

Decision on the identification of bodies required to contribute to the electronic communications universal service compensation fund and on the establishment of the amount of contributions concerning CLSU to be compensated for 2007-2009

Public version

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1. Scope and legal framework

Under the terms set out in the Electronic Communications Law (ECL)¹ (*vide* article 97, paragraph 1), two cumulative requirements must be met so that the universal service provider (USP) is entitled to receive compensation for costs incurred in the provision of the universal service (US): (i) universal service net costs (*custos líquidos do serviço universal* - CLSU) must be established and (ii) such costs must be deemed to be an unfair burden.

Article 95, paragraph 1, of ECL, provides for the following alternative mechanisms for determining the amount of CLSU: (i) a methodology to be defined by ICP - Autoridade Nacional das Comunicações (ICP - ANACOM) (point *a*) or (ii) the amount indicated by the USP in a tender-like designation mechanism (point *b*)).

Where CLSU are found to exist, article 97, paragraph 1, of ECL, provides that compensation may be paid, either in alternative or cumulatively: (i) from public funds (cf. point *a*) and/or (ii) through the sharing of costs among companies providing on national territory public communications networks and publicly available electronic communications services, in which case a compensation fund must be established, managed by ICP - ANACOM or by an independent body appointed by the Government (cf. point *b*)).

In compliance with article 95 of ECL and having regard to article 96 of the same Law, ICP - ANACOM approved on 09.06.2011 the decision on the concept of unfair burden, as well as the decision on the methodology to be used to calculate CLSU².

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

² It must be stressed that subsequently to this decision, other decisions with an impact on the methodology employed to calculate the CLSU were taken, namely:

- Determination of 29.08.2011, which partly upheld the complaint lodged by PTC regarding the determination on the methodology employed to calculate the CLSU, so as to use prices effectively charged to determine unprofitable areas and unprofitable customers living in profitable areas, as well as to calculate CLSU concerning unprofitable areas/customers.
- Determination of 25.11.2011 on the application of the price-elasticity effect for the segment concerning retirees and pensioners (having been decided in this determination that the elasticity value to be considered for the purpose of CLSU calculation should be -0.1);
- Determination of 12.10.2012, which implemented the concept of "abnormally high access costs", so as to determine unprofitable customers living in profitable areas, and thus to calculate CLSU;

It was established in point 4 of the decision on the concept of unfair burden that the methodology for calculation of CLSU approved by ICP - ANACOM would be applied subsequently to 01.01.2007 and until USP(s) resulting from the tender started the provision of that service.

In the determination on the methodology to be applied to calculate CLSU, PT Comunicações, S.A. (PTC)³ was imposed the obligation to convey to ICP - ANACOM preliminary CLSU values for 2007 to 2009 according to the methodology defined by this Authority, as well as all relevant information used in the calculation.

Being incumbent on ICP - ANACOM to ensure that CLSU values are audited, as well as to approve CLSU values under paragraph 4 of article 96 of ECL, the Regulatory Authority awarded to SVP Advisors, S.L.⁴ the audit of estimates presented by PTC on 28.11.2011 for the 2007-2009 financial periods, and later, the audit of recast CLSU estimates for the 2007-2009 period, as submitted by PTC on 28.06.2013⁵.

Upon conclusion of the referred audits, ICP - ANACOM, by determination of 19.09.2013 and taking into account results achieved and the declaration of conformity issued by auditors as regards CLSU estimates, approved the last accounts presented by PTC, on 28.06.2013, laying down final CLSU values for the 2007-2009 financial periods, as shown in the following table⁶.

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- Determination of 20.06.2013, which approved the final decision on the results of the audit of PTC's CLSU for the 2007 to 2009 financial years.

³ On 2014.12.29 the merger by means of acquisition of MEO – Serviços de Comunicações e Multimédia, S.A. into PT Comunicações, S.A. was registered, having the company resulting from this merger been renamed as from this date MEO – Serviços de Comunicações e Multimédia, S.A..

⁴ After being awarded the audit contract, SVP changed its name to AXON Partners Group Consulting S.L..

⁵ The audit was undertaken by AXON in collaboration with Grant Thornton & Associados, SROC, Lda. It is recalled that the need for a second audit resulted from a provision established in ICP - ANACOM's determination of 20.06.2013, according to which PTC was ordered to resubmit new CLSU estimates for 2007-2009 so as to reflect amendments made to PTC's CAS for those years, as well as determinations in point 1 e) and 1g) of the referred decision, as regards the consideration of one-off installation costs/revenues in an annualized fashion and the correction in the area model concerning the number of access lines. The second audit was thus aimed at verifying whether recast values complied with ICP - ANACOM's decisions included in the referred determination of 20.06.2013.

⁶ This final decision was preceded by the respective DD, which was submitted to the prior hearing of interested parties and to the general consultation procedure.

Table No. 1 – Final CLSU values for the 2007-2009 financial periods

	2007	2008	2009
CLSU	€ 23 584 976.93	€ 20 168 431.93	€ 23 057 573.48

It thus follows that the overall CLSU value for the 2007-2009 financial periods, approved in 2013, amounts to 66 810 982.34 Euros (sixty six million, eight hundred and ten thousand, nine hundred and eighty two Euros and thirty four cents)⁷.

In this scope, and taking into account possibilities provided for in article 97 of ECL, the Government decided to opt for the sharing of costs among companies providing public communications networks and publicly available electronic communications services on national territory, having submitted for this purpose a Draft Law to the Parliament.

Law No. 35/2012, of 23 August (hereinafter Fund Law) was thus approved, establishing the Compensation Fund for the Electronic Communications Universal Service and setting out the criteria for sharing the net costs of the universal service actually calculated among companies providing public communications networks and publicly available electronic communications services.

According to article 6 of the referred law, the fund is intended for the financing of CLSU determined in the scope of the USP designation tenders, as well as for the financing of CLSU concerning the period before the tender designation of the USP.

Article 17 of the Fund Law establishes that the Fund must be called to compensate CLSU incurred until the provider or providers designated by tender start(s) the provision of the universal service, where the following requirements are met, which also result from ECL (paragraph 1 of article 97):

“a) Evidence exists of net costs, further to an audit, that are deemed to be unfair by ICP - ANACOM, according to paragraph 1 a) and paragraph 2 of article 95 and articles 96 and 97 of Law No. 5/2004, of 10 February, as amended and republished by Law No. 51/2011, of 13 September;

⁷ As results from the sum of values for each year. In the declaration of conformity of auditors concerning audits for the years concerned, the value set out for the three years is 66 810 982.35 Euros, the 1 Euro cent difference in the overall value compared to the sum of individual values resulting from the use of such individual values without any rounding adjustments.

b) The universal service provider requests of the Government compensation of costs referred to in the preceding point.”

Under paragraph 4 of this article, the USP must request of the Government the compensation for CLSU that are approved further to the audit within at least five days from notification of the final decision of approval by ICP - ANACOM of the amount of the referred costs, paragraph 5 providing that compliance with obligations referred to in the preceding paragraphs, within the time-limits established therein, are deemed to be a requirement for the financing of CLSU incurred in the period preceding the designation by tender.

PTC was notified of the final decision on the approval of CLSU for 2007-2009 on 20.09.2013⁸, having requested the respective compensation of the Government, by communication dated 26.09.2013, within the time-limit set out in paragraph 4 of article 97 of the Fund Law. The Government informed ICP - ANACOM of this fact by letter received at this Authority on 16.07.2014.

The same letter also conveyed the order issued by the Secretary of State of Infrastructures, Transports and Communications as regards PTC's request and the establishment of a compensation fund for the universal service, as follows:

“I agree with the granting of the application presented by PT Comunicações, S.A. on 26.09.2013, and with the call on the compensation fund for the financing of net costs of the universal service for the 2007-2009 period, under the terms and for the reasons set out therein. The matter is now to be referred to the MEF, for all due purposes, the ME being informed thereof.”

The two requirements defined in article 17 of the Fund Law to call the compensation fund - existence of CLSU, further to the audit, which were approved and deemed by the Regulatory Authority to be unfair, and request by PTC to the Government for compensation for CLSU approved by ICP - ANACOM on 19.09.2013, within at the most 5 working days from notification of the final decision - have thus been met.

Under article 18 of the Fund Law, companies providing public communications networks and/or publicly available electronic communications services on national territory are required to make a

⁸ PTC received this communication on 23.09.2013.

contribution to the compensation fund, an extraordinary contribution being required for this purpose.

This decision implements the provision in the Fund Law, specifically as regards the extraordinary contribution provided for in article 18, concerning compensation for CLSU for the period preceding the tender designation of the USP, which had been approved by this Authority in 2013 and which refer to CLSU for 2007-2009.

With the approval of the respective Draft Decision (DD), the provision in paragraph 4 of article 11 of the referred Law is complied with, which is applicable by reference provided for in paragraph 3 of article 19, which requires that the list with the following information is submitted to a prior hearing, under the Administrative Procedure Code:

- a) Bodies required to contribute to the compensation fund;
- b) Eligible turnover for calculation of contributions due to the compensation fund;
- c) Amount of contributions due by each body, plus compensatory interest due under paragraph 7 of article 11 of the mentioned law, if any;
- d) Amount of compensation to be paid to the USP;
- e) Any justified corrections and adjustments, namely in accordance with data collected as regards the actual eligible turnover achieved, where appropriate.

The DD was submitted to the prior hearing of bodies required to contribute to the compensation fund, under articles 100 and 101 of the Administrative Procedure Code, for 10 working days. The setting or changing of values concerning the eligible turnover, further to audit or verification undertaken by ICP - ANACOM, was also subject to a prior hearing for the same time period.

Timely comments were received from Companhia I.B.M. Portuguesa, S.A. (Companhia IBM), MEO – Serviços de Comunicações e Multimédia, S.A (hereinafter MEO⁹) – this company previously submitted a request for information, having ICP - ANACOM replied that in the course of a prior hearing the Authority would not take a view on the subject -, NOS Açores Comunicações, S.A. (NOS Açores), NOS Comunicações, S.A (NOS), NOS Madeira Comunicações, S.A. (NOS Madeira),

⁹ As referred earlier, this is the corporate name adopted by the company that results from the merger by means of acquisition of MEO – Serviços de Comunicações e Multimédia, S.A., into PT Comunicações, S.A..

ULTRASERVE – Consultoria e Apoio Empresarial, Lda. (Ultraserve), and Vodafone Portugal – Comunicações Pessoais, S.A. (VODAFONE).

Comments from Maritime Communications Partner, AS, failed to be received in time, and as they were untimely, they could not be considered in the prior hearing report.

Remaining companies said nothing, and it is deemed that, having been notified for this purpose, they opted not to comment in the scope of the prior hearing.

2. Extraordinary contribution entry procedure

Under article 8 of the Fund Law: *“[the] turnover to be considered for the purpose of this law is the eligible turnover, which corresponds to the amount of sales and services provided on national territory, after deducting the amounts corresponding to:*

- a) Revenues from activities not related to the provision of electronic communications networks and/or publicly available electronic communications services;*
- b) Revenues from transactions between bodies that belong to the same company;*
- c) Sale of terminal equipment.*

2 - Revenues from activities developed outside national territory shall not be used in the calculation of the eligible turnover.

3 - The amount related to value added tax shall not be used in the calculation of the eligible turnover.”

It follows, then, that the amount of the sector’s eligible turnover, under article 8 of the Fund Law, corresponds to:

Eligible

Turnover

(article 8)

- Amount of sales and services provided on national territory (excluding revenues from activities developed outside national territory)
- Revenues from activities not related to the provision of electronic communications networks and/or publicly available electronic communications services
- Revenues from transactions between bodies that belong to the same company
- Sale of terminal equipment

Article 15 of the Fund Law (which applies by reference laid down in article 22 of the same Law) provides that companies providing public communications networks and/or publicly available electronic communications services, on national territory, must send to ICP - ANACOM, by 30 June every year, a statement on the preceding calendar year, signed by a person entitled to enter into legally binding commitments, acknowledged as such, with the turnover amount and other information required to calculate the eligible turnover.

In order to facilitate the communication of such information, ICP - ANACOM sent, on 06.06.2014, to companies registered, in 2013, as publicly available electronic communications network operators or service providers, a letter with a model declaration to be completed and signed by the person entitled to enter into legally binding commitments, acknowledged as such.

90 out of the 133¹⁰ companies contacted submitted to ICP - ANACOM information on the eligible turnover.

On the basis of declarations received, ICP - ANACOM decided, on 24.07.2014, that the 10 companies with the largest relevant income, as well as those showing significant changes in terms of relevant income compared to 2012 (in both cases for the purpose of the entry and settlement of the annual fee referred to in article 105, paragraph 1b) of ECL) should be audited, and for this

¹⁰ On 06.06.2014, 135 companies were contacted, having been found later that three out of those bodies were registered only in 2014. One last company which by mistake failed to be contacted on that date received later a communication, on 11.07.2014.

reason 21¹¹ companies were audited. The eligible turnover of audited companies exceeds 99% of the sector's eligible turnover, and includes all companies required to pay the extraordinary contribution, under article 18 of the Fund Law.

For this purpose, ICP - ANACOM, on 10.08.2014, awarded to BDO & Associados, SROC., the audit of the turnover declared by electronic communications network operators and service providers, in compliance with provisions of the Fund Law.

As regards remaining companies that were not audited, ICP - ANACOM undertook the verification of the consistency and accurateness of amounts reported in declarations, namely by comparing the overall amount with amounts presented for the various items.

In some cases, irregularities were detected, their correction having been requested. Further to this procedure, only one company failed to amend its declaration, however which a negligible weight.

In several situations, ICP - ANACOM was forced to urge bodies that submitted declarations reporting turnover information that were not signed by the persons entitled to enter into legally binding commitments, acknowledged as such.

ICP - ANACOM also undertook an analysis of bodies that failed to submit any declaration or information for the purpose of the Fund Law, seeking to obtain otherwise the respective value of eligible turnover so as to obtain the amount of the sector's eligible turnover, as explained below. In parallel, these bodies were urged, both via new communications and in some cases via telephone calls, to submit information required under the Fund Law. As a result of these efforts, several missing declarations were received.

¹¹ ANA – Aeroportos de Portugal, S.A.; AR Telecom – Acessos e Redes de Telecomunicações, S.A.; AT&T – Serviços de Telecomunicações, Sociedade Unipessoal, Lda; BT Portugal – Telecomunicações Unipessoal, Lda.; Cabovisão – Televisão por Cabo, S.A.; COLT Technology Services, Unipessoal, Lda.; CTT – Correios de Portugal, S.A.; Level 3 Communications España, S.A; Lycamobile Portugal, Lda.; MEO – Serviços de Comunicações e Multimédia, S.A. (on 2014.12.29 the merger by means of acquisition of MEO into PT Comunicações, S.A. was registered, having the company resulting from this merger been renamed as from this date MEO – Serviços de Comunicações e Multimédia, S.A.), NACACOMUNIK – Serviços de Telecomunicações, Lda.; NOS (including ex-Optimus Comunicações S.A., ex-ZON TV Cabo Portugal; ex-ZON TV Cabo Madeirense, S.A. and ex-ZON TV Cabo Açoreana, S.A.); Onitelecom – Infocomunicações, S.A.; Orange Business Portugal, S.A; PT Comunicações, S.A. (on 2014.12.29 the merger by means of acquisition of MEO into PT Comunicações, S.A. was registered, having the company resulting from this merger been renamed as from this date MEO – Serviços de Comunicações e Multimédia, S.A.); Refer Telecom – Serviços de Telecomunicações, S.A.; T-SYSTEMS ITC IBERIA, S.A.; Vodafone Portugal – Comunicações Pessoais, S.A..

Without prejudice to the assessment of situations of non-compliance with the Fund Law in the scope of legal action, ICP - ANACOM took the view that such situations would not harm the calculation of the eligible turnover, given that, in most cases, the Authority was provided with the information required for the purpose of that calculation, as explained further hereunder.

The following chapters delineate the eligible turnover of audited companies, and as regards remaining companies, the eligible turnover of companies that submitted relevant information for the purpose of the Fund Law, as well as eligible turnover taken into account in the case of companies that failed to submit such information.

2.1. Eligible turnover of the 21 audited companies

As referred above, 21 companies - electronic communications network operators and service providers - were audited, in order to verify compliance with eligible turnover amounts transmitted to ICP - ANACOM for the purpose of the Fund Law.

In the scope of such audits, the need to amend declarations conveyed by companies arose, given that revenues that should have been considered for the purpose of the calculation of the eligible turnover had been deducted.

The table below lists audited companies as well as eligible turnover (ET) amounts reported by the referred companies as well as adjustments introduced and eligible turnover amounts as corrected following audits.

2.2. Eligible turnover of remaining companies that submitted information and were not audited

In addition to companies the declarations of which were audited, ICP - ANACOM also received information on the eligible turnover of 69 other companies, which altogether represent around 0.5% in terms of eligible turnover.

From the analysis of information conveyed by these companies, and without prejudice to the fact that, in some situations, declarations were submitted after the deadline indicated in the Fund Law and some of the declarations were not signed by a person entitled to enter into legally binding commitments, acknowledged as such, issues that may question the use of reported amounts of eligible turnover have not been identified.

As such, even in those cases where a formal irregularity exists from the outset, due to the absence of acknowledgement of the quality of signatures in declarations, in the light of the principle of good-faith and collaboration between tax-payers and administration (article 59 of the General Taxation Law), it is deemed that the referred irregularity is without prejudice to the use of information conveyed by such companies, for the purpose of the calculation of the amount of the sector's total eligible turnover. This situation covers around 20 companies that roughly represent around 0.1% in terms of the eligible turnover.

In addition to situations described above, a very limited number of companies presented some inaccuracies in the completion of the declaration, namely at the level of sums. In order to remedy these situations, ICP - ANACOM contacted companies concerned, and situations identified were settled through the submission of new declarations. The only situation which remained unresolved is negligible in terms of the sector's overall amount of eligible turnover.

The table below lists companies that submitted information for the purpose of the Fund Law, as well as the respective amounts of eligible turnover that correspond to amounts declared, except for the situation mentioned in the preceding paragraph, where the declared amount was corrected as it included to an arithmetical mistake.

Table No. 3 – Eligible turnover declared by companies not audited

Companies	ET [BCI]	Observations [BCI]
ACP – Comunicações Electrónicas, Unipessoal, Lda.		
ORBIRECURSO - Electricidade e Comunicações Unipessoal, Lda.		
PDM&FC - Projecto, Desenvolvimento Manutenção, Formação e Consultoria, Lda.		
PORTO DIGITAL - Operador Neutro de Telecomunicações, S.A.		
TRANSVIEW - Redes e Serviços de Comunicações Eletrónicas, Lda.		
VIVANET - Distribuição de Produtos Eletrónicos, Lda.		
3GNTW - Tecnologias de Informação, Lda.		
Associação Porto Digital		
Banda Larga Rural Unipessoal, Lda.		
Belgacom International Carrier Services (Portugal), S.A.		
BLOOMBERG L.P.		
BLU, S.A.	Confidential	
Cable & Wireless, S.L., Sucursal em Portugal		
Cgest, S.A.		
CGPT, Lda.		
CHOUDHARY - Comércio de Equipamentos de Telecomunicações, Lda.		
CISUPER - Telecomunicações Representações e Serviços, Lda.		
Clara.Net Portugal - Telecomunicações, S.A.		
Cogent Communications Portugal, Lda.		
COMSAT - Serviços de Satélite, Lda.		
Concourse Communications, UK, Ltd.		
CYCLOP NET - Informática e Telecomunicações, Lda.		
EMACOM - Telecomunicações da Madeira, Unipessoal, Lda.		
FIBROGLOBAL - Comunicações Electrónicas, S.A.		
First Rule, S.A.		

Companies	ET [BCI]	Observations [BCI]
FLEXIMÉDIA - Serviços e Meios de Informação e Comunicação, Lda.		
Fractalia Remote Systems Portugal, Unipessoal, Lda.		
G9SA - Telecomunicações, S.A.		
Go4mobility - Tecnologia e Serviços para a Mobilidade, Lda.		
GOWIRELESS - Comércio de Equipamentos de Telecomunicações, Unipessoal, Lda.		
HEARTPHONE - Comércio de Telecomunicações, Lda.		
HSIA Hospitality Services Portugal - Serviços de Internet, S.A.		
IDT - Retail Europe Limited		
INDRA - Sistemas Portugal, S.A.		
IPS - International Prepay Solution AG		
IPTV TELECOM - Telecomunicações, S.A.		
Iridium Itália, S.R.L.		
Knewon, S.A.		
KPN Eurorings B.V.	Confidential	
LAZER Visão Antenas, Lda.		
Let's Call - Comunicações, Lda.		
LIVIN - Consultoria e Serviços, Lda.		
MINHOCOM, Gestão de Infraestruturas de Telecomunicações, EIM		
Moneycall - Serviços de Telecomunicações, Lda.		
Mundio Mobile (Portugal) Limited		
NFSI Telecom, Lda.		
On Air, N.V.		
Otnetvtel - Unipessoal, Lda.		
OVHHOSTING - Sistemas Informáticos, Unipessoal, Lda.		
PINKHAIR - Unipessoal, Lda.		
RENTELECOM - Comunicações, S. A.		

Companies	ET [BCI]	Observations [BCI]
REPART - Sistemas de Comunicação de Recursos Partilhados, S.A.		
Satélite da Sabedoria - Serviços de Internet, Unipessoal, Lda.		
SEMCABO - Soluções em Redes Informáticas, Lda.		
Signalhorn Trusted Networks GmbH		
SIPTELNET - Soluções Digitais, Unipessoal, Lda.		
STV - Sociedade de Telecomunicações do Vale do Sousa, S.A.		
T.M.I. - Telemedia International, Limited - Sucursal em Portugal		
TATA Communications Portugal - Instalação e Manutenção de Redes, Lda.		
TELVENT Portugal, S.A.	Confidential	
Thomson Reuters (Markets) Europe, S.A. - Sucursal em Portugal		
ULTRASERVE - Consultoria e Apoio Empresarial, Lda		
UNI TELDATA - Telecomunicações, S.A.		
VALICOM, Gestão de infraestruturas de Telecomunicações, EIM		
Verizon Portugal - Sociedade Unipessoal, Lda.		
Viasat, Inc.		
Voipunify Telecom, Lda.		
Wapop África Interconnect Exchange, S.L.		
ZAPPWIMAX - Unipessoal, Lda.	[ECI]	[ECI]
TOTAL ET	22 617 418.54	-

Source: ICP - ANACOM based on declarations from companies.

Values expressed in Euros.

2.3. Eligible turnover of companies that failed to convey information for the purpose of the Fund Law

Out of the 133 companies registered with ICP - ANACOM, in 2013, as electronic communication network operators and/or service providers, 43 companies failed to submit any information for the purpose of the Fund Law.

ICP - ANACOM sought to obtain the turnover of companies concerned through alternative sources of information, namely by using data provided by such companies on the situation of their activity, although in a different context than the reporting of information for the purpose of the Fund Law, as well as information on the value of relevant income declared to ICP - ANACOM, in the scope of the procedure for entry and settlement of the annual fee referred to in article 105, paragraph 1b) of ECL, governed by annex II to Administrative Rule No. 1473-B/2008, of 17 December 2008.

As such, it was assumed that the turnover amount is equivalent to zero in situations where, elsewhere, companies declared to ICP - ANACOM they had not yet started operations as electronic communication network operators and/or service providers or that the activity had terminated, specifically before 2013. Note that, in 2014, ICP - ANACOM cancelled the entry in the registration of some of these companies.

The amount of eligible turnover of companies whose location remains unknown (companies that are not contactable at the address provided when the registration was made) was also deemed to be zero, as that fact indicates that such companies are not in operation.

There are 26 companies in these situations (not operating or with unknown location).

As regards the remaining 17 companies, ICP - ANACOM considered that the amount of eligible turnover corresponds to the amount reported for the 2013 financial year, for the purpose of the procedure for entry and settlement of the annual fee referred to in article 105, paragraph 1b) of ECL, governed by annex II to Administrative Rule No. 1473-B/2008. Where this amount had not been declared, the average amount for 2011 and 2012 was taken into account, and in case of non-existence, the amount of the last year available was taken into account.

ICP - ANACOM takes the view that the relevant income declared for the purpose of entry and settlement of the annual fee referred to in article 105, paragraph 1b) of ECL is a good proxy for the eligible turnover amount to be determined for the purpose of the Fund Law, as values under consideration are similar, and in the case of some companies, exactly the same, thus the use of such amounts for the calculation of the sector's overall amount of eligible turnover is deemed to be appropriate.

Based on the information referred to in the preceding paragraph, information on the eligible turnover of 10 companies was able to be obtained, which amounts to 2 419 261 Euros, no information being available for 7 companies.

The table below shows detailed information on each of the companies that failed to submit information concerning eligible turnover, as well as on the amount of turnover considered for each of them, as well as information, where appropriate, on whether companies are active (in 2013) or ceased activity.

Table No. 4 – Eligible turnover of companies that failed to convey information for the purpose of the Fund Law

Companies	ET taken into account [BCI]	Additional information [BCI]
AMAZING LIFE, Lda.		[BCI] [ECI]
AMPTEL - Telecomunicações & Informática, Lda.		On 04.07.2014, ICP-ANACOM cancelled the registration of the provider of electronic communication services. The company had initiated administrative winding-up proceedings on 07.01.2013, having the winding-up and termination of liquidation occurred on 07.04.2014 (according to information available at the <i>Portal da Justiça</i>).
Associação de Moradores do Litoral de Almancil		[BCI] [ECI]
CANARY WHARF - Publicações, Unipessoal, Lda.	Confidential	On 04.07.2014, ICP-ANACOM cancelled the registration of the provider of electronic communication services. [BCI] [ECI]
CARDTEL EUROPE LIMITED		[BCI] [ECI]
DELTA ONE PORTUGAL (Sucursal)		On 04.07.2014, ICP-ANACOM cancelled the registration of the provider of electronic communication services. [BCI] [ECI]
Derivadas e Segmentos, S.A.		[BCI] [ECI]
DSTELECOM ALENTEJO E ALGARVE, LDA.		[BCI] [ECI]
DSTELECOM NORTE, LDA.		[BCI] [ECI]

Companies	ET taken into account [BCI]	Additional information [BCI]
DSTELECOM, S.A.		[BCI] [ECI]
EASYTALK COMUNICACIONES, S.L.		[BCI] [ECI]
ESPECIAL ABRAÇO - Unipessoal, Lda.		[BCI] [ECI]
FLASHAD - Electrónica e Comunicações, Unipessoal, Lda.	Confidential	[BCI] [ECI] On 04.07.2014, ICP-ANACOM cancelled the registration of the provider of electronic communication services.
INEDISINAL - Unipessoal, Lda.		[BCI] [ECI]
KVA - Sistemas de Energia e Telecomunicações Unipessoal, Lda.		[BCI] [ECI]
MAGIC LASER, Lda.		[BCI] [ECI] On 04.07.2014, ICP-ANACOM cancelled the registration of the provider of electronic communication services. [BCI] [ECI]
QICOMM LIMITED		[BCI] [ECI]
RANUFONE, Unipessoal, Lda.		[BCI] [ECI]
SMART SOLUTIONS – Formação Profissional e Consultoria, Unipessoal, Lda		[BCI] [ECI]
Stewart, Dobinson,		On 04.07.2014, ICP-ANACOM cancelled the registration of the

Companies	ET taken into account [BCI]	Additional information [BCI]
Abbarado & Rodriguez - Redes Informáticas, Lda.		provider of electronic communication services, with effect as from 30.04.2014. [BCI] [ECI]
TAKE SIGNAL, Lda.	Confidential	[BCI] [ECI]
TELEMÁTICA PENINSULAR DE PORTUGAL, Lda.		[BCI] [ECI]
TVI - Televisão Independente, S.A.		On 29.12.2014, ICP-ANACOM cancelled the registration of the provider of electronic communication services, with effect as from 26.04.2012.
VaporCloud - Unipessoal, Lda.		On 29.12.2014, ICP-ANACOM cancelled the registration of the provider of electronic communication services. [BCI] [ECI]
Voz Original, Lda.		[BCI] [ECI]
YMAZYM - Serviços de Telecomunicações, Lda.		[BCI] [ECI]
Absolutopinion, S.A.		[BCI] [ECI]
ALCARIA - Sistemas de Comunicações, Lda.		On 17.07.2014, ICP-ANACOM cancelled the registration of the provider of electronic communication services. [BCI] [ECI]

Companies	ET taken into account [BCI]	Additional information [BCI]
Atena T, S.A.	Confidential	[BCI] [ECI]
BLOOMBERG FINANCE L.P.		[BCI] [ECI]
Companhia I.B.M. Portuguesa, S.A.		[BCI] [ECI]
DETECTOR PORTUGAL - Serviços de Segurança Privada, Unipessoal, Lda.		[BCI] [ECI]
Hibernia Atlantic Cable System Limited		[BCI] [ECI]
IV Response Limited		[BCI] [ECI]
Kubi Wireless, S. L.		[BCI] [ECI]
Maritime Communications Partner, AS		[BCI] [ECI]
Palco da Vida - Telecomunicações Unipessoal, Lda.		[BCI]

Companies	ET taken into account [BCI]	Additional information [BCI]
		[ECI]
Skylogic, SpA		[BCI]
		[ECI]
Sweet & Mata, Lda.	Confidential	[BCI]
		[ECI]
Uros S.A.R.L.		[BCI]
		[ECI]
VOIP-IT, Lda.		[BCI]
		[ECI]
VOXBONE, S.A.		[BCI]
		[ECI]
WISEVECTOR - Telecomunicações, Lda.	[ECI]	[BCI]
		[ECI]
TOTAL	2 419 260.87	---

Values expressed in Euros.

2.4. Determination of the sector's eligible turnover

Taking the above into account, namely that the amount of eligible turnover of audited companies is 4 663 775 996.40 Euros, that the amount of eligible turnover of companies that submitted information on this matter, but were not audited, is 22 617 418.54 Euros and that it is considered that the amount of eligible turnover of companies that failed to submit any information on this subject is 2 419 260.87 Euros, ICP - ANACOM concludes that the amount of the sector's eligible turnover, calculated under article 8 of the Fund Law, and for the purpose of article 18 of the same Law, is 4 688 812 675.81 Euros.

As regards the use of information from alternative sources instead of using exclusively information transmitted for the purpose of the Fund Law, it is stressed that the purpose of such information is to enable the most accurate overall amount of the sector's eligible turnover to be reached and, as such, such figure must cover all companies providing, in 2013, on national territory, public communications networks and/or publicly available electronic communications services.

Without prejudice, the impact of the exclusive use of information conveyed by companies in the scope of the Fund Law was analysed, namely for the purpose of the determination of companies that will effectively contribute to the compensation fund, in compliance with paragraph 2 of article 18 of the Fund Law, compared to what would result from the use of amounts obtained through other sources, such as values included in ICP - ANACOM's "*Communications Market in the National Economy (2009-2013)*"¹² on the sector's total turnover in 2013, and compared to the use of such information complemented, where no other information is available, with data conveyed for the purpose of the entry and settlement of the annual fee referred to in article 105, paragraph 1b) of ECL.

The exclusive use of data of information conveyed by companies for the purpose of the Fund Law, or in alternative the use of such information complemented with the use of data conveyed by companies for the purpose of the entry and settlement of the annual fee referred to in article 105, paragraph 1b) of ECL, where information is not available for the purpose of the Fund Law, has no impact whatsoever in the determination of companies that will contribute to the compensation fund, nor in the amount of such contribution. This results from the fact that the difference between

¹² Available at [Communications Market in the National Economy \(2009-2013\)](#)

the two values is completely negligible, given that the amount of the eligible turnover of companies that submitted information for the purpose of the Fund Law represents more than 99% of the total amount of eligible turnover calculated for the sector and mentioned above.

Another alternative would be the use of data included in the publication mentioned earlier, on the *“Communications Market in the National Economy (2009-2013)”*.

The amount disclosed in the referred publication on the sector’s overall income, as regards the overall activity of companies, is 6 272 683 000 Euros (including income from outside the electronic communications sector). Income from the specific activity of electronic communications, excluding the sale of terminal equipment, income from other activities and income from transactions between bodies that belong to the same company, amount to 4 245 610 000 Euros. This last figure is close to the amount obtained for the purpose of the Fund Law, which is 4 688 812 675.81 Euros.

Nevertheless, it was deemed that this alternative would not be the most appropriate, bearing in mind that most missing information was available in the scope of data conveyed for the purpose of the entry and settlement of the annual fee referred to in article 105, paragraph 1b) of ECL, and in several cases, this information is more comprehensive, thus ICP - ANACOM opted for using it.

In any case, even if some of the information collected in the scope of the drafting of the referred publication was used, namely in order to address the lack of information on the amount of turnover for some companies, the use of such information would have no impact on the determination of companies subject to the obligation to contribute to the compensation fund.

In the light of the above, it is restated that in order to calculate the amount of the sector’s eligible turnover, ICP - ANACOM used data conveyed for the purpose of the Fund Law (21 companies having been audited, whose eligible turnover exceed 99% of the sector’s eligible turnover), complemented, where such information was not transmitted, by data submitted by companies for the purpose of the entry and settlement of the annual fee referred to in article 105, paragraph 1b) of ECL, having been considered as regards some companies which were not active, on the basis of ICP - ANACOM’s internal information, that the respective turnover amounted to zero, in 2013.

Under these conditions, the sector’s eligible turnover amounts to 4 688 812 675.81 Euros.

3. Companies required to contribute to the compensation fund in the scope of CLSU for 2007-2009

The Fund Law provides in article 18 that “[c]ompanies providing public communications networks and/or publicly available electronic communications services on national territory shall be required to make an extraordinary contribution to the compensation fund, relatively to each of the years 2013, 2014 and 2015, exclusively intended for the financing of net costs referred to in the preceding article that are approved by ICP - ANACOM in those years.”

Paragraph 2 of the same article further provides that “[t]he preceding paragraph shall not apply to companies that, in each of the years referred therein, register an eligible turnover in the electronic communications sector that is lower than 1% of the sector’s overall eligible turnover”.

Article 9, which applies by virtue of paragraph 4 of article 18, specifies the calculation required to be made to obtain the weight of companies in the electronic communications sector, so as to identify companies required to make an extraordinary contribution to the US compensation fund¹³.

It is noted that, under paragraph 3 of article 18 of the Fund Law, the set of bodies that, though legally separate companies, constitute, by 31 December of 2013, 2014 and 2015, an economic unit or have interdependence links between them, arising namely from (i) a majority shareholding; (ii) holding more than half the voting rights attaching to shares; (iii) power to appoint more than half the members of the administrative board or of the supervisory board; (iv) power to manage the respective business, are deemed to be a single company.

It is stressed also that paragraph 2 of article 9 (which applies by virtue of paragraph 4 of article 18) provides that in the case of companies made up of more than one body, the sum of the eligible turnover of each of the integrating bodies must be considered for the purpose of the calculation of the respective weight in the sector’s eligible turnover. Accordingly, ICP - ANACOM sought to find the shareholder structure of several bodies, so as to determine those which constitute a single company under the Fund Law.

¹³ According to that article, the weight of companies in the electronic communications sector is calculated according to the following formula: $P_i = \frac{V_i}{\sum V_i}$, where P_i represents the weight of the company in the electronic communications sector; V_i represents eligible turnover in the electronic communications sector on national territory for company i in the calendar year concerned; and $\sum V_i$ eligible turnover in the electronic communications sector on national territory for all companies providing electronic communications networks and/or publicly available electronic communications services in the calendar year concerned.

In this framework, it was concluded that the following bodies, the shareholder structure of which (Level 1 and 2) is explained below, present an eligible turnover equal to or exceeding 1% of the sector's eligible turnover.

- **Cabovisão – Televisão por Cabo, S.A.**

Table No. 5 – Composition of Cabovisão's capital on 31.12.2013

Company's Shareholders/Direct partners (Level 1)	%	Company's Shareholders/Indirect partners (Level 2)	%
Altice Portugal, S.A.	100%	Altice West Europe, S.à.r.l.	100%

Source: Annual electronic communications questionnaire – 2014 and Altice's website (www.altice.net)

- **MEO – Serviços de Comunicações e Multimédia, S.A.¹⁴**

Table No. 6 – Composition of MEO's capital on 31.12.2013

Company's Shareholders/Direct partners (Level 1)	%	Company's Shareholders/Indirect partners (Level 2)	%
PT Comunicações, S.A.	100%	PT Portugal SGPS, S.A.	100%

Source: Annual electronic communications questionnaire – 2014

- **ONITELECOM - Infocomunicações, S.A**

Table No. 7 – Composition of Onitelem's capital on 31.12.2013

Company's Shareholders/Direct partners (Level 1)	%	Company's Shareholders/Indirect partners (Level 2)	%
ONI SGPS, S.A.	100%	Winreason, S.A. (*)	100%

Source: Report and Accounts for 2013

(*) Source: AdC website. In August 2013, Altice Holdings S.à.r.l. acquired the whole of the capital of Winreason, S.A. (AdC issued a decision not opposing to the merger operation occurred on 02.08.2013).

¹⁴ On 2014.12.29 the merger by means of acquisition of MEO – Serviços de Comunicações e Multimédia, S.A. into PT Comunicações, S.A. was registered, having the company resulting from this merger been renamed as from this date MEO – Serviços de Comunicações e Multimédia, S.A..

- **OPTIMUS - Comunicações, S.A.**¹⁵

Table No. 8 – Composition of Optimus' capital on 31.12.2013

Company's Shareholders/Direct partners (Level 1)	%	Company's Shareholders/Indirect partners (Level 2)	%
ZON OPTIMUS, SGPS, S.A. ¹⁶	100%	ZOPT, SGPS, S.A.	50.01%
		Sonaecom, SGPS, S.A.	7.28%
		Banco BPI, S.A.	4.53%
		Fundação José Berardo e Metalgest - Sociedade Gestão, SGPS, S.A	3.49%
		Espírito Santo Irmãos, SGPS, S.A.	3.00%
		Joaquim Alves Ferreira de Oliveira	2.90%
		Total	71.22%

Source: Report and Accounts for 2013

(**) Source: website of ZON TV Cabo Portugal, S.A. Shareholder structure of ZON OPTIMUS, SGPS, S.A. on 12.09.2013 (date of the last update of this information at the company's website in 2013).

- **PT Comunicações, S.A.**¹⁷

Table No. 9 – Composition of PTC's capital on 31.12.2013

Company's Shareholders/Direct partners (Level 1)	%	Company's Shareholders/Indirect partners (Level 2)	%
PT Portugal SGPS, S.A.	100%	Portugal Telecom, SGPS	100%

Source: Annual electronic communications questionnaire – 2014

¹⁵ In 2014, the merger by means of acquisition of ZON TV Cabo Portugal, S.A. into Optimus Comunicações, S.A. was registered, having the company resulting from this merger been renamed as from this date NOS Comunicações, S.A. (NOS).

¹⁶ Corresponds at present to NOS, SGPS, S.A.

¹⁷ On 2014.12.29 the merger by means of acquisition of MEO – Serviços de Comunicações e Multimédia, S.A. into PT Comunicações, S.A. was registered, having the company resulting from this merger been renamed as from this date MEO – Serviços de Comunicações e Multimédia, S.A..

- **ZON TV Cabo Portugal, S.A.**¹⁸

Table No. 10 – Composition of ZON TV Cabo Portugal’s capital on 31.12.2013

Company’s Shareholders/Direct partners (Level 1)	%	Company’s Shareholders/Indirect partners (Level 2)	%
ZON OPTIMUS, SGPS, S.A. ¹⁹	100%	ZOPT, SGPS, S.A.	50.01%
		Sonaecom, SGPS, S.A.	7.28%
		Banco BPI, S.A.	4.53%
		Fundação José Berardo e Metalgest -Sociedade Gestão, SGPS, S.A	3.49%
		Espírito Santo Irmãos, SGPS, S.A.	3.00%
		Joaquim Alves Ferreira de Oliveira	2.90%
		Total	71.22%

Source: Report and Accounts for 2013

(**) Source: website of ZON TV Cabo Portugal, S.A. Shareholder structure of ZON OPTIMUS, SGPS, S.A. on 12.09.2013 (date of the last update of this information at the company’s website in 2013).

Moreover, it was found, given the shareholder structure of the following bodies, that they maintain interdependence links with some of the bodies referred above.

- **KNEWON, S.A**

Table No. 11 – Composition of Knewon’s capital on a 31.12.2013

Company’s Shareholders/Direct partners (Level 1)	%	Company’s Shareholders/Indirect partners (Level 2)	%
ONI SGPS, S.A.	100%	Winreason, S.A. (*)	100%

Source: Report and Accounts for 2013

(*) Source: AdC website. In August 2013, Altice Holdings S.à.r.l. acquired the whole of the capital of Winreason, S.A. (AdC issued a decision not opposing to the merger operation occurred on 02.08.2013).

¹⁸ In 2014, the merger by means of acquisition of ZON TV Cabo Portugal, S.A. into Optimus Comunicações, S.A. was registered, having the company resulting from this merger been renamed as from this date NOS Comunicações, S.A. (NOS).

¹⁹ Corresponds at present to NOS, SGPS, S.A.

- **ZON TV Cabo Açoreana, S.A.²⁰**

Table No. 12 – Composition of ZON TV Cabo Açoreana’s capital on 31.12.2013

Company’s Shareholders/Direct partners (Level 1)	%	Company’s Shareholders/Indirect partners (Level 2)	%
ZON TV Cabo Portugal, S.A. ²¹	83.8%	ZON OPTIMUS, SGPS, S.A. ²²	100%
Fundo Banif Capital Infrastructure Fund	10.0%		
EDA - Eletricidades dos Açores, S.A.	6.2%		

Source: Annual electronic communications questionnaire – 2014

- **ZON TV Cabo Madeirense, S.A.²³**

Table No. 13 – Composition of ZON TV Cabo Madeirense’s capital on 31.12.2013

Company’s Shareholders/Direct partners (Level 1)	%	Company’s Shareholders/Indirect partners (Level 2)	%
ZON TV Cabo Portugal, S.A. ²⁴	77.95%	ZON OPTIMUS, SGPS, S.A. ²⁵	100%
Banif Capital Sociedade Capital de Risco, S.A.	16.19%		
E - Tempus S.G.P.S., SA	5.86%		

Source: Report and Accounts for 2013

It follows from the shareholder structures described above that there are 4 companies (deemed to be aggregated for the purposes of the Fund Law) required to contribute to the compensation fund, which integrate 10 bodies, in the light of the concept of company provided for in the Fund Law. Accordingly, the table below lists companies required to pay the extraordinary contribution to the

²⁰ Corresponds at present to NOS Açores Comunicações, S.A.

²¹ In 2014, the merger by means of acquisition of ZON TV Cabo Portugal, S.A. into Optimus Comunicações, S.A. was registered, having the company resulting from this merger been renamed as from this date NOS Comunicações, S.A. (NOS).

²² Corresponds at present to NOS SGPS, S.A.

²³ Corresponds at present to NOS Madeira Comunicações, S.A.

²⁴ In 2014, the merger by means of acquisition of ZON TV Cabo Portugal, S.A. into Optimus Comunicações, S.A. was registered, having the company resulting from this merger been renamed as from this date NOS Comunicações, S.A. (NOS).

²⁵ Corresponds at present to NOS SGPS, S.A.

compensation fund for 2013, as well as the weight of each company's eligible turnover in the sector's overall eligible turnover.

Table No. 14 – Companies required to contribute to the compensation fund and respective weight in the electronic communications sector

Companies	Weight in the sector [BCI]
Cabovisão/Onitecom/Knewon Group	
Cabovisão - Televisão por Cabo, S.A.	
ONITELECOM - Infocomunicações, S.A.	
Knewon, S.A.	
PT Group	
MEO - Serviços de Comunicações e Multimédia, S.A.	
PT Comunicações, S.A.	
NOS Group	Confidential
Optimus Comunicações, S.A.	
ZON TV Cabo Açoreana, S.A.	
ZON TV Cabo Madeirense, S.A.	
ZON TV Cabo Portugal, S.A.	
Vodafone	
Vodafone Portugal - Comunicações Pessoais, S.A.	[ECI]
TOTAL	98.1%

Source: ICP - ANACOM calculations based on companies' and the sector's eligible turnover.

Companies required to contribute to the US Compensation Fund thus cover more than 98% of the sector's overall eligible turnover.

4. Amount of contributions

It follows from paragraph 7 of article 18 of the Fund Law that from the amount of CLSU to be considered for the purpose of setting the amount of contributions must be deducted:

- a) Compensatory interest, in accordance with general tax law, due on the established contribution amount, where the entry or settlement of the extraordinary contribution are delayed or defective due to the fault of companies required to contribute;
- b) Other revenues that under the law are assigned to the financing of net costs to be compensated in the period preceding the designation by tender and that are available in the compensation fund at the time the contribution entry procedure starts.

Given that this is the first time the compensation fund will be activated, there is no amount of compensatory interest to be deducted to the amount of CLSU to be considered. On the other hand, it is noted that no other revenues have been assigned, under paragraph 7b) of article 18 of the Fund Law, thus the final amount to be considered for the purpose of the setting of the amount of contributions corresponds exactly to the overall amount of CLSU for 2007-2009 approved by ICP - ANACOM in its determination of 19.09.2013, which corresponds to 66 810 982.34 Euros (sixty six million, eight hundred and ten thousand, nine hundred and eighty two Euros and thirty four cents).

Under the conditions described, the following table presents the values of contributions required of each company/body in the proportion of the respective eligible turnover achieved in 2013, in compliance with article 18 of the Fund Law.

Table No. 15 – Amount of contributions of companies and bodies required to contribute to the compensation fund

Companies	Contribution (Euros)
Cabovisão/Onitelem/Knewon Group	2 833 078.25
Cabovisão - Televisão por Cabo, S.A.	1 545 083.78
ONITELECOM - Infocomunicações, S.A.	1 287 994.47
Knewon, S.A.	0.00
PT Group	31 741 141.80
MEO - Serviços de Comunicações e Multimédia, S.A.	11 442 934.71
PT Comunicações, S.A.	20 298 207.09
NOS Group	18 615 290.04
Optimus Comunicações, S.A.	9 318 647.90

Companies	Contribution (Euros)
ZON TV Cabo Açoreana, S.A.	256 081.94
ZON TV Cabo Madeirense, S.A.	396 472.27
ZON TV Cabo Portugal, S.A.	8 644 087.93
Vodafone	13 621 472.26
Vodafone Portugal - Comunicações Pessoais, S.A.	13 621 472.26
TOTAL	66 810 982.35

Values expressed in Euros.

Note: Values were calculated in compliance with the Fund Law, at cent level.

Source: ICP - ANACOM calculations based on declarations conveyed by companies and audit results.

In compliance with paragraph 5 of article 18 of the Fund Law, it was found that amounts of contributions expressed in the table above do not exceed the 3% threshold of the eligible turnover of each body and are in compliance with paragraph 6 of the same article²⁶.

5. Conclusion and Determination

Whereas:

- a. Law No. 35/2012, of 23 August, establishes the compensation fund for the electronic communications universal service provided for in the Electronic Communications Law, intended for the financing of net costs arising from the provision of the universal service.
- b. The referred Law provides that companies providing public communications networks and/or publicly available electronic communications services on national territory are required to make an extraordinary contribution to the compensation fund, relatively to each of the years 2013, 2014 and 2015, exclusively intended for the financing of net costs that are approved by ICP - ANACOM in those years.
- c. In 2013, ICP - ANACOM approved CLSU for the 2007-2009 financial years, for an overall amount of 66 810 982.34 Euros.

²⁶ Paragraph 6 of article 18 of the Fund Law provides as follows: "The amount of the extraordinary contribution to be charged to each body shall never exceed the value it would be required to pay as a result of the sharing of net costs referred to in paragraph 2 of article 17 among bodies required to contribute, in the proportion of the respective eligible turnover."

- d. The two requirements defined in article 17 of Law No. 35/2012 to call the compensation fund, in compliance with ECL (paragraph 1 of article 97) have been met, namely: (i) existence of CLSU, further to the audit, which were approved and deemed by the Regulatory Authority to be unfair; and (ii) request by PTC to the Government for compensation for CLSU approved by ICP - ANACOM within the legally required period.
- e. ICP - ANACOM is charged, under Law No. 35/2012, with performing all acts required for a proper administration of the compensation fund, being also incumbent upon the Regulatory Authority, pursuant to article 19 of the referred Law, to identify the bodies required to contribute to the compensation fund, for the financing of net costs to be compensated in the period preceding the designation by tender, and to set the precise amount of the respective extraordinary contribution.
- f. In 2013, there were 133 companies registered with ICP - ANACOM as public communications network operators and/or publicly available electronic communications service providers.
- g. Of the referred companies, 90 submitted to ICP - ANACOM information on the eligible turnover and 43 failed to submit any information, and out of the latter, 26 were deemed not to be active in 2013 (or the respective location remained unknown), and as regards another 10, the amount of eligible turnover was assumed to be based on data conveyed for the purpose of the procedure for entry and settlement of the annual fee referred to in article 105, paragraph 1b) of ECL, however amounts concerned do not call into question these companies' contribution to the Fund.
- h. 21 companies providing electronic communications network and/or services were audited in the scope of Law No. 35/2012, including the ten companies with the largest relevant amount of eligible turnover.
- i. As a result of the audit and of the analysis undertaken by ICP - ANACOM to other network operators and/or electronic communications service providers, and as detailed in chapters 2.1, 2.2 and 2.3, it was found that the sector's eligible turnover amounts to 4 688 812 675.81 Euros (an amount which reflects the information conveyed by a body, in the scope of the prior hearing procedure referred in I).

- j. On the basis of the calculated eligible turnover and in the light of the concept of company provided for in the Fund Law, the 4 companies (which cover 10 bodies) required to make an extraordinary contribution to the compensation fund for 2013 were determined, having been excluded all those that in the year concerned registered an amount of eligible turnover in the electronic communications sector lower than 1% of the sector's overall eligible turnover.
- k. The overall amount of the extraordinary contribution for 2013 corresponds exactly to the overall amount of CLSU approved by ICP - ANACOM in its determination of 19.09.2013, and there are no other amounts to be deducted, namely compensatory interest or other revenues assigned under the law.
- l. Under articles 100 and 101 of the Administrative Procedure Code, a prior hearing of interested parties was held, 10 working days having been granted for interested parties to assess the draft decision. Contributions were analysed in accordance with the terms set out in the prior hearing report, which substantiates this decision and is deemed to be an integral part hereof.
- m. Further to these contributions, the sector's overall amount of eligible turnover was updated on the basis of data concerning a company that had failed to submit information.
- n. This update does not alter the number of bodies required to contribute to the compensation fund, nor the respective contribution amounts.
- o. Except for the situation referred in m), arguments put forward by some of the interested parties, as substantiated in the prior hearing report, did not determine the amendment of these bodies' eligible turnover amount compared to the amount considered in the scope of the DD.
- p. In the scope of comments received, MEO – Serviços de Comunicações e Multimédia, S.A.²⁷, requested, under article 12, paragraph 2, of Law No. 35/2012, of 23 August, a waiver of the requirement for the payment of its contribution, given that it was entitled, as US provider

²⁷ Corporate name of the company that arose from the merger by means of acquisition of MEO – Serviços de Comunicações e Multimédia, S.A., into PT Comunicações, S.A.

during the period concerned (2007-2009) to a compensation amount that exceeded the amount of the contribution.

ICP - ANACOM's Management Board, in the scope of tasks assigned pursuant to article 97 of ECL (paragraphs 2, 3, 4 and 6) and in the exercise of powers granted under articles 4 and 19, paragraphs 1, 2 and 3 of Law No. 35/2012, of 23 August 2012, and by article 26, point I) of Statutes published in annex to Decree-Law No. 309/2001, of 7 December, hereby determines:

1. To order, for the purpose of the calculation of the electronic communications sector's overall eligible turnover:

a. The review of eligible turnover amounts for the following companies: [BCI]

[Confidential]

[ECI], further to audits carried out, as described in chapter 2.1;

b. The review of the eligible turnover amount for the following company: ([BCI] Confidential [ECI]), as a result of arithmetical corrections introduced, as described in chapter 2.2;

c. The establishment of the amount of eligible turnover for the following companies: ([BCI]

[Confidential]

[ECI]), according to the amount communicated for the purpose of the entry and settlement of the annual fee referred to in article 105, paragraph 1b) of ECL, as described in chapter 2.3, as such companies failed to provide information for the purpose of Law No. 35/2012;

d. The update of the ET amount for ULTRASERVE - Consultoria e Apoio Empresarial, Lda., according to data conveyed by the company in the scope of the prior hearing of interested parties.

2. To establish, on the basis of information provided by electronic communications network operators and service providers, and bearing in mind point 1, that the sector's overall eligible turnover amounts to 4 688 812 675.81 Euros.
3. To approve the list of bodies that, in accordance with the calculated eligible turnover and in compliance with article 18 *et seq.* of Law No. 35/2012, are required to pay an extraordinary contribution to the compensation fund, as well as the amount each body is required to pay, according to the table below, where the total value of such contribution corresponds to the amount of compensation to be paid to MEO Comunicações e Multimédia, S.A.²⁸, for net costs incurred in the 2007-2009 financial years, as approved by ICP - ANACOM in 2013.

Table No. 16 – Amount of contributions of bodies required to contribute to the compensation fund

Companies and bodies	Eligible Turnover [BCI]	Contribution % [BCI]	Contribution
Cabovisão/Onitecom/Knewon Group			2 833 078.25
Cabovisão - Televisão por Cabo, S.A.			1 545 083.78
ONITELECOM - Infocomunicações, S.A.			1 287 994.47
Knewon, S.A.			0.00
PT Group			31 741 141.80
MEO - Serviços de Comunicações e Multimédia, S.A. (1)			11 442 934.71
PT Comunicações, S.A. (1)			20 298 207.09
NOS Group			18 615 290.04
Optimus Comunicações, S.A. (2)			9 318 647.90
ZON TV Cabo Açoreana, S.A. (3)			256 081.94
ZON TV Cabo Madeirense, S.A. (4)			396 472.27
ZON TV Cabo Portugal, S.A. (2)			8 644 087.93
Vodafone			13 621 472.26
Vodafone Portugal - Comunicações Pessoais, S.A.	[ECI]	[ECI]	13 621 472.26
TOTAL	4 598 428 452.71	100%	66 810 982.35

²⁸ Corporate name of the company that arose from the merger by means of acquisition of MEO – Serviços de Comunicações e Multimédia, S.A., into PT Comunicações, S.A.

(1) On 2014.12.29 the merger by means of acquisition of MEO – Serviços de Comunicações e Multimédia, S.A. into PT Comunicações, S.A. was registered, having the company resulting from this merger been renamed as from this date MEO – Serviços de Comunicações e Multimédia, S.A..

(2) Corresponds at present to NOS Comunicações, S.A.

(3) Corresponds at present to NOS Açores Comunicações, S.A.

(4) Corresponds at present to NOS Madeira Comunicações, S.A.

Note: Values expressed in Euros.

Values were calculated in compliance with the Fund Law, at cent level.

Source: Information from companies, audit results and ICP - ANACOM calculations.

4. To order the issue of the Invoice/Settlement Notice of contributions identified in the preceding point, which shall refer to this decision and respective grounds, and indicate the Compensation Fund as active party and respective Tax Identification Number, defence measures and means of payment.
5. To authorize, further to the request made and pursuant to paragraph 2 of article 12 of Law No. 12/2012, applicable *ex vi* article 20, paragraph 1 of the same statutory instrument, MEO – Comunicações e Multimédia, S.A.²⁹ not to pay the contribution to which it is bound as the amount of compensation to which it is entitled is higher. As such, to the amount of compensation to which the company is entitled is deducted the amount of the contribution.
6. To notify bodies covered by the determination in point 1 of the approval of this decision and of the amendment to the respective amount of eligible turnover, where appropriate.
7. To notify bodies covered by determination in point 3, under paragraph 5 of article 11 of Law No. 35/2012, which applies by virtue of article 19, paragraph 3 of the same statutory instrument, of the approval of this decision.
8. To publish this decision at ICP - ANACOM's website, in compliance with paragraph 6 of article 11 of Law No. 35/2012, which applies by virtue of article 19, paragraph 3 of the same statutory instrument.

²⁹ Corporate name of the company that arose from the merger by means of acquisition of MEO – Serviços de Comunicações e Multimédia, S.A., into PT Comunicações, S.A.