

A Framework for Freephone Services in the 800 range

Report on further Consultation and Decision

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1 INTRODUCTION

In December 2005, the Malta Communications Authority (MCA) published its first Consultative Document on a framework for special tariff services (ie freephone and premium rate services) in parallel with its consultation on the numbering plan.¹ The objective of this document was to seek the views of operators and interested parties on the proposals developed by the MCA.

The proposals included a wide range of issues concerning freephone and premium rate services. After receipt of the responses, the MCA improved and published its numbering plan but postponed further publication on special tariffs in order to undertake further research on these services and the regulatory frameworks that are used in other countries.

The issues regarding premium rate services proved to be much more complex than those for freephone, yet the market needs to develop freephone are more urgent and therefore the MCA published a revised Proposed Decision in December 2007 on Freephone alone² and will undertake further work on premium rate services during 2008.

This Report on further Consultation and Decision presents the responses and the revisions to the Proposed Decision of December 2007 and the final text that the MCA is adopting.

The scope of this Decision is limited to numbers in the 800 range.

In order to provide some further clarification about how freephone services may be provided, this document is refining the terminology compared to the previous consultation and proposed decision. The term "freephone" service provider may be somewhat ambiguous as it can be understood as referring to the operator who obtains and serves 800 numbers or the content provider who is identified by an 800 number and to whom the calls are ultimately delivered. In the previous documents, the term "freephone service provider" was intended for the content provider. In this Decision the term "freephone service provider" will no longer be used, but instead the term "freephone network provider" will be used for the operator who serves 800 numbers while the term "freephone content provider" will be used for the party identified by an 800 number and to whom the calls are ultimately delivered.

When the caller to a freephone number is a subscriber of a Wholesale Line Rental (WLR) or all calls carrier pre-selection (CPS-all calls) undertaking, the WLR or CPS-all calls undertaking is considered as the originating operator only if it is responsible for directly routing the "freephone" call to the terminating operator;

¹ <http://www.mca.org.mt/infocentre/openarticle.asp?id=744&pref=3>

² <http://www.mca.org.mt/infocentre/openarticle.asp?id=1147&pref=1>

in other cases where freephone calls are not included in the CPS or WLR arrangement then the access operator is considered the originating operator.

2 RESPONSES TO THE CONSULTATION

The consultation period for the Proposed Decision entitled "A Framework for Freephone Services in the 800 range" ran from 12th December 2007 to 17th January 2008.

Responses to this Proposed Decision were received from the following:

- Go p.l.c.,
- Melita Cable p.l.c.,
- Vodafone Malta Ltd

MCA wishes to thank all these parties for their responses.

3 THE LEGAL BASIS FOR CONNECTIVITY OBLIGATIONS

The MCA proposed to impose connectivity obligations to ensure connectivity to freephone numbers. In this section we summarise the legal basis for requirements for connectivity and clarify their application.

Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) states explicitly that access for all users to freephone and premium rate services is an objective:

Whereas (38) Access by end-users to all numbering resources in the Community is a vital pre-condition for a single market. It should include freephone, premium rate, and other non-geographic numbers, except where the called subscriber has chosen, for commercial reasons, to limit access from certain geographical areas. Tariffs charged to parties calling from outside the Member State concerned need not be the same as for those parties calling from inside that Member State.

Regulation 15(1) of the Electronic Communications Networks and Services (General) Regulations, 2004 transposing Article 5(1) of the Access Directive states:

"15. (1) Without prejudice to any measures that may be taken in accordance with regulation 17 of these regulations regarding undertakings with significant market power, the Authority may impose:
(a) to the extent that is necessary to ensure end-to-end connectivity, obligations on undertakings that control access to end-users including, in justified cases, the obligation to interconnect their networks where this is not already the case;"

Regulation 67(1) gives the MCA the power *"...to specify conditions to be attached to a right of use of numbers as are listed in Part C of the Tenth Schedule..."*

Part C of the Tenth Schedule lists the following amongst the conditions which may be attached to rights of use for numbers:

- "1. Designation of service for which the number shall be used, including any requirements linked to the provision of that service.*
- 2. Effective and efficient use of numbers in conformity with the Framework Directive.*
- 3. Number portability requirements in conformity with the Universal Service Directive..."*

In line with the above, the MCA considers that access to freephone numbers in the 800 range is essential for all subscribers and sees no commercial reason to

limit access. The MCA also believes that its intervention is required in view of the fact that to date undertakings in Malta have failed to ensure end-to-end connectivity to freephone services.

4 ASSIGNMENT OF FREEPHONE NUMBERS

Any authorised undertaking providing publicly available telephone services planning to host freephone content providers, therefore terminating freephone calls on its own network, is entitled to apply for freephone numbers in the '800' range with the MCA as specified in the 'Application Process' section of National Numbering Conventions decision of June 2006³.

³ <http://www.mca.org.mt/infocentre/openarticle.asp?id=829&pref=3>

5 INTERCONNECTION FOR FREEPHONE SERVICES

The MCA considers that a requirement to support interconnection is important in a competitive market with multiple operators. The requirement is needed to ensure competition in the connection to freephone numbers and allows new entrants to offer connectivity to freephone content providers who want to have freephone numbers. It also reduces the costs and simplifies the arrangements for the freephone content providers as they do not need to have connections to multiple networks. However, effective interconnection of freephone services is not currently ensured in Malta. The MCA therefore proposed to require all fixed and mobile operators to establish interconnection to other operators on request, so that subscribers may access all newly allocated numbers in the 800 range, and in any other range allocated in future for freephone services, that are served on other networks.

The MCA reviewed the case of access to existing freephone numbers and considers that it is most likely to be in the interests of the freephone content providers to have access opened to other networks, provided that this does not increase the tariff for calls. However the MCA recognised that a few current freephone content providers may not wish to have such access opened and it therefore said that it is willing to allow them to opt out of this arrangement, provided that the network operator who serves them wishes to offer this option. Since restricting access for only some numbers may incur costs, operators are not required to offer this option.

In accordance with its earlier decision on number portability, the MCA repeated its intention that all freephone numbers in the 800 range (including existing freephone numbers) should be made portable. Portability is incompatible with a number being accessible from other on-net subscribers only and so, once a number is ported, the option to limit access to on-net calls will cease and the number must be accessible from all networks.

With respect to the tariffs for calls from mobiles, the MCA noted that call origination from mobiles is significantly more costly than call origination from fixed networks. Consequently to require such calls to be free from mobile would increase the charges to the called party for having a freephone number if the charges for calls from mobiles are high.

The MCA identified three options:

- Calls from mobiles to freephone numbers are free with the charges paid by the called party being shared by the terminating operator with the originating operator. The terminating operator would pay the originating operator. This would mean that the charges paid by the called party would have to be significantly higher than for calls from fixed phones because

the call originating costs of mobile networks are higher than those of fixed networks.

- Calls from mobiles to freephone numbers are not free but charged at the same rate as calls to fixed numbers and are included in any bundles of minutes. This would have the effect that the called party would not need to pay for the mobile interconnection rates
- Calls from mobiles to freephone numbers are not free but are charged to the caller at a lower rate than calls to fixed numbers, ie at a rate based on the interconnection rates only. Again the called party would not need to pay for the mobile call origination.

The MCA concluded that the second option should apply to the existing ranges of freephone numbers but that it should introduce a new range of numbers for calls that are free from mobile. This approach would introduce the benefits of interconnection without changing the existing retail services for the freephone content provider, whilst opening the market for new services that are free from mobile as well as from fixed.

The MCA therefore consulted on the following proposed Decision elements and received the following comments:

5.1 Decision 1.1 Establishment of interconnection

In its proposed decision the MCA proposed that: (Proposed Decision 1.1): *"The MCA requires all operators to establish interconnection to other operators on request within two months from the receipt of a written request, so that subscribers on their network may access all newly allocated freephone numbers in the 800 range that are served on other networks. Where an operator has established an on-net service to a non-ported freephone number in the 800 range before 1 February 2008, it may continue to limit access to on-net callers but only if requested to do so by the subscriber with the freephone number."*

One of the respondents questioned the legal foundation of what the MCA proposed, because the proposals amount to ex ante price regulation and bypass the process of notification to other NRAs and to the Commission. They also commented that it is rare for other regulators to regulate value added services.

Another respondent supported the proposal to require interconnection but was not sure that the method proposed by the MCA was the best one. It suggested instead that an obligation should be placed on Go as the network to which all other networks interconnect. The same respondent considered that this would focus the initial efforts on interconnection better and would not prohibit other interconnection arrangements from being established.

One of the respondents said that it views freephone services as additional services and that the price should not be regulated, but it considered that the times set for establishing interconnection were reasonable. It also considered that legacy issues should not be allowed to affect numbers in the 800 range.

The MCA disagrees with the view expressed by the respondent that questioned the legal foundation of what it had proposed. The MCA considers that it does have the legal power to impose clear connectivity requirements in respect of the operation and use of specific numbering resources as described in detail in Section 3 of this document.

One of the respondents commented that there are problems about connectivity to freephone numbers for callers from outside Malta and also that there is confusion about whether the requirements for interconnection apply also to the SMS and MMS services.

Regarding connectivity from outside Malta, the MCA intends that provided the call is delivered to a Maltese operator the call should be delivered to the freephone network provider over whatever interconnection arrangements are needed. If an overseas operator fails to route the call to Malta then that is outside the scope of the MCA's responsibilities. Callers from outside Malta will normally have to pay for calls to Maltese freephone numbers at the same rate as for a call to a fixed number in Malta. There is a quite separate international freephone service using 800 numbers but it is outside the scope of this Decision and Consultation.

This Decision applies only to 800 numbers and notwithstanding that as far as the MCA is aware they are used only for telephony at present. Operators are encouraged to support interconnection also for SMS and MMS whenever possible.

To this effect the MCA decided to retain the establishment of interconnection as depicted in the proposed text in Decision 1.1.

Decision 1.1: Establishment of Interconnection

The MCA requires local fixed and mobile telephony operators to establish interconnection within two months from the receipt of a written request from other local fixed or mobile telephony operators, so that subscribers may access all newly allocated freephone numbers in the 800 range that are served on other networks. Where an operator has established an on-net service to a non-ported freephone number in the 800 range before 1 September 2008, it may continue to limit access to on-net callers but only if specifically requested to do so by the freephone content provider.

5.2 Decision 1.2 Number portability

In its proposed decision the MCA proposed that: (Proposed Decision 1.2): *"The MCA requires all local fixed and mobile telephony operators to cooperate so that all freephone numbers that can be accessed from off-net become portable by 30 June 2008."*

A respondent commented that the proposed decision was unclear and could imply portability between domains, eg portability between mobile and fixed. The MCA considers that the text is clear but will specify that the decision applies only to 800 numbers.

The same respondent also commented that work is needed on the process for portability for 800 numbers, which will necessarily be different from that for mobile and fixed numbers. The MCA agrees and plans to establish a working party with the operators to develop an appropriate process specification and any other specifications that may be needed. The MCA's intention is that that portability of freephone numbers in the 800 range applies whatever technology (fixed or mobile) is used by the operator that is terminating the call with the 800 number.

The other respondents agreed with the proposal and one suggested that the operators should start to work on the details.

The MCA does not see any need to make major changes to this proposed decision, however in order to retain a realistic timescale, it has decided to defer the implementation date for freephone number portability to 31 December 2008.

Decision 1.2: Number Portability

The MCA requires all operators to cooperate so that all 800 numbers that can be accessed from off-net become portable by 31 December 2008.

5.3 Decision 1.3: Retail charging by mobile operators

In its proposed decision the MCA proposed that: (Proposed Decision 1.3):

"Except for calls to freephone numbers in the 8000 range which shall be free to callers, the MCA requires mobile operators to charge calls to freephone numbers in the 800 range at normal charges for a call to a fixed network. These charges shall be included in any bundles of minutes that include calls to fixed numbers."

In this proposed decision the MCA proposed that it should introduce a new range of numbers for calls that are free from mobile. This approach will introduce the benefits of interconnection without changing the existing retail services for the freephone content provider, whilst opening the market for new services that are free from mobile as well as from fixed.

One of the respondents considered that it would be confusing for callers to have the proposed system where one subset of 800 numbers would be charged from mobile and another not charged. It considered that overall it would be better to allow charging from mobile for all 800 numbers.

The MCA has considered this point very carefully, it notes that in several other countries the retail market for calls from fixed networks is changing such that unlimited national calls are included with the subscription making all calls from fixed networks into zero price calls. There is also some substitution of mobile calls for fixed because of the convenience of calling from a personal mobile terminal. These factors imply that the potential benefit of freephone will be greater for calls from mobile and could decline for calls from fixed.

Nevertheless the MCA considers that it could be too disruptive to require all calls from mobile to be free to the caller and that it should continue with its proposal, which gives freephone content providers the choice over the charges from mobile.

Another respondent was concerned that the MCA presumed that the host operator for the freephone number would be a fixed operator, whereas it could be a mobile operator, and that in this case higher charges would be justified.

The MCA considers that it would be inappropriate to have different tariffs depending on where the freephone number is hosted. If an operator chooses to host freephone numbers, a standard rate shall be applicable regardless whether such calls terminate on a mobile or a fixed network.

On the other hand, if a freephone content provider wishes to have calls to their freephone number delivered to their mobile rather than to a fixed phone, then the called party may have to pay more for each call delivery but this will be a competitive not a regulated charge. In general, the decision of whether the freephone call will be terminated on a fixed network or on a mobile network will

be taken by the freephone content provider and not by the calling party. Accordingly the MCA believes that the additional cost of terminating on a mobile network should be borne by the freephone content provider and not by the calling party.

Mobile operators are to ensure that for calls to freephone numbers in the 800 range sufficient tariff information is made available to their subscribers keeping in mind that in the past calls to 800 numbers from fixed networks have always been free.

Decision 1.3: Retail charging by mobile operators

The MCA permits mobile operators to charge their subscribers for calls to freephone numbers in the 800 range (but not in the 8000 range) a rate not exceeding that for a call or text to a fixed network. These charges shall be included in any bundles of respective minutes that include calls to fixed numbers. Calls or texts to 8000 numbers shall be free. Mobile operators are to ensure that for calls to freephone numbers in the 800 range sufficient tariff information is made available to their subscribers.

6 INTERCONNECTION CHARGES FOR FREEPHONE SERVICES

The MCA had proposed the following for interconnection charges for freephone services.

6.1 Decision 2: Interconnection charging for freephone

In its proposed decision 2.1 the MCA has determined that for calls to freephone numbers in the 8000 range where the call is free to the caller, the terminating operator shall pay the originating operator one of the following for call origination.

- A charge equal to the originating operator's interconnection termination rate (default option) or*
- A charge agreed by negotiation with the originating operator*

In 2.2 the MCA has determined that for calls to freephone numbers in the 8003, 8004, 8007 ranges from mobile networks where the mobile operator is allowed to charge the caller, the originating mobile operator shall pay the terminating operator one of the following:

- a charge that is equal to the termination rate determined by the MCA for calls that terminate on the Maltacom fixed network (default option).*
- A charge agreed by negotiation with the terminating operator.*

2.3 In 2.1 and 2.2 above, the default option shall apply in the absence of or until there is agreement on one of the other options. Thus discussions on charging shall not delay the establishment of interconnection.

One of the respondents expressed concern that if under 2.2 the call to a freephone number terminates on a mobile termination then only a fixed termination would be paid. As stated above such calls may be terminated on mobile terminations, however the additional costs in this case would need to be paid by the called party, ie the freephone number assignee, the freephone content provider.

Another respondent welcomed the fact that the MCA was proposing a clear charging framework but questioned the payment of a fixed termination rate to the terminating operator under 2.2.

Another respondent agreed with the principle proposed under decision 2.1 that the originating operator should charge the same that it charges for termination.

Two operators raised the question of what a transit operator could charge since calls could involve three operators especially if there are new smaller entrants to the market.

The MCA concluded that for calls to freephone numbers that are free to the caller (ie, all calls to the 8000 range and calls from fixed networks to the 800 range), the terminating operator (freephone network provider) shall pay the originating operator a charge equal to the same originating operators' interconnection termination rate, unless the originating operator's origination rate is regulated in which case the originating rate applies, or a charge agreed by negotiation with the originating operator. The terminating rate of the originating operator is applicable as an interconnection charge since terminating rates of all PATS operators are regulated. As stated above, in the case where the origination rate is regulated, the origination rate shall be applicable.

When a call to a freephone number that is free to the caller is originating from a WLR or CPS all-calls operator and is being routed directly by that same operator, the WLR or CPS all-calls operator shall be paid by the terminating operator (freephone network provider) a charge equal to that undertaking's hosting access network operator's charge for call origination, or a charge agreed by negotiation. Any other conveyance arrangements between the WLR or CPS all-calls undertaking and its hosting access network operator for conventional calls shall also be applicable.

Notwithstanding that the MCA encourages direct routing, it accepts that the issue of transit charging still needs to be considered. Where a call is free to the caller and involves a transit operator, the terminating operator (freephone network provider) shall pay the transit operator a charge equal to the termination rate determined by the MCA for calls that terminate on fixed networks, while the transit operator should agree on a negotiated rate with the originating operator. It is up to the originating operator opting to transit the call to choose the most favourable transit operator or opt for a direct routing solution.

The MCA notes that for calls from mobile originating operators that are charged to the caller, the terminating operator will receive a fixed termination rate instead of paying out an interconnection rate to the originating operator. Since it is the intention of the MCA to create a competitive market in freephone services, it considers that this raises no problems since it is in the interest of the terminating operator (freephone network provider) to set competitive rates for the charges to the freephone content provider. These rates will take account of the average value of the different revenue streams or be set at different levels depending on where the call originates. Either way excess profits should be avoided and the benefits should flow through to the callers and freephone content providers.

Decision 2: Interconnection charging for freephone

2.1 The MCA has determined that for calls to freephone numbers that are free to the caller (i.e., all calls to the 8000 range and calls from fixed networks to the 800 range), the terminating operator (freephone network provider) shall pay the originating operator one of the following for call origination.

- **A charge equal to the originating operator's interconnection termination rate, unless the originating operator's origination rate is regulated in which case the originating rate applies (default option); or**
- **A charge agreed by negotiation with the originating operator.**

If a transit operator is present then the terminating operator (freephone network provider) shall pay the transit operator one of the following:

- **For calls to the 800 & 8000 range originating from a fixed network: A charge equal to the termination rate determined by the MCA for calls that terminate on fixed networks (default option); or**
- **For calls to the 8000 range originating from a mobile network: A charge equal to the terminating rate determined by the MCA for calls that terminate on mobile networks (default option); or**
- **A charge agreed by negotiation with the transit operator.**

A negotiated rate shall apply between the transit operator and originating operator.

2.2 The MCA has determined that for calls to freephone numbers in the 8003, 8004, 8006, 8007, 8009 ranges from mobile networks where the mobile operator is allowed to charge the caller, the originating mobile operator shall pay the terminating operator (freephone network provider) one of the following:

- **a charge that is equal to the termination rate determined by the MCA for calls that terminate on fixed networks (default option).**
- **a charge agreed by negotiation with the terminating operator.**

If a transit operator is present then the transit operator shall pay the terminating operator (freephone network provider) one of the following:

- **a charge that is equal to the termination rate determined by the MCA for calls that terminate on fixed networks (default option).**
- **A charge agreed by negotiation with the terminating operator (freephone network provider).**

2.3 In 2.1 and 2.2 above, the default option shall apply unless there is agreement on one of the other options. Thus discussions on charging shall not delay the establishment of interconnection.

Figure 1 shows the payments for the free to caller case under decision 2.1, where there is no transit operator.

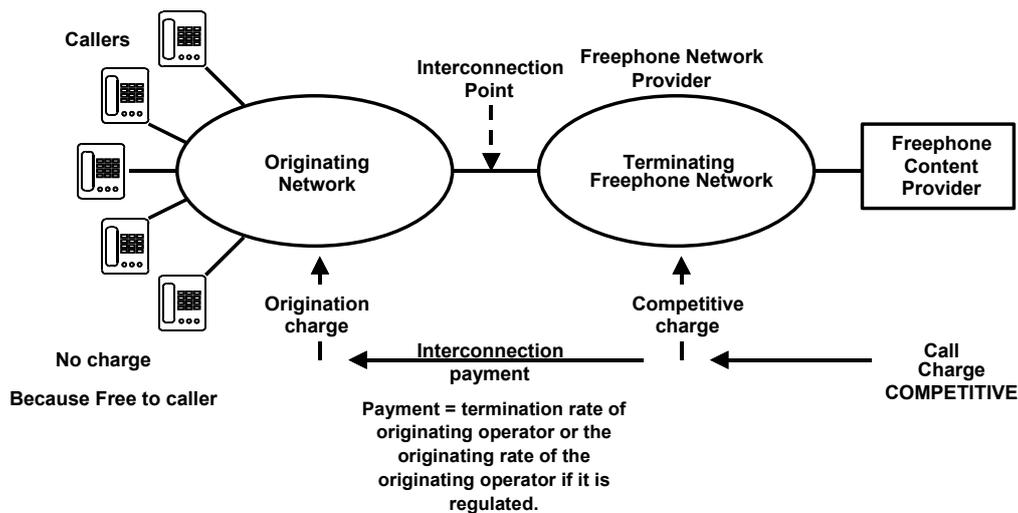


Figure 1: Payments where the call is free to the caller

Figure 2: Payments where the call is charged by the mobile originating network under decision 2.2, where there is no transit operator.

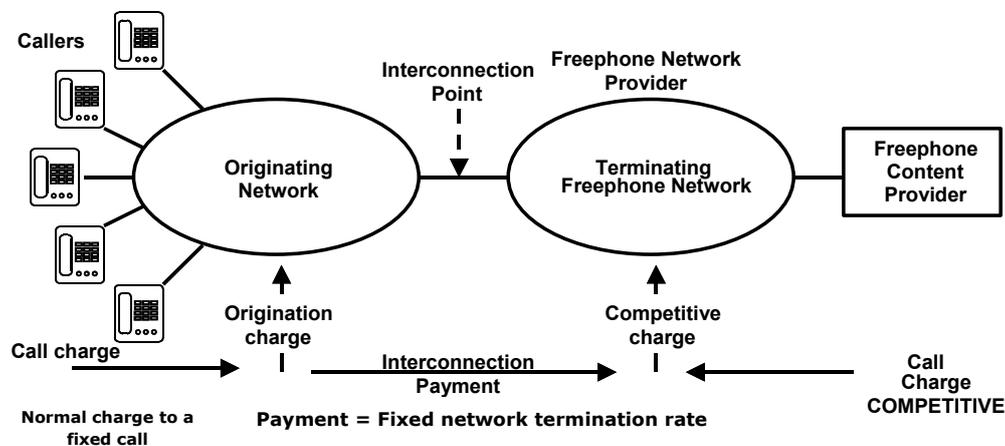


Figure 2: Payments where the call is charged by the mobile originating network

One of the respondents of the proposed decision in addition raised the question of how these freephone arrangements will relate to wholesale line rental. It was concerned that a wholesale line rental arrangement should not be used for the provision of freephone numbers.

The MCA can confirm that an operator that hosts freephone numbers is required to have its own switching and number translating facility and host the freephone numbers on its own infrastructure, and that operators that are required to provide a wholesale line rental service are not required to provide number translation facilities, although they may do so on a voluntary and commercial basis.

7 NEW TEXT FOR THE 800 RANGE IN THE NUMBERING PLAN

The following is the revised summary of allocations for the Numbering Plan:

- 8000 new range free from fixed, free from mobile
- 8001 Reserved for future
- 8002 Reserved for future
- 8003 free from fixed, normal charges from mobile (part allocated)
- 8004 free from fixed, normal charges from mobile (part allocated)
- 8005 Reserved for future
- 8006 (part allocated international freephone)
- 8007 free from fixed, normal charges from mobile (part allocated)
- 8008 Reserved for future
- 8009 (part allocated Home Country Direct)

The following is the text that will appear in the Decision on the Development of the Numbering Plan originally published in June 2006 for the 800 range:

18 THE 8 RANGE

18.1 Service description for the 8000 xxxx range

Services accessible by telephone calls or SMS or MMS messages where the caller is not charged for the call or SMS/MMS, whether from a fixed or mobile network

18.2 Service description for the 8003 xxxx, 8004 xxxx, 8006 xxxx, 8007 xxxx, 8009 xxxx ranges

Services accessible by telephone calls or SMS or MMS messages where the caller is not charged for the call or SMS/MMS if made from a fixed network but may be charged a charge that shall not exceed the charge for a call to a Maltacom/GO fixed number for a call from a mobile network.

18.3 Allocation method

The MCA will allocate numbers in blocks of 1000 for which a charge is likely to be introduced in the near future. Operators will not be able to reserve blocks.

Additional blocks will normally be allocated only when existing allocations have already been used to a reasonable level. In selecting which blocks to allocate, the MCA will aim to allow appropriate space for expansion so that an operator's allocations can be contiguous and not interleaved, but the MCA cannot guarantee that this will always be possible and the amount of expansion space that can be allowed will depend on the amount of unallocated numbering capacity remaining.

In terms of the choice of blocks, the MCA will take account of the applicant's wishes but cannot undertake that they will always be met if they are not compatible with the further development of the numbering plan.

The MCA reserves the right to withdraw any allocated but unused blocks.

The MCA reserves the right to replace this allocation system with individual allocation to freephone content providers in the future.

18.4 Criteria for the range

The following criteria apply:

- *Number portability shall be introduced by 31 December 2008.*
- *Operators shall not sub-allocate numbers to other operators without first notifying the MCA who may decline to allow the sub-allocation.*

Philip Micallef

Chairman

August 2008