

NOTIFICATION FORM

Section 1 Market definition

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

Market of transit services in the public networks provided at a fixed location. This market is not included in the Annex to the Commission Recommendation 2007/879/EC, but is included in the Annex to the Commission Recommendation 2003/311/EC as **Market 10**.

The first round of analysis of Market 10 was notified to the Commission in 2005 and registered under case reference LT/2005/0319 where 2 individual markets were defined: market of national transit services in the fixed public telephone network and market of international transit services in the fixed public telephone network.

Hereby RRT notifies the Commission of the results of the analysis of **Market 10** where 4 individual submarkets were defined:

1. Market of transit services in the public network provided at a fixed location (further the “Network”) where a call is originated in the Network of a Lithuanian operator, conveyed over the Network station (stations) where Network interconnection is or may be implemented, and terminated on the Network of the other Lithuanian operator (further “Transit service market of type I (national)”).

2. Market of transit services in the Network where an international call is originated in the Network of a Lithuanian operator, conveyed over the Network station (stations) where Network interconnection is or may be implemented, and terminated on the Network of a foreign operator (further “Transit service market of type II (international)”).

3. Market of transit services in the Network where an international call is originated in the Network of a foreign operator, conveyed over the Network station (stations) where Network interconnection is or may be implemented, and terminated on the Network of a Lithuanian operator (further “Transit service market of type III (international)”).

4. Market of transit services in the Network where an international call originated in the Network of a foreign operator, conveyed over the Network station (stations) where Network interconnection is or may be implemented, and terminated on the Network of the other foreign operator (further “Transit services market of type IV (international)”).

The Transit service market of type I (national) and Transit service market of type II (international) correspond, respectively, to the market of national transit services in the fixed public telephone network and the market of international transit services in the fixed public telephone network, as they were defined in the notified analysis or market 10 in 2005. The undertaking TEO LT, AB (as of 5 May 2006 the name of the undertaking AB Lietuvos telekomas was changed into TEO LT, AB) was designated as having significant market power on both submarkets and was imposed the obligations of non-discrimination, transparency, price control and cost accounting, accounting separation, and the obligation to provide access.

The rest two markets – Transit service market of type III (international) and Transit services market of type IV (international) – were additionally defined in the currently notified analysis of market 10.

To identify whether the relevant market defined is susceptible to *ex ante* regulation, the three criteria test was applied in every of the 4 markets listed above. All the four markets were not found to be susceptible to *ex ante* regulation because they did not meet the first two criteria of the three criteria test.

1.2 The relevant geographic market

The geographic scope of the market 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 Competition Council of the Republic of Lithuania did not provide any objections or remarks either on the conclusions of definition of the markets mentioned above or on the proposed measures on the current Incumbent (TEO LT, AB).

The operators UAB “CSC TELECOM“, UAB “Nacionalinis telekomunikacijų tinklas“ have provided the following comments:

- 1) The Market of transit services provided over the Network is characterized by high and non-transitory entry barriers and without *ex ante* regulation the effective competition will not develop in that market. The main barriers to entry into the markets of transit services provided over the Network are the necessary financial resources and skilled personnel.
- 2) The Incumbent, having the largest number of network interconnections, is the only provider of transit services who can provide high quality transit services for alternative Network operators and new entrants. After withdrawal of the current regulation, the Incumbent would increase the prices of transit services for alternative Network operators or refuse to provide transit service to them (would start to drop calls to alternative Networks).
- 3) Prices of transit services declined more slowly than the prices of call termination services on the Network.
- 4) UAB “Nacionalinis telekomunikacijų tinklas“ proposed to use data as of 1 April 2013 instead of data collected from 1 January 2005 to 30 June 2013 for the analysis of the market of transit services in the public networks provided at a fixed location. The operator claimed that RRT changed the regulation of termination rates from 1 April 2013 and moved from rate differentiation between peak and off-peak rates into a single price all over the day and therefore RRT should evaluate the impact of regulation of termination rates on the changes in the Market of transit services provided over the Network.

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).

No comments were received on the market definition.

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.

Market 10 is included in the Commission Recommendation 2003/11/EC and not listed in the Commission Recommendation 2007/879/EC. Transit service market of type I (national) and Transit service market of type II (international) correspond, respectively, to the market of national transit services in the fixed public telephone network and the market of international transit services in the fixed public telephone network, as they were defined in the notified analysis or market 10 in 2005. The rest two markets - Transit service market of type III (international) and Transit services market of type IV (international) – were additionally defined in the currently notified analysis of market 10.

To review whether *ex ante* regulation was still reasoned, RRT had to carry out the analysis of Market 10, i.e. RRT had to define relevant market (markets) and to assess whether this market (those markets) were susceptible to *ex ante* regulation. The definition of a relevant market of transit services in the fixed public telephone network involved several procedures.

Firstly, RRT analyzed types of transit services and the means of their delivery. This analysis showed that the following 4 types of transit services may be defined:

1. Conveyance of a call over the Network where a call is originated in the Network of a Lithuanian operator, conveyed over the Network station (stations) where Network interconnection is or may be implemented, and terminated in the Network of the other Lithuanian operator. This type of transit service is defined as (national) transit service of type I.
2. Conveyance of a call over the Network where an international call is originated in the Network of a Lithuanian operator, conveyed over the Network station (stations) where Network interconnection is or may be implemented, and terminated on the Network of a foreign operator (transit service of type II (international)).
3. Conveyance of a call over the Network where an international call is originated in the Network of foreign operator, conveyed over the Network station (stations) where Network interconnection is or may be implemented, and terminated on the Network of a Lithuanian operator (transit service of type III (international)).
4. Conveyance of call over the Network where an international call originated in the Network of a foreign operator, conveyed over the Network station (stations) where Network interconnection is or may be implemented, and terminated in the Network of the other foreign operator (transit service of type IV (international)).

Secondly, RRT carried out a substitution test on supply and demand side of various transit services. The four types of transit services, as mentioned above, are different by nature. They are differentiated by undertakings (Lithuanian and foreign operators) that purchase the transit service. In terms of service users (purchasers), transit services may be divided into two groups:

- if a transit service user (purchaser) is an operator which undertakes its activities in the Republic of Lithuania, he is provided with transit services of type I (national) and type II (international);
- if a transit service user (purchaser) is an operator which undertakes its activities in a state other than the Republic of Lithuania, he is provided with transit services of type III (international) and type IV (international).

In terms of a call route, i.e. from the Network where the call is originated to the Network where the call is terminated, 4 transit service types are defined:

- transit services of type I (national) where a call conveyed over the Network is originated in the Network of one Lithuanian operator and terminated in the Network of the other Lithuanian operator;
- transit services of type II (international) where a call conveyed over the Network is originated in the Network of a Lithuanian operator and terminated in the Network of a foreign operator;
- transit services of type III (international) where a call conveyed over the Network is originated in the Network of a foreign operator and terminated in the Network of a Lithuanian operator;
- Transit services of type IV (international) where a call conveyed over the Network is originated in the Network of a foreign operator and terminated in the Network of the other foreign operator.

The demand and supply side substitution tests are described in detail in section 2.4 of the draft report of Market 10. After several sets of substitution analysis on demand and supply side were performed, the markets listed in Section 1.1 of this notification were defined.

At the fourth stage, RRT made a three criteria test for every relevant market defined. RRT started its analysis from the analysis of the first criterion. If the first criterion failed, analysis of the second and third criteria was not carried out anymore. If the first criterion was met, the analysis of the second criterion was carried out. If the second criterion was not met, the third criterion was not analyzed anymore. If the second criterion was met, the analysis of the third criterion was carried out. The analysis of the three criteria showed that first two criteria there not met. Due to this RRT has not carried out the analysis of the third criteria. The summary of the Submarkets that have not passed the first and the second criteria is provided in Section 1.1 of this notification.

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. 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 Transit service market of type I (national) and Transit service market of type II (international) which correspond, respectively, to the market of national transit services in the public fixed telephone network and the market of international transit services in the public fixed telephone network, as they were defined in the notified analysis of Market 10 in 2005.

The rest two markets, i. e. Transit service market of type III (international) and Transit services market of type IV (international), which were additionally defined in the currently notified analysis of Market 10, were not found to be susceptible to *ex ante* regulation.

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

Three criteria test has analyzed:

- 1) barriers to entry and to the development of competition;
- 2) tendency towards effective competition;
- 3) relative efficiency of competition law.

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

Undertakings active in the Transit service market of type I (national):

1. TEO LT, AB
2. UAB "Bitė Lietuva"
3. UAB "CSC TELECOM"
4. UAB "MEDIAFON"
5. Voxbone SA

Undertakings active in the Transit service market of type II (international):

1. TEO LT, AB
2. UAB "Bitė Lietuva"
3. UAB "CSC TELECOM"
4. UAB "MEDIAFON"
5. Nevertel, UAB

Undertakings active in the Transit service market of type III (international):

1. TEO LT, AB
2. UAB "Bitė Lietuva"
3. UAB "CSC TELECOM"
4. UAB "ECOFON"
5. UAB "LINKOTELUS"
6. UAB "MEDIAFON"
7. UAB "Nacionalinis telekomunikacijų tinklas"
8. UAB "Telco Consulting Group"
9. UAB "Telekomunikacijų grupė"
10. Voxbone SA

Undertakings active in the Transit service market of type IV (international):

1. TEO LT, AB
2. UAB "AVOICE"
3. UAB "Bitė Lietuva"
4. UAB "ECOFON"

5. UAB "MEDIAFON"
6. UAB "Nacionalinis telekomunikacijų tinklas"
7. UAB "Telco Consulting Group"

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

The market shares of undertakings active in the Transit service market of type I (national) - in terms of call duration (30 June 2013):

1. TEO LT, AB 38.22%
2. UAB "Bitė Lietuva" 19.40%
3. UAB "CSC TELECOM" 2.07%
4. UAB "MEDIAFON" 34.15%
5. Voxbone SA 3.16%

The market shares of undertakings active in the Transit service market of type II (international) - in terms of call duration (30 June 2013):

1. TEO LT, AB 57.46%
2. UAB "Bitė Lietuva" 10.89%
3. UAB "CSC TELECOM" 1.39%
4. UAB "MEDIAFON" 11.05%
5. Nevertel, UAB 19.21%

The market shares of undertakings active in the Transit service market of type III (international) - in terms of call duration (30 June 2013):

1. TEO LT, AB 20.75%
2. UAB "Bitė Lietuva" 7.32%
3. UAB "CSC TELECOM" 0.94%
4. UAB "ECOFON" 11.37%
5. UAB "LINKOTELUS" 0.14%
6. UAB "MEDIAFON" 28.61%
7. UAB "Nacionalinis telekomunikacijų tinklas" 20.61%
8. UAB "Telco Consulting Group" 5.34%
9. UAB "Telekomunikacijų grupė" 4.88%
10. Voxbone SA 0.04%

The market shares of undertakings active in the Transit service market of type IV (international) - in terms of call duration (30 June 2013):

1. UAB "Bitė Lietuva" 7.13%
2. UAB "ECOFON" 1.26%
3. UAB "MEDIAFON" 24.97%
4. TEO LT, AB 56.35%
5. UAB "Nacionalinis telekomunikacijų tinklas" 0.21%
6. UAB "Telco Consulting Group" 5.40%
7. UAB "AVOICE" 4.68%

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

The Competition Council of the Republic of Lithuania had no comments, objections, 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 Incumbent did not provide any comments. 2 operators strongly opposed the conclusions of RRT and provided 10 comments. The main conclusions were laid out in point 1.3 of this standard notification form.

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 legal basis to withdraw obligations is Article 17 paragraph 7 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 3.3 of the draft report on the analysis of the market of transit services in the public 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.