GIBRALTAR REGULATORY AUTHORITY

DESIGNATION OF UNIVERSAL SERVICE PROVIDER

Public Consultation

28th JULY 2021

C04/21

FOREWORD

Universal services aim to ensure that basic electronic communications services which are essential to social and economic inclusion are available to end users upon reasonable request and at an affordable price.

In 2020, the Authority embarked on a public consultation in order to review any possible changes which may affect the universal service obligations and designated provider/s.

Public Consultation C05/20 was published on 10th July 2020 and this was followed by Decision C07/20 on 14th September 2020 which designated Gibtelecom as Universal Service Provider for one year ending on 30th September 2021.

Consequently, it is time for the Authority to reassess the current universal service designation and undertake a new public consultation.

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1. INTRODUCTION

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

With the introduction of the Communications Act in 2006 (the "Act"), and in accordance with the Communications (Universal Service and Users' Rights) Regulations 2006 (the "Universal Service Regulations"), and the Communications Universal Service and Users' Rights (Amendment) Regulations 2020, a series of measures were set out to ensure 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.

The Authority conducted a public consultation in 2020 to assess any potential changes in the market which could impact the provision of universal service obligations. Public Consultation C05/20 was published on 10th July 2020 and following comments from interested parties, Decision Notice C07/20 was published on 14th September 2020 which designated Gibtelecom as the USP until 30th September 2021.

The Authority invites all interested parties to provide comments on the questions set out in this public consultation (full list of questions is set out in Annex A). **Written comments will be accepted no later than 27th August 2021.**

In order to promote further openness and transparency, the Authority will publish the names of all respondents and their responses on its website and will also make available for inspection responses to the consultation at its offices. Please note that this is subject to confidentiality. Respondents are asked to clearly identify material which is to be treated as confidential.

2. NATURE OF UNIVERSAL SERVICE OBLIGATION

2.1 BACKGROUND

Universal Service aims to ensure that basic electronic communications services which are essential to social and economic inclusion are available to end users on reasonable request and at an affordable price. The obligations are focused on bringing benefits to those with low incomes who have difficulty in affording a telephone service, end users with disabilities and other vulnerable members of the public.

The universal service obligations considered in this public consultation are:

- 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 the universal service obligations, the Authority will take into account factors such as market share, size of the network, experience and ability to provide universal services. Once this process is complete and all responses to this consultation have been considered, the Authority will formally designate one or more undertakings as the USP with specified obligations.

2.2 DESIGNATION OF UNIVERSAL SERVICE PROVIDER

One of the Authority's functions is to determine which undertaking(s) should be designated as universal service provider in the electronic communications market. Different undertakings can be designated to provide different aspects of universal service.

Designated universal service provider(s) are assigned obligations of directory enquiry services and directories, provision of access at a fixed location and provision of telephone services, public pay telephones and other public voice telephony access points, measures for disabled end-users and affordability of tariffs for universal services.

In accordance with regulation 7(3) of the Universal Service Regulations, the Authority shall issue a Notice under section 12 of the Act to implement a procedure for the purpose of designating a universal service provider(s), which is efficient, objective and transparent; and does not involve any undue discrimination against any provider(s).

In conducting such reviews, the Authority considers the public consultation procedure set out in section 13 of the Act and regulation 28 of the Universal Service Regulations.

In most cases, it is the incumbent operator who is designated to provide universal services. Alternative operators may wish to take on various universal services and they may be able to supply these at reduced costs.

As formerly recognised, various factors must be considered when designating an operator as the provider for each element of the universal services. This consultation extends an invitation to all undertakings to provide universal services. Any expressions of interest should be accompanied by the following:

- An outline of technical competence and expertise in providing the service concerned.

- A summary as to how the proposed obligations as detailed in this consultation 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.

If expressions of interest are received, the Authority will consider how to advance matters further in the response to this consultation.

2.3 DESIGNATION PERIOD

In 2018, a period of 1 year was selected as the appropriate duration for all elements of Universal Service. When considering the appropriate designation period, the Authority considered the following factors:

- 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.

In Decision Notice C03/18, C04/19 and C07/20, the Authority accepted Gibtelecom's reasoning for a one-year designation period. At the time the electronic communications market was becoming very dynamic, with alternative operators starting to provide very competitive products and rapidly gaining a significant foothold on the market. The markets were not fully competitive, but due to the continual advancements of the competing operators, the Authority felt the universal service obligations needed to be reviewed more regularly.

Another factor, which was raised by Gibtelecom at the time, was the transition to a post-Brexit Gibraltar and the uncertainty that came with it. The Authority is of the view that since the market has stabilised and Brexit has now transpired, the universal service obligations can now be reviewed less often. **The Authority therefore proposes to change the one-year designation period to three years for all elements of universal service.**

The Universal Service Regulations do not specify the designation period, instead regulation 7(1) of these regulations require the Authority to designate a person(s) for such a period as may be specified by the Authority. To this end, the Authority reserves the right to review designation periods, as appropriate, even prior to the set date in accordance with its regulatory powers and responsibilities.

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

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 provide that a comprehensive directory is made available to all end-users in a form approved by the Authority, whether printed or electronic, or both,

[1] 3(1) of Communications (Universal Services and Users' Rights) Regulations 2006.

and is updated at least once a year; and a comprehensive telephone directory enquiry service is made available to all end-users, including users of public pay telephones.

The designated USP shall also:

- keep a record of all subscribers of publicly available telephone services in Gibraltar, including those with fixed, mobile and personal numbers, who have not refused to be included in that record;

- allow access to any information contained in such a record in accordance with such terms and conditions as may be approved by the Authority or as the Authority may direct; and

- apply the principle of non-discrimination to the treatment and presentation of information that has been provided to him or has in his 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 operator providing public pay telephones must also ensure that it is possible to make emergency calls from such telephones using the single European emergency call number "112" and any other emergency call number in Gibraltar that may be specified by the Authority, free of charge.

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

3.4 MEASURES FOR DISABLED END-USERS

A USP shall 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 specify 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 require a designated USP to establish schemes for one or more of the following purposes –

- the provision of special tariff options or packages to consumers, in particular for the purpose of ensuring that consumers on low incomes or with special social needs are not prevented from accessing universal services.

- the application of a common tariff, or common tariffs, for the provision of the universal services; and

- compliance with price caps for the provision of the universal services.

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

In deciding any designation, the Authority is required to take into account the ability of undertakings to satisfy all or part of the universal service obligations. It may also need to consider 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 growth of competition in the market provides opportunities for all or part of the universal service obligations to be provided by any operator. To this end, the Universal Service Regulations provide 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

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

In most cases, the USP should not have any difficulties in providing network connections throughout Gibraltar. Both competitors u-mee and GibFibre Ltd 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 a major provider of fixed line services in the market.

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 has a 16Mbps download package which is the minimum residential broadband package provided to its consumers. The 16Mbps download speed is adequate to meet the requirements of functional internet access and users may send and receive emails, browse websites without significant delay, download 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 2021. Gibtelecom also offers 75Mbps and 100Mbps

download products over its fibre-to-the-node (FTTN) network. In addition, the Company 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, two alternative market players, GibFibre Ltd and u-mee, offer download speeds ranging from 20Mbps to 1Gbps between them, bundling broadband, IP voice telephony and IPTV services. Recent retail residential broadband market shares reveal that Gibtelecom's share has reduced steadily from the last review (now at 33%), whilst GibFibre Ltd and Broadband (Gibraltar) Ltd have 43% and 24% respectively. However, these alternative providers have not yet achieved full coverage of Gibraltar.

Given the above, the Authority is of the view that Gibtelecom should be designated as USP with respect to the provision of access at a fixed location and the provision of telephone services. Furthermore, the minimum broadband data rate should remain at 16Mbps.

The Authority will consider any representations it receives from interested parties for the provision of access to a fixed location throughout Gibraltar. In the absence of compelling evidence which suggests that the contrary should be the case (including any expressions of interest from other operators), Gibtelecom is likely to be designated as the USP with respect to the provision of access at a fixed location and provision of telephone services.

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

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.

4.2.2 Directory enquiry services and directories

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

To date, Gibtelecom, as the designated undertaking, has been providing this universal service obligation i.e. a telephone directory and a comprehensive directory enquiry service. Gibtelecom is one of the main fixed services providers and the only operational mobile network operator in Gibraltar and therefore, has most numbers allocated to it from the Gibraltar Numbering Plan.

As Gibtelecom customers make up the majority of subscribers included in the telephone directory, the Authority considers that Gibtelecom may still be the most suitable undertaking to provide universal services in this area. Also, Gibtelecom has developed a vast level of experience in the provision of directories and directory enquiry services.

The Authority, therefore, proposes to designate Gibtelecom as USP for the provision of directory enquiry services and the annual telephone directory.

The Authority will consider any representations it receives from interested parties for the provision of a comprehensive directory enquiry service and the telephone directory.

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

Q5. Do you believe 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.

Given that it also has 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 situated in key locations around Gibraltar. The Authority, therefore, proposes to designate Gibtelecom as USP for the provision of public pay telephones in Gibraltar.

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, that Authority is of the view that a number of public pay telephones should still be located around particular areas of Gibraltar which serve the community in beneficial ways.

The Authority will consider any representations it receives from interested parties for the provision of public pay telephone services.

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?

4.2.4 Specific measures for disabled end-users

The Universal Service Regulations provide for specific measures 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 the majority of 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.

As requested by the Authority, Gibtelecom has provided a dedicated section on its website with information on the services it provides which are of particular interest to people with special needs[2].

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 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?

4.2.5 Affordability of tariffs for Universal Services

The affordability designation is aimed at vulnerable user groups such as the elderly, those on low incomes and users with special needs. For the benefit of consumers and the overall competitive structure of the market, electronic communications costs should not exclude

[2] http://www.gibtele.com/accessibility-services.

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

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.

At this time, Gibtelecom offers a repayment plan as outlined in their Consumer Code of Practice[3]. The plan will help 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?

[3] http://www.gibtele.com/consumer-code-of-practice

ANNEX A: CONSULTATION QUESTIONS

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

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

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.

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?

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

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?

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?

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?

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