



## **COMISIÓN DEL MERCADO DE LAS TELECOMUNICACIONES**

IGNACIO REDONDO ANDREU, Council Secretary for the “*Comisión del Mercado de las Telecomunicaciones*” (Spanish Telecommunications Market Commission), by means of those capacities bestowed on him by article 40 of that Commission’s Regulations, passed by Royal Decree 1994/1996 of 6 September,

### **HEREBY CERTIFIES:**

That Board Meeting No. 22/09 of the Telecommunications Market Commission held on 18 June 2009, did adopt the following

### **AGREEMENT**

Said agreement approved the:

**CIRCULAR ISSUED 2/2009 BY THE TELECOMMUNICATIONS MARKET COMMISSION REGARDING THE IMPLEMENTATION OF OPERATOR PRESELECTION BY THOSE ACCESS PROVIDERS OBLIGED TO PROVIDE IT IN THE PUBLIC LAND-LINE TELECOMMUNICATIONS NETWORK MARKET.**



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**Circular issued 2/2009 by the Telecommunications Market Commission regarding the implementation of operator preselection by those access providers obliged to provide it in the public land-line telecommunications network market.**

- (1) General Telecommunications Law 32/2003 of 3 November (LGTel) states in article 48.3 that one function of the Telecommunications Market Commission within its scope and purpose, is to adopt the necessary measures for ensuring a varied service offer and safeguarding operators' access to electronic communications networks, the interconnection of networks, the operation of the network under open network conditions, and service providers' pricing and marketing policies. Likewise, articles 3 and 11.4 of the same Law state that the aim of the Telecommunications Market Commission is to foster effective competition in telecommunications markets, particularly as regards operating networks and providing electronic communications services.

For this purpose, and regarding the indicated topics, the Commission may dictate instructions directed to operators acting in the electronic communications sector, which will be binding once they are announced, or, where applicable, published in the Spanish Official Gazette.

- (2) Article 19 of the abovementioned law, which has also been clarified by articles 13 to 16 of the Regulation on the electronic communication market, network access and numbering, which was passed by Royal Decree 2296/2004 of 10 December, states that the operator designated as having significant market power as regards providing connections to the public telephone network and use of that network from a set location is obliged to offer its direct-access subscribers the possibility of choosing an operator for calling purposes by the call-by-call operator selection procedure or by preselection.

Therefore, in the course of its activities to regulate competition, which extend to the subject of preselection, the Telecommunications Market Commission has drafted seven Circulars regarding the implementation of the pre-assignment of an operator chosen by the dominant provider on the market of public land-line telephone networks, with the goal of eliminating the obstacles that led to new providers' difficulty in developing an access network. Thus, competition in the land-line telephone market has been intensified by favouring the appearance of new operators and marketing a wider variety of services at different prices.

- (3) That is, by approving Circular 1/1999 of 4 November and Circular 1/2000 of 30 November, we saw the implementation of the mechanism for preselecting the operator for subscriber lines connected to digital telephone exchanges for long distance, land-line to mobile and local calling. This managed to reduce the barriers to alternative operators' entry in the land-line telephone



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market by permitting them to reach a large number of subscribers with no need to possess an extensive access network.

In 2001, mindful of the conditions for effective competition and the degree of implementation of preselection, this Commission approved Circular 1/2001 of 21 June, with the purpose of compiling the existing means of preselection at that moment within a single regulatory text and creating a quicker and more automatic unified administrative preselection process for each of them.

The following year, by means of approving Circulars 1/2002 and 2/2002 of 8 May and 18 July respectively, we considered the need for extending the preselection function to the subscriber lines connected to analogue telephone exchanges under the same conditions in which preselection is offered for lines connected to digital exchanges, as well as extending the selection and preselection functions to intelligent network numbers, radio search services and calls generated by additional services.

Through these Circulars, the Commission managed to boost the competitiveness of the land-line telephone market by increasing the number lines eligible for preselection and the means of preselection, which therefore expanded the range of services that providers with the right to be preselected might propose to their subscribers. Likewise, Circular 2/2002 gave increased symmetry to the procedures that organise the relationships between operators by including an optional commercial validation process for operators with the right to be preselected, in the event that preselection calls requested by the access provider are deactivated or excluded.

Lastly, the most recent Circulars drawn up by this Commission's Council were Circular 1/23 of 24 January, which sped up the process to review motives for refusal and introduced two new motives, and Circular 1/2004 of 27 May, which enabled verbal consent with third-party verification in the provider preselection process, so that a tool with the ability to expedite changes for contracting a service would be available to users.

- (4) As a result, in light of the applicable legislation regarding implementing a preselection mechanism, it is necessary to approve a Circular that consolidates all current Circulars within a single regulatory text, thus revoking all of the same, with the exception of the Telecommunications Market Commission' Circular 1/2004 of 27 May which introduces verbal consent with third-party verification to the procedures for operator preselection.

The objective of the current Circular on preselection consists in maintaining the totality of the provisions established in the abovementioned Circulars, and in the administrative procedures for preselection and in their associated systems, with the aim of facilitating their understanding, and therefore, their proper use by all operators who provide or retail land-line telephone service



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to the public using indirect access, by means of a network belonging to an operator that is obliged to provide preselection or to another transit operator, and by any user with an interest in using the preassignment option.

Likewise, this Circular addresses the revision of the abovementioned instructions and their appendices in order to adapt regulation of the preselection option to the evolution of the land-line telephone market and to that sector's applicable legislation, as well as to reinforce the rights of users who solicit operator preselection.

- (5) In this sense, we must point out that the development of the market for public land-line telephone service (PLLTS) has given rise to the incorporation of a large number of PLLTS-lending operators or service retailers who, according to their deployment needs and financial conditions have opted for using interconnection resources offered by a third-party operator in transit, which is different from the access provider that is obliged to provide preselection.

According to the way in which the administrative procedure for preselection is currently regulated, these operators cannot process preselection applications from their subscribers using the Telefónica de España's preselection management tools. This is because the format of the application to be processed must include the operator code (OC) used for the consolidation in interconnection; Telefónica de España assigns this code to each operator with which it signs a network interconnection agreement (section 3.2.3 of Appendix II).

This situation was regulated by our Commission by means of the Resolution of 12 April 2007, which replied to the query raised by Telefónica de España regarding the consideration and treatment to be given to a subassignee entity with an operator selection code (OSC) while processing preselection procedures.

The same Resolution proposed that Telefónica de España award the same treatment to these operators as it had before in practice, according to that established in section 2.4 of Telefónica's Reference Interconnection Offer (RIO) *Servicio de tránsito de otros operadores y compartición de Pdl* (Transit service by other operators and connection point sharing), meaning the treatment given to operators providing PLLTS by means of the network services of a third-party operator directly connected to Telefónica de España, with the aim of allowing them to use the preselection option.

That solution was established temporarily until modification of Circular 1/2001 of 21 June, regarding implementation of operator preselection by those access providers obliged to provide one in the public land-line telecommunications network market; by that measure, the current administrative preselection procedure was approved.



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Therefore, with the aim of applying the necessary reforms to the preselection application process, the current Circular introduces a second additional Provision by which we establish the necessary instructions that all operators involved in the situation described above should follow, in order to make it possible for all operators providing PLLTS, regardless of whether or not they have deployed a network, as well as all retailers of that service, may participate in the procedures for preselecting their subscribers.

Likewise, with the aim of making them more understandable for providers that are involved in each of the situations described, a new Appendix VI has been created in this Circular which contains two explanatory diagrams illustrating the instructions that are set down in the abovementioned second additional Provision.

Lastly, the “Comments” field in the “Applicant operator code” row contains a modification to the applications format that was established in section 3.2.3 of Appendix 2, and so does the “Descriptions” field in the “Message requested undo actions” section regulated in part 7.5 of Appendix II, in which the phrase “The three-digit number used for consolidation” has been changed for “The three-digit number that identifies the operator”.

- (6) On the other hand, the last and final Provision of Law 34/2002 of 11 July, regarding the information society and electronic business services, added the twelfth temporary Provision to Law 11/1998 of 24 April (the General Telecommunications Law), which was not revoked by the new Law 32/2003 of 3 November which set forth the criteria to be followed to develop a technological action plan for the public land-line telephone service's access network. This plan, which principally targets migration from the rural telephone system with cellular access and analogue technology (TRAC), has the goal of ensuring that connections to the land-line network make functional Internet access possible for subscribers.

The abovementioned plan presented by Telefónica de España was approved by order of the Ministry of Science and Technology on 28 January 2003. The plan addressed four types of technological solutions (physical carriers of copper pairs, GSM/GPRA technologies, LMSD and satellite) which will substitute TRAC accesses, as well as a progressive timeline for the deployment of means of providing functional Internet coverage, with its ending date on 31 December 2004.

On 27 May 2008, the Secretary of State for Telecommunications and the Information Society (in Spanish, SETSI) issued a Resolution to regulate the closing of the process of substituting the rural telephone system with cellular access and analogue technology as a guarantee of the rights of users.



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This Resolution, in line with that set forth in Order ICT/3391/2007 of 15 November (which stated that the liberation of frequencies 874 to 876 MHz and 919 to 921 MHz that were exclusively used by TRAC should take place by 31 December 2008 at the latest), set forth the conditions for the orchestrated and progressive shut-down of Telefónica de España's base stations supporting TRAC systems beginning on 1 December 2008 and the effective liberation of the above frequencies by 31 December 2008. Its goal was to effectively perform the technological update for the public land-line telephone network connections that allow subscribers whose telephone lines are still connected using TRAC systems to have Internet access.

Among other conditions for the shut-down, the abovementioned Resolution determined that the applications or acceptance notices received by TESAU between 1 October and the shut-off date for the base station in question must be attended, where possible, before the shut-off date. Otherwise, after that shut-off date, the subscriber's contract would be understood as suspended, without generating obligations for either party; therefore, TESAU would not be able to bill the subscriber for any amount until the line had been re-established.

This state of suspension is to continue until 31 December 2009, unless the subscriber manifests his/her consent to accept the technological solution chosen to activate the line; this procedure must then be carried out free of charge, and within a maximum of 60 days. Nevertheless, if upon that date TESAU has not received any application or acceptance notice for line migration, the subscriber contracts will be considered as terminated.

As a result of that stated above, this Commission feels that the motives that justified approval of Circular 1/2002 regarding availability of the preselection option for subscriber lines connected to analogue exchanges have disappeared, given that those exchanges are no longer operational. For that reason, this Circular contains no specific instructions referring to the access provider's obligation to provide preselection for that type of line.

- (7) On 12 December 2008, this Commission's Council passed the Resolution approving the definition and analysis of the retail public telephone access market for residential and non-residential subscribers, the designation of the operator with significant market power and the enforcement of specific obligations, which also approved informing the European Commission of the same.

By means of this Resolution, Telefónica de España has been designated once again as the provider with significant power in the market of reference and placed under various obligations, including that of selecting the operator.



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Nevertheless, that obligation is worded so that it applies only to traditional accesses to the dial-up telephone network (DTN) and not to access that enable receiving telephone service based on broadband access, namely, those that make use of VoIP techniques on dial-up packet networks from the user's computer, since that type of access is not considered to form part of the relevant market.

For all of these reasons, it has been necessary to issue this Circular in order to introduce a new motive for refusal in the commercial validation procedure (section 3.6 of appendix II in this Circular); this would permit refusal of preselection applications for those lines that use this type of broadband access.

- (8) Lastly, this Commission considers it fitting to include a new motive for deactivating the calls that are preselected by the access provider, which results from an operator's losing the right to benefit from preselection.

This cause for deactivation, due to the market's dynamic behaviour, could arise as a result of various circumstances, such as the loss of operator status in general as a consequence of suffering one of the reasons for losing the ability to operate networks or provide electronic communications services (these reasons are set forth in article 6 of the Regulation regarding the conditions for providing electronic communications services, universal service and the protection of users, approved by Royal Decree 424/2005 of 15 April); disconnection of the networks between the operator benefiting from preselection and the access provider when previously authorised by this Commission; and any other situation contemplated by either the sector regulations or general legal ordinances.

In light of the above, and in agreement with the competition restructuring contemplated in article 48.3 e) of Law 32/2003 of 3 November 2003, (General Telecommunications Law), in article 20 of the Telecommunications Market Commission's Regulation approved by Royal Decree 1994/1996 of 6 September, and in article 26 of the Consolidated Text of the Internal Regimen Regulation of the Telecommunications Market Commission passed by its Council's Resolution on 20 December 2007 (appearing in Spanish Official Gazette on 31 January 2008) and later modified by the Resolution of 29 April 2008 (Spanish Official Gazette, 12 June 2008),

It is the decision of this Commission:



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### ***One. Purpose.***

1. The purpose of this Circular is to give instructions for the implementation of mechanisms for preselecting an operator for subscriber telephone lines connected to the public telephone network from a set location.

### ***Two. Subjective scope of application.***

1. Operators of public land-line telephone networks that are obliged to provide preselection must adopt the necessary measures to make this service available under the conditions set forth in this Circular. To the effects of this Circular, these operators will be known as access providers.

2. Operators who, according to applicable legislation, have the right to be selected through preselection procedures will be subject to that set forth in this Circular regarding the guarantee of this right.

### ***Three. Definition of the service.***

"Operator preselection" will be understood to mean the service allowing the subscriber to a land-line public telephone service to choose an operator other than the one that provides access to the public telephone network. This operator will process all of that subscriber's calls, with no need to dial the selection code that identifies the operator.

### ***Four. Means of preselection.***

1. The access provider must allow its direct-access subscribers to use the following means of operator preselection:

- Long distance: includes regional, region-to-region, international and land-to-mobile calls.
- Global: includes local, regional, region-to-region, international and land-to-mobile calls.
- Extended Global: Groups local, regional, region-to-region, international and land-to-mobile calls with intelligent network numbers (including personalised numbers, except for numbers for automatic reversed-charges calls) and radio search services. This also includes local, long-distance, land-mobile and intelligent network numbers (including personal numbers, but not numbers for automatic reversed-charges calls) that are generated by supplementary services.





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### ***Five. Subscriber consent.***

1. The change of operator by means of preselection will take place following notification of the subscriber's written or verbal consent.

The subscriber's verbal consent will always be verified by an independent third party and be considered valid provided that each and every one of the conditions and deadlines established in Circular 1/2004 of 27 May by the Telecommunications Market Commission, which introduces verbal consent with third-party verification in operator preselection procedures, has been met.

2. Under no circumstances may processing the preselection application or activating preselection depend upon the operator's receipt of documents attesting to the subscriber's written consent.

### ***Six. Time span for completing preselection actions.***

1. The preselection process will be coordinated by the benefiting operator, who shall notify the access provider of the subscriber's preselection application; where applicable, the latter will also previously inform the preselected operator.

2. The change of operator due to preselection will take place in a time span of less than five working days, beginning with the date the operator applicant notifies the access provider; the time span may be longer if the subscriber so agrees.

3. The process of deactivating preselection will be coordinated by the access provider. Following that provider's receipt of a written request from the subscriber, the provider will inform the preselected operator of the same.

4. Deactivation will take place in fewer than five days, beginning from the date the access provider receives notification; the time span may be longer if the subscriber so agrees.

### ***Seven. Obligations of the access provider.***

1. The access provider shall have the following obligations:

- a. Provide preselection under conditions of non-discrimination, transparency, proportionality, and by making use of objective criteria. Should the personal data in the access provider's database be incomplete or inexact, that condition may not be seen as cause for denying a preselection application.



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- b. The access provider may not discriminate against preselected subscribers when providing supplementary services, technical assistance, or eligibility for discount plans.
- c. Negotiate the conditions for providing service with the operators benefiting from preselection. Agreements, which are to form part of the general interconnection agreements, must contain stipulations that allow for the effective and timely processing of applications, as well as procedures for incident management and mass modification of preselection applications or activated preselections.
- d. The access provider must possess a system for managing incidents for the administrative procedure phase (supply complaints) and the service phase (infrastructure complaints) as well as a system for information and consulting the state of each preselection application.

Likewise, the access provider must possess a virtual preselection mechanism that would be applicable in the event of the access provider's failure to comply with the time spans set forth for completion of preselection actions or modifications. Virtual preselection will only be applied at the request of the operator affected by the access provider's failure to comply with the deadlines.

- e. Obtain from the subscriber the prior consent for the preselection changes requested from that operator, and notify the operators affected by the modification of that consent, where necessary.
- f. Sending information or notifications to users who have requested preselection or who are preselected will be carried out exclusively by the preselected operator. To that end, the access provider will duly inform preselected operators of those matters that affect preselection and which therefore must be known to users.

During processing of an application, the requesting operator will handle communication with users. The access provider, except when also considered to be the requesting operator, may not contact operators' preselection clients directly regarding the state of their preselection application.

- g. Information obtained by the access provider during the preselection process may only be used for the purpose for which it was provided. Specifically, this information may not be used by departments other than those directly involved in preselection processing, nor may it be shared with other departments or any other entity outside the access provider in such a way that the information may be used for the benefit of the access provider's commercial services or those of its subsidiaries or associate



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companies for which that information could constitute a competitive advantage.

- h. The access provider may not take steps to recover the subscriber in the time span of four months beginning from the date when the preselection application is activated, nor may it defame the services provided by the preselected operator at any time.

The prohibition of steps to recover the subscriber, regarding preselection services, is only applicable following activation of a subscriber's preselection with a benefiting operator; it does not affect the previously stated time span or the subsequent actions of including or excluding calls regarding that preselection.

- i. Preselection may only be refused due to reasons of technical incompatibility if the cause of that incompatibility is recognised by the Telecommunications Market Commission, without prejudice of the fact that those causes may be reviewed at a later date as technical advances arise.
- j. Inform the previously preselected operator regarding any change in providing the service that may arise as a result of a new preselection process or a deactivation favouring the access provider or for technical or legal reasons that affect the service being provided or which could in any way affect preselection.
- k. Inform the preselected operator about any changes to the telephone number of a preselected subscriber.
- l. Having a subscriber service department or division whose aim is to attend to and resolve subscribers' problems, complaints or any contract incidents, with access provider phone numbers and if applicable, a webpage, for the purpose of lodging complaints and requests having to do with the user's wish to modify or deactivate his/her preselection options in favour of the access provider, according to that established by applicable legislation at all times.
- m. Any other obligation arising from the agreements and from special or common legislation.

### ***Eight. Conditions and obligations of the operator benefiting from preselection.***

1. The operator benefiting from preselection must:
  - a. Obtain prior consent from the subscriber for the preselection changes he/she requested from that operator, and make the subscriber's consent known to operators affected by that modification, where necessary.



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- b. Pay the access provider a single set amount, which will be equal to the direct cost that the provider will incur with this change. In the event of a dispute over that amount, the Telecommunications Market Commission will issue a resolution at the request of either of the operators, according to the terms and conditions established by applicable legislation.
- c. Petitioning operators will be obliged to pay the access provider the amount of the direct cost that the latter may have incurred when their preselection application is refused for any of the following reasons:
  - 1. Non-geographical numbering or belonging to the access provider.
  - 2. Incorrect or left blank telephone number format.
  - 3. Duplicate or incorrect reference number.
  - 4. Repeated application.
  - 5. Incorrect or left blank Spanish ID card number (NIF/DNI/CIF or NIE).
  - 6. Not preselected telephone number.
  - 7. Incorrect or left blank preselection unit.
  - 8. Incorrect or left blank modification type.
- d. Duly inform the subscriber that preselection is activated as soon as that information is known.
- e. Issue the subscriber invoice according to the prices and periods the operator establishes and the services that are contracted and/or used, according to that set forth in current legislation.
- f. The operator benefiting from preselection will make use of the incident management system according to the demands of good faith.
- g. Inform the subscriber about the conditions and characteristics of providing preselection services, particularly as regards the conditions applicable to those supplementary land-line telephone service options that are available to the public; responsibility in the event of a breakdown; and other commercial conditions that may result from the agreement between the operator benefiting from the preselection and the access provider.
- h. Possess a subscriber service department or division whose aim is to attend to and resolve subscribers' problems, complaints or any contract incidents, with the benefiting operator's phone numbers and if applicable, a webpage, so that clients requesting preselection may lodge complaints or file requests, according to that established by applicable legislation at all times.
- i. Any other obligation arising from the agreements and from special or common legislation.



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### ***Nine. Optional validation of deactivation requests by operators with preselection rights.***

1. Operators with preselection rights may implement an optional commercial validation process. The optional validation process will be applicable when an operator with a right to preselection who implemented the process is affected by the deactivation or call exclusion applications during preselection, when that preselection has been initiated due to a subscriber's request to the access provider.

Those operators who voluntarily decide to implement the optional validation procedure must proceed to negotiate the conditions and steps it entails with the access provider.

To that effect, if during the time span of three months beginning from the date on which negotiations were requested the parties do not reach an agreement on that matter, or if they have already exhausted all possibilities for coming to an agreement, that which is established in the subsidiary clause 3.6.2 of Annex II in this Circular will automatically apply.

The affected operator will have two working days counted from the date on which the message is received to initiate optional validation in order to process the application validation and respond to the access provider.

2. Those operators with the right to preselection who decide to implement an optional validation system will be obliged to provide the access provider with an incident management system for the administrative procedure phase.

### ***Ten. Procedure for resolving disputes.***

1. Subscribers who have made use of the preselection option may, in the event of complaints, claims or any type of incident, make use of the procedure for resolving disputes, which is established in current applicable law regarding this subject.

2. Likewise, users of public land-line telephone service may contact the CMT's Department of Services and Subscriber Relations to receive information about any matter related to the preselection option. To do so, the following e-mail address is at your disposal: [cmt\\_info@cmt.es](mailto:cmt_info@cmt.es).

### ***Eleven. Exceptional review of deadlines.***

As an exception, the access provider may issue a request to the Telecommunications Market Commission to review the deadlines that are established for activating the preselection service and provide the information justifying that request.



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### ***Twelve. Nature of the Circular.***

Sections one to twelve inclusive, the additional provisions one, two, three, four and five, the transitory provisions one and two, the derogatory and final provisions, sections 7.1, 7.2 and 7.3 of APPENDIX II and appendices I and V are mandatory regulations.

The administrative procedures for operator preselection, which are attached to this Circular as APPENDIX II, except for the abovementioned sections 7.1, 7.2 and 7.3, the information and query system attached as APPENDIX III, and the incident management system attached as APPENDIX IV, should be applied in a secondary way should there be no agreement between operators. To that end, if parties do not reach an agreement or if they have exhausted all possibilities for an agreement in the time span of ten working days counted from the date when negotiations are requested, the procedures for operator preselection listed in APPENDIX II of the Circular, the information and query system described in APPENDIX III, and the incident management system described in APPENDIX IV will automatically apply. The mandatory provisions in this Circular will be immediately applicable to the preselection agreements entered into by benefiting operators and access providers before the present Circular becomes effective.

### ***Additional provision one. Time span established for providing preselection to other operators.***

After this Circular becomes effective, operators of public land-line telephone networks who are obliged to establish operator preselection procedures must, within the time span of two months beginning on that effective date, present the Commission with a draft calendar for the implementation of operator preselection mechanisms for subscriber lines connected to telephone exchanges for its approval.

### ***Additional provision two. Preselection of operators not directly connected with the access provider.***

1. Operators who are not directly connected to the access provider have the right to be selected in the preselection process if they are in one or more of the following situations:

- a Operators who provide public land-line telephone service and who have an interconnection agreement with a transit operator who is connected to the access provider. These operators have the right to be assigned an operator selection code by the Telecommunications Market Commission, according to that established in article 48 of the Regulation on electronic communications markets, network access and numbering, which was passed by Royal Decree 2296/2004 of 10 December.



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b Retail operators of public land-line telephone service who have a retail agreement with an operator who is interconnected with the access provider. These operators have the right to have an operator selection code sub-assigned through the operator with a connection to the access provider, according to that set forth in article 49 of the abovementioned Regulation.

In any of these situations, the operator who decides to use its right to benefit from preselection must have a preselection agreement with the access provider.

2. The transit operator with the direct connection to the access provider must inform the latter about the transit interconnection agreement that it has signed with the operator benefiting from preselection, according to that established in chapter 2.4.1 of the Reference Interconnection Offer (RIO) regarding transit services for other operators. If the agreement existing between the benefiting operator and the transit operator is a retail agreement, the access provider must be informed of that agreement in terms similar to those established in chapter 2.4.1 of the RIO.<sup>1</sup>

3. The operator benefiting from preselection will be the one to procure the consent of its subscribers and process the preselection application with the access provider according to the administrative procedure established in Appendix II of this Circular. To do so, The benefiting operator may make use of the preassignment computer applications that the operator with the connection to the access provider has developed, as long as both operators have an agreement on how to manage preselection of the benefiting operator's subscribers.

4. The access provider must manage preselection using its computer applications according to the procedure established in Appendix II. To accomplish this, the access provider must identify each operator benefiting from preselection using an operator code.

### ***Additional provision three. Modifications to the Administrative Procedures for Preselection.***

At the request of the operators or the industry if it is felt to be necessary, the administrative procedures for preselection, the information and query system for preselection applications and the preselection incident management system described in appendices II, III and IV, except for the mandatory sections 7.1, 7.2 and 7.3 of Appendix II in this Circular as well as Appendix VI, may be approved or modified by a Resolution passed by the Council of the Telecommunications Market Commission, beginning on the date when this Circular becomes effective. Such a Resolution will be published in the Official Spanish Gazette.

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<sup>1</sup> See explanatory figures in Appendix VI.



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### ***Additional provision four. References of Circular 1/2004 of 27 May, which introduced verbal consent with third-party verification for operator preselection procedures, to Circular 1/2001 of 27 May.***

Beginning on the date when this Circular becomes effective, it will be understood that Circular 2/2009 contains the references that Circular 1/2004, issued by the Telecommunications Market Commission on 27 May, which introduced verbal consent with third-party verification in operator preselection procedures, makes to Circular 1/2001.

### ***Additional provision five. Definition of Terms.***

To the effects of this Circular, the terms defined in Appendix I will possess the meaning assigned to them in that section.

### ***Transitory provision one. Preselection Agreements.***

Preselection agreements drawn up by benefiting operators and the access provider prior to the effective date of this Circular may be reviewed at the request of any of the parties in order to renegotiate the agreement with under the new rights and obligations that this Circular confers.

To that end, if parties do not reach an agreement or if they have exhausted all possibilities for an agreement in the time span of ten working days counted from the date when negotiations are requested, the procedures for operator preselection listed in APPENDIX II of the Circular, the information and query system described in APPENDIX III, and the incident management system described in APPENDIX IV will automatically apply. All of the above is without prejudice of the immediate application of those provisions in this Circular which are mandatory in nature.

### ***Sole derogatory provision.***

1. The present Circular revokes all provisions of equal or inferior standing that oppose it. In particular, the following Circulars are abolished:

- Circular 1/2001 issued on 21 June by the Telecommunications Market Commission regarding the implementation of operator preselection by those access providers obliged to provide one in the public land-line telecommunications network market.
- Circular 1/2002 issued on 8 May by the Telecommunications Market Commission regarding the availability of the preselection option for subscriber lines connected to analogue exchanges.





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- Circular 2/2002 issued on 18 July by the Telecommunications Market Commission which revised that Commission's Circular 1/2001 of 21 June regarding the implementation of operator preselection for access providers obliged to provide one in the public land-line telecommunications network market.
  - Circular 1/2003 issued on 24 January by the Telecommunications Market Commission regarding reviewing the causes for refusing an application in the operator preselection procedure.
2. Likewise, sections six and seven of Circular 1/2004 issued 27 May by the Telecommunications Market Commission, which introduced verbal consent with third-party verification for processing operator preselection.

### ***Final Provision. Effective Date.***

The present Circular will be effective on the day after its publication in the Official Spanish Gazette.

***The present document bears the electronic signature of Secretary Ignacio Redondo Andreu, with the approval of the President, Reinaldo Rodríguez Illera.***