

10 July 2015

Gibraltar Regulatory Authority
Attn. Gavin Santos
Electronic Communications Regulatory Manager
2nd Floor
Eurotowers 4
1 Europort Road
Gibraltar

Dear Gavin,

Market Review – wholesale fixed call origination and fixed termination

Enclosed please find Gibtelecom's response to the Authority's public consultation on wholesale call origination on the public telephone network provided at a fixed location; and wholesale call termination on individual public telephone networks provided at a fixed location (Public Consultation CO2/15).

Please do not hesitate to contact me should you require any clarification on any aspect of our response.

Yours sincerely,



Rachel Holgado
Regulatory Officer

Enc.



Gibtelecom response to Public Consultation CO2/15

Wholesale call origination on the public telephone network provided at a fixed location; and

Wholesale call termination on individual public telephone networks provided at a fixed location

10 July 2015

**Gibtelecom Limited
15/21 John Mackintosh Square
Gibraltar**

Gibtelecom Response to GRA Market Review for Wholesale call origination on the public telephone network provided at a fixed location; and Wholesale call termination on individual public telephone networks provided at a fixed location.

Introduction and general comments

1. Gibtelecom is presenting its comments in response to the Authority's public consultation CO2/15 published on 10 June 2015 on wholesale fixed markets.

2. The Company notes that this is essentially a "re-issue" of the same public consultation 07/14 published in May 2014, and to which Gibtelecom provided a substantive reply. As such, the Company's replies herein are very similar to those provided at the time. In general, this consultation is in keeping with prior consultations issued by the Authority on the same wholesale fixed markets (in 2007, 2011 and 2014 (withdrawn by the GRA)).

3. In summary, Gibtelecom is agreeable to the Authority's proposals. However, the Company is submitting comments or seeks clarification on some aspects of the document.

4. For ease of reference, Gibtelecom is providing its replies below the Authority's questions, which are being duplicated in bold italicised text.

Q1. Do you agree with the proposed definition of markets susceptible to ex ante regulation? If not, why not? Please give reasons for your answer.

Gibtelecom accepts the Authority's proposed definitions of the wholesale call origination and wholesale call termination markets susceptible to ex-ante regulation.

With regards call termination services, Gibtelecom once again would like to record its view that, regardless of whether an authorised operator is offering publicly available services, ALL fixed line operators should be subject to SMP obligations. This is, as has been explained in prior submissions by the Company, because each operator has control over the termination of services on their own individual networks. Currently, other than Gibtelecom, there are two other authorised fixed line operators in Gibraltar – Sapphire Networks (Broadband Ltd) and Gibfibrespeed (AA Sheriff). Both are strongly signalling, to the general public, that they will be offering fixed line services in the near future. Gibtelecom has an interconnection agreement with Sapphire Networks since 2010 for the exchange of traffic between both parties' respective networks. The Authority has previously indicated that one of the reasons why it was not considering imposing SMP status, and obligations on Sapphire Networks was that it was not providing a "public telephone network or service". Gibtelecom would, in this case, like to point out that Sapphire Networks has already ported out some Gibtelecom fixed line numbers. At least one of these belongs to a local public services body, and for which Sapphire has asked Gibtelecom to have included in the upcoming Gibraltar Telephone Directory. Please note that this last sentence is not for publication and should be treated in confidence.

Gibtelecom also agrees with the Authority's reasons for withdrawing wholesale call origination services from having SMP obligations as a result of not considering this market to be susceptible to ex-ante regulations.

Q2. Do you agree that the market for call origination on the public telephone network provided at a fixed location should not be subject to ex ante regulation and that all SMP obligations should be withdrawn?

Yes

Q3. Do you agree with the market analysis and proposed SMP designation of the wholesale fixed call termination market? Please give reasons for your answer.

Gibtelecom accepts the Authority's analysis of the wholesale fixed call termination market and proposed SMP designation. The Company would nevertheless refer the Authority to its reply to question 1 on the previous page regarding the non-imposition of SMP status (and obligations) on other authorised fixed line operators who, by definition, control access to their own individual networks.

Q4. Do you agree with the proposed SMP obligations in the wholesale fixed call termination market? Please give reasons for your answer.

Gibtelecom hereby makes the same comments it provided in its submission of 24 June 2014 to the Authority's withdrawn public consultation 07/14.

Factual correction

There appears to be a typing error on page 27 of the public consultation document. The reference to "voice call origination services" on the fifth line of the first paragraph should be "voice call termination services".

Transparency

Gibtelecom takes it that the requirement to "publish" changes to terms and conditions and/or prices of wholesale call origination and termination services does NOT include a requirement to publish the changes more widely in the local press as confirmed by the Authority in its Response to Consultation 05/11.

Accounting Separation

The Company refers the Authority to prior communication on the matter; in particular its response dated 24 February 2014 to the Authority's public consultation 01/14 on retail fixed markets. For ease of reference, this is being reproduced below, and which remains the Company's position for this public consultation CO2/15.

Extract from Gibtelecom response of 24 February 2014 to public consultation 01/14

'Gibtelecom objects to the re-introduction of the requirement to submit annual externally audited accounting separation reports. The Company has on numerous occasions (eg Gibtelecom letters of 22 July 2009; 5 November 2009; 29 October 2010; 14 June 2011 and other correspondence) recorded with the GRA its views regarding the invasive, costly and onerous nature of having to produce such reports, on an annual basis.

These views were accepted by the Authority when, in its Document 01/11 (reissued), it reviewed its requirement to be submitted with annual ASRs to once every three years. This is not the only time the Authority has agreed with Gibtelecom's views in this regard. In its Response to the Consultation and Notification to European Commission on wholesale fixed call origination and termination markets, dated 18 August 2011, the Authority states that it will be applying "...a less onerous obligation of accounting separation on Gibtelecom." and that "The Authority accepts Gibtelecom's statement regarding the development of its annual separated accounts and the lengthy process involved in

collating, analysing and presenting the data. The Authority therefore proposes to reduce the regulatory burden on Gibtelecom by removing the requirement to submit annual ASRs”.

As a measure of how resource-consuming and complex producing an ASR is, the Authority itself also seemed to struggle with producing such costing data a few years back. In this regard the Authority mentions that it would have to “stagger” its own exercise “...over a long period due to the inherent lengthy procedure of data collection.”

The European Union has on occasions also professed the impact ASRs have on small entities, such as, by any measurable standard, Gibtelecom. In its reply to the Authority of 19 October 2009 on public consultation 05/09 acknowledged the undue burden full blown cost orientation [ASR] principles can impose on small firms.

Gibtelecom therefore requests the Authority reconsider its proposal to re-impose an annual externally audited ASR requirement.’

Access

Gibtelecom notes that the proposed Access obligation is in keeping with that already in place for Gibtelecom. However, under point (d), the proposed requirements states that “*to provide specified services needed to ensure interoperability of end-to-end services to users, including facilities for intelligent network services or **roaming on mobile networks**;*”. Can the Authority please clarify the intent of the words in bold, in particular in the context of providing wholesale services on **fixed networks**?

Cost accounting

Gibtelecom notes that these obligations are entirely new and an expansion of the previous cost accounting SMP obligations imposed on the Company. Gibtelecom cannot reconcile the requirement to have such an obligation imposed, in particular that under point (e) (“it maintains cost accounting systems which produce appropriate information to demonstrate compliance with cost-orientation”) when the Authority is, at the same time, proposing to continue applying a price control, via a glide-path mechanism, dictating the wholesale call origination rates to be used (and therefore beyond a cost-orientation obligation).

Price controls

Gibtelecom cannot agree with the Authority’s proposal to exert a price control on wholesale call origination rates. The Company has on many occasions made the point that cost-orientated rates are obtained via Gibtelecom’s regulated accounts. The Company should thus either be requested to produce ASRs, and use the rates derived therein, or have a price control imposed (in a manner that is consistent with the unique local conditions and market) without having to go through the laborious and costly annual ASR submission process, but not both.

Closing remarks

The Authority will note that Gibtelecom is generally in agreement with their proposals, but is making comments and/or seeking clarification on certain aspects of their impact and effects. Most notably this includes the re-introduction of an annual accounting separation report and price control and cost accounting obligations.

END OF SUBMISSION