

Determination of 2.11.2006

Final Decision on the range of statistical data to be submitted to ICP-ANACOM by providers of Broadband Internet Access Services for the purposes of the definition of relevant markets and SMP assessment

Preamble

1. Member States of the European Union (EU) agreed on December 2001 to a new regulatory framework for electronic communications.

According to Directives integrating the new regulatory framework, *“the imposition, maintenance, amendment or withdrawal of ex ante regulatory obligations that apply to companies established on relevant electronic communications markets shall be preceded by the identification of relevant markets and the analysis of effective competition, that is, the assessment of whether or not established companies enjoy significant market power (SMP)”*.

2. In this context, ICP-ANACOM launched on 22 September 2003, the second stage of a public consultation on the procedures for defining and analysing relevant markets, comprising the broadband Internet access services¹.

The Authority received several comments on market definition criteria and on indicators to assess SMP in the referred markets. In addition to data collected in this scope, ICP-ANACOM determined on 6 November 2003 to collect a range of statistical, operational and financial information on broadband Internet access services, having subsequently defined and analysed the respective relevant markets.

Taking into account the experience gained and developments occurred in the meantime, ICP-ANACOM has decided to revise the range of statistical data that providers of broadband Internet access services need to submit, for the purposes of the definition and assessment of relevant markets, and to establish fixed periods for collecting the referred data.

3. The questionnaire is grouped into three parts: broadband access – retail level, broadband access – wholesale level, and potential provision.

As regards the definition and analysis of broadband access retail markets, it is necessary to provide information on the number of access, number of customers and revenues. Some indicators must be broken down per type of technology and per customer segment (residential and non residential)

The requested data, broken down per type of broadband access technology, namely number of access, is used mainly to **define the relevant product market**, as it allows the assessment of technological alternatives supporting broadband access services, their implementation and maturity stage.

The residential and non-residential breakdown is specially intended to analyse market segmentation per type of customer. For this purpose, it is necessary to provide information on metered /unmetered offers.

Data on geographical coverage is required for the **definition of geographical market**. According to Guidelines², *“the relevant geographic market comprises an area in which the undertakings concerned are involved in the supply and demand of the relevant products or services, in which area the conditions of competition are similar or sufficiently homogeneous and which can be distinguished from neighbouring areas in which the prevailing conditions of competition are appreciably different”*³.

The number of access and value of revenues are also used in the scope of market share calculation, taking into account that, according to the European Commission, *“as regards the methods used for measuring market size and market shares, both volume sales and value sales provide useful information for market measurement”*⁴.

4. To define and assess the broadband access wholesale market, it is necessary to provide information on wholesale offers made by providers, number of access engaged by wholesale customers, number of wholesale customers and revenues.

Data on wholesale broadband Internet access offers, broken down per type of technology, is necessary to define the relevant wholesale market.

Similarly to the retail market definition process, requested information, broken down per type of broadband access technology, is also used, namely, to **define the product market** concerning the wholesale broadband access supply.

The number of wholesale access, as well as revenues, shall be used also for the purpose of market share calculation as far as wholesale broadband access supply is concerned.

5. Data on potential provision are intended primarily to assess competition between established companies.
6. Where the historic information is not available, operators must submit estimates of figures under consideration, stating assumptions made in the respective calculation.
7. Data collected in this scope may be published by ICP-ANACOM on an aggregate basis.

Pursuant to article 108 and to point b) of paragraph 1 of article 109 of Law no.5/2004, of 10 February, this range of indicators must be submitted to ICP-ANACOM by providers of these services no later than 15 May of the year following the year to which they relate, by email to the address dee.stats@anacom.pt and by post to:

ICP-ANACOM

DEE - Departamento de Estudos e Estratégia

Av. José Malhoa, 12

1099-017 Lisboa

Please refer to the contacts above to provide any clarifications deemed necessary.

¹ http://www.anacom.pt/streaming/cap5_6_14.pdf?categoryId=78783&contentId=128716&field=ATTACHED_FILE
(in portuguese)

² Commission guidelines on market analysis and the assessment of significant market power under the Community regulatory framework for electronic communications networks and services (hereinafter referred to as “Guidelines”). Document available at:
http://www.anacom.pt/streaming/2002.C165.03.pdf?categoryId=58952&contentId=93683&field=ATTACHED_FILE
(in portuguese)

³ Cf. Guidelines, §56.

⁴ Cf. Guidelines, §76.