Interconnection Pricing Strategy for the Electronic Communications Sector in Malta

Response to Consultation and Decision

May 2010

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Executive Summary

In November 2009, the MCA published a consultation paper entitled "Interconnection Pricing Strategy for the Telecommunications Sector in Malta" with the aim of providing visibility of the short to medium term interconnection strategy for the local electronic communications sector. The document sought views of interested parties regarding the proposed strategy to be adopted by the MCA. The proposed Interconnection Strategy was also carried out making specific reference to the EU Commission Recommendation on the Regulatory treatment of Fixed and Mobile Termination Rates in the EU published in May 2009.

As described in this report, the Interconnection Pricing Strategy provides a combination of regulatory approaches which will be used in the short to medium term in order to calculate the regulated wholesale Fixed and Mobile Termination rates. As a charging mechanism, the Calling Party Network Pays will continue to be used and charging will continue to be based on a cost per minute basis.

In the interim period, Mobile Termination Rates (MTRs) will be calculated using benchmarking techniques with reference to the average of the lowest 75th percentile of the EU 27 regulated rates (excluding Malta) as presented in the Implementation Report published annually by the Commission. In the eventuality that a representative sample of countries' regulated rates emanating from LRIC models in line with the Commission Recommendation is available, the MCA would benchmark the local MTRs with such rates in the interim period. Eventually, the MCA will build its own mobile LRIC model in line with the Commission Recommendation (pure LRIC) to calculate MTRs in line with the time frames as proposed by the Recommendation.

Regulated wholesale Fixed Termination Rates (FTRs) will continue to be calculated by the MCA making reference to the current Bottom-Up Cost Model in the interim period. The rates will continue to be time-differentiated termination tariffs which will be calculated using Go Plc's data as a proxy for the traffic and pricing characteristics of a hypothetical efficient Fixed Network. The MCA will however build a new pure LRIC model in the medium term in line with the Commission Recommendation in accordance with the timeframes proposed by the same Recommendation.

This report sets out in more detail the MCA's decisions outlined above. The MCA reserves the right to vary or amend any parts or all of the strategy as future circumstances require in accordance with the obligations of the MCA to oversee the development of the markets generally.

1 Introduction

In November 2009, the Malta Communications Authority (hereafter 'MCA') issued the Consultation Paper and Proposed Decision entitled Interconnection Pricing Strategy for the Electronic Communications Sector (ECS) in Malta (hereafter 'consultation document'). This consultation document sought to provide visibility on the proposed future regulatory strategy for fixed and mobile termination rates ('FTRs' and 'MTRs' respectively) over the short to medium term following the issue of the Recommendation on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EU (hereafter 'the Recommendation') published by the EU Commission (hereafter 'the Commission') on 7th May 2009.

The aim of this document is to report on the feedback received from interested parties as well as to lay down the MCA's final decisions in this regard.

2 Responses to Consultation

The cosnsultation period for this document ended on 25th January 2010, with three respondents sending their feedback, namely:

- Vodafone Malta Ltd (hereafter 'VML')
- Go Plc (hereafter 'GO')
- Melita Plc (hereafter 'Melita')

The MCA hereby wishes to take this opportunity to thank the respondents for their feedback.

3 Regulatory options on the existent charging mechanisms

3.1 Charging Mechanism

3.1.1 Summary of Consultation Issue – Charging Mechanism – Question 1 in the Consultation Document

In the consultation document, the MCA identified the different charging mechanisms available to regulators and analysed the advantages and disadvantages of each mechanism in order to consult on the most suitable approach for the local market, whilst taking utmost regard to the Recommendation. The MCA analysed three main mechanisms, these being: The Calling Party Network Pays (hereafter 'CPNP'); the Receiving Party Pays (hereafter 'RPP'); and the Bill and Keep (hereafter 'BaK').

Having analysed the pros and cons of each mechanism with reference to the local scenario, the MCA had proposed that for the sake of business continuity and regulatory stability, the current CPNP mechanism should be maintained.

3.1.2 Summary of Responses

All respondents noted that they agreed that the charging mechanism of CPNP should be maintained. One respondent specifically noted that drastic changes at this stage would disrupt the market. This respondent also noted that it could be premature at this stage for Malta to consider moving towards the other mechanisms when their effects are unknown in practice. Another respondent noted that a shift towards RPP would be more confusing for customers to adapt to such a system and it would also require a significant number of costly changes to the operators' infrastructure to adapt to the new system. Another respondent noted that the MCA's intention to monitor the developments on BaK with the European Commission and the European Regulators Group[1] is entirely sensible.

[1] The European Regulators Group has been reorganised as the Body of European Regulators for Electronic Communications ("BEREC") under Directive 2009/140/EC.

3.1.3 MCA's Response and Decision

Decision 1
In view of the responses received and as proposed in the consultation document, the MCA feels that the CPNP system should be maintained as a charging mechanism. Notwithstanding this, the MCA will continue to monitor any future developments on RPP and BaK particularly within the European Commission and the BEREC. Any possible developments could be considered in future strategies.

3.2 Basis of Charging

3.2.1 Summary of Consultation Issue - Modelling Termination rates based on Capacity Based Charging – Question 3 in the Consultation Document

In the consultation document, the MCA had considered Capacity Based Charging (hereafter 'CBC') as an alternative to the usual method of charging for interconnection traffic on a cost per minute basis. As noted in the consultation document, under such approach, termination rates would be based on specific network capacity, rather than on network usage denominated in termination minutes, with the operators charging each other on the number of interconnection circuits carrying traffic between the networks of interconnecting operators.

After having considered all the advantages and disadvantages of CBC, the MCA foresaw that the practical implementation issues identified in the consultation document would require business models to adapt to a shift in the basis of charging. Hence, the MCA proposed to postpone a more detailed treatment of this alternative to a future revision of this strategy document. The MCA considered that a move towards CBC will not be considered as an option in the short to medium term covered in this strategy.

3.2.2 Summary of Responses

All respondents agreed with the MCA's stance on CBC. One respondent noted that it would be too premature to go for CBC as a basis of charging at this stage. It also noted that in the current scenario, where the MVNO sector is still in its infancy and where operators are still struggling to bring interested parties on board through an MVNO structure, the introduction of CBC could further complicate the process. Another operator noted that CBC is an approach that requires further study in order to understand fully its implications.

3.2.3 MCA's response and Decision

Decision 2

The MCA is of the view that the CBC mechanism is intuitive and perhaps more adaptable in an NGN set-up. This notwithstanding, in view of all the issues identified in the consultation document and also in view of all responses received, the Authority has decided that a shift towards CBC should be postponed and will not be considered as an option in the short to medium term time period covered in this strategy. The Authority will continue monitoring developments in CBC and reserves the right to reconsider the applicability of the adoption of such charging basis in the future.

3.2.4 Summary of consultation issue – Cost-Per-Minute as a basis of charging – Question 4 in the Consultation Document

After having considered all the available regulatory options in the consultation document, the Authority had proposed that the basis of charging should continue to be based on a cost-per-minute basis. Through the consultation document, the Authority sought the views of interested parties on the most feasible form of setting termination rates in a CPNP regime in Malta.

3.2.5 Summary of Responses

All respondents agreed with the MCA's proposed decision to continue using Cost-Per-Minute as a basis of charging.

3.2.6 MCA's response and Decision

Decision 3

The Authority notes that Cost-Per-Minute should continue to be used as a basis of charging for the period covered by this Interconnection Strategy. The Authority will nevertheless continue to monitor any developments made within BEREC, the Commission and different member states.

3.3 Charge setting mechanisms

3.3.1 Summary of Consultation issue – Calculating cost-per-minute termination rates through the use of Long Run Incremental Cost Modelling (LRIC) Vs Alternative Methodologies (benchmarking) – Question 2 in the Consultation Document

The Recommendation states that NRAs should set termination rates based on the costs incurred by an efficient operator and should in general be symmetric. A pure LRIC model is also described by the Commission as the preferred method of calculating these rates. In the consultation document, the Authority provided a detailed synopsis of the Recommendation and it also sought to obtain feedback from interested parties regarding their opinion as to which is the most efficient methodology to calculate termination rates under a CPNP regime in the local context i.e. whether building two LRIC models or using benchmarking techniques.

3.3.2 Responses Received

One of the respondents noted that it did not have enough information to express a strong opinion. It noted also that the consultation document does not discuss or give visibility of the direct implications of moving towards a LRIC model, on the operators' respective bottom lines, investment requirements and operations.

Another respondent noted that given the scale and scope, as well as the competitiveness which exists nowadays in the market, coupled with the fact that the major network operators are all striving for more cost efficiency over time, introducing a model such as LRIC would be an overkill and yet another significant burden on operators. The respondent continued by noting that it is inclined to propose the retention of the current benchmarking techniques, deeming this to be the most suitable approach and least interventionist by the MCA. It also noted that it feels that the cost of adopting and maintaining the model adequately in place would certainly outweigh the benefits of its introduction. Whilst fully supporting benchmarking techniques as the preferred methodology for Malta, the respondent further noted that the Recommendation states that in the case of compelling facts, benchmarking can be adopted as the vehicle for termination rates and feels that, in its opinion, Malta has compelling facts at hand to justify this approach.

The third respondent noted that the use of separate LRIC models for Fixed and Mobile Termination rates is the most efficient methodology to use for deriving cost-based FTRs and MTRs in Malta. It noted that a key output of the consultation should be that the MCA adopts a consistent approach to setting interconnection charges for fixed and mobile call termination and two LRIC models need to be built to derive cost-oriented FTRs and MTRs.

In its response, this respondent continued by noting that in the consultation document the MCA failed to support the assertion that the regulatory cost of building two LRIC models is the most onerous.

This respondent also urged the MCA to push ahead with the development of the required LRIC models and do away with the benchmarking regime as soon as possible.

3.3.3 MCA's response and decision

In view of the comments made by the first respondent on the lack of visibility to form an opinion, the MCA feels that sufficient information on the costs and benefits of each regulatory option was afforded in the document. This is reinforced by the fact that the other respondents were able to form and discuss their own opinion on this matter.

With respect to the third respondent's claims on the lack of proof put forward by the MCA on its remarks about the higher regulatory costs involved in cost models vis-à-vis benchmarking, the Authority thinks that the difference is not only self evident but that additionally, the regulatory cost of providing cost accounting information would also impact network operators (that are already subject to onerous regulatory accounting obligations) themselves. Moreover, the fact that the Recommendation mentions the use of benchmarking as an interim alternative to cost modelling for those NRAs lacking resources also proves this point. Had these two methodologies been characterised by the same cost one would not be mentioned as an alternative to the other for small NRAs.

In relation to the point where the MCA noted that the cost of building a LRIC model in Malta will be considerably higher, given the small size of the local market, is also self evident. It suffices to consider the considerably higher regulatory costs per subscriber in a small market such as the Maltese market in relation to that of the other member states with a much larger subscriber base. The MCA notes that the European Commission has been also sensitive to this point, as smaller regulators (including Malta) were specifically mentioned in Commissioner Reading's press release on the Recommendation when mentioning the use of alternative methods.

This respondent also questioned the point where the MCA noted that the development of two LRIC models would have to be staggered over a number of years due to the inherent lengthy regulatory process of model building, making reference to the international experience in this regard. The MCA feels that it already has sufficient experience with model building to assess the time and resources involved (as well as those required from the network operators themselves) in such processes and implementation. A further consideration is that the Recommendation's principles have just started to be incorporated in the 'Pure' variant of LRIC as recommended by the said document. Hence it might be premature to use past experience as direct reflection of these new developments and possible regulatory issues that might arise therewith.

Notwithstanding all of the above, the MCA would like to reiterate that any implementation issue discussed above will not in any way detract the Authority from its ultimate goal to achieve the lowest termination rates possible in line with the Recommendation's principles - principles which the MCA supports fully. For the avoidance of doubt, therefore, the MCA reiterates also that the aim of this consultation was to explore the most cost effective way to achieve these goals and not to put in question their ultimate achievement.

After having considered all the responses received, together with its ultimate goals, the MCA feels that basing termination rates on a LRIC model offers a superior price control mechanism, albeit being characterised by considerably higher regulatory costs that cannot be ignored. For this reason the MCA feels that the only way to balance the benefits of the methodology with its inherent costs is by taking a staggered approach towards building the two models so as to try and achieve economies of scope with other planned workstreams as well as minimise the distortions to the Authority's work programme.

Decision 4

In view of all the issues identified in the consultation document and also in view of all responses received, the Authority has decided that as a primary target it will ensure that by December 2012 it will be fully compliant with the Recommendation, primarily by doing its utmost to conclude 'Pure' LRIC models for both the MTR and FTR respectively by the said date. The Authority will stagger the building of these models according to the MCA's identified regulatory needs of the markets and hence these will not be built in parallel. In the eventuality that any one of the LRIC models will not be completed by December 2012, the MCA will ensure that the alternative treatment used until completion of the models will be in line with the principles featured in the Recommendation. This notwithstanding, the Authority will continue to monitor the developments on future charging mechanisms in the EU and reserves the right to review this decision in line with them, following adequate consultation with all stake holders as well as maintaining the utmost regard for the Recommendation.

The following sections of this decision will cover the report on consultation and Decisions related with the short-term transitory period leading to the aforementioned primary target.

4 Strategy for the transition and practical implementation of a revised termination rates framework

In the consultation document, the MCA presented its proposed strategy, and sought to obtain feedback for the regulation of termination rates for the Interim Period leading to the deadline set by the Recommendation. Below is a summary of the main consultation issue together with the feedback received and the MCA's response and decision.

4.1 MTRs Interconnection Pricing Strategy transition

4.1.1 Summary of Consultation Issue: Do you agree with the proposal of the local MTR being set in line with the EU27 absolute average for the period from June 2010 till June 2011 / June 2011 till June 2012 – Questions 5 & 6 in the Consultation Document

With the aim of providing visibility to the sector with respect to interconnection regulation for the coming years, together with providing a certain degree of assurance with regards to regulatory certainty, through the consultation document, the Authority proposed that for the period June 2010 till June 2011 and from June 2011 till June 2012 (hereafter 'the interim period') the MTR will be set in line with the EU27 absolute average (with a possible extension till December 2012). This was proposed in order to achieve a mechanism that will provide a smooth transition up to the timeframes featured in the Recommendation. The Authority argued that the absolute EU27 average in that period will already be capturing the movement, by various Member States, towards rates which are consistent with the Commission Recommendation. In the Consultation Document, the Authority proposed that the EU27 absolute average was to be determined from official data published by the EU Commission through the publication of the annual Implementation Report.

4.1.2 Responses Received

Two of the respondents noted that they are in agreement with the methodology proposed by the MCA to calculate the MTRs for the Interim Period leading to the deadline imposed by the Commission Recommendation. One of these respondents particularly noted that the proposed methodology will provide certainty for the operators and one would be able to roughly anticipate and forecast the movement in termination rates from year to year, which would allow better budgeting by operators.

On the other hand, another respondent noted that it strongly disagrees with the MCA's proposal. It specifically noted that benchmarking should only be used as an interim measure until such time as a proper LRIC model is developed. It further noted that the Commission Recommendation does not allow the MCA to use such a methodology as it states that benchmarked rates should not exceed the average of the termination rates set by NRAs implementing the recommended cost methodology. The respondent argued that benchmarking with the EU27 would not result in the same rates as benchmarking with member states having implemented the LRIC modelling as outlined by the Recommendation.

This respondent further noted that an EU27 average would factor in EU worst practice as well as EU best practice. Any highly inflated rates will be included in the EU27 figure which would be used to set the MTR in Malta based on the proposed methodology. The respondent continued by noting that the MCA will not be able to continue its current practice of basing the MTR in Malta on a simple average of rates across the EU27 unless it is able to demonstrate that such an approach produces a rate that does not exceed the average of the termination rates set by NRAs implementing the recommended cost methodology. In its response, it further quoted rates of different countries (using the ERG Snapshot report as at July 2009) using cost models to calculate their MTR and noted that this information is available in the implementation report and in regulators' websites. The respondent calculated the average rate of all the operators making use of a cost model to calculate their MTR and concluded that the local MTR is set at an excessive level.

4.1.3 MCA's response and decision

In view of the comments made by the respondent contending the use of benchmarking, namely that the MCA's proposed interim benchmarking methodology is not in line with the Commission's Recommendation, the MCA has the following views.

At the outset the MCA would like to point out that the deadline imposed by the Commission for rates to reflect the principles of the Recommendation is the 31 December 2012. In this regard, the MCA differs with the respondent's view that sufficient information is already available to benchmark with those countries having a model for the following reasons:

- Having a model is not a sufficient criterion to be used for benchmarking. The model has to be a 'Pure' LRIC model in line with the Recommendation;

- It could be that although a country might have finalised a 'Pure' LRIC model, its rates might be set on a glide path to reach the modelled rate in a determinate and possibly unknown target date.

In view that such qualitative information is still lacking, the MCA has already taken a pro-active approach by putting forward its formal proposals to the BEREC Benchmarking Project Team (here after 'BMPT') which is the entity in charge of compiling the Mobile Snapshot Report quoted by one of the respondents. The MCA's representation within the BMPT has the aim of ensuring that the missing information related to the type of model used, and information as to whether the regulated rates are the modelled rates or glide path rates, will be included in the future versions of the mobile snapshot report. Through this inclusion, any countries wishing to avail themselves of the benchmarking option would be able to do so and be in line with the alternative approach as described in the Recommendation.

With respect to the respondent's concern that an absolute EU average will incorporate also the worst practice in Europe, the MCA feels that although this is not sufficient to discard the entire benchmarking exercise, it effectively calls for finding ways to qualify this average as laid in the decision shown hereunder. In order to take this into account, the MCA will be benchmarking with the average of the lowest 75th percentile of the member states' rates (excluding Malta). The MCA will be compiling the regulated MTR annually based on the average of the lowest 75th percentile of the EU member states (excluding Malta). Such methodology will aim to exclude any member states having excessive termination rates from the benchmarking calculation. This means that the MCA will be calculating the average of the lowest 20 countries' MTRs as listed in the Implementation Report (75% of 26 will result in 20 countries). The benchmarking exercise will continue to be carried out annually every June. As a preferred source of benchmarking, the MCA will be using the EU Commission Implementation Report which is published annually.

Decision 5

As an interim benchmarking methodology, the MCA will be benchmarking the local MTR for the interim period with the average of the lowest 75th percentile of the EU member states' rates using the EU Implementation Report as its main source.

In the eventuality that additional qualitative data, namely information on what type of cost model is being used and whether the regulated rate is the actual rate emanating from the LRIC model, is available in other official reports, the MCA reserves the right to use such reports to calculate the benchmarked regulated rates.

The MCA further notes that in this eventuality, it would use the regulated rates (emanating from the model) used by countries having a LRIC model in line with the Recommendation on condition that these would represent at least 25% of all EU member states. This would be done after giving the market a minimum of four months advance notice with respect to the change in the benchmarking methodology and source.

Decision 6

In the eventuality that additional qualitative data related to whether the regulated rate is derived from a LRIC model in line with the Recommendation is available in other official reports, the MCA will base its interim benchmarking methodology on such report(s) on condition that these would represent at least 25% of all the EU member states. This would be done after giving the market a minimum of four months advance notice of such change.

4.2 FTRs interconnection pricing strategy transition

4.2.1 Summary of Consultation Issue: Do you agree with the proposal of the local FTR being set at the minimum of the BUCM rate or the EU27 average for the period from August 2010 till July 2011 / August 2011 till July 2012 – Questions 7 & 8 in the Consultation Document

Through the consultation document, the MCA aimed to provide visibility to fixed operators having SMP in wholesale fixed call origination/termination regarding the calculation of the regulated FTR. The MCA had proposed that for the interim period spanning from August 2010 till August/December 2012, the FTR would be based on the EU27 average unless the MCA has evidence that the FTR calculated using the MCA's current BUCM is in effect lower than the EU27 absolute average. Hence the authority proposed that the FTR for the interim period would be based on the minimum of the BUCM rate or the EU27 absolute average.

4.2.2 Responses Received

One of the respondents noted that it favours the approach of the EU27 average whilst another respondent noted that the consultation document did not give enough information to allow it to express a preference. This respondent further noted that it would be greatly disappointed if the option chosen is based primarily, or solely, on positioning in the EU benchmark that reflects more regulatory aspirations than a true and fair level of interconnection tariffs that are based on costs.

The third respondent noted that it supports the use of an appropriate bottom-up LRIC model to set both the FTR and MTR. It further noted that the MCA's current BUCM produces an excessive FTR in Malta. Moreover this respondent also noted that as an interim step ahead of replacing the BUCM with a fully functional LRIC model, the MCA needs to ensure that the BUCM does not continue to produce an outcome whereby the FTR in Malta is set at an excessive level compared with other EU Member States. It further noted that the MCA also needs to examine the structure of the FTR in Malta to take account of the non availability of the equivalent of single transit and local call delivery within the country, noting that the current situation means that the only option given to operators for handing over traffic for termination on Go's fixed Network is to do so at rates that are slightly in excess of the EU average for double transit call delivery. In its response, this respondent also noted that the local rates for double transit, single transit and local are at €0.0127.

4.2.3 MCA's response and decision

In response to the point mentioned regarding the fact that the MCA needs to ensure that the BUCM does not continue to produce an outcome whereby the FTR in Malta is set at an excessive level compared with other EU Member States, the MCA would like to point out that the FTR quoted by the respondent (€0.0127) is the peak rate which was applicable up to 31 December 2007. This rate has since then been revised twice and currently the average rate stands at €0.00731[2]. The respondent has used the 14th implementation report to quote its rates but has failed to make reference to the MCA's Consultation and Proposed Decision document entitled "Fixed Interconnection Pricing Review 2009", where the MCA has specifically noted that the report had erroneously quoted the rates prevailing in October 2007. As a matter of fact, the current prevailing peak rate stands at €0.00833 which is below the average peak rate as found in the 14th implementation report.

In reply to the reference made with respect to the MCA examining the non availability of the equivalent of single transit and local call delivery within the country, the MCA notes that such a rate structure is not warranted in Malta due to its limited geographical size. Furthermore, in the NGN set-up modelled in the BUCM, which is in turn based on GO's NGN Core network, interconnection is only possible at the Media Gateway level with the role of traditional RSSs being limited to aggregation, hence making the single transit and local call distinction obsolete. The same difficulty would be encountered by other fixed telephone network operators, whether cable networks or wireless. Hence the MCA feels that it is not a viable way forward for Malta.

In response to one of the respondent's claims on the MCA's BUCM, particularly the need for basing it on LRIC methodology as well as the alleged excessive rate resulting from the said

[2] MCA Fixed Interconnection Pricing Review 2009 – Report on Consultation and Decision Notice (July 2009)

model, the MCA makes the following remarks. Firstly the MCA's BUCM is already based on a LRIC methodology. With the advent of the Recommendation, the preferred form of LRIC changed to a 'Pure' form which effectively calculates the incremental costs of third party traffic terminating on a given network. Furthermore, the MCA's BUCM was built according to international best practice and hence its output should be taken as reflective of the local context.

Following the publication of the consultation document, the Authority carried out further analysis on the interim benchmarking possibilities. Unlike with MTRs, apart from the Implementation Report, there is no other official report providing a summary of the average FTRs of member states and at the time of writing, there is no indication of the possibility of having a report highlighting the member states' regulated FTRs emanating from LRIC models built in line with the Recommendation. On the other hand, the Implementation Report provides only the Peak FTRs of EU states. Following further evaluation carried out, the MCA has concluded that as an interim measure, until the new FTR LRIC model is completed (as per the MCA Decision 4 above), the Authority will continue to use its current BUCM for the setting of the FTR. The MCA's current BUCM model is a LRIC model based on the traditional definition of increment and hence the MCA feels that for the interim period leading up to the completion of the new LRIC model, the use of the current BUCM is preferred to the proposed benchmarking approach.

Decision 7

Until the new FTR LRIC model is completed, as an interim measure, the Authority will continue setting the regulated rate on the current BUCM. The regulated FTR will be set in line with the Fixed Interconnection Pricing Review decision published annually.

5 Symmetry and single rate regulation for FTR

5.1 Summary of consultation issue: What are your views on the MCA's proposal on symmetry and which is your preferred option – Question 9 in the Consultation Document

In the consultation document, the MCA had expressed its opinion on symmetry favoring the interpretation of the concept to be as straight forward as possible. This would make the termination rates transparent and clearly understood by all stakeholders. The MCA argued that in the last few years, the local fixed call market has experienced a shift from retail charges being based on a cost per minute basis towards fixed price retail packages offering a limited or even unlimited number of minutes at a fixed price. This would result in "one single tariff" plans gradually replacing differential time charging tariffs. In the consultation document the MCA further analysed the argument of cost causation in relation to wholesale termination charges and the price differentials in relation to the time of day gradients. The MCA also highlighted the fact that the current BUCM is dimensioned on the peak-busy hour of the network and takes into account the possible maximum load on the network, hence resulting in a single rate taking into account peak demand patterns on the network.

In the consultation document, the MCA consulted on three possible options:

1. Maintaining the current practice and continuing to use Go's data as a proxy for the traffic and pricing characteristics of a hypothetical efficient network;
2. One single rate based on the average, which would entail the regulation of one single rate to be maintained by all operators having SMP status in the relevant termination market. No time-of-day differentiated termination rates will be permitted. This was noted as the MCA's preferred approach;
3. Having an overall price gradient where the time of day gradient would be based on differentiated termination rates on the overall market data.

5.2 Responses Received

Two of the respondents noted that they agree with the MCA's proposal on symmetry. One of them noted that this would provide a clear, transparent approach which is also simple and straightforward whilst the other noted that FTRs charged by all operators in Malta should be symmetrical and that a fixed operator should charge a single average rate for fixed call termination regardless of the time of day or day of week in which the call takes place. This same respondent also noted that the MCA should investigate the feasibility of opening up interconnection at lower levels within Go's Fixed Network leading to the setting of lower FTRs for single transit and local call delivery.

The third respondent noted that in principle it agrees with the principle of symmetry and that it favors option 1.

5.3 MCA's response and decision

Apart from considering the responses mentioned above, the MCA continued to study the status of the market to date. It noted that although, as indicated in the consultation document, there is a marked trend toward flat-rate billing on the retail market, the majority of the subscribers are still on standard tariffs featuring time-differentiated tariffs. For this reason, although noting that the shift towards flat-rate tariffs continue to gather momentum, it would be premature to introduce single rate termination in the market at this stage, as this would effectively risk to pre-empt the development on the retail side. The MCA also notes that the majority of EU states still apply a time-differentiated termination rate on the fixed network.

Decision 8

The MCA has decided to maintain the current system featuring time-differentiated termination tariffs and to continue to use Go's data as a proxy for the traffic and pricing characteristics of a hypothetical efficient network. Nevertheless, the MCA reserves the right to reconsider its position on this matter in line with local and international market developments in the future.

With respect to the concept of symmetry the MCA reconfirms its stance towards termination rates being kept symmetrical both within the fixed termination market (i.e. each operator charging a common FTR) as well within its mobile counterpart (i.e. each operator charging a common MTR).

Ing. Philip Micallef

Chairman
Malta Communications Authority