

Determination of 30.3.2006

## **QUALITY OF SERVICE PARAMETERS AND PERFORMANCE OBJECTIVES APPLYING TO THE UNIVERSAL SERVICE**

### **I - Background**

Pursuant to article 86 of Law no. 5/20041, of 10 February, the universal service consists of the provision of a minimum set of services, with a specified quality, made available at an affordable price to all end-users, irrespective of their geographical location. According to article 87 of the same statutory instrument, the minimum set of services to be made available in the scope of the universal service includes: (a) the connection at a fixed location to the public telephone network and access to publicly available telephone services at a fixed location; (b) provision of a comprehensive directory and of a comprehensive telephone directory enquiry service; and (c) adequate provision of public pay telephones.

In particular, as defined in article 88 of Law no. 5/2004, the connection to the public telephone network and access to publicly available telephone services at a fixed location comprised in the minimum set of services that must be made available in the scope of the universal service shall allow end-users to make and receive local, national and international telephone calls, facsimile communications and data communications, at data rates that are sufficient to permit functional Internet access, taking into account prevailing technologies used by the majority of subscribers and technological feasibility.

The provider of the universal service is bound, pursuant to paragraph 1 of article 92 of Law no. 5/2004, to make available to consumers, as well as to ICP-ANACOM, adequate and up-to-date information on their performance in the provision of the universal service. According to that provision, this obligation must be operated based on parameters of quality of service established in the annex thereto: (i) "supply time for initial network connection"; (ii) "fault rate per access line"; (iii) "unsuccessful calls"; (iv) "call set-up time"; (v) "response times for operator services"; (vi) "response time for directory enquiry services"; (vii) "proportion of coin and card operated public pay-telephones in working order"; and (viii) "bill correctness complaints".

The definitions and measurement methods to be adopted in the scope of these parameters, also established in annex to Law no. 5/2004, must comply with version 1.1.1 of the document ETSI EG 201 769-1. Moreover, the parameters must enable an

assessment of the quality of service of the universal service at regional level, that is, not lower than level 2 of the Nomenclature of Territorial Units (NUTS) established by Eurostat. It should be stressed that the annex to Law no. 5/2004, provides for the possibility that ICP-ANACOM may not demand the maintenance of information of the performance in the universal service provision associated to the parameters “unsuccessful calls” and “call set-up time”, in case there are data to establish that the performance in the scope of parameters in question is satisfactory.

ICP-ANACOM may specify in particular, according to paragraph 2 of article 92 of Law no. 5/2004, additional parameters of quality of service to assess the performance of universal service providers as regards the provision of services to disabled end-users and consumers, where relevant parameters have been defined.

This Authority is also entitled, under paragraph 5 of the same article, to set out performance targets applicable to obligations of the universal service, following the general consultation procedure laid down in article 8 of that statutory instrument.

It should be stressed, in parallel, that article 40 of Law no. 5/2004 compels companies that provide publicly available electronic communications services to publish and render available to consumers comparable, clear, complete and up-to-date information on the quality of services provided, as well as to render available to ICP-ANACOM regular up-to-date information on the same matter. Pursuant to the same article, it is incumbent upon ICP-ANACOM, following the general consultation procedure referred to in article 8 of the same statutory instrument, to specify the parameters of quality of service to be measured by companies under consideration, and the content thereof, as well as the form and manner of information to be published. For this purpose, the provision states that ICP-ANACOM may follow the previously mentioned annex to Law no. 5/2004.

In this context, by Determination of 04.05.20052, ICP-ANACOM has approved the regulation of quality of service applicable to the service of access to the public telephone network at a fixed location and to the publicly available telephone service at a fixed location, as well as the report of the respective public consultation, launched on 30.11.20043. It should be noted that the parameters of quality of service established in that regulation are based in general on version 1.1.1 of the document ETSI EG 201 769-1.

Thus, considering the grounds of the analysis that is part of the process, ICP-ANACOM’s Board of Directors previously heard the interested parties, in compliance with articles 100 and 101 of the Administrative Procedure Code, and submitted the Determination to the general consultation procedure, in compliance with article 8 of Law no. 5/2004 and the consultation procedures approved by ICP-ANACOM in 12.02.2004, giving parties in both cases a thirty working day period to send their written comments. Further to the procedure, the Board of Directors will adopt the Decision regarding the quality of service parameters and performance objectives applying to the Universal Service.

## **II – Framework**

Pursuant to paragraph 1 of article 92 of Law no. 5/2004, of 10 February, the universal service provider is bound to make available to consumers as well as to ICP-ANACOM, adequate and up-to-date information on its performance in the provision of the universal service.

Article 40 of the above-mentioned Law establishes that it is incumbent upon ICP-ANACOM, following the general consultation procedure, to specify the quality of service parameters to be measured by companies that provide publicly available electronic communications services, and the content, form and manner of information to be published.

ICP-ANACOM is entitled, pursuant to paragraph 5 of article 92 of Law no. 5/2004, to set out performance objectives applicable to the obligations of the universal service, following the general consultation procedure laid down in article 8 thereof.

By determination of 04.05.2005, ICP-ANACOM approved the regulation on quality applicable to the service of access to the public telephone network at a fixed location and publicly available telephone service at a fixed location (“Regulation on quality applicable to the telephone service at a fixed location”), as well as the report of the respective public consultation, launched on 30.11.2004.

It is within this context that the present Determination defines the parameters of quality of service applicable to the universal service provider and the correspondent performance targets.

Both the definitions and the measurement methods (which follow version 1.1.1 of the document ETSI EG 201 769-1) are in accordance with the Regulation on quality applicable to the telephone service at a fixed location, with the necessary adjustments which result from the fact that the telephone service provided at a fixed location, in the scope of the universal service, comprises only analogue accesses.

It should be noted that the parameters of quality of service may be altered, added or complemented by ICP-ANACOM according to the market needs, the development at harmonization level and the regulation objectives to be pursued by this Authority.

## **III – Decision**

Thus, under the terms of no. 1, 4 and 5 of the article 92 of Law no. 5/2004, ICP-ANACOM’s Board of Directors, further to hearing the interested parties, approved the following:

### **Number 1 (Object and Scope)**

1. This Determination establishes the quality of service parameters and the performance objectives applying to the universal service, mandatory for providers of the universal

service, notwithstanding the Public Telecommunications Service Concession Bases of Decree-Law no. 31/2003 of 17 February.

2. The definitions and the measurement of the parameters of quality of universal service, as well as the compliance with the respective targets, on the part of the universal service provider, are without prejudice to the application to this provider of the regulation on quality applicable to the telephone service at a fixed location.

**Number 2**  
**(Definition of parameters and targets of quality of service)**

The definition of parameters and targets of quality of service to be measured are those comprised in Annex 1 hereto.

**Number 3**  
**(Measurement methods)**

1. The measurement methods of quality of service are those defined in Annex 2 hereto.
2. Parameters should be measured at national and regional level (with the exception of PQS4 and PQS9, regarding which measurements can only be made at national level) and, regarding the latter, specified by level 2 of the Nomenclature of Territorial Units for Statistics (NUTS) established by Eurostat.
3. The reference period for purposes of quality of service measurements corresponds to each month of the calendar year.

**Number 4**  
**(Performance targets)**

The performance targets are comprised in Annex 3 hereto.

**Number 5**  
**(Procedures for provision of information to ICP-ANACOM)**

The universal service provider shall submit to ICP-ANACOM, up to the last working day of the month following the end of each quarter, a report with information on each of the different parameters set out in Annex 1 hereto.

**Number 6**  
**(Procedures for provision of information to consumers)**

1. Before the signing of any contract, the universal service provider must provide the consumers with clear, comparable and updated information about the quality of service it offers.
2. For the purpose of the preceding paragraph, every year the universal service provider shall:

- a) Disclose, up to the last working day of January, the information on the performance levels registered for the elapsed year, within the scope of the measurement of each parameter defined in Annex 1 hereto;
- b) Disclose, up to the last working day of January, the information on the quality levels it proposes to provide, in the course of the year, within the scope of parameters referred to in the preceding point; and

c) Update the information made available to the final users, under the terms referred on the previous paragraph, whenever, in the course of a year, it decides to alter the performance levels that it intended to offer along that year.

3. When the beginning of the measurement of the quality of service parameters defined in this decision is not the beginning of the calendar year, the information to be made available under the terms of no. 1 should only regard the period in which that measurement was made and be publicized as such.

4. Information about quality of service referred in number 2 should be publicized and provided in writing to final users in all of the service's points of sale.

5. The information referred to in the preceding paragraph shall also be disclosed at the universal service provider's website, in a clear and easily identifiable advertisement.

### **Number 7** **(Unexpected situations and force majeure cases)**

When, during a certain period, situations of an unexpected nature occur, such as catastrophes or other force majeure cases, the universal service provider should include within the information regarding the offered quality of service:

- a) Data on the registered unexpected nature or force majeure situations;
- b) Data detailing both the real parameters and the parameters freed from the contingencies mentioned in a), as well as a note explaining the observed differences.

### **Number 8** **(Final provisions)**

1. The universal service provider has to comply with the information obligations detailed in number 5, in the maximum period of six months from the publication of this Determination.

2. The quarterly report with the monthly measurements of quality levels notwithstanding, the reference period for sanctioning proceedings corresponds to a civil year, and any sanctions resulting from the non fulfilment of the performance objectives

imposed by ICP-ANACOM, may start to be applied after 2008, further to the evaluation of the 2007 results.

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1 See <http://www.anacom.pt/template20.jsp?categoryId=97221&contentId=180818>

2 See <http://www.anacom.pt/template13.jsp?categoryId=151746>

3 See <http://www.anacom.pt/template12.jsp?categoryId=139443>