



# WINTER IS COMING PORTUGUESE TELECOMS MARKET IN 2021

by Tiago Bessa



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A storm of changes is approaching the Portuguese telecoms market and 2021 will surely be a major turning point. There are several pieces of a complex puzzle that must fall into place and will dictate the future of the sector.

5G is undoubtedly one of the key features for this new period. The Portuguese auction period is now well into 100 days (one of the longest in the EU) but is expected

to end soon. The auction was devised to promote the entry of new operators and it seems that this goal will be achieved. After the auction, MásMóvil will reinforce its position as the 4th operator (alongside Altice, Vodafone and NOS) and a potential 5th mobile operator may also enter the market. New entrants benefit from no or reduced coverage obligations and are entitled to request

access to MNO networks (for MVNO and roaming agreements) for a period of at least 10 years. This led to unprecedented levels of discussion and litigation, affecting the legal certainty of a project that is crucial for the future of the country.

In a market dominated by fixed-mobile convergence, new entrants will not survive without investing in fixed networks or without being granted access to existing networks. 2021 should also be



the year where ANACOM will reevaluate the conditions for mandating fibre access, reas-sessing the decision from 2017 (previous markets 3a and 3b) whereby, contrary to the EC's position, access to Altice's fibre was not imposed. Much has happened since, including the deployment of alternative networks throughout the country and the sharing of existing infrastructures. There are still no indications of what ANACOM's preliminary position will be, but its decision will certainly define the level of competitive pressure that new entrants will be able to exercise in the market.

As the push for continued growth remains, M&A transactions and sharing agreements will continue. Cellnex Telecom keeps acquiring several passive infrastructures (from Altice, NOS and MásMóvil) at a steady pace and is now the player with the largest portfolio in the market, second only to the JV

between NOS and Vodafone. Given the level of investments for the coming years, sharing agreements on passive and active elements (RAN sharing) will also become the next normal, raising a few regulatory and competitive issues. On top of this, a stake in Fast Fiber (the company set up to manage Altice's fibre network) and in ZOPT (the holding between Sonae and Isabel dos Santos's controlling NOS) are the most sought after deals. And there are news that Altice may be willing to sell the Portuguese operation...

Portugal is also becoming a hub for the deployment of international submarine cables. Within the next years three new (Ellalink, Google and 2Africa consortium) cables will be landed and become fully operational. Among other things, this will also foster the investment in data centres, cloud services and edge computing in Portugal.

Within this landscape, the

legal framework is about to change dramatically, with the transposition of the European Electronic Communications Code. The rules on very-high capacity networks, co-investment remedies, symmetric and asymmetric access obligations, universal service and end-user rights will pave the way for the development of new and innovative services and for different market dynamics. The transposition act is being discussed in Parliament and should be enacted after the summer. The e-Privacy Regulation is also expected soon and the EU policies on cybersecurity (notably the NIS Directive II, in connection with 5G networks' cybersecurity) and digital (notably the DSA) will also impact telecom operators.

Governments are also paying more attention to human and fundamental rights in the digital world, which led to the recent approval of the Portuguese Charter of Human Right in the Digital Era, creating new privacy, access to the Internet/connectivity and net neutrality subjective rights. These rights coupled with the reinforcement of class and collective actions may mean that operators will face new streams of litigation. Considering the level of market and legal changes already implemented/ expected, 2021 will usher in a new era in the Portuguese telecoms market, whose static and dynamic consequences will ripple through the coming years.