

NOTIFICATION FORM

Section 1 Market definition

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

The summary notification form is provided regarding the following markets:

- Minimum set of leased lines which was previously analyzed and notified in 2006. This market was included in the annex to the Commission Recommendation of 11 February 2003 (2003/11/EC) as Market 7. Due to the changes in the market structure and the appearance of the new products on the market, **in the notified market analysis RRT defined this market as “Retail high-quality data transmission service market”** (further referred to as **“Retail high-quality market”**) which includes all services of Minimum set of leased lines market. This market is not listed in the annex to the Commission Recommendation 2014/710/EC of 9 October 2014.
- Wholesale trunk segments of leased lines which was previously analyzed and notified in 2006. This market was included in the annex to the Commission Recommendation of 11 February 2003 (2003/11/EC) as Market 14. Due to the changes in this market and the appearance of the new product, in the notified market analysis RRT defined this market as **“Wholesale high-quality data transmission services via trunk segments market”** (further referred to as **“Trunk segment market”**). This market is not listed in the annex to the Commission Recommendation 2014/710/EC of 9 October 2014.
- Wholesale high-quality access provided at a fixed location. Previously this market was analysed and notified in 2006, subject to the Commission Recommendation of 11 February 2003 (2003/11/EC). In the annex to this recommendation, the notified market was defined as “Wholesale terminating segments of leased lines” (Market 13). In Commission Recommendation 2014/710/EC of 9 October 2014, this market was defined as “Wholesale high-quality access provided at a fixed location (Market 4). Due to changes in market definitions in relevant Commission recommendations, RRT defined Wholesale high-quality access provided at a fixed location market as **“Wholesale high-quality data transmission services via terminating segment market”** (further referred to as **“Terminating segment market”**).

1.2 The relevant geographic market

The relevant geographic market of the three notified relevant markets corresponds to the territory of the Republic of Lithuania.

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

National public consultation ran from 7 October 2015 until 11 November 2015. RRT received comments from three operators (one operator, who has asked to be confidential, AB Lietuvos

radijo ir televizijos centras, TEO LT, AB) and The Competition Council of the Republic of Lithuania.

AB Lietuvos radijo ir televizijos centras stated that obligations imposed to TEO LT, AB on Trunk segment market should not be withdrawn, because competition in Trunk segment market is not effective. AB Lietuvos radijo ir televizijos centras claimed that only TEO LT, AB has ubiquitous network therefore alternative operators cannot compete with TEO LT, AB providing Trunk segment services. What is more, operator stated that it is too expensive and it takes too long to build network and provide retail high quality services by purchasing Trunk segment services from alternative operators because they operate in different geographic areas.

Operator, whose name is confidential, provided several comments. First of all, the service provider noted that there are no reasons to withdrawn regulation on Retail high-quality market and Trunk segment market. According operator, TEO LT, AB is the biggest operator which provides various retail and wholesale services, including access to the communications cable duct system, access to the dark fiber in the whole territory of Lithuania. Operator stated that networks of alternatives operators are not ubiquitous and it is too expensive and it takes too long to roll-out own infrastructure. Moreover, operator complained that the prices of wholesale electronic communications services provided by TEO LT, AB are too high as compared to the prices of retail services offered by TEO LT, AB. Service provider stated that prices of technical feasibility studies needed to get wholesale services are too high and period during which they are performed is too long. The service provider also claimed that TEO LT, AB should be separated into two separate entities providing wholesale and retail services, meaning that obligation of functional separation should be imposed.

TEO LT, AB provided several comments. First of all, TEO LT, AB claimed that services which are included in Terminating segment market are provided using different technologies (e.g. DSL, Ethernet) therefore these services have different technical parameters. Moreover, operator indicated that data transmission services provided using Ethernet technology in the case of DDoS (Distributed Denial of Services) attack can't ensure data transmission speed specified in the contract. TEO LT, AB indicated that analogue leased line services are not high quality services because they are designated for the provision of voice grade circuit rather than data transmission services. TEO LT, AB claimed that some clients purchase analogue leased lines, digitize them and use for data transmission. But in such a case TEO LT, AB is not responsible for quality of services parameters and does not ensure data transmission speed or symmetrical data transmission. TEO LT, AB expressed an opinion that VPN (Virtual Private Network) services are "higher level" services (Layer 3 by OSI system services) provided between network end points and it is impossible to provide these services only in the terminating segment of network. Also TEO LT, AB stated that RRT did not specify the technology using which VPN services could be provided and European Commission did not mention VPN services as high quality services. According to TEO LT, AB, VšĮ "Plačiajuostis internetas" is provider of Trunk segment services and this operator has to be included in the market analysis.

The Competition Council of the Republic of Lithuania did not have any comments and agreed with the results of the markets analyses.

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).

The Competition Council of the Republic of Lithuania had no comments regarding the definitions of relevant markets.

AB Lietuvos radijo ir televizijos centras and operator, whose name is confidential, agreed with the definitions of relevant markets.

TEO LT, AB proposed to exclude analogue leased lines services from the Retail high quality market definition. RRT did not agree with this comment, because clients purchasing analogue leased lines services could digitize them and use for data transmission services.

TEO LT, AB proposed to exclude analogue leased lines services from the Terminating segment market definition. RRT did not agree with this comment, because clients purchasing analogue leased lines services could digitize them and use for data transmission services.

TEO LT, AB proposed to exclude VPN services from the Terminating segment market definition. RRT agreed with this comment.

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.

Retail high-quality market and Trunk segment market are not listed in the annex to the Commission Recommendation 2014/710/EC of 9 October 2014, therefore a three criteria test was performed. As regards Trunk segment market, as the first two criteria were not met, i.e. this market has low barriers to entry and shows a tendency towards an effective competition, the market is considered as not subject to *ex ante* regulation.

As regards Retail high-quality market, first criterion was not met. As concerns effective competition in Trunk segment market and regulation in Terminating segment market, operators could enter Retail high-quality market without incurring significant costs and risk i. e. Retail high-quality market has low barriers to entry.

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.

TEO LT, AB is designated as having significant market power on the Terminating segment market.

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

TEO LT, AB no longer has significant market power on the Retail high-quality market and Trunk segment market.

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

The main criteria to designate TEO LT, AB as having significant market power on the Terminating segment market are as follows:

- The structure of the market;
- Barriers to entry;
- Vertically related services;
- Absence of countervailing buying power;
- Absence of potential competition.

As the Retail high-quality market and Trunk segment market were found *not* to be susceptible to *ex ante* regulation, TEO LT, AB is no longer considered as an undertaking having significant market power on these two markets and RRT proposes to withdraw the obligations imposed on this undertaking in 2006.

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

TEO LT, AB, UAB “Baltnetos komunikacijos”, SPLIUS, UAB, UAB “Bitė Lietuva”, UAB “CSC TELECOM”.

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

TEO LT, AB – 67.8 per cent

UAB “Baltnetos komunikacijos” – 8.0 per cent

SPLIUS, UAB – 3.5 per cent

UAB “CSC TELECOM” – 3.1 per cent

UAB “Bitė Lietuva” – 2.4 per cent

Market share on the Terminating segment market were calculated based on the number of Terminating segment operated by particular service provider.

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

The Competition Council of the Republic of Lithuania 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 summary of results of public consultation regarding proposed draft measures are provided in point 1.3 of this notification form. The results of public consultation in details are provided in the table of assessment of comments and proposals received during the public consultation. The table mentioned previously is notified together with other draft measures.

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).

As the **Retail high-quality market** was found to be not susceptible to *ex ante* regulation, RRT suggest withdrawing the obligations imposed on TEO LT, AB in 2006.

As the **Trunk service market** was found not be susceptible to *ex ante* regulation, RRT suggests withdrawing the obligations imposed on TEO LT, AB in 2006.

On the **Terminating segment market**, the following obligations imposed on TEO LT, AB are amended:

- Obligation to provide access – Article 12 of Access Directive; Article 21, paragraph 1 of the Law on Electronic Communications.
- Obligation of non-discrimination – Article 10 of Access Directive; Article 19 paragraph 1 of the Law on Electronic Communications.
- Obligation of transparency – Article 9 of Access Directive; Article 18 of the Law on Electronic Communications;
- Price control obligation and cost accounting obligation – Article 13 of Access Directive; Article 23 of the Law on Electronic Communications.
- Accounting separation obligation - Article 11 of Access Directive; Article 20(1) 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 4 of the notified draft report.

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.