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INFORMATION, COMMUNICATION & TECHNOLOGY

ANACOM APPROVES REGULATION FOR 5G AUCTION

The long-awaited 5G Auction has formally kicked off in Portugal, with the official publication of the Regulation of the Auction for the Allocation of Rights to Use Frequencies in the 700 MHz, 900 MHz, 1800 MHz, 2.1 GHz, 2.6 GHz and 3.6 GHz bands (The "Auction Regulation").

This approval follows a public consultation for which over 500 contributions were submitted, a reflection of the widespread interest from different stakeholders on 5G kick-off in Portugal. The Auction Regulation brings some changes to the auction process when compared to the draft submitted for public consultation, including the following:

- **New Entrants**

While maintaining a bidding phase exclusively for new entrants in the 900 MHz (limited to 2 x 5 MHz) and 1800 MHz bands, the 25% reduction on final spectrum prices in these bands was eliminated – ANACOM considering that it is sufficient to promote competition.

New entrants to which spectrum is allocated in the context of the Auction will have: (i) the right to conclude national roaming agreements with incumbent operators, regardless of the amount of spectrum allocated; (ii) mobile coverage obligations (25% and 50% of the national population, within 3 and 6 years from the conclusion of the roaming agreement, respectively); and (iii) specific coverage obligations in the 700 MHz band for certain structures/locations.

- **Coverage obligations**

The coverage obligations associated with the 700 MHz band are subject to a new schedule, while maintaining the coverage priority for low-density areas and the Autonomous Regions of Madeira and the Azores (75% coverage by the end of 2023), and new rules result in specific coverage obligations in other areas, based on input from interested parties in the public consultation.

- **Network development obligations**

Entities that are assigned BURs in the 3.6 GHz band are subject to specific network development obligations (including outdoor small cells), depending on the amount of spectrum allocated.

- **Procedure, spectrum pricing and payment**

ANACOM maintained the spectrum prices included in the draft Regulation (i.e. a total EUR. 237.9 million for all slots), but made adjustments to the rules regarding the deadlines associated with several stages of the auction procedure (deadlines having generally been slightly extended). The Auction Regulation also includes changes to the required bank guarantees and to the conditions for partial deferred payment of the spectrum.

The auction itself is expected to start in November and the respective spectrum licences to have been issued within the 1st quarter of 2021.

The 5G Auction is one of the various pieces aimed at the development and expansion of a digital Europe, particularly in light of the European Commission's 5G strategy, which foresees Europe as having adequate infrastructure and connectivity to pursue a digital transformation process in 2020, and to ensure widespread implementation in urban areas and main transportation routes by 2025.

However, and without prejudice to the now ongoing 5G Auction in Portugal, the global picture for 5G in the country is still subject to the approval of documents which are of paramount importance, such as the revised version of Ministerial Order 1473-B/2008 of 17 December, which regulates spectrum rates (a topic that is central to both the Auction and to the financial impact of 5G on possible interested entities).

Moreover, guidelines on cybersecurity, including on ensuring security and integrity in the context of electronic communications are still to be issued, this being relevant to 5G considering the underlying assessment of the cyber security risks associated with 5G networks.

The approval of these documents and the outcome of the 5g Auction in Portugal are certain to have a material impact on the Portuguese electronic Communications panorama, relevant operators, consumers, and all other relevant stakeholders.