

Consultation Document: Ref. 2005/1

**Determination of a Basket of Services to be Regulated in
the Mauritian ICT Market**

ICTA Consultation Paper

17 January 2005

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ICTA Consultation Paper

1. Introduction

In today's global economy the role of modern communications becomes ever more important in the way we live our lives. As electronic communications underpin more and more of what we do in our business and private lives, the need for world class telecommunications networks and ICT services has never been greater.

In 2002, the ICT Act 2001 was promulgated and the ICT Authority was set up accordingly. In the same year, the Government of Mauritius preponed the liberalization of the ICT sector by one year to 1st January 2003 so as to:

- ensure that Mauritian consumers receive the best in terms of price, choice and quality of telecommunications services; and
- ensure that the Mauritius has a vibrant, innovative and sustainable telecommunications sector.

One of the means to do so is to ensure that market forces are allowed to set the optimal efficiency in segments that are effectively competitive, while at the same time ensuring that regulatory intervention on pricing is applied to segments which are not effectively competitive.

The purpose of this paper is to set out the Authority's views regarding the determination of a basket of services that needs to be regulated in the Mauritian ICT services sector. Comments from the stakeholders are sought on the proposals made in the paper.

This consultative document does not constitute any legal, commercial or technical advice. The ICT Authority is further not bound by it. The consultation is without prejudice to the legal position of the ICT Authority.

2. Structure and Comments

2.1 Structure

The rest of this paper is structured as follows:

Section 3: Legislative background

Section 4: Why is a Basket of Regulated Services needed

Section 5: The scope of Basket of Regulated Services

Section 6: Conclusion

2.2 Comments

Interested parties are invited to submit their comments on the matters set out in this paper either in writing to the following address:

The Executive Director
ICT Authority
1st Floor, Jade House
Cnr Jummah Mosque and Remy Ollier streets
Port-Louis

or via email to icta@intnet.mu

All comments should be clearly marked “Comments on Determination of Services to be Regulated in the Mauritian ICT Market - Consultation Document” and should reach the Authority before 4.00 pm on 15th February 2005.

All comments are welcome, but it would make the task of analysing responses easier if comments reference the relevant question numbers from this document. Responses will be available for inspection. Any material that is confidential should be put in a separate Annex and clearly marked so that it can be kept confidential.

The Authority regrets that it is not in a position to respond individually to the responses to this consultation, but proposes to issue a response to the consultation on its website, following the analysis of the responses.

3. Legislative Background

Section 31(1) of the ICT Act, 2001, provides that “every operator shall provide the Authority with a tariff of its charges for every information and communication service including telecommunication service which he proposes to supply and of every intended alteration of those charges”.

In accordance with the provision, all the tariffs of ICT services are regulated by the ICT Authority.

4. Why Is a Basket of Regulated Services Needed?

In a liberalized market it is not convenient for the Authority to regulate the tariff of every service. The operators should have the freedom to adjust their tariff in accordance with the prevailing market conditions. However, where the Authority determines that certain services need to be regulated in the interest of consumers and for the better evolution of competition in the market, or some specific market segment, a certain level of control has to be maintained.

4.1 The Protection of Consumer and New Operator Interests

In the Mauritius ICT market, if there were effective competition in all the segment for the provision of services, firms would be encouraged to innovate to meet consumer’s demands, operate in a cost efficient manner and rigorously assess the viability of their future business plans. This would be in the consumers’ interests, as they would generally obtain the best service available at the most efficient price.

By contrast, however, some ICT services are still provided by a natural monopolist operator and this may act against the consumers’ interests. Monopolist firms can absorb their own operational inefficiencies by passing them onto consumers in the form of excessive prices.

They can also raise their prices unnecessarily to recoup the losses they make through poor investments, as they have little need to underpin their investment decisions with a full analysis of the associated costs and benefits. Such pricing behaviour can undermine the social objectives of maintaining the affordability of certain telecommunications services that enhance the overall well-being of the society both presently and in the future. In such an environment regulation, particularly in the form of tariff regulation, is generally required to ensure that the monopolist operator is not passing unnecessary costs onto consumers and that certain services will continue to be delivered at affordable rates to all sectors of the community.

A secondary benefit of regulating services is that it can be utilised to reduce barriers to entry, which can potentially promote the evolution of competition because it can reduce the dominant incumbent's ability to deter or dislodge emerging competitors through cross-subsidisation aimed at retaining or growing its business in areas where it is not that strong or facing the most threat. This may be relevant for the development of the Mauritian ICT market because although the legislative framework and regulatory environment has been set up to encourage new entrants, the threat of competition, let alone effective competition, has yet to be fully realised.

4.2 Proposal of the Authority

The Authority is of the view that in order to achieve effective competition, a basket of regulated services needs to be determined while operators should be given freehand to determine and apply tariff for the rest of services.

Question 4.a – Do you agree with the Authority's view that:

- (i) there is a need to determine a basket of services that needs to be regulated*
 - (ii) operators be given freedom as regards to tariffing for services outside the basket?*
- If not, please state why and support your answer.*

5. The Scope of Basket of Regulated Services

The scope of the basket of services to be defined needs to relate to the general aims of the regulation proposed. These are:

- capturing as much of the consumer benefits as possible on a sustainable basis, without unnecessarily threatening the viability of the company;
- encouraging a suitable response from the operators to changing demands and technology in the way it provides and prices its services;
- giving the operators the incentive to make the greatest possible operating efficiency gains;
- ensuring that the basket of regulated services meets certain social objectives; and
- encouraging the development of effective competition in the supply of ICT services.

Question 5.a - *Are these the right objectives for determining the scope of the basket of regulated services? If not, please suggest additions to or deletions from the above list and provide your reasons.*

Additionally, issues which need to be addressed with respect to these objectives are:

- what services should be in the basket;
- the duration of the control;

5.1 What Services Should Be In the Basket

With the liberalization of the telecommunications sector many operators, offering a variety of ICT services, have joined this sector. Competition is already effective on a numbers of services market segment. In this view, the Authority is considering limiting the number of services that needs to be regulated. The proposed basket of regulated services will include:

Fixed Telecommunication Services

- telephone exchange line rentals; .
- local calls;
- Inter-Island calls; and
- lease circuits/lines.

International Telecommunication services

- Conventional International Direct Dialed calls (Outgoing IDD calls); and
- lease circuits/lines.

The above does not constitute the final set of services in the basket of regulated services but is indicative of the types of services that could be included. The responses to this consultation, and the work undertaken by the Authority may bring to light further services that may be considered important with regards to protecting consumer welfare and supporting the development of competition, or may suggest that some of the services outlined above should not be in the basket.

Question 5.b - *Are these the right services that need to be included in the basket of regulated services? If not, please suggest additions to or deletions from the basket and provide your reasons.*

5.2 Duration of Control

The challenge when setting the time frame of control is to attempt to secure the right period of regulation before review, with respect to the way the market is anticipated to evolve and the anticipated efficiency gains available.

The review of the services in the basket can be done after public consultation and proper market analysis. It is not appropriate to conduct such kind of analysis at short time intervals although the Authority has a close look at the market evolution. Consequently, the Authority believes that initially the services in the basket should be set for a period of two years, with the option to review after one year.

Question 5.c - Do you agree that two years, with the option to review after one year, is the appropriate length for the initial period of control? If not why should it be shorter or longer?

6. Conclusion

The purpose of this paper was to set out the Authority's views and proposals for the determination of a basket of services to be regulated in the Mauritian ICT market.

The basis for such a proposal has been defined. The market segments to which this principle should apply, as well as the proposed services, to be included in the regulated basket have been set forth.

Comments on these proposals are welcomed and should arrive no later than 4.00 pm on 15th February 2005, at the address stated in **section 2.2** of this paper.