

Summary notification form

Notification of draft measure according to Article 7 of Directive 2002/21/EC (Framework Directive)

Section 1 – Market Definition

The affected relevant product/service market is the market of wholesale broadband access. This market is listed in the Commission Recommendation of 17 December 2007 on relevant product and service markets (annex, market no. 5).

In the Commission Recommendation of 9 October 2014 on relevant product and service markets, market no. 5 is listed as market no. 3b.

The affected relevant geographic markets cover part of the territory of Poland because part of its territory (151 communal areas) was deregulated.

Section 2 – Designation of undertakings with significant market power

On 22nd October 2019, the President of UKE issued a decision defining a relevant market for wholesale central access provided at a fixed location for mass-market products with the exception of areas which are specified in the annex 1 (1) to the decision.

The President of UKE decided that Orange Polska S.A. (OPL, formerly called Telekomunikacja Polska S.A.) is the operator with SMP on the above-mentioned markets. Consequently, the President of UKE imposed on OPL, whose registered office is in Warsaw, regulatory obligations.

In order to counteract the problems identified on the market, the President of UKE imposed on OPL the following regulatory obligations:

- access obligation – Article 34 (1) and 34 (2) of the Polish Telecommunications Act (Pt),
- non-discrimination obligation – Article 36 of the Pt,
- transparency obligation – Article 37 (1) and 37 (2) of the Pt,
- obligation of accounting separation – Article 38 (1) of the Pt,
- obligation of setting fees for telecommunications access based on the justified costs – Article 39 (1) of the Pt
- temporarily obligation of setting fees for telecommunications access based on the cost incurred – Article 40 (1) of the Pt,
- obligation of publication of the reference offer – Article 42 (1) of the Pt.

Section 3 – Regulatory obligations

On 29th September 2010, the President of UKE issued a decision introducing a new reference offer involving in its scope wholesale regulated services, i.e. call origination, call termination, local loop unbundling and bitstream access (including interconnection services and wholesale line rental), submitted by OPL.

On 5th April 2011, the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010.

On 4th October 2011 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011.

On 3rd March 2014 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011.

On 30th May 2014 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011.

On 2nd June 2014 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011.

On 26th February 2015 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011.

On 5th May 2015 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011.

On 3rd July 2015 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011.

On 2nd November 2015 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011.

On 16th May 2016 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011.

On 4th June 2016 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011.

On 11th August 2016 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011.

On 6th December 2016 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011.

On 25th May 2017 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011.

On 25th September 2018 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011. 5

On 8th October 2018 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011.

On 20th November 2019 the President of UKE issued a decision which changed the reference offer introduced on 29th September 2010 and in view of changes introduced on 5th April 2011.

The Decision of the President of UKE introduces changes in the number of 10 GE interfaces activation limits and related access charges. Presently there will be no limitation in number of activated 10 GE interfaces services and it will be possible to activate infinity number of 100 GE interfaces by any telecommunications entrepreneur at Ethernet access level. The amended Reference Offer is consistent with regulatory obligations imposed upon OPL (described above).

The President of UKE indicates that the ability to provide the above mentioned services was introduced because of justified needs of the telecommunications market, technological developments and to ensure competitiveness in the telecommunication market.

Section 4 – Compliance with international obligations

The Decision of the President of UKE approving amendments to the Reference Offer that provide alternative operators with alternative ways of provisioning bitstream access services does not change the obligations provided for in Article 8(5) of Directive 2002/19/EC (Access Directive).