Representing the Communication Services Industry

FCS
Federation of Communication Services

Wholesale Mobile Voice Call Termination

FCS response to Ofcom's consultation issued on 20 May 2009

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Summary

FCS agrees with Ofcom that there are detrimental effects of high mobile termination charges and that these charges should reduce to reflect actual costs.

FCS believes that Ofcom should retain regulatory oversight and charge controls on Wholesale Mobile Voice Call Termination (MCT), as the large mobile operators continue to have SMP in call termination and a deregulated environment would continue the inequitable nature of the current UK mobile market; this would not benefit consumers or the other industry players.

In revising the charge controls we encourage Ofcom's to take account of:

- All the players in the mobile distribution chain, not only the 5 large mobile operators
- New entrants providing mobile services; the current regime has not been helpful to new entrants and asymmetry between new entrants and incumbents has to be considered
- Fixed and IP service providers
- The implications of future ip networks and convergence of fixed and mobile services
- Consumer concerns about mobile call prices

In setting a new MCT rate we urge Ofcom to reduce MCT rates to a penny or less and ultimately towards zero. FCS view coincides with the wide range of organisations and individuals who have signed up to the Terminate the Rate campaign

Introduction

The Federation of Communication Services (FCS) is the trade association for the communications services industry in the UK representing 300 companies delivering fixed, IP, mobile and radio products and services. A list of FCS members can be found on the FCS website- www.fcs.org.uk.

We welcome the opportunity to respond to the consultation which provides a thoughtful analysis of the complex set of issues associated with wholesale mobile voice call termination [MCT]. Our views are drawn from the experience of FCS members' delivering telephony including new mobile entrants, participants in the mobile distribution chain and number, fixed and IP providers

We commented in our response to the Mobile Sector Assessment in November 2008:
As the UK moves forward into an effective converged fixed and mobile telecoms market the FCS believes that Ofcom has to act on deficiencies in the mobile market that have lain untouched for some time. FCS members report that the mobile market is not sustainably competitive within the distribution chain and these areas require Ofcom's attention.

Wholesale Mobile Call Termination rates illustrate the mobile market deficiency as they currently favour the incumbents and distort competition as well as clouding transparency and confusing customers. We welcome Ofcom's review which is timely, due to the expiry of the current rules in 2011, guidance published by the European Commission in May 2009 and the need to open up the UK market to encourage new entrants and service innovation.

Ofcom says it is being asked to look at further deregulation of the mobile market but regulation is there to protect consumers and facilitate competition and in this case we believe regulation should continue.

In this response we make some general observations before answering the consultation questions.

Market distortions

Fixed line providers are concerned that there are currently market distortions as their fixed line customers pay more in general to call a mobile number than mobile network customers do to phone a fixed line subscriber.

MVNOS do not receive any MCT revenue. When they compete against the MNOs who are both their suppliers and competitor in the retail market, the operators have a distinct and clear advantage as they have the opportunity to do deals with business customers that are essentially loss leaders and make up the revenue on MCT (and other revenue streams).

New entrant operators, in order to get market share in a saturated market, have to be able to offer very competitive pricing - not just for on-net (as they have yet to establish a big enough community), but also off-net and particularly to larger mobile operators. This means that the new entrants' initial customer base will have a higher propensity to make outbound off-net calls to other mobiles, than to receive calls from those networks

In effect this will mean that new entrant wholesale cost of calling other MNOs will exceed the revenue generated by receiving calls; as a new entrant you are therefore subsidising your incumbent competitors. A very low MTC would minimise or eliminate that subsidy.

As the European Commission makes clear in its Recommendation "Higher mobile termination rates make it harder for fixed and small mobile operators to compete with large mobile operators. These divergences, and differing regulatory approaches, undermine the Single Market and Europe's competitiveness".

Mobile call termination rates

Although Ofcom's consultation (and FCS in this response) refers to pence per minute rates for MTC, future charging may no longer be per minute in IP based networks and between suppliers. Charging between suppliers may based on a packet formula, although customers may still be charged per minute in their service bundles

Lower mobile call costs have been a challenge for the industry for the last decade. Consumer pull has led to solutions that by-pass the larger mobile operator charges such as the use of GSM gateways, but these services themselves have been subject to litigation and uncertainty.

Therefore it is for Ofcom to firmly act in line with the EC recommendation and set mobile termination rates that move towards 1 penny per minute from March 2011 and ultimately to zero. Reciprocity between fixed and mobile rates may be an eventual outcome.

Market impact

While reduced MTC should lead to greater mobile operator and service competitiveness and reduced call charges for mobile customers, other outcomes may arise such as the removal of handset subsidies. This may lead to changes in the contractual arrangements between the larger mobile operators and their handset distribution chain. Handset manufacturers looking to expand their markets are responding by developing new internet applications within the handset to boost mobile content.

Ofcom continues to be concerned about call price transparency and as an outcome of this review is encouraged to address call price transparency across the technologies.

Called or calling party pays?

While FCS members report that their customers are accustomed to calling party pays and may be reluctant to change, some innovative organisations are considering how called party pays might become acceptable if there are additional services bundled into their own charges. Ofcom identifies VoIP services as an example.

Consultation questions

Question 3.1: Do you agree with our preliminary view on market definition? Has anything changed, or is anything likely to change within the period of the next review, which would materially impact on the definition of the market(s)?

We generally agree with the market definition for wholesale mobile voice termination set out in section 3. However we repeat our request for a review of the wholesale SMS market, which has been promised but not delivered

Question 4.1: Do you agree with our view? Or are there other developments, not considered elsewhere in this consultation document, for potentially removing the underlying causes of SMP?

We agree with Ofcom's assessment of market power set out in section 4

Question 5.1: What are likely to be the main sources of detriment to consumers of excessive termination rates in the period 2011 to 2015?

We agree that excessive termination rates will lead to higher prices and a lack of competition through the effective exclusion of competitors in this market

Question 6.1: Should our policy approach to regulating MCT change? For example, given the possible benefits, should we adopt a policy of reducing termination rates as far and fast as we reasonably can, within the boundaries of sound economic policy, and whilst recognising underlying cost differences? If our policy approach did change, what do you think are the relevant factors for us to consider in deciding on the best future policy to regulating MCT?

Yes we agree that Ofcom should continue to regulate MCT and that reducing MCT rates to reflect costs, ideally 1ppm should be implemented from 2011 onwards and that ultimately charges should be set at zero, with close consideration of reciprocity between fixed and mobile rates.

Question 6.2: Are there additional options (other than the six set out in this consultation) that we should consider? If so what are they and what advantages/disadvantages do they offer?

We have no comments

Question 6.3: Do you agree with our preliminary views set out for each of the options? If not, what are the additional factors that we should take into consideration, and why are the relevant to our analysis?

Ofcom's analysis appears to be comprehensive and we have no other comments to add

Question 6.4: Do you agree with our preliminary view of the De-regulatory option? If not, what are the additional factors that we should take into consideration, and why are the relevant to our analysis?

We agree with Ofcom's analysis; deregulation is unlikely to benefit consumers or the companies competing or seeking to compete in the mobile market. Ofcom has already dealt with disputes on mobile termination rates between new entrant operators and incumbents in 2009; without regulatory oversight commercial negotiation would have ended in failure.

Question 6.5: Do you agree with our preliminary view of the LRIC+ option? If not, what are the additional factors that we should take into consideration, and why are the relevant to our analysis?

We have no additional comments to make other than long term approaches may continue the confusion and market distortion.

Question 6.6: Do you agree with our preliminary view of the LRMC option? If not, what are the additional factors that we should take into consideration, and why are they relevant to our analysis? In addition what do you expect the costs of a move to this option to be?

Please see our answer to question 6.5.

Question 6.7: Do you agree with our preliminary view of the CBC option? If not, what are the additional factors that we should take into consideration, and why are they relevant to our analysis? In addition what do you expect the costs of a move to this option to be?

We have no comments on CBC.

Question 6.8: Do you agree with our preliminary view on mandated Reciprocity? If not, what are the additional factors that we should take into consideration, and why are they relevant to our analysis? In addition what do you expect the costs of a move to this option to be?

Yes Ofcom's analysis and conclusion appears comprehensive

Question 6.9: Do you agree with our preliminary view of the B&K option? If not, what are the additional factors that we should take into consideration, and why are they relevant to our analysis? In addition what do you expect the costs of a move to this option to be?

We have no additional comments to make