

ICP-ANACOM's Decision on the request made by CTT, under article 6 of the Universal Postal Service Quality Convention, of 10 July 2008, to deduct the records of priority mail and postal parcels directly affected by the general strike of freight transporters occurred between 9 and 12 June 2008, for calculation of QSI defined in the mentioned Convention

1. Pursuant to Clause 8, paragraph 1b) of the Universal Postal Service Concession Contract, of 1 September 2000, as amended on 9 September 2003 and on 26 July 2006 (Concession Contract) CTT – Correios de Portugal, S.A. (CTT) must provide the universal postal service ensuring its interoperability, continuity, availability and quality, the latter being specifically provided in accordance with parameters and levels of quality set out in the Universal Postal Service Quality Convention (Quality Convention¹), concluded between ICP-ANACOM and CTT on 10 July 2008, pursuant to Clause 12 of the referred Concession Contract and to article 8, paragraph 5, of Law no. 112/99 of 26 July (Basic Law²), as amended by Decree-Law no. 116/2003 of 12 June.
2. Article 6, paragraph 1, of the Quality Convention lays down that “should any *force majeure* or phenomenon situation take place, the burst and evolution of which are clearly outside the control of CTT, and have an impact on the quality of service provided by CTT, the latter may request, for the purpose of calculation of QSI [...], the deduction of inputs for the concerned periods of time and geographic flows”.
3. Paragraph 2 of article 6 establishes that *force majeure* or phenomenon situations mentioned in paragraph 1 mean unpredictable or insurmountable natural events and/or facts attributable to third parties, that are triggered, evolve, or the effects of which occur regardless of CTT's will and ability to control, such as war, subversion, epidemics, cyclones, earthquakes, fire, lightning, floods, general strikes and any other similar events that may impair normal conditions of clearance, sorting, transport and distribution of postal items.
4. According to paragraph 4 of article 6, the request for deduction activation must be submitted in writing by CTT, together with the grounds therefor, within 60 days at the most from the date the events have taken place.
5. Paragraph 5 of article 6 establishes that the decision as to whether CTT's request should be taken into consideration is incumbent upon ICP-ANACOM, and must be notified to CTT within 30 days at the most from the date such request is received. In case ICP-ANACOM decides to reject this request, the Authority shall duly justify its decision. Regardless of the request for deduction, CTT must undertake to try to find the best alternatives for the period the situations mentioned in paragraphs 1 and 2 of article 6 take place.
6. CTT requested ICP-ANACOM, pursuant to and for the purposes of article 6 of the Quality Convention, to deduct the records of priority mail and postal parcels directly affected by the general strike of freight transporters, which took place between 9 and 12 June 2008. CTT made this request by means of letter no. 51768 of 11/08/2008, complemented by letters no. 51918, of 09/09/2008 (CTT's reply to clarifications requested by ICP-ANACOM on 02/09/2008 by fax ANACOM-S40114/2008) and nos. 52001 and 52019, respectively of 19/09/2008 and 23/09/2008 (CTT's reply to clarifications requested by ICP-ANACOM on 12/09/2008 by fax ANACOM-S46557/2008).
7. CTT requested specifically the deduction of the following records:

¹ <http://www.anacom.pt/render.jsp?contentId=980404>

² <http://www.anacom.pt/render.jsp?contentId=980037> as amended by Decree-Law no. 116/2003 of 12 June (<http://www.anacom.pt/render.jsp?contentId=980055>).

- a) Priority mail scheduled for delivery between 6 and 13 June (inclusively), for all national flows, except for mail from the Mainland to each of the Autonomous Regions;
 - b) Postal parcels scheduled for delivery between 6 and 13 June (inclusively), for all national flows, except for mail from the Mainland to each of the Autonomous Regions.
8. CTT supported its request arguing that the general strike of freight transporters, which took place between 9 and 12 June, should be considered as an external and unusual occurrence whose trigger and evolution were beyond CTT's capacity of control, giving rise to lengthy delays in the delivery of postal items, thus affecting the quality of service within the month of June 2008.
9. CTT refers particularly that:
- a) The general strike of freight transporters occurred between 9 and 12 June significantly undermined the normal postal items transport operation during that period, both on account of the obstacles to the use of motor vehicles and to the fact that several transport connections, especially those performed under a system of third party engagement, failed to be carried out, thus delaying the delivery of postal items;
 - b) Most main irregularities in the transport network concerned inter-regional connections from the different transport centres, thus the effects of these disruptions gave rise to reactionary delays in the delivery of postal items, as those connections supplied regional and local transport networks;
 - c) Contrary to connections made by CTT's vehicles, which were subject to successive delays due to various circulation obstacles (blocking, stoning), around half of connections engaging third parties (which represent around 50% of inter-regional connections) failed to be carried out during the period of transporters blocking, due to the absence of circulation safety conditions, which led to a large operation disruption of the postal network;
 - d) Notwithstanding CTT's measures to minimize the impact of the freight transporters' strike (such as changing routes taken by vehicles, requesting the intervention of the police, re-scheduling certain regional connections, establishing clusters aggregating the collection/delivery of postal items, using more cars and reinforcing connections not performed by third parties, with its own means or engaged ones), transport irregularities which arose from the strike led to significant delays in the delivery of postal items, thus affecting the performance of quality of service in June;
 - e) Given the transit time, the quality of priority mail was most affected by the referred disruptions, as well as that of postal parcels, as the respective transport is carried out mainly by engaged companies;
 - f) The general strike of freight transporters which took place between 9 and 12 June affected also the quality performance of items delivered on the working day preceding the day on which the strike began (6 June) and the day after it came to an end (13 June 2008). Transport disruptions which occurred as from 9 June affected the quality of performance of items posted on the 6th. The delivery of items posted on the 13th was also affected as normal transport conditions had not been yet restored on that day. In fact, the transport network's normal working operation was not instantaneously restored on the 13th, as traffic accumulated in the preceding days due to disruptions in the production process had first to pass through.
10. The deduction of records requested by CTT (see point 7 above) would imply (**Table 1**) the improvement of performances in June (and 1st half of 2008) for QSI2 (Transit time for Priority Mail – Mainland), QSI5 (Priority mail not delivered within 10 working days) and

QSI9 (Transit time for Non-priority Parcels), the performance of QSI3 (Transit time for Priority Mail – CAM) remaining at the same level. According to values accumulated during the 1st half of 2008, all QSI were at or above the objectives set, whether the deduction was applied or not. According to information submitted by CTT, by letter no. 52019 of 23/09/2008, the same QSI values are achieved by deducting priority mail actually delivered between 6 and 13 June, instead of priority mail planned for delivery between 6 and 13 June.

Table 1 – Comparison of values for June and 1st half of 2008, with and without the deduction of records of priority mail and postal parcels

| QSI | | Quality Convention | | | 2008 | | | |
|--|---|--------------------|-------------|-------------|--------------------------|---------------------------|-----------------------|---------------------------|
| | | | | | June | 1 st half 2008 | June | 1 st half 2008 |
| | | Weight | Minimum | Objective | Without record deduction | | With record deduction | |
| QSI1 | Transit time for Non-Priority Mail (D+3) | 45.0% | 95.5% | 96.3% | 94.8% | 96.8% | 94.8% | 96.8% |
| QSI2 | Transit time for Priority Mail - Mainland (D+1) | 15.0% | 93.5% | 94.5% | 94.5% | 94.8% | 95.7% | 95.0% |
| QSI3 | Transit time for Priority Mail - CAM (D+2) | 4.0% | 84.0% | 87.0% | 92.7% | 90.3% | 92.7% | 90.3% |
| QSI4 | Non-priority mail not delivered within 15 working days (per one thousand letters) | 5.0% | 2.3‰ | 1.4‰ | 1.5‰ | 1.4‰ | 1.5‰ | 1.4‰ |
| QSI5 | Priority mail not delivered within 10 working days (per one thousand letters) | 3.0% | 2.5‰ | 1.5‰ | 1.5‰ | 1.2‰ | 1.4‰ | 1.1‰ |
| QSI6 | Transit time for Newspapers and Periodicals (D+3) | 11.0% | 95.5% | 96.3% | 97.5% | 98.4% | 97.5% | 98.4% |
| QSI7 | Transit time for Intra-community Cross-border Mail (D+3) | 3.5% | 85.0% | 88.0% | 94.4% | 95.0% | 94.4% | 95.0% |
| QSI8 | Transit time for Intra-community Cross-border Mail (D+5) | 3.5% | 95.0% | 97.0% | 98.9% | 99.3% | 98.9% | 99.3% |
| QSI9 | Transit time for Non-priority Parcels (D+3) | 5.0% | 90.5% | 92.0% | 91.2% | 93.7% | 93.8% | 94.1% |
| QSI10 | Waiting time at Post Establishments (not exceeding 10 minutes) | 5.0% | 75.0% | 85.0% | 92.6% | 92.0% | 92.6% | 92.0% |
| OG - Overall Quality of Service Indicator | | N.A. | N.A. | N.A. | N.A. | 188 | N.A. | 193 |

Source: CTT

11. Therefore, taking into account the information conveyed by CTT in the referred letters no. 51768 of 11/08/2008, no. 51918, of 09/09/2008, no. 52001 of 19/09/2008, and no. 52019 of 23/09/2008, as well as provisions of the above-mentioned paragraphs 1 and 2 of article 6 of the Quality Convention, and whereas:

a) Between 9 and 12 June 2008, a strike of freight transporters took place, which at that time received extensive media coverage, particularly affecting the transport activity in Portugal;

b) The general strike of freight transporters between 9 and 12 June and disruptions it gave rise to, as notified by CTT, qualify as unpredictable or insurmountable facts attributable to third parties, which were triggered, evolved, or the effects of which occurred regardless of CTT's will and ability to control, having also affected deliveries performed in the working days immediately preceding and following the strike period;

c) The situations notified by CTT impaired normal conditions of clearance, sorting, transport and distribution of postal items, with an impact on CTT's performance of quality of service, namely as far as deliveries of priority mail and postal parcels between 6 and 13 June are concerned, without prejudice to the measures put in place by CTT to minimize such impact;

d) The referred situations must be considered for the purposes of paragraphs 1 and 2 of article 6 of the Quality Convention;

e) Pursuant to article 10 of the Quality Convention, CTT must send to ICP-ANACOM quarterly reports, by the end of the month following the end of the quarter, with the evolution of values achieved for QSI, enabling the monitoring of those values,

the Board of Directors of ICP-ANACOM, in the exercise of powers conferred under article 6, paragraph 1 b), d), h) and n), and article 26 b), all of its Statutes, approved by Decree-Law no. 309/2001, of 7 December, and pursuant to paragraph 5 of article 6 of the Universal Postal Service Quality Convention, of 10 July 2008, hereby determines as follows:

1. To grant the request made by CTT to deduct the records of priority mail and postal parcels directly affected by the general strike of freight transporters, occurred between 9 and 12 June 2008, for all national flows, except for mail items from the Mainland to each of the Autonomous Regions of Azores and Madeira, for calculation of quality of service indicators (QSI) defined in the Universal Postal Service Quality Convention, of 10 July 2008.

This deduction concerns only priority mail and postal parcels actually delivered between 6 and 13 June 2008, and does not include mail items delivered on other days of the year, regardless of the initially scheduled date of delivery.

2. To order CTT, when calculating QSI figures for the whole year of 2008, pursuant to article 10 of the Quality Convention, to submit the annual figures of QSI achieved with and without the deduction of the referred records.