

PRE-SELECTION SPECIFICATION BY FTS PROVIDERS

Justification Note

On July 21, 1999, under the terms of article 32 of Decree-Law no. 415/98 of December 31, ICP determined that from July 1, 2000, all FTS ¹ operators/providers with direct access must guarantee functions allowing end users to choose national or international packet switching services of interconnected operators and/or providers through pre-selection, with the possibility of a call-by call cancellation by dialling a short prefix.

That decision was also consecrated within the scope of the IRP ² for Portugal Telecom, as well as within the scope of the issuing of FTS licences to other operators/providers.

Furthermore, ICP also determined which generic moulds should be ensured, taking into account the underlying objectives of creating effective market competition and guaranteeing a range of choices for the user - a range which will gradually increase and is based on simple procedures.

In ICP's understanding, the detailed definition of the technical or contractual means and instruments to embody the pre-selection would exclusively fall upon the providers, as the applicable regulatory terms had been established, and free negotiations among the providers would be favoured.

However, it proved the necessity of ICP's urgent intervention in a detailed definition regarding the implementation of pre-selection, in as user-friendly a manner as possible.

¹ Fixed Telephone Service

² Interconnection Reference Proposal

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Thus, it is with ICP's promotion and the participation of all FTS operators/providers that a pre-selection specification is presented.

Aware of the constant evolution in terms of technology and applicable norms, this specification took into account the technical limitations imposed by networks and systems previously installed by the various providers, and it shall be updated as soon as it is viable to improve or expand functions from the user's point of view. This evaluation shall fall upon ICP after having heard the main interested parties on the market.

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General principles

1. All calls determined by ICP as eligible for call- to-call selection shall be considered as eligible for pre-selection. Any possible technical restrictions to having pre-selection available on the same date as call-to-call selection must be duly substantiated.

2. Two pre-selection possibilities must be available separately - one for national calls and another for international calls. All calls with their origin and destination on national Portuguese territory shall be considered as national calls, including fixed-mobile calls ³.

3. All contracts celebrated with FTS providers, with direct or indirect access in the pre-selection modality, must be written and shall be governed by the provisions set out in the REFTS ⁴, approved by Decree-Law no. 474/99, of November 8.

4. The contractual relations between client and pre-selected provider (PSP)

shall be autonomous in relation to the contractual relations between client and direct access provider (DAP), without prejudice to agreements to be established and interconnection obligations.

5. The co-ordination of procedures to be agreed upon among providers so as to simplify the provision of the mentioned service by means of indirect access shall fall upon FTS providers, and cannot contravene the legal norms and applicable determinations. Furthermore, the clients' express wishes must be safeguarded.

6. In the case of rejected telephone calls, the interests of the user must be ensured by means of clear and neutral information.

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this does not include calls to mobile telephones on *roaming*, in Portugal

⁴ Regulations for the Exploitation of the Fixed Telephone Service

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7. The validation of a call must be carried out as close as possible to its origin, unless another alternative has been explicitly defined by ICP or agreed upon by the providers.

8. All elements relevant to communication must be directed to the pre-selected provider.

9. Due account must be taken, in particular, of the guiding interconnection principles consecrated in Decree-Law no. 415/98, which aim at economically ensuring the interests of users, and when applicable attention must be paid to the principles of non-discrimination, transparency and cost orientation.

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Specific rules

A - Pre-selection implementation

1. The DAP must initiate the pre-selection implementation upon request of the PSP in a document sent by the latter and signed by the client.

2. The DAP must make the pre-selection available within a maximum period of 5 working days as from the date of presentation of the request by the PSP, mentioned in the previous point. It shall fall upon the PSP to agree upon the installation period for the respective service with their clients, and undertake responsibility for complying within that period.

3. In the case of incompatible requests of two or more PSPs, the requests of the client shall prevail, provided that their declaration expressly states that one of the PSPs has been replaced by another. When faced with simultaneous requests, the DAP must not fulfil any of them, submitting the resolution of the conflict to the PSPs with their potential clients.

4. The DAP cannot reject pre-selection requests on grounds arising from its contractual or commercial relations with the client, except in the case where the alleged motive is the justified suspension of the direct access itself.

5. The PSPs can establish valid minimum periods in the respective contracts which, being adhesion contracts, require ICP approval.

6. The same procedures which are applied to implementation, shall also be applied to pre-selection discontinuance and PSP alteration, with the necessary adaptations.

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B - Providing services

1. Under the terms of the REFTS, it shall fall upon the PSP to inform its clients of the offering conditions of the respective service, which excludes the DAP from intervening in any issue related to providing that service.
2. The PSP has the right to invoice its clients directly for providing the service, unless otherwise agreed upon by the providers.
3. The non-payment by a client to the DAP does not determine that access to the PSP is suspended, except in cases involving the interruption of direct access.
4. Whenever a DAP client transmits his contractual position, under the terms recognised by the REFTS, the contracts celebrated with the PSP shall remain unaltered, unless the new client expressly indicates otherwise.
5. Pre-selection must be activated on the basis of client access, unless the latter indicates otherwise and provided it is technically possible.
6. Pre-selection must prevail over call barring, and for this purpose the client's declaration must contain his/her express wish to cancel or maintain possible barring.
7. Pre-selection, as well as its cancellation by dialling the prefix for another Provider (*override*), must also fall upon calls which have been re-directed, provided these are eligible.
8. Wherever it is technically possible to do so and in the case of a selected call with re-directing, the selected Provider must distinguish the eligible traffic situation of a user without contract, so as to guarantee the caller receives appropriate and understandable information.
9. Wherever it is technically possible to do so and in the case of a selected call with re-directing, the DAP must distinguish the non-eligible traffic situation, so as to guarantee the caller receives appropriate and understandable information.

C – Signal information to be sent by the DAP to the PSP

1. The CLI (as well as the corresponding information regarding the restriction of its presentation) must be sent via the SS7 (ISUP).
2. The PSP prefix associated to the "B number" must be sent via the SS7 (ISUP).
3. Whenever a call is re-directed, the number calling, the last number re-directed and the destination number, at least, must be sent via the SS7 (ISUP).

D - Costs

1. The costs for establishing pre-selection must be supported by each provider in its network and systems.

2. Provided they are reasonable, administrative costs per line may be divided among the providers in accordance with the following principles:

- 2.1. In the case of operators/providers with significant market power in the national interconnection market, such prices must be compatible with the cost orientation principle.

Taking into account, namely, the principle of transparency, these prices must be itemised in the respective interconnection reference proposals.

- 2.2. In the case of providers without significant market, these prices must conform to the fundamental principles and rules set out in the relevant legislation, taking into consideration, namely, the inadmissibility of any and all practices which may disturb the conditions of competition.

3. If there are any additional transmission costs, they shall be presumed negligible and will thus be carried by the direct access provider who incurs them.