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MVNO'S REGULATION

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According to Law No. 9,472/1997 (General Telecommunications Law - "LGT"), the regulatory body responsible for organizing the exploitation of telecommunications services in Brazil is the National Telecommunications Agency ("ANATEL").

Based on this task, already in 2010, ANATEL regulated, under the terms of Resolution No. 550, subsequently amended by Resolution No. 663/2016, the exploitation of the Personal Mobile Service ("SMP") by means of a Virtual Network, in a provision model known internationally as **Mobile Virtual Network Operator** ("MVNO"), the legal basis of which is also found in the LGT, in the Telecommunications Services Regulation (Resolution No. 73/1998), in the SMP Regulation (Resolution No. 477/2007) and other applicable provisions.

According to Resolution No. 550/2010, the exploitation of the SMP by means of a Virtual Network (composed of a set of processes, systems, equipment and other activities of a so-called "Origin Provider") enables the participation of more service providers in the market, with the presentation of innovative proposals for facilities, conditions and relationships with SMP users, which may even add value to the provision of services.

Under the terms of the Brazilian regulation, the SMP by means of a Virtual Network can be exploited in the Accreditation or Authorization modalities.

In the first scenario, the Accredited Entity of Virtual Network ("Accredited Entity"), a legal entity organized in accordance with the Brazilian law, with headquarters and administration in Brazil, enters into a contract that makes it a representative of an Origin Provider with the objective of developing, together with such Provider, an inherent, accessory or complementary activity to the provision of the SMP. However, it is important to note that, in order to be effective, this contract must be approved by ANATEL, and such Agency may request additional information, modifications and clarifications regarding this instrument, or even require the adjustments that it may deem applicable.

In the Accreditation, the Accredited Entity's geographical area of operation is restricted to the Provision Area of the Origin Operator, and the Accredited Entity cannot contract representation with more than one Origin Operator within the same registration area. The plans offered by the Accredited Entity to SMP users are the plans of the Original Provider and, it is worth mentioning that the Accredited

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Entity's activities must not impact the proper operation of telecommunications networks, e.g., causing congestion and drop in the quality of the service; thus, there must be continuity in meeting the conditions of regularity, continuity, efficiency, security, timeliness, generality and courtesy.

Still in this modality of operation, the Origin Provider is responsible for maintaining all conditions for the user of the SMP provided through the Accredited Entity's representation to receive and automatically perform, in any location where the service is provided by such Origin Provider, calls from and to other users of the telecommunications service. The Accredited legal entity, in turn, may have infrastructure to serve users directly, or improve the quality of the service provided. It should be noted, however, that the user who contracts from the Accredited Entity the SMP provided through representation is considered a user of the Origin Provider; and, before ANATEL, the Origin Provider is fully responsible for the Accredited Entity's actions. In addition, in case the Accredited Entity's representation is discontinued, regardless of the reason, the Origin Provider must serve the SMP user.

In the Authorization modality, the so-called Authorized Entity of SMP by means of a Virtual Network ("Authorized Entity") corresponds to a legal entity, authorized by ANATEL and categorized as a SMP Authorized Provider, which provides the

service by sharing a Virtual Network. However, in this case, in contrast to what occurs in the Accreditation, there may be contracting with more than one Origin Provider within a given Registration Area. However, at this point it is very important to note that, according to the Brazilian law, the Authorized Entity is prohibited from being a parent, controlled or affiliated company of the Origin Provider in its area of performance.

By means of this modality of exploitation, in locations where the Origin Provider does not have infrastructure, the Authorized Entity may provide the SMP through the use of technological alternatives of its own initiative; however, both parties are jointly and severally responsible for the efficient use of shared resources. On the other hand, the fulfillment of service commitments assumed by the Origin Provider in bidding processes is its exclusive responsibility.

There is also a clear division as to the duties of the contracting parties: the Authorized Entity is responsible for the licensing of the mobile stations linked to it, while the licensing of the base and repeater stations is the responsibility of the Origin Provider. In addition, the rights and regulatory obligations that fall upon the SMP Authorized Entities, in accordance with the SMP Regulation, apply to the Authorized Entities.

In order to obtain the authorization for the provision of SMP by means of a Virtual

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Network, formalized by the execution of an Authorization Term with ANATEL, it is necessary to submit the sharing agreement signed between the interested parties, as well as the documentation mentioned in the General Regulation of Grants, approved by Resolution No. 720/2020. The contract, as in the case of Accreditation, may also be the object of requests for information, modifications, clarifications, as well as requirements by ANATEL. In addition, there is no limit regarding the number of Authorizations that can be contracted, except if there is a limitation caused by technical impossibility or potential impact on the provision of SMP caused by excess of competitors.

It is interesting to note, also in accordance with Resolution No. 550/2010, that within the same geographical region, (i) the Accredited Entity cannot be an Origin Provider; (ii) the Authorized Entity may be an Origin Provider for Accredited Entities; (iii) the Authorized Entity cannot be the Origin Provider of other Authorized Entities; and (iv) the Authorized Entity cannot be the parent, controlled or affiliated company of other Authorized Entities.

In Brazil, several companies have shown interest in the exploitation of SMP by means of a Virtual Network, as in the case of J. Safra Telecomunicações, which uses Claro's infrastructure, of operators Unifone and MHNTELECOM, which

recently joined together to launch Figue Móvel and serve the South Region of the country, but also look to other States, and even a supermarket network in São Paulo.

In fact, MVNOs can play an important role, for example, in providing connectivity to the segments of industry, agriculture and health, and others, as in the case of NLT - Next Level Telecom, which is connected to Vivo's network. In addition, there are opportunities for attracting several business partners, as occurred with Americanet, connected to TIM's network, which recently became an mobile virtual network aggregator (MVNA, in English). Um Telecom, from Pernambuco, has also announced its plans regarding MVNO to expand its operations, and possibly participate in a future auction of 5G technology.

However, even though they arouse interest, the Accreditation and Authorization modalities provided for in the Brazilian law have been object of reflections by representatives of the telecommunications sector, based on allegations that, among others, include the costs involved in each type of SMP exploitation.

However, even so Brazil ended the year 2019 with more than 1 million accesses provided by MVNOs and optimistic prospects predict that MVNOs may be equivalent to 5 to 10% of the market in the coming years. Americanet has also

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announced the expectation of having 1 million subscribers by 2022. These manifestations, as we see, in fact corroborate that MVNOs can be considered excellent business opportunities in the country.

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