

**Decision on the identification of bodies required to contribute to the  
compensation fund of the universal electronic communications service and on  
the establishment of the amount of contributions concerning USNC to be  
compensated for 2017**

**Public version**

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## **Contents**

1. Scope and legal framework .....	1
1.1. Compensation of the universal service providers .....	1
1.2. US Financing .....	3
2. Contribution entry procedure .....	7
2.1. Eligible turnover of audited companies.....	9
2.2. Eligible turnover of remaining companies that submitted information and were not audited.....	11
2.3. Eligible turnover of companies that failed to convey information for the purpose of the Fund Law .....	15
2.4. Determination of the sector's eligible turnover.....	17
3. Bodies required to contribute to the compensation fund .....	18
4. Contribution concerning USNC for 2017 incurred by tender-designated USPs.	23
5. Conclusion and Determination .....	25

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

This decision implements the ruling laid down in Law number 35/2012, of 23 August, as it currently stands (hereinafter Fund Law), specifically as regards the contribution foreseen in article 11 for the compensation of the universal service net costs (USNC) determined within the scope of USP tender designation and incurred by these USPs in 2017.

On 06.12.2018, the respective draft decision (DD) was approved, and submitted to the prior hearing of stakeholders required to contribute to the compensation fund, under articles 121 and 122 of the APC, for 10 working days. The establishment or modification of values concerning the eligible turnover, further to audit or verification undertaken by ANACOM, was also subject to a prior hearing for the same time period.

Comments were received from Belgacom International Carrier Services (Portugal), S.A., DIDWW Ireland Limited., Greenmill Lda., Nacacomunik – Serviços de Telecomunicações, Lda., Narrownet, S.A., NOS Comunicações, S.A, NOS Madeira Comunicações, S.A., NOS Açores Comunicações, S.A. and Vodafone Portugal – Comunicações Pessoais, S.A..

The prior hearing of stakeholders having taken place, the requirement in paragraph 4 of article 11 of the Fund Law was met, which determines that the list with the following information is submitted to a prior hearing, under the Administrative Procedure Code (APC):

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

### **1.1. Compensation of the universal service providers**

The Electronic Communications Law<sup>1</sup> (ECL) establishes the right to compensation for the costs of the universal service provision (USP). According to paragraph 1 of article 97, two cumulative

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<sup>1</sup> Law number 5/2004, of 10 February, as it currently stands.

requirements must be met for universal service providers (USPs) to be entitled to receive compensation for costs incurred in the provision of the universal service (US): (i) the existence of USNC must be established and (ii) such costs must be deemed to be an unfair burden by the National Communications Authority (ANACOM).

In addition, paragraph 1 of article 95 establishes that, whenever ANACOM considers that the provision of US can be deemed an unfair burden for the respective providers, the net cost of the US obligation must be calculated as follows: (i) by calculating the net cost of the US obligation, taking into account any market benefit which accrues to providers, in compliance with the methodology defined by ANACOM (point a)); or (ii) making use of the value indicated by the USP in a designation mechanism provided for in the law (point b)).

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

As regards the existence of an unfair burden of USNC that has to be established, it must be noted that, by determination of 07.02.2012, ANACOM established that the values that resulted from tenders 1 (telephone service at a fixed location) and 2 (provision of public pay-phones) would be deemed to be an unfair burden and as such would be subject to financing in accordance with the terms and conditions set out in the respective tender statutory instruments, as well as in the law that lays down the compensation fund. The determination made no reference to any net cost values that resulted from the tender relative to the telephone directory and telephone directory enquiry service, given that at the time the financing of this US provision was not taken into consideration, as it was deemed to be broadly profitable.

Subsequently, with the approval by ANACOM, on 30.01.2015, of new specifications relative to the provision of the telephone directory and telephone directory enquiry service, the respective financing paradigm changed from a system of “remuneration” to the State to a system of “compensation” to be paid to the USP. Administrative Rule number 50-A/2015, of 25 February, which approved the tender programme and specifications for the selection of the body to be designated for the US provision of a comprehensive telephone directory and of a

comprehensive telephone directory enquiry service, provided that “charges associated to this tender, corresponding to the value of the referred financing, shall be borne by the electronic communications universal service compensation fund, in compliance with Law number 35/2012, of 23 August”.

## **1.2. US Financing**

The Fund Law sets up the financing mechanism provided for in article 97 of the ECL by establishing the compensation fund for the universal electronic communications service (USCF). Under this law, it was decided that US costs would be shared among providers on national territory of public communications networks and publicly available electronic communications services, and criteria for the sharing of USNC among the referred companies was also defined.

The USCF is intended to finance USNC. It is laid out in the Fund Law that undertakings providing public communications networks and/or publicly available electronic communications services on national territory that, in the calendar year to which the net costs relate, registered an eligible turnover in the electronic communications sector which gives them a weight equal to or higher than 1% of the sector’s overall eligible turnover (see article 2), shall be liable to contribute to the compensation fund.

The Fund Law lays down in article 6 that the compensation fund is intended to finance USNC determined within the scope of tenders referred to in paragraph 3 of article 99 of ECL and deemed by ANACOM to be unfair. Articles 10 and 11, respectively, define criteria for sharing net costs and the entry of contributions.

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

In line with the above, and in compliance with paragraph 1 of article 97 of ECL, net costs resulting from all US provisions were and are deemed to be unfair and, as such, they must be financed, under the terms and conditions set out in the respective tender statutory instruments, as well as in the law that lays down the establishment of the USCF.

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

The table below presents the values of compensation of USNC incurred by USPs within the scope of the provision of the US, under the referred contracts concluded with the Portuguese State.



**Table No. 1 – USNC incurred by NOS Comunicações, S.A. in 2017 concerning the US of connection to a public communications networks at a fixed location and of publicly available telephone services**

	No. of days of provision of services in 2017	Total No. of days in 2017	Component 1 Connection to a public communications network at a fixed location and of publicly available telephone services		Component 2 Offer targeted to retired people and pensioners			USNC compensation amount
	D	M	Overall financing amount	Amount to be financed = (1/5 overall financing amount x D/M)	$Vu^2$	$Ms^3$	Amount to be financed = $Vu \times Ms \times D/M$	
ex-ZON	365	365	€ 2,550,000.01	€ 510,000.00	€ 1.518000006402	0	€ 0.00	€ 510,000.00
ex-Optimus			€ 7,050,000.01	1,410,000.00 €	€ 0.00	0	€ 0.00	1,410,000.00 €
NOS COMUNICAÇÕES, S.A.								<b>€ 1,920,000.00</b>

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

**Table No. 2 – USNC incurred by MEO in 2017 concerning the US provision of public pay-phones**

	No. of days of provision of services in 2017	Total No. of days in 2017	Overall financing amount	USNC compensation amount = (1/5 overall financing amount x D/M)
	D	M		
MEO - Serviços de Comunicações e Multimédia, S.A.	365	365	€ 12,333,000.00	<b>€ 2,466,600.00</b>

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

**Table No. 3 – USNC incurred by MEO in 2017 concerning the US provision of a comprehensive telephone directory and of a comprehensive telephone directory enquiry service**

	No. of days of provision of services in 2017	Total No. of days in 2017	Component 1 Variable component of financing per printed telephone directory proven to have been delivered to final users that expressly requested it			Component 2 Fixed financing component		USNC compensation amount
	D	M	$Vu^4$	$Ns^5$	Amount to be financed = $Vu \times Ns \times D/M$	Overall financing amount	Amount to be financed = (1/3 overall financing amount x D/M)	
MEO - Serviços de Comunicações e Multimédia, S.A.	365	365	€ 0.451	6056	€ 2,731.26	€ 1,900,000.00	€ 633,333.33	<b>€ 636,064.59€</b>

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

It must be stressed that the financing of USNC incurred by MEO concerning the US provision of a comprehensive telephone directory and of a comprehensive telephone directory enquiry

<sup>2</sup> "Vu" corresponds to the financing unit value per monthly payment indicated in the contract.

service includes a variable component. The financing amount of the component is obtained by multiplying the unit financing amount per directory (0.451 Euro) by the number of directories explicitly requested and proven to have been delivered in 2017.

In 2017, 6,056 telephone directories were printed and delivered, corresponding to directories requested still in the course of 2016.

Under paragraph 4 of clause 13 of the US provision of this component, the public contracting party is entitled, in order to determine the financing of the variable component, either directly or through ANACOM, to conduct audits intended to assess the accuracy of the information provided by MEO.

In line with this framework, following the communication of ANACOM, dated 24.11.2017, the Cabinet of the Secretary of State for Infrastructures, by communication dated 10.01.2018, conveyed the order issued by the Secretary of State, of agreement with the conduct of an audit on the number of telephone directories delivered in 2017, considering that the delivery of telephone directories under the current contract only began in 2016 and that in that year no audit was conducted.

Under the described conditions, ANACOM by determination of 01.03.2018 approved the respective audit to be conducted with internal resources, which took place between March and September 2018. The audit concluded that the number of telephone directories explicitly requested and proven to have been delivered in 2017 came to 6,056, which constitutes the amount to be taken into consideration for the purpose of the calculation of the financing of this provision, in the part that concerns the variable component.

It is important to mention that MEO reported a total of 6,147 directories delivered in 2017. As a result, the total number of lists to be financed is lower by 91 directories, which according to the financing amount per list, results in 41.04 Euros less than what resulted from the number of directories indicated by MEO.

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<sup>3</sup> "Ms" corresponds to the number of monthly payments that are effectively discounted in the civil year to which costs to be compensated refer.

<sup>4</sup> "Vs" corresponds to the unit financing amount per directory.

<sup>5</sup> "Ns" corresponds to the number of directories explicitly requested and proven to have been delivered (annual maximum limit of 1,200,000 directories).<sup>9</sup>

It thus follows that, relative to 2017, the overall amount to be compensated for USNC incurred by USPs, under concluded contracts, is 5,022,664.59 Euros (five million, twenty-two thousand, six hundred and sixty-four Euros and fifty-nine cents)<sup>6</sup>.

## **2. Contribution entry procedure**

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

Article 15 of the Fund Law provides that companies providing public communications networks and/or publicly available electronic communications services, on national territory, must send to ANACOM, by 30 June every year, a statement on the preceding calendar year, signed by a person entitled to enter into legally binding commitments, acknowledged as such, with the turnover amount and other information required to calculate the eligible turnover.

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

In order to guarantee an easier communication of information related to the amount of eligible turnover, ANACOM sent, on 08.06.2018, to companies registered as network operators and/or publicly available electronic communications service providers, in operation in 2017, a letter with a model statement to be completed and signed by the person entitled to enter into legally binding commitments, acknowledged as such. ANACOM contacted 98 bodies and received information, up to the approval of the DD dated 06.12.2018, from 92 bodies, having received information from two entities after the publication of the DD. The bodies that ceased operations in 2017 and/or that had already cancelled their registration as network operators and/or providers of publicly available electronic communications services were not contacted. In these

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<sup>6</sup> As results from the sum of USNC compensation amounts due to NOS and MEO.

cases, the obligation to send information is distinct (it must be sent within 15 working days after the date of cessation of activity).

As provided for in article 16 of the Fund Law, an audit was conducted of the ET declared by network operators and electronic communications service providers, which was awarded to the company Mazars & Associados, Sociedade de Revisores Oficiais de Contas, S.A., by decision of ANACOM dated 02.08.2018. Twenty-six companies were audited<sup>7</sup>, even though some belong to the same economic group. The companies that were audited were selected by ANACOM by taking into consideration: those with the most significant amount of eligible turnover; those showing significant declines in terms of turnover relative to the previous year; interest in holding information about some companies that did not submit the statement and others were selected randomly. The eligible turnover of audited companies exceeds 99% of the sector's ET (taking into account ET values resulting from the audit), such that the audit includes all companies identified as taxpayers, under article 11 of the Fund Law.

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

ANACOM also urged bodies that submitted statements reporting eligible turnover information that were not signed by the persons entitled to enter into legally binding commitments, acknowledged as such, to remedy this shortcoming.

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

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<sup>7</sup> AR Telecom - Acessos e Redes de Telecomunicações, S.A.; AT&T - Serviços de Telecomunicações, Sociedade Unipessoal, Lda.; Atena T, S.A.; BT Portugal - Telecomunicações Unipessoal, Lda.; COLT Technology Services, Unipessoal, Lda.; CTT - Correios de Portugal, S.A.; Dstelecom, S.A.; Fibroglobal - Comunicações Electrónicas, S.A.; Go4mobility - Tecnologia e Serviços para a Mobilidade, Lda.; Infraestruturas de Portugal, S.A.; Lycamobile Limited; Lycamobile Portugal, Lda.; MEO - Serviços de Comunicações e Multimédia, S.A.; Nacacomunik - Serviços de Telecomunicações, Lda.; NOS Açores Comunicações, S.A.; NOS Comunicações, S.A.; NOS Madeira Comunicações, S.A.; NOWO Communications, S.A.; ONITELECOM - Infocomunicações, S.A.; Orange Business Portugal, S.A.; Repart - Sistemas de Comunicação de Recursos Partilhados, S.A.; Telefonica International Wholesale Services II, S.L.U.; T-Systems ITC Iberia, S.A. (Sociedade Unipersonal) - Portugal Branch; Valicom, Gestão de infraestruturas de Telecomunicações, EIM; Vodafone Enterprise Spain, S.L. - Portugal Branch; Vodafone Portugal - Comunicações Pessoais, S.A..

bodies were also urged, via new communications, to submit the information required under the Fund Law.

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

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

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

Twenty-six companies (network operators and electronic communications service providers) were audited. In the case of 24 of those companies, the aim was to check conformity with ET amounts transmitted to ANACOM for the purpose of the Fund Law. It should be noted that, in the case of one company, Vodafone Enterprise Spain, S.L., which submitted a statement for the purpose of calculating ET, it was not possible to issue a compliance audit opinion due to the lack of provision of sufficient financial information relative to the financial year of 2017. In parallel, the audit also included the case of two companies, Nacacomunik - Serviços de Telecomunicações, Lda. and Atena T, S.A., which failed to submit any information to ANACOM, with the aim of obtaining the ET amount to be considered through this means, objective which was achieved. It should be noted that, within the scope of the prior hearing procedure, Nacacomunik - Serviços de Telecomunicações, Lda confirmed the calculated ET amount following the audit.

Following the audit, situations which had an impact on the declared ET amount were identified. The impact stemmed from revenues that were deducted and that should have been considered for the purpose of calculation of the ET, as well as inverse situations, i.e. deductions not included in the statement initially submitted by the operators, which were also corrected. The most significant effect resulted from adjustments made with respect to the income from provisions related to television activity and audiovisual services, which some entities deducted erroneously from the respective ET.

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

**Table No. 4 – ET declared by companies and adjusted further to audits carried out**

Companies	Declared ET <sup>(1)</sup>	Final ET further to audits	Adjustment introduced by the audit
<b>Beginning of confidential information [BCI]</b>			
AR Telecom - Acessos e Redes de Telecomunicações, S.A.			
AT&T - Serviços de Telecomunicações, Sociedade Unipessoal, Lda.			
Atena T, S.A.			
BT Portugal - Telecomunicações Unipessoal, Lda.			
COLT Technology Services, Unipessoal, Lda.			
CTT - Correios de Portugal, S.A.			
Dstelecom, S.A.			
Fibroglobal - Comunicações Electrónicas, S.A.			
Go4mobility - Tecnologia e Serviços para a Mobilidade, Lda.			
Infraestruturas de Portugal, S.A.			
Lycamobile Limited			
Lycamobile Portugal, Lda.			
MEO - Serviços de Comunicações e Multimédia, S.A.			
Nacacomunik - Serviços de Telecomunicações, Lda			
NOS Açores Comunicações, S.A.			
NOS Comunicações, S.A.			
NOS Madeira Comunicações, S.A.			
NOWO Communications, S.A. <sup>(1)</sup>			
ONITELECOM - Infocomunicações, S.A. <sup>(1)</sup>			
Orange Business Portugal, S.A.			
Repart - Sistemas de Comunicação de Recursos Partilhados, S.A.			
Telefonica International Wholesale Services II, S.L.U.			
T-Systems ITC Iberia, S.A. (Sociedade Unipessoal) - Portugal Branch <sup>(1)</sup>			
Valicom, Gestão de infraestruturas de Telecomunicações, EIM			
Vodafone Enterprise Spain, S.L. - Portugal Branch			
Vodafone Portugal - Comunicações Pessoais, S.A.			
<b>End of confidential information [ECI]</b>			
<b>Total ET</b>	<b>3,905,031,188.67</b>	<b>4,250,166,093.66</b>	<b>345,134,904.99</b>

Source: Audit reports of Mazars & Associados.

Values in Euros.

<sup>(1)</sup> Some declared amounts (subject to audit) differ by some cents from the amounts that were submitted to ANACOM, due to rounding off. For the purpose of calculation of the sector's ET, the amounts without rounding off are considered.

Under the described conditions, the ET amount to be considered for the set of 26 audited companies is 4,250,166,093.66 Euros. It should be noted, as mentioned above, that it was not

possible for the auditors to issue a compliance audit opinion regarding the ET declared by one of the companies, with the ET declared by the own company having been considered

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

In addition to the companies whose received statements were audited, ANACOM received information from 67 companies, to which the response from a company that ceased activity during 2017, and which submitted a statement for the purpose of the Fund Law, is added. ET from these 68 companies represents altogether approximately 0.83% of the sector's ET. It should be noted that, within the scope of the prior hearing procedure, information was received from DIDWW Ireland Limited, which is included in this chapter. The latter is thus not included in the list of companies that did not submit information for the purpose of the Fund Law.

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

In situations where a formal irregularity exists from the outset, due to the absence of acknowledgement of signatures in statements, in the light of the principle of good-faith and collaboration between taxpayers and administration (article 59 of the General Taxation Law), it is deemed that the referred irregularity is without prejudice to the use of information conveyed by such companies, for the purpose of the calculation of the amount of the sector's ET.

In addition to situations described above, a very limited number of companies (seven) presented some inaccuracies in the completion of the statement, which were deemed to be likely to be corrected, with one of them having confirmed the correction in the prior hearing. In addition, two companies that declared not to have activity/not to fall under the obligation laid down in the Fund Law, although within the scope of the entry and settlement of the annual fee referred to in paragraph 1b) of article 105 of ECL, a relevant ET value other than zero had been transmitted, with the ET corresponding to that value having been considered.

The table below lists companies that submitted information for the purpose of the Fund Law, as well as the respective ET amounts that correspond to amounts declared, except for situations mentioned above, which were corrected.

**Table No. 5 – Eligible turnover declared by companies that were not audited**

Companies	Amounts	Observations
3GNTW - Tecnologias de Informação, Lda.	[BCI]	
AFR-IX Telecom, S.L.		
ANA - Aeroportos de Portugal, S.A.		
Associação de Moradores do Litoral de Almancil		
Associação dos Municípios da Terra Quente Transmontana		
Associação Porto Digital		
Belgacom International Carrier Services (Portugal), S.A.		[BCI]  [ECI]
Bloomberg Finance L.P.		
Bloomberg L.P.		[BCI]  [ECI]
BLU, S.A.		
Broadband Portugal BBP, Unipessoal, Lda.		
Cgest		
Claranet Portugal, S.A.		
Códigotropical, Unipessoal, Lda.		
Cogent Communications Portugal, Lda.		[BCI]  [ECI]
Companhia I.B.M. Portuguesa, S.A.		[BCI]  [ECI]
Compatel Limited		
COMSAT - Serviços de Satélite, Lda.		
Cyclop Net - Informática e Telecomunicações, Lda.		



Companies	Amounts	Observations
Derivadas e Segmentos, S.A.		
Detector Portugal - Serviços de Segurança Privada, Unipessoal, Lda.		
Dialoga - Servicios Interactivos, S.A.		
DIDWW Ireland Limited		Amount submitted in response to DD.
Dstelecom Alentejo e Algarve, S.A.		
Dstelecom Norte, S.A.		
EchoStar Mobile Limited		
Emacom - Telecomunicações da Madeira, Unipessoal, Lda.		
Equinix (Portugal) Data Centers, S.A. (*)		
First Rule, S.A.		
Fleximédia - Serviços e Meios de Informação e Comunicação, Lda.		
Fractalia Remote Systems Portugal, Unipessoal, Lda.		
G9Telecom, S.A.		
Gotelecom, Lda.		[BCI]
Greenmill, Lda.		[ECI] [BCI]  [ECI]
Heartphone - Comércio de Telecomunicações, Lda.		
Hoist Group Portugal, S.A.		
Indra - Sistemas Portugal, S.A.		[BCI]   [ECI]
Inmarsat Global Limited		
Inmarsat Ventures Limited		
IP Telecom - Serviços de Telecomunicações, S.A.		
Iridium Italia, S.R.L.		
Let's Call - Comunicações, Lda.		

Companies	Amounts	Observations
Level 3 Communications España, S.A.		
LIVIN - Consultoria e Serviços, Lda.		
Minhocom, Gestão de Infraestruturas de Telecomunicações, EIM		
Mog Technologies, S.A.		
Moneycall - Serviços de Telecomunicações, Lda.		
Narrownet, S.A.		[BCI] [ECI] Amount of the correction confirmed in prior hearing.
Nextweb - Prestação de Serviços na Área da Internet, Lda.		
Nomosphere		
Otnetvtel - Unipessoal, Lda.		
Pinkhair - Unipessoal, Lda.		[BCI] [ECI]
Rentelecom - Comunicações, S.A.		
Satélite da Sabedoria - Serviços de Internet, Unipessoal, Lda.		[BCI] [ECI]
SemCabo - Soluções em Redes Informáticas, Lda.		
SITA OnAir N.V.		
Skylogic, SpA		[BCI] [ECI]
Sousa Pinheiro Telecomunicações, Lda.		
STV - Sociedade de Telecomunicações do Vale do Sousa, S.A.		[BCI] [ECI]
TATA Communications (Portugal) - Instalação e Manutenção de Redes, Lda.		
Thomson Reuters Portugal Unipessoal, Lda.		

Companies	Amounts	Observations
T-Mobile HotSpot GmbH		
Verizon Portugal - Sociedade Unipessoal, Lda.		
Viasat, Inc.		
Vivanet - Distribuição de Produtos Electrónicos, Lda.		
Voip-It, Unipessoal, Lda.		
Voipunify Telecom, Lda.		
Voxbone, S.A.	[ECI]	
<b>TOTAL</b>	<b>35,638,299.35</b>	

Source: ANACOM based on statements from companies.

Values in Euros.

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

Of the companies to which ANACOM sent a communication recalling the obligation to submit the statement, 7 companies failed to submit any information for the purpose of the Fund Law. Nacacomunik - Serviços de Telecomunicações, Lda., which was audited and its ET determined within this context, having been subsequently confirmed by the company within the scope of the prior hearing procedure, is not considered in this group.

ANACOM sought to obtain the ET value for companies that did not submit information through alternative sources, namely by using data provided by such companies in prior procedures for entry of contributions to the USCF (relative to the ET of 2017) or that which was declared for the purpose of entry and settlement of the annual fee referred to in paragraph 1b) of article 105 of ECL .

ANACOM takes the view that the relevant income declared for the purpose of entry and settlement of the annual fee referred to in paragraph 1b of article 105 of ECL is a good proxy for the ET amount to be determined for the purpose of the Fund Law, as values under consideration are similar, and in the case of some companies, exactly the same, thus the use of such amounts for the calculation of the sector's overall ET amount is deemed to be appropriate.

As such, ANACOM considered for one of the companies that the ET amount corresponds to the amount reported for the 2017 financial year, for the purpose of the procedure for entry and settlement of the annual fee referred to in paragraph 1b) of article 105 of ECL. For three companies, and having been found that they had also failed to submit information for the

purpose of the procedure for entry and settlement of the annual fee referred to above, ANACOM considered that the ET value corresponds to the value reported in prior USCF procedures (relative to the ET of 2016). For three other companies, no information is available.

The table below shows detailed information on each of the companies that failed to submit information on ET, on the ET amount considered for each of them, as well as information, where appropriate, on said companies' operations (in 2017), obtaining a total ET for these companies of 984,469.34 Euros.

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

Companies	Amounts	Observations
IPTV Telecom - Telecomunicações, S.A.		The company is likely to have operated in 2017. [BCI] [ECI]
IV Response Limited		The company is likely to have operated in 2017. [BCI] [ECI]
Lazer Telecomunicações, S.A.		The company is likely to have operated in 2017. [BCI] [ECI]
NFON Iberia SL		The company is likely to have operated in 2017. [BCI] [ECI]
Signalhorn Trusted Networks GmbH		ANACOM did not receive the statement relative to this company's ET. [BCI] [ECI]
Uros S.A.R.L.		The company is likely to have operated in 2017. [BCI] [ECI]
Vectone Mobile (Portugal) Limited	[ECI]	The company is likely to have operated in 2017. [BCI] [ECI]
<b>Total</b>	<b>984,469.34</b>	

Values in Euros.

In addition to companies identified above, there are companies that ceased operations in the course of 2017, and during 2018, but prior to 30.06.2018, which were also required, under paragraph 4 of article 15 of the Fund Law, to send an ET statement for 2017.

These companies did not submit the information in question. It is assumed that the ET of each one corresponds to zero, given that, in relation to some, it is known that they were not in operation in 2017, and in relation to others there is no information on their activity concerning the provision of networks or of electronic communications services.

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

Taking the above into account, namely that the ET amount of audited companies is 4,250,166,093.66 Euros, that the amount of ET of companies that submitted information on this matter, but were not audited, is 35,638,299.35 Euros and that it is considered that the ET amount of companies that failed to submit any information on this subject is 984,469.34 Euros, ANACOM concludes that the amount of the sector's ET in 2017, calculated under article 8 of the Fund Law, is 4,286,788,862.35 Euros.

As regards the use of information from alternative sources instead of exclusively using information transmitted for the purpose of the Fund Law, it is stressed that the purpose of such information is to enable the determination of the sector's overall ET amount as accurately as possible, thus covering all companies providing, in 2017, on national territory, public communications networks and/or publicly available electronic communications services.

The exclusive use of data conveyed by companies for the purpose of the Fund Law, or in alternative the use of such information complemented with the use of data conveyed by companies for the purpose of the entry and settlement of the annual fee referred to in article 105, paragraph 1b) of ECL, where information is not available for the purpose of the Fund Law, has no impact whatsoever on the determination of companies that will contribute to the compensation fund, nor on the amount of such contribution. This results from the fact that the difference between the two values is completely negligible, given that the amount of ET of companies that submitted information for the purpose of the Fund Law represents more than 99.9% of the total amount of ET calculated for the sector and mentioned above.

In the light of the above, in order to calculate the amount of the sector's ET, ANACOM used data conveyed for the purpose of the Fund Law (having been audited companies whose eligible turnover exceeds 99% of the sector's eligible turnover), complemented, where such information was not transmitted, by data submitted by companies relative to ET for 2016 as well as by data conveyed for the purpose of the entry and settlement of the annual fee referred to in paragraph 1b) of article 105 of ECL.

Under these conditions, the sector's eligible turnover in 2017 amounts to 4,286,788,862.35 Euros.

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

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

Under paragraph 3 of article 7 of the Fund Law, the set of bodies that, though legally separate companies, constitute, by 31 December of the calendar year to which the net costs relate, an economic unit or have interdependence links between them, arising namely from (i) a majority shareholding; (ii) holding more than half the voting rights attaching to shares; (iii) power to appoint more than half the members of the administrative board or of the supervisory board; (iv) power to manage the respective business, shall be deemed to be a single undertaking.

Article 9 of the Fund Law specifies the calculation required to be made to obtain the weight of companies in the electronic communications sector, so as to identify companies required to make a contribution to the USCF.<sup>8</sup>

It is stressed also that paragraph 2 of article 9 of the same Law provides that in the case of companies made up of more than one body, the sum of the ET of each of the integrating bodies must be considered for the purpose of the calculation of the respective weight in the sector’s ET. Accordingly, ANACOM sought to find the shareholder structure of several bodies, so as to determine those which constitute a single company under the Fund Law.

In this framework, taking into consideration the concept of company defined in the Fund Law, it was concluded that the following companies, which include eight companies whose

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<sup>8</sup> According to that article, the weight of companies in the electronic communications sector is calculated according to the following formula:  $P_i = \frac{V_i}{\sum V_i}$ , where  $P_i$  represents the weight of the company in the electronic communications sector;  $V_i$  represents eligible turnover in the electronic communications sector on national territory for company  $i$  in the calendar year concerned; and  $\sum V_i$  eligible turnover in the electronic communications sector on national territory for all companies providing public communications networks and/or publicly available electronic communications services in the calendar year concerned.

shareholder structure (Level 1 and 2) is explained below, present an ET equal to or exceeding 1% of the sector's eligible turnover.

- **Grupo APAX<sup>9</sup>**

### **NOWO Communications, S.A.**

**Table No. 7 – Breakdown of Nowo's share capital on 31.12.2017**

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

Source: IES 2017 of NOWO Communications, S.A.; Annual electronic communications questionnaire – 2018.

### **ONITELECOM - Infocomunicações, S.A.**

**Table No. 8 – Breakdown of ONITELECOM's share capital on 31.12.2017**

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

Source: 2017 Report and Accounts for ONITELECOM - Infocomunicações, S.A.

\* On 20-01-2016 Grupo Apax acquired the entire share capital of Winreason S.A. (parent company of Grupo Oni), through the company NOWO Communications, S.A.

- **Grupo NOS**

### **NOS Comunicações, S.A.**

**Table No. 9 – Breakdown of NOS Comunicações' share capital on 31.12.2017**

Company's Shareholders/Direct partners (Level 1)	%	Company's Shareholders/Indirect partners (Level 2)	%
NOS, SGPS, S.A.	100%	ZOPT, SGPS, S.A.	52.15%
		Banco BPI, S.A.	2.77%
		Blackrock Inc.	2.24%
		MFS Investment Management	2.14%
		Norges Bank	2.11%

Source: 2017 Report and Accounts for NOS Comunicações, S.A.; 2017 Consolidated Reports and Accounts for NOS SGPS, S.A.

<sup>9</sup> On 12.11.2018, the Competition Authority approved the operation of acquisition by KKR & Co. Inc of indirect control of Cabolink, owner of Nowo and Onitelecom.

## NOS Açores Comunicações, S.A.

**Table No. 10 – Breakdown of NOS Açores Comunicações’ share capital on 31.12.2017**

<b>Company’s Shareholders/Direct partners (Level 1)</b>	<b>%</b>	<b>Company’s Shareholders/Indirect partners (Level 2)</b>	<b>%</b>
NOS Comunicações S.A.	83.82%	NOS, SGPS, S.A.	100%
EDA – Eletricidade dos Açores, S.A. <sup>(1)</sup>	6.18%	Autonomous Region of the Azores ESA-Energia e Serviços dos Açores, SGPS, S.A. EDP-Gestão da Produção de Energia, S.A. Small shareholders and Emigrants	50.1% 39.7% 10.0% 0.2%
Grupo Apollo Global Management	2.11%	[BCI]	[ECI]
Banco Comercial Português, S.A. (Millennium BCP)	7.89%	Grupo FOSUN Grupo Sonangol BlackRock, Inc. Grupo EDP Other	27.06% 19.49% 2.83% 2.11% 48.51%

Source: IES 2017 of NOS Açores Comunicações, S.A.; 2017 Report and Accounts for NOS Comunicações, S.A.; 2017 Report and Accounts for EDA – Eletricidade dos Açores, S.A.; 2017 Report and Accounts for Banco Comercial Português, S.A.; Annual Electronic Communications Questionnaire – 2018.

## NOS Madeira Comunicações, S.A.

**Table No. 11 – Breakdown of NOS Madeira Comunicações’ share capital on 31.12.2017**

<b>Company’s Shareholders/Direct partners (Level 1)</b>	<b>%</b>	<b>Company’s Shareholders/Indirect partners (Level 2)</b>	<b>%</b>
NOS Comunicações S.A.	77.95%	NOS, SGPS, S.A.	100%
Real Vida Pensões - Sociedade Gestora de Fundos de Pensões, S.A.	2.52%	[BCI]	[ECI]



Company's Shareholders/Direct partners (Level 1)	%	Company's Shareholders/Indirect partners (Level 2)	%
E - Tempus S.G.P.S. - Sociedade Gestora de Participações Sociais, S.A.	5.86%	[BCI]	[ECI]
Banco Comercial Português, S.A. (Millennium BCP)	10.78%	Grupo FOSUN Grupo Sonangol BlackRock, Inc. Grupo EDP Other	27.06% 19.49% 2.83% 2.11% 48.51%
Seguradoras Unidas, S.A.	2.89%	Calm Eagle Holdings S.à r.l	100%

Source: 2017 Report and Accounts for NOS Madeira Comunicações, S.A.; 2017 Consolidated Reports and Accounts for NOS SGPS, S.A.; 2017 Report and Accounts for Banco Comercial Português, S.A.; 2017 Report and Accounts for Seguradoras Unidas, S.A.; Annual electronic communications questionnaire – 2018.

- **Grupo VODAFONE**

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

**Table No. 12 – Breakdown of Vodafone Portugal's share capital on 31.12.2017**

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

Source: 2017 Report and Accounts for Vodafone Portugal - Comunicações Pessoais, S.A.; Annual electronic communications questionnaire – 2018.

\* Vodafone Group Plc directly or indirectly holds 100% of Vodafone Portugal's capital.

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

**Table No. 13 – Breakdown of Vodafone Enterprise Spain's share capital on 31.12.2017**

Company's Shareholders/Direct partners (Level 1)	%	Company's Shareholders/Indirect partners (Level 2)	%
Vodafone Enterprise Spain, S.L. (*)	100%	[BCI]	[ECI]

Source: Annual electronic communications questionnaire – 2018 of Vodafone Enterprise Spain, S.L. (Portugal Branch)

\* Vodafone Group PLC directly or indirectly holds 100% of Vodafone Enterprise Spain's capital .

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

**Table No. 14 – Breakdown of MEO's share capital on 31.12.2017**

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

Source: 2017 Report and Accounts for MEO - Serviços de Comunicações e Multimédia, S.A.; Annual electronic communications questionnaire – 2018.

It follows from the described shareholder structures for 31.12.2015 that there are four companies required to contribute to the USFC, which at that date integrated eight bodies, in the light of the concept of company provided for in the Fund Law.

the table below lists those companies and bodies required to make contributions to the USCF, both the contribution intended to finance USNC for 2017 incurred by the tender-designated USPs, as well as the weight of each company's ET in the sector's overall ET.

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

Companies	Weight in the sector
<b>Grupo APAX (NOWO/Onitelecom)</b>	<b>[BCI]</b>
NOWO – Communications, S.A.	
ONITELECOM - Infocomunicações, S.A.	
<b>Grupo NOS</b>	
NOS Comunicações, S.A.	
NOS AÇORES COMUNICAÇÕES, S.A.	
NOS MADEIRA COMUNICAÇÕES, S.A.	
<b>Grupo VODAFONE</b>	
VODAFONE PORTUGAL - Comunicações Pessoais, S.A.	
VODAFONE Enterprise Spain, SL - Portugal branch	
<b>MEO – Serviços de Comunicações e Multimédia, S.A.</b>	<b>[ECI]</b>
<b>Total</b>	<b>97.64%</b>

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

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

Companies required to contribute to the USCF thus cover around 97.64% of the sector's overall ET.

#### **4. Contribution concerning USNC for 2017 incurred by tender-designated USPs**

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

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

Under these conditions, and according to point b) above, the amount of 5,000.00 Euros, received by the USCF in 2018 following the payment by MEO of the penalty amount upheld by the Arbitration Court by decision of 02.05.2018 to apply a penalty to that company for failure to fulfil the obligation to submit information in accordance with clause 5 of paragraph 3 and in Annex 4 of the contract for the US provision of public pay-phones, must be deducted from the value of USNC incurred in 2017, owed to the designated USPs under contracts concluded.

As far as provisions listed above in remaining points are concerned, it must be referred that there is no amount to be considered at the start date of the contribution entry procedure.

As such, the amount of 5,000.00 Euros must be deducted from the amount of USNC, and that deduction must be divided by the USNC of the different US components, which was undertaken according to the proportion of the value of USNC of each US component in the total value of USNC. As such, 2,455.47 Euros is deducted from the amount of USNC incurred by MEO concerning the provision of public pay-phones, 633.19 Euros is deducted from the

amount of USNC incurred by MEO concerning the provision of a telephone directory and of a directory enquiry service and 1,911.34 Euros is deducted from the amount of USNC incurred by NOS concerning the provision of FTS.

Under the conditions described, and as illustrated by the table below, it follows that the final value to be considered for the purpose of contributions corresponds to the overall value of USNC incurred by USPs in 2017 under contracts concluded, deducted of the revenues in the USCF which, in this particular case, is the value of the contractual penalty settled under the terms of article 10 of the Fund Law.

**Table No. 16 – Final value of the contribution to be financed by companies and bodies required to contribute to the USCF concerning 2017 USNC incurred by tender-designated USP(s)**

	<b>NOS</b> (Provision of FTS)	<b>MEO</b> (Provision of the PPP offer)	<b>MEO</b> (Provision of directories and 118)
<b>Value of USNC incurred by tender-designated USPs in 2017</b>	€ 1,920,000.00	€ 2,466,600.00	€ 636,064.59
<b>Revenues in the USCF (Values to be deducted from USNC)</b>	€ 1,911.34	€ 2,455.47	€ 633.19
Amount of contractual penalty received by the USCF	€ 1,911.34	€ 2,455.47	€ 633,19
Overall amount to be considered for the purpose of the determination of amounts of contributions	€ 1,918,088.66	€ 2,464,144.53	€ 635,431.40

Source: ANACOM.

Therefore, in compliance with article 11 of the Fund Law, the following table presents the values of contributions required from each company/body (identified under article 7), determined in the proportion of the respective ET achieved in 2017.

**Table No. 17 – Amount of contributions of companies and bodies required to contribute to the compensation fund concerning 2017 USNC incurred by USPs under contracts concluded**

Companies	NOS (Provision of FTS)	MEO (Provision of the PPP offer)	MEO (Provision of directories and 118)
<b>Grupo APAX (NOWO/ONI)</b>	<b>€ 49,388.76</b>	<b>€ 63,449.12</b>	<b>€ 16,361.68</b>
NOWO Communications, S.A.	€ 32,961.44	€ 42,345.15	€ 10,919.58
ONITELECOM - Infocomunicações, S.A.	€ 16,427.32	€ 21,103.97	€ 5,442.10
<b>Grupo NOS</b>	<b>€ 609,112.25</b>	<b>€ 782,518.89</b>	<b>€ 201,788.93</b>
NOS Comunicações, S.A.	€ 590,928.91	€ 759,158.98	€ 195,765.08
NOS AÇORES COMUNICAÇÕES, S.A.	€ 6,353.55	€ 8,162.33	€ 2,104.83
NOS MADEIRA COMUNICAÇÕES, S.A.	€ 11,829.79	€ 15,197.58	€ 3,919.02
<b>Grupo VODAFONE</b>	<b>€ 434,448.22</b>	<b>€ 558,130.20</b>	<b>€ 143,925.59</b>
VODAFONE PORTUGAL - Comunicações Pessoais, S.A.	€ 434,448.22	€ 558,130.20	€ 143,925.59
VODAFONE Entreprise Spain, SL - Portugal branch	€ 0.00	€ 0.00	€ 0.00
<b>MEO – Serviços de Comunicações e Multimédia, S.A.</b>	<b>€ 825,139.43</b>	<b>€ 1,060,046.32</b>	<b>€ 273,355.20</b>
<b>Total</b>	<b>€ 1,918,088.66</b>	<b>€ 2,464,144.53</b>	<b>€ 635,431.40</b>

Values in Euros.

Note: Values were calculated in compliance with the Fund Law, at cent level. The aggregate contributions of each of the groups are calculated on the basis of the sum of the individual contributions of each entity. The latter must be considered for the purpose of payment to the USCF.

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

## 5. Conclusion and Determination

Whereas:

- a) The Fund Law establishes the compensation fund for the electronic communications universal service provided for in the ECL, intended to finance the USNC;
- b) The referred Law, as it currently stands, provides that companies providing public communications networks and/or publicly available electronic communications services on national territory are required to make contributions to finance USNC determined within the scope of the USP designation tenders.
- c) As regards contributions to the USCF, ANACOM established that values that resulted from tenders on the fixed telephone service and the provision of public pay-phones

would be deemed to be an unfair burden, having been deemed, on grounds set out herein, that the provision of a comprehensive telephone directory and of a comprehensive telephone directory enquiry service was also considered likely to represent an unfair burden;

- d) It was established in the respective contracts concluded in 2014 and 2015 between the USPs and the Portuguese State that values specified in winning tenders constitute USNC to be compensated, as provided for in paragraph 1 b) of article 95 of ECL;
- e) In compliance with paragraph 1 of article 97 of ECL, net costs resulting from all tenders were and are deemed by ANACOM to be unfair and, as such, they are required to be financed, under the terms and conditions set out in the respective tender statutory instruments, as well as in the law that lays down the compensation fund;
- f) Tender-designated USPs started the US provision of the FTS and public pay-phones under the respective contracts in 2014 and the designated USP for the US provision of a telephone directory and of a telephone directory enquiry service started the provision of the service in 2015; As defined in the Fund Law, such providers must be compensated for the costs incurred in 2017 by the end of March 2019;
- g) The value relative to the US of directories and directory enquiry service provided by MEO – Serviços de Comunicações e Multimédia, S.A. includes a variable component, calculated according to the number of directories explicitly requested and proven to have been delivered in 2017, which was audited. It was concluded that 6,056 directories were explicitly requested and proven to have been delivered
- h) In 2017, overall USNC incurred by USPs under contracts amount to 5.022.664,59 Euros, respectively 1.920.000,00 Euros relative to the US of FTS provided by NOS Comunicações, S.A., 2,466,600.00 Euros relative to the US of public pay-phones provided by MEO – Serviços de Comunicações e Multimédia, S.A. and 636,064.59 Euros relative to the US of directories and directory enquiry services provided by MEO – Serviços de Comunicações e Multimédia, S.A..
- i) The final overall value to be considered for the purpose of the determination of contributions amounts to 5,017,664.59 Euros, which corresponds to the overall value of USNC incurred by USPs in 2017, under contracts, deducted of the value paid to the fund, following the application of the contractual penalty to MEO – Serviços de

Comunicações e Multimédia, S.A., within the framework of the provision of the US of public pay-phones. For the purpose of that deduction, the referred value, in the amount of 5,000.00 Euros, was shared according to the proportion of USNC incurred by each of the referred operators in the total value of USNC incurred under the respective contracts, that is 1,911.34 Euros, 2,455.47 Euros and 633.19 Euros respectively for the FTS, the public pay-phone service and the directory and directory enquiry services. As such, the values to be considered for the determination of contributions are 1,918,088.66 Euros, 2,464,144.53 Euros and 635,431.40 Euros, corresponding respectively to the US provision of FTS (ensured by NOS Comunicações, S.A.), the US provision of public pay-phones and of a comprehensive telephone directory and a comprehensive telephone directory enquiry service (ensured by MEO – Serviços de Comunicações e Multimédia, S.A.).

- j) Under the Fund Law, it is incumbent on ANACOM to perform all actions required for a proper administration of the compensation fund, and pursuant to article 11, the Regulatory Authority must identify every year the bodies required to contribute to the compensation fund, to finance net costs to be compensated to tender-designated USPs, and to set the precise amount of the respective contributions;
- k) In 2017, 101 companies registered with ANACOM as networks operators and/or providers of publicly available electronic communications services were active, 94 companies having submitted ET information to ANACOM;
- l) Of the 7 companies that failed to submit any information:
  - a. For 4 companies, it was assumed that the amount of eligible turnover corresponds to the amount reported for the 2017 financial year, for the purpose of the procedure for entry and settlement of the annual fee referred to in article 105, paragraph 1b) of ECL, where it existed, or in its absence, the value declared for the purpose of the Fund Law in prior procedures. Values concerned are not likely to give expression to any of the companies so that they would be required to contribute to the fund nor have they any impact at the level of the identification of companies required to contribute to the compensation fund;
  - b. For 3 companies, there is no available information;

- m) The audit to turnover values reported by 24 companies providing networks and/or electronic communications services within the scope of the Fund Law was promoted, including in particular the companies with the largest values of eligible turnover, the companies with the largest reductions in turnover relative to the previous year and some companies selected randomly; Two companies that had not sent information at first were also included, with one of them having, within the scope of the hearing procedure of DD of 06.12.2018, confirmed the ET amount calculated in the audit. At the end of the audit process, the auditors were unable to issue a compliance audit opinion regarding the ET reported by one of the companies, with the ET reported by the actual company having been considered.
- n) As a result of the audit and of the analysis carried out by ANACOM to other networks operators and/or electronic communications service providers, in conformity with the description in chapter 2, it was found that the sector's ET was 4,286,788,862.35 Euros in 2017;
- o) On the basis of the determined amount of eligible turnover and in the light of the concept of company laid down in the Fund Law, four companies (which integrate 8 bodies) were identified as being required to make: (i) contributions intended to finance USNC for 2017 incurred by the USPs under contracts, having been excluded from these contributions all companies that in the year concerned registered an eligible turnover of the electronic communications sector below 1% of the sector's overall eligible turnover;
- p) Under articles 121 and 122 of the Administrative Procedure Code, a prior hearing of stakeholders was held, having been notified to submit comments on the draft final decision, if they so wished, for 10 working days. Contributions received were analysed as described in the prior hearing report, which substantiates and integrates this decision;
- q) Arguments put forward by some of the stakeholders, as substantiated in the prior hearing report, did not determine the amendment of the amount of ET for those bodies compared to the value considered within the scope of the DD.

ANACOM's Management Board, under paragraphs 1, 2, 3, 4 and 6 of article 97 of ECL, as well as paragraphs 1, 2, 3 and 4 of article 11 of the Fund Law, and in the exercise of powers



conferred under paragraph 1 q) of article 26 of its Statutes, approved by Decree-Law No. 39/2015, of 16 March, hereby determines:

1. To order, for the purpose of the calculation of the electronic communications sector's overall ET for 2017:
  - a. The review/establishment of the amount of ET for the following companies: **[BCI]**  
  
**[ECI]**, further to audits carried out, as described in chapter 2.1;
  - b. The review of the amount of ET for the following companies: **[BCI]**  
  
**[ECI]**, as a result of corrections/amendments introduced, as described in chapter 2.2;
  - c. The establishment of the amount of ET for the following companies: **[BCI]**  
  
**[ECI]**, as described in chapter 2.3, for failing to provide information for the purpose of the Fund Law.
  - d. The consideration of the amounts of ET respectively for Nacacomunik - Serviços de Telecomunicações, Lda, DIDWW Ireland Limited and Narrownet, S.A. within the scope of the prior hearing procedure.
2. To establish, on the basis of information provided by network operators and electronic communications service providers, and bearing in mind point 1, that the sector's overall ET in 2017 amounts to 4,286,788,862.35 Euros.
3. To establish that the number of lists requested and proven to have been delivered in 2017 is 6,056, a value that is used to calculate the variable component of the US of

"directories and directory enquiry service" provided by MEO – Serviços de Comunicações e Multimédia, S.A.

4. To approve the list of bodies that, in accordance with the calculated ET and in compliance with article 11 et seq. of the Fund Law, are required to pay a contribution to the USCF, intended to finance USNC incurred by NOS Comunicações, S.A, in 2017, under contracts concluded with the Portuguese State for the provision of the US of connection to a public communications network at a fixed location and of publicly available telephone services as well as the contribution amount each body is required to pay, according to the table below. The total value of such contributions corresponds to the amount of compensation to be paid to NOS Comunicações, S.A., from which the amount of 1,911.34 Euros was deducted, corresponding to the respective proportion of the contractual penalty amount applied to the USP providing public pay-phones (a value which shall be paid at the same time as the value of contributions, to fully cover the compensation to which NOS Comunicações, S.A. is entitled).

**Table No. 18 – Amount of contributions of bodies required to contribute to the compensation fund concerning USNC incurred by NOS Comunicações, S.A in 2017 under contracts concluded for the provision of the US of connection to a public communications network at a fixed location and of publicly available telephone services**

Companies	Eligible Turnover	Contribution %	NOS (Provision of FTS)
<b>Grupo APAX (NOWO/ONI)</b>	[BCI]	[BCI]	<b>€ 49,388.76</b>
NOWO Communications, S.A.			€ 32,961.44
ONITELECOM - Infocomunicações, S.A.			€ 16,427.32
<b>Grupo NOS</b>			<b>€ 609,112.25</b>
NOS Comunicações, S.A.			€ 590,928.91
NOS AÇORES COMUNICAÇÕES, S.A.			€ 6,353.55
NOS MADEIRA COMUNICAÇÕES, S.A.			€ 11,829.79
<b>Grupo VODAFONE</b>			<b>€ 434,448.22</b>
VODAFONE PORTUGAL - Comunicações Pessoais, S.A.			€ 434,448.22
VODAFONE Entreprise Spain, SL - Portugal branch			€ 0.00
<b>MEO – Serviços de Comunicações e Multimédia, S.A.</b>	[ECI]	[ECI]	<b>€ 825,139.43</b>
<b>Total</b>		<b>100%</b>	<b>€ 1,918,088.66</b>

Note: Values in Euros.

Values were calculated in compliance with the Fund Law, at cent level. The aggregate contributions of each of the groups are calculated on the basis of the sum of the individual contributions of each entity. The latter must be considered for the purpose of payment to the USCF.

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

- To approve the list of bodies that, in accordance with the calculated ET and in compliance with article 11 et seq. of the Fund Law, are required to pay a contribution to the USCF, intended to finance USNC incurred by MEO Comunicações e Multimédia, S.A., in 2017, under contract concluded with the Portuguese State for the US provision of the public pay-phones, as well as the contribution amount each body is required to pay, according to the table below. The total value of such contributions corresponds to the amount of compensation to be paid to MEO Comunicações e Multimédia, S.A. and Multimédia, S.A., from which the amount of 2,455.47 Euros was deducted, corresponding to the proportion of the contractual penalty amount applied to the USP providing public pay-phones (a value which shall be paid at the same time as the value of contributions, to fully cover the compensation to which MEO - Serviços de Comunicações e Multimédia, S.A. is entitled).

**Table No. 19 – Amount of contributions of bodies required to contribute to the compensation fund concerning USNC incurred by MEO – Serviços de Comunicações e Multimédia, S.A. in 2017 under contracts concluded for the US provision of the public pay-phones**

Companies	Eligible Turnover	Contribution %	MEO (Provision of the PPP offer)
<b>Grupo APAX (NOWO/ONI)</b>	[BCI]	[BCI]	<b>€ 63,449.12</b>
NOWO Communications, S.A.			€ 42,345.15
ONITELECOM - Infocomunicações, S.A.			€ 21,103.97
<b>Grupo NOS</b>			<b>€ 782,518.89</b>
NOS Comunicações, S.A.			€ 759,158.98
NOS AÇORES COMUNICAÇÕES, S.A.			€ 8,162.33
NOS MADEIRA COMUNICAÇÕES, S.A.			€ 15,197.58
<b>Grupo VODAFONE</b>			<b>€ 558,130.20</b>
VODAFONE PORTUGAL - Comunicações Pessoais, S.A.			€ 558,130.20
VODAFONE Entreprise Spain, SL - Portugal branch			€ 0.00
<b>MEO – Serviços de Comunicações e Multimédia, S.A.</b>	[ECI]	[ECI]	<b>€ 1,060,046.32</b>
<b>Total</b>		<b>100%</b>	<b>€ 2,464,144.53</b>

Note: Values in Euros.

Values were calculated in compliance with the Fund Law, at cent level. The aggregate contributions of each of the groups are calculated on the basis of the sum of the individual contributions of each entity. The latter must be considered for the purpose of payment to the USCF.

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

- To approve the list of bodies that, in accordance with the calculated ET and in compliance with article 11 et seq. of the Fund Law, are required to pay a contribution to the USCF, intended to finance USNC incurred by MEO Comunicações e Multimédia, S.A., in 2017, under contract concluded with the Portuguese State for the US provision of a comprehensive telephone directory and of a comprehensive directory enquiry service, as well as the contribution amount each body is required to pay, according to the table below. The total value of such contributions corresponds to the amount of compensation to be paid to MEO Comunicações e Multimédia, S.A., from which 633.19 Euros was deducted which corresponds to the amount of contractual penalty applied to the USP providing public pay-phones (a value which shall be paid at the same time as the value of contributions, to fully cover the compensation to which MEO – Serviços de Comunicações e Multimédia, S.A. is entitled

**Table No. 20 – Amount of contributions of bodies required to contribute to the compensation fund concerning USNC incurred by MEO – Serviços de Comunicações e Multimédia, S.A. in 2017 under contracts concluded for the US provision of a comprehensive telephone directory and of a comprehensive directory enquiry service**

Companies	Eligible Turnover	Contribution %	MEO (Provision of directories and 118)
<b>Grupo APAX (NOWO/ONI)</b>	[BCI]	[BCI]	<b>€ 16,361.68</b>
NOWO Communications, S.A.			€ 10,919.58
ONITELECOM - Infocomunicações, S.A.			€ 5,442.10
<b>Grupo NOS</b>			<b>€ 201,788.93</b>
NOS Comunicações, S.A.			€ 195,765.08
NOS AÇORES COMUNICAÇÕES, S.A.			€ 2,104.83
NOS MADEIRA COMUNICAÇÕES, S.A.			€ 3,919.02
<b>Grupo VODAFONE</b>			<b>€ 143,925.59</b>
VODAFONE PORTUGAL - Comunicações Pessoais, S.A.			€ 143,925.59
VODAFONE Entreprise Spain, SL - Portugal branch			€ 0.00
<b>MEO – Serviços de Comunicações e Multimédia, S.A.</b>	[ECI]	[ECI]	<b>€ 273,355.20</b>
<b>Total</b>		100%	<b>€ 635,431.40</b>

Note: Values in Euros.

Values were calculated in compliance with the Fund Law, at cent level. The aggregate contributions of each of the groups are calculated on the basis of the sum of the individual contributions of each entity. The latter must be considered for the purpose of payment to the USCF.

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

7. To order the issue of the respective Invoices/Settlement Notices of contributions identified in points 4, 5 and 6, which shall refer to this decision and respective grounds, and indicate the USCF as active party and respective Tax Identification Number, as well as defence measures and means of payment, those contributions shall be paid within 20 days, in compliance with paragraph 1 of article 12 of the Fund Law.
8. To notify bodies covered by the determination in point 1 of the approval of this decision in the part which specifically concerns them.
9. To notify bodies covered by determinations in point 4, 5 and 6, under paragraph 5 of article 11 of the Fund Law, of the approval of this decision.

10. To make the approval of his decision publicly available at ANACOM's website, in compliance with paragraph 6 of article 11 of the Fund Law.