

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 **market of wholesale voice call termination on individual mobile networks in Lithuania corresponding to market 2 (hereinafter referred to as Market 2)** of the Commission Recommendation 2014/710/EC of 9 October 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 fourth round of the analysis of the market of wholesale voice call termination on individual mobile networks in Lithuania. Previously it was notified in April 2014 and the final measures were adopted in July 2014.

In line with the EC Recommendation of 2014 and due to the lack of substitutability for termination services in particular networks, RRT defined 7 individual markets:

1. Voice call termination on the public mobile network of UAB “Bitė Lietuva” market where the geographic territory of the market is the territory of the Republic of Lithuania;
2. Voice call termination on the public mobile network of UAB “OMNITEL” market where the geographic territory of the market is the territory of the Republic of Lithuania;
3. Voice call termination on the public mobile network of UAB “TELE2” market where the geographic territory of the market is the territory of the Republic of Lithuania;
4. Voice call termination on the public mobile network of UAB “CSC TELECOM” market where the geographic territory of the market is the territory of the Republic of Lithuania;
5. Voice call termination on the public mobile network of UAB “LINKOTELUS” market where the geographic territory of the market is the territory of the Republic of Lithuania;
6. Voice call termination on the public mobile network of UAB “MEDIAFON” market where the geographic territory of the market is the territory of the Republic of Lithuania;
7. Voice call termination on the public mobile network of UAB “ECOFON” market where the geographic territory of the market is the territory of the Republic of Lithuania.

1.2 The relevant geographic market

The relevant geographic market of the 7 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 20 October 2015 until 10 November 2015.

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

RRT received comments from 4 operators: UAB “CSC TELECOM”, UAB “OMNITEL”, UAB “LINKOTELUS” and UAB “TELE2”.

UAB “CSC TELECOM” provided the following comments:

- a) UAB “CSC TELECOM” proposed to lower mobile termination rate (hereinafter – MTR) to fixed termination rate (hereinafter – FTR) (0.13 euro cent/min.) due to high difference between MTRs and FTRs and due to too low mobile retail prices compared to MTRs;
- b) UAB “CSC TELECOM” proposed to solve problems in retail call services market which would include both fixed and mobile markets because mobile operators exert pressure due to too low mobile retail prices on retail call services market;
- c) UAB “CSC TELECOM” proposed to set wholesale MTR at the level that would guarantee that the sum of MTR and mobile origination rate is lower than price of retail mobile call service;
- d) UAB “CSC TELECOM” proposed to include non-geographic numbers from number series 7XXXXXXX into Market 2 definition.

UAB “OMNITEL” provided the following comments:

- a) UAB “OMNITEL” has positively reacted to RRT proposed draft measures to limit regulation to calls originated within the European Economic Area;
- b) UAB “OMNITEL” predicated that lower MTR should not be the main aim of regulation since it reduces operators’ revenues and investments into networks. Operator argued that retail prices are low due to high competition on the retail market and further reduction of charges would not bring additional benefits to end users;
- c) UAB “OMNITEL” commented that, despite of the regulation of MTRs according to pure BU-LRIC costs, MTRs are different across European Union therefore pure BU-LRIC model should not be used for price regulation;
- d) UAB “OMNITEL” argued that reduction of MTR would negatively influence situation of operators through regulation of roaming incoming calls.

UAB “TELE2” provided the following comments:

- a) UAB “TELE2” has positively reacted to RRT proposed draft measures to limit regulation to calls originated within the European Economic Area;
- b) UAB “TELE2” commented that in practice voice call termination in other EU countries costs more than regulated MTRs. Operator provided information that voice call termination in Hungary costs 2.29 euro cent/min. whereas regulated MTR is 0.54 euro cent/min.; voice call termination in Slovak Republic costs 4.43 euro cent/min. whereas regulated MTR is 1.23 euro cent/min.;
- c) UAB “TELE2” requested to reduce MTR gradually in order avoiding a negative impact on the expectations of investors and electronic communications providers;
- d) UAB “TELE2” mentioned that non-geographic numbers from number series 18XX are not included into Market 2 definition. Because of this reason, RRT has to ensure that termination rate to calls of short telephone numbers should be not higher than MTR.

UAB “LINKOTELUS” provided the following comments:

- a) UAB “LINKOTELUS” disagreed with Market 2 definition regarding operator. According to the operator it provides services beyond the territory of the Republic of Lithuania wherefore Market 2 analysis should be carried out by the European Commission, not RRT;
- b) UAB “LINKOTELUS” opposed the decision of RRT to designate UAB “LINKOTELUS” as having significant market power (SMP). Operator does not provide mobile termination services

and has no interconnection with other Lithuanian operators, therefore it cannot be designated as having SMP;

c) UAB “LINKOTELUS” commented that all operators that have informed RRT about activities of mobile communications services should be designated as having SMP and should be regulated;

d) UAB “LINKOTELUS” proposed that geographic definition of Market 2 is not conditioned by telephone number code.

Summary of assessment of the comments received is provided in section 2.6 of this standard notification form in more detail.

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)

UAB “LINKOTELUS” disagreed with Market 2 definition regarding the operator. According to UAB “LINKOTELUS”, it provides services beyond the territory of the Republic of Lithuania. Therefore the geographic territory of the relevant market is larger than the Republic of Lithuania. Operator claimed that Market 2 analysis should be carried out by the European Commission, not RRT.

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 voice call termination on the respective individual public mobile networks:

1. UAB “Bitė Lietuva”;
2. UAB “OMNITEL”;
3. UAB “TELE2”;
4. UAB “CSC TELECOM”;
5. UAB “LINKOTELUS”;
6. UAB “MEDIAFON”;
7. UAB “ECOFON”.

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

Not applicable.

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 % of market share on their respective markets of the voice call termination on its individual public mobile 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 from 4 operators: UAB “CSC TELECOM”, UAB “OMNITEL”, UAB “LINKOTELUS” and UAB “TELE2”.

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

UAB “CSC TELECOM” disagreed with the draft measures proposed. The main reasons of disagreement are these:

- a) MTRs and FTRs should be symmetric;
- b) the difference between MTRs and FTRs is too high. As a result, mobile operators would reduce their costs and would have competitive advantages against fixed operators. In some cases MTRs are higher than the prices of retail mobile calls and the difference between MTRs and FTRs would allow mobile operators to subsidy prices of retail mobile calls further.

In order to solve problems, UAB “CSC TELECOM” proposed:

- a) to set MTR equal to FTR;
- b) to set wholesale MTR at the level that would guarantee that the sum of charges for MTR and wholesale mobile origination rate is lower than prices of retail mobile call service.

Also UAB “CSC TELECOM” proposed to include non-geographic numbers from number series 7XXXXXXX into Market 2 definition.

RRT disagreed with the proposals of UAB “CSC TELECOM” to set MTR equal to FTR because information about costs of MTR and FTR does not prove that MTRs and FTRs should be equal. Also RRT disagreed with the proposal to lower MTR to such level that the sum of the MTR and wholesale call origination would be lower than retail prices of mobile calls. In its draft measures, RRT proposes to lower MTR and to implement measures that would allow lowering MTR in the future. Such measure would allow solving problem identified by the operator.

RRT noted that non-geographic numbers from number series 7XXXXXXX were not included into Market 2 definition because during the period of Market 2 analysis (from 1 January 2013 until 31 March 2015) voice call termination services to these numbers on mobile networks were not provided in practice.

UAB “OMNITEL” and UAB “TELE2” provided the following comments:

- a) operators proposed not to reduce MTR to 0.94 euro cent/min. because such measure is not reasoned and proportional;
- b) operators noted that the majority of EU countries apply MTRs higher than 0.94 euro cent/min.;
- c) operators commented that the costs of voice call termination to other EU countries incurred by the Lithuanian operators are *de facto* higher than MTRs officially set by NRAs of other EU countries;
- d) additionally, UAB “TELE2” requested to gradually lower MTR.

RRT disagreed with the proposals of UAB “OMNITEL” and UAB “TELE2”. MTR (0.94 euro cent/min.) was calculated as an average rate of other countries that have calculated pure LRIC costs and this average represented a target price according to Commission Recommendation 2009/396/EC of 7 May 2009 on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EU.

RRT noted that lower MTR reduces the costs of operators and this benefit was not taken into account by the operators. Also RRT noted that the regulation guarantees fair conditions for all operators and the reduction of MTR brings savings for mobile and other operators that could be used for investments and innovation in services.

UAB “TELE2” provided the additional comment that non-geographic numbers from number series 18XX were not included into Market 2 definition. Because of this reason, RRT has to ensure that termination rate to calls of short telephone numbers should be not higher than MTR.

In RRT opinion, regulation of calls to non-geographic numbers from number series 18XX is not the scope of Market 2 analysis and problems related to termination of calls to short numbers could be solved by other measures.

UAB “LINKOTELUS” provided the following comments:

- a) UAB “LINKOTELUS” disagreed with Market 2 definition regarding the operator. According to UAB “LINKOTELUS”, it provides its services beyond the territory of the Republic of Lithuania, therefore geographic territory of the relevant market is larger than the Republic of

Lithuania. Operator claimed that Market 2 analysis should be carried out by the European Commission, not RRT.

b) UAB “LINKOTELUS” commented that all undertakings that have informed RRT about activities of mobile communications services should be designated as having SMP and should be regulated;

c) UAB “LINKOTELUS” proposed that geographic definition of Market 2 was not conditioned by telephone number code.

RRT disagreed with the comments of UAB “LINKOTELUS”. First of all, the collected information during Market 2 analysis showed that during the period of Market 2 analysis (from 1 January 2013 until 31 March 2015) UAB “LINKOTELUS” provided mobile termination services. Other undertakings that have registered as providers of mobile communication services did not provide mobile termination services during the period of Market 2 analysis. As a result, RRT designated 7 operators as having SMP.

Other comments of UAB “LINKOTELUS” were related to geographic definition of Market 2. RRT mentioned in the report of Market 2 analysis that mobile telephone numbers from number series 6XXXXXXX are Lithuanian resources and one of the tasks of RRT is to regulate and control the telephone numbers. All the undertakings providing mobile termination services have 100 % of Market 2 share and none of the foreign operators can offer mobile termination services to Lithuanian mobile telephone numbers (6XXXXXXX). As a result, Market 2 geographic territory is the territory of the Republic of Lithuania.

Detailed comments and proposals of UAB “CSC TELECOM”, UAB “OMNITEL”, UAB “LINKOTELUS”, UAB “TELE2” and assessment of comments and proposals are provided in comments table 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 UAB “Bitė Lietuva”, UAB “OMNITEL” and UAB “TELE2” are maintained:

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

The following obligations imposed on UAB “Bitė Lietuva”, UAB “OMNITEL” and UAB “TELE2” are amended:

- Obligation of transparency – Article 9 of Access Directive; Article 18 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. RRT proposes to withdraw the requirement to set the same termination rates despite the origin of a voice call.

- Price control obligation – Article 13 of Access Directive; Article 23 of the Law on Electronic Communications. According to benchmarking price of all 19 EU countries which have implemented a “pure” BU-LRIC model, RRT proposes to set the price cap of MTR at 0.94 euro cent/min. for voice call termination services on mobile networks. RRT used data notifications of EU countries regarding MTRs which were valid in September 2015.

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 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 of the Law on Electronic Communications. RRT proposes to limit the regulation of termination rates of voice calls originated within the European Economic Area.

Taking into consideration the fact that UAB “ECOFON” started to provide voice call termination services on the network of “UAB “ECOFON” only in the period of the analysis of Market 2 (from 1 January 2013 to 31 March 2015) 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 and 9 of the Law on Electronic Communications.

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

ANOs are obliged to apply prices of voice call termination on their respective networks that are not higher than the prices of voice call termination applied by UAB “Bitė Lietuva”, UAB “OMNITEL” and UAB “TELE2” implementing the obligation of price control set by RRT. The regulation of prices of voice call termination services provided by all operators designated as having significant market power is limited to voice 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 4 of the draft Report on wholesale market for voice call termination on individual mobile networks.

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.