

Brussels, 6 January 2012  
Case No: 70923  
Event No: 618191

**Attention: Hrafnkell V. Gíslason, Managing Director  
Póst-Og Fjarskiptastofnun (PTA)  
Sudurlandsbraut 4**

Dear Sir,

**Subject: Wholesale market for voice call termination on individual mobile phone networks (market 7) in Iceland**  
**Comments pursuant to Article 7(3) of Directive 2002/21/EC (Framework Directive)**

## **I. Procedure**

On 6 December 2011, the EFTA Surveillance Authority (“the Authority”) received a notification of draft national measures in the field of electronic communications pursuant to Article 7 of the Framework Directive<sup>1</sup> from the Icelandic national regulatory authority, *Póst-Og Fjarskiptastofnun* (PTA). The notification became effective on the same day. The draft measures concern the third round review of the wholesale market for voice call termination on individual mobile networks<sup>2</sup> in Iceland.

National consultations pursuant to Article 6 of the Framework Directive were carried out in the period from 18 March 2011 to 26 April 2011 and from 27 October 2011 to 14 November 2011<sup>3</sup>.

The period for consultation with the Authority under Article 7 of the Framework Directive expires on 6 January 2012.

---

<sup>1</sup> 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”).

<sup>2</sup> Corresponding to market 7 of EFTA Surveillance Authority Recommendation of 5 November 2008 on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with the Act referred to at point 5cl of Annex XI to the EEA Agreement (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); adopted by Decision No. 688/08/COL; OJ C 156, 9.7.2009, p.18.

<sup>3</sup> The subject of the second consultation was limited to the withdrawal of certain obligations from Siminn and to the introduction of the benchmark methodology to set future mobile termination rates.

## II. Description of the draft measure

### II.1. Background

The second round review of the Icelandic wholesale market for voice call termination on individual mobile networks was notified to and assessed by the Authority under Case No 67608 in 2010. PTA identified the relevant market as the market for wholesale mobile call termination services provided by four mobile network operators, Siminn, Vodafone, IMC/Alterna and Nova in their respective networks (GSM, UMTS or NMT 450<sup>4</sup>), regardless of the origin of the call.

PTA imposed obligations of access, price control, non-discrimination, monitoring of tariffs, accounting separation (on Siminn and Vodafone) and cost accounting (on Siminn). As to price control, PTA introduced a glide-path which aimed at a symmetric mobile termination rate (MTR) of ISK 4 in the final step as of 1 January 2013<sup>5</sup>.

### II.2. Market definition

As regards the product market definition in relation to the current draft measures, the network of each individual operator is defined to constitute a distinct product market, regardless of the technology used (both 2G and 3G networks are included). The market does not include any data-services (such as SMS).

According to PTA, the relevant geographic market corresponds to the geographic coverage of each operator's network and is national in scope, that is, limited to Iceland.

### II.3. Finding of significant market power (SMP)

PTA proposes to designate all active mobile network operators (MNOs) providing mobile termination as having SMP on their respective markets. These are: Siminn, Vodafone, Nova and IMC/Alterna<sup>6</sup>. In addition, the mobile virtual network operator, IP-fjarskipti (Tal)<sup>7</sup>, is also designated with SMP. The main criteria considered by PTA when reaching its conclusion on the SMP designation are: market shares (each operator has a 100% market share on its own network), significant entry barriers, lack of countervailing buyer power and price development.

### II.4. Regulatory remedies

PTA proposes to impose the following remedies on all operators designated with SMP:

- (i) access obligation;
- (ii) non-discrimination;

<sup>4</sup> NMT 450 was the only analogue mobile phone network in Iceland (accessible in highland and coastal waters) and was operated by Siminn between 1986 until the discontinuation of the service in 2010.

<sup>5</sup> The MTR of ISK 4 was set by PTA in its decision 9/2010 and was based on Siminn's cost analysis according to a top-down model based on historical costs.

<sup>6</sup> PTA views the companies as one economic unit within the meaning of the competition rules. According to PTA, should IMC transfer its rights or obligations to its sister company, Alterna, then the obligations envisaged to be imposed on IMC in the current draft measure will be transferred to Alterna.

<sup>7</sup> In PTA's view, IP-fjarskipti ehf. (Tal) became a mobile virtual network operator (MVNO) on 24/08/2010. Its host MNO is Siminn. IP-fjarskipti ehf. (Tal) has its own mobile network code (MNC) for use in mobile phone services and controls its own telephone exchange. It has also concluded interconnection agreements with Vodafone and Nova and is currently conducting further negotiations with a third network operator.

- (iii) price control (including the obligation to monitor tariffs).

In addition, PTA intends to impose an obligation of accounting separation on Síminn and Vodafone. The obligations of cost accounting and annual updating of the cost analysis previously imposed on Síminn are removed.

With regard to price control, the evolution of price caps imposed on the four MNOs subject to the last market analysis in 2010 has not been changed.

The additional operator, IP-fjarSKIPTI ehf. (Tal) is added to the glide-path and required to achieve the same maximum symmetric MTR of ISK 4<sup>8</sup> as of 1 January 2013<sup>9</sup>:

Company	Current price	Price from 1.1.2012	Price from 1.3.2012	Price from 1.1.2013
Síminn	5.5	4.5	4.5	4.0
Vodafone	5.5	4.5	4.5	4.0
Nova	8.3	6.3	6.3	4.0
IMC/Alterna	8.3	6.3	6.3	4.0
IP-fjarSKIPTI ehf. (Tal)	12.7*	12.7*	5.5	4.0

Table: Maximum MTRs in ISK per minute excl. VAT.

\* Including the connection fee of ISK 0.6 (to be withdrawn on 1/03/2012).

As to the MTRs after 1 January 2013, PTA envisages basing them on a benchmark. When choosing the appropriate benchmark, in order to achieve cost-efficient levels over time, PTA will apply the provisions of the Termination Rates Recommendation<sup>10</sup> so as not to exceed the average of the MTRs set by NRAs implementing the recommended cost methodology (that is, the bottom-up long-run incremental cost model BU-LRIC)<sup>11</sup>.

The annual update of the benchmark is to be completed no later than 1 November each year<sup>12</sup>. According to PTA, the first price adaptation should take place no later than 1 November 2012. The resulting price will then be in force for one year as of 1 January

<sup>8</sup> Corresponding to 0.025 euro/min. according to the mid exchange rate of the Central Bank of Iceland on the day of the notification of the draft measure (i.e. on 6/12/2011), see: <http://www.sedlabanki.is/default.aspx?PageID=183>

<sup>9</sup> PTA considers this timeframe appropriate as IP-fjarSKIPTI ehf. (Tal) will have been operating for one and a half years on the relevant market as a MVNO at the time of the envisaged reduction in March 2012, with MTRs far above those charged by other mobile operators.

<sup>10</sup> EFTA Surveillance Authority Recommendation of 13 April 2011 on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EFTA States (the "Termination Rates Recommendation"), not published in the OJ as yet, available on the Authority's website <http://www.eftasurv.int/media/internal-market/ESAs-Recommendation-on-termination-rates.pdf>.

<sup>11</sup> In this regard, PTA is of the opinion that the resources required for the introduction of a BU-LRIC model are not available to the small Icelandic NRA at present, or in the foreseeable future, and therefore that the application of the recommended method would not be proportionate. Therefore, in PTA's view, Article 12 of the Termination Rates Recommendation applies.

<sup>12</sup> PTA confirms that appropriate consultations will be held in respect of each annual update both at national level and with the Authority.

2013. The procedure will be repeated annually during the validity period of this decision<sup>13</sup>.

### III. 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.

The Authority also recalls that the revised Procedural Recommendation<sup>14</sup> has significantly lessened the procedural burden on NRAs by giving them the possibility to use a short notification form when proposing to extend existing measures on a relevant market (that has already been analysed) to another market player in a similar situation, without *materially* changing the principles applied in the previous notification.

Pursuant to Article 7(5) of the Framework Directive, PTA may adopt the resulting draft measure and, if it does so, shall communicate the final measure to the Authority.

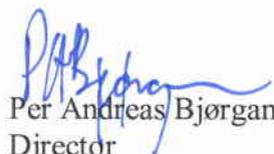
The Authority's position on the current notification is without prejudice to any position the Authority may take in respect of other notified draft national measures.

Pursuant to point 15 of the Procedural Recommendation, the Authority will publish this comments letter on its eCOM Online Notification Registry. The Authority does not consider the information contained in this letter to be confidential. However, you are invited to inform the Authority within three working days<sup>15</sup> 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 would like to be deleted prior to publication. You should provide reasons for any such request.

Yours sincerely,



Olafur Jóhannes Einarsson  
Director  
Internal Market Affairs Directorate



Per Andreas Bjørgan  
Director  
Competition and State Aid Directorate

<sup>13</sup> PTA assumes that the life cycle of this market is two to three years. At the same time, it recognizes that under the new telecom rules – which have yet to be formally incorporated into the EEA Agreement – the market analyses should be carried out on a three-yearly basis.

<sup>14</sup> 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>.

<sup>15</sup> The request should be submitted through the eCOM Registry or by facsimile to +32 2 286 1800, marked for the attention of the eCOM Task Force.