



## Research Article

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# Balancing Legal Framework, Regulatory Mechanisms and Competition across Number Portability in Albania

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## Abstract

Electronic communication markets are influenced by various factors that impact the development of competition. Sector-specific policies aim to improve consumer access to affordable products and services while offering flexibility in their choices. The mobile phone market, in particular, places a significant emphasis on number portability services, attracting attention from sector-specific policies and regulatory oversight throughout their implementation and monitoring. This article seeks to scrutinize the legal framework in Albania, identify practical obstacles to number portability, and assess its impact on fostering effective market competition. Number portability, a process that significantly impacts market competition, plays an instrumental role in enabling subscribers to switch networks seamlessly. This observation finds support in outcomes from various countries. Evidence shows that this tool positively influences market competition by shifting the balance of power towards consumers, exerting pressure on service providers to improve their offerings and adhere to contract conditions. Over the last two decades, number portability has evolved into a vital instrument for diversifying choices and reducing prices, ultimately benefiting consumers and creating fair conditions for new market entrants. Number portability is essential for preserving competition and freedom of choice in the mobile service market. However, in markets with duopoly scenarios, such as the current situation in Albania, where two operators dominate the market and may engage in cooperation or secret agreements, specific challenges and impacts on number portability and market competitiveness may emerge. This situation can result in weak competition and limited choices for consumers. In these cases, number portability serves as the sole recourse for consumers to leverage the limited competition by switching to the other operator. In Albania, although the principle of number portability has been enshrined in law since 2008, the legislation has not kept pace with innovations established in EU directives. Harmonizing Albanian law with EU standards, particularly Directive 2018/1972/EU, known as the European Electronic Communications Code, is a priority through the revision of the "Law on Electronic Communications in the Republic of Albania." Despite some positive legal developments, ensuring effective competition and consumer protection in the electronic communications market continues to be a challenge in Albania.

**Keywords:** number portability, regulatory agency, complaints, duopoly market, subscriber, competition

## 1. Introduction

In the realm of economic and legal literature, a plethora of theories exists to comprehensively interpret market competition. When exploring competition in the domain of electronic communications, we not only consider the general legal instruments outlined by competition theory but also various catalysts that can act as drivers in the evolution of competitiveness within this sector. This becomes especially crucial given the rapid and often unpredictable developments in the field of electronic communications.

When we delve into the analysis of possibilities and incentives within the telecommunications market, and the fundamental factors that enable an effective assessment of competition in communication markets, our primary focus naturally shifts to the advantages and benefits for the consumer. This encompasses an expansion of choices in products and services, reduced prices resulting from competition, improved quality of service, and the range of innovations made possible by technological advancements that underpin the offerings in electronic communication markets (OECD, 1996).

All economic and legal theories, when reasoning about markets and discussing competitiveness in specific markets, use the presence or absence of competitive offerings as their reference point. The transformation of competitive offerings into consumer welfare is the fundamental indicator for evaluating the effectiveness that competition can bring to a market for consumers. However, the mere presence of competitive offerings in the market is insufficient if consumers lack awareness of their behavior, hindering their ability to make informed choices from the available options. This involves having the necessary information about prices, the quality of product or service portfolios they can choose from, and the information required to differentiate between the advantages and disadvantages of seeking the benefits of the desired product or service.

In this context, we will also examine the service of number portability in Albania, an instrument that has been considered a catalyst for competition development in the telecommunications sector for over a decade. When we refer to the number portability service, it doesn't imply an unfamiliar service, but rather, studies delve deeper to understand its impact on competitiveness in the telephone market. This service exists in almost all countries, regardless of when it became active or its progress in different places. To enhance this service, it's essential to consider the associated costs that affect its functionality. This is done to ensure efficiency and accessibility for end consumers without imposing the basic costs on consumers, regardless of possible innovations that may bring added value to the consumer service.

In principle, any legal instrument aimed at increasing competition in a specific market can achieve maximum effectiveness only when clear regulations are in place, and in the absence of structural and economic barriers that could negatively impact the functionality of the respective service.

The effectiveness of number portability can be evaluated through market performance indicators, including market growth rates and their evolution following the implementation of this service, the penetration rate of the service in the market, the comparability of prices for these services among competitors, and more. In the legislative objectives of this field, it is evident that the legislator has recognized a direct vested interest in this service, as it establishes a connection between the service provider and its users with the aim of enhancing competition. Above all, it is evident, supported by nearly a decade of statistical market evidence, that number portability has been effective in terms of the advantages and disadvantages it has brought to competitiveness. This effectiveness encompasses the strategies and actions of operators with significant market shares aiming to preserve their network size advantage by leveraging number portability. It also includes differences in pricing portfolios between larger and smaller competitors, potential convergence of services between fixed and mobile operators, the impact of number portability in mature markets, and its influence on market growth rates and penetration levels.

The impact of number portability services varies between markets with different growth

characteristics, distinguishing between mature markets and those still in the process of maturing. This disparity significantly influences the extent of competition enhancement, whether the market is saturated with slow growth or smaller with potential for rapid expansion.

The primary argument in favor of implementing number portability services for mobile and fixed-line phones centers on the initial assessment and reduction of number porting costs. This focus aims to improve consumer well-being and expand opportunities for increased competition among networks. These objectives are significantly influenced by the level of consumer awareness regarding the use and benefits of number porting services. Additionally, positive aspects of switching networks from the consumer's perspective include pricing, service quality, voice quality, and additional benefits offered by competing networks, such as activating new services, attractive tariff plans, innovative services, network technology types, and customer service configurations, among others.

One of the key benefits of the number porting service is its capacity to allow end consumers to retain their phone number unchanged. This affords consumers the flexibility to switch service providers if they are dissatisfied with tariff packages, service quality, additional services (including customer care), and grievance handling, among other factors.

The effectiveness of the number porting service varies across countries where it has been implemented. This variation is influenced by the manner of implementation, the legal mechanisms employed by sector-specific policies and regulatory bodies, the tools chosen to protect consumers regarding payment or non-payment for the service, and the rules established and monitored in practice by regulatory bodies. The enablement of network switching and the functioning of the relationship between providing and receiving networks are also significantly affected by the chosen reference point in the implementation of number porting services, whether they are based on recommended best practices favoring the effectiveness of number porting.

In conclusion, despite incurring both direct and indirect costs for its activation, when considering the advantages and disadvantages of this service, the overall impact of the number porting service is deemed positive. It introduces another level of price elasticity to the minority market, leading to the evolution of market share among competing networks. In other words, the number porting service can clearly be regarded as a significant catalyst in the positive development of competition in both mobile and fixed-line telephony markets.

## 2. The Electronic Communications Market in Albania: Between Legal Developments and Competition

### 2.1 *Harmonizing Albanian Electronic Communications legislation with EU acquis*

The electronic communications market in Albania has experienced significant development, with many of its components often evolving in a legal vacuum and outside the basic rules of competition. The Albanian electronic communications market, in general, is considered an open market, in the spirit of full liberalization, for nearly two decades, with continuous improvements in this regard. The first telecommunications law dates back to 1995, followed by another one in 2000. This law was replaced by the Electronic Communications Law of 2008, which, with some amendments, remains in force to this day. The Stabilization and Association Agreement, which entered into force on April 1, 2009, paved the way for Albania's application for candidate status in the European Union, a status that was granted in 2014. According to Article 70 of the SAA, Albania commits to gradually align its legislation with the *acquis communautaire* during the transitional period specified in the agreement. In paragraph 3 of this article, it is emphasized that “*During the first phase referred to in Article 6 of this Agreement, alignment will focus on the fundamental elements of the Internal Market acquis as well as other important areas such as competition, intellectual, industrial and commercial property rights, public procurement, standards and certification, financial services, maritime and land transport - with special attention to safety and environmental standards as well as social aspects...*”. Article 103 of the SAA pertains to cooperation in the field of information society and article 104 covers cooperation that

is centered on electronic communication networks and services. In line with the Directives of the European Union, this market, in sequence, has closely aligned itself with sectoral policy as a significant objective within the field of electronic communications, within the comprehensive framework of administrative actions serving the process of full liberalization of communication markets. When evaluated from this perspective, regulatory entities, such as the Electronic and Postal Communications Authority and the Competition Authority, have aligned their actions to promote competition. Specifically, they have focused on competition that aims to achieve maximum efficiency, ensuring the well-functioning of domestic electronic communication markets, the promotion of products and services, and making them accessible to consumers. This evolution is guided by the fundamental goal of establishing and sustaining functional communication marketplaces. As per the European Commission's Albania Report 2022, Chapter 10 on "Digital Transformation and Media" underscores the EU's support for the smooth functioning of the internal market for electronic communications and its commitment to protecting consumers and ensuring the universal availability of modern services. Albania, as highlighted in the report, is moderately prepared in the field of digital transformation and is advised to adopt relevant legislation in alignment with the new European Electronic Communications Code.

In the field of electronic communications, Law No. 9918, dated May 19, 2008, "On Electronic Communications in the Republic of Albania," as amended, serves as the foundational law for regulating activities in the electronic communications sector and establishing specific regulations for telecommunications services and networks in accordance with the European Union *acquis*. It transposes the package of EU Directives on electronic communications from 2002, as amended in 2009. National legislation governing electronic communications includes a number of subordinate acts, decisions of the Council of Ministers, and regulations approved by AKEP (the Electronic and Postal Communications Authority), which establish specific regulations related to the electronic communications/telecommunications sector. These regulations are mostly in harmony with and supported by the European Union *acquis* and best practices in this field. As part of the process of aligning legislation with that of the EU, the cross-sectoral document addressing the electronic communication policies is the National European Integration Plan 2022-2024. Based in this document, it is a priority to transpose Directive 2018/1972/EU, the European Electronic Communications Code of the EU, through the revision of the law "On Electronic Communications in the Republic of Albania." Despite these positive legal developments, ensuring effective competition and consumer protection in the electronic communications market remains a significant challenge in Albania.

## 2.2 Key Barriers to the Efficient Competition and Protecting Consumers in a Duopoly Market

All theories, whether economic or legal, regarding the market and the potential analyses conducted in these markets fundamentally conclude that establishing mechanisms for enabling effective competition is a prerequisite for achieving a genuine balance between the opportunities facilitated by efficiency in the utilization of innovation and modern technology, upon which corresponding products and services are offered. Another critical aspect involves fostering effective competition to safeguard consumer protection by expanding the array of competitive offerings in well-functioning markets. Market liberalization in the realm of communication, which is achieved through facilitating market entry and exit, inherently promotes the efficient operation of these markets by removing legal and structural barriers. It also entails the potential removal of economic barriers that, if they were to exist, would impede opportunities for new entrants or weaken the functioning of existing players in these markets, thereby curtailing competition development.

In the context of effective competition development, it's understood that the presence of monopolies or their dominant influence has been eliminated, creating conditions that enhance the proper functioning of communication markets by reducing the dominant market share. Such an achievement is directly related to increasing competitive pressure in favor of consumer choice among

competitive offerings in the market while reducing the possibilities of smaller competitors and potential new entrants not participating.

However, in stating this, it's important to note that a well-functioning market doesn't necessarily fulfill the criteria to be considered effectively competitive. The variance in the proper functioning of communication markets is determined by decisive factors related to sectoral policies and, to a larger extent, the administrative actions undertaken by regulatory entities in the field. This is because the objectives of sectoral policy are linked to ensuring the provision of communication services, often extending beyond what can be expected from a well-functioning market. In other words, they are subject to the fundamental principles of free and effective competition while prioritizing the public interest and access for the general public, including individuals with disabilities, or the provision of universal service, irrespective of the economic "supply-demand" relationship.

The universal service, upon which basic telephone services have been built, clearly embodies the objective of sectoral policy representing the public interest. However, the evolution of services and current consumer needs have a much broader spectrum, expanding the portfolio of universal service to include the provision of broadband internet access with a certain capacity that does not compromise the functionality of the service concerning consumer demand for this purpose. This is seen as a timely development to enable digital services. Therefore, from this perspective, regulatory oversight will be necessary to ensure that effective competition also develops under reasonable agreements that enable market access in line with the objectives of sectoral policy and public interest, regardless of the economic interest in the functionality of these access agreements. A competitive market with a tendency toward effective competition would also entail an increase in consumer choice, regardless of possible structural barriers that may be somewhat encouraged by service providers themselves in the market to serve their primary goal of profit and not to undermine the existing customer base. In this regard, regulatory requirements for service providers should also take into account the conditions that facilitate the end consumer's choice when it comes to selecting the operator for number portability service. However, the progress toward effective competition in the regulated communication market and the influence of consumer demand also drive development in this aspect. It is impacted by the level of consumer information regarding the opportunities offered by number portability services and the strength that this legal tool inherently holds in promoting competition. The structure of the mobile market in Albania in 2011 consisted of 4 operators. By the end of 2022, it was comprised of three operators, and after a controversial decision by the Competition Authority regarding the authorization of a merger in March 2023, the mobile market has only two active networks offering their respective products/services. Number portability is an essential service that ensures competition and freedom of choice for consumers in the mobile service market. However, in duopoly market situations, as is the current reality in the Albanian market, where two operators control the market and may benefit from cooperation or secret agreements, there may be specific challenges and effects on number portability and the competitiveness of the mobile market, which directly jeopardize the realization of the number porting service (which aims to bring subscribers closer to cellular networks), resulting in limited competition. In duopoly markets, operators have more control over prices and services. This can lead to a lack of strong competition and limited offerings for consumers. Therefore, in such market behaviors, number portability may be the only option for consumers to take advantage of the benefits of limited competition by switching to the other operator. Traditionally, consumers of mobile telecommunications service were required to give up their number when switching operators and only according to the EU's Universal Service Directive of 7 March 2002, which became effective on 25 July 2003, MNP means that customers are given the right to keep their mobile telephone number when switching between service providers. The introduction of number portability has reallocated the property rights in mobile telephone numbers from operators to consumers (Buehler, Dewenter, Haucap, 2005). Operators in duopoly markets may create barriers or impose high fees for number porting, attempting to discourage consumers from changing operators and selecting offers and

services with reasonable rates. These unreasonable fees that operators apply for the number porting service can be one of the main obstacles for consumers and intentionally keep them tied to their current operator. Situations in duopoly markets can have an impact on pricing. Despite number portability potentially helping to reduce prices for some consumers, operators tend to follow each other in pricing, and this competition can be limited. Therefore, the influence on price reduction may be more constrained compared to markets with freer competition. In duopoly markets, operators may focus more on improving service quality and offering new services to retain customers, knowing that number portability is an option. Competition in quality and innovation can bring improvements to the consumer experience. Many countries have adopted traditional competition enforcement tools, increased the technical capacity of authorities and prioritized enforcement in electronic communications markets (OECD, 2022). Despite possible challenges in duopoly markets, number portability remains an important tool to encourage competition and allow consumers to switch operators if they are not satisfied with the service or prices. While number portability may be more challenging in these markets, it can still have a positive impact on competition and help strengthen the consumer's position. The risk of coordinated practices among well-known operators, such as secret agreements in a duopoly situation, impacts the effect of number portability in the mobile market, as these are a potential concern and can have significant impacts on competition and the effect of number portability. In these cases, there may be hidden trade agreements that alter the market dynamics to restrict or avoid number portability. Some of the risks of secret agreements are related to potential barriers to competition, as hidden agreements between two operators may involve practices that hinder or reduce competition through abuse. These may take the form of market division, inflated prices, or other practices that harm consumers and society by keeping competition to a minimum. Limiting number portability is an option that operators can use in hidden agreements to restrict or prevent number portability by their customers. This can be done by imposing restrictions, high fees for porting, or by making the porting process difficult. This is detrimental to consumers as it deprives them of the freedom to choose their operator. Another option is to maintain high prices, as by leveraging hidden agreements, they can keep high prices and avoid price competition. This action harms consumers by increasing their costs for mobile services (Maicas, Polo, Sese, 2009). To address these risks, regulators and market oversight authorities are obligated to enforce and monitor the implementation of consumer protection laws and regulations that promote competition and market freedom (OECD, 2021). In some cases, hidden agreements due to beneficial collusion among operators may be illegal and should be investigated and penalized if discovered. Competition protection laws are essential to ensure that operators compete honestly and fairly, and that consumers have healthy choices in the mobile service market. Despite the above theoretical analysis and potential negative effects, aside from some consumer reports, primarily in the media, there is still a lack of data or reports on the effects of this duopoly situation in the Albanian mobile phone market.

### 3. Research Methodology

#### 3.1 Types of Research

This study employs a normative juridical approach, referencing legal norms that encompass EU directives, national laws, administrative regulations, Council of Ministers decisions, Competition Authority Acts, European Commission Reports, and legal rules governing the market and competition. The research primarily entailed the examination of the primary and secondary legal framework, including amendments made over the years, and a comparison with updates to EU directives.

This research reflects the problems of the legal framework and their effects on competition where the main beneficiary is the consumer.



### 3.2 Research Objective

This study aims the evaluation of the effectiveness of the legal framework for number portability in Albania, analyze practical challenges and impediments to its implementation, and underscore the necessity of reviewing the existing legislation on number portability. It also aims to examine the role of number portability in promoting competition and its implementation in various EU countries. Furthermore, this research strives to identify and evaluate the impact of these challenges on the attainment of effective competition in the Albanian mobile phone market, encompassing pricing, service quality, and consumer choice.

### 3.3 Result

This research will lead to concrete proposals for enhancing the legal framework by aligning it with EU standards and refining the regulation mechanisms for number porting. Additionally, it will suggest legal improvements that prioritize consumer benefits and competition, aiming to address practical challenges and mitigate abusive cases associated with this right, ultimately fostering equitable outcomes.

## 4. Evolution of Number Portability Services in the Albanian Mobile Phone Market

### 4.1 Legal Framework for Number Portability in Albania

In situations where the market is shifting towards effective competition in the spirit of market liberalization, it would also be one of the core objectives of sectoral policy to enhance efficiency, align with the level of innovation development, and protect the consumer. In all the aforementioned cases, this implies an informed consumer who has access to transparent and timely information about the evolution of competitive offerings. This information should be clear, comparative, and easily accessible to the consumer. The absence of such information itself hampers the efficiency of communication markets. The overarching principles governing the implementation of number portability services in communication markets have also played a pivotal role in Albania, impacting both mobile and fixed networks.

The significance of this service in fostering competitiveness among network providers cannot be underestimated. A comprehensive examination of the reasoning behind market structure and the evolution of market players, from the introduction of number portability services to the present day, reveals a positive transformation in the mobile telecommunications market, which has effectively contributed to the field of communication.

As of the end of 2022, Albania's mobile market landscape featured three major players. However, during the early stages of the introduction of number portability services in 2011, there were four contenders in the mobile telephony market. In the current landscape of 2023, the mobile market is now home to only two active networks with their respective products and services. While the departure of one operator from the market in 2023 cannot be solely attributed to the effectiveness of number portability services, it does raise questions about whether this service has been leveraged positively within the competitive dynamics of this market.

The guiding principles that have underpinned the theory of market liberalization for over a decade by granting licenses to new operators for market entry and competition in service provisioning starkly contrast the 2023 market reality. This reality is characterized by a duopoly structure, suggesting a regressive shift in the trajectory of market development and the implementation of liberalization.

The rapid technological advancements and the transition from 2G/3G/4G to LTE+ and beyond in cellular services, coupled with the substantial impact of Over-The-Top (OTT) service offerings on a global scale, have significantly influenced traditional markets, including number portability services.

Particularly in recent years, there have been debatable aspects regarding whether competition is thriving in the telecommunications markets or experiencing a decline. It is evident that the development of social networks and the evolution of OTT services present a challenge for end consumers when it comes to comparing respective products and services. This includes the ease of porting service providers, regardless of the regulatory framework in place for this purpose. Various factors can lead to the conclusion that competition in these markets may be facing challenges. There are normative spaces and legal provisions designated for regulatory authorities overseeing these markets, specifically the regulatory body and the competition authority, to address key issues related to consumer service provision in everyday practice. The relationship between end consumers and service providers is influenced by numerous other factors, including the proper application of contract terms, providing transparency, and eliminating consumer confusion regarding information that can be accessed through internet platforms. This starts with the ability to compare communication service prices and extends to the accuracy and reliability of information, including less effective mechanisms for dispute resolution between service providers and end users. Another equally important aspect is tied to consumer awareness regarding the utilization of these mechanisms, among others, which clearly affect effective competitiveness in these markets. Information and consumer awareness carry significant weight in terms of potential competitive pressure on service providers, especially since, in most cases, after the expiration of fixed-term contracts, there is a lack of 'consumer pressure' on service providers. This often leads to the silent continuation of service based on indefinite contracts, far from opportunities to benefit from other offers and without complete knowledge of competitive offerings in the market. The number portability service in Albania had its inception in 2011, following the approval of the Electronic Communications Law in 2008. Alongside the advancement of technologies and the transition from 3G to 4G, the factor of number portability has enabled the market to enter another phase of cellular service penetration, acknowledging a reasonable decrease from its previous peak of around 140% penetration rate. The fundamental factor in this aspect is linked to the declining number of active SIM cards, as subscribers no longer needed to maintain multiple cards to access potential offerings from different cellular networks. The number portability service facilitated the switch from one network to another, albeit with certain obligations outlined in the corresponding regulatory framework, which ensured the functionality and efficiency of this service. During the early period of number portability service introduction in the Albanian market, there were four cellular companies operating. Number portability positioned cellular networks in a competitive clash, with the primary goal of expanding the subscriber base for smaller networks, while aiming for the consolidation of the subscriber base for larger networks, thereby affecting the competitiveness of the market. At its inception in 2011, the number portability service faced challenges not only in terms of its functionality but also in raising awareness about the benefits it offered to subscribers and the provision of information to subscribers. Number portability aimed to apply the one-stop-shop principle in the market, emphasizing the role of operators in adapting and integrating their platforms to facilitate number portability by exchanging information through a centralized database. This goal was also served by the regulatory act as part of the secondary legislation, enabling operators to interact within the same database.

The functionality of the number portability service was contingent on the procedures followed and the ease of transitioning from the donor operator to the recipient operator. In other words, it required operational actions between operators. Thus, from its early stages, the number portability service played a significant role in fostering competition in the telecommunications market, provided that the implementation of procedures and agreements was clearly understood, and all parties involved aimed for functionality without undue barriers among the three parties: the recipient operator (where the number would be transferred), the donor operator (required to be changed), and the subscriber seeking to complete the porting process. In this perspective, the number portability service would only be successful if it received a positive response from the donor operator regarding the request initiated by the recipient operator, who supported their practice by engaging the



subscriber interested in availing the number portability service. To access services on their network, in addition to the information required by legal provisions for number portability, the recipient operator is obliged to provide the subscriber making the porting request with all the necessary information. As in every process that impacts market competitiveness, the number portability service has naturally encountered obstacles affecting its effectiveness. These obstacles, in most cases, were intentionally set by the donor networks, aiming to hinder the process. This often led to disputes between subscribers and service providers, which needed to be addressed administratively as a legal right, irrespective of specific contractual provisions between the service provider and the subscriber. Like in any legal contract, contractual terms of agreement and/or their non-fulfillment, as specified, constitute grounds for potential disputes between contractual parties, which may serve as a basis for appeals. The regulatory authority plays a crucial role in handling these appeals and resolving disputes explicitly outlined in the terms of agreement. The regulator is guided by its fundamental principles to protect the interests of individual subscribers, safeguard overall subscriber interests from abuses by private entities in the market, ensure equal and non-discriminatory treatment of all subscribers through legal and transparent procedures. It is noteworthy that it took eight years following the enactment of the law for the regulatory authority to implement the requirement of approving the corresponding regulation delineating the provisions for number portability. Regulation No. 43, dated September 22, 2016, is titled 'On the Implementation of Number Portability.' This delay in regulatory action had a significant impact on the monitoring process and enforcement of number portability in the telecommunications sector. Key aspects of changes in this regulation relate to the porting timeframe and the elimination of reasons for refusal, mainly related to identification number discrepancies in the subscriber database. Furthermore, the practice among interacting parties was unified based on a centralized database. A significant improvement in this regard was the establishment of a single criterion for refusing number porting requests for prepaid users. This criterion was based solely on discrepancies in the personal identification number provided in the porting request compared to the Identification Number in the database of the donor operator. As for the second category of subscribers, those with postpaid contracts, the request might not be executed due to non-compliance with the subscriber's contractual obligations with the donor operator. In such cases, subscribers have the opportunity to promptly rectify the situation with the donor operator through proper identification using an ID card or passport and/or fulfilling their contractual obligations. This way, contractual obligations should take precedence, subscribers should acknowledge the porting request, and the porting process should proceed. Regulatory improvements aim to minimize the rejection of porting requests. The regulatory act itself envisions the creation of a 'suspended' status for porting requests from postpaid users, where the request is accepted but not automatically rejected by the donor operator. Instead, it is executed after the subscriber fulfills their contractual obligations with the donor operator. This is particularly relevant because the subscriber's mobile number may carry unpaid obligations. In addition to these regulatory changes aimed at enhancing the number portability service, there was also an evaluation of the need to expand the volume of processed requests. This entailed an increase in processing capacities of the number porting system and alignment of operators with market dynamics and requirements. This adjustment allowed for a significant reduction in subscriber barriers to number porting and a reduction in the time required for the porting process.

#### 4.2 Challenges to the Implementation of Number Portability in the Albanian Market

Despite the regulatory improvements that facilitate the implementation of number portability, the application in daily practice often leads to refusal reasons that have negative effects on the functionality of this service. In many cases, these refusals undermine the envisioned role of number portability as a catalyst for effective competition in the communication market. The role of the regulatory authority in enforcing the provisions of the regulatory act in the implementation of number portability is crucial because competitive pressures between donor and recipient parties can

manifest in various forms of resistance or administrative obstacles to deter subscribers' desire to port their numbers. Consequently, this can diminish the effectiveness of the service and its role in promoting effective competition. In such circumstances, monitoring operators and addressing subscriber complaints regarding fines and penalties as per the law for operators not complying with number portability or violating the regulatory provisions specified in the regulatory act will enhance operator performance in implementing this service. The effectiveness of the number portability service is also influenced by contract duration, the conditions for renewal, changes, and potential termination. While contract terms align with the general terms and conditions of the agreement, they invariably incorporate provisions that comply with the terms and conditions of the number portability contract. In all cases, porting or transferring a subscriber's phone number from one network to another is a fundamental right of the subscriber, as stipulated in Law 9918/2008 and the AKEP regulation on number portability. The process follows the specific requirements of the corresponding AKEP regulation and the completion of the relevant form with the recipient operator. Annual reports from the Electronic and Postal Communications Authority, in addition to their legal obligation, view number portability as a successful regulatory measure. In the Annual Report of 2012, it is assessed that the number of ported mobile numbers reached 136,998, approximately 2.5 times higher than in 2011. The average time it took for subscribers to port their numbers was estimated at 1.6 days, with an average downtime of 75 minutes. However, in subsequent annual reports after 2013, the number of porting requests has been declining, and there are fewer specific data available. Even in the Annual Report of the Authority for the year 2022, there are reports of a decrease in the number of refusal requests and complaints from subscribers regarding these refusals, but specific data are lacking. The report also mentions fines, supplementary fines, and recommendations for all three mobile operators. In spite of legislative shortcomings and the absence of a strong regulatory authority for the enforcement of consumer protection measures, the Albanian electronic communications market confronts the dynamic landscape of technological advancements. Porting a mobile phone number is a process of switching cellular service providers while retaining the same phone number. This process has a significant impact on the competitiveness of the mobile market in several direct and indirect ways related to its growth, as number portability empowers consumers to choose the mobile service provider that offers the best deals and the highest service quality. This compels operators to be more competitive and provide better services and more favorable pricing to attract new customers. Another factor affected by the number portability service is the enhancement of service quality since service providers are compelled to invest in advanced infrastructure and technology to retain existing customers and attract new ones. As a result, this leads to an improvement in the quality of mobile services for all users, expanding options for consumers. Naturally, the number portability service impacts and stimulates innovation as competition in the mobile market encourages operators to develop and offer innovative services to attract customers. This may include offering higher mobile internet speeds, more affordable packages for minutes and messages, as well as new services based on cutting-edge technology. The need for innovation is closely tied to high customer expectations since, with mobile number portability, consumers expect better services and lower prices. This compels operators to adapt and meet their requirements to keep the consumer connected to their network. Despite Over-The-Top (OTT) services being provided over the internet rather than by traditional cellular network operators, applications such as WhatsApp, video streaming services like Netflix, and internet telephony services such as Skype, all fall under the category of OTT services and are available on users' mobile devices. These services have had a substantial impact on the mobile telecommunications industry, significantly influencing number portability, market competitiveness, and the end-user experience. OTT services represent a direct competition to traditional cellular network operators, offering analogous services, such as messaging, audio and video communication, and more, albeit via internet channels. This heightened competition compels operators to engage in ongoing innovation efforts and service enhancements to retain their customer base. The influence of OTT services on number portability is notable, as these services frequently present cost-effective or free communication alternatives. Users, therefore,

become more inclined to switch cellular providers while retaining their existing phone numbers if they encounter more attractive offers. OTT services exert a profound influence on end-users by providing an expanded array of communication and content consumption options. These services empower consumers to select applications that align more closely with their unique needs and preferences. Consequently, this exerts greater pressure on cellular network operators to refine their service offerings, including competitive pricing structures, enhanced mobile data speeds, and innovative service solutions. The necessity for operators to adapt their business models has become increasingly apparent due to the proliferation of OTT services. This adaptation involves offering greater data allowances and personalized service packages to cater to evolving customer requirements. OTT services have thus significantly reshaped the landscape of the mobile telecommunications market, emerging as substantial competitors to traditional operators. This transformation, in turn, benefits end-users by affording them a wider array of choices and opportunities to capitalize on the most advantageous mobile service offerings.

## 5. Conclusions and Recommendations

The significance of number portability in fostering competitiveness among network providers is widely acknowledged. A thorough analysis of the rationale behind market structure and the evolution of market players in Albania, from the introduction of number portability services to the present day, demonstrates a positive transformation in the mobile telecommunications market, effectively contributing to the field of communication. By the end of 2022, Albania's mobile market landscape consisted of three major players. However, during the initial stages of introducing number portability services in 2011, there were four contenders in the mobile telephony market. In the current landscape of 2023, the mobile market now hosts only two active networks, each with their respective products and services. Although the departure of one operator from the market in 2023 cannot be solely attributed to the effectiveness of number portability services, it does prompt questions about whether this service has been effectively utilized within the competitive dynamics of this market. It is worth noting that it took eight years following the enactment of the law for the regulatory authority to implement the requirement of approving the corresponding regulation outlining the provisions for number portability. Regulation No. 43, dated September 22, 2016, is titled 'On the Implementation of Number Portability.' This delay in regulatory action significantly impacted the monitoring and enforcement of number portability in the telecommunications sector. Key changes in this regulation pertain to the porting timeframe and the elimination of reasons for refusal, primarily related to discrepancies in identification numbers within the subscriber database. Despite the regulatory improvements aimed at facilitating the implementation of number portability, the practical application often results in refusals that have adverse effects on the functionality of this service. In many instances, these refusals undermine the intended role of number portability as a catalyst for effective competition in the communication market.

In considering the sectoral policy of the Council of Ministers, it is worth noting that its focus should be expanded towards the complete harmonization of legislation in the field of electronic communications, with the ultimate goal of transposing the provisions of the New European Electronic Communications Code (EECC) into the Albanian national primary and secondary legislation. Legal amendments to the regulatory document for number portability are necessary to enhance the efficiency of the number porting service and introduce new legal provisions into Law No. 9918/2008, as amended, to protect consumer rights and provide solutions within a reasonable timeframe that do not jeopardize the interests of number porting or network selection for end consumers, in order to avoid abusive rejections of requests from porting parties by operators. These amendments should be undertaken in accordance with the spirit of the new European Code (EECC) by changing the current deadlines for handling porting requests from 3 (three) days in the current national legislation to 1 (one) day, as per the EECC requirements. Additionally, a legal instrument for "compensation" should be provided in cases of unjustified rejections and violations of the rights of

porting parties due to non-provision of service. If compensation is envisaged for wrongdoers, it is believed that this instrument will significantly reduce violations and abuses of this right. These two innovations also necessitate amendments to the regulatory document for consumer protection and the need to review Standard Subscriber Contracts. Administrative investigations need to be conducted by the responsible agencies for the regulation and oversight of the electronic communications market, as well as for the protection of effective competition, such as the Competition Authority and the Authority for Electronic and Postal Communications (AKEP), regarding undisclosed trade agreements among telephone operators in the conditions of a duopoly market structure that has now been established, and their prohibition if they result in collusive practices detrimental to fair competition and the interests of subscribers. Transparency of AKEP's monitoring and supervisory activities for the public should be strengthened, as it is the public authority responsible for information directly related to consumer requests and complaints, statistical data on their treatment, and regulatory sanctions applied. It is evident that this authority is lacking in terms of publicly disclosed information that concerns the interested public, obligations derived from the Public Information Law.

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