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: 13 February 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 qualifying criteria for asymmetry
1.2.3. Section 4: The 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 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. In 2014, the Authority indicated that it may maintain asymmetry for a longer period for operators whose share of terminating minutes is below 10% after March 2017.

2.4. 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

2.5. 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.

2.6. Consistent with international practice, the Authority's view is that termination rates should move towards symmetry[7] subject to a reasonable transitional period to minimise disruption in the market.

2.7. The Authority is therefore of the view is that it is necessary to extend asymmetry for late (small) entrants until 2021 to strengthen their position and also to avoid undue disruption to business plans by making large (or substantial) changes in a short time.

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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

This transitional period is considered to be necessary owing to absent regulation of termination rates before the Authority's intervention in 2010, which inhibited growth of late (small) entrants to the detriment of competition. Additionally, termination rates are not regulated using bottom-up pure Long-Run Incremental Cost (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.

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, and low subscribers and low volumes of traffic.

The Authority is therefore of the view that new entrants should be given temporary asymmetry limited to a maximum of four years immediately after market entry. The four-year transitional period is considered appropriate as it is expected that the new entrants should achieve the minimum efficient scale of 20%.

3. Qualifying criteria

3.1. In 2014, the qualifying criteria for asymmetry was based on share of terminating minutes below 20%. The Authority is of the view that this does not require modification.

3.2. The use of a licensee's share of termination minutes is considered appropriate as the cost of providing wholesale voice call termination service is driven by termination traffic (number of termination minutes) as opposed to termination revenue or the number of subscribers.

4. Sunset clause

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

4.2. The Authority has therefore determined that termination rate should gradually move to 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.

4.3. For late (small) entrants asymmetry will only be valid for the current regulatory period and move to symmetry in year three of the glide path.

4.4. New entrants should receive asymmetry for transitional period of four years after entry and move to symmetry of fixed termination rates or mobile termination rates after year four.

5. The level of asymmetry

5.1.1. In 2014, the level of asymmetry was based on cost differences in unit costs of termination services.

5.1.2. The cost difference in unit cost of termination is considered to be objective and measurable and is consistent with international regulatory precedent. In addition, it provides for an adequate compensation for potential financial imbalances from efforts to gain market share.

5.2. Similar to 2014, the Authority intends to use of top-down and bottom-up models to determine the actual cost difference between operators in both markets with asymmetry level set on the basis of a hypothetically efficient operator.

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