

Abuse of Dominant Position – Case of Albanian Mobile Phone Market

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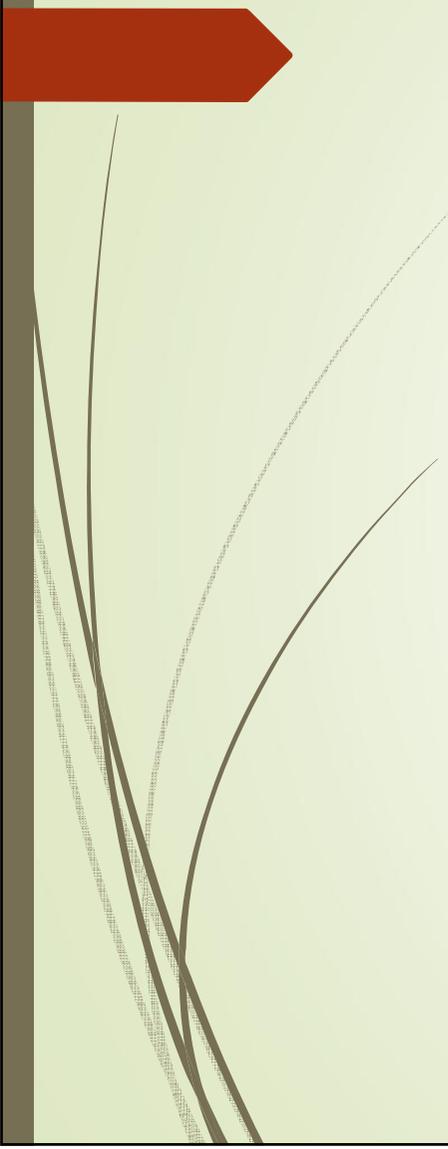


Introduction

Albanian economy characteristics during '90:

- ▶ Transition from **Communist past** into an **open-market economy** (at the time present in the telecommunication market were “Albanian Post” and “Telecom Albania” fix phone company).
- ▶ Small economy, intensification of the role of the private sector, lack of experience in open-market, inadequate legal framework, new opportunities, etc.
- ▶ 1996 introduced the **first mobile company** “Albania Mobile Communication (AMC)”, 100 % of capital shares state owned.
- ▶ 1998, **establishment of Telecommunication Regulatory Entity (TRE)***, main role Telecommunication market regulations.
- ▶ **Privatization**, on 25.07.2000, Telenor - Cosmote Company acquired 85 % **of the AMC** shares.
- ▶ On 9 June 2001, second mobile operator **introduced Vodafone Albania**, owned 51% by Vodafone International Holding, and 49% by Panafone International Holding.

*Now Electronic and Postal Communications Authority (EPCA)



Mobile phone market situation in Albania 2000 – 2005

- **Only two mobile companies** in the market Vodafone Albania and AMC
- **Rapid growth** developments in the telecommunication sector, worldwide inventions, **21st century era**.
- Increasing **demand** on telecommunication market
- Albanian economy is experiencing **5-6 % annual GDP growth**, increase of the private sector influence. Mobile phone market makes 4-5% of GDP.
- European market **Integration initiatives**, increase of foreign direct investments
- 2003, establishment of Albanian Competition Authority (ACA), promotor of competition and free market.



Abuse of dominant position in mobile phone market 2004- 2005

- On September 2005, ACA, on its own initiative, launched an investigation in the Mobile Telecommunications Market.
- Companies under investigation, Albanian Mobile Communication (**AMC**) and **Vodafone** Albania, period of investigation 2004 – 2005.
- Concern, **high prices** applied by the operators in the Mobile Telecommunications Market.
- Relevant market: *“Relevant product market is the public service of mobile telecommunications, or the transmission of phone calls to the end user (either generated by the end user, or destined for the end user), offered by each of the mobile telecommunication companies, AMC and Vodafone”*.
- The geographic area of mobile operators Vodafone Albania and AMC, is the territory of the Republic of Albania.

Abuse of dominant position in mobile phone market 2004- 2005

- Based on Decision No. 59, dated 09.11.2007, Competition Commission concluded:
 - Mobile phone **market shares** for the period 2004 – 2005 is shared by Vodafone Albania and AMC

No.	Companies	Market share 2004		Market share 2005	
		No of subscribers	Revenues	No of subscribers	Revenues
1	Vodafone AL	48.00%	51.00%	49.00%	52.00%
2	AMC	52.00%	49.00%	51.00%	48.00%
	Total	100%	100%	100%	100%

- Tariffs** applied by both companies were **higher** comparing the region:

Type of service	Card service tariffs applied comparing the region (November 2005 in Euro)								
	AMC	Vodafone AL	Globul	Cosmote	Mobitel	Vipnet	Vala 900	Promonte	Average without Albania
	Albania	Albania	Bulgaria	Romania	Serbia	Croatia	Kosovo	Montenegro	
On-net tariffs	0.306	0.367	0.19	0.16	0.124	0.14	0.16	0.096	0.145
off-net tariffs	0.408	0.441	0.19	0.16	0.147	0.315	0.16	0.115	0.181

Source: CCA Decision No. 59, date 09.11.2007



Decision on Abuse of dominance position

- ▶ Based on analysis and information provided by undertaking companies CCA on Decision No.59, dated 09.11.2007, **imposed financial penalties** on both companies AMC and Vodafone Albania equal to 2 % of the annual turnover of the relevant product in the year 2005, expressed in values respectively 211,552,000 ALL (**1,734,459 Euro**) and 242,633,000 ALL (**1,989,284 Euro**).
- ▶ Based on Competition Law, **parties can challenge** the decision, so they did. The fact is that the Supreme Court decided on **different rulings** for these two companies; as for Vodafone Albania it **approved the validity** of Decision No.59, while for AMC (in 2014) **returned for retrial** the case at the Appeal Court on procedural grounds.



“Abuse” of dominance position (period analyzed 2008 – 2015)

- “**Mobile Makes the markets now***”. Role of mobile market on economy and transformation of social welfare.
- Two **new entrants** in Albanian Mobile market, Eagle Mobile (2007) and PLUS (2009). followed by **tariff reductions** and **improvement** of offered **services**, increase of **competition**?!. Oligopoly market created.
- Market shares of new entrants **significantly smaller** than the existing ones (next slides).
- EU recommendations (2009/396/EC) → Electronic and Postal Communications Authority of Albania (EPCA) decision on the **orientation towards the cost of termination fees**.

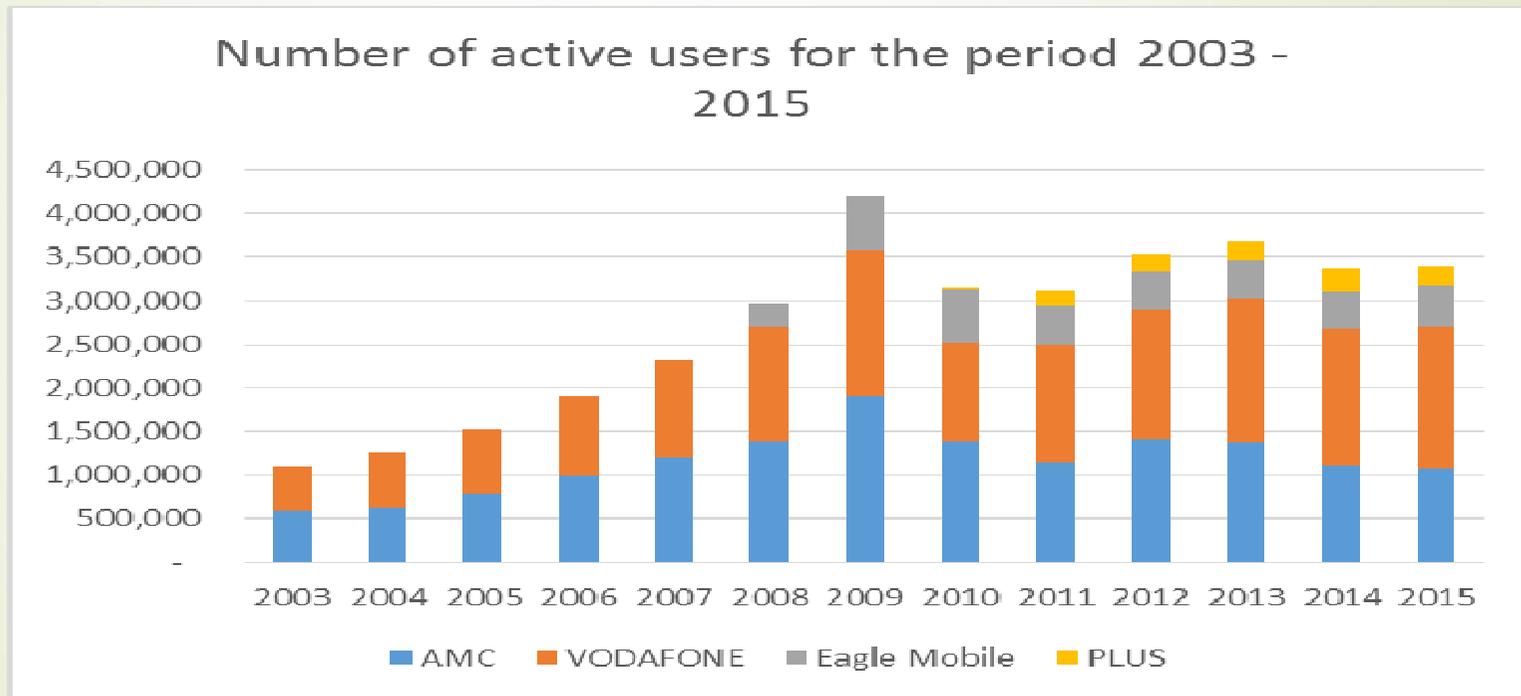
*Simon Columbus 2010



“Abuse” of dominance position (period analyzed 2008 – 2015)

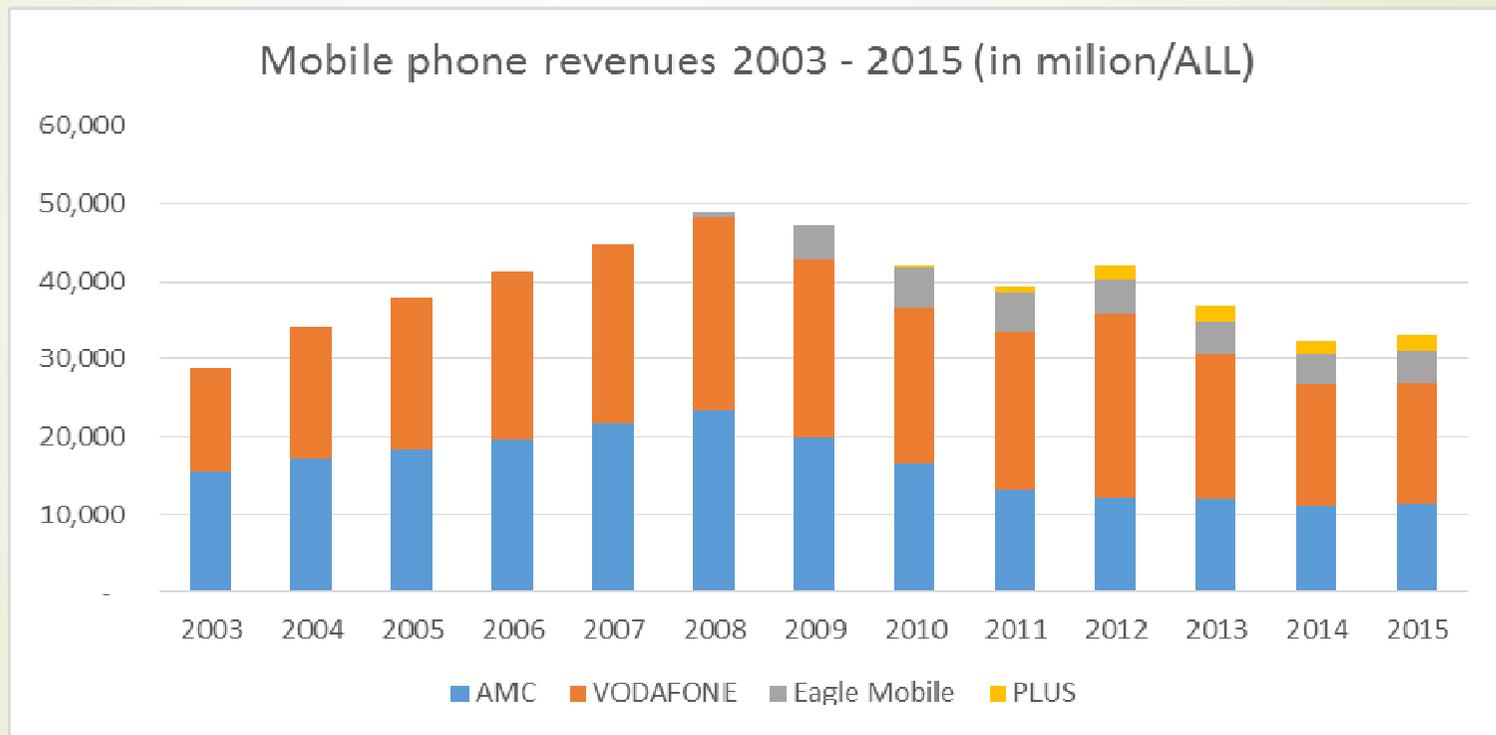
- ▶ Albanian Competition Authority in Decision no. 303, dated 16.01.2013 concluded:
 - ▶ Vodafone Albania was **found** to have a dominant position in the retail mobile telephony market in **2011-2012**
 - ▶ The **strategy followed** by Vodafone Albania (through **different pricing** for on-net vs off-net calls) causes **concerns** for competition in relevant market, and has **negative effects** for competition in **long run** for smaller competitors.
 - ▶ Vodafone Albania **did not** abuse its dominant position.

Mobile phone market active users structure (period analyzed 2008 – 2015)



Source: EPCA Governing Board, Yearly reports 2008 – 2015.

Mobile phone market revenue structure (period analyzed 2008 – 2015)



Source: EPCA Governing Board, Yearly reports 2008 – 2015.



Regulatory interventions.

- ▶ EPCA Governing Board, Decision No.2118 of July 4th, 2012 approving the “Analysis of the mobile telephony market: wholesale termination and access/origination markets: final document”.
- ▶ Two **complaints** arrive in the **ACA** from AMC and PLUS Communications.
- ▶ Competition Commission through Decision No. 275, of 25.03.2012, launched **in-depth investigation** against Vodafone Albania in the retail mobile phone market (period 2011 – 2012), to verify the abuse.
- ▶ Raised concern was abuse of Vodafone on on-net and **off-net termination** tariffs, creation of groups such as “Vodafone club” →Market **distortions** and **harming** of small operators.



Regulatory interventions.

On Decision 303, ACA ruled some **recommendations** that EPCA should especially:

- ▶ Take interim and immediate **measures** in order **to enforce** the market regulation solutions for preventing **market exits** (that might harm competition in long run);
- ▶ Modify the BULRAIC model by significantly **reducing the cost of termination** for **smaller operators** towards larger operators;
- ▶ Enforce the real **reduction** of the **differences between** off-net and on-net calls within and off specific tariff packages and plans for those operators holding a dominant position;
- ▶ EPCA should **monitor** the fulfilment of the **commitments** made public by Vodafone Albania to **equalize the tariffs**, 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.



Market reactions

- ▶ In March 2014, EPCA approved the final documentation on the **revision of termination tariffs** applied on mobile phone market and approximation with fees applied in EU.
- ▶ In 2016, in the framework of monitoring the effects of non-discriminatory tariffs On-net / off-net and the progress of the plan to reduce the asymmetry of termination tariffs, EPCA concluded that the **implementation of anti-discriminatory commitments** have brought significant positive effects, such as:
 - ▶ *inclusion of equal amount of minutes within the network and towards mobile phone networks;*
 - ▶ *significant reduction of the number of temporary promotional offers;*
 - ▶ *increase of standard packages with greater benefits for mobile users.*

Increase of efficiency and competition

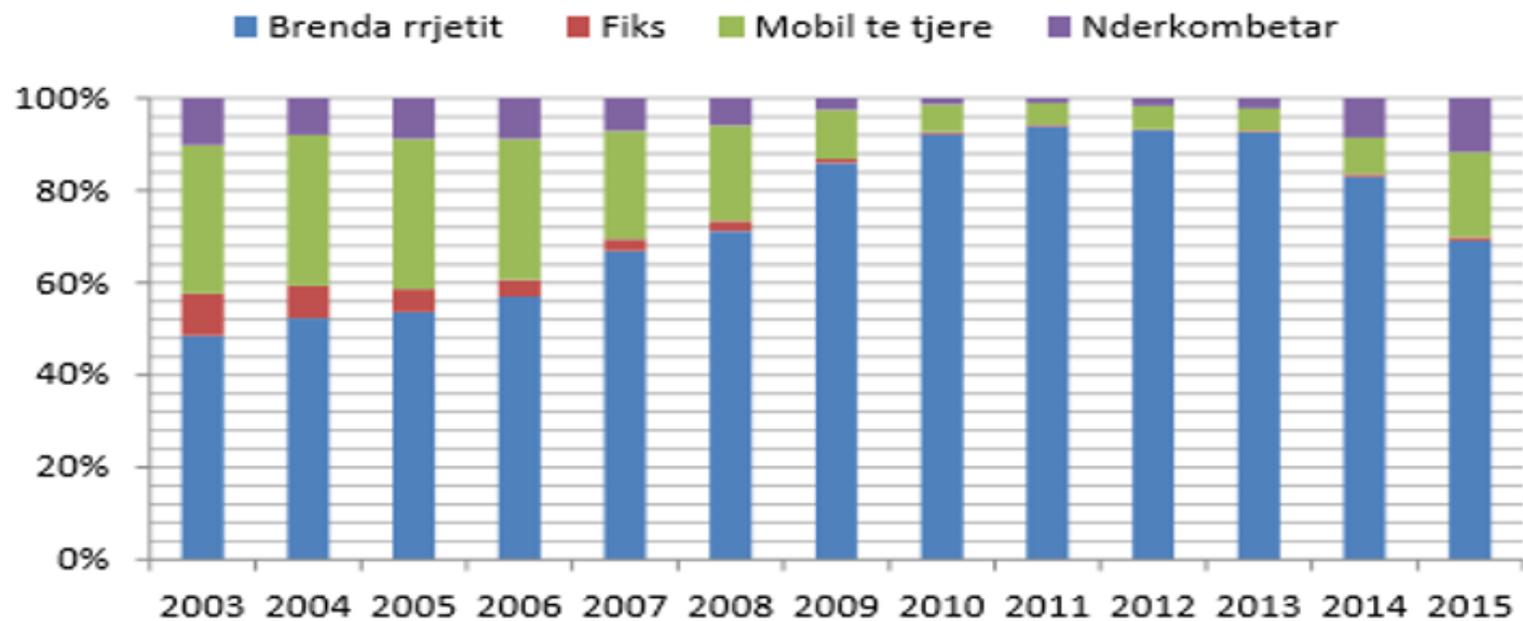
- ▶ Progressive decrease of the Average Revenues Per Minute and Average Revenues Per Units.

Year	ARPM (ALL/minute)	ARPU (ALL/Year)	ARPM (Annual change in %)	ARPU (Annual change in %)
2010	6.49	8,594	-	-
2011	5.35	8,319	-18%	-3%
2012	3.92	7,132	-27%	-14%
2013	3.13	5,863	-20%	-18%
2014	2.63	5,447	-16%	-7%

Source: EPCA 2015 Annual Report

Increase of efficiency and competition

- Positive effects were visible and in changes in the off-net calls structure





Conclusions

- Dominant position is not forbidden if its operations result in an increase of efficiency in the markets, behavior which results in market distortions and in harming competition are forbidden and regulatory interventions are necessary.
- Vodafone Albania was found in dominant position for the two periods under investigation, but different to the first time, in the second period the company is trying to keep its leading position in the market by merits.
- It is not the objective of the regulatory bodies to prevent inefficient competitors to exit from the market, the main objective is to increase efficiency and competition in the market and improve social welfare.
- In some cases the regulatory interventions through guidelines on market regulations are much more effective than the imposition of penalties. This can be seen in our case, where the results were market competition improvements and cost reductions for the final consumers.
- The presence of the regulatory bodies in market regulations is a necessity, but much more important is the cooperation and information exchange between these institutions.



Thank you for your attention!

Questions and comments are welcomed!

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