



TECHNOLOGY, MOBILITY AND COMMUNICATIONS

Regulation on number sub-allocation:

Extending competition in the provision of electronic communications services

1. Introduction

There has been an increased desire on the part of various companies to offer electronic communications services. As a result, ANACOM (the national regulatory authority (NRA) in Portugal for communications), the body that manages the National Numbering Plan¹, has been prompted to set out the conditions applicable to the sub-allocation of National Numbering Plan numbers, within the limits of the applicable regulatory framework.

The Electronic Communications Law provides that rights of use of numbers can be allocated to companies that offer electronic communications networks or services, and to companies that use these networks or services.

In this context, practically all companies offering electronic communications networks or services already have services that constitute true wholesale offers of number sub-allocation. For example, the sub-allocation of numbers to companies that offer/provide services supported in the 76x, 707, 800 and 808 numbering ranges.

Moreover, many companies wish to enter the market by offering electronic communications services and to appear to end-customers as being responsible for the provision and quality of services offered.

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¹ Under Article 5(6) of the Electronic Communications Law.

2. The sub-allocation Regulation

In light of the above, and as the Principles and Criteria for numbering allocation management approved by ANACOM over 20 years ago no longer allow it to cater for the new circumstances and business models of the use of numbering, ANACOM Regulation 1028/2021 (“**Regulation**”) was published on 29 December 2021. This Regulation sets out the conditions for the sub-allocation of numbers from the E.164 of the National Numbering Plan, for use in the context of offers of retail electronic communications services, to assign them to end users.

The current general conditions applicable to the offer of electronic communications networks and services², established in the Electronic Communications Law (Law 5/2004 of 10 February), dictate that the use of numbering resources must be based on non-discriminatory procedures. There is a growing market of companies seeking to provide electronic communications services that is driven by other companies already providing these same services. This fact makes it necessary for new entrants to be given the opportunity to enter the market.

"More companies may be able to provide electronic communications services at lower costs."

This Regulation is, therefore, very important for the sector: more companies may be able to provide electronic communications services at lower costs.

As stressed by ANACOM, the sub-allocation of numbers is already established in several Member States of the European Union and its main aim is to achieve efficient use of numbering resources.

As of 30 December 2021, companies that intend to offer electronic communications services without requesting the primary allocation of numbering resources will be able to do so through

wholesale offers made by companies offering electronic communications networks and services that hold rights of use of numbering ranges.

The Regulation states that sub-allocation must meet the following conditions:

- Only numbers in the ranges 2, 91, 92, 93, 96, 30, 707, 708, 760, 761, 762, 800, 808 and 809 are eligible for sub-allocation
- Prior notification to ANACOM of the start of the wholesale offer by the holder of the rights to use numbers
- Communication, by the beneficiary of the sub-allocation, of the start of the retail offer of the electronic communications service
- Sub-assignment must take place by means of a contract signed between the holder of the rights of use of the numbers and the beneficiary
- Only free and preferably contiguous eligible numbers may be sub-allocated, according to the beneficiary's need, as indicated by the beneficiary

² Article 27(1) of Law 5/2004, the Electronic Communications Law.

"The Regulation has the potential to have a significant impact on the offer of electronic communications networks and services."

- The additional sub-allocation can only take place when the beneficiary has already made the secondary allocation (i.e., to end-users of the service) of at least 60% of the numbers allocated
- The beneficiary may only sub-allocate numbers to end-users of its own retail offers

As regards liability, as the companies sub-allocating the numbers retain ownership of the rights to use them, they remain responsible for paying the fees due for the use of the numbers in question.

The beneficiary, on the other hand, is responsible for using the numbering within the context of the service for which it was designated, for the efficient and effective use of the numbers, and for complying with obligations regarding directory services.

The rule regarding number portability is the sharing of responsibilities between the number holder and the beneficiary. Both of them must comply with certain procedural obligations vis-à-vis subscribers and the Reference Entity.

3. Final note

The Regulation will add to the range of conditions that allow a reduction of barriers to market entry. Therefore, and as mentioned, it has the potential to have a significant impact on the offer of electronic communications networks and services.

In our view, the existing framework needed greater definition regarding the roles of the various players involved. Now, one of the great benefits of the Regulation is the introduction of greater clarity regarding the rules on number portability when numbers are sub-allocated.

Therefore, we hope this greater detail and the introduction of conditions to increase the use of these offers will foster market dynamics regarding the use of numbering resources and the emergence of a wider range of offers available to consumers. ■