

Summary Notification Form

Market 2

Markets for wholesale voice call termination on individual mobile networks”

Date of notification 11 October 2017

This form specifies the summary information to be provided by national regulatory authorities to the EFTA Surveillance Authority (ESA) when notifying draft measures in accordance with Article 7 of Directive 2002/21/EC (Framework Directive) and the annex to ESA Recommendation of 14 July 2004 on notifications, time limits and consultations.

Under the obligation in Articles 15 and 16 of the Directive 2002/21/EC (Framework Directive) and Electronic Communications Act §§ 3-2 and 3-3, the Norwegian Communications Authority (Nkom) has conducted the seventh analysis of the markets for wholesale voice call termination on individual mobile networks (Market 2). This analysis covers all undertakings in Market 2: Com4, Get, ICE, Lycamobile, Phonero, TDC, Telenor and Telia.

Nkom’s draft decision including market analysis and LRIC model were subject to a national consultation in the period from 22 August to 19 September 2017. The comments received have been evaluated and relevant comments have been incorporated into the attached proposed decisions. A separate document has been prepared, in which the consultative statements are summarised and commented on (see Annex 4 to the draft measures).

Comments to these draft measures may be sent to Mrs Inger Vollstad (ivo@nkom.no)

SECTION 1

Market definition

Please state where applicable, and give reference to the relevant section/paragraph:

1.1	<p>The affected relevant product/service market. Is this market mentioned in the Recommendation on relevant markets?</p> <p>Yes, the markets for wholesale voice call termination on individual mobile networks are market 2 in the Recommendation of 11 May 2016. The markets comprise voice call termination to MNOs and MVNOs in 2G, 3G and 4G networks and includes VoLTE and Wi-Fi calling.</p> <p>NPT has defined the following markets:</p> <ul style="list-style-type: none"> • Voice call termination on Com4 AS's mobile network. • Voice call termination on Get AS's mobile network. • Voice call termination on ICE Communication Norge AS's mobile network. • Voice call termination on Lycamobile Ltd's mobile network. • Voice call termination on Phonero AS's mobile network. • Voice call termination on TDC AS's mobile network. • Voice call termination on Telenor ASA's mobile network. • Voice call termination on Telia Norge AS's mobile network. <p>Nkom deems the relevant product market to be in accordance with the Recommendation.</p>	Section/ paragraph
	<p>The affected relevant geographic market</p> <p>The markets are defined as the individual mobile network's respective coverage areas in Norway, including coverage obtained through national roaming agreements, MVNO agreements or similar.</p>	Annex 1, Section 2.2.4
	<p>A brief summary of the opinion of the national competition authority where provided;</p> <p>The Norwegian Competition Authority (NCA) has not given comments or objections to the definition of the relevant product market or the geographical market.</p>	
	<p>A brief overview of the results of the public consultation to date on the proposed market definition (for example, how many comments were received, which respondents agreed with the proposed market definition, which respondents disagree with it</p> <p>Nkom held a public consultation from 22 August to 19 September 2017. Nkom received two responses, very limited in scope. The responses are published at www.nkom.no, and summarised in Annex 4.</p>	Annex 4,

1.5	Where the defined relevant market is different from those listed in the Recommendation on relevant markets, a summary of the main reasons which justified the proposed market definition by reference to Section 2 of the Authority's Guidelines on the definition of the relevant market and the assessment of significant market power ¹ , and the three main criteria mentioned in recitals 6 to 16 of the Recommendation on relevant markets.	
	Not applicable.	

SECTION 2

Designation of undertakings with significant market power

Please state where applicable, and give reference to the relevant section/paragraph:

2.1	The name(s) of the undertaking(s) designated as having individually or jointly significant market power. Where applicable, the name(s) of the undertaking(s) which is (are) considered to no longer have significant market power;	Section/ paragraph
	Com4 AS, Get AS, ICE Communication Norge AS, Lycamobile Ltd, Phonero AS, TDC AS, Telenor ASA and Telia Norge AS.	Draft decision, Section 2 and Annex 1, Section 2
	The criteria relied upon for deciding to designate or not an undertaking as having individually or jointly with others significant market power;	
	The criteria relied upon were inter alia market shares, an overall assessment of entry barriers and potential competition, prices and price-development and absence of sufficient countervailing buying power.	Annex 1, Section 2.2.5 and section 3
	The name of the main undertakings (competitors) present/active in the relevant market;	
	See answer to question 2.1.	
	The market shares of the undertakings mentioned above and the basis of their calculation (e.g., turnover, number of subscribers).	
	All operators mentioned above have 100% market shares in the markets for voice call termination on their respective networks.	Annex 1, Section 3.2
	Please provide a brief summary of:	
	The opinion of the national competition authority, where provided;	
	The Norwegian Competition Authority has no objection to Nkom's designation of Telenor as an undertaking with significant market power.	
	The results of the public consultation to date on the proposed designation(s) as undertaking(s) having significant market power (e.g., total number of comments received, numbers agreeing/disagreeing).	
	None of the respondents disagreed with the proposed designations of undertakings having significant market power.	Annex 4

¹ Authority guidelines on market analysis and the assessment of significant market power under the Community regulatory framework for electronic communications and services.

SECTION 3

Regulatory obligations

Please state where applicable, and give reference to the relevant section/paragraph:

3.1	The legal basis for the obligations to be imposed, maintained, amended or withdrawn (Articles 9 to 13 of Directive 2002/19/EC (Access Directive));	Section/ paragraph
	<p>The following obligations are proposed on all operators designated with SMP in this decision:</p> <ul style="list-style-type: none"> ▪ Access/interconnection – Access Directive Article 12. In Norwegian law: Act No. 83 of 04 July 2003: Act relating to electronic communications (The Electronic Communications Act) Section 4-2, paragraph 3, cf. Section 4-1. ▪ Non-discrimination – Access Directive Article 10, Electronic Communications Act Section 4-7 ▪ Transparency (publication of prices) – Access Directive Article 9, The Electronic Communications Act Section 4-6. ▪ Price control – Access Directive Article 13, The Electronic Communications Act Section 4-9. 	Draft decision, Section 7 and 8
	The reasons for which the imposition, maintenance or amendment of obligations on undertakings is considered proportional and justified in the light of the objectives laid down in Article 8 of Directive 2002/21/EC (Framework Directive). Alternatively, indicate the paragraphs, sections or pages of the draft measure where such information is to be found;	
	Cf. Section 7 and 8 of the draft decision. In short; the proposed obligations are proportionate, appropriate and justified as they are necessary to remedy relevant competition problems identified in the draft decision. They will inter alia prevent excessive pricing and cross-subsidisation.	Draft decision, section 7 and 8
	If the remedies proposed are other than those set out in Articles 9 to 13 of Directive 2002/19/EC (Access Directive), please indicate which are the 'exceptional circumstances' within the meaning of Article 8(3) thereof which justify the imposition of such remedies. Alternatively, indicate the paragraphs, sections or pages of the draft measure where such information is to be found.	
	Not applicable	

SECTION 4

Compliance with international obligations

In relation to the third indent of the first subparagraph of Article 8(3) of Directive 2002/19/EC (Access Directive), please state where applicable, and give reference to the relevant section/paragraph:

4.1	Whether the proposed draft measure intends to impose, amend or withdraw obligations on market players as provided for in Article 8(5) of Directive 2002/19/EC (Access Directive);	Section/ paragraph
	Not applicable	
	The name(s) of the undertaking(s) concerned;	
	Not applicable	

4.3	Which are the international commitments entered into by the EFTA State that need to be respected;	
	Not applicable	