



PÓST- OG FJARSKIPTASTOFNUN

PTA Draft Decision no. xx/2015

Mila's Reference Offer for Ethernet services on the wholesale market for trunk segments of leased lines

I

Introduction

The case being handled in this instance relates to a Mila ehf. (Mila) reference offer for Ethernet services on the wholesale market for trunk segments of leased lines (hereafter named Ethernet leased line trunk segment service). More specifically, the matter being treated relates to conditions in the reference offer in question, but not to the tariff which was endorsed by the Post and Telecom Administration (PTA) with Decision no. 23/2015 from 12 August 2015.

II

Facts of the case

2.1 The PTA Decision no. 20/2007 on market analysis of leased line markets

With the PTA Decision no. 20/2007, which among other things contained market analysis on the wholesale market for trunk segments of leased lines, Mila was designated as having significant market power on the relevant market and appropriate obligations were imposed on the company, inter alia for the publication of a reference offer. Subsequent to this Decision, Mila published a general reference offer on leased line service which is now in force¹.

2.2 The PTA Decision no. 15/2014, on Mila Ethernet leased line trunk segment service.

¹ See the Decision of the PTA no. 2/2011 dated 16 February 2011, where the PTA endorsed the conditions of the Mila reference offer on the wholesale market for leased lines with specific amendments. With the PTA Decision no. 14/2011 dated 27 May 2011, the PTA then endorsed the Mila tariff for the service in question. With the PTA Decision no. 22/2015 dated 12 August 2015, the PTA then endorsed amendments to the Mila tariff for trunk line segments of leased lines.

With the PTA Decision no. 15/2014 dated 4 July 2014, the PTA authorised Mila to commence the provision of Ethernet leased line trunk segment service based on MPLS-TP technology prior to the PTA making a final Decision on the conditions and price for the type of service in question.

According to the Decision, Mila was to further develop the product in line with fair, normal and reasonable wishes and requirements of the company's customers. Mila was to assure full non-discrimination between electronic communications undertakings in this development, among other things with respect to decisions on further distribution of the service.

Mila was then to submit to the PTA a special appendix containing the company's reference offer for leased lines which should include conditions that were to apply for the service in question, no later than 1 September 2014. The service description advertised on the Mila website on 4 April 2014 was to apply until the final PTA Decision on conditions for the service was available.

The Decision finally prescribed that the prices in the above specified service description should apply as provisional prices until the final prices were decided by the PTA. Settlement of a possible difference in price should take place no later than one month subsequent to the PTA final Decision on prices being available.

2.3 Consultation on the Mila reference offer for Ethernet leased line trunk segment service

On 23 December 2014 the PTA opened consultation with parties to the market on the conditions of the Mila reference offer for Ethernet leased line trunk segment service. Concurrent to this consultation, consultation was opened on the Preliminary Draft Decision on cost analysis and on tariff for the service in question. The consultation lasted until 10 February 2015.

In the above specified PTA consultation document it was among other things stated that the Mila draft reference offer for Ethernet leased line trunk segment service, along with its appendices, would be submitted for consultation. At the beginning of May 2014, Mila had announced a new Ethernet service based on MPLS-TP technical equipment. With this equipment Mila could offer packet switched data transmission service based on Ethernet technology which had the advantage over technology used by Mila up to this point in time (SDH) that it was possible, among other things, to define packet priority, dedicated and shared bandwidth, prioritisation and VLAN separation. With this, Mila was increasing variety in the service offered by the company on this market.

Reference was then made to the fact that the PTA had with the above specified PTA Decision no. 15/2014, authorised Mila to provide this new service and at the same time a temporary tariff had been issued for the service.

Comments in the consultation in question were only received from one party, i.e. from Fjarskipti hf. (Vodafone). In a letter from Vodafone to the PTA dated 10 February 2015 it

was stated that in this case Mila would offer two types of Ethernet services. On the one hand there was the old SDH service and on the other hand there was the Ethernet MPLS-TP service in question. The advantage that the new type was to have over the old type is that it would be possible to define among other things, varying package priority, the possibility to reserve or share bandwidth, to prioritise and to VLAN separate.

Vodafone noted that the company found it difficult to see the difference between these products as it is known that EoS (Ethernet over SDH) service was offered on Mila TP equipment. Vodafone considered that separation of these products was rather strange and was in fact not normal, as the less expensive product was offered at a higher price. Vodafone could only conclude that the amendments being made made it easier for the seller to charge whatever price he pleased for the product in question. Such an arrangement would be most to the disadvantage of competitors of the Siminn Group on the electronic communications market. Vodafone therefore requested from the PTA that it provided a more exact description of these two products, i.e. where, when and how they would be offered to Mila customers. Vodafone considered it abnormal that Mila was charging for connections according to the EoS tariff while it was using TP equipment.

2.4 The PTA Decision no. 23/2015 on Mila tariff for Ethernet leased line trunk segment service

With the PTA Decision no. 23/2015 dated last 12 August, the PTA endorsed with amendments the Mila tariff and cost analysis for Ethernet services on the wholesale market for trunk segments of leased lines. The new prices which replaced the above specified temporary prices came into force on 1 October 2015.

It was then stated that the endorsed tariff was based on start-up charges² on the one hand and monthly charges on the other³. The tariff for the product in question made concessions to the needs of those customers that chose greater bandwidth, more varied functionality in equipment and a lower weighting for distance in the tariff. The service in question was an addition to the traditional Mila leased line service which would still be on offer.

As previously stated, comments were only received from Vodafone in the national consultation which took place from 23 December 2014 to 10 February 2015.

There it was stated that Mila was to further develop this product in line with fair, normal and reasonable wishes and requirements of the company's customers. Mila was to assure full non-discrimination between electronic communications companies in this development, among other things with respect to the decision on further distribution of the service. It was normal that efficiency considerations and demand for the service in various

² The start-up charge for this service shall be ISK 96,000 and the migration charge from traditional leased lines to Ethernet services shall be ISK 36,000.

³ The monthly charge would be divided into a price for ports (1 Gb/s ISK 7000/month and 10 Gb/s ISK 35,000/month) on the one hand and a price for the connection on the other. There are then varying prices for connections depending on whether they are on the Fibre Optic Ring or outside, and in addition to this the prices vary by data carrying speeds (17-21 categories) and distance (3 categories).

regions would be first and foremost taken into account. The tariff applied to the locations specified in the Decision and to new locations that Mila might add to the service offer.

It was finally stated that the new tariff would be part of the Mila reference offer for Ethernet leased line trunk segment service.

2.5 The PTA Decision no. 21/2015 on market analysis of the wholesale market for trunk segments of leased lines

With the PTA Decision no. 21/2015 dated last 12 August, the PTA reviewed its market analysis from 2007, on the wholesale market for trunk segments of leased lines. Mila remained designated as having significant market power on the relevant market and appropriate obligations were maintained on the company and were further elaborated

Among the obligations maintained on Mila was the obligation for transparency. There it was stated among other things that Mila should publish a reference offer for products that belong to the relevant market which should be broken down in accordance with the needs of the market in each instance. More specifically, Mila is obliged to renew the reference offer currently in force on the relevant market, in accordance with a more detailed description of its content as shown in the relevant Decision. A revised reference offer shall be submitted to the PTA for review and endorsement no later than 6 months from the publication of the Decision in question, i.e. no later than 12 February 2016.

III

The conclusions of the Post and Telecom Administration

The case being treated in this instance relates to a Mila ehf. (Mila) reference offer for Ethernet services on the wholesale market for trunk segments of leased lines. More specifically, the matter being treated relates to conditions in the reference offer in question, but not to the tariff which was endorsed by the PTA with Decision no. 23/2015 from 12 August 2015.

As previously stated, with its Decision no. 15/2014 dated 4 July 2014, the PTA granted Mila authorisation to commence provision of the Ethernet TP service in question at provisional prices. Mila was to further develop this product in line with fair, normal and reasonable wishes and requirements of the company's customers and to assure full non-discrimination between electronic communications companies in this development, inter alia with respect to decisions on further distribution of the service. Mila was then to submit to the PTA a special appendix containing the company's reference offer for leased lines which should include conditions that were to apply for the service in question, including price.

The revision in question of the Mila reference offer on leased line service, which contained conditions and prices for the Ethernet services in question, was received by the PTA in the autumn of 2014 and the Administration opened national consultation on the revised reference offer on 23 December 2014. As has been previously stated, comments were only received from one party, i.e. from Vodafone. With the PTA Decision no. 23/2015 dated

last 12 August, the PTA endorsed the Mila tariff for the service in question and those prices came into force last 1 October.

With the PTA Decision no. 21/2015 dated last 12 August on market analysis on the wholesale market for trunk segments of leased lines, Mila was inter alia, obliged to submit to the PTA a total revision of the company's reference offer for leased line service, including for the new Ethernet services. The company was to submit the revision in question to the PTA no later than 12 February 2016.

As the PTA will soon receive the total revision of the Mila reference offer for leased line service, the PTA considers it appropriate to endorse the Mila conditions in question for the Ethernet TP service in question which were received by the PTA in the autumn of 2014, for the time being. In addition to this the Vodafone objections are rather old and more experience has since been gained of the new service. For this reason the PTA considers it appropriate to open a new national consultation on the total revision of the reference offer when it has been received by the PTA next February. In addition to this, the Vodafone objections were of a general nature and were not directed at specific provisions of the conditions in question.

The PTA therefore plans to endorse the Mila reference offer for Ethernet services for the time being. Mila shall then submit a revised reference offer on leased line service, including Ethernet services, no later than next 12 February. Subsequent to this the PTA will review the revised reference offer and propose the necessary amendments before it is submitted for national consultation and for consultation with the EFTA Surveillance Authority (ESA). One may expect that a final decision on the Mila reference offer on leased line service, including the Ethernet services in question, will appear in the spring of 2016.

Draft Decision

The Mila reference offer for Ethernet services is endorsed for the time being. Mila shall submit to the Post and Telecom Administration a reference offer on leased line service, including Ethernet services, no later than next 12 February. Subsequent to this the PTA will review the revised reference offer and propose the necessary amendments before it is submitted for national consultation and for consultation with the EFTA Surveillance Authority (ESA).

This Decision can be appealed to the Appellate Committee for Electronic Communications and Postal Affairs, see Article 13 of Act no. 69/2003 on the Post and Telecom Administration. The appeal shall have reached the Appellate Committee four weeks from the time that the party in question became aware of the Decision of the Post and Telecom Administration. Costs for an appeal are according to Paragraph 5 of Article 13 of the same Act, and in addition to this there is a special appeal charge to the amount of ISK 150,000, pursuant to Article 6 of Regulation no. 36/2009 on the Appellate Committee for Electronic Communications and Postal Affairs.

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