



PÓST- OG FJARSKIPTASTOFNUN

Draft Decision no. xx/2019

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

Case no. 2019070071

20 September 2019

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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. The PTA has now carried out the benchmarking for the decision on these rates for the year 2020. The PTA used the same methodology with this benchmarking as was used in the last benchmarking on this market. The PTA intends to use 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 2020.

3) 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 9 August 2019 and the consultation ended on last 30 August. The PTA received no comments from stakeholders.

4) The following Sections cover the legal grounds, methodology and calculations that led to the PTA conclusion. The text of the Draft Decision describes the planned PTA 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.

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 5cl 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 Grounds for the Decision

- 5) The PTA bases its decision on the Electronic Communications Act, on prior decisions made by the Administration and on the Recommendations of the EU Commission and of ESA on the regulatory treatment of fixed and mobile termination rates from 13 April 2011².
- 6) According to Paragraph 4 of Article 32 of the Electronic Communications Act the 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.
- 7) In Item 12 of the Recommendations of the EU and of ESA on regulatory treatment of fixed and mobile termination rates it was authorised for regulators such as the PTA to apply benchmarking to decide termination rates, where specific conditions are fulfilled.
- 8) In the PTA Decision no. 22/2016, it is prescribed that the PTA 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.
- 9) The grounds underlying this decision are described in more detail in the following sub-sections.

2.1 Recommendations of the EU Commission and of ESA with respect to termination rates in fixed and mobile networks

- 10) The EU Commission issued a Recommendation with respect to the regulatory treatment of fixed and mobile termination rates in May 2009³. The Commission considered that obligations with respect to termination rates were not sufficiently homogeneous in member states of the Union and decided to issue a recommendation to support harmonisation. ESA issued an analogous recommendation on 13 April 2011.
- 11) 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 accordance with

²EFTA Surveillance Authority Recommendation of 13 April 2011 on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EFTA States.

³Commission Recommendation of 7.5.2009 on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EU.

a cost model based on the Long-Run Average Incremental Cost (LRIC) methodology⁴. 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-up⁵ LRIC cost model, known as the pure BU-LRIC.

12) The incremental service in question in the pure BU-LRIC model is call termination at wholesale level. The incremental cost or avoidable costs in question, for wholesale call termination service is the difference between total costs of network operators that provide full wholesale services and the total costs of the same network operators less call termination wholesale services to third parties. In other words, one only calculates the call termination costs that are avoided if the service in question is discontinued.

13) 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.

14) 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 BEREC provides sufficient practical support and guidance to overcome this limitation of resources and, in particular, the cost of implementing the recommended methodology.

15) The PTA 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.

16) In compliance with the above the PTA has over the last years decided termination rates with benchmarking where the benchmark only includes the comparison states where the termination rate has been decided with the pure BU-LRIC methodology.

⁴ 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.

⁵One 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.

17) After a review of the Commission's Recommendation it has been 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. According to Article 75 of the Directive the Commission shall adopt a delegated act by 31 December 2020, deciding the Union-wide termination rates. The Directive has however not been adopted into the EEA agreement and has therefore not been implemented in Iceland although work to that effect has commenced.

18) Until the provisions of this new Directive and the delegated act will enter into force in Iceland the PTA will continue to decide the termination rates in Iceland on the basis of a benchmark with EFTA states where the termination rate has been decided with the pure BU-LRIC methodology.

2.2 PTA Decision no. 22/2016

19) With respect to the implementation of benchmarking under discussion here, the PTA refers to the Administration's 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 phone networks. The Decision is based on market analysis made by the Administration. The wholesale market for call termination in individual fixed public phone networks is no. 1, pursuant to the ESA Recommendation⁶ on the definition of wholesale markets for electronic communications services and was previously no. 3 pursuant to the older ESA definition from 2008.

20) 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), Fjaraskipti hf., now Sýn hf. (Vodafone), Nova ehf. (Nova), Símafélagið ehf. (Nova has acquired Símafélagið and merged its operation into Nova), Hringdu ehf. (Hringdu) and Tismi BV (Tismi) as having significant market power on the relevant market.

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

⁶EFTA 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 5cl 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*).

22) 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 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. It is furthermore clear that given unchanged electronic communications legislation, the PTA does not have the option to make use of BEREC assistance in this connection. In light of this, 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.

23) In the opinion of the PTA, 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.

24) 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. 36/2012⁷) 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.

25) 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.
- 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 2⁸.

⁷Decision 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.

⁸ 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 to single transit/layer 2.

- The reference shall be the price per minute of a three-minute call.⁹
- Comparison should be made using the average exchange rate in the relevant quarter.¹⁰
- 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.

26) In the Decision it was stated that the PTA 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 (Market 3/2008) on the basis of benchmarking

27) 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.

28) The PTA repeated the benchmarking in 2016, 2017 and 2018. The conclusion of the latest benchmarking on this market was published in the PTA Decision no. 18/2018, dated 25 October 2018. 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, Símafélagið, Hringdu and Tismi for the period 1 January 2019 until 31 December 2019.

29) 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.

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

⁹It 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.

¹⁰In this process, the PTA applies among other things the BEREC implementation in its regular benchmarking.



- 31) In accordance with the PTA Decision no. 18/2018 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 2019.
- 32) The Decision here under discussion covers rates that shall apply in the year 2020.

3 Calculation of termination rates

33) 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 PTA 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 International¹¹ and BEREC benchmarking¹² as well as information published on the websites of the relevant electronic communications regulatory bodies.

34) The PTA uses the same methodology with this benchmarking as in the last benchmarking. The PTA Decision no. 18/2018, dated 25 October 2018, on a wholesale tariff for call origination and termination in public telephone networks provided at a fixed location was not referred to the Appellate Committee for Electronic Communications and Postal Affairs or to the courts.

35) When selecting states for comparison the PTA uses electronic communications markets in the EEA where there are now 31 states including Iceland.

36) In accordance with the PTA Decision no. 22/2016, the following main criteria were used when calculating termination rates:

- Reference was 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.
- Comparison of rates was based on the conclusion on call termination rates according to calculations based on pure BU-LRIC model available on 30 April 2019.
- Reference was made to the rate for single transit /layer 2¹³.
- The average exchange rate of the second quarter of 2019 was used in the calculations.
- Only rates that were based on a formal decision made by the relevant regulatory authority were included.
- The resulting rate was the arithmetic mean of termination rates in those states that fulfil the above conditions during the period of reference.

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

¹¹Cullen International has also provided information that has not appeared in their reports.

¹²“Termination rates at European level” January 2019, BoR (19) 91.

¹³ 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.

38) At the time when the PTA benchmarking was implemented, the relevant regulatory authorities in 20 EEA states had made decisions on call termination rates for single transit/layer 2 in networks provided at a fixed location that were based on the pure BU-LRIC model. A number of states¹⁴ that have calculated the fixed termination rate using a pure BU-LRIC model are exempt from benchmarking as the price control does not cover single transit/layer 2.

39) In the light of the fact that rates decided will apply in the year 2020, the PTA examined whether rates were available for call termination that would be in force during that year. This is in accordance with PTA implementation in former benchmarking in this market. In the opinion of the PTA, one should however only use the final rate and should not include in the benchmarking those rates that remained to be revised on the basis of inflation or of other factors.

40) The PTA therefore uses conclusions on rates for call termination which are to apply in the year 2020 when they are available, but otherwise rates that come into force in the year 2019 or that were in force 30 April 2019 are used.

41) The following table shows rates according to a pure BU-LRIC model (converted to ISK according to currency table in Appendix I) for call termination in public telephone networks provided at a fixed location in the states in question:

¹⁴ France, Ireland, Italy and United Kingdom.

Table 3.1 Overview of countries used in the benchmarking

State		Termination 2019 ISK/min	Termination 2020 ISK/min	Benchmarked prices ISK/min
AT	Austria	0.168		0.168
BE	Belgium	0.160	0.160	0.160
BG	Bulgaria	0.099	0.099	0.099
DK	Denmark	0.076		0.076
GR	Greece	0.075		0.075
NL	Netherlands	0.192		0.192
HR	Croatia	0.134		0.134
CY	Cyprus	0.063		0.063
LT	Lithuania	0.179		0.179
LU	Luxembourg	0.190		0.190
MT	Malta	0.061		0.061
NO	Norway	0.071	0.071	0.071
PT	Portugal	0.065		0.065
RO	Romania	0.193		0.193
SK	Slovakia	0.135		0.135
SI	Slovenia	0.121		0.121
ES	Spain	0.113		0.113
SE	Sweden	0.038		0.038
CZ	Czech Republic	0.177		0.177
HU	Hungary	0.111		0.111
Average		0.121		0.121

42) In those countries covered by the benchmarking there was only a rate per minute without a separate call setup charge and with the PTA Decision no. 19/2015, call setup charges were discontinued in this country. In most states in the comparison, there are no longer varying charges for day, night and weekend rates.¹⁵

43) According to the above the arithmetic mean of termination rates in these states is ISK 0.12/minute¹⁶ which is the equivalent of €cent 0.088/minute.

¹⁵Where the minute rate or average rate per minute with respect to traffic is established then it is used in the comparison but otherwise the arithmetic mean of those rates that are available is used.

¹⁶ Rounded from 0.121 to 0.12 ISK/minute.

4 The PTA conclusion

44) 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.

45) The benchmarking provides an average rate per minute for those states covered by the benchmarking. The PTA 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.

46) 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 0.12/minute** for the period 1 January 2020 to 31 December 2020. 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 the rate will remain unchanged.

47) 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 2019	1 Jan 2020- 31 Dec 2020
Síminn	ISK/minute	0.12	0.12
Vodafone	ISK/minute	0.12	0.12
Nova	ISK/minute	0.12	0.12
Hringdu	ISK/minute	0.12	0.12
Tismi	ISK/minute	0.12	0.12

Source: Post and Telecom Administration

48) According to PTA Decision no. 22/2016 the Administration shall review termination rates annually in accordance with results of the PTA benchmarking, which shall be completed with a decision by 1 November each year. However, 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. According to Article 75 of the Directive the Commission shall adopt a delegated act by 31 December 2020, deciding the Union-wide termination rates. The Directive has however not been adopted into the EEA agreement and has therefore not been implemented in Iceland although work to that effect has been commenced. It is therefore likely that termination rates for the year 2021 will be determined by the Commission's delegated act instead of using the PTA benchmarking.



49) It should be noted that until otherwise decided by law or regulation in this country, the PTA will follow the PTA decision no. 20/2016 when deciding termination rates

The Decision

- 1) In accordance with the benchmarking results it is the PTA conclusion 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 0.12/minute for the period 1 January 2020 to 31 December 2020. The current call termination rate of ISK 0.12 per minute will remain in force to and including 31 December 2019. The termination rate will therefore remain unchanged.
- 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 13 of Act no. 69/2003 on the Post and Telecom Administration. 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 Post and Telecom Administration. Costs for an appeal are according to Paragraph 5 of Article 13 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. Pursuant to Paragraph 4 of Article 13 of the same Act, a party can also refer a decision of the Post and Telecom Authority 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 Administration's decision. Referral of the case does not postpone the legal impact of the Decision of the Administration. Referral of the case direct to the courts, prevents the Appellate Committee from being authorised to process an appeal.

Reykjavík, xx October 2019

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Appendix I: Exchange rate table.