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Determination of 18.7.2007

ICP-ANACOM's decision on values of quality of service indicators realised by CTT – Correios de Portugal, S.A. in 2006

1. The Universal Postal Service Quality Convention (Quality Convention)¹, concluded on 21/04/2006 between ICP- Autoridade Nacional de Comunicações (ICP-ANACOM) and CTT - Correios de Portugal, S.A. (CTT), pursuant to clause 12 of the Universal Postal Service Concession Contract, of 01/09/2000 (Concession)², and to paragraph 5 of article 8 of Law no. 102/99, of 26/07 (Basic Law)³, sets out and publishes the parameters and the minimum levels of quality of service associated to the provision of the universal postal service which CTT is required to provide for 2006.
2. According to the Quality Convention (article 10, paragraph 1), ICP-ANACOM must monitor values realised by CTT, concerning QSI evolution, on a quarterly basis.
3. The Quality Convention establishes (article 5, paragraph 1) that failure to comply with the referred levels of quality of service affects variations of prices defined for reserved services provided for in the Universal Postal Service Price Convention (Price Convention)⁴, under the terms and percentages provided for in paragraph 2 of the Annex to the Quality Convention, taking effect solely and exclusively on prices for the year subsequent to that in which the non-compliance has taken place. Situations of non-compliance are monitored by ICP-ANACOM, having heard the CTT (article 5, paragraph 2).
4. Within this context, CTT submitted values of QSI realised in 2006, through letter no. 50214 of 05/03/2007, complemented by letter no. 50303 of 27/03/2007.

¹ <http://www.anacom.pt/template12.jsp?categoryId=191422>.

² Concluded pursuant to Decree-Law no. 448/99, of 04/11 (<http://www.anacom.pt/template20.jsp?categoryId=5855&contentId=17286>), as amended by Decree-Law no. 116/2003, of 12/06 (<http://www.anacom.pt/template20.jsp?categoryId=17566&contentId=111971>).

³ <http://www.anacom.pt/template20.jsp?categoryId=17566&contentId=121497>, as amended by Decree-Law no. 116/2003, of 12/06 (<http://www.anacom.pt/template20.jsp?categoryId=17566&contentId=111971>).

⁴ <http://www.anacom.pt/template12.jsp?categoryId=191402>.

5. Values reported by CTT for 2006 are summarized in the following table.

QUALITY OF SERVICE INDICATORS		Quality Convention			Quality of service realised in 2006
		RI (%)	Defined value		
			Min.	Obj.	
QSI1	Transit time for non-priority mail (D+3)	45,0	95,5%	96,3%	94,9%
QSI2	Transit time for priority mail - Mainland (D+1)	15,0	93,5%	94,5%	92,6%
QSI3	Transit time for priority mail - CAM (D+2)	4,0	84,0%	87,0%	89,0%
QSI4	Non-priority mail not delivered within 15 working days (per one thousand letters)	5,0	2,3‰	1,4‰	1,3‰
QSI5	Priority mail not delivered within 10 working days (per one thousand letters)	3,0	2,5‰	1,5‰	1,6‰
QSI6	Transit time for newspapers and periodicals (D+3)	11,0	95,5%	96,3%	94,7%
QSI7	Transit time for intra-community cross-border mail (D+3)	3,5	85,0%	88,0%	93,4%
QSI8	Transit time for intra-community cross-border mail (D+5)	3,5	95,0%	97,0%	98,7%
QSI9	Transit time for non-priority parcels (D+3)	5,0	90,5%	92,0%	93,1%
QSI10	Waiting time at post establishments (up to 10 minutes)	5,0	75,0%	85,0%	92,6%
OI - QUALITY OF SERVICE OVERALL INDICATOR		N/A	N/A	N/A	49

Source: CTT, except for OI, calculated by ICP-ANACOM.

Notes: RI – Relative importance.

Min. – Minimum value.

Obj. – Objective value.

N/A - Not applicable.

6. It follows from the referred QSI values reported by CTT that:

- i) Values of the following QSI are lower than the Minimum value:
 - QSI1 - Transit time for non-priority mail (D+3);
 - QSI2 - Transit time for priority mail - Mainland (D+1);
 - QSI6 - Transit time for newspapers and periodicals (D+3);
- ii) The value achieved by CTT for QSI5 (Priority mail not delivered within 10 working days) falls between the defined Minimum and Objective values;
- iii) Values of the following QSI have exceeded the Objective value:
 - QSI3 - Transit time for priority mail - CAM (D+2);
 - QSI4 - Non-priority mail not delivered within 15 working days;
 - QSI7 - Transit time for intra-community cross-border mail (D+3);
 - QSI8 - Transit time for intra-community cross-border mail (D+5);
 - QSI9 - Transit time for non-priority parcels (D+3);
 - QSI10 - Waiting time at post establishments (up to 10 minutes);
- iv) The Quality of Service Overall Indicator is lower than 90.

7. According to CTT (letter no. 50214, of 05/03/2007), the quality of service realised in 2006 was (negatively) influenced by a set of events, the outbreak and evolution of which were, according to that operator, manifestly outside CTT's capacity of control, namely:

- a) National strikes in the 2nd quarter of 2006:
 - i) General strike of 28/04/2006;
 - ii) Strike by handling staff (from 24/04/2006 to 04/05/2006 and from 22/05/2006 to 26/05/2006);
- b) National strikes in the 4th quarter of 2006:
 - i) Strike by handling and distribution staff (04/12/2006);
 - ii) Strike by transport staff (from 30/11/2006 to 04/12/2006);
 - iii) General strike of 27/12/2006;
- c) Other protracted external restrictions on the operational system, relating to the workforce:
 - i) Local strikes;
 - ii) General strike against additional work, the legal imposition of which prevents its substitution for alternative working arrangements,

notwithstanding the introduction of several corrective measures and the reinforcement of control action (such as the activation of contingency plans, the reinforcement of available distribution means and the development of a program acknowledging the performance of operational teams) in order to head back to levels achieved in early 2006.

8. It should be noted that CTT had requested of ICP-ANACOM, through letter no. 50768, of 14/07/2006, under paragraph 1 of article 6 of the Quality Convention, to deduct records directly affected by the strike carried out by the company's workers on 28/04/2006, for the purposes of the calculation of QSI defined in the Quality Convention. This request was rejected by ICP-ANACOM, having heard CTT, by determination of 09/11/2006⁵. In summary, ICP-ANACOM considered that circumstances described by CTT did not fall within the category of "force majeure" or phenomenon situations, whose burst and evolution are clearly outside the control of CTT, and thus such circumstances do not merit consideration for the purposes of the activation of the referred deduction mechanism provided for in paragraph 1 of article 6 of the Quality Convention.
9. The above-mentioned strikes and corrective measures, in this last case aiming at recovering levels of quality of service, had been also reported by CTT in the scope of monitoring quarterly reports of IQS values, for the 2nd and 3rd quarters of 2006 (CTT letters nos. 50852 and 51089, respectively of 04/08/2006 and 06/11/2006).
10. The Quality Convention establishes (article 5 and paragraph 2 of the Annex) that in case any IQS is below the minimum values, a percentage is deducted from the weighted average of the variation in prices of reserved services allowed for 2007, corresponding to the relative importance (RI) of the QSI multiplied by the

⁵ Determination of 09/11/2006 (<http://www.anacom.pt/template31.jsp?categoryId=219703>).

maximum deduction (1%). Where the OI is lower than 90, the deduction associated to the various QSI does not apply, a deduction by 1% to the weighted average of the variation in prices of reserved services allowed for 2007 being provided for.

11. It should be noted that provision has not been made for any other reduction or means of making more flexible the deduction that results from the application of the referred mechanism. Nevertheless, it is acknowledged that, in the future, and for a limited period of time, namely until full liberalization of the sector, and taking into account the increased effort to rationalise resources and to improve effectiveness to which the concessionaire will be subject due to the likely universal service cost reduction, there may be grounds to consider a new provision within the Quality Convention enabling the modulation of a deduction to be applied in case of failure to comply with levels of quality of service.
12. According to paragraph 1 of article 8 of the Price Convention, of 21/04/2006, the weighed average of the variation in prices of reserved postal services must not exceed RPI -0.3%, in nominal terms, for 2007.
13. RPI being 2.1% [according to point k) of article 3 of the Price Convention, RPI means the level of inflation officially expected for 2007 by the Government and referred to as such in the State Budget Report for 2007], the weighed average of the variation in prices of reserved postal services may not exceed 1,8%, in nominal terms, for 2007.
14. The weighed average of the variation in prices of reserved postal services implemented by CTT in 2007 is 1,8%, following determination of ICP-ANACOM, of 14/12/2006⁶, not to oppose to the proposal submitted by that operator.
15. The application of the deduction by 1%, referred in point 10, implies that the weighed average of the variation in prices of reserved postal services, for 2007, may not exceed RPI -0.3%-1%, thus this variation may not exceed 0,8%.
16. Therefore, the Board of Directors of ICP-ANACOM, in the scope of assignments conferred thereupon by points b), d), h) and n) of paragraph 1 of article 6, pursuant to article 10 and to point b) of article 26, all of the Statutes approved by Decree-Law no. 309/2001, of 7 December, under article 5 and paragraph 2 of the Annex to the Universal Postal Service Quality Convention, and article 10 of the Universal Postal Service Price Convention, both concluded between ICP-ANACOM and CTT on 21 April 2006, having heard CTT in compliance with articles 100 and 101 of the Code of Administrative Procedure, taking also into account the grounds put forward in the prior hearing report, which is an integral part hereof, hereby determines the following:
 - 1) To apply a deduction by 1% to the weighted average of variation in prices of services reserved to the CTT, allowed for 2007;

⁶ <http://www.anacom.pt/template31.jsp?categoryId=225343>.

- 2) To determine that CTT must submit a proposal to ICP-ANACOM, within 20 working days from the date of notification hereof, implementing the provision of the preceding point, which must be applied by the end of the year, and not before 20 days have elapsed from the reception thereof at ICP-ANACOM's premises.

Lisbon, -- ----- 2007.