



PÓST- OG FJARSKIPTASTOFNUN

Decision no. xx/2017

**Wholesale tariff for call termination in individual
mobile phone networks**

xx October 2017



Table of Contents

1	Introduction.....	3
2	Grounds for the Decision	4
2.1	Recommendations of the EU Commission and of ESA with respect to termination rates in fixed and mobile networks	4
2.2	PTA Decision no. 20/2015	6
2.3	Prior PTA Decisions on call termination rates on Market 2 (Market 7/2008) on the basis of benchmarking.....	7
3	Calculation of termination rates	9
4	The PTA conclusion	12

1 Introduction

This Draft Decision is based on the Post and Telecom Administration (PTA) Decision no. 20/2015, dated 31 July 2015, on the designation of companies with significant market power and on the imposition of obligations on the wholesale market for call termination in individual mobile phone networks. Pursuant to the Recommendation of the EFTA Surveillance Authority (ESA)¹ from 2016 on the definition of wholesale markets for electronic communications services, call termination in individual mobile phone networks belongs to Market 2.

Pursuant to PTA Decision no. 20/2015, the tariff for call termination in individual mobile phone networks shall be decided with benchmarking. The PTA has now carried out the benchmarking for the decision on these rates. The PTA used the same methodology with this benchmarking as was used in the last benchmarking on this market. The PTA uses the conclusions of the benchmarking to decide the wholesale rate for this country for call termination in individual mobile phone networks from 1 January to 31 December 2018.

The PTA opened a national consultation on the Preliminary Draft of this Decision on 10 August 2017 and this consultation ended on last 31 August. The PTA received no comments from stakeholders.

The following Sections cover the legal grounds, methodology and calculations that led to the PTA conclusion. The text of the Draft Decision describes the planned PTA position which can be subject to amendment until the final Decision is made, among other things as a result of comments from stakeholders. The wording of the Draft should be read with this in mind.

¹EFTA 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 communication networks and services*).

2 Grounds for the Decision

The PTA bases its Decision on the Act on Electronic Communications, on prior decisions made by the Administration and on the Recommendations of the EU Commission and of ESA on the regulatory treatment of call termination rates in mobile phone and fixed line networks from 13 April 2011².

According to Paragraph 4 of Article 32 of the Electronic Communications Act the PTA can, when calculating costs, use as a reference the operation of analogous service that is considered efficiently run. It can also take into account tariffs in analogous competition markets and it may use cost analysis methodologies that are not related to methodologies employed by an electronic communications company.

In Item 12 of the Recommendations of the EU and of ESA on regulatory treatment of fixed and mobile termination rates it was authorised for regulators such as the PTA to apply benchmarking to decide termination rates where specific conditions are fulfilled.

In the PTA Decision no. 20/2015, it is prescribed that the PTA shall annually make a decision on maximum termination rates for Icelandic electronic communications companies subsequent to benchmarking with EEA states pursuant to a more specifically defined methodology, no later than 1 November each year which shall apply from and including 1 January of the following year.

The grounds underlying this decision are described in more detail in the following sub-sections.

2.1 Recommendations of the EU Commission and of ESA with respect to termination rates in fixed and mobile networks

The EU Commission issued a Recommendation with respect to the regulatory treatment of call termination tariffs in mobile phones and fixed line networks in May 2009³. The Commission considered that obligations with respect to termination rates were not sufficiently homogeneous in member states of the Union and decided to issue a regulation to support harmonisation. ESA issued an analogous Recommendation on 13 April 2011.

The main rule according to the Recommendations is that the regulatory authorities should prescribe termination rates that take into account the cost of call termination in mobile and fixed line networks in efficiently designed electronic communication networks, in accordance with a

²EFTA Surveillance Authority Recommendation of 13 April 2011 on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EFTA States.

³Commission Recommendation of 7.5.2009 on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EU.

cost model based on the Long-Run Average Incremental Cost (LRIC) methodology⁴. Projections are made of future developments based on current costs where the assumption is the use of the most efficient technological solutions, such as next generation networks (NGN). This is a pure bottom-up⁵ LRIC cost model, known as pure BU-LRIC.

The incremental service in question in the pure BU-LRIC model is call termination at wholesale level. The additional cost in question, or "avoidable costs" for wholesale service for call termination is the difference between total costs of network operators that provide full wholesale services and the total costs of the same network operators less call termination wholesale services to third parties. In other words, one only calculates the call termination costs that are avoided if the service in question is discontinued.

According to the above specified ESA Recommendation, electronic communications regulatory bodies were granted a general period of notice for adaptation until 31 December 2012 to prepare and introduce the pure LRIC cost model.

Less well-resourced regulators were pursuant to Article 12 of the Recommendation granted longer notice, that is to say until 1 July 2014. In this Article, it is specified that if it would breach the principle of proportionality to force a less well-resourced regulator to apply the method recommended in the Recommendation after 1 July 2014, then such authorities may continue to use another methodology until the Recommendation is reviewed, unless BEREC⁶ assisted them professionally and/or financially to apply the specified methodology. The Recommendation has been under review now for some time, but neither the EU Commission nor ESA has issued a new Recommendation for termination rates nor has the regulatory framework in this country been changed in this respect.

The PTA is considered to be one of the less well-resourced regulators. Such authorities are authorised to use, e.g. benchmarking, instead of the above-mentioned cost analysis methodology if it can be shown that this will return a result that harmonises with the objectives of the Recommendation. The results returned by methods other than pure BU-LRIC should not be higher than the average rates in the EEA states that apply the pure BU-LRIC methodology when calculating call termination tariffs.

⁴ Long-Run Average Incremental Cost is the cost that is added or is saved when a specific service or operation is added or discontinued, on the assumption that all costs are variable.

⁵ One speaks of the "bottom-up" model in the case of calculations made on the basis of an engineering model of electronic communications networks in the relevant electronic communications market. The model is based on a hypothetical network system which is efficiently designed and which uses the most efficient technical solutions on offer at any given time.

⁶ Body of European Regulators for Electronic Communications.

According to this it is clear that both the Commission and the ESA recommend that only termination rates based on the pure BU-LRIC model be used in the benchmarking.

In compliance with the above the PTA intends only to include comparison countries where the termination rates had been decided with the pure BU-LRIC methodology.

2.2 PTA Decision no. 20/2015

With respect to the implementation of benchmarking under discussion here, the PTA refers to the Administration's Decision no. 20/2015 dated 31 July 2015 on the designation of companies with significant market power and on the imposition of obligations on the wholesale market for call termination in individual mobile phone networks. Decision no. 20/2015 is based on market analysis made by the Administration. The wholesale market for call termination in individual mobile phone networks is no. 2, pursuant to the ESA Recommendation⁷ on the definition of wholesale markets for electronic communications services and was previously no. 7 pursuant to the older ESA definition from 2008.

In the Decision, Síminn hf. (Síminn), Fjaraskipti ehf. (Vodafone), Nova ehf. (Nova), IMC Ísland ehf. (IMC/Alterna) and 365 miðlar ehf. (365) were designated as having significant market power on the following markets:

- Call termination in the Síminn GSM/UMTS/LTE mobile phone network.
- Call termination in the Vodafone GSM/UMTS/LTE mobile phone network.
- Call termination in the Nova UMTS/LTE mobile phone network.
- Call termination in the IMC/Alterna GSM mobile phone network.
- Call termination in the 365 virtual mobile phone network.

More specifically, these are obligations on access, non-discrimination, and price control. The obligation for price control is pursuant to Article 32 of the Electronic Communications Act.

In the above specified Decision, it was stated that in the PTA Decision no. 3/2012⁸ the methodology had been discontinued of deciding termination rates for Icelandic mobile phone companies on the basis of Síminn cost analysed rates (which were based on historical costs) and instead benchmarking was prescribed pursuant to Article 12 of the ESA Recommendation on regulatory treatment of fixed and mobile network termination rates from 13 April 2011.

Pursuant to the PTA Decision no. 20/2015, termination rates in this country shall be decided by benchmarking. In the opinion of the PTA, a predictable procedure for deciding termination rates

⁷EFTA 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 5c1 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 communication networks and services*).

⁸ Decision no. 3/2012 on the designation of companies with significant market power and on the imposition of obligations on the wholesale market for call termination in individual mobile phone networks (Market 7).

has been created with this methodology, which gives electronic communications companies a more stable and predictable operating environment. Benchmarking has also proven to be an economic and efficient way to achieve the objectives for termination rates that were tabled in the above specified ESA Recommendation.

The PTA shall conclude its annual benchmarking with a decision, subsequent to national consultation and consultation with ESA, no later than 1 November each year.

The PTA shall apply the following main criteria as a basis for calculations of termination rates when benchmarking is applied:

- Reference should be made to those EEA states where the termination rates of companies with market dominance on the markets in question are subject to price control by the electronic communications regulatory body of the state in question, on the basis of cost analysis where the results are based on a pure BU-LRIC model.
- Comparison of rates should be based on conclusions on termination rates according to calculations based on the pure BU-LRIC model which are available in April of the year when the benchmarking was made in each instance. When benchmarking a formal Decision shall have been made by the regulatory authority in question.
- The resulting rate shall not be higher than the arithmetic mean of those countries that fulfil the above conditions.

The above specified methodology is in accordance with the procedures applied by the PTA in recent years when deciding termination rates with benchmarking on this market.

The PTA shall conduct benchmarking in 2017 which shall be completed with a decision, no later than the coming 1 November, which shall apply as maximum termination rates for the year 2018. This rate is a maximum wholesale rate per minute ex VAT and individual mobile phone companies can therefore offer lower termination rates should they so choose, but they must of course respect the non-discrimination obligation and are unauthorised to discriminate between companies using subjective criteria.

2.3 Prior PTA Decisions on call termination rates on Market 2 (Market 7/2008) on the basis of benchmarking

In the PTA Decision no. 3/2012 from 13 January 2012 the practice was discontinued of deciding termination rates for Icelandic mobile phone companies with reference to the Siminn cost analysed rates (which were based on historical costs) and benchmarking was prescribed instead in accordance with Article 12 of the ESA Recommendation of 13 April 2011 on the regulatory treatment of mobile and fixed termination rates from 13 April 2011.



This change in methodology for deciding termination rates was neither appealed to the Appellate Committee Electronic Communications and Postal Affairs nor to the courts.

Subsequently the PTA conducted benchmarking during the period 2012 to 2016 to decide the tariff for call termination in mobile phone networks. The conclusion of the benchmarking was published in PTA Decisions, most recently in Decision no. 14/2016 dated 17 October 2016, on wholesale tariff for call termination in individual mobile phone networks.

In the implementation of the benchmarking the PTA took into account the above specified ESA Recommendation with respect to regulatory treatment of call termination rates in mobile phones and fixed line networks. The PTA selected comparison countries in accordance with Article 12 of the ESA Recommendation in question. In April this year, regulators in 23 states had made decisions on termination rates in mobile phone networks that were based on a pure BU-LRIC model in accordance with the Recommendation.

In PTA Decision no. 14/2016, the PTA concluded that the wholesale tariff for call termination in individual mobile phone networks in Iceland should be ISK 1.23/minute for the period 1 January 2017 until 31 December 2017.

The Decision here under discussion covers rates that shall apply in the year 2018.

3 Calculation of termination rates

In accordance with the PTA Decision no. 20/2015, dated 31 July 2015, on the designation of companies with significant market power and on the imposition of obligations on the wholesale market for call termination in individual mobile phone networks, the PTA has now gathered termination rates on wholesale markets for call termination in individual mobile phone networks of the EEA states to be used in benchmarking. In its gathering of data, the PTA has used the European Commission CIRCABC Information Resource Centre, the ESA ECOM database, reports from Cullen International and BEREC⁹ benchmarking as well as information published on the websites of the relevant electronic communications regulatory bodies.

The PTA uses the same methodology with this benchmarking as in the last benchmarking. The PTA Decision no. 14/2016, dated 17 October 2016, on a wholesale tariff for call termination in individual mobile phone networks was not referred to the Appellate Committee for Electronic Communications and Postal Affairs or to the courts.

When selecting countries for comparison the PTA uses electronic communications markets in the EEA where there are now 31 states including Iceland.

In accordance with the PTA Decision no. 20/2015, the following main criteria were used when calculating termination rates:

- Reference was made to those EEA states where the termination rates of companies with significant market power on the markets in question are subject to price control by the electronic communications regulatory body of the state in question, on the basis of cost analysis where the pure BU-LRIC methodology is applied.
- Comparison of rates was based on the conclusion on call termination rates according to calculations based on pure BU-LRIC model available in April 2017. In the benchmarking, only rates according to a formal decision made by the regulatory authority in question were included.
- For the decision on termination rates in this country the arithmetic mean of termination rates that fulfilled the above specified conditions was calculated.

The conclusion is the minute rate for call termination without call setup charge or breakdown into day, night or weekend rates.

When calculating termination rates, the average exchange rate in ISK of the currency in question for the second quarter of 2017 was used¹⁰. In this respect, the PTA has among other

⁹“Termination rates at European level” January 2017, BoR (17) 101.

¹⁰ Central Bank of Iceland mid-rates, see Appendix I.

things, taken into account the methods used by BEREC in its regular benchmarking of termination rates¹¹.

The PTA benchmarking uses information that were available in April 2017.

In the light of the fact that rates decided will apply in the year 2018, the PTA examined whether rates were available for call termination that would be in force during that year. This is in accordance with the benchmarking method used in PTA Decision no. 14/2016. In the opinion of the PTA, one should however only use the final rate and should not include in the benchmarking those rates that remained to be revised on the basis of inflation or of other factors.

The PTA therefore uses conclusions on rates for call termination which are to apply in the year 2018 when they are available, but otherwise rates that come into force in the year 2017 or that were in force in April 2017 are used.

At the time when the PTA benchmarking was implemented, the relevant regulatory authorities in 23 EEA states had made decisions on call termination rates in mobile phone networks that were based on the pure BU-LRIC model. The PTA thus intends to use the termination rates that these authorities have decided as a basis for the Decision on termination rates in this country according to the statement made by the PTA in the above-mentioned PTA Decision no. 20/2015.

In Table 3.1 these 23 states are specified along with corresponding termination rates in ISK, according to the pure BU-LRIC model.

¹¹ See BEREC BoR (11) 35 MTR Benchmark snapshot (as of July 2011).

Table 3.1 Overview of countries used in the benchmarking

<i>State</i>	<i>MTR 2017</i> <i>ISK/min.</i>	<i>MTR 2018</i> <i>ISK/min.</i>	<i>Benchmarked rates</i> <i>ISK/min.</i>
AT Austria	0.93		0.93
BE Belgium	1.36		1.36
UK United Kingdom	0.66		0.66
BG Bulgaria	0.82		0.82
DK Denmark	0.73		0.73
FR France	0.85		0.85
GR Greece	1.23		1.23
IE Ireland	0.94	0.91	0.91
IT Italy	1.13		1.13
HR Croatia	0.73		0.73
LU Luxembourg	1.02		1.02
MT Malta	0.47		0.47
NO Norway	0.80		0.80
PT Portugal	0.86		0.86
PL Poland	1.17		1.17
RO Rumania	1.10		1.10
SK Slovakia	1.41		1.41
SI Slovenia	1.31		1.31
ES Spain	1.25		1.25
SE Sweden	0.76	0.73	0.73
CZ Czech Republic	1.07		1.07
HU Hungary	0.64		0.64
DE Germany	1.23	1.10	1.10
Average			0.97

The table here above shows comparison rates used by the PTA in the last column where account has been taken of rates that will apply in 2018 where they are available. In deciding the rates for call termination in mobile phone networks in Iceland the PTA used the arithmetic mean of the above specified termination rates. The average is ISK 0.97/minute which is equivalent to €cent 0.84.

One country has been added to the comparison group since the last benchmarking, that is to say Germany,

In addition to the 23 states that have made decisions on call termination tariffs in mobile phone networks based on pure BU-LRIC models, there are 4 states that have decided termination tariffs on the basis of benchmarking with those termination rates that are based on the pure BU-LRIC model. There are thus 27 states in addition to Iceland that have decided to follow the Recommendations from the European Union and ESA.

4 The PTA conclusion

According to PTA Decision no. 20/2015, rates for call termination in individual mobile phone networks are decided on the basis of conclusions of the benchmarking conducted by the Administration as described here above.

The benchmarking provides an average rate per minute for those states covered by the benchmarking. The PTA uses the conclusions of the benchmarking to decide the minute rate for call termination in mobile phone networks without call setup charge.

In accordance with the conclusions of the above specified benchmarking it is the conclusion of the PTA that the wholesale rate for call termination in individual mobile phone networks in Iceland shall be **ISK 0.97/minute** for the period 1 January 2018 to 31 December 2018. This is a maximum wholesale rate per minute ex VAT. In accordance with the PTA Decision no. 20/2015 the rate should be the same for all companies. The current termination rate, ISK 1.23/minute, shall remain unchanged for the rest of the year 2017.

In the following table, one can see termination rates in mobile phone networks of electronic communications companies in comparison with rates now in force:

Table 4.1 Termination rates in electronic communications companies' mobile phone networks

<i>Company</i>	<i>Unit</i>	<i>Rate</i>	
		<i>to 31 December 2017</i>	<i>1 January - 31 December 2018</i>
Síminn	ISK/minute	1.23	0.97
Vodafone	ISK/minute	1.23	0.97
Nova	ISK/minute	1.23	0.97
IMC/Alterna	ISK/minute	1.23	0.97
365	ISK/minute	1.23	0.97

Source: Post and Telecom Administration

This represents a reduction of 21% in termination rates between years. The reason for the reduction is a combination of a reduction in termination rates in the comparison countries and of changes in exchange rates.

In accordance with PTA Decision no. 20/2015 the Authority will review the above specified termination rates in accordance with annual results of the PTA benchmarking, which shall be completed with a decision by 1 November each year, while obligations on the relevant market prescribe such a methodology. This will be done without the PTA having made a new market analysis of the relevant market, as this is simply a case of technical implementation of a specific obligation. Such a change does however require national consultation and consultation with ESA before a final decision on price changes is made. The PTA plans to start a new market



analysis of the wholesale market for call termination in individual mobile phone networks in the third quarter of 2018. PTA expects that the Authority will issue a Decision on the basis of that analysis in the second quarter of 2019.

The Decision

In accordance with the benchmarking results it was the PTA conclusion that the tariff for call termination in individual mobile phone networks in Iceland, as they are specified in PTA Decision no. 20/2015 shall be ISK 0.97/minute for the period 1 January 2018 to 31 December 2018. The current call termination rate of ISK 1.23 per minute will remain in force unchanged to and including 31 December 2017.

These are maximum wholesale rates per minute ex VAT.

This Decision comes into force from the day that it is published and will be in force until a decision is made to the contrary by the Post and Telecom Administration.

This Decision can be appealed to the Appellate Committee for Electronic Communications and Postal Affairs, see Article 13 of Act no. 69/2003 on the Post and Telecom Administration. The appeal shall have reached the Appellate Committee four weeks from the time that the party in question became aware of the Decision of the Post and Telecom Administration. Costs for an appeal are according to Paragraph 5 of Article 13 of the same Act, and in addition to this there is a special appeal charge to the amount of ISK 150,000, pursuant to Article 6 of Regulation no. 36/2009 on the Appellate Committee for Electronic Communications and Postal Affairs.

Reykjavík, xx October 2017

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Appendix I: Exchange rate table