

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 markets for call termination on individual mobile networks in Lithuania corresponding to market 7** of the Commission Recommendation 2007/879/EC of 17 December 2007 (hereinafter – the Recommendation).

In line with the Recommendation and due to the lack of substitutability for termination services in particular networks, RRT defined 6 individual markets for the following 6 operators which provide voice call termination services on their individual mobile networks:

1. Voice call termination on the public mobile network of UAB “Bitė Lietuva” in the territory of the Republic of Lithuania;
2. Voice call termination on the public mobile network of UAB “Omnitel” in the territory of the Republic of Lithuania;
3. Voice call termination on the public mobile network of UAB “Tele2” in the territory of the Republic of Lithuania;
4. Voice call termination on the public mobile network of UAB “MEDIAFON” in the territory of the Republic of Lithuania;
5. Voice call termination on the public mobile network of UAB “LINKOTELUS” in the territory of the Republic of Lithuania;
6. Voice call termination on the public mobile network of UAB “CSC TELECOM” in the territory of the Republic of Lithuania;

This is the third notification as regards the wholesale market for voice call termination on individual mobile networks. Previous notifications were registered as cases LT/2005/0189 and LT/2009/0990.

1.2 The relevant geographic market

The geographic scope of the 6 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.

The national public consultation ran from 28 April 2014 to 2 June 2014. RRT received comments from two operators (UAB “Omnitel” and UAB “CSC Telecom”).

UAB “Omnitel” did not oppose the regulation of termination rates, but commented that regulation should come into force from 1 of July 2014 and also asked for some clarification about the undertaking UAB “ECOFON”.

UAB “CSC TELECOM” opposed the regulation and provided comments regarding the level of mobile termination rates and regulation of other wholesale and retail services.

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

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 voice call termination on the respective individual public mobile networks :

1. UAB “Bitė Lietuva”;
2. UAB “Omnitel”;
3. UAB “Tele2”;
4. UAB “MEDIAFON”;
5. UAB “LINKOTELUS”;
6. UAB “CSC TELECOM”;

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, prices 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, see Section 2.1 above.

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 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)

The national public consultations ran from 28 April 2014 to 2 June 2014. RRT received comments from two operators (UAB “Omnitel” and UAB “CSC TELECOM”).

UAB “Omnitel” did not oppose the regulation but provided some comments. The summary of opinion of UAB “Omnitel” is provided below:

- a) the operator noted that regulation should come into force as of 1 July 2014;
- b) the operator asked for some clarification about the undertaking UAB “ECOFON”.

UAB “CSC TELECOM” argued that the regulation was unreasonable due to a small market share of service provider in retail service markets. The operator also provided some other comments that are summarised below:

- a) the operator had concerns that measures regarding sharing of network interconnecting link were unclear;
- b) the operator asked to set fixed termination rates and mobile termination rates at the same level, i.e. mobile termination rates and fixed termination rates should be equal;
- c) the operator argued that prices of retail mobile services should be regulated and prices of retail services should not be lower than the sum of wholesale costs;
- d) the operator had concerns that the market analysis did not cover such services like SMS, MMS, 9xx line;
- e) the operator asked to start regulating mobile origination services because prices of calls to 800 numbers are too high.

On 5 June 2014 a public discussion of the results of the public consultation was organized with the stakeholders. 11 fixed and mobile network operators participated in a public discussion. RRT agreed to change the proposed regulation of network interconnecting link and to leave the current regulation when costs of interconnecting link are shared by half. Comments provided by operators regarding other issues would be addressed during the market analysis of other relevant markets or analysis of the regulation in general.

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 “Tele 2” 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.
- 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, paragraph 1, point 5 and Article 18, paragraph 2 of the Law on Electronic Communications;

The following obligations imposed on UAB “Bitė Lietuva”, UAB “Omnitel”, and UAB “Tele 2” are amended:

- Price control and cost accounting obligation – Article 13 of Access Directive; Article 23, paragraph 1 of the Law on Electronic Communications.

The following obligations on UAB “MEDIAFON”, UAB “LINKTELUS”, and UAB “CSC TELECOM” are imposed:

- 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 and cost accounting obligation – Article 13 of Access Directive; Article 23, paragraph 1 of the Law on Electronic Communications.

The above three undertakings are obliged to apply prices of call termination on their respective mobile networks that are not higher than the prices of call termination applied by UAB “Bitė Lietuva”, UAB “Omnitel”, and UAB “Tele 2” implementing the obligation of price control set by RRT.

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 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.