

TELECOMS

ANACOM DECIDES ON THE INTERNET SOCIAL TARIFF

VdA EXPERTISE



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Most relevant aspects of ANACOM’s draft decisions in the context of the regulation of the social tariff for supplying broadband Internet access services

SPD context: regulation of the Internet Social Tariff

- **Framework:** The social tariff for supplying broadband Internet access services (“Internet Social Tariff”), approved by Decree-Law 66/2021 of 30th July, is a new tariff that aims to promote inclusion, digital literacy and the use of basic digital services by the most disadvantaged sections of the population. ANACOM expects it to reach up to 800,000 consumers. The availability of this new tariff by operators depends on further regulation.
- **ANACOM’s role:** ANACOM issued three draft decisions (“SPDs”) on three topics related to Decree-Law 66/2021 of 30th July:
 - Setting the **value of the Internet Social Tariff**
 - Definition of the **bandwidth and other quality of service parameters** to be observed in the Internet Social Tariff (i.e. download and upload speed and minimum data allowance)
 - Concept of “**excessive burden**” for supplying broadband Internet access services, for the purposes of possible funding of the net costs arising from the availability of the Internet Social Tariff, by ANACOM’s verification, in compliance with the provisions of Law 35/2012 of 23th August (Compensation Fund for Universal Service Law)

1st SPD: Value of the Internet Social Tariff

- **ANACOM’s proposal:**

Proposed maximum costs	
Monthly cost of the social tariff (without supplements)	€5.00 (corresponds to €6.15 with 23% VAT)
Activation and/or equipment cost	€21.45 (corresponds to €26.38 with 23% VAT)
Monthly cost of the social tariff and activation and/or equipment diluted in 12 months	€6.79 (corresponds to €8.35 with 23% VAT)
Monthly cost of the social tariff and activation and/or equipment diluted in 24 months	€5.89 (corresponds to €7.25 with 23% VAT)

1st SPD: Value of the Internet Social Tariff

- **Methodology:** To determine the values above, ANACOM considered a number of elements, such as benchmarking of the most affordable offers in the national market, the metric proposed by the Broadband Commission for Digital Development for the most vulnerable segment of the population - broadband service cost equal to 2% of average gross income per capita -, the values of the tariff for students of public schools covered by school social action or the incomes of potential beneficiaries of the tariff.

2nd SPD: Bandwidth and other quality of service parameters

- **ANACOM's proposal:**

Proposed quality of service parameters	
Download Speed	10 Mbps
Upload Speed	1 Mbps
Minimum data allowance	12GB

- **Regarding other parameters and technical requirements:** ANACOM considered it premature to define the parameters of other significant factors for access and connection quality, such as latency, jitter and packet loss.

Major reference:

BEREC's reports on best practices for defining broadband internet access services

- **Methodology:**
 - For the setting of the download speed at 10 Mbps, ANACOM was influenced by the European Commission's proposal, through the study "Review of the scope of Universal Service". ANACOM considers that it translates to the minimum necessary to ensure access to the mandatory services listed in article 3 (1) of Decree-Law 66/2021 of 30th July.
 - The upload speed of 1 Mbps represents a technical standard of the most economical offers in the market, namely if we look at the values practiced in other countries in relation with a 10 Mbps download speed.
 - Lastly, the 12GB minimum data allowance introduces a traffic limit in line with the market practice for mobile Internet offers.

3rd SPD: The concept of "excessive burden"

- **ANACOM's proposal:** assuming the existence of net costs of the universal service "CLSU", it is understood that the supplying of the service represents an excessive burden if it impacts on the financial or competitive situation of the company providing this service. **Elements of the concept:**
 - **Impact on financial position (rule):** an excessive burden exists when, for a given company, the verifiable and verified net cost of providing the Internet Social Tariff, is equal to or greater than 3% of the revenues obtained with this service.
 - **Impact on competition (exception):** ANACOM may conclude by the existence of an excessive burden even if the 3% threshold is not met, when it is shown that the CLSU significantly impacts the competitive situation of a particular company providing the Internet Social Tariff.

- **Methodology:** The definition of these criteria resulted from a financial and accounting exercise by ANACOM which, drawing in particular on the analysis of the EU Court of Justice in Case C-222/08, the guidelines provided by the European Code of Electronic Communications and the example of other countries, considered the relative weight of CLSU in relation to the financial situation of a company and its positioning in the market.

What's next?

- **Public consultation:** The three SPDs are open to public consultation for a period of 20 working days. The deadline for receiving comments, which should be submitted to the addresses indicated in the ANACOM's website, ends September 10th 2021.
- **Conclusion of the process and availability of the tariff:** Following the establishment of this complementary regulation, it is foreseen that the Government, through an Order, may approve the value of the Internet Social Tariff to be in force as soon as 2021.

Contacts



MAGDA COCCO
MPC@VDA.PT



TIAGO BESSA
TCB@VDA.PT



ISABEL ORNELAS
IGO@VDA.PT



PEDRO DA PALMA GONÇALVES
PPG@VDA.PT