Decision on the results of the audit to the net costs of the universal service provided by PT Comunicações, S.A. (PTC) for the 2007 to 2009 financial period

\- Public Version -

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1. Framework

PT Comunicações, S.A. (PTC) is the Portuguese universal service (US) provider of a: i) connection to a public communications network at a fixed location and a publicly available telephone service via that connection; ii) comprehensive directory and directory enquiry service; and iii) provision of public pay telephones.

In accordance with article 95 of the Electronic communications Law (ECL)[1], where the National Regulatory Authority (NRA) considers that the provision of universal service may represent an unfair burden on the respective providers, it must calculate the net costs of the universal service (USNC) obligations in accordance with one of the following procedures:

a) Calculating the net cost of the universal service obligation, taking into account any market benefit which may accrue to providers;
b) Using USNC identified in the scope of a designation mechanism provided for in ECL.

Pursuant to article 95 of ECL, and in the light of article 96 of the same law, ICP - Autoridade Nacional das Comunicações (ICP - ANACOM) approved on 09.06.2011 a decision on the definition of unfair burden and on the methodology for calculating USNC, further to a public consultation and prior hearing of interested parties. Following this last procedure, three other determinations of the same scope were adopted: (i) on 29.08.2011, the Authority decided that the claim filed by PTC was partly admissible and amended determination of 09.06.2011, so as to use prices effectively applied to determine the “unprofitable areas” and “unprofitable customers living in profitable areas”, as well as to calculate USNC of unprofitable areas/customers; (ii) on 25.11.2011, ICP - ANACOM determined the price elasticity of demand to be considered for the calculation of USNC; and (iii) on 12.10.2012, the concept of «unusually high access costs» was developed, in order to determine unprofitable customers living in profitable areas, and consequently to calculate USNC.

[1] Law No 5/2004, of 10 February, as amended and republished by Law No 51/2011, of 13 September.

The above-mentioned determinations explain in detail how the methodology is to be applied for USNC calculation purposes, as from the moment in which it is deemed that its provision entails an unfair burden (that is, as from 2007, inclusive) and for as long as the US is provided by PTC and not supplied further to the ongoing tender procedure for the designation of US providers.

Under applicable legislation, the US provider is responsible for making available all appropriate accounts and information used to calculate USNC, in compliance with determinations issued by this Authority.

As such, and following ICP - ANACOM's determination of 09.06.2011 on the methodology for calculating USNC, PTC submitted to ICP - ANACOM, on 28.11.2011, USNC estimates for 2007, 2008 and 2009.

Being incumbent on ICP - ANACOM to submit such estimates to an audit, under paragraph 4 of article 96 of ECL, as well as to approve USNC values, this Authority approved on 27.04.2012 the launch of a public tender, having awarded on 06.08.2012 to SVP Advisors, S.L. (SVP)[2] the audit to USNC estimates presented by PTC for the financial periods from 2007 to 2009, in order to assess the conformity of the calculation presented with the methodology defined by ICP - ANACOM.

The audit consisted in an in-depth, systematic and overall analysis of USNC estimates presented by PTC for the 2007-2009 period, namely the revision of calculations and sources of information, as well as the identification and analysis of any shortcomings, discrepancies, alternative approaches and all relevant issues related to the methodology applied.

[2] After the work was awarded to SVP, the company changed its corporate name to AXON Partners Group Consulting S.L.. For the sake of simplification, the company continues to appear as SVP throughout the text.

2. Main audit results

According to the terms of the contract concluded with SVP, this company, together with Grant Thornton & Associados, SROC, Lda[3], having concluded the field work, and on the basis of the information collected and the assessment carried out in the meantime, prepared a preliminary report which was submitted to PTC for comments. The latter was requested to present new USNC estimates for the financial period under consideration, so as to reflect the recommendations set out by the auditor, although the referred recommendations had not yet been validated by ICP - ANACOM.

On19.02.2013, PTC submitted its comments to SVP's preliminary report and new USNC estimates for the 2007-2009 financial period, referring that corrections identified by SVP had been made and recommendations put forward had been followed, apart from the one concerning the treatment of one-off installation costs (and respective revenues) for the calculation of USNC of unprofitable customers.

Subsequently to the submission by PTC of comments and of new USNC estimates, SVP concluded its audit and submitted the respective final report, taking into account the referred comments to the preliminary version of the report and the impact estimate drawn up, which includes, *inter alia*, the description of the work carried out and conclusions and recommendations resulting from the methodological revision and audit work, deemed by auditors to be appropriate.

SVP highlights that the audit work takes as input the cost accounting system (CAS) data presented by PTC for 2007, 2008 and 2090, and that any amendments to the CAS, required due to ongoing audits to the CAS, which are likely to alter the results of services, are not taken into account.

SVP concluded that "in general, results and calculations revised by PTC comply with principles, criteria and conditions laid down in ANACOM's determinations, and data, assumptions and calculations used are adequate enough". However, three aspects were excluded from the referred conclusion, which were qualified as "minor issues with negligible impact on results", and concerned "unit access cost per line" for residential customers, the calculation of "number of access lines" and input data for public pay-

[3] Henceforth, only SVP will be referred to, given that it was this company that concluded the audit service contract with ICP - ANACOM.

phones (which are analysed below) and a situation which is deemed to have a material impact on results, concerning the treatment of one-off costs and revenues for unprofitable customers living in profitable areas. Nevertheless, as regards this situation, which is assessed below, without prejudice to considerations presented by SVP in the audit report, the company agrees that “in general, PTC’s approach is not contrary to determinations issued by ANACOM”.

Table 1 shows the USNC results for 2007-2009 presented originally by PTC on 28.11.2011, as well as figures recalculated by PTC on 19.02.2013, following SVP’s preliminary report, integrating already the impact of ICP - ANACOM’s determination of 12.10.2012.

Table 1 - USNC estimates for 2007-2009 financial years - original data from 28.11.2011 and data recalculated and submitted on 19.02.2013

	2007			2008			2009			Three-Year Total		
	Ori data	Recal data	∆%	Ori data	Recal data	∆%	Ori data	Recal data	∆%	Ori data	Recal data	∆%
Lost revenue of unprofitable areas	7,7	10,4	36%	6,8	9,1	33%	6,1	8,1	31%	20,6	27,6	34%
Lost revenue of unprofitable customers	43,0	33,7	-22%	23,0	19,3	-16%	46,0	31,5	-31%	112,0	84,6	-24%
Lost revenue of unprofitable public pay-phones	3,8	6,4	67%	2,9	8,1	178%	3,3	8,9	166%	10,1	23,4	132%
Total lost revenue	**54,5**	**50,6**	**-7%**	**32,7**	**36,5**	**12%**	**55,5**	**48,5**	**-13%**	**142,7**	**135,6**	**-5%**
Avoidable costs of unprofitable areas	10,6	13,6	29%	8,4	10,7	28%	7,9	9,9	25%	26,9	34,2	27%
Avoidable costs of unprofitable customers	56,4	43,9	-22%	30,6	25,7	-16%	60,1	41,7	-31%	147,2	111,4	-24%
Avoidable costs of unprofitable public pay-phones	7,3	11,1	51%	5,8	12,3	114%	6,5	13,7	110%	19,6	37,1	89%
Revenues not obtained from retired persons and pensioners	16,2	15,2	-6%	14,3	14,3	0%	12,9	12,9	0%	43,5	42,5	-2%
Total avoidable costs	**90,5**	**83,8**	**-7%**	**59,1**	**63,1**	**7%**	**87,5**	**78,3**	**-11%**	**237,2**	**225,2**	**-5%**
Total USNC of unprofitable areas	2,9	3,2	10%	1,6	1,7	5%	1,8	1,8	2%	6,2	6,6	6%
Total USNC of unprofitable customers	13,4	10,2	-24%	7,6	6,4	-16%	14,2	10,2	-28%	35,2	26,8	-24%
Total USNC of unprofitable public pay-phones	3,5	4,6	33%	2,8	4,2	48%	3,2	4,9	53%	9,5	13,7	44%
Discounts provided to retired persons and pensioners	16,2	15,2	-6%	14,3	14,3	0%	12,9	12,9	0%	43,5	42,5	-2%
Total USNC before indirect benefits	**36,0**	**33,2**	**-8%**	**26,4**	**26,6**	**1%**	**32,1**	**29,8**	**-7%**	**94,5**	**89,6**	**-5%**
Indirect benefits	7,8	7,1	-9%	4,3	4,4	2%	2,7	4,7	73%	14,9	16,2	9%
Total USNC after indirect benefits	**28,2**	**26,1**	**-7%**	**22,0**	**22,2**	**0%**	**29,4**	**25,2**	**-14%**	**79,6**	**73,5**	**-8%**

Source: PTC and ICP-ANACOM calculations. Figures in million euro.

As can be seen from the table above, as a result of the audit, USNC estimates for the 2007-2009 presented originally by PTC were altered to reflect the effect of the application of the concept of “unusually high access costs” developed in the meantime by ICP - ANACOM, as well as several corrections, and decreased by around 8%, which in absolute terms corresponds to -6.1 million euro. It is also noted that for the three-year period under consideration, figures originally calculated by PTC concerning lost revenue, the discount applied to retired persons and pensioners and overall indirect benefits were overstated and the figure for avoidable costs was understated.

3. Analysis of the elements of USNC estimates presented by PTC as well as of SVP's conclusions and recommendations

This decision follows a similar structure to that used by ICP - ANACOM for the determination of the methodology applied to calculate USNC, approved by determination of this Authority of 09.06.2011. Compliance by PTC with each aspect of the methodology will be assessed, and the analysis carried out by SVP, and any recommendations put forward further to the audit, will be taken into consideration. Reference to comments presented by PTC to the preliminary audit report will also be made. ICP - ANACOM will also state its opinion as regards estimates presented by PTC and recommendations submitted by the auditor.

The points and aspects raised in the scope of the prior hearing and public consultation concerning the DD of 11.04.2013 are presented and explained in detail in the respective hearing and consultation report, which is an integral part of this decision, and ICP - ANACOM's views and reasoning in relation to several issues are presented therein.

In the final part of this decision, the issues raised by SVP concerning possible discrepancies identified in calculations and/or data inputs as well the reconciliation of values with the CAS, and also situations which SVP itself qualified as having a negligible impact on the value of USNC, are examined.

3.1. General principles

The methodology approved by ICP - ANACOM outlines that the calculation of USNC is based on the calculation of direct net costs, with an impact which may be directly measured in USP accounts, and indirect benefits, as regards those benefits, sometimes intangible ones, from which the USP benefits due to that very status.

In this context, USNC are determined on the basis of costs which the USP would avoid and on revenues it would lose if, as a result of not having to meet US obligations, it would not have to provide the service in unprofitable geographical areas, and in profitable areas, it would not have to provide the service to customers who are unprofitable or to provide the service in conditions other than standard commercial ones.

USP costs and assets must be valued at historic costs, which are those presented in the company’s financial statements. USNC also comprise a remuneration instalment concerning the cost of capital.

SVP Report[4]

The audit report describes the procedure whereby USNC are calculated, explaining that PTC calculates USNC using several autonomous models:

- Avoidable cost model, which calculates inputs of avoidable costs feeding other US obligation models;
- Area model which calculates USNC of unprofitable areas;
- Customer model which calculates USNC of unprofitable customers;
- Public pay-phones model which calculates USNC of unprofitable public pay-phones;
- Model for retired persons and pensioners which calculates USNC of retired persons and pensioners;
- Indirect benefit model, which calculates indirect benefits which are deducted from overall USNC concerning retired persons and pensioners, unprofitable areas and unprofitable customers.

The calculation of USNC takes into account not only services (costs and revenues) allocated to the provision of US[5], but also all services provided outside the US, where copper pair is used and a positive margin is obtained.

In this context, SVP refers that, for the purpose of USNC calculation, PTC identified as relevant services provided outside US those services that present a positive accumulated margin for the 2007-2009 three-year period.

SVP considers this approach to be reasonable and to ensure consistency of calculations made for the 2007-2009 period, deeming this criterion to comply with ICP - ANACOM’s determinations, and to be generally acceptable.

[4] The recommendation in this context corresponds to recommendation No 1, in chapter 9.1 of the audit report.

[5] Except for those concerning the directory information and directory enquiry services.

Moreover, SVP recommends for future years, and aiming to improve the procedure's transparency and auditability, that PTC draws up detailed breakdowns of service selections (identifying relevant services), on a cumulative basis as from 2007, so as to maintain consistency over time.

PTC's comment

PTC agrees with the report as regards this issue, referring that the criterion under consideration has already been applied in the scope of USNC for 2010 and 2011, in line with SVP's recommendation for future years.

ICP-ANACOM's opinion

The methodology adopted by ICP - ANACOM was based on an annual use of data, the possibility of establishing relevant revenues on the basis of a time frame exceeding one year, in this case a three-year period, not having been weighted at the time of its approval.

It is noted that the approach followed by PTC, deemed to be reasonable by SVP in the light of that provided for in the methodology adopted by ICP - ANACOM, does not lead to significant changes in the determination of the list of relevant services. In fact, in the period under consideration, in case an exclusively annual perspective was followed, only in 2008 would one more service require consideration, the margin of which has a very little degree of representativeness compared to that of all other services deemed to be relevant.

Taking into account that the use of an assessment based on an annual period or on a cumulative period leads to similar results as regards USNC from 2007 to 2009, and that it is deemed that in fact a cumulative period makes the analysis more consistent, as referred by SVP, ICP - ANACOM believes that the approach followed by PTC is to be accepted.

Estimates presented by PTC (on 19.02.2013) for 2007-2009, and shown in Table 1, appropriately reflect ICP - ANACOM's position expressed above.

As far as future financial periods are concerned, and in order to keep the consistency, it is considered that the SVP's recommendation should be followed, that is, USNC for 2010 should have the 2007-2010 period as reference period, USNC for 2011, 2007-2011, and so on. Still on the matter of future years and taking comments received in the scope of the

DD into account, PTC should also present an annual analysis, and where appropriate, grounds, which will be appropriately weighted, for not considering services that may not be profitable on a multi-annual approach on a cumulative basis, but which present on an annual approach a positive margin for any of the years at stake.

3.2. Connection to the public telephone network at a fixed location and access to publicly available telephone services

3.2.1. Avoidable costs

According to the methodology defined by ICP - ANACOM, the calculation of USNC associated to the obligation of connection to the public telephone network at a fixed location and access to publicly available telephone services starts by determining the avoidable costs and lost revenues in each of the considered geographical areas (defined at MDF - “Main Distribution Frame” - level), in case the service provision was discontinued therein.

In this context, the methodology explains that avoidable costs per access are determined, for each MDF, in the framework of PTC’s regulatory accounting system, all costs requiring a thorough examination to ascertain whether they should be classified as avoidable or not. For the purpose of USNC calculation, only costs which are effectively related to access and which would be avoided (cease) on the moment a certain area was discontinued, are considered.

Without prejudice, ICP - ANACOM’s determination on methodology refers that if the USP demonstrates in a justified fashion that it lacks detailed information allowing for the determination of avoidable costs of accesses according to the adopted methodology, ICP - ANACOM accepts alternative approaches for distributing costs among MDFs, namely by using functions of costs breakdown, insofar as this is without prejudice to the final objective of the exercise, which is to ensure the due reliability of costs considered in each MDF and the consideration of their specific characteristics.

3.2.1.1. Geographical de-averaging of access costs

SVP Report[6]

SVP refers that PTC presented an alternative approach to calculate avoidable costs per MDF, as the company lacked the necessary information to implement the provisions in ICP - ANACOM's determination on the methodology to calculate USNC. PTC, using its systems' information, proposes the use of operational data and reference prices to de-average access costs according to areas.

SVP declares that it understands that it may be difficult for PTC to obtain information with the required breakdown, deeming PTC's alternative approach of de-averaging access costs at geographical level to be acceptable. The auditor does not identify any relevant aspects which may affect the accurateness and representativeness of USNC results.

SVP identified some problems in reconciling operation information used for the geographical de-averaging of costs, given that PTC argues that it lacks historical supporting evidence allowing such information to be verified. SVP overcome this situation by carrying out reasonableness tests with data available in the systems, having found no relevant issues indicating that figures used for the purpose of calculating USNC fail to appropriately reflect reality. In any event, it recommends that in future financial periods, PTC files sufficient evidence to enable the company to verify its operational information.

PTC's comment

PTC agrees with the auditor's view as regards the geographical access cost de-averaging methodology.

In relation to the operational information used to de-average costs, PTC states that it agrees with the recommendation, however the company points out the operational and static nature of information systems at stake, which only allows it to abide by the recommendation in the scope of the calculation of USNC for 2013.

ICP-ANACOM's opinion

[6] Recommendations made in this context correspond to recommendations No 2 and 6, in chapter 9.1 of the audit report.

PTC declares that it lacks information, in the respective systems, with the degree of required breakdown to calculate access costs per MDF according with the determination issued by ICP - ANACOM. It specifically noted the lack of data on asset acquisition value, year of acquisition, accumulated depreciation and net value of assets, per MDF.

In alternative to the defined methodology, and taking into account that ICP - ANACOM's determination allows other approaches to be followed, PTC, in order to calculate access costs per MDF, worked on the basis of a set of operational data, such as those related to the average lengths of loops per MDF, the type of infrastructure in each MDF, its occupation rate, and reference prices for each type of infrastructure (including fixed and variable elements according to the respective length), calculating the change in the access cost in each area compared to the national average avoidable cost. With this methodology, and using data from the CAS, and taking into account avoidability factors (referred to below), PTC arrives at the definition of unit access avoidable cost for each MDF.

In the light of the above, and given the audit carried out and its results, ICP - ANACOM acknowledges that PTC has shown difficulties in implementing the methodology defined as regards the de-averaging of access costs per MDF, thus it is considered that the option for using an alternative approach to establish avoidable costs is sufficiently substantiated.

As regards the alternative approach adopted by PTC, given the conclusions reached by SVP, ICP - ANACOM deems this methodology to be acceptable, not having been found any elements that call its reliability and its correspondence to reality into question.

It is also acknowledged that PTC may not be provided with operational information required to de-average costs at geographical level, given the nature of information systems.

In the light of the above, ICP - ANACOM believes that SVP's recommendation for future financial years should be implemented for the purpose of USNC calculation as from 2013. Without prejudice, it is considered that PTC must make available, in the scope of audits to USNC estimates for the period 2010 to 2012, whatever information is required so that auditors may carry out reasonableness tests on avoidable costs used in the referred geographical cost de-averaging.

Estimates presented by PTC (on 19.02.2013) for 2007-2009, and shown in Table 1, appropriately reflect ICP - ANACOM's position expressed above on the methodology for de-averaging access costs at geographical level.

3.2.1.2. Calculation of avoidable costs and avoidability ratios

SVP Report [7]

In the absence of disaggregated information concerning the costs that are effectively avoidable, PTC decided to use an approach, in order to calculate these avoidable costs, based in Long Run Incremental Costs (LRIC). PTC considers that incremental costs give a meaningful proxy for avoidable costs.

However, and given that PTC does not hold a LRIC model to calculate avoidable costs for the various services (access and traffic), the company resorts to LRIC ratios versus Fully Allocated Costs (FAC) based on external information provided by British Telecom (BT) and Eircom.

To calculate the avoidability of costs, PTC uses also statistic regressions of operational and financial indicators of US operators from the United States of America (USA), based on data provided by the Federal Communications Commission (FCC).

SVP considers that, due to PTC's lack of an information system or of tools enabling it to determine avoidable costs, the LRIC-based approach, deemed to be a proxy to estimate the savings in the cost resulting from the termination of services, makes sense at economic level, and it is reasonable and acceptable.

SVP considers also that the main external sources adopted, specifically BT and Eircom, are deemed to be reputable and credible enough. However, SVP states also that the use of a custom-made LRIC model tool would improve the accurateness of some specific ratios. In the described context, SVP concludes that avoidability ratios used by PTC are appropriate to determine the USNC associated to unprofitable areas and unprofitable customers.

[7] Recommendations made in this context correspond to recommendations No 3 and 4, in chapter 9.1 of the audit report.

PTC's comment:

As regards the use of LRIC as proxy for estimating avoidable costs, this operator does not share the view stated in the recommendation of the preliminary report "in the absence of a better strategy for determining avoidable costs", considering that this proviso may be understood as there being room for doubts, which however fail to be materialized. The company further stresses that auditors do not identify any alternative approaches[8].

PTC notes the conclusion set forth by auditors as regards the fact that avoidability ratios are appropriate for the determination of avoidable costs in the scope of USNC. Nevertheless, it disagrees with the reference made by SVP on the use of a custom-made LRIC tool as a way to improve the accurateness of specific ratios, declaring this reference to be inconsistent given that, in fact, PTC does not hold a LRIC model and it would not be possible to develop one in due time.

The company believes, on this subject, that auditors should have mentioned the work developed by PTC concerning the "operational and analytical survey carried out on a sample of exchange areas, by means of which the reasonableness of avoidability ratios for access in the Customer Model was empirically substantiated".

ICP-ANACOM's opinion:

In the light of the above, namely SVP's positive assessment, it is deemed that the use of the methodology to calculate avoidable costs, which is used to calculate both unprofitable areas and unprofitable customers living in profitable areas, and also in the scope of the public pay-phones model, is sufficiently substantiated.

ICP - ANACOM also considers avoidability ratios used by PTC to be appropriate, highlighting, as referred by PTC, that it would not be feasible to develop a LRIC model in due time and for this purpose.

Estimates presented by PTC (on 19.02.2013) for 2007-2009, and shown in Table 1, appropriately reflect ICP - ANACOM's position expressed above of agreement with the proposed approach.

[8] It is noted that this statement no longer included in the final report of the audit, given that auditors reacted to this comment made by PTC.

3.2.2. Unprofitable areas

3.2.2.1. Plausibility criteria

According to the USNC calculation methodology, having stabilized the number of geographical areas classified as being unprofitable, it is then necessary to consider the application of two additional criteria, in order to strengthen the model and to increase its correspondence to reality: a) the criterion of existence of an effective competition and b) the “enclave” criterion.

The methodology further refers that the application of these criteria to each unprofitable area must be assessed by the USP on a case-by-case basis, and the reasons for which it considers that such criteria fail to apply must be substantiated in detail. In case such reasons are not accepted by ICP - ANACOM, areas in consideration will be compared to profitable areas, so that possible unprofitable customers living in profitable areas may be determined.

i) New plausibility criteria proposed by PTC

SVP Report [9]

SVP refers that PTC’s approach, in the scope of the overall implementation of the methodology as regards candidate areas to be considered unprofitable, is more restricted and conservative than the methodology for calculation of USNC requires.

PTC introduced a new plausibility criterion, associated to the multiannual profitability of each area, considering an area to be “unprofitable” only where it is unprofitable for the whole 2007-2009 period, that is, when the area is unprofitable for those three consecutive years. As such, it does not take into account some areas that are unprofitable only on an annual perspective, which leads to a lower number of candidate areas to be considered “unprofitable areas”.

SVP considers PTC’s approach to be acceptable and compatible with ICP - ANACOM’s determinations, noting nevertheless that this criterion does not correspond to any requirement established in the methodology approved by ICP - ANACOM.

[9] The recommendation made in this context corresponds to recommendation No 8, in chapter 9.1 of the audit report.

SVP mentions that this approach is conservative and results in lower costs as regards unprofitable areas than a strictly annual approach would allow, making the calculation of USNC consistent over time, and for this reason it recommends such method to be applied cumulatively as from 2007 in future financial years.

PTC's comment

PTC agrees with the report conclusion, referring that the same criterion was applied in the calculation of USNC for 2010 and 2011, in line with SVP's recommendation for future financial years.

ICP-ANACOM's opinion

In the scope of the USNC calculation methodology, the application of plausibility criteria to determine unprofitable areas is limited only to the criterion of effective competition and the "enclave" criterion.

Notwithstanding, this new criterion followed by PTC is in line with the spirit of ICP - ANACOM's determination, and in fact it enhances its consistency, as it only considers as unprofitable areas those which over a given period of time (for financial years under consideration a 3-year period is at stake) remain as unprofitable. It follows from the application of this criterion that only as far as these areas are concerned it would be reasonable to admit that no company under no US obligations would serve them.

It is noted, additionally, that the application of this criterion results, for the purpose of estimating USNC, in a lower number of unprofitable areas than that reached in case the new plausibility criterion now proposed by PTC was not used.

Consequently, it is deemed that the criterion introduced by PTC must be accepted, in compliance with SVP's recommendation, and that it must replace the "enclave" criterion, given that it meets underlying concerns.

Estimates presented by PTC (on 19.02.2013) for 2007-2009, and shown in Table 1, appropriately reflect ICP - ANACOM's position expressed above of agreement with the application of the criterion.

ii) “Enclave” criterion

SVP Report[10]

The audit report in its preliminary version referred that the “enclave” criterion had not been applied by PTC, recommending that enclaves in unprofitable areas surrounded by profitable areas were excluded from USNC calculations, unless PTC appropriately explained such non-compliance. Nevertheless, in the audit’s final report, chapter 9.2.1., SVP refers that clarifications presented in the meantime by PTC as regards the application of the “enclave” criterion are acceptable for the 2007-2009 period. In this regard, SVP refers that the approach proposed by PTC, according to which the concept of unprofitable areas includes only those which remain unprofitable during the 2007-2009 period, reasonably reflects the time effect of areas that become profitable over time and provides a more consistent approach to the calculation of USNC over time.

PTC’s comments

PTC refers that, in its opinion, plausibility criteria aim at not considering unprofitable those areas that are only temporarily unprofitable, but which show a positive life cycle (and which as such would be connected in any event) or those whose non-profitability could not be foreseen at the moment the investment is decided. Ideally, according to PTC, the Net Present Value (NPV) of areas at the moment of investment should be calculated, and only those presenting a negative value should be classified as unprofitable. However, PTC considers that this assessment is not feasible, as it is dependent on extensive and complex information which is not available, and the estimates of which would not be accurate or easily obtained.

As such, PTC refers that, in the alternative, it opts to identify areas that are not profitable over multiannual periods (in this specific case, the 2007-209 period), considering this criterion to be a good proxy for assessing the profitability of areas over their life cycle, and making the process of identification of unprofitable areas more solid. According to PTC, the application of this criterion fulfils the objective of strengthening the identification of unprofitable areas, established in the methodology.

[10] The recommendation made in this context corresponds to recommendation No 10, in chapter 9.1 of the audit report.

Based on this view, unprofitable areas that according to ICP - ANACOM's methodology are enclaves, following the application of the additional criterion proposed by PTC, in the scope of the assessment of USNC carried out herein, are those shown in the table below.

Table 2 - List of unprofitable areas identified by PTC further to the application of the additional plausibility criterion, submitted on 19.02.2013

Start Confidential Information (SCI)

CONFIDENTIAL

End Confidential Information (ECI)

Source: PTC.

PTC thus believes that enclaves that remain further to the application of the additional plausibility criterion introduced in the methodology (on multiannual profitability) are justified by the simple fact that they are consistently unprofitable during the 2007-2009 period, which is a good indicator that they will be unprofitable taking into account their whole life cycle, making the assumption that the company opted not to invest in each of those areas legitimate.

Taking into account the above-mentioned reasoning, PTC also presented, for each of the areas that constitute an enclave the following justification for the fact that such areas were not deemed to be profitable: "a consistently unprofitable area, which is a proxy for its unprofitability over time, this being the main reason why PTC opted not to invest in this area".

ICP-ANACOM's opinion

The application of the "enclave" criterion effectively results from the concern for ensuring that the USP does not consider as unprofitable areas that are fully surrounded by profitable areas, and relatively to which it would be difficult for the USP to acknowledge *a priori* its profitability, and to opt for not connecting it on the moment of making an investment decision. Once the areas were connected, it would not be realistic for the USP to disconnect them, as a life-circle analysis could show that in the future those areas might become profitable.

ICP - ANACOM acknowledges that the analysis suggested by PTC as regards the NVP of each area in the moment of investment would be the best way to ensure that enclaves deemed to be unprofitable included only those relatively to which it was proved that they were not served by the USP due to their negative NVP were. However, it is also considered that this is a very complex analysis, probably based on many assumptions difficult to verify, and, as such, impractical.

Consequently, as far as this criterion is concerned, the methodology aims, while maintaining the same targets, at making its application simpler. Such application must be assessed on a case-by-case basis by the USP, who is under the obligation to substantiate in detail the reasons for believing that its application is not justified.

It is noted that PTC, in the scope of the application of plausibility criteria, introduces a new criterion (vide point i) of this chapter) which makes the determination of profitable and unprofitable areas more robust and consistent, on account of its characteristics. By applying this criterion, the number of potentially unprofitable enclaves decreases, given that all areas, whether or not enclaves, which may be unprofitable in a given year, but are not unprofitable in the course of the three years under consideration - 2007, 2008 and 2009 -, are automatically not taken into consideration, for the purpose of USNC calculation.

Bearing in mind this additional criterion, as well as PTC's justifications for including each enclave that remains further to the application of the referred additional criterion, and in the light of SVP's conclusions, explicitly referring in the final report that clarifications submitted on the "enclave" criterion are acceptable for the years under analysis, ICP - ANACOM considers that there are appropriate, sufficient and clear grounds to justify that the 18[11] areas that constitute enclaves (and deemed to be unprofitable further to the recalculation of USNC) maintain such classification.

[11] Following the recalculation of USNC models, the number of unprofitable areas changed from the 44 identified initially by PTC to 56. It is noted that the same 44 unprofitable areas remain in a possible range of 1853 areas, another 12 unprofitable areas having been determined following the recalculation.

The list of enclaves included in the audit report does not reflect this alteration, but in its comments PTC already reflects the change that resulted from the recalculation of USNC estimates, and justified all enclaves, that is, in addition to the initial14, the company also justifies another 5 areas deemed to be enclaves. It is noted that justification was submitted for area ([SCI] CONFIDENTIAL [ECI]), an exchange partly surrounded

In the light of the above, as well as of comments in the preceding point on the new plausibility criterion, ICP - ANACOM takes the view that the application of this new criterion used by PTC meets concerns underlying the application of the "enclave" criterion, thus the latter must be replaced by the former, which should be applied in future financial years, in a consecutive way, as from 2007.

Estimates presented by PTC (on 19.02.2013) for 2007-2009, and shown in Table 1, appropriately reflect ICP - ANACOM's position expressed above.

iii) Effective competition criterion

SVP Report[12]

As regards the application of this criterion, SVP refers that PTC opted not to follow an annual approach to consider the highest number of co-installed operators verified over the three-year period, that is, in this specific case, the company took account of the situation in 2009.

SVP considers this criterion to be compatible with ICP - ANACOM's determinations, and broadly speaking to be acceptable, allowing at the same time a more consistent and conservative approach of USNC calculation.

Moreover, SVP recommends for future years, and in order to maintain the consistency over time, that the reference number of co-installed operators also takes into account the evolution of the wholesale market. As such, SVP thinks it appropriate to consider the highest number of co-installed operators per MDF over the period as from 2007, and until

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by sea, thus the "enclave" criterion does not apply and as such submitting justification for that area was not required.

Enclaves considered are as follows: ([SCI]

CONFIDENTIAL

[ECI]).

[12] The recommendation made in this context corresponds to recommendation No 9, in chapter 9.1 of the audit report.

the year for which USNC are calculated, unless PTC justifies to ICP - ANACOM a change in its approach on this criterion.

PTC's comment

PTC does not oppose to the recommendation made by auditors as regards the effective competition criterion and informs that the recommended procedure was followed in the calculation of USNC for 2010 and 2011.

ICP-ANACOM's opinion

As regards the application of this criterion as recommended by SVP for future years, it is considered that this approach is consistent, thus it is deemed that, in case PTC does not present arguments to change the approach used for USNC from 2007 to 2009, this approach should continue to be implemented for future years. As such, the application of the effective competition criterion for USNC of year N must take as reference the highest number of co-installed operators per MDF between 2007 and year N.

Estimates presented by PTC (on 19.02.2013) for 2007-2009, and shown in Table 1, appropriately reflect ICP - ANACOM's position expressed above of agreement with the application of this criterion.

It is observed, however, that the application of this criterion for the period 2007-2009 has no impact, as none of the candidate areas to be considered unprofitable areas showed more than one co-installed operator.

3.2.3. Unprofitable customers in profitable areas

According to the methodology, after unprofitable areas have been determined, unprofitable customers living in profitable areas must be identified. These customers may be divided into: i) customers whose revenue is insufficient to cover the respective costs, and ii) customers that present high individual access costs that exceed the generated revenue, even if such revenue is equal to or higher than the national average. The methodology further states that the group of customers identified in i) should not be considered for the purposes of USNC calculation, except where these customers show unusually high access costs.

The calculation of CLSU for providing services to unprofitable customers living in profitable areas is based on an approach similar to the one used to determine unprofitable areas, as regards the estimate of avoidable costs and lost revenue. In this context, the methodology allows also for alternative approaches, according to provisions laid down for unprofitable areas.

As far as the concept of “unusually high access costs” is concerned, ICP - ANACOM already approved, in the course of the audit to the 2007-2009 USNC, by determination of 12.10.2012, the development of the referred concept in the scope of the methodology to be applied for the calculation of USNC, establishing that, for this purpose, the costs of customers included in the last third of customers with the highest costs are taken into consideration.

3.2.3.1. De-averaging access costs according to customers

SVP Report[13]

SVP refers that PTC calculates the number of unprofitable customers living in profitable areas using an approach based on a de-averaging curve of net revenues and a de-averaging curve of access costs. Net revenues, identified on a customer-by-customer basis, include effective customer revenues, that is, any discounts being deducted, as well as traffic and installation costs (commercial and administrative costs).

Based on the referred de-averaging exercises, the proportion of customers that are not profitable in each exchange area and net costs of such customers are calculated.

SVP refers that PTC resorts to this approach arguing that the individual identification of unprofitable customers is not reasonable, as this would require a customer-by-customer profitability assessment. In fact, although as regards revenues, PTC is provided with individual customer information, allowing them to be de-averaged among categories of revenues in each exchange area, SVP refers that PTC alleges not to be able to estimate the access cost per individual customer, as this cost depends on the loop length, information which is not available for all accesses, which makes the correspondence between physical access lines and customer identifiers impossible.

[13] The recommendation made in this context corresponds to recommendation No 17, in chapter 9.1 of the audit report.

As such, on the basis of the avoidable cost per access line and of the information on the loop length for all types of lines, both retail and wholesale, PTC de-averages customers according to ranges of access costs.

Auditors believe that the approach followed by PTC to determine unprofitable customers is acceptable. As regards the specific approach used to de-average access costs, SVP deems it not to be consistent with that adopted to construct the net revenue de-averaging curve, given that the former considers records of retail and wholesale loops, whereas the latter only considers records of retail loops. In the opinion of auditors, this fact is likely to alter the shape of probability curves of exchange areas; however, they acknowledge that there is no reason why the de-averaging of wholesale loop length should be different from the de-averaging of retail lines. Even so, SVP recommends that, in future years, wholesale lines are excluded from the sample of de-averaged loop lengths.

PTC's comment

PTC declares that, in comments it has submitted, the company has repeatedly expressed how difficult it is to obtain information on each customer's profitability.

Additionally, it also believes that there are no reasons why the loop length de-averaging should be different from the retail line de-averaging within the same exchange area, and for this reason, the company takes the view, contrary to the report, that this factor is unlikely to change the shape of the de-averaging curves.

As such, it disagrees with the recommendation made by SVP for future years, considering that it should be removed from the report. Moreover, the company mentions that such a recommendation would only be applied for the 2013 USNC calculation, given that the "snapshot of the loop length excluding wholesale loops for 2010, 2011 and 2012 can no longer be reproduced".

ICP-ANACOM's opinion

As regards the alternative methodology used by PTC to determine unprofitable customers, and consistently with ICP - ANACOM's view expressed in chapter 3.2.1.2, it is deemed that, in the absence of disaggregated information on access costs, the approach used by PTC is appropriate and acceptable.

Relatively to information feeding the de-averaging of access costs, ICP - ANACOM considers that it should be supported, as much as possible, on data of a similar nature to that used to construct the net revenue de-averaging curve.

However, it is acknowledged that PTC may not be provided at the moment with historical information that allows it to redraw the de-averaging curve of avoidable costs taking only into consideration the length of retail lines, as the company refers that it is provided only with information of a "snapshot type", and that it is no longer possible to extract information for 2010, 2011 and 2012.

It should be referred that both this operator and SVP declare that there are no reasons why the de-averaging of avoidable costs considering the loop length for all types of lines should be any different from the de-averaging of avoidable costs considering only the loop length of retail lines, for each MDF. Nevertheless, it is acknowledged that this may not be the case in the future.

In the light of the above, it is deemed that SVP's recommendation for future years must be implemented in the USNC calculation as from 2013, inclusively. Without prejudice, PTC must demonstrate, in the scope of estimates of USNC for the 2010-2012 period, and based on the loop length information for 2013, that differences between the two probability curves are negligible. Justifications presented in this context will be duly weighted by ICP - ANACOM.

Estimates presented by PTC (on 19.02.2013) for 2007-2009, and shown in Table 1, appropriately reflect ICP - ANACOM's position expressed above of agreement with the approach used for the 2007-2009 period.

3.2.3.2. Determination of unprofitable customers with unusually high access costs

SVP Report[14]

Having data been resubmitted by PTC when comments were presented to the preliminary audit report, it is noted that the initial SVP recommendation was taken into account, not being included in the list of recommendations not implemented by PTC in chapter 9.2.1 of the audit report.

[14] The recommendation made in this context corresponds to recommendation No 18, in chapter 9.1 of the audit report.

SVP referred that PTC identified customers with unusually high access costs using the statistics concept of mode, including in that group customers whose avoidable access costs exceed those of the cost category corresponding to the mode, in each MDF, and recommended the implementation of the “last third” criterion (1/3 of customers with the highest access costs) in compliance with ICP - ANACOM’ determination of 12.10.2012.

PTC’s comment

PTC agrees with this recommendation, taking into account ICP - ANACOM’ determination of 12.10.2012, and refers that it has been adopted and incorporated into the revised USNC models submitted on 19.02.2013. It stresses, however, that USNC for 2007-2009 were submitted on 28.11.2011, previously to ICP - ANACOM’s decision on the development of the concept of unusually high access costs.

ICP-ANACOM’s opinion

ICP - ANACOM has already expressed its views on the subject of unusually high access costs in its decision of 12.10.2012.

Bearing in mind that PTC accepted and adopted this recommendation in the revised models, and that SVP did not identify any issue concerning its implementation, ICP - ANACOM considers that the calculation of USNC in the revised models complies in this matter with ICP - ANACOM’s methodology.

In this context, estimates presented by PTC (on 19.02.2013) for 2007-2009, and shown in Table 1, appropriately reflect ICP - ANACOM’s position expressed above.

3.2.3.3. Treatment of one-off costs and revenues in the calculation of USNC of unprofitable customers

SVP Report[15]

According to the audit report, PTC considers, in each year, the whole of one-off costs (and revenues) - administrative and commercial installation costs -, to calculate net revenues of customers, in order to determine unprofitable customers living in profitable areas. SVP

[15]The recommendation made in this context corresponds to recommendation No 19, in chapter 9.1 of the audit report.

notes that this approach appears not to be in line with how PTC treats costs related to the network installation, which are annualised.

SVP mentions that PTC's general approach is not contrary to ICP - ANACOM's determinations, given that the methodology was defined so that avoidable costs may be allocated to each customer on an annual basis. However, in its view, taking into account one-off costs when de-averaging the net revenue may be a relevant factor to determine customers with low or negative net revenue, and it would not be appropriate to consider such customers to be unprofitable as it is likely that the costs incurred to activate the respective service are recovered in the future.

As regards one-off revenues, SVP also refers that some of those revenues do not reflect discounts that were given at the time of installation, which according to determination of 29.08.2011 should be taken into consideration, a factor which may likely distort USNC estimates, although their effect partly mitigates the effect of the non-annualisation of one-off costs.

As such, auditors ideally recommend the annualisation of commercial and administrative costs (and revenues) of installation in the de-averaging of net revenues per customer. In the alternative, and acknowledging that it may be difficult to implement this solution, it is considered that one-off costs should be excluded from the de-averaging of net revenues, in the scope of which they are assigned to specific customers, to be added to all customers, in an uniform manner, as an additional cost (mark-up) to the access cost.

Moreover, SVP states that the suggested annualisation would reflect the recovery of acquisition costs throughout the life cycle of each individual customer, whereas the proposal to de-average costs as a mark-up cost applicable to all customers would assume that all customers are activated at least once and one-off costs would be recovered on existing customers. In this respect, SVP concludes, in chapter 9.2.1., that regardless of the chosen alternative, distortions to USNC estimates would always be lower than those which would result from the approach followed by PTC, and, in any case, they would decrease the effect of compensation of individual customers that could be unprofitable only in the first year (year of acquisition of the customer).

PTC's comments

PTC declares in its comments that this recommendation is deemed to be unacceptable. On the one hand, because the audit report itself acknowledges that the approach followed by PTC does not fail to comply with ICP - ANACOM's determination, and on the other, because its implementation would lead to a change in ICP - ANACOM's methodology. Moreover, it refers that ICP - ANACOM's methodology provides for the allocation to each customer on an annual basis of avoidable costs, based on costs stated in the annual results of PTC's CAS, which annually take into account the whole of such installation costs.

PTC further refers that the approach recommended by SVP, to consider one-off costs as a mark-up to the access cost, would aggravate total customer access costs, which in PTC's opinion would be a serious distortion to the model for calculating USNC.

Lastly, the company mentions that the distortion caused by installation costs is partially mitigated by the treatment of the respective revenues which are also fully considered for the year in which they occur.

ICP-ANACOM's opinion

ICP - ANACOM considers that the approach used by PTC to calculate installation one-off costs and revenues is not contrary to the methodology defined for USNC calculation.

Notwithstanding, ICP - ANACOM agrees with SVP that if the referred costs allocated a single time to new customers of each year, are taken into account, such customers are likely to be considered unprofitable, which would not be the case if circumstances were different. ICP - ANACOM considers that, if it is possible for the referred costs to be recovered via revenues generated in future years, the USP would not take the decision not to serve such customers, and as such they would not be considered unprofitable.

ICP - ANACOM notes that SVP considers the annualisation of costs (and revenues) as the most adequate approach. Admitting however that this alteration to the way USNC are calculated may be complex, SVP proposes an alternative to the annualisation, so as to decrease the verified distortion, which is to no longer allocate one-off costs to specific customers, but to de-average them evenly to all customers, as a mark-up on access costs.

In the light of the above, ICP - ANACOM considers that the most appropriate way to handle one-off costs (and revenues) implies their annualisation over a given number of years which corresponds to average useful life of PTC's customers. Notwithstanding the fact that the second approach proposed by SVP (involving the application of a mark-up on access costs) may be more simple to apply, the first approach proposed is the most appropriate, and as such it must be adopted by PTC, even if its application may be simplified, if required.

In accordance with this, ICP - ANACOM hereby determines as follows:

- One-off costs and revenues must be annualised based on the number of years to which corresponds the average useful life of PTC's customers; as means of simplification, it is admitted that the same number of years is used for all customers, a 5-year period being established, which is identical to that defined in the methodology for calculating USNC for the purpose of establishing the current net value of margins of customers in profitable areas, used in the scope of indirect benefits, to calculate the benefit of ubiquity;

- In each year, one-off costs and revenues assigned to customers installed in that year shall be annualised, as well as one-off costs and revenues of previous years assigned to customers installed in the years concerned[16];

- The period under consideration - 2007 to 2009 - must include annualised one-off costs and revenues related to installations occurred in this period, without prejudice to values of annualisations being considered in future years, according to the average useful life of PTC's customers;

- The same period must include annualised one-off costs and revenues related to installations occurred in previous years[17], according to the average useful life of PTC's customers.

[16] For a 5-year average useful life of customers, in year N 1/5 of one-off costs and revenues concerning new installed customers will be taken into consideration, plus 1/5 of one-off costs and revenues concerning new customers installed in year N-1, 1/5 of one-off costs and revenues concerning new customers installed in year N-2, 1/5 of one-off costs and revenues concerning new customers installed in year N-3 and 1/5 of one-off costs and revenues concerning new customers installed in year N-4.

[17] Without prejudice to the possibility of considering that an unfair burden exists only as from 2007, the annualisation of one-off costs and revenues has the effect of making them comparable to investments and respective amortisation, thus only annualised values corresponding to installations carried out prior to 2007 are taken into account.

Given that annualisations that result from installations in the period preceding 2007 will mainly impact the number of unprofitable customers living in profitable areas and the cost of those customers (net cost prior to the application of indirect benefits), such updates must be reflected only in USNC for those customers and in the calculation of indirect benefits.

In the absence of detailed information for the period preceding 2007, that allows the effective identification of customers to whom installations were made and the respective installation costs and revenues, ICP - ANACOM allows PTC to use proxys to estimate the impact of annualisations of revenues and costs of installations of all years that are relevant for the calculation of USNC concerning the 2007-2009 period, including the use of proxies for years preceding 2007, insofar as annualisations of installation costs/revenues for those years have an impact on the assessment of 2007-2009 USNC.

In the light of the above, it is accepted that the impact is estimated on the basis of average values and/or functions that relate the change in the number of unprofitable customers living in profitable areas and the respective average unit cost with the volume of installations carried out. Such functions or average values may be established based on the results obtained by the USNC calculation model, incorporating the value of annualisations known for the period starting as from 2007.

Although estimates transmitted by PTC and audited by SVP do not include these determinations, their impact is estimated to be significant, and it is admitted that in a first analysis they may involve the reduction in the value of USNC for the 2007-2009 period by around EUR 3.5 million.

3.2.4. “Retired people and pensioners”

The methodology for calculating USNC refers that the additional net cost resulting from this provision corresponds to the value of the associated discount, and also that this calculation takes into account the effect of price elasticity of demand.

SVP Report[18]

SVP refers that PTC used the annual information contained in its financial records at the level of the total invoicing associated to “retired people and pensioners” to obtain an average monthly number of “retired people and pensioners” in each year. SVP considers that this approach provides an accurate estimate of the annual number of “retired people and pensioners” and avoids the problem of some “retired people and pensioners” who benefited from the discount for a short period of time not being taken into consideration.

According to SVP, a possible alternative would be to calculate the average number of “retired people and pensioners” in each year based on operational data concerning the number of “retired people and pensioners” at the end of each month extracted from PTC’s database.

SVP notes that the approach used by PTC results in slightly lower USNC for “retired people and pensioners” than would result from the use of operational data, but the average number of customers in a month refers to the average of the number of customers at the end of each month and consequently represents a certain degree of approximation relatively to true values.

In this sense, SVP concludes that the methodological approach followed by PTC for the three years, 2007, 2008 and 2009, is in general acceptable, given that, based on the detailed accounts that were received and the degree of deviation from estimates based on operational data, PTC’s strategy reasonably reflects discounts provided to “retired people and pensioners”. It is noted that the situation of non-compliance identified by SVP for 2007 was duly clarified and corrected by PTC, and is not included in the list of recommendations not implemented by PTC in chapter 9.2.1. of the audit report.

As far as future years are concerned, SVP recommends that PTC’s approach is maintained, insofar as the information provided continues to reflect the invoicing charged to “retired people and pensioners” with the degree of detail equivalent to that verified for 2008 and 2009. In case any changes are implemented, SVP takes the view that the respective justifications must be made available to ICP - ANACOM.

[18] Recommendations made in this context corresponds to recommendations No 32 and 33, in chapter 9.1 of the audit report.

PTC's comment

On this issue PTC makes some comments of an editorial nature, no statements on the methodological approach being made, and it is referred that recommendations on this matter were taken into account in the scope of the revision of models.

ICP-ANACOM's opinion

In the light of the above, ICP - ANACOM accepts the values and approach used by PTC to calculate net costs associated to the "retired people and pensioners" element, deemed to be in conformity by SVP.

In this context, estimates presented by PTC (on 19.02.2013) for 2007-2009, and shown in Table 1, appropriately reflect ICP - ANACOM's position expressed above.

3.3. Provision of public payphones

The methodology defines that the calculation of USNC associated to this element takes into consideration only unprofitable public payphones in profitable areas, given that costs associated to public payphones in unprofitable areas have already been accounted for in the component of access to the fixed telephone service.

In this context, the methodology to be used is also based on the calculation of avoidable costs and lost revenues, unprofitable public payphones being deemed to be those whose avoidable access costs exceed lost revenues.

3.3.1. Estimate of lost revenues and avoidable costs at MDF level

SVP Report[19]

The non-compliance situation identified by SVP in this scope was duly corrected by PTC, and is not included in the list of recommendations not implemented by PTC in chapter 9.2.1. of the audit report.

[19] The recommendation made in this context corresponds to recommendation No 23, in chapter 9.1 of the audit report.

In this scope, SVP declared that although PTC was provided with traffic and revenue data per public pay-telephone, at MDF level, in the process of breaking down these revenues and traffic volumes in different traffic categories, the de-averaging was constructed on the basis of percentages obtained at national level. Given that PTC held data at the level of MDF area that allowed such percentages to be calculated, SVP considered that introducing revenues and traffic drivers at national level could be a source of inaccurateness and, in general, a less reasonable alternative.

In the described conditions, SVP recommended that the de-averaging in types of traffic of total volumes of public pay-phone traffic and revenues (e.g. off-net), required for the calculation of avoidable costs and lost revenues related to traffic, was based on available statistics at the level of MDF area and not at national level.

PTC's comments

PTC deemed the recommendation to be reasonable and justified given that the information required to implement was is already available in the models, and accordingly amended USNC models for public pay-phones.

ICP-ANACOM's opinion

Taking into account that PTC accepted and adopted the recommendation in the revised models, and that SVP did not identify any issue related to its implementation, ICP - ANACOM considers that the USNC calculation complies with its methodology as this issue is concerned, and that it is already reflected in estimates presented by PTC (on 19.02.2013) for 2007-2009, as shown in Table 1.

3.3.2. Calculation of avoidable access costs

SVP Report[20]

Further to SVP's initial assessment, considering PTC's approach for determining public pay-phones' access costs to present some limitations, as it took into consideration more costs in the connection between public pay-phones and the switchgear than those which would result from the connection between the terminal equipment and the street cabinet only, SVP issued a recommendation suggesting that PTC showed evidence on the

[20]The recommendation made in this context corresponds to recommendation No 24, in chapter 9.1 of the audit report.

compliance of its approach with ICP - ANACOM's determinations, or that the company established the best way to adjust the calculation of avoidable access costs of public pay-phones to consider only costs of a connection up to the street cabinet.

SVP referred that PTC could be overemphasising avoidable access costs of public pay-phones, and thus overemphasising also USNC of public pay-phones, and indicated that potential solutions to remedy this issue would imply the revision of the loop length, that is, the distance between the public pay-phones and the associated street cabinet, as well as involve the avoidability ratios resorted to.

It is noted that in chapter 9.2.1. of the audit report, which summarizes the conclusions of the audit further to PTC's comments to the preliminary audit report, SVP recognizes that there are no significant differences between avoidability ratios used - as regards access costs - for USNC of unprofitable public pay-phones and USNC of unprofitable customers.

SVP goes on to declare that, after discussing this matter with ICP - ANACOM, it was clear that both situations are very similar in terms of relevant avoidable access costs, the methodology for calculating USNC applying to both situations.

In this context, SVP concludes that clarifications provided by PTC on the calculation of avoidable access costs for public pay-phones are acceptable for the 2007-2009 period.

<u>PTC's comment</u>

PTC clarified that, from a technical and access network perspective, there are no significant differences between the final customer connection and a public pay-phone connection.

Moreover, PTC refers that the degree of infrastructure sharing is similar for both accesses, and, as such, when located in the same area, avoidability ratios are identical for both accesses.

PTC thus takes the view that, if accesses were deemed to be different, avoidability ratios would be higher for public pay-phones accesses, as their location does not allow, in most cases, the sharing of infrastructure, contrary to the situation of unprofitable customers in locations shared with profitable customers (ex. urban buildings).

It is in this sense that PTC explains that, for the above-mentioned reason, in USNC models, the avoidability ratios used in models for unprofitable customers living in profitable areas, are also considered for public pay-phones, this approach being deemed to comply with ICP - ANACOM's determinations.

ICP-ANACOM's opinion

The outcome of the issue raised initially by SVP was that it was made clear, in the methodology, as regards the calculation of avoidable costs of public pay-phones, that network costs to be considered correspond, in many cases, to the connection to the street cabinet closest to the public pay-phone (or group of public pay-phones where there are several in the same location), the remaining infrastructure being required to serve profitable customers.

It is noted that, although as regards the calculation of costs of unprofitable customers, the methodology for calculation was not explained in the same way as for public pay-phones, both have implicitly the same type of approach, and there no objective reasons for distinguishing one from another.

As such, it is considered that PTC, by calculating specific avoidable costs for unprofitable customers and for public pay-phones that are clearly different from avoidable costs used to determine unprofitable areas, adequately meets the methodology defined by ICP - ANACOM and underlying concerns.

In the light of the above, ICP - ANACOM considers that USNC in this specific aspect complies with the defined methodology.

In this context, estimates presented by PTC (on 19.02.2013) for 2007-2009, and shown in Table 1, appropriately reflect ICP - ANACOM's position expressed above.

3.4. Indirect benefits

The methodology established to calculate the value of indirect benefits includes the calculation of benefits concerning the “corporate reputation and brand enhancement”, “ubiquity”, “advertising on public payphones”, “mailing” and “regulation fees”.

3.4.1. Corporate reputation and brand enhancement

SVP Report[21]

SVP identified initially two aspects related to the source used as reference to determine the brand value and periods for which the reference values were calculated relatively to the moment of their publication.

As far as the former is concerned - source used as reference to determine the brand value - SVP declares that PTC used the value supplied by the study of the European Brand Institute (EBI) for 2007 and 2008, and by the Brand Finance 500 report (BF) for 2009.

SVP considers that the brand assessment used to calculate indirect benefits for 2009 should be based on the report issued by EBI in order to remain in line with ICP - ANACOM's recommendations and to maintain the consistency with 2007 and 2008.

In future years, SVP recommends that, in case any objective event occurs, PTC alters the reference of the brand value insofar as the assessment is made independently and the reference is appropriate for that specific use. SVP also refers that in case these changes are implemented, PTC must supply to ICP - ANACOM a reasonable explanation to support such decision.

As far as the second aspect is concerned - periods for which the reference values were calculated - SVP refers that both BF and EBI's studies draw up their brand enhancement estimates based on financial data of the preceding year. As such, SVP recommends that the brand enhancement used to calculate the indirect benefits of a given year is based on the report published by the EBI in the following year.

It is noted that identified situations were changed in conformity with the presented recommendations, not having been included in the list of recommendations not implemented by PTC in chapter 9.2.1. of the audit report.

[21] Recommendations made in this context correspond to recommendations No 34 and 35, in chapter 9.1 of the audit report.

PTC's comment

As regards the source used as reference for the brand value, PTC refers that it came to know that the 2009 edition of EBI's study was available only after having submitted USNC for 2007-2009.

PTC notes also in its comments on this issue that EBI's study ceased to include the PT brand as from 2011. Consequently, the company considers that, for the sake of consistency of USNC over time, the calculation of the brand value should resort to various available sources in each year, via for example the average of available values. Notwithstanding, PTC refers that values presented on 19.02.2013 already incorporate this recommendation.

As regards the period of publication and reference values, PTC agrees with this recommendation, but refers that its application will increase the effect referred above, as EBI's study will not be available for the purpose of USNC calculation as from 2010.

ICP-ANACOM's opinion

As regards the source to be used as reference for determining the brand value, ICP - ANACOM takes the view that the determination of 09.06.2011 clearly refers the source to be used - the European Brand Institute - thus it is unnecessary to make any change to the source for USNC from 2007 to 2009, given that, as referred by SVP, the source is available, deemed to be of a good standing and independent.

In relation to publication periods and reference values, it is deemed that SVP's suggestion enables a more appropriate calculation of the value associated to this indirect benefit. As such, this Authority agrees with SVP, and the brand value used to calculate the indirect benefits of a given year should be based on the report published in the following year.

In this context, estimates presented by PTC (on 19.02.2013) for 2007-2009, and shown in Table 1, appropriately reflect ICP - ANACOM's position expressed above.

As regards the fact that the EBI study ceased to include the brand "Portugal Telecom" as from 2011, and given that there is at least another source for the determination of the brand value, which is also known for its independence and standing, ICP - ANACOM determines that, as from 2010, the brand enhancement studies prepared by Brand

Finance are used to calculate the “corporate reputation and brand enhancement” indirect benefit.

3.4.2. The indirect benefit of ubiquity

SVP Report[22]

As far as ubiquity is concerned, auditors initially identified in their report that, in the calculation of annual estimates of the number of customers who changed from an unprofitable area to a profitable area, PTC multiplied the number of customer disconnections due to the change of address for the percentage of unprofitable areas, which was contrary to ICP - ANACOM’s methodology, which establishes that the total changes weighted by the percentage of customers in unprofitable areas should be considered.

PTC accepted and applied the recommendation that the calculation of this benefit was revised according to ICP - ANACOM’s methodology, replacing in the formula the percentage of unprofitable areas for the percentage of customers in unprofitable areas, to estimate the probability of a customer changing to a profitable area. In fact, in chapter 9.2.1. of the audit report, which summarizes the conclusions of the audit further to PTC’s comments to the preliminary audit report, SVP does not identify this recommendation as not having been implemented.

PTC’s comments

PTC mentions that the company agrees with this recommendation and that it adopted and incorporated it in the revised USNC models submitted on 19.02.2013.

ICP-ANACOM’s opinion

Taking into account that PTC accepted and adopted the recommendation in the revised models, and that SVP did not identify any issue related to its implementation, ICP - ANACOM considers that the USNC calculation complies with its methodology as this issue is concerned, and that it is already reflected in estimates presented by PTC (on 19.02.2013) for 2007-2009, as shown in Table 1.

[22] The recommendation made in this context corresponds to recommendation No 36, in chapter 9.1 of the audit report.

3.4.3. Other indirect benefits

SVP Report

SVP also makes a methodological review of calculations and inputs used in USNC estimates presented by PTC as regards the indirect benefits of "advertising on public payphones", "mailing" and "regulation fees", having only identified an issue relatively to the calculation of this last indirect benefit, for 2009, which was classified as having an insignificant impact and which concerned the inaccuracy of revenue values used.

In any event, in the conclusions in chapter 9.21., this issue was not identified as pending, thus the recommendation is deemed to have been implemented by PTC in the elements transmitted on 19.02.2013.

PTC's comments

PTC refers that, although the inaccuracy is hardly significant, the "regulation fees" benefit was corrected, for the sake of the reliability and integrity of the USNC calculation model.

ICP-ANACOM's opinion

In the light of the above, ICP - ANACOM considers that the USNC calculation concerning other indirect benefits complies with its methodology, and that it is already reflected in estimates presented by PTC (on 19.02.2013) for 2007-2009, as shown in Table 1.

3.5. Reconciling traffic and revenues volumes considered in the scope of USNC calculation with CAS values

SVP Report[23]

The audit report mentions that some deviations were found in the scope of the reconciliation between CAS values and those considered in the scope of USNC calculation.

[23] Recommendations made in this context correspond to recommendations No 15, 16, 22, 30 and 31 in chapter 9.1 of the audit report.

As regards the issue of reconciliation of traffic volumes, it is referred that this situation affects the calculation of USNC of unprofitable areas and of unprofitable public pay-phones. The report mentions that volumes used to calculate USNC are, in general, lower than those reflected in the CAS, which could make USNC values being understated.

Likewise, SVP shows difficulties in reconciling access and traffic revenues with values reported in the CAS, which affects USNC calculation of unprofitable areas and of unprofitable public pay-phones. However, as with the problem of reconciliation identified at the level of traffic volume, SVP refers that as a result, PTC may be underestimating USNC, given that revenues considered for the purpose of USNC calculation are, in general, higher than those reflected in the CAS.

SVP also refers deviations between revenues considered in the distribution of gross revenues of the model of unprofitable customers living in profitable areas and revenues reported in the CAS.

Further to recommendations from auditors urging PTC to ensure the consistency between values used to calculate USNC and those reported in the CAS, in current and future years, PTC submitted several clarifications on the matter, and SVP concludes that these clarifications are acceptable for the 2007-2009 period. Additionally, they refer that, notwithstanding the limitations confirmed by PTC, this company should make available a full reconciliation of inputs for future years, supplying reasonable justifications and supporting documents for any deviation in values used.

<u>PTC's comments</u>

In its comments, PTC refers that it considers that deviations detected “make the USNC calculation conservative”, given that the USNC calculation model takes into account higher revenues and lower volumes of traffic than those registered in the CAS, which leads to the underestimation of USNC.

As regards the reconciliation of revenues considered in the distribution of gross revenues, PTC declares that it does not agree with the report: “PTC did not provide clarifications on the reconciliation of revenues considered in the de-averaging of gross revenues and those registered in the CAS”, and presents its calculation of differences between installation revenues (net of discounts) used in the USNC model and those reported in the CAS, which are allegedly quite lower than those calculated by auditors. PTC also refers that it should have been made clear in this regard that deviations detected make the USNC calculation conservative due to the fact that models incorporate higher revenues that those in the CAS, which leads to the underestimation of USNC.

Further to PTC's comments, auditors accepted values calculated by the company.

Lastly, PTC mentions that there are factors that make the full reconciliation of traffic volumes and revenues impractical, and which will remain in future years, and for this reason it will not be possible to implement a full reconciliation of values in future years.

ICP-ANACOM's opinion

ICP - ANACOM acknowledges that the reconciliation work is important, as it is a clear guarantee of the soundness and accurateness of values and calculations presented. Notwithstanding the obvious importance of the reconciliation, ICP - ANACOM considers that for financial periods under analysis, USNC models are acceptable. This results from the fact that PTC presented specific data that prove that data used in the USNC calculation models results in USNC estimates that are more conservative than those which would result from the strict application of CAS data, as well as from the fact that SVP considers clarifications provided by PTC to be acceptable for those years.

It should be noted that, regardless of the irregularities in the reconciliation with CAS values, the possible harm arising from this situation results from an impossibility declared by PTC, which affects negatively this company only, thus it is deemed that USNC estimates presented for the 2007-2009 period should be accepted.

3.6. Discrepancies identified in the calculations or data used to achieve USNC

SVP Report[24]

SVP identified in the audit report several discrepancies in the calculations and data used which influence the calculation of USNC.

[24] Recommendations made in this context correspond to recommendations No 5, 7, 11, 12, 13, 14, 20, 21, 23, 25, 26, 27, 28 and 29, in chapter 9.1 of the audit report.

Further to several recommendations aimed to remedy this issue, PTC presented comments and made the necessary corrections to USNC estimates previously submitted, which enabled SVP to conclude, as referred in chapter 9.2.1. of the audit report, that PTC had implemented in an appropriate manner the majority of recommendations presented, except for a single situation with material impact on results (referred above in point 3.2.3.3) ad three minor aspects with negligible impact on USNC results.

Recommendations referred to in the preceding paragraph, qualified by SVP as situations which are materially less relevant, are as follows[25]:

i) Area model – number of access lines (recommendation No 11)

SVP refers that PTC accepted and implemented the corrections recommended in the scope of treatment of inputs gathered for 2009. However, some irregularities were found in the reconciliation of revenue values[26].

ii) Customer model – unit access cost per line for residential customers (recommendation No 21)

SVP refers that the calculation of the unit access cost per line for residential customers follows a slightly different approach than that applied for business customers. SVP specifically refers that, contrary to the procedure followed for the business segment, PTC did not take into consideration in those calculations for the residential segment the combination of lines of the public switched telephone network (PSTN) and the integrated services digital network (ISDN). PTC acknowledges that inaccuracy, but declares that the recommendation failed to be implemented because a great effort would be required. SVP adds that PTC believes the impact of the implementation to be negligible and that its effect would be to increase average costs of residential accesses. As such, the option taken (not to implement it) is conservative given that USNC are underestimated.

iii) Public pay-phones – Input data (recommendation No 26)

Also in the scope of this recommendation, SVP registered some errors in corrections performed by PTC[27].

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[25] Recommendations No 11, 21 and 26.

[26] In this regard, SVP refers as follows: "PTC accepted and implemented the corrections recommended in the scope of the treatment of inputs gathered in file '2009_Area model_V2.0' for 2009. However, we found that in sheet 'I_Revenue' of the same file, some of the totals related to revenues do not reconcile".

PTC's comments

In its comments, PTC declares that it considers that USNC estimates for 2007-2009 submitted to ICP - ANACOM present a high level of reliability, although auditors had found some data shortcomings and inconsistencies. This operator mentions that data submitted are the result of a first attempt to make the methodology operational, that they are characterized by a high degree of complexity, and they cover three tasks at the same time, reason which, in its opinion, make it difficult to revise calculations of USNC.

PTC refers that, in the course of the analysis to the audit's preliminary report, it detected a fault in the 2008 USNC model, which incorporates discounts for 2007 and not those for 2008. Revised USNC models already include, according to PTC, the correction of this fault.

As regards recommendation No 21 (on the unit access cost per line for residential customers), PTC confirms that the calculation of the residential segment access cost only takes into account analogue access and not a mix of the various topologies of access. It further informs that it took this option for simplicity purposes when the model was constructed, given that the volume of ISDN accesses in the scope of total accesses in negligible, less than 1%. According to this operator, the implementation of the recommendation set out by auditors is complex and slow.

As such, PTC declares that it understands the recommendation but that it should be rethought, deeming that it cannot be incorporated in USNC values for 2007-2009. It also mentions that the impact of this recommendation, although negligible, would increase the average cost of residential accesses.

ICP-ANACOM's opinion

SVP verified the USNC model for 2007-2009 submitted in February 2013 further to recommendations presented in the preliminary audit report and concluded that PTC had implemented most of recommendations made on discrepancies in calculations and data

[27] SVP refers on this matter: "We found first that PTC failed to correct the formula in cells G8 and G9 in sheet 'I_input' for 2007. Second, we found that sheet 'I_Aux' is based on relevant values reported in the table for revenues and traffic which were not duly updated so as to match original sources".

used, except for three minor aspects, with a negligible impact: number of access lines (recommendation No 11); unit access costs per line for residential customers (recommendation No 21) and public pay-phones inputs (recommendation No 26). Auditors conclude on this matter that “taking into account that these three situations are materially less relevant, we deem that changes implemented and clarifications supplied are acceptable for the period 2007-2009”.

Taking into account that, as a result of the contribution transmitted by PTC in the scope of the prior hearing to the DD of 11.04.2013, SVP clarified that the update of the input data of the public pay-phones model in sheet “I-aux” is not required, due to the application of recommendation No 23 presented in the audit report, there is no need to implement the recommendation described in iii).

As far as the other two recommendations are concerned, although the failure to implement the recommendation described in i) Area model – number of access lines, has but a negligible impact on the value of USNC, it is deemed, for accurateness purposes and given its easy implementation, that PTC must correct USNC in this aspect.

As regards the recommendation described in ii) Customer model – unit access cost per line for residential customers, ICP - ANACOM does not require it to be implemented, in the light of difficulties mentioned by PTC for making it operational, given that a great deal of effort would be required from the provider and that, notwithstanding its non-implementation, USNC remain underestimated.

4. Conclusion and Determination

I.

Whereas USNC calculation estimates for the 2007-2009, presented by PTC on 19.02.2013, as results from the conclusions of the audit carried out by SVP between August 2012 and February 2013, are generally in compliance with the methodology for calculation of USNC as defined by ICP - ANACOM, that their distinctive features are duly justified and deemed to be reasonable, and that discrepancies identified, namely at the level of reconciliation of USNC values with information in the CAS, correspond to situations which were duly justified and which result in the underestimation of USNC, thus they are without prejudice to other companies, such as those that may contribute to the US financing, along with PTC itself;

Whereas the general consultation procedure and prior hearing of interested parties ran for a 20-working-day time limit, subsequently extended for a further 5 working days, according to article 8 of the ECL and articles 100 and 101 of the Administrative Procedure Code, in the course of which contributions were received from 6 operators, which were summarized and analysed in the public consultation and prior hearing report, which is an integral part hereof;

The Management Board of ICP - ANACOM, in the scope of powers conferred by points b) and d) of paragraph 1 of article 6 of its Statutes, in annex to Decree-Law No 309/2001, of 7 December, in the exercise of competencies provided for in articles 95 and 96 of Law No 5/2004, of 10 February, as amended by Law No 51/2011, of 13 September, hereby approves views laid down in chapter 3.

II.

Considering that, as a result of the analysis carried out, on the basis of the audit report, and in compliance with views expressed above:

a) This decision reflects ICP - ANACOM’s opinion in relation to each of the aspects referred in previous chapters, in the scope of which comments of interested parties presented in the public consultation and prior hearing procedures were duly taken into consideration;

b) ICP - ANACOM confirms that it accepts PTC's approach to identify relevant services provided outside the US as those that remain as profitable services for the 2007-2009 years (according to chapter 3.1);

c) The Authority also confirms that the alternative approach used by PTC to calculate access costs (explained respectively in chapters 3.2.1.1 and 3.2.3.1) has been justified and is deemed to be acceptable, not having been found any elements than call its reliability and its correspondence to reality into question. In this scope, the way in which avoidable costs and avoidability ratios are calculated are confirmed to be appropriate (as referred in chapter 3.2.1.2);

d) ICP - ANACOM also confirms that principles underlying the plausibility criteria referred to in the calculation methodology approved by ICP - ANACOM have been fulfilled (according to chapter 3.2.2.1), and the introduction of a new criterion proposed by PTC in order to strengthen the USNC calculation model must be highlighted, none of the operators who provided their opinion in the scope of the consultation and prior hearing procedures having opposed the introduction of this criterion;

e) The justification presented by PTC as regards the "enclave" criterion is deemed to be appropriate, as regards considering as unprofitable enclaves identified, given that such areas are consistently unprofitable over the period under consideration (2007-2009), which is a proxy for their unprofitability over time (according to chapter 3.2.2.1), and it should be noted that none of the operators who provided their opinion in the scope of the consultation and prior hearing procedures opposed the justification presented;

f) ICP - ANACOM agrees that the application of the effective competition criterion must take as reference the highest number of co-installed operators per MDF however, the application of this criterion has in any event no impact, as none of the candidate areas to be considered unprofitable areas showed more than one co-installed operator (according to chapter 3.2.2.1);

g) It is considered appropriate that one-off installation costs/revenues are annualized taking into account the average useful life of PTC's customers (in conformity with chapter 3.2.3.3), and it is stressed that the majority of operators who provided their opinion in the scope of the consultation and prior hearing procedures did not oppose and even supported the annualisation of these values;

h) It is agreed, as regards the “corporate reputation and brand enhancement” indirect benefit, that reference values to be used for a given year should be those published in the following year (in conformity with chapter 3.4.1);

i) Two situations were identified which were not appropriately corrected by PTC (referred to in chapter 3.6), but which have only a negligible impact in USNC results;

j) Except for points g) and i), values presented by PTC concerning USNC for 2007-2009 (submitted on 19.02.2013) result from a proper application of the methodology defined by this Authority for calculating USNC for the period at stake, reflecting ICP - ANACOM’s views expressed above;

The Management Board of ICP - ANACOM, in the scope of powers and in the exercise of competencies referred earlier, hereby also determines:

1. To establish the following as regards the methodology for calculating USNC with impact in values for 2007-2009, and already reflected in calculations presented (except for situations identified in points e) and g)):

    a. to identify as relevant services provided outside the US those that remain as profitable services for the 2007-2009 years (in compliance with chapter 3.1);

    b. to accept the alternative approach used by PTC to calculate access costs, avoidable costs and avoidability ratios (in compliance with chapters 3.2.1.1 and 3.2.3.1);

    c. to introduce a new plausibility criterion, considering that it meets concerns underlying the “enclave” criterion, and to determine the replacement of the latter for the new plausibility criterion (in compliance with chapter 3.2.2.1);

    d. to apply the effective competition criterion by reference to the year in which there has been the highest number of co-installed operators per MDF (in compliance with chapter 3.2.2.1);

    e. to consider one-off installation costs/revenues in an annualized fashion (in compliance with chapter 3.2.3.3);

f. To use, in the determination of the “corporate reputation and brand enhancement” indirect benefit for a given year, values that are published in the following year (in compliance with chapter 3.4.1);

g. To correct the inaccuracy identified and classified as being materially less relevant, associated to the area model - number of access lines (in compliance with chapter 3.6);

h. To accept the approach used by PTC for calculating the unit access cost per line for residential customers in the customer model (in compliance with chapter 3.6).

2. To determine the following changes as regards the methodology for calculating USNC with impact on estimates for years subsequent to 2009:

    a. PTC must include as relevant services provided outside the US those that remain as profitable services as from 2007 up to the year to which the USNC estimate refers, and additionally the company must present an annual analysis, and where appropriate, grounds, which will be appropriately weighted, for not considering services that may not be profitable on a multi-annual approach on a cumulative basis, but which present on an annual approach a positive margin for any of the years at stake (in compliance with chapter 3.1);

    b. PTC must file sufficient evidence to enable the company to verify the operational information used to de-average costs at geographic level and to de-average avoidable costs to determine unprofitable customers (in compliance with chapters 3.2.1.1 and 3.2.3.1);

    c. PTC must demonstrate, in relation to un estimates for the 2010-2012 period, and based on the loop length information for 2013, that differences between the de-averaging of avoidable costs considering only the loop length of retail lines and considering the loop length of retail and wholesale lines are negligible, justifications presented in this context being duly weighted by ICP - ANACOM (in compliance with chapter 3.2.3.1);

d. PTC must apply the new plausibility criterion to future years, in a consecutive fashion, as from 2007, so that only areas that remain as unprofitable in all years taken into account are deemed to be unprofitable (in compliance with chapter 3.2.2.1);

e. In the scope of the application of the effective competition criterion, PTC must use as reference the year in which there has been the highest number of co-installed operators per MDF between 2007 and the year to which the USNC refer (in compliance with chapter 3.2.2.1);

f. PTC must calculate the “corporate reputation and brand enhancement” indirect benefit, as from 2010, using the brand enhancement studies prepared by Brand Finance (in compliance with chapter 3.4.1).

3. To order PTC to resubmit new USNC for 2007-2009 so as to reflect the final CAS results for 2007-2009, which were the subject of ICP - ANACOM’s determinations of 04.04.2013 and 06.06.2013, as well as determinations in point 1 e) and 1g) hereof;

4. To determine that the resubmission referred to in the preceding paragraph takes place, for the three years under consideration, within fifteen days from approval hereof;

5. To submit USNC estimates presented by PTC further to the preceding determination to a new audit procedure so as to assess the compliance of resubmitted values with amendments to the CAS and to determinations in points 1 e) and i g);

6. To order PTC to present, by the end of August, recast USNC estimates for the 2010-2011 period, according to determinations defined herein, so that they may be submitted to an audit procedure.