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Determination of 23.10.2006

## **DETERMINATION ON THE INVENTORY OF ASSETS ENGAGED IN THE CONCESSION OF THE TELECOMMUNICATIONS PUBLIC SERVICE**

1. Pursuant to article 19 of the Bases of Concession (in annex to Decree-Law no. 31/2003, of 17 February), PT Comunicações, S.A. (PTC) must prepare and keep an up-to-date inventory of assets engaged in the concession, which must be submitted to ICP – ANACOM every year, duly certified by an auditor acceptable to the latter.
2. The inventory of assets engaged in the concession, formerly provided for in Decree-Law no. 40/1995, of 15 February (Bases of Concession), was deemed appropriate even after the basic network was purchased by the concessionaire, namely taking into account that:
  - (a) PTC must engage in the concession both infrastructures that integrate the basic network and assets deemed essential to the provision of the concessionary services (article 5 of the Bases of Concession);
  - (b) At the end of the concession, the assets of the private domain of the State, which must be inspected, revert free of charge and automatically to the granting authority (article 37 of the Bases of Concession);
  - (c) The inventory may prove necessary for the purposes of the compulsory purchase of the basic network (pursuant to Decree-Law no. 95/2003, of 3 May).
3. In the scope of the inventory of assets engaged in the concession for the year 2004, having been found that some of the guidelines laid down by ICP-ANACOM as regards the inventory for the year 2003 and previous years, had not yet been adopted by the concessionaire, and whereas:
  - (a) The auditor selected by PTC continued to use the International Standard on Related Services 4400 (ISRS 4400), which, as ANACOM stated earlier, is not appropriate, as it does not lead to the performance of an audit/review task, and thus there is no certainty as far as the performed work is concerned;
  - (b) The auditor selected by PTC did not refer explicitly in its report the absence of elements within the State's private domain, contrary to the recommendation of ICP-ANACOM in case this situation took place;
  - (c) Concerning real property, the concessionaire acknowledged that the functional separation of shared means which have been included in the inventory as part of the basic network has proven to be impracticable,

and does not contribute towards accurately identifying and engaging elements in the inventory;

- (d) Real property which is occupied in part by infrastructure engaged in the concession has been misclassified by PTC as falling within its private domain, as this real property is part also of the concession;
- (e) Hardware and software involved in the billing of concessionary services were included in the inventory as part of the private domain of PTC, as the company did not deem them essential to the provision of concessionary services, yet this is not appropriate, as they are indeed essential to the service provision, even if they do not contribute directly towards it;
- (f) The definition of “high value” elements remains unclear, as no specification is made as regards the threshold as of which an element is qualified as such, contrary to what ANACOM previously conveyed, this situation being inappropriate on account of the fact that elements which are not considered “high value” by PTC may turn out to represent a large extent of assets, when aggregated;
- (g) The inventory of assets has been customarily submitted to ICP-ANACOM by December of the year following the reporting year, which hinders the impact of ICP-ANACOM’s recommendations /determinations in the inventory of the subsequent year,

the Board of Directors of ICP-ANACOM, in the scope of assignments conferred by point n) of paragraph 1 of article 6 of its Statutes, approved by Decree-Law no. 309/2001, of 7 December, and in exercising the powers established in articles 19, paragraph 1, and 25 of the Bases of Concession, as well as in point g) of article 9 of the referred Statutes, hereby determines as follows:

1°. To approve the inventory of assets engaged in the concession for the year 2004, albeit with the following reservations, which must be fully addressed in the next inventories:

- (a) The standards followed to carry out the inventory do not provide any guarantees of a global and reasoned audit/review task on the part of the selected company, the adoption of the International Standard on Related Services 4400 (ISRS 4400) not being thus acceptable;
- (b) The report of the auditor selected by PTC did not refer explicitly the absence of elements within the State’s private domain;
- (c) Real property occupied in part by infrastructure engaged in the concession has not been classified as being engaged in the concession, as would have been appropriate, nor the part occupied by infrastructure supporting the provision of concessionary services has been quantified;
- (d) Hardware and software involved in the billing of concessionary services in the domain of the concession were included in the inventory as part of the private domain of PTC, when in fact they should have been engaged in the concession;
- (e) The threshold as of which an element is qualified as “high value” has not been clearly identified.

2°. To recommend PTC that, as from 2007:

- (a) The inventory of assets be submitted to ICP-ANACOM by the month of August of the year following the reporting year;
- (b) The communication to ICP-ANACOM of the auditor selected by the concessionaire to carry out the inventory attach the corresponding specifications.