

Decree-Law no.103/2006 **of 7 June**

Law no.53/2005 of 8 November created the ERC — Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media). The new regulation model adopted for media activities further to the 6th constitutional review, involves an alteration to the financing model of the regulatory entity, as defined in articles 50 and 51 of the Articles of Association of the ERC — Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media), approved by said act. It should be recalled that the Programme of the 17th Constitutional Government defined as a priority, in the context of the media policies, to promote, as soon as possible, the creation of a new media regulatory authority, irrespective of the political and economic authorities and endowed with the appropriate human, technical and financial resources», recognising the need to ensure that «the media constitutes an effective, free and plural information tool in Portuguese society».

In this regard, a mixed financing regime was defined for the ERC which ensures its technical and financial autonomy and which allows a clear boost to the regulatory and powers of media activities. Under this regime, part of the specific budget is sustained by citizens through transfers from the State Budget since the latter are direct beneficiaries of media regulation activity as an essential function for safeguarding rights, freedoms and guarantees.

In view of the progressive convergence of communications' regulation and the regulation of the contents disseminated by the media, the participation of the ERC in the net revenue of each annual financial year of ICP-ANACOM is also envisaged.

Another part of the ERC budget is sustained by the charges received from those entities carrying out activities in the context of the media. These charges are in recompense for the acts carried out by the ERC in line with the costs required for the regulation of activities or providing specific services, or in accordance with the benefits obtained by using assets in the public domain in the dissemination activity. All of this without prejudice to the income from administrative fines, mandatory monetary sanctions, fines or any other revenue deriving from its activity or which, under the law or contract, pertain to it or are assigned to it.

This decree-law sets out to develop the charging system foreseen in articles 50 and 51 of the Articles of Association of the ERC— Entidade Reguladora para a Comunicação Social (Regulatory Authority for the Media). In this regard, it was decided to put a tripartite charging system into place, which is based on different forms of remuneration of media content regulation activity. Firstly, the regulatory and supervisory charge seeks to remunerate the specific costs incurred by ERC activity, bearing in mind the technical characteristics, geographic scope, volume and relative social impact of the media activity carried out by the operator in question.

This activity involves a different division of the time spent on carrying out the permanent regulatory and supervisory activity in accordance with the means of support, the technical complexity, the work volume and the coverage area inherent in the various media. In this way, and in order for there to be proper redistribution of the costs actually incurred in the carrying out of this activity by the various entities referred to in article 6 of the ERC Articles of Association, a categories' system was

created which distinguishes between various intensities of the regulatory function required (high, medium and low regulation).

Secondly, the charge for services provided seeks to specifically remunerate the case-by-case implementation of certain activities by the ERC (in contrast with the permanent regulatory and supervisory activity), namely the appreciation of merger transactions, the evaluation of inter-company agreements, the issuance of certificates and opinions and the carrying out of registrations and annotations.

Thirdly, the charge for issuing licenses seeks to remunerate the costs incurred by the administrative procedure inherent in the granting thereof, ensuring the efficient regulation of the media market, namely in terms of the number of agents present, ensuring a return for the state deriving from the granting to the operator of market power through a public instrument.

Subjectively speaking, those entities traditionally subject to the regulation and supervision of media activity fall within the scope of the charges (news' agencies, individuals or corporate bodies that publish periodic publications and radio and TV operators), as well as the new media which have recently been developed and those which are envisaged in the near future. In view of the above, individuals or corporate bodies which regularly provide to the public, through electronic communications' networks, contents subject to editorial treatment and organised as a coherent whole also fall within the remit of the charges. In addition to the latter, individuals or corporate bodies which provide to the public, through electronic communications' networks, radio or TV programme services were also included in the context of the regulatory and supervisory charge, bearing in mind the regulatory and supervisory effort required to analyse the contents selected and aggregated.

The proposed model is based on a clear increase in the regulatory and supervisory powers regarding media activities, allowing the new regulatory authority to discipline new means of contents' dissemination, as and when the technological evolution of the markets so requires. By contrast, in terms of the reforming action which has now been put into place, it is worth safeguarding the specific aspects of the legal relationship of the charge, ensuring the rights of the taxable entity, as well as the speed, transparency and legal safety of the legal-tax relations underlying the aforementioned taxes.

The approved regime set out in this decree-law is clarifying (pursuing the terms of the transparency principle), disciplinary (ensuring the full application of the principle of administrative legality) and thorough (sufficiently ensuring the relational tax assumptions, namely: the effective responsibility for the rights of taxable entities and legal safety), thereby constituting a structural element in the reform of the regulation and supervision of media activity.

The ERC was heard.

The Confederação dos Meios de Comunicação Social (Media Confederation) was also heard.

Hence:

Under the terms of article 51, no.1, of the ERC Articles of Association, approved by Law no.53/2005 of November 8, and under the terms of article 198, no.1, paragraph *a*), of the constitution, the government hereby decrees as follows:

Article 1

Approval

The Charging Regime of the ERC has been approved, provided in an appendix to this decree-law and it forms an integral part thereof.

Article 2

Sharing in the net profits of ICP-ANACOM

Under the terms of article 50, paragraph *g*), of Law no.53/2005 of November 8, and notwithstanding the annual transfers deriving from the state budget, the amount to be transferred to the ERC by dint of the net profits for each financial year of ICP-ANACOM submitted as general revenue of the state under the terms of the law, is set annually by a joint ruling by the government members responsible for the fields of finance, public works, transport and communications and the media,

Article 3

Repealing regulation

1 — As of the date that the Charges' Regulation of the ERC come into force, the following ordinances are repealed:

- a*) Ordinance no.422/99 of 9 June, altered by Ordinance no.323/2000 of 8 June;
- b*) Ordinance no.931/97 of 12 September;
- c*) Ordinance no.474-C/98 of 5 August.

2 — Notwithstanding the previous number, the processes pending at Instituto da Comunicação Social (Media Institute) as at the date that this are subject to the tax regime in force as at the procedure start date.

Article 4

Transitory law

The fact generating the regulation and supervision charge occurred on 30 June 2006 and the applicable charge was reduced to 50% and the respective amount was paid in a single instalment, to be charged in July 2006.

Article 5

Interim appraisal

Two years after this decree-law comes into force, the Government will assess the need to review the Charging System approved in an appendix hereunto, in line with the changes which have occurred in the meantime, namely, with regard to the number of operators, the volume of work carried out by the ERC, the diversification of the means

of disseminating media contents and the evolution of the sources of financing and the technical complexity of regulatory activity.

Endorsed and approved in Cabinet on March 2 2006. — *José Sócrates Carvalho Pinto de Sousa* — *Fernando Teixeira dos Santos* — *Ana Paula Mendes Vitorino* — *Augusto Ernesto Santos Silva*.

Enacted on May 17 2006.

Let this be duly published.

The President of the Republic, ANÍBAL CAVACO SILVA.

Ratified on 19 May 2006.

The Prime Minister: *José Sócrates Carvalho Pinto de Sousa*.

APPENDIX 1
CHARGING SYSTEM OF THE ERC— ENTIDADE REGULADORA
PARA A COMUNICAÇÃO SOCIAL (REGULATORY AUTHORITY FOR THE MEDIA)

TITLE I

General text

Article 1

Scope of application

1 — The present Charging System regulates the legal-tax relations generated in the context of the regulatory and supervisory powers regarding media activities.

2 — For the purposes of this Changing System, legal-tax relations are deemed to have been generated in the field of the regulatory and supervisory powers regarding media activities, namely those determined between ERC and the individuals and corporate bodies foreseen in article 6 of the ERC Articles of Association, approved by Law no.53/2005 of 8 November.

Article 2

Complementary legislation

Bearing in mind the nature and specific aspects of the subject matters they pertain to, the legal-tax relations generated under the terms of this Charging System are subject, on a subsidiary basis, to the general tax law and the Tax Process and Procedural Code.

TITLE II
Incidence

Article 3

**Nature and types of charges of the ERC— Entidade Reguladora
para a Comunicação Social (Regulatory Authority for the Media)**

1 — The charges defined in this decree-law seek to remunerate in an objective, transparent and proportionate fashion the exercising by the ERC of its regulatory and supervisory duties regarding media activities, as well as promoting the efficiency standards of the attendant markets.

2 — The charges of the ERC constitute the own revenue of this entity.

3 — The charges of the ERC fall under the following categories:

- a) Regulatory and supervisory charge;
- b) Charge for services provided;
- c) Charge for issuing licenses.

Article 4

Regulatory and supervisory charge

Under the terms of article 50 paragraph b), and article 51 no.1, of the ERC Articles of Association, approved by Law no.53/2005 of 8 November, the regulatory and supervisory charge seeks to remunerate the specific costs incurred by the ERC during the course of its continuous, prudential regulatory and supervisory activity.

2 — The regulatory and supervisory charge applies to all those entities that carry out media activities under the jurisdiction of the Portuguese state and the charge amount is calculated in line with the category under which they fall and with the regulatory intensity subcategory required.

Article 5

Regulatory and supervisory charge categories

1 — The regulatory and supervisory charge applies to operators of the following categories of media supports and resources and its amount is calculated in line with the relative costs attributable to each of them owing to the carrying out of the permanent, prudential and continuous regulatory and supervisory activity:

- a) Press;
- b) Radio;
- c) TV;
- d) Cable;
- e) Mobile communications;
- f) News' sites subject to editorial treatment.

2 — The press category is made up of news agencies, periodic, news or doctrinal publications of a national, regional or local scope or aimed at Portuguese communities abroad.

3 — Radio programme services of an international, national, regional and local nature fall under the category of radio.

4 — The TV category is made up of TV programme services and their respective supplementary contents of an international, national, regional or local nature.

5 — The cable category consists of operators who provide to the public, through electronic communications networks, radio or TV programme services insofar as it falls to them to decide about their selection and aggregation.

6 — The mobile communications' category consists of mobile operators who provide radio or TV programme services insofar as it falls to them to decide about their selection and aggregation, or who regularly provide to the public contents submitted to editorial treatment and organised as a coherent whole.

7 — The news sites category consists of operators who provide radio or TV programme services insofar as it falls to them to decide about their selection and aggregation, or who regularly provide to the public contents submitted to editorial treatment and organised as a coherent whole.

8 — Merely providing to the public, through news sites subject to editorial treatment, of contents that are already available on supports other than electronic support does not imply any subjection to payment of the supervisory and regulatory charge.

Article 6

Regulatory and supervisory charge subcategories

1 — Each category referred to in the previous article is divided into subcategories in view of the different intensity of the prudential, continuous regulatory and supervisory activities required by the diversity of the specific types of entities that carry out media activities.

2 — The inclusion of entities that carry out media activities in each of said subcategories is determined:

- a) By the technical complexity of the regulatory activity;
- b) By the volume of work involved in the regulatory activity;
- c) By the technical characteristics of the media used;
- d) By the geographic scope of the media used.

3 — The press category includes the subcategories of:

- a) High regulation— periodic publications with general, daily and weekly news of a national nature and the news' agencies;
- b) Medium regulation— periodic publications with general, daily and weekly news of a regional nature, specialised daily news' publications and publications which are only available on electronic support;
- c) Low regulation — periodic publications with general news issued on a periodic basis other than that foreseen above, periodic publications with specialised news on a non-daily basis and doctrinal periodic publications.

4 — The radio category includes the subcategories of:

- a) High regulation — national programme services;

- b) Medium regulation — regional and international programme services;
- c) Low regulation — local programme services.

5 — The TV category includes the subcategories of:

- a) High regulation — national, mainstream programme services;
- b) Medium regulation — thematic programme services, programme services with regional or local coverage as well as those of an international nature.

6 — The mobile communications' category includes the subcategory of high regulation which incorporates mobile communications' operators who provide media contents.

7 — The cable category consists of operators who provide to the public, through electronic communications' networks, radio or TV programme services insofar as it falls to them to decide about their selection and aggregation and they fall under the subcategories of:

- a) High regulation - when the respective coverage encompasses more than half of national territory;
- b) Mean regulation - when the respective coverage encompasses two or more districts or an Autonomous Region;
- c) Low regulation - when the respective coverage encompasses only one district.

8 - The category of news sites subject to editorial treatment includes the high regulation subcategory of operators who regularly use electronic communications networks to make available to the public content submitted to editorial treatment and organised as a coherent whole.

Article 7

Distribution of the costs incurred with regard to the regulatory and supervisory charge

1 — The regulatory and supervisory charge calculation method, included in appendix II to the present decree-law and whereof it forms an integral part, is based on a distribution of prudential and continuous regulatory and supervisory costs amongst the various media operators in accordance with the following criteria:

- a) Volume of work involved in the regulatory activity;
- b) The technical complexity of the regulatory activity;
- c) The technical characteristics of the media used;
- d) The geographic scope of the media used;
- e) Impact of the activity carried out by the media operator.

2 — The criteria involved in the regulatory and supervisory charge determination method included in appendix II to the present decree-law and whereof it forms an integral part determine the charge amount to be borne, which shall be repeated in a joint ordinance by the Government members responsible for the fields of finance and

the media, under the terms of the provisions of no.3, article 51 of the Articles of Association of the ERC, approved by Act no.53/2005 of November 8.

Article 8

Charge for services rendered

1 — The specific charge for services rendered seeks to remunerate the actual provision of a public service, constituting remuneration for the acts practised by the ERC in the context of its regulatory and supervisory duties on the media contents' market.

2 — The following acts are subject to the specific charge for services rendered:

- a) The assessment of merger transactions and other property acquisitions carried out by media market operators;
- b) The assessment of inter-company agreements, coordinated actions and company association decisions on the media market;
- c) The appreciation of abuses of a dominant position on the media market;
- d) As regards records, the carrying out of provisional or permanent entries, annotations and cancellations;
- e) Annotations for licences to carry out radio and TV activities;
- f) The issuance of photocopies and certificates;
- g) The carrying out of audits on those entities carrying out media activities;
- h) The accreditation of market opinion companies and the approval of any changes made to the respective corporate structures;
- i) The depositing of opinion polls and surveys and any ensuing corrections;
- j) The issuing of opinions;
- l) The classification of periodic publications;
- m) The depositing of the editorial status of media bodies.

3 — Taxable entities may be required to pay amounts pertaining to the expenses inherent in the act carried out, namely any mandatory publications and communications, communication expenses which should not be borne by the services, travel expenses or the sale of forms.

Article 9

Charge for issuing licenses

1 — The charge for issuing licenses seeks to partially remunerate the state for assigning the usage of a scarce asset in the public domain as well as remunerating any costs incurred by the administrative procedure inherent in its granting.

2 — The following acts are subject to a charge for issuing licenses:

- a) The awarding and renewal of licenses to media operators whose TV and radio broadcasting activity is based on the usage of the terrestrial spectrum;
- b) The awarding and renewal of licenses to media operators whose TV and radio broadcasting activity is not based on the usage of the terrestrial spectrum.

Article 10

Calculation of the quantitative assumptions for the application of a specific charge for services rendered and the charge for issuing licenses.

1 — The specific charge calculation method for services rendered, included in appendix IV to this decree-law and whereof it forms an integral part, is based on the coverage of the administrative costs of each act specifically rendered in accordance with the following criteria:

- a)* Volume of work involved in the regulatory activity;
- b)* Time spent on the regulatory activity;
- c)* The technical complexity of the regulatory activity;
- d)* Expenses to be borne by the regulatory entity.

2 — The license issuing charge calculation method, set out in appendix IV to this decree-law and whereof it forms an integral part, seeks to ensure the partial remuneration of the state for assigning usage of a scarce asset in the public domain and it is based on the partial socialisation of the economic advantages assigned to licensed operators by dint of the awarding of a exclusive right which allows them to exercise monopoly power.

3 — The criteria involved in the specific charge calculation method for services provided and the license issuance charge included in appendices III and IV to this decree-law and whereof it forms an integral part calculate the charge amount to be borne, which shall be repeated in a joint ordinance by the government members responsible for the fields of finance and the media, under the terms of the provisions of article 51, no.3, of the ERC Articles of Association, approved by Law no.53/2005 of 8 November.

Article 11

Administrative charges

1 — The administrative procedures which result in the application of administrative fines, reprimands, recommendations and mandatory monetary sanctions, as well as in the suspension or revocation of the radio and TV licenses or any other sanctions foreseen in the legal regimes for media activities, are subject to the payment of administrative charges under the terms foreseen in appendix V of this decree-law, whereof it forms an integral part.

2 — The amount of the administrative charges referred to in the previous number above is set by a joint ordinance by the government members responsible for the fields of finance and the media, under the terms of the provisions of, article 51 nos.1 and 3 of the ERC Articles of Association, approved by Law no.53/2005 of 8 November.

3 — The payment of any administrative charges owed under the terms of the previous number is the responsibility of the entity which is deemed to have been unsuccessful in the main procedure, for the respective part, irrespective of whether it is a media operator or not.

Article 12

Exemptions

1 - News sites that are submitted to editorial treatment and the Canal Parlamento (Parliament Channel) TV programmes service are exempt from paying the regulatory and supervision charge.

2 — The complainants are exempt from administrative charges in the following procedures:

- a) Right to reply and political argument;
- b) News accuracy, exemption and pluralism;
- c) Privacy, image rights and freedom of expression;
- d) Prevention of access to information sources.

3 — The exemption foreseen in the previous number is not granted when it is demonstrated that the complainant wilfully sought to cause damage.

TITLE III **Procedural regime**

Article 13 **Legal representation**

In those tax matters arising in the field of the regulatory and supervisory powers of media activities, the chair of the regulatory authority of the ERC, who may be replaced by any other member of the same body or by a lawyer mandated by the regulatory authority, represents the Public Treasury in the Tax Litigation Section of the Administrative Supreme Court and in the tax litigation sections of the central administrative courts under the terms of article 26, no.1, paragraph f), of the ERC Articles of Association, approved by Law no.53/2005 of 8 November.

Article 14 **General guidelines**

1 - The chair of the regulatory authority is the sole party competent for issuing general guidelines with a view to the standardisation of the interpretation and application of the tax standards set out in the present regulation under the terms of article 32 of the ERC Articles of Association, approved by Law no.53/2005 of 8 November.

2 — The general guidelines referred to in the previous number solely bind the ERC.

3 — The ERC organises a permanently updated data base containing the general guidelines referred to in this article which is disseminated online.

Article 15 **Competence**

1 - The competence for the settlement of taxes foreseen in the present Charging System lies with the chair of the ERC regulatory authority under the terms of article 26, no.1, paragraph d), of the ERC Articles of Association, approved by Law no.53/2005 of 8 November.

2 — The settlement and receipt procedure is carried out by the ERC support services.

3 — In the event that the payment fails to correspond to the amount settled, it is incumbent upon the ERC support services to proceed with the adjustment of the payment with the taxable entity, namely for the purposes of refunds and credits.

4 — The tax procedure foreseen in this Charging System also applies, making the necessary adaptations, to the receipt of administrative charges and other revenue foreseen in article 11.

Article 16

Occurrence of the taxable event

The taxable event occurs:

- a)* As regards the regulatory and supervisory charge, on 1 January each year;
- b)* As regards the remaining charges and costs foreseen in this Charging System, at the time of carrying out the specific act, of the rendering of the service or the materialisation of the procedure.

Article 17

Calculation of charge amounts

1 — The charge amount is calculated by the ERC.

2 — Without prejudice to the provisions of article 24, no.4 of this Charging System, at the time of submission or of the request, the ERC support services may require the likely amount of the total account payable for the acts required, by way of an advance payment, providing documentary evidence of the payment made with regard to the charges foreseen in article 8, no.2, paragraphs *d), e), f), h), i), l)* and *m)* of this Charging System.

3 — The amounts received under the terms of the previous number must be registered as a payment on account.

4 — Any taxable entity entitled to exemption from, or a reduction in, the charges may be exempt from the settlement of any advance payments if, at the time of drawing up the claim, it can prove this right.

Article 18

Forfeiture of the right to settlement

1 — Settlement is validly notified to the taxable entity within four years after the date on which the taxable event occurred, subject to forfeiture.

2 — The forfeiture timeframe is suspended in the event of any judicial litigation whose resolution depends on the settlement of the fee, from its outset until the decision becomes final or, in the event of the right to settlement deriving from a complaint or challenge, as from the submission of the latter until the decision.

Article 19

Statute of limitation pertaining to the tax debt

1 — Any tax debts occurring in the context of this Charging System are subject to the statute of limitation eight years after the date on which the taxable event occurred.

2 — Any claim, hierarchical appeal, challenge and review, ex officio or at the request of the taxable entity, of the settlement shall suspend the statute of limitation.

3 — If the process stops for a period exceeding one year, for an event not attributable to the taxable entity, it shall terminate the effect foreseen in the previous number, adding, in this case, the time that elapses after this period to that which has elapsed until the notification date.

Article 20 **Tax procedure**

The tax procedure arising under the terms of this Charging System encompasses:

- a) Any preparatory or supplementary actions regarding the settlement of taxes;
- b) Tax settlement;
- c) Any review, ex officio or at the request of the taxable entity, of the settlement acts;
- d) The issuance, rectification, revocation, ratification, reform or conversion of any other administrative acts into tax issues, including with regard to gratuitousness, reduction or exemption situations;
- e) The receipt of any charges, as regards that part which is not of a judicial nature, and the inherent internal procedure;
- f) Any claims and hierarchical appeals;
- g) Any other acts related with tax acts foreseen in this Charging System.

Article 21 **Participation principle**

1 — The participation of taxable entities in taking those decisions which pertain to them may be carried out, whenever the law does not stipulate otherwise, in any of the following ways:

- a) Right of hearing prior to settlement;
- b) Right to a hearing prior to the total or partial rejection of claims or appeals pertaining to tax settlement.

2 — The hearing is waived if settlement is made in line with an act or procedure at the initiative of the taxable entity or when the claim, appeal or petition decision is favourable to it.

3 — The right to a hearing must be exercised within the timeframe to be set in a registered letter to be sent to the address or head offices indicated by the taxable entity.

4 — For the purposes of exercising the right to a hearing, the ERC must inform the taxable entity of the draft decision and its underlying basis.

5 — The timeframe for exercising, verbally or in writing, of the right to a hearing, may not be less than 8 nor greater than 15 business days.

Article 22
Cooperation principle

The ERC bodies and services and the taxable entities are subject to a mutual duty of cooperation.

Article 23
Compensatory interest

1 — Compensatory interest is due when, by way of a favourable decision, the administrative claim or the judicial challenge is determined, there having been a material error of the ERC services as regards the quantification of the amount which resulted in the payment of an amount higher than that legally due or in the event that settlement of the charges foreseen in this Charging System is annulled owing to a breach of the law or declared null and void.

2 — Compensatory interest is also due under the following circumstances:

a) In the event of the cancellation of the settlement act, at the initiative of the ERC, as from the 30th day subsequent to the decision, without having processed the credit note;

b) When the review of the settlement act, at the initiative of the taxable entity, is carried out more than a year after the request of the latter, unless the delay is not attributable to the ERC.

3 — The provisions of article 61 of the Code of Tax Process and Procedure are applicable and compensatory interest is due by the end of the spontaneous enforcement timeframe of the judicial decision.

4 — Upon termination of the timeframe referred to in the previous number, default interest is due at the request of the taxable entity under the terms of article 102, no.2, of the general tax law.

5 — The compensatory interest rate is equal to the legal interest rate stipulated under the terms of article 559, no.1, of the Civil Code.

Article 24
Payment of the tax debt

1 — The payment of the tax debt generated in the context of this Charging System may be carried out by the taxable entity or by a third party.

2 — The regulatory and supervisory charge is collected on a half-yearly basis in two equal instalments in January and July of each year.

3 — If the amount to be received by way of a regulatory and supervisory charge is lower than 5 units of account, in accordance with that foreseen in appendix II to this decree-law, whereof it forms an integral part, it is charged annually in January.

4 — As regards the remaining charges foreseen in this Charging System and notwithstanding the provisions of article 17, no.2, payment must be made at the time

of the occurrence of the specific act, the provision of the service or the materialisation of the procedure.

5 — The tax payments are made by means of the authorised means of payment.

Article 25

Other payments

Whenever any amount is received, owing to expenses or payments of services inherent in the act, a receipt must be issued which, in addition to the posting of the total amount of the bill, shall provide a detailed itemisation of the amounts unrelated therewith, indicating the expenses and services they pertain to.

Article 26

Timeframes

1 — The timeframes referred to in this Charging System are calculated under the terms foreseen in the Administrative Code of Procedure.

2 — Notwithstanding the provisions of nos. 3 and 4, the timeframes are calculated as from the settlement date when no advance payment is required or when this is sufficient.

3 — In those cases in which the advance payment is insufficient, the timeframes are calculated as from the notification date for payment of the charge supplement owed.

4 — Whenever payment of the tax is made upon receipt, the timeframes are calculated as from the notification date of the taxable entity by way of a postal notification.

Article 27

Claim and hierarchical appeal

1 — Any tax acts practised by the ERC services may be subject to a claim of hierarchical appeal to the chair of the regulatory council, on the same grounds foreseen for the legal challenge, to be submitted under the terms of the Code of Tax Process and Procedure.

2 — The claim must be duly well-founded and set down in writing and it may be lodged verbally if it is very straightforward.

3 — Hierarchical appeals are always set down in writing.

Article 28

Revocation of acts of settlement

The chair of the ERC regulatory council may, further to a review procedure, claim or hierarchical appeal, wholly or partially maintain or revoke the settlement act or proceed with its replacement, reform, ratification or conversion, under the terms of article 26, no.1, paragraph *d*), of the ERC Articles of Association of the, approved by Law no.53/2005 of 8 November.

Article 29

Challenge

- 1 — The taxable entity may legally challenge the settlement act or the administrative act which includes the appreciation thereof.
- 2 — Any illegality or material error occurring in the formation of the tax obligation or drawing up of the account constitutes grounds for a challenge.
- 3 — Any challenge shall be made within 90 days.
- 4 — The petition is submitted to the competent administrative and fiscal court.
- 5 — If, prior to receipt of the challenge request, an administrative appeal has been lodged with regard to the same act, this must be attached to the legal challenge in its current state, being considered, to all intents and purposes, in the context of the challenge process.
- 6 — When, subsequent to receipt of the request, an administrative appeal is lodged with regard to the same act but based on other grounds, this must be attached to the challenge.

TITLE IV

Breach

Article 30

Breach

- 1 — If the amount owed by way of a charge is not fully paid by the debtor, the ERC shall notify it, by registered letter, to make payment thereof within eight days, failing which there shall be tax enforcement.
- 2 — Default interest is owed, at the legal rate, when the taxable entity or debtor fails to pay the amount owed within the timeframe referred to in the previous number.

Article 31

Tax enforcement

- 1 — Enforced recovery of tax debts from the ERC, deriving from a failure to pay the amounts, is carried out according to the tax enforcement process foreseen in the Code of Tax Process and Procedure.
- 2 — If the timeframe elapses without payment of the amount outstanding, the ERC must issue a certificate taken from the account, containing the following elements and constituting an enforceable order:
 - a) Identification of the ERC, identification of the party responsible and his/her respective signature which may be replaced by a seal, under the terms of the Code of Tax Process and Procedure;
 - b) Date on which it was issued;
 - c) Name and address of the taxable entity or of the debtors and other joint and several liable parties;
 - d) Nature of the act carried out which served as the basis for the settlement and the reason for the debt;

e) Amount outstanding, stated in full, which includes the cost of the certificate and any other charges;

f) Date as from when default interest is due and the amount they are applied to.

3 — The ERC support services send the certificate to the tax service of the area so that the latter can see to the instigation of enforcement proceedings.

APPENDIX II

Calculation method for the regulatory and supervisory charges of the ERC.

(under the terms of article 51, no.1, of the ERC Articles of Association, approved by Law no.53/2005 of 8 November)

Basic criteria for setting the amount of the charges:

- 1 The amount of the charges pertains to the value of the procedural unit of account, set under the terms of articles 5 and 6, no.1 of Decree-Law no.212/89 of 30 June, in the wording provided by Decree-Law no. 323/2001 of 17 December;
- 2 The value of the procedural unit of account, for the purposes of calculating the charges, pertains, respectively, to 31 December of the previous year when payment is due in the month of January, and to 30 June of the same year when payment is due in the month of July;
- 3 The value of the procedural unit of account shall be updated every year in line with the national minimum wage, notwithstanding any other timeframe determined by the law applicable as at the date of the event which generated the tax debt.

Regulatory and supervisory charge

(In units of account)

	Press	Radio	Television	Cable Operators	Mobile phone Operators	ISP
High regulation — individual value	50	85	562	422	281	0
Average regulation — individual value	3	33	148	127	0	0
Low regulation — individual value	1	4	0	34	0	0

APPENDIX III

Method for setting the charges for services provided by the ERC

(under the terms of article 51, no.1, of the ERC Articles of Association, approved by Law no.53/2005 of 8 November)

Basic criteria for setting the amount of the charges:

- 1 The amount of the charges pertains to the value of the procedural unit of account, set under the terms of articles 5 and 6, no.1 of Decree-Law no.212/89 of 30 June, in the wording provided by Decree-Law no. 323/2001 of 17 December;
- 2 The value of the procedural unit of account, for the purposes of calculating the charges, pertains, respectively, to 31 December of the previous year when payment is due in the month of January, and to 30 June of the same year when payment is due in the month of July;
- 3 The value of the procedural unit of account shall be updated every year in line with the national minimum wage, notwithstanding any other timeframe determined by the law applicable as at the date of the event which generated the tax debt.

Amount	Procedure	Unit of account
1	The assessment of merger transactions and other property acquisitions carried out by media market operators	14
2	The assessment of inter-company agreements, coordinated actions and company association decisions on the media market	14
3	The appreciation of abuses of a dominant position on the media market	14
4	Provisional registration of periodic publications	0.60
5	Permanent registration of periodic publications	0.10
6	Registration of press enterprises	0.40
7	Final registration of news' companies and TV and radio operators	0.10
8	Request for the annotation of a change in share capital and its holders or the publication logo	0.40
9	Request for annotation other than that foreseen in the previous section	0.10
10	Cancellation of record	0.10
11	Issuing of photocopies (per page)	0.006

12	Issuing of certificates (per page)	0.011
13	Carrying out of audits on media operators	29
14	Accreditation of market opinion companies and their renewal	0.60
15	Depositing of opinion polls and surveys	0.40
16	Alteration to accredited entity	0.20
17	Depositing of the editorial statute of media bodies	0.20
18	Annotations for licences to carry out radio and TV activities	0.10
19	The classification of periodic publications	0.20

APPENDIX IV

Method for setting the charges for the issuance of licenses by the ERC

(under the terms of article 51, no.1, of the ERC Articles of Association, approved by Law no.53/2005 of 8 November)

Basic criteria for setting the amount of the charges:

- 1 The amount of the charges pertains to the value of the procedural unit of account, set under the terms of articles 5 and 6, no.1 of Decree-Law no.212/89 of 30 June, in the wording provided by Decree-Law no. 323/2001 of 17 December;
- 2 The value of the procedural unit of account, for the purposes of calculating the charges, pertains, respectively, to 31 December of the previous year when payment is due in the month of January, and to 30 June of the same year when payment is due in the month of July;
- 3 The value of the procedural unit of account shall be updated every year in line with the national minimum wage, notwithstanding any other timeframe determined by the law applicable as at the date of the event which generated the tax debt.

Amount	Procedure	Unit of account
20	The awarding and renewal of licenses to national TV operators whose activity is based on the usage of the terrestrial spectrum	2 809

21	The awarding and renewal of licenses to regional TV operators whose activity is based on the usage of the terrestrial spectrum	449
22	The awarding and renewal of licenses to local TV operators whose activity is based on the usage of the terrestrial spectrum	112
23	The awarding and renewal of licenses to national radio operators whose activity is based on the usage of the terrestrial spectrum	281
24	The awarding and renewal of licenses to regional radio operators whose activity is based on the usage of the terrestrial spectrum	112
25	The awarding and renewal of licenses to local radio operators whose activity is based on usage of the terrestrial spectrum	56
26	The awarding and renewal of permits to media operators whose TV and radio broadcasting activity is not based on usage of the terrestrial spectrum.	281
27	The awarding and renewal of permits to media operators whose sound broadcasting activity is not based on usage of the terrestrial spectrum	39

APPENDIX V

Method for setting the administrative charges in the procedures developed by the ERC

Basic criteria for setting the amount of the charges:

- 1 The amount of the charges pertains to the value of the procedural unit of account, set under the terms of articles 5 and 6, no.1 of Decree-Law no.212/89 of 30 June, in the wording provided by Decree-Law no. 323/2001 of 17 December;
- 2 The value of the procedural unit of account, for the purposes of calculating the charges, pertains, respectively, to 31 December of the previous year when payment is due in the month of January, and to 30 June of the same year when payment is due in the month of July;
- 3 The value of the procedural unit of account shall be updated every year in line with the national minimum wage, notwithstanding any other timeframe determined by the law applicable as at the date of the event which generated the tax debt.

Amount	Procedure	Unit of account
28	Right to reply	3

29	News accuracy, exemption and pluralism	4.50
30	Privacy, image rights and freedom of expression	4.50
31	Prevention of access to information sources	4.50
32	Concealed advertising in media bodies	4.50
33	Professional secrecy/non-disclosure of information sources	4.50
34	Institutional advertising	3
35	Independence of media bodies from economic and political power	4.50
36	Arbitration with regard to airtime rights	4.50
37	Arbitration with regard to exclusive rights	4.50
38	Compliance with article 24 of the TV Law	4.50
39	Compliance with the regulations governing the implementation and publication of opinion polls and rectifications thereunto	1.50
40	Arbitration with regard to access by the media to places open to the public	4.50
41	Other procedures	3