



## PÓST- OG FJARSKIPTASTOFNUN

### **Decision no. xx/2017**

#### **Míla Reference Offer for wholesale bitstream access**

##### **I**

##### *Introduction*

This case concerns the new Míla ehf. (Míla) Reference Offer for wholesale bitstream access which replaces the old Míla Reference Offer on the same matter which is mainly from the year 2009, as amended by the PTA Decision no. 12/2010 from 19 May 2010. The current Míla Reference Offer is dated 1 September 2013. The Post and Telecom Administration (PTA) Decision no. 21/2014 imposed on Míla the obligation to maintain transparency in selling wholesale bitstream access and to publish a Reference Offer for such access which fulfilled the conditions set by the PTA.

On 26 May 2016, the PTA received the first draft of the new Míla Reference Offer. The PTA opened consultation on the Reference Offer 9 June 2016 which ended 23 August 2016. Comments were submitted by Síminn hf. (Síminn), Snerpa ehf. (Snerpa), Hringiðan ehf. (Hringiðan) and Fjaraskipti hf. (Vodafone). Last 7 December the PTA opened consultation on a draft decision in the case. Comments were received from Snerpa. This Decision deals with the amendments the PTA plans to make to the Míla Draft Reference Offer. In this case, the conditions of the Reference Offer under discussion are different from those that relate to prices and the PTA is processing a case, in parallel to this case, which relates to the Míla tariff for various services on the relevant market.

##### **II**

##### *Facts of the case*

With the PTA Decision no. 21/2014 on the designation of an undertaking with significant market power and on the imposition of obligations on the market for wholesale access to access networks at a fixed location (Market 4/2008) and wholesale broadband access (Market 5/2008), Míla was designated as an undertaking with significant market power in the markets in question and appropriate obligations were imposed on the company as a

measure aimed at resolving the competition problems identified by the PTA on the markets in question.

For Market 5, the obligations imposed on Míla inter alia included access, non-discrimination, transparency and price control. The last-mentioned obligation only covered wholesale bitstream access provided with xDSL technology, with related services, and not bitstream service provided over fibre-optic local loops. Obligations for access, non-discrimination and transparency were on the other hand, imposed on bitstream service over xDSL connections and over fibre-optic connections.

With respect to the obligation for transparency it was stated that the PTA, with the authority in Article 29 of the Electronic Communications Act no. 81/2003, imposed an obligation on Míla to maintain transparency in selling wholesale bitstream service. Míla was to publish information related to access to the company's systems, for example regarding connections, technical descriptions, characteristics of networks, terms and conditions for delivery and on usage and tariff. Part of this obligation was that Míla should issue a Reference Offer for bitstream access which fulfilled the requirements set by the PTA and which should be submitted to the PTA for endorsement no later than six months after publication of the Decision. The Reference Offer was to be maintained and updated as required and all amendments to be submitted to the PTA for endorsement before they came into force.

The above specified PTA Decision was published on 13 August 2014 and Míla was obliged to submit a draft of the new Reference Offer to the Administration no later than 13 February 2015. The Míla Draft Reference Offer was not received by the PTA until 26 May 2016 despite repeated reminders by the PTA. The PTA opened consultation on the Draft Reference Offer on 9 June 2016, which ended 23 August 2016. Comments were received from Síminn, Snerpa, Hringiðan and Vodafone.

The above specified comments from the companies were sent to Míla for comment after the conclusion of the consultation. The PTA received an opinion from Míla last 6 October. There it was stated that several items had been lacking in the Reference Offer that the company had sent to the PTA 26 May 2016 and that had been submitted for consultation. These items were mostly technical descriptions. The final Míla Draft Reference Offer for wholesale bitstream access was received by the PTA last 12 October. Last 21 October the PTA sent for comment to Míla the Administration's proposals for four more specific changes to the Draft Reference Offer that the Administration intended to propose at its own initiative. The Míla comments on the proposed PTA amendments were received by the Administration last 11 November. Last 7 December the PTA opened consultation on the Draft Decision in the case and comments were received from Snerpa. The PTA gave Míla the opportunity to voice an opinion on the Snerpa comments and comments were received from Míla last 27 March.

The Míla draft of the Reference Offer in question contains the following documents:

1. Main text of the Reference Offer
2. Appendix 1a - terms and conditions to Appendix 1b (Tariff)

3. Appendix 1b - Tariff
4. Appendix 2 - Technical conditions xDSL
5. Appendix 3 - Technical conditions GPON
6. Appendix 4 - Míla service offer
7. Appendix 5 - Míla Access Options
8. Appendix 6 - Technical conditions for VULA
9. Appendix 7 – Service Level Agreement and Service Level Guarantees

As stated here above, the PTA will in the case here under discussion, deal with all aspects of the Míla Reference Offer for wholesale bitstream access except tariffs (Appendix 1B), which will be dealt with in a separate case, that is being processed by the PTA in parallel with this case.

### **III**

#### *The conclusion of the Post and Telecom Administration*

#### ***3.1 General comments on the Reference Offer***

##### **3.1.1 Opinions of stakeholders**

Hringiðan makes general comments at the beginning of its submission to the effect that the core of the Draft Reference Offer entrenches Míla's incorrect working procedures and that Míla makes no obligations whatsoever. The Reference Offer does not adequately protect the interests of electronic communications companies or of their customers.

##### **3.1.2 Míla's opinion**

Míla objected to this assertion by Hringiðan. No arguments were provided in support of these words, and in the opinion of Míla they were meaningless.

##### **3.1.3 The position of the PTA**

The PTA agrees with Míla that unfounded and generally worded accusations, such as the above comments from Hringiðan, contributed little to resolution of this case. The PTA recommends that parties to the market submit reasoned comments and refer to specific issues in the Draft Reference Offer that they consider should be changed and that they provide supporting arguments.

#### ***3.2 Definitions - Provision 1.7 in the main text of the Reference Offer***

##### **3.2.1 Opinions of stakeholders**

**Vodafone** objects to the fact that the concept "xDSL", which is defined in Section 1.7 in the main text of the original Draft Reference Offer, only covers ADSL and VDSL and not G.SHDSL.

**Snerpa** objects to the fact that the concept "Interconnection Point with varying Access Options to Míla Access System - POI" is lacking in Section 1.7. Snerpa also objects to the

fact that a service is specified in the Reference Offer which Snerpa believed should belong to Market 4/2008, i.e. VULA. Even though the equipment used to provide bitstream service on Market 5/2008 was used to provide the VULA service in question, Snerpa could not agree that VULA access belonged to Market 5/2008. Furthermore, VULA was not defined in Section 1.7 and for that reason was not part of the Reference Offer for bitstream.

### **3.2.2 Míla's opinion**

Míla agreed to add G.SHDSL to the definition of xDSL in the above specified Section 1.7 of the main text of the Reference Offer. In the revised Míla Draft Reference Offer the concept is worded as follows:

*“xDSL: A collective noun which covers ADSL/ADSL2+, G.SHDSL and VDSL2”*

Míla agrees to add a definition of “POI” in Section 1.7 and it is worded as follows:

*“POI: An interconnection point with varying Access Options to the Míla Access System.”*

In Míla's opinion, the above specified comment from Snerpa with respect to VULA is hair splitting. It was however true that the definition of VULA had been deleted from Section 1.7 in the main text of the Reference Offer, but the definition could be found in Appendix 6 (Technical terms and conditions for VULA) and reference is made to this. Míla would also add the definition in question to Section 1.7 in the main text. The definition would then read as follows:

*“VULA: Virtual Unbundled Local Access or virtual access for the service purchaser to local loops in the Míla access network.”*

### **3.2.3 The position of the PTA**

The PTA endorses the above specified amendments to the definition of the concept “xDSL” and that the Míla definitions of the concepts “POI” and “VULA” should be added to the Section in question, 1.7 in the main text of the Reference Offer.

The VULA obligation was imposed on Míla with the PTA Decision no. 21/2014 which relates to market analysis of Markets 4/2008 and 5/2008. It is correctly noted by Snerpa that the VULA obligation was imposed on Míla on Market 4 but is implemented as an obligation on Market 5. In the PTA review of the Míla Reference Offer for the local loop market (Market 4/2008), which was completed with PTA Decision no. 9/2016, the PTA agreed that the VULA obligation should be implemented in the Míla Reference Offer for bitstream access (Market 5/2008). The VULA obligation will thus be implemented in the Reference Offer here under discussion.

## ***3.3 Notifications of faults - Provision 2.3 in the main text of the Reference Offer***

### **3.3.1 General**

In Provision 2.3 in the main text of the Míla Reference Offer now in force, which bears the title “Notifications of faults” one can find the following provision:

*“Mila issues notifications about system changes in its own network. Parties shall not refer to faults in the systems of their counterparties as a reason for loss of connection or interference in their own network. See further in Appendix 7.*

In the initial Míla Draft Reference Offer, no amendments were planned for this provision.

### **3.3.2 Opinions of stakeholders**

**Snerpa** stated that there had in fact been no dispute about interpretation of this provision to the best of their knowledge, but Snerpa considered that the provision could be improved to prevent misunderstanding. The best way to do this would be with an application log with open access on the Míla website where it would be possible to refer to individual malfunctions that affected end users. In this way, each notification would be tagged with a direct address (ID number) and status to which the service purchaser could easily refer, and there the end user could also see when repair was expected to be completed, if this was known, or that the malfunction had been remedied.

The procedure today was that Míla operated a post list to which service providers registered and where there were notifications, both of malfunctions and planned maintenance that would affect users. There were also notifications about a status that was resolved (repair or maintenance completed). Service purchasers forwarded these notifications to end users who had so requested and it was often discretionary whether individual notification should be sent. In the light of experience of current procedure, Snerpa proposed the following amendment to this item:

*“Mila notifies malfunctions and maintenance in its own networks to service purchasers with notifications on its own website and on its post list. Parties shall not refer to faults in the systems of their counterparties as a reason for loss of connection or interference in their own network in another manner than by referring to notifications from a counterparty. See further in Appendix 7.”*

### **3.3.3 Míla’s opinion**

In Míla’s reply it was stated that the company had examined this issue before in another context. If this were to be implemented then it would need to cover all Míla notifications, not just those on the bitstream market. There was often so much activity around malfunctions that there was no opportunity to notify malfunctions at many locations. Míla considered the existing arrangement to be adequate for the Reference Offer but was prepared to give this some further thought as Míla continuously strived to improve its service. Míla considered there to be no reason to alter the existing Draft Reference Offer for this reason.

### **3.3.4 The position of the PTA**

The PTA considers there to be no need to change this provision in the Reference Offer in the light of the fact that it has not been disputed. The PTA agrees with the Snerpa view with respect to increased provision of information and transparency between parties

concerning disruption of operations resulting from malfunctions and maintenance, and the PTA urges Míla to examine the possibility of providing such an open event log.

### **3.4 Misuse - Provision 2.5 in the main text of the Reference Offer**

#### **3.4.1 General**

In Provision 2.5 in the main text of the Míla Reference Offer now in force, which bears the title “Misuse” one can find the following provision:

*“Parties endeavour to prevent misuse in electronic communications networks. They shall immediately inform counterparties should they become aware of abnormal use or traffic which indicates misuse of electronic communications networks.”*

The same provision in the main text of the initial Míla Draft Reference Offer is as follows:

*“Parties shall endeavour to prevent misuse in electronic communications networks. They shall immediately inform counterparties should they become aware of abnormal use or traffic which indicates misuse of electronic communications networks.”*

*Míla bitstream service can be divided into residential connections on the one hand and non-residential on the other. Residential connections are not intended for companies for their operations and it is unauthorised to provide such connections to companies. Míla offers bespoke data solutions for company operations.*

*A service purchaser shall include in his terms for end users that they are unauthorised to provide access to the bitstream service to parties other than members of their household, such as by sharing access to the service with another household or company.*

*Should it come to light that an end user is misusing Míla equipment or services, or is enabling other parties to do this with intent or negligence, then Míla is fully authorised to deny him service on a temporary or permanent basis in cooperation with the electronic communications company in question.”*

#### **3.4.2 Opinions of stakeholders**

**Síminn** criticises the addition of separating company connections from connections for individuals and of banning companies from purchasing residential connections. Síminn does not see how this would work in practice. There is a significant difference between the sizes of companies and the needs. One could not see the logic in distinguishing for example between a household on the one hand and a company on the other hand that had a small staff and usage comparable to that of a traditional household. Síminn considered it preferable to have a measure that was meaningful and harmonised better with the objectives that were aimed at. If companies needed bespoke data solutions, then they should simply be on offer instead of banning them from purchasing connections that were analogous to those that were customary on the market for individuals. If usage (and costs) were completely analogous then there was no apparent reason why parties should not be allowed to buy analogous service.

In addition to this, Síminn did not see how it would be possible to prevent two households sharing a connection. It must surely be a matter for the electronic communications companies offering services to end users to decide and take responsibility for the nature of the service offer. One could not exclude the possibility that there could be circumstances where the service provider considered it appropriate to authorise two households to share

the service for some reason, if such sharing did not have a negative impact on system operation or cause disruption for other users. It should therefore be the responsibility of electronic communications companies at the retail level to organise their offer in the way they considered reasonable

**Hringiðan** also objected to this provision. In Hringiðan comments it was stated that there were no arguments to support the Míla position on separating connections into non-residential and residential connections and on deeming it to be misuse on the part of electronic communications companies to sell traditional ADSL/VDSL/GPON connections to companies. This would be a significant change in emphasis for the electronic communications market as a whole, as it was clear that it was far from true that all companies needed complex and expensive non-residential connections.

**Snerpa** also objected to this provision. Snerpa stated that in this case, new conditions were being set about the services retail parties might sell and to whom. This could not be accepted. It was up to the end user whether he purchased a service designed for residential needs or non-residential needs. For example, Snerpa sold non-residential connections to any party who so requested, which was provided as a PPPoE connection with access to IPTV and one number in VoIP without the possibility of the special services that enabled the end user to use more than one IP address or telephone number or interconnections of networks (private network). If a residential connection was adequate for a small company then the company could buy such a connection. In addition to this, companies were for example authorised to pay residential connections for their employees and such an arrangement had been in force for more than 20 years and it was not an option to make changes to the terms and conditions of end users because of this Míla requirement.

It was not the function of Míla to prescribe terms and conditions of this nature and they were in no way relevant to bitstream service. One could however argue that it was not normal for an end user to share purchased service with other households or companies, but this was nevertheless, and should be, exclusively for the retailer to prescribe and not the wholesaler. In addition to this one could note that many companies, and even individuals offered their customers or the public at their location, access to a Wi-Fi network which would be a breach of these conditions.

### **3.4.3 Míla's opinion**

Míla replied to the above comments from parties to the market on the distinction between residential and non-residential connections by saying that the reason for Míla planning to include this new provision in the Reference Offer was that residential connections were now being offered that were powerful enough to fulfil the needs of even the largest companies in Iceland. Pricing and service level was however designed for the residential market. The fact of the matter was that today, some electronic communications companies were selling residential connections to companies or purchasing for their own use, and expected to receive non-residential service in the event of malfunction, i.e. priority for malfunction diagnosis and repair. There was also the fact that the pricing of residential connections assumed residential use, which in most instances was considerably less than with companies which could have dozens of employees. This provision was therefore

designed for inclusion by electronic communications companies in their terms and conditions for use, of a provision which allowed them and/or Míla to act if end users were misusing Míla connections in this manner.

With respect to it not being possible to prevent two or more households sharing one connection, it was surprising that Síminn should object to Míla's attempt to prevent this, particularly in the light of the fact that Síminn itself had such limitations in its terms of use.

Míla has however decided to review the wording of this provision in the light of the fact that many parties to the market have objected to it. Míla would withdraw the ban on selling residential connections to companies and would replace it with a specific service level item designed for the needs of companies. Míla would however continue to recommend that service purchasers directed companies to non-residential connections and would include in its user terms and conditions a provision that residential connections were intended for households and non-residential connections for companies, as Síminn has done up to this point in time.

With respect to the Snerpa objection to the provision that service providers should include in their end user terms of business, that the user was unauthorised to provide access to bitstream service to parties other than members of his household, for example by sharing access to the service with another household or company, Míla in this instance meant that it was unauthorised to purchase one connection and to share it with other companies or other households. Míla did not mean that end users were unauthorised to provide access for guests, for example to Wi-Fi. The wording would therefore be amended accordingly, to make this perfectly clear.

The revised Míla draft of the Provision 2.5 in question in the main text of the Reference Offer entitled "Misuse" is therefore as follows:

*"Parties shall endeavour to prevent misuse in electronic communications networks. They shall immediately inform counterparties should they become aware of abnormal use or traffic which indicates misuse of electronic communications networks.*

*Míla bitstream service can be divided into residential connections on the one hand and non-residential on the other. Residential connections are not intended for use by companies in their operations and Míla recommends that electronic communications companies direct companies to connections that fulfil their needs. Míla offers bespoke data solutions for company operations which have a higher service level than residential connections.*

*A service purchaser shall include in his business terms for end users that they are unauthorised to share access to the service with another household or company.*

*Should it come to light that an end user is misusing Míla equipment or services, or is enabling other parties to do this with intent or negligence, then Míla is fully authorised to deny him service on a temporary or permanent basis in cooperation with the electronic communications company in question."*

### **3.4.4 The position of the PTA**

The PTA agrees with the comments made in Section 2.5 of the original Draft Reference Offer, i.e. that one may consider it inappropriate that a wholesaler make conditions that ban a retailer from selling service to specific customers. The Administration makes no

further observations after the Míla amendments to the initial draft to the new Reference Offer.

### **3.5 Estimates - Provision 2.6 in the main text of the Reference Offer**

#### **3.5.1 General**

In Provision 2.5 in the main text of the Míla Reference Offer now in force, which bears the title “Estimates” one can find the following provision:

*“The counterparty shall submit estimates of the number of connections at each location (telephone exchange) for the following calendar year (12 months) in October each year. The estimate shall be revised as necessary. If estimates are not revised it is assumed that the situation has not changed. If revision of estimates constitutes a significant change to the estimates for the coming 3 months, Míla is authorised to require that the counterparty pay direct accrued cost increases.*

Provision 2.6 in the main text of the initial Míla Draft Reference Offer, which also bears the title “Estimates” is as follows:

*“The service purchaser shall on a quarterly basis, submit estimates on the number and types of connections at each location (facilities building/telephone exchange) for the coming 12 months. If estimates are not revised it is assumed that the situation has not changed. If revision of estimates constitutes a significant change to the estimates for the coming 3 months, Míla is authorised to require that the service purchaser pay direct accrued cost increases and that the KPI in the service level agreement (SLA/SLG) do not apply for the period. See further in Appendix 7.*

*The same applies to alterations to Access Options, i.e. for new STP locations in Access Options 1 and 2.*

*If such information is not provided, Míla cannot guarantee previously established periods of notice. See further in Appendix 5.”*

In Provision 2.6 in the main text of the Míla Reference Offer now in force, which bears the title “Penalties and deviations from estimates” one can find the following provisions:

*“Estimates of the number of users (counterparty customers) with bitstream access to Míla systems shall be compared with their actual number at 6 monthly intervals. If the peak traffic load is 25% more than estimates allowed for (at each location) then Míla cannot guarantee to meet the counterparty’s wishes.*

*If the actual number of bitstream connections reaches 50% below the estimate, then Míla is authorised to demand that the counterparty pay direct accrued cost increases to ensure estimated usage.*

*If changes are made to estimates without respecting the period of notice, Míla is not obliged to react to them if one could assume that it would have been possible to have given notice in advance of the changes.*

Provision 2.6.1 in the main text of the initial Míla Draft Reference Offer, which also bears the title “Penalties and deviations from estimates” is as follows:

*“Estimates on the number of end-users (counterparty customers) with bitstream access to Míla systems shall be compared with their actual number at 6 monthly intervals. If the increase in number of connections at each individual location is greater than 25% of the number allowed for by the estimate, then Míla cannot guarantee to meet the service requirements of the service purchaser.*

*If the actual number of bitstream connections reaches 50% below the estimate, then Míla is authorised to demand that the service purchaser pay direct accrued cost increases that result from the need to guarantee estimated usage.*

*If a service purchaser cancels planned changes to Access Options or if his estimates prove incorrect, then the service purchaser is obliged to pay direct costs that have accrued to Míla.*

*If changes are made to estimates without respecting the period of notice, Míla is not obliged to react to them if one could assume that it would have been possible to have given notice in advance of the changes. See further in Appendix 7.”*

### 3.5.2 Opinions of stakeholders

**Snerpa** considers that all items in Sections 2.6 and 2.6.1 in the Draft Reference Offer need revision. These provisions were in the existing Reference Offer but had in fact not been active, i.e. such estimates were in general not made as expectations for uptake and number of people at each location were known, and the market was mostly saturated. This meant that increased business with one of the Míla counterparties would likely lead to a corresponding loss of market share for other counterparties. The total number of connections was therefore to all intents and purposes the same and furthermore the counterparty would be indicating a pending sales campaign by notifying such an expected increase. It has unfortunately repeatedly been the case that confidential information has leaked between Míla and Síminn, i.e. between the Access Network (M4) and Access Systems (M5) with Míla. Snerpa could agree to the following wording being used about these items:

*“If a service purchaser submits a review of the number of its users with at least 3 months’ notice, Míla is obliged to consider such changes with respect to service offer. If revision of estimates constitutes a significant change to the estimates within 3 months, Míla is authorised to require that the service purchaser pay direct accrued cost increases and that the KPI in the service level agreement (SLA/SLG) do not apply for the period. See further in Appendix 7.*

*The same applies to alterations to Access Options, i.e. for new POI locations in Access Options 1 and 2. If such information is not provided, Míla cannot guarantee previously established periods of notice. See further in Appendix 5.”*

*If a service purchaser cancels planned changes to Access Options or if his estimates prove inaccurate, then the service purchaser is obliged to pay direct costs that have accrued to Míla because of the above. If changes are made to estimates without respecting the period of notice, Míla is not obliged to react to them until the end of a three-month period from the time that changes are notified, if one could assume that it would have been possible to have given notice in advance of the changes. See further in Appendix 7.”*

In Appendix 7 (SLA and SLG), “significant change” needed in the opinion of Snerpa to be defined, i.e. that it constituted purchase of equipment or enlargement/increase in number of connections.

**Síminn** also commented on the above specified Section 2.6 in the main text of the Draft Reference Offer. In the Síminn submission it was stated that for it to be possible to implement the provision, Míla would have to ensure that the electronic communications company had easy access to the information referred to in this case. In this way Míla would need to provide each electronic communications company with statistical information on the number of connected customers and type of connections in each telephone exchange

that belonged to the electronic communications company in question. Otherwise it would be impossible to provide future estimates.

### 3.5.3 Míla's opinion

In Míla's reply to the above Snerpa comments it was stated that it was correct that this provision had been in prior Reference Offers. Despite requests on estimates, many customers had not seen a reason to submit them. This had led to problems in Míla planning, for example, having sufficient equipment available. Now that there were provisions for fines on Míla, the company naturally needed information about its customers' plans to be able to fulfil the key performance indicators. It was furthermore the case that Míla suppliers demanded such estimates for them to be able to deliver equipment within the three-month time frame. If this was lacking, then delivery could take 6-8 months.

Míla rejected the Snerpa assertion that the "market was saturated". Even though the ADSL market was saturated, this did not apply to other service such as VDSL2 and GPON. Míla rejected the Snerpa insinuations about "information leakage" as incorrect and unfounded. In the light of the above, Míla saw no reason to alter this provision in its Reference Offer. If on the other hand the PTA considered there to be reason to list information that should be available, then Míla needed to be involved in this work in order to assess what was possible in this connection.

With regards to the comment from Snerpa that in Appendix 7 (SLA and SLG) there was a need to define "significant change", for example that it constituted purchase of equipment or enlargement/increase in number of connections, Míla stated that it was perfectly clear that "significant change" meant that Míla had to meet costs, for example, through increasing/enlarging equipment or connections which subsequently were not used because of changes in customer plans. Míla would however add a reference in Section 2.6.1 in the main text of the Reference Offer to further explain what was included in the concept "significant change".

With respect to the above specified Síminn comments to the effect that in order to ensure that the provisions in Section 2.6 could be implemented, one would have to ensure that the electronic communications company had easy access to the information in question, Míla pointed out that this provision had been in Reference Offers for bitstream for a considerable period of time and was now among other things in Section 2.5 in the Reference Offer in force and provisions on penalties and deviation from estimates were in Section 2.6. The current provisions are unchanged from the time that Síminn operated the bitstream service. Míla would however agree to the request for providing service purchasers with a count of their customers down at the telephone exchange area and would add the following sentence to Section 2.6: *"In order to facilitate the service purchaser's task of sending estimates to Míla, Míla will send the purchaser a count of his customers by telephone exchange area."*

The revised provision in Section 2.6 in the Míla Draft Reference Offer is as follows:

*"The service purchaser shall on a quarterly basis, submit estimates on the number and types of connections at each location (facilities building/telephone exchange) for the coming 12 months. In order to facilitate the service purchaser's task of sending estimates to Míla,*

*Míla will send the purchaser a count of his customers by telephone exchange area. If estimates are not revised it is assumed that the situation has not changed. If revision of estimates constitutes a significant change to the estimates for the coming 3 months, Míla is authorised to require that the service purchaser pay direct accrued cost increases and that the KPI in the service level agreement (SLA/SLG) do not apply for the period. See further in Section 2.6.1 and in Section 5.5 in Appendix 7.*

*The same applies to alterations to Access Options, i.e. for new STP locations in Access Options 1 and 2.*

*If such information is not provided, Míla cannot guarantee previously established periods of notice. See further in Appendix 5."*

The revised provision in Section 2.6.1 in the Míla Draft Reference Offer is as follows:

*"Estimates on the number of end-users (counterparty customers) with bitstream access to Míla systems shall be compared with their actual number at 6 monthly intervals. If the increase in number of connections at each individual location is greater than 25% of the number allowed for then this is categorised as a significant deviation and Míla cannot guarantee to meet the service requirements of the service purchaser.*

*If the actual number of bitstream connections reaches 50% below the estimate, then Míla is authorised to demand that the service purchaser pay direct accrued cost increases that result from the need to guarantee estimated usage.*

*If a service purchaser cancels planned changes to Access Options or if his estimates prove incorrect, then the service purchaser is obliged to pay direct costs that have accrued to Míla.*

*If changes are made to estimates without respecting the period of notice, Míla is not obliged to react to them if one could assume that it would have been possible to have given notice in advance of the changes. See further in Appendix 7."*

### **3.5.4 The position of the PTA**

The PTA considers it reasonable that service purchasers provide Míla with clear information about their plans so that Míla can implement system development in line with market needs. New obligations on Míla that oblige the company to make a service level agreement (SLA) and fulfil a service level guarantee (SLG) on pain of fines, impose increased demands on Míla precision and control in operations. For service purchasers to enjoy the benefits of increased obligations on Míla on their behalf, these purchasers need to provide Míla with better information on their needs than has been the case to date.

## **3.6 Limitation of bitstream access - Provision 2.7 in the main text of the Reference Offer**

### **3.6.1 General**

In Provision 2.7 in the main text of the Míla Draft Reference Offer, which bears the title "Limitation of bitstream access" one can find the following provision:

*"Míla is authorised to limit bitstream access, should this prove necessary for updating systems, electronic communications security or operational security of Míla systems. Such limitation should be notified in advance where possible. Bitstream access shall only be limited without notice in cases of extreme necessity. See further in Sections 2.4.-2.5 and in Appendices to this agreement".*

This provision is the same as in Section 2.8 in the main text of the Míla Reference Offer currently in force.

### **3.6.2 Opinions of stakeholders**

**Síminn** states that according to Section 2.7 in the Draft Reference Offer, Míla is authorised to limit bitstream access for upgrading and should notify in advance if possible. Síminn considered it unavoidable to notify in advance about upgrades that would cause limitation of service. Upgrades of systems must always be well prepared and decided in a timely manner. For this reason, there should be a mandatory requirement to notify upgrades with 7-14 days' notice where electronic communications companies could request changes if they had already decided to embark on changes at the same time that were unavoidable. It would doubtless be possible to have exceptions from such a rule in the case of action resulting from a malfunction or imminent malfunction where the upgrade was necessary to maintain the service.

### **3.6.3 Míla's opinion**

Míla noted that in the Reference Offer it was endeavoured to notify work that could impact on operation of systems with 5 days' notice or at the least 24 hours' notice. This would be in line with current operational practice at Míla. Síminn provided no grounds for the position that notifications should be received with 7-14 days' notice. It was appropriate to point out that these were access network systems which could have from 1-1000 customers for each piece of equipment. Míla was not aware of Síminn notifying work with more than 5 days' notice when there were so few customers involved. It seemed that Síminn was requesting a longer period of notice from the Míla access systems than Síminn was prepared to offer itself. It should be pointed out that long advance notice complicated operations and made them less efficient. Míla considered that this notice was appropriate and should give Míla customers sufficient time to inform their customers if necessary. Míla therefore saw no reason to change this provision.

### **3.6.4 The position of the PTA**

It is to Míla's advantage that cuts and outages cause a minimum of problems for customers and that they are as short as possible. For this reason, one could expect Míla to do its best to notify such instances as effectively as possible and with the longest possible notice. The PTA is not aware that current practices as described in the draft have caused particular problems and for this reason does not plan to prescribe changes.

## ***3.7 Provision of information by Míla - Provision 2.8 in the main text of the Reference Offer***

### **3.7.1 General**

In Provision 2.9 in the main text of the Míla Reference Offer now in force, which bears the title "Provision of information by Míla" one can find the following provision:

*"A Míla counterparty must receive information on services other than those that the counterparty provides in which individual xDSL connections are used. This means that the*

*counterparty should be informed about which connections are also used for voice telephony transit or for images, and about technical demands (such as QoS and bandwidth) such transit makes on the connections in question.”*

Provision 2.8 in the main text of the original Míla Draft Reference Offer, which bears the same title is as follows:

*“Míla is obliged to provide a service provider with information on other services provided through individual xDSL and GPON connections to parties other than the service provider, should this be requested. This means that the service provider should be informed about which connections are also used for voice telephony transit or for images, and about technical demands (such as QoS and bandwidth) such transit makes on the connections in question.*

*Míla is also obliged to provide the service purchaser with information on line speed of connection if it is available. The service purchaser can access this information on the service web or through the Míla Communications Portal.”*

### **3.7.2 Opinions of stakeholders**

**Snerpa** considered that the provision in question lacked the requirement that service purchaser could access all available information on individual connections that one could assume to be useful for service to end users. The feature was also lacking for the service provider to be able to harmonise information from the Míla service web with his own information system. This could be achieved using what is called an API communications portal which had only been available to a limited degree in lookups for related locations. This API communications portal that Snerpa would have used was not documented in the service portal and appears to have been made for Síminn without other parties having been given the option of using it, but the portal was however accessible if connections with them on the Síminn website were examined. It was essential that Míla made such API communications accessible with documentation on the service web and that the communications should also be enabled for all information and actions on service web, not just address lookups.

A proposal was made for the following wording which was in accordance with the existing arrangement (apart from event log) should be inserted into the provision instead of the sentence, *“Míla is also obliged to provide service providers with information about the speed of the connection if this is available”*. It was also proposed that instead of the word service web, the word service portal would be used which better describes that this could be both the service web or the API communications. Snerpa therefore made a proposal that Paragraph 2 of Section 2.8 be worded as follows:

*“All information shall be available on the service portal from Míla equipment on individual connections, including set speed and possible speed, attenuation and signal-to-noise ratio (SNR) and information on whether and how error correction, vectoring and other factors which decide the quality of connections are configured. Time logged information from the event log on disconnect and connect shall also be shown for at least the preceding 24 hours.*

*With user identification requests, there shall be the relevant line number and name of the right-holder if available.*

*In addition to this, the service provider shall have access to the communication portal API for the purpose of harmonising information from the Míla service portal with his own*

*information system and for using his own system to update or change those information items that can be updated or changed on the service web. Information that can be gathered in this manner shall be in real time, i.e. show the status as of the time when the information is sought or returned updated.*

*The service purchaser shall be authorised to update information on right-holders of connections, according to his own systems without there being a special charge, as the service purchaser is the party that pays Míla for the connection in question.*

*The service seller is unauthorised to discriminate between service purchasers with respect to access and functionality of such communication portals and shall for this purpose document all such functionality that is being offered at any given point in time and shall have this documentation available for service purchasers. Should proposals for improvements be submitted by a service purchaser, or if they are made at the initiative of the service seller, and if the service seller implements them, their implementation shall apply for all service purchasers concurrently, also with respect to testing processes. The API communications portal shall be according to RESTful-API\*."*

### **3.7.3 Míla's opinion**

Míla currently has a API communications portal for its customers and they have been able to use it without difficulty. Míla rejects that the communications portal was only for Síminn, as other customers were using it. The communications portal offers the same functions that are offered on the Míla service web. The service web was made to meet the needs of smaller customers, so that they did not need to programme their systems to interface with the communications portal. They were completely free to do this if they chose. One had to apply for access to the Míla API communications portal through the electronic communications company business manager where instructions and assistance would be provided for use of the communications portal. The service web and the communications portal were in continuous development, and in the opinion of Míla it would be unnecessary to make a detailed list of all functions that were on offer or were expected to be on offer. For this reason, Míla rejected the Snerpa proposal for the amendment.

### **3.7.4 Snerpa views in subsequent comments from the company**

It was stated by Snerpa, that Míla had in its reply to the Snerpa first comments pointed out that the API communication portal was available and had been used without problem. It had not been stated, who had used the portal and who had been informed of its existence. Snerpa considered it clear that Míla counterparties had been discriminated against in this respect. It was only when the Draft Decision was announced on last 7 December that it became known that such a portal was being offered by Míla.

On last 12 December, Snerpa had requested access to the portal in question and instructions. The following day reply was received to the effect that the request had been forwarded to the Míla IT department. Last 15 December, Míla requested an IP address from Snerpa for connecting to the Míla "staging" environment. On that same day, Snerpa had sent an IP address on a Web server which was intended to communicate with the API portals. It was appropriate to point out that the "staging" environment indicated that this was a test installation. One could conclude from this that the API portal was not public, i.e. that it seemed to be at least to a degree configured for the needs of each individual counterparty. No further reactions were received from Míla and nor was there any available

information on the portal in question when Snerpa had submitted its comments to the PTA last 26 December.

This said, Snerpa considered it therefore still necessary for the possibilities available to counterparties with respect to communications on the service to be made clear in the Míla Reference Offer. Reference is made to a prior proposal on Paragraph 2, 2.8 wording in the Reference Offer as had been presented in Item 3.7.2 in the PTA draft.

It was also pointed out that in the Míla Reference Offer for local loops, which the PTA endorsed last 9 August, operators of bitstream systems should provide Míla with access to the specified information, for example on attenuation, signal-to-noise ratio and other factors. It was thought not to be too much to ask that Míla provided its counterparties in bitstream the same information that Míla itself requested on the local loops market.

Furthermore, the Snerpa proposal required that Míla provided information in the service portal in question on uptime for the line in question at least for the preceding 24 hours. This could hardly be considered unreasonable as the equipment monitored such values and it would even be possible to provide information for a more extended period. This was however considered to be an appropriate and fair minimum rule. Identification requests already contained the line number and the name of the right-holder in those instances where the DSLAM (ASAM) could not handle this and it was normal that should continue to be the case.

Snerpa was not itemising all the operations that could be on offer but was rather indicating possible needs to facilitate fault diagnosis and this would in all likelihood, result in fewer fault notifications to Míla as the counterparties would be in a better position to provide end users with solutions to their problems.

Míla had not specifically criticised that the counterparty be authorised to update information on the right holder of a line and in the light of this fact one should consider it reasonable that the counterparty was authorised to do this. It was requested that the PTA take a position on this in the light of the reply given by Míla. Snerpa however considered it acceptable to remove the wording from its proposal to the effect that non-discrimination should be respected, since a general non-discrimination obligation was imposed on Míla.

### **3.7.5 The Míla position on the latter comments by Snerpa**

Míla referred to its prior position that it was not necessary to describe all possible functions of the Service Web/Service Portal in the Reference Offer but rather referred to Service Web/Service Portal documentation in this respect.

Snerpa pointed out that in the Reference Offer for local loops, a requirement was made that customers provide Míla with specific information in full notifications, e.g. attenuation on lines. The situation currently was that the Míla Service Web/Service Portal already provided such information for copper local loops and had done so for some considerable time. It was in Míla's interests that this was published and for this reason there was no likelihood that Míla would not provide this information where possible. Preparations were

under way to publish the same kind of information for Míla GPON connections and this should be ready soon. The Míla system unfortunately did not store the disconnection history of a line for the preceding 24 hours unless the line was in “monitoring” in a separate system. This was something that need to be specifically triggered for each line and which was in operation for a predefined duration. It was therefore not possible to accede to the requirement for such a register of disconnections for all lines.

In connection with the Snerpa request that it be authorised to update information on right-holders of lines, then this would not be possible today but it was on a list of improvements that needed to be developed for the Service Web/Service Portal. When this became possible then service purchasers would be able to implement this without any special charge, as it was in Míla’s interests that registrations were correct.

The change in terms and conditions for IPTV was to clarify Míla’s legal position in these matters. Míla did not think it proper for the company to activate service on a line without the owner of the service providing his agreement. Míla furthermore considered that it was not in the company’s remit to make a decision on which parties had permission to receive IPTV service and that this could possibly create liability for damages with respect to the right-holder of the material. If it was given that service purchasers could provide this service on the lines then it could not be a problem to make an agreement with the TV distributor in question on rights instead of it being not subject to any management as was the case today.

### **3.7.6 The position of the PTA**

As Míla already operates an open communications portal and API connection functionality to which all company customers have equal access one can only conclude that the main Snerpa requirements have already been fulfilled. The PTA therefore plans not to propose amendments to this provision.

With respect to the latter Snerpa comments, the PTA considers that the comments and replies from Míla do not warrant changes to the provision in question.

## ***3.8 Prices and tariff amendments – Provision 3.1 in the main text of the Reference Offer***

### **3.8.1 General**

In Provision 3.2.3 in the main text of the Míla Reference Offer now in force, which bears the title “Price changes” one can find the following provision:

*“Míla can make price changes to bitstream access and other service, both increase and reduction, pursuant to the agreement with at least 60 days’ written notice. This category of changes however only includes changes to agreed price items which have been in force and specified in the Míla tariff. New price items or other material changes shall be according to the provisions in Article 1.4”*

Provision 3.1 in the main text of the original Míla Draft Reference Offer, which bears the title “Prices and tariff amendments” is as follows:

*“The tariff for each service related to access to bitstream is further described in Appendix 1. Prices in this agreement and its appendices are in ISK ex VAT. VAT shall be added to the amount of the invoice pursuant to the rules that apply at any given time on VAT.*

*The tariff comes into force at the end of the month following the PTA Decision on price or service, subject to endorsement by the Post and Telecom Administration. The price of service not covered by the Post and Telecom Administration price control obligation shall be announced with a minimum of 60 days’ notice.*

### **3.8.2 Opinions of stakeholders**

**Hringiðan** considered that a longer period of notice was needed for the coming into force of price increases as it was clear that electronic communications companies could not increase prices to their customers at such short notice. At least one calendar month was needed.

### **3.8.3 Míla’s opinion**

Míla said that this was according to common practice as the tariff had then been in consultation with parties to the market for several months and for this reason it should be clear to them that prices were changing. One could also point out that in procurement in general on the market, companies usually had no period of adjustment to price changes from their suppliers. Míla therefore saw no reason to change the Reference Offer with respect to this issue.

### **3.8.4 The position of the PTA**

When prices subject to endorsement by the PTA change, consultation has already taken place on these price changes over a period of weeks. Stakeholders thus have substantial notice both to voice their opinions and to prepare appropriate changes in their own operations. The PTA therefore does not see a reason to prescribe amendments to this provision.

## ***3.9 Settlement period - Provision 4.1.1 in the main text of the Reference Offer***

### **3.9.1 General**

In Provision 4.1.1 in the main text of the Míla Reference Offer now in force, which bears the title “Settlement period” one can find the following provision:

*“The settlement period for service pursuant to this agreement between the counterparty and Míla is based on the calendar month.”*

Provision 4.1.1 in the main text of the original Míla Draft Reference Offer, which bears the same title is as follows:

*“The settlement period for service pursuant to this agreement between the counterparty and Míla is based on the calendar month. The lease price for bitstream access is collected in*

*advance for each month. When cancelling service, the former service purchaser pays for the rest of the month.”*

### **3.9.2 Opinions of parties to the market**

**Hringiðan** commented on this provision and said that when Síminn wholesale was responsible for collection of charges for bitstream service, collection had been from the day that the service had been activated until the day it was cancelled or moved elsewhere. When the service had been moved to Míla, after the Settlement between the Competition Authority and the Síminn Group, there had been a change to the effect that Míla always collected up to the end of the cancellation month and in some instances for the following month as well. It was clear that if the end user had been moving his connection between electronic communications companies then Míla would have been receiving double payment for the same line. This was a hidden price increase which Hringiðan had objected to, both to Míla and to the PTA since the autumn of 2013.

**Snerpa** also commented on the part of the provision that prescribed that on cancellation of the service the former service purchaser should pay to the end of the month. The arrangement for collecting charges had in fact been such that they were collected in advance for each month in accordance with the number of lines being leased when the invoice was issued. If lines had been cancelled since the issuing of the last invoice, the lease price of the lines was deducted from the amount from and including the day when they had been deactivated. In the same way, a charge had been added for those lines that had been taken into use since the issue of the last invoice, from and including the day when they had been taken into use.

Míla wished to change this, such that if a port was moved between service providers then the receiving service provider would pay from and including the day that the port was taken into use by him while the service purchaser who was relieved would also pay for the port until the end of the month. Míla was thus in the position to be able to collect a double charge for the port for the rest of the month in which the change took place. In addition to this, Míla would receive the set-up charge from the receiving service purchaser who could argue that it was too high, as the only work conducted by Míla in this instance was to move the billing status from one service purchaser to another, and this work was in reality conducted by the receiving service purchaser by moving the port on his account in the service portal.

Snerpa considered it inappropriate that a charge is to be paid for port after the day when it was no longer in the hands of the service purchaser, or if another service purchaser had taken it over, and proposed that the Míla amendment in this respect should not be endorsed.

Problems have often arisen when an end user has moved location and this often led to inconvenience and lack of connection for the party in question, often for a longer period than one would have expected. It would be easiest if bitstream access was moved with a user who had requested transfer of a telephone (lower frequency range). It was proposed that this be remedied by adding Item 4.1.3 as follows:

*“When the upper and lower frequency ranges are both in use, and the lower frequency range requests transit, the transit charge shall only be paid on the lower frequency range and bitstream access is then also moved to the same location as the lower frequency range. In this way it shall be sufficient for the end user to request transfer of a line from the electronic communications company providing service over the lower frequency range and bitstream service shall be moved at the same time.*

*When ordering transfer or cancellation of the lower frequency range, notification shall be sent of the planned transfer or cancellation to the service purchaser and an announcement that the bitstream service shall be moved if this is possible or otherwise closed. The service purchaser shall send notification, where notice is given of a minimum of 2 working days prior to delivery, of a request that bitstream service shall remain connected in the previous property and no special charge shall be made for this. If the lower frequency range is cancelled, then the service purchaser shall be notified of this and the bitstream service will not be closed unless a special request is received to this effect from the service purchaser.”*

### **3.9.3 Míla’s opinion**

In Míla’s reply to the Hringiðan comments it is stated that the cancellation notice was one month and that this was based on the next end of month in the Míla settlement. This arrangement was already in place and was in accordance with implementation and practice in the market. This therefore did not constitute a change. To the best of Míla’s knowledge, most electronic communications companies had the same arrangement with their customers.

In Míla’s reply to the Snerpa comment it was stated that it was not correct that Míla was changing the existing arrangement. The provision was simply intended to make the existing arrangement more explicit. The Snerpa description of the existing arrangement was incorrect. The correct description is that the service purchaser pays the monthly charge in advance. If a connection was cancelled within a month, then the monthly charge was not repaid as this would complicate settlement in invoicing systems to a significant degree. On the other hand, if a connection was set up within a month, then the charge was collected at the first end of month for that part of the past month when the connection was open with the addition of monthly charge for the coming month. Míla considered the provision appropriate as it was common practice to use the end of month in transactions of this type.

The Snerpa proposal for an additional provision which would be Item 4.1.3 would be a reference to older practice. Today the practice was such that all services were transferred when transfer was requested. Míla considered there to be no reason to add this item to the Reference Offer. The purchaser of the lower and/or upper frequency ranges could request transfer of the connection. The purchaser of the frequency range that had not requested transfer would be informed that the connection had been transferred.

### **3.9.4 The position of the PTA**

The PTA considers there to be no reason to change the arrangement for collection which had applied up to this point in time and which is described in the Míla draft to the updated Reference Offer.

### **3.10 Payment guarantee - Provision 4.2.2 in the main text of the Reference Offer**

#### **3.10.1 General**

In Provision 4.2.2 in the main text of the original draft Míla Reference Offer, which bears the title “Payment guarantee” one can find the following provision:

*“Míla reserves the right to demand that the service purchaser provides payment guarantee in accordance with the amount of estimated monthly charges for the service purchaser’s bitstream access for a period of 3 months in advance. If it is clear that real usage will be more than estimated usage, then Míla can request an increase in the payment guarantee in accordance with that usage.”*

The provision is materially the same as provision 4.2.3 in the main text of the Míla Reference Offer currently in force, which bears the same title.

#### **3.10.2 Opinions of parties to the market**

**Snerpa** considered that there was no particular need for the provision in question in the light of experience, but if both Míla and the PTA consider that the provision should remain then the following needed to be added:

*“Míla shall practise non-discrimination between its customers when implementing this provision and shall set rules of procedure for itself before implementation. A dispute on invoices initiated by the service purchaser prior to the due date of the invoices cannot be the basis for the implementation of this provision.”*

#### **3.10.3 Míla’s opinion**

Míla considered there to be no need for this addition as Míla was required to practise non-discrimination between its customers in all matters. Míla therefore totally rejected that a dispute on invoices would result in it not being possible to collect charges. This could lead to a situation where companies initiated a dispute on invoices, in order to avoid making payments. Míla would of course examine all objections supported by argument with respect to invoices and their justification and would rectify them accordingly.

#### **3.10.4 The position of the PTA**

Míla is subject to a general obligation on non-discrimination, see PTA Decision no. 21/2014 (Markets 4 and 5/2008), and the PTA considers there to be no need to specifically include such an obligation in individual provisions of the Reference Offer of the nature of the one here under discussion. With respect to disputes on invoices, general legal rules apply and there is thus no need for separate provisions in the Reference Offer in the opinion of the PTA.

### **3.11 Revocation for significant default - Provision 5.2 in the main text of the Reference Offer**

#### **3.11.1 General**

In provision 5.1.1 in the main text of the Míla Reference Offer now in force, which bears the title “revocation for significant default” one can find the following provision:

*“Each party individually is authorised to revoke the agreement immediately:*

- a) If the counterparty significantly fails to meet his obligations pursuant to the agreement, technically or commercially as specified in the agreement;*
- b) If a counterparty requests or receives authorisation for moratorium, seeks or receives authorisation for composition or if a claim is made for bankruptcy of his estate; or*
- c) If the counterparty has been unable to meet his obligations for more than 2 months, though this may not be attributable to force majeure;*
- d) If the counterparty has not remedied, his default within 14 days’ notice, which he has been granted for this purpose.*

*The party implementing authorisation for revocation is authorised to limit the revocation to part of the agreement.*

*Default is always considered significant default if it has lasted for more than 3 months.”*

Provision 5.2 in the main text of the original Míla Draft Reference Offer, which bears the title “Disconnection of equipment for default” is as follows:

*“Each party individually is authorised to revoke the agreement immediately with written notification to the counterparty if one or more of the above specified conditions apply:*

- a) If the counterparty fails in a significant manner to meet his obligations pursuant to the agreement;*
- b) If a counterparty receives authorisation for moratorium, seeks or receives authorisation for composition or if a claim is made for bankruptcy of his estate;*
- c) if the counterparty has been unable to meet his obligations for more than 2 months, though this may not be attributable to force majeure;*
- d) If the service purchaser installs equipment which does not meet technical specifications prescribed in the agreement and in its appendices;*
- e) If use of equipment by the service purchaser is not in accordance with technical specifications prescribed in the agreement and in its appendices.*

*The party implementing authorisation for revocation is authorised to limit the revocation to part of the agreement.*

*Default is always considered significant default if it has lasted for more than 45 days from the due date.”*

#### **3.11.2 Opinions of parties to the market**

**Snerpa** states that in Item 5.2 there is a change from the prior Reference Offer to the effect that default is always considered significant if it has lasted more than 45 days from the due date. According to the Reference Offer in force this criterion was 3 months or 90 days and Snerpa considered it inauspicious that Míla shortened this criterion by half. Attention was drawn to the fact that the lease charges for a line are collected one month in advance in each instance. Snerpa proposed that the criterion remained unchanged at 90 days.

### **3.11.3 Míla's opinion**

Míla stated that there was an analogous provision in all new Míla Reference Offers and that this duration criterion was appropriate.

### **3.11.4 The position of the PTA**

The PTA raised no objections to the planned Míla changes to the provisions of the Reference Offer for significant default. In the newly endorsed Reference Offer for local loops, see PTA decision no. 9/2016, there is an analogous provision on 45 day default. The PTA considers it appropriate to also use 45 days in the Reference Offer for bitstream access as local loop lease and bitstream access are closely related products.

## ***3.12 Disconnection of equipment for default - Provision 5.3 in the main text of the Reference Offer***

### **3.12.1 General**

Provision 5.3 in the main text of the original Míla Draft Reference Offer, which bears the title "Disconnection of equipment for default" is as follows:

*"Should the service purchaser have failed to pay the agreed lease amount for a period of 45 days from the due date or longer, Míla is authorised, subsequent to a warning, to disconnect or turn off a service purchaser's equipment and remove the equipment at the cost of the service purchaser."*

There is no analogous provision in the Míla Reference Offer in force for bitstream access.

### **3.12.2 Opinions of parties to the market**

**Hringiðan** objected to this provision and said that this was interconnection between electronic communications companies and that in such instances it was normal to use a period of 90-120 days from the due date before resorting to disconnection.

**Snerpa** made a similar objection and requested that 90 days be used instead of 45.

### **3.12.3 Míla's opinion**

Míla stated that there was an analogous provision in all new Míla Reference Offers and that this duration criteria were appropriate.

### **3.12.4 The position of the PTA**

The PTA raises no objections to this provision in the draft and points out that an identical provision can be found in a recent Reference Offer for local loop lease, see Decision No. 9/2016.

### ***3.13 Compensation - Provision 5.4 in the main text of the Reference Offer***

#### **3.13.1 General**

In Paragraph 1 of Section 5.2 in the main text of the original draft Míla Reference Offer, which bears the title “Compensation” one can find the following provision:

*“Liability of the parties for damages is limited to direct damage suffered by a counterparty and which one may conclude to result directly from default, where default can be attributed to intent or extreme negligence.”*

The provision is unchanged from Paragraph 1 of Section 5.1.2 in the Reference Offer in force.

#### **3.13.2 Opinions of parties to the market**

Snerpa objected to this provision and pointed out that a situation could possibly arise in a dispute between parties, for example as to whether a line fulfilled the service level criteria (SLA), where Míla could reject compensation on the grounds that this was not a case of default, see above. The following addition to the provision was therefore proposed:

*“This does however not apply to compensation calculated for the service purchaser when the service seller has not met his obligations pursuant to the service level agreement (SLA).”*

#### **3.13.3 Míla’s opinion**

Míla considers it not necessary to specify this particularly as it was quite clear that the specific provisions of the service level agreement apply to such compensation. This provision therefore applied to liability of damages, being only applicable for direct damage and that it was reciprocal.

#### **3.13.4 The position of the PTA**

The provisions on compensation on the basis of the service level agreement and service level guarantee are clear in the appropriate Appendix to the Reference Offer (Appendix 7) and the PTA does not consider there to be any need to make a particular mention on such exemptions in this provision.

### ***3.14 Limitation of liability - Provision 6 in the main text of the Reference Offer***

#### **3.14.1 General**

In the Míla draft of the new Reference Offer there is a new section entitled “Limitation of liability”. This is Section 6 in the main text of the Draft Reference Offer. The provision is identical to the same section in the Reference Offer in force. The provision is worded as follows:

*“Míla is not responsible for damage that can be attributed to lack of connection, interruption of electronic communications or other interference that can occur to the operations of the electronic communications network, whether this may be attributed to failures in lines, failures in exchanges or for other reasons.”*

In a letter from the PTA to Míla dated 21 October 2016, the PTA proposed that the limitation of liability should not apply when the cause of lack of connection, interruption of electronic communications or interference was caused by intent or extreme negligence on the part of Míla. For this reason, the PTA proposed that the provision be adapted to correspond to the wording in an analogous provision in a recent Míla Reference Offer for local loop lease and shall be worded as follows:

*“Míla is responsible for damage which can be attributed to lack of connection, interruption of electronic communications or other interference in the operations of the electronic communications network, whether this may be attributed to failures in lines, failures in exchanges or to other reasons if the lack of connection, interruption of electronic communications or other interference in question could be attributed to intent or extreme negligence on the part of Míla.”*

### **3.14.2 Míla’s opinion**

In a Míla email to the PTA dated last 11 November, the company raised no objections to the PTA proposal for amendment in question.

### **3.14.4 The position of the PTA**

As there is no dispute between the PTA and Míla on this provision. It shall be worded as follows:

*“Míla is responsible for damage which can be attributed to lack of connection, interruption of electronic communications or other interference in the operations of the electronic communications network, whether this may be attributed to failures in lines, failures in exchanges or to other reasons if the lack of connection, interruption of electronic communications or other interference in question could be attributed to intent or extreme negligence on the part of Míla.”*

## **3.15 Payment guarantee - Provision 9 in the main text of the Reference Offer**

### **3.15.1 General**

The provisions of Paragraph 2 of Section 9 in the main text of the original Míla Draft Reference Offer entitled “Confidentiality” state the following:

*“Míla shall ensure that confidential information to which employees are privy about individual company customers shall not be disclosed to other companies in the Míla Group with the exception of those departments that are authorised to provide Míla with support services, should this be necessary in direct connection with the service in question. Míla ensures that the necessary confidentiality is maintained about such information.”*

An analogous provision cannot be found in the Míla Reference Offer currently in force on bitstream access though there one can find various other provisions which ensure that confidentiality is respected.

### **3.15.2 Opinions of parties to the market**

**Snerpa** commented on the provision in question, and considered it necessary to add to the provision on confidentiality that non-discrimination should be practised with regards to all aspects of transactions between the Access Network (M4/2008) and Access Systems (M5/2008), except to the extent that was necessary. Snerpa proposed that the wording of the provision in question should be as follows:

*“Míla shall ensure that information that employees of the relevant departments of the company are privy to on individual company customers is not communicated to other departments, other service purchasers or related companies. Information is exempt which is necessary to provide the relevant departments with support services, if this is essential in direct connection with the service in question.*

*Queries and submissions between Míla departments shall be sent or forwarded without specifying the party making the query submission, whether the query or submission originates from Míla or from a service purchaser. Míla shall ensure that the necessary confidentiality is maintained about such information.”*

### **3.15.3 Míla’s opinion**

Míla pointed out that Section 9 in question on confidentiality, which is divided into 6 paragraphs, is in line with the wording of the Settlement between the Síminn Group and the Competition Authority, see the Competition Authority Decision no. 6/2015, and in accordance with the provisions of the Act on Electronic Communications and with the PTA Decisions on this issue and that the provisions of the Section were extremely detailed.

This was an agreement on bitstream service and the party operating the service needed to have all necessary information about it to be able to provide the service on offer. All that was being required was the provision of information necessary to be able to provide the service. Míla controlled the structure of its network and there was no legal basis for further division within Míla. Míla rejected this proposal from Snerpa, but Míla would of course respect non-discrimination and confidentiality in accordance with the law and with the Decisions of the PTA and of the Competition Authority.

### **3.15.4 The position of the PTA**

The PTA considers no need for changes to the Míla Draft Reference Offer with respect to the above.

## **3.16 Payment guarantee - Provision 10 in the main text of the Reference Offer**

### **3.16.1 General**

In the Míla draft of the new Reference Offer there is a new section entitled “Payment guarantee”. This is Section 10 in the main text of the Draft Reference Offer. The provision is identical to the same section in the Reference Offer in force. The provision is worded as follows:

*“Míla is authorised to demand adequate guarantees for investments that need to be made to meet the requests of service purchasers for bitstream access.*

In a letter from the PTA to Míla dated 21 October, the PTA proposed that the provision be adapted to correspond to the wording in an analogous provision in a recent Míla Reference Offer for local loops, see PTA Decision no. 9/2016, and shall be worded as follows:

*“Míla is authorised to demand adequate guarantees for investments that need to be made to meet the special requests of service purchasers for bitstream access. This only applies in exceptional instances and then only for investments that do not form the basis for monthly charges and set-up charges for bitstream access.”*

### **3.16.2 Míla’s opinion**

In a letter from Míla to the PTA dated last 11 November, the company raised no objections to the PTA proposal for the amendment in question.

### **3.16.3 The position of the PTA**

As there is no dispute between the PTA and Míla on this provision. It shall be worded as follows:

*“Míla is authorised to demand adequate guarantees for investments that need to be made to meet the special requests of service purchasers for bitstream access. This only applies in exceptional instances and then only for investments that do not form the basis for monthly charges and set-up charges for bitstream access.”*

## ***3.17 Transfer of rights and obligations to a third party – Provision 11 in the main text of the Reference Offer***

### **3.17.1 General**

In the Míla draft of the new Reference Offer there is a Section entitled “Transfer of rights and obligations to a third party”. This is Section 11 in the main text of the Draft Reference Offer. The provision is materially identical to the same section in the Reference Offer in force. The provision is worded as follows:

*“The service purchaser is unauthorised to transfer rights and obligations pursuant to this agreement without written permission from Míla.*

*Service purchasers are however authorised to transfer rights and obligations pursuant to the agreement to other companies in a company group which it owns entirely on condition that the licence in question is transferred to the receiving company which declares in writing to Míla that it takes over all obligations of the transferor pursuant to the agreement.”*

In a letter from the PTA to Míla dated 21 October, the PTA proposed that the provision be adapted to correspond to the wording in an analogous provision in a recent Míla Reference Offer for local loops, see PTA Decision no. 9/2016, and should be worded as follows:

*“Rights and obligations pursuant to this agreement shall not be transferred or given to another party without written permission of the counterparty.*

*Parties are however authorised to transfer rights and obligations pursuant to the agreement to other companies in a company group which it owns entirely on condition that the licence in question is transferred to the receiving company which declares in writing to Míla that it takes over all obligations of the transferor pursuant to the agreement.”*

### **3.17.3 Míla's opinion**

In a letter from Míla to the PTA dated last 11 November, the company raised no objections to the PTA proposal for the amendment in question.

### **3.17.4 The position of the PTA**

As there is no dispute between the PTA and Míla on this provision. It shall be worded as follows:

*“Rights and obligations pursuant to this agreement shall not be transferred or given to another party without written permission of the counterparty.*

*Parties are however authorised to transfer rights and obligations pursuant to the agreement to other companies in a company group which it owns entirely on condition that the licence in question is transferred to the receiving company which declares in writing to Míla that it takes over all obligations of the transferor pursuant to the agreement.”*

## ***3.18 Tariff and conditions for tariff – Appendix 1a***

### **3.18.1 Opinions of parties to the market**

**Vodafone** asked whether Appendix 1a should not deal with prices and where these prices were to be found.

### **3.18.2 Míla's opinion**

Míla replied that Appendix 1 had been divided into two parts, i.e. Appendix 1a (conditions for Appendix 1b) and Appendix 1b (Tariff). The tariff would be published when endorsed in a separate Decision made by the PTA.

### **3.18.3 The position of the PTA**

Míla is correct in saying that in this Decision here under discussion, only Appendix 1a is being discussed which deals with the conditions of the tariff. The tariff itself, i.e. Appendix 1b will then be discussed in another case being processed by the PTA in parallel to this case.

## ***3.19 Definitions of concepts in tariff – Section 1 in Appendix 1a***

### **3.19.1 General**

In Section 1 in Appendix 1a to the original Míla Draft Reference Offer one can find definitions of concepts: They include definitions of the following concepts:

*“NTP – Network Termination Point: Network termination point at end user.”*

*“ONT – Optical Network Termination: The ONT is located at the end user premises and converts the fibre-optic signal to electrical signals.*

The two definitions in question can be found in the Míla Reference Offer currently in force for bitstream access.

### 3.19.2 Opinions of parties to the market

**Vodafone** submitted comments on the two definitions in question. The company found the NTP definition rather unclear and asked what a network termination point was. With respect to ONT, Vodafone asked how many Ethernet ports were on ONT. There needed to be a minimum of three in the opinion of the company, that is to say for Internet, VoIP and IPTV.

### 3.19.3 Míla's opinion

In the Míla reply to the first query it was stated that a more detailed description of NTP could be found in Section 2.1 in Appendix 1a. Míla considered that when they were read together, then this was an adequate definition. Further to this it states in Section 2.1, which bears the title "Service interfaces":

*"The interface between Míla and end users is in NTP, which in the case of GPON service is an Ethernet interface in ONT equipment while in the case of xDSL it is a terminal board in a demarcation box.*

*In buildings where internal cables are in the Míla domain the interface is in the demarcation box.*

*The interface between Míla and the service purchaser is in STP. The ports are either 1GE or 10GE which the service purchaser can order from Míla. See further in Appendix 5.*

*The Míla scope of responsibility is from and including NTP at the end user to and including STP."*

In the Míla reply with respect to the second point, it was stated that since the Reference Offer had been sent to the PTA, Míla had decided to change its ONTs and had ordered 4-port ONTs instead of single port. This was a commercial decision and while there were commercial reasons for this decision, i.e. that real usage would be as Vodafone has asserted, then Míla would absorb the extra costs that this arrangement would require. If on the other hand it came to light that no connections, or very few, were set up that used this option then Míla reserved the right to review this decision with a 6-month period of notice.

### 3.19.4 The position of the PTA

The PTA did not consider there to be any need to prescribe changes to this Section in the Míla Draft Reference Offer, but points out that access to a port in ONT equipment for retailers is necessary for them if they are not to become dependent on each other for service access to customers.

## 3.20 Service interfaces – Section 2.1 in Appendix 1a

### 3.20.1 General

In Section 2.1 in Appendix 1a one can find a provision which bears the title "Service interfaces". An analogous provision cannot be found in the Reference Offer currently in force. There it states:

*"The interface between Míla and end users is in NTP, which in the case of GPON service is an Ethernet interface in ONT equipment while in the case of xDSL it is a terminal board in demarcation box.*

*In buildings where in-house cables are in the Míla domain the interface is in the demarcation box.*

*The interface between Míla and the service purchaser is in STP. The ports are either 1GE or 10GE which the service purchaser can order from Míla. See further in Appendix 5.*

*The Míla scope of responsibility is from and including NTP at the end user to and including STP.”*

### **3.20.2 Opinions of parties to the market**

**Hringiðan** objected to this provision and said that they had maintained for some considerable time that Míla should deliver network service all the way to the socket. In this instance the policy of laying cable only as far as the demarcation box was being entrenched. If Míla could deliver to ONTs in the customer’s premises, then with its newly founded on-site services it should be able to guarantee DSL service to socket in a customer’s residence.

### **3.20.3 Míla’s opinion**

Míla stated that from the time that wholesale xDSL service commenced the service interface had been in the demarcation box. This was in accordance with most reference offers abroad. Míla considered there to be no reason to change this but pointed out that Míla now offered to handle on-site services for a fee for any electronic communications company that so requested.

### **3.20.4 The position of the PTA**

In-house cables are in the domain of the owner of the premises and this does not change even if an electronic communications company, when developing a fibre-optic network to households, lays such cables from the demarcation point to ONT equipment which is normally located inside an apartment. Such implementation does not create an obligation for Míla to make changes or work on connections on old existing internal copper cables. The PTA therefore considers there to be no need to propose changes to the provision in question in the Míla Draft Reference Offer.

## **3.21 Conditions – Section 3 in Appendix 1a**

### **3.17.1 General**

Section 3 in Appendix 1a in the original Draft Reference Offer deals with conditions. It states there among other things that the conditions for each product can be seen in the appropriate Appendices. In addition to this there are 6 more detailed conditions on access to bitstream with Míla, among other things:

*“In those areas where vectoring is applied and where VDSL2 is to be used then it is only possible to have virtual access (VULA) to local loops.”*

*“The price for bitstream access is dependent on which access is used.”*

### **3.21.2 Opinions of parties to the market**

**Snerpa** commented on the prior condition, and considered that the wording of this item could be misinterpreted and that this provision actually belonged in the Reference Offer

for access to local loops (M4/2008). For this reason, it was proposed that the provision be deleted from the Appendix.

Snerpa furthermore commented on the latter condition and said that this was new and that it was impossible to understand how one could price service on the wholesale market, depending on how it was used. This presumably meant that Míla reserved the right to price connections sold to legal entities at a special corporate price and this was rejected, as the bitstream offer should be based on cost criteria. For this reason, it was proposed that the provision be deleted from the Appendix.

**Hringiðan** also commented on the latter condition and said that the price for bitstream access had never been dependent on the access that was used, and electronic communications companies could not guarantee to have information on which connections were used.

### **3.21.3 Míla's opinion**

With respect to the prior condition on which Snerpa commented, Míla could not understand how one could misinterpret that provision. An analogous sentence could be found in the newly endorsed Reference Offer for local loops (M4/2008).

With respect to the latter condition, on which both Snerpa and Hringiðan commented, it was stated in Míla's reply the company would word the provision more clearly and the wording would be as follows:

*"The price for bitstream access is dependent on the access being used as the service level and set up of the service vary"*

### **3.21.4 The position of the PTA**

The PTA considers that with the Míla explanation, it is clear that this applies to transfer of varying services to bitstream access, such as general Internet services, telephone and TV, and the PTA considers no need for further amendments to the provision in the draft.

## **3.22 Applications for bitstream access – Section 4 in Appendix 1a**

### **3.22.1 General**

In Provision 4 in the original Míla Draft Reference Offer, which bears the title "Applications for bitstream access" one can find the following provision:

*"The service purchaser who requests bitstream access sends an application to Míla to this effect, either directly through the Míla communications portal or through the Míla service website, which is a web interface which sends the request to the communications portal. Applications shall not be sent until a business agreement is concluded between the end user and the service purchaser which contains a statement of the type of electronic communications service that the end user in question intends to subscribe to with the service purchaser."*

*See instructions on filling out an application on the Míla service website:  
<https://thjonusta.mila.is/leidbeiningar>*

*The service purchaser shall send Míla a projection on a quarterly basis of changes to the number of connections for the following 4 quarters. This information will be used by Míla to allocate capacity in the network and to enhance the company's ability to meet the needs of the service provider. A significant discrepancy between the estimate and actual transactions can affect the impact of SLA/SLG criteria of the company in question.*

*Míla reserves the right to deny service purchaser who is in default, authorisation to add end users."*

### **3.22.2 Opinions of parties to the market**

**Snerpa** commented on Paragraph 3 of the Section, and refers to its prior comments on estimates, see Section 3.5 here above. Snerpa proposed that this provision be deleted. Snerpa also commented on Paragraph 4 of the Section and proposed that there needed to be significant default for Míla to be able to deny the service purchaser the addition of end users.

**Hringiðan** made comments on Paragraph 1 of Section 4. Hringiðan asked whether it was any concern of Míla whether an agreement had been signed. In this instance Míla was interfering in an inappropriate manner with the operations of electronic communications companies. Míla demands in Section 3 on estimates that were updated on a quarterly basis were burdensome and without precedent and Hringiðan rejected having to comply with this. The provision in Paragraph 4 of the Section on Míla's right to deny the service provider the addition of customers in the event of default was also without precedent and afforded dangerous power to Míla and prevented an electronic communications company that was endeavouring to grow, from growing in a normal manner.

### **3.22.3 Míla's opinion**

With respect to the Hringiðan comment on Paragraph 1 of the Section about it not being the concern of Míla whether or not an agreement had been signed between the service purchaser and end user, Míla stated that this provision came from the Míla Reference Offer on local loops (RUO) and that it had been there for some considerable time. Nowhere was it stated that an agreement needed to be signed, but rather that a request for bitstream service should not be submitted before the end user had committed himself to purchase electronic communications service with the electronic communications company in question. This was an endeavour to prevent an electronic communications company from requesting to take over a service without full agreement from an end user, with resulting costs for the service provider.

Míla rejected the Snerpa demand that Paragraph 3 of the Section on estimates be deleted and referred to its previous replies.

Míla endorsed the Snerpa proposal for an amendment to Paragraph 4 of the Section such that that there needed to be significant default for Míla to be able to deny the service purchaser the addition of end-users. The provisions of Paragraph 4 of Section 4 of Appendix 1 a shall therefore be worded as follows:

*"Míla reserves the right to deny service purchaser who is in significant default, authorisation to add end-users."*

With respect to the Hringiðan comments on Paragraph 4 of the Section, Míla stated that normal terms of business were to deny business if the party in question had not paid for previous services, in order to limit further damage from default. Míla would however change the provision in such a manner that default needed to be significant, see discussion here above.

#### **3.22.4 The position of the PTA**

The PTA considers there to be no need to prescribe amendments to the provision in question in the Míla Draft Reference Offer, other than those the Míla has already proposed be made. The PTA cannot agree with Hringiðan that Míla would be hindering normal growth of companies by reserving the right to deny a service purchaser who is in significant fault the right to add and users. Growth of companies characterised by significant default cannot be considered normal on an electronic communications market, no more than on other markets.

### ***3.23 Cancellation of order – Section 5.4 in Appendix 1a***

#### **3.23.1 General**

In Provision 5.4 in Appendix 1a to the original Míla Draft Reference Offer, which bears the title “Cancellation” one can find the following provision:

*“In the event of an order for bitstream access being cancelled after Míla has commenced processing of the service, the service purchaser shall pay a set-up charge.”*

#### **3.23.2 Opinions of parties to the market**

Snerpa commented on this provision and said that according to the wording “commenced processing” one could consider that after an order had been submitted then a set-up charge would have to be paid regardless of whether the service had been activated to some extent or completely. It was proposed that the provision be worded as follows:

*“In the event of an order for bitstream access being cancelled after Míla activated the service, the service purchaser shall pay a set-up charge.”*

#### **3.23.3 Míla’s opinion**

Míla rejected the Snerpa proposal for amendment as there can often be significant costs incurred before a connection has been activated, for example coupling on the distribution frame in a telephone exchange or street cabinet. This could also require a visit to an end user in the case of FTTH connections.

#### **3.23.4 The position of the PTA**

It must be considered an exception if Míla service purchasers need to cancel an order, as one can assume that orders are only made when an end user has initiated a business relationship with the service purchaser. For this reason the PTA considers there to be no need to prescribe changes to the Draft Reference Offer with respect to this provision.

### **3.24 Notifications to end users about malfunctions – Section 6 in Appendix 1a**

#### **3.24.1 General**

In Section 6 in Appendix 1a to the original Míla Draft Reference Offer, which bears the title “notifications” one can find the following provision:

*“Electronic communications companies which make an agreement on service with end users and which lease bitstream access from Míla in order to be able to provide the service in question, need to inform users about where they can notify malfunctions. The user can only direct complaints to the service provider with whom he has made an agreement. The service purchaser is obliged to determine whether the multifunction could be in his network or service. If it is considered absolutely certain that the malfunction is in the Míla network, then the service purchaser shall send a notification of malfunction to Míla.”*

This provision is the same as in Section 5 in Appendix 1a to the Míla Reference Offer currently in force.

#### **3.24.2 Opinions of parties to the market**

**Hringiðan** objected to this provision and said that it had long been the case that Míla assumed that there were no problems on their side and that the service purchaser needed first to explore all avenues. This had not been supported by arguments in any way and there were very many examples of Míla having rejected a malfunction request and had required the service purchaser to attend the location and diagnose the malfunction even though there was every likelihood that the problem was with Míla. In this instance this approach was being entrenched without any supporting arguments from Míla.

#### **3.24.3 Míla’s opinion**

In the Míla reply, it was stated that this had been the practice for many years as it must be considered appropriate that the retailer was in direct contact with the end user and not the wholesale company. The first level of malfunction diagnosis was therefore clearly the responsibility of the retail company. The reality of the situation was that even though this provision or an analogous provision had been in older agreements, experience had shown that a large majority of malfunction requests received by Míla proved at the end of the day to be attributable to in-house cables, endpoint devices owned by the retail company or to lack of knowledge of end users. Míla therefore considered it to be a perfectly normal demand that the service company make every effort to ascertain that the malfunction was not in its own system before the malfunction request was submitted. Míla had demonstrated with statistical information, among other things to the Surveillance Committee for Equal Access, pursuant to the Settlement between the Competition Authority and the Síminn Group, that this implementation was logical.

#### **3.24.4 The position of the PTA**

The PTA considers there to be no need to change the Reference Offer with respect to this provision. The provision is unchanged from the Reference Offer currently in force. The PTA cannot see that there is a problem with this implementation. There would doubtless

have been comments from other parties to the market than Hringiðan had this created serious problems.

### **3.25 Cancellation of bitstream access – Section 7 in Appendix 1a**

#### **3.25.1 General**

In Section 7 in Appendix 1a to the original Míla Draft Reference Offer, which bears the title “Cancellation” one can find the following provision:

*“A notification of takeover or cancellation of bitstream access shall be sent electronically to Míla through the service web or communications portal. The takeover of bitstream access by service purchaser A from service purchaser B is equivalent to cancellation by service purchaser B.*

*The lease of bitstream access cannot be transferred to a third party.*

*When cancelling bitstream access, the former service purchaser pays for the rest of the month.”*

#### **3.25.2 Opinions of parties to the market**

**Hringiðan** commented on Paragraph 2 of the Section where there is a ban on lease of bitstream access being transferred to a third party and Hringiðan wonders whether the end user is not the third-party. Hringiðan also commented on Paragraph 3 and asked whether it was possible to provide arguments for the service purchaser having to pay the rest of the month and referred to previous comments on Section 4.1.1 in the main text of the Draft Reference Offer. As Míla linked the commencement of a connection with the day, the company could link the end of a connection also with the day, as Síminn did from the outset.

**Snerpa** also commented on Paragraph 2 of the Section and stated that Snerpa had objected to the fact that VULA access was defined as bitstream access. Were the PTA however to accept this, then Snerpa pointed out that VULA was a substitute product for operations on one’s own network. A VULA network operator should according to this be authorised to use his access in a manner as close to it being his own equipment in operation and could thus transfer the lease to other electronic communications companies. Snerpa proposed that the provision be deleted. Snerpa also commented on Paragraph 3 of the Section and referred to the company’s prior comments on Section 4.1.1 in the main text of the Draft Reference Offer and proposed that the provision be deleted.

**Vodafone** asked whether the provisions of Paragraph 3 of the section also applied if a new service purchaser had taken over bitstream access.

#### **3.25.3 Míla’s opinion**

With respect to the Hringiðan comment on Paragraph 2 of the Section, Míla said that they considered the third party in this instance to be another electronic communications company, i.e. it was unauthorised for one electronic communications company to transfer the bitstream connections to another electronic communications company.

With respect to the Snerpa comment on Paragraph 2 of the Section, it was stated that with reference to the Míla reply here below to the Snerpa comments on the Míla VULA offer then Míla would not delete that provision. Míla did however agree to exempt VULA from the provision in question. Míla would therefore amend the provision accordingly. The wording of the provision was therefore as follows:

*“The lease of bitstream access, other than VULA, cannot be transferred to a third party.”*

With respect to comments from Hringiðan and Snerpa to Paragraph 3 of the Section, Míla stated that this appears to be the same comment as had been made by Hringiðan on Section 4.1.1 in the main text of the Draft Reference Offer. Reference was made to the Míla reply here above with respect to that provision. With respect to the Vodafone question it was stated that all Míla charging in the access network was on the basis that payment was made for service until the end of the month in which it had been cancelled. The same applied to takeover of service from another service party. This arrangement has been in place for some considerable time.

#### **3.25.4 The position of the PTA**

With the Míla amendment subsequent to consultation in mind, the PTA considers there no need for further amendments to this provision of the Míla Draft Reference Offer.

### ***3.26 Bitstream access for TV and VoIP services – Sections 3.1.2, 3.1.3, 4.1.2 and 4.1.3 in Appendix 2***

#### **3.26.1 General**

In Section 3.1.2 in Appendix 2 in the original Míla Draft Reference Offer which bears the title “Bitstream access for TV service.” One can find the following provision which applies to ADSL service:

*“Connections for TV service are only on offer through Access Options 1 and 2 (see further in Appendix 5 on Access Options that are being offered). The service purchaser, that chooses Access Option 3 can however make an agreement on access to TV transmissions from those service providers that have TV service over Access Option 1 and/or 2. TV service on Míla systems has priority over Internet traffic. The option is offered setting up two simultaneous SD channels for each ADSL/ADSL2+ connection or one HD channel.”*

In Section 4.1.2 in Appendix 2 in the original Míla Draft Reference Offer one can find the following provision which applies to VDSL2 service:

*“TV service is only on offer through Access Options 1 and 2 (see further in Appendix 5). Those service purchasers that choose Access Option 3 can however make an agreement on access to TV transmissions from those service providers that have TV service over Access Option 1 and/or 2. TV service on Míla systems has priority over Internet traffic. The option is offered of setting up 5 simultaneous TV channels for each VDSL2 connection.”*

In Sections 3.1.3 (ADSL) and 4.1.3 (VDSL) in Appendix 2 in the original Míla Draft Reference Offer which bears the title “Bitstream access for VoIP service” one can find the following provision:

*“VoIP service is only on offer on Access Options 1 and 2. Those service purchasers that choose Access Option 3 can however make an agreement on access to VoIP service from electronic communications companies that have this service and have Access Option 1 and/or 2. The service is offered of setting up a maximum of two VoIP channels on each connection.*

*Telephone service (VoIP), is defined in the highest quality category and enjoys priority over other service (Internet and TV).”*

### **3.26.2 Opinions of parties to the market**

**Síminn** commented on this provision and said that in the Draft Reference Offer reference is made to Míla not offering the possibility of TV service and VoIP service, except over Access Option 1 and/or 2. For this reason, purchasers on Access Option 3 needed to acquire wholesale service with electronic communications companies that had Access Option 1 and/or 2. Síminn could not see how this would work. It was not possible to impose obligations on electronic communications companies that purchased Access Option 1 and/or 2 for them to offer their competitors wholesale access. Nor was it axiomatic that those companies that offered such service were prepared to make an agreement on access to their own service. There could at least not be an obligation on those electronic communications companies that purchased Access Option 1 and/or 2 to offer wholesale service to competitors. Such obligations could only be imposed on companies that had a specific status and then after a detailed investigation of the market.

**Vodafone** commented on Sections 3.1.2 and 4.1.2 on TV service, and considered that technically there was no obstacle to offering such service over Access Option 3. To provide the TV service in question solely over Access Options 1 and 2 was restrictive for smaller service providers.

**Hringiðan** also commented on Sections 3.1.2 and 4.1.2 on TV service and noted that Síminn had repeatedly been reported or been the subject of complaints related to problems in delivering TV service. In this instance Míla was taking a position on this matter and demanded that electronic communications companies made an agreement with service providers of IPTV, without having any authority to do so. Hringiðan which currently purchase DSL over Access Option 3 demanded that the amendments to the Reference Offer relating to DSL and GPON service that were relevant to services of Hringiðan customers for access to TV service, should not be endorsed without consultation with Hringiðan.

**Vodafone** also commented on Sections 3.1.3 and 4.1.3 on VoIP service, and considered that technically there was no obstacle to offering such service over Access Option 3. To provide the TV service in question solely over Access Options 1 and 2 was restrictive for smaller service providers.

**Hringiðan** also commented on Sections 3.1.3 and 4.1.3 on VoIP service and asked why electronic communication companies that were in Access Option 3 could not offer VoIP. It was important that care should be taken here in the light of the fact that the Síminn POTS system was being phased out. Hringiðan requested a presentation about the planned changes in this matter because of the closing of Síminn telephone switches and on how Hringiðan customers would receive telephone service through their network connections in the future.

**Snerpa** also commented on Sections 3.1.3 and 4.1.3 on VoIP service and proposed that there should be a new item offered over Access Option 3, i.e. connection into service purchaser's VoIP virtual network. A new service would be offered, which would constitute the setting up of a special service purchaser VoIP VLAN on the Míla BRAS network which would connect to the service purchaser's interconnection portal with the Míla BRAS network. Through the end user's port, it would be possible to activate a VoIP virtual network (VLAN) where DSCP tags in data packets would be respected (prioritising) and where they would be converted to the appropriate 802.1p mark on the VDSL line. If this was done then a VLAN would be formed between the user endpoint device, which would be the same with all users and service purchaser. The service purchaser could then insulate VoIP traffic from other traffic and provide it with priority over other traffic. One could apply the reservation that it was not authorised to use the virtual network for anything other than telephone traffic (VoIP).

Snerpa considered that this service needed to be offered on Access Option 3 as the trend was for telephone traffic to migrate to Internet connections. In this connection one could mention that it was now Síminn's policy to transfer telephone customers to VoIP. Those who did not purchase Access Option 1, including Síminn, found it difficult to react to this trend unless there was a solution of this kind on offer. This was therefore an issue of competition between service purchasers and this disadvantage had to be levelled. It was furthermore a security issue to be able to have VoIP connections isolated from Internet and that they were tied to specific locations (not nomadic numbers). One could elaborate this service in several ways and other solutions could be examined, if DSCP and other quality of service controls were respected.

**Vodafone** also asked why VoIP service was defined in a higher quality of service category than IPTV.

### **3.26.3 Míla's opinion**

With respect to Síminn comments, Míla stated that in the draft reference offer there were provisions in a number of sections, among others 3.1.2 and 3.1.3, to the effect that service purchasers that chose Access Option 3 could nevertheless make an agreement on access to VoIP/TV service with those electronic communications companies that had such service and Access Option 1 and/or 2. This was done to provide information for smaller service providers and to deal in a holistic manner with the service on offer to them over bitstream. There was no mention of wholesale and it was clear that Míla could not bind other companies to provide or not to provide service to third parties. Míla's purpose had simply been to describe the current situation as Míla was subject to an obligation to open this possibility in its systems. Míla did however agree to amend this provision, such that the wording *"could nevertheless make an agreement"* was removed and replaced with *"had the possibility of making an agreement"*. Míla would also add the sentence *"Míla cannot however guarantee their willingness to resell or sell TV service in wholesale to other service providers"*.

With respect to the Vodafone comments on TV service, it was stated in Míla's reply that TV service over Access Option 3 was extremely costly, as then one had to carry the TV

service to any location whatsoever in the country. There was very significant economy of scale in TV service because of the nature of multicast technology. Initial set-up costs and monthly costs were thus in the opinion of Míla, beyond the capacity of smaller service providers with few customers. It was also very difficult to price the carrying of such service as service providers coded their material in very differing manners. This means that SD stream could be 2Mb/s with one service provider and 4Mb/s with another. It should be pointed out, that Vodafone had its own trunk line network and therefore unlikely that the company would see a benefit in using such service.

With respect to the Hringiðan comment about TV service, it was stated in Míla's reply that because of comments from more electronic communications companies on this issue, Míla had agreed to make changes to Sections 3.1.2 and 4.1.2 as is stated here above. Míla cannot see how the company can be deemed to have taken a position in this matter when the service purchasers were informed that they had the option of receiving TV over their connections from TV service providers. In the opinion of Míla it was normal business practice for electronic communications companies to make agreements between themselves on such matters as it would not be appropriate for Míla to open service to a third party without the knowledge of the owner of the service. In this case Míla was endeavouring to prevent misuse of the service. Míla therefore saw no reason to make further changes to this provision.

With respect to the Vodafone comment on VoIP service it was stated in the Míla reply that the company had decided to open access for service purchasers over Access Option 3 over bitstream service to VoIP service that was carried to an interconnection point with various Access Options to the Míla access system (STP) of each service provider. It was assumed that the service would be provided through Míla ONT equipment in the case of GPON. Míla would work on elaboration of this service and amend its Reference Offer in accordance with the above. Experience showed however that work on development and making the settings needed to offer the service was time-consuming and expensive and needed to be done in consultation with service providers. It should be pointed out that it was not possible to prepare the same service for xDSL, as Míla had no endpoint devices on those connections. On xDSL connections, Míla would carry VoIP from VoIP ports to endpoint devices of Access Option 3 customers or from Ethernet interfaces to endpoint devices.

With respect to comments from Hringiðan and Snerpa on VoIP service it was stated in the Míla reply that the company had decided to open access for service providers to Access Option 3 over bitstream service to VoIP service, see discussion here immediately above and the Vodafone comments on the same issue.

With respect to the Vodafone question about why VoIP service was defined in a higher quality category than IPTV, Míla stated that VoIP was real-time service where low delay and jitter were extremely important. This was not the case with IPTV service which all things being equal, used a level of buffering in set-top boxes. This set-up was in accordance with TV set-up of both TV service providers today and was in accordance with the older Reference Offer which Vodafone had signed with respect to Síminn in 2013.

Míla therefore proposed that Section 3.1.2 in Appendix 2 in the Draft Reference Offer which bears the title “Bitstream access for TV service” for ADSL would be worded as follows:

*“Connections for TV service are only on offer through Access Options 1 and 2 (see further in Appendix 5 on Access Options that are being offered). The service provider who purchases Access Option 3 has the possibility of making an agreement on access to TV transmissions from those service providers that provide TV service over Access Options 1 and/or 2 at the relevant location. Míla cannot however guarantee their willingness to resell or sell in wholesale TV service to other service providers. TV service on Míla systems has priority over Internet traffic. The option is offered of setting up two simultaneous SD channels for each ADSL/ADSL2+ connection or one HD channel.”*

Míla furthermore proposed that Section 4.1.2 in Appendix 2 in the Draft Reference Offer which bears the title “Bitstream access for TV service” for VDSL would be worded as follows:

*“Connections for TV service are only on offer through Access Options 1 and 2 (see further in Appendix 5 on Access Options that are being offered). The service provider who purchases Access Option 3 has the possibility of making an agreement on access to TV transmissions from those service providers that provide TV service over Access Options 1 and/or 2 at the relevant location. Míla cannot however guarantee their willingness to resell or sell in wholesale, TV service to other service providers. TV service on Míla systems has priority over Internet traffic. The option is offered of setting up 5 simultaneous TV channels for each of VDSL2 connection.”*

Míla also proposed that Sections 3.1.3 (ADSL) and 4.1.3 (VDSL) in Appendix 2 in the Draft Reference Offer which bear the title “Bitstream access for VoIP service” would be worded as follows:

*“VoIP service is on offer on Access Options 1, 2 and 3. The service is offered of setting up a maximum of two VoIP channels on each connection.  
Telephone service (VoIP), is defined in the highest quality category and enjoys priority over other service (Internet and TV).”*

### **3.26.4 The position of the PTA**

In the obligations imposed on Míla with PTA Decision no. 21/2014 it is stated in the access obligation that Míla shall offer bitstream access which is compatible for many kinds of digital service such as general Internet, telephone service with Internet protocols (VoIP) and TV service (IPTV). Míla shall also offer this service over Access Options with varying transit services, i.e. Access Options 1, 2 and 3. With the non-discrimination obligation, the obligation is also imposed on Míla to work with service purchasers towards new types of bitstream service if the company receives a normal and reasonable request to this effect even though related companies may not have requested such bitstream service.

Though no electronic communications company is currently using bitstream service to carry IPTV over Access Option 3, Míla cannot unreservedly deny such a possibility and conjecture about whether one or another electronic communications company could benefit from such an offer is not within the bounds of material discussion. Whether the development of such service would show that it is not profitable for potential purchasers is

a question that has not yet been answered. Attention is drawn to the fact that before the bitstream service of the Síminn Group was transferred to Míla, subsequent to the Settlement between the Competition Authority and Síminn, and before Síminn was obliged to offer IPTV transit over Access Option 1, after an extended dispute between Vodafone and Síminn, which commenced in 2009 and which only ended with intervention by the PTA with PTA Decision no. 38/2012, Síminn moved its IPTV traffic in parallel with general Internet traffic with a transit protocol which can only be equated to Access Option 3.

As the revision of the Reference Offer for bitstream access has suffered significant delays, the PTA does not intend to provide a final solution on this issue in the Decision now under discussion but rather to initiate a new case where a new consultation will be opened on material amendments to provisions 3.1.2 and 4.1.2 in the Draft Reference Offer, with respect to the possible transfer of IPTV service to Access Option 3. Míla shall however submit a new draft of these provisions to the PTA within 3 months from the coming into force of the new Reference Offer. The PTA also draws attention to the above specified obligation that rest on Míla to develop new offers of bitstream service in cooperation with service purchasers, should a reasonable and normal request to this effect be received.

With respect to the transfer of VoIP, the PTA expresses its support for amendments proposed by Míla to the Draft and raises no objections to the wording of Provisions 3.1.3 and 4.1.3, as worded in the revised Míla Reference Offer.

### ***3.27 Technical conditions for vectoring – Section 4.1.5 in Appendix 2***

#### **3.27.1 General**

In Section 4.1.5 in Appendix 2 to the original Míla Draft Reference Offer, which bears the title “Technical conditions for vectoring” one can find the following provision:

*“Crosstalk from other DSL lines is one of the main reasons for interference and for decrease in speed of VDSL2 connections as number of users increases.*

*Vectoring is a technology which eliminates crosstalk between VDSL2 connections which pass through the same twisted wire pair. This has the effect that the signal will be similar to one where there is only one connection on a twisted wire pair. To make this possible, all VDSL2 signals on a twisted wire pair need to come from the same equipment in a telephone exchange or street cabinet. In addition to this the user equipment must support the technology or at least must not cause interference on other lines. It is possible to divide VDSL2 user equipment into three groups.*

- 1. User equipment that is vectoring compliant and supports all necessary standards to take advantage of vectoring.*
- 2. User equipment that is vectoring friendly. Such equipment does not interfere with other connections and does not suffer interference from the control tones used by vectoring. The equipment is however not improved by vectoring.*
- 3. Legacy user equipment does not recognise vectoring and for this reason it interferes with lines with vectoring. All things being equal, it would be necessary to replace this equipment or alter connections so that it only uses the frequency range from 25 kHz up to 2.2 MHz (ADSL2+) so that it would not cause interference. Such user equipment gains no benefits from vectoring.*

*To facilitate the adoption of vectoring, Míla uses what is called Zero Touch Vectoring Technology (ZTV).*

*The technology works in a way that makes it possible to remove crosstalk from legacy user equipment which is not vectoring compliant, i.e. from legacy user equipment. The main disadvantage of ZTV is that vector compliant endpoint equipment then only gains the benefit of vectoring downstream as vectoring must be removed in the upstream direction. Míla reserves the right to activate vectoring upstream with 3 months' notice. The service purchaser needs to ensure that all older user equipment is replaced or upgraded at the access addresses, where it is planned to activate vectoring upstream. If the service purchaser or end users does not attend to upgrading or replacing its user equipment, Míla reserves the right to limit the frequency range of connections to 25 kHz – 2.2 MHz.*

*For vectoring to work on a connection, the user equipment needs to fulfil the following requirements:*

*...  
Míla strongly urges service purchasers to contact their user equipment suppliers with these requirements in order to check whether existing equipment is vectoring compliant or whether there is a possibility of upgrading the equipment. In most instances there is only a need for a software update of user equipment, but this depends on the type."*

### **3.27.2 Opinions of parties to the market**

**Hringiðan** commented on this Section and stated that Míla had not conducted itself adequately in supporting electronic communications companies with preparing endpoint devices and that the PTA and Míla should be well aware of the problems in acquiring software upgrades from Tæknivörur for Technicolor TG589 and TG789 routers, which enabled them to support vectoring. In the light of the fact that Míla had not been prepared to work with electronic communications companies on this issue, Hringiðan could not see how Míla could have the authority to force electronic communications companies to make significant outlays of funds for purchase of equipment. It could not be seen that end users were demanding the use of vectoring.

### **3.27.3 Míla's opinion**

In Míla's reply it was stated that pursuant to the PTA Decision no. 29/2014, Míla was not responsible for service purchasers' endpoint equipment, but rather it was Míla's function to set general rules about settings in endpoint equipment so that it operated as well as possible on Míla systems. The fact was that vectoring compliant endpoint equipment was off-the-shelf products which could be purchased in shops. Vectoring service has been on offer officially from Míla since 1 June 2016 and prior to that had been subject to user tests for a period of about 6 months. It should be pointed out that the obligation was not being imposed on companies to replace all endpoint equipment with vectoring compliant equipment. The only requirement being made was that service providers updated their equipment to vectoring friendly equipment so that it did not cause interference with vectoring connections of other end users. By using vectoring to and from users, Míla considered that it would be possible to increase the speed of connections to 100 Mb/s to customers download and up to 50 Mb/s upload. The existing vectoring service offered up to 100 Mb/s download and 30 Mb/s upload. Míla considered this condition necessary to support normal development of the xDSL system.

### **3.27.4 Comments from Snerpa in the latter consultation**

With respect to vectoring and endpoint equipment, Snerpa wish to point out that although vectoring was certainly standardised and endpoint equipment could generally be classified as off-the-shelf, it had come to light that since Míla began to offer vectoring, Technicolor endpoint equipment was most suitable. It had been specially adapted with a special operating system edition (firmware-build), which Síminn had made in cooperation with Alcatel and which had been tested against Míla (previously Síminn) systems. This meant that off-the-shelf equipment which did not have this firmware-build was not at all the same product and that there were significant costs for smaller operators to have this build made for them, particularly as it was generally installed in the endpoint equipment in the factory, which in turn meant that they needed to order a substantial quantity in each instance. Snerpa considered that it was not an unreasonable demand for the purpose of making vectoring work as well as possible, that Míla acted as a mediator for the availability of a Míla-build which service providers could either configure themselves or request that it be installed in the endpoint equipment when it was ordered. This should apply as a minimum to the equipment that had been specifically tested against Míla systems for the purpose of adaptation and ensuring maximum harmonisation.

A requirement was not being made for Míla to provide endpoint equipment, but rather that the advantage gained by Síminn with its ready-made build, which had been specifically developed while Síminn owned and had full control over the Access System (and which was still in use), no longer pertained.

Since the advent of VDSL service, Míla's predecessor (Síminn) had decided that network service (Internet channel) should be on "tagged VLAN4" so that the endpoint equipment had default configurations to that VLAN for identification and communications. It was however clear that some types of off-the-shelf products did not support this low VLAN number and could therefore, as supplied, not be used with Míla xDSL systems - even where other factors fulfilled requirements. It was technically simple to make such endpoint equipment compatible by simply removing the tag on VLAN 3 on the relevant port on the DSLAM side. This channel on the endpoint equipment would then be "untagged" and it would not matter which VLAN number was used on that side.

Snerpa made the proposal that Míla offer its counterparties the functionality of configuring whether the Internet channel on the port (both VDSL and GPON) was "tagged VLAN" or "untagged VLAN". All Míla ports had an Internet channel as "tagged VLAN" today. With this change, it would be possible to use a greater variety of endpoint equipment with Míla systems and in addition to this, those service providers that used other access systems where "untagged VLAN" was already used could have the same configuration on their endpoint equipment, regardless of whether the equipment connected to Míla Access System or to another system. It would be possible to have the configuration as default when a port was activated, or to change this manually on each port.

### **3.27.5 Míla position on comments from Snerpa in the latter consultation**

Míla pointed out that the PTA had resolved the dispute related to the duty to deliver endpoint equipment and referred, in this respect to PTA decision number 29/2014 where it had been rejected that Míla was obliged to provide endpoint equipment. Míla also pointed out that the surveillance committee on equal access for electronic communications companies had rejected the Snerpa claim that the company should receive endpoint equipment with a specially adapted build.

One could also point out that information on configuration of end equipment was available on the Míla service web. All service providers, Síminn and others, have thus been able to configure and develop their endpoint equipment in accordance with the emphases each party had for the development of such equipment. It was also appropriate to note that at the time when vectoring was activated, more than a year had passed since Access System had been transferred to Míla and for this reason, Síminn didn't have any other access to development of and equipment beyond other electronic communications companies.

About the Snerpa claim to have Internet VLAN as untagged, Míla had decided to examine the relevant technical implications. If this investigation proved positive, then Míla would add this to the Reference Offer. A conclusion on this issue was expected in the very near future.

### **3.27.6 The position of the PTA**

The PTA considers to be no need for changes to the above specified provisions in the Draft as endpoint equipment for xDSL service is the remit of service purchasers.

With respect to Snerpa comments on endpoint equipment in the latter consultation, the PTA considers there to be no reason for amendment to the provision. With respect to the tagging of virtual channels (untagged VLAN) the PTA considers Míla's reply to be adequate and the PTA endorses Snerpa comments and Míla will accede to them if possible.

## ***3.28 Product description – Section 5.1 in Appendix 2***

### **3.28.1 General**

In Paragraph 5 of Section 5.1 in Appendix 2 to the original Míla Draft Reference Offer, which bears the title "Product description" one can find the following provision:

*"In addition to the above specified service there is the option on VDSL2 non-residential connections*

- to set up a TV service, where it is available, up to 5 simultaneous TV stations.*
- VLAN for control and supervision of user equipment (not on offer over Access Option 3)."*

The following provision can be found in Paragraph 9 of the same Section:

*"The same priority tags should be used as on non-residential connections. The priority tags from the service purchaser and end user are respected on the VLAN which is used for interconnection of workstations. In this instance, the service purchaser shall be responsible*

*for priority tagging of traffic on the VLAN in accordance with the same priority tagging rule used by Míla for each service.”*

### **3.28.2 Opinions of parties to the market**

**Vodafone** commented on the above specified Paragraph 5, and considered that G.SHDSL was lacking in the list.

**Síminn** commented on Paragraph 9 of the Section and considered it appropriate to state whether this meant that Míla would trust the tags from electronic communications companies on the VLAN for a private network and then in both directions. Also, whether the same requirements would not be made for GPON non-residential connections, as an analogous provision was not to be found in the Section on GPON connections in Appendix 3.

### **3.28.3 Míla’s opinion**

With respect to the Vodafone comment on Paragraph 5 of Section 5.1, it was stated in the Míla reply that Míla’s experience was not adequate to offer TV service over G.SHDSL. The reason for this was that G.SHDSL connections did not have the error correction necessary for TV service to work well over the connection. If one tried to protect the service from interference then one would have to increase the requirement for signal/noise ratio which would mean that the potential range of the connections would decrease. It was also appropriate to note that Míla only had about 450 such connections and they were on the decrease. It was clear that if one were to embark on costly changes to the service from what was currently on offer then the cost would be borne by very few connections. It was also appropriate to point out that Vodafone currently purchases no G. SHDSL connections from Míla, and has never done so. Míla therefore saw no reason to change its Reference Offer with respect to this issue.

With respect to the Síminn comment on Paragraph 9 of the Section it was stated in Míla’s reply that Síminn was correct in thinking that Míla would trust VLAN tags by service purchasers on private networks, both on xDSL and GPON. This however imposed obligations on service purchasers to do this correctly and Míla reserved the right to review this provision if this was not respected. Míla would add a provision to its Reference Offer for GPON (Appendix 3) to underline this.

### **3.28.4 The position of the PTA**

In the light of the changes that Míla plans to make to the provision in question in the Draft for TV distribution over GPON, the PTA sees no reason for further changes in this respect. Small or large purchases by individual service purchasers of assorted options in Míla bitstream service are generally not arguments for whether supply of such options should be a part of the Míla product offer. The PTA accepts Míla’s comments about technical problems in IPTV distribution over G. SHDSL and intends not to prescribe amendments to the draft.

### **3.29 Annex-M – Section 3.1.4 in Appendix 2**

#### **3.29.1 General**

In Section 3.1.4 in Appendix 2 to the original Míla Draft Reference Offer, which bears the title “End-user equipment” one can among other things find the following provision:

*“Annex-M is not on offer for residential connections.”*

#### **3.29.2 Opinions of parties to the market**

**Snerpa** comments on this provision and considers it not normal that the service in question should not be on offer for residential connections.

#### **3.29.3 Míla’s opinion**

In the Míla reply it was stated that the practice must be that Míla decided its own product offer if this did not constitute discrimination. ADSL connections are declining rapidly and it would not be normal to expect Míla to embark on costly changes to its systems for a service that was on the way out. It should also be pointed out that Snerpa currently had fewer than 100 bitstream connections with Míla so it was not likely that such changes would be worth implementing.

#### **3.29.4 Snerpa comments in the latter consultation**

Snerpa considered it clear that, apart from Míla assertions that ADSL connections were rapidly decreasing, it was clear that at many locations the situation was that VDSL was not on offer from Míla, not even at some addresses in Reykjavik. It had happened repeatedly that end users have requested more upload speed than 1 Mb/s, for example for surveillance cameras, but the requirements of the party in question did not allow for the need for a private network or other functionality included in an ADSL+ connection (where Annex M was on offer).

It should be noted that there was generally substantial unused upload bandwidth on xDSL connections. The circumstances were such at some locations that the line distance where VDSL was on offer was too great for VDSL which meant that ADSL had to be used. Such a line could however carry increased upload, but circumstances were such that the end user could not justify the additional costs accrued from ADSL+. No technical or commercial reasons were specified in the Míla reply where this option was denied which must be considered worthy of criticism. The PTA had itself pointed out in Item 3.29.4 in the Draft Decision that Míla replies were without substance, and in this instance, the PTA is challenged to review its position on whether this service should be on offer for non-residential connections. Where there are only very few instances one could even imagine that such configurations should be installed on request in each instance and then possibly against a processing charge and a special monthly charge.

### **3.29.5 Míla position on comments from Snerpa in the latter consultation**

In Míla's submission it was stated that it was clear that this would increase costs for bitstream service and for local loop lease as Annex-M used expensive frequency lowest on the frequency range to increase the speed of upload connections. The range of ADSL2+ connections with Annex-M would be lessened as a result and one could assume that there would be a number of malfunction notifications as a result of implementing this technology. This is quite similar to what would happen if Míla were to offer more speed than it currently does, i.e. there would be an increase in malfunction notifications.

### **3.29.6 The position of the PTA**

The PTA does not object to the provision in the Míla Draft of the new Reference Offer, but reminds that although individual service purchasers are not using specific products from Míla this does not make comments on the product insignificant. Such a reply by Míla is neither reasoned, and nor is it an argument for lack of validity of the comments by the previously mentioned party.

The PTA does not see reason to prescribe amendments to this provision for the time being on the basis of Snerpa comments in the latter consultation, but reminds that Míla is obliged to accede to fair and reasonable requests for development or innovations in its wholesale offer. The PTA also reminds that such a request shall be reasonable and that the cost may accrue to the party making the request as appropriate.

## ***3.30 Product description ADSL/ADSL+ – Section 3.1.1 in Appendix 2***

### **3.30.1 General**

In Section 3.1 in Appendix 2 to the original Míla Draft Reference Offer, which bears the title “Product description ADSL/VDSL+” one can find the following provision:

*“ADSL/ADSL+ reaches approximately 95% of households in the country and is intended for residential use. The offer is for up to 12 Mb/s Internet download speed to the end user and 1 Mb/s upload. By far the largest part of ADSL/ADSL+ connections offer Internet, IPTV and VoIP service. It is only possible to offer a maximum of 2 SD TV channels or one HD TV channel on each connection. See however limitations in Appendix 5 on Access Options.*

*At a very small number of smaller locations the speed of ADSL connections is limited to 2 Mb/s, see further in Appendix 4.”*

In Section 3.1.1 in the same Appendix which bears the title “Bitstream access for Internet service” one can find the following provision:

*“As stated previously, the offer is up to 12 Mb/s data transfer speed on Internet service for Míla ADSL/ADSL+ service. Internet services is provided on one VLAN with the lowest priority. Only PPPoE identification is offered in Míla systems for ADSL/ADSL+ connections.”*

### **3.30.2 Opinions of parties to the market**

**Snerpa** commented on the above specified provision and considered it not normal to set up limits to ADSL speed in the light of what the standards could offer. Parties were

reminded that Míla and previously Síminn offered 16 Mb/s speed for a higher price and on ADSL+ routes a faster speed had been offered with what is called Annex-M solution which is now not on offer. It could not be seen why one should pay a higher charge for 16 Mb/s ADSL connection than for a 50 Mb/s VDSL connection. It was proposed that the ADSL connection should be offered at up to 24 Mb/s download where circumstances allowed and that the Annex-M option should be offered at a special rate to increase upload speed to up to 2.5 Mb/s. There were no logical reasons for not offering this service. By not offering this service, Míla was directing those parties who needed better upload on ADSL to the non-residential solution ADSL+ where it was being offered regardless of whether the end user required other functions of that service.

### **3.30.3 Míla's opinion**

In Míla's reply it was stated that the company could only conclude that Snerpa was confusing the Reference Offer currently in force with the draft of the new Reference Offer. In the Míla reply it was stated that the practice must be that Míla decided its own product offer as long as this did not constitute discrimination. Attention was drawn to the fact that ADSL connections were declining rapidly and it would not be normal to expect Míla to embark on costly changes to its systems for a service that was on the way out. It should also be pointed out that Snerpa currently had fewer than 100 bitstream connections with Míla so it was not likely that such changes would be worth implementing.

### **3.30.4 Snerpa comments in the latter consultation**

Snerpa considers it unreasonable for Míla to include in its submission whether and how many connections Snerpa used with Míla. With reference to the older arrangement, Snerpa had simply been indicating that when it suited Síminn, who was the former system operator, then it was possible. The matter under discussion was general service offer and Snerpa indicated options which could generally benefit end users.

The fact of the matter was that by adding line profiles in the service portal and equipment, then a procedure would be ready which could fairly easily be adapted to ADSL. Snerpa doubted the Míla assertion that such a change would be costly. One could certainly make exceptions for older equipment such as ASAM, but in general, the circumstances would still exist where there was no other connection option than ADSL. Snerpa considered that the increased line speed in ADSL, where possible, would be reasonable and particularly if it meant that end users that did not have any other option would be offered a service which equipment and lines could handle. Where there are only very few instances one could even imagine that such configurations should be installed on request in each instance and then possibly against a processing charge and a special monthly charge.

The above being said, it was also clear that there could be very varying circumstances for increasing line speed on ADSL in excess of 12 Mb/s. One could not demand that lines be repaired or that expensive actions be taken to make this possible. But it must be considered reasonable that where it was possible to provide improved service that it was offered.

### **3.30.5 Míla position on comments from Snerpa in the latter consultation**

Snerpa says that one could not require that lines be repaired or that expensive actions be taken. For this purpose, the fact of the matter is that it is not realistic that this should be a matter of judgement in each instance and Míla doubted that it would be possible to fulfil this when a customer complained. Because of the number of cases handled in Míla bitstream and line systems and because of commitments for rapid reaction time, procedures were such that malfunctions were sent quickly to line workers, with attendant costs.

Line speed of ADSL2+ connections which gave 12 Mb/s Internet speed where about 14.5 Mb/s because of overheads in protocols, e.g. ATM. The longest line that could give this line speed was about 2 km. Míla was currently extending the VDSL to service area to 1300 metres from the exchange equipment. Those who would receive increased speed on ADSL2+ connections would therefore be connection points which were between 1300 m - 2 km from exchange equipment. These would be relatively few households.

### **3.30.6 The position of the PTA**

In the Reference Offer currently in force it is stated that ADSL is offered with up to 12 Mb/s capacity download and 1 Mb/s upload. In a special Appendix on ADSL+ it is stated that ADSL+ is offered with Annex-M technology with up to 14 Mb/s capacity download and 2.5 Mb/s upload. Although Síminn or Míla had previously offered another bit speed, this will not be taken into account for this draft of amendments to the Reference Offer currently in force.

The question of whether Míla withdraws its offer of bitstream products is subject to the provisions of the access obligation pursuant to PTA Decision no. 21/2014. The PTA has not received any submissions related to such withdrawal of the product since that Decision came into force. This matter of opinion will not be dealt with here.

With respect to comments received from Snerpa latter consultation the PTA considers there to be no reason for amendment to the provision. The request to Míla for the development of new wholesale possibilities such as increased bit speed in ADSL shall be fair and reasonable.

The PTA therefore plans not to propose amendments to this Section of the Reference Offer.

## ***3.31 Optical network terminals (ONT) to GPON – Paragraph 8 of Section 2 in Appendix 3***

### **3.31.1 General**

In Paragraph 8 of Section 2 in Appendix 3 (Technical conditions for GPON) to the original Míla Draft Reference Offer, which bears the title “Introduction” one can find the following provision:

*“ONT equipment (Optical Network Terminal) at residences receive the GPON signal and provide end users with various data services on Ethernet ports. The number of Ethernet ports*

*on ONT devices varies but the most common model today has one such port, which is connected to the user equipment (router). Various services are taken from the router (Internet, TV and VoIP).(Figure 3)."*

### **3.31.2 Opinions of parties to the market**

**Vodafone** objected to that provision and considered that it had to be clear that the ONT had to be able to offer at least 3 Ethernet ports. If the end user chooses to have services from 2-3 electronic communications companies, then it was not possible to expect the electronic communications company that owned the router to provide services other than his own through the device.

**Hringiðan** also objected to this provision and stated that at no point was there a definition of the type of ONT that Míla would install. There had been discussion, both with the PTA and with Míla about the necessity of installing multiport ONTs and it was important that Míla used standardised procedures and that this was stated in the Reference Offer in order to ensure non-discrimination between electronic communications companies. Otherwise, Síminn would have complete control over Míla service through single port ONTs.

### **3.31.3 Míla's opinion**

With respect to the points made by Vodafone and Hringiðan, Míla stated that since the reference offer had been sent to the PTA, Míla had decided to replace its ONTs and had ordered 4-port ONTs instead of single port. This was a commercial decision and while there were commercial reasons for this decision, i.e. that real usage would be as Vodafone has asserted, then Míla would absorb the extra costs that this arrangement would require. If on the other hand it came to light that very few connections were set up that used this option, then Míla reserved the right to review this decision with a 6-month period of notice.

Míla therefore proposed that the provision in Paragraph 8 of Section 2 of Appendix 3 be worded as follows:

*"ONT equipment (Optical Network Terminal) at residences receive the GPON signal and provide end users with various data services on Ethernet ports. The number of Ethernet ports on ONT devices varies but the most common model today has one such port, which is connected to the user equipment (router). Various services are taken from the router (Internet, TV and VoIP).(Figure 3). Míla will also offer ONT with 4 Ethernet ports and 2 Ethernet ports."*

### **3.31.4 The position of the PTA**

In the light of the changes proposed by Míla subsequent to national consultation of the Draft, the PTA does not propose other changes to the provision in question and is pleased that Míla intends to offer ONT devices with more ports. Access to ports owned by Míla is necessary for retail companies so that they are not dependent on each other for access to customers through user devices controlled by retail companies when varied service is provided.

### **3.32 Bitstream access for TV service in GPON – Section 3.1.2 in Appendix 3**

#### **3.32.1 General**

In Section 3.1.2 in Appendix 3 to the original Míla Draft Reference Offer, which bears the title “Bitstream access for TV service” one can find the following provision:

*“TV service is only on offer through Access Options 1 and 2 (see further in Appendix 5). The service purchaser that chooses Access Option 3 can however make an agreement on access to TV transmissions from those service providers that have TV service over Access Option 1 and/or 2. TV service on Míla systems has priority over Internet traffic. The option is offered of setting up 5 simultaneous TV channels for each of GPON connection.”*

#### **3.32.2 Opinions of parties to the market**

**Hringiðan** commented on this provision and referred to its prior comments on Section 3.1.3 in Appendix 2 that related to xDSL. It was important that Míla explained how an electronic communications company in Access Option 3 could offer its customers TV service.

#### **3.32.3 Míla’s opinion**

With respect to the Hringiðan comment, Míla referred to its reply in Section 3.26 here above. Míla proposed that Section 3.1.2 in Appendix 3 be worded as follows:

*“Connections for TV service are only on offer through Access Options 1 and 2 (see further in Appendix 5 on Access Options that are being offered). The service provider who purchases Access Option 3 has the possibility of making an agreement on access to TV transmissions from those service providers that provide TV service over Access Options 1 and/or 2 at the relevant location. Míla cannot however guarantee their willingness to resell or sell in wholesale TV service to other service providers. TV service on Míla systems has priority over Internet traffic. The option is offered of setting up 5 simultaneous TV channels for each GPON connection.”*

#### **3.32.4 The position of the PTA**

The PTA referred to prior replies in Section 3.26.4. In order that the publication of a Reference Offer does not suffer further delays, an additional consultation will not be opened at this stage but Míla is required to submit a new draft of this provision where IPTV for Access Option 3 is specified to the PTA within 3 months from the coming into force of the new Reference Offer.

### **3.33 Bitstream access for VoIP service in GPON – Section 3.1.3 in Appendix 3**

#### **3.33.1 General**

In Section 3.1.3 in Appendix 3 to the original Míla Draft Reference Offer, which bears the title “Bitstream access for VoIP service” one can find the following provision:

*“VoIP service is only on offer on Access Options 1 and 2. The service is offered of setting up a maximum of two VoIP channels on each connection.”*

*Telephone service (VoIP), is defined in the highest quality category and enjoys priority over other service (Internet and TV). ”*

In the light of the changes proposed by Míla to Sections 3.1.3 and 4.1.3 in Appendix 2 (xDSL), Míla proposed analogous changes to the above specified Sections with respect to bitstream access for VoIP service in GPON:

*“VoIP service is on offer on Access Options 1, 2 and 3. Those service purchasers that choose Access Option 3 can however make an agreement on access to VoIP service from electronic communications companies that have this service and have Access Option 1 and/or 2. The service is offered of setting up a maximum of two VoIP channels on each connection.*

*Telephone service (VoIP), is defined in the highest quality category and enjoys priority over other service (Internet and TV). ”*

### **3.33.2 The position of the PTA**

As Míla has proposed appropriate changes to the draft subsequent to national consultation, the PTA makes no proposal for further changes to this provision in the draft.

### **3.34 Installation at residences – Section 3.1.5 in Appendix 3**

#### **3.34.1 General**

In Section 3.1.5 in Appendix 3 to the original Míla Draft Reference Offer, which bears the title “Installation at residences” one can find the following provision:

*“It is important that the ONT is installed at a location inside the building which is suitable for devices and close to the demarcation box if possible. A space with high temperatures or high humidity is not suitable for the ONT. It is extremely important to fix the ONT to wall with the supplied fittings so that there is less likelihood of the device itself or the fibre-optic thread connected to the box suffering damage. It is also suitable to fit the ONT in a low voltage box if available.”*

#### **3.34.2 Opinions of parties to the market**

**Vodafone** commented on this provision and asked whether the ONTs would use electricity from the communal electricity supply and noted that the situation today was completely untenable

**Hringiðan** also commented on this provision and asked who was responsible for installing the ONTs and the internal fibre-optic cable.

#### **3.34.3 Míla’s opinion**

With respect to the Vodafone comment it was stated in the Míla reply that the ONT for a residence would be installed in the residence in question. In the case of an ONT for a lift phone, the ONT would be installed in closed space in common property and would therefore use the communal electricity supply. This comment can in all likelihood be attributed to the fact that in some instances, house owners in new builds have not installed fibre-optic indoors as they should have done. Despite repeated requests from Míla that they installed correct indoor cabling, they have not done so. In a very few instances, on-site

service staff have resolved the issue by fitting the ONT in the basement of the building and it used existing CAT-5 cables to carry the service up to the apartments. Such an installation was an absolute exception and should not exist in the system. Each apartment should be responsible for electricity to each ONT. Míla saw no reason to change the Reference Offer because of this comment.

In the light of the comments made by Hringiðan, Míla considered it appropriate to clarify in the Reference Offer which party was responsible for installing the ONT and indoor fibre-optic. Section 3.1.5 in Appendix 3 should therefore be worded as follows:

*“Míla installs indoor fibre-optic cable or uses existing indoor fibre-optic to ONT in selected areas. This only however applies to residences where Míla owns or operates a fibre-optic system.*

*Míla installs ONT unless the service purchaser requests to do this himself. It is important that the ONT is installed at a location inside the building which is suitable for devices and close to the demarcation box of possible. A space with high temperatures or high humidity is not suitable for the ONT. It is extremely important to fix the ONT to wall with the supplied fittings so that there is less likelihood of the device itself or the fibre-optic thread connected to the box suffering damage. It is also suitable to fit the ONT in a low voltage box if available.”*

#### **3.34.4 The position of the PTA**

The PTA makes no further proposals for changes to this provision in the draft than those made by Míla in the light of comments from national consultation.

### **3.35 GPON non-residential connections – Section 3.2 in Appendix 3**

#### **3.35.1 General**

In Section 3.2 in Appendix 3 to the original Míla Draft Reference Offer, which bears the title “GPON residential connections” one can find the following provision:

*“Míla offers service purchasers residential connections on its GPON system.*

*Installation of the following VLAN service is offered:*

- *VLAN to interconnect branches of companies*
- *VLAN for company Internet connection*
- *VLAN for VoIP service*
- *VLAN for control and supervision of user equipment (not on offer over Access Option 3)*

*A service purchaser with service on Access Options 1 and/or 2 shall make an agreement with Míla technical staff on a fixed arrangement for the set-up he wishes to provide for his end users.*

*An additional function on offer on GPON non-residential connections is to set up a TV service, where it is available, up to 5 simultaneous TV channels.*

*The service purchaser using Access Option 1 and/or 2 provides VLAN ID (C-VLAN) for each service on non-residential connection. QinQ VLAN design is used in an ISAM, i.e. a C-VLAN for each service on each connection is covered by a service VLAN (S-VLAN). In the ISAM in the downstream direction, a C-VLAN for each service is mapped over to a fixed, VLAN ID which is used in the end-user device. In the upstream direction, this is opposite, i.e. fixed C-VLAN ids or channels are mapped over to a C-VLAN id which the service purchaser provides.*

*The number of MAC addresses permitted on non-residential connections is 8. On GPON non-residential connections with TV service, the MAC addresses are increased, according to the number of IPTV decoders set up on the connection.*

*Data speed on GPON non-residential connections can be from 50-500 Mb/s.*

*Installation and fitting of ONTs and demarcation boxes are the responsibility of Míla. For the convenience of end users, the service purchaser can elect to install the ONT device at the same time as they install their own equipment.”*

### **3.35.2 Opinions of parties to the market**

**Vodafone** commented on Paragraph 4 of the Section and considered that this could not be optional for Míla. This had to be possible at all locations where the service was being offered. And what did “where it is available” mean?

**Hringiðan** also commented on the Section in question and asked whether non-residential connections were only on offer for customers in Access Options 1 or 2. There was no mention of Access Option 3. Access Option 3 was mentioned in DSL connections, but only Access Options 1 and 2 in GPON connections. What was the reason for this?

### **3.35.3 Míla’s opinion**

With respect to the Vodafone comment, Míla did not understand what should be optional in the Paragraph 4 in question in this Section. Did Vodafone understand the sentence such that in some instances it was possible to offer one TV service, and in other instances five? If that is the case, then this is not the proper understanding. The proper understanding was that it was possible to set up five simultaneous TV channels at all locations where TV is on offer, but it was optional for the service provider how many channels he sold to the end user. This was necessary as a specific attribute was reserved for each simultaneous TV channel and at the same time, invoicing was based on the number of simultaneous TV connections. “Where it is available” means that this service is only accessible where the TV distributor had decided to offer TV service, i.e. had Access Option 1 or 2.

With respect to the Hringiðan comment, it was stated in Míla’s reply that non-residential connections were offered on Access Option 3, but in those instances the service purchaser did not have the option of VLAN but had to use standard installation which was the same as up to this point in time. Míla would specify this installation in its reference offer and send it to the PTA when it was ready.

Míla proposed that Provision 3.2 would be worded as follows:

*“Míla offers service purchasers residential connections on its GPON system.*

*Installation of the following VLAN service is offered:*

- *VLAN to interconnect branches of companies*
- *VLAN for company Internet connection*
- *VLAN for VoIP service*
- *VLAN for control and supervision of user equipment (not on offer over Access Option 3)*

*A service purchaser with service on Access Options 1 and/or 2 shall make an agreement with Míla technical staff on a fixed arrangement for the set-up he wishes to provide for his end users.*

*An additional function on offer on GPON non-residential connections is to set up a TV service, where it is available, up to 5 simultaneous TV channels.*

*The service purchaser using Access Option 1 and/or 2 provides VLAN id (C-VLAN) for each service on non-residential connection. Q in Q VLAN design is used in an ISAM, i.e. a C-VLAN for each service on each connection is covered by a service VLAN (S-VLAN). In the ISAM in the downstream direction, a C-VLAN for each service is mapped over to a fixed, VLAN ID which is used in the end-user device. In the upstream direction, this is opposite, i.e. fixed C-VLAN ids or channels are mapped over to a C-VLAN id which the service purchaser provides.*

*The number of MAC addresses permitted on non-residential connections is 8. On GPON non-residential connections with TV service, the MAC addresses are increased, according to the number of IPTV decoders set up on the connection.*

*The same priority tags should be used as on non-residential connections. The priority tags from the service purchaser and end user are respected on the VLAN which is used for interconnection of workstations. In this instance, the service purchaser shall be responsible for priority tagging traffic on the VLAN in accordance with the same priority tagging rule used by Míla for each service.*

*Data speed on GPON non-residential connections can be from 50-500 Mb/s.*

*Installation and fitting of ONTs and demarcation boxes are the responsibility of Míla. For the convenience of end users, the service purchaser can elect to install the ONT device at the same time as they install their own equipment.”*

Furthermore, Míla proposed a new provision Section 3.2.1, which would bear the title “User equipment”, should be added to Appendix 3. The provision should be worded as follows:

*“GPON non-residential connections are based on Ethernet technology. In the case of Access Option a VLAN is connected for each service into the Míla company portal. The connection then goes into the VRF of the service provider in question. Standard VLAN set-up for Access Option 3 to the endpoint device is as follows:*

- VLAN id 7 to interconnect company branches*
- VLAN ID 6 for company Internet connection*
- VLAN id 8 for VoIP service*

*In addition to this, it is possible to configure IPTV from an IPTV service provider on the connection. Then one shall use their standard configuration for residential users.”*

### **3.35.4 The position of the PTA**

After the Míla amendment proposal for this provision in the Draft subsequent to national consultation, the PTA makes no further comments and will therefore not propose other amendments to the said provision.

## **3.36 Access Options 1-3 – Section 3 in Appendix 5**

### **3.36.1 General**

In Section 3 in Appendix 5 to the original Míla Draft Reference Offer, which bears the title “Access Options 1-3 - General conditions” one can find the following provision:

*“The technical implementation of interconnection for Access Options must always take place between Míla Access Systems and the technical division of the service purchaser.*

*ALS equipment is intended for Míla Access Systems and it is not authorised to connect other access systems into ALS.*

*Having received endorsement by the PTA, Míla can withdraw its service offer for Access Option 1 for specific geographical regions (technical facility premises) and offer Access Option 2 for that region. If more than one service purchaser requests Access Option 1 or 2 for a specific geographical region (technical facility premises), then their trunk line connection shall go through ALS.”*

In Section 1 of the Appendix “Access Option Switch - ALS” is defined as a Layer 2 (L2) switch where an electronic communications company can connect to Míla Access Systems (Options 1 and 2).

### **3.36.2 Opinions of parties to the market**

**Síminn** commented on the above provision about Míla being authorised to withdraw its service offer for Access Option 1 for specific geographical regions. The proposal could not work. If an electronic communications company was prepared to pay the costs resulting from possible inefficiencies in specific geographical regions, then they should be authorised to do so. If Míla receives payment for the service and for resulting costs that it should not be authorised to withdraw a specific service offer with the attendant inefficiencies for purchasers of the service.

In the opinion of Síminn it was not at all clear under which circumstances it should be authorised to withdraw a service offer. If there was no demand for a service, then it would be normal for Míla not to be obliged to provide the service. If there was demand and the service was not profitable, whether because of a small population or for other reasons, then such criteria should be defined so that the purchasers of the service were aware of the areas where Míla could possibly withdraw a product offer, for example if the geographical area had fewer than 100 inhabitants. At the very least, the parties should have certain minimum information on the areas that could possibly be subject to closures of Access Option 1. In any event the conditions needed to be transparent and clear for purchasers as it could be significantly problematic to need to alter the configuration of a service for switching from Access Option 1 to Access Option 2.

### **3.36.3 Míla’s opinion**

With respect to the Síminn comment on Míla authorisation to withdraw its service offer of Access Option 1 in specific areas to be replaced by Access Option 2, Míla pointed out that this issue originated from PTA Decision no. 21/2014, see additional consultation in connection with that Decision. The reason for this provision was that for two or more parties to be provided with Access Option 1 at a specific location then ALS had to be installed. ALS was relatively expensive equipment and where there were very few end users connected, then the costs for ALS would be very significant for each end user. As the PTA had decided to cancel investment costs that had previously been paid for each ALS then this cost would accrue to Míla. The result would therefore be that the cost of ALS would accrue to the bitstream service and make this service more costly than before. In the light of competition on the bitstream market, it was in no way certain that Míla would be able to recoup its costs. According to the said PTA Decision, the withdrawal of the service offer of Access Option 1 in specific areas would be subject to endorsement by the PTA. Míla considers that during the processing of such a case, electronic communications

companies could submit comments and for this reason there was no reason to impose limitations in advance on locations where this might apply.

#### **3.36.4 The position of the PTA**

The Míla authorisation to withdraw Access Option 1 is part of an access obligation that rests on the company as a result of PTA Decision no. 21/2014 and is dependent on it being replaced by Access Option 2 which is a more efficient option and fulfils all the requirements that one could make to Access Option 1 for service offer, quality control etc. This will only be done with endorsement in advance from the PTA and subsequent to consultation with stakeholders were Míla has notified stakeholders of its plans at least 6 months in advance.

The PTA therefore considers there to be no need for changes to the Míla Draft Reference Offer as a result of the Síminn comments.

### **3.37 Access Option 1 – Section 4 in Appendix 5**

#### **3.27.1 General**

In Paragraph 2 of Section 4 in Appendix 5 to the original Míla Draft Reference Offer, which bears the title “Access Option 1” one can find the following provision:

*“Access Option 1 is offered on Míla IP-DSLAM (ISAM) equipment to service purchasers that commit themselves to have at least 750 users within 12 months of signing.”*

#### **3.37.2 Opinions of parties to the market**

**Snerpa** commented on the above specified limitation number and said that this excluded a great number of smaller service providers from using this Access Option. There were no logical arguments in support of having this limitation number and it was proposed that the limitation number be deleted or significantly lowered.

#### **3.37.3 Míla’s opinion**

With respect to the comment from Snerpa, it was stated in Míla’s reply that the reason for the limitation number was that there were significant costs involved in setting up A1/A2 service independent of the number of end users. For Míla to have the possibility of recouping these costs there needed to be a significant amount of business with this service. This provision had been agreed in the Míla Reference Offer from the outset without objections having been raised to it. The cost was composed among other things of labour in configuring attributes for each A1/A2 service purchaser, in access systems equipment and in alterations to service systems (OSS). There were also expensive tests and communications with service purchasers on access.

#### **3.37.4 The position of the PTA**

The PTA considered there to be no need to change this provision in the draft. This is not a change from the Reference Offer in force and it is reasonable that a specific minimum

number of users are required for an access request to Access Option 1 to be considered fair and reasonable. The PTA considers that 750 connections is not an abnormally high number in this respect.

### ***3.38 ALS equipment – Paragraph 2 in Section 4.1 in Appendix 5***

#### **3.38.1 General**

In Paragraph 2 of Section 4.1 in Appendix 5 to the original Míla Draft Reference Offer, which bears the title “Service” one can find the following provision:

*“When two or more service purchasers request Access Option 1 at specific locations, Míla installs ALS equipment at the location. Where one service purchaser connects to Access Option 1 to DSLAM equipment, there is no need to install ALS equipment.*

#### **3.38.2 Opinions of parties to the market**

**Vodafone** commented on the above specified provision and asked whether it had not been the intention to remove wholesale switches, but now they had been given a new name, i.e. ALS.

#### **3.38.3 Míla’s opinion**

With respect to the above comment from Vodafone it was stated in the Míla reply that it had not been the intention to remove wholesale switches. It had however been the intention that costs for wholesale switches would be moved into the bitstream price outside the monthly charge for ports for connecting to them.

#### **3.38.4 The position of the PTA**

The Vodafone comment in the opinion of the PTA does not call for an amendment to this provision in the Draft.

### ***3.39 Bitstream access for TV service – Paragraph 1 in Section 5.1.2 in Appendix 5***

#### **3.39.1 General**

In Paragraph 1 of Section 5.1 in Appendix 5 to the original Míla Draft Reference Offer, which bears the title “Bitstream access for TV service” one can find the following provision:

*“The service purchaser can receive multicast possibilities activated on the DSL and GPON connections that he purchases from Míla in A2. This however does not apply to G.SHDSL, G.SHDSL.bis and ADSL/ADSL2+ non-residential connections.”*

#### **3.39.2 Opinions of parties to the market**

**Vodafone** commented on this provision and consider it restrictive.

### **3.39.3 Míla's opinion**

Míla stated that it was not a good idea to mix TV service with ADSL and SHDSL non-residential connections. This was because of technical limitations. Míla referred to its response here above on G.SHDSL. In the case of ADSL one could say that if there were sufficient error correction put on the connection then the response time increased by up to 20 ms which could have unfortunate consequences for non-residential connections. Míla considered that there was such a small number of such connections that the cost involved in expensive alterations to the service would not pay as there has been a rapid decline recently in the use of both kinds of connections. Nor was Míla aware that TV service of this nature was on offer through such connections abroad. Míla therefore propose that should be no changes to its Reference Offer because of these comments.

### **3.39.4 The position of the PTA**

The PTA refers to previous answer in Section 3.28.4 regarding TV service over G.HDSL and considers there to be no need for changes to this provision in the draft.

## ***3.40 Distribution of VULA service in Míla systems – Section 3.5 in Appendix 6***

### **3.40.1 General**

In Section 3.5 in Appendix 6 to the original Míla Draft Reference Offer, which bears the title “VULA service in Míla systems” one can find the following provision:

*“VULA is only on offer as Access Option 1 and/or Access Option 2.*

- Number limitations for Access Options 1 and 2 do not apply in the case of VULA service.*

*VULA is only offered on DSLAM equipment which provides VDSL2 or GPON service.*

*With this product, the customer receives access to data transfer capacity to and from end users in the Míla access network.*

*One VULA STP port in ALS is intended for a demarcated part of the access network. As is stated in Appendix 5. Information on which DSLAM each access is connected to can be found on the Míla service web and in Appendix 4. The service purchaser is obliged to seek information on whether STP/ALS connection covers the DSLAM which is to be connected.”*

### **3.40.2 Opinions of parties to the market**

**Vodafone** commented on this provision and considered that G.SHDSL was lacking.

### **3.40.3 Míla's opinion**

Míla said this was not the case. G.SHDSL was not part of the VULA Míla offer. G.SHDSL was offered as normal bitstream service. VULA was only offered on VDSL2 and GPON connections as it was problematic to provide real access to a local loop at the location. Míla was not actually subject to obligations to provide VULA service at locations where parties could have real connections or through technology that they could set up themselves. G.SHDSL belongs to the latter category, i.e. no limitations were in place for access to copper lines for SHDSL services.

#### **3.40.4 The position of the PTA**

VULA is a solution intended for those parties that would wish to invest in their own VDSL system in the appropriate geographical area in each instance, but who are excluded from such plans because of vectoring on VDSL2 systems of the network operator incumbent in the area. VULA is not intended to replace general bitstream access. The PTA considers there to be no need to change this provision in the draft.

### ***3.41 Special terms and conditions for VULA service – Section 4 in Appendix 6***

#### **3.41.1 General**

In Section 4 in Appendix 6 to the original Míla Draft Reference Offer, which bears the title “Special terms and conditions for VULA service” one can find the following provision:

*“If a service purchaser of VULA, who already has his own VDSL2 service needs to discontinue the service when Míla withdraws access to the local loop then the following shall apply:*

- Míla does not collect local loop set-up charge from the service purchaser when moving connections from the service purchasers’ equipment to Míla’s equipment.*
- The service purchaser and Míla shall jointly organise transfer of connections and this transfer shall be implemented as quickly as possible.”*

#### **3.41.2 Opinions of parties to the market**

**Vodafone** questioned the provision that Míla would not collect a local loop set-up charge from the service purchaser when transferring the connections from the service purchasers’ equipment to Míla’s equipment. Vodafone did not elaborate further on this comment.

#### **3.41.3 Míla’s opinion**

Míla said that it was difficult to understand what Vodafone was objecting to. To explain this matter further, Míla was endeavouring to make concessions to service parties who needed to terminate service on connections from their own equipment and move them over to Míla equipment when Míla withdrew access to local loops for VDSL, because Míla had decided to apply vectoring on its connections.

#### **3.41.4 The position of the PTA**

The PTA considers there to be no need for changes to this provision in the Draft in the light of Míla explanations and Vodafone comments.

### ***3.42 VULA technical conditions – Appendix 6***

#### **3.42.1 General**

Appendix 6 deals with VULA technical conditions on Page 8.

### **3.42.2 Opinions of parties to the market**

**Snerpa** made general and detailed comments on Appendix 6 and also made a proposal for a new Míla Reference Offer for VULA.

In these comments, Snerpa argues that VULA is a solution that belongs to Market 4 for wholesale local loops, which would replace lease of local loops. VULA could be a technically independent solution which will also be provided on the Míla GPON network where Míla cannot provide physical access to fibre-optic local loops with point-to-point protocol. VULA should be seen as a substitute product for a network operator operating his own equipment on local loops leased from Míla where he is then in direct competition with Míla 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 service is offered and assembled. With VULA, Míla 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 Míla customer for VULA needed to be able to provide its customers with any kind of service over virtual access without this entailing additional costs.

Snerpa proposes that the VULA solution be operated by the same Míla department that currently handles the local loop network, i.e. “Access Network” and that a “boundary fence” be erected so that the department “Access Systems” which operates the bitstream network, has no information about customers in the VULA solution. As VULA is a solution in the market for local loops, it does not belong to Access Option 1 or 2.

Snerpa proposes a tariff based on higher set-up charges that will be collected for each end user, but with monthly charges that are lower than the prices currently in force for A1. This is in line with investment in all equipment which returns lower opex than through leasing traditional access over A1. Prices shall be independent of the type of traffic or communication protocols through the connection, speed profile or other attributes.

Snerpa submitted a separate document with a proposal for agreement on VULA trial set-up and proposed that the PTA required Míla to make a separate Reference Offer for VULA

### **3.42.3 Míla’s opinion**

In Míla’s opinion, Snerpa did not submit material comments on the Míla VULA offer but rather submitted its own proposals for a VULA Reference Offer. Snerpa also submitted its own ideas for definition of VULA and strongly emphasised that VULA should be on the market for local loops (M4/2008).

The referenced sentence in the Snerpa comments from the BEREC document (BoR (13) 22) cannot be considered particularly definitive in the opinion of Míla as it states that electronic communications regulatory bodies could *consider* imposing obligations on

Market 4 but that this would depend on national circumstances in each instance. Snerpa also made an incorrect definition of VULA where it was said to mean “Virtual Unbundled Local Loop Access.”

VULA was a solution for providing access to those requesting access to bitstream service where they could not have direct access or physical access to local loops for some reason. VULA was thus a solution on the bitstream market (M5/2008) to resolve a technical problem on Market 4. One could therefore say that VULA was between Markets 4 and 5. In a BEREC report from 1 October 2015 on how regulatory bodies have resolved VULA “Common Characteristics of Layer 2 Wholesale Access Products in the EU” one can see that of the ten countries examined in the report, five of them imposed obligations on Market 5, four on Market 4 and one on Market 3a/2014. It was therefore clear that there was no consensus within the EEA as to which market VULA belonged.

Snerpa maintained that within Míla there were two departments operated, on the one hand, “Access Network” “and on the other hand “Access Systems”. Snerpa submitted the requirement that “Access Network” handle service on M4 and that “Access Systems” handle service on M5. Those handling operations on M5 must not be involved in operations on M4, and as VULA was on M4, then “Access Systems” must not have any information about service on VULA.

The fact of the matter is that today there is no department or division called “Access Network” in Míla. There was a division operating in Míla called “Basic Systems” which handled design of cabling, both for trunk line cables and local loops. The division “Network Implementation Division” was responsible for work on laying cable and setting up equipment in street cabinets. In addition to this, the divisions “Hosting” and “Service and Sales” were involved in the operations to some degree. It should be pointed out that it was in reality not possible to operate according to Snerpa ideas as employees in “Access Systems” operated the equipment and thus needed to have full access to the equipment to be able to perform their duties. Snerpa should be well aware of this. Míla objected strongly to this attempt by Snerpa to endeavour to make it impossible for Míla to operate its systems and Míla demanded that the PTA reject these ideas from Snerpa, having in mind the operational security of networks owned and operated by Míla.

Míla pointed out that the Míla Reference Offer on VULA was based on analogous European Reference Offers, for example from TDC in Denmark and Telenor in Norway. If anything, the Míla Reference Offer gave more options to those requesting access than the above specified offer.

Míla also pointed out that Snerpa was the only electronic communications company to raise objections to the Míla VULA offer. This indicated that the electronic communications companies that represented by far the largest part of the electronic communications market considered the offer to be adequate in this respect.

Míla deemed it not possible to deal materially with individual Snerpa assertions on VULA or with Snerpa deliberations on the company’s view of what VULA service was or how it

should be. Míla had however no option other than to point out that the calculations that were to demonstrate better gross profit from service if the company owned the equipment were, to put it mildly, defective. In the Snerpa example it seems that almost all opex (leased lines, hosting, electricity, reserve power and labour) has not been included in the calculation which is manifestly incorrect, as all these costs were included in the prices for VULA. Nor had these calculations included level of usage of equipment, though it is obvious that equipment with more users would have had better usage than was possible to achieve with many items of equipment where each had few users.

Snerpa asserted that local loops from street cabinets would cost 85% of the cost of a local loop from a telephone exchange. In this instance, Snerpa appears not to be aware of planned changes to cost analysis on Market 4, where a Decision from the PTA on this matter is expected in the near future and where this approach will be discontinued. The Snerpa ideas about being able to pay much lower charges for VULA were therefore completely without grounds.

Míla therefore rejected the above specified Snerpa ideas about the VULA offer, and considered there to be no logical arguments for altering the Reference Offer as a result of these ideas.

#### **3.42.4 Snerpa comments in the latter consultation**

It was stated in Snerpa comments that Míla had not taken a material position on prior comments by Snerpa and had therefore not rejected them. Míla had made various comments on the presentation of Snerpa proposals, and there was little to add to this as the PTA had mainly accepted them. It was therefore unlikely to serve any useful purpose to argue them further.

The PTA had accepted the Snerpa position such that VULA was a solution that should, to the extent possible, emulate a service purchaser operating his own bitstream equipment.

Snerpa could however not accept the Míla interpretation that representatives of by far the largest part of the electronic communications market had raised no objections to the Míla VULA offer as no other company than Snerpa had commented on it. The fact of the matter was on the other hand, that representatives of by far the largest part of the electronic communications market did not have the same interests as Snerpa for successful introduction of VULA. Snerpa had waited for 3 years for such terms and conditions being ready and it was unlikely at this point in time that other electronic communications companies were in the same position. For this reason, Snerpa rejected these comments as completely without grounds.

At this stage, there was nothing other to do than to accept the Míla version of VULA introduction in the main. It should however be noted that Míla had in no way taken the position or had meaningful cooperation with Snerpa on the manner in which the service would be implemented. As had been stated, Snerpa had repeatedly sent proposals to Míla on the implementation and had requested reactions. Nothing had been received from Míla, other than that the implementation would be provisionally like Access Option 1.

It was in no way certain that the VULA solution would be well received, or that it would enjoy general popularity and thus would be further developed. Míla had not demonstrated any willingness to cooperate on this issue up to this point in time and Snerpa considered it almost certain that this would not happen without the intervention of the PTA. The fact was that Snerpa, no less than Míla, was forced into the VULA solution, even though there was no plan to use vectoring in Ísafjörður. If Snerpa were the only party to use VULA then in the opinion of Snerpa it was predictable that further development of the service would always be a struggle which would be time-consuming and burdensome and in addition to this, it would lead to a low service level for end users.

Snerpa would also like to draw attention to the Míla condition to the effect that if an electronic communications company that currently used A1 or A2 were to request VULA service then all of that party's A1/A2 service would be converted to VULA. There were no arguments to support this and it was rejected by Snerpa. The reason for this was that Snerpa currently sold access in competition with the Míla access system, to its own systems through A1 and A3 and the competitive position would be very significantly distorted by this.

Snerpa also wish to point out that the company currently used more than one "untagged VLAN" for Internet channels for users on its own equipment but never more than one on each port. This arrangement would continue to be necessary for various technical reasons, e.g. access of third parties to ports (resale). A proposal was made that item 3.2 would be amended to the following: *"A service purchaser can furthermore specify that Internet channels be "untagged VLAN" and then the relevant VLAN number would be "tagged" through the backbone."*

With regards to the Snerpa requests regarding the possibility of controlling access to the service web for VULA it should be noted that they had been presented when it was not known that Míla would offer an API portal to its access systems. This meant that those requests were not necessary as Snerpa and others could elaborate such solutions through the API portal. Míla would thus not need to develop a user interface on service web for VULA. This could be done entirely through the API portal. A proposal was made that where the phrase "Míla service web" occurred in the appendix that it be changed to "Míla service portal".

With respect to Item 3.6, Snerpa believed that regarding selection of speed there was significant limitation given existing possibilities in its own equipment. Snerpa could however accept that initially this speed could be used but that the wording should be such that Míla should take into account the needs of service purchasers as long as the number of additional line profiles did not exceed five.

Finally, it needed to be clear that a service purchaser could configure more than one private network (VLAN), unicast or multicast on individual ports and channel them with the same VLAN to ALS, along with quality control (DSCP). If this was what is meant in Item 3.9 then there needed to be a clear answer from Míla that this was the case.

### **3.42.5 Míla position on comments from Snerpa in the latter consultation**

With respect to the Snerpa comments that all A1 and A2 connections would be transferred to VULA if a service purchaser purchased VULA connection it was stated that there were several reasons.

1. VULA was not a new general service but was rather a product which was intended to solve problems for those parties that wish to have direct access to local loops and to install their own equipment there. It was clear that if the party requesting the action would install his own equipment, then he would install all his connections on that equipment. This was then not an unreasonable condition on the part of Míla.
2. VULA service was an expensive service from Míla and it was clear that if only few individual connection of a service provider was moved to VULA, then the business model used to determine a price for the service would be broken.
3. The level of complexity in systems operation increases significantly if an electronic communications company can have on the same equipment (A1) or on the same A2 area, both VULA connections and normal A1 and A2 bitstream connections. This refers to both management of connections and to the technical level of complexity in configurations in DSLAM/ALS equipment.
4. Some VULA services, e.g. warnings from VULA equipment, could only be implemented for each area or equipment.

In other respects, Míla did not understand the Snerpa comments with respect to how VULA service, should distort the competitive positions of A1 and A3 connections on Snerpa's own equipment.

Míla considered that the speed profiles presented by Míla in the Draft Reference Offer should suffice to fulfil service purchasers' needs at this point in time. Míla nevertheless considered it perfectly acceptable that a service purchaser submit requests for other speeds than were specified in the VULA offer. Míla would examine those requests with a positive disposition in each individual instance. Míla would subsequently revise the speed tables in accordance with the service offer already notified, i.e. 1 Gb/s on residential connections when the Reference Offer was published.

With respect to the Snerpa comment about special VLAN ids on interconnections and about user conditions, Míla meant in this instance, that the service purchaser decided the VLAN id to the endpoint equipment and to his IP equipment. Míla also offered VLAN private networks on non-residential connections where QoS settings were respected from the service purchaser. Multicast and Unicast wear on offer on non-residential connections with the same VLANs used by TV distributors.

### **3.42.6 The position of the PTA**

Snerpa makes no direct material objections to specific articles in Appendix 6 to the Míla Draft Reference Offer. The company is correct in saying that VULA is a solution that resolves a problem related to access to local loops. The solution is however provided with access to a product which belongs to wholesale access to bitstream connections. The local loop market (M4/2008) and the bitstream market (M5/2008) are closely related and for this reason were analysed together in a single PTA Decision no. 21/2014. In the next analysis of the said markets, which will be based on the ESA Recommendation on the relevant markets from 2016, are two sides of the same coin and are both covered under a definition numbered Market 3, i.e. local loop market no. 3a and bitstream market no. 3b. A development in technical solutions for access networks and bitstream solutions operated on these networks has taken place, such that it is not possible to operate many bitstream networks on the same local loop network or to provide access to local loops or sub loops, and VULA which solves this problem, can therefore be covered by both of them.

The PTA has chosen the option that VULA shall belong to Market 5, the bitstream market, first and foremost as the equipment on which the product is based is bitstream equipment and is built on bitstream solutions. The part of Míla which operates bitstream systems therefore also operates the VULA solution. The most obvious option is therefore that access to this product and terms and conditions for access, should be described in the Reference Offer for bitstream access, as is done in the Appendix 6 in question to the Draft Reference Offer.

VULA is, as stated by Snerpa, a solution that shall to the extent possible emulate a service provider operating his own bitstream equipment.

The PTA sees no reason at this point in time to propose changes to the provisions in the draft that deal with the VULA solution. In this instance it is important that the VULA solution is implemented as early as possible and the PTA considers the Míla proposal as submitted to be well-suited to this end.

If the VULA solution is well received by the market and widely used by service purchasers, one can consider it likely that the VULA solution will develop with use as the needs of service purchasers become clearer and adapt in line with the needs of end users of the service. There will be appropriate consultation with market stakeholders on such changes before the PTA endorses such changes to the appropriate sections or appendices of the Reference Offer.

The price for the VULA product is part of a separate case on Míla cost analysis on the bitstream market which is being processed by the PTA parallel to the case here under discussion. This price list will be a separate Appendix to this Reference Offer. For this reason, no material position will be taken on discussion of that matter here, and Snerpa, like other parties with interests to protect, is urged to submit comments in the case related to Míla cost analysis for bitstream access.

Because of the Snerpa comments in the latter consultation it must be stated that in the prior consultation, Snerpa did not raised direct material objections to the submitted draft, but submitted its own proposal for a VULA product. It was therefore not possible on the basis of this consultation, neither for Míla or the PTA, to take a position on such a product description. This does not however eliminate the possibility that at a later stage the Míla VULA product will develop in line with its purchasers' needs.

### ***3.43 Regional division for service level and service guarantee criteria – Section 2 in Appendix 7***

#### **3.43.1 General**

In Section 2 of Appendix 7, which bears the title “Definitions” the concepts “delivery time”, “delivery precision” and “faultless delivery” are defined.

#### **3.43.2 Opinions of parties to the market**

**Snerpa** commented on the provision. Snerpa said that in the provision it was stated that at least 90% of orders should be processed/delivered within faultless time criteria. It was then stated that delivery criteria would be according to 3 regions that would be defined in more detail on the Míla website. The link to the definition ended in the existing Appendix 7 without the definition of the regions being shown there either. Snerpa asked whether it should be possible for the provision in Appendix 7 in the Draft Reference Offer to be defined outside the Appendix, i.e. on the Míla website and then without there being a direct reference to it.

#### **3.43.3 Míla's opinion**

It was stated in the Míla reply that the division into regions was based on the same division in the service level agreement for universal services. Region 1 covered urban areas where Míla or its partners had operating premises. Region 2 covered areas within a 10 mile radius outside urban areas where Míla or its partners had operating premises. Region 3 was an area outside a 10 km radius from operating premises of Míla or its partners.

Míla accepted this comment and would add the division into regions into its Reference Offer. On the other hand, the location of operating premises could change during the period of validity of the Reference Offer and that was the reason why reference was made to the Míla website. Míla saw no reason to refer to a precise URL as such references had a tendency to become unavailable with the passage of time. It should not be difficult for service providers to find correct information with a search engine.

Míla would therefore add the above specified definitions for division into regions to Section 2 in Appendix 7 to the Draft Reference Offer.

#### **3.43.4 The position of the PTA**

The PTA considers there to be no need to prescribe amendments to these provisions in the draft other than those that Míla has already proposed to make.

### ***3.44 Orders and service level and service guarantee criteria – Section 3 in Appendix 7***

#### **3.44.1 General**

Section 3 in Appendix 7 deals with orders and discusses among other things, delivery precision and delivery time. With respect to delivery provision it is stated among other things that 90% of orders shall be delivered within the prescribed delivery criteria

#### **3.44.2 Opinions of parties to the market**

**Snerpa** commented on the Section in question and referred to the fact that there was no mention of what would happen to the 10% that were outside the above specified limits, neither with respect to a maximum delivery time nor maintenance time.

#### **3.44.3 Míla's opinion**

In Míla's reply it was stated that all requests were processed as quickly as possible. Míla would therefore endeavour to have better KPIs than the specified limits which would mean that all things being equal only exceptional instances would be outside the limits. Míla however considered that it was not possible to set a maximum delivery time as circumstances could be such that it might be impossible to deliver connections or maintenance within a fixed time limit, such as weather or other external factors. Míla however proposed to include the following sentence at appropriate places in Section 3 (orders) and 4 (malfunctions):

*"Requests which fall outside the reference limits will be processed as quickly as possible."*

#### **3.44.4 The position of the PTA**

The PTA considers there to be no need to prescribe amendments to these provisions in the draft other than those that Míla has already proposed to make.

### ***3.45 Malfunctions and service level and service guarantee criteria – Section 4 in Appendix 7***

#### **3.45.1 General**

Section 4 in Appendix 7 deals with malfunctions and discusses among other things, delivery precision and delivery time for malfunctions.

#### **3.45.2 Opinions of parties to the market**

**Snerpa** commented on this provision and considered it not normal that less stringent limits should be set for processing malfunctions than for processing orders and that the reference limits in regions 2 and 3 were such that 85% and 80% were adequate. And in these instances it was also the case that a longer period of time was given for repairing a malfunction in regions 2 and 3 than in region 1. Snerpa considered that for the reference instance one

should allow for the same length of time for repairs in all regions as repairs that required civil works were excluded.

Snerpa also commented that it seemed that a large number of malfunctions was needed before the limits could be exceeded. Even in such instances, compensation could only be received for part of the malfunctions. The measuring methodology was based on the relevant region (which was defined elsewhere than in the Reference Offer). According to the methodology, 3 malfunctions that exceeded the limits for an area with 30 users would be calculated as follows:  $100 - 3/30 * 100 = 100 - (3/30 * 100) = 100 - 10 = 90$ . What do these numbers mean? Equivalent of 90 malfunctions?

### **3.45.3 Míla's opinion**

With respect to the Snerpa comments, Míla answered that the time limits were the same as in the newly endorsed Reference Offer for M4/2008. Míla considers it normal that there were less stringent time limits on malfunctions than on new connections as a malfunction could be complex and it could be necessary to bring in a specialist, while installation was based on a standard procedure and did not require changes to connections in all instances. Míla considered that if one always had to use 90% as a limit then one would need to increase the number of repair days correspondingly. One could for example point out that in the universal services criteria the repair time for 90% of instances was set at 10 working days for region 3. Míla therefore saw no reason to change this provision.

With respect to the latter Snerpa comment it was stated in Míla's reply that Snerpa was right in saying that the calculation formula was not exactly correct. The calculation formula should be as follows:  $\text{Delivery time in \%} = [\text{number of malfunctions that have not been rectified within time limits of the area during the period}] / [\text{number of malfunctions for a service purchaser in the area during the period}] * 100$ . Míla would correct the formula, both for xDSL and GPON.

### **3.45.4 The position of the PTA**

The PTA considers there to be no need to prescribe amendments to these provisions in the draft other than those that Míla has already proposed to make.

## ***3.46 Compensation – Section 5 in Appendix 7***

### **3.46.1 General**

Section 5, in Appendix 7 deals with compensation that Míla shall pay service purchasers if the company does not meet quality criteria.

### **3.46.2 Opinions of parties to the market**

**Snerpa** asked how performance was documented. Were there listings of orders/malfunctions at the end of each month in the service portal which showed performance in meeting objectives or should the service purchaser record these listings himself?

Then Snerpa asked what would happen if a line for some reason (for example request wrongly recorded by Míla employee) was faulty for a whole month? Was 35% of the monthly charge repaid or the whole charge?

Finally, Snerpa asked what would happen if delivery criteria were not met. Was 35% of the set-up charge repaid, and in that instance, only for the connections that did not meet the criteria (and only part of those connections that did not meet the criteria)?

### **3.46.3 Míla's opinion**

With respect to Snerpa's first question, Míla answered that as was stated in Section 1 of Appendix 7, Míla would publish KPI measurements on the Míla website for each month. Section 5.4 on payment of compensation described the process for such compensation payments.

With respect to the second question. Míla stated that according to the Draft Reference Offer, the maximum compensation was 35% of the monthly charge. When a request was completed, the electronic communications company received notification to this effect. Míla, could therefore not see how a request could have been incorrectly closed for a month without the service provider commenting on this.

With respect to the last question, Míla stated that compensation only covered the monthly charge as is stated in the Reference Offer (Section 5.3). Compensation only covered the connections that did not meet the criteria, i.e. If KPI was 90% and Míla achieved only 85% then compensation was paid for the 5% outside the reference limits.

### **3.46.4 The position of the PTA**

The PTA will not propose amendments to these provisions in the draft.

## ***3.47 Limitations on compensation – Section 5.5 in Appendix 7***

### **3.47.1 General**

In Section 5.5 in Appendix 7 in the Draft Reference Offer one can find a provision which bears the title "Limitations". It is worded as follows:

*"This quality level and quality guarantee only applies to bitstream service which is owned by and/or operated by Míla and not on the local loop networks of other parties.*

*In those instances, when it comes to light that a cable or other equipment is faulty then they are not considered to be exceptions.*

*Compensation is only paid to service purchasers who have 10 or more orders/faults in each category and area in the month in question."*

### **3.47.2 Opinions of parties to the market**

Snerpa asked why this limitation with respect to 10 or more orders/malfunctions was set. As these criteria were also in the current Reference Offer it would possibly be normal if the PTA were to examine the impact of the criteria and limits on compensation payments

up to this point in time. It should be revealed here that Snerpa has never sought or received compensation payments as a result of these provisions.

### **3.47.3 Míla's opinion**

With respect to the first Snerpa comment, it was stated in the Míla reply that the company was not aware that the obligation to compensate was in the existing Reference Offer on Market 5. The reason for this limit was that Míla considered it not normal that a very small number of malfunctions that were outside the quality limits could cause compensation payments. In addition to this, the provision was intended to remove very small claims as the handling costs were many times greater than the compensation.

### **3.47.4 The position of the PTA**

Last 21 October, the PTA informed Míla that the Administration planned to reduce the above specified order and malfunction limits from 10 to 5, in accordance with the newly endorsed Míla Reference Offer on the market for local loops, see PTA Decision no. 9/2016. A reply was received from Míla last 11 November. Míla considered it more normal to use 10 as a reference rather than 5 orders/malfunctions without supporting this further with arguments.

The PTA considers it normal to use 5 or more orders/malfunctions as appeared without objections in the above specified PTA Decision no. 9/2016. In the opinion of the PTA, the limitation would be excessive were it 10 or more orders/malfunctions. It is however reasonable to have some limitation in order to prevent the incurring of handling costs in connection with very low sums of money. With the above in mind, Section 5.5 in Appendix 7 shall be worded as follows:

*“This quality level and quality guarantee only applies to bitstream service which is owned by and/or operated by Míla and not on the local loop networks of other parties.*

*In those instances, when it comes to light that a cable or other equipment is faulty then they are not considered to be exceptions.*

*Compensation is only paid to service purchasers who have 5 or more orders/faults in each category and area in the month in question.”*

### *Decision*

**The Post and Telecom Administration agrees that the new Míla ehf. Reference Offer for wholesale bitstream access which is based on the revised Míla Draft Reference Offer which was delivered to the PTA on 12 October 2016 comes into force from and including 1 August 2017 with those changes prescribed in the Appendix to this Decision.**

**Within 3 months from the coming into force of this Decision, Míla shall deliver to the Post and Telecom Administration a draft of revised Provisions 3.12 and 4.12 in Appendix 2 and of Provision 3.12 in Appendix 3 to the Reference Offer where**

**allowance shall be made for transit of IPTV service through Access Option 3 being on offer, both in xDSL and GPON Míla networks.**

**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.**

*Reykjavík, xx June 2017*

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Hrafnkell V. Gíslason

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Óskar H. Ragnarsson

Accompanying document:

Appendix on changes to the provisions of Míla Reference Offer