



Gibtelecom response to Public Consultation 04/09
Designation of Universal Service Provider

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**Gibtelecom Response to GRA Public Consultation
on Universal Service Provider Designation
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Introduction

1. Gibtelecom presents its comments in response to the public consultation published by the Gibraltar Regulatory Authority (GRA) on 11 June 2009 (Public Consultation 04/09), on its proposed designation of Gibtelecom as the universal service provider (USP) for several purposes under Universal Service Directive 2002/22/EC (USO Directive).

Overview

2. The overall purpose of universal service is to ensure that every person who so desires can have access at a fixed point to a minimum set of telecommunications services at affordable prices. It also extends to other aspects: directory services, payphone availability and the special needs of the disabled. Gibtelecom supports the universal service concept as valid and necessary provided it does not impose a net cost on the USP that would constitute an unfair burden.

3. Under the terms of the Gibraltar telecommunications framework, Communications Act 2006 (CA 2006) and particularly Communications (Universal Service and User's Rights) Regulation 2006 (Universal Service Regulations), the GRA is required to review this USP designation. In the public consultation document, the GRA has set out grounds for designating a USP for each of the following five elements:

- provision of access at a fixed point;
- directory enquiry services and directories;
- public payphones;
- specific measures for disabled users; and
- affordability of tariffs for universal services

4. The GRA proposes to designate Gibtelecom as the USP for each element. However, Gibtelecom notes that the GRA is leaving itself the option of designating other undertakings if they apply and are found to qualify to provide one or more universal service elements.

5. Gibtelecom is prepared to accept its designation as the USP, in the event that no other provider has applied and is found to be qualified. This would be a continuation of its current obligations provided the scope of the universal service obligation (USO) remains essentially the same as before.

6. Gibtelecom, in accepting designation as a USP, reserves its right under EU and Gibraltar legislation to seek to recover some of the financial burden of providing universal services. This would be through one of the methods specified in EU and Gibraltar legislation, which includes a Universal Service Fund financed by authorised operators.

Specific GRA Questions

Q1. What are your views on the factors outlined above in the context of defining an appropriate designation period? Should the Authority undertake a review following the review and updating of the local legislative framework in line with the European Union's future revision of its directives?

1.1 In general, Gibtelecom accepts the GRA view that the period of designation of two years should continue to apply subject to a narrow, practical adjustment related to length of a designation of the USO for directories (see response to Question 4). However, Gibtelecom notes the comments made in the Public Consultation 04/09 regarding the proposed changes to the EU Framework and national law, and is of the view that a review should be conducted once the new EU Framework is published and the revisions to the Directives are transposed into local law.

Q2. What are your views in relation to the proposal that Gibtelecom should be designated as universal service provider with respect to the provision of access at a fixed location? Are there other factors which should be considered by the Authority in making this designation?

2.1 Gibtelecom would accept the USP designation in accordance with the principle factors invoked under Notice 1/2002 and Decision Notice 05/2007 in the absence of any other qualified operator in the market at this current time. Gibtelecom is the only operator who has ubiquitous coverage and continues to be the major fixed-line provider in the market. In response to a reasonable consumer request, Gibtelecom will provide a fixed line connection which is capable of allowing end-users to make and receive local and international telephone calls, facsimile communications and data communications at data rates that are sufficient to permit functional Internet access. Nevertheless, Gibtelecom understands that with emerging competition this could be revisited in the future.

2.2 A counterpart to the USO to supply a fixed access connection should be the right of Gibtelecom to have access to all buildings in Gibraltar. As mentioned in the Company's response to the last Public Consultation (Gibtelecom's response to Public Consultation 04/2007 dated 13 July 2007) the Development and Planning Commission (DPC) advised Gibtelecom during that time that it would be excluding it from notice of development work on new or existing infrastructure and to date Gibtelecom understands the DPC still believe this should be the case. Gibtelecom should not be omitted from the DPC general circulation list otherwise the Company will not necessarily be in a position to deliver universal access as required by the GRA. Furthermore in multi-dwelling units (MDU), where Gibtelecom is not allowed to provide its own in-building wiring the Company may also find itself restricted in delivering universal access. In such scenarios, Gibtelecom's ability to fulfil its USO obligations to provide access to a fixed line telecommunications service could be seriously impaired.

2.3 In the former scenario the GRA would do well to formally inform the DPC of the designated operator's obligations. In the latter circumstance the GRA may have to consider designating the party who provides the in-building wiring to the MDU as a USP. The GRA grappled with this issue in Decision Notice 02/08 on Network Termination Points (NTPs) with the guarantee of access to MDUs only extending to the situation where the in-building

wiring system is owned and/or operated by an SMP operator based on a Reference Unbundling Offer (RUO). Where it is owned and operated by the landlord or the alternative operator and the building is new, the GRA's position is that the party providing the in-building wiring should grant access, negotiating the terms and conditions including charges for access on a commercial basis. We question whether the GRA can effectively compel the landlord or alternative operator to grant access to allow the USP to provide fixed access.

2.4 Nevertheless, the GRA can be assured that Gibtelecom would always endeavour to have adequate access to building developments such as basement cabinets/rooms and development risers to be able to meet its USO obligations.

Q3. Should the minimum data rate for functional internet access be kept at a target speed of 56kbit/s or be set to the equivalent of a basic ADSL connection? If set to the equivalent of a basic ADSL connection, what should be its minimum target data rate for functional internet access?

3.1 In its Decision Notice 05/2007 the GRA noted that though there had been a reduction in dial-up connections these still accounted for 20% of all internet accounts⁽¹⁾. In section 4.2.1 of the Public Consultation document the GRA states that dial-up customers currently account for 18% of all internet accounts in Gibraltar. Recital 4 of the Universal Service Directive defines universal service as "the provision of a defined minimum set of services to all end-users at an affordable price".

3.2 The requirement within the EU Directive is limited to a single narrowband network connection. A basic ADSL connection constitutes broadband connectivity. Gibtelecom thus would suggest that the data rate for functional internet access be maintained at a target speed of 56kbit/s for dial-up internet. This would be the only appropriate way of providing a defined minimum set of services to all end-users at an affordable price.

Q4. What are your views in relation to the proposal that Gibtelecom should be designated as universal service provider with respect to the provision of directory enquiry services and directories? Are there other factors which should be considered by the Authority in making this designation?

4.1 Gibtelecom would accept the USP designation for the reasons given in Notice 1/2002 and Decision Notice 05/2007, in the absence of any other qualified application. While the provision of directories can be profitable, the provision of a comprehensive directory enquiry services imposes disproportionate costs. If the GRA designates any other provider for this element, Gibtelecom cautions that, it should be for all three aspects of directory information: directory enquiry services, the telephone directory publication and related website.

4.2 At present, Gibtelecom has had difficulty in attracting the right calibre of suppliers when tendering for a short period and would therefore recommend that the USP designation for this element be for more than 2 years so that an extended contractual period for the provision of directories for 3 to 4 years could be signed. The current supplier is encountering difficulties with the short term contract as it is having to employ personnel on a short term basis and has even contemplated the idea of closing down its business. Gibtelecom reiterates in making this proposal for an extended period and that the USP designation for this element must cover both directory enquiry services and telephone directories.

Q5. Do you believe that the present provision of directory enquiry services and the telephone directory meet the needs of end-users?

5.1 Yes. Gibtelecom believes that the present provision of directory enquiry services and the telephone directory meet the needs of end-users. The directory enquiry service is widely used by Gibraltar consumers and to date has not generated substantive complaints. In addition, these services are used by other authorised operators and their customers.

5.2 Gibtelecom will be revamping its website in the fourth quarter of 2009 and will consider implementing an enhanced link to the web based directory which includes a download function enabling customers to obtain directory listings and a search facility allowing customers to find both residential and business contact numbers. This will continue to be updated at regular intervals.

Q6. What are your views in relation to the proposal that Gibtelecom should be designated as universal service provider with respect to the provision of public pay telephones? Are there other factors which should be considered by the Authority in making this designation?

6.1 Gibtelecom would accept the USP designation in accordance with the factors invoked in Notice 1/2002 and reinforced in Decision No. 3 of Decision Notice 05/2007, assuming no other organisation expresses an interest in supplying public payphones.

6.2 Gibtelecom, in consultation with the GRA, undertook an extensive payphones' refurbishment and rationalisation programme and has in place and operates a number of public payphones throughout Gibraltar. With the growth in ownership and use of mobile phones, public payphones are barely used by residents and visitors. Gibtelecom incurs a financial loss each year in providing this service and will be providing further information on this alongside the GRA's request for an accounting separation report for the financial year 2008.

Q7. What are your views in relation to the proposal that Gibtelecom should be designated as universal service provider with respect to the provision of specific measures for disable users? Are the proposed set of obligations appropriate, or should a larger or smaller set of obligations be imposed?

7.1 The GRA detailed the scope of the USP obligations towards disabled users in Gibraltar in its Decision Notice 05/2007. Separate obligations are listed for three sets of disabled users:-

- for the hearing-impaired
- for those with limited dexterity or mobility
- those with restricted vision

Gibtelecom believe that the current set of GRA obligations remains appropriate and that the GRA are content with the Company meeting the requirements (as per your letter ref: 120L/120AF dated 17 February 2009).

7.2 Gibtelecom has also provided, as requested by the Authority, a dedicated section on its website with information on the services it provides to people with disabilities. Gibtelecom will further enhance this section following its review of the Company's website later in the year.

7.3 Gibtelecom would accept the USP designation for specific measures for disabled users for the reasons given for designating Gibtelecom as the USP in Decision Notice 05/2007. Gibtelecom also accepts the three sets of specific measures provided the special apparatus can be sold at normal cost.

7.4 Nevertheless, Gibtelecom would highlight that it believes that with the development of competition in the market and new entrants providing more services, it is no longer necessarily the main supplier of telecommunications equipment in Gibraltar. A disabled person is not obliged to buy equipment from Gibtelecom. In these circumstances the GRA should investigate whether other suppliers should also carry this USO requirement to ensure disabled users' requirements are met.

Q8. What are your views in relation to the proposal that Gibtelecom should be designated as universal service provider with respect to the provision of affordability of tariffs for universal services? Do you think the current measures outlined above provide suitable protection for vulnerable users?

8.1 Gibtelecom agrees that the principle of maintaining affordability for the five USO elements mentioned in section 2.1 of the Public Consultation document are essential in order to avoid the risk that vulnerable user groups might be excluded from enjoying a minimum level of telephony services. If Gibtelecom is designated as the USP it would accept taking on this obligation for those USO elements.

8.2 As the current USP for all five USO elements, Gibtelecom caters to their needs with a series of schemes, the combined effect of which the GRA stated in Decision Notice 05/2007, was adequate for protecting the needs of those that required protection. Gibtelecom holds the view that these protection schemes are still adequate.

- **Repayment Plan:** Gibtelecom offers a repayment plan as outlined in Gibtelecom's Consumer Code of Practice. This plan helps customers pay any overdue and outstanding amount on their telephone bills over an agreed period of time, usually limited to six months.
- **Restricted Service:** Complementary to the repayment plan, Gibtelecom makes available a scheme to help customers reduce future charges by restricting all outgoing calls (except free calls) but allowing continued receipt of incoming calls. This can be phased out when all overdue bills have been paid under the repayment plan. The restricted service scheme also has the advantage that when full outgoing call service is reinstated, no restoration charge is levied.
- **Old Age Pensioners Scheme:** Gibtelecom runs a special scheme benefiting old age pensioners who qualify for the Government's Housing Rent Relief program. They receive a special reduction in the line rental fee, which is financed out of Gibtelecom's own funds. It notes that the other utility service providers, AquaGib (on behalf of itself in respect of potable water and the Gibraltar Electricity Authority) run a similar discount scheme for pensioners and that this is financed by the Gibraltar Government.

8.3 Generally, Gibtelecom believes that prices for USO services should be set at market levels. Gibtelecom holds the view that it is best to assist vulnerable customers directly rather than set an artificially low and distorting price applicable across the board to all users regardless of need.

9. General Comment

9.1 In closing, Gibtelecom notes that the GRA consultation document does not make reference to the substantial financial burden of providing universal services together with the various methods of recovery available to designated USPs set out in EU and Gibraltar legislation. Now there are other authorised operators active in the market, for which the GRA are claiming credit in various publications, a USO fund could be established to which these operators would contribute or one of the other methods of financial recovery set out in legislation applied.