessment before the end of this three-day period.