



Information & Communication Technologies Authority

Consultation Ref: ICTA/DFA/2010/CP01

**CONSULTATION PAPER ON PROMOTIONAL POLICY
FRAMEWORK ON TELECOMMUNICATION SERVICES**

16 SEPTEMBER 2010

EXPLANATORY MEMORANDUM

Considering that:

- 1) The ICT Authority has as one of its functions, under Section 18(c) of the Information and Communication Technologies Act 2001, to “*promote and maintain effective competition, fair and efficient market conduct between entities engaged in the information and communication industry in Mauritius and to ensure that this Act is implemented with due regard to the public interest and so as to prevent any unfair or anti-competitive practices by licensees*”;
- 2) The ICT Authority has as one of its objects, under Section 16(b) of the Information and Communication Technologies Act 2001, to “*create a level playing field for all operators in the interest of consumers in general*”;
- 3) The ICT Authority has received representations from licensees regarding some of the perceived rigidities of the existing promotional policy framework on telecommunication services, as released vide the decision of the Authority on 23 October 2008 (**Ref: ICTA/OCT/01/2008**);
- 4) The representations made by licensees call for more flexibility and accuracy in the identification of the type of promotional activities that may be associated with telecommunication services;

The Information and Communication Technologies Authority resolves to:

- 1) make available for consultation by licensed public telecommunication operators the Consultation Document – **Ref: ICTA/DFA/2010/CP01**;
- 2) invite views, contributions and comments on the Consultation Document;

GUIDELINES ON RESPONDING TO THIS CONSULTATION

- 1) All comments are welcomed; however it would make the task of analyzing responses easier if comments were referenced to the relevant question numbers from this document. The questions are listed within the relevant sections and are also compiled together at **ANNEX A**.
- 2) You are invited to send your written views and comments on the issues raised in this document to the **Executive Director, ICT Authority, 12th Floor The Celicourt, Celicourt Antelme Street, Port Louis**, or by email to icta@intnet.mu , at latest by 16h00 on **18 October 2010**.
- 3) Should you be including confidential information as part of your responses, you are requested to clearly identify the said confidential materials and to place same in a separate annex to your response.

1. BACKGROUND

- 1.0 Promotions represent one of the key attributes of a well planned commercial strategy by a public telecommunication licensee, with the broad objectives of ensuring service take-up, building a brand image, fostering customer loyalty and ensuring product / service differentiation in a competitive market place.
- 1.1 In the world of telecommunication, promotions may often take the form of (but are not limited to) free gifts, subsidised equipment, extra minutes or SMS, discounted offers, the waiving of one-off charges (e.g. setup or installation charges), or quite importantly, preferential tariffs.
- 1.2 While such types of promotions have a definite appeal to consumers, at the same time, an over-excessive or unregulated use of promotional activities may contrive to create anti-competitive outcomes, given the varying extent of market power across licensed operators.
- 1.3 In order to sustain a level playing field, while recognising the positives from promotional activities by licensed operators, the Authority initially performed a review of the established promotional policy framework for telecommunications services back in October 2008.
- 1.4 In line with the further maturing of various markets since then, there have been representations from licensees regarding some of the perceived rigidities of the existing promotional policy framework on telecommunication services.
- 1.5 The representations made by licensees in effect call for more flexibility and accuracy in the identification of the type of promotional activities that may be associated with telecommunication services
- 1.6 This consultation paper therefore proposes several refinements to the present promotional policy framework, to ensure that end users continue to reap the benefits of competition, while at the same time, streamlining the operational and administrative burdens on operators in respect of the filing of applications for promotion of telecommunication services.

2. EXISTING PROMOTIONAL FRAMEWORK

- 2.0 The presently defined promotional framework for telecommunication services represented the first step towards defining baseline scenarios for operators wishing to engage in promotional activities, within an organised and regulated structure.
- 2.1 The Authority recognises the following instances whereby promotional offers from licensed operators may be entertained:

Table 1: Description of Existing Promotional Policy Framework

Scenarios	Existing Framework
A) New operator launching its service	Up to a Maximum of 3 months per calendar year
B) Existing Operator launching a new service	Up to a Maximum of 3 months per calendar year
C) Existing operator promoting an existing service	Anytime , for a maximum aggregate of 60 days per calendar year per service, with a maximum discount of 20% on approved tariffs, applicable to all telecommunications services

2.2 Same was approved and implemented by the Authority in October 2008.

Qs 1. Should the existing promotional policy framework for telecommunication services be maintained in its current form? Please state your reasons in support and / or against the present framework.

3. PROPOSED REFINEMENTS

- **Service Status – New versus Existing**

3.0 The present framework provides a generic categorisation of services, in terms of new or existing, based on which the different promotional conditions become applicable, as per Table 1 above.

3.1 To bring further clarity in terms of the status of a telecommunication service (i.e. whether new or existing), under the promotional policy framework, the following identification is proposed, in terms of a specific time-based duration:

Table 2: Proposed identification of SERVICE STATUS - New & Existing Telecommunication services

Status of Telecommunication Service	Definition under New Framework
New Service	A telecommunication service by a licensed operator will be deemed as a ' <i>new service</i> ' for the purpose of interpretation under the applicable promotional policy framework, <i>for a maximum period of 1 year since initial launch</i>
Existing Service	A telecommunication service by a licensed operator will be deemed as an ' <i>existing service</i> ' for the purpose of interpretation under the applicable promotional policy framework, <i>after a period of 1 year since initial launch.</i>

3.2 Recognising the fact that new telecommunication services by operators may take a while to become established in their respective market segments, it is therefore proposed that a distinction, as documented in **Table 2** above, is adopted.

3.3 By extension, to encourage service uptake and to foster awareness of the new services, it is appreciable that more flexible conditions ought to apply for those services designated as ‘new’, as compared to those designated as ‘existing’, as is currently the case.

Qs 2. Should the identification of telecommunication ‘service status’ be adopted on the proposed time-based duration criterion?

Qs 3. Should a telecommunication service thereon classified as ‘new’ continue benefiting from more favourable promotional conditions (as is currently the case), as compared to an ‘existing’ service?

▪ **Service Category – Basic versus Value-Added**

3.4 The nature of telecommunication services often vary in terms of the extent to which they are competitively contested within a given market segment. Consequently, the unregulated use of promotional activities on selected telecommunication services is likely to have different competitive (or anti-competitive) outcomes, depending on the nature of the said services, as well as the presence of dominant market operators.

3.5 It is therefore proposed that for a given set of services, where competition is quite established and which contributes significantly to the overall revenue generation to market operators, stricter promotional conditions ought to apply, as compared to another set of services, where there is further potential for competition, and which does not contribute significantly to the overall revenues of the licensed operator.

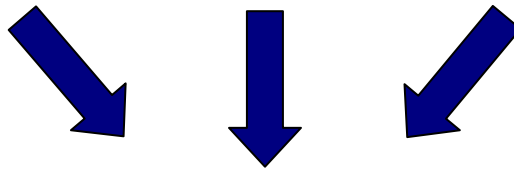
3.6 With a view to providing even more flexibility to operators, with regards to promotional activities, while maintaining a degree of regulatory control, the following identification of telecommunication services is therefore put forward:

Table 3: Proposed Identification of SERVICE CATEGORY - Basic & Value-Added Telecommunication Services

Basic Services	Value Added Services
- Fixed Telephony Services	- Premium Rate services
- Mobile Telephony Services	- SMS based services
- International Telephony Services	- Content based services
- Internet Access Services	
- Data Services	

- 3.7 While the list of telecommunication services is generally quite exhaustive, it is proposed that the above main blocks of services be dichotomised into basic and value-added services (i.e. the Service Category), as per **Table 3**. Each *service line* falling under the relevant blocks, will then be considered on a stand-alone basis when appraising its eligibility for promotion by the applicant.
- 3.8 As indicated next, the promotional conditions which would apply to a given operator in devising a promotional retail offer would be determined by 3 main elements, that is, the service category, service line and service status respectively.

SERVICE CATEGORY → SERVICE LINE → SERVICE STATUS



ELIGIBILITY OF PROMOTIONAL RETAIL OFFER

- 3.9 For example, a request for promotional tariffs of an existing postpaid fixed or mobile telephony package will be treated as a ‘Basic Service’, and filed under the Fixed or Mobile Telephony ‘Service Line’ respectively. The promotional conditions attached to the relevant ‘Service Line’ will thereon become applicable, after the relevant ‘Service Status’ has also been established. (See **Annex B** for further examples)
- 3.10 However, for services not covered by the above, the Authority will reserve the right to formulate an appropriate determination, based on reasonable grounds, as to which of the above category of services they may best be suited to. Same will be communicated to the relevant applicants in such circumstances.

Qs 4. Should the proposed identification of telecommunication services by ‘Service Category’ be adopted when establishing the applicable promotional conditions to which the said service would be eligible?

Qs 5. Should those telecommunication service identified as ‘Basic services’ be subject to more stringent promotional conditions, as opposed to ‘Value Added services’, as identified.

Qs 6. What would be the other service blocks that should be added to the list proposed in Table 3 so far?

▪ **Tariff Equivalence**

- 3.11 As established earlier, promotions for telecommunication services may take various forms, with preferential tariffs being just one among many popular practices. For instance, many market players are known to offer promotions such as free minutes of calls, SMS, or Internet access, while others may want to forfeit one-off charges such as registration, installation or other activation fees.
- 3.12 This entails that numerous permutations are possible, and from a regulatory point of view, it is therefore essential that some form of reference point is established, whereby the monetary value of the promotional activity can be appraised, as far as possible, in relation to approved tariffs i.e. the ‘tariff equivalence’ concept.
- 3.13 Therefore, the notion of ‘tariff equivalence’ is proposed, with regards to those promotional activities, which differ from the traditional practice of merely discounting from approved tariff levels.

Qs 7. Should the notion of ‘tariff equivalence’ be adopted in those cases where promotions are proposed in forms other than discounts from approved tariff levels?

4. NEW PROMOTIONAL POLICY FRAMEWORK

- 4.0 The devising of promotional activities by licensed operators is a creative process at the core, and while some promotional practices may already be quite established, this does not preclude the coming into play of more innovative approaches in the future.
- 4.1 The objective of the Authority in coming up with the proposed refinements to the existing promotional policy framework is not to dilute such creative processes, but on the contrary, to continue improving the flexibility of licensed operators in designing promotional activities, while ensuring that the risks of anti-competitive outcomes, through the use of promotions, are minimized.
- 4.2 While acknowledging the above, it is also true that promotions cannot be entertained for indefinite periods in general, nor be based on unreasonable monetary allowances, especially for services identified as fundamental to the revenue generating activities of licensed operators. Consequently, some form of control must be in place in terms of the extent and duration of promotional activities with regards to telecommunication services.
- 4.3 It is the opinion of the Authority that a well designed promotional policy framework would be able to deal with most of the promotional strategies devised by licensed operators with regards to telecommunication services. Exceptions are expected to arise however, and in such cases, the Authority will reserve the right to formulate an

appropriate determination, based on reasonable grounds, to provide as much consistency as possible.

4.4 By combining the considerations (Service Status, Service Category and Tariff Equivalence) put forward in the section 3, the new promotional policy framework would be proposed as follows:

Table 4: New Promotional Policy Framework for Telecommunication Services

Scenarios	Basic Services	Value Added Services
A) Promotion of a new service	Up to a Maximum aggregate of 90 days per calendar year	No conditions apply
B) Promotion of an existing service	Up to a maximum aggregate of 60 days per calendar year per service, with a maximum discount of 20% on approved tariffs, <i>or equivalent</i>	No conditions apply

4.5 The new promotional policy framework for telecommunication services will maintain the flexibility given to operators especially in terms of promoting new services, while providing them with total flexibility in the case of those services categorised as ‘Value Added’ services. In the case of the latter, an application would only be filed with the Authority by the licensee for reference.

4.6 The refinements proposed will also bring about further clarity in terms of the operations of the said framework, and especially the notion of ‘tariff equivalence’ will lend further consistency to operators in devising their promotional strategies.

4.7 An indicative illustration of the proposed workings of the new promotional policy framework for Telecommunication Services is placed at **Annex B**.

Qs 8. Should the proposed refinements be integrated to the existing promotional policy framework? What would be the other refinements that could be adopted towards further improvement of the promotional policy framework?

Qs 9. Should the existing maximum discount amount of 20% on approved tariffs be maintained, or reviewed as follows: (i) not more than 10%; (ii) not more than 30%; (iii) not more than 40%?

Qs 10. Should the applicable quantum (duration in days per calendar year, 20% discount on approved tariffs) within the proposed promotional policy framework be generically applied to all market segments, or should the quantum vary depending on the different market segments (e.g. fixed telephony market, International call market, Internet access market, etc...)? If so, what should be the applicable quantum?

ANNEX A: CONSULTATION QUESTION LIST

Qs 1. Should the existing promotional policy framework for telecommunication services be maintained in its current form? Please state your reasons in support and / or against the present framework.

Qs 2. Should the identification of telecommunication 'service status' be adopted on the proposed time-based duration criterion?

Qs 3. Should a telecommunication service thereon classified as 'new' continue benefiting from more favourable promotional conditions (as currently the case), as compared to an 'existing' service?

Qs 4. Should the proposed identification of telecommunication services by 'Service Category' be adopted when establishing the applicable promotional conditions to which the said service would be eligible?

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Qs 6. What would be the other service blocks that should be added to the list proposed in Table 3 so far?

Qs 7. Should the notion of 'tariff equivalence' be adopted in those cases where promotions are proposed in forms other than discounts from approved tariff levels?

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ANNEX B: INDICATIVE ILLUSTRATIONS

Example 1: Promotional activity by a mobile network operator for Prepaid recharge for Mobile Telephony Service, through the use of *existing* recharge facility (e.g. prepaid cards)

Service Category	Service Line	Service Status	Retail Offer	Eligibility under New Framework
Basic Service	Prepaid Mobile Telephony Service – Prepaid Card Recharge	Existing	Bonus credit /call time / SMS when buying cards of specific denominations	Up to a maximum aggregate of 60 days per calendar year per service, with a maximum discount of 20% on approved tariffs, or equivalent

Example 2: Promotional activity by a mobile network operator for Prepaid recharge for Mobile Telephony Service, through the use of *new* recharge facility (e.g. E-recharge)

Service Category	Service Line	Service Status	Retail Offer	Eligibility under New Framework
Basic Service	Prepaid Mobile Telephony Service – Electronic Recharge	New	Bonus credit /call time / SMS when using new electronic recharge facility	Up to a Maximum aggregate of 90 days per calendar year

Example 3: Promotional activity by an Internet Service Provider for the launch of a *new* residential postpaid broadband ADSL / Wireless internet access offer

Service Category	Service Line	Service Status	Retail Offer	Eligibility under New Framework
Basic Service	Internet Access Service – Postpaid Residential Broadband	New	Free rental for 3 months for new subscribers to the launched package	Up to a Maximum aggregate of 90 days per calendar year

Example 4: Promotional activity by an Internet Service Provider on existing postpaid broadband ADSL / Wireless internet access packages

Service Category	Service Line	Service Status	Retail Offer	Eligibility under New Framework
Basic Service	Internet Access Service – Postpaid Business Broadband	Existing	15% off approved rental tariffs for 3 months on selected packages	Up to a maximum aggregate of 60 days per calendar year per service, with a maximum discount of 20% on approved tariffs, or equivalent