

4. SUPERVISION, MONITORING AND PENALTIES

4.1. Cost audit

4.1.1. PTC's regulatory costing (RC)

Since 2000, PTC has been declared as an entity with SMP, being obliged, namely, to implement price control, accounting separation and cost accounting.

In this context, PTC has an analytical accounting system for regulatory purposes that gathers information on costs, namely direct, joint and common costs, costs per product or service, and how they are allocated, complying with ICP-ANACOM's principles, determinations and recommendations.

ICP-ANACOM, or another independent entity that it indicates, have the powers, *inter alia*, to audit the mentioned RC and to verify their compliance with the legal rules, as well as with the national and international standards and best practices, in order to assure the credibility of results. It will also issue and publish the corresponding compliance statement.

Following the audit to PTC's 2002 and 2003 RC results, carried out by an independent auditor selected by this Authority, ICP-ANACOM, as per determination of 31 May 2007, published a system compliance statement, highlighting that auditors had concluded for its compliance, except regarding: (i) the low level of integration of the software applications supporting the costing model; (ii) the methodology used for separating business areas, and (iii) the methodology used for separating assets from liabilities. This understanding was conveyed to PTC, as well as a set of determinations for mandatory changes to the RC, in order to improve it.

Regarding 2004 and 2005 results, ICP-ANACOM, as per determination of 28 February 2007, decided to award the corresponding audit together with the development of a deep, systematic and overall analysis to PTC's RC.

4.1.2. CTT's analytical accounting system (AAS)

Under the terms of article 19 of the Basic Law and clause 13 of the Concession, CTT are obliged to keep an AAS that makes it possible to determine the direct and indirect revenues and costs linked to each service.

This system aims to assure the fulfilment of the price cost orientation principle, according to no. 3 of article 2 of the Price Convention.

ICP-ANACOM shall audit the mentioned system, verify its compliance with the obligations resulting from the relevant law, as well as the national and international standards and best practices, and with the principles, determinations and recommendations defined and issued by this Authority, in order to assure the credibility of results. ICP-ANACOM shall also publish every year a system compliance statement.

In this context, on a determination of 10 October 2007, ICP-ANACOM decided to award the audit and consultancy for the examination of CTT's 2005 and 2006 AAS results.

4.2. Information collection and disclosure

During 2007, quarterly statistical information was collected, handled, validated and analysed regarding the cable TV distribution service (DTH included), the Internet access service, the data transmission service, the nomadic VoIP service and FWA. Data was also collected, handled and validated for the purpose of designating relevant markets and to assess SMP situations concerning fixed retail and interconnection services, the leased lines service, and the broadband Internet access service.

Standing out is the fact that statistics regarding bundled offers were collected for the first time, in a consolidated way, in 2007.

The information collected at the operators was complemented with information obtained through consumer surveys and directly from the operators' websites. Surveys were carried out on the use of electronic communications services and the perception of quality by users. Broadband tariff schemes were also collected in order to perform international price comparisons, later published.

Regarding the validation of the information sent by operators, an audit was carried out to the MTS's 2002-2004 statistical data.

It should be mentioned that, during the year under review, there was a reformulation of the (fixed) Internet access service indicators – approved by a determination of 19 December 2007 – and of the paid TV service – submitted to public consultation on 24 October 2007 – taking into account the technological evolution occurred in the meanwhile, namely television broadcasting using the copper network that supports the public switched

telephone network (PSTN) and FWA systems, and the need to reply to information requests from external entities, namely the EC.

Besides being used internally for the purpose of monitoring electronic communications services and markets, and the fulfilment of ICP-ANACOM's remaining legal and statutory obligations, this information is provided to the public through ICP-ANACOM's Internet website, on quarterly reports, and as an annex to the State of Communications Report.

In the context of the provision and disclosure of statistical information, ICP-ANACOM decided, after hearing the interested parties, to start disclosing the market shares of subscribers, customers, accesses and traffic for the FTS and the Internet access service, in order to foster transparency, to assure that everyone may access the information they need to make their best choices and decisions, and to foster knowledge about the industry, thus contributing to the development of markets and competition.

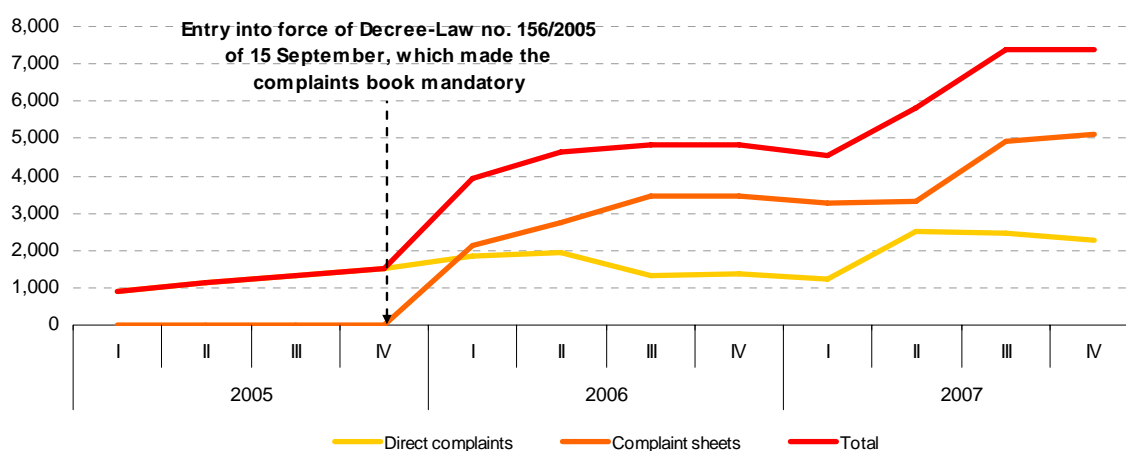
4.3. Handling of requests and user support

In March 2007, a Users Support Division was created within ICP-ANACOM's Communication and Image Directorate. This new functional unit assures the handling of all complaints, information requests, petitions and suggestions on the market received at ICP-ANACOM, thus promoting information and the clarification of electronic communications' and postal services' users, as well as of the general public.

The implementation, in January 2007, of a new software solution to manage the handling of requests, with functions that modernized, simplified and automated procedures, led to an increase in the efficiency and quality of ICP-ANACOM's services in connection with this matter, its management tools, and the mechanisms it uses to get the statistical data that it needs in order to efficiently perform its duties.

During 2007, ICP-ANACOM received 24,745 complaints, 575 information requests, 79 petitions, 16 suggestions and 59 communications of other sort, totalling 25,474 requests. Regarding complaints, the amount stands for an increase of around 43 per cent from 2006, and mainly results from the generalized use of the complaint books, which entered into force on 1 January 2006 (Decree-Law no. 156/2005 of 15 September).

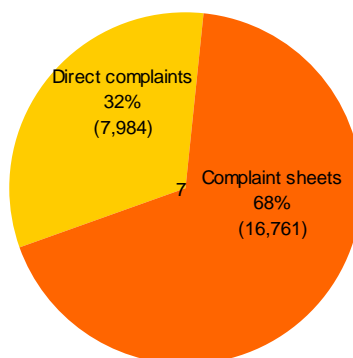
Graph 38. Evolution in the quarterly amount of complaints, per reception medium



Source: ICP-ANACOM

It should be noted that in 2007 the complaint books' sheets received under the terms of the mentioned legal diploma stood for 68 per cent of the total amount of complaints received at this Authority.

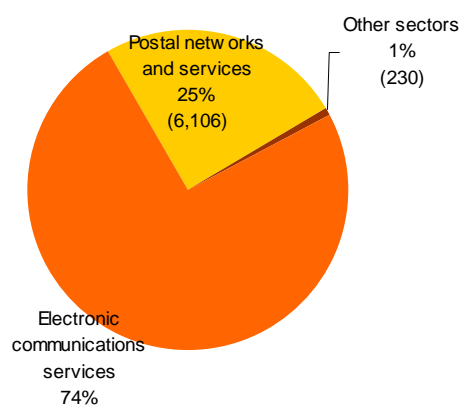
Graph 39. Complains per reception medium



Source: ICP-ANACOM

Concerning the sectors being subject to complaints, as in previous years, most complaints focused on the electronic communications sector – both regarding complaints directly sent to ICP-ANACOM (7,646 complaints from a total of 7,984), and the complaint book sheets (10,760 from 16,761). In the postal sector, about 97 per cent of complaints corresponded to complaint book sheets.

Graph 40. Complaints by sector



Source: ICP-ANACOM

Regarding electronic communications, the VoIP service motivated the highest amount of complaints per each 1,000 customers – albeit its small representation on overall complaints in this service – immediately followed by the Internet access service, FTS and the cable TV distribution service. However, almost half of the complaints received within the scope of the FTS were caused by an exceptional situation of delay in the deactivation of pre-selection, which happened particularly during the second semester of 2007 and which received intervention by ICP-ANACOM (see Table 13).

Table 13. Services with most complaints (electronic communications)

	Service	Total	Customers	Complaints per 1000 customers
1.º	Voice over Internet Protocol service (VOIP)	217	41,437	5.24
2.º	Internet Access Service	5,017	1,591,216	3.15
3.º	Fixed Telephone Service	6,105	3,227,721	1.89
4.º	Cable Television Service	1,650	1,460,980	1.13
5.º	Public Payphone Service	46	43,351	1.06
6.º	Virtual Calling Cards Service	25	38,518	0.65
7.º	Mobile Telephone Service	4,457	12,797,499	0.35

Regarding complaints within the electronic communications sector, complaint book sheets focused on issues related to equipment, attendance / technical assistance to the customer and invoicing, which are typically associated to the users' presence at the establishments of the corresponding service providers. Otherwise, in the context of the complaints directly sent to this Authority, the leading issue was pre-selection, due to the mentioned situation regarding the delay in the deactivation of this feature. Also in the scope of the complaints directly sent to this Authority, the high amount of complaints concerning invoicing

(particularly regarding mistakes on the invoices), contracts (especially concerning contract changes) and technical assistance stand out.

Table 14. Total complaints per issue (electronic communications)

Issue	Total
Equipment	3,685
Technical assistance	3,419
Customer Attendance	3,288
Invoicing	2,954
Selection and pre-selection	2,803
Contract	1,714
Provision of initial connection or Installation	1,444
Termination of service	1,328
Malfunctions	1,279
Tariff schemes	1,054
Service suspension	909
Speed	582
Portability	475
Lack of Service	440
Local loop unbundling	242
Complaints Book	167
Infrastructure	149
Interferences	107
Geographic portability	91
Numbering	91
Roaming	91
Privacy and Personal Data Protection	82
Telephone Directories e Information Services	55
Municipal Right-of-Way Fee	17
Information and Statistics	2

In this context, it may be concluded that consumption issues stood for about half of the overall amount of complaints sent to ICP-ANACOM, even if this Authority lacks the sectoral powers to intervene on these matters.

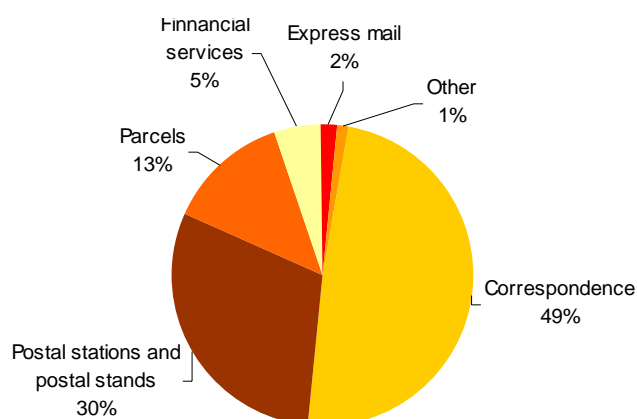
In general, and regarding the complaints that were sent by electronic communications services' users, this Authority took the following stand:

- It properly informed the interested party, specially concerning its powers and the reaction means it holds;
- It identified the situations where it was necessary to intervene at the regulatory or supervisory levels; and

- It assured the production and dissemination of statistical indicators.

Regarding the postal sector, the largest number of complaints focused on the correspondence service. While on complaints directly sent to ICP-ANACOM, most complaints related to delivery delays, correspondence gone astray or wrongful mail return, for the complaint book sheets the vast majority of complaints was connected to customer attendance services.

Graph 41. Postal sector complaints, per service



Source: ICP-ANACOM

Thus, and although a great part of the requests concerning postal services, due to their content, did not fall under this Authority's scope of intervention, their analysis enabled, in one hand, a growing collection of information that is useful to sectoral regulation, and, on the other hand, to detect the non-fulfilment of the obligations established on sector rules (legislation and regulatory measures).

In the scope of handling complaints, regular contacts were also established with the Consumer's Directorate-General, in order to coordinate and maximize the work developed by each entity on their corresponding sectoral fields.

Also in this context, it should be noted ICP-ANACOM's exclusive sponsorship of the implementation, by Universidade Nova de Lisboa's Instituto Superior de Estatística e Gestão de Informação, in cooperation with Associação Portuguesa para a Qualidade (Portuguese Association for Quality) and Instituto Português da Qualidade (Portuguese Quality Institute), of the study ECSI⁴² Portugal 2007 for communications, which results

⁴² European Customer Satisfaction Index.

were published already in 2008⁴³. Concerning the Communications sector, this year's study includes, besides an overall assessment and aggregated sector results, the fixed telephone service, the Internet access service (namely including mobile broadband access), the paid television distribution service, the mobile telephone service and the postal service.

Regarding the information requests, most of them focused on the electronic communications sector, more specifically concerning contracts, tariff schemes and portability.

4.4. Supervision and monitoring

As in 2006, and in view of the strategy outlined by ICP-ANACOM's Board of Directors, several actions were carried out aiming to foster open and competitive markets, namely focusing on the analysis of delays on pre-selection deactivations, on monitoring the fulfilment of determinations forbidding customer win-back activities by PT Group companies, on the analysis of several constraints on PTC's exchanges, identified by parties interested in the co-location of equipment in the scope of the RUO, on the operation of voice-mail in MTS operators, and concerning new telephone services at a fixed location provided in the national market.

On the other hand, in order to assure the provision of high quality information to consumers and operators, surveys were carried out to the quality of service of mobile telephone networks and to the Internet access service, the corresponding results being disclosed in 2008.

4.5. Penalties

Regarding the function of setting penalties, it should be mentioned that 243 administrative offense procedures were set in 2007, resulting from violations to the ECL and other legal diplomas, which represent a major increase regarding the previous year.

The types of violations that determined the setting of administrative offence procedures and the amount of procedures were, essentially, the following:

- Administrative offence procedures for violations to the ECL – 110, with highlight to 78 procedures for the non-fulfilment of the obligation to provide information to the NRA, 6

⁴³ Available at <http://www.anacom.pt/render.jsp?contentId=606658&languageId=1>.

procedures for the non-fulfilment of obligations set in selection and pre-selection Regulation, and 5 procedures for the use of subscription contracts without the NRA's previous approval;

- Administrative offence procedures for violation of other legal diplomas – 133, with highlight to 39 procedures connected to postal services for the non-fulfilment of the obligation to provide ICP-ANACOM with the information needed to verify and monitor the obligations and conditions inherent to the licenses or authorizations, 25 procedures connected to the use of radiocommunication stations for the non-fulfilment of the technical parameters set by ICP-ANACOM on the radio broadcasting and the private mobile telephone services, 24 procedures for the use of radiocommunications networks without the private mobile telephone service licence, and 9 procedures for the issuance of ITED Compliance Certificate for non-compliant installation.