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 call origination on the public telephone network provided at a fixed location. This market was listed in the Commission Recommendation of 17 December 2007 on relevant product and service markets (annex, market 2). Market 2 is not mentioned in the Commission Recommendation of 9 October 2014 on relevant product and service markets.

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

Section 2 – Designation of undertakings with significant market power

On 5th August 2011, the President of the Office of Electronic Communications (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, currently Orange Polska S.A. - OPL) is the operator with SMP on the above-mentioned market. Consequently, the President of UKE imposed regulatory obligations on TP SA, whose registered office is in Warsaw.

In order to counteract the problems identified on the market, the President of UKE imposed the following regulatory obligations on OPL on market 2:

- 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,
- temporary obligation of setting fees for telecommunications access based on the cost inccurred – Article 40 (1) of the Pt,
- obligation of publication of the reference offer – Article 42 (1) of the Pt.

On 26th September 2018, the President of UKE issued a decision in which the market for call origination on the public telephone network provided at a fixed location was found effectively competitive. In the decision, a two-year transitional period has been established with an expiration date of the imposed obligation (on 5th August 2011).

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. The above mentioned decision

approved amendments to the Reference Offer that changes a monthly fee for Wholesale Line Rental Service (WLR). 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 changes in the wholesale fee was introduced because of justified needs of the telecommunications market, technological developments and to ensure competitiveness in the telecommunications market.

The Decision of the President of UKE currently presented for notification maintains the decision from 25th of September 2018 (presented for notification in September 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 changes the wholesale fee for WLR paid by alternative operators does not change the obligations provided for in Article 8(5) of Directive 2002/19/EC (Access Directive).