

Fact sheet (EN) – Telenor – Final decision

Case history

In December 2012, the EFTA Surveillance Authority (ESA) conducted an unannounced inspection at the premises of Telenor Norge AS and its parent company Telenor ASA (Telenor) in Norway. Due to the large amount of electronic data, the inspection was continued and finalised at ESA's premises in Brussels in March 2013.

In March 2014, ESA decided that its concerns were sufficient to require an in-depth investigation to determine if there had been an infringement of the EEA competition rules.

In February 2016, ESA issued a statement of objections setting out its preliminary view that Telenor abused a dominant position by squeezing rivals' margins when supplying stand-alone mobile broadband services (i.e. mobile broadband accessed on large-screen devices, such as tablets and laptops) to residential users in Norway. Telenor commented on those preliminary findings.

In June 2019, following further investigative work, ESA issued a supplementary statement of objections, informing Telenor of additional arguments and evidence that supported ESA's initial concerns. Again, Telenor commented on the objections and evidence set out by ESA.

A letter of facts followed in February 2020, where ESA set out further evidence supporting its concerns and on which Telenor also had an opportunity to comment.

ESA delivered its final decision on 29 June 2020, finding that Telenor abused a dominant position contrary to Article 54 of the EEA Agreement and imposing a fine.

Telenor's rights of defence were respected throughout ESA's investigation. In replying to ESA's preliminary objections, Telenor could access ESA's case file. Telenor also exercised its right to explain its replies in oral hearings organised by ESA's hearing officers.

ESA's case against Telenor

ESA found Telenor to be dominant on the market for wholesale mobile access and origination services (i.e. the wholesale input market for mobile communications services) in Norway.

While being a dominant market player is not in itself illegal, dominant companies have a special responsibility to ensure that their commercial practices do not impede competition.

Where competition is impeded, consumers ultimately suffer from higher prices, lower quality, and diminished choice and innovation in products and services. ESA therefore investigated this case with the interests of Norwegian consumers in mind.

ESA's investigation found that Telenor's pricing of wholesale inputs on its mobile network exceeded its own retail prices for stand-alone mobile broadband services to residential customers. These "margin squeeze" practices made it impossible for rivals that were relying on Telenor's wholesale inputs to make competing offers without incurring a loss.

During the period at the centre of ESA's investigation (from 2008 to the end of 2012), this market for mobile broadband on tablets and laptops was fast growing and highly

concentrated, with only two nationwide mobile networks and Telenor as the dominant wholesale provider.

Telenor's unfair pricing practices during this time made it much harder for its wholesale customers to offer attractive retail prices and data allowances to Norwegian consumers.

ESA has concluded that Telenor's behaviour constituted an abuse of a dominant position under Article 54 of the EEA Agreement. It has ordered the company to pay a fine of EUR 112 million.

Significance of the final decision

Telenor's anti-competitive pricing practices weakened competitors in a market that was witnessing the first wave of growth in mobile data. ESA takes this type of infringement particularly seriously, as competition is an important driver for innovation and fair prices in telecoms markets.

Although technology has moved on since the time the infringements took place, ESA's decision is a strong reminder to companies of the consequences of past illegal behaviour. Telenor is obliged to refrain from engaging in these or equivalent practices in the future, and must now pay the fine set by ESA.

Telenor can appeal the decision to the EFTA Court within the next two months.

The EEA competition rules

Article 53 of the EEA Agreement prohibits agreements or concerted practices which restrict competition between undertakings. Article 54 of the EEA Agreement prohibits the abuse of a dominant market position. Further information about the EEA competition rules can be found [here](#).

ESA's role in the field of competition

In the EFTA States, EEA competition rules are enforced by ESA, the European Commission and the national competition authorities. Responsibility for handling individual cases at the European level is divided between ESA and the Commission on the basis of rules laid down in the EEA Agreement.

ESA's main task in the field of competition is to ensure that undertakings active in the EFTA States (Iceland, Liechtenstein and Norway) comply with the EEA competition rules. For this purpose, ESA enjoys the same investigative and enforcement powers as the European Commission, including the power to impose fines of up to 10% of global turnover on undertakings that act in breach of the rules.

The purpose of imposing fines is to deter companies from infringing the competition rules. Fines are calculated in accordance with ESA's guidelines on the setting of fines.

ESA also cooperates closely with the competition authorities of the EFTA States and with the courts in ensuring a consistent application of the EEA competition rules.

Further information about the EEA competition rules and ESA's role can be found [here](#).

Publication of the decision

The decision will be made available as soon as possible on ESA's website, once cleared for confidential information.

A summary of the decision will also be published in the Official Journal of the EU and the EEA Supplement.