

16 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 mobile markets**

Enclosed please find Gibtelecom's response to the Authority's public consultation on wholesale voice call termination on individual mobile networks and wholesale SMS termination on individual mobile networks (Public Consultation CO3/15).

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

Yours sincerely,

Rachel Holgado  
Regulatory Officer

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## **Gibtelecom response to Public Consultation CO3/15**

Wholesale voice call termination on individual mobile networks

Wholesale SMS termination on individual mobile networks

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**16 July 2015**

## **Gibtelecom Response to GRA Market Review for wholesale voice call termination on individual mobile networks and wholesale SMS termination on individual mobile networks.**

### **Introduction and general comments**

1. Gibtelecom is presenting its comments in response to the Authority's public consultation CO3/15 published on 17 June 2015 on wholesale mobile markets.
2. The Company notes that it has previously submitted a response on the same public consultation 09/14 which was published by the Authority in July 2014 and subsequently withdrawn. The Company is therefore submitting replies in keeping with its last response maintaining most of its views and comments on most aspects of the document. In general, this consultation is in keeping with prior consultations issued by the Authority on the same wholesale mobile markets (in 2007, 2011, 2012 and 2014 (withdrawn by the GRA)).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 definitions 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 mobile markets susceptible to ex-ante regulation.

***Q2: Do you agree that the market for termination of messaging services on mobile devices connected to the internet should not be subject to ex ante regulation and that all SMP obligations should be withdrawn?***

Gibtelecom agrees that SMP obligations for termination of messaging services on mobile devices should be withdrawn on the basis that this also includes SMS which for clarity's sake may not necessarily require a mobile device to be connected to the internet. Gibtelecom assumes that the removal of any SMP obligations would be tied to a removal of SMP status for the market.

***Q3: Do you agree with the market analysis of the wholesale voice call termination markets on mobile networks? Please give reasons for your answer.***

Gibtelecom accepts the Authority's analysis of the wholesale mobile call termination market and proposed SMP designation. The Company would nevertheless refer the Authority to its reply to question 4 below regarding the non-imposition of an accounting separation requirement obligation on Eazitelecom.

***Q4: Do you agree with the proposed SMP obligations on Gibtelecom in the wholesale mobile call termination market? Please give reasons for your answer.***

Gibtelecom would broadly accept the proposed SMP obligations subject to the following comments.

### **Transparency**

Gibtelecom takes it that the requirement to "publish" changes to terms and conditions and/or prices of wholesale mobile call 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 06/11.

### 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.

Furthermore, the Company also refers to its response to Public Consultation 09/2015 on wholesale mobile markets where it was noted that the Authority is not proposing to apply an accounting separation requirement obligation on Eazitelecom. The Authority justifies this on Eazitelecom's "recent" entry into the market and that it is therefore appropriate to impose asymmetric remedies during a "transitional period". Gibtelecom has on many occasions put across its views that the Company is by any measure considered to be small and that producing annual ASRs is very costly and onerous. Gibtelecom therefore finds it difficult to accept the Authority's effective view that Eazitelecom is not having an accounting separation obligation imposed on it on account of its small size. In addition, can the Company take it that once Eazitelecom's "transitional period" is over, that the Authority will be imposing an accounting separation SMP obligation on this alternative mobile operator?

### Cost accounting

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 mobile termination 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 mobile termination 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.

***Q5: Do you agree with the proposed SMP obligations on Eazitelecom in the wholesale mobile call termination market? Please give reasons for your answer.***

Gibtelecom agrees with the proposed SMP obligations on Eazitelecom as it is of the view that it each mobile operator controls access to their own individual networks.

### 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**