PRICING POLICY (TELECOMMUNICATIONS): COMMISSION STATEMENT

Subject: Pricing policy

Industry: Telecommunications; mobile and fixed telephone services

Source: Commission Statement IP/99/298, dated 4 May, 1999

(Note. Whether the substantial price reductions in this field took place in response to the Commission's investigations, or because of national authorities' investigations, or simply as a result of market forces, including consumer pressure, the outcome is salutary, as the country-by-country summary in the report which follows clearly shows.)

The Commission has decided to conclude the European Union (EU)-wide investigation into fixed and mobile operators' interconnection rates. This follows an assessment of the substantial price reductions, of more than 80% in some cases, which have taken place in response to the investigation. In conducting the inquiry, launched in February 1998, the Commission co-operated closely with national competition agencies and national regulatory authorities (NRAs) in the EU Member States. Following the successful conclusion of the investigation into mobile/fixed telephony prices, the Commission intends to pursue the scrutiny of competitive conditions within an overall sector enquiry of telecoms on key issues, including current roaming conditions between mobile operators

After an inquiry initially involving 45 companies in the fifteen EU Member States, the Commission decided in July 1998 to open fourteen cases where the situation indicated a possible distortion of market conditions. Those cases fell within three categories:

I) Mobile to fixed termination rates: that is, cases concerning a possible discrimination by incumbent telecommunications operators towards mobile operators with regard to the fees demanded for termination of mobile phone calls in the public telephony network (the Commission opened four cases regarding the present telecommunications organisations (TOs) in Germany, Spain, the Netherlands and Italy respectively);

ii) Fixed operators' retention on fixed to mobile calls: that is, cases concerning the retention applied by incumbent operators on the calls from their fixed public switched telecommunications network (PSTN) to mobile networks (the Commission opened eight cases, in regard of the operators in Belgium, Ireland, United Kingdom (BT), Austria, Spain, Netherlands, Italy and Germany respectively); and

iii) Mobile termination rates: that is, cases concerning the termination fees charged by mobile operators for terminating calls in their networks (the Commission opened five cases, one per mobile operator in Italy (2 companies) and Germany (3 companies))

In terms of the charges applied by the fixed operators to the mobile operators for termination of mobile calls in the PSTN, prices have declined significantly in four of the six cases under investigation up to 82%. All operators now charge either below or close to EU best practice rates.

In terms of the margin retained by the fixed operators on the price of fixed-to-mobile calls, the decline in percentage of the 1998 retention rates compared with the 1999 rates in the cases investigated was 31 to 80%.

The Commission will close the remaining cases concerning Deutsche Telekom and Telekom Austria, once these operators have implemented the necessary reductions.

The Commission has also suspended its own investigation regarding the tariffs applied by the German and Italian mobile operators for termination of calls in their respective networks in view of the investigations carried out by the national authorities.

A) Mobile to fixed termination rate cases

Germany

In July 1998 the Commission determined that Deutsche Telekom charged excessively for the termination of mobile calls in its fixed network. In February 1999 the German NRAor RegTP informed the Commission that, following its investigation into the matter, it would adopt a formal decision within some weeks. In accordance with its general approach when there is ongoing action at national level, the Commission suspended its own investigation into this case. The file will thus be closed after implementation of the measures envisaged by the RegTP.

Italy

In July 1998 the Commission determined that Telecom Italia's termination charges for mobile calls in its network were higher than charges for terminating a call which originated from the fixed network. Telecom Italia has subsequently informed the Commission that it now charges the same price for mobile and fixed operators for terminating calls in its PSTN. The new pricing has also resulted in a significant cost reduction for mobile operators. The Commission is satisfied that the discrimination it objected to has ended and has closed this investigation.

Spain

According to the Commission, the Spanish incumbent TO, Telefonica, was charging mobile operators excessively for terminating calls on its network. Since the Commission opened its investigation into the matter the Spanish NRA or CMT has imposed changes on Telefonica's call termination policy.

The Spanish government approved Telefonica's reference interconnection offer after the operator had complied with CMT's requirements. The Commission is

satisfied with the result and has closed the investigation.

Netherlands

In December 1998 the Dutch NRA or OPTA informed the Commission that its own investigation showed that there might have been a difference in prices KPN charged from mobile and fixed operators for terminating calls in its network, but that KPN had meanwhile abolished such difference. KPN currently offers a single tariff for terminating calls. This tariff applies to both fixed and mobile operators and does not distinguish in any way where the call originates. This arrangement has also been confirmed by other Dutch operators contacted by OPTA. The Commission has therefore closed the case.

B) Retention cases

Netherlands

OPTA informed the Commission in November 1998 that it had finalised its investigation into the new retail tariffs proposed by KPN. As part of its investigation OPTA checked the cost-oriented nature of the fixed part of the fixed to mobile calls and has told Commission that it is satisfied with the findings. As a result the Commission has closed the case.

Belgium

The Belgian TO, Belgacom, has informed the Commission of the new termination rates for the two mobile operators. The prices have been backdated to September 1998. As a result of these new prices Belgacom's retention rate falls just below the level at which the Commission instigates a formal investigation. The Commission considers the case closed.

Ireland

The Commission stated in July 1998 that the Irish TO, Telecom Eireann, was possibly off-setting the reductions in its mobile units termination rates by increasing its retention on fixed to mobile calls. However, Telecom Eireann has since announced new retail prices for mobile to fixed calls, significantly reducing its retention for these calls. The Commission is satisfied with the new prices and has closed its investigation.

United Kingdom

In the UK the Monopolies and Mergers Commission (MMC) concluded that BT's retention rates were excessive. The MMC has recommended to the UK NRA or Oftel that retention rates should be reduced from the current level and be subject to price control for the following two years. Oftel has informed the Commission that it intends to implement these changes fully and is currently drawing up the regulatory measures needed. The Commission has therefore closed the case.

Italy

The Italian TO, Telecom Italia, has informed the Commission that a new regulatory framework has applied to fixed operator retentions since January 1999. The Italian NRA has modified fixed-to-mobile retail tariffs and this has significantly reduced Telecom Italia's retention rate.

On 17 March, 1999, the Italian NRA informed the Commission of new retail pricing structure on fixed-to-mobile calls, to become effective 17 April, 1999. The NRA states that the decision is an interim stage towards a new structure in the pricing of fixed to mobile calls. The Commission is satisfied with the tariff decrease and has closed its investigation.

Spain

Telefonica has provided the Commission with new figures for its retention rate in November 1998. It has also provided the Commission with copies of the interconnection agreements between Telefonica and the two mobile operators Airtel and Telefonica Moviles. The agreements show in detail the distribution of the reduction between the operators. The data clearly show that a considerable reduction has taken place in the revenue for fixed network therefore satisfying the Commission's concerns. The Commission considers the problem to be solved and has closed the case.

C) Mobile termination cases

Germany

Since November 1998, RegTP has been investigating, in co-operation with the German Federal Cartel Office (Bundeskartellamt), the alleged collusive behaviour of T-Mobil, Mannesmann and E-Plus on the fees for terminating calls in their respective networks. Consequently, the Commission has suspended its own investigation on those cases and is awaiting the outcome of the investigation undertaken at national level.

Italy

The Commission is following the developments on the proceedings started in January 1999 by the NRA regarding Telecom Italia Mobile (TIM) and Omnitel's simultaneous decision to decrease peak hour tariffs while increasing business contract and off-peak family rates. As in the German case, the Commission has suspended its own investigation of those cases while awaiting the outcome of the investigation undertaken at national level. The Commission moreover remains in close contact with the NRA which, by July 1999, will take a final decision on these rates.

D) Quantitative assessment

To be able to examine the quantitative results of the changes in retention rates and mobile to fixed termination charges under investigation, the Commission requested independent consultants to carried out a new market survey. To

ensure the fairness and coherence of the comparison of the data from 1998, on which basis the start of the investigation was decided, and the situation in March 1999, the consultants were asked to repeat two of the previous tests employed in the initial study. The results are as follows.

(i) Discrimination in mobile-to-fixed termination cases

Data have been tested to compare mobile-to-fixed termination charges with both fixed-to-fixed termination charges and a so-called EU "best practice". The EU best practice was established from a 1998 KPMG assessment. For the updated report, the consultants checked the rates as in the previous report against the rates now in force in four countries - Germany, The Netherlands, Spain and Italy. The consultants conclude that, in all cases, the structure of the fixed operator's termination rates had changed so that it no longer discriminated against the mobile operators. All operators are now either below or close to the EU best practice rates:

Germany

Deutsche Telekom has informed the RegTP of its new charges for mobile termination. These rates are considerably lower than the previous ones. City tariff has been reduced by 80%, local tariff by 78% and national tariff by 81%. The rates are still slightly above the EU best practice rates, but considerably closer than before.

Spain

Telefonica's termination rates for fixed-to-fixed calls have declined 66% for provincial and 25% for inter-provincial calls. For mobile-to-fixed calls the decline is even larger, 82% for provincial and 77% for inter provincial calls. On provincial calls, Telefonica is now below EU best practice. Inter-provincial rates are still higher than EU best practice, but only marginally.

Netherlands

KPN's termination charges for mobile-to fixed calls have fallen by 52% for local and around 73% for national calls. For fixed calls rates have declined 15% for local and 20% for national calls. Termination for both local and national calls is below EU best practice.

Italy

Telecom Italia's termination rate for calls from the mobile networks has declined by 77% for local and 55% for single tandem calls. Rates for calls from fixed networks have declined by around 35% for local and 25% for single tandem calls. Both rates are below EU best practice.

(ii) Retention by the fixed operators

This concerns the comparison of the net revenue retained by seven fixed operators on a fixed-to-mobile call. The purpose of this test in the previous

report was to spot excessive net revenues of the fixed operator on a fixed-to-mobile call by comparing the net revenue retained in each EU Member State.

The 1998 report identified eight fixed operators who were retaining 100% or more above the EU best practice. These operators were: Belgacom, Telecom Eireann, BT, P&T-Austria, Telefonica, KPN, Telecom Italia and Deutsche Telekom (on calls to T-Mobil). The survey carried out now by the consultants for the retention rate has included 12 operators from six countries. The data obtained show that rates have fallen between 31% and 80%, due to a combination of changes in termination and retail rates. The Dutch and the UK operators were slightly above the EU best practice rate, all others were below.

The list below represents the decline in percentage of the 1998 retention rates compared with the 1999 rates.

Proximus	-31%
Mobistar	-32%
KPN Mobile	-55%
Libertel	-55%
TIM	-80%
Omnitel	-80%
Eircell	-66%
Esat Digifone	-66%
Vodafone	-58%
Cellnet	-58%
Telefonica Moviles	-64%
Airtel	-64%

Forthcoming Reports

There has recently been an avalanche of Court judgments and Commission decisions in the competition field. In the ordinary way, this causes no great difficulty. However, the recent judgments and decisions have been inordinately long: the judgment in the LVM case, for example, takes up over 400 pages. We nevertheless plan, in the next two or three issues, to cover the Court's judgments in the LVM and Endemol cases and the Commission's decision in the British Sugar case.