ERG Report
on the Consultation for the ERG Common Position on symmetry of fixed call termination rates and symmetry of mobile call termination rates

Summary of the comments

This document, ERG (07) 83b, provides a summary of the consultation responses to the draft of the ERG Common Position on symmetry of mobile/fixed call termination rates. The consultation period ended on January 25th 2008.

Responses to this consultation were received from the following stakeholders:

Progressive #	Operator	Country
1	[Confidential]	[Confidential]
2	Mobile challengers	Belgium
3	KPN	Belgium
4	INTUG	Netherland
5	Telefonica	Spain
6	KPN	Netherland
7	Horrocks	UK
8	Onitelcom	Portugal
9	Arcor	Germany
10	Wind	Greece
11	BEUC	Belgium
12	UFC	France
13	Meteor mobile	Ireland
14	Tele2	Sweden
15	[Confidential]	[Confidential]
16	Telekomunikacja	Poland
17	[Confidential]	[Confidential]
18	3G	Belgium
19	SFR	France
20	GSME	Belgium
21	[Confidential]	[Confidential]
22	Sonaecom	Portugal
23	Carphone Wharehouse	UK
24	ONO	Spain
25	[Confidential]	[Confidential]

26	France Telecom	France
27	ETNO	
28	ECTA	
29	Vodafone	UK
30	[Confidential]	[Confidential]
31	AIIP	Italy
32	Telecom Italia	Italy
33	Fastweb	Italy

The summary is divided in four parts related respectively to general remarks made by stakeholders, comments to the general questions, comments to the question related to fixed termination rates and comment to the questions related to mobile termination rates.

I. Economic Introduction – General remarks

Several respondents welcome the ERG Common Position (ERG CP) and regard it as an important step to strike the necessary balance between a harmonised approach in termination rate regulation across Europe and the need to take into account specific national market characteristics.

Some respondents observe however that symmetry of termination rates would be a sound economical principle under the assumption that the market is truly competitive, but this is not the case for many member states in EU. Therefore the discussion on symmetry vs. asymmetry should be preceded by a deep analysis of contentiousness of markets. This would allow to reflect more accurately the differences between member states in the development of competition and could also provide a basis underlying a more objective approach on the number of years for which asymmetry should be appropriate. In this regard, one of the respondents observes that there is still much harmonization activity, as to cost orientation principles and accounting methods and tools, to be carried out before even thinking of symmetry in termination rates.

Broadly speaking alternative operators and their associations both fixed favour asymmetric rates, mainly arguing that this the only possibility to compensate for the historic advantages of the incumbent operators. Especially fixed alternative operators seem to argue for a more or less indefinite period of asymmetry to overcome the disadvantages of late entry and the necessity to recover fully their investment costs (advocating more or less a cost-plus regulation). Mobile operators stress the point that – because of the high level of MTRs – symmetry favours incumbent mobile operators more than late entrants and thus even increase the competitive disadvantage. They therefore argue partly even for an increase of the spread (asymmetric rates). Some respondents openly advocate a “subsidy” of fixed alternative operator taking into account market access and marketing costs. All these contributors disagree with the ERG CP, but oversee that ERG clearly allows for temporary asymmetry and a glide path to reach symmetric rates, well aware of the potentially disruptive effect a too fast introduction of symmetry could have. Furthermore, ERG is well aware of the dynamic gains in terms of promoting more sustainable competition based on alternative infrastructures resulting from temporarily asymmetric termination rates. However there is also no doubt that this must be phased out to give a clear signal to operators to reach efficient scale as soon as possible and to prevent inefficient entry.

Mobile operators are in principle against converging MTRs and FTRs, mainly arguing that fixed and mobile networks are technologically different and therefore MTRs and FTRs should also be different. In some cases the arguments are not reasonable, e.g.

saying that fixed networks have no capacity constraint or do not require investment when traffic is increasing seems simplistic if not wrong.

On the contrary incumbent operators and their associations**,** [see below]) believe that allowing asymmetry may irreversibly damage the efficiency of the market; in other words, they do not agree on the existence of dynamic benefits arising from transitory asymmetry in the long run and think that any asymmetry should disappear from regulation as fast as is legally feasible. More precisely they supports the principle of symmetry between FTRs and between MTRs in each country, but not between FTRs and MTRs. A new entrant owned by Vodafone also strongly advocates symmetric rates supporting the arguments of the Economic Introduction.

Moreover, some respondents are of the opinion that the main priority concerning termination rates is the high level (in absolute terms) of mobile termination rates and that therefore the ERG CP should be more focused on this issue rather than in addressing the differences between incumbents' and alternative operators' termination rates. According to an association of operators, the high level of mobile termination rates has been determined by the inclusion, among mobile termination costs, of costs that are no longer justifiable for large-scale players in a mature market. The high absolute level of MTRs in Europe is evidenced by the significant difference between fixed to mobile and mobile to fixed retail prices and between mobile termination rates charged to third parties as compared with 'on-net' fixed to mobile retail charges levied by some mobile operators. The same association observes the ERG CP contains some discussion on discriminatory pricing (on-net/off-net differentiation), but only in relation to mobile competition, whereas the effect extends to fixed competition and fixed mobile convergence. Furthermore the ERG CP does not propose concrete solutions to this specific problem. ECTA and some other contributors suggest to use the non-discrimination obligation to deal more effectively with this problem.

Another association agrees on the fact that MTR values should be linked to the costs relevant to an efficient operator and not simply defined by NRAs on the basis of a benchmark based on other NRA's decisions. According to the association, the ERG CP rightly points out that the very heterogeneous situations in countries are caused by the fact that NRAs imposed different price control remedies or a different specification of the same remedy to SMP operators. Therefore the association urges ERG to start a new project team focusing on the harmonisation of methods used by national regulatory authorities to implement the cost orientation remedy regarding mobile termination rates.

<u>Comment:</u> The MTR PT was given a mandate to look at costing methods and the harmonisation of the cost accounting and price control remedy for MTRs.

Regarding the convergence of fixed to mobile termination rates, some comments point out that the problem will be solved (at least partly) when MTRs are reduced. A few contributors mention that the arrival of NGNs will also have an impact on the issue and requires a rethinking of the calculation methods for fixed termination rates.

Another operator notes that in examining differences between incumbent and entrant termination rates, the ERG consultation appears to focus on the desired result (symmetry) rather than applying principles of cost-orientation and incentivising investment in a consistent and non-discriminatory way.

Finally, another submission suggests that an entirely new approach should be taken to termination rates. Specifically, it considers that prices are held artificially high by cost-based mobile termination rates. It considers that if rates were reduced substantially then retail prices would fall and the market would expand, resulting in a net benefit both to consumers and operators. Similarly, another response believes that the current system of termination rates should be replaced with a completely new model based on no payments between operators for interconnection (sometimes called bill and keep). This is also mentioned as a long term solution by an association of operators and two consumer organizations also consider that it might be a suitable solution for the consumer interests.

II. Comments to Questions G1 – G3

QUESTION G1: Do you think that the principles outlined in the general economic introduction cover adequately the underlying economic situation of both mobile and fixed termination markets?

- **If yes, do you think they are sufficiently reflected in the two parts on "MTR symmetry" and "FTR symmetry" and that they are consistently applying the principles?**
- **If no, what do you think is missing and which reasoning should be added?**

Respondent to this question expressed quite diverging opinions.

Those respondents that broadly speaking agree with the ERG CP made nevertheless numerous proposals regarding how to develop the two parts on "MTR symmetry", "FTR symmetry" and the introduction itself.

Firstly, in their opinion the introduction should stress the fact that asymmetric termination rates can be detrimental for the market position of smaller operators therefore is not agreed the ERG position (in the "MTR part") that justifies asymmetry (even) for a transitory period. Secondly one respondent argues that the introduction should highlight problems related to fixed and mobile convergence, as at the moment the fixed alternative operators are literally subsidizing the mobile operators. According to one respondent there are strong disadvantages for alternative operators in terms of economies of scale and scope, but such disadvantages occur in access-related markets rather than in termination markets, therefore strong justification is required for any asymmetry. Finally, according to one respondent the draft common position lacks the extensive and in-depth economic analysis required to take a balanced view and according to another respondent thinks that the theoretical concept of an efficient operator has not been analysed in depth.

***Comment*: *The CP analyses thoroughly in the Economic Introduction and more specifically in the two parts the pros and cons of symmetry, the statement can be rejected as also many comments pointed out the good quality of the paper*.**

Some respondents agree only partially with ERG on the principles outlined in the economic introduction. As a matter of facts according to one respondent (ONO) it is

still not possible to apply a uniform criterion for asymmetric termination rates across all countries as each country's situation is different and asymmetric rates have been in place for very different periods of time. One respondent believes that both the general economic part and the part on FTR symmetry should analyze more thoroughly the consequences produced; in this regard the operator observes that the analysis bases the sustainability of the asymmetric remedy only with respect to the timeframe in which it is applied without sufficiently taking into account the level of asymmetry which, if particularly large, is disadvantageous. Moreover the same operator observes that it would be necessary to add an analysis of the impact of the regulatory measures applicable in parallel, which may cause that the additional remedy of asymmetric FTR is redundant. Finally the operator observes that the application of different levels of asymmetry in different Member States can also bring about distortion of trade between Member States (especially if some incumbents act as OAOs in other Member States).

Finally, some respondents, operators and associations do not agree with the ERG CP. In particular one of them maintains that further economic analysis would be needed regarding the complete different weight and role termination plays in mobile and fixed markets. They also stress very much the influence of the history and the time since market opening. Moreover one respondent observes that the CP seeks to justify a uniform outcome (symmetry between incumbents and entrants) rather than consistent application of the rules (non-discrimination cost-orientation including a fair return).

Comment: Some of these suggestions (e.g. by KPN-Belgium and ECTA to take into account market access and (retail) marketing costs – for a wholesale service!) could lead to subsidize inefficient entrants. Furthermore the suggestions resemble a "cost-plus-regulation" (where costs are passed through) rather than a regulation based on the concept of an efficient operator simulating the outcome of a competitive market.

One respondent agrees on the fact that asymmetry needs to be phased out, but sets the conditions so high (full and effective competition by removing bottlenecks etc.) that de facto this would lead to more or less indefinite asymmetric rates. The same holds true if all the suggested parameters would be taken into account.

According to some respondents the general introduction, and in general the entire document appears to be based on wrong assumptions which seem to lead ERG to wrong conclusions.

Comment: The CP never denied that for a transitional periods TR can be asymmetric, but ultimately need to reach symmetry.

Furthermore according to one respondent the CP underestimates the circumstance that in certain countries the liberalisation only formally took place in 1998 and does not consider that incumbents have a much larger number of clients on which to spread installation costs and that fixed networks face increasing incremental cost where they cover neighbouring areas. According to this respondent therefore the main issue is how to determine cost oriented termination rates: fixing of symmetry in FTR alone would create an entry barrier; any symmetry in FTR should be achieved only after a certain deadline from an operator entry.

One mobile operator stresses on the facts that in order to avoid increasing asymmetry, there should be an alignment of spectrum endowments. Two respondents disagree with the statements of the ERG CP and believe that asymmetry remains necessary to keep smaller operators/late entrants in the market. According to them, the document underestimates the impact and the structural nature of several market distortions. They consider that the starting premise of the document is wrong (the document should have focused on the level of the TRs), that the conclusions insufficiently reflect the economic reality and that there is no impact analysis regarding the end of the asymmetry (namely the harmful effects on competition).

Some respondents explain that the ERG CP does not take sufficient account of the "super-normal" profits of incumbent mobile operators and thus favours big operators over small late entrants. Rates above costs favour incumbent mobile operators and risk to eliminate late entrants as they are forced to offer below their costs (especially when the glide path length is too short). Therefore as long as MTRs are set above costs, symmetry hurts smaller operators more than helping them.

According to one respondent all termination rates should be regulated to a symmetrical rate that is not cost based but below cost (as low as possible, up until zero). Regulation should be applied to all networks that use the same part of the numbering scheme. MTR/FTR should not necessarily be the same (a distance element may be retained in fixed if there is geographic numbering – a capacity based charge could be applied to local and single transit - and this element is not relevant to mobile- and should also apply in the mobile case, as the location of the subscriber is not know – an average cost of transit across country would be applied). Furthermore this respondent observes that prices are held artificially high by cost based MTR. If MTR are reduced substantially, retail prices will drop and the market will expand, showing evidence of the volumes of use experienced in other countries outside Europe (e.g Canada, Hong Kong, Singapore, USA), where MTRs are much lower than in Europe.

Finally according to three respondents as the CP aims at symmetry, it overstates the impact of static efficiency and understates the importance of asymmetry for the establishment of a level playing field.

Comment: this is not the case as the Economic Introduction explicitly mentions the trade-off between short-term static inefficiency that is outweighed by the long-term dynamic efficiency gains through a sustainable infrastructure competition enabled through investment of new entrants rolling-out mobile networks.

QUESTION G2: Any further comments regarding consistent regulation of both MTR and FTR with regard to symmetry is welcome

One of the many disadvantages of asymmetries in FTR is the possibility for an incumbent to charge higher prices if the call is terminated in an alternative network (fixed "on-net/off-net" prices) and to blame OAOs for that leads to a bad reputation of competitors in general.. According to one respondent it is likely that symmetric FTR would emerge in a market without SMP operator. Since the aim of regulation should be to simulate the result of competition, symmetric FTR are the logical response

One respondent observes that ERG should further elaborate on a more structured approach for a consistent regulation; at least three different aspects related to termination should be deeply evaluated: i) harmonisation of the cost accounting methodology; ii) harmonisation of the theoretical cost model; iii) harmonisation of the tariffs.

Some respondents observe that the analysis assumes that traffic imbalance is an exogenous phenomenon, ignoring that it is generally the outcome of asymmetric termination rates. According to them, the document should underline that the very reason which makes the average traffic cost higher in a new entrant's network, i.e. the fact that the network capacity which is dimensioned for target volumes is underutilised, naturally leads to lower traffic marginal costs for new entrants.

Comment:The analyse does not assume that traffic imbalances are an exogenous phenomenon, but it explains that it is a results of operators' retail strategies.

Furthermore, one respondent observes that the consultation unfortunately continues to discriminate between fixed and mobile. In this regard it observes that on-net/off-net mobile retail pricing has a substantial detrimental impact not just on competition between mobile operators (as is recognised by the ERG), but on fixed/mobile competition and consumers. In the long term, the shift to bill and keep arrangements could be a positive development, if both fixed and mobile operators were to move to this type of arrangement.

One respondent maintains that the ERG CP undervalues the fixed-mobile traffic substitution through on-net policies, and fixed-mobile convergence.

Finally one respondent believes that, on the premise that mobile and fixed termination services belong to different markets, different rules should be applied in such markets, each one with its peculiarities in terms of investments required, competitive and regulatory environment.

According to one respondent the fact that the incumbent operator might discriminate against OAO by increasing his own retention is not only relevant for FTR, but also for MTR. The respondent agrees with the statement that there are less reasons for FTR asymmetry than for MTR asymmetry and concludes that with regard to different spectrum endowments these might persist.

***Comment*: valid point, could be added in the relevant section.**

QUESTION G3: Finally we would like to ask you to elaborate on the question of converging MTR and FTRs and the timeframe you envisage for this.

23 stakeholders submitted responses/comments relevant to this question. In some instances, responses overlapped with responses to F1.

Most responses did not appear to believe that there was a sound economic rationale for MTRs and FTRs converging in the foreseeable future. However, several operators disagreed with this point, or at least believed that MTRs needed to fall to some degree in the future. A number of other respondents took the position that this was an issue that required further analysis, and that it was premature to draw conclusions without examining this issue in further detail.

Responses opposing FTR/ MTR convergence

Of those respondents that opposed MTRs and FTRs converging, the following main points were made.

Termination rates for both mobile and fixed networks should reflect the economic costs arising from a caller's decision to terminate the call on a particular network. If callers are not presented with relative prices for different services (i.e. fixed and mobile) that reflect relative costs, consumers' choices will be distorted and resources will be inefficiently allocated.

Applying this principle to mobile and fixed networks yields different termination rates for each network. This is because each network has a fundamentally different cost structure (and there is no sign of this changing in the foreseeable future). Specifically,

the incremental cost of terminating traffic on a mobile network is higher than in a fixed network.

Unlike a fixed network, a mobile network must be capable of terminating a call anywhere within its geographical coverage area. This results in costs which are often referred to as mobile "coverage costs". These are generally included in the MTR either fully or as part of the mark-up for recovery of common costs. They are driven by traffic and coverage, and not by subscribers. They are therefore not "access costs".

Regulation does not therefore currently take an inconsistent approach to recovery of access network costs as between FTRs and MTRs. In particular, neither MTRs nor FTRs include access (i.e. subscriber driven) costs. In the case of fixed networks, access costs (e.g. the copper local loop) are not recovered from termination. The closest equivalent for a mobile network is the handset, which is incurred on a per subscriber basis and which is similarly not recovered from termination.

More generally, a mobile network has more of its total cost driven by traffic volumes than a fixed network which, on the other hand, has more of its total cost represented by access network costs. Access network costs are independent of traffic volumes and are driven by the decision of subscribers to join the fixed network. Because of these fundamentally different network cost structures, MTRs (even under identical cost-based methodologies) will be much higher than FTRs.

Summing up, attempting to impose the same termination rate by making MTRs equal to current FTRs would imply that fixed network termination is set at cost, but MTRs are substantially below cost. This would lead to prices to mobile networks being too low compared to prices to fixed networks. These distorted price signals would lead to excessive use of calls to mobile and under-utilisation of the mobile originated services. Conversely, making FTRs equal the current level of MTRs would lead to the opposite problem.

***Comment**: the last paragraph of the introduction to fixed part (pag. 10 of the CP) clearly indicates that ERG will look further into the problem of consistency of FTR and MTR regulation to ensure competitive neutrality in a convergent sector.*

Responses believing that there is a case for change

Various responses consider that the current regulatory treatment of MTRs and FTRs is inconsistent. Some responses believe that the inconsistency arises because access costs are included in MTRs but not FTRs.

Other responses appear to believe that inconsistency arises because the current high level of MTRs is not justifiable even under a cost-based methodology. Another response stated that there was insufficient transparency in the methodologies used to assess MTRs and FTRs.

One respondent stated that the current system of termination rates should be replaced with a new model based on no payments between operators for interconnection (i.e. 'bill and keep'). This would lead to a convergence of fixed and mobile termination rates.

These respondents generally agreed that MTRs should decrease, although there was no consensus as to whether they needed to fall to the current level of FTRs.

Responses believing further analysis required before conclusions can be drawn
The final set of responses generally took the view that fixed and mobile markets were still likely to operate in separate markets. It is not possible to determine if MTRs and FTRs should converge without a deeper understanding the true termination costs of mobile termination, calculated on the same basis as fixed termination.

Some stakeholders considered that whether or not fixed and mobile termination rates are treated inconsistently is a complex question that requires a full and detailed analysis. It is inappropriate for ERG to adopt a view on this point before examining the matter in much greater detail.

Conclusion: In general, there is no need to change the Economic Introduction (see above), except for one point: since it has been suggested by several respondents that the non-discrimination remedy could be used to deal with the on-net/off-net problem, ERG thinks that this proposal could be further investigated.

III. Summary of the comments to FTR questions

QUESTION F1: How do you think termination should be regulated in a converging fixed-mobile market?

Some respondents take the view that the different cost structures of mobile and fixed networks imply that under a cost-based methodology, MTRs will and should remain higher than FTRs

Some responses stated that the costs of terminating calls on mobile and fixed networks vary substantially and this is unlikely to change in the foreseeable future. On this basis, it is inappropriate for MTRs and FTRs to converge.

Similarly, other operators believe that efficient termination rates must reflect the economic costs caused by the traffic from the originating network and arising from the decision of the originating caller to make the call. If callers do not face the costs of their decisions and are not presented with relative prices for different services (e.g. fixed and mobile) that reflect relative costs, consumers' choices will be distorted and resources will be inefficiently allocated because over- or under-consumption will occur.

Applying this principle to mobile and fixed networks yields different conclusions because each network has a fundamentally different architecture and cost structure. In other words, applying a consistent methodology to MTRs and FTRs results in very different rates in each case, specifically because the costs of terminating calls on mobile networks are relatively high. These submissions reject the view that regulation takes an inconsistent approach to recovery of access network costs as between FTRs and MTRs, because they do not view traffic-driven costs as 'access fees'.

Some respondents took the view that there was still insufficient convergence between fixed and mobile networks for this issue to warrant any action by regulators.

This view was taken by several operators.

Another operator considered that the current regulatory treatment of MTRs and FTRs does not impede converged fixed and mobile services. The focus should be on attaining symmetric FTRs.

One operator believes that in a converging market it is essential that both mobile and fixed operators are given the same opportunities for cost recovery and that subsidies deriving from extra-profits from mobile termination are eliminated. If this is not the case, mobile operators could subsidize entry into fixed markets creating distortion of competition due also to discriminatory practices.

MTRs should fall towards the level of FTRs

Another set of responses was that mobile termination rates should fall to being closer to the level of FTRs. Some of these respondents believed that cost differences would still justify higher MTRs. Some of these responses appeared to suggest moving away from a CPP regime, to an approach which also required the receiving party to bear some of the costs of being reached whenever he or she wanted to be reached.

Some respondents believe that there is inconsistent regulatory treatment of MTRs and FTRs

One respondent considers that in fixed networks the called subscriber pays for most or all of the local access for incoming as well as outgoing calls, and so the called subscriber pays for part of the termination costs. In contrast in mobile networks the calling party pays for all the termination. The submission goes on to propose that both MTRs and FTRs should be based on 'very low termination charges' that would in principle be the same for both networks. Rates would be similar to current FTRs. Termination rates should be below-cost, on the basis that this would expand the market and would result in net social benefits.

Another operator similarly believes that, in order to promote competition, efficiency and to develop network and communication services, MTRs should be immediately set equal to OAO's FTR, otherwise there would be a competition distortion between wire-line and wireless operators. This operator also notes that the existing asymmetry puts high barriers to fixed alternative operators to introduce new convergent solutions.

Another respondent (**ONO**) has serious concerns regarding the current EU regulatory policies. In particular:

- The policies allow MTRs to include the full costs of delivering calls to mobile subscribers. In contrast, FTRs do not include any contribution to recover the costs of the access network.

- In most European countries, MTRs far exceed costs. They are based on the glide paths that began at the excessive rates that were charged before regulation. These high rates are economically efficient and reward mobile operators for the excessive rates that they charged prior to regulation.

Several responses considered that the main issue that needs to be addressed is that termination rates should not enable incumbents to exercise monopoly power either by abusive practices or by exploiting consumers.

Some operators believe that termination rates need to be set so that incumbents cannot keep out the competition. One operator believes that most of the differences between MTRs and FTRs are explained by the fact that MTRs are too high (i.e. not cost based). This needs to be addressed, but this need not imply that FTRs and MTRs should be particularly close.

Another operator believes that correct regulation of the MTRs will lead to lower rates than those which currently exist. However, the same operator does not consider that MTRs will converge with FTRs because the costs of each network differ.

Other operators consider that the issue of convergence of FTRs and MTRs requires full substantive analysis, implying that it is too early to form definitive views whether MTRs and FTRs need to converge in the future.

This view was taken by various operators. Another operator appeared to have similar views.

One operator stated that no evidence had been provided to suggest that consumers would benefit from MTRs and FTRs converging.

One view that was voiced by some respondents was that regulatory interventions should focus on creating transparent, equivalent methodologies for both MTRs and FTRs, and sop termination rates should be set as follows:

- Rates should be set in a non-discriminatory and transparent manner to both FNOs and MNOs.
- Temporary divergences from efficient cost-orientated rates need to be substantiated
- Cost accounting and accounting separation principles should be applied consistently to both FNOs and MNOs.
- Arbitrage opportunities between FNOs and MNOs should be minimised
- No pricing shocks to the market.

This view implied that no access costs should be included in MTRs, and that the current regime effectively results in a substantial transfer between fixed and mobile operators. This seriously disadvantages fixed operators.

Bill and keep favoured

One operator proposed that the current system of termination rates should be replaced with a completely new model based on no payments between operators for interconnection. This would inevitably lead to a convergence of fixed and mobile termination rates.

Another believes that in the long run, the regulation of both FTR and MTR should converge, in the sense that they should be set equal regardless of the type of network. The end target should be a "bill and keep" arrangement where the reciprocal call termination rate between two operators is zero.

Another respondent also referred that the shift to bill and keep arrangements could be a positive development and a common goal, but only if all operators in the market, both fixed and mobile, were to move to this type of arrangement.

In ERG's opinion no views where expressed that make changes to the common position appropriate.

QUESTION F2: Do you agree on the methodology and assumptions underlying the asymmetry index calculation?

Some respondents believe that the asymmetry index calculation gives a good view on the difference between countries. One of them however maintains that it should not be taken as a strict measure, as some assumptions are always debatable. Another respondent suggests some modifications to the index calculation for Italy.

One operator is not opposed to the asymmetry index in principle. However, for the purposes of the current review, it considers that there is insufficient time to fully analysis the asymmetry index.

There were some more specific comments on the asymmetry index:

- Traffic distribution between peak/off peak periods, or the mix of local/single transit traffic will substantially affect results;

- The current model needs to include additional variables such as capacity based interconnection (if this exists in a particular Member State).

According to one operator the index is of limited use in making cross-country comparisons. It is preferable to draw on the direct facts, rather than an index which is based on assumptions that are not always realistic to the case at hand.

One respondent believes that the index is of very limited value, because it is substantially driven by a number of assumptions which may not apply. Each country should be examined on its own.

Another respondent does not agree with the proposed methodology since believes that looking at asymmetry levels between ex monopolist operators and new comers means putting in comparison things that currently show very little or no correlation at all.

In two respondent's opinion, while it is useful to have some sort of index, it should be one that is based predominantly on local rates and mixed with the percentage of subscribers in direct access. An alternative index could be proposed.

Single tandem services are no longer a relevant reference concerning termination rates, at least at European level: transit and termination services were in two different relevant markets in the previous recommendation and transit has been recognised as a competitive market on a European point of view in the new relevant market recommendations. Therefore transit prices are now outside the scope of references relevant to fix termination rates

The assumption that the distribution between local and single tandem traffic is 50/50 is not correct. To give one example, in a country like France the distribution between local and single transit is 95/5 and therefore, the global asymmetry index will be very close to the local asymmetry index of 113,58%.

One operator makes the following comments on the index:

- It is unclear whether the termination value for single tandem includes transit.
- Not clear how the average price is calculated for the largest OAOs in a jurisdiction in the index.
- The ERG assumes in the global asymmetry index that the distribution between local and single tandem traffic is 50:50. This may over-estimate the proportion of single tandem traffic in a majority of Member States.

One operator has not examined the index in detail, but believes it is generally satisfactory.

One operator does not believe that index is appropriate. It believes that this is because the level of cost-oriented termination charges will vary depending on local circumstances.

Finally, another operator believes that any asymmetry index needs to take into account other factors such as market shares and levels of investment in order to be significant. This is because an asymmetry index based only on nominal values fails to consider specific circumstances which may justify the level of asymmetry

Responding to operators that demand specific modifications to the index, it should be pointed that due to the difficulties in obtaining actual data, some assumptions were necessary in order to calculate the asymmetry index.

Responding to ETNO, table 11 reflects the asymmetry index of France and they are actual data provided by ARCEP, as it is stated in the document. The asymmetry index in France is 41,52% rather than 113,58%.

QUESTION F3: Do you think the list in paragraph 6.1 constitutes an exhaustive list of the possible reasons justifying the adoption of asymmetric tariffs?

Some operators believe that there is no longer a case for asymmetric FTRs.

One operator agrees with the list in paragraph 6.1, while another operator does not believe that the factors listed in paragraph 6.1 necessarily justify asymmetric rates (for example, a small size and a lower ability to realise economies of scale does not justify higher TR unless the cost differences between the OAO and the incumbent are substantial). In any case this operator maintains that any regulatory intervention justifying symmetry needs to be well substantiated and well reasoned.

Some operators believe that the list in paragraph 6.1 does not contain good reasons to justify asymmetry because:

- It is not true that OAOs have structurally lower economies of scale.
- If the justification for asymmetric TRs is to "raise OAOs market share", this means the alternative operator will have invested the benefit of asymmetric FTRs in retail prices.
- In a country where broadband and data networks are reasonably developed and drawing down transit costs, OAOs' TR costs are actually lower than incumbents.

One of them believes that networks with a smaller geographical coverage usually benefit from a cost advantage over networks with larger geographical coverage,

because they select dense areas. If they were to be cost oriented, networks serving only dense areas should actually have lower termination rates.

Some operators believe that the importance of scale has not been sufficiently stressed. Incumbents have the lowest unit cost of termination, mainly related to two factors: market coverage (and penetration) and scale. As in the mobile world, asymmetric FTRs should allow alternative operators that deploy their own networks to receive compensation for the higher costs that result from lack of scale. In the case of cable companies, the lack of economies of scale is aggravated by license commitments that require the achievement of certain population coverage. Asymmetry should not be justified on the basis of allowing operators to make extra profits but on the basis of allowing an operator to recover its costs and therefore provide incentives for investment and growth. It cannot therefore be regarded as a form of entry assistance but rather as symmetric and non discriminatory treatment vs other operators on the market which have been fully allowed to recover their costs in the initial phase of network deployment and commercial roll-out.

Other operators point out that asymmetric FTRs may be justified as a result of any cost differences which are not simply explained by productive inefficiencies. Differences may be justified on the basis of cost differences arising from factors outside operators' control, included historically occurred advantages resulting from regulation.

One of them believes that an entrant is likely to face costs associated with winning market share in a mature market and thus may face increased marketing costs compared with an operator with an inherited or well-established customer base in markets that were previously subject to rapid expansion. Entrants may also face other difficulties resulting from switching inefficiencies e.g. due to contract tie-ins from the dominant operator or ineffective number portability or synchronization of number portability.

Other operator suggests that the following reasons should be added:

– New entrants will have SMP in call termination on their network and as such have a special responsibility under Competition Law to refrain from abusing their dominant position.

– New entrants have an incentive to keep its termination charges at a reasonable level in case the incumbent chooses to feed through the charges to its retail prices for the incumbent's own retail customers.

One operator believes that the main reason for setting asymmetric FTRs is the emphasis on dynamic efficiency versus static efficiency. Asymmetric FTRs allow alternative operators to gain market share while being profitable, and they are a

stimulus to further develop and deploy their own network so that the market becomes more competitive in the long term. Also, since fixed entrants are generally small, asymmetric FTRs do not have a significant impact on the market in the short term.

Finally, other operator believes that the circumstances that need to be considered in order to impose a/symmetric termination rates are:

– Time of entry and entry-related costs

– Market situation

– Technological differences

– Risks

– Economies of scale

– Efficiency

In ERG's opinion no views where expressed that make changes to the common position appropriate.

QUESTION F4: Do you agree on the fact that any entry assistance policy for the future based on higher OAOs' FTRs is likely to be less effective than in the past?

Most of respondents' answers do not focus on the change of importance of asymmetric FTRs as an entry assistance tool, but rather discuss in general if asymmetrical FTRs are appropriate at all. Some operators state that such form of entry assistance still is an effective tool to increase competition although incumbents were against such an entry assistance. One operator thinks that entry assistance has never been a justified reason for asymmetric FTRs and favours the development of competition through access regulation.

One respondent not only fully agrees with the ERG CP on the fact that any assistance policy based on OAO's termination tariffs is likely to be less effective than in the past, but also maintains that such a policy will create a distortion of competitive conditions.

Finally some respondents disagree with the CP statement. According to one of them allowing asymmetric TR cannot be considered as an entry assistance policy in favour of OAOs; moreover it is not true that revenues from termination services are proportionally likely to become less important to all operators, incumbents and OAOs

alike. On the contrary the same operator claims that TR will remain a substantial part of revenues and source of large profits resulting in a significant source of cash-flow to the advantage of incumbents due to their persistent high market shares. According to the other respondent, since operators are in the process of investing in new NGN networks a new phase of competition is starting where there is the need to promote infrastructure based competition especially in countries with limited alternative infrastructures.

In ERG's opinion no views where expressed that make changes to the common position appropriate.

QUESTION F5: Could you please provide a definition of the "efficient operator" NRAs should refer to in fixing FTRs? What are the costs an efficient operator would incur to provide termination services?

No operator has given a clear and useful definition of what constitutes an "efficient operator". For example, one operator mentions that efficiency should depend on network coverage, market share, technology and offered services, but does not provide the answer on *what* coverage, *what* market share, *what* technology and *what* services are the appropriate ones for the efficient operator on which symmetric regulation of terminating should be based.

Some incumbent operators seem to claim that coverage is an exogenous parameter, meaning that efficiency depends on the actual level of coverage, each coverage having its own level of efficiency. This would imply that efficient operators with a relatively small coverage (concentrated in a densely populated area) should have a lower efficient cost price. Some incumbent operators mention (without clear reasoning) that efficiency should by no means be defined by bottom-up modelling and also that access cost should not be taken into account.

Most of new entrants urge that efficiency should be treated individually, at least separately for incumbent (as it has incomparable high economies of scope and high level of network depreciation) and new entrants.

Moreover, some respondents pointed out (although without reliable substantiation) that incumbent's efficient FTRs costs could be used as a reference for symmetrical FTR. Although there were some analyses provided to substantiate the latter proposal, more robust analysis needs to be carried out in order to make reliable statement as common position.

Finally one respondent argues that using the concept of "efficient operator" to determine termination costs could be very risky as it would link the concept of efficiency to a certain technology.

In ERG's opinion no views where expressed that make changes to the common position appropriate.

QUESTION F6: Do you agree on the fact that OAOs should be as efficient as the incumbent?

All incumbent fixed operators agree that OAO's should be as efficient as them or argue that, when this is not the case, the fact that new entrant bear higher costs is not a good reason for asymmetry anyway.

Most new entrants disagree that OAO's could be as efficient as the incumbent or claim that higher costs do not necessarily mean inefficiency (i.e. suggesting to refer to the relative efficiency, which takes into account individual parameters of each operator, such as scope of output, network depreciation and etc.). For example, according to some new entrants higher costs due to economies of scale do not imply inefficiency, and one operator refers that since efficiency and economies of scale are strongly correlated, a comparison of efficiency disregarding the scale would produce incorrect results. Most new entrants claim entry assistance remains necessary to increase retail competition.

An alternative operator has a divergent view on this and claims there are no economies of scale (in voice switching).

In ERG's opinion no views where expressed that make changes to the common position appropriate.

QUESTION F7: Do you agree on the fact that there are less reasons for fixed operators compared to mobile operators that justify the adoption of asymmetric tariffs?

The opinions of the respondents on the statement made in the question diverge sensibly.

Some respondents agree on the fact that there are less reasons for fixed operators compared to mobile operators that justify the adoption of asymmetric tariffs, notably because fixed operators normally have less licence conditions.

Some respondents stressed that mobile operators need individual licences to operate with access to spectrum. Therefore the conditions of operation may vary individually in relation to the specific characteristics of individual licences. Under certain limits, this may justify transitory difference between individual MTRs. By contrast, there is a

general authorisation for fixed operators. Therefore there are no objective external differences between fixed operators and there is no reason to adopt asymmetric tariffs.

Some operators note that fixed markets are ahead of mobile markets regarding the transition to All IP NGNs or that all fixed operators made investments in the same technology (i.e. IP), sell similar services (i.e. ADSL, IPTV, VoIP) and incurred in the same costs. An operator adds that OAOs can benefit from a full range of wholesale regulated services that allow them to do rational make-or-buy choices.

Other respondents disagree with the statement that there are less reasons for asymmetry in the fixed sector.

Some of these respondents stressed the differences in economies of scale between OAO and incumbents. Even on a regional basis, a fixed operator has to sustain a high level of sunk costs before being able to offer a fixed service. If there were coverage obligations contained in the mobile licences, this was counteracted by the fact that mobile operators were able to recover a substantial proportion of access costs and marketing and terminal equipment costs via the MTR. Additionally, while wireless networks may be expanded and dimensioned to cater for an initially low level of traffic, and densified thereafter, fixed infrastructures incur a high fixed cost which is less traffic dependent and therefore results in greater scale economies. Investments in fixed networks, as well as business plans, have a much longer timeframe than their mobile counterparts. Achieving the same coverage and the same scale as the incumbent requires larger investments over a longer period of time. An operator draw also the attention of ERG to the huge imbalances in market shares in fixed market.

In ERG's opinion no views where expressed that make changes to the common position appropriate.

QUESTION F8: Do you agree on the fact that if all call termination charges were based strictly on incurred costs there would be a distortion of competition?

Most of the replies received focus on a particular aspect related to the statement in the question.

According to some stakeholders, termination charges based on incurred cost would not distort the competition. As a matter of facts, allowing OAOs to charge an asymmetric termination rate during an interim period of time prior to achieving economies of scale, would only have a limited effect on competition. As the revenues coming from termination are not particularly relevant, no relevant distortion of competition would result even if "inefficient" operators would be in the market.

Some respondents note that cost orientation is the best mechanism to avoid a distortion of competition. Termination rates should be based only on 'efficiently' incurred costs and not on all costs. However, the fact that an entrant's costs could be higher than an established operator does not necessarily mean that they are inefficient or that setting asymmetric termination rates would distort competition

On the contrary, other respondents maintain that if fixed call termination rates were based on incurred costs, this would lead to a distortion of competition. As a matter of facts, if an operator, being more efficient, were able to deliver calls more cheaply than another, the operator benefiting from this efficiency and lower cost would not be the more efficient operator which has reduced termination costs, but the less efficient operator since it is buying the cheaper call termination service. According to other respondents there would be no incentive to be efficient or to invest and innovate if the inefficient operators can have higher FTRs. Another respondent observes that the advantage of innovating and taking risks may be either to reduce costs and/or improve service quality, even if often new technologies provide both. However, if only incurred costs can be factored into the calculations of termination rates (ignoring risk and service quality) the return for incurring the risk would have to be handed over to competitors through the lowering of interconnect rates. This would negate the benefits of innovation and therefore restrict and distort competition.

According to another group of respondents the distortion is attributable to the different economies of scale. Moreover, according to one respondent, if the termination rates were set at the costs incurred by the incumbent competition would definitely be distorted, as potential new entrants, that could achieve an efficient scale to compete vigorously with the incumbent in the long term to the benefit of consumers, would be discouraged

In ERG's opinion no views where expressed that make changes to the common position appropriate.

QUESTION F9: Do you agree on the fact that symmetric tariffs would allow to avoid transaction and regulatory costs?

According to around half of the respondents agree on the fact that symmetric tariffs would allow to avoid transaction and regulatory costs, as would result in fewer transaction cost for the regulator. Moreover, according to other respondent it is true that symmetric tariffs would allow to avoid transaction and regulatory costs, however in their opinion these costs are not appreciable

Some operators disagree with the statement as in their opinion symmetric tariffs do not allow cost recovery. Moreover, according to another operator, there is no direct

link between symmetric tariffs and transaction costs as the objective circumstances and cost evidence would minimize regulatory costs.

According to one respondent the question is misleading. Transaction and regulatory costs could not be a deterrent as long as there are reasons for imposing transparency, non discrimination, access/interconnection obligation, price control and cost accounting obligation, and accounting separation.

Some operators suggest that it is more important to analyze the effects of the (a)symmetry on the market, or rather the common position should fully define the meaning of the symmetric tariff, describing the obligations of the operators, e.g. interconnection, collaboration.

In ERG's opinion no views where expressed that make changes to the common position appropriate.

QUESTION F10: Do you agree on the fact that NRA's should reach symmetry in fixed termination tariffs within a reasonable period of time?

Although all respondents agree on the fact that symmetry in fixed termination tariffs should be reached within a reasonable period of time, broadly speaking it can be observed a significant difference between incumbents and alternative operators regarding the length of the reasonable period for asymmetry.

As matter of facts the great majority of incumbent operators and their associations reckon that symmetry in termination tariffs should be achieved as soon as possible and applied firmly without hesitation or renegotiation, particularly in markets where the OAO market shares are rising fast or have already reached a significant level. According to these respondents the timeframe outlined in the Common Position (wait to the next market analysis and then establish a glide path lasting four or five years) is too long; in their opinion, NRAs should reach symmetric tariffs through a modification of the remedies already imposed with the last market analysis.

On the contrary the great majority of alternative operators and their association highlight that the period of time to achieve symmetry should objectively reflect the time taken by an efficient entrant to become fully established in the markets. Therefore each NRA needs to regularly assess the situation in its country for each OAO, to establish whether asymmetric termination rates are still needed. In doing so, NRAs should take into account the following factors: the date of entry, market maturity, market fluidity, level of competition (number of players), existing technologies, incumbent's market share, number of OAOs and geographical spread, the time that asymmetric rates have been enforced, OAO's size compared to the

incumbent, OAO's investment rates, growth rates, sustainability and coverage. One operator does not anyway agree with the concept of strict symmetry and observes that, even though symmetry may be used as a target, there should always be the possibility of burden of proof by operators in order to allow some degree (even if limited) of asymmetry where justified.

The only exception is an alternative operator which states that if NRAs decide to allow asymmetries in FTR for a certain period, symmetry should be re-established as soon as possible.

Only two respondents do not support the statement in the Common Position. According to them the regulatory measures that the Commission (with ERG's plain endorsement) seeks to introduce may lead to serious and unrecoverable damages to market structure. In particular, a policy whereby NRAs effectively phase out an asymmetric charging model across the industry would risk to raise a deterrent to further market entry and would be inconsistent with the purpose of NRAs to enhance competition in communications markets.

Finally one respondent observes that the problem of symmetry in fixed termination tariffs should be considered together with NGN, creating the conditions to give equal access to all operators to the NGN infrastructure.

In ERG's opinion no views where expressed that make changes to the common position appropriate.

QUESTION F11: Do you agree that it would be reasonable for NRAs to allow a transition period to move to symmetric FTRs? How long should this transition period be?

Almost all operators agree that it would be reasonable for NRAs to allow a transition period to move to symmetric FTRs. The only exceptions are an operator according to which symmetry in FTR should be the normal situation and any divergence from that requires a good justification and an incumbent operator according to which symmetry should be set almost immediately by changing the remedies of the existing FTR regulation.

As far as the length of the transition period is concerned, according to some respondents symmetry for FTRs should be reached as fast as legally possible, within the next 12 months, that is in 2009 as, in their opinion the longer asymmetric rates are allowed, the worse the situation will be. Where NRAs have already suggested a shorter glide path to reach symmetry, this should of course be maintained.

According to other respondents the time frame to move to symmetry may be longer than 12 months: it should not exceed three years (starting from the moment asymmetry was introduced) or should not exceed two/three years since the OAOs enter the market. However the transition period should take into account to the NGN implementation.

Finally other respondents, instead of indicating a suitable time frame for the transition period, underline that a transition period is essential to allow time for entrants to gain the critical mass that warrants symmetric rates. The period for the transition can be based on objective parameters derived from the level of competition in the market, the current market situation (market maturity, current market shares) or on the elapsed time post removal of the last significant competitive barrier (% OAO penetration into the market and also a rolling allowance to new entrants until they reach a threshold market share) and could also be affected by exogenous factors that affect the ability for an entrant to compete with the dominant operator.

In ERG's opinion no views where expressed that make changes to the common position appropriate.

QUESTION F12: In your opinion what criterion should NRAs adopt to set the glide path?

There are different views on criterion NRAs should adopt to set the glide path.

Some contributions stress on the fact that NRA should be very clear and firm on the application of symmetric FTRs at the end of the transition period. In particular one respondent highlights that in order to pursue the objective of symmetry for the fixed voice termination service NRAs should make clear they adopt the same perimeter for cost allocation constantly applied by EU law since 1998. Therefore NRAs should state which "transport network" elements are considered, specifying clearly that there is no justification for including in the cost calculation either the costs for the alternative operator's access network or the commercial costs related to retail activities. According to one respondent symmetry should be reached quickly, as a matter of fact the issue of new operators' economies of scale is overstated as both the use of new technologies and access to incumbent's network through regulated service, allow new entrants to realize relevant economies of scale despite their low market share.

Similar views are expressed by another operator that adds that NRAs should follow transparent procedures, adopt non retroactive decision, define at European level a common approach regarding the "structure" of the Glide Path (e.g.: specify whether there should be a "single Glide Path" for each member state or "multiple Glide Path" that is operator specific glide paths), give sound evidence of the economic and

competitive reasons which would lead to the specific characteristics of the glide path, evaluate the level of asymmetry granted to OAOs in the light of the regulatory burden applied (regulatory obligations) and take into account efficient LRIC models. As concerns this last point, the cost model, based on LRIC methodology should be coherent with the regulatory framework regarding Regulatory Accounting rules, should take into account the evolution of the demand deriving from the growth of competition in the market of termination services and the economies of scope correlated to the growth of the range of services, should adopt transparent, sounds and auditable drivers. This approach would assure the achievement of efficient symmetric rates at the end of the path, applicable both to fixed OAOs and incumbent.

Other operators maintain that the glide path should be set based:1) on a model reflecting objective expectations of costs, market share and revenues and after examining market fluidities – which may be influenced by the effectiveness of regulation. The price control could be set in relation to inflation with an additional criterion to reflect exogenous factors; 2) on the removal of barriers and the aggregate market share for new entrants reaching X% and the individual company reaching Y%. i.e an objective measure of market access success and an objective removal of market entry barriers or 3) the incumbent TR.

Another contributor stresses on the fact that the transition period should be related to the NGN implementation.

***Comment*: The ERG agrees with the views according to which the level of competition in the retail market is an important criterion to set the glide path. The ERG has included this criterion in the final common position.**

QUESTION F13: As the length of the glide path is a controversial point, in your opinion, should the time period to reach symmetry be the same for all NRAs or should each NRA determine it according to national circumstances?

Some respondents agree on the fact that each NRA should determine the glide path according to national circumstances.

On the contrary, according to other contributors an approach as harmonised as possible would be highly desirable therefore it would be better to have a time limit to reach generalised symmetric FTRs at the European level.

If national circumstances make its possible, NRAs may decide to go faster and reach symmetry before the European time limit or if progress in a country towards a competitive landscape is slower than planned, the asymmetry is permitted to last for longer. For one operator, changes to the harmonised approach should be justified. As regards the transition periods it is proposed not to exceed 1 year or 3 years (starting from the moment asymmetry was introduced)

One operator claims that the existence of a major difference among member states should be reflected in either leaving NRA determine the length or setting two different glide path at EU level depending on the presence or not of a wide cable infrastructure in the market

In ERG's opinion no views where expressed that make changes to the common position appropriate.

IV. Summary of the comments to MTR questions

QUESTION M1: Do you agree with the general principle promoting symmetry: *"Termination rates should normally be symmetric"*?

The response of market parties on this question generally fall into three groups. The first group are market leaders (usually the incumbents, or their interest group) or operators with a second position, a business customer organization, a consultant and a mobile group consisting of a mix market leader, second operator and new entrants. All these respondents support the general principle of promoting symmetry and that termination rates should normally be symmetric for mobile to mobile traffic. Usually they mention that clearly exogenous cost differences could be a reason for asymmetry. A more subtle view is given by an operator, which supports the principle of symmetry in case the market is "fully competitive", which from the context of the overall response seems to mean "effectively competitive". According to this operator, in case the market is not fully competitive asymmetry would be more appropriate. Another operator holds a contrarian new entrant view and supports symmetry. It claims that, contrary to the situation on the fixed market, the mobile operators have had ample time to build up customer bases and achieve economies of scale.

The second group includes two consumer organizations which do not have a strong view on (a)symmetry. They claim that symmetry is a secondary issue; more important is the absolute height of termination: current terminating tariffs are too high and regulators should focus on lowering them. This argument is also mentioned by some mobile new entrants or by some alternative fixed operators.

The last group consists of new entrants and there interest groups. They dispute that terminating rates should be symmetric. Sometimes the claims and arguments for applying asymmetry overlap with the justifications the ERG also includes in the common position, such as asymmetry because of exogenous cost differences, transitory asymmetry because of cost differences due to significant late entry and transitory asymmetry before MTRs are at costs. However, sometimes the pro asymmetry claims and reasoning go clearly beyond that and strongly dispute the pro symmetry line of the common position. In this summary of comments, the ERG focuses on the latter response and responds to the main arguments made.

A main critique of new entrants is the claim that the common position promotes symmetry as a predestined outcome. Some entrants use quite extreme qualifications like: dogmatic, economically unsubstantiated. A number of new entrants qualify the view that rates should normally be symmetric as purely theoretical and totally

unrelated to the actual market conditions, claiming the ERG assumes a perfectly competitive market with symmetric market positions and cost structure.

The latter claim is not correct. The economic principles that tend to recommend symmetry are not depending on a perfectly competitive market or even on an effectively competitive market. The key reasoning pro symmetry given in the common position is quoted here.

Economic principles tend to recommend a unique and uniform TR, determined with reference to costs incurred by a hypothetic efficient operator, i.e. a termination rate which does not depend on costs effectively incurred by the operators or on their market shares. This efficient TR level indeed is the right signal to give incentives for productive efficiency[1], less efficient operators trying to overcome their inefficiency (in lowering their costs to avoid losses which ultimately result in market exit) and more efficient operators realizing profits over regulated prices, investing and innovating. Gains in productive efficiency put pressure on final services' prices and contribute to end-users welfare.[2]

It is clear that in this reasoning makes no reference to the level of competition or cost symmetry in the market: optimal incentives for productive efficiency are given by symmetric termination rates at the cost level of an efficient operator independent of the level of competition. The logic is that allowing asymmetric tariffs to take into account any higher costs does not give optimal incentives to get a market structure that produces at the lowest costs, so it does not give optimal incentives for productive efficiency.

Consequently, ERG promotes symmetry, but recognizes that transitory asymmetry can be implemented in specific circumstances and addresses issues related to actual market conditions.

However, it can not be emphasized enough that asymmetry can only be a transitory remedy. Keeping the asymmetric tariff in place over longer time will not only be detrimental for static efficiency *but could also be detrimental for dynamic efficiency*.

The majority of the response of new entrants seems to claim that regulating terminating tariffs at a different level than actual incurred (efficient) costs degrades overall welfare (or consumer welfare). Related to this is the claim that scale is an exogenous parameter, at least when small scale could be attributed to later market entry.

[1] According to the economic theory, "productive efficiency" is achieved when firms minimize total cost (given inputs needed and competitive prices of inputs) with respect to technology of production.
[2] ERG Common position on symmetry of mobile/fixed termination rates, page 4.

The ERG agrees that a higher cost price due to smaller scale can be used in the reasoning to apply for asymmetry for a significant late entrant on a transitory base (this is covered in section 3.4 of the common position). However, the ERG does not consider that scale is an exogenous parameter (a factor that is beyond the control of operators), but admits that it requires a certain time period[3] that some new entrants claim are necessary to build up a market position at which asymmetry could be dropped.

One new entrant points out that regulating at a symmetric level based on equi-proportionate market shares means the tariffs of operators with high market share are above the real cost level of these operators. The new entrant then claims that this is detrimental to consumer welfare.

However, in the view of the ERG, the fact that an operator has a lower market share cannot justify an asymmetry by itself. When two companies compete at retail level on homogenous products, one company cannot set higher tariffs because it has lower economies of scale. The regulation should promote cost lowering, and consequently should incite smaller operators to acquire a significant market share within a certain period of time.

According to some new entrants and consumer associations and a consultant the debate on symmetry ignores the possible solution of bill-and-keep. One explains that only with bill-and-keep economic efficiency will be achieved and competition distortions avoided.

One of those respondents disputes the underlying concept behind cost-based termination (that the terminating operator is providing a service to the originating operator), arguing that the appropriate service concept is that both operators are providing jointly a service to both the calling and the called party (using a similar concept to the "double-sided market"). He argues that the two arguments for cost-based termination are flawed: the caller is not the only beneficiary of a call (the called party is also), and the prime cause of the call termination is not always the caller (the call may be made in response to a request to be called). Other of those respondents mentions that efficient cost recovery should not be the ERG's sole concern, that removing competition distortions is a much more important objective since it will allow markets to work better for the benefit of consumers, and that abolishing termination rates will remove the competition distortions identified in the CP.

The ERG agrees that bill-and-keep should be further investigated, but considers this beyond the scope of this common position. Such proposal should be further discussed with stakeholders and carefully analysed as a possible solution for the medium-to-long term in Europe.

[3] Some entrants claim time periods of 20 years are necessary for this.

One mobile operator does not only support symmetry within a country, but also symmetry across Members States.

This comment is outside the scope of this common position, but is taken up in the ongoing work on harmonizing the cost accounting/methodologies and price control remedy.

Considering the overall response on question M1 in the view of the ERG no insights where given that make changes to the common position appropriate.

Exception to take into account exogenous factors, not related to a late entrance:

QUESTION M2: Do you agree with the exception to take into account exogenous cost differences: "*asymmetry is only acceptable to take into account exogenous factors, outside the control of operators*"? The only example, which is not related to a late entrance, identified by ERG is cost differences due to the spectrum licensing holdings. Can you identify other exogenous factors?

QUESTION M3: Do you agree with the following principle: "*Assuming that cost differences due to different spectrum allocation are properly evaluated, they may justify an asymmetry*"?

Respondents generally agree with the principle that asymmetry is acceptable to take into account exogenous factors, outside the control of operators. The large majority of the respondents agrees with the (theoretical) statement of the Common Position and identifies differences in spectrum licensing holdings as a key factor responsible for cost differences. As the propagation characteristics of mobile spectrum vary by frequency, cell sites transmitting at 900 MHz cover wider areas. Therefore at this frequency a lower number of cells can provide the same coverage. Cost differences can become larger in densely populated areas.

The views of the respondents are more diverse when we come to the current and future differences in cost levels due to spectrum asymmetry. Some answers state that"…there is no reason to assume that these differences will diminish over time, unless the underlying causes of the differences are removed (such as through spectrum "refarming" and appropriate redistributions of legacy spectrum)". To the contrary, others believe in a natural tendency of diminishing differences in the spectrum-related costs. According to them the higher the traffic volume is in a network, the higher the proportion of capacity-constrained cells is and there is less effective cost difference between 900 MHz and 1800 MHz networks. One estimates that the difference between the above networks become "minimal, once the traffic levels reach 3-4 million minutes per annum per base station site averaged across the whole network". Another response supports this view by citing Ofcom's cost-modeling, which indicates "that the differences in network unit costs between the two types of 2G/3G operator have narrowed. The forecast unit cost difference is less than 0.3 ppm in 2010/11 using economic depreciation under a medium voice and data traffic scenario". Therefore in this respect spectrum trade is only useful in the case of markets where one of the operators have only 1800 MHz band.

Others believe in optimal frequency allocation in the near future mainly thanks to the advent of digital television and to the new available spectrum (digital dividend).

A respondent also mentions the fact that national roaming agreements may modify cost differences that are caused by different spectrum endowments. In this case the late entrant is not bound by high fixed costs initially.

Concerning spectrum trade, this respondent raised some concern with the costs of the spectrum reallocation process compared to the potential "small" benefits of the resulting symmetries of termination rates.

A mobile operator considers that NRAs have other means than higher MTRs to compensate for cost disadvantages caused by spectrum differences, such as refarming and frequency trading.

For NRAs it is not obligatory, rather it is a possible way of reducing the above asymmetries to consider (e.g.: evaluating current differences of termination costs at different frequencies that is dependent particularly on population density and network topology and forecasting tendencies of termination costs of operators having different spectrum; analyzing costs and benefits of a spectrum trade) whether it is appropriate to promote actions such as the introduction of market mechanism for spectrum and spectrum alignment.

Spectrum fees

One of the respondents emphasizes the fact that the amounts paid by most MNOs in a given national market for 2G spectrum is fairly similar. Besides, several responses stress how careful the valuation of spectrum fee differences should be in a forward-looking perspective. For instance differences in spectrum allocation are associated with different obligations (related to network coverage). Moreover, there is a market, where disadvantages linked to 1800 MHz frequency attribution "may be largely compensated by an advantage linked to deploying 3G at a later date". In another market "unequal license conditions have forced one of the later licensed operators to grant non-discriminatory GSM access to external service providers. Compared to the other late-licensed operator which has not suffered from such an obligation, this unequal treatment has de facto hindered one of the late-licensed operators from catching-up with the earlier licensed operators."

It is also understood by some responders that once a fully functioning secondary spectrum market comes into live or other regulatory action aligns the spectrum endowments of operators, the exogenous nature of spectrum fee disappears.

The cost differences due to spectrum fees must be evaluated properly and carefully. If MTRs are regulated, based on forward-looking costs, the exogenous cost differences may need to be taken into account as long as it persists (and as long as it is exogenous). However, in the situation where all spectrum licenses have been issued at market price (i.e. through an auction), in the view of the ERG there will in that situation no longer be exogenous cost differences due to license fees and specific technology use related to licenses.

Other exogenous factors are identified by late mobile entrants: historically "above costs of MTRs of first entrants" and at the same time the fact that "for several first entrants the costs are still not cost based" also constitutes a cost element for later entrants.

From forward-looking perspective, possible excessive tariffs of the past should not be considered as a relevant factor.

Other exogenous factor identified by one operator. Differences in bargaining power between operators (even not related to late entrance) lead to differences in unit cost of equipments. This also leads to an asymmetry in network costs.

This factor is endogenous for the given market player and should not be reflected through higher termination rates if it is not related to late entrance.

Some other factors that may increase MNOs' costs and are considered as exogenous by some mobile late entrants include: "market maturity", "on-net offers", "lock-in effect", "retention programs" of the early entrants; difficulties in getting "building permits for masts", rising "issues of radiation scare", and the different level of "quality of coverage" all of which hinder acquisition of new customers of the later entrants. According to some operators these market characteristics prevent convergence of market shares within a short or medium term.

Obviously it is late entrants that face more mature markets and it is them who suffer from the lock-in effects of on-net offers and aggressive retention programs of the incumbents. From strategic perspective it is also them to play the challengers' position and first entrants are in a "responsive position'. The more operators are on the market the more difficult it may be to build masts, the more may worry about radiation and the more difficult it is to satisfy customers with lower level of coverage. These factors are considered by ERG as direct consequences of the late entry. Therefore these factors cannot be treated separately from the factor "late entry" to avoid double-accounting of costs coming from late entry.

Transitory exception to take into a significantly late entrance:

QUESTION M4:

Do you agree with the following principle: *"If the level of competition in the mobile retail market asks for measures which create incentives for new network level entry or measures that strengthen the position of small new entrants, substantial differences in the date of market entry can justify an asymmetry for a transitory period"*?

Most respondents, which are mainly consumer associations and new entrants (more than two thirds) that commented this part of the Common Position agree with the principle mentioned by ERG and additionally consider that late entrance is an exogenous factor outside the control of the operators. Some mobile new entrants argue that asymmetrical MTR is not an issue of supporting market entrance or helping small players, but it should be imposed in order to remove entry barriers.

Asymmetries for smaller mobile operators may be justified in terms of economies of scale and costs associated with late entrance into mature markets. The delay of entry determines market shares. In this regard some criticism by mobile new entrants is made to ERG Common Position for not considering the difficulties of new entrants to gain market shares despite their aggressive policies. New entrants experience more difficulties in rolling out their networks, in facing inadequate regulatory measures to remove entry barriers and restrictive practices adopted by larger operators. Additionally, a mobile new entrant argues that network effects, while decreasing the value of a small network, also impact on the average time an operator takes to achieve a given market share. Thus, market shares and its evolution over time result from late entry and from the competitive distortions present in the mobile market and translate into higher unitary network costs driven by lower economies of scale.

In this context efficiency cannot be directly linked with market shares according to some mobile new entrants. A higher market share from an early entrant cannot be considered a result of super efficiency; on the contrary it results from a first mover advantage where regulatory policies were not irrelevant. Therefore whenever there is cost differences resulting from economies of scale associated with late market entrance, asymmetry cannot be considered a support to entrance but is a question of not discriminating different players in the market. Regulators should also take into account the transition from a policy that favored first/early entrants, through an unregulated environment, to another policy. Otherwise they risk distorting competition and disadvantaging late entrants.

Thus, asymmetric MTRs would be justified for a transitory period that should only end when equivalent market shares are reached and when historic side effects in favor of larger operators are compensated according to some mobile late entrants.

A few respondents, which are fixed and mobile argue that asymmetry is not justified, it is subjective and it might even be prejudicial to small entrants that build a business model based on asymmetry and thus lack the incentives to become efficient. It is argued that market share itself is no indicator of whether a network has achieved an efficient scale; country differences in scale economies have already been exhausted in all the large EU markets therefore asymmetries in those countries should be eliminated. New entrants can achieve an efficient scale by raising the necessary finance to incur losses in the earlier years until the barriers are overcome or until they benefit from them. NRAs should also take into account that new entrants benefit from a "second mover advantage".

A mobile operator also mentioned the danger of doubly penalize the second entrant by favoring the third entrant with an asymmetry and imposing symmetry towards the first operator that is usually the subsidiary of the fixed incumbent operator.

Regarding comments that asymmetry is not justified, is subjective and might be even prejudicial to small entrants, the ERG would like to point out that those concerns are already considered in this part of the draft document, where it is clearly stated that late entrants need to gain economies of scale to lower their costs.

It should also be mentioned that it is not the objective of the ERG to protect the particular interests of any player, and, therefore, if a small entrant sees its competitive position in the retail market being limited by its own high MTR, of course it will be the first interested in reacting and lowering it voluntarily to offset those difficulties.

Regarding the point that new entrants benefit from "second mover advantages", it should be noted that we have observed in European mobile markets significant advantages from being in the market since the first moment, and any possible "second mover advantages" seems to be offset by those first mover advantages.

QUESTION M5: Do you agree with the principle of keeping the level of asymmetry "*reasonable*"?

Although a significant majority of respondents agree with the principle of keeping the level of asymmetry "*reasonable*", most of them do highlight the undefined scope of this concept, and its absence in the regulatory framework.

While agreeing with the principle, respondents present their own view on what is the concept of "reasonable". Some respondents refer that the rational for asymmetry should be well specified and structured, in order to have reasonable MTRs, where "reasonable" refers to the existence of adequate cost justifications for any differences. A minority of respondents argue that asymmetry will be "reasonable" where it is related to objective cost differences which are outside the control of the operators concerned, specifically the spectrum differential between operators, and does not impact negatively upon the incentives for efficient operation. Under no circumstances must it be a source of additional income, and it is important that the differential treatment of the various players on the market is justified, and its relevance periodically reviewed. In addition, one respondent is of the opinion that MVNOs should never be allowed to have higher MTR than the host operator.

Other respondents, which are mobile new entrants, however, think that "reasonable" termination rates comprises cost differences and market distortions, and should not be based upon a theoretical approach. In this context, a "reasonable" asymmetry is one that is sufficient to offset the late entry disadvantages and larger operators' retail strategies, and such a concept should not be used to undermine the economic arguments for asymmetry in order to become a predestined symmetric outcome.

There are four mobile operators that do not agree with the principle. Two of them, which are first or second entrants, think there is no justification for any kind of asymmetry (though one refers only to its national market, and not the general principle), and that all asymmetries in the mobile sector should be eliminated. The reasoning is that most beneficiaries of asymmetries in Europe today entered the market at least 5 years ago and NRAs have taken extensive measures to lower barriers to switching, as evidenced by high churn rates which persist throughout the sector. The only basis on which this justification could be used today would be if the ERG believed that NRAs should be targeting a particular market structure in the long term, in which all firms in the market achieve a form of competitive parity with similar market shares. This would be an extraordinary position for the ERG to take, so ERG should explicitly reject any such objective in its Common Position and should make it clear that it is not seeking to oversee any particular market outcome. Once it has done this, it becomes clear that subsidies for 'late entrants' based on subjective judgements have no place in today's markets.

Regarding comments that reject asymmetries because "most operators entered the market at least 5 years ago and NRAs have lowered barriers to entry", it should be underlined that in many European markets there are operators still entering into the market, and churn rates are in many cases very low.

The other two which are late mobile entrants, on the contrary, are against the principle because it may only work as a means to justify a reasonable and "acceptable"

predestined symmetric outcome, or because it is not correct to assume that cost-based mobile termination rates can be considered 'unreasonable'. A reasonable asymmetry is one that offsets the disadvantages faced by small operators. In some cases the level of asymmetry required to offset the disadvantages faced by new entrant and small operators would be very significant (e.g. the size of asymmetry required to avoid transfers of profit from small to large operators), and impose a "reasonable" test can be interpreted as a way to set with no justification an upper limit to the asymmetry level.

The ERG considers that a too important asymmetry might lead to competitive distortions on the retail market and consequently, the asymmetry should remain "reasonable".

Finally, there are two respondents which are late mobile entrants that believe the assumptions of the ERG document, which have a direct impact in the concept of "reasonableness", must be more realistic and sustainable (either in what concerns the principles that drive the cost models, as the WACC and the duration of the business plans, as in what concerns the principles in the models of asymmetry, like the factors impacting in the transition period). Four other respondents specify how they consider a "reasonable" level of asymmetry would be achieved: three of them indicate a threshold of 40% and 50%, above which any level should be individually justified, and other suggests that such a value could be addressed by a benchmark for asymmetry, with the help of a cost model.

QUESTION M6: Do you agree with the fact that an initial level should be accompanied by a glide path towards symmetry?

A group of respondents which are late entrants and consumer associations starts by stating that the ERG misses to address the correct priority, either because

- The ERG consultation appears to focus on a result that is deemed desirable (symmetry) rather than applying principles of non-discrimination and objective cost-orientation and incentivising investment in a consistent and non-discriminatory way,
- The current issue is mainly an issue of level of MTRs, instead of MTRs differentiation, or
- The current approach to regulating MTRs is based on the principle of efficient cost recovery, but the primary concern of regulators should be to avoid distortions of competition.

A significant group of respondents, which are mainly new entrants and consumer associations, favour the perspective that asymmetry should be kept until the competitive problem is solved, and is thus justified until a true level playing field is established and effectively supported by the regulator. Though slightly less significant, another group of respondents, which are mainly incumbent operators

states noticeably that the goal for MTRs in each country should ultimately be symmetry between mobile operators, and a progressive but clearly definitive convergence through symmetry should be mandated, in order to avoid its permanence indefinitely.

Respondents who stand in favour of the first perspective, that asymmetry is justifiable as long as the level of competition in the national mobile retail market is not sufficiently competitive, argue that the application of termination rates symmetry is a possibility but only in the case in which there is an effective equivalence of circumstances and it is justified by an objective alignment of underlying costs. A glide-path to symmetry should be set in relation to costs that are within the operators' control. However, for other exogenous factors such as spectrum allocation and behaviours by competitors that may undermine market expansion (such as on-net off-net strategies by large players) such asymmetries could not be removed until the exogenous factors are addressed.

Some of these respondents state also that incumbent operators have already recovered the cost of their network through MTRs, and their MTRs should be significantly reduced with the goal of achieving marginal costs. The decrease of MTRs should be slower for later entrants and follow a different glide path, as late entrants should benefit from higher MTRs during a transitional period, in order not to further weaken them, leading to a decrease in competition on the retail market. One mobile operator urges regulators to set immediately incumbents' MTRs to a real cost level, and two other ones propose the replacement of current system of termination rates by a completely new model based on no payments between operators for interconnection (sometimes called "bill and keep"). Two respondents highlight the need for lowering termination rates for all operators.

Most of these comments were addressed in answers provided to M1.

Regarding the period for asymmetry, some respondents which are late mobile entrants say the timing should consider at minimum initial differences between incumbents and new entrants such as first mover advantages and the order or delay of entry. The timing should also consider market frictions on the evolution of market shares (internal and external churn, sizes of distribution networks, retail on-net and off-net offers) that can either influence the speed of convergence (factors limiting the number of customers who churn from one operator to another) or influence the target of convergence (factors relevant to the share of acquisitions). Finally, one mobile operator agrees that symmetrical mobile termination rates should be achieved on the national and also on the European level, stating that the Common Position should also define how to deal with still existing asymmetries in most Member States particularly in regard to the length of the glide path, and supporting LRIC as the methodology to set harmonized mobile termination rates, as it promotes much smaller differences in mobile termination rates allowing only small deviations (for a limited period of time) from country to country.

The ERG agrees that the timing of the glide-path should also consider market frictions on the evolution of market shares that can either influence the speed of convergence or the target of convergence.

QUESTION M7: Do you agree with the fact that national factors should be taken into account to evaluate the length of the transition period?

A large majority of countries agree that national factors should account for the length of the transition period. Some take the view that it would be inappropriate to define a common transition period for all European late entrants as markets differ between member states. It would also be devastating for competition to impose a single MTR within Europe. Others argue that national factors should be taken into account but subject to a harmonized approach. A few defend the imposition of limits on levels and time and the phasing out of asymmetry as quickly as possible at the European level.

Regarding national factors that should be taken into account, the date of entry and market maturity (penetration) receive a very wide support from respondents.

Other factors related with market fluidity (churn), the possible discriminatory behaviour by the incumbent, the level of competition in the market (including on-net/off-net policies), different regulatory environment between operators, market deployment conditions, interconnection traffic balances, current market shares, coverage obligations, spectrum allocation (including refarming), costs per site were also mentioned by some respondents, namely those that favour the imposition of asymmetric MTRs. On the other hand, some argue that the level of competition and pricing policies with impact on market shares should not account for the imposition of asymmetry as they are part of the entrepreneurial risk of entering the market.

Transitory exception before MTRs are at cost, to limit distortions created by MTRs above costs:

QUESTION M8: Do you agree that in specific market circumstances (MTRs tariffs are significantly above MTR costs, there are high traffic imbalances between mobile operators and benefits of a transitory asymmetry outweigh any short term disadvantages of doing so), a temporary asymmetry may limit competitive distortions?

QUESTION M9: Do you agree that NRAs should first try to set MTRs at costs?

General agreement about the transitory asymmetry

Many respondents, which are consumers' organisations and new entrants, welcome generally this proposal. Most of them insist on the necessity of setting cost-oriented tariffs. Some new mobile entrants insist on decreasing first MTRs of the larger operators.

ERG agrees that the cost orientation should be the priority, and that this proposal can only be used during the transitory period to set tariffs at costs.

Three respondents which are new entrants suggest that the PT did not consider all competitive distortions and consider that the following factors should be taken into account: market maturity, on-net offers of incumbent, replication of successful offers due to artificial financial health of incumbents, differences of frequencies given to MNOs, locked distribution networks, incumbent's aggressive retention programs.

The purpose of this proposal is definitely not to say that any market distortions can or should be compensated through asymmetric MTRs. This proposal only suggests to correct market distortions created by a regulation of MTRs above costs, through an asymmetry of MTRs, and cannot be used in any other contexts.

A new entrant proposes an additional explanation of the process. Consumers benefit from receiving calls. If larger networks deter its customers from calling customers of smaller network (thanks to high off-net tariffs), it reduces the value of that small network, which will be unable to charge as much as its competitors for its services. In some countries such as Italy and Austria, on-net call prices are below MTR's levels and consequently cannot be replicated by small operators.

According to two respondents, which are new fixed and mobile entrants, on-net / off-net offers should be monitored and a strict enforcement of enforcement of the non-discrimination condition for internal/external supply of termination for such operators could be one possible solution.

A new mobile entrant suggests a generalisation of this proposal, even if traffic imbalances are not already present in the market. It explains that it did not implement commercial strategies described in the Common Position because it could not afford the financial risk due to economic distortions which would have resulted.

The purpose of this chapter is to address the situation where traffic imbalances exist and MTRs are still above costs (and not a potential traffic imbalance). Therefore, these concerns are not addressed in this section.

Some respondents, which are mainly consumer organizations and new entrants suggest that the best mid-term solution is the implementation of bill and keep.

The ERG agrees that bill-and-keep should be further investigated, but considers this beyond the scope of this common position. Such proposal should be further discussed with stakeholders and carefully analysed as a possible solution for the medium-to-long term in Europe.

The priority should be to implement the cost orientation

A few respondents which are fixed operators answer that this proposition is not relevant as the priority should be to implement the cost orientation.

The ERG agrees that the cost orientation should be the priority, and that this proposal can only be used during the transitory period to set tariffs at costs. Questions related to methodologies to set the cost orientation will be discussed in a future common position.

According to consumer organisations and new entrants, the level is more important than the asymmetry.

ERG agrees with this vision and that is the motivation for the discussion of MTR's cost methodologies (and consequently levels) in another common position, that is already in preparation.

General disagreement: the priority should be to implement symmetric rates

MTRs should be symmetric.

Asymmetry worsens the problem**:** Some operators which are fixed incumbents and mobile first or second entrants explain that they are strongly against an asymmetry based on this proposal as, according to them, it results in further competitive distortions , as any asymmetry will result in an increase of on-net / off-net offers.

The ERG has acknowledged this possible problem and has explained that the transitory asymmetry should remain reasonable in any cases. In addition, ERG does not suggest increasing MTRs of smaller operators. It only suggests to go slower towards costs when MTRs are not at costs yet, letting an asymmetry during the transitory period to implement the cost orientation. Anyway, as regulated MTRs are price ceilings, if potential disadvantages are real, new entrants have the possibility to lower them voluntarily.

Traffic imbalances is the result of the strategy of the smallest operator**:** An operator explains that the proposed approach is incorrect as traffic imbalances can be due to strategic choices by small operators, and is an artificial assistance for the late entrant. The smaller operators could adopt other strategies, targeting post-paid customers, which have usually more incoming traffic than outgoing traffic. A small operator can also target group of people calling each other frequently such as families and circumvent any competitive disadvantages of being small.

MTR regulation should not implicate any specific commercial strategies for operators, which are the responsibility of operators. The asymmetry in this case cannot be viewed as an assistance of the smallest operator, but it is a measure to offset the negative effects due to the delay for implementing the cost orientation.

The smaller operator does not have higher costs: According to two operators, smallest operators having a higher proportion of incoming calls, they do not suffer of MTRs above costs.

These operators' reasoning are based on the assumption there are no traffic imbalances, but ERG addresses a problem that only exists when traffics are not balanced as a result of retail strategies (when MTRs are above costs).

If there is a problem, the competitive authorities can address it.

ERG acknowledged that if the Competition law alone can address these issues efficiently and quickly enough, then the NRA should not solve this problem through an asymmetry.

Misunderstanding

It should be noted that two respondents do not seem to have correctly understood the questions regarding this proposal. Another operator does not seem to have understood the question about cost orientation.

The underlying assumption in the common position about the cost orientation is: the cost orientation refers to a cost reference corresponding to the costs of a

national efficient operator to provide mobile termination rates. The specification of this target will be discussed in a next common position.