

Decision on final results of the audit of the CLSU - custos líquidos do serviço universal (net costs of universal service) re-submitted by PT Comunicações, S.A. (PTC) with respect to 2007 to 2009 financial years

- PUBLIC VERSION -

September 2013

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1. Legal framework

PT Comunicações, S.A. (PTC) has been providing the universal service of i) Connection to a public communications network at a fixed location and provision of a publicly available telephone service through said connection, ii) provision of a comprehensive directory and of a comprehensive telephone directory enquiry service, and iii) provision of public pay-telephones.

In accordance with article 95 of the LCE - Lei das Comunicações Eletrónicas (Electronic Communications Law)¹, where the NRA considers that the provision of universal service may represent an unfair burden on the respective providers, it shall calculate the CLSU - custos líquidos das obrigações de serviço universal (net costs of the universal service obligations) in accordance with one of the following procedures:

- a) Calculating the CLSU, taking into account any market benefit which accrues to the providers;
- b) Making use of the CLSU identified by a designation mechanism in accordance with the provisions of the LCE.

It is also set out in paragraph 4 of article 96 of the LCE that the universal service provider shall make available all accounts and other relevant information in order to provide a basis for the calculation of the CLSU, which accounts and information shall be audited by the NRA or a body independent of the interested parties and subsequently approved by the NRA. It is also set out in paragraph 5 of the same article that the NRA shall make the results of the cost calculation and the conclusions of the audit publicly available.

The present decision seeks, therefore, to determine the final values of the CLSU, calculated in accordance with paragraph a) of article 95 of the LCE and in compliance with the provisions of article 96 of the same law.

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

2. Activity undertaken in order to calculate the CLSU

On 09.06.2011, in compliance with article 95 of the LCE and in accordance with article 96 of the same law, ICP-ANACOM approved a decision on the concept of unfair burden and on the methodology to be used to calculate the CLSU, following a public consultation procedure and prior hearing of interested parties.

It was established in paragraph 4 of the decision on the concept of unfair burden that the methodology to be used to calculate the CLSU, as approved by ANACOM, will be applied in the period subsequent to 01.01.2007 and until such time as the provider(s) of the universal service (designated by means of public tender) commence provision of this service.

In the determination on the methodology to be used for calculating the CLSU, PTC was made subject to the obligation to submit the preliminary values of the CLSU to ICP-ANACOM from 2007 to 2009 according to the methodology defined by ICP-ANACOM, as well as all relevant information used for its calculation.

It is noted, in general terms, that the methodology adopted by ICP-ANACOM determines that the calculation of the CLSU shall stem from the calculation of direct net costs having direct measurable impact on the accounts of the universal service provider and the indirect benefits associated with advantages (in some cases intangible) from which the universal service provider derives gain as a result of its designation.

In this context, determination of CLSU is based on the costs that the universal service provider would avoid and the revenues that would be lost in the event that, as a result of it not having universal service obligations, it did not supply the service in geographic areas which are not profitable and did not supply the service to non-profitable customers in profitable geographic areas, and also that it did not supply the service according to conditions that deviated from normal commercial conditions.

Costs and assets of the universal service provider are to be valued at historical cost, as those presented in the company's financial statements. The CLSU also includes an income portion in respect of the cost of capital.

In the determination of 09.06.2011 on the methodology to be used for calculating the CLSU, it was also determined that the components comprising the calculation of the CLSU be audited by an independent body, prior to ICP-ANACOM's determination of the value of CLSU.

Subsequent to approval of the determination of 09.06.2011, approval was also given to the following determinations, which are relevant for purposes of calculating the CLSU:

- determination of 29.08.2011 which gave legal provenance to the claim presented by PTC and amended the determination of 09.06.2011 on the methodology to be used for calculating CLSU, in order that the prices actually charged are used to determine non-profitable areas and non-profitable customers in profitable areas, as well as to establish non-profitable CLSU zones/customers, thereby correcting the methodology;
- determination of 25.11.2011 on the application of an effect of demand-price elasticity on the component associated with retirees and pensioners. In this determination it has been stipulated that the elasticity value to be considered for calculating the CLSU should be -0.1;
- determination of 12.10.2012 which implemented the concept of "unusually high access costs" for determining non-profitable customers in profitable areas and consequently for the calculation of the CLSU.
- determination of 20.06.2013 on the results of the audit of the CLSU of PTC with respect to the 2007 to 2009 financial years.

It is incumbent upon ICP-ANACOM to ensure that the CLSU estimates presented by PTC are audited and to approve the CLSU values, pursuant to paragraph 4 of article 96 of the LCE; as such ICP-ANACOM adopted a series of determinations in this regard, as follows:

- 27.04.2012 - launch of a public tender, on 28.11.2011, for auditing of the CLSU estimates presented by PTC for the 2007 to 2009 financial years, in order to check the conformity of the calculation presented with the methodology defined by ICP-ANACOM;
- 06.08.2012 - award to SVP Advisors, S.L. (SVP) of the auditing of the CLSU estimates presented by PTC for the 2007-2009 financial years;

- 20.06.2013 - consultation authorisation to AXON Partners Group Consulting S.L.² (AXON) to perform auditing of the reformulated CLSU estimates for the 2007 to 2009 financial years;
- 27.06.2013 - award to AXON Partners Group Consulting S.L. (AXON)³ of the auditing of the reformulated CLSU estimates for the 2007 to 2009 financial years.

The first audit consisted of a thorough, systematic and comprehensive analysis of the CLSU estimates presented by PTC for the 2007 to 2009 financial years, including the review of calculations and sources of information, as well as the identification and analysis of any limitations, discrepancies, alternative approaches and all relevant matters related to the employed methodology.

Upon conclusion of the audit, on 11.04.2013, ICP-ANACOM approved a draft decision on the results of the audit of the CLSU of PTC in respect of the 2007 to 2009 financial years, which was submitted to a prior hearing of interested parties and the general consultation procedure.

Upon conclusion of the hearing and consultation process and following analysis of the contributions received, on 20.06.2013, ICP-ANACOM approved the corresponding final decision on the results of the audit of the CLSU of PTC in respect of the 2007 to 2009 financial years.

Following this determination, on 28.06.2013, PTC submitted the reformulated CLSU estimates to ICP-ANACOM (within the period allowed for the purpose), in respect of the 2007-2009 period, stating that these estimates incorporated the following aspects: (i) recognition of non-recurrent installation costs and revenues in annualized form; (ii) correction of inaccuracies detected as regards area models (reconciliation of the number of access lines) and public pay-telephones (formulas associated with input data); and (iii) incorporation of the results of the SCA - Sistema de Contabilidade Analítica (Analytical Accounting System) used by PTC for the 2007-2009 period, in accordance with ICP-ANACOM determinations of 4 April and 6 June 2013.

² AXON Partners Group Consulting S.L. is the new name given to SVP Advisors, S.L.

³ Auditing performed by AXON in partnership with Grant Thornton & Associados, SROC, Lda.

It was further determined by this decision that the reformulated CLSU estimates for the 2007-2009 periods, as presented by PTC, should be submitted to a new audit procedure, in order to confirm that the re-submitted values were in conformance with the amendments made to the SCA, as used by PTC with respect to these periods, and in compliance with the stipulations of sections 1 e) and 1g) of the decision as regards the consideration of non-recurring installation costs/revenues in annualized form and correction of area models in terms of the number of access lines.

Since it is incumbent upon ICP-ANACOM to ensure that the estimates presented are audited and to approve the CLSU values, pursuant to paragraph 4 of article 96 of the LCE, on 27.06.2013, ICP-ANACOM contracted AXON to audit the reformulated CLSU estimates presented by PTC for the 2007 to 2009 financial periods. The respective audit report was subsequently delivered by the auditors on 25.07.2013 (this report is in annex to the present decision together with the respective declaration of conformity).

On 01.08.2013, ICP-ANACOM approved the respective draft decision, which was made subject to general consultation and a prior hearing of interested parties, over a period of 20 working days.

Under this procedure, comments were received from six operators; these were summarized and examined in the report of the public consultation and prior hearing, which forms part of the present decision.

In the following chapters reference is made to the results of the audit and its principal conclusions, as well as to the positions taken by ICP-ANACOM with respect to its results. Additionally, an analysis is presented of the CLSU values for the 2007-2009 period.

3. Audit of CLSU 2007-2009

Pursuant to the initial audit of the CLSU estimates presented by PTC with respect to the 2007-2009 period, conducted by AXON (then SVP), the auditors identified three aspects which they qualified as "*minor occurrences with negligible impact on results*" and one situation considered as having material impact on the results - the latter concerning the processing of non-recurring (one-off) costs and revenues related to non-profitable

customers in profitable areas. Additionally, the auditors indicated that some difficulties were experienced in the reconciliation of data in terms of traffic and revenue, and explained that, as a result of this situation, PTC may be undervaluing the CLSU, while also reporting that PTC had presented clarifications considered acceptable in respect of the 2007-2009 periods.

Nevertheless, in their report, presented in February 2013, the auditors concluded that "*in general, the results and calculations reviewed by PTC are in accordance with the principles, criteria and conditions laid down in the determinations of ANACOM, and the data, assumptions and calculations used are sufficiently appropriate*".

Following this audit, and after the hearing of interested parties and market consultation, ICP-ANACOM adopted a decision (20.06.2013), ordering PTC to resubmit new CLSU estimates for the 2007-2009 period, in order to reflect the final results of the SCA for the same years; the decision also determined consideration of non-recurring installation costs/revenues, in annualized form, and correction of a situation relating to the number of access lines in the area model.

Following performance of a new audit by AXON of the CLSU values re-submitted in the meantime by PTC, the company conducted analysis of the implementation of the modifications and corrections ordered by ICP-ANACOM in its decision of 20.06.2013.

3.1. Area model - Number of access lines

As regards this aspect, on which ICP-ANACOM determined a correction of the number of access lines used in 2009, the audit report⁴ states the following: "*We can conclude that the files submitted in June 2013 are duly corrected, and that according to our examinations, PTC implemented the corrections as ordered*".

3.2. Annualisation of non-recurring installation costs/revenues

As regards non-recurring installation costs/revenues, ICP-ANACOM determined the following:

⁴ See section 3.1 of the audit report.

- Non-recurring costs and revenues are to be annualized based on the number of years corresponding to the average lifespan of PTC customers; to provide simplification, use of the same number of years for all customers was allowed - this value was set at five years, which is identical to the period defined in the methodology for calculating the CLSU for the purpose of determining the net present value of customer margins in profitable areas, used in respect of indirect benefits in the calculation of the benefit of ubiquity;
- In each year, non-recurring costs and revenues associated with customer installations in that year are annualized, together with non-recurring costs and revenues from previous years related to customers installed in these years⁵;
- The considered period - 2007 to 2009 - is to include the annualized non-recurring costs and revenues related to installations occurring during the period, notwithstanding that, according to the average lifespan of PTC customers, annualised values are to be considered in the following years;
- Annualised, non-recurring costs and revenues relating to installations occurring in previous years are to be included in the same period⁶, according to the average lifespan of PTC customers.

ICP-ANACOM also allowed that, in the absence of detailed information relating to the period prior to 2007 as would enable the proper identification of customer installations and respective installation costs and revenues, PTC could employ certain approximations to estimate the impact of the annualisation of the revenues and costs of the installations.

The audit report explains how the PTC proceeded to implement the determination of ICP-ANACOM⁷, reporting that PTC followed three steps:

⁵ For an average customer life span of 5 years, in year N, one fifth of the non-recurring costs and revenues relating to new customer installations will be considered, plus one fifth of non-recurring costs and revenues relating to new customer installations in year N-1, one fifth of non-recurring costs and revenues relating to new customer installations in year N-2, one fifth of non-recurring costs and revenues relating to new customer installations in year N-3 and one fifth of non-recurring costs and revenues relating to new customer installations in year N-4.

⁶ Notwithstanding that an unfair burden is only deemed to exist from 2007, the annualisation of non-recurring costs and revenues has had the effect of bringing them into line with investments and respective amortization, whereby these are considered as the annualised values corresponding to installations prior to 2007.

- Step 1: calculation of CLSU (2007-2009) considering the deferral of revenues and costs related to installations occurring in these years;
- Step 2: estimation of the impact, between 2007 and 2009, of the deferral of revenues and costs of installations occurring between 2007 and 2009;
- Step 3: estimation of the impact, between 2007 and 2009, of the deferral of revenues and costs related to installations occurring between 2003 and 2009.

The audit report also noted that the annualisation of non-recurring installation costs and revenues was performed in respect of the components of "non-profitable customers", "non-profitable areas" and "non-profitable public pay-telephones", and in the case of "step 3, "annualisation was only performed with impact on "non-profitable customers "and" indirect benefits", in accordance with ICP-ANACOM's determinations.

The audit report concludes in this regard that: *"overall, the approach followed by PTC is reasonable and in accordance with the guidelines and principles defined by ICP-ANACOM in its relevant decision - 'Decision on the results of the audit on the net costs of the universal service incurred by PT Comunicações, S.A. (PTC) for the 2007 to 2009 financial periods'. We conclude that the methodological assumptions and calculations employed by PTC in respect of the revised estimate of CLSU are reasonable."*

3.3. Modifications resulting from the adoption of the final results of the SCA with respect to 2007-2009

As regards the modifications made in order to reflect the final results of the SCA, in respect of 2007 to 2009, as determined by ICP-ANACOM, the audit report states the following⁸:

"Overall, we found the update of inputs used for the new CLSU estimates (2007-2009) to be consistent with the resubmission of the results of the 2007-2009 SCA."

⁷ See section 3.2 of the audit report.

⁸ See Section 4 of the audit report.

We also found that the adjustments relating to the values of the 2007-2009 SCA were properly effected and introduced into the inputs.

Furthermore, we did not find incoherencies and/or inconsistencies between the new results of the SCA for 2007-2009 and the inputs used in the calculations of the resubmitted CLSU.

We have found, however, that deviations persist with respect to data taken from the SCA and data used in the calculation of the CLSU (see limitations regarding the reconciliation of information sources used by PTC, included in the report of the previous audit⁹, specifically in sections 4.6.2, 5.6.2 and 6.6.2). The existing deviations occur between information derived from the SCA and:

- 1. Traffic volumes used in the Model of Non-profitable Areas*
- 2. Access and traffic revenues used in the Model of Non-profitable Areas*
- 3. Traffic volumes used in the Public Pay-telephone Model and*
- 4. Revenues used in the Public Pay-telephone Model*

Notwithstanding the above, we consider that the explanations provided by PTC as regards matters of reconciliation (and already duly included in the audit report of 25 February 2013) are acceptable in respect of 2007-2009.

It is noted, however, as mentioned in the previous audit report, that the traffic volumes used in the Non-profitable Areas and Non-profitable Public Pay-telephone models are lower than those contained in the SCA. Since these traffic volumes are used to obtain avoidable traffic costs (PxQ) attributable under the CLSU, PTC may be undervaluing the CLSU.

In terms of access and traffic revenues considered in calculating the CLSU, used in the Non-profitable Areas, Non-profitable Customers and Non-profitable Public Pay-telephone models, it is noted that these are, in general terms, higher than as reflected in the SCA, whereby PTC may be undervaluing the CLSU."

⁹ Audit report, "Audit of the estimates of the net costs of universal service provision presented by PT Comunicações, S.A. (2007-2009 financial periods)", 25 February 2013.

In light of the above, the auditors, even while stating that limitations were confirmed by PTC, deemed it advisable "*that PTC make available a total reconciliation of inputs with regard to future years, providing reasonable explanations and supporting documentation for any divergence in the values used.*"

3.4. Key findings of the audit of the 2007-2009 CLSU

Given the above in relation to each of the aspects audited, the audit report concludes that, with the exception of the situations indicated above as concerning existing deviations, the values re-submitted by PTC on 28.06.2013 are consistent with the principles, criteria and conditions stipulated by ICP-ANACOM in its decision on the results of the audit of the CLSU for the 2007-2009 financial years.

The final values of CLSU for the 2007-2009 financial years are reported in the following table.

Table 1 - Final CLSU values for the 2007-2009 financial periods

	2007	2008	2009
CLSU - non-profitable areas	€ 2,428,448.56	€ 1,454,150.48	€ 1,426,418.83
CLSU - non-profitable customers	€ 8,280,339.86	€ 5,382,632.37	€ 8,610,580.04
CLSU - non-profitable public pay-telephones	€ 4,558,600.00	€ 3,329,693.00	€ 4,677,892.00
CLSU - retirees and pensioners	€ 15,246,546.69	€ 14,309,725.04	€ 12,947,532.92
Total CLSU before indirect benefits	€ 30,513,935.10	€ 24,476,200.89	€27,662,423.78
Trade reputation and branding	€ 6,357,761.93	€ 3,677,293.10	€ 3,717,045.74
Advertising in public pay-telephones	€ 355,049.42	€ 407,545.81	€ 539,381.49
Mailing	€ 209,184.66	€ 214,922.03	€ 321,052.75
Ubiquity	€ 6,962.17	€ 8,008.02	€ 9,186.45
Regulation fees	€ 0.00	€ 0.00	€ 18,183.86
Total indirect benefits	€ 6,928,958.17	€ 4,307,768.96	€ 4,604,850.30
Total CLSU after indirect benefits	€ 23,584,976.93	€ 20,168,431.93	€ 23,057,573.48

Source: PTC.

4. ICP-ANACOM's assessment of the audit results

Given the results of the audit conducted by AXON, which concluded that, with the exception of some deviations with respect to the data from the SCA and the data

considered in the calculation of CLSU, the values re-submitted by PTC on 28.06.2013 are in accordance with the principles, criteria and conditions stipulated by ICP-ANACOM, it was deemed by ICP-ANACOM that the audit process did not give rise to any new situation as regards the re-submitted CLSU estimates presented by PTC.

It is noted that the aspects identified with respect to the reconciliation of traffic and revenue data correspond to a situation already reported in the previous audit report; the auditors maintained their view that this may have had the effect of undervaluing the final value of the CLSU, and they also stated that, notwithstanding the situations mentioned, the explanations given by the PTC on the matter, which also appear in the previous audit report, are acceptable as regards 2007-2009.

It is also noted that it was concluded by the auditors that ICP-ANACOM's stipulation of 20.06.2013 was correctly implemented by PTC.

Furthermore, note is made of the determinations imposed pursuant to the decision of 20.06.2013 as regards: (i) the annualisation of non-recurring costs/revenues related to installations, whose impact, in terms of reducing the value of the CLSU for the 2007-2009 period, was estimated at approximately 3.5 million euros, (ii) the correction of the number of access lines in the area model, which is indicated as having a negligible impact on the value of the CLSU, and (iii) alterations in the final results of the SCA, the impact of which had not been estimated, having a considerable effect on the final value of the CLSU, providing for an overall reduction in the 2007-2009 period of 6.7 million euros, i.e., to the order of 9 percent.

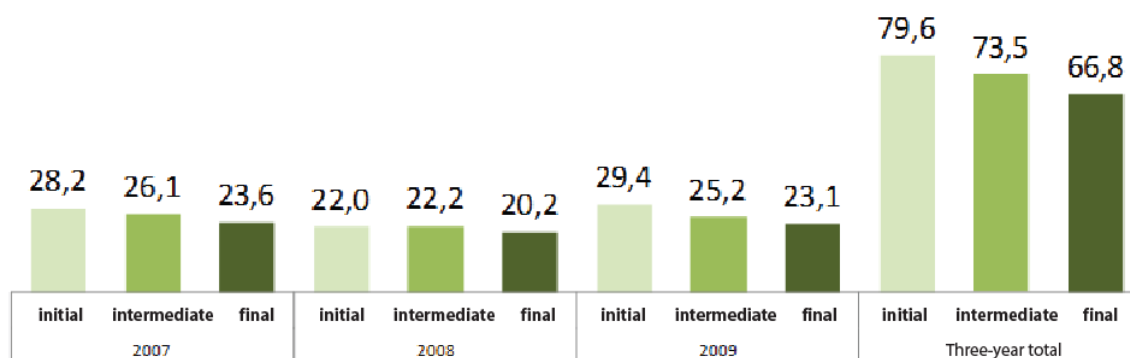
Finally, it is noted that, compared to the CLSU values originally notified by PTC (on 28.11.2011), there has been a total reduction of 12.8 million euros for the whole period, representing a decrease in the CLSU of 16 percent.

The following chapter presents the values of the CLSU and details the respective analysis.

5. Final values of the 2007-2009 CLSU

Graph 1 shows the results of the CLSU for 2007-2009, as initially presented by PTC on 28.11.2011 (initial values), as recalculated by PTC on 19.02.2013 following the preliminary report of the initial audit by SVP and already incorporating the impact of ICP-ANACOM determination of 12.10.2012 (intermediate values), and as recalculated and presented by PTC on 28.06.2013 following ICP-ANACOM decision of 20.06.2013 (final values).

Graph 1 - CLSU estimates for the years 2007 to 2009



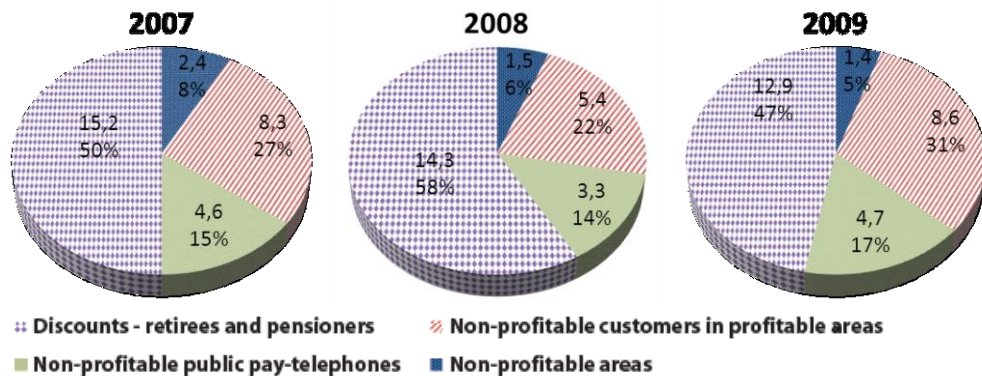
Source: PTC. Amounts in millions of euros.

As can be seen from the graph above, CLSU estimates for the years 2007 to 2009 decreased by 19 percent from the initial values to the final values now determined. This decrease stems from the identification of issues during the audit process and from ICP-ANACOM determinations - on 12.10.2012, the determination on the implementation of the concept of "unusually high access costs" and on 20.06.2013, especially as regards the treatment of non-recurring installation costs (and respective revenues) in calculating the CLSU associated with non-profitable customers (one-off costs). In absolute terms this decrease corresponds to a reduction of 12.8 million euros for the three-year period in question, with an average annual value of CLSU for the relevant years of 22.3 million euros.

The following graph shows the development, in terms of presented net costs, for the final values obtained in each of the CLSU models, specifically as regards non-profitable areas, non-profitable customers in profitable areas, public pay-telephones and retirees and

pensioners¹⁰, showing the weight of each of these components in the CLSU total before indirect benefits.

Graph 2 - Net costs before indirect benefits by component (2007-2009)



Source: PTC and ICP-ANACOM calculations. Absolute values expressed in millions of euros.

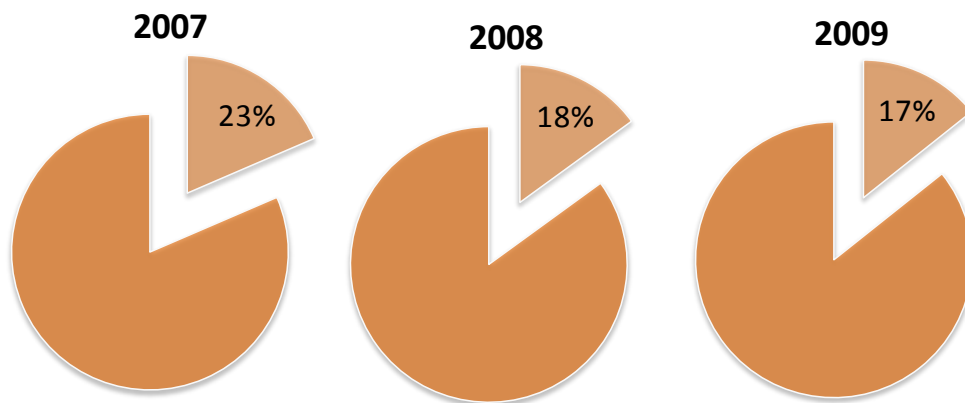
It is found that the component which takes greater weight in total net costs before indirect benefits is that of discounts provided to retirees and pensioners - near or even above 50 percent - followed by the component related to non-profitable customers in profitable areas - above 20 per cent.

The non-profitable public pay-telephone component is the third largest in terms of weight in the CLSU total with about 15 percent. Finally, it is seen that the component with least weight is that associated with non-profitable areas, with an expression in the range of 5 to 8 percent.

Meanwhile the value of indirect benefits in 2008/2009 is less relevant in terms of the reduction in the total value of costs (i.e., in the determination of CLSU), compared to 2007. Nevertheless, and as can be seen in the graph and table below, the weight of indirect benefits in the decline in the value of CLSU before indirect benefits remains significant - over 16 percent.

¹⁰ Note is made to the difference between avoidable costs and lost revenues.

Graph 3 - Weight of indirect benefits in total CLSU before indirect benefits



Source: PTC and ICP-ANACOM calculations.

Table 2 - Final values of indirect benefits (2007-2009)

	2007	2008	2009
Indirect benefits	6.9	4.3	4.6

Source: PTC. Amounts in millions of euros.

The total value of indirect benefits saw a significant decrease from 2007 to 2008 (-38 per cent). This reduction results from the significant decrease in the value associated with the benefit of trade reputation and stronger branding (-42 percent from 2007 to 2008).

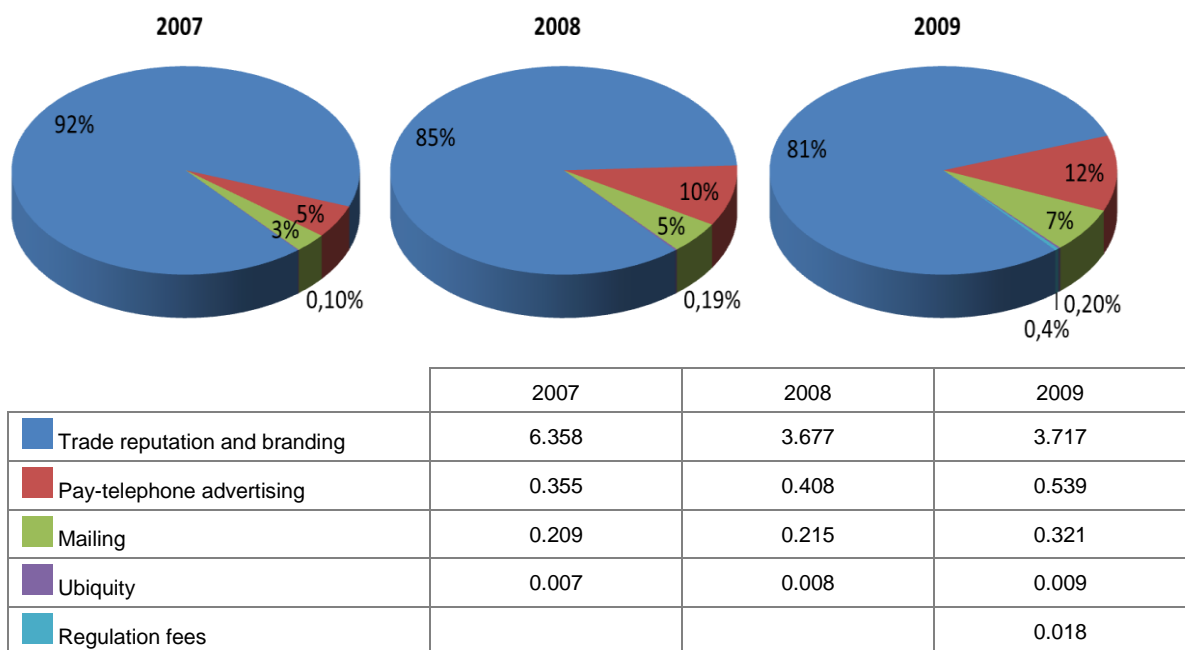
Trade reputation and stronger branding is, in any case, the most expressive indirect benefit in terms of total benefits, with a weight of over 80 per cent in each of the years in question. In absolute terms, the values reported for this benefit during the period being reported fluctuate; this fluctuation results from variations in the valuation given to the "Portugal Telecom" brand in the studies of the European Brand Institute (EBI), as considered for the purposes of determining this indirect benefit.

Public pay-telephone advertising was the second largest component in terms of weight in the total value of indirect benefits and has also reported growth in absolute and relative terms over the period, as can be seen in the graph below.

"Mailing" is the third most significant benefit over the entire period with a maximum weight in total benefits ranging from 3 to 7 percent. The absolute value of this benefit has seen an increase over the period.

The indirect benefit of "ubiquity" is observed as having little importance in terms of total indirect benefits - registering a maximum weight in the period of 0.2 percent - with an upward trend reported in the 2007-2009 period. And the indirect benefit associated with "regulation fees", applicable only in 2009 during the years in question, had a weight that year of 0.4 per cent in the total value of indirect benefits, which underlines its lack of expression.

Graph 4 - Final values of indirect benefits by type of benefit (2007-2009)

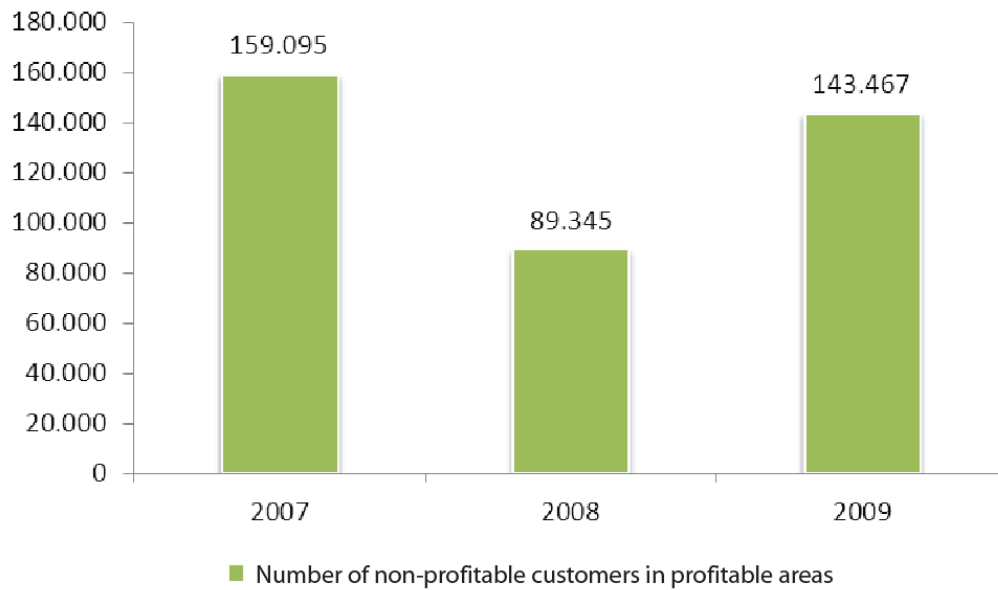


Source: PTC and ICP-ANACOM calculations. Amounts in millions of euros.

It is also important to note other data extracted from the CLSU calculation model: the CLSU calculation model covers 1853 areas, with 45 areas considered as non-profitable in the years in question (2.4 percent of the total), comprising 0.7 to 0.8 percent of total customers, as identified in the following table. This number of areas already reflects the application of plausibility criteria and is limited to areas that are non-profitable in all years considered.

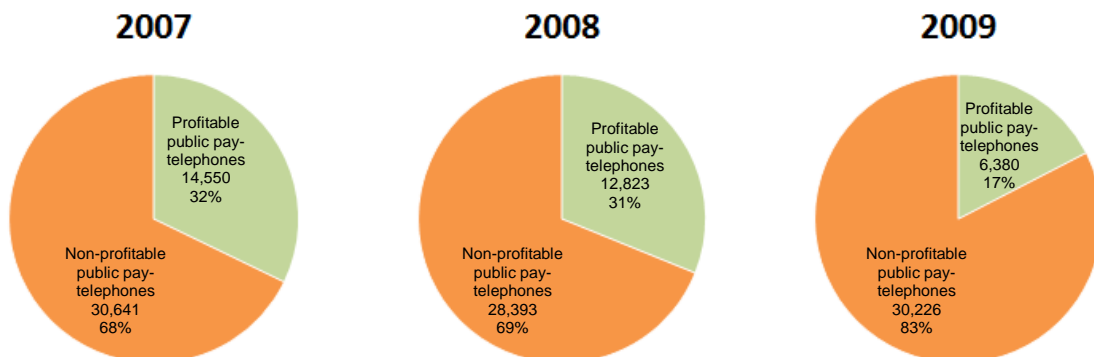
- the number of beneficiary retirees and pensioners with specific offers, declining significantly between 2007 and 2009, decreasing 15 per cent between these two years.

Graph 5 - Number of non-profitable customers in profitable areas



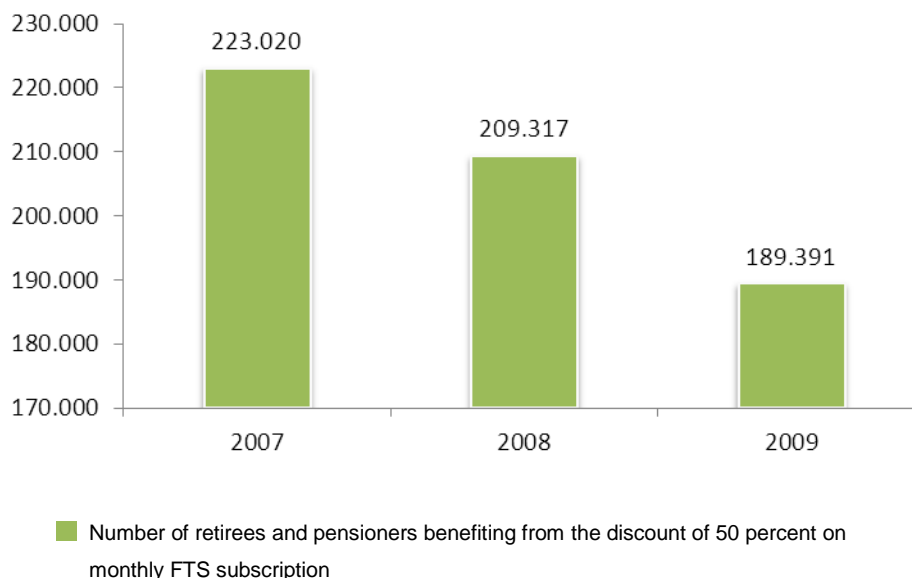
Source: PTC.

Graph 6 - Number of profitable and non-profitable public pay-telephones in all areas



Source: PTC and ICP-ANACOM calculations.

Graph 7 - Number of retirees and pensioners benefiting from the discount of 50 percent on monthly FTS subscription (also includes WLRO beneficiaries)



Source: PTC.

As regards the evolution of values over the 2007-2009 period, it is noted that the CLSU were obtained using, as a starting point, the data inputs presented by PTC in the respective SCA of each of the years in question, which in turn was also subject to auditing and which dictated in part the need to re-submit the values of the CLSU. Accordingly, the variations in the CLSU values also result from variations observed in the values of costs and revenues contained in the SCA, arising, in particular and in the first case, from changes in net assets, with direct impact on amortisation costs.

In particular, it is noted that between 2007 and 2008 and between 2008 and 2009, there has been a reduction in total avoidable costs and total lost revenues (considering all areas and all customers). Nevertheless, between 2007 and 2008, this decrease exceeded the decline in revenues. This explains the significant reduction in the number of non-profitable customers over this period, as well as the net cost associated with these customers. Between 2008 and 2009, even though total avoidable costs and total lost revenues both continued to decline, the situation is reversed, so that the reduction in costs was smaller than the drop in revenues - this led to a significant increase in the number of non-profitable customers in profitable areas and in the respective CLSU.

It is also noted that the significant variation in the number of customers also results from the fact that, given the referred fluctuations in revenues and costs, there is a fringe of customers on the threshold of profitability. As such, even small changes, but of different proportions, in total costs and revenues, have a substantial impact on the total number of non-profitable customers and on the CLSU of these customers.

It is also shown that, in line with the overall results for total avoidable costs and total lost revenues (considering all areas and all customers), the costs and total specific revenues associated with public pay-telephone have also declined over the period. In this case, the results for 2009 show a sharp reduction, compared to 2008, in total lost revenues; this reduction was not matched by a significant reduction in total avoidable costs, which together dictate an increase in the number of non-profitable public pay-telephones in 2009, albeit it at a level lower than in 2007.

6. Conclusion and Determination

Whereas:

- a. In accordance with paragraph 4 of article 96 of the LCE, on 09.06.2011, ICP-ANACOM ordered PTC to present the preliminary calculation of CLSU;
- b. On 28.11.2011, PTC submitted CLSU estimates to ICP-ANACOM for 2007, 2008 and 2009, which were subject to auditing;
- c. During the audit, on 19.02.2013, PTC sent new CLSU estimates, while the auditors concluded that *"in general, the results and calculations reviewed by PTC are in accordance with the principles, criteria and conditions laid down in the determinations of ANACOM, and the data, assumptions and calculations used are sufficiently appropriate"*; however, as exceptions to this conclusion, three aspects were cited as having minor to negligible impact on the results and one aspect, regarding the treatment of non-recurring costs and revenues with respect to non-profitable customers in profitable areas, was cited as having material impact on the results;

- d. On 20.06.2013, ICP-ANACOM approved a decision on the results of the audit of the CLSU of PTC in respect of the 2007 to 2009 financial years, noting that the CLSU calculation estimates presented by PTC on 19.02.2013 *"are generally in compliance with the methodology for calculation of CLSU as defined by ICP-ANACOM, that their distinctive features are duly justified and deemed to be reasonable, and that discrepancies identified, namely at the level of reconciliation of CLSU values with information in the SCA, correspond to situations which were duly justified and which result in the underestimation of CLSU, thus they are without prejudice to other companies, such as those that may contribute to universal service financing, along with PTC itself"*;
- e. In this decision, ICP-ANACOM ordered PTC to re-submit new CLSU estimates for 2007-2009 so as to reflect the final results of the SCA for 2007-2009, and in particular the stipulations of points 1 e) and 1g) of the decision, as regards the consideration of non-recurring installation costs/revenues in an annualised manner and as regards correction to the area model as regards the number of access lines; these estimates were likewise made subject to a new audit procedure.
- f. On 28.06.2013, PTC submitted new CLSU estimates for the 2007-2009 period, in compliance with ICP-ANACOM's determination of 20.06.2013, on the results of the audit of the CLSU of PTC for the years 2007-2009;
- g. These estimates were subject to new auditing performed by AXON, which had already performed the first audit;
- h. This first audit took place between 28.06.2013 and 25.07.2013 and sought to verify, following this decision of 20.06.2013, conformity of the re-submitted values with changes made to the SCA used by PTC with respect to these years and compliance with the stipulations of points 1 e) and 1g) of this decision with regard to the consideration of non-recurring installation costs/revenues in an annualised manner and as regards correction of the area model as to the number of access lines;
- i. The auditors concluded that, with the exception of the situations referred to as regards the reconciliation, which may undervalue the CLSU, the values re-

submitted by PTC on 28.06.2013 are now in accordance with the principles, criteria and conditions stipulated by ICP- ANACOM;

- j. The situations referred to in the preceding paragraph, concerning reconciliation correspond to a situation already reported in the previous audit report; the auditors maintained their view that this may have had the effect of undervaluing the final value of the CLSU, and they also stated that, notwithstanding the situations mentioned, the explanations given by the PTC on the matter, which also appear in the previous audit report, are acceptable for 2007-2009;
- k. The determinations imposed by ICP-ANACOM pursuant to the decision of 20.6.2013 had a considerable impact on the final value of the CLSU, providing for an overall reduction in the 2007-2009 period of 6.7 million euros, i.e., to the order of 9 percent.
- l. The declaration of conformity issued by Grant Thornton states the following:

"Accordingly, we are of the opinion that, with the exception of the situations described in paragraph 10 above, which may have the effect of undervaluing the CLSU, the reformulated estimates of the net costs of Universal Service provision as presented by PTC for the years 2007-2009 are consistent with the methodology, assumptions and determinations of ICP-ANACOM contained in the Technical Specifications and correspond to the following values:

- *Year 2007: 23,584,976.93 euros (twenty-three million, five hundred and eighty-four thousand, nine hundred and seventy-six euros and ninety-three cents);*
- *Year 2008: 20,168,431.93 euros (twenty million one hundred and sixty-eight thousand, four hundred and thirty-one euros and ninety-three cents);*
- *Year 2009: 23,057,573.48 euros (twenty-three million, fifty-seven thousand, five hundred and seventy-three euros and forty-eight cents);*

resulting, for the 2007-2009 period, in a total amount of 66,810,982.35 euros (sixty-six million, eight hundred and ten thousand, nine hundred and eighty-two euros and thirty-five cents)";¹¹

- m. The general consultation procedure and prior hearing of interested parties was conducted over 20 working days, in accordance with the provisions of article 8 of the LCE and with articles 100 and 101 of the CPA - Código de Procedimento Administrativo (Administrative Proceeding Code); in response to these procedures, contributions were received from six operators, which were summarized and analysed in the report of the public consultation and prior hearing, which report forms part of this decision;
- n. The contributions received pursuant to the general consultation procedure and the prior hearing essentially reiterate the aspects which had already been raised pursuant to the consultation conducted on the draft decision of 11.04.2013;

Pursuant to the powers set out in points b) and d) of paragraph 1 of article 6 of ICP-ANACOM's Statutes, as approved by Decree-Law no. 309/2001 of 7 December, and in the exercise of its powers and responsibilities as set out in articles 95 and 96 of Law no. 5/2004 of 10 February, as amended and republished by Law no. 51/2011 of 13 September, the Management Board of ICP-ANACOM determines:

While taking into account the results of the audit and respective declaration of conformity, to approve the latest accounts submitted by PT Comunicações, S. A., on 28.06.2013, and determine that the final values of the CLSU are those expressed in the following table for the 2007 to 2009 financial periods.

Table 4 - Final CLSU values in respect of the 2007 to 2009 financial years

	2007	2008	2009
CLSU	23,584,976.93 euros	20,168,431.93 euros	23,057,573.48 euros

¹¹ It is noted that paragraph 10, as referenced by the declaration of conformity, referred to the identified differences in reconciliation

ANNEX

**REPORT ON THE AUDIT OF THE REFORMULATED ESTIMATES OF THE NET
COSTS OF UNIVERSAL SERVICE PROVISION AS SUBMITTED BY PT
COMUNICAÇÕES, S.A. (2007 TO 2009 FINANCIAL YEARS) AND RESPECTIVE
DECLARATION OF CONFORMITY**