

**201[-] ELECTRONIC COMMUNICATIONS (NETWORK INFRASTRUCTURE SRO[-]
AND WHOLESALE ACCESS) REGULATIONS**

ARRANGEMENT OF REGULATIONS

Part I
PRELIMINARY

1. [Short title] [Citations]
2. Commencement
3. Interpretation
4. [Objectives][Purposes]

Part II
**NETWORK INFRASTRUCTURE AND WHOLESALE SERVICES SUBJECT TO ACCESS
OBLIGATIONS**

5. Network Infrastructure and Wholesale Services, access to which may be imposed on Licensees with Significant Market Power
6. Carrier Pre-select and Wholesale Line Rental
7. Wholesale Access Provided at a Fixed Location
8. Passive Backhaul Infrastructure
9. Special Wholesale Service
10. Wholesale Leased Circuits

Part III
**IMPLEMENTATION OF OBLIGATIONS IMPOSED ON LICENSEES WITH SIGNIFICANT
MARKET POWER**

11. Specific Obligations on Licensees Required to Provide Access to Infrastructure and/or Wholesale Services
12. Requirements for Reference Access Offer
13. Publication of Reference Access Offer
14. Contents of Reference Access Offer
15. Non-discrimination and Accounting Separation Obligations
16. Negotiating Access Agreement
17. Contents of Access Agreements
18. Disputes regarding Access

Part IV
FINAL AND TRANSITIONAL PROVISIONS

19. Revocation

SCHEDULE

ELECTRONIC COMMUNICATIONS (NETWORK INFRASTRUCTURE AND WHOLESALE ACCESS) REGULATIONS

Made by the Minister, on under section [-] of the Electronic Communications Act [20[-]

Part I PRELIMINARY

1. [Short title] [Citations]

These Regulations may be cited as the Electronic Communication (Network Infrastructure and Wholesale Access) Regulations, 201[-].

2. Commencement

These Regulations shall come into force on the date of publication in the “Gazette”.

3. Interpretation

(1) In these Regulations—

“**Act**” means the Electronic Communications Act, 201[-]

“**access provider**” means a licensee that owns or controls infrastructure to which other licensees seek to obtain access for connecting portions of their own networks;

“**access seeker**” means a licensee that seeks to obtain access to the infrastructure or facilities of another licensee for purposes of connecting portions of its own network;

“**bitstream access**” means a wholesale product consisting of the Digital Subscriber Line part (access link) and “backhaul” services of the (data) backbone network (ATM, IP backbone) enabling access seeker to offer their own value-added services to end users with the capability to differentiate their services by altering (directly or indirectly) technical characteristics and/or the use of their own network;

“**carrier preselect**” means the process whereby a telephone subscriber whose telephone line is maintained by one company, can choose to have some of their calls automatically routed across a different telephone company's network without needing to enter a special code or use special equipment.

“**fiber to the x**” means a broadband network architecture using optical fiber to provide all or part of the local loop used for last mile electronic communications and includes the elements in the Schedule;

“**fully unbundled local loop**” means the provision of a two-wire metallic transmission path between the network terminating equipment at a customer's premises (to which a competitive operator seeks access) and a main distribution or jumper frame at the exchange of the access provider which enables the operator seeking access to offer both voice and broadband services;

“**licensee with significant market power**” means a licensee that has been determined by the Commission to have significant market power in a market identified by the Commission as a relevant market;

“local loop unbundling” means the provision of a physical and direct connection to the local access network, commonly referred to as the local loop which enables the access seeker to install its own equipment in (or close to) access provider’s exchanges in order to connect its customers’ lines to its own network;

“main distribution frame” means a cable rack within a base station or network node that interconnects and manages the electronic communications wiring between external and internal lines;

“optical distribution frame” means a distribution frame for connecting fiber optic cables;

“point-to-point”, means that the access network architecture provides optical fiber paths from a communication node to a single premise such that the optical paths are dedicated to traffic to and from this single location, thereby providing an uninterrupted single fiber from the last communication switching equipment-point to the premises;

“point-to-multipoint” means that the access network architecture provides branching optical fiber paths from a communication node to more than one premises such that a portion of the optical path is shared by traffic to and from multiple premises;

“Passive Optical Network”, means that the path from the active or powered communication node to the terminating fiber location has no active or powered elements;

“shared local loop unbundling”, means the provision of a two-wire metallic transmission path between the network terminating equipment at a customer’s premises (to which a competitive operator seeks access) and a main distribution or jumper frame at the exchange of the access provider, which enables the access seeker to offer broadband services over the copper network, thereby allowing the access seeker to provide a broadband service to its customer while another electronic communications provider supplies voice services on the same line, which is therefore being “shared”;

“special wholesale service” means a wholesale service which consists of the essential components and functions of a total retail service offered by a licensee with significant market power, and any ancillary services, necessary for other competing licensees to efficiently provide an equivalent retail service to end-users;

“sub-loop unbundling” means a form of unbundling where the line is handed over from the access provider to the access seeker at a point closer to the end user than in local loop unbundling, which usually occurs at a street cabinet;

“very-high-bit-rate digital subscriber line” means a Digital Subscriber Line standard that provides high speed Internet access, being an improved version of ADSL (Asymmetric Digital Subscriber Line) that typically offers download speeds of up to 52 Mbps and upload speeds up to 16 Mbps, and operates over a single flat untwisted or twisted pair of copper wires or on coaxial cable;

“**virtual unbundling of local access**” means the provision of an active access line by terminating the subscriber line on the optical line termination (OLT) equipment of the access provider, with the access seeker able to connect directly to this equipment at local exchange level where, similar to local loop unbundling, the handover will take place and therefore avoid the access provider’s aggregation network;

“**wholesale line rental**” means a wholesale product that permits a licensee to rent fixed access voice lines (on a public switched telephone network) on a wholesale basis from another licensee, such that the licensee requesting such access may provide a single bill to its customers that includes both line rental and telephone calls.

4. [Objective] [Purposes]

The [objective] [purpose] of these Regulations is to promote competition in retail electronic communications services by defining specific components of wholesale network infrastructure and services, access which may be imposed on licensees holding significant market power in the related markets, or on any licensee subject to such access obligations under the Act.

Part II

NETWORK INFRASTRUCTURE AND WHOLESALE SERVICES SUBJECT TO ACCESS OBLIGATIONS

5. Network Infrastructure and Wholesale Services, Access to which may be imposed on Licensees with Significant Market Power

- (1) The network infrastructure and wholesale services to which access obligations are imposed on licensees designated as having significant market power in a given market under section [73] of the Act are —
 - (a) With regard to relevant fixed voice markets—
 - (i) carrier preselect services in accordance with Regulation 6;
 - (ii) wholesale line rental in accordance with Regulation 6.
 - (b) With regard to any other relevant markets—
 - (i) wholesale access provided at a fixed location in accordance with Regulation 7;
 - (ii) passive backhaul infrastructure in accordance with Regulation 8;
 - (iii) special wholesale service in accordance with Regulation 9;
 - (iv) wholesale leased lines in accordance with Regulation 10.
- (2) The Commission may, upon ECTEL's recommendation, decide on the most appropriate and proportionate remedy to be imposed on a licensee with significant market power in order to address anti-competitive conduct in a relevant market.

6. Carrier Pre-select and Wholesale Line Rental

- (1) Where, following a market analysis, one or more licensees are designated by the Commission as having significant market power in the market for retail access to telephone services, the Commission, may upon ECTEL’s recommendation require licensees with significant market power to provide carrier preselect and wholesale line rental.

- (2) The Commission may upon the recommendation of ECTEL, define the technical, operational and economic terms and conditions for such carrier preselect and wholeslae line rental offers.

7. Wholesale Access Provided at a Fixed Location

- (1) In the wholesale access market, the Commission upon ECTEL's recommendation, may impose on a licensee with significant market power a requirement to provide the following categories of access—
 - (a) wholesale physical network infrastructure access, including shared or fully unbundled access at a fixed location;
 - (b) virtual unbundling of local access; and
 - (c) wholesale broadband access.
- (2) Wholesale physical network infrastructure access referred to under sub-regulation (1) (a)—
 - (a) primarily consists of physical or passive access products enabling transmission of internet and related data services such as copper local loop unbundling and copper sub-loop unbundling and includes all access services available at the physical layer in a point-to-point fibre-to-the-home architecture, in a point-to-multipoint fibre-to-the-home architecture or in cases of fibre-to-the-cabinet/very-high-bit-rate digital subscriber line;
 - (b) shall —
 - (i) include the identification of access inputs which are forward-looking;
 - (ii) in relation to the Commission defining the relevant wholesale market, have regard to the availability of access inputs under development, in particular, cases of a passive optical network.
- (3) The Commission, upon ECTEL's recommendation, may require licensees with significant market power in the wholesale access market to make available non-physical or virtual wholesale access products in accordance with the following—
 - (a) their functionalities shall be equivalent or comparable to those of local-loop unbundling in relation to the parameters that are of relevance to access seekers;
 - (b) access shall be provided locally, that is, network traffic shall be handed over at a level which is close to the customer premises such as where access is granted at or close to the central office or the street cabinet;
 - (c) access shall be generic and provide access seekers with a service-neutral transmission capacity with uncontested access, which means, for example provision of guaranteed bandwidths according to the access seekers' needs, in accordance with the principle of proportionality, while not normally requiring the licensee to deploy new physical infrastructure;

- (d) uncontested access requires in principle the establishment of a dedicated logical connection between the customer facilities and the point of handover for which the technical features of the connection shall only be limited by the inherent capabilities of the access technologies deployed and shall support local loop unbundling-like services;
 - (e) virtual unbundling of local access seekers shall have sufficient control over the transmission network to allow the product to be a functional substitute to local loop unbundling and to allow for product differentiation and innovation similar to local loop unbundling;
 - (f) having regard to these Regulations, the access seekers' control of the core network elements, network functionalities, operational and business processes, as well as the ancillary services and systems such as customer premises equipment, shall allow for sufficient control over end user product specification and the quality of service provided.
- (4) Wholesale broadband access —
- (a) shall consist of non-physical or virtual network access such as bitstream access provided at a fixed location downstream from the access covered by wholesale physical network infrastructure access and the virtual access;
 - (b) may be constructed using the input specified in paragraph (a) combined with other elements.

8. Passive Backhaul Infrastructure

- (1) The Commission, upon the recommendation of ECTEL, may require a licensee with significant market power to make available passive backhaul infrastructure to other licensees.
- (2) ECTEL in making its recommendations under sub-regulation (1) shall have regard to—
 - (a) expected growth in data traffic and required data speeds which significantly increase the need for high speed backhaul solutions given that only vertically integrated licensees in fixed and mobile markets are able to economically provide backhaul solutions; and
 - (b) the potential significant market power of a specific licensee in a wholesale market for backhaul access to underground facilities and dark fiber.

9. Special Wholesale Service

- (1) The Commission, acting upon ECTEL's recommendation, may require a licensee with significant market power to make available special wholesale services to enhance competition in a retail services market.
- (2) Special wholesale services shall consist of the components and functions of a total retail service offered by a licensee with significant market power, and any ancillary services necessary for other licensees to economically provide an

equivalent retail service to end-users that is competitive with the total retail service of the licensee with significant market power, and which the other licensees cannot economically supply themselves or obtain from a public network operator other than the licensee with significant market power.

- (3) The licensee with significant market power shall provide the special wholesale service at discounted prices from the retail prices at which it offers the retail service and the Commission, upon ECTEL's recommendation, may determine the appropriate level of such discounts, on the basis of the principle of competitive fairness.

10. Wholesale Leased Circuits

- (1) The market for wholesale leased circuits shall consist of leased circuits for use in the development of a licensee's own internal electronic communications networks, including for use in the connections between elements of mobile access networks, and for support to provide competitive leased circuits or other services in wholesale and retail markets.
- (2) The Commission, acting upon ECTEL's recommendation, may require a licensee with significant market power to make available wholesale leased circuits in the following two distinct segments—
 - (a) terminal segments; and
 - (b) trunk segments.
- (3) Where leased circuit services are analyzed for the purposes of market definition, the Commission shall conduct the analysis in a neutral manner, in relation to the network, technology or infrastructure used for the provision of the leased circuits.
- (4) Where the Commission requires that a licensee with significant market power make available wholesale leased circuits, the leased circuits shall have at least the following characteristics—
 - (a) provide end-to-end transparent and dedicated connections;
 - (b) ensure no speed limitation (and that speeds are symmetrical and constant); and
 - (c) ensure high levels of service quality such as—
 - (i) guaranteed availability and high quality of service in all circumstances including Subscriber Line Agreements that provide for twenty-four hour per day, seven day per week customer support, short repair times and redundancy, that are usually found in a services environment geared to the needs of business customers;
 - (ii) high-quality network management, including of backhaul, resulting in upload speeds appropriate for business use and very low contention;

- (iii) the possibility to offer separate Ethernet continuity, including through an additional header allowing for several layers of virtual Local Area Networks.
- (5) Notwithstanding sub-regulation (3), the Commission, upon ECTEL's recommendation, may segment the regulated leased circuits market according to bandwidth if it is necessary to address different market objectives of licensees interested in providing lower or higher bandwidth leased circuits or both.

Part III

IMPLEMENTATION OF OBLIGATIONS IMPOSED ON LICENSEES WITH SIGNIFICANT MARKET POWER

11. Specific obligations on licensees required to provide access to infrastructure and/or wholesale services

- (1) Where, following a market analysis, one licensee is or several licensees are designated by the Commission on ECTEL's recommendation as having significant market power in a relevant market, the Commission may impose, as applicable, the following obligations—
 - (a) publication of a Reference Access Offer in accordance with regulation 13 providing the terms and conditions on which the licensee subject to the access obligation proposes to enter into an agreement to provide access including price information, technical specifications and network characteristics;
 - (b) non-discrimination obligations in accordance with regulation 15 requiring a licensee with significant market power to apply equivalent conditions in equivalent circumstances to undertakings providing equivalent services to other licensees' services and information under the same conditions and with the same quality as those that they provide for their own services or those of their subsidiaries or partners;
 - (c) accounting separation obligations in relation to specified activities related to access;
 - (d) access obligations, such as the obligation to—
 - (i) give third parties access to specified elements or specific network resources, including all associated elements or network resources required to ensure that such specified access is effective;
 - (ii) negotiate in good faith with undertakings requesting access;
 - (iii) not withdraw access to facilities already granted;
 - (iv) grant open access to technical interfaces, protocols or other technologies that have a vital importance for the interoperability of services;

- (v) provide for mandatory co-location or other forms of associated access to passive infrastructure such as underground ducts, dark fiber, towers, supporting structures and facilities at base stations, central offices, or network distribution points, which shall be provided on a transparent and non-discriminatory basis at cost-oriented rates; colocation services shall be provided with associated services such as for example power, cooling, badges if need be at reasonable cost. The price or rates for such associated services shall be cost-oriented if the Commission so decides.
- (e) obligations relating to price controls, including obligations for cost-oriented prices or rates;
- (f) any other terms that the Commission upon ECTEL's recommendation determines.

12. Requirements for Reference Access Offer

- (1) Every licensee designated as having significant market power shall submit to the Commission within sixty (60) days from the date of designation, a Reference Access Offer in accordance with the provisions of these Regulations for the approval of the Commission.
- (2) The Commission shall ensure that the Reference Access Offer submitted under this section is compliant with the Act and these Regulations.
- (3) The Commission shall consult with ECTEL for its advice and recommendation concerning the Reference Access Offer before determining whether to approve the offer.
- (4) ECTEL shall undertake a public consultation prior to submitting its recommendation to the Commission.
- (5) The Commission, upon the recommendation of ECTEL, shall approve the Reference Access Offer within thirty days of the date of its receipt of ECTEL's recommendation.
- (6) Where the Commission, upon the recommendation of the ECTEL, is of the opinion that —
 - (a) the Reference Access Offer requires modifications so as to protect the interests of licensees or consumers of the electronic communications sector, or to promote or ensure efficient growth of the electronic communications sector; or
 - (b) the Reference Access Offer has not been prepared in accordance with the provisions of these Regulations;

the Commission may, after giving the licensee with significant market power concerned an opportunity to be heard, require the operator to modify the offer submitted by it.

- (7) The licensee with significant market power shall make the modifications required by the Commission and submit, within fifteen days of receipt of requirement for the modifications, the said offer after incorporating the modifications, to the Commission for review and approval.

13. Publication of Reference Access Offer

- (1) Within 7 days of approval of a Reference Access Offer, a licensee with significant market power shall publish its offer —
- (a) on its website;
 - (b) by making an electronic copy of the offer available to a requesting licensee upon request.
- (2) Every licensee with significant market power, desirous of making modifications to its Reference Access Offer published under these Regulations, shall submit the proposed modifications in the Reference Access Offer for the prior approval of the Commission.
- (3) The provisions of these Regulations, which govern the approval of the Reference Access Offer, shall, in the same manner, apply to the modifications of the Reference Access Offer approved by the Commission.

14. Contents of Reference Access Offer

- (1) Each reference access offer published or otherwise made available by the licensee with significant market power required to provide access shall contain the following information—
- (a) Preliminary Information —
 - (i) organization and network architecture, description of geographic coverage areas, and related tariff zones;
 - (ii) network elements to which access is offered;
 - (iii) information for the location of physical interconnection or access points;
 - (iv) conditions for access to more detailed prior information regarding this equipment;
 - (b) Technical characteristics of access services and associated services —
 - (i) complete description of benefits;
 - (ii) complete description of the access interfaces;
 - (iii) complete description of routing traffic conditions;
 - (iv) any operational and technical requirements with which the benefiting party shall comply in order to avoid harm to the access provider's network;
 - (c) Offer conditions —
 - (i) contractual conditions on the types of access to different offers, restrictions on use;
 - (ii) contractual conditions on ordering and delivery of physical or software resources necessary to effect access;

- (iii) necessary information to order suspension of commitments or conditions;
- (iv) contractual conditions on methods of implementing the physical or logical changes to the access;
- (v) control and termination processes;
- (vi) process signalling and failure recovery;
- (vii) conditions on passive infrastructure and facilities access related to collocation of equipment and networks to the physical connection;
- (viii) the list of benefits subject to tailored offers or preliminary estimate
- (d) Quality of Service —
 - (i) contractual conditions on standard quality of services provided and enhanced quality of subscribable service options;
 - (ii) response times to requests for supply of services and resources;
 - (iii) level of commitment, associated service incentive mechanisms and compliance;
 - (iv) penalties in case of default.
- (e) Price Plan —
 - (i) full tariff conditions, including tariffs, payments and penalties for defaults by the operator providing the access services, including associated services, contained in the reference offer.
 - (ii) pricing conditions;
 - (iii) subscriptions and changes to offers;
 - (iv) quality of service options.
- (f) Dispute resolution—

confirm jurisdiction of the Commission and ECTEL under the conditions specified in regulation 18;
- (g) Any other terms and conditions required by the Commission.

15. Non-discrimination and Accounting Separation Obligations

- (1) The Commission upon ECTEL's recommendation may impose an obligation to provide accounting separation in order to provide a higher level of detail of information than that derived from the statutory financial statements of the licensee with significant market power, to reflect as closely as possible the performance of parts of the licensee with significant market power's business as if they had operated as separate businesses, and in the case of vertically integrated undertakings, to prevent discrimination in favor of their own activities and to prevent unfair cross-subsidy.
- (2) Prior to imposing an obligation regarding accounting separation on licensees with significant market power, the Commission, upon ECTEL recommendation, and after public consultation, shall adopt and publish accounting separation and cost accounting methods with which licensees with significant market power shall comply, which shall be based upon the following principles —
 - (a) allocation of costs, capital employed and revenue shall be undertaken in accordance with the principle of cost causation;

- (b) the cost accounting and accounting separation systems of the licensee with significant market power shall be capable of reporting the regulatory financial information required to demonstrate full compliance with regulatory obligations and to support regulatory objectives;
- (c) the cost accounting system of the notified licensee with significant market power shall be capable of differentiating between and allocating direct costs (1), and indirect costs (2);
- (d) the Commission shall set clear deadlines for licensees with significant market power's implementation of new cost accounting systems based on current costs;
- (e) evaluation of network assets at the forward-looking or current value of an efficient licensee, that is, estimating the costs faced by equivalent licensees if the market were vigorously competitive, including a requirement that any depreciation charges incorporated in operating costs shall be calculated on the basis of current valuations of modern equivalent assets; therefore, reporting on the capital employed shall also be on a current cost basis and other cost adjustments may be required to reflect the current purchase cost of an asset and its operating cost base;
- (f) evaluation of network assets at forward-looking or current value may be complemented by the use of a cost accounting methodology such as long run incremental costs, where the Commission determines appropriate;
- (g) the Commission shall consider further adjustments to financial information with respect to efficiency factors, particularly when using cost data to inform pricing decisions where the use of cost accounting systems may not fully reflect efficiently incurred or relevant costs; such efficiency factors may consist of evaluations of different network topology and architecture, depreciation techniques, or technology used or planned for use in the network;
- (h) licensees with significant market power shall be required to provide detailed financial statements using cost accounting separation obligation including a profit and loss statement and statement of capital employed for each of the regulatory reporting parts of the licensee with significant market power's business, based on the relevant markets and services;
- (i) transfer charges or purchases between markets and services shall be clearly identified in sufficient detail to justify compliance with non-discrimination obligations;

- (j) accounting separation reporting obligations may also require the preparation and disclosure of information for markets where an operator does not have significant market power;
 - (k) for consistency and data integrity, the financial reports of the regulatory accounts may be required to be consolidated into a profit and loss statement and a statement of capital employed for the licensee with significant market power's business as a whole;
 - (l) a reconciliation of the separate regulatory accounts to the statutory accounts of the licensee with significant market power shall be conducted and shall be subject to an independent audit review;
 - (m) accounting information provided by licensees with significant market power shall be available to interested parties at a sufficient level of detail on the following conditions—
 - (i) the detail of information provided shall serve to ensure that there has been no undue discrimination between the provision of services internally and those provided externally and allow identification of the average cost of services and the method by which costs have been calculated;
 - (ii) the Commission shall ensure compliance with relevant laws on commercial confidentiality, and after consultation with ECTEL and the licensees, shall define what information can be considered as confidential and restricted from being made available.
- (3) The following shall apply to tariff control —
- (a) Where the Commission, upon ECTEL's recommendation, imposes on licensees with significant market power an obligation of cost-oriented tariffs of wholesale services or infrastructure access, the licensees with significant market power shall set the rates for the wholesale services or access in compliance with the cost accounting methods published by the Commission under sub-regulation (2);
 - (b) the Commission, upon ECTEL's recommendation, may also impose on licensees with significant market power other pricing obligations which may include, but not be limited to, a prohibition on excessive or predatory prices, or the obligation to offer wholesale services on a retail minus basis as may be applicable for special wholesale services referred to in regulation 9;
 - (c) if a licensee with significant market power fails to provide the documentation required to assess its compliance with the cost accounting and accounting separation obligations, the Commission, upon ECTEL's recommendation, may make its own cost calculations in order to estimate

costs on the basis of information at its disposal and determine the charges to be borne by the licensees seeking access to network infrastructure and wholesale services of the licensee with significant market power;

- (d) if the Commission and ECTEL lack sufficient information or have not yet implemented the cost accounting methods specified in sub-regulation (1), the Commission may, upon ECTEL's recommendation and in a transitional manner, determine the tariffs of the charges payable by the licensees with significant market power on the basis of international benchmarks.
- (e) the Commission, upon ECTEL's recommendation, may require licensees with significant market power to provide wholesale offers at the rates which it has determined under sub-regulations (a) to (d).

16. Negotiating Access Agreement

- (1) A licensee requesting access pursuant to these Regulations shall notify ECTEL and the Commission at the same time at which the licensee sends its request to the access provider with which it is seeking an access agreement.
- (2) The notification required by sub-regulation (1) shall include —
 - (a) reference to the requesting licensee's licence;
 - (b) a technical description of the requested services;
 - (c) the intended point of access;
 - (d) the date on which access is intended to commence; and
 - (e) the projected quantity or volume of services or access required, based on a period of three (3) years or some other period of at least six (6) months, if the licensee is reasonably unable to provide this information for the three (3) year period.
- (3) The access provider who receives a request for access shall —
 - (a) as soon as is reasonable, consider and analyze each request and acknowledge receipt within seven (7) days;
 - (b) within fifteen (15) days of the date of receipt of the initial request, notify the requesting party whether any additional information is required to facilitate access.
- (4) The access provider —
 - (a) shall grant or refuse the request for access within thirty (30) days of the receipt of the later of the date of the initial request or such additional information as the access provider may have requested;

- (c) may, in exceptional circumstances, with the agreement of the parties, extend the period specified in paragraph (a) for another thirty (30) days, and shall so notify ECTEL and the Commission;
 - (d) shall, if it is unable to respond to the request for access by the end of a sixty (60) day period or any extended period, provide, on the date on which such period expires, a written statement of the reasons to ECTEL, the Commission and to the party requesting access.
- (5) The parties to access negotiations shall cause ECTEL and the Commission to be simultaneously notified when requests and information are sent and received, as the case may be.
- (6) The Commission may specify conditions or further requirements under this regulation where it considers appropriate.

17. Contents of Access Agreements

- (1) Each access agreement concluded under these Regulations shall address the following matters—
- (a) technical characteristics and location of the points of access;
 - (b) capacity levels;
 - (c) service levels;
 - (d) forecasting;
 - (e) ordering and provisioning;
 - (f) provision of network information;
 - (g) information handling and confidentiality;
 - (h) rates;
 - (i) payment procedures;
 - (j) fault detection and repair;
 - (k) provision for breaches;
 - (l) amendments; and
 - (m) suspension, termination and duration.
- (2) Each access agreement concluded under these Regulations shall include a provision for any dispute relating to the conclusion, execution or termination of the agreement to be referred to the Commission for resolution under the conditions specified in regulation 18.
- (3) The Commission shall submit the agreement to ECTEL for review and recommendation.
- (4) The Commission shall, on a recommendation of ECTEL approve, or decline to approve, an access agreement or any modification or amendment thereof that is submitted to it pursuant to the Regulations, within thirty (30) days of the submission, which period may be extended for good cause.

- (5) If the Commission requires modifications of the access agreement which has been submitted to it, the licensee with significant market power shall make the modifications required in the period prescribed by the Commission by order.

18. Disputes Regarding Access

- (1) Where, after having negotiated for a period of at least sixty (60) days, the parties fail to conclude an access agreement under these Regulations, one or both of the parties may submit a dispute to the Commission.
- (2) A party to a signed access agreement may, where there is a dispute, refer it to the Commission and provide proof that the parties have made reasonable efforts to amicably settle the dispute.
- (3) Pursuant to a dispute submitted to the Commission under sub-regulations (1) and (2), the Commission may—
 - (a) refer the matter to ECTEL for an opinion; or
 - (b) with the consent of the parties, refer the matter to ECTEL for mediation.
- (4) Where the Commission refers a dispute to ECTEL for an opinion, the rules set out in the Dispute Regulations, the Interconnection Regulations and in any other relevant law shall be applicable.
- (5) Where the Commission, with the consent of the parties to the dispute, refers the matter to ECTEL for mediation, ECTEL shall, in consultation with the parties, cause the mediation to commence as soon as is practicable, and on its conclusion, provide the Commission and licensees with a report within three (3) months after the receipt of the request of the Commission for mediation.
- (6) The report specified in sub-regulation (5) shall include only—
 - (a) whether the mediation failed; or
 - (b) the parties came to an agreement; and
 - (c) where the parties came to an agreement, the terms of such agreement.
- (7) If mediation fails, at the end of the three (3) month period referenced in sub-regulation (5), any of the parties to the dispute may lodge a petition with the Commission to resolve the dispute under the conditions set out in sub-regulation (3)(a).

Part IV

FINAL AND TRANSITIONAL PROVISIONS

19. Revocation

The Telecommunication (Wholesale) Regulations 200[-] are hereby repealed.

SCHEDULE

- (a) **FTTN / FTTLA** (*fiber-to-the-node, fiber-to-the-neighborhood, or fiber-to-the-last-amplifier*) means: Fiber is terminated in a street cabinet, possibly miles away from the customer premises, with the final connections being copper. FTTN is often an interim step toward full **FTTH** (fiber-to-the-home).
- (b) **FTTC** (*fiber-to-the-curb, fiber-to-the-closet, or fiber-to-the-cabinet*): This is very similar to **FTTN**, but the street cabinet or pole is closer to the user's premises, typically within 1,000 feet (300 m), within range for high-bandwidth copper technologies;
- (c) **FTTdp** (*fiber-to-the-distribution-point*): This is very similar to **FTTC / FTTN** but is one-step closer, again moving the end of the fiber to within meters of the boundary of the customer's premises in the last possible junction box known as the "distribution point" thereby allowing for near-gigabit speeds;
- (d) **FTTP** (*fiber-to-the-premises*): This term is used either as a blanket term for both **FTTH** and **FTTB**, or where the fiber network includes both homes and small businesses—
 - (i) **FTTB** (*fiber-to-the-building, fiber-to-the-business, or fiber-to-the-basement*): Fiber reaches the boundary of the building, such as the basement in a multi-dwelling unit, with the final connection to the individual living space being made via alternative means, similar to the curb or pole technologies.
 - (ii) **FTTH** (*fiber-to-the-home*) means: Fiber reaches the boundary of the living space, such as a box on the outside wall of a home.
- (e) **FTTD** (*fiber-to-the-desktop*) means : Fiber connection is installed from the main computer room to a terminal or fiber media converter near the user's desk.