



Post- og teletilsynet
Norwegian Post and Telecommunications Authority

Draft decision for designating an undertaking
with significant market power and imposing
specific obligations in the market for voice call
termination on Lycamobile Norway Ltd's
mobile network (market 7)

13 May 2011

Case: 0906783

Contents

Summary	3
1 Introduction	4
1.1 Regulatory basis for regulation and selection of remedies	5
1.2 The structure of the document	7
2 Designating a provider with significant market power	7
3 Competition problems	7
3.1 General – competition problems	7
3.2 Denial to interconnect	8
3.3 Excessive pricing	8
3.4 Cross-subsidisation	9
3.5 Price discrimination	10
3.6 Non-price discrimination	10
4 General – choice of remedies	10
4.1 Feasibility of duplication of infrastructure in the markets for voice call termination on mobile networks	10
4.2 General remarks on proportionality	11
5 Explanation of the choice of specific obligations	11
5.1 Interconnection obligations	11
5.2 Non-discrimination	13
5.3 Publication	14
5.4 Price controls	16
5.4.1 Background for price controls	16
5.4.2 Price controls for Lyca	18
5.4.3 Approval of prices and inflation adjustment	19
5.4.4 Interconnection charges	19
5.4.5 Further details of assumed consequences of price controls	20
5.5 Assessment of proportionality of the specific obligations	20
6 Imposing specific obligations	21
6.1 Interconnection	21
6.2 Publication	21
6.3 Price controls	22
7 Date of implementation of decision	23

Annex

1. Analysis of the market for voice call termination on Lycamobile Norway Ltd's mobile network.
2. Result of the consultation on NPT's notification of decisions.

Summary

Based on the analysis of the market for voice call termination on Lycamobile Norway Ltd's (Lyca) mobile network, the Norwegian Post and Telecommunications Authority (NPT) designates Lyca as an undertaking with significant market power in the market for voice call termination on its own mobile network, under the provisions of Section 3-3 of the Electronic Communications Act.

NPT has identified a number of competition problems in the market for voice call termination on Lyca's mobile network. The competition problems are largely due to the existence of absolute entry barriers in the relevant market.

It is not currently possible to offer competing products in other providers' termination markets, nor is it likely that this will happen within a reasonable time horizon. Thus, Lyca has a monopoly on termination on its own mobile network. Combined with the calling party pays (CPP) principle, absolute entry barriers mean that Lyca has little incentive to set efficient prices for voice call termination on its own mobile network.

Based on the above, the Authority regulates the market for voice call termination on Lyca's mobile network in accordance with principle 2 in NPT's remedies document. This means that the consumers' interests will be protected since duplication of infrastructure will not be able to remedy the relevant competition problems.

NPT has assessed the suitability and proportionality of the remedies that are available, and has concluded that an obligation should be imposed on Lyca to meet all reasonable requests for interconnection in the form of termination on Lyca's mobile network. Lyca is further directed to publish the company's termination charges. Since Lyca is a relatively small provider of voice call termination, NPT does not consider it necessary or proportionate to impose a non-discrimination requirement on the company.

One of the goals of NPT's regulation of the mobile termination charges is for all operators to have efficient and symmetric termination charges, cf. ESA's recommendation on regulating termination prices in the fixed and mobile networks. NPT has carried out an assessment, and found no basis for permitting Lyca to demand a higher termination charge as a new operator in the Norwegian market. Furthermore, the Authority found no discrepancy between Lyca's costs for the production of termination and the results from NPT's LRIC modelling for MNOs and MVNOs. The modelling shows that MVNOs in Norway do not have cost disadvantages that justify setting a higher termination charge than other providers of termination. Thus, NPT has not identified cost differences than can justify an asymmetric regulation of Lyca's termination charges.

In view of this, price controls are to be imposed on Lyca as specified in table 1 below.

	1 July 2011 – 31 December 2011	1 January 2012 - 30 June 2012	1 July 2012 – 31 December 2012	1 January 2013 – 31 December 2013
Lyca	0.30	0.30	0.20	0.15

Table 1: Maximum price per minute for voice call termination on Lyca's mobile network in the period 1 July 2011 to 31 December 2013. All prices are quoted in NOK (excl. VAT).

1 Introduction

1. This document contains the draft decision on the designating of Lycamobile Norway Ltd (Lyca) as an undertaking with significant market power in its own termination market, and on imposing specific obligations.
2. In Section 3-2 of Act no. 83 of 4 July 2003 on electronic communications (Electronic Communications Act) requires the Norwegian Post and Telecommunications Authority (NPT) to define relevant product and service markets and geographic markets in accordance with the EFTA Surveillance Authority's (ESA) recommendation on relevant markets (the Recommendation).¹ The Authority shall analyse the markets and identify any providers with significant market power. If a provider is designated as having significant market power, at least one of the specific obligations in Chapter 4 of the Electronic Communications Act shall be imposed on the provider. Specific obligations shall be imposed following a specific assessment of potential competition problems in the relevant market and the relevant provider's position in this market.
3. On 27 September 2010, NPT issued a decision in the markets for voice call termination on individual public mobile communication networks. The markets are referred to in the decision as the markets for voice call termination on individual mobile networks (market 7). NetCom AS (NetCom),² Network Norway AS (Network Norway), TDC AS (TDC), Tele2 Norge AS (Tele2), Telenor ASA (Telenor) and Ventelo AS (Ventelo) were designated in the decision as undertakings with significant market power and specific obligations were imposed on these companies.
4. Lyca entered into an MVNO agreement with NetCom at the end of 2009 and agreements on direct interconnection with Telenor and NetCom in spring 2010. Lyca introduced its offer of mobile services in the retail market in 2010, thus making the company a provider of voice call termination on the mobile network.
5. NPT has analysed the market for voice call termination on Lyca's mobile network (see annex 1). In the analysis, NPT concludes that Lyca has significant market power in its own termination market. On 2 March 2011, NPT circulated a notification of decisions regarding the designation of providers with significant market power and imposition of specific obligations for national consultation.
6. NPT received responses to the consultation from the Norwegian Competition Authority and Lyca. The contributions are published on the Authority's website. On the basis of the responses to the consultation (cf. annex 2), NPT has made minor changes to the draft decision that is now being submitted for notification to the EFTA Surveillance Authority (ESA), cf. article 7 of the Framework Directive³ and article 7⁴ of ESA's Recommendation.
7. The decision has a time horizon of approximately two years.

¹ EFTA Surveillance Authority Recommendation of 5 November 2008 on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with the Act referred to in point 5cl of Annex XI to the EEA Agreement (Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services), as adopted by Protocol 1 thereto and by the sectoral adaptations contained in Annex XI to that Agreement.

² NetCom changed its name to TeliaSonera Norge AS in 2011.

³ Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services (Framework Directive)

⁴ EFTA Surveillance Authority Recommendation of 14 July 2004 on notifications, time limits and consultations provided for in Article 7 of Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services.

8. When the decision has been issued, appeals may be lodged by operators with a legal right of appeal in line with the provisions of the Public Administration Act.

1.1 Regulatory basis for regulation and selection of remedies

9. The regulatory framework for electronic communication is based on five directives adopted by the European Union (EU).⁵ These directives have been implemented in Norwegian law through the Electronic Communications Act and associated regulations, including the Regulations of 16 February 2004 on electronic communications networks and services (Ecom Regulations).

10. In accordance with this regulation, the obligations for providers with significant market power are determined individually based on specific assessments from the market analysis and with a limited forward-looking time horizon.⁶

11. Under the provisions of Section 3-4, first paragraph of the Electronic Communications Act, providers with significant market power shall have one or more special obligations imposed on them pursuant to Sections 4-1, 4-4, 4-5, 4-6, 4-7, 4-8 and 4-9. Relevant obligations for the markets for voice call termination on mobile networks are:

- Access obligations, cf. Electronic Communications Act Sections 4-1, 4-2, 4-4 and 4-5.
- Obligation of non-discrimination, cf. Electronic Communications Act Section 4-7.
- Obligation to publish a reference offer, cf. Electronic Communications Act Section 4-6.
- Obligation of transparency, cf. Electronic Communications Act Sections 4-6 and 4-8.
- Obligation of price controls and cost accounting, cf. Electronic Communications Act Section 4-9.
- Obligation of accounting separation, cf. Electronic Communications Act Section 4-8.

12. Pursuant to Section 3-4, second paragraph of the Electronic Communications Act, obligations may in special cases be imposed beyond what follows from these provisions. In such cases the consultation procedure under Section 9-3 of the Electronic Communications Act is to be followed.

⁵ Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services (Framework Directive); Directive 2002/20/EC on the authorisation of electronic communications networks and services (Authorisation Directive); Directive 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive); Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive); Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications).

⁶ See further details of time horizon in ESA's guidelines on market analyses and assessing significant market power, article 20.

13. In choosing specific obligations, NPT has taken into account the assessments described in NPT's revised remedies document of 12 June 2009⁷. This document is based on "Revised ERG Common Position on the Approach to remedies in the ECNS regulatory framework", prepared by the European Regulators Group for electronic communications networks and services (ERG).⁸ The guidelines and principles embodied in the ERG remedies document are intended to stimulate the development of the single market for electronic communications networks and services as well as facilitate uniform and consistent regulatory practice in the various member states.

14. In its remedies document, NPT reviewed the principles that in general will guide the Authority in its choice of remedies:

Principle 1 Substantiated decisions shall be prepared in accordance with the national regulatory authority's obligations pursuant to the directives.

Principle 2 The interests of consumers shall be protected when duplication of infrastructure is not assumed to be feasible.

Principle 3 In markets where NPT considers it likely that duplication of infrastructure may be attained over time, NPT will ensure that its use of remedies lends support to the transition to a market characterised by sustainable competition.

Principle 4 Remedies shall be designed to be incentive compatible.

15. In accordance with the general principles of administrative law and the proportionality principle in EU law, any obligations NPT imposes on providers with significant market power shall be appropriate to, and not be more stringent than necessary for furthering the purposes of the Electronic Communications Act. The basic intent of the Electronic Communications Act is stated in Section 1-1, which reads:

"The purpose of the Act is to secure good, reasonably priced and future-oriented electronic communications services for the users throughout the country through efficient use of society's resources by facilitating sustainable competition, as well as stimulating industrial development and innovation."

16. In addition to Section 1-1, a special objectives clause has been included in Section 3-4, third paragraph. The provision lays down requirements for the use of specific obligations:

"Obligations in accordance with the first and second paragraphs that are imposed in the individual case shall be appropriate to promote sustainable competition, as well as facilitating national and international development in the market. The Authority may amend obligations imposed."

17. ESA published its Recommendation on the regulatory treatment of fixed and mobile termination rates on 13 April 2011.⁹ When framing the relevant use of remedies, NPT drew on this recommendation to a large extent. ESA's recommendation corresponds to the European Commission's recommendation on the same issue.

⁷ The document is published on NPT's website www.npt.no under the menu selection "Markedsregulering (SMP)"

⁸ The document was reviewed in May 2006 and is published on BEREC's website: <http://www.erg.eu.int/>

⁹ ESA's recommendation: <http://www.eftasurv.int/media/internal-market/ESAs-Recommendation-on-termination-rates.pdf>

1.2 The structure of the document

18. The decision consists of a main document, which gives the reasons for and imposes specific obligations, and two annexes: Analysis of the market for voice call termination on Lyca's mobile network (Annex 1) and the result of the consultation on NPT's notification of decisions (Annex 2).

19. Chapter 1 provides a brief overview of the regulatory framework for selecting remedies. In chapter 2, Lyca is designated as a provider with significant market power on the basis of the market analysis in annex 1. Chapter 3 provides a description and overview of potential competition problems in the relevant market. Chapter 4 covers some general conditions relating to the choice of remedies, including the potential for developing sustainable competition within the relevant market and the requirement for the remedy to be proportionate. Based on the foregoing chapters and the market analysis in the annex, NPT explains the choice of specific obligations in chapter 5. The specific obligations are imposed in chapter 6.

2 Designating a provider with significant market power

20. Based on the analysis of the market for voice call termination on Lyca's mobile network, NPT designates Lycamobile Norway Ltd as a provider with significant market power in the market for voice call termination on its own mobile network, under the provisions of Section 3-3 of the Electronic Communications Act.

21. For further details, NPT refers to the analysis in annex 1.

3 Competition problems

3.1 General – competition problems

22. A provider with significant market power would be able to exercise behaviour with the purpose or effect of driving competitors out of the market, preventing potential competitors from entering the market and/or exploiting consumers. Such behaviour is referred to as competition problems.

23. NPT's remedies document includes a general description of potential competition problems within the relevant markets. Based on the practical experience of the national regulatory authorities in Europe,¹⁰ the document identifies 27 standard competition problems.

24. Specific obligations imposed on providers designated as having significant market power shall be suited to remedying actual and/or potential competition problems in the relevant market. Imposing specific obligations is not conditional on whether abuse of market power is actually taking place; it is sufficient that anti-competitive behaviour can potentially arise under given conditions.

25. This chapter discusses competition problems in connection with the markets for voice call termination on mobile networks. The point of departure for the assessment of competition

¹⁰ See "Revised ERG Common Position on the Approach to remedies in the ECNS regulatory framework", formulated by the European Regulators Group for electronic communications networks and services (ERG) published on the ERG website: www.erg.eu.int (via the link "Documentation" and then "ERG documents").

problems is a “modified greenfield approach”, namely a requirement that the relevant market is not subject to *ex ante* regulation.

3.2 Denial to interconnect

26. In most cases a provider is likely to have an incentive to offer interconnection in the form of termination. The utility value of a network increases with the number of users connected, which means that mobile operators will want to enter into interconnection agreements with other providers.

27. Lyca is a new provider in the Norwegian mobile market and as such has relatively few end users in its network. Smaller providers will normally be served by terminating calls from providers with a large end user volume. In this way more people will have the opportunity to contact the smaller provider’s end users, which makes the smaller provider’s service more attractive. On the other hand, connection and administration costs can make it less attractive for Lyca to enter into interconnection agreements with providers of the same size or smaller. Such behaviour may represent a competition problem and reduce consumer welfare, with the goal of any-to-any communication not being achieved.

28. Section 4-2, third paragraph of the Electronic Communications Act requires providers with significant market power to meet reasonable requests for interconnection within the areas the provider has significant market power. The provision thus reduces potential competition problems related to denial of interconnection.

29. However, the interconnection obligation in Section 4-2, third paragraph of the Electronic Communications Act only covers interconnection “within the areas in which the provider has significant market power”. Because market 7 is limited to voice call termination, the provision will not prevent denial of interconnection related to SMS and MMS.¹¹

30. The obligation under Section 4-2, third paragraph for providers with significant market power in market 7 is also limited to pertain to agreements on voice call termination on their own network. The providers in question may also have the incentive to refuse to enter into an agreement to purchase termination from other providers.

31. Denial to interconnect in the form of not wanting to purchase termination from others and/or refusing to receive SMS and MMS messages could therefore potentially be used to harm smaller and equal-sized competitors. If fewer can communicate with their network the service becomes far less attractive to the customer. Such behaviour will also be in conflict with the goal of any-to-any communication.

32. An issue closely related to denial of interconnection is when a provider that does not have an incentive to conclude interconnection agreements makes the conclusion of such agreements difficult by resorting to various forms of delaying tactics. Typically, such a practice may be resorted to where there is an obligation to meet reasonable requests for interconnection, but where no agreement has been made in relation to how efficient the negotiations are to be time-wise. Thus, delaying tactics may represent a significant competition problem, even if the access obligation is enshrined in law.

3.3 Excessive pricing

33. Excessive pricing is the key competition problem in the relevant termination market. The calling party or network owner with which the call originates has no control over which

¹¹ NPT is aware that Lyca does not currently offer MMS to its end customers.

network the called end user is connected to. The network owner who originates the call has in reality no choice but to carry out the call and then pay the price demanded by the other network owner (the CPP principle¹²). This creates a monopoly situation for the receiving network owner whereby it may charge an excessive or monopoly price for termination on its network. A provider with significant market power in the market for voice call termination on its own mobile network thus has an incentive and opportunity to set termination charges that are higher than the provider could have charged in a market with functioning competition. The incentive to set high termination charges is described further in the section on cross-subsidisation.

34. Lyca entered into an interconnection agreement with NetCom and Telenor in spring 2010. Exempt from public disclosure [REDACTED]. At the time of signing the agreement, the price was set at NOK 0.90/minute, but has since been reduced twice; first to NOK 75/minute (from 1 July 2010) and then to NOK 40/minute (from the start of 2011). Thus, the price reductions are in line with the price cap regulation for the MVNOs TDC and Ventelo.

35. In a market with competition, it is not likely that Lyca would have been able to sell its product if it was priced well above other established providers' comparable products. However, there is no competition for termination on Lyca's mobile network, and the company is to a lesser extent forced to take account of such considerations when setting its termination charge. The fact that Lyca has set its termination charge at a higher level than the largest providers (Telenor and NetCom) shows that Lyca is in a position to set prices above the level that would have existed in a competitive market.

36. In markets where termination charges are set substantially higher than underlying efficient costs, pricing in the long term could have adverse consequences in terms of resource use. Excessive pricing of termination results in costs being shifted to other providers and ultimately their end users. Asymmetric prices among mobile providers can also give rise to differentials in prices for calls between the different mobile networks. In NPT's opinion, such a development is unfortunate in terms of transparency in the retail market, and also leads to the transfer of resources between customer groups in different mobile networks.

37. In view of this, NPT believes that Lyca's potential and incentive to participate in excessive pricing related to termination on its mobile network represents a competition problem.

3.4 Cross-subsidisation

38. Excessive pricing enables cross-subsidisation in that additional income from termination on mobile networks can be used to subsidise a provider's own business in the market for access and origination on mobile networks (former market 15) or other business areas. Such additional income can be used for activities in the retail market, such as financing low retail prices in general and/or subsidising mobile telephones.

39. Cross-subsidisation leads inter alia to distortion of competition for the benefit of providers that will have the opportunity to subsidise their own retail operations. Such cross-subsidisation can in some cases in the short term be suitable for lowering the entry barriers for new providers. Should such a practice become permanent or if it is permitted to continue over a long period of time, however, this will have negative consequences. When some providers

¹² The Calling Party Pays principle is further described in the market analysis (Annex 1) section 2.2.1.

demand high and asymmetric termination charges their costs are pushed over to the other providers who must pay the high termination charge. These increased costs could in turn lead to other providers having to increase their retail prices, with their end customers thus having to subsidise other mobile providers. In NPT's view this is an unfortunate distortion of competition.

40. In view of this, NPT believes that persistent excessive pricing and cross-subsidisation are unfortunate in the long run for competition in the mobile market as a whole. Permitting providers to engage in excessive pricing and cross-subsidisation over a long period can also facilitate persistent inefficient production, which is not desirable with respect to the use of socio-economic resources.

3.5 Price discrimination

41. Providers of termination services may have an incentive to offer better prices to internal or certain external providers. For example, it is conceivable that the providers will offer a more advantageous price to companies in the same group or any prospective partner companies. Similarly, providers who pose a greater potential threat than other operations could conceivably be charged a higher price than those who do not represent as great a threat.

42. Discrimination between providers may result in increased costs for some providers and may ultimately lead to exclusion from the market. Price discrimination between providers will therefore be a competitive problem.

3.6 Non-price discrimination

43. A provider with significant market power may have an incentive to discriminate between its own or related activities and the activities of others also in relation to factors other than price. This discrimination may apply to the interconnection services that are offered, the quality of technical interfaces, level of service, quality of information and so forth. A provider with significant market power may also have an incentive to prolong interconnection negotiations and make undue demands linked to interconnection (guarantees, bundling etc.). NPT believes such discrimination could create distortion of competition, potentially posing a competitive problem in the markets for voice call termination on mobile networks.

4 General – choice of remedies

44. In the following, NPT discusses certain issues of a general nature relating to the choice of remedies in the market for voice call termination on Lyca's mobile network.

4.1 Feasibility of duplication of infrastructure in the markets for voice call termination on mobile networks

45. According to the description of principles 2 and 3 in NPT's remedies document, key to the choice of remedies will be whether or not duplication of the infrastructure in the relevant market is considered to be feasible (i.e. whether or not bringing about sustainable infrastructure-based competition is likely). If the market is covered by principle 2, it will normally be necessary and legitimate to operate with a stricter set of regulatory obligations.¹³

¹³ See further details on Principle 2 in NPT's remedies document dated 12 June 2009.

46. Although it may be possible to achieve infrastructure-based competition in the mobile market in the form of more competing mobile networks, this will not nevertheless address the relevant competition problems in the termination markets, cf. chapter 3. This is because it is not possible for any party other than the provider who controls the physical or virtual network to offer termination to its own end users. As with other providers of voice call termination on mobile networks, Lyca is thus a monopoly in this area. In view of this, NPT believes that the market for voice call termination on Lyca's mobile network shall in principle be regulated by principle 2. Two considerations will therefore guide regulation. First, the Authority will seek to facilitate efficient use of the existing infrastructure to the greatest degree possible. Second, NPT will seek to facilitate sufficient earnings in the existing infrastructure, so that incentives are provided for necessary maintenance, upgrades and new investment in the network.

4.2 General remarks on proportionality

47. The proportionality principle is discussed in detail in Proposition No. 58 (2002-2003) to the Odelsting in the remarks on Electronic Communications Act Section 3-4.

“The obligations imposed shall be proportionate, non-discriminatory, be based on objective and fair criteria and be publicly available. Proportionate means that obligations imposed regarding access or significant market power with appurtenant conditions are to be suited to compensating for a lack of sustainable competition and are to help to promote consumer interests and, if possible, contribute to national and international development. The burdens of the remedies imposed are to be proportionate to what they seek to achieve. This also permits the authorities to link the obligations to certain parts of the relevant market if appropriate.”

48. The principle means that in choosing between several options that can promote the purpose just as effectively, NPT shall choose the least burdensome option. The content of the proportionality principle is described in more detail in NPT's remedies document. The document states that the principle of proportionality entails measures being suited to realising the objective behind them, not being more burdensome than necessary in the individual case, and the benefits of the intervention not outweighing the disadvantages.

49. However, neither the proportionality principle nor the principle of minimal regulation may be cited in support of the argument that NPT shall not or cannot impose burdensome obligations on providers with significant market power. The core of these principles is that stricter obligations than necessary shall not be imposed. However, imposing burdensome obligations such as price controls may very well be proportionate and necessary in markets where other less burdensome obligations are not regarded to be adequate for achieving the objective of regulation.

5 Explanation of the choice of specific obligations

5.1 Interconnection obligations

50. End users expect to be able to make calls to other end users regardless of which network they use. Being able to terminate traffic on other providers' networks is crucial for the competitiveness of mobile and fixed network providers. Interconnection is essential for enabling the end users of different providers to make calls to each other. Termination is thus demanded by operators who want to meet their own end users' demand to be able to call users of other mobile networks.

51. Section 3.2 describes the competition problems of denial to interconnect and delaying tactics. An interconnection obligation/access obligations will remedy the identified competition problems.

52. The obligation of providers with significant market power to meet all reasonable requests for interconnection is provided for under Section 4-2, third paragraph of the Electronic Communications Act. The provision states:

“Within those areas in which the provider has significant market power, the provider shall meet any reasonable request to enter into or amend an agreement on interconnection. In the assessment of whether a request is reasonable, an evaluation shall be undertaken in accordance with § 4-1 second paragraph. A provider with significant market power as regards the products shall document and justify rejection of a request for interconnection.”

53. Since Lyca has significant market power in its own termination market, it is under a legal obligation to offer access to voice call termination on its own network. It is thus not necessary to impose interconnection separately. Termination is included as an element of interconnection. Lyca therefore has an obligation to meet reasonable requests for termination on its own mobile network.

54. A specific request for interconnection shall be complied with to the extent that the request is reasonable. Pursuant to Electronic Communications Act Section 4-2, third paragraph, second sentence, the assessment of reasonability shall be the same as provided for under Section 4-1, second paragraph of the Electronic Communications Act.

55. In its decision of 8 May 2007 in former market 16, NPT detailed a number of general assessments of the elements in the assessment of reasonableness in line with Section 4-2, third paragraph, second point, cf. Section 4-1, second paragraph of the Electronic Communications Act. NPT believes the discussions in the decision still provide an adequate picture of NPT's assessment of the elements to be included in the assessment of reasonability. Beyond this, NPT points out that assessments of reasonability must be made in relation to specific conditions.

56. In its decision of 27 September 2010, NPT further discussed the issue of denial of interconnection related to SMS and MMS traffic, purchase of termination on other networks and use of delaying tactics. These assessments are also relevant to Lyca, and we therefore refer to section 6.1.2 in the said decision.

Conclusion

57. Since Lyca has been designated as a provider with significant market power in the market for voice call termination on mobile networks, the company has an obligation to meet all reasonable requests for interconnection, cf. Section 4-2, third paragraph of the Electronic Communications Act.

58. Pursuant to Electronic Communications Act Section 4-1, Lyca is directed to conclude negotiations on entering into or amending agreements on termination on their mobile networks without undue delay. At the request of the requesting party, Lyca is required to document vis-à-vis the party the time spent in connection with the relevant contract negotiations. NPT shall receive a copy of the relevant documentation. Nevertheless, the documentation obligation does not apply if the request was made later than three months after the relevant negotiations were concluded.

59. If access is denied, the party requesting access shall receive a documented and justified refusal of the request, cf. Electronic Communications Act Section 4-2, third paragraph, last sentence. The justification must contain all information necessary to evaluate

the basis for the refusal, such as the reason access is denied, with the necessary technical documentation.

Proportionality

60. Because functioning interconnection is of such great importance to the competition in the retail market for mobile telephony, and to ensure any-to-any communication, NPT believes it is necessary to impose the aforementioned interconnection obligations on Lyca.

61. NPT believes that the interconnection obligations are suited to compensating for the identified competition problems related to interconnection not addressed by the Electronic Communications Act Section 4-2, third paragraph, and are thus suited to realising the goal of sustainable competition, cf. Electronic Communications Act Section 1-1. At the same time, the interconnection obligations are not more stringent than necessary in NPT's view.

62. NPT believes that the level of public interest in the interconnection obligations being imposed is greater than the disadvantage of this obligation for Lyca. NPT can furthermore not see that there are less intrusive remedies that can sufficiently counteract the identified competition problems.

5.2 Non-discrimination

63. In Section 3.5, NPT identified discrimination between various internal and/or external providers in terms of price or other conditions as potential competition problems in the relevant market. The same applies to differences in termination charges for on-net and off-net calls.

64. Electronic Communications Act Section 4-7 authorises the imposition of the obligation of non-discrimination. The first and second paragraphs of the provision read:

“The Authority may direct a provider with significant market power to offer interconnection and access to external providers on non-discriminatory terms.

The Authority may direct a provider with significant market power to offer interconnection and access to other providers on the same or equivalent terms and of the same or equivalent quality as provided for internal operations, subsidiaries or partnerships.”

65. An obligation of non-discrimination could reduce the ability to exercise exclusionary behaviour and thus prevent the transfer of market power from the wholesale to the retail market. Exclusionary behaviour refers to conduct that has the purpose or effect of preventing access and/or excluding competitors from markets by operating with prices and/or access conditions that favour their own operations. Methods to increase competitors' costs and thereby reduce the demand for competitors' products are examples of such behaviour.

66. A non-discrimination requirement was imposed on NetCom, Network Norway, Tele2 and Telenor in NPT's decision of 27 September 2010. No such requirement was imposed on TDC and Ventelo. The main reason for treating the providers differently was that the negative consequences of any discriminatory behaviour by TDC and Ventelo will be limited since they terminate substantially fewer calls than the other providers.

67. Lyca may have an incentive to offer more favourable prices and terms to selected operators. However, as is the case for TDC and Ventelo, Lyca's traffic from the termination of calls is also much less than the four largest providers. The same argument will therefore apply to Lyca as for TDC and Ventelo.

68. Lyca's potential to discriminate on price will also be reduced gradually as the termination charges are reduced to an efficient level, see section 5.4.

69. In view of this, NPT does not believe it is proportionate to curtail the company's manoeuvring room by introducing a requirement of non-discrimination.

Conclusion

70. NPT does not believe it would be proportionate to impose a requirement of non-discrimination on Lyca.

5.3 Publication

71. Pursuant to Electronic Communications Act Section 4-6, specific obligations can be imposed on providers with significant market power to publish specific information and to prepare and publish standard offers for electronic communications networks and services (reference offers). Such obligations are usually referred to as transparency obligations. Transparency in itself is rarely sufficient for remedying competition problems, but may however make other measures more effective.¹⁴ For example, for access issues, it may help to simplify and streamline negotiations if the key terms for connection follow a reference offer that is publicly available. A transparency obligation will also make it easier for other providers and NPT to monitor compliance with non-discrimination obligations.

72. Lyca will be subject to access obligations, cf. section 5.1. This makes it necessary to consider an obligation of transparency in order to streamline the requirement to meet reasonable requests for termination.

73. One possible downside of transparency is that easily available information on prices may facilitate tacit collusion. Competition will be harmed if competitors adjust their prices to each other rather than fix them on a free basis. However, NPT cannot see that this issue is particularly relevant in relation to the termination markets in question. First, the market consists of few operators where the termination charges are already transparent. Through interconnection agreements the parties will gain knowledge of the other party's termination charges because providers depend on such information in order to invoice one another. Furthermore, the potential for tacit collusion is limited since all providers of termination on mobile networks will be subject to price cap regulation, cf. section 5.4. NPT therefore believes that the potential harm of an obligation of transparency will be very limited.

74. In NPT's decision of 27 September 2010, Telenor and NetCom were directed to prepare a reference offer for interconnection with the companies' mobile networks. Because other providers have used Telenor and NetCom's reference offers as a basis in their interconnection negotiations, no requirement was imposed on Network Norway, TDC, Tele2 or Ventelo to prepare a reference offer for interconnection.

75. As was the case for Network Norway, TDC, Tele2 and Ventelo, there does not appear to be a need for Lyca to prepare and publish its own reference offer for interconnection. It will be sufficient that Lyca's termination charges are published, as is the case for the aforementioned providers.

76. In order for the Authority to be able to effectively monitor compliance with the obligations, Lyca is directed to notify NPT of new and changed agreements on termination within the specified deadline. Since Telenor and NetCom have an obligation to submit their

¹⁴ See more about the connection between transparency obligations and other obligations in ERG's remedies document page 42 ff.

interconnection agreements to NPT, it is not necessary for Lyca to send the same agreements. The obligation is thus limited to interconnection agreements entered into with providers other than these operators. In the event of changes to the interconnection agreement, Lyca shall indicate to NPT where the changes have been made and what they consist of.

77. Changes to a provider's termination product could affect the competitive situation with other providers. The providers of mobile termination will have limited potential to change prices in the termination product to the disfavour of other providers since they are subject to a price cap regulation. The price cap regulation does not, however, prevent the providers within specified frameworks changing the price per minute and start-up price within the price cap. In order to give providers who buy termination in mobile networks sufficient time to adapt the changes in the termination products to their own retail terms and conditions, NPT considered it necessary in the decision of 27 September 2010 to impose an extension of the general duty to notify of one month as provided for in Section 2-4, second paragraph of the Electronic Communications Act. NPT therefore directed all providers of termination on mobile networks to notify other providers of any price increases and other changes to their disfavour in the existing offer, at least two months before the change is implemented.

78. The price controls imposed on Lyca in section 5.4 will limit Lyca's potential to make major changes to the prices for the termination product. However, NPT believes that the intention of predictability for other providers will mean that it is also necessary for Lyca to extend the general duty to notify in Section 2-4, second paragraph of the Electronic Communications Act from one to two months in the event of changes to the disfavour of other providers in existing termination agreements.

Conclusion

79. Pursuant to Section 4-6, third and fourth paragraphs, of the Electronic Communications Act, NPT directs Lyca to publish its prices for termination on mobile networks. Publishing on the company's website is considered to be a satisfactory method of publication. Standard rates and any discounts with related criteria shall be stated.

80. Pursuant to Section 4-6, first, cf. fourth paragraph of the Electronic Communications Act, NPT directs Lyca to give advance notice to other providers of any changes in existing services that disfavour the other parties to its agreements no later than two months before they are implemented.

81. Pursuant to Section 10-3 of the Electronic Communications Act, NPT directs Lyca to send NPT a copy of all agreements with parties other than Telenor and NetCom associated with termination on mobile networks. Submission to NPT shall take place without undue delay and no later than two weeks after the signature date. Lyca is further obliged to inform the Authority of changes to the agreements. The information must clearly state where the changes have been made and what they consist of. NPT shall be notified of changes in the interconnection agreement related to termination no later than two months before they are implemented.

Proportionality

82. NPT believes that the requirements for transparency that are being imposed on Lyca are proportionate. The Authority does not believe that the obligations as described above will result in any noticeable costs or disadvantages for the company.

83. The provisions of the Competition Act will not, in NPT's opinion, be sufficient to protect the interests that justify the need for transparency obligations. One of the key reasons for imposing transparency obligations is to ensure that negotiations on interconnection are as

effective as possible. NPT believes it is important that requirements for transparency are applicable prior to any negotiations taking place in order to ensure predictability for the parties. Because the authorities can only intervene under the provisions of the Competition Act when a dominant operator has actually abused its position to harm the competition, NPT believes that this regulation is less suited than *ex ante* regulation to protect the intentions of the transparency obligations.

5.4 Price controls

84. In chapter 3, NPT reasoned that excessive pricing and cross-subsidisation are potential competition problems in the relevant market.

85. Pursuant to Electronic Communications Act Section 4-9, the authorities may impose price obligations for access and interconnection on providers with significant market power in cases where the provider can exploit its market power to the detriment of end users by sustaining a disproportionately high price level, or by subjecting competing providers to price squeezes.

86. Electronic Communications Act Section 4-9 sets no requirement for the regulated provider to actually be charging a disproportionately high price; it is sufficient that the provider with significant market power has the potential to do so. As stated in the description of the competition problem of excessive pricing, NPT believes that the terms for price controls of Lyca's voice call termination offer have been met.

87. In the Authority's opinion, remedies such as reference offers, publication and non-discrimination are insufficient to counteract competition problems related to excessive pricing. Price controls are therefore necessary to remedy the competition problem of excessive pricing and thus prevent the negative consequences mentioned in chapter 3.

5.4.1 Background for price controls

88. Several factors are the basis for price controls in this decision. In previous decisions in the markets for voice call termination on mobile networks both NPT and the Ministry of Transport and Communications have expressed principles that are of significance to the formulation of price controls, including that the termination charges should normally be symmetrical and that deviations require special justification. ESA's recommendation on regulating termination charges together with the general intention of harmonisation have also been central to the formulation of price controls.

89. In previous regulation periods, NPT adapted the regulation of new providers in a restricted start-up phase to ensure that they gained a foothold in the market and contributed to infrastructure competition in the longer term. Previous decisions in the markets for voice call termination on mobile networks stipulate that the authorities have viewed the use of remedies in conjunction with the desire to facilitate the duplication of infrastructure and sustainable competition in the market for access and call origination on mobile networks (former market 15). In view of this, the regulation of market 15 has been based on what is known as the investment ladder theory.¹⁵

90. In NPT's decision of 8 May 2007 in former market 16 (now market 7), the Authority states that the objectives of efficiency and protecting the interests of consumers also require the MVNOs' termination charges, as for providers with their own radio access network, to be efficient in the long term. For NPT, the point of departure is that MVNOs should not be

¹⁵ See NPT's decision in market 15 of 23 January 2006, section 7.3.

permitted to earn extraordinary profit margins (excess profits) on the production of termination over time, since this would be disadvantageous from an efficiency and social welfare standpoint.

91. In its decision of 8 May 2007, NPT stipulates that using the LRIC model would be expedient for calculating cost-oriented prices in the markets for mobile termination. In the decision, NPT states that the price controls should enable gradual de-escalation to efficient prices.

92. In NPT's decision of 27 September 2010, NPT used an updated LRIC model for the price cap regulation of all providers. In line with the principle of harmonised regulation, the LRIC model was updated with a view to ensuring that the Commission's (and now ESA's) recommendation was taken into account. The changes to the model entailed the goal for efficient prices to be moved from NOK 0.50/minute in 2010 to NOK 0.15/minute in 2013.

93. ESA's recommendation states that cost orientation is considered to be the most appropriate remedy for addressing the competition problem of excessive pricing. Moreover, the Commission writes that the authorities shall establish termination charges based on costs for an efficient operator, which means that prices will also be symmetric, cf. Recommendation point 1. According to the Recommendation, this regulation will promote efficiency, sustainable competition and maximise consumer welfare. LRIC is recommended as the method for determining costs, cf. article 2 of the Recommendation.

94. According to ESA, only cost differences outside the providers' control can form the basis for long-term asymmetrical termination charges, e.g. differences in frequency permits, cf. article 9 of the Recommendation.

95. However, the Recommendation enables price controls to reflect new providers having higher unit costs during a start-up phase before they achieve a minimum level for efficient operation. In such cases, national regulatory authorities can give new providers a transitional period of up to four years, cf. point 17 in the preface and article 10 of the Recommendation.

96. In NPT's decision of 27 September 2010, all providers of voice call termination on mobile networks were subjected to price cap regulation, where NPT emphasised the following:

- In the interest of consumer welfare and efficient use of resources, the eventual goal of price controls should be that all providers offer termination at efficient prices. The termination charges should be based on costs for an efficient operator, which entails the prices being symmetric.
- The electronic communication authorities have expressed in a decision that a third competing network is important for the development of the Norwegian mobile market and is a key objective of the telecoms policy.

97. LRIC (Long Run Incremental Cost) was used as a basis for setting efficient prices. The method is recommended by the European Commission and ESA. LRAIC (Long Run Average Incremental Cost), without the addition of common costs, costs for the localisation of handsets and administration costs, forms the basis for the regulated termination charge in the regulation period 2011-2013.

98. The decisions have been appealed. The Ministry of Transport and Communications has not yet given its decision to the appeals.

99. Further information on the assessments used in the price control of other providers of voice call termination on mobile networks is given in section 6.4 of the NPT's decision of 27 September 2010.

5.4.2 Price controls for Lyca

100. Based on the reviews in section 5.4.1, NPT has determined that the objectives of efficient and symmetric prices in market 7 will also apply to the regulation of Lyca.

101. In its decision of 27 September 2010, NPT identified three relevant alternatives for calculating efficient prices for an MVNO provider:

- The LRIC result for the network operator that the MVNO has an access agreement with can be implemented in full. In practice this means that the costs the MVNO has by offering termination shall be identical to the costs of the network operator.
- The relevant costs that the MVNO has linked to its own network elements and activities can be calculated. The relevant costs that the network operators have in addition to these are then added to this, i.e. the relevant costs for the services that the MVNO buys access to. Such an approach will reveal whether the MVNO has higher costs due to lower traffic volume, i.e. whether there are significant economies of scale associated with the network elements that the MVNO manages.
- The actual access charge in the MVNO agreement with the network operator can be added to the relevant costs that the MVNO has linked to its own network elements and activities.

102. NPT concluded in the aforementioned decision that it was not appropriate to include commercially negotiated access charges in the relevant termination cost. In connection with the development of the LRIC model, NPT has examined whether the MVNOs have such cost disadvantages vis-à-vis the network operator as mentioned in the second alternative above. The Authority has been unable to detect higher costs when the MVNOs and their traffic volume account for the relevant MVNO activities than when the network operator is responsible for the same activities. On this basis, NPT concluded that the MVNOs should be regulated in the same way as the underlying networks they use, based on the network operator with the highest LRIC result. NPT sees no reason to deviate from this conclusion in the price controls for Lyca.

103. Based on NPT's investment ladder approach to the regulation of former market 15, MVNO providers in NPT's decision of 8 May 2007 were granted an exemption period of three to four years from requirements on efficient prices. TDC and Ventelo have thus, for a period, been able to reap the benefits of lenient price controls. Pursuant to NPT's decision of 27 September 2010, however, both operators shall reduce their termination charges to the same level as Telenor and NetCom from 1 July 2011.

104. In NPT's decision of 2007, the Authority states that MVNOs can contribute to infrastructure-based competition in two different ways; either by climbing onto the investment ladder or by purchasing services from another provider that has climbed to a higher level.

105. Lyca has for the most part localised its network elements abroad, and NPT believes it has marginal investments connected to infrastructure in Norway. Lyca's ability to contribute to sustainable infrastructure-based competition through climbing onto the investment ladder therefore appears to be limited. Furthermore, NPT does not believe that Lyca directly contributes to infrastructure-based competition through purchasing MVNO access.

106. As explained in section 5.4.1, ESA's recommendation permits new providers to be permitted a higher termination charge than established providers, under specific conditions. As mentioned already, NPT believes that there is reason to regulate Lyca in the same way as other operators with significant market power in the relevant market. Consequently, Lyca is not considered to have higher unit costs in connection with the production of termination than the network operator that, through the LRIC modelling, is presented as having the highest cost.

107. In view of the above, NPT believes there is no basis for asymmetrical price controls of Lyca and sets maximum prices for the company as stipulated in table 3 below.

	1 July 2011 – 31 December 2011	1 January 2012 - 30 June 2012	1 July 2012 – 31 December 2012	1 January 2013 – 31 December 2013
Lyca	0.30	0.30	0.20	0.15

Table 3: Maximum price per minute for voice call termination on Lycamobile Norway Ltd's mobile network in the period 1 July 2011 to 31 December 2013. All prices are quoted in NOK (excl. VAT).

108. The price cap applies to the termination of voice, regardless of whether termination takes place on GSM or UMTS networks. Further, prices for termination of voice mail services shall not exceed the prices in the table above.

109. NPT aims to issue a new decision on price controls by the end of this price cap period. Until a new decision is issued, Lyca's termination charges shall not exceed NOK 0.15 per minute (inflation adjusted).

5.4.3 Approval of prices and inflation adjustment

110. If Lyca wants to use price elements other than price per minute (price per call, price per minute at peak and off-peak times, etc.), the company shall, at least three months before the price change, put forward proposals for new prices and weights that the prices are to be based on. The chosen weights will be documented with statistics from previous years. NPT will then assess the proposal. If necessary, the Authority may require changes to the proposal submitted prior to approval if NPT does not find evidence that the proposal is below the price cap.

111. The results of the LRIC model are calculated in real prices based on the value of the Norwegian kroner in 2009. Maximum prices are stated in current prices until 1 January 2013. NPT believes it is justifiable to use current prices in this period, partly because there is such a huge discrepancy between prices and the estimated LRIC costs. The maximum prices from 1 January 2013 will be adjusted for inflation. NPT will specify the adjustment factor no later than three months before this last price change.

5.4.4 Interconnection charges

112. In principle, charges for interconnection (traffic capacity and other charges) are set in commercial negotiations between the parties. Lyca has both the incentive and potential to charge excessive prices for this type of product. NPT therefore believes there is a need to regulate these prices and impose a requirement on Lyca for the interconnection charges to be fair.

113. What can be regarded as a fair price will have to be determined on a case-by-case basis. If necessary, for example should cases arise in the future where negotiations are

unsuccessful or NPT receives complaints, NPT will assess whether the specified price is fair. Actual costs related to interconnection will be key in such an assessment.

5.4.5 Further details of assumed consequences of price controls

114. NPT considers here the total consequences for existing providers, new providers and end users in the mobile and fixed telephony markets respectively.

115. The data basis for estimating future traffic flows for Lyca is limited since the company has provided services in Norway for less than a year. However, NPT has details of traffic flows in Lyca's mobile network in this first period. Based on these traffic flows, the Authority has considered the effects of price controls for Lyca. The traffic flows in 2010 show an imbalance between incoming and outgoing agreements where approximately Exempt from public disclosure [] of the traffic in Lyca's network is termination minutes, whilst more than Exempt from public disclosure [] is origination minutes that are terminated in other operators' networks. The low share of termination traffic in Lyca's network will reduce the negative economic effect of lower termination charges with Lyca. The company will simultaneously enjoy the benefits of lower sales costs as a result of reduced termination charges with other regulated providers.

116. The price controls that determine whether Lyca's prices shall be regulated down to a lower level will mean that both existing and new providers will have lower sales costs for external termination. In the case of new providers, this will help to lower the entry barriers.

117. Price controls based on cost orientation are expected to contribute to more effective use of resources. NPT's decision of 27 September 2010 stipulates that reduced termination charges are expected to increase consumer welfare in the form of reduced retail prices for calling from a fixed network to a mobile network. The said decision also notes that there are uncertainties linked to what effect a price cap will have on the development of retail prices for calls between the different mobile networks. Nevertheless, NPT maintains that rebalancing retail prices to ensure that traffic flows between mobile and fixed network and between different mobile networks to a large degree reflects underlying costs, will lead to a more socio-economical efficient pricing even although it does not necessarily lead to a price reduction for all end users in a more short-term perspective.

5.5 Assessment of proportionality of the specific obligations

118. In this section NPT considers the proportionality of the total effect of the specific obligations that are imposed on Lyca.

119. NPT directs Lyca to reduce its termination charges to an efficient and symmetric level in the course of the decision period. Unlike other MVNOs, Lyca is not permitted to have a relatively long period with higher termination charges than other providers. Up to 2013, however, the company is permitted, on a level with other regulated providers, to set a termination charge that is higher than the efficient price.

120. With regard to other obligations for Lyca, these correspond to the obligations that are imposed on TDC and Ventelo.

121. NPT believes that the regulation of Lyca may lead to the total obligations for the company representing a relatively heavy regulatory burden. In order to ensure efficient use of resources and prevent negative distortion of competition over time, NPT equally believes that it will be proportionate to impose all of these obligations.

122. As long as there are no alternative forms of regulation better suited to producing a satisfactory outcome, the fact that the overall effect will be relatively burdensome on Lyca cannot be accorded decisive weight. NPT has not been able to identify such conditions and thus believes that the total effect of the remedies is proportionate.

6 Imposing specific obligations

123. On the basis of the review above, NPT has concluded that Lycamobile Norway Ltd, as a provider with significant market power in the market for voice call termination on its own mobile network, should be subjected to several specific obligations. NPT details the specific content of these obligations in this chapter.

124. NPT is imposing the following specific obligations on Lycamobile Norway Ltd in the market for voice call termination on its mobile network:

6.1 Interconnection

125. Since Lycamobile Norway Ltd has been designated as a provider with significant market power in the market for voice call termination on mobile networks, the company will have an obligation to meet all reasonable requests for interconnection, cf. Electronic Communications Act Section 4-2, third paragraph.

126. Pursuant to the Electronic Communications Act Section 4-1, NPT is imposing an obligation on Lycamobile Norway Ltd to conclude negotiations on entering into or amending agreements on termination on its mobile networks without undue delay. Lycamobile Norway Ltd has an obligation to, upon request from the requesting party, document the time spent on the relevant agreement negotiations. NPT shall receive a copy of the relevant documentation. Nevertheless, the documentation obligation does not apply if the request was made later than three months after the relevant negotiations were concluded.

127. If access is denied, the party requesting access shall receive a documented and justified refusal of the request, cf. Electronic Communications Act Section 4-2, third paragraph, last sentence. The justification must contain all information needed to evaluate the basis for the refusal, such as the reason access is denied, and the necessary technical documentation.

6.2 Publication

128. Under the provisions of Section 4-6, third and fourth paragraphs of the Electronic Communications Act, NPT directs Lycamobile Norway Ltd to publish its prices for termination on mobile networks. Publication on the company's own website is regarded as a satisfactory method of publication. Standard rates and any discounts with related criteria shall be stated.

129. Pursuant to the Electronic Communications Act Section 4-6 first, cf. fourth paragraph, NPT is imposing an obligation on Lycamobile Norway Ltd to give advance notice to other providers of any changes to existing services no later than two months before they are implemented.

130. Pursuant to Electronic Communications Act Section 10-3, an obligation is being imposed on Lycamobile Norway Ltd to send NPT copies of agreements with parties other than Telenor ASA and NetCom AS in relation to termination on mobile networks. Submission

to NPT shall take place without undue delay and no later than two weeks after the signature date. Lycamobile Norway Ltd has a further obligation to notify NPT of any changes to the agreements. The information must clearly state where the changes have been made and what they consist of. NPT shall be informed of changes to the interconnection agreement relating to termination no later than two months before they are implemented.

6.3 Price controls

131. Under the provisions of Section 4-9 of the Electronic Communications Act, NPT instructs Lycamobile Norway Ltd to set prices for voice call termination on mobile networks in accordance with table 4 below.

	1 July 2011 – 31 December 2011	1 January 2012 - 30 June 2012	1 July 2012 – 31 December 2012	1 January 2013 – 31 December 2013
Lyca	0.30	0.30	0.20	0.15

Table 4: Maximum price per minute for voice call termination on Lycamobile Norway Ltd's mobile network in the period 1 July 2011 to 31 December 2013. All prices are quoted in NOK (excl. VAT).

132. The prices apply to voice call termination regardless of whether the termination takes place in GSM or UMTS networks, and voice mail services linked to Lycamobile Norway Ltd's mobile network.

133. Maximum prices are stated in current prices until 1 January 2013. The maximum prices from 1 January 2013 will be adjusted for inflation. NPT will specify the adjustment factor no later than three months before this last price change.

134. The maximum price applies per minute. Lycamobile Norway Ltd has the potential to set its termination charge based on various price elements (price per call, price per minute in peak and off-peak times and so on), assuming a weighted average of the various price elements does not exceed the maximum price per minute.

135. Should Lycamobile Norway Ltd choose to determine its termination charge based on elements other than price per minute, NPT instructs Lycamobile Norway Ltd, under the provisions of Section 10-3 of the Electronic Communications Act, to, at least three months before the price change, put forward proposals for new prices and weights that the prices are to be based on. The weighting shall be based on the actual traffic volume and pattern in the previous year. Documentation on the weights shall accompany the proposal.

136. Such proposals must be approved in advance by NPT before rate changes can be implemented. NPT may require changes to the proposal submitted prior to approval if NPT does not find evidence that the proposal is below the price cap.

137. NPT may issue a new decision on price controls at the end of the price cap period, or decide to remove price controls. Until a new decision is made, the price shall not exceed NOK 0.15 per minute (inflation-adjusted).

138. Under the provisions of Section 4-9 of the Electronic Communications Act, NPT directs Lycamobile Norway Ltd to charge fair prices for interconnection to mobile networks.

7 Date of implementation of decision

139. The decision and associated obligations in the market for voice call termination on Lyca's mobile network will enter into force on the date of issue.