

Brussels, 25 October 2017
Case No: 81175
Document No: 875971

Póst- og Fjarskiptastofnun
Suðurlandsbraut 4
108 Reykjavík,
Iceland

For the attention of:
Mr. Hrafnkell V. Gíslason
Managing Director

Dear Mr. Gíslason,

Subject: Market for call termination on individual public telephone networks provided at a fixed location - Remedies – Tariff determination via benchmarking

Article 7(3) of Directive 2002/21/EC (Framework Directive)¹: No comments

I. PROCEDURE

On 26 September 2017, the EFTA Surveillance Authority (the “Authority”) received a notification of a draft national measure in the field of electronic communications pursuant to Article 7 of the Framework Directive from the Icelandic national regulatory authority, *Póst- og Fjarskiptastofnun* (the “PTA”), concerning the determination by means of a benchmark of tariffs for wholesale call termination on public telephone networks provided at a fixed location.²

The notification became effective on the same day.

A national consultation was carried out, pursuant to Article 6 of the Framework Directive, during the period from 10 August 2017 to 31 August 2017.

¹ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services, OJ L 108, 24.4.2002, p. 33 (as amended by Regulation (EC) No 717/2007, OJ L 171, 29.6.2007, p. 32 and Regulation (EC) No 544/2009, OJ L 167, 29.6.2009, p. 12), as referred to at point 5cl of Annex XI to the EEA Agreement and as adapted to the Agreement by Protocol 1 (the “Framework Directive”).

² Corresponding to market 1 of the EFTA Surveillance Authority Recommendation of 11 May 2016 (Decision No 093/16/COL) on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with the Framework Directive, OJ L 84, 30.3.2017, p.7 (“the 2016 Recommendation”).

The period for consultation with the Authority and the national regulatory authorities (“NRAs”) in the EEA States pursuant to Article 7 of the Framework Directive expires on 26 October 2017.

Pursuant to Article 7(3) of the Framework Directive, the Authority and the EEA NRAs may make comments on notified draft measures to the NRA concerned.

II. DESCRIPTION OF THE DRAFT MEASURE

II.1. Background

The PTA’s third review of the wholesale market for call termination on individual public telephone networks provided at a fixed location in Iceland (market 1) was notified to and assessed by the Authority under Case No 79867.³

Following that review, the PTA adopted its Decision no. 22/2016, in which *Síminn hf.* (“Síminn”), *Fjaraskipti ehf.* (“Vodafone”), *Nova ehf.* (“Nova”), *Símafélagið ehf.* (“Símafélagið”), *Hringdu ehf.* (“Hringdu”) and *Tismi BV* (“Tismi”) were designated with significant market power (“SMP”) on market 1.

Specific obligations were imposed on all SMP operators. In addition to obligations of access, non-discrimination, transparency and accounting separation, the PTA continued the obligation to apply a symmetrical termination rate, calculated by the PTA on the basis of a benchmark against termination rates in EEA States using the pure long-run incremental cost model (“pure LRIC”).⁴ To this end, the following criteria were established:

- the fixed termination rates (“FTRs”) shall be decided on an annual basis and will come into force as from 1 January each year;
- the PTA shall publish the FTRs no later than 1 November in the year preceding their applicability⁵;
- only the FTRs decided by EEA NRAs on the basis of the pure Bottom Up Long-Run Incremental Cost (“BU-LRIC”) methodology, which are available on 30 April of the year when the benchmarking exercise is carried out in each instance and for which a formal decision has been taken by the relevant NRA, are to be taken into consideration;
- the reference shall be for single transit prices (layer 2)⁶;
- the reference shall be the price per minute of a three-minute call;
- the average exchange rate in the relevant quarter shall be used; and
- the resulting price shall not be higher than the average in those countries that fulfil the above conditions.

³ See the Authority’s “Comments Letter” on 21 December 2016 (Document No 831197).

⁴ Symmetrical termination rates consistent with the Authority’s Recommendation on termination rates (see EFTA Surveillance Authority Recommendation of 13 April 2011 on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EFTA States) had already been established in the PTA’s Decision no. 36/2012. The PTA noted that as a small NRA with limited resources, the continued use of benchmarking was consistent with the Authority’s Recommendation on termination rates.

⁵ The draft measures will be subject to a national consultation as well as to a consultation with the Authority.

⁶ This criterion does not exclude decisions from NRAs which apply a single price to more than one layer provided that the price control obligation applies to single transit calls (layer 2).

II.2. Current notification

In the current draft measure, the PTA has carried out the annual benchmarking comparison on the basis of 17 EEA NRAs, which by 30 April 2017 had adopted decisions on FTRs based on the pure BU-LRIC methodology. The reference is for single transit where appropriate and for the per minute rate of a three-minute call.

The resulting average amounts to ISK 0.11/minute and constitutes a maximum price cap (excluding VAT) which will apply equally to all SMP operators⁷. The PTA intends the rate to be applicable from 1 January 2017 until 31 December 2017.

The PTA has taken account of FTRs applicable in 2017, where a formal decision on the FTRs was adopted by 30 April 2017.

The 17 EEA NRAs, which according to the PTA have adopted decisions on FTRs based on a pure BU-LRIC methodology and which are taken into account by the PTA for its benchmarking calculation, are as follows:

Comparator NRAs	FTR in ISK/minute ⁸
Austria	0.14
Bulgaria	0.09 ⁹
Denmark	0.06
Greece	0.06 ¹⁰
Croatia	0.11
Lithuania	0.15
Luxembourg	0.16 ¹¹
Malta	0.05
Norway	0.07 ¹²
Portugal	0.07
Romania	0.16
Slovakia	0.14
Slovenia	0.10
Spain	0.09
Sweden	0.08
Czech Republic	0.14
Hungary	0.15

⁷ No call setup charge or breakdown into day, night or weekend rates is foreseen.

⁸ The PTA has indicated that comparator FTRs are based on information available on the European Commission's CIRCABC Information Resource Centre, the ESA eCOM Notification Registry and Cullen International and BERECH benchmarking reports, as well as information published on the websites of the relevant NRAs. For the calculation of the rate in ISK, the PTA used the Central Bank of Iceland's mid-rates for the second quarter of 2017.

⁹ The rate will apply in 2018.

¹⁰ *Idem.*

¹¹ *Idem.*

¹² *Idem.*

III. NO COMMENTS

The Authority has examined the notified draft measure and has no comments.

IV. FINAL REMARKS

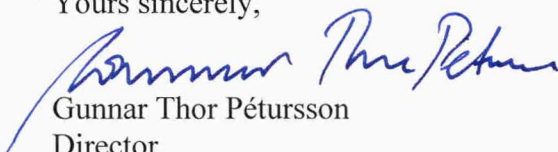
On a procedural note, the Authority recalls that any future amendments to, or more detailed implementation of, the draft remedies consulted on in the current notification will require re-notification in accordance with Article 7(3) of the Framework Directive.

Pursuant to Article 7(5) of the Framework Directive, the PTA shall take the utmost account of comments of other NRAs and the Authority. It may adopt the resulting draft measure and, when it does so, shall communicate it to the Authority.

The Authority's position on the current notification is without prejudice to any position the Authority may take in respect of other notified draft measures.

Pursuant to Point 15 of the Procedural Recommendation¹³, the Authority will publish this document on its eCOM Online Notification Registry. The Authority does not consider the information contained herein to be confidential. You are invited to inform the Authority within three working days¹⁴ following receipt of this letter if you consider, in accordance with EEA and national rules on confidentiality, that this letter contains confidential information which you wish to have deleted prior to publication. You should give reasons for any such request.

Yours sincerely,



Gunnar Thor Pétursson
Director

Internal Market Affairs Directorate



Emily O'Reilly
Deputy Director for Competition
Competition and State Aid Directorate

¹³ EFTA Surveillance Authority Recommendation of 2 December 2009 on notifications, time limits and consultations provided for in Article 7 of the Act referred to at point 5cl of Annex XI to the Agreement on the European Economic Area (Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services), as adapted by Protocol 1 thereto, OJ C 302, 13.10.2011, p.12, and available on the Authority's website at <http://www.eftasurv.int/media/internal-market/recommendation.pdf> ("the Procedural Recommendation").

¹⁴ The request should be submitted through the eCOM Registry, marked for the attention of the eCOM Task Force.