



Consultation Document
on
Proposed updated
Rules for Access to Physical Facilities

20th January 2020

www.citc.gov.sa

Introduction

The Communications and Information Technology Commission (CITC) in accordance with the Telecommunications Act issued by Royal Decree No. (M/12) dated 12/03/1422H corresponding to 04/06/2001, Telecom Act Bylaw and CITC ordinance issued by Council of Ministers Decision No. (74) Dated 5/3/1422H corresponding to 28/05/2001, has the objective to regulate the Telecommunications and Information Technology Sector in the Kingdom of Saudi Arabia (KSA).

CITC is empowered by its Statutes to establish the terms and conditions that govern public communications network access in the (KSA), with the objective of encouraging fair competition in all fields of and Information and Communications Technology (ICT).

As part of CITC's regulatory actions, the Commission has approved the Rules for Access to Physical Facilities by Decision No. (333) dated 7/4/1437H with the following purposes:

- ▶ Establish rules governing access to physical facilities, including collocation and sharing of physical facilities, with a view to increasing economic and technical efficiency, reducing the burden of investment and promoting the provision of high quality services.
- ▶ Foster investment in and deployment of next generation networks.
- ▶ Reduce public disruption during the construction of outside plant facilities.
- ▶ Assist in ensuring that all Service Providers are treated fairly and in a non-discriminatory manner with respect to the provision of access services.
- ▶ Encourage good practice with respect to access services between Service Providers.
- ▶ Establish a process for dealing with access disputes.

- ▶ The creation of a favourable atmosphere to promote and encourage fair competition on all telecommunications markets in the Kingdom.

In view of the technological and market developments in ICT ecosystem since the current rules were issued, as well in the light of the international best practice, CITC has concluded that the rules need to be updated and new document issued.

Considerations and purpose of the update include:

- ▶ Lack of existing parallel infrastructures for the provision of resilient and competitive services by multiple service providers.
- ▶ The need to follow a comprehensive regulatory approach, through provisions that are legally binding on all service providers, with additional remedies applying on service providers that have been designated as dominant in relevant markets.
- ▶ The purpose of the update is to:
 - facilitate the upgrading of backhaul of towers to fiber, so as to enable new technologies such as 5G;
 - optimize the geographical rollout of networks, by facilitating such rollout in commercially less attractive areas; and
 - resolve geographical dominance in physical infrastructure and enhance infrastructure competition.

With this public consultation, CITC seeks the views of interested parties on the attached proposed documents.

The Consultation process

Respondents are invited to submit their comments to the proposed documents by making use of the template to comment included must be received by the CITC no later than [2nd March 2020] at 3:00PM (KSA time). Any responses that do not comply with these requirements will not be taken into account.

Comments filed in relation to this Consultation may be submitted to:

- ▶ E-mail address:

InfraICT@citc.gov.sa

- ▶ Hand-delivered (paper and electronic) at the CITC premises, or by mail to:

Communications and Information Technology Commission (CITC)
Prince Turki Ibn Abdulaziz Al Awwal Road and Al Imam Saud Ibn
Abdulaziz Road
P.O. Box 75606
Riyadh 11588
Kingdom of Saudi Arabia

Responses should be properly justified with supporting arguments, information and evidences.

The consultation document and any responses to it are not binding on CITC. The Commission may publish the comments on its website if it deems appropriate and in conformance to its Statutes. In general, CITC does not consider such responses to be confidential.

Template to comment

In order to participate in this consultation process, stakeholders have to provide their comments through the template included below.

Article number	Justified comment

Table 01: Template to comment to the consultation process



Rules for Access to Physical Facilities

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1. Introduction

- (1) The Communications and Information Technology Commission (CITC, hereinafter the "Commission") Statutes set out Rules, rights, and obligations with regard to:
 - a. Access to Public Telecom Networks, and
 - b. Access by a Service Provider to Physical Facilities controlled by other Service Providers to facilitate the provision of telecom services.
- (2) To deploy networks, Public Network Operators require access to Property ("Rights-of-Way"). Such use of Rights-of-Way is subject to the consent of public authorities, the owner of the Property, and relevant rules and regulations, in order to minimize interference with the use of public property.
- (3) Right-of-Way is a scarce resource and considered to be a key factor for effective competition and growth in the telecom market. Therefore, all Service Providers must exploit this resource efficiently and effectively, and in accordance with the Commission Statutes.
- (4) Promoting and facilitating Service Providers' access to Physical Facilities will contribute to the objectives stated in the Telecoms Act regarding in particular:
 - a. the provision of advanced and adequate Telecom Services at affordable prices;
 - b. the provision of access to the Physical Facilities of Public Telecom Networks, equipment and related services at affordable prices; and
 - c. the creation of a favorable atmosphere to promote and encourage fair competition in all fields of Telecoms.

2. Definitions, Purpose and Scope of Rules

2.1 Definitions

- (1) The terms and expressions defined the Telecom Act, its Bylaws and other Commission statutes shall have the same meaning in these Rules, unless specified otherwise.
- (2) The following terms and expressions shall have the meaning assigned to them hereunder:
 - a. "Public Network" means any network used for the provision of telecom, electricity, gas, heating, water, transport or other utility services to the public.
 - b. "Physical Facilities" include non-electric physical elements of any Public Networks such as spaces, buildings, rooms, manholes, hand-holes, cables, cabinets, ducts, pipes, towers, poles and masts, among others, that are already hosting or capable of hosting Telecom Network elements.
 - c. "High Speed Telecom Network" means any Telecom Network which is capable of delivering broadband access services at speeds of at least 100 Mbps.
 - d. "Telecom Operator" means any Person licensed by the Commission to operate a Telecom Network used by that Person or by another Person to provide a telecom service to the public.
 - e. "Access to Physical Facilities" means the making available of Physical Facilities and related services to a Telecom Operator, under defined conditions and for the purpose of developing High Speed Telecom Networks.
 - f. "Access Seeker" means any Telecom Operator requesting Access to Physical Facilities controlled by another Telecom Operator.
 - g. "Access Provider" means any Telecom Operator requested to provide Access to Physical Facilities under its control.
 - h. "Ancillary Access Services" mean any additional services, such as air conditioning and power supply, which are required for the provision of Access to Physical Facilities.
 - i. "Physical Access Agreement" means an agreement concluded for the provision of Access to Physical Facilities and Ancillary Access Services by an Access Provider to an Access Seeker.



j. "Property" means any estate whose surface is strictly limited to the confines of a single residential or commercial compound, facility of any kind, office or other building or real estate, also including clusters of buildings in the same area, under common ownership or control.

k. "Days" means calendar days, unless stated otherwise.

2.2 Considerations and Purpose of the Rules

(1) Most areas in the Kingdom lack the existence of parallel infrastructures for the provision of resilient and competitive services by alternative Telecom Operator.

(2) The Commission follows a comprehensive regulatory approach in these Rules, through provisions that are legally binding on all Telecom Operators, with additional remedies applying on Service Providers that have been designated as dominant in relevant markets.

(3) Sharing Physical Facilities can:

a. minimize the amount and cost of civil works, as well as their social and environmental impact through pollution, public nuisance, traffic congestion and underground cable damage; and

b. support fiber investment, and the rollout of fixed and wireless networks by multiple and alternative Telecom Operators, enabling the rollout of new technologies such as 5G and Fiber-to-the-X (FTTX), by reducing costs and avoiding duplication of civil works.

(4) The purposes of these Rules are to:

a. foster investment in, and deployment of, High Speed Telecom Networks and expanding network coverage in new areas;

b. facilitate the upgrading of backhaul of towers to fiber, so as to enable new technologies such as 5G;

c. optimize the geographical rollout of High-Speed Telecom Networks across the Kingdom, by facilitating such rollout in commercially less attractive areas;

d. resolve geographical dominance in physical infrastructure and enhance infrastructure competition;

e. reduce civil works required for the installation of Physical Facilities and public disruption during the construction of outside plants;

- f. ensure that all Telecom Operators are treated fairly and in a non-discriminatory manner with respect to the provision of services of Access to Physical Facilities;
- g. establish a process for dealing with Access to Physical Facilities requests and disputes; and
- h. encourage good practice with respect to Access to Physical Facilities services between Telecom Operators.

2.3 Scope of the Rules

- (1) These Rules govern the rights and obligations for Access to Physical Facilities of all Telecomm Operators. Certain specific requirements apply only to Service Providers that have been designated as dominant in a relevant market.
- (2) The Rules shall provide a basis for any Commission decision in respect of any complaints or disputes that may arise in connection with matters covered by these Rules and are subject to the Commission's enforcement or dispute resolution powers under any Commission Statute.
- (3) The Rules also address the development and publication of a Reference Offer ("RO") by Dominant Service Providers, which shall be a publicly available, include legally binding Rules and procedures for the provision of Access to Physical Facilities services, and define a standard set of commercial, technical and operational conditions, in accordance with the principles set out in these Rules.
- (4) These Rules also provide for the establishment of a multilateral working group to coordinate the technical, operational and commercial standards and procedures of joint construction and sharing of Physical Facilities required for the deployment of High-Speed Telecom Networks.

3. Rules Applicable to All Telecom Operators

- (1) The provisions of these Rules shall apply to all relevant networks, with no discrimination between fixed and wireless technologies.
- (2) Access to Physical Facilities and the provision of Ancillary Access Services should be transparent, fair and non-discriminatory.
- (3) Each Telecom Operator has the right to request Access to Physical Facilities of a Public Network that are suitable for the deployment of High-Speed Telecom Networks.
- (4) Access Providers must meet all reasonable requests for Access to Physical Facilities, under fair and reasonable terms and conditions, including on price, consistent with the obligations and recommendations set out in these Rules.
- (5) Any refusal of an Access to Physical Facilities request must be reasonably justified, transmitted in writing to the Access Seeker, and will be subject to the Commission's approval unless accepted by the Access Seeker.
- (6) Where Physical Facilities of a telecom network are installed, owned or operated pursuant to an agreement or other entitlement giving a Telecom Operator an exclusive right to install, own or operate such infrastructure in a Property, to the exclusion of any similar Physical Facilities by other Telecom Operators, such Physical Facilities shall be deemed to constitute an essential facility for the purposes of these Rules.
- (7) In addition to any obligations under these Rules or another Commission Statute, Access Providers owning, operating and/or controlling Physical Facilities that qualify as essential facilities under these Rules or any other Commission Statute:
 - a. may not charge any fees for Access to Physical Facilities that exceed the Access Providers' cost-based charges, including proper consideration of a reasonable cost of capital, according to international best practice and the Commission's determinations;
 - b. may not pass any cost inefficiencies through the tariffs or charges of Access to Physical Facilities services, tariffs or charges must be priced similar to networks in other public areas.
 - c. may not refuse to meet a request for Access to Physical Facilities by invoking any temporary or geographically defined exemption granted by the Commission with regard to the Access Providers' obligations on Access to Physical Facilities;

- d. must ensure that their obligation to offer Access to Physical Facilities to other Telecom Operators may not be excluded through an agreement with the parties owing or controlling the Property in which the essential facility is installed or through any other obstacles under the Access Providers' control.
- (8) Any disputes between an Access Seeker and an Access Providers concerning the conclusion, content, interpretation, amendment or termination of a Physical Access Agreement must be referred to the Commission by either party pursuant to the Telecom Bylaws.
- (9) In these Rules, any references to a written request shall mean a request by letter, fax or electronically (email, online communication or similar technical means).

4. Rules Applicable to Dominant Service Providers

4.1 Scope of Obligations

- (1) Dominant Service Providers' obligations under these Rules' shall apply with regard to any markets in which they have been designated as Dominant by the Commission, and the corresponding non-discrimination, transparency, pricing and/or unbundling remedies imposed on them with regard to obligations for the grant of Access to Physical Facilities in those markets.
- (2) The provisions of these Rules' Sections 3 and 4 shall be without prejudice to any other obligations of Dominant Service Providers set out in any other Commission Statute.

4.2 Non-discrimination

- (1) Dominant Service Providers with a non-discrimination obligation for Access to Physical Facilities services must:
 - a. provide equivalent Access to Physical Facilities services in equivalent circumstances to other Telecom Operators, also including their own Affiliates or commercial partners, on the same terms and conditions regarding, in particular, information, timescales, price, quality and service level.
 - b. provide Access to Physical Facilities to other Telecom Operators by means of the same systems and processes, in order to ensure equivalence of access.

4.3 Transparency

4.3.1. Publication of a Reference Offer (RO)

- (1) Dominant Service Providers with an obligation to publish standard terms and procedures for their Access to Physical Facilities services must do so in a Reference Offer ("**RO**").
- (2) A RO must be used by a Dominant Service Provider to conclude individual Physical Access Agreements with other Telecom Operators.
- (3) A Dominant Service Provider may not use terms and conditions, also including prices or charges, that are different from those set out in the RO with regard to the same services for the grant of Access to Physical Facilities and Ancillary Access Services, until and unless these terms and conditions are included in



- the RO and offered to all other Telecom Operators receiving Access to Physical Facilities Services.
- (4) A Dominant Service Provider shall prepare a RO within 30 days of being so directed by the Commission and submit it to the Commission for approval. The Commission may request changes to the draft RO, which the Dominant Service Provider must incorporate within 15 days, and re-submit it to the Commission for its approval. If the Dominant Service Provider fails to incorporate in time, the Commission may adopt and publish a decision ordering the Dominant Service Provider to provide Access to Physical Facilities services on the terms and conditions requested by the Commission and published in its decision.
 - (5) A Dominant Service Provider must publish its RO on its website within 15 days after approval by the Commission.
 - (6) A Dominant Service Provider shall periodically update its RO to take account of changes to these Rules or other Commission Statutes; services offered; the associated facilities, Ancillary Access Services, processes and systems; or any other regulatory requirements that may directly impact the terms and conditions of a RO.
 - (7) A Dominant Service Provider shall include in its RO an amendment procedure that describes how changes will be made to its terms and conditions. This amendment procedure must, in particular:
 - a. Specify how other Telecom Operators will be informed about proposed changes and the timeframe for such changes; and
 - b. Provide for submission to, and prior approval by, the Commission of the details of the proposed amendments.
 - (8) The Commission may, at any time, require changes to a RO pursuant to Commission Statutes.

4.3.2. Content of the RO

- (1) Annex A includes an illustrative outline of an RO, and a description of the minimum content.
- (2) The RO must include a full list of Access to Physical Facilities and Ancillary Access Services the Dominant Service Provider is required to offer, as well as the associated terms and conditions, including tariffs and charges, for each service and component of such service. A description of these services is provided in Annex D.

- (3) The Commission may require Dominant Service Providers to include certain services in their RO other than the ones described in the aforementioned Annex D.
- (4) Key Performance Indicators (KPIs) for all operational processes must be clearly stated in the RO without prejudice to the effects of potential stop-clock events that may happen during the process. The RO must also clearly state stop-the-clock events and the effect on the computation of time of operational processes. Stop-the-clock events must refer exclusively to events or delays that are not due to the responsibility of the Dominant Service Provider.
- (5) The RO shall define clear penalties to be applied to the Dominant Service Provider in case KPIs in provisioning or incident resolution processes are not met. Penalties will be proportional to additional delays in final provisioning time and to charges for providing such services. The RO may not impose caps on penalties. Penalties shall be either directly paid to Access Seekers or considered as a service credit in future wholesale invoices by deducting the penalty from the total amount charged for Access to Physical Facilities services.
- (6) Annex B includes a list of the minimum KPIs regarding Access to Physical Facilities service provisioning processes, which must be included in the RO. In addition to a list of KPIs that Dominant Service Providers must report quarterly to the Commission.

4.4 Pricing Principles and Cost Orientation

- (1) Where Dominant Service Providers are subject to a cost-orientation obligation under any Commission Statute, their charges for Access to Physical Facilities Services must be subject to the provisions of this subsection 4.4.
- (2) Dominant Service Providers may not pass any cost inefficiencies to other Telecom Operators through the tariffs or charges for Access to Physical Facilities or Ancillary Access Services.
- (3) Access to Physical Facilities and Ancillary Access charges must be free of any costs related to any universal service obligations of the Dominant Service Provider, and they should take into account any relevant subsidy granted by any governmental or other public authority in the Kingdom.
- (4) A Dominant Service Provider must provide volume discounts where these are applicable or required to ensure compliance with its non-discrimination or cost orientation obligations.
- (5) Any new or amended tariffs, charges or other pricing conditions proposed by Dominant Service Providers for the RO must be approved by the Commission.

If so requested by the Commission, Dominant Service Providers must provide the Commission with adequately detailed and documented cost studies supporting the proposed tariffs or charges, or their amendment. Those studies shall be based on causal cost allocation, including proper consideration of joint and common costs and a reasonable cost of capital, according to international best practice and the Commission's determinations.

- (6) In order to assess and approve any tariffs and charges proposed by a Dominant Service Provider, the Commission may adopt and apply a long run incremental cost (LRIC) approach, including proper consideration of joint and common costs, and a reasonable cost of capital, according to international best practice and the Commission's determinations. The Commission may apply or combine alternative approaches, such as relying on the costs that result from accounting separation systems or benchmarking of charges in other countries. If it so deems appropriate, the Commission may determine by decision, based on the above criteria, a Dominant Service Provider's applicable charges for access and interconnection services.
- (7) A Dominant Service Provider shall provide Access Seekers with the pricing terms and conditions applicable at the time of installing or adjusting any Physical Facilities or new infrastructures required to accommodate the request of the Access Seekers in question.

4.5 Unbundling of Services

- (1) Dominant Service Providers may not render the provision of their Access to Physical Facilities services conditional on their bundling with separate interconnection, access or other services that are not requested by the Access Seeker.

5. Joint Technical and Operational Committee and Multilateral Working Group

5.1 Joint Technical and Operational Committee

- 1) Telecom Operators entering into Physical Access Agreements should establish a joint technical and operational committee. The joint technical and operational committee should facilitate discussion on technical, operational, planning, billing and other service aspects of Access to Physical Facilities services and to reach mutually acceptable agreements in that regard.
- 2) The composition of the joint technical and operational committee should be agreed upon by the Telecom Operators and could be reconstituted as and when required.
- 3) The joint technical and operational committee should meet at regular intervals with an agenda agreed in advance and may cover one or more of the following areas:
 - a. New access locations;
 - b. Collocation;
 - c. Service quality;
 - d. Capacity requirements and rollout plans;
 - e. Fault analysis;
 - f. Billing processes;
 - g. Network and/or service changes;
 - h. Any other technical and operational issues associated with Access to Physical Facilities services.

5.2 Multilateral Working Group

- (1) A multilateral working group for the purpose of facilitating services for Access to Physical Facilities may be established. All concerned Telecom Operators shall participate in such a multilateral working group. The working group shall establish terms and procedures. The multilateral working group, if initiated, shall hold periodic meetings at least quarterly. The Commission may participate in such meetings.

- (2) The multilateral working group may establish several sub-groups which may consist of regulatory, operational or technical staff as required to address specific issues as they arise. Such working groups shall aim at establishing industry solutions, standards and procedures, including on issues such as:
- a. Operations and maintenance processes;
 - b. Management of services;
 - c. Technical standards;
 - d. Joint construction and co-investment;
 - e. Spare capacity;
 - f. Migration issues;
 - g. Introduction of new services.
- (3) Consensus and results achieved in the working group shall be compiled in written form. Telecom Operators are to implement the agreed results and where appropriate to include them in their Reference Offers and/or arrangements and submit the revised documents to the Commission in accordance with the Statutes. Results, outcomes and meeting minutes are to be made available to all members, other Telecom Operators and the Commission.

6. Dispute Resolution

- (1) Any disputes between two Telecom Operators on Access to Physical Facilities requests or agreements, a failure to reach to an agreement or its interpretation, or the rights and obligations of one of the parties may be referred to the Commission by either of the parties according to Chapter 6 of the Bylaw.
- (2) A Dominant Service Provider shall include in its RO a clear procedure for resolving disputes including notification, meeting and response times, and the time limit for resolution before the dispute is escalated to the next level.
- (3) The dispute resolution procedure of a Dominant Service Provider shall include an escalation process through various levels:
 - a. Level 1: Resolution at a Joint Technical and Operational Committee level within 30 days;
 - b. Level 2: Referral of dispute to senior management level of the concerned Telecom Operators for resolution, by request of one of the Telecom Operators, if the dispute has not been resolved in Level 1 within 15 days;
 - c. Level 3: Referral to the Commission in line with its Statutes by request of one of the Telecom Operators, if the dispute has not been resolved in Level 2 within 15 days.
- (4) A Dominant Service Provider's RO may set out a faster timetable for the resolution of disputes or their referral to the Commission.
- (5) If the Parties cannot agree on a consensual resolution by the Commission, either party to the dispute may file an application with the Commission for a mandated resolution. When dealing with such disputes the Commission shall apply, in particular, the relevant provisions of the Telecom Bylaw on the procedure to be followed and those of these Rules as regards the substance of the dispute.

7. Procedure and Principles for the Provision of services under the Rules

7.1 Procedure

- (1) Annex C lays down the procedure Access Seekers and Access Providers must follow for the request for and provision of services under these Rules.

7.2 Infrastructure Inventory

- (1) Telecom Operators shall keep an accurate and up to date "**Infrastructure Inventory**", in electronic format, of all their Physical Facilities, also indicating available spare capacity to support Access to Physical Facilities by other Telecom Operators.
- (2) The Infrastructure Inventory's records shall include as-built documentation, dates of installation and copies of related permits from the relevant authorities for the use of Rights-of-Way, public works, equipment installation and operation.
- (3) The above Infrastructure Inventory must also include regularly updated statistics on:
 - a. Number of information requests sent or received by the Telecom Operator relating to Access to Physical Facilities, the identity of the Telecom Operators concerned as Access Seekers or Access Providers as the case may be, and the days required each time to provide the requested information;
 - b. Number of Access Orders requests sent or received by the Telecom Operator relating to Access to Physical Facilities, the identity of the Telecom Operators concerned, number of Access Orders accepted or rejected and days required for the activation of Access to Physical Facilities in response to each Access Order.
- (4) Without prejudice to any other obligations of Dominant Service Providers set out in these Rules or another Commission Statute and to the extent practicable, Access Providers should endeavor to provide information on their Physical Facilities through an online system, accessible by any actual or potential Access Seekers. This system should include sufficiently detailed, complete, up-to-date and accurate information such as to allow Access Seekers to conduct a preliminary feasibility analysis that will help them focus and minimize their requests for information and reduce the percentage of Access Orders that are unfeasible.

- (5) Telecom Operators must provide information to the Commission once per year or, at the Commission's request, any other time, about their existing Physical Facilities. Operators of other Public Networks are encouraged to monetize their Physical Facilities and provide related information to Telecom Operators.

7.3 Commercial Aspects of Prices and Other Conditions

- (1) Charges and other terms for Access to Physical Facilities and Ancillary Access Services provided by Access Providers shall:
- a. be based on commercial agreements and not exceed the annual self-providing cost of Physical Facility comparable in design and location. Such self-providing cost can be determined through a fair pricing mechanism by the Commission;
 - b. be transparent, reasonable and cost-based whenever the Access Providers is designated as Dominant in a relevant market;
 - c. be cost-based if Access to Physical Facilities is requested to Essential Facilities designated as such by the Commission; and
 - d. be cost-based if the purpose of Access to Physical Facilities is to deploy FTTH in unserved areas and the Access Seeker provides to the Access Providers, with a copy to the Commission, relevant commitments, plans and details in this regard. This obligation aims to foster investment in Next Generation Networks and achieve the Kingdom's objectives to enable digital transformation and provide FTTH services to households;
- (2) Agreements must adhere to fair, reasonable and technically feasible conditions, including prices. The following conditions shall not be considered fair and reasonable, unless proven otherwise, to the Commission's satisfaction:
- a. An Access Providers' refusal to meet a request for Access to Physical Facilities, Access Order or the conclusion of a Physical Access Agreement, by invoking any temporary and geographically defined exemption granted by the Commission with regard to the Access Providers' obligations on Access to Physical Facilities. Such refusal shall be allowed, however, if the purpose of the requested Access to Physical Facilities is the provision, by the Access Seeker, of FTTX services to customers of the Access Providers in the geographical area in which the exemption applies;
 - b. Tariffs or charges that are materially higher than those imposed, under any Commission Statute, on regulated equivalent services by the same or another Telecom Operator;

- c. Tariffs, charges or other conditions that materially discriminate between different Telecom Operators, except for objectively justified reasons, based on differences in supply conditions, including different costs or a shortage of available facilities or resources.
- (2) For dispute resolution on pricing, the Commission may decide to adopt various approaches, such as benchmarking of the access charges in other countries.
 - (3) Physical Access Agreements must specify transparent billing concepts and prices for the different services to be provided, without prejudice to possible exceptions for special, non-recurrent or optional services that may be subject to ad hoc budgets, pricing, and provisioning terms and conditions.
 - (4) Billing terms and agreements must reflect the usage of capacity in existing Physical Facilities.

7.4 Physical Access Agreements

- (1) Access Seekers and Access Providers must negotiate in good faith and conclude a Physical Access Agreement within no later than 60 days upon either party's request.
- (2) A Physical Access Agreement can be in relation to an existing Access Order(s) or future Access Orders.
- (3) The absence of a Physical Access Agreement shall not relieve Access Seekers and Access Providers from any of their obligations under these Regulations. Access Seekers have the right to Request for Information and submit Access Orders, Access Providers are obliged to respond as per the procedure specified in these Rules.
- (4) Telecom Operators must submit to the Commission a copy of all Physical Access Agreements they conclude and Access to Physical Facilities arrangement, within 15 days from the conclusion of such agreements or arrangements.
- (5) Telecom Operators must submit to the Commission, not later than 15 business days from the adoption of these Rules, a copy of all Physical Access Agreements or Access to Physical Facilities arrangements in force at the date of the adoption of these Rules.
- (6) If the Commission decides that a Physical Access Agreement or other Access to Physical Facilities arrangement is not compliant with a Commission Statute, the Commission will notify the Telecom Operators concerned.

8. Building New Infrastructure for High Speed Telecom Networks

8.1 Safeguarding Availability of Access

- (1) When planning and building new Physical Facilities, all Telecom Operators shall ensure that such new infrastructure enables and supports Access to Physical Facilities by other Telecom Operators.
- (2) Telecom Operators shall not install Physical Facilities that unreasonably prevent or limit Access to Physical Facilities by other Telecom Operators.
- (3) Telecom Operator shall not install cables, equipment, or other Physical Facilities that do not correspond to the current or foreseeable needs for serving its customers and which, as a result of the undue excessive space occupation, prevent or limit access to the facilities by other Telecom Operators.
- (4) Telecom Operators shall take into consideration the potential need for other Telecom Operators to be able to access their Physical Facilities for future maintenance or augmentation works under a Physical Access Agreement or Arrangement.

8.2 Infrastructure Planning

- (1) Before deciding to install new Physical Facilities, a Telecom Operator must endeavor to make use of available existing infrastructure and Physical Facilities controlled by other Telecom Operators, for which Access to Physical Facilities can be requested to meet design targets.
- (2) Telecom Operators shall provide to the Commission, on an annual basis, the following minimum information on any planned Physical Facilities to be installed or upgraded:
 - a. The location and type of works involved;
 - b. The Physical Facilities involved;
 - c. The additional or upgraded coverage expected to be obtained through these new or upgraded Physical Facilities;
 - d. The planned capacity of Physical Facilities for current, foreseeable, and Access to Physical Facilities needs; and
 - e. The estimated date for starting the works and duration.

- (3) Telecom Operators must immediately provide to the Commission updated information on any plan changes under paragraph 8.1.
- (4) The Commission may, at any time, verify the accuracy of the information provided by Telecom Operators under paragraphs 8.1 and (7), above, through information requests, inspections or any other means available.
- (5) The Commission may rely on the information provided under paragraph 8.1 above in order to support the coordination between Telecom Operators regarding joint constructions and civil works for new Public Telecom Network Infrastructure.
- (6) Public Networks Operators are encouraged to inform Telecom Operators about their planned rollout of any new network or Physical Facilities capable of supporting the deployment of High-Speed Telecom Networks, with the relevant geographic and technical details.

8.3 Safeguarding the Efficient Use of Ducts

- (1) Telecom Operators must avoid direct burial of underground cables. Such cables must be installed in ducts, unless it is not economically or technically feasible to do so.
- (2) Any Telecom Operator installing its own new duct must reserve at least 50% of its total new installations (rounded up) for use by other Telecom Operators through Access to Physical Facilities. Example: In the case where the installing Telecom Operator installs 6 ducts, 3 ducts would be available for use by the installing Telecom Operator and 50% of 6 ducts = 3 ducts would be reserved for use by other Telecom Operators.
- (3) The first Telecom Operator requesting reserved duct capacity may not use more than 50% of the residual reserved capacity. Sub-ducts may be used to partition ducts. All subsequent Telecom Operators may use any or all of the residual reserved capacity.
- (4) If one or more Telecom Operator(s) join the installing Telecom Operator for joint construction, then each of the participating Telecom Operators must reserve at least 20% of the capacity of its new ducts.
- (5) After installing new infrastructure, any installing Telecom Operator may not use the duct capacity reserved for other Telecom Operators for a period of five years. After five years, the installing Telecom Operator may use this duct capacity on the same basis as any other Telecom Operator.
- (6) If a Telecom Operator does not meet its obligation to reserve capacity, with consequent unavailability of ducts or sub-ducts for other Telecom Operators,

the Commission may order the Telecom Operator that did not meet its obligation to:

- a. Remove excess facilities if capacity is needed by other Telecom Operators;
- b. If the removal of such excess is not possible, order the use of the excess facilities by another Telecom Operator; or
- c. Offer dark fiber to requesting Telecom Operator(s).

Annex A Illustrative Outline for a Reference Offer (RO)

The outline for a RO given below is for illustrative purposes only. As long as the present Rules are followed, the structure, format and arrangement of contents may vary.

A.1. Framework Agreement

- a. Preamble, definitions and interpretation
- b. Commencement and duration
- c. Confidentiality and non-disclosure
- d. Intellectual Property rights
- e. Legal rights, protections and extent of liabilities
- f. Review, renewal rights and obligations
- g. Terms associated with breach, suspension and termination of the agreement
- h. Provisions for staff safety and systems protection
- i. Disputes and arbitration
- j. Force majeure, waiver and assignment
- k. Authorized representatives and notices
- l. Governing law and jurisdiction

A.2. Service Definition

- a. Service definition and description
- b. Service configuration
- c. Service provisioning
- d. Technical characteristics
- e. Operational conditions

A.3. Technical Aspects

- a. A description of the technical characteristics of all sharable Physical Facilities, including details on passive elements, types, sizes, materials or total available space to host network equipment.

- b. Specification of the process for measuring available space or capacity in existing Physical Facilities, and for the determination of the feasibility of providing Access to Physical Facilities
- c. Rules concerning the allocation of space, if limited, including potential reservation of space for the Access Providers' own use.
- d. Terms and conditions to unblock existing infrastructures or remove unused cables or equipment from them in order to free additional space to be shared with Access Seekers.
- e. Technical and operational guidelines and procedures regarding Access to Physical Facilities, such as installation of cables, decongestion, enhancement or installation of new Physical Facilities connected to the Access Providers' network.
- f. Information on safety and security standards applicable to all equipment installed, as well as technical procedures to access, install, operate and maintain network equipment in the Access Providers premises.
- g. Technical aspects governing sharing of facilities between operators and guaranteeing the effective separation of their networks

A.4. Service Level Agreement

- a. Quality and service level objectives
- b. Penalties for non-compliance with service level objectives

A.5. Operational Processes

- a. Forecasts. Procedure and formats to submit forecasts. Limitations and compensation if forecasts are not met
- b. Access to information about existing infrastructures
- c. Certification of staff authorized to access shared facilities

A.6. Provisioning processes,

- a. Ordering procedures (access request, and processing)
- b. Feasibility analysis, including potential rejection causes and cases where feasibility can be checked autonomously by certified staff from licensed operators
- c. Scheduling of a joint survey to check feasibility of deployments
- d. Reservation of Physical Facilities to be shared

- e. Procedure to follow in case a saturation in existing infrastructure is detected due to underused resources
- f. Conditions to provide alternative routes in case of saturation
- g. Conditions to increase the capacity of existing infrastructures
- h. Conditions to provide alternative dark fiber services if no infrastructures are available
- i. Conditions to share fiber
- j. Scheduling of installation works on shared Physical Facilities. Specification of cases where a descriptive memory of works to be performed by the operators is needed. Specification of contents of such descriptive memory
- k. Operations and maintenance processes
- l. Incident management during installation works, including cases of incidences informed by Access Provider and Access Seeker
- m. Escalation procedure
- n. 24x7 emergency channels
- o. Maintenance responsibilities, rights and obligations of both parties
- p. Co-maintenance conditions and cases where certified technical staff are able to autonomously manage faults or incidents
- q. Fault management
- r. Specification of preventive and corrective maintenance actions by the Access Provider
- s. Procedure to follow when modifications in the Access Provider network affect shared facilities. Service continuity conditions.
- t. Fault types and permissible KPIs and SLAs to solve them
- u. Safety standards
- v. Billing processes
- w. Payment process
- x. Billing dispute resolution process

RO must include for all aforementioned processes:

- a. A process diagram and a timeline including KPIs and maximum permissible response time for both parties.
- b. Applicable penalties in case of no compliance with target KPIs, including any foreseeable limitation.

A.7. Management of Access

- a. Services management
- b. Joint technical and operational committee
- c. Provision of information between Telecom Operators
 - o Network and facilities information
 - o Planned network and facilities changes
 - o Infrastructure and facilities database

A.8. Dispute resolution

A.9. Pricing

- a. Rates
- b. A description of the billing concept and procedures for each of the different services provided
- c. Prices or pricing calculations for each service, facility, feature and billing concept included
- d. Conditions regarding volume discounts, where applicable
- e. Description of a mechanism for the compensation of the Access Providers for any costs incurred in response to the Access Seeker's request, for adjustments to, or the enlargement of, the Physical Facilities to be shared
- f. Terms & conditions

Annex B KPIs

B.1. Minimum Operational KPIs

The RO shall specify at least the following minimum KPIs regarding Access to Physical Facilities service provisioning processes:

- (1) Maximum time to provide information on existing infrastructures and its usage once a request is received from an Access Seeker
- (2) Maximum time to validate an Access to Physical Facilities request
- (3) Maximum time to validate a request to amend the information about existing infrastructures
- (4) Maximum time to schedule and perform surveys after a request of access
- (5) Maximum time to conclude on a feasibility analysis after a request of access
- (6) Maximum time for an Access Seeker to report summaries of surveys done on existing infrastructures
- (7) Maximum time to provide alternative services (e.g. duct routes) to an Access Seeker in case there is no available capacity in existing requested Physical Facilities
- (8) Maximum time to validate alternative services proposed by the Access Seeker
- (9) Minimum time for Access Seeker to notify about the commencement of installation works
- (10) Maximum time to develop installation/maintenance works initiated by the Access Seeker
- (11) Maximum time to remove or redistribute unused existing networks (e.g. unused cables in existing ducts) that are causing unavailability in the existing Physical Facilities
- (12) Maximum time to replace, update or deploy new infrastructures (e.g. poles) in the network
- (13) Maximum time to increase OSP capacity in telecom buildings
- (14) Maximum time to solve incidences in the provisioning process (e.g. obstruction of ducts)

- (15) Maximum time to deploy authorized personnel to supervise maintenance works by other operators
- (16) Maximum time to repair faults reported, for the different types of faults and depending on their criticality of the fault

B.2. Monitoring of Access to Physical Facilities and Ancillary Access Services

For the purpose of monitoring the effectiveness of RO and the achieved degree of sharing of physical infrastructures with other Telecom Operators, Dominant Service Providers are required to report quarterly to the Commission, on an individual basis for each Telecom Operator and on average for all Telecom Operators, at least the following KPIs:

- (1) Requests of information on existing infrastructures:
 - a. Number of applications received to gather information about existing infrastructures
 - b. Number of applications answered
- (2) Surveys
 - a. Number of applications to perform a joint survey
 - b. Number of joint survey applications accepted
 - c. Number of applications to perform a survey by Access Seeker
 - d. Number of autonomous survey applications accepted
 - e. Number of infrastructures visited (breakdown by type of infrastructure according to Access to Physical Facilities services as defined in Annex D)
- (3) Requests to share facilities (breakdown by Access to Physical Facilities service as defined in Annex D)
 - a. Number of access applications received
 - b. Number of applications accepted
 - c. Average number of iterations required until acceptance / rejection
 - d. Number of new infrastructures installed
 - e. Number of alternative routes provided

- f. Number of alternative routes proposed by Access Seeker
 - g. Percentage of alternative routes proposed by Access Seeker and approved by Dominant Service Provider
- (4) Shared facilities (breakdown by Access to Physical Facilities service as defined in Annex D)
- a. Number of Telecom Operators with Physical Access Agreement signed
 - b. Total number of shared facilities at the end of the period
- (5) Incidents regarding shared infrastructures (breakdown by Access to Physical Facilities service as defined in Annex D)
- a. Number of incidents registered during the period
 - b. Average time to repair
 - c. 90% percentile of time to repair
 - d. Number of rejected trouble tickets
 - e. Number of wrongful fault reports
 - f. Number of avoidable trips to inspect / repair shared facilities

Annex C Procedure for the provision of services.

C.1. General Overview

The general procedure for the provision of Access to Physical Facilities under these Rules should normally progress through the phases shown in the table below:

Action	Relevant provisions	Party responsible for the action	Timeline
Request for information	C.2	Access Seeker	Any time
Reply to the request for information	C.2	Access Provider	Within 10 days from request for information
Access Order	C.3	Access Seeker	Any time
Technical Feasibility Analysis	C.4	Access Provider	14 days from receipt of Access Order
Access Provider's price offer for Access Order	Main body of these Rules, Article 7.3	Access Provider	10 days from date of notification to Access Seeker of Technical Feasibility Analysis
Access Seeker's acceptance or rejection of Access to Physical Facilities price offer	Main body of these Rules, Article 7.3	Access Seeker	10 days from receipt of price information from Access Provider
Access Order Approval or Rejection	C.6	Access Provider	5 days from Access Seeker's acceptance
Order fulfilment	C.7	Access Provider	15 days from the Access Order's Approval
Works by Access Seeker	C.8	Access Seeker; request to be accepted by Access Provider	3 days from receiving Access Seeker's request

Action	Relevant provisions	Party responsible for the action	Timeline
Billing	C.9	Access Provider	Not before the Access Seeker is able to install his equipment in the Access Provider's Facility
Trouble Reports	C.10	Access Seeker	Any time during Access to Physical Facilities
Termination Order	C.11	Access Seeker	Any time during Access to Physical Facilities
Acceptance of Termination Order	C.11	Access Provider	10 days from receipt
Dismantling Work Order	C.11	Access Seeker	5 days from receipt of approval of Termination Order

C.2. Request for Information

- (1) Access Seekers have the right to request and obtain certain information concerning existing Physical Facilities of any Telecom Operator (the Access Providers) unless such information is available online to that Access Seeker.
- (2) The request referred to in Article (1) may relate to the following information:
 - a. location, and route;
 - b. type, technical and physical characteristics and current use of the infrastructure;
 - c. availability of spare capacity to be shared (e.g. available space in existing ducts, availability of space for new equipment in towers), at least on a preliminary basis to allow Access Seekers to plan their potential Access Orders; and

- d. one or more contact points for follow up questions or to place potential future Access Orders.
- (3) To be valid, such a request for information by the Access Seeker must be transmitted in writing to the Access Providers with a copy to the Commission. In the request for information, the Access Seeker must:
- a. express the Access Seeker's commitment to take appropriate measures to ensure the respect of confidentiality of any information provided in response to the request and use it only (i) for the purpose stated in the request or (ii) any related procedure before the Commission; and
 - b. specify the area or the Physical Facilities for which information is requested, with a reference to a reasonable level of detail, commensurate to any pre-existing information available to the Access Seeker about the relevant Physical Facilities.
- (4) Telecom Operators may require that Requests for Information under this article make use of a specific template, once this has been made available online.
- (5) The Access Providers must provide the Access Seeker with a clear and complete reply in writing, within no more than 10 days from the receipt of the Request for Information, and provide a copy thereof to the Commission.
- (6) The Access Providers may not refuse the provision of information in response to a valid and complete request under paragraph (3) above unless on duly justified, proportionate and reasonable grounds. Such access refusal must be in writing and be notified to the Access Seeker, with a copy to the Commission. An Access Providers refusing access to information shall bear the burden of proof that such refusal is justified, proportionate and reasonable.
- (7) Unless the refusal is accepted by the Access Seeker, the Commission may reject the Access Providers' refusal to provide such information as unjustified, disproportionate and/or unreasonable and request the provision of the whole or part of the information requested by the Access Seeker within a deadline defined by the Commission that shall not be longer than 10 days.
- (8) Access Providers must provide Access Seekers with a process to report inaccuracies in the information published or transmitted to Access Seekers about their Physical Facilities. Access Providers must verify such inaccuracies and must provide updated information to Access Seekers immediately upon a finding of any such inaccuracies.
- (9) Access Providers must provide, to the Access Seekers concerned, updated information on any material changes to their Physical Facilities that may reasonably impact any request for information, pending Access Order or

existing Physical Access Agreement or other arrangement with those Access Seekers.

- (10) Access Providers may not charge any fees for their response to Requests for Information under this article, unless such requests are handled through an online system, accessible to all Access Seekers, which may be subject to a reasonable and non-discriminatory annual subscription fee, provided this has been approved by the Commission.
- (11) Information received from an Access Seeker shall be used only for the purposes for which it was supplied and not be disclosed to other departments, affiliates or persons to whom the information could provide a competitive advantage.

C.3. Access Orders

- (1) A Telecom Operator seeking Access to Physical Facilities (the Access Seeker) must submit a written "**Access Order**" (or any equivalent online system) to the Access Providers, and a copy should be sent thereof to the Commission specifying:
 - a. a description, to the extent possible, of the network nodes or sites, and the Physical Facilities to which Access to Physical Facilities is requested;
 - b. the routes in which the Access Seeker envisages deploying elements of its Telecom Network;
 - c. any Ancillary Access Services required;
 - d. preferred timetable for the implementation of such Access to Physical Facilities; and
 - e. one or more contact persons.
- (2) Details on the content and format of an Access Order, and the procedure for its submission may be set out in a Physical Access Agreement concluded between the Access Seeker and the Access Providers. Nevertheless, the absence of such a Physical Access Agreement with an Access Seeker may not be invoked by the Access Providers as a ground for refusing or delaying its response to an Access Order by that Access Seeker or its implementation pursuant to these Rules.
- (3) Access Providers may require that Access Orders be completed and transmitted only in a specific template, available electronically. If no such template exists, an Access Order following the template attached to these Rules as Annex E shall be considered appropriate.

C.4. Technical Feasibility Analysis

- (1) In response to any Access Order, Access Providers must assess whether the provision of concerned is technically feasible. The Access Seeker will bear the costs of carrying out the technical feasibility analysis for each Access Order, provided these are reasonable, proportionate and non-discriminatory.
- (2) If a physical survey is needed to assess the technical feasibility of an Access Order, the Access Providers must allow joint surveys with the Access Seeker or offering the possibility to carry out autonomous surveys by Access Seeker to increase the efficiency of the ordering process.
- (3) In the event of an Access Seeker carrying out autonomously the relevant physical survey, it will be his responsibility to:
 - a. Make sure such physical survey is performed by accredited personnel, following the Access Providers procedures and any technical standards provided by the Access Providers;
 - b. Notify the Access Providers in advance of the commencement of the physical survey and identify any person(s) responsible for carrying it out;
 - c. Carry out any obligations under Applicable Laws, such as obtaining the required rights of way to reach existing Physical Facilities;
 - d. Be responsible for addressing any operational issues encountered during the survey work (such as but not limited to potential damage to existing cables, removing obstructive objects or handling the presence of gas or water in chambers) in coordination with the Access Providers;
 - e. Inform the Access Providers the progress of the survey work; and
 - f. provide the Access Providers with all the results of the survey work (e.g. plans, photographs, any extra works required to share facilities, such as cable removal, if needed) and any information required to maintain its Infrastructure Inventory up to date once the autonomous surveys are finished. The Access Providers is responsible for updating its Infrastructure Inventory once the information is provided by the Access Seeker.
- (4) The Access Providers must inform the Access Seeker about the Technical Feasibility for Access to the requested Physical Facilities, in writing, within 14 days from the date of its receipt of the Access Order.
- (5) The Access Providers should perform any conditioning works on its existing Physical Facilities or remove unused equipment (e.g. unused copper cables in ducts, unused transmission equipment in towers) where this is necessary to

make Access Orders feasible. The Access Seeker will bear the cost of such works unless agreed otherwise between both parties.

- (6) The Access Providers must propose the use of alternative Physical Facilities (e.g. alternative duct route) to the Access Seeker where this is necessary to make Access Orders feasible. The Access Providers shall bear the burden of showing that the route proposed by the Access Seeker is not feasible. Both parties must agree the terms and conditions, also including the price, of using the proposed alternative routes.
- (7) The Access Providers may not refuse an Access Order as technically unfeasible, if the Access Seeker is willing to undertake, at his own cost, any additional works, to render the Access Order technically feasible.
- (8) In the event of an Access Seeker's withdrawal of a valid Access Order prior to its implementation, the Access Seeker shall bear all the costs incurred by both parties for the response to, and the fulfilment of, such Access Order.

C.5. Measurement of capacity

- (1) The Access Providers may consider the following units at the time of measuring capacity reserved for the different Access to Physical Facilities and Ancillary Access Services:
 - a. Square meters reserved in buildings, compounds or shelters for collocation services
 - b. Power supply (KWh) or required power (KW) for AC or DC power supply and conditioning in collocation services
 - c. Units used in access to manholes, handholes or poles
 - d. Length of duct section used measured by (m x square cm) or (m x duct or sub-duct of a certain diameter) for access to ducts or vaults
 - e. Units of radio equipment installed / reserved for tower and mast sharing
 - f. Length (m) and number of fiber strands used in dark fiber services
 - g. Length (m) for new aerial cable or duct sections to be built
- (2) Surveys for Technical Feasibility analysis may be charged individually per request. In case the request of information is automated through an online system, charging may be done periodically using a subscription fee.

- (3) Other Ancillary Access Services and conditioning works may be budgeted and charged per hour of planned work.
- (4) Access Providers may require a fair and reasonable minimum sharing period, of not more than one year. Access Providers may propose a price discount in case Access Seeker commits to a longer period.
- (5) Without prejudice to any other obligations of Dominant Service Providers set out in these Rules or another Commission Statute, Access Providers may offer volume discounts in case multiple Access to Physical Facilities services or high capacities are requested in a certain route or a building.
- (9) In the absence of a Physical Access Agreement providing otherwise, the Access Providers must inform the Access Seeker, in writing, within 10 days from the date of notifying the Access Seeker about the Technical Feasibility of the Access Order(s), about related prices, including the following:
 - a. the price of any conditioning works on existing Physical Facilities necessary to make Access Orders feasible.
 - b. the price of Access to Physical Facilities services requested in the Access Order;
 - c. the price of Ancillary Access Services required to make Access to Physical Facilities feasible; and
 - d. any related terms and conditions.
- (10) The Access Seeker shall inform the Access Providers, in writing, about the acceptance or rejection of the Access to Physical Facilities price offer, within 10 days from receiving the price information. The Access Seeker may request negotiations with Access Providers on this regard.

C.6. Access Order Approval

- (1) The Access Providers must transmit a written approval or rejection to the Access Seeker, within 5 days from the date of receipt of the Access Seeker's acceptance, with a copy to the Commission.
- (2) Upon approval of an Access Order, the Access Providers must perform any conditioning works needed and reserve the requested Physical Facilities to be used by the Access Seeker. Unless agreed otherwise by the Parties, such conditioning works must be completed within no later than 15 days from the Access Order's approval by the Access Providers.

C.7. Order fulfilment

- (1) Upon reservation of capacity in existing Physical Facilities, the Access Providers shall be responsible for updating his Infrastructure Inventory and notifying Access Seekers accordingly.
- (2) Once the Access Providers has reserved any existing Physical Facilities to be used by an Access Seeker, the latter will be entitled to request and perform any work to install its equipment and networks on the Access Providers' shared Physical Facilities.
- (3) Access Providers may reserve capacity in existing facilities for a maximum reservation period to be specified in the Physical Access Agreement or an Access Order approval. The Access Seeker must complete works in the reserved facilities prior to the expiry of the reservation period unless agreed otherwise. The Access Providers will have the right, upon previous notification to the Access Seeker, of removing the reservation of Physical Facilities after the maximum reservation period has expired and no works have been completed by the Access Seeker holding such reservation.

C.8. Works by the Access Seeker

- (1) Access Seekers have the right to carry out themselves installation or maintenance works on their equipment or other network facilities installed in the shared Physical Facilities. In such cases, Access Providers must consider in good faith:
 - a. allowing accredited personnel of the Access Seekers to perform such works, and
 - b. providing Access Seekers with any technical information, standards, Rules and guidelines required to allow such accredited personnel to access the relevant Physical Facilities and perform the works in line with the safeguards followed by the staff or subcontractors of the Access Providers.
- (2) A request by an Access Seeker under Article (1) above must be submitted reasonably in advance to allow the Access Providers to plan access for the works to such Physical Facilities in line with its normal procedures and available resources. The Access Providers must allow such access, within no more than 3 days from receiving the request.
- (3) When undertaking works related to Access to Physical Facilities, both Access Seekers and Access Providers must take any measures reasonably necessary to protect the safety of the public, of the personnel involved in the works or otherwise occupied in the premises, and of Property. They must adhere to relevant security obligations, observing all relevant laws and industry

standards as well as any Rules, guidelines and standards issued by the Commission and/or other governmental authorities.

- (4) The Access Seeker will be responsible for any damage on the shared Physical Facilities occurred during the Access Seeker's autonomous works in the Access Providers' premises.
- (5) Access Providers may require the following from Access Seekers to ensure that security measures are followed when work is performed for the purposes of their Physical Access Agreement or other Access to Physical Facilities arrangement:
 - a. Performance of the work at the site only by qualified personnel, also including personnel of the Access Seeker in line with reasonable and non-discriminatory qualification or accreditation requirements;
 - b. Entrance controls and conduct of the work according to the guidelines provided by the Access Providers, pursuant to these Rules;
 - c. Avoiding any changes resulting from the works that would compromise or risk compromising the security measures originally implemented by the owner of the facility; and
 - d. Covering any additional reasonable costs that may arise in order to re-establish security measures after completion of the construction work.
- (6) Access Seekers shall ensure that the design, planning and installation of their shared Physical Facilities shall be in accordance with best practices and any technical guidelines provided by the Access Providers pursuant to these Rules, and that it shall comply with any applicable industry codes and/or standards set by governmental and/or other concerned authorities.
- (7) Regardless of the extent of Access to Physical Facilities, both Access Providers and Access Seekers must ensure that, at any point in time, the independent and proper operation of its Public Telecom Network is guaranteed.
- (8) Access Seekers must provide Access Providers with all the information needed to maintain their Infrastructure Inventory up to date once the above works are finished. The Access Providers is responsible for updating its Infrastructure Inventory once this information is provided.

C.9. Billing

- (1) Billing may not start before the requested Physical Facilities have been reserved by the Access Providers and the Access Seeker is free to execute

works to use them (e.g. billing may not start if the Physical Facilities are reserved but the Access Providers is still performing some conditioning works).

- (2) Prior to starting the billing process, the Access Providers must send a notification to the Access Seeker to inform him of the reservation of the requested Physical Facility and the billing starting date. Upon receipt of such notification, the Access Seeker must be able to submit work orders to install equipment in the Access Providers' Physical Facility, in line with his Access Order.

C.10. Trouble Reports

- (1) Access Providers must provide Access Seekers with channels to report any trouble regarding the Access to Physical Facilities to any shared Physical Facilities.
- (2) Each party will be responsible for the operation and maintenance of its own infrastructures and networks, unless agreed otherwise between both parties.
- (3) Before reporting a trouble, the Access Seeker must make sure that the root cause of such incidence is a breakage, cut, or blocking of the Access Providers' infrastructure or other equipment.
- (4) In the event of reporting a trouble that eventually is shown to be under the responsibility of the Access Seeker, the Access Providers has the right to charge the Access Seeker any costs incurred in order to investigate the false trouble report.
- (5) In the event of the Access Seeker's withdrawal of an issued trouble ticket, the Access Providers has the right to charge the Access Seeker any costs incurred to manage such trouble report.
- (6) Access Providers will inform Access Seekers reasonably in advance of any operation and maintenance works that need to be performed on shared Physical Facilities if these may affect the operation of the Access Seeker's Public Telecom Network. The parties must agree on a solution for operation and maintenance works suitable to minimize any impact on all installed networks or equipment that may be potentially affected.
- (7) Access Providers must provide transparency on any process and service performance KPIs in order to ensure that Access to Physical Facilities services is provided according to the agreed terms and conditions. As a reference, and unless agreed otherwise, the parties may use the terms, conditions and KPIs specified for Dominant Service Providers in any Commission Statutes related to interconnection and access services.

C.11. Termination

- (1) Access Providers must provide channels for Access Seeker to request, through a "**Termination Order**", the termination of any existing Access to the Access Providers' Physical Facilities. The Termination Order must clearly specify the Physical Facilities and Ancillary Access Services to which access is requested to be terminated.
- (2) The Access Providers must accept the Termination Order not later than 10 days from its receipt. A rejection of the Termination Order by the Access Providers is allowed only if the Termination Order is infringing the provisions of the Parties' Physical Access Agreement or a minimum commitment provided by the Access Seeker.
- (3) Upon issuance of a Termination Order, the Access Seeker shall be responsible for dismantling any network or equipment installed on the Access Providers' Physical Facilities. For that purpose, the Access Seeker must submit a "**Dismantling Work Order**" to the Access Providers, with a copy to the Commission, within 5 days from receipt of the Termination Order's approval by the Access Providers.
- (4) The Access Providers may charge for the use of any reserved Physical Facility until all network equipment of the Access Seeker has been removed and the space is available for the Access Providers' or other Access Seekers' use.

Annex D Access to Physical Facilities Services

D.1. Overview

The below list of services is not intended to be exhaustive. Further access services may be defined by the Commission at any time as deemed necessary.

- a. Collocation
- b. Ducts
- c. Vaults, Manholes and Handholes
- d. Towers and Masts
- e. Poles
- f. Dark Fiber
- g. Collocation in Landing Station

D.2. Description

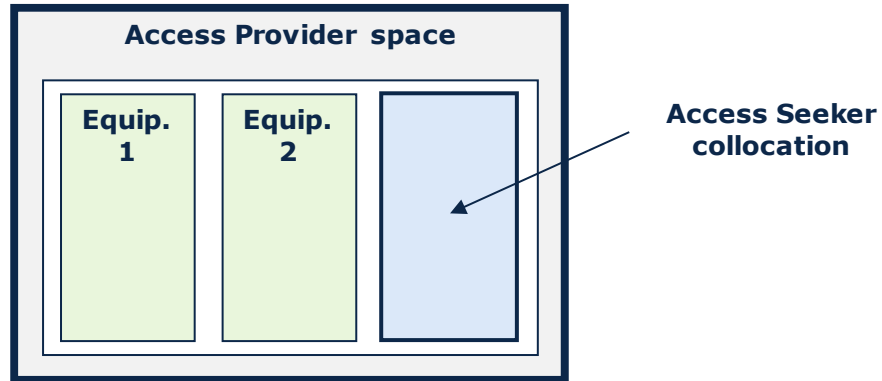
In the following descriptions, party A is requesting a service (Access Seeker) and party B is offering the service (Access Providers).

D.2.1 Collocation

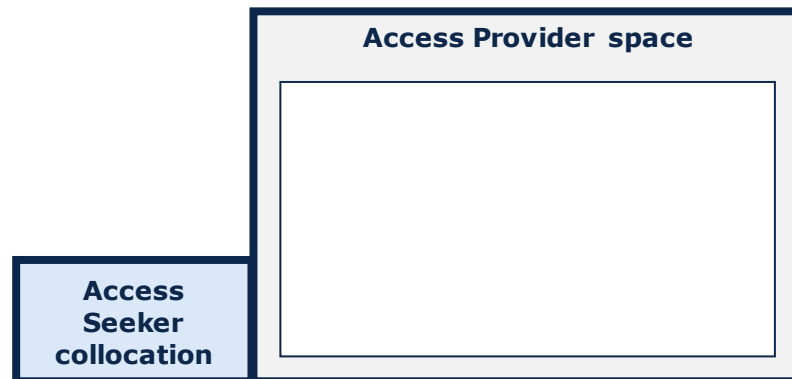
Collocation is a service where party B makes available space, infrastructure or telecom facilities to party A. party A typically has 24-hour by 7-day access to the collocation space or room to install, operate and maintain its own telecom transmission systems. Sites at which collocation for interconnection purposes is already established may also be used to accommodate equipment associated with Access to Physical Facilities Services.

Collocation at buildings and sites can take the following forms:

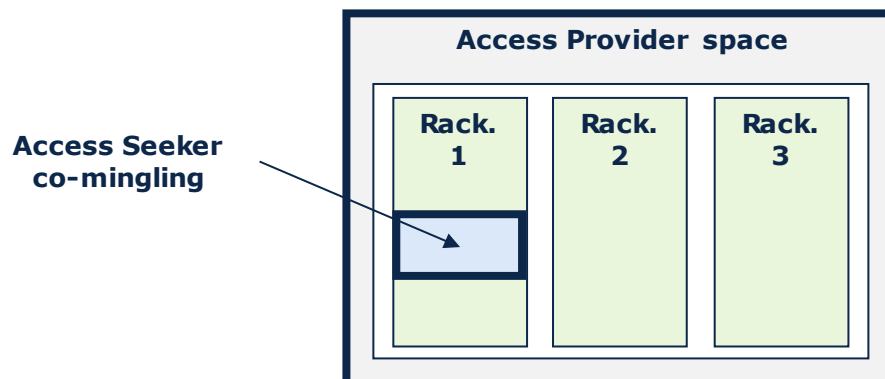
- 1) Dedicated collocation: where party B provides a custom-built, dedicated, segregated and secured space for the installation of party A's telecom equipment.



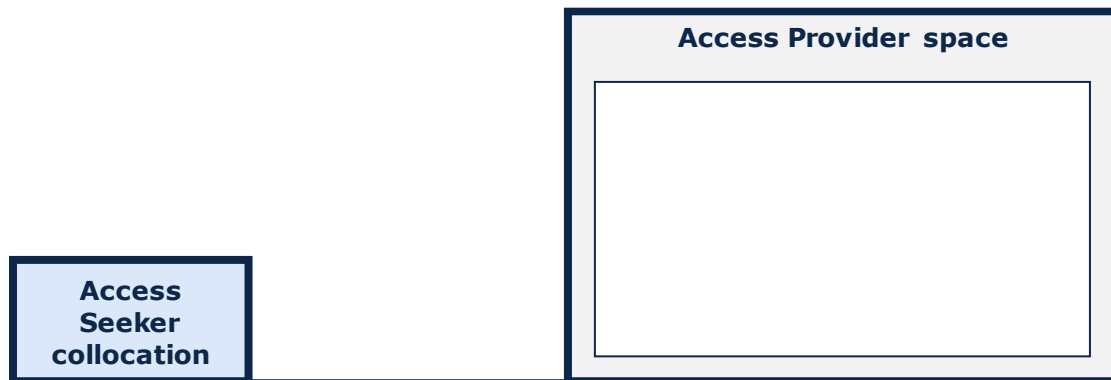
- 2) Adjacent collocation: where party B provides space in an enclosed but separate structure within or near the site boundary of its existing structure.



- 3) Co-mingling: where party B provides floor space or space within a rack. Equipment belonging to the different Telecom Operators will be inter-mixed directly with each other on the floor and/or rack. Space may be filled sequentially by the different Telecom Operators.



- 4) Distant collocation: where party B provides space in an enclosed structure at some distance, but not adjacent, to its existing structure. The two locations are interconnected by external transmission facilities.



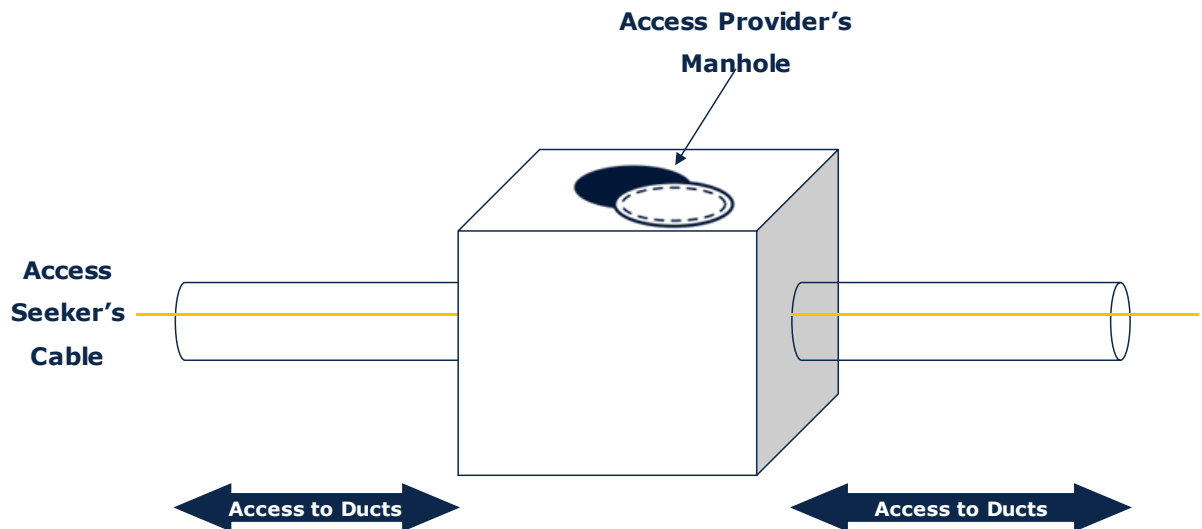
- 5) Virtual collocation: where party B gives party A the ability to connect to party B's services without Access to Physical Facilities by its personnel to a collocation space. Party A provides its own transmission equipment or leases it from party B. Party B then handles the installation, maintenance, operation and repair of the equipment at party A's direction on a non-discriminatory basis. Party A does not have access to the virtual collocation space or the equipment but can electronically monitor and control its communications channels terminating in such equipment.

Dominant Service Providers must offer dedicated collocation services as first priority. In case dedicated collocation is not possible due to proven space restrictions, adjacent collocation services shall be offered by Dominant Service Providers as default. Where such collocation services are not economically feasible a Dominant Service Provider must, as an alternative, offer co-mingling and/or distant and/or virtual collocation.

Telecom Operators shall indicate the terms and conditions for provision of collocation services, including site access procedures and access to on site facilities such as air conditioning, lighting, and power.

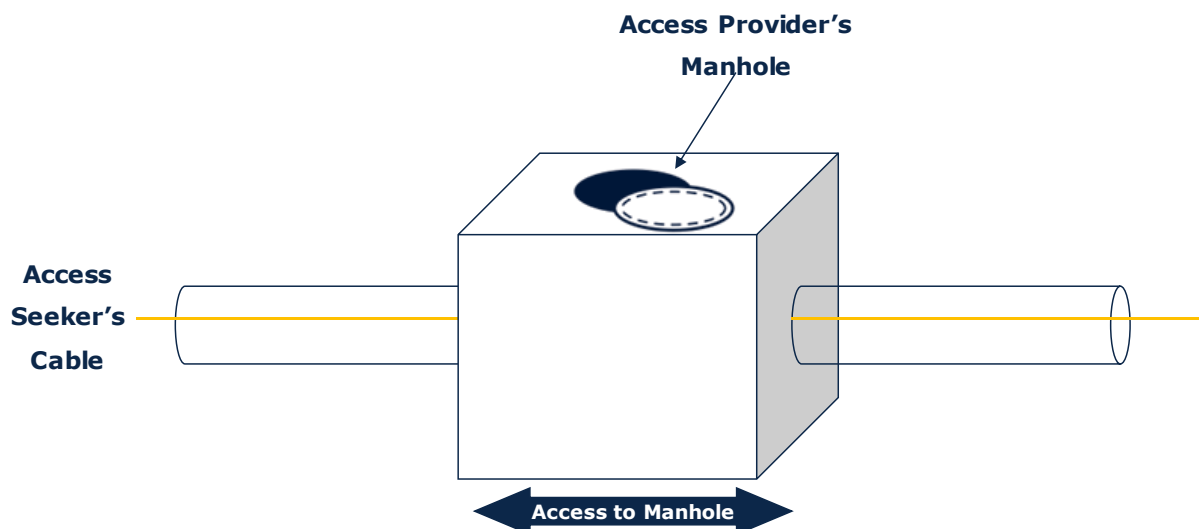
D.2.2 Ducts

Access to ducts is a service where party B provides access to its own ducts to party A to for the installation of cables. "Duct" means an infrastructure (such as conduits or pipes) that encloses underground telecom cables to protect them and to enable pulling of additional cables into (empty) ducts without further digging. Ducts can be divided into sub-ducts. Such service could encompass access to other associated facilities such as manholes, handholes, etc.



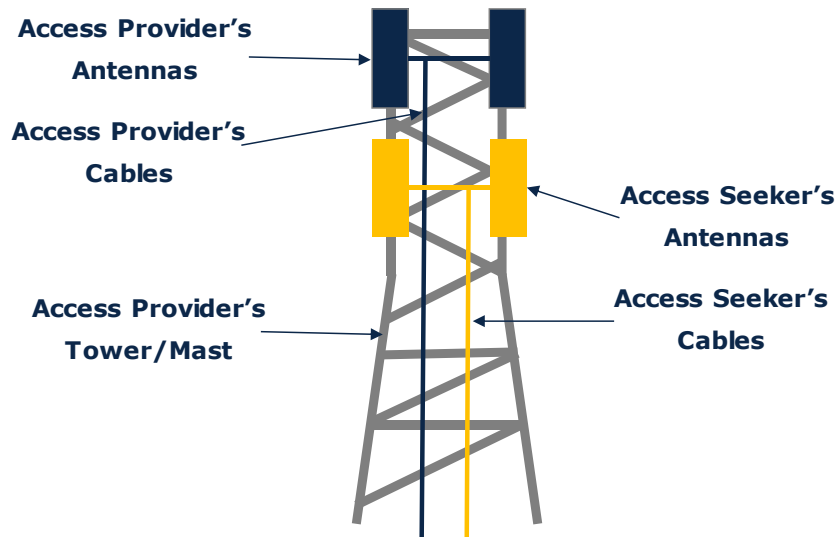
D.2.3 Vaults, Manholes and Handholes

Access to vaults, manholes or handholes is a service where party B provides party A with access to space at the cable entrance area for the purpose of deploying telecom cables and related structures. Such service could encompass access to other associated facilities such as power, air conditioning, etc.



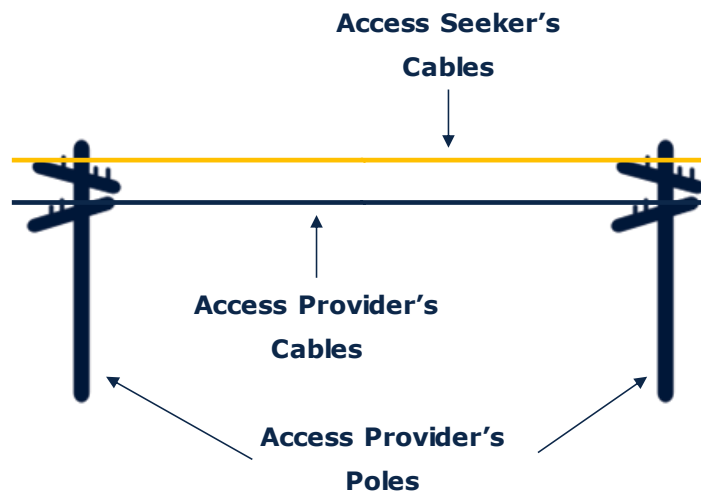
D.2.4 Towers and Masts

Access to towers and masts is a service where party B provides party A with access to the use of towers, masts and similar infrastructures for the purpose of installing telecom equipment, such as cables and antennas. Such service could encompass access to other associated facilities such as buildings, sites, power, air conditioning, etc.



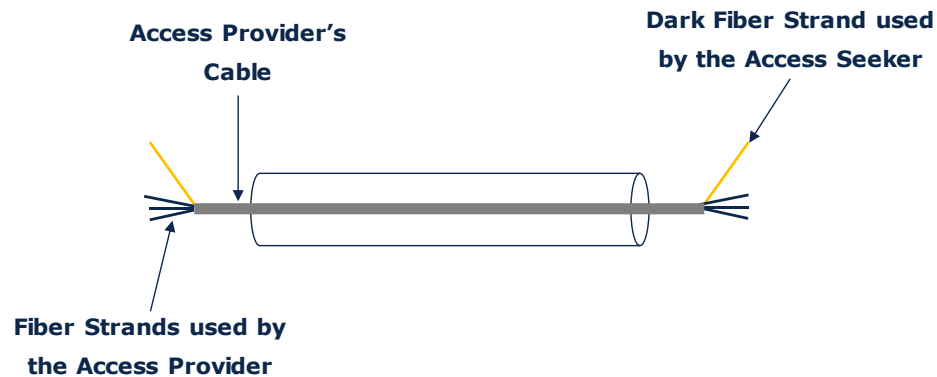
D.2.5 Poles

Access to poles is a service where party B provides party A with access to the use of poles for the purpose of installing aerial cables and ancillary telecom equipment to provide connectivity between different locations.



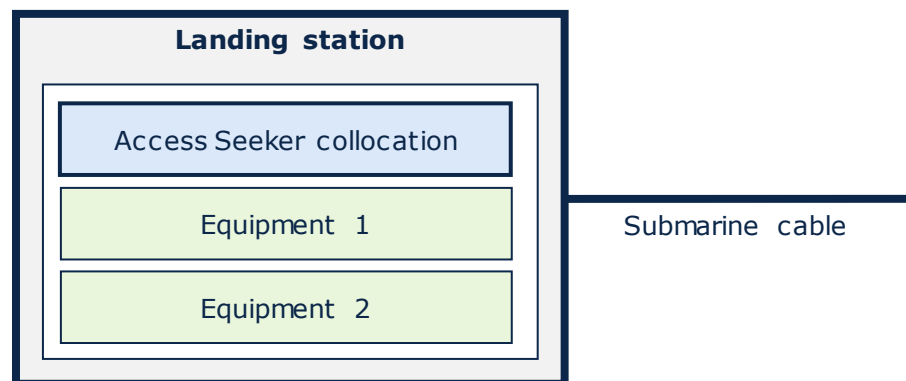
D.2.6 Dark Fiber

Access to dark fiber is a service where party B leases to party A single fiber or a fiber pair which is not connected to transmission equipment. Dark fiber can be offered in all parts of the national network (backbone, backhaul, metro, feeder, access and distribution networks).



D.2.7 Collocation in Landing Station

Collocation is a service where party B makes available space, power and air conditioning in a Landing Station to party A for the installation of telecom equipment. Party A has 24-hour by 7-day access to the collocation space or room to install, operate and maintain its own telecom equipment. This service also encompasses the cross-connection between the equipment of the same premises.



Annex E Template for Access Orders

TEMPLATE FOR ACCESS ORDERS

CONTACT INFORMATION OF THE ACCESS SEEKER

Entity name:

Address:

CONTACT PERSON OF THE ACCESS SEEKER

Name:

Position:

Telephone:

E-mail:

OVERVIEW OF REQUESTED SERVICES (select as many services as needed):

- Access to buildings
- Access to manholes
- Access to cabinets
- Access to radio sites
- Access to pipes
- Access to ducts
- Access to towers
- Access to masts
- Access to dark fiber
- Collocation in Landing Stations
- Ancillary services (air conditioning, power supply, etc.)
- Others (please specify)

DESCRIPTION OF THE REQUESTED SERVICES (provide individual descriptions for each of the selected services)

Detailed description and location of the routes in which the Access Seeker envisages deploying elements of its Public Telecom Network (provide diagrams as needed):

TEMPLATE FOR ACCESS ORDERS

Detailed description and location of the Access to Physical Facilities Services requested from the Access Providers (provide diagrams as needed):

- Detailed description of the service:
- Location of the facilities:
 - Region:
 - Municipality:
 - Address:
 - Coordinates of the facility:

Detailed description and location of the Ancillary Access Services requested from the Access Providers (provide diagrams as needed):

- Detailed description of the service:
- Location of the facilities:
 - Region:
 - Municipality:
 - Address:
 - Coordinates of the facility:

Detailed preferred timetable (duration) for the implementation of the Access to Physical Facilities Services and Ancillary Access Services:

- Start date:
- Finish date:

ADDITIONAL INFORMATION (IF ANY):

SIGNATURE:

DATE: