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Update

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Internet zero-rating offers: ANACOM'S new proposed decision

On 15 November, ANACOM published the proposal decision ("SPD") concerning zero-rating offers (i.e. offers allowing free access to certain content and/or applications, on an unlimited basis, without the respective data consumption being deducted from the volume of data associated with the basic offer subscribed to by the customer) and similar offers in Portugal, in the context of the open internet (SPD approved on 08/11/2022).

Under the terms of this SPD and once a final decision is approved, Internet access service providers ("ISPs") will be obliged to stop their zero-rating and similar offers that discriminate between traffic relating to zero-rated applications and other traffic on commercial grounds. The rationale behind the measure is that these practices may limit the end-users' free choice of the various content, applications and services available via internet access, thus biasing the consumer's internet usage pattern.

Following the approval of the final decision, ISPs will be granted a period of 20 working days to cease zero-rating offers available for new memberships, and a period of 90 working days to cease offers in relation to contracts currently running. Additionally, within 90 working days following the issuing of the final decision, ISPs must inform ANACOM of the changes made to their offers to accommodate this decision, as well as the information disclosed to end-users. It is further recommended that ISPs safeguard the rights and interests of users, minimising any impacts arising from this change process, by making available greater volumes of data for general internet access, at least equivalent to the total volume of data that users currently have available.

Interested parties may comment on this proposal, in writing and preferably by email (to zero-rating@anacom.pt), until 15 December.