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Europe's Digital Progress Report 2017

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EU Digital Progress Report — 2017

Telecoms chapter

PORTUGAL

1.   **Competitive environment**

Coverage	PT-2015	PT-2016	PT-2016
Fixed broadband coverage (total)	100%	100%	100%
Fixed broadband coverage (rural)	99%	98%	93%
Fixed NGA coverage (total)	91%	95%	76%
Fixed NGA coverage (rural)	64%	74%	40%
4G coverage (average over all operators)	no data	95%	84%

Source: Broadband Coverage Study. Data as of October 2015 and October 2016.

Fixed broadband market

In Portugal, broadband is available to all homes. Moreover, 95% of households have access to networks capable of providing at least 30 Mbps (well above the EU average of 76%) and more than 50% of homes have a choice between at least two different NGA providers. A consolidation process started in Portugal in 2013, with the merger between the cable operator ZON and Optimus (mobile and FTTH-GPON), which led to the establishment of NOS, and the concentration process between the cable operator Cabovisão and ONI (both owned by Altice, S.A. at that time), and the acquisition by.), Altice S.A. had acquired in 2015 of the control of the Portuguese assets of PT Portugal SGPS.[1]

Fixed broadband market shares[2]	PT-2015	PT-2016	EU-2016
Incumbent market share in fixed broadband	45.6%	42.3%	40.7%
Technology market shares			
DSL	36.2%	30.7%	66.8%
Cable	34.2%	33.2%	19.1%
FTTH/B	23.9%	29.0%	10.7%
Other	5.8%	7.2%	3.4%

Source: Broadband Coverage Study. Data as of October 2015 and October 2016.

In fixed broadband, market shares of the SMP historic operator (MEO) are still (slightly) above the EU average, although they declined in 2016, to the advantage of alternative operators, especially Vodafone.

A similar trend is discernable in fixed telephony markets; though high, MEO's market share has been falling, while the market shares of alternative operators have increased. At the end of the third quarter of 2016, MEO controlled 47.4% of all main telephone lines. NOS was the second largest provider with a share of 34.2% and Vodafone had a share of 14%.

New entrants' DSL subscriptions by type of access (VDSL excluded)[3]	PT-2015	PT-2016	EU-2016

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[1] The European Commission approved this acquisition on condition that its subsidiaries — Cabovisão and ONI — be sold. The sale of these two companies to Cabolink society S.A.R.L. (owned by the investment fund APAX France) took place in 2016, after being approved by the Portuguese Competition Authority.
[2] Source: Communications Committee. Data as of July 2015 and July 2016.
[3] Source: Communications Committee. Data as of July 2015 and July 2016.

Own network	0%	0%	0.7%
Full LLU	86.8%	86.3%	75.3%
Shared Access	-	-	4.1%
Bitstream	13.1%	13.6%	13.4%
Resale	0.0%	0.0%	6.6%

Source: Broadband Coverage Study. Data as of October 2015 and October 2016.

By the end of fourth quarter 2016, 86.1 out of 100 households in Portugal had subscribed to a bundle. 'Five-play' offers (which include fixed broadband, fixed telephone service, pay-TV, mobile telephone service and mobile broadband) became the most popular bundles, reaching 41% of subscribers. This was slightly above triple-play offers which were taken up by 40.4% of subscribers. Content is a key part of this growth, especially football. By the beginning of 2016, the main telecoms operators had acquired the rights to broadcast the games of Portugal's main football clubs. In July 2016, several operators such as NOS, MEO, Vodafone and Cabovisão signed an agreement on sharing the sports rights of the Portuguese premier league clubs. The agreement includes the reciprocal provision of broadcasting rights relating to sporting events, as well as rights on transmission and distribution of sports channels and club channels. The current and future costs associated with this sporting content are expected to be shared.

Broadband take-up, both fixed and mobile, continues to be a challenge for Portugal. While progress was made on fixed broadband coverage, with 68% of homes subscribing throughout 2016 for mobile broadband, there were only 55 subscriptions per 100 people.

Subscription prices may be an important reason for the low broadband take-up in Portugal: in a convergent bundling trend, the country's entry-level prices are among the highest in the EU. In 2016, individuals seeking to subscribe only to a broadband connection had to spend an average of 2.1% of their gross income, significantly more than the EU average of 1.2%. This differential may, however, be lower if prices for bundles such as Triple Play, which, as mentioned, is very popular in Portugal, are considered. The lowest fixed broadband price (12-30 Mbps or above) is €29.83, compared to €21.33 at EU level[4]. The relatively low levels of digital literacy in Portugal might also play a role in restricting broadband take-up.

Mobile market

Mobile market	PT-2015	PT-2016	EU-2016
Market share of market leader	46%	45%	34%
Market share of second largest operator	31%	29%	28%
Number of MNOs	3	3	-
Number of MVNOs	3	5	-
Market share of MVNO (SIM cards)	2%	2%	-

Source: Communications Committee. Data as of October 2015 and October 2016.

MEO (who had a 39.4% share of mobile broadband subscribers in the fourth quarter of 2016)[5], NOS and Vodafone are the three most active mobile network operators (MNOs) in Portugal. There are currently five mobile virtual network operators (MVNOs) in operation (CTT-Phone-ix; Lycamobile; Mundio Mobile, Onitelecom and NOWO) under agreements

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[4] Source: Fixed broadband prices in Europe in 2016 (Empirica). Prices expressed in EUR/PPP, VAT included. Data as of autumn 2016.
[5] https://www.anacom.pt/render.jsp?contentId=1403161.

negotiated between the parties involved. However, taken together MVNOs had only a 0.2% share of mobile broadband subscribers in the third quarter of 2016. Onitelecom and Cabovisão (which changed its name in September 2016 to NOWO) launched their commercial offers as virtual mobile operators in April 2016.

Mobile broadband prices	PT-2015	PT-2016	EU-2016
Least expensive offer for handset (1 GB + 300 calls basket)	46	42	30
Least expensive offer for tablet and laptop (5 GB basket)	17	18	13

Source: Mobile Broadband Price Study (Van Dijk). Prices expressed in EUR/PPP, VAT included. Data as of February 2015 and February 2016.

Mobile broadband take-up in Portugal is among the lowest in the EU (55%) and lost one place (now 26th) from 2015, which might be in part explained by the relatively high mobile broadband prices. As explained above, the abundance of bundles in the Portuguese market makes this assessment more complex.

2. Supporting measures for deployment and investment in high speed networks

a. Spectrum

Harmonised band	MHz spectrum assigned[6]	% of the harmonised band assigned
700 MHz	0%	0%
800 MHz	60	100%
900 MHz	54	77.1%
1500 MHz	-	0%
1800 MHz	120	80%
2000 MHz paired	110	91.7%
2600 MHz	145	76.3%
3400-3600 MHz	200	100%
3600-3800 MHz	600	30.0%

In Portugal 69% of the spectrum harmonised at EU level for wireless broadband is assigned for wireless broadband, which is one point above the EU average. This percentage is mainly due to the fact that the 700 MHz, 1500MHz and some remaining spectrum in the 3.600-3.800 MHz frequency bands has yet not been assigned. Currently work is ongoing in Portugal in order to prepare the assignment of the remaining available spectrum, mainly in connection with the future launch of the 700 assignment. No concrete plans are available yet.

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[6] Including guard bands.

No spectrum licences (rights of use of frequencies) were granted in 2016. The last spectrum award took place in 2012. Portugal foresees that the national priority for 5G spectrum will be in the 3.4-3.8 GHz and 26 GHz bands.

b. EU and national investments in broadband

The broadband targets of the Digital Agenda for Portugal ('Agenda Portugal Digital'), revised in 2015, are in line with the 2020 targets of the Digital Agenda for Europe. The Digital Agenda for Portugal does not expect any public financial support for broadband, but contains measures supporting demand (notably through the digitisation of SMEs, the development of electronic public services and support for digital skills).

c. State of transposition of the Broadband Cost Reduction Directive

Portugal has not fully transposed the Broadband Cost Reduction Directive (BB CRD) 2014/61/EU yet. However, a draft of the full transposition along with a clear timeline has been submitted, and the full approval is about to be finalised.

3. Regulatory function

Six markets in Portugal are regulated: the five markets from the 2014 Recommendation, and also call origination on fixed network (from the 2007 Recommendation) and one regulated markets from the 2003 Recommendation (trunk segments LL). Measures regarding Markets 1 were commented on by the Commission in 2016. Among other measures, ANACOM established new fixed termination rate (FTR), based on a pure BU LRIC cost model and IP interconnection obligations to all SMP operators. Regarding the draft decision concerning the analysis of Markets 3a and 3b ANACOM proposed not to impose fibre access obligations.

ANACOM decided not to impose obligations on fibre access, the recommendation on NGA networks was not effectively implemented and, in consequence, the recommendation on non-discrimination and costing methodologies was not implemented either.

4. Consumer issues

In 2016, ANACOM received 60 941 consumer complaints, of which 58,132 were related to electronic communications [7]. ANACOM has no legal powers to mediate or resolve disputes between service providers and end-users and has no data on whether and/or how these complaints were resolved. When it receives complaints, ANACOM informs end-users about their rights and passes on the complaints to arbitration centres and the like, so they can be dealt with through alternative dispute resolution mechanisms, without prejudice to sanction procedures where breaches of sectorial legislation or regulations are identified.

Number portability

Number portability	PT-2015	PT-2016

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[7] In Portugal all providers of goods and services have a complaints book available at every store and the complaints submitted through that book are sent to the sectorial regulatory

Fixed	Number of transactions [1]	266,015	192,800
	Transactions as a % of total numbers [1]	3.0%	2.0%
	Maximum wholesale price [2]	5	5
	Maximum time under regulation (number of working days) [2]	-	-
Mobile	Number of transactions [1]	459,167	455,764
	Transactions as a % of total numbers [1]	2.0%	2.0%
	Maximum wholesale price [2]	5	5
	Maximum time under regulation (number of working days) [2]	-	-

[1] Source: Communications Committee. Data as of January to September 2015 and January to September 2016.
[2] Source: Communications Committee. Data as of October 2015 and October 2016.

In August 2016 ANACOM has started the review of number portability regulation. During the first half of 2017 this procedure will most likely be followed by a public consultation. Number portability has been growing in Portugal: from 2015 to 2016, the relative growth rate of mobile number portability (21,6 percentage point) was more pronounced than the relative growth rate of fixed number portability (7,2 percentage points).

Transparency

By decision of 14 July 2016, ANACOM adopted he national Regulation (829/2016) on pre-contractual and contractual information in the context of electronic communications, applicable from 23 February 2017. The Regulation lays down a consolidated regime specifying the information to be provided by companies, and includes the creation of a simplified information sheet. This sheet, which uses concise and straightforward language, must be used to provide basic information on: offers aimed at end-users; the contractual conditions offered by the service provider in each case, and amendments that may be made to the contract in the course of the contractual relationship.

A tariff comparison and simulation tool has been available on ANACOM's portal for several years.

Roaming

Just before the entry into force of the transitional Roam Like at Home+ system on April 30 2016, when retail prices became regulated at €0.05 per call, €0.02 per text message and €0.05 per Mb, the average retail Eurotariff price for roaming was €0.176 per minute for outgoing calls and €0.045 per minute for incoming calls (first quarter of 2016). Alternative tariffs were more expensive for calls made (€0 312 in comparison to €0.19, the EU price cap) and also for calls received (€0.123,in comparison to €0.049). For text messaging, the average price was €0.06, at the same level as the price cap. For data, the average price per Mb in the first quarter of 2016 was €0.156, well beyond the EEA average of €0.047

ANACOM has been pro-actively monitoring the operator's websites after the RLAH+ system entered into force. A limited number of irregular or unclear situations regarding roaming prices were corrected by the mobile operators. From 30 April 2016 until the end of the third quarter of 2016, ANACOM received 183 complaints regarding roaming in the EU/EEA, of which 87 related to the new roaming rules. These complaints refer mostly to service providers automatically applying fixed periodic roaming tariffs to the subscribers of several bundled tariffs, who then have to opt out from these tariffs in order to benefit from the regulated ones. At wholesale level, some MVNOs reported to the Commission that they were having

difficulties regarding the effective application of the wholesale roaming caps by Portuguese operators.

Net neutrality

With the adoption of Telecoms Single Market (TSM) Regulation, net neutrality is fully harmonised at EU level with directly applicable rules that do not need to be transposed. As with all Member States, the Commission has been monitoring whether Portugal, which has no law covering this area, adopted the TSM Regulation and complies with the guidelines issued by the Body of European Regulators for Electronic Communications BEREC, or whether it deviates from these guidelines. The authorities did not report any ongoing issues. A case-by-case analysis of zero-rating offers will be reported in 2017, and an annual report will be prepared focusing on the monitoring activities carried out by ANACOM while ensuring compliance with the TSM. Following a 2014 decision by ANACOM, which has the necessary powers to monitor and enforce net neutrality rules, providers cannot call voice call/texting or internet offers 'unlimited' if they are actually subject to restrictions or limits. Moreover, ANACOM, in a decision on 14 July 2016, approved the Regulation on pre-contractual and contractual information in the context of electronic communications, which provides guidelines for internet service providers (ISPs) to support the implementation of the transparency measures included in Article 4 of the TSM. These provisions will presumably be taken into account, among all the elements included in the TSM regulation and the BEREC guidelines, in the ongoing zero-rating offers analysis.

Universal service

In 2016 there were no significant changes in the scope of universal service (US). Already in 2017 there was a judgement by the General Court on the case T-733/15regarding the paying of daily penalties for a US infringement in Portugal[8] . Concerning the compensation mechanism for universal service, the Commission sent a Reasoned Opinion to the Portuguese Authorities in 29 April 2016 where it maintains that the mechanism is in breach with the Universal Service Directive, as it obliges operators to compensate retroactively for net cost incurred. The Commission and the Portuguese authorities are currently discussing how to tackle the issue.

112 and access for disabled end-users to emergency services

According to the last Communications Committee (COCOM) 112 Implementation Report, calls to the emergency number 112 are answered within five seconds. Although there are not yet any alternative means for disabled users to access 112, the Ministry of Internal Affairs is reportedly engaged in projects focusing on the issue.

5. Conclusion

Portugal has an impressive level of fibre deployment, and standard broadband is widely available. However, only 68 % of Portuguese households subscribe to fixed broadband, and a little over half of citizens subscribe to mobile broadband. Moreover, the number of consumer complaints is very significant. The complex socioeconomic reasons for this situation can be

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[8] On March 28 the General Court confirmed that Portugal has to pay the full penalty (EUR 580.000) related to the judgement in case C-154/09, which ruled that Portugal had failed to transpose and apply the requirement to designate universal service providers through an efficient, objective, transparent and non-discriminatory designation mechanism.

tackled from different policy angles, including improving digital knowledge among citizens. However, competition and pricing issues must not be overlooked, especially in rural areas where fixed infrastructure competition is less feasible.