

Determination

Determination of ICP-ANACOM's Board of Directors of 1 September 2005 approved the report on the consultation to the fixed wireless access (FWA) operators, containing the analysis of the received proposals and the action plan to roll-out.

The action plan included two phases (Phase I and Phase II). During the first one, after the hearing of the entities with FWA licences, ICP-ANACOM intends to resize their rights of spectrum use in accordance with the terms of Administrative Rule no. 1062/2004, of 25 August, and the interest and needs properly justified by the entities.

During the second phase (Phase II), taking into account the available spectrum (namely the spectrum released by entities that lost interest in certain zones during this process) and the entities interested in it, ICP-ANACOM will define its allocation procedure.

With the conclusion of Phase I, considering the recovered spectrum, available for new allocations, and the interest in that spectrum brought to ICP-ANACOM's knowledge during Phase I, besides the possible interest of other entities, this Authority decided to initiate Phase II, by submitting the 24.5 GHz - 26.5GHz frequency band to the full accessibility regime, since:

- according to the received responses, interest in additional spectrum is generally focused on Zones 1, 2 and 3, with a requested amount of 2x56 MHz per zone;

- the recovery of the rights of frequency use results from Phase I;
- spectrum was released further to the cancellation of TELEWEB, S.A.'s licence;
- a certain amount of spectrum was foreseen for network expansion in the scope of the FWA licences granted in 2000.

Such determination results in a modification to the National Frequency Allocation Plan (NFAP), and will thus be properly included on the NFAP (article 16, no. 1, paragraph b). Since it is not a limitation to the number of rights of frequency use to grant, it is not subject to the procedure foreseen in no. 3 of article 21 of Law 5/2004. Therefore, electronic communications network operators and service providers should inform of their interest by means of a justified request.

It should also be highlighted that Administrative Rule no. 1062/2004 defined the new tariff model to which the use of frequency bands allocated to the fixed wireless access is subject. Since this is a more favourable regime, the new diploma entered into force retroactively on 1 January 2004. The values of the fees to collect were later included in Administrative Rule no. 126-A/2005 of 31 December.

Complying with the regime defined and already published in due time by ANACOM in a 14 December 2004 determination (at the time of the consultation to operators on the interest in FWA frequencies), each operator will be subject to the tariffs corresponding to the geographical zones to which it holds rights of frequency use. In this context, invoices will be issued regarding the years 2004, 2005 and 2006.

In this scope, ICP-ANACOM's Board of Directors determined on 23 February 2006:

1. To approve the report on the consultation to the fixed wireless access (FWA) operators.

2. To determine, under the terms of no. 1 of Administrative Rule no. 1062/2004, of 25 August, the recovery of the rights of frequency use granted to the following entities:
 - a) To NOVIS TELECOM, S.A., in the 3600 GHz - 3800 GHz band, in zones 5, 6, 8 and 9;
 - b) To ONITELECOM, S.A. in the 3600 MHz – 3800 MHz band, in zones 1, 2, 3, 4, 5, 6, 7, 8 and 9;
 - c) To PT Comunicações, in the 3400 MHz – 3600 MHz band, in zones 2, 4, 8 and 9;
 - d) To AR TELECOM, S.A. in the 24.5 GHz - 26.5 GHz band in zones 2, 3, 4, 5, 6, 7, 8 and 9;
 - e) To BROADNET PORTUGAL, S.A., in the 24.5 GHz - 26.5 GHz band in zones 3, 4, 5, 6, 7, 8 e 9;
 - f) To NOVIS TELECOM, S.A. in the 24.5 GHz – 26.5 GHz band in zones 3 (2×28 MHz of the previously allocated 2×56 MHz), 4, 5, 6, 7, 8 and 9;
 - g) To ONITELECOM, S.A. in the 24.5 GHz - 26.5 GHz frequency band, in zones 3, 4, 5, 6, 7 and 8;
 - h) To VODAFONE PORTUGAL, S.A. in the 24.5 GHz - 26.5 GHz band in zones 4, 5, 6, 7, 8 and 9.
3. To reconfigure the rights of frequency use for FWA granted to AR TELECOM, S.A., NOVIS TELECOM, S.A., ONITELECOM, S.A., VODAFONE PORTUGAL, S.A., WTS, S.A, PT Comunicações and BROADNET Portugal, S.A..
4. To submit the draft titles to the previous hearing of the interested parties, under the terms and for the purposes stated in articles 100 and 101 of the Administrative Procedure Code (Código do Procedimento Administrativo), with a 20 working day deadline for companies to comment.

5. To determine, further to the issue of the titles mentioned in 3, the settlement and collection of the fees regarding 2004, 2005 and 2006, owed by the entities with rights of frequency use, in compliance with Administrative Rule no. 126-A/2005, of 25 August, considering the modification of the values shown on the tables attached to no. 5, in compliance with Administrative Rule no. 126-A/2005 of 31 January.
6. To modify the National Frequency Allocation Plan in the frequency bands reserved for the operation of FWA in the 24.5 GHz – 26.5 GHz band, and the corresponding allocation process.
7. To initiate Phase II, determining that the granting of rights of use of frequencies in the 24.5 GHz - 26.5 GHz band, identified as such in the NFAP, will be made using the full accessibility regime, depending on the presentation of the following elements:
 - Technological system (general network structure, characteristics of the transmitters/receivers, used standards);
 - Services (characterization, generated traffic, quality of service goals, etc.) and the corresponding spectrum needed (with the preferential sub-bands, should it be relevant);
 - Planning of the radio network (stations to install, coverage maps, frequency reuse, quality and availability), focusing on the assumptions made, taking into account that the reference level for co-channel emissions, in order to coordinate with operators in adjacent geographical zones, is of -105 dBW/MHz/m^2 ;
 - Network roll-out plan in terms of base station deployment per zone from year 2006 to 2010.