Office of Utility Regulation

Mobile Termination Rates in Guernsey

Information Notice

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1. Introduction

Mobile termination rates ("MTRs") are the fees charged to other telecommunications companies by mobile network operators ("MNOs") to terminate calls on mobile networks.

For a network operator to connect a caller on their network with the intended recipient of the call on a different network, an arrangement is needed by which the call can go through and the paying party (usually the party making the call) can be charged by both their own network and that of the receiving party, for their respective parts of the call's transmission across the two networks. If such a call termination arrangement were not established, a network operator could only terminate calls to other customers on its own network. Payment to the operator on whose network the call is terminated is actually made on an aggregated basis by the customer's network operator and normally makes up only a component of the retail charge the customer pays.

In February 2007 the Office of Utility Regulation ("OUR") determined the current MTRs 6.75 pence per minute ("ppm") fixed for three years which took effect from 1st April 2007. This is a maximum target average charge ("TAC") that applies to voice termination calls only, on both 2G and 3G networks.

Earlier this year the Director General ("DG") commenced discussions with the three mobile operators, Guernsey Airtel Ltd, Cable & Wireless Guernsey and Wave Telecom Limited, in order to be able to review whether the current rates remain appropriate from 1st April 2010. The OUR has been assisted in this review by Mott MacDonald and this information note sets out the conclusion of this review.

2. Legal & Regulatory Bacground

2.1 Legal Background

Section 5(1) of the Telecommunications (Bailiwick of Guernsey) Law, 2001 (the "Telecoms Law"), provides that the DG may include in licences such conditions as he considers necessary to carry out his functions. The Telecoms Law specifically provides that such conditions can include (but are not limited to):

- conditions intended to prevent and control anti-competitive behaviour; and

- conditions regulating the prices, premiums and discounts that may be charged or (as the case may be) allowed by a licensee which has a dominant position in a relevant market.

Under section 10(2)(c) of the Telecommunications (Bailiwick of Guernsey) Law, 2001, a licensee found to be dominant in a relevant market is obliged to provide interconnection and access on “terms, conditions and charges that are transparent and cost-oriented”.

In addition, Section 10(4) of the Telecoms Law provides for the DG to require a licensee to justify the costs of and charges for providing interconnection or access and to show that those charges are derived from actual costs.

These provisions allow the DG to regulate MTRs, should there be a need for regulatory intervention.

2.2 Regulatory framework

In OUR 07/03, the DG set out proposed findings on market dominance in Guernsey following a review of the market. The DG considers that C&WG, Wave and Airtel are all dominant in the wholesale mobile telecommunications market on their respective networks. The licenses of the three MNOs, include the following condition:

> *“The Director General may determine the maximum level of charges the Licensee may apply for Licensed Telecommunications Services within a Relevant Market in which the Licensee has been found to be dominant. A determination may;*
>
> *a) provide for the overall limit to apply to such Licensed Telecommunications Services or categories of Licensed Telecommunications Services or any combination of Licensed Telecommunications Service;*
>
> *b) restrict increases in any such charges or to require reductions in them whether by reference to any formula or otherwise; or*
>
> *c) provide for different limits to apply in relation to different periods of time falling within the periods to which the determination applies.”*

This condition therefore allows the DG to regulate the prices that a licensee charges for its telecommunications services in a way and for a time that he deems appropriate, provided the licensee has a dominant position in the relevant market.

In 2007 the OUR reviewed the mobile termination rates of the three mobile operators (OUR 07/03). The decision made at that time was heavily influenced by international benchmarking and in particular the approach taken by Ofcom in its 2004 review of the mobile termination market.

As part of the 2007 OUR review, the OUR determined a nominal Termination TAC of 6.75 ppm for all operators to apply for three years (e.g. until 2010). This rate was based on the approach used by Ofcom and allowed operators flexibility to set *different* termination rates for peak and off-peak periods, as long as the *average* rate was consistent with the TAC.

Following the provision of information by the three mobile operators, the OUR, assisted by Mott McDonald, has considered whether further changes to the MTRs from April 2010 is appropriate.

3. MNOs agreed MTR from April 2010 onwards

Following the detailed review of the financial information provided by the three MNOs, the OUR initiated discussions with all three operators. The objective of these discussions with a view to setting rates that are more closely related to actual costs than benchmarking. The three MNO's submissions have varied in detail and accuracy but all three submissions have provided useable information to assist in understanding the cost base of the MNO in Guernsey.

As a consequence of these discussions, the three operators have confirmed their agreement to reduce the MTR rate with effect from 1st April 2010. The MNOs agreed a MTR of 4.11 pence per minute (ppm) from 2010 onwards, which represents a 40% decrease from the current maximum Target Average Charge ("TAC") of 6.75ppm. This rate is based on cost data provided by the MNOs but also takes into account international evidence and especially UK evidence both in relation to data and approach. From April 2010 a flat symmetrical MTR of 4.11 ppm will come into effect. This means that the same rate will be applied by the three MNOs in Guernsey for a three year period. It also means that there will no longer be a distinction in relation to time of day/weekend. Further no additional charge will be applied for any on-island transit of a call to be terminated on a mobile network as this will be subsumed in this figure.

This new MTR will be billed on a per second basis effective from the first second and applies to the termination of voice calls in the individual mobile operator networks in the Bailiwick of Guernsey on a technology neutral basis (which subsumes both 2G and 3G mobile network termination) and irrespective of the origin of the traffic.

The DG welcomes the pro-active approach taken by the MNOs in agreeing this rate between themselves.

4. Next Steps

The DG notes the very constructive approach taken by all three operators and looks forward to this reduction being reflected in call charges to consumers. Going forward the DG is considering whether a more detailed approach to setting interconnection rates, which reflects the latest thinking from European regulators on setting charges should be adopted. However he intends to consulted with industry closely on this matter in 2010 with a view to having in place appropriate costing systems on which to base any further review.

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