

# SUMMARY NOTIFICATION FORM

<b>MARKET 6 (and 14old):</b>	<b>Wholesale leased line markets</b>
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*In accordance with the Recommendation of the EFTA Surveillance Authority of 2 December 2009 on notifications, time limits and consultations 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	<i>The relevant product/service market. Is this market mentioned in the Recommendation on relevant markets?</i>	<b>Section / Paragraph</b>
	<p>The relevant product markets are the wholesale market for terminating segments and the wholesale market for trunk segments of leased lines.</p> <p>A leased line is a symmetric bi-directional point-to-point connection with a fixed and transparent capacity without any on-demand switching functionality and irrespective of underlying technology.</p> <p>Trunk segments of leased lines connect two points of interconnection (POI) – as a rule at the main distribution frame (MDF) or at the intermediate distribution frame (IDF) - of two access network areas or between operators. Terminating segments run as a rule from the network termination point on the customer’s premises to the MDF or IDF. Both markets include self supply.</p> <p>Whereas the market for terminating segments of leased lines</p>	Chapters 2.3 and 2.4

	notified corresponds to market no. 6 in the EFTA Surveillance Authority's (ESA) 2008 Recommendation on relevant markets, the market for trunk segments of leased lines is longer included (was previously listed as market no. 14 in the 2004 Recommendation).	
1.2	<i>The relevant geographic market;</i>	
	Due to the geographic extent of the trunk and terminating leased lines across the sovereign territory of Liechtenstein as well as the small size of the national territory and the country-wide homogeneous conditions for supply and demand resulting from same, the relevant geographic market for both relevant material markets is defined as the whole national territory of Liechtenstein.	Chapter 2.6
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.	Chapter 1.9
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>	
	AK conducted a national consultation from 31 May to 31 July 2012 in which responses from 5 parties were received.  None of the respondents disagreed with the proposed market definitions.  All responses are published in full on AK's website <sup>1</sup> , provided no confidentiality requirements apply.	Chapter 1.3
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>	

<sup>1</sup> <http://www.llv.li/amtstellen/llv-ak-marktanalysen/llv-ak-marktanalysen-konsultationen.htm>

	<p>AK has ascertained that the three-criteria test is (still) fulfilled with respect to the wholesale market for trunk segments in Liechtenstein and <i>ex ante</i> regulation of this market is therefore to be considered.</p> <p>Liechtenstein has to date not experienced any general duplication of trunk segments of leased lines by alternative operators. This lack of alternative capacities can be traced back to the low traffic volume and income on these routes and the high line construction sunk costs linked to such a duplication, which represent persistent barriers to entry onto this market.</p> <p>Consequently, it must be concluded that high and insurmountable market entry barriers continue to exist on the wholesale market for trunk leased lines. No tendency towards effective competition can be observed. The lack of an independent competition authority in Liechtenstein and the fact that any legal action in accordance with general EEA competition law has to be brought before the ordinary national courts or the EFTA Surveillance Authority – should it have jurisdiction – coupled with the probable requirement of an ongoing and detailed intervention in cases of competition problems on this market (and especially to fight the problem of excessive prices) make it obvious that general competition law is inadequate for successfully countering potential competition problems on the trunk leased line market.</p>	Chapter 2.4.2
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## 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>	<b>Section / Paragraph</b>
	No undertaking has been designated – neither individually nor jointly – as having significant market power on either of the two leased line markets defined.	Chapter 3
2.2	<i>The criteria used to designate an undertaking as having significant market power, individually or jointly, or not;</i>	

	AK has examined the following market power indicators: market shares and their development (incl. joint market power); the extent of market entry barriers and potential competition behind them; control over infrastructure not easily duplicated; the existence of economies of scale and scope; the existence and degree of sunk costs; the degree of product diversification.	Chapter 3
2.3	<i>The name of the main undertakings (competitors) active in the relevant market;</i>	
	Telecom Liechtenstein AG; UPC Cablecom GmbH; ICT-Center AG; Quality Net AG.	Chapters 3.2.2 and 2.5.1
2.4	<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>The following market shares were calculated on the basis of capacity in 64 kbit/sec equivalents (first market share figure) as well as in units (number of routes; second figure).</p> <p>Wholesale market for terminating segments of leased lines</p> <ul style="list-style-type: none"> <li>- Telecom Liechtenstein AG: 25.86% / 27.54%;</li> <li>- UPC Cablecom GmbH: 3.29% / 3.38%;</li> <li>- ICT-Center AG: 16.59% / 23.67%;</li> <li>- Quality Net AG: 0.00% / 0.00%.</li> </ul> <p>Wholesale market for trunk segments of leased lines</p> <ul style="list-style-type: none"> <li>- Telecom Liechtenstein AG: 7.09% / 59.60%;</li> <li>- UPC Cablecom GmbH: 32.10% / 5.39%;</li> <li>- ICT-Center AG: 7.51% / 3.70%;</li> <li>- Quality Net AG: 27.29% / 1.35%.</li> </ul>	Chapter 3.2.2 (Table 6)
	<i>Please provide a brief summary of:</i>	
2.5	<i>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>	

	All respondents agreed or had no comment.	Published responses on AK's website
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### 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>	<b>Section / Paragraph</b>
	Annulment of any legacy licensing obligations in accordance with Art. 32(3) second sentence VKND and Art. 73(3) KomG, as provided for in Art. 16(3) Framework Directive 2002/21/EC and Art. 8 Access Directive 2002/19/EC.	Chapter 5
3.2	<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>  <i>Alternatively, indicate the paragraphs, sections or pages of the draft measure where such information is to be found</i>	
	See market analysis.	Chapter 4
3.3	<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>	
	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	<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>	<b>Section / Paragraph</b>
	Not applicable.	
4.2	<i>The name of the undertakings concerned;</i>	
	Not applicable.	
4.3	What international commitments entered into by the EFTA States are to be met.	
	Not applicable.	