



**Mobile Termination Rates**  
**Annual Review and Final Decision Notice 2016/01**

**8 April 2016**

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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 24 February 2016, the Commission published its preliminary 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 24 February 2016, the Commission proposed to maintain the MTR at its existing level of 1.25ppm (pence per minute) for a further year commencing 1 May 2016. The Commission set out its reasoning, and proposed that the approach set out in the previous consultation should be continued. The analysis indicated that there has been little or no change in the simple average of the MTRs included in the benchmark compared to when it was last calculated in 2013, and the Commission noted that there had been a large reduction in the prevailing rate since the time of Decision 2013/01. The Commission also expressed a desire to support ongoing investment by mobile operators.

### **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 agreed with the Commission's proposal to maintain MTRs at 1.25 ppm from 1 May 2016 until 30 April 2017.

Sure expressed a view that benchmarking against larger EU jurisdictions was not always appropriate, and that only the Channel Islands represented a valid comparator because, in its view, the rate there was set with reference to the actual costs of an efficient operator. Sure commented further that in its opinion, the Commission's approach to setting the MTR was not consistent with its approach to fixed termination.

MT expressed a view that the use of benchmarking does not take into account the actual cost of providing a mobile service. MT noted that it has invested in cost modelling its network, and proposed that in future, more consideration should be given to the rates derived from the cost model.

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

### **Analysis and conclusions**

The Commission has carefully considered views expressed by respondents. The Commission notes that there is general agreement with the proposals set out in the Consultation and Draft Decision Notice. Both respondents commented on benchmarking as an approach, and proposed that the Commission should review this in future reviews. The Commission notes that, at the time of Decision 2013/01, cost orientation was imposed on MT in the fixed markets but not in the mobile market, largely because a symmetric remedy could not be imposed on Sure due to Sure's

licence conditions at that time. Since then, Sure's licence has been amended to contain the full suite of SMP obligations, so this constraint no longer applies. The Commission is committed to undertaking annual reviews of the MTR, and will consider a broader range of options in subsequent reviews.

With reference to Sure's comments on fixed termination, the Commission expects to address any issues concerning fixed termination when considering the fixed market.

The Commission maintains that the MTR will be 1.25ppm from 1 May 2016, for a period of one year.

## Annex A

### Decision Notice 2016/01

#### 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 2016 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 2012/03<sup>1</sup>, 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

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<sup>1</sup> 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 24 February 2016, 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 February 2016 consultation in issuing the response to consultation set out above.
- (vii) The provisions of the consultation document and the Response to Consultation published on 8 April 2016 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 2016.

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