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EFTA SURVEILLANCE
AUTHORITY

Póst- og Fjarskiptastofnun
Suðurlandsbraut 4
108 Reykjavík
Iceland

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

Dear Mr Gíslason,

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

Market for wholesale voice call termination on individual mobile networks in Iceland – Remedies – Tariff determination via benchmarking

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

I. PROCEDURE

On 26 September 2018, 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 from the Icelandic national regulatory authority, *Póst- og Fjarskiptastofnun* (“the PTA”). It concerns the market for wholesale call termination on individual public telephone networks provided at a fixed location and the market for wholesale voice call termination on individual mobile networks in Iceland².

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 5 cl of Annex XI to the EEA Agreement and as adapted to the Agreement by Protocol 1 (“the Framework Directive”).

² Corresponding to markets 1 and 2 of the EFTA Surveillance Authority Recommendation of 11 May 2016 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 on a common regulatory framework for electronic communications networks and services*); adopted by Decision No 093/16/COL, OJ L 84, 30.3.2017, p. 7, (“2016 Recommendation”).

The notification became effective on the same day.

National consultation was carried out, pursuant to Article 6 of the Framework Directive, during the period from 10 August to 31 August 2018.

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 2018.

II. DESCRIPTION OF THE DRAFT MEASURE

II.1. Background

Wholesale call termination on individual public telephone networks provided at a fixed location

The PTA's third review of the market for wholesale 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"), Fiarskipti ehf., now Sýn hf. ("Vodafone"), Nova ehf. ("Nova"), Símafélagið ehf. ("Símafélagið")⁴, 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 rate⁵, calculated by reference to the following criteria:

- The fixed termination rates ("FTRs") shall be decided on an annual basis coming into force from 1 January of each year;
- the PTA shall publish the FTRs no later than 1 November in the year preceding their applicability⁶;
- only the FTRs decided by EEA NRAs on the basis of the pure Bottom Up Long-Run Incremental Cost ("pure 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)⁷;
- 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 FTR 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 Nova has acquired Símafélagið and merged its operation into Nova.

⁵ 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) were already 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.

⁶ The draft measures will be subject to a national consultation as well as to a consultation with the Authority.

⁷ 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).