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Determination of 14.6.2002

DECISION
ON THE CONDITIONS UNDER WHICH THE TELEPHONE DIRECTORIES SERVICE
AND THE TELEPHONE DIRECTORY ENQUIRY SERVICE ARE TO BE PROVIDED,
AS SPECIFIED IN ARTICLE 6, OF DECREE-LAW NO. 458/99 OF NOVEMBER 5

1. Under the terms of article 6 of Decree-Law no. 458/99, PT Comunicações, S.A. (PTC), as universal service provider (USP), has the obligation to draw up, publish and provide to users, telephone directories containing fixed telephone service subscribers and mobile telephone service subscribers and provide users with a directory enquiry service disclosing the data contained in the telephone directories.
2. No.2 of the same article obliges Fixed Telephone Service (FTS) providers and Land Mobile Service (LMS) providers to supply the USP with pertinent information on their respective customers as requested and on the basis of an agreed format and under fair and non-discriminatory conditions, in respect for cost-orientation.
3. No. 3 of the same article establishes that the Autoridade Nacional de Comunicações (ANACOM) is responsible for approving and publishing the form and conditions under which such telephone directories are to be provided.
4. In this context, ANACOM requested information from PTC, on 11/04/00, regarding the efforts made in order to comply with these obligations and the date on which the global telephone directory and enquiries service would be made available.
5. In a letter of 22/05/00, PTC informed ANACOM that it had already implemented a series of procedures in order to comply with legal requirements, specifically in terms of ensuring suitability of its information systems. PTC also stated that it was about to enter into contact with all potential information suppliers.
6. On 19/07/00, ANACOM requested detailed information from PTC on the procedures carried out and contacts made in order to comply with the obligations laid out in art. 6 of Decree-Law no.458/99.
7. On 10/08/00, PTC informed ANACOM that it had sent relevant information on the global telephone directory and enquiries service to all FTS and LMS providers and was waiting to receive information on these providers' customers in order to include them in the directory enquiry service database and to publish telephone directories in due course.
8. On the same date, Jazztel, Maxitel, Novis, ONI and Teleweb, sent a joint letter to ANACOM in which they expressed their understanding in regards to the proposal presented by the USP, specifically in regards to the following points: (i) format of the telephone directories; (ii) prices for the provision of services; (iii) distribution of telephone directories.
9. In conformity, PTC was requested on 17/10/00, to revise the proposal presented in accordance with the following points:

- a) Article 6 of Decree-Law no. 458/99, clearly establishes that the distribution of telephone directories is an obligation of the USP, and this obligation should not be imposed on the other FTS and LMS providers;
- b) It is the FTS and LMS providers who should supply information whereby PTC may fulfil its obligations as USP, in an agreed format and under fair and non-discriminatory conditions, in respect for cost-orientation;
- c) Any eventual losses suffered as a result of the obligations specified in article 6 of Decree-Law no. 458/99 may possibly be financed under the terms of Chapter V - Financing of the Universal Service of Decree-Law no.458/99;
- d) Under the terms of article 6 of Decree-Law no.458/99, PTC is responsible for correcting any errors or omissions that may be detected, and this obligation should not be transferred to the FTS and LMS providers;
- e) The information collection sheet should be altered given the need to collect only strictly necessary information. Alternatively, indication should be made of obligatory data-fields.

Lastly, the following additional information was requested, in order to enable ANACOM to make a detailed evaluation of the manner in which the USP intended to handle questions of protection of personal data and compliance with principles of non-discrimination, technological neutrality and cost orientation:

- The format in which the customer registrations of the other FTS and LMS providers would be presented, in light of the need to facilitate consultation of the telephone directories and comply with the principles of non-discrimination and technological neutrality;
- Procedures adopted in order to comply with obligations of confidentiality and protection of personal data;
- The operational account of the “telephone directories” product;
- Commercial conditions established between PTC and the company, Páginas Amarelas, S.A., in order to produce and distribute telephone directories.

10. In an ordinary meeting of 19/10/00, ANACOM’s Board of Directors decided that:

- I. Under the terms of no. 2 of art. 6 of Dec-Lei no. 458/99, of 05/11, the FTS and LMS providers are obliged to supply pertinent information on their respective subscribers as requested by the USP, via an agreed format and under fair and non-discriminatory conditions, in respect for cost-orientation.
- II. Information currently available is not in a format that facilitates demonstration of the possible existence of relevant costs compatible with the need to establish prices proposed by PTC.
- III. This does not, however, impede the re-appreciation, if necessary, of the rules for setting possible maximum prices to apply within the framework of the present service, in strict conformity with the principle of cost orientation (consecrated in the above-mentioned no. 2 of article 6 of Decree-Law no.458/99) – given subsequent verification by PTC of more suitable information and data that is not already provided in another appropriate outlet.
- IV. The current limitations on relevant cost data should not, under any circumstances, constitute an impediment or imply a delay in the effective concretisation of the production and distribution of telephone directories

within the framework of the Universal Service, particularly given the following: Atendendo designadamente:

- a) The time period between the request for information and data required to analyse the present question;
- b) The importance of this service for the development of the activities of various operators and providers and consequently for the development of competition.

11. ANACOM's understanding on this matter was communicated to PTC and to the providers that had manifested their concerns, on 20/10/00. In response to ANACOM's aforementioned understanding and considering the additional information requested, PTC conducted a review of the initial proposal and sent a new proposal to ANACOM on 31/10/00.
12. On 20/11/00, PTC's revised proposal was sent by ANACOM to the providers that had previously manifested their understanding on these matters, in order to receive their comments. Jazztel, ONI and Maxitel, submitted their position on PTC's new proposal at the end of November, 2001, which, amongst the various comments made, emphasised the following: (i) the form of registration of customers in the telephone directories; (ii) information files with excessive provision of obligatory elements; (iii) prices for provision of the service.
13. On 11/01/01, ANACOM's Board of Directors issued a determination on the form in which data should be registered and the information files required to provide services. The same determination also specified that the revision of information collection files determined by ANACOM should not, under any circumstances, constitute an impediment or imply a delay in the process culminating in effective concretisation of the production and distribution of telephone directories within the framework of the Universal Service. Finally, the determination of ANACOM's Board of Directors of 19/10/00 was reiterated.
14. On 12/02/01, PTC submitted to ANACOM, a list of the costs associated to production and distribution of telephone directories and provision of the enquiries service, for the year 2001, that would imply an increase in the prices previously presented to FTS and LMS providers for provision of these services.
15. In this context, on 15/02/01, ANACOM's Board of Directors, ruled that:
 - I. PTC must immediately include data on FTS and LMS subscribers that have authorised divulgation of their personal data, within the enquiries service and telephone directories;
 - II. The costs presented by PTC, regarding the provision of services in question, shall be subject to a consulting study in order to review the need to establish rules leading towards setting possible maximum prices to apply within the framework of the present service, under the terms of no.2 of article 6 of Decree-Law no. 458/99.
16. The consulting study, carried out by an independent entity, was concluded on 18/01/02, and verified the following:

- PTC manually inputs the data of those providers' customers that have expressed an interest in adhering to these services. This fact was confirmed by PTC on 09/04/02.
- The amounts presented by PTC on 12/02/01, only refer to direct costs and do not include any amount on joint costs or structural costs borne by the company.
- In relation to *software* costs for the enquiries service, two alternative solutions may be considered in technical terms: (i) Data funnel – use of a single data base for all operators in accordance with a specific defined *standard*; (ii) Meta-directory – parallel search system on the databases of each operator.
- The cost estimate for the enquiries service presented by PTC on 12/02/01, was based on a meta-directory solution, which according to the consultants, although having fuller coverage, implies very high costs and is not therefore the most suitable option. According to the consultants, it would be more advantageous to adopt the Data funnel solution, implying lower costs and safeguarding future questions such as alterations to the data model by providers caused by eventual situations of mergers and/or winding up of providers.
- Adoption of the *Data funnel* solution implies compliance with the following requirements: (i) according to PTC, the information to be sent by the other providers to PTC may imply occasional alterations to the *standard* already defined by ANACOM, in terms of data-fields foreseen in order to guarantee the quality of the service provided (PTC did not however specify the alterations); (ii) all data should comply with the *standard* model defined, in order to guarantee uniformity of information to appear in the database.
- The enquiries service's initial investment costs are dependent on: (i) *hardware* – the number of providers, weighted by their respective size, in terms of volume of registration; (ii) *software* – the number of providers that intend to adhere to the service, that does not, however, vary with the number of registrations to be included.
- The enquiries service's maintenance costs vary in accordance with: (i) *hardware* and licences – the total number of registrations within the database; (ii) *software* – the number of registrations added to the database.
- In relation to the telephone directories, the amounts presented are based upon criteria that the consultants consider acceptable.

17. Considering the consultants' recommendations, the analysis carried out, and after having heard the interested parties under the terms of the Administrative Procedure Code, ANACOM's Board of Directors determined the following:

- I. In regards to the enquiries service and telephone directories, the entities specified in no. 2 of article 6 of Decree-Law no. 458/99 must provide PTC with the necessary data on respective subscribers, in conformity with applicable legislation, within a maximum of 30 days.
- II. PTC must integrate the referred to elements in the provision of the enquiries service, within a maximum of 60 days counted from the conclusion of the deadline indicated in point I.
- III. ANACOM will make a statement on the costs of producing the telephone directories and providing the enquiries service, within the framework of analysis of the global costs associated to provision of the Universal Service,

in its various components to be demonstrated by PTC, in light of the applicable regulatory framework and without prejudice to possible evolution of guidelines that may take place at the Community level.