ONITELECOM opinion about ERG public consultation on a draft Common Position on symmetry of mobile/fixed call termination rates

Introduction

Mobile and fixed call termination rate is a key issue for ONITELECOM business, so we're pleased to participate on the ERG final common position on this subject.

ONITELECOM generally agrees with the ERG actual common position and expects ERG to have the capacity to ensure the protection of the national regulatory authorities against external intervention, namely from SPM operators.

The present document is composed of a first part containing the profile of ONITELECOM so ERG can contextualize our position followed by a second part containing the answers to the posed questions.

ONITELECOM brief profile

ONITELECOM was founded in 1998 by 4 of the major Portuguese economic groups: EDP – Energias de Portugal (Electrical Utility), Millennium bcp (the largest Portuguese commercial bank), Brisa (the largest Portuguese motorway operator) and Galpenergia (Portugal's leading oil and natural gas company).

On January 1st 2000, taking advantage of the Portuguese telecoms market liberalization, ONITELECOM was launched as a wire line operator serving the residential, SMEs, corporate and carrier's carrier segments. Since its foundation, it strongly invested on a unique network infra-structure, which allowed the company to launch some of the most innovative and quality-oriented communications solutions.

In 2006 ONITELECOM reached a turnover of more than 150 million euros in telecommunications services, being 2/3 of which complex data services and solutions and only 1/3 coming from voice services. The growth of the company has being fuelled by a unique combination of differentiating technology assets, value-added consulting skills, opportunity to engineer the most demanding corporate solutions and long-term relations with the corporate clients.

In 2007, The Riverside Group (62.5%) and Gestmin SGPS (37.5%) acquired the company through WinReason and refocused the company in the areas where ONITELECOM had conquered a leading position: the corporate and carrier's carrier (C&C) segments. In order to reflect the new positioning, the brand name evolved from Oni to Oni Communications.

Today, ONITELECOM is a network operator and a service provider with a leading position in the C&C segments, with more than 20% of market share, in revenue terms, within the corporate segment and 38% market share in carrier's carrier. The company is evolving its strategy from a network-based operation to a solutions-based business, with a focus in data services and solutions.

ONITELECOM answers

General questions

QUESTION G1: Do you think that the principles outlined in the general economic introduction cover adequately the underlying economic situation of both mobile and fixed termination markets?

ONITELECOM agrees with the economic principles, for giving incentives for productive efficiency and putting pressure on final services' prices thence contributing to end-users welfare, and also agrees with asymmetric termination rates, for transitional periods, to encourage the development of new entrants on the market, since experience largely demonstrates the benefits from competition to enhance investment and innovation in electronic communications, leading to consumer welfare.

Although the general economic introduction mentions the convergence of MTR and FTR, ONITELECOM suggests its reinforcement because of the increasing convergence between fixed and mobile communications. The point is, there is a huge asymmetry between MTR and FTR, at least in the Portuguese market, which acts against the "entrants" (which in this case are the fixed alternative operators) and it is not obvious the urgency to put an end to the "transitional period" for that asymmetry. In this situation, the fixed alternative operators are facing very high barriers to introduce new convergent solutions. With each new service, they are literally subsidizing the mobile operators.

ONITELECOM also suggests ERG to consider the same principles to the mobile origination charges. In the Portuguese market, mobile origination rates are the same since 2002 (0.1870€), regardless of the MNO efficiency gains and the principle of promoting competition. Such high charges represent a too strong barrier for the introduction of non geographic numbers by alternative fixed operators, totally smashing their margins.

QUESTION G2: Further comments regarding consistent regulation of both MTR and FTR with regard to symmetry.

Setting termination charges at the right level is critical for ensuring competition, efficiency and developing network and communications services.

Since terminations rates represent very significant revenues for the MNO, it is most important to ensure total decision independence of the NRA, in order to make sure that the principles are successfully observed.

QUESTION G3: Elaborate on the question of converging MTR and FTRs and the timeframe you envisage for this.

MNOs compete fiercely to build up a customer base and realize economies of scale in the network by subsidizing handsets and cutting calling, sms and mms charges. To put that model into practice, they need to finance their activity on termination charges. Regulators agreed on this model in the 90's, to guarantee mobile telephony penetration in the communications market. But nowadays, in many countries, such as Portugal, many consumers are substituting their wired phones, making wireless service their only telephone service. This change in calling patterns is being reflected in a shift in call volume from fixed to mobile. Besides there is a clear and inevitable trend towards wireless-wireline convergence, creating new services using VOIP.

In this context, regulation for symmetry of both MTR and FTR is already late. So the timeframe should be immediate, especially for countries where wireless conversations minutes surpassed the wireline and where MNOs already entered fixed telephony markets, like Portugal.

Converging MTR and FTR is the only way to avoid disruptive competition between mobile and fixed operators, contributing to increase innovation and investment on new convergent solutions.

Fixed part

QUESTION F1: How do you think termination should be regulated in a converging fixed mobile market?

MTR and FTR should be the same, otherwise authorities are promoting competition distortion between wired and wireless operators. Mobile operators should not finance themselves at the expense of fixed operators.

For the purpose of encouraging convergence solutions and ensuring fair competition, prices should be OAO FTR.

QUESTION F2: Do you agree on the methodology and assumptions underlying the asymmetry index calculation?

Yes, the assumptions are correct.

QUESTION F3: Do you think the list in paragraph 6.1 constitutes an exhaustive list of the possible reasons justifying the adoption of asymmetric tariffs?

Yes

QUESTION F4: Do you agree on the fact that any entry assistance policy for the future based on higher OAOs' FTRs is likely to be less effective than in the past?

There is still not sufficient evidence on this.

QUESTION F5: Could you please provide a definition of the "efficient operator" NRAs should refer to in fixing FTRs? What are the costs an efficient operator would incur to provide termination services?

Incumbents incur in marginal costs whereas OAO incur in both network and marginal costs.

QUESTION F6: Do you agree on the fact that OAOs should be as efficient as the incumbent?

Efficiency is strongly correlated with economies of scale, it is not correct therefore to make a comparison disregarding the scale.

QUESTION F7: Do you agree on the fact that there are less reasons for fixed operators compared to mobile operators that justify the adoption of asymmetric tariffs?

On the contrary, since fixed communications are declining, in order to avoid the re-monopolization, regulation must have mechanisms to protect OAO.

QUESTION F8: Do you agree on the fact that if all call termination charges were based strictly on incurred costs there would be a distortion of competition?

Yes, due to the economies of scale.

QUESTION F9: Do you agree on the fact that symmetric tariffs would allow to avoid transaction and regulatory costs?

Yes, still if asymmetry is justified, benefits cover the costs. Competition advantages are largely documented.

QUESTION F10: Do you agree on the fact that NRas should reach symmetry in fixed termination tariffs within a reasonable period of time?

NRas should consider symmetry in fixed termination tariffs together with NGN, creating the conditions to give equal access to all operators to the NGN infrastructure, reaching symmetry this way.

QUESTION F11: Do you agree that it would be reasonable for NRAs to allow a transition period to move to symmetric FTRs? How long should this transition period be?

The transition period should be indexed to the NGN implementation.

QUESTION F12: In your opinion what criterion should NRAs adopt to set the glide path?

As said above, the transition period should be indexed to the NGN implementation, so the criterion should be related to the implementation project, which is not known yet.

QUESTION F13: As the length of the glide path is a controversial point, in your opinion, should the time period to reach symmetry be the same for all NRAs or should each NRA determine it according to national circumstances?

In principle it should be the same. NRA should need to justify towards an Independent European Authority, the need for adopting a different period, due to national circumstances.