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## PUBLIC CONSULTATION Nº 72

**Introduction**

Anatel's Regulatory Agenda for the 2019-2020 biennium, approved by Ordinance nº 542, of 3/26/2019 (SEI nº [3964072](#)), provided for a normative initiative with a focus on the evaluation regarding the need or not of several norms that have been historically edited by Anatel for legitimate and justified reasons at the time, but which may no longer be justified at the present time. This is the Normative Revocation Project (regulatory guillotine) - item 47 of the Regulatory Agenda.

The name - regulatory guillotine - is usually used when referring to regulatory stock management initiatives, in line with good international regulatory practices. As an example, recently the National Health Surveillance Agency - ANVISA and the Foreign Trade Chamber - CAMEX, linked to the Ministry of Economy, have advanced in initiatives they also call the regulatory guillotine. The Organization for Economic Cooperation and Development - OECD also makes references to the term ( regulatory guillotine ) in several of its documents referring to good regulatory practices.

It should be noted that it is not a question of revoking norms in an indistinct manner, but an improvement of the normative strategy, revoking obsolete rules, which have lost their reason for existing over time, focusing regulation on topics of greater relevance and which communicate better with the greater demands of society with regard to the telecommunications sector.

As a result of the work, the Regulatory Impact Analysis was prepared, which identified 3 (three) themes, as shown below:

<b>Theme 1: NON-EXISTING PROBLEMS AND RULES IN FORCE</b>	
Problem	The problem is that, in some specific cases, there are rules in force for which there are no longer the problems that justified them.
Goals	The objective of the action is to simplify regulations, since the excess of bureaucracy does not bring benefits to society, but the opposite, especially for those rules whose problems they intended to solve no longer exist.
<b>Theme 2: EXISTING PROBLEMS AND SAFE RULES</b>	
Problem	The problems mapped at the time of the edition of the standard are not solved by the respective rules still in force.
Goals	The objective is to identify the normative provisions that have a significant regulatory burden for the regulated sector and that do not solve the problems for which they were established at the time of their approval, defining the appropriate conditions for their revocation and the regulatory options to combat these problems, when necessary.
<b>Theme 3: Existing problems and inefficient rules</b>	
Problem	The existing rules and that fit here, despite correcting the mapped problems, may not bring the most efficient solution.
Goals	The present theme aims to remove obstacles that the application of the standard has brought in the solution of the problems that originally predicted, with the search of the best cost-benefit in its implementation.

The development of each of these themes and the alternative chosen is based on the AIR Report (SEI No. [4923444](#)), which is the basis for the regulatory proposal presented in this public consultation.

**CONSIDERATES**

[CONTRIBUTE](#)

DRAFT RESOLUTION

Repeals and amends Resolutions issued by the Agency  
(Regulatory Guillotine)

**THE DIRECTING COUNCIL OF THE NATIONAL TELECOMMUNICATIONS AGENCY**, in the use of the powers conferred on it by art. 22 of [Law No. 9,472, of July 16, 1997](#), and by art. 35 of the Regulation of the National Telecommunications Agency, approved by [Decree No. 2,338, of October 7, 1997](#),

WHEREAS art. 4th of Law No. 13,848, of June 25, 2019;

WHEREAS art. 4 of Law No. 13,874, of September 20, 2019;

CONSIDERING Anatel's guideline on regulatory simplification, as a way of optimizing the Agency's transparency and its relationship with society;

WHEREAS the comments received arising from Public Consultation No. xxx, of y of mmmm of yyyy, published in the Official Gazette of the day of y of mmmm of yyyy;

WHEREAS the resolution taken at its Meeting No. xxx, of y of mmmm of yyyy;

CONSIDERING the case file of Process No. 53500.012180 / 2019-16,

**RESOLVES:**

**ART. 1st**

CONTRIBUTE

Article 1 Revoke the following Resolutions issued by the Agency:

I - Resolution nº 31, of June 30, 1998, published in the DOU of July 1, 1998 (Approves the Guidelines for the Bidding of Authorizations for the Exploitation of the Switched Fixed Telephone Service);

II - Resolution No. 46, of August 7, 1998, published in the DOU of August 10, 1998 (Guidelines for the Use of Radio Frequencies by Concessionaires and Authorized Fixed Telephone Service Switched to Fixed Wireless Access Systems);

III - Resolution No. 50, of September 2, 1998, published in the DOU of September 3, 1998 (Amends the Guidelines for the Bidding of Authorizations for the Exploitation of the Switched Fixed Telephone Service);

IV - Resolution No. 66, of November 9, 1998, published in the DOU of November 10, 1998 (Regulation on Disclosure of Lists of Subscribers and Edition and Distribution of Mandatory and Free Telephone List);

V - Resolution No. 102, of February 24, 1999, published in the DOU of February 26, 1999 (Approves inclusions and adaptations in the "Standard Chart of Accounts for Public Telecommunications Services");

VI - Resolution No. 146, of July 16, 1999, published in the DOU of July 22, 1999 (Regulation for the Certification of Fixed Wireless Access Systems for the Provision of the Switched Fixed Telephone Service for Use by the General Public - STFC );

VII - Resolution No. 251, of December 19, 2000, published in the DOU of December 20, 2000 (Approves Anatel's Human Resources Regulation);

VIII - Resolution No. 272, of August 9, 2001, published in the DOU of August 10, 2001 (Approves the Regulation of the Multimedia Communication Service);

IX - Resolution nº 328, of January 29, 2003, published in the DOU of February 3, 2003 (Approves the models of Authorization Term for Exploration of the Multimedia Communication Service, of collective interest);

X - Resolution No. 333, of February 20, 2003, published in the DOU of February 27, 2003 (Repeals Resolution No. 88/99, which approves the Direct Access Regulation to INTELSAT);

XI - Resolution No. 339, of May 22, 2003, published in the DOU of May 23, 2003 (Provides for the technical and operational aspects of the implementation of the Carrier Selection Code - CSP in the Personal Mobile Service - SMP);

XII - Resolution No. 344 of July 18, 2003, published in the DOU of July 21, 2003 (Approves the Regulation for the Application of Administrative Sanctions);

XIII - Resolution no. 345, of July 18, 2003, published in the DOU of July 21, 2003 (Approves the Regulation on Provision of the List of Subscribers by the Providers of the Fixed Telephone Service Switched to the Local Service Modality);

XIV - Resolution 405, of May 5, 2005, published in the DOU of May 5, 2005 (General Plan for Authorizations of the Specialized Mobile Service - SME);

XV - Resolution No. 423, of December 6, 2005, published in the DOU of December 8, 2005 (Norm for Alteration of the Tariff for the Basic Plan of the Fixed Telephone Service Switched to the Local Modality Provided in Public Regime);

XVI - Resolution No. 425, of December 7, 2005, published in the DOU of December 9, 2005 (Approves the percentage share of expenses included in the reference expenses structure for calculating the Telecommunications Services Index - IST - Applied in the Adjustment and Update of Values Associated with the Provision of Telecommunications Services);

XVII - Resolution No. 432, of February 23, 2006, published in the DOU of February 24, 2006 (Approves the amendment to the deadlines contained in item 8 of the Standard for Alteration of the Basic Plan Fixed Telephone Service Tariff, Provided in Public Regime);

XVIII - Resolution nº 473, of July 27, 2007, published in the DOU of August 15, 2007 (Approves the Regulation of the User Interface - Network and Fixed Switched Telephone Service Terminals);

XIX - Resolution no. 493, of February 27, 2008, published in the DOU of March 5, 2008 (Approves the amendment to article 6 of the General Plan for Quality Targets for pay-TV services);

XX - Resolution No. 501, of April 10, 2008, published in the DOU of April 14, 2008 (Repeals Resolution No. 227, of June 21, 2000);

XXI - Resolution nº 505, of June 5, 2008, published in the DOU of June 9, 2008 (Temporarily suspending the effectiveness of articles of the Regulation for the Protection and Defense of the Rights of Subscribers to Pay-TV Services, approved by Resolution nº 488, of December 3, 2007);

XXII - Resolution nº 508, of July 31, 2008, published in the DOU of August 1, 2008 (Temporarily suspending the effectiveness of articles of the Regulation for the Protection and Defense of the Rights of Subscribers to Pay-TV Services, approved by Resolution nº 488, of December 3, 2007);

XXIII - Resolution nº 513, of September 29, 2008, published in the DOU of October 1, 2008 (Temporarily suspending the effectiveness of articles of the Regulation for the Protection and Defense of the Rights of Subscribers to Pay-TV Services, approved by Resolution nº 488, of December 3, 2007);

- XXIV - Resolution nº 517, of October 31, 2008, published in the DOU of November 3, 2008 (Temporarily suspending the effectiveness of articles of the Regulation for the Protection and Defense of the Rights of Subscribers to Pay-TV Services, approved by Resolution nº 488, of December 3, 2007);
- XXV - Resolution No. 519, of November 21, 2008, published in the DOU of November 24, 2008 (Approves changes to the General Plan for Authorizations of the Specialized Mobile Service - SME);
- XXVI - Resolution No. 520, of November 27, 2008, published in the DOU of November 28, 2008 (Temporarily suspending the effectiveness of articles of the Regulation for the Protection and Defense of the Rights of Subscribers to Pay-TV Services, approved by Resolution No. 488, of December 3, 2007);
- XXVII - Resolution No. 525, of February 26, 2009, published in the DOU of February 27, 2009 (Temporarily suspending the effectiveness of articles in the Regulation for the Protection and Defense of the Rights of Subscribers to Pay-TV Services, approved by Resolution No. 488, of December 3, 2007);
- XXVIII - Resolution No. 526, of March 27, 2009, published in the DOU of March 30, 2009 (Temporarily suspending the effectiveness of articles of the Regulation for the Protection and Defense of the Rights of Subscribers to Pay-TV Services, approved by Resolution No. 488, of December 3, 2007);
- XXIX - Resolution No. 535, of October 21, 2009, published in the DOU of November 3, 2009 (Standard for the Estimated Weighted Average Cost of Capital - CMPC);
- XXX - Resolution No. 538, of February 19, 2010, published in the DOU of March 2, 2010 (Approves the Standard on Registration of Intention to Donate to a Public Utility Institution, using Telecommunications Services);
- XXXI - Resolution No. 547, of October 22, 2010, published in the Official Gazette of October 29, 2010 (Standard for the Unification of Tariffs and Prices for the Switched Fixed Telephone Service Practiced in the Consolidated Sectors by the General Granting Plan);
- XXXII - Resolution No. 569, of August 5, 2011, published in the DOU of August 9, 2011 (Approves the extension of the deadlines established in articles of the Regulations for Monitoring and Control of the Obligations for the Universalization of the Switched Fixed Telephone Service for the use of the general public - STFC, approved by Resolution No. 536, of November 9, 2009);
- XXXIII - Resolution nº 571, of September 28, 2011, published in the DOU of October 4, 2011 (Approves the Regulation for defining formats and tolerances for geodetic data provided to Anatel).
- XXXIV - Resolution No. 613, of May 9, 2013, published in the DOU of May 16, 2013 (Amends Article 48 of the Regulation of the User Interface - Network and Fixed Switched Telephone Service Terminals, approved by Resolution No. 473, July 27, 2007);
- XXXV - Resolution No. 658, of December 11, 2015, published in the DOU of December 15, 2015 (Revokes the General Plan for Updating Telecommunications Regulation in Brazil);
- XXXVI - Resolution No. 670, of October 19, 2016, published in the DOU of October 21, 2016 (Repeals the Regulation for Certification of the Inductive Card, approved by Resolution No. 471, of July 5, 2007);
- XXXVII - Resolution No. 675, of March 6, 2017, published in the DOU of March 7, 2017 (Repeals the Standard for Certification and Homologation of Digital Transmitters and Transceivers for Fixed Service in Point to Point Applications in Frequency Bands below 1 GHz, approved by Anatel Resolution 360, of April 1, 2004, and the Standard for Certification and Homologation of Digital Transmitters and Transceivers for Fixed Service in Point to Point Applications in Frequency Bands above 1 GHz, approved by Resolution Anatel No. 369, of May 13, 2004);
- XXXVIII - Resolution No. 686, of October 13, 2017, published in the DOU of May 16, 2017 (Revokes Technical Standards and Regulations for the Certification of Telecommunications Products);
- XXXIX - Resolution No. 696, of July 23, 2018, published in the DOU of July 24, 2018 (Repeals Resolution No. 530, of June 10, 2009);
- XL - Resolution No. 704, of November 6, 2018, published in the DOU of November 9, 2018 (Repeals devices whose definition of Small Carrier conflicts with the concept approved through Resolution No. 694, of July 17, 2018 ).

## **ART. 2nd**

### [CONTRIBUTE](#)

Art. 2 Revoke Resolution No. 626, of November 20, 2013, published in the DOU of November 21, 2013, on the same date provided for in art. 3 of Resolution No. 715, of October 23, 2019, published in the DOU of October 25, 2019.

## **ART. 3rd**

### [CONTRIBUTE](#)

Art. 3 Revoke Resolution No. 660, of December 28, 2015, published in the DOU of December 30, 2015, on the same date provided for in Item IV of art. 9 of Resolution No. 709, of March 27, 2019, published in the DOU of March 28, 2019.

## **ART. 4th**

### [CONTRIBUTE](#)

Art. 4 Revoke Resolution No. 662, of March 8, 2016, published in the DOU of May 9, 2016, on the same date provided for in art. 3 of Resolution No. 715, of October 23, 2019, published in the DOU of October 25, 2019.

## **ART. 5th**

### [CONTRIBUTE](#)

Art. 5 Repeal the following provisions:

I - art. 27, § 1, of the Telecommunications Services Regulation, approved by Resolution No. 73, of November 25, 1998, published in the DOU of November 27, 1998;

II - art. 10-G; art. 17; art. 18; art. 41, §2; and art. 126 of the Regulations for the Fixed Switched Telephone Service - STFC, approved by Resolution No. 426, of December 9, 2005, published in the DOU of December 12, 2005;

III - art. 13, § 3; art. 24; and art. 4, § 1, of the Remuneration Regulation for the Use of Personal Mobile Service Provider Networks - SMP, approved by Resolution No. 438, of July 10, 2006, published in the DOU of July 13, 2006;

IV - art. 15; art. 31; art. 32; art. 33; art. 76, § 2; and arts. 107 to 109 of the Personal Mobile Service Regulation - SMP, approved by Resolution No. 477, of August 7, 2007, published in the DOU of August 13, 2007;

V - art. 4 of Resolution No. 553, of December 14, 2010, published in the DOU of December 15, 2010;

VI - art. 22, items XIII, XVIII and XXIII of art. 73, and Chapter VI of Title III of the Regulation of the Conditional Access Service (SeAC), approved by Resolution No. 581, of March 26, 2012, published in the DOU of March 28, 2012;

VII - art. 15, I and III, of the Remuneration Regulation for the Use of Networks of Providers of the Switched Fixed Telephone Service - STFC, approved by Resolution nº 588, of May 7, 2012, published in the DOU of May 9, 2012;

VIII - art. 10; art. 13; and Title III of the Regulation for the Industrial Exploration of Dedicated Line - EILD, approved by Resolution No. 590, of May 15, 2012, published in the DOU of May 18, 2012;

IX - art. 19; art. 48; art. 53; and art. 54 of the Regulation of the Multimedia Communication Service, approved by Resolution No. 614, of May 28, 2013, published in the DOU of May 31, 2013;

X - art. 2nd, §1st; art. 9th, I; art. 10; art. 11, single paragraph; art. 17; and art. 18 of the Regulation for Monitoring Commitments to Acquire National Products and Systems, approved by Resolution No. 655, of August 5, 2015, published in the DOU of August 6, 2015; and

XI - Paragraph 2 of Clause 1.6 of the STFC Concession Contract Model in Local modality, approved by Resolution No. 678, of June 6, 2017, published in the DOU of June 8, 2017.

## **ART. 6th**

### CONTRIBUTE

Art. 6 Add to Title IV of the Regulation of the Switched Fixed Telephone Service - STFC, approved by Resolution No. 426, of December 9, 2005, published in the DOU of December 12, 2005, Chapter IX, which provides for the List of Service Subscribers:

"CHAPTER IX

LIST OF SUBSCRIBERS

Art. 35-A. The conditions applicable to the provision of the List of Subscribers to the Fixed Telephone Service Switched by the providers, as well as the disclosure of telephone directories to their subscribers, comply with the provisions of Article 213 of Law No. 9,472, of July 16, 1997.

Single paragraph. The obligations set out in the caput apply to concessionaires and other STFC providers in the local modality (STFC-LO), except for small providers.

Section I

Providing the List of Subscribers

Art. 35-B. Any interested party, whether natural or legal, will be free to disclose a subscriber list.

Art. 35-C. The service provider is obliged to provide its subscriber list to anyone who wishes to disclose it, under fair, reasonable and non-discriminatory conditions.

Art. 35-D. The list of subscribers must contain, at a minimum, the names of the subscribers or indicated users and the respective individual access codes, or key number of the trunk line, respecting the manifestations of non-disclosure of access codes, pursuant to art. 3, VI, of Law 9.472, of 1997.

Single paragraph. For privacy reasons, the address and other individual information may only be included in the Subscriber List, to be provided by the provider, after the prior and specific consent of the subscriber or the indicated user.

Art. 35-E. The use of the list of subscribers provided by the provider will aim exclusively at its primary disclosure by the publisher and must take place in a non-discriminatory manner, the exclusion of subscribers or indicated users in any capacity being prohibited.

Single paragraph. Discriminatory action does not characterize the disclosure of information containing one or more groups of people, whether physical or legal, identified by carrying out a specific activity.

Art. 35-F. The conditions for supplying the Subscriber List, including the structuring of the information and its updates, will be subject to negotiation between the parties, and must ensure:

I - the freedom of the publisher to use the Subscriber List, with a view to its primary disclosure;

II - the guarantee by the provider of the origin of the Subscriber List;

III - prohibition on the publisher from reselling or negotiating information from the Subscriber List;

IV- the establishment of procedures for updating information.

Single paragraph. The provider must establish, together with the requesting discloser, the mechanisms and conditions for sending and updating information on the Subscriber List, preferably in real time.

Art. 35-G. The provider must publish and maintain, on its website, the conditions on providing the List of Subscribers to anyone who wishes to disclose it, containing reference conditions on:

I - the price and form of payment for the provision of the List of Subscribers and their updates;

II - the general supply conditions.

Single paragraph. If there is no agreement between the provider and those interested in disclosing their List of Subscribers, Anatel may, cautiously, determine the payment amounts.

## Section II

### Free Disclosure of Telephone Directory to Subscribers

Art. 35-H. Consultation with the telephone directory of the provider's subscribers must be made available, free of charge, through the subscriber access code information service and on the provider's website.

Single paragraph. In addition, the provider may use other means of disclosure as it deems convenient.

Art. 35-I. The telephone directory must contain, at a minimum, the List of Subscribers of all providers of STFC-LO in the geographical area covered by the provider, respecting the manifestations of non-disclosure of the access code.

Art. 35-J. Providers in the same geographic area where the service is provided may jointly disclose their telephone directories, by agreement between the parties.

Single paragraph. The joint disclosure, which deals with the caput, must be made in a non-discriminatory manner, in relation to the providers and the subscribers and indicated users. " (NR)

## ART. 7th

### [CONTRIBUTE](#)

Art. 7 Change art. 3, XXII, of the Regulations for the Fixed Switched Telephone Service - STFC, approved by Resolution No. 426, of December 9, 2005, published in the DOU of December 12, 2005, becoming effective with the following wording:

"XXII - list of subscribers: set of information that associates the names of all indicated STFC subscribers in the local modality, with the respective access codes of a given location, respecting the manifestations of non-disclosure of their access codes;" (NR)

## ART. 8th

### [CONTRIBUTE](#)

Art. 8 Add item IV in art. 27 of the STFC Numbering Regulation, approved by Resolution No. 86, of December 30, 1998, published in the DOU of December 31, 1998:

"IV." 500 ": series designed to serve a Private Non-Profit Entity, in campaigns to receive, answer and record calls corresponding to expressions of intent to donate."

## ART. 9th

### [CONTRIBUTE](#)

Art. 9 Art. 105 of the Personal Mobile Service Regulation - SMP, approved by Resolution No. 477, of August 7, 2007, published in the DOU of August 13, 2007, becomes effective with the following wording:

"Art. 105. The provider must keep a record stating whether the disclosure of the Access Code is authorized by the User." (NR)

## ART. 10

### [CONTRIBUTE](#)

Art. 10. Add the following articles 10, 11 and 12 to the Standard for adapting the Specialized Mobile Service (SME) permission and authorization instruments to the Personal Mobile Service (SMP), Private Limited Service (SLP) or Specialized Limited Service (SLE), approved by Resolution No. 647, of February 9, 2015, published in the DOU of February 11, 2015:

"Art. 10. It is forbidden for the same legal entity to hold more than one authorization to operate the SME in the same Provision Area or part of it.

Art. 11. The same SME Authorized, its affiliates, controlled or controlling shareholders, in the same geographical area, may be granted authorizations to use radio frequency channels or spectrum bands, subject to the limits:

I - maximum of 25 MHz of spectrum, including transmission and reception channels for bands destined to the SME;

II - the maximum of 25 MHz of spectrum for the same SME Authorized, its affiliates, controlled companies and controllers, in the same geographical area, will only be granted if it holds less than 50% of the range of Radio frequencies destined to SME in the 400 bands MHz and 900 MHz;

III - minimum of 1 MHz, for each authorization, including transmission and reception channels.

Art. 12 The SME User, in the exercise of his right of choice, must select the STFC provider of his preference for forwarding Long Distance calls to each call originated by him.

Paragraph 1. When called from the SME, a call destined to an Access Code associated with the geographical area outside the Registration Area of origin of the call or a call destined to another country is considered Long Distance.

§ 2 The origination of calls by SME User must obey the dialing procedure established in specific regulations.

Paragraph 3. The dispatch service of SME providers is excluded from the provisions of this article. " (NR)

## **ART. 11**

### [CONTRIBUTE](#)

Art. 11. This Resolution enters into force XX of XXXX of 2020. (fill in at the time of publication of the Resolution, according to article 4, items I and II, of Decree nº 10.139 / 2019) Art.

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