

**Decision on request submitted by CTT, pursuant to article 6 of the *Convénio de Qualidade* (Quality Convention) of the universal postal service of 10 July 2008, to discount records related to non-priority and priority mail affected by the general strike of 27 June 2013, for purposes of calculating the QSI defined in the Quality Convention**

1. The *Convénio de Qualidade* (Quality Convention) of the universal postal service, agreed on 10 July 2008 between ICP - Autoridade Nacional de Comunicações (ICP-ANACOM) and CTT - Correios de Portugal, SA (CTT), provisionally in force under article 7 of article 57 of Law no. 17/2012 of 26 April, establishes, on an annual basis, the parameters and minimum levels of quality of the universal postal service which CTT undertakes to provide<sup>1</sup>.
2. In article 6, paragraph 1 of the *Convénio de Qualidade* (Quality Convention), it is established that "should any force majeure or phenomenon situation take place, the instigation and evolution of which are clearly outside the control of CTT, and have an impact on the quality of service provided by CTT, the latter may request, for the purpose of calculation of the quality of service indicators (QSI) [...], the discounting of records for the concerned periods of time and geographic flows."
3. Paragraph 2 of the same article states that the force majeure or phenomenon situations mentioned in paragraph 1 "shall be deemed to mean unpredictable or insurmountable natural events and/or facts attributable to third parties, that are triggered, evolve, or the effects of which occur regardless of CTT's will and ability to control, such as war, subversion, epidemics, cyclones, earthquakes, fire, lightning, floods, general strikes and any other similar events that may impair normal conditions of clearance, sorting, transport and distribution of postal items."

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<sup>1</sup> Vide '[Universal postal service quality convention](#)'.

4. The request to discount records must be presented by CTT, on a reasoned basis, within a maximum period of 60 (working) days following the date of the occurrence, in accordance with paragraph 4 of article 6 of the *Convénio de Qualidade* (Quality Convention).
5. The decision whether or not to consider any request made by CTT falls, under paragraph 5 of the same article 6, to ICP-ANACOM, and is to be notified to CTT within 30 (working) days from the date on which the request is received; in the event that the request is denied, the respective decision is to be duly reasoned. Irrespective of whether a request to discount records is presented, CTT remains bound to find the best alternatives during periods in which any situations referred to in paragraphs 1 and 2 of article 6 occur.
6. It is well known, given widespread reporting, that there was a general strike of workers on 27 June 2013, which, according to the media, saw participation by CTT employees.
7. CTT, by letter dated 29.08.2013, reported that on 27.06.2013 there was a general strike called by the general CGTP and UGT trade union; the strike saw participation by trade unions representing CTT employees, resulting in a staff stoppage which had overall participation of 18.4 percent at CTT, with higher levels of participation in the operational services of mail sorting and transportation (32.1 percent) and distribution (23.2 percent). This hampered the normal functioning of the postal network nationally.
8. In the same letter, CTT informed that, in order to minimize the likely impact of the referred strike of the postal service, a plan for strengthening operational activities was developed in the days before and after the general strike, which included: (i) the enhance of handling operations in the days before and after the strike, to enable the increase of automatically-divided mail; the strengthening of distribution in the days before the strike, to accelerate the delivery of mail accepted in this period; (iii) the promotion of contacts with the largest customers, so that their mail could be sent beforehand and delivered on dates before the general strike.
9. According to CTT, and notwithstanding implementation of the measures put in place and their maintenance in the days following the strike, the strike occurring on

27.06.2013 caused delays in the routing and delivery of postal items, which affected the accomplishment of quality of service during June and July 2013.

10. CTT also reported that given the transit time of the various services, the biggest impact on quality was seen in terms of priority mail / *correio azul*, as well as, albeit to a lesser extent, non-priority mail.

11. Invoking the nature and causes of the exceptional situation occurring on 27.06.2013 due to reasons whose instigation and effects were beyond the control of the company, CTT submitted a request to ANACOM pursuant to and for the purposes of Article 6 of the *Convénio de Qualidade* (Quality Convention); in this request, CTT requested that, in calculating the QSI in respect of June and July 2013, records be discounted as covering the sending of priority mail and non-priority mail, on the following routes and in the following periods:

- i) *correio normal* (non-priority mail) sent from 24 to 27 June (inclusive) on all national routes;
- ii) *correio azul* (priority mail) sent on 26 and 27 June on Mainland routes;
- iii) *correio azul* (priority mail) sent from 25 to 27 June (inclusive) on routes between the Mainland, the Azores and Madeira.

12. Given the standard of the service of:

- a) *correio normal* (non-priority mail) - delivery within 3 working days following acceptance - the strike may affect non-priority mail sent between 24 and 27 June;
- b) *correio azul* (priority mail) on Mainland routes - delivery 1 working day following acceptance - may affect priority mail sent between 26 and 27 June in the Mainland;
- c) *correio azul* (priority mail) on Mainland-Azores-Madeira routes - delivery within 2 working days following acceptance - the strike may affect priority mail sent between 25 and 27 June on routes between the mainland, the Azores and Madeira.

13. The facts, as claimed by CTT, constitute a situation of force majeure, comprising a general strike as foreseen under paragraph 2 of article 6 of the *Convénio de Qualidade*, triggered, evolving and having effects regardless of CTT's will and ability to control, impairing normal conditions of clearance, sorting, transport and distribution of *correio normal* (non-priority mail) and *correio azul* (priority mail) postal items on all national routes.

14. Therefore, considering:

- i) the information communicated by CTT, by letter dated 29.08.2013;
- ii) the provisions of paragraphs 1 and 2 (as referred to above) of article 6 of the *Convénio de Qualidade* (Quality Convention);
- iii) that on 27.06.2013, a general strike took place in Portugal;
- iv) that the stoppage caused by the general strike affected the sending of non-priority and priority mail, which affected the accomplishment of quality of service:
  - with respect to *correio normal* (non-priority mail) sent on 24 to 27 June (inclusive), on national routes;
  - with respect to *correio azul* (priority mail) sent on 26 and 27 June, on Mainland Routes;
  - with respect to *correio azul* (priority mail) sent on 25 to 27 June (inclusive), on routes between the Mainland, the Azores and Madeira;
- v) that the facts, as claimed by CTT, constitute a situation of force majeure, comprising a general strike as foreseen under paragraph 2 of article 6 of the *Convénio de Qualidade* (Quality Convention), triggered, evolving and having effects regardless of CTT's will and ability to control, impairing normal conditions of clearance, sorting, transport and distribution of non-priority mail and priority mail;
- vi) that, in accordance with article 10 of the *Convénio de Qualidade* (Quality Convention), CTT shall send to ICP-ANACOM quarterly reports, by the end

of the month following the end of the quarter, which reports shall show the evolution of QSI values accomplished, and shall enable the monitoring of these values,

- vii) that the decision is favourable to CTT and meet the latter's request, the conditions for waiving CTT's prior hearing have been fulfilled, under paragraph 2 b) of article 103 of the Administrative Procedure Code<sup>2</sup>;

the Management Board of ICP-ANACOM, in the exercise of powers conferred under article 6, paragraph 1 b), d), h) and n), and article 26 b), all of its Statutes, approved by Decree-Law No 309/2001, of 7 December, as well as under paragraph 1 of article 8 of Law No 17/2012, of 26 April, and pursuant to paragraph 5 of article 6 of the Universal Postal Service Quality Convention, of 10 July 2008, as amended on 10 September 2010, hereby determines as follows:

1. To allow the discount of records regarding the sending of *correio normal* (non-priority mail) and *correio azul* (priority mail) directly affected by the general strike of 27.06.2013, which relates to non-priority and priority mail, on the following routes and in the following periods:
  - i) *correio normal* (non-priority mail) sent from 24 to 27 June (inclusive) on all national routes;
  - ii) *correio azul* (priority mail) sent on 26 and 27 June on Mainland routes;
  - iii) *correio azul* (priority mail) sent from 25 to 27 June (inclusive) on routes between the Mainland, Azores and Madeira;
2. To order CTT that it send to ICP-ANACOM, within not more than fifteen working days:
  - i) The QSI values obtained in 2nd quarter of 2013 with and without the discounting of the records in question;
  - ii) Data, preferably in an Excel or Access file, on each of the records deducted by CTT in the calculation of the respective QSI, namely: mail item

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<sup>2</sup> Which provides that the examining body is entitled to waive the prior hearing of interested parties where the elements of the procedure lead to a favourable decision to interested parties.

identifying code, expected and actual delivery date, mail item origin and destination, distribution date, transit time;

3. To order CTT, when calculating QSI figures for the whole year of 2013, to submit to ICP - ANACOM values obtained with and without the deduction of the referred records, the deduction of which was approved by ICP - ANACOM under article 6 of the Quality Convention, as well as a copy of the database used to calculate QSI defined in the Quality Convention, with and without records deducted in 2013;
4. To waive the prior hearing of CTT, under paragraph 2 b) of article 103 of the Administrative Procedure Code.