Assembleia da República (Assembly of the Republic)

Law

Introduces the second amendment to Law No. 17/2012, of 26 April, that lays down the legal regime that governs the provision of postal services, under a full competition regime, on national territory, as well as of international services to or from national territory.

The Assembleia da República (Assembly of the Republic) hereby decrees, pursuant to article 161 c) of the Constitution, as follows:

Article 1
Subject-matter

This Decree-Law introduces the second amendment to Law No. 17/2012, of 26 April, as amended by Decree-Law No. 160/2013, of 19 November, that lays down the legal regime that governs the provision of postal services, under a full competition regime, on national territory, as well as of international services to or from national territory, transposing to the national legal system Directive 2008/6/EC of the European Parliament and of the Council, of 20 February 2008.

Article 2
Amendment to Law No. 17/2012, of 26 April

Articles 21, 24, 37, 38, 39 and 54 of Law No. 17/2012, of 26 April, as amended by Decree-Law No. 160/2013, of 19 November, are hereby amended to read as follows:

«Article 21
[...]

1 - ...

2 - ...

3 - ...

4 - ...

5 - For the purpose of point a) of paragraph 1, services that are qualified by ICP-ANACOM to be interchangeable with services defined in article 12 are deemed to be covered by the scope of the universal service.

6 - For the purpose of the preceding paragraph, services interchangeable with services defined in article 12 mean services that, from a user’s perspective, display interchangeability to a sufficient degree with such services, taking into account the intended use, the applicable pricing and respective characteristics, including added value, even if such services do not cover all the features of the universal service, in particular as far as the delivery frequency or coverage of the national territory is concerned.

Article 24
[...]

1 - ...

2 - ...

3 - ...
4 - ...

5 - For the purpose of point a) of paragraph 1, services that are qualified by ICP-ANACOM to be interchangeable with services defined in article 12, under paragraphs 5 and 6 of article 21, are deemed to be covered by the scope of the universal service.

6 - (Former paragraph 5.)

Article 37

[...]

[...]

1 - ...

2 - ...

a) ...

b) To be provided with an accounting system that allows the separation of accounts between services covered by the scope of the universal service defined under article 12, including services which, from a user's perspective, are considered to be services interchangeable with services defined in article 12, and other services comprised in their activity, where postal service providers are subject to make a financial contribution to the compensation fund for costs with the universal service;

c) ...

3 - ...

4 - ...

Article 38

[...]

1 - ...

2 - ...

3 - ...

4 - ...

5 - ...

6 - ...

7 - Postal service providers, even where not subject to universal service obligations, may negotiate and agree on technical and commercial measures for access to the respective networks, and ICP-ANACOM shall be entitled to intervene, under paragraphs 3 to 5, whenever necessary to promote effective competition, to protect the interest of users or to guarantee the provision of the universal service.

8 - Where deemed to be required to ensure the provision of the universal service in all or part of the national territory by the provider or providers to be designated further to the designation mechanism referred to in paragraph 1 b) of article 17, ICP-ANACOM may:
a) Order postal service providers to publicize in an appropriate manner the terms and conditions for access to certain elements of their networks, without which the provision of the universal service may be harmed, including prices;

b) Define the terms and conditions for access to certain elements of postal networks of postal service providers, without which the provision of the universal service may be harmed, and information to be publicized under the preceding point, as well as the form and manner of publication;

c) Determine changes to published terms and conditions for access, at any time, and with retroactive effect, if required.

9 - Measures imposed under the preceding paragraph must be preceded by an assessment aimed to weight whether they are required and their impact on the market, and shall comply with the principle of proportionality.

**Article 39**

[...] 

1 - ...

2 - ...

3 - ICP-ANACOM may also impose that postal service providers provide access to elements and services referred to in paragraph 1, defining terms and conditions for access, where this is deemed to be necessary to guarantee the provision of the universal service.

4 - The imposition of access under the preceding paragraph must comply with paragraph 9 of article 38.

5 - (Former paragraph 3.)

**Article 54**

[...] 

1 - ...

2 - ...

3 - ICP-ANACOM's decision shall be issued no later than four months following the date on which the request was made, except in exceptional circumstances, without prejudice to paragraph 5.

4 - ...

5 - In case of a clear urgency related to the need to ensure the provision of the universal service, ICP-ANACOM's decision shall be issued within at the most 40 days from the date on which the request was made.»

Approved on 14 February 2014.

The President of the Assembly of the Republic, Maria da Assunção A. Esteves.

Promulgated on 24 March 2014.

Let it be published.

The President of the Republic, ANÍBAL CAVACO SILVA.
Countersigned on 28 March 2014.

The Prime Minister, Pedro Passos Coelho.