

NOTIFICATION FORM

Section 1 Market definition

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

The notified draft measures concern the **wholesale call termination on individual public telephone networks provided at a fixed location in Lithuania market corresponding to market 1** of the Commission Recommendation 2014/710/EC of 9 December 2014 on relevant product and service markets within the electronic communication sector susceptible to ex ante regulation in accordance with Directive 2002/21/EU of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (hereinafter – EC Recommendation of 2014).

In line with the Recommendation and due to the lack of substitutability for termination services in particular networks, RRT defined 9 individual markets for the following operators:

1. Call termination on the public telephone network of TEO LT, AB in the territory of the Republic of Lithuania;
2. Call termination on the public telephone network of AB “Lietuvos geležinkeliai” in the territory of the Republic of Lithuania;
3. Call termination on the public telephone network of AB Lietuvos radijo ir televizijos centras in the territory of the Republic of Lithuania;
4. Call termination on the public telephone network of UAB “CSC TELECOM” in the territory of the Republic of Lithuania;
5. Call termination on the public telephone network of UAB “LINKOTELUS” in the territory of the Republic of Lithuania;
6. Call termination on the public telephone network of UAB “MEDIAFON” in the territory of the Republic of Lithuania;
7. Call termination on the public telephone network of UAB “Nacionalinis telekomunikacijų tinklas” in the territory of the Republic of Lithuania;
8. Call termination on the public telephone network of UAB “Telekomunikacijų grupė” in the territory of the Republic of Lithuania (until 18 March 2013 the name of the undertaking was UAB “Telekomunikacijų grupa”);
9. Call termination on the public telephone network of UAB “ECOFON” in the territory of the Republic of Lithuania.

This is the fifth notification as regards the wholesale market for call termination on the fixed network of TEO LT, AB and the fourth notification as concerns the other alternative network operators in Lithuania. The latest draft measures as regards wholesale market for call termination on individual public telephone networks provided at a fixed location, included as market 3 in the Commission Recommendation 2007/879/EC of 17 December 2007 (hereinafter – EC Recommendation of 2007), were notified to the European Commission in 2014 (registered under case LT/2014/1622). However, after the serious doubts letter from the EC, RRT withdrew its notification.

Like in the analysis of market 3 in 2014 (under EC Recommendation of 2007), in the present analysis of market 1 (under EC Recommendation of 2014) RRT no longer defined the market of call termination on the public telephone network of UAB “EUROCOM SIP” in the territory of the Republic of Lithuania. In 2011 UAB “EUROCOM SIP” was acquired by UAB “CSC TELECOM” and ceased its activities as a separate legal entity. Taking into consideration that in the period of market 1 analysis (from 1 January 2009 to 30 September 2014) UAB “EUROCOM SIP” did not pursue economic activities and did not provide any call termination services, the market of call termination on public telephone network of UAB “EUROCOM SIP” was not defined in the notified analysis of market 1.

In addition, please note that in the end of 2014 UAB “CSC TELECOM” acquired the activities of UAB “Digitela” as relates to the provision of fixed telephone services and UAB “Digitela” ceased to provide the said services as of 1 January 2015. Also, it no longer provides services as regards call termination in UAB “Digitela” network and in the nearest future will fully transfer its activities to UAB “CSC TELECOM” as relates to fixed telephone service provision. UAB “Digitela” as a legal entity will not cease to operate, however, since 1 January 2015 all of its rights and responsibilities regarding provision of fixed telephone services were undertaken by UAB “CSC TELECOM”. Taking into consideration the said conditions, the wholesale market of call termination on the public telephone network of UAB “Digitela” was not defined in the analysis of market 1.

1.2 The relevant geographic market

The geographic scope of the 9 relevant markets 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.

National public consultation ran from 27 February 2015 until 20 March 2015. RRT received comments from 7 operators (TEO LT, AB, UAB “CSC TELECOM”, UAB “Nacionalinis telekomunikacijų tinklas”, UAB “MEDIAFON”, UAB “Bitė Lietuva”, UAB “Omnitel” and UAB “TELE2”).

TEO LT, AB did not oppose the regulation of termination rates, but asked for some clarification of measures proposed by RRT and suggested to differentiate termination rates according to traffic coming from EU and non-EU countries.

UAB “CSC TELECOM” and UAB “Nacionalinis telekomunikacijų tinklas” in principal did not oppose the regulation of termination rates, but suggested to postpone the regulation until some problems would be solved. Also, both operators provided comments regarding the level of fixed termination rates and proposed to differentiate termination rates according to traffic coming from EU and non-EU countries as well as within EU.

UAB “MEDIAFON” proposed to differentiate termination rates according to traffic coming from EU and non-EU countries.

UAB “Bitė Lietuva”, UAB “Omnitel” and UAB “TELE2” also proposed to differentiate termination rates according to traffic coming from EU and non-EU countries.

The Competition Council of the Republic of Lithuania had no comments, remarks or proposals.

Information regarding the opinion of the market players is provided in section 2.6 in more detail.

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.

Not applicable.

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.

The following undertakings were designated as having significant market power individually in the market of call termination on the respective individual public telephone networks provided at a fixed location:

1. TEO LT, AB;
2. AB “Lietuvos geležinkeliai”;
3. AB Lietuvos radijo ir televizijos centras;
4. UAB “CSC TELECOM”;
5. UAB “LINKOTELUS”;
6. UAB “MEDIAFON”;
7. UAB “Nacionalinis telekomunikacijų tinklas”;
8. UAB “Telekomunikacijų grupė”;
9. UAB “ECOFON”.

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

UAB “EUROCOM SIP” (in 2011 it was acquired by UAB “CSC TELECOM” and no longer pursues its activities).

UAB “Digitela” (in the end of 2014 UAB “CSC TELECOM” acquired the activities of UAB “Digitela” related to the provision of fixed telephone services and UAB “Digitela” ceased to provide the said services as of 1 January 2015).

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

The main criteria are market share, barriers to entry, absence of countervailing buying power, and absence of potential competition.

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

Undertakings which were designated as having SMP are listed above in point 2.1. of the notification form.

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

Each undertaking has 100% market share of the call termination on its individual public telephone network.

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)

National public consultation ran from 27 February 2015 until 20 March 2015. RRT received comments from 7 operators (TEO LT, AB, UAB “CSC TELECOM” UAB “Nacionalinis telekomunikacijų tinklas”, UAB “MEDIAFON”, UAB “Bitė Lietuva”, UAB “Omnitel” and UAB “TELE2”).

TEO LT, AB did not oppose the regulation but provided some comments regarding the measures proposed. The summary of the opinion of TEO LT, AB is provided below:

- a) the operator disagreed with the opinion of RRT not to allow to differentiate termination rates for calls coming from non-EU countries;
- b) the operator suggested to differentiate the regulation of termination rates according to the traffic coming from EU and non-EU countries.;
- c) the operator asked to clarify the regulation of calls to short numbers and value added services.
- d) the operator asked to postpone the reduction of tariffs until 1 September 2015.

Both UAB “CSC TELECOM” and UAB “Nacionalinis telekomunikacijų tinklas” provided identical comments. The summary of the comments from both operators is provided below:

- a) the operators proposed to differentiate the regulation of termination rates according to the traffic coming from EU and non-EU countries.
- b) the operators complained that the termination rates in certain operators in Belgium, Czech Republic, Latvia, Estonia, Finland, and Slovenia are higher than “pure” BU-LRIC costs or target prices set by the regulators whereas the prices in Lithuania are strictly regulated. Due to this, UAB “CSC TELECOM” and UAB “Nacionalinis telekomunikacijų tinklas” have complained

that they do not have the same business conditions as operators in other EU countries. Operators proposed to allow differentiating call termination rates within EU until termination rates in all EU countries reduce to “pure” BU-LRIC costs.

- d) the operators proposed to postpone the reduction of termination rates in Lithuania until the termination rates in all EU countries are reduced to “pure” BU-LRIC costs;
- e) the operators proposed to postpone the reduction of termination rates until 1 January 2016 and after that to apply a glide path with an annual reduction of tariffs by 30 %;
- f) the operators proposed to set the termination rates not according to the prices set for TEO LT, AB, but taking into account their own costs of termination services;
- g) the operators proposed to set mobile termination rates according to “pure” BU-LRIC costs, but not to benchmark termination costs of other countries;
- h) the operators proposed to unify fixed termination and mobile termination rates;
- i) the operators suggested to initiate a discussion with the European Commission regarding EU number portability database and unification of regulation of termination rates within EU. As it was said previously, operators complained that, despite the regulation of termination rates, prices of termination services are not uniform in EU.
- j) the operators asked to regulate the prices of retail mobile services and impose a remedy that prices of retail mobile services should not be lower than the sum of prices for mobile call origination and termination.

UAB “MEDIAFON”, UAB “Bitė Lietuva”, UAB “Omnitel”, and UAB “TELE2” proposed to allow setting different termination rates for the traffic coming from non-EU countries.

On 14 April 2015 a public hearing of the results of public consultation was organized with the stakeholders. 7 fixed and mobile network operators participated in the public hearing.

RRT disagreed with the majority of comments provided by operators regarding the regulation of fixed termination rates. RRT agreed to change non-discrimination and price control remedies already imposed and to allow setting different prices for termination services when calls are originated outside the European Economic Area. RRT also agreed to postpone the reduction of termination rates until 1 September 2015 due to the administrative process needed for the operators to prepare for a new regulation.

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 following obligations imposed on TEO LT, AB are maintained:

- Obligation to provide access – Article 12 of Access Directive; Article 21, paragraph 1, points 1, 2, 3, 5, 6, 7 and 9 of the Law on Electronic Communications.

- Obligation of transparency – Article 9 of Access Directive; Article 18, paragraph 1, points 1, 2, 3, 4, 5 and Article 18, paragraph 2 of the Law on Electronic Communications;

The following obligations imposed on TEO LT, AB are amended:

- Obligation of non-discrimination – Article 10 of Access Directive; Article 19 of the Law on Electronic Communications. RRT proposes to withdraw the requirement to set the same termination rates despite the origin of a call.
- Price control obligation – Article 13 of Access Directive; Article 23, paragraph 1 of the Law on Electronic Communications. RRT proposes to limit the regulation of termination rates to calls originated within the European Economic Area. Termination rate applied by TEO LT, AB for calls coming from European Economic Area should not be higher than 0.26 euro cents/min. (excl. VAT).

The following obligations are withdrawn:

- Accounting separation obligation - Article 11 of Access Directive; Article 20, Paragraph 1 of the Law on Electronic Communications.

The following obligation is maintained on ANOs, except for UAB “ECOFON”:

- Obligation to provide access – Article 12 of Access Directive; Article 21, paragraph 1, points 1, 2, 3, 5, 6, 7 and 9 of the Law on Electronic Communications.

The following obligations are amended on ANOs, except for UAB “ECOFON”:

- Price control – Article 13 of Access Directive; Article 23, paragraph 1 of the Law on Electronic Communications. RRT proposes to limit the regulation of termination rates to calls originated within the European Economic Area.

Taking into consideration the fact that UAB “ECOFON” started to provide call termination services on the network of “UAB “ECOFON” only in the period of the analysis of market 1 (from 1 January 2009 to 30 September 2014), and previously was not designated as having significant market power, the following obligations are imposed on UAB “ECOFON”:

- Obligation to provide access – Article 12 of Access Directive; Article 21, paragraph 1, points 1, 2, 3, 5, 6, 7 and 9 of the Law on Electronic Communications.
- Price control obligation – Article 13 of Access Directive; Article 23, paragraph 1 of the Law on Electronic Communications. RRT proposes to limit the regulation of termination rates to calls originated within European Economic Area.

ANOs are obliged to apply prices of call termination on their respective networks that are not higher than the prices of call termination applied by TEO LT, AB implementing the obligation of price control set by RRT. The regulation of prices of call termination services provided by all operators designated as having significant market power is limited to calls originated within the European Economic Area.

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 5 of the draft Report on wholesale market for call termination on individual public telephone networks provided at a fixed location.

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.