



Mobile Termination Rates
Annual Review and Final Decision Notice 2018/01

17 April 2018

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1. Legal and Regulatory Background

Regulatory Background

In March 2013, the Commission published Decision 2013/01, which applied to Manx Telecom Limited ('MT') and Sure (Isle of Man) Limited ('Sure') for the termination of calls on their respective mobile networks as follows:

- (i) *The Commission notified MT and Sure [then C&WIOM] that a target rate for Mobile Termination Rates (MTRs) is set at 1.25 pence per minute (ppm) by 1 May 2015. In order to reach this target, MTRs will be charged at a maximum of 4ppm from 1 May 2013. There will be a further reduction to 2.5ppm by 1 May 2014.*
- (ii) *When the target rate has been reached, the MTR will be subject to annual review.*
- (iii) *From 1 May 2013, the following conditions will apply:*
 - *The MTR will not vary by time period.*
 - *The MTR will not include any additional charges*
 - *The MTR shall be billed on a per second basis, effective from the first second*
 - *The MTR will be applied on a technologically neutral basis.*

Since the publication of Decision 2013/01, MTRs in the Isle of Man have reduced from 4 ppm to 1.25 ppm, which means they have reached the target rate as set out in the Decision. MTRs are now subject to annual review. On 7 March 2018, the Commission published its latest Annual Review and Draft Decision Notice, and invited comment.

2. Consultation on the Annual Review

Consultation proposals

In the Consultation on the MTR Annual Review and Draft Decision Notice published on 7 March 2018, the Commission proposed to maintain the MTR at its existing level of 1.25ppm (pence per minute) for a further year commencing 1 May 2018.

The Commission set out its reasoning, and proposed that the approach set out in the previous consultation should be continued. This was because (a) the large reduction in the prevailing rate that has been experienced in the Isle of Man since 2013, (b) the lack of any direct benefit, in terms of lower prices, for retail customers in reducing the MTR, (c) the desire to support significant new investment by the mobile operators in 4G Advanced mobile broadband services, and (d) the Commission's plans to undertake a fresh market review of mobile termination services within the period covered by the proposed control.

Responses to Consultation

The Commission received two responses to consultation, from Manx Telecom ('MT') and Sure (Isle of Man) Ltd. ('Sure'), and thanks respondents for their comments.

Both respondents expressed no objection to the Commission's proposal to maintain MTRs at 1.25 ppm from 1 May 2018 until 30 April 2019.

Sure stated that it supported the Commission's approach to maintain the MTR at the current level. Sure was pleased to note that the Commission recognised the benefit of supporting significant investment in 4G Advanced mobile services.

MT noted the Commission's plans for its upcoming market review of mobile termination services. In this regard, MT pointed out that the review should consider the following issues:

- The impact of setting an MTR based on benchmarking against significantly larger jurisdictions/markets and the impact on investment in mobile networks on the Island;
- The increased use of over the top 'OTT') voice applications, their revenue impact and the impact on investment in mobile networks on the Island;
- The use of number ranges by licensed and un-licensed operators and the impact on investment in mobile networks on the Island;
- The increased costs of supporting any national minimum broadband speed requirement, that supports OTT voice service provision;
- Any significant disparity in the combined MTR and transit rate, that could lead to external operators discriminating against the Isle of Man and distortion of the local market.

Both respondents submitted non-confidential responses to the consultation, and these are available on the Commission website.

Analysis and conclusions

The Commission has carefully considered the views expressed by both respondents. The Commission notes that no objection was raised to the proposal set out in the Consultation and Draft Decision Notice, i.e. that the regulated MTR should be maintained at 1.25 ppm from 1 May 2018 until 30 April 2019.

In response to the point made by MT on issues that should be included in the forthcoming market review, the Commission is happy to confirm that all relevant factors in this regard will be considered. The Commission will, in due course, be consulting on its market review proposals and interested parties will have an opportunity to comment on the Commission's draft proposals.

For the purposes of this annual review, the Commission confirms that the MTR will continue to be set at 1.25ppm from 1 May 2018, for a period of one year.

Annex A

Decision Notice 2018/01

Statutory powers

- (i) This Decision is issued in accordance with “Additional Obligations on Operators with Significant Market Power” Part 6 of the Licence granted to Manx Telecom Limited, and Part 4 of the Licence granted to Sure (Isle of Man) Limited, under Part 5 of the Telecommunications Act 1984 (of Tynwald).
- (ii) This Decision comes into effect on 1 May 2018 and applies to Manx Telecom Limited (“MT”) and to Sure (Isle of Man) Limited (“Sure”).
- (iii) Condition 44.2.1 of the MT Licence and Condition 28.2.1 of the Sure licence provide for the Commission to direct price controls, as long as this is done in a way consistent with the provision in Condition 44.3 (MT) and Condition 28.3 (Sure), such that it appears to the Commission, from the market analysis carried out for the purpose of setting that condition, that there is a risk that the Communications Provider might sustain prices at an excessively high level or apply a price squeeze to the detriment of End Users; and it appears to the Commission that any such conditions are proportionate and appropriate for the purposes of:-
 - promoting efficiency;
 - promoting sustainable competition; and
 - conferring the greatest possible benefits on the End-Users having taken account of the extent of the investment by the Communications Provider in the matters to which the condition relates.
- (iv) In Decision 2012/03¹, the Commission specified by direction that the following SMP conditions be imposed on the wholesale market for mobile call termination pursuant to the Conditions of the MT licence and to the Conditions of the Sure Licence:
- (v) “A price control obligation is imposed in accordance with Condition 44.2.1 (MT) and Condition 28.2.1 (Sure) such that MT and Sure are directed to comply with MTRs as notified in writing by the Commission. The Commission will work with

¹ Response to Consultation and notification of market power Determinations and Decision Notice 2012/03: Mobile communications markets, Communications Commission, 31 October 2012

operators and other interested parties on the detailed implementation of this obligation”.

- (vi) The Commission published a Consultation on 7 March 2018, further specifying the price control obligation applied in the wholesale market for mobile voice call termination. The Commission has taken account of the submissions received in response to the March 2018 consultation in issuing the response to consultation set out above.
- (vii) The provisions of the consultation document and the Response to Consultation published on 17 April 2018 shall, where appropriate, be construed with this Decision. The analysis set out through the consultation above explains the reasoning behind and for making the proposals and indicates the effects the proposals are expected to have.

Decision

- (viii) The Commission notifies MT and Sure that the rate for Mobile Termination Rates (MTRs) is set at 1.25 pence per minute (ppm) from 1 May 2018.

The MTR is subject to annual review.

- (ix) The following conditions will apply:
 - The MTR will not vary by time period.
 - The MTR will not include any additional charges
 - The MTR shall be billed on a per second basis, effective from the first second
 - The MTR will be applied on a technologically neutral basis