

**Public Consultation**  
**on**  
**Draft Telecommunication Tariff Directive 2018**

DATED AS OF: 18.05.2018

PREPARED BY



Posts and Telecommunications Department  
Ministry of Transport and Communications  
The Republic of the Union of Myanmar

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Consultation  
Draft Telecommunication Tariff Directive 2018



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## Preface

- A. The Department invites all stakeholders to submit their view on the questions and issues raised in this Public Discussion Report (PDR) initiating the replacement of the currently existing Pricing and Tariff Regulatory Framework, 2017. The Department developed for this purpose the Draft Telecommunication Tariff Directive, 2018 which provides a more holistic Tariff Framework including components which are missing in the current Pricing and Tariff Regulatory Framework, 2017.
- B. This PDR is the first of two public consultations. This PDR provides the proposal for the legal framework, the subsequent public consultation will contain detailed calculation methodology descriptions, an IT specification for the proposed online Tariff reporting and a proposal for the treatment and source of necessary cost elements, subscriber & usage data.
- C. Submissions are welcome on the Draft Telecommunication Tariff Directive 2018 including its schedules where comments are specifically sought and on all items of this PDR stakeholders might consider relevant. All submissions should be substantiated with reasons and, where appropriate, evidence or source references. Stakeholder should provide written submissions as soft copy in Myanmar or English Language to the Department by 30-6-2018.
- D. The Department developed a MS Excel tool “PDR Questionnaire - Tariff Directive 2018.xlsx” for the industry feedback which is enclosed to this document to simplify and structure the feedback. The DEPARTMENT would be grateful if feedback would be provided in this MS Excel tool. Soft copies shall be provided either via email or via USB stick. Industry stakeholders can provide their feedback in the sheets (1) Introduction, (2) Tariff Questions and (3) Summary & Conclusion.
- E. Submissions should be addressed to:
- (a) Director General  
The Republic of the Union of Myanmar  
Ministry of Transport and Communications  
Posts and Telecommunications Department  
Building No. 2  
Nay Pyi Taw, Myanmar
  - (b) Attention: Daw Seint Seint Aye
  - (c) Email: [resource@ptd.gov.mm](mailto:resource@ptd.gov.mm)
  - (d) Cc : [hlahlaung@ptd.gov.mm](mailto:hlahlaung@ptd.gov.mm)
- F. The Department intends to make submissions received available to the public. Any confidential information shall be provided under a separate cover clearly marked “CONFIDENTIAL”. For any party who wishes to make a confidential submission, a “public” version of the submission shall also be provided where confidential information is redacted. Please mark the version with confidential data as “PDR Questionnaire - Tariff Directive 2018 - Confidential.xlsx” and the version not containing confidential data as “PDR Questionnaire - Tariff Directive 2018 – Not Confidential.xlsx”. The DEPARTMENT does not make the populated as confidential marked MS Excel file publicly available.
- G. The Department thanks interested parties upfront for their participation in this consultative process and looks forward to receiving submissions with the industry feedback.



## Executive Summary

- H. The Department developed in 2017 based on requests of industry stakeholders and approved by the Ministry the Pricing and Tariff Regulatory Framework, 2017. In 2017, the Department did not have sufficient costing data which would have supported the development of a more general Tariff framework. The Department is currently developing in the context of Interconnection Rates Review 2018 a cost model which can partly provide necessary cost data usable in the context of retail Tariff regulation.
- I. Already with issuing the Pricing and Tariff Regulatory Framework, 2017, the Department announced its intention to review the framework on a timely basis. The Pricing and Tariff Regulatory Framework, 2017 was planned to be updated and evolved once costing data are available. "This is required to address competition; harness transparency in tariff approval process; provide regulatory certainty in price regulation; complement growth by creating a level playing field; and, create a win-win situation for operators and subscribers. The framework is adopted as a medium-term plan (6 to 12 months)."<sup>1</sup>
- J. The Department prepared a comprehensive Draft Telecommunication Tariff Directive, 2018 which is planned to replace the existing Pricing and Tariff Regulatory Framework, 2017. The Public and industry stakeholders shall have twice the possibility to provide feedback on the Telecommunication Tariff Directive, 2018 in the framework of public consultations. Within this Public Discussion Report, the Department asks for feedback on the provisions of the Telecommunication Tariff Directive, 2018 and the underlying principles. In a second public consultation, the Department will specify proposed calculations and the proposed online tariff reporting platform.
- K. **Summary of questions and issues raised by the Department:** The Department would be interested in receiving the view of the public and of the industry in relation to the addressed questions and issues which are summarized hereunder.

Number	Chapter	Question
1	2	Please provide your feedback on the proposed provisions of Section I of the Draft Tariff Directive 2018.
2	2	Please provide your feedback on the chosen approach in relation to Tariffs and to the provided definition of Tariffs.
3	2	Please provide your feedback on the chosen approach in relation to vertical price squeeze and to the provided definition of vertical price squeeze in relation to the provisions of Section 3.10 of the Draft Tariff Directive 2018.
4	2	Please provide your feedback on the definition of Predatory Pricing and the proposed approach.
5	2	Please provide your feedback on all remaining definitions of Section II of the Draft Tariff Directive 2018.
6	2	Please provide your feedback in relation to the basic Tariff principles of Section 3.8, Section 3.9 and Section 3.11 of the Draft Tariff Directive 2018.
7	2	Please provide your feedback on the transparency related proposals of the Department reflected in the provisions of Section 3.11(c) – Section 3.11(g) of the Draft Tariff Directive 2018.

<sup>1</sup> PTD, Pricing and Tariff Regulatory Framework, 2017, Section III.



Number	Chapter	Question																										
8	2	Please provide your feedback in relation to the provisions of the proposed Section 3.12 of the Draft Tariff Directive 2018.																										
9	2	Please provide your feedback in relation to the proposed Tariff reporting and application approach. Please elaborate your view whether the proposed Tariff reporting and application process is sufficient to reduce the risk of unsustainable price wars.																										
10	2	Please provide your feedback on the provisions of Section 3.14 of the Draft Tariff Directive 2018.																										
11	2	Please provide your feedback on the proposed duties of the Licensees detailed in the Draft Tariff Directive 2018.																										
12	2	Please provide feedback on the proposed Tariff transparency related provisions of the Draft Tariff Directive 2018.																										
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Number	Chapter	Question
		j Services with Free Trial Periods
		k Contract Duration, Termination and Suspension of PTSs, Deposit
		l Service Migration
3.25		Mechanism to Monitor Usage
3.26		Unsolicited Services
3.27		Protection of Subscriber Service Information
3.28		Billing
3.29		Disputes over Charges
3.30		Customer Service Hotline and Records of Complaints
3.31		Promotional Offer
3.32		Transparency of Promotional Offers
3.33		Anti-Competitive Promotional Offer
3.34		Code of Conduct for Advertisements
3.35		Special Transparency Requirements for Roaming – Retail Roaming Calls and SMS messages
3.36		Transparency of retail Tariffs for Roaming Services
3.37		Special Transparency Requirements for Roaming – Retail Data Roaming Services
		a Transparency and safeguard mechanisms
		b Mechanism to Monitor Usage



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Number	Chapter	Question
		c Limits and Default Limits
		d Machine-to-Machine Devices
13	2	In case, any of the provision of Section V requires additional development and implementation activity, please provide the Department with related information and required timelines individually for each such provision. Please also specify the underlying activities and impacted systems and implementation costs, if any. Please specify whether you see the necessity of a transitional period where selected provisions shall not be applied and specify hereby the related provision and the duration of the transitional period. In case additional investments are required, please specify the necessity that parts of these costs shall be considered in the framework of wholesale services, in particularly for Interconnection Rates.
14	2	Please provide your feedback in relation to the proposed provision of Section VI of the Draft Tariff Directive 2018.
15	2	Please provide your feedback in relation to the provisions of Section VII and Section VIII of the Draft Tariff Directive 2018.
16	2	Please provide your feedback on Schedule 1 – 3 of the Draft Tariff Directive 2018.



## Introduction

- 1.1 The Department developed in 2017 in connection with the industry and the Ministry the Pricing and Tariff Regulatory Framework, 2017. The Department adopted within the Pricing and Tariff Regulatory Framework, 2017 “market-based approach” to determine a “floor price” for core telecom service such as voice, SMS and Data which is “simple, transparent, and applicable” for all mobile operators as a starting point and which reduced the risk of an unhealthy and unsustainable price war.
- 1.2 Already with issuing the Pricing and Tariff Regulatory Framework, 2017, the Department announced its intention to review the framework on a timely basis. “This is required to address competition; harness transparency in tariff approval process; provide regulatory certainty in price regulation; complement growth by creating a level playing field; and, create a win-win situation for operators and subscribers. The framework is adopted as a medium-term plan (6 to 12 months).”
- 1.3 The Department drafted meanwhile a comprehensive Draft Telecommunication Tariff Directive, 2018, which it plans to be used as replacement for the existing Pricing and Tariff Regulatory Framework, 2017. The Department analysed for this purpose international best practice approaches taken by regulatory authorities worldwide in the area of Tariff regulation and found several shortcomings of the existing Pricing and Tariff Regulatory Framework, 2017 which the Department plans to cure on the basis of the here presented Draft Telecommunication Tariff Directive, 2018.
- 1.4 The main sources for the Draft Telecommunication Tariff Directive, 2018, are:
  - (a) The Tariff Order 1999 of the TRAI India including its 63 amendments. The last amendment was issued in February 2018 where TRAI clearly voted against the introduction of a floor price regime for the mobile sector.
  - (b) The Tariff Frameworks of Bahrain and Oman on non-price related Tariff regulation and the treatment of promotional offer.
  - (c) Provisions of the European Union in relation to Tariff regulation and here in particular the non-price related parts. The here provided consumer protection provisions in relation to Outbound Roaming are mainly based on the related European Framework. Furthermore, in terms of price related provisions, selected provisions of the ERG Guideline on Application of Margin Squeeze Tests to Bundles, 2009, were applied.
  - (d) IMDA’s Guidelines on Governing Abuse of Dominant Position, 2014, IMDA’s Code of Practice for Competition in the Provision of Telecommunication Services, 2012, IMDA’s Code of Practice for Provision of Premium Rate Services, 2012 and IMDA’s Provisions of Early Termination Charges & Contract Periods, 2011.
  - (e) The provisions of CRC Canada in relation to automated Tariff reporting and promotional offer.





## 2 Explanatory Notes

- 2.1 The Department provides with this Chapter explanatory notes to ease the understanding of the Draft Telecommunication Tariff Directive, 2018 and all underlying concepts. The Department further addresses questions in the explanatory note necessary to optimize on the basis of the feedback from all impacted stakeholders the Draft Telecommunication Tariff Directive, 2018.
- 2.2 **Section I – Title, Extent, Commencement, Variation & Legal Effect**
- 2.3 The first section shall set the general frame of the Draft Directive in terms of name, commencement date and the produce focus covered by the Directive (Section 3.2). Section 3.4 specifies further the parties effected by the Directive.
- 2.4 Tariffs of Public Telecommunication Services are subject to steady change reflecting technology developments, new product concepts and general trends in the industry. Accordingly, a regulation directing of a constantly changing item as a tariff must be kept flexible. Section 3.3 sets the basis to make the Directive flexible. With this, the Draft Tariff Directive 2018 should be seen as a living directive which shall be adjusted from time to time reflecting the actual development in the market.

### Question 1:

Please provide your feedback on the proposed provisions of Section I of the Draft Tariff Directive 2018.

## 2.5 Section II – Definitions

- 2.6 Section II of the Draft Directive provides definitions of several technical terms and should provide a common understanding of the terminology used in all later sections. Terms defined in the Law or other regulations shall follow definitions in the Law or the other regulations.
- 2.7 The majority of the definitions were sourced from international regulations in place to reflect international regulatory best practice. As examples, the definition of the term “Advertisement” was based on the Singapore Code of Practice for Provision of Premium Rate Services developed by IDA in 2007<sup>2</sup>, whereas the definitions around Non-Predation and price squeeze were based on the Telecommunication Tariff Order of TRAI India (Thirty-Three Amendment, 2004<sup>3</sup> and Sixty Third Amendment, 2018<sup>4</sup>) and the provisions of relevant European Union legislation. This approach was chosen to reflect the provisions of the Section 49 of the Competition Rules.<sup>5</sup>
- 2.8 The core definition provided in Section II is the definition of the term Tariff. The Department intensively studied approaches taken by international regulatory authorities in relation to the tariff concept and found that regulatory authorities are usually not only focussing on purely price

<sup>2</sup> See: <https://www.imda.gov.sg/regulations-licensing-and-consultations/consultations/consultation-papers/2007/code-of-practice-for-provision-of-premium-rate-services>

<sup>3</sup> See: [http://www.trai.gov.in/sites/default/files/33Thirty\\_Third\\_Amendment\\_08\\_Dec\\_2004.pdf](http://www.trai.gov.in/sites/default/files/33Thirty_Third_Amendment_08_Dec_2004.pdf)

<sup>4</sup> See: [http://www.trai.gov.in/sites/default/files/TTO\\_Amendment\\_Eng\\_16022018.pdf](http://www.trai.gov.in/sites/default/files/TTO_Amendment_Eng_16022018.pdf)

<sup>5</sup> Competition Rules for the Telecommunications Sector of the Republic of the Union of Myanmar, 2013.



related aspects of Tariffs, but that Tariff is seen more generally as price related components and terms and conditions. Main focus in relation to terms and conditions is on consumer protection and protection of subscriber data. Transparency and a well-informed decision of subscriber is the target. The Department followed international regulatory best practice and incorporated non-price related transparency requirements into the Draft Directive.

- 2.9 The guidance in relation to transparency and consumer protection is provided without specific product focus and shall be applied by all Licensees offering telecommunication services for the public. To close current regulatory gaps in terms of bill shock prevention, the Department also included more specific guidance on consumer protection for international outbound roaming services.

**Question 2:**

Please provide your feedback on the chosen approach in relation to Tariffs and to the provided definition of Tariffs.

- 2.10 Second core area of Section II are the definitions around price- related anti-competitive conduct in relation to vertical price squeeze and predatory pricing. Both areas further specify in accordance with provisions of the Competition Rules and provide indicative rules to prevent vertical price squeeze and predatory pricing. Concepts of vertical price squeeze and predatory pricing are commonly used by regulatory authorities and competition authorities and are proposed to be used to replace the current rigid floor price regime which is hardly in use anywhere.
- 2.11 The definition of vertical price squeeze together with the provisions of Section 3.10 on non-discrimination was based on the Indian Tariff Order which declares vertical price squeeze as discrimination and prevents vertical price squeeze by prohibiting discriminatory conducts<sup>6</sup>. Vertical price squeeze occurs in accordance with the Competition Rules if a Licensee designated SMP in certain upstream market which provides key inputs of competitor's service provisioning in a downstream market where also the Licensee designated SMP is active either increases wholesale prices or decreases retail prices not allowing its competitor to generate a sufficient margin with its retail provision. Insufficient margins are hereby equivalent to a situation where the Licensee designated SMP in certain upstream markets offers its own retail arm better conditions in an upstream market as competitors which again relates to a discriminatory conduct.

**Question 3:**

Please provide your feedback on the chosen approach in relation to vertical price squeeze and to the provided definition of vertical price squeeze in relation to the provisions of Section 3.10 of the Draft Tariff Directive 2018.

- 2.12 Ex- ante price squeeze tests were developed by many regulatory authorities. One example is the framework of "Application of margin squeeze tests to bundles" derived by the European Regulator Group (ERG) in 2009<sup>7</sup>. To reduce the risk that Licensees designated SMP offer upstream and downstream products causing vertical price squeeze a simplified Non-

<sup>6</sup> See: [http://www.trai.gov.in/sites/default/files/33Thirty\\_Third\\_Amendment\\_08\\_Dec\\_2004.pdf](http://www.trai.gov.in/sites/default/files/33Thirty_Third_Amendment_08_Dec_2004.pdf)

<sup>7</sup> ERG, Application of margin squeeze tests to bundles, 2009.



Discrimination self-checks is proposed to be mandatory conducted before submitting Tariffs for reporting to the Department. Further details are provided in the next Section.

- 2.13 Analogously to the proposed approach in relation to Vertical Price Squeeze, a similar approach in relation to Predatory Pricing is proposed. Basis here are the provisions of Section 8 of the Competition Rules defining Predatory Pricing as Tariffs with “prices below long run incremental costs or such other cost standard, as is adopted by the Regulator”<sup>8</sup>. Following international standards, pricing below long run incremental costs is usually not seen sufficient as evidence for predatory pricing. Intend to apply these prices to lessen competition is by many authorities seen as further necessary factor that offered pricing below costs are seen as Predatory Pricing. The Department proposes to also include in the context of the Tariff Directive 2018 intend into the definition of Predatory Pricing.
- 2.14 As several long run incremental cost (LRIC) concepts exist, the LRIC standard is specified in the Draft Tariff Directive in line with proposals provided by the Department in the framework of Interconnection Review 2018 as TSLRIC.
- 2.15 Licensees designated SMP in a Relevant Market shall conduct prior submission of Tariffs to the Department a simplified Non-Predation self-check based on TSLRIC. A failed Non-Predation self-check of a Licensees designated SMP in a Relevant Market shall change the obligation of the Licensees to report Tariffs to the Department into an obligation of the Licensee to request for Tariff approval by the Department. The Licensee shall not launch the Tariff without approval. Predatory Pricing shall be presumed by the Department if a Licensee after being designated SMP in a Relevant Market fails the Non-Predation self-check based on TSLRIC pursuant to Section 4.12(b). If the Licensee designated SMP in a Relevant Market further plans to launch the Tariff, then the Licensee shall be able to still request the Department to approve the Tariff as only a simplified Non-Predation self-check was conducted. However, the Licensee has to provide additional evidences with its Tariff approval request rebutting the presumption.
- 2.16 Licensees not designated ex-ante SMP in a Relevant Market shall also conduct simplified Non-Predation self-checks based on TSLRIC and based on Average Variable Costs. Offering Tariffs with prices below Average Variable Costs is seen by many authorities worldwide as evidence for offering services below costs with the intend to lessen competition, if the Licensee is designated SMP in a Relevant Market. Licensees not designated ex-ante SMP in a Relevant Market can launch the Tariff after having complied with reporting requirements as defined in the Draft Tariff Directive. However, the Licensee must confirm with submitting the Tariff for reporting to the Department that it does not offer prices below cost with the intend to lessen competition. If the Department, however, finds ex-post that the Licensee is dominant (SMP), then tariff submission with a failed Non-Predation self-check based on Average Variable Costs pursuant to Section 4.12(b) shall be a Prima Facie Evidence for offering a Tariff below costs with the intend to reduce competition. The burden of proof lies with the Licensee.
- 2.17 Following the provisions of Section 18 of the Competition Rules, the Department proposes to follow similar standards in relation to criteria when SMP can be presumed. However, the Department proposes to add beside the criteria gross revenues also the criteria subscriber.
- 2.18 To sensitize all Myanmar Licensees, the Department would like to clarify, that 30% gross revenue or subscriber market share of a Relevant Market is a presumption for SMP but not a necessary condition. Licensees with gross revenue or subscriber market share significantly below 30% might also be designated SMP, if market forces indicate a dominant market position. Service provisioning based on Tariffs with prices below costs put any Licensee at risk to be found acting in an anti-competitive manor if the Licensee is found SMP potentially resulting in penalties imposed by the Department.

<sup>8</sup> Section 8 of the Competition Rules, 2013.



**Question 4:**

Please provide your feedback on the definition of Predatory Pricing and the proposed approach.

**Question 5:**

Please provide your feedback on all remaining definitions of Section II of the Draft Tariff Directive 2018.

**2.19 Section III – Tariffs for Public Telecommunication Services**

- 2.20 Section III sets the regulatory basis and principles in relation to Tariffs. Following the provisions of the Competition Rules, the Department might suo motu review Tariffs from time to time or might review Tariffs on reference from any affected party. Related Tariff fixings by the Department are provided in the Schedules 1, 2 and 3.
- 2.21 Comparing international best regulatory practice in relation to Tariff regulation, then the focus of Tariff regulation is usually on regulation of wholesale services and retail services are usually not considered as area of sector specific regulation but as area of general competition law. The Myanmar Competition Rules mainly follow this principle, however, require ex-ante tariff application for Standard Packages, while Promotional Offer are just subject to Tariff reporting and ex-post regulation in accordance with international standards. The Department proposes to further follow this approach of ex-post regulation for retail services and to further reduce ex-ante approval requirements to Tariff applications of Licensees designated SMP in a Relevant Market and which failed selected self-checks in accordance with Section 3.12.
- 2.22 Accordingly, the Department only proposes to fix very few retail Tariff elements in the Schedule 1, 2 and 3 and the majority of prices of retail services shall be forborne. The Licensees shall have the freedom to fix Tariffs as long as the Reporting & Approval Requirements of the Section 3.12 are followed. The Department further introduces with Section 3.11 some basic Tariff principles Licensees shall follow.

**Question 6:**

Please provide your feedback in relation to the basic Tariff principles of Section 3.8, Section 3.9 and Section 3.11 of the Draft Tariff Directive 2018.

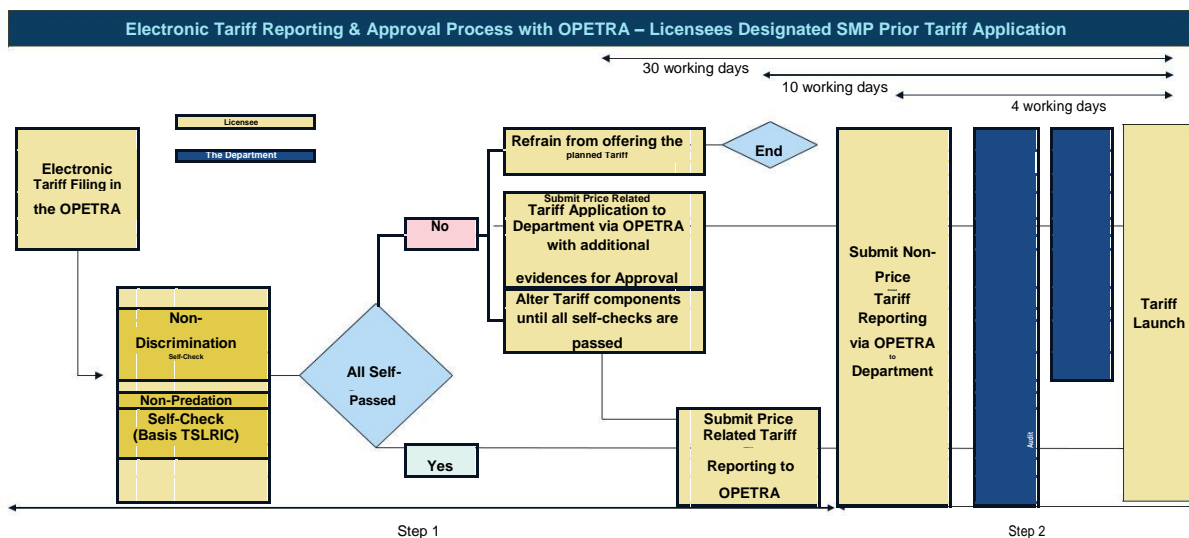
- 2.23 As described above, the Department put with development of the Draft Tariff Directive special focus on non-price related Tariff elements. Tariff transparency is seen central to enable consumer to make a well-informed decision. To increase Tariff transparency, the Department proposes in Section 3.11(c) to reduce the number of Standard Packages a Licensee shall offer to 25 and to reduce the number of Promotional Offer to one per related Standard Package in Section 3.11(f). The Department follows with this the example of TRAI India outlined in the Telecommunication Tariff Order. However, the TRAI did not reduce the number of Promotional Offer. The Department proposes to initially also reduce the number of Promotional Offer to further reduce the risk of price wars which might cause unsustainable competition.



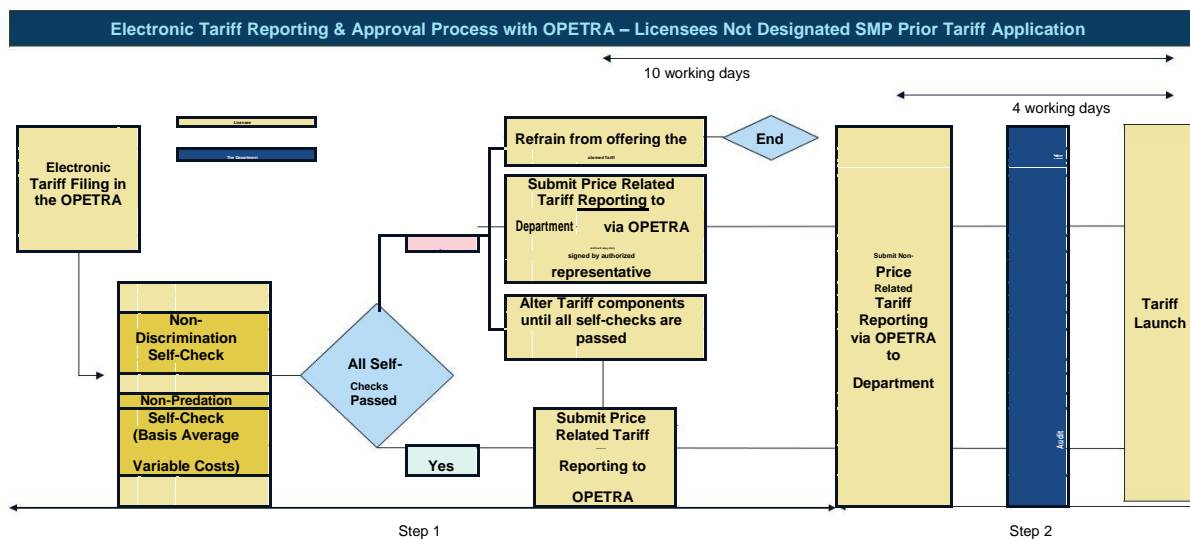
**Question 7:**

Please provide your feedback on the transparency related proposals of the Department reflected in the provisions of Section 3.11(c) – Section 3.11(g) of the Draft Tariff Directive 2018.

- 2.24 Reflecting the lessons learned above, the Department proposes to establish a Tariff reporting and approval system which on the one hand addresses the risk of unsustainable price war, but which on the other hand follows the provisions of the Competition Rules and international standards and which furthermore simplifies the Tariff reporting, Tariff application and Tariff approval process for all stakeholders by establishing an electronic / online Tariff reporting and application platform (“On-line Portal for Electronic Tariff Reporting and Approval” or “OPETRA”) where selected tasks are automated. The following two figures provide an overview of the planned Tariff reporting and approval processes.
- 2.25 All parties shall hereby file online Tariff reporting to the Department where also non-price related components are reported. In this context, all parties have to conduct Non-Discrimination & Non-Predation self-checks. Only Licensees designated SMP where one or all of the conducted self-checks failed shall file Tariff applications and request Tariff approval by the Department. Related processes are described in Section 3.12.
- 2.26 The Department will in a separate public consultation provide the calculation details of the Non-Discrimination & Non-Predation self-checks including a proposal of general parameter to be applied and parameter where the Department would see the necessity that those are provided individually by each Licensee.



**Figure 1: Electronic Tariff Reporting & Approval Process with OPETRA – Licensees Designated SMP Prior Tariff Application**



**Figure 2: Electronic Tariff Reporting & Approval Process with OPETRA – Licensees Not Designated SMP Prior Tariff Application**

**Question 8:**

Please provide your feedback in relation to the provisions of the proposed Section 3.12 of the Draft Tariff Directive 2018.

**Question 9:**

Please provide your feedback in relation to the proposed Tariff reporting and application approach. Please elaborate your view whether the proposed Tariff reporting and application process is sufficient to reduce the risk of unsustainable price wars.

**2.27 Section IV – Electronic Tariff Reporting and Price Related Tariff Approval**

2.28 Section IV provides further backgrounds on the proposed On-line Portal for Electronic Tariff Reporting and Approval (OPETRA) in relation to testing and commencement of tariff filing for reporting and approval (Section 3.14) which is proposed to replace the manual Tariff application pursuant to the provisions of the Competition Rules.

**Question 10:**

Please provide your feedback on the provisions of Section 3.14 of the Draft Tariff Directive 2018.

2.29 In Section IV, the duties of Licensees in relation to Tariff filing are further elaborated. Three of the four duties in relation of Tariff filing for reporting and approval purposes are described:

- (a) Tariff filing including Non-Discrimination & Non-Predation self-checks prior Tariff launch for reporting and in selected cases (see above) for approval including reporting of selected cost information and planned subscriber and usage / traffic information.
- (b) Quarterly update of relevant revenue, subscriber and usage information for all tariffs in place with actual subscriber and usage information.





- (c) Annual updated of audited subscriber, usage, revenue and selected Licensee individual cost data.
- 2.30 The steps (b) and (c) above are necessary to prevent Licensees to manipulate planned subscriber and usage data with the target to pass all self-checks. Based on the quarterly and annually provided data, the system will repeat the self-checks and will indicate anti-competitive areas of action of Licensees. The OPETRA is planned in such a way that MS Excel sheets can be uploaded with the necessary data to minimize the impact on the Licensees.
- 2.31 The Department will furthermore extract several costing data from the Interconnection Cost Model which is currently under development which shall be applied in the framework of the self-checks. Once the Interconnection Cost Model is completed, then the Department will extract proposed cost items and consult these cost items with the industry in a separate public consultation.

**Question 11:**

Please provide your feedback on the proposed duties of the Licensees detailed in the Draft Tariff Directive 2018.

- 2.32 **Section V – Proof of Tariff Transparency in Relation to Consumer and Data Protection**
- 2.33 Non-price related Tariff items and in particular Tariff transparency is the second focus area of the proposed Draft Telecommunication Tariff Directive 2018. Until now, consumer protection and data security was only high level described in existing telecommunications laws and regulations, the Department intends to provide also in this direction further clarity.
- 2.34 Furthermore, consumer protection organizations receive currently a significant amount of complaints from Subscribers. With providing more clarity in relation to Tariff transparency, the Department provides a wider regulatory framework to decrease the number of complaints and to provide related organizations tools to faster deal with claims.
- 2.35 Last but not least, with defining a wider framework on Tariff transparency, the Department defines a level playing field for all operators which is also necessary to establish the price-related self-checks in accordance with Section 3.12. The more inhomogeneous Licensees are with regards to non-price related items, the lower is the likelihood that standardized self-checks can be applied to detect discriminatory or predatory conducts.
- 2.36 The provisions of Section V are based on several sources starting from the European Framework, IMDA Singapore, TRA Oman, TRA Bahrain, CRC Canada and ACMA Australia.
- 2.37 The following table provides an overview of the proposed provisions in relation to Tariff transparency, consumer protection and protection of Subscriber data.

Section	Provision
3.22	Duty to File Tariff Application to Proof Tariff Transparency
3.23	Publication of Tariffs
3.24	Terms and Conditions
a	Terms and Conditions of Service
b	Disclosure of Relevant Details and Additional Amounts
c	Disclosure of Limitations



d	Validity Period
e	Automatic Renewal
f	Tariff options with inclusive time, data volume, messages or credit
g	Updated Tariff Information
h	Tariff Information on Request
i	Quiz, Competition and Prizes
j	Services with Free Trial Periods
k	Contract Duration, Termination and Suspension of PTSs, Deposit
l	Service Migration
3.25	Mechanism to Monitor Usage
3.26	Unsolicited Services
3.27	Protection of Subscriber Service Information
3.28	Billing
3.29	Disputes over Charges
3.30	Customer Service Hotline and Records of Complaints
3.31	Promotional Offer
3.32	Transparency of Promotional Offers
3.33	Anti-Competitive Promotional Offer
3.34	Code of Conduct for Advertisements
3.35	Special Transparency Requirements for Roaming – Retail Roaming Calls and SMS messages
3.36	Transparency of retail Tariffs for Roaming Services
3.37	Special Transparency Requirements for Roaming – Retail Data Roaming Services
a	Transparency and safeguard mechanisms
b	Mechanism to Monitor Usage
c	Limits and Default Limits
d	Machine-to-Machine Devices

**Figure 3: Overview of Tariff Transparency Provisions**

**Question 12:**

Please provide feedback on the proposed Tariff transparency related provisions of the Draft Tariff Directive 2018.

Section	Provision
3.22	Duty to File Tariff Application to Proof Tariff Transparency
3.23	Publication of Tariffs
3.24	Terms and Conditions
a	Terms and Conditions of Service
b	Disclosure of Relevant Details and Additional Amounts
c	Disclosure of Limitations





d	Validity Period
e	Automatic Renewal
f	Tariff options with inclusive time, data volume, messages or credit
g	Updated Tariff Information
h	Tariff Information on Request
i	Quiz, Competition and Prizes
j	Services with Free Trial Periods
k	Contract Duration, Termination and Suspension of PTSs, Deposit
l	Service Migration
3.25	Mechanism to Monitor Usage
3.26	Unsolicited Services
3.27	Protection of Subscriber Service Information
3.28	Billing
3.29	Disputes over Charges
3.30	Customer Service Hotline and Records of Complaints
3.31	Promotional Offer
3.32	Transparency of Promotional Offers
3.33	Anti-Competitive Promotional Offer
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3.36	Transparency of retail Tariffs for Roaming Services
3.37	Special Transparency Requirements for Roaming – Retail Data Roaming Services
a	Transparency and safeguard mechanisms
b	Mechanism to Monitor Usage
c	Limits and Default Limits
d	Machine-to-Machine Devices

**Question 13:**

In case, any of the provision of Section V requires additional development and implementation activity, please provide the Department with related information and required timelines individually for each such provision. Please also specify the underlying activities and impacted systems and implementation costs, if any. Please specify whether you see the necessity of a transitional period where selected provisions shall not be applied and specify hereby the related provision and the duration of the transitional period. In case additional investments are required, please specify the necessity that parts of these costs shall be considered in the framework of wholesale services, in particularly for Interconnection Rates.

**2.38 Section VI – Enforcement Measures**

2.39 Section VI describes the proposals of the Department in relation to enforcement of the Tariff Directive 2018. Section VI mainly reflect and specifies the provisions of the Competition Rules.



- (a) Section 3.41 – Investigation: Following the provision of the Competition Rules, the Department can initiate investigations, either suo motu or based on a third-party complaint.
- (b) Section 3.42 – Power to Require Information: Also in line with the provisions of the Competition Rules, the Department can request from Licensees in the framework of investigations pursuant to Section 3.41 information which is further elaborated in this Section.
- (c) Section 3.43 – Information to be Complete, Truthful and Accurate: This Section obliges the Licensee to provide complete, truthful and accurate information in the framework of investigations.
- (d) Section 3.44 – Interim Directions to Cease and Desist or to Comply with Specified Conduct: In case of Prima Facie Evidences, the Department shall be able to issue interim decisions to minimize the impact of potential anti-competitive conduct.
- (e) Section 3.45 – Enforcement measures: In this Section, the enforcement measures the Department can within its investigation are specified. The provision of this Section follows the provision of the Law and provides the Department with all possible enforcement measures to apply in investigations.
- (f) Section 3.46 – Financial penalties: Proposed financial penalties – as one of the enforcement measures – are further specified in the provision of Section 4.46. Financial penalties are provided broadly for two classes: (1) anti-competitive conduct and (2) Licensees not fulfilling their Tariff reporting requirements or fulfilling their Tariff reporting requirements late. The proposed Tariff reporting and application approach only provides the desired outcome (reduce risk of unsustainable price wars), if all Licensees are strictly following the Tariff Reporting & Application Requirements. Hence, the Department proposes more severe financial penalties for any lacks in relation to reporting.
- (g) Section 3.47 – Aggravating factors and Section 3.48 – Mitigating factors: The two Section 3.47 and 3.48 provide a guidance for the Department in the choice of enforcement measures.
- (h) Section 3.49 – Reconsideration Requests and Appeals: The Department proposes to implement a second appeal mechanism beside the appeal to the Minister by allowing the Licensee to request from the Department reconsideration of a decision related to an investigation.
- (i) Section 3.50 – Decision to be Complied with Pending Review: The last section under Section VI clarifies the role of an existing directive or decision of the Department with an ongoing appeal or reconsideration request.

**Question 14:**

Please provide your feedback in relation to the proposed provision of Section VI of the Draft Tariff Directive 2018.

**2.40 Section VII – Miscellaneous and Section VIII – Residuary Clauses**



- 2.41 The Department intends to utilize the OPETRA beside for Tariff reporting and approval by Licensees also to fulfil other duties in accordance with the provisions of the Competition Rules which are specified in Section VI of the Draft Tariff Directive as:
- (a) Publishing reported/approved Tariff to the public after their launch date
  - (b) Providing the public with a Tariff comparison
  - (c) Using selected non-confidential market data for publication
- 2.42 Section VIII provides residuary and transition clauses. In relation to transition from the Pricing and Tariff Framework, 2017 to the Telecommunication Tariff Directive 2018, the Department proposes that in a first step – as already publicly consulted – MyTel shall be partly released from the Pricing and Tariff Framework, 2017, but the Pricing and Tariff Framework, 2017 shall further be applicable for all Licensees. With the Telecommunication Tariff Directive, 2018 coming into power, the Department proposes to establish a semi-automated reporting process for the Licensees by providing the Licensees with templates for the self-checks required under Section 3.12. Licensees shall follow the semi- automated reporting process until three months after the Department announces the ready for service date of the OPETRA in accordance with Section 3.14 where the propose automated Tariff reporting shall be applied.
- 2.43 To establish a level playing field for all operators at the point in time of the introduction of the Telecommunication Tariff Directive, 2018. The Department further proposes to release MPT with commencement of the Telecommunication Tariff Directive, 2018 from the SMP status in the retail market for “Local, National and International Voice Call Services” imposed by Schedule 1 of the Competition Rules, if MPT warrants
- (a) not to increase retail prices for its fixed network services; and
  - (b) not to increase retail prices for its International Voice Call Services and Outbound Roaming, which are initially not covered by this Directive.

**Question 15:**

Please provide your feedback in relation to the provisions of Section VII and Section VIII of the Draft Tariff Directive 2018.

**2.44 Schedule 1 – 3**

- 2.45 Schedule 1 – 3 contain price determinations and price related rules which shall be followed by the Licensees. Forbearance shall be applied for all not fixed price items. Schedule 1 provides general Tariff determinations applicable independent of the underlying technology. Schedule 2 contains Tariff fixings for fixed network related PTS. Schedule 3 contains Tariff fixings for mobile network related PTS.

**Question 16:**

Please provide your feedback on Schedule 1 – 3 of the Draft Tariff Directive 2018.



### 3 Draft Telecommunication Tariff Directive 2018

#### 3.1 Section I – Title, Extent, Commencement, Variation & Legal Effect

##### 3.2 Short title, extent and commencement:

- (a) This Directive shall be called "Telecommunication Tariff Directive 2018."
- (b) The Directive shall cover Tariffs of Public Telecommunication Services throughout the territory of Myanmar offered to end users in the Republic of the Union of Myanmar and non-price related Tariff components of Outbound Roaming Services offered to end user in the Republic of the Union of Myanmar. End user shall be either consumer (mass market) or small and medium enterprises (SME) for which usually standard services are offered, but not big enterprises usually serviced with individual solutions. Wholesale services shall also not be covered by this Directive.
- (c) This Directive shall come into force on the XX.XX.2018.

3.3 **Variation & Revocation:** The Department may at any time review, add to, vary or revoke this Directive in accordance with the provision of Section 31 of the Act and the provisions of the Competition Rules.

##### 3.4 Legal effect of this Directive

- (a) Licensees offering Public Telecommunication Services to Subscriber in the Republic of the Union of Myanmar including Outbound Roaming Services are required to comply with this Directive. The obligations contained under this Directive are in addition to those contained in the Act, the Competition Rules, the Licensing Rules, the Interconnection & Access Rules and other rules, regulations, directions or licences.
- (b) If any provision of this Directive is held to be unlawful, all other provisions will remain in full force and effect.

#### 3.5 Section II – Definitions

3.6 **Definitions:** In this Directive, unless the context otherwise requires:

- (a) "**Act**" means the Telecommunications Law of the Republic of the Union of Myanmar, 2013.
- (b) "**Advertisement**" means any form of communication for PTSs offered regardless of the medium used which draws or is likely to draw the attention of the public, or a member or a segment of it, to a PTSs in a manner calculated to promote, directly or indirectly, that PTSs and includes but is not limited to:
  - (i) advertisements in newspapers (including classified advertisements), magazines, brochures, leaflets, circulars, mailings, posters, plastic cards (including fare cards, cash cards), tickets and other printed publications;
  - (ii) advertisements via facsimile transmissions and aerial announcements;
  - (iii) advertisements displayed on buildings and vehicles;
  - (iv) television, radio, cinema and video commercials;



- (v) advertisements in information network services, electronic bulletin boards, on-line databases and Internet services;
- (vi) advertisements in non-broadcast media such as computer games;
- (vii) mail orders;
- (viii) sales promotions;
- (ix) mailing lists;
- (x) digital communications in every format, design and context including the world-wide web (Internet); and
- (xi) advertisements communicated via telephone and electronic messaging,

and the terms “advertise” and “advertising” shall be construed accordingly.

- (c) **“Auditor”** means an individual or firm approved pursuant to the Myanmar Accountancy Council Law or any other applicable Law.
- (d) **“Auditor’s Report”** means a report issued by an Auditor as a result of an audit expressing an opinion as to whether the Tariff reporting or application under Section 3.12 and Section 3.16 and the quarterly and annually provided data under Section 3.17 and 3.18 provide a fair representation of the Licensee’s business in line with the requirements set out in this Directive.
- (e) **“Average Variable Cost”** means total variable cost divided by total output during the relevant period.
- (f) **“Competition Rules”** means the Competition Rules for the Telecommunications Sector of the Republic of the Union of Myanmar, 2013.
- (g) **“Department”** means the Posts and Telecommunications Department under the Ministry of Communications and Information Technology of the Union of the Republic of the Union of Myanmar.
- (h) **“Ceiling”** means the upper limit for a Tariff or parts of a Tariff for Public Telecommunication Services as specified by the Department from time to time.
- (i) **“Data Roaming Service”** means a roaming service enabling the use of packet switched data communications by a Roaming Subscriber by means of his mobile device while it is connected to a Visited Network. A Data Roaming Service does not include the transmission or receipt of Roaming Calls or SMS messages, but does include the transmission and receipt of MMS messages.
- (j) **“Fairly Presents in Accordance (FPIA)”** means an audit opinion which provides the Department with assurance that the Tariff reporting and application in accordance with Section 3.12, 3.15, 3.16, 3.17 and 3.18 ‘fairly present’ the underlying performance and reported financial position of the Licensee’s Public Telecommunication Services, including its presentation in accordance with this Directive.
- (k) **“Floor”** means the lower limit of a Tariff or of parts of a Tariff for Public Telecommunication Services as specified by the Department from time to time below which such Tariffs may not be offered.



- (l) **"Forbearance"** denotes that the Department has not, for the time being, notified any Tariff for a particular telecommunication service and the Licensee is free to fix any Tariff for such service.
- (m) **"Interconnection and Access Rules"** means the Interconnection and Access Rules of the Republic of the Union of Myanmar, 2013.
- (n) **"Licensing Rules"** means Licensing Rules of the Republic of the Union of Myanmar, 2013.
- (o) **"Non-Predation"** means not indulging in predatory pricing by a Licensee offering PTS having significant market power.
- (p) **"On-line Portal for Electronic Tariff Reporting and Approval"** or **"OPETRA"** means a webpage in the domain of the Department usable for electronic tariff application in line with the Reporting Requirements of Section 3.12 and Section VII of this Directive.
- (q) **"Optional Services"** means any additional Public Telecommunication Service a Subscriber might be able to use while subscribing a Tariff of a PTS which, however, are not directly part of the Tariff. Optional Services are services like Call Forwarding, International Calls, Roaming, Premium Rate Services or Call or Messaging to Call Centre.
- (r) **"Predatory Pricing"** means the provision of a Tariff of a Standard Package or of a Promotional Offer of a distinct PTS by a Licensee designated SMP in the Relevant Market, as determined by the Department, at a price which is below long run incremental cost (LRIC) with the intend to reduce competition.
  - (i) Predatory pricing shall be presumed by the Department if a Licensee after being designated SMP in a Relevant Market fails the Non-Predation self-check based on TSLRIC pursuant to Section 3.12(a). The burden of proof to rebut the presumption lies with the Licensee.
  - (ii) Failing the Non-Predation self-check based on Average Variable Costs pursuant to Section 3.12(a) shall be a Prima Facie Evidence for offering a Tariff below costs with the intend to reduce competition if the Licensee is designated SMP ex-post. The burden of proof lies with the Licensee.
- (s) **"Presumption"**: A presumption imposes on the Licensee against whom it is directed the burden of production to rebut or meet that presumption. If that Licensee fails to come forward with evidence to rebut or meet that presumption, the fact is to be taken by the Department as established. If that Licensee comes forward with evidence to rebut or meet the presumption, the presumption shall have no further force or effect.
- (t) **"Prima Facie Evidence"**: Evidence that is sufficient to raise a presumption of fact or to establish the fact in question unless rebutted. The Licensee against whom the prima facie evidence is directed has the burden of production to rebut or meet such prima facie evidence. If the Licensee fails to come forward with evidence to rebut or meet the prima facie evidence, the fact at issue is to be taken as established. Where evidence is introduced sufficient to warrant a finding contrary to the fact at issue, the Department shall be permitted to consider the prima facie evidence as bearing on the fact at issue, but it must be weighed with all other evidence to determine whether a particular fact has been proved.
- (u) **"Promotional Offers"** are offers intending to or resulting in the encouragement of the Subscriber of PTS or person which are not yet Subscriber of PTS, whether direct or





indirect. Promotional Offer are derivatives of Standard Packages where selected Tariff parameter are adjusted and can be referenced directly to a Standard Package or can be used to introduce Standard Packages as market trial.

- (v) **“Properly Prepared in Accordance (PPIA)”** an audit opinion that provides assurance that the figures contained in Tariff reporting and application in accordance with Section 3.12, 3.15, 3.16, 3.17 and 3.18 have been properly prepared in accordance with a described methodology, but without any assurance that the overall impression which they convey represents the underlying performance and financial position of the Licensee's Public Telecommunication Services in a 'fair' manner.
- (w) **“Public Telecommunication Service”** or **“PTS”** means any Telecommunication Service as defined by the Law offered for a fee directly to the public, or to such clusters of users as to be effectively available directly to the public, regardless of the facilities used. Telecommunication Services to the Public shall not include individually tailored Telecommunication Service which are only offered to one or to a limited group of beneficiaries. The plural of Public Telecommunication Service shall be abbreviated in the course of this Directive as **“PTSs”**.
- (x) **“Relevant Market”** means the market which may be determined by the Department with reference to the relevant product market for PTSs and the relevant geographical market.
- (y) **“Relevant Product Market”** means the market in respect of PTSs for which the Department grants licenses to the Licensees.
- (z) **“Relevant Geographic Market”** means a market comprising the respective license service area for which the Department grants license to the Licensees to provide PTSs.
- (aa) **“Reporting & Approval Requirements”** mean the obligation of a Licensee offering PTS to report Tariffs or to file Tariff applications pursuant to Section 3.12 of this Directive. Tariff reporting or Tariff applications shall be conducted electronically pursuant to Section 3.12 of this Directive. The electronic Tariff reporting or application shall replace the manual tariff reporting and application of the Competition Rules once fully functional. Tariff reporting and Tariff applications shall include self-checks to ensure that Tariffs of Standard Packages and Promotional Offer are consistent with the regulatory principles which, inter-alia, include transparency, non-discrimination and Non-Predation, if applicable. Licensees shall have the obligation
  - (i) to report to the Department any new Standard Package or Promotional Offer for a PTS under this Directive or any change therein; or
  - (ii) to request the approval of the Department of any new Standard Package or Promotional Offer for a PTS under this Directive or any change therein if the Licensee is declared SMP in a Relevant Market and any of the self-checks pursuant to Section 3.12 failed.
- (bb) **“Roaming Call”** means a mobile voice telephony call made by a Roaming Subscriber, originating on a Visited Network and terminating on a public communications network within or outside the Republic of the Union of Myanmar or received by a Roaming Subscriber, originating on a public communications network within or outside the Republic of the Union of Myanmar and terminating on a Visited Network.
- (cc) **“Roaming Services”** means either a Roaming Call Service, or a Roaming SMS Message Service or a Data Roaming Service or any combination of Roaming Call Service, or a Roaming SMS Message Service or a Data Roaming.



- (dd) **“Roaming SMS Message”** means an SMS message sent by a Roaming Subscriber, originating on a Visited Network and terminating on a public communications network within or outside the Republic of the Union of Myanmar or received by a Roaming Subscriber, originating on a public communications network within or outside the Republic of the Union of Myanmar and terminating on a Visited Network.
- (ee) **“Roaming Subscriber”** means a Subscriber of a Licensee’s Public International Roaming Service, by means of a terrestrial public mobile communications network situated in a territory outside of the Republic of the Union of Myanmar, whose contract or arrangement with that Roaming Provider permits roaming.
- (ff) **“Significant Market Power (SMP)”** means a Licensee if, either individually or jointly with others, it enjoys a position equivalent to dominance, that is to say a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers. SMP shall be presumed if a Licensee holds a share of at least thirty per cent of total activity in a relevant market. Total activity shall be determined on the basis of either subscriber base or gross revenue.
- (gg) **“Standard Package”** means a package of Tariffs which inter-alia comprises rental, call charges, data transport charges, free calls, free data allowances, deposits and other charges as may be set and defined by the Licensee or determined by the Department for specific Public Telecommunication Service from time to time.
- (hh) **“Supplementary Services”** mean network services which are provided specific to a Subscriber’s directory number and controlled either by the Subscriber or by the Licensee such as automatic alarm call service, call waiting, call diversion on busy or no reply, and any other such service.
- (ii) **“Tariff(s)”** mean(s) rates and related conditions at which PTSs within Myanmar and outside Myanmar are provided including service description, terms and conditions of the service provisioning and the applicable charges, deposits, installation charges, rentals charges, free service components, charges for data conveyance services, usage charges and any other related fees or service charge.
- (jj) **“TSLRIC”** means Total Service Long Run Incremental Cost means the total Long Run Incremental Cost including items such as employee cost, administrative cost, sales and marketing cost, maintenance cost, network operating cost, government charges, depreciation and amortization, finance charges and other cost attributable to the service during the referred period.
- (kk) **“Total Variable Cost”** means the Total Cost minus the fixed cost and share of fixed overheads, if any, during the relevant period.
- (ll) **“Transparency”** means the disclosure of all relevant information of every tariff plan by the service provider which enables the consumer to make an informed choice. The disclosed information, inter alia, is to be accessible, accurate, comparable, complete, distinct and identifiable, explicit and non-misleading, simple and unambiguous.
- (mm) **“Vertical Price Squeeze”** means differential Tariff assuming the nature of anti-competitive conduct that may occur when an Licensee with SMP controls certain key inputs required by competitors in downstream markets and where such operators or its affiliates use those key inputs to compete in the downstream market.
- (nn) **“Visited Network”** means a terrestrial public mobile communications network situated in a territory outside the Republic of the Union of Myanmar that permits a Roaming





Subscriber to make or receive calls, to send or receive SMS messages or to use packet switched data communications, by means of arrangements with the Licensee.

- (oo) **“Visited Network Operator”** means the undertaking operating the Visited Network.
- (pp) Words and expressions used in this Directive and not defined in this Directive but defined in the Act, the Competition Rules, the Interconnection and Access Rules or the Licensing Rules shall have the same meanings respectively assigned to them in the Act, in the Competition Rules, the Interconnection and Access Rules or the Licensing Rules.

### 3.7 Section III – Tariffs for Public Telecommunication Services

#### 3.8 Review of Tariffs:

- (a) The Department may suo motu, from time to time, review and modify Tariffs of PTS or a part thereof. The Department may also at any time, on reference from any affected party, and for good and sufficient reasons, review and modify any Tariff of a PTS.
- (b) Tariffs for PTSs and their dates of implementation shall be as set out in the Schedule 1, Schedule 2 and Schedule 3 to this Directive or are defined by a Licensee pursuant to Section 3.9 of this Section if not set out in the Schedule 1, Schedule 2 and Schedule 3 to this Directive.

3.9 **Forbearance:** Where the Department has, for the time being, forbore from fixing a Tariff for any PTS or parts thereof, a Licensee shall be at liberty to fix any Tariff for such PTS, provided that the Licensee complies with the Reporting and Approval Requirements of Section 3.12.

3.10 **Non-discrimination:** No Licensee offering PTSs shall, in any manner, discriminate between Subscribers of the same cluster and such clusterization of Subscribers shall not be arbitrary. Provided that every clusterization between subscribers shall be based on intelligible eligibility criteria where such criteria shall have a rational nexus to the purpose of the said classification. Provided further that tariff in the nature of vertical price squeeze shall be a case of discriminatory tariff.

#### 3.11 Flexibility and Packages:

- (a) Where a Tariff has been specified as a ceiling by the Department, no Tariff shall be fixed in excess of such ceiling.
- (b) Where a Tariff has been specified as a floor by the Department, no Tariff shall be fixed below such floor.
- (c) A Licensee may, in addition to Standard Packages, offer Promotional Offers related to Standard Packages to different categories of Subscribers in a non-discriminatory manner. However, at any given point in time not more than 25 Standard Packages shall be on offer by a service provider and not more than 1 Promotional Offer related to a Standard Package. This shall include both Standard Packages with post-paid and pre-paid Tariffs and Standard Packages for consumer and small and medium enterprises but shall exclude individual offer to large enterprises, Optional Services and Supplementary Services.
- (d) Licensees offering PTS shall comply with Section 3.11(c) within 90 day after this Directive become into power.



- (e) No Licensee shall offer a new Standard Package or Promotional Offer or a new Tariff of an existing Standard Package or Promotional Offer or alter any Tariff of a Standard Package or Promotional Offer of any PTS or any part thereof without complying the Reporting & Approval Requirements pursuant to Section 3.12 of this Directive.
- (f) Pursuant to Section 45 of the Competition Rules,
  - (i) a Promotional Offer shall not have a benefits period exceeding ninety (90) days in duration;
  - (ii) a Promotional Offer shall not have an enrolment period exceeding the benefits period; and
  - (iii) there should be no subsequent Promotional Offer for a Standard Offer within a period of 180 days after the last day of a Promotional Offer of this Standard Offer.
- (g) Any Promotional Offer violating the condition of Section 3.11(f)(i) or Section 3.11(f)(ii) shall replace the Standard Package.

### 3.12 Reporting & Approval Requirements

- (a) Electronic Tariff approval and reporting shall be conducted in two steps.
- (b) **Step 1 for Licensees designated SMP in the Relevant Market:**
  - (i) A Licensee designated SMP in a Relevant Market shall not later than 30 working days prior planned launch date of a new or altered Tariff of a Standard Package or Promotional Offer of a PTS populate the OPETRA with the basic Tariff data and all price related Tariff components.
  - (ii) A Licensee designated SMP in a Relevant Market shall not later than 30 working days prior planned launch date of a new or altered Tariff of a Standard Package or Promotional Offer of a PTS conduct a price-related self-checks in relation to
    - (A) Non-Discrimination;
    - (B) Non-Predation based on TSLRIC; and
    - (C) Non-Predation based on Average Variable Costs;where applicable.
  - (iii) If any of the self-checks pursuant to Section 3.12(b)(ii) of a Licensee designated SMP in a Relevant Market failed then this Licensee shall either
    - (A) refrain from offering the planned Tariff; or
    - (b) alter the Tariff until the Tariff passed all self-checks pursuant to Section 3.12(b)(ii); or
    - (C) submit the Tariff for approval to the Department via the OPETRA not later than 30 working days prior planned launch date.



- (iv) If a Licensee designated SMP in a Relevant Market submits a Tariff for approval to the Department via the OPETRA in accordance to 3.12(b)(iii)(C), then this Licensee shall provide evidences rebutting the presumption of Predatory Pricing pursuant to Section 3.6(r) and discrimination pursuant to Section 3.10. Evidences shall be provided via the OPETRA. Sections 40, 41, 42 and 43 of the Competition Rules shall be applied.
  - (v) If all self-checks pursuant to Section 3.12(b)(ii) of a Licensee designated SMP in a Relevant Market passed then this Licensee shall submit Tariff reporting to the Department 10 working days prior planned launch date.
- (c) **Step 1 for Licensees not designated SMP in the Relevant Market:**
- (i) A Licensee shall not later than 10 working days prior planned launch date of a new or altered Tariff of a Standard Package or Promotional Offer of a PTS populate the OPETRA with the basic Tariff data and all price related Tariff components.
  - (ii) A Licensee shall not later than 10 working days prior planned launch date of a new or altered Tariff of a Standard Package or Promotional Offer of a PTS conduct a price-related self-checks in relation to
    - (A) Non-Discrimination;
    - (B) Non-Predation based on TSLRIC; and
    - (C) Non-Predation based on Average Variable Costs;where applicable.
  - (iii) Unless either the Non-Discrimination self-test or the Non-Predation self-test based on Average Variable Costs failed, the Licensee shall submit the Tariff via the OPETRA to the Department for Tariff reporting. A paper submission is not required.
  - (iv) If either the Non-Discrimination self-check or the Non-Predation self-check based on Average Variable Costs fails or both then the Licensee shall either
    - (A) refrain from offering the planned Tariff; or
    - (b) alter the Tariff until the Tariff passed the Non-Discrimination self-check or the Non-Predation self-check based on Average Variable Costs or both; or
    - (C) submit the Tariff to the Department via the OPETRA not later than 10 working days prior planned launch date.
  - (v) If a Licensee submits a tariff to the Department via the OPETRA in accordance to 3.12(c)(iv)(C) then this submission via the OPETRA must be confirmed by an Authorized Representative of the Licensee and a hard copy of the Tariff reporting duly signed by the Authorized Representative shall be submitted to the Department. The Authorized Representative must hereby declare that:
    - (A) all information provided to the Department within the Tariff application are to the best knowledge of the Authorized Representative complete, truthful and accurate.



(B) although either the Non-Discrimination self-check or the Non-Predation self-check based on Average Variable Costs or both indicate anti-competitive conduct that Licensee does not intend to lessen competition in any form.

(C) the Authorized Representative is fully aware that he might be liable to imprisonment for a term not exceeding three years or to a fine or to both in accordance with Section 66 of the Telecommunications Law of the Republic of the Union of Myanmar in case the Authorized Representative made a wrong testimonial.

(vi) The Licensee shall not offer the Tariff before the Department confirmed the receipt of the duly signed hard copy of the Tariff filing.

(d) **Step 2:**

(i) The Licensee shall not later than four working days prior planned launch date of a new or altered Tariff of a Standard Package or Promotional Offer populate the OPETRA with all necessary Tariff publication, consumer protection, data protection and transparency related information and evidences and shall submit these via the OPETRA to the Department.

(ii) The Department will audit randomly reported Tariffs in relation to Tariff publication, consumer protection, data protection and transparency and might direct Licensees to adjust or amend Tariff publications and consumer or data protection related measures.

(e) Unless the Department intervenes within the mandatory notice period as defined by the Competition Rules, the Licensee may implement the proposed Tariff.

**3.13 Section IV – Electronic Tariff Reporting and Price Related Tariff Approval**

**3.14 Electronic Tariff Reporting and Approval:**

(a) The Department will specify and develop an online facility for electronic Tariff application and reporting (On-line Portal for Electronic Tariff Reporting and Approval (OPETRA)). The Department will inform Licensees

(i) of the date the OPETRA is ready for testing by Licensees; and

(ii) of the date the OPETRA is ready for service.

(b) Licensees and the Department shall jointly test the OPETRA over a period of time as specified by the Department. The Department will provide feedback templates for error reporting and retesting.

(c) With announcement that the OPETRA is ready for service, Licensees offering PTS shall within a period of three month populate the OPETRA with existing Tariff data, usage data and subscriber data.

(d) The Department will generate and populate regularly from time to time in the process of Interconnection Rates Review the OPETRA with cost data after having conducted a public consultation on the relevant cost data.



- (e) Cost data shall be provided by the Department for specific network services as defined in Schedule 4 of this Directive. For each network service the cost data are determined based on the TSLRIC and the Average Variable Cost standards.

### 3.15 Duties of the Licensee:

- (a) Licensees offering PTS shall have the following four duties in regard to Tariff reporting and application:
  - (i) **Duty to file price related Tariff reporting or application:** Unless otherwise specified by the Department, the Licensee shall submit price related Tariff reporting or application, what the case might be, via the OPETRA for each new or altered Tariff of a PTS pursuant to Section 3.12 including Promotional Offer.
  - (ii) **Duty to file Tariff publication, consumer protection, data protection and Tariff transparency related information and evidences in the OPETRA:** Unless otherwise specified by the Department, the Licensee shall submit for each new or altered Tariff of a PTS pursuant to Section 3.12 Tariff publication, consumer protection, data protection and Tariff transparency related information and evidences as specified from time to time by the Department via the OPETRA to the Department including Promotional Offer.
  - (iii) **Duty to populate the OPETRA quarterly with actual subscriber/subscription, traffic and revenue data:** Unless otherwise specified by the Department, the Licensee shall populate the OPETRA quarterly in accordance with Section 3.17 with actual subscriber/subscription, traffic and revenue data of the previous quarter as specified by the Department from time to time.
  - (iv) **Duty to populate the OPETRA annually with audited actual revenue, cost, subscriber/subscription and traffic data:** Unless otherwise specified by the Department, the Licensee shall populate the OPETRA annually in accordance with Section 3.18 with audited actual revenue, cost, subscriber/subscription and traffic and revenue data of the previous year as specified by the Department from time to time.
- (b) Licensees shall commence electronic Tariff reporting and/or applications latest three month after the ready for service date via the OPETRA.

### 3.16 Duty to File Price Related Tariff Application:

- (a) Unless otherwise specified by the Department, the Licensee shall submit as specified from time to time by the Department to the Department with its Tariff reporting and/or application, what the case might be, pursuant to Section 3.12 via the OPETRA all necessary data including but not limited to:
  - (i) nature of the Tariff
  - (ii) the reference to a Standard Offer in case a Promotional Tariff is subject to application and method of conducting the Promotional Offer;
  - (iii) commencement date
  - (iv) duration of the Promotional Offer not exceeding three months
  - (v) price information and other relevant Tariff information;



- (vi) initial Licensee individual cost information; and
  - (vii) planned number of subscriber/subscription and their usage.
- (b) Unless otherwise directed by the Department, the Licensee shall conduct in the OPETRA before submitting to the Department a Tariff reporting and/or application via the OPETRA self-checks pursuant to Section 3.12. The result of the self-checks shall be integral part of the submission to the Department.
- (c) Timelines as specified in Section 3.12 shall apply.

**3.17 Duty to quarterly populate the OPETRA:** Unless otherwise specified by the Department, the Licensee shall populate the OPETRA with the actual subscriber, traffic and revenue data of the previous quarter as specified by the Department from time to time for the period

- (a) January until March latest by 15.04. of each year;
- (b) April until June latest by 15.07. of each year;
- (c) July until September latest by 15.10. of each year; and
- (d) October until December latest by 15.01. of each year.

**3.18 Duty to annually populate the OPETRA:**

- (a) Unless otherwise specified by the Department, the Licensee shall populate the OPETRA annually latest by the 15.04. with audited actual revenue, cost, subscriber/subscription and traffic data of the previous year as specified by the Department from time to time. The Licensee shall upload in the OPETRA or provide the Department with the duly signed audit report of the provided data of the previous year in a way as directed by the Department. The audit shall follow the provisions of Section 3.20 of this Directive and the audit process shall follow the provisions of Section 3.19 of this Directive.
- (b) The Department reserves the right to request a restatement of the most recent audit after the submission process, along with the restatement of the prior year's audit, if it has reasons to believe that those provided data pursuant to 3.18(a) do not comply with this Directive or any of its amendments.

**3.19 Appointment of the Auditor of the Tariff Reporting or Applications of the Previous Year:**

- (a) Licensees shall appoint an Auditor to audit the data provided in Tariff reporting or applications, what the case might be, in accordance with this Directive. This Auditor can be different from the Auditor of that Licensee's statutory financial accounts.
- (b) A Licensee shall not appoint a new Auditor without informing the Department in advance of any appointment and setting out the reason that the Licensee believes makes a new appointment necessary.
- (c) The Department may further require the Licensee to appoint a new Auditor in the event that it has reason to believe that the objectives of this Directive or the Law may not be met.





- (d) The Licensee shall ensure that the audit takes place in a timely manner to ensure that the audit is prepared and submitted to the Department in accordance with the requirements set out in Section 3.18(a).

### **3.20 Audit of Tariff Reporting and Applications**

- (a) The Tariff Reporting and Applications in accordance with Section 3.12 and the quarterly and annually provided actual revenue, cost, subscriber/subscription and traffic data in accordance with Section 3.16, 3.17 and 3.18 shall be subject to an audit carried out by an independent and professionally qualified Auditor using the FPIA standard. The Auditor shall provide an Auditor's Report certifying that the data provided pursuant to Section 3.12, 3.16, 3.17, 3.18 by the Licensee have been prepared in accordance with this Directive and any amendments of this Directive and are in line with that Licensee's statutory financial accounts.
- (b) If the Auditor is only able to issue a qualified opinion or disclaimer in its Auditor's Report under FPIA, the Licensee must also instruct its Auditor to include in the Auditor's Report, a separate opinion under the PPIA standard, regarding those aspects of the Tariff reporting or application under Section 3.12 and Section 3.16 and the quarterly and annually provided data under Section 3.17 and 3.18 that prevented it from issuing an unqualified opinion under FPIA. This opinion must state whether those aspects meet the requirements to achieve an unqualified audit opinion based on an audit under the PPIA standard. The opinion must also set out the requirements that the Licensee must fulfil in order to achieve an unqualified opinion based on an audit under FPIA.
- (c) If the Auditor issues a qualified opinion or disclaimer, based on either of these audit standards, the Auditor's Report must specify why the qualified opinion or disclaimer was issued, alongside the necessary changes or improvements which the Licensee would need to make to achieve an unqualified opinion.
- (d) In the event that a Licensee is only able to provide a qualified opinion or disclaimer under both FPIA and PPIA, then, if in the Authority's view the Tariff reporting or application under Section 3.12 and Section 3.16 and the quarterly and annually provided data under Section 3.17 and 3.18 appear unsuitable for regulatory purposes, the Department, without prejudice to its powers to impose penalties under the Law, may require the Licensee to prepare a second set of Tariff reporting or application under Section 3.12 and Section 3.16 and the quarterly and annually provided data under Section 3.17 and 3.18 for the year in question, which resolves the concerns raised by the Auditor.
- (e) A Licensees shall be deemed to have complied with its obligations in relation to the preparation of the Tariff reporting or application under Section 3.12 and Section 3.16 and the quarterly and annually provided data under Section 3.17 and 3.18 only if the Auditor issues an unqualified opinion in its Auditor's Report, applying the FPIA standard, as a whole.
- (f) The Auditor's Report shall contain all necessary details as required under this Directive and under any amendment of this Directive.
- (g) All costs incurred in complying with this Directive, including but not limited to the Auditor's costs, shall be borne by the Licensee.

### **3.21 Section V – Proof of Tariff Transparency in Relation to Consumer and Data Protection**

#### **3.22 Duty to File Tariff Application to Proof Tariff Transparency:**



- (a) The Licensee shall not later than 4 working days prior planned launch day of the Tariff update the filled and initially submitted Tariff with evidences identifying the requirements in relation to Tariff transparency are fulfilled. The Licensee shall upload and populate the OPETRA with
  - (i) screenshots of its webpage indicating easiness to find the Tariff within the webpage of the Licensee;
  - (ii) screenshots of a demo webpage showing how the tariff shall be published;
  - (iii) call centre scripts describing the Tariff;
  - (iv) planned advertisement;
  - (v) terms and condition; and
  - (vi) any other information or documents required by the Authority.
- (b) The Licensee shall confirm that all conditions of this Section V are fulfilled.
- (c) The Licensee shall hereby indicate on the provided material that the published Tariff contains all relevant information in accordance with Section 3.23.
- (d) The Licensee shall provide a transparency self-rating of the planned Tariff publication, by rating the Tariff publication in terms of:
  - (i) Accessible
  - (ii) Accuracy
  - (iii) Comparability
  - (iv) Completeness
  - (v) Distinctness and Identifiability
  - (vi) Explicitness and Clarity (Non-misleading)
  - (vii) Simplicity and unambiguity
  - (viii) Understandability

### **3.23 Publication of Tariffs:**

- (a) Tariffs of a PTS offered by a Licensee along with prices, terms and conditions thereof shall be published in such a manner that it is any time freely accessible by Subscribers and in such a manner as the Department may direct from time to time. Tariffs of PTSs shall at least be published and accessible by Subscriber via
  - (i) internet on the website of the Licensee and any other internet platform the Licensee may choose; and
  - (ii) call centres of the Licensee.
- (b) The Licensee can publish the Tariff via additional methods. If this is the case, then the Licensee shall provide further evidences in its Tariff application.





- (c) The format used by Licensees for their written publication of a Tariff of a PTS and for their website publication of a Tariff of a PTS shall have a clear font and size.
- (d) The published Tariff of a PTS information shall include but shall not be limited to
  - (i) a service description;
  - (ii) gross prices including GST;
  - (iii) any discounts and promotional offers;
  - (iv) service suspension and termination provisions (including any early termination charges);
  - (v) any additional or subscription charges in addition to monthly or other subscription fees;
  - (vi) all other terms and conditions of relevance to the Subscriber;
  - (vii) service availability; and
  - (viii) eligibility requirements.
- (e) A Licensee shall provide for each PTS a comparison of financial implications of the Tariff for the Subscriber.
- (f) A Licensee shall provide Tariff information for PTSs at least in
  - (i) Myanmar Language;
  - (ii) English
- (g) With a Subscriber opting into a PTS, the Licensee shall provide the Subscriber the option to select a language for all Tariff related communication including but not limited to
  - (i) provisioning of tariff information in accordance with this Section 3.23, with Section 3.24(a), Section 3.24(b) ;
  - (ii) communication in relation to ordering, cancellation, fault reporting, service suspension, usage and billing inquiries in particular in accordance with Section 3.24(d), Section 3.24(e) and Section 3.25.

### 3.24 Terms and Conditions:

- (a) **Terms and Conditions of Service:** Licensees shall clearly indicate the terms and conditions of the provision of PTSs to Subscribers which shall not in any manner be inconsistent with the provisions of this Directive. Such terms and conditions shall inter-alia include the following:
  - (i) Terms and conditions under which such PTSs may be obtained, utilised and terminated;



- (ii) Terms and conditions related to the use of PTSs, billing, repair, fault rectification and the like;
  - (iii) Choices of Tariff components available to a Subscriber of PTSs and the procedure available for revising the choice along with the conditions thereof.
- (b) **Disclosure of Relevant Details and Additional Amounts:** Licensees offering PTSs shall disclose with publishing their Tariffs all relevant details, additional charges and surcharges applicable to the Tariff whether printed, verbal or published on the Licensee's website. The additional information shall be located beside the tariff information and shall include but shall not be limited to:
- (i) billing increments applied in the Tariff;
  - (ii) minimum charges and/or set up fees;
  - (iii) the peak/ off peak and weekend times
  - (iv) on-net/ off net
  - (v) any included service unit or credit
- (c) **Disclosure of Limitations:** Licensees offering PTS shall clearly indicate any limitations on usage such as Fair Usage Policy (FUP). Licensees shall not describe a Tariff of a Public Telecommunication Services or parts of a Tariff of a PTS as being unlimited if there is a limit to the number of calls, minutes, data volume, number of messages, etc. being used.
- (d) **Validity Period:** Licensees offering PTS shall clearly indicate with their published Tariffs the validity period for credits related to the Tariff. Licensees shall provide their Subscriber of PTSs details of the validity period of the Tariff or credit of the Tariff once the Subscriber opts-in the PTS and the Subscriber shall give their direct and voluntary approval by responding via a method provided by the Licensee by giving a clear indication to the terms and conditions of that Tariff.
- (e) **Automatic Renewal:** Licensees offering PTSs shall clearly inform the Subscriber at the end of a subscription period that his service subscription will be renewed upon expiry if they do not opt out. This notification shall include the method through which the subscriber can opt out.
- (f) **Tariff options with inclusive time, data volume, messages or credit:** The Licensee shall clearly set out and publish the conditions under which added time (call time, data usage time or any other usage time), data volume, messages or credit for a PTS can be used including but not limited to:
- (i) the call types or message types that are included such as off-net calls etc;
  - (ii) the call types or message types that may be excluded from the Subscriber allowance;
  - (iii) whether unused time, data volume, messages or credit is carried forward to the next and subsequent billing period or billing periods;
  - (iv) any expiry time for the credit;
  - (v) the time of day when inclusive time, data volume, SMS or credit can be used;



- (vi) the location where inclusive time, data volume, SMS or credit can be used;
  - (vii) any other relevant criteria as the case might be.
- (g) **Updated Tariff Information:**
- (i) The Licensee shall publish the effective Tariff for any PTS no later than the date on which the Licensee begins to provide such Service. This information has to be regularly updated and shall represent the latest changes or amendments made to any information which has become obsolete.
  - (ii) If the Licensee makes changes to the effective Tariff of any PTS by increasing any price of the Tariff, following approval of the Department, such changes shall not be applicable to the Subscriber except after thirty days of the Subscriber's notification by any possible means including SMS. In this case, the Subscriber shall have an extraordinary termination right which the Subscriber can execute within the 30 day notice period.
- (h) **Tariff Information on Request:** Licensees shall provide minimum information on the means in accordance with Section 3.23(a) how to access its Tariff informational for any PTS in response to a request of its Subscriber. Tariff information shall be communicated clearly to the Subscriber in advance of any decision to purchase and Tariff information shall not be withheld in order to draw the end-user into a misguided purchase decision.
- (i) **Quiz, Competition and Prizes:** Any PTS or any Promotional Offer of a PTS involving a quiz, competition and prizes shall be based on transparent, clear and accurate terms and conditions. The prize shall be clearly publicised and described. In case the prize is a PTS, the Licensee offering a PTSs involving a quiz, competition and prizes shall specify the prize in accordance with the provisions of this Directive. The Licensee shall not give the public any false expectations about the probability to win a quiz, a competition or a prize. The price of the PTSs involving a quiz, competition and prizes shall be published in a transparent and clearly understandable way.
- (j) **Services with Free Trial Periods:** Licensee offering PTSs on a free trial basis shall be strictly prohibited from charging Subscriber for this PTS. If a Licensee has provided a Subscriber with PTSs on a free trial basis, the Licensee may not charge the Subscriber for such Services after the end of the free trial period unless:
- (i) the Licensee has notified the Subscriber of the date on which the free trial period shall expire and about the terms and conditions which shall apply after the free trial period is expired; and
  - (ii) the Licensee has obtained Subscriber's direct and voluntary approval by responding via a method provided by the Licensee by giving a clear indication to the terms and conditions of that Tariff which shall apply after the free trial period is expired
- (k) **Contract Duration, Termination and Suspension of PTSs, Deposits:**
- (i) No contractual agreements between a Licensee offering PTS and a Subscriber purchasing PTS shall have a minimum contract duration exceeding one year. Subscribers shall have the right to terminate an agreement any time with 30 days notice after the minimum contract duration.



- (ii) Unless otherwise provided for, no Licensee shall seek or obtain from any Subscriber in any form any amount as deposit for any PTS in excess of one year's regular monthly charges from the Subscriber for the PTS provided by the Licensee.
  - (iii) With Termination of a PTS, the Licensee shall refund all deposits received during the provisioning of the PTS not later than 5 calendar days after the date the provision of the PTS was ceased. The Licensee shall have the right to balance the deposit with any outstanding of the final invoice.
  - (iv) In case the Licensee suspends the provisioning of the PTS or part of the PTS, then the Subscriber of this PTS shall have the right to terminate the agreement 30 days after initiation of the suspension. In case the Licensee suspends the provisioning of the PTS multiple times, then the Subscriber of the PTS shall have the right to terminate the agreement if the total duration of service suspension initiated by the Licensee exceeds 30 days in a duration of 3 month. If a Subscriber terminates the agreement under this Section 3.24(k)(iv), then Section 3.24(k)(i) – Section 3.24(k)(ii) shall apply.
- (l) **Service Migration:** In case a Tariff of a PTS of a Licensee requiring a deposit and a Subscriber migrates from this PTS to an alternative PTS of the same Licensee, then
- (i) the provision of Section 3.24(k)(ii) shall apply if the alternative PTS selected by the Subscriber does not require a deposit; or
  - (ii) the deposit of the initial PTS of the Subscriber shall be carried over by the Licensee to the alternative PTS selected by the Subscriber and the Licensee shall refund the Subscriber the difference of the two deposits not later than 5 calendar days after the date the provision of the initial PTS was ceased if the deposit of the alternative PTS is below the deposit of the initial PTS.
  - (iii) early Termination Charges shall not be applied if a Subscriber migrate from a PTS with Early Termination Charges to an alternative PTS with Early Termination Charges.

**3.25 Mechanism to Monitor Usage:**

- (a) Licensees shall provide Subscribers of their PTSs an easy and practical mechanism which the Subscribers can use to monitor their own usage of a Tariff of a PTS which is not unlimited or of parts of a Tariff of a PTS which are not unlimited in order to enable them to control their consumption.
- (b) Licensees shall be strictly prohibited to measure Subscriber individually for an unlimited Tariff of a PTS or for any unlimited parts of a Tariff of a PTS the consumption of a Subscriber. To be able to fulfil reporting requirements and for the purpose of network dimensioning Licensees are permitted to measure for regions as defined by the Licensee
  - (i) the consumption of an unlimited Tariff of a PTS jointly for all Subscribers of this Tariff of the PTS; or
  - (ii) the consumption of an unlimited part of a Tariff jointly for all Subscribers of this Tariff of the PTS.



### 3.26 Unsolicited Services:

- (a) **No Engagement in Unsolicited Services:** No Licensee offering PTS shall engage in the practice of providing any unsolicited free service to any person which requires such person to take action to unsubscribe from the service, failing which the person is automatically subscribed and charged for a PTS.
- (b) **No Charge for Unsolicited Services:** A Licensee offering PTS shall not charge any person for any service that he did not specifically take action to purchase or subscribe for. In particular, no Licensee offering PTS shall engage in any practice or scheme that is objectively likely to increase the likelihood of consumers inadvertently or unknowingly purchasing or subscribing for a service which they did not intend to purchase or subscribe for.

### 3.27 Protection of Subscriber Service Information

- (a) Subscriber Service Information consists of all information that a Licensee offering PTS obtains as a result of a Subscriber' use of a PTS provided by the Licensee offering PTS and includes, but is not limited to, information regarding
  - (i) the Subscriber's billing name, address and credit history;
  - (ii) the Subscriber's telephone number and network configuration;
  - (iii) the Subscriber's location information;
  - (iv) the services used by the Subscriber; and
  - (v) the Subscriber's usage patterns (including number of calls, times of calls, duration of calls and parties called).
- (b) Unless a Subscriber has expressly provided his prior consent, a Licensee offering PTS shall ensure that it does not use Subscriber Service Information for any purpose other than
  - (i) planning, provisioning and billing for the PTS requested by the Subscriber and provided by the Licensee offering PTS, PRS or Roaming Service;
  - (ii) managing bad debt and preventing fraud related to the provision of PTS;
  - (iii) facilitating interconnection and inter-operability between Licensee offering PTS for the provision of PTS;
  - (iv) providing assistance to law enforcement, judicial or other government agencies; and
  - (v) complying with any regulatory requirement imposed by the Department authorising the use of Subscriber Service Information.
- (c) Unless a Subscriber has expressly provided his prior consent, a Licensee offering PTS shall not disclose Subscriber Service Information to any third party (including its affiliates) for any purpose whatsoever.

### 3.28 Billing

- (a) A Licensee offering PTS may issue bills to Subscribers. Licensees offering PTS shall be responsible for ensuring that the bills for its PTSs are clear, accurate and timely.



- (b) Where the agreement between the Licensee offering PTS and the Subscriber does not specify how often the bill will be sent, the Licensee offering PTS shall ensure that the bill for its services is sent monthly.
- (c) A Licensee offering PTS shall ensure that every bill for its PTSs, whether issued by the Licensee offering PTS or by a Facilitating Billing Licensee, contains the following minimum information
  - (i) the name of the Licensee offering PTS as licensed by the Department;
  - (ii) the name of the PTS for which the person is being charged;
  - (iii) the charges incurred by the person for the PTS; and
  - (iv) the customer service hotline of Licensee offering PTS.

### 3.29 Disputes over Charges

- (a) A Licensee offering PTS fully or partly based on a post-paid Tariff and a Subscriber notifies the Licensee that the Subscriber reasonably believes the charge of the post-paid Tariff is fully or partly incorrect, then the Licensee shall only collect post-paid payments for the undisputed parts of the post-paid charges.
- (b) In all cases, where a reasonably disputed charge of a pre-paid or post-paid Tariff or a combination of pre-paid and post-paid Tariff of a PTS is notified to a Licensee, the Licensee must take all necessary action to carry out a full and complete investigation at its own expense on the disputed charge, including but not limited to
  - (i) checking information provided by the Subscriber;
  - (ii) checking that Tariffs and prices applied are correct; and
  - (iii) checking the voice, data, SMS and other usage data for all parts of the Tariff which are not unlimited.
- (c) If the Licensee found after having duly completed investigations in relation to disputed pre-paid charges of its Tariff of a PTS that the dispute of pre-paid charges by the Subscriber is fully or partly correct, then the Licensee shall refund the Subscriber the disputed pre-paid charges fully or partly up to the amount where the dispute of the Subscriber was correct.
- (d) If the Licensee found after having duly completed investigations in relation to disputed post-paid charges of its Tariff of a PTS that the dispute of post-paid charges by the Subscriber is fully or partly correct, then the Licensee shall only collect from the subscriber disputed post-paid charges fully or partly up to the amount where the dispute of the Subscriber was correct.
- (e) A Licensee offering PTS shall seek to resolve a disputed charge within 30 days of receiving notice that the charge is being disputed. If more time is reasonably required to complete the investigation, the Licensee offering PTS must inform the Subscriber of the additional amount of time that will be required for resolution of the matter and in any case, resolve the matter with all reasonable speed.
- (f) A Licensee offering PTS shall





- (i) in relation to a Subscriber acquiring PTS from the Licensee which is fully or partly based on pre-paid Tariff and the Subscriber paid the pre-paid Tariff but subsequently chooses to dispute the charge, afford such Subscriber the period of 3 month starting from the due payment date of the charge to dispute the charge; and
- (ii) in relation to a Subscriber acquiring PTS from the Licensee which is fully or partly based on post-paid Tariff and the Subscriber paid the pre-paid Tariff but subsequently chooses to dispute the charge, afford such Subscriber the period of 3 month starting from the due payment date of the charge to dispute the charge.

### 3.30 **Customer Service Hotline and Records of Complaints**

- (a) A Licensee offering PTS shall maintain a customer service hotline for its PTS and shall respond to all enquires, complaints and disputes lodged by any person to the customer service hotline as promptly as possible.
- (b) Calls or messaging to the customer service hotline of a Licensee offering PTS pursuant to Section 3.30(a) shall be free of charge for all Subscriber of the Licensee which are connected to the Licensee's network.
- (c) A Licensee offering PTS must keep records as softcopy of all complaints and disputes raised by any person in relation to its containing the following information –
  - (i) particulars of the person raising the complaint or dispute;
  - (ii) the date and description of the complaint or dispute; and
  - (iii) description of the action taken by the Licensee offering PTS to address the complaint or dispute.
- (d) The Department reserves the right to inspect and to make copies of the record of complaints at any time and the Licensee offering PTS shall produce the records to the Department without delay upon request.

### 3.31 **Promotional Offer:**

- (a) Each Promotional Offer shall have a clear reference to a Standard Offers as determined by the Department or as defined by the Licensee.
- (b) A Licensee shall follow with Promotional Offer the Provisions of Section 3.12 and Section V of this Directive.

3.32 **Transparency of Promotional Offers:** Licensees offering PTSs shall clearly advertised and published in accordance with Section V of this Directive all terms and conditions of Promotional Offer including commencement date and duration of the promotional offer. In addition, any validity dates for the subscription, additional credits, additional free time, data volumes or messages or free PTSs shall be published. The Subscriber of a promotional offer related to a PTSs shall be informed by the Licensee prior the end of the validity period or before the promotion ends.

3.33 **Anti-Competitive Promotional Offer:** Dominant Licensees shall with Tariffs of PTS and related Promotional Offers not engage in anti-competitive behaviour by attempting to undermine or defame competitors or by offering special discounts/offers in a discriminatory way only or mainly to the subscribers of competitors or by engaging in any other act that is



established form time to time by the Department as an anti-competitive acts. Promotional Offers shall fulfil the provision of Section VII of this Directive.

### 3.34 Code of Conduct for Advertisements:

- (a) Licensees shall comply with the following when advertising its PTSs or its Promotional Offer:
- (i) Advertisement for Standard Packages or Promotional Offers shall clearly identify the name of the Licensee as licensed by the Department. Licensees shall be permitted to use brand names in advertisements, after registering these brand names with the Department and approval by the Department. Advertisement conducted by the Licensee shall display \ contact details of the Licensee.
  - (ii) Advertisement for Standard Packages or Promotional Offers shall not be designed or conducted conflicting with public interest or discriminating any person. They shall contain nothing that condones or is likely to provoke violence or anti-social behaviour, nuisance, personal injury or damage to any person or to public or private property, while observing public morality.
  - (iii) Prices shall be noted in the form of a numerical price for the unit of PTS provided, or the total maximum cost to the Subscriber of the PTS while clarifying any other obligations (if any).
  - (iv) Textual information shall be easily legible, prominent and presented in a way that does not require close examination. In case of promotions through video or audio transmission, prizes and pricing information must be spoken as well as being visually displayed as per the case.
  - (v) Any technology comparisons shall be used with care and Licensees shall not abuse trust of Subscribers or exploit their credulity, inexperience or lack of knowledge.
  - (vi) Advertisements shall not be misleading and must present Standard Packages or Promotional Offer. All conditions of the Standard Package or of the Promotional Offer must be explicitly and unambiguously stated.
  - (vii) Superlative form of words, like lowest rates, widest coverage, best network etc. shall not be used in Advertisements for Standard Packages or Promotional Offer unless the Licensee has readily available proof and can substantiate this claim.
- (b) Advertisement of Standard Packages or any Promotional Offer of a PTS involving a quiz, competition and prizes shall contain the following details:
- (i) The commencement and closing date and the duration;
  - (ii) Any restrictions on the number of entries or prizes;
  - (iii) A full description of the prizes, the eligibility criteria, proof-of-purchase, any special permissions required by dealings resulting from promotions targeting minors;
  - (iv) Cash alternatives of prizes, if any;





- (v) The method, date and time of result publication;
- (vi) The venue where prizes can be collected; and
- (vii) Any limitations imposed on participation in such offers.

**3.35 Special Transparency Requirements for Roaming – Retail Roaming Calls and SMS messages:**

**3.36 Transparency of retail Tariffs for Roaming Services:**

- (a) To alert Roaming Subscriber to the fact that they will be subject to roaming charges when making or receiving a call or when sending an SMS message, each Licensee offering Public Roaming Services in a territory outside the Republic of the Union of Myanmar, except when the Subscriber has notified the Licensee that he does not require this service, provide the Subscriber, automatically by means of a Message Service, without undue delay and free of charge, when he enters a territory outside of the Republic of the Union of Myanmar, with basic personalised pricing information on the roaming charges (including GST) that apply to the making and receiving of calls and to the sending of SMS messages by that Subscriber in a territory outside of the Republic of the Union of Myanmar.
  - (b) That basic personalised pricing information shall include the maximum charges (in Myanmar Kyat including GST) to which the Roaming Subscriber may be subject under his Tariff for:
    - (i) making Roaming Calls within the visited territory outside of the Republic of the Union of Myanmar and back to the Republic of the Union of Myanmar, as well as for Roaming Calls received; and
    - (ii) sending Roaming SMS Messages within the visited territory outside of the Republic of the Union of Myanmar and back to the Republic of the Union of Myanmar.
  - (c) It shall also include information on the possibility of accessing emergency services by dialling the emergency number of the territory outside of the Republic of the Union of Myanmar free of charge.
  - (d) On the occasion of each message, a Subscriber shall have the opportunity to give notice to the Licensee, free of charge and in an easy manner, that he does not require the automatic Message Service. A Subscriber who has given notice that he does not require the automatic Message Service shall have the right at any time and free of charge to require the Licensee to provide the service again.
- 3.37 Whenever feasible, Subscribers with devices which support SMS functionality shall have the right to request and receive, free of charge, and irrespective of their location outside the Republic of the Union of Myanmar, more detailed personalised pricing information on the roaming charges that apply in the Visited Network to voice calls and SMS, and information on the transparency measures applicable by virtue of this Directive, by means of a mobile voice call or by SMS. Such a request shall be to a free-of-charge number or via a facility or method designated for this purpose by the Licensee.
- 3.38 Licensees shall make available information to their Subscriber on how to avoid inadvertent roaming in border regions. Licensees shall take reasonable steps to protect their Subscribers from paying roaming charges for inadvertently accessed roaming services while situated in the Republic of the Union of Myanmar.



### 3.39 Special Transparency Requirements for Roaming – Retail Data Roaming Services

#### (a) Transparency and safeguard mechanisms:

- (i) Licensees shall ensure that their Roaming Subscribers are kept adequately informed of the charges which apply to their use of Data Roaming Services, in ways which facilitate Roaming Subscribers' understanding of the financial consequences of such use and permit them to monitor and control their expenditure on Data Roaming Services in accordance with Section (c)(v) to Section (c)(vii).
- (ii) Where appropriate, Licensees shall inform their Subscriber, before the conclusion of a contract and on a regular basis thereafter, of the risk of automatic and uncontrolled data roaming connection and download. Furthermore, Licensees shall notify to their Subscriber, free of charge and in a clear and easily understandable manner, how to switch off these automatic data roaming connections in order to avoid uncontrolled consumption of Data Roaming Services.
- (iii) An automatic message from the Licensee shall inform the Roaming Subscriber that the latter is roaming and provide basic personalised tariff information on the charges (in Myanmar Kyat including GST), expressed in price per megabyte, applicable to the provision of Data Roaming Services to that Roaming Subscriber in the territory outside of the Republic of the Union of Myanmar concerned, except where the Subscriber has notified the Licensee that he does not require that information. Licensee offering different Roaming Services shall provide Roaming Subscriber tailored for the territory outside of the Republic of the Union of Myanmar where the Roaming Subscriber has established a data roaming connection relevant basic personalised tariff information.
- (iv) Such basic personalised tariff information shall be delivered to the Roaming Subscriber's mobile device, for example by an SMS message, an e-mail or a pop-up window on the mobile device, every time the Roaming Subscriber enters a territory outside of the Republic of the Union of Myanmar and initiates for the first time a Data Roaming Service in that particular territory. It shall be provided free of charge at the moment the Roaming Subscriber initiates a Data Roaming Service, by an appropriate means adapted to facilitate its receipt and easy comprehension.
- (v) A Subscriber who has notified the Licensee that he does not require the automatic tariff information shall have the right at any time and free of charge to require the Licensee to provide this service again.

#### (b) Mechanism to Monitor Usage:

- (i) Each Licensee shall grant to all their Roaming Subscribers the opportunity to opt deliberately and free of charge for a facility which provides information on the accumulated consumption expressed in volume or in Myanmar Kyat for Data Roaming Services, unless the roaming Tariff is unlimite, which guarantees that, without the Subscriber's explicit consent, the accumulated expenditure for regulated Data Roaming Services over a specified period of use, does not exceed a specified financial limit.
- (ii) Where the Subscriber opts for the facility referred to in this Section (b), the requirements provided in this Section (b) shall not apply if the Visited Network



Operator in the visited territory outside the Republic of the Union of Myanmar does not allow the Licensee to monitor its Subscribers' usage on a real-time basis.

- (iii) In such a case the Subscriber shall be notified by an SMS message when entering such a territory, without undue delay and free of charge, that information on accumulated consumption and the guarantee not to exceed a specified financial limit are not available.

**(c) Limits and Default Limits:**

- (i) To this end, the Licensee shall make available one or more maximum financial limits for specified periods of use, provided that the Subscriber is informed in advance of the corresponding volume amounts. One of those limits ("Default Financial Limit") shall not exceed 50,000 Myanmar Kyat of outstanding charges per monthly billing period including GST.
  - (ii) Alternatively, the Licensee may establish limits expressed in volume, provided that the Subscriber is informed in advance of the corresponding financial amounts. One of those limits ("Default Volume Limit") shall have a corresponding financial amount not exceeding 50,000 Myanmar Kyat of outstanding charges per monthly billing period including GST.
  - (iii) The Licensee may offer to its Roaming Subscriber other limits with different, that is, higher or lower, maximum monthly financial limits.
  - (iv) Either the Default Financial Limit or the Default Volume Limit shall be applicable to all Subscriber who have not opted for another limit.
  - (v) Each Licensee shall ensure that an appropriate notification is sent to the Roaming Subscriber's mobile device, for example by an SMS message, an e-mail or a pop-up window on a computer, when Data Roaming Services have reached 80% of the agreed financial or volume limit. Each Subscriber shall have the right to require the Licensee to stop sending such notifications and shall have the right, at any time and free of charge, to require the Licensee to provide the service again.
  - (vi) When the financial or volume limit would otherwise be exceeded, a notification shall be sent to the Roaming Subscriber's mobile device. That notification shall indicate the procedure to be followed if the Subscriber wishes to continue provision of Data Roaming Services and the cost associated with each additional unit to be consumed. If the Roaming Subscriber does not respond as prompted in the notification received, the Licensee shall immediately cease to provide and to charge the Roaming Subscriber for Data Roaming Services, unless and until the Roaming Subscriber requests the continued or renewed provision of Data Roaming Services.
  - (vii) Whenever a Roaming Subscriber requests to opt for or to remove a financial or volume limit facility, the change shall be made within one working day of receipt of the request, shall be free of charge, and shall not entail conditions or restrictions pertaining to other elements of the subscription.
- (d) Machine-to-Machine Devices:** Section 3.39(a) to Section 3.39(c) shall not apply to machine-to-machine devices that use mobile data communication.



- (e) **Protection of Subscriber in Boarder Regions:** Licensees shall take reasonable steps to protect their Subscriber from paying roaming charges for inadvertently accessed roaming services while situated in the Republic of the Union of Myanmar. This shall include informing Subscriber on how to avoid inadvertent roaming in border regions.

### 3.40 Section VI – Enforcement Measures

#### 3.41 Investigation

- (a) The Department will consider and, where appropriate, commence investigation against a Licensee offering PTS or PRS, (hereinafter referred to as the “**Relevant Licensee**”) where the Department receives a complaint from any person alleging contravention of this Tariff Directive or any of its adjustments by the Relevant Licensee, provided that the complaint is made within a reasonable time from occurrence of the event giving rise to the complaint.
- (b) The Department may, on reference from any person or suo motu, examine the Tariffs of a Licensee to determine the existence of predatory pricing if a market analysis indicates SMP of the Licensee in a Relevant Market. The Department may, after providing its reasons and directed by the Minister, disallow the relevant Tariffs if they are found to be predatory or are found of causing price squeeze.
- (c) The Department may, suo motu, commence investigation against a Relevant Licensee where there appears to be a contravention of this Tariff Directive by such Licensee.
- (d) In all cases, the Department has the sole discretion to determine whether it will conduct any investigation under this Directive.

#### 3.42 Power to Require Information

- (a) The Department may at any time require a Relevant Licensee to provide the Department with any information or documents which the Department requires for the purpose of investigating a contravention of this Directive and the Relevant Licensee shall provide the information and documents requested by the Department in the time and format as requested by the Department even if the information or documents are under an existing confidentiality agreement between the Relevant Licensee and any other party.
- (b) The Department shall have full and free access at all reasonable times in the day to a Relevant Licensee’s building, office, equipment, systems, books, documents and other papers for the purpose of investigating a contravention of this Directive and may, without payment, inspect, copy or make extracts from any such equipment, systems, books, documents or papers.
- (c) Any failure by a Relevant Licensee to comply with the Department’s requests for information, or any destruction, disposal, falsification or concealment of requested documents, constitutes a contravention of this Directive for which the Department can take separate enforcement proceedings against the Relevant Licensee.

#### 3.43 Information to be Complete, Truthful and Accurate

- (a) The Relevant Licensee must ensure that all information provided to the Department, whether in its written response, related representations or any other submissions, are complete, truthful and accurate.



- (b) In the event that the Department discovers any information provided by a Relevant Licensee to be incomplete, false or inaccurate in any material particular, the Department may
  - (i) take this into account when deciding on the appropriate enforcement measure to take against the Relevant Licensee under the original enforcement proceedings; and
  - (ii) commence separate enforcement proceedings against the Relevant Licensee for contravention of this provision of the Directive.

**3.44 Interim Directions to Cease and Desist or to Comply with Specified Conduct:**

- (a) At any time during an enforcement proceeding, the Department may issue an interim direction to the Relevant Licensee to cease and desist from any specified conduct or to comply with any specified conduct. In determining whether to issue such an interim direction, the Department will consider whether
  - (i) there is prima facie evidence that the licensee has contravened the provision of this Directive;
  - (ii) continuation of the Relevant Licensee's conduct is likely to cause harm to Subscribers or the general public;
  - (iii) the potential harm from allowing the Relevant Licensee to continue its conduct outweighs the burden on the Relevant Licensee of ceasing or complying with the specified conduct; or
  - (iv) issuance of the interim direction is in the public interest.

**3.45 Enforcement measures:** In the event that the Department concludes that a Relevant Licensee has contravened any provision of this Directive, the Department may take such enforcement measures as it considers appropriate, including but not limited to

- (a) issuing a warning to the Relevant Licensee containing a statement of the basis of the Department for concluding that the licensee has acted in contravention of any provision of this Directive, but will impose no further sanction;
- (b) requiring the Licensee to cease engaging in contravening conduct or to take specific remedial actions to comply with any provision of this Directive;
- (c) the imposition of a financial penalty on a Relevant Licensee for contravention of a provision of this Directive; and
- (d) in serious cases revoking the Relevant Licensee's license under Section 57 of the Act where the Department is satisfied that a Relevant Licensee has contravened, and is likely to again contravene, any provision of this Directive or that the public interest so requires.

**3.46 Financial penalties:**

- (a) The Department may impose a financial penalty of up to 3 billion Myanmar Kyat per contravention on a Relevant Licensee that contravenes any provision of this Directive under Section 72 of the Act. In determining the quantum of the financial penalty, the Department will consider each case on its own merits and may have regard to any



aggravating and mitigating factors including but not limited to those set out in Sections 3.47 and 3.48 below.

- (b) Provided that no order for payment of any amount by way of financial disincentive shall be made by the Department unless the Licensee designate SMP has been given a reasonable opportunity of representing against the contravention of this Tariff Directive observed by the Department.
- (c) If a service provider fails to comply with the Reporting & Approval Requirement in accordance with Section 3.12, Section 3.16 or Section 3.17 or Section 3.18 or Section 3.22, it shall, without prejudice to the terms and conditions of its licence, or the provisions of the Act or rules or regulations or orders made, or directions issued, thereunder, be liable to pay
  - (i) 10,000,000 Myanmar Kyat for every day of delay of the first delay week,
  - (ii) 15,000,000 Myanmar Kyat for every day of delay for the second delay week,
  - (iii) 20,000,000 Myanmar Kyat for every day of delay for the third delay week,
  - (iv) ...
  - (v) 10,000,000 Myanmar Kyat + ( N – 1 ) x 5,000,000 Myanmar Kyat for every day of delay for the N-th delay week

by way of financial disincentive as the Department may by order direct.

**3.47 Aggravating factors may include:**

- (a) whether the contravention was serious;
- (b) whether the contravention continued for an extended period;
- (c) whether the Relevant Licensee persisted with the contravention despite receiving complaints from consumers;
- (d) whether the Relevant Licensee acted wilfully, recklessly or in a grossly negligent manner;
- (e) whether the Relevant Licensee has a previous history of contraventions;
- (f) whether the Relevant Licensee made any effort to conceal the contravention; and
- (g) whether the licensee supplied any incomplete, inaccurate or false information as part of its defence.

**3.48 Mitigating factors may include:**

- (a) whether the contravention was minor;
- (b) whether the Relevant Licensee took prompt action to correct the contravention;
- (c) whether the contravention was accidental;
- (d) whether the Relevant Licensee voluntarily disclosed the contravention to the Department; and





- (e) whether the licensee co-operated with the Department in its investigation.

**3.49 Reconsideration Requests and Appeals:**

- (a) A Relevant Licensee that is aggrieved by the Department's decision under this Directive may either –
- (i) request the Department to reconsider its decision; or
  - (ii) appeal to the Minister in accordance with Section 58 of the Act.
- (b) A Relevant Licensee may not present new facts or representations for the first time in a reconsideration request if the licensee could have presented such fact or representation before the Department rendered its decision and cannot demonstrate that it had good cause for failing to do so.
- (c) The Department generally will seek to issue its decision on the reconsideration request within 30 days from receipt of the request.
- (d) A Relevant Licensee may not ask the Department to reconsider its decision on a reconsideration request. However, if the Relevant Licensee remains aggrieved by the Department's decision, it may appeal to the Minister in accordance with Section 58 of the Act.

**3.50 Decision to be Complied with Pending Review:** Unless the Department stipulates otherwise, where a reconsideration request or an appeal is made under Section 58 of the Act, the decision, direction or any other matter which requires reconsideration by the Department or which is appealed against shall be strictly complied with until the determination of the reconsideration request or the appeal, as the case may be.

**3.51 Section VII – Miscellaneous**

**3.52 Other purpose of the OPETRA:**

- (a) The Department will use the OPETRA to fulfil other duties pursuant to Competition Rules to publish Tariff Information and to provide price comparison of Tariffs.
- (b) The Department will use the OPETRA to publish selected non-confidential market data.

**3.53 Release of MPT from Dominant Status:** Until the Department otherwise determines, the Licensee Myanmar Posts and Telecommunications licensed by the Department on 24.03.2015 shall not be deemed dominant for the following market:

- (a) Local, National and International Voice call Service

**3.54 Section VIII – Residuary and Transitional Clauses**

**3.55 Over-riding Effect:** In respect of matters covered by this Directive the provisions thereof shall have over-riding effect over the terms and conditions of the licence of a Licensee and any Tariffs or conditions as may have been set by the Licensees for provision of PTSs.

**3.56 Interpretation:** In case of dispute regarding interpretation of any of the provisions of this Directive, the decision of the Department shall be final and binding.

**3.57 Transition:**





## Consultation

### Draft Telecommunication Tariff Directive 2018



- (a) The Department provides with Schedule 4 of this Telecommunication Tariff Directive, 2018 Licensees tariff filing templates for semi-automated self-checks. The Licensees shall submit the tariff filing templates in accordance with the instructions provided in Schedule 4.
- (b) Notwithstanding the provision of Section 3.14(c), Licensees shall conduct semi-automated tariff reporting pursuant to Section 3.57(a) until latest three month after the Department announced the ready for service date of the OPETRA pursuant to Section 3.14(a)(ii) or until any other date as announced by the Department.



3.58 Schedule 1 – General Price Related Provisions

Calls to Emergency Services	Licensees offering Call to Emergency Services to the public shall offer Calls to Emergency Services free of charge. Calls to Emergency Services shall hereby include but shall not be limited to calls to the Special Access Numbers 191, 192, 199 and 112 in line with the Code of Practice – Special Access Numbers, Short Codes and Short Numbers <sup>9</sup>				
Call Forwarding	<p>Call-forwarding shall be treated as two calls. One call from the calling party to the called party prior to the call being forwarded, the second from the called party to the number where the call is forwarded.</p> <p>The second call shall be at present subject to forbearance.</p> <p>In case Subscriber A of a Licensee calls Subscriber B of this Licensee who activated at the point in time of the call the call forwarding service then the Licensee shall charge Subscriber A the same rate as if Subscriber B would not have activated the call forwarding service.</p> <p>In case Subscriber A of a Licensee A calls Subscriber B of this Licensee B who activated at the point in time of the call the call forwarding service then the Licensee B shall charge Licensee A the same Mobile Termination Rate as if Subscriber B would not have activated the call forwarding service.</p>				
Recharge of Tariffs	To maintain Tariff transparency and comparability of Tariffs, the Licensee offering PTS shall be prohibited to levy any additional fee on any recharge under any tariff plan.				
Free Trial	Licensee offering PTSs on a free trial basis shall be strictly prohibited from charging Subscriber for this PTS during the Free Trial period.				
Early Termination Charges	Licensees may enter into contractual agreements under which they provide Subscriber with a discount or special consideration in return for the Subscriber's agreement to commit to a minimum contract duration or a minimum revenue commitment for a PTS. Such agreements may contain provisions providing for termination liability in the event that the Subscriber ends the agreement prior to the agreed upon termination date ("Early Termination Charges"). The amount of any Early Termination Charges must be reasonably proportionate to the extent of the discount or special consideration that the Licensee has provided and the duration of the period during which the Subscriber purchased the Service. In case of an advanced payment for the PTS, the Licensee shall compensate the Subscriber for the difference of the advanced payment adjusted to the termination/suspension date and the Early Termination Charges.				
Event Definition	In case Tariffs are related to bank holiday events, then the Licensee shall following the following conventions or conventions as defined by the Ministry of Labour, Immigration & Population.				
	<table border="1"> <thead> <tr> <th data-bbox="480 1816 914 1861">Event</th> <th data-bbox="914 1816 1402 1861">Date</th> </tr> </thead> <tbody> <tr> <td data-bbox="480 1861 914 1901">International New Year</td> <td data-bbox="914 1861 1402 1901">Jan-01</td> </tr> </tbody> </table>	Event	Date	International New Year	Jan-01
	Event	Date			
International New Year	Jan-01				
Independence Day	Jan-04				

<sup>9</sup> PTD: Code of Practice – Special Access Numbers, Short Codes and Short Numbers, 2016



Consultation  
Draft Telecommunication Tariff Directive 2018



	Union Day	Feb-12																
	Full Moon Day of Tabaung	As specified by Ministry of Labour, Immigration & Population																
	Peasants' Day	Mar-02																
	Armed Forces Day	Mar-27																
	Thingyan Festival	April 13, 14, 15, 16, 17																
	Full Moon Day of Kasong	As specified by Ministry of Labour, Immigration & Population																
	May Day	May-01																
	Martyr's Day	Jul-19																
	Full Moon Day of Waso (Beginning of Buddhist Lent)	As specified by Ministry of Labour, Immigration & Population																
	Full Moon Day of Thadingyut (End of Buddhist Lent)	As specified by Ministry of Labour, Immigration & Population																
	Full Moon of Tazaungmone	As specified by Ministry of Labour, Immigration & Population																
	National's Day	As specified by Ministry of Labour, Immigration & Population																
	Christmas Day	Dec-25																
	International New Year Eve Day	Dec-31																
Day time definition	In case Tariffs are related to day times, then the following translation shall apply.																	
	<table border="1" style="margin-left: 40px;"> <thead> <tr> <th>Day Time</th> <th>Time</th> </tr> </thead> <tbody> <tr> <td>Day Time</td> <td>07:00 - 19:00</td> </tr> <tr> <td>Morning</td> <td>07:00 - 12:00</td> </tr> <tr> <td>Afternoon</td> <td>12:00 - 19:00</td> </tr> <tr> <td>Evening</td> <td>19:00 - 00:00</td> </tr> <tr> <td>Night Time</td> <td>00:00 - 07:00</td> </tr> <tr> <td>Peak Time</td> <td>17:00 - 23:00</td> </tr> <tr> <td>Off-Peak Time</td> <td>23:00 - 07:00</td> </tr> </tbody> </table>	Day Time	Time	Day Time	07:00 - 19:00	Morning	07:00 - 12:00	Afternoon	12:00 - 19:00	Evening	19:00 - 00:00	Night Time	00:00 - 07:00	Peak Time	17:00 - 23:00	Off-Peak Time	23:00 - 07:00	
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Off-Peak Time	23:00 - 07:00																	



**3.59 Schedule 2 – Price Fixings for Fixed Services**




3.60 **Schedule 3 – Price Fixings for Mobile Network Services**

<p>Roaming Calls from the territory of the Republic of the Union of Myanmar or outside to a Visiting Network outside of the territory of the Republic of the Union of Myanmar</p>	<p>Roaming Calls from the territory of the Republic of the Union of Myanmar or outside to a Visiting Network shall be treated as two calls. One call, from the calling party to the called party's Myanmar number. The second from the called Myanmar number to the called number in the Visiting Network.</p> <p>The second call shall be at present subject to forbearance.</p> <p>In case Subscriber A of a Licensee with a Myanmar number allocated to this Licensee calls Subscriber B of this Licensee with a Myanmar number allocated to this Licensee who is at the point in time of the call connected to a Visiting Network then the Licensee shall charge Subscriber A the same rate as if Subscriber B would be directly connected to the the network of the Licensee inside the territory of the Republic of the Union of Myanmar.</p> <p>In case Subscriber A of Licensee A offering PTS with a Myanmar number allocated to this Licensee calls Subscriber B of Licensee B with a Myanmar number allocated to Licensee B who is at the point in time of the call connected to a Visiting Network then Licensee B shall charge Licensee A the same Mobile Termination Rate as if Subscriber B would be directly connected to the network of the Licensee inside the territory of the Republic of the Union of Myanmar.</p>