

## 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

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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

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### \* 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

WJZ

\* B.3 Surname

SANI USER

\* 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.8 I am a:

- National regulatory authority (NRA)
- Other public authority

B.9 Please explain

Ministry

\* B.10 Email (this will not be published)

WJZ\_SANI\_USER@minez.nl

\* B.11 Scope

- International
- Local
- National
- Regional

\* B.12 Organisation name

*255 character(s) maximum*

Ministry of Economic Affairs and climate policy

\* 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.

\* B.15 Country of origin

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

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- 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
- France
- French Guiana
- French Polynesia
- 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
- Mayotte
- Mexico
- Micronesia
- 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
- Solomon Islands
- Somalia
- South Africa
- 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
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- Ukraine

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#### \* 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

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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

An issue is the differentiation between a fixed and a mobile network. We would not consider reaching a mobile device through IP as mobile network termination and the same goes for a basically fixed service that uses a mobile number. If this is not clearly stated problems will arise. Also we in general see a convergence between fixed and mobile activities and would be an advocate for working towards one rate for both in the future.

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

All providers that control the access to customers should be regulated.

## D Exceptional circumstances and transitional period

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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

We do however see that some countries currently have relatively high rates and we do not see the justification for this. We foresee that the EU-rates should be below the current Dutch rates as costs have gone down and the incremental costs are due to the geography relatively high in The Netherlands.

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

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

We would have liked to answer that we do not see this as necessary for both above and below (not a possible answer in the questionnaire) as the differences are limited and the adjustment can be best taken in one go.

## E Non price-related obligations and procedures

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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

It should be clear where the Eurorates apply (e.g. where is the interconnection) and if there are other costs to interconnect. Also we see that in some cases the bottleneck is on the originating side. When for example the customer does not pay for a connection (0800-number in The Netherlands) the terminating provider pays the originating provider. This provider then has the market power and should be regulated instead. It would be advisable that the Commission or NRA's can then regulate these rates in the same fashion.

## 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

## 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

This is a point for discussion as they are still in the process of establishing themselves. We would find that hybrid operators should be regulated as fixed operators.

## 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

## F Price levels

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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)?

We do not see a justification.

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.

We do not see a justification for a glide path now.

## G Other

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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

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

Convergence between fixed and mobile and the transition to a full IP-network will result in lower costs and thus should lead to lower, more uniform rates.

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

## Contact

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