Independent Communications Authority of South Africa
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BRIEFING NOTE ON ASYMMETRY IN MOBILE AND FIXED WHOLESALE VOICE CALL TERMINATION

Date of issue: 22 June 2018

1. Purpose

1.1. The purpose of this briefing note is to provide clarity in respect of the principles in relation to asymmetry following the review process of the 2014 call termination pro-competitive conditions imposed on licensees.

1.2. The document is structured as follows:

1.2.1. Section 2: The imposition of asymmetry
1.2.2. Section 3: The qualification criteria for asymmetry
1.2.3. Section 4: Sunset clause
1.2.4. Section 4: The level of asymmetry

2. The imposition of asymmetry

2.1. As indicated in "Briefing note on asymmetry in mobile and fixed wholesale voice call termination"[1], the Authority is still of the view that asymmetry is necessary to minimise the impact of the disadvantages faced by late (small) entrants[2] and new entrants for a defined period to enable them to compete effectively with the incumbents.

[1] Published on the ICASA website on 27 August 2017
[2] Late (small) entrants are operators with a share of termination minutes of <20%

2.2. As explained in 2014, the disadvantages faced by late (small) entrants and new entrants may include the following:

2.2.1. Higher unit cost of termination owing to exogenous factors outside the control of these operators and lower economies of scale.

2.2.2. Negative network effects in instances where call termination rates are above cost.

2.3. Whilst the Authority agrees that termination rates should eventually be symmetric, the right of late (small) entrants and new entrants to recover higher unit cost of termination[3] should be reconciled with the objective to ensure that licensees achieve the level of efficiency in the supply of wholesale voice termination services.

2.4. After considering submissions by licensees[4], national circumstances[5] and international precedent[6], the Authority has determined that asymmetry is still appropriate for the current review period, to limit the disadvantages faced by late (small) entrants and new entrants or to limit incumbency advantages over late and new entrants albeit for a limited period to promote efficiency, sustainable competition and maximise consumer benefits.

2.5. Consistent with international practice, the Authority's view is that termination rates should move towards symmetry[7] subject to a

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[3] Refer to para. 2.2

[4] Licensees' confidential submissions on draft Discussion Document on the review of the 2014 pro-competitive remedies, *Gazette* No. 40911 in Notice No. 561

[5] Prior to 2010, termination rates were determined by commercial agreements. Before 1 July 1999 mobile termination rates were 20c per minute during peak hours. Mobile termination rates were however increased significantly to 50c per minute (for peak calls) after 1 July 1999 and further increased to R1.25 per minute (peak calls) on 1 November 2001, constraining competition in the mobile termination markets

[6] ERG's Common Position on symmetry of fixed call termination rates and symmetry of mobile call termination rates, 2008

EC's Regulatory Treatment of Fixed and Mobile Termination Rates in the EU, 2009

[7] Where licensees in the same market charge the same rate irrespective of licensee's share of termination minutes

reasonable transitional period to minimise disruption in the market. While progress has been made by late (small) entrants in the period prior to this review, this has been marginal, and at a rate that warrants that the transitional period be extended to achieve the objective of an efficient and sustainably competitive market.

2.6. The Authority is therefore of the view that it is necessary to extend asymmetry for late (small) entrants for the current regulatory cycle[8] in order to strengthen the late (small) operators' positions and to avoid undue disruption to business plans by making large (or substantial) changes in a short time.

2.7. Additionally, termination rates are not regulated using bottom-up pure Long-Run Incremental Cost[9] (or at marginal cost), which should in principle result in no asymmetries in relation to termination rate charged by late (small) entrants and new entrants and large operators. As such, the Authority will review the market after every regulatory cycle to determine if asymmetry is still necessary.

2.8. With regard to new entrants, the Authority is of the view that disallowing new entrants the opportunity to charge a higher price for termination will distort competition in favour of incumbents and large operators. Asymmetry will allow new entrants to minimise the disadvantages of lower economies of scale and different cost conditions in early stages owing to high fixed cost of network rollout, low subscribers and low volumes of traffic.

2.9. The Authority is therefore of the view that new entrants should be given temporary asymmetry for the current regulatory cycle.

[8] A regulatory cycle is defined as a three (3) year period, in line with the glide path

[9] The Authority has decided to use LRIC+ cost standard for the current regulatory period.

3. **Qualifying criteria**

3.1. In 2014, the qualifying criterion for asymmetry was based on an operator's share of the terminating minutes market being below 20%. The Authority is of the view that this qualifying criterion does not require modification and that it continues to apply in the next regulatory cycle.

4. **Sunset clause**

4.1. As indicated in the 2014 review process, the Authority still holds a view that indefinite asymmetry can foster inefficient behaviour and generate allocative and productive inefficiencies.

4.2. However, the late (small) entrants have shown progress, albeit marginal, in wresting market share from the large incumbents in the last regulatory cycle.

4.3. The Authority has therefore determined that termination rates should continue to gradually move towards symmetry i.e. termination rates of late (small) entrants, new entrants and large operators in the mobile termination markets and fixed termination markets should gradually become equal at a given point in time. As such, for late (small) entrants, asymmetry will remain valid for the next regulatory cycle.

5. **The level of asymmetry**

5.1. The level of asymmetry continues to be based on cost differences in unit costs of termination services for the following reasons:

5.1.1. It is considered to be objective and measurable and is consistent with international regulatory precedent.

5.1.2. it provides for an adequate compensation for potential financial imbalances.

5.2. Similar to 2014, the Authority intends to make use of both the top-down and bottom-up models to determine cost differences between late (small) entrants, new entrants and large operators in the fixed termination markets and mobile termination markets, respectively.

6. Any enquiries relating to this briefing note should be directed to Chairperson: Call Termination Council Committee at CTRreview@icasa.org.za.