



Summary Notification Form

Market 7

“Markets for voice call termination on Individual mobile networks”

Date of Notification 13 May 2011

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 Post and Telecommunications Authority (NPT) has conducted an analysis on the market for voice call termination in Lycamobile Norway Ltd (Lyca) individual mobile network (Market 7)..

NPT's draft decisions on market definition, designation of SMP and regulatory obligations and the revised market analysis were subject to a national consultation in the period from 2 March to 23 March 2011. 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 most important consultative statements are summarised and commented on (see Annex 2 to the draft measures).

Comments to these draft measures may be sent to Mrs Inger Vollstad (ivo@npt.no) and Mr Kenneth Olsen (kol@npt.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>The affected market is the market for voice call termination on individual, public mobile networks, and accordingly market 7 in the Recommendation of 5 November 2008.</p> <p>The markets comprise voice call termination on both 2G and 3G networks</p> <p>NPT has defined the following relevant market:</p> <ul style="list-style-type: none"> • Voice call termination on Lycamobile Norway Ltd's mobile communication network. <p>NPT deems the relevant product market to be in accordance with the Recommendation.</p>	Section/ paragraph
		Annex 1, Section 2.3.2
1.2	<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 2.3.3
1.3	<p>A brief summary of the opinion of the national competition authority where provided;</p> <p>The Norwegian Competition Authority (NCA) has no objections to the definition of the relevant product market, the geographical market or the designation of SMP and the proposed remedies. However the NCA believes that due to harmonisation, a pure LRIC that totally excludes coverage costs would more accurately comply with the EU recommendation regarding termination rates.</p>	Annex 2, Section 4.1.3
1.4	<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>NPT held a public consultation from 2 March to 23 March 2011. NPT received comments from Lyca and from the NCA. NPT received no comments on the received comments. None of the respondents have commented on the proposed product market definition. All responses are fully published on NPT's website (www.npt.no). The results from the consultation are summarised in Annex 2.</p>	Annex 2

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
	Lycomobile Norway Ltd. is designated as individually having significant market power for terminating calls in its own network.	Draft decision, Section 2 and Annex 1, Section 2
2.2	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 and section 3
2.3	The name of the main undertakings (competitors) present/active in the relevant market;	
	See answer to question 2.1.	
2.4	The market shares of the undertakings mentioned above and the basis of their calculation (e.g., turnover, number of subscribers).	
	Lyca has 100% market shares in the market for voice call termination on its own network.	Annex 1, Section 3.2
Please provide a brief summary of:		
2.5	The opinion of the national competition authority, where provided;	
	The Norwegian Competition Authority has no objection to NPT's designation of the above mentioned operator as undertaking with significant market power.	
2.6	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).	
	Lyca disagreed with the proposed designations of Lyca as an undertaking having significant market power.	

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:</p> <ul style="list-style-type: none"> ▪ Access/interconnection – AD art. 12, Electronic Communications Act § 4-2, paragraph 3, cf. § 4-1. ▪ Transparency (publication of prices) – AD art. 9, Electronic Communications Act. § 4-6 ▪ Price control – AD art. 13, Electronic Communications Act § 4-9 	Draft decision, Section 6 and 7
3.2	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 6 and 7 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 6 and 7
3.3	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	
4.2	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	