Appendix II

POST AND TELECOM
ADMINISTRATION
IN ICELAND

Conclusions from the PTA consultation on the PTA Draft Decision on Mila tariff for Ethernet service on the wholesale market for trunk segments of leased lines

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1. Introduction

This document contains an overview of the replies and comments received in the Post and Telecom Administration (PTA) consultation on the preliminary Draft Decision with respect to Mila tariff for Ethernet service on the wholesale market for trunk segments of leased lines. The initial draft was presented to stakeholders for consultation on the Administration's website on 23 December 2014 and the consultation was thus concluded last 10 February.

Comments were submitted by Fjarskipti hf. (Vodafone) which were sent to Mila for comment. The Mila comments are shown after the Vodafone comments.

Endeavours have been made to identify all significant comments and to answer them. At the end of each comment there is a short summary of the position of the PTA.

2. Comments from Vodafone

Vodafone points out that Mila intends to offer two types of Ethernet service. On the one hand there is the old SDH and on the other hand, the new MPLS-TP. The advantage that the new type should have over the old type is that it is possible to define among other things, varying package priority, the possibility to reserve or share bandwidth, to prioritise and to VLAN separate.

Vodafone mentions that the company finds it difficult to see the difference between these products as it is known that the EoS[1] product is offered on Mila TP equipment. Vodafone finds it strange that these products are separated and that it is in fact abnormal that this should be the case as the less expensive product is offered at a higher price. Vodafone can only conclude that the amendments being made make it easier for the seller to charge whatever price he pleases for the product in question. Such an arrangement would be most to the disadvantage of competitors of the Siminn Group on the electronic communications market.

Vodafone requests from the PTA that a more exact description be provided of these two products, that is to say where, when and how they are offered to Mila customers. Vodafone considers it abnormal that Mila is charging for EoS while at the same time using TP equipment, see Húsavík, Lundur, Þórshöfn, Vopnafjörður, Borgarfjörður and Raufarhöfn.

Mila reply

In the opinion of Mila, the Vodafone comments result from a misunderstanding of the criteria for the service being offered in specific regions. Mila was offering a new service which was technology independent and it constituted a major simplification to simply take into account the equipment used in each instance to provide the service. It should also be noted that the PTA has repeatedly emphasised that the service should be technology independent. Mila rejected that it would be possible to earmark service to a specific technology and to specific equipment. The equipment used by Mila for Ethernet service in this instance was what is called "hybrid" equipment which means that the same equipment can serve the purpose of a traditional leased line and Ethernet service. When renewing equipment it was normal that Mila would invest in equipment which would be most useful in the long-term but that did not mean that Mila considered it economic to offer this product with the same conditions at all locations, immediately on installation of new equipment. In addition to this, it would take some considerable time to have new locations endorsed by the PTA as this would in all likelihood lead to a requirement that Mila recalculated prices. The reception of the market and the circumstances in each market area would decide whether or when areas would be added for Ethernet service. It must be a decision for Mila whether and where Ethernet service would be offered as it would always be possible to lease traditional leased line connections at these same locations.

[1] Ethernet over SDH.

In the opinion of Mila the Ethernet service product description provided a good explanation of the nature of the service and the difference between that service and traditional leased lines. The tariff furthermore contained an exhaustive list of locations where the service was offered.

Mila also rejected the assertion that this product would result in the company being able to charge whatever price it pleased for Ethernet service. As Vodafone should be aware, the price for products on Market 14, including among other things Ethernet service, is based on a detailed cost analysis, which is subject to endorsement by the PTA.

Mila also rejected the assertion that the new product would be most to the disadvantage of competitors of the Siminn Group and noted that Vodafone had provided no arguments to show how this could be. This product was on offer equally to all parties to the market and parties on the electronic communications market had already shown interest in the product. Customers of Ethernet service included: […][2].

Mila also noted that the Vodafone assertions about specific MPLS-TP equipment did not hold in all instances and that as Mila indicated here above, the location of the equipment did not in itself have any significance in connection with the tariff here under discussion. Mila finally wished to point out that all companies on the electronic communications market bore the legal obligation to respect confidentiality of the information they might gain as a result of access they enjoyed. In connection with the above, reference is particularly made to Article 26 of the Electronic Communications Act no. 81/2003 and to the provisions for confidentiality in agreements between the companies, see confidentiality provisions in the Mila reference offer. It should be noted that normally there was equipment from more than one electronic communications company in Mila technical space and that all parties with access to the space were subject to the obligation for confidentiality.

The position of the PTA

The Ethernet service provided by Mila with its MPLS-TP equipment and which was first announced last spring is in the process of development and there has been an increase in locations where this service is offered since Mila initially announced the service. As has been stated by Mila, the company plans to continue distribution of this product and to increase the number of locations where the services is provided with the objective that this service (which is based on MPLS-TP equipment) will eventually replace SDH leased lines over the whole country. While this development is taking place, Mila makes choices on prioritisation when the company decides at which locations or regions the company should invest in equipment in order to provide this service. Various considerations can influence the choice of area for installation of new equipment and the maintenance requirement is one such factor. One can also assume that estimated demand is a deciding factor as greater demand will return better usage of the equipment.

The locations where this service is now on offer were specified in the consultation document, see Section 2.2. It is therefore absolutely clear at which locations this service is now on offer.

[2] Removed for reasons of confidentiality.

At these locations, Mila customers have the option of choosing between traditional leased lines and the new Mila Ethernet service.

In the tariff submitted for consultation, locations outside the Fibre Optic Ring were merged into one region and a monthly charge is paid in accordance with distance category and data transfer speed but this is independent of location in the country. The purpose of this arrangement was among other things to facilitate the entry of new locations as it would not be necessary to revise the cost analysis for each new location, see Section 2.7.2 in the consultation document. It is therefore incorrect that there will be a need to recalculate prices for each new location as suggested by Mila. When the time comes for the tariff submitted here to be reviewed, a new cost analysis will however take into account costs for the locations that have been added since this cost analysis.

The existing tariff will thus apply for new locations added by Mila until the next review of prices.

According to the reference offer now in force for leased lines Mila shall introduce new leased lines products three months before the product is offered for sale. Mila can therefore offer the Ethernet service at new location three months after Mila informs the parties to the market about their intention to commence the product offer at the location in question.

A temporary tariff for Mila Ethernet service is now in force for locations outside the Fibre Optic Ring. The opening of this service at new locations will not require amendments to the tariff in force. The PTA considers it important that Mila respects non-discrimination in all instances when selecting new locations for its Ethernet service in accordance with the general obligation for non-discrimination on the wholesale market for trunk segments of leased lines. Demand from unrelated parties must under no circumstances have less weighting in the Mila decision-making for such development, than demand from the Siminn Group.

The PTA expresses surprise at the last sentence in the Mila reply with respect to confidentiality of electronic communications companies, which seems to be directed at Vodafone. Vodafone is clearly authorised to make submissions to the PTA to cast light on matters being dealt with by the Administration even though the information is based on matters that Vodafone employees have become aware of in Mila technical space. If Mila considers the information to be wrong, then the company always has the option of correcting this. The PTA in many instances needs to rely on information from Mila being correct and has no reason to presume that the Administration is being provided with wrong information. There could however be an incentive for Mila to withhold information and for this reason the PTA considers it extremely important to receive comments from parties to the market in order to gain a clearer picture of circumstances and facts of the case in each instance.