



COMMISSION RECOMMENDATION of [...]

On the Regulatory Treatment of Fixed and Mobile Termination Rates in the EU

**Replies of the UFC Que Choisir,
August, 2008**

UFC Que Choisir very much approves the Commission's recommendation project. This responds to a real need felt by French and European consumers, who are concerned by the lack of dynamism in certain markets, particularly mobile telephony, where prices are not falling – and may even increase, depending on the profile of the consumer studied¹. The mobile telephony market is particularly bleak in France, in contrast with fixed telephony, which is relatively competitive. With this in view, we feel it important to go into the case of the former in more depth!

The response to this consultation is also an occasion for the UFC Que Choisir to emphasise that it is in agreement with the Commission's policy, and that it fully supports its approach. The association therefore considers that the NRAs (National Regulatory Authorities), as stipulated in the framework directive, ought to cooperate in full transparency with the Commission. The UFC Que Choisir also feels that it is the duty of the NRAs to take action in line with the framework fixed by the Commission, and to be answerable for their decisions to the latter. This procedure constitutes the sole guarantee for the consumer that the regulations employed by NRAs are intended to serve the users (as stipulated by directive 2002/21/EC²) and not slanted to benefit private players (the temptation for NRAs to preserve national companies can be considerable).

The mobile telephony market is strongly structured by the Mobile Termination Rate.

The UFC Que Choisir, like the Commission, is convinced that the high cost of the Mobile Termination Rate is detrimental to the retail market and the consumer's well-being. This feeling is shared by the United States Federal Communication Commission, which stresses that the system adopted in Europe (Calling Party Pays, CPP) for the Mobile Termination Rate enables operators to impose unreasonable prices, which is not the case in countries that have chosen the Receiving Party Pays (RPP) system, like the United States. "One of the reasons revenue per minute is higher in Western Europe and Japan than in the United States is that the calling party pays system used throughout Western Europe and in Japan tends to give mobile operators the ability and the incentive to set mobile termination

¹ A study carried out by the UFC Que Choisir (*Changes in the outlay of mobile telephony consumers: an approach using the basket method*, February 2008) shows that in France between 2003 and 2007, prices have rarely fallen, often stagnated and sometimes increased.

² "The national regulatory authorities shall promote competition in the provision of electronic communications networks, electronic communications services and associated facilities and services by inter alia : ensuring that users, including disabled users, derive maximum benefit in terms of choice, price, and quality;[...]", directive 2002/21/EC, article 8 (2).

charges that are high relative to those in the United States and other countries that use the mobile party pays system. In addition, because these higher mobile termination charges are absorbed by the calling party, the calling party pays system may also reduce usage relative to mobile party pays system by increasing the cost of calls to mobile phones"³. S. Littlechild⁴ shows in an econometric study that the CPP system significantly increases the average revenue per minute (by about 12%) and significantly reduces average usage (by about 143 min. per month).

The gap observed between Europe and the other countries of the world does not only concern the countries that have chosen RPP. A number of other countries that have opted for CCP have far less costly Mobile Termination Rates. This is the case with Israel and South Korea. In 2006, Israel succeeded in imposing an MTR of 2.5 euro cents⁵. In 2005, South Korea brought down the MTR to 2.8 euro centimes⁶. Another more unusual case is India, where the MTR, at around 0.5 euro cents (0.007 dollars in 2004), is equivalent to the landline termination rate.

It comes as no surprise that these countries have the lowest rates and the highest usage. In these circumstances it could be thought that a significant drop in the Mobile Termination Rate in Europe would have a similar effect. Obviously, this would also involve operators competing with each other, which, given the concentration of our markets, is not the case.

³ Eleventh report, Federal Communications Commission, FCC 06-142, 26 September 2006, p. 85.

³ Prices are now so low in the US that operators have preferred to adopt bill and keep.

⁴ "*RPP significantly reduces average revenue per minute (by about 12 cents per minute compared to CPP) and significantly increases average usage (by about 143 min per month). There is no evidence that RPP lowers mobile penetration rate* (Littlechild, S.C. (2006) "Mobile termination charges: calling party pays versus receiving party pays." *Telecommunications Policy*, 30(5-6): 242-277

⁵ On 29 July 2004, the Deputy Prime Minister and Minister of Communication imposed a decrease in the MTR from 45 Israeli cents (7.6 euro cts) to 27 Israeli cents (4.56 euro cts) as from 1 January 2005 and that this decrease should be followed by a further drop to 15 Israeli cents (2.5 euro cts) per minute as of 1 January 2006. (Source: Ministry of Communication, <http://www.moc.gov.il>)

⁶ New Zealand Commerce Commission (NZCC) (2005). Telecommunications Act 2001: Schedule 3 investigation into regulation of mobile termination. Final report 9 June.

Table 1. The impact of the MTR on mobile market performances.

Country	Number of Players	Penetration (%)	MOUs	Revenue per Minute (\$)	Data (% of ARPU)
Mobile Party Pays					
USA	4+	70	798	0.07	10
Canada	3	53	403	0.11	9
Hong Kong	5	106	395	0.04	15
Singapore	3	98	313	0.08	20
Calling Party Pays					
UK	5	113	146	0.21	22
Germany	4	97	81	0.28	18
Italy	4	123	126	0.21	16
Sweden	4	114	141	0.17	7
France	3	79	235	0.17	14
Spain	3	108	150	0.22	14
Finland	3	101	279	0.11	14
Japan	3	74	147	0.27	26
South Korea	3	79	322	0.10	18
Australia	4	95	178	0.17	15

Sources: Interactive Global Wireless Matrix 4Q05, Merrill Lynch, Telecom Services Research, extracted from FCC, Eleventh report, 2006, 107.

Much-needed harmonisation

While a drop in Mobile Termination Rates is inevitable, this cannot take place without harmonisation at European level. Depending on the countries concerned, there is currently a wide disparity in the decisions taken. This phenomenon can be accounted for in two ways: firstly, the existence of different objectives for each NRA, and secondly, the use of different tools. The second could also explain the first.

The introduction of shared tools, including a reference cost model, would eliminate a certain number of distortions. First of all, it would lift part of the uncertainty weighing on the most voluntarist of regulators. For every time a regulator fixes new Mobile Termination Rates below that of other European regulators it puts itself in a risky position, because its decision could be attacked on the basis of a European comparison. This leads regulators to align their decisions, and this in turn creates downward inertia. For example, the ARCEP (independent regulatory authority for postal and electronic communications) was constrained to take this parameter into account in its decisions, and it was in order to be finally be able to impose a realistic MTR that it called on Europe, in its latest decision, to start work on harmonisation.

The existence of a single cost model would make the NRA's decision indisputable because it is objective (from the methodological point of view), and would justify the differences in values that could appear between the various Community States.

The wide variance in decisions today is the cause of constraints that orient NRAs' reasoning away from maximising the consumer's well-being. Some NRAs, for example, fear that decisions that move a long way from the "European standard" will damage the stock market standing of national operators. This type of consideration is all the more ingrained in that, for obvious reasons, pressure is exerted not only by the operators themselves, but also by governmental leaders who want to preserve their champions!

The characteristics of the model

The calculation method put forward by the Commission, the Long-Run Incremental Costs (LRIC) model, seems appropriate to achieve the objective of an MTR representative of the real cost of interconnection. In fact, only incremental costs directly linked to an increase in traffic should be incorporated into the calculation of the MTR. This principle should make it possible to avoid the different artifices used to inflate costs, such as the integration of the cost of terminals, SIM cards or even marketing.

To conclude, the UFC Que Choisir approves the recommendation put forward by the Commission and offers its fullest support. In addition, the association calls on all European regulators to provide their support to this project and thereafter to comply with it.