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Determination of 29.4.2005

MINIMUM ELEMENTS TO BE COMPRISED IN THE REFERENCE OFFER FOR THE SUBSCRIBER LINE RESALE OFFER AND SPECIFICATIONS APPLICABLE TO BENEFICIARIES OF THE OFFER

DETERMINATION

PREAMBLE

I. General considerations

By determination of 14.12.2004¹, that defines the obligations applicable, pursuant to Law no. 5/2004², of 10 February, to undertakings with significant market power in narrowband retail markets, ICP – ANACOM determined that the undertakings of the PT Group which are active in retail markets of access to the public telephone network at a fixed location for residential customers and for non-residential customers (hereinafter referred to as “undertakings of the PT Group”) should comply with the obligation to make available a subscriber line resale offer (SLRO) as well as to publish a Reference Offer for such offer.

The SLRO consists in a wholesale offer of the right to bill the telephone line of the operator with significant market power in the relevant market under consideration. The development of this offer enables the beneficiary therefrom to render available its own innovative retail offers, thus adding value to the subscriber through the establishment of diversified services, and to compete with the offers of the PT Group that aggregate access and other services in optional plans.

In other countries wherein this offer has been or is currently being implemented, and where the approach thereto has been highly participated and transparent, the implementation periods have been fairly extensive. This follows not only from the little

¹ Vide <http://www.anacom.pt/template20.jsp?categoryId=146182&contentId=249408>

² Vide <http://www.anacom.pt/template20.jsp?categoryId=97221&contentId=180818>

interest that this offer holds for historic operators, but also from its own technical and operational complexity.

Within this context, the present document defines the minimum elements to be comprised in the Reference SLRO Offer, which includes specifications intended for the undertakings of the PT Group, and also occasionally establishes specifications applicable to beneficiaries of the offer, aiming at the appropriate implementation of the SLRO. The present document covers: (i) beneficiaries; (ii) comprised accesses; (iii) comprised services; (iv) prices; (v) process of implementation; (vi) billing and collecting of the comprised services; (vii) parameters and levels of quality of service and penalties for non-compliance; (viii) relationship with the subscriber; (ix) definition of liabilities/dispute resolution; and (x) relationship between the SLRO and other wholesale services.

The document emphasizes the analysis carried out by ICP – ANACOM concerning the replies to the public consultation on the SLRO, launched on 24.07.2003³, the report of which was published on 22.01.2004⁴, the replies to the public consultation on obligations in the area of narrowband retail markets and the experience of other Member-States.

Undertakings of the PT Group shall therefore submit to ICP – ANACOM a Reference SLRO Offer, together with an accurate reasoning thereto, at the most within twenty days* from the Final Determination of ICP – ANACOM on the minimum elements to be comprised in the Reference Offer and specifications applicable to beneficiaries of the offer.

II. Beneficiaries

The determination of the entities that may benefit from the SLRO must be carried out based on the purposes established for that offer and on its possible advantages, as well as on the applicable regulatory principles and on the promotion of competition. Within this context, it is appropriate to ensure that all agents who provide services on a certain subscriber line benefit from equivalent possibilities of aggregating of services, so that they may compete in the same conditions.

Undertakings that provide a telephone service at a fixed location through a pre-selection service, regardless of the type of pre-selected traffic, seem, in principle, the first entities benefiting from the SLRO, having regard to their relationship with the subscriber. It should be pointed out that the pre-selection functionality enables undertakings with no direct access to the subscriber to provide a telephone service at a fixed location, thereby making them direct competitors of the undertakings of the PT Group as far as that service is concerned.

Moreover, undertakings that provide broadband Internet access services should also have the possibility of providing their subscribers with the aggregation of the subscriber line

³ Vide <http://www.anacom.pt/template15.jsp?categoryId=37877>

⁴ Vide <http://www.anacom.pt/template15.jsp?categoryId=95899>

and broadband services in the same bill. The establishment of a specific wholesale offer that aggregates, at retail level, an Internet service supported in ADSL technology and the access to a telephone service at a fixed location, is a way to surpass the indissoluble condition verified in practise between the ADSL service and the telephone service at a fixed location. This situation, in the opinion of several entities, is an important obstacle to the development of the ADSL service, at least in those cases where the subscriber does not show any interest in the telephone service at a fixed location.

Lastly, some of the agents who provide services over a specific subscriber line, such as those undertakings that provide call-by-call selection services or narrowband Internet services, may establish a link with the subscriber which is not necessarily periodical and/or representative of the total sum paid by the subscriber. Thus, if such agents started benefiting from the SLRO, the advantages related to the offer would not be fully enjoyed. In an extreme situation, the undertakings under consideration could bill the subscriber line without having provided any communications services in the respective period.

In the light of the above, the beneficiaries of the SLRO should be defined as those who, being duly qualified for the purpose, provide the following services in a specific subscriber line: (i) telephone service at a fixed location in a pre-selection regime, regardless of the type of pre-selected traffic; and/or (ii) Internet access services in ADSL broadband.

III. Comprised accesses

Following the public consultation on the SLRO, where the possibility of a phased introduction of the different types of access was introduced, ANACOM took the view that the procedural and technical experience concerning the implementation of the SLRO over analogue accesses, despite being less complex, should be the basis for a subsequent expansion of the scope of offer to the ISDN accesses. ANACOM thus considers that the undertakings of the PT Group should redraft the Reference SLRO Offer up to the first quarter of 2006, so that it is broadened to encompass the basic ISDN accesses and the primary ISDN accesses.

The inclusion of non-active network lines and of public pay phones managed by the undertakings of the PT Group in the scope of application of the SLRO is not deemed appropriate, on account of the definition of the offer, as the accesses under consideration do not originate the monthly payment associated to the telephone line on the part of the subscribers, and would not contribute in a significant way towards the pursuit of SLRO purposes. The inclusion of temporary network lines, understood for this purpose as those installed for three months at the most, in the scope of the SLRO, is not justified, on account of its perishable nature. Therefore, non-active network lines, temporary network lines and public pay phones are excluded from the scope of application of the SLRO.

IV. Comprised services

By definition, the SLRO includes the access, and in this sense, the access billing and collecting shall be carried out by the beneficiary of the SLRO, under the terms provided for in the Reference Offer for the offer. Obviously, it must be taken into account that only the beneficiary of the SLRO may charge the adherent subscriber of the SLRO for that access.

It is also important to assess whether it is possible to integrate the following services in the SLRO: (i) selection and pre-selection services; (ii) service of calls for ineligible numbers; (iii) narrowband and broadband Internet access services; (iv) additional services/service facilities provided by the undertakings of the PT Group; and (v) leasing of terminal equipment of the telephone service at a fixed location. This assessment aims to complement the main purpose of the SLRO, which is to enable the beneficiary to aggregate the access and other services provided.

Thus, in general, ANACOM deems that the beneficiary of the SLRO, when so requested by the undertakings of the PT Group, should bill and charge subscribers for the services under consideration that are provided by the undertakings of the PT Group, where these services are comprised within the SLRO. In the remaining cases, the beneficiary of the SLRO is not bound to bill and charge for services provided by undertakings other than the undertakings of the PT Group, where such services are not comprised within the SLRO. If it decides to enter into an agreement with other undertakings, regarding the billing and collecting service, it shall provide such service under reasonable conditions.

In particular, under the Reference Interconnection Offer (RIO), and unless otherwise agreed, the selected or pre-selected operator shall determine the price to be paid by the subscriber, billing and collecting the latter directly.

Therefore:

(i) Selected or pre-selected undertakings may request of the beneficiary of the SLRO that it bills and charges for the services they provide, under the terms agreed between both, these services not being comprised within the SLRO. The conditions of these agreements shall be reasonable.

(ii) Calls for ineligible numbers, as is the currently the case of non-geographical numbers, may be provided both by undertakings of the PT Group and by other undertakings. Nevertheless, such calls shall be billed and charged to originating subscribers by the respective direct access provider, which in the case of the "SLRO" accesses shall be the undertakings of the PT Group.

The beneficiary of the SLRO, when so requested by the undertakings of the PT Group, shall bill and charge subscribers for calls to ineligible numbers currently billed and charged to originating subscribers by undertakings of the PT Group, at retail prices defined by undertakings providing services, under the terms provided for in the Reference SLRO Offer, these services being comprised in the SLRO.

(iii) As regards the narrowband Internet access, the billing and collecting of such services to direct subscribers of the undertakings of the PT Group are governed by the Reference Internet Access Offer (RIAO), pursuant to which Internet Service Providers (ISPs) may request of undertakings of the PT Group that the latter bill and charge for the Internet services they provide. In case they choose to do so, also according to the RIAO, the undertakings of the PT Group shall not undertake the collecting risk, the cases where the collecting of the bill issued by the undertakings of the PT Group is incumbent upon the ISPs having been provided for.

As a general rule, ISPs have requested of undertakings of the PT Group that they bill and charge for the narrowband Internet services they provide. In parallel, they have supplied the market with a pre-paid access modality, which does not require any billing and collecting process. In fact, this obligation upon the undertakings of the PT Group ceases to be justified in a context where such undertakings do not bill or charge for other services, namely for access.

As regards broadband Internet access, currently, the suppliers of such services bill and charge subscribers themselves.

Thus, as regards the narrowband or broadband Internet access subject to the SLRO, the undertakings of the PT Group are not bound to bill or charge the subscribers of those services where these are provided by undertakings other than the undertakings of the PT Group. The undertakings providing such services should in turn have the possibility of requesting of the beneficiary of the SLRO that it bills and charges for the services, under terms to be agreed between them both, these services not being comprised within the SLRO. The conditions of such agreements shall be reasonable.

In case undertakings that provide narrowband Internet access services do not reach an agreement with the beneficiary of the SLRO as regards the billing and collecting issue, they are given a transitional period of time, of up to four months from the date of adoption of the final Determination of ICP – ANACOM on the minimum elements to be comprised in the Reference SLRO Offer and specifications applicable to beneficiaries of the offer, in order to implement their own billing and collecting systems. ANACOM takes the view that up to the end of such transitional period of time, the billing and collecting of the services under consideration shall be carried out by the undertakings of the PT Group under the terms currently established by law.

It must be stressed that as regards accesses wherein the SLRO is not been implemented, the billing and collecting of narrowband or broadband Internet access services shall also be carried out under the terms currently established by law.

(iv)The additional services/service facilities provided by the undertakings of the PT Group may concern: calling line identification services; services relating to call management, such as call forwarding and barring; services for the consultation and management of the voice mailbox; short message service (SMS).

It is currently a right of the undertakings of the PT Group that it charges the subscriber for the provision of additional services/service facilities. However, such services may have a residual nature and, may not justify *per se*, in terms of efficiency and simplicity of relationship with the subscriber, the issue of bills by the undertakings of the PT Group. It must be taken into account that the undertakings of the PT Group may make a loss with the billing and collecting of additional services/service facilities in case the service consumption is sporadic and occasional.

ANACOM deems that the beneficiary of the SLRO, when so requested by the undertakings of the PT Group, should bill and charge subscribers for the additional services/service facilities provided by the undertakings of the PT Group, at the retail prices defined by the latter, under the terms defined in the Reference SLRO Offer, these services being comprised within the SLRO.

(v) The undertakings of the PT Group provide their subscribers with the possibility of leasing terminal equipment of the telephone service at a fixed location. Notwithstanding the fact that this service does not fall within the scope of Law no. 5/2004, its intrinsic relationship with communications services justifies that it is included in the scope of the SLRO. The leasing of terminal equipment of the telephone service at a fixed location is of a low value compared to the total value of electronic communications services spent by subscribers and, for this reason, the undertakings of the PT Group could make a loss in case they billed or charged such services in separate.

ANACOM deems that the beneficiary of the SLRO, when so requested by the undertakings of the PT Group, should bill and charge the subscribers for the leasing of terminal equipment of the telephone service at a fixed location, at the retail prices defined by the undertakings of the PT Group, under the terms defined in the Reference SLRO Offer, these services being comprised within the SLRO.

V. Prices

By determination of ICP – ANACOM of 14.12.2004, the undertakings of the PT Group are bound, among other obligations, to comply with the principle of cost orientation of prices in the access retail markets. Within this context, the most adequate methodology as regards the establishment of prices concerning the SLRO must be determined, the main methodologies being now put forward: (a) long run incremental costs (LRICs); (b) costs related to the unbundled access to the local loop (LLU); (c) historic costs; (d) European established practises; and (e) attainment of a wholesale price of a specific service based on the retail price of such service or of a similar service. This issue was analysed in the report of the public consultation on the SLRO, and the view expressed therein is now reaffirmed.

In fact, the methodology according to which the wholesale price of a specific service is based on the retail price of such service or a similar one gathers a set of advantages which

confirm the adoption thereof, such as: (i) a relatively easy implementation; (ii) its proportionality in view of the problem under consideration; (iii) its adequacy towards the promotion of competition; (iv) the incentive provided for the minimisation of costs, by limiting the remuneration of the operator who owns the network; (v) the possibility offered to the operator who owns the network to recover the costs of the service under consideration; and (vi) reasonable requirements as to information on costs, as it is only necessary to use information already existent and duly audited. Furthermore, this approach ensures that the wholesale price is lower than the retail price, thereby avoiding in principle situations of margin narrowing and also reducing the risk associated to the market.

It must be taken into account, moreover, that the approach under consideration was adopted, within the SLRO, by the national regulatory authorities (NRA) of Denmark (retail – 21%) and Ireland (retail – 10%). The prices in Norway result from commercial agreements between the entities concerned and in the United Kingdom the prices are calculated according to the methodology of costs regarding the LLU, the SLRO price in the United Kingdom being 16% higher than the retail value charged by the British Telecom in 2004⁵.

The avoidable costs associated to the SLRO, that is, the costs in which the undertakings of the PT Group cease to incur with the implementation of the SLRO, are related, in principle, with the following activities regarding the monthly payment of the telephone service at a fixed location: (i) to know the clients and the market; (ii) to improve products and services; (iii) to commercialise and to sell; (iv) to charge; (v) revenue assurance; (vi) information service and supported communications; and (vii) to manage the undertaking's image and external relations. Moreover, with the implementation of the SLRO, it is possible to avoid a part of the costs of the undertakings of the PT Group which concern the following activities regarding the monthly payment of the telephone service at a fixed location: (i) billing systems and processes; (ii) billing; and (iii) claims on bills.

Without prejudice, as far as avoidable costs are concerned, ICP – ANACOM shall assess this issue in particular in the scope of specific grounds, to be submitted by the PT Group, for the level of prices entered in the future reference offer.

The price concerning the right to bill a specific telephone line of the undertakings of the PT Group shall be calculated by subtracting to the monthly payment of analogue accesses of the telephone service at a fixed location the avoidable costs associated to the SLRO, considering, where relevant, the specific costs associated to the offer. Having due regard to these aspects, the price under consideration shall be cost orientated, having also as reference the corresponding retail price. Thus situations of margin narrowing are avoided and the degree of certainty verified in the market increases.

⁵ Vide “Cross Country Analysis” report from *Cullen International* of December 2004 and “Tarifica” of August de 2004.

Without prejudice, ICP – ANACOM is entitled to review the wholesale price of the SLRO, having regard, namely, to the specific costs of the implementation process of the SLRO, following the assessment and possible acceptance of estimates duly grounded by the undertakings of the PT Group.

In case the system of implementation of the SLRO is shared with other services of the undertakings of the PT Group, the latter shall present to ICP – ANACOM, together with the respective reasoning thereto, the methodology used for the allocation of costs of the system development among the services that use the system.

The specific situation of subscribers who are retired and pensioners, the monthly household income of which is equal to or less than the amount of the national minimum wage should also be highlighted. Pursuant to Clause 9 of the Price Convention for the Telecommunications Universal Service⁶, PT Comunicações, S.A. was bound to present provision conditions of the telephone service at a fixed location not lower than the following: (a) a reduction by 50% on the monthly price associated to the subscriber line; and (b) an additional reduction by 10% on that same price and a credit for national telephone communications, which combined should be, at least, €3,53 euros (VAT excluded). Although this regime was over when the obligations applicable to narrowband retail markets entered into force, such obligations being defined in the Determination of 14.12.2004 of ICP – ANACOM, point a) arises from Decree-Law no. 20-C/86, of 13 de February, as amended by Decree-Law no. 18/2003, of 3 February, which remains in force.

Thus, the undertakings of the PT Group shall reflect in the price associated to the SLRO the 50% discount on the monthly payment associated to the subscriber line allocated to subscribers who are retired and pensioners and the monthly household income of which is equal to or less than the amount of the national minimum wage. The beneficiary of the SLRO, in its turn, shall ensure that this amount is reflected in the amount paid by the subscribers under consideration.

VI. Process of implementation

The type of services provided by the beneficiary of the SLRO has no implications at the level of the procedures for the implementation of the SLRO; on account of their general nature, such implementation procedures should be applicable to any beneficiary of the offer. In this context, the position taken by ANACOM in the public consultation report on the SLRO should be reaffirmed, in the sense that the SLRO implementation procedures are close to those of the pre-selection, thereby the SLRO implementation shall be facilitated, namely through the reinforcement of the accumulated experience in the scope of the pre-selection process, which is currently generally stabilized. Without prejudice, ICP – ANACOM is reassessing aspects concerning the pre-selection, having regard to the

⁶ Vide <http://www.anacom.pt/template20.jsp?categoryId=56834&contentId=90023>

fact that a possible alteration of the terms associated to the implementation process of that offer may be reflected in the conditions concerning the SLRO implementation process.

Nevertheless, the efficiency and swiftness of the implementation process of the SLRO should be taken in consideration, as they may justify the occasional adoption of procedures which shall represent improved adaptations of the procedures associated to the pre-selection. In this respect it should be highlighted that suggestions were made by several entities in the scope of the pre-selection implementation procedures, such as the debureaucratisation of the process and the autonomy of the contractual relations between the subscriber and the pre-selection provider and between the subscriber and the direct access provider.

According to the public consultation report on the subscriber line resale offer, the SLRO should be provided to beneficiaries in non-discriminatory conditions.

It is up to the subscriber to choose the beneficiary of the SLRO, which in its turn should initiate the implementation process of the offer. Based on a recording of a telephone call originated by the subscriber, the beneficiary of the SLRO may electronically request the offer implementation of the undertakings of the PT Group.

It should be emphasized that, over the telephone call aimed at choosing the beneficiary of the SLRO, the subscriber should supply sufficient information on his/her own identification as user of a specific subscriber line, in particular his/her telephone number and full name.

In case more than one entity requests the SLRO, for a specific subscriber line, based on a recording of a telephone call originated by the subscriber, the undertakings of the PT Group shall comply with the request of the entity which was last reached by the subscriber. In this scope it is reasonable to establish a 5-day period in the course of which all subsequent requests for the SLRO activation shall be rejected. After this period has elapsed, the SLRO shall be implemented in a specific access, and a subsequent SLRO request shall set off a new implementation process.

Subsequently, the subscriber may alter the beneficiary of the SLRO or go back to paying the line rental to the undertakings of the PT Group. In such cases, based on a recording of a telephone call originated by the subscriber, as described above, the new beneficiary of the SLRO shall electronically inform the undertakings of the PT Group of the decision on alteration. The latter undertakings, on their turn, shall carry out the necessary changes, in order to comply with the requested alteration. In case the subscriber intends to change the benefiting entity, it shall contact the former benefiting entity in order to cease the SLRO. It is also incumbent upon the new beneficiary of the SLRO to enter into an agreement with the subscriber as regards the time-limit for starting the provision of the respective service, undertaking to comply therewith.

The maximum time limit for the provision of a SLRO access by the undertakings of the PT Group to the benefiting entity, which runs from the date of submission of the request by the latter, shall be the same as the time limit established in the scope of the pre-

selection for an equivalent process (provision of the service by the direct access provider to the pre-selected provider), which corresponds to five working days, according to the pre-selection specification by providers of the fixed telephone service⁷. In fact, as this time limit is meaningful in case the SLRO coexists with the pre-selection, there are no reasons to establish a different time limit in the remaining situations. It is also incumbent upon the beneficiary of the SLRO to enter into an agreement with the subscriber as regards the time limit for starting the provision of the respective service, undertaking to comply therewith.

.The SLRO implementation process should be as swift and efficient as possible. In this context, the systematised and automatic treatment of the information necessary thereto should be ensured. To promote swiftness and efficiency, it is convenient that the SLRO implementation process is based on electronic files, thus the undertakings of the PT Group shall develop a computer system that receives and handles requests automatically, which should be fully operational by the time the Reference SLRO Offer is published, without prejudice to a subsequent improvement thereof.

The undertakings of the PT Group shall not undertake any undue action designed to win back a client, after the latter has joined the SLRO, as the subscriber should make a free and reasoned choice of the desired service, trying it out and maintaining the freedom to remain a client or to terminate the contract with the beneficiary of the SLRO.

For this purpose, it is not deemed necessary to establish a withdrawal period, as it is expected that, often, the request for the implementation of the SLRO and request for the activation of the pre-selection take place at the same time, and the latter already carries a withdrawal period with it⁸. Without prejudice, ICP – ANACOM shall closely monitor the commercial practise of the undertakings of the PT Group, in order to assess whether a specific withdrawal period is necessary in the scope of the SLRO.

In order to make the procedural issues more transparent, the undertakings of the PT Group shall define in advance all the necessary standard forms in the scope of the SLRO, ensuring that these are compatible with the particulars specified in the present document, and include them in the Reference SLRO Offer.

VII. Billing and collecting of the comprised services

The implementation of the SLRO eliminates the need for contact between the undertakings of the PT Group and the subscriber for the purpose of billing and collecting of the monthly payment associated to the telephone line. A similar situation is verified when the undertakings of the PT Group request of the beneficiary of the SLRO that it undertakes the billing and collecting of the remaining services they provide in the

⁷ Vide <http://www.anacom.pt/template12.jsp?categoryId=36510>

⁸ Vide <http://www.anacom.pt/template12.jsp?categoryId=78950>

subscriber line under consideration, these services being comprised within the SLRO: selection and pre-selection services; service of calls for ineligible numbers; narrowband and broadband Internet access services; additional services/service facilities provided by the undertakings of the PT Group; and leasing of terminal equipment of the telephone service at a fixed location.

As regards the services provided by undertakings other than the undertakings of the PT Group, and not comprised within the SLRO, such services shall be billed and charged by the respective providers, unless otherwise agreed between the latter and the beneficiary of the SLRO.

The costs and the risk concerning the billing and collecting of the monthly payment associated to the telephone line of the undertakings of the PT Group of the subscriber shall be undertaken by the beneficiary of the SLRO, which shall pay the PT Group the bill corresponding to the SLRO price, whether it has actually charged the subscriber for the services under consideration or not. To render the billing and collecting concrete, the undertakings of the PT Group shall provide at the most every thirty days, all relevant information to the beneficiary of the SLRO. The latter is under the obligation to submit to the undertakings of the PT Group the payment associated to the SLRO within at the most ninety days.

In case the beneficiary of the SLRO does not comply, at the least three times per year, with the time limit for the payment to the undertakings of the PT Group of the price associated to the SLRO, the former shall automatically lose the right to the SLRO following the third non-compliance, and it is again incumbent upon the undertakings of the PT Group to bill and charge the subscriber line. The loss of the right to the SLRO by a beneficiary of the SLRO may take place, following a set of three failures to comply, for a period of three months, that entity being entitled to recover the right to the SLRO provided that it compensates the undertakings of the PT Group for the unpaid amounts. In such cases, pursuant to point c) of paragraph 1 of article 39 of Law no. 5/2004, the beneficiary of the SLRO shall give adequate notice to the subscriber, not shorter than fifteen working days, ahead of the termination of provision of the SLRO. It must be also stressed that the termination of the SLRO, representing only the termination of the right to bill the subscriber line, shall not have consequences at the level of the remaining services to which the subscriber may have adhered. In particular, in case the beneficiary of the SLRO provides the subscriber with a telephone service at a fixed location in a pre-selection regime, the contract under consideration shall remain valid.

In case the undertakings of the PT Group request of the beneficiary of the SLRO that it bills and charges the subscriber for the remaining services comprised within the SLRO, the former shall provide compensation for the costs and collecting risks sustained by the latter, as far as the billing and collecting of services under consideration are concerned, in the conditions defined in the Reference SLRO Offer. In such situations, the beneficiary of the SLRO shall pay the undertakings of the PT Group the retail price associated to these services, having subtracted the costs which it incurred in billing and collecting such services, within at the most ninety days.

VIII. Parameters and levels of quality of service and penalties for non-compliance

The definition of parameters of quality of service and respective performance targets as to the Reference SLRO Offer is of a significant importance, as it will influence the definition of retail offers from beneficiaries of the SLRO. Likewise, the same emphasis should be given to the definition of penalties for non-compliance with the performance targets associated to those parameters, which discourage deviations to the quality of service as far as the defined targets are concerned.

In addition, in order to make the assessment of the operational performance more transparent, the undertakings of the PT Group shall periodically publish, namely in the respective website, and submit every three months to ANACOM, the levels achieved concerning the parameters of quality of service defined in the Reference SLRO Offer, with monthly particulars and per benefiting entity, including the levels regarding the undertakings of the PT Group, with sufficient detail in order to enable the assessment of whether or not the undertakings of the PT Group provide to other undertakings a quality of service equivalent to that which they provide the undertakings of their own group.

As the implementation of the SLRO shall not imply any changes at the level of access, the SLRO shall not result in the discrimination of accesses under consideration in favour of accesses the monthly payment of which is billed and charged by the undertakings of the PT Group.

Therefore, and given that PT Comunicações, S.A. (PTC) holds the status of universal service provider, the parameters and targets of quality of service defined at any point in time in the scope of the universal service, in particular those regarding the telephone service at a fixed location, shall be also taken by reference in the scope of parameters to be established concerning the SLRO, with the adaptations deemed necessary, namely those resulting from the fact that the SLRO is a wholesale offer and the universal service is a retail offer. Nevertheless, it must be taken into account that the parameters and targets of the quality of service defined in the scope of the universal service may develop, following a revision thereof carried out by ICP – ANACOM. In fact, ICP – ANACOM is currently examining the parameters of quality of service of the universal service and possible corresponding performance targets.

This definition not being yet concluded, ANACOM opted for the moment being to take by reference some of the parameters defined in the draft quality regulation applicable to services of access to the public telephone network at a fixed location and publicly available telephone service at a fixed location, with the adaptations deemed necessary, namely those resulting from the fact that the SLRO is a wholesale offer and the universal service is a retail offer:

(a) Fault repair time

Period of time, in consecutive hours, from the instant a valid fault in the network of the undertakings of the PT Group or in any interconnected public network involved in eligible communications for purposes of parameter calculation, has been reported by the beneficiary of the SLRO to the services of the undertakings of the PT Group, up to the instant where that service has been restored to full normal working order.

(b) Fault rate per access line

Number of valid fault reports made by the beneficiary of the SLRO to the services of the undertakings of the PT Group, for reasons of disrupted or degraded service attributable to the network of the undertakings of the PT Group or any interconnected public network involved in eligible communications for purposes of parameter calculation.

(c) Bill correctness complaints

Number of bills claimed by beneficiaries.

In addition, the Reference SLRO Offer shall include parameters of quality of service specifically defined for the offer, the following being deemed as essential:

(d) Period of time necessary to meet the requests on implementation, alteration or termination of SLRO

Number of hours elapsed from the reception by the undertakings of the PT Group of the request on implementation, alteration or termination of SLRO, and the information given to the beneficiary of the SLRO concerning the respective implementation, alteration or termination.

(e) Period of time for submitting the necessary data for billing and collecting of monthly payment and comprised services

Number of days elapsed from the date agreed for the sending by the undertakings of the PT Group of the necessary data for access billing and collecting of monthly payment and comprised services.

(f) Response time to bill claims

Number of hours elapsed from the reception by the undertakings of the PT Group of the claim deemed justified on the bill's inaccuracy and sending of correct information to the beneficiary of the SLRO, for the purpose of billing the subscriber.

(g) Degree of availability of the subscriber line

Ratio between the functioning hours of the subscriber line and the respective possible functioning hours (the subscriber line is deemed unavailable during the period of time which elapses from the sending of a notice on a problem over the network line for which the undertakings of the PT Group are responsible and the resolution of the problem, the periods for which the subscriber is responsible being deducted, in particular as regards the scheduling of the visits to the place thereof).

The Reference SLRO Offer shall comprise non-discriminatory minutes from the Service Level Agreements (SLAs), including the respective penalties for non-compliance, which shall represent a commitment of the undertakings of the PT Group, in the sense that they shall ensure a certain level of quality of service, integrating, in particular, targets of quality of service, specifying the conditions to ensure that the defined conditions are strict and complied with and putting forward the respective penalties for non-compliance.

In this context, the undertakings of the PT Group shall take under consideration, with the necessary adjustments, the performance targets associated to the parameters of quality of service established in the scope of the universal service, which they are bound in case ICP – ANACOM decides to establish them. In addition, the undertakings of the PT Group shall present a reasonable proposal concerning penalties for non-compliance applicable in the scope of such parameters, which may be reviewed by ICP – ANACOM.

In this scenario, ICP – ANACOM shall monitor the development of the SLRO, in particular as far as the quality of service is concerned, and according to the verified evolution, it shall assess the current option taken on the matter.

IX. Relationship with the subscriber

In order to simplify its relationship with the undertakings of the PT Group and with the service provider, any contact of the subscriber with the undertakings of the PT Group, as far as the subscriber line is concerned, shall be carried out through the beneficiary of the SLRO. The same applies as regards the services provided by the undertakings of the PT Group comprised by the SLRO where they request of the beneficiary of the SLRO the billing and collecting thereof.

Following the implementation of the SLRO, the management, maintenance and repair of the network line and of the associated infrastructure shall remain incumbent upon the undertakings of the PT Group, which shall ensure the levels of quality of service in appropriate and non-discriminatory conditions, in compliance with the present document. In case problems arise which concern the quality of service associated with the services comprised by the SLRO, the subscriber shall contact the beneficiary of the SLRO which, in its turn, shall contact the undertakings of the PT Group, in order to solve the identified problems as soon as possible.

Although it is likely that, for most subscribers, the SLRO shall be sufficient to ensure a single-bill situation, there may be cases where this may not happen, as the undertakings of the PT Group may not be able to request of the beneficiary of the SLRO that it bills and charges for services comprised by the offer that exceed the monthly payment associated to the telephone line. Likewise, the subscriber shall dispose of services which are not comprised by the SLRO, in particular concerning functionalities associated to indirect access and to the Internet, which shall be billed and charged by the undertakings directly responsible, unless otherwise agreed with the beneficiary of the SLRO.

X. Definition of liabilities / dispute resolution

The undertakings of the PT Group and the beneficiary of the SLRO shall develop all possible efforts in order to solve any dispute associated to the Reference SLRO Offer. One of the parties shall submit to the other in writing the object and grounds for the dispute, and it is appropriate that the other party submits a reasoned response, also in writing, within at the most fifteen days.

The disputes in the scope of the Reference SLRO Offer which are not solved by agreement between the undertakings of the PT Group and the beneficiary of the SLRO may be solved at any given point in time by ICP – ANACOM, at the request of the parties, pursuant to article 10 of Law no. 5/2004.

XI. Relationship between the SLRO and other wholesale services

The imposition of the SLRO has implications in areas such as the pre-selection and the LLU. On the one hand, it is likely that pre-selected undertakings have a particular interest in benefiting from the SLRO, as they are thus able to aggregate in a single bill the monthly payment associated to the network line rental and the amount concerning the communication services. On the other hand, operators may change from the SLRO to the Reference Unbundling Offer (RUO) and, subsequently, to the direct access, by means of their own infrastructures, as they strengthen their position in the market.

XII. Determination of ICP – ANACOM

In light of the above, the Board of Directors of ANACOM, having carried out the general consultation of interested parties and having regard to the grounds presented in the consultation report (which is an integral part hereof) hereby determines the following:

1. The undertakings of the PT Group declared to be provided, by determination of ICP – ANACOM of 14.12.2004, with significant market power in narrowband retail markets of access to the public telephone network at a fixed location for residential customers and for non-residential customers, shall submit to ICP – ANACOM, together with an accurate reasoning thereto, a Reference SLRO Offer, at the most twenty days from the Final Determination of ICP – ANACOM on the minimum elements to be comprised in the Reference Offer for the SLRO and specifications applicable to beneficiaries of the offer, that shall comply with the minimum elements established therein.
2. The minimum elements to be comprised in the Reference Offer for the SLRO shall be as follows:
 - 2.1. The beneficiaries of the SLRO are those who, being duly qualified for the purpose, provide the following services in a specific subscriber line: (i) telephone service at a fixed location in a pre-selection regime, regardless of the type of pre-selected traffic; and/or (ii) Internet access services in ADSL broadband.
 - 2.2. The types of access comprised by the SLRO are analogue accesses, basic ISDN accesses and the primary ISDN accesses, and undertakings of the PT Group shall redraft the Reference SLRO Offer up to the first quarter of 2006, in order to include therein the basic and the primary ISDN accesses.
 - 2.3. The access billing and collecting shall be carried out by the beneficiary of the SLRO, under the terms provided for in the Reference Offer for the offer.
 - 2.4. As regards the narrowband or broadband Internet access subject to the SLRO, the undertakings of the PT Group are not bound to bill or charge the subscribers of those services where these are provided by undertakings other than the undertakings of the PT Group. The undertakings providing such services should in turn have the possibility of requesting that the beneficiary of the SLRO bills and charges the services, under terms to be agreed between both, these services not being comprised within the SLRO. The conditions of such agreements shall be reasonable.
 - 2.5. In case undertakings that provide narrowband Internet access services do not reach an agreement with the beneficiary of the SLRO as regards the billing and collecting of services, they shall dispose of a transitional period of time, of up to four months from the date of adoption of the final Determination of ICP – ANACOM on the minimum elements to be comprised in the Reference SLRO Offer and specifications applicable to beneficiaries of the offer, in order to implement their own billing and collecting systems. ANACOM takes the view that up to the end of such transitional period of time, the billing and collecting of the services under consideration shall be carried out by the undertakings of the PT Group under the terms currently established by law.

- 2.6. Following an assessment, in particular, of relevant costs associated to services under consideration, of European established practises and of the advantages for the promotion of competition, the price associated to the right to bill a specific telephone line of the undertakings of the PT Group shall be calculated by subtracting to the monthly payment of analogue accesses of the telephone service at a fixed location the avoidable costs associated to the SLRO considering, where relevant, the specific costs associated to the offer.
- 2.7. The undertakings of the PT Group shall reflect in the price associated to the SLRO the 50% discount on the monthly payment associated to the subscriber line allocated to subscribers who are retired and pensioners and the monthly household income of which is equal to or less than the amount of the national minimum wage.
- 2.8. In general, the procedural aspects associated to the SLRO shall follow the equivalent points regarding the pre-selection, as provided for in the Pre-Selection Specification by providers of the fixed telephone service⁹. Without prejudice, there may be justification for the occasional adoption of procedures different from those associated to the pre-selection, which shall represent improved adaptations of the latter. The SLRO shall thus be provided to beneficiaries in non-discriminatory conditions, being up to the subscriber to choose the beneficiary of the SLRO, which in its turn shall initiate the implementation process of the offer.
- 2.9. Where the subscriber requests the alteration of the beneficiary of the SLRO, the undertakings of the PT Group, having been informed thereof by the new beneficiary of the SLRO, shall carry out the necessary changes, in order to comply with the requested alteration. The subscriber shall in this case contact the former benefiting entity in order to cease the offer. It is also incumbent upon the new beneficiary of the SLRO to enter into an agreement with the subscriber as regards the time-limit for starting the provision of the respective service, undertaking to comply therewith.
- 2.10. In case more than one entity requests the SLRO, for a specific subscriber line, based on a recording of a telephone call originated by the subscriber, the undertakings of the PT Group shall comply with the request of the entity which was last reached by the subscriber, a 5-working-day period being established, in the course of which all subsequent requests for the SLRO activation shall be rejected. After this period has elapsed, the SLRO shall be implemented in a specific access, and a subsequent SLRO request shall set off a new implementation process.
- 2.11. The maximum time limit for the provision of a “SLRO” access by the undertakings of the PT Group to the benefiting entity, which runs from the date of submission of the request by the latter, shall be the same as the time limit

⁹ Vide <http://www.anacom.pt/template12.jsp?categoryId=36510>

established in the scope of the pre-selection for an equivalent process (provision of the service by the direct access provider to the pre-selected provider), which corresponds, according to the Pre-selection specification by providers of the telephone service at a fixed location, to five working days. It is also incumbent upon the new beneficiary of the SLRO to enter into an agreement with the subscriber as regards the time-limit for starting the provision of the respective service, undertaking to comply therewith.

- 2.12. The SLRO implementation process shall be based on electronic files, and thus the undertakings of the PT Group shall develop a computer system that receives and handles requests automatically, which shall be fully operational by the time the Reference SLRO Offer is published, without prejudice to a subsequent improvement thereof.
- 2.13. The Reference SLRO Offer shall include all the necessary standard forms in the scope of the offer, defined by the undertakings of the PT Group so that these are compatible with the particulars specified in the present document.
- 2.14. In case the undertakings of the PT Group request of the beneficiary of the SLRO that it bills and charges the subscriber for the remaining services comprised in the SLRO, the former shall provide compensation for the costs and collecting risks sustained by the latter, as far as the billing and collecting of services under consideration are concerned, in the conditions defined in the Reference SLRO Offer. In such situations, the beneficiary of the SLRO shall pay the undertakings of the PT Group the retail price associated to these services, having subtracted the costs which it incurred in billing and collecting such services, within thirty days at the most from the reception of the subscriber's payment (within at the most ninety days).**
- 2.15. The undertakings of the PT Group shall publish, namely in the respective website, and submit every three months to ICP – ANACOM, up to the twentieth day following the end of each quarter, the levels achieved concerning the parameters of quality of service defined in the Reference SLRO Offer, with monthly particulars and per benefiting entity, including the levels regarding the undertakings of the PT Group, with sufficient detail in order to enable the assessment of whether or not the undertakings of the PT Group provide to other undertakings a quality of service equivalent to that which they provide the undertakings of their own group.
- 2.16. The implementation of the SLRO shall not result in the discrimination of accesses under consideration in favour of accesses the monthly payment of which is billed and charged by the undertakings of the PT Group. Therefore, and given that PT Comunicações, S.A. (PTC) holds the status of universal service provider, the parameters and targets of quality of service defined in the scope of the universal service, in particular those regarding the telephone service at a fixed location, shall be also applicable in the scope of the SLRO and, thus, the undertakings of the PT Group shall include them in the Reference SLRO Offer,

with the adaptations deemed necessary, namely those resulting from the fact that the SLRO is a wholesale offer and the universal service is a retail offer. Nevertheless, it must be taken into account that the parameters and targets of the quality of service defined in the scope of the universal service may develop, in the light of the revision thereof carried out by ICP – ANACOM.

2.17. The following parameters of quality of service shall be comprised in the Reference SLRO Offer:

(a) Fault repair time

Period of time, in consecutive hours, from the instant a valid fault in the network of the undertakings of the PT Group or in any interconnected public network involved in eligible communications for purposes of parameter calculation, has been reported by the beneficiary of the SLRO to the services of the undertakings of the PT Group, up to the instant where that service has been restored to full normal working order.

(b) Fault rate per access line

Number of valid fault reports made by the beneficiary of the SLRO to the services of the undertakings of the PT Group, for reasons of disrupted or degraded service attributable to the network of the undertakings of the PT Group or any interconnected public network involved in eligible communications for purposes of parameter calculation.

(c) Bill correctness complaints

Number of bills claimed by beneficiaries.

(d) Period of time necessary to meet the requests on implementation, alteration or termination of SLRO

Number of hours elapsed from the reception by the undertakings of the PT Group of the request on implementation, alteration or termination of SLRO, and the information given to the beneficiary of the SLRO concerning the respective implementation, alteration or termination.

(e) Period of time for submitting the necessary data for billing and collecting of monthly payment and comprised services

Number of days elapsed from the date agreed for the sending by the undertakings of the PT Group of the necessary data for access billing and collecting of monthly payment and comprised services.

(f) Response time to bill claims

Number of hours elapsed from the reception by the undertakings of the PT Group of the claim on the bill's inaccuracy deemed justified and sending of correct information to the beneficiary of the SLRO, for the purpose of billing the subscriber.

(g) Degree of availability of the subscriber line

Ratio between the functioning hours of the subscriber line and the respective possible functioning hours (the subscriber line is deemed unavailable during the period of time which elapses from the sending of a notice on a problem over the network line for which the undertakings of the PT Group are responsible and the resolution of the problem, the periods for which the subscriber is responsible being deducted, in particular as regards the scheduling of the visits to the place thereof).

- 2.18. The Reference SLRO Offer shall comprise non-discriminatory minutes from the Service Level Agreements (SLAs), including the respective penalties for non-compliance, which shall represent a commitment of the undertakings of the PT Group, in the sense that they shall ensure a certain level of quality of service, integrating, in particular, performance targets, specifying the conditions to ensure that the defined conditions are strict and complied with and putting forward the respective penalties for non-compliance.
- 2.19. In this context, the undertakings of the PT Group shall take under consideration the performance targets associated to the parameters of quality of service established in the scope of the universal service, which they are bound to in case ICP – ANACOM decides to establish them. In addition, the undertakings of the PT Group should present a reasonable proposal concerning penalties for non-compliance applicable in the scope of such parameters, which may be reviewed by ICP – ANACOM. In case ICP – ANACOM defines performance targets applicable to the parameters of quality of service established in the scope of the universal service, the parameters and levels of quality of service associated to the SLRO and respective penalties for non-compliance may be revised.
- 2.20. Following the implementation of the SLRO, the management, maintenance and repair of the network line and of the associated infrastructure shall remain incumbent upon the undertakings of the PT Group, which shall ensure the levels of quality of service in appropriate and non-discriminatory conditions, in compliance with the present document. In case problems arise which concern the quality of service associated with the services comprised by the SLRO, the subscriber shall contact the beneficiary of the SLRO which, in its turn, shall contact the undertakings of the PT Group, in order to solve the identified problems as soon as possible.
- 2.21. The undertakings of the PT Group and the beneficiary of the SLRO shall develop all possible efforts in order to solve any dispute associated to the Reference SLRO Offer. One of the parties shall submit to the other in writing the object and

grounds for the dispute, and it is appropriate that the other party submits a reasoned response, also in writing, within at the most fifteen days.

3. Beneficiaries of the SLRO are bound to the following obligations:

- 3.1. In case the undertakings of the PT Group make services available, the beneficiary of the SLRO, when so requested by the undertakings of the PT Group, shall bill and charge subscribers for the following services: (i) selection and pre-selection services; (ii) service of calls for ineligible numbers; (iii) narrowband and broadband Internet access service; (iv) additional services/service facilities provided by the undertakings of the PT Group; and (v) leasing of terminal equipment of the telephone service at a fixed location. In the remaining cases, the beneficiary of the SLRO is not bound to bill and charge for services provided by undertakings other than the undertakings of the PT Group, where such services are not comprised within the SLRO. If it decides to enter into an agreement with other undertakings, regarding the billing and collecting service, it shall offer such service under reasonable conditions.
- 3.2. Selected or pre-selected undertakings may request of the beneficiary of the SLRO that it bills and charges for the services it provides, under the terms agreed between both, these services not being comprised within the SLRO. The conditions of these agreements shall be reasonable.
- 3.3. The beneficiary of the SLRO, when so requested by the undertakings of the PT Group, shall bill and charge subscribers for calls to ineligible numbers, as is at present the case for non-geographical numbers, currently billed and charged to originating subscribers by undertakings of the PT Group, at retail prices defined by undertakings providing services, under the terms provided for in the Reference SLRO Offer, these services being comprised within the SLRO.
- 3.4. The beneficiary of the SLRO, when so requested by the undertakings of the PT Group, shall bill and charge subscribers for the additional services/service facilities provided by the undertakings of the PT Group, at the retail prices defined by the latter, under the terms defined in the Reference SLRO Offer, these services being comprised within the SLRO.
- 3.5. The beneficiary of the SLRO, when so requested by the undertakings of the PT Group, shall bill and charge subscribers for the leasing of terminal equipment of the telephone service at a fixed location, at the retail prices defined by the undertakings of the PT Group, under the terms defined in the Reference SLRO Offer, these services being comprised within the SLRO.
- 3.6. The beneficiary of the SLRO is free to establish its own prices, provided that the applicable legal and regulatory principles are complied with. The beneficiary of the SLRO shall ensure that the 50% discount on the monthly payment associated to the subscriber line allocated to subscribers who are retired and pensioners and the monthly household income of which is equal to or less than the amount of the

- national minimum wage, which is reflected in the price associated to the SLRO, is likewise reflected in the amount paid by the subscribers under consideration.
- 3.7. Based on a recording of a telephone call originated by the subscriber, and later confirmed by means of similar procedures to those applicable in the scope of the pre-selection, the beneficiary of the SLRO may electronically request the offer implementation of the undertakings of the PT Group. Subsequently, the subscriber may alter the beneficiary of the SLRO or go back to paying the line rental to the undertakings of the PT Group. In such cases, the new beneficiary of the SLRO, based on a recording of a telephone call originated by the subscriber, shall electronically inform the undertakings of the PT Group of the decision on alteration.
 - 3.8. The costs and the risk concerning the billing and collecting of the monthly payment associated to the telephone line of the undertakings of the PT Group of the subscriber shall be undertaken by the beneficiary of the SLRO, which shall pay the PT Group the amount charged, in those cases where the PT Group has requested the billing and collecting of provided services by the undertakings of the Group, whether it has actually charged the subscriber for the services under consideration or not. To render the billing and collecting concrete, the undertakings of the PT Group shall provide at the most every thirty days, all relevant information to the beneficiary of the SLRO. The latter is under the obligation to submit to the undertakings of the PT Group the payment associated to the SLRO within at the most thirty days from the reception of the payment from the subscriber.**
 - 3.9. In case the beneficiary of the SLRO does not comply, at the least three times per year, with the time limit for the payment to the undertakings of the PT Group of the price associated to the SLRO, the former shall automatically lose the right to the SLRO following the third non-compliance, and it is again incumbent upon the undertakings of the PT Group to bill and charge the subscriber line. The loss of the right to the SLRO by an beneficiary of the SLRO may take place, following a set of three failures to comply, for a period of three months, that entity being entitled to recover the right to the SLRO provided that it compensates the undertakings of the PT Group for the unpaid amounts. In such cases, pursuant to point c) of paragraph 1 of article 39 of Law no. 5/2004, the beneficiary of the SLRO should give adequate notice to the subscriber, not shorter than fifteen working days, ahead of the termination of provision of the SLRO.
 4. The undertakings of the PT Group and the beneficiaries of the SLRO shall ensure the coordination between the SLRO and pre-selection, when both are requested at the same time, namely guaranteeing that the pre-selection service is not interrupted on account of the implementation of the SLRO. It must be taken into account, moreover, that the SLRO may coexist with operator portability, with the “PT ADSL Network” offer and with the RUO in the shared access modality.

* Due to an editorial error detected in the first published version (specifying thirty days), appropriate corrections have been made (determination of 8 June 2005)

** See corrections (determination of 8 June 2005)