

**Calculation of fees due for the exercise of the activity of provider of publicly available electronic communications networks and services, pursuant to point b) of paragraph 1 of article 105 of Law No 5/2004, of 10 February**

1. In accordance with paragraphs 1 and 2 of Annex II to Administrative Rule No 1473-B/2008 of 17 February, as amended by Administrative Rule No 291-A/2011, of 4 November, public notice is made of the total value of administrative costs incurred by ICP-ANACOM to be considered for the purposes of the settlement of fees due in 2012 for the exercise of the activity of electronic communications networks and services provider (Year  $n$ ). As such,  $C(\text{Year } n) = 29.440.460$  Euro (average of the costs of the last two years and the budget of the current year, with the exception of provisions made in respect of ongoing legal proceedings related to the regulation of electronic communications, for which the average is taken of the last four years and of the budget of the current year.)
2. The following table provides a detailed breakdown of ICP-ANACOM's costs, based on the implemented ABC model, the functioning of which is described in Annex A. This breakdown makes it possible to identify the administrative costs that are relevant for the calculation of the fee referenced in point b) of paragraph 1 of article 105 of the Electronic Communications Law.

With regard to the relevant income of providers of electronic communications networks and services, and after receiving information from the various undertakings in the market, ICP-ANACOM decided to conduct an audit before issuing the respective invoicing. This audit process is expected to be concluded shortly.

**Breakdown of total costs (expenses) of ICP-ANACOM by type of activity (including reallocation of provisions)**

Unit: Euros

	Costs ex. provisions for ongoing legal proceedings related to regulation			
	Budgeted 2012	Actual		Average (3 years)
		2011	2010	
1. Regulation and spectrum management costs	48.189.618	45.822.941	44.534.854	46.182.471
1.1 Costs related to Electronic Communications	38.180.304	36.620.521	35.148.334	23.775.509
1.1.1 Administrative costs	26.048.739	23.948.836	24.326.637	
a) Declarations supporting rights	48.238	44.349	45.836	
b) Exercise of the activity of networks and services provider	24.799.760	22.800.542	23.726.227	
c) Allocation of rights of use for frequencies	1.072.101	985.674	446.020	
d) Allocation of rights of use for numbers	128.641	118.271	108.554	
1.1.2 Frequency management costs	11.966.478	12.519.907	10.691.483	
1.1.3 Numbering management costs	165.086	151.778	130.214	
1.2 Costs of Postal regulation	2.462.056	2.263.579	2.511.944	
1.3 Other regulation costs	7.547.258	6.938.841	6.874.576	
2. Other costs	2.380.782	5.447.114	2.644.475	
3. Total costs ex. provisions for ongoing legal proceedings related to regulation	50.570.400	51.270.055	47.179.328	
4. Average of costs of provisions for ongoing legal proceedings related to regulation (5 years)				
<b>5. Total costs</b>				<b>29.440.460</b>

	2012 (a)	2011	2010	2009	2008	Average (5 years)
Provisions for ongoing legal proceedings related to regulation	500.000	2.644.854	0	1.937.213	23.242.690	5.664.951

(a) - Budget

## **ANNEX A**

## **Method to calculate regulation costs**

### **Introductory note**

The breakdown of costs borne by ICP - ANACOM to determine its regulation costs is equivalent to the breakdown of its annual accounting costs according to the Standard Accounting System (SAC) and to the Activity Based Costing (ABC) method.

### **A. Breakdown of costs borne by ICP - ANACOM**

1. ICP-ANACOM's costing system was developed based on the ABC method and aims to identify the costs related to the development of the activities inherent to its statutory assignments, as well as to meet the provision in paragraph 4 of article 105 of Law No 5/2004, of 10 February<sup>1</sup>.

Overall, two major cost groups were identified: regulation and spectrum management costs, and costs not related to the regulation activity, the latter essentially including the costs related to the advisory and State representation activity. The breakdown of costs is shown in Figure 1.

**Figure 1: Breakdown of costs borne by ICP - ANACOM**

1. Regulation and spectrum management costs
1.1 Administrative costs related to Electronic Communications
1.1.1 Administrative costs
a) Declarations supporting rights
b) Exercise of the activity of electronic communications networks and services provider
c) Allocation of rights of use for frequencies
d) Allocation of rights of use for numbers
1.1.2 Frequency management costs
1.1.3 Numbering management costs
1.2 Costs of Postal regulation
1.3 Other regulation costs
2. Other costs

2. Regulation and spectrum management costs represent costs related to the activities of regulation, supervision, rule-making, sector representation and cooperation, and comprise the following costs:

- a) Costs related to the electronic communications sector (scope of Law No 5/2004).

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<sup>1</sup> Where the amount of fees referred to in points a) to e) of its paragraph 1 is determined with regard to the administrative costs incurred in the management, control and enforcement of the general authorisation scheme and of rights of use and of specific obligations as referred to in article 28, which may include international cooperation costs, among others.

i) Electronic Communications Costs.

Costs related to the issue of declarations for the exercise of activity, allocation of rights of use of resources, and all associated activities of regulation, supervision, rule-making, sector representation and cooperation.

ii) Spectrum Management Costs.

Costs related to the set of activities carried out by ICP-ANACOM related to the planning, assignment, monitoring and oversight of the radio frequency spectrum.

iii) Numbering Management Costs.

Costs related to the set of activities carried out by ICP-ANACOM related to the planning, assignment, monitoring and oversight of the numbering plan.

b) Costs related to the Postal Sector.

c) Other administrative costs related to the regulator's mission.

Costs incurred in the regulation of services not covered by Law No 5/2004, such as audiotext services, ITED - *Infra-estruturas de Telecomunicações em Edifícios* (Telecommunication Infrastructure in Buildings), Information Society services, amateur service and personal radio service - citizen band (CB).

3. Other costs incurred by ICP-ANACOM which are not directly related to the regulatory activity<sup>2</sup>, include:

a) Contributions related to national and international bodies, such as<sup>3</sup>:

i) National bodies:

CPEC, Municipal Councils, FDTI, etc.

ii) Non-national bodies:

ANRT - Morocco, ESA, CPLP, PALOP and Timor, PECO, other countries in the framework of cooperation, Satellite Organizations and URSI.

b) Costs related to Advising and Representing the State.

The costs resulting from ICP-ANACOM's participation in the sector as a technical representative of the Portuguese State (point r) of paragraph 1 of article 6 of Statutes approved in annex to Decree-Law No 309/2001, of 7 December), which were not directly relevant to the regulation activity, were excluded.

These costs are generally those associated with the following events and organizations:

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<sup>2</sup> These costs are not considered to be relevant for ICP-ANACOM's regulation activity, according to the interpretation of paragraph 4 of article 105 of Law 5/2004.

<sup>3</sup> The amounts referring to contributions and levy costs tend to decrease sharply, since part of them resulted from Government decisions that were already carried out, or from ICP-ANACOM decisions that were not renewed.

- i) Preparation of and participation in meetings and conferences, as well as all exchange of information in this area.
- ii) Responding to requests of a different nature, such as requests for information, licensing requests, requests for expertise, and others.
- iii) Responding to requests for radio easements and protection of radiocommunication services.
- iv) Development of cooperation programmes.
- v) Monitoring of special projects (ESA)

National bodies:

Ministries, Regional Governments, Tribunal de Contas (Court of Auditors), CPEC, FDTI, and others.

Non-national bodies:

NATO, ITU (Council, Development Sector, Plenipotentiary Conference, World and Regional Radiocommunication Conferences, Agence Nationale de Réglementation des Télécommunications (ANRT-Morocco), Satellite organizations, URSI, CPLP, PALOP and Timor, PECO and other countries in the scope of cooperation.

4. To identify costs associated with electronic communications, costs will now be broken down so as to enable the determination of costs related to each action defined in points a) to f) of paragraph 1 of article 105 of the Electronic Communications Law. Thus, costs are broken down according to the following blocs:

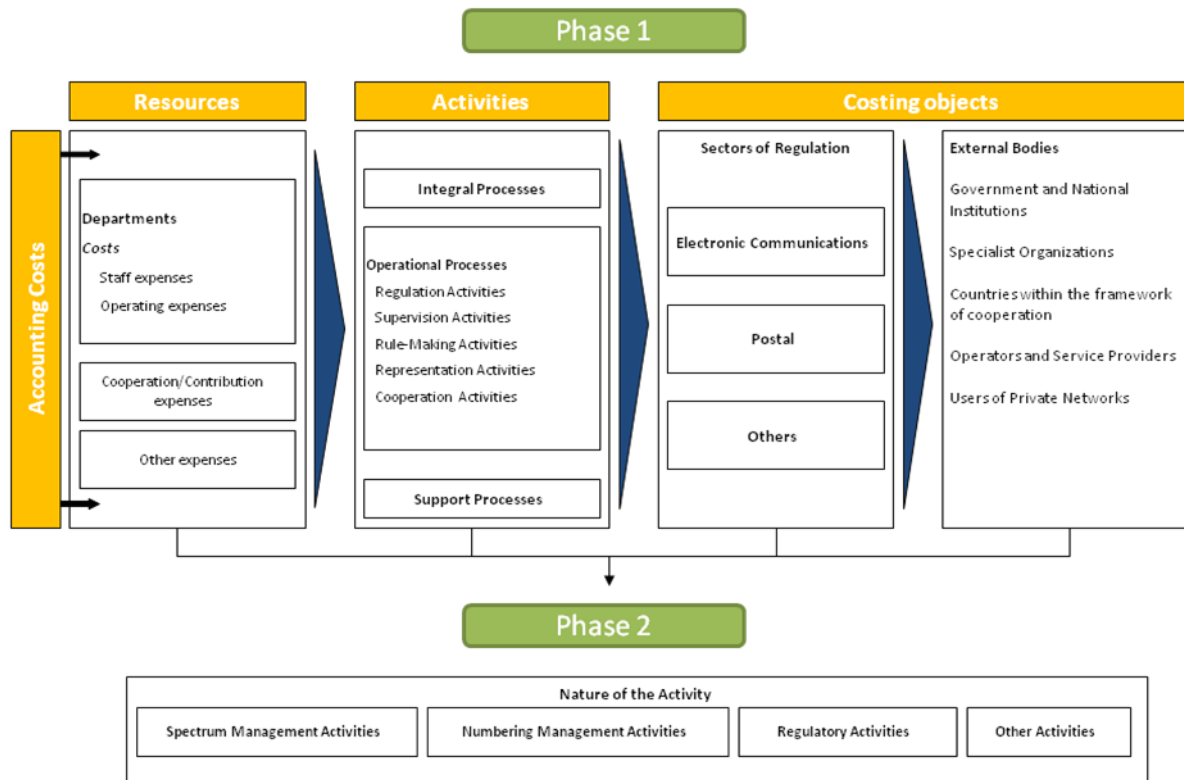
- a) Spectrum management (point f) of paragraph 1 of article 105);
- b) Numbering management (point e) of paragraph 1 of article 105); and
- c) Regulation activities - corresponding to the remaining administrative costs related to paragraph 1 a) to d) of article 105 and to the regulation of communications services that are not covered by Law number 5/2004.

**B. Methodology for allocating costs to different areas**

5. Costs are allocated according to 2 phases:

- a) Phase 1: Analysis and allocation of the administrative costs to the processes/activities/regulation areas/entities outside ICP-ANACOM.
- b) Phase 2: Allocation of the administrative costs to the different types of activity according to the acts underlying article 105 of Law No 5/2004 and to activities associated with sectors outside the scope of the Electronic Communications Law.

**Figure 2: Phases of the Method for allocation of costs of ICP-ANACOM**



**Phase 1: Analysis and allocation of accounting costs to ICP-ANACOM's processes/activities**

6. First, costs are listed by groups and by department according to the following classification:

- a) Direct resources - costs directly related to regulation services, through a cause-effect relation.
- b) Indirect/common costs - costs not directly related to regulation services.
- c) Expenses associated with cooperation and contributions - specific expenses incurred as a result of cooperation and representation by ICP-ANACOM.

7. Secondly, costs are allocated to processes/activities in a direct way or through criteria that represent a cause-effect relation between the nature of the expense and the process (processes) it supports.

8. As an example, we briefly present the steps taken to classify costs:

- a) Grouping of total accounting costs by nature and by department.
- b) Classification of costs according to the structure of the work processes in force, regulated and non-regulated areas (services), and external entities (clients). Analysis

and allocation of costs to the processes<sup>4</sup>/services and costing objects/clients of ICP-ANACOM<sup>5</sup>.

- c) Staff costs<sup>6</sup> are allocated directly to the processes/services and costing objects/clients of ICP-ANACOM, according to the report made by all employees on a computer application “Reporte de Horas de Trabalho (RHT)” (Working Hours Report).
- d) Costs incurred as a result of travelling abroad, travelling within Portugal, advertising, specialized works, professional fees, training, documentation, meetings and sponsorships are directly associated with the processes/services/clients, on a case by case basis, without prejudice to an irrelevant part thereof being distributed according to Man-Hours (MH).
- e) Electricity, water, air conditioning, rents of the head office premises, property insurance, elevators, cleaning, surveillance and security services costs are considered as structural costs and are distributed according to the area in m<sup>2</sup> used by each department. Remaining operating costs, notably those related to stationery, reprography and communications are distributed between all departments, according to their consumption<sup>7</sup>.
- f) Costs related to cooperation and contributions/levies<sup>8</sup> are distributed according to the nature of the activity<sup>9</sup>.
- g) Depreciation and amortisation costs, where of a relevant amount, are associated with the work processes related to equipment, IT applications and hardware<sup>10</sup>, and the remaining part is distributed according to MH.
- h) Provisions are treated similarly to common costs, being allocated to the several types of activity, according to the kind of provision<sup>11</sup>.
- i) Other costs, for which a cause-effect relation may not be established, are distributed according to their relative cost or to MH.

9. It is important to note that certain work processes, such as “Planning and Control”, “Financial System”, “General Services” and “Human Resources” do not have a direct relation to

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<sup>4</sup> According to the Processes/Activities Dictionary that supports the report of working hours of all ANACOM employees in the “Reporte de Horas de Trabalho (RHT)” - Working Hours Report, and the cost classification. The RHT application provides ANACOM’s overall Man-Hours (MH).

<sup>5</sup> Combination process and/or service or costing object and/or client.

<sup>6</sup> Except for costs related to the Christmas Party, Anniversary and similar events concerning employees which are treated like common costs (Common Costs type - All activities - Distributing other costing objects).

<sup>7</sup> Being distributed to processes/services/clients according to each department’s hours report (MH - Man Hours for each department).

<sup>8</sup> Always connected to the “Cooperation” process and to a specific external body.

<sup>9</sup> Part of these costs is not related to the regulation activity. *Vide* also List of Types of Activity (Figure 3).

<sup>10</sup> For instance: the amortisation of SINCRER equipment (Integrated Remote Control System for Radio Stations) is associated with the “Spectrum monitoring” sub-process and all radiocommunications services.

<sup>11</sup> It may be broken down on the basis of direct costs or MH. Provisions for ongoing legal proceedings accounted for in recent years have been regarded as Common Costs - Regulation Activities - Services Law number 5/2004 and Common Costs - Spectrum Management Activities - Services Law number 5/2004.



a specific area of regulation, cutting across all areas<sup>12</sup>. As such, costs related to these work processes are redistributed among all operational processes based on criteria of relative costs or MH.

***Phase 2 - Allocation of costs to the sectors of regulation pursuant to the Electronic Communications Law***

10. In order to ensure a proper allocation of costs, by each sector of regulation and within the scope of electronic communications, by action detailed in paragraph 1 of article 105 of Law No 5/2004, a process was developed which enables the distribution of costs, and which is identified as “type of activity”.

11. The type of activity is identified according to a combination - work process/regulated area (services)/external entity (client)<sup>13</sup>. Each type of activity corresponds to a given set of combinations<sup>14</sup>.

12. The allocation of costs related to each type of activity follows the process below:

- a) Identification of the amount of direct costs by type of activity block (spectrum management activities, numbering management activities, regulation activities, and others).
- b) Distribution of the amount of common costs (common accounting costs) of the amount of cooperation/contribution costs by regulation block, considering one of the following options as a distribution criterion, in light of the type of common/cooperation cost:
  - i) Direct allocation to the corresponding block of type of activity using the cause-effect relation.
  - ii) Proportion of costs directly associated to each type of activity block.
  - iii) Proportion of MH allocated to each type of activity block.
- c) Subsequently, after determining costs by each type of activity block, the costs allocated to “all activities” of regulation are distributed among the following sectors of regulation:
  - i) Electronic Communications Sector;
  - ii) Postal Sector;
  - iii) Other sectors outside the scope of the Electronic Communications Law.

13. Subsequently, costs calculated for the Electronic Communications Sector are distributed according to the actions defined in points a) to d) of paragraph 1 of article 105 of the Electronic Communications Law.

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<sup>12</sup> They are regarded as common processes.

<sup>13</sup> In some circumstances it is a function of the department that generated the cost.

<sup>14</sup> According to the Processes/Activities Dictionary used by ANACOM, that supports the costing system.

**Figure 3: List of Types of Activity**

<b>Types of Activity according to actions referred to in article 105 of Law No 5/2004</b>	
Declarations supporting Rights	Regulation
Exercise of activity- Regulation	Regulation
Allocation of Rights of use for Frequencies	Regulation
Allocation of Rights of use for Numbers and their Reservation	Regulation - Numbering
Spectrum Management Activities	Spectrum Management
Numbering Management Activities	Numbering Management
<b>Costs allocated to sectors outside the scope of Law No 5/2004</b>	
Declarations supporting Rights <sup>15</sup>	Regulation
Exercise of activity - Regulation <sup>16</sup>	Regulation
Amateur and CB records and certificates <sup>17</sup>	Spectrum Management
Allocation of Rights of use for Numbers and their Reservation <sup>18</sup>	Regulation - Numbering
Spectrum Management Activities <sup>19</sup>	Spectrum Management
Numbering Management Activities <sup>20</sup>	Numbering Management
<b>Costs not directly related to the regulation activity</b>	
<b>Common Costs</b>	
Common Costs - Spectrum Management Activities	Spectrum Management
Common Costs - Spectrum Management Activities - Services Law No 5/2004	Spectrum Management
Common Costs - Spectrum Management Activities - Services not covered by Law No 5/2004	Spectrum Management
Common Costs - Regulation Activities	Regulation
Common Costs - Regulation Activities - Services Law No 5/2004	Regulation
Common Costs - Regulation Activities - Services not covered by Law No 5/2004	Regulation
Common Costs - Numbering Management Activities	Numbering Management
Common Costs - Allocation of Rights of use for Frequencies	Regulation
Common Costs - Allocation of Rights of use for Numbers and their Reservation	Regulation - Numbering
Common Costs - Declarations supporting Rights	Regulation
Common Costs - All activities - To be distributed based on direct cost	
Common Costs - All activities - To be distributed based on MH	
Common Costs - All activities - Distributing other costing objects	

<sup>15</sup> For the postal activity.

<sup>16</sup> Postal Services and ITED.

<sup>17</sup> Records and certificates related to CB (citizen band) and amateur service.

<sup>18</sup> Audiotext and premium services.

<sup>19</sup> CB and amateur service.

<sup>20</sup> Audiotext and premium services.