

27 July 2012

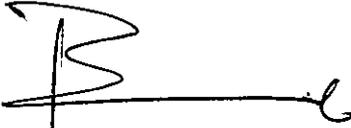
Gibraltar Regulatory Authority  
**Attn. Mr Gavin Santos**  
Electronics Communications Officer  
Suite 603  
Europort  
Gibraltar

Dear Gavin,

**Public consultation 06/12 – Designation of Universal Service Provider**

Enclosed please find Gibtelecom's response to the Authority's Designation of Universal Service Provider public consultation 06/12.

Yours sincerely,



RP Dwayne Lara  
Regulatory Manager

Enc.

## **Gibtelecom response to GRA public consultation of designation of universal service provider.**

### Introduction

1. Gibtelecom is presenting its comments in response to the Authority's public consultation 06/12 published on 29 June 2012 on its proposed continuing designation of Gibtelecom as the universal service provider (USP) for specified purposes under the Communications (Universal Service and Users' Rights) Regulations 2006 .
2. Gibtelecom would accept a designation as the USP, subject to no other provider applying and being found to be suitably qualified, in each of the following five categories being proposed by the Authority.
  - Provision of access at a fixed point, including certain fixed access services;
  - Directory enquiry services and directories;
  - Public payphones;
  - Specific measures for disabled users; and
  - Affordability of tariffs for universal services
3. Such a designation on Gibtelecom would be a continuation of the Company's current obligations going back ten years to 2002.
4. In accepting a designation as the USP, Gibtelecom continues to reserve its right under EU and Gibraltar law to request the recovery of some of the financial load of providing universal services, in particular through a universal service fund financed by all local authorised operators. The Company will be looking into this matter and taking a decision on how best to proceed in due course.

### Specific GRA questions

#### **Q1. Should the designation period duration be kept at 3 years? Would you consider it as an appropriate designation period?**

In general, Gibtelecom would accept the Authority's proposal for a three year designation period. This is the same timescale to which Gibtelecom, as the extant universal service provider, is currently subjected. Indeed, the Company had previously argued for a slightly longer designation period to the two-year timescale introduced in 2007 in relation to the USO element for directory services. Our response to question 4 of the Authority's public consultation 04/09 refers.

#### **Q2. What are your views in relation to the proposal that Gibtelecom should be designated as universal service provider with respect to the provision of access at a fixed location and the provision of telephone services? Are there other factors which should be considered by the Authority in making this designation?**

Gibtelecom would accept the designation in accordance with the principle factors invoked under Notice 1/2002, Decision Notice 05/2007 and Decision Notice 06/09 in the absence of any other qualified operator in the market at this time.

Gibtelecom is the only fixed line operator with coverage throughout Gibraltar and continues to be the major fixed-line provider in the market. In response to a reasonable consumer request, Gibtelecom will provide a fixed line connection which is capable of allowing end-users to make and receive local and international telephone calls, facsimile

communications and data communications at data rates that are sufficient to permit functional internet access.

However, the ability to meet this universal service obligation should be conditioned to the right of Gibtelecom as USP to have access to all buildings in Gibraltar. As mentioned in the Company's responses to the previous USO public consultations (public consultations 04/2007 dated 13 July 2007 and 04/09 dated 11 June 2009) the Development and Planning Commission (DPC) no longer serves Gibtelecom with any notices of development work on new or existing infrastructure. This being the case, Gibtelecom finds that it will not necessarily be in a position to deliver universal access as required by the Authority. Furthermore the Authority should note that in some developments where Gibtelecom is not allowed to provide its own in-building wiring the Company may also find itself restricted in delivering universal access. In such scenarios, failing the appropriate regulatory intervention, Gibtelecom's ability to fulfil its USO obligations to provide access to a fixed line telecommunications service could be seriously undermined.

Nevertheless, Gibtelecom would always endeavour to have adequate access to building developments to be able to meet its USO obligations.

**Q3. Should the minimum data rate for functional internet access be kept at a target speed of 56 kbit/s or be set to the equivalent of a basic ADSL connection? If set to the equivalent of a basic ADSL connection, what should be its minimum target data rate for functional internet access?**

It is noted that the regulatory framework does not extend to the provision of an internet service, but to a data connection permitting functional internet access. Gibtelecom is firmly of the opinion that having a connection running at 56kbps serves as 'functional internet access'. Gibtelecom's dial-up service can provide this type of access in an affordable way (in the context of universal services) to users. The Company therefore believes that the minimum data rate be kept at a target speed of 56kbps (that is to say, dial-up services) and not be set to the equivalent of a 'basic' ADSL connection.

The reasons for this are as follows.

1. Customer choice - despite the decrease in dial-up accounts, there are users (residential and business) who may chose to continue having a dial-up service (working at 56kbps). They can chose to do so irrespective of having an ADSL broadband connection or not. This is because dial-up internet access can be, and is used as a reliable backup to an existing ADSL service. As the Authority may be aware, ADSL employs a completely different type of technology that runs separately to that using the "traditional" narrowband part of a fixed line connection. In the event a user's ADSL service experiences problems that are not as a result of the fixed line being used (for instance a fault in the ADSL hardware either at home or within the Gibtelecom network) then it is relatively easy for that user to revert to his/her dial-up service to obtain a functional connection to the internet. This kind of redundancy, which Gibtelecom understands is one of the main reasons a number of customers currently have dial-up service, would not be possible in the event the target speed for functional internet access be set at that of a 'basic' ADSL connection.
2. Technical unfeasibility - the Authority is not clear on the definition of what would constitute a 'basic' ADSL service, nor does it specify how the universal service provider would deal with those users currently making use of a dial-up service. The Company assumes that the GRA's proposed scenario where "...an increase in minimum bandwidth offered to those customers currently on a dial-up connection

*should increase to a level whereby functional access is achieved.*<sup>1</sup>, could only be met, from a commercial and affordability (in the context of the universal service obligations legal framework) viewpoint, by moving dial-up users to a minimal data rate sitting outside and below the Company's current offerings. As the Authority is aware, Gibtelecom currently offers download speeds of 2Mbps; 4Mbps and 8Mbps. These will soon increase to 4Mbps; 8Mbps and 20Mbps respectively, all with various upload speeds, and eventually relying on a completely different network architecture. It would not be technically feasible for Gibtelecom to technically accommodate having lower download speeds than those highlighted above as a result of their associated upload speeds. This is as a result of the interference and resulting potential damage to the network that could be caused in the event a download speed is too similar to an upload speed and vice-versa (for instance, an upload speed of 512kbps would mean technically precluding a 512kbps download service; having an upload speed of 1Mbps would mean technically precluding a 1Mbps download service; and so on).

3. Affordability of prices –Gibtelecom's dial-up service operates to a high level of reliability and does not generate any noticeable number of complaints from customers. The equipment that the dial-up service relies on is minimal relative to that required for ADSL services. The latter employs a different type of technology and hardware requiring a much greater capital investment and operational expenditure to keep running. Should the minimal data rate for functional internet access be increased to that of a broadband connection, the Company would question how it would be able to meet the general "affordability of prices" requirement of the law given the lower prices of the already available dial-up service. As referred to in point 2 above, as well as our response to question 3 of the Authority's public consultation 04/09, Gibtelecom therefore believes that the most appropriate way functional internet access can be guaranteed for all, at an affordable price, is by retaining the current target speed of 56kbps.
4. Legal framework - The recitals (in particular recital 8) of the EU Directive on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive 2002/22/EC limits the provision of a connection to the public telephone network at a fixed location, at an affordable price, to support speech and data communications at rates sufficient for access to online services such as those provided via the public internet to a single narrowband network connection (an ADSL service, no matter how 'basic' would constitute a broadband connection). This same argument was put forward by the Authority in its Decision Notice 06/09 to justify not increasing the basic speed above 56kbps. Despite the introduction of the revised Communications legal framework last year, the same limitation to narrowband connectivity, as far as the Company is aware, has been retained.

**Q4. What are your views in relation to the proposal that Gibtelecom should be designated as universal service provider with respect to the provision of directory enquiry services and directories? Are there other factors which should be considered by the Authority in making this designation?**

Gibtelecom would accept the USP designation for the reasons given in Notice 1/2002; Decision Notice 05/2007, and Decision Notice 06/09 in the absence of any other qualified application.

While the provision of directories can be profitable, the provision of a comprehensive directory enquiry services imposes disproportionate costs. If the Authority designates any

---

<sup>1</sup> Page 8 of GRA Public Consultation 06/12 of 29 June 2012

other provider for this element, Gibtelecom continues to caution that, it should be for all three aspects of directory information: directory enquiry services, the telephone directory publication and related website.

Gibtelecom would also like to point out that the ability to keep a record of all subscribers of publicly available telephone services in Gibraltar, and therefore meet universal service obligations, is dependant on the correct and timely provision of such data from all operators. To date, the provision of this information to Gibtelecom from one local fixed line operator has been erratic at best. Under such circumstances Gibtelecom cannot therefore be held responsible for not being able to provide details of other operator's subscribers through its directory enquiry service or provision of directory services.

**Q5. Do you believe that the present provision of directory enquiry services and the telephone directory meet the needs of end-users?**

Yes. Gibtelecom believes that the present provision of directory enquiry services and the telephone directory meet the needs of end-users. The directory enquiry service is widely used by Gibraltar consumers and to date has not generated substantive complaints. In addition, these services are used by other authorised operators and their customers.

**Q6. What are your views in relation to the proposal that Gibtelecom should be designated as universal service provider with respect to the provision of public pay telephones and other public voice telephony access points? Are there other factors which should be considered by the Authority in making this designation?**

Gibtelecom would accept the designation in accordance with the factors invoked in Notice 1/2002 and reinforced in Decision No.3 of Decision Notice 05/2007, and again in Decision No. 4 of Decision Notice 06/09 assuming no other organisation expresses an interest in supplying public payphones.

In the era of mass GSM mobile communications, payphones are only sparsely used by residents and visitors. Gibtelecom incurs a financial loss each year in providing this service and will be taking a decision in due course into how best to proceed with seeking to recover the financial burden that the provision of this particular element at least represents on the Company.

**Q7. What are your views in relation to the proposal that Gibtelecom should be designated as universal service provider with respect to the provision of specific measures for disabled end-users? Are the proposed set of obligations appropriate, or should a larger or smaller set of obligations be imposed?**

The Authority detailed the scope of the USP obligations towards disabled users in Gibraltar in its Decision Notice 06/2009. Separate obligations are listed for three sets of disabled users.

1. for the hearing-impaired;
2. for those with limited dexterity or mobility; and
3. for those with restricted vision

The Authority now proposes to maintain these three sets of obligations. Gibtelecom believe that these obligations remain appropriate and that the Authority is content with the Company meeting the requirements (as per your letter ref: 120L/120AF dated 17 February 2009).

Furthermore, the Authority also acknowledges that Gibtelecom is providing a dedicated section on its website with information on the services it provides to people with disabilities.

Gibtelecom would accept the designation for specific measures for disabled users for the reasons given for designating Gibtelecom in Decision Notice 05/2007 and then again in Decision Notice 06/09. Gibtelecom also accepts the three sets of specific measures provided the special apparatus can be sold at normal cost.

Nevertheless, Gibtelecom would highlight that it believes that with the development of competition in the market and new entrants providing more services, it is no longer necessarily the main supplier of telecommunications equipment in Gibraltar. A disabled person is not obliged to buy equipment from Gibtelecom.

**Q8. What are your views in relation to the proposal that Gibtelecom should be designated as universal service provider with respect to the provision of affordability of tariffs for universal services? Do you think the current measures outlined above provide suitable protection for vulnerable users?**

Gibtelecom agrees that the principle of maintaining affordability for the five elements mentioned in the Introduction to this submission are essential in order to avoid the risk that vulnerable user groups might be excluded from enjoying a minimum level of telephony services. If Gibtelecom is designated as the USP it would accept taking on this obligation for those five elements.

As the current USP, Gibtelecom caters to their needs with a series of schemes, the combined effect of which the Authority stated in Decision Notice 05/2007, and then again in Decision Notice 06/09 was adequate for protecting the needs of those that required protection.

Gibtelecom holds the view that these protection schemes are still adequate.

- Repayment Plan: Gibtelecom offers a repayment plan as outlined in Gibtelecom's Consumer Code of Practice. This plan helps customers pay any overdue and outstanding amount on their telephone bills over an agreed period of time, usually limited to six months.
- Restricted Service: Complementary to the repayment plan, Gibtelecom makes available a scheme to help customers reduce future charges by restricting all outgoing calls (except emergency service calls) but allowing continued receipt of incoming calls. This can be phased out when all overdue bills have been paid under the repayment plan. The restricted service scheme also has the advantage that when full outgoing call service is reinstated, no restoration charge is levied.
- Age Pensioners Scheme: Gibtelecom runs a special scheme benefiting old age pensioners who qualify for the Government's Housing Rent Relief program. The Scheme entitles them to a free transfer of their line to another location in Gibraltar, replacement of faulty phones and a monthly free call allowance.

Generally, Gibtelecom believes that prices for universal services should be set at market levels. Gibtelecom holds the view that it is best to assist vulnerable customers directly rather than set an artificially low and distorting price applicable across the board to all users regardless of need.

General Comment

Gibtelecom notes that the GRA consultation document does not make reference to the substantial financial burden of providing universal services together with the various methods of recovery available to designated USPs set out in EU and Gibraltar legislation. Now there are other authorised operators active in the market, a universal service fund could be established to which these operators would contribute or one of the other methods of financial recovery set out in legislation applied.

**End of submission**