

Fixed Interconnection Pricing Review - 2009

Report on Consultation and Decision Notice

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1 INTRODUCTION

1.1 BACKGROUND

For the past four years, the Malta Communications Authority ('MCA') has been establishing fixed interconnection rates based on its Bottom-Up Cost Model ('BUCM'). This Model was developed in order to achieve the objective of gradually reducing the interconnection rates at efficient levels as outlined in the Interconnection Strategy for the Electronic Communications Sector published by the MCA in 2005¹.

In June 2009, the MCA published a Statement of Proposed Decision entitled 'Fixed Interconnection Pricing Review – 2009' (hereafter 'Proposed Decision'). This document proposed that in view of the new European Commission's Recommendation of 7th May 2009 on fixed and mobile termination rates, the current average fixed termination rate would be maintained until the MCA revisits its Interconnection Strategy. However the time of day gradients would be updated to reflect current traffic patterns.

The Consultation period ended on 2 July 2009, with two operators, namely GO plc (hereafter 'GO') and Vodafone Malta Ltd (hereafter 'Vodafone') submitting their formal feedback.

This Report on Consultation and Decision contains a summary of the feedback received from the respondents, followed by the MCA's position in relation to these comments; and subsequently, the MCA's decision on the proposed interconnection charges.

The MCA takes the opportunity to thank both respondents for their contributions.

¹ 'Report on Consultation – Interconnection Strategy for the Electronic Communications Sector in Malta' published on 22 March 2005

2 SUMMARY OF RESPONSES

The feedback from the respondents is being analysed in issue form as follows:

2.1 Proposed Interconnection Rates

GO welcomed MCA's decision to maintain the average Fixed Termination Rate at its current level as this ensures stability until there is more clarity on implementation of measures in the European Commission's Recommendation on the Treatment of Fixed and Mobile Termination in the European Union ('EU').

GO has also expressed its doubts that there is necessarily a strong link between time differential interconnection charging and retail "one simple tariff" plans. It argued that the single retail tariff is still based on historical and/ or modelled calling patterns by time of day even though this is transparent to the retail customer in the tariff presentation. GO also argued that most operators in a position similar to GO do in fact maintain time differential interconnection charging in addition to other differentiators.

Vodafone also welcomed the new peak/off-peak/night tariffs as it positively noted that the revised charges results in a decrease in peak and off-peak charges which are balanced out with a slight increase during night time.

The MCA shall explore further into the issue of having one single interconnection tariff through the revision of its Interconnection Strategy wherein it is envisaged that an in-depth assessment be undertaken in order to achieve the objectives spelt out in the latest EU Recommendation.

2.2 Symmetry of Interconnection Tariffs

GO remarked that the wording used in relation to the MCA's established policy on symmetry of interconnection charges i.e. that "*all operators whose wholesale rates are pegged with GO's interconnection rates*" may be misunderstood. To this effect GO proposed that the decision should be worded more clearly to refer in more detail MCA's exact policy on symmetry.

Vodafone also commented on the above mentioned wording in MCA's Consultation Document and suggested that the MCA lists the actual operators being referred to for the sake of clarity and avoidance of ambiguity.

With respect to the policy on symmetry referred to by GO, the MCA would like to clarify that this falls outside the ambit of this Decision Notice which has as its objective the revision of the interconnection charges in line with the relative Market Analysis undertaken by the MCA. Consequently this is an issue to be specifically addressed within the context of the relative Market Analysis as part of revision to the appropriate remedies identified therein.

2.3 Timelines for next Interconnection Strategy Revision

Vodafone also expressed its interest in having some clear timelines as to the MCA's Interconnection Strategy plans and how the MCA intends to involve the operators in these discussions.

On the other hand GO recognised the need for the MCA to have some flexibility on the date by which a new interconnection strategy is implemented but expects that at least the decision should specify that the revised interconnection rates should remain in force for a year from the date of its coming into force.

The MCA acknowledges the importance respondents attached to the timelines of the envisaged new Interconnection Strategy. As acknowledged by one of the respondents, the drafting of the interconnection strategy requires some flexibility vis-à-vis its timelines. The MCA is bound to take utmost account of the EU recommendations and hence the drafting of the new interconnection strategy will entail a detailed assessment of the impact of the EU recommendation on the regulatory alternatives for fixed termination rates going forward.

This notwithstanding the interconnection strategy will be given priority for the Authority to ensure the maximum legal certainty towards operators. The MCA will also conduct a public consultation on this strategy.

In the meantime, considerate of the need to bring stability for the sake of business planning, the MCA shall, as a minimum, mandate the rates till 31 July 2010.

2.4 Retrospective Application of Proposed Charges

In response to the MCA's proposed date of 1 July 2009 for the application of the proposed rates, both operators disagreed to the retrospective application of charges.

The MCA's proposed date of 1 July 2009 follows its approach of trying to affect changes in a structured manner. Since its first setting of fixed interconnection rates, the MCA always set the 1 January of each year as the date for affecting revisions. Last year, due to the revision in charges which were brought about by another separate workstream, the MCA departed from the 1 January 2008 date and mandated the rates as from 1 July half-way through the calendar year. This year's proposed date of 1 July 2009 followed the MCA's stance of effecting changes in a structured manner by mandating the revised rates exactly in mid-calendar year, which also coincides with exactly one year from the coming into force of last year's revision. Notwithstanding, after taking account of the respondents' feedback, the MCA shall mandate the rates with effect from 1 August 2009.

2.5 Publication or Otherwise of Written Replies to MCA Consultations

GO commented on the wording used in the Proposed Decision wherein it was stated that replies "may" be made public. GO feels that in the interest of transparency the MCA should adopt a clear policy in this regard.

The MCA would like to clarify that there was no intention whatsoever to depart from its previous policy stance in this regard. For the avoidance of doubt, the MCA's normal practice is to include an overview of submissions received when issuing a report on consultation as it is doing in the present decision.

3 MCA'S DECISION ON FIXED-LINE WHOLESAL ORIGINATION AND TERMINATION RATES

MCA Decision:

After taking into account the feedback from respondents, the MCA is hereby maintaining the average prices according to the revised time of day gradients featured in Table 1 below which will be made applicable from 1 August 2009.

The charges shall be applicable to all those operators having an SMP in the wholesale fixed call origination and/or termination markets. These charges shall also be considered as the cost-oriented rates stemming from an efficient operator basis until the price-control and cost-orientation framework is reviewed in the forthcoming Interconnection Strategy. The rates shall remain applicable, as a minimum, until 31 July 2010.

Table 1:

	Peak	Off-Peak	Night	Average
	<i>€ cents per minute (excl. VAT)</i>			
Call origination	0.833	0.673	0.497	0.731
Call termination	0.833	0.673	0.497	0.731

Time periods indicated are as follows:

Peak: from 08:00 to 18:00 from Monday to Friday including public holidays

*Off-peak: from 06:00 to 08:00 from Monday to Friday including public holidays
from 06:00 to 18:00 on Saturdays and Sundays*

Night: from 18:00 to 06:00 all week including public holidays

Going forward, the MCA will revisit the Interconnection Strategy to bring it in line with the principles and objectives set forth in the Commission Recommendation of 07.05.2009 on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EU.

In particular the MCA shall ensure that it will set termination rates based on the costs incurred by an efficient operator, in the way elaborated in the Recommendation.

Ing. Philip Micallef

**Chairman
Malta Communications Authority**