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**SG-Greffe (2012) D/6754**

Estonian Competition Authority  
(ECA)

Auna 6  
10317 Tallinn  
Estonia

For the attention of:  
Mr Märt Ots  
Director General

Fax: +372 667 2401

Dear Mr Ots,

**Subject: Commission decision concerning Case EE/2012/1305: Voice call termination on individual mobile networks**

**Opening of Phase II investigation pursuant to Article 7a of Directive 2002/21/EC as amended by Directive 2009/140/EC**

## **I. PROCEDURE**

On 15 March 2012, the Commission registered a notification from the Estonian national regulatory authority, the Estonian Competition Authority (ECA)<sup>1</sup>, concerning the third review of the markets for voice call termination on individual mobile networks in Estonia<sup>2</sup>.

The national consultation<sup>3</sup> ran from 24 January 2012 to 27 February 2012.

On 26 March 2012, a request for information (RFI)<sup>4</sup> was sent to ECA and a response was

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<sup>1</sup> In accordance with Article 7 of 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 (Framework Directive), OJ L 108, 24.4.2002, p. 33, as amended by Directive 2009/140/EC, OJ L 337, 18.12.2009, p. 37, and Regulation (EC) No 544/2009, OJ L 167, 29.6.2009, p. 12.

<sup>2</sup> Corresponding to market 7 in Commission Recommendation 2007/879/EC of 17 December 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 communications networks and services, OJ L 344, 28.12.2007, p. 65.

<sup>3</sup> In accordance with Article 6 of the Framework Directive.

received on 29 March 2012.

Pursuant to Article 7a(1) of the Framework Directive, the Commission may notify the national regulatory authority (NRA) and the Body of European Regulators for Electronic Communications (BEREC) of its reasons that the draft measure would create a barrier to the internal market or its serious doubts as to its compatibility with EU law.

## **II. DESCRIPTION OF THE DRAFT MEASURE**

### **II.1. Background**

The market for voice call termination on individual mobile networks in Estonia was previously notified to and assessed by the Commission under case EE/2009/0883<sup>5</sup>. In its second review, ECA included in the relevant market all calls terminated on the respective networks of EMT, Elisa, Tele2 and ProGroup Holding, irrespective of the technology used. These undertakings were also designated as having significant market power (SMP) in the market for voice call termination on their respective mobile networks and ECA imposed on them the obligations of access, non-discrimination, transparency and price control. As regards the price control, ECA proposed to reduce mobile termination rates (MTRs) by using a benchmark based on the average rate in the ERG (now BEREC) countries together with a +/-10% cap. The Commission invited ECA: (i) to implement a benchmarking methodology that would result in a steeper reduction of MTRs, (ii) to review its analysis as soon as the Recommendation on fixed and mobile termination rates in the EU (the Termination Rates Recommendation)<sup>6</sup> becomes applicable and (iii) to notify any future amendments of MTRs.

### **II.2. Market definition**

ECA defines a separate market for call termination in the mobile telephone network of each mobile operator (EMT, Elisa, Tele2 and ProGroup Holding), which comprises call transmission from an interconnection point to the end-point of a mobile telephone network, as well as other products and services necessary for the operation of this kind of call traffic.

ECA does not define a separate mobile termination market for mobile virtual network operators (MVNOs) Top Connect and World Mobile, as they are not in a position to terminate mobile calls independently from the host operator, and should be regarded as enhanced service providers.

The relevant geographic markets coincide with the geographic coverage of each network.

### **II.3. Finding of significant market power**

On the basis of its market analysis ECA proposes to designate EMT, Elisa, Tele2 and ProGroup Holding as having SMP in the markets for voice call termination on their respective mobile networks due to the following criteria: each of the operators has a 100% market share, potential effective competition is excluded, absence of or low countervailing buying power, and the existence of high barriers to entry.

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<sup>4</sup> In accordance with Article 5(2) of the Framework Directive.

<sup>5</sup> SG-Greffe(2009)D/1500.

<sup>6</sup> Commission Recommendation of 7 May 2009 on the regulatory treatment of fixed and mobile termination rates in the EU, OJ L 124, 20.05.2009, p. 67.

## II.4. Regulatory remedies

In its current draft measure, ECA proposes to maintain the following obligations on SMP operators: access, non-discrimination, transparency and price control.

As regards the price control remedy, ECA maintains benchmarking as the most reasonable and practical solution for setting termination prices. ECA explains that, having in mind the current economic situation, developing a bottom-up long run incremental cost (BU-LRIC) model would be burdensome and expensive for both the NRA and the undertakings, and would require additional time and human resources. Moreover, in ECA's view the implementation of the BU-LRIC model gives roughly the same results as the benchmarking methodology.

However, ECA proposes to abandon the maximum fluctuation limit of +/-10%<sup>7</sup>, as this would not be in line with Recommend 12 of the Termination Rates Recommendation. In its current notification which sets out the methodology to be applied until 30 June 2015, ECA proposes that the termination rates of EMT, ELISA, TELE2 and ProGroup Holding should not exceed the average MTR calculated according to the methodology stipulated in the Termination Rates Recommendation and implemented by NRAs of European countries. The average MTR levels will be calculated by ECA once a year. They will be based on the most up-to-date termination rates of countries that use the BU-LRIC current cost accounting (CCA) model, which are published by BEREC.

More specifically, ECA now proposes MTR levels for periods 1 July 2012 to 31 December 2012 and 1 January 2013 to 30 June 2013<sup>8</sup>, clarifying that MTRs for periods 1 July 2013 to 30 June 2014 and 1 July 2014 to 30 June 2015 will be published on its website not earlier than three months but not later than two months before the beginning of the relevant period. In its reply to the RFI, ECA further explained that it plans to adopt these MTRs by way of interim decisions, which will not be consulted at national or EU level, but will be communicated to the Commission, BEREC and the other NRAs. ECA also confirmed that these interim decisions can be challenged in court.

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<sup>7</sup> In its past decision, ECA set the termination rates in Estonia on basis of the average MTR in European countries covered by the ERG (now BEREC) MTR Snapshot, however, limiting each increase or decrease in the rate up to 10% per year.

<sup>8</sup> In its reply to the RFI, ECA provided a list of countries and their respective MTRs used for calculating the price level of 3.89 €ct/min which is to be applied in the first half of 2013:

Country	Model	Average MTR (€/min)
Belgium	Pure BU LRIC	0.0430
Denmark	BU LRAIC +	0.0443
France	Pure BU LRIC	0.0200
Greece	BU LRAIC +	0.0495
Hungary	Pure BU LRIC	0.0445
Lithuania	BU LRAIC +	0.0314
Former Yugoslav Republic of Macedonia	BU LRAIC +	0.0619
Netherlands	Pure BU LRIC	0.0420
Romania	BU LRAIC +	0.0506
Slovenia	BU LRAIC +	0.0422
Sweden	BU LRAIC +	0.0230
Turkey	BU LRAIC +	0.0145
<b>AVERAGE</b>		<b>0.0389</b>

<b>Period</b>	1 July 2012 - 31 December 2012	1 January 2013 - 30 June 2013	1 July 2013 - 30 June 2014	1 July 2014 - 30 June 2015
<b>Maximum MTR</b>	5.45 €/min	3.89 €/min	MTRs will be published on ECA's website in April 2013	MTRs will be published on ECA's website in April 2014

When calculating the termination rate for the first half of 2013, ECA did not rely exclusively on pure BU-LRIC MTRs, explaining that the BEREC MTR Snapshot includes only four such MTRs (Belgium, France, Hungary and the Netherlands). This approach would, in ECA's opinion, unduly narrow the base used for calculating the average MTR levels to be applied in Estonia. However, ECA stated that it will base its future price caps only on pure BU-LRIC MTRs of BEREC countries. Moreover, the notified price levels are based on already implemented MTRs of relevant countries, as ECA does not support using a mix of enforced and forward looking MTRs in order to insure clarity and legal certainty.

### **III. ASSESSMENT**

The Commission has examined the notification and the additional information provided by ECA and has the following comment:

#### **Need for transparency in the notification of remedies**

In its current notification, ECA proposes to set MTRs for periods 1 July 2013 to 30 June 2014 and 1 July 2014 to 30 June 2015 at a later stage. These MTRs are to be published on ECA's website not earlier than three months but not later than two months before the beginning of the relevant period. In its reply to the RFI, ECA clarifies that it plans to adopt these MTRs by way of so-called interim decisions, which will not be consulted at national or EU level, but will be communicated to the Commission, BEREC and the other NRAs.

As setting of price caps has a significant impact on the mobile termination market, interested parties should get an opportunity to comment on the draft measure, therefore Article 6 of the Framework Directive obliges ECA to first carry out a national consultation.

Moreover, the Commission has on numerous occasions<sup>9</sup> expressed its view that cost oriented price caps, glide paths or interconnection rates constitute regulatory obligations referred to in Article 16 of the Framework Directive and have an effect on trade between Member States. Therefore, the decisions in which ECA will set the MTRs as of 1 July 2013 are required to be notified under Article 7(3) in conjunction with Recital 15 of the Framework Directive. In this regard it should be recalled that also under the Recommendation 2008/850/EC,<sup>10</sup> price levels and amendments to the methodologies used to calculate costs or prices are considered to be material changes to the nature or scope of a remedy that have an appreciable impact on the market and should therefore be notified through the standard notification procedure.

<sup>9</sup> See for example cases PL/2009/1021; DE/2008/0888; IE/2005/0216; DE/2008/0813; UK/2008/0854; PL/2009/0904, LT/2009/0990.

<sup>10</sup> See recital 14 of the Commission Recommendation 2008/850/EC of 15 October 2008 on notifications, time limits and consultations provided for in Article 7 of Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services (Recommendation 2008/850/EC), OJ L 301, 12.11.2008, p. 23.

The Commission points out that ECA's decisions cannot be exempted from national consultation and the Article 7 consultation mechanism on the basis of Article 7(9) of the Framework Directive, since in the present case ECA made no reference to exceptional circumstances. At this stage, ECA is able to plan in advance when the relevant market analysis needs to be performed and the draft decision consulted at both national and EU level in order to be implemented in due time. In any event, circumstances cannot be considered exceptional if they arise systematically every year when a new calculation of MTRs is to be performed.

Therefore, the Commission regrets that ECA does not intend to notify to the Commission its future measures in which it will set the mobile termination rates in line with the provisions of the Regulatory Framework, and urges ECA to notify these measures in accordance with Article 7(3) of the Framework Directive. In the absence of such a consultation, the Commission might consider using its powers in accordance with Article 258 TFEU with regard to the misapplication of Article 7(3) of the Framework Directive.

Furthermore, following the examination of the notification and the additional information provided by ECA, the Commission considers that ECA's draft measures concerning the wholesale market for voice call termination on individual mobile networks in Estonia fall within Article 7a(1) of the Framework Directive.

Draft measures imposing regulatory obligations on undertakings with SMP in Estonia may have an influence, direct or indirect, actual or potential, on the ability of undertakings established in other Member States to offer electronic communication services. ECA's notification comprises measures that have a significant impact on operators or users in other Member States, inter alia measures which affect prices for users. Consequently, such draft measure may affect the patterns of trade between Member States<sup>11</sup>.

The Commission has serious doubts as to the compatibility with EU law of ECA's draft decision in its current form, in particular with the requirements referred to in Article 8(4) and 13(2) of the Access Directive in conjunction with Article 8 and Article 16(4) of the Framework Directive. Furthermore, the Commission considers, at this stage, that the draft measures may create barriers to the internal market.

The Commission considers that the notified draft measures fall under the Commission's powers of ensuring consistent application of remedies as set out in Article 7a of the Framework Directive, as the notified measures aim at imposing an obligation on an operator in conjunction with Articles 9 to 13 of the Access Directive.<sup>12</sup>

The Commission expresses serious doubts in this regard for the following principal reasons:

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<sup>11</sup> See Recital 38 of the Framework Directive.

<sup>12</sup> Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities, OJ L 108, 24.04.2002, p.7, as amended by Directive 2009/140/EC, OJ L 337, 18.12.2009, p.37.

## **Need for an appropriate price control ensuring that customers derive maximum benefits in terms of efficient cost-based termination rates**

*Compliance with Articles 8(4) and 13(2) of the Access Directive in conjunction with Article 8 of the Framework Directive and Article 16(4) of the Framework Directive*

The Commission agrees with ECA that the identified risk of excessive pricing needs to be addressed with a price control remedy in the mobile termination markets. The Commission further welcomes ECA's commitment to set regulated mobile termination rates at a cost efficient level, in line with Recommend 12 of the Termination Rates Recommendation.

The Commission refers to Articles 8(4) and 13(2) of the Access Directive<sup>13</sup>, which require the NRAs (i) to impose remedies, which are based on the nature of the problem identified, proportionate and justified in the light of the objectives laid down in Article 8 of the Framework Directive and (ii) in relation to the imposition of price controls to ensure that the chosen cost recovery mechanism serves to promote efficiency and sustainable competition and maximises consumer benefits. Moreover, the Commission refers to Article 16(4) of the Framework Directive which requires NRAs to impose on SMP undertakings appropriate regulatory obligations.

In addition, the Commission underlines that pursuant to Article 8(3) of the Framework Directive NRAs shall contribute to the development of the internal market by cooperating with each other, with the Commission and BEREC in a transparent manner to ensure not only the development of a consistent regulatory practice but also consistent application of the Framework Directive and the Specific Directives (together, the Regulatory Framework).

Moreover, the Commission observes that mobile termination rates set at an efficient level contribute to a level playing field among operators by eliminating competitive distortions between fixed and mobile networks in the provision of fixed-to-mobile and mobile calls, respectively, and between operators with asymmetric market shares in the provision of their on/off-net offers.

Indeed, Article 13(2) of the Access Directive states that NRAs shall ensure that any cost recovery mechanism or pricing methodology serves to promote efficiency and sustainable competition and maximise consumer benefit. As a result of the above considerations, the Commission has adopted the Termination Rates Recommendation, which lays out a consistent approach that the NRAs should follow regarding price control obligations for fixed and mobile termination rates<sup>14</sup>. The Commission considers that, given the characteristics of the wholesale mobile termination market, and the associated competitive and distributional concerns<sup>15</sup>, a cost orientation remedy based on pure BU-LRIC

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<sup>13</sup> Directive 2002/19/EC of the European parliament and the Council of 7 March 2002 on access to, and interconnection, of electronic communications networks and associated facilities, OJ L 108, 24.4.2002, p. 7 (the Access Directive).

<sup>14</sup> In accordance with Article 19 of the Framework Directive, the Commission may issue recommendations on the harmonised application of the Regulatory Framework in order to further the achievement of the objectives set out in Article 8 of the Framework Directive.

<sup>15</sup> The accompanying Explanatory Note of the Commission Staff Working paper (SEC(2009) 600, 7.5.2009) sets out that due to the particular nature of the termination markets characterised on one hand by "two-way" interconnection and on the other hand by monopolies in each relevant market, which create the incentives of terminating operators to raise prices substantially above cost, cost-

methodology and symmetrical termination rates would best promote competition by, among other things, ensuring that that all users derive maximum benefit in terms of choice, price and quality, in line with Article 8(2) of the Framework Directive.

The Commission recommended to NRAs to ensure that termination rates are implemented at a cost efficient, symmetric level as of 31 December 2012. While the Commission recognises that the NRAs have a certain margin of discretion, it is also underlined that any alternative approach chosen by the NRA has to be duly justified, and should serve to promote efficiency and sustainable competition and maximise consumer benefits. In particular, such approach would have to take into account characteristics of the specific markets to be regulated and be appropriate in light of the policy objectives and regulatory principles enshrined in Article 8 of the Framework Directive.

In exceptional circumstances, such as where an NRA is not in a position, particularly due to limited resources, to develop a pure BU-LRIC cost model, the NRA may decide to use an alternative approach, like benchmarking. However, any outcome resulting from this alternative methodology should not derive in the application of MTRs above the cost efficient level.<sup>16</sup> In this particular case, the Commission has serious doubts as to whether ECA's proposed benchmarking methodology for setting mobile termination rates complies with the principles and objectives set out in the Regulatory Framework. First of all, the Commission believes that ECA's proposed benchmarking methodology does not set the termination rates at a cost efficient level for at least the period 1 January 2013 to 1 July 2013. As for the period starting mid 2013, ECA has not yet set the relevant termination rates nor has it notified all the relevant details of the benchmarking methodology that will be used to set the termination rates. However, the Commission, on the basis of the information available, seriously doubts that this methodology will be in line with the Regulatory Framework and result in cost efficient rates, mainly since ECA has already expressed its reluctance to use forward looking MTRs. Secondly, ECA has not provided any explanation as to why the chosen benchmarking approach would comply with the above described policy objectives and principles.

#### Inappropriate benchmarking methodology and non-imposition of cost efficient termination rates

In its notification, ECA explains that it has chosen the benchmarking methodology to set termination rates for mobile operators, in line with Recommend 12 of the Termination Rates Recommendation, as developing a BU-LRIC model would be too costly and would require additional human resources. However, the Commission has serious doubts that the proposed rates are indeed cost efficient.

At least for the first half of 2013, it does not seem that the proposed benchmarking methodology ensures the application of cost efficient rates,

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orientation obligations based on a BU-LRIC methodology are the most appropriate intervention to address productive- and allocative-efficiency concerns as well as maximising consumer welfare. As a result, in order to ensure compliance with the requirements of the regulatory framework, in particular Article 13(2) of the Access Directive, i.e. the requirements to promote efficiency and sustainable competition as well as to maximise consumer benefits, NRAs shall apply a BU-LRIC cost model when setting termination rates.

<sup>16</sup> Recommend 11 and 12 of the Termination Rates Recommendation.

because ECA uses a broader sample of European countries (EU and non-EU), some of which are using BU-LRIC plus, some of which pure BU-LRIC. Further to that, rates used for benchmarking purposes are historic rates and do not represent the cost efficient target rates at the end of the respective glide paths. Consequently, the calculated MTR to be applied in the first half of 2013 will be set above the average of MTRs which will be applied in Member States implementing the pure BU-LRIC model<sup>17</sup>.

As for periods following the first half of 2013, the Commission also has serious doubts whether ECA will be able to attain the objectives set out in the Regulatory Framework. On the basis of the current notification, it is highly uncertain how the benchmarking will be performed and whether the methodology applied to set the termination rates will indeed lead to cost-efficient rates being in place in Estonia as of 1 July 2013. Although the Commission welcomes ECA's commitment to benchmark only against pure BU-LRIC countries, ECA's reluctance to use forward looking MTRs will lead to a deviation from cost efficient rates. Therefore, the Commission is not only concerned that ECA's proposal would lead to a six months delay in the implementation of the cost efficient rate, but it has serious doubts whether the cost efficient rate will be imposed even on 1 July 2013.

In detail, based on the information available, the Commission considers that the chosen benchmarking methodology does not ensure compliance with the principles and objectives of the Regulatory Framework for the following reasons<sup>18</sup>:

*a) Benchmarks include MTRs of non EU-countries*

The Commission finds it inappropriate to benchmark against non EU-countries since they are not subject to the Regulatory Framework. The price control remedies applied in non-EU mobile termination markets might not pursue the same goals as the Regulatory Framework, namely promoting efficiency, competition and maximising consumer benefits.

*b) Benchmarks include BU-LRIC plus MTRs*

As explained above, in certain exceptional circumstances, the NRAs may use alternative methodologies in order to come to a cost efficient rate without having

<sup>17</sup> The following countries have, so far, notified a pure LRIC cost model to set MTRs:

Country	Target Rate (€ct/min)	Deadline
NL*	1.2	01/09/2012
BE	1.08	01/01/2013
FR	0.8	01/01/2013
IT	0.98	01/07/2013
ES**	1.09	01/07/2013
UK***	0.81	01/04/2014

\* A national court required OPTA to set MTRs according to a different cost model, resulting in a target rate of 2.4 €ct/min.

\*\* As proposed in the draft measure notified.

\*\*\* UK's Competition Commission, with decision of 9 February 2012, endorsed Ofcom's use of a BU-LRIC cost model but asked Ofcom to shorten the glide-path by one year (with a new target date of 1/04/2013).

<sup>18</sup> See also Commission comments in cases SK/2009/0955, IE/2008/0746, IT/2008/0779.



to develop a costly and time-consuming pure BU-LRIC model. Therefore, if the alternative methodology chosen is benchmarking, it should be performed by taking into account average MTRs of those Member States which have implemented the most efficient cost methodology as of 1 January 2013, which is pure BU-LRIC and not BU-LRIC plus<sup>19</sup>. Such an approach has also been recently endorsed by BEREC<sup>20</sup>.

*c) Use of historical instead of forward-looking pure BU-LRIC MTRs*

ECA relied on termination rates which were in place on 1 July 2011 and therefore do not represent the target, pure BU-LRIC rate, but a step in the glide path towards it. The Commission believes that calculations of price limits that are to be applied in the future should be based on forward-looking termination rates which will be applied in the relevant Member States in the same period. This approach probably requires a more thorough analysis of the finally adopted measures in the Member States concerned, and the Commission is aware of this. However, ECA can easily overcome this issue within BEREC. As of July 2011, BEREC introduced a new section in its MTR Benchmark Internal Report, which is devoted to the analysis of the future evolution of MTRs.

Lack of explanation for the chosen approach

As explained above, NRAs have a certain margin of discretion when choosing the most appropriate methodology for calculating termination rates. However, ECA's notification does not provide any explanation as to how the chosen approach would serve to promote efficiency, enhance competition and maximise consumer benefits. There has been no reference to specific circumstances in Estonian mobile termination markets that would warrant an approach that differs from the benchmarking methodology as described in Recommend 12 of the Termination Rates Recommendation. Therefore, based on the information available, the Commission seriously doubts that the proposed measures would allow achieving the regulatory objectives of Article 8 of the Framework Directive nor that they would be in compliance with Article 13(2) of the Access Directive.

*Creation of barriers to the internal market*

The Commission further notes that for the period termination rates are set above the efficient level, terminating operators in Estonia will be able, on the basis of the calling party pays principle, to benefit from this rate at the expense of operators, and ultimately consumers, in those Member States from which the call originates and which do apply fully cost-oriented MTRs in line with Article 8(2) of the Framework Directive and Articles 8(4) and 13(2) of the Access Directive.

Any such considerable asymmetries in mobile termination rates within the EU not only distort and restrict competition but have a significant detrimental effect on the development of the internal market, i.e. create a considerable barrier to the single market, and, therefore, result in a violation of the principles and objectives of Article 8(2) and (3) of the Framework Directive. A harmonised approach in setting mobile termination rates is particularly important to ensure that regulators do not favour their national operators at the expense of operators in other Member States by deliberately delaying the introduction of fully cost-oriented mobile

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<sup>19</sup> BU-LRIC plus method includes not only the avoidable costs of termination but also a contribution to the costs that are common to termination and other services.

<sup>20</sup> See BEREC's opinion in Phase II investigation in cases NL/2012/1284 and NL/2012/1285 on fixed and mobile termination markets in the Netherlands.

termination rates.

### *Conclusion*

In this particular case, the Commission observes that the termination rate for the first half of 2013 is set above the cost efficient level, and it is highly unlikely that this level will be achieved as of mid 2013. ECA's notification does not explain whether the proposed approach would allow achieving the regulatory objectives of Article 8 of the Framework Directive nor that it would promote the goals described in Article 13(2) of the Access Directive. Hence, the Commission has serious doubts that ECA's proposal can be considered appropriate within the meaning of Article 16(4) of the Framework Directive and justified in light of the objectives laid down in Article 8 of the Framework Directive, and, in particular, the objectives of promoting efficiency, competition and maximum user benefits pursuant to Article 8(2) of the Framework Directive and Article 13(2) of the Access Directive. The Commission also believes, at this stage, that the draft measure would create barriers to the internal market.

The above assessment reflects the Commission's preliminary position on this particular notification, and is without prejudice to any position it may take vis-à-vis other notified draft measures.

The Commission points out that, in accordance with Article 7a of the Framework Directive, the draft measure regarding the wholesale markets for voice call termination on individual mobile networks in Estonia shall not be adopted for a further three months.

Pursuant to Recital 17 of Recommendation 2008/850/EC<sup>21</sup>, the Commission will publish this document on its website, together with a notice inviting third parties to submit observations on this serious doubts letter within ten working days. The Commission does not consider the information contained herein to be confidential. You are invited to inform the Commission<sup>22</sup> within three working days following receipt whether you consider that, in accordance with European Union and national rules on business confidentiality, this document contains confidential information which you wish to have deleted prior to such publication. You should give reasons for such request.

Yours sincerely,  
For the Commission,  
Neelie Kroes  
Vice-President of the Commission

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<sup>21</sup> Commission Recommendation 2008/850/EC of 15 October 2008 on notifications, time limits and consultations provided for in Article 7 of Directive 2002/21/EC, OJ L 301, 12.11.2008, p. 23.

<sup>22</sup> Your request should be sent either by email: [INFSO-COMP-ARTICLE7@ec.europa.eu](mailto:INFSO-COMP-ARTICLE7@ec.europa.eu) or by fax: +32.2.298.87.82.