

Introducing Carrier Selection & Carrier Pre- Selection in Malta

Report on Consultation and Decision

May 2004

Contents

1	Introduction	3
2	Defining Carrier Selection and pre-selection	5
2.1	Call-by-call Carrier Selection (CS).....	5
2.2	Carrier Pre-selection (CPS).....	5
2.3	Carrier Pre-selection (CPS) with override	6
3	Legislative Background.....	7
4	Responses to the Consultation	8
5	Services covered by the CPS obligation	9
6	Obligation to enable end-users to access CS & CPS services	10
6.1	Public Fixed Telecommunications Authorised Providers	10
6.2	Public Mobile Telecommunications Authorised Providers	11
7	Providers of CS and CPS services.....	13
8	Structural Separation.....	Error! Bookmark not defined.
9	Consumer Issues	14
9.1	General.....	14
9.2	Requirement of a Code of Practice	14
9.3	Consumer Billing	14
10	Quality of Service.....	16
11	Cost Apportionment	17
11.1	Conveyance Charges.....	17
11.2	Cost Categories.....	17
12	Number Designation	20
12.1	Carrier Prefixes for Carrier Selection.....	20
12.2	Application for Carrier Prefixes.....	20
	Annex 1 – Cost arrangements	21
	Annex 2 - Application for Access Codes.....	22

1 INTRODUCTION

In August 2002, the Malta Communications Authority (MCA) published its Consultative document dealing with the introduction of Carrier Selection and Carrier Pre-Selection in Malta. The objective of this document was to seek the views of operators and interested parties on the introduction of Carrier Selection and Carrier Pre-Selection.

Carrier Selection and Carrier Pre-Selection are key enablers of effective competition in a liberalised telecommunications environment. These facilities enable consumers to avail themselves of telecommunications services best suited to their specific needs, particularly in terms of price and quality. In the EU, 33% of fixed telephony subscribers use an alternative provider to route long-distance and international calls, while 25% use alternative providers for local calls.¹ The existence of such services has the effect of exerting competitive pressure on incumbent operators to lower prices, reduce their cost base and introduce new services more quickly, thus accelerating the benefits of competition in the marketplace.

The MCA proposed the introduction of Carrier Selection and Carrier Pre-Selection for international calls originating from Malta, and later on to consider moving to local call Carrier Selection and Carrier Pre-Selection. In particular, the MCA sought the views of interested parties regarding:

- a. Which operators providing direct access to subscribers should be obliged to offer Carrier Selection and Carrier Pre-Selection to their subscribers;
- b. Which operators should be entitled to provide Carrier Selection and Carrier Pre-Selection,
- c. Whether operators providing an access network should be required to bill the customer on behalf of selected operators, and,
- d. Other issues that are related to interconnection, costs and general telecommunications regulation.

During the time the consultative paper on CS and CPS was published, it was not clear when or whether Malta would be joining the EU. In the interim period, the Government of Malta committed itself to a number of telecommunication services

¹ Report on the Implementation of the EU Electronic Communications Regulatory Package, COM(2003) 715 final

regulatory obligations, including the implementation of Carrier Selection and Carrier Pre-Selection on both international and local voice telephony calls by not later than EU accession date of 1 May 2004.

2 DEFINITION OF CARRIER SELECTION AND CARRIER PRE-SELECTION

Carrier Selection is a facility that enables subscribers connected to one operator to choose to have some of their telephone calls carried by that operator or by an alternative operator. When a subscriber uses Carrier Selection, the call is routed through the selected operator rather than the operator to which that subscriber is physically connected. The calls made through Carrier Selection are charged at the rates offered by the selected operator rather than those available from the operator providing network access to the subscriber.

This facility enables operators that do not have their own directly connected subscribers to provide services to subscribers who are directly connected to another operator. Operators with their own directly connected subscribers may also provide services to other subscribers as a result of Carrier Selection.

Three technical alternatives can be identified for implementing Carrier Selection as follows:

2.1 Call-by-call Carrier Selection (CS)

Call-by-call carrier selection (from now on referred to as Carrier Selection (CS)) refers to the ability of the subscriber to choose an operator on a per-call basis when dialling. The choice is usually indicated by a carrier selection prefix (e.g. 10XX) dialled before the sequence of digits, which is used to reach the called party without CS.

The operator providing network access to the subscriber will then analyse the dialled prefix (XX are the digits which identify the selected operator) and route the call to the particular operator via the closest point of interconnection. It is then the responsibility of the selected operator to check that the subscriber is authorised to use its services.

2.2 Carrier Pre-selection (CPS)

With Carrier Pre-Selection, one or several default operators are programmed into the exchange of the operator providing network access to the subscriber according to the subscriber's choice. The choice of this carrier applies to each

call and the carrier selection prefix is not needed. Pre-selection is usually made off-line by the operator providing the access network.

2.3 Carrier Pre-selection (CPS) with override

With this option in place, a pre-selected operator is used unless the user overrides the pre-selection on a per-call basis by dialling a carrier selection prefix (10XX). This third solution combines the first two solutions mentioned above.

3 LEGISLATIVE BACKGROUND

Article 4 of the Telecommunications (Regulation) Act empowers the Authority to make directives as may be required for the implementation of any of the provisions of the Act. The article also provides that the Authority shall have a duty to exercise its functions in a manner, which it considers best conducive, amongst other, to promote open networks and effective competition.

Article 24 of the Telecommunications Services (General) Regulations states that an operator of a public fixed telecommunications system having a dominant market position providing telephony services is required to allow its subscribers to access switched services of any interconnected operator providing public telephony services on a “call by call” basis and by “pre-selection” with an override facility. Besides the fixed DMP operator, the MCA may impose this obligation on any other operator providing telephony services.

These Regulations provide also for the pricing of CPS to be cost-oriented and state that charges to subscribers must not discourage the use of such service. The cost to provide CS or CPS is to be funded either through internal funding by the enabling operator, and / or on the basis of an interconnection agreement between the originating operator and the pre-selected interconnected operator subject to the MCA’s approval.

4 RESPONSES TO THE CONSULTATION

The consultation period for the Consultative Paper entitled "Introducing Carrier Selection and Carrier Pre-Selection in Malta" ran from 28 August 2002 to 14 November 2002.

Responses were received from the following:

- Euroweb Ltd,
- Mobisle Communications Ltd (Go Mobile),
- Maltacom p.l.c,
- Melita Cable plc,
- Vodafone Malta Ltd.

In general, all submissions were constructive with the majority of respondents agreeing on the proposed phased introduction of the facilities and the general cost categories defined in the consultative document.

5 SERVICES COVERED BY THE CS/CPS OBLIGATION

In its consultative document, the MCA considered that the introduction of complex schemes would not be in the best interests of either the consumer or the market.

Complex schemes are likely to prove unattractive to consumers and might add to the costs and time-scales of introducing these services, with few counterbalancing benefits.

The majority of respondents agreed with the phased introduction as proposed in the Consultative Document. They maintained that this would be in the interests of both operators and consumers. One respondent mentioned a number of conditions that must be in place before the introduction of these facilities. The respondent argued that all competing licensed network operators and Publicly Available Voice Telephony Service providers including mobile operators should provide CS and CPS.

Furthermore, inter-operator charges connected to CS/CPS should be symmetrical so that that no competing party is disadvantaged, and to ensure a level playing field.

Another important aspect mentioned by two respondents is the cost orientation of tariffs. One submission stated that unless tariff re-balancing has taken place, the fixed line operator would have to lower the international tariffs under market pressure while being unable to increase sufficiently its access charges and local tariffs to cover its costs and make a reasonable return.

Decision 1:

The MCA directs that Carrier Selection and Carrier Pre-Selection (CS & CPS) should be available on fixed telephony services for both local and international calls with effect from publication of this Decision.

6 OBLIGATION TO ENABLE END-USERS TO ACCESS CS & CPS SERVICES

The Telecommunications Services (General) Regulations provide that ‘an operator of a public fixed telecommunications system having a dominant market position providing telephony services shall allow its subscribers to access switched services of any interconnected operator providing public telephony services:

- a. on a call-by-call basis by dialling a carrier selection code;
- b. by means of pre-selection, with a facility to override any pre-selected choice on a call-by-call basis by dialling a carrier selection code.

It also provides that the MCA may impose this obligation on any operator providing telephony services.’

6.1 Public Fixed Telecommunications Authorised Providers

The designation of a DMP in the Public Fixed Telephony Services market places an obligation on Maltacom plc to provide Carrier Selection and Carrier Pre-Selection to its subscribers.

Decision 2.

A) The MCA directs Maltacom plc to enable its subscribers to access both local and the international services of any interconnected provider holding an appropriate licence/authorisation on a call-by-call basis by dialling a Carrier selection code (10XX) with effect from publication of this Decision. Both one-stage dialling and two-stage dialling are to be made available. In using this facility, a Maltacom subscriber will not need to inform Maltacom of his/her alternative subscription with another operator,

B) by means of Carrier pre-selection (CPS), with the facility to override any pre-selected choice on a call-by-call basis by dialling a carrier selection code. This facility is also to be made available with effect from publication of this Decision.

6.2 Public Mobile Telecommunications Authorised Providers

The Consultative Paper requested comments on whether mobile operators should be obliged to enable their subscribers to access CS and/or CPS services. Both mobile operators objected to such an obligation. These objections were premised on the grounds that neither current Maltese nor EU legislation impose any CS/CPS obligations on mobile operators, and that such an obligation is only imposed on fixed telephony operators with a Dominant Market Position (DMP).

The other three respondents agreed with the imposition of CS & CPS on mobile operators and maintained that this should be done in the interest of fair competition and because mobile operators play a central role in the local telecommunications market.

In reaching a decision on this issue, the MCA cannot disregard the fact that the volume of mobile calls, especially international outgoing calls, is increasing rapidly and is becoming an important component of telecommunications services expenditure.

Although under current Maltese legislation it is possible to place an obligation on mobile telephony operators to provide CS/CPS services, the new Universal Service Directive stipulates that any requirement on mobile operators to provide CS or CPS services may be imposed, only when the mobile operator is determined as having a Significant Market Power (SMP) following the completion of a market analysis of the relevant market.

The Universal Service Directive has not yet been transposed into Maltese legislation and the relevant market analysis has not yet been carried out. Furthermore, the international markets are also in the process of undergoing a significant change with the imminent deployment of a new international gateway infrastructure by Vodafone Malta Limited.

For these reasons the MCA does not intend to impose CP/CPS obligations on mobile operators at this stage. The MCA will keep the development of competition arising from the introduction of the new international gateway under review, and the issue will be revisited when the Directive is transposed into Maltese Legislation and the market analyses has been carried out.

In the event that Vodafone Malta Limited applies for an access code in order to provide publicly CS/CPS services, the MCA will require that the structural separation requirements set out in **Decision 4** below are followed. In particular, the MCA will require that there would be no discrimination in access to the international gateway between any subsidiary of VML established for the purpose of providing CS/CPS services and other licensed service providers

7 PROVIDERS OF CS AND CPS SERVICES

The MCA in its consultative paper sought the views on whether there should be restrictions on the type of operators which are allowed to offer CS & CPS and/or obtain carrier selection prefixes (i.e. 10XX).

Two respondents argued that these facilities should only be made available to holders of an appropriate licence/authorisation. This ensures that these service providers are bound by licensing and regulatory obligations similar to existing operators.

These respondents also expressed their concern regarding the possibility of having international service providers offering a selected service i.e. offering CS & CPS services to specific regions or countries. Such a decision would favour entities whose sole objective is to skim the market, reap all the benefits with minimal investment, and give little in return to the market. It was argued that faced with the situation, it is reasonable to expect the incumbent to have no alternative but to reconsider its policy of offering comprehensive international services and to possibly reduce drastically its operations in less popular and less profitable routes.

Decision 3:

The MCA directs that only service providers holding an appropriate authorisation for Publicly Available Voice Telephony Services would be allowed to offer CS and CPS services using the 10XX Carrier Selection code.

Decision 4:

The MCA directs that a DMP voice telephony operator providing retail CS or CPS services to the public shall account separately for such services in order to ensure transparency, cost orientation and non-discrimination between wholesale and retail activities in relation to CS & CPS services.

8 CONSUMER ISSUES

8.1 General

Licensed operators will be required to develop adequate customer information and protection procedures to assist the public in understanding the way in which the system operates.

8.2 Requirement of a Code of Practice

In addition to 9.1 above, measures would need to be in place to protect customers from potential operator misuse of the facilities, most notably 'slamming', and the implementation of pre-selection without the full, conscious consent of the subscribers. This is not a practice in which reputable operators engage, nevertheless safeguards need to be put in place to prevent this.

In the consultative paper, the MCA proposed the development of a Code of Practice. All respondents agreed that rules concerning these facilities are necessary. However, two alternative mechanisms were proposed. Two respondents argued that a Code of Practice may prove insufficient to address the issues involved and that formal regulation is more appropriate. On the other hand, three respondents argued that a Code of Practice is ideal subject to it being self-regulated, industry driven and which includes provisions for quality of service. One respondent proposed the development of two codes, an operational code and a consumer code.

The MCA agrees with the development of both a customer code of practice and a process definition code. Nevertheless, it is still premature to decide whether such codes should be contained in formal legislation or otherwise. To this end, the MCA will set up a steering group made up of representatives from the operators, customer groups and the MCA to develop the proposed codes.

8.3 Consumer Billing

The introduction of CS and CPS is likely to result in the subscriber receiving two or more bills for one telephone service. The MCA requested the views of interested parties on whether a facility should be in place whereby the local

access provider bills the consumer directly on behalf of the CS/CPS service provider.

All submissions received by the MCA did not object to such a practice but argued that the issue should be left to the market operators to determine. Three respondents pointed out that if the local access provider decides to offer such a service to other operators, it could be burdened with bill payment collection, complaint handling, and other administrative services on behalf of the alternative operators. Another respondent stated that in both instances bills should provide itemised call details. Fees charged by the DMP operator should be cost-based.

Decision 5:

The MCA directs that CS & CPS operators should by default bill their subscribers/clients directly for the CS and CPS calls. However, the PSTN operator and CS & CPS operators are free to negotiate terms of service and conditions whereby the PSTN operator bills the subscribers for services rendered by CS & CPS operators.

9 QUALITY OF SERVICE

The MCA needs to ensure that all CS and CPS operators provide quality of service that meets acceptable quality standards. In this regard, the MCA will be publishing a consultation paper addressing quality of service for all licence holders as part of the development of the regulatory framework, This is aimed at ensuring that consumers benefit from high quality telecommunications services at all times.

As referred to above, only holders of an appropriate licence will be allowed to provide CS or CPS services and specific quality of service standards will apply to all holders of such licences. Thus, CS and CPS operators will be required to meet the same quality standards as other similar licence holders.

10 COST APPORTIONMENT

The consultative document considered the costs associated with the provision of CS & CPS and proposed rules for allocating these costs. The document explained that there are one-off and recurring costs associated with the provision of CS & CPS. Pricing for interconnection relating to the provision of CS & CPS must be cost oriented and direct charges to consumers, if any, must not act as a disincentive to the use of such services.

10.1 Conveyance Charges

Apart from the costs normally incurred by the operator providing access in order to set-up CS and CPS, this operator charges a per-minute rate conveyance charge for each CS/CPS call.

Decision 6:

The MCA directs that call origination charges must be included in the Reference Interconnection Offer of Maltacom plc. To this effect, Maltacom must publish the call origination charges in its RIO by not later than 30 June 2004. Such charges must be transparent, cost oriented and non-discriminatory and must be subject to the MCA's prior approval.

10.2 Cost Categories

The costs associated with the establishment of CS & CPS were split into three categories as follows:

1. general system provisioning costs,
2. operator-specific enabling costs, and,
3. per-line administration costs.

The Consultation Document contained a set of guiding principles which the MCA is of the view are appropriate for the purposes of implementing CS & CPS (see **Annex 1** attached to this document).

All respondents agreed in principle with the cost categories listed in the Consultative Document. One respondent pointed out that contrary to what the

consultation document indicated, there are also per-line administrative costs associated with CS. The same respondent argued that although the document referred to per-minute conveyance charges, the existence of such charges should have been stated explicitly. These charges have to be declared by all licensed operators and service providers before CS/CPS is introduced and must be cost justified to avoid the possibility of unfair advantage on the market through artificially set levels.

Another respondent argued that the charging regime needs to be clearly stated both technically and commercially. The cost per minute for the use of the DMP operator's infrastructure needs to be incremental since these are nearly all sunk costs. Interconnection charges should be built on the assumption that DMP operators improve efficiency, eliminating the possibility of new operators subsidising inefficiencies. Understanding the true costs of the business is important to make sure no cross subsidy is being applied to any international call price reductions.

All respondents agreed with the proposed general allocations. However, two respondents argued that their position may be reviewed, as the outcome of the cost-accounting exercise currently underway, is known.

The MCA is of the view that despite the imposition of CS and CPS obligations on Maltacom, it should not be assumed that Maltacom should bear all the costs of the introduction of this service. After having taken into consideration the submissions received relating to the cost structure and their allocations the MCA directs as follows:

10.2.1 General System Provisioning Costs

Decision 7:

The MCA directs that CS and CPS obligations fall on voice telephony operators with a dominant market position. Consequently, and as proposed in the consultative paper, general system provisioning costs incurred by the DMP operator for CS and CPS (as separated facilities) are to be recovered through a supplemental charge on call origination for all relevant call minutes originating on the network.

It should be noted that relevant call minutes are all calls of a type available under the CS/CPS schemes and that the charge should recover only the costs of an efficient operator using as much as possible an efficient technical solution.

10.2.2 Per-Line and Operator-Specific Enabling Costs

Decision 8:

Regarding per-line and operator-specific enabling costs, the MCA directs that:

- **per-line costs for CPS and operator-specific enabling costs for both CS and CPS should be recovered from operators directly and not through interconnection charges,**
- **the operators are free to pay the per-line enabling costs on behalf of the consumer, and recover it in some way or another rather than by a direct charge to the consumer. This is a commercial decision for each CPS operator to make,**
- **per-line and operator-specific charges should recover only the costs of an efficient operator using an efficient technical solution.**

The costing information provided by the DMP operators will be considered by the MCA in the context of the review of rates in the respective Reference Interconnection Offer.

11 NUMBER DESIGNATION

11.1 Carrier Prefixes for Carrier Selection

Numbering arrangements for Carrier Selection should ensure that users have easy and efficient access to this service. The Maltese Numbering Plan reserves the use of 10XX for carrier selection access codes. This number format will facilitate competition in the Carrier Selection market. The plan further mandates that calls to 10XX Carrier Selection codes should be routed to the particular carrier that is identified by 'XX'.

Initially the codes 10X0 will not be used. This is to avoid confusion when the carrier access code is followed by the international (00) prefixes.

11.2 Application for Carrier Prefixes

An application and allocation procedure has been developed, as outlined in **Annex 2** of this document. Authorised providers holding a licence for Publicly Available Voice Telephony Services licence under the Telecommunications Services (General) Regulations will be able to choose a preferred Carrier Selection prefix from the publication of this document. This would be subject to any charging mechanism as may be established by the MCA.

Joseph V Tabone
Chairman

3 May 2004

ANNEX 1 – COST ARRANGEMENTS

Cost Categories

Costs associated with the provision of Carrier Selection and Carrier Pre-Selection may be broken down into three categories as follows: -

- a. General system provisioning costs: These are one-off costs mainly incurred by the incumbent operator in modifying network and support systems to enable Carrier Selection and Carrier Pre-Selection. System provisioning costs are independent of operator demand.
- b. Operator-specific enabling costs: These are the costs of enabling Carrier Selection and Carrier Pre-Selection for any individual operator, including the setting up of commercial arrangements for the electronic transfer of customer orders. It should be possible to isolate individual operator enabling costs as a sub-set of the overall provisioning cost.
- c. Per-line administration costs: These are the mainly administrative costs of implementing Carrier Pre-Selection for individual customer lines. It should be noted that there are no per-line administration costs for Carrier Selection.

Principles for Cost Apportionment

The MCA's initial proposal detailed seven guiding principles to be used to determine how the costs identified in Cost Categories Section should be apportioned. These guiding principles have been used by other regulators as a basis for determining Carrier Selection and Carrier Pre-Selection cost allocation:

- a. Cost causation: the party responsible for causing costs should help to bear the costs,
- b. Distribution of benefits: the party (ies) benefiting from the process should help to bear the costs,
- c. Effective competition: the cost allocation mechanism should inherently encourage competition,
- d. Cost minimisation: the cost allocation mechanism should encourage operators to minimise costs and in particular to adopt technically efficient solutions,
- e. Reciprocity: charges between operators should be equal for the same service,
- f. Practicability: the allocation mechanism should be practical to implement,
- g. Relevance: charges should represent the costs of an efficient operator using a least cost approach.

ANNEX 2 - APPLICATION FOR ACCESS CODES

Eligibility

- Carrier Selection Prefixes will be allocated to authorised providers licensed by the MCA under the Telecommunications Act,
- Only one carrier selection code will be allocated to any telecommunications authorised provider,
- Applicants will be required to justify their requirement for carrier selection, or carrier access codes by reference to provision of telecommunications services to the public,
- All eligible applicants will have equal access to the available carrier access codes,

Selection of Code

- Qualifying applicants will be given the option to indicate their preferred choice from the available access codes. Preferences should be indicated using the application form attached.
- Applications will be evaluated by the MCA. In case of simultaneous requests for the same code, the code will be allocated by lottery.
- Carrier Selection Prefixes shall only be used for providing access to selected carriers; use for any other purpose other than that described above may result in the withdrawal of the code.

Withdrawal

A Carrier Selection code may be withdrawn by the MCA if it is not being used to provide a telecommunications service to the public or if the operator to whom it has been allocated is found to be in breach of the conditions of allocation, is declared bankrupt, or if withdrawal is in the overall public interest. The MCA will consult the applicant before the code is withdrawn.

Transfer and Ownership

Allocation of numbers grants the right to use the allocated numbers but is not a property transfer. Therefore, a Carrier Selection code shall not be transferable,

and may only be used to route telecommunications services to the operator to whom it has been allocated by the MCA.

Publication

The MCA will publish details of which codes have been allocated and to which applicants.

Application Form

Interested operators may apply for Carrier Selection codes in accordance with this document. The applicant is to indicate its preferred codes on the application form provided.

APPLICATION FORM FOR THE ALLOCATION OF A CARRIER SELECTION PREFIX

Applicant Details

Name or Company _____

Address _____

Contact _____

Tel. _____

Fax. _____

e-mail _____

Application

We hereby apply for the allocation of a Carrier Selection code.

- We request any code with no particular preference.
- We request one of the following codes in order of preference:

1 st choice	10	___	___
2 nd choice	10	___	___
3 rd choice	10	___	___
4 th choice	10	___	___
5 th choice	10	___	___

Applicant's signature _____

Date _____