

**REPORT - FINANCIAL YEAR 2016**

**ADMINISTRATIVE COSTS AND SUMS RESULTING FROM THE COLLECTION OF FEES REFERRED TO IN POINTS a) to d) of PARAGRAPH 1 OF ARTICLE 105 OF *LEI DAS COMUNICAÇÕES ELETRÓNICAS* (ELECTRONIC COMMUNICATIONS LAW - LAW No. 5/2004 OF 10 FEBRUARY)<sup>1</sup>**

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

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<sup>1</sup> Republished by Law no. 51/2011 of 13 September, and as subsequently amended by Law no. 10/2013 of 28 January, by Law no. 42/2013 of 3 July, Decree-Law no. 35/2014 of 7 March, Law no. 82-B/2014 of 31 December, Law no. 127/2015 of 3 September and Law no. 2016 of 17 June.

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## **1 Legal framework and background**

**1.1** Law no. 5/2004 of 10 February (amended and republished by Law no. 51/2011 of 13 September, and subsequently amended by Law no. 10/2013 of 28 January, by Law no. 42/2013 of 3 July, Decree-Law no. 35/2014 of 7 March, Law no. 82-B/2014 of 31 December, Law no. 127/2015 of 3 September and Law no. 2016 of 17 June), establishes the legal regime applicable to electronic communications networks and services and related resources and services (LCE) and defines, in article 105, that the following are subject to the imposition of fees, with revenues from said fees constituting revenues for ANACOM:

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

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

**1.2** Administrative Rule no. 1473-B/2008 of 17 December (as amended and republished by Administrative Rule no. 291-A/2011 of 4 November, subsequently amended and republished by Administrative Rule no. 296-A/2013 of 2 October and amended by Administrative Rule no. 378-D/2013 of 31 December and by Administrative Rule no. 157/2017 of 10 May) sets the amounts of the fees referred to above; these fees entered into force on 1 January 2009. Publication of Administrative Rule no. 1473-B/2008 was preceded by a discussion by ICP-ANACOM's Advisory Board, whose members included representatives of providers of electronic communications networks and services. This discussion was based on a document "*Modelo de Taxas do ICP-ANACOM*" (ICP-ANACOM Fees Model). The review instigated by Administrative Rule no. 296-A/2013 was preceded by a public consultation, which ICP-ANACOM conducted in the context of its assignments of providing assistance to the Government.

**1.3** Pursuant to paragraph 5 of article 105 of LCE, the NRA shall publish an annual report of its administrative costs and of the total sum resulting from the collection of fees referred to in points a) to d) of paragraph 1, in order that it may perform appropriate adjustments in respect of the difference between the total sum of the fees and the sum of administrative costs. That report, as now presented, relates only to fees whose amounts are determined based on administrative costs and excludes the fees referred to in paragraphs e) and f) of article 105 of the LCE, which fees "shall reflect the need to ensure the optimal use of frequencies and numbers" and are not therefore subject to cost orientation. The fees referred to in points a), c) and d) of paragraph 1 of article 105 of the LCE were set on the basis of "unit costs related to the issue of declarations, based on a typical situation, and assuming efficient performance by ICP-ANACOM<sup>2</sup>". This implies that, for fees of this type, the values are not directly adjusted according to the costs actually incurred, except where a review is made of the unit costs.

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<sup>2</sup> In accordance with the "ICP-ANACOM Fee Model", paragraph 25, page 15.

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

**1.5** By determination of ANACOM's Board of Directors of 21 July 2016 (DE2016CA), in execution of the provisions of Administrative Rule no. 1473-B/2008 (as amended by Administrative Rule no. 296-A/2013) and based on the average value of the cost component (expenses) without provisions over the last 3 financial years of, plus the average value of provisions for lawsuits related to the electronic communications sector from the last 5 financial years, as well as the amount of relevant revenues reported by undertakings supplying electronic communications networks and services, the following was approved:

- a) The sum of costs incurred in regulating the activity of provider of electronic communications networks and services: 29,882,629 euros;
- b) The publication of a document on ANACOM's website explaining how its administrative costs were calculated, pursuant to paragraphs 1 and 2 of Annex II to Administrative Rule no. 1473-B/2008;
- c) The auditing of providers of electronic communications networks and services which, in 2015, reported more significant levels of relevant revenues and larger variations in values (versus civil year 2014). These procedures are to be conducted in light of the fact that one operator of significant size adopted the view that a substantial portion of its revenues should not be deemed as relevant. This auditing set out to assess whether the criteria used by the various providers were uniform and, where warranted, correct the submitted values.

**1.6** The auditing referred to in point 1.5 was performed by Grant Thornton & Associados - Sociedade de Revisores Oficiais de Contas, Lda., and demonstrated that changes in the relevant revenues, as reported by certain operators, were warranted. Based on the audit report and after a prior hearing of interested parties, by decision of the Board of Directors of 11 November 2016 (DE2016CA), ANACOM approved the following:

- a) To determine a t2 contribution rate of 0.6884%, set pursuant to paragraph 2 of Annex II to Administrative Rule no. 1473-B/2008 (as amended by Administrative Rule no. 296-A/2013 of 2 October);
- b) To issue notices to settle fees payable in respect of the exercise of the activity of electronic communications networks and services provider, taking into account the adjustments made to the values of relevant revenues as resulted from the audit.

**1.7** Following the determination referenced in the point above, ANACOM published data on its website on how the t2 contribution rate (0.6884%) had been calculated, as well as information on the new sum of Relevant Revenues (4,331,169,516 euros) reported by tier 2 undertakings, determined in the context of the auditing performed by Grant Thornton & Associados - Sociedade de Revisores Oficiais de Contas, Lda.

## **2 Determination of costs for purposes of the application and settlement of fees payable in respect of the exercise of the activity of electronic communications networks and services provider, in November 2016**

**2.1** According to the conceptual model for the determination of fees referred to above, the administrative costs (defined under the terms of paragraph 4 of article 105 of the LCE), which constitute the rateable base of the annual fee payable in respect of the exercise of the activity of electronic communications networks and services provider, were determined based on a three-year average comprising 2013, 2014 and 2015, as under the new wording of paragraph 1 of Annex II to Administrative Rule no. 1473-B/2008, applicable as from 1 January 2014, under the terms of article 13, paragraph 2 of Administrative Rule no. 296-A/2013.

**2.2** The value of provisions for ongoing legal actions was determined based on the average for the last five years (2011 - 2015), as under the new wording of paragraph 1 of Annex II to Administrative Rule no. 1473-B/2008, applicable as from 1 January 2014, under the terms of article 13, paragraph 2 of Administrative Rule no. 296-A/2013.

**2.3** Accordingly, Tables 1 and 2 set out the calculation of costs considered for purposes of the application and settlement of fees payable in respect of the exercise of the activity of electronic communications networks and services provider for 2016:

**Table 1 - Calculation of the costs considered for the purposes of the application and settlement of fees payable by providers of electronic communications networks and services for 2016 (euros)**

Allocation of costs incurred by ANACOM (without provisions)					Provisions (5-year average)	Allocation of costs incurred by ICP-ANACOM (including provisions)
	2015	2014	2013	Average (3 years)		
<b>1. Regulation and spectrum management costs</b>	38 122 819	36 881 186	39 546 651	38 183 552	8 589 938	46 773 490
1.1 Costs related to Electronic Communications	31 568 558	29 707 978	31 486 145	30 920 894	8 578 990	39 499 884
1.1.1 Administrative costs	22 376 615	20 267 678	22 079 963	21 574 752	8 578 990	30 153 742
a) Declarations supporting rights	111 599	83 244	105 688	100 177		100 177
b) Exercise of the activity of provider of networks and services	22 088 021	20 026 086	21 796 809	21 303 639	8 578 990	29 882 629
c) Allocation of rights of use of frequencies	154 324	122 161	141 587	139 358		139 358
d) Allocation of rights of use of numbering	22 671	36 186	35 879	31 579		31 579
1.1.2 Frequency management costs	9 055 497	9 176 837	9 260 140	9 164 158		9 164 158
1.1.3 Numbering management costs	136 445	263 463	146 042	181 983		181 983
1.2 Costs of Postal regulation	1 870 955	1 915 994	2 757 509	2 181 486	10 948	2 192 434
1.2.1 Exercise of the activity of provider of postal services	1 847 974	1 907 356	2 713 728	2 156 352	10 948	2 167 300
1.2.2 Authorisations and licences	22 981	8 638	43 781	25 133		25 133
1.3 Other regulation costs	4 683 307	5 257 215	5 302 997	5 081 173		5 081 173
<b>2. Other costs</b>	<b>2 538 682</b>	<b>2 698 567</b>	<b>1 577 559</b>	<b>2 271 603</b>	<b>0</b>	<b>2 271 603</b>
<b>3. Total costs</b>	<b>40 661 502</b>	<b>39 579 754</b>	<b>41 124 210</b>	<b>40 455 155</b>	<b>8 589 938</b>	<b>49 045 093</b>

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

YEARS	2015	2014	2013	2012	2011	Average
Provisions associated with electronic communications	9 806 240	5 900 288	20 930 103	3 615 963	2 642 354	8 578 990

## 2.4 The t2 contribution rate was determined according to the following formula:

### Year: 2016

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

C = Total costs incurred regulating the activity of providers of electronic communications networks and services, value corresponding to the fees due to ANACOM in 2016 = 29,882,629 euros;

$\sum R0$  = Value of the relevant revenues reported by tier 0 undertakings, in the year 2015 = 2 203 340 euros;

$\sum R1$  = Total value of the relevant income of entities in step 1, in the year 2015 = 19 525 054 euros;

$\sum R2$  = Total value of relevant revenues reported by tier 2 undertaking in 2015 = 4 331 169 516 euros;

$\sum R$  = Value of relevant revenues reported by all providers of electronic communications networks and services in 2015 = 4 352 897 910 euros;

T1 = Fee payable by tier 1 undertakings (Relevant revenue > 250 000 euros <= 1 500 000 euros) = 2 500 euros;

n1 = number of tier 1 undertakings = 26;

T1n1 = 2 500 euros x 26 = 65 000 euros;

t2 = Fee payable by tier 2 undertakings (Relevant revenues > 1 500 000 euros) = (29 882 629 euros - 65 000 euros) / 4 331 169 516 euros = 0.6884%;

Applying the rate of 0.6884% to the relevant revenues reported by each tier 2 operator gives the amount of fees payable.

### 3 Settlement and collection of electronic communications fees - 2016

**3.1** The collection of fees in respect of the exercise of the activity of electronic communications networks and services provider took place between November 2016 and 2017. Almost all payable fees were collected, as shown in Table 3. Collection of fees by instalments is in accordance with article 19 of the *Regulamento de Liquidação e Cobrança de Taxas devidas à ANACOM* (Regulation governing settlement and collection of fees due to ANACOM - Regulation no. 300/2009 of 15 July, as amended by Regulation no. 355/2012 of 13 August), and is subject to application of late-payment interest.

Table 3 - Application and collection of administrative fees for electronic communications

Activity	2016	
	Value	%
Exercise of the activity of electronic communications networks and services provider		
- Settled	29 880 770	100.00%
- Billed	29 478 278	98.65%
- Billing pending	402 492	1.35%

Unit: euros

**3.2** As on the date of this report's submission, ANACOM has been cited in three legal challenges brought in relation to the settlement of fees payable in respect of the exercise of the activity of electronic communications networks and services provider in respect of 2016.

**3.3** Legal challenges to the settlement of fees payable with respect to 2009, 2010, 2011, 2012, 2013, 2014 and 2015, as well as the challenge brought against Administrative Rule no. 1473-B/2008 of 17 December, remain pending.

**4 Correction of the value of the t2 contribution rate for the year 2014, due to correction of the value of relevant revenues reported by MEO - Serviços de Comunicações e Multimédia, S.A. (formerly PT Comunicações, SA) according to the final value of the net costs of the universal service, in respect of financial year 2013.**

**4.1** Following auditing of the reformulated results of the SCA - Sistema de Contabilidade Analítica (Analytical Accounting System) used by MEO (formerly PTC) in respect of financial year 2013, on 16 July 2015, ANACOM's Board of Directors approved the final decision on the operating margins of the telex, telegraph, terrestrial broadcasting and mobile maritime services.

**4.2** Taking into account the results of the audit, as well as the corresponding report of the prior hearing and public consultation, by determination of 17 December 2015, ANACOM's Board of Directors determined the final net costs of the universal service for financial year 2013 and consequently sought restatement of the values of relevant revenues previously reported by MEO - Serviços de Comunicações e Multimédia, S.A. in respect of financial year 2013.

**4.3** Correction of the value of relevant revenues of MEO - Serviços de Comunicações e Multimédia, S.A. with a higher figure resulted in a fall in the total revenues of tier 2 companies, impacting the value of the t2 contribution rate, which in 2014 was 0.5909% instead of 0.5900%, according to the following calculations:

**2014 (corrected)**

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

C = Total cost of regulating the activity of provider of electronic communications networks and services, in 2014 = euros 27 505 374;

T1 = Rate payable by tier 1 undertakings (relevant revenue  $\leq$  1 500 000 euros) = 2 500 euros;

n1 = Number of tier 1 undertakings = 22;

$\sum R0$  = Total value of relevant revenues reported by tier 0 undertakings, in 2013 = 2 091 548 euros;

$\sum R1$  = Total value of relevant revenues reported by tier 1 undertakings, in 2013 = 15 052 697 euros;

$\sum R2$  = Total value of relevant revenues reported by tier 2 undertakings, in 2013 = 4 645 665 973 euros;

$\sum R$  = Total value of relevant revenues reported by all entities providing electronic communications networks and services in 2013 = 4 662 810 218 euros;

$t1n1$  = 2 500 euros x 22 = 55 000 euros;

$t2$  = Rate payable by tier 2 undertakings (relevant revenues > 1 500 000 euros) = (27 505 374 euros - 55 000 euros)

/ 4 645 665 973 euros = 0.5909%

Applying the rate of 0.5909% to the relevant revenues reported by each tier 2 operator gives the amount of fees payable.

This correction was set out in a draft decision on 14 July 2016 (DE2016CA) and by final decision on 15 September 2016 (DE2622016CA), resulting in a review of the settlement for 2014.

## 5 Correction of the value of the t2 contribution rate for the year 2013, due to a lack of timely information on the value of relevant revenues reported by Atena T, S.A.

5.1 The non-timely receipt of information on the value of relevant revenues reported by Atena T, S.A., pursuant to paragraph 5 of article 105 of the LCE, made it necessary to adjust the fees for the year 2013, giving rise to a refund of amounts overpaid in proportion to the relevant revenues used for the calculation of the fees already settled. The refund will take place as soon as Atena T, S.A. makes payment of the respective invoice/settlement note, which is subject to a process of payment enforcement by the Finance Services of the Portuguese Tax Authority. The correction of the value of the relevant revenues had an impact on the value of the t2 contribution rate, according to the following calculations:

**Year: 2013 (corrected)**

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

C = Total cost of regulating the activity of provider of electronic communications networks and services, in 2013 = 27,505,374 euros;

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

T1 = Rate payable by tier 1 undertakings (relevant revenues  $\leq$  1 500 000 euros) = 2 500 euros;

n1 = number of tier 1 undertakings = 28;

$\sum R$  = Total value of relevant revenues reported by all entities providing electronic communications networks and services in 2012 = 5 015 493 933 euros;

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

$\sum R2$  = Total value of relevant revenues reported by tier 2 undertakings, in 2012 = 4 998 982 239 euros;

T1n1 = 2 500 euros x 28 = 70 000 euros;

t2 = Rate payable by tier 2 undertakings (relevant revenues  $>$  1 500 000 euros) = (27 505 374 euros - 70 000 euros) / 4 998 982 239 euros = 0.5488%;

Applying the rate of 0.5488% to the relevant revenues reported by each tier 2 operator gives the amount of fees payable

This correction was the subject of a final decision on 22 September 2016 (DE2672016CA).

**6 Correction of the value of the t2 contribution rate for 2015, due to correction of the value of relevant revenues reported by MEO - Serviços de Comunicações e Multimédia, S.A. (formerly PT Comunicações, S.A.) according to the final value of the net costs of the universal service in respect of financial year 2014.**

**6.1** Based on the results of auditing and the corresponding report of the prior hearing and public consultation, on 27 October 2016, ANACOM's Management Board decided on the final value of the net costs of the universal service for financial year 2014. Consequently, MEO - Serviços de Comunicações e Multimédia, S.A. restated the relevant revenues reported in respect of 2014.

**6.2** Correction of the value of relevant revenues reported by MEO - Serviços de Comunicações e Multimédia, S.A., substituting with a lower amount, resulting in a reduction in total relevant revenues reported by tier 2 undertakings, with an impact on the value of the t2 contribution rate, which in 2015 was 0.6213% instead of 0.6209%, according to the following calculations:

**Year 2015 (corrected)**

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

C = Total cost of regulating the activity of provider of electronic communications networks and services, in 2015 = 27 820 613 euros;

$\sum R0$  = Total value of relevant revenues reported by tier 0 undertakings in 2014 = 1 819 971 euros;

$\sum R1$  = Total value of relevant revenues reported by tier 1 undertakings in 2014 = 14 712 815 euros;

$\sum R2$  = Total value of relevant revenues reported by tier 2 undertakings in 2014 = 4 468 780 735 euros;

$\sum R$  = Total value of relevant revenues reported by all entities providing electronic communications networks and services in 2014 = 4 485 313 521 euros;

T1 = Rate payable by tier 1 undertakings (relevant revenues  $\leq$  1 500 000 euros) = 2 500 euros;

n1 = Number of tier 1 undertakings = 22;

T1n1 = 2 500 euros x 22 = 55 000 euros;

t2 = Rate payable by tier 2 undertakings (relevant revenues  $>$  1 500 000 euros) = (27 820 613 euros - 55 000 euros) / 4 468 780 735 euros = 0.6213%;

Applying the rate of 0.6213% to the relevant revenues reported by each tier 2 operator gives the amount of fees payable.

This correction was the subject of final decision of 16 February 2017 (DE2017CA), giving rise to a review of the annual settlement for 2015.

**7 Correction of the total value of relevant revenues reported in respect of 2014, due to a correction in the value of relevant revenues reported by Sweet & Mata, Lda, in respect of 2013.**

**7.1** The correction of the value of relevant revenues reported by Sweet & Mata Lda for 2013 (correction in January 2017) did not give rise to any correction to the value of the t2 contribution rate; it only determined correction of the value of relevant revenues of all providers of electronic communications services and networks, which totalled 4,662,811,503 euros instead of 4,662,810,217 euros.

## ANNEX

### A. Allocation of ANACOM costs

#### Introductory note

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

#### 1. ANACOM's costing system

ANACOM's costing system was developed based on the Activity Based Costing (ABC) methodology and aims to identify the costs related to the development of the activities inherent to its statutory responsibilities, as well as to respond to the requirements of paragraph 4 of article 105 of LCE - Lei das Comunicações Eletrónicas (Electronic Communications Law - Law no. 5/2004) and the provisions of paragraphs 1 and 2 of article 44 of LSP - Lei dos Serviços Postais (Postal Services Law - Law no. 17/2012).

Overall, two major cost groups are identified: **regulatory and spectrum management costs, and costs which are unrelated to the regulatory activity**, the latter mainly consisting of costs associated with the activity of advising and representing the State.

The breakdown of costs is as shown in Figure 1.

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

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

## Methodology for calculating regulation costs

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### 2. Costs of regulation and spectrum management

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

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

To identify the costs associated with electronic communications, a breakdown is provided which enables determination of the costs associated with each of the acts defined in points a) to f) of paragraph 1 of article 105 of the LCE. As such, costs are divided into the following blocks:

##### i) Electronic Communications costs.

Costs associated with the issue of declarations supporting exercise of activity, allocation of rights of use of resources, and all of ANACOM's regulatory and supervisory activities, as well as sector representation and cooperation in the context of regulation (point a) to d) of paragraph 1 of article 105).

##### ii) Spectrum Management Costs.

Costs associated with the set of activities performed by ANACOM with respect to the planning, assignment, monitoring and oversight of the radio frequency spectrum. (point f) of paragraph 1 of article 105)

##### iii) Numbering Management Costs (point e) of paragraph 1 of article 105)

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

#### b) Costs associated with the Postal Sector

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

For the identification of costs incurred with respect to postal services, a breakdown is given that enables the determination of costs associated with each of the acts defined in paragraphs 1 and 2 of article 44 of the LSP.

#### c) Other administrative costs associated with the mission of the regulator.

Costs incurred as a result of the regulation of services which are outside the scope of Law no. 5/2004 (LCE) and likewise outside the scope of Law no. 17/20212 (LSP), including audiotext services, ITED - Infraestruturas de Telecomunicações em Edifícios (Telecommunications infrastructure in buildings), ITUR - Infraestruturas de Telecomunicações em Loteamentos, Urbanizações e Conjuntos de Edifícios (Telecommunications Infrastructure in Housing Developments, Urban Settlements and Concentrations of Buildings), Information Society services, amateur service and personal radio service - citizen's band (CB).

### 3. Costs not directly related to the regulatory activity

## Methodology for calculating regulation costs

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This category includes the remaining costs incurred by ANACOM which are not directly related to the regulatory activity<sup>3</sup>, comprising the following costs:

### **a) Costs incurred Advising and Representing the State**

Costs arising from ANACOM's participation in providing technical representation of the Portuguese state in the sector are excluded (point c) of paragraph 2 of article 8 of ANACOM's Statutes, as approved in annex to Decree-Law no. 39/2015 of 16 March), where not directly linked to ANACOM's regulatory activity. These costs are generally those associated with the following events<sup>4</sup>:

- i) Preparation of and participation in meetings and conferences, as well as all the exchange of information in this context.
- ii) Responses to requests of a different nature, such as technical opinions, requests for studies by the overseeing ministry, requests for information, expertise requests, and others.
- iii) Response to requests for radio easements and protection of radiocommunications services.
- iv) Development of government cooperation programmes.
- v) Monitoring of special projects (e.g. ESA).

### **b) Contributions and levies associated with certain groups**

Includes contributions and fees payable to the following groups: ITU, UPU, UPAEP, ESA, CPLP, Satellite Organizations and URSI.

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<sup>3</sup> It is considered that these costs are not relevant to ANACOM's regulatory activity, according to interpretation of paragraph 4 of article 105 of Law no. 5/2004.

<sup>4</sup> Comprises all international activity carried out within certain EU/ITU groups/committees (Council, Development Sector, Plenipotentiary Conference, World and Regional Radiocommunications Conferences), UPU, UPAEP, satellite organisations, ESA and URSI and also all the national activity developed for the Government.

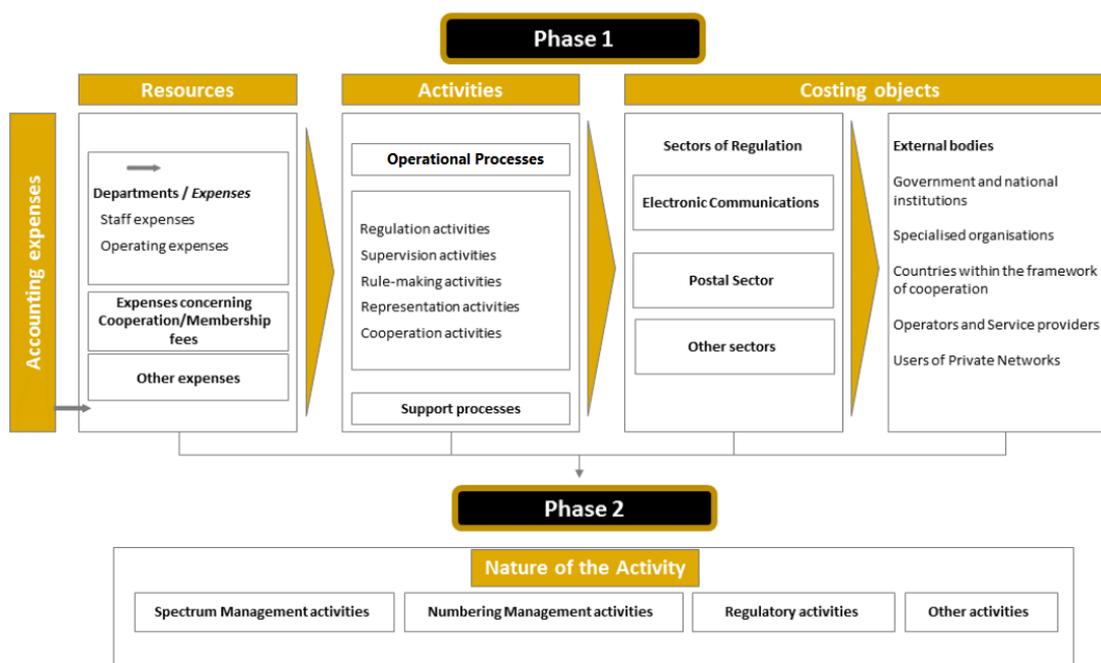
**B. Methodology for allocating costs to different areas**

**4. Phases of ANACOM's Cost Allocation Methodology**

The process of allocating costs is essentially carried out two phases:

- a) Phase 1: Analysis and allocation of accounting expenditure associated with the processes/activities/areas of regulation/external entities of ANACOM<sup>5</sup>.
- b) Phase 2: Allocation of expenditure to the different types of activity according to the acts underlying article 105 of Law no. 5/2004 (LCE), and to the acts defined in paragraphs 1 and 2 of article 44 of Law no. 17/2012 (LSP), as well as categories associated with the other sectors regulated by ANACOM, i.e. infrastructure (ITED and ITUR), the equipment sector and the information society.

**Figure 2: Phases of ANACOM's Cost Allocation Methodology**



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

In the first place, expenditure is listed by groups and by department according to the following classification:

- a) Direct resources - expenditure directly related to regulation services, through a cause-effect relation.
- b) Indirect/common expenditure - expenditure not directly related to regulation services.

<sup>5</sup> The external entities considered are separated into several groups and their identification allows assessment of costs according to the classification presented in this document.

## Methodology for calculating regulation costs

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- c) Expenses associated with cooperation and contributions - specific expenses incurred as a result of ANACOM's cooperation and representation work

In second place, administrative costs are allocated to processes/activities directly or using criteria that represent a cause-effect relationship between the respective nature of the cost and the processes which they support.

As an example, the sequence of movements to classify expenditure is summarised below:

- d) Grouping of total accounting costs by nature and by department
- e) Classification of expenditure according to the structure of prevailing work processes, regulated and non-regulated areas (services), and external entities. Analysis and allocation of costs to processes<sup>6/</sup> (services and cost centres/ entities external to ANACOM<sup>7</sup>.
- f) Personnel expenditure<sup>8</sup> is allocated directly to the processes/services and objects of costing/customers of ANACOM, in accordance with the data reported by all staff using a computer application "Report of Hours Worked (RHT)".
- g) Expenses related to international travel, travel within Portugal, advertising, specialized work, fees, training, documentation, meetings, sponsorships are directly linked to the processes, services, customers, on a case-by-case basis, notwithstanding the distribution of an insignificant value according to the Staff-Hours criterion.
- h) Expenditure on electricity, water, air conditioning, rent of the Head Office, buildings insurance, lifts, cleaning services, surveillance and security are considered as structural costs and are distributed on the basis of area (m<sup>2</sup> used by each department. The remaining functioning expenditure, specifically as related to economat, reprographics and communications, is distributed among all departments, according to their consumption<sup>9</sup>.
- i) Costs related to cooperation and contributions/membership fees<sup>10</sup> are distributed according to the nature of the activity<sup>11</sup>.
- j) Amortisation and depreciation costs, where of a relevant amount, are associated with the work processes related to equipment, IT applications and hardware<sup>12</sup>; the remaining part is allocated according to Staff-hours.
- k) Provisions are allocated to the various natures of activity according to the type of provision<sup>13</sup>.

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<sup>6</sup> According to the Dictionary of Processes/Activities which supports the reporting of hours of all ANACOM staff in the application "Reporting of Hours Worked (RHT)" and the classification of expenditure. The RHT application is used to obtain the total number of ANACOM staff hours.

<sup>7</sup> Combination of process and/or service or object of costing and/or external entity.

<sup>8</sup> Excluding costs associated with the Christmas Party, Anniversary and other staff events, which are treated as equivalent to common expenditure (Common Costs - All activities - For distribution to other cost centres).

<sup>9</sup> Being distributed to the processes/services/customers, depending on the reported hours worked by each department (Staff Hours of each department).

<sup>10</sup> Always associated with the "Cooperation" process and a particular external entity.

<sup>11</sup> A portion of these expenditures is unrelated to the regulatory activity. See also List of Types of Activity (Figure 3).

<sup>12</sup> For example, amortisation of equipment used by SINCRER (Integrated Remote-Control System for Radio Stations) is associated with the "Spectrum monitoring" sub-process and all radiocommunications services.

<sup>13</sup> Provisions may be distributed based on direct cost or Staff-hours. Provisions for ongoing litigation accounted for in recent years have been regarded as costs incurred from regulation activities (Law no. 5/2004), spectrum management activities (Law no. 5/2004) and regulatory costs (Law No. 17/2012).

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- l) Other costs, particularly those for which a cause-effect relationship cannot be ascertained, are distributed according to relative cost or Staff-hours

It is to be emphasised that certain work processes, such as "Planning and Control", "Financial System", "General Services" and "Human Resources" do not have a direct relation to a specific area of regulation, and encompass all areas<sup>14</sup>; therefore, costs related to these work processes are re-allocated among all operational processes, based on the criteria of relative costs or Staff-hours.

### 4.2. Phase 2 - Allocation of expenditure to the sectors of regulation

In order to ensure proper allocation of accounting expenditure to each sector of regulation, within the scope of electronic communications, according to the acts detailed in paragraph 1 of article 105 of Law no. 5/2004, and also within the scope of postal services, according to the acts detailed in paragraphs 1 and 2 of article 44 of the LSP, a process was developed which enables this allocation and which is identified as the "type of activity" process.

**The type of activity is identified according to a combination - work process/regulated area (service)/external entity<sup>15</sup>.** Each nature of activity corresponds to a particular set of combinations<sup>16</sup>.

Expenses associated with each nature of activity are allocated according to the following process:

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

In summary, the costs established in respect of the Electronic Communications Sector are distributed according to the acts defined in points a) to d) of paragraph 1 of article 105 of *Lei das Comunicações Eletrónicas* (Electronic Communications Law), while the costs identified in respect of the Postal Sector are distributed according to the acts defined in paragraphs 1 and 2 of article 44 of *Lei dos Serviços Postais* (Postal Services Law).

- b) Distribution of the value of common costs (common accounting expenditure) and cooperation/contribution costs by regulation grouping, considering one of the following options as a distribution criterion, bearing in mind the type of common/cooperation expenditure:
  - i) Direct allocation to the corresponding type of activity grouping through a cause-effect relation.
  - ii) Proportion of expenditure directly associated with each grouping of type of activity.
  - iii) Proportion of Staff-hours associated with each grouping of type of activity.
- c) Subsequently, after determining the expenditure by each type of activity grouping, the expenditure allocated to "all activities" of regulation is distributed among the following regulation sectors:
  - i) Electronic Communications Sector;

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<sup>14</sup> Considered common processes.

<sup>15</sup> The costs associated with certain external organisations are not considered as regulatory costs.

<sup>16</sup> According to the Dictionary of Processes/Activities in application at ANACOM, which supports the costing system.

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

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

<b>Type of Activity: costs allocated to sectors within scope of Law no. 5/2004</b>	
Declarations supporting Rights	Regulation
Exercise of activity - Regulation	Regulation
Allocation of Rights of Use of Frequencies	Regulation
Allocation of Rights of Use of Numbering and Reservation thereof	Regulation - Numbering
Spectrum Management Activities	Spectrum Management
Numbering Management Activities	Numbering Management
<b>Type of Activity: costs allocated to sectors outside scope of Law no. 5/2004</b>	
Declarations supporting Rights <sup>17</sup>	Regulation
Exercise of activity - Regulation <sup>18</sup>	Regulation
Amateur and CB records and certificates <sup>19</sup>	Spectrum Management
Allocation of Rights of Use of Numbering and Reservation thereof <sup>20</sup>	Regulation - Numbering
Spectrum Management Activities <sup>21</sup>	Spectrum Management
Numbering Management Activities <sup>22</sup>	Numbering Management
<b>Costs not directly related to regulatory activity</b>	
<b>Common costs</b>	
Common costs - Spectrum Management Activities	Spectrum Management
Common costs - Spectrum Management Activities – Services Law no. 5/2004	Spectrum Management
Common costs - Spectrum Management Activities – Services outside Law no. 5/2004	Spectrum Management
Common costs - Regulation Activities	Regulation
Common costs - Regulation Activities – Services Law no. 5/2004	Regulation
Common costs - Regulation Activities – Services outside Law no. 5/2004	Regulation
Common costs - Numbering Management Activities	Numbering Management
Common costs – Allocation of Rights of Use of Frequencies	Regulation
Common costs – Allocation of Rights of Use of Numbering and Reservation thereof	Regulation– Numbering
Common costs – Declarations supporting Rights	Regulation
Common costs – All activities – Allocation based on direct cost	
Common costs – All activities – Allocation based on Staff-Hours	
Common costs – All activities – Allocate to other costing objects	

<sup>17</sup> Declarations and Licences for postal activity and registration of audiotext and VAS providers.

<sup>18</sup> Postal Services, ITED/ITUR, audiotext and VAS

<sup>19</sup> Registrations and certificates associated with CB (citizen band) and amateur service.

<sup>20</sup> Audiotext and premium services.

<sup>21</sup> CB and amateur service.

<sup>22</sup> Audiotext, VAS and premium tariff services.