ESA | EFTA Surveillance Authority

Brussels, 18 June 2026
Case No: 96024
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Fjarskiptastofa
Suðurlandsbraut 4
108 Reykjavik
Iceland

For the attention of:
Mr. Hrafnkell V. Gíslason
Managing Director

Dear Mr. Gíslason,

**Subject:** **ISL - Market 3a/2016 - Amendment of market analysis and remedies**

**Article 32(3) of Directive (EU) 2018/1972 ('the Code')[1]: Comments**

# 1 PROCEDURE

1. On 20 May 2026, the EFTA Surveillance Authority ('**ESA**') received a notification of a draft national measure in the field of electronic communications pursuant to Article 32(3) of the Code from the Icelandic national regulatory authority ('**NRA**'), Fjarskiptastofa ('**ECOI**'), concerning an amendment of the market analysis and remedies on the market for wholesale local access provided at a fixed location in Iceland.[2]

2. The notification became effective on the same day.

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1 Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36), as referred to at point 5czs of Annex XI to the EEA Agreement and as adapted by Protocol 1 to that Agreement and by the sectoral adaptations contained in Annex XI to that Agreement.

2 Corresponding to Market 3a in the EFTA Surveillance Authority Decision No 93/16/COL of 11 May 2016 – EFTA Surveillance Authority Recommendation on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with the Act referred to at point 5cl of Annex XI to the EEA Agreement (Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services), as adapted by Protocol 1 thereto and by the sectoral adaptations contained in Annex XI to that Agreement [2017/608] (OJ L 84, 30.3.2017, p. 7 and EEA Supplement No 20, 30.3.2017, p. 1) ('**the 2016 Recommendation**').

3. National consultation was carried out, pursuant to Article 23 of the Code, during the period 15 December 2025 to 19 January 2026.

4. Through email exchanges between 10 and 16 June 2026, ECOI replied to a number of questions raised by ESA (Doc. No. 1613234 and 1613235).

5. The period for consultation with ESA, BEREC and other national regulatory authorities pursuant to Article 32(3) of the Code expires on 22 June 2026.

# 2 DESCRIPTION OF THE DRAFT MEASURE

## 2.1 BACKGROUND

6. As mentioned in paragraph 1 above, this notification concerns an amendment to ECOI's latest market reviews for markets 3a and 3b[3], notified in April 2024. ESA's comments letter[4] in that case contains a more detailed description of the elements summarised hereafter.

*Market definition*

7. ECOI defined a retail market comprising broadband services provided via copper connections with VDSL technology (but not ADSL), fibre connections and cable network connections, as well as mobile broadband services accessed through mains-connected routers (using either 4G, 4.5G or 5G).

8. The wholesale local access market (3a) defined by ECOI encompasses physical access to copper (VDSL) and fibre networks, as well as the related local virtual access solutions (VULA).

9. The wholesale central access market (3b) defined by ECOI comprises virtual access solutions offered centrally on fibre networks, copper networks as well as mobile networks over mains-connected network routers at a fixed location.

10. Both wholesale markets were geographically segmented into the following areas based on a set of criteria measuring the level of competition within the municipalities in each area:

    a. Area A: likely competitive municipalities;

    b. Area B: municipalities with a high market share for Míla ehf ('**Míla**');

    c. Area C: municipalities with a high market share for Tengir hf ('**Tengir**') (applicable only to market 3a); and

    d. A sizeable number of municipalities, however, were not assigned to either Area and ECOI conducted a more in-depth competitive assessment for each of them.

[3] The market for wholesale central access provided at a fixed location for mass-market products (market 3b in the 2016 Recommendation). The market analysis concerning market 3b is not affected by the present notification.

[4] Notified to and assessed by ESA under Case No 91792.

*Assessment of significant market power (SMP)*

11. On market 3a, ECOI designated Míla as the operator with SMP in 26 municipalities, including the 15 municipalities in Area B (high market share for Míla) and 11 additional municipalities assessed by ECOI individually.

12. In all other municipalities, the remedies previously applicable to Míla were withdrawn, including but not limited to the 8 municipalities in Area A (already identified at the market definition stage as an area with likely competition).

13. However, in certain municipalities not included in Areas A or B, other operators were subject to ex ante regulation, namely:

    a. Tengir in 8 municipalities, including the 6 municipalities in Area C (high market share for Tengir) and 2 additional municipalities assessed by ECOI individually; and

    b. Ljósleiðarinn in 1 municipality.

14. ESA's comments letter in case 91792 (see footnote 4 above) includes further details, including the description of the SMP assessment in market 3b (which is not the subject of the notified amendment).

*Remedies*

15. In market 3a, in the 26 municipalities where Míla was designated as the SMP operator, ECOI imposed on Míla a 'light' set of remedies, i.e. access, non-discrimination, and fair and reasonable prices (or in specified cases cost-oriented prices). A similar set of remedies, albeit less detailed or burdensome compared to Míla's, was imposed on Tengir and Ljósleiðarinn in the municipalities (respectively, 8 and 1) where those companies were found to hold SMP.

16. More extensive considerations on the remedies, including those imposed in market 3b, can be found in ESA's comments letter on case 91792.

*ESA's comments*

17. In its comments on the market analysis and remedies, ESA called on ECOI to:

    a. monitor closely the development of substitutability with broadband via mobile networks;

    b. define criteria allowing for a broader aggregation of geographic markets in the next market analysis;

    c. be consistent in applying the criteria for the SMP assessment;

    d. monitor market developments with a view to further deregulating where appropriate;

    e. design appropriate and proportionate remedies; and

    f. ensure that the level of detail in the market analysis does not come at the expense of the ability to review and comment effectively by the relevant stakeholders.

*Developments since the 2024 market analysis*

18. In its notification, ECOI describes how Míla has purchased fibre optic networks in the following municipalities in 2024 and 2025: Skaftárljós in Skaftárhreppur; Helgafellssveit in Stykkishólmur; Eyja- og Miklaholtshreppur in the municipality of the same name; Dalaveitur in Dalabyggð; Vesturbyggð (partially) in the municipality of the same name; and Eygló in Vestmannaeyjar.

19. ECOI further reports that Tengir has also acquired additional infrastructure since the 2024 market analysis, namely the fibre optic network of Fjarskiptafélag Svalbarðshrepps in the Langanesbyggð municipality. However, Tengir has not yet gained control and will not do so until Míla's current long-term lease of that network expires in the first half of 2027.

## 2.2 CURRENT NOTIFICATION

20. With the present notified draft measure, ECOI envisages limited amendments to the SMP designations and remedies in certain municipalities, as regards market 3a (as mentioned, it does not imply any changes for market 3b).

21. The main driver of the amendment is the transfer of ownership of certain networks as mentioned above, as well as other competitive developments. The market definition described in the previous section remains unaltered.

22. In some cases, notably where Míla is already subject to regulation in the relevant municipality, ECOI finds that no changes are necessary.

23. In two municipalities where regulation was lifted as a result of the 2024 market analysis, i.e. Eyja- og Miklaholtshreppur and Vestmannaeyjabær, ECOI intends to again designate Míla as SMP operator and impose upon it the same remedies mentioned in paragraph 15 above: access, non-discrimination, and fair and reasonable pricing.[5]

24. In three municipalities, i.e. Fjallabyggð, Langanesbyggð and Vogar, ECOI no longer finds Míla to hold SMP and therefore intends to withdraw all remedies.

*Municipalities where Míla is to be regulated (again)*

25. In the Eyja- og Miklaholtshreppur municipality, Míla acquired the relevant network in 2024 and now holds a 100% market share in market 3a in that municipality. Further, ECOI deems it unlikely that another network operator will start deploying a new fibre network in the municipality in competition with Míla, as the municipality is among the smallest in the country and very sparsely populated. According to ECOI, it is therefore clear that Míla's position now meets the criteria for SMP designation defined in the market analysis.[6]

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5 For more details on the regulatory obligations in the municipalities where Míla holds SMP, please refer to section II.4 of ESA's comments letter on Case No 91792.

6 Namely: (i) market shares on the relevant wholesale market and, as appropriate, on the retail market; (ii) deployment of electronic communications networks, including the existence of parallel networks; (iii) control of facilities that are difficult to duplicate; (iv) total size and strength of electronic communications companies; (v) potential competition; (vi) countervailing buying power; (vii) vertical integration and comparable situations; and (viii) long-term access

26. Similarly, in the Vestmannaeyjabær municipality, Míla acquired Eygló's network in 2025 and now holds a 100% market share in that market. With reference to the criteria mentioned in footnote 6, ECOI thus proposes to designate Míla as SMP operator also in Vestmannaeyjabær.

*Municipalities where existing remedies are to be lifted*

27. In the municipality of Fjallabyggð, ECOI observes that Tengir has strengthened its position in market 3a, notably through increased fibre deployment/coverage and market share. In contrast, the share of Míla has been steadily decreasing, while its plans for further expansion are uncertain. At retail level, Síminn still holds a strong position but ECOI finds that the existing remedies applying to Míla on market 3b will be sufficient to safeguard competition. Against this background, ECOI finds that the conditions no longer exist to justify Míla's continued SMP designation and that this geographic market can be considered effectively competitive, and all remedies should therefore be withdrawn.

28. As mentioned in paragraph 19 above, Tengir acquired the local fibre optic network in Langanesbyggð. Although Tengir is expected to gain control of the network only in 2027, ECOI has already observed an increase in Tengir's market share in the recent past and expects it to further strengthen its position in the near future (while Míla's share has been decreasing). Moreover, ECOI points out that competition at retail level has been increasing and Síminn's position has been declining, although it remains strong. ECOI adds that, in any case – as for Fjallabyggð – the continued regulation of Míla on market 3b ensures that competition is adequately safeguarded in Langanesbyggð. In view of all the above, ECOI proposes to withdraw Míla's SMP designation and thus lift all regulatory obligations in this municipality.

29. Finally, in Vogar, there has been a significant development in parallel coverage of fibre optic networks, notably through the growth of Ljósleiðarinn, accompanied by a decrease in Míla's market share. Further, retail competition is quite lively, with Síminn's market share having decreased much more significantly over the past years than in other municipalities. In any event, as with the two other municipalities above, Míla will continue to be regulated on market 3b. For all those reasons, ECOI deems that effective competition prevails on market 3a and intends to remove Míla's SMP designation and remedies also in the Vogar municipality.

*Developments in other municipalities*

30. For completeness, ECOI also assesses the impact of certain instances of mergers between municipalities that have occurred since the 2024 market analysis. In all cases, ECOI finds that the change of boundaries does not affect its previous findings regarding the competitive situation in the municipalities concerned.

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agreement related to the relevant market. Cf. section II.3 of ESA's comments letter on Case No 91792.

# 3 COMMENTS

31. ESA has examined the notified draft measure and has the following comment.

*Need to notify cost-oriented prices for access to civil engineering assets and shared use of facilities without further delay*

32. As mentioned at pp. 12 and 18 of ESA's comments letter in Case No 91792, at the time of the market review, ESA expected ECOI to notify without delay cost-oriented prices for the access to civil engineering assets and shared access to facilities in the municipalities where Míla is subject to this remedy.

33. In response to ESA's inquiry about the timing of that notification,[7] ECOI indicated that the related work has not yet been finalised and could not provide a precise timeline. The regulator specified that it has started examining Míla's cost information regarding the remedy and is currently considering how tariffs should be determined, including whether to rely on cost data and/or benchmarking. ECOI further pointed out that the services in question were already subject to cost orientation under previous market analyses, although they were not regulated in detail, e.g. through a cost model or set tariffs.

34. The NRA also maintained that the set of remedies already applicable to the services at issue (non-discrimination, transparency, and fair and reasonable prices) can still provide a degree of constraint on pricing, even in the absence of a fully specified cost-oriented pricing methodology. Furthermore, ECOI retains the ability to intervene on a case-by-case basis should concerns arise and has not received any complaints on the pricing of those services to date.

35. ESA takes note of ECOI's explanations and understands that the speediness of the remedy's design and implementation depends, in part, on the quality and reliability of the input provided by Míla. Yet, the delay is already quite long (over two years since the market analysis) and ESA is concerned about the effectiveness of an incomplete/undeveloped cost orientation remedy.

36. Without a specified cost methodology, the NRA would find it difficult to monitor and enforce that the relevant prices are indeed cost oriented, rather than merely fair and reasonable, which ECOI itself did not consider sufficient in relation to those services (except in three municipalities[8]).

37. In that regard, ESA emphasises that it is paramount that remedies (including details thereof) are defined and notified together with, or at least as closely as possible in time to, the underlying market analysis. That is notably necessary to ensure that, as laid down in Article 68(4) of the Code,[9] regulatory obligations are based on the nature of the problem identified, proportionate and justified

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7 See the exchanges mentioned in paragraph 4 above.

8 Cf. ESA's comments letter on Case No 91792, p. 12.

9 See footnote 1 above.

in light of the objectives laid down in Article 3 of the Code (such as the promotion of competition and regulatory predictability).

38. ESA therefore calls on ECOI to address the delay regarding the details of the pricing remedy in question as a matter of priority and, more generally, to ensure that the obligations defined by the regulatory framework in relation to SMP regulation are respected.

# 4 FINAL REMARKS

39. On a procedural note, ESA recalls that any future amendments to, or more detailed implementation of, the draft measure consulted on in the current notification will require re-notification pursuant to Article 32(3) of the Code.

40. Pursuant to Article 32(8) of the Code, ECOI shall take the utmost account of comments of other NRAs, BEREC and ESA. It may adopt the resulting draft measure and, where it does so, shall communicate it to ESA. Pursuant to Article 32(9) of the Code, ECOI shall communicate to ESA and to BEREC all adopted final measures which fall under points (a) and (b) of Article 32(3).

41. ESA's position on the current notification is without prejudice to any position ESA may take in respect of other notified draft measures.

42. Pursuant to Point 6 of the Procedural Recommendation,[10] ESA will publish this document on its eCom Registry. You are invited to inform ESA within three working days following receipt of this letter if you consider, in accordance with EEA and national rules on confidentiality, that this letter contains confidential information which you wish to have deleted prior to publication.[11] You should give reasons for any such request. In the absence of confidentiality claims received within the above deadline, ESA will publish this document in full.

Yours sincerely,

Filip Ragolle

Deputy Director for Competition and Regulation
Competition and State Aid Directorate

*This document has been electronically authenticated by Filip Ragolle.*

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10 EFTA Surveillance Authority Decision No 102/25/COL of 2 July 2025 – EFTA Surveillance Authority Recommendation on the form, content, time limits and level of detail to be given in notifications under the procedures set in Article 32 of the Act referred to at point 5czs of Annex XI to the EEA Agreement (Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code), as adapted by Protocol 1 to the EEA Agreement and by the sectoral adaptations contained in Annex XI to that Agreement [2025/2407] (OJ L 2025/2407, 27.11.2025 and EEA Supplement No 74, 27.11.2025, p. 1) ('**the Procedural Recommendation**').

11 The request should be submitted through the eCom Registry, marked for the attention of the eCom Task Force.