

# INFORMATION, COMMUNICATION & TECHNOLOGY

PORTUGUESE COMMUNICATIONS  
AUTHORITY APPROVES DRAFT REGULATION  
ON THE SUB-ALLOCATION OF NUMBERS

VdA EXPERTISE



July 2021

## 1. Approval of a Draft Regulation on the sub-allocation of numbers from the National Numbering Plan

The Portuguese regulatory authority for the electronic communications sector, *Autoridade Nacional de Comunicações* (“ANACOM”), approved, on June 24<sup>th</sup> 2021, a Draft Regulation on the sub-allocation of numbers from the National Numbering Plan (hereinafter “Draft Regulation”), only available in Portuguese ([here](#)).

The proposed Draft Regulation establishes the conditions applicable to the sub-allocation and use of numbers allocated to the following services: **(i)** fixed telephone service (2); **(ii)** mobile telephone service (91, 92, 93 and 96), which implicitly covers the sub-allocation of associated numbers for access to mailbox consultation within the scope of voice mail services (609), message depositing within the scope of voice mail services (669), mobile fax services (639) and mobile data services (659); **(iii)** nomadic VoIP (30); **(iv)** universal access service (707 and 708); **(v)** single rate per call service (760, 761 and 762); **(vi)** free call service for the caller (800); and **(vii)** shared cost call service (808 and 809).

## 2. Allocation and use of numbers under the current regime

As of now, ANACOM assigns numbering resources directly to an operator (“primary allocation”) which, in its turn, offers a number attribution service to end users (“secondary allocation”).

However, the principles set by ANACOM in past decisions (in 1999 and 2006) and the legal framework under the Electronic Communications Law (Law 5/2004) do not foresee the sub-allocation of numbering resources, i.e., the allocation of numbers by the company holding the respective usage rights (“rightsholders”) to a second company benefiting from such allocation (“beneficiaries”). As such, the possibility of number sub-allocation is not accepted under the current regime.

Thus, companies interested in offering secondary allocation services have to obtain numbers directly from ANACOM and, consequently, comply with the vast array of requirements and conditions that are applicable to rightsholders.

Most times, such conditions constitute an unproportionate burden and a potential market entrance barrier, especially for companies with a smaller nationwide presence or players operating in niche markets.

### 3. New regime brought by the Draft Regulation

ANACOM's proposal introduces the possibility of sub-allocating numbers from the National Numbering Plan, which means that companies may sub-allocate or use sub-allocated numbers as part of their services.

In one hand, this creates new business opportunities for companies that wish to offer a wider range of electronic communications services by sub-allocating numbers at a wholesale level, ensuring efficiency in the use of the numbering resources allocated to them directly by ANACOM.

On the other hand, it unlocks new business models in which beneficiaries may use sub-allocated numbers to provide secondary allocation services to end users at the retail level, without the need to obtain number usage rights through primary allocation.

This allows beneficiaries to lower their market entry costs and avoid responsibilities that would have been applicable in case the respective numbering resources were directly obtained from the regulator.

In essence, a beneficiary may offer a retail service supported by other company's sub-allocation wholesale services, while, at the same time, its clients have no contractual bond with the holder of the numbering resources on whose networks and services such offers are based.

In a nutshell, the sub-allocation of numbers is dependent on: **(1)** communicating the start of the wholesale or retail offer to ANACOM, as well as complying with other communications duties and obligations in relation to ANACOM; **(2)** a contract celebrated between the rightsholder and the beneficiary regulating the support of the beneficiary's retail offer on the rightsholder's wholesale offer, including criteria applicable to the sub-allocation and the rules applicable to number recovery and return; and **(3)** compliance by the rightsholders and beneficiaries of a wide range of obligations in the context of number sub-allocation, as well as other rules applicable to, among others, number portability, the termination of services and the transfer of number usage rights.



ANACOM submitted the Draft Regulation to a public consultation process and the document was published on the Portuguese Official Gazette on July 14th. Stakeholders have until August 25th to share their contributions.

The VdA Team is prepared to support you in the process of reviewing and commenting the Draft Regulation, as well as identifying business opportunities and legal challenges associated to the sub-allocation of numbering resources. Feel free to contact us for further details or clarifications.

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