

INFORMATION, COMMUNICATION & TECHNOLOGY

ANACOM DRAFT REGULATION AMENDING
REGULATION 255/2017, OF 16 MAY

VdA EXPERTISE



February 2023

In view of the recent technological and market developments, ANACOM has approved and submitted to public consultation a draft regulation amending Regulation 255/2017. While the period of public consultation continues until 17 March 2023, this diploma is expected to impact the periodic reporting obligations applicable to service providers and operators of electronic communications networks.

Regulation no. 255/2017, of 16 May (“**Regulation 255/2017**” or “**Regulation**”, available [here](#)), defines a set of periodic statistical information obligations enabling the Portuguese regulatory authority for the communications sector (“**ANACOM**”) to, among others, monitor different aspects of the national market in order to fulfill its regulatory duties and supervise providers’ compliance with their obligations.

In view of the recent technological and market developments, ANACOM has approved and submitted to public consultation a draft regulation amending Regulation 255/2017 (“**Draft Regulation**”, available [here](#) in Portuguese).

In short, the Draft Regulation introduces significant changes to the periodic statistical information obligations, notably by amending the questionnaire forms set forth by Regulation 255/2017, through which operators comply with these obligations. ANACOM notes that recent developments in the electronic communications sector (for instance, the introduction of 5G and OTT services), with a special emphasis on how the technological and digital markets have evolved over the past years, may have rendered the Regulation’s current wording outdated.

As such, to reflect the sector’s current regulatory needs and align its information obligations with international standards, ANACOM proposes the following amendments, among others, to the questionnaires:

- i. **Restructuring of the questionnaires and differentiation between services**, aiming to facilitate the various reporting obligations according to the different types of services offered. To achieve this, the Draft Regulation introduces multiple new annexes and autonomous modules to the questionnaires. For instance, the Draft Regulation now sets forth a specific annex on telephone services that do not use numbers of the National Numbering Plan, which, as defined by ANACOM, consist of “interpersonal communications services that ensure connectivity without using publicly assigned numbering resources, but which enable communication with one or multiple numbers of the National Numbering Plan or of international numbering plans”. However, the parameters of these services do not seem clear, particularly considering the definitions of *number-based* and *number-independent* interpersonal communications services set forth by Law no. 16/2022, of 16 August (the Electronic Communications Law).
- ii. **Addition of multiple new indicators**: certain information previously autonomously requested by ANACOM is now included in the scope of the periodic questionnaires, including data on offers/tariffs for electronic communications services, 5G retail services and other additional statistical information.



The Draft Regulation proposes adding new indicators to the questionnaires on the following topics, among others:

- Accesses and traffic indicators regarding 4G and 5G retail services;
 - Accesses and revenues from video streaming on demand (VOD) services;
 - Services supported by high-speed networks provided to residential and non-residential customers;
 - Number of customers with an active contractual binding / loyalty period;
 - Suspension of services due to default of payment;
 - Number of clients, accesses, traffic and revenues, differentiated by (residential) segment, of different fixed and mobile electronic communication and bundled services;
 - Equipment associated with different accesses, including smartphones and eSIMS;
 - Accesses and traffic of satellite internet access services;
 - List of all offers and tariffs for electronic communication services; and
 - Use of the numbering range assigned to M2M, mobile internet access and eCall services (i.e., the '49' numbering range, currently being implemented by ANACOM).
- iii. **Deletion of some other indicators**, notably due to their low rates of response over recent years or for being associated with obsolete services.
- iv. **Differentiation of services that are not identified in the current questionnaires**, to facilitate the identification of the reporting obligations operators must comply with, for instance, virtual private network (VPN) services and personal mobile communications via satellite services.

The public consultation for the Draft Regulation is open until 17 March 2023. Interested parties can submit their written recommendations and/or comments, in Portuguese, directly to ANACOM via email at:

regulamento.informa@anacom.pt.

While the Draft Regulation is still subject to further amendments after the end of the public consultation period, the diploma is expected to impact the periodic reporting obligations applicable to service providers and operators of

electronic communications networks. VdA has in-depth experience and expertise in all policy, legal and regulatory matters associated with this sector and our unique tech and industry insights allow us to provide cutting edge legal services to all parties subject to the Regulation. We can notably assist in analyzing how companies may be impacted by these changes, as well as advise operators who wish to participate in the public consultation.

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