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# Intellectual Property, Media and IT

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## I. Government approves strategy for Fifth Generation (5G) mobile networks

**On February 7, the Council of Ministers passed Resolution 7-A/2020, approving and scheduling the 5G National Strategy for the distribution and implementation of 5G mobile network technologies, and identifying the critical public interests to be preserved and executed by the National Communications Authority ("ANACOM").**

Following the Commission Implementing Decision (EU) 2019/235 of January 24, the government designated that the lots to be auctioned in the airwave's rights procedure shall preferably be bandwidth lots of 80 to 100 MHz in the fixed 3.6 GHz band to ensure unconditional access, high speed, high reliability and low latency.

The 5G National Strategy establishes the objectives, purposes and constraints ANACOM must follow by regulating the procedure to be published; i.e., the auction to be held in 2020 for the allocation of airwaves rights licenses, including:

- › a beneficial coefficient for bids entered for a minimum set of lots, allowing the bidder to benefit from a channel bandwidth of 80 to 100 MHz; and
- › the strategic and technical security measures resulting from the work carried out at a national and European level and those listed in the European Communication on the "EU Toolbox of risk mitigating measures" on 5G network security, and the creation of capacity at the national level in this framework.

The 5G National Strategy approved by the government also establishes the timetable for the annual objectives:

- › By the end of 2020, at least two cities, one on the coast with a population over 50,000 and the other in a low-density territory, must be covered by 5G networks in any modality.
- › By the end of 2023, all towns with a population over 75,000, all public hospitals, universities, polytechnical institutes, international airports, designated military facilities, half the public health centers and business and industrial clusters must be covered by a 5G network.
- › By the end of 2024, all towns with a population over 50,000 and almost all road, rail, metro and port infrastructures must be covered by a 5G network.
- › By the end of 2025, 90% of the population must have access to mobile broadband services with a typical usage experience of at least 100 Mbps, and the remaining commercial ports, roads with traffic of more than 1,000 vehicles/year, the Lisbon-Faro railway line and other military installations must be covered.



The government also decided to sponsor a consultation to review spectrum usage fees downwards, considering that 5G will occupy a much larger spectrum bandwidth than what is currently available.

The government also determined that the revenue from the procedure for allocating airwave rights for the 5G network must be used to develop measures to support projects to encourage digital transition and inclusion, as well as the digital transformation of companies and the public administration, under terms to be defined by the government.

ANACOM is also mandated to develop initiatives and prepare preliminary legislation drafts to contribute to (i) raising awareness of municipalities and service providers of developments concerning 5G networks and harmonize procedures, and (ii) encouraging the reduction of base station installation fees and harmonize them at the national level.

The government will also create a working group that will operate within the Cyber-Security High Council and will be coordinated by a representative of the National Cyber-Security Center to monitor compliance with the "EU Toolbox of risk mitigating measures" and periodically assess the cybersecurity risks of implementing 5G in the national territory.

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## II. ANACOM approves draft regulation for the auction of 5G Bands

**Following the approval of the 5G National Strategy, ANACOM approved the draft auction regulation for the allocation of airwave rights to use frequencies in the 700 MHz, 900 MHz, 1800 MHz, 2.1 GHz, 2.6 GHz and 3.6 GHz bands (the "Draft Regulation"). In addition to the 5G bands (700 MHz and 3.6 GHz), the auction includes other bands of interest for mobile operation (900 MHz, 1800 MHz, 2.1 GHz and 2.6 GHz) to support new processes and supplement existing ones.**

The Draft Regulation sets limits on spectrum acquisition (2 x 10 MHz in 700 MHz and up to 100 MHz in 3.6 GHz) and imposes several conditions for spectrum use to ensure public interest and the development of 5G mobile networks:

- › Those who do not hold airwaves usage rights in bands designated for terrestrial electronic communications services (i.e., new entrants) will be able to acquire airwaves frequency usage rights in the 900 MHz and 1800 MHz bands with a 25% discount on the price of the spectrum they acquire in these bands.
- › Network access obligations will be put in place to benefit mobile virtual network operators ('MVNOs'), and national roaming will be imposed on undertakings that have purchased a significant amount of spectrum and already hold airwaves usage rights in bands designated for terrestrial electronic communications services.



- › The acquisition of airwaves usage rights of frequencies in the 700 MHz and 3.6 GHz bands will entail the obligations to (i) make mobile broadband service with a minimum speed of 100 Mbps available to 85% and 95% of the total population of the country, respectively, by the end of 2023; and (ii) meet the targets set out in the 5G National Strategy. For the autonomous regions of the Azores and Madeira, this objective will be ensured by national roaming agreements.
- › An obligation to strengthen the voice signal is established for companies already holding airwaves usage rights to use frequencies in bands designated for terrestrial electronic communications services.
- › The acquisition of at least 50 MHz in the 3.6 GHz band entails obligations concerning network development effective from 2023 and involving the installation of macro base stations or "outdoor small cells" to make the availability of services compatible with 5G.
- › The holders of rights to use frequencies will be subject to security and integrity of electronic communications networks and services measures to be adopted at the national and European levels by the competent authorities, particularly:
  - Commission Recommendation on Cybersecurity of 5G networks;
  - Transposition of the European Electronic Communications Code; and
  - Implementation of the toolbox described in the publication "Cybersecurity of 5G networks - EU Toolbox of risk mitigating measures," in line with the European Commission Communication on "Secure 5G deployment in the EU - Implementing the EU toolbox."

The Draft Regulation also establishes the electronic auction platform procedures, running through several sequential phases, including qualification, bidding for new entrants, main bidding, assignment and allocation of the rights to use frequencies.

The auction model is simultaneous, ascending, open and multi-round, and it includes a bidding phase for new entrants with a simple clock operation for the bidder to submit a bid indicating the number of lots, given their price indicated by ANACOM.

ANACOM has informed the government of this project and has published it on its institutional website and in the second series of the Official Gazette to allow the intervention of the government, the regulated entities and other entities to which its activity is directed, user and consumer associations of general or specific interest in the area of communications, as well as users and the public in general.

The Draft Regulation will be in public consultation for 30 days from the date it is published in the Official Gazette.



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## Contacts

Cuatrecasas, Gonçalves Pereira & Associados  
Sociedade de Advogados, SP, RL  
Sociedade profissional de responsabilidade limitada

### Lisbon

Praça Marquês de Pombal, 2 (e 1-8º) | 1250-160 Lisboa, Portugal  
Tel.: (351) 21 355 3800 | Fax: (351) 21 353 2362  
cuatrecasasportugal@cuatrecasas.com | www.cuatrecasas.com

### Oporto

Avenida da Boavista, 3265 - 5.1 | 4100-137 Porto, Portugal  
Tel.: (351) 22 616 6920 | Fax: (351) 22 616 6949  
cuatrecasasporto@cuatrecasas.com | www.cuatrecasas.com

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For additional information on the contents of this document, please contact Cuatrecasas.

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