# Danish Non-Paper to the public consultation on the evaluation of Commission Recommendation 2009/396/EU on the Regulatory treatment of fixed and mobile termination rates in the EU

**Promoting uniform wholesale termination rates in the EU is a necessary step towards eliminating the asymmetry that exists between Member States today. Uniform wholesale termination rates would promote fair competition and help bring the EU a step closer to having an internal market for telecoms to the benefit of European consumers and businesses. It would also help reduce the administrative burden and cost for both operators and NRAs.**

The Danish Government welcomes the opportunity to comment on the Commission's public consultation on the evaluation of Commission Recommendation 2009/396/EU on the Regulatory treatment of fixed and mobile termination rates in the EU (hereinafter the Recommendation). The following views of the Danish Government regard fixed and mobile termination rates respectively.

The Danish Government finds that termination of fixed and mobile calls represent an unavoidable bottleneck that by definition is controlled by one operator. While technical developments might make regulation of termination rates less relevant in the future as IP-based networks become prevalent, there is for the foreseeable future a continued need to regulate termination rates in order to guard against the anti-competitive use of bottlenecks.

The Recommendation considered a period of transition until 31 December 2012 to be long enough to allow NRAs to put the pure LRIC cost model in place and for operators to adapt their business plans accordingly. Thus, in 2013 a number of Member States, including Denmark, introduced the recommended pure LRIC model for calculating the costs of termination services. This model allows operators the efficient recovery of costs and promotes efficient production and consumption and minimises potential competitive distortions.

Since 2013 wholesale termination rates in Member States that have acted in accordance with the Recommendation have been significantly lower than in other Member States. As a consequence there has been an asymmetry in wholesale termination rates across the Member States. This asymmetry distorts competition because it allows operators located in Member States, which have chosen not to act in accordance with the Recommendation, to charge significantly higher termination rates. Thus, in some circumstances it has been a disadvantage to act in accordance with the Recommendation. The current asymmetry is of a cross-border nature and persistent and consequently needs to be addressed across all Member States.

To avoid any (significant) asymmetry in termination rates across the EU, the Danish Government finds it most appropriate to use uniform wholesale termination rates based on cost of an efficient operator.

For the sake of harmonisation and an effective implementation, it should be considered whether a recommendation is the optimal instrument. A Regulation, which ideally sets a uniform rate for termination of fixed and mobile calls respectively in the EU, would ensure a more effective implementation and increased harmonisation. As the EU moves closer towards having an internal market for telecoms, it becomes ever more important to ensure fair competition between operators across Member States. Uniform termination rates play a key role in this regard, which would further justify the option of introducing a Regulation.

Uniform wholesale termination rates across the EU would have a positive effect and help to eliminate the persistent asymmetry the inconsistent use of the Recommendation has created. This is of great importance for operators across the EU, including Danish operators. According to TERA's workshop presentation on 15 March 2016 (see slide 40) Denmark is one of the countries that is most negatively impacted by the asymmetric implementation.

Furthermore, data shows that uniform wholesale termination rates would not have a significant impact on termination rates in the countries that have implemented the pure LRIC model. This can be seen in TERA's workshop presentation on 15 March 2016 (see slides 7 and 13) where the termination rates in the countries that have implemented the Recommendation and thereby introduced pure LRIC do not vary significantly (except for the fixed termination rates in Lithuania, Estonia and Luxembourg).

Finally, setting uniform wholesale termination rates in a Regulation would reduce the administrative burden and cost for both operators and NRAs, since there would no longer be a need to draw up LRIC-models or do the related work in this context.