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Determination of 5.9.2007

Determination of ICP-ANACOM on the proposal submitted by CTT – Correios de Portugal, S.A. to implement ICP-ANACOM's decision of 18/07/2007, on values of quality of service indicators realised in 2006

1. The Universal Postal Service Quality Convention (Quality Convention)¹, entered into on 21 April 2006 between ICP-National Communications Authority (ICP-ANACOM) and CTT-Correios de Portugal, S.A. (CTT), under clause 12 of the Universal Postal Service Concession Contract, dated 1 September 2000 (Concession)², and paragraph 5 of article 8 of Law no 102/99, of 26 July (Basic Law)³, sets out and publishes the parameters and the minimum levels of quality of service associated to the provision of the universal postal service, which CTT are obliged to provide in 2006.
2. As provided for in the Quality Convention (article 10, paragraph 1), it falls upon ICP-ANACOM to monitor values achieved by CTT, concerning the evolution of QSI, on a quarterly basis.
3. The Quality Convention provides (article 5, paragraph 1) that failure to comply with the referred levels of quality of service affects variations of prices defined for reserved services provided for in the Universal Postal Service Price Convention (Price Convention)⁴, under the terms and percentages stated in paragraph 2 of the Annex to the Quality Convention, taking effect solely and exclusively on the year subsequent to that in which the non-compliance has taken place. Situations of non-compliance are to be monitored by ICP-ANACOM, having heard the CTT (article 5, paragraph 2).
4. Within this context, CTT, through letter no. 50214 of 05/03/2007, complemented by letter no. 50303 of 27/03/2007, submitted to ICP-ANACOM QSI values realised in 2006.

¹ <http://www.anacom.pt/template12.jsp?categoryId=191422>.

² Concluded under and for the purposes of Decree-Law no. 448/99 of 4 November (<http://www.anacom.pt/template20.jsp?categoryId=5855&contentId=17286>) as amended by Decree-Law no. 116/2003, of 12 June (<http://www.anacom.pt/template20.jsp?categoryId=17568&contentId=111978>).

³ <http://www.anacom.pt/template20.jsp?categoryId=17566&contentId=121497>, as amended by Decree-Law no. 116/2003, of 12 June (<http://www.anacom.pt/template20.jsp?categoryId=17568&contentId=111978>).

⁴ <http://www.anacom.pt/template12.jsp?categoryId=191402>.

5. Following the analysis of values of QSI realised by CTT in 2006, and having heard this company according to articles 100 and 101 of the Code of Administrative Procedure, the Board of Directors of ICP-ANACOM determined on 18/07/2007 as follows⁵:
 - 1) To apply a deduction by 1% to the weighted average of variation in prices of services reserved to the CTT, allowed for 2007;
 - 2) To determine that CTT must submit a proposal to ICP-ANACOM, within 20 working days from the date of notification of the referred determination, implementing the deduction provided for in the preceding point, which must be applied by the end of the year, and not before 20 days have elapsed from the reception thereof at ICP-ANACOM's premises.
6. The above-mentioned determination (hereinafter referred to as Determination of 18/07/2007) and respective prior hearing report were submitted to CTT on 23/07/2007 through notice ANACOM-S33180/2007, ICP-ANACOM having taken the opportunity to stress that CTT's proposal should focus exclusively on reserved postal services and comprise all users of such services.
7. In this context, CTT submitted a proposal to implement Determination of 18/07/2007, to be applied from September to December 2007 (letter CTT no. 50472 of 31/07/2007, complemented by letter no. 50788 of 22/08/2007, which arose from the request for clarification made by ICP-ANACOM through fax ANACOM-S36240/2007 of 10/08/2007). CTT's proposal is presented in short form in **Table 1**.
8. According to available data on revenues, concerning the results of CTT's cost accounting system for 2006, and assumptions considered by CTT as regards traffic evolution and measures to render concrete the presented proposal, it is estimated that the proposal for implementation of Determination of 18/07/2007 implies, in a scenario where no deduction (penalty) is applied, benefits for users amounting to Euro 2.935.000,00 (see **Table 1**), a sum which is deemed acceptable as it is slightly higher than 1% of revenues estimated for 2007, no deduction being applied, which amount to **[Start Confidential Information]**⁶ **[End Confidential information]**⁷ (see **Table 2**).

⁵ Point 16 of the Determination, available at <http://www.anacom.pt/template31.jsp?categoryId=248362>, together with the respective prior hearing report (non confidential version).

⁶ Hereinafter **[SCI]**.

⁷ Hereinafter **[ECI]**.

Table 1 – CTT’s proposal to implement ICP-ANACOM’s Determination

Measure/Description	Estimated financial impact
<p>Measure 1: Offer of postage costs when custom made stamps (“mystamp”) are purchased, to be used for non-priority national mail not exceeding 20 gr. This offer shall be made available following the publication of the administrative rule that governs this matter (which has already been approved by the Deputy Secretary of State for Public Works and Communications) and up to the end of 2007.</p>	<p>[SCI] [ECI] pages, each one including 25 stamps of non-priority national mail not exceeding 20 gr, at an unit price of 0,30€.</p>
<p>Measure 2.1 Offer of priority mail postcards to the <i>Comissão de Acompanhamento do Plano Nacional de Leitura</i> (CAPNL) for use/distribution purposes in specific measures (to be established by the Commission) which fall within the scope of academic records. Communication to be made in October on World Post Day.</p>	<p>225 thousand euros (500.000 postcards, at an unit price of 0,45€)</p>
<p>Measure 2.2: Offer to CAPNL of part of the issue of the 2007 school stamp, as well as the full 2006 issue yet to be marketed, for use/distribution purposes in specific measures (to be established by the Commission) which fall within the scope of academic records. Communication to be made in October on World Post Day. Stamps are to be used for non-priority national mail not exceeding 20 gr.</p>	<p>123 thousand euros (410.000 stamps of non-priority national mail not exceeding 20 gr, at an unit price of 0,30€)</p>
<p>Measure 3: Offer of a priority mail pre-stamped envelope to occasional customers who mail at least one postal item at any post station, every Thursday in September and October between 10 a.m. and 12 p.m. (or in the first two working hours of stations which are closed during that period of time).</p>	<p>[SCI] [ECI] customers/envelopes, the unit price per envelope being 0,45€)</p>
<p>Measure 4: Granting of an additional discount of 5% (to be added to discount schedules), in reserved services of national non-priority mail, national priority mail and national Direct Mail, to contractual customers who during the months of September and October register an increase in monthly traffic relatively to the same period in the preceding year.</p>	<p>[SCI] [ECI]</p>
<p>TOTAL OF MEASURES</p>	<p>2.935 thousand euros</p>

Source: CTT

Table 2 – Estimated decrease of revenues of reserved services* for 2007

Unit: 10³ Euro

Net revenues in 2006		[SCI] [ECI]
Net revenues in 2007 (with a variation in prices of 1,8% relatively to 2006)		[SCI] [ECI]
Net revenues in 2007, deduction being applied (variation in prices of 0,8% relatively to 2006)		[SCI] [ECI]
Decrease of revenues with decrease by 1%		[SCI] [ECI]

* Revenues of reserved services covered by the Price Convention.

(a) Source: Results of cost accounting system for 2006. Data yet to be audited.

(b) Estimated values, considering that demand for 2007 is constant relatively to 2006.

(c) Estimated values, considering that demand for 2007 is constant relatively to 2006 and in the light of price decrease resulting from the application of Determination of 18/07/2007.

9. For the purpose of the application of the maximum variation in prices of reserved services in the scope of article 8 (paragraph 1) of the Price Convention, the variation of each price of reserved services has been taken into account, regardless of discounts, as was the case for the assessment of the proposal on prices in force since the beginning of 2007.
10. The application of discounts is considered in the scope of article 7 of the Price Convention, which provides that CTT is entitled to practice discounts on prices of services covered by the Convention, where economic reasons, namely as far as economies of scale are concerned, so justify. The application of such discounts must comply with the principles of cost orientation, transparency and non-discrimination. The communication of discounts must be attached to CTT's communication to ICP-ANACOM of prices of the universal postal service (that integrates reserved services).
11. It should be highlighted that, without compromising the objective of compensating users of reserved postal services for the confirmed deterioration of quality of service provided in 2006, ICP-ANACOM (item 89 of the prior hearing report) amended point 2) of item 16 of the Draft Decision⁸ (DD) which gave rise to point 2) of Determination of 18/07/2007 (see item 5 hereof), in order to allow CTT to present proposals where means to implement the penalty are more flexible, in the framework of the regime established by the Price and Quality Conventions.
12. Point 2) of item 16 of the DD stated that CTT should submit to ICP-ANACOM, within 20 working days from the date of notification of the final determination, a proposal concerning prices of reserved services and date of entry into force (which should not occur before 20 days had elapsed from the reception thereof at ICP-ANACOM's premises).
13. The amendment included in referred point 2) replaced the obligation on CTT to present a *proposal concerning prices of reserved services* (in compliance with the deduction by 1% to the weighted average of variation in prices of services reserved to the CTT, allowed for 2007) for a *proposal to implement the deduction* (by 1% to the weighted average of variation in prices of services reserved to the CTT, allowed for 2007).

⁸ Draft Decision of 19/04/2007 (<http://www.anacom.pt/template31.jsp?categoryId=241242>).

14. In the specified circumstances, measures proposed by CTT enable users in general (occasional and contractual users, commonly associated to residential and business customers, respectively) to be compensated for the deterioration of quality of service provided in 2006, and lay down benefits for these users which amount to 1% of net revenues of reserved services for 2007 (it should be noted that the decrease by 1% of average annual prices of reserved services would imply the reduction by 1% of net revenues of reserved services estimated for 2007, *ceteris paribus*, that is, for example, where demand and discount tables are constant).
15. Nevertheless, it is necessary to provide for monitoring and correction mechanisms, so as to guarantee the level and distribution of referred benefits, given the nature of proposed measures and lack of certainty which is naturally attached to their true impact, regardless of grounds stated by CTT for assumptions made.
16. Therefore, the Board of Directors of ICP-ANACOM, in the scope of assignments conferred thereupon by points b), d), h) and n) of paragraph 1 of article 6, pursuant to article 10 and to point b) of article 26, all of the Statutes approved by Decree-Law no. 309/2001, of 7 December, under article 5 and paragraph 2 of the Annex to the Universal Postal Service Quality Convention, and articles 8 and 10 of the Universal Postal Service Price Convention, both concluded between ICP-ANACOM and CTT on 21 April 2006, hereby determines the following:
 - a) Not to oppose the implementation proposal made by CTT, which must respect all conditions laid down in the **Annex** that aim for the implementation of mechanisms intended to evaluate the true impact of proposed measures, namely enabling the timely correction, by the end of 2007, of any values below forecast figures;
 - b) To determine, as regards the disclosure of measures proposed by CTT and covered by the present determination of ICP-ANACOM, that CTT must inform its customers that the latter are comprised in the scope of the application of article 5 of the Universal Postal Service Quality Convention and article 10 of the Universal Postal Service Price Convention, that apply to non-compliance with levels of quality of service (for 2006);
 - c) To inform CTT that, in future proposals for the alteration of prices of the universal postal service, presented in the scope of the referred Price Convention, that include amendments to discount schedules, the possibility of ANACOM considering the impact of such alterations to discount schedules to quantify the variation of prices of reserved postal services and to assess compliance of such variation with the maximum price variation provided for in paragraph 1 of article 8 of that Price Convention, should not be overlooked.

ANNEX

In the scope of the application of the proposal submitted to implement ICP-ANACOM's final decision on values of quality of service indicators realised in 2006 (proposal presented by CTT through letter no. 50472 of 31/07/2007, complemented by letter no. 50788 of 22/08/2007), CTT must implement a control system for measures to be implemented, that enables the determination of the effective value of benefits resulting for users from the application of each measure proposed by CTT.

Results of this control must be submitted to ICP-ANACOM, so this Authority is able to monitor and evaluate steps taken to implement the referred decision.

It is fundamental that this monitoring action takes place in sufficient time to allow, in case forecast measures are not developed properly, the timely adoption and implementation of new measures, by the end of 2007.

CTT must thus submit to ICP-ANACOM, by 16/11/2007, results of the control performed up to the end of October.

In case forecast measures are not developed as expected, the referred results must attach a proposal of additional measures to be rendered concrete up to the end of 2007, and which should aim to fully meet the objectives that the first measures proposed by CTT intended to achieve.

As ICP-ANACOM acknowledges that the type of measures proposed by CTT make it difficult to establish correct forecasts for the intended impact, it is accepted to consider that the objective of measures shall be achieved where the effective value of benefits for users is equal to or higher than 95% of the value that corresponds to 1% of revenues of reserved services (covered by the Price Convention) which would be achieved in 2007, if no deduction was applied.

That is, CTT must propose additional measures in case the value of benefits for users, resulting from implemented measures, is lower than [SCI] [ECI] (which corresponds to 95% of [SCI] [ECI]).

Overall results of measures to be implemented (measures provided for at first and any additional measures) shall be submitted to ICP-ANACOM, for monitoring and evaluation purposes, by 31/01/2008.

The implementation of overall measures (measures provided for at first and any additional measures) shall ensure respect for the initial relative importance, in terms of decrease of revenues, of measures to be implemented which are intended for contractual customers (the weight of which is forecasted by CTT at [SCI] [ECI]% in terms of decrease of revenues) and for other types of customers (the weight of which is forecasted by CTT at [SCI] [ECI]% in terms of decrease of revenues).