



GIBRALTAR REGULATORY
AUTHORITY

DESIGNATION OF UNIVERSAL SERVICE PROVIDER

Decision Notice

14th September 2020

C07/20

FOREWORD

The aim of the universal service obligations is to guarantee that basic electronic communications services which are crucial to social and economic inclusion are available to end users on reasonable request and at an affordable price.

In 2019, the GRA conducted a review of the universal service obligations in order to evaluate if there were any changes which may affect the designations currently in place. As such, public consultation C01/19 was published on 15th July 2019 and this was followed by Decision C02/19 in September 2019 which designated Gibtelecom as Universal Service Provider for one year ending on 30th September 2020.

The GRA published public consultation C05/20 on 10th July 2020 and received comments from three operators. This Decision Notice, therefore, incorporates the designation of a Universal Service Provider and revised Universal Service Obligations.

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1. INTRODUCTION

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

The Communications (Universal Service and Users' Rights) Regulations 2006 and the Communications Universal Service and Users' Rights (Amendment) Regulations 2011, (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 GRA is responsible for the designation of one or more persons, for such a period as may be specified by the GRA, to comply with Universal Service Obligations ("USO").

In its "Designation of Universal Provider – Decision Notice C04/19" the GRA designated Gibtelecom as USP in September 2019. Gibtelecom would carry out this function for a period of one-year ending on 30th September 2020.

Thus, on 10th July 2020 the GRA published a "Designation of Universal Service Provider – Public Consultation C05/20" 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 GRA received detailed submissions from the respondents listed below:

- Gibtelecom Limited
- GibFibre Ltd
- Broadband Gibraltar Limited

The GRA thanks Gibtelecom Limited ("Gibtelecom"), GibFibre Ltd ("GibFibre") and Broadband Gibraltar Limited ("Broadband Gibraltar") for their submissions. Having considered their views, the GRA 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 C05/20”, as issued on 10th July 2020. The consultation set out several factors relevant to determining the scope of the USO’s, the purpose of which was to obtain views from stakeholders in relation to these, 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 GRA also took the following factors into consideration: market shares, size of the networks, 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 GRA 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 GRA 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 the majority of Member States, it is usually the incumbent operator who is designated to provide universal services. Alternative operators may also decide to implement various universal services and they may be able to provide it at reduced costs.

As previously acknowledged, various factors must be taken into account when designating an operator as the provider for each element of the universal services. Public Consultation C05/20 extended an invitation to all undertakings to provide part of the universal services and any expressions of interest should be accompanied by 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 GRA did not receive 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.

Views on the following question were sought.

Q1. Should the designation period duration be extended to three years? Would you consider it to be an appropriate designation period?

Views of Respondents

Gibtelecom does not consider returning to three-yearly USO designation periods is in the best interests of the industry, or the regulatory environment.

The company mentioned that it was the GRA who proposed a one-year cycle as stated in its public consultation document C05/20, which Gibtelecom accepted. They pointed out that the change came about due to Gibtelecom having proposed to have a reduced USO period during the 2018 round of USO public consultation and designation. At the time, Gibtelecom laid out various reasons for its proposal which were accepted by the GRA. Further, Gibtelecom wanted to understand the GRA's reasons or justification for going back to a three-year cycle, as well as, what had caused the GRA's change in stance beyond what it says it would take into account i.e. "*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.*"

Gibtelecom continue to maintain its original arguments for maintaining a one-year designation period. The company believes these are still valid and relevant. In addition, their argument of mitigating the impact of Brexit, due at the end of this year and for which no exit agreement has yet been reached with the European Union, is also still valid and important.

GibFibre considered appropriate a designation period of one year. However, they stated that if the GRA considers extending the period to three years it should allow applications made pursuant to paragraph 2.2 of the consultation document for USP status at any time by an operator who can demonstrate more than 35% residential market share.

GibFibre reiterates the points mentioned during the last universal service consultation and requested again that the GRA proceed with the necessary consultation to include mobile services in the definition of universal services and amend the relevant regulations.

Broadband Gibraltar agreed it should be extended for three years.

GRA's Position

The GRA has considered the responses provided by the respondents and is of the view that the designation period should be maintained at one year given that the electronic communications market has not yet shown signs of settling, with alternative operators providing more competitive products and gathering increased market shares on the various electronic communications markets. Notwithstanding, the GRA believes that some markets are not completely competitive at this time, however as a result of the developments of the competing operators, the GRA feels that the universal service obligations should be reviewed frequently.

One further aspect, which has been put forward by Gibtelecom, is the impact of Brexit and the changes that may bring about to the current regulatory and legislative framework, as well as the potential introduction of the European Electronic Communications Code ("EECC"). The communications markets are surely to be impacted by transition to a post-Brexit Gibraltar and it is the GRA's view that it should make every attempt possible to diligently supervise the universal service designations, in what is an unpredictable future.

Nevertheless, it is important to note that the GRA reserves its right to change the designation period if market conditions or any other information available to the GRA, justify such action.

Decision No. 1

The designation period duration for all elements of Universal Service will remain at one year.

This designation shall take effect on 1st October 2020 and apply throughout Gibraltar ending on 30th September 2021.

3. UNIVERSAL SERVICE OBLIGATIONS

3.1 Provision of Access at a Fixed Location and Provision of Telephone Services

The Universal Service Regulations require that “*a designated Universal Service provider shall satisfy all reasonable requests for connection at a fixed location to a public electronic communications network*”¹. As the existing USP, Gibtelecom is required to fulfil 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 comply with all reasonable requests for the provision of a publicly available telephone service over the connection mentioned above.

The GRA may specify requirements to be complied with by a designated USP in relation to the reasonableness of requests for the connection to a 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 access data communications at data rates that are sufficient to permit functional internet access. This must be done considering prevailing technologies used by the majority of subscribers and technological feasibility.

3.2 Directory Enquiry Services and Directories

The Universal Service Regulations require that a comprehensive directory is offered to all end-users in a form approved by the GRA, whether printed or electronic, or both, and is updated annually; 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 opted 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 GRA, or as the GRA 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.

¹ 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
- quality of services.

The provider supplying public pay telephones must also guarantee 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 GRA, free of charge.

It is imperative 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 provide specific measures for disabled end-users in order to guarantee both 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 obligation, the GRA may stipulate the terms and conditions to be complied with by a designated USP for the purpose of ensuring that disabled end-users can benefit from the choice of service providers available to the majority of end-users in Gibraltar.

3.5 Affordability of Tariffs for Universal Services

In accordance with the affordability designation, the GRA is required to supervise 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 GRA may oblige 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
- compliance with price caps for the provision of the Universal Services.

4. PROPOSED DESIGNATIONS

4.1 Overview

The five facets of universal service for which a designation is required are set out in section 2.1.

In considering a designation, the GRA must evaluate the ability of undertakings to fulfil all, or part of the universal service obligations. It may also take into account the willingness of such a fixed network operator or other person to provide all or part of the universal service obligations, and any other criteria which it considers appropriate.

Overall, the evolution of competition in the market offers prospects for all or part of the universal service obligations to be provided by any operator. To this end, the Universal Service Regulations allow for different operators or sets of operators to be potentially designated to provide different parts of universal service.

4.2 Individual Designations

4.2.1 Provision of Access at a Fixed Location and Provision of Telephone Services

An important element of universal service is that all reasonable requests for connection at a fixed location are met. There are many factors to be taken into account in ensuring the needs of end-users are satisfied.

In most cases, the USP should not have any major difficulties in providing network connections throughout Gibraltar. Broadband Gibraltar and GibFibre have been progressively rolling out a fibre-to-the-home (FTTH) network which currently covers a significant amount of Gibraltar's population.

Gibtelecom, by virtue of its ownership of the most extensive fixed network, is capable of meeting the reasonable requests of end-users. Gibtelecom has ubiquitous coverage and remains the major fixed-line provider in the market in terms of subscriber numbers.

With regard to internet access, in Decision Notice C04/19, the GRA concluded that the minimum broadband speed for functional internet access was to be set at 16Mbps.

Presently, Gibtelecom provides some of its customers with a 16Mbps² download package, which we understand, is sufficient for consumers to browse websites without significant delay, download large files and stream high quality content without major interruptions.

² 16Mbps package is no longer available to new customers, however, Gibtelecom continues to provide this package to existing customers.

Gibtelecom offers 75Mbps and 100Mbps "SuperSwift" products over its fibre-to-the-node (FTTN) network.

The total number of broadband subscribers has continued to increase. As of March 2020, the total number of broadband subscribers stands at 19,523. The market continues to evolve and in doing so, the GRA is considering these changes throughout this consultation.

At present, the two alternative market players, GibFibre and Broadband Gibraltar, offer download speeds ranging from 300Mbps to 500Mbps and bundling their broadband product with IP voice telephony, IPTV services and value-added services accessed via device applications. Recent retail residential broadband market shares reveal that Gibtelecom's share has reduced progressively since the previous review (now at 35%), whilst GibFibre's has increased to 38% and Broadband Gibraltar now have 27% market share. However, these alternative providers do not have sufficient coverage of Gibraltar to reasonably be designated as USP's at this time.

Given the above, the GRA is of the view that the **minimum broadband data rate should remain 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 GRA in making this designation?

Q3. Do you agree with the proposal that the minimum broadband speed for functional internet access should remain at 16Mbps? If not, please give reasons for your answer.

Views of Respondents

Gibtelecom's view is that, given the expansive network coverage of all local fixed line operators, the same obligations should be imposed on all. Alternatively, no operators should have it imposed.

The company stated that the alternative operators' networks are already well established. Gibtelecom explained that over the previous USO consultation process a year ago, the GRA's figures showed that umee's and GibFibre's fixed line network coverage stood at 90% and 95% respectively. These numbers, Gibtelecom claims, although not made public in the current public consultation cycle, will have invariably grown since then. Gibtelecom stated that they show that all local fixed line operators cover a significant part of the territory.

Furthermore, the company mentioned that the GRA's latest Annual Report (2019/20) shows that in terms of the retail residential broadband, this has "...seen the most significant changes in market shares to date. Gibtelecom's residential broadband market share has reduced from 47% to 35%. Broadband packages from u-mee and GibFibre continue to appeal to consumers resulting in substantial number of subscribers opting to purchase services from these providers, thus increasing their residential market share to 26% and 39% respectively. This development makes GibFibre the biggest shareholder in the residential broadband market for the first time since broadband's inception in Gibraltar." Gibtelecom continued that the same report goes on to state that, in favouring fixed line calls over mobile services, that "This may be attributed to the significant shift in

subscribers purchasing services which include fixed IP telephony services as part of a broadband bundle. Subscribers of these services can connect a fixed telephone to their router and make calls to fixed and mobile numbers in the same way they have done using traditional fixed voice telephony services". To Gibtelecom, this shows a need to consider the ubiquity and placement of fixed line services that are running over IP technology, such as those bundled by umee and GibFibre, as recognition that these alternative providers do indeed provide, or are able to provide, fixed line services to the vast majority of subscribers across Gibraltar. All things being equal, it stands to reason that the above market share data will continue along the same trend. The company believes that this information shows that the GRA should reflect on Gibtelecom's sole designation as the USP for fixed line services in Gibraltar.

GibFibre agrees with the proposal that Gibtelecom should be designated as USP with respect to the provision of access at a fixed location and the provision of telephone services. The company argued that although new entrants are making good progress in the communications markets, there are still very *'substantial hurdles to the provision of a ubiquitous service associated with the lack of proper mechanisms for gaining consent to install apparatus on private land'*. GibFibre believes that until those issues are settled, Gibtelecom is the only suitable candidate for USP at this time. As stated above, however, they believe that the GRA should consider applications for USP status from companies with more than 35% of the relevant market.

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

GRA's Position

The two main issues that must be considered by the GRA regarding USP status is network reach and market shares.

Although the alternative operators' network reach has now expanded throughout most of Gibraltar, there are still some locations around Gibraltar that are difficult to access as a result of geographical, legal or economical barriers. Therefore, alternative operators are unable to provide access at a fixed location and telephony services to the whole of Gibraltar.

In terms of market shares, the latest statistics gathered by the GRA regarding the total broadband market shares show that Broadband Gibraltar currently has 22% and GibFibre has 35% 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 42%. The GRA, therefore, considers that Gibtelecom is the most appropriate provider to designate 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 remain at 16Mbps? If not, please give reasons for your answer.

Views of Respondents

Gibtelecom agreed with the proposal that the minimum broadband speed for functional internet access should remain at 16Mbps.

GibFibre stated that the proposal for the minimum broadband speed for functional internet access to be kept at 16Mbps is adequate. GibFibre went on to state that, the user in question should be permitted to terminate the arrangement with the USP without liability in cases where this minimum speed is not reached.

Broadband Gibraltar agreed with the proposal that the minimum broadband speed for functional internet access should remain at 16Mbps.

GRA's Position

The GRA notes that there are existing Gibtelecom customers who are still on a 16Mbps package, but that this is not presently offered to new customers. That said, the minimum residential broadband package now available to new customers in Gibraltar is currently the 75Mbps download package offered by Gibtelecom.

The GRA is of the view that a broadband download speed of 16Mbps is still adequate for consumers to browse websites without significant delay, download large files and stream high quality content without major disruptions. This minimum speed is also higher than has been imposed by some regulators across the EU, in part as a result of Gibraltar's broadband market having developed at a fast pace and enjoyed the effects of competition during the last few years.

Further, GibFibre mentioned that the end-user should be permitted to terminate an arrangement with the USP without liability if this minimum data rate is not reached. The GRA takes note of this point, however, it is unable to address it under the context of universal service.

Given the above, the GRA is of the view that the minimum broadband data rate should continue to be set at 16Mbps.

Decision No. 3

The minimum broadband speed for functional internet access is 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 market entry is easier and where there is opportunity for expansion on the competitive side.

Currently, Gibtelecom, as the designated undertaking, is providing this universal service obligation i.e. a telephone directory and a comprehensive directory enquiry service. Gibtelecom is the major fixed network and sole mobile network operator in Gibraltar, and

therefore, has a considerable amount of subscribers and numbers allocated to it from the Gibraltar Numbering Plan.

As a result of Gibtelecom consumers making up the majority of subscribers included in the telephone directory, the GRA considers that Gibtelecom may continue to be the most appropriate 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 GRA, therefore, proposes to designate Gibtelecom as USP for the provision of directory enquiry services and directories.

The GRA did not receive any submissions from interested parties for the provision of a comprehensive directory enquiry service and the provision of telephone directories.

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 GRA in making this designation?

Views of Respondents

Gibtelecom stated that the provision of directory services, which includes called directory enquiries, is a very onerous and costly undertaking. In addition, as a result of its universal application, and the benefits that other local operators derive from Gibtelecom providing the service (at no cost to them), the company explained that in the coming months, it will be considering making an application for the setting-up of a universal service fund in line with the applicable rules. The company also stated that there has been a shift in the provision of the service from printed editions to its online equivalents. Gibtelecom is looking to discuss this issue with the GRA in due course.

GibFibre is of the view that Gibtelecom and Gibyellow³ are the only entities with the facilities for preparing a directory of directory numbers allocated in Gibraltar.

However, GibFibre considered that the entity which should be designated in this category is Gibyellow and that this would ultimately help the promotion of a brand neutral directory.

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

GRA's Position

In relation to Gibtelecom considering making an application for setting up a universal service fund within which all authorised operators would contribute, the GRA directs Gibtelecom to the section on a Universal Service Fund below.

Further to Gibtelecom's comments regarding the possibility of doing away with the printed versions of the directory, the GRA has in previous consultations stated that it encourages Gibtelecom to consider reducing the number of printed directories. However, the GRA is of the view that Gibtelecom should still continue to provide, at least a reduced number of

³ Gibyellow is subcontracted by Gibtelecom to produce and manage telephone directories.

printed directories, so that the needs of consumers who may not be able to access online facilities, are met.

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 with the designation, however as pointed out above, the relevancy of printed directories nowadays needs to be reflected upon.

GibFibre agreed that the present provision of directory enquiry services and the telephone directory meet the needs of end-users.

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

GRA's Position

The GRA is in agreement with Gibtelecom with regards to the decreasing demand for printed directories, given the alternative methods available to access this information and the ease with which people can do so. Having said this, the GRA refers Gibtelecom to its position under Q4.

Further, the GRA is satisfied that the provision of directory enquiry services and the telephone directory meet the needs of end-users especially considering that this information can be accessed on different platforms and the consumer is free to choose which method of obtaining the information most suits them.

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 ubiquity and is reflected in the fact that Gibtelecom is the largest provider of fixed line services.

As a result of having the most extensive fixed telephony network in Gibraltar, Gibtelecom has previously been designated as USP in this respect. The company also has a number of public pay telephones located around Gibraltar in key locations. The GRA, 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 GRA in making this designation?

Views of Respondents

Gibtelecom stated that it is currently undergoing a payphones rationalisation programme, in consultation and with the approval of the GRA. However, the company claims that the continuing provision of public payphones across Gibraltar continues to be burdensome from a commercial and financial viewpoint. Gibtelecom is, therefore, unwilling to discard entering into further discussions with the GRA on the subject going forward.

GibFibre agreed that Gibtelecom should be designated as USP in respect of the provision of public pay telephones and other public voice telephony access points. They added that *"this is due to the ubiquity of its service and the nature of its present provision is such that it would not be economic for any new entrant to provide such a service in competition"*.

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

GRA's Position

Gibtelecom has indeed consulted the GRA in respect to a payphone rationalisation programme and is in agreement with the company as regards the declining use of public pay phones as consumers nowadays primarily rely on the use of mobile phones for telephony and data usage.

However, and as mentioned by the GRA to the company recently, Gibtelecom should consider keeping public pay telephones in locations which are considered to be of sufficient importance to retain, at least, for the immediate future and to allow for a more phased approach of their removal. Gibtelecom should also take note that the provision of public payphones is considered a "Public Service" and that the requirement to provide public payphones is not borne out of a unilateral decision taken by the GRA, but instead as a result of consultation processes and takes into account various factors which have resulted in Gibtelecom being designated as USP for this particular public service.

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

The Universal Service Regulations contains provisions for users with disabilities. Thus the GRA has the capability to specify obligations pertinent 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 C04/19, the GRA 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 undertaking shall be required to 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.

In line with the requirements set by the GRA, 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 needs⁴.

The GRA notes that the mandatory set of obligations may be less than voluntary measures being taken by operators. The GRA'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 GRA 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

⁴ <http://www.gibtele.com/accessibility-services>.

Gibtelecom believes that the current set of obligations for special needs users are appropriate.

Gibtelecom went on to state that the GRA should consider extending these obligations to other local operators. Gibtelecom was of the view that such additional obligations should go beyond a simple assessment of market shares and should instead consider the importance of having more outlets for the provision of services to users with special needs than is currently the case. Gibtelecom stated that such users would approach their own service providers, with whom they have an existing relationship and hence be more familiar.

GibFibre agrees with the proposal that Gibtelecom should be designated as USP in respect of provision of specific measures for users with special needs. The company added that the proposed set of obligations are appropriate to the specific needs of this part of the population.

Broadband Gibraltar agrees with the proposal that Gibtelecom should be designated as USP in respect of provision of specific measures for users with special needs. In addition, the company agrees that the proposed set of obligations are appropriate.

GRA's Position

The GRA notes Gibtelecom's comments above on the matter. To date, the GRA has not received any complaints with regards to the provision of services by alternative operators for those users with special needs.

The GRA is of the view that whilst the alternative providers have satisfactory measures in place for the provision of services for users with special needs, Gibtelecom still has the greatest number of fixed line telephony subscribers in Gibraltar. For these reasons, the GRA deems it appropriate to designate Gibtelecom as USP in this respect.

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 oblige designated undertakings to follow 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 of benefit to vulnerable user groups like the elderly, those on low incomes and users with special needs. For the advantage 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 GRA feels strongly that these end-users should remain protected.

In an effort to maintain these affordability standards, Gibtelecom offers a repayment plan as outlined in their Consumer Code of Practice⁵. The plan assists consumers in paying any outstanding amount on their bills over some 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 instances, Gibtelecom will not charge for restoring the service.

Furthermore, Gibtelecom provides a reduced rate for old age pensioners on *rent relief*. Old age pensioners who qualify for this special benefit are entitled to free replacement of faulty telephones and £4.50 worth of free calls each month. To be eligible, they must be on the Government's Housing Rent Relief program. Old age pensioners can also purchase a "Monster Bundle", which includes 100Mbps broadband, a Monster Maxi mobile plan with 1000 minutes, 10GB of data and 1000 SMS and Digital TV, at a discounted price of £30pcm.

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 believes there is no justifiable reason for this USO not to be extended to all operators, and not just to Gibtelecom. It is the company's view that all subscribers should be able to benefit from these facilities, and not just those subscribing to Gibtelecom services.

GibFibre stated that the designated USP, should adhere to the principle of maintaining affordability of fixed location services, payphones and directory enquires.

GibFibre also stated that the USP needs to continue to provide their services for vulnerable groups and should be bound to ensure that vulnerable groups are not excluded from access to digital services.

Broadband Gibraltar agrees with the proposal that Gibtelecom should be designated as USP with respect to the provision of affordability of tariffs for universal services. The company believes the current measures outlined above provide suitable protection for vulnerable users.

GRA's Position

The GRA is of the view that the alternative operators are currently unable to satisfy this particular USO as a result of their limited subscriber base and their current physical network limitations in reaching the whole of Gibraltar.

Decision No. 8

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

⁵<http://www.gibtele.com/consumer-code-of-practice>.

5. UNIVERSAL SERVICE FUND

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

ANNEX A: CONSULTATION DECISIONS

Decision No. 1

The designation period duration for all elements of Universal Service will remain at one year.

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.

Decision No. 3

The minimum broadband speed for functional internet access is set at 16Mbps.

Decision No. 4

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

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.

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.

Decision No. 7

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

Decision No. 8

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

CONTACT US

Gibraltar Regulatory Authority
2nd floor, Eurotowers 4, 1 Europort Road, Gibraltar

 (+350) 20074636

 communications@gra.gi

 www.gra.gi

