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**Contribution from ANACOM to the 2009 GSR Consultation on  
“Innovative regulatory approaches to foster investment and stimulate growth in the ICT  
sector”**: State investment on capacity building for younger generations and  
financial mechanism and associated measures to stimulate investment in NGN

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## **1. Introduction**

The access to information and knowledge is seen by the Portuguese Government as a fundamental concern given the growing importance of telecommunications in modern societies, namely due to the rising importance of an information and knowledge society and to the infrastructural role of ICTs in the construction of new paradigms. In this context, a number of initiatives have been put in place, in particular to promote increased access to broadband, which have already produced results – the index of broadband penetration in Portugal has leapfrogged in the past years, putting the country within the top ranking countries in this area.

### **2. a) State investment on capacity building for younger generations – programme “e-escola”**

The programme “e-escola” was launched in June 2007 by the Portuguese Government and its main goal is the financing of projects that promote access to the information society, in order to increase info-inclusion in Portugal. In particular, we draw your attention to one of the initiatives encompassed therein, the so called programme “e-escolinha”. This project results from a set of partnerships that will allow 500.000 children from primary school to have access to “Magalhães” laptops and broadband Internet connection in beneficial conditions. The “Magalhães” is a small, light and resistant laptop that was specially envisaged for children. Until now, 370.000 laptops were distributed to students from public and private schools. The “e-escolinha” is an integrated project that, along with the equipment, makes available digital educational content selected by the Ministry of Education for primary school students and teachers.

### **2. b) Financial mechanism and associated measures to stimulate investment in NGN**

Concerning public investment, one of the strategic priorities of Portugal is the creation of a new generation of infrastructures to support the Information and Knowledge Economy and Society. This investment is absolutely critical for the modernization and competitiveness of the country, particularly in the present conjuncture of world economic crisis, in which special responsibilities are demanded from the State.

The strong investment that is going to be made in infrastructures aims at promoting the technological development, efficiency, innovation and competitiveness, as well as info-inclusion, social cohesion and equality of opportunities.

In this context, with the publication of Resolution of the Council of Ministers n.º 120/2008<sup>1</sup> of 30 July (RCM 120/2008), the Government, having identified the need to mitigate or eliminate barriers to the deployment of networks and to remove barriers to access to existing infrastructure, defined the guidelines for the development and promotion of investment on Next Generation Networks (NGN) and determined the following strategic orientations:

- To enhance confidence to market agents (provide incentives to invest, even in remote or low population density areas);

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<sup>1</sup> This Resolution includes the Government's strategic guidelines for NGN, such as an effective and non-discriminatory access to ducts and other infrastructures, regardless of the respective owner, the provision for technical standards on infrastructures for telecommunications in housing developments, urban settlements and concentrations of buildings (ITUR), and the adoption of solutions aimed at eliminating or reducing vertical barriers to the roll out of fibre optics, so as to prevent the first operator from monopolizing the access to buildings.

- To promote a competitive electronic communications market and to ensure the removal of barriers to market access by the operators;
- To stimulate demand, aiming at achieving the strategic goals regarding the number of connections to NGN:
  - All hospitals, health centers, museums and libraries, higher and polytechnic public schools until 2009;
  - All public law services and primary and secondary education schools until 2010;
  - 1 million users until 2010.

Additionally, in order to anticipate and accelerate the investment in NGN and thus aiming at going beyond the above mentioned objectives, the Portuguese Government signed three Protocols with the telecommunications' operators which encompass the following measures:

- The implementation of regulatory measures aiming at removing horizontal barriers that could prevent investment in the NGN and supporting the expansion of infrastructures that enable the construction of ducts which can be used for the roll-out of fibre;
- The development of a centralised information system which will allow operators to access information regarding the location of the ducts; *and*
- The creation of a special credit line and the promotion of fiscal incentives for investments in NGN.

The operators, in turn, accepted to allocate beforehand resources for investment in optic fiber in order to connect 1,5 million users by 2009.

Following the publication of the above mentioned RCM 120/2008, ANACOM, within its duties to advise the Government and in compliance with the mandate given by that resolution, worked jointly with the Government in the preparation of the legal framework to promote the development of NGN which led to the publication of two diplomas:

- Decree-Law n.º 123/2009, of 21 May which establishes the regime that applies to the construction

of infrastructures suitable for the accommodation of electronic communications networks, to the set up of electronic communications networks and the construction of infrastructures for telecommunications in housing developments, urban settlements and concentrations of buildings.

This Decree-Law also sets out the system general principles, namely the principle of competition, open access, non-discrimination, effectiveness and transparency.

This regime aims at removing or reducing barriers to the construction of infrastructures suitable for the accommodation of electronic communications networks, laying down rules directed towards an easier coordination of underground intervention.

The use of harmonised procedures is another relevant aspect, particularly as regards the relationship between operators and local authorities. It is thus laid down that the construction of infrastructures suitable for the accommodation of electronic communications networks is subject to a procedure of prior communication to the municipal council, as provided for in the urban building and development legal regime. Thus, this statutory instrument constitutes an attempt to rationalize the intervention in public spaces, reducing situations involving street works and enabling a reduction of expenses with the construction of these infrastructures.

The effective exercise of the right of access is based on the implementation of a Centralised Information System (SIC) which allows, namely, the access to information on procedures and conditions for the allocation of rights of way, and comprehensive and geo-referenced information on all infrastructures suitable for the accommodation of electronic communications networks. The SIC is based on the principles of information sharing and reciprocity, and it may be accessed by all bodies that ensure fulfilment of related information obligations.

The already existing regime for infrastructures for telecommunications in buildings (ITED) was also updated under Decree- Law n.º 123/2009<sup>2</sup>. With the new ITED regime an obligation to instal optical fibre along with the existing obligations to instal copper and coaxial cable came in to force in buildings and private condominiums.

- Decree-Law n.º.258/2009, of 25 September

Considering gains obtained by the optimization of resources as well as the application of the principle of efficiency, Decree Law n.º. 258/2009 came to determine the extension of access obligations, imposed by Decree- Law n.º 123/2009 to public entities, to electronic communications undertakings and entities owning infrastructure suited for storage of electronic communications networks as long as they are beeing used as such.

At last, it should be mentionned the importance given to the implementation of NGNs in rural areas which will contribute for the equality of opportunities among all citizens, strongly promoting info-inclusion and the valorization of human capital and contributing for the creation of externalities in the rural development policy, in the areas of employment, growth, competitiveness and in the sustainability of industries located on those areas. In this context, and to ensure the territory cohesion, the Government launched several public tenders<sup>3</sup> for the installation, management, operation and maintenance of NGN in different regions of Portugal. This program aims at covering 140 municipalities and is supported by the European Union.

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<sup>2</sup> English version of Decree Law nr 123/2009, available at: <http://www.anacom.pt/render.jsp?contentId=952960&languageId=1>

<sup>3</sup> For public tenders regulation please see: <http://www.anacom.pt/render.jsp?categoryId=332461&languageId=1>