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Determination of 13.9.2007

### **Amending Regulation to Regulation no. 1/2006 of 9 January (Selection and Pre-Selection Regulation)**

Regulation no. 1/2006 – Selection and Pre-Selection Regulation, establishing the principles and rules that apply to these resources in the public telephone network, entered into force on January 2006.

More than a year later, the practice of companies subject to this regulation has evidenced the need for some amendments to the initial version, as far as principles and rules binding on companies are concerned.

These amendments are undertaken in pursuit of two main objectives.

First, stress is given to the position that the contractual relationship between pre-selected providers and subscribers, in which the direct access provider takes no part, must be privileged. Accordingly, the obligation upon the direct access provider neither to accept nor to handle requests for alteration or termination of indirect access contracts, which must be submitted directly to the pre-selected provider, as well as the obligation to inform of this fact subscribers who contact it for that purpose, is now specified.

As the Regulation already determines, the direct access provider is not entitled to deactivate pre-selection unless it is based on a previous request placed by the pre-selection provider.

This amendment aims to avoid any doubts on the part of subscribers as regards the pre-selection termination procedure.

Second, another purpose of this amendment is to achieve better accountability of providers, both among themselves, in the scope of the implementation of pre-selection procedures, and also towards subscribers, especially as regards meeting deadlines laid down in the regulation.

This increased accountability is expressed by means of monetary compensations, between providers and to subscribers, and the establishment of obligations to provide information to subscribers.

Therefore, pursuant to point a) of article 9 of the Statutes of ICP-ANACOM, approved by Decree-Law no. 309/2001, of 7 December, to paragraph 4 of article 84 and to paragraph 1 of article 125, both of Law no. 5/2004, of 10 February, the Board of Directors of ICP-ANACOM hereby approves the following amendment to Regulation no. 1/2006, of 9 January:

Single article

Amendment to Regulation no. 1/2006, of 9 January

Articles 6, 9 and 10 of Regulation no. 1/2006, of 9 January, are hereby amended to read as follows:

“Article 6

Obligations on the DAP

1. The following obligations fall upon the DAP:

- a) .....
- b) .....
- c) .....
- d) .....
- e) Not to accept or to handle requests for alteration or termination of indirect access contracts, and to inform subscribers who contact it for that purpose of this fact and that such requests must be submitted directly to the pre-selected provider.

2. ....

3. ....

4. ....

Article 9  
Pre-selection activation

1. ....
2. The DAP shall make the pre-selection available no later than 5 working days from the date of the electronic request made by the PSP, pursuant to the preceding paragraph; the DAP shall also notify the PSP of the actual date of activation of the respective pre-selection, no later than two days after the activation has taken place, being incumbent upon the PSP to provide the same information to the subscriber, within two working days from the notification made by the DAP.
3. ....
4. ....
5. ....
6. ....
7. Without prejudice to the applicable penalty regime, the DAP shall pay the PSP a direct compensation of €2.5 for each day by which the pre-selection activation date has been exceeded, after the 5-working-day-time limit set out in paragraph 2 has elapsed.

Article 10  
Pre-selection deactivation

1. ....
2. ....
3. ....
4. The DAP shall deactivate the pre-selection no later than five working days from the date of the deactivation request made by the PSP or the pre-selection implementation request made by the new PSP, as appropriate, complying at all times with the first request received, and rejecting all activation or deactivation requests received within the five subsequent working days. The DAP shall also notify the ceasing PSP of the actual date of deactivation of the respective pre-selection, within two working days at the most from the deactivation, or activation relatively to the new PSP, and shall, in the first case, provide the same information to the subscriber, within the same time limit.

5. ....
6. ....
7. ....
8. Without prejudice to the applicable penalty regime, in situations where the pre-selection is deactivated and the PSP is not replaced, the PSP shall pay the subscriber a direct compensation of €5.00 for each day by which the pre-selection deactivation date has been exceeded, after 7 working days have elapsed from the date the request for alteration or termination of indirect access contract was submitted.
9. In the situations provided for in the preceding paragraph, the PSP shall be entitled to pursue remedies against the DAP, where the delay in the deactivation results from a fact for which the latter is responsible, namely failure to meet the 5-working-day-time limit provided in paragraph 4, under the terms and time-limit to be agreed between the parties, never later than 60 days after the date on which the PSP requests reimbursement from the DAP.”