

Ihr Schreiben

Aktenzeichen
731.3/2020-1074

Sachbearbeitung
GISI

Vaduz
2 October 2020

SUMMARY NOTIFICATION FORM FOR

Market 1: Wholesale Call Termination on Individual Public Telephone Networks provided at a Fixed Location

in accordance with the Recommendation of the EFTA Surveillance Authority of 2 December 2009 on notifications, time limits and consultations (2011/C 302/05) provided for in 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 I thereto.

SECTION 1

Market definition

Please state where applicable:

1.1	The relevant product/service market. Is this market mentioned in the Recommendation on relevant markets?	Section / Paragraph
	<p>The relevant product market is the wholesale market for the termination of voice calls on individual public telephone networks provided at a fixed location.</p> <p>The Office for Communications (<i>Amt für Kommunikation – AK</i>) has defined the following individual termination markets:</p> <ul style="list-style-type: none"> - Voice call termination on Telecom Liechtenstein AG's public telephone network provided at a fixed location in Liechtenstein; - Voice call termination on Backbone Solution AG's public telephone network provided at a fixed location in Liechtenstein; and 	Chapter D.5.2

	<p>- Voice call termination on Nexphone AG's public telephone network provided at a fixed location in Liechtenstein.</p> <p>The market notified corresponds to market 1 in the EFTA Surveillance Authority's Recommendation on relevant markets.</p>	
1.2	<i>The relevant geographic market;</i>	
	The relevant geographic market is the territory of Liechtenstein.	Chapter D.5.3
1.3	<i>A brief summary of the opinion of the national competition authority, where provided;</i>	
	There is no national competition authority in Liechtenstein.	
1.4	<i>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 disagreed with it);</i>	
	<p>AK conducted a national consultation on the market from 18 May to 26 June 2020.</p> <p>The summary of and reply to the 2 responses received in the national consultation is attached.</p> <p>The respondents did not comment on the market definition.</p>	cf. attachment
1.5	<i>Where the relevant market is different from those listed in the Recommendation on relevant markets, a summary of the main reasons justifying the proposed market definition by reference to Section 2 of the Authority's Guidelines of 14 July 2004 on market analysis and the assessment of significant market power under the regulatory framework for electronic communications networks and services, and the three main criteria mentioned in recitals 6 to 14 of the Recommendation on relevant markets and Section 2.2 of the Explanatory Note accompanying the corresponding Commission's Recommendation on relevant markets.</i>	
	Not applicable.	

SECTION 2

Designation of undertakings with significant market power

Please state where applicable:

2.1	<p><i>The name of the undertakings designated as having individually or jointly significant market power.</i></p> <p><i>Where applicable, the name of the undertakings considered no longer to have significant market power;</i></p>	Section / Paragraph
	<p>AK designates the following fixed network operators as individually having significant market power on their respective fixed termination market in Liechtenstein:</p> <ul style="list-style-type: none"> - Telecom Liechtenstein AG; - Backbone Solutions AG; and - Nexphone AG. 	cf. recipient on title sheet of decision, Chapter D.6.4
2.2	<p><i>The criteria used to designate an undertaking as having significant market power, individually or jointly, or not;</i></p> <p>AK relied chiefly on the following indicators for significant market power:</p> <ul style="list-style-type: none"> - Market shares (termination monopoly: constant 100% market share); - Insurmountable barriers to market entry; lack of potential competition; and - Lack of countervailing buying power. 	Chapters D.6.2, D.6.3
2.3	<p><i>The name of the main undertakings (competitors) active in the relevant market;</i></p> <p>Each of the fixed network operators named in Section 2.1 above is – due to the factual termination monopoly – the sole undertaking providing voice call termination services in its respective telephone network provided at a fixed location.</p>	Chapter D.6.4
2.4	<p><i>The market shares of the undertakings mentioned above and the basis for calculation of market share (e.g. turnover, number of subscribers).</i></p> <p>Each individual fixed network operator has a 100% market share in its own termination market based on the termination monopoly that applies (as measured in minutes of termination traffic).</p>	Chapter D.6.2

2.5	<i>A brief summary of the opinion of the national competition authority, where provided;</i>	
	Not applicable. Cf. point 1.3 above.	
2.6	<i>The results of the public consultation to date on the proposed designation(s) as undertakings having significant market power (e.g. total number of comments received, numbers agreeing/disagreeing).</i>	
	<p>AK conducted a national consultation on the market at hand from 18 May to 26 June 2020.</p> <p>The summary of and reply to the 2 responses received in the national consultation is attached.</p> <p>The respondents did not comment on the proposed designation as undertaking having significant market power.</p>	cf. attachment

SECTION 3

Regulatory obligations

Please state where applicable:

3.1	<i>The legal basis for the obligations to be imposed, maintained, amended or withdrawn (Articles 9 to 13 of Directive 2002/19/EC (Access Directive));</i>	Section / Paragraph
	<p>Based on Art. 23(1) KomG, AK intends to impose the following specific obligations on each of the fixed network operators designated as having significant market power in Section 2.1:</p> <ul style="list-style-type: none"> – Access obligation: Obligation to provide direct and indirect interconnection to its telephone network provided at a fixed location for the termination of voice calls (Art. 12 AD¹; Art. 37 VKND); – Price control by means of cost-oriented prices, in the amount of the costs of an efficient operator, based on international benchmarking of pure BU LRIC regulated termination rates in the EEA (Art. 13 AD; Art. 38 VKND); 	<p>Chapter</p> <p>D.8.1</p> <p>D.8.4, D.9</p>

¹ Directive 2002/19/EC of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive)

	<ul style="list-style-type: none"> – Transparency obligation to publish a reference inter-connection offer (Art. 9 AD; Art. 34 and 35 VKND); – Internal and external non-discrimination obligation with regard to the quality of the interconnection and an external non-discrimination obligation with regard to the termination charges (Art. 10 AD; Art. 34 VKND). 	D.8.3
		D.8.2
3.2	<p><i>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).</i></p> <p><i>Alternatively, indicate the paragraphs, sections or pages of the draft measure where such information is to be found</i></p>	
	See draft measure.	Chapter D.8.5
3.3	<p><i>Where the remedies proposed are other than those set out in Articles 9 to 13 of Directive 2002/19/EC (Access Directive), please indicate what "exceptional circumstances within the meaning of Article 8(3) of that Directive justify the imposition of such remedies. Alternatively, indicate the paragraphs, sections or pages of the draft measure where such information is to be found.</i></p>	
	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:

4.1	<p><i>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);</i></p>	Section / Paragraph
	Not applicable.	
4.2	<p><i>The name of the undertakings concerned;</i></p>	
	Not applicable.	
4.3	<p>What international commitments entered into by the EFTA States are to be met.</p>	
	Not applicable.	