

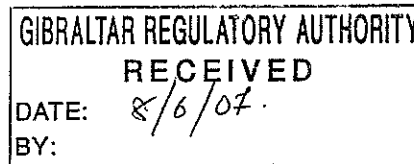


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8 June 2007

Gibraltar Regulatory Authority
Attn. Mr Stewart Brittenden
Suite 811
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Dear Stewart,

Market Analysis –Wholesale Fixed Markets

Enclosed please find Gibtelecom's response to the GRA's Market Analysis public consultation on the Wholesale Fixed Markets (Public Consultation 02/07).

Yours sincerely,

Dwayne Lara
Regulatory Executive
Corporate Affairs Unit

Enc



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Gibtelecom response to Public Consultation 02/07

Wholesale Fixed Markets

8 June 2007

**Gibtelecom Limited
Suite 942
Europort
Gibraltar**

Gibtelecom Response to GRA Market Review for Wholesale Fixed Markets

In response to the public consultation on its market analysis of the wholesale fixed markets published by the Gibraltar Regulatory Authority (GRA) on 10 April 2007 (Public Consultation 02/07), Gibtelecom is pleased to presents its comments.

Q1: Do you agree with the proposed market definitions?

Gibtelecom accepts the positions outlined by the GRA for market definitions in all wholesale fixed markets (i.e., wholesale call origination, wholesale call termination, wholesale unbundled access, wholesale broadband access and wholesale leased lines markets). However Gibtelecom comments on some of the assumptions set out below.

Wholesale broadband access market – position of geographical market definition, 3G, Wifi and WiMax

The GRA believes that the geographic market for all wholesale fixed communications services is no larger than Gibraltar. Reference is made to Sapphire Networks' ethernet internet service which they offer in a selection of major multi-purpose business premises. Gibtelecom believes this selective manner of offering a specific service within a restricted geographical area should be the basis for defining a separate wholesale broadband access market for only a portion of Gibraltar – much as the mobile termination market is defined separately for each mobile operator.

Gibtelecom believe that the GRA should give consideration to designating SMP status to those operators / service providers that offer their services within localised areas.

Although the GRA views 3G, WiFi and WiMax as alternative technologies and potential competition in the offer of broadband access, it does not consider them to be a substitute for wholesale broadband access (essentially bit-stream).

It reasons that WiFi and WiMax are unlikely to be introduced within the next two years. Gibtelecom disagrees. From both a demand and supply side, WiFi, Wi Max and 3G can act as substitutes, and will likely be introduced in the Gibraltar market within the next two years. Account should be taken of 3G, WiMax and WiFi technologies in the market definition.

Wholesale leased lines- position of geographical market definition.

We refer you to our comments above on the identification of separate geographical markets for wholesale products.

According to the Market Analysis, Sapphire Networks is offering leased lines functionality using direct connection by ethernet. As for the wholesale broadband access market, this service is being offered within a restricted geographical area, i.e. major multi-purpose business locations. Consideration should also therefore be given to having a separate geographical market definition for this service.

Although the GRA views WiFi and WiMax as alternative technologies and potential competition in the offer of broadband access, it does not consider them to be a substitute for LLU. The GRA reasons that LLU often offers bundles of broadband plus narrowband voice call services while WiFi and WiMax at present are less likely to be used this way. Gibtelecom disagrees. From both a demand and supply side, they can act as a substitute and should be included in the market definition and as a likely competitive constraint on Gibtelecom in the market analysis.

Q2: Do you agree with the market analysis and proposed SMP designation of the interconnection markets?

Yes

Factual Update: Sender Keep All (SKA) agreement.

Relevant to the wholesale call termination market analysis, Gibtelecom wishes to confirm that it replaced the Sender-Keep-All (SKA) agreement it had with the Spanish incumbent operator Telefonica, with a commercial agreement in December 2006. This became effective on 10 February 2007 on Spain's implementation of +350 dialling to access Gibraltar.

Q3: Do you agree with the market analysis and proposed SMP designation in the market for wholesale unbundled access?

Gibtelecom accepts the positions outlined by the GRA in its market analysis and proposed SMP designation for the wholesale unbundled access (LLU) market subject to the following comment.

Measurement factors for retail leased line market.

In the absence of a wholesale leased lines market, the GRA has used the retail market as a surrogate. Sapphire Networks offers Ethernet services which are substitutable with traditional leased line services. Gibtelecom disputes the basis for the market share calculations. Based on revenues, the GRA has found that Gibtelecom has a retail market share of 87% and Sapphire Networks 13%. A more accurate and telling measure, and one supported by the 2002 Commission Market Analysis Guidelines (para. 77), would be by minutes or bits. Ethernet prices are much lower and a market share analysis based on revenues distorts the true competitive market analysis picture.

Q4: Do you agree with the market analysis and proposed SMP designation in the market for WBA?

Gibtelecom accepts the positions outlined by the GRA in its market analysis and proposed SMP designation for the WBA market subject to the following comments:

WiMax – Competitive constraint in future should not be discounted.

Gibtelecom believes that the GRA have not offered any evidence to support their conclusion that wireless access in the form of WiFi and/or WiMax will not present in the future, i.e. within the review's two year timeframe, a competitive constraint on Gibtelecom's market power in the wholesale broadband access line market. This is an access technology which can be deployed in Gibraltar without a very large investment and the chances for its arrival in Gibraltar should not be discounted.

Q5: Do you agree with the market analysis and proposed SMP designation in the market for wholesale leased lines?

Yes

Factual correction. On p. 23, the reference to Gibconnect should be replaced by Gibtelecom. It is Gibtelecom, not Gibconnect, which sells retail leased lines.

The interconnection markets: market for wholesale fixed call origination and market for wholesale fixed call termination

Q6: Do you agree with the proposed SMP obligations?

Whilst Gibtelecom is prepared to accept the proposed remedies for the wholesale fixed call origination and wholesale fixed call termination markets it would require changes to the deadlines of the notification periods.

Transparency – Deadlines for advance notice and advance publication.

Gibtelecom accepts the advance publication periods of 30 days for a tariff increase and 14 days for a tariff decrease.

However, Gibtelecom objects to the very long lead times for advance notice and advance publication of terms and conditions, in particular changes in wholesale tariffs. The GRA would require Gibtelecom (1) to notify it 60 days in advance of any changes to terms and conditions, including price changes and (2) to publish (a) changes to terms and conditions 30 days in advance, and (b) changes to tariffs 30 days in advance for price increases and 14 days in advance for price decreases.

Gibtelecom requests the advance notification period be reduced from 60 days to 45 days for changes in terms and conditions including tariff increases. It requests a reduction in the period for the advance notification to the GRA for a tariff reduction from 60 days to 30 days. A 60 day advance notification requirement is too burdensome in the context of normal business activity.

Market for wholesale unbundled access

Q7: Do you agree with the proposed SMP obligations?

Gibtelecom accepts the proposed remedies for the wholesale unbundled access (local loop unbundling or LLU) subject to the following comments:

Transparency – Deadlines for advance notice and advance publication.

Gibtelecom of course accepts that it must continue to publish a Reference Unbundling Offer (RUO). However, it objects to the very long lead times for advance notice and advance publication of terms and conditions, in particular changes in wholesale tariffs. The GRA would require Gibtelecom (1) to notify it 60 days in advance of any changes to terms and conditions, including price changes and (2) to publish (a) changes to terms and conditions 30 days in advance, and (b) changes to tariffs 30 days in advance for price increases and 14 days in advance for price decreases. Gibtelecom requests the advance notification period be reduced from 60 days to 45 days for changes in terms and conditions including tariff increases. It requests a reduction in the period for the advance notification to the GRA for a tariff reduction from 60 days to 30 days. A 60 day advance notification requirement is too burdensome in the context of normal business activity. Gibtelecom accepts the advance publication periods of 30 days for a tariff increase and 14 days for a tariff decrease.

Market for Wholesale Broadband Access

Q8: Do you agree with the proposed SMP obligations?

Yes, but we refer you to our comments at Q1 on the possibility of SMP being designated within particular geographical markets within Gibraltar, specifically at certain major business locations.

If this is not done, it is Gibtelecom's view that any potential new competitor will not be incentivised to provide Gibraltar-wide services and will continue to 'cherry-pick' the most lucrative services within specific markets

Market for wholesale leased lines

Q9: Do you agree with the proposed SMP obligations?

Yes, but we refer you to our comments at Q1 and Q8 on the possibility of being designated as having SMP within particular geographical markets within Gibraltar, specifically at certain major business locations.

Closing Remarks

Gibtelecom broadly accepts the SMP assessments in the designated markets, nevertheless Gibtelecom asks the GRA to reconsider their assessment that 3G, WiMax and WiFi will have no impact in the market over the two year period covered by the review and the long elapsed times for advance notification of tariff changes.