



DRAFT

**Determination under Section 29(3)
of the Telecommunications Act**

1. DETERMINATION UNDER SECTION 29(3) OF THE TELECOMMUNICATIONS ACT – REGULATORY INTERVENTION IN THE INTERNATIONAL INCOMING MARKET

This determination is made pursuant to Section 29(3) and (4) of the Telecommunications Act, 2001 (as amended) and having regard to the Price Regulation Regime for the telecommunications sector in Trinidad and Tobago which states, in relation to the imposition of price floors in the international incoming telecommunications market that:

The international termination rate must be no less than the cost of terminating the international call on a public domestic network plus any other relevant cost incurred in terminating international traffic

The Telecommunications Authority of Trinidad and Tobago (the “Authority”), for the reasons set out below, hereby establishes the following pricing rules and principles which shall be applied to rates charged by concessionaires for the termination of international incoming telecommunications traffic on domestic telecommunications networks in Trinidad and Tobago:

1. The rate must be no less than the sum of:
 - a. the cost to terminate the international telecommunications traffic on the relevant domestic network; plus,
 - b. any relevant cost incurred in terminating the international telecommunications traffic.
2. The relevant costs incurred in terminating the international telecommunications traffic are the same as that associated with the operation of an efficient international network. Thus, this cost shall include:
 - a. the efficient port charges or its equivalent (if applicable) at the relevant international Network Access Point (NAP);

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- b. the efficient backhaul cost from the relevant international NAP to the relevant international Cable Head;
- c. the efficient international connectivity cost from the international Cable Head to the Cable Head in Trinidad and Tobago; and,
- d. the efficient backhaul cost from the Cable Head in Trinidad and Tobago, to the point of interconnection on the relevant domestic network in Trinidad and Tobago.

2. BACKGROUND STATEMENT

The the Authority received written requests dated May 5th 2009, *May 22nd 2009 and July 12th 2009*, from concessionaires operating in the incoming international market segment, to exercise its powers under Section 29(3) of the Telecommunications Act (the Act) and impose relevant and appropriate regulations in the incoming international telecommunications market segment, specifically the imposition of a Price Floor for the termination of incoming international telecommunications traffic on domestic telecommunications networks in Trinidad and Tobago.

The Authority notes that its legislative power to intervene in relation to prices in the international telecommunications market, are set out in section 29 of the Act and in particular, sections 29(3) and 29(4). The Authority therefore, in response to the requests received, commenced a process to determine whether or not it was appropriate at this time to exercise its jurisdiction in this market segment, and if so, what form that intervention should take.

3. LEGISLATIVE FRAMEWORK

The Authority is empowered by Sections 29(3) and (4) of the Act to regulate prices in the international telecommunications market. Section 29(3) provides:

“The Authority shall regulate prices for public telecommunications services and international incoming and outgoing settlement tariffs by publishing pricing rules and principles.”

Section 29(4) expands on section 29(3) that:

“Such rules and principles, made pursuant to subsection (3), shall require rates to be fair and reasonable and shall prohibit unreasonable discrimination among similarly situated persons, including the concessionaire.”

Accordingly, in the event that the Authority considers it appropriate to exercise its discretion under Section 29(3) to regulate prices in the international incoming telecommunications market segment, it must do so by publishing pricing rules and principles, which rules and principles must require rates to be fair, reasonable, and non-discriminatory amongst similarly situated persons, and thereafter ensuring that such rules and principles are properly applied by concessionaires.

On March 4th 2009 the Authority, in its Price Regulation Framework, took the first step towards establishing the Price Regulation Regime for the telecommunications sector in Trinidad and Tobago. The regime provides, in relation to the imposition of price floors in the international incoming telecommunications market that:

“The international termination rate must be no less than the cost of terminating the international call on a public domestic network plus any other relevant cost incurred in terminating international traffic”.

The Price Regulation Regime will be supported by regulations made pursuant to section 78 of the Act, which will provide a mechanism for the implementation of a specific price floor based on the above principles, however, until such regulations are implemented the Authority herein publishes pricing rules and principles pursuant to

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section 29(3) to ensure that concessionaires charge rates which do not breach the principle set out in the Price Regulation Regime.

4. RULES AND PRINCIPLES FOR TERMINATION OF INTERNATIONAL INCOMING TELECOMMUNICATIONS TRAFFIC ON DOMESTIC TELECOMMUNICATIONS NETWORKS IN TRINIDAD AND TOBAGO

Pursuant to section 29(3) of the Telecommunications Act 2001, and consistent with the Price Regulation Regime, the Authority hereby establishes the following pricing rules and principles for international incoming telecommunications settlement rates:

1. The rate applied for the termination of incoming international telecommunications traffic on a domestic telecommunications network must be no less than the sum of:
 - a. the cost of termination of the international traffic on the relevant domestic network (herein referred to as the *domestic termination rate*); plus,
 - b. any relevant cost incurred in terminating the international traffic.
2. The relevant costs incurred in terminating the international telecommunications traffic are the same as those associated with the operation of an efficient international network. Thus, this cost shall include:
 - a. the efficient port charges or its equivalent (if applicable) at the relevant international Network Access Point (NAP);
 - b. the efficient backhaul cost from the relevant international NAP to the relevant international Cable Head;
 - c. the efficient international connectivity cost from the international Cable Head to the Cable Head in Trinidad and Tobago; and,
 - d. the efficient backhaul cost from the Cable Head in Trinidad and Tobago, to the point of interconnection on the relevant domestic network in Trinidad and Tobago.
3. These rules and principles shall be applied in a fair, equitable and non-discriminatory basis, and in particular, any assessment of the minimum rates shall be based on

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assumptions and data which represent efficiencies reasonably available to all concessionaires operating in the relevant market.

4. Each concessionaire shall produce to the Authority such information as the Authority may require to assess the costs of those routes which the Authority selects as appropriate for assessment, applicable to the periods from 1 January to 31 December in each year. Such information shall be produced within 30 days of the end of the period to which the information relates, or of the receipt of details of the information required from the Authority, whichever is later.
5. Upon publication of this determination, and at intervals of twelve (12) months thereafter (or otherwise as the Authority considers necessary based on market conditions) the Authority shall assess the minimum price for the termination of incoming international telecommunications traffic on a domestic networks on those routes which it considers appropriate having regard to traffic volumes and competition, based on the information provided under 3 above, applying the principles set out in 1 and 2 above, and it shall publish such assessment on its website and by written notice to all concessionaires authorized to operate in the relevant market.
6. No concessionaire shall charge a rate which is less than the rate set out in the most recent assessment published by the Authority under 4 above, unless it has first justified to the Authority's reasonable satisfaction that the rate does not breach the rules and principles set out in this determination, as applied on a fair, equitable and non-discriminatory basis.

DRAFT

DATED 20 NOVEMBER 2009

TELECOMMUNICATIONS AUTHORITY OF TRINIDAD AND TOBAGO