Appendix I

PÓST- OG FJARSKIPTASTOFNUN

Conclusions from PTA consultation on the review of the Míla wholesale tariff for copper local loops

27 April 2017

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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 Draft Decision with respect to Míla wholesale tariff for copper local loops.

The initial draft was presented to stakeholders for consultation on the Administration's website on 23 December 2015 and the consultation was concluded 29 January 2016.

The following parties submitted comments on the Preliminary Draft.

- Míla ehf. - hereafter named Míla
- Snerpa ehf. - hereafter named Snerpa
- Fjarskipti hf. - hereafter named Vodafone
- Síminn hf. - hereafter named Siminn
- 365 Miðlar ehf. - hereafter named 365
- Hringiðan ehf. - hereafter named Hringiðan

The decision was made to initiate additional consultation on amendments to the Draft with respect to the structure of the Míla tariff. The PTA amendments were submitted for consultation on 26 April and this consultation lasted until last 16 May. The consultation was limited to those parts of the Míla cost analysis that related to structure of the tariff for access to local loops and to setup charges.

Observations were received from Símafélagið in the additional consultation.

The Mila cost model was then updated on basis of the operating figures of 2016, which led to changes in the PTA Draft Decision in accordance with the results of the cost model. The amended Draft Decision was submitted for consultation on 31 March 2017, which ran until 19 April 2017. No comments were received from stakeholders.

Comments are categorised by subject. 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 Míla cost analysis

2.1 Tariff structure

Míla submitted comments on the structure of the new tariff. Míla points out that the company had submitted comments on amendments to the structure of the Míla tariff in the consultation on PTA Decision no. 21/2014 dated 13 August 2014 with respect to the designation of the company as having significant market power and to the imposition of obligations on the wholesale market for access to local loops (M4) and bitstream (M5). The amendments mean that instead of paying separately for the upper and lower frequency ranges, companies will now divide the charge between themselves if one company has the upper frequency range and the other the lower.

Míla believes firstly that there is a risk that the tariff will lead to general price increases for consumers in excess of costs. The risk is that the reduction of wholesale price resulting from changed use of the local loop will not be passed onto the consumers. Secondly, this tariff structure will increase the level of complexity on the market. There is a lot of movement in local loops between companies and this means major changes to revenue accounts at Míla and doubtless also for Míla customers. It is technically very complex and expensive to resolve this. With customers, it will be very difficult to monitor changes and to react to changes in collecting charges when moving local loops between companies. Míla points out that the very many notifications that will have to be sent out in connection with changes of end user use of local loops, will increase the likelihood of mistakes occurring in communications between parties (end user, ISPI, Míla) with the attendant risk of revenue leakage between end user and electronic communications company.

Thirdly, it could be very difficult for an electronic communications company to verify Míla charging, as it could be difficult to establish whether the other frequency range is being used by another electronic communications company. There is a very large number of changes in local loops each month and it is likely that parties to the market will have to spend significant sums of money in order to adapt their systems so that they can monitor costs and link them to consumers when changes occur.

Míla considers that the current tariff structure is much better than the one decided by the PTA in the market analysis. The existing arrangement has been used from the outset and electronic communications companies have developed their systems accordingly. Míla does not consider it reasonable to change the existing structure in this manner, particularly in the light of the fact that there are currently many changes taking place in use of local loops where consumers are rapidly migrating from traditional voice telephony and where electronic communication companies are directing their offer towards IP service. It is appropriate to point out that today there are only 2 Míla customers offering POTS service as the trend is towards IP technology.

The position of the PTA

Míla considers that the change proposed in the first consultation complicates the tariff and that the existing structure of the tariff is a better option. The PTA can agree with Míla that the changes to the tariff as prescribed in PTA Decision no. 21/2014 could result in a higher level of complexity in collecting access charges.

A number of Míla comments mentioned here above do however also apply to the current tariff. In the existing system it can also be difficult for an electronic communications company to verify Míla charging, as it could be difficult to establish whether the other frequency range is being used by another electronic communications company. If an electronic communications company leases what is called "naked DSL" and for this reason pays for fully unbundled access to the local loop while another company subsequently takes the lower frequency range, then there is a change in the price that the electronic communications company must pay. Electronic communications companies have resolved this by collecting a line charge/access charge from consumers.

Because of the comments received on the planned tariff structure and the changed circumstances since the PTA Decision no. 21/2014 was published, the PTA decided to change the structure of the Míla tariff for copper local loops and to submit this to stakeholders in an additional consultation. The objective with the amendment was to simplify the tariff and to make local loop charges more transparent in accordance with the comments received. In addition to this the changes that have taken place in recent months in service provider collection of separate access, or line charges for local loops, were taken into account. These changes were furthermore intended to meet the technical development planned on the voice telephony market.

As stated here above, the PTA proposals for changes were submitted for consultation on 26 April which was open until 16 May 2016. The consultation was limited to those parts of the Míla cost analysis that related to structure of the tariff for access to local loops and to setup charges.

In addition to the views presented in comments from the electronic communications companies, it is also among other things necessary to take into account the fact that structure of the tariff results in costs incurred in efficient operations that should be recouped along with reasonable profit and furthermore that the amount recouped should not be in excess of estimated costs.

Now the arrangement is such that a base charge is paid to the amount of ISK 1,042 for access to the lower frequency range of the local loop, which is used for voice telephony. In instances where only the upper frequency range is used then the monthly charge is ISK 1,386. Also, if both the upper and lower frequency ranges are used then a total of ISK 1,386 is paid for the whole local loop. In this instance, the upper frequency range is considered to be shared access and the company which purchases such access pays ISK 344. As the situation is today, it is in most instances the Míla [1]Access System which is the purchaser of access to the upper frequency

[1] Míla department which among other things sells bitstream access.

range, that is to say that this is usually Míla internal sales. This charge thus appears as a cost in the calculation of access charges for bitstream access through Access Options 1 and 3 on Market 5. On the other hand, Míla collects a base charge for the lower frequency range directly from electronic communications companies and if the lower frequency range is used then it is the company that provides voice telephony that pays the base charge. If however, the lower frequency range is not used, then it is the company that provides Internet service which pays the base charge.

One can therefore say that with the current arrangement, the base charge is linked to voice telephony. Should the user on the other hand cease to purchase voice telephony (PSTN) but continue to purchase Internet service, the base charge is transferred to that service. If voice telephony and Internet service are provided by distinct parties, then Míla must transfer the charge to the Internet service party when this takes place and it is therefore the Internet service provider that collects this from the user instead of the voice telephony provider.

Electronic communications companies currently collect a special charge at retail level from consumers which is variously called a line charge, access charge or local loop charge, and this has been linked to the voice telephony, like the Míla base charge (lower frequency range of the local loop). The PTA examined this charge at Siminn, Vodafone, Símafélagið, Hringdu, Hringiðan and 365 and it proved to be between ISK 1900 and ISK 2,987[2] per month including VAT. Items included in this charge in excess of the Míla base charge, vary between electronic communications companies.

Other electronic communications companies which offer access to fibre-optic local loops, such as Gagnaveita Reykjavíkur, will normally collect a local loop charge directly from the consumer while Míla only provides wholesale service to electronic communications companies.

It is now established that Siminn intends to gradually decommission its PSTN system over the next 4 years pursuant to an announcement from Siminn to electronic communications companies dated 29 January 2016. This will mean that telephone service will be moved from traditional voice telephony to service using IP communication protocol (VoIP). This service will be provided through fibre-optic or copper (xDSL) and lease of the lower frequency range for voice telephony will be phased out gradually and Siminn projections indicate that the PSTN system will be fully decommissioned in the year 2020.

In order to take changed circumstances and comments from electronic communications companies into account, the PTA decided to prescribe that the tariff for local loop lease be significantly simplified. One local loop charge would be collected, regardless of whether the local loop ended in a street cabinet or telephone exchange.

[2] These prices are as advertised on the websites of the companies in question during the period when the PTA conducted the additional consultation.

There will therefore no longer be a special charge for the upper and lower frequency ranges and the charge for the upper frequency range will therefore no longer be included in the price for bitstream in Access Options 1-3. The current price for Access Options 1-3 therefore needs to be recalculated accordingly.

To facilitate this amendment, the PTA decided to waive the proposed distinction between charges for local loop to street cabinet on the one hand and telephone exchange on the other. Therefore, the fee structure in this respect will therefore remain unchanged.

It is now clear that a vast majority of local loops in street cabinets are leased to the Míla Access System and that other electronic communications companies have only been purchasing this product to a very small degree. Distribution of VDSL has greatly increased at the same time as fibre-optic local loops are on the increase. Míla has also introduced vectoring where VDSL is on offer, which prevents the possibility of offering access to the local loop in a street cabinet. Instead of this, Míla will provide VULA access or another kind of bitstream access. The PTA considers it unlikely that demand for local loop to street cabinet from other electronic communications companies will increase in the light of recent developments on the local loop market.

Circumstances have changed significantly from the time when the PTA proposed that Míla be required to offer a separate price for access to the local loop to street cabinet with the PTA Decision no. 21/2014. The PTA deems that there could be considerable economies in simplifying the tariff for local loops which would balance the potential disadvantage faced by individual companies if the fee structure in this respect will remain unchanged. In addition to this, Míla has not provided cost arguments that demonstrate that a lower line equivalence should apply to local loop to street cabinet than to telephone exchange. The line equivalence proposed by Míla was based on comparison with other countries but considering the development of the infrastructure in Iceland, it is in fact uncertain that the cost of a local loop to a street cabinet is less than the cost of a local loop at a telephone exchange.

The PTA therefore intends to propose that the local loop charge (for the whole local loop) be fixed to the lower frequency range, that is to say that the party providing voice telephony (PSTN service) pays the local loop charge to Míla. Electronic communications companies could then collect the local loop charge from users of this service in the form of a separate line or access charge. This is in accordance with current practice and will therefore cause less disruption.

In those instances where consumers are not purchasing voice telephony, that is to say where only the upper frequency range is used, then the party that provides Internet service will pay the local loop charge to Míla in the same manner as is currently done with the base charge for local loop. The Internet service provider can then collect the local loop charge in the form of a line or access charge from the user of the service.

If the local loop is neither used to provide Internet service nor PSTN service, then the party providing IPTV service pays the local loop charge and if VoIP service is solely provided through the local loop then this party will pay the local loop charge. In other words the ranking of the service paying the local loop charge is as follows: PSTN, Internet, IPTV and VoIP.

Míla has made no comments on this change and only Símafélagið submitted comments in the additional consultation. Símafélagið was generally positive towards the arrangement for collecting a line charge being simplified in the manner proposed by the PTA.

Vodafone considers it important that costs for local loop are divided in the manner now prescribed in in the PTA Decision. It is also very positive that it is possible to purchase a sub-loop and that it is perfectly clear what this constitutes, that is to say, copper local loop from the user to the street cabinet where the Míla DSLAM equipment is located.

Vodafone points out that it is stated in Section 2.8.1 in the Míla cost analysis that amendments to the tariff will lead to a significant increase in the price for Access Options 1 and 3.

Vodafone also points out that the company currently purchases the upper frequency range from the telephone exchange to its own DSLAM equipment for ISK 345, as shared access. Given the planned increases, the price will increase for "local loop to street cabinet - upper frequency range" from ISK 345 to ISK 508, which is about 47%. Vodafone cannot see how this increase can be justified as the distance from the street cabinet to the user is shorter than from the telephone exchange to the user. This means that there should be no increase and should not result in an increase for Access Option 1. Vodafone does not understand these criteria. Vodafone requested further justification on this issue and considered that the cost of Access Option 1 should decrease in accordance with the decrease in access to the local loop to the street cabinet

Vodafone considers that those increases being announced for the upper and lower frequency ranges for shared access are not justified, as parties should pay equal costs for access.

Míla replies
Míla refers to the Vodafone comments on the significant increase to the Míla tariff. Míla points out that the cost analysis is based on real figures from bookkeeping. The reason why a number of items in the tariff have increased significantly is that the PTA decided another structure for the tariff and the result of this is that specific products increase in price and others decrease.

With respect to the Vodafone comment on the price for the upper frequency range, Míla refers to the fact that the PTA decided a structure for the tariff which led to a significant increase in the price of the upper frequency range of the local loop. The result is that the upper frequency range of the local loop to the street cabinet will cost more than the upper frequency range costs today. Míla also points out that an even split as proposed by

Vodafone would result in an even greater increase in the price of the upper frequency range as the current tariff allows for a 40/60 split.

<u>The position of the PTA</u>

Vodafone requested explanations as to why the local loop to the street cabinet had increased in the prior PTA Draft and the explanation is that with the change prescribed in PTA Decision no. 21/2014, the cost share of the upper frequency range was increased from 25% to 40%. In addition to that there was a general increase in the tariff of about 11% because of cost increases since the prior price decision. In the Draft submitted in the first consultation, it was prescribed that the price for local loop to street cabinet would be 85% of the price of local loop to telephone exchange but because of an increase in price share and costs, this did not result in a price reduction for local loop to street cabinet.

As stated here above, the PTA plans to amend the structure of the tariff as a result of comments from electronic communications companies and of changed circumstances, among other things because of the Siminn plans to decommission its PSTN system. The change will mean that the price for local loop will be separated from the charge for Access Options 1 and 3. It will result in a simpler and more transparent tariff.

With respect to the access obligation for the possibility of purchasing local loop to street cabinet, the PTA wishes in this connection to point out that this does not constitute a change in access. Míla has provided access to local loop to street cabinet where this has been possible and where there has been demand for this access. The same price has however been paid for local loop to street cabinet as for local loops to telephone exchange. In many street cabinets it is not possible to offer access to other electronic communications companies, for example because of lack of space or because of vectoring.

In the PTA Decision no. 21/2014 it is prescribed that where it is problematic to provide access to street cabinets to more than one VDSL operator, then this shall be resolved with virtual unbundled local access (VULA).

365 considers that the price changes announced for calculations of lease price are inadequately justified and totally non-transparent. A 73% increase is for example allowed for on the lease of the upper frequency range, without the price change being specifically supported by arguments or explained in any manner whatsoever. Such a change would be very damaging for 365, as the company has up to this point in time leased access to the upper frequency range through Access Options 1 and 3.

365 also objects to the presentation of information in the PTA draft, as the information provided there about calculation of lease price is unclear. On page 21 in the PTA draft cost analysis it is stated:

“Míla also stated that the electronic communications companies that solely leased the upper frequency range would pay a 73% higher price than previously. The Míla access system only leases the upper frequency range, which means that the price for Access Options 1 and 3 will increase significantly as a result of these changes. On the other hand electronic communications companies will pay a 14% lower price for the lower frequency range and this always has to be paid when the upper frequency range is leased. The lease of the lower frequency range will only increase by 43%.”

One cannot deduce the cost of Access Option 1 after the changes from the above specified discussion. 365 is therefore unable to fully understand the impact of the new Míla tariff and nor is it able to submit adequate comments on the tariff. It is requested that the PTA cast more light on the above specified changes.

It is not disputed that there is much less demand today for use of the lower frequency range than was the case previously. Now that the use of fixed line telephone is much less than before, Míla nevertheless forces Internet providers to pay a charge for use of the lower frequency range, regardless of use or of their interest in using this frequency range.

365 considers it extremely important that Míla customers be allowed to choose whether they purchase access to the lower frequency range, upper frequency range or both frequency ranges. It is the opinion of 365 that it is untenable for Míla to collect a special charge in any form whatsoever for the lower frequency range if it is not used This is simply totally inconsistent with all market principles and it hinders normal price development for electronic communications services, both with respect to fixed line telephones and data transfer service.

The existing arrangement thus creates the risk and significantly facilitates an abnormal transfer of opex to Siminn competitors. In this connection, 365 drew attention to a letter that the company had received that same day from Siminn, where it was announced that Siminn planned to decommission its PSTN system during the coming years. 365 pointed out that these plans clearly did not harmonise well with the amended Míla tariff and that preparation had clearly been under way for some considerable time for the above-mentioned joint plans of Siminn and Míla. The companies’ plans would lead to significant increases in revenue for Siminn and Míla. The Míla plans for tariff changes must be closely examined with this in mind, because as things stand, competitors of Siminn and Míla will be forced to pay higher charges than before.

In the light of the fact that there are few arguments to support the announced changes to Míla lease prices, 365 considers it clear that they derive from opportunism and alliance between Siminn and Míla on pricing, and not from a genuine increase in Míla costs incurred in providing the service.

Míla replies

Míla refers to the 365 view that it is normal for customers to be able to choose whether they purchase access to the upper frequency range or the lower frequency range and that if a company only needs the upper frequency range then it is not normal that it must also lease the lower frequency range. Míla points out that it is not particularly significant whether the upper or lower frequency range is used. This is a matter of leasing a local loop and the cost analysis is based on lease of a local loop. The PTA amended the structure of the tariff is such a manner that there is one charge being paid for each local loop. If there are two parties using a local loop then the lease price is split between them, otherwise not. Míla however still believes that the existing structure was better, that is to say that the base charge was for the lower frequency range and then an additional charge is made for the upper frequency range. If the lower frequency range was not being used then the party leasing the upper frequency range had to take over the lease of the lower frequency range.

Míla points out that 365 refers to the Siminn letter on decommissioning the Siminn PSTN telephone system. 365 implies that this will lead to significant increases in revenue for Siminn and Míla. Míla points out that this Siminn plan has no impact on Míla revenue, as in this instance the lease of the upper frequency range would increase accordingly. There have been no discussions between Siminn and Míla with respect to decommissioning the PSTN telephone system and Míla received the notification from Siminn about the decommissioning of the telephone system at the same time as other parties to the market. It is appropriate to point out that this new structure for the tariff was a decision made by the PTA and not by Míla and that Siminn received information on this structure at the same time as all other electronic communications companies in the country.

Míla regrets the 365 insinuations against Míla and Siminn that are made in the 365 comments, and Míla categorically rejects these insinuations as wrong and unfounded. Míla points out that these insinuations are extremely serious as Míla and Siminn are not authorised to consult with one another on tariff Míla challenges 365 to withdraw the insinuations.

The position of the PTA

As previously stated, the increase in the charge for access to the upper frequency range originates partly from the fact that the PTA Decision no. 21/2014 prescribed that the upper frequency range would carry a higher share of the cost than had previously been prescribed, in accordance with increased use of the upper frequency range. There was also a general increase in costs for the local loop system. This change was made at the initiative of the PTA and thus not as a result of an alliance between Siminn and Míla.

According to the new Draft Decision, one local loop charge will be collected, independent of the use of the local loop The local loop charge will be based on average cost in the local loop system, independent of the use of each local loop and of whether the local loop ends in a street cabinet or in the telephone exchange

Siminn points out that the rule today is that the party which pays solely for voice telephony, and thus only uses the lower frequency range, pays a base local loop charge which is ISK 1,042. If a party however only uses the upper frequency range then he pays for the whole access which is ISK 1,386. Pricing for the party which only uses voice telephony is thus independent of the use of the upper frequency range, that is to say, Internet service or IPTV. This change proposed by the PTA means that the costs for sole use for voice telephony increase by about 40% and will be ISK 1,495. Siminn can see no arguments or justification for this change and nor does it see any circumstances that justify a situation where a party today that makes no changes to his service will face a 40% increase after the amendments. In the opinion of Siminn, it is clear that costs have not increased to this extent and that this increase is entirely the responsibility of the PTA and results from the Administration's incomprehensible amendment to current practice.

It will also be impossible for the party providing voice telephony to maintain reasonable consistency in its pricing. One could take an example of a user paying a charge for voice telephony to electronic communications company A and for Internet service to electronic communications company B. Each time that the party in question cancels his Internet service then this would mean that company A would need to change its pricing for line charge or voice telephony, if the electronic communications company in question sold the line charge and voice telephony together. Today this is not necessary. The party today which pays a line charge always pays the same price. If the party cancels the voice telephony or Internet then he pays the same line charge after the change.

Though there are not many individuals who only purchase voice telephony, they still constitute a significant number. This change will have a direct impact on this group of customers who in most instances are senior citizens. This PTA amendment will have a direct impact on their cost of living. Siminn does not understand why the PTA wishes to increase the price of service to these parties by 40%.

Siminn demands that the PTA retract this change which constitutes an increase on the base price for local loop from ISK 1,042 to ISK 1,495.

Siminn also considers it clear that the change in question is not supported by appropriate provisions in the Electronic Communications Act. The PTA is authorised to impose an obligation for price control or for cost accounting, but not to decide how a service should be implemented. In the consultation it was stated that the PTA decided to make changes to the criteria for pricing of the lower frequency range of the local loop on the one hand and the upper frequency range on the other. Siminn considers on the other hand that the PTA does not have legal authority to make changes to the criteria for pricing.

Siminn considers that the PTA should tread carefully when intervening in company operations without having clear and unequivocal legal authority, particularly in the light of new judgements and rulings from the Appellate Committee.

The position of the PTA

As Siminn pointed out, users are discriminated against in price in the existing structure, depending on whether they solely use the upper frequency range of the local loop or solely the lower frequency range. Those who solely used the upper frequency range only need to pay the charge for fully unbundled access while those that solely used the lower frequency range, must on the other hand pay a much lower charge, the charge for what is called base access. It has however not been possible to separate costs for this varying use of the local loop and thus not possible to demonstrate that the cost of using solely the lower frequency range is lower than the cost for solely using the upper frequency range. This difference in price has historical origins as this arrangement was decided during the period of inception of xDSL when the use of the upper frequency range was in its infancy. The structure of the tariff has however not changed, even though the use of the local loop has changed throughout the years. The PTA proposed in the consultation prior to PTA Decision no. 21/2014, that this should be changed such that a charge should always be collected for the local loop in its entirety, regardless of use. This would mean that access solely to the lower frequency range (only voice telephony) would be considered fully unbundled access in the same manner as sole access to the upper frequency range (only data connection). Along with other electronic communications companies, Siminn had the opportunity to submit comments on the PTA draft, but however made no such submissions with respect to the structural change when the opportunity was offered.

In the light of the comments received in the prior national consultation on this cost analysis and on circumstances that have changed from the PTA Decision no. 21/2014, the Administration has proposed an amendment to the structure of the Míla tariff for access to local loops as is explained in more detail here above. The PTA submitted its proposals to Míla which raised no objections to the planned amendments. The cost analysis has now been updated with 2016 operating data. The result is that the price for access to local loop will be 1,406 ISK/month.

The PTA plans to maintain the prior decision to the effect that a charge shall always be collected for the local loop in its entirety, regardless of use of the local loop. The equivalence of a local loop when calculating the local loop charge will therefore always be 1 instead of varying equivalences depending on the use of the local loop. Such an arrangement supports a simpler and more transparent tariff for local loop lease and in addition to this there are no logical arguments relating to the structure of the Míla cost accounting, which would call for the older equivalence arrangement.

There is also the fact that the new arrangement for equivalence of local loops are conducive to Míla revenue being in line with the company’s costs after the Siminn PSTN system has been decommissioned, as is currently planned. One can expect that when the PSTN system has been decommissioned, voice telephony will be provided through the upper frequency range of the local loop with VoIP service if the copper local loop will be used for this service. This will mean that those consumers that only have voice telephony (which today goes through the upper frequency range of the local loop) will use VoIP service through the upper frequency range of the local loop. An unchanged structure of the tariff would mean a change from base access to the local loop (1 line equivalent) to fully unbundled access (1.33 line equivalents). This would mean increased revenue for Míla for each local loop without the corresponding costs.

An unchanged tariff structure, as proposed by Siminn, would result in a higher fee for the fully unbundled access compared to the proposed structure changes of the tariff, see Section 1.1 in the Draft Decision. In the PTA opinion, the arrangement which is now proposed will be a better option for consumers in the long-term, when one considers the changes of the PSTN system that are in the pipeline.

With respect to Siminn assertions that the PTA does not have legal authority to decide the Míla tariff, the PTA indicates the clear legal authority in Article 32 of the Electronic Communications Act, on which the obligation for price control of tariffs on the relevant market is based. The Siminn reference to recent judgements and rulings by the Appellate Committee is not relevant in this instance as in those cases reference is made to the Postal Services Act and not to the Electronic Communications Act. Those resolutions are thus not valid precedent in this matter as the provisions in the above specified acts vary significantly with respect to PTA price control on tariffs of electronic communications companies that have been designated as having significant market power, and they have broader scope and are more unequivocal than those that apply to postal service operators.

Siminn considers that the change proposed by the PTA will have an impact on the pricing of all other service items that are examined in the PTA analysis.

Nor does Siminn understand why the PTA does not deal jointly with those markets that are related, so that electronic communications companies do not need to make repeated amendments to prices of the same service. Pricing of Internet services is not only dependent on the upper frequency range, but also on the pricing of bitstream access. It is therefore clear that the cost analyses for bitstream access and access to local loop should have been merged, or at the very least the changes should have been brought into force at the same time.

Siminn points out that planned changes to tariffs make it almost impossible for electronic communications companies to advertise clear and simple prices to its own customers. Although existing arrangement could be better, the change proposed by the PTA will mean that electronic communications companies will e.g. have to advertise 6 very varying prices for voice telephony for precisely the same service. Although all the existing arrangement is not desirable, the change is much worse.

Siminn wishes to note that the PTA is obliged to ensure that the price for separated access to the local loop should support justified and sustainable competition. This change simply does not do that.

Siminn has endeavoured to simplify both its product offer and the pricing of the its services. The main problem facing Siminn is that the company is selling its service through a number of varying systems (Míla, Tengir etc.) and can therefore not advertise one simple price in its advertisements without having a reservation on the line charge.

The position of the PTA

The PTA refers to the explanations provided here above and to the amendments that were made to the Draft Decision. Those changes mean that the charge for the upper frequency range will not be included in the charge for bitstream access. As there will only be one access charge for the local loop, electronic communications companies can collect the charge for access to the local loop from consumers in the form of a line chart/access charge, separate from the charge for Internet if they so choose. This arrangement is fully accordance with practice that has developed with Siminn and other service providers during recent years.

The PTA draft Decision regarding Mila's cost analysis for bitstream access has been published for consultation and as this amendment to the tariff for local loop lease has a direct impact on bitstream costs then the price for the local loop will come into force at the same time as the new prices for bitstream access.

Siminn points out that companies currently sell service through a number of systems and in all instances, the price of service on each system is specified and predictable. This change will mean that there will not only be varying prices between systems, but also varying prices depending on where the party in question is located on the same system and varying prices for line charges depending on whether Internet and voice telephony are used or just one of those two. Today the line charge (base price for local loop) is always the same, while the price for the upper frequency range is included in Internet service, which means that it is possible to present this in a simple manner. Now there will also be varying prices for Internet service, depending on where the user is located in the system. This clearly does not work.

It is obvious that it will be complicated to explain to consumers how the pricing is structured and why party A is paying another price than party B, just on the basis of whether the connection is to a street cabinet or not. This particularly applies to voice telephony which is by nature uncomplicated, thus making it incomprehensible why there should be two different prices.

In the opinion of Siminn the use of a single price as a basis will be inevitable, as is the case today, regardless of whether access is to street cabinet or not.

It is clear that it will not be acceptable to Siminn to have double pricing to end users, depending on whether the connection is to a street cabinet or not.

Siminn in fact considers it inevitable that pricing for local loops become more homogeneous and comparable to that practised by other companies, such as Gagnaveitan, Tengir etc.

In the opinion of Siminn there is no consideration whatsoever given to the increased costs that will be incurred when transferring customers between companies and to the significant costs resulting from managing prices. It is clear that the PTA has not investigated the consequences of the higher level of complexity in terms of high costs for those who purchase service from Míla, even if one only considers managing varying costs and ensuring that the proper charge is made to each customer. There is simply a total lack of consideration of how a model as complex as the one proposed by the PTA can be implemented without it leading to cost increases.

Siminn considers that the higher level of complexity will lead to a variety of unforeseen side-effects which will in the long run impinge on consumers. Pricing will be complicated, market messages will be complex, handling costs will rise.

The position of the PTA

As local loops in voice telephony normally reach telephone exchanges, the level of complexity is far from being as great as implied by Siminn. With respect to the upper frequency range, the intention was not to collect varying charges for bitstream access depending on whether the underlying local loop was to street cabinet or to a telephone exchange.

Because of the Siminn comments to the effect that the PTA had not researched the consequences of the amended tariff structure, the PTA wishes to point out that Siminn had the opportunity to present its views in the consultation on PTA Decision no. 21/2014 but Siminn raised no objections on this issue when it had the opportunity to do so.

In the current draft Decision, it is proposed that amendments be made to the structure of the tariff for local loops which will become much simpler and which will take into account changed criteria and the comments that were received. In order to facilitate acceptance of this change, the PTA intends to withdraw the provision for making a distinction between the charge for local loop to street cabinet on the one hand and to telephone exchange on the other, as Míla has not submitted cost arguments for the cost division shown in the line equivalents proposed by the company.

It is now clear that the majority of local loops in street cabinets are sold internally within Míla and that other electronic communications companies have only been purchasing this product to a small degree. Distribution of VDSL has greatly increased. Míla has also introduced vectoring where VDSL is on offer, which prevents the possibility of offering access to the local loop in street cabinets.

Circumstances have changed somewhat from the time when the PTA proposed that Míla be required to offer a separate price for access to the local loop to street cabinet with the PTA Decision no. 21/2014. The PTA deems that there could be considerable economies in simplifying the tariff for local loops which would balance the potential disadvantage faced by individual companies if the fee structure in this respect will remain unchanged. Therefore, the arrangement in this respect will be as it is today.

Hringiðan requests further arguments from the PTA for changed emphases on the lower and upper frequency ranges and for planned changes to the tariff. It was stated that this constituted a significant price increase for Access Options 1 and 3 in Internet service, without this having been further supported with arguments. In the opinion of Hringiðan the pricing of Access Options 1 and 3 was already far too high. In the opinion of Hringiðan, changes should be made with the interests of the owner (Siminn) in mind, and totally without requesting the opinion of others who sold Míla services and who should pay the increases.

The position of the PTA

The PTA refers to the explanations provided here above and to the amendments that have been made to the Draft Decision. The PTA points out on the other hand that as stated in the comments from Siminn, the changes prescribed in PTA Decision no. 12/2014 were not made specifically with Siminn interests in mind.

2.2 Míla costs

Snerpa points out that as the breakdown of Míla costs for operation of the copper line system are redacted it is only possible to guess what Míla may have included as costs.

There is however a discussion on costs resulting from line failures. Line failures can be of various types, e.g. "natural" failures such as a leak into an earth cable which must be identified, excavated and repaired, or a situation where a line no longer fulfils requirements and where part of it must be replaced in order for it to be usable. Failure can also result from damage, where e.g. a cable is cut by a civil works contractor or where there is a collision with a street cabinet. Snerpa points out that a significant number of line failures result from damage. There is an essential difference between failures of this type and others where damage is normally fully recompensed, either by the party that caused the damage or by the insurance company of the party in question. Repair work is normally carried out according to billed hours so that Míla also receives repayment for a mark-up on its own work, or on the work of subcontractors. If damage is included in the Míla cost calculations, then damage which has been repaid should be added to the revenue side in the cost accounting.

Snerpa also points out that Míla appears to be subject to no obligations with respect to billed hours, for example, design work, internal cable laying or connections in the distribution frame calculated on an hourly basis, and is completely free to decide the amount collected for such work. One should consider whether there is reason for the PTA to examine whether such obligations should be imposed.

Míla replies

Snerpa draws attention to the fact that revenue from damage must be deducted from costs resulting from line failures. Revenue from damage is entered in the account Core Systems (860060) and costs for such damage is also entered there. Neither revenue nor costs are therefore booked directly to copper local loops. Profit or loss from Core Systems is however divided between operational units at the end of each month where 80% of the balance of this unit is allocated to copper local loops as the unit's employees work almost exclusively on the copper network. It can also be added that the Snerpa assertion that faults resulting from damage are a significant part of line faults is not supported by the facts. On the contrary, costs resulting from damage represent a small proportion of the costs for line failures in general and in addition to this, recompense is not received for all damage.

Snerpa considers whether there is reason for the PTA to impose obligations on Míla with respect to Míla's billed hours. Míla points out here that it is not a part of the electronic communications regulatory framework (EU) nor is it supported with authorisation in Icelandic law, to impose obligations on billed hours.

The position of the PTA

The PTA refers to the Míla reply to these observations from Snerpa with respect to cost resulting from damage. With respect to the price for billed hours, it is correct that the PTA does not decide the Míla tariff for billed hours and nor does it plan to do so in the foreseeable future.

Snerpa considered it unclear which investment is covered by the items specified on page 15 "Breakdown of investments for the introduction of fibre-optic to the access network". Snerpa draws attention to the fact that pursuant to Decision no. 21/2014, Míla is obliged to provide electronic communications companies with VULA access to the access network if it has been used in such a manner by the Míla access systems (converted to VDSL) that other electronic communications companies do not have the option of implementing their own access systems on the network. Such access shall be analogous to the electronic communications company in question having implemented its own access system (virtual unbundled local access).

In the opinion of Snerpa it would be normal if the reference offer on M4 also applied to VULA access for electronic communications companies if Míla considered it normal to include investments for its access systems (introduction of street cabinets). This cost would only be included in the pricing of this part and not in local loops. It would also be normal that if an electronic communications company did not have the option of installing its own access system because of obligations on Market 4 and could therefore only lease a local loop with what is called virtual unbundled local access (VULA), then the price for such access should be prescribed in a reference offer for M4, i.e in the reference offer here under discussion.

If the item on the other hand only applies to internal costs in the Míla access systems, which like other electronic communications companies should bear the cost of its own connections on the distribution frame, see here above, then it would not be possible to specify such cost as investment costs or operation of the access network, as such costs would have been incurred as a result of Míla operations on Market 5.

The estimated useful life of investments related to the introduction of VDSL has been deducted and for this reason it is not possible to estimate whether it is correct or properly calculated. Nor is there any way to estimate whether the amount of costs is normal or whether the costs actually belong to Market 4.

Snerpa points out that in many instances street cabinets need to be enlarged if they are to accommodate DSLAM equipment in street cabinet (introduction of street cabinets). The question then arises as to whether this cost belongs to the access network (M4) or to access systems (M5). It is clear that if an electronic communications company such as Snerpa needed to install a street cabinet side-by-side with a cabinet owned by Míla which did not have space for equipment, then the costs of enlargement or for an additional cabinet would be totally met by Snerpa. For this reason it would be normal for the cost of introduction of street cabinets to be allocated to access systems (M5) and not included in costs for the access network (M4) unless specifically for VULA access. The simplest solution would probably be that if a specific district is subject to a VULA obligation, then all parties, including the Míla access system, should be booked for VULA access from the access network and then the Míla access system can book investment and maintenance costs for such cabinets (and only for them) to the access network.

Míla replies

Snerpa makes comments on VULA. Obligations have already been imposed on Míla to offer VULA and these obligations are imposed on Market 4 The solution has not however been technically resolved and for this reason it is not possible to decide price until this work is completed. Míla points out that the VULA solution constitutes a local loop and xDSL equipment which is analogous to Access Option 1. The solution should on the other hand be more expensive as Míla needs to make specific technical changes to make the solution accessible. The local loop will therefore naturally be part of the price for VULA. VULA is in fact a solution which is offered on Market 5, although the obligation is imposed on Market 4.

It is appropriate to point out that Míla Access system pays for access to distribution frames and local loops in the same way as other customers of the Access network.

Snerpa deliberates on whether the cost of enlarging street cabinets should belong to Market 4 or Market 5. Street cabinets are part of Míla Access network and for this reason, the cost of enlarging cabinets must belong to Market 4. Copper local loops are interconnected on the distribution frame in street cabinets. The purpose of enlarging cabinets is to follow normal development on the electronic communications market where the demand is for increased bandwidth and in addition it is to use the opportunity to renew cabinets that have reached the end of their useful life. In order to increase the useful life of the copper system, Míla believes that it is necessary to alter and renew cabinets. The Míla Access system pays for access to street cabinets by leasing distribution frames in the cabinets. It was decided to have the same price for lease of distribution frames in street cabinets but the usage in street cabinets is much less efficient than in telephone exchanges.

The calculated price for distribution frames is largely based on the cost of hosting and one could argue that the price for hosting in street cabinets should be lower than in telephone exchanges. It has therefore been Míla's opinion that instead of having parties pay separately for VDSL equipment in each street cabinet, the same price should be paid for distribution frames in street cabinets as in telephone exchanges. Access systems are in this way paying significant amounts for access to street cabinets. Another possibility would be to make a price for hosting equipment in street cabinets and to make a corresponding reduction in price for access to distribution frame.

It would be absurd to have Míla Access systems pay a VULA price to Access network because a large part of the cost related to VULA belongs to the Access system, e.g. all Míla xDSL equipment.

The position of the PTA

The PTA refers to Míla replies to Snerpa comments. The PTA makes no objections to the division of costs for Míla introduction of street cabinets.

As stated by Míla, VULA is defined as a product on Market 5 (now Market 3b). After Snerpa submitted this comment the draft tariff for VULA has gone through national consultation and will come into force at the same time as the tariff for copper local loops. The technical definitions for VULA have also gone through national consultation and the PTA will soon publish its Decision regarding the reference offer for the bitstream service, including VULA.

365 points out that the information used by the PTA and which form the criteria for the Administration's assessment of Míla opex is confidential. No information can be found in the document which casts light on the real Míla costs for local loops.

It is thus clear that 365 cannot assess any of the criteria that relate to opex. As the Míla opex has by its nature a significant impact on the conclusion of the PTA cost analysis, the consultation on cost analysis has a very limited purpose. In the light of the fact that Míla enjoys a monopoly position with respect to access to copper local loops, it is impossible to conclude that such comprehensive confidentiality with respect to the company's opex serves any purpose, as it cannot be seen that it would be possible to use the redacted information for competition purposes, as no party on the electronic communications market is in a position to do so.

365 points out that pursuant to Item 2 of Paragraph 1 of Article 32 of the Electronic Communications Act no. 81/2003 charges for access to local loops and facilities shall be based on costs, including normal return on tied capital. In the light of the fact that no information is to be found on Míla real costs in the consultation document, it is impossible for 365 to assess

whether this is the case in this instance and thus cannot protect its interests with respect to the proposed price increases, including assessment of whether the cost analysis has been properly conducted though this was demonstrably the objective of the consultation process.

365 points out that discussion in the PTA consultation document on Míla capex has the same drawbacks as the discussion on the company's opex, as there is no information to be found on costs borne by Míla as a result of investments and no information whatsoever on useful life of the investments.

Objections are therefore raised to the methodology used in the consultation process with reference to the above. It is demanded that 365 be given more detailed and clearer information on how Míla costs are determined and how they originate in order that the consultation process serve the purpose of gathering reasoned comments from stakeholders.

Míla replies

Míla refers to the 365 comments to the effect that calculations of Míla opex are not provided and that for this reason the company cannot evaluate criteria that relate to opex. The company demands that it be given more detailed and clearer information on how Míla costs *"are determined and how they originate in order that the consultation process serve the purpose of gathering reasoned comments from stakeholders."*

Míla rejects the 365 claim. The purpose of the consultation process is to give parties to the market the opportunity of commenting on the structure of the Míla tariff and not to enable parties to the electronic communications market to study Míla cost accounting. Míla cost analysis contains commercial information for which confidentiality is normal. There has been no tradition for electronic communications companies in Iceland publishing their bookkeeping and it is absurd to make such a demand on Míla. Míla operates on a competition market and is in competition with other companies. 365 asserts that Míla enjoys a monopoly position on the copper local loop market. In this connection it is appropriate to point out that this market has been defined technically independent, i.e. both copper and fibre-optic and there is clearly strong competition on the local loop market.

<u>The position of the PTA</u>

The main principle of Article 15 of the Administrative Procedures Act no. 37/1993 is that a party to a case has the right to acquaint himself with documents and other data related to a case. In Article 17 of the same Act, one can find provisions that prescribe limitations to the rights to information of parties to a case. There it states among other things that in certain circumstances, a public authority is authorised to restrict access of a party to a case to material if the advantage to be gained by the party from use of the material is deemed to be outweighed by a greater interest, public or private. Private interests in this case refer among other things to financial information of companies, such as information on operational or competition position or other important commercial interests. It should be noted that Article 9 of the Information Act no.

140/2012 also deals with restrictions to the right to information on account of private interests. There it states that it is not authorised to provide public access to material that relates to important financial or commercial interests of companies. In the explanatory notes on the provision in question it is stated that it is not authorised to provide information on professional, manufacturing or commercial secrets or on sensitive information on operational or competition position or on other important commercial interests. Similar views are presented in the provisions of Paragraph 2 of Article 9 of Act no. 69/2003 on the Post and Telecom Administration where it states that the PTA decisions shall be published with a reservation on a claim for commercial confidentiality.

In PTA Decision no. 11/2010, the PTA took a position on a disputed issue that related to the publishing of information in connection with Siminn cost analysis of the bitstream market. Siminn demanded that only the wording of the Decision itself should be published while other parts of the Decision should enjoy confidentiality. The PTA rejected this all-embracing request and made an independent assessment of the various parts of the cost analysis Decision. The PTA conclusion was to accept confidentiality for a significant amount of information. This was first and foremost statistical information, and criteria that gave an insight into the company's commercial plans. The PTA has maintained this practice since that time. It is clear in the opinion of the PTA that substantial information from bookkeeping and business plans of electronic communications companies should not be open for scrutiny by competitors or the public. The PTA considers that stakeholders may make observations on the methodology used in the cost analysis and acquaint themselves with the factors on which the cost analysis is based, though they do not have access to statistical information, or other sensitive criteria in the analysis, which are derived directly from the bookkeeping of the company in question.

With the above in mind the PTA is obliged to respect a normal level of confidentiality with respect to trading and operations of the party in question, as it would be extremely burdensome for an electronic communications company if the Administration were to publish sensitive information from its bookkeeping. It is true that this limits the issues that can be examined in the consultation but despite this, the consultation can be extremely useful in the processing of cases with the Administration as has been so often demonstrated, among other things in the case being processed in this instance where the PTA plans to alter its methodology subsequent to comments from parties to the market.

365 points out that in the light of limited information, it can only take into account published annual financial statements from Míla and Siminn hf. Though all the Siminn operational performance for the year 2015 has not yet been published one can nevertheless draw attention to the fact that Míla operational revenue totalled ISK 6.1 billion in the year 2014 which represented an increase of about 11.7% from the previous year. The Míla operational profit for 2014 pre tax and financial items was ISK 1.4 billion. There is no reason to expect that revenue or profit will have decreased in 2015. Although 365 cannot evaluate whether Míla opex justifies the currently planned changes, see above, it shall nevertheless be noted that company operations appear not to need tariff increases that return an increase in revenue for local loops of just under 11%, given the current outlook. If the planned tariff amendments actually take into account real changes in Míla costs then the company rather needs increased efficiency in its own operations instead of passing on these costs to retail. In this connection it should be pointed out that for the Siminn Group it makes no difference whether profit is generated in wholesale or in retail as the profit always ends up in the same pocket. By the nature of things, however, it is of vital importance for parties that only sell access to local loops in retail. Given the operational figures from Míla operations, to which 365 has access today, and the conclusions that one could draw from the impact of the planned price increases on company operations and performance, there seems rather to be significant leeway to reduce the price of local loops instead of increasing it. In the light of the fact that only one party to the electronic communications market benefits from Míla price increases, it is absolutely essential to proceed with care in this matter. Given the information on Míla operations which are available to 365, the company concludes that such care will not have been exercised if the price increases come into force.

<u>The position of the PTA</u>

The PTA has scrutinised the Míla cost analysis and has endorsed the cost analysis with those changes required by the Administration after that scrutiny. It is estimated that Míla's total revenue from monthly charges for the copper local loops will rise by 5.3% based on the latest update of Míla's cost analysis. The PTA considers that with the amendments that were made to the structure of the tariff in the second consultation, most opinions that were expressed in comments from parties to the market were taken into account.

With respect to increased Míla costs for each local loop, the PTA points out that use of local loops has diminished between the years and as costs for local loops are largely fixed costs, then this inevitably leads to increases in unit costs in a cost model based on historical costs. Furthermore, it should be pointed out that too low charges for local copper loop could undermine fibre roll-out.

Vodafone points out that when reading the Draft Decision a considerable amount of the information concerning the calculations used as a basis for the increase endorsed by the PTA, is confidential. Vodafone can therefore not evaluate the underlying calculations. […][3].

As can be seen from the conclusion Section of the Decision, the PTA accepts the Míla tariff and thus endorses the significant increases required by Míla. Vodafone considers it important to take another look at whether the generous increase that has been endorsed is not excessive for the purpose of funding the system in question with the addition of reasonable profit from its operation.

[3] Removed for reasons of confidentiality.

<u>The position of the PTA</u>

With respect to confidentiality in the consultation document and to Míla costs, the PTA refers to the discussion above. Míla's latest update of the cost analysis resulted in a smaller average increase than specified in the original draft decision and therefore Vodafone's cost due to the increase should be less than Vodafone stated here above.

2.3 Setup charges and access to distribution frame

Vodafone objects to the increases in setup charges and considers that the arguments do not justify the increase. In the opinion of Vodafone there is nothing in the data that indicates a need for the increase in question. On the other hand, it is Vodafone’s opinion that as handling costs, connections in street cabinets, registrations etc. have decreased and in some instances are no longer in place, then costs should have decreased rather than increased.

Vodafone then objects to the increase in distribution frame and considers that the arguments do not justify the increase. Despite the fact that there has been no increase since 2011, there is nothing in the data in the opinion of Vodafone, which indicates the need for the increase in question. The increase that took place in 2011 was also very high and without justification in the opinion of Vodafone.

Míla replies

Míla refers to the Vodafone objections to the increase in distribution panel and in setup charges and to Vodafone’s view that the arguments for the increase do not justify the increase. Míla points out that costs for the copper local loop system are comprised among other things of operation of copper local loops, street cabinets and, distribution frames. If lease of access to distribution frames were to decrease, then this would lead to an increase in the price of leasing local loops. The same applies to setup charges, if they were lower then the lease price would be higher.

It is then stated by Míla that the calculated price for setup charges is based on the cost of connections in the year 2015 which increases by about 10% from the current price which was decided in 2011. During the same period, the wage index has risen by about 20% and the costs of connections are based largely on labour. Given the above, the real costs of connecting local loops has fallen. Míla points out that Míla costs for making connections can vary greatly, which means that one cannot only take into account the Capital City Area where connections cost is much less than those in the countryside. The fact of the matter is that revenue from efficient areas such as the Capital City Area are subsidising costs in the countryside. In many instances one has to travel a significant distance to connect even one local loop and this cost can amount to ISK tens of thousands. Míla had asked if it could divide the local loop system into countryside and Capital City Area, but this was not accepted. This means that the copper local loop system in the Capital City Area must subsidise the copper local loop system in the countryside.

It is finally stated by Míla that in the light of the comments on increase in setup charges, the company is prepared to waive this increase.

<u>The position of the PTA</u>

When processing this cost analysis, the PTA raised objections to the Míla calculation of the price for distribution frames. In the light of the difficulty of separating this cost, the PTA endorsed an increase which is in accordance with the development of price for access to local loops. As Míla points out, this does not have an impact on the total cost of the local loop system but is rather a question of how costs are divided.

In accordance with observations from parties to the market, Míla agreed to waive the increase in setup charges and this was taken into account when the monthly charges for access to local loops were recalculated.

Snerpa pointed out that the cost for distribution frame could e.g. for example be attributed to the following reasons:

- Renewal of distribution frames because of obsolete patch panels.
- Enlargement for new earth cables in telephone exchange building/equipment building.
- Renewal/building of distribution frame for transfer or installation in new premises.
- Enlargement for hosting electronic communications companies (xDSL seats for DSLAM and Licur seats for telephone exchanges).

Snerpa points out that a significant number (up to 1/3) of distribution frames are used for xDSL seats and Licur seats. The cost of installing and operating these seats is collected by Míla directly from the electronic communications companies. If an electronic communications company wishes to increase the number of lines in hosting from the distribution frame, then the electronic communications company in question bears all costs for this as invoiced by Míla, that is to say payment is made for design, installation of cables, connecting material on the distribution frame and work in connecting the cables to the frame. In some instances, Míla has authorised electronic communications companies to lay cable to the frame and provide material for making connections, but it is always a requirement that all connection work (including finishing of cables from the electronic communications companies) be carried out by Míla employees and that charged as invoiced (billed hours + costs, such as transport).

In addition to this, Míla Access network, then collects operating costs for this part of the distribution frame from the electronic communications companies and from Míla Access systems.

In the opinion of Snerpa it is important to make sure that this part of the distribution frame is not included as Míla costs for distribution frame as it is not paid by Míla. If this is the case then all revenue from connections and the sale of material to electronic communications companies must be recorded on the revenue side in the cost accounting.

Míla replies

Revenue from work on distribution frames for other electronic communications companies is deducted from costs for local loops. Míla here refers to the cost model which was sent to the PTA where the deduction is in the item “Deductions for other revenue”. Only the line side of the distribution frame is included in the cost analysis for copper local loops as revenue from that part of the distribution frame which is used by electronic communications companies and by Míla Access systems (for xDSL) is deducted from costs.

The position of the PTA

The PTA refers to Míla replies with respect to division of costs. The PTA has endorsed the methodology that costs for distribution frames are included in total costs of the local loop system with corresponding revenue from distribution frames being deducted from the total cost before the monthly price for local loops is decided.

365 points out that in the PTA cost analysis it appears to be assumed that setup charges could be up to ISK 3,783, solely on the basis of the development of the wage index. This methodology is rejected as many more factors are required than development of the wage index in the country to decide what should be considered an increase within reasonable limits. Real costs must be examined and there must be a real examination to establish whether costs are normal and justifiable. Judging by Section 2.5, Míla appears to have submitted a statement of costs for employees who receive orders, allocate and register and also of connection work done by partners, but one could dispute the value that should be attributed to such a statement.

With respect to the planned increase in setup charges, 365 considers it extremely unfortunate that such an increase is planned, as very significant costs are also incurred if a customer decides to switch. It should also be pointed out that collection of setup charges significantly inhibits incentives for customers to switch distribution providers. It is therefore clear that in order to support market stability it would be much better if the costs collected with a setup charge were included in the monthly charge rather than using the current arrangement In this connection it should be particularly noted that Gagnaveita Reykjavíkur does not collect any setup charge.

Míla replies

With respect to the comments on setup charge, references made to comments on the Vodafone comments here above It is however appropriate to point out that the calculated setup charge were ISK 3,491 and not 3,783 as one might understand from the 365 comments.

The position of the PTA

The PTA refers to the discussion here above and to the conclusion that the setup charge will remain unchanged.

2.4 Coming into force of the new tariff

Míla points out that if this Decision is implemented then this must be done at the same time as the Decision on bitstream access as there will be very significant changes to the cost of bitstream with this tariff. Otherwise, Míla must be authorised to increase the price for Access Options 1 and 3 by the same ISK amount as the increase will be for shared access. Míla needs to make major technical changes in it systems if the decision is implemented. As these changes are expensive, Míla needs to be able to take action when the final conclusion is reached. It is therefore a requirement from Míla that Míla is given a specific timeframe and the authority to decide when the tariff comes into force after the decision and within this timeframe.

The position of the PTA

The PTA will postpone the coming into force of this Decision so that the charge for access to local loop will come into force at the same time as the charge for bitstream access.

Siminn considers it inevitable in the light of the fact that this is a significant and complex change, that the PTA postpone the coming into force of the Decision for at least 12 months minimum to give electronic communications companies the opportunity to prepare their own systems and interfaces to be able to react to this change. Siminn however reiterates that the change will have a serious and very negative impact on costs for electronic communications companies. There is precisely in all logical reason for this change, it will only lead to cost increases resulting from increased handling charges in addition to costs resulting from price increases. The change will not strengthen competition and is contrary to the objectives of the Electronic Communications Act.

The position of the PTA

The PTA refers to what has previously been said here above with respect to the changes that have been made to the Draft Decision and to its coming into force.

Hringiðan points out that it will need good notice of price increases in Míla Internet service for it to be able to react to them.

The position of the PTA

The PTA refers to what has previously been said here above with respect to the changes that have been made to the Draft Decision and to its coming into force.

3 Criteria for obligations

Siminn points out that Decision no. 21/2014 was published on 13 August 2014 and considers that there is no basis for maintaining obligations on the market in question, particularly in the light of the fact that it is now 2016 and actually 3 years since the market analysis was made, where the Decision was made on the basis of market information from the year 2013. It would rather be appropriate to review whether the obligations are necessary.

According to information from Gagnaveita Reykjavíkur, the company's access network reached something in excess of 60,000 households at the beginning of 2015 and according to projections this should have reached 70,000 households at the end of 2015. The number of dwellings in the Capital City Area is approximately 80,000 which means that GR distribution will probably have reached 90% at the end of the year that has now commenced. In the light of the fact that the planned Decision will not come into force immediately, as the draft remains to be sent for consultation to ESA, it is clear that when the Decision is finally published it is likely that the GR access network will have spread its distribution to cover almost all of the Capital City Area.

Siminn also considers that criteria for maintaining obligations no longer hold using the same arguments used by the PTA for its Decision no. 37/2015 (Amendments to 800 frequency licence) which means that obligations are in fact being imposed that are significantly burdensome for all electronic communications companies Siminn emphasises that pricing to electronic communications companies must be as simple as possible in order to facilitate analysis of their own costs, thus enabling them to keep their own pricing simple.

In this manner, it is possible to simplify tariffs to consumers, which will make it easier for them to conduct price comparison which will in turn lead to increased competition. The PTA changes are contrary to this objective.

With the planned implementation of tariff for copper local loops, queries to electronic communications companies will increase. The strange thing about this arrangement is that it works in a manner such that when a customer cancels service with electronic communication company A then his subscription increases with electronic communications company B. This arrangement cannot be considered normal.

It is clear that the new version of the tariff for local loops will result in more complex processes. Siminn considers it important to aim for simplification of processes between electronic communications companies as complex and cumbersome processes are expensive and can work as access barriers for new electronic communications companies. This benefits no one and impinges on the customer's service experience. It would be more appropriate to pay more attention to homogeneity of procedures and in general on the market rather than making them more complex. The existing arrangement is not simple but it is simpler than the one planned by the PTA.

Siminn challenges the PTA to cancel the planned price changes and to refrain from changing the pricing of local loops. It is clear from the fundamental proposal from the PTA that it will be impossible to ensure that the implementation will not result in negative consequences for electronic communications companies and consumers. Siminn considers that there is rather a need to review obligations. Siminn considers that the existence of GR and its distribution should be sufficient evidence that there is adequate competition, at least in the Capital City Area.

The position of the PTA

The PTA refers to the explanations provided here above and to the amendments that were made to the Draft Decision. As has previously been stated, the current arrangement works in a manner such that when a customer cancels service with an electronic communication company A then his subscription fee may increase with an electronic communications company B.

The PTA points out that it is Míla and not Siminn at whom the obligations are directed and that it is most unusual that Siminn is expressing an opinion in this consultation on the obligations imposed on Míla.

As stated in the Siminn observations, the PTA Decision no. 21/2014 is from August 2014 which means that it is just over 2 years since the Decision was published. During the past years, the PTA has monitored developments on the market e.g. through data collection at 6 monthly intervals and on the basis of this information has evaluated the need for review. In the opinion of the PTA there have not been such major changes on the market that would call for immediate review of the market in 2016. Companies within the Siminn Group have often demanded that the PTA did not act on the basis of market analyses in force or that the PTA should annul them. It should be perfectly clear to Siminn that PTA's market analysis are fully in force until a new and complete market analysis has been made. In other words, the PTA cannot withdraw obligations or amend them without a new decision which is based on market analysis of the relevant market. PTA will start the analysis of markets 3a and 3b (former markets 4/2008 and 5/2008) this year.

The PTA further considers it inappropriate that Siminn, which is the parent company of Míla, should propose the withdrawal of obligations on Míla, in the light of the fact that according to the Settlement between the Competition Authority and the Siminn Group there should be separation between management of Siminn and Míla and that Míla should operate independently without particularly protecting the interests of the Group. It would have been more appropriate for Míla to make this demand and not Siminn.

4 Comments from the additional consultation

Comments were only received from Símafélagið in the additional consultation.

Símafélagið expressed the opinion that it was in general positive that the arrangement for collecting line charge was simplified and particularly positive that the planned collection model had been reviewed and simplified in the manner proposed by the PTA. This was conducive to simplifying all handling and presentation to the end user.

On the other hand there needed to be further explanations on the collection of local loop charge in those instances where voice telephony was not provided through the local loop. According to the following paragraph one can understand it such that the party providing Internet service pays the charge:

"The PTA therefore intends to propose that the local loop charge (for the whole local loop) be fixed to the lower frequency range, that is to say that the party providing voice telephony pays the local loop charge to Míla." Electronic communications companies could then collect the local loop charge from users of this service in the form of a separate line or access charge. This is in accordance with current practice and will therefore cause less disruption. In those instances where consumers are not purchasing voice telephony, that is to say where only the upper frequency range is used, then the party that provides Internet service will pay the local loop charged to Míla in the same manner as is currently done with the base charge for local loop. The Internet service provider can then collect the local loop charge in the form of a line or access charge from the user of the service."

Now the situation is such that service on the upper frequency range is divided into TV service (IPTV), Internet and voice telephony over Internet (VoIP) where it is not unusual that this service is provided by differing parties, even 3 different parties when PSTN service has been decommissioned and greater competition has developed for VoIP service to individuals. In such a situation, instances can arise where the user does not purchase Internet service, but nevertheless purchases VoIP and IPTV. In those instances it must be clear which party pays the line charge, whether it is split between the parties etc.

It also has to be clear how varying electronic communications companies receive access to VLAN in order to provide specific service over the upper frequency range of the local loop when varying parties provide service and one of them pays the line charge. The party that provides Internet service may not hinder others in providing VoIP or IP TV service. It could also be necessary to clarify that parties providing IPTV service will be obliged to sell the service separately and/or offer it wholesale/resale (without access barriers).

With this new arrangement, one could then expect that Míla would receive proportionately more revenue, as now payment will be made for the whole frequency range, independent of use. One could therefore consider whether there is reason to reduce the line charge (at least initially) rather than impose a 4-39% increase which must be considered a very large increase when compared with general price development and which will passed on directly into prices.

Míla replies

Míla refers to the Símafélagið comments about more detailed explanation of which party pays for the local loop when more than one party are offering service through the same local loop. Símafélagið considers that instances could arise where a user does not purchase Internet service, but nevertheless, purchases VoIP and IPTV. The answer to this question is that when there is no PSTN service on the local loop then the party offering Internet service will pay the local loop. After that the order is IPTV and then VoIP. The ranking depends on the number of each service that Míla has today. It is worth pointing out that it is not an option to not pay the base service charge for a connection, regardless of whether Internet is used or not.

Then Míla refers to the Símafélagið observation that it also has to be clear how varying electronic communications companies receive access to VLAN in order to provide specific service over the upper frequency range when varying parties provide service and one pays the line charge. Símafélagið also considers that it could also be necessary to clarify that parties providing IPTV service will be obliged to sell the service separately and/or offer it wholesale. Míla does not see how this matter relates to cost analysis of Market 4 as this is on the one hand the matter that concerns Siminn and on the other hand a matter related to Market 5. It is however appropriate to point out that pursuant to Míla information, Siminn is already selling its TV service in wholesale so it appears to Míla that the service requested by Símafélagið is already being offered. Míla also points out that according to the existing reference offer there are no restrictions from Míla on varying companies being able to offer varying service over the same line as long as they come to agreement on implementation in endpoint devices as is already done with IPTV.

With respect to the thoughts on Míla revenue, the company refers to the cost analysis where this changed arrangement is taking into account.

The position of the PTA

The PTA welcomes Símafélagið's positive comment concerning the changes proposed in the additional consultation.

The PTA also agrees that it is proper to explain more clearly how charges are collected if the user of a local loop purchases neither voice telephony, nor Internet service and the PTA has therefore added the above specified Míla explanations to the Draft Decision.