



Decision no. xx/2021

**Wholesale rate for call termination in
public telephone networks provided at
a fixed location**

Case no. 2021070203

29 September 2021



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1 Introduction

(1) This Draft Decision is based on the Post and Telecom Administration (PTA) Decision no. 22/2016, dated 23 December 2016, on the designation of companies with significant market power and on the imposition of obligations on the wholesale market for call termination in public telephone networks provided at a fixed location. Pursuant to the Recommendation of the EFTA Surveillance Authority (ESA)¹ from 2016 on the definition of wholesale markets for electronic communications services, call termination in individual public fixed phone networks belongs to Market 1.

(2) Pursuant to PTA Decision no. 22/2016, the maximum rate for call termination in public fixed phone networks shall be decided annually with benchmarking.

(3) On 1 July 2021, Act no. 75/2021 on Electronic Communication Office of Iceland (ECOI) entered into force. According to the Act, ECOI has assumed the statutory role of supervising the implementation of the Electronic Communications Act no. 81/2003. This includes monitoring the tariffs of electronic communications companies for the services on which obligations have been imposed with Decisions issued by the Post and Telecom Administration (PTA).

(4) ECOI generally assumes that previous decisions of the PTA will set precedent of the Office's administrative practice, as they involve the implementation and interpretation of the same provisions of the Electronic Communications Act. The decisions of ECOI should likewise be regarded as a continuation of the Decisions of the Post and Telecom Administration, e.g. due to obligations that have been imposed on electronic communications companies.

(5) There has been a change in the way in which maximum rates for call termination are determined within the European Union. The European Union issued Directive no. 2018/1972 (European Electronic Communications Code) on 11 December 2018. The Directive stipulates, among other things, that maximum rates for the termination of voice calls in the European Union will be set with a Delegated Regulation. The European Union subsequently issued the Delegated Regulation on 18 December 2020², setting a maximum call termination rate for the EU. However, the provisions of the Delegated Regulation have not entered into force in

¹EFTA Surveillance Authority Recommendation of 11 May 2016 on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with the Act referred to at point 5c1 of Annex XI to the EEA Agreement (*Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communication networks and services*).

² Commission Delegated Regulation (EU) 2021/654 of 18 December 2020 supplementing Directive (EU) 2018/1972 of the European Parliament and of the Council by setting a single maximum Union-wide mobile voice termination rate and a single maximum Union-wide fixed voice termination rate.



Iceland³, and it is uncertain when that will happen. Until otherwise stipulated by Icelandic law or regulation, the ECOI will therefore continue to decide the termination rates according to the PTA Decision no. 22/2016.

(6) The ECOI conducted benchmarking to decide call termination rates in Iceland effective from 1 January 2022, unless laws or regulations stipulating otherwise enter into force before that time. The ECOI used the same methodology with this benchmarking as was used in the last benchmarking on this market, taking into account the changes resulting from the above Directive and the Delegated Regulation. The ECOI uses the conclusion of the benchmarking to decide the wholesale rate in Iceland for call termination in public fixed phone networks from 1 January to 31 December 2022.

(7) The PTA opened a national consultation on the Preliminary Draft of the PTA Decision on wholesale rate for call termination in public telephone networks provided at a fixed location on 10 August 2021 and the consultation ended on last 31 August. The PTA received no comments from stakeholders.

(8) The following Sections cover the legal grounds, methodology and calculations that led to the ECOI conclusion. The text of the Draft Decision describes the planned ECOI position which can be subject to amendment until the final Decision is made, among other things as a result of comments from stakeholders. The wording of the Draft should be read with this in mind.

³ See <https://gagnagrunnur.ees.is/index.php/32021r0654#32021R0654>.



2 Grounds for the Decision

(9) The ECOI bases its decision on the Electronic Communications Act, on prior decisions made by the Office and on the Recommendations of the EU Commission and of ESA on the regulatory treatment of fixed and mobile termination rates from 13 April 2011⁴.

(10) According to Paragraph 4 of Article 32 of the Electronic Communications Act the ECOI (previously PTA) can, when calculating costs, use as a reference the operation of analogous service that is considered efficiently run. It can also take into account tariffs in analogous competition markets and it may use cost analysis methodologies that are not related to methodologies employed by an electronic communications company.

(11) In Item 12 of the ESA Recommendations on regulatory treatment of fixed and mobile termination rates it was authorised for regulators such as the ECOI to apply benchmarking to decide termination rates, where specific conditions are fulfilled.

(12) In the PTA Decision no. 22/2016, it is prescribed that the PTA (now ECOI) shall annually determine the maximum termination rates for Icelandic electronic communications companies subsequent to benchmarking with EEA states pursuant to a more specifically defined methodology, no later than 1 November each year which shall apply from and including 1 January of the following year.

(13) The grounds underlying this decision are described in more detail in the following subsections.

2.1 ESA Recommendation with respect to termination rates in fixed and mobile networks

(14) The EU Commission issued a Recommendation with respect to the regulatory treatment of fixed and mobile termination rates in May 2009⁵. The Commission considered that obligations with respect to termination rates were not sufficiently homogeneous in member states of the Union and issued a recommendation to support harmonisation. ESA issued an analogous recommendation on 13 April 2011.

(15) The main rule according to the Recommendations is that the National Regulatory Authorities should prescribe termination rates that take into account the cost of mobile and fixed call termination in efficiently designed electronic communication networks, in

⁴EFTA Surveillance Authority Recommendation of 13 April 2011 on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EFTA States.

⁵Commission Recommendation of 7.5.2009 on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EU.



accordance with a cost model based on the Long-Run Average Incremental Cost (LRIC) methodology⁶. Projections are made of future developments based on current costs where the assumption is the use of the most efficient technological solutions, such as next generation networks (NGN). This is a pure bottom-up⁷ LRIC cost model, known as the pure BU-LRIC.

(16) According to the above specified ESA Recommendation, National Regulatory Authorities were granted a general period of notice until 31 December 2012 to prepare and introduce the pure BU-LRIC cost model.

(17) National Regulatory Authorities with limited resources were pursuant to Article 12 of the Recommendation granted longer notice, that is to say until 1 July 2014. In this Article, it is specified that if it would be objectively disproportionate for those Regulatory Authorities with limited resources to apply the recommended cost methodology after this date, then such Authorities may continue to apply an alternative methodology up to the date for review of the Recommendation, unless BEREC⁸ provides sufficient practical support and guidance to overcome this limitation of resources and, in particular, the cost of implementing the recommended methodology.

(18) The ECOI is considered to be one of the less well-resourced Regulatory Authorities. Such Authorities are authorised to use, e.g. benchmarking, instead of the above-mentioned cost analysis methodology if it can be shown that this will return a result that harmonises with the objectives of the Recommendation. The results returned by methods other than pure BU-LRIC should not be higher than the average rates in the EEA states that apply the pure BU-LRIC methodology when calculating call termination tariffs.

(19) After a review of the Commission's Recommendation, it was decided to set maximum Union-wide voice call termination rates. The European Union has issued a Directive no. 2018/1972 (European Electronic Communications Code), dated 11 December 2018. The directive is a comprehensive review of the regulatory framework for the electronic communications sector and stipulates among other things that maximum rates for the termination of voice calls in the European Union will be set with a delegated act.

⁶ Long-Run Average Incremental Cost is the cost that is added or is saved when a specific service or operation is added or discontinued, on the assumption that all costs are variable.

⁷One speaks of the "bottom-up" (BU) model in the case of calculations made on the basis of an engineering model of electronic communications networks in the relevant electronic communications market. The model is based on a hypothetical network system which is efficiently designed and which uses the most efficient technical solutions on offer at any given time.

⁸ Body of European Regulators for Electronic Communications



(20) The European Union subsequently issued the said delegated act on 18 December 2020⁹. According to the act, the maximum rate for call termination in fixed networks shall be 0.07 €cents/minute. Specified Member States may charge higher prices for the period from 1 July 2021 to 31 December 2021. Accordingly, this general maximum rate, 0.07 €cents/minute, will apply in all EU Member States as from 1 January 2022.

(21) In a bill on the Electronic Communications Act submitted to the 151st Legislative Assembly it was assumed that the Minister would issue a regulation on maximum rates for call termination in Iceland. However, the bill was not approved by parliament. Furthermore, the aforementioned act has not been incorporated into the EEA Agreement. Therefore, the provisions on this harmonized maximum rates for call termination in fixed networks have not entered into force in Iceland nor in Norway and Liechtenstein.

(22) Until otherwise decided by Icelandic law or regulation, the ECOI will continue to decide the termination rates according to the PTA Decision no. 22/2016.

2.2 PTA Decision no. 22/2016

(23) With respect to the implementation of benchmarking under discussion here, the ECOI refers to PTA Decision no. 22/2016, dated 23 December 2016, on the designation of companies with significant market power and on the imposition of obligations on the wholesale market for call termination in individual fixed public telephone networks. The Decision is based on market analysis made by the Administration. The wholesale market for call termination in individual fixed public telephone networks is no. 1, pursuant to the ESA Recommendation¹⁰ on the definition of wholesale markets for electronic communications services from 2016.

(24) With a view to the definition and analysis of competition on the wholesale market for call termination in public telephone networks provided at a fixed location (Market 1) and pursuant to paragraph 2 Article 17, see Article 18 of the Electronic Communications Act, the PTA decided to designate Síminn hf. (Síminn), Fjarskipti hf., now Sýn hf. (Vodafone), Nova ehf. (Nova), Símafélagið ehf. (Nova has acquired Símafélagið and merged its operation into Nova),

⁹ Commission Delegated Regulation (EU) 2021/654 of 18 December 2020 supplementing Directive (EU) 2018/1972 of the European Parliament and of the Council by setting a single maximum Union-wide mobile voice termination rate and a single maximum Union-wide fixed voice termination rate.

¹⁰EFTA Surveillance Authority Recommendation of 11 May 2016 on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with the Act referred to at point 5c1 of Annex XI to the EEA Agreement (*Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communication networks and services*).



Hringdu ehf. (Hringdu) and Tismi BV (Tismi) as having significant market power on the relevant market.

(25) On all these companies were imposed obligations on access, non-discrimination, and price control.

(26) In the obligation for price control it was specified that the maximum rate for call termination would be decided by benchmarking pursuant to Paragraph 4 of Article 32 of the Electronic Communications Act. It was the opinion of the PTA (now ECOI) that the Authority, given its current status, would not be in a position to apply the BU-LRIC cost analysis methodology on the market in question in the coming years because of a lack of budget, staff and expert knowledge. The PTA considered it best to decide the termination rates with benchmarking and use termination rates in comparison states using a pure BU-LRIC model according to the aforementioned ESA's Recommendation.

(27) In the opinion of the ECOI, a predictable procedure for deciding termination rates has been created with this methodology, which gives electronic communications companies a more stable and predictable operating environment. Benchmarking has also proven to be an economic and efficient way to achieve the objectives for termination rates set out in the above specified ESA Recommendation.

(28) It was also specified in the before mentioned Decision that maximum termination rates would continue to be the same for all companies i.e. symmetrical rates. In an older PTA market analysis on this market (PTA Decision no. 36/2012¹¹) symmetrical rates were also prescribed and the use of benchmarking for deciding maximum rates for call termination in public telephone networks provided at a fixed location. No change to the implementation of the price control obligation was therefore introduced in the PTA Decision no. 22/2016.

(29) The following main criteria were decided for selection of comparison states and for the calculation of wholesale rates for call termination in public networks provided at a fixed location when benchmarking was used:

- Reference should be made to those EEA states where the termination rates of operators with significant market power on the markets in question were subject to price control by the National Regulatory Authorities of the state in question, on the basis of cost analysis where the pure BU - LRIC methodology is applied.

¹¹Decision on designating companies with significant market power and the imposition of obligations on the wholesale market for call origination and termination in public telephone networks provided at a fixed location, dated 14 December 2012.



- Comparison of rates should be based on decisions on termination rates according to calculations based on the pure LRIC model which were available 30 April of the year when the benchmarking was made in each instance.
- Comparison should be made with the rate for single transit /layer 2¹².
- The reference shall be the price per minute of a three-minute call.¹³
- Comparison should be made using the average exchange rate in the relevant quarter.¹⁴
- A formal decision must have been made by the relevant regulatory authority of the comparison state.
- The resulting rate should not be higher than the arithmetic mean in those states that fulfil the above conditions during the period of reference.

(30) In the Decision it was stated that the PTA (now ECOI) would, on an annual basis during the period of validity of the Decision, repeat the benchmarking using the above specified criteria and decide maximum termination rates which would come into force from and including 1 January each year in accordance with the conclusions of the benchmarking. The PTA would publish conclusions from the benchmarking no later than 1 November each year with a decision (for rates that were to apply from and including 1 January of the following year), subsequent to national consultation and to consultation with ESA. Normally, all countries that fulfilled the above specified criteria should be used in the benchmarking.

2.3 Prior PTA Decisions on call termination rates on Market 1/2016 on the basis of benchmarking

(31) At the beginning of 2015, the PTA carried out benchmarking pursuant to PTA Decision no. 36/2012. The benchmarking conclusion was presented in the PTA Decision no. 19/2015, dated 30 July 2015, which prescribed that the conclusion of the benchmarking carried out by the Administration would be the basis for maximum rates for call termination in public telephone networks provided at a fixed location. The charges for call setup in force at this time were removed, from and including 1 January 2016.

(32) The PTA repeated the benchmarking in 2016 to 2020. The conclusion of the latest benchmarking on this market was published in the PTA Decision no. 10/2020, dated 22 October 2020. There a maximum rate of ISK 0.12/minute was prescribed for call termination in public telephone networks provided at a fixed location for Siminn, Vodafone, Nova, Hringdu and Tismi for the period 1 January 2021 until 31 December 2021.

¹² This does not prevent the results in states being taken into account where no differences is made in price for varying connection areas if price control applies.

¹³It is assumed that an average telephone call is 3 minutes, the calculation is made using the following formula: average minute price = connection charge/3 + price per minute.

¹⁴In this process, the PTA applies among other things the BEREC implementation in its regular benchmarking.



(33) In the implementation of the benchmarking the PTA took into account the above specified ESA Recommendation on the regulatory treatment of mobile and fixed termination rates. The PTA selected comparison states in accordance with Article 12 of the ESA Recommendation in question.

(34) The above specified Decision on benchmarking was not appealed to the Appellate Committee for Electronic Communications and Postal Affairs nor to the courts.

(35) In accordance with the PTA Decision no. 10/2020 the wholesale rate currently in force for call termination in public telephone networks provided at a fixed location in Iceland is ISK 0.12/minute and this rate is in force until 31 December 2021.

(36) The Decision here under discussion covers rates that shall apply in the year 2022.



3 Calculation of termination rates

(37) In accordance with the PTA Decision no. 22/2016, on the designation of companies with significant market power and on the imposition of obligations on the wholesale market for call termination in individual public telephone networks provided at a fixed location, the ECOI has now gathered termination rates on wholesale markets for call termination in individual public telephone networks provided at a fixed location of the EEA states to be used in benchmarking. In its gathering of data, the PTA has used the European Commission CIRCABC Information Resource Centre, the ESA ECOM database, reports from Cullen International and Commission Delegated Regulation (EU) 2021/654.

(38) When selecting states for comparison the ECOI uses electronic communications markets in the EEA where there are now 30 states including Iceland.

(39) In view of the fact that prices that will be valid in 2022 are being determined, ECOI takes into account the rates for call termination that will apply in that year where it is available, but in other respects it is based on rates that will take effect in the year 2021 or were in force on 30 April 2021. This is in accordance with the previous PTA implementation of benchmarks in this market.

(40) As stated above, call termination rates in the European Union have been harmonized. One harmonized price for voice call termination in fixed networks in the European Union will come into force on 1 January 2022, i.e. €cents 0.07/minute. The ECOI will therefore use this rate in all EU countries in this benchmark.

(41) The EEA countries outside the European Union are Norway and Liechtenstein, as well as Iceland.

(42) In accordance with the PTA Decision no. 22/2016, the following main criteria shall be used when selecting states to use in the benchmark and in the calculation of termination rates that shall apply in the year 2022:

1. Reference shall be made to those EEA states where the termination rates of operators with significant market power on the markets in question are subject to price control by the National Regulatory Authority of the state in question, on the basis of cost analysis where the pure BU-LRIC methodology was applied.
2. Comparison of rates shall be based on the conclusion on call termination rates according to calculations based on pure BU-LRIC model available on 30 April 2021.



3. Reference shall be made to the rate for single transit /layer 2¹⁵.
4. The average exchange rate of the second quarter of 2021 shall be used in the calculations.
5. Only rates that are based on a formal decision made by the relevant regulatory authority shall be included.
6. The resulting rate shall be the arithmetic mean of termination rates in those states that fulfil the above conditions.

(43) The ECOI considers that the uniform rate set by the European Union meets the above criteria for most EU countries. The rates were determined before 30 April 2021¹⁶ and the calculations were based on a pure BU-LRIC model. No distinction is made between rates for different connection areas in the calculations and therefore the rates apply to single transit where such a price control obligation exists. Regarding the condition that a formal decision is available from the relevant national authority, the act has the legal effect that it replaces the decision of such regulatory authorities and therefore that condition is fulfilled in the opinion of the ECOI. With regard to the interplay between conditions 1 and 3 above, in previous benchmarks the PTA/ECOI has not included in the benchmark, those countries where there is no price regulation on single transit/layer 2. These countries are France, Ireland and Italy and were omitted from the PTA's last price comparison. According to a report from Cullen International (Fixed termination rates - CTTEEU20210071 - 1 July 2021) and a recent reference offer from the Irish telecommunications company Eircom, the harmonized prices do not seem to apply to single transit in Ireland, according to Eircom's tariffs there are higher rates for single transit (where there is no price obligation). However, the reference offer also specifies a price for call termination via the company's IP network in accordance with the act. The ECOI has not updated information on the reference offer of SMP's in France and Italy, but according to the staff working document that accompanied the act¹⁷, the price according to the act covers the cost of national transmission in the network of the recipient's telecommunications company from the point of interconnection¹⁸ in an IP core network. With regard to the last condition that the arithmetic mean of the termination rates in the states should be calculated, it is referred to that each state has the weight one in the mean, i.e. the number of connections in each country is not taken into account. The average exchange rate of the euro according to condition 4 above is 148.97. The maximum termination rate, €cent 0.07 /minute, which will take effect on 1 January 2022 in the Union, is therefore ISK 0.104 /minute, converted into Icelandic krónur.

¹⁵ The results in states were taken into account although no difference is made in rate for varying connection areas if price control applied to single transit/layer 2.

¹⁶ The act was formally published on 22 April 2021 in the Official Journal of the European Union.

¹⁷ Commission Staff Working Document; SWD(2020) 333 final; pages. 3-4.

¹⁸ See figure 1 in Commission Staff Working Document; SWD(2020) 333 final; page 4.



(44) As regards the EEA countries outside the European Union, the conclusion of the Authority in Norway fulfils the above criteria, but not Liechtenstein, as it does not use the BU-LRIC model in determining termination rates. The current termination rate in Norway is 0.4 Norwegian øre/minute or ISK 0.059/minute. There was no decision on termination rates in Norway for the year 2022 on 30 April 2021 and therefore the ECOI uses the price determined for the year 2021 in the benchmark.

(45) When the termination rates according to the act in all EU countries are taken into account as well as termination rates in Norway, the average is ISK 0.103/minute. If, on the other hand, only termination rates in those EU countries where there is a price control on single transit are taken into account in addition to the termination rates in Norway, then the arithmetic mean of the termination rates in these countries is ISK 0.102/min. In its previous decision regarding price comparison, the PTA (now ECOI) has calculated the average with three decimal places, but the determined termination rates have two decimal places. ECOI intends to maintain this arrangement and the result of the benchmark is therefore **ISK 0.10/minute** for call termination on fixed networks. It therefore does not affect the conclusion on termination rates whether only the states of the European Union where a price control applies for single transit are included or whether all countries of the Union are included in the benchmark.

(46) The conclusion is the minute rate for call termination without call setup charge or breakdown into day, night or weekend rates.



4 The ECOI conclusion

(47) According to PTA Decision no. 22/2016, rates for call termination in public telephone networks provided at a fixed location are decided on the basis of conclusions of the benchmarking conducted by the Administration as described here above.

(48) The benchmarking provides an average rate per minute for those states covered by the benchmarking. The ECOI uses the conclusions of the benchmarking to decide the minute rate for call termination in public telephone networks provided at a fixed location without call setup charge.

(49) In accordance with the conclusion of the above specified benchmarking it is the conclusion of the PTA that the wholesale rates for call termination in the public telephone networks provided at a fixed location shall be **ISK 0.10/minute** for the period 1 January 2022 to 31 December 2022. This is a maximum wholesale rate per minute ex VAT. In accordance with the PTA Decision no. 22/2016 the rate should be the same for all operators. The current termination rate is ISK 0.12/minute and therefore there is a decrease of 0.02 ISK/minute or about 17%.

(50) In the following table, one can see the termination rates in public telephone networks provided at a fixed location of electronic communications companies for this year and the next:

Table 4.1 Termination rates in electronic communications companies' public telephone networks provided at a fixed location

Company	Unit	Rate	
		until 31 Dec 2021	1 Jan 2022- 31 Dec 2022
Síminn	ISK/minute	0.12	0.10
Vodafone	ISK/minute	0.12	0.10
Nova	ISK/minute	0.12	0.10
Hringdu	ISK/minute	0.12	0.10
Tismi	ISK/minute	0.12	0.10

Source: Electronic Communication Office of Iceland

(51) According to PTA Decision no. 22/2016 the Administration shall review termination rates annually in accordance with results of the ECOI benchmarking, which shall be completed with a decision by 1 November each year.

(52) As stated above, the way in which the maximum rates for call termination are determined in the European Economic Area is about to change. The European Union issued Directive no. 2018/1972 (European Electronic Communications Code) on 11 December 2018.



The Directive stipulates, among other things, that maximum rates for the termination of voice calls in the European Union will be set with a delegated act which has entered into force in the European Union. The provisions of the act have, however, not entered into force in Iceland. Until otherwise decided by Icelandic law or regulation, the ECOI will continue to decide the termination rates according to the PTA Decision no. 22/2016.



The Decision

1. In accordance with the benchmarking results it is the conclusion of the Electronic Communication Office of Iceland that the tariff for call termination in public telephone networks provided at a fixed location in Iceland, as they are specified in PTA Decision no. 22/2016, shall be ISK 0.10/minute for the period 1 January 2022 to 31 December 2022. The current call termination rate is ISK 0.12 per minute and will remain in force to and including 31 December 2021.
2. These are maximum wholesale rates per minute ex VAT.
3. This Decision comes into force from the day that it is published and will be in force until a decision is made to the contrary by the Post and Telecom Administration.
4. This Decision can be appealed to the Appellate Committee for Electronic Communications and Postal Affairs, see Article 20 of Act no. 75/2021 on the Electronic Communication Office of Iceland. The appeal shall have reached the Appellate Committee four weeks from the time that the party in question became aware of the Decision of the Electronic Communication Office. Costs for an appeal are according to Paragraph 5 of Article 20 of the same Act, and in addition to this there is a special appeal charge to the amount of ISK 150,000, pursuant to Article 6 of Regulation no. 36/2009 on the Appellate Committee for Electronic Communications and Postal Affairs. According to Act no. 75/2021 on the Electronic Communication Office of Iceland, a party can also refer a decision of the Electronic Communication Office of Iceland directly to the courts without the case having been first referred to the Appellate Committee. Such a case shall be brought within 3 months from the time that the party in question received knowledge of the Office's decision. Referral of the case does not postpone the legal impact of the Decision of the Office. Referral of the case direct to the courts, prevents the Appellate Committee from being authorised to process an appeal.

Reykjavík, xx October 2021

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