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Case No: 83151  
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EFTA SURVEILLANCE  
AUTHORITY

Póst- og Fjaraskiptastofnun  
Suðurlandsbraut 4  
108 Reykjavík  
Iceland

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

Dear Mr Gíslason,

**Subject: Market for wholesale (physical) network infrastructure access  
(including shared or fully unbundled access) at a fixed location**

**Market for wholesale broadband access**

**Market for wholesale terminating segments of leased lines in Iceland -  
Remedies**

**Article 7(3) of Directive 2002/21/EC (Framework Directive)<sup>1</sup>: No  
comments**

## **I. PROCEDURE**

On 11 March 2019, 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 Fjaraskiptastofnun* (“the PTA”). It concerns remedies in the market for wholesale (physical) network infrastructure access (including shared or fully unbundled access) at a fixed location, the market for wholesale broadband access and the market for wholesale terminating segments of leased lines in Iceland<sup>2</sup>.

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

<sup>2</sup> Corresponding to markets 4, 5 and 6 of the EFTA Surveillance Authority Recommendation of 5 November 2008 (Decision No 688/08/COL) on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with the Framework Directive, OJ C 156, 9.7.2009, p.18 (“the 2008 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 21 December 2018 to 23 January 2019.

On 22 March 2019, the Authority sent a request for information (“RFI”) to the PTA (Doc No. 1059354), to which a reply was received on 26 March 2019 (Doc No. 1061043).

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 11 April 2019.

## II. DESCRIPTION OF THE DRAFT MEASURE

### II.1. Background

#### Market for wholesale (physical) network infrastructure access at a fixed location

In its Decision No. 21/2014<sup>3</sup>, the PTA designated Mila ehf. (“Mila”) with significant market power (“SMP”) on the market for wholesale (physical) network infrastructure access at a fixed location. Furthermore, the PTA imposed obligations on Mila regarding access, non-discrimination, transparency (publication of a reference offer), price control (cost orientation) and separation of accounts.

The price control obligation, which applies only to copper-based local loops (local loop unbundling or “LLU”), was based on the fully-allocated historical costing (“HC FAC”) methodology and the tariff was to be reviewed annually. With regard to the tariff structure, fully unbundled access (i.e. access to both the lower and upper frequency ranges of the local loop) was considered basic access. Accordingly, access seekers would be required to pay the full access charge regardless of how the local loop is used.

Subsequently, on 27 April 2017 the PTA notified the implementation of the price control obligation concerning copper local loops<sup>4</sup>. Furthermore, on 13 October 2017 the PTA submitted to the Authority a draft decision implementing the price control obligation with regard to fibre optic in the access network<sup>5</sup>. In the above two cases, the Authority commented on the need for timely enforcement and effectiveness of remedies, noting that the implementation of the price control obligation was significantly delayed.

#### Market for wholesale broadband access

In its Decision No. 21/2014 (notified to and assessed by the Authority under Case 75750), the PTA designated Mila with SMP on the market for wholesale broadband access. Furthermore, the PTA imposed obligations on Mila regarding access, non-discrimination, transparency (publication of a reference offer), price control (cost orientation) and separation of accounts.

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<sup>3</sup> Notified to and assessed by the Authority under Case 75750.

<sup>4</sup> Notified to and assessed by the Authority under Case 80606.

<sup>5</sup> Notified to and assessed by the Authority under Case 81255.