

October 19, 2016

Workshop: Regulated access to passive civil infrastructure in Qatar

Developing and implementing Standard
Access Offers and Access Agreements

Overview of Workshop

Part 1

Regulatory Framework

An overview of the regulatory framework in Qatar concerning regulated access to Passive Civil Infrastructure (**PCI**)

Part 2

Developing Standard Access Offers

How to develop a standard access offer for the supply of access to PCI (**Standard Access Offer** or **SAO**)

Part 3

Negotiating Access Agreements

Negotiating agreements between Access Providers (**AP**) and Access Seekers (**AS**) for the supply of access to PCI (**Access Agreements**)

Part 4

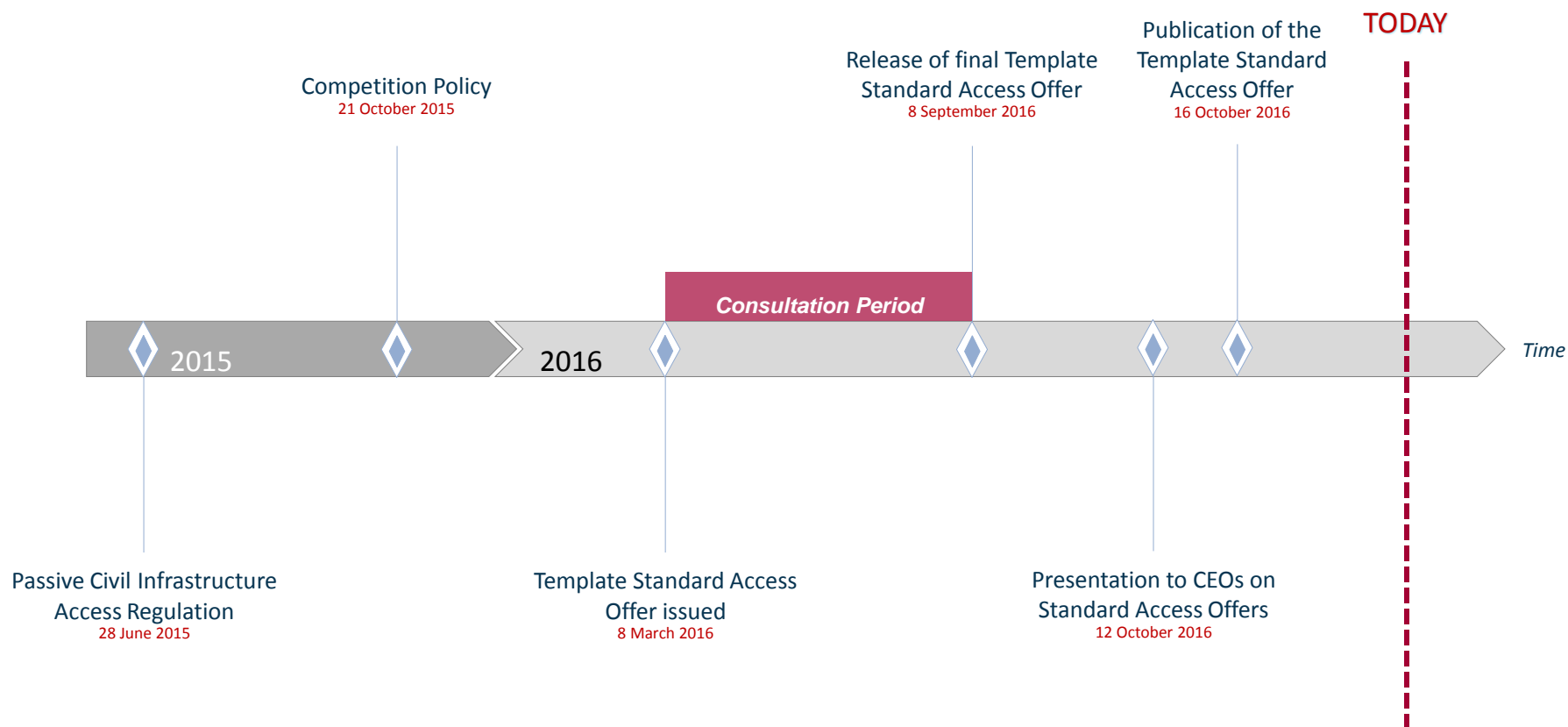
Implementing Access Agreements

Processes, governance issues and technical issues associated with implementing Access Agreements

This workshop is for guidance only. APs and ASs must independently review and understand their rights and obligations under the regulatory framework.



Timeline of events



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Part One

Regulatory Framework

- Overview of Passive Civil Infrastructure
- Regulated access to Passive Civil Infrastructure in Qatar
- Passive Civil Infrastructure Access Regulation
- Template Standard Access Offer

Part 1 – Regulatory Framework

Overview of Passive Civil Infrastructure

- Passive Civil Infrastructure (**PCI**) includes facilities that form an input to telecommunications networks, such as the following:

PCI type	Description
Passive network infrastructure	Ducts (including mainline and lead-in ducts), manholes, cable trays, riser shafts, towers, masts and overhead aerials.
Co-location space	Floor-space and roof-space.
Ancillary facilities	Racks, cabinets, cupboards, AC, generators, telecoms rooms (including cable termination and cross-connect service).
Power	Metered and non-metered electrical power and capacity.

- Importantly, PCI most often includes bottleneck facilities that **cannot feasibly be technically or economically substituted** to provide downstream mobile or fixed telecommunications services.
- This includes nationwide duct networks, significant or complex developments, data centers and cable landing stations.

Part 1 – Regulatory Framework

Regulated access to Passive Civil Infrastructure

- Regulated access to PCI (especially bottleneck facilities) is critical to promote effective competition in Qatar.
- A key enabler for the roll-out of any access network, and fulfillment of Qatar National Vision 2030 for the diversification of Qatar's economy.
- The Telecommunications Law (and the Executive By-Law) sets out powers and obligations in relation to access to PCI:

CRA	Service Providers	Dominant Service Providers
The CRA shall set and enforce rights, obligations and terms of access to telecommunications facilities and services (including terms relating to the preparation and content of reference offers)	Service Providers (SPs) are required to provide access to their telecommunications facilities on request by another SP.	Dominant SPs must also provide access to their telecommunications network on request by another SP, on non-discriminatory terms, compared to itself and other SPs.

Part 1 – Regulatory Framework

Passive Civil Infrastructure Access Regulation

- The CRA issued the Passive Civil Infrastructure Access Regulation (the **Access Regulation**) to complement the Telecommunications Law and the Executive By-Law, and to provide minimum terms in relation to the supply of access to PCI in Qatar.
- The Access Regulation applies to all APs – **real estate developers**, service providers and “any person who owns, builds or directly controls access” to PCI.
- The Access Regulation does not apply to:

Small Developments

Small real estate developments with less than 100 residential/20 commercial dwellings, or buildings of less than 5 stories.

Non-Passive Elements

Active equipment within the network or non-passive elements such as telecoms cables.

Part 1 – Regulatory Framework

Passive Civil Infrastructure Access Regulation

The Access Regulation sets out:

Definitions, purpose and application of the Access Regulation	Articles 1 – 2
Over-arching access principles in relation to all supply of access to PCI <i>(access on reasonable terms, non-discriminatory basis, proportionality, based on established processes, transparent procedures, wherever technically feasible, using good faith to negotiate alternative solutions where there is insufficient capacity)</i>	Article 3
A series of non-discrimination obligations	Article 4
Terms governing the development and publication of SAOs by APs that are approved by the CRA <i>(see more in Part 2 – Developing a Standard Access Offer)</i>	Article 5
Terms governing the negotiation of Access Agreements with ASs <i>(see more in Part 3 – Negotiating Access Agreements)</i>	Article 6
Terms governing ordering and provisioning access to PCI	Articles 7 – 10
Charging principles describing how APs must charge for the supply of access to existing and new PCI <i>(see more in Part 3 – Negotiating Access Agreements)</i>	Article 11
Legal and administrative obligations in relation to the Access Regulation	Articles 12 – 18

Part 1 – Regulatory Framework

Template Standard Access Offer

- The Access Regulation requires APs to follow templates issued by the CRA when developing SAOs (Article 5.2).
- A template Standard Access Offer (**Template SAO**) was developed by the CRA with external advisors and released on September 8th 2016, following 2 rounds of consultation with stakeholders including service providers and developers.
- The Template SAO has been developed and published to:
 - provide an industry benchmark for SAOs in Qatar
 - reduce the time taken by APs to develop SAOs and to negotiate Access Agreements with ASs
 - promote standardization of terms of access to PCI
 - provide guidance to APs for whom providing access to PCI is not a core/typical business function.
- The Template SAO does not over-rule the Access Regulation – the Access Regulation takes precedence if there is any inconsistency with the Template SAO.

Part 1 – Regulatory Framework

Template Standard Access Offer

- **Annex A:** sets out the categories of PCI covered by the Access Regulation: (1) Ducts and In-Building Facilities; (2) Towers; (3) Space Sharing; (4) Ancillary Facilities; (5) Metered Electric Power; and (6) Unmetered Electric Power. All of these PCI are defined by reference to the Access Regulation.
- **Annexes B to D:** set out the 4 stages associated with the supply of access to PCI (see more in Part 4 – Implementing an Access Agreement):

Stage	Description of processes
Access Request	From submission of an access request to its acceptance/rejection by the Access Provider (or intervention by the CRA/Passive Civil Infrastructure Committee).
Site Survey	The performance of a site survey by the Access Provider and/or the Access Seeker and the submission of the site survey report.
Provisioning Order	Submission of a Provisioning Order to the notification of a Ready for Service Date, applicable charges and other matters (reserving capacity).
Installation	From installation of equipment by the Access Seeker (or Access Provider) to the provision by the Access Provider of an Implementation acknowledgement.

Part 1 – Regulatory Framework

Template Standard Access Offer

- **Annexes E and F:** set out billing and pricing provisions, though no charges are included as they must be developed by the AP in a SAO, or agreed by the AP/AS in an Access Agreement, in accordance with the charging principles of the Access Regulation (see more in Part 2 – Developing a Standard Access Offer).
- **Annex G:** sets out the Service Level framework and a table of Service Levels/Service Credits.
- **Annex H:** sets out the definitions for the document.
- In addition, the Template SAO contains a number of template forms and flow diagrams to complement the operative provisions.

Part 1 – Regulatory Framework

Template Standard Access Offer

- Provisions of the Template SAO are mandatory, optional and/or configurable:

Provision type	Description	Example
Mandatory	Provisions that must be included in any SAO, save for amendments that don't impact on the intent or interpretation of the provision.	Processes, timescales and obligations in the Annexes (e.g. ordering and provisioning); suspension and termination provisions.
Optional	Recommend provisions that are published for guidance, but are not mandatory for inclusion in a SAO.	Most legal provisions (e.g. confidentiality, force majeure, boilerplate clauses).
Configurable	Provisions that either need to be completed or updated by the AP, based on the specific requirements of its PCI.	Pricing (Annex F) and Service Levels (Annex G).

- The Template SAO may be varied from time to time by the CRA, subject to prior consultation with the industry. Any changes to mandatory provisions following a consultation will be automatically incorporated into SAOs published by APs and also any Access Agreements on foot.

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Part Two

Developing a Standard Access Offer

- Content of a Standard Access Offer
- Principles for Standard Access Offers
- Timescales for developing Standard Access Offers
- What if a reference offer or Access Agreement is already in place
- Select topics: - Processes and timescales
- Charges

Part 2 – Developing a Standard Access Offer

Content of a Standard Access Offer

The Access Regulation requires SAOs to (at a minimum) set out the following matters:

Minimum requirement	Description
Procedures	Description of access components and the procedures for seeking access, including forecasting, ordering, provisioning, billing, operations and maintenance.
Obtaining diagrams	Process to obtain information such as diagrams, maps and other information showing the location and routes of the PCI.
Tech specifications	Technical specifications of access to the components of the PCI.
Reserving capacity	Processes for the reservation of capacity.
Charges	Applicable charges for access to the components of the PCI (see Part 3).
Service Levels	SLAs, monitoring mechanisms and compensation for SLA breaches (see Part 3).
Financial security	Financial security requirements for access to be provided to the relevant PCI.
Maintenance, etc	Conditions related to maintenance, site access, and safety standards.
Decommissioning	Conditions related to decommissioning of services.

Part 2 – Developing a Standard Access Offer

Principles for Standard Access Offers

- APs must provide access to ASs (Regulation, Art. 3), such access being granted through a SAO (Regulation, Art. 5).
- Any SAO used by an AP must comply with the Access Regulation and must follow the Template SAO (Article 5.2).
- A compliant and CRA-approved SAO is beneficial to APs for several reasons:
 - (a) It substantially reduces the administrative and legal burden of complying with access requests from ASs
 - (b) It allows the AP to develop terms of access and internal processes that are suitable for its PCI and business processes, reducing the disruptive impact of processing ad hoc requests for access to PCI (which would need to be handled in accordance with the Access Regulation in any case)
 - (c) It reduces the likelihood of CRA intervention in access disputes, which may lead to fines and penalties
 - (d) It is more convenient for APs than reactively developing a SAO under the direction and timelines of the CRA.

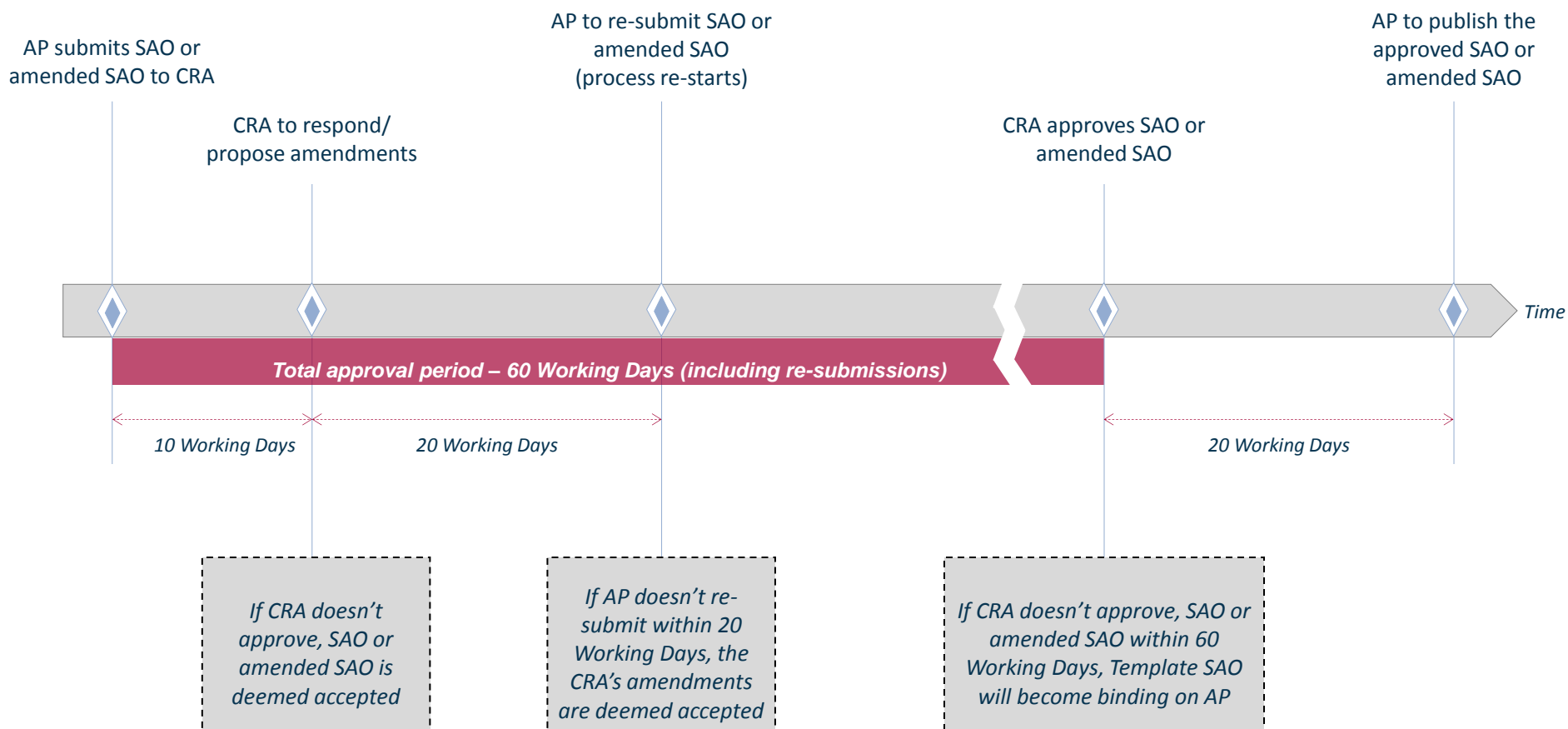
Part 2 – Developing a Standard Access Offer

Principles for Standard Access Offers

- As mentioned, some provisions of the Template SAO are optional. However, **at the CEO discussion on October 12, 2016 it was agreed by the CEOs present that APs will seek to limit discrepancies between agreements, even for optional clauses.** This is important to maintain consistency in the market.
- Each new SAO or amended SAO must be submitted to the CRA for approval before PCI is offered under the proposed or amended SAO (Article 5.4).
- If an AP is unable to obtain approval for the SAO within 60 Working Days of submitting it to the CRA, the provisions of the Template SAO will effectively become mandatory in their entirety (and subject to imposed pricing and configurable terms). **The CRA may also impose a non compliance fee (Regulation, Art. 16), and refusing access may constitute a criminal offence.**
- In exceptional cases, the CRA may approve alterations to the mandatory provisions of the Template SAO, or allow APs to impose alternative access rules (e.g. justifiable limitations on access, longer timescales to provide access).

Part 2 – Developing a Standard Access Offer

Timescales for developing Standard Access Offers



Part 2 – Developing a Standard Access Offer

What if an Access Agreement is already in place?

- Several APs and ASs already have access agreements agreed and/or in place (e.g. Ooredoo's RIAO, Qnbn's reference passive offer; Ooredoo/Lusal, QNBN/Mshreib).
- The regulatory framework requires that any existing reference offer or access agreement must comply with the Access Regulation and the Template SAO, unless otherwise agreed with the CRA.
- If an existing agreement does not comply with the regulatory framework, the AP or AP/AS must promptly notify the CRA with a statement of all instances of non-compliance and submit to CRA approval either amendments to the existing agreement, or a new – compliant - agreement.

Part 2 – Developing a Standard Access Offer

Processes and timescales

- The Access Regulation and the Template SAO set out mandatory timescales for processes relating to access, for inclusion in SAOs.
- E.g. the timescales associated with processing access requests are as follows:

AP to respond to an access request – where the AP is asking for more information	5 Working Days
AP to respond to an access request – where the AP is accepting or rejecting it (with detailed grounds)	10 Working Days
AS to respond to a rejection of an access request with more information	5 Working Days
AP to provide an alternative solution to the AS for an access request rejected for capacity reasons	20 Working Days

- When negotiating an Access Agreement, parties may agree on shorter timescales to those in the Access Regulation and Template SAO. However, **any extension to those timescales must first be approved by the CRA** (reasonable justification for the extension must be provided to the CRA when seeking approval).

Part 2 – Developing a Standard Access Offer

Processes and timescales – Service Levels/Credits

- The Template SAO sets out the Service Level framework (Annex G) and the core Service Levels (Table G.1) that are mandatory for each SAO and Access Agreement – these core Service Levels would require amendment if the corresponding timescales are varied in an Access Agreement (noting the CRA approval required for extensions).
- APs may include additional Service Levels in a SAO if appropriate. This may be to account for certain PCI or more complex developments.
- Table G.1 also sets out Service Credits applicable to failures to meet the minimum Service Levels. These Service Credits are recommended figures and the CRA will not accept adjustments to those figures in a SAO without clear and reasonable justification from the AP. (However, those figures may be amended by agreement between the parties to an Access Agreement.)

Part 2 – Developing a Standard Access Offer

Charges

- Any charges in a SAO or Access Agreement must comply with the **charging principles** in the Access Regulation (Article 11). Summarized, these include:

Charging principle	Description
Actual costs only	AP must demonstrate that charges are derived from cost (and not margin or contingency).
Not linked to market or area positioning	Charges must not be based on the position the AP enjoys in the market or in the relevant area in which access to PCI is sought.
Direct costs only	Only costs which are directly associated with the supply of PCI can be taken into account when setting charges.
Actual access only	Charges can only be claimed for the access capacity made available; no minimal charges can be claimed.

- The Template SAO (Annex F) describes categories of charges (and the charge basis, e.g. charge per m²/month) but does not prescribe the actual charges themselves. APs must define the charges in an SAO and/or negotiate them in an Access Agreement in accordance with the charging principles.

Part 2 – Developing a Standard Access Offer

Charges

- At the CEO discussion on October 12, 2016 it was agreed by the CEOs present that it is important to come up with a common charging framework to avoid geographical discrepancies between charges in SAOs and Access Agreements. This is important to maintain consistency in the market.
- Ooredoo's charges in the RIAO should be considered as the maximum approved access charge.
- In any case, APs must submit proposed charges to the CRA for approval prior to implementing them. If appropriate, the CRA may vary those proposed charges.

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Part Three

Negotiating an Access Agreement

- Principles for negotiating an Access Agreement
- Timeline for negotiations

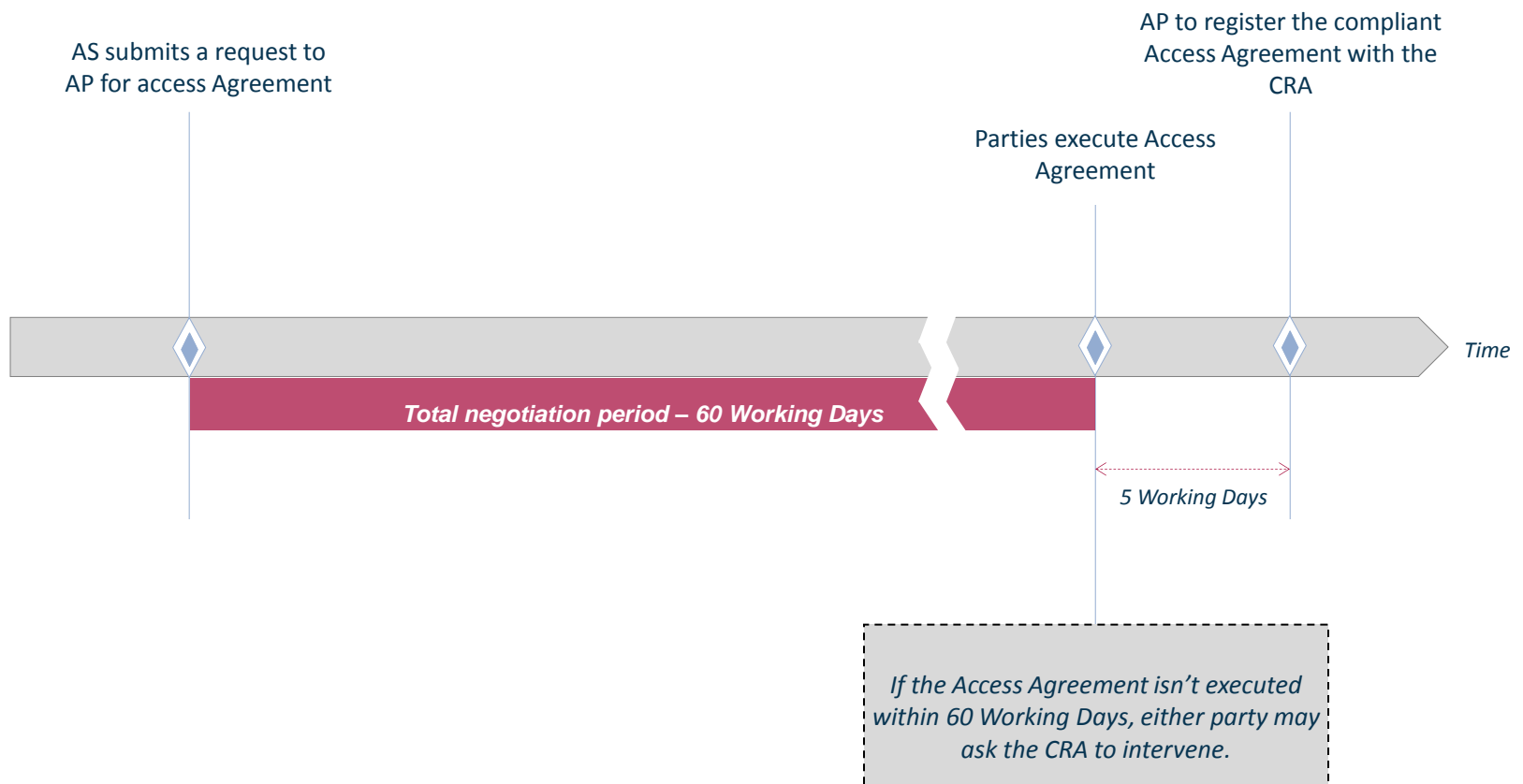
Part 3 – Negotiating an Access Agreement

Principles for negotiating an Access Agreement

- APs are required to negotiate an Access Agreement on request by an AS – **if the AP has published a SAO, the Access Agreement will be on the terms of the SAO..**
- Every Access Agreement must comply with the Access Regulation and the Approved SAO.
- If the AS agrees on the terms and conditions of the SAO, the Access Agreement shall be the SAO and be signed by both parties without further negotiation.
- If the AS does not agree with the terms and conditions of the SAO, an Access Agreement should be finalized within 60 Working Days of a request to commence negotiations. If not, either party to the Access Agreement may ask the CRA to intervene under the Dispute Resolution Rules (**DRRs**).
- Once an Access Agreement has been finalized, APs are required to register any executed Access Agreements with the CRA within 5 Working Days of their execution.

Part 3 – Negotiating an Access Agreement

Timeline for negotiating an Access Agreement



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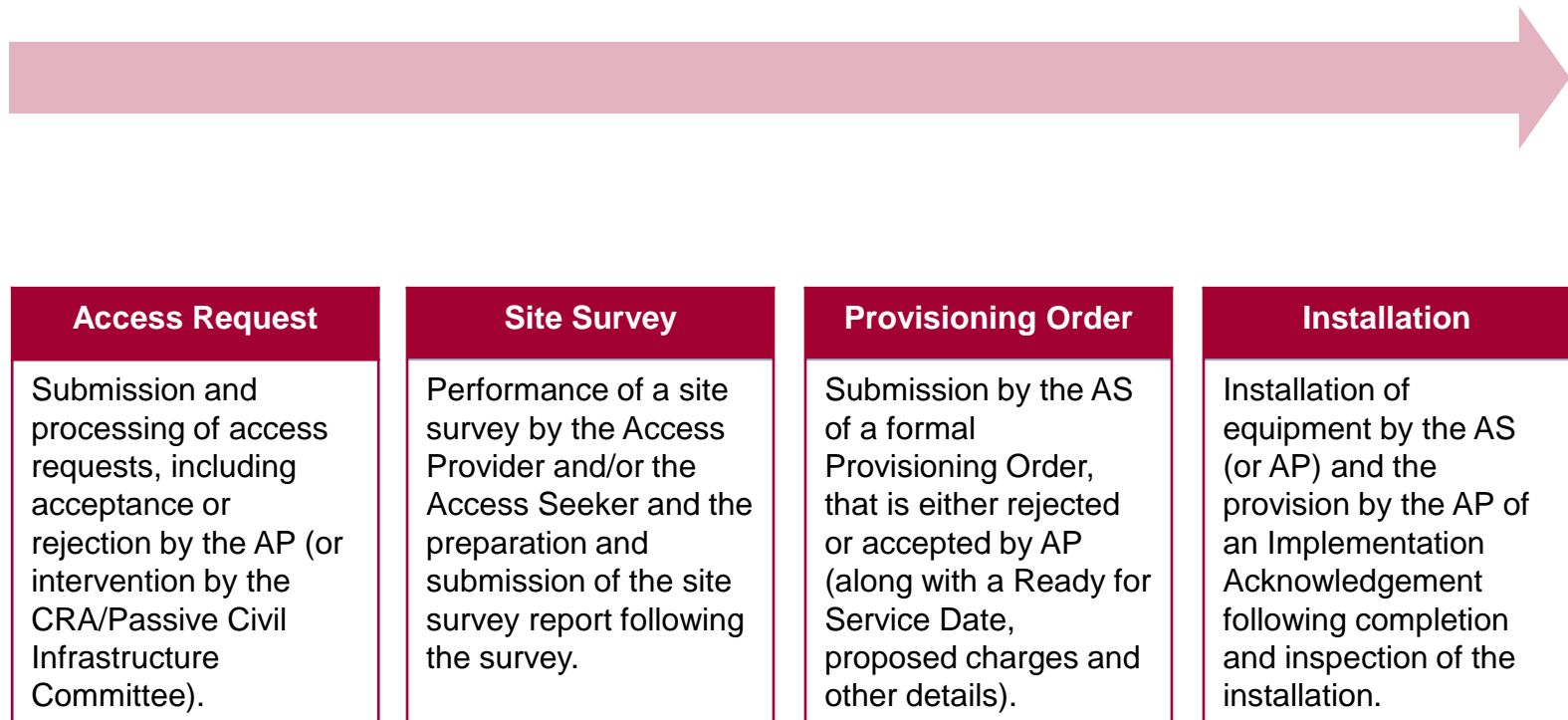
Part Four

Implementing an Access Agreement

- Four stages of implementation
- Main technical processes for each stage
- Management agreements
- Reserving duct capacity
- Other points for implementing Access Agreements

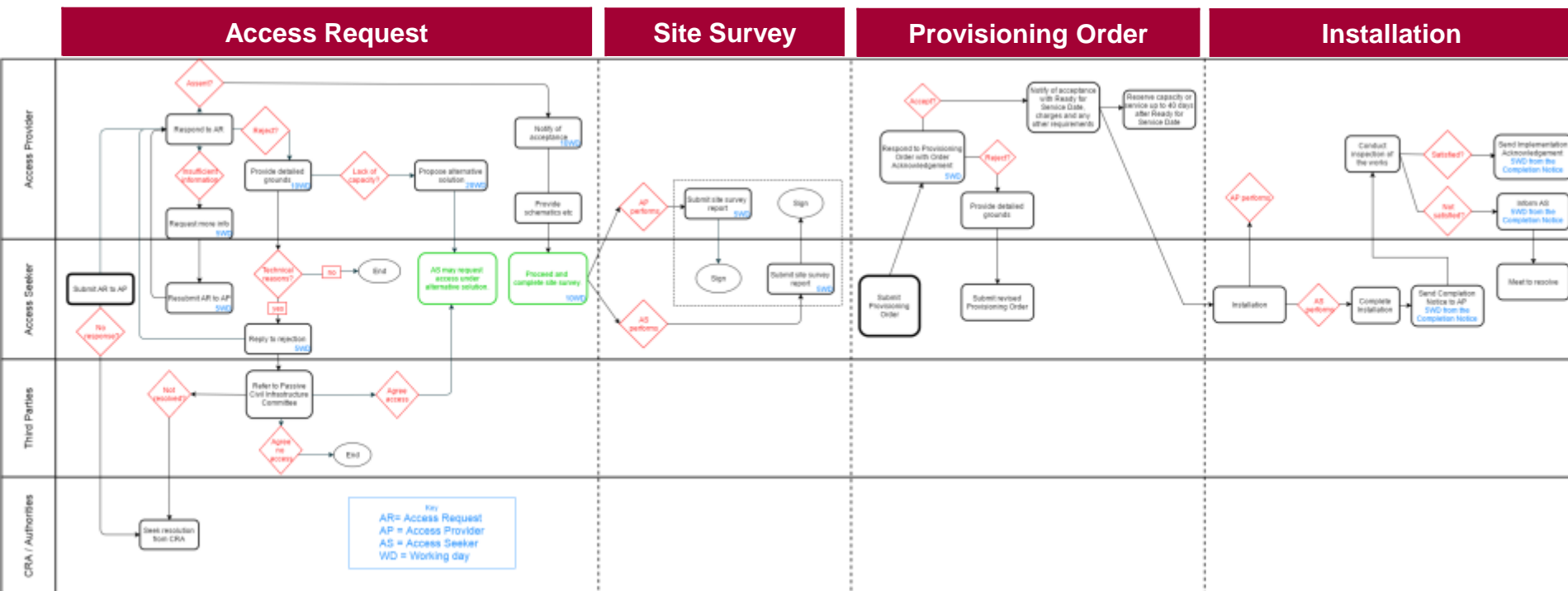
Part 4 – Implementing an Access Agreement

Four stages of implementation



Part 4 – Implementing an Access Agreement

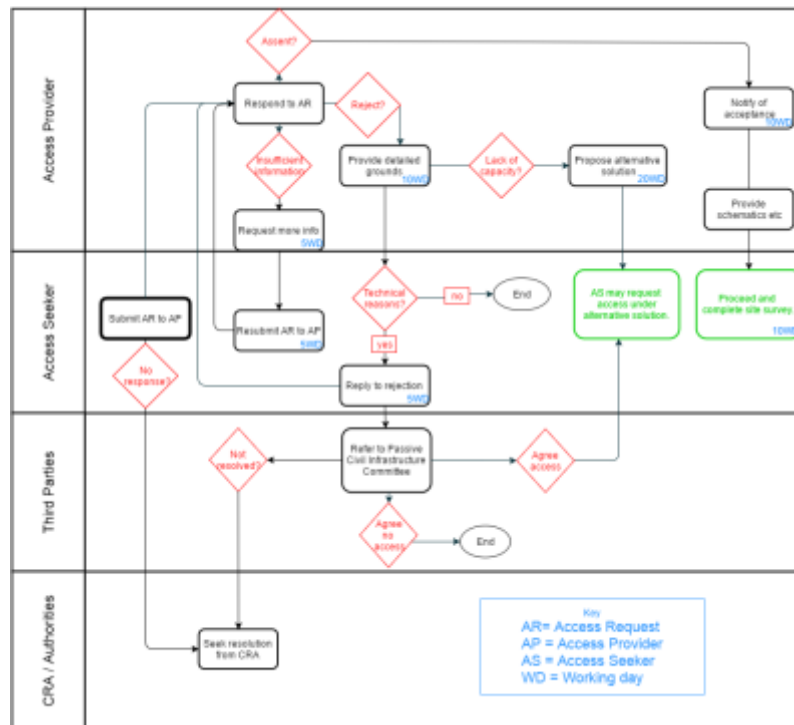
Four stages of implementation



Part 4 – Implementing an Access Agreement

Main technical processes for each stage

Stage 1 – Access Request (slide 1 of 2)

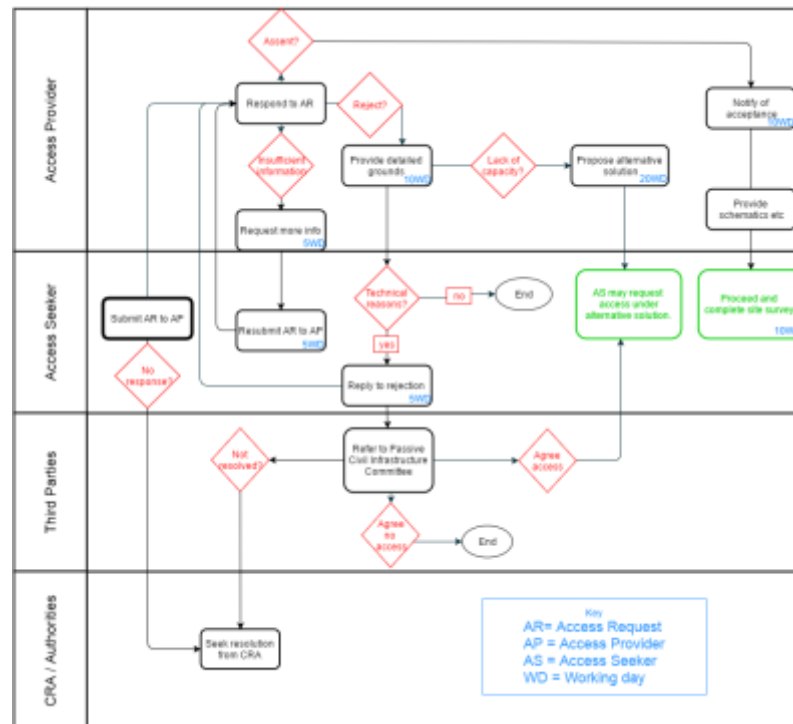


- AS submits an access request (**AR**) with a request for relevant diagrams, maps and other information.
- AP informs AS:
 - within 5 Working Days if information provided is not sufficient to consider the AR; or
 - within 5 Working Days that it either accepts or rejects the AR.
- If accepted, AP must provide schematics, diagrams and relevant information detailing the PCI within a reasonable time.
- If rejected the AR, the AP must specify detailed grounds for rejection, which may only be:
 - not enough information was provided by the AS;
 - it is not technically feasible to provide access to AS (see next slide); or
 - AP does not have sufficient capacity to meet the AR.

Part 4 – Implementing an Access Agreement

Main technical processes for each stage

Stage 1 – Access Request (slide 2 of 2)

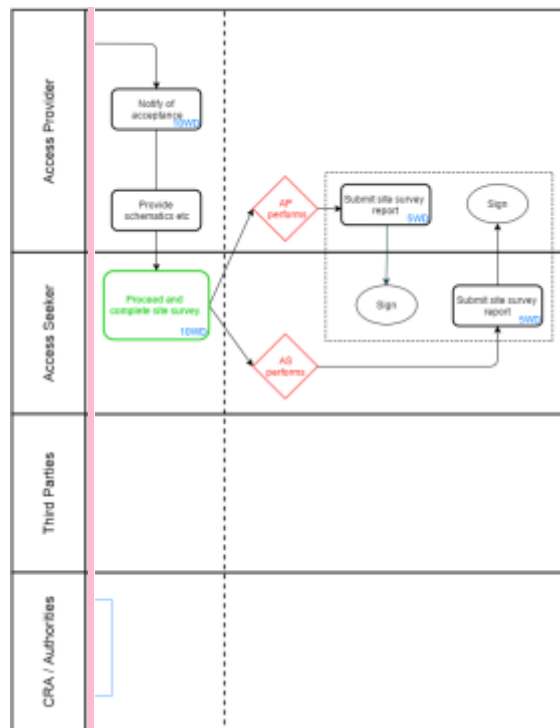


- If AR is refused because of lack of capacity, AP to propose alternative options to AS within 20 Working Days.
- If AR is refused for technical reasons, AP shall provide detailed information supporting the rejection.
- The AS may reply to the rejection of the AR with counterarguments supporting why the AR is technically feasible within 5 Working Days.
- If AR is rejected again, AS may refer the rejection to Passive Civil Infrastructure Committee for amicable resolution.
- If not resolved, either party may refer the matter to the CRA in accordance with the DRRs.

Part 4 – Implementing an Access Agreement

Main technical processes for each stage

Stage 2 – Site Survey

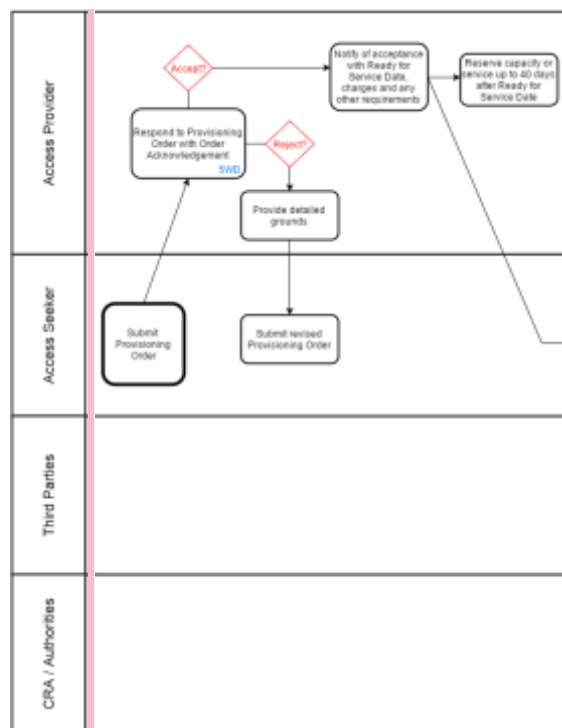


- Once AP accepts the AR and the schematics, diagrams and relevant information about the PCI have been delivered to AS, a Site Survey will be performed by AS, AP or jointly by the AS and AP, within 10 Working Days of acceptance.
- Party undertaking the Site Survey prepares a site survey report and shares it with the other party within 5 Working Days from the date of the survey.
- If Site Survey reveals modifications or improvements to the PCI are necessary to implement the AR, the associated costs and how they will be apportioned between the parties through charges must be agreed.
- If Site Survey reveals insufficient capacity on existing PCI, AP shall agree with AS to scale the PCI to meet the AR.
- Both parties must sign the report.

Part 4 – Implementing an Access Agreement

Main technical processes for each stage

Stage 3 – Provisioning Order

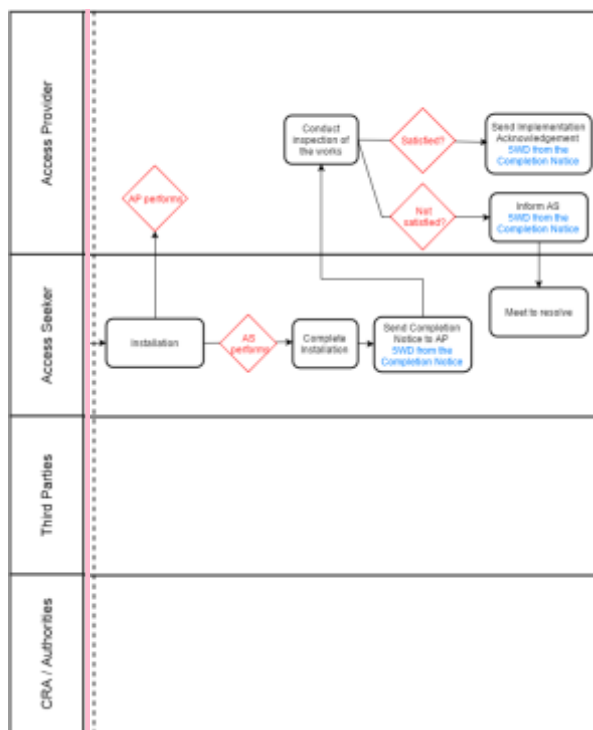


- AS places a Provisioning Order (**PO**) with the AP with detailed information (see Clause B.4.2 of Template SAO).
- AP responds to PO with 5 Working Days with an Order Acknowledgement either accepting or rejecting the PO with detailed grounds, which may only be:
 - PO is materially different from AR;
 - Proposed plan and program of works not acceptable; or
 - Site Survey reveals insufficient capacity.
- If PO is accepted, AP will notify AS of the Ready for Service Date, relevant one-off charges or implementation charges, and other requirements or conditions.
- If PO is rejected, AS may submit a revised PO.
- Once AP issues an Order Acknowledgement, AP reserves capacity for benefit of AS for up to 40 Working Days following the Ready for Service Date.

Part 4 – Implementing an Access Agreement

Main technical processes for each stage

Stage 4 – Installation



- Installation works may be performed by AS, AP or contractors approved by AP.
- If AS performs installation, AS sends AP an Implementation Completion Notice within 5 Working Days of completion of the installation works. AP may inspect the works.
- Once satisfied, AP issues an Implementation Acknowledgement within 5 Working Days of the date of the Implementation Completion Notice.
- If AP not satisfied, informs AS within 5 Working Days of the Implementation Completion Notice and both parties meet to resolve the matter.
- If AS doesn't receive an Implementation Acknowledgment or notice of dissatisfaction, Implementation Acknowledgment deemed issued within 5 Working Days of Implementation Completion Notice.

Part 4 – Implementing an Access Agreement

Management agreements

- It was raised during the consultation process for the Template SAO that some APs outsource the management of their Access Agreements to third parties (this is mostly the case for developers).
- APs remain liable under the terms of the SAO and the Access Regulation if they delegate the operation or management of PCI to a third party.
- As per the Access Regulation, the third party must adhere to all the obligations of the Access Regulation and the Template SAO.
- APs who are parties to an Access Agreement will need to consider whether any amendments are required to their upstream management agreements (e.g. KPIs and procedural obligations), to ensure that the management entity is compliant with the requirements of the Access Regulation and the Template SAO.

Part 4 – Implementing an Access Agreement

Reserving duct capacity

- Duct space reservation by APs must be justifiable, only on the basis of what is proportionally needed, and always in accordance with the principles of the Access Regulation and the Competition Policy.
- Any attempts to impair competition to the detriment of a competitor and other SPs will be investigated by the CRA (e.g. attempts to reserve all of the duct capacity available).
- The availability of space for occupation by the AS shall be calculated in line with the following formula, as set out in the Template SAO:

Available capacity = Gross capacity – allowance for round geometry – maintenance capacity – reserved capacity – existing usage

Available capacity = space for occupation by ASs and other third parties

Gross capacity = area of duct ($\pi \times \text{radius}^2$)

Allowance for round geometry = 20% of gross capacity

Maintenance capacity = area of largest existing or planned cable

Reserved capacity = capacity reserved for ASs and third parties based on already approved and/or planned ARs

Existing usage = area taken up by existing cables, minus any redundant cables that will be removed

Part 4 – Implementing an Access Agreement

Other points for implementing Access Agreements

- **Appropriate flexibility:** The CRA had originally intended to give stakeholders more flexibility, but the consultation process proved that it needed to develop an instrument which would suit everyone. As a result of this, most of the Template SAO is mandatory but still allows some flexibility for SPs and developers to refine the SAO to suit their particular circumstances.
- **Single AR per location:** The CRA has determined that as a default position, Access Seekers are required to submit a single AR in respect of each location of PCI. This is to avoid situations where Access Seekers submit unreasonably broad ARs covering various locations and routes.
- **New PCI:** Where an AP deploys new PCI, APs are required to offer 3 different types of arrangements to ASs for the new PCI (to be included in every SAO):
 1. Co-Investment: for SPs to jointly finance and build the new PCI with capacity allocation to each party being proportionate to the investment;
 2. IRU: offer the AS an indefeasible right of use for 20 years over the new PCI; or
 3. Lease: offer the AS a lease with reasonable and proportionate minimum commitments.

Thank you

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