Appendix II

PÓST- OG FJARSKIPTASTOFNUN

Conclusions from PTA consultation on the review of the Míla wholesale tariff for bitstream access

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 Preliminary Draft Decision with respect to Míla wholesale tariff for bitstream access.

The initial draft was presented to stakeholders for consultation on the Administration's website on 14 December 2016 and the consultation was concluded last 13 January.

The following parties submitted comments on the Preliminary Draft.

- Snerpa ehf. - hereafter named Snerpa
- Síminn hf. - hereafter named Siminn

Comments were sent to the Mila for review.

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. Comments were received from Snerpa ehf.

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 Financial year of cost analysis

Síminn commented that the cost analysis was based on figures from 2014 or 2015, and considered it necessary to use information that would be as current as possible. Síminn stated in this connection that the exchange rate against the euro had changed considerably. Snerpa also pointed out that in the Míla cost calculations of imported goods outdated exchange rate was used.

Mila agreed to the view that the prices for services should be based on as current prices as possible, but also pointed out that the Míla cost analysis is largely based on historical data. The analysis has been in review at the PTA for a considerable time and upgrading of cost analysis for bitstream would also call for update of local loop cost analysis that has been under review at the Authority since 2015 and awaits a Decision. Mila pointed out that upgrading these analyses would further delay decisions on new tariffs in these markets.

On 27 February 2017, PTA requested that Mila would update the cost analysis with data from 2016, and Mila subsequently submitted an updated analysis. The results of the cost model are based on numbers from 2016, and the PTA has updated the Draft Decision accordingly.

3 Cost increase and division of costs

Siminn rejects the comments relating to the Siminn analysis (wholesale) of the service in question with respect to underestimated costs. Siminn considers that the company's analysis was made according to the best available information at the time of making. The analysis stands in all respects, with the exception of costs for electricity (48v) and cannot in a reasonable manner return the increases in question.

Míla replies

It is clear to Mila that Siminn calculated the price for bitstream access according to the best available information at that time as Siminn employees have decades of experience in making cost analyses. Subsequent to the transfer of this product to Mila it did however come to light that significant costs were underestimated, especially for hosting and electricity. When equipment was transferred to Mila, all hosting of equipment was reviewed and Mila Access systems pay for this hosting according to the tariff.

In addition to this, Mila refers to the explanations of opex that were sent to the Administration.

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

The PTA has reviewed Mila opex and the company's explanations of changes from what was shown in the Siminn analysis. Mila has also submitted opex for the year 2015 and 2016 for comparison. The PTA makes no further comments on Mila opex.

Síminn cannot see how the increase proposed for bitstream service is justifiable. This particularly applies to the forthcoming changes where in the future a charge will be collected for access to the whole local loop instead of for shared access. In the opinion of Siminn it should only be a matter of transfer of costs which in total should not lead to an increase. The price for the local loop is to increase from ISK 1,386 to ISK 1,444 (4% increase) where the share of bitstream service in the local loop was previously 24% which is ISK 344 of ISK 1,386.

Siminn considered that as a result of these changes there should have been a greater reduction in the service that previously carried part of the local loop, i.e. access to bitstream. If one has in mind that access to Access Option 1 is today ISK 912 then without the cost of the local loop it would be ISK 568. According to the PTA Draft the charge in question increased to ISK 728, which is an increase of ISK 160, or 28% price increase, having taken into account the fact that bitstream service no longer carries any local loop cost. Siminn therefore considers that much better justification must be provided for why the service for Access Option 1 increases by about 20%. In the opinion of Siminn, the service in question should be further reduced. One cannot see that costs related to wholesale switches cause this significant increase.

Access Option 3 would then be ISK 1,203 instead of ISK 1,367, which is a reduction of ISK 164. If one takes into account that the local loop takes all the costs, then the bitstream service in question should have reduced by about ISK 344 and should have become ISK 1,023 which means that the price increase is from ISK 1,023 to ISK 1,203, which represents a 17% increase per connection.

It was then stated that the PTA had proposed that distribution of TV material would take on additional costs which means that there should be a reduction in the share of Internet service. This further strengthens the argument that there should be an even greater reduction in cost for Access Option 1 which also means that Access Option 3 should be further reduced.

Míla replies

Mila refers to its previous replies here above and to the explanations that the company submitted to the Administration during review of the analysis.

In short one can attribute the increase among other things to the following factors:

- higher investment because of increasing number of locations;
- a different calculation methodology for calculating capex;
- general price rises;
- underestimated costs in prior analysis;
- the cost of wholesale switches is now included in the unit price and Siminn transfers from Access Option 1 to Access Option 3 which meant that Mila had to take on costs for leased line connections at very uneconomic locations.

The position of the PTA

The PTA has reviewed the Mila analysis and makes no further comments on Mila costs other than those stated in the Draft Decision. Mila has submitted updated cost analysis for the financial year 2016 and average exchange rate that year. This will mean that the unit price for Access Option 1 is reduced from ISK 728 as the result in the first draft indicated to ISK 691, a reduction of ISK 37. The price for Access Option 3 will however increase slightly with this update, compared to results from 2014 data and become ISK 1,205 instead of ISK 1,203.

Siminn considers that it is not proper that those companies that purchase Access Option 3 from Mila should bear the cost of wholesale switches, which is in the base costs which result from some company requesting access to Access Option 1, but rather that the company that requests that service should bear the cost. The fact that there are companies that request Access Option 1 should not affect the pricing of Access Option 3. Wholesale switches do not for example need to be installed at locations where there is no demand for Access Option 1. In the opinion of Siminn the costs of wholesale switches are costs that should be totally allocated to parties that request Access Option 1 and those companies that have no interest in such service should not be penalised by having these costs imposed on Access Option 3. This would encourage companies to make sensible choices on the routes they wish to use to distribute their services.

According to the PTA, prices for Access Option 1 should include costs for wholesale switches. Siminn considers that costs need to be better analysed and the company expressed concern that the cost for other connections, such as business connections are therefore not properly priced, potentially over estimated. This could lead to a situation where parties that purchase business connections from Mila, and possibly few other services, are made to bear excessive costs. The fact is that it is not possible to determine from the PTA Draft whether costs are properly allocated to the relevant service. Siminn also considers there to be a lack of logical arguments for deduction of revenue from costs for other services.

Míla replies

Mila points out that the PTA conclusion with respect to service access switches was that costs for the switches should be part of the unit price. All traffic goes through service access switches regardless of whether it is for Access Option 1, 2 or 3 which is why costs are calculated in this manner.

Mila believes that the PTA went too far when it decided to put all costs for switches into unit prices. Mila considers there to be no precedent for such a decision, at least not in neighbouring countries. Mila considers that though prices might possibly have been adjusted to some extent, it would not be normal that Mila customers could order a service that would lead to significant costs for Mila without the parties in question paying specifically for this. Such an arrangement could lead to Mila having to install service access switches where there were very few connections, thus rendering their operation uneconomic.

Míla considers that ports in service access switches for business connections are analogous to ports in Mila MPLS-TP equipment. For the sake of economy and for consistency in system development, it was decided to have prices for these connections the same as for Ethernet service. Mila considers that this service is not part of Market 5 but is rather an additional service and therefore considers there to be no need to provide further arguments in support of this pricing.

It should be noted that customers have the option of purchasing the service from Mila or of investing in their own equipment.

The position of the PTA

As stated in Section 1.1 of the Draft Decision, the existing arrangement for access to wholesale switches/service access switches is based on PTA Decision no. 21/2014 (M4 and M5/2008). This change in charging for access to this equipment goes back some time and the PTA refers to the Administration's Decisions nos. 21/2014 and 38/2012 in this respect.

Siminn challenges the PTA to review the Draft Decision and to examine carefully whether it is in reality proper to cause increases to services of 20-30% at the same time as inflation is hardly measurable in Iceland. According to very rough calculations by Siminn, the changes to tariffs for both local loop and bitstream return […][1] in increases which are imposed on electronic communications companies and thus on consumers. This is a heavy blow for purchasers of Mila services. It is the company's opinion that it cannot be the case that the cost of providing the services in question has increased by the above specified amount.

The position of the PTA

As stated above, the draft Decision has been revised in accordance with the model update with the 2016 operating year. The result is a smaller increase in prices on average.

PTA also points out that with the new tariff other prices are cancelled, such as in the case of wholesale switches, which are now included in unit prices which was not previously the case. This will facilitate the purchase of this service for Mila customers.

Finally, one can mention that Siminn transfer from Access Option 1 to Access Option 3 resulted in Mila having to take on costs for leased line connections at very uneconomic locations with a corresponding reduction in costs for Siminn. As a result, prices for Access Option 3 increase more than if that would not have been the case.

Snerpa raised objections to price difference for ports in A3 and A1. It should be considered normal for there to be analogous costs for analogous services. The price of ports only includes the cost of service access switches as the initial costs for the ports had been calculated into the base price of bitstream service. The PTA assertion that the price for A3 ports is based on Siminn prices must be a misunderstanding as Siminn prices for transit service are specifically calculated into the monthly charge for A3.

Snerpa indicates analogous service on the market from Isnic ehf. (http://rix.is/service.html) for RIX, Internet exchange for domestic traffic. In that instance the monthly charges for ports are much lower than the charges that Mila proposes should be in force for the service. In this connection, Snerpa refers to Paragraph 4 of Article 32 of the Electronic Communications Act which must be a deciding factor in PTA decisions as the law takes precedence over regulations and prior official decisions.

Snerpa proposes that the price for ports on A1 and A3 should be harmonised with A1 and that the same price should apply for both ports, or alternatively that the PTA also invokes its authorisation in Paragraph 4 of Article 32 of the Electronic Communications Act and take into account analogous service that is considered efficiently run.

Míla replies

Mila points out that as was stated in the Mila analysis, the price for domains and ports on Access Option 3 is based on unit prices from Siminn, and Mila purchases this service from Siminn. There is therefore some misunderstanding on this matter. Mila cannot comment on Siminn calculations for this service. However, the cost of ports (service

[1] Information removed for purposes of confidentiality. The same applies to information provided in square brackets here below.

access switch) in Access Options 1 and 2 is part of the unit price for the Access Options and this is done pursuant to a PTA Decision.

As has been stated, Mila does not agree with the PTA decision to include service access switch costs in the unit price for bitstream and Mila cannot find precedent for this decision when examining bitstream offers from neighbouring countries.

In connection with the Snerpa comment to the effect that the price for ports is higher than for example with RIX, it should be noted that Mila does not have information on how that tariff is composed or whether all costs are included in the product. It shall furthermore be noted that STP can be across the whole country while RIX is located in two data centres in Reykjavik. As can be expected, there is much greater sharing there than in Mila equipment and hosting costs are furthermore much lower. Mila considers that the comparison with the tariff RIX to be normal.

The position of the PTA

Pursuant to electronic communications legislation, the PTA has the authority to apply varying methodologies when deciding prices. In PTA Decision no. 21/2014 there is a discussion on the methodologies that might be applied for monitoring and decisions on access prices. According to Article 32 of the Electronic Communications Act the PTA can demand that an electronic communications company make a cost model for the calculation of prices. The PTA can also take into account tariffs from analogous markets. In the Decision it is subsequently specified which methodology should be used for deciding the tariff for bitstream access where the conclusion was to use Mila costs pursuant to a more detailed specification of criteria.

As stated by Mila, the prices for domains and ports on Access Option 3 are based on unit prices from Siminn and Mila purchases a service from Siminn, which was according to authorisation from the Competition Authority in the Settlement between the Authority and the Siminn Group, originally from 2013 but amended in 2015. Mila costs in this connection is therefore dependent on Siminn unit prices and Mila cannot change this.

Snerpa objects to the inclusion of vectoring equipment when deciding capex. Snerpa points out that Mila only uses vectoring when it gives an advantage. Snerpa considers it normal that Mila costs specifically resulting from introduction of vectoring should not be distributed to locations that do not use it and have no need for it. Snerpa proposes that costs for vectoring should be removed from prices for ports and that instead the price for ports should be added where the counterparty activates vectoring. Snerpa points out that on the Mila service portal there is now an option to activate vectoring on individual ports in instances where vectoring is offered.

Míla replies

Mila points out that in Paragraph 962 in Appendix A to Decision no. 21/2014 on market analysis for bitstream access, it is stated that when calculating investments, the value in use of operational assets shall be used, taking into account the next generation of access networks (NGA).

When assessing investments (CAPEX) the value in use of the operational assets shall be used, taking into account the next generation of access networks (NGA).

This was applied when calculating capex which means that if Mila were to invest in a system from the ground up, then vectoring compatible equipment would be chosen.

Mila did not quite understand how one should calculate a special price depending on whether the customer requested vectoring or not, as the equipment has built-in vectoring functionality, regardless of whether the customer chooses to use it or not. The cost to Mila was virtually the same in each instance.

The position of the PTA

The PTA considers there to be no reason to introduce a separate charge for vectoring as the additional cost is insignificant.

4 Internet service, TV service and voice telephony

Síminn considers it necessary for it to be stated in a clear and unequivocal manner the nature of the division between TV service, Internet service and voice telephony (VoIP) through the same connection. In the opinion of Siminn, TV service via the Internet will increase at the cost of IPTV service. Most TV sets are sold today with smart equipment that includes TV apps such as Netflix, Amazon Prime, Youtube (including Google Movies), etc. These are service providers that already offer 4K TV distribution which requires significant bandwidth. It is also possible to purchase sets which include comparable apps (such as Apple TV). TV service (IPTV) takes a specific speed or bandwidth from each connection, but it is likely that the increase in OTT solutions will be greater than use of IPTV service in the future. Because the proportion of IPTV service on each connection is decreasing it is normal that the service carries a lower cost than before. Siminn reminds that OTT service providers do not pay for use of the system. Increased costs for IPTV constitutes unnecessary pressure on companies to increasingly move their services to the Internet where they do not have to pay for access to the system. Siminn considers it inevitable that the Internet should take an increasing share of the cost in the light of the fact that IPTV service is not increasing to the same degree as OTT solutions.

Míla replies

Mila agrees with Siminn with respect to the IPTV share in costs for bitstream access. In the existing analysis the proportion has increased from 4.7% to 6.6% at the demand of the PTA. In a reply to the PTA dated 5 September 2016 the Mila view was voiced that this proportion should not be changed:

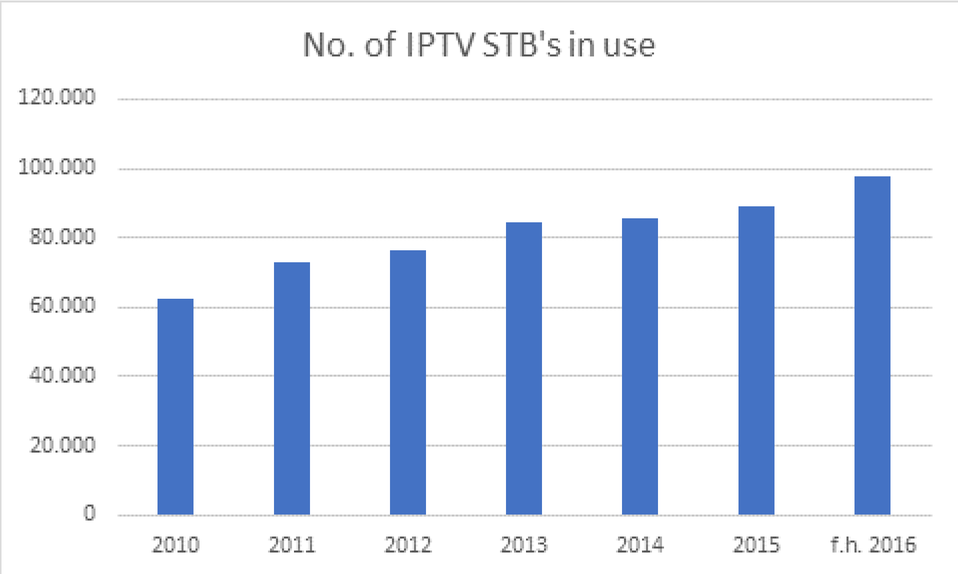
Mila considers however that one can regard Internet as basic service on the connection and IPTV and VoIP as value-added service on the systems. One can support this view by looking at the new rules on net neutrality where strong emphasis is placed on Internet connections ahead of other service such as IPTV. In support of this one can also point out that both IPTV and VoIP service can today be provided almost seamlessly through the Internet with OTT service. OTT has the competitive advantage over traditional IPTV and VoIP that one does not need to pay for traffic in the xDSL system or Internet. Mila therefore considers it reasonable, even though one could argue that today, IPTV takes a greater proportion than the […] of costs, that one should not change these coefficients in order to avoid distorting this market more than will happen without intervention. […] Internet will then need to bear all this cost, come what may."

Mila considers that when the next analysis is made it will be necessary to review the share of multicast in opex.

The position of the PTA

In the last analysis of bitstream service made by Siminn, a methodology for dividing costs for DSLAM between Internet, IPTV and VoIP was decided. According to that methodology, part of the costs were divided in accordance with traffic volume. The same methodology was applied now in this analysis and it comes to light that traffic for IPTV has increased since the last measurements and for this reason the cost share of IPTV increases. The PTA considers it normal that IPTV should be allocated its share of the costs.

It may be that OTT services will in the future mean that consumers will cease to use IPTV, but up to this point in time, the figures have not indicated that demand for IPTV is on the decline. Quite to the contrary, statistical information indicates growing demand for IPTV as the following table shows:



This development is in accordance with what is indicated by the traffic measurements. The PTA considers that there is no reason to discontinue the division of costs specified in the Draft Decision.

Síminn considers that the possibility should be examined as to whether companies purchase connections that are significantly less expensive with only VoIP or IPTV. In this way it is possible to offer service through the connection even though the user does not have Internet service and therefore needs much less bandwidth. An example of this could be a user who uses wireless connections for Internet access and only requires IPTV service. Such connections create much less load on the systems than access with Internet, IPTV and VoIP.

Míla replies

Mila is quite prepared to examine various possibilities for service offers. Mila will examine this in the next analysis.

The position of the PTA

The PTA agrees with the views of Mila and Siminn to the effect that greater variety in service offer is beneficial for retail purchases, whether they are consumers or companies. The PTA points out that Mila is obliged, pursuant to the PTA Decision no. 21/2014, to accede to requests for creation of new wholesale products where a reasonable and fair request is made for such.

Síminn considers it to be necessary in the light of changes being made to arrangements for pricing of local loops and in the light of the developments taking place in voice telephony, that the charge for local loops should be included with general bitstream connections instead of with voice telephony as was the case before. In any event it is normal to examine such changes in the light of new criteria and circumstances.

Míla replies

Mila points out that this comment relates to the local loop market. Consultation for that market is completed so this comment will not be answered here.

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

As pointed out by Mila the notice to submit comments on the Draft Decision on tariff for local loop access has expired and in any event that analysis is not open for discussion here.

Síminn considered it to be inevitable that pricing for access to VoIP service be reviewed. Since Siminn wholesale made the initial analysis which Mila has used as a base, the number of VoIP users has multiplied. Today there are around […]. Siminn considers that this number will increase in the near future.

Siminn believes that Mila should be increasingly authorised to apply reasonable expectations for increased operational efficiency when making tariffs, in order to prevent excessive pricing of services. Experience shows that the process for altering tariffs is too time-consuming and cumbersome because of demands for national consultation and for endorsement from ESA.

Míla replies

Mila considers that the price for VoIP is reasonable. VoIP connections were not numerous when the analysis was made, but they have admittedly increased recently. Mila proposes that the pricing be specifically examined in the next analysis.

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

As stated here above, the division of costs between Internet, IPTV og VoIP is based on traffic in each individual service. The information submitted by Mila on VOIP traffic does not indicate that there has been a significant change in that service. The PTA refers to what was stated above, that Mila is obliged to accede to requests for creation of new wholesale products where a reasonable and fair request is made for such. In the light of Siminn plans to decommission its PSTN system, one can expect that VOIP service and service provider access to bitstream service intended for transit of VoIP, will gain greater weighting.

With regards to expectations of increased operational efficiency, there are examples where regulatory authorities have decided that the cost analysed prices should be updated annually, taking into account price development and requirements for increased efficiency. The obligation for price control on the relevant market will be reviewed in the next market analysis if it should lead to the conclusion that the obligation on Mila should be maintained. The PTA has now initiated the market analysis in question and one may expect it to be completed with the decision next year.

5 Charge for taking over xDSL service and migration from ADSL to VDSL

Snerpa considers that it has not been adequately demonstrated that the Mila service charge (ISK 1,329) for taking over xDSL service is in line with costs as all the work involved in taking over xDSL service is conducted by the counterparty.

A specific procedure should of course have been set up in the computer systems to automate this operation, but the PTA must presumably estimate whether the revenue that Mila has already booked against this charge is normal recompense for this with the addition of reasonable profit.

Snerpa pointed out that no charge is taken for change of rights for installed Mila leased lines on Market 4 when a new customer is invoiced for the line in question. Snerpa also pointed out that Mila will enjoy the benefits of a provision which prescribes that the former counterparty will always pay until the end of the month for the line, if it is transferred to a new counterparty.

Míla replies

Mila refers to communications between the PTA and Mila in the consultation on cost analysis for bitstream access 2014. With a letter dated 4.2.2014 it was stated that there was no need for changes on the distribution frame for takeover of xDSL service. Mila agreed to make a lower charge than ISK 3,166 for that reason. In the analysis of the local loop setup charge in 2011, the charge had been divided into work on Mila systems and work on the distribution frame. The charge for taking over xDSL service is equivalent to handling and registration in systems ISK 1,329. (based on 2011 calculations). Major costs were incurred in software work to make this operation mostly automatic.

Leased lines do not belong to Market for but if Snerpa is referring to local loops, then there is a setup charge of ISK 3,166 when it is moved between service parties.

The position of the PTA

The PTA refers to the Mila replies here above and furthermore points out that all revenue from making this charge is deducted from total costs which are the basis of calculations of the price for Access Option 1. If this charge would be reduced, then it would result in higher access charges.

Snerpa pointed out that there is no specific mention of the charge for migration from ADSL to VDSL in the Draft Decision other than that the charge is specified in Appendix 1, unchanged from the existing charge of ISK 3,166. It is appropriate to note that Mila states in these communications with the PTA that the setup charge for a port, which is the same amount, is based on the access line part, i.e. the setup charge which is taken for the access network on Market 4 and thus does not belong to the bitstream market, but rather to Market 4. This means that it is quite clear that Mila is not taking a setup charge per port on the bitstream market. It does therefore not quite add up that a special charge is taken for altering the configuration of the port so that it works variously with VDSL or ADSL. It is also appropriate to note that there are no physical changes that need to be made by Mila, for example work on moving lines between ports, as the ports can handle both ADSL and VDSL. The only work required for this change in ports is performed by the counterparty when he changes an attribute (functionality) in a port through the service portal.

Snerpa also states that in the event of malfunctions, for example signal leak from an underground cable, which causes the line to lose VDSL-sync, then the purchaser of the service can often diagnose the problem by changing the port to ADSL and then back again. The endpoint equipment supports both ADSL and VDSL but ADSL makes fewer demands on line quality than VDSL. In the opinion of Snerpa it is not normal that such fault diagnosis and temporary solutions for the user until it is possible to make a permanent repair to the line, should incur special costs for the Mila counterparty. Mila has not provided any reasonable arguments for making this charge and it should be discontinued or act on the assumption that there is no cost, see Paragraph 1 of Article 20 of Regulation number 564/2011.

Míla replies

Mila considers this to be a misunderstanding by Snerpa. In the case of a connection on VDSL compatible equipment, a setup charge is not collected for migration from ADSL to VDSL or vice versa. If a change is ordered, for example from Access Option 3 to 1 then a setup charges collected. A charge is also collected when Mila needs to implement physical changes to connections.

Mila confirms that setup charges should not be collected for fault diagnosis.

The position of the PTA

Reference is made to Míla replies to Snerpa comments. In order to avoid misunderstanding the footnote relating to this charge in Appendix 1 has been altered to *“In the case of a connection on VDSL compatible equipment, no setup charge is made for migration from ADSL to VDSL or vice versa.”*.

6 Access Option 2

Síminn pointed out that, in connection to pricing of Access Option 2 there is no actual cost analysis. This is a case of a tariff for trunk line connections used as a tariff for Access Option 2 but contains limited service when compared with trunk line service. Siminn cannot see the cost of services for VoIP, TV or Internet over Access Option 2

Míla replies

Mila considers that the PTA decision that setup and monthly charges may not be charged for service access switches has removed all incentive for electronic communications companies to choose the most economic access option for each company and this influences the structure of the tariff for Access Option 2

Mila agrees with Siminn that Access Option 2 is basically Access Option 1 with the addition of a leased line to the location in Mila's system.

Mila points out that as the situation is today there is only one party who has shown interest in Access Option 2. Possible sharing of trunk lines is therefore not an option which means that all risks of such connections lie with Mila. This means in turn that Mila does not feel that it is in a position to offer a price for this service which allows for bandwidth sharing. If interest in this solution increases, then Mila will review this tariff. Míla pointed out that if the company were authorised to charge separately for ports in service access switches then this could create grounds for reviewing this tariff with sharing of connections in mind.

VoIP, TV and Internet services are provided according to the tariff for Access Option 1 and customers pay additionally for the connection to the location.

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

The PTA considers that the Mila assertion to the effect that the PTA decision on service access switches encouraged inefficiency is unfounded. Mila has control of its own system design and decides which equipment is appropriate at each location for the provision of its bitstream service. The PTA assumes that Mila makes every effort to develop and operate its systems as efficiently as possible. In other respects, the PTA refers to Mila replies in Paragraphs 2-4 here above.

7 Tariff for VULA

Snerpa pointed out that in A1 and A3, foreign costs are overestimated in the cost calculation by at least 22%.

Míla replies
Mila refers to the reply to Siminn comments with respect to the reference exchange rate.

The position of the PTA
In the Mila calculations for VULA tariff, the largest part of the costs is domestic. The impact of a changed exchange rate reference is so small that the change would not impact the conclusion on unit prices in the Mila tariff.

Snerpa considers that other rules apply to VULA than to other access options. Snerpa argues the point that VULA is a separate burdensome obligation imposed on Mila when Mila decided to structure the development of the access network in such a manner that the direct involvement of other parties in the access network is excluded. Snerpa reiterates its position in the opinion on the VULA text in the bitstream offer itself:

"VULA should be seen as a substitute product for a network operator operating his own equipment on local loops leased from Mila where he is then in direct competition with Mila bitstream service. Such a party could then lease bitstream access to other electronic communications companies over his network. By operating his own equipment, such a party can have absolute control over how the services offered and assembled. With VULA, Mila should provide access to some form of virtual equipment which enables the virtual network operator to operate as though he was using his own equipment. A party who was a Mila customer for VULA needed to be able to provide its customers with any kind of service over virtual access without this entailing additional costs."

Mila had not taken a material position on this Snerpa opinion and thus raised no objections.

The PTA accepted the Snerpa position in the following manner: *"VULA is, as stated by Snerpa, a solution that shall to the extent possible simulate a service provider operating his own bitstream equipment."*

Míla replies
Mila wishes to note that the company rejects the Snerpa position in its entirety. Mila cannot see how it is possible to interpret it in such a manner as to mean that objections had not been raised to the comments. The PTA made a decision on the reference offer and Mila cannot see that Snerpa deliberations on another arrangement than had been endorsed in the reference offer, were relevant in comments on cost analysis.

The position of the PTA

As Mila pointed out, this consultation relates solely to the VULA tariff and not to technical design. The consultation process for that part of the Mila reference offer is closed.

Snerpa considers that when a company like Snerpa is forced into a VULA solution, then one has to take into account the very significant cost increase for Snerpa that such a change constitutes should the Mila draft prices for VULA be enacted. Mila calculations are designed so that Mila does not incur costs. In this connection, Snerpa refers to the seamen's current industrial dispute and their participation in new investments.

In the opinion of Snerpa, there was no way that one could equate this to the cost involved in operating one's own bitstream equipment. In addition to this the Mila draft bitstream offer allows for a significant impairment of Snerpa possibilities to manage services on the Mila bitstream system compared to Snerpa operating its own bitstream system.

Snerpa submitted calculations to show the effects of the company activating a specific number of local loops with VULA functionality. The Snerpa conclusion is that the cost per port would increase by 35% if one assumed that there would be no further additional costs. Snerpa however considers that there is doubt as to whether Mila intended to collect separate charges for e.g. items such as additional VLAN, VOIP transit and multicast transit, and allowance is not made for these items being charged as Mila does not specify them in the VULA tariff. The Snerpa calculations are with a reservation on additional costs.

Míla replies

Mila points out that the company cannot comment on the seamen's industrial action as that action is totally unrelated to cost analysis of bitstream access.

In the PTA market analysis of bitstream, Mila is designated as having significant market power and this decision results in obligations on Mila, among other things to make what is called VULA access. In Article 962 in Appendix A of Decision no. 21/2014 on market analysis of bitstream access, it is stated that a price shall be calculated for virtual access to the local loop (VULA). Pricing of VULA is according to PTA instructions and is normal, as Mila is obliged to price its products on the basis of costs with the addition of reasonable profit.

Providing VULA entails significant costs and it is proper and normal that the party requesting that service should pay for it. It would be unfair to burden other customers with these costs and contrary to the philosophy.

Mila cannot comment on the Snerpa calculations of the extent of cost per port increases, as the amounts are redacted for reasons of confidentiality and Mila also points out that the increase in cost per port for Snerpa is irrelevant to this matter. The price for Mila service is based solely on Mila costs, regardless of other parties' costs.

Mila considers that the calculation of capex and opex is moderate and allowance is for example made for a significant number of users despite the fact that only one company with very few users has shown interest in the product.

It is appropriate to note that should the counterparty for VULA also choose VLAN, VoIP and multicast then payment is made according to the tariff for those services.

The position of the PTA

Mila calculations of access charges for VULA's service are based on an estimate of the number of users and of Mila costs for providing this service. The calculations are based on Mila recovering costs with the addition of reasonable profit and are based to a large extent on estimates of labour hours of Mila employees. The PTA strongly emphasised that the criteria for Mila calculations should be made public to the extent possible, so that parties to the case could comment on them. Snerpa has however made no material comments on the criteria for the calculations in other respects than that which relates to the reference exchange rate for calculations of software licenses and as stated here above, those costs are proportionally small. When calculating prices for Mila services it is not possible to take into account possible costs of other electronic communications companies incurred in introducing Mila services. Cost increases of other companies do not lessen Mila costs in this instance.

Snerpa raised objections to the fact that the price for VDSL+ in VULA is more costly than normal VDSL and points out that a VULA counterparty should have control of the access port in such a manner that he can organise and configure such generality on his own, in the same manner as additional-VLAN and Multicast channels. In the opinion of Snerpa, VULA, access constitutes management access to a port with those attributes available there, in the same manner as with the counterparty's own equipment.

Míla replies

Mila points out that limitation of VULA functionality is demonstrably additional cost for Mila and therefore normal that this should constitute additional cost for the party ordering the service. Mila refers to VULA calculations in this respect. It is therefore normal that the price for VDSL and VDSL+ is higher than for Access Option 1.

One could also add that VULA business connections have the same SLA criteria with Mila as other business connections which means that the service criteria are higher on such connections compared to normal residential connection. One can also expect such connections to be few which means that they bear greater costs than residential connections. It is furthermore expected that VULA business connections will have more QoS configurations than on residential connections.

Mila therefore considers it normal for there to be a price difference between connections. Against this there is the fact that the party that provides service with VULA must leverage the solution and create value with his own service.

The position of the PTA

The PTA refers to the Mila reply here above and endorses the company's explanations.

Snerpa objects to having to pay ISK 4,200,000 setup charge and an ISK 70,000 monthly charge regardless of the number of ports. Mila has not demonstrated that costs incurred in implementing VULA access are different in nature than for example the prior cost of implementation of A1. This cost was calculated at the time into development costs for the Mila access system and formed a basis for a charge per port. It is also pointed out that in A1 and A3, no allowance is made for capex per port, neither for individual ports nor in the monthly charge for total service.

Míla replies

Mila points out that the cost for VULA is different in nature from that of Access Option 1

Service access switches are part of Access Options 1 and 3 and are only set up if a company chooses Access Option 1 where there is only one incumbent party. There is relatively little additional cost for Mila, with the addition of parties more than two. As Mila pointed out, the company considers that these costs should be divided between the parties that choose Access Option 1 but the PTA decided that this cost should be part of the unit price for Access Option 1.

VULA is however another service and should therefore be priced separately as it requires changes in systems to allow parties who choose VULA access to have better control of their connections themselves. This is a case of relatively high capex for Mila for each party that decides to purchase VULA service. Mila prices this product accordingly.

The position of the PTA

The PTA has examined examples of tariffs for VULA access in other countries, for example in Holland and Norway (only for fibre-optic). The structure of tariffs for VULA varies significantly. If one takes an example from Holland, the capex is Euro 25 for each line, and as a requirement is made for a minimum number of lines, then the minimum setup charge is in reality Euro 7,000,000 for each electronic communications company. There has not been much interest in this product which means there is a significant risk for a company like Mila to make this investment without collecting setup charge for specific costs incurred in initiating this service for a counterparty. The PTA makes no objections to the structure of the Mila tariff.

Snerpa considers VULA access to be at a lower "level" than A1 and A3. This means that work on configuring and management of ports needs to be significantly greater for the counterparty than for Mila. It would therefore be most reasonable for the counterparty costs for VULA being lower than in A1. The counterparty also needs to have competitive gross profit resale to third parties on A1, at least if one considers that the price of such A1 access should be competitive with the Mila A1 price.

Míla replies
Mila does not agree that VULA service is at a lower "level" than general bitstream service. Mila actually considers the opposite to be true as such service requires a more sophisticated system to manage configuration than the current system. Previously, all users had the same configuration but with the advent of VULA the system needs to be much more flexible and has a greater number of "variables". This significantly increases costs.

The Snerpa maintains that the counterparty needs to have profit from VULA connections. Mila points out that a party that purchasers VULA service needs to create value himself from his own service. Mila cannot be responsible for the service and gross profit that it may generate.

<u>The position of the PTA</u>
VULA is a solution that simulates a purchaser investing in his own system. Costs and risk are commensurate with the obligation adopted by a purchaser. VULA has the purpose of enabling a purchaser to develop his own product offer for market differentiation. As this is a new service offer, the PTA considers it not unlikely that price and terms and conditions of the service will be subject to change. In step with requirements of parties to the market.

Snerpa considers there to be no particular need for Mila to spend time on developing the Mila service portal for VULA if functionality is accessible through the API portal.

Míla replies
Mila points out that by far the largest cost item when configuring VULA is to configure the service in API and configuration on the service portal is only a small part of that cost. It therefore makes little difference to the cost if the service web is not configured. Mila considers there to be a need to configure VULA on the service portal if one is to service this product adequately.

<u>The position of the PTA</u>
The PTA refers to the Mila reply to Snerpa comments.

Snerpa points out that it is significantly more expensive for the company offering service through VULA access than through its own equipment. It would also be significantly less expensive to use Mila service with A1 but Snerpa on the other hand is not able to purchase A1 from Mila as Snerpa customers are considerably fewer than the 750 user minimum set by Mila.

Snerpa has objected to this limitation number but it was endorsed despite the fact that the A1 option it is not feasible for Snerpa.

Míla replies

Mila rejects that the VULA solution is more expensive than offering service on one's own equipment. By purchasing VULA, one achieves sharing with Mila equipment and the party in question does not himself need to develop an expensive street cabinet system.

If an electronic communications company were to embark on general development of street cabinets, then it would quickly realise that such development was much more expensive than VULA access. With the Mila offer, the customer gains the significant economy of scale that he would not gain if he intended to develop his own street cabinet system. Snerpa does not take this into account in its calculations. With the Mila VULA offer, Mila customers have the opportunity of offering service across the whole country for a cost equivalent to a little over the average Mila costs for installing one street cabinet and at a unit price which is equivalent to the average usage of the equipment.

With respect to number limitation, this comment does not belong in this consultation but rather in the Mila reference offer. Should be noted that this number limitation was endorsed in 2012.

The position of the PTA

The PTA refers to the Mila reply to Snerpa comments. As stated by Mila, the minimum number for Access Option 1 is not for discussion here.

Snerpa notes that the company does not wish to transfer users with Vodafone TV to Siminn TV as Vodafone does not purchase Access Option 1 in Ísafjörður.

Míla replies

Mila points out that according to the draft tariff, the setup charge and monthly charge for service access switches is no longer collected, which means that Vodafone can connect into Access Option 1 or 2 in Ísafjörður and at Kubbur without taking on this cost. Vodafone and Snerpa customers can thus have TV service with or without VULA service. If Vodafone customers are using the Snerpa system, then one may consider it likely that they already have connections locations with TV. These Snerpa deliberations are therefore in the opinion of Mila without foundation.

The position of the PTA

The PTA refers to the Mila reply to Snerpa comments and endorses the explanations given.

Snerpa finds it hard to believe that Mila can make a tariff which allows for VULA (without any transit costs in the BRAS network, without use of the BRAS equipment and without use of identification processes) to be a significantly more expensive solution than A3.

The position of the PTA

As the PTA indicated here above, individual items in the Mila cost analysis for VULA service are specified in the consultation. Snerpa raised no objections to the analysis which returned this conclusion. It then depends on the number of users whether this Snerpa assertion is true, which means that this service is more appropriate for electronic communications companies that have achieved minimum economy of scale.

Snerpa points out that VULA is only intended to resolve problems that arise in situations where to service parties operate equipment within the same street cabinet area. In this way Mila expects that an A1 counterparty who makes an agreement on VULA access at a specific location has all of his A1 accessed defined as VULA access, totally independent of location or external environment.

Míla replies

Mila points out that in this consultation, the discussion is on cost analysis of bitstream. All terms and conditions are discussed in the reference offer.

The position of the PTA

The PTA refers to the Mila reply to Snerpa comments. The conditions for Mila bitstream access, other than those that relate to price, are to be discussed in a separate case which the PTA is processing in parallel to this case.

Snerpa demands that it be ensured that charging for VULA be in accordance with the service level and the supplies provided. This should lead to VULA service being less expensive in operation than A1, though the initial costs may possibly be higher, particularly if the counterparty does not need to write off part of his own equipment and infrastructure as a result of migration to VULA.

Míla replies

With regards to the comment to the effect that VULA service level should be other than on normal connections, Mila does not see why VULA service level should be other than on normal VDSL2 connections. The reason is that the equipment is owned and operated by Mila which means that in the event of malfunctions, Mila needs to handle them. The same applies to local loops and ONT. Míla can therefore not see that the company’s involvement in operation of these connections differs from that for other connections.

The position of the PTA

The PTA refers to replies here above, and points out that the Mila tariff for all bitstream service shall be based on cost. As Mila has not yet offered this service is not possible to use historical costs and for this reason the tariff is based on expected cost.

Snerpa considers that there should be much more consultation for the VULA part of the Mila bitstream offer. Snerpa comments, though they only relate in a limited manner to the tariff, are so serious that Mila must be given the opportunity to reply to them and for Snerpa then react the Mila answers.

Snerpa repeatedly invited Mila to a discussion on this issue and sent draft configurations, which have all been ignored by Mila. Snerpa proposes that the PTA separate Section 2.10 from other parts of this consultation and give Mila and Snerpa the opportunity to discuss configuration of the service.

If the PTA does not accept the initiation of a separate consultation on the tariff for VULA, Snerpa demands in reserve that the Mila claims for a setup charge and a separate ISK 70,000 monthly charge be cancelled as there are no reasonable grounds for these tariff items. In addition to this the part of the charge related to A1 should be calculated as 85% and not 100%.

As second reserve, Snerpa demands that the setup charge on the ISK 70,000 monthly charge be cancelled for those parties that need to deconstruct their own equipment because of the Mila rollout of street cabinets, as is the case with Snerpa.

Míla replies

Mila points out that the company has sent a detailed cost analysis to the PTA for this product which the Administration has reviewed and the Administration has published the calculations in the Draft Decision. VULA uses all parts of bitstream service and then in addition to this there is additional service which has to be made as previously stated.

Mila rejects that more consultation is needed for VULA access and considers that such claims only serve to delay the case, which is to the advantage of Snerpa. No other electronic communications company raised objections to VULA

The position of the PTA

With respect to calculations of price for VULA access, the PTA strongly emphasised that Mila calculations of costs should be published so that telecommunication companies could review them and comment on individual aspects of those calculations. The PTA can therefore not accept that there are no reasonable grounds for the Mila tariff item for VULA service. Snerpa has on the other hand not provided material objections to the calculations of total costs for the provision of the service. For this reason the PTA rejects the Snerpa claim for further consultation on the price for VULA service in this instance. If an electronic communications company purchases, VULA access from Mila sometime in the future then the opportunity will arise to review the Mila tariff for the service in question, in accordance with real costs of providing the service with the addition of reasonable profit.

8 Other comments

Síminn calls for discounts that take into account increased transaction volume. There is a wide range of configurations of such systems that encourages competition and for this reason it is normal that something of this nature be implemented. Siminn considers it clear that the cost per port is not the same for servicing one port for one electronic communications company as it would be for servicing 10,000 ports for the same company.

Míla replies

Mila considers it reasonable that the PTA authorise volume discounts and proposes that this be examined for the next analysis. Mila points out other parties on the same market are offering volume discounts and for this reason Mila considers it reasonable that the company be also allowed to do this. A tariff of this nature needs to be grounded on an analysis of which costs are volume dependent and which costs are not.

The position of the PTA

The PTA will examine and evaluate proposals for volume discounts when they are received. In such an assessment, it has to be taken into account that non-discrimination should apply to parties to the market and that discounts should not exacerbate competition problems that have been identified on the market and that they do not raise entry barriers.

Síminn encourages the PTA to review its philosophy with respect to cost analysis, or the Administration may be responsible for significant impact on retail prices which could lead to price increases for consumers. Siminn reminds that the company has introduced significant measures to increase efficiency, which have cost hundreds of millions of ISK subsequent to increases in salaries at the turn of the year 2015/2016, and the company has in this way succeeded in minimising cost increases. The result is that this increase, which is the responsibility of the PTA, is significantly burdensome for operations that are in strong competition and where leeway for further economies is less than before.

The position of the PTA

The PTA is adhering to the methodology for cost analysis of bitstream that was presented in the PTA Decision no. 21/2014. Mila's cost analysis is based on replacement cost of operational assets and Mila opex is in accordance with what was presented in the above specified PTA Decision and in the analysis only Míla's cost of providing the service is considered.

This said, the PTA will review the tariff decision subsequent to conclusions from the next market analysis of this market, which has already been commenced by the PTA.

Síminn emphasises that the PTA should enable Mila to adapt its pricing more rapidly, for example by Mila being able to alter its pricing in the event of changes to external circumstances, with a notification to the PTA, without endorsement being required, for example that costs dependent on the exchange rate are adapted regularly and electricity costs etc. In this way the risk of pricing becoming distorted with respect to real costs would be lessened. An example of this would be costs for service level agreements which are opex and are dependent on the exchange rate, as is stated in the PTA Draft. Siminn considers it unacceptable for a company like Mila not to be able to adapt pricing quickly and in accordance with exchange-rate developments or with other external factors. For example, the exchange rate of the Euro has dropped considerably recently and it is unclear as to how it will develop. It is important that latitude be provided to correct pricing with respect to external circumstances without this having to go through the procedure where it takes many years to get endorsement.

This would also lead to a company such as Mila being able to adapt prices either raising or lowering, more rapidly and in a fair manner for the company and its customers. In this way, and electronic communications company could enjoy the advantages sooner of more advantageous circumstances, or in the case of an increase then such increases would not all come at the same time. Electronic communications companies and consumers find it easier to sustain moderate price increases than major increases even with a substantial gap between such increases. This has the negative impact that retail price increases are higher in each instance, which is an unnecessary blow for consumers.

Míla replies

Mila supports these comments from Siminn, and refers to its replies here above.

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

While the PTA Decision no. 21/2014 is in force, price control obligations imposed on Mila are in force. The PTA has now reviewed and endorsed the cost model submitted by Mila and which is the basis for the tariff under discussion here. Updating this model with new figures from Mila bookkeeping should not be very time-consuming as long as fundamental changes are not made to the model at the same time. As was clearly stated in the PTA Decision no. 21/2014, Mila is not authorised to alter its tariff without prior endorsement from the PTA.

Síminn considers that instead of increases coming fully into force in one step with resulting consequences for electronic communications companies and consumers, it should be examined whether increases should be allowed to come in a number of steps over a given period of time or until a new analysis is to be endorsed.

Míla replies

Mila considers that an increase of this nature that is based on real costs must be allowed to come into force as soon as possible. In the prior comment, Siminn proposes that Mila be enabled to adapt pricing more rapidly when external circumstances change. There is a certain contradiction in these two comments. Mila agrees that the company should be enabled to alter prices rapidly, so that they reflect real costs as well as possible. For the same reason Mila considers it not normal to spread the increase over the period

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

In the Siminn comments on local loop lease, Siminn considered it not desirable that electronic communications companies were continuously altering their pricing for the same service. It is therefore inconsistent that Siminn now wishes changes in tariff for bitstream access to be implemented in steps which would precisely lean to repeated changes to pricing for the same service for Siminn customers. The PTA cannot see that Siminn has argued that this change in tariff particularly requires that the increase should be implemented in steps and therefore considers there to be no reason to delay this change in tariff. Additionally, the PTA considers that the price control obligation in the PTA Decision no. 21/2014 for bitstream service does not allow for such delay of price changes.

9 Comments from the additional consultation

Comments were only received from Snerpa in the additional consultation.

Snerpa reiterates previous comments made by the company in its previous consultation on Mila wholesale tariff for bitstream access. Then Snerpa comments on wording on page 8 in the Draft Decision regarding the price of local loop and considers that the text should be revised with respect to the planned changes in Míla's tariff.

The position of the PTA
As regards the comment from Snerpa on the wording on page 8 in the Draft Decision, the PTA points out that it is the current tariff that is stipulated in Chapter 1.2 of the Draft Decision. This tariff will remain in force until the new tariff becomes effective. The PTA refers to Annex I to the draft decision, which contains a draft of Míla's new tariff for bitstream service in accordance with the outcome described in Chapter 2 of the decision making.

With respect to Snerpa's repetition of its comments the PTA refers to the position of the Authority to the Snerpa previous comments stated here above.