



The information is also available in Anacom's Internet website in:

<http://www.anacom.pt/template31.jsp?categoryId=214269>

Determination of 22.11.2001

## **DECISIONS CONCERNING THE REFERENCE OFFER FOR LOCAL LOOP UNBUNDLING (RUO) 2001**

By decision of 28/06/01, and after prior hearing of interested parties, ICP's Board of Directors defined a series of alterations to be introduced in the RUO 2001 presented by PT Comunicações, S.A., under the terms of paragraph a) of point 2 and point 3 of article 4 of the Regulation (EC) no. 2887/00 of the European Parliament and Council.

Subsequently, on 16/07/01, PT Comunicações, S.A. submitted the revised RUO to ICP (updated on 04/09/01 and 01/10/01), and the Institute analysed the respective proposal in order to verify whether the RUO complies with the said decision of 28/06/01. Comments on these matters were also received from several entities.

It was verified that, in conformity with the decision of 28/06/01, the RUO includes the 80 exchanges of PT Comunicações, S.A. that were considered by Other Licensed Operators (OLOs) to be of greatest priority. It should also be emphasised that the process of attribution of space in exchanges to interested OLOs has already commenced. In accordance with the above mentioned decision, 15 of 20 exchanges that have been classified by the OLOs as bearing greatest priority in this initial stage should be made available within 60 days, after a corresponding request by the operators.

Some of the procedures currently described in the RUO, may have to be revised, in light of experience accumulated in the interim period, evolution of the market offer and discussion between interested parties that will be promoted within the LLU Consultative Working Group. Without prejudice to wider discussion on this matter in the said working group, it is henceforth recommended that in cases in which OLOs are required to provide specific items of information<sup>1</sup>, this should be restricted to that which is strictly necessary to enable PT Comunicações, S.A. to guarantee the integrity and security of its network and installed equipment and to fulfil its obligations (e.g., possible implementation of insurance policies for co-installed equipment).

It should also be noted that ICP is carrying out inspections of exchanges where PT Comunicações, S.A. claims that conditions do not exist for physical co-installation, and the results of these inspections will be communicated in due time.

Finally, it should be emphasised that certain entities expressed concerns about the non-existence of specific forms for various types of requests specified in the RUO, which are necessary in order for the RUO to be operationally effective.

As a result of the analysis carried out, it was concluded that not all the subjects included within the decision of 28/06/01 were included within PT Comunicações, S.A.'s revised RUO.

In this context, ICP's Board of Directors, under the terms of paragraph a), of point 2 and point 3 of article 4 of the Regulation (EC) no. 2887/00 of the European Parliament and Council, decided, in a regular meeting held on 22/11/01, that the following rules should be included in

<sup>1</sup> For example, a list, by exchange, of the equipment items to be installed, identification of activities to be pursued in access to buildings without automatic control or identification of equipment, materials and tools.

the RUO 2001, within a maximum of 10 days, in order to ensure that the RUO complies with the terms of Regulation (EC) no. 2887/00 and the determination of 28/06/01.

<b>ICP Decision of 28/06/01</b>	No. 6: In the cases where the adoption of the definitions contained in the Regulation (CE) directly or indirectly result in alterations to the definitions of associated materials (e.g. exchange building), these latest definitions must be updated accordingly.
<b>RUO</b>	Incompatibility with the Decision of 28/06/01. The RUO maintains the previous definition of the exchange building (physical space where the switch is installed) also using the term GPI (Geographic Point of Interconnection), when referring to exchanges that are suitable for co-installation.
<b>Consequences</b>	<p>Restriction of the offer in light of the terms of the Regulation (CE).</p> <p>In the Regulation (EC) the local loop is defined as the physical twisted metallic pair circuit in the fixed public telephone network connecting the network termination point at the subscriber's premises to the main distribution frame or equivalent facility. As such, the desirable points of access to the local loop should be the main distribution frames (MDFs).</p> <p>According to the RUO, the exchange building will be associated to the notion of the switch and not the notion of the main distribution frame or equivalent facility. This could reduce the scope of the offer in terms of local loops with the capacity to provide broadband services. It should also be noted that, according to information provided by PT Comunicações, S.A., around 47% of the active local loops would be associated to remote units. Also, according to data provided by PT Comunicações, S.A., there are around 2000 main distribution frames in its network, approximately 10 times the number of GPIs.</p> <p>Given that the exchanges that are considered to be of priority by the OLOs generally correspond to local exchanges with GPI functions and that the attribution of exchanges corresponds to a progressive process, in this stage, access to remote units should be of less priority.</p> <p>Thus, given that PT Comunicações, S.A. foresees that during the first year in which this offer will be in force it will add other exchanges to the current list provided in annex 2, in order to cover all Local GPIs, ICP considers that the offer should be progressively widened in order to include all the MDF's of PT Comunicações, S.A.'s network.</p>
<b>Decision 1</b>	<p><b>- In order to establish compatibility between the definition of the exchange building (that may be abbreviated as "exchange") with the definition of the local loop specified in the Regulation (EC), the exchange building must be defined as the "physical space where the main distribution frame is installed".</b></p> <p><b>- PT Comunicações, S.A., in its Reference Offer, should substitute the term "GPI" by exchange building (or abbreviated as "exchange") in order to anticipate future evolution of the supply.</b></p>
<b>ICP Decision of 28/06</b>	No. 16: (...) In this way it will not be necessary to submit declarations of equipment compliance to PT Comunicações, S.A. beforehand.
<b>RUO</b>	The RUO foresees that PT Comunicações may, in duly justified cases, reserve to itself the right to require the OLO to submit a statement of compliance for telecommunications terminal equipment connected to a specific local loop.
<b>Consequences</b>	The right that PT Comunicações, S.A. reserves to itself is a competency of ICP. It should be noted that Decree-Law no. 192/2000 establishes the procedures that a public telecommunications network operator should follow when it intends to impede connection or a connection attempt to terminal equipment (articles 13, 14 and 15). In this context PT Comunicações, S.A. is responsible for requesting to ICP, on a case-by case basis and with due justifications, the pursuit of actions required in order to safeguard its position.
<b>Decision 2</b>	<b>PT Comunicações, S.A. should remove from the RUO, any claim related to the possible requirement on OLOs to present a statement of compliance for telecommunications terminal equipment connected to a specific local loop.</b>
<b>ICP Decision of 28/06</b>	No. 18: (...) reasonable conditions should be provided so that beneficiaries can visit locations (...) where co-location has been refused for reasons of a lack of capacity.
<b>RUO</b>	Omission in the RUO of the above mentioned conditions.
<b>Consequences</b>	Failure to comply with the terms of Regulation (EC). The impact of this non-compliance may be attenuated for a temporary period, through inspections that have already been carried out (or are to be made) by ICP.
<b>Decision 3</b>	<b>It is reiterated that in the RUO, PT Comunicações, S.A. should ensure that reasonable conditions are provided so that beneficiaries can visit locations where co-location has been refused for reasons of a lack of capacity.</b>
<b>ICP Decision of 28/06/01</b>	No. 31: (...) PT Comunicações, S.A. (...) formulate an offer similar to the services actually provided on the wholesale market, namely in relation to the "PT ADSL Network" supply (...)
<b>RUO</b>	Omission in the RUO of the above mentioned conditions.
<b>Consequences</b>	Limits the offer, namely in regards to the connection of co-installed equipment in the exchange of PT Comunicações, S.A. to the premises of the OLO. Given that the "PT ADSL Network" supply may not be unbundled, and it may not be economically viable to adapt the said offer, and that PT Comunicações, S.A. may

<b>Decision 4</b>	<p>develop the supply of traffic transport that is similar to that of the “PT ADSL Network”, alternatives may be offered that are similar to those currently provided by companies of the PT Group.</p> <p><b>It is reiterated that PT Comunicações, S.A., given the evolution of the offer and market conditions, should enable a similar offer, within the scope of Local Loop Unbundling, that is similar to those services currently provided in the wholesale market, in the scope of the “PT ADSL Network” supply, in accordance with the principle of non-discrimination, namely for connection of co-installed equipment in the exchange of PT Comunicações, S.A. and the premises of the OLO.</b></p> <p><b>This offer may be concretised through the provision of offers that are similar to those commercially provided by companies of the PT Group.</b></p>
<b>ICP Decision of 28/06/01</b>  <b>RUO</b> <b>Consequences</b>  <b>Decision 5</b>	<p>No. 32 (ii): PT Comunicações, S.A. must present reasonable deadlines for attending requests for access to those installations without automatic control during normal working hours, whether in situations of emergency or outside normal working hours.</p> <p>Omission in the RUO of the above mentioned conditions.</p> <p>Possible conditioning factors on access to exchanges, that could have an impact on the level of service quality to be offered to end users, namely in emergency situations.</p> <p><b>It is reiterated that PT Comunicações, S.A. must present reasonable deadlines for attending requests for access to those installations without automatic control during normal working hours, whether in situations of emergency or outside normal working hours.</b></p>

ICP’s Board of Directors also decided, under the terms of paragraph a), of point 2 and point 3 of article 4º of the Regulation (EC) no. 2887/00 of the European Parliament and Council, decided that PT Comunicações, S.A., within a 10-day deadline, should complement its offer in order to cater for the forms required for the various types of requests specified within the RUO, that should foster a balance between a desirable level of procedural efficiency, market interests and the respective legislation.