

Brussels, 29 July 2013
Case No: 74048
Event No: 677904

Póst- og Fjaraskiptastofnun
Sudurlandsbraut 4
108 Reykjavík
Iceland
For the attention of:
Mr Hrafnkell Gíslason, Director

Dear Mr Gíslason,

Subject: Case No 74048 - Remedies relating to the retail market for access to the public telephone network at a fixed location for residential and non-residential customers in Iceland (market 1)

Article 7(3) of Directive 2002/21/EC (Framework Directive¹): No comments

I. Procedure

On 27 June 2013, the EFTA Surveillance Authority (“the Authority”) registered a draft measure pursuant to Article 7 of the Framework Directive from the Icelandic national regulatory authority (“NRA”), *Póst- og Fjaraskiptastofnun* (“the PTA”), relating to the remedies to be imposed on the retail market for access to the public telephone network at a fixed location for residential and non-residential customers in Iceland.² The notification became effective on the same day.

The national consultation took place between 4 March 2013 and 18 March 2013 pursuant to Article 6 of the Framework Directive.

A request for information was sent to the PTA³ on 4 July 2013 and a response was received on 9 July 2013.

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

² Corresponding to market 1 of the *EFTA Surveillance Authority Recommendation of 5 November 2008 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 (the Framework Directive)*, as adapted by Protocol I thereto and by the sectoral adaptations contained in Annex XI to that Agreement; OJ C 156, 9.7.2009, p.18.

³ In accordance with Article 5(2) of the Framework Directive.

The period for consultation with the Authority and the NRAs in the EEA States under Article 7 of the Framework Directive expires on 29 July 2013.

II. Description of the draft measures

II.1. Background

In May 2013⁴, the PTA launched its second-round review of the retail market for access to the public telephone network at a fixed location for residential and non-residential customers in Iceland in which Síminn's hf. ("Síminn") designation with significant market power was maintained. The PTA imposed the following obligations on Síminn: (i) access, (ii) carrier selection and pre-selection, (iii) non-discrimination, (iv) transparency, (v) accounting separation and (vi) price control and cost accounting. As to the latter obligation, Síminn was to publish a reference offer, including specific terms and conditions for delivery and use as well as access tariffs. Síminn was further obliged to submit its cost analysis within 6 months from the entry into force of the PTA's decision.⁵ The resulting draft wholesale tariffs would be notified to the Authority in line with the Article 7 consultation process. The Authority, in its "comments" letter⁶, noted *inter alia* the multi-tiered approach chosen by the PTA to set the relevant tariffs and urged the NRA to provide a further elaboration of the individual steps and their underlying principles when notifying the resulting wholesale tariffs. Furthermore, in the absence of the detailed price control methodology, the Authority reserved its right to examine the proposed methodology in further detail when it is actually notified under the Article 7 consultation procedure. The Authority also underlined the PTA's obligation to notify price control-related obligations under the Article 7 procedure.

II.2. Regulatory remedies

With the current draft measure, the PTA intends to endorse changes to Síminn's current reference offer concerning single-billing (wholesale line rental) services. According to the PTA, the amendments shall contribute to an increased take-up of the single-billing service⁷ as an alternative to traditional carrier selection and carrier pre-selection services. More specifically, it is proposed to add an explanation in Síminn's Reference Interconnection Offer ("RIO") of the monthly charge for access to the telephone exchange and of the number of local loops involved in number connections. Furthermore, while the prices for the main single-billing service are not proposed to change under the current draft measure, changes are envisaged in respect of fees for some ancillary services. In this respect, the applicable fee for telephone number storage⁸ would increase from ISK 881 to ISK 991⁹ and the applicable fee for number changes¹⁰ would decrease from ISK 4047 to

⁴ Registered by the Authority under Case No 73636.

⁵ The PTA also informed the Authority that, subsequent to the first-round market review in 2008, three decisions relating to Síminn's wholesale tariffs on the relevant market were issued (PTA Decision Nos 15/2011, 19/2011 and 21/2011).

⁶ See the Authority's comments' letter of 14 June 2013 (Case No 73636, Event No 674115), published at: <https://eea.eftasurv.int/portal/>

⁷ The single-billing service has experienced a very low take-up since its launch in 2010. According to the PTA, in March 2013, only 463 numbers were connected to the service.

⁸ The PTA explains that the telephone number storage is Síminn's offer to keep/store a telephone number (unused) for up to 24 months.

⁹ According to the PTA, the calculation of fees for these ancillary services is based on average time spent by Síminn in implementing these services. In the case of a number change request, the cost per hour is ISK 7430 and the average time spent by Síminn is 8 min which results in a price per number storage request of ISK 991 (i.e., 8/60 x ISK 7430).

ISK 991. In its response to the request for information, the PTA provides some further detail on the underlying fully allocated costing ("FAC") methodology used to calculate the cost of Síminn's fixed network services and how the costs of making changes (change costs) in respect of the telephone number storage and number change services, which form the focus of the present draft measure, are excluded from this broader cost methodology and calculated rather on a time-apportioned basis.

The amendments are envisaged to come into force three months after the PTA's final decision takes effect. As noted in its second round review, the PTA plans to notify its calculation of the other market 1 access prices under the Article 7 procedure in the coming months. The Authority will examine the proposed FAC methodology in further detail in that context.

III. Comments

The Authority has examined the draft measure and has no comments. However, the Authority would like to recall its comments issued under Case No 73636 and in particular the Authority's intention to examine the proposed FAC methodology in further detail once notified.

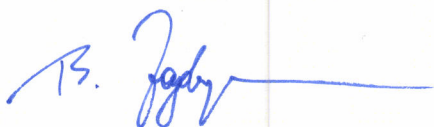
IV. Final remarks

Pursuant to Article 7(5) of the Framework Directive, the PTA may adopt the resulting draft measure and, if it does so, shall communicate the final measure to the Authority.

The Authority's position on the current notification is without prejudice to any position the Authority may take in respect of other notified draft national measures.

Pursuant to point 15 of the Procedural Recommendation, the Authority will publish this comments letter on its eCOM Online Notification Registry. The Authority does not consider the information contained in this letter to be confidential. However, the PTA is invited to inform the Authority within three working days¹¹ following receipt of this letter if it considers, in accordance with EEA and national rules on confidentiality, that this letter contains confidential information which the PTA would like to be deleted prior to publication. The PTA should provide reasons for any such request.

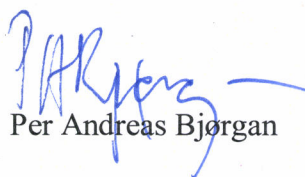
Yours sincerely,



Bernhard Zaglmayer

Acting Director

Internal Market Affairs Directorate



Per Andreas Bjørgan

Director

Competition and State Aid Directorate

¹⁰ The PTA clarifies that a number change occurs when a user changes his telephone number but not the subscription or operator.

¹¹ The request should be submitted through the eCOM Registry or by e-mail to Ecom@eftasurv.int, marked for the attention of the eCOM Task Force.