

## Consultation response form

Please complete this form in full and return via email to [mct.2018@ofcom.org.uk](mailto:mct.2018@ofcom.org.uk) or by post to:

Lucy Reid  
Ofcom  
Fourth Floor, 125 Princes Street  
Edinburgh EH2 4AD


<b>Consultation title</b>	Mobile call termination market review 2018-21
<b>Full name</b>	
<b>Contact phone number</b>	
<b>Representing (delete as appropriate)</b>	Organisation
<b>Organisation name</b>	Manx Telecom Trading Limited
<b>Email address</b>	
<b>We will keep your contact number and email address confidential. Are there any additional details you want to keep confidential? (delete as appropriate)</b>	
<b>For confidential responses, can Ofcom publish a reference to the contents of your response?</b>	

## Your response

<b>Question 3.1: Do you agree with Ofcom's view of the relevant market and assessment of significant market power? If not, please explain why.</b>	<p>Manx Telecom agree with Ofcom's definition of the relevant market.</p> <p>However we disagree that Manx Telecom provide any services within the market as defined by Ofcom, as all Manx Telecom mobile codes terminate on the Manx Telecom mobile network on the Isle of Man and Manx Telecom's MCT rate is set by the Isle of Man Communications Commission. As such Manx Telecom does not have the ability to set prices for mobile termination to these ranges (for interconnection in the Isle of Man).</p> <p>Accordingly Ofcom's definition "termination services that are provided by [named mobile communications provider] ("MCP") to another communications provider, for the termination of voice calls to UK mobile numbers allocated to that MCP by Ofcom in the area served by that MCP <b>and for which that MCP is able to set the termination rate</b>". (emphasis added) does not include calls to 07x on Manx Telecom.<sup>57</sup></p>
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	<p>Note that some of Manx Telecom's customers will be roaming elsewhere, but calls to these users are still deemed to terminate on the Manx Telecom switch (e.g. Manx Telecom is paid an MTR). Subsequent call completion is achieved either on Manx Telecom's own network or via commercial arrangements with roaming partner networks.</p>
<p><b>Question 4.1: Do you agree with our assessment of the harm that could result from a lack of effective competition in MCT markets?</b></p>	<p>Manx Telecom agree with Ofcom's assessment of the harm that could in theory result from a lack of effective competition in MCT markets. However, in the case of Manx Telecom all calls to 07 codes issued to Manx Telecom by Ofcom terminate on the Manx Telecom mobile network on the Isle of Man. Manx Telecom's MCT rate for calls terminating in the Isle of Man are set by the Isle of Man Communications Commission, and therefore fall outside the relevant market as defined by Ofcom.</p>
<p><b>Question 4.2: Do you agree with our assessment that ex post competition law alone would not be sufficient to address the competition problems we have identified, and that therefore ex ante regulation is required?</b></p>	<p>As already stated it is our view that, as Manx Telecom MTRs are already regulated and subject to price control by the Isle of Man Communications Commission, we do not provide services in the relevant market as defined by Ofcom. Even if Ofcom were to change its market definition, the regulation imposed by the Communications Commission would mean that ex-ante regulation of Manx Telecom by Ofcom is not required to address competition problems.</p>
<p><b>Question 4.3: Do you agree with our proposal to impose an obligation to provide network access on reasonable request on all MCT providers with SMP? If not, please explain why.</b></p>	<p>Manx Telecom agree that it would be sensible to impose an obligation to provide network access on reasonable request to all MCT providers in the relevant market. But we say this does not include Manx Telecom for the reasons previously given. In addition, we are already subject to a similar remedy as a result of our own licence, meaning an additional obligation would be disproportionate and unnecessary.</p> <p>If Ofcom were to persist with an obligation even given these two factors, then it would need to consider the unique situation of the Isle of Man and the dependency of Manx Telecom on transit providers.</p>
<p><b>Question 4.4: Do you agree that our proposal to impose a charge control on all MCT providers with SMP is appropriate? If not, please explain why.</b></p>	<p>Manx Telecom disagree with Ofcom imposing charge controls on Manx Telecom, because we do not provide services in the relevant market as defined by Ofcom, as MTRs are already regulated by the Isle of Man Communications Commission.</p>
<p><b>Question 4.5: Do you agree with our proposal that LRIC should continue to be the appropriate cost standard? If not, please explain why.</b></p>	<p>Not in relation to Manx Telecom. EU law (including the electronic communications framework) does not apply in the Isle of Man. Manx Telecom are regulated by the Isle of Man Communications Commission which has made its own determination of the appropriate level of MTRs. See the consultation and decision at: <a href="https://www.gov.im/cc/ConsultationDetail.gov?id=563">https://www.gov.im/cc/ConsultationDetail.gov?id=563</a></p>

<p><b>Question 4.6: Do you agree with our proposal to apply the charge control to all calls, including those originated outside the EEA?</b></p>	<p>In relation to Manx Telecom, disagree, for the reasons already stated. In relation to other UK MNOs, agree.</p> <p>Note that as Manx Telecom outbound traffic to the UK originates from outside the EEA, we have a direct interest in this point as it will affect the price we will pay in future; we agree that allowing UK operators to charge higher prices for calls from outside the EEA could affect retail prices charged (in our case, in the Isle of Man) and thus the volumes of traffic inbound to the UK.</p>
<p><b>Question 4.7: Do you agree with our proposal to remove the non-discrimination obligation on the four largest mobile providers?</b></p>	<p>Disagree.</p> <p>We do think that there is a possibility of two or more of the larger MCT providers entering a bilateral bill and keep agreement, but charging competing providers an MTR above zero.</p> <p>While the existence of bill and keep would not itself be unduly discriminatory, the proposed lack of transparency would make it more difficult to understand whether such deals existed, and the terms on which they were available (e.g. whether certain volumes or levels of symmetry were required). These terms could be unduly discriminatory.</p> <p>Given the proposed lack of transparency, we do not agree that ex-post competition law would sufficiently protect against unduly discriminatory behaviour in this instance; smaller players could be materially damaged before any action could be successfully brought to a conclusion.</p> <p>The availability of price information relating to BT's transit interconnection alone would not mitigate this.</p>
<p><b>Question 4.8: Do you agree with our proposal to remove the price transparency obligation on all MCT providers with SMP? If not, please explain why.</b></p>	<p>Agree</p>
<p><b>Question 5.1: Do you agree with our proposed modelling approach as discussed in Section 5, the supporting annexes and the 2017 MCT model? If not, please discuss the specific proposals that you disagree with.</b></p>	<p>Disagree.</p> <p>Manx Telecom are regulated by the Isle of Man Communications Commission; the regulated MTR charges set by the IOM CC are based on a different bottom up cost model (i.e. not by Ofcom's model). EU law, which affects Ofcom's chosen LRIC approach, does not apply in the Isle of Man.</p>
<p><b>Question 6.1: Do you agree with our proposed approach to implementing the MCT charge control? If not, please discuss the specific proposals that you disagree with.</b></p>	<p>Disagree that any charge control should be applied to Manx Telecom by Ofcom, for the reasons already stated.</p>
<p><b>Question 6.2: Do you have any other comments on the matters raised in this consultation?</b></p>	<p>As noted above, Manx Telecom does not provide any services in the relevant market (as defined and regulated by Ofcom).</p> <p>If Ofcom were to change its market definition so as to include 07x calls terminated by Manx Telecom even though the MTR is set by the Communications</p>



Commission, then the consultation would need to take into account to a much greater extent the unique situation of the Isle of Man including the applicable legal environment and would also need to take into account Manx Telecom's dependency on transit providers.

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