

NOTICES CONCERNING THE EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

**Opinion of the Advisory Committee on restrictive practices and dominant positions of 26 June 2020
concerning a draft decision relating to Case No 71480 – Telenor**

(2020/C 292/04)

Part I

1. The Advisory Committee agrees with the EFTA Surveillance Authority that, for the purposes of this case, the relevant product market at the upstream level is the wholesale market for access and origination services on public mobile telephone networks.
2. The Advisory Committee agrees with the EFTA Surveillance Authority that, for the purposes of this case, the relevant product market at the downstream level is the retail market for the provision of stand-alone mobile broadband ('MBB') services to residential customers. A minority abstains.
3. The Advisory Committee agrees with the EFTA Surveillance Authority that, for the purposes of this case, the relevant geographic market for the wholesale provision of access and origination services on public mobile telephone networks is confined to Norway.
4. The Advisory Committee agrees with the EFTA Surveillance Authority that, for the purposes of this case, the relevant geographic market for the provision of stand-alone MBB services to residential customers is confined to Norway.
5. The Advisory Committee agrees with the EFTA Surveillance Authority that Telenor held a dominant position in the wholesale market for access and origination services on public mobile telephone networks in Norway from and including January 2008 until the end of 2012.
6. The Advisory Committee agrees with the EFTA Surveillance Authority that Telenor abused a dominant position within the meaning of Article 54 EEA by charging wholesale national roaming operator ('NRO') prices to Network Norway ('NwN') and retail prices for stand-alone MBB services to residential customers, on the basis of which an equally efficient competitor would have earned negative gross margins from 1 August 2008 to 31 August 2010 (inclusive). A minority abstains.
7. The Advisory Committee agrees with the EFTA Surveillance Authority that Telenor abused a dominant position within the meaning of Article 54 EEA by charging wholesale mobile virtual network operator ('MVNO') prices to Ventelo and retail prices for stand-alone MBB services to residential customers, on the basis of which an equally efficient competitor would have earned negative gross margins from 1 January 2008 to 30 November 2010 (inclusive). A minority abstains.
8. The Advisory Committee agrees with the EFTA Surveillance Authority that Telenor abused a dominant position within the meaning of Article 54 EEA by charging wholesale service provider ('SP') prices and retail prices for stand-alone MBB to residential customers, on the basis of which an equally efficient competitor would have earned negative gross margins from 1 January 2008 to 31 December 2012 (inclusive). A minority abstains.
9. The Advisory Committee agrees with the EFTA Surveillance Authority that Telenor's abusive conduct may affect trade between Contracting Parties within the meaning of Article 54 EEA.
10. The Advisory Committee recommends the publication of Part I of its opinion in the *Official Journal of the European Union* and the EEA Supplement.

Part II

1. The Advisory Committee agrees with the EFTA Surveillance Authority that a fine should be imposed on the addressees of the draft Decision for each margin squeeze infringement. A minority abstains.
 2. The Advisory Committee agrees with the EFTA Surveillance Authority that Telenor's undertaking-specific revenues generated in the relevant wholesale market (separately for each of NwN, Ventelo and for SPs as a whole) and Telenor's revenues related to the relevant retail market should be taken into account for the purpose of the calculation of the basic amount of the fine.
 3. The Advisory Committee agrees with the EFTA Surveillance Authority on the basic amount of the fine set in this case.
 4. The Advisory Committee agrees with the EFTA Surveillance Authority that an additional amount ('entry fee') should be applied in this case.
 5. The Advisory Committee agrees with the EFTA Surveillance Authority that there are no aggravating and no mitigating circumstances applicable in this case.
 6. The Advisory Committee agrees with the EFTA Surveillance Authority that a deterrence multiplier should be applied in this case.
 7. The Advisory Committee agrees with the EFTA Surveillance Authority on the final amount of the fine.
 8. The Advisory Committee recommends the publication of Part II of its opinion in the *Official Journal of the European Union* and the EEA Supplement.
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