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Determination of 26.10.2005

PRICE CONTROL OF CALL TERMINATION ON THE PUBLIC TELEPHONE NETWORK AT A FIXED LOCATION OF OPERATORS WITH SIGNIFICANT MARKET POWER (SMP), EXCEPT FOR OPERATORS OF THE PT GROUP (II)

By determination dated 17/12/04 concerning the imposition of obligations on wholesale call origination and termination markets on the public telephone network at a fixed location, a price control obligation was imposed on operators with significant market power (SMP) on the call termination market on the public telephone network at a fixed location, with the exception of PT Group companies (OSP).

Implementing the determination dated 17/12/04, ICP-ANACOM determined, on 08/07/05, that:

- a) All operators who hold SMP on the call termination market on the public telephone network at a fixed location (except for the operators of the PT Group) who failed to comply with the price control obligation under the terms of the mentioned ICP-ANACOM determination of 17/12/04, had to establish and apply a new call termination tariff, within a 10-working-day time limit, that would comply with that obligation, that is, the prices of the new tariffs to be charged by the OSP should be based on a maximum difference of 20% in relation to the prices practiced by the PT Group for call termination on its own network. The maximum average termination revenue per minute should thus be 0.876 euro cents (no VAT included)
- b) Operators should submit to ICP-ANACOM, within a 15-working-day period of time, the respective call termination tariff, duly substantiated, demonstrating that this fulfils the price control obligation to which the operators are bound under the terms of the ICP-ANACOM determination of 17/12/04.

Following the referred determination, ICP-ANACOM received letters from operators and APRITEL, which included important particulars in order to improve the implementation of the determination dated 17/12/04. By determination of 28/07/05¹, it was thus decided to grant interested parties a 20-working-day time limit to assess this determination, the implementation of which remained suspended.

Having analysed the views of entities who assessed this issue, as expressed in the report that integrates this decision, the Board of Directors of ICP-ANACOM, in the scope of the assignments provided for in points b), h) and n) of paragraph 1 of article 6 of the Statutes, approved by Decree-Law no. 309/2001, of 7 December, and in the exercise of the responsibilities provided for in points b) and g) of article 9 of the referred Statutes, and taking due regard to the regulation objectives provided for in points a) and c) of paragraph 1 of article

¹ <http://www.anacom.pt/template12.jsp?categoryId=159423>

5 of Law no. 5/2004, of 10 February, hereby determines, to implement the determination of 17/12/05, that:

- a) All notified operators who hold SMP in the call termination market on the public telephone network at a fixed location (except for the operators of the PT Group) who are currently failing to comply with the price control obligation under the terms of the mentioned ICP-ANACOM determination of 17/12/04, which provided that tariff prices charged by the OSP should be based on a maximum difference of 20% in relation to the ruling prices of the PT Group for call termination in its own network, shall establish and apply a new call termination tariff, within a 10-working-day time limit from the date of notification of the present determination, that complies with that obligation, that is, the prices of the new tariffs to be charged by the OSP shall yield an average revenue per minute up to 0,90 euro cents, based on the method in annex to the present determination; and
- b) Notified operators who hold SMP on the call termination market on the public telephone network at a fixed location (except for the operators of the PT Group) shall submit to ICP-ANACOM, within a 15-working-day period of time from the date of notification of the present determination, the respective call termination tariff, duly substantiated and based on the method in annex to the present determination, demonstrating that this fulfils the price control obligation to which the operators are bound under the terms of the ICP-ANACOM determination dated 17/12/04.

METHOD TO DETERMINE THE AVERAGE PRICE PER MINUTE, REGARDING OSP TERMINATION TARIFFS

1. Pursuant to the determination dated 17/12/04, ICP-ANACOM shall assess the difference between the ruling termination prices of the PT Group and of remaining operators, by virtue of an appropriate consideration as regards termination level and traffic volume. Accordingly, follows the description of the method used to carry out the assessment.
2. Considering a call of an average duration of time², an estimate shall be made to the average price per minute (comprising the “activation” and “price per minute” elements, according to the tariff in force, indicated by each OSP, per each tariff period (for example, Peak Hours, Off-Peak Hours) for each termination level (for example, Local, Single Transit, Double Transit). For this purpose, the OSP shall submit to ICP-ANACOM the tariffs in force. The referred average prices shall be calculated based on the following formula:

$$\frac{\sum_{i=1; j=1}^n (\overline{P_{ij}} \times V_{ij})}{\sum_{i=1; j=1}^n V_{ij}}; i = \text{Tariff period}; j = \text{Termination level}$$

Where “ $\overline{P_{ij}}$ ” stands for the average price per minute, associated to the “ i ” tariff period and the “ j ” termination level, “ V_{ij} ” stands for the traffic volume (in minutes) in the course of the “ i ” tariff period and in the “ j ” termination level.

3. The average price per minute, associated to the “ i ” tariff period and the “ j ” termination level, referred to in the previous paragraph, shall be estimated based on the following formula:

$$\overline{P_{ij}} = \frac{\alpha_{ij} + (\beta_{ij} \times DMC_{ij})}{DMC_{ij}}; i = \text{Tariff period}; j = \text{Termination level}$$

Where “ α_{ij} ” stands for the activation price, according to the termination tariff in force, associated to the “ i ” tariff period and the “ j ” termination level, “ β_{ij} ” stands for the price per minute, associated to the “ i ” tariff period and the “ j ” termination level, and “ DMC_{ij} ” stands for the average call duration, associated to the “ i ” tariff period and the “ j ” termination level.

4. As regards traffic data used to determine the average price per minute, associated to the termination tariff, OSP shall submit to ICP-ANACOM up-to-date data on their network’s termination traffic, according to the following table (this table shall be adjusted by each OSP to the characteristics of their tariffs, namely as regards the identification of termination levels). In case these data are not available, OSP shall submit to ICP-ANACOM duly substantiated estimates on termination traffic.

² The average call duration shall be estimated based on the traffic data to be provided by each OSP, according to this formula: $DMC = \frac{V_{ij}}{C_{ij}}$, where “ C_{ij} ” stands for the number of calls made during the “ i ” tariff period and in the “ j ” termination level and “ V_{ij} ” stands for the traffic volume (in minutes) in the course of the “ i ” tariff period and in the “ j ” termination level.

Table. Information to be submitted to ICP-ANACOM by each operator subject to the price control obligation

Termination traffic	Number of calls		Number of minutes	
	Peak Hours	Off-peak Hours	Peak Hours	Off-peak Hours
Termination level 1				
Termination level 2				
...				
Termination level "n"				