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 markets are the market of call origination on the public telephone network provided at a fixed location and the market of call termination on the public telephone network provided at a fixed location. These markets were listed in the Commission Recommendation of 17 December 2007 on relevant product and service markets (annex, market no. 2 and market no. 3). In the Commission Recommendation of 9 October 2014 on relevant product and service markets, market no. 3 is listed as market no.1 and the market no. 2 is not mentioned.

The affected relevant geographic markets are the national territory of Poland.

Section 2 – Designation of undertakings with significant market power

On 22nd September 2009, the President of the Office of Electronic Communications (President of UKE) issued a decision defining a relevant market for national wholesale call termination on the public telephone network provided at a fixed location of Telekomunikacja Polska S.A. (TP SA). The President of UKE decided that TP SA is the operator with SMP on the above-mentioned market. Consequently, the President of UKE imposed on TP SA, whose registered office is in Warsaw, regulatory obligations.

On 5th August 2011, the President of UKE issued a decision defining a relevant market for national wholesale call origination on the public telephone network provided at a fixed location. The President of UKE decided that Telekomunikacja Polska S.A. (TP SA) is the operator with SMP on the above-mentioned market. Consequently, the President of UKE imposed on TP SA, whose registered office is in Warsaw, regulatory obligations.

In order to counteract problems indentified on the market, the President of UKE, on market 2 and market 3, 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 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 26th 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 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 18th 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 7th 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 12th August 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 21st December 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.

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. The above mentioned decision approved amendments to the Reference Offer that orders OPL not to charge alternative operators for number portability service.

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 abovementioned services was introduced because of justified needs of the telecommunications market, consumers needs and to ensure competitiveness in the telecommunications market.

The Decision of the President of UKE currently presented for notification maintains the decision from 8th of October 2018 (presented for notification in August 2018 and accepted by the European Commission without any comments).

Section 4 – Compliance with international obligations

The Decision of the President of UKE approving amendments to the Reference Offer that withdraws wholesale fee for number portability service paid by alternative operators does not change the obligations provided for in Article 8(5) of Directive 2002/19/EC (Access Directive).