

PINHEIRO NETO ADVOGADOS  
*IT News*

**HIGHLIGHTS:**

*Review of the ANATEL Internal Rules opened to Public Consultation*

*Provisional Consolidation of Suits Against Telephone Subscription Fees*

*Brazilian Integrated Project for Exportation of Software and Related Services*

**OFFICES**

R. Boa Vista, 254/280  
São Paulo SP  
01014-907 Brasil  
Tel. (55-11) 3247-8400  
Fax (55-11) 3247-8600

Av. Nilo Peçanha, 11  
Rio de Janeiro RJ  
20020-100 Brasil  
Tel. (55-21) 2506-1600  
Fax (55-21) 2506-1660

SCS, Quadra 1, Bloco I  
Brasília DF  
70304-900 Brasil  
Tel. (55-61) 312-9400  
Fax (55-61) 312-9444

[www.pinheironeto.com.br](http://www.pinheironeto.com.br)  
[pna@pinheironeto.com.br](mailto:pna@pinheironeto.com.br)

*This is a monthly publication of Pinheiro Neto Advogados issued with the intention of providing our clients with news on developments in the legal field that may affect their businesses or personal affairs. For your convenience, this newsletter is also published on our web page.*

Copyright © 2004 by Pinheiro Neto Advogados. All rights reserved.

**FOREWORD**

Welcome to the 15<sup>th</sup> edition of IT News, in which we have highlights on Telecom and technology/Software issues. Among them, special attention is devoted to the review of the ANATEL Internal Rules.

Rodrigo d'Avila Mariano also offers a view on the phenomenon of universal access.

Thanks for joining us!

**Esther Donio Bellegarde Nunes**  
[esthernunes@pinheironeto.com.br](mailto:esthernunes@pinheironeto.com.br)

**Rodrigo d'Avila Mariano**  
[rdavila@pinheironeto.com.br](mailto:rdavila@pinheironeto.com.br)

*Review of the ANATEL Internal Rules opened to Public Consultation*

On February 10, 2005, ANATEL announced the release of Public Consultation No. 594, containing a Proposal for Review of the ANATEL Internal Rules. The end of such consultation with the public, initially scheduled for March 6, 2005, was deferred to March 20, 2005.

This review aims to improve ANATEL's operational performance, and proposes the creation of ten new departments in lieu of the current organizational structure.

In addition to the creation of new departments, the proposed review also focuses on the adoption of measures that will change the procedures for the opening of administrative cases, such as the change of authority to open investigations into non-fulfillment of commitments (known as PADO).

*ANATEL approves regulation regarding the frequency band from 1452 MHz to 1472 MHz*

On January 24, 2005 ANATEL passed Resolution 391 (“Regulation”), containing conditions for the use of the frequency band from 1452 MHz to 1472 MHz and establishing the frequency band from 1452 MHz to 1492 MHz for the Mobile Service in Brazil on a primary basis.

The Regulation disciplines the use of the frequency band by digital radio communication systems of the Mobile Aeronautical Service as defined by the Radio Communications Regulations of the International Telecommunications Union and applies to systems that operate in 361 municipalities of the States of São Paulo, Minas Gerais, Rio de Janeiro, Mato Grosso do Sul and Goiás. The complete list of the municipalities can be found in Annex A of the Regulation.

*Mobile Numbers*

The National Telecommunications Agency (ANATEL) has recently published a survey on the number of mobile telephones activated in Brazil. During 2004, 19,232,311 mobiles were activated, totaling 65,605,577 mobile phones currently in operation in Brazil.

In December 2004, new accesses hit a record of 4,416,843, up 32.94% as compared to December 2003. The 2003-2004 growth reached nearly 42%, in line with the development of mobile technology.

Following the trends in past years, pre-paid phone still reigns supreme, accounting for 80.47% of mobile lines in Brazil. This is because pre-paid mobile phones offer an affordable alternative to fixed switched telephone accesses for low-income citizens.

TDMA technology, although decreasing in use, is still the first choice among PCS users (35.53%), followed closely by GSM technology (34.18%); CDMA technology serves 26.67% of users. The AMPS technology remains in use by approximately 350,000 users.

*Provisional Consolidation of Suits Against Telephone Subscription Fees*

On January 27, 2005, the Superior Court of Justice – STJ rendered a provisional decision consolidating all suits in progress at federal courts nationwide against wireline telephone subscription fees, which must now be heard by one federal court, as requested by the National Telecommunications Agency – ANATEL in Conflict of Venue No. 47731.

*Brasil Telecom, Telefonica and Telemar to set up 5,489 service stations for PSTN users by december 2005*

On December 21, 2004, telephone operators Brasil Telecom, Telefonica and Telemar signed a Performance Commitment (“Commitment”) with the National Telecommunications Agency (ANATEL) to set up 5,489 service stations for PSTN users throughout Brazil by December 2005. These stations will provide services relating to charge complaints, issuance of a second copy of telephone bills, requests for repairs and reconnections and updating of user data.

*Ministry of Justice on the brink of launching a public bidding for hiring a data storage and transfer system*

*Brazilian Integrated Project for Exportation of Software and Related Services*

The Commitment anticipates obligations set out in concession contracts that will come into force in 2006. Signing of the Commitment suspends the Nonperformance Assessment Procedures (PADOs) initiated by ANATEL in 2003 as a result of the closing of service stations by the three operators. As a consequence of the PADOs adopted in 2000 for this same reason, Brasil Telecom, Telefonica and Telemar were fined over R\$20 million altogether.

In the next few days the Brazilian Ministry of Justice will issue a public bidding in order to hire a company that will provide connection and transmission services in order for the Ministry to receive criminal information from the public security offices around the country.

Currently the service is being rendered by Embratel based on an agreement which charges R\$ 800,000.00 per year.

On January 18, 2005, the Brazilian Agency for Promotion of Exportations – APEX approved the National Integrated Project for Exportation of Software and Related Services – PSI-SW. The PSI-SW aims at developing the potential of the national software companies by increasing the export rates of Brazilian software products and related services.

Among its goals, the PSI-SW project envisages a substantial growth in the number of jobs available in the national software market, as well as a deeper penetration and visibility of Brazilian software in foreign countries. Also, the PSI-SW shall enable national software companies to access international markets and promote Brazil as a quality software exporter.

Currently, ninety-five companies have joined the project, but many more are expected to join it.

\* \* \* \* \*

#### ACKNOWLEDGMENTS

Camila Martino Parise, Juliana R. Mendonça Pereira, Daniel Gama e Colombo, Matheus Carvalho Silvestre, Julia Peixoto de Azevedo Arruda, and Joamir Müller Romiti Alves contributed to this IT News issue.

## THE TELECOM AND IT PRACTICE GROUP

Our Telecom and IT Practice Group gathers professionals skilled in the various fields of information technology, from straight telecommunications regulatory matters through Internet, Computer Law, Software and Industrial/Intellectual Property issues.

### SÃO PAULO

#### *Partners*

*Noemia C.M. de Oliveira Novaes  
Esther Donio Bellegarde Nunes  
Raphael de Cunto  
Rodrigo d'Avila Mariano*

*noemianovaes@pinheironeto.com.br  
esthernunes@pinheironeto.com.br  
rapdecunto@pinheironeto.com.br  
rdavila@pinheironeto.com.br*

#### *Associate Lawyers*

*Ana Paula Bialer Ingham  
Camila Martino Parise  
Fernando S. Marcato  
Talitha Corrêa Chaves  
Juliana R. Mendonça Pereira  
Daniel Gama e Colombo*

*anabialer@pinheironeto.com.br  
camila@pinheironeto.com.br  
fsmarcato@pinheironeto.com.br  
tchaves@pinheironeto.com.br  
jmendonca@pinheironeto.com.br  
dcolombo@pinheironeto.com.br*

### RIO DE JANEIRO

#### *Partners*

*Leila R. Vianna Gonçalves  
Marcelo Viveiros de Moura*

*leilavianna@pinheironeto.com.br  
mvmoura@pinheironeto.com.br*

#### *Associate Lawyers*

*Rodrigo Moura A. Faria  
Ana Gabriela Gouvêa D. M. Kurtz  
Francisco Werneck Maranhão  
Renata Mattos P. de Magalhães*

*rodrigomoura@pinheironeto.com.br  
anagabriela@pinheironeto.com.br  
fmaranhao@pinheironeto.com.br  
rmagalhaes@pinheironeto.com.br*

### BRASÍLIA

#### *Partner*

*Marta Mitico Valente*

*martamitico@pinheironeto.com.br*

#### *Associate Lawyers*

*Marcos Colares*

*mcolares@pinheironeto.com.br*