

**Comments to the final report of the study “Main Developments in the postal sector (2006-2008)”, Ecorys, 11 September 2008**

The study is a helpful source of information as per the main developments of the postal sector in the EU, as per the practical experience and practices of each EU Member State. It is thus important to clarify some factual information about Portugal. For this, please refer to the specific comments mentioned below.

Some remarks are due concerning the general assessment of Ecorys about the level of application of articles 12 to 14 of the Postal Directive, related to the application of tariff principles and transparency of accounts (pages 30, 31 and 71 to 74 of the report).

In this respect it must be emphasized that no specific questions, or information request, was made in order to acknowledge, for example, the level of detail of information on costs that is reported by the USP to the Portuguese NRA, the analysis and control procedures by the NRA on those costs and on the analytical cost accounting system that produces those costs, the way that information is considered in the regulation of tariffs of the USP.

Moreover, about price regulation Ecorys assesses (page 77) that “little appears to have changed for those Member States that have retained the reserved area at 50 grams”. Although it is not entirely understandable the range of that assessment, in relation to Portugal it is important to stress that although in general terms the price and quality of service control methodology has been relatively unchanged, in practice the revisions of the price and quality of service controls, namely the one implemented in the course of 2008 (please refer to page 757 of the Portuguese country sheet), were a result of a in depth analysis in terms of the provision of the universal service and its obligations.

## **SPECIFIC COMMENTS**

### **CHAPTER 2 (Developments in the regulatory framework)**

#### **Chapter 2.2.3 (Postal products in the universal service)**

Table 2.3, page 48:

- According to table 2.3, money orders are part of the universal service. Please note that money orders are not part of the universal service in Portugal - please refer to article 6 of Law 102/99 of 26 of July<sup>1</sup>, amended by Decree-Law 116/2003 of 12 of June<sup>2</sup>, and to e-mails sent to Ecorys in 13/03/2008 and 12/06/2008;

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<sup>1</sup> <http://www.anacom.pt/render.jsp?contentId=17279>.

- According to table 2.3, compensation fund is a service included in the definition of universal service. This information is misleading. Compensation fund is not a service and is not included in the definition of the universal service. A compensation fund is a mechanism that can be established to finance the net costs, if any, of providing the universal service obligations;
- According to table 2.3 “bulk mail” is not part of the universal service in Portugal. It is important to clarify that in Portugal there is not a definition for “bulk mail” and the number of items sent is not a criterion for determining if a service is, or not, part of the universal service; any service that is part of the universal service, as for example letter mail, is considered as universal service irrespective of the number of items sent by the sender (please refer to e-mail sent to Ecorys in 15/07/2008).

## **Chapter 2.3 (The reserved area) and 2.7 (Summary of main findings, analysis and conclusions)**

### Pages 56 and 68:

According to the study, “Portugal has included registered and insured items in the reserved area, including the serving of summons of judicial notifications by post”. It needs to be clarified that those services are reserved only if their price is lower than two and a half times the public tariff for an item of correspondence in the first weight step of the fastest category and their weight is lower than 50 grams (please refer to chapter 1.3.3 in the Country sheet).

## **Chapter 2.4 – Licensing and authorisation**

### Table 2.6, Page 58:

According to the table, there are 18 licenses in Portugal. That correct number is 10 (ten), including the Universal Service Provider (USP) – please refer to table 0.18 in the Country sheet.

## **Chapter 2.4.1 – Licensing conditions**

### Pages 60 e 61:

According to the study (page 61), in addition to the essential requirements and those to safeguard the universal services, Portugal posed additional requirements that are not sanctioned by the Directive. These requirements are related to “technical or operational competence”.

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<sup>2</sup> <http://www.anacom.pt/render.jsp?contentId=111985>.

Please note that these referred conditions, attached to the licences and authorisations for operators to provide non-reserved services, are designed only to the extent necessary in order to guarantee compliance with the essential requirements (please refer to Decree-Law 150/2001 of 7th of May<sup>3</sup>, article 18, nr. 1, line c), as changed by the above mentioned Decree-Law 116/2003 of 12th of June).

### Chapter 2.6.1 – Transit time for priority mail

Table 2.9, Page 65:

Table 2.9 is inaccurate. The table below summarizes the targets and the USP's performance in 2006 and 2007 for the routing times for domestic priority mail (please refer also to the Country sheet):

Regulation (Target)			Performance (year 2006)			Performance (year 2007)		
D+1	D+2	D+3	D+1	D+2	D+3	D+1	D+2	D+3
94,5% (a)	87% (b)	-	92,6% (a)	89% (b)	-	94,7% (a)	89% (b)	-

(a) For items sent from and to Portugal Mainland.

(b) For items sent from any location of Portugal Mainland to the Autonomous Regions of Azores and Madeira, and vice-versa, or sent between the Autonomous Regions.

Table 2.10, Page 66/67:

Table 2.10 is inaccurate. The table below summarizes the targets and the USP's performance in 2006 and 2007 for the routing times for cross-border first class mail (please refer also to the Country sheet):

Regulation (Target)			Performance (year 2006)			Performance (year 2007)		
D+1	D+3	D+5	D+1	D+3	D+5	D+1	D+3	D+5
-	88%	97%	-	93,4%	98,7%	-	94,4%	99%

### Chapter 2.7 (Summary of main findings, analysis and conclusions)

The previous comments should be taken in consideration when interpreting the conclusions in chapter 2.7.

Moreover, according to the study (page 68) Portugal "included postal services for the blind in the reserved area". This information is incorrect. Portugal didn't reserve postal services for the blind – please refer to article 11 of the above mentioned Law 102/99 and to

<sup>3</sup> <http://www.anacom.pt/render.jsp?contentId=17289>.

Premise II of the Basis for the Universal Postal Service Concession (approved by Decree-Law 448/99 of 4 of November<sup>4</sup>, as amended by the above mentioned Decree-Law 116/2003 of 12th of June and by Decree-Law 112/2006 of 9 of June<sup>5</sup>); please refer also to e-mail sent to Ecorys in 15/07/2008.

## **CHAPTER 3 (Implementation of the regulatory framework)**

### **Chapter 3.2.2 (Price regulation)**

Page 78, 1<sup>st</sup> paragraph:

According to Ecorys, three countries have a CPI (RPI) minus regime: Germany, Poland and UK. Portugal also has a CPI minus regime for the reserved services – please refer to Appendix 1 in Annex 1 and to the summary findings in page 100.

Annex 1 - Appendix 1:

Referring to the information about Portugal, it is important to clarify that the CPI (RPI) minus regime only applies to the reserved services. The prices of the non-reserved universal services are not subject to a cap, being only subject to the tariff principles (geared to costs, etc) – please refer to the Country sheet.

### **Chapter 3.3 (The practice of NRAs)**

Annex1 – Appendix 2:

The total number of staff of the NRA in FTE, working for postal services, is 22 (please refer to e-mail sent to Ecorys in 15/07/2008). In the calculation is included the staff from all the departments of ICP-ANACOM (from the Market Regulation Directorate, from the Financial and Administrative Directorate, etc.), including the staff from support activities (example: secretariat).

#### **Chapter 3.3.1 (Mandate of the NRAs)**

Table 3.3:

Referring to the column “Seek judicial order”, it needs to be clarified that ICP-ANACOM has its own sanctionary powers (enforcement powers) and doesn’t need to seek for judicial orders (courts) in order to enforce its decisions (please refer to e-mail sent to Ecorys in 12/06/2008).

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<sup>4</sup> <http://www.anacom.pt/render.jsp?contentId=17286>.

<sup>5</sup> <http://www.anacom.pt/render.jsp?contentId=381752>.

There must be an error in the same table, since in the last column the comment introduced is not related to Portugal.

## **CHAPTER 6 (Technological developments and environment)**

### **Chapter 6.2 (Impact of application of technology on labour intensity)**

Figure 6.2 (page 162) and Figure 6.3 (page 163):

As per emails of 13/03/2008 (comments to the “Country Sheet”) and of 08/05/2008 (comments on the presentations on the 2<sup>nd</sup> workshop), 58% of CTT’s total costs in 2006 are labour costs (59% in 2005). According to new data from 2007<sup>6</sup>, in 2007 that percentage is 60,4%. Therefore, the information in Figures 6.2 and 6.3 are not accurate, especially Figure 6.3 which indicates that labour costs of the Portuguese NPO are between 70% and 75% of total costs.

## **CHAPTER 7 (Developments in employment, wages and working conditions)**

It seems there is some incoherence as per the following information about employment: according to data in Table 7.5 (page 205), based in inputs from ICP-ANACOM, circa 87% of the Portuguese sector’s employment would be employed by the Portuguese NPO; According to Annex 1 - Appendix 5, that value is 94%.

## **COUNTRY SHEET: Portugal**

### **Chapter 1.1 (Summary)**

Page 749, 2<sup>nd</sup> Table:

As per “Tariff principles and transparency of accounts”, it is indicated that tariffs for reserved services need to be cost-based,...”. Please note that those principles also apply to non reserved services which are within the universal service (provided by the USP) – please refer to chapter 1.3.7 of the Country sheet.

Page 750:

According to the 1<sup>st</sup> table in page 750, ICP-ANACOM performs the following regulatory function: “Arranging out-of-court settlements in case of disputes”. It is important to clarify that that responsibility of ICP-ANACOM refers to the need to resolve any litigation arising between the universal postal service provider and other postal service providers concerning access to the public postal network (please refer to article 25, nr 1, of the above mentioned Decree-Law 150/2001, as amended by Decree-Law 116/2003).

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<sup>6</sup> Source: CTT’s reports and accounts (2007).

### **Chapter 1.3.7 (Price regulation)**

Page 757, Price convention:

It is worth to clarify that the most recent price convention, signed in 2008, establishes that the weighted average variation of the prices of the reserved services is equivalent to inflation less 0.3% (X value) for 2008. For 2009 and 2010 it is equal to inflation less 0.4% (X value). In each case, a factor of correction of inflation, which takes into account differences that may occur in relation to the initially expected value of inflation, is applied<sup>7</sup>.

### **Chapter 1.4.4 (Cross border mail)**

Page 762:

The licence of Post 21 was issued in 04/05/2007 and not in 23/07/2007.

#### **Other clarifications:**

There are some incoherencies in the Country sheet:

- according to page 748, CTT Group has a market share of 25% in the express market segment; according to page 749 (1<sup>st</sup> table), the NPO has a market share of 50%; in page 761 the market share is 44%. The last one is more accurate according to data from ICP-ANACOM (please refer to e-mail sent to Ecorys in 12/06/2008);
- according to page 749 (1<sup>st</sup> table), the NPO has a market share of 25% in the parcels market segment; according to page 761, the market share is 50,8%. The last one is more accurate according to data from ICP-ANACOM (please refer to e-mail sent to Ecorys in 12/06/2008);
- information about the evolution of the number of competitors is not coherent along the report - see for example: i) Tables 0.19, 0.20 and footnote 12; ii) Table 0.18 and footnote 20. For accurate information on the evolution of the number of competitors in the Portuguese market, please refer to: <http://www.anacom.pt/render.jsp?contentId=592627&languageId=1>. Please refer also to e-mails sent to Ecorys in 13/03/2008 and 12/06/2008.

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<sup>7</sup> Please refer to

[http://www.anacom.pt/streaming/univ\\_ps\\_price\\_convention10072008.pdf?contentId=622258&field=ATTACHED\\_FILE](http://www.anacom.pt/streaming/univ_ps_price_convention10072008.pdf?contentId=622258&field=ATTACHED_FILE).