

# **A Framework for Freephone Services in the 800 range - Proposed Decision**

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## **December 2007**

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## **1 INTRODUCTION**

In December 2005, the Malta Communications Authority (MCA) published its Consultative document on a framework for special tariff services (ie freephone and premium rate services) in parallel with its consultation on the numbering plan. The objective of the document was to seek the views of operators and interested parties on the proposals developed by the MCA.

The proposals concerned a wide range of issues related to freephone and premium rate services including:

- the obligations for interconnection;
- the roles and responsibilities of operators;
- the measures to provide adequate consumer protection;
- the allocation of specific number ranges to such services.

Following the conclusion of the consultation period, the MCA published the updated numbering plan but postponed, until now, further publications on special tariffs in order to undertake further research on these services and regulatory frameworks that are used in other countries, and evaluate how best to address the needs of the local market.

The issues regarding premium rate services have proved to be much more complex than those for freephone, and the market needs to develop freephone are more urgent than those for premium rate. Therefore the MCA has decided to treat these two services separately.

This document introduces the MCA's proposed decision on freephone services. This proposed decision is open for comments until 18 January 2008. The MCA will publish a separate document for premium rate services.

The scope of this Decision is limited to freephone numbers in the 800 range. This document refers to telephone calls originating from fixed and mobile networks.

The MCA proposes to review this arrangement in one to two years time and will address any issues of unreasonable discrimination that may arise if it deems necessary.

## **2 RESPONSES TO THE CONSULTATION**

The consultation period for the Consultative Paper entitled “A Framework for Special Tariff Services” ran from 19<sup>th</sup> December 2005 to 28<sup>th</sup> February 2006.

Responses were received from the following:

- Maltacom (now GO),
- Melita Cable,
- Mobisle Communications Ltd (GO Mobile),
- Telemail (now SKY).

The MCA wishes to thank all these parties for their responses.

One of these operators indicated briefly its general agreement with all of the MCA's proposals on freephone and their general comments are not referred to specifically below. The specific comments of respondents are treated in the remaining individual sections of this document.

### **3 THE LEGAL BASIS FOR CONNECTIVITY OBLIGATIONS**

The MCA is proposing to impose interconnectivity obligations to ensure access to freephone numbers. The issue of interconnection for each case is treated in Section 4. This section summarises the legal basis for requirements for connectivity and clarifies their application.

Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) states explicitly that access for all users to freephone and premium rate services is an objective:

*Whereas (38) Access by end-users to all numbering resources in the Community is a vital pre-condition for a single market. It should include freephone, premium rate, and other non-geographic numbers, except where the called subscriber has chosen, for commercial reasons, to limit access from certain geographical areas. Tariffs charged to parties calling from outside the Member State concerned need not be the same as for those parties calling from inside that Member State.*

Regulation 15(1) of the Electronic Communications Networks and Services (General) Regulations, 2004 transposing Article 5(1) of the Access Directive states:

*"15. (1) Without prejudice to any measures that may be taken in accordance with regulation 17 of these regulations regarding undertakings with significant market power, the Authority may impose:*

*(a) to the extent that is necessary to ensure end-to-end connectivity, obligations on undertakings that control access to end-users including, in justified cases, the obligation to interconnect their networks where this is not already the case;"*

Regulation 21(1) gives the MCA the power "...to specify conditions to be attached to a right of use of numbers as are listed in Part C of the Tenth Schedule..."

Part C of the Tenth Schedule lists the following amongst the conditions which may be attached to rights of use for numbers:

- "1. Designation of service for which the number shall be used, including any requirements linked to the provision of that service.*
- 2. Effective and efficient use of numbers in conformity with the Framework Directive.*
- 3. Number portability requirements in conformity with the Universal Service Directive..."*

The MCA considers that access to freephone numbers is essential for all subscribers and sees no commercial reason to limit access.

## **4 INTERCONNECTION FOR FREEPHONE SERVICES**

The consultative document presented the arguments for and against requiring interconnection between the operators, and proposed that interconnection should be required for freephone services so that freephone numbers were to be reachable by all subscribers in Malta and by international callers. Operators who run on-net only freephone numbers would have been free to continue these services without having to interconnect them, but were not to allocate further on-net only freephone numbers. All new freephone numbers were to be in the 800 numbering range to maximise tariff transparency for callers.

In terms of access to freephone numbers from mobile subscribers, the MCA had proposed that it would be too disruptive to the existing freephone providers if calls from mobile subscribers were required to be free because it would lead to a substantial increase in call tariffs. The MCA therefore proposed that mobile operators should be allowed to charge callers for the mobile part of the call but were to always play an announcement, free of charge at the start of the call, to say that the call is being charged. Overseas operators were also to charge for calls to freephone numbers.

The MCA asked for comments on this approach.

One operator considered that the approach was satisfactory but wanted any charge made by mobile operators to be cost orientated. They also wanted flexibility for the introduction of new on-net services.

Another operator wanted clarification that they could continue to use short codes in the range 120-149 for on-net services that may not be charged and so are freephone. They did not agree with the requirement for interconnection for freephone services, and considered that there is no problem if a freephone service provider has to have multiple interconnections to different operators. They were against a requirement for tariff warnings to be played at the start of calls from mobiles if these calls are charged.

The other responses were either in agreement or contained no specific comment.

The MCA considers that a requirement to support interconnection is important in a competitive market with multiple operators. The requirement is needed to ensure competition in the connection to freephone numbers and allows new entrants to offer connectivity to customers who want to have freephone numbers. It also reduces the costs and simplifies the arrangements for the customers with freephone numbers, as they do not need to have connections to multiple networks. The MCA is therefore requiring all operators to establish interconnection to other operators on request, so that subscribers may access all newly allocated numbers in the 800 range, and in any other range allocated in the future for freephone services, that are served on other networks.

The MCA has reviewed the case of access to existing freephone numbers and considers that it is most likely to be in the interest of the freephone number content provider to have access opened to other networks provided that this does not increase the tariff for calls. However the MCA recognises that some current freephone content providers may not wish to have such access opened and is therefore willing to allow them to opt out of this arrangement provided that the network operator who terminates the calls wishes to offer this option. Since restricting access for only some numbers may incur costs, operators are not required to offer this option.

In accordance with its earlier decision on number portability, the MCA requires all freephone numbers to be made portable. This includes existing numbers. Portability is incompatible with a number being accessible from other on-net subscribers only and so, once a number is ported, the option to limit access to on-net calls shall cease and the number must become accessible from all networks.

With respect to the tariffs for calls from mobiles, the MCA notes that call origination from mobiles is significantly more costly than call origination from fixed networks. Consequently to require such calls to be free from mobile would substantially increase the charges to the freephone number content provider.

There are three options:

- Calls from mobiles to freephone numbers are free to the caller, with the charges paid by the freephone number content provider being shared by the terminating operator



with the originating operator. The terminating operator would pay the originating operator. This would mean that the charges paid by the called party would have to be significantly higher than for calls from fixed phones because the call originating costs of mobile networks are higher than those of fixed networks.

- Calls from mobiles to freephone numbers are not free to the caller, but charged at the same rate as calls to fixed numbers and are included in any bundles of minutes offered. This would have the effect that the called party would not need to pay for the mobile interconnection rates
- Calls from mobiles to freephone numbers are not free but are charged to the caller at a lower rate than calls to fixed numbers, ie at a rate based on the interconnection rates only. Again the called party would not need to pay for the mobile call origination.

The MCA has concluded that the second option should apply to the existing ranges of freephone numbers, but that it should also introduce a new range of freephone numbers for calls that are free from mobile as depicted in the first option. This approach will introduce the benefits of interconnection without changing the existing retail services for the freephone service provider, whilst opening the market for new services that are free from mobile as well as from fixed.

### **Proposed Decision 1: Freephone services**

**1.1 The MCA requires all operators to establish interconnection for freephone numbers with other operators, on request within two months from the receipt of a written request, so that subscribers on their respective network may access all freephone numbers in the 800 range that are served on other networks. Where an operator has established an on-net service to a non-ported freephone number in the 800 range before 1 February 2008, it may continue to limit access to on-net callers but only if requested to do so by the freephone content provider.**

**1.2 The MCA requires all operators to cooperate so that all freephone numbers that can be accessed off-net become portable by 30 June 2008.**

**1.3 Except for calls to freephone numbers in the 8000 range which shall be free to callers, the MCA requires mobile operators to charge calls to freephone numbers in the 800 range at normal charges for a call to a fixed network. These charges shall be included in any bundles of minutes that include calls to fixed numbers.**

The above proposed decisions shall be regarded as conditions for the right of use of freephone numbers in the 800 range. The MCA expects that these measures, accompanied by the entrance into the market of new operators, will significantly increase competition and reduce the charges to parties with freephone numbers.

## **5 INTERCONNECTION CHARGES FOR FREEPHONE SERVICES**

In the consultative document, the MCA concluded that there is no economically perfect solution for interconnection charges for freephone services. It was proposed that originating fixed operators should be allowed to choose any of the following charges for originating calls:

- The same charge as they are charged by the operator that they are interconnecting to for an equivalent service, or
- The charge that they charge for call origination, or
- A charge agreed by negotiation.

Where calls are originated by mobile subscribers and terminated on fixed networks with the caller paying for the mobile part of the call, the charges to be paid between the operators needed further consideration. One possibility was that there would be no payments: i.e., the mobile originating operator would charge their subscriber for their part of the call and the terminating operator would charge the freephone service provider for their part of the call.

One operator thought that the proposals were discriminatory against fixed operators and favour mobile operators. It requested discussions between all operators before any decision is made. Another operator agreed, and a third repeated their opposition to any requirements on interconnection.

The MCA has considered these issues further. It has concluded that for calls that cost the caller nothing (i.e., all calls from fixed networks to all freephone numbers in the 800 number range, as well as calls from mobile networks to the proposed new 8000 number range), the terminating operator should pay one of the following:

- A charge equal to the originating operators' interconnection termination rate;
- A charge agreed for origination between the originating and the terminating operator.

The first option is the default option and this option shall apply in the absence of, or until there is agreement on the other option.

Thus discussions on charging shall not delay the establishment of interconnection.

For calls from mobile networks to freephone numbers where the mobile operator is allowed to charge the caller, the MCA has concluded that the solution of having no inter-operator payments for termination will result in the mobile operators being overpaid for call origination. It has therefore decided that for the number ranges where the caller pays the mobile operator the normal charges for a call to a fixed network, the mobile operator shall pay the normal fixed termination charge, as has been determined by the MCA for Maltacom<sup>1</sup>, to the terminating operator. This charge will apply in all cases including those where mobile operators are using their mobile networks as terminating networks (i.e., they will not receive a higher payment for terminating on a mobile network since in this case they are functioning as a fixed network).

**Proposed Decision 2: Interconnection charging for freephone:**

**2.1 The MCA has determined that for calls from fixed networks to all freephone numbers in the 800 range, and for calls from mobile networks to freephone numbers in the 8000 range where the call is free to the caller, the terminating operator shall pay the originating operator one of the following for call origination:**

- **A charge equal to the originating operators' interconnection termination rate (default option) or**
- **A charge agreed for origination between the originating and the terminating operator.**

**2.2 The MCA has determined that for calls to freephone numbers in the 8003, 8004, 8007 ranges originating from mobile networks, the mobile operator is allowed to charge the caller normal charges for a call to a fixed network (Proposed Decision 1.3 above). The originating mobile operator shall pay the terminating operator one of the following:**

- **a charge that is equal to the termination rate determined by the MCA for calls that terminate on the Maltacom fixed network (default option).**

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<sup>1</sup> Refer to Market Analysis at <http://www.mca.org.mt/infocentre/openarticle.asp?id=880&pref=1>

- **A charge agreed by negotiation with the terminating operator.**

**2.3 In 2.1 and 2.2 above, the default option shall apply in the absence of, or until there is agreement on, the other option. Thus discussions on charging shall not delay the establishment of interconnection.**

The above proposed decisions shall be regarded as conditions for the right of use of freephone numbers in the 800 range.

## **6 PROPOSED DECISION FRAMEWORK**

This proposed decision is open for comments from interested parties until 1200hrs on 17th January 2008.

Comments should be sent to:

Mr Ian Agius  
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Malta Communications Authority  
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Pinto Wharf  
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Malta

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Written representations will be made public by the MCA subject to MCA's Internal Guidelines on Confidentiality published on 16<sup>th</sup> December 2004.

Joseph V Tabone  
Chairman

14<sup>th</sup> December 2007

## **ANNEX 1: NEW TEXT FOR THE 800 RANGE IN THE NUMBERING PLAN**

The following is the revised summary of allocations for the Numbering Plan:

- 8000 new range: free from fixed and mobile
- 8001 Reserved for future
- 8002 Reserved for future
- 8003 free from fixed, normal charges from mobile (part allocated)
- 8004 free from fixed, normal charges from mobile (part allocated)
- 8005 Reserved for future
- 8006 (part allocated international freephone)
- 8007 free from fixed, normal charges from mobile (part allocated)
- 8008 Reserved for future
- 8009 (part allocated Home Country Direct)

The following is the text that would be included in the Decision of June 2006 on the Development of the Numbering Plan for the 800 range as an update.

### **Service description for the 8000 xxxx range**

Services accessible by telephone calls or SMS or MMS messages where the caller is not charged for the call or SMS/MMS, whether from a fixed or mobile network.

### **Service description for the 8003 xxxx, 8004 xxxx, 8007 xxxx ranges**

Services accessible by telephone calls or SMS or MMS messages where the caller is not charged for the call or SMS/MMS if made from a fixed network, but may be charged a charge that shall not exceed that for a call to a fixed network when originating from a mobile network.

### **Allocation method**

The MCA will allocate numbers in blocks of 1000 for which a government numbering charge is likely to be introduced for freephones allocation in the near future. To apply for freephone number blocks operators need to adhere to the application process as listed in the National Numbering Conventions and fill in the Application Form found in annex 1 of the same document as done

when applying for numbers in other ranges. Operators will not be able to reserve larger blocks.

Additional blocks will normally be allocated only when existing allocations have already been used to a reasonable level. In selecting which blocks to allocate, the MCA will aim to allow appropriate space for expansion so that an operator's allocations can be contiguous and not interleaved, but the MCA cannot guarantee that this will always be possible and the amount of expansion space that can be allowed will depend on the amount of unallocated numbering capacity remaining.

In terms of the choice of blocks, the MCA will take account of the applicant's wishes but cannot undertake that they will always be met if they are not compatible with the further development of the numbering plan.

The MCA reserves the right to withdraw any allocated but unused blocks.

The MCA reserves the right to replace this allocation system with individual allocation to freephone service providers in the future.

### **Criteria for the range**

The following criteria apply:

- Number portability shall be introduced by 30 June 2008.
- Operators shall not sub-allocate numbers to other operators. Under exceptional circumstances the MCA may consider accepting such allocations.