

**REPORT - FINANCIAL YEAR 2013**

**ADMINISTRATIVE COSTS AND THE SUMS RESULTING FROM THE COLLECTION OF FEES REFERRED TO IN POINTS a) to d) of PARAGRAPH 1 OF ARTICLE 105 OF LEI DAS COMUNICAÇÕES ELETRÓNICAS (ELECTRONIC COMMUNICATIONS LAW)**

**(LAW NO. 5/2004 OF 10 FEBRUARY, AMENDED AND REPUBLISHED BY LAW NO. 51/2011 OF 13 SEPTEMBER AND SUBSEQUENTLY AMENDED BY LAW NO. 10/2013 OF 28 JANUARY AND LAW NO. 42/2013 OF 3 JULY)**

**PREPARED UNDER THE TERMS OF PARAGRAPH 5 OF ARTICLE 105 OF LEI DAS COMUNICAÇÕES ELETRÓNICAS (ELECTRONIC COMMUNICATIONS LAW)**

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## 1. Legal framework and background

1.1. Law no. 5/2004 of 10 February (as amended and republished by Law no. 51/2011 of 13 September and subsequently amended by Law no. 10/2013 of 28 January and Law no. 42/2013 of 3 July) establishes the legal regime applicable to electronic communications networks and services and to associated resources and services (LCE) and defines (article 105) that the following are subject to the payment of fees, the revenues from which fees are to accrue to ICP-ANACOM:

- a) Declarations supporting rights issued by the NRA pursuant to paragraph 5 of article 21;
- b) The exercise of the activity of electronic communications networks and services provider, on an annual basis;
- c) The allocation of rights of use of frequencies;
- d) The allocation of rights of use of numbering and the reservation thereof;
- e) Use of numbering;
- f) Use of frequencies.

Also according to the LCE, "the amounts of fees referred to in points a) to d) shall be determined with regard to the administrative costs incurred in the management, control and enforcement of the general authorisation scheme and of rights of use and of specific obligations as referred to in article 28, which may include costs of international cooperation, harmonisation and standardisation, market analysis, monitoring of compliance and other market control, as well as regulatory work involving the preparation and enforcement of secondary legislation and administrative decisions, such as decisions on access and interconnection; such fees shall be imposed upon undertakings in an objective, transparent and proportionate manner which minimises additional administrative costs and associated charges".

**1.2.** Administrative Rule no. 1473-B/2008 of 17 December (as amended and republished by Administrative Rule no. 291-A/2011 of 4 November, subsequently amended and republished by Administrative Rule no. 296-A/2013 of 2 October and amended by Administrative Rule no. 378-D/2013 of 31 December) sets the amounts of the fees referred to above; these fees entered into force on 1 January 2009. The publication of Administrative Rule no. 1473-B/2008 was preceded by a discussion of ICP-ANACOM's Advisory Board, whose members include representatives of providers of electronic communications networks and services. This discussion was based on a document "ICP-ANACOM Fees Model". The review instigated by Administrative Rule no. 296-A/2013 was preceded by a public consultation, which ICP-ANACOM conducted in the context of its assignments of providing assistance to the Government.

**1.3.** Pursuant to paragraph 5 of article 105 of LCE, the NRA shall publish an annual report of its administrative costs and of the total sum resulting from the collection of fees referred to in points a) to d) of paragraph 1, in order that it may perform appropriate adjustments in respect of the difference between the total sum of the fees and the sum of administrative costs. That report, as now presented, relates only to fees whose amounts are determined based on administrative costs and excludes the fees referred to in paragraphs e) and f) of article 105 of the LCE, which fees "shall reflect the need to ensure the optimal use of frequencies and numbers" and are not therefore subject to cost orientation. The fees referred to in points a), c) and d) of paragraph 1 of article 105 of the LCE were set on the basis of "unit costs related to the issue of declarations, based on a typical situation, and assuming an efficient performance by ICP-ANACOM<sup>1</sup>". This implies that, for fees of this type, the values are not directly adjusted according to the costs actually incurred, except where a review is made of the unit costs.

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<sup>1</sup> In accordance with the "ICP-ANACOM Fee Model", paragraph 25, page 15.

**1.4.** As regards the fees referred to in point b) of paragraph 1 of article 105 of the LCE, a costing methodology was established in order to determine the costs related to the various areas of activity, based on an the ABC - Activity Based Costing system. At the same time, ICP-ANACOM developed an additional process to classify costs, enabling it to determine these costs in accordance with paragraph 4 of article 105 of the LCE, also enabling the distribution of costs related to ICP-ANACOM's other activities, pursuant to its Statutes. This methodology is described in Annex I, a document which has already been incorporated into the "ICP-ANACOM Fee Model" as discussed by ICP-ANACOM's Advisory Board.

**1.5.** By determination of 25.07.2013 (DE1752013CA), in execution of the provisions of Administrative Rule no. 1473-B/2008 (as amended by Administrative Rule no. 291-A/2011 of 4 November, prior to Administrative Rule no. 296-A/2013 of 2 October) and based on the levels of relevant revenues submitted by providers of electronic communications networks and services, ICP-ANACOM's Management Board approved the following:

- a) The sum of costs incurred regulating the activity of provider of electronic communications networks and services, to an amount of 24,478,856 euros;
- b) The publication of a document on ICP-ANACOM's website explaining how its administrative costs were calculated, pursuant to paragraphs 1 and 2 of Annex II to Administrative Rule no. 1473-B/2008;
- c) The auditing of providers of electronic communications networks and services which, in 2013, reported more significant levels of relevant revenues and larger variations in values (versus 2012). These procedures are to be conducted in light of the fact that one operator of significant size adopted the view that a substantial portion of its revenues should not be deemed as relevant. This auditing set out to assess whether the criteria used by the various providers were uniform and, if necessary, to correct the values submitted.

**1.6.** The auditing described in point 1.5, which was performed by Baker Tilly PG Asociados, SROC, S.A., demonstrated that there was justification for making adjustments to the relevant revenues submitted by certain operators. Based on the audit report, and further to the prior hearing of interested parties, by determination of 21.11.2013 (DE2702013CA), the Management Board approved the following:

- a) To establish of a t2 contribution rate of 0.4880%, set pursuant to paragraph 2 of Annex II to Administrative Rule no. 1473-B/2008; as amended by Administrative Rule no. 296-A/2013 of 2 October;
- b) To issue notices to settle fees payable in respect of the exercise of the activity of electronic communications networks and services provider, taking into account the adjustments made to the values of relevant revenues as resulted from the audit.

**1.7.** Following the determination referenced in the point above, ICP-ANACOM published data on its website on how the t2 contribution rate (0.4880%) had been calculated, as well as information on the new sum of Relevant Revenues (5,306,603,845 euros), as regards tier 2 undertakings, determined in the context of the auditing performed by Baker Tilly.

## **2. Determination of costs for purposes of the application and settlement of fees payable in respect of the exercise of the activity of electronic communications networks and services provider, in November 2013**

**2.1.** According to the conceptual model for the determination of fees referred to above, the administrative costs, defined under the terms of paragraph 4 of article 105 of the LCE, which constitute the rateable base of the annual fee payable in respect of the exercise of the activity of electronic communications networks and services provider, were determined based on a three-year average comprising 2011, 2012 and 2013. Calculations for the first two years are based on actual figures corresponding to the reported accounts of the respective financial years, whereas calculations for 2013 are based on budgeted figures, given that the financial year has not yet ended and given that, under paragraph 2 of article 13 of Administrative Rule no. 296-A/2013 of 2 October, the new wording of paragraph 1 of Annex II to Administrative Rule no. 1473-B / 2008 is not applied until 1 January 2014. The 2013 budget corresponds to the first year of the 2013-2015 Activity Plan, on which ICP-ANACOM's Advisory Board delivered an opinion and which was approved by the member of the Government with responsibility for electronic communications.

**2.2.** The value of provisions for ongoing legal actions was determined based on the average for the last five years - based on actual figures for the years between 2008 and 2012 and based on budgeted figures for 2013, given that, pursuant to paragraph 2 of article 13 of Administrative Rule no. 296-A/2013 of 2 October, the new wording of paragraph 1 of Annex II to Administrative Rule no. 1473-B/2008 is not applied until 1 January 2014.

**2.3.** Table 1 sets out the calculation of costs considered for purposes of the application and settlement of fees payable in respect of the exercise of the activity of electronic communications networks and services provider for 2013:

**Table 1 - Calculation of the costs considered for the purposes of the application and settlement of fees payable by providers of electronic communications networks and services for 2013 (euros)**

	Allocation of costs incurred by ICP-ANACOM (without provisions)				Provisions (5-year average)	Allocation of costs incurred by ICP-ANACOM (including provisions)
	2013 <sup>2</sup>	2012	2011	Average (3 years)		
<b>1. Regulation and spectrum management costs</b>	<b>44,099,810</b>	<b>41,018,085</b>	<b>45,822,941</b>	<b>43,646,945</b>	<b>1,809,270</b>	<b>45,456,215</b>
1.1 Costs related to Electronic Communications	35,453,607	32,976,084	36,620,521	35,016,737	1,809,270	36,826,007
1.1.1 Administrative costs	23,949,427	22,275,825	23,948,836	23,391,363	1,809,270	25,200,633
a) Declarations supporting rights	67,502	62,785	44,349	58,212		58,212
b) Exercise of the activity of provider of networks and services	23,422,498	21,785,718	22,800,542	22,669,586	1,809,270	24,478,856
c) Allocation of rights of use of frequencies	375,179	348,961	985,674	569,938		569,938
d) Allocation of rights of use of numbering	84,248	78,361	118,271	93,626		93,626
1.1.2 Frequency management costs	11,359,335	10,565,537	12,519,907	11,481,593		11,481,593
1.1.3 Numbering management costs	144,845	134,723	151,778	143,782		143,782
1.2 Costs of Postal regulation	2,783,347	2,588,845	2,263,579	2,545,257		2,545,257
1.3 Other regulation costs	5,862,857	5,453,156	6,938,841	6,084,951		6,084,951
<b>2. Other costs</b>	<b>1,514,790</b>	<b>1,408,935</b>	<b>5,447,114</b>	<b>2,790,280</b>		<b>2,790,280</b>
<b>3. Total costs</b>	<b>45,614,600</b>	<b>42,427,020</b>	<b>51,270,055</b>	<b>46,437,225</b>	<b>1,809,270</b>	<b>48,246,495</b>

<sup>2</sup> Budget



**Table 2 - Provisions in respect of ongoing legal actions - average amount for the last five years (euros)**

YEARS	2013 <sup>3</sup>	2012	2011	2010	2009	Average
Provisions associated with electronic communications	600,000	3,864,284	2,644,854	0	1,937,213	1,809,270

### **3. Determination of costs for purposes of the application and settlement of fees payable in respect of the exercise of the activity of electronic communications networks and services provider, in May 2014**

**3.1.** In May 2014, following closure of the 2013 financial year, the actual administrative costs were calculated as relating to the regulation activity and as relevant to the calculation of the fees referred to in point b) of paragraph 1 of article 105 of the LCE. This makes it possible to update the figures of the 2013 budget with the actual figures reported for 2013 in calculating the moving average of the last three years. Likewise, as regards the moving average of the last 5 years with respect to the provisions resulting from legal proceedings filed on regulatory matters, the amount stated in the 2013 budget (600,000 euros) was updated with the actual value of provisions constituted during 2013 (20,930,103 euros). Furthermore, a reduction was made to the value of provisions for 2009, 2010, 2011 and 2012, given the cancellation of provisions constituted in these periods in respect of legal proceedings related to regulatory matters concluding in 2013. This substitution of provision values in 2009, 2010, 2011 and 2012 results in a reduction in the cost of the activity of ICP-ANACOM in these years. However, the increase to provisions in 2013, over the amount provided for in the budget, has resulted in an increase in costs attributable to this category from 1,809,270 euros to 5,825,627 euros. Accordingly, the calculation of the annual fee payable in respect of the exercise of the activity of electronic communications networks and services provider is as shown in Tables 3 to 5.

It should be emphasised that the reversal of provisions in respect of legal proceedings related to the activity of regulation (detailed below in table 5) **results in a reimbursement to operators with regard to amounts paid in previous years, totalling approximately 12,448,610 euros.**

<sup>3</sup> Budget

**Table 3 - Calculation of final costs considered for purposes of the application and settlement of fees payable by providers of electronic communications networks and services with respect to 2013 (euros)**

	Allocation of costs incurred by ICP-ANACOM (without provisions)				Provisions (5-year average)	Allocation of costs incurred by ICP- ANACOM (including provisions)
	2013	2012	2011	Average (3 years)		
<b>1. Regulation and spectrum management costs</b>	<b>39,546,651</b>	<b>41,018,085</b>	<b>45,822,941</b>	<b>42,129,225</b>	<b>5,825,627</b>	<b>47,954,852</b>
1.1 Costs related to Electronic Communications	31,486,145	32,976,084	36,620,521	33,694,250	5,825,627	39,519,877
1.1.1 Administrative costs	22,079,963	22,275,825	23,948,836	22,768,208	5,825,627	28,593,835
a) Declarations supporting rights	105,688	62,785	44,349	70,941		70,941
b) Exercise of the activity of provider of networks and services	21,796,809	21,785,718	22,800,542	22,127,690	5,825,627	27,953,316
c) Allocation of rights of use of frequencies	141,587	348,961	985,674	492,074		492,074
d) Allocation of rights of use of numbering	35,879	78,361	118,271	77,503		77,503
1.1.2 Frequency management costs	9,260,140	10,565,537	12,519,907	10,781,861		10,781,861
1.1.3 Numbering management costs	146,042	134,723	151,778	144,181		144,181
1.2 Costs of Postal regulation	2,757,509	2,588,845	2,263,579	2,536,644	0	2,536,644
1.2.1 Exercise of the activity of provider of postal services	2,713,728	2,537,545	2,252,318	2,501,197	0	2,501,197
1.2.2 Authorisations and licences	43,781	51,300	11,261	35,447		35,447
1.3 Other regulation costs	5,302,997	5,453,156	6,938,841	5,898,331		5,898,331
2. Other costs	1,577,559	1,408,935	5,447,114	2,811,203	0	2,811,203
3. Total costs	41,124,210	42,427,020	51,270,055	44,940,428	5,825,627	50,766,055

Table 4 details the calculation of the moving average of the provisions used in Table 3.

**Table 4 - Provisions for ongoing legal proceedings - average for last five years (euros)**

YEARS	2013 <sup>4</sup>	2012	2011	2010	2009	Average
Provisions associated with electronic communications	20,930,103	3,615,963	2,644,854	0	1,937,213	5,825,627

**Table 5 - Provisions for ongoing legal proceedings - 2013 (euros)**

Provisions	Regulation	Spectrum	Total
- Increases	20,930,103		20,930,103
- Reversals	-21,438,986	-8,115,879	-29,554,865

**3.2.** Pursuant to paragraph 5 of article 105 of the LCE, one of purposes of the annual report on administrative costs and on the total sum resulting from the collection of fees referred to in points a) to d) of paragraph 1, is to "perform the appropriate adjustments in respect of the difference between the total sum of fees and administrative costs".

Having regard to the actual administrative costs associated with the activity of regulation, as relevant to the calculation of the fee referred to in point b) of paragraph 1 of article 105 of the LCE (27,953,316 euros) and those previously considered based on the budgeted values (24,478,856 euros) for 2013, **a difference is reported with a value of 3,474,460 euros.** This difference is mainly attributable to the increase in provisions for legal proceedings concerning acts of regulation, since **excluding provisions, costs decreased by 1,625,689 euros versus the budget** (budgeted costs for 2013 were 23,422,498 euros and actual costs were reported at 21,796,809 euros).

As a consequence and according to the following calculations, the value of the **t2 percentage contribution rises to 0.5575% from 0.4880%** as set previously.

<sup>4</sup> Actual amount provisioned in 2013 financial period

### 2013 - Electronic communications

Formula:  $t2 = (C-t1n1) / \sum R2$ ;

C= Total costs incurred regulating the activity of providers of electronic communications networks and services, for 2013 = 27,953,316 euros;

$\sum R0$ = Value of the relevant revenues reported by tier 0 undertakings, in the year 2012 = 710,369 euros

t1 = fee payable by tier 1 undertakings (Relevant revenues  $\leq$  1.5 million euros) = 2,500 euros;

n1 = number of tier 1 undertakings = 28;

$\sum R$  = Value of relevant revenues reported by all providers of electronic communications networks and services in 2012

$\sum R1$  = total value of relevant revenues reported by tier 1 undertakings in 2012 = 15,801,325 euros

$\sum R2$  = total value of relevant revenues reported by tier 2 undertaking in 2012 = 5,001,757,928 euros

$t1n1$  = 2,500 euros x 28 = 70,000 euros;

t2 = Fee payable by tier 2 undertakings (Relevant revenues  $>$ 1,500,000 euros) = (27,953,316 euros - 70,000) / 5,001,757,928 euros = 0.5575%

Applying the rate of 0.5575% to the relevant revenues reported by each tier 2 operator gives the amount of fees payable.

**3.3.** Since the amount settled in 2013, based on the inclusion of the amounts budgeted for that year, was 24,478,856 euros (a shortfall of 3,474,460 euros), application of paragraph 5 of article 105 of the LCE makes it necessary to make an adjustment in the value of the fees in question, resulting in an additional payment to cover the adjustment in proportion to the relevant revenues used for the purpose of calculating the fees already settled.

#### 4. Settlement and collection of electronic communications fees for 2013

The collection of fees in respect of the exercise of the activity of electronic communications networks and services provider took place between November 2013 and January 2014. Almost all payable fees were collected, as shown in Table 6. Collection of fees by instalments is in accordance with article 19 of the Regulamento de Liquidação e Cobrança de Taxas devidas ao ICP-ANACOM (Regulation governing settlement and collection of fees due to ICP-ANACOM - Regulation no. 300/2009 of 15 July, as amended by Regulation no. 355/2012 of 13 August), and is subject to application of late-payment interest.

**Table 6 - Application and collection of administrative fees for electronic communications**

Activity	2013	
	Value	%
Exercise of the activity of electronic communications networks and services provider		
- Notified as payable	24,478,579	100%
- Settled	24,130,366	98.58%
- Being settled in instalments	328,157	1.34%
- Outstanding	20,056	0.08%

Unit: euros

It should also be noted that three legal challenges have been brought in relation to the settlement of fees payable in respect of the exercise of the activity of electronic communications networks and services in 2013.

Legal challenges to the settlement of fees payable with respect to 2009, 2010, 2011 and 2012, as well as the challenge brought against Administrative Rule no. 1473-B/2008 of 17 December, remain pending.

A decision is also pending on the complaint presented to the European Commission, whereby it is claimed that paragraphs 4 and 5 of Annex II to Administrative Rule no 1473-B/2008 are incompatible with the prohibition of State aid under paragraph 1 of article 107 of the Treaty on the Functioning of the European Union.

## 5. Reimbursement of fees to operators resulting from the cancellation of provisions constituted in respect of legal proceedings in the years 2009, 2010, 2011 and 2012

As noted in point 3.1, provisions constituted in respect of legal proceedings, brought by Vodafone and ZON and completed in 2013, have been cancelled.

This adjustment resulted in a reduction in the amount of provisions considered in the final costing for purposes of the application and settlement of fees payable by providers of electronic communications networks and services in 2009, 2010, 2011 and 2012 and, consequently, a change in the overall value of costs incurred in those years and recalculation of the t2 rate in those years, as detailed in Tables 7 to 11.

Pursuant to paragraph 5 of article 105 of the LCE, **the reduction in costs** calculated for financial years 2009 to 2012, as a result of **the reversal of provisions**, makes it necessary to make an adjustment in the value of the fees charged in respect of 2009, 2010, 2011 and 2012, requiring **a reimbursement of the overcharged amounts** in proportion to the relevant revenues used to calculate the fees already settled.

The values being reimbursed, totalling 12,448,610 euros, are summarised in Table 11, taking into account the transitional period provided for in article 6 of Administrative Rule no. 1473-B/2008 of 17 December (2009 and 2010).

**Table 7 - Correction of the value of Provisions associated with the settlement of fees in respect of 2009 - Electronic communications**

	2009	2008	2007	2006	2005	Average (5 years)
Annual provisions considered	1,937,213	23,242,690	0	61,055	3,698,126	5,787,817
Cancellation of provision associated with Vodafone process which concluded in 2013		-20,694,023				-4,138,805
Corrected total annual provisions (2014)	1,937,213	2,548,667	0	61,055	3,698,126	1,649,012

**Table 8 - Correction of the value of Provisions associated with the settlement of fees in respect of 2010 - Electronic communications**

	2010	2009	2008	2007	2006	Average (5 years)
Annual provisions considered	0	1,937,213	23,242,690	0	61,055	5,048,192
Cancellation of provision associated with Vodafone process which concluded in 2013			-20,694,023			-4,138,805
Corrected total annual provisions (2014)	0	1,937,213	2,548,667	0	61,055	909,387

**Table 9 - Correction of the value of Provisions associated with the settlement of fees in respect of 2011 - Electronic communications**

	2011	2010	2009	2008	2007	Average (5 years)
Annual provisions considered	2,644,854	0	1,937,213	23,242,690	0	5,564,951
Cancellation of provision associated with Vodafone process which concluded in 2013				-20,694,023		-4,138,805
Corrected total annual provisions (2014)	2,644,854	0	1,937,213	2,548,667	0	1,426,147

**Table 10 - Correction of value of Provisions associated with the settlement of fees in respect of 2012 - Electronic communications**

	2012	2011	2010	2009	2008	Average (5 years)
Annual provisions considered	3,864,284	2,644,854	0	1,937,213	23,242,690	6,337,808
Cancellation of provision associated with Zon Portugal process which concluded in 2013	-248,320	0				-49,664
Corrected total annual provisions (2014)					-20,694,023	-4,138,805
Corrected total annual provisions (2014)	3,615,963	2,644,854	0	1,937,213	2,548,667	2,149,340

**Table 11 - Table summarising the impact of the cancellation of provisions constituted in respect of the Vodafone and ZON Portugal processes on costs and t2 rate**

	2009		2010		2011		2012		Total
	Previously considered	Corrected in 2014	Previously considered	Corrected in 2014	Previously considered	Corrected in 2014	Previously considered	Corrected in 2014	
Costs (without provisions)	23,020,528 €		23,418,416 €		23,243,704 €		22,770,829 €	22,770,829 €	
Provisions for legal proceedings	5,787,817 €	1,649,012 €	5,048,192 €	909,387 €	5,564,951 €	1,426,147 €	6,337,808 €	2,149,340 €	
Costs (with provisions)	28,808,344 €	24,669,540 €	28,466,608 €	24,327,804 €	28,808,655 €	24,669,851 €	29,108,637 €	24,920,168 €	
ΣR2	5,956,757,963 €		5,789,485,471 €		5,563,612,939 €		5,317,809,915 €		
T1n1	55,000 €		52,500 €		42,500 €		55,000 €		
t2 calculation formula =	$(28,808,344 \text{ €} - 55,000 \text{ €}) / 5,956,757,963 \text{ €}$	$(24,669,540 \text{ €} - 55,000 \text{ €}) / 5,956,757,963 \text{ €}$	$(28,466,608 \text{ €} - 52,500 \text{ €}) / 5,789,485,471 \text{ €}$	$(24,327,804 \text{ €} - 52,500 \text{ €}) / 5,789,485,471 \text{ €}$	$(28,808,655 \text{ €} - 42,500 \text{ €}) / 5,563,612,939 \text{ €}$	$(24,669,851 \text{ €} - 42,500 \text{ €}) / 5,563,612,939 \text{ €}$	$(29,108,637 \text{ €} - 55,000 \text{ €}) / 5,317,809,915 \text{ €}$	$(24,920,168 \text{ €} - 55,000 \text{ €}) / 5,317,809,915 \text{ €}$	
t2 =	0.4827%	0.4132%	0.4908%	0.4193%	0.5170%	0.4427%	0.5463%	0.4676%	
<b>Value to be reimbursed to operators</b>		1,374,338 €		2,755,392 €		4,133,764 €		4,185,116 €	<b>12,448,610</b>



## **ANNEX I**

### **Methodology for calculating regulation costs**

#### **Introductory note**

The allocation of ICP-ANACOM's costs, in order to determine the costs of regulation, equates to the distribution of its annual accounting expenses under the terms of its SNC - Sistema de Normalização Contabilística (Accounting Standardisation System) and in accordance with the Activity Based Costing (ABC) methodology.

#### **A. Allocation of ICP-ANACOM's costs**

1. ICP-ANACOM's costing system was developed based on the Activity Based Costing (ABC) methodology and aims to identify the costs related to the development of the activities inherent to its statutory responsibilities, as well as to respond to the requirements of paragraph 4 of article 105 of Law no. 5/2004 and the provisions of paragraphs 1 and 2 of article 44 of Law no. 17/2012 of 26 April.

Overall, two main cost groups have been identified: regulatory and spectrum management costs, and costs which are unrelated to the regulatory activity, the latter mainly consisting of costs associated with the activity of advising and representing the State. The breakdown of costs is as shown in Figure 1.

**Figure 1: Breakdown of costs of ICP-ANACOM**

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

2. The costs of regulation and spectrum management comprise the costs associated with the activities of regulation, supervision, sector representation and cooperation and include the following costs:

a) Costs associated with the electronic communications sector (pursuant to Law no. 5/2004).

i) Electronic Communications costs.

Costs associated with the issue of declarations supporting the exercise of activity, allocation of rights of use of resources, and all of its regulatory and supervisory activities, as well as sector representation and cooperation.

ii) Spectrum Management costs.

Costs associated with the set of activities performed by ICP-ANACOM with respect to the planning, assignment, monitoring and oversight of the radio frequency spectrum.

iii ) Numbering Management costs.

Costs associated with the set of activities performed by ICP-ANACOM with respect to the planning, monitoring and oversight of the numbering plan.

b) Costs associated with the Postal Sector

Costs associated with issuing declarations and licences for the exercise of the activity of provision of postal services and with all activities of regulation, supervision, sector representation and cooperation.

c) Other administrative costs associated with the regulator's mission.

Costs incurred as a result of the regulation of services which are outside the scope of Law no. 5/2004, including audiotext services, ITED - Infraestruturas de Telecomunicações em Edifícios (Telecommunications infrastructure in buildings), ITUR - Infraestruturas de Telecomunicações em Loteamentos, Urbanizações e Conjuntos de Edifícios (Telecommunications Infrastructure in Housing Developments, Urban Settlements and Concentrations of Buildings), Information Society services, amateur service and personal radio service - citizen's band (CB).

3. Other costs incurred by ICP-ANACOM which are not directly related to regulatory activities<sup>5</sup>, include the following costs:

a) Contributions and fees associated with national and international entities, such as<sup>6</sup>:

i ) National bodies:

CPEC, Municipal Councils and others.

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<sup>5</sup> It is considered that these costs are not relevant to the regulatory activity of ICP-ANACOM, according to the interpretation of paragraph 4 of article 105 of Law No 5/2004.

<sup>6</sup> The sums referring to the payment of contributions have been falling sharply given that of a large part of these contributions resulted from government decisions that have now expired, or from decisions taken by ANACOM in the past that have not been renewed.

ii ) Non-national bodies:

ANRT - Morocco, ESA, CPLP, PALOP and Timor, PECO, other countries in the framework of cooperation, Satellite Organisations and URSI.

b) Costs related to Advising and Representing the State.

Costs arising from ICP-ANACOM's participation in the technical representation of the Portuguese state in the sector are excluded (point r) of paragraph 1 of article 6 of the statutes, as approved in the annex to Decree-Law no. 309/2001 of 7 December), where not directly linked to regulatory activity. These costs are generally those associated with the following events and organizations:

- i ) Preparation of and participation in meetings and conferences, as well as all the exchange of information in this context.
- ii ) Responding to requests of a different nature, such as requests for information, licensing requests, expertise requests, and others.
- iii ) Response to requests for radio easements and protection of radiocommunication services.
- iv ) Development of cooperation programmes.
- v ) Monitoring of special projects (ESA).

National bodies:

Ministries, Regional Governments, Court of Auditors, and others.

Non-national bodies:

NATO, ITU (Council, Development Sector, Plenipotentiary Conference), World and Regional Radiocommunications Conferences, National Agency for the Regulation of Telecommunications (ANRT-Morocco), Satellite Organizations, URSI, CPLP, PALOP and Timor, PECO and other countries within the framework of cooperation.

4. With respect to the identification of costs incurred with respect to electronic communications, a breakdown is given that enables the determination of costs associated

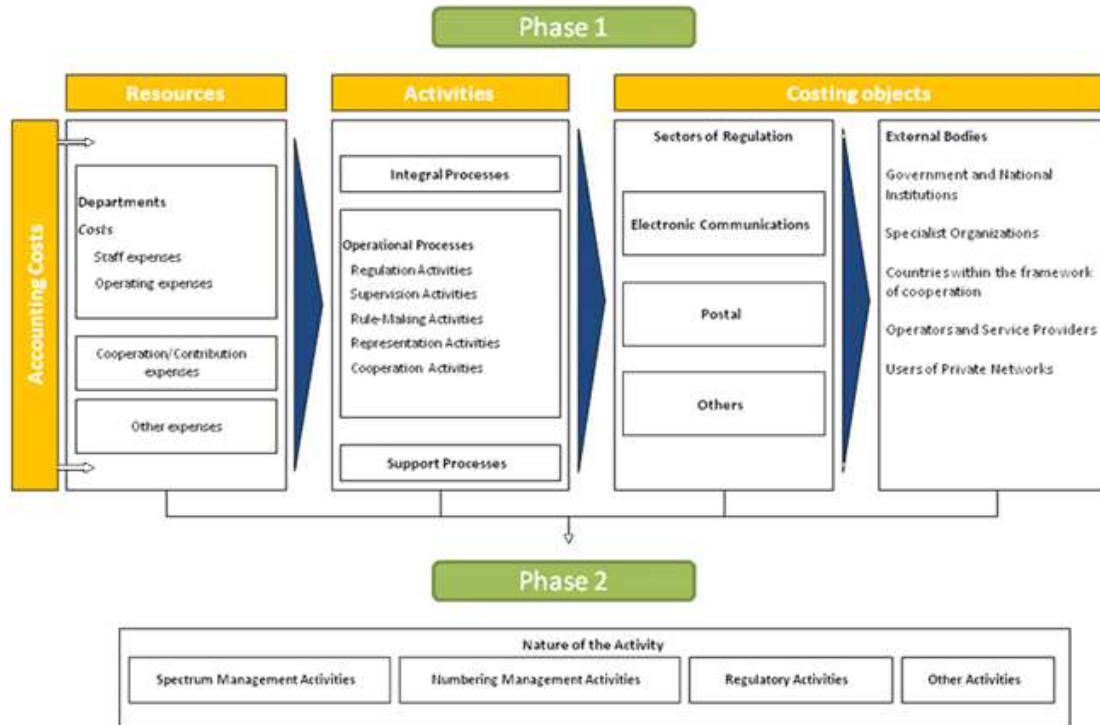
with each of the acts defined in point a) to f) of paragraph 1 of article 105 of Lei das Comunicações Eletrónicas (Electronic Communications Law). As such, the costs are divided using the following groupings:

- a) Spectrum management (point f) of paragraph 1 of article 105);
  - b) Numbering Management (point e) of paragraph 1 of article 105); and
  - c) Regulatory activities - corresponding to the other administrative costs associated with points a) to d) of paragraph 1 of article 105 and to the regulation of communications services that fall outside the scope of Law no. 5/2004.
5. With respect to the identification of costs incurred with respect to postal services, a breakdown is given that enables the determination of costs associated with each of the acts defined in paragraphs 1 and 2 of article 44 of Lei dos Serviços Postais (Postal Services Law).

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

6. The process of allocating costs follows two phases:
- a) Phase 1: Analysis and allocation of accounting expenditure associated with the processes/activities/areas of regulation/external entities of ICP-ANACOM.
  - b) Phase 2: Allocation of expenditure to the different types of activity according to the acts underlying article 105 of Law no. 5/2004, and to activities associated with sectors outside the scope of the Lei das Comunicações Eletrónicas (Electronic Communications Law).

**Figure 2: Phases of the Methodology used to allocate ICP-ANACOM's costs**



**Phase 1 - Analysis and allocation of accounting costs to processes/activities of ICP-ANACOM**

7. In the first place, expenditure is listed by groups and by department according to the following classification:
  - a) Direct resources - expenditure directly related to regulation services, through a cause-effect relation.
  - b) Indirect/common expenditure - expenditure not directly related to regulation services.
  - c) Expenses associated with cooperation and contributions - specific expenses incurred as a result of ICP-ANACOM's cooperation and representation work.
8. In second place, administrative costs are allocated to processes/activities directly or using criteria that represent a cause-effect relationship between the respective nature of the cost and the processes which they support.
9. As an example, the sequence of movements to classify expenditure is summarised below:
  - a) Grouping of total accounting costs by nature and by department.

- b) Classification of expenditure according to the structure of prevailing work processes, regulated and non-regulated areas (services), and external entities (customers). Analysis and allocation of costs to processes<sup>7</sup>/Services and cost centres/ICP-ANACOM customers)<sup>8</sup>.
- c) Personnel expenditure<sup>9</sup> is allocated directly to the processes/ services and objects of costing/customers of ICP-ANACOM, in accordance with the data reported by all staff using a computer application "Report of Hours Worked (RHT)".
- d) Expenses related to international travel, travel within Portugal, advertising, specialized work, fees, training, documentation, meetings, sponsorships are directly linked to the processes, services, customers, on a case-by-case basis, notwithstanding the distribution of an insignificant value being distributed according to the Staff-Hours criterion.
- e) Expenditure on electricity, water, air conditioning, rent of the Headquarters, buildings insurance, lifts, cleaning services, surveillance and security are considered as structural costs and are distributed on the basis of area (m<sup>2</sup>) used by each department. The remaining functioning expenditure, specifically as related to economat, reprographics and communications, is distributed among all departments, according to their consumption<sup>10</sup>.
- f) Costs related to cooperation and contributions/contributions<sup>11</sup> are distributed according to the nature of the activity<sup>12</sup>.

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<sup>7</sup> According to the Dictionary of Processes/Activities which supports the reporting of hours of all ANACOM staff in the application "Reporting of Hours Worked (RHT)" and the classification of expenditure. The RHT application is used to obtain the total number of ANACOM staff hours.

<sup>8</sup> Combination of process and/or service or object of costing and/or customer.

<sup>9</sup> Excluding costs associated with the Christmas Party, Anniversary and other staff events, which are treated as equivalent to common expenditure (Common Costs - All activities - To distribute to other costing objects).

<sup>10</sup> Being distributed to the processes/services/customers, depending on the reported hours worked by each department (Staff Hours of each department).

<sup>11</sup> Always associated with the "Cooperation" process and a particular external entity.

<sup>12</sup> A portion of these expenditures is unrelated to the regulatory activity. See also List of Types of Activity (Figure 3).

- g) Amortization and depreciation costs, where of a relevant amount, are associated with the work processes related to equipment, IT applications and hardware<sup>13</sup>, and the remaining part is distributed according to Staff-hours.
  - h) The treatment of provisions is equivalent to the treatment of common costs, and they are allocated to the various natures of activity depending on the type of provision<sup>14</sup>.
  - i) Other costs, particularly those for which a cause-effect relationship cannot be ascertained, are distributed according to relative cost or Staff-hours.
10. It is important to emphasize that certain work processes, such as "Planning and Control", "Financial System", "General Services" and "Human Resources" do not have a direct relation to a specific area of regulation, and encompass all areas<sup>15</sup>; and, therefore, costs related to these work processes are redistributed among all operational processes, based on the criteria of relative costs or Staff-hours.

### ***Phase 2 - Allocation of expenditure to the sectors of regulation***

11. In order to ensure proper allocation of accounting expenditure to each sector of regulation and within the scope of electronic communications, and to the acts detailed in paragraph 1 of article 105 of Law no. 5/2004, a process was developed which enables this distribution, and which is identified as the "type of activity" process.
12. The identification of the type of activity is made according to a combination - the work process/regulated area (service)/external entity (customer)<sup>16</sup>. Each type of activity corresponds to a particular set of combinations<sup>17</sup>.

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<sup>13</sup> For example, amortisation of equipment used by SINCRER (Integrated Remote Control System for Radio Stations) is associated with the "Spectrum monitoring" sub-process and all radiocommunications services.

<sup>14</sup> Can be distributed based on direct cost or Staff-hours. Provisions for ongoing litigation accounted for in recent years have been regarded as Common Costs - Regulation Activities - Services Law no. 5/2004 and Common Costs - Spectrum Management Activities - Services Law no. 5/2004.

<sup>15</sup> Considered common processes.

<sup>16</sup> In some situations, it depends on the department that gave origin to the expenditure.

<sup>17</sup> According to the Dictionary of Processes/Activities in application at ICP-ANACOM, which supports the costing system.



13. The allocation of expenses associated with each nature of activity follows the process described below:

a) Identification of the amount of expenditure by type of activity grouping (spectrum management activities, numbering management activities, regulation activities, and others).

b) Distribution of the amount of common costs (common accounting expenditure) and cooperation/contribution costs by regulation grouping, considering one of the following options as a distribution criterion, bearing in mind the type of common/cooperation expenditure:

i) Direct allocation to the corresponding type of activity grouping through a cause-effect relation.

ii) Proportion of expenditure directly associated with each type of activity grouping.

iii) Proportion of Staff-hours associated with each type of activity grouping.

c) Subsequently, after determining the expenditure by each type of activity grouping, the expenditure allocated to "all activities" of regulation is distributed among the following regulation sectors:

i) Electronic Communications Sector;

ii) Postal Sector;

iii) Other sectors outside the scope of the Lei das Comunicações Eletrónicas (Electronic Communications Law) and Lei dos Serviços Postais (Postal Services Law).

14. Subsequently, the costs determined at the level of the Electronic Communications Sector are distributed among the acts defined in points a) to d) of paragraph 1 of article 105 of Lei das Comunicações Eletrónicas (Electronic Communications Law), and the costs determined at the level of the Postal Sector are distributed among the acts defined in paragraphs 1 and 2 of article 44 of the Lei dos Serviços Postais (Postal Services Law).

**Figure 3: List of Types of Activity**

<b>Type of Activity: costs allocated to sectors within scope of Law no. 5/2004</b>	
Declarations supporting Rights	Regulation
Exercise of activity - Regulation	Regulation
Allocation of Rights of Use of Frequencies	Regulation
Allocation of Rights of Use of Numbering and Reservation thereof	Regulation - Numbering
Spectrum Management Activities	Spectrum Management
Numbering Management Activities	Numbering Management
<b>Type of Activity: costs allocated to sectors outside scope of Law no. 5/2004</b>	
Declarations supporting Rights <sup>18</sup>	Regulation
Exercise of activity - Regulation <sup>19</sup>	Regulation
Amateur and CB records and certificates <sup>20</sup>	Spectrum Management
Allocation of Rights of Use of Numbering and Reservation thereof <sup>21</sup>	Regulation - Numbering
Spectrum Management Activities <sup>22</sup>	Spectrum Management
Numbering Management Activities <sup>23</sup>	Numbering Management
<b>Costs not directly related to regulatory activity</b>	
<b>Common costs</b>	
Common costs - Spectrum Management Activities	Spectrum Management
Common costs - Spectrum Management Activities – Services Law no. 5/2004	Spectrum Management
Common costs - Spectrum Management Activities – Services outside Law no. 5/2004	Spectrum Management
Common costs - Regulation Activities	Regulation
Common costs - Regulation Activities – Services Law no. 5/2004	Regulation
Common costs - Regulation Activities – Services outside Law no. 5/2004	Regulation
Common costs - Numbering Management Activities	Numbering Management
Common costs – Allocation of Rights of Use of Frequencies	Regulation
Common costs – Allocation of Rights of Use of Numbering and Reservation thereof	Regulation– Numbering
Common costs – Declarations supporting Rights	Regulation
Common costs – All activities – Allocate based direct cost	
Common costs – All activities – Allocate based on Staff-Hours	

<sup>18</sup> Declarations and Licences for postal activity and registration of audiotext and VAS providers

<sup>19</sup> Postal Services, ITED/ITUR, audiotext and VAS

<sup>20</sup> Registrations and certificates associated with CB (citizen band) and amateur service.

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

<sup>22</sup> CB and amateur service.

<sup>23</sup> Audiotext, VAS and premium services.

**Figure 3: List of Types of Activity**

Common costs – All activities – Allocate to other costing objects	
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