

It its opinion issued on 15 December 2011 relating to the proposed Draft decision on regulatory obligations imposed on operators with significant market power on the relevant retail broadband access market, the CCA stated that within the meaning of Article 54 of the Electronic Communications Act and the established presence of a significant market power of an operator within the meaning of the same Act, the conclusions drawn in the above Draft decision concerned are in compliance with the provisions of the Competition Act.

However, the CCA noted that the ultimate objective of *ex ante* regulation of the market is creation of a level playing field for all operators in the relevant market. In that sense, the CCA holds the view that with the view to complying with the regulatory principles and achieving the above stated objective, regulatory framework covering the relevant wholesale broadband access market should be used, whereas any regulation in the retail market should be taken into account only as long as this measure is of temporary and ancillary nature. At the same time, the objective of any *ex ante* regulatory intervention is ultimately to produce benefits for end-users and not to jeopardize the development of the market concerned and competition thereof.

Given the fact that the market in question is not subject to the Commission Recommendation on of 17 December 2007 on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services, and taking into account the fact that to the knowledge of the CCA no such practice has been found in the national regulatory framework of the EU Member States, the CCA hereby points out that HAKOM should apply the measures concerned respecting the principles of objectivity and proportionality. This should establish a regulatory framework which would facilitate effective competition in the relevant market and equal treatment for all market players. On the other hand, such a regulatory framework should promote the interest of end-users creating benefits based on technology developments and improvement of services.