

GUIDELINES ON REGULATORY FEES

Rev. 1



**AUTORIDADE NACIONAL DE COMUNICAÇÕES
DE TIMOR-LESTE**

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1. Introduction

- 1.1. Article 13.3 of the Decree-Law No. 15/2012 of 28 March 2012 on the Regulation of the Telecommunications Sector (the Telecommunications Decree-Law) permits the Autoridade Nacional de Comunicações (ANC) to prescribe a regulatory fee payable by registered service providers as a percentage of their gross revenues. Article 13.5 of the Telecommunications Decree-Law goes on to allow the ANC to prescribe procedures, rules and guidelines necessary for the efficient and effective collection of regulatory fees.
- 1.2. These Guidelines on Regulatory Fees (these Guidelines), a regulatory measure under Article 19 of the Telecommunications Decree-Law, set out the rules and procedures for the payment of regulatory fees and supplementary regulatory fees by service providers registered under Article 30 of the Telecommunications Decree-Law.
- 1.3. These Guidelines are not the only requirements related to the payment of fees, other regulatory measures issued by the ANC may set out requirements related to other fees including radio frequency spectrum fees and universal access levies.
- 1.4. These Guidelines apply to all registered service providers.
- 1.5. These Guidelines and the fees set in them may be reviewed and changed periodically by the ANC in accordance with the Telecommunications Decree-Law.

2. Definitions

Terms used in these Guidelines have the same meaning as those used in the Telecommunications Decree-Law:¹

3. Annual Regulatory Fee

- 3.1. A registered service provider must pay an annual regulatory fee set at 2 (two per cent) of its Relevant Annual Gross Revenue (RAGR). This percentage shall, if necessary, be adjusted each year to meet the budgetary requirements of the ANC for the following year, but shall in no event exceed 2% of RAGR.
- 3.2. The annual regulatory fee reflects the costs incurred by the ANC in the performance of its functions and responsibilities and in the exercise of its powers, including a reasonable provision.
- 3.3. In the case of registered service providers operating a mobile telephony network or providing mobile telephony services a minimum amount of US\$200,000 (two hundred thousand United States dollars) is payable.

¹ Basic terms are defined in the Telecommunications Decree-Law. For consistency, it is unnecessary to repeat them in these Guidelines.

4. Supplementary Regulatory Fee

- 4.1. Pursuant to Article 13.7 of the Telecommunications Decree-Law, the ANC may prescribe a supplementary regulatory fee payable by registered service providers as a percentage of their RAGR, which percentage shall not exceed 0.5% of RAGR, to make up any funding deficit resulting from the factors listed below:
- 4.1.1. any judicial review process relating to any regulatory measure of the ANC or recommendation of the Review Panel;
 - 4.1.2. any review conducted by the Review Panel under Chapter IV of the Telecommunications Decree-Law;
 - 4.1.3. any dispute resolution process conducted by the ANC under Chapter XI of the Telecommunications Decree-Law; or
 - 4.1.4. any price modeling exercise pursuant to a tariff regulation proceeding conducted by the ANC pursuant to Article 47 of the Telecommunications Decree-Law.
- 4.2. No supplementary regulatory fee shall take effect until it is approved by the Minister of Finance, duly justified in the light of the objectives provided for in Article 2 of the Telecommunications Decree-Law and the circumstances giving rise to the prescription of such fee.
- 4.3. In the event that such a supplementary regulatory fee is approved, the ANC will notify registered service providers of the supplementary regulatory fee payable.
- 4.4. Calculation and payment of any supplementary regulatory fee shall be on the same basis as that of the annual regulatory fee as set out in the following sections 5, 6, and 7.

5. Calculation of the Annual Regulatory Fee

- 5.1. The annual regulatory fee will be calculated by reference to a calendar year ending on 31 December (regulatory fee year). It is payable half-yearly in advance in two equal installments (i.e., on or before 30 June and 31 December).
- 5.2. The amount of the annual regulatory fee is calculated based on the RAGR of the registered service provider in the financial year of the registered service provider that ends during the year preceding the regulatory fee year. Such calculation is based on the actual results as shown in the financial statements or, where the registered service provider is commencing operations, on estimated results.

Example 1A

Regulatory fee year 2014: Old Tel is an established service provider which had a RAGR for its financial year 1 January 2013 to 31 December 2013 of US\$1 million. Based on Old Tel's RAGR, the ANC calculates the annual regulatory fee payable by Old Tel for the 2014 regulatory fee year to be US\$20,000 (i.e., 2% of US\$1 million). Old Tel is liable to pay that amount in two installments of US\$10,000 each on 30 June and 31 December 2014.

Example 1B

Regulatory fee year 2014: Mobile Tel is an established service provider operating mobile telephony services which had a RAGR for its financial year 1 January 2013 to 31 December 2013 of US\$1 million. Based on Mobile Tel's RAGR, the ANC calculates the annual regulatory fee payable by Mobile Tel for the 2014 regulatory fee year to be US\$200,000 (the minimum amount). Mobile Tel is liable to pay that amount in two installments of US\$100,000 each on 30 June and 31 December 2014.

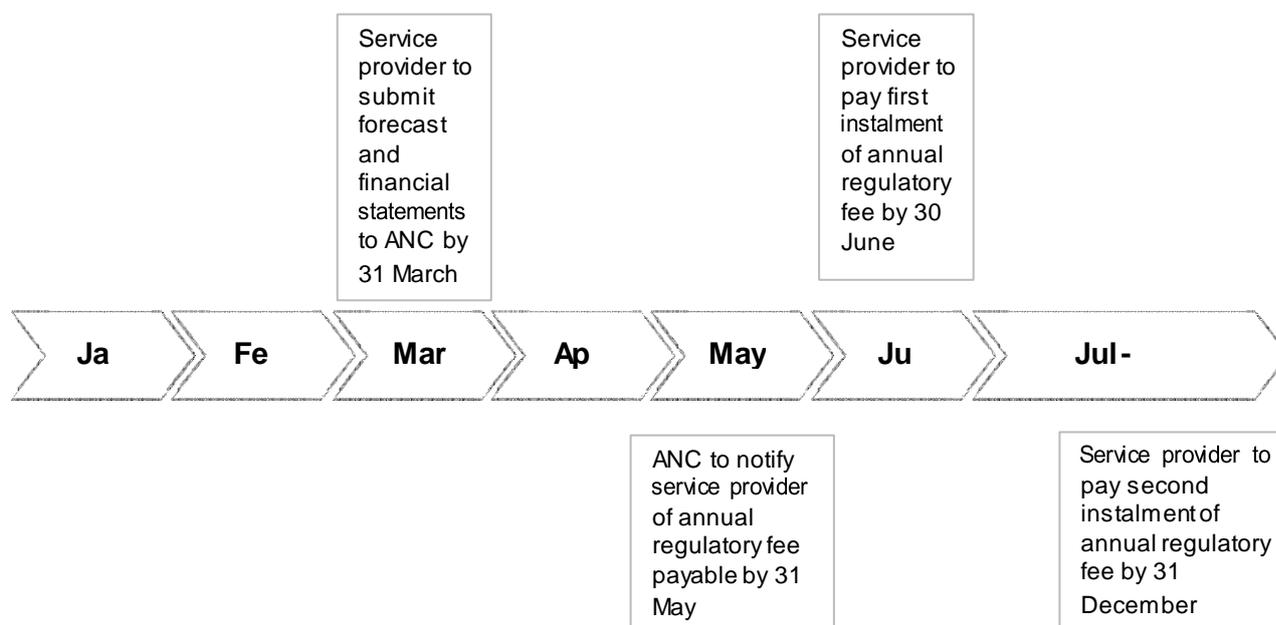
- 5.3. For the purpose of these Guidelines, RAGR means revenues earned by a registered service provider from the supply of telecommunications and the operation of telecommunications networks (excluding the sale of equipment) but before any deduction for costs, taxation, accounting or any other purposes. As revenue generated from the supply of telecommunications services and operation of telecommunications networks forms the bulk of the revenue generated by most registered service providers, it is expected that RAGR for most registered service providers will not differ from their total annual gross revenue.
- 5.4. Revenue which is clearly not related to the supply of telecommunications services and operation of telecommunications networks may be excluded from RAGR. If a registered service provider's RAGR differs from its total annual gross revenues, precise details and the nature of any non-relevant revenue deducted from the registered service provider's total annual gross revenue must be given to the ANC. Such deductions will be assessed by the ANC on a case by case basis.

6. Payment of Annual Regulatory Fee

- 6.1. The ANC will notify registered service providers of their regulatory fee for their current regulatory fee year by 31 May of each year.
- 6.2. In order to allow the ANC to assess a registered service provider's annual regulatory fee liability, every registered service provider, regardless of the RAGR amount earned, is required to submit to the ANC by 31 March of each year:

- 621. a forecast, in the format set out in Annex A, of its annual regulatory fee payable for the current regulatory fee year calculated based on its RAGR of the financial year that ended during the preceding year; and either:
- 622. its audited financial statements accompanied by a statement of RAGR certified by their auditors in the format set out in Annex B; or
- 623. where the registered service provider is not legally obliged to provide audited financial statements, its finalized financial statements accompanied by a statement of RAGR certified by the accounting officer of the registered service provider in the format set out in Annex B.

Illustration



- 6.3. The financial statements submitted to the ANC must conform to all relevant accounting laws and regulations. The ANC may require such financial statements to be submitted together with other records and documentation which can assist the ANC in understanding the financials, business and operations of the registered service provider.
- 6.4. As the annual regulatory fee is based on the registered service provider’s RAGR in the financial year that ended during the year preceding the regulatory fee year, it may be possible that the certified RAGR figure may not be available for submission by 31 March. In such a case, the ANC may allow such registered service provider to submit a forecast, in the format set out in Annex A, of its annual regulatory fee payable for the current regulatory fee year calculated based on an estimate of its RAGR of that financial year. Such registered service provider shall undertake that it will submit

subsequent certified RAGR figures to the ANC by 31 March in accordance with sub-section 6.2 above.

- 6.5. Where a registered service provider pays the annual regulatory fee on the basis of an estimate of its RAGR under sub-section 6.4 above, it must carry out a reconciliation of the estimate and the actual amount due as soon as the documents required under sub-sections 6.2.2 or 6.2.3 (i.e., the audited or finalized financial statements and the statement of RAGR certified by the accounting officer or auditor) become available. The required documents and the reconciliation statement must be submitted to the ANC within two (2) weeks of their availability.
- 6.6. If, after carrying out a reconciliation, the amount being paid for that regulatory fee year is found to be less than the annual regulatory fee payable, the registered service provider must within two (2) weeks of submitting its certified financial statements to the ANC pay the shortfall required to meet the total annual regulatory fee payable in respect of that regulatory fee year.
- 6.7. If, after carrying out a reconciliation, the amount paid for that regulatory fee year is found to have exceeded the annual regulatory fee payable, a credit for the amount in excess will apply towards the registered service provider's following annual regulatory fee installment.

Example 2

Regulatory fee year 2015: Late Tel is a registered service provider that is unable to submit its certified RAGR by 31 March 2015. It submits instead an estimate of its RAGR for its financial year 1 January to 31 December 2014 of US\$ 100,000. Its RAGR is calculated to be US\$2,000 (i.e., 2% of US\$100,000) payable in two installments of US\$1,000 on 31 May and 31 December 2015.

When the results for Late Tel are finalized it transpires that the actual RAGR it earned for its 2014 financial year was US\$200,000. Therefore, Late Tel is liable for a regulatory fee of US\$4,000 (i.e., 2% of US\$200,000) for the 2015 regulatory fee year. It therefore has to pay the shortfall of US\$2,000 (i.e., US\$4,000 less the US\$2,000 it already paid), within two (2) weeks of submitting its certified financial statements and reconciliation statement to the ANC.

- 6.8. The first annual regulatory fee payment by new registered service providers will be based on the financial year preceding the current regulatory fee year, regardless of the length of that financial year.

Example 3

Regulatory fee year 2015: New Tel is a new service provider that commenced operations on 1 September 2014. The RAGR for its partial financial year 1 September 2014 to 31 December 2014 is US\$ 30,000. The annual regulatory fee payable by New Tel for the 2015 regulatory fee year will therefore be US\$600 (i.e., 2% of US\$30,000), payable in two installments of US\$300 each on 30 June and 31 December 2015.

6.9. A registered service provider must make payment of its annual regulatory fee installments on or before the due date.

6.10. The ANC will issue an acknowledgement for the annual regulatory fees received.

7. Payment methods

7.1. Payments for annual regulatory fees must be made by way of electronic transfer or direct deposit into the ANC bank account, details of which will be provided directly to each registered service provider.

7.2. The name of the registered service provider and its company registration number, as they appear on the relevant certificate of effective registration, must be quoted in the payment.

8. Infringements

8.1. Failure to pay a fee or to comply with any provision under these Guidelines constitutes an infringement of these Guidelines and the Telecommunications Decree-Law.

8.2. Without prejudice to the administrative penalties available under the Telecommunications Decree-Law, if a registered service provider defaults on its obligation to pay a fee under these Guidelines, it must pay to the ANC an interest of 2% per month on the overdue amount.

8.3. Continuing failure to pay fees and interest owed may result in the revocation of a registered service provider's registration or its suspension until such time that the amount and interest owed are paid in full.

Annex A - Forecast of Regulatory Fee

Regulatory fee year:

Registered service provider name:

Company registration no.:

Name and position of registered service provider's accounting officer / auditor:

Basis of regulatory fee calculation:

Relevant annual gross revenue (RAGR) of financial year _____
(insert start and end dates of the financial year that ended during the year preceding the regulatory fee year)

Estimated RAGR of financial year _____ (insert relevant financial year start and end dates).

Provide reasons for using estimated RAGR:

Computation of regulatory fee:

RAGR	US\$
Annual regulatory fee payable (indicate if a minimum sum is applicable):	US\$
Supplementary regulatory fee payable (if applicable)	US\$

Declaration

I, _____ in my capacity as the _____ for the registered service provider hereby certify and declare that the information provided in this statement is true and correct.

Signature:

Signatory's name and position:

Date:

Annex B - Certified Statement of Relevant Annual Gross Revenue (RAGR)

Regulatory fee year:

Registered service provider name:

Company registration no.:

Name of registered service provider's accounting officer / auditor:

Financial year (start and end dates):

Total annual gross revenue:

Relevant annual gross revenue (RAGR):

Details of RAGR	Revenue	Remarks
<i>For example:</i> <ul style="list-style-type: none"> • <i>Mobile voice</i> • <i>Mobile data</i> • <i>Roaming</i> • <i>Interconnection</i> 		
Total RAGR		

In cases where the figure for the RAGR differs from the total annual gross revenue, precise details and the nature of the non-relevant revenue deducted from the total annual gross revenue must be given below:

Details of non-relevant revenue	Revenue	Remarks
<i>For example:</i> <ul style="list-style-type: none"> • <i>Equipment sales</i> • <i>Food and beverage operations</i> 		
Total non-relevant revenue		

If there is a failure to justify the deduction of certain items, the total annual gross revenue as set out in the financial statements may be used in the calculation of the annual regulatory fee.

Declaration

I, _____ in my capacity as the _____ for the registered service provider hereby certify and declare that the information provided in this statement is true and correct.

Signature:

Signatory's name and position:

Date: