

EU Commission lifts its reservations concerning the wholesale high quality access market in Hungary

Today the European Commission closed an in-depth investigation and lifted its initial reservations concerning the Hungarian telecoms regulator's proposal to regulate the wholesale high quality access market in Hungary.

On 17 September 2018 the Commission expressed its concerns that the proposal by the Hungarian telecoms regulator National Media and Infocommunications Authority (NMHH) on wholesale high quality access is not compliant with EU telecoms rules. Based on the information available at that time, the Commission considered whether Magyar Telekom (MT) could exercise significant market power, and behave independently from its competitors and ultimately consumers. Furthermore, the Commission also had doubts as to regulator's methodology to calculate the wholesale charges to be imposed on MT.

During the investigation, NMHH provided additional data to BEREC and the Commission that was more convincing in terms of existence of MT's significant market power (SMP). In particular, the newly obtained data showed MT's persistently high and growing market shares, also with regard to future-proof Ethernet leased lines. Importantly, during the in-depth investigation, NMHH provided further evidence indicating MT's ability to increase its market shares while charging higher prices, and enjoying high profit margins, well above those of its main competitors. Finally, during the investigation, NMHH provided further information indicating that the leased line services provided by certain suppliers do not affect the overall conclusion that MT holds SMP on the relevant market.

On 15 October BEREC issued its opinion in which it considered the Commission's serious doubts with regard to the assessment of Significant Market Power are not justified (BoR(18)199).

On the basis of the above considerations the Commission has lifted its reservations as to NMHH's draft measure determining that MT holds Significant Market Power on the market for wholesale high quality access in Hungary.

In the decision to initiate Phase 2 investigation, the Commission has also raised serious doubts concerning the choice of appropriate remedies under Article 7a of the Framework Directive, according to which the Commission has 3 months (not 2) to complete its assessment and also closely cooperate with NMHH and BEREC. On 26th October BEREC issued its Opinion in which it considered that Commission's serious doubts as to the remedies are mostly justified. The deadline for Commission's Recommendation according to Article 7a is 17 December 2018.

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