



POST AND TELECOM
ADMINISTRATION
IN ICELAND

**Draft Decision no. xx/2014 on the withdrawal of the designation
of Siminn as an undertaking with significant market power
on the retail market for minimum set of leased lines
(former Market 7)**

The Post and Telecom Administration (PTA) has with reference to Articles 16, 17 and 18 of Act no. 81/2003 on the Electronic Communications as amended, analysed the retail market for minimum set of leased lines. Specifically this is the market that was numbered 7 in the older ESA Recommendation on the relevant market from 14 July 2004:

- Retail market for minimum set of leased lines (former Market 7)

With a letter dated 27 November 2013 a draft analysis of the relevant market was sent to the Competition Authority and to electronic communications companies and they were invited to make comments on the market analysis and on its conclusions. The consultation was closed on 20 January 2014. The Competition Authority and Fjaraskipti hf (Vodafone) submitted comments where both parties stated that they agreed with the conclusions of the analysis.

The analysis of the relevant market can be found in Appendix A to this Decision.

1. Conclusion of the Market Analysis

The PTA has defined the relevant market in accordance with Articles 16, 17 and 18 of the Electronic Communications Act. As the market is no longer in the ESA Recommendation on the relevant market and as it is not mentioned in the Appendix to the Regulation on Market Analysis in the Field of Electronic Communications no. 741/2009, assessment was made pursuant to Paragraph 4 of Article 4 of the Regulation on whether the market fulfilled the conditions to be susceptible to the imposition of ex-ante obligations on companies in the market. According to Paragraph 3 of Article 4 of the Regulation, the criteria that must be fulfilled are the following:

- a. That there exist high and non-transitory barriers to entry,
- b. That the market is not tending towards active competition,
- c. That the application of general rules of Competition Law will not suffice on their own to address the failures of the market.

The conclusion of the PTA was that the markets no longer fulfilled the conditions for the first criterion as there were no longer high and non-transitory barriers to entry and thus no reason to apply obligations pursuant to Chapter VII of the Electronic Communications Act no. 1/2003. Furthermore, there is no longer a reason to designate undertakings as having

significant market power, pursuant to Article 18 of the same Act. With regards to further arguments in support of this conclusion reference is made to Appendix A to this Decision.

2. Obligations on the relevant market

With the PTA Decision no. 27/2007, which was published subsequent to market analysis on 14 December 2007, the PTA designated Siminn as having significant market power on Market 7.

PTA imposed an obligation on Siminn hf. to provide access to specific leased lines across the whole country on retail markets for a minimum set of leased lines. The company was to ensure that the service that had been on offer would remain on offer for a reasonable period of time and it was only authorised to withdraw service after consultation with the relevant users and with prior endorsement of the PTA. Furthermore the obligations for non-discrimination, transparency, accounting separation and price control were imposed on Siminn.

As the conclusion of the analysis on the relevant market in 2013 was that the market no longer fulfilled criteria required to authorise the imposition of ex ante obligations with reference to Paragraph 3 of Article 4 of the Regulation on Market Analysis in the Field of Electronic Communications and to obligations pursuant to the EEA agreement, the PTA will not impose obligations on the market.

The designation of Siminn as an undertaking with significant market power on the market for minimum set of leased lines (former Market 7) is withdrawn.

The PTA considers it most important that access is assured over a period that should suffice for adaptation. The PTA considers that as it is possible to approach more than one party for resale of leased lines and because switching service providers for individual leased lines does not require much preparation, the glide path does not need to be particularly long. The PTA therefore intends to prescribe that obligations on Siminn on the relevant market be withdrawn after 3 months from the publication of this Decision.

3. The coming into force of the Decision and channels for appeal

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.

Reykjavík, 21 March 2014

Hrafnkell V. Gíslason

Óskar Hafliði Ragnarsson

Attached: Appendix A - Analysis of former Market 7