

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 networks provided at a fixed location in Lithuania market (hereinafter – 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).

This is the second notification regarding Market analysis that was started in November 2014. The first notification regarding Market was presented to the Commission Recommendation in April 2015 and registered under case LT/2015/1731. After receiving a serious doubts letter from the European Commission in May 2015, RRT withdraw draft measures proposed in Market and started the review of Market analysis report and related documents. After review of the draft measures proposed in April 2015 and the second national public consultation, the Communications Regulatory Authority of the Republic of Lithuania (hereinafter – RRT) is notifying reviewed draft measures in Market.

In line with the EC Recommendation of 2014 and due to the lack of substitutability for termination services in particular networks, RRT defined 9 individual markets:

1. Call termination on the public network of TEO LT, AB market where the geographic territory of the market is the territory of the Republic of Lithuania;
2. Call termination on the public network of AB “Lietuvos geležinkeliai“ market where the geographic territory of the market is the territory of the Republic of Lithuania;
3. Call termination on the public network of AB Lietuvos radijo ir televizijos centras market where the geographic territory of the market is the territory of the Republic of Lithuania;
4. Call termination on the public telephone network of UAB “CSC TELECOM” market where the geographic territory of the market is the territory of the Republic of Lithuania;
5. Call termination on the public telephone network of UAB “LINKOTELUS” market where the geographic territory of the market is the territory of the Republic of Lithuania;
6. Call termination on the public network of UAB “MEDIAFON” market where the geographic territory of the market is the territory of the Republic of Lithuania;
7. Call termination on the public network of UAB “Nacionalinis telekomunikacijų tinklas” market where the geographic territory of the market is the territory of the Republic of Lithuania;
8. Call termination on the public network of UAB “Telekomunikacijų grupė” market where the geographic territory of the market is 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 network of UAB “ECOFON” market where the geographic territory of the market is the territory of the Republic of Lithuania.

Like in the notification under case LT/2015/1731, in the present analysis of Market RRT no longer defined the market of call termination on the public network of UAB “EUROCOM SIP”. 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 analysis of market 1 (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 network of UAB “EUROCOM SIP” was not defined in the notified analysis of Market.

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 transferred 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.

1.2 The relevant geographic market

The relevant geographic market of the 9 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.

Second national public consultation ran from 3 September 2015 until 22 September 2015.

The Competition Council of the Republic of Lithuania had no comments, remarks or proposals for the proposed draft measures.

RRT received comments from 5 operators: TEO LT, AB, UAB “CSC TELECOM”, UAB “Nacionalinis telekomunikacijų tinklas”, UAB “Omnitel”, UAB “Telekomunikacijų grupė”. TEO LT, AB, UAB “CSC TELECOM”, UAB “Nacionalinis telekomunikacijų tinklas” provided their own comments as well as joint comments.

TEO LT, AB in its own comments letter proposed to correct demand for call termination services used in BU-LRAIC model as input data was not correct. Operator also proposed to review value of commercial costs.

In their separate letters UAB “CSC TELECOM” and UAB “Nacionalinis telekomunikacijų tinklas” provided the following comments:

- a) opposed to the reduction of termination rate to 0,13 euro cent/min. due to high difference between mobile termination rates and fixed termination rates and due to too low mobile retail prices compared to mobile termination rates;
- b) proposed to apply glide path during reduction of prices;

- c) proposed to initiate regulation of transit services in the European Union in order to allow getting regulated termination rates (operators complained that they pay much higher termination charges than regulated prices for call termination services);
- d) proposed to postponed reduction of termination rates until termination rates would be unified in the European Union (operators complained that they pay much higher termination charges than regulated prices for call termination services);
- e) proposed to initiate creation of European network interconnection hub where all operators could interconnect and benefit from regulated termination rates;
- f) proposed to regulate prices of retail mobile call services and impose the requirement to apply charges for retail mobile call service not lower than costs of resources required to provide services.

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

TEO LT, AB, UAB “CSC TELECOM”, UAB “Nacionalinis telekomunikacijų tinklas” and UAB “Telekomunikacijų grupė” in their joint comments letter:

- a) proposed to reduce mobile termination rates more drastically;
- b) proposed to apply glide path in reduction of fixed termination rates;
- c) proposed to regulate prices of retail mobile call services and impose requirement to apply charges for retail mobile call service not lower than costs of resources required to provide services.

Information regarding the opinion of the market players is provided in section 2.6 of this standard notification form 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 provided in point 2.1. of this standard 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 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)

RRT received comments and proposals from 5 operators (TEO LT, AB, UAB "CSC TELECOM", UAB "Nacionalinis telekomunikacijų tinklas", UAB "Omnitel", UAB "Telekomunikacijų grupė") and the opinion of the Competition Council of the Republic of Lithuania.

TEO LT, AB, UAB "CSC TELECOM", UAB "Nacionalinis telekomunikacijų tinklas" provided their own comments and proposals. TEO LT, AB, UAB "CSC TELECOM", UAB "Nacionalinis

telekomunikacijų tinklas” and UAB “Telekomunikacijų grupė” provided a joint comments letter as well.

The Competition Council of the Republic of Lithuania had no comments, remarks or proposals for the proposed draft measures.

TEO LT, AB in its separate comments letter proposed to correct demand for call termination services used in BU-LRAIC model as input data was not correct. The operator also proposed to review the value of commercial costs because, in the opinion of the operator, the costs calculated by RRT do not represent the current costs. RRT reviewed input data of the model and updated the demand for call termination services. Information about amendments made for input data is provided in the Annex 3 of the draft report of Market analysis. RRT disagreed with the proposal to review values of commercial costs because RRT used the latest available information about costs. The activities of the operator have not changed significantly since 2015, therefore they could not influence the costs.

UAB “CSC TELECOM” and UAB “Nacionalinis telekomunikacijų tinklas” in their separate comments letter and in a joint letter with TEO LT, AB and UAB “Telekomunikacijų grupė” disagreed with the proposal to reduce fixed call termination charges to 0,13 euro cents/min. The main reasons of disagreement are these:

- a) the reduction of fixed termination would increase the difference between mobile and fixed termination rates and mobile operators would reduce their costs and would have competitive advantages against fixed operators. Mobile termination rates in some cases are higher than the prices of retail mobile calls and the difference between mobile termination rates and fixed termination rates would allow mobile operators to subsidy prices of retail mobile calls further.
- b) termination rates in the European Union are not unified. Fixed operators cannot benefit from regulated termination rates as operators pay higher call termination charges than set by National Regulatory Authorities.

In order to solve problems, the operators:

- b) proposed to apply glide path during the reduction of prices;
- c) proposed to initiate regulation of transit services in the European Union in order to allow getting regulated termination rates (operators complained that they pay much higher termination charges than regulated prices for call termination services);
- d) proposed to postpone the reduction of termination rates until termination rates were unified in the European Union (operators complained that they pay much higher termination charges than regulated prices for call termination services);
- e) proposed to initiate creation of European network interconnection hub where all operators could interconnect and benefit from regulated termination rates;
- f) proposed to regulate prices of retail mobile call services and impose requirement to apply charges for retail mobile call service not lower than costs of resources required to provide services;
- g) proposed to reduce mobile termination rates more drastically.

RRT disagreed with the proposals of operators while problems related with the mobile termination rates would be tackled during the currently carried out market analysis of mobile termination services.

UAB “Omnitel” proposed to differentiate mobile termination rates according to traffic coming from EU and non-EU countries and this proposal would be evaluated in the market analysis of mobile termination.

Comments and proposals from TEO LT, AB, UAB “CSC TELECOM and joint comments letter from TEO LT, AB, UAB “CSC TELECOM”, UAB “Nacionalinis telekomunikacijų tinklas” and UAB “Telekomunikacijų grupė” and the table of assessment of comments and proposals received during the second national public consultation are provided together with 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).

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.

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

- 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;
- 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. Having implemented a “pure” BU-LRIC model in 2015 and after the review of price calculation methodology, RRT proposes to set the price cap of 0,13 eur cent/min. for call termination services on fixed networks.

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 of 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 of 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.