POST- AND TELECOM
ADMINISTRATION

Draft Decision no. xx/2014

On wholesale tariff for call termination in individual mobile phone networks

(Market 7)

31 October 2014

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1. Introduction

In accordance with the Decision of the Post and Telecom Administration (PTA) no. 3/2012 of 13 January 2012 on the designation of undertakings with significant market power and on the imposition of obligations on the wholesale market for call termination in individual mobile phone networks (Market 7), the PTA has now conducted benchmarking to determine prices for call termination in individual mobile phone networks. The conclusion of this benchmarking is published in this PTA Draft Decision on wholesale tariff for call termination in individual mobile phone networks.

1.1 The PTA Decision no. 3/2012

In the Decision of the PTA no. 3/2012 specific undertakings were designated as having significant market power on the relevant market and appropriate obligations were imposed on these companies. Before the Decision was made, the draft of the Decision was formally notified to the EFTA Surveillance Authority (The Authority). The Authority made no comments on the analysis, or on the obligations that the PTA intended to impose on the relevant market. The Decision in question was appealed to the Appellate Committee by IP-fjarskipti ehf (Tal) with respect to the price reduction glidepath for that company. With the Ruling of the Appellate Committee no. 2/2012 of 25 May 2012 the PTA Decision was confirmed.

In the above Decision, Síminn hf. (Síminn), Fjarskipti ehf. (Vodafone), Nova ehf. (Nova), IMC Ísland ehf. (IMC) and IP-fjarskipti ehf. (Tal) were designated as having significant market power on the following markets:

- Call termination in the Siminn GSM/UMTS mobile phone network.
- Call termination in the Vodafone GSM mobile phone network.
- Call termination in the Nova UMTS mobile phone network.
- Call termination in the IMC GSM mobile phone network.
- Call termination in the Tal virtual mobile phone network.

Obligations for access, non-discrimination and price control were imposed on all companies and in addition to this the obligation for accounting separation was imposed on Siminn and Vodafone.

In the above Decision, it was stated that the obligation for price control of the company's tariffs prescribed a reduction in call termination rates to ISK 4.0 or another amount decided by the benchmarking, in two steps until 1 January 2013. During the period of validity of the above specified Decision, the call termination rate would then be updated annually on the basis of new benchmarking which should be completed no later than 1 November each year, in the first instance 1 November 2012. This conclusion determined the price from and including the following turn of the year, in the first instance on 1 January 2013.

In the Decision, the practice was discontinued of deciding termination rates for Icelandic mobile phone companies with reference to the Siminn cost analysed prices (which were based on historical costs) and this was replaced with benchmarking in accordance with the EFTA Surveillance Authority Recommendation of 13 April 2011 on the Regulatory Treatment of

Fixed and Mobile Termination Rates in the EFTA States from 13 April 2011[1]. This change in methodology for determining termination rates was neither appealed to the Appellate Committee nor to the courts.

1.2 Prior PTA decisions on call termination tariff on Market 7 on the basis of benchmarking.

In accordance with Decision no. 3/2012, the PTA conducted benchmarking in 2012 and 2013 to determine the tariff for call termination on Market 7. The conclusion of the benchmarking was published in Decision no. 32/2012 dated 1 November 2012 and Decision no. 25/2013 dated 31 October 2013, on wholesale tariff for call termination in individual mobile phone networks on wholesale tariffs (Market 7).

In the implementation of the benchmarking the PTA took into account the above specified ESA Recommendation with respect to intervention by the regulatory authorities in call termination rates in mobile phones and fixed line networks. The PTA selected comparison countries in accordance with Article 12 of the ESA recommendation in question. In June 2012, Belgium, United Kingdom, Denmark, France, Italy, Portugal and Spain had made decisions on termination rates in mobile phone networks that were based on the pure BU-LRIC model in accordance with the Recommendation. A year later, Bulgaria, Greece, Croatia, Poland, Slovakia, Sweden and the Czech Republic had joined this group.

In the Decision of the PTA no. 32/2012 it was the conclusion of the PTA that the wholesale fee for call termination in individual mobile phone networks in Iceland should be ISK 1.66/min for the period 1 July 2013 to 31 December 2013. In its preliminary draft the PTA had allowed for the reduced price coming into force from and including 1 January 2013. Because of objections from electronic communications companies and in order to respect proportionality, the PTA decided on the other hand to postpone the coming into force until 1 July 2013.

Decision no. 32/2012 was appealed to the Appellate Committee for Electronic Communications and Postal Affairs on 29 November 2012. In its Ruling no. 6/2012 the Appellate Committee made objections to the coming into force of the new call termination tariff.

The Appellate Committee considered it not clear that the coming into force of the new call termination tariff had been necessary on 1 July 2013 in this country in the light of on the one hand, the number of comparison countries that had decided a later date for coming into force than that chosen by the PTA or that had not made a decision on the adoption of the cost analysis method in question, and on the other hand in the light of the fact that this was a burdensome decision. The objective of harmonising termination rates with the comparison countries could have been achieved with a longer postponement of the coming into force of the new termination rates.

For this reason the Appellate Committee considered it proper to rescind the part of the appealed Decision that related to its coming into force on 1 July 2013. The Appellate

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

Committee assumed that a decision on the date of commencement of the call termination tariff would be taken subsequent to the Ruling.

The Appellate Committee dismissed that part of the appeal which related to the PTA Decision that call termination tariff on Market 7 should be based on benchmarking and to the methodology that should be applied in such comparison. The ruling of the Appellate Committee is further discussed in Section 1.3 in the PTA Decision no. 25/2013.

One could understand the wording of the above specified Ruling to mean that the Committee had opened the possibility for the PTA to make a decision on a new period of validity for termination rates, which could come into force sometime in the latter half of 2013. The PTA however considered there to be no basis for altering the annual review process, which shall be completed with a Decision no later than 1 November each year which comes into force on 1 January of the following year, see the previously referenced PTA Decision no. 3/2012. The time required for processing such a Decision is a number of months if one includes national consultation and consultation with ESA. For this reason the PTA considered it not to be realistic to make an additional decision prior to the PTA Decision no. 25/2013 being made. This meant that the new tariff for call termination in individual mobile phone networks of ISK 1.66/min according to the PTA Decision no. 32/2012 never came into force, and the older tariff of ISK 4.00/min remained in force until a new tariff was decided with the PTA Decision no. 25/2013.

In the PTA Decision no. 25/2013 it was the PTA conclusion that the wholesale tariff for call termination in individual mobile phone networks in Iceland should be ISK 1.64/min for the period 1 January 2014 until 31 December 2014.

Before the Decision was made, the draft of the Decision was formally notified to ESA. ESA made no objections to the PTA planned decision.

In accordance with the PTA Decision no. 25/2013 the current call termination tariff on the market for call termination in individual mobile phone networks is ISK 1.64/min and this applies until the end of the current year. The draft Decision here under discussion covers the tariff that shall apply in the year 2015.

It should be noted that the PTA plans in the coming months to review its above specified Decision no. 3/2012 on Market 7. Parties to the market will on this occasion have inter alia the opportunity to express their opinions on the PTA methodology for deciding call termination tariff from and including 1 January 2016. One can expect a final decision on that matter in the middle of 2015.

1.3 National consultation

The PTA opened a national consultation on the preliminary draft to the Decision here under discussion on 19 August 2014 and this consultation lasted until 9 September 2014. Comments were received from IP Fjarskipti ehf (Tal).

Tal is opposed to PTA’s intentions as presented in the preliminary draft to the Decision, as published for consultation.

Tal points out that the mobile network operators in Iceland are in different competition position. Hence it is both abnormal and unfair that they are all forced to charge the same price for termination in their systems. Harmonised charges do not take into account different circumstances, operation costs or economy of scale within each operator. The charges do therefore not reflect their different revenue requirements and may therefore distort their competition position, instead of promoting competition to benefit the consumers. It would be natural and by far the most successful solution to allow each and every operator to control their charges as for charges of other services provided by them.

Tal also mentioned that the draft decision of lower termination charges and harmonized charges for all mobile operators cannot have been made objectively, as it does not take into account the revenue required by the operators or the cost of providing the service and could therefore not be legal.

The PTA points out that Tal's comments in no way relate to the PTA Draft Decision on annual review of termination rates that is here under discussion. The Draft Decision solely relates to the implementation of the benchmarking prescribed in PTA Decision no. 3/2012.

Tal appealed the PTA's Decision no. 3/2012 to the Appellate Committee for Electronic Communication and Postal Affairs. Tal objected, among other things, to PTA's decision on the glide path to lower charges for the company's termination rates. With the ruling of the Appellate Committee no. 2/2012, dated 25 May 2012, PTA's decision was confirmed and the Committee therefore confirmed the methodology to be used for setting termination rates (benchmarking), which was the methodology used for determing the termination rates in this draft Decision.

The methodology for implementing the benchmarking is the same as was used in the PTA Decisions no. 32/2012 and no. 25/2013 and is in accordance with the said ESA recommendation. Nova appealed PTA's Decisions no. 32/2012, as has been discussed here above and as mentioned before the part of Nova's appeal relating to PTA's methodology of setting termination prices were dismissed.

In light of the above, the PTA is of the opinion that Tal's comments do not warrant any changes of PTA's conclusion with respect to the wholesale tariff for call termination in individual mobile phone networks, as presented in the national consultation.

2. Criteria for benchmarking

As was stated in the PTA Decision no. 3/2012 the PTA shall make an annual Decision on the maximum termination rate for Icelandic electronic communications companies subsequent to benchmarking with EEA states, according to a more specifically defined methodology, no later than 1 November each year, which should apply from and including 1 January the following year.

The PTA intends to follow the same methodology with this benchmarking as was used in the last benchmarking. The Authority has made no objections to the methodology and the PTA Decision no. 25/2013 was neither appealed to the Appellate Committee nor to the courts.

The EU Commission issued a Recommendation with respect to the regulatory treatment of call termination tariffs in mobile phones and fixed line networks in May 2009[2]. The Commission considered that obligations with respect to termination rates were not sufficiently homogenous in member states of the Union and decided to issue a Recommendation to support harmonisation. ESA issued an analogous Recommendation on 13 April 2011[3].

The main rule according to the Recommendation is that the regulatory authorities should prescribe termination rates that take into account the cost of call termination in mobile phone networks in efficiently designed electronic communication networks, in accordance with a cost model based on the Long-Run Average Incremental Cost (LRIC) methodology[4]. Projections are made of future developments on the basis of 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-up LRIC cost model[5], known as "pure BU-LRIC".

The incremental service in question in the pure BU-LRIC model is call termination at wholesale level. The additional cost in question, “avoidable cost" for wholesale service for call termination, 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.

According to the above specified ESA Recommendation, electronic communications regulatory bodies were granted a general period of notice for adaptation until 31 December 2012 to prepare and introduce the pure LRIC cost model.

Less well-resourced regulators are granted longer notice, i.e. until 1 July 2014, and even longer if it would breach the principle of proportionality to force such authorities to adopt the pure BU-LRIC cost model, unless BEREC assisted them professionally and/or financially to make such a model. The PTA is categorised as one of the less well-resourced regulators and this situation has not changed during the year which has passed since the PTA Decision no. 25/2013. It is authorised to use for example benchmarking from and including 1 January 2013 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 in mobile phone networks.

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

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

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

[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.

[5] One speaks of a "bottom-up" LRIC (BU-LRIC) in the case of a cost model for calculating the price of service on the basis of costs incurred in an efficiently designed electronic communications network in the relevant electronic communications market.

markets and it may use cost analysis methodologies that are not related to methodologies employed by an electronic communications company.

With reference to the exemption in item 12 in the ESA Recommendation and the authority of Paragraph 4 of Article 32 of the Electronic Communications Act, the PTA has now implemented benchmarking to determine the tariff on the wholesale market for call termination in individual mobile phone networks for the next year, in the same manner as this was done in the PTA Decisions nos. 32/2012 and 25/2013.

When selecting countries for comparison the electronic communications markets in the EEA are considered, which comprise 31 states including Iceland.

The PTA intends to apply the following main criteria as a basis for calculations of termination rates when benchmarking is applied:

- Reference should be made to those EEA states where the termination rates of companies with market dominance on the markets in question are subject to price control by the electronic communications regulatory body of the state in question, on the basis of cost analysis where the pure BU-LRIC methodology is applied.
- Comparison of prices should be based on conclusions on termination rates according to calculations based on the pure BU-LRIC model which are available in July of the year when the benchmarking was made in each instance. When benchmarking, a formal Decision shall have been made by the regulatory authority in question.
- The resulting price shall not be higher than the average in those countries that fulfil the above criteria.

3. Calculation of termination rates

In accordance with the PTA Decisions nos. 3/2012, 32/2012 and 25/2013 and with the above specified ruling of the Appellate Committee no. 6/2012, the PTA has now gathered tariffs for call termination on the wholesale market for call termination in individual mobile phone networks in the EEA states for use in benchmarking[6].

As the reference is available rates from last July, this report uses the average exchange rate of the currency in question in ISK for the second quarter of 2014[7]. In this respect the PTA has among other things, taken into account the methods used by BEREC in its regular benchmarking of termination rates[8].

In the Recommendations from the EU Commission and from ESA it is stated with respect to intervention by the regulatory authorities in call termination rates in mobile phones and fixed line networks, that if benchmarking is used it shall return results that harmonise with the objectives of the Recommendations. It is also stated there that the resulting rates may not exceed the average of the termination rates that have been decided by electronic communications regulatory authorities that use the pure BU-LRIC cost model as a basis for calculating the rates. According to this it is clear that both the Commission and the ESA

[6] Source: BEREC, Cullen International, ESA and the relevant electronic communications regulatory bodies.
[7] Central Bank of Iceland mid-rates, see Appendix B.
[8] See BEREC BoR (11) 35 MTR Benchmark snapshot (as of July 2011).

recommend that only termination rates based on the pure BU-LRIC model be used in the benchmarking.

In compliance with the above the PTA intends only to include comparison countries where the termination rates had been decided with the pure BU-LRIC methodology.

The PTA benchmarking uses information available in July 2014. At the time when the PTA benchmarking was implemented, the relevant regulatory authorities in 18 EEA states had made decisions on call termination tariffs in mobile phone networks that were based on the pure BU-LRIC model. The PTA thus intends to use the termination rates that these authorities have decided, as a basis for the Decision on termination rates in this country according to the statement made by the PTA in the above-mentioned PTA Decision no. 32/2012, and as the Appellate Committee confirmed in its above specified Ruling as being proper to use.

In table 3.1 these 18 states are specified along with corresponding termination rates in ISK, according to the pure LRIC model. In Appendix A one can also find the termination rates in the currency of the country in question.

Table 3.1 Overview of countries used in the benchmarking

Comparison countries		***Cost-Model***	***Termination ISK/min***
AT	Austria	Pure BU-LRIC	1.25
BE	Belgium	Pure BU-LRIC	1.83
UK	United Kingdom	Pure BU-LRIC	1.61
BG	Bulgaria	Pure BU-LRIC	1.58
DK	Denmark	Pure BU-LRIC	1.39
FR	France	Pure BU-LRIC	1.24
GR	Greece	Pure BU-LRIC	1.70
IT	Italy	Pure BU-LRIC	1.52
HR	Croatia	Pure BU-LRIC	1.28
MT	Malta	Pure BU-LRIC	0.63
PT	Portugal	Pure BU-LRIC	1.97
PL	Poland	Pure BU-LRIC	1.59
RO	Rumania	Pure BU-LRIC	1.49
SK	Slovakia	Pure BU-LRIC	1.90
SI	Slovenia	Pure BU-LRIC	1.77
ES	Spain	Pure BU-LRIC	1.69
SE	Sweden	Pure BU-LRIC	1.39
CZ	Czech Republic	Pure BU-LRIC	1.52
		Average	1.52

When determining the rates for termination in mobile phone networks in Iceland the PTA used a arithmetic mean of the above specified termination rates. The mean is ISK 1.52/min (€cent 0,98).

The comparison countries that have been added since the prior comparison are Austria, Malta, Romania and Slovenia.

In addition to the 18 states that have made decisions on call termination tariffs in mobile phone networks based on pure BU-LRIC models, there are 3 states that have decided termination tariffs on the basis of benchmarking with the termination tariffs that are based on the pure BU-LRIC model. There are thus 21 states, apart from Iceland, that have decided to comply with the Recommendations from the European Union and ESA.

4. PTA intended conclusion

In accordance with the conclusions of the above specified benchmarking it is the planned conclusion of the PTA that the wholesale rates for call termination in individual mobile phone networks in Iceland shall be **ISK 1.52/min** for the period 1 January 2015 to 31 December 2015. These are maximum wholesale rates per minute excluding VAT. In accordance with the PTA Decision no. 3/2012 the rates should be the same for all companies. The current termination rate, ISK 1.64/min, shall remain unchanged for the rest of the year 2014.

Table 5.1 Termination rates in GSM/UMTS mobile phone networks

Company	***Unit***	***Price to 31 December 2014***	***Price 1 January - 31 December 2015***
Siminn	ISK/min	1.64	1.52
Vodafone	ISK/min	1.64	1.52
Nova	ISK/min	1.64	1.52
IMC/Alterna	ISK/min	1.64	1.52
Tal	ISK/min	1.64	1.52

Source: Post and Telecom Administration

The PTA will review the above specified termination rates in accordance with annual results of the PTA benchmarking, which shall be completed with a decision by 1 November each year, while obligations on the relevant market prescribe such a methodology. This will be done without the PTA having made a new market analysis of the relevant market, as this is simply a case of technical implementation of a specific obligation. Such a change does however require national consultation and consultation with the Authority and other national regulatory authorities in the EEA area before a final decision on changes is made, in the same manner as has been done to date. The PTA however does plan, as mentioned above, to commence a review of the market analysis of Market 7 during the coming months. It is planned that a new decision on the market in question will be released in the middle of next year.

The Decision

In accordance with benchmarking made by the PTA, the tariff for call termination in individual mobile phone networks in Iceland shall be ISK 1.52/min for the period 1 January 2015 to 31 December 2015. These are maximum wholesale rates per minute excluding VAT. The termination rate currently in force, ISK 1.64/min, shall remain unchanged for the remainder of 2014.

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.

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 pursuant 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.

Reykjavik 31 October 2014

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Hrafnkell V. Gíslason

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Óskar H. Ragnarsson

Attached:
Appendix A – Overview of termination rates
Appendix B – Exchange rate table
Appendix C - ESA Opinion

Appendix A – Overview of termination rates

Country	Termination rate July 2014	Currency	Coming into force of prices according to the Recommendation	Cost model	Pure LRIC rate - coming into force		Comparison rate ISK/min
					Date	Pure LRIC rates	
Austria	0.805	€cent	1 Nov 2013	Pure LRIC	1 Nov 2013	0.805	1.25
Belgium	1.180	€cent	1 Jan 2013	Pure LRIC	1 Jan 2013	1.180	1.83
United Kingdom	0.845	Pence	1 Aprl 2013	Pure LRIC	1 Apr 2013	0.845	1.61
Bulgaria	0.020	BGN	1 Jul 2013	Pure LRIC	1 Jul 2013	0.020	1.58
Denmark	0.067	DKK	1 Jan 2013	Pure LRIC	1 Jan 2013	0.067	1.39
Estonia	1.100	€cent	1 Jul 2013	BM-Pure LRIC	NA	NA	
Finland	2.800	€cent	NA	FDC	NA	NA	
France	0.800	€cent	1 Jan 2013	Pure LRIC	1 Jan 2013	0.800	1.24
Greece	1.189	€cent	1 Jan 2015	Pure LRIC	1 Jan 2015	1.099	1.70
Holland	1.861	€cent	NA	LRIC+	NA	NA	
Ireland	2.600	€cent	NA	BM	NA	Estimated 0.57	
Italy	0.980	€cent	1 Jul 2013	Pure LRIC	1 Jul 2013	0.980	1.52
Croatia	0.128	HRK	1 Jan 2015	Pure LRIC	1 Jan 2015	0.063	1.28
Cyprus	1.709	€cent	NA	LRIC	NA	NA	
Latvia	1.050	€cent	1 Ap 2014	BM-Pure LRIC	NA	NA	
Lichtenstein	7.650	CHF (cents)	NA	BM	NA	NA	
Lithuania	0.036	LTL	1 Apr 2014	BM-Pure LRIC	NA	Estimated 0.0227	
Luxembourg	0.980	€cent	NA	BM	NA	NA	
Malta	0.405	€cent	1 Apr 2014	Pure LRIC	1 Apr 2014	0.405	0.63
Norway	0.160	NOK	NA	LRAIC	NA	NA	
Portugal	1.270	€cent	31 Dec 2012	Pure LRIC	31 Dec 2012	1.270	1.97
Poland	0.043	PLN	1 Jul 2013	Pure LRIC	1 Jul 2013	0.043	1.59
Romania	0.960	€cent	1 Apr 2014	Pure LRIC	1 Apr 2014	0.960	1.49
Slovakia	1.226	€cent	1 Aug 2013	Pure LRIC	1 Aug 2013	1.226	1.90
Slovenia	1.140	€cent	1 Aug 2014	Pure LRIC	1 Aug 2014	1.140	1.77
Spain	1.090	€cent	1 Jul 2013	Pure LRIC	1 Jul 2013	1.090	1.69
Sweden	0.082	SEK	1 Jul 2013	Pure LRIC	1 Jul 2013	0.082	1.39
Czech Republic	0.270	CZK	1 Jul 2013	Pure LRIC	1 Jul 2013	0.270	1.52
Hungary	7.060	HUF	NA	LRIC	NA	NA	
Germany	1.790	€cent	NA	LRIC	NA	NA	

Appendix B – Exchange rate table

Central Bank of Iceland average exchange rate for second quarter 2014

Currency	***Average exchange rate of Central Bank of Iceland, 1 April - 30 June 2014***
BGN	79.17
CHF	127.01
CZK	5.64
DKK	20.75
EUR	154.85
GBP	190.06
HUF	0.51
LTL	44.85
NOK	18.86
PLN	37.15
SEK	17.11
HRK	20.38