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# AIT and the SIA

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# AIT and the SIA

## The Standard Interconnect Agreement

- The world of telecommunications is highly regulated and increasingly complex with a multiplicity of telecommunications providers, both landline and mobile, primary and secondary.
- Much of the infrastructure required to carry telecommunication traffic (particularly between different networks), remains, however, with BT.
- Many telecommunications providers, therefore, choose to have telecommunication traffic routed through BT and, for that reason, enter into an agreement with BT – the Standard Interconnect Agreement (**SIA**).
- As its name suggests, the SIA is a standard form agreement (originally put in place as part of the initial deregulation of telecoms in the UK in the 1990s) and there is an “SIA Working Group”, at which every SIA interconnected company may have a seat, which proposes changes to the SIA.

# AIT and the SIA

## ONO's, TO's and TNO's

- **ONO / Originating Network Operator** = a network operator from whose System the Call to a telecommunication service is handed over to the System of a TNO or of the TO under the provisions of an SIA.
- **TO / Transit Operator** = BT if either (a) receiving Calls from the ONO in order to hand over the Calls to a TNO; or (b) handing over Calls received from an ONO to the TNO; under the provisions of an SIA.
- **TNO / Terminating Network Operator** = a network operator to whom a Call is handed over from an ONO or from the TO under the provisions of an SIA on which network operator's system the telecommunication service is operating or via whose system the telecommunication service is accessed.
- **Transit Situation** = a situation where a Call is handed from an ONO to BT (as the TO) in order for BT to hand that Call to a TNO.

# AIT and the SIA

## AIT / Artificially Inflated Traffic

- Every party to an SIA has an obligation to use reasonable endeavours to detect, identify, prevent and notify the other party of, AIT and to develop, implement and maintain appropriate procedures to identify and prevent AIT (clause 14A and Annex E ¶2.4 SIA).
- Further, every party to an SIA is under an obligation not to knowingly engage in, assist, or allow others to engage in AIT and to undertake and perform their obligations under Annex E of the SIA in good faith (Annex E ¶2.4 SIA).

# AIT and the SIA

## What is AIT?

- **AIT** = any situation where Calls:
  - are made, generated, stimulated, and/or prolonged for the direct or indirect benefit of any entity operating, hosting or otherwise connected with a telecommunication service as a result of any activity by or on behalf of such entity; and
  - result in a calling pattern which is disproportionate to the overall amount, duration and/or extent of Calls which would be expected from good faith usage, or an acceptable and reasonable commercial practice relating to the operation, of Telecommunications Systems.
- AIT is not limited to Calls made, generated, stimulated and/or prolonged fraudulently but extends to any situation where there has been an absence of good faith usage or an absence of acceptable and reasonable commercial practice (Annex E ¶12.3 SIA).
- The use of Telecommunication Systems for purposes other than the genuine conveyance of Calls for the proper benefit of users of the electronic communications network will not ordinarily be regarded as good faith usage or an acceptable and reasonable commercial practice and usage of Telecommunication Systems (Annex E ¶12.2 SIA).

# AIT and the SIA

## AIT Disputes – The Annex E Procedure

- Annex E is designed to act as a uniform code for the regulation of relations between an ONO, TNO and, if applicable, TO in relation to SIAs and AIT even though, in a Transit Situation, either the ONO or TNO may not be a party to the SIA.
- It sets out a detailed procedure for the raising and determination of AIT Disputes.
- There are different provisions for non Transit Situations (Annex E 7.1 & 7.3(a)), two party Transit Situations (Annex E 7.2 & 7.3(b)(c)) and three party Transit Situations (Annex E 7.3 & 7.3(d)).
- The basic procedure is, however, fundamentally the same save that in the context of a Transit Situation, the process may be started by either the ONO or TO and, if the former (a) the initial notice is to be served by the ONO on the TO who must then re-issue the notice to the TNO by 5pm on the next Working Day (b) subsequent information and notices are to be copied to the TO.

# AIT and the SIA

## AIT Disputes – The Annex E procedure cont'd

- Step 1 : service by the ONO/TO of an **A1 Retention Notice** on the TNO (or TO in a Transit Situation) by the 14<sup>th</sup> AIT calendar day of a reasonable suspicion of AIT and the retention of sums otherwise due in respect of the relevant Call traffic.
- Step 2 : service by the ONO/TO of the **AIT Call Data** on the TNO (copied to the TO/ONO in a Transit Situation) by the 26<sup>th</sup> AIT calendar day.
- Step 3 : service by the TNO of an **A3 Rejection Notice** on the party serving the A1 Retention Notice (copied to the TO in a Transit Situation) by the 34<sup>th</sup> AIT calendar day rejecting the A1 Retention Notice and giving reasons why the Calls were good faith usage/an acceptable and reasonable commercial practice.
- Step 4 : service by the ONO/TO by the 49<sup>th</sup> AIT calendar day of either an **A4 Dispute Notice** disputing, with reasons, the A3 Rejection Notice (in whole or in part) and raising an AIT Dispute or a **Withdrawal Notice** (in whole or in part).
- Step 5 : obligation between the parties to the AIT Dispute to resolve the dispute in good faith.
- Step 6 : resolution of the dispute by any agreed form of dispute resolution or court proceedings.

# AIT and the SIA

## AIT Disputes – The Annex E procedure cont'd

- **AIT calendar day** = the calendar day commencing from the first day of the calendar month following that in which the Call traffic occurred.
- **AIT Call Data** = Call data records supporting a reasonable suspicion of AIT including (but not necessarily limited to) the partial CLI of the Calling Centres.
- **Partial CLI** = if available, the telephone number of the Calling Party less the final four digits.
- **Calling Party** = a person who initiates a Call.
- **Calling Centre** = any location whether or not authorised where calls may be made.
- **Call** = a transmission path through Telecommunication Systems for the sending of Signals (references to conveyance of a Call by a Party meaning the establishment by the Party of a transmission path through that Party's System and the conveyance by that Party in accordance with the SIA of a Signal (if any) over such transmission path).



# AIT and the SIA

## AIT Disputes – consequences of failure to comply with the Annex E procedure

- If the AIT Call Data has not been supplied by 5pm on the 26th AIT calendar day, the ONO is obliged to serve (and if it fails to serve is deemed to have served) a Withdrawal Notice on the TNO by the 30th AIT calendar day in respect of all Calls referred to in the A1 Retention Notice and must make immediate payment of the retained sums with interest.
- If the TNO fails to serve an A3 Rejection Notice by the 34<sup>th</sup> AIT calendar day, the ONO is entitled to permanently retain the sum stated in the A1 Retention Notice from the TNO and the TNO is obliged to serve a credit note in such sum by the 41<sup>st</sup> AIT calendar day (failing which the ONO is entitled to serve a debit note).
- If the ONO fails to serve an A4 Dispute Notice (in respect of the whole or part of the retained sums) or to serve a Withdrawal Notice (in respect of the whole or part of the retained sums) by the 49<sup>th</sup> AIT calendar day it is deemed to have served a Withdrawal Notice in respect of any part of the retained sum in relation to which no A4 Dispute Notice has been served and must make immediate payment of such retained sums with interest.
- In a Transit Situation where the process is initiated by the ONO, the above applies to both the sums payable by ONO to TO and TO to TNO.

# AIT and the SIA

## The Scenario

- X is an innovative and entrepreneurial secondary telecommunications provider.
- As part of the trial of a new service intended to be offered to its customers in the future, X set up a “*standard systems health checker monitoring pings using pager termination to test the link between remote servers*”.
- The system generated between 8,000 to 10,000 calls per day.
- The ONO, a primary mobile network operator, served A1 Retention Notices on BT as TO. BT, in turn, served A1 Retention Notices on X as TNO. The ONO subsequently served Call Data. X served A3 Rejection Notices. The ONO served A4 Dispute Notices. All of these steps were taken by the relevant AIT calendar days. The parties were unable to resolve the AIT Dispute. As is standard, X as TNO, took an assignment of BT’s rights against the ONO for payment of the retained sums. X issued proceedings against the ONO for payment of the retained sums.

How did the Scenario play out?



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