

**ANALYSIS AND DECISION REGARDING THE CTT PROPOSAL TO  
COMPLEMENT THE TARGETS FOR POSTAL NETWORK DENSITY  
AND MINIMUM SERVICES PROVIDED SET OUT IN ANACOM'S  
DECISION OF 15.09.2017**

**ANACOM**

**2019**

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## **1. Introduction**

By determination of 10.01.2019, the Board of Directors of the National Communications Authority (ANACOM) decided to initiate a review procedure of the targets for postal network density and minimum services provided, to be complied with by CTT – Correios de Portugal – (CTT), pursuant to Base XV of the Bases of the Concession of the Universal Postal Service (UPS)<sup>1</sup>.

In this, it was concluded that a set of exceptional circumstances existed that justified the review of the targets for postal network density and minimum services provided established in ANACOM's Decision of 15.09.2017 (hereinafter "Targets established on 15.09.2017"), which should be complemented with a view, in particular, to ensuring (i) the quality of customer service provided in the postal services offices with regard to postal services, as well as (ii) the conditions necessary to guarantee the inviolability and confidentiality of postal items, confidentiality of information transmitted or stored and the protection of personal data and privacy, fostering the confidence of users in the services provided and, as such, contributing towards satisfying their needs in terms of the use of postal services.

Within this framework it is understood, in particular, that it is necessary to ensure, in each municipality, the postal establishment which, according to the requirements in the "Targets established on 15.09.2017", CTT is required to provide to ensure provision of the full range of concessionary services, that is:

- a) a post office; or
- b) a postal services office having equivalent characteristics by verifying a set of requirements concerning the manner in which the concessionary services are provided<sup>2</sup>.

To this end, CTT should present a proposal which complements the density targets concerning postal establishments and other points of access to the postal network allocated to the concession and targets for minimum services provided, taking into account the specific reference framework set out in the decision of 10.01.2019.

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<sup>1</sup> See <https://www.anacom.pt/render.jsp?contentId=1466756>.

<sup>2</sup> Requirements described in Annex 1 of the decision.

The reference framework – set out in paragraph 1 of the decision – to be taken into account by CTT when presenting their proposal to revise targets (cf. paragraph 8 of the decision) was submitted to public consultation, under the terms of Article 9, paragraph 2, subparagraph h) of ANACOM's Statutes<sup>3</sup>.

It was also decided to submit for prior hearing by CTT, under the scope of Articles 121 and 122 of the Code of Administrative Procedure (CPA) the draft decision requiring the prior hearing, to users and to ANACOM, of the closure or reduction in opening hours of postal establishments (cf. paragraph 3 and paragraph 7 of the decision). This matter is the subject of analysis in a separate document, including reference to the contributions received, ANACOM's comments thereof and the decision of this Authority on the prior disclosure, to users and to ANACOM, of the closure or reduction in opening hours of postal establishments.

The time limit for CTT to present a proposal which complements the targets for postal network density and minimum services provided specified in the determination of 15.09.2017 was established at 20 working days, with CTT being notified of ANACOM's decision on 10.01.2019. The same deadline was also set for responding to the public consultation, and ANACOM also published the decision on its Internet website.

Following CTT's request, ANACOM, through its determination of 06.02.2019, decided to extend, for an additional period of 10 working days, these deadlines<sup>4</sup>, partially granting the submitted request, which thus ended on 21.02.2019.

CTT, by communication of 21.02.2019, submitted to this Authority, within the deadline, a proposal that complements the "Targets established on 15.09.2017", as well as a statement (designation given by CTT) on the determination of ANACOM's Board of Directors of 10.01.2019.

The following sections of this document present the following:

- Section 2: Report of the public consultation on the reference framework set out in paragraph 1 of the determination of 10.01.2019.

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<sup>3</sup> Approved by Decree-Law No. 39/2015 of 16 March.

<sup>4</sup> See <https://www.anacom.pt/render.jsp?contentId=1468051>.

- Section 3: Analysis of the CTT proposal which complements the "Targets established on 15.09.2017"
- Section 4: ANACOM's determination on the proposal to revise the "Targets established on 15.09.2017", submitted by CTT on 21.02.2019.

The report of the public consultation in section 2 contains references to all the contributions received within the established period (49 entities responded in the scope of the public consultation on the reference framework set out in paragraph 1 of the determination of 10.01.2019, with CTT having sent its statement within the scope of that decision, with the comments submitted being considered here) and overall comments by the Authority concerning these, which do not, however, preclude their consultation.

To this end, ANACOM has made the contributions received, along with the report, available on its Internet website, safeguarding any information of a confidential nature duly identified as such.

## **2. Report of the public consultation on the reference framework set out in paragraph 1 of the determination of 10.01.2019**

### **2.1. Framework**

The determination of 10.01.2019 establishes the following, in paragraph 1:

- "1. Determining that CTT present ANACOM with [...] a proposal which complements the density targets regarding postal establishments and other points of access to the postal network allocated to the concession and targets for minimum services provided, including rules on the minimum opening hours for the postal establishments, which are in force, using as a reference framework:
- a) the factors listed in section 3.3 of the [...] decision for the purposes of paragraph 3 of Base XV of the Bases of the Concession.
  - b) that the postal establishment which, under the scope of the targets for postal network density and minimum services provided as established by ANACOM's decision of 15.09.2017, in each municipality should provide the full range of concessionary services (and operate every working day for a minimum daily period of 6 hours in 99% of the municipalities in Portugal and every working day for a minimum daily period of 3 hours in the remaining 1% of municipalities) is:
    - i. a post office; or
    - ii. a postal services office having equivalent characteristics by verifying the requirements concerning the manner in which the concessionary services are provided as established in Annex 1.
  - c) that the implementation of the measures to be established in ANACOM's decision which, under the scope of Base XV of the Bases of the Concession of the universal postal service, which establishes the aforementioned targets, should be ensured within 60 working days."

Paragraph 8 of the same determination of 10.01.2019 decided to submit the reference framework indicated in the aforementioned paragraph 1 of the decision to public consultation, pursuant to article 9, paragraph 2, point b) of ANACOM's Statutes.

Under the scope of the public consultation procedure, contributions were received, within the established period, from the following entities:

- National Association of Parishes (ANAFRE), which sent contributions from 25 parish councils<sup>5</sup>.
- National Association of Portuguese Municipalities (ANMP).
- Portuguese Association for Consumer Protection (DECO).
- Intermunicipal Community (CIM) of Beiras and Serra da Estrela.
- Intermunicipal Community of Terras de Trás-os-Montes.
- Municipality (CM) of Sousel.
- Municipality of Vendas Novas.
- Municipality of Alcochete.
- Municipality of Alpiarça.
- Municipality of Arraiolos.
- Municipality of Carregal do Sal.
- Municipality of Lagoa.
- Municipality of Manteigas.
- Municipality of Marinha Grande.
- Municipality of Melgaço.
- Municipality of Oliveira do Bairro.
- Municipality of Oliveira de Frades.
- Municipality of Palmela.
- Municipality of Sintra.
- Municipality of Soure.
- Municipality of Vila Velha de Ródão.
- Municipality of Vila Flor.
- Parish Authority (JF) of Laranjeiro e Feijó.
- Henrique Pereira.
- Democratic Union of Postal, Telecommunications, Media and Services Workers (SINDETELCO).

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<sup>5</sup> Páris Councils of: Penso; Cercal do Alentejo; Vila e Roussas; Ribeirinha; São Sebastião; Azinhaga; Cachopo; Granja Ulmeiro; Aguada de Cima; Ferreira; Carvoeira Carmões; Montenegro; Vale de Cavalos; Carrazeda de Ansiães; Campanhã; Biscainho (two communications); Espírito Santo, Nossa Senhora da Graça e São Simão; Casegas e Ourondo; Montargil; Folques; Alpiarça; Ramada e Caneças; Sacavém e Prior Velho; Castanheira do Ribatejo e Cachoeiras; Barcelinhos.

Two late contributions were received from the Municipality of Avis and the Municipality of Celorico de Basto. However, it should be noted that:

- a) in the first case, a document assuming a position on the Avis post office was submitted, which had already been submitted to ANACOM on an earlier occasion, and was already considered in the scope of the decision of 10.01.2019; and
- b) in the second case, the Municipality of Celorico de Basto, in stating that the postal network of the municipality remains unchanged, indicated that it had nothing to mention.

It should also be noted that three communications were received at the email address created for this purpose, which do not, however, refer to the specific matter submitted for public consultation, consisting of complaints associated with specific situations (namely, mail distribution and mailbox repair) which will thus be examined by this Authority in their own regard.

It is noted that, through the communication of 21.02.2019, within the deadline set for this purpose, CTT presented to this Authority a proposal which complements the density targets concerning postal establishments and other points of access to the postal network allocated to the concession and targets for minimum services provided, as established in the decision of 10.01.2019. In this regard, CTT also commented on the determination of 10.01.2019, particularly on the rationale underlying the said decision, with the comments submitted considered in this section.

## **2.2. General Comments**

### **a. Contributions received**

Most of the contributions received are in favour of ANACOM's decision of 10.01.2019, highlighting the importance of ensuring specific criteria within the scope of the provision of concessionary postal services, in particular with regard to accessibility, compliance with opening hours and secrecy. Notwithstanding that, it is noted that ANACOM's action, only on 10.01.2019, allowed for the implementation of the transformation plan by CTT resulting in the closure of post offices in the centres of municipalities in the interior of the country.

In many cases the preference for the existence of a post office, in contrast to a postal services office, is shown. It is felt that the postal services offices will not have the postal service as their priority, and as such will not ensure the rights and interests of citizens regarding this service. Some entities state that the existence of post offices will be necessary to ensure non-discriminatory treatment of all users in the country. Most contributions received from municipalities mentioned the importance of maintaining existing postal establishments (making particular reference to post offices) or the reopening of post offices already closed, noting their importance for local populations and/or economies.

There are also some references to the fact that the evolution of postal establishments, in particular the substitution of post offices by postal services offices, has been accentuating regional inequalities and asymmetries, leading to discrimination between areas of low density and the coastal areas of the country, insofar as there are differences between the conditions in which the postal services are provided for in post stations and in postal services offices, which implies a reduction in the quality and reliability of the services provided, thereby reducing proximity, personalised service, distinction and individuality, in each locality. In this context, occasional references were also made regarding the growth in the number of municipalities without post offices during 2018, with this not being unpredictable, given the actions carried out by CTT in previous years. There are also some references to the quality of service provided, indicating that this has been decreasing.

#### **b. CTT Position**

CTT argues that the legal framework imposes full equivalence between post offices and postal services offices. It notes, in this regard, that the concept regarding postal network density does not have a specific definition in the sector's legislation, and that the last amendment to the Contract Agreement explicitly provided for the legal and technical possibility for the concessionaire to opt to use, in the provision of postal services, post offices or postal services offices. It further states that the actual definition of the density targets by the regulator has been based on the concept of "postal establishment", adding that these targets will not be compromised by the nature of the type of establishment. It therefore concludes that, insofar as all postal services offices which replace post offices provide all the concessionary services and maintain the same opening hours, there is no distinction between the type of postal establishment utilised by CTT, nor could there, therefore, be legal and regulatory consequences of opting for one type over the other.

CTT further notes that it has always used, when providing concessionary postal services, post offices and postal services offices, and their typologies and characteristics are already clearly known by the legislator, grantor, ANACOM and users of the UPS. It also points out that the use of postal services offices allows for a more efficient way of ensuring a local service for people and greater granularity for the network and better adaptation to evolution in terms of levels of demand, mentioning that the provision of the UPS has always been ensured, to a very large extent, by postal services offices. It further states that ANACOM has never opposed the possible closure and substitution of post offices by postal services offices, having furthermore stated on previous occasions that it is up to CTT, under the scope of the management powers that it enjoys, to take decisions regarding each postal establishment, and not commenting on whether there is any distinction in the provision of postal services between post offices and postal services offices, emphasising only compliance with the targets for postal network density and minimum services provided.

#### **c. Position taken by ANACOM**

ANACOM notes the agreement expressed by most of the entities that have made statements, with the contents of the published decision, particularly regarding the need to ensure suitable conditions for the provision of postal services.

As further detailed in the following section of this document, it should be noted that, as should be the case, ANACOM's action takes into account the applicable legal framework.

In this regard, it should be noted that, under the terms of the Bases of the Concession in force<sup>6</sup>:

- a) both post offices and postal services offices are included in the concept of "Postal establishments"<sup>7</sup>; and
- b) the targets for postal network density and minimum services provided should be set in relation to these, regardless of their nature<sup>8</sup>,

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<sup>6</sup> Approved by Decree-Law No. 448/99, of 4 November, and republished as an annex to Decree-Law No. 160/2013, of 19 November

<sup>7</sup> Cf. Base I, points h), i) and j) of the Bases of the Concession.

<sup>8</sup> Cf. Base XV of the Bases of the Concession.

it is therefore up to the concessionaire to decide which type of postal establishment is used to ensure the provision of postal services to people. It is also up to it decide on the opening and closure of postal establishments as well as on a change to their respective opening hours, provided that the requirements of the targets for postal network density and minimum services provided which have been established, are observed.

Notwithstanding that, CTT is obliged to ensure compliance with the obligations arising from the Bases of the Concession, even in situations of third party intervention in the concession activities, as provided for by paragraph 3 of Base XXII, with ANACOM, through its determination of 10.01.2019, having sought to establish the criteria which should be taken into consideration by CTT in order to guarantee suitable provision of postal services to users and an effective equivalence between post offices and postal services offices. In effect, pursuant to the Bases and the Concession Agreement, the concessionaire is obliged to ensure the availability of the concessionary services throughout national territory in accordance with that provided for in the targets for postal network density and the established minimum services provided, always ensuring strict compliance with the targets envisaged in the concession without discrimination regarding the recipients of the services it provides and independently of the type of establishment in which it chooses to offer to provide these, such that, notwithstanding the distinctive characteristics of the two types of postal establishment, these have to ensure in the same way or in equivalent terms the satisfaction of the needs of the users of these services, which may not be subject to discrimination based on the type of establishment through which they are attended.

It should also be noted that CTT, as the UPS concessionaire company, is obliged to ensure compliance with the provisions of the law and the Concession Agreement, highlighting, in particular, the obligation to ensure the provision of the UPS throughout national territory, ensuring its availability and quality through a set of access points, the density of which meets the needs of users<sup>9</sup>. In this regard, ANACOM's decisions in this area should also be mentioned, noting in particular that the Authority's most recent deliberation on this subject, of 15.09.2017, provided for specific targets for the period from 01.10.2017 to 30.09.2020, concerning the density of postal establishments, density of letterboxes and minimum services provided, including rules on the minimum opening hours for postal establishments.

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<sup>9</sup> Cf. paragraphs 1 and 2 of Article 10 and paragraph 1 of article 57, both of Law No. 17/2012 of 26 April, in its current wording (Postal Law), and points a) and b) of paragraph 1 of Base VIII and point b) of paragraph 1 of Base IX of the Bases of the Concession.

It should be added that the development in the number of municipalities without post offices, as verified in 2018, was unimaginable, given their available history until 15.09.2017. In particular, between the end of the 2nd quarter of 2013 and the end of 2017 there were only 2 municipalities without post offices, which could be characterized as a prolonged period of relative stability concerning this particular situation. In contrast, the network reorganisation carried out by CTT during 2018 meant that, within a year or so, the number of municipalities without post offices had risen to 33, representing 10.7% of all existing municipalities at the national level and 2.9% of the total population (303,203 inhabitants), which represents a significant, exponential and unforeseen growth in the number of municipalities without post offices during 2018. During this period there was also a significant increase in the number of statements submitted, particularly to ANACOM, which raised a number of concerns related, in particular, to the conditions necessary to ensure confidentiality, secrecy and protection of privacy, the poor provision of postal services due to lack of specific training of the employees in the postal services area and accessibility for people with reduced mobility.

Regarding that indicated by CTT, it is recognized and agreed that the setting of targets for postal network density and minimum services provided refer to postal establishments as a whole, not distinguishing between post offices and postal services offices, and it is up to the concessionaire to decide which type of postal establishment is used to ensure the provision of postal services to people. It is also up to it to decide on the possibility of subcontracting third parties to perform tasks and or provide services that constitute or that relate to the obligations undertaken by the concessionaire under the concession contract (Base XXII and clause 22).

In this regard, it is acknowledged, as mentioned by CTT itself, that ANACOM's determinations, within the scope of the definition of targets for postal network density and minimum services provided, have been based on postal establishments as a whole, not distinguishing between postal services offices or post offices.

Notwithstanding that, it is assumed that all such establishments have the conditions and characteristics that are best suited to ensure and enforce certain essential requirements, such as the confidentiality of information transmitted or stored, the protection of personal data and privacy and the inviolability and confidentiality of postal items, as follows from Article 7 of the Postal Law.

Therefore, and recognizing that postal services offices may allow greater granularity for the network and better adaptation to the evolution in levels of demand, as well as contributing to ensuring the economic and financial sustainability and viability of the UPS provision, it is considered to be particularly important to ensure that the provision of services in these establishments is appropriate to the needs of users and is of a suitable quality, which is particularly important in situations where users are deprived of the choice of the type of establishment where to satisfy their postal services needs, which has been happening with the significant increase in the number of municipalities without post offices, and which in some cases are contiguous.

The determination of 10.01.2019 clarifies the need to ensure equivalence between post offices and postal services offices, seeking to ensure the existence of conditions that promote equal conditions of access to services regardless of the type of establishment, to the benefit of all postal service users. Given the existence of differences in the way postal services are provided, the determination of 10.01.2019 establishes, in its paragraph 1, that CTT may continue to provide services through both a post office and a postal services office. In the latter case, certain factors should be taken into account which, if verified, will most certainly provide the assurance that there is no significant difference between the two type of establishments regarding satisfying needs which it is intended to ensure with CTT being the universal service concessionaire, not only in terms of the range of concessionary services made available and the opening hours (something already stemming from the "Targets established on 15.09.2017"), but also in terms of how these services are provided, including the existence of areas specifically intended for that purpose.

## **2.3. Specific Comments**

### **2.3.1. Factors to be taken into account in achieving the targets for postal network density and minimum services provided (section 3.3 of the decision of 10.01.2019)**

The following is a summary of the comments relating to the conditions under which postal services are provided at post offices and postal services offices, as well as this Authority's comments on them.

Sections 2.3.1.1.1 to 2.3.1.1.8 provide only the most detailed position of CTT on the subject, without prejudice to the statements of the other entities already included in section 2.3.1.1.

### **2.3.1.1. Conditions in which the postal services are provided at post offices and postal services offices**

#### **a. Contributions received**

The Municipality of Soure understands that all of CTT's postal establishment should be maintained, in the municipality of Soure and in the country as a whole, so that all citizens have access to the UPS, also mentioning that, if that did not happen, certain regions of the country could become more desertified.

The Municipality of Oliveira de Frades argues that the decrease in the number of post offices has reduced proximity, personalized service, distinction and individuality at each location.

The Municipality of Oliveira do Bairro, referring to the particular situation of a post office in that municipality, believes that the transfer of postal services to third parties does not guarantee the rights of users and the interests of the region, nor the quality, security and confidentiality of the postal service (but did not specify the situations mentioned). It points out that the service provided by CTT should be based on a logic of proximity to the people and the actual needs of the users and contribute to development throughout Portugal and each municipality. That Municipality, in continuing its reference to the concrete situation of a post office located in that municipality, points out that it also serves people from several other municipalities. It also specifically highlights that post offices contribute to economic dynamics and to the existing commerce and services.

The Municipality of Melgaço believes that the concessionaire should reinforce existing services in post offices in order to make them more appealing and economically more appropriate, rather than closing down post offices, arguing that the concessionaire should be aware of the social importance of the service it provides to the population and the repercussions of the closure of post offices in areas which have undergone a rural exodus. Notwithstanding this, it notes that, given CTT's decision to close the Melgaço post office, its replacement by a postal services office through a CTT partnership agreement with a local company, which ensures the provision of postal services at the same location and with extended opening hours, also offering new services, is considered satisfactory. That municipality argues for a postal establishment operated by a local partner, with all services being provided by a post office.

The Municipality of Marinha Grande stated it had nothing to declare in the scope of the public consultation, given the existence of seven postal establishments<sup>10</sup> distributed among the three parishes of the municipality.

The Municipality of Lagoa considers that the “Targets established on 15.09.2017” (specifying the density targets according to the resident population in each parish of the municipality<sup>11</sup>) are not appropriate for the Algarve region and its municipalities, given its geographical characteristics and inflows of tourists, which are different from the rest of the country, mentioning that, due to these inflows, the population significantly increases during certain periods of the year. CM Lagoa considers that the closure of post offices entails greater expenses and longer journeys for users (noting that in some cases the resident population has to travel more than 60 kilometres and noting that, with the planned closure of a post office in the municipality – Carvoeiro – the populations at the most peripheral points will be more than 4 000 metres from the nearest post office), which is particularly important in regions with more elderly populations and naturally with walking difficulties, along with a less developed road network, forming a “major” obstacle to the use of the UPS and also affecting the business fabric of these regions. It concludes, therefore, that the closure of post offices is not in accordance with the applicable regulatory framework, further stating, in particular, that “(...) the opening and closure of postal establishments, *subject to ANACOM's favourable prior opinion, is incumbent upon the concessionaire*”. It also notes that the proximity of post offices is crucial to promoting equality between all citizens and contributing to social and territorial cohesion.

The Municipality of Arraiolos is against the closure of public services in general, and in particular against the closure of the post office located in that municipality. It points out that the postal services are currently provided by a businessperson from the municipality, a situation which it considers does not adequately address the needs of the population and the social and demographic characteristics of the municipality.

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<sup>10</sup> One post office and six postal services offices.

<sup>11</sup> Targets:

- at least one postal establishment providing the full range of concession services, in parishes with more than 20,000 inhabitants, and an additional postal establishment, with the same provision of services, for each additional 20,000 inhabitants; and
- at least one postal establishment providing the full range of concessionary services, in parishes with a resident population greater than 10,000 inhabitants and less than or equal to 20,000 inhabitants, as shown in Table 1 of the determination of 10.01.2019.

The Municipality of Alcochete argues that the strong presence of the concessionaire in the municipality is essential for its ongoing development, noting that a reduction in its presence would have a negative effect on the population and emphasising the need to ensure opening hours that allow access by all the population and not reducing the services provided and their scope. It notes the social importance of keeping the current establishment, in particular in view of the services provided to the more elderly population and the development of the population in the municipality, which shows a tendency to continue to increase.

The Municipality of Vendas Novas expresses its concern about the closure of postal establishments and the negative effect of this on residents in the countryside, considering it important to keep services provided in the municipality and demanding measures to ensure the continuity of the service which CTT have proposed.

The Municipality of Sousel reported that the municipality had opposed the closure of the post office located there, and had issued a public clarification about this matter.

The Municipality of Vila Flor believes that the closure of post offices harms the right to the provision of concessionary services, thereby understanding that the revision of the “Targets established on 15.09.2017” is fully justified. It notes that the subcontracting of post offices to private entities will be based on criteria which have not been previously agreed or explained to local representatives of the people for whom the concessionary service is intended, adding that the closure of the post offices would appear to severely diminish the quality and reliability of concessionary services, further noting the importance of these establishments to national cohesion. It also mentions, in particular, the characteristics of the provision of services in this municipality, mentioning that in a postal services office in that municipality, the counter is not autonomous and separate from the activity which takes place at the location, which, in its opinion, does not guarantee privacy for customer service, therefore concluding that the service provided is of bad quality.

The Municipality of Vila Velha de Ródão does not consider it appropriate that it is a parish council providing a service (the provision of postal services) that is incumbent upon CTT, considering, inter alia, that “of note” in this service is a careful handling of personal data, as well as the postal services office which replaced the closed post office also having fewer opening hours than the opening hours of that post office.

The Municipality of Oliveira do Bairro points out that the substitution of post offices by postal services offices implies a reduction in the services provided, and there are no alternatives that guarantee the complete provision of the services generally provided, with particular impact on the older and more vulnerable members of the population.

The Municipality of Manteigas agrees with the facts that form the basis of ANACOM's determination and considers that there are important differences between the conditions under which postal services are provided at post offices and postal services offices, as mentioned in ANACOM's determination, notably in terms of secrecy, hours of service, quality of service (in terms of waiting times), accessibility to facilities, training of employees and line managers, complaints and certification of postal establishments (not having, however, specified the situations referred to). However, it considers that ANACOM's recommendations do not take into account the differences existing throughout Portugal and the specific aspects of the interior of the country.

The Municipality of Alpiarça argues that only post offices can ensure the principles and rights of users and the obligations of the concessionaire, underlining that its closure does not contribute to territorial cohesion and is prejudicial to the postal network. It also notes that the provision of services in postal services offices shows distinct characteristics, considering, in particular, the training of staff and their relationship to CTT (and the respective necessary compliance with deontological and professional rules) and the actual area used and the fact other services are being provided other than postal services, thereby concluding that this does not transmit confidence to individuals and companies in terms of ensuring access to postal services for all, including persons with disabilities or with reduced mobility.

The parish council of Laranjeiro and Feijó, in considering the characteristics of its population – with a significant percentage of elderly people and also economically deprived individuals – and the characteristics of the existing postal services office in the parish, considers that this does not have present conditions to enable an appropriate provision of service, taking into account issues related to the privacy of citizens and the actual size of the areas used along with the coexistence of the sale of other articles.

SINDETELCO notes that the service provided in the postal services offices undermines confidentiality, the privacy of users, secrecy, the security of the public postal service, the law on the protection of personal data and access to postal services offices, in particular by

users with reduced mobility, but did not, however, indicate specific situations. It also considers that postal services in parish councils or municipalities infringe competition law, insofar as they involve taxpayers subsidising a private company.

Henrique Pereira also states that secrecy may be called into question in the postal services offices, stating that CTT employees are bound by professional secrecy and confidentiality.

The Intermunicipal Community of Terras de Trás-os-Montes points out that the closure of post offices and their replacement by postal services offices gives rise to the risk of loss of confidentiality as services are then provided by citizens of the actual community served, who are not bound by the duties of CTT staff.

In general, the importance of the proximity of postal services is noted in the contributions from parish councils sent by ANAFRE, and they note that, in more isolated locations, the closure of post offices leads to significant travel by some users. It is further noted that although, in some cases, the service provided by the postal services offices is adequate, in other cases the conditions for the provision of services cannot ensure equivalence with the services provided at post offices.

The contributions received through ANAFRE also mention that in some cases the postal services office operating in the parish is suitable and there is a favourable consensus concerning it, although in some cases, it has been identified that there is a smaller variety of services are made available in the postal services offices, compared to those that will be accessible in post offices. It is further noted that even where services are provided in both types of establishments, there are differences which have implications in the use of services (for example, the deadline for accepting registered correspondence and the time for it to be still "dispatched" on that day, which is more reduced in postal services offices).

Still within the context of the contributions received through ANAFRE, some parish councils identify themselves as responsible for the postal services offices operating in their respective parishes, highlighting the importance of the services provided and noting, in some cases, that the parish councils have chosen to make this commitment in order to guarantee the conditions required by their people, understanding that this would not be possible if the service were provided by a commercial establishment. Some of these parish councils also identify the following limitations which they consider constrain the services they provide:

- a) There is no CTT working capital, which affects the waiting time of users.
- b) Limitations in how the operating system functions.
- c) Lack of information and training for employees, who are unaware of changes introduced to procedures or the introduction of new services, with it also being mentioned, in one case, that the only source of information that reaches those responsible for the offices is a monthly newsletter, which often contains outdated information.
- d) Lack of material needed to provide services.
- e) Monitoring by the “Third Party Manager”<sup>12</sup> is not as close and regular as would be desirable, and the waiting time when requesting information by telephone is very long.
- f) The link between the postal services offices and the respective central store<sup>13</sup> could be improved, particularly as regards the payment of postal orders.

Other parish councils point out the provision of services in the postal services offices has led to a change of facilities, which they consider as not suitable to allow access to users, in particular those with reduced mobility or walking difficulties, also understanding that customer service is being carried out by employees without specific training, which does not guarantee secrecy and privacy.

DECO expresses concern about the decrease in the number of postal establishments that has been registered, considering that this calls into question the actual accessibility of people to the services that make up the UPS, underlining that the evolution observed has conditioned the possibility for users to be able to choose between a post office or a postal services office to meet their postal service needs and noting that, in many cases, postal services offices do not provide such service under the same conditions as post offices. It adds that the involvement of third parties in the concession may not jeopardize the provision of the concessionary services, taking into account the requirements of quality, equality and non-discrimination resulting from the Postal Law and the Bases of the Concession.

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<sup>12</sup> Also referred to as the “Partner Manager” or GEP.

<sup>13</sup> This document uses the terms “post office” and “shop” in an interchangeable manner.

DECO also mentions that the existence of a dual certification system for post offices and postal services offices implies that the concessionaire recognizes the existence of differences between the two types of postal establishments with regard to the provision of postal services. Notwithstanding this, it considers that, in a general manner, the existence of certification procedures may provide some security as to the form of the provision of the services, considering, in particular, the guarantee of the quality of such provision, the inviolability and confidentiality of postal items, the confidentiality of the information transmitted or stored and the protection of personal data and privacy. It mentions that it has not identified reasons for the existence of differences at the level of technical specifications which should be followed in a certification procedure, regarding the characteristics of the provision of services, whether these are provided in post offices or in postal services offices.

According to DECO, in the case of post offices being substituted by postal services offices, the guarantee of compliance with the obligations inherent to the UPS and respect for the principles of quality, reliability, confidentiality, data protection and handling and management of complaints, is questionable.

That association concludes that the reality observed in recent years has made it clear that the presupposition of equivalence between post offices and postal services offices has not been verified, revealing that the objections of groups of individuals, local authorities and other entities have made it clear that developments in the postal network have resulted in a deterioration in the provision of the UPS in many locations where CTT has closed post offices. It also notes that the continuity of the provision of the service may be in question, if the entities with which CTT has entered into partnerships do not wish to continue such contracts, as there is no guarantee that substitute third parties will be found. It also mentions that the closure of post offices has created difficulties for people in accessing services outside the scope of the UPS. DECO further notes that the possibility of people only using postal services offices implies that appropriate quality standards will not be met, such as delivery times, density of access points, regularity and reliability of services, under conditions of equality and non-discrimination.

DECO broadly agrees with ANACOM's conclusion that there are a number of exceptional circumstances justifying the revision of the "Targets established on 15.09.2017", supporting this Authority's decision for CTT to submit a proposal that complements those targets.

In this context, it agrees with the factors identified by ANACOM, which should be taken as a reference framework by CTT in its proposal to revise the targets for postal network density and minimum services provided. Although it understands that it will be difficult for the postal services offices to be able to fully comply with the role of post offices, it agrees that the necessary efforts should be made so that the characteristics of the postal services offices, as much as possible, are equivalent to CTT's own counters, considering that the factors indicated by ANACOM are extremely important in order to guarantee that equivalence, in an acceptable manner.

DECO further considers that an obligation to report information should be provided for by the concessionaire to ANACOM, regarding the results of the control and supervision carried out by the concessionaire, as provided for in Annex 1 of the determination of 10.01.2019, with a view to enabling that Authority to have the necessary elements to assess whether the postal services offices effectively comply with the established requirements. It believes that provision should also provide for the carrying out of independent audits by ANACOM.

#### **b. CTT Position**

CTT believes that there is not sufficient evidence to conclude that there are important and substantial differences between post offices and postal services offices in the provision of services, indicating that the statements sent to ANACOM or to sovereign bodies, submitted by Parliamentary Groups, representatives of CTT workers, users of services or municipalities are [Beginning of confidential information<sup>14</sup>]

[End of confidential information<sup>15</sup>]. It also mentions that the sample considered within the scope of the inspection activities carried out by ANACOM is insufficient and not reflective of the postal service provided in the fully operational postal services offices.

#### **c. Position taken by ANACOM**

ANACOM notes that the vast majority of the contributions received support and corroborate the conclusion drawn from the Authority's analysis in the scope of the determination of 10.01.2019, although in many cases neither detailed information has been provided nor specific situations identified regarding the matter.

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<sup>14</sup> Hereafter referred to as the BCI.

<sup>15</sup> Hereafter referred to as ECI.

In particular, it should be noted that, from the majority of the contributions received, it appears that the service and conditions for the provision of postal services at postal services offices differs from what is ensured at post offices, pointing to a set of concerns regarding the guarantee of confidentiality, secrecy and protection of privacy in the scope of the services provided, as well as regarding the training of the staff responsible for customer service and even the actual areas in which the services are provided.

Information channelled through the parish councils has also been registered, which provide services for postal services offices and the limitations which they have identified, in the context of that activity, which restricts postal services being provided with the appropriate quality. It is understood, in this context, that the provisions of the determination of 10.01.2019 will contribute to ensuring the necessary conditions for the provision of quality postal services in a way which will adequately satisfy the needs of postal users, and also address the concerns expressed in the response to the public consultation.

Also identified in a minority of the contributions received was satisfaction with the postal services provided in postal services offices, such that it can be concluded that postal services offices can correspond to the needs of postal services users, provided that suitable conditions for the provision of the services are ensured. Therefore, although it can be seen, as explained in the determination of 10.01.2019, that there are situations in which the assumption of equivalence between post offices and postal services offices on which the legal framework and concession is based was not verified, it is understood that ANACOM's intervention along the lines of its determination, in the sense of establishing a reference framework to be complied with in the scope of the provision of postal services through postal services offices, will ensure this equivalence.

Specifically with regard to what is mentioned in certain contributions which state that the closure of post offices or postal establishments in general may harm access to the provision of the UPS, it is emphasised that CTT, as the company with the UPS concession, is obliged to ensure compliance with that provided for in law and in the Concession Agreement, noting, in particular, the obligation to guarantee the provision of the service throughout national territory, thus ensuring its availability and quality through a set of access points, the density of which meets that corresponding to the needs of users<sup>16</sup>, maintaining however the

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<sup>16</sup> Cf. paragraphs 1 and 2 of Article 10 and paragraph 1 of Article 57, both of the Postal Law, and points a) and b) of paragraph 1 of Base VIII and point b) of paragraph 1 of Base IX of the Bases of the Concession.

possibility of opening and closing postal establishments (such as post offices or postal services offices), as well as changing the opening times of postal establishments, taking into account the needs of the service and levels of demand, as laid down in paragraph 3 of Base XX of the Concession, with the applicable legal framework currently not envisaging a favourable prior opinion from ANACOM for the concessionaire to be able to open and close postal establishments. In addition, these obligations apply throughout national territory and there is no provision for intervention in specific regions.

Nevertheless, CTT is required to meet the targets for postal network density and minimum services provided established under the scope of Base XV of the Concession. In particular, ANACOM's determination of 15.09.2017 (as was already the case in the previous determination of August 2014 on the same subject) set specific targets concerning the density of postal establishments, the density of letterboxes and minimum services provided, including rules on the minimum opening hours of postal establishments, which include specific targets relating not only to the distance of population areas from postal establishments, but also and, in particular, to the distance of postal establishments providing the full range of concessionary services or the set of concessionary services generally used by occasional users (with the maximum distance to a postal establishment offering the full range of concessionary services destined for the occasional segment having been defined as a maximum of 30 000 metres for the whole population). Since 2014, ANACOM has been monitoring and supervising compliance with these objectives, particularly through the carrying out of various inspection actions throughout the country. Notwithstanding this, ANACOM acknowledges the concerns expressed in this context, which will be taken into consideration in the monitoring that this Authority carries out in this regard.

With regard to some references regarding the social role of the services provided by CTT, ANACOM recognizes that this will probably be important, particularly in more isolated areas with an aging population and lesser accessibility and fewer transport services. In this context, it is believed that the postal network density targets and minimum services provided, contributing to ensuring proximity to the population and access to concessionary services, will allow the maintenance of this social role.

It is further noted that, according to the provisions of paragraph 1 of Base XXII of the Concession, CTT is authorized to subcontract third parties to perform tasks and or provide services that constitute or relate to the obligations undertaken by the concessionaire, and

prior agreement with the local representatives of the resident population is not envisaged, as mentioned in some of the contributions referred to. However, it should be noted that in the event that third parties are involved in concession activities, CTT retains its rights and continues, directly and personally, to be subject to the obligations arising from the Bases of the Concession, as results from paragraph 3 of Base XXII. Notwithstanding that, it is understood that a prior link with the representations of the local populations in situations involving closure of the last post station in a given municipality and, possibly, its substitution by postal services offices is particularly important, given the expected impact on the population (and particularly given the restrictions on the possibility of choice of postal services users which, in those geographical areas, may only make use of postal services provided in postal services offices), which is why the determination of 10.01.2019 included a recommendation to CTT in this regard. Also in this regard, it should be further noted that there could be advantages, both for CTT and for users in general, with the adoption of similar practices for most of the situations in which closure and/or replacement of post offices by postal services offices takes place, related in particular to transparency, predictability and suitable management of resources, with it also being necessary, however, to take into consideration the proportionality of such application, which is the reason why ANACOM's decision of 10.01.2019 focused on the specific situations referred to.

Regarding the references to the possibility of the definition of an obligation to report information, by the concessionaire to ANACOM, regarding the results of the control and inspection carried out by the concessionaire at the postal services offices, and as to the holding of independent audits by ANACOM, it should be emphasised that the legal framework in force gives this Authority competences to carry out the inspection actions mentioned here and collect (and request from CTT) information on the control and inspection results carried out by the concessionaire at the postal services offices. It should also be noted that, as defined in the decision of 10.01.2019, in particular as part of the requirements established regarding the form of the provision of concessionary services, these control and supervision procedures should be registered and maintained by the "Third Party Manager". Therefore, it is considered that the requirements established in the scope of the decision of 10.01.2019, on this specific matter, are appropriate and proportional, and no need for further measures has been identified.

As regards the comment that postal services offices installed in parish councils or in town halls infringe competition law, it should be noted that no explicit reasoning has been

provided for this claim, although it should be noted, however, that this is a matter which goes beyond the competence of ANACOM and falls within the framework of the scope of action of the Competition Authority.

Regarding the existence of evidence supporting the conclusion on the existence of differences in the provision of services between post offices and postal services offices mentioned by CTT, it has been clarified that, notwithstanding some of the comments submitted to ANACOM including references to more general aspects of the provision of postal services and the development of regions, particularly in the interior of the country, there is also specific information on how services are provided in certain postal establishments which allow the determination of the existence of those differences. By way of example, as referred to in the decision of 10.01.2019, mention may be made of the specific characteristics of the areas and operating conditions in postal services offices which raise doubts and reservations about their suitability to ensure the confidentiality of postal items, as well as the protection of privacy for those who use the services that are made available at these establishments (mail in sight of customers or, in the event of the temporary closure of the postal services offices, registered mail being left with a relative of the owner of the commercial establishment, with access to the establishment).

Similarly, CTT's reference concerning the conclusions from ANACOM's inspection actions, within the scope of its sectoral supervision and inspection powers, is unclear, and seeks to make an allusion, when it refers to the fact that they do not reflect the conditions of the provision of the universal postal service in the postal services offices. In this context, it is noteworthy that these actions focused on establishments that operate and provide services – postal – to the public, and it can be concluded that the way in which these services are provided does indeed affect the users of postal services. Contrary to what CTT states, the conclusions set out in the determination of 10.01.2019 arise, in a clear manner, from the results of those actions, which are sufficiently illustrative – and clearly and securely demonstrate – the situation verified. Nevertheless, inspection actions carried out by ANACOM after that determination<sup>17</sup> – carried out under the scope of the ongoing monitoring of the activity carried out by the entities subject to its supervision and inspection of their operation within their markets, with the aim of ascertaining the conditions of the provision of services by the operators (and, in this specific case, of the services provided in various

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<sup>17</sup> 121 inspection actions (involving 107 postal services offices and 14 post offices) made during the months of January and February 2019.

postal establishments) – allowed information to be collected regarding a more wide-ranging geographical and population sample, information that only confirmed the conclusions that had previously been obtained: that there are differences in how postal services are provided in post offices and postal services offices.

#### **2.3.1.1.1. Customer service, secrecy of postal items and protection of privacy**

##### **a. CTT Position**

CTT understands that there are no differences in the conditions necessary to ensure the secrecy of postal items and the protection of privacy between the services provided at the post offices and at the postal services offices, mentioning that all the 33 postal services offices which replaced the closed post offices have an individualised area for customer service and the provision of postal services, suitably identified, organised and tidied, with the back office equally tidied. It also notes that in the remaining postal services offices some have their own individualised area and others their own identified area.

Also, according to CTT, in accordance with the results of the diligence reports carried out by ANACOM, [BCI]

[ECI].

CTT notes that the legal imperatives regarding data protection and privacy are a constant concern of the company, irrespective of whether service provision takes place in a post office or a postal services office, with these obligations reflected in the contractual links with the partners responsible for the management and operation of postal services offices, which have, as such, contractual obligations which are completely similar to the deontological or operational duties of CTT post office workers.

It also notes that ANACOM has a very broad view of the concept of secrecy of postal items and privacy, noting that it is not possible to conclude that the mere provision of postal services in postal services offices, even if there is specific counter for this purpose, constitutes a violation of confidentiality of correspondence or protection of secrecy that, in its opinion, would only happen if there was the opening of correspondence without authorisation and if there was reading and dissemination of the content of private correspondence, as results from article 34 of the Constitution of the Portuguese Republic.

**b. Position taken by ANACOM**

Without prejudice to the acknowledgement of the existence of certain postal services offices with conditions for the provision of postal services to be able to guarantee, with the greatest security, the secrecy of postal items and protection of privacy, mention is also made, and as already noted within the scope of the determination of 10.01.2019, to the existence of situations in which the specific characteristics of the areas and operating conditions of the postal services offices raise doubts and reservations about their suitability to ensure the secrecy of postal items as well as the protection of privacy of those using the services provided in those establishments and it should be noted, in this context, that there have been statements in certain cases of the existence of mail in the sight of customers or, in cases of temporary closure of postal services offices, registered mail left with a family member of the owner of the commercial establishment, without access to the establishment.

In addition to the situations identified by ANACOM itself in the scope of the inspection actions carried out, and already referred to in the determination of 10.01.2019, of note are the numerous statements submitted to ANACOM already considered here, as well as the contributions received in the context of this consultation (as shown in section 2.3.1.1 of this document), where concerns relating to the need to ensure the conditions necessary for compliance with the obligations concerning confidentiality are identified.

In this context, this Authority recognises that it is not possible to immediately conclude that the fact that there is no specific counter for the provision of postal services constitutes, *per se*, a violation of the secrecy of correspondence or the protection of privacy, and ANACOM's actions in this context seek in fact to ensure compliance with the legal provisions regarding this matter. However, the risk of this happening is significantly greater, when compared to establishments where that specific counter exists, taking into account the possible greater facility of access to postal items given the fact that there is no physical separation from the other services provided in the establishment in question. Given that situations of this type may lead people to have a loss of confidence in the conditions under which the provision of postal services is carried out due to uncertainty regarding the conditions in which those services are provided, and noting that confidentiality and secrecy are matters of great importance, ANACOM considers it important to intervene in this context so as to ensure that the conditions for the provision of postal services in all postal establishments meet the needs and concerns of users.

It should also be noted that there is an added risk of breach of secrecy and as such this represents lesser care in the provision of postal services which may have a significant impact on the use of the services, to which uncertainty regarding the protection of privacy will also contribute. Doubts on the part of users, as to the conditions under which the services are provided, may lead to a reluctance to use the services, which, where users are unable to go to a post office, may constitute an impediment to accessing postal services. The existence of own, specific and individualised customer service areas, which can ensure customer service which best guarantees the secrecy of postal items and the protection of the obligation of privacy, as well as own, specific and individualised areas for the storage of postal items, may thus contribute to overcoming this limitation, and it would also enable CTT to have greater certainty regarding compliance with contractual provisions regarding its partners responsible for the management and operationalisation of the postal services offices, to the ultimate benefit of users.

#### **2.3.1.1.2. Opening hours**

##### **a. CTT Position**

CTT has not identified reasons to consider that there are differences in the provision of postal services between post offices and postal services offices, noting that the heterogeneity of opening hours is a consequence of a more convenient service for users of the UPS. It also states that, in the case of municipalities where there is no longer a post office, the provision of the full range of concessionary services is ensured on all working days, and in most cases the opening hours are equal to or greater than those in the former post office. It should also be noted that at the end of January 2019, around 61% of all postal services offices had opening hours identical to or more extended than most of the post offices (35 hours per week), with 17.1% of all postal services offices having opening hours which include weekends and public holidays.

Also according to CTT, in accordance with the results of the diligence reports carried out by ANACOM, the provision of postal services through the inspected postal services offices is satisfactory, underlining that the period of being open to the public is greater than or equal to what was practised in the former post offices in 29 of the 33 postal services offices targeted, with 2 of these postal services offices open for parts of the weekend and public holidays.

**b. Position taken by ANACOM**

As stated in its determination of 10.01.2019, ANACOM notes that one of the characteristics associated with the postal services offices, especially when compared to post offices, relates to the variability of opening hours and the total number of weekly opening hours. In fact, while most post offices have opening hours between 09.00 and 18.00, with the total number of operating hours per week that of 35 hours, 37 hours and 30 minutes or 45 hours, the postal services offices show a much more heterogeneous distribution, both in terms of opening hours, as well as the total number of weekly operating hours, noting the greater percentage of postal service offices operating on weekends and public holidays, compared to the percentage of post offices.

With this in mind, it is recognised, as indeed already stated in the determination of 10.01.2019, that this greater diversity, without prejudice to being perceived by users as irregular, may allow it to meet the specific needs of certain groups of users and, therefore, for these segments, this is a more convenient service, as mentioned by CTT.

In this context, it will be particularly important to ensure that users are provided with clear information on opening hours so as to ensure access to postal services under stable and predictable conditions.

**2.3.1.1.3. Quality of service in terms of waiting times**

**a. CTT Position**

CTT notes that the matter of quality of service is subject to autonomous decisions by ANACOM, and there are parameters and specific performance objectives for this that include all access points to the postal network. It also states that customer service at post offices follows a rule of customers being attended according to their order of arrival, irrespective of the service in question, such that there is no difference in the form of customer service practised in post offices and postal services offices, in this particular aspect.

Additionally for CTT, the latest data on quality of service and complaints reflect a favourable response regarding waiting time, meeting service expectations and overall quality of customer service, with only 6% of complaints received in postal services offices regarding

the provision of postal services and 0.3% of complaints mentioning the topic of waiting times.

It therefore concludes that there are no reasons to conclude that there are substantial differences in the provision of postal services between post offices and postal services offices.

***b. Position taken by ANACOM***

As stated by CTT, post office customer service is based on the order of arrival, regardless of the service concerned. Nevertheless, the main activity of post offices is the provision of postal services, which differs substantially from most postal services offices, which are usually dedicated to another activity, which, in fact, are their main activities. This situation requires that it is necessary to be aware that the main object of postal services offices is not the postal activity, associated with a greater investment in carrying out tasks associated with the main activity of the aforementioned establishment, without prejudice to the suitable provision of postal services, putting in question suitable customer service for users of the postal services. In fact, and as indicated in the determination of 10.01.2019, according to the situation reported by CTT on 20.11.2018, none of the postal services offices operating on the 16.11.2018 had its main activity that of the postal services activity (EBD 53 of the classification of economic activities – CAE).

Thus, and without prejudice to the recognition of CTT's statement regarding the form of customer service in post offices and postal services offices, it is understood that the nature of the establishments and the fact that their main activity consists of the provision of postal services, or others, may influence how this service is carried out, with consequences regarding waiting times.

Indeed, and as CTT itself mentions, the quality of service provided is subject to specific determinations on the part of ANACOM, highlighting, in this context, the most recent determination, of 12.07.2018<sup>18</sup>, which had the objective of establishing the quality of service parameters and the performance objectives to be applied in the 2018-20 three-year period, and which established a framework of indicators with the objective of creating conditions to ensure a greater level of quality of the UPS, without putting into question its respective economic and financial sustainability and viability. It should be noted that the determination

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<sup>18</sup> Available at: <https://www.anacom.pt/render.jsp?contentId=1457268>.

of 10.01.2019 in no way contradicts the determination of 12.07.2018, or any other intervention by ANACOM in this context, seeking rather to stimulate the adoption of measures which have the aim of fostering improvements in the quality of service provided, which may, inclusively, contribute to CTT more easily reaching the quality objectives set down.

#### **2.3.1.1.4. Conditions of accessibility to facilities, infrastructure and equipment**

##### **a. CTT Position**

CTT recognises that there is nothing in the contracts entered into between the company and its partners regarding accessibility conditions in the postal services offices, stating that Decree-Law No. 163/2006 of 8 August does not specifically provide for the technical rules on accessibility to apply to postal services offices. In this context, CTT notes that the needs of users, particularly people with special needs related to walking, are a concern of the company, mentioning that [BCI] [ECI] provides for the installation of the equipment necessary at the postal services offices which have replaced former post offices which are not yet accessible for people with reduced mobility.

CTT also adds that, in accordance with the results of the diligence reports for the inspection activities carried out by ANACOM, [BCI]

[ECI].

With regard to equipment, CTT mentions that the tools and equipment necessary for the provision of concessionary services in postal services offices are available and maintained by CTT [BCI]

[ECI]. They also specify that the metrological control of the weighing scales is carried out during the inspection of the postal services offices, and that all postal services offices have suitable external signage and they have to inform CTT of any works they tend to carry out which will imply changes to the location and conditions of service provision.

##### **b. Position taken by ANACOM**

As regards conditions of accessibility in the postal services offices, in particular for people with special needs regarding walking and other limitations, ANACOM has registered that

CTT is aware of a significant number of postal services offices without suitable conditions to enable access, as a result of the inspection actions carried out by this Authority, as well as the absence of requirements regarding this matter within the scope of the contracts entered into between CTT and partners. Nevertheless, CTT themselves recognize that this is an important matter which it plans to change.

As for the available equipment, it is understood that the procedure referred to by CTT in which there are no differences between the service provided to post offices or to postal services offices [BCI]

[ECI] is beneficial in enabling the characteristics of the postal services provided in each type of postal establishment to be homogeneous. In this context, and without prejudice to the need to ensure that there is no distinction in the characteristics and requirements

[BCI] [ECI] referred to by CTT, it is understood that this will contribute to the overall objective of the determination of 10.01.2019, to ensure that there are no significant differences between the way postal services provided at the various points that make up the network of CTT establishments.

#### **2.3.1.1.5. Training of postal establishment employees**

##### **a. CTT Position**

According to CTT, all partners and their respective employees have received and receive suitable training in accordance with the company's standards and rigour, noting that the training of employees is ensured in an ongoing manner through face-to-face or distance learning formats (through a support line or an e-learning model). It also mentions that whenever there is a change in procedures, either at the portfolio level or at the level of operational procedures, information is sent to the postal services offices, also indicating a direct interlocutor who provides the necessary support in the correct provision of the service, examining the performance of postal services offices and identifying current or future training needs, and remote support telephone contacts are made available which include operational, commercial and technical support.

CTT also mentions that initial and/or ongoing training is carried out to new employees of the postal services offices who ensure the provision of concessionary services, whenever that is requested by the partner.

It also specifies that, in the case of postal services offices which have replaced former post offices, that all the partners have had training in a post office, as well as in the respective postal services offices during the initial period of opening to the public and until they were autonomous in providing the full range of concessionary services, and all these postal services offices have the NAVe system, where the procedure manuals are available for consultation.

Also, according to CTT, in accordance with the results of the diligence reports carried out by ANACOM, [BCI]

[ECI].

Despite mentioning that it considers that there is not sufficient evidence regarding specific problems detected in the 33 municipalities where there is no longer a post office, CTT claims [BCI] [ECI].

#### ***b. Position taken by ANACOM***

The training of employees providing postal services is one of the aspects that can significantly influence how the services are provided, particularly as regards the quality of customer service. In this context, the training provided should be appropriate so as to guarantee the necessary conditions to ensure the provision of services with quality.

As provided for in the determination of 10.01.2019, and resulting from the inspection actions carried out, ANACOM found that in several situations the employees of postal services offices have not had appropriate training to provide postal services with the necessary quality. In this regard, we would highlight situations of some employees of postal services offices who had only one hour of training, or who were given only a few instructions, or even a case where the employee responsible for the provision of services claims not to have received any training, having acquired their knowledge of attending customers with postal services on the job. In addition to these situations, there are cases where, due to the absence of employee(s) of the subcontractor company who have received training in providing services in postal services offices, the postal services are provided by another employee who has not received any training.

To these points should also be added the statement submitted by some entities as part of the present public consultation, as indicated in section 2.3.1.1 of this document. In this context, some parish councils, being themselves the entity with which CTT has entered into

agreements for postal services offices operating in their parishes, identify the lack of information and training of employees, who will not have timely knowledge of changes in procedures or of the introduction of new services, including a case where the only information available to the postal services office is a monthly information leaflet that often contains outdated information. In particular, they also note that the provision of information by telephone implies significant waiting times, and the negative effect this may have on experiences of using the services and also on the time spent by users when being attended.

It should also be noted that CTT itself [BCI]

[ECI], with this being an aspect which could certainly have an impact of the level of the quality of service provided to users. In this context, it is also worth highlighting that [BCI]  
[ECI] is at odds with the information provided in the communication of 03.01.2019, in which CTT presented to ANACOM, in particular, the specification of the training given to employees of postal services offices, [BCI]

[ECI].

It should also be noted that, as indicated by CTT, the NAVe system allows accessibility to the procedure manuals for consultation. Notwithstanding that, according to the information available, the NAVe system is not used in all postal services offices.

Similarly, and although CTT mentioned that the training of employees is guaranteed in an ongoing manner using face-to-face or distance formats, no indication is given about the process of adopting one format or another, or if any limitations associated with suitable infrastructure or the actual digital literacy of the trainees is taken into account, particularly in the case of the application of an e-learning module.

Without prejudice to CTT's references to existing procedures regarding the level of training of employees of the postal services offices, this is a factor where, as mentioned above, certain situations that been found which raise some concern. CTT's proposal [BCI]  
[ECI], which is analysed in greater detail in the following section of this document, responds to ANACOM's concerns in this regard, and is, therefore, a measure that is considered positive, mentioning the importance of this point in particular in ensuring the proper provision of postal services.

### **2.3.1.1.6. Full record of complaints and user satisfaction**

#### **a. CTT Position**

According to CTT, there is an individual, operational and appropriate procedure for handling complaints accepted at postal services offices, which is contained in the customer service procedure manual in postal services offices. It mentions that the availability of the complaints book is mandatory, immediate and the responsibility of the service provider and, whenever a complaint is registered regarding the provision of the postal service in postal services offices, the partner should send a photocopy/photograph of the original document to CTT, accompanied by an explanatory document, also informing the partner manager (GEP), in order to facilitate a swift analysis to identify possible deficiencies and their correction. It specifies that, in the case of postal services offices operated by town halls and parish councils, the copy of the complaint is submitted to the responsible post office, which then arranges for the complaint to be forwarded through CTT's internal channels.

CTT also points out that, from the reading of the diligence reports attached to the administrative process concerning the procedure in which the determination of 10.01.2019 was adopted, it can be concluded that the complaints of users registered at the postal services offices which were inspected by ANACOM, are isolated and without significant expression and that there is a complaints book in all postal services stations.

CTT also states that the deadline for responding to requests for information/inquiries from CTT is identical at post offices and postal services offices, i.e., 5 working days.

It further notes that there is a procedure for registering non-conformities which are identified by the GEP, which is implemented in all the certified postal services offices (specifying that by the end of the first half of 2019 all the 33 postal services offices covered by the application of Annex 1 of the determination of 10.01.2019 will have implemented that procedure, following the respective certification), and there is a method to assess customer satisfaction in post offices and postal services offices, the results of which are satisfactory.

#### **b. Position taken by ANACOM**

ANACOM is aware that CTT has defined a procedure for the acceptance and handling of complaints at postal services offices, and referred, in its determination of 10.01.2019, to the

instruction given to postal services offices, in the sense that, whenever there are complaints regarding the provision of postal services, a copy of the original complaint is sent to CTT.

However, this also mentioned conclusions obtained from the inspection actions carried out by ANACOM, in particular the fact that this procedure is not always complied with, specifically with regard to knowledge that should be given to CTT of the complaints received.

In this context, it should be noted that CTT's argument that, through the diligence reports attached to the process regarding the determination of 10.01.2019, it appears that complaints from registered users are isolated and without significant expression, cannot be the case, since the fact that faults in the reporting of complaints received have been verified, which may influence the actual registration of the total number of complaints received.

The foregoing prejudices the existence of the complete record of complaints submitted which, in turn, makes the identification of situations which should be corrected so as to guarantee that the postal services provided to the users have an appropriate level of quality, both on the part of CTT – which thus does not have the possibility of adopting measures to correct any faults –, and also on the part of ANACOM – seeking to ascertain the real conditions of provision of the UPS and intervene, within the scope of its competencies, if it considers this necessary.

In addition, as CTT is aware, under the scope of the procedure which gave rise to the determination adopted on 04.04.2019 (which is in a state of prior hearing), this Authority has ascertained, through elements coming both from complaints and from inspection actions, as well as other diligences carried out by it – which allowed it to become aware of the versions of the Customer Service Procedure Manual in Postal Services Offices for the Partner Manager and the Operational Procedures Manual for Postal Services Offices in force – which, at least in some of the informational resources which that company uses to transmit guidelines to postal services offices regarding obligations to be complied with regarding the complaints book, information is disseminated which does not correctly interpret the obligations provided for in the respective legal regime.

It should be noted, due to its importance to the matter *sub judice*, that they have been given guidelines, by CTT, in the sense that complaints about services not provided in the postal services office should not be registered in the complaints book in the establishment where

this operates, and the book should (only) be made available to customers who wish to make complaints regarding the services provided there. However, the obligation to immediately provide the complaints book provided for in point b) of paragraph 1 of article 3 of Decree-Law No. 156/2005 of 15 September, implies that the book in the establishment where postal services are provided should be made available to any consumer or user who so requests it to present a complaint regarding the provision of those services, irrespective of whether this concerns the service provided in that postal service office or not.

In addition, in accordance with paragraph 7 of article 2 of Decree-Law No. 156/2005 of 15 September (introduced by Decree-Law No. 74/2017 of 21 June), in the case of the provision of postal services in Public Administration services and bodies which have contact with the public, CTT is responsible for ensuring compliance with the obligations established in the aforementioned law – namely, as to the existence of the complaints book provided for therein and the destination of the originals, duplicate and triplicate copies of the complaint sheets – in the postal services offices that operate there.

However, ANACOM verified that in some of the aforementioned devices the information transmitted in this respect was also incorrect or rather unclear, which necessarily reflects this Authority's knowledge of the exact quantity of complaints received in the postal services offices which function there.

In this sense and aiming to stop the dissemination by CTT of incorrect or rather unclear information regarding the obligations provided for in that regime, namely with entities with which it subcontracts to provide the services of postal services offices, and which may lead to situations of non-compliance with the provisions of Decree-Law No. 156/2005 of 15 September, ANACOM, through the above mentioned determination of 04.04.2019, designed to determine the correction, by CTT, of the information it disseminates to postal services offices concerning the regime applicable to the complaints book.

In order to ensure that the postal services provided to users are of an appropriate quality, irrespective of the type of postal establishment where they are provided, it is considered important to ensure that the procedures associated with the registration and handling of complaints are also similar and independent of the type of postal establishment in which these are submitted – in line with what CTT mentions being defined regarding the deadlines for replying to information requests/enquiries.

In this context, the importance of the existence of clear procedures to handle complaints should be noted – both those submitted to the complaints book, as well as those submitted through another channel – and the adhering to these by those responsible for the postal establishments, so that, in practice, there is no difference in the handling given to complaints (i.e. with this varying based on the type of postal establishment concerned). To this end, the supervisory and control procedures which will be discussed below will also contribute significantly.

Specifically with regard to the procedure to register non-conformities, mentioned by CTT, it is stated that this will be implemented only in certified postal services offices which, although, to a certain extent, this can be considered positive, still represents a limited part of the total number of postal services offices.

It should also be noted with regard to the method for assessing customer satisfaction referred to by CTT – through which satisfactory results have been obtained –, about which the company did not present any detailed information, either about the method used, or about the results obtained, so ANACOM is therefore unable to comment in detail on what is alleged in this regard.

Finally, it should be noted that CTT uses the term “Partner Manager” (GEP), while some of the responses to the public consultation on the reference framework set out in paragraph 1, points a) and b) of the determination of 10.01.2019 refer to the “Third Party Manager”, a concept that is also used in the context of CTT's Procedure Manual for Customer Service in Postal Services Offices, and it should be mentioned that there is a need to clarify the concepts used and the importance of consistency in these in order to promote the efficiency of the defined procedures and the clarity of the information transmitted. In this context, and more broadly, it is considered useful for CTT to present a glossary of terms and concepts used in most of its procedures, with a view to fostering a clear and unambiguous interpretation of them.

#### **2.3.1.1.7. Control and supervision by CTT**

##### **a. CTT Position**

CTT notes that a control and supervision mechanism has been implemented in the postal services offices managed by the GEP which, in accordance with the company itself, provides for the regular visiting and monitoring of all postal services offices, carrying out

inspection (in the scope of which the up-to-date nature of the information available to the public, information about prices and service quality indices, the existence and visibility of the opening hours and compliance with this is verified), and correcting any situations which require such correction. These supervisory processes are, according to the company, adapted whenever necessary.

CTT also states that postal services offices are subject to financial audits whenever the central store is audited.

**b. Position taken by ANACOM**

As regards supervision, some contributions received in the context of this public consultation were identified as being from certain parish councils responsible for postal services offices, which specifically concluded that the monitoring by the “Third Party Manager” did not have the proximity or regularity desirable, with references also being made that the link between the postal services offices and the respective central store could be improved.

Without prejudice to the existence of a control and supervision mechanism regarding the postal services offices, it is necessary to recognise the existence of significant differences between this mechanism, which includes regular visits to the postal services offices by the “Third Party Manager”, and the procedures applicable in a post office, characterised by direct constant supervision and by a closer coordination of the activity carried out. In this context, it should be noticed, that governance is important, and that vertical command and control is more efficient and effective in situations where there are non-negligible external monitoring costs, as is clear from economic theory.

Thus, it is concluded that the differences existing at the levels of supervision and coordination of activity may be reflected in the quality of customer service and information which is ensured in each type of postal establishment, and it is important to adopt measures in order to ensure that the conditions for the provision of the postal services are equivalent for all postal establishments. In this context, it should be noted, as already stated in the determination of 10.01.2019, that the differences in the level of hierarchical supervision are commonly recognised, with the Universal Postal Union (UPU) given as an example, which establishes a clear and substantiated difference between post offices and postal services offices, identifying post offices as “*staffed by officials of the designated operator*” and postal

services offices as “*managed by people from outside the designated operator*”, resulting in clear differences between the two types of establishments regarding the existence of responsible individuals inserted within a structure where there is command and control from the actual concessionary company, and adherence to procedures involving management, work and organisation of human resources directly arising from the operating company.

However, it is recognised that the audits mentioned by CTT may possibly contribute to ensuring that the conditions for the provision of services are appropriate, and it should be noted that this is one of the requirements set out in Annex 1 to the determination of 10.01.2019.

It is also worth mentioning the importance of CTT ensuring harmonisation of the actual procedures adopted by the GEP and their relationships with the postal services offices and with the central post offices, in order to guarantee the equivalence of conditions for the provision of postal services in all the establishments managed by third parties, and it is also important that these managers have the ability to communicate in an effective manner with those responsible for postal services offices in order to ensure suitable implementation of the necessary procedures.

#### **2.3.1.1.8. Certification of postal establishments**

##### **a. CTT Position**

CTT states that certification responds to the quality control needs of postal establishments, in particular those registering a greater volume of items and which provide a large number of services, with this therefore being a positive measure and not constituting any negative discrimination measure. It notes that this procedure provides additional guarantees of complying with the specific requirements related to the training of employees, knowledge of the postal products and services portfolio, suitable treatment of complaints, data protection and confidentiality of information, notwithstanding that certification, although desirable, is not required by the concession. Notwithstanding this, CTT reports that it is continuing to work in this area and is seeking to certify more points of access to the postal network, mentioning that the number of postal services offices undergoing this procedure has steadily been increasing.

**b. Position taken by ANACOM**

ANACOM recognises that certification is not specifically required by the concession, and therefore CTT is not bound to ensure the certification of all postal establishments. This position has already been expressed by this Authority within the scope of the determination of 10.01.2019, and is therefore not under discussion.

However, and as CTT itself indicates, certification entails a number of requirements associated with certain characteristics and procedures for postal establishments which can make a significant contribution to the provision of postal services with suitable quality to satisfy the needs of users. In particular, the certification of establishments implies compliance with requirements related, in particular, to the training of employees, with the knowledge they have of available products and services, with operational procedures associated with the provision of postal services, with the suitable handling of complaints and with appropriate signage of the customer service areas, as well as the existence of own spaces for the provision of the postal services and data protection, confidentiality of information and protection of privacy. In this context, certification can contribute to quality control in the postal establishments, with this Authority agreeing that this is a positive measure.

In this context, it is considered that CTT's mention that they will continue to work in this area, with the objective of certifying more access points to the postal network, is positive, as it will help to ensure that the conditions for the provision of postal services are of a suitable quality. In this context, it should also be noted, as stated in the determination of 10.01.2019, that at that date most of the postal services offices certified were located on the coast of the country, with a difference in the proportions between certified postal services offices / total postal services offices on the coast and the interior of the country, which in the former case was 16.2% of the postal services offices being certified, while in the latter case only 5.3% of the postal services offices located in the interior of the country being certified at the end of 2017.

**2.3.2. Postal establishment which in each municipality must provide the full range of concessionary services: post office or postal services office with equivalent characteristics**

**a. Contributions received**

The Municipality of Palmela sent a motion approved at a Municipal Meeting of 06.02.2019, in which it states that the service provided by CTT retains its relevance and has a strong impact on the life of the residents, that it is through this channel “*(...) that contact is made with the State, which carries out payments, which are received and orders sent, and pensions are received and news shared*”. This stresses, therefore, the importance to people of a service which meets criteria related to accessibility and conditions regarding the customer service area, compliance with opening hours, diversity of its offer and specific training of the employees in order to ensure secrecy, the inviolability of postal items and data protection, understanding that this is indispensable for the existence of a public, universal and quality postal service, as translated through a post office (stating in particular that there should be a post office in each of the five parishes of the municipality). It should be noted that the current situation where there are situations in which the service is provided by parish councils or commercial entities is prejudicial to parish councils and to users.

The Municipality of Manteigas mentions that the possibility, provided for in ANACOM's deliberation, of having a post office or a postal services office with equivalent characteristics, does not allow this to meet the needs of the population of the municipality – largely very advanced in years, with reduced mobility, dependent on the delivery of pensions by postal order and without an efficient public transport network – understanding that this, given the deficiencies that characterize and will continue to characterize postal services offices, affects the local economy itself due, among other aspects mentioned by the Municipality, to the delay in customer service and the increase in costs resulting from the distances that have to be undertaken to send mail, thus undermining the obligation regarding the existence, availability, accessibility and quality of the provision of the UPS. It therefore argues that all municipalities in the country should have a post office.

The Municipality of Carregal do Sal believes that the proposal to be submitted by CTT, following ANACOM's decision of 10.01.2019, should guarantee the existence of at least one post office per municipality, rather than one postal services office, although this could have certification of services and people with appropriate training to provide customer service

and other tasks. According to this municipality, it is only possible to guarantee compliance with the obligations of the concessionaire with regard, in particular, to guaranteeing secrecy and the inviolability of postal items, data protection and privacy, guaranteeing equality and transparency in the access to and use of concessionary services and the possibility of using the services by users with special needs. The Municipality also points out that there are differences regarding the provision of postal services in post offices and postal services offices and that the latter will always have constraints that are not consistent with the specialization and exclusivity of post offices, understanding that such constraints will continue to be visible regardless of the training and certification that may occur. It thus concludes that the closure of post offices and the increase in postal services offices constitutes negative discrimination which undermines the principles of proximity, subsidiarity and national cohesion.

The Municipality of Alpiarça considers ANACOM's decision of 10.01.2019 to be fair and timely, and its expectation is that it will result in an improvement in the UPS provided to people and under equal conditions throughout the country. The Municipality of Alpiarça also argues for the existence of a post office in the municipality, managed directly by CTT.

The Terras de Trás-os-Montes CIM believes that the closure of post offices in the centres of the CIM municipalities constitutes neglect and a failure by CTT to comply with the obligations arising from the applicable legal framework, particularly related to the need to ensure access, proximity and continuity to the UPS and that its provision is in conformity with the quality parameters and with the targets for postal network density and minimum services provided, thus concluding that there is a need for there to be at least one post office in each centre of the municipal districts which make up the Terras de Trás-os-Montes CIM. It adds that access, availability, continuity and the quality of the UPS provided to people is one of the essential elements for social and economic development.

The CIM of Beiras and Serra da Estrela expresses its agreement with the findings within the scope of ANACOM's determination of 10.01.2019. It considers, however, that the obligation provided for in that decision – that in each municipality CTT ensure the existence of a post office or a postal services office with equivalent characteristics – has a flaw, since the CIM understands that postal services offices do not comply with targets for network density and the provision of minimum services. In its view, the situation obliges people in the municipalities of this CIM, already affected by the closure of the post offices, to have to travel to other locations, without a public transport network which can ensure such

movement and with added costs resulting from the distances to be travelled, which negatively affects people, mainly the most elderly, and the actual local economy, putting in question national and territorial cohesion and the regional economy. It thus concludes that all municipalities of the country should have a post office, and that CTT should carry out the reopening of the closed post offices, since it is the opinion of this CIM that only in this way can the obligations underlying the provision of the UPS be met.

The ANMP (*Associação Nacional de Municípios Portugueses*) – the National Association of Portuguese Municipalities – notes that the recent evolution of the postal network points to the need for intervention in order to restore a quality UPS close to its population groups, recognizing benefits in the proposed revision of objectives contained in the decision of 10.01.2019, namely in the provision of services in postal services offices. In particular, it stresses the benefits of training staff, of the characteristics of the infrastructure and equipment and the intended obligation to provide prior information to the population and local authorities in the cases of the closure or reduction in the working hours of postal establishments. However, it understands that there should be at least one post office in each municipality, capable of providing the full range of concessionary services and with opening hours suitable to the needs of the population, and ANACOM must be demanding in its supervision and prompt in its taking of decisions to remedy any situations that do not comply with a UPS.

#### ***b. Position taken by ANACOM***

It is noted that many of the contributions received show a preference for the existence of a post office instead of a postal services office and, in particular, the existence of a post office in each municipality, stating that, in their view, conditions for the provision of postal services in postal services offices differ significantly from conditions for their provision in post offices, in particular as regards secrecy and the inviolability of postal items, data protection and privacy (but no specific situations were presented), to guarantee equality and transparency in the use of concessionary services and the possibility of use of the services by users with special needs.

In accordance with the applicable legal framework, the targets for postal network density and minimum services provided were set by ANACOM on 15.09.2017 by reference to postal establishments as a whole, not distinguishing between post offices and postal services offices, with it being recalled that, under the terms of the Bases of the Concession, both

constitute “Postal establishments” and that the density targets should be established regarding these, irrespective of their nature.

Thus, as provided for in the scope of the concession (Base XX, paragraph 3 and clause 20, paragraph 3), it is up to the concessionaire to decide which type of postal establishment is used to provide services to people. It also decides on the opening and closure of postal establishments, as well as on changes in their opening hours – subject to the requirements of the targets for postal network density and minimum services provided which have been established (which, it should be emphasized, are independent of the type of postal establishment – postal services offices or post offices).

It should also be noted that the Bases of the Concession and the Concession Agreement (see Basis XXII and clause 22) clearly provide for the possibility of subcontracting third parties to perform tasks and/or provide services that constitute or that relate to the obligations undertaken by the concessionaire under the concession contract. Notwithstanding that, as mentioned above, it is also clear from the Concession Bases and the Concession Agreement that, in situations involving the subcontracting of third parties, the concessionaire retains the rights and remains, directly and personally, subject to the obligations arising from the Bases and the Contract.

Given the content of the contributions received, ANACOM considers that the general preference shown regarding the provision of postal services using post offices is due, essentially, to the differences observed and perceived in the form of the provision of services, taking into account the factors mentioned previously and analysed in greater detail in the determination of 10.01.2019, particularly at the level of secrecy, working hours practised, quality of service (in terms of waiting time), accessibility to the premises, training of employees and line managers, complaints and certification of the postal establishments. However, that determination is intended to guarantee the elimination of those differences through the specification of a suitable reference framework to be taken into consideration by CTT within the scope of the provision of postal services in postal services offices, so that both post offices and postal services offices may ensure equivalent conditions for the provision of postal services. In this context, it is noted that some of the contributions received agree with the factors identified by ANACOM as having to be taken into consideration by CTT.

In this sense, it is understood that the provisions in the determination of 10.01.2019 will enable the concerns shown within the context of the public consultation to be addressed, and ANACOM will continue to monitor this matter, intervening, within the scope of its competencies, whenever it considers this appropriate and necessary.

### **2.3.3. Deadline for implementation (point c) of paragraph 1 of the determination of 10.01.2019**

#### **a. Contributions received**

DECO states that it has no objections to the period of 60 working days set for CTT to ensure the implementation of the measures to be established in ANACOM's decision which, under the scope of Base XV of the Bases of the Concession, sets such objectives, noting, however, the need for such measures to be implemented as soon as possible, given that the Concession Agreement expires on 31.12.2020.

#### **b. CTT Position**

According to CTT, the period of 60 working days provided for in point c) of paragraph 1 of the aforementioned determination is insufficient to put into practice the measures that may be determined by ANACOM.

#### **c. Position taken by ANACOM**

Regarding the implementation of the measures that may be established in ANACOM's final decision on this matter, it is recognised that this may require some effort on the part of CTT, as this may entail, in particular, the introduction of changes to certain procedures, certain adaptations of the infrastructure used or the definition of specific training procedures. Nevertheless, and as based on the determination of 10.01.2019, it is understood that such changes are essential to ensure the suitable provision of postal services to users in general, without distinguishing those who access the services provided in the concessionaire's own stores and those who access the services provided in postal services offices.

From this perspective, it is particularly important to define a suitable period to enable the concessionaire to efficiently manage the resources associated with the implementation of those changes, but also enables the maximum reduction of any possible situations of service provision which do not comply with the appropriate standard of quality. In view of

the reference framework provided in the determination of 10.01.2019, this Authority has understood that the period of 60 working days (defined in point c) of paragraph no. 1 of the determination of 10.01.2019) will be the most suitable, allowing the previously mentioned requirements to be met. It should be noted that CTT, although having expressed its understanding that such a deadline may not be sufficient, did not provide any specific information to adequately substantiate its position on this matter.

In view of the aforementioned, it is considered that the period of 60 working days will be that which is best able to combine in the most appropriate manner the needs of the users with the possible implementation requirements of the concessionaire, and, considering this from the perspective of the ongoing improvement of the provision of the postal service, CTT may also wish to initiate the start of the improvement of existing procedures taking as a reference the requirements contained in Annex 1 of ANACOM's determination of 10.01.2019.

#### **2.3.4. Matters not submitted to public consultation**

##### **2.3.4.1. Recommendation for the implementation of requirements regarding the way concessionary postal services are provided in the remaining postal services offices (paragraph 4 of the determination of 10.01.2019)**

###### **a. Contributions received**

DECO argues that the obligation of a postal establishment in each municipality providing the full range of concessionary services, whether a post office or a postal services office with equivalent characteristics<sup>19</sup> should extend to other situations in which the territorial unit "municipality" is not the most appropriate.

In particular, it is understood that this obligation should be also applied to postal services offices located in parishes with more than 10,000 inhabitants in which there are no post offices and in which CTT, under the scope of the "Targets set on 15.09.2017", is required to ensure the provision of the full range of concessionary services.

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<sup>19</sup> By verifying the requirements regarding the form of the provision of services, as established in the annex to the determination.

It therefore disagrees with ANACOM's recommendation in this matter, since this is a non-binding recommendation.

**b. Position taken by ANACOM**

This matter, which follows from paragraph 4 of the determination of 10.01.2019, was not submitted to the public consultation procedure, however, the commentary received was noted. As regards this, ANACOM recognises<sup>20</sup> the importance of ensuring appropriate conditions for the provision of postal services in all postal services offices, fostering the uniformity or homogeneity of the services provided in all and any postal establishments. In this sense, and as recommended in paragraph 4 of the decision of 10.01.2019, it is considered appropriate, with a balancing of proportionality, that the necessary adaptation of the establishments occurs with the maximum brevity in a progressive and scheduled manner, with postal services offices located in parishes with more than 10,000 inhabitants in which there are not post offices, being covered in the first place and, among these, those which CTT, under the scope of the "Targets established on 15.09.2017", is obliged to ensure that they provide all the concessionary services.

ANACOM considered that it would be disproportionate to impose the obligation under point 1.b) ii. of the determination of 10.01.2019 to all the postal services offices, seeking to focus its intervention on the postal establishments which in each municipality should provide the full range of concessionary services (and operate every working day for a minimum daily period of 6 hours in 99% of the municipalities in Portugal and every working day for a minimum daily period of 3 hours in the remaining 1% of municipalities). In this way it has also taken into account most of the concerns raised by the various entities which have submitted statements to ANACOM, which focused on the problems associated with the closure of the only post office for certain municipalities, without there being an alternative to ensure the same conditions for the provision of postal services

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<sup>20</sup> Cf. section 3.3 of the decision of 10.01.2019, page 34.

**2.3.4.2. Procedures associated with the closure or reduction in working hours of postal establishments (paragraphs 3 and 6 of the determination of 10.01.2019)**

**a. Contributions received**

The Municipality of Vila Flor considers that an obligation should be established so that any closure of a post office should only be authorised following a specific request submitted by the concessionaire after consultation with local authorities and those possibly affected, considering that its effects should be retroactive to all municipality centres.

In the context of the contributions received from ANAFRE, two parish councils mentioned that the period of 20 days, established in the decision of 10.01.2019, for CTT to inform users and ANACOM, in the event of the closure or reduction in the working hours of postal establishments, is too short, proposing that it be extended and that this notice also be given to local authorities through their executive bodies (town halls and parish councils).

**b. Position taken by ANACOM**

This matter, which follows from paragraphs 3 and 6 of the determination of 10.01.2019, was also not submitted to the public consultation procedure. Notwithstanding that, the comments received having been registered, noting, as already mentioned previously, that as established in paragraph 3 of Base XX of the Bases of the Concession, CTT has the possibility of opening and closing postal establishments, as well as changing the working hours of postal establishments, taking into account the needs of the service and levels of demand, without prejudice to continuing to be obliged to ensure the provision of the UPS throughout national territory, with it not being envisaged, within the legal framework in force, that CTT needs to present a prior request to any entity within the scope of its decisions taken in this regard.

Notwithstanding this, with ANACOM considering that a prior understanding of CTT with representatives of local residents in the event of the closure of all the post offices in a given municipality, would better contribute to ensuring the satisfaction of the postal needs of users under appropriate conditions, included in its determination of 10.01.2019 a recommendation to CTT in this sense. In this context, this recommendation refers not only to cases of closure of postal establishments but also to a reduction in their working hours.

As to the period of 20 working days associated with the prior notification, by CTT to users and to ANACOM, of the changes it is proposing to implement in the event of a closure or a reduction in the working hours of postal establishments, as established in the recommendation included in the determination of 10.01.2019 as well as regarding the period also of 20 working days to communicate changes to local authorities, in this case as recommended in the aforementioned determination), it is considered that these are sufficient to allow users to have timely knowledge of the planned changes.

#### **2.3.4.3. Concession contract**

##### **a. Contributions received**

The Municipality of Apliarça considers it essential to establish, in the Concession Agreement, the obligation to have at least one post office in each municipality directly managed by CTT, complying with all quality requirements.

DECO states that it does not agree with the procedure for setting the targets for postal network density and minimum services provided, considering that it should be ANACOM defining these targets, after having consulted the concessionaire, with that initiative not starting with the concessionaire. It is also DECO's position that the Concession Agreement will not suitably safeguard public interest, if it does not require the obligation of a post office in all municipalities.

##### **b. Position taken by ANACOM**

These comments, related to proposed amendments to the Concession Agreement, go beyond the scope of the public consultation and are therefore not considered within the scope of this proceeding.

#### **2.3.4.4. Quality of service provided**

##### **a. Contributions received**

The Municipality of Melgaço emphasizes the need to restore the appropriate quality levels in the distribution of mail, in order to ensure the reduction of delivery times.

In the context of the contributions received through ANAFRE, some concerns were mentioned with the provision of the postal services, highlighting, in particular, that the quality

of the service provided is negatively affected by the fact that there are cases in which there is no daily distribution of mail, due to the high turnover of mail carriers (which leads to errors in the distribution of correspondence) and delays in the delivery of correspondence (which results in a lack of predictability and regularity in the delivery of correspondence).

SINDETELCO considers that CTT is not complying with the Concession Agreement with respect to the postal distribution obligation, with a greater impact on territories with low population distribution where distribution is carried out only once a week or even less frequently, and the obligation of non-discrimination, with it being considered that there is discrimination of citizens according to their place of residence, but has not provided any specific facts concerning the situations referred to.

#### ***b. Position taken by ANACOM***

These comments, which relate to the distribution of mail and not to postal establishments, go beyond the scope of the public consultation, and are therefore not considered in the context of the present proceedings.

Notwithstanding that, it is noted that, as follows from article 13, paragraph 1 of the Postal Law, it is incumbent upon ANACOM to establish, for a multi-year period of at least three years, the quality of service parameters and performance targets associated with the provision of the UPS. In this sense, ANACOM has been adopting determinations regarding the establishment of these targets, clarifying that the most recent determination, of 12.07.2018<sup>21</sup>, aimed at setting the quality of service parameters and performance targets to be applied in the 2018-20 three-year period. In this context, a new framework of more demanding indicators was established, with the aim of creating conditions for a higher level of quality of the UPS, reversing the situation of the progressive deterioration of that quality and increasing user dissatisfaction which has been observed in recent years, although without questioning CTT's economic and financial sustainability and viability.

It is thus noted that the quality of the UPS is one of ANACOM's concerns, and it has been intervening in this matter to ensure that the postal services provided to users have a quality level appropriate to their needs.

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<sup>21</sup> Available at: <https://www.anacom.pt/render.jsp?contentId=1457268>.

#### **2.3.4.5. Remuneration of postal services offices**

##### **a. Contributions received**

In the context of the contributions received through ANAFRE, some of the parish councils which have taken on responsibility for the management of postal services offices consider that the remuneration obtained for the provision of postal services is not sufficient, arguing that, in this way, as indicated in one case, the local authorities are indirectly subsidising CTT's activity. One parish council also mentions that services continue to be provided only due to the considerable distance to the nearest establishment.

The Municipality of Vila Velha de Ródão also notes that the financial compensation which constitutes the consideration for the provision of the service is not sufficient.

##### **b. Position taken by ANACOM**

These comments go beyond the scope of the public consultation and are therefore not considered within the scope of this administrative process.

Notwithstanding that, it is noted that, as mentioned above, in accordance with the provisions of paragraph 1 of Base XXII of the Bases of the Concession, CTT is authorized to subcontract third parties to perform works and or provide services that constitute or relate to the obligations assumed by the concessionaire, without prejudice to maintaining the rights and continuing, directly and personally, subject to the obligations arising from the Bases of the Concession, as set forth in paragraph 3 of Base XXII.

The terms of the subcontracting are subject to negotiation between CTT and these third parties within the scope of their contractual relationship, and ANACOM does not have the competence to intervene in this context. In any event, ANACOM is aware that a negotiation process between CTT and ANAFRE is underway in this regard.

#### **2.3.4.6. Services offered by CTT**

##### **a. Contributions received**

The Municipality of Sintra proposes that CTT reinforces its postal offer in the digital area, through a platform to enable the sending of encrypted documents to an email with a digitally signed certificate, ensuring proof of reception by the recipient.

**b. Position taken by ANACOM**

These comments also go beyond the scope of the public consultation, and are therefore not considered within the scope of the present administrative process, without prejudice to CTT becoming aware of this suggestion within the context of the same process. It should be noted, however, that ANACOM also considers innovation in the postal sector important, particularly taking into account the benefits that may accrue to the development of the sector itself as well as to the conditions for the provision of postal services to users. In this respect it can be noted, for example, the roundtable carried out on 09.10.2018 by ANACOM with the participation of some of the main postal sector stakeholders in Portugal<sup>22</sup>, in order to debate the role of innovation in the development of the postal sector.

**2.3.4.7. Postal distribution centre and staff working for CTT in Melgaço**

**a. Contributions received**

The Municipality of Melgaço refers to the need to maintain the postal distribution centre in Melgaço and the commitment to finding solutions for the staff working for CTT in the Melgaço post office, which was closed during 2018.

**b. Position taken by ANACOM**

This comment also goes beyond the scope of the public consultation, and is therefore not considered within the scope of this administrative process, without prejudice to CTT becoming aware of this and considering it within the context of its internal management.

**2.4. Conclusion**

ANACOM recognizes the importance of the contributions received in the scope of the public consultation, concluding that there is no justification for changes to the reference framework to be taken into account by CTT in its proposal to revise the targets for postal network density and minimum services provided, set down in paragraph 1 of the determination of 10.01.2019. Contributions received will be taken into account, in the light of the above comments, in the context of the decision on CTT's proposal to complement targets for postal network density and minimum services provided.

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<sup>22</sup> <https://www.anacom.pt/render.jsp?contentId=1461580>.

### **3. Analysis of the CTT proposal which complements the "Targets established on 15.09.2017"**

#### **3.1. Framework**

By determination of 10.01.2019, ANACOM's Board of Directors decided, in particular:

- "1. Determining that CTT present ANACOM with [...] a proposal which complements the density targets regarding postal establishments and other points of access to the postal network allocated to the concession and targets for minimum services provided, including rules on the minimum opening hours for the postal establishments, which are in force, using as a reference framework:
- a) the factors listed in section 3.3 of the [...] decision for the purposes of paragraph 3 of Base XV of the Bases of the Concession.
  - b) that the postal establishment which, under the scope of the targets for postal network density and minimum services provided as established by ANACOM's decision of 15.09.2017, in each municipality should provide the full range of concessionary services (and operate every working day for a minimum daily period of 6 hours in 99% of the municipalities in Portugal and every working day for a minimum daily period of 3 hours in the remaining 1% of municipalities) is:
    - i. a post office; or
    - ii. a postal services office having equivalent characteristics by verifying the requirements concerning the manner in which the concessionary services are provided as established in Annex 1.
  - c) that the implementation of the measures to be provided for in ANACOM's decision which, under the scope of Base XV of the Bases of the Concession of the universal postal service, establishes the aforementioned targets, should be ensured within 60 working days."

Through its communication of 21.02.2019, within the time limit established for this purpose, CTT presented to this Authority a proposal which complements the "Targets established on 15.09.2017".

Accordingly, CTT mentions that the “Objectives set on 15.09.2017” are guaranteed, and does not agree with the conclusion of the determination of 10.01.2019 that the reorganization of the postal network has contributed to the deterioration of the quality of the conditions for the provision of the services in question. It notes in particular that the closure of post offices and their replacement by postal services offices is permitted under the terms of the law and by the Concession Agreement. It also mentions its commitment to ensuring the best possible performance of the UPS, ensuring its quality, accessibility and universality, seeking to ensure compliance with current legal and contractual rules and mitigate any constraints and negative impacts on local populations and the business community, noting that it is complying with the rules in force, in particular in terms of postal network density and minimum services provided.

Without prejudice to its divulged position, CTT<sup>23</sup> submitted, as mentioned above, a complementary proposal to the “Targets established on 15.09.2017” to meet ANACOM's determination.

The comments submitted by CTT are now analysed, and an analysis is also made of the proposal submitted with a view to complementing the “Objectives set on 15.09.2017”.

## **3.2. Analysis**

### **3.2.1. Prior issues**

#### **3.2.1.1. CTT's prior hearing concerning paragraph 1 of the determination of 10.01.2019**

##### **a. CTT Position**

CTT questions the fact that paragraph 1 of the determination of 10.01.2019 was not subject to its prior hearing, considering that the use of the exceptional regime set down in paragraph 2 of clause 15 of the Concession Agreement and the establishment of a reference framework which is not limited to that set down in paragraph 3 of the same clause constitute matters that directly affect its legal sphere and cannot be decided or determined without a prior statement from it, thus giving them the right to comment pursuant to Article 122 of the

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<sup>23</sup> Stating that they did so with a view to improving the provision of the service.

CPA on the opening of the procedure provided for in paragraph 2 of clause 15 of the concession agreement and as determined in paragraph 1 of the decision rendered.

In particular, CTT points out that the conclusion on the existence or otherwise of exceptional circumstances, relating to the determination of whether there are grounds, or not, to activate the provision of paragraph 2 of clause 15 of the Concession Agreement, should be preceded by a prior hearing in order to enable CTT to present its position, arguments and comments to be taken into consideration by ANACOM in a final decision concerning the justification to reopen a process which the determination of 15.09.2017 closed for a period of 3 years.

CTT further understands that the determination of 10.01.2019 goes beyond what is contractually provided for in establishing the need to take into account equivalence factors between the provision of postal services through post offices and postal services offices, noting that ANACOM's interpretation of the criteria that must be considered for the purposes of paragraph 3 of clause 15 of the Concession Agreement goes beyond what the postal density is and what the Concession Agreement requires in this matter, considering that this Authority is exceeding its powers in interpreting clauses of the Concession Agreement, placing in the provision of the same factors, related in particular to confidentiality, waiting time and complaints, which cannot conceptually be covered by Clause 15. Given this, CTT stresses the need to have an opportunity to present their position on these aspects.

CTT concludes that both paragraph 1 and paragraph 3 of the determination of 10.01.2019 concern the provision of the UPS by the concessionaire, and therefore the legal basis which serves as the basis for the prior hearing for the latter should also be based on the prior hearing of the former, disagreeing with the position presented by ANACOM in its communication of 31.01.2019, following the request submitted by CTT, that the company would have the opportunity to express its positions, including regarding the reference framework presented by ANACOM, in the scope of the procedure provided for in clause 15 of the Concession Agreement.

Thus, according to CTT, the determination contained in paragraph 1 of the decision of 10.01.2019 violates its procedural rights and is unlawful, unfounded and disproportionate.

**b. Position taken by ANACOM**

As already conveyed to CTT in a communication of 31.01.2019, what follows from paragraph 1 of the determination of 10.01.2019 is the submission by CTT of a proposal that complements the “Targets established on 15.09.2017”, a proposal which should have as its reference framework the elements referred to in that same paragraph 1. It should be noted, therefore, that the decision of 10.01.2019 does not set postal network density targets and minimum services provided, and does not constitute a final decision on this matter, but merely a determination for CTT to submit a proposal to revise those targets.

As CTT is aware, it was thus intended to initiate the procedure set out in clause 15 of the Concession Agreement (which could also be triggered by the concessionaire), according to which CTT is responsible for communicating to ANACOM a proposal for targets, in the scope of which CTT has the opportunity to express its positions, including its position regarding the reference framework that was presented by ANACOM in the decision of 10.01.2019, and, as such, to participate in the establishing of the decision that is to be stated at the end of this procedure.

This is inclusively verified by CTT's own communication of 21.02.2019 in which, in addition to presenting its complementary proposal to the “Targets established on 15.09.2017”, CTT also commented on (i) the reference framework to be taken into consideration, which was at a public consultation stage (ii) on the existence of exceptional circumstances that justify the revision of the targets in force and (iii) on the actual procedure associated with the adoption of the said resolution, as now being analysed.

Accordingly, as CTT's own communication proves, the right of CTT to make a statement on the matter in question is ensured, and it is not recognized that, on any occasion, the hearing regarding the targets which at the end of the procedure in question shall be established, has been called into question, or the participation of the concessionaire in forming the decisions concerning it.

It is further noted that the decision of 10.01.2019 results from the verification of a set of exceptional circumstances that justify the revision of the targets for postal network density and minimum services provided set out in ANACOM's decision of 15.09.2017, complementing them with a view to ensuring the quality of the customer service provided in the postal services offices, as well as the conditions necessary to ensure the inviolability and confidentiality of postal items, the confidentiality of information transmitted or stored and the protection of personal data and privacy, thus fostering user confidence in the

services provided and thereby contributing to meeting their needs in terms of the use of postal services – in particular by ensuring that in each municipality the postal establishment in which, by virtue of the requirements of the targets for postal network density and minimum services provided set out on 15.09.2017, CTT is obliged to ensure the provision of the full range of concessionary services, complying with requirements similar to those of post offices.

As regards CTT's claim that the determination of 10.01.2019 goes beyond what is contractually envisaged in establishing the need to take into account equivalence factors between the provision of postal services through post offices and postal services offices, it is noted that, as provided for in paragraph 3 of clause 15 of the Concession Agreement, in achieving the targets for postal network density and the minimum services provided, “(...) the concessionaire should take into account, in particular, the following factors: a) Distribution of the population in Portugal; b) Distance between access points; (c) Urban or rural nature of the areas covered; d) Evolution of traffic and demand.” (emphasis added). In other words, the factors that must be taken into account in achieving the targets for postal network density and minimum services provided are stated there in a non-exhaustive manner. Therefore, consideration is not limited to factors other than those mentioned there, which are necessary to ensure that users' needs are met and to resolve problems which have been detected.

On the other hand, it should be noted that it is established in paragraph 8 of the same clause that “[in] establishing the targets for postal network density and minimum services provided, the principles contained in Law No. 17/2012, of 26 April shall be taken into account, particularly those referred to in points a) and b) of paragraph 2 of Article 2 of that law, in order to ensure the existence, availability, accessibility and quality of the universal service provision, as well as its economic and financial sustainability and viability”, such that in setting the aforementioned targets, those principles will necessarily have to be taken into consideration.

In view of the above, it is understood that the reference framework indicated in the decision of 10.01.2019 is clearly and undoubtedly based on the provisions of paragraph 3 of clause 15 of the Concession Agreement, and it should also be noted that paragraphs 7 and 8 of the same clause provide for the possibility of intervention by ANACOM, and ANACOM, based on the principles of the Postal Law, may set the network development targets to be ensured by the concessionaire.

### **3.2.1.2. Period for prior hearing and submission of supplementary proposal**

#### **a. CTT Position**

CTT understands that, in compliance with the provisions of article 122 of the CPA, ANACOM should have sent, together with the determination of 10.01.2019, the factual and legal elements relevant to the decision, particularly as regards the statements of public and private entities submitted to ANACOM and the diligence reports of the inspections carried out by ANACOM, considering that it should not be necessary for CTT to have to request a copy of the respective administrative procedure. It mentions that the availability of the elements in question was provided by ANACOM only on 29.01.2019, and the company was prejudiced not only because the elements important for ANACOM's decision were not provided with the determination, but also due to the delay in making a full copy of the administrative procedure.

CTT also considers that the procedure resulting from the determination of 10.01.2019 requires the redeployment of the available team and the logistical, operational and work preparation that CTT did not have, and thus is not comparable with previous procedures, in which there was a preparation of teams and of work on its side, so as to meet the deadline set out in the Concession Agreement. Therefore, CTT considers that ANACOM's references in paragraph 5 of the decision of 06.02.2019, which partially deferred the deadline for the prior hearing and the submission of the complementary proposal, on the part of CTT, are neither adequate nor justified.

#### **b. Position taken by ANACOM**

In accordance with ANACOM's decision of 06.02.2019, on 11.01.2019 and in addition to ANACOM's communication of 10.01.2019 through which ANACOM notified CTT of the determination adopted on that same date, CTT was informed that the corresponding administrative procedure was available for consultation from 15.01.2019. Thus, from 15.01.2019, CTT, or its Representatives, could have consulted and accessed the said administrative procedure (getting to know the elements that contributed to the decision adopted by the said determination of 10.01.2019). In this regard, it should be noted that access to administrative procedures is a standard practice for CTT, which has been adopted in the scope of previous administrative procedures by this Authority.

Notwithstanding the fact that its elements were provided immediately on 15.01.2019, and without prejudice to the possibility of CTT requiring the full reproduction of the aforementioned administrative procedure immediately on the date of the notification of the determination, CTT only on 18.01.2019 requested it, soliciting that it be made available on digital media – with the application filed for that purpose being signed by a lawyer, who only on 28.01.2019 (that is, 6 working days after having filed the aforementioned request) sent a copy of the power of attorney which had been granted. On 29.01.2019, a representative of CTT went to ANACOM's premises to consult the administrative procedure (handing over, at that moment, the something giving him the power to do so), having also, on that date, proceeded to take the digitalised copy of the administrative procedure.

Thus, the conclusion of the determination of 06.02.2019 is reiterated which, as follows from the communication sent to CTT on 11.01.2019, access to the administrative procedure was made available from 15.01.2019, that is, 3 (working) days after the date of notification of the decision, which is the legally relevant date to consider that the administrative procedure was made available to the interested party – therefore, the arguments put forward by CTT on the alleged late availability of the administrative procedure cannot be accepted. Notwithstanding, it should be noted in this context that the decision of 08.02.2019 extended the deadline set in the decision of 10.01.2019 by 10 working days.

Notwithstanding the foregoing and without questioning the relevance of the documents constituting the administrative procedure in question, it should however be noted that, as explained in more detail in the determination of 06.02.2019, most of these were already known by CTT, specifically with regard to the statements submitted to ANACOM and the diligence reports of the inspections carried out by ANACOM, which (i) regarding the former, in many cases the entities that directly contacted ANACOM has made these statements known to CTT<sup>24</sup>, and it should also be noted that a significant number of these statements are publicly available, such as the documents on parliamentary questions and the respective replies from the Government (which are available on the Parliament's website); and that (ii) in the case of the second, a copy of each diligence report was delivered to the employees of the inspected postal establishments – so CTT would also be aware of these,

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<sup>24</sup> In particular, in the case of the statements presented by some local authorities and by some intermunicipal communities, taking into account various statements of local authorities mentioning the sending of a copy of the same to the concessionaire and the intermunicipal communities reporting the precautionary measures brought against this company, with the purpose of preventing the closure of post offices.

in addition to the fact that the company would be able to identify these records, since the inspection actions to which they refer are identified in the decision of 10.01.2019.

As regards the partial deferment of the deadline for the prior hearing and the submission of the complementary proposal, by CTT, this was a matter which was subject to ANACOM's decision of 06.02.2019, which was dealt with elsewhere, with the decision adopted considered to be appropriate and justified.

### **3.2.1.3. Existence of exceptional circumstances justifying the revision of the determination of 15.09.2017**

#### **a. CTT Position**

CTT disagrees with the existence of exceptional circumstances that may justify the revision of the determination of 15.09.2017, considering that the activation of paragraph 2 of clause 15 of the Concession Agreement lacks any special grounds and noting that the Concession Agreement itself imposes the stability of decisions in this area by providing that postal density targets should be set for periods of 3 years. It therefore considers that the grounds raised by ANACOM are not sufficient to activate paragraph 2 of clause 15 of the concession agreement.

CTT considers that ANACOM will not have considered all the relevant elements for the analysis, in particular as regards the operational, economic and strategic reasons that led CTT to undertake the reorganization of its network, stressing that economic and financial sustainability is, along with the principles of availability, accessibility and quality, one of the pillars of the provision of the UPS. It also notes that the inspection actions make up an insufficient and unclear sample of the postal service provided in the operating postal services offices, such that they cannot envision a reason to justify the alleged negative consequences that lead to the consideration that there are exceptional circumstances.

CTT also understands that the closure of post offices and the opening of postal services offices is not new, and the number of CTT access points has been increasing in recent years, also emphasising that the closure of post offices and their replacement by postal services offices is permitted by law and by the Concession Agreement, and ANACOM itself has accepted this possibility in the various determinations adopted on the matter. It also specifies that the type of postal establishment does not imply a deterioration in the quality of conditions for the provision of services.

It also reports that the post offices which closed in certain municipalities were replaced by postal services offices, thus maintaining a point of access to CTT's postal network, with the same type of services and with similar or better opening hours ensuring, in all cases, the existence of points of alternative access for the provision of the full range of concessionary services. It also mentions, in addition, that between 2013 and 2017, two post offices were closed in Gavião and Pedrógão Grande (replaced by postal services offices), which meant that these two municipalities no longer had any post offices, and ANACOM did not detect any negative consequences from this transformation, and also the total number of post offices closed and replaced by postal services offices in the last four years is less than the total number of post offices closed in previous periods.

In addition, and referring to the closure of post offices in the interior of the country, CTT notes that the closed stations have all been replaced by postal services offices, with the municipalities in question still having various alternative access points. It points out that the reasons which led CTT to close certain post stations are based on the principle of economic and financial sustainability of the provision of the UPS, and one of the objectives of the Operational Transformation Plan is the reconfiguration of the retail network, adapting it to levels of demand, based on the average daily activity per employee in each post office and the average daily number of users and operations. CTT underlines that the Concession Agreement stipulates, in paragraph 3 of clause 15, that, in establishing the targets for postal network density and minimum services provided, CTT should take into consideration the development of traffic and demand, such that paragraph 8 of the same clause envisages that the principle of economic and financial sustainability and viability should also be taken into consideration.

It therefore concludes that, given the history and legal framework, it does not foresee what the exceptional reasons are that may justify the reopening of the determination of 15.09.2017.

**b. Position taken by ANACOM**

ANACOM recognizes, as CTT mentions, that the current legal framework envisages the importance of stability regarding postal network density and the minimum services provided, with this being specified as being in force for 3 years regarding the aforementioned targets and minimum services. However, it should be stressed that by envisaging exceptional situations where the targets for network density and minimum services provided which are

in force, do not address the purposes for which they were considered, clause 15 provides for an adjustment mechanism designed to ensure that those goals are not prejudiced. Thus, this clause explicitly provides for the possibility of initiating a process for the revision of the targets established, when exceptional circumstances warrant this. The stability inherent in establishing a period of three years in force for the targets does not override the need to ensure that these are adjusted to achieve the objectives sought by their definition.

In this context, the legal framework, while not specifically defining the situations that may be characterized as exceptional circumstances, leads to the conclusion that, as a whole, the definition of the targets for postal network density and minimum services provided should take into account, in particular, their correspondence to the needs of the users, as mentioned in paragraphs 5, 6 and 7 of clause 15, as well as the principles in the Postal Law, particularly points a) and b) of paragraph 2 of article 2 (as provided for in paragraph 8 of clause 15 of the concession agreement), to ensure the existence, availability, accessibility and quality of the provision of the UPS, as well as its economic and financial sustainability and viability, as mentioned previously.

In this sense, the verification of situations in the context of the targets for postal network density and minimum services provided, which did not exist at the time of their introduction and which have implications that jeopardize the needs of postal service users, implies the need to revise the targets for postal network density and minimum services provided. It is therefore worth mentioning the numerous statements submitted to ANACOM, which refer to a deterioration of the postal service in association with the most recent process of closure of post offices and the opening, in their replacement, of postal services offices, which has led to the conclusion that an equivalence or an identical contribution from the two types of postal establishments (post offices and postal services offices) is not guaranteed to meet the intended targets for the concession.

In the context of this revision, as well as the assessment of any proposal from CTT regarding this matter, it is necessary to take into account the economic and financial sustainability of the UPS, along with the principles mentioned above, and therefore agreeing with that specified by CTT in this respect. In this sense, the determinations contained in the decision of 10.01.2019, particularly regarding the specification of a reference framework to be taken into account by CTT – which also took into consideration the characteristics of the provision of the services already adopted by CTT in a part of its postal establishments – will not undermine the sustainability of the service and will have a very significant positive impact

on the way in which services are provided to users, which could even benefit CTT itself in stimulating the use of those same services.

In this context, it is in any case worth mentioning, as already stated in the determination of 10.01.2019, that, since the decision of 15.09.2017, a set of situations which would not have been expected on that date have been verified.

Thus, and although it is acknowledged, as indicated by CTT itself, that at that time there were already 2 municipalities without post offices, it should also be noted that this was a situation that remained constant for a prolonged period between the end of the 2nd quarter of 2013 and the end of 2017. The situation observed after the decision of 15.09.2017 is, however, significantly different, as it was found that the reorganisation of the network carried out by CTT meant that within a year or so, the number of municipalities without post offices had risen to 33, representing 10.7% of all existing municipalities at the national level and 2.9% of the total population (303,203 inhabitants), mostly located in the interior of the country, which represents a significant, exponential and unforeseen growth in the number of municipalities without post offices during 2018.

On the other hand, and as CTT itself points out, the closure of the post offices in Gavião and Pedrógão Grande, which led to these two municipalities no longer having any post office, did not, with regard to the determination of 15.09.2017, permit the clear identification of the negative consequences of this transformation. The development since 15.09.2017 has, however, led to widespread discontent and multiple reactions from postal service users, as is apparent from the statements that have submitted, particularly to ANACOM, which raised a number of concerns related, in particular, to the conditions necessary to ensure confidentiality, secrecy and protection of privacy, the poor provision of postal services due to lack of specific training for the employees in the postal services area and accessibility for people with reduced mobility.

It should also be noted that it could be concluded that the continuity of the provision of the service, (point d) of article 11 of the Postal Law) will not be fully ensured in situations involving closure of post offices and/or their replacement by postal services offices. In particular, and without prejudice to the fact that, in most cases, it is the postal services office which substitutes a closed post office within a reduced period, as reported by CTT, there may be a situation of a lack of suitable information regarding any changes in opening hours

or change of premises that means that some users cannot meet their postal needs at all times, creating uncertainty for users.

In this context, as is clear from the legal framework, the targets for postal network density and minimum services provided refer to postal establishments as a whole, not distinguishing between post offices and postal services offices, as follows from Base XV of the Bases of the Concession and clause 15 of the Concession Agreement. Thus, as provided for in the scope of the concession (Base XX, paragraph 3 and clause 20, paragraph 3), it is up to the concessionaire to decide which type of postal establishment is used to ensure the provision of postal services to people. It is also up to it to decide on the setting up and closure of postal establishments, as well as on a change in their opening hours – subject to the requirements of the targets for postal network density and minimum services provided –, and it should also be noted that the Bases of the Concession and the Concession Agreement (see Base XXII and clause 22) clearly provide for the possibility of subcontracting third parties to perform tasks and or provide services that constitute or that relate to the obligations undertaken by the concessionaire under the concession contract. Notwithstanding that, as mentioned above, it is also clear from the Bases of the Concession and the Concession Agreement that, in situations involving the subcontracting of third parties, the concessionaire retains the rights and remains, directly and personally, subject to the obligations arising from the Bases and the Contract, and this subcontracting may not legitimise a deterioration in services to which, in order to comply with the concession agreement, CTT is obliged.

It is therefore clear that the legal framework does not distinguish, for the purposes of providing the UPS, between each type of postal establishment, and it is clear that there should also not be any differences at the level of the suitability of the postal establishments to satisfy the needs of users of the US that the concession intends to safeguard. The freedom made available to the concessionaire at the level of the organisation of the postal network should not, nor may not, therefore, allow for significant differences in the form of the provision of services in accordance with the establishment in which these are provided. The reorganisation of the postal network, with effects at the level of the provision of postal services to the users which were not expected when defining the targets for postal network density and minimum services provided, and the impact resulting from satisfying the needs of users, has enabled us to conclude that exceptional circumstances have been verified and that this justifies the revision of those targets.

In this context, it is important to highlight the conclusions of the analysis presented in the determination of 10.01.2019, based not only on the inspection actions carried out by ANACOM, but also on the various statements submitted to this Authority, which concluded that there are non-justifiable differences between the customer service and conditions regarding the provision of the postal services in the postal services offices and that which is provided in post offices. These differences relate, in particular, to the training of those responsible for attending users of those services and the suitability of the areas for their provision, in terms that ensure the necessary conditions for strict compliance with the obligations regarding confidentiality, secrecy and privacy, as well allowing accessibility to users with special needs.

In view of the foregoing, and noting, in particular, that developments following the determination of 15.09.2017, which set the postal network density targets and minimum services provided, show a supervening change in the reality on which this decision was based – as follows from the factual information collected by ANACOM and which served as the basis for the determination of 10.01.2019 – and the effects of which on the configuration of the postal establishment network affects the provision of the UPS and, consequently, on the satisfaction of users' needs, could not have been anticipated on the basis of the elements that were then known to ANACOM, it is concluded, as provided for in the determination of 10.01.2019, that a set of exceptional circumstances justifying the revision of the "Objectives set on 15.09.2017" has been verified.

In this context, it is worth noting, particularly, the significant and unforeseen exponential growth in the number of municipalities without post offices during 2018<sup>25</sup>, the impossibility of choice for users in terms of the type of postal establishment they wish to use, within these geographical areas, the very significant increase in the number of statements from various entities regarding this matter and the finding of actual differences in the form of the provision of the services in accordance with the type of establishment in which they are provided, as detailed in the determination of 10.01.2019 and also analysed in the following section of this document.

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<sup>25</sup> This is shown by the statistical evidence of only observing a significant constant until the end of 2017 followed by a significant exponential trend from 2018, as presented in the decision of 10.01.2019.

**3.2.1.4. Recommendation for the implementation of the requirements set out in Annex 2 of the determination of 10.01.2019 for postal services offices not covered by paragraph 1 of the decision of 10.01.2019 and the determination, for CTT, to communicate to ANACOM the terms of the respective implementation plan (paragraphs 4 and 5 of the determination of 10.01.2019)**

**a. CTT Position**

CTT shows disagreement with paragraphs 4 and 5 of the determination, considering that they go beyond what the Concession Agreement imposes, by removing from CTT the flexibility to adjust the characteristics of post offices to the needs of local populations.

**b. Position taken by ANACOM**

As mentioned above, the targets for postal network density and minimum services provided refer to the postal establishments as a whole, not distinguishing between post offices and postal services offices, and it is up to the concessionaire to decide which type of postal establishment is used to ensure the provision of postal services to people. It is also up to it to decide on the setting up and closure of postal establishments, as well as on a change in their opening hours – subject to the requirements of the targets for postal network density and minimum services provided (Base XX, paragraph 3 and clause 20, paragraph 3), and it should also be noted that the Bases of the Concession and the Concession Agreement (see Base XXII and clause 22) clearly provide for the possibility of subcontracting third parties to perform tasks and or provide services that constitute or that relate to the obligations undertaken by the concessionaire under the concession contract.

ANACOM recognizes the concessionaire's flexibility in adjusting its postal network within the scope of the above mentioned legal framework, and it should be underlined that paragraph 4 of the determination of 10.01.2019 does not undermine this flexibility, recommending only to CTT that certain requirements be implemented, as per Annex 2 of that determination, in postal services offices not covered by paragraph 1 of the same determination, aiming to contribute to the provision of postal services throughout CTT's network of establishments to enable such services to be provided to users with the appropriate level of quality.

In this context, it should be recalled that the intervention of third parties in the concession may not, under any circumstance, jeopardise the provision of the concessionary services, subject to the requirements of quality, equality and non-discrimination imposed upon it by the Law (articles 10 and 11 of the Postal Law) and by the Concession (Bases VIII and IX and clauses 8 and 9), and the options made by the concessionaire as to the possibility of subcontracting third parties may not, in any case, imply a deterioration in the quality of conditions for the provision of the aforementioned services.

Paragraph 5 of the determination of 10.01.2019, on the other hand, aims to allow ANACOM, in monitoring this matter, to have timely and detailed knowledge of the implementation plans that CTT may develop in this context, which is particularly important for the proper monitoring of the operation of the market and consideration of future regulatory interventions.

Thus, the provisions in the Postal Law, which set out the characteristics of the UPS which should be ensured by the UPS provider should be noted, highlighting, in particular, the need to satisfy appropriate quality standards, the provision of the service under conditions of equality and non-discrimination, the continuity of the provision of the service and the evolution of service provision in the light of the technical, economic and social environment and the needs of users (points b), c), d) and e) of article 11).

While noting that paragraph 4 of the decision of 10.01.2019 constitutes a recommendation, it follows that the provisions in paragraphs 4 and 5 in the determination of 10.01.2019 do not remove any flexibility for CTT to adjust the characteristics of the postal services offices to the needs of the population, but rather seeks, along with this flexibility, to promote the implementation of conditions which contribute towards ensuring the provision of the postal services with suitable quality throughout CTT's network of postal establishments.

### **3.2.2. Analysis of the complementary proposal of the postal network density targets and minimum services provided**

#### **3.2.2.1. Requirements regarding the manner of the provision of concessionary services, which must be verified in the post offices which ensure the provision of all concessionary services in the municipality in which they are located (Annex 1 of the determination of 10.01.2019)**

Regarding the requirements which should be verified in the postal services offices that ensure the provision, in the municipality in which they are located, of all the concessionary services, as per Annex 1 of ANACOM's determination of 10.01.2019, CTT states that the proposal which it now presents is based on the following factors: [BCI]

[ECI]

Given the specific nature of this topic, and to facilitate the assessment of the proposal submitted, the following points refer to what is contained in ANACOM's determination of 10.01.2019, followed by the aforementioned CTT proposal and ANACOM's position on this.

##### **3.2.2.1.1. Training**

###### **Decision of 10.01.2019**

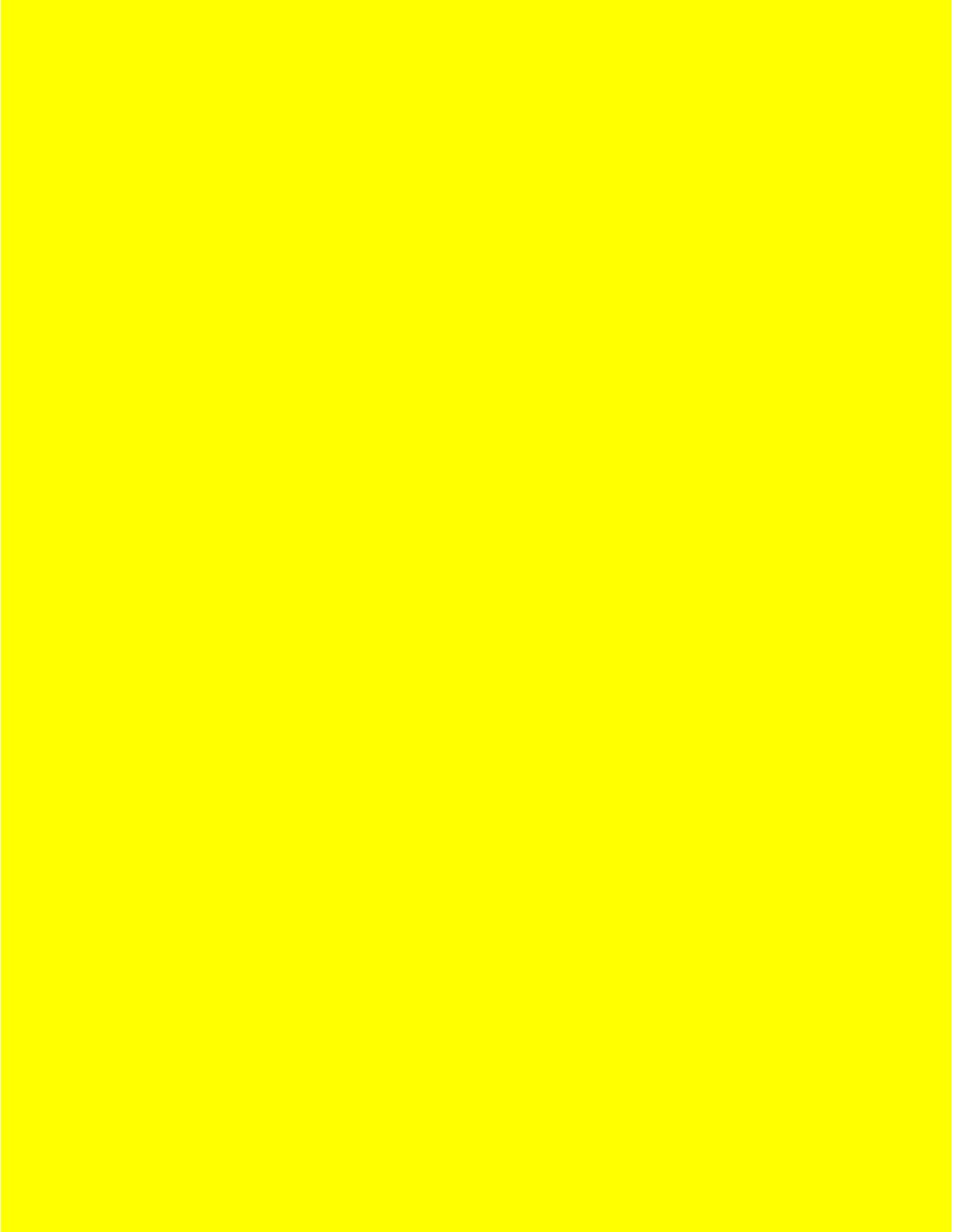
- 1. Initial and ongoing training should be ensured to all postal services office employees who ensure the provision of the concessionary services, including those who perform customer service functions for customers of those services, so that, from the moment that the activity of the postal services office starts, inclusively, and for the entire*

*period of time in which the postal services office is active, everyone may have quality training to:*

- a) *Ensure a correct and appropriate provision of those services.*
  - b) *Comply with the targets of established minimum services provided.*
  - c) *Ensure and enforce secrecy and the inviolability of postal items, as well as data protection.*
  - d) *Ensure the protection of privacy in all the services provided.*
  - e) *Safeguard the confidentiality of transmitted or stored information.*
2. *Within the context of the foregoing paragraph and for the purposes indicated therein, initial training should also be ensured to all new employees of the postal services offices which ensure the provision of concessionary services, including those who perform customer service functions for customers of those services.*
3. *Initial training should include training in a post office, as well as training in a postal services office during its initial period of activity.*
4. *The initial training should include at least the following content:*
- a) *Familiarity with and knowledge of computer applications used and associated peripherals to use in customer service.*
  - b) *Offer of products and services to be made available in the postal services office and their operational procedures.*
  - c) *Standards and procedures for customer service.*
  - d) *Procedures to ensure compliance with the obligations resulting from the applicable legal framework for the provision of concessionary services, in particular regarding the essential requirements provided for in the Postal Law.*
  - e) *Real-time face-to-face training of services requested by customers and simulation training for other concessionary services.*

- f) Way of handling complaints, including procedures to be followed when these are submitted.
5. The most recent procedure manuals should be supplied to the postal services office and be easily physically accessible in the postal services office or available in digital format, or other documentation (for example documentation containing the contents of the training provided) with an explanation of the procedures to be followed and important information for the suitable provision of services.
6. Training updates should always be carried out whenever at least the following is verified:
- a) The offer of new services in the postal services office.
  - b) Changes in procedures, including handling complaints.
  - c) When employees of the postal services office request this.
  - d) When changes occur in the operating system supporting customer service.
  - e) Complaints about procedures followed and how to provide services in the postal services office.
  - f) Training needs are identified.
7. CTT should carry out an annual training needs survey for postal services office employees.
8. Records of the training activities provided to employees of the postal services office should be kept at the postal services office, including participation records, curricula taught and activity duration.

**CTT proposal [BCI]**



[ECI]

## **Position taken by ANACOM**

In general, the CTT proposal meets the provisions of the determination of 10.01.2019. Notwithstanding that, some points have been identified which require additional clarification, since, according to the CTT proposal, it is not clear that they are ensured:

- The determination of 10.01.2019 explains the need for training for all employees of the postal services office which ensure the provision of concessionary services. The CTT proposal refers to the existence of initial training and ongoing training, not specifying, however, whether it is intended to cover all the employees mentioned or, possibly, only the individual responsible for the postal services office or another employee.
- CTT's proposal includes [BCI] [ECI], which may be limiting the training needs of the employees of postal services offices (a postal services office that has several employees will have more limited training for each employee), considering that it would be desirable to provide a minimum of [BCI] [ECI].
- CTT's proposal includes [BCI] [ECI] the monitoring of postal services office, but does not, however, specify whether such monitoring is carried out during its initial period of activity. Regarding this point, it is considered that monitoring in this initial period will be particularly important to guarantee that the services are provided in conditions which ensure suitable quality.
- CTT's proposal does not explicitly mention some of the content to be covered in the training, which is indicated in the determination of 10.01.2019, in particular regarding [BCI] [ECI]. Similarly, it notes that CTT's proposal does not explicitly state that the training will include [BCI] [ECI], only making a more general reference to [BCI] [ECI].
- The CTT proposal does not explicitly state that real-time face-to-face training of services requested by customers and simulation training for other concessionary services is provided for. Although in the detail of the initial training reference is made to [BCI] [ECI] practical monitoring in post offices plus [BCI] [ECI] monitoring in the Postal Services Office, it is considered that this point should be clarified.

- CTT's proposal provides, as part of its ongoing training, that this should occur [BCI]

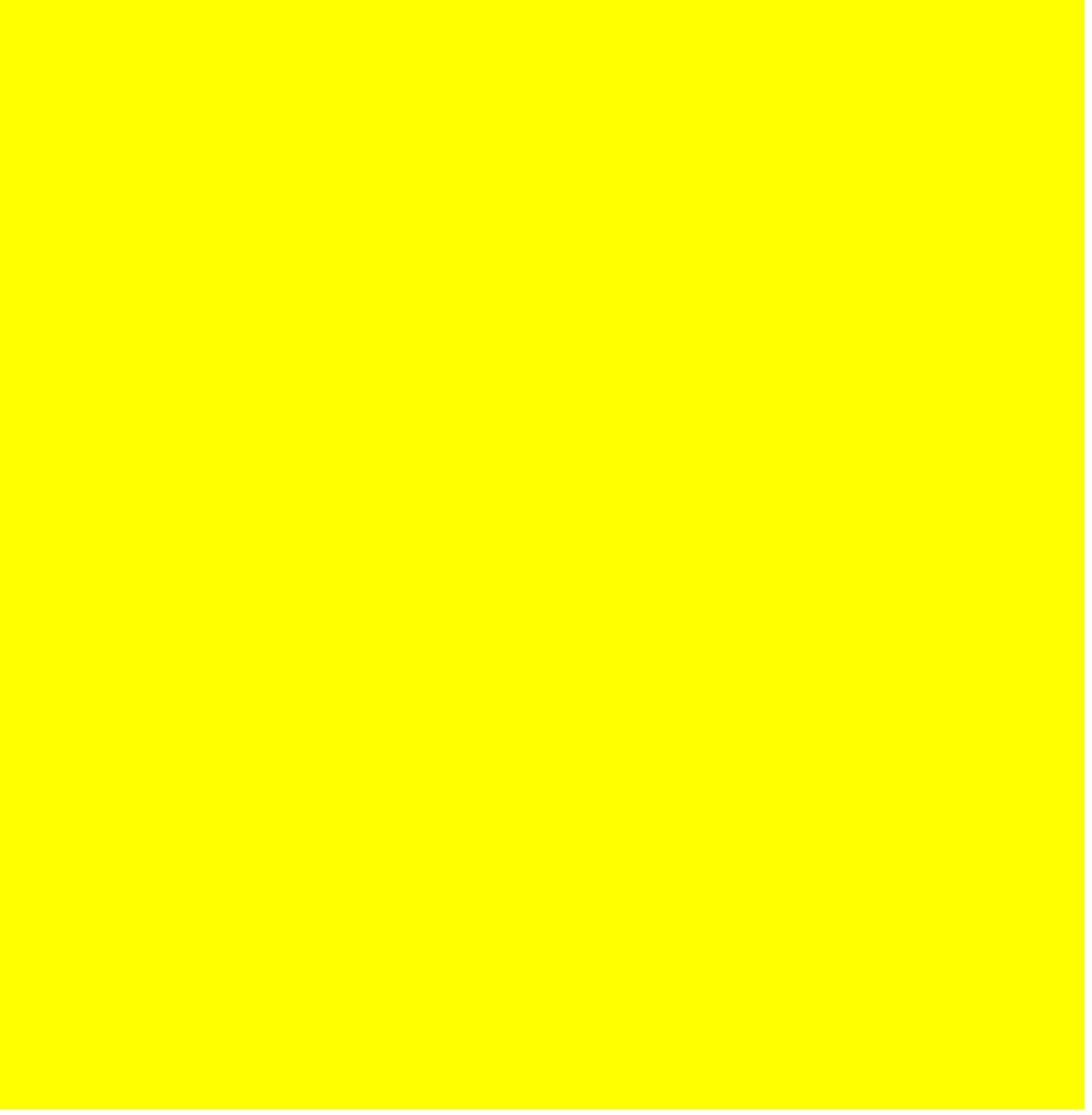
[BCI] although reference is not made to the need for training to be undertaken when complaints about procedures and the way services are provided in the postal services office. It is considered that it is important to guard against this possibility in order to ensure the resolution of situations which have given rise to such complaints.

### ***3.2.2.1.2. Infrastructure and equipment***

#### **Decision of 10.01.2019**

9. *The facilities and their state of conservation must guarantee easy access for all users, including users with special needs.*
10. *The proper conservation, maintenance and operability of equipment necessary for the provision of the concessionary services must be guaranteed.*
11. *Metrological control of the scales must be ensured so that this is continuously updated.*
12. *Even under provisional conditions (for example due to construction works), the conditions for the proper provision of the concessionary services by employees of the postal services office in question must be ensured.*
13. *Any works to be carried out in the postal services office must always be communicated to CTT.*
14. *There must be external signage clearly identifying the postal services office.*

#### **CTT proposal [BCI]**



## **[ECI]**

### **Position taken by ANACOM**

Although, in a general manner, the CTT proposal reflects the provisions of the determination of 10.01.2019, some points have been identified which it is considered require additional clarification, since, according to the CTT proposal, it is not immediately clear that they have been ensured:

- The determination of 10.01.2019 establishes that not only the facilities, but also their state of conservation, should ensure easy access for all users, including users with

special needs. CTT's proposal focuses specifically on [BCI] [ECI], which seems to meet some concerns raised regarding ANACOM's determination. However, no mention is made regarding the state of conservation of the premises, which is also highlighted in the determination of 10.01.2019 and which, notwithstanding the possible existence of mechanisms for access to the establishment, may, in itself, hinder access to and use of the postal services.

- CTT's proposal provides for the postal services offices [BCI] [ECI]. However, the determination of 10.01.2019 is more specific, providing that in provisional situations conditions for the suitable provision of services must be ensured. The CTT proposal makes no reference to how in provisional situations the conditions for the suitable provision of services will be ensured, and further clarification is needed on this point.
- The CTT proposal does not specify any measure related to the existence of external signage which clearly identifies the postal services office, and it is considered that this criterion is important in order to allow users to easily identify the establishment where they can meet their needs regarding the use of postal services.

### **3.2.2.1.3. Non-conformities**

#### **Decision of 10.01.2019**

15. *There should be a procedure for recording non-conformities that are identified by CTT, particularly in the context of control and supervision procedures for the postal services office, both regarding the requirements defined here as well as regarding other requirements or procedures established for the postal services office by CTT.*
16. *CTT should analyse and resolve the identified non-conformities, and also carry out a follow-up on actions which seek to address them, to assess their effectiveness.*

#### **CTT proposal [BCI]**

[ECI]

### **Position taken by ANACOM**

The CTT proposal needs further clarification as regards the following.

CTT's proposal states that [BCI]

[ECI].

It should be noted that the determination of 10.01.2019 establishes that the postal establishment which in each municipality provides the full range of concessionary services (and operates every working day for a minimum daily period of 6 hours in 99% of the municipalities in Portugal and every working day for a minimum daily period of 3 hours in the remaining 1% of municipalities) should be a postal services office or, being a postal services office with equivalent characteristics, it should check the requirements in Annex 1 of the determination.

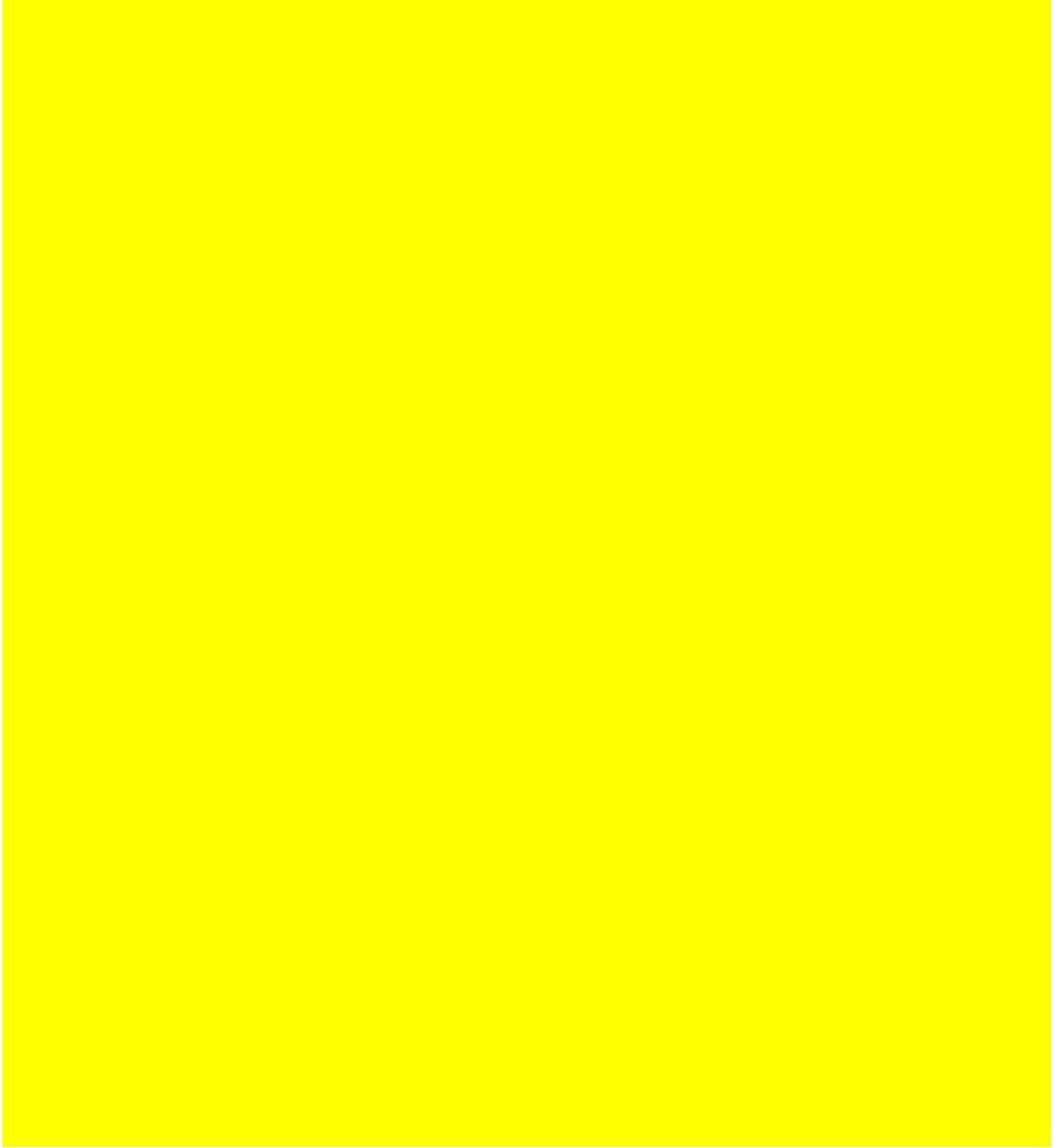
Although CTT's proposal is considered to represent potential benefits for ensuring the appropriate provision of services in the offices covered, it is not clear that the offices referred to are actually those identified in the determination (i.e., those in each municipality providing the full range of concessionary services and which operate every working day for a minimum daily period of 6 hours in 99% of the municipalities in Portugal and every working day for a minimum daily period of 3 hours in the remaining 1% of municipalities), such that further clarification is required.

### **3.2.2.1.4. User satisfaction (customers)**

#### **Decision of 10.01.2019**

17. An appropriate method for assessing customer satisfaction with the postal services office should be implemented by CTT, which should be carried out annually, and action should be taken to address causes of low satisfaction among users.
18. A procedure for the acceptance, registration and forwarding to CTT of complaints from users about the concessionary services should be defined and implemented in the postal services office, which should also be registered in the SIAC (CTT Customer Support IT System).
19. Requests for information/enquiries made by CTT must be answered within a period established by it for this purpose, in any event not greater than five working days.
20. Various ways of submitting a complaint should be made available in the postal services offices, such as for example:
  - a) Complaints book.
  - b) Own forms made available by CTT.
  - c) Registration in the IT computer system of complaints submitted in person or by telephone.
21. In addition to that mentioned in the previous paragraph, it should be possible to indicate to customers other possibilities of submitting complaints and requests for information, namely through the following ways:
  - a) At post offices.
  - b) In the CTT electronic mailbox especially intended to receive complaints.
  - c) CTT customer support phone line.

**CTT proposal [BCI]**



**[ECI]**

**Position taken by ANACOM**

Although, in general, the CTT proposal reflects the provisions of the determination of 10.01.2019, it is considered that there are some points which require additional clarification, since, in accordance with the CTT proposal, it is not immediately clear that they have been ensured. Therefore:

- Although the CTT proposal is considered to represent benefits for ensuring the appropriate provision of services in the postal services offices covered, it is not clear from it that the aforementioned postal services offices are actually those identified in the determination<sup>26</sup>, such that further clarification is deemed necessary.
- CTT's proposal is not clear on the frequency of carrying out [BCI] [ECI] customer satisfaction, and the determination of 10.01.2019 explicitly states that this must be carried out annually. It should be noted that the CTT proposal also does not include reference to carrying out actions to solve the causes of low satisfaction of users.
- CTT's proposal regarding complaints mentions that [BCI] [ECI], not actually presenting a specific proposal as to this, and this is a point that should be clarified.

It should be added that CTT's proposal refers to [BCI]

[ECI]. According to the information available, particularly from the audits carried out on CTT's complaint handling system, the last of which refers to 2017, the SIAC is interconnected with [BCI] [ECI], such that it is the understanding of this Authority that, at this point, CTT's proposal meets that intended, that is, registration in the SIAC of complaints made at the office.

### **3.2.2.1.5. Customer service**

#### **Decision of 10.01.2019**

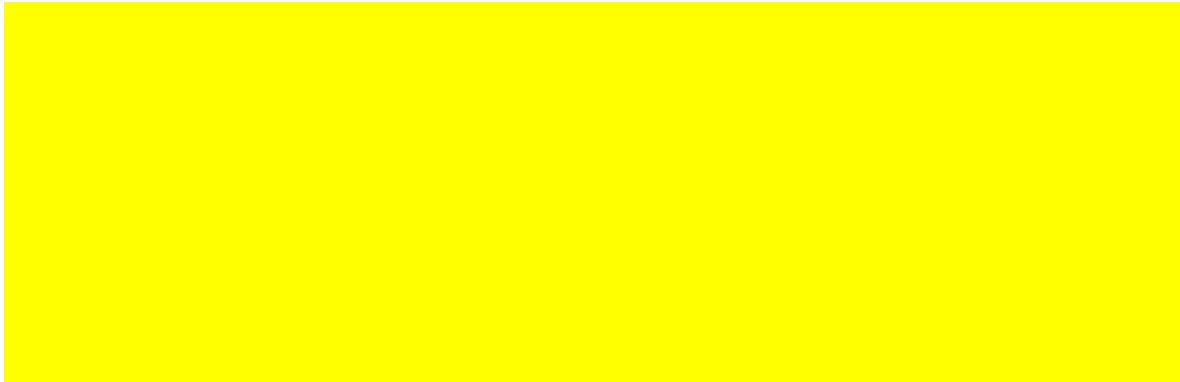
*22. The concessionary services must be provided in specific areas of the postal services office specifically designated for the purpose, duly identified as such, and must be organized and tidy.*

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<sup>26</sup> Postal establishment that provides the full range of concessionary services and operates every working day for a minimum daily period of 6 hours in 99% of the municipalities in Portugal and every working day for a minimum daily period of 3 hours in the remaining 1% of municipalities – if that establishment is a postal services office and not a post office.

23. *The back office should be organised, enabling the employee carrying out customer service to have no difficulties in:*
- a) *Finding registered objects.*
  - b) *Finding forms requested by the customer.*
24. *Attending users of postal services should be carried out in an organised and sequential manner, following an order of arrival exclusively applied to users of the postal services (without prejudice to the provisions on priority service under the scope of the law).*
25. *During the provision of customer service:*
- a) *Secrecy and inviolability of postal items, as well as data protection should be ensured.*
  - b) *Privacy should be ensured in all the services provided.*
  - c) *Safeguard the confidentiality of information transmitted or stored.*
  - d) *The safekeeping and protection of postal items should be ensured.*
  - e) *The safekeeping and protection of valuables should be ensured.*
  - f) *The physical integrity of objects/postal items accepted and handled should be ensured*

**CTT proposal [BCI]**



[ECI]

### Position taken by ANACOM

Notwithstanding the fact that, in general, the provisions of the determination of 10.01.2019 are reflected in the CTT proposal, some points that require additional detail are identified below:

- As mentioned above, it is not clear from the CTT proposal that the postal services offices mentioned are indeed those identified in the determination<sup>27</sup>, such that further clarification is deemed necessary.
- The CTT proposal refers to [BCI] [ECI], but does not detail these procedures, which should be included in the proposal;
- There does not seem to be any reference to the attending of the postal services user being carried out in an organised and sequential manner, following an order of arrival exclusively applied to users of the postal services. Accordingly, it is not immediately clear that this point of the determination of 10.01.2019 is ensured;
- The text of the CTT proposal on issues of [CII] [ECI] is not clear. While it may be implied that

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<sup>27</sup> Postal establishment that provides the full range of concessionary services and operates every working day for a minimum daily period of 6 hours in 99% of the municipalities in Portugal and every working day for a minimum daily period of 3 hours in the remaining 1% of municipalities – if that establishment is a postal services office and not a post office.

**[BCI]** **[ECI]** referred to by CTT may accommodate the provisions of the determination of 10.01.2019, further details of the text is necessary to clarify that the indicated training will ensure:

- Secrecy and the inviolability of postal items, as well as data protection.
- The protection of privacy in all services provided.
- The safeguarding of the confidentiality of information transmitted or stored.

### **3.2.2.1.6. *Information available to the public***

#### **Decision of 10.01.2019**

26. *Information available to the public (e.g. posters, leaflets) must be up to date.*
27. *Information disseminated about prices and annual levels of quality of service should be put up in a publicly visible area, and in accordance with the obligations defined by ANACOM.*
28. *The opening hours of the postal services office must be available to the public and must be posted on the front door of the entrance of the postal establishment in question, in a clearly visible place.*

#### **CTT proposal [BCI]**

**[ECI]**

## **Position taken by ANACOM**

In general, the CTT proposal reflects the provisions of the determination of 10.01.2019. Without prejudice, it is noted that:

- The indication that [BCI] [FIC] does not make it clear that this will allow users to have relevant information within the deadlines set by ANACOM, particularly information concerning prices and quality of service, and further clarification is required. It should also be noted that, in addition [BCI] [ECI], it will also be necessary that the offices receive instructions to disseminate the information in due course;
- CTT's proposal only refers to [BCI] [ECI], and the determination of 10.01.2019 specifies that the opening hours should be fixed on the entrance door of the postal establishment.

### ***3.2.2.1.7. Functioning of the postal services office***

#### **Decision of 10.01.2019**

29. *The opening hours of the postal services office must always be adhered to.*
30. *Customer service must be ensured to users of concessionary services entering the postal services office before the closing time of the postal services office.*

#### **CTT proposal [BCI]**

[ECI]

## **Position taken by ANACOM**

The text of CTT's proposal makes no reference to how customer service is ensured to users of concessionary services entering the postal services office before the closing time of the postal services office, making reference only to [BCI]  
[ECI].

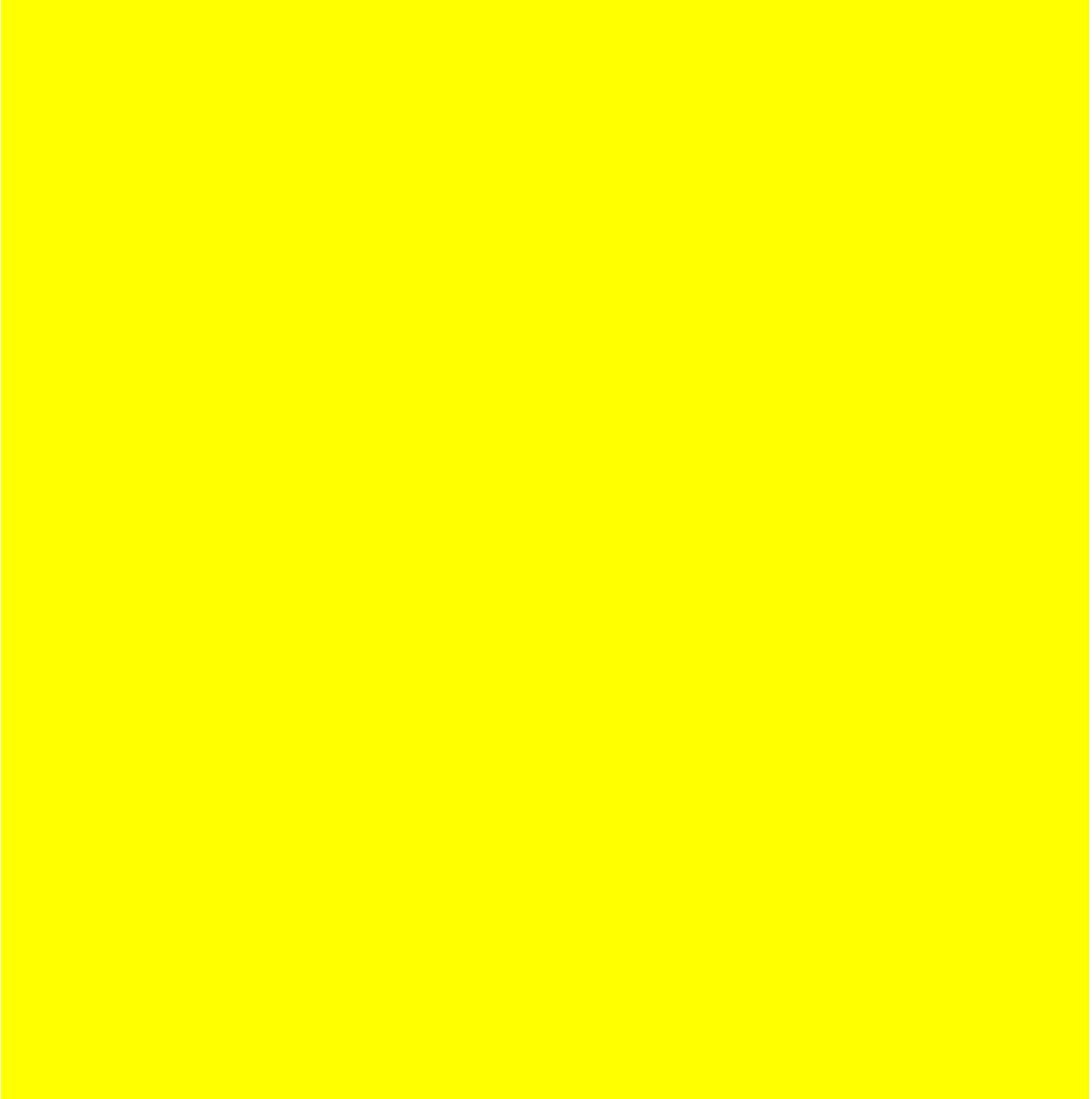
### ***3.2.2.1.8. Control and supervision by CTT***

#### **Decision of 10.01.2019**

31. *CTT implements control and supervision mechanisms for the postal services offices, to ensure and assess compliance with the requirements indicated herein, and others established by CTT regarding the postal services offices.*
32. *These mechanisms include:*
  - a) *Internal audits, to ascertain compliance with the requirements set forth herein, and others established by the CTT for the postal services office.*
  - b) *Assessment of customer satisfaction, as mentioned above.*
  - c) *Monitoring and supervision by a “Third Party Manager” – CTT employee focused on postal services offices management, and on-site monitoring and supervision of postal services offices.*
33. *The “Third Party Manager” has the following information for each postal services office:*
  - a) *Contract concluded.*
  - b) *Supervision reports (including those made concerning whether the postal services office is acting in accordance with the requirements related to it).*
  - c) *Results of the internal audits carried out on the postal services office.*
  - d) *Registration of training provided.*
  - e) *Results of customer satisfaction assessment.*

- f) *Records of non-conformities and actions which have been taken to correct non-conformities.*
  - g) *Other elements and information on the monitoring and supervision carried out.*
34. *An internal audit must be carried out annually on all the requirements applicable here, and the method used, criteria adopted, and results of the audit should be properly documented.*

**CTT proposal [BCI]**



[ECI]

### **Position taken by ANACOM**

Although the CTT proposal reflects the provisions of the determination of 10.01.2019, some points have been identified which it is considered require additional clarification, since it is not clear that they are ensured:

- CTT's proposal refers to applying a [BCI]

[ECI].

However, no additional information has been provided to assess whether this mechanism includes the provisions of the determination of 10.01.2019, in particular as regards the existence of internal audits (as to customer satisfaction, the provisions in the section regarding this matter, analysed above, should be noted). In this context, it is understood that further densification by CTT is necessary in relation to [BCI]

[ECI] in order to assess whether this includes internal audits, and it is considered useful that the concept of "internal audit" to be adopted by CTT is also clearly spelled out in a glossary of terms and concepts used in most of its procedures.

- In accordance with the determination of 10.01.2019, the "Manager of Third Parties" must have, for each postal services office, a record of the relevant information for the activity carried out there. CTT's proposal only refers to [BCI]

[ECI]. The CTT proposal does not specify the need for the GEP/"Manager of Third Parties" to gather, for each post office, detailed information about it as provided for in the determination of 10.01.2019, such that additional clarification is necessary.

- Although CTT's proposal provides, in relation to point 34 of Annex 1 of the determination of 10.01.2019, [BCI]

[ECI], specific reference is not made to the existence of documentation on the methodology used, the criteria adopted, and the results of the

audit performed. The existence of this documentation is important to enable proper supervision of the way services are provided in postal services offices.

**3.2.2.2. Requirements regarding the manner in which concessionary services are provided, which must be verified at the postal services offices referred to in paragraph 4 of the determination of 10.01.2019 (Annex 2 of the determination of 10.01.2019)**

CTT indicates [BCI]

[ECI].

In view of the recommendation contained in the determination of 10.01.2019, that company proposes to complement the density targets and minimum services provided [BCI]

[ECI].

In this context, and with reference to ANACOM's decision of 10.01.2019 (in particular, the provisions in Annex 2 to the said determination), it is noted that the proposal submitted by CTT does not cover all the points indicated there, and it is considered that a greater level of detail and adherence to the subject matter covered in the decision of 10.01.2019 would be appropriate.

It should be noted that the recommendation contained in the decision of 10.01.2019 was aimed, in particular, at promoting the uniformity or homogeneity of the services provided in any and all postal establishments, as it was considered important to ensure certain characteristics in all the postal services offices and post offices, without prejudice to the necessary balancing of proportionality. Therefore, the relevance of the provisions in the decision of 10.01.2019 is noted, and CTT is recommended to take the provisions of that into greater consideration, as well as ANACOM's position regarding the proposal presented by CTT regarding Annex 1 of the decision of 10.01.2019 (presented in the previous section of this document), bearing in mind that the materials dealt with in both Annexes to the decision of 10.01.2019 have various points in common.

## **4. Determination**

In view of the input received from the various entities which participated in the public consultation on the reference framework set out in paragraph 1 of the determination of 10.01.2019 and the statement made by CTT as part of its proposal for the revision of the targets for postal network density and minimum services provided, as well as ANACOM's comments in the preceding sections, this Authority does not find reasons that would justify an amendment to the conclusions expressed in the determination of 10.01.2019, particularly as regards the verification of a set of exceptional circumstances that justify the revision of the "Targets established on 15.09.2017".

In particular, it should be noted that the conclusion remains that, since September 2017, there has been an exponential rise in the number of municipalities without post offices and in which postal services offices are the only postal establishments where the full range of concessionary services are provided and the fact that it is estimated<sup>28</sup> that the already significant number of municipalities where there are no post offices will increase. In this context, it should also be noted that customer service and conditions for the provision of postal services in postal services offices differ from what is ensured in post offices, which has led to widespread discontent and multiple reactions of users of postal services. This Authority could not have envisaged, when in September 2017 it established the postal network density targets and minimum services provided (in a presupposition of equivalence in the way that customer service and the provision of services in the different postal establishments is ensured), the development that was later seen to be occurring in the network structure of postal establishments and which led to a large number of municipalities no longer offering the postal service through post offices, nor that the conditions for the provision of services, in particular in those postal services offices, would appreciably differ from the conditions of their provision in the post offices.

In this context, it is concluded that it continues to be necessary to complement the targets for postal network density and minimum services provided which are in force, taking this into consideration to ensure that the services provided in the post offices and in the postal services offices meet an equivalent standard of quality, as well as all the necessary measures being taken to ensure that, in all postal establishments, there are suitable conditions to guarantee the inviolability and secrecy of postal items, the confidentiality of

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<sup>28</sup> According to information sent by CTT to ANACOM on 13.11.2018.

information transmitted or stored and the protection of personal data and privacy, thus fostering user confidence in the services provided and thereby contributing to their needs for the use of postal services.

Thus, and as concluded in the determination of 10.01.2019, it is considered that it is necessary to ensure, in each municipality, the postal establishment, according to the requirements in the "Targets established on 15.09.2017", where CTT is obliged to ensure the provision of the full range of concessionary services<sup>29</sup>, whether it is a post office or a postal services office which meets a set of requirements which ensures that this has equivalent characteristics (to those of post offices), and it is noted that it is equally important that these requirements are verified, gradually, for all of the postal services offices.

In this context, based on the CTT proposal submitted on 21.02.2019 and the assessment made of this by this Authority, according to section 3 of this document, it can be concluded that the proposal in question, although it can accommodate a significant part of the concerns listed by ANACOM in its determination of 10.01.2019, does not enable the conclusion that, in the postal services offices where in each municipality CTT is obliged to ensure the provision of the full range of concessionary services, it is guaranteed that these have the characteristics considered to be suitable to ensure the provision of the concessionary services in conditions equivalent to those of post offices which, in other municipalities, fulfil the same functions.

In view of the above, ANACOM's Board of Directors, in accordance with the duties set forth in points b), h) and i) of paragraph 1 of article 8 of its Statutes, approved by Decree-Law No. 39/2015, of 16 March, in pursuance of the attributions provided for in points a), f) and o) of paragraph 1 and points b) and h) of paragraph 2, both of article 9 of the same Statutes, in carrying out and observing the objectives and principles set out in points b) and c) of paragraph 1 and points a) to d) of paragraph 2, both from Article 2 of Law No. 17/2012 of 26 April (Postal Law, in its current wording), whereas exceptional circumstances were found to be supervening which, pursuant to paragraph 2 of Base XV of the Bases of the Concession of the universal postal service (approved by Decree-Law No. 448/99, of 4 November, republished, after amendments, annexed to Decree-Law No. 160/2013, of 19 November) and of paragraph 2 of clause 15 of the Concession Agreement of the universal

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<sup>29</sup> And operates every working day for a minimum daily period of 6 hours in 99% of the municipalities in Portugal and every working day for a minimum daily period of 3 hours in the remaining 1% of municipalities.

postal service, justify the revision of the postal network density targets and minimum services provided established by determination of 15.09.2017, and taking into account ensuring the suitable fulfilment of the obligations provided for in points a) to e) and m) in paragraph 1 of Base VIII and paragraph 3 of Base XXII of the aforementioned Bases of the Concession and points a) to e) and m) of paragraph 1 of clause 8 and paragraph 3 of clause 22 of the Concession Agreement, as well as under the scope of paragraph 5 of Base XV and the same paragraph of clause 15, and whereas the proposal that complements the postal network density targets and minimum services provided, submitted by CTT on 21.02.2019, and the result of its analysis (carried out in chapter 3.2.2 of this document) hereby determines:

1. Maintain the reference framework which is referred to in paragraph 1 of the determination of 10.01.2019 which, in the light of the replies received in the context of the public consultation, and in line with ANACOM's position shown in the section regarding the report on that same consultation, is considered suitable;
2. Whereas the proposal complementing the targets and rules for postal network density and the minimum services provided which are in force, presented by CTT by letter of 21.02.2019, does not meet the needs of users under the existing legal framework, and in particular, of the reference framework defined in paragraph 1 of the determination of 10.01.2019, it is hereby determined that CTT revise it within a maximum of 30 working days, complementing it to take into account, in detail, the above mentioned reference framework and, specifically, the requirements relating to the form of the provision of the concessionary services set out in Annex 1 to the said resolution, highlighting, in particular, the following:
  - a. CTT's proposal must be clear as to the offices to which the measures in question will be applied, and it should be noted that the decision of 10.01.2019 states that these should be the postal services offices which, in each municipality, provide the full range of concessionary services and operate every working day for a minimum daily period of 6 hours in 99% of the municipalities in Portugal and every working day for a minimum daily period of 3 hours in the remaining 1% of municipalities.
  - b. The CTT proposal should include a glossary of terms and concepts used in most of its procedures with a view to fostering a clear and unambiguous interpretation of them.

- c. As for training, the CTT proposal should:
  - i. specify that the recipients of initial and ongoing training will be all the employees of the postal services office who ensure the provision of the concessionary services, including those who perform customer service functions for customers of those services;
  - ii. ensure that the monitoring of the postal services office is carried out during its initial period of activity;
  - iii. explicitly mention (at least) all of the content to be covered in the context of the training, which is indicated in the determination of 10.01.2019;
  - iv. explicitly mention the real-time face-to-face training of services requested by customers and simulation training for other concessionary services;
  - v. explain that, in the context of ongoing training, training should also take place when there are complaints about the procedures and the way services are provided at the postal services office.
- d. Regarding infrastructure and equipment, the CTT proposal should:
  - i. be clear and concrete concerning the need for the state of conservation of the facilities to guarantee easy access for all users, including users with special needs;
  - ii. ensure that under provisional conditions the conditions for the suitable provision of services must be ensured at the postal services offices;
  - iii. specify the existence of external signage that clearly identifies the postal services office.
- e. Regarding user (customer) satisfaction, the CTT proposal should:
  - i. be clear and concrete as to the frequency of carrying out the customer satisfaction assessment methods, with the determination of 10.01.2019 explicitly stating that this should be carried out annually.

- ii. indicate the carrying out of actions seeking to solve causes of low user satisfaction;
  - iii. be clear and concrete about the procedures to be implemented for complaints.
- f. As for customer service, the CTT proposal should:
  - i. be clear and concrete about the improvement procedures it is proposed to introduce in the postal services offices;
  - ii. be clear and concrete as to the form of the attending of the postal services user (which should be carried out in an organised and sequential manner, following an order of arrival exclusively applied to users of the postal services);
  - iii. clarify that the secrecy and inviolability of postal items will be ensured as well as data protection, protection of privacy in all services provided and safeguarding the confidentiality of information transmitted or stored.
- g. As for information available to the public, the CTT proposal should:
  - i. indicate clearly that the timely supply of means of updating information to be provided to the public and the supply of instructions to the postal services offices to disclose information in a timely manner will guarantee that users have the relevant information within the deadlines set by ANACOM;
  - ii. specify that opening hours should be posted on the entrance door of the postal establishment.
- h. Regarding the operation of the postal services office, the CTT proposal should:
  - i. include clear and specific reference to the attending of users of the concessionary services entering the postal services office before the closing time of the postal services office.
- i. As for CTT control and supervision, the CTT proposal should:
  - i. be clear and concrete about the existence of internal audits;

- ii. explain that the “Manager of Third Parties” should have, for each postal services office, a record of the relevant information for the activity carried out there, as indicated in Annex 1 of the decision of 10.01.2019;
- iii. provide for documentation on the method used, criteria adopted, and results of the audits carried out.

Lisbon, 24 April 2019.