#### NOTIFICATION FORM

## Section 1

## Market definition

1.1 The relevant product/service market. Is this market mentioned in the Recommendation on relevant markets?

1. Publicly available local and/or national telephone services provided at fixed location for residential customers (Market 3 mentioned in the Commission Recommendation 2003/11/EC);
2. Publicly available international telephone services provided at fixed location for residential customers (Market 4 mentioned in the Commission Recommendation 2003/11/EC);
3. Publicly available local and/or national telephone services provided at fixed location for non-residential customers (Market 5 mentioned in the Commission Recommendation 2003/11/EC);
4. Publicly available international telephone services provided at fixed location for non-residential customers (Market 6 mentioned in the Commission Recommendation 2003/11/EC).

Markets listed above are not mentioned in the Commission Recommendation 2007/879/EC on relevant markets

1.2 The relevant geographic market

The geographic scope of the market corresponds to the area of the Republic of Lithuania.

*1.3 A brief summary of the opinion of the national competition authority and market players where provided.*

The Competition Council of the Republic of Lithuania has not provided any objections or remarks neither on the conclusions of definition on Markets mentioned above nor to the proposed measures on the current Incumbent (TEO LT, AB).

The AB Lietuvos radijo ir televizijos centras had provided the following comments:

1. The Incumbent, having large market shares (97 %) has huge countervailing buyer power and alternative operators holding small market share do not have such a countervailing buyer power;
2. By increasing call charges from the Incumbent’s network to alternative fixed operators networks TEO LT, AB would disrupt alternative operators. TEO LT, AB would create a barrier for calls to other alternative fixed networks.
3. After withdrawal of current regulation, the Incumbent would start offering very low (below costs) prices in public tenders. By doing this the Incumbent would eliminate alternative operators. It is not clear how prices would be secured then TEO LT, AB would start offering services bellow wholesale costs;
4. The existence of alternative operators was not assessed when the Incumbent having large market shares would be left without retail regulation.

The operators Nacionalinis telekomunikacijų tinklas, UAB, CSC TELECOM, UAB, Splius, UAB, Cgates, UAB (further referred to as ALTNETS) have provided the following comments and suggestions:

1. The argument that the market structure in the Market for local and/or national calls at fixed location for residential customers was stable because investments are directed to fiber/LTE networks and because of this potential entrants are not interested in this market are falls. Without investments were would be no alternative services providers;
2. The Markets structure was stable during market review not because decline in demand, but because Incumbent used its power to act freely and to retain its markets shares;
3. NRA has not evaluated circumstances that were evaluated in market analyses carried out in 2006 and 2008. In current market analyses NRA has to assess criteria such as control of infrastructure, economies of scale and scope, vertical integration, access to financial resources, limited impact of wholesale regulation in the same way as it was done in 2006 and 2008;
4. ALTNETS propose not to withdraw but to increase regulation of TEO LT, AB retail call services;
5. Retail revenues were lower than call termination prices and this circumstances according to ALTNETS should be assessed in Market analyses;
6. ALTNETS propose uniform fixed termination and mobile termination prices;
7. ALTNETS propose to regulate retail mobile prices by imposing that price of retail mobile call should not be lower than the sum of costs of mobile origination and mobile termination;
8. Prices of Incumbents wholesale products are higher than retail prices and this limits competition. ALTNETS propose to assess this circumstances in Market analyses;
9. ALTNETS propose to impose functional separation on the Incumbent;
10. other remarks.

Overview of the results of the public consultation (remarks of the market players and the comments of RRT) in more detail are provided in the Annex 2 of the Market analyses Report.

*1.4. A brief overview of the results of the public consultation to date on the proposed market definition (e.g. how many comments were received, which respondents agreed with the proposed market definition, which respondents disagreed with it).*

No comments were received for the market definition. ALTNETS have provided comments on procedures how the competition situation was valued in the particular Market.

1.5 Where the relevant market is different from those listed in the Recommendation on relevant markets, a summary of the main reasons justifying the proposed market definition by reference to Section 2 of the Commission Guidelines on market analysis and the assessment of significant market power under the Community regulatory framework for electronic communications and services, and the three main criteria mentioned in recitals 5 to 13 of the Recommendation on relevant markets and Section 2.2 of the accompanying Explanatory Note.

Markets analyzed were defined in the Commission Recommendation 2003/11/EC. Those markets are not listed in current Commission Recommendation of the relevant markets. So RRT has firstly defined particular markets and after that has committed a so called “3 criteria test”. Markets were defined using tests of demand and supply side substitution.

By defining particular market, RRT firstly has analyzed whether services provided to residential and non-residential fall in the same market. Due to difference in prices and service buying procedure, Markets for call services were separated into services for residential and non-residential customers. After that, markets were separated into local and/or national (here after – national) calls and international calls due to price differences and different purpose services are used for. Lastly RRT has analyzed whether fixed and mobile calls would fall in the same market. Though mobile telephone services guaranty functionality of mobility, there was an increase in call duration of mobile calls during review period and increase in number of customers using mobile phones and services showed that fixed telephone calls could be substituted by mobile phone calls it is not possible to do the other way. Due to this one way substitution fixed telephone calls and mobile telephone calls were not included in the same market. But RRT sees pressure from mobile call prices on fixed call prices.

After defining separate Markets RRT, has made a 3 criteria test. RRT started with the second criteria “market structure which does not tend towards effective competition within the relevant time horizon” and assessment of this criteria also has incorporated test of first criteria “presence of high and non-transitory barriers to entry”.

In RRT opinion sharp decline in national mobile call prices (they are similar to retail fixed call prices), decline in fixed call prices and decline in demand, effective wholesale regulation limits Incumbent’s powers to behave independently of competitors and customers in national (both for residential and non-residential customers) calls markets despite it has large market shares. Therefore RRT concludes that ***Publicly available local and/or national telephone services provided at fixed location for residential customers*** market and ***Publicly available local and/or national telephone services provided at fixed location for non-residential customers*** markettends towards effective competition and second criteria of 3 criteria test is not past. RRT has not tested other two criteria as it is enough to prove than only one criteria is not met.

Not absolute market shares, declining prices and substitutes available (*Skype, chart* services) also limit Incumbent’s powers to behave independently of competitors and customers in international (both for residential and non-residential customers) calls markets. Therefore RRT concludes that ***Publicly available international telephone services provided at fixed location for residential customers*** market and ***Publicly available international telephone services provided at fixed location for non-residential customers*** market tend towards effective competition and second criteria of 3 criteria test is not past. RRT has not tested other two criteria as it is enough to prove than only one criteria is not met.

RRT proposes to withdraw current regulation on Publicly available local and/or national telephone services provided at fixed location for residential customers market, Publicly available local and/or national telephone services provided at fixed location for non-residential customers market, Publicly available international telephone services provided at fixed location for residential customers market, Publicly available international telephone services provided at fixed location for non-residential customers market. In order to have a smooth withdrawal of remedies and to allow ALTNETS to adapt to new rules RRT proposes withdrawing regulation from 1 January 2014.

## Section 2

## Designation of undertakings with significant market power

2.1 The name of the undertakings designated as having, individually or jointly, significant market power.

No. RRT proposes to withdraw remedies imposed on TEO LT, AB.

Where applicable, the name of the undertakings considered no longer to have significant market power.

TEO LT, AB from 1 January 2014.

2.2 The criteria used to designate an undertaking as having significant market power, individually or jointly, or not.

Not applicable. RRT proposes to withdraw remedies imposed.

2.3 The name of the main undertakings (competitors) active in the relevant market.

1. Publicly available local and/or national telephone services provided at fixed location for residential customers (Market 3 of the Commission Recommendation 2003/11/EC) – Nacionalinis telekomunikacijų tinklas, UAB – 0,32 % in terms of call duration; Cgates, UAB – 0,18 % in terms of revenues;
2. Publicly available international telephone services provided at fixed location for residential customers (Market 4 of the Commission Recommendation 2003/11/EC) – Nacionalinis telekomunikacijų tinklas, UAB – 2,69 % in terms of call duration; Nacionalinis telekomunikacijų tinklas, UAB – 0,34 % in terms of revenues;
3. Publicly available local and/or national telephone services provided at fixed location for non-residential customers (Market 5 of the Commission Recommendation 2003/11/EC) – CSC TELECOM, UAB – 3,97 % in terms of call duration; CSC TELECOM, UAB – 3,54 % in terms of revenues;
4. Publicly available international telephone services provided at fixed location for non-residential customers (Market 6 of the Commission Recommendation 2003/11/EC) – Telco Consulting Group, UAB – 23,45 % in terms of call duration; Telco Consulting Group, UAB – 10,57 % in terms of revenues.

2.4 The market shares of the undertakings mentioned above and the basis for calculation of market share (e.g. turnover, number of subscribers).

1. Publicly available local and/or national telephone services provided at fixed location for residential customers (Market 3 of the Commission Recommendation 2003/11/EC) – 98,03 % in terms of revenues (end of 2011), 99,1 % in terms of call duration (end of 2011), 97,2 % in terms of number of customers;
2. Publicly available international telephone services provided at fixed location for residential customers (Market 4 of the Commission Recommendation 2003/11/EC) – 79,4 % in terms of revenues (end of 2011), 70,5 % in terms of call duration (end of 2011);
3. Publicly available local and/or national telephone services provided at fixed location for non-residential customers (Market 5 of the Commission Recommendation 2003/11/EC) – 88,3 % in terms of revenues (end of 2011), 84,3 % in terms of call duration (end of 2011), 72,9 % in terms of number of customers;
4. Publicly available international telephone services provided at fixed location for non-residential customers (Market 6 of the Commission Recommendation 2003/11/EC) – 66,2 % in terms of revenues (end of 2011), 50,4 % in terms of call duration (end of 2011).

2.5 The opinion of the national competition authority, where provided.

The Competition Council had no comments, remarks or proposals.

2.6 The results of the public consultation to date on the proposed designation(s) as undertakings having significant market power (e.g. total number of comments received, numbers agreeing/disagreeing)

The Incumbent has not provided comments and agreed with the conclusions of RRT. 5 ALTNETS strongly opposed conclusions of RRT and provided 33 comments. The main conclusions were laid out in question No 1.3 of this form.

## Section 3 Regulatory obligations

3.1 The legal basis for the obligations to be imposed, maintained, amended or withdrawn (Articles 9 to 13 of Directive 2002/19/EC).

The legal basis to withdraw obligations are: Article 8(3) of Access Directive, Article 17 paragraph 7 of the Law on Electronic Communications;

3.2 The reasons for which the imposition, maintenance or amendment of obligations on undertakings is considered proportional and justified in the light of the objectives laid down in Article 8 of Directive 2002/21/EC. Alternatively, indicate the paragraphs, sections or pages of the draft measure where such information is to be found.

The detailed reasoning is provided in Chapter 3.3 the draft Report on Publicly available local and/or national telephone services provided at fixed location for residential customers, Publicly available international telephone services provided at fixed location for residential customers; Publicly available local and/or national telephone services provided at fixed location for non-residential customers; Publicly available international telephone services provided at fixed location for non-residential customers markets.

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3.3 Where the remedies proposed are other than those set out in Articles 9 to 13 of Directive 2002/19/EC, please indicate what « exceptional circumstances » within the meaning of Article 8 (3) of that directive justify the imposition of such remedies. Alternatively, indicate the paragraphs, sections or pages of the draft measure where such information is to be found.

Not applicable.

## Section 4 Compliance with international obligations

4.1 Whether the proposed draft measure intends to impose, amend or withdraw obligations on market players as provided for in Article 8(5) of Directive 2002/19/EC.

Not applicable.

4.2 The name of the undertakings concerned.

Not applicable.

4.3 What international commitments entered into by the Community and the Member States are to be met.

Not applicable.