



THE PORTUGUESE ELECTRONIC COMMUNICATIONS LAW

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I. FOREWORD

After considerable delay, Law 16/2022, of 16 August 2022 (the "Electronic Communications Law" or "ECL") implemented the European Electronic Communications Code¹ (the "European Code" or "EECC").

Despite the absence of changes in critical elements, the ECL brings in some crucial innovations regarding (i) consumer rights, (ii) sanctioning framework, and (iii) privacy in electronic communications.

Compared with the previous electronic communications law ([Law 5/2004, of 10 February](#)), the ECL has a wider scope reflecting a more comprehensive definition of "electronic communications service". According to the new definition, electronic communication services now include (i) internet access services; (ii) interpersonal communications services, including number-independent services such as most over-the-top ("OTT") communications applications; and (iii) services consisting wholly or mainly in the conveyance of signals, including services used for machine-to-machine communications.

The rules entered into force 90 days after the ECL's enactment, on 14 November 2022, with the following exceptions:

- rules on the charges required upon early termination of the agreement at the consumer's request (articles 136(4) and 136(5) of the ECL) became effective 60 days after publication, on 13 January 2023;
- rules on emergency communications and the single European emergency number, which take effect from the moment access to an emergency service is opened to the public by the competent national authorities; and

¹ [Directive \(EU\) 2018/1972 of the European Parliament and of the Council of 11 December 2018.](#)

- rules on network and service security — including additional requirements and arrangements for assistance and cooperation with the National Computer Security Incident Response Team (*Equipa de Resposta a Incidentes de Segurança Informática Nacional*) — which came into force immediately upon publication of the ECL.

It is worth noting that, in 2004, the Portuguese legislator had already unified five EU Directives² into a single piece of legislation, creating a structurally cohesive framework that was broadly maintained until 2022. Even so, by mid-2021 the Portuguese communications regulatory framework comprised, in addition to the 2004 Electronic Communications Law, 46 other diplomas³.

Despite major changes, particularly to consumer protection and the sanctioning framework, the ECL retains the same structure as its predecessor, with notable implications for operators' financial and business stability.

² [Directive 98/84/CE](#); [Directive 2002/77/CE](#); [Directive \(UE\) 2018/1972](#); [Directive 2002/58/CE](#) ; [Directive 2011/83/UE](#)

³ João Macedo Vitorino, Pedro Ramalho de Almeida et al., *Sweet&Maxwell Global Telecommunications R.76*, Chapter 28, PO-08, page 5064, London, June 2021.

2. ANACOM AND OTHER AUTHORITIES

The Portuguese Communications Authority (*Autoridade Nacional de Comunicações*, "ANACOM") is Portugal's National Regulatory Authority (*Autoridade Reguladora Nacional*, "NRA") for the communications sector.

The term "communications" – which defines ANACOM's scope of authority – includes electronic and postal communications. The ECL clarified ANACOM's jurisdiction in previously undefined areas and expanded its role to include new market sectors.

For instance, the ECL extends ANACOM's regulatory authority to over-the-top ("OTT"⁴) services. Although these services operate exclusively at the application layer of data transmission networks⁵, the ECL categorises OTT as an interpersonal communications service for legal and market-analysis purposes, particularly as regards end-user rights.

The ECL assigns ANACOM a comprehensive set of regulatory, supervisory and enforcement duties for the communications sector. Specifically, ANACOM is responsible for:

⁴ OTT or "over-the-top" refers to any service or application that delivers audio, video, or other media over the internet without requiring a traditional cable or satellite subscription (e.g. streaming platforms such as Netflix, Hulu, and Amazon Prime Video and social media apps like Facebook and Instagram).

⁵ As a historical curiosity, it is interesting to note that although the definitions of telecommunications services under the General Telecommunications Regime (then regulated by Law 88/89 of 09/11/1989 and Decree-Law 290-B/99 of 06/30/1999) were quite similar to today's definitions, it wasn't until the second half of the 2000s that communications over data networks, such as VoIP (Voice over Internet Protocol), began to be recognised as real communication services. The first consultation on this issue was published in 2006, following the enactment of LCE2004. Services like Skype (now integrated into Microsoft Teams), and later WhatsApp and iMessage, were previously seen as mere functionalities rather than true communication services.

- promoting competition in the provision of electronic communications networks and services;
- ensuring access to networks, infrastructures, facilities, and services;
- protecting the rights and interests of consumers and other end-users; and
- ensuring access to the universal electronic and postal communications service and enforcing universal service obligations.

Among other changes, the ECL grants ANACOM additional powers and duties, particularly in spectrum management. ANACOM is now empowered to promote the shared use of the radio spectrum, allowing multiple operators to access the same frequency bands through the allocation of rights of use for frequencies (Direitos de Utilização de Frequências "DUF").

Additionally, the ECL clarifies that the rules for competitive or comparative selection procedures for radio spectrum rights of use must be approved by the government department responsible for the communications sector.

The ECL aligns with the European Electronic Communications Code by recognising the role of "other competent authorities" in the communications sector. Entities such as the National Authority for Emergency and Civil Protection (Autoridade Nacional de Emergência e Proteção Civil, "ANEPC") are granted specific statutory powers, particularly as regards end-user rights.

To this end, the ECL requires ANACOM to collaborate with "other relevant entities" by organising public consultations and sharing information on matters of joint interest, in particular those relating to emergency communications.

3. GENERAL AUTHORISATION, FREQUENCIES AND NUMBERS

3.1. GENERAL AUTHORISATION

The provision of electronic communications networks and services is unrestricted: companies may offer such services without prior authorisation from the regulator, except where they seek rights of use for resources such as frequency bands or numbering.

Companies intending to provide public electronic communications networks and publicly available electronic communications services must notify ANACOM before commencing operations. The notification must include:

- a statement of the applicant's intent to begin operations;
- the applicant's identification details, along with the website associated with the provision of public electronic communication networks and services;
- contact information for communications and notices, including a mandatory email address;
- a brief overview of the planned network and services; and
- the expected service launch date.

Companies not subject to the general authorisation regime under the ECL are not required to notify ANACOM before launching operations. The requirement likewise does not apply to providers of electronic communications services not intended for public access.

ANACOM may also, by specific regulation, exempt certain providers of public electronic communications networks and publicly available services from this requirement.

3.2. GENERAL AND SPECIFIC CONDITIONS

Companies providing electronic communications networks and services remain subject to several general conditions established under the previous law. These include:

- access obligations;
- obligations related to the processing of personal data and the protection of privacy within the electronic communications sector;
- obligations to install and make available lawful interception systems to national authorities, including decryption capabilities where such facilities are offered;
- conditions of use of the radio spectrum for electronic communications services; and
- conditions of use to ensure communications between emergency services, competent authorities, civil protection agents and the public.

Entities not subject to the general authorisation regime are not subject to these general conditions.

In addition, companies providing electronic communications networks and services may also be subject to specific obligations, particularly those related to access and interconnection, retail market regulations, and the provision of universal service.

Finally, providers of number-independent interpersonal communications services may, in certain cases, also be subject to access and interconnection obligations as a result of changes introduced by the ECL.

3.3. OPERATOR'S RIGHTS

The ECL grants companies providing electronic communications networks or services — whether intended for public or private use — the right to request rights of way and to use the radio frequency spectrum in order to deploy their networks and services.

Companies offering public networks or services have additional rights, including the right to apply for universal service provider status and expand their coverage nationwide.

These rights may be amended by legislative, regulatory or administrative measures, provided such changes are objectively justified and proportionate, and are notified to the rights holder. Amendments are subject to a public consultation process allowing stakeholders to provide input, unless the changes are minor or do not affect the fundamental nature of the rights of use.

The holders of DUF and numbering resources are granted a general guarantee of non-restriction and irrevocability of these rights until their expiration. However, the law outlines specific criteria under which these rights may be restricted or revoked in advance by the NRA, including:

- voluntary consent by the rights holder; and
- justified reasons to ensure the effective and efficient use of numbering resources or radio spectrum; and the implementation of technical measures under Article 4 of the Radio Spectrum Decision.⁶

Restricting or revoking rights without the holder's consent or in unjustified cases must follow a legal procedure that upholds the principles of proportionality and non-discrimination.

Where rights are restricted or revoked, holders are entitled to compensation for any exceptional and abnormal losses or damages suffered, as determined by ANACOM in accordance with the rules on non-contractual liability of the State and other public entities.

In summary, the ECL introduces no significant innovations in this area, but clarifies that these rules extend to OTT services and to companies wishing to offer electronic communications services not intended for public use.

3.4. THE RADIO SPECTRUM

The radio frequency spectrum, which enables the transmission of electromagnetic waves with frequencies between 3kHz and 3000GHz, is a vital public resource with significant economic and social value for the country. This importance is evident in the amounts

⁶ [Decision 676/2002/EC of the European Parliament and of the Council of 7 March 2002](#) on a regulatory framework for radio spectrum policy in the European Community.

paid for rights to use it and in the intense public debate surrounding spectrum-related issues⁷.

ANACOM is responsible for managing the spectrum and must promote its efficient use in accordance with the principles of technology and service neutrality. The first principle means that any technology may be used in the frequency bands allocated to electronic communications services; service neutrality, in turn, means that any type of electronic communications service may be offered using those frequency bands.

The ECL has not introduced significant changes to ANACOM's role. ANACOM retains most of its existing powers, including the power to assign, modify, renew rights of use, and to authorise the transfer or lease of such rights.

However, in response to the difficulties encountered during the 5G DUF auction, the ECL introduces two seemingly conflicting changes regarding future frequency allocation procedures. On one hand, ANACOM has been granted new powers to safeguard competitive use of frequencies; on the other, the authority to decide on frequency allocation procedures has been transferred to the Government, which must now approve them directly.

The ECL reiterates ANACOM's responsibility for granting rights of use of frequencies for electronic communications networks or services. These rights are always time-limited. For example, rights of use for the spectrum of wireless broadband electronic communications services are granted for 15 years, with the possibility of renewal.

As under the previous regime, ANACOM is also responsible for defining the conditions associated with the rights of use of the spectrum. If breached, the regulator can revoke the rights of use or impose other measures. These conditions must be proportional, transparent, and non-discriminatory, including setting maximum periods of rights of use.

The ECL introduces an innovative provision for the shared use of the radio spectrum, expanding its potential applications.

The renewal of rights of use is possible, but the renewal rules have been significantly changed under the ECL:

⁷ On this topic, see, by way of example, the 2017 Study on Extending the Offer of Program Services on Digital Terrestrial Television (DTT), which can be consulted directly on the website of the Portuguese Parliament [through this link](#).

- under the previous law, the renewal of rights of use for the radio frequency spectrum was solely dependent on the initiative of the holder; and
- under the ECL, ANACOM may proactively assess the need to renew the radio frequency spectrum.

Holders of rights of use for the radio frequency spectrum may also apply for renewal; however, applications must be submitted between 18 months and five years before the rights expire, compared with a minimum of one year's notice under the previous law. In any case, the regulator must respond to renewal requests within six consecutive months from the receipt date.

In the case of rights of use whose number has been limited, interested parties must be given the opportunity to provide input on their renewal, through a public consultation process. In this regard, in September 2024, ANACOM launched a public consultation on the availability of spectrum resources for terrestrial electronic communications services ("SCET"), addressed to manufacturers, operators, public and private entities, users and others, in addition to those currently allocated to the six operators that participated in the 5G Auction. The consultation was concluded in November 2024 and the respective report was approved on 20 February 2025, in which ANACOM signalled that it may be justified to make available in the near future the remaining 700 MHz band spectrum from the 5G Auction, with any further release of additional bands to be carried out on a phased basis.

As rights of use are licensed to operators, holders are required to pay periodic fees, which (save in exceptional cases) are intended primarily to cover the costs of radio supervision.

Finally, it is worth mentioning that the National Frequency Allocation Framework (*Quadro Nacional de Atribuição de Frequências* - "QNAF", which may be accessed through this [link](#)) serves as the technical management instrument used for the radio spectrum, which defines the conditions of use according to its purpose.

3.4.1. TRANSFER AND LEASE OF RIGHTS OF USE

The ECL allows the transfer or leasing of rights of use for the radio spectrum.

As a rule, if the rights holder wishes to transfer or lease them, it can do so through a request to the regulator, which must approve or deny it within 45 business days.

However, in some cases, the transfer or leasing of rights of use is not permitted. These cases include rights allocated free of charge, the provision of radio broadcasting services and the distribution of television and radio broadcasting services as part of specific procedures to achieve public interest objectives.

3.4.2. COMPETITION

Under the ECL, ANACOM is required to promote effective competition within the European Union's internal market when allocating, modifying or renewing frequency usage rights, and to minimise potential distortions of competition. To that end, ANACOM may itself adopt, or recommend to other competent authorities, measures to address such distortions. These measures may include, among others:

- limiting the number of spectrum bands for which usage rights are granted or imposing conditions on these rights;
- reserving portions of a spectrum band or group of bands for allocation to new market entrants; and
- denying new rights of use or prohibiting new spectrum uses in specific bands and imposing conditions to their allocation, transfer, or lease to prevent competitive imbalances.

When adopting such measures, the regulator must base its decisions on an objective and forward-looking assessment of competitive conditions in the market and the necessity of the proposed action.

3.5. NUMBERING RESOURCES

The ECL designates ANACOM as the entity responsible for managing numbering resources in Portugal.

"Numbering resources", defined as the structured set of codes used by electronic communication networks to route signals, are part of the National Numbering Plan (*Plano Nacional de Numeração* – "PNN", [accessible through this link](#)), or an international

numbering plan⁸. ANACOM has the power to administer and allocate these numbers, which can be used to identify networks, network elements, end-users, services or applications that utilise these services and networks.

The ECL states that ANACOM is tasked with ensuring the availability of numbering resources for the operation of public electronic communication networks and the provision of publicly accessible electronic communication services.

Operators must submit a detailed and reasoned request to ANACOM to obtain the right to use these resources. ANACOM uses the National Numbering Plan as the technical tool for managing the allocation of numbers, which sets specific criteria for each numbering range.

Furthermore, Regulation No. 1028/2021, of 29 December, established the legal framework for the sub-allocation of E.164 numbers from the PNN, allowing holders of rights of use of numbering resources to assign them to third parties (beneficiaries). This regime contributes to reducing barriers to entry for new operators in the market, by enabling access to numbering resources without the need for a direct allocation from ANACOM, thereby promoting competition and innovation in the electronic communications sector.

3.6. SECURITY AND EMERGENCY

The ECL establishes general responsibilities for coordinating electronic communications networks and services during crises, wars, major accidents or disasters, and threats to internal security, and singles out two specific rules:

- first, providers of communication services using numbers are required to issue free public warnings in the event of imminent or ongoing emergencies, accidents, or disasters; and

⁸ The codes corresponding to the international numbering plans for electronic communications networks are assigned and managed within the International Telecommunications Union ("ITU-T") which, since 1865, has been the organisation responsible for defining the critical standards for the interoperability of electronic communications infrastructures ("ICT"), whether for voice, video or data transmission systems at a global level. In the words of the **ITU** itself, in short, it is about ensuring that "all ICT networks and equipment in all countries speak the same language".

- second, all end-users of communication services are entitled to free access to the European emergency number 112, as well as any other national emergency numbers designated by ANACOM and listed in the National Numbering Plan, for making emergency calls.

4. MARKET OVERVIEW

4.1. GENERAL PROVISIONS

Under the ECL, market analysis and the imposition of specific obligations must comply with the principle of full justification: all decisions must rest on legal requirements and must be preceded by a public consultation.

Defining the relevant product and *geographic markets* in the telecommunications sector and determining which companies have significant market power are ANACOM's responsibility.

4.2. MARKET ANALYSIS

The ECL entrusts ANACOM with the task of defining and analysing the relevant product and service markets within the electronic communications sector, taking into account the level of infrastructure-based competition in each.

Following this analysis, ANACOM may impose specific obligations when:

- market entry barriers exist;
- the market structure does not support effective competition; and
- competition law alone is insufficient to address specific deficiencies.

The analysis may be conducted for national and transnational electronic communications markets, in cooperation with European authorities.

4.3. OBLIGATIONS ON OPERATORS WITH SIGNIFICANT MARKET POWER

The ECL retains the traditional definition of significant market power as a strong economic position that enables a company to operate independently of competitors, customers and end-users.

Like the previous legislation, the ECL allows the regulator to impose certain obligations on companies with significant market power. These obligations may include:

- meeting reasonable requests for access to and use of infrastructure, such as civil engineering assets owned by the company;
- implementing cost-oriented pricing and cost-accounting systems for specific types of interconnection and access where there is no effective competition. The ECL introduces stricter conditions for imposing these obligations: ANACOM must now take into account the benefits of predictable, stable wholesale prices that encourage efficient market entry and incentivise investment in new and more advanced networks, particularly in areas of low population density; and
- the ECL aligns with the European Electronic Communications Code by recognising the positive impact that wholesale competition can have on retail markets and on the mitigation of competitive risks.

Accordingly, wholesale-only operators are subject to a more favourable regulatory regime. Their obligations may be limited to non-discrimination, access to specific network elements and associated facilities, or fair, reasonable and non-discriminatory pricing. This regime applies only where the operator meets strict cumulative criteria, which may make qualification challenging for some.

Companies with significant market power are now subject to specific obligations on infrastructure migration. To mitigate the competitive risks associated with the transition from legacy copper networks to next-generation networks, such companies must give prior notice of any plan to decommission or replace their infrastructure, in whole or in part.

Access obligations are not limited to companies with significant market power. To improve economic efficiency, the regulator can impose access requirements on operators or owners of cabling and associated facilities within buildings or up to the first distribution point outside the building, regardless of market power status. This measure relies on symmetric regulation that applies uniformly to all operators⁹.

⁹ In contrast with asymmetric regulation that applies only to companies with significant market power.

4.4. ACCESS AND INTERCONNECTION

4.4.1. INTERCONNECTION

Companies providing electronic communications networks and services are free to negotiate and conclude interconnection agreements independently.

ANACOM may impose access and interconnection obligations on companies, regardless of whether they hold significant market power, provided such obligations are objective, proportionate, transparent and non-discriminatory. For instance, ANACOM may impose additional obligations on undertakings that control access to end-users.

4.4.2. REGULATORY OBLIGATIONS

The ECL aligns closely with the EECC, preserving the regulatory obligations established under the previous legislation while introducing new obligations that are both more stringent and more complex.

One example is the ECL's emphasis on symmetric regulatory and access obligations — such as providing access to in-building cabling up to the first concentration point, granting access to civil engineering assets and imposing national roaming obligations. These provisions aim to strengthen regulatory oversight and promote fair competition; however, their stringency adds complexity that may hinder implementation.

While these new rules are intended to strengthen user protections, they raise practical implementation concerns.

4.4.3. NATIONAL ROAMING OBLIGATIONS

Following the EECC, the ECL introduces the concept of national roaming. It is viewed as a significant regulatory mechanism for overcoming physical and economic barriers to the provision of services and networks that require radio spectrum rights of use, particularly for mobile network operators serving end-users.

Where access to and sharing of passive infrastructure is insufficient to ensure adequate coverage, the regulator may impose active infrastructure sharing or require national roaming agreements. Such obligations may, however, be imposed only under specific conditions — for example, where unavoidable physical or economic constraints (such

as limited access in protected areas due to building restrictions) result in inadequate or non-existent service availability for end-users.

This mechanism is justified only where passive infrastructure sharing and access prove insufficient.

4.4.4. INTERNATIONAL ROAMING

International roaming, introduced with early 2G mobile networks, allows customers of one provider to access mobile services through the networks of other operators while abroad. The service enables users to make and receive voice calls, send and receive text and multimedia messages, and access the internet while travelling, and has been one of the principal drivers of the widespread adoption of mobile services, particularly over GSM networks.

Roaming charges have traditionally been higher than domestic charges, as third-party operators set fees for visiting users. Regulatory pressure in the European Economic Area (EEA) has led to a significant reduction in those charges and, since the introduction of the EU's "Roam Like at Home" initiative in 2017, users within the EEA pay the same rates for international roaming as they do on their home network. Charges outside the EEA remain higher than domestic ones.

It is important to note that international roaming is not regulated by the ECL but by European regulations, specifically by [Regulation \(EU\) 2022/612 of the European Parliament and the Council of 6 April 2022](#).

4.5. REGULATORY CONTROLS IN RETAIL MARKETS

ANACOM's power to impose specific obligations on retail markets is subject to two cumulative conditions:

- the absence of effective competition; and
- the imposition of obligations on wholesale operators would not be sufficient to achieve the regulatory objectives.

The ECL aims to prevent operators from engaging in excessive pricing or discriminatory practices against end-users.

5. USERS' RIGHTS, UNIVERSAL AND MANDATORY SERVICES

5.1. END-USERS' RIGHTS

Companies offering networks or services, including OTT providers, are now fully subject to the end-user rights set out in the ECL.

As an exception applies to the micro-entities¹⁰ offering number-independent one-to-one communications services: although exempt from these rules, they remain required to inform end-users of the exemption.

Under the ECL, end-user rights extend to consumers, micro-entities, small enterprises and non-profit organisations that have not waived such rights.

Under the ECL, organisations are entitled to:

- receive written information about service terms and conditions;
- be notified at least 15 days in advance of the operator's intention to discontinue a specific service;
- access information on expected and actual service levels;

¹⁰ A micro-entity is a very small company employing fewer than ten workers, has a total annual turnover or annual balance sheet not exceeding two million euros, and fulfils independence criteria, i.e., it is not legally controlled or otherwise related to companies that do not meet these requirements.

- receive itemised invoices, including an itemised cost breakdown and information on the end of the minimum contractual period;
- benefit from increased protections in cases of unauthorised contracts;
- have access to tools for viewing pricing and other contractual conditions;
- receive immediate and proportional reductions in monthly fees for service quality failures, in addition to any other applicable compensation;
- maintain continuous access to the contracted services and receive notice of service suspension; and
- exercise the right to number portability.

End-user protection has become a cornerstone of the ECL. Even so, the legislator's attempt to empower users has produced unintended consequences, including gaps in guidance that create an unwelcome sense of uncertainty. For example, the ECL prohibits operators from unjustifiably discriminating against customers based on nationality or place of residence, but offers no guidance on what may be considered justifiable discrimination — a sensitive matter likely to give rise to disputes.

The ECL seeks to empower end-users by ensuring fair treatment within the market. The protection of end-users is a fundamental aspect of the ECL. As part of this framework, the non-discrimination rules ensure that consumers have equal access to services and that companies cannot discriminate against users based on their nationality or residence. ANACOM has also approved a new [Number Portability Regulation](#), which replaces the framework previously in force since 2005. The regulation was published in January 2025 and entered into force on 10 November 2025. The essential structure of the previous regime is preserved, but several important changes were introduced, including enhanced consumer-protection measures, such as:

- prohibiting certain portability fees for end users; and
- requiring providers to ensure both the portability of numbers and their activation.

5.2. AGREEMENT INFORMATION REQUIREMENTS

The ECL complements the framework for the disclosure of pre-contractual information. Under the ECL, public communication providers and operators, excluding machine-to-machine service providers, are now required to provide consumers with essential information (under the [Consumer Protection Act](#)) about key aspects of the agreement

before signing the contract. Among other things, operators are required to disclose information on:

- the main characteristics of the goods or services;
- the provider's identity, including company name, postal address, telephone number and other contact details;
- the full price of the services, including the fixed fees, applicable taxes, additional setup charges, and other relevant costs, including maintenance fees; and
- the price calculation method in cases where, due to the nature of the service, the price cannot be determined before the agreement.

The ECL also requires operators to adopt and make available a summary of the user contract terms and conditions.

5.3. CONTROL MECHANISMS FOR CONTRACTING AND INVOICING

According to the ECL, billing for publicly available electronic communications services must be conducted monthly. Invoices must be sent to the end-user free of charge and must include:

- a breakdown of the services provided along with the corresponding prices;
- the remaining term of the minimum contractual obligations; and, where applicable,
- details of the social tariff for broadband internet access services and its application to consumers on low incomes or with special social needs.

5.4. DURATION OF THE AGREEMENT

Due to the prevalence of bundled services (triple, quadruple and quintuple play offerings with implied discounts¹¹), particularly in the residential fixed-line market, local operators tend to waive setup fees in favour of minimum contract periods which, if breached,

¹¹ In the 3Q2022, only 15,4% of fixed residential accesses was attributable to single play (ie, internet access or simple fixed telephony).

trigger steep early-termination fees. Unsurprisingly, minimum contract periods¹², have become one of the most debated issues in consumer law.

Even so, the ECL maintains its position on minimum contract periods and early-termination charges, opting for more targeted changes — in particular, introducing the concepts of *initial* and *follow-up* minimum contract periods and setting caps for both.

Consequently, operators providing publicly available electronic communications services must offer a version of those services without any customer lock-in period, and any minimum contract period is capped at 24 months.

In addition, a consumer's subscription to supplementary services or terminal equipment cannot be used to extend the initial lock-in period unless the consumer expressly agrees to the extension at the time of subscription.

5.5. TERMINATION OF THE AGREEMENT

On contract termination, the ECL departs significantly from general legal principles, particularly as regards default and liability, in order to strengthen consumer protection.

Under the ECL, services to defaulting non-consumer end-users may be suspended subject to prior notice, save that access to emergency services may not be discontinued.

For defaulting consumer end-users, the operator must issue a notice opening a grace period of at least 30 days. A further 30-day suspension period is then permitted, after which the contract terminates automatically, without further notice, once the applicable notification requirements have been met.

Where services are unavailable for more than 24 hours, the ECL requires a proportional reduction in the bill regardless of whether the consumer requests one. If service remains unavailable for more than 15 days, the end-user may terminate the agreement at no cost.

The ECL also sets out additional specific grounds for terminating the agreement, beyond those already mentioned.

¹² Which literally translates as commitment period, loyalty period or a customer lock in period.

For example, in the event of a "*significant discrepancy between the actual performance of the service and the performance described in the agreement*", the end-user may demand corrective measures — although the ECL does not specify which measures may be required — and may terminate the agreement without penalty. The use of such arguably vague concepts is likely to generate disputes and, in time, case law to delimit their application.

As noted above, the ECL has introduced specific changes to the admissibility of minimum contract periods and also caps early-termination charges payable where customers fail to comply with the agreed lock-in periods.

Under the ECL, a customer may terminate the agreement without incurring early-termination charges where the consumer:

- changes their primary residence permanently and the operator cannot provide the same or an equivalent service — in terms of characteristics and price — at the new address;
- loses disposable monthly income due to involuntary unemployment;
- is permanently or temporarily incapacitated for work or loses monthly income due to a long-term illness;
- moves to a third country, defined as an unforeseeable move of the contract holder's permanent residence outside of national territory; or
- is absent from their residence owing to imprisonment, or has become reliant on third-party care.

Although these additional grounds were introduced to protect interests the legislator deemed legitimate, the heavy reliance on vague terms — such as "unforeseeable move (...) out of national territory" or "loss of income due to illness" — is likely to give rise to implementation difficulties.

ANACOM has also launched an online platform through which consumers can submit termination requests and access contract information digitally.

5.6. UNIVERSAL SERVICE

Under the ECL, the universal service comprises a minimum set of services that must be made available to all consumers at an affordable price across the national territory,

taking into account specific national conditions. Its purpose is to prevent social exclusion caused by lack of access and to enable citizens to participate actively in social and economic life.

The universal service must guarantee the availability of:

- reliable broadband internet access at a fixed location;
- voice communication services, including the necessary underlying connection, at a fixed location; and
- specific measures to ensure equivalent access for customers with disabilities to services available to other users.

The ECL introduces significant changes to the universal service regime, particularly by promoting social regulation through the so-called "social internet tariff".

5.7. ADDITIONAL MANDATORY SERVICES

Under the ECL, the Government may require operators to provide additional services to the public within the national territory, beyond the universal service obligations. In such cases, a compensation mechanism must be put in place for the operators concerned.

6. TRANSPORT OBLIGATIONS AND EQUIPMENT

On public-interest grounds, ANACOM may impose signal-transmission obligations on companies operating in the television and radio programming services market, against adequate compensation.

Under the ECL, digital television equipment must be capable of decoding digital signals and of reproducing signals broadcast without encryption. Providers must also facilitate the interoperability of equipment so as to encourage its reuse.

Finally, any activity involving illegal devices — including their manufacture, import, distribution, sale, rental, installation, maintenance, promotion, acquisition or use — constitutes a serious administrative infraction.

An illegal device refers to any equipment or software specifically designed or adapted to enable unauthorised access to protected services in an intelligible form without the service provider's consent.

7. FEES, SUPERVISION AND CONTROL

7.1. RATES

Operators providing communication networks and services under the general authorisation framework are subject to an annual fee. This fee is determined based on the administrative costs associated with managing, overseeing, and enforcing the general authorisation framework, the related rights of use and specific conditions.

Additionally, operators are responsible for additional fees related to the following:

- the allocation and renewal of frequency rights;
- the allocation, reservation, and renewal of numbering resource rights; and
- the allocation of rights of way.

7.2. SUPERVISION AND CONTROL

7.2.1. DISCLOSURE OF INFORMATION

To effectively carry out its responsibilities, ANACOM is authorised to access and request information from operators when necessary, provided the request is objectively justified, non-discriminatory and reasonable.

Specifically, companies must provide financial data and any additional information requested by ANACOM or other competent authorities, as long as the need is established, to ensure compliance with administrative charges, licensing conditions, and other regulatory requirements. In general, operators must provide financial and technical information to guarantee compliance with obligations related to the services they are authorised to provide.

7.2.2. CONTROL

As a regulatory body, ANACOM is responsible for overseeing the enforcement of the ECL, in addition to the Portuguese Food and Economic Security Authority (*Autoridade de Segurança Alimentar e Económica* – "ASAE") and the Portuguese Tax Authorities (*Autoridade Tributária e Aduaneira*). ANACOM is also in charge of supervising the electronic communications sector as a whole.

However, under the ECL and other relevant legislation, judicial courts and central Government agencies, such as the national cybersecurity agency (*Centro Nacional de Cibersegurança* – "CNCS"), hold a level of jurisdiction over the sector. These include the previously mentioned ANEPC (the emergency and civil protection agency), the Food and Economic Security Authority (*Autoridade de Segurança Alimentar e Económica* – "ASAE"), the Competition Authority (*Autoridade da Concorrência* – "AdC"), the Tax and Customs Authority (*Autoridade Tributária e Aduaneira* – "AT") and the district council's authorities.

7.2.3. NEW SANCTIONING FRAMEWORK

The ECL has significantly expanded its sanctioning framework. It now includes more than 120 administrative infractions, of which nearly 97% are considered severe or very serious, potentially resulting in fines of up to one million or five million euros.

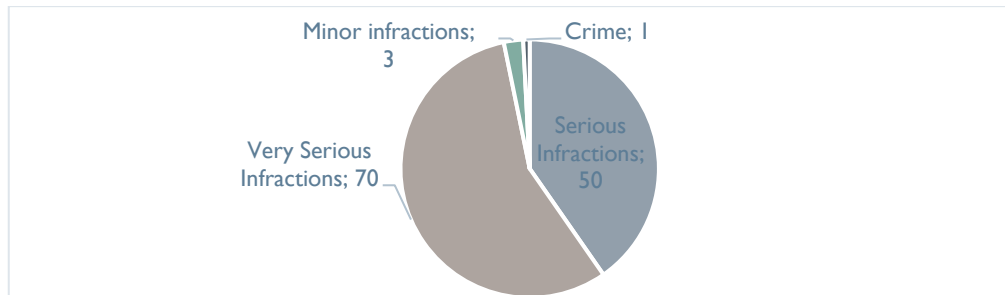


Figure 1 - Distribution of administrative offences foreseen by the ECL according to their seriousness.

Regarding compliance with the end-consumer rules, more than 40 applicable sanctions account for over a third of the total ECL's administrative infractions under the ECL.

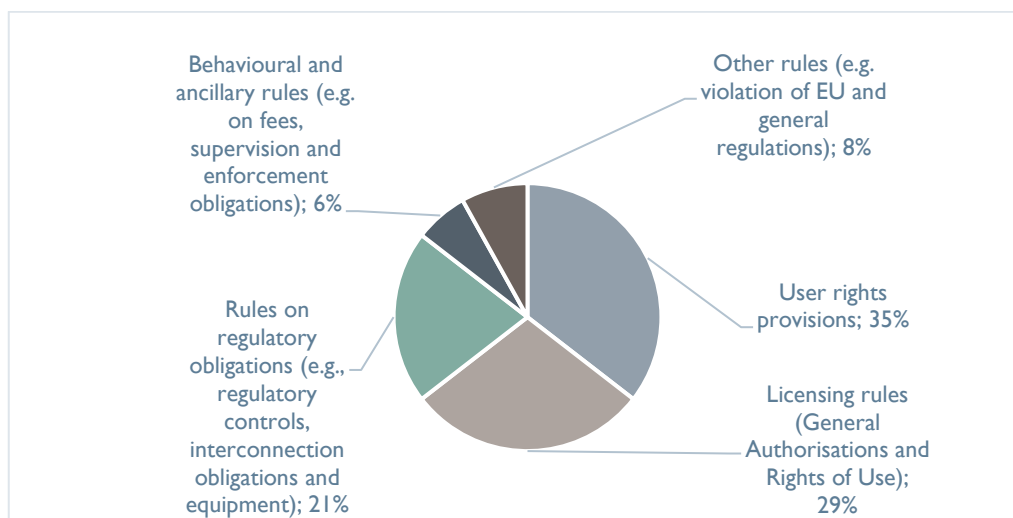


Figure 2 - Distribution of sanctioning rules according to the subject (as a % of all administrative offences covered by the ECL).

Under the ECL, issuing guidelines, recommendations, or instructions to employees, agents, or business partners that may lead to a violation of rules or ANACOM's instructions is considered a severe administrative infraction.

As opposed to the initial version of the bill presented by the Government in May 2022¹³, the ECL does not include provisions for individual liability of members of management bodies and company directors.

Alongside a comprehensive list of violations for which operators are liable, under the ECL, a severe or very serious administrative offence occurs whenever an operator issues its employees, agents, or business partners with guidelines, recommendations, or instructions likely to result in a breach of rules on ANACOM's instructions.

It should be noted that this type of provision is rare within Portuguese law and seems to be a compromise when compared to the bill submitted to Parliament¹⁴ that would have made company directors and senior staff operators personally liable. Considering the broad and ambiguous nature of these sanctioning provisions, we expect to see a rise

¹³ Proposal of Law 6/XV 22 April 2022 (available at www.parlamento.pt and that can be accessed [through this link](#)).

¹⁴ Proposal of Law 6/XV 22 April 2022 (available at www.parlamento.pt and that can be accessed [through this link](#)).

in disputes and the consolidation of case law concerning how sanctions should be applied.

8. OPEN INTERNET PRINCIPLE

The open internet principle ensures that citizens of the European Union have unrestricted access to online content and services, regardless of their location or time, without discrimination or interference from internet service providers.¹⁵

In Portugal, this principle is reflected in national law through the ECL, which states that any actions taken to maintain the quality of internet access must comply with [*Regulation \(EU\) 2015/2120 of the European Parliament and of the Council of 25 November 2015*](#).

The open internet principle is crucial today, where information is widely accessible online. It ensures that individuals and businesses have unrestricted and equal access to online content and services. For instance:

- internet service providers are prohibited from blocking or slowing down their competitors' content, applications, or services, except in limited circumstances, such as maintaining network security and integrity. Under this principle, e.g., internet providers must prevent unjustifiable blocking or slowing down content, applications, or services, except in limited cases, such as to maintain network security and integrity; and
- similarly, service providers must provide equal access to online content and services, free from undue interference driven by their interests and cannot prioritise traffic on their networks based on payments from a specific source.

In conclusion, it's important to note in cases of violation of the open Internet provisions, EU Member States are obligated to enforce sanctions that are effective, proportional, and dissuasive. Service providers found in breach may face both administrative and financial penalties.

¹⁵ [*Regulation \(EU\) 2015/2120 of the European Parliament and of the Council of 25 November 2015*](#) establishes the principle of the open internet in the EU, as amended by [*Regulation \(EU\) 2018/1971 of the European Parliament and of the Council of 11 December 2018*](#).

ABOUT PORTUGAL

TERRITORY, POPULATION AND LANGUAGE

Portugal is situated on the southwest coast of Europe, bordering only with Spain. With a territory of 92,152 Km², Portugal has the largest maritime zone in Europe. Its continental platform borders the American platform.

Portuguese is the sixth most spoken language in the world, spoken by 270 million people in Portugal, Brazil, Angola, Cape Verde, Mozambique, Guinea Bissau, São Tomé and Príncipe and Timor.

POLITICAL SYSTEM

Portugal is a parliamentary republic. The legislative power lies with a national parliament (*Assembleia da República*), with 230 seats. The members of parliament are elected by universal vote for four-year terms. The Government depends on the parliament's support. The Government is led by a Prime Minister.

The President of the Republic has limited powers but has the power to influence the Parliament's and the Government's decisions and dissolve the Parliament in extraordinary circumstances.

INTERNATIONAL RELATIONS

Portugal has been a member of the EU since 1986, a founding member of the Euro and the Portuguese-speaking Countries Community (*Comunidade dos Países de Língua Portuguesa*, CPLP), which groups all Portuguese-speaking countries. Portugal is a member of the United Nations, NATO and the OECD.

CURRENCY AND BANKING SYSTEM

Portugal is one of the founding members of the «Euro», the currency of 20 European countries. The Euro is the second most traded currency in the world after the US Dollar.



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