Delegated Regulation setting Union-wide maximum fixed and mobile termination rates (Delegated Regulation)

Frequently Asked Questions

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A. Costs covered and scope

The European Electronic Communications Code (the Code) establishes that only traffic-related costs should be recovered by the termination rate (see Annex III: "Only those traffic-related costs which would be avoided in the absence of a wholesale voice termination service being provided shall be allocated to the relevant termination increment").

The cost model underlying the fixed and mobile termination rates set in the Delegated Regulation estimated the traffic-related costs of termination based on a modern, efficient network technology.

1) Which costs are covered by the mobile termination rate?

The mobile termination rate covers the traffic-related costs from the interconnection port in the core network belonging to the terminating operator (inclusive) until the IMT antenna at the radio access network site (included) to which the call recipient is connected. These costs include:

- Network CapEx: costs of purchasing the network elements and other costs required for having the equipment in place (e.g. subcontractors, installation, design), as well as the associated cost of capital.
- Network OpEx: costs of maintenance and operation of the network elements.
- Wholesale costs: specific costs needed to provide services that involve third-party operators (e.g. billing-related costs, contract management costs, regulation costs).

2) Which costs are covered by the fixed termination rate?

The fixed termination rate covers the traffic related costs related to the network from the interconnection port in the core equipment belonging to the terminating operator (inclusive) until the default demarcation point between traffic- and non-traffic-related costs, which is typically where the first point of traffic concentration occurs (e.g. DSLAM, MSAN, OLT). These costs include:

- Network CapEx: costs of purchasing the network elements and other costs required for having the equipment in place (e.g. subcontractors, installation, design), as well as the associated cost of capital.

- Network OpEx: costs of maintenance and operation of the network elements.
- Wholesale costs: specific costs needed to provide services that involve third-party operators (e.g. billing-related costs, contract management costs, regulation costs)

Non-traffic related costs are already recovered by the access rental cost (for instance, in a wholesale scheme, this would be recovered by the ULL fee), which covers the connection up to the user premise.

3) Are the costs of interconnection ports covered by the termination rates?

Interconnection ports are part of the termination service thus their costs are covered by the termination rates. The main cost elements covered are building, modification and decommission of a port.

It should be noted that some costs associated with interconnection ports are not necessarily covered. For example, colocation is necessary for hosting interconnection ports but its cost is not covered by the termination rates. In case of multiplexing, whether it is covered or not by the termination rates depends on its implementation. If multiplexing is located after the interconnection point, in the network of the terminating operator, its cost is covered by the termination rate, otherwise it is not.

4) Do the termination rates cover internal transit?

Internal transit occurs when the terminating operator owns both a fixed and a mobile network and a call is handed over for instance to its fixed network but is terminated in its mobile network. In this case the terminating operator needs to transit the call from its fixed to its mobile network. In essence, such internal transit is no different than an external transit (see below). It is a different service than termination thus operators can charge for it on top of the termination rate.

In practice, this situation occurs when the originating operator has no direct interconnection with the relevant fixed/mobile network of the terminating operator.

5) Do the termination rates cover external transit?

No, the termination rates do not cover transit, i.e. delivery of a call from the originating (or another transit) network to the terminating (or another transit) network.

6) Do the termination rates cover national transmission?

Yes, the delivery of a call from the entry point of the network (interconnection point) to the called party in the same network (national transmission) is covered by the termination rate (see SWD, page 3-4).

7) Which non-geographic numbers other than mobile are covered by the Delegated Regulation?

Non-geographic numbers used for fixed nomadic services and to access emergency services are covered. In case of doubt, it is for the national regulator to assess and decide whether a number falls in any of the two categories.

8) Do the termination rates apply to satellite telephone calls?

Yes, if the call is terminated at a satellite phone with a mobile or fixed number from national numbering plan. If the satellite phone number is from a different numbering plan (neither mobile nor fixed) then the termination rates of the Delegated Regulation do not apply.

9) Do the termination rates apply to Value Added Services?

No, the termination rates do not apply to calls to numbers used for Value Added Services (premium rate or toll free services).

B. Calls from third countries

10) Do the termination rates apply to Norway, Lichtenstein and Iceland?

For now, the Delegated Regulation covers calls terminated in the EU. Therefore, calls from Norway, Lichtenstein and Iceland are treated the same as calls from any other third country.

When the Delegated Regulation is incorporated in the EEA Agreement, calls from Norway, Lichtenstein and Iceland will be treated as calls from an EU Member State.

11) How and when will third countries be added to the Annex?

The Commission will assess any request to be included in the Annex individually. If it concludes that the termination rates of a requesting country '*are regulated in accordance with principles equivalent to those set out in Article 75 of Directive (EU) 2018/1972 and Annex III thereto*', it will amend the Delegated Regulation. The amendment will follow the same procedural steps as the original adoption, i.e. consultation with the Informal Expert Group of National Experts, BEREC, and will be subject to the scrutiny of the co-legislators.

12) How to monitor the termination rates of third-country operators?

The Delegated Regulation does not require EU operators to **monitor** the termination rates of third-country operators. However, if EU operators are aware of the rates of third-country operators, they need to act accordingly under Article 1(4.).

13) What if a third-country operator offers different service qualities at different rates?

In case a third-country operator offers different termination rates based on quality levels (service level agreement), the relevant rate is the one which has a comparable quality to the one offered by the EU operator in question.

14) How to apply Article 1(4a) during the glide path and transitional period?

During the glide path (2021-2023 for mobile termination) and transitional period (2021 for fixed termination), the termination rates differ across the Member States. For the purpose of determining whether the rate of a third-country operator is equal or below the Union-wide termination rate, the relevant rate is the one applies in the Member State and year in question.

For example, the relevant mobile termination rate for operators in Ireland in 2022 is EUR 0.43 cent/min. For operators in Austria, the relevant fixed termination rate in 2021 is EUR 0.089 cent/minute.

15) Does Article 1(4a) apply at country or operator level?

It applies at operator level. This means each relation between an EU and third-country is assessed individually and separately for mobile and fixed termination services.

For example, a third-country operator X charges in 2021 the below mobile termination rates to French operators:

- EUR 0.9 cent to operator F1 and
- EUR 0.6 cent to operator F2.

For 2021, the Delegated Regulation sets the maximum mobile termination rate in France at EUR 0.7 cent. Therefore,

- F1 is free to charge any mobile termination rate to X,
- F2 cannot charge more than 0.7 cent to X for mobile termination.

Hereby, the below facts are irrelevant for the application Article 1(4a):

- The fixed termination rates charged by X (third-country operator).
- The mobile termination rates charged by other operators from the same third-country.

16) What if a transit carrier applies its own termination rate?

If an EU operator receives an international call via transit carrier, the relevant termination rate for the purpose of Article Article 1(4a) is the one applied by the transit operators.

C. Level of the applicable termination rates

17) Will fixed terminating operators be allowed to raise the current applied fixed termination rate when that is lower than the rate set by the Delegated Regulation?

As a general rule, Article 5(1) of the Delegated Regulation states that the 'single maximum Union-wide fixed voice termination rate shall be EUR 0.07 cent per minute.' For 12 countries listed in Article 5(2) this general rule does not apply until the end of 2021. Operators in Member States not listed in Article 5(2) may apply any fixed termination rates equal or below EUR 0.07 cent (from 1 July 2021).

D. Other implementation questions

18) How to convert termination rates?

Article 3 of the Delegated Regulation provides for a rule to convert the termination rates from euro to local currencies. It specifies the source (European Central Bank) and dates for the conversion. However, it does not specify additional rules, i.e. number of decimals and rounding method.

Rounding to the same decimal places as in the Delegated Regulation would be a reasonable approach. This means 4 decimals in eurocent and 4 in the other currencies as in the Delegated Regulation.

The most common methodology for rounding is the arithmetic one. This would be a reasonable approach to use.

19) Does the Delegated Regulation apply to outermost regions and overseas countries and territories?

The Delegated Regulation applies in the entire European Union.

The nine outermost regions are part of the EU thus they are treated as any other region of a Member State.

- French overseas departments — Martinique, Mayotte, Guadeloupe, French Guiana and Réunion;
- French overseas community — Saint-Martin;
- Portuguese autonomous regions — Madeira and the Azores;
- Spanish autonomous community — the Canary Islands.

The 13 overseas countries and territories[1] do not form part of the EU thus they are treated as third-countries for the purpose of setting termination rates.

20) How is the Roaming Regulation related to the Delegated Regulation?

The Roaming Regulation (EU) 531/2012 defines the maximum surcharge for incoming roaming calls in excess of the fair use policy (FUP) as the average of mobile termination rates in the Union. Each year, BEREC collects termination rates data based on which the Commission sets each year the maximum surcharge on incoming calls.

The current Commission proposal for the new roaming regulation connects the Delegated Regulation with the maximum surcharge allowed for incoming roaming calls in excess of FUP. Specifically, the termination rates will be taken from the Delegated Regulation.

E. Procedural issues

21) What happens with national termination regulation?

The Delegated Regulation is directly applicable and it supersedes national regulation of termination rates. Therefore, there is no general need to withdraw such national regulation. However, in some Member States, withdrawal may be required by national rules. (Withdrawal may also be done for clarity reasons).

[1] https://ec.europa.eu/international-partnerships/where-we-work/overseas-countries-and-territories_en.