

14 June 2011

Gibraltar Regulatory Authority  
**Attn. Mr Francis Trenado**  
Electronic Communications Officer  
Suite 603  
Europort  
Gibraltar

Dear Francis,

**Market Review – wholesale call origination and termination**

Enclosed please find Gibtelecom's response to the Authority's Market Review 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 02/11).

Yours sincerely,



Dwayne Lara  
Regulatory Manager

Enc.



**Gibtelecom response to Public Consultation 02/11**

**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**

**14 June 2011**

**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.**

In response to the public consultation on its market review of the 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 markets published by the Gibraltar Regulatory Authority (GRA) on 26 April 2011, Gibtelecom is pleased to present its comments.

This latest market review is considered to form part of a second round of market analyses which this time take on board newer EU recommendations on relevant markets. The new recommendations concentrate on wholesale markets, with only one retail market – provision of access at a fixed location for residential and non-residential customers now being considered.

As a preliminary comment, there appears to be some erroneous references to “mobile markets” or “mobile call termination services” across the consultation document (for example, see the fourth paragraph of page 4 of the document). Gibtelecom is assuming that these should be references to “fixed markets” and “fixed call termination services” given that the consultation paper focuses on telephone networks provided at fixed locations.

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 above preliminary conclusions regarding the wholesale call origination market definition exercise?***

***Please give reasons for your answer.***

Gibtelecom accepts the Authority’s preliminary conclusions for defining the market boundaries for the wholesale call origination market. The Company notes that the Authority’s assessment of what constitutes the wholesale call origination market is largely in line with that put forward during its first round of market reviews starting in 2007.

Criteria used

Gibtelecom would nevertheless like to comment on one part of the criteria used by the Authority (in following EU recommendations) to determine if there are alternatives to call origination products from a supply and/or demand-side perspective. Gibtelecom notes that construction by other operators of alternative access facilities, such as duplication of fixed networks, are probably not in themselves (in the context of market definition theory) viable substitutes for call origination products in the short term. However, the Company believes that a local loop unbundling product such as that made available by Gibtelecom through a reference unbundling offer (RUO) since 2006 could serve as a workable and sustainable alternative to an alternative operator purchasing call origination services off the incumbent. As of the date of this submission, none of the other two locally licensed service providers have chosen to take the opportunity of availing themselves of the LLU facilities on offer by Gibtelecom. In the event that any of the two other locally licensed service providers do take up the RUO, Gibtelecom believes that these operators could be making full use of the Company’s Gibraltar-wide local copper loop network to offer voice services to their

customers within a relatively short timeframe. In summary, Gibtelecom is of the belief that alternative operators may switch from traditional call origination services to purely LLU products in response to hypothetical small but significant price changes above the competitive level within the lifetime of this review.

**Q2. Do you agree with the above preliminary conclusions regarding the wholesale call termination market definition exercise?**

**Please give reasons for your answer.**

Gibtelecom accepts the Authority's preliminary conclusions for defining the market boundaries for the wholesale call termination market. The Company notes that the Authority's assessment of what constitutes the wholesale call termination market is largely in line with that put forward during its first round of market reviews starting in 2007.

Scope of market review

Gibtelecom does note, however, that the Authority is not extending the scope of this market review to cover one other established local fixed network operator – Sapphire Networks. The Authority justifies this on the premise that Sapphire Networks "...at the time of writing this consultation they are not operational". Gibtelecom disagrees. Sapphire Networks and Gibtelecom have been exchanging interconnection traffic since 2010. See below for more information. Not including Sapphire Networks could be an omission, in Gibtelecom's mind, of material importance as it could ultimately have an effect on the SMP obligations (and their weight) now being proposed to be imposed on Gibtelecom.

With the first round of market reviews in 2007/2008, Gibtelecom was designated as having SMP on its own individual network. This was at a time when no other fixed line network operators were still operational. Once CTS began offering wholesale fixed line services through its own fixed network, the Authority carried out a further public consultation (Public Consultation 05/09 of 24 June 2009) seeking interested parties' views on whether CTS should be assigned SMP status on its own network and therefore have SMP obligations imposed. In the ensuing decision notice, the Authority determined that CTS did indeed possess SMP in its own network and that a number of remedies were being imposed. Within the consultation document, and then again in the decision notice, the Authority stated that:

*"The Authority informed the market that other authorised entities which may in the future enter the electronic communications markets and provide termination services on their individual networks in Gibraltar shall likely be designated as having SMP and the SMP obligations and their structure would likely be the same as those proposed in this market review."<sup>1</sup>*

Sapphire Networks and Gibtelecom interconnected their respective fixed networks during 2010. Both Gibtelecom and Sapphire are sending live traffic over the interconnection links, although at this time this is relatively minimal. Within the reference interconnect offer signed by both operators, Sapphire Networks charges Gibtelecom (and presumably will also do so from other operators when these eventually interconnect) for providing completion and switching functionality for calls terminating on Sapphire Networks' fixed network (i.e. call termination services). At the moment, Sapphire is free to set its own termination rates, and in the absence of regulation can do so above normal competitive levels. Using the Authority's own reasoning, Gibtelecom's argument therefore is that Sapphire Networks

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<sup>1</sup> Gibraltar Regulatory Authority Decision Notice 09/09 of 3 December 2009, Section 1.4, page 6

exerts control over calls terminating on its own network. The concept of every operator having SMP in its own network is well established under EU market definition philosophies. A case in point is that both the EU and the Authority state that there are currently no supply or demand side substitution possibilities for fixed termination services such that these could constrain fixed termination rates. This is because an operator has no choice but to terminate a call destined for an alternative operator's customer on that alternative operator's fixed network. In this market review, the Authority states that

*"There are currently no viable competitive substitutes at the wholesale level for the termination of calls by individual FNOs, whether measured from the supply-side or the demand-side. In respect of the analysis presented above, and in accordance with competition law principles, the Authority identifies wholesale voice call termination on individual fixed networks as relevant for the purposes of ex-ante regulation"<sup>2</sup>*

According to the Authority, this could therefore mean that each network operator could effectively act, in the absence of regulation, in an anti-competitive way. For instance, the Authority mentions that

*"In considering fixed line call termination, the Authority argued that each FNO has 100 percent market share on call termination on its own network, and that there are no constraining substitutes to this market outcome."<sup>3</sup>*

In supporting this view, the Explanatory Note<sup>4</sup> to the EU Recommendation on relevant products and markets states that

*"Each market for call termination on an individual network is a monopolistic market with no tendency towards effective competition, where end-users are unable to systematically set up their own call termination..."*

It is therefore Gibtelecom's view that there is sufficient regulatory and economic justification (through the current situation and/or when adopting a forward-looking view on market conditions) to show that Sapphire Networks should form part of this market review on the basis that this operator is currently offering call termination services on its own individual network. Gibtelecom advocates that the Authority should therefore consider extending the scope of this market review to cover wholesale call termination services provided by Sapphire Networks.

***Q3. Do you agree with the above preliminary conclusions regarding market analysis and proposed SMP designation for the wholesale call origination market?***

***Please give reasons for your answer.***

Gibtelecom accepts the Authority's preliminary conclusions regarding market analysis and proposed SMP designation for the wholesale call origination market.

Gibtelecom has some comments under the following sections.

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<sup>2</sup> Gibraltar Regulatory Authority Public Consultation 02/11 of 26 April 2011, Section 3.4.3, page 21

<sup>3</sup> Gibraltar Regulatory Authority Public Consultation 02/11 of 26 April 2011, Section 4.3.2, page 28

<sup>4</sup> Explanatory Note. Accompanying document to the commission recommendation on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC, section 4.2.1, page 172

## Use of benchmarking data

1. Applicability of EU data - The Authority has used EU termination rates at local level (as a proxy for origination rates), together with an average rate to demonstrate that Gibtelecom's termination rate appears high. It is Gibtelecom's belief that the Authority should also factor into its benchmarking calculations local (Gibraltar) market conditions and other unique geopolitical and other circumstances that have an effect on Gibtelecom's unitary prices and therefore termination / origination rates. For example, a material element of Gibtelecom's interconnection/network related costs are based on foreign currencies. Exchange differences (which are more appreciable in today's economic climate) are not something that most EU countries, and their incumbents' interconnection rates, are subjected to. This will therefore paint a distorted picture in comparative scenarios. The increases in Gibtelecom's interconnection charges are not due to increases in inefficiencies, as the Authority seems to intimate, but largely to unique external factors outside the control of the Company.

Additionally, the Authority is benchmarking Gibtelecom against territories that are much larger in size and market than Gibraltar. It would not be reasonable to use a simple arithmetic average of the rates derived from such countries to compare against that charged by Gibtelecom. A more practicable and realistic approach would be to measure Gibtelecom's "pre-split" rate (see below) against similarly-constructed rates from analogous territories either directly implementing or under the influence of the EU regulatory framework (as the smallest EU member state is currently Malta [area 316km<sup>2</sup>] it is difficult to find a direct comparison within the EU to the Gibraltar market). Examples might include San Marino (population 31,817 [2011 est.]; number of fixed lines 21,500 [as at 2009]), Monaco (population 30,539 [2011 est.]; number of fixed lines 35,400 [as at 2009]), or even the Channel Islands.

2. Use of peak data - Gibtelecom would like to point out that the Authority is limiting its analysis to rates charged during peak periods. No information is being presented comparing Gibtelecom's termination rates across cheap periods. The Company has ascertained that had the Authority used this information (this can be provided to the Authority separately if required), Gibtelecom's cheap rate of 0.9 ppm compares more favourably with those of other EU jurisdictions and does not, in fact, rank as the highest rate. Having said this, Gibtelecom believes that a more realistic approach would have been to compare absolute rates, that is to say, before they are split into their peak and cheap constituents (Gibtelecom's "pre-split" rate for 2010 is 0.0167 GBP per minute). This is because, in the majority of cases, the splits are based on traffic patterns and gradients which can vary appreciably between individual operators and countries.

***Q4. Do you agree with the above preliminary conclusions regarding market analysis and proposed SMP designation for the wholesale call termination market?***

***Please give reasons for your answer.***

Gibtelecom accepts the Authority's preliminary conclusions regarding market analysis and proposed SMP designation for the wholesale call termination market.

However, we would refer the Authority to the Company's comments under Q2 above regarding not having Sapphire Networks form part of this market review.

### Selection of criteria

Gibtelecom would like to comment on the criteria employed by the Authority for assessing market dominance. For call termination, the Authority uses a different set of criteria as that used to assess market conditions in the wholesale call origination market. For instance, the Authority judges market dominance according to market shares; potential competition; countervailing market power; and pricing behaviour. On the other hand, the following criteria are employed in assessing the state of play in the call origination market: market shares; barriers to entry; vertical integration; countervailing buyer power; and pricing behaviour. In the interests of being consistent in the selection of criteria used, can the Authority explain the differences between those used for the call termination and call origination markets?

### Factual correction

Gibtelecom would like to point out that there appears to be a factual error in the presentation of data showed under Figure 4 (graph showing Gibtelecom call termination rates since 2008) of the public consultation. The graph shows the Company's termination rates for 2009 at the same level as that for 2008. This is incorrect. Gibtelecom's termination rate for 2009 was 1.1p standard and 0.8p cheap. Perhaps the Authority has confused an erroneous presentation of termination figures that was submitted by Gibtelecom at the time the access deficit charges were removed (our letter of 28 July 2009 refers) but which were never implemented. The position was immediately rectified with the correct rates being shown to the Authority two days later. Our letters of 30 July 2009 refers.

### Use of benchmarking data

Please refer to our comments under the "Use of benchmarking data" section under Q3 above.

### ***Q5. Do you agree with the Authority's proposed SMP obligations to be imposed on Gibtelecom in the wholesale call origination market?***

#### ***Please give reasons for your answer.***

Gibtelecom has comments on the following SMP obligations proposed to be imposed by the Authority.

### Transparency

The wholesale call origination transparency obligations put forward by the Authority in the public consultation seem to make reference to call termination services. Gibtelecom assumes that this has been a clerical error and takes it that they should refer to call origination services.

Gibtelecom notes that the existing transparency obligations, with some modifications, are being maintained. However, Gibtelecom continues to object to the very long lead times for advance notice of changes to terms and conditions, including price increases. The Authority would require Gibtelecom to notify it 60 days in advance of any changes to terms and conditions, including price increases.

Gibtelecom again requests the advance notification period be reduced from 60 days to 45 days for changes in terms and conditions including tariff increases. A 60 day advance

notification requirement continues to be too burdensome in the context of normal business activity.

Gibtelecom would also like to query the publication requirements for changes to terms and conditions as well as for price changes. The proposed SMP obligations state that publication "shall include direction notification to all other operators in the market" and that "publication shall include a prominent notice for at least two weeks on the company's website". Given that the proposed obligations will require changes to be made **directly** to the parties that will be most affected by them, i.e. wholesale operators, and that the changes will also be published on the Company website, can Gibtelecom take it that there will therefore be no requirement to publish the changes to the more general public through the local press? Gibtelecom would find it unusual to have to notify the wider audience given that changes will be at a wholesale, inter-operator level.

### Accounting Separation

As the Authority is well aware from previous correspondence on the matter, Gibtelecom continues to find the production and auditing of accounting separation reports (ASR) a burdensome and costly exercise. This fact is exponentially expounded with the current requirement to have to produce audited ASRs on a yearly basis, nine months after Gibtelecom's financial year end. The Authority itself appears to be struggling with the production (both in terms of time and cost) of a network costing model, using LRIC approaches, to supplement those produced by Gibtelecom. In the public consultation, when referring to building the Authority's costing model, the Authority states

*"Moreover, in terms of resources, the building of such models would have to be staggered over a long period due to the inherent lengthy procedure of data collection.....The Authority does not currently have a BU-LRIC model of Gibtelecom's fixed network. In this regards there exists a possibility that such a model would not yet be completed by the timeframe of this market review."*<sup>5</sup>

The Authority gave indications that it was starting on the path to developing such a model by asking Gibtelecom a set of substantive questions around two years ago. To date, the industry has not been made aware of the results of this model.

The time and effort it takes to produce ASRs / costing models are challenges that Gibtelecom also faces, particularly when having to do so on a yearly basis.

One, if not the main, purpose behind producing ASRs, in Gibtelecom's view, is to calculate interconnection (termination and access (origination)) rates. The ASRs showed that these rates were being computed according to the cost orientation principles and obligations imposed on Gibtelecom. In response to increases in termination rates over the past couple of years, this is down to certain traffic volumes decreasing over time coupled with other economic factors which are having world-wide effects (see comments under Q3 above). As mentioned by the Authority itself "...Gibtelecom might have relevant reasons for this charge to increase over time"<sup>6</sup>. Judging from the perceived lack of feedback from the Authority when assessing Gibtelecom's ASR documents, the Company has no indication of what other concrete information the Authority derives from the ASR or indeed how this data is used - with the exception of clearing the interconnection rates.

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<sup>5</sup>Gibraltar Regulatory Authority Public Consultation 02/11 of 26 April 2011, page 54

<sup>6</sup>Gibraltar Regulatory Authority Public Consultation 02/11 of 26 April 2011, page 47



The Authority now proposes to apply a price control on Gibtelecom in the form of mandated wholesale call origination reductions through a glide path exercise over a three year period ending 2014. Gibtelecom does not find this acceptable. If a price control is to be implemented then Gibtelecom questions its SMP obligation to continue to produce complex accounting separation reports. What reliance would interested parties obtain from the ASR if at the end of the day the information contained therein is rendered redundant as a result of the Authority supplanting the cost-derived interconnection rates with benchmarked proxies? Gibtelecom refers the Authority to the Company's similar views on the conflict between having termination rates supplied through an obligation to produce an ASR and having them imposed through a benchmark price control contained in its response to public consultation 03/10 (Gibtelecom submission dated 26 May 2010).

#### Access obligation

This is the first time an access obligation is being imposed on Gibtelecom as an SMP remedy in this particular market. Previous access obligations were limited to wholesale (physical) network infrastructure access (including shared or fully unbundled access) at a fixed location; wholesale broadband access; wholesale terminating segments of leased lines; and mobile voice call termination markets. The Authority should note that the wholesale call origination access obligations put forward in the public consultation seem to refer to call termination services. Gibtelecom assumes that this has been a clerical error and they should therefore refer to call origination services. Gibtelecom does not see any major issues with the Authority's proposal to introduce this new obligation on this particular market, as Gibtelecom already adheres to these principles and they also form part of the similar mobile voice termination market SMP obligations.

#### Price control and cost accounting

Gibtelecom does not accept the Authority's proposal to have a price control on wholesale call origination rates imposed. The comments under this section should be read in conjunction to those found under the "Accounting Separation" section immediately above.

The Company already is obligated to provide substantive ASRs annually. This is in itself a laborious and costly exercise for a small company the size of Gibtelecom. This is a view shared by the Authority, when in reference to having to produce a costing model, says that

*"In the local context, when compared with the costs faced by other NRA's in other European markets, the cost of building a LRIC model in Gibraltar is considerably higher given the small size of the local markets".<sup>7</sup>*

Gibtelecom could not agree more with this sentiment, which although referring to having to produce a model using LRIC methodologies (on which the Authority already has the Company's views), also applies to having to produce accounting separation reports of any kind. Furthermore, the Authority in this consultation has kept in mind the small size of CTS and is therefore proposing not to impose the more onerous obligation of accounting separation on this operator. Surely the same should apply to Gibtelecom, which is a small enterprise, serving an A to Z of telecommunications products and services to a population of c30,000, by any standard.

As stated in our comments under the "Accounting Separation" section above, as the Authority is aware, the ASR is used to derive cost-orientated origination and termination

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<sup>7</sup> Gibraltar Regulatory Authority Public consultation 02/11 of 26 April 2011, page 54

rates. Having a price control applied in the way the Authority now proposes would therefore render ASRs, in the Company's mind, somewhat superfluous. The Company should 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 certainly not both.

Furthermore, the Authority now proposes to have an origination rate which is equal to the termination rate, basing some of its argument on the fact that "*most incumbents' call origination tariffs equal their call termination charges*". Gibtelecom has evidence that this is not the case. For example, incumbents in Denmark, France, Eire, Switzerland, and the UK do not mirror, to varying degrees, origination and termination rates. Gibtelecom therefore cannot agree with the Authority's assumption that the costs of providing interconnection services can be split down the middle. In the local context, the Company has previously calculated origination rates by applying a small differential (5%) above the cost-based termination rates. This marginal distinction has been applied to more accurately reflect the true additional cost of facilitating service providers with no networks. The Company believes that this surcharge should be maintained.

Without prejudice to Gibtelecom's views on the proposed price control, the Company would like the Authority to clarify the glide path year-on-year reductions. The Company believes these have not been sufficiently explained to enable an appropriate response.

Gibtelecom also refers the Authority to the Company's comments under "Use of benchmarking data" sections in Q3.

***Q6. Do you agree with the Authority's proposed SMP obligations to be imposed on Gibtelecom in the wholesale call termination market?***

***Please give reasons for your answer.***

Gibtelecom has similar comments on the same SMP obligations discussed under Q5 above.

Transparency

Gibtelecom continues to object to the same notification periods as in Q5 above, that is to say that there are very long lead times required for advance notice of changes to terms and conditions, including price increases. The Authority would require Gibtelecom to notify it 60 days in advance of any changes to terms and conditions, including price increases.

Gibtelecom again requests the advance notification period be reduced from 60 days to 45 days for changes in terms and conditions including tariff increases. A 60 day advance notification requirement continues to be too burdensome in the context of normal business activity.

Gibtelecom would also like to refer the Authority to its comments on the publication requirements for changes to terms and conditions as well as for price changes under Q5 above.

Accounting Separation

Please refer to our response under the "Accounting Separation" section under Q5 above.

### Access obligation

Please refer to our response under the "Access obligation" section under Q5 above.

### Price control and cost accounting

Gibtelecom does not accept the Authority's proposal to have a price control on wholesale call termination rates imposed. Please refer to our comments under the "Price control and cost accounting" section in Q5.

The Company already is obligated to provide substantive ASRs annually. This is in itself a laborious and costly exercise for a small company the size of Gibtelecom. As the Authority is aware, the ASR is used to derive cost-orientated origination and termination rates. Having a price control applied in the way the Authority now proposes would therefore render ASRs, in the Company's mind, somewhat superfluous. Please also see our comments under the "Accounting Separation" section under Q5 above. The Company should 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 certainly not both.

Without prejudice to Gibtelecom's views on the proposed price control, the Company would like the Authority to clarify the glide path year-on-year reductions. The Company believes these have not been sufficiently explained to enable an appropriate response.

### Use of benchmarking data

For Gibtelecom's views on the use of benchmarking information, please refer to our comments under the "Use of benchmarking data" sections in Q3 above.

### Scope of market review

Gibtelecom also refers the Authority to the Company's views as expressed under the response to Q2 – "Scope of market review" section above. Gibtelecom believes it is imperative that Sapphire Networks also form part of this market analysis and that they are assessed for market dominance in their own individual fixed network.

### ***Q7. Do you agree with the Authority's proposed SMP obligations to be imposed on CTS in the wholesale call termination market?***

#### ***Please give reasons for your answer.***

Gibtelecom agrees with the Authority's proposed SMP obligations to be imposed on CTS in the wholesale call termination market.

Gibtelecom would nonetheless like to comment on the following.

### Scope of market review

Gibtelecom questions the absence of Sapphire Networks as a subject of this market review. In the same way that the Authority is proposing to continue applying SMP status on Gibtelecom and CTS as a result of each having "control" over their individual fixed networks for call termination purposes, then so should the Authority consider doing the same for Sapphire Networks. Please see our comments under the "Scope of market review" section under Q2.

## Inconsistencies in application of SMP obligations

The Authority proposes to impose obligations of non-discrimination; access to and use of specific network facilities; and price control and cost accounting, all of which are being brought over from the Authority's decision notice 09/09 of 3 December 2009. Gibtelecom questions why CTS, having been designated as having SMP in its own fixed market does not have a transparency remedy applied in the same way as does Gibtelecom, who also have the same SMP designation in the same market.

In the same way, Gibtelecom would also like to understand why CTS is not having an accounting separation obligation imposed. As previously highlighted to the Authority on a number of occasions, the Company still continues to find it difficult to reconcile the Authority's continual references to the invasiveness and burden that full ex-ante cost-orientation obligations, in the form of accounting separation requirements places on small firms in small markets, with the fact that Gibtelecom, by any measure, can also be considered to fall in this same size bracket. The EU Commission in its reply to the Authority of 19 October 2009 on the market review also acknowledged the undue burden full-blown cost-orientation principles can impose on small firms.

In this consultation, the Authority notes that it has kept in mind the small scale of the CTS operation in Gibraltar and has accordingly restrained itself in its choice of SMP obligations to be imposed on CTS. For instance, the Authority is quoted as saying that

*"Nevertheless, when the Authority examines the detailed nature of these obligations it needs to be proportionate. Some obligations or some detail of the obligations imposed on Gibtelecom may be too burdensome to impose on CTS..."<sup>8</sup>*

Gibtelecom is appreciative of this concern for the resources and capabilities of CTS. Yet, it must also draw the Authority's attention to the fact that Gibtelecom itself is by any normal standard a small enterprise with rather limited resources. The Authority's concern for CTS needs also to expand to Gibtelecom before it decides to impose more burdensome SMP obligations on the Company which are disproportionate to the objective sought.

## **Closing Remarks**

Gibtelecom broadly accepts the SMP assessments in the wholesale call origination and call termination markets, nevertheless Gibtelecom asks the Authority to reconsider their proposed imposition of a price control, particularly as Gibtelecom is already subjected to having to provide substantive cost-based data through yearly audited ASRs.

Whilst agreeing that CTS should be designated as having SMP in its own individual fixed network, Gibtelecom is of the opinion that similar obligations as those on the Company should be applied. If the Authority's reasoning for not doing so is that this would be placing an undue and disproportionate burden on a small company then Gibtelecom asks the Authority to reflect on the fact that that Gibtelecom is by any measure also a small enterprise yet has the onerous and taxing obligation to produce annual audited ASRs. Gibtelecom also believes that Sapphire Networks should have formed part of the Authority's market review as a result of offering call termination services through owning and operating its own fixed network.

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<sup>8</sup> Gibraltar Regulatory Authority Public consultation 02/11 of 26 April 2011, page 4