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Response by Jersey Airtel Limited ('Airtel') to JCRA,

"2018 Call for Information on the Review of Mobile Termination Rates (MTRs) in Jersey"

Airtel's response to the above consultation has the same viewpoint as with their earlier response regarding MTR dated 23rd January 2017. The purpose behind the present consultation (Document No. CICRA 18/51 dated 20th December 2018), same as with the last one is unclear. It is not borne out sufficiently and precisely why JCRA wants to review MTR other than the fact that:

1. it believes it is within JCRA's remit to do so
2. JCRA has concluded that each of the 3 operators has an SMP status for mobile termination on their allocated number series
3. there is a general trend towards lowering MTRs

Till date Airtel has not received any compelling satisfactory response from JCRA via various interactions such as meetings/letters to the below points:

a. how will the reduced MTR help Jersey customer and a challenger telco like Airtel have not been explained.
b. It has also not been evidenced at all how the lack of active regulatory intervention will cause distortion in market competition, pose a hindrance to competition or impact the local economy adversely.

Further, Airtel do not totally agree with the JCRA on how SMP for MTR has been defined in Jersey. Ownership of Mobile number series should not be the only factor determining SMP status. Incumbency is a huge determiner in a small, high penetration, churn dominated telecom market.

It is also worth noting that the present status that Jersey enjoys of being a leader in mobile telecom services in comparison to UK and most of Europe, is in no short part because of commitment and investment by Airtel. CICRA had set strict guidelines for pan-island 4G coverage when issuing licenses in 2014. It required an investment to the value of £15million. The Telecom Strategy Report commissioned by States of Jersey states:

All three mobile network operators (MNOs) in Jersey (JT, Sure, and Airtel) have rolled out 4G networks and there is widespread 4G coverage in Jersey. As part of their 4G license conditions, the three operators are obliged to provide 2 Mbps download speed to 95% of the Jersey population (90% of the time). According to a recent survey commissioned by CICRA, all operators have met these targets fully. The survey by Regulaid BV found that all three Jersey operators provide over 95% indoor and outdoor population coverage

It is worth noting that in UK

- only 66% of landmass is covered by all operators using 4G even after 5 years.
- 23% of homes and businesses do not have good indoor 4G coverage from all operators.

In addition, the demand for mobile data in Channel Islands has grown by 27 times in last 3 years and we anticipate this to double in next two years. To cater to this growth continuous investment is needed.

In order to attract the massive investments that are required in the telecom sector to meet the objectives of the Telecom Strategy (clause 4.1.1 and 4.1.13 specifically), it is critical to have a clear, fair, predictable, transparent and stable policy and regulatory framework. Further, any policy framework should incentivise TSPs to invest in telecom infrastructure, by way of ensuring adequate (fair) returns on network investments.

Fair competition and level playing field is the key to growth and innovation in the telecom sector and interconnection forms the basis for such competition. The interconnection capacities provided by one TSP to another involve costs for which the TSP ought to be fairly compensated.

Therefore, ensuring the setting up of a cost-based MTR has far-reaching consequences. What also needs mentioning is that MTR is a zero-sum game as the total number of outgoing and incoming calls are always the same at the industry level and a reduction in the MTR does not lead to any reduction in cost for the industry. While the cost of running a and modernising a telecom network has increased year on year.

Please find below Airtel's responses to the questions raised by the JCRA in their latest MTR consultation:

Question 1

Does the respondent agree that the SMP decision contained in the Final Notice – Mobile Call Termination 2017 - Market Definition and Dominance is still valid? If the respondent has alternative views or evidence the respondent is asked to explain those and provide all of its analysis and assessment relating to this matter to inform CICRA's considerations and next steps.

While it is true that a telecom operator is SMP for the number it owns for the purpose of MCT, the termination of calls is actually a monopoly of the terminating operator as no other person/ entity can reach that number unless the terminating operator allows the same. Every big operator will therefore have a tendency to charge more for terminating calls unless it is regulated.

In a free market scenario, the regulators thereby define MTR and mandatory interconnection so that this SMP cannot be misused by the terminating operator. Interconnection regulation therefore required mandatory interconnection and payment of MTR to the terminating operator.

The MTRs are therefore fixed at cost so that, while the terminating operator is compensated for the work done in call termination, the subscribers on other network are not denied access to subscribers in terminating operators network.

Airtel is of the firm belief, that incumbency has to be a major determiner in deciding overall SMP, and in setting any MTRs.

Question 2

Does the respondent agree with CICRA's provisional views that ex-post competition law would be insufficient to address the lack of effective competition in the markets defined and prevent the problems identified in this consultation? If the respondent does not agree with CICRA's provisional view the respondent should provide all of its analysis and assessment.

Airtel does not agree with CICRA's provisional views that ex-post competition law would be insufficient to address the lack of effective competition in the markets defined and prevent the problems identified in this consultation. On the contrary, the competition in telecoms market in Jersey is surpassed only by the number of coffee shops on the high street. Three pan Channel Island 4G operators with over 95% demographic coverage for a population of 170,000 is major win for the islands and CICRA.

Further, Airtel are at a loss to understand why the current consultation is needed.

There is no current, pertinent evidence provided by CICRA in its consultation for the various harms it has listed. While Airtel are not averse to the idea of regulated MTRs in general, it has not been sufficiently evidenced as to why the review is needed at this time. In absence of such evidence, the exercise of deciding what remedy to use can actually result in harm to the competition in telecom market and create case for job losses and rate hikes.

Question 3

Does the respondent agree with CICRA's provisional views on ex-ante remedies? If the respondent does not agree with CICRA's provisional views the respondent should provide all of its analysis and assessment.

Airtel does not agree with CICRA's provisional views on ex-ante remedies.

In fact, Airtel are at a loss to understand why the current consultation is needed.

There is no current, pertinent evidence provided by CICRA in its consultation for the various harms it has listed. While Airtel are not averse to the idea of regulated MTRs in general, it has not been sufficiently evidenced as to why the review is needed at this time. In absence of such evidence, the exercise of deciding what remedy to use can actually result in harm to the competition in telecom market and create case for job losses and rate hikes.

Question 4

Does the respondent agree with CICRA's provisional findings that price caps for MTRs should broadly aim to cover the costs that an efficient MNO would incur in offering MCT, applying a long run incremental costs (LRIC) standard? If the respondent does not agree with CICRA's provisional findings the respondent should provide all of its analysis and assessment.

CICRA has not supplied any evidence why the model used to calculate the current MTR is inefficient and it calls for a re-evaluation. Further, LRIC model is more appropriate where the incremental cost is significantly different from the current cost. From Airtel's point of view the current costs are already high and increasing with the introduction of any new technology and lack of economy of scale. Margins are already under pressure, with stagnant market conditions, diluting ARPU, high infrastructure cost and competitive pricing.

We, therefore, recommend the Fully Allocated Cost (FAC) model as the most appropriate method for estimating the mobile termination cost since it is verifiable and less prone to dimensioning errors unlike the approach used in the LRIC model.

FAC has the advantage of simplicity and is based on audited data, leaving no scope for disagreement or dispute. It also ensures that each cost element is clearly identifiable and included and relies on the actual data furnished by the operators.

Costs to be considered while determining the termination charge:

All cost items, including but not limited to the following, should be captured in the FAC methodology for the calculation of termination charges:

- **Network Operational Costs:** Site running costs such as rent, energy, security, rates and taxes, repairs & maintenance, AMC charges, MSC running expenses, managed service charges, lease line charges, signalling charges, stores and spares consumption, site relocation and handling charges, warehouse rent, insurance charges, etc.
- **Employee and Administration costs:** Personnel and administration costs, including allied services that are directly attributable to administering a network.
- **Customer Service:** The call center for complaint resolution caters to all the issues in the network and service delivery. It is incorrect to assume that a network complaint for an incoming call will not be entertained by an operator in the call center.
- **IT costs:** Costs relating to IT-based activities, such as billing, etc. are directly attributable to running a mobile network and therefore should be incorporated.
- **License Fees and Spectrum Usage Charges:** The annual charges payable by the operator with respect to License Fees and Spectrum/Microwave charges as part of the revenue share should also be included as costs attributable to operating a mobile telecom network.
- **CAPEX cost:** We are required to invest heavily into network expansion so as to provide coverage, maintain Quality of Service levels and support the increased incoming traffic from other operators. The following items need to be included while calculating the CAPEX cost for termination charges:
    - **Core Network** - HLR, GMSC, MSC, STP, BSC, IN (SDP and SCP), SMSC etc.
    - **Radio Network -** BTS, Microwave Hops
    - **Backhaul -** OFC for inter-node connectivity
    - **Infrastructure costs**
    - **Associated IT CAPEX**

  We would like to submit that the CAPEX cost in the form of depreciation on fixed assets deployed be included while calculating the termination charges.
- **Licence and Spectrum Cost:** Incurred to provide telecommunication services in the Channel Islands.
- **WACC:** The return on investments should be based on Weighted Average Cost of Capital (WACC) on the capital employed by the operator, to ensure that adequate protection is given to the operator on its investments.

LRIC model is not the right approach for Jersey for the following reasons:

- In the LRIC model, the termination charge is determined using a bottom-up approach where the future cost for a hypothetical operator is calculated on the basis of an assumed coverage and capacity instead of the cost of the actually deployed network. Most variants of the LRIC model only consider the incremental cost, therefore, they do not entirely compensate the full cost.
- The LRIC model does not allow for the recovery of historical costs incurred by the operators. It could result in an unfair situation where the marginal cost is pegged at a level, which does not realize the true cost and erodes the margin and, subsequently, the roll-out capabilities.
- The LRIC model is also hugely prone to errors. It is based upon a large number of assumptions while designing a model network. Any wrong assumption will result in a wrong/unrealistic termination charge. Given that such a model effectively starts from a blank piece of paper, there is a risk that some costs will be omitted or wrongly calculated. Further, the model requires extensive data, not all of which is easily available. Therefore, the assumptions run the risk of the overall model not being very reliable and susceptible to errors.

Due to the aforesaid reasons, we do not concur with CICRA estimating termination charges using any variant of the LRIC model.

Question 5

Does the respondent agree with CICRA's provisional view that the Ofcom MTR model is a suitable proxy to be used as a LRIC MTR model to be applied to the Jersey market, subject to verifying whether adjustments may be needed to reflect local market circumstances?

Airtel does not agree with CICRA's provisional view that the Ofcom MTR model is a suitable proxy to be used as a LRIC MTR model to be applied to the Jersey market. The telecom market in UK is hugely different to Channel Islands as a whole. Both, the addressable subscriber base, and the number of registered telecom service providers vastly outnumber those in Jersey.

We categorically and strongly disagree with the CICRA's reasoning and positioning in clause 6.10. None of the four reasons justify either the adoption of MTR rates from UK, or the ofcom MTR model. Further, CICRA fails to give any valid reason for clause 6.11.

Please also refer to answer within question 4 above which confirms why a LRIC MTR model should not be applied to the Jersey market,

Conclusion:

The present consultation is presented without any evidence and based purely on conjectures and flawed approach. Airtel firmly believe that there is absolutely no need to review the MTRs in Jersey at present time. It is worth mentioning that any reduction in the termination charge will adversely impact Airtel, hence, necessitating Airtel to seek compensation in the form of reducing bundles with increased tariffs from customers.

Telecom sector is poised on a threshold to launch next-generation mobile technology, i.e. 5G. Any adverse impact on its revenues will potentially cause delay in future investments in this very crucial sector of economy and prevent realisation of objectives defined in States of Jersey's Telecom Policy.

We trust our response to be seriously considered. Should you have any further questions in this respect please don't hesitate in contacting the undersigned.

Yours sincerely

Lisa Moyse
Head-Roaming & Regulatory Affairs