REPUBLIC OF ALBANIA
-COMPETITION AUTHORITY-
COMPETITION COMMISSION

DECISION
No. 303 of 16 January 2014

On concluding the in-depth investigation into Vodafone Albania SHA in the retail mobile telephony market, and recommendations for the Electronic and Postal Communications Authority

The Competition Commission, composed of

- Lindita Milo (Lati) Chair
- Rezana Konomi Deputy Chair
- Servete GrudaMember
- Koço Broka Member
- Iva Zajmi Member

in its meeting of 16 January 2014, with the participation of Ms. Lindita Milo (Lati), Ms. Rezana Konomi, Ms. Servete Gruda, and Ms. Iva Zajmi, reviewed the Case with:

Subject-matter: Review of the Secretariat Report on the in-depth investigation into the retail mobile telephony market, and the claims submitted by Vodafone Albania SHA

Legal basis: Article 8, Article 9, Article 24 (d) and (f), Article 26 and Article 70 (2) of Law no. 9121 of 28 July 2003 “On Competition Protection,” as amended;
Law No. 8485 of 11 November 1999 “Administrative Procedure Code”.

Undertaking under investigation: Competition Commission Decision no. 275 of 25 March 2013 specified that the undertaking under investigation was Vodafone Albania SHA, residing at: Autostrada Tirane - , Rr “Pavaresia”, nr 61, Kashar, Tirane, Albania

Investigation period: Competition Commission Decision no. 275 of 25 March 2013 “On initiating the in-depth investigation proceedings against Vodafone Albania SHA in the retail mobile telephony market” specified that the investigation period was from 1 January 2011 till 31 December 2012.

After reviewing the

- Report on the in-depth investigation into the retail mobile telephony market, submitted by the Competition Authority Secretariat, and the Secretary-General's Report;
- The claims that the undertaking under investigation—Vodafone Albania SHA—submitted in its Letter No. 472 of 9 December 2013 and at the hearing that was organized at the Competition Authority on 10 December 2013,

THE COMPETITION COMMISSION NOTES THAT:

I.CASE UNDER REVIEW

1. At the end of November 2012 two complaints were filed with the Competition Authority in relation to the retail mobile telephony market by undertakings Albanian Mobile Comunication SHA (hereinafter "AMC") and PLUS COMMUNICATION SHA (hereinafter "Plus"), respectively. The complainants claimed that VODAFONE Albania SHA had abused with its dominant position in the market through its tariff plans (Vodafone Club and Vodafone Card). In addition, operator Plus Communication complained of the Vodafone advertising campaign in relation to the bonus for independent distributors that would be gained if they gave priority to advertising all Vodafone products.

2. Given that the mobile telephony market is a regulated one, the assessment of how that market functioned was based on a review of the decisions, reports and analyses on the mobile telephony market by the Electronic and Postal Communications Authority. Its Governing Board Decision No. 2118 of 4 July 2012 Approving the "Analysis of the mobile telephony market: wholesale termination and access/origination markets: final document"[1] states (page 81) that: *there is emphasized differentiation of on-net tariffs and off-net tariffs among the mobile telephony operators that are established in the market, even though the cost of on-net calls is approximate with that of off-net calls. This phenomenon conditions the behaviour of Albanian consumers, negatively affects the free competition on the market and restricts it as a result of causes deriving from the discrimination in the application of on-net calls and off-net calls…"*

II.PROCEDURE

3. Pursuant to Article 42 (1) of Law No. 9121 of 28 July 2003 "On Competition Protection", as amended (hereinafter the "Law"), the Competition Commission, with proposal from the Secretariat, decided to initiate an inquiry into the retail mobile telephony market, with its Decision No. 258 of 21 December 2012. Its Decision No. 260 of 11 January 2013 revoked Competition Commission Decision No. 258 of 21 December 2012 On initiating an inquiry into the retail mobile telephony market; Competition Commission Decision No. 261 of 11 January 2013

1 http://akep.al/images/stories/AKEP/publikime/2012/Vendim-nr2118date4072012.pdf

decided to initiate an inquiry into the retail mobile telephony market in order to determine whether there were any indications of competition restriction.

4. Based on the Inquiry Report findings, the Competition Commission, pursuant to Articles 24 (d) and 43 (1) of the Law and Article 12 of the Regulation on the functioning of the Competition Authority, adopted Decision No. 275 of 25 March 2013, amended by Decision No. 280 of 22 April 2013 On initiating the in-depth investigation proceedings against Vodafone Albania SHA in the retail mobile telephony market.

5. The Decision was communicated to the undertaking under investigation and the complainant undertaking by means of Competition Authority Secretary General Letter No. 150 of 26 March 2013.

6. In the next step of the procedure, the Secretariat submitted to the Competition Commission its Report on the in-depth investigation into the retail mobile telephony market. The Report was also communicated to the undertaking under investigation.

7. Pursuant to Article 39 of the Law, the Competition Commission held a hearing on 10 December 2013 wherein the undertaking under investigation submitted their oral and written claims in relation to the Investigation Report. Their written claims were submitted by means of their Letter No. 472 of 9 December 2013 to the Competition Authority, and were taken into consideration by the Competition Commission.

III. RELEVANT MARKET

8. According to Article 3 (7) of the Law the relevant market consists of *"… the products that are deemed as substitutable by consumers or other clients in terms of their features, prices and functions, and which are supplied or demanded by undertakings in a geographic area under the same competition conditions that is separate from other bordering areas."*

9. Pursuant to the Law, the Competition Commission, by its Decision No. 76 of 7 April 2008 approved the Guidelines on the determination of the relevant market, under which the relevant market includes the product market and the geographical market. The determination of the market in terms of both product and geography aims at identifying any current or potential competitors of the undertakings involved in that market, assessing the behaviour of those undertakings, calculating market shares, and determining the undertaking power and market structure in order to evaluate market competition.

III.1 Relevant Product Market

10. **The relevant product market** is specified like this: *"A relevant product market includes all those goods and/or services that are deemed as interchangeable or substitutable by consumers in terms of their features, prices and functions".* The criteria applicable to the determination of the relevant market are: substitutability

on the demand side, substitutability on the supply side, potential competition and market entry barriers.

11. Substitutability on the demand side implies that a price increase makes a product less attractive for consumers, who decide to purchase less of it and more of alternative substitutes. Consumers are interested in being informed by the operators offering a broader range of services, including: initial activation fees, monthly subscription fees, peak and off-peak tariffs, amount of calls and text messages included in the plan, SMS tariffs, on-net call tariffs, off-net call tariffs, calls terminating in other networks, mobile phone cross-subsidies, etc.

12. Substitutability on the supply side implies that companies are capable of interchanging their products with the products of the relevant market and sell them in the short run at no excess costs in response to small or permanent price changes. In fact, all the undertakings offer many services and possibilities through their tariff plans, which include outgoing calls, MMSs and SMSs.

13. The market under investigation is the retail mobile telephony market, with the relevant product market being the public mobile telephony services provided by the companies, including user access to the network and outgoing calls through both prepaid and post-paid plans. So, users are able to access this service everywhere at any time—on their mobile phones—at least within the coverage area of specific operators they have subscribed to. In this market, prepaid services account for over 90% of the market; the Vodafone Albania SHA share is 94.94%. All prepaid subscribers are individual users, while post-paid subscribers are both individual and business users.

14. Landline telephony is not included in the respective market due to its specificities vis-à-vis mobile telephony. From a consumer's point of view, landline telephony services are not substitutable with mobile telephony services.

15. In the market under investigation four mobile companies operate at both market levels simultaneously—upstream (wholesale market) and downstream (retail market). Thus, the undertakings are vertically integrated and provide services to their competitors in the retail market. There are no other licensed mobile operators (MVNO) to provide this service to end users.

16. The SMS service is not part of the respective market due to the different features of this service vis-à-vis voice calls. Telephony service (including the mobile one) has the distinctive characteristic of immediately transmitting sound waves from a caller to a receiver and vice-versa, and is potentially unlimited in terms of time. An SMS does not bear that characteristic.

17. Nevertheless, due to the very developments the market has gone through (technological progress, substitutability of SMSs with other elements, package sales, etc.), the retail mobile telephony market is a single market and includes all mobile telephony services that are provided by the various operators at retail level.

18. The determination of the relevant market also took into consideration other such criteria as potential competition and entry barriers, which are treated in an extensive way.

Based on the above, **the relevant product market includes all public mobile telephony services provided by the mobile operators in the retail market.**

III.2 Geographic Market

19. The relevant geographic market includes the area in which the undertakings are involved in the supply and demand services where competition conditions are sufficiently homogenous. The geographic area of the retail mobile telephony service of mobile operators is the territory of the Republic of Albania. According to the individual licenses under which those companies operate they provide their services only in the territory of the Republic of Albania.

IV. ASSESSMENT OF DOMINANT POSITION

20. Dominant position is defined in Article 3 (5) of the Law: *"Dominant position" means the economic power held by one or more undertakings in a relevant market giving them the ability to prevent effective competition in the market making them capable of acting, in terms of supply or demand, independently from the rest of market players, such as competitors, customers or consumers.*

21. The Law does not prohibit an undertaking from having a dominant position; however, holding a dominant position triggers "special responsibilities" for the undertaking to avoid committing abuse of that dominant position.

22. The main criteria applicable to the assessment of a dominant position of one or more undertakings, under Article 8 of the Law, are: the relevant market share(s) of the undertaking(s) under review and other competitors; entry barriers in the relevant market; potential competition; undertaking economic and financial power; economic dependency of suppliers and buyers; responsive power of consumer buyers; development of the distribution network of the undertakings, and possibilities of product source use; economic relations with other undertakings; other characteristics of the relevant market.

IV.1 Market shares held by competitors and degree of concentration

IV.1.1 Market shares

23. One of the basic criteria that serve as a starting point for the assessment of the dominant position is the market share held by the undertakings in the relevant market. European Union best practices suggest that the larger a market share and the longer the period in which the undertaking has held that market share the more possible it is for that element to be a significant indicator of a dominant position and to justify Authority intervention in specific circumstances[2].

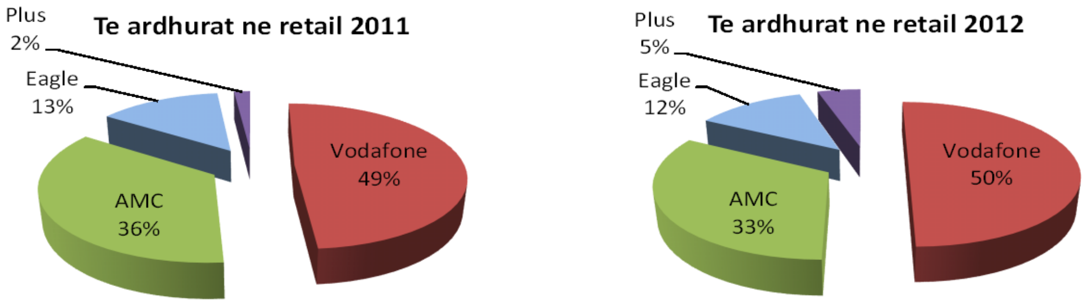
2 Communication from the Commission: Guidance on its enforcement priorities in applying Article 82 of the EC Treaty to abusive exclusionary conduct by dominant undertakings.

24.In Case 85/76 *Hoffmann-La Roche & Co. AG v Commission of the European Communities*,[3] ECJ noted that "although the importance of market shares may vary from one market to another the view may legitimately be taken that very large shares are in themselves, and save in exceptional circumstances, evidence of the existence of a dominant position."

25.The shares in the relevant market were calculated on the basis of several indicators: revenues generated in the retail market; revenues from outgoing calls; revenues from SMSs; net total revenues; number of subscribers in terms of active subscribers and SIM carts.

IV.1.1.1 Retail market shares by revenue

26.The Guidelines on the relevant market, adopted by Competition Commission Decision No. 76 of 7 April 2008, stipulate that the level of revenue is the basic criterion for the calculation of market shares. Calculation of market shares in terms of realized revenues is a more accurate indicator that better reflects the position and power of each undertaking in the market. In the relevant market such revenues come from outgoing calls, SMSs, MMSs, etc., as shown in the following graphs:



Graph 1 *– Retail revenues, 2011-2012*[4]

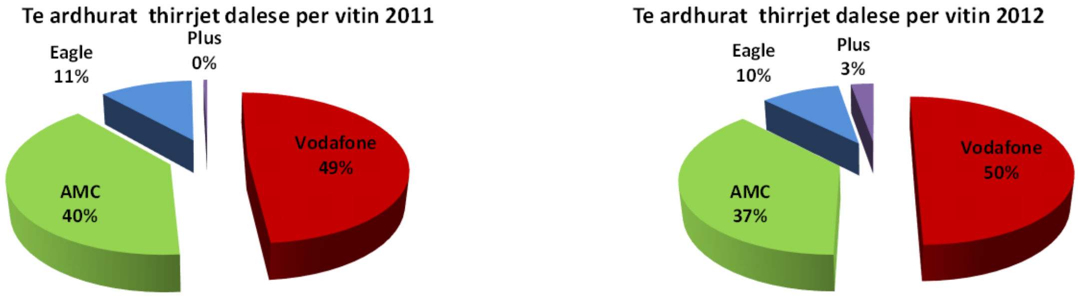
27.The graph shows that the undertaking holding the largest market share in terms of revenues realized in the relevant market was Vodafone with 50% of the market in 2012 and 48.74% in 2011. The closest competitor of Vodafone, AMC had 33% of the market in 2012, which was 2.94% less than in 2011. In 2012 the other two smaller operators had insignificant changes in their market shares.

IV.1.1.2 Market shares in terms of revenues from outgoing calls

3 ECJ Judgment of 13 February 1979 on Case 85/76, Hoffmann-La Roche, § 41: ..*although the importance of the market shares may vary from one market to another the view may legitimately be taken that very large shares are in themselves, and save in exceptional circumstances, evidence of the existence of a dominant position*

4Source: AKEP, Form E "Financial data, 2011-2012"

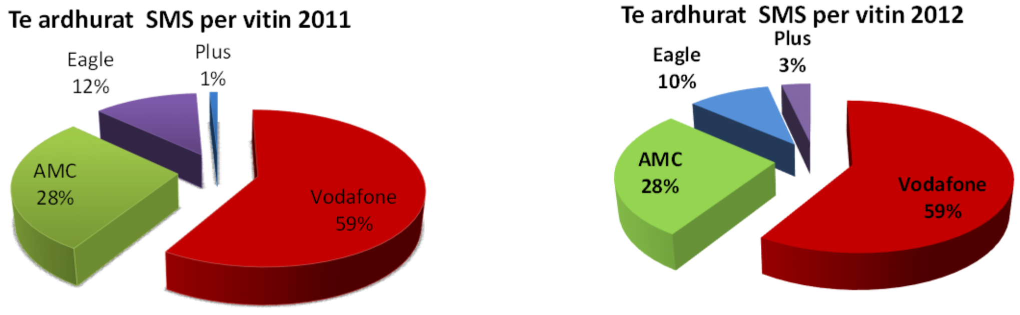
28.An assessment of revenues from outgoing call revenues in the relevant market shows that the total volume of revenues from outgoing calls fell by 15% from 2011. The undertaking with the largest market share in 2012 was Vodafone Albania (49.95%), with an increase by 1.31% from 2011. The second largest market share was held by AMC (37.60%) in 2012, the revenues of which had fallen by 2.20% compared with 2011. Eagle Mobile accounted for 9.67% of the market in 2012, with a fall by 27% in its revenues compared with 2011. Plus Communication held 2.78% of the market in terms of revenues from outgoing calls. The following graphs show the market dynamics in terms of outgoing call revenues:



Graph 2. Market shares by outgoing call revenue

IV.1.1.3 **Market shares in terms of revenues from SMSs**

29. An assessment of revenues from SMSs[5] shows that in 2011-2012 the undertaking with the largest market share was Vodafone Albania (58.69% in 2011, 58.91% in 2012) followed by AMC (27.54%), Eagle Mobile (10.01%) and Plus Communication (3.54%). The following graphs show market share dynamics for this indicator:

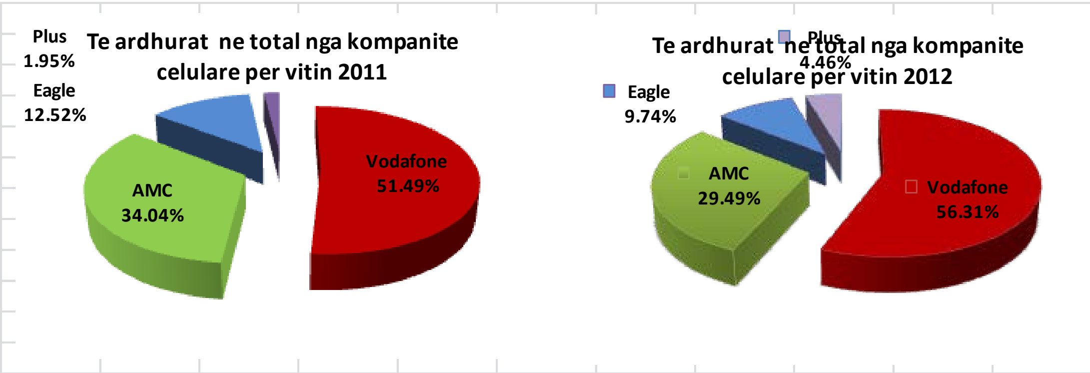


Graph 3: SMS revenue market shares, 2011-2012

IV.1.1.4 **Market shares in terms of total net mobile telephony revenues**

5 Revenues from SMSs account for about 10-11% of total revenues in the retail market.

30. In terms of total net revenues, the undertaking with the largest market share in 2012 was Vodafone Albania (56.31%,[6] down from 51.71% in 2011). It was followed by AMC (34.19% in 2011, 29.49% in 2012). Eagle Mobile was the third undertaking (its market share fell from 2011). Plus Communication revenues increased, but its market share remained at 4.5%. The following graphs show the dynamics:



Graph 4: Market shares in terms of total revenues of mobile telephony undertakings, 2011-2012[7]

31. An assessment of company revenue data for 2011-2012 shows that total mobile telephony revenues in 2012 were higher than in 2011, but still almost the same as in 2010. They increased by 7%. Plus Communication had the highest revenue increase in relative amount. Vodafone revenues increased by 16.90% in 2012 compared with 2011. AMC—its closest competitor—had a fall by 7% in its revenues compared with 2011; Eagle Mobile revenues fell by 14%.

32. A comparison of this indicator for the two closest competitors—Vodafone and AMC—shows that the market share of Vodafon Albania increased from 48% in 2010 to 56.31% in 2012, while that of AMC decreased from 40% in 2010 to 29.49% in 2012.

IV.1.2. Market shares by volume

33. A calculation of market shares and total market size was also done on the basis of volume, as expressed by the number of SIM card users and the number of active users.

34. The following table shows the market shares (in the columns under headings M SH 2011 and M SH 2012) in terms of the number of SIMs and active users.

6 In Case C-62/86, AZKO Chemie BV vs. Commission (1991), the European Court of Justice considered that a market share of 50% could be considered to be very large such that, absent exceptional circumstances, an undertaking with such a market share would be presumed dominant.

7 Source: The data are taken from the financial statements of the mobile telephony companies.

Table 1: Operators' market shares in terms of SIM cards[8] and active subscribers[9], 2011-2012[10]

N/r	Ndermarrjet	M SH 2011		M SH 2012	
		Karta SIM	Aktive	Karta SIM	Aktive
1	VODAFONE	38.66%	44.22%	42.54%	43.07%
2	AMC	41.02%	37.47%	39.48%	40.66%
3	Eagle mobile	11.84%	12.38%	11.61%	10.42%
4	Plus Communication	8.48%	5.94%	6.37%	5.85%
	Totali	100.00%	100.00%	100.00%	100.00%

–The total number of users of active SIM cards increased from XXX in 2011 to XXX in 2012 (by 1.43%), with Vodafone Albania having a rise by 11.63% in the number of SIM card users in 2012 compared with 2011. Based on the number of active SIM card subscribers in 2012, the undertaking with the largest market share was Vodafone Albania (42.54%), which was also the undertaking which increased its market share by 3.89% compared with 2011. The second largest market share in 2012 was held by AMC (39.48%), the market share of which fell by 1.54% compared with 2011. Plus Communication shrank both in terms of subscriber (SIM) number and market share compared with 2011.

–The total number of active users rose by 12.66%. AMC experienced the biggest fall in this indicator (by 22.26%), followed by Plus Communication (by 10.98%) and Vodafone Albania (by 9.73%). Based on the number of active subscribers in 2012, the undertaking with the largest market share was Vodafone Albania with 43.07%. The second largest market share in 2012 was held by AMC (40.66%), the market share of which fell by 3.19% compared with 2011.

35.The following table shows the market shares for each undertaking in terms of revenues and volume.

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8 According to 2012 AKEP Report, the number of mobile phone users refers to the number of active SIM cards, and under operators' policies a SIM card may be active for one year from the last phone call, and if one's credit runs out during this one-year period that subscriber can still receive calls for six months.

9 Source for 2010: AKEP. According to AKEP Annual Report the number of active users includes users performing communications in the last three months.

10 The number of SIM card subscribers is not the same as active users vis-à-vis AKEP data only in the case of Eagle, because the Competition Authority referred to the operators' data and in is Letter No. 2698/1 of 26 July 2013 (archived by us with number 186/4 on 26 July 2013) Eagle Mobile clarified the number its subscribers following its Letter No. 3698 of 28 June 2013 Re Albtelecom's market shares as determined based on the number of subscribers, which it sent to AKEP.

***Table 2:** Market shares in terms of revenues and users, and differences for 2011-2012*

Kompanite	Pjesa tregut ne baze te ardhurave		Pjesa tregut ne baze te ardhurave totale neto		Pjesa tregut ne baze te perd aktive		Dif midis pjeses se tregut perd dhe te ardh		Dif midis pjeses se tregut perd dhe te ardh tot neto	
	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012
VODAFONE	48.74%	50.00%	51.49%	56.31%	44.22%	43.07%	-4.52%	-6.93%	-7.27%	-13.24%
AMC	35.74%	32.80%	34.04%	29.49%	37.47%	40.66%	1.73%	7.86%	3.43%	11.17%
Eagle mobile	13.72%	12.34%	12.52%	9.74%	12.38%	10.42%	-1.34%	-1.92%	-0.14%	0.68%
Plus comm	1.80%	4.85%	1.95%	4.46%	5.94%	5.85%	4.13%	1.00%	3.98%	1.39%

Source: Undertakings and AKEP, processed by CA

36. The table above shows a difference between market share in terms of revenues and the market share in terms of active users; however, all indicators show that Vodafone Albania has considerable market shares.

IV.2. Determination of market power

37. Market power is the power to exert influence on market competition parameters. A specific measure of market concentration, i.e. of the size of firms in relation to the industry, is the Herfindahl–Hirschman Index, or HHI, which is used as an indicator of market power or the amount of competition among firms.[11]

38. HHI values for 2011-2012 based on market shares in terms of the number of users and revenues in the relevant market and revenues in the mobile telephony market are shown in the following table.

Table 3. HHI values, 2011-2012[12]

Kompanite	**HHI 2011**					**HHI 2012**				
	AMC	Vodafon	Eagl	Plus	*totali*	AMC	Vodafon	Eagl	Plus	*totali*
ardhura tregu	1,27	2,37	18	3	**3,844**	1,07	2,50	15	2	**3,752**
perdorues	1,68	1,49	14	7	**3,389**	1,55	1,81	13	4	**3,544**
perdorues	1,40	1,95	15	3	**3,548**	1,65	1,85	10	3	**3,651**
ardhura	1,15	2,65	15	4	**3,970**	87	3,17	9	2	**4,155**

39. The table shows that HHI was high: according to the revenues generated in the retail market was 3752, with a slight fall from 2011 (3844); according to active card users it was 3651, with a slight rise from 2011. The degree of concentration according to the revenues in the relevant market rose from 2375 to 2500 for Vodafone Albania; it also rose according to total net revenues in the mobile telephony market from 2651 to 3170, with only operator exceeding the high

11 The 'Herfindahl-Hirschman Index - HHI' measures the market concentration, and is calculated by squaring the market share of each firm in an industry and then summing the resulting numbers. The higher the HHI, the more concentrated in a small number of firms the product in that market is. Generally speaking, at an HHI less than 1,000 a market concentration is considered to be low; with a result of 1,000-1,800 a market is considered to be moderately concentrated; and with a result of 1,800 or greater it is considered to be a highly concentrated marketplace.

12Source: company data that have been processed by the Competition Authority, and AKEP.

degree of concentration.[13] At this degree of concentration the power of the two more recent operators—Eagle and Plus Communication—is insignificant.

40. HHI values for the wholesale market are the same as the HHI values for the retail market in the mobile telephony service market as a result of the absence of independent MVNOs, although the law allows such operators. In other countries the involvement of MVNOs has led to a reduction of the index.

41. In general, in the mobile telephony market the HHI is higher than in other markets, because of the limited number of operators. Given the size of the Albanian market, with its four operators, this indicator should have been smaller. The fact that the concentration degree indicator is high, with even a slight rise in the period under investigation, shows that the market did not improve in terms of competition.

IV.3. Entry barriers in the relevant market

42. The Albanian mobile telephony market is a regulated one. AKEP is the institution that has the responsibility for regulating the telecommunications market in the Republic of Albania.

43. Despite the legislative amendments, there are currently no independent service providers or MVNOs in the retail mobile telephony market. This fact indicates that the retail mobile telephony market continues to pose entry barriers for service providers.

44. Such barriers could be administrative, technical or economic.

IV.3.1 Administrative and technical barriers

45. The number of licenses to operate in the mobile telephony market is limited in the Republic of Albania due to the limited natural resources, such as frequencies. Currently four potential licenses have been granted in this market, and given the natural resources there are no technical and administrative possibilities for other available licenses. This clearly shows that this is a market with administrative entry barriers.

46. The radio frequency spectrum is a limited natural resource, and the National Radiofrequency Plan and its amendments are adopted by the Council of Ministers. It is because of this that, despite the complete opening of the telecommunications market to competition, some services will continue to be part of this category of a limited number services. This clearly shows that this is a market with technical entry barriers.

47. The fact that Albania has been allowed a specified quota of bands in different frequency categories by the International Telecommunication Union (ITU), which

13 1800

allow no more than four licenses for mobile telephony operators again shows that there are technical entry barriers in this market.

IV. 3.2 Economic barriers

48. First, market entry and exit costs for mobile telephony operators are significant, especially since they are unrecoverable costs.

49. Second, initial investment in building the mobile telephony networks for new entrants in the market is large. For such new entrants as Eagle Mobile and Plus Communication that kind of investment, which they have made in order to make a powerful entrance in the market, is more costly because they cannot quickly reach the sufficient amount of sales and number of subscribers.

50. Third, these costs are not reversible because the equipment employed in the construction of networks cannot be used for other purposes. Irreversible costs post a restriction on competitors, and are a significant economic exit barrier.

51. The economies of scale[14] can give the undertaking with the dominant position in the relevant market a competitive edge against smaller competitors. When a mobile telephony operator makes large investments in building a network, such as stations; antennas; after the completion of the entire network any new customers would result in reduced average costs for that operator. New operators in such markets cannot have a large traffic compared with existing operators in the market and, therefore, they do not benefit from the economies of scale.

IV.4 Potential competition

52. Sufficiently profitable markets have a tendency to see new entrants. Any assessment of the potential competition should, therefore, take into account such factors as entry barriers, any potential reaction by the largest undertaking in the market and other competitors, and any bankruptcy risks and costs.

53. The Competition Authority and AKEP have made interventions for increasing competition in the market through enforcement of the Competition Law and issuance of regulatory acts on that market; however, the market still has a high degree of concentration, as already stated above. For an acceptable level of competition to be achieved, both larger operators and smaller existing ones should seek to attract customers from the pool of existing customers of the rest of operators. The penetration index is 198.45%[15], based on the number of SIM

14Source: EU legislation official website: http:// eur-lex.europa.eu … A mobile telephony operator reaches economies of scale when it has at least 20% of the market; at 15-20% minimum efficiency is achieved.

15 AKEP 2012 Annual Report; Report 2 final 20120706 Cullen international; Enlargement countries monitoring report 2 – July 2012; Cullen International – SEE Electronic Communications market – December 2011….. In Albania and Serbia mobile penetration is also higher than the EU average, was changed in Report No. 3 Cullen International...... This figure changed to 114.3% in 2012, since it was adjusted for the number of active subscribers at Cullen International. A market penetration of 198.45% means that one subscriber is using more than one SIM card.

users, which is higher than in many other countries. This makes it difficult for smaller operators to attract customers to their networks.

54. For smaller operator to be more competitive, they need to apply more favourable prices than larger operators in the market. However, attraction of new subscribers from mainly existing subscribers of other operators is an obstacle to the growth of current market players.

IV.5. Undertaking economic and financial power

55. Mobile operators have the highest turnover in Albania. Mobile telephony revenues were ALL 41.1 billion in 2012 and ALL 38.4 billion in 2011.

56. The financial result for mobile companies fell by 49.93% in 2011 compared with 2010. Vodafone Albania was found to have a lower profit in 2011 than in 2010 (28.55%), AMC profit fell by 34.9%, while the other two smaller competitors deepened their losses. The financial result in 2012 fell by 3.45% compared with 2011. Vodafone Albania financial result increased by 19.52% in 2012 compared with 2011. AMC, which is the closest competitor of Vodafone, had a lower profit in 2012 than in 2011 (by 25.11%). Eagle Mobile and Plus Communication had losses in 2010-2012.

57. Revenue data for each company showed that Vodafone's closest competitor (AMC) experienced a fall by 7% in its revenues in 2011, while Vodafone revenues were 1.9 times higher than AMC revenues. AMC revenues fell from 39.63% in 2010 to 29.49% in 2012.

IV.6 Responsive power of consumers and buyers (competitors)

58. The very structure of the retail mobile telephony market is such that users who buy considerable amounts of mobile services are quite few. As noted above when discussing the determination of the relevant market, the number of prepaid users accounts for about 90-95% of the total number of users. The remaining 5-10%, who are post-paid subscribers, use large quantities of mobile telephony services. In the case of Vodafone prepaid services account for 95% of all services it provides in the relevant market. Prepaid subscribers are, however, small users who do not hold any responsive power, while the rest of subscribers are few (although most of them are individuals). It is therefore clear that users of retail mobile telephony services do not hold any significant responsive power.

59. Vodafone Albania has accumulated an edge in the mobile telephony market by building its own network, having its own pool of customers (subscribers), gaining experience in market management and building a name through marketing, in addition to having considerable economic and financial power. New operators would, therefore, need significant time and money to become an effective part of this market. The number of potential customers left in the market is relatively limited.

60. Another advantage for existing companies comes from the fact that operators Eagle and Plus are newer and do not have much responsive power. An additional

feature of telecommunications networks is that operators are vertically integrated in both wholesale and retail markets. This integration is an advantage for existing operators vis-à-vis new entrants.

61. Based on the above, the responsive power of the smaller competitors--Eagle Mobile and Plus Communication—is found to be insignificant.

62. Vodafone Albania currently has a network of 136 points of sale[16] across the country, which provide services seven days a week. Vodafone shops sell Vodafone products and services and mobile phones and accessories, and provide technical assistance. Vodafone Albania Customer Care Service responds to customers' needs on a 24/7 basis.

IV.7 Other characteristics of the relevant market

63. Vodafone Albania SHA[17] is part of Vodafone Group Plc – a global telecommunications leader. Vodafone is ranked as the seventh most valuable brand in the world. Vodafone is present in more than 30 countries and partners with other networks in over 40 countries.

64. This undertaking has access to capital markets and other financial resources since it is a member of an international group that is a telecommunications leader.

65. Vodafone Albania is the first operator that introduced the 3G technology in Albania in January 2011. Currently Vodafone covers 99% of population with its 3G network.

66. Vodafone offers for its 2 million customers in Albania a wide range of communications services of high quality including voice and data communication ensuring that customers use the best telecommunications network and benefit from innovative and quality services.

67. During the period under investigation Vodafone Albania was the largest operator in the relevant market compared with the other three competitors.

Based on market shares, market entry barriers, potential competition, undertaking economic and financial power, buyer responsive power, and other market characteristics, and pursuant to Articles 3 (5) and 8 of the Law and European best competition law practices, Vodafone Albania was found to have a dominant position in the retail mobile telephony market in 2011-2012.

V. ASSESSMENT OF VODAFONE ALBANIA BEHAVIOUR

68. As noted above, Vodafone has a dominant position in the relevant market, which is not prohibited by the Law; however, this dominant position gives the undertaking a special obligation not to abuse with that position and not behave in

16 Source: http://www.vodafone.al/vodafone/Vodafone_Albania_202_1.php

17 Source: http://www.vodafone.al/vodafone/Vodafone_Albania_202_1.php

such a way as to restrict competition, especially not to commit what is specified in Article 9 (2) of the Law.

69. This is also based on the unification case law and consolidated case law at EU level. Specifically, in Case T-65/89 *BPB Industries Plc and British Gypsum Ltd v Commission of the European Communities*18, ECJ stated that, *“Whilst the fact that an undertaking is in a dominant position cannot disentitle it from protecting its own commercial interests if they are attacked and whilst such an undertaking must be conceded the right to take such reasonable steps as it deems appropriate to protect its interests, such behaviour cannot be countenanced if its actual purpose is to strengthen this dominant position and abuse it.”*

70. The behaviour of Vodafone, which was the undertaking with the dominant position, during the investigation period, especially its behaviour in terms of prices and competitors in the respective market, is assessed in relation to its tariff plans, its bonuses offered to distributors, and its offers used to attract new subscribers through own number portability (PNOP).

V.1 Vodafone tariff plans

71. In the period under review (2011-2012), Vodafone operated with two tariff plans: Vodafone Card and Vodafone Club.

V.1.1 Vodafone on-net call prices

72. In the period under review (2011-2012), Vodafone operated with two tariff plans: (1) Vodafone Card and (2) Vodafone Club. The admitted materials on the Vodafone on-net tariffing (i.e. prices applied to calls between Vodafone Club and Vodafone Card subscribers) show that there are tariff differences.

73. In the case of an on-net call, as shown in the two abovementioned tariff plans, the call origination and termination is made on the operator’s own network, which means that the operator has to deal with only two internal operations. Noting the similar nature of operations performed up to the end users, the following table shows the on-net tariff differences for Vodafone Club and Vodafone Card.

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18 Judgment of the Court of First Instance (Second Chamber) of 1 April 1993. - BPB Industries Plc and British Gypsum Ltd v Commission of the European Communities, § 69: «Whilst the fact that an undertaking is in a dominant position cannot disentitle it from protecting its own commercial interests if they are attacked and whilst such an undertaking must be conceded the right to take such reasonable steps as it deems appropriate to protect its said interests, such behaviour cannot be countenanced if its actual purpose is to strengthen this dominant position and abuse it"

Table 5: Vodafone Club on-net tariffs[19], 2011-2012[20]

Vodafone Club 2011		Vodafone Club 2012	
	Tarifa		Tarifa
Brenda Club	24.00 l/min	Brenda Club	24.00 l/min
Drejt nr Vodafone	54.00 l/min	Drejt nr Vodafone	54.00 l/min
Vodafone Card 2011		**Vodafone Card 2012**	
Drejt nr te tjere Vodafone	30.00 l/min	Drejt nr te tjere Vodafone	30.00 l/min

74.The table above shows that in the period under investigation (2011-2012), tariffs remained fixed: no changes were made to the prices Vodafone applied. Vodafone charged its Vodafone Club subscribers ALL 24 per minute, while non-Vodafone Club subscribers (but still within Vodafone) were charged ALL 54 per minute. Vodafone charged its Vodafone Card subscribers ALL 30 per minute for every call to Vodafone subscribers, including both Vodafone Club and Vodafone Card.

75.Calls from Club to Vodafone are 2.25 times as expensive as calls within Vodafone Club. On other hand, tariffing of Vodafone Card subscribers was uniform. Vodafone Card is subject to the principle of non-differentiation within the network. Calls originated from a Vodafone Card subscriber towards a Vodafone Club subscriber cost ALL 30 per minute, compared with ALL 54 per minute that a call from a Vodafone Club subscriber to a Vodafone Card subscriber would cost (almost twice as expensive). This Vodafone strategy aims at keeping Vodafone Club subscribers—who are also more in number—locked into that tariff plan. The strategy implemented by Vodafone creates the so-called "Club effect", whereby a specific group of subscribers benefit lower prices, as also shown in the differentiation between Vodafone subscribers under different plans.

76.This tariffing differentiation by Vodafone is not justified by its costs in terms of the relevant calls, since both origination and termination are internal operations, applies to both Vodafone Clun and Vodafone Card subscribers. Under the prepaid Vodafone Club plan, there is an on-net differentiation in the tariffing through the application of different tariffs to new subscribers for calls within the Club plan and calls outside the same plan, even though they are Vodafone subscribers. This tariff differentiation is more noticeable in absolute terms—ALL 54 per minute to all other Vodafone numbers—but also in relative terms, since tariffs within the Club plan are very low and tariffs for calls to the rest of Vodafone customers are 2.25 times as high without any reasonable cost correlation.

77.This makes Club subscribers' calls to on-net subscribers more expensive and "overwhelms" their intention to get out of it; it also encourages Club members to call on other subscribers to sign up to the Club plan in order to talk cheaper with them. *Thus, Vodafone locks its subscribers in its Vodafone Club plan encouraging them to communicate only under that tariff plan.*

V.1.2 Vodafone off-net call prices

19 Tariffs include VAT.

20 Source: data submitted by Vodafone by its Letter 733/2 of 14.01.2013 CEO/004/MF.

78.In this context we reviewed the tariffs that Vodafone applies to its subscribers under each tariff plan in 2011-2012, for the calls to other mobile operators (off-net tariffs).

Table 6: Vodafone off-net tariffs, 2011-2012[21]

Vodafone Club 2011		**Vodafone Club 2012**	
	Tarifa		Tarifa
Brenda Club	24.00 l/min	Brenda Club	24.00 l/min
Drejt nr Vodafone	54.00 l/min	Drejt nr Vodafone	54.00 l/min
Drejt nr Fiks	54.00 l/min	Drejt nr Fiks	54.00 l/min
Drejt AMC	54.00 l/min	Drejt AMC&Eagle	54.00 l/min
Drejt Eagle Mobile	56.40 l/min	Drejt Plus Communication	56.40 l/min
Drejt Plus Communication	63.60 l/min		
Vodafone Card 2011		**Vodafone Card 2012**	
Drejt nr te tjere Vodafone	30.00 l/min	Drejt nr te tjere Vodafone	30.00 l/min
Drejt nr Fiks	24.96 l/min	Drejt nr Fiks	24.96 l/min
Drejt AMC	35.88 l/min	Drejt AMC&Eagle	35.88 l/min
Drejt Eagle Mobile	38.40 l/min	Drejt Plus Communication	38.40 l/min
Drejt Plus Communication	45.60 l/min		

79.The table above shows that in 2011-2012 the tariffs even in this tariff plan were relatively fixed. In 2012 there were changes in the tariffing and a reduction of call origination tariffs for Vodafone Card subscribers towards Eagle Mobile and Plus Communication subscribers and from Vodafone Club subscribers to Eagle Mobile and Plus Communication subscribers. Vodafone communicated the reduction of tariffs to AKEP in October 2012.[22]

V.1.3 Differentiated call prices within and off Vodafone network

80.Unlike on-net calls, in the case of off-net calls the undertaking originating the call has to cover the termination cost at the other operator. In the case of an off-net call the “calling” operator originates the call and sends it to the called operator, who provides the termination of the call. The calling operator pays the called operator for the termination service.

81.For off-net calls the operator originates calls and purchases call termination. If tariff applicable to end users were oriented towards costs, the termination costs would be reflected in the end price.

82.In order to analyse the dynamics of tariffs applied for a longer period, the following table identifies AKEP-regulated tariffs in the retail market for Vodafone Albania SHA, which was specified as OFNT.

21 Source: data submitted by Vodafone by its Letter 733/2 of 14.01.2013 CEO/004/MF.

22 Source: AKEP, Letter No. 2352/1 of 22.01.2013; Vodafone Letter of 09.10.2012 sent to AKEP, archived with no. 1968 of 10.10.2012

Table 7: Vodafone Card prepaid tariffs reduction in accordance with the methodology[23]

TABELA IV.4. REDUKTIMI I TARIFAVE TE PROGRAMIT ME PARAPAGIM VADAFONE CARD, TE VODAFONE ALBANIA SIPAS METODOLOGJISE. (LEK/MINUTE +TVSH)

		Shtator 2008	Metodologjia: Shtator 2008-	Metodologjia: Shtator 2009	Ndryshimi Metodologjia
Brenda rrjetit Vodafone	*Brezi orar PEAK*	45,60	34,80	30,00	-34%
	Brezi orar OFF-PEAK	36,00	34,80	30,00	-17%
Drejt operatorëve të tjerë celulare		60,00	45,60	35,88	-40%
Drejt rrjeteve fiks		45,60	33,60	25,20	-45%

83.Based on the table above, the tariffs Vodafone applied to other mobile operators in the period under investigation are significantly higher than in the AKEP-adopted methodology in both years: September 2008 and September 2009, which was the period when retail tariffs were subject to regulation.

84.So, following a liberalization of retail mobile telephony tariffs by AKEP, Vodafone was found to have significantly increased its retail mobile telephony tariffs, especially on calls to other mobile operators. While termination tariffs were reduced in the period under investigation (by 41% in 2012 compared with 2012—from ALL 10.50 to ALL 6.10), the tariffs applied by the undertaking under investigation did not reflect the constant reduction of termination tariffs.

85.In addition, the difference between on-net calls and off-net calls was too narrow for the period subject to regulation—ALL 5.88 inclusive of VAT. The difference significantly increased to ALL 30 during the period under investigation.

86.Wholesale prices for both Vodafone and AMC was the same (termination tariff of ALL 6.10 for both AMC and Vodafone), but retail prices for calls from Vodafone to AMC were significantly higher than the average price for Vodafone on-net calls (ALL 20 exclusive of VAT within Vodafone Club and ALL 45 exclusive of VAT to AMC, or 2.25 times higher). Differentiation[24] of Vodafone retail on-net prices vis-à-vis calls to other operators is not related to the wholesale prices that Vodafone has to pay to other operators as termination fees pursuant to AKEP regulation. It can, therefore, be considered that those price differences are unjustified and aimed at encouraging customers to opt for or stay within Vodafone Club plan.[25]

23 Source: AKEP, Decision No. 1211 of 31 March 2010 On determining Vodafone Albania Sh.a. as a company with a significant market power, and taking regulatory action (p. 101).

24 In its analysis, the Competition Authority referred to similar cases and the methodology adopted by other competition authorities in examining potential abuse of a dominant position resulting from on-net/off-net tariff differentiation. On-net/off-net tariff differentiation committed by mobile companies in many European countries and across the world have resulted in concerns recently and have led to a response by the respective regulators and competition authorities. In the case of Slovenia, Western Wireless International, which was the third biggest operator in the retail mobile telephony market, was forced to exit the market after five years of operation as a result of delayed response by the Regulator in the form of addressing the relevant competition issues.

25 On-net/off-net price differentiation is normal practice in the retail mobile telephony market. The practice has been the subject of various investigations and it is sanctioned/prohibited in several countries. See the

V.2 Characteristics of offers applied by Vodafone Albania

87. Vodafone offers package plans which are provided in the form of offers for both prepaid plans: Vodafone Card and Vodafone Club.

88. For Vodafone Card there is only one offer category, which for the same amount and traffic of minutes, SMSs and MMSs it is more convenient for a subscriber to pass to the Vodafone Club plan. This is due to the restrictions in terms of the number of subscribers who can be called unlimitedly and in terms of national minutes and SMSs.

89. On the other hand, Vodafone Club plan offers are more numerous and are on daily, weekly and monthly bases. The acutest variability among the packages is noted in the weekly offer. Thus, through its Vodafone Club offers Vodafone pushes its subscribers to move to or select the Vodafone Club plan, since it offers a greater number of minutes, SMSs, MMSs and internet traffic within Vodafone Club for the same amount of money. The transfer of subscribers to the Vodafone Club tariff plan has advantages in terms of communication within that plan; however, if a subscriber were to move out of the plan he would face higher tariffs for calls to other operators. This will discourage them from making phone calls to the rest of mobile operators since; those calls would be revenues for those other mobile operators in terms of termination fees that Vodafone would have to pay for those calls.

90. Vodafone offers limits the possibility to make unlimited calls to only on-net calls that are subject to a differentiation of tariffs between on-net and off-net calls, with the price of the former being much lower than that of the latter.

91. The in-depth investigation report made an analysis of Vodafone's weekly offer (at ALL 250 exclusive of VAT), which tried to assess if the offer were to be provided by the other three operators how much would a customer have to consume for them to be competitive and at what level of traffic would the undertakings begin to run losses if we took only retail cost (i.e. termination) vis-à-vis Vodafone as a criteria.

92. The calculations show that if a customer of one of the other three undertakings consumed 5.85 minutes a day towards a Vodafone customer, the other operators would have to pay ALL 250 a week to Vodafone in wholesale termination costs. For 1,200 minutes terminated at Vodafone, each of the other three operators would incur a termination cost of ALL 7,320, which is 29.28 times higher than the Vodafone weekly package. Or for SMSs terminated at Vodafone there would a termination cost that would be 4.8 higher than the price of the Vodafone weekly package.

93. The abovementioned analysis was also applied to Vodafone monthly offer (ALL 833.33 exclusive of VAT). The calculations show that if a customer of one of the other three undertakings consumed 4.55 minutes a day towards a Vodafone

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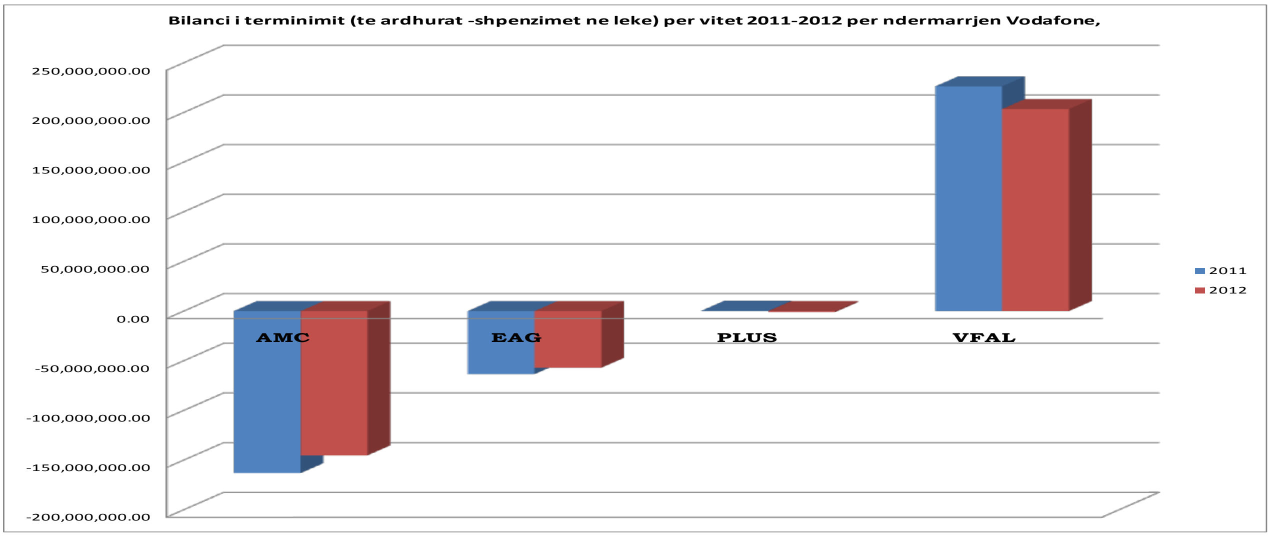
French Authority's decision: *This practice of price differentiation, which is backed with no objective economic justification, results in competition distortion and restriction in the retail mobile telephony market.*

customer, the other operators would have to pay ALL 833.33 a month to Vodafone in wholesale termination costs. In this way the other operators would be left no revenues to recover their costs. For 3.000 minutes terminated at Vodafone, each of the other three operators would incur a termination cost of ALL 18,300, which is 29.28 times higher than the Vodafone weekly package.

94.Thus to be competitive the smaller undertakings have to further reduce their prices, which increases their costs. The asymmetry in terms of the number of subscribers results in less traffic towards to smaller operators and negative termination balance. This fact is noted in the termination balance pertaining to Vodafone Albania (revenues generated by Vodafone from each company in 2011-2012, on a yearly basis, and Vodafone payments to the rest of mobile operators), which is shown in the following graph.



Graph 5: Vodafone termination balance (revenues-expenses, in ALL),[26] 2011-2012.

95.In addition, in the case of off-net calls, Vodafone applies very high prices to calls towards other mobile operators, which is not related to the termination fee that Vodafone would have to pay those operators, which is a revenue for them. Thus, by applying high prices to off-net calls, Vodafone discourages its subscribers to call subscribers of those other operators, which would generate revenues for Vodafone competitors and termination expenses for Vodafone. The reduced revenues from termination is also clearly indicated in the graph above, which quite clearly shows that, during the period under investigation, Vodafone competitors tended to have a negative termination balance.

V.3 Reduced profit margin (margin squeeze)

96.AMC SHA submitted Complaint No. 6525 of 23.11.2012 to the Competition Authority and AKEP, whereby it complained against VODAFONE with regard to its weekly offer issued in the context of the Albanian Independence Centenary.

26 Source: Vodafone reference CEO/060/MF of 03/05/2013 (archived by Competition Authority with no. 185/1 on 03.05.2013).

(The ALL 450 offer gave customers 100 minutes of national airtime + 1,200 minutes of airtime & 600 SMSs within Vodafone Club + 50 MB).

97.According to the analysis conducted by AMC, the average interconnection cost based on the market shares was estimated to be ALL 6.74 per minute, and if a customer used all the national minutes under the package for off the Vodafone network the total cost of the package would have been ALL 674 on average; however, the package was offered at ALL 375.

98.According to the complainant the volume of national airtime included in the package was offered at below the interconnection cost, which could be considered as below-cost sale.

99.An analysis of the difference between costs and revenues was based on comparing termination fees (upstream) and retail fees (retail, downstream). Vodafone holds a dominant position in the upstream market, since it owns the entire retail market (termination on its network), without which the rest of the undertakings cannot effect any calls to Vodafone. Thus, termination is an indispensable input for Vodafone competitors should they wish to effect any calls to its network. Vodafone is also vertically integrated into the downstream market (retail market), thus transmitting its upstream market power to the downstream market, too.

100.For smaller undertakings to be efficient, expand and grow in the market they have to apply off-net prices that are equal to the Vodafone on-net prices, because if they applied higher off-net prices that would not be effective in attracting any subscribers. On the other hand, smaller operators would be prevented from applying those low prices by the termination fee they would have to pay for every call to Vodafone; therefore, smaller competitors are put in an unfavourable position vis-à-vis the operator with the dominant position in the market. This behaviour is reflected in the termination balance among operators (inflows versus outflows), which indicates that Vodafone continues to increase its net revenues while the other three competitors reflect negative net revenues (losses) in this balance. In a longer period of time, the balance has cumulatively increased the net profit of the dominant company while increasing the net losses of its competitors.

101.AKEP adopted a table with the asymmetry and process of reduction of termination fees, which was based on a static and fixed basis subject to operators' market shares and the methodology impact on the downstream market. The termination fee reduction table adopted by AKEP shows that from the termination fees pertaining to the wholesale traffic originating from the operators' networks and relayed to Vodafone Club subscribers, the basic wholesale cost of an off-net call to Plus is at least ALL 19.02 per minute (12.92 in termination cost and 6.10 in origination cost). According to the table on Vodafone Club, the tariff (exclusive of VAT) for calls to the rest of operators is ALL 47 per minute. The difference of ALL 27.98 represents a high profit rate of 59% (more than double the termination fee), thus discouraging customers to call people not on Vodafone. Vodafone goes even further through its special offers (e.g. Vodafone Day Pass and/or PNP and weekly and monthly plans), and is capable of reducing its prices for on-net calls.

102.Through the special Vodafone Day Pass offer, Vodafone charges only ALL 60 (inclusive of VAT) or ALL 50 (exclusive of VAT) for 600 minutes of airtime within the network, 600 SMS/MMS and 60 MB of 3G internet, while the smaller operators can only purchase 8.2 minutes of traffic terminated at Vodafone for the same amount of money (ALL 50/ALL 6.10 per minute = 8.2). The entire price of ALL 50 goes to cover the wholesale payment that the smaller operators would owe Vodafone (8.2 minutes) in termination fees, while they would also have to cover any origination costs in their own networks as well as some reasonable profit; therefore, Vodafone packages cannot be offered by the smaller operators due to the termination fees compared with the on-net retail price that Vodafone applies. For operators holding smaller market shares to be competitive they would have to compete with Vodafone through cross-net offers providing large off-net airtimes, especially for calls towards Vodafone. As a result, those operators would have to recover additional off-net call costs, i.e. the respective termination fees pertaining to any other network.

103.Through the Frontier Economics material that Vodafone submitted, it claims that the proposed margin squeeze test is in conflict with the EEO test, since the "test presented in the report does not take into account the fact that the smaller operators benefit disproportionally from higher termination fees (thus making up for the higher termination costs for their outgoing calls)" and that a "proper application of the EEO test shows no abuse". It should be noted that, unlike the undertaking's written submissions, in the support material that Frontier Economics prepared for Vodafone Albania, for the first time the investigated party refers to its revenues and confirms an increase in its revenues from ALL 17,786,688,956 in 2011 to ALL 22,304,500,322 in 2012 (a 28.7% rise) and an increase of profit on totally allocated costs from ALL 2,835,903,494 in 2011 to ALL 3,628,288,719 (a 27.9% rise).

104.The evaluation of the dominant position and abuse of a dominant position is a dynamic process covering periods of time that are relatively longer than that which is subject of the AMC complaint. The Independence Centenary offer was available for a limited time (only a week) and was not repeated by Vodafone after that. In addition, complainant AMC did not attach to its complaint any evidence of the duration of Vodafone Albania behaviour in the relevant market.

V.4. Treatment of the complaint of the distributor bonus campaign

105.From the Plus complaint of 27 November 2012 and the inspections at Plus on 6 February 2013 and AMC on 11 February 2013, the Authority found that a message had been issued on 8 December 2012 titled "*Important communication*" regarding a bonus increase from 3% to 15% for independent distributors if they gave priority to advertising all Vodafone products.

106. The investigation found that the message had been sent from *etopupig@interas.al* and in the hearing a submission was put forward that it was not an official Vodafone Albania email address, the contrary of which was not proved. In addition, during the period under investigation it was found that the method of recharging prepaid numbers directly at each of the mobile companies was changed.

107. Based on the above, we concluded that the complaint part on the independent distributor bonus was not an abuse committed by the undertaking under investigation.

108. **In conclusion** of all the analysis and evidence, in the period under investigation, Vodafone Albania Sh.a. held a dominant position in the retail mobile telephony market under the criteria laid down in Article 8 of the Law. The analysis of the behaviour of the undertaking under investigation showed that the strategy that the operator followed caused concerns with regard to competition in the respective market and negative effects on competition in the long run vis-à-vis smaller competitors through the adoption of a price differentiation strategy for the on-net versus off-net calls. Price differentiation of on-net versus off-net calls can be used by large operators as a tool to close off the market against smaller operators which might even risk exiting from the respective market, and that is a concern for the good functioning of the market in the longer run.

109. Vodafone Albania SHA did not commit abuse of its dominant position during the period under investigation.

FOR THESE REASONS:

The Competition Commission, pursuant to Article 24 (d) and (f) and Article 70 (2) of Law No. 9121 of 28 July 2003 “On Competition Protection”,

HAS DECIDED:

I. To close the in-depth investigation proceedings against Vodafone Albania SHA in the retail mobile telephony market;

II. To recommend to the Electronic and Postal Communications Authority that it should

1. take interim and immediate measures, prior to the conclusion of the analysis of the retail mobile telephony market, in order to enforce the market regulation solutions for preventing market exits that would have a long-term impact on competition; the Electronic and Postal Communications Authority should especially

    a) Modify the BULRAIC model by significantly reducing the cost of termination for smaller operators towards larger operators in the market, in order to increase free and effective competition in the relevant market;

    b) Enforce the real reduction of the difference between off-net and on-net calls within and off specific tariff packages and plans for those operators holding a dominant position.

2. carry out an analysis of the retail mobile telephony market to address the competition concerns in that market by taking specific regulatory measures for

reducing the emphasized differentiation between on-net call tariffs and off-net call tariffs applied by Vodafone;

3. In its role as a regulator, AKEP should monitor the fulfilment of Vodafone Albania's public commitment to equalize the tariffs within Vodafone Club and towards off the Vodafone network (terminating in landline, AMC, Eagle and Plus networks) in order to reduce to elimination the tariff differentiation for on-net and off-net calls, as well as the units included in the optional national communications packages (weekly, monthly and annual offers and packages);

III. Charge the Secretary General with the task of monitoring the market under investigation in compliance with the provisions of Article 28 of the Competition Protection Law,

IV. Charge the Secretary General with the task of communicating this decision to the interested parties.

This Decision shall enter into force immediately.

COMPETITION COMMISSION

Servete GRUDA	**Koço BROKA**	**Iva ZAJMI**	**Rezana KONOMI**
(______________)	(____________)	(____________)	(_______________)
Member	**Member**	**Member**	**Deputy Chair**

Lindita MILO (LATI)

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CHAIRPERSON