Verizon Business
Reading International Business Park
Basingstoke Road
Reading
Berkshire
RG2 6DA
United Kingdom

Verizon Business Response to Ofcom Consultation - Fair and Reasonable charges for fixed geographic call termination

Introduction

Verizon Business welcomes the opportunity to respond to Ofcom's consultation on draft guidance in relation to the determination of what constitutes fair and reasonable charges for fixed geographic call termination.

At the centre of this consultation are the termination rates payable by BT for calls originating on or transiting across BTs fixed network for termination on another Communication Provider's (CP's) fixed network. This has been a contentious issue for some time, ever since the CP Reciprocity Agreement came to an end on 30 September 2009. Since that date, BT and Industry have been unable to reach agreement on a replacement methodology for determining CP fixed geographic call termination rates.

To set the context for Verizon's response, the remainder of the introductory section outlines the industry position post the ending of the CP Reciprocity Agreement. This is essential in order for Ofcom to make an informed decision about what constitutes a 'fair and reasonable' charge for the termination of fixed geographic calls. It also explains the reasons why Verizon does not support Ofcom's initial conclusions that Option 3 offers the best way forward on this issue.

Early in November 2009 BT contacted individual CPs, including Verizon, and tabled a proposal for using an industry average X% ratio as the basis of calculating CP Termination rates. It was suggested that the current industry average X% ratio would be around 75%. Verizon indicated their agreement in principal to this methodology as it appeared to represent a fair arrangement which doesn't disadvantage any CP unduly. Furthermore, as the overall industry efficiency is shared, it is unlikely to act as a disincentive to investment. However, this proposal did not come to fruition and the CP reciprocity agreement lapsed.

Since the CP Reciprocity Agreement came to an end, the charging arrangement BT has implemented is, in Verizon's opinion, unfair. To be clear, Verizon had reservations over the suitability of the CP Reciprocity Agreement and the arrangement since the agreement ended, basically a continuation of the expired agreement, continues to be unreasonable and skewed in BT's favour.

The current arrangements are unfair since they penalise operators who have invested in their networks by building out to DLE level interconnect – something which is of significant benefit to BT. Verizon has invested considerable sums in network build but this investment has now resulted in the payment of greatly reduced termination rates from BT. The current reciprocity arrangements effectively penalise operators like Verizon for their network investments, whilst handing unwarranted benefits to BT. This goes entirely against the principle of rewarding network efficiency and should not be allowed to continue. This consultation provides Ofcom with the opportunity to redress this situation.

Also relevant to this consultation is Ofcom's statement following the NGN consultation issued on 28 January 2010 which made reference to the issue at the centre of this consultation. In particular:

> *1.20 The voice call termination charges payable in the interconnection between BT and each fixed-network operator have until recently been determined by the terms of a reciprocity agreement which formed part of BT's standard interconnection agreement. The reciprocity agreement expired recently, and industry negotiations on the terms of a renewed agreement are ongoing.*
>
> *1.21 We recognise that fixed network operators may find it difficult to reach satisfactory agreement on all aspects of a new reciprocity agreement by commercial negotiation alone. The more fundamental issues concern interconnection between NGNs and legacy networks, but we are aware that issues may also arise in interconnection between legacy networks. In order to help operators in their negotiations, we propose to start in the first quarter of 2010 a programme of work with the aim of clarifying how the principle of reciprocity should apply where appropriate between fixed networks. In this work we will have regard to the issues raised by the need for an interworking function between an NGN and a legacy network where they interconnect. These issues include which of the interconnecting operators should bear the costs of interworking, and whether, and if so when, BT should be required to offer IP interconnection with its network.*
>
> *3.50 The Reciprocity Agreement has now expired, and industry negotiations on the terms of a renewed agreement are ongoing. While each CP is required to set fair and reasonable termination rates irrespective of whether a reciprocity agreement is in place, our view continues to be that industry-wide agreement on a process for setting specific rates is beneficial.*

Whilst recognising Ofcom's ongoing considerations regarding NGNs, the above extracts from Ofcom's NGN Statement highlights the problems faced by operators in trying to agree reciprocity agreements with BT and also the need for reciprocity arrangements to be on a fair and reasonable basis. The need to set termination rates on a 'fair and reasonable' basis stems from the SMP conditions placed on operators. Such SMP conditions have applied throughout the period since the ending of the Reciprocity Agreement.

It is Verizon's contention that the arrangements operating since the CP Reciprocity Agreement expired do not meet the 'fair and reasonable' requirement. This is because the current link between inbound and outbound traffic penalises operators who have invested in their networks to build out to the DLE level. As mentioned above, these investments also benefit BT.

Having invested considerable sums in extending its network, Verizon is well interconnected at the DLE level. Over the last 6 years, Verizon has invested heavily to reach into BTs network and as a result, Verizon now has approximately 95% of IDA/CPS traffic rated as DLE. This obviously benefits BT since they reap the rewards of greater network efficiencies.

Perversely, under the current arrangements, these investments in network build have resulted in the termination rates BT pays Verizon being reduced. This effectively penalizes Verizon whilst benefiting BT without them doing anything to facilitate this benefit. This goes against the principle of rewarding network efficiency.

Furthermore, the current arrangements result in CPs being paid between 0.2455 and 0.3608ppm by BT for what is essentially the same service.

BTs proposal in November 2009 of average x% was, in Verizon's opinion, a fairer way forward as resulting termination rates would reflect overall industry efficiency and so all operators would benefit equally in reduced out payments for more efficient networks and also the effect of reduced revenues would be shared equally.

There are also issues with the current arrangements in place for managing transit traffic. BT does not include BT traffic sent via another operator in the single tandem minutes total. When BT calculates DLE-ST tandem minutes sent by Verizon, these minutes are excluded, therefore our DLE penetration appears to be higher than it actually is. This negatively impacts our termination rate. For this reason, this practice distorts the transit market, as other operators competing against BT in this market are placed at a competitive disadvantage when offering this service, for to transit via another operator negatively impacts a CPs termination rate.

Importantly, the average x% principle would resolve the transit market issue. By basing termination rates on the industry average, it does not matter where CPs direct their egress traffic, as the overall industry average x% would be utilised and not an individual CPs x% for determining the geographic termination rate.

Another issue with the existing arrangement is that it provides the opportunity for some CPs to manipulate the current reciprocity arrangements. Operators with multiple networks have the ability to manage their networks so that the inbound and outbound traffic are routing primarily over separate networks. This has the effect that they are able to gain a high rate on inbound traffic whilst maintaining low rates for Egress traffic. As such, the rates they obtain for inbound traffic are not representative of the overall efficiency across the two networks.

In conclusion, for all of the above reasons, Verizon is of the opinion that, whilst non of the options Ofcom has highlighted and considered in the consultation are ideal, to address the inequalities and inherent unfairness of the existing arrangement for determining CP geographic call termination rates, Option 2 would offer the fairest solution. As such, Verizon would urge Ofcom to determine that Option 2, as contained within their consultation document, should be promoted as being the fairest solution for determining geographic termination rates. Option 1, basically doing nothing is untenable, whilst the current recommendation based on option 3 unfairly favours BT. The reason being that if it is determined that ‘fair and reasonable’ termination rates should be set at the DLE rate, Verizon have estimated that BT are set to gain by approximately ✂, a windfall for which they would have done nothing to facilitate.

If termination rates are set at DLE rate, it suggests that the endeavour undertaken by BT to connect to the operator’s network is equivalent to the endeavour undertaken by the operator to connect to BT's network. This is not correct.

Traffic is delivered over interconnect links built over Inspan Interconnects (ISIs) where the operators are the "requesting party" and BT the "other Party" as set out in Annex C, Schedule 1 of the SIA. Section 4.6 of this Annex states, "The ISI Interconnect link shall be established by the requesting Party installing its cable to the other Party's jointing chamber..." and section 4.7, If “the parties locate the jointing chamber at a distance which is greater than 100 meters from the other Party's curtilage of the building housing the LTE of the ISI Interconnect link, the requesting Party shall pay for Duct charges if any and ISI Interconnect Link rental charges......." In simple terms we have taken our network to them.

Responses to Ofcom questions

The following section of the response addresses specific questions raised by Ofcom in the consultation. For ease of reference, the question numbers quoted correspond to those utilized by Ofcom in the consultation document.

Section 4

Question 1 Do you agree that this section sets out the key issues? If not, please set out any additional issues which you think we should consider in providing guidance on fair and reasonable charging for termination of calls to fixed geographic numbers.

Ofcom have set out some of the key issues in section 4 but have not given due consideration to the impact of the current arrangement of excluding transit traffic minutes when determining the CP termination rate.

Another issue that Ofcom do not appear to have given due consideration to in this section, is the opportunity for some CPs to engage in ‘gaming’. Such a practice distorts competition and Ofcom should take this opportunity to address the problems such a practice creates for industry. As mentioned above, Option 2 provides the solution to address this concern.

Section 5

Question 2 Do you think we should consider other options for the general application of reciprocal charging? If so, please describe those options and your reasons as to why it is appropriate to consider them in the context of our proposed guidance.

Ofcom should have given greater consideration to IP networks and interconnection, especially as the intention should be to reward network efficiency. This appears to have been ignored.

Question 3 Do you agree with our assessment of the options and provisional conclusion in favour of Option 3? If not, please explain which option you favour and why.

Verizon does not agree with Ofcom's preferred solution, ie Option 3. As stated in the introduction, out of the options considered, Verizon supports Option 2.

Ofcom have overstated the impact of option 2 on competition; in Verizon's view Option 3 negatively impacts competition and would negatively impact a CPs decisions to build infrastructure. Option 2 also constrains the ability of a CP to engage in gaming, so again benefiting fair competition.

Verizon agrees with Ofcom that Option 3 would be easier to implement than Option 2 but this should not be an overriding factor in determining in ensuring a fair and reasonable changing regime.

Question 4 Do you agree with our proposal to adopt a framework which we would normally apply to assess claims for higher FTRs? Do you consider that the proposed 3 stage test, including, where relevant, our proposed approach to demonstrate reduced end-to-end call costs, is an appropriate and practicable approach to considering such claims? If not, please set out what approach you consider to be appropriate and why.

Verizon does not support the framework as currently outlined. It does not adequately reward a CP for building out its network, as the current proposal is heavily weighted in BT's favour, with the accrued benefits of greater interconnection ultimately rewarding BT.

Question 5 Do you agree with our assessment of financial impacts? If not, please explain why.

Whilst Ofcom have considered the impact on CPs of varying sizes, they appear to largely ignore the impact on competition. Without doubt, the main beneficiary of the Ofcom's preferred solution is BT, with the smaller CPs being worst effected. This is contrary to Ofcom's duty to promote competition and encourage new market entrants.

However, it should be questioned whether the financial impact should have any relevance on what constitutes a 'fair and reasonable' charging mechanism. On a purely fair assessment all CPs should receive the same rate for the same service.

Question 6 Do you agree with our assessment of the consistency of our general proposals and our policy objectives for NGNs? If not, please explain why.

Verizon is unable to respond in any detail to the questions relating to NGNs as the market is not sufficiently mature to offer a meaningful assessment of the appropriate charging mechanism. Industry as a whole is still at the stage of determining how IP interconnection will work, so any comments on charging would be theoretical at this time.

Question 7 Do you agree with our preliminary conclusion on the apportionment of conversion costs? If not, please set out your reasons for reaching a different view.

See response to Question 6.

Question 8 Do you agree with our preliminary conclusion in relation to fair and reasonable FTRs in the context of TDM-NGN interconnection? If not please set out your views.

See response to Question 6.

Section 6

Question 9 Do you think we should consider other options on timing? If so, what alternative option(s) would you propose and why?

No, the timing options considered provide sufficient scope for determining the appropriate time to adopt the new arrangement.

Question 10 Do you agree with our preferred option (Option 3) on timing? If not, please set out which option you prefer and why.

Verizon agrees with Ofcom's preferred option on timing but does not agree with the target implementation date. The proposal for the changes to be implemented on 1 October 2012 is too far in the future. Considering that the CP Reciprocity Agreement ended on 30 September 2009, this issue needs to be resolved at the earliest opportunity. Verizon would support the changes occurring 6 to 12 months before the date Ofcom are proposing.

Question 11 Do you consider that guidance on how routing constraints should be treated in the context of fair and reasonable FTRs would be beneficial? If so, please set out your views on whether it would be fair and reasonable for additional conveyance charges to be levied on those networks which are technically unable to route traffic at a more granular level.

Guidance on routing constraints in the context of fair and reasonable FTRs would be beneficial but as IP routing arrangements are so fluid it is probably not the time to determine such arrangements.

However, as a general principle, current TDM switches are able to route down to 1000 number block level, to go further becomes too resource heavy. As such it would be appropriate to levy a higher charge for operators who cannot route to that level.

Verizon Business
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