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New Regulatory Framework for Electronic Communications in Angola

- Strategic Plan on the Licensing Framework for Electronic Communications Operators and the new General Regulation for Electronic Communications -

INTRODUCTION: THE ENACTED STRATEGIC AND LEGISLATIVE PACKAGE

In the context of the implementation of the measures advocated in the White Paper on Telecommunications, the Angolan Government recently approved three new diplomas:

- > The Strategic Plan on the licensing of electronic communications operators ("PERL"), approved by Presidential Decree no. 122/16, of June 9;
- > The new General Regulation for Electronic Communications ("RGCE"), enacted by Presidential Decree No. 108/16, of May 25; and
- > The Strategic Plan for Radio Spectrum and Numbering (PEERNUM), approved by Presidential Decree No. 95/16, of May 10.

This package approves a set of structuring strategic guidelines, provisions and actions for the electronic communications sector (including the distribution of television and/or content via electronic communications networks) and it is therefore of utmost importance that players in this sector be familiarised therewith and prepared for the challenges arising thereof.

In this document, we present a brief overview of the main guidelines set out in the PERL and RGCE. Elements pertaining to spectrum management and numbering are addressed in a separate flash.

THE NEW ACCESS FRAMEWORK GOVERNING THE ACTIVITY OF ELECTRONIC COMMUNICATIONS OPERATORS

The new access framework for the provision of electronic communications networks and services is found outlined in the new RGCE and the reasoning behind it is explained in the PERL. In preparing the latter document, the Angolan Government carried out an in-depth strategic analysis of the current licensing framework for the electronic communications market, in force since 2011. Based on this analysis, it was concluded that changes were necessary to ensure a better response to future challenges in the electronic communications sector and to ensure the continuity of goals and policies approved in recent years.

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The New Access Framework established the following major changes:

- > The implementation of a **convergent licensing regime** based solely on: (i) concessions for the exploitation of electronic communications networks and services of “vital importance to the State of Angola”; and (ii) licenses (which may be of a multiservice nature) for other situations. These will, in principle, be considered of “vital importance to the State of Angola” and, as such, the following infrastructure and services will be subject to concession:
 - (i) Infrastructure composing the Basic Network;
 - (ii) Terrestrial mobile voice service, for national and international calls;
 - (iii) National television distribution service;
 - (iv) Optical fiber networks of national or inter-province level.
- > The possibility of **assigning unified global titles**, i.e. titles which enable the respective operator to provide any electronic communications service - including fixed, mobile, cable television, among others - to the three major market players: Angola Telecom, Movitel and Unitel. As a rule, these unified global titles shall be awarded by concession.
- > The possibility of assigning licenses of distinct geographical scope, national or regional in nature.
- > Amendments regarding the rights and obligations set out in Concessions and Licenses.
- > The possibility of establishing regulatory conditions to facilitate the entry of MVNOs in Angola.
- > The clarification that cable operators using electronic communications networks are subject to the licensing regime in force. More specifically, PERL contains some guidelines concerning possible interactions between the future Television Law and the legal framework for electronic communications, and it also contemplates the possibility of defining a legal framework aimed at regulating access to audiovisual content.
- > Modifications to some of the requirements governing public electronic communications activities, namely as regards thresholds applied to: (i) the participation of foreign entities in the share capital of electronic communications operators (restricted to 35%); and (ii) the cross-holding of stakes in electronic communications operators.

“Implementation of a convergent licensing regime based solely on: concessions for the exploitation of electronic communications networks and services of ‘vital importance to the State of Angola’; and licenses for other situations.”

DETAILS OF THE MAIN CHANGES CONCERNING MARKET ACCESS:

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“Assigning unified global titles, i.e. titles which enable the respective operator to provide any electronic communications service - including fixed, mobile, cable television, among others.”

Title	Concession	License
Assignment	<ul style="list-style-type: none">Through (i) tender procedure, or (ii) directly to a specific entity, in duly justified cases, in accordance with the procedure set out by the Executive Power.	<ul style="list-style-type: none">Issued by INACOM, upon request of an interested party.
Characteristics	<ul style="list-style-type: none">Awarded as: (i) <u>a global unified title</u>, allowing its holder to provide any electronic communications service, or (ii) merely for the provision of a specific electronic communications service or the exploitation of a specific network.Assets allocated to the concession may be encumbered by the concessionaire, namely for financing purposes;Upon the termination of the concession, the only assets reverting to the grantor are those pertaining to the State's public and private domains that were allocated to the concession; the remaining assets remain property of the concessionaire, notwithstanding the grantor's right to repurchase these, based on their book value.	<ul style="list-style-type: none">Licenses must be technologically neutral and will be of a multiservice nature, being issued solely for the provision of the services identified by the applying entity, based on the classification for electronic communications networks and services to be defined by INACOM or, in the absence of such definition, possible classifications issued by relevant international bodies;Amendments may be requested to INACOM, with the aim, for example, of modifying the geographical scope or the type of services to be provided - INACOM's failure to respond signifies tacit approval of the request.
Term	15 years, renewable for equal periods.	10 years, renewable for equal periods.
Subcontracting / Transferral	<ul style="list-style-type: none">Sub-concessioning is allowed after a period of 3 years from the date of signing of the contract. If the sub-concession involves the use of spectrum or numbering resources, the same is subject to INACOM issuing a favourable opinion.	<ul style="list-style-type: none">May be transferred at any time, with INACOM's prior authorisation.

OTHER NEW FEATURES RESULTING FROM THE PERL AND THE NEW RGCE

> Universal Service

The minimum set of services falling within the scope of the universal service is no longer foreseen; as of now, the scope of minimum services is periodically defined by the Head of the Executive, pursuant to INACOM's proposal and taking into consideration the principles established by law.

> Fees

The set of facts subject to the payment of fees has been widened; these now include, among others, fees for the use of radio spectrum and numbering resources (in addition to the fees applied to the granting of rights of use thereof).

Fees are determined and periodically reviewed by means of a Joint Executive Decree, which is issued by the heads of the ministerial departments responsible for supervising electronic communications and finances. In addition, the new RGCE identifies the guiding principles in determining fee amounts.

These are some of the new features of the legal framework regulating Angola's electronic communications sector. It is now up to each player to assess and analyse, in greater detail, the impact this framework may have on its activity.

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