



It News No. 20

May - October/2006

Highlights

- Portability
- Significant Market Power
- Wi-Max
- Reduction in Telephone Rates

FOREWORD

In these past months telecommunications companies have become both enthusiastic and frustrated all together.

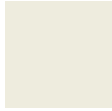
A lot of energy had been put by different companies on the Wi-Max licenses Bid, but after submission of proposals by almost 100 companies to Anatel, the Federal Oversight Courts (TCU) ordered the suspension of the procedure and the review of the minimum prices by Anatel.

However, on that same day Anatel published the draft regulations for number portability in the fixed and mobile telephone services, a right set forth in the General Telecommunications Law almost ten years ago and that must still be put in place.

In these past months, Anatel has also issued its first decision on which dedicated line service providers have *Significant Market Power* and are, therefore, subject to specific conditions on the service offer, such as maximum price to be charged.

Anatel will certainly begin to pay closer and closer attention to strategic players, as concentration tends to grow in the telecommunications market. After the announcement of the acquisition of Vivax (a Cable TV player in the highly populated São

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Paulo area) by Net (a Pay-TV player of the Telmex Group), *Telefonica* announced its partnership with TVA (a Pay-TV player of the Abril Editor Group).

Finally, good news in the informatics sector as the Government has finally issued regulations for the granting of benefits for companies that invest in the sector. Among those benefits, companies that have not been in full compliance with Research and Development investments may settle the pending amounts claimed by the Ministry of Science and Technology.

Thanks for joining us!

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**RESOLUTION
No. 436 OF
JUNE 7, 2006**

*Data on the Mobile
Telephony Services*

In June, 2006, with the enactment of Resolution 436, Anatel established that the submission to Anatel of “relevant information” by mobile services providers must be made through the “Mobile Services Portal”, to be created by Anatel and made available at <http://www.anatel.gov.br>. Until then, data should be sent to Anatel via electronic mail.

Such data includes records and corporate information, the number of mobile stations in operation, the service area, service plans, quality indicators, number of direct and indirect jobs and investment in training, the total of numbering codes issued in the period, service interruptions that have affected more than 10% of the total number of accesses per location, and data on the composition of income and expenses, as well as other economic data from the balance sheet.

Each type of information must be submitted at a certain interval. Most items, however, must be submitted on a monthly basis, up to the tenth day of the subsequent month.

The technical, operational, economic, financial and accounting information to be submitted to Anatel will be treated as confidential and used for purposes of enforcing applicable quality standards issued by the regulatory agency.

**RESOLUTION
No. 437 OF
JUNE 8, 2006**

*Significant Market
Power in the
Dedicated Line
Services*

The Regulations on the Industrial Exploitation of Dedicated Lines (*Exploração Industrial de Linha Dedicada* - EILD) were approved by Anatel's Resolution 402 of 2005. According to the rules established in this Resolution, Groups with Significant Market Power (“SMP”) would have to provide EILD under specific prices and conditions.

In June, Anatel defined which groups have Significant Market Power in the offer of EILD services in a same local area or among different areas.

The economic groups identified as SMP holders are those of the



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incumbents in each of their respective concession areas, as follows: **Telemar**, for the North, Northeast and Southeast Regions (without the State of São Paulo); **Brasil Telecom**, for the South and Center-West Regions; and **Telefonica**, for the State of São Paulo. **Embratel's** Group (Telmex), was considered a SMP holder in every local area of the country.

**RESOLUTION
No. 438 OF
JULY 10, 2006**

*Remuneration for
the use of Mobile
Services providers'
network*

With these Regulations, Anatel laid down objective remuneration criteria for the use of switching and control centers, equipment and transmission means of mobile services providers when interconnected to the network of other operators.

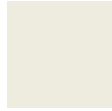
According to these criteria, the mobile network use fee (VU-M) must be paid when the mobile network is used to originate or terminate calls. The amounts charged will depend on the duration of the call, in accordance with the billing criteria set out in each companies' Basic Service Plan (mandatory conditions for the provision of the service approved by Anatel).

The great innovation is the stipulation of specific conditions for the remuneration of mobile services providers that are considered as part of a Group with Significant Market Power ("SMP") in the offer of mobile network interconnection for each region where the mobile service is provided (basically, the same three Regions of the fixed telephony).

These regulations should result in greater negotiations between the companies.

**REDUCTION
IN RATES**

In July 2006, ANATEL approved the proposal for adjustment of the 2006 local telephone rates. Fixed telephony operators were required to reduce their local rates by an average of 0.43%. This adjustment combines the rules of the former concession contract with those of the new contract. The most important result of the combination of these rules is the adjustment of telephone rates in accordance with the variation in the Telephone Service Index (which replaced the IGP-DI



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as of 2006) and application of an “X” transfer factor that enables sharing of economic gains.

The “X” factor is a rate reduction mechanism determined by ANATEL on the basis of the efficiency gains of each incumbent. These rules resulted in the first reduction in local telephone rates that was applied on a linear basis to all items of the rate basket, including subscriptions and pulses, *i.e.* no different individual reductions were applied to rate items. This is the first time since privatization of telecommunications companies that a negative adjustment is applied. Out of the telephony companies, Telemar has applied the greatest reduction (-0.5134%), followed by Brasil Telecom - (0.4222%), CTBC (0.4009%), Telefônica (-0.3759) and Telesp and Sercomtel (both -0.3759).

**WIMAX:
3,5GHZ
10,5GHZ**

– The bidding process for the granting of WiMax authorizations in the 3,5GHz and 10,5GHz frequencies had its term on September 4, 2006 – the date established for the beginning of the bid, with the presentation of the identification documents and financial proposals from all interested companies.

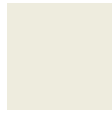
After submission of proposals by almost 100 different companies, the Federal Oversight Bureau (“*Tribunal de Contas da União - TCU*”) determined the suspension of the bidding procedure. In TCU’s opinion, the economic data used by Anatel to determine the minimum price was outdated.

Anatel has presented its arguments to TCU and a decision by TCU is due soon.

PORTABILITY

*Public
Consultation 734*

In September, 2006, after 9 years since the enactment of the General Telecommunications Law, Anatel submitted the draft Portability Regulations for public comments. The right to portability has been set forth in all telecommunications services regulations since 1997, but should become a reality only in 2008, if Anatel’s milestones are met.



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Portability will be available for users of the fixed and mobile telephony services (although the market is already pressuring Anatel for the elaboration of the Multimedia Communications Service Numbering Plan with portability). In the fixed telephony, a user may request his/her access code (telephone number) portability upon change of address or change of the service provider, both in the same local area. For the Mobile Telephony, portability will be available upon change of the service or Service Plan in one same Register Area (same concept as the local areas for the fixed telephony).

The technical and operational procedures for enabling portability begin with a request sent by the interested user to the company to which he/she intends to be transferred, followed by an authentication process. If no irregularities are verified, activation of the new number should be completed in five days.

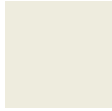
The portability process is based on the creation and access – by all operators – to a National Data Base for Portability Reference (“BDR”). This data base must indicate the service provider of each and every fixed and mobile telephony services customer. The BDR will feed and be fed by Operational Data Bases.

Comments to the draft regulation are due until November 3, 2006. After publication of the final regulations, the companies will have 120 days to contract an independent entity to manage the portability process and the system database.

INFORMATICS LAW BENEFITS

Decree 5906/2006

On September 26, Presidential Decree n° 5906 was issued, regulating various aspects of the benefits granted by Law n° 8248, the so-called Informatics Law. Among the regulated issues, this new Decree allows the companies that have not been in full compliance with R&D investments to settle the amounts claimed by the Ministry of Science and Technology. Moreover, the Decree establishes the concept of R&D, which clarifies most of the controversy regarding the matter.



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For more information, please refer to the attached article “Informatics Law Benefits”, from our colleagues Maurício Braga Chapinoti and Marcelo Feller.

**BILL OF LAW
No. 667/06**

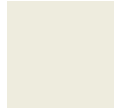
The Bill of Law 6677/06, sponsored by the Executive Branch and responsible for the creation of the social telephone service, sets forth that the basic subscription amount will be equivalent to 50% of the amount charged for the compulsory basic plan for the Wireline Switched Telephone Services (STFC) and eliminates the creation of subsidies between classes of users and service modes.

This Bill was approved by Science and Technology Committee of the House of Representatives on May 17, 2006 and is pending the vote of the Constitution and Justice and Labor Committees. Recently, PL No. 6677/2006 was attached to PL 5055/2001, sponsored by Representative Gilberto Kassab, which created the social telephony rates for low income residential consumers.

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