Appendix B

POST AND TELECOM ADMINISTRATION IN ICELAND

Conclusions from the PTA consultation on the initial draft market analysis of the wholesale market for terminating segments of leased lines

(Market 6)

21 March 2014

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1 Introduction

This document contains a summary of the responses and comments received in relation to the Post and Telecom Administration (PTA) consultation on the initial draft of the wholesale market for terminating segments of leased lines (Market 6). The initial draft was presented to stakeholders for consultation on the PTA's website on 27 November 2013 and the consultation thus concluded last 20 January.

The following parties submitted comments on the initial draft.

- The Competition Authority
- Fjarskipti hf. – hereafter named Vodafone

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 General comments

The Competition Authority said in its comments that the Authority's study of the draft market analysis has among other things focused on the definition of the service market in question, on the geographical market and on those aspects that one could assume to be significant when assessing market strength of companies on specific markets.

In the draft, the market in question was defined in advance in accordance with the role of the PTA. The Competition Authority made no comments on the part of the draft that it had examined and considered that the analysis had been well made and that it served its objectives.

It is however appropriate to state that the Competition Authority has the role of exercising the provisions of competition legislation on the electronic communications market. The conclusion reached by the Competition Authority on definitions of markets and of the positions of companies is decided by events in each individual case. In the light of this, the Competition Authority would clearly not be bound by the methodology and the opinions expressed in the draft when in the future it deliberates cases related to the market in question.

The position of the PTA

The Competition Authority comments support the PTA conclusions regarding the issues discussed in the comments. They thus give no reason for particular discussion here.

Vodafone makes no comments on the PTA plans to define Mila as an undertaking with significant market power. Vodafone considers the intended obligations normal and necessary to support active competition on the relevant market.

Vodafone expresses its approval for the PTA planned innovation with respect to joint use of planned excavation and conduit installation projects and considers that this can be particularly useful for electronic communications on the relevant market.

The position of the PTA

Vodafone comments support the PTA conclusions regarding the issues discussed in the comments. They thus give no reason for particular discussion here.

3 Comments on specific paragraphs

Vodafone comments on Paragraph 49 in the Preliminary Draft specifically with respect to item e on SHDSL digital bitstream access and considers that in the light of the fact that SHDSL is bitstream access and the same kind of information should be provided as for access options 1-3 in bitstream access**.**

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

Bitstream access belongs to a specific market (Market 5) and this market is covered in detail along with the relevant obligations in a specific market analysis of that market. This market has been subject to national consultation on two occasions during the last months and it is expected that the market will be formally notified to the EFTA Surveillance Authority (ESA) in March 2014.

SHDSL is a special case, as the capacity of such connections is symmetrical with 2 Mb/s bit rate. Because of these characteristics, SHDL is a substitute product for 2 Mb/s leased lines while access options 1-3 in bitstream service do not have such direct substitutability. For this reason the PTA believes that access options 1-3 do not belong to the market for terminating segments of leased lines.

Vodafone mentions with respect to Paragraph 65 in the draft that it is necessary to include WDM, CWDM, DWFM, MPLS-TP and GPON in the market for terminating segments of leased lines as the above specified services are already on offer on that market.

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

GPON belongs to the above specified Market 5 along with other asymmetric digital subscriber lines such as ADSL and VDSL. Wavelength division multiplexing (WDM, CWDM and DWDM) is discussed in Paragraph 36 in the draft analysis which reports on a previous analysis of the relevant market from 2007 and it is again covered in Paragraphs 54, 55 and 56 when it is stated that even though such technology is most common in trunk line networks it is also used in the terminating segments of leased lines. The fact that the listing in Paragraph 65 does not include wavelength division multiplexing is an inaccuracy that will be corrected in the draft decision.

Vodafone states that it agrees with the PTA in Paragraph 230 of the draft that the settlement between Skipti and the Competition Authority is not regarded as a factor in the withdrawal of obligations from the Skipti Group.

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

The PTA considers it important that the settlement between Skipti and the Competition Authority should be fully active for a considerable period of time before it would be possible to take its impact into account and the changes that might result on the relevant markets. Vodafone’s position supports the PTA position.

Vodafone comments on Paragraph 232 in the draft and does not accept the PTA decision to withdraw obligations on Siminn IP-MPLS services. In the opinion of Vodafone, Siminn has significant market power on the market for base systems for IP-MPLS services even though Siminn does not operate on the wholesale market for leased lines.

The position of the PTA

As mentioned by Vodafone in its comments, Siminn does not operate on the wholesale market for leased lines. The Siminn IP-MPLS system is Siminn's base system for various kinds of services to which access is not on offer at wholesale level, though the system performs data transfer for a great variety of Siminn retail services on both residential and non-residential markets. As this Siminn system is not at wholesale level it does not belong to the relevant market and is thus not analysed in the market analysis and nor will obligations be imposed on it within the wholesale market for terminating segments of leased lines. According to the settlement between the Competition Authority and Skipti, Mila will adopt an analogous MPLS-TP transport network within the specified period of notice. This system will be a Mila wholesale product.

Vodafone comments on Paragraph 245 in the draft and requests more detailed explanations of the provision described there and would like to receive information on the instances where such a situation could arise.

The position of the PTA

In the Paragraph in question it states: *"The PTA considers it normal that Míla should only be authorised to limit access to and use of leased lines on the basis of fundamental demands that relate to operational security of electronic communications networks in emergencies, to the integrity of its systems and in proven instances of the operational capability of service systems and protection of data; see the Decision of the PTA from 15 April 2005 where Síminn was obliged to process transfer requests from Og fjarskipti ehf for ADSL service."*

The PTA considers this sentence in the access obligation to be clear. Mila is not authorised to limit access to or to limit the use of leased lines except on the basis of reasons supported by argument that relate to the above specified circumstances.

Vodafone made comments on Paragraph 254 in the draft where it considers it to be important to specify street cabinets, conduit access pits (manholes) and analogous infrastructure.

The position of the PTA

The PTA mentions in this Paragraph that the Administration does intend to maintain the obligation on Mila to the effect that the company shall offer sharing or co-location for any kind of facilities controlled by the company in connection with terminating segments of leased lines. Buildings, conduits and pipes are named as examples. The fact that cabinets and conduit access pits are not mentioned does not exclude that Mila may be obliged to offer sharing of such infrastructure should a normal and reasonable request be received in connection with terminating segments of leased lines, which does not constitute a substantial financial burden for Mila, as is stated in the Paragraph.