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**RENEWAL OF THE RIGHTS OF USE ALLOCATED TO TMN –
TELECOMUNICAÇÕES MÓVEIS NACIONAIS, S.A. AND TO VODAFONE
PORTUGAL – COMUNICAÇÕES PESSOAIS, S.A. FOR THE PROVISION OF
LAND MOBILE SERVICES WITH GSM DIGITAL TECHNOLOGY**

CONSULTATION DOCUMENT

I. BACKGROUND

TMN – Telecomunicações Móveis Nacionais, S.A. (“TMN”) and VODAFONE PORTUGAL – Comunicações Pessoais, S.A. (“VODAFONE PORTUGAL”) are license holders for the provision of Land Mobile Services (LMS) on the 900 MHz and 1800 MHz frequency bands using the GSM digital system (hereinafter “GSM 900/1800”).

The complete text of the license issued to TMN may be viewed at:

www.anacom.pt/streaming/licenca14_92smt.pdf?categoryId=2053&contentId=11606&field=ATTACHED_FILE

The complete text of the VODAFONE PORTUGAL license may be viewed at:

www.anacom.pt/streaming/licenca006_91smt.pdf?categoryId=2053&contentId=11607&field=ATTACHED_FILE.

These licenses are valid for a period of 15 years from their respective issue dates. Thus, the license issued to VODAFONE PORTUGAL (which has

already requested renewal thereof from ICP-ANACOM) expires on 18th October 2006, and TMN's license expires on 16th March 2007.

The license issued to OPTIMUS – Telecomunicações, S.A., another licensed LMS operator, does not expire until 20th November 2012.

II. RENEWAL OF RIGHTS OF USE

Under the terms of Article 121, sub-article 4 of Law n^o. 5/2004 of 10th February, companies maintain rights of use of numbering resources and frequencies allocated prior to the publication of the law up to the end of the period established in the respective license.

According to the combined provisions of Article 36, sub-articles 1 and 2 of Law n^o. 5/2004, rights of use for frequencies registered to LMS operators may be renewed for an equivalent 15-year period by means of a request to ICP-ANACOM at least one year prior to the license expiry date.

The renewal of licensed operators' rights of use to operate the GSM digital system may involve amending the set of rights and conditions which regulate the services in question.

In accordance with Article 20 of Law n^o. 5/2004, any amendment to the conditions, rights or procedures under the scope of this activity is subject to the general consultation procedure specified in Article 8 of the same law, with interested parties, namely users and consumers, being given sufficient time (not less than 20 days, except under exceptional and duly justified circumstances) to state their opinions on the proposed amendments.

III. CONDITIONS APPLICABLE TO MOBILE TELEPHONE SERVICES

One of the main changes resulting from the implementation of the new electronic communications regulatory framework is the replacement of the previous licensing system, largely based on individual operator licenses, by a general authorization system.

However, the use of resources such as radioelectric spectrum frequencies and numbering may be subject to the assigning of individual rights of use with specific associated rights and obligations.

In specific reference to licenses issued for mobile telephone services following public tender, Law n^o. 5/2004 of 10th February safeguarded the obligations assumed by operators with the successful bids.

In fact, according to the provisions of Article 121, sub-article 5 of this Law, all obligations assumed by licensed companies in tenders held before the publication of Law n^o. 5/2004 remain applicable, with the relevant parts of the respective public tender agreements also remaining in force.

In addition to these obligations, the majority of which were set out in detail in the licenses issued to TMN and VODAFONE, the regulatory framework from Law n^o. 5/2004 of 10th February only imposes a single set of conditions, laid out in comprehensive detail, which may be associated with service offerings and rights of use for frequencies and numbers, namely:

a) General conditions

- Interoperability of services and interconnection of networks;
- Access obligations;
- Maintenance of public network integrity, namely by means of conditions that prevent electromagnetic interference between electronic communications networks and/or services under the terms of Decree-Law n^{os}. 74/92 of 29th April, 98/95 of 17th May and corresponding regulatory measures;
- Terms of use during major disasters to ensure communications between emergency services and authorities and broadcasts to the general public;
- Security of public networks against unauthorized access under the terms of applicable legislation on personal data and privacy protection in the electronic communications sector;

- Environmental protection and urban and regional planning requirements, as well as requirements and conditions for granting access to or use of public or private land and conditions linked to co-location and resource sharing, including, where applicable, any financial or technical guarantees necessary to ensure the proper execution of infrastructure works;
- Personal data and privacy protection specific to the electronic communications sector, in compliance with applicable legislation on personal data and privacy protection;
- Use of frequency conditions where such use is not subject to the assigning of individual rights of use;
- Accessibility of national numbering plan numbers to end-users;
- Consumer protection rules specific to the electronic communications sector;
- Measures for limiting the exposure of the general public to electromagnetic fields caused by electronic communications networks in accordance with applicable legislation;
- Measures aimed at ensuring compliance with standards and/or specifications;
- Installation, at one's own expense, and availability of legal interception systems by competent national authorities, as well as the supply of decryption or decoding means where these facilities are present, in conformity with applicable legislation on personal data and privacy protection in the electronic communications sector;
- Restrictions on the transmission of illegal content, in accordance with legislation that transposes Directive 2000/31/EC of the European Parliament and of the Council of 8th June, and the transmission of harmful content, in accordance with Law n° 32/2003 of 22 August;
- Financial contributions to the funding of the universal service;
- Payment of fees;
- Information to be provided to ICP-ANACOM.

b) Conditions associated with frequency rights of use

- Designation of service or type of network or technology for which the frequency rights of use have been given, including, whenever

applicable, the exclusive use of a frequency for the transmission of specific content or specific audiovisual services;

- Effective and efficient use of frequencies, including coverage requirements where appropriate;
- Technical and operational conditions necessary to avoid harmful interference and limit exposure of the general public to electromagnetic fields;
- Maximum duration, subject to any changes in the National Frequency Allocation Plan;
- Transmissibility of rights at the initiative of the respective holder and conditions for such transmissibility;
- Payment of spectrum use fees;
- Any commitments which the company obtaining rights of use has made as part of a competitive or comparative selection process;
- Obligations under relevant international agreements relating to the use of frequency.

c) Conditions associated with number rights of use

- Designation of the service for which the number will be used, including any requirements linked to the provision of that service;
- Effective and efficient use of numbers;
- Number portability requirements;
- Obligations relating to public directory services;
- Transmissibility of rights at the initiative of the respective holder and conditions for such transmissibility;
- Payment of fees;
- Any commitments which the company obtaining rights of use has made as part of a competitive or comparative selection process;
- Obligations under relevant international agreements relating to the use of numbers.

ICP-ANACOM can thus use this restricted set of conditions as a starting point for determining which can be objectively and justifiably associated with the renewal of frequency rights of use given to TMN and VODAFONE PORTUGAL under the principles of non-discrimination, proportionality and transparency.

IV. CONSULTATION PURPOSE AND TIME FRAME

The purpose of this consultation is to obtain input from GSM 900/1800 operators and other interested parties which will objectively allow ICP-ANACOM to define a set of conditions for these operators to observe under the scope of this activity following renewal of the corresponding rights of use.

It is important to remember that such conditions must conform to or otherwise reflect the list presented in Chapter III of this document, with the regulatory entity prohibited from imposing different conditions beyond those in this original restricted set.

To achieve this intended purpose, it is vital that consultation responses be factual, objective and duly substantiated.

Once these responses have been taken into account, ICP-ANACOM will select and implement those conditions which it deems suitable for GSM 900/1800 operators, notwithstanding the corresponding prior hearing.

It is in this context that the ICP-ANACOM Board of Directors resolved on 15th July 2005 to approve the launch of this public consultation, with a period of 30 working days for interested parties to state their opinions.

V. QUESTIONNAIRE

1. Questions associated with the use of frequency

ICP-ANACOM's regulatory purpose is to encourage efficient use and ensure effective management of frequencies. Radioelectric spectrum availability criteria, guaranteed conditions of effective competition in relevant markets and effective and efficient use of frequency should all be observed in planning this goal.

In light of UMTS system developments, both in technological terms (involving third-generation terminals and networks) as well as services offered (appearance of new 3G services/content), the growth potential of the market is extremely high.

In this context, ICP-ANACOM aims to obtain information on the plans of current service providers and other electronic communications sector role-players regarding the future use of GSM 900/1800 mobile networks, with particular focus on the potential transition of services offered over these networks (and their associated customers) to services offered over UMTS networks.

Question 1: Which services will most likely continue to be offered over GSM 900/1800 networks?

Question 2: What are the minimum GSM/GPRS services which must be provided by mobile operators, namely with regard to voice and data services?

Question 3: What new services/offers are anticipated to be made available through GSM 900/1800 networks?

Question 4: In the document granting GSM 900/1800 frequency rights of use, is it justifiable to include a “revision clause” which, considering the market’s technological evolution and state of maturity, anticipates the progressive release of channels as services and customers eventually make the transition from GSM 900/1800 networks to UMTS networks, as well as facilitate spectrum refarming (using the 2G spectrum with other technologies, namely 3G)?

Question 5: Given that the service designation, network type or technology type may constitute one of the conditions associated with frequency rights of use, describe how this condition could be detailed/specified in order to include second-generation (2G) systems.

Question 6: What relationship do you foresee between this process of assigning frequency rights of use and the development of WAPECS¹?

¹ WAPECS are platforms used in accessing electronic communications services through the radioelectric medium, regardless of the frequency bands in which they operate or the technology used. A public consultation through 15 September on "Wireless Access Platforms for Electronic Communications

2. Questions associated with GSM network coverage

In accordance with the licenses issued, TMN and VODAFONE PORTUGAL must fulfil coverage obligations, namely in terms of population, road arteries and infrastructure installation (base station controllers and control, switching and base station centres).

Given that both companies have fulfilled these coverage obligations during the terms of their licenses and currently maintain comparable coverage levels, ICP-ANACOM believes the following obligations may also be considered:

- In terms of population, the operators should ensure current coverage levels, specifying the calculation methods used to determine these levels;
- In terms of infrastructure installation, the number of infrastructures installed as of the renewal date of the rights of use and their locations should be maintained in order to ensure the coverage level achieved to date, both in terms of population as well as territorial distribution;
- The potential migration of 2G customers to 3G should also be considered, consequently reducing the number of GSM infrastructures in favour of infrastructure installation/re-use to UMTS, without interfering in any way with compulsory minimum coverage levels;
- Expansion of coverage to include new major road arteries and railway routes constructed in the interim.

Question 7: What minimum coverage obligations may be justifiably imposed for GSM 900/1800 operators, namely in terms of population (suggesting calculation methods to determine values) and infrastructure installation?

Question 8: In addition to extending coverage to new road arteries, primary railway routes and underground rail stations, in what other locations should

Services" (WAPECS) is available at http://rspg.groups.eu.int/consultations/index_en.htm.

reinforced coverage be guaranteed?

Question 9: Should specific deadlines and phases be associated with the process of expanding coverage?

Question 10: Given the current levels of LMS penetration, would it be acceptable to impose measures to resolve problems in zones where coverage is problematic? If so, what types of measures?

Question 11: What additional investments would such solutions entail and what would their impact be on LMS providers and end-consumers?

3. Questions associated with service quality

Under the terms of the licenses issued, TMN and VODAFONE PORTUGAL must fulfil specific service quality indicators, namely involving service start-up time, mobile terminal equipment blockage rates during peak hours and the efficiency of the mobile network.

The companies must also send ICP- ANACOM quarterly information to allow these service quality indicators to be efficiently assessed, with associated descriptions of the methods and technical means used to determine them.

ICP-ANACOM has experienced certain difficulties in monitoring, verifying and validating some of the service quality indicators imposed on GSM/1800 operators.

Along these lines, operators have complied with the service start-up time indicator, easy to define and assess, from the outset. The elimination of this indicator should be considered once new mobile services purchased by customers are able to be used automatically.

As far as the blockage rate and network efficiency rate indicators, the operators have been meeting the percentages set for these indicators. However, the calculation method and technical means used to determine these are not well defined.

ICP-ANACOM believes standardizing these established service quality indicators would be the best option, in particular with regard to the definition, methodology and calculation methods used to determine them.

It is uncertain, however, whether a harmonized methodology will have repercussions on the actual values which these companies have agreed to uphold. Nonetheless, even if it implies changes to previously defined quality levels, it is believed that a harmonized calculation method will be advantageous for monitoring and verifying working values and allowing performance quality comparisons between various service providers.

Various study and harmonization works currently exist involving networks and mobile services, developed by the ETSI (European Telecommunications Standards Institute), which may eventually be used as a reference in defining new LMS operator parameters, namely:

- (i) ETSI EG 202 057-1²: Defines general parameters for all electronic communications service providers.
- (ii) ETSI EG 202 057-3³: Defines specific quality parameters for public land mobile networks.
- (iii) ETSI TS 102 250 (Parts 1-6)⁴: Defines more technical quality parameters for more popular GSM and UMTS network services.

Question 12: Specifically with regard to the documents in points (i), (ii) and (iii) above, to what extent should voice service quality parameters be observed by LMS providers, i.e.:

- a) Should current parameters be maintained?
- b) Should new parameters be included? Which ones?
- c) For the parameters specified in a) and/or b) above, what would be the minimum appropriate quality levels?

Question 13: Should service quality parameters be defined for data services in addition to voice service (e.g. WAP, GPRS, SMS and MMS)?

² (http://webapp.etsi.org/exchangefolder/eg_20205701v010101p.pdf)

³ (http://webapp.etsi.org/exchangefolder/eg_20205703v010101p.pdf)

⁴ (http://www.etsi.org/pressroom/Previous/2005/2005_05_stq_mobile.htm)

Question 14: If so, identify relevant parameters, specifically with regard to the documents in points (i), (ii) and (iii) above, i.e.:

- a) Should quality parameters from the current licenses be extended to data services (e.g. WAP, GPRS, SMS and MMS)?
- b) Should new parameters be applied to WAP, GPRS, SMS and MMS? Which ones?
- c) For the parameters specified in a) and/or b) above, what would be the minimum appropriate quality levels?

Question 15: Do you believe common calculation methods should be defined for all companies to determine each quality parameter currently established and/or to be established in GSM licenses for GSM services?

Question 16: If so, what calculation methods would you suggest for each quality parameter currently established and/or to be established as pertinent to include when rights of use are renewed?

4. Questions associated with consumer protection

Consumer information is one of the main keystones for safeguarding and protecting the legal rights and interests of consumers.

Specifically with regard to mobile telephone services, the publication and distribution of information on rate plans and potential service access restrictions becomes increasingly important (specifically, restrictions due to no coverage or insufficient coverage at locations such as primary railway routes, inside buildings or the underground rail system).

In this matter ICP-ANACOM has received various complaints on the lack of coverage in some zones which are not properly identified on the operators' websites.

In this context, it is important that shadow zones and coverage failures, which may also be assessed regionally by Portugal's municipal districts, be adequately publicized to users and subscribers.

Question 17: Which service quality indicators should be published regularly

by GSM operators?

Question 18: In addition to information on pricing, general terms and conditions, terms of service use/activation/disconnection, billing, guaranteed coverage, portability and claims procedures, what other information should service providers publish or make available?

5. Questions associated with GSM 900/1800 network access

The analysis of market 15 (access and call origination on public mobile telephone networks) is currently in progress.

Notwithstanding the results of this analysis, various questions remain regarding the relationship, at the wholesale level, between LMS providers and other entities, namely potential MVNOs (Mobile Virtual Network Operators).

Question 19: What entities may be interested in obtaining access to GSM networks or call origination, and under what conditions may these interests materialize?

Question 20: What new services may be made available by these entities to satisfy end- user needs?

6. Questions associated with fees

The granting of licenses to current GSM 900/1800 operators has been solely dependent upon the payment of administrative fees for issuing the licenses, annual activities, radioelectric network licensing and use of the spectrum, the latter two currently specified in Administrative Rule no. 126-A/2005 of 31st January.

Fees for the use of spectrum are currently calculated based on the number of mobile stations (terminal equipment) that the operators declare to ICP-ANACOM.

Question 21: Given the economic value of the spectrum allocated to TMN and VODAFONE PORTUGAL and also that rights of use will be granted for an additional 15 years, should a specific fee be levied on their renewal? If so, what criteria should be considered in determining the amount of this fee?

Question 22: Given that in the vast majority of countries spectrum use fees are based on the amount of the spectrum actually allocated, how do you view the idea of adopting the same principle in granting frequency rights of use to TMN and VODAFONE PORTUGAL?

Question 23: What other models or alternative criteria for spectrum use fees for GSM operators could be adopted? (Provide corresponding justification).

Question 24: What would the impacts of these models be (questions 22 and 23) on operator revenues and the market in general?