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The mobile telecom operator T-Mobile Macedonia AD Skopje abuses its dominant position harmful for the mobile telecom operators ONE and VIP in the telecom market

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Abstract. T-Mobile's abusing of its dominant position is referring to the postpaid tariff models Relax and Relax Surf regarding the residential customers and the postpaid tariff models Business and Business Surf regarding its business customers. The prominent price offer to consumers is a case of predatory prices squeeze identified as a way of preventing or restricting competition in theory and practice. T-Mobile provides services at unreasonably low prices, prices below the level of expenditures necessary for their provision, as it is specific case with the postpaid tariff models Relax and Relax Surf regarding the residential customers and the postpaid tariff plans Business and Business Surf regarding the business customers. Providing predatory prices is anti-competitive commercial strategy used by a certain dominant enterprise by dumping its prices on a certain relevant market to a price level forcing its competitors to leave the market. The interconnection costs or the cost amount of call termination in their own network or in other operator's network regardless if it is fixed or mobile are determined by the Agency for Electronic Communications. The major element of the market economy is the free and effective competition. There is not a market economy without a competition as there is not a competition without a market economy. The competition in the market is a simple and effective means ensuring that the products and the services are offered to the customers with an excellent quality and competitive prices.

By providing such services with predatory prices, T-Mobile intends to discipline its competitors, to protect and enhance its extended dominant market power on a long-term period. Disabling the competitiveness of the other operators and the inability to replicate the offer provided by an operator with significant market power is undoubtedly a risk leading to competition's elimination on a long term. Thus, T-Mobile destroys the competition in the field of mobile telephony, taking advantage of its significant market power and dominant market position of the two entities, by providing conditions to which the other market participants are not able to respond due to the expenditure services structure. The competition and the free markets are the main engines of productivity, efficiency, product development, innovation and appropriate pricing. The competitive markets stimulate better technologies and technological development in order to provide products and services to their customers with high quality and prices reflecting the efficient producers' expenditures.

Keywords: mobile operator, Macedonia, agency for electronic communication, tariff models

1. Introduction

The prominent price offer to consumers is a case of predatory prices squeeze identified as a way of preventing or restricting competition in theory and practice. T-Mobile provides services at unreasonably low prices, prices below the level of expenditures necessary for their provision, as it is specific case with the postpaid tariff models Relax and Relax Surf regarding the residential customers and the postpaid tariff plans Business and Business Surf regarding the business customers.

Providing predatory prices is anti-competitive commercial strategy used by a certain dominant enterprise by dumping its prices on a certain relevant market to a price level forcing its competitors to leave the market. The interconnection costs or the cost amount of call termination in their own network or in other operator's network regardless if it is fixed or mobile are determined by the Agency for Electronic Communications. The major element of the market economy is the free and effective competition. There is not a market economy without a competition as there is not a competition without a market economy. By providing such services with predatory prices, T-Mobile intends to discipline its competitors, to protect and enhance its extended dominant market power on a long-term period. Disabling the competitiveness of the other operators and the inability to replicate the offer provided by an operator with significant market power is undoubtedly a risk leading to competition's elimination on a long term. Thus, T-Mobile destroys the competition in the field of mobile telephony, taking advantage of its significant market power and dominant market position of the two entities, by providing conditions to which the other market participants are not able to respond due to the expenditure services structure. The competition and the free markets are the main engines of productivity, efficiency, product development, innovation and appropriate pricing. The competitive markets stimulate better technologies and technological development in order to provide products and services to their customers with high quality and prices reflecting the efficient producers' expenditures.

2. Facts Statement and Properly Made Calculations and Conclusions

The Commission for Protection of Competition is an institution responsible for implementing the Law on Protection of Competition. The competition right has been established for the protection of free competition between the enterprises in the market. The free competition is crucial for all countries whose economies are based on the principle of a free market, where the funds allocation is a result of the supply and demand relationship in the market, but not a result of the measures the country intervenes within the relations between the enterprises. The application of the competition rules is aimed at establishing a market where the enterprises are equal under equal conditions and their position in the market to be valued according to the quality of the goods and services they offer. T-Mobile Macedonia is the first mobile operator and market leader in mobile telephony in Macedonia. The company was founded in 1996 and has been part of the Deutsche Telekom Group since 2006. T-Mobile is the largest mobile operator in Macedonia. Relax, Relax Surf, Business and Business Surf are postpaid tariff models offered on the market of mobile telecommunication services by T-Mobile Macedonia to their customers and ultimate users by concluding a contract for using them; for new customers the contract is for a period of 24 months while for already existing customers the contractual terms are extended for 24 months.

3. Relax Surf postpaid tariff model offers to its residential customers:

- Unlimited calls within T-Mobile and T-Home customers;
- Unlimited 3G internet;
- Free minutes for calls within the other networks;
- Free SMS with Relax Surf L;
- Wireless Wi-Fi internet on 500 Telecom HotSpot locations.

The newly Relax Surf tariff models are available for all existing and new customers.³

Table 1 shows the prices and specifications of the offered services which will be subject to the analysis later in the finding provided by the official website of the company T-Mobile Macedonia. (1 EUR = 61.5 MKD; 1 MKD = 0.016 EUR = 1.6 cent)

³ Website: <http://t-mobile.mk/public/relax-surf-new.nspix>, seen on 20.10.2013.

Table 1: Prices of the offered mobile services provided from the website of T-Mobile: <http://t-mobile.mk/public/relax-surf-new.nsp>

	Relax Surf S	Relax Surf M	Relax Surf L	Relax Surf XL
Monthly fee (MKD)	399 den	599 den	1199 den	1799 den
Included minutes in T-Mobile and T-home	100 min	1000 min	2000 min	3000 min
Included internet	300 MB	1GB	2GB	3GB
Included minutes in other networks	/	/	/	400 min
Price per minute in all network after exceeding the included minutes	5,9 den/min	4,9 den/min	3,9 den/min	2,9 den/min

Calculations and conclusions

The offered prices shown above represent a case of predatory price squeeze identified as a way of preventing or restricting competition in theory, which according to Article 11, paragraph 2 item 1 of the Law on Protection of Competition is an abuse of a dominant market position by the company T-Mobile Macedonia.

Offering predatory prices is an anti-competitive commercial strategy with which a specific enterprise or company on a specific relevant market lowers prices to that price level thus disturbing the normal development of the relevant market, wherein the other participants or its competitors are forced to leave that relevant market because of unequal competition and by failing to offer services at realistic prices.

If in the determination of the relevant market is going a step further in the direction of detailing or clarifying the data for the relevant mobile market based on the customers' tariff models, then the mobile telephony service market can be considered as composed of post-paid and pre-paid element. The facts and data relating to the share the company T-Mobile Macedonia AD owns on the relevant market for mobile telephony services in terms of both the number of active customers and the revenues from mobile services undoubtedly refer to meeting the requirement for a dominant position of T-Mobile Macedonia on the relevant market for mobile telephony services.

T-Mobile Macedonia offers its products and / or services at unreasonably low prices

The cost analysis (calculations) shows that these tariffs are offered at unreasonably low prices. The volume of traffic included within the tariff models monthly fee vastly contributes to the cost structure of the tariff model and can often be the deciding factor in the offer creation which is mainly a predatory price-oriented. The interconnection costs or the amount of the cost of call termination in their own or another network, fixed or mobile, are determined by the regulatory body for electronic communications, the Agency for Electronic Communications.

According to article 48 of the Law on Electronic Communications (Official Gazette, 13/2005, 14/2007, 55/2007, 98/2008, 83/10, and 13/12) and according to the results of the third analysis Market 12 - call termination in public mobile communications networks, or the report on the calculation of prices for call termination in public mobile communications networks in the country based on LRIC methodology, the Agency for Electronic Communications stipulates that the interconnection cost for call termination in the network of T-Mobile Macedonia coming from another network or their own network, is 3 denars per minute, while the interconnection cost for call termination on the network of VIP Operator ONE LTD and ONE telecommunication services LTD

Skopje is 4 denars per minute.⁴ Additionally, according to the Reference Interconnection Offer of Macedonian Telekom (MATERIO) the compensation for service on regional call termination per minute in period with normal tariff is 0.45 MKD/minute or 0.2 MKD/minute for regional service call termination per minute in period with cheap tariff.⁵ The Agency for Electronic Communications has introduced the symmetry principle regarding the determination of the interconnection compensation amount in the fixed networks. This means that the compensation for a service of regional call termination per minute in period with normal tariff from 0.45 MKD/minute or 0.20 MKD/minute applies to calls termination in any fixed operator network. In order to provide a better illustration of the model for costs calculation, it will be applied and elaborated in detail on the postpaid tariff model Relax Surf XL. (Table 1, last column)

The basic characteristics of the tariff model Relax Surf XL are:

- The monthly fee is 1.799 denars with included VAT;
- The price includes 3.000 free minutes for calls within T-Mobile Macedonia and T-Home or Macedonian Telekom networks.
- The price includes 400 minutes for call within other networks, in other words fixed networks or other mobile operator networks.

(1 EUR = 61,5 MKD; 1 MKD = 0,016 EUR = 1,6 cent).

In order to provide a proper review of the actual market situation and the behavior of the Macedonian user of mobile communication services, the common cases in practice will be explained in the costs calculation of the cost.

1) Case num.1:

The overall traffic from 3000 free minutes for calls within the networks of T-Mobile Macedonia and Macedonian Telekom is realized in the network of Macedonian Telekom, while the overall traffic of 400 free minutes to other networks is realized in the networks of mobile operators ONE telecommunication Services LTD Skopje and VIP Operator LTD Skopje.

The costs calculated for providing the service are:

- The cost for providing the service, included minutes within T-Mobile Macedonia and Macedonian Telekom, where all traffic is realized in the network of Macedonian Telekom is 1328.00 denars. If it is taken an average that 70% of the calls are calls in normal tariff while 30% are in cheap tariff, the cost for providing the service 3,000 free minutes for calls in the network of Macedonian Telekom is calculated as: $((0,3*0,2)*3.000 \text{ min} + (0,7*0,45)*3.000 \text{ min}) * 1,18 \text{ VAT}$;
- The cost for providing the service, included minutes to other networks where the overall traffic of 400 free minutes is realized in the network of mobile operators ONE Telecommunication services LTD Skopje and VIP Operator LTD Skopje is 1888.00 denars and it is calculated by the formula: $(400 \text{ min} * 4 \text{ den} * 1.18 \text{ VAT})$;
- The total cost of T-Mobile Macedonia for providing the tariff is amounted to $1.328 + 1.888 = 3216.00$ denars. On the other hand, the amount of the monthly fee for the tariff model Relax XL is 1799.00 denars, so it is certainly concluded that the costs for providing the tariff Relax XL are only 1417.00 denars higher than the monthly fee.

Table 2: Example for a Calculation of the package cost Relax ⁶

Cost for the service providing	MKD
Included minutes within T-Mobile and T-Home (The overall traffic is realized in the T-Home network)	1,328

⁴ Source: website of the Agency for Electronic Communications: www.aec.mk ;

⁵ Source: Reference Interconnection Offer of Macedonian Telekom AD Skopje (MATERIO), website of Macedonian Telekom AD Skopje: www.telekom.mk

⁶ Source: Initial data are taken from the website and the offer of T-Mobile Ad Skopje: www.t-mobile.mk

Included minutes within other networks (Interconnection) The overall volume of traffic is realized in ONE and VIP operator networks	1,888
Included internet	0
Total	3,216
Margin	- 1,417

2) Case num.2

The overall traffic from 3000 free minutes for calls within the networks of T-Mobile Macedonia and Macedonian Telekom is realized in the network of Macedonian Telekom, while the overall traffic of 400 free minutes to other networks is realized in the networks of other fixed operators.

The costs calculated for providing the service are:

- The cost for providing the service, included minutes to T-Mobile Macedonia and Macedonian Telekom, where all traffic is realized in the network of T-Mobile Macedonia is 10,620.00 denars or $(3.000 \text{ min} * 3 \text{ den} * 1.18 \text{ VAT})$;
- The cost for providing the service, included minutes to other networks where the overall traffic of 400 free minutes is realized in networks of other fixed operators is 177,00 denars and it is calculated by the formula $((0,3*0,2)*400 \text{ min}+(0,7*0,45)*400 \text{ min})*1,18 \text{ VAT}$;
- The total cost of T-Mobile Macedonia for providing this tariff is amounted to $10\ 620 + 177 = 10,797.00$ denars. On the other hand, the amount of the monthly fee for the tariff model Relax Surf XL is 1,799.00 denars, so it is certainly concluded that the costs for providing the tariff Relax XL is only 8,998.00 denars higher than the monthly fee. (Table 3).

It must be noted that the calculation model does not incorporate and does not take into consideration the cost for providing the service included Internet, which further increases the overall level of cost which becomes even more evident in the offer of services at unreasonably low and far anti-competitive prices by T-Mobile Macedonia. Given the results of the cost calculation of the model it is more than evident that the cost for providing these analyzed tariffs are significantly higher than for their monthly fee, so the offer of services at unreasonably low prices is more evident and clear.

Table 3: Example for a Calculation of the package costs Relax ⁷

Cost for the service providing	MKD
Included minutes within T-Mobile and T-Home (The overall traffic is realized in the T-Home network)	10,620
Included minutes within other networks (Interconnection) The overall volume of traffic is realized in other fixed operator networks	177
Included internet	0
Total	10,797
Margin	- 8,998

Conclusion

Considering the above facts about the size of the market share of T-Mobile Macedonia and the offered unreasonably low prices for mobile telephony service, it is more than clear that there is an abuse of dominant position by offering predatory prices. T-Mobile Macedonia offers low prices intending to

⁷ Source: Initial data are taken from the website and the offer of T-Mobile: www.t-mobile.mk

eliminate and discipline its competitors in the market or to prevent their entry in order to protect and increase its market power on a long-term period. The major element of the market economy is the free and effective competition. There is not a market economy without a competition as there is not a competition without a market economy. The competition in the market is a simple and effective means ensuring that the products and the services are offered to the customers with an excellent quality and competitive prices. By providing such services with predatory prices, T-Mobile intends to discipline its competitors, to protect and enhance its extended dominant market power on a long-term period. Disabling the competitiveness of the other operators and the inability to replicate the offer provided by an operator with significant market power is undoubtedly a risk leading to competition's elimination on a long term. Failing to take the appropriate measures in accordance with the Law on Protection of Competition, or their prolonging means enabling the dominant behavior of the mobile service market by T-Mobile Macedonia can cause serious distortion of competition in the market and strengthen the dominant position of T-Mobile Macedonia.

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2. <http://t-mobile.mk/public/relax-surf-new.nspix>;
3. Agency for electronic communications, Final Document of the third market analysis 12 - the market for call termination in public mobile communications networks; 2013;
4. Agency for electronic communications, Reference Interconnection Offer of Macedonian Telekom AD Skopje (MATERIO); 2013;
5. Law for Electronic Communications (Official Gazette, 13/2005, 14/2007, 55/2007, 98/2008, 83/10, and 13/12); 2012.