

Consultation on the scope of the Delegated Act setting a single maximum Union-wide mobile termination voice rate and a single maximum Union-wide fixed voice termination rate

Fields marked with * are mandatory.

A

Introduction

The European Commission is currently preparing a legislative measure on the rates that operators can charge for terminating other operators' calls on their networks.

The [European Electronic Communications Code](#) (the "Code") requires the Commission to adopt a delegated act setting a single maximum Union-wide mobile voice termination rate and a single maximum Union-wide fixed voice termination rate (together referred to as 'the Union-wide voice termination rates' or 'Eurorates') by 31 December 2020.[1]

A voice call termination service (fixed or mobile) is necessary for a voice call operator to connect a caller with the intended recipient of a call on a different network. This service can only be provided by the operator serving the called subscriber (the terminating operator). Wholesale termination rates are the rates which operators charge other operators for the termination of voice calls on their networks.

This measure (the delegated act) aims at protecting end users from excessive retail prices arising from operators' ability and incentive to raise voice call termination rates substantially above costs and pass those excessive rates on to subscribers. Therefore, the Commission is consulting with all stakeholders involved (including operators, national regulatory authorities, government and other authorities, industry and consumer associations, citizens, etc.) on various policy aspects of this measure.

Given the complex and technical nature of some of the questions of this public consultation, questions in sections "*Scope of application*" and "*Exceptional national circumstances and transitional period*" are addressed to all stakeholders, including citizens, while the rest of the questions are largely addressed to stakeholders with significant experience in the industry, such as national regulatory authorities, BEREC, industry and consumer associations and operators.

The Code sets out the principles, criteria and parameters that the Commission should use to set the Eurorates. These include the requirement that the maximum rates should be based on the recovery of costs of an efficient operator, thereby avoiding excessive wholesale prices and contributing to key policy objectives of the Code: to promote competition and the interests of the citizens and to contribute to the development of the internal market.

This measure seeks to supplement the Code, which requires the Commission to set single maximum wholesale rates for fixed and mobile voice call termination services under its Article 75 by way of a delegated act. The Code stipulates that such rates will be applicable to any operator providing voice call termination services in the European Union (EU).

In light of the ability and incentives of terminating operators to raise prices substantially above cost, cost-oriented price regulation is considered to be the most appropriate intervention to address this concern over the medium term. Regulation of termination rates therefore addresses the risk of excessive pricing by ensuring that prices are based on the efficient costs of terminating a call. The Code, in Article 75 and Annex III, sets out the principles, criteria and parameters that should be used by the Commission to set the Eurorates. The Code provides discretion to the Commission regarding the necessity of a transitional period of up to 12 months, to allow adjustments in Member States where this is necessary on the basis of rates previously imposed.

Article 75 of the Code and the subject delegated act are a natural continuation of the Commission's efforts to bring a more consistent regulation of fixed and mobile termination rates in the EU. In particular, it makes the principles of the [Termination Rates Recommendation](#) binding upon all providers offering voice termination services in the EU. Following calls by Member States and national regulatory authorities (NRAs) to simplify termination rates regulation, and in order to protect EU consumers and businesses from excessive prices for telephony services, the Code provides for single Union-wide rates applicable to all providers of voice termination services, doing away with the need to build cost models and calculate rates in each individual Member State.

The cost model itself will not be in the scope of this consultation, given that the Commission has broadly consulted several times on both the fixed and the mobile termination models and the Weighted Average Cost of Capital (WACC), including the organisation of workshops and targeted consultations. This consultation will be on the scope of the delegated act and its various policy aspects. Therefore, the issues of Article 75 and Annex III relating to the cost model will not be covered by this consultation.

[1] The roadmap of this initiative can be consulted [here](#)

B About you

* B.1 Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- Gaelic
- German
- Greek

- Hungarian
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* B.2 First name

Ana

* B.3 Surname

Baide

* B.4 I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

B.6 I am a:

- Mobile Network Operator (MNO)
- Mobile Virtual Network Operator (MVNO)
- Fixed operator
- Convergent operator (e.g. providing both fixed and mobile services)
- Other

* B.10 Email (this will not be published)

ana.baide@vodafone.com

* B.12 Organisation name

255 character(s) maximum

* B.13 Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

B.14 Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

9014250347381

* B.15 Country of origin

Please add your country of origin, or that of your organisation.

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| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Martin |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> Samoa |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> San Marino |
| <input type="radio"/> Andorra | <input type="radio"/> El Salvador | <input type="radio"/> Madagascar | <input type="radio"/> São Tomé and Príncipe |
| <input type="radio"/> Angola | <input type="radio"/> Equatorial Guinea | <input type="radio"/> Malawi | <input type="radio"/> Saudi Arabia |
| <input type="radio"/> Anguilla | <input type="radio"/> Eritrea | <input type="radio"/> Malaysia | <input type="radio"/> Senegal |
| <input type="radio"/> Antarctica | <input type="radio"/> Estonia | <input type="radio"/> Maldives | <input type="radio"/> Serbia |
| <input type="radio"/> Antigua and Barbuda | <input type="radio"/> Eswatini | <input type="radio"/> Mali | <input type="radio"/> Seychelles |
| <input type="radio"/> Argentina | <input type="radio"/> Ethiopia | <input type="radio"/> Malta | <input type="radio"/> Sierra Leone |
| <input type="radio"/> Armenia | <input type="radio"/> Falkland Islands | <input type="radio"/> Marshall Islands | <input type="radio"/> Singapore |
| <input type="radio"/> Aruba | <input type="radio"/> Faroe Islands | <input type="radio"/> Martinique | <input type="radio"/> Sint Maarten |
| <input type="radio"/> Australia | <input type="radio"/> Fiji | <input type="radio"/> Mauritania | <input type="radio"/> Slovakia |
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| <input type="radio"/> Bahrain | <input type="radio"/> French Polynesia | <input type="radio"/> Micronesia | <input type="radio"/> South Africa |

- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar /Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- North Korea
- North Macedonia
- Northern Mariana Islands
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States

- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

B.16 In which national markets do you operate?

If you operate in more than 10 countries, please include them in the last row

	Countries of operation
Country 1	
Country 2	
Country 3	
Country 4	
Country 5	
Country 6	
Country 7	
Country 8	
Country 9	
Other countries	UK,DE,ES,PT,NL,CZ,HU,IT,IR,MT,RO,GR

B.17 Has your company been designated as an operator with significant market power (SMP) in fixed or mobile call termination markets in at least one market in the EU?

- Yes

No

B.18 If yes, please explain in which countries and markets

We have been designated an operator with SMP in all our EU markets for mobile termination, and a number of them for fixed termination.

* B.19 Publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only your type of respondent, country of origin and contribution will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.

Public

Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

B.20 I agree with the [personal data protection provisions](#)

C Scope of application

This Section aims at determining the exact scope of application of the delegated act setting the Eurorates, in particular what type of services and providers would fall under its scope. A voice call termination service (fixed or mobile) is necessary for a voice call operator to connect a caller with the intended recipient of a call on a different network.

C.1 Would you agree with the following definition of (wholesale) voice call termination service: “*Wholesale voice call termination is the service required in order to terminate calls to called locations (in fixed networks) or subscribers (in mobile networks)*”?

Yes

No

I do not know

C.2 Please explain

The definition is not incorrect per se and we think it is mostly accurate. The definition should ensure that termination fees are limited to Electronic Communications Networks supporting telephony services and incurring the costs of conveying a call to a called party. The principle that the rates follow the number should also apply in order to provide transparency and prevent fraud. For instance, where the number is mobile, the termination rate should be mobile, irrespective of whether it is terminating on a fixed network or not. Moreover, the definition should specifically exclude OTT VoIP services and any other technology that excludes costs of supporting incoming calls. It should be clear that providers that do not bear the costs do not benefit from the rates, for example where the termination is on data, the receiving party pays via data charges as there is no termination.

C.3 Which providers would in your view qualify as call termination service providers under this definition?

- Mobile Network Operators (MNOs)
- Mobile Virtual Network Operators (MVNOs)
- Fixed voice providers
- Convergent operators
- Other

C.4 Please explain

We support GSMA's comments on this question, namely that MNOs, full MVNOs, fixed network operators and convergent operators all control end users' access and support mobile, fixed or both termination costs when terminating voice calls on their networks. These providers should be allowed to collect the maximum Union-wide mobile voice termination rate when terminating calls to their mobile subscribers and should be allowed to collect the maximum Union-wide fixed voice termination rate when terminating calls to their fixed subscribers.

By contrast, MVNOs not controlling access and supporting call termination costs should not qualify as call termination service providers. In addition, M2M not being a voice service, M2M services should be outside the scope of this regulation.

D Exceptional circumstances and transitional period

The Code foresees that exceptional national circumstances may be the basis for a necessary adjustment in the setting of the Eurorates (Art 75.1(b)), and that national circumstances could result in significant differences between Member States (Art 75.1(c)).

The Code also foresees the possibility of allowing for a transitional period of no longer than 12 months in order to allow adjustments in Member States where this is necessary on the basis of rates previously imposed (Art 75.1(e)).

D.1 Are there in your country(ies)/country(ies) of operation national circumstances which, in your view, would justify a necessary adjustment of the Eurorates (art 75.1 (b) and (c) of the Code)?

- Yes
- No
- I do not know

D.2 Please explain

Please see our general comments in question G.4 below.

As a key principle we consider it important to ensure that the 12-month period applies irrespective of the level of discrepancy between current and new rates. Most of our operating companies across different countries will have different circumstances, however it is difficult to establish how the Eurorates will need to be adjusted given it is unclear what the final rates will be – for example, Vodafone Spain has additional network costs due to seasonality that is not included in the Axon model, and they will consequently require a longer glide path. The act should provide sufficient flexibility for ensuring an orderly transition without price and revenue shocks.

D.3 The Code provides for the possibility of a transitional period of up to 12 months to allow adjustments in Member States where this is necessary to ensure a smooth transition from pre-existing termination rates to the Eurorates. Would you be in favour of such transitional period in respect of your country(ies)/country(ies) of operation?

- Yes
- No
- I do not know

D.4 Please explain, in particular what are the circumstances to justify a transitional period

Please see our general comments in question G.4 below.

It is difficult to predict what the final rates will be and what the discrepancies will be between current and new rates across our footprint. We consider that the 12-month transitional period will be necessary to avoid price and revenue shocks along with any necessary adjustments. We also consider that an implementation period of 12-months should apply to all member states to ensure true harmonisation and avoid additional shocks. Where different periods are included this may lead to distortions and price shocks, for example where country A reduces to a new rate six months prior to country B, this would imply that country A is impacted twice. The transition period should be long enough to minimise shocks, but also set up in a way that provides necessary harmonisation of implementation.

D.5 In your view, would this transitional period be justified for countries where current termination rates are:

- Above the Eurorates
- Below the Eurorates
- Both above and below
- I do not know

D.6 Please explain

Please see our general comments in question G.4 below.

As per above - it is difficult to predict what the final rates will be and what the discrepancies will be between current and new rates across our footprint. We consider that the 12-month transitional period will be necessary to avoid price and revenue shocks along with any necessary adjustments. We also consider that an implementation period of 12-months should apply to all member states to ensure true harmonisation and avoid additional shocks. Where different periods are included this may lead to distortions and price shocks, for example where country A reduces to a new rate six months prior to country B, this would imply that country A is impacted twice. The transition period should be long enough to minimise shocks, but also set up in a way that provides necessary harmonisation of implementation.

E Non price-related obligations and procedures

This section aims to consult on the possible need for related obligations, other than the price-related obligations imposed under the delegated act.

E.1 While not under the scope of the delegated act, which other obligations would you consider necessary to be imposed on providers of call termination services (e. g. on the basis of their significant market power), in addition to the Eurorates (pricing) obligation? (see ongoing review of the [Recommendation on relevant markets](#))

- Transparency (in relation to the conditions of provision of voice termination services)
- Non-discrimination (in the conditions applied to providers requesting voice termination services)
- Accounting separation
- None
- Other
- Access

E.2 Please explain

Please see our general comments in question G.4 below.

We do not think it is justified to impose further remedies without an identified and specific retail market problem that requires fixing. Termination rates across the Union are already low, and are likely to continue to decline. As such further remedies seem both unnecessary and disproportionate. The new European Electronic Communications Code includes relevant provisions intended to deal with SMP concerns. These provisions should be adequately transposed by all Member States, and any further regulation should be done accordingly, if at all required.

Moreover, the imposition of Eurorates is a symmetric regime, and as such we do not see how SMP remedies would continue to be relevant. Consistent with our submission on the Review of the Recommendation on Relevant Markets, we consider that Markets 1 and 2 need to be removed, as with the implementation of Eurorates these are no longer relevant.

Finally, accounting separation is not a relevant or adequate remedy in these markets.

E.3 Please consider hybrid voice operators as those providing voice services that are either not purely fixed or not purely mobile services (for example a voice service provided over a mobile device and network but using a fixed number). Are you aware of these operators in your country?

- Yes
- No

E.4 Please explain

As noted above, we consider that as the general rule the termination rate should follow the number.

E.5 If yes, how are they regulated as regards termination rates?

- As fixed operators
- As mobile operators
- Other
- I do not know

E.6 Please explain

As per above, the rates should follow the number.

E.7 How should these hybrid services in your view be classified under the delegated act?

- They should be treated as purely mobile services
- They should be treated as purely fixed services
- The classification of the given service should be a function of the underlying network
- The classification of the given service should be a function of the pricing structure of the underlying retail service
- Other

E.8 Please explain

The overarching principle should be that the termination caps, fixed and mobile, should follow the number being terminated. If a mobile number is being called, then the applicable rate should be mobile. The number should also follow the technology used.

This general principle will provide relevant transparency to the rates and is also an effective way to combat fraud.

F Price levels

This section aims to consult on the concrete implementation of the Eurorates, namely on how to undertake the transition between the current rates and the Eurorates.

F.1 What circumstances could justify a glide-path towards the estimated level of efficient cost, rather than an adjustment of the current rates to that level in the first year (or the first year after the transition period)?

Please see our general comments in question G.4 below.

As discussed above, specific country issues such as seasonality in Spain should allow for longer glide paths. However, specific issues are difficult to identify up front given it is not known what the final rates will be. The greater the discrepancy between the current rates and new rates, the longer the glide path should be to avoid any price and revenue shocks. Any negative signals to investors should also be avoided through relevant flexibility and adjustments.

F.2 In your view, what would be the appropriate period (within 5 years) before the Eurorates achieve the level based on efficient costs? Please explain.

As per our general comments in question G.4 below, this will depend on final rates. A longer period will be necessary where there is a greater discrepancy between current and future rates.

We recognise the benefits of a single rate, but those benefits do need to be weighed against the different underlying costs and cost structures in different member states. We also recognise that the rate range has narrowed and the acceptable range for termination rates is somewhere between an average and a pure

incremental cost rate. So long as all states sit somewhere between that range the benefit of harmonisation and simplification will materialise. So long as operators are above the highest pure LRIC the change should not be too drastic. This will also ensure that the investment principle in the European Electronic Communications Code is not compromised.

G Other

G.1 If you are an operator that is active outside the EEA, are you of the view that operators outside the EEA should apply termination rates equivalent to the Eurorates outside the EEA, if they were to benefit from the Eurorates when terminating calls from non-EEA countries into the EEA?

- Yes, termination rates applied outside the EEA to voice calls originating in the EEA should be reciprocal (equivalent to the Eurorates)
- No, termination rates applied outside the EEA to voice calls originating in the EEA should not be reciprocal
- I do not know
- Not applicable/I am not active outside the EEA

G.2 Please explain

The Eurorates Delegated Act only applies to intra-EEA and European national calls. Non-EU/EEA calls, both originating and terminating, should not be subject to this regulation.

We support the GSMA view that, with a view to fairness and balanced financial flows, the obligation for European operators to charge Eurorates cap should not apply to calls originating or terminating outside Europe. However, it seems reasonable that the call termination prices billed by a European operator to calls from non-EU countries do not exceed the call termination rates billed by those operators located in non-EU countries when they receive calls originating from this European operator. This rule is already the regulation currently in place by a certain number of European national regulators.

G.3 Please name and explain other market/technological evolutions expected in the period running up to year 2025 that could have an impact on the regulation of termination markets. Please explain in which way you consider such developments could affect the regulation of termination markets

It is likely that classical voice calls will be eventually substituted for VoIP given the ubiquity of 3G/4G coverage.

G.4 Please explain and provide any relevant market information that the Commission should consider for the adoption of the Eurorates

Vodafone Group supports the policy intent of the Eurorates legislation, namely the exercise in simplifying the process across all member states. We support the Commission's policy of harmonising approaches across the EU.

While we note that this consultation is only concerned with the policy aspects of the delegated act, rather than the cost model to be used by the Commission to determine the new termination rates and acknowledge that the consultation on the Axon model is now completed, nonetheless we would like to make a few remarks concerning the model. Remarks on the Axon model are relevant in the context of the policy intent

and policy issues concerning the delegated act.

While it is difficult to predict what the new rates might be once the Axon model is applied, we note that a number of draft results in the ranges available are coming out considerably lower than today's rate levels. We have some apprehension that the harmonisation exercise might inadvertently cause price and revenue shocks across different operators and Member States and send negative signals to investors and financial markets, which is not the policy intent of this regulation.

Reduction of the termination rates should be a policy goal where there is a demonstrable consumer/retail issue, accompanied with relevant analysis as to competition or dominance problems that need to be addressed. This is consistent with the provisions of the new European Electronic Communications Code.

To date, we are unaware of any SMP or bottleneck concerns in this area, and it is generally accepted that the market is currently efficient.

It would be concerning if an exercise in harmonisation inadvertently regulated an area where a retail problem has not been identified. An inadvertent consequence of such an action would likely reduce revenues across the entire industry, causing price and revenue shocks. This would be an unproductive result in an industry where margins are already in decline. Moreover, such an outcome would have a contrary impact at a time when investment by European operators in the European telecommunications markets, such as the ongoing deployment of very high capacity networks, is one of the paramount goals of the Commission.

The new European Electronic Communications Code is clear in its policy intent that any departures from the way the market is operating needs to have adequate justification in terms of a demonstrable problem at the retail market. A number of Member States today are already operating at below cost, and no retail market issue is identified in the termination rates space.

We therefore consider that it is important for the Commission to provide sufficient flexibility in the delegated act to ensure there are no major price and revenue shocks to the current levels of termination rates. Should the model turn out decreased rates, appropriate checks need to be in place to minimise revenue and price shocks. Sufficiently long transition periods and glide paths are essential in this case.

The policy purpose of the new Eurorates is harmonisation of approaches across the European Union. The delegated act should also be clear on this purpose.

The delegated act needs to ensure that any unintended outcomes are safeguarded against. The safeguards in the delegated act must provide the balance between the implementation of the harmonisation goal with the other Commission priorities such as deployment of very high capacity networks, incentives for investment, and enabling and supporting global competitiveness of European operators.

We also strongly encourage the Commission to avoid giving negative signals to investors and financial markets. Given that Europe is lagging behind in its technological investment, and high investments are required to maintain the quality of existing networks and deploy VHCN across the Union, such negative signals would be highly problematic and counter-productive.

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