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A FORMAL PROCESS TO ADDRESS TERMS AND CONDITIONS OF INTERCONNECTION BETWEEN MOBILE AND FIXED ACCESS OPERATORS, AMONG MOBILE OPERATORS AND RELATED ISSUES

1.0 *Background to the Proceeding*

On June 4, 1998, the Telecommunications Regulatory Commission of Sri Lanka (Commission) initiated a process to establish the terms and conditions of interconnection between Sri Lanka Telecom Limited (SLTL) and the two wireless local loop (WLL) operators namely Suntel (Private) Limited and Lanka Bell (Private) Limited. At that time the Commission indicated that it would initiate a further process to examine mobile-fixed and mobile-mobile interconnection issues once the interconnection terms and conditions as between the fixed access operators were determined. The Commission initiated these proceedings after the mobile operators namely Celltel Lanka Limited, Lanka Cellular Services Limited (also known as Hutchison), MTN Networks (Private) Limited (also known as Dialog) and OTC Australia (Private) Limited (also known as Mobitel (Pvt) Ltd.) informed the Commission that they were unable to come to agreements on their own as to the terms and conditions of interconnection, and requested Commission involvement to establish such terms and conditions.

Following a regulatory process in which SLTL and the WLLs fully participated, on November 16, 1998, the Commission issued its determination in respect of the commercial terms and conditions of interconnection between SLTL and the WLLs (the "SLTL/WLL determination").

On December 4, 1998, the Commission initiated a formal public process to address the commercial terms and conditions of interconnection between the mobile and fixed access operators, between mobile operators and related matters. During the course of the proceeding, the Commission invited SLTL, the two WLL operators and the four mobile operators to provide comments on various interconnection related issues, including:

- Whether the mobile operators should be treated as customers, peer operators or on some other basis in respect of their interconnection arrangements with SLTL and the WLLs.

- The implications of Sri Lanka's commitments under the 1997 World Trade Organisation (WTO) Agreement on Basic Telecommunications to the terms and conditions of mobile-fixed interconnection.

- The appropriate compensation arrangements and mechanisms for local, national and international interconnection. Under what circumstances, if any, should the following compensation arrangements apply in respect of mobile to fixed interconnection: sender-keeps-all, mutual compensation, cost-oriented transit charges, discounted international outbound rates and national extension fees for incoming international calls?

- If interconnection tariffs apply, should these tariffs be based on existing retail tariffs, discounted retail tariffs, cost-oriented per-minute interconnection charges, revenue sharing or on some other basis?

- Whether some or all of the interconnection provisions in the Commission's November 16, 1998 determination concerning WLL-SLTL interconnection should also be applicable to mobile-fixed interconnection.

- How consumer concerns as to the clarity of charging and billing can be addressed.

- Whether the mobile operators should be permitted to route their local, national and/or international traffic through the networks of the WLLs. If so, what rates, terms and conditions should apply?

- The appropriate rating approach by SLTL and the WLLs for local calls placed by their customers to mobile customers. What are the implications of SLTL's current approach of rating these calls as national calls rather than as local calls? What technical and/or billing changes are required to identify and rate these calls as local calls?

- The desirability of implementing a calling party pays (CPP) system for calls placed by fixed access customers to mobile customers. What rates, terms and conditions should apply if CPP is adopted? Should the same CPP, terms and conditions apply to all operators? What technical and billing changes are required to accommodate CPP? What are the expected costs of implementing the systems to accommodate CPP and how should such costs be recovered? Should CPP apply for calls between mobile operators?

- Any other issues relating to interconnection between mobile and fixed access operators, or between mobile operators and other mobile operators.

In an effort to obtain operator specific cost data and other related information, the Commission issued information requests to each of the parties. The responses to the information requests were mostly filed in confidence with the Commission. Pursuant to the procedures established for the public process, parties submitted written submissions, rebuttal submissions and made oral presentations before the Commission.

The Commission's jurisdiction in regard to mobile-fixed and mobile-mobile interconnection is found in section 5(l) of the Telecommunications Act No. 25 of 1991, as amended by the Telecommunications Amendment Act No. 27 of 1996 (collectively, the "Telecommunications Act") and in the provisions of the licences of the operators, notably Condition 12 of SLTL's licence, Condition 10 of the WLL operator licences and Condition 11 of the mobile operator licences. The Commission is also mindful of its other powers and duties under section 5 of the Telecommunications Act, notably those under section 5(h) "to ensure compliance by operators with international or other obligations entered into by the Government of Sri Lanka in relation to telecommunications". In 1997 the Government of Sri Lanka became a party to the WTO Agreement on Basic Telecommunications, and agreed to the regulatory principles concerning interconnection that are set out in the WTO Reference Paper.

2.0 *General Principles and Considerations*

In reviewing and assessing the various proposals submitted by parties in this proceeding, the Commission has been guided by the following general interconnection principles and considerations:

(1) The Commercial Terms of Interconnection Should Be Consistent with WTO Regulatory Principles and Commitments

As set out in the WTO Regulatory Reference Paper noted above, interconnection with a major supplier should be ensured:

- at any technically feasible point in the network;
- under non-discriminatory terms, conditions and rates, and of a quality no less favourable than provided by the incumbent to its own

services;

- in a timely fashion on terms, conditions and cost-oriented rates that are transparent and reasonable;
- on a sufficiently unbundled basis;
- upon request, at points in addition to network termination points offered to the majority of users, subject to additional charges.

(2) Interconnection Charges Should be Cost-Oriented

Consistent with the WTO Reference Paper, each interconnecting operator is entitled to recover its relevant costs of providing interconnect services and other related functions. A number of participants in this proceeding argued that interconnect charges should be based on the forward-looking, long-run incremental costs of providing interconnection services. The Commission generally agrees that forward-looking long run incremental cost, plus a mark-up to recover a reasonable share of relevant joint and common costs, is an appropriate basis for developing interconnection charges in many circumstances. However, other approaches to developing cost-oriented interconnection charges may also be appropriate especially where cost data are not available or are not adequate.

(3) The Commercial Terms of Interconnection Should Maximize Economic Efficiency

Section 4 of the Telecommunications Act requires that the Commission exercise its powers in a manner that will best "ensure the provision of reliable and efficient national and international telecommunications service in Sri Lanka", "maintain and promote effective competition between persons engaged in commercial activities connected with telecommunication and promote efficiency and economy on the part of such persons", and "ensure that operators are able to carry out their obligations for providing a reliable and efficient service free of undue delay, hindrance or impediment." Interconnection arrangements should accordingly be efficient and sustainable. The terms of interconnection should not create undue arbitrage opportunities or otherwise lead to market distortions.

(4) The Commercial Terms of Interconnection Should Recognize the 'Peer' Status of Interconnecting Local Operators

The interconnection requirements set forth in the WTO Reference Paper, notably the requirement that interconnection with a major supplier be ensured at any technically feasible point in the network, on a sufficiently unbundled basis and at cost-oriented rates, point to interconnecting local operators, including mobile operators, being regarded as 'peer' operators and not simply as large customers. Interconnection between 'peer' operators should, in the Commission's view, be provided on a symmetrical and reciprocal basis, except where differences in the cost structures or operating characteristics of interconnecting 'peer' operators support operator specific interconnection arrangements.

(5) The Affordability of Basic Local Telephone Service Should Be Ensured

Pursuant to section 4(c) of the Telecommunications Act, the Commission is required to exercise its powers "to protect and promote the interests of consumers, purchasers and other users and the public interest with respect to the charges for, and the quality and variety of telecommunications services provided and telecommunications apparatus supplied." The affordability of basic local telephone service is therefore a key objective of the Telecommunications Act and must be ensured on a going forward basis.

3.0 *Existing Interconnection Regime for Mobile Operators*

The following are the main features of the existing interconnection regime for mobile operators:

- mobile operators are treated as large customers of SLTL and the WLLs;
- mobile operators pay above-cost national retail rates for interconnection to the SLTL network;
- mobile operators do not receive any payments from SLTL for the termination of SLTL-originated calls on the mobile operators' networks;
- mobile operators settle with the WLLs and other mobile operators on a sender-keeps-all basis;
- mobile operators receive no bulk discounts for international calling;
- mobile operators receive no payments for the termination of inbound international calls;
- mobile operators have limited points of interconnection with SLTL and the WLLs;
- SLTL and WLL customers pay national rate for all calls terminated on the mobile operators' networks; and
- Mobile customers pay for airtime usage in calls to mobile customers, the customers of the network originating the call pays a relatively nominal amount for usage of the originating network; i.e., mobile party pays.

4.0 *New Interconnection Regime for Mobile Operators*

Based on the record of the proceeding, the Commission finds that the existing interconnection regime for the mobile operators is neither efficient nor in compliance with the Government's WTO commitments. It was established under very different conditions and the record of the proceeding shows agreement that the conditions have changed. In particular, the existing interconnection regime is not cost-oriented, does not recognize the peer status of the mobile operators, is not equitable and limits the growth and competitiveness of the mobile sector in Sri Lanka.

Accordingly, the Commission recognizes the mobile operators as peer operators and hereby establishes a new, more efficient and equitable interconnection regime for the mobile operators in two phases. Phase One establishes a more equitable interconnection arrangement within the MPP framework and sets a discount for outgoing international traffic from mobile networks. Phase Two is a structured Public Hearing that will elicit public input and additional information on the basis of published "Elements of the CPP Decision" and a focused set of issues. The Commission will make its final determination at the conclusion of the Public Hearing.

5.0 *Phase One*

(a) Mobile-Fixed Interconnection: Local and National Call Termination

Consistent with the regulatory principles set out in the WTO reference paper and the mobile operators' status as peer operators, the Commission finds that the interconnection payments made by mobile operators should be cost-oriented.

The record of this proceeding establishes that the cost of terminating a local or a national call on fixed access networks does not change depending on the originating network of the call, whether fixed or mobile. The Commission therefore concludes that the interconnection charges payable by mobile operators for local or national call termination on fixed access networks should be identical to the local and national call termination charges established in the SLTL-WLL determination. These charges, disaggregated by the time periods described in the SLTL-WLL determination (but modified to include the newly introduced Discount Period), are set out below:

SLTL Tariff Time Band	Local Call Termination Charge (Rs/Minute)
Peak	0.6
Standard	0.4
Economy, Discount	0.2

SLTL Tariff Time Band	National Call Transit Termination Charge (Rs/Minute)
Peak	1.50
Standard	0.75
Economy, Discount	0.38

Note: National Call Transit Termination charge is payable only in respect of a national call that is handed over at a Point of Interconnection (POI) located in one transit exchange area, which requires the terminating operator to carry it over to its trunk network and terminate it in another transit exchange area. Transit exchange areas are the same as transit exchange areas under the Commission's SLTL/WLL determination.

(b) *Interconnection Arrangements for International Traffic*

As noted above, the mobile operators do not currently receive any bulk discounts for international calling. During the course of this proceeding, SLTL indicated that it was considering offering the mobile operators a reasonable bulk discount on IDD calls to compensate the mobile operators for their costs of billing, collection and bad debts. Based on the record of this proceeding, the Commission finds it appropriate that the mobile-fixed interconnection arrangements compensate the mobile operators. Given the number of IDD enabled mobile customers and the related costs incurred by the mobile operators, the Commission approves a 20% discount off the SLTL collection rate for IDD calls originated by mobile operators. Accordingly, the mobile operators shall remit 80% of the SLTL collection rate to SLTL for all calls originated from mobile networks.

(c) *Physical Interconnection Links*

The physical interconnection links to SLTL will be provided by the mobile operators who will bear the cost of installing and maintaining the apparatus up to the interface connection unit. The interface unit will be provided by SLTL. If SLTL is unable to provide the interface units, these will be provided by the applicable mobile operator and their costs set-off against payments to SLTL.

WLL operators do not presently charge mobile operators for provisioning their networks for such interconnecting links, nor do mobile operators charge other mobile operators for provisioning such links. Rather each party bears its own provisioning costs. The Commission is of the view that these arrangements should continue. Moreover, consistent with current practice, a WLL operator and a mobile operator shall share the costs of providing, installing and maintaining physical interconnection links between them in a local calling area, as shall mobile operators with other mobile operators.

In addition to the above arrangements a one-time charge of Rs 10,000 per new physical interconnection link as previously approved by the Commission shall continue to apply.

(d) *Points of Interconnection (POI)*

The mobile operators shall designate their preferred POIs to SLTL, the WLLs and other mobile operators and indicate their required capacities as well as the technical specifications for the interface at each point of interconnection. The mobile operators shall also provide the physical interconnection links up to the point of interconnection. The requested interconnection party shall ensure that the required connection is provided within 90 days from the receipt of the notice for interconnection. Failure to meet these deadlines, except on reasonable grounds, shall result in liability to pay liquidated damages as determined by the Commission. Disputes arising out of these requirements shall be submitted to the Commission for determination. Determination by the Commission will be binding on all parties.

(e) *A-Number Information*

The exchange of calling line identification (CLID or A-number) information is necessary to ensure the efficient interworking of networks and is in the interests of all consumers and network operators. Accordingly, CLID/A-number information shall be exchanged between interconnecting peer operators on a reciprocal basis and at no explicit charge.

(f) *Implementation*

The Commission directs that the above interconnection provisions be implemented commencing August 1, 1999: the rates for mobile-fixed termination shall be changed to the rates set forth in section 5(a) above, mobile operators shall be entitled to remit 80% of SLTL's collection rate on IDD outbound calls as set forth in section 5(b) above, and the provisions of sections 5(c), (d) and (e) above shall become effective.

Pending the completion of Phase 2 of the proceeding, the Commission intends to minimize the disruption to consumers caused by further rate adjustments, by allowing SLTL to continue to charge customers at the national rate for fixed-to-mobile calls that are local in nature. The Commission may revisit this issue if Phase 2 implementation is likely to be delayed.

The Commission notes that in its decision issued April 8, 1999 on SLTL tariff revisions for 1999, the Commission froze charges for calls between SLTL and interconnected licensed mobile communications systems pending the outcome of this proceeding. The Commission therefore directs that the interconnection charges established in this proceeding shall, upon their coming into effect, supercede the charges that were frozen as of the April 8, 1999 decision.

The other provisions of this decision shall, upon their coming into effect, supercede prior similar interconnection provisions that may have pertained between the operators.

(g) Review of Phase One Determination

The Commission reserves the right to review the above determination if and when it feels appropriate to do so. In any event this decision will be subject to review in three years. If the fixed access interconnect decision is subject to review and change thereof, to the extent it is applicable and relevant, this decision will also be subject to the same changes.

6.0 *Phase Two: Public Hearing*

(a) Fixed-Mobile Interconnection: Calling Party Pays

The mobile operators have proposed the immediate implementation of calling party pays (CPP) for calls to the customers of mobile operators. Under CPP, all calls placed to mobile networks are paid for by the customers of the originating network. The customer of the originating network pays the CPP charge to the originating operator who, in turn, compensates the mobile operator for its activities of terminating the calls to mobile customers. Under CPP, a mobile operator does not directly charge its mobile customer for receiving an inbound call.

The mobile operators argued that CPP is equitable, efficient, increases mobile penetration rates, increases traffic volumes exchanged between networks and increases network efficiencies and call completion rates. In addition, the mobiles noted that CPP is emerging as an international standard and is widely deployed in Europe and parts of Asia including India which has very recently decided to adopt CPP.

SLTL and the WLLs did not support the immediate implementation of CPP. They argued that CPP would unfairly burden fixed access customers and would dampen overall demand for fixed access telecommunications services. In addition, they argued that CPP would allow the mobiles to compete more effectively with the fixed access operators and provide them with unwarranted competitive advantages. Finally, SLTL and the WLLs argued that CPP is complex to implement and requires a significant amount of lead-time.

Based on the record of the proceeding, the Commission is persuaded that CPP merits consideration for implementation in Sri Lanka. The Commission believes that a reasonable case has been made that CPP is equitable, as it treats all networks in the same way, and will improve network efficiencies and mobile penetration rates in Sri Lanka. In order to implement CPP, however, all originating networks must be capable of generating itemized bills for their customers. In addition, the implementation of CPP requires all operators to participate in a consumer awareness and education campaign. Finally, the Commission believes that the introduction of CPP is best done in parallel to the introduction of a new national numbering scheme. For the foregoing reasons, the Commission does not believe that it is feasible or appropriate to implement CPP until near the end of 2000.

Although the Commission accepts the transition to CPP in principle, the Commission is concerned that the introduction of CPP may have an adverse impact on the affordability of basic local telephone service for fixed access subscribers. It is these fixed access customers that will experience an increase in the cost of calling mobile subscribers, even as the mobile customers will experience a decrease in the cost of calls they receive from such fixed access customers. In addition, it believes that more information needs to be gathered on the operation of CPP is situations such as when the caller is initiating the call from a foreign network, when the mobile call recipient is roaming outside the country, and when calls are initiated from payphones. Accordingly, pursuant to section 12 of the Telecommunications Act, the Commission will initiate a public hearing within three months of the date of this decision to examine affordability and other issues relating to the implementation of CPP. The Committee shall make its decision within six months from the date of initiation of the public hearing. The Commission will await the outcome of that hearing before making a final determination relating to the implementation of CPP.

(b) *Issues to be Considered at the Hearing*

In the interest of expediting the process, the Commission gives below at 5(c) a draft CPP decision that the public will be invited to respond to in relation to the non-exclusive set of issues set out below.

- Whether there will be serious affordability issues raised for fixed-access subscribers with the introduction of a higher payment for calls to mobiles.
- Whether the fixed-access subscribers will be confused by the fact that calls to mobile numbers will cost more than calls to fixed numbers.
- The impact of the progress of the numbering change on CPP.
- Whether the itemization provisions set out in the Order of the Public Hearing on Improvement of Subscriber Bills and Billing Related Disputes

adequately address the issues of transparency of charging and the coordination of the introduction of CPP with the implementation schedule of the Billing Order.

- The appropriate compensation arrangements and mechanisms for incoming international calls.
- The appropriate compensation arrangements and mechanisms for calls originating in payphones and hotels.
- How should CPP work when a mobile user is roaming outside the country.
- What technical and billing changes are required to accommodate CPP?
- What key messages must be communicated in the publicity campaign preceding the introduction of CPP?

(c) *Elements of the Draft CPP Decision*

A typical CPP tariff is comprised of three components:

(1) a mobile interconnection/termination tariff paid by the originating network operator to the mobile operator;

(2) a network retention fee, retained by the originating network operator to recover its cost of billing, collecting and being responsible for bad debts related to calls placed to mobile customers; and,

(3) a retail usage tariff (local or national).

Set out below are the Commission's preliminary findings regarding the three components of the CPP tariff.

(1) Mobile Termination Tariff

Under the current interconnection regime, the mobile operators do not receive any explicit payments from originating network operators for calls placed to and terminated on mobile networks. In a mobile party pays (MPP) environment, the cost of termination is recovered in whole or in part through the rates charged to mobile customers for incoming calls. Indeed, in an MPP environment it is to be assumed that the mobile operators price their services to recover all their relevant costs, including a return on capital.

A key issue to be determined in this proceeding is the cost of terminating a call on a mobile network. Unfortunately, insufficient costing data was presented in Phase One to allow the Commission to determine a specific cost-based rate for mobile termination. In particular, the mobile operators did not undertake adequate costing studies to determine their specific long-run incremental cost of call termination. Instead, the mobile operators primarily relied upon international CPP examples and precedents to argue that the average cost of mobile termination is US$0.20 per minute or approximately Rs 14 per minute.

The Commission notes that the international mobile termination rates cited by the mobile operators as well as the specific termination rates proposed by the mobile operators (e.g., Rs 9 per minute escalating over four years to Rs 18.6 per minute, peak period) are not cost-oriented. For example, the Commission is aware that the recent CPP termination rates approved by Oftel in the United Kingdom have been approved on an interim basis, pending the determination of cost figures. As well, the Commission notes that the termination rates proposed by the mobile operators are significantly higher than the inbound rates currently charged by the operators in today's MPP environment. Accordingly, and in light of the Commission's concern regarding the affordability of basic fixed access local telephone service, the Commission rejects the mobile operators' proposed mobile termination rates.

In the absence of specific costing data, the Commission approves the mobile termination charges proposed by the mobile operators in their 1997 CPP proposal. As acknowledged by the mobile operators, the interconnect tariffs proposed in 1997 were intended to be "revenue neutral" to the mobile operators, and to substitute interconnect revenues for foregone airtime revenues. The Commission believes that "revenue neutral" termination tariffs are appropriate absent further costing data, given that under MPP the mobile operators should logically be establishing their incoming retail tariffs to recover, on average, the cost of call termination. In addition, the Commission notes that the 1997 CPP mobile termination charges are consistent with the lowest prevailing mobile retail tariffs in the world today and are therefore may be viewed as a good proxy for the costs of mobile termination.

For the foregoing reasons, the Commission adopts the following mobile termination rates for use in the calculation of the CPP tariff:

SLTL Tariff Time Band	CPP Mobile Termination Charge (Rs/Minute)
Peak	5.60
Standard	4.80
Economy, Discount	3.20

If the mobile operators believe that the above termination charges are not reflective of the mobile operators' actual costs, they may submit detailed costing studies for the Commission's review and consideration.

(2) Originating Network Retention Fee

The originating network retention fee should be sufficient to recover each operator's cost of billing, collecting and being responsible for bad debts related to calls to mobile customers. No party to the proceeding proposed or submitted costing data to support a specific originating network retention fee.

However, in their 1997 CPP proposal, the mobile operators proposed a retention fee of Rs 0.55 per minute. The Commission understands that, at the time, this fee was acceptable to the mobile operators, and was not opposed by SLTL. Accordingly, the Commission approves an originating network retention fee of Rs 0.55 per minute. If an operator believes that this amount is not reflective of its actual costs, the operator may submit detailed costing studies for the Commission's review and consideration.

(3) Retail Tariffs

Currently, SLTL customers that place calls to mobile customers are charged the national tariff rate, irrespective of whether the actual call placed is a local or a national call. This rating approach unfairly penalizes fixed access and mobile customers and is inconsistent with basic cost causation principles.

The Commission therefore directs that, at such time as CPP is implemented, SLTL is required to modify the application of its retail tariffs for calls to mobile networks. SLTL's charges should reflect that calls placed to mobile networks are rated based on whether the call is local or national as determined by the point of interconnection where call hand over takes place.

CPP for Calls Originating From WLL and Mobile Operators

Under the terms of their licences, the Commission does not presently regulate the retail prices charged by the WLL operators. Rather the WLL operators set their per minute retail charges for outbound calls in accordance with market forces, the most notable element of which is the regulated retail rate of their prime competitor, SLTL. Accordingly, for so long as the WLL operators are not rate regulated, the Commission will not require the WLL operators to impose a CPP charge on their retail customers that call mobile end users. The WLL operators will, however, be required to pay to mobile operators the mobile termination rate that is set forth above. They will, of course, have the ability to recover the amounts paid for mobile termination in their retail charges to their customers.

The Commission continues to regulate the rates charged by mobile operators. Accordingly, at such time as CPP is implemented, the Commission directs the mobile operators to implement CPP in respect of calls to other mobile operators.

The mobile termination and originating network retention fee shall be as stated above for SLTL.

CPP Implementation

Parties identified two main categories of costs to be incurred by an operator attributable to the implementation of CPP: costs related to implementing network changes such as changes to billing systems; and costs for the information campaign to educate customers of fixed and mobile networks of the changeover to CPP.

While the Commission considers that the mobile operators will be the prime beneficiaries of the move to CPP, the Commission nonetheless considers that it is appropriate that all operators bear their own costs of network changes related to implementing the new mobile interconnection regime including CPP. All operators will incur some network-related costs to implement CPP, although given the delay until end-2000 in implementing CPP, some of these costs may be covered by other initiatives that will be undertaken before the end of 2000, such as the accommodation of the new national numbering scheme and SLTL's provision of itemized customer bills. A self-recovery approach to such costs will lead to the most appropriate incentives for minimizing the overall costs of CPP implementation and will eliminate any disputes among operators as to the appropriate quantum of such costs, and the method for their recovery.

The Commission does, however, consider that the mobile operators should bear the incremental costs of the information campaign to publicize CPP. As among the mobile operators, the costs shall be shared in proportion to the number of subscribers of each mobile operator as of the first day of the month in which the publicity campaign formally commences.

In the event that the Commission determines that CPP is to be adopted the Commission directs that the seven operators form a committee of representatives that will be responsible for addressing the details of implementation of CPP including the development of a suitable publicity campaign. This Committee will function as an advisory committee under section 5(t) of the Sri Lanka Telecommunications Act No. 25 of 1991 as amended. The Commission will make available a staff member who will attend the meetings of the committee, and be available to help facilitate the reaching of agreement. The Commission will rule on any implementation disputes that may arise. The Commission specifically directs that the parties submit the finalized plan for the publicity campaign to the Commission for review and approval prior to implementation.