



GIBRALTAR REGULATORY
AUTHORITY

DESIGNATION OF UNIVERSAL SERVICE PROVIDER

Decision Notice

27th September 2021

C06/21

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 2020, the Authority 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 C05/20 was published on 10th July 2020, and this was followed by Decision C07/20 in September 2020 which designated Gibtelecom as Universal Service Provider for one year ending on 30th September 2021.

The Authority published public consultation C04/21 on 28th July 2021 and received comments from three respondents. This Decision Notice, therefore, incorporates the designation of a Universal Service Provider and revised Universal Service Obligations.

CONTENTS

| | |
|--|----------|
| 1. INTRODUCTION..... | 1 |
| 2. NATURE OF UNIVERSAL SERVICE OBLIGATION | 2 |
| 2.1 Background..... | 2 |
| 2.2 Designation of Universal Service Provider | 3 |
| 2.3 Designation Period..... | 3 |
| 3. UNIVERSAL SERVICE OBLIGATIONS..... | 6 |
| 3.1 Provision of Access at a Fixed Location and Provision of Telephone Services..... | 6 |
| 3.2 Directory Enquiry Services and Directories | 6 |
| 3.3 Public Pay Telephones and Other Public Voice Telephony Access Points | 7 |
| 3.4 Measures For Disabled End-Users | 7 |
| 3.5 Affordability of Tariffs for Universal Services | 8 |

| | |
|--|-----------|
| 4. PROPOSED DESIGNATIONS | 9 |
| 4.1 Overview..... | 9 |
| 4.2 Individual Designations | 9 |
| 4.2.1 Provision of Access at a Fixed Location and Provision of Telephone Services..... | 9 |
| 4.2.2 Directory Enquiry Services and Directories | 12 |
| 4.2.3 Public Pay Telephones and Other Public Voice Telephony Access Points | 15 |
| 4.2.4 Specific Measures For Disabled End-Users..... | 17 |
| 4.2.5 Affordability of Tariffs For Universal Services..... | 20 |
| 5. UNIVERSAL SERVICE FUND | 22 |
| ANNEX A: CONSULTATION DECISIONS | 23 |

1. INTRODUCTION

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

The Communications (Universal Service and Users' Rights) Regulations 2006 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 Universal Service Obligations ("USO").

In its "Designation of Universal Provider – Decision Notice C07/20" of September 2020, the Authority designated Gibtelecom as USP. Gibtelecom would carry out this function for a period of one year ending on 30th September 2021.

Thus, on 28th July 2021 the Authority published a "Designation of Universal Service Provider – Public Consultation C04/21" 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 Limited
- GibFibre Ltd
- Gibraltar Hearing Impaired and Tinnitus Association (GHITA).

The Authority thanks Gibtelecom Limited ("Gibtelecom"), GibFibre Ltd ("GibFibre") and the Gibraltar Hearing Impaired and Tinnitus Association ("GHITA") 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 C04/21”, which was issued on 28th July 2021. The consultation set out several factors relevant to determining the scope of the USOs, 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 Authority 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 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.
- Ensuring that services are affordable for users.
- Designating undertaking(s) as USP(s) for the above services.
- 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 cases, it is 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 C04/21 extended an invitation to all undertakings to provide part of the universal services and any expressions of interest to 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.
- Procedures for connection, fault management, the provision of information to consumers and the handling of complaints.

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

2.3 Designation Period

Public Consultation C04/21 considered the appropriate period of designation for all elements of Universal Service, considering the overall legislative framework for universal service and the ease and manner in which any changes to the scope of the universal services may be introduced.

Views on the following question were sought.

Q1. Should the designation period be extended? What would you consider to be a more appropriate designation period?

Views of Respondents

Gibtelecom did not agree that the designation period should be extended past the one year and claimed that the Authority's arguments for the extension lacked substance and clarity. Gibtelecom proceeded to explain that the effects of Brexit and the new legal requirements as a result of the recent implementation of the European Electronic Communications Code ("EECC") into local law, is yet unknown.

Gibtelecom referred to a statement made by the Authority in its annual report, in which it acknowledged that the Communications Division of the Authority was at the time

familiarising itself with the legislative changes which came into force in December 2020 and would consult with industry if required.

Gibtelecom further explained that the Authority's statements on market shares implied that the market was now competitive and stable, a statement which Gibtelecom disagreed with, stating the continued bundling of "disputed TV services" together with broadband services by the alternative providers, was a contributing factor to the continued erosion of Gibtelecom's market share. Gibtelecom reiterated that maintaining a one-year designation period would allow the Authority to review and monitor the evolution of the market in a timelier manner.

GibFibre agreed that the designation period should be extended to three years, which it considered to be an appropriate designation period.

GHITA also agreed that the designation period should be extended from one to three years.

Authority's Position

The Authority has taken into account the responses provided by Gibtelecom, GibFibre and GHITA and is of the view that the designation period should be extended to three years as proposed in Public Consultation C04/21. A three-year designation period will provide consumers of universal services with more stability and certainty.

The Authority is of the view that, although market shares may still be shifting, the rate at which these shares are changing has slowed down in recent years and in-keeping with this trend, sees no obvious reason why any future changes to market shares might be any different. To illustrate this point, statistics collected by the Authority show that Gibtelecom's residential broadband market share has shown significantly smaller changes year on year. Gibtelecom's market share dropped 18% between 2019 and 2020 and just 2% between 2020 and 2021. In the same light, GibFibre's share increased by 18% between 2019 and 2020 and then only gained a margin of 4% the following year. U-mee's activity has been the most stable of the three operators as their market share remained static between 2019 and 2020 and then declined by 2% between 2020 and 2021. Given this trend, the Authority does not expect any significant changes regarding market shares in the near future.

With regards to the effects of Brexit and the recent introduction of a new communications legislative package, in so far as the provision of universal services is concerned, the impact of these two factors has been minimal. Brexit has indeed transpired and the effects of this are now well understood and have been factored into the proposed designations for universal services where relevant. The Authority has familiarised and become fully acquainted with the new regulatory package since its introduction in December 2020 and does not consider its amendments to have a significant effect on the designation period and the entire process of designating operators and assessing the provision of universal services.

Nevertheless, the Authority will continue to closely monitor the provision of universal services in Gibraltar and reserves its right to consult on the designation period if market conditions or any other information available to the Authority justify such action.

Decision No. 1

The designation period duration for all elements of Universal Service will be three years.

This designation shall take effect on 1st October 2021 and apply throughout Gibraltar ending on 30th September 2024.

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”¹. 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.

The connection provided by Gibtelecom, shall, taking into account prevailing technologies used by the majority of subscribers and to technological feasibility, be capable of supporting voice communications, broadband internet access services, facsimile communications and data communications at data rates that are sufficient to permit functional internet access.

The broadband internet access service must be capable of delivering bandwidth which, as a minimum, can support the provision of email, search engines enabling search and finding of all type of information, basic training and education online tools, online newspapers or news, buying or ordering goods or services online, job searching and job searching tools, professional networking, internet banking, eGovernment service use, social media and instant messaging, as well as calls and video calls (standard quality).

The Authority may stipulate certain requirements to be complied with by a designated USP in relation to functional internet access, the terms and conditions upon which the connection shall be provided, the reasonableness of requests for the connection and the provision of operator assistance for the purpose of handling calls to the emergency services using the single European emergency call number “112” or any emergency call number in Gibraltar specified by the Authority.

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 Authority, 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;

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

- 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, or under his control.

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 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 Authority, 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 be required to provide specific measures for disabled end-users in order to guarantee 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 Authority 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

According to the Universal Service Regulations, the Authority 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.

The conditions of a scheme shall be fully transparent, applied in accordance with the principle of non-discrimination and published. Furthermore, the Authority may require that a scheme be modified or withdrawn.

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 Authority must evaluate the ability of undertakings to fulfil all, or part of the USOs. It may also need to consider the willingness of such a fixed network operator or other person to provide all or part of the USOs, and any other criteria which it considers appropriate.

Overall, the evolution of competition in the market offers prospects for all or part of the USOs to be provided by any operator. To this end, the Universal Service Regulations allow for different operators or sets of operators to potentially be 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 to ensure 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 already 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 C07/20, the Authority 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, is understood to be sufficient to meet the requirements of functional internet access and users may send and receive emails, browse websites without significant delay, download

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

large files, stream video quality content without major interruptions and perform all the activities outlined in 3.1 above as can be reasonably expected in this present year. Gbtelecom also offers 75Mbps and 100Mbps download products over its fibre-to-the-node (FTTN) network. In addition, Gbtelecom has continued to roll out its 1Gbps and 500Mbps packages with the aim to complete roll-out by 2022.

The total number of broadband subscribers has continued to increase. As of March 2021, the total number of broadband subscribers stands at 21,319. The market continues to evolve and in doing so, the Authority is considering these changes throughout this consultation.

At present, the two alternative market players, GibFibre and Broadband (Gibraltar) Ltd, offer download speeds ranging from 20Mbps to 1Gbps 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 Gbtelecom's share has reduced steadily from the last review (currently at 33%), whilst GibFibre and Broadband (Gibraltar) Ltd have 43% and 24% respectively. Importantly however, these alternative providers have not yet achieved full coverage of Gibraltar.

Given the above, the Authority 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 Gbtelecom 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

Gbtelecom disagreed that they should be designated as USP in respect of the provision of access at a fixed location and the provision of telephone services. Instead, they felt that this obligation should be shared with all the other providers.

Gbtelecom claimed that it was probable that either of the alternative operators could provide almost immediate access to any location in Gibraltar, given that the Authority announced in 2019 that their network coverage stood at 90 and 95%, and that today this number would invariably be higher. Gbtelecom reiterated that this cannot be denied and stated that current market shares are unlikely to reverse in favour of Gbtelecom, thus resulting in the alternative operators increasing their fixed line subscribers and coverage.

GibFibre agreed with the Authority and saw no alternative to the proposal that Gbtelecom should be designated as USP in respect of the provision of access at a fixed location and the provision of telephone services.

GHITA noted that Gbtelecom has traditionally been designated as USP, but with the shift in market shares, suspected that GibFibre could be the market leader in the provision of fixed access and telephony services.

Authority's Position

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

With respect to market shares, the Authority is well aware that alternative providers have indeed established themselves in the market and have acquired a substantial share of subscribers. The migration has been significant at times, but this has showed signs of slowing down in recent years given that the market seems to be settling.

Although it is reasonable to assume that alternative operators' network reach has now expanded throughout most of Gibraltar, there are still some locations that are difficult to access as a result of geographical, legal or economical barriers.

To accurately assess how this affects the ability of a provider to be designated as USP for the provision of access at a fixed location and the provision of telephone services, the Authority must first assess if that provider's network coverage is sufficient to justify doing so. Currently, Gibtelecom has the most comprehensive network coverage, with figures, estimated, very close to 100%.

The alternative provider figures quoted by the Authority include areas which they have not yet fully rolled out their network to, but which they could potentially provide services to within a reasonable timeframe. Therefore, until tested, it is unsure whether they would be able to actually service such specific areas where Gibtelecom already have an established presence. Furthermore, it is also uncertain whether the alternative operators will be able to reach these areas at all.

Although difficult to assess with absolute certainty, this does mean that the actual percentage of homes that the alternative provider networks currently service, is slightly lower than the figures presented by the Authority.

The Authority, 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.

The Authority acknowledges GibFibre's response which stated that they agree with the Authority and see no alternative to the current proposal.

The Authority acknowledges GHITA's comments and notes their suggestion that GibFibre perhaps could also take on this designation.

Given the comments above, the Authority will be closely monitoring the situation and reserves its right to consult on any changes to the designation at any time if market conditions change.

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.

GHITA was of the view that the minimum broadband should increase due to the substantial reliance on internet access and online services.

Authority's Position

The Authority notes that there are existing Gibtelecom customers who are still on a 16Mbps package, but that this particular package is not presently being offered to new customers. Customers aged 65 and above may apply for a 20Mbps package with GibFibre, however, Gibtelecom offers a broadband package to new customers, with a download speed of 75Mbps and is currently the slowest speed being offered by any local provider, being well in excess of the 16Mbps being proposed here.

The Authority 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 disruptions. This minimum speed is also higher than has been imposed by some regulators in other developed jurisdictions.

The Authority acknowledges GibFibre's view on the proposed imposition of maintaining the current minimum broadband speed for functional internet access.

The Authority notes GHITA's proposal to increase the minimum broadband speed for functional internet access.

Given that no party has disagreed with the proposal, the Authority is of the view that the minimum broadband download 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 USO i.e. a telephone directory and a comprehensive directory enquiry service. Gibtelecom is one of the primary fixed network providers and sole mobile network operator in Gibraltar, and has therefore, had 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 Authority 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 Authority, therefore, proposes to designate Gibtelecom as USP for the provision of directory enquiry services and directories.

The Authority 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 Authority in making this designation?

Views of Respondents

Gibtelecom is of the view that printed directories are unnecessary nowadays, especially when compared to their digital equivalent, which it says is what customers prefer anyway, given that it is readily available on their personal devices. Gibtelecom quoted legislation which it claims gives the relevant designated provider the choice to produce printed copies of the directory, or electronic versions, or indeed both formats.

Gibtelecom also explained that there are various online accessibility features available to disabled users, for instance, those with visual impairments may enlarge screen text, users with limited mobility and dexterity, as well as blind users, may have the text read out loud with a "text-to-speech" feature. Furthermore, Gibtelecom said that directory services can be voice-recognised with the use of in-built microphones which are standard on all modern devices.

Gibtelecom stated that it has ethical responsibilities, has made efforts to reduce its overall carbon footprint and is conscious of the environmental impact of producing printed copies of the directory, which is further compounded when these are also physically distributed around Gibraltar. In the company's view, this makes no sense at all.

Gibtelecom therefore considers that if imposed with this obligation, it should be limited to producing electronic (online) versions only. Gibtelecom also stated that Malta, a comparable jurisdiction to Gibraltar, no longer produces printed copies of the directory.

With regards to the cost of providing universal services, including but not limited to the provision of directories, Gibtelecom stated that it will, in due course, be applying for the setting-up of a universal service fund and consulting the Authority in this regard.

GibFibre once again reiterated that Gibtelecom/Gibyelllow is the only economic unit with the facility for preparing white and yellow pages in Gibraltar. However, it is of the view that Gibyelllow alone should be designated, in order to produce a more brand neutral directory to make it clear that the information contained within it is collected from all local operators.

GHITA acknowledged that although Gibtelecom has traditionally been tasked with meeting this obligation, the alternative operators have since taken a large portion of the market share and it feels that it is unfair to burden Gibtelecom alone with producing directories. GHITA further proposed that the Authority should tender a separate entity to prepare directories and move towards printing less and encouraging the use of digital versions instead.

Authority's Position

The Authority is of the view that Gibtelecom is best suited to provide both directory enquiry facilities and directories. It has been carrying out this obligation for many years, during which time it has fostered extensive expertise and developed a robust setup with which to continue doing so for the foreseeable future.

The Authority has previously stated that it encourages Gibtelecom to consider reducing the number of printed directories. Further to Gibtelecom's comments regarding the advantages of doing away with the printed versions of the directory, the Authority agrees with further reducing the financial and environmental burden of printing and the distributing of a large number of directories to customers.

The Authority therefore has no regulatory objection to Gibtelecom distributing a digital version of the directory in place of printed directories, only if it is accessible to everyone and the needs of consumers are catered for.

In relation to Gibtelecom's statement in respect of making an application for the setting up of a universal service fund, the Authority directs Gibtelecom to Section 5 below.

The Authority agrees with GHITA's comments in that the provision of directories should be geared towards an electronic format given the obvious environmental and economic advantages of doing so.

Regarding GibFibre's views on the matter, the Authority has not received any proposals from any entity with the necessary expertise and willingness to provide directories in Gibraltar. The Authority is therefore of the view that Gibtelecom should continue to be designated accordingly.

The Authority reserves its right to review this matter in the future if the needs of consumers are not being 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 statement, however urged the Authority to seriously consider the comments provided for Q4 above, particularly the arguments for switching to electronic versions of the directory.

GibFibre agreed with the statement.

GHITA brought to the Authority's attention the overreliance on voice-based communications which is problematic for people affected by hearing impairments. Instead, GHITA would like to see businesses and organisations move towards more text-based communication and any relevant numbers for these businesses and organisations published in the directory as well.

Authority's Position

The Authority directs Gibtelecom to its position as can be read under Q.4 above.

Furthermore, the Authority is satisfied that the provision of directory enquiry services and the telephone directory meets 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.

The Authority acknowledges GibFibre having agreed with the proposal.

The Authority acknowledges the items raised by GHITA in their response, but would like to note that these fall outside of its regulatory remit.

Decision No. 5

The Authority 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 one of the main providers of fixed line services.

Even though Gibtelecom is the current USP in this respect, it is important to note that it has agreed a reduction in the number of its public pay telephones with the Authority. This is due to a decrease in their use and progressive decline in associated revenue. Given the above, the Authority is of the view that a number of public pay telephones should still be located around key areas of Gibraltar which serve the community.

The Authority received no representations from interested parties for the provision of public pay telephone services. 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 explained that payphones, especially the traditional red phone booths, are a tourist attraction and are subject to continuous vandalism and subsequently, elevated maintenance costs, that is over and above the costs required to deliver the telephone service in the first place. Gibtelecom continued to explain that use of these payphones was at an all-time low and was reflected in the revenue generated by the payphones. This has led Gibtelecom to believe that running a payphone service is not a sustainable proposition, especially, it says, considering the proliferation and ubiquity of mobile phones in Gibraltar, which can be used as an alternative to make regular calls as well as calls to emergency services.

Gibtelecom also stated that the requirement to provide public payphones as a universal service is not absolute, quoting Regulation 5(3) of the Universal Service Regulations. Furthermore, they said that the same requirement was removed in Malta, a decision which Gibtelecom urges the Authority to follow suit in Gibraltar.

GibFibre is of the view that the ubiquity of Gibtelecom's service and the nature of its present provision makes them best suited to provide this universal service, whereas it would be economically unfeasible for a new entrant to offer the same level of service.

GHITA is of the view that public payphones have been made redundant by mobile phones and have instead become a tourist attraction and as such, stated that no telecoms provider should be designated as USP for these services.

Authority's Position

As explained in 2020, Gibtelecom consulted with the Authority in respect to a payphone rationalisation programme and at this stage is fully aware of the decline in use of public pay phones, as consumers nowadays primarily rely on the far more convenient use of mobile phones for telephony and data usage while out and about.

As part of a rationalisation programme proposed by Gibtelecom, the Authority agreed on taking a progressive approach to removing a significant number of public pay telephones around Gibraltar and has only asked that it retain public pay telephones in strategically important sites around Gibraltar to serve the community adequately.

The Authority accepts that there are elevated costs associated with maintaining these public pay telephones and that repairing damage continually only serves to increase the financial burden upon Gibtelecom. The Authority has on numerous occasions explained that in its view, maintaining a small number of public pay telephones in key areas is a reasonable compromise and after considering the points raised by Gibtelecom, is of the view that this number should be further reduced.

Therefore, the areas in which payphones should be retained are the Air terminal, Cruise terminal, New Mole House, Casemates, John Mackintosh Square, Referendum Gate and Marina Bay. This will reduce the overall number of payphones from the 17 originally agreed to just 7.

Gibtelecom is free to keep payphones in other locations should it wish to do so.

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.

Gibtelecom shall be required to provide at least one public pay telephone at each of the following seven locations:

- **Air terminal**
- **Cruise terminal**
- **New Mole House**
- **Casemates**
- **John Mackintosh Square**
- **Referendum Gate and**
- **Marina Bay.**

4.2.4 Specific Measures For Disabled End-Users

The Universal Service Regulations contains provisions for users with disabilities. Thus, the Authority 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 most end-users in Gibraltar.

In Decision Notice C07/20, 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 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 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 needs³.

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

Views of Respondents

Gibtelecom stated that the current set of obligations for special needs users are appropriate, although the switch to electronic format directories would only better serve people with disabilities. It also reiterated that extending this obligation to the alternative providers as well would also see disabled users being better and more widely served.

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.

GHITA referred to their answer to Q2 and that all local providers should make provisions for users with special needs, including the provision of TV channels with captions/subtitles available.

Furthermore,

"there should be a TEXT RELAY SMS Service in place in Gibraltar and local Emergency Services i.e. Police/Fire/Ambulance should be accessible via SMS or email for the benefit of the Deaf and Hard of Hearing. As part of their product portfolio these telecom companies should also offer hearing assistive equipment [e.g.] inductive loop (fixed/wireless) for sale/rent for home/business too."

Authority's Position

The Authority notes Gibtelecom's comments on the matter and refers the company to the Authority's Position under Decision 4 above.

³ <http://www.gibtele.com/accessibility-services>.

To date, the Authority has not received any complaints with regards to the provision of services by alternative operators for those users with special needs.

The Authority acknowledges GibFibre's comments agreeing with the proposal.

The Authority also notes GHITAs comments and would like to clarify that the Authority is required to ensure that disabled end-users are able to access services equivalent to those enjoyed by all other end-users. Although it has previously specified measures for those with hearing impairments, users with limited dexterity and mobility and for users with visual impairments, the Authority agrees that more could and should be done in order to satisfy the specific measures for special needs users.

However, limiting the scope of these improvements to just one single category of disabilities and aligning the review of these needs with a consultation process which comes every three years, is not the most effective way to achieve this. Instead, a thorough and continual review to ensure that disabled end-users enjoy equivalent service to those enjoyed by every other end-user, in the Authority's view, makes more sense. It is, therefore, the Authority's view that the designated provider, must make every effort to provide consumers and end-users with special needs, with technological solutions which facilitate the enjoyment of the services on offer.

However, in so far as the designation of Gibtelecom as USP with respect to specific measures for special needs users is concerned, in the Authority's view, Gibtelecom should continue to provide universal services in this respect.

Decision No. 7

Gibtelecom shall be designated as Universal Service Provider with respect to specific measures for disabled end-users, and is required to keep under constant review, the extent to which it is ensuring that the access enjoyed by disabled end-users to its services are equivalent to that enjoyed by other end-users, in particular, as regards access to emergency services.

In doing so, Gibtelecom is required to take account of factors which can directly influence its offerings, in particular, the needs of the disabled community, modern electronic communications solutions and related financial implications as regards implementing such measures.

Gibtelecom shall also continue to provide the following universal services for the provision of specific measures for disabled users -

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.

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 Authority feels strongly that these end-users should remain protected.

The Authority may require a designated USP to have schemes in place for the provision of special tariff options or packages to consumers, in particular to ensure that consumers on low income or with special social needs are not prevented from accessing the electronic communications network or services. The scheme(s) established must be fully transparent, published and applied in accordance with the principle of non-discrimination.

Gibtelecom offers a repayment plan as outlined in their Consumer Code of Practice⁴. 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.

Additionally, Gibtelecom currently 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 phones due to wear and tear and £4.50 of free calls each month. To be eligible, they must be on the Government of Gibraltar's Housing Rent Relief program.

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?

⁴<http://www.gibtele.com/consumer-code-of-practice>.

Views of Respondents

Gibtelecom is of the view that the availability of these services should not be limited to Gibtelecom subscribers, especially given their sensitivity and social benefit and should be imposed on all operators.

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

GHITA felt that the obligation to cater for the vulnerable should fall to all telecoms providers in order to encourage choice for the vulnerable end user and with this wishes that there were more packages and bundles for the deaf and hard of hearing, in the form of discounted mobile data and internet speed deals for those who are registered members of a charity or organisation. GHITA would also like to see the benefits not being limited to enhanced credit arrangements.

Authority's Position

The Authority acknowledges that this is indeed a sensitive matter and is mindful of the needs of the most vulnerable in our community, especially as time is taken to reflect upon the challenges encountered during the Covid-19 outbreak and the difficulties which the subsequent lockdowns created for many.

In considering if the needs of consumers are being met, the Authority must take account of the measures that are currently in place and whether or not they are having a negative impact on consumers. To that end, the Authority has not received any complaint which may have brought to light any concerns in this regard, and is therefore of the view that the current measures seem to be meeting the needs of consumers.

Considering that any operator designated for the provision of affordability of tariffs for universal services would need to provide affordability of tariffs for the provision of access at a fixed location, directory enquiry services and directories, and public pay telephones, imposing this upon a provider who is not designated to provide those universal services would be unfair as they would be unable to fulfil those requirements.

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, if so inclined, to submit a written application to the Authority 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 be three years.

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 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 Authority 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.

Gibtelecom shall be required to provide at least one public pay telephone at each of the following seven locations:

- **Air terminal**
- **Cruise terminal**
- **New Mole House**
- **Casemates**
- **John Mackintosh Square**
- **Referendum Gate and**
- **Marina Bay.**

Decision No. 7

Gibtelecom shall be designated as Universal Service Provider with respect to specific measures for disabled end-users, and is required to keep under constant review, the extent to which it is ensuring that the access enjoyed by disabled end-users to its services are equivalent to that enjoyed by other end-users, in particular, as regards access to emergency services.

In doing so, Gibtelecom is required to take account of factors which can directly influence its offerings, in particular, the needs of the disabled community, modern electronic communications solutions and related financial implications as regards implementing such measures.

Gibtelecom shall also continue to provide the following universal services for the provision of specific measures for disabled users -

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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.

Decision No. 8

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

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