



GIBRALTAR REGULATORY
AUTHORITY

DESIGNATION OF UNIVERSAL SERVICE PROVIDER

Decision Notice

4th September 2018

C03/18

FOREWORD

The Universal Service obligation aims to ensure that basic electronic communications services which are essential to social and economic inclusion are available to end users on reasonable request and at an affordable price.

In 2015, the Authority embarked on a public consultation in order to review any possible changes which may affect the Universal Service obligations and designated provider/s. As such, public consultation C07/15 was published in September 2015 and this was followed by Decision C08/15 which designated Gibtelecom as Universal Service Provider for three years ending September 2018.

The Authority published public consultation C02/18 on 13th June 2018 and received comments from two operators. Therefore, this Decision Notice incorporates the Universal Service designated provider and revised Universal Service obligations.

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1. INTRODUCTION

The Gibraltar Regulatory Authority (the "Authority") is responsible for the regulation of the electronic communications sector in Gibraltar in accordance with Gibraltar and EU legislation. One of the Authority's functions is to determine which undertaking(s) should be designated as Universal Service Provider ("USP") in the electronic communications market.

The Universal Service Directive (the "Directive") 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, as implemented in Gibraltar by the Communications (Universal Service and Users' Rights) Regulations 2006, (the "Universal Service Regulations") set out a series of measures aimed at ensuring the provision of Universal Services in Gibraltar.

Under the Universal Service Regulations, the Authority is responsible for the designation of one or more persons, for such a period as may be specified by the Authority, to comply with a Universal Service Obligation ("USO"). In its "Designation of Universal Provider – Decision Notice C08/15" the Authority designated Gibtelecom as USP in September 2015. Gibtelecom would carry out this function for a three year period ending on 30th September 2018.

Thus, on 13th June 2018 the Authority published a "Designation of Universal Service Provider – Public Consultation C02/18" in which it invited comments from all interested parties on questions relating to all aspects of Universal Service.

By the close of the consultation period, the Authority received detailed submissions from the respondents listed below:

- Gibtelecom
- Broadband Gibraltar Ltd.

The Authority thanks Gibtelecom and Broadband Gibraltar Ltd for their submissions. Having considered their views, the Authority sets out in this document its conclusions regarding the designation of USP.

2. NATURE OF UNIVERSAL SERVICE OBLIGATION

2.1 BACKGROUND

This Decision Notice follows “Designation of Universal Service Provider – Public Consultation C02/18”, as issued on 13th June 2018. The Consultation paper set out a number of factors relevant to determining the scope of the USO’s; the purpose of which was to obtain views from stakeholders in relation to these factors, in particular:

- Provision of access at a fixed location and provision of telephone services
- Directory enquiry services and directories
- Public pay telephones and other public voice telephony access points
- Measures for disabled users
- Affordability of tariffs for Universal Services.

In designating an undertaking, the Authority also took the following factors into consideration: market share, size of the network, experience and ability to provide universal service.

The current review is carried out in accordance with the Universal Service Regulations. The Regulations place the responsibility on the Authority for making decisions in the following areas:

- The scope of the obligation to provide access to end-users including its capability to provide functional Internet access at a fixed location.
- The scope of the obligation to provide directory enquiry services and directories.
- The scope of the obligation to provide Public Pay Telephones.
- Ensuring that disabled users have access to the above services on a basis similar to that enjoyed by other users.
- Designating undertaking(s) as USP(s) for the above services.
- Ensuring that services are affordable for users.
- Deciding on issues related to the cost and funding of the Universal Service.

2.2 DESIGNATION OF UNIVERSAL SERVICE PROVIDER

The Universal Service Regulations require the Authority to designate one or more operators to guarantee the provision of the Universal Services as identified in section 2.1. Different undertakings can be designated to provide different elements of Universal Service.

In most Member States, the incumbent operator provides Universal Services. However, other operators may wish to take on the Universal Service responsibility and they may be able to supply it at a lower cost.

As previously identified, a number of factors must be considered in designating an operator as the provider for each element of the Universal Service. Public Consultation C02/18 extended an invitation to all undertakings to provide part of the Universal Services.

Expressions of interest should have accompanied the following:

- An outline of technical competence and expertise in providing the service concerned;
- An outline as to how the proposed obligations will be fulfilled including a full description as to how the service(s) will be provided; and
- Procedures for connection, fault management, the provision of information to consumers and the handling of complaints.

The Authority did not receive any expressions of interest from any operator.

2.3 DESIGNATION PERIOD

The Public Consultation considered the appropriate period of designation for all elements of Universal Service taking into account the overall legislative framework for Universal Service and the ease and manner in which any changes to the scope of the Universal Services which may result from a review by the EU Commission may be introduced.

The Commission in its report¹ concluded that it saw no need to change the basic concept and principles of Universal Service as an instrument for preventing social exclusion. Furthermore, no other legislative review by the EU Commission is envisaged in the short to medium term and, in any case, the current Universal Service Directive lays down that the scope of the Universal Service and the designation of undertakings should be reviewed periodically and the Authority reserves the right to review designations, as appropriate, even prior to the set date in accordance with its regulatory powers and responsibilities.

Views on the following question were sought.

¹ 23.11.2011 - COM(2011) 795 final: Universal service in e-communications: report on the outcome of the public consultation and the third periodic review of the scope in accordance with Article 15 of Directive 2002/22/EC.

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

Views of Respondents

Gibtelecom stated that it believed the time was now right to introduce a reduced designation period in light of the fact that the local communications market had matured extensively since the last designation took place in 2015.

Gibtelecom stated that having an annual designation period would allow the Authority to review the USO designations more periodically, in keeping with the requirements of the Universal Service Directive, and its own aim to "*review designations, as appropriate, even prior to the set date in accordance with its regulatory powers and responsibilities.*"

Gibtelecom specified that with universal service designation assessments requiring a forward-looking approach, continuing with three-yearly review periods would present challenges for the Authority with respect to reacting in a timely manner to the ongoing developments and trends in market shares and network reach. Gibtelecom also stated that the uncertainty of what a post-Brexit Gibraltar may look like, is an additional argument for having a reduced designation period of one year.

Broadband Gibraltar Ltd stated that it considers 3 years to be an appropriate designation period.

Authority's Position

The Authority has taken the respondents answers on board and is of the view that the designation period should be reduced to one year. Given that the electronic communications market is becoming very dynamic, especially given that the alternative operators are providing very competitive products and are rapidly gaining a significant foothold on the market. The markets are not fully competitive yet, but due to the continual advancements of the competing operators, the Authority feels that the universal service obligations ought to be reviewed more frequently.

Another factor, which was raised by Gibtelecom, is the transition to a post-Brexit Gibraltar and the uncertainty that lies ahead. Communications markets may be affected by any changes that may occur and it is the Authority's view that it should make every effort to closely monitor the universal service designations, in what is an uncertain future.

Having said this, it is important to note that the Authority reserves its right to change the designation period back to three years during the next few years if market conditions or any other information presented to the GRA, justify such action.

Decision No. 1

The next designation period duration for all elements of Universal Service will be for one year.

This designation shall take effect on 1st October 2018 and apply throughout Gibraltar ending on 30th September 2019.

3. UNIVERSAL SERVICE OBLIGATIONS

3.1 PROVISION OF ACCESS AT A FIXED LOCATION AND PROVISION OF TELEPHONE SERVICES

The Universal Service Regulations provide that “a designated Universal Service provider shall satisfy all reasonable requests for connection at a fixed location to a public electronic communications network”². Gibtelecom, as the current USP, is required to satisfy any reasonable request to provide a connection to the public telephone network at any fixed location in Gibraltar. Apart from this connection, Gibtelecom must also satisfy all reasonable requests for the provision of a publicly available telephone service over the connection mentioned above.

The Authority may specify requirements to be complied with by a designated USP in relation to the reasonableness of requests for the connection to the network and access to services, and the terms and conditions upon which the connection and access shall be provided.

Any connection provided by the USP must be capable of allowing end-users to make and receive local and international telephone calls and data communications at data rates that are sufficient to permit functional internet access. This must be done taking into account prevailing technologies used by the majority of subscribers and technological feasibility.

3.2 DIRECTORY ENQUIRY SERVICES AND DIRECTORIES

The Universal Service Regulations provide that a comprehensive directory is made available to all end-users in a form approved by the Authority, whether printed or electronic, or both, and is updated at least once a year; and a comprehensive telephone directory enquiry service is made available to all end-users, including users of public pay telephones.

The designated USP shall also:

- keep a record of all subscribers of publicly available telephone services in Gibraltar, including those with fixed, personal and mobile numbers, who have not refused to be included in that record;
- allow access to any information contained in such a record in accordance with such terms and conditions as may be approved by the Authority or as the Authority may direct; and
- apply the principle of non-discrimination to the treatment and presentation of information that has been provided to him or has in possession.

² 3(1) of the Communications (Universal Services and Users’ Rights) Regulations 2006.

3.3 PUBLIC PAY TELEPHONES AND OTHER PUBLIC VOICE TELEPHONY ACCESS POINTS

A designated USP shall ensure that public pay telephones and other public voice telephony access points are provided to meet the reasonable needs of end-users in terms of –

- geographical coverage;
- number of such telephones or other public voice telephony access points;
- accessibility of such telephones and other access public voice telephony points to disabled end-users; and
- quality of services.

The undertaking providing public pay telephones must also ensure that it is possible to make emergency calls from public pay telephones using the single European emergency call number “112” and any other emergency call number in Gibraltar that may be specified by the Authority, free of charge.

It is important to note that a person providing public pay telephones shall be required to provide access to a directory enquiry service for the users of those telephones.

3.4 MEASURES FOR DISABLED END-USERS

A USP shall take into account specific measures for disabled end-users in order to ensure access to and affordability of publicly available telephone services, including access to emergency services, directory enquiry services and directories which are equivalent to that enjoyed by other end-users.

Under this designation, the Authority may specify the terms and conditions to be complied with by a designated USP for the purpose of ensuring that disabled end-users can take advantage of the choice of service providers available to the majority of end-users in Gibraltar.

3.5 AFFORDABILITY OF TARIFFS FOR UNIVERSAL SERVICES

According to the affordability designation, the Authority must monitor the evolution and level of retail tariffs charged by a designated USP for the provision of Universal Services. Conditions of such services shall be fully transparent, published and applied with the principle of non-discrimination.

According to the Universal Service Regulations, the Authority may require a designated USP to establish schemes for one or more of the following purposes –

- the provision of special tariff options or packages to consumers, in particular for the purpose of ensuring that consumers on low incomes or with special social

needs are not prevented from accessing or using the publicly available telephone service;

- the application of a common tariff, or common tariffs, for the provision of the Universal Services; and
- compliance with price caps for the provision of the Universal Services.

4. PROPOSED DESIGNATIONS

4.1 OVERVIEW

The five elements of Universal Service for which a designation is required are set out in section 2.1.

In considering any designation, the Authority is required to take into account the ability of undertakings to satisfy all or part of the USO's. It may also take into consideration the willingness of such a fixed network operator or other person to provide all or part of the USO, and any other criteria which it considers relevant.

Overall, the development of competition in the market provides opportunities for all or part of the USO's to be provided by operators other than Gibtelecom. To this end, the Universal Service Regulations provide that different operators or sets of operators may be designated to provide different elements of Universal Service.

4.2 INDIVIDUAL DESIGNATIONS

4.2.1 Provision of access at a fixed location and provision of telephone services

The fundamental requirement of Universal Service is that all reasonable requests for connection at a fixed location are met. There are many factors to be considered in ensuring the requirements of end-users are satisfied.

In the majority of cases, the USP should not have any significant difficulties in providing network connections throughout Gibraltar. Broadband Gibraltar Ltd has been progressively rolling out a fibre-to-the-home (FTTH) network under their u-mee brand which currently covers approximately 90%³ of the population. GibFibre Ltd's FTTH network currently reaches 95%⁴ of Gibraltar's population.

These alternative operators aim to have full coverage in the future, yet it remains unclear whether this will be achieved and if so, by when.

Gibtelecom, by virtue of its ownership of an extensive fixed network is capable of meeting the reasonable requests of end-users as it has 100% coverage. In addition to its ubiquitous coverage, Gibtelecom remains the major fixed-line provider enjoying approximately a 50% market share, based on subscriber numbers.

³ Statistics provided by operators to the GRA.

⁴ Statistics provided by operators to the GRA.

With regard to internet access, in Decision Notice C08/15, the Authority concluded that a data rate of 4Mbps would be regarded as the minimum target data which the vast majority of broadband subscribers should obtain.

However, like any developing technology, Internet usage continues to evolve and the quality of online content has increased massively over the years. Currently, Gibtelecom's lowest available broadband offering is 16Mbps. In the 2015 review, Gibtelecom stated that over half of their customers were on the 4Mbps and 8Mbps offerings, with around 80% of these on the 4Mbps offering. These customers have since migrated to the 16Mbps and 25Mbps offerings. Therefore, the technical restrictions mentioned by Gibtelecom in the previous review are no longer present.

At the time of writing, the minimum residential broadband package available to customers is the 16Mbps download package offered by Gibtelecom. The 16Mbps download speed is sufficient for the consumer to browse websites without significant delay, download large files and stream high quality content without major disruptions. Gibtelecom also offers 25Mbps, 50Mbps and 100Mbps "SuperSwift" products over its fibre-to-the-node (FTTN) network.

The total number of broadband subscribers has continued to increase since 2015. At the end of 2016, this figure increased from 14,716 to 16,357. It would seem likely that this increase is due, in part, to the new residential housing estates being constructed around Gibraltar and a continually changing market.

The two alternative market players, GibFibre Ltd and Broadband Gibraltar Ltd, currently offer download speeds ranging from 20Mbps to 300Mbps between them, bundling broadband, IP voice telephony and IPTV services. The latest retail residential broadband market shares reveal that Gibtelecom's share has reduced progressively from the last review (now at 49%) whilst GibFibre Ltd and Broadband Gibraltar Ltd have increased substantially (at 22% and 29% respectively). However, these alternative providers do not have complete coverage of Gibraltar or majority market shares to be able to be designated as Universal Service providers at this time.

Given the above, the Authority is of the view that the **minimum broadband data rate should be set at 16Mbps.**

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?

Views of Respondents

Gibtelecom stated that it would accept this designation, subject to the Authority also applying such obligations on the other Gibraltar fixed line operators due to Gibtelecom's eroding market share within the fixed line market.

Gibtelecom argues for the imposition of the universal obligation to provide access at a fixed location and the provision of telephone services on all local fixed line operators, not just Gibtelecom.

Broadband Gibraltar Ltd, agree that Gibtelecom should be designated as USP with respect to the provision of access at a fixed location and the provision of telephone services.

Authority's Position

Two of the most important factors which must be considered by the Authority is network reach and market shares.

The alternative operators' network reach has now extended throughout most of Gibraltar as shown by Broadband Gibraltar Ltd at 90% and GibFibre at 95%. However, there are some areas around Gibraltar that cannot yet be accessed by alternative operators due to physical, legal or economical barriers. Therefore, the competitors are still not able to provide access at a fixed location and telephony services to the whole of Gibraltar.

Furthermore, the latest statistics gathered by the Authority regarding market shares show that Broadband Gibraltar Ltd currently has 29% and GibFibre has 22% in terms of subscriber numbers. Even though these shares have risen rapidly in the last few years they are still lower than what Gibtelecom has at 49%. The Authority therefore considers these market shares to be low in order to designate the alternative providers with Universal Service for the provision of access at a fixed location and the provision of telephone services.

Decision No.2

Gibtelecom shall be designated as Universal Service provider for the provision of access at a fixed location and the provision of telephone services.

Q3. Do you agree with the proposal that the minimum broadband speed for functional internet access should be raised to 16Mbps considering the forward looking basis of this review? If not, please give reasons for your answer.

Views of Respondents

Gibtelecom acknowledged the Authority's arguments for setting the minimum broadband speed for functional internet access at 16Mbps and reiterated the fact that this was also currently the lowest download speed being offered by Gibtelecom.

However, Gibtelecom also stated that 16Mbps is higher than the lowest broadband speeds being mandated by regulators elsewhere across the EU.

Broadband Gibraltar Ltd agree that the minimum broadband speed should be raised to at least 16Mbps if not more.

Authority's Position

The Authority acknowledges the fact that Gibtelecom's lowest broadband speed package is currently set at 16Mbps. This package is available to the general public and therefore the Authority agrees that this should be the minimum broadband speed for functional internet access. This minimum speed is higher than other speeds imposed by regulators across the EU given that Gibraltar's networks have developed at a faster pace and competition has flourished during the last five years.

Decision No. 3

Gibtelecom shall set the minimum broadband speed for functional internet access at 16Mbps.

4.2.2 Directory enquiry services and directories

Directory enquiry services and directories, unlike ownership and operation of fixed networks, is an area where there are potentially lower hurdles to market entry and where competition has therefore the potential to develop more quickly.

To date, Gibtelecom, as the designated undertaking, has been providing this USO i.e. a telephone directory and a comprehensive directory enquiry service. Gibtelecom is the main fixed and mobile network operator in Gibraltar and therefore has the most subscribers and has allocated to it the most numbers from the Gibraltar Numbering Plan.

As Gibtelecom customers make up the majority of subscribers included in the telephone directory, the Authority considers that Gibtelecom may still be the most suitable undertaking to provide Universal Services in this area. It has also built up a considerable level of experience in the provision of directories and directory enquiry services.

The Authority therefore proposes to designate Gibtelecom as USP for the provision of directory enquiry services and the annual telephone directory in accordance with the reasons that resulted in Gibtelecom being designated as USP in Decision Notice in C08/15. The Authority did not receive any representations from interested parties for the provision of the comprehensive directory enquiry service and the telephone directory.

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?

Views of Respondents

Gibtelecom stated that it would only be in a position to accept this designation if the following two conditions were met:

1. The designation period for this particular element be retained at the current three years as it is Gibtelecom's experience is that it is not commercially viable for third party suppliers of directory services to provide these facilities for shorter periods of time.
2. That a Universal Service Fund be set up into which all operators making use of this service from Gibtelecom would contribute.

Gibtelecom stated that it would only be fair that the other local operators all make contributions to front some of these costs. Gibtelecom also stated that, as a result of increased competition and reach, the Authority could also designate these other operators as USPs for this particular element, in conjunction with Gibtelecom.

Broadband Gibraltar Ltd agree with the proposal that Gibtelecom should be designated as USP with respect to the provision of directory enquiry services and directories.

Authority's Position

With regard to Gibtelecom's comment on the designation period, the Authority refers Gibtelecom to its position under question 1.

The Authority would also like to re-emphasise that the designation period may change at any time in the future. For the sake of consistency, it is the Authority's view that all USO's should be reviewed at the same time and therefore they should have the same designation period.

In terms of creating a fund within which all authorised operators would contribute, the Authority directs Gibtelecom to the section on Universal Service Fund below.

Decision No. 4

Gibtelecom shall be designated as Universal Service provider with respect to the provision of directory enquiry services and directories.

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

Views of Respondents

Gibtelecom agreed but went on to explain that there appears to be less demand for printed telephone directories nowadays as customers typically either call Gibtelecom's directory enquiry services or seek the information through the online version of the telephone directory⁵. Gibtelecom also stated that it will consider reducing the number of available printed versions starting with this year's 2018/19 directory run.

Broadband Gibraltar Ltd agree that the present provision of directory enquiry services and the telephone directory meet the needs of end-users.

Authority's Position

The Authority agrees with Gibtelecom in that there appears to be less demand for printed directories given the alternative methods of accessing the same information and the ease with which people can do so. The Authority encourages Gibtelecom to consider reducing the number of printed directories.

Given that the GRA has not received any complaints in this regard, it is also satisfied that the provision of directory enquiry services and the telephone directory meet the needs of end-users especially in this current age where the information can be accessed on different platforms and the consumer is free to choose which method of obtaining the information is most suitable to them.

⁵ Printed directories and online versions are free to customers. Calls to directory enquiry services are charged at premium rates.

Decision No. 5

The GRA is satisfied that the present provision of directory enquiry services and the telephone directory meet the needs of end-users.

4.2.3 Public pay telephones and other public voice telephony access points

The ubiquity of Gibtelecom's network is relevant in the context of the provision of public pay telephones. The ability to provide public pay telephones throughout Gibraltar is clearly dependent on that availability and is reflected in the fact that Gibtelecom is currently the largest provider of fixed line services and has the most expansive fixed telephony network in Gibraltar, it also has a number of public pay telephones located around Gibraltar in key locations. The Authority therefore proposes to designate Gibtelecom as USP for the provision of public pay telephones in Gibraltar.

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?

Views of Respondents

Gibtelecom highlighted the fact that today's users rely mostly on mobile telephones and that payphone usage has been a declining proposition over the years, to the extent that they continue to be a loss-making endeavour. Gibtelecom stated that the lack of usage, coupled with the costs associated with their upkeep, means the company continue to incur a substantial financial burden every year. Gibtelecom asked if there was a real and tangible need to continue providing payphones.

Gibtelecom stated that the Authority should consider agreeing with Gibtelecom on greatly reducing the number of units across Gibraltar, or for the setting up of a Universal Service Fund into which all other licensed operators would contribute.

Broadband Gibraltar Ltd agree that that Gibtelecom should be designated as USP with respect to the provision of public pay telephones and other public voice telephony access points.

Authority's Position

The Authority agrees with Gibtelecom in that the use of public pay phones has declined over the years as consumers nowadays rely heavily on the use of mobile phones for telephony and data usage. In fact, the Authority recognises that some public pay phones are now mostly used as a tourist attraction rather than for their intended use of providing telephony services to the general public. The Authority encourages Gibtelecom to submit detailed proposals on reducing the number of public pay phones.

In relation to the setting up of a fund for other operators to contribute, the Authority refers Gibtelecom to the section 5 below on a Universal Service Fund. If Gibtelecom would

like to reduce the number of public pay phones in Gibraltar, they should submit their request under their application for a Universal Service Fund.

Decision No. 6

Gibtelecom shall be designated as Universal Service provider with respect to the provision of public pay telephones and other public voice telephony access points.

4.2.4 Specific measures for disabled end-users

In the context of disabled users, the Universal Service Regulations provide for specific measures for users with disabilities. The Authority, therefore, has the power to specify obligations applicable to designated undertakings for the purpose of ensuring that disabled end-users can take advantage of the choice of service providers available to the majority of end-users in Gibraltar.

In Decision Notice C08/15, the Authority designated Gibtelecom as USP for the provision of specific measures for disabled users with the following obligations:

For users that are hearing-impaired

- Amplifier phones which allow the user to increase the volume of incoming speech
- Visual Alert telephones which show a flashing light, or make a loud noise when the telephone rings.

For users with limited dexterity or mobility

- Push button telephone sets with speed and automatic redial buttons allowing pre-programmed telephone numbers (typically the most called numbers) or last called telephone numbers to be dialled without having to re-enter the telephone number
- Hands free/loudspeaker phones means that the handset does not need to be used at all.

For visually impaired users

- Push button telephones with a raised dot on the central number (5) which can help visually impaired users find other numbers more easily.

The USP shall provide a dedicated section of its website, accessible from the homepage, with information on the services it provides which are of particular interest to people with disabilities.

As requested by the Authority, Gibtelecom has provided a dedicated section on its website with information on the services it provides which are of particular interest to people with special needs⁶.

⁶ <http://www.gibtele.com/accessibility-services>.

The Authority notes that the mandatory set of obligations may be less than voluntary measures being taken by operators. The Authority's view is that the current set of obligations on the USP be maintained. Additional measures may be taken by the USP and/or other operators, though the Authority would also be interested in views as to whether there should be a different set of mandatory obligations.

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 special needs users? Are the proposed set of obligations appropriate, or should a larger or smaller set of obligations be imposed?

Views of Respondents

Gibtelecom stated that it believed such a designation should be extended to the other local operators and that both Broadband Gibraltar Ltd ("u-mee") and Gibfibrespeed already have substantial market shares and customer bases, as confirmed by the Authority.

Gibtelecom argued that it may be seen as discriminatory against users with special needs if they can only obtain the three sets of services highlighted above from one provider (Gibtelecom) – who might not be their own service provider.

Broadband Gibraltar Ltd agree and believe the proposed set of obligations are appropriate.

Authority's Position

The Authority acknowledges Gibtelecom's and Broadband Gibraltar Ltd.'s position above. However, given that Broadband Gibraltar Ltd and Gibfibrespeed have 29% and 22% market shares respectively, the Authority does not agree that the alternative operators have a substantial share of the market for telephony and broadband services.

Furthermore, given that Gibtelecom still has the greatest number of subscribers in Gibraltar, it seems more appropriate to designate Gibtelecom as USP in this respect.

However, as previously mentioned, the Authority directs Gibtelecom below to section 5 on a Universal Service Fund should it wish to submit an application for such funding.

Decision No. 7

Gibtelecom shall be designated as Universal Service provider with respect to specific measures for special needs users.

4.2.5 Affordability of tariffs for Universal Services

The Universal Service Regulations require designated undertakings to adhere to the principle of maintaining affordability for the provision of access at a fixed location, directory enquiry services and directories, and public pay telephones. The affordability designation is also specifically aimed at vulnerable user groups such as the elderly, those on low incomes and users with special needs. For the benefit of consumers and the overall competitive structure of the market, electronic communications costs should not exclude the most vulnerable in the community from enjoying a minimum use of telephony

services. While communications services are a basic necessity for all users, the Authority feels strongly that protections for these end users need to remain in place. These should aim to protect the individual from a rapid increase in overall bills.

In order to maintain affordability, Gibtelecom offers a repayment plan as outlined in their Consumer Code of Practice⁷. The plan will help customers pay any outstanding amount on their bills over a period of time, usually limited to six months. End users can also agree to have their service restricted to incoming calls only until they have completed their repayment plan. In these circumstances, Gibtelecom will not charge for restoring the service.

Additionally, Gibtelecom also provides an Age Pensioners Scheme - A special scheme which benefits old age pensioners who qualify for the Government's Housing Rent Relief program. The Scheme entitles them to a free line transfer to another location in Gibraltar, replacement of faulty phones and a monthly free call allowance.

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?

Views of Respondents

Gibtelecom stated that the market has matured and shifted enough to be able to sustain assigning this USO on all local operators, not just Gibtelecom as traditionally has been the case.

Gibtelecom also stated that they currently provide various protection schemes (repayment plan, restricted service, old age pensioners scheme) which it still considers to be fit-for-purpose.

Broadband Gibraltar Ltd agree with the proposal that Gibtelecom should be designated as USP with respect to the provision of affordability of tariffs for Universal Services.

Authority's Position

The Authority welcomes the fact that Gibtelecom currently provides protection schemes to its subscribers which facilitate certain benefits in different scenarios. The Authority also considers these schemes to be appropriate.

At present, the alternative operators are unable to fulfil this particular USO given their limited subscriber base and their current physical and structural network limitations in reaching the whole of Gibraltar.

If Gibtelecom would like to submit an application for the setting up of a Universal Service Fund, please do so under separate cover as explained in section 5 below.

⁷ <http://www.gibtele.com/consumer-code-of-practice>.

Decision No. 8

Gibtelecom shall be designated as Universal Service provider with respect to the provision of affordability of tariffs for Universal Services.

5. UNIVERSAL SERVICE FUND

The Authority refers to the various comments made by Gibtelecom in relation to the setting up of a Universal Service Fund and the sharing of the burden of USO's.

The Authority refers Gibtelecom to the Communications (Universal Service and User's Rights) Regulations 2006 and in particular to Regulation 11(1) and (2).

Regulation 11(1) states, "Where a designated universal service provider seeks to receive funding for the net cost of complying with a universal service obligation, he shall submit a written application to the Authority for such funding".

Regulation 11(2) states, "An application made pursuant to sub-regulation (1) shall be accompanied by such supporting information as may reasonably be required by the Authority in order to enable it to make a preliminary determination as to whether compliance with a universal service obligation may represent an unfair financial burden on the designated provider".

The Authority therefore invites Gibtelecom to submit a written application to the GRA in respect of such funding under separate cover.

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