

Notification of Draft Measures Pursuant to Article 7(3) of the Directive 2002/21/EC

Section 1 - Market Definition

Please state where applicable:

<p>1.1</p>	<p>The affected relevant product/service markets.</p> <p>Is this market mentioned in the Recommendation on relevant markets?</p>	<p>Wholesale call termination on individual public telephone networks provided at a fixed location</p> <p>Yes</p>	<p>section 2.2-2.3</p>
<p>1.2</p>	<p>The affected relevant geographic markets</p>	<p>Networks of the individual undertakings</p>	<p>section 2.4</p>
<p>1.3</p>	<p>A brief summary of the opinion of the national competition authority where provided;</p>	<p>President of the Office of Competition and Consumer Protection (UOKiK) did not take a position in terms of market definition</p>	
<p>1.4</p>	<p>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)</p>	<p>During public consultation 29 comments were received (apart President of UOKiK comments in general are against proposed regulation):</p> <p>ASTA-NET S.A.; AWB-NET Agnieszka Barzdo; Chopin Telewizja Kablowa sp. z o.o.; E-Call Polska sp. z o.o.; E-sbl.net sp. z o.o.; Gotelecom sp. z o.o.; Inea S.A.; Krajowa Izba Gospodarcza Elektroniki i Telekomunikacji; Krajowa Izba Komunikacji Ethernetowej; Lovo S.A.; Multimedia Polska Biznes S.A.; Multimedia Polska S.A.; Naukowa i Akademicka Sieć Komputerowa – Państwowy Instytut Badawczy; NASK S.A.; Netia S.A.; Nette sp. z o.o.; Orange Polska S.A.; Oxylion S.A.; P4 sp. z o.o.; Polska Izba Informatyki i Telekomunikacji;</p>	

		Polska Izba Komunikacji Elektronicznej; Polkomtel sp. z o.o.; Poznańska Spółdzielnia Mieszkaniowa „Winogrady” w Poznaniu; President of UOKiK; Sileman sp. z o.o.; Spółdzielnia Mieszkaniowa w Grudziądzu; Stajlnet Szymon Sowa; T-Mobile Polska S.A.; UPC Polska sp. z o.o.	
1.5	Where the defined 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 Commission's Guidelines on the market analysis and the assessment of significant market power ¹ , and the three main criteria mentioned in recitals 5 to 13 of the Recommendation on relevant markets and Section 2.2 of the accompanying Explanatory Note ² .	Not applicable	

Section 2 - Designation of undertakings with significant market power

Please state where applicable:

2.1	The name(s) of the undertaking(s) designated as having individually or jointly significant market power. Where applicable, the name(s) of the undertaking(s) which is (are) considered to no longer have	See Appendix 1	Section 3
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¹ Commission guidelines on market analysis and the assessment of significant market power under the Community regulatory framework for electronic communications and services, OJ C 165, 11.7.2002, p. 6.

² Explanatory Note accompanying the Commission Recommendation of 17.12.2007 on Relevant Product and Service Markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communication networks and services, C (2007)5406 published at http://ec.europa.eu/information_society/policy/ecomm/doc/implementation_enforcement/article_7/sec_2007_1483_2.pdf

	significant market power		
2.2	The criteria relied upon to designate an undertaking as having significant market power, individually or jointly, or not	Market Share Absence of or low Countervailing Buying Power	section 3.2 section 3.2
2.3	The name of the main undertakings (competitors) present/active in the relevant market.	See Appendix 1	
2.4	The market shares of the undertakings mentioned above and the basis of their calculation (e.g., turnover, number of subscribers)	100 %	

Please provide a brief summary of:

2.5	The opinion of the national competition authority, where provided	The President of UOKiK agreed with the overall approach of the regulation, but suggested that the substantiation of the decisions should explain in more detail why the proposed model is considered as an effective solution for the markets concerned and why it is expected to maintain competition. The President of UOKiK also pointed out that the NRA should explain the reasons for issuing partial decisions.	
2.6	The results of the public consultation to date on the proposed designation(s) as undertaking(s) having significant market power (e.g., total number of comments received, numbers agreeing/disagreeing)	During public consultation 29 comments were received (apart President of UOKiK comments in general are against the proposed regulation): ASTA-NET S.A.; AWB-NET Agnieszka Barzdo; Chopin Telewizja Kablowa sp. z o.o.; E- Call Polska sp. z o.o.; E-sbl.net sp. z o.o.; Gotelecom sp. z o.o.; Inea S.A.; Krajowa Izba Gospodarcza Elektroniki i Telekomunikacji; Krajowa Izba Komunikacji Ethernetowej; Lovo S.A.; Multimedia Polska Biznes S.A.; Multimedia Polska S.A.; Naukowa i Akademicka Sieć Komputerowa – Państwowy Instytut Badawczy;	

		NASK S.A.; Netia S.A.; Nette sp. z o.o.; Orange Polska S.A.; Oxyllion S.A.; P4 sp. z o.o.; Polska Izba Informatyki i Telekomunikacji; Polska Izba Komunikacji Elektronicznej; Polkomtel sp. z o.o.; Poznańska Spółdzielnia Mieszkaniowa „Winogrady” w Poznaniu; President of UOKiK; Sileman sp. z o.o.; Spółdzielnia Mieszkaniowa w Grudziądzu; Stajlnet Szymon Sowa; T-Mobile Polska S.A.; UPC Polska sp. z o.o.	
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Section 3 - Regulatory Obligations

Please state where applicable:

3.1	The legal basis for the obligations to be imposed, maintained, amended or withdrawn (Articles 9 to 13 of Directive 2002/19/EC (Access Directive))	<p>The following obligations are proposed on the relevant market:</p> <ul style="list-style-type: none"> ▪ An obligation to provide network access – art. 12 of Access Directive (art. 34 of PTL) ▪ An obligation of non discrimination – art. 10 of Access Directive (art. 36 of PTL) ▪ An obligation of transparency (excluding Orange Polska S.A.) - art. 9 of Access Directive (art. 37 of the PTL) ▪ An obligation of accounting separation (only for Orange Polska S.A.) – art. 11 of Access Directive (art. 38 of the PTL) ▪ An obligation of cost calculation art. 13 of Access Directive (only for Orange Polska S.A.) - art. 40 of the PTL 	Section 4
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		<ul style="list-style-type: none"> ▪ An obligation of BU-LRIC termination rate (without setting exact rate) – art. 8 Access Directive - art. 44 of the PTL ▪ An obligation to prepare a draft reference offer (only for Orange Polska S.A.) - art. 9 of Access Directive - art. 42 of the PTL 	
3.2	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). Alternatively, indicate the paragraphs, sections or pages of the draft measure where such information is to be found	The relevant information can be found in section 4 of the decision. The proposed obligations are adequate and proportional to the identified problems. The purpose of these obligations is to prevent the undertakings from abusing their market power and to ensure effective market competition, as well as to maximize benefits for end-users.	
3.3	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 are the ‘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	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	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)	Not applicable	
4.2	The name(s) of the undertaking(s)	Not applicable	

	concerned		
4.3	What international commitments entered into by the Community and the Member States are to be met	Not applicable	