

Review of Wholesale Mobile Termination Rates

Consultation and Proposed Decision

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1. Background

On 6th August 2010, the Malta Communications Authority (hereafter 'MCA') published a decision entitled "Review of Wholesale Mobile Termination Rates" (hereafter 'MTR Decision (2010)'), which set the MTR of €0.0617 as the applicable rate for all operators having been designated with an SMP status in the mobile termination provision market. In this decision, the MCA established also a number of criteria that would determine the interconnection rates in the interim period until the Authority would be in a position to calculate the applicable rate based on a pure-LRIC model of the Maltese market.

Specifically Decision 2 of the said statement established that:

1. Going forward the MCA will be using the BEREC Snap Shot report instead of the Implementation Report as its data source for its interim benchmarking methodology.
2. In the eventuality that 25% of Member States report rates based on 'pure' LRIC, the MCA will shift its methodology to that based on a target rate calculated from those termination rates emanating from a 'pure' LRIC model. The MCA will kick start a new consultative process comprising, amongst others, of a proposed glide path towards this target rate together with the MCA's proposed dates of when the glide path rates will come into force.
3. In the eventuality that the 25% of Member States do not report rates based on 'pure' LRIC, the MCA will recalculate the rate using the absolute average after excluding the upper 25th percentile (i.e. using the 75th percentile methodology). The MCA will however use the rates published in the BEREC snapshot report as the data source of this interim benchmark (since these will still comprise 25% of all Member States hence being a representative sample). In this case rates shall remain applicable to a maximum of one year unless Decision 2.2 above comes into force.

These criteria reflected the feedback from the consultation process particularly that of the European Commission, which amongst others invited the MCA to use pure-LRIC rates as reference in its benchmarking methodology. In this regard the MCA modified its notified draft decision, as testified in point 2 above, and agreed in principle with this way forward provided however that these rates would be representative of the developments

in the EU as a whole; hence the requirement of the 25% threshold in the number of countries reporting a pure-LRIC rate. This representation threshold is deemed important by the MCA as it mitigates the risk of material variability in the average rates as more reference rates are added to an initial under-represented sample. The risk of having to subsequently increase the established rates given the use of an initial non-representative sample could not be ignored by the Authority at this stage

The alternative methodology referenced in point 3 above reflects the hypothesis that termination rates in Malta should be as efficient as the average of those prevailing in the corresponding European member states, after adjusting for the possibility of excessive termination rates (defined as rates lying in the last quartile of the European termination rates distribution). This methodology reflects also the fact that Malta's peculiar size and market characteristics overly restrict the sample of potentially directly comparable member states that could be used for a more country-specific benchmarking methodology.

It is also apparent from the BEREC snapshot report that the level of termination rates is very difficult to correlate with country specific-characteristics applicable to Malta at the current time. It is however relevant that all member states included in the BEREC snapshot report regulate mobile termination rates, are in the process of adopting or will be adopting efficient cost-oriented MTRs reflective of a pure-LRIC methodology, and are all in a transitional phase of achieving this objective. Accordingly the MCA believes that there still are common conditions which maintain the current methodology appropriate for a temporary period of time, also considering that the outcome of this methodology as reported further on in this document yields a further reduction of more than 30% in MTRs which are already regulated on a symmetric basis.

Given that the BEREC Snapshot report¹ was published earlier this month, the aim of this consultation document is to propose the new applicable termination rates based on the criteria set in the MTR Decision (2010).

¹ http://www.erg.eu.int/doc/berec/bor_11_27.pdf

2. Benchmarking Methodology

In line with the criteria established in Decisions 2 of the MTR Decision (2010), as a first step, the MCA surveyed the BEREC Snapshot report for the number of countries reporting a pure-LRIC methodology.

From this survey the MCA concluded that the representation requirement of a 25% minimum threshold was not met and hence the methodology would have to be based on point 3 of the MTR Decision (2010).

After taking into account the considerations outlined in Section 1 of this document, the MCA concluded that essentially the alternative methodology referred to criterion 3 would be the same system which established the applicable rates in the MTR decision (2010), namely calculating the simple average of the lowest 75th percentile² of EU member states' rate as reported in the BEREC Snapshot report.

² The average of the termination rates reported for the lowest 20 European countries (75% of 26 countries [excluding Malta from the 27 member states] results in 20 countries)

3.MCA's proposed decision on Mobile Termination Rates

Following the methodology explained earlier in Section 1 and Section 2 of this document the proposed mobile termination rate for Malta was calculated at €0.0418.

Proposed Decision

The MCA directs that all operators having been designated with an SMP status in the provision of the mobile termination services market shall apply the rate of €0.0418 as their MTR.

Furthermore in taking utmost account of the Commission's comments reported in the 2010 comments letter, the MCA still intends to initiate the consultation process to revise the MTR in line with the pure-LRIC benchmarking methodology as soon as the 25% representative sample threshold is satisfied.

Ultimately, the MCA would like also to reiterate its commitment expressed in its Interconnection Strategy Decision³ to be fully compliant with the EC recommendation by December 2012. In the said interconnection strategy the MCA stated that it intended to do its utmost to conclude 'Pure' LRIC models for both Mobile and Fixed termination rates by the said date. The Authority had also concluded that, in the eventuality that any one of the required LRIC models would not be completed by December 2012, the MCA will nonetheless ensure that the alternative treatment used until the completion of such models will be in line with the principles featured in the Recommendation.

³ "Interconnection Strategy for the Electronic Communications Sector in Malta" (May 2010)

4. Consultation Framework

The MCA invites comments from interested parties regarding this proposed decision.

Written representations will be made public by the MCA subject to MCA's Internal Guidelines on Confidentiality published on 16th December 2004.

The consultation period will run until 1200 hrs on 30th June 2011. The MCA believes this period is sufficient to give interested parties the opportunity to comment on the proposed decision.

Comments should be sent to:

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APPENDIX: Computation of MTR According to 75th Percentile Method

Country	Euro cents	Country	Euro cents
CY	1.77	PT	5.00
AT	2.51	ES	5.02
SE	2.70	RO	5.07
LT	2.90	UK	5.16
FR	3.07	CZ	5.53
DE	3.37	IE	5.58
NL	4.20	DK	5.95
BE	4.30	MT	6.17
HU	4.30	BG	6.42
PL	4.32	SK	6.57
FI	4.40	IT	6.97
SL	4.55	EE	7.80
LV	4.94	LU	8.53
EL	4.95		

Source: BEREC MTR Benchmark Snapshot Report (as of January 2011)

Lowest 75th Percentile Ranking (Excluding Malta)

Country	Euro cents	Country	Euro cents
CY	1.77	PT	5.00
AT	2.51	ES	5.02
SE	2.70	RO	5.07
LT	2.90	UK	5.16
FR	3.07	CZ	5.53
DE	3.37	IE	5.58
NL	4.20		
BE	4.30		
HU	4.30		
PL	4.32		
FI	4.40		
SL	4.55		
LV	4.94		
EL	4.95		
Lowest 75th Percentile absolute average:			4.18

Source: BEREC MTR Benchmark Snapshot Report (as of January 2011)