

## **Calculation of the fees due for exercise of the activity of provider of publicly available electronic communications networks and services, pursuant to Article 105(1)(b) of the Electronic Communications Law<sup>i</sup>**

1. Under the terms of paragraphs 1 and 2 of Annex II of Administrative Rule 1473-B/2008 of 17 February, as amended by Administrative Rule 296-A/2013 of 2 October, the total value of ANACOM's administrative costs to be considered for the purpose of the settlement of fees due for the exercise of the activity of supplier of electronic communications networks and services in 2017 (Year n) is hereby published.

Therefore, **C (Year 2017) = 31 290 315 euros** (average costs for the last 3 years, with the exception of those relating to provisions for ongoing legal proceedings related to the regulation of electronic communications, whose average is the last 5 years).

2. The following table gives a detailed breakdown of ANACOM's costs, based on the ABC model implemented, whose operating basis is described in Annex I. This breakdown shows the administrative costs that are relevant to the calculation of the fee mentioned in Article 105(1)(b) of the Electronic Communications Law.

Regarding the relevant revenues of electronic communications networks and services providers, after receiving information from the various entities present in the market ANACOM decided to carry out an audit, prior to the issuance of invoicing.

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<sup>i</sup> Law 5/2004 of 10 February, amended and republished by Law 51/2011 of 13 September, subsequently amended by Law 10/2013 of 28 January, Law 42/2013 of 3 July, and Decree-Law 35/2014 of 7 March.

**Breakdown of total costs (expenses) of ANACOM by type of activity**

	Incurred			Average (3 years)	Provisions (5-year average)	Allocation of ANACOM costs (w/ provisions)
	2016	2015	2014			
1. Regulation and spectrum management costs	38 159 566	38 122 819	36 881 186	37 721 190	9 799 594	47 520 784
1.1 Costs related to Electronic Communications	31 832 808	31 568 558	29 707 978	31 036 448	9 762 496	40 798 944
1.1.1 Administrative costs	22 724 908	22 376 615	20 267 678	21 789 734	9 762 496	31 552 230
a) Declarations supporting rights	40 040	111 599	83 244	78 294		78 294
<b>b) Exercise of the activity of supplier of networks and services</b>	<b>22 469 348</b>	<b>22 088 021</b>	<b>20 026 086</b>	<b>21 527 818</b>	<b>9 762 496</b>	<b>31 290 315</b>
c) Allocation of rights of use for frequencies	187 013	154 324	122 161	154 499		154 499
d) Allocation of rights of use for numbers	28 507	22 671	36 186	29 121		29 121
1.1.2 Frequency management costs	8 969 772	9 055 497	9 176 837	9 067 369		9 067 369
1.1.3 Number management costs	138 128	136 445	263 463	179 345		179 345
1.2 Costs of Postal regulation	1 723 198	1 870 955	1 915 994	1 836 716	37 098	1 873 814
1.2.1 Exercise of the activity of postal services provider	1 706 642	1 847 974	1 907 356	1 820 657	37 098	1 857 755
1.2.2 Authorisations and licences	16 556	22 981	8 638	16 058		16 058
1.3 Other regulation costs	4 603 559	4 683 307	5 257 215	4 848 027		4 848 027
2. Other costs	2 553 541	2 538 682	2 698 567	2 596 930		2 596 930
3. Total costs	40 713 107	40 661 502	39 579 754	40 318 121	9 799 594	50 117 715

Provisions for ongoing legal proceedings related to regulation	2016	2015	2014	2013	2012	Average (5 years)
Relative to electronic communications	8 559 888	9 806 240	5 900 288	20 930 103	3 615 963	9 762 496
Relative to postal services	130 747	43 996	10 746	0	0	37 098
Actual	8 690 635	9 850 236	5 911 034	20 930 103	3 615 963	9 799 594

## ANNEX I

### A. Breakdown of ANACOM costs

#### Introductory note

The breakdown of ANACOM costs with the purpose of determining the regulation costs is equivalent to the breakdown of its annual accounting costs pursuant to the accounting standardisation system (*Sistema de Normalização Contabilística* - SNC) through the application of the Activity Based Costing (ABC) methodology.

#### 1. ANACOM's costing system

ANACOM's costing system was developed based on the ABC methodology and has the purpose of identifying the costs related to the development of the activities inherent in the statutory assignments it is committed to, as well as responding to the provisions of Article 105(4) of Law 5/2004 (Electronic Communications Law – ECL), and of Article 44(1)(2) of Law 17/2012 (Postal Services Law – PSL).

Overall, there are two major cost groups: **regulation and spectrum management costs, and costs not related to the regulation activity**. These latter are essentially costs related to the activity of advising and representing the State.

The breakdown of costs is shown in Figure 1.

**Figure 1: Breakdown of ANACOM costs**

<b>1. Regulation and spectrum management costs</b>
<b>1.1 Administrative costs relating to Electronic Communications</b>
1.1.1 Administrative Costs
a) Declarations supporting rights
b) Exercise of the activity of supplier of networks and services
c) Allocation of rights of use of frequencies
d) Allocation of rights of use of numbers
1.1.2 Frequency management costs
1.1.3 Numbering management costs
<b>1.2 Postal regulation costs</b>
1.2.1 Exercise of the activity of provider of postal services
1.2.2 Declarations and licences
<b>1.3 Other regulation costs</b>
<b>2. Other costs</b>

## **2. Regulation and spectrum management costs**

These costs related to regulation and spectrum management represent the costs associated to the regulation, supervision, regulatory, sector representation and cooperation activities, and comprise the following costs:

### **a) Costs related to the electronic communications sector (under Law 5/2004).**

In the context of identifying electronic communications costs, these are broken down to enable the determination of costs related to each of the actions specified in Article 105(1)(a) to (f) of the ECL. In this way, costs are separated into the following blocs:

- i) Electronic Communications costs.

Costs related to providing declarations for the exercise of the activity, assigning rights of use of resources, and all its regulation, supervision, regulatory, sector representation, and cooperation activities in the area of regulation (Article 105(1)(a) to (d)).

ii ) Spectrum Management costs.

Costs related to the activities developed by ANACOM relating to the planning, assignment, monitoring and inspection of the radio-frequency spectrum. (Article 105(1)(f)).

iii ) Numbering Management costs (Article 105(1)(e));

Costs related to the activities developed by ANACOM relating to the planning, monitoring and inspection of the numbering plan.

**b) Costs related to the Postal Sector**

Costs related to the issuance of declarations and licences for the exercise of the activity of provision of postal services, and with all regulation, supervision, regulatory, sectoral representation and cooperation activities.

In the context of identifying postal services' costs, these are broken down to enable the determination of costs related to each of the actions specified in Article 44(1)(2) of the PSL.

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

Costs derived from the regulation of services that are not included in the scope of Law 5/2004 (ECL) or in the scope of Law 17/2012 (PSL), notably the audiotext services, ITED (telecommunications infrastructure in buildings) and ITUR (Telecommunications Infrastructure in housing developments, urban development and building complexes) services, Information Society services, the amateur radio service and the personal radio service - citizen band (CB).

### **3. Costs not directly related to the regulation activity**

This category includes other costs incurred by ANACOM which are not directly related to the regulation activity,<sup>2</sup> and include the following:

#### **a) Costs related to Advising and Representing the State**

Costs stemming from ANACOM's participation in technical representation of the Portuguese State in the sector (Article 8(2)(c) of the articles of association, approved in the annex to Decree-Law 39/2015 of 16 March), which do not directly concern regulatory activity. These costs are generally those related to the following events.<sup>3</sup>

- i ) Preparation of and participation in meetings and conferences, as well as all the information exchanged in this context.
- ii ) Responding to requests varying in nature, such as technical opinions, studies requested by the relevant ministry, information requests, expert reports, etc.
- iii ) Replying to requests for radio easements and protection of radiocommunications services.
- iv ) Development of cooperation programmes within the Government.
- v ) Monitoring special projects (e.g.: ESA).

#### **b) Contributions and levies related to certain entities**

This group includes the contributions and levies payable to the following entities: ITU, UPU, UPAEP, ESA, CPLP, Satellite Organisations, and URSI.

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

### **4. Phases in ANACOM's cost allocation methodology**

The allocation of costs follows mainly two phases:

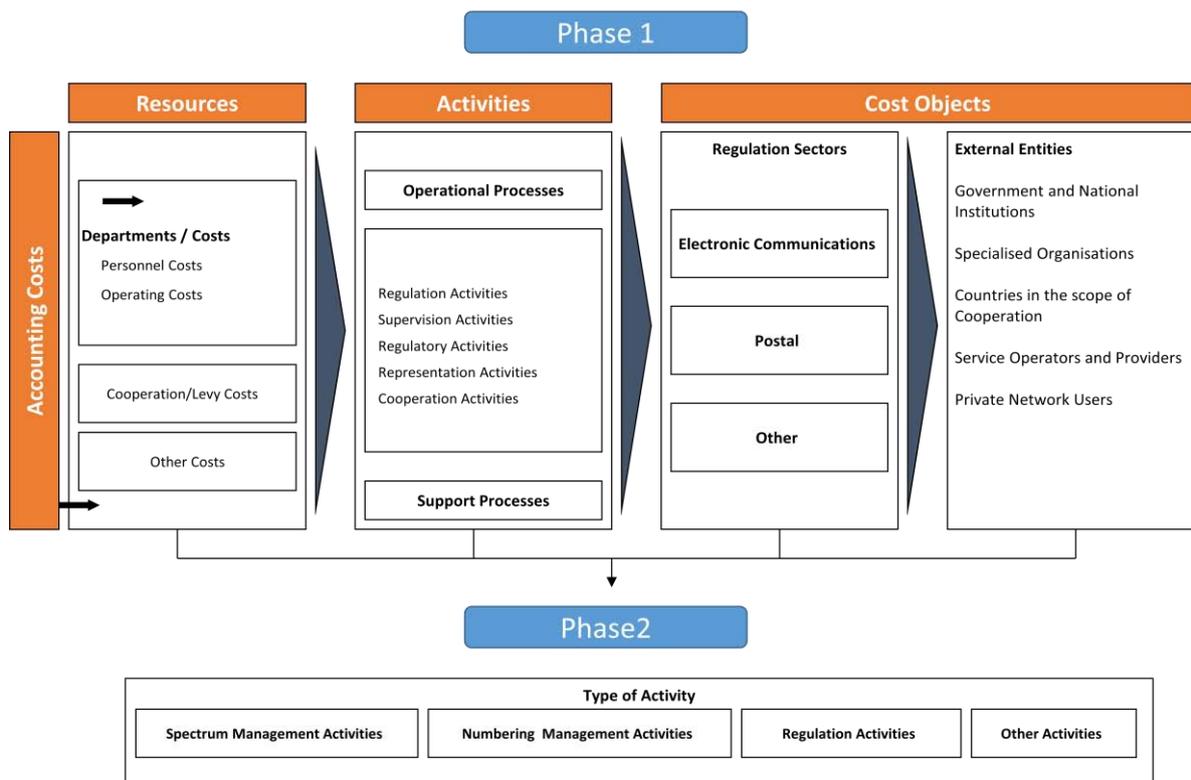
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<sup>2</sup> These costs are considered not relevant to ANACOM's regulatory activity, according to the interpretation of Article 105(4) of Law 5/2004.

<sup>3</sup> It includes all international activity developed within certain groups/committees from the EU, ITU (Council, Development Sector, Plenipotentiary Conference, Radiocommunications World and Regional Conferences), UPU, UPAEP, satellite organisations, ESA and URSI, and all the national activity developed for the Government.

- a) Phase 1: Analysis and allocation of accounting costs related to ANACOM's processes/activities, regulation areas, and external entities.<sup>4</sup>
- b) Phase 2: Allocation of costs to the different types of activity according to the actions underlying Article 105 of Law 5/2004 (ECL) and the actions specified in Article 44(1)(2) of Law 17/2012 (PSL), as well as to the types related to the other sectors regulated by ANACOM, namely the infrastructure sector (ITED and ITUR), the equipment sector, and the information society.

**Figure 2: Phases in ANACOM's cost allocation Methodology**



#### 4.1. Phase 1 – Analysis and allocation of accounting costs to ANACOM processes/activities

To start with, costs are grouped by type (pool) and by department according to the following classification:

<sup>4</sup> The external entities considered appear in several groups and their identification makes it possible to measure costs according to the classification presented in this document.

- a) Direct resources – expenses directly related to regulation services, through a cause-effect relationship.
- b) Indirect/common costs – costs devoid of any direct relationship with regulation services.
- c) Cooperation and levy costs – specific ANACOM cooperation and representation expenses.

Next, costs are allocated to processes/activities directly or by means of criteria that represent a cause-effect relationship between the respective nature of the cost and the process(es) it supports.

As an example, the sequence of movements to classify costs is summarised below:

- d) Grouping of total accounting costs by type and by department.
- e) Classification of costs according to the structure of work processes in force, regulated and non-regulated areas (services), and external entities. Analysis and allocation of costs to processes<sup>5</sup>/services and cost objects/external entities of ANACOM.<sup>6</sup>
- f) Personnel costs<sup>7</sup> are directly allocated to ANACOM's processes/services and cost objects/external entities, according to the report made by all employees via a computer application "Working Hours Report - *Reporte de Horas de Trabalho* (RHT)"
- g) Expenditure on travelling abroad, trips within the country, advertising, specialised works, fees, training, documentation, meetings, sponsorships are directly related to processes/services/customers, based on rational relationships, without prejudice to a portion with a non-relevant part being distributed according to the Man-Hours (MH) criterion.
- h) Expenditure on electricity, water, air-conditioning, rental of the head office building, property insurance, lifts, cleaning services, surveillance and security are regarded as

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<sup>5</sup> According to the Dictionary of Processes/Activities that supports the report of working hours of all ANACOM employees in the application "Report of Working Hours (RHT)" and the cost classification. The RHT application makes it possible to obtain ANACOM's overall Man-Hours.

<sup>6</sup> Combination process and/or service or cost object and/or external entity.

<sup>7</sup> Except the costs related to the Christmas Party, Anniversary, and other personnel-related events, which are treated as common costs (nature Common Costs – All activities – Distribute other cost objects).

structural costs and are distributed according to the m<sup>2</sup> used by each department. All other operating expenses, notably those related to procurement, reprography, and communications are distributed among all departments according to their consumption.<sup>8</sup>

- i) Costs related to cooperation and contributions/levies<sup>9</sup> are distributed according to the nature of the activity.<sup>10</sup>
- j) Depreciation and amortisation costs, with a significant value, are associated with the work processes related to computer equipment, software and hardware,<sup>11</sup> while the rest is distributed by MH.
- k) Provisions are allocated to the several types of activity, according to the kind of provision.<sup>12</sup>
- l) Other expenses, where there is no cause-effect relationship, are distributed according to the relative cost or MH.

It is important to stress that a portion of the work processes, such as “Planning and Control”, “Financial System”, “General Services” and “Human Resources” do not have a direct relationship with a specific regulation area since they cut across all areas.<sup>13</sup> For this reason, costs related to these work processes are redistributed to all operational processes, based on relative cost or MH criteria.

## **4.2. Phase 2 – Allocation of costs to regulation sectors**

In order to guarantee the correct allocation of accounting costs by each regulation sector, both in the area of electronic communications, through the action set out in Article 105(1) of Law 5/2004, and in the area of the postal sector through the actions set

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<sup>8</sup> Being distributed to processes/services/external entities depending on the hours reported in each department (MH – Man-Hours in each department).

<sup>9</sup> Always linked to the “Cooperation” process and to a particular external entity.

<sup>10</sup> A portion of these costs is not related to the regulation activity. See, too, the Type of Activity list (Figure 3).

<sup>11</sup> For instance: the amortisation of the SINCRER equipment (Integrated Remote Control System for Radio Stations) is associated with the “Spectrum Monitoring” sub-process and all radiocommunications services.

<sup>12</sup> It may be shared based on the direct cost or MH system. Provisions for legal actions in progress accounted for in recent years have been regarded as regulation activity costs – Law 5/201, spectrum management activities – Law 5/2004 and regulation costs – Law 17/2012.

<sup>13</sup> They are regarded as common processes.

out in Article 44(1)(2) of the PSL, a process was developed to enable that distribution and which is identified as “type of activity”.

**The type of activity is identified according to a work process/regulated area (service)/external entity combination.**<sup>14</sup> Each type of activity corresponds to a given set of combinations.<sup>15</sup>

The allocation of costs related to each type of activity respects the following process:

a) Identification of the amount of direct costs by type of activity bloc (spectrum management activities, numbering management activities, regulation activities and others).

To sum up, the costs determined for the Electronic Communications Sector are distributed by the acts defined in Article 105(1)(a) to (d) of the Electronic Communications Law, and the costs determined for the Postal sector are distributed by the actions defined in Article 44(1)(2) of the Postal Services Law.

b) Distribution of the amount of common costs (accounting costs of a common nature) and cooperation/levy costs by regulation blocs, considering one of the following options as a distribution criterion, taking into account the type of common or cooperation cost:

- i ) Direct allocation to the corresponding type of activity bloc through the cause-effect relationship.
- ii ) Proportion of costs directly related to each type of activity bloc.
- iii ) Proportion of MH directly allocated to each type of activity bloc.

c) Subsequently, and after determining the costs by each type of activity bloc, the costs allocated to “all activities” of regulation are distributed among the following regulation sectors:

- i ) Electronic Communications Sector,

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<sup>14</sup> Costs associated with certain external entities are not considered regulation costs.

<sup>15</sup> According to the Dictionary of Processes/activities in use at ANACOM and which supports the costing system.

- ii ) Postal Sector,
- iii ) Other sectors outside the scope of the Electronic Communications Law and the Postal Services Law.

**Figure 3: Type of Activity List**

<b>Type of Activity: Costs allocated to sectors in the scope of Law 5/2004</b>	
Declarations supporting Rights	Regulation
Exercise of Activity - Regulation	Regulation
Allocation of Rights of Use of Frequencies	Regulation
Allocation of Rights of Use of Numbers and their Reservation	Regulation - Numbering
Spectrum Management Activities	Spectrum Management
Numbering Management Activities	Numbering Management
<b>Type of Activity: Costs allocated to sectors outside the scope of Law 5/2004</b>	
Declarations supporting Rights <sup>16</sup>	Regulation
Exercise of Activity - Regulation <sup>17</sup>	Regulation
Amateur and CB records and certificates <sup>18</sup>	Spectrum Management
Allocation of Rights of Use of Numbers and their Reservation <sup>19</sup>	Regulation – Numbering
Spectrum Management Activities <sup>20</sup>	Spectrum Management
Numbering Management Activities <sup>21</sup>	Numbering Management
<b>Costs not directly related to the regulation activity</b>	
<b>Common Costs</b>	
Common Costs - Spectrum Management Activities	Spectrum Management
Common Costs - Spectrum Management Activities - Services Law 5/2004	Spectrum Management
Common Costs - Spectrum Management Activities - Services not covered by Law 5/2004	Spectrum Management
Common Costs - Regulation Activities	Regulation
Common Costs - Regulation Activities - Services Law 5/2004	Regulation
Common Costs - Regulation Activities - Services not covered by Law 5/2004	Regulation
Common Costs - Numbering Management Activities	Numbering Management
Common Costs - Allocation of Rights of Use of Frequencies	Regulation
Common Costs - Allocation of Rights of Use of Numbers and their Reservation	Regulation – Numbering
Common Costs - Declarations supporting Rights	Regulation
Common Costs - All activities - To distribute based on direct cost	Regulation
Common Costs - All activities - To distribute based on MH	
Common Costs - All activities - To distribute other cost objects	

<sup>16</sup> Declarations and Licences for the postal activity and records of audiotext and SVA (value added services) providers.

<sup>17</sup> Postal services, ITED/ITUR, audiotext and SVA

<sup>18</sup> Records and certificates associated with CB (citizen's band) and to the amateur service.

<sup>19</sup> Audiotext and premium services.

<sup>20</sup> CB and amateur service

<sup>21</sup> Audiotext, SVA and premium services.