

THE COMMUNICATION REGULATORY FEES REGULATIONS



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Decree no. 68/2016, of 30 December¹, was published recently and approves the Communication Regulatory Fees Regulations (the "Regulations"). The Regulations apply to entities that operate telecommunication and radio communication networks and services, including numbering of telecommunications services for public and private use. These Regulations have been published because of the need to update the procedures for assessment and collection of regulatory fees in line with the developments seen in the telecommunications sector.²

The Regulations fix the amounts of telecommunications regulatory fees and establish the procedures for their assessment and collection by the Regulatory Authority. The Regulations cover the following fees:

i) Fees for licensing of telecommunications networks and services

The amount of the fee depends on the type of licence and the fee must be paid upon issuance of the licence in a single instalment.

The amount of the fee is set out in Annex II to the Regulations.

The Regulations fix the amounts of telecommunications regulatory fees and establish the procedures for their assessment and collection by the Regulatory Authority.

¹ These Regulations complement Law no. 4/2016 of 3 June (the Telecommunications Law), which defines the general bases of the telecommunications sector, in order to keep the market liberalised in atmosphere of convergence of networks and services.

² Decree no. 63/2004 of 29 December (Radio Fees Regulations), Decree no. 64/2004 of 29 December (Regulations on Telecommunications Fees), article 20 and annex II of Decree no. 37/2009 of 13 August (Regulations on Approval of Telecommunications and Radio Communications Equipment) and Decree no. 38/2010 of 15 September (amending article 8 of the Telecommunications Fees Regulations).

ii) Annual telecommunications fee

The annual telecommunications fee is payable by all entities licensed to set up, operate and manage public telecommunications networks, and to provide telecommunications services for public use.

Licensed entities must submit their annual financial reports to the Regulatory Authority. These reports must be audited by audit firms approved to assess the amount of the annual fee, and they must be submitted by the last business day of May of each year.

The Regulatory Authority must issue an invoice with the percentage of the revenue to be paid by the licensed entity within 10 (ten) days of the date of receipt of the audited financial reports. The amount of the fee is 2% on the gross revenue and it must be paid by the last business day of June of each year, in a single instalment.

iii) Fee for acquisition of telecommunications numbering

This acquisition fee is payable by all licensed entities for the use of telecommunications numbering to provide their services.

The fee is paid in a single instalment upon issuance of the licence to use the telecommunications numbering.

The amount of this fee is set out in Annex II to the regulations.

iv) Annual fee for use of telecommunications numbering

The annual fee is payable by all entities licensed to use telecommunications numbering to provide their services. The payment must be made between January and March of each year in a single instalment.

The amount of the current fee is set out in Annex III of the Regulations.

v) Radio frequency spectrum fees

There are three types of radio frequency spectrum fees:

a) Fee for acquisition of radio frequency spectrum – the fee is paid in a single instalment upon allocation of the spectrum. This fee is charged when the spectrum is allocated by public tender or option;

b) Licensing fee for radio communications stations – the fee is paid in a single instalment when the licence is granted. The fee is charged for the establishment and use of radio communications stations and the amount is fixed based on the characteristics of each station;

c) Annual fee for use of frequency spectrum – the fee is paid between the months of January and March of each financial year and it applies to all radio communications stations.

These fees are payable by all individuals or legal entities licensed to establish and use an individual station or a radio communications network for public or private use.

The formulas to calculate the fees, the definitions of the parameters and the associated coefficients are set out in Annex IV of the Regulations.

Community radio stations are exempt from payment of the annual frequency spectrum use fee. However, they are required to pay a licensing fee of 5,000.00 meticaís.

vi) Equipment approval fee

The equipment approval fees may be:

a) Approval fees – which are payable by all individuals or legal entities that sell or use telecommunications or radio communications equipment, regardless of whether they are licensed by the Regulatory Authority. The fee is paid in a single instalment and proof of payment must be presented upon issuance of the approval certificate or approval stamp; and

b) Electromagnetic emissions conformity fees – which apply to all fixed radio communications stations.

The amounts of the fees referred to above are set out in tables 1 and 2 of Annex V of the Regulations, and must be paid within 30 (thirty) days of receipt of the invoice in question, issued by the Regulatory Authority. Failure to pay the fees by the deadlines established results in collection of those fees being enforced on the basis of the invoices issued by the Regulatory Authority, under the terms of article 69 of Law no. 4/2016 of 3 June and the other applicable legislation.

The Ministers who supervise the areas of communications and economy and finance are responsible for updating the amounts of the fees set out in the Regulations now approved.

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