

**Decision on the identification of bodies required to contribute to the compensation fund of the electronic communications universal service and on the establishment of the amount of contributions concerning USNC to be compensated for 2014 (USNC approved in 2016) and for 2016 (subsequently to the USP tender designation)**

**Public Version**

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## **1. Scope and legal framework**

### **1.1. Compensation of USP**

The Electronic Communications Law<sup>1</sup> (ECL) lays down the right to recover costs incurred in the provision of the universal service (US). Under paragraph 1 of article 97, universal service providers (USP) are entitled to receive compensation for such costs where two cumulative requirements are met: (i) the existence of universal service net costs (USNC) is established and (ii) such costs are deemed by *Autoridade Nacional de Comunicações* (ANACOM) to be an unfair burden.

On its turn, article 95, paragraph 1, provides that where ANACOM takes the view that the provision of USNC represents an unfair burden on the respective providers, it is required to calculate the net cost of the US obligation as follows: (i) the net cost of the US obligation is calculated, taking into account any additional market benefits which accrue to providers, in compliance with a methodology defined by ANACOM (point a) or (ii) the value indicated by the USP appointed through the designation mechanism provided for in ECL is used (point b).

Where USNC are found to exist and are deemed to be an unfair burden, ECL provides in article 97 that due compensation may be paid, either in alternative or cumulatively: (i) from public funds (cf. point a)) and/or (ii) by sharing costs among companies providing public communications networks and publicly available electronic communications services on national territory, in which case a compensation fund must be established, managed by ANACOM or by another independent body appointed by the Government (cf. point b) of paragraph 1 and paragraph 2 of the same provision).

In compliance with paragraph 2 of article 95 of ECL, ANACOM approved on 09.06.2011 a decision on the concept of unfair burden - defining the conditions under which the US provision would be likely to represent an unfair burden - as well as a decision on the methodology to be used to calculate USNC<sup>2</sup>, having been determined in the decision on the concept of unfair burden that the methodology for calculating USNC, approved by ANACOM, would be applied in the period after 01.01.2007 and until tender-designated USP(s) started the provision of that service.

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<sup>1</sup> Law No. 5/2004, of 10 February, as it stands.

<sup>2</sup> It must be stressed that, subsequently to this decision, other decisions with an impact on the methodology for calculating USNC were also taken, which are available at ANACOM's website.

As far as tender-designated USP are concerned, it must be recalled that ANACOM established, by determination of 07.02.2012, that *values that resulted from tenders 1 (telephone service at a fixed location) and 2 (provision of public pay-phones) would be deemed to be an unfair burden and as such would be subject to financing in accordance with the terms and conditions set out in the tender and documents setting the compensation fund.* The determination made no reference to any net cost values that resulted from the telephone directory and telephone directory enquiry service (tender 3), given that the financing of this US provision was not taken then into consideration, as at the time it was deemed to be profitable overall.

Subsequently, with the approval by ANACOM, on 30.01.2015, of new specifications for this US provision, the respective financing paradigm changed from a system of “remuneration” to the State to a system of “compensation” to be paid to the USP. Administrative Rule No. 50-A/2015, of 25 February, which approved the tender program and specifications for the selection of the body to be designated to supply the universal service of provision of a comprehensive telephone directory and of a comprehensive telephone directory enquiry service, provided that “*charges associated to this tender, corresponding to the value of the referred financing, shall be borne by the compensation fund of the electronic communications universal service, in compliance with Law No. 35/2012, of 23 August*”.

## **1.2. US financing**

Law No. 35/2012, of 23 August, as it stands (hereinafter the Fund Law), sets up the financing mechanism provided for in article 97 of ECL by establishing the compensation fund for the electronic communications universal service (USCF). Under this law, it was decided that US costs would be shared among providers on national territory of public communications networks and publicly available electronic communications services, and criteria for the sharing of USNC among the referred companies was also defined.

The USCF is intended to finance USNC determined in the scope of the USP designation tenders, as well as to finance USNC referred to in chapter V of that Law, concerning the period preceding the tender designation of the USP<sup>3</sup> (*vide* article 6 of the Fund Law).

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<sup>3</sup> This concerns the extraordinary contribution referred to in the Fund Law, intended for the financing of USNC incurred in the period preceding the USP tender designation, that are approved by ANACOM in 2013, 2014, 2015 and 2016 (*vide* article 18 of the referred law).

According to the Fund Law, undertakings providing public communications networks and/or publicly available electronic communications services on national territory that, in the calendar year to which the net costs relate, registered an eligible turnover in the electronic communications sector which gives them a weight equal to or higher than 1% of the sector's overall eligible turnover, are required to contribute to the compensation fund (*vide* article 2).

As regards USNC incurred in the period preceding the USP tender designation, article 17 of the Fund Law establishes that the USCF must be called to finance USNC incurred until the tender-designated provider or providers start the universal service provision, where the following requirements, which also stem from ECL (paragraph 1 of article 97), are met:

*“a) Evidence exists of net costs, further to an audit, that are deemed to be unfair by 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;*

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

Paragraph 4 of this article lays down also that the USP must request from the Government the compensation for USNC that are approved further to the audit within at least five days from notification of the final decision of approval by 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 USNC incurred in the period preceding the tender designation.

In compliance with paragraph 4 of article 96 of ECL, which lays down that all accounts and other relevant information for the calculation of USNC must be audited by ANACOM or a body independent of stakeholders and subsequently approved by this Authority, ANACOM submitted USNC estimates presented by MEO - Serviços de Comunicações e Multimédia, S.A. (MEO), concerning the US provision in the period preceding the USP tender designation for 2014<sup>4</sup>, to an audit, that was awarded to AXON Partners Group Consulting S.L. By determination of 27.10.2016., and further to audit results and the declaration of conformity issued by auditors, ANACOM approved final USNC values for 2014, covering only the period preceding the current

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<sup>4</sup> Note that the US provision by MEO under the concession contract occurred during only a part of 2014, as the provision of the US by operators designated under designation procedures started in the course of 2014.

US tender provision, amounting to 7,721,670.71 Euro (seven million, seven hundred and twenty-one thousand, six hundred and seventy Euro and seventy-one cents).

MEO was notified of the final decision on the approval of USNC for 2014 on 02.11.2016, having requested the respective compensation from the Government on 07.11.2016 (registered at the Ministry of Economy on 08.11.2016), within the time-limit set out in paragraph 4 of article 17 of the Fund Law.

The Government, by letter received at this Authority on 04.12.2017, informed ANACOM that the Secretary of State of Infrastructures and the Secretary of State for Treasury had approved MEO's request to call the USCF to compensate USNC for 2014, approved by ANACOM in 2016.

In the light of the above, it is concluded that conditions defined in article 17 of the Fund Law - (a) existence of USNC, further to the audit, which were approved and deemed by ANACOM to be unfair, and (b) request by MEO from the Government for compensation of USNC approved by ANACOM within at the most 5 working days from notification of the respective final decision - required to ensure, via USCF, the financing of USNC approved in 2016, concerning USNC for 2014 (in the period preceding the USP tender designation), have thus been met.

As regards the financing of USNC incurred subsequently to the USP tender designation, the Fund Law lays down in article 6 that the compensation fund is intended to finance USNC determined in the scope of tenders referred to in paragraph 3 of article 99 of ECL, deemed by ANACOM to be unfair, articles 10 and 11 respectively ruling criteria for the sharing of net costs and the entry of contributions.

In this respect, it is recalled that, by determination of 07.02.2012, as referred in the point above, ANACOM established that values that resulted from tenders (which at the time only covered the provision of connection to a public communications network at a fixed location and of publicly available telephone services and the provision of public pay-telephones) would be deemed to be an unfair burden. With the subsequent change of paradigm associated to the provision of a comprehensive telephone directory and of a comprehensive telephone directory enquiry service, this US provision was also deemed likely to represent an unfair burden and, consequently, in the scope of the tender that led to the respective award, the remuneration of the USP to be designated was provided for, thereby ensuring this provision.

In line with the above, and in compliance with article 97, paragraph 1 of ECL, net costs resulting from all US provisions were and are deemed to be unfair and, as such, they must be financed,

under the terms and conditions set out in the respective tender statutory instruments, as well as in the law that lays down the establishment of the USCF.

In this context, it is emphasized that contracts concluded between tender-designated USP and the Portuguese State specify the amount of USNC to be compensated as well as rules to be applied on the financing of costs concerned resulting from the US provision, *vide* clause 13 of contracts on (i) the provision of connection to a public communications network at a fixed location and of publicly available telephone services and the provision of public pay-phones, both concluded in 2014, and (ii) the provision of a comprehensive telephone directory and of a comprehensive telephone directory enquiry service, concluded in 2015.

Tables below present compensation values for USNC incurred by USP in the scope of the US provision, under contracts concluded with the Portuguese State

**Table No. 1 – USNC incurred by NOS Comunicações, S.A. in 2016 concerning the US of connection to a public communications networks at a fixed location and of publicly available telephone services**

	No. of days of provision of services in 2016	Total No. of days in 2016	Component 1 Connection to a public communications network at a fixed location and to publicly available telephone services		Component 2 Offer aimed for retired people and pensioners			USNC compensation amount
	D	M	Overall financing amount	Amount to be financed = (1/5 overall financing amount x D/M)	$V_U^5$	$M_s^6$	Amount to be financed = $V_U \times M_s \times D/M$	
ex-ZON	366	366	2,550,000.01 €	510,000.00 €	1,518000006402 €	0	0.00 €	510,000.00 €
ex-Optimus			7,050,000.01 €	1,410,000.00 €	0.00 €	0	0.00 €	1,410,000.00 €
NOS COMUNICAÇÕES, S.A.								<b>1,920,000.00 €</b>

Source: Contracts concluded between the Portuguese State and ex-ZON and between the Portuguese State and ex-Optimus, and ANACOM calculations

<sup>5</sup> “ $V_U$ ” corresponds to the financing unit value per monthly payment indicated in the contract.

<sup>6</sup> “ $M_s$ ” corresponds to the number of monthly payments that are effectively discounted in the civil year to which costs to be compensated refer.

**Table No. 2 – USNC incurred by MEO in 2016 concerning the US provision of public pay-phones**

	No. of days of provision of services in 2016	Total No. of days in 2016	Overall financing amount	USNC compensation amount = (1/5 overall financing amount x D/M)
	D	M		
MEO - Serviços de Comunicações e Multimédia, S.A.	366	366	12,333,000.00 €	<b>2,466,600.00 €</b>

Source: Contract concluded between the Portuguese State and ex-PTC, and ANACOM calculations

**Table No. 3 – USNC incurred by MEO in 2016 concerning the US provision of a comprehensive telephone directory and of a comprehensive telephone directory enquiry service**

	No. of days of provision of services in 2016	Total No. of days in 2016	Component 1 Variable component of financing per printed telephone directory proven to have been delivered to final users that expressly requested it			Component 2 Fixed financing component		USNC compensation amount
			$Vu^7$	$Ns^8$	Financed amount = $Vu \times Ns \times D/M$	Overall financing amount	Amount to be financed = (1/3 overall financing amount x D/M)	
MEO - Serviços de Comunicações e Multimédia, S.A.	366	366	0.451 €	6,210	2,800.71 €	1,900,000.00 €	633,333.33 €	<b>636,134.04€</b>

Source: Contract concluded between the Portuguese State and MEO on 10.07.2015, and ANACOM calculations

It must be stressed that the financing of USNC incurred by MEO concerning the US provision of a comprehensive telephone directory and of a comprehensive telephone directory enquiry service includes a variable component. The financing amount of the component is obtained by multiplying the unit financing amount per directory (0.451 Euro) by the number of directories explicitly requested and proven to have been delivered in 2016.

In 2016, 6,210 telephone directories were printed and delivered (6,103 delivered at addresses indicated by end-users and 107 delivered at MEO stores appointed for the purpose), corresponding to directories requested still in the course of 2015.

Under paragraph 4 of clause 13 of the US provision contract, the public contracting party is entitled, in order to determine the financing of the variable component, either directly or through

<sup>7</sup> “Vs” corresponds to the unit financing amount per directory.

<sup>8</sup> “Ns” corresponds to the number of directories explicitly requested and proven to have been delivered (annual maximum limit of 1,200,000 directories).



ANACOM, to conduct audits intended to assess the accuracy of the information provided by MEO.

In line with this framework, ANACOM, by notice dated 07.07.2016 addressed to the Head of Cabinet of the Secretary of State for Infrastructures (SEI), requested information on whether the Government wished ANACOM to conduct an audit on the number of telephone directories explicitly requested and proven to have been delivered by MEO in 2016, although it was recognised that a small amount of directories, and consequently, a low amount to be provided by the USCF, was concerned.

On 25.07.2016, the Government informed ANACOM that, given the small amount of the contract and of citizens covered by the measure, and in the light of costs of an audit operation to be conducted via ANACOM, the audit requirement was dispensed with.

Without prejudice, ANACOM requested MEO to submit detailed information on directories that were requested and delivered, including copies of proof of delivery. Having several clarifications and additional data been submitted, ANACOM takes the view that the value indicated by MEO, of 6,210 directories requested and delivered, is the amount to be taken into consideration for the purpose of the calculation of the financing of this provision, in the part that concerns the variable component.

It thus follows that the overall amount to be compensated for USNC incurred by USP, under concluded contracts, for 2016, is 5,022,734.04 Euros (five million, twenty-two thousand, seven hundred and thirty-four Euros and four cents)<sup>9</sup>.

On 14.12.2017, the Draft Decision (DD) was approved, and submitted to the prior hearing of stakeholders required to contribute to the compensation fund, under articles 121 and 122 of the APC, for 10 working days. The establishment or modification of values concerning the eligible turnover, further to audit or verification undertaken by ANACOM, was also subject to a prior hearing for the same time period.

Timely comments were received from Dialoga – Servicios Interactivos, S.A., MEO – Serviços de Comunicações e Multimédia, S.A, Nextweb – Prestação de Serviços na Área da Internet, Lda., NOS Comunicações, S.A, NOS Madeira Comunicações, S.A., NOS Açores Comunicações, S.A. and Vodafone Portugal – Comunicações Pessoais, S.A.

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<sup>9</sup> As results from the sum of USNC compensation amounts due to NOS and MEO.

With the prior hearing of stakeholders, the requirement set out in paragraph 4 of article 11 of the referred Law was thus met, which applies directly and also by reference provided for in paragraph 3 of article 19, which determines, under the Administrative Procedure Code, that the list with the following information is submitted to a prior hearing:

- Bodies required to contribute to the compensation fund.
- Eligible turnover (ET) for calculation of contributions due to the compensation fund.
- Amount of contributions due by each body, plus compensatory interest due under paragraph 7 of article 11 of the mentioned law, if any.
- Compensation due to the USP.
- Any justified corrections and adjustments, specifically in accordance with data collected as regards the ET actually achieved, where appropriate.

This decision implements the ruling laid down in the Fund Law, specifically as regards:

- a) The contribution provided for in article 11 of the Fund Law concerning compensation of USNC determined in the scope of tenders for designation of USP and incurred in by these USP in 2016;
- b) The extraordinary contribution provided for in article 18 of the same Law, concerning compensation for USNC for the period preceding the USP tender designation, approved by ANACOM in 2016 and which refer to USNC for 2014, in the period preceding the USP tender designation.

## **2. Contribution entry procedure**

Article 8 of the Fund Law lays down that the value of the sector's eligible turnover corresponds to the amount of sales and services provided on national territory, after deducting the amounts corresponding to: (i) revenues from activities not related to the provision of electronic communications networks and/or publicly available electronic communications services; (ii) revenues from transactions between bodies that belong to the same undertaking; and (iii) sale of terminal equipment.

Article 15 of the Fund Law<sup>10</sup> provides that companies providing public communications networks and/or publicly available electronic communications services, on national territory, are required to send to 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.

Paragraph 4 of this article also sets out that “*in case of termination of activity, undertakings must submit to ANACOM, within 15 working days from the date of termination, a statement with the value of turnover and other information referred to in paragraph 1 for the calendar year in progress, as well as a statement with the same information for the preceding calendar year, where the termination of activity takes place before 30 June*”.

In order to guarantee an easier communication of information related to the amount of eligible turnover, ANACOM sent, on 12.06.2017, to companies registered as network operators and/or publicly available electronic communications service providers, in operation in 2016, a letter with a model statement to be completed and signed by the person entitled to enter into legally binding commitments, acknowledged as such. ANACOM contacted 97 bodies and received 90 responses.

On 20.07.2017, ANACOM approved a decision to audit 24 companies<sup>11</sup>, although some of them integrate the same economic group. Companies subject to audit were selected on the basis of declarations received. Selected companies were those that showed more relevant annual eligible turnover values, those that showed significant turnover decreases compared to the preceding year and others were selected randomly. The eligible turnover of audited companies exceeds 99% of the sector’s ET (taking into account ET values resulting from the audit). The audit covered all companies identified as contributors, under articles 11 and 18 of the Fund Law.

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<sup>10</sup> Which also applies for the purpose of the extraordinary contribution, by reference laid down in article 22 of the Fund Law.

<sup>11</sup> AR Telecom – Acessos e Redes de Telecomunicações, S.A.; BT Portugal – Telecomunicações Unipessoal, Lda.; COLT – Technology Services, Unipessoal, Lda.; CTT – Correios de Portugal, S.A.; Dstelecom, S.A.; Fibroglobal – Comunicações Eletrónicas, S.A.; IP Telecom – Serviços de Telecomunicações, S.A.; Level 3 Communications Espanã, S.A.; Lycamobile Limited; Lycamobile Portugal, Lda.; MEO – Serviços de Comunicações e Multimédia, S.A.; Moneycall – Serviços de Telecomunicações, Lda; Nacacomunik – Serviços de Telecomunicações, Lda; NOS – Comunicações, S.A.; NOS Açores Comunicações, S.A.; NOS Madeira Comunicações, S.A.; NOWO Communications, S.A.; Onitelecom – Infocomunicações, S.A.; Orange Business Portugal, S.A.; Rentelecom – Comunicações, Lda; Tata Communications Portugal – Instalação e Manutenção de Redes, Lda; T-Systems ITC Iberia, S.A. (Sociedade Unipersonal) - Portugal branch; Vodafone Enterprise Spain, S.L. – Portugal branch; Vodafone Portugal, S.A.

In compliance with provisions of the Fund Law, specifically article 16 thereof, the eligible turnover declared by network operators and electronic communications service providers was audited, such audit having been awarded to Grant Thornton & Associados, SROC, Lda., by determination of ANACOM of 27.07.2017.

As regards remaining companies that were not audited, ANACOM checked the consistency and accurateness of amounts reported in statements, namely by comparing the overall value presented with values presented for the various items. In some cases, irregularities were detected, having ANACOM undertaken the respective correction.

ANACOM also urged bodies that submitted statements reporting turnover information that failed to be signed by the persons entitled to enter into legally binding commitments, acknowledged as such, to submit statements including signatures with such acknowledgement, to remedy this shortcoming.

ANACOM also undertook an analysis of the few bodies that failed to submit any statement or information for the purpose of the Fund Law, seeking to obtain otherwise the respective ET value so as to obtain the amount of the sector's ET, as explained below. In parallel, these bodies were urged, via new communications that were sent, to submit information required under the Fund Law.

Without prejudice to the assessment of situations of non-compliance with the Fund Law in the scope of legal action, ANACOM takes the view that such situations do not affect the calculation of the ET amount, given that, as delineated further hereunder, this situation concerns only few cases whose impact is negligible, and, in some cases, it was possible to assume an ET on the basis of alternative sources of information.

Chapters below explain the ET amount of audited companies (2.1), and as regards remaining companies, the ET amount of companies that submitted relevant information for the purpose of the Fund Law (2.2), as well as the ET amount taken into account in the case of companies that failed to submit any information (2.3).

## **2.1. Eligible turnover of audited companies**

24 companies (network operators and electronic communications service providers) were audited, in order to check conformity with ET amounts transmitted to ANACOM for the purpose of the Fund Law. This list also includes companies that had failed to submit any information

required to calculate the ET amount to be considered, information which, in some cases, was received in the course of the audit. Notwithstanding, a situation concerning Lycamobile Portugal, Lda., which failed to submit any declaration, remained. As such, it was not possible to audit this company's eligible turnover.

Audits conducted identified situations with impact on the declared ET value, as there were cases where revenues that should have been considered for the purpose of the calculation of ET were deducted. Reverse situations also occurred, that is, there were deductions that should have been made in the declaration initially submitted by operators, such situations having also been corrected.

The table below presents a list of audited companies, ET amounts reported by the referred companies, adjustments introduced by the audit and ET amounts corrected accordingly.

**Table No. 4 – ET declared by companies and adjusted following audits**

Companies	Declared ET (1)	Final ET following audits	Adjustment introduced by the audit
<b>Beginning of confidential information [BCI]</b>			
AR Telecom - Acessos e Redes de Telecomunicações, S.A.			
BT Portugal - Telecomunicações Unipessoal, Lda.			
COLT Technology Services, Unipessoal, Lda.			
CTT - Correios de Portugal, S.A.			
Dstelecom, S.A.			
Fibroglobal - Comunicações Electrónicas, S.A.			
IP Telecom - Serviços de Telecomunicações, S.A.			
Level 3 Communications España S.A.			
Lycamobile Limited			
Lycamobile Portugal, Lda.			
MEO - Serviços de Comunicações e Multimédia, S.A.			
Moneycall - Serviços de Telecomunicações, Lda.			
NACACOMUNIK - Serviços de Telecomunicações, Lda.			
NOS Açores Comunicações, S.A.			
NOS Comunicações, S.A.			
NOS Madeira Comunicações, S.A.			
NOWO Communications, S.A.			
ONITELECOM - Infocomunicações, S.A.			
Orange Business Portugal, S.A.			
Rentelecom - Comunicações, S. A.			
TATA Communications Portugal - Instalação e Manutenção de Redes, Lda.			
T-Systems ITC Iberia, S.A. (Sociedade Unipersonal) - Portugal branch			

Companies	Declared ET (1)	Final ET following audits	Adjustment introduced by the audit
Vodafone Enterprise Spain, S.L. - Portugal branch			
Vodafone Portugal - Comunicações Pessoais, S.A.			
<b>End of confidential information [ECI]</b>			
<b>Total ET</b>	<b>3,968,363,855.49</b>	<b>4,317,639,824.08</b>	<b>349,275,968.59</b>

Source: Audit reports drawn up by Grant Thornton.  
Values in Euros.

<sup>(1)</sup> Some of the values declared (subject to audit) differ in some cents of values that were submitted to ANACOM, due to the effects of rounding. For the purpose of the determination of the sector's ET, un-rounded values are taken into consideration.

Under the described conditions, the ET amount to be considered for the set of the 23 audited companies is 4,317,639,824.08 euros. It is stressed, as referred earlier, that it was not possible to audit one of the companies, the respective ET having been determined as explained below in chapter 2.3.

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

In addition to the 23 companies whose statements were audited, ANACOM also received information for 68 other companies. As a whole, ET from these 68 companies represent altogether around 0.60% in terms of the sector's ET. It is noted that in the scope of the prior hearing procedure, data was received from Dialoga – Servicios Interactivos, S.A., data which is now analysed.

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

In situations where a formal irregularity exists from the outset, due to the absence of acknowledgement of signatures in statements, in the light of the principle of good-faith and collaboration between tax-payers and administration (article 59 of the General Tax 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 ET.

In addition to situations described above, a very limited number of companies (seven) presented some inaccuracies in the completion of the statement, which were deemed to be likely to be



Company	Values	Observations
		[ECI]
Cogent Communications Portugal, Lda.		
Companhia I.B.M. Portuguesa, S.A.		
COMSAT - Serviços de Satélite, Lda.		
Cyclop Net - Informática e Telecomunicações, Lda.		[BCI]
		[ECI]
Dialoga – Servicios Interactivos, S.A.		Value submitted in its response to the DD.
Derivadas e Segmentos, S.A.		
DETECTOR PORTUGAL - Serviços de Segurança Privada, Unipessoal, Lda.		
Dstelecom Alentejo e Algarve, S.A.		
Dstelecom Norte, S.A.		
EMACOM - Telecomunicações da Madeira, Unipessoal, Lda.		
First Rule, S.A.		
Fleximédia - Serviços e Meios de Informação e Comunicação, Lda.		
Fractalia Remote Systems Portugal, Unipessoal, Lda.		
G9Telecom, S.A.		
Go4mobility - Tecnologia e Serviços para a Mobilidade, Lda.		
Gotelecom, Lda.		
Greenmill, Lda.		
HEARTPHONE - Comércio de Telecomunicações, Lda.		
Hoist Group Portugal, S.A.		
INDRA - Sistemas Portugal, S.A.		
Inmarsat Global Limited		
IPTV TELECOM - Telecomunicações, S.A.		[BCI]





Company	Values	Observations
		[EC]
Sousa Pinheiro Telecomunicações, Lda.		
STV - Sociedade de Telecomunicações do Vale do Sousa, S.A.		[BCI] [EC]
T.M.I. - Telemedia International, Limited - Portugal branch		
Telefónica International Wholesale Services II, S.L. Unipersonal, Portugal branch		
Thomson Reuters (Markets) Europe, S.A. - Portugal branch		
Valicom, Gestão de infraestruturas de Telecomunicações, EIM		
Vectone Mobile (Portugal) Limited		
Verizon Portugal - Sociedade Unipessoal, Lda.		
Viasat, Inc.		
Vivanet - Distribuição de Produtos Electrónicos, Lda.		
VOIP-IT, Unipessoal, Lda.		
Voipunify Telecom, Lda.		
Voxbone, S.A.	[EC]	
<b>TOTAL</b>	<b>26,250,978.55</b>	

Source: ANACOM based on statements from companies.

Values in Euros.

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

Of the 97 companies to which ANACOM sent a communication recalling the obligation to submit the statement, 6 companies failed to submit any information for the purpose of the Fund Law, including a company subject to audit.

ANACOM sought to obtain the ET value for companies that failed to submit information through alternative sources of information, using data provided by such companies in prior procedures for entry of contributions to the USCF (concerning ET for 2015) or declared for the purpose of the entry and settlement of the annual fee referred to in article 105, paragraph 1b) of ECL.

In fact, 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 ET 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 ET amount is deemed to be appropriate.

As such, ANACOM considered for one of the companies that the ET amount corresponds to the value reported for the 2016 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, which was submitted to audit. As another company is concerned, and having been found that it had also failed to submit information for the purpose of the procedure for entry and settlement of the annual fee referred to above, ANACOM considered that the ET value corresponds to the value reported in the preceding USCF procedure (which focused on its ET for 2015). For four other companies, no information is available.

The table below shows detailed information on each of the companies that failed to submit ET data, on the ET amount considered for each of them, as well as information, where appropriate, on the operation of companies (in 2016). The total ET obtained for these companies is 3,144,777.99 Euro.

**Table No. 6 – Eligible turnover of companies that failed to convey information for the purpose of the Fund Law**

Company	Values	Observations
IPS - International Prepay Solution AG	[BCI]	The company is likely to have operated in 2016. [BCI] [ECI]
IV Response Limited		The company is likely to have operated in 2016. [BCI] [ECI]
Lycamobile Portugal, Lda.		The company is likely to have operated in 2016. ANACOM included this company in the list of companies to be audited, this audit not having been possible. [BCI] [ECI]
OVHHOSTING - Sistemas Informáticos, Unipessoal, Lda.		The company is likely to have operated in 2016. [BCI] [ECI]
SIPTELNET - Soluções Digitais, Unipessoal, Lda.		The company is likely to have operated in 2016. [BCI] [ECI]
Uros S.A.R.L.	[ECI]	The company is likely to have operated in 2016. [BCI] [ECI]
<b>Total</b>	<b>3,144,777.99</b>	

Values in Euros.

In addition to companies identified above, there are two companies (CGPT, Lda. and Banda Larga Rural Unipessoal, Lda.) that ceased operations in the course of 2016, but were also required, under paragraph 4 of article 15 of the Fund Law, to send an ET statement for 2016.

These two companies failed to submit information concerned, having been assumed that each of their ET corresponds to zero, given the absence of information on their activity concerning the provision of networks or of electronic communications services.

#### **2.4. Determination of the sector's eligible turnover**

Taking the above into account, namely that the ET of audited companies is 4,317,639,842.08 Euros, that the amount of eligible turnover of companies that submitted information on this matter, but were not audited, is 26,250,978.55 Euros and that it is considered that the ET of companies that failed to submit any information on this subject is 3,144,777.99 Euros, ANACOM concludes that the sector's eligible turnover for 2016, calculated under article 8 of the Fund Law, amounts to 4,347,035,580.62 Euros.

As regards the use of information from alternative sources instead of exclusively using information transmitted for the purpose of the Fund Law, it is stressed that the purpose of such information is to enable the most accurate sector overall ET to be determined, covering all companies that provided, in 2016, on national territory, public communications networks and/or publicly available electronic communications services.

The exclusive use of data 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 on the determination of companies that will contribute to the compensation fund, nor on the amount of such contribution. This results from the fact that the difference between the two values is completely negligible, given that the ET amount of companies that submitted information for the purpose of the Fund Law represents over 99% of the total ET calculated for the sector and mentioned above.

In the light of the above, in order to calculate the amount of the sector's ET, ANACOM used data conveyed for the purpose of the Fund Law (having been audited companies whose ET exceed 99% of the sector's ET), complemented, where such information was not transmitted, by data submitted by companies in the scope of the former procedure for compensation of USNC as

well as by data conveyed for the purpose of the entry and settlement of the annual fee referred to in article 105, paragraph 1b) of ECL.

Under these conditions, the sector's ET in 2016 amounts to 4,347,035,580.62 Euros.

### **3. Bodies required to contribute to the compensation fund**

The Fund Law provides in paragraph 1 of article 7 that *“undertakings providing public communications networks and/or publicly available electronic communications services on national territory that, in the calendar year to which the net costs relate, registered an eligible turnover in the electronic communications sector which gives them a weight equal to or higher than 1% of the sector's overall eligible turnover, shall be liable to contribute to the compensation fund.”* Paragraph 2 of this article determines that this group of companies covers the company or companies responsible for the provision of the universal service.

Paragraph 3 of article 7 of the Fund Law clarifies that the group of companies that, though legally separate, constitute, by 31 December of the calendar year to which the net costs relate, 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, shall be deemed to be a single company.

As regards the extraordinary contribution, article 18 of the provides that *“undertakings providing, on national territory, public communications networks and/or publicly available electronic communications services shall be required to make an extraordinary contribution to the compensation fund, relatively to each of the years 2013, 2014, 2015 and 2016, exclusively intended for the financing of net costs referred to in the preceding article, that are approved by ANACOM in those years.”*

Paragraph 2 of this article also provides that *“the preceding paragraph shall not apply to undertakings 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.”*

Under paragraph 3 of article 18 of the Fund Law, for the purpose of the extraordinary contribution, the group of bodies that, though legally separate companies, constitute, by 31 December of 2013, 2014, 2015 and 2016, an economic unit or have interdependence links

arising from relationships mentioned earlier, provided for in paragraph 3 of article 7 of the Fund Law, shall be deemed to be a single undertaking.

It follows from the above that the set of bodies required to contribute to the compensation fund, both for the purpose of the financing of USNC for 2016 determined in the scope of tenders for USP, and for the purpose of the financing of USNC approved in 2016 by ANACOM and which concern the period in 2014 preceding the USP tender designation, is the same.

Article 9<sup>12</sup> of the Fund Law 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 a contribution to the US compensation fund<sup>13</sup>.

It is stressed also that paragraph 2 of article 9<sup>14</sup> provides that in the case of companies including more than one body, the ET of each of the integrating bodies must be added up for the purpose of the calculation of the respective weight in the sector's ET. Accordingly, ANACOM examined the shareholder structure of several bodies, so as to determine those which constitute a single company under the Fund Law.

In this framework, bearing in mind the concept of company laid down in the Fund Law, it was concluded that the following companies, including eight bodies whose shareholder structure (Level 1 and 2) is explained below, present an ET equal to or exceeding 1% of the sector's ET.

- **APAX Group**

**NOWO Communications, S.A.**

**Table No. 7 – Breakdown of Nowo's share capital on 31.12.2016**

Company's Shareholders/Direct partners (Level 1)	%	Shareholders/Indirect partners (Level 2)	%
Cabonitel, S.A.	100%	[BCI]	[ECI]

<sup>12</sup> It is noted that for the purpose of the extraordinary contribution, this article applies by virtue of paragraph 4 of article 18.

<sup>13</sup> 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;  $V_i$ , the eligible turnover in the electronic communications sector on national territory for company  $i$  in the calendar year concerned; and  $\sum V_i$ , the eligible turnover in the electronic communications sector on national territory for all companies providing public communications networks and/or publicly available electronic communications services in the calendar year concerned.

<sup>14</sup> Article which also applies, for the purpose of the extraordinary contribution, by virtue of paragraph 4 of article 18.

Source: 2016 Reports and Accounts of NOWO Communications, S.A.; Annual Electronic Communications Questionnaire – 2017.

### ONITELECOM - Infocomunicações, S.A.

**Table No.8 – Breakdown of ONITELECOM's share capital on 31.12.2016**

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

Source: 2016 Reports and Accounts of ONITELECOM - Infocomunicações, S.A.

(\*) On 31.12.2016, Winreason, S.A., 100% holder of the capital share of Oni SGPS, S.A., was wholly owned by NOWO Communications, S.A. It must also be stressed that current shareholders (Apax) acquired, on 20 January 2016, the whole of the share capital of Winreason S.A. (parent enterprise of the Oni Group), via NOWO Communications, S.A.

- **NOS Group**

### NOS Comunicações, S.A.

**Table No.9 – Breakdown of NOS Comunicações' share capital on 31.12.2016**

<b>Company's Shareholders/Direct partners (Level 1)</b>	<b>%</b>	<b>Shareholders/Indirect partners (Level 2)</b>	<b>%</b>
NOS, SGPS, S.A.	100%	ZOPT, SGPS, S.A.	52.15%
		Banco BPI, S.A.	2.77%
		Norges Bank	2.11%
		Blackrock Inc.	2.01%

Source: 2016 Reports and Accounts of NOS Comunicações, S.A.; 2016 Reports and Accounts of NOS SGPS, S.A.

## NOS Açores Comunicações, S.A.

**Table No. 10 – Breakdown of NOS Açores Comunicações’ share capital on 31.12.2016**

Company’s Shareholders/Direct partners (Level 1)	%	Shareholders/Indirect partners (Level 2)	%
NOS Comunicações S.A.	83.82%	NOS, SGPS, S.A.	100%
EDA – Eletricidade dos Açores, S.A.	6.18%	Autonomous Region of the Azores [BCI]	50.1% [ECI]
Açoreana Seguros, S.A.	2.11%	Soil SGPS Oitante, S.A.	52.3% 47.7%
Banco Comercial Português, S.A. (Millennium BCP)	7.89%	[BCI]	[ECI]

Source: 2016 Reports and Accounts of NOS Açores Comunicações, S.A.; 2016 Reports and Accounts of NOS Comunicações S.A.; 2016 Reports and Accounts of EDA – Eletricidade dos Açores, S.A.; 2016 Reports and Accounts of Açoreana Seguros, S.A.; Annual Electronic Communications Questionnaire – 2017.

## NOS Madeira Comunicações, S.A.

**Table No. 11 – Breakdown of NOS Madeira Comunicações’ share capital on 31.12.2016**

Company’s Shareholders/Direct partners (Level 1)	%	Shareholders/Indirect partners (Level 2)	%
NOS Comunicações S.A.	77.95%	NOS, SGPS, S.A.	100%
Banif Capital Sociedade Capital de Risco, S.A.	2.52%	n.d.	n.d.
E-Tempus SGPS, S.A.	5.86%	[BCI]	
Banco Comercial Português, S.A. (Millennium BCP)	10.78%		[ECI]
Açoreana Seguros, S.A.	2.89%	Soil SGPS Oitante S.A.	52.3% 47.7%



Source: 2016 Reports and Accounts of NOS Madeira Comunicações, S.A.; 2016 Reports and Accounts of NOS SGPS, S.A.; 2016 Reports and Accounts of Açoreana Seguros, S.A.; Annual Electronic Communications Questionnaire – 2017.

- **VODAFONE Group**

### Vodafone Portugal - Comunicações Pessoais, S.A.

**Table No.12 – Breakdown of Vodafone Portugal’s share capital on 31.12.2016**

Company’s Shareholders/Direct partners (Level 1)	%	Shareholders/Indirect partners (Level 2)	%
Vodafone Holdings Europe B.V.	61.37%	[BCI]	[ECI]
Vodafone Group Plc (*)	38.63%		

Source: 2016 Reports and Accounts of Vodafone Portugal - Comunicações Pessoais, S.A.; Annual Electronic Communications Questionnaire – 2017.

(\*) Vodafone Group Plc directly or indirectly holds 100% of Vodafone Portugal’s share capital.

### Vodafone Enterprise Spain, S.L. - Portugal Branch

**Table No. 13 – Breakdown of Vodafone Enterprise Spain’s share capital on 31.12.2016**

Company’s Shareholders/Direct partners (Level 1)	%	Shareholders/Indirect partners (Level 2)	%
Vodafone Enterprise Spain, S.L. (+)	100%	Cable & Wireless Europe Holdings Limited (+)	100%

Source: 2016 Reports and Accounts of Vodafone Enterprise Spain, S.L. (Portugal Branch)

(+) According to the R&C (period from 01.04.2016 to 31.03.2017), Vodafone Enterprise Spain, S.L. and Cable & Wireless Europe Holdings Limited are wholly owned by companies of the Vodafone Group.

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

**Table No.14 – Breakdown of MEO’s share capital on 31.12.2016**

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

Source: 2016 Reports and Accounts of MEO - Serviços de Comunicações e Multimédia, S.A.; 2016 Reports and Accounts of PT Portugal SGPS, S.A.

Taking into account the shareholder structures that existed by 31.12.2016, it was found that there are 4 companies required to make contributions to the USCF, which at that date integrated eight bodies, in the light of the concept of company provided for in the Fund Law.

The table below lists these companies and bodies required to make contributions to the USCF, both the contribution intended to finance USNC for 2016 incurred by tender-designated USP and the extraordinary contribution for 2016 intended to finance USNC approved in that year by ANACOM, which concern 2014, as well as the weight of each company's ET in the sector's overall ET.

**Table No.15 – Companies required to contribute to the compensation fund and the respective weight in the electronic communications sector**

Companies	Weight in the sector
<b>APAX Group (NOWO/Onitelem)</b>	[BCI]
NOWO – Communications, S.A.	
ONITELECOM - Infocomunicações, S.A.	
<b>NOS Group</b>	
NOS Comunicações, S.A.	
NOS AÇORES COMUNICAÇÕES, S.A.	
NOS MADEIRA COMUNICAÇÕES, S.A.	
<b>VODAFONE Group</b>	
VODAFONE PORTUGAL - Comunicações Pessoais, S.A.	
VODAFONE Entreprise Spain , SL - Portugal branch	
<b>MEO – Serviços de Comunicações e Multimédia, S.A.</b>	[ECI]
<b>Total</b>	<b>97.69%</b>

Source: ANACOM calculations based on companies' and the sector's ET.

Note: Discrepancies in totals are due to the effects of rounding.

Companies required to contribute to the USCF thus cover around 97.69% of the sector's overall ET.

## 4. Amount of contributions

### 4.1. Contribution concerning USNC for 2016 incurred by tender-designated USP

Pursuant to paragraph 2 of article 10 of the Fund Law, the following values are to be deducted from the amount of USNC to be shared:

- a) The annual remuneration paid to the State as consideration for the provision of the universal service or of any of its components, under the respective contract, where appropriate;
- b) Proceeds of contractual fines or penalties applied to the universal service provider or providers, under the contract for provision of the universal service, that are available in the compensation fund at the time the contribution entry procedure starts;
- c) Income from the administration of the compensation fund, namely income from deposit accounts where the fund's liquid assets are held, that are available in the compensation fund at the time the contribution entry procedure starts;
- d) Interest referred to in paragraph 7 of article 11 and in paragraph 1 of article 13 that are available in the compensation fund at the time the contribution entry procedure starts;
- e) Other revenues assigned to the compensation fund by law that are available in the compensation fund at the time the contribution entry procedure starts.

Under these conditions, and according to point d) above, the amount of 435.01 Euro, received by the USCF in 2017 following the payment of default interest determined under paragraph 1 of article 13 of the Fund Law, must be deducted from the value of USNC incurred in 2016 due to USP designated under contracts concluded.

As regards situations provided for in the remaining points, there is no other value to be considered at the time the contribution entry procedure starts.

Accordingly, 435.01 Euros must be deducted from the amount of USNC, this deduction being shared among USNC of the various US components, according to the proportion of the value of USNC of each US component in the total value of USNC. As such, 213.63 Euros is deducted from the amount of USNC incurred by MEO in the provision of public pay-phones, 55.09 Euros from the value of USNC incurred by MEO in provision of directories and enquiry services, and 166.29 Euros from the value of USNC incurred by NOS for the provision of FTS.

Under the conditions described, and as illustrated by the table below, it follows that the final value to be considered for the purpose of contributions corresponds to the overall value of USNC incurred by USP in 2016 under contracts concluded, deducted of default interest settled under article 13 of the Fund Law.

**Table No. 16 – Final amount of the contribution to be financed by companies and bodies required to contribute to the USCF concerning USNC for 2016 incurred by tender-designated USP**

	<b>NOS</b> (Provision of FTS)	<b>MEO</b> (Provision of PPP)	<b>MEO</b> (Provision of directories and 118)
<b>Value of USNC incurred by tender-designated USP in 2016</b>	€ 1,920,000.00	€ 2,466,600.00	€ 636,134.04
<b>Values to be deducted from USNC</b>	€ 166.29	€ 213.63	€ 55.09
Default interest under article 13 of Law No. 35/2012	€ 166.29	€ 213.63	€ 55.09
Overall amount to be considered for the purpose of the determination of amounts of contributions	€ 1,919,833.71	€ 2,466,386.37	€ 636,078.95

Source: ANACOM.

Under the conditions described, and in compliance with article 11 of the Fund Law, the following table presents the values of contributions required from each company/body (identified under article 7 of the Fund Law), determined in proportion to the respective ET achieved in 2016.

**Table No.17 – Amount of contributions of companies and bodies required to contribute to the compensation fund concerning USNC for 2016 incurred by USP under contracts concluded**

<b>Companies</b>	<b>NOS</b> (Provision of FTS)	<b>MEO</b> (Provision of PPP)	<b>MEO</b> (Provision of directories and 118)
<b>APAX Group (NOWO/ONI)</b>	<b>48,926.61</b>	<b>62,855.40</b>	<b>16,210.36</b>
NOWO Communications, S.A.	31,904.30	40,987.05	10,570.53
ONITELECOM - Infocomunicações, S.A.	17,022.31	21,868.35	5,639.83
<b>NOS Group</b>	<b>585,552.33</b>	<b>752,251.76</b>	<b>194,005.09</b>
NOS Comunicações, S.A.	567,605.95 <sup>(1)</sup>	729,196.28	188,059.10
NOS AÇORES COMUNICAÇÕES, S.A.	6,289.82	8,080.45	2,083.94
NOS MADEIRA COMUNICAÇÕES, S.A.	11,656.56	14,975.03	3,862.05
<b>VODAFONE Group</b>	<b>412,988.89</b>	<b>530,561.66</b>	<b>136,831.40</b>
VODAFONE PORTUGAL - Comunicações Pessoais, S.A.	412,988.89	530,561.66	136,831.40
VODAFONE Entreprise Spain , SL - Portugal Branch	0.00	0.00	0.00
<b>MEO – Serviços de Comunicações e Multimédia, S.A.</b>	<b>872,365.88</b>	<b>1,120,717.55</b>	<b>289,032.10</b>
<b>Total</b>	<b>1,919,833.71</b>	<b>2,466,386.37</b>	<b>636,078.95</b>

Values in Euros. Source: Data from companies, audit results and ANACOM calculations.

Note: Values were calculated in compliance with the Fund Law, at cent level. The aggregated contributions of each group are determined as the result of the sum of individual contributions of each of the bodies involved, which are the amounts to be taken into consideration for the purpose of payment to the USCF.

<sup>(1)</sup> The sum of individual contributions of each of the bodies involved results in a value lower by 1 cent than the value of the contribution identified in the "total" line. So that these values matched, one cent was removed from the contribution of NOS Comunicações, S.A., that presents the lowest value in the three decimal places, whose contribution thus amounts to €567,605.95 instead of €567,605.96.

#### 4.2. Extraordinary contribution for 2016 concerning 2014 USNC

It follows from paragraph 7 of article 18 of the Fund Law that the following must be deducted from the amount of USNC to be considered for the purpose of the determination of the value of contributions:

- a) Compensatory interest due on the established contribution amount, in accordance with general tax law, 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.

On the date the contribution entry procedure starts, there are 4,104.58 Euros available in the USCF, received in 2017 following the payment of default interest determined under paragraph 1 of article 13 of the Fund Law.

Accordingly, to the value of USNC incurred in 2014, due to MEO in the scope of the extraordinary contribution, 4,104.58 Euros must be deducted, thus the final amount to be considered for the purpose of the determination of the amount of contributions corresponds to the overall amount of USNC for 2014, approved by ANACOM in its determination of 27.10.2016, that is 7,721,670.71 Euros, minus 4,104.58 Euros concerning default interest received.

Under the conditions described, and as illustrated in the table below, it follows that the final amount to be considered for the purpose of the determination of the amount of contributions corresponds to the overall amount of 7,717,566.13 Euros.

**Table No. 18 – Final amount to be financed by companies and bodies required to contribute to the USCF concerning USNC for 2014 approved in 2016**

	MEO
<b>Value of USNC incurred by MEO in 2014 and approved in 2016</b>	€ 7,721,670.71
<b>Values to be deducted from USNC</b>	€ 4,104.58
Default interest under article 15 of Law No. 35/2012	€ 4,104.58
<b>Overall amount to be considered for the purpose of the determination of contributions</b>	€ 7,717,566.13

Source: ANACOM.

The amount of the extraordinary contribution (period preceding the tender designation) for the 2012-2013 period (USNC approved in 2015) paid to the USCF by contributing companies

(resulting from contributions made by companies that did not challenge the settlement) was transferred to MEO within the deadline set out in paragraph 1 of article 21 of the Fund Law, without prejudice to delays that occurred in the deposit of the referred contributions in the USCF account.

Given that the USP received its share of compensation within the established deadline, and that it was not affected by delays in payments of the extraordinary contribution to the USCF, which resulted in the application of the default interest, and as such interest is considered to be revenue of the compensation fund (under point e) of paragraph 1 of article 5 of the Fund Law), it is deemed that amounts concerning such interest, that are available on the date the contribution entry procedure starts, must be deducted from the value of USNC for 2014 (USNC approved in 2016) to be shared among contributing bodies, under point d) of paragraph 2 of article 10. The Fund Law, in paragraph 3 of article 21, determines that the payment of interest referred to in paragraph 1 of article 13 only takes place “*where appropriate*”, a solution that is identical to the one laid down in paragraph 5 of article 14 (as regards ordinary contributions), where interest is only transferred to the USP in case the delay in the payment of contributions determines that they may not be paid in due time to the USP.

Under the conditions described, the following table presents the values of contributions required from each company/body, in proportion to the respective ET achieved in 2016, in compliance with articles 18 and 19 of the Fund Law.

**Table No. 19 – Amount of contributions of companies and bodies required to contribute to the compensation fund concerning USNC for 2014 approved in 2016**

Companies	Extraordinary contribution
<b>APAX Group (NOWO/Onitelecom)</b>	<b>196,680.73</b>
NOWO Communications, S.A.	128,252.52
ONITELECOM - Infocomunicações, S.A.	68,428.21
<b>NOS Group</b>	<b>2,353,869.94</b>
NOS Comunicações, S.A. <sup>(1)</sup>	2,281,727.05
NOS AÇORES COMUNICAÇÕES, S.A.	25,284.53
NOS MADEIRA COMUNICAÇÕES, S.A.	46,858.36
<b>VODAFONE Group</b>	<b>1,660,179.75</b>
VODAFONE PORTUGAL - Comunicações Pessoais, S.A.	1,660,179.75
VODAFONE Entreprise Spain , SL - Portugal Branch	0.00
<b>MEO – Serviços de Comunicações e Multimédia, S.A.</b>	<b>3,506,835.71</b>
<b>Total</b>	<b>7,717,566.13</b>

Values in Euros.

Note: Values were calculated in compliance with the Fund Law, at cent level. The aggregated contributions of each group are determined as the result of the sum of individual contributions of each of the bodies involved, which are the amounts to be taken into consideration for the purpose of payment to the USCF.

<sup>(1)</sup> The sum of individual contributions of each of the bodies involved results in a value higher by 1 cent than the value of the contribution identified in the “total” line. So that these values matched, one cent was added to the contribution of NOS Comunicações, S.A., that presents the with the highest value in the three decimal places, whose contribution thus amounts to €2,281,727.05 instead of €2,281,727.04.

Source: Data from companies, audit results and ANACOM calculations.

In compliance with paragraph 5 of article 18 of the Fund Law, it was found that amounts of the extraordinary contribution expressed in the table above do not exceed the 3% threshold of the annual eligible turnover of each body and are also in compliance with paragraph 6 of the same article<sup>15</sup>.

<sup>15</sup> 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.”

## **5. Conclusion and Determination**

Whereas:

- a) The Fund Law establishes the compensation fund of the electronic communications universal service provided for in ECL, intended to finance USNC.
- b) The referred Law, as it stands, provides that companies providing public communications networks and/or publicly available electronic communications services on national territory are required to make i) contributions to the USCF determined in the scope of USP designation tenders, as well as ii) an extraordinary contribution to the USCF, relatively to each of the years 2013, 2014 and 2015 and 2016, exclusively intended to finance USNC that are approved by ANACOM in those years.
- c) As regards contributions to the USCF determined in the scope of USP designation tenders, ANACOM established that values that resulted from tenders concerning FTS and the provision of public pay-phones would be deemed to be an unfair burden, having been deemed, on grounds set out herein, that the provision of a comprehensive telephone directory and of a comprehensive telephone directory enquiry service was also likely to represent an unfair burden.
- d) It was established in the respective contracts concluded in 2014 and 2015 between USP and the Portuguese State that values specified in winning tenders constitute USNC to be compensated, as provided for in paragraph 1 b) of article 95 of the ECL.
- e) In compliance with article 97, paragraph 1 of ECL, net costs resulting from all tenders were and are deemed by ANACOM to be unfair and, as such, they must be financed, under the terms and conditions set out in the respective tender statutory instruments, as well as in statutory instruments that lay down the USCF.
- f) USP designated by tender to provide the FTS and public pay-phone US started the provision of such US under the respective contracts in 2014, and the USP designated to provide directories and the directory enquiry US started the provision of the service in 2015. Under the Fund Law, such providers must be compensated for costs incurred in 2016 by the end of March 2018.



- g) In 2016, the overall value of USNC incurred by USP under contracts was 5,022,734.04 Euros (five million, twenty-two thousand, seven hundred and thirty-four Euros and four cents), respectively 1,920,000.00 Euros concerning the “FTS” US provided by NOS Comunicações, S.A., 2,466,600.00 Euros concerning the US “provision of public pay-phones” by MEO – Serviços de Comunicações e Multimédia, S.A., and 636,134.04 Euros concerning the US “provision of directories and directory enquiry service” by MEO – Serviços de Comunicações e Multimédia, S.A.
- h) The final overall value to be considered for the purpose of the determination of contributions amounts 5,022,299.03 Euros (five million, twenty-two thousand, two hundred and ninety-nine Euros and three cents), which corresponds to the overall value of USNC incurred by USP, in 2016, under contracts, deducted of amounts paid to the fund, following the determination of default interest under paragraph 1 of article 13 of the Fund Law. For the purpose of that deduction, the referred value, that amounts to 435.01 Euros (four hundred and thirty-five Euros and 1 cent), was shared according to the proportion of USNC incurred by each of the referred operators in the total value of USNC incurred under the respective contracts, that is 166.29 Euros, 213.63 Euros and 55.09 Euros, respectively for the FTS, the public pay-phone service and the directory and directory enquiry services. As such, values to be considered for the determination of contributions are 1,919,833.71 Euros (one million, nine hundred and nineteen thousand, eight hundred and thirty-three Euros and seventy one cents), 2,466,836.37 Euros (two million, four hundred and sixty-six thousand, eight hundred and thirty-six Euros and thirty-seven cents) and 636,078.95 Euros (six hundred and thirty-six thousand, seventy-eight Euros and ninety-five cents), corresponding respectively to the FTS US (by NOS Comunicações, S.A.), and the US provision of public pay-phones and of a comprehensive telephone directory and a comprehensive telephone directory enquiry service (by MEO – Serviços de Comunicações e Multimédia, S.A.).
- i) As regards the extraordinary contribution to be made to the compensation fund, ANACOM approved in 2016 USNC for 2014 in the period preceding the USP tender designation, which correspond to an overall amount of 7,721,670.71 Euros (seven million, seven hundred twenty-one thousand, six hundred and seventy Euros and seventy-one cents).
- j) The requirements defined in article 17 of the Fund Law, to call the compensation of USNC incurred by MEO with the provision of the US in 2014, prior to the USP tender

designation, through the Compensation Fund, in line with ECL (paragraph 1 of article 97), have been met: (i) existence of USNC, further to an audit, approved by ANACOM and deemed by this Regulatory Authority to be unfair, and (ii) request by MEO to the Government for compensation for USNC approved by ANACOM within the legally required period.

- k) The final overall amount to be considered for the purpose of the determination of the value of the extraordinary contribution is 7,717,566.13 (seven million, seven hundred and seventeen thousand, five hundred and sixty-six Euros and thirteen cents), corresponding to the value of USNC for 2014 approved in 2016, deducted of values paid to the fund, following the determination of default interest amounting to 4,104.58 Euros, established under paragraph 1 of article 13 of the Fund Law.
- l) Under the Fund Law, it is incumbent on ANACOM to perform all actions required for a proper administration of the compensation fund, and pursuant to articles 11 and 19, the Regulatory Authority is also required to identify every year the bodies required to contribute to the compensation fund, to finance net costs to be compensated to tender-designated USP as well as net costs for the period preceding the tender designation, and to set the precise amount of the respective contributions.
- m) In 2016, 97 companies that were registered with ANACOM as providers of public communications networks or of publicly available electronic communications services were in operation, 91 companies having submitted ET information to ANACOM.
- n) Of the 6 companies that failed to submit any information:
  - a. For 2 companies, it was assumed that the ET amount corresponded to the amount reported for the 2016 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, where it existed, or in its absence, the value declared for the purpose of the Fund Law in the preceding procedure. The value concerned is not likely to give expression to any of the companies so that they would be required to contribute to the Fund nor has it any impact at the level of the identification of companies required to contribute to the compensation fund;
  - b. There is no available information for the remaining 4 companies.

- o) The audit to ET values reported by 24 companies providing networks and/or electronic communications services in the scope of the Fund Law was promoted, including in particular companies with the largest eligible turnover values, those that showed the highest ET decreases compared to the preceding year, as well as some companies that were selected randomly. Three companies that had not sent information at first were also included. By the end of the audit procedure, it was not possible to obtain data on one of the companies. This company was taken into consideration in the point above, its ET having been assumed on the basis of the value declared for the purpose of the procedure for entry and settlement of the annual fee referred to in article 105, paragraph 1b) of ECL.
- p) As a result of the audit and of the analysis carried out by ANACOM to other networks operators and/or electronic communications service providers, in conformity with the description in chapter 2, it was found that the sector's ET in 2016 amounts to 4,347,035,580.62.
- q) On the basis of the ET determined and in the light of the concept of company laid down in the Fund Law, 4 companies (which integrate 8 bodies) were identified as being required to make: (i) contributions intended to finance USNC for 2016 incurred by USP under contracts concluded; and (ii) an extraordinary contribution to the compensation fund for 2014, having been excluded from these contributions all companies that in the year concerned registered an ET of the electronic communications sector below 1% of the sector's overall ET.
- r) Under articles 121 and 122 of the Administrative Procedure Code, a prior hearing was held, stakeholders having been notified to submit comments on the draft final decision, if they so wished, for 10 working days. Contributions received were analysed as described in the prior hearing report, which substantiates and integrates this decision.
- s) Arguments put forward by some of the stakeholders, as substantiated in the prior hearing report, did not determine the amendment of the amount of eligible turnover for those bodies compared to the value considered in the scope of the DD, except in the case of Dialoga, which submitted data on its ET for 2016, leading to a slight amendment of the value of the sector's overall ET. This slight amendment does not change the list of bodies required to contribute to the USCF, nor the respective contribution amounts.

- t) In the scope of comments received, MEO – Serviços de Comunicações e Multimédia, S.A., requested, under article 12, paragraph 2, of Law No. 35/2012, a waiver of the requirement for a contribution given that it is entitled to a compensation which exceeds that contribution.

ANACOM's Management Board, under paragraphs 1, 2, 3, 4 and 6 of article 97 of ECL, as well as paragraphs 1, 2, 3 and 4 of article 11 and paragraphs 1, 2 and 3 of article 19, both of the Fund Law, and in the exercise of powers conferred under paragraph 1 q) of article 26 of its Statutes, approved by Decree-Law No. 39/2015, of 16 March, hereby determines:

1. To determine, for the purpose of the calculation of the electronic communications sector's overall ET for 2016:

- a. The review/establishment of ET amounts for the following companies: [BCI]

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

- b. The review of the ET amount for the following companies: [BCI]

[ECI], as a result of corrections/amendments introduced, as described in chapter 2.2;

- c. That the ET value reported by Dialoga – Servicios Interactivos, S.A. in the scope of the prior hearing procedure, as well as data submitted in the same scope by Nextweb Prestação de Serviços na Área da Internet, Lda., must be taken into consideration;

- d. The establishment of the ET amount for the following companies: [BCI]

[ECI], as described in chapter 2.3, for failing to provide information for the purpose of the Fund Law.

2. To establish, on the basis of information provided by network operators and electronic communications service providers, and bearing in mind point 1, that the sector's overall ET for 2016 amounts to 4,347,035,580.62 Euros.
  
3. To approve the list of bodies that, in accordance with the ET determined, and in compliance with article 11 *et seq* of the Fund Law, are required to pay a contribution to the compensation fund, intended to finance USNC incurred by NOS Comunicações, S.A, in 2016, under contracts concluded with the Portuguese State for the provision of the US of connection to a public communications networks at a fixed location and of publicly available telephone services, as well as the contribution amount each body is required to pay, according to the table below. The total value of such contributions corresponds to the amount of compensation to be paid to NOS Comunicações, S.A., from which the amount of 166.29 Euros was deducted, corresponding to the respective proportion of default interest paid to the fund resulting from the failure to pay contributions in due time (a value which shall be paid at the same time as the value of contributions, to fully cover the compensation to which NOS Comunicações, S.A. is entitled).

**Table No. 20 – Amount of contributions of bodies required to contribute to the compensation fund concerning USNC incurred by NOS Comunicações, S.A in 2016 under contracts concluded for the provision of the US of connection to a public communications networks at a fixed location and of publicly available telephone services**

Companies	Eligible Turnover	Contribution %	NOS (provision of FTS)
<b>APAX Group (NOWO/ONI)</b>	[BCI]	[BCI]	<b>48,926.61</b>
NOWO Communications, S.A.			31,904.30
ONITELECOM - Infocomunicações, S.A.			17,022.31
<b>NOS Group</b>			<b>585,552.33</b>
NOS Comunicações, S.A. <sup>(1)</sup>			567,605.95
NOS AÇORES COMUNICAÇÕES, S.A.			6,289.82
NOS MADEIRA COMUNICAÇÕES, S.A.			11,656.56
<b>VODAFONE Group</b>			<b>412,988.89</b>
VODAFONE PORTUGAL - Comunicações Pessoais, S.A.			412,988.89
VODAFONE Entreprise Spain , SL - Portugal branch			0.00
<b>MEO – Serviços de Comunicações e Multimédia, S.A.</b>	[ECI]	[ECI]	<b>872,365.88</b>
<b>Total</b>	<b>4,246,577,899.19</b>	<b>100%</b>	<b>1,919,833.71</b>

Values in Euros.

Note: Values were calculated in compliance with the Fund Law, at cent level. The aggregated contributions of each group are determined as the result of the sum of individual contributions of each of the bodies involved, which are the amounts to be taken into consideration for the purpose of payment to the USCF.

<sup>(1)</sup> The sum of individual contributions of each of the bodies involved results in a value lower by 1 cent than the value of the contribution identified in the "total" line. So that these values matched, one cent was removed from the contribution of NOS Comunicações, S.A. that presents the lowest value in the three decimal places, whose contribution thus amounts to €567,605.95 instead of €567,605.96.

Source: Data from companies, audit results and ANACOM calculations.

- To approve the list of bodies that, in accordance with the calculated ET and in compliance with article 11 *et seq* of the Fund Law, are required to pay a contribution to the compensation fund, intended to finance USNC incurred by MEO Comunicações e Multimédia, S.A., in 2016, under the contract concluded with the Portuguese State for the US provision of public pay-phones, as well as the contribution amount each body is required to pay, according to the table below. The total value of such contributions corresponds to the amount of compensation to be paid to MEO Comunicações e Multimédia, S.A., from which the amount of 213.63 Euros was deducted, corresponding to the respective proportion of default interest paid to the fund resulting from the failure to pay contributions in due time (a value which shall be paid at the same time as the value of contributions, to fully cover the compensation to which MEO – Serviços de Comunicações e Multimédia, S.A. is entitled).

**Table No. 21 – Amount of contributions of bodies required to contribute to the compensation fund concerning USNC incurred by MEO – Serviços de Comunicações e Multimédia, S.A. in 2016 under contracts concluded for the US provision of public pay-phones**

Companies	Eligible Turnover	Contribution %	MEO (Provision of PPP)
<b>APAX Group (NOWO/ONI)</b>	[BCI]	[BCI]	<b>62,855.40</b>
NOWO Communications, S.A.			40,987.05
ONITELECOM - Infocomunicações, S.A.			21,868.35
<b>NOS Group</b>			<b>752,251.76</b>
NOS Comunicações, S.A.			729,196.28
NOS AÇORES COMUNICAÇÕES, S.A.			8,080.45
NOS MADEIRA COMUNICAÇÕES, S.A.			14,975.03
<b>VODAFONE Group</b>			<b>530,561.66</b>
VODAFONE PORTUGAL - Comunicações Pessoais, S.A.			530,561.66
VODAFONE Entreprise Spain , SL - Portugal branch			0.00
<b>MEO – Serviços de Comunicações e Multimédia, S.A.</b>	[ECI]	[ECI]	<b>1,120,717.55</b>
<b>Total</b>	<b>4,246,577,899.19</b>	<b>100%</b>	<b>2,466,386.37</b>

Values in Euros.

Note: Values were calculated in compliance with the Fund Law, at cent level. The aggregated contributions of each group are determined as the result of the sum of individual contributions of each of the bodies involved, which are the amounts to be taken into consideration for the purpose of payment to the USCF.

Source: Data from companies, audit results and ANACOM calculations.

- To approve the list of bodies that, in accordance with the calculated ET and in compliance with article 11 *et seq* of the Fund Law, are required to pay a contribution to the compensation fund, intended to finance USNC incurred by MEO Comunicações e Multimédia, S.A., in 2016, under the contract concluded with the Portuguese State for the US provision of a comprehensive telephone directory and of a comprehensive telephone directory enquiry service, as well as the contribution amount each body is required to pay, according to the table below. The total value of such contributions corresponds to the amount of compensation to be paid to MEO Comunicações e Multimédia, S.A., from which the amount of 55.09 Euros was deducted, corresponding to the respective proportion of default interest paid to the fund resulting from the failure to pay contributions in due time (a value which shall be paid at the same time as the value of contributions, to fully cover the compensation to which MEO – Serviços de Comunicações e Multimédia, S.A. is entitled).

**Table No. 22 – Amount of contributions of bodies required to contribute to the compensation fund concerning USNC incurred by MEO – Serviços de Comunicações e Multimédia, S.A. in 2016 under contracts concluded for the US provision of a comprehensive telephone directory and of a comprehensive telephone directory enquiry service**

Companies	Eligible Turnover	Contribution %	MEO (Provision of directories and 118)
<b>APAX Group (NOWO/ONI)</b>	[BCI]	[BCI]	<b>16,210.36</b>
NOWO Communications, S.A.			10,570.53
ONITELECOM - Infocomunicações, S.A.			5,639.83
<b>NOS Group</b>			<b>194,005.09</b>
NOS Comunicações, S.A.			188,059.10
NOS AÇORES COMUNICAÇÕES, S.A.			2,083.94
NOS MADEIRA COMUNICAÇÕES, S.A.			3,862.05
<b>VODAFONE Group</b>			<b>136,831.40</b>
VODAFONE PORTUGAL - Comunicações Pessoais, S.A.			136,831.40
VODAFONE Entreprise Spain , SL - Portugal branch			0.00
<b>MEO – Serviços de Comunicações e Multimédia, S.A.</b>	[ECI]	[ECI]	<b>289,032.10</b>
<b>Total</b>	<b>4,246,577,899.19</b>	<b>100%</b>	<b>636,078.95</b>

Values in Euros.

Note: Values were calculated in compliance with the Fund Law, at cent level. The aggregated contributions of each group are determined as the result of the sum of individual contributions of each of the bodies involved, which are the amounts to be taken into consideration for the purpose of payment to the USCF.

Source: Data from companies, audit results and ANACOM calculations.

6. To order the issue of the respective Invoices/Settlement Notices of contributions identified in points 3, 4 and 5, which shall refer to this decision and respective grounds, and indicate the USCF as active party and respective Tax Identification Number, as well as defence measures and means of payment. Contributions must be paid within 20 days, in compliance with paragraph 1 of article 12 of the Fund Law.
  
7. To authorize MEO – Comunicações e Multimédia, S.A., further to the request made by the latter, and pursuant to paragraph 2 of article 12 of the Fund Law, not to pay the contribution concerning USNC for 2016 (period subsequent to the USP tender designation) to which it is bound, as the amount of compensation to which it is entitled as USP of public pay-phones and of a comprehensive telephone directory and of a comprehensive directory enquiry service exceeds the value of the contribution it is required to pay. As such, the amount of the overall contribution for the period



subsequent to the USP tender designation is deducted from the amount of compensation to which the company is entitled for the US provision of public pay-phones, as well as of a comprehensive telephone directory and a comprehensive directory enquiry service.

8. To approve the list of bodies that, in accordance with the calculated ET and in compliance with article 18 *et seq* of the Fund Law, are required to pay an extraordinary contribution to the compensation fund, to finance USNC incurred by MEO – Serviços de Comunicações e Multimédia, S.A., in 2014, as USP, in the period preceding the USP tender designation, approved by ANACOM in 2016, as well as the contribution each body is required to pay, according to the table below. The total value of contributions corresponds to the amount of compensation to be paid to MEO – Serviços de Comunicações e Multimédia, from which the amount of 4,104.58 Euros was deducted, corresponding to default interest paid to the fund resulting from the failure to pay contributions in due time (a value which shall be paid at the same time as the value of contributions, to fully cover the compensation to which MEO – Serviços de Comunicações e Multimédia, S.A. is entitled).

**Table No. 23 – Amount of contributions of bodies required to contribute to the compensation fund concerning USNC for 2014 established in 2016 (extraordinary contribution)**

Companies	Eligible Turnover	Contribution %	Extraordinary contribution
<b>APAX Group (NOWO/ONI)</b>	[BCI]	[BCI]	<b>196,680.73</b>
NOWO Communications, S.A.			128,252.52
ONITELECOM - Infocomunicações, S.A.			68,428.21
<b>NOS Group</b>			<b>2,353,869.94</b>
NOS Comunicações, S.A. <sup>(1)</sup>			2,281,727.05
NOS AÇORES COMUNICAÇÕES, S.A.			25,284.53
NOS MADEIRA COMUNICAÇÕES, S.A.			46,858.36
<b>VODAFONE Group</b>			<b>1,660,179.75</b>
VODAFONE PORTUGAL - Comunicações Pessoais, S.A.			1,660,179.75
VODAFONE Entreprise Spain , SL - Portugal branch			0.00
<b>MEO – Serviços de Comunicações e Multimédia, S.A.</b>	[ECI]	[ECI]	<b>3,506,835.71</b>
<b>Total</b>	<b>4,246,577,899.19</b>	<b>100%</b>	<b>7,717,566.13</b>

Note: Values in Euros.

Values were calculated in compliance with the Fund Law, at cent level. The aggregated contributions of each group are determined as the result of the sum of individual contributions of each of the bodies involved, which are the amounts to be taken into consideration for the purpose of payment to the USCF.

<sup>(1)</sup> The sum of individual contributions of each of the bodies involved results in a value higher by 1 cent than the value of the contribution identified in the “total” line. So that these values matched, one cent was added to the contribution of NOS Comunicações, S.A., that presents the with the highest value in the three decimal places, whose contribution thus amounts to €2,281,727.05 instead of €2,281,727.04.

Source: Data from companies, audit results and ANACOM calculations.

9. To order the issue of the respective Invoices/Settlement Notices of contributions identified in point 8, which shall refer to this decision and respective grounds, and indicate the Compensation Fund as active party and respective Tax Identification Number, as well as defence measures and means of payment. Contributions must be paid within 20 days, in compliance with paragraph 1 of article 12 of the Fund Law, that applies by reference determined by article 20 of the Fund Law.
10. To authorize MEO – Comunicações e Multimédia, S.A., further to the request made by the latter and pursuant to paragraph 2 of article 12, applicable *ex vi* article 20 of the Fund Law, not to pay the contribution concerning USNC for 2014, approved in 2016, to which it is bound, as the amount of compensation to which it is entitled exceeds such contribution. As such, the amount of the contribution is deducted from the amount of compensation to which the company is entitled.
11. To notify bodies covered by the determination in point 1 of the approval of this decision in the part which specifically concerns them.
12. To notify bodies covered by determinations in points 3, 4, 5 and 8, under paragraph 5 of article 11 of the Fund Law, of the approval of this decision.
13. To make the approval of this decision publicly available at ANACOM’s website, in compliance with paragraph 6 of article 11 of the Fund Law.