Decision on the methodology of calculation of universal service net costs for 2014

Contents

1. Framework---------- 2

2. CLSU calculation methodology---------- 3

3. Adaptation of the methodology for calculation of CLSU for 2014---------- 4

3.1. Approaches presented by MEO---------- 5

3.1.1. Approach 1 - “Annual calculation and application of pro rata to both components”---------- 5

3.1.2. Approach 2 - “Calculation up to 31.05.2014 and application of pro rata to the public pay-phones component” ---------- 8

3.1.3. Approach 3 - “Calculation up to 31.05.2014 for the FTS component and up to 08.04.2014 for the public pay-phones component” ---------- 8

3.1.4. MEO’s position---------- 9

3.2. Other possible approaches---------- 9

3.3. ANACOM’s position---------- 11

4. Conclusion and Determination---------- 13

ANNEX ---------- 15

1. Framework

Under article 95 of the Electronic Communications Law (ECL)[1], where the National Regulatory Authority (NRA) considers that the provision of universal service (US) may represent an unfair burden on the respective providers, it shall calculate the net costs of US obligations (CLSU - *custos líquidos das obrigações do serviço universal)* in accordance with one of the following procedures:

a) Calculating CLSU, taking into account any market benefit which accrues to providers;

b) Making use of CLSU identified in the scope of a designation mechanism provided for in ECL.

As such, in compliance with that article, as well as with article 96 of the same Law, Autoridade Nacional de Comunicações (ANACOM) approved on 09.06.2011 a decision on the concept of unfair burden, as well as a decision on the methodology of calculation of CLSU.

It was determined in the scope of those decisions that the US provision could entail an unfair burden as from 2007 (inclusively), having been defined the methodology of calculation of CLSU to be applied until universal service providers (USP) designated following a tendering procedure start operation[2].

The USP tender designation process was concluded in 2014 with the signature of contracts between the Portuguese State and designated USP, which occurred on:

- 19.02.2014 - signature of a contract between the Portuguese State and ZON TV Cabo Portugal, S.A., for the US provision of connection to a public communications network at a fixed location and of publicly available telephone services in geographic zone 3 - South and Islands;

- 19.02.2014 - signature of a contract between the Portuguese State and Optimus Comunicações, S.A., for the US provision of connection to a public communications network at a fixed location and of publicly available telephone services in geographic zones 1 (North) and 2 (Centre);

[1] Law No 5/2004, of 10 February, as amended and republished by Law No 51/2011, of 13 September, and subsequently amended by Law No 10/2013, of 28 January, Law No 42/2013, of 3 July, Decree-Law No 35/2014, of 7 March and Law No 82-B/2014, of 31 December.

[2] In this context, the following determinations are also relevant: (i) determination of 29.08.2011, which partially upheld a complaint submitted by PTC and which amended determination of 09.06.2011, so as to use prices actually charged to determine "unprofitable areas" and "unprofitable customers in profitable areas", as well as to calculate CLSU for unprofitable areas/customers; (ii) determination of 25.11.2011, which defined the price-elasticity of demand to be considered when CLSU are calculated; (iii) determination of 12.10.2012, which implemented the concept of "abnormally high access costs", so as to determine unprofitable customers in profitable areas and consequently to establish CLSU; and (iv) determination of 20.06.2013, which introduced amendments to the methodology for calculation of CLSU with impact on estimates for years beyond 2009.

- 20.02.2014 - signature of a contract between the Portuguese State and PT Comunicações, S.A. (PTC)[3], for the US provision of public pay-phones in all geographic zones;

- 20.02.2014 - signature of a contract between the Portuguese State and PTC[3], for the US provision of a comprehensive directory and of comprehensive directory enquiry services throughout the national territory.

The provision of services under contracts signed in 2014 with USP started on 1 June 2014, as regards the component of provision of connection to a public communications network at a fixed location and of publicly available telephone services, on 9 April as regards the provision of public pay-phones and on 20 February as regards the provision of a comprehensive directory and of comprehensive directory enquiry services.

Bearing in mind that the CLSU calculation methodology was developed on a year-on-year basis, based on annual results of MEO's cost accounting system, and given the dates on which the above-mentioned services started operation, which implied that MEO, in 2014, provided the US under the regulatory framework for the period preceding the USP tender designation for only a part of the year, the CLSU calculation methodology must be adapted to this reality.

In this context, ANACOM approved on 04.06.2015 a Draft Decision (DD) on the methodology for calculating the net costs of the universal service to be applied in 2014, which was submitted to a general consultation as well as to the prior hearing of interested parties for 20 working days.

Once the referred procedure was concluded, three timely contributions were received, which were summarized and analysed in the public consultation and prior hearing report, deemed to be an integral part hereof.

2. CLSU calculation methodology

The methodology approved by ANACOM determines that the calculation of CLSU is based on the calculation of direct net costs, with an impact which may be directly measured in USP accounts, and indirect benefits, as regards benefits, sometimes intangible ones, which accrue to the USP due to that very status.

The determination of CLSU is based on costs which the USP would avoid and on revenues it would lose if, as a result of not having to meet US obligations, it would not be required to provide the service in unprofitable geographical areas, and in profitable areas, it would not be required to provide the service to unprofitable customers or to provide the service in conditions other than standard commercial ones.

USP costs and assets are valued at historic costs, which are presented in the company's financial statements. CLSU also comprise a remuneration instalment concerning the cost of capital.

[3] It should be noted that the merger by acquisition of MEO – Serviços de Comunicações e Multimédia, S.A. into PT Comunicações, S.A. was registered on 29.12.2014, having the company resulting from this merger been renamed as from that date MEO – Serviços de Comunicações e Multimédia, S.A. Henceforth, reference shall thus be made to MEO, instead of PTC.

As such, data used to calculate CLSU in each year correspond to a calendar year period, on the basis of MEO's cost accounting system (CAS), which is mostly fed by the company's financial statements. The calculation of CLSU is based also on the company's operational and financial indicators.

The determination of CLSU for 2014 must take place on the basis of the methodology defined by ANACOM, which has also been used to calculate CLSU from 2007 to 2013. However, given that in 2014 MEO provided the US concerning the period preceding the tender designation of a new USP for only a part of that year, the methodology for calculation of CLSU must be adapted, given that the latter assumes the calculation of CLSU on a year-on-year basis.

In this scope, it must be recalled that US components that are relevant for the calculation of CLSU concern the provision of connection to a public communications network at a fixed location and of publicly available telephone services (FTS) as well as the provision of public pay-phones (PPP). For this reason, the methodology must be adapted so that MEO is able to present CLSU estimates for the period from 01.01.2014 to 31.05.2014, as far as the first component is concerned, and for the period from 01.01.2014 to 08.04.2014, as far as the provision of public pay-phones is concerned.

The methodology approved by ANACOM integrates the calculation of net costs associated to the component of provision of connection to the public telephone network at a fixed location and access to publicly available services. In this component, costs related to unprofitable areas and unprofitable customers are calculated: (i) unprofitable areas correspond to MDF where unprofitable customers are prevalent, making them broadly non-profitable - MEO determines CLSU for these areas by applying an "area model"; and (ii) unprofitable customers correspond to customers who are broadly non-profitable, but who live in profitable areas - MEO determines CLSU for these customers by applying a "customer model". It should be noted that the methodology integrates in this component, in the "area model" scope, the calculation of CLSU for public pay-phones in unprofitable areas in order to avoid the double counting of such costs.

A specific methodology has been established for net costs related to retired persons and pensioners, as well as for unprofitable public pay-phones in profitable areas - for these items MEO applies a "public pay-phone model". Lastly, indirect benefits are also calculated, which are subtracted from overall net costs associated to retired persons and pensioners, unprofitable areas, unprofitable customers living in profitable areas and unprofitable public pay-phones in profitable areas.

In the light of the above, it is clear that the CLSU calculation methodology must be adapted for the purpose of the determination of CLSU for 2014, bearing in mind that MEO provided the service for part of the year only, and taking also into consideration the different dates on which USP designated by tender stated operation, which requires that FTS data are isolated from data concerning the public pay-phones component.

3. Adaptation of the methodology for calculation of CLSU for 2014

Bearing in mind the need to allow MEO to calculate CLSU estimates for 2014, associated to the provision of connection to a public communications network at a fixed location and of publicly available telephone services (FTS), as well as to the provision of public pay-phones (PPP), as

USP for the period preceding the start of operation of USP who were selected by tender, the methodology requires an adaptation.

Such adaptation must take into account the strict compliance with ECL as regards the principles that govern the determination of CLSU. It must also be based on the methodology already established, where only aspects that are essential for the calculation are to be altered. The adaptation must show the reality to be portrayed, be adequate, transparent and auditable, and its adoption must be assessed in terms of the cost/benefit relation associated to its implementation.

In this context, by communication of 30.06.2014, MEO submitted to ANACOM three alternative approaches to adaptation of the methodology, for the purpose of calculating CLSU for 2014.

The following items briefly describe the approaches proposed by MEO and its opinion as far as they are concerned, as well as ANACOM's views in this regard, other possible approaches being also set out.

3.1. Approaches presented by MEO

MEO refers that the three submitted approaches basically assume that unit costs obtained from its CAS represent average annual values for 2014, given that the calculation of CAS results is annual. Without prejudice, MEO stresses that, "*as these costs represent unit values incurred by PTC in providing its various products and services, it is not likely that they may show any seasonality, that may compromise their use and correspondence to a one-year period only*".

3.1.1. Approach 1 - "Annual calculation and application of pro rata to both components"

MEO describes this approach as basically consisting of the following stages:

a) To begin with, unprofitable areas and the respective net cost for the whole of 2014, in its various components, must be calculated, exactly the same way as performed in previous years (in this stage, unprofitable and profitable areas are determined on the basis of the area model).

b) Subsequently, CLSU are calculated separately, in unprofitable areas identified in a), for each of the CLSU components: FTS and PPP.

   Costs of unprofitable public pay-phones and costs of unprofitable customers are calculated for profitable areas on the same lines as in the methodology already established.

   Indirect benefits are also calculated.

c) A pro rata is then performed for each of the CLSU components, taking into account the dates up to which MEO was the USP prior to the provider tender designation (8 April 2014 for PPP and 31 May 2014 for FTS).

MEO explains in detail how stage b) of this approach would be implemented, namely how CLSU would be separately determined for FTS and PPP.

Results broadly obtained in stage a) by the "model area", which identifies unprofitable areas, and which incorporates both services - FTS and PPP - are the starting point for these calculations. As such, for these unprofitable areas, MEO proposes that calculations are made on the basis of two versions of the same model, one for each of the US components, costs for PPP and FTS (stage b)) being calculated in separate.

The model version that determines the FTS component must not consider revenues, costs and volumes associated to public pay-phones. Likewise, the model version that defines results for PPP must only take account of revenues, costs and volumes associated to these services.

On the basis of results obtained in each of the individual area models (FTS and PPP), the proportion of each component in the net costs for unprofitable areas is then determined, this proportion being applied to broad results of the "area model" obtained in stage a) so as to establish the contribution of each of the components (FTS and PPP) for the net cost of unprofitable areas.

MEO acknowledges that it is likely that the value obtained in the area model, including both US components (stage a) may not correspond exactly to the sum of values obtained in the area models that individually determine each of the components (stage b), mentioning that these two services have a joint effect in the calculation of CLSU. However, it is estimated that the difference does not exceed 1%. In any event, this situation is overcome by the fact that the value to be allocated to both the provisions is exactly the same as the value obtained in the scope of the calculation of unprofitable areas (stage a), given that this value is divided by the two components: FTS and PPP.

In the case of the determination of unprofitable customers living in profitable areas (as well as reformed persons and pensioners) and of unprofitable public pay-phones in profitable areas, no changes are required, given that net costs for each of the referred components are already calculated in separate, and then added to their respective values concerning unprofitable areas along the lines described above.

As regards the determination of indirect benefits, MEO presents in separate, for each category, the adjustments deemed to be required, namely:

- *Corporate reputation and brand enhancement*

  MEO mentions that the distribution of this benefit between both the components - FTS and PPP - could take place on the basis of the number of unprofitable accesses of each component.

- *Advertising in public pay-phones*

  MEO believes that this benefit is solely related to the PPP component, and, as such, its value must be fully allocated to the PPP component.

- *Ubiquity and Mailing*

  This operator mentions that these benefits are associated only to the FTS component and, as such, they must be fully allocated to it.

- *Regulation fees*

  MEO takes the view that the calculation of this indirect benefit implies the deduction of revenues associated to CLSU in the calculation of the annual fee due for the provision of electronic communications networks and services and that it is possible to distribute its value according to the CLSU component (FTS and PPP), given that it is possible to identify total revenues associated to CLSU according to the component.

At the end of the second stage of this approach (stage b), annual CLSU values that separately concern each of the US components (FTS and PPP) become available.

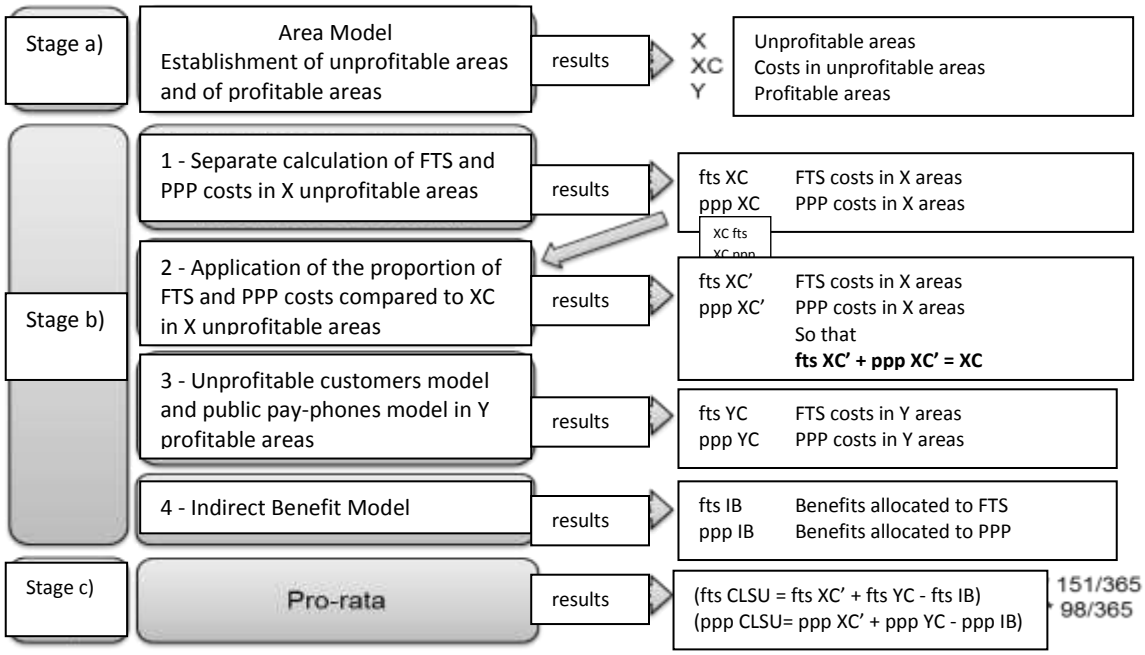
On the basis of these values, a pro rata is performed (stage c)), taking into account the dates up to which MEO provided the service concerned under the regulatory framework for the period preceding the tender designation of a new USP, being thus obtained:

- The contribution for public pay-phones - the annual CLSU value obtained for this component is multiplied by 98/365 (number of days), so as to determine the value that corresponds to the period between 1 January and 8 April 2014.

- The contribution for FTS - the annual CLSU value obtained for this component is multiplied by 151/365 (number of days), so as to determine the value that corresponds to the period between 1 January and 31 May 2014.

The following figure illustrates MEO's proposal as regards the calculation of costs associated to referred components:

Figure 1 - Approach 1 proposed by MEO to determine CLSU



Source: ANACOM

3.1.2. Approach 2 - "Calculation up to 31.05.2014 and application of pro rata to the public pay-phones component"

MEO mentions that this approach consists in determining CLSU on the basis of the following stages:

a) Establishment of unprofitable areas and of the respective net cost up to 31 May 2014, assuming MEO as the USP for both components under consideration (FTS and PPP) up to that date and in the conditions in force prior to the tender designation of a new USP (in this stage unprofitable areas and profitable areas are determined based on the area model).

b) Separate calculation of CLSU, in unprofitable areas, for each of the CLSU components: FTS and PPP, just - and on the basis of the same procedures - as proposed by MEO in approach 1. For profitable areas, costs of unprofitable public pay-phones and of unprofitable customers living in profitable areas area calculated, for the referred period, along the same lines as the methodology already set out. Indirect benefits are also calculated.

c) Performance of a pro rata for the PPP component, on the basis of the date up to which MEO was the USP prior to the designation of the tender provider (8 April 2014).

As far as this approach is concerned, MEO mentions that, in order to calculate CLSU for the first five months of the year, operational and financial indicators are used for this period of time. As regards costs, MEO refers that average unit costs for 2014 are used, in compliance with CAS results for that year.

After unprofitable areas and the respective net cost value is determined for the first five months of 2014, CLSU are then calculated for each of the US components (FTS and PPP), along the lines described in the preceding approach.

From these values, the part corresponding to FTS constitutes CLSU for that component and the part obtained for the PPP component is applied a pro rata, given that the calculation period for this component is different. As such, MEO proposes that the CLSU for PPP is obtained by multiplying the obtained value for this component by 98/151 (number of days), so as to achieve the value that corresponds to the period from 1 January to 8 April 2014.

3.1.3. Approach 3 - "Calculation up to 31.05.2014 for the FTS component and up to 08.04.2014 for the public pay-phones component"

MEO describes this approach which consists, in brief, in the application of the following steps:

a) Calculation of CLSU incurred by MEO in two different periods: up to 8 April 2014 and up to 31 May 2014.

b) Calculation of CLSU obtained for each period, separately for each of the components: FTS and PPP, just - and on the basis of the same procedures - as proposed by MEO in approach 1 (stage b).

Having CLSU for each of the US components in each period been determined, the CLSU value concerning the provision of the PPP component corresponds to the value established for this component for the period between 1 January and 8 April 2014, whereas the CLSU value for the FTS provision corresponds to the value determined for that component for the period between 1 January and 31 May 2014.

As pointed out in the scope of the preceding approach, MEO mentions also in this context that this calculation would also be based on operational and financial indicators for the periods of time concerned, as well as on average annual unit costs from MEO's CAS for 2014.

3.1.4. MEO's position

MEO believes that the best approach to calculate the value of CLSU for 2014, based on criteria of reliability, transparency and suitability, is approach 2 - "*Calculation up to 31.05.2014 and application of pro rata to the public pay-phones component*".

MEO refers that this approach, by including specific data of the period to which it concerns, incorporates seasonality and business evolution, factors which are very important for an accurate portrayal of the reality to be represented, which, according to this operator is not the case with the first approach.

On the other hand, stresses MEO, approach 2 does not require the complex calculations of approach 3, which involves a double determination of CLSU, for two different periods. Moreover, in this approach, one of the models includes only a few days of the month of April 2014, referring MEO that this implies an added difficulty in obtaining operational and financial indicators for this short period of time.

Lastly, MEO also highlights that in approach 2, the public pay-phones prorating includes a period of a month and twenty days only, for which conditions applicable to this service are not likely to change significantly.

3.2. Other possible approaches

ANACOM believes that alternative ways to adapt the methodology for calculating CLSU for 2014 may be weighted.

Taking into account the constrains identified to calculate CLSU for 2014, that is: (i) the fact that the methodology for calculating CLSU was developed on a year-on-year basis and that MEO is entitled to be compensated for the US provision for a part of that year only; and (ii) the fact that the calculation methodology determines CLSU in an integrated manner, whereby there is an interconnection between the FTS and PPP components, and it is necessary to determine a different value for compensation purposes for the provision of US of each component - FTS and PPP -, it is deemed that the creation of two completely separate models, one to calculate the FTS component and the other to calculate the PPP component, could be weighted.

It is noted that, in the methodology approved by ANACOM, the FTS and PPP component is treated in an integrated way in the calculation of unprofitable areas and in the calculation of

indirect benefits. Unprofitable customers living in profitable areas and PPP in profitable areas are determined in separate, but on the basis of the results of the identification of profitable areas and unprofitable areas.

In this separation approach (approach 4) there is complete autonomy in the calculation of annual CLSU for the FTS component and for the public pay-phones component, a pro rata being subsequently applied so that the exact value of CLSU for the period during which MEO remained as the USP prior to the tender designation procedure is achieved.

This approach would require large adjustments to the current methodology, so as to exclude in the calculation of net costs for the FTS component (to identify unprofitable areas) all information concerning public pay-phones (revenues, costs and operational data). Values concerning public pay-phones would also be calculated in separate, integrating in the public pay-phones model data concerning public pay-phones in all areas, whether or not they are profitable.

The determination of CLSU for unprofitable customers in profitable areas, and for retired persons and pensioners would be performed autonomously, so in those situations the methodology would not require any adjustment.

It is deemed that, from an operational perspective, this adaptation is feasible; however, it would have the drawback to make it harder to avoid the double counting of costs, a situation which ANACOM acknowledges in its methodology approved in 09.06.2011, where it is mentioned that *"(...) costs associated to public payphones in unprofitable areas have been entered in the accounts of the fixed telephone service access component in order to avoid double counting such costs*".

As regards the indirect benefit model, it is deemed that their allocation to the FTS component or to the PPP component should take place in compliance with MEO's proposals for each of the benefits, that is, in the case of corporate reputation and brand enhancement, the value obtained should be distributed according to the proportion of the number of unprofitable accesses for each of these components compared to the range of unprofitable accesses, in the cases of ubiquity and mailing, values should be fully allocated to FTS and in the case of advertising in public pay-phones, values should be fully allocated to that component.

Regulation fees would be the exception to MEO's proposal, as it is deemed that they should be fully allocated to FTS, bearing in mind that the value of the "regulation fees" indirect benefit results from the difference obtained when calculating the regulation fee due by the USP taking or not into account US revenues associated to reformed persons and pensioners.

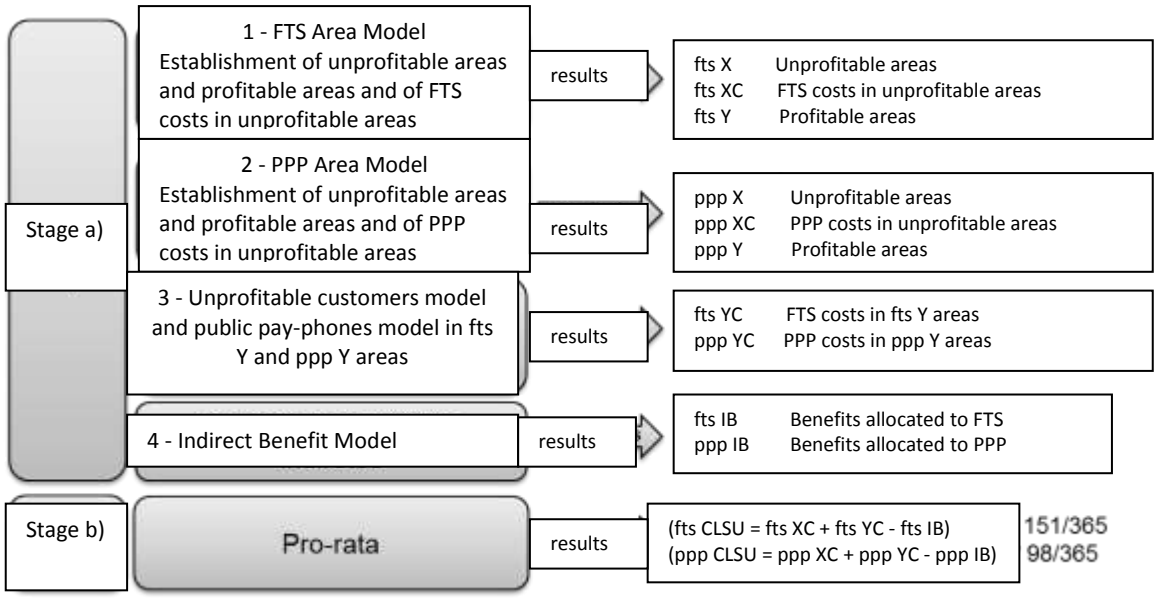
Based on adjustments described above in the methodology for calculation of CLSU, net costs for each of the US components would then be separately determined for the whole of 2014.

The CLSU value associated to FTS for the period between 1 January 2014 and 31 May 2014 would be achieved by multiplying the value calculated for FTS for 2014 by 151/365.

The CLSU value associated to PPP for the period between 1 January 2014 and 8 April 2014 would be achieved by multiplying the value calculated for PPP for 2014 by 98/365.

To allow a better understanding of this approach, the different CLSU calculation stages are illustrated below.

Figure 2 - Separation approach to determine CLSU associated to FTS and public pay-phones



Source: ANACOM

In addition, in the scope of approach 4 described above, another approach (approach 5) could be weighted based on an separate calculation of the FTS and PPP components, but where that calculation is performed only for the specific period for which FTS and PPP CLSU values are intended to be obtained, thus being separately determined:

- CLSU incurred by MEO up to 31.05.2014 for the FTS component;
- CLSU incurred by MEO up to 08.04.2014 for the PPP component.

In this approach, CLSU calculation would use operational and financial indicators for the referred periods of time, and in case average values based on data for a one-year period were used, the demonstration that these values would not differ significantly from average values associated to periods concerned would be required.

3.3. ANACOM's position

Bearing in mind the three model-adaptation-approaches presented by MEO and also the two possible alternative approaches referred earlier, it is deemed now essential to identify and analyse the advantages and disadvantages associated to each of these approaches.

Among the approaches presented by MEO, it is deemed that approach 1 shows as main advantage the fact that the model for calculation of CLSU adopts exactly the same time period - from 1 January 2014 to 31 December 2014 - as one of the main data sources that feeds the model - MEO's CAS, thus new assumptions in terms of data are not required.

However, the main advantage of this approach is also its main drawback: the fact that the calculation period does not necessarily coincide with the period during which the US was provided, thus revenue and traffic volume values considered in the model do not correspond

exactly to those of the period during which MEO was USP in the framework of the prior regime.

Without prejudice, as it is considered that there is no high degree of seasonality associated to the level of use of services concerned, the application of approach 1 could adequately portray the reality occurred in the period for which CLSU for the FTS component and for the PPP component are intended to be determined.

As regards the other two approaches proposed by MEO (approach 2 and 3), it is deemed that, in fact, approach 3 would in principle lead to mode adequate results given the actual period during which MEO was the USP in 2014, both for the FTS component and for the PPP component. However, it is also an approach the implementation of which would be very complex and based on many assumptions, as operational and financial data, both for FTS and PPP, would be required for two different periods, thus results would not necessarily be more robust, nor reality would be better portrayed when compared to approach 2.

Note also that, compared to approach 2, approach 3, by requiring the implementation of two models for calculation of CLSU and two sub-models for each of them (to break down FTS and PPP results), would increase the risks associated to the double counting of costs, not portraying reality necessarily better than approach 2.

In the light of the above, it is concluded that approach 2 allows a high degree of accurateness, its implementation not being as complex, and it included elements that, as referred earlier, avoid the impact of a possible double counting of costs (between FTS and PPP). It also ensures that a possible seasonality associated to the level of services concerned and the evolution of the business in 2014 are reflected.

It must be referred also that, in case it is adopted, MEO's proposal concerning the calculation of the regulation fee indirect benefit must be altered, as it is deemed that it is only related to the retired persons and pensioners component, and as such it concerns only the FTS component.

Among approaches presented by MEO (approach 1, 2 and 3) it is thus considered that approach 2 - *"Calculation up to 31.05.2014 and application of pro rata to the public pay-phones component"* - is the most appropriate.

Approaches 4 and 5, which fully separate FTS and PPP components, are the most difficult to implement, due to the need to avoid the double counting of costs associated to the FTS and public pay-phones provisions.

In fact, when the CLSU calculation methodology was defined, in was deemed that, in the establishment of unprofitable areas, costs associated to unprofitable public pay-phones should be accounted for together with costs for the fixed telephone service, given the difficulty in separating some of these costs, thus avoiding their double counting. The concern that existed at the time, to avoid the double counting of costs and as such to overestimate net costs, thus remains.

As such, approaches 4 and 5 have an associated risk of double counting of costs, a risk which is minimised in the scope of approach 2, as explained earlier. Note also that in this approach, although FTS and PPP costs in unprofitable areas are calculated separately, the value to be allocated to both the provisions is exactly the same as the value obtained in the scope of the calculation of unprofitable areas, without separating the provisions referred.

It is thus considered tat approach 2 more appropriate than approaches 4 and 5.

In the light of the above, it is considered that the adaptations to the methodology for calculation of CLSU should correspond to those provided for in approach 2 - *"Calculation up to 31.05.2014 and application of pro rata to the public pay-phones component"*, proposed by MEO, however it should be altered as regards the calculation of the regulation fee indirect benefit, which is deemed to be related only to the retired persons and pensioners component, and as such to concern only the FTS component.

It must be stressed, however, in the scope of inputs to be used for the calculation of CLSU, that they should be based, as much as possible, in operational, financial and cost data for the period concerned. The use of average values obtained on the basis of annual audited data is considered to be reasonable, where MEO demonstrates that they do not differ substantially from average values obtained for the period, or in case they do, where the company proposes and applies the required adjustments to remedy the differences.

The annex to this decision includes a detailed explanation of the methodology to be applied, focusing in particular on how they differ from the methodology currently in force.

4. Conclusion and Determination

Whereas:

a. The CLSU calculation methodology developed by ANACOM establishes CLSU on a year-on-year basis.

b. Universal service providers selected by tender started operation concerning the component of provision of connection to a public communications network at a fixed location and of publicly available telephone services on 1 June 2014, and on 9 April as regards the provision of public pay-phones.

c. In 2014, MEO provided the universal service until USP designated by tender started operation.

d. The determination of CLSU based on the methodology defined by ANACOM and used to calculate CLSU as from 2007 requires adaptation, given that CLSU incurred by MEO to be calculated for 2014 only concern a part of the year.

e. On 30.06.2014, MEO submitted to ANACOM three alternative approaches for adapting the methodology in order to be able to calculate CLSU for 2014.

f. Under paragraph 3 of article 17 of Law No 35/2012, of 23 August, the USP must submit to ANACOM, by the end of October every calendar year, the preliminary calculation of CLSU for the preceding calendar year, as well as elements to support such calculation, in a fully transparent and auditable manner, and in the terms established by ANACOM.

g. ANACOM analysed the approaches presented by MEO and considered other possible approaches, having set out in this draft decision a reasoned opinion on the adaptations deemed to be required in the scope of the CLSU calculation methodology.

h. A general consultation and a prior hearing of interested parties were held for a 20-working-day time period, under article 8 of ECL and articles 100 and 101 of the Administrative Procedure Code (approved by Decree-Law No 42/91, of 15 November, which applies *ex vi* article 8 of Decree-Law No 4/2015, of 7 January, which approved the new Administrative Procedure Code), in the course of which three timely contributions were received, which were summarized and analysed in the general consultation and prior hearing report, deemed to be an integral part hereof.

The Management Board of ANACOM, in the scope of assignments conferred under paragraph 1 i) of article 8 of its Statutes, approved by Decree-Law No 39/2015, of 16 March, in the exercise of powers provided for in articles 95 and 96 of the Electronic Communications Law (Law No 5/2004, of 10 February), hereby determines:

- To approve the adaptation of the methodology for calculation of CLSU borne by MEO as USP of the component of provision of connection to a public communications network at a fixed location and of publicly available telephone services between 1 January and 31 May 2014, and as USP of the component of the provision of public pay-phones between 1 January and 8 April 2014, as described in the annex hereto and as substantiated in point 3.3.

ANNEX

ADAPTATION OF THE METHODOLOGY FOR CALCULATION OF CLSU BORNE BY MEO AS USP OF THE COMPONENT OF PROVISION OF CONNECTION TO A PUBLIC COMMUNICATIONS NETWORK AT A FIXED LOCATION AND OF PUBLICLY AVAILABLE TELEPHONE SERVICES BETWEEN 1 JANUARY AND 31 MAY 2014, AND AS USP OF THE COMPONENT OF THE PROVISION OF PUBLIC PAY-PHONES BETWEEN 1 JANUARY AND 8 APRIL 2014

The adaptation of the methodology for calculation of CLSU borne by MEO as USP of the component of provision of connection to a public communications network at a fixed location and of publicly available telephone services between 1 January and 31 May 2014, and as USP of the component of the provision of public pay-phones between 1 January and 8 April 2014, consists in the application of the following steps:

1st step:

Establishment of profitable and unprofitable areas and the net cost of the latter areas up to 31 May 2014, MEO being assumed as the USP for both components under consideration (FTS and PPP) up to that date and in the conditions in force prior to the tender designation of a new USP.

2nd step:

Determination of CLSU, obtained separately for each of the CLSU components: FTS and PPP.

This calculation must adopt the following procedures:

a) Unprofitable areas

In unprofitable areas determined by the area model, net costs are calculated in separate for each of the components (FTS and PPP).

For the purpose, the establishment of the FTS component must not consider revenues, costs and other indicators associated to public pay-phones. Likewise, the establishment of results for PPP must only take account of data for these services.

On the basis of results obtained separately for FTS and PPP, the proportion of each component in the net costs for unprofitable areas is then determined, this proportion being applied to broad results of the "area model" obtained in the first step so as to establish the contribution of each of the components (FTS and PPP) for the net cost of unprofitable areas.

b) Unprofitable customers living in profitable areas and low-income retired persons and pensioners

Results obtained using the model of unprofitable customers living in profitable areas must be fully allocated to the FTS component, no alterations being required. Likewise, the determination of costs allocated to low-income retired persons and pensioners must be taken into account fully in the FTS component.

c) Unprofitable public pay-phones in profitable areas

Results obtained using the public pay-phones model must be fully allocated to that component, no alterations being required.

d) Indirect benefits

- *Corporate reputation and brand enhancement*

  The calculation must be performed according to the methodology used so far, the allocation to the FTS component and to the PPP component being distributed according to the proportion of the number of unprofitable accesses for each of these components compared to the range of unprofitable accesses.

- *Ubiquity*

  The ubiquity value is calculated taking into account customers that would choose the USP when moving from unprofitable areas to profitable areas and the current net value of the margin created by customers in profitable areas.

  As this indirect benefit solely concerns the ability of the USP to provide FTS throughout the national territory, it is considered that it should be fully allocated to the FTS component.

- *Advertising in public pay-phones*

  The benefit associated to advertising in public payphones corresponds to the advertising value that the USP derives from being able to use public pay-phone spaces for advertising purposes. The calculation of the value associated to this indirect benefit takes only into account unprofitable public pay-phones, as they would no longer exist where the USP was not required to provide the US. As such, the value of this benefit must be fully allocated to the public pay-phones component.

- *Mailing*

  Mailing consist in an indirect benefit, given that the USP is able to attach different sorts of ads to invoices at a very low additional cost.

  As only the FTS invoices are concerned, it is deemed that the total value of this benefit must be fully allocated to the FTS component.

- *Regulation fees*

  The methodology for calculating CLSU deems that not considering, for the purpose of the calculation of fees due for the provision of electronic communications networks and services, revenues resulting from the universal service provision, in the part concerning revenues associated to retired people and pensioners, constitutes a benefit.

  As such, the value of the “regulation fees” indirect benefit results from the difference obtained from the calculation of regulation fees due by the USP, taking or not into account revenues associated to retired people and pensioners.

In the described conditions, it is considered that this benefit concerns only the FTS component, namely retired people and pensioners, thus values obtained must be fully allocated to the FTS component.

As regards inputs (operational, financial and cost inputs) to be used in the calculation of CLSU, indicators which concern the period concerned, that is, inputs for the first 5 months of 2014, should be used as much as possible.

In the scope of such inputs, in case average unit values calculated on the basis of annual CAS data for 2014 are used, the following issues must be safeguarded:

a) average unit costs determined for the period the US was provided must not be significantly different from average costs of the 2014 operation, namely as regards operational costs, costs of capital and amortizations; and

b) Operational indicators (no. of installations, monthly payments, etc.) and financial indicators used to calculate costs must not be influenced by seasonal effects.

In this context, MEO must fully demonstrate that average unit costs for 2014, as well as the operational and financial indicators used to calculate net costs, adequately reflect the company's operation in the referred period. It is stressed that in case significant differences are identified, MEO must identify and apply the necessary adjustments to remedy these differences.

The information to be provided by MEO must be detailed, duly substantiated and susceptible to validation by an audit to take place in due course.

3rd step

After CLSU are calculated for each of the US components for the period between 1 January and 31 May 2014, the CLSU value for the FTS component constitutes CLSU for that component.

As regards the CLSU allocated to PPP, a pro-rata is performed taking into account the period up to which MEO was the PPP USP prior to the tender designation (8 April 2014). As such, the value to be taken into account, in the case of PPP, is obtained by multiplying the obtained value for this component by 98/151 (number of days).